

Standing in Solidarity with Indigenous Peoples



by Brent Patterson

There are fundamental principles that guide the political work of the Council of Canadians with respect to Indigenous peoples and our shared opposition to destructive projects such as fracking, pipelines, clear-cut logging and trade deals.

We respect the right to *free, prior and informed consent*, which is affirmed in the United Nations Declaration on the Rights of Indigenous Peoples. It says that Indigenous peoples have the right to say yes or no to endeavours that would affect them.

We acknowledge the *duty to consult*, which the Supreme Court of Canada has defined as a mandatory constitutional obligation. It does not mean simply informing Indigenous peoples, but rather it requires appropriate accommodation, and, on “very serious issues,” their full consent.

We see Section 35. (1) of the Constitution Act as vital. That section states, “The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.” Aboriginal rights have been interpreted to include a broad range of economic, political, social and cultural rights.

And we support *Aboriginal title* as interpreted by the Supreme Court of Canada. The Court has ruled that Aboriginal title extends to the entire traditional territory of an Indigenous group, and that consent from First Nations that hold Aboriginal title is required in order to approve projects on that land. This is particularly significant because Aboriginal title to most of

the land within British Columbia and in many other parts of Canada has never been extinguished.

These rights are central in the formulation of our campaign work with our Indigenous allies.

We have worked with the Elsipogtog First Nation to oppose fracking on their territory in New Brunswick. Houston-based SWN Resources wants to frack on the unceded Mi’kmaq territory covering most of New Brunswick south of the Miramichi River, and a portion of Nova Scotia where it borders New Brunswick. We have provided ongoing political support and materials, including a generator, sleeping bags and tarp, to assist the protest camp in Elsipogtog. We have supported training for non-violent civil disobedience, among many other actions.

We were also interveners at the Supreme Court in support of the Tsilhqot’in Nation in British Columbia and their claim to Aboriginal title. Our submission argued for the recognition of title more broadly and liberally, rather than just for isolated pockets of land. Our lawyers noted that it was not appropriate to argue that a broad recognition of title would burden existing non-Indigenous interests. This past June, the Supreme Court ruled in favour of Tsilhqot’in title in what is widely seen as a historic and precedent-setting case.

We have also supported the Hupacasath First Nation on Vancouver Island and their court challenge against the Canada-China Foreign Investment Pro-

The Council of Canadians stood with First Nations as their Idle No More movement protested Harper government omnibus budget bills.



motion and Protection Agreement. We were able to fundraise more than \$17,000 to help with their legal costs. The Hupacasath argued that this agreement was an infringement on inherent Aboriginal Title and Rights, notably its investor-state provision, which could be used to override Indigenous rights and give the balance of power of resource management to corporations rather than affected communities.

And we are now beginning to work with the Gitxaala Nation, which has Aboriginal title in the area on the north coast of British Columbia where the supertankers filled with tar sands bitumen via the Northern Gateway pipeline would travel. The Gitxaala are seeking a judicial review to challenge the legitimacy of the National Energy Board’s joint review panel decision to conditionally approve this Enbridge pipeline, and are preparing broader lawsuits as well.

Beyond this, we have also been working with First Nations – notably the Athabasca Chipewyan First Nation in Alberta who are opposing the Energy East pipeline (which would traverse the territory of 155 First Nation communities), the Unist’ot’en Action Camp that is on the pathway of the Pacific Trail fracked gas pipeline to Kitimat, the Grassy Narrows First Nation, which was not properly consulted and does not agree to continued clear-cutting on their traditional lands in Ontario, and numerous other First Nations and Indigenous groups defending their rights and our collective future.

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