



INTERIOR ALLIANCE

Southern Carrier
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Nlaka'pamux Okanagan

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STATEMENT
ON
REVIEW OF DEVELOPMENTS

PRESENTED
TO THE
UNITED NATIONS
WORKING GROUP ON INDIGENOUS POPULATIONS
17TH SESSION

by
Chief Arthur Manuel
Spokesperson for the Interior Alliance

July 26-30, 1999
Geneva, Switzerland

Weytk, Greetings, Madame Chair and Working Group Members;

This is the first opportunity that I have had to participate in these proceedings, and to review developments occurring in Canada, particularly in the Province of British Columbia affecting Indigenous Nations and Peoples.

I am here before you today as a Spokesperson for five Indigenous Nations and their constituent communities (40+), located in the south central interior of what is now known as British Columbia. These Interior Alliance Nations are known as the Southern Carrier, the Stl'atl'imx, the Nlaka'pamux, the Secwepemc and the Okanagan. I am a citizen of the Secwepemc Nation.

The combined Aboriginal title territories of the Interior Alliance Nations cover almost one third of the present day Province of British Columbia and beyond. Our five Indigenous Nations have never ceded or surrendered our respective Aboriginal title and rights to Great Britain, Canada, the United States, British Columbia or Alberta. Moreover, we have never consented to participate in the British Columbia Treaty Commission process, nor were any of the parties to that process authorized or mandated to represent us in that process.

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WGIP 99/NAM.CAN/4

I am here today to report on a major judicial development that has occurred in Canada regarding Aboriginal title and rights, which in our view, has rendered the Government of Canada's 1986 **Comprehensive Land Claims Policy**, and consequently the British Columbia Treaty Process, out of step with Canadian law.

On December 11, 1997, the Supreme Court of Canada rendered judgement in the case of *Delgamuukw v. The Queen*. A summary of the main findings of this decision are as follows:

- **Aboriginal title is an Aboriginal right recognized and affirmed in section 35(1) of the *Constitution Act 1982*.**
- **Aboriginal title is a right to land.**
- **Aboriginal title is a property interest.**
- **Aboriginal title is a collective right.**
- **Aboriginal title is *sui generis*, or unique.**
- **Courts must give Oral History equal footing to historical documents.**
- **Proof of Aboriginal title involves showing ancestors had exclusive occupation of the lands when Crown asserted sovereignty. In British Columbia that is at 1846.**
- **The Province has no jurisdiction to extinguish Aboriginal title.**
- **The federal government has a fiduciary responsibility to "safeguard" Aboriginal title lands, as per their exclusive federal jurisdiction under section 91(24) and section 35(1) Constitutional authority.**
- **The government may infringe Aboriginal title but must justify any infringement under a strict test which requires consultation and in some cases consent.**
- **Finally, the Supreme Court of Canada ruled that the "Crown is under a moral, if not a legal, duty to enter into and conduct . . . negotiations in good faith."**

Unfortunately, despite this ruling of Canada's highest court, all indications are that the Governments of Canada and British Columbia are not committed to bring about any positive changes to Canada's existing **1986 Comprehensive Land Claims Policy**, or to Canada's approach to Aboriginal title and rights.

As a consequence, the Assembly of First Nations during their 20th Annual General Assembly, held last week in Vancouver, British Columbia, has just adopted Resolution #5/99, establishing a

Delgamuukw Implementation Process.

This national process involves seeking cooperation from the Government of Canada to replace their 1986 Comprehensive Claims Policy within a short time-frame, but if this is not possible, the AFN Resolution directs the Assembly of First Nations to launch a court action to strike down the Comprehensive Claims Policy. As per this Resolution, I have been named as Co-Chair to a Special Committee to "manage and direct" the national process.

The issue of Aboriginal title and rights is of utmost importance to the Interior Alliance Nations and peoples. The Government of British Columbia has continued, and in fact, accelerated the sales of Aboriginal title properties, the issuance of land and forest tenures, permits, licenses, and so on, without regard for the judicially recognized Aboriginal title and rights of our Interior Alliance Nations.

In conclusion, I must point out that with respect to the concluding observations of both the United Nations Committee on Economic, Social and Cultural Rights, and the Human Rights Committee, the land and resource recommendations of the recent Royal Commission on Aboriginal Peoples (RCAP), and the landmark ruling in the *Delgamuukw* decision are both being ignored by the Governments of Canada and British Columbia.

The practice of extinguishing Aboriginal title and rights continues in Canada and those of us who have not "volunteered" to enter the British Columbia Treaty Commission process, are being denied "good faith" negotiations regarding the recognition of, and respect for, our Aboriginal title and rights.

Kukstemc-Thank You

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