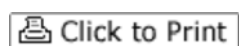




Powered by Clickability

[SAVE THIS](#) | [EMAIL THIS](#) | [Close](#)

First Nations applaud fishing ruling

Published: November 18, 2009 3:00 PM
Updated: November 18, 2009 4:02 PM

The Hul'qumi'num Treaty Group's chief negotiator is cautiously optimistic about what a court ruling on aboriginal fishing rights could spell for local treaty talks.

“What this decision means is that the government may have to reconsider its position,” said Robert Morales.

He's referring to the recent ruling of B.C. Supreme Court Judge Nicole Garson, who found the aboriginal Nuu-chah-nulth peoples have a constitutionally protected right to fish commercially in their territories.

While Garson's ruling is a victory for the Nuu-chah-nulth, Morales doesn't expect the win to translate into similar gains for the Hul'qumi'num Treaty Group.

“I expect Canada will likely appeal [Garson's] decision, and while hope springs eternal that they're going to deal with this at an earlier stage, I think the implication is the government – which has said at the treaty tables it is not prepared to negotiate the right to sell fish as a treaty right – will want to have [the fish component] as a separate agreement outside of the treaty.”

But, Morales added, First Nations continue to garner legal support.

“The courts are ruling in favour of First Nations and the government continues to lose cases in court, but yet it hasn't changed its

policy or its mandate,” he said.

“The government has to approach these issues in the spirit of good faith, with the honour of the Crown at stake, so we’re hopeful it’s going to change the way it does business, and that this [court] decision will in fact help to move our negotiations into a faster pace, in terms of being able to get to an agreement on these issues.”

But past experience means Morales isn’t holding his breath.

“The government has chosen to interpret Section 35 of the constitution [which refers to the protection of aboriginal and treaty rights] very narrowly,” said Morales. “It has implemented Section 35 to say rights don’t exist until you go to court to prove them, on a case by case basis – so just because the Nuu-chah-nulth and the Heiltsuk [another peoples with court-supported fishing rights] have established their right to sell fish doesn’t necessarily mean the Hul’qumi’num people have a right to sell.


“The government has taken a very narrow approach to a constitutional right, which we say is problematic. It’s offensive to the constitution, it’s offensive to the rule of law, and it’s offensive to international law.”

editor@nanaimobulletin.com

v2

Find this article at:

http://www.bclocalnews.com/vancouver_island_central/nanaimonewsbulletin/news/70414042.html

 [Click to Print](#)

[SAVE THIS](#) | [EMAIL THIS](#) | [Close](#)

Check the box to include the list of links referenced in the article.

© Copyright Black Press. All rights reserved.