



STELLAT'EN

FIRST NATION

SAIK'UZ



## NEWS RELEASE

February 27, 2024

### **Saik'uz and Stellat'en Respond to the Decision Released by the BC Court of Appeal February 26, 2024 (*Thomas v. Rio Tinto Alcan Inc*, 2024 BCCA 62)**

Yesterday, Saik'uz and Stellat'en First Nations took a very significant step forward in their long journey for protection against the harm that the hydroelectric Kenney Dam operated by Rio Tinto Alcan has on the Nechako River, fish, and their Aboriginal rights. In a unanimous decision, the B.C. Court of Appeal found that both the provincial and federal governments have a fiduciary duty to protect the two Nations' Aboriginal rights from the ongoing harm that the dam causes.

Saik'uz and Stellat'en descend from Dakelh people who have lived and relied on the Nechako River for millennia. They have witnessed the drastic decline in sockeye salmon and Nechako white sturgeon in a river that, because of the operation of the dam, has less water at critical times in the lifecycle of these important species. Rio Tinto Alcan has always denied any harm, including at trial and on the appeal. The Court of Appeal rejected their denial—noting that the trial judge had found “hugely negative impacts” on the Nations and affirming “ongoing detrimental impacts of the regulation of the Nechako River’s water flow on the appellants’ Aboriginal right to fish.” The Court of Appeal held that the federal and provincial governments, which have a “continued role and authority in regulating the water flow” have a “strong fiduciary duty” to act to protect Saik'uz and Stellat'en’s rights (a duty which both governments denied existed on the appeal).

Saik'uz Chief Priscilla Mueller states that “our Nation celebrates the affirmation that the Crown cannot wash its hands of impacts from major resource exploitation decisions when it continues to have a role in how that resource is managed. The Court of Appeal issued ‘declarations plus’ ordering the Crown to involve our Nations in decisions and to take substantive actions to manage the river to avoid unnecessary harm—harm that the Court said ‘occurs anew each and every year’”.

Chief Robert Michell of Stellat'en highlights that “while Alcan itself was found to not have direct legal liability because its activities were authorized by government, no one involved in managing the river—not the province, the federal government, or Rio Tinto Alcan—will be able to continue doing business as usual, denying harm to fish and impacts to Saik'uz and Stellat'en’s constitutionally-protected rights.”

Saik'uz and Stellat'en look forward to working with the government and the company on a renewed foundation, where the Crown must, going forward, “reassess its prior conduct in light of the new reality.” The regulation of the waters of the Nechako River must now be done in such a way as to protect, respect and uphold Saik'uz and Stellat'en First Nations’ constitutionally protected Aboriginal rights.

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