



FIRST NATIONS FISHERIES COUNCIL

of British Columbia

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FOR IMMEDIATE RELEASE

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FNFC welcomes federal review of laws and policies related to Indigenous Peoples, urges Government of Canada to meaningfully engage First Nations

Prime Minister Justin Trudeau announced today that a working group of Ministers will undertake a federal review of Canadian laws and policies related to Indigenous Peoples. The goal of this review is to ensure that the Crown is meeting its constitutional obligations with respect to Aboriginal and Treaty Rights, adhering to international human rights standards including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and supporting the implementation of the Truth and Reconciliation Commission's Calls to Action.

The First Nations Fisheries Council of British Columbia (FNFC) welcomes this review, and strongly urges the Government of Canada to meaningfully engage First Nations communities and organizations in this review process. The government is also in the midst of reviewing several important environmental and regulatory processes and pieces of legislation including the *Fisheries Act*, the *Canadian Environmental Assessment Act*, the *Navigation Protection Act* and the National Energy Board; due consideration of Aboriginal Title and Rights and Treaty Rights should be a key component of these any other legislative review processes going forward.

By virtue of extensive connections with fisheries that long preceded non-aboriginal settlement in North America, First Nations in Canada have a different legal relationship to fisheries than non-aboriginal Canadians. Aboriginal Rights are entrenched in Canadian law in Section 35(1) of the *Constitution Act*, and this constitutional status is meant to ensure the protection of Aboriginal and Treaty Rights and eliminate the potential for their unjustified infringement.

"In the last century First Nations have experienced marginalization in fisheries, felt the impacts of stock decline, and borne the brunt of conservation" said FNFC President Ken Malloway. "Meanwhile we've had to navigate an increasingly complex environment of legislation, policy and regulation that continues to serve as a barrier to having our fishing rights recognized and accommodated. This act of infringement or attempting to limit the practice of Aboriginal Rights is inconsistent with case law including *Sparrow*."

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In 1990, the Supreme Court of Canada issued a landmark ruling in the *Sparrow* decision, which stated that First Nations have an Aboriginal Right to fish for food, social and ceremonial (FSC) purposes, and that this right takes priority, after conservation, over all other uses of the resource. *Sparrow* also stated the importance of consulting with First Nations when their rights may be affected. This decision, along with a number of other significant court decisions on fisheries including *Calder*, *Guerin*, *Van der Peet*, *Gladstone*, *NTC Smokehouse*, *Delgamuukw*, *Marshall*, *Haida*, *Kapp*, *Lax Kw'alaams*, *Ahousaht* and *Tsilhqot'in*, remains centrally important to the understanding of Aboriginal Rights in Canada.

"Implementation of existing case law that supports Aboriginal and Treaty Rights, particularly First Nations priority access to fish and fisheries as per the *Sparrow* decision, must be a priority for the Ministers' working group in this review" Malloway said.

"First Nations have consistently expressed their intention to pursue more equitable governance arrangements with the Crown for shared authority and collaborative management of fisheries and aquatic resources in BC" said FNFC Executive Director Jordan Point. "Despite these efforts, there remains a great deal of work to be done to reconcile Aboriginal Title and Rights and Treaty Rights with the Crown."

The FNFC advocates the need for collaborative governance arrangements between First Nations and the Crown in order to ensure that First Nations may practice their rights and responsibilities for the governance and management of Pacific fisheries. Through co-governance, Title and Rights may be reconciled with current federal governance structures, processes and decisions as it allows for shared authority and responsibility by First Nations and the Crown for fisheries management.

"Our fish and aquatic resources are the lifeblood of First Nations on the west coast, and the relationship between First Nations and government on fisheries management – the good and the bad – has a long and complex history" said Malloway. "If the goal of this initiative is to fully renew Canada's nation-to-nation relationship with Indigenous Peoples, establishing a true co-governance relationship with First Nations on fisheries will play an important part."

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Background:

The First Nations Fisheries Council of British Columbia was established in 2007 to implement the *First Nations Fisheries Action Plan*, an agenda for action in the Pacific fishery for BC First Nations. The *Action Plan's* vision includes all First Nations in BC working together to address issues of shared concern in the fishery, and to enhance the well-being of communities. The plan calls for maintaining healthy aquatic ecosystems and species and restoring them as necessary while sharing management responsibility based on ownership of territories and the inherent Rights of First Nations. The Council works with governments and stakeholders to ensure recognition and respect of First Nations' Title and Rights and to improve the conservation and management of the resource. For more information, please visit our website at www.fnfisheriescouncil.ca.

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