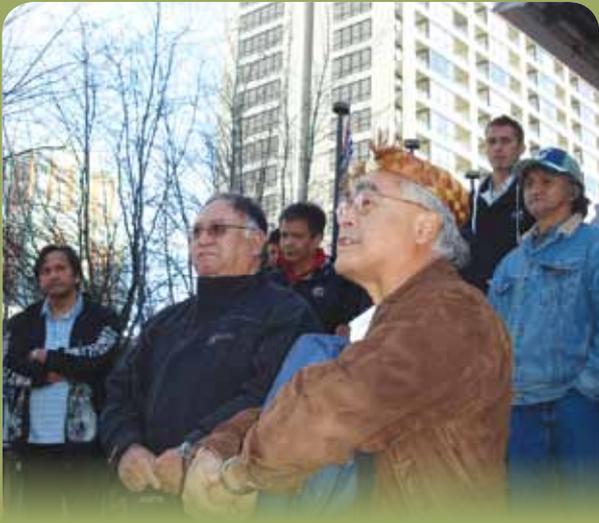


Nations Gather to Hear Appeal in Fishing Rights Case



NTC President Cliff Atleo speaks to supporters and media about Nuu-chah-nulth Fishing Rights. Canada is appealing the 2009 decision recognizing Nuu-chah-nulth rights to fish and sell commercially.

Nuu-chah-nulth Nations and supporters gathered in Vancouver in early December to hear submissions in Canada's appeal against the Nuu-chah-nulth Fishing Rights decision. Ha'wiih, Chief and Council members, youth, and leadership from other Nations and organizations attended the five-day hearing at the Vancouver Law Courts between December 6 and 10.

Gathering at the Chateau Granville one day before the hearing, about 40 people were on hand to hear a briefing and support the Nations involved in the case. Chief Bob Chamberlin, Vice President of the Union of BC Indian Chiefs, addressed the crowd, saying, "I am honoured to be standing with Nuu-chah-nulth again. It is a travesty that the government is appealing this case, especially when Canada is supporting the [UN] Declaration on the Rights of Indigenous Peoples. It will be a great honour to be there with you tomorrow. The Union of BC Indian chiefs stands in solidarity with Nuu-chah-nulth."

Frank Brown of Heiltsuk First Nation added, "We are on the cusp of something great. We need to stay the course and be strong. Your win is our win... they can not deny that we did not concede our rights to our resources."

The following day, spectators packed the Appeal Court as Canada began their submissions. Canada's appeal is based on three main findings of the trial Judge, Madam Justice Garson, who determined based on the extensive evidence heard during 123 days in court that Nuu-chah-nulth have rights to fish and sell fish into

the commercial marketplace.

The findings on appeal included the facts that Nuu-chah-nulth ancestral communities regularly traded significant quantities of fish before European contact, that trading in fish was an integral practice of those communities, and that Canada's regulatory regime infringes on Nuu-chah-nulth aboriginal rights.

Canada began by re-presenting selected evidence heard at trial and suggesting to the three Appeal Panel Justices that the trial judge made mistakes and went too far in some of her conclusions. Canada finished on the second day with an analysis of Madam Justice Garson's conclusions on infringement.

"It is a travesty that the government is appealing this case, especially when Canada is supporting the [UN] Declaration on the Rights of Indigenous Peoples."

—Chief Bob Chamberlin,
Vice President of the Union of BC Indian Chiefs

Interveners in the case presented limited submissions to the Court over days two and three. Interveners included the Province of BC, the BC Wildlife Federation and BC Seafood Alliance (who applied jointly to represent the interests of the commercial fishing industry), and the Underwater Harvesters

Association (representing geoduck quota holders).

The legal team representing Nuu-chah-nulth Nations made their submission over days three to five of the hearing, beginning with examples of how Canada was selectively presenting the evidence. The team also reviewed the considerable findings of fact made by the trial judge and responded to a series of questions from the Appeal Panel Justices seeking analysis of how the Nuu-chah-nulth Fishing Rights decision compared to *Gladstone* and *Lax Kw'alaams*, two other aboriginal rights cases familiar to the Court.

On the fifth day, the legal team for Nuu-chah-nulth concluded their submission with a review of other related decisions and further distinguished the Nuu-chah-nulth case from the *Lax Kw'alaams* case, now before the Supreme Court of Canada.

After concluding their submissions, the lawyers for both sides agreed that any cost award submissions would be made in writing. The court adjourned on December 10 with the judges reserving their decision. The Parties expect a decision from the Appeal Court within the next 3 – 9 months.

From left to right, NTC President Cliff Atleo, Chief Robert Dennis, Don Hall, and Chief Bob Chamberlin sing on the courthouse steps before the hearing begins.

