



Okanagan Indian Band

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“Tsilhqot’in Court Victory Supports *Jules* and *Wilson* Case on Aboriginal Title and Rights”

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The First Nation’s victory in their Aboriginal title and rights claim in the Supreme Court’s decision in *Tsilhqot’in v. British Columbia* provides strong support for the Okanagan Indian Band’s aboriginal title and rights defence to enforcement proceedings under the *Forest Act*.

The *Jules* and *Wilson* litigation arose when the Okanagan Indian Band and Westbank First Nation of the Okanagan Nation and the Adams Lake, Neskonlith and Splat’sin Bands of the Shuswap (Secwepemc) Nation Tribal Council commenced logging in their traditional territories in an effort to provide housing for their membership. The Tribal Councils had authorized the logging.

Shortly after the logging activities took place, the Ministry of Forests ordered the Bands to stop because they did not have a provincial permit and obtained an injunction through two actions (*Jules* and *Wilson*) preventing them from doing anymore logging. In their defence, the Bands challenged the constitutionality of the provincial forestry legislation, based on the Okanagan Nation’s aboriginal title and rights to harvest timber in the Browns Creek Watershed and Secwepemc title and rights to the Chase Creek/Harper Lake Watershed.

The Court in *Tsilhqot’in v. British Columbia* has now found that provincial laws, including the *Forest Act*, do not apply to Aboriginal title lands, and recognized that “the Province has skated on thin constitutional ice for over a century.... [and] has been violating Aboriginal title in an unconstitutional and therefore illegal fashion ever since it joined Canada in 1871.” “This case supports the Okanagan Indian Band’s position that the laws of the Okanagan Nation, not the Province’s forestry legislation, applies over our lands” said Chief Fabian Alexis “and that the Province cannot continue to alienate our lands and resources without our consent”.

The Supreme Court’s decision in *Tsilhqot’in v. British Columbia* Court’s decision is also a thorough rejection of the positions the province relies on in litigation to deny title and rights. The Court dismissed the province’s argument that Aboriginal title could only be proven for

small, “postage stamp” sized sites and instead found that Tsilhqot’in Aboriginal title exists over approximately 200,000 hectares. Chief Alexis stated “as the Province well knows, the evidence of Okanagan aboriginal title in our case is even stronger”.

“The Province has tried again and again to derail and delay our case in order to keep the aboriginal title issue from being decided so that it can continue to develop land and exploit resources” stated Okanagan Indian Band Chief Fabian Alexis. “the Court’s decision in *Tsilhqot’in v. British Columbia* makes it clear that the Province should now get on with making systemic changes to recognize Okanagan aboriginal title to our territories, including the Browns Creek Watersheds, rather than delaying and wasting money disputing its existence and trying to enforce what it knows is invalid provincial legislation through the *Jules* and *Wilson* litigation.”

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