



PRESS RELEASE

OTTAWA: Mikisew Cree First Nation was granted leave to appeal on May 18, 2017 with the Supreme Court of Canada to challenge the decision of Federal Court of Appeal that First Nations are not owed a duty to consult when the Crown develops legislation.

BACKGROUND:

Mikisew is located in northeastern Alberta. The First Nation is a signatory to Treaty No. 8 and has constitutionally protected treaty rights, which are intrinsically related to the environment in their lands. In 2012, the previous federal government introduced and passed two lengthy omnibus budget bills (Bills C-38 and C-45), which dramatically changed key federal environmental laws including the Canadian Environmental Assessment Act, the Fisheries Act, the Species at Risk Act and the Navigable Waters Protection Act. These included changes to the scope, depth and frequency of federal environmental assessments and protections in Mikisew's territory and throughout Canada.

These actions shocked diverse segments of Canadians and helped galvanize the Idle No More movement. Concerned with the erosion of important protections for the rights of indigenous peoples across Canada, the Mikisew Cree First Nation brought a legal challenge to the previous government's actions for failing to consult on these changes. The Federal Court agreed with the Mikisew Cree First Nation that governments have a legally binding duty to consult First Nations when developing legislation that may impact the rights and lives of First Nations. This set a precedent of value to all First Nations peoples and put Parliament and provincial legislative assemblies on notice that First Nations voices must be heard whenever laws affecting their rights are developed.

The Federal Court of Appeal overturned the lower court decision late in 2016. Yesterday, the Supreme Court of Canada granted leave to hear an appeal of the Federal Court of Appeal's decision. Chief Justice Courtoreille stated: "Canada's past tells us that the government's failure to consult on lawmaking is a problem for indigenous peoples even if the current government is committed to do things better. It is our hope that the Supreme Court of Canada will confirm that the federal government and all other governments in Canada must consult with First Nations on legislation that may adversely affect our rights. Ultimately, this will benefit all Canadians."

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