



CENTRAL COUNCIL
Tlingit and Haida Indian Tribes of Alaska
Office of the President • Edward K. Thomas Building
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CENTRAL COUNCIL OF TLINGIT & HAIDA INDIAN TRIBES OF ALASKA
Eighty-Seventh Annual Tribal Assembly
April 20-22, 2022
Juneau, Alaska

Resolution TA 22-15

Title: Support for the Southeast Indigenous Transboundary Commission

By: Ketchikan Tlingit & Haida Community Council/Ketchikan Delegate Robert Sanderson, Jr.

WHEREAS, the Central Council of Tlingit & Haida Indian Tribes of Alaska (Tlingit & Haida) is a federally recognized tribe with more than 34,000 citizens; and

WHEREAS, the Southeast Indigenous Transboundary Commission (SEITC) was formed by the agreement of 15 Southeast Alaska federally recognized tribes, including Tlingit & Haida; and

WHEREAS, SEITC has been tasked by these tribes to protect our way of life and cultural meaning in the face of the rapid development occurring in British Columbia (BC) headwaters of the rivers critical to our communities, including the Unuk, Stikine, Taku, and Alsek Rivers; and

WHEREAS, in November of 2019, BC passed the Declaration on the Rights of Indigenous Peoples Act (DRIPA) that ties the definition of “Indigenous peoples” to Section 35 of the Canadian Constitution and requires BC to align all of its laws with the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), including the right to free, prior, and informed consent; and

WHEREAS, the UN Declaration acknowledges that Indigenous people have rights to lands, territories, and resources which they have traditionally owned, occupied, or otherwise used or acquired (Articles 25, 26 and 32); and

WHEREAS, in *R. v. Desautel*, the Supreme Court of Canada ruled that non-citizens and non-residents can claim Aboriginal rights under Section 35 of the Constitution; and

WHEREAS, the *Desautel* Court also held that “Aboriginal peoples of Canada,” under Section 35 of the Constitution, applies to the modern-day successors of societies that occupied Canadian territory at the time of European contact, even if such societies are now located outside Canada and;

WHEREAS, in *Haida Nation v. British Columbia (Minister of Forests)*, the Supreme Court recognized that Canada has a duty to consult Aboriginal peoples when it acts in a manner that may adversely affect rights guaranteed by Section 35 of the Constitution; and

WHEREAS, the *Haida Nation* court also held that the right of Aboriginal peoples to consultation need not be proven but only credibly asserted in order to trigger Canada’s duty to consult in the early planning stages of projects, a duty that the Court opined should not be acted upon so late that a project is fully defined, which would render any consultation difficult or impossible; and

WHEREAS, in 2021, Skeena Resources submitted plans to reopen the Eskay Creek Mine in the Unuk River watershed, triggering a statutory timeline for approval by BC; and

WHEREAS, preliminary evidence indicates that recognized clan territories extended well into BC prior to the first European contact and that such territories reached land on which Eskay Creek and several other mine developments are proposed; and

WHEREAS, SEITC is working to submit evidence of recognized clan territories in order to seek the right of consent regarding all developments within those territories;

NOW THEREFORE BE IT RESOLVED, that the Eighty-Seventh Tribal Assembly of the Central Council of Tlingit & Haida Indian Tribes of Alaska delegation convened April 20-22, 2022, hereby supports the efforts of the Southeast Indigenous Transboundary Commission (SEITC) to work toward establishing the rights of the Southeast Alaska tribes under the Declaration on the Rights of Indigenous Peoples Act and the Canadian Constitution; and

BE IT FURTHER RESOLVED, that Tlingit & Haida shall seek support of these efforts by SEITC from the Alaska congressional delegation.

ADOPTED this 20th day of April, 2022, by the Eighty-Seventh Tribal Assembly of the Central Council of Tlingit & Haida Indian Tribes of Alaska.

CERTIFY



President Richard J. Peterson

ATTEST



Tribal Secretary Jacqueline L. Pata