



SUMMARY
THE TÎILHQOT'IN DECISION
ABORIGINAL TITLE CASE



TÎILHQOT'IN NATIONAL GOVERNMENT

More Information: www.tsilhqotin.ca

WHAT IS IT



ABOUT



On June 26, 2014, the Supreme Court of Canada rendered a historic judgment in the T̂silhqot'in Nation's Aboriginal Title case. All 8 judges agreed with this decision.

Aboriginal title declared – for the first time in Canadian history.

The Court declared Aboriginal Title to approximately 1900 square kilometers of the Claim Area, including Xení (Nemah Valley) and much of the surrounding area, stretching north into Tach'elach'ed (Brittany Triangle) and along the T̂silhqox (Chilko River).

Aboriginal Title lands are shown in the map at the end of this summary.

This is the first time in Canadian history that a court has declared Aboriginal title to lands outside of a reserve.

The Court rejected the “postage stamp” view of Aboriginal Title once and for all. Aboriginal Title is not restricted to small, intensively used sites. Aboriginal title extends to all the territory that a First Nation regularly and exclusively used when the Crown asserted sovereignty. This means ownership is of areas that were used regularly and only by the T̂silhqot'in at the time the Canadian government staked its claim.

WHAT IS

ABORIGINAL TITLE



Aboriginal Title is the right to control the land

The Court confirmed that Aboriginal Title gives the T̂silhqot'in the right to control the land. These lands can be managed according to T̂silhqot'in laws and governance.

Aboriginal title also means the T̂silhqot'in have the right to the economic benefits of the land and its resources.

Aboriginal Title is the "right to choose" how these lands will be used. The T̂silhqot'in people can proactively use and manage these lands for traditional activities and modern purposes.

The only limit on the ways that Aboriginal Title lands can be used is that they cannot be developed in a way that deprives future generations of the control and benefit of the land.

WHAT ABOUT

JURISDICTION



Protections from other Government Jurisdiction

The Court confirmed that both the Province and Canada has some element of jurisdiction in exceptional circumstances.

However, the government must first seek the consent of the T̂silhqot'in people before interfering with T̂silhqot'in Aboriginal Title lands.

If the government cannot obtain consent, then it cannot interfere with T̂silhqot'in Aboriginal Title

unless it can justify this infringement. The Court indicated that infringements of Aboriginal Title will "not be lightly justified". This means it will be very difficult for the government to show that it has a good enough reason to step in and use the Title land. In this appeal, the Court confirmed that the clear cut forestry proposed for the Claim Area was not justified. This means that the government was wrong to propose logging in the Claim Area.

WHAT ABOUT

FORESTRY



The Forest Act

The Forest Act does not apply to Tîlqhôt'in Aboriginal Title lands.

The Court held that the Forest Act does not apply to Tîlqhôt'in Aboriginal Title lands, because the statute itself says that it regulates "Crown timber". The Forest Act is the legislation that authorizes the government and forestry companies to harvest timber.

Because the timber on Tîlqhôt'in Aboriginal Title lands belongs to the Tîlqhôt'in, and not the Crown, the Forest Act does not apply as currently drafted. This means that the Province cannot authorize forestry companies to harvest timber on Tîlqhôt'in Aboriginal Title lands.

WHAT ABOUT

INDIGENOUS RIGHTS



Aboriginal Rights

T̕silhqot'in Aboriginal rights remain to the entire Claim Area.

The proven T̕silhqot'in Aboriginal rights to hunt, trap and trade were not at issue before the Supreme Court of Canada. These rights were confirmed by the B.C. Court of Appeal in 2012.

Accordingly, the T̕silhqot'in people continue to hold proven Aboriginal rights to hunt, trap and trade throughout the entire Claim Area (see map at the end of this summary).

LOOKING TO THE

FUTURE



What does this judgment mean for other First Nations?

First Nations across Canada continue to celebrate this victory.

The Assembly of First Nations called it a “game changer”. This judgment of the Supreme Court of Canada sweeps away the excuses and justifications used by the Government to deny real recognition of Aboriginal Title in Canada.

We can expect First Nations to assert much greater control over their traditional territories. We can also expect a greater expectation of First Nations’ consent before major projects proceed.

There is a lot of work to be done. But the T̂silhqot’in people, by defending our culture and land, have delivered a major victory for all First Nations and their supporters. Nexwechanalyagh (We thank you).



Tsilhqot'in Declared Title Area		Integrated Cadastral Fabric		Reserves	
	Tsilhqot'in Declared Title Area		Private Ownership		Tsilhqot'in IR's
	Tsilhqot'in Rights Area		Other Ownership Classes		Other Nation's IR's
	Dasipox Tribal Park - outline only		BC Parks		
			BC Parks and Protected Areas		
			Proposed Dasipox Tribal Park		

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