

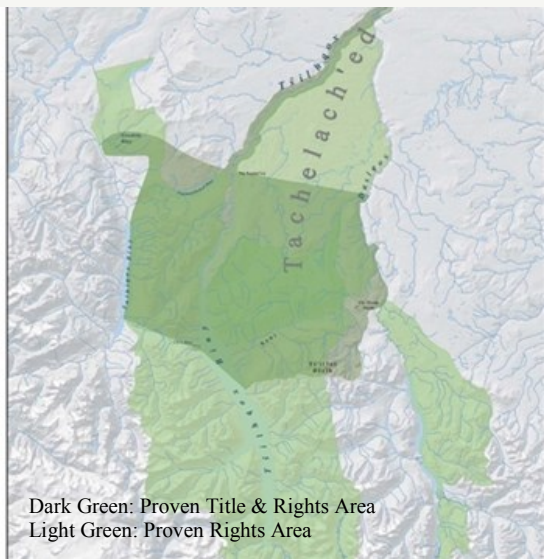


Tsilhqot'in National Government

TSILHQOT'IN DECISION

SUPREME COURT OF CANADA

Tsilhqot'in Nation v. British Columbia



Dark Green: Proven Title & Rights Area
Light Green: Proven Rights Area

On June 26, 2014, the Supreme Court of Canada unanimously declared full Aboriginal Title to approximately 1900 km² of land to the Tsilhqot'in Nation.

This litigation started over two decades ago, when the Tsilhqot'in Nation blockaded and then went to court to save some of its last intact traditional lands from industrial logging. The Claim Area comprises some 438,000 hectares of remote and beautiful territory in the Chilcotin Region of British Columbia, which takes its name from the Tsilhqot'in people. It is the economic and spiritual homeland of the Xenigwet'in, one of six Tsilhqot'in communities.

After five years of trial, in November 2007, the BC Supreme Court held that the Tsilhqot'in people hold Aboriginal rights to hunt, trap and trade throughout the *entire* Claim Area, including the right to capture and use wild horses.

The BC Supreme Court went further. The Court found that the Tsilhqot'in Nation had proven Aboriginal title to approximately 40% of the Claim Area – lands that the Tsilhqot'in people exclusively controlled when the Crown asserted sovereignty in 1846, and used year after year, season after season, to sustain their communities and their culture.

Although the Supreme Court of Canada has confirmed that Aboriginal title continues as a legal right in British Columbia (in the 1997 case of *Delgamuukw v. BC*), this was the *first time* in Canadian history that Aboriginal title was recognized by a court on the ground. Aboriginal title is a right of collective ownership, which would give the Tsilhqot'in people the primary rights to decide how the lands would be used and to the economic benefit of the lands and resources.

However, in June 2012, the BC Court of Appeal overturned the BC Supreme Court's ruling on Aboriginal title. It fully endorsed the BC Supreme Court's ruling on Tsilhqot'in Aboriginal rights to hunt, trap and trade; however, as a matter of law, the Court of Appeal held that First Nations can never hold Aboriginal title to more than specific, intensively used *sites*, such as permanent villages, salt licks, or particularly effective rocks used for gaffing salmon.

First Nations across Canada denounced this judgment as making a mockery of Aboriginal title, and as a discriminatory ruling that denigrates and disregards Aboriginal ways of life, and in particular their distinctive systems of law and land use.

On June 26th, 2014, the Supreme Court of Canada found the Trial judge (Judge Vickers) to be correct and further declared full Aboriginal Title to 40% of the Claim Area. Within the Title Area, Tsilhqot'in may decide how to use the land, manage the land and economically benefit from the land. The Province and Canada must seek consent of the Tsilhqot'in before interfering with Title lands. The Tsilhqot'in decision also states that the Forest Act does not apply to Title lands and BC's land use planning and authorizations unjustifiably infringed on Tsilhqot'in Aboriginal Title.