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March 7, 2019

Supreme Court Rules Against Kaska Dena Council as Rights and Title Holder

WATSON LAKE – The Supreme Court of Yukon filed a decision earlier this week ruling against all claims brought forth by the Kaska Dena Council (KDC) in their motion seeking a formal declaration as a holder of Kaska Aboriginal rights and title in its dealings with the Government of Yukon.

Liard First Nation was named in the case as a Defendant to oppose the KDC application to the court, on the grounds that KDC had no authority as it is not a rights-bearing group or authorized to bring this action.

The ruling confirmed that Kaska Dena Council is not a rights-bearing group, nor an authorized representative of a rights-bearing group. The Court ruled that KDC cannot assert aboriginal rights or title on behalf of some members of the Kaska Nation.

The court has made clear findings of fact that the Kaska Nation rights-holders are Liard First Nation, Ross River Dena Council, Dease River First Nation, and Kwadacha Nation. When Crown decisions are being made that could impact Kaska aboriginal rights and title - those are the governments whose concerns must be addressed.

This decision sends a clear message that other governments and proponents must work with Liard First Nation to ensure that Kaska aboriginal rights remain meaningful when development and business opportunities are proposed in Kaska traditional territory.

The decision outlines six separate issues around Kaska Dena Council's assertions that were overturned in their entirety by the ruling.

Quote:

"This decision makes clear who governments and industry must consult and engage with on matters relevant to Kaska aboriginal rights and title," said Liard First Nation Chief George Morgan. "We're hopeful that this decision will clarify any confusion held by industry, government and even our own members about who holds Kaska aboriginal rights and title and must be consulted and accommodated."

Quick Facts:

- Kaska Dena Council is a Society that was incorporated for the purpose of negotiating Kaska land claims in northern British Columbia and a Transboundary Agreement in Kaska traditional territory. In the court action, KDC claimed to be entitled to bring an application for a declaration that Yukon has a duty to consult with them on the basis that it held rights, titles and interests to its Kaska members' traditional territories.
- The court action was commenced by Kaska Dena Council (KDC) claiming that the Government of Yukon owed KDC a duty to consult and accommodate KDC before issuing sport hunting licenses and tags in the southeastern Yukon.
- Justice Veale ruled against KDC on all six of the key issues as outlined in the decision. The Court ruling that KDC did not have the rights-bearing Aboriginal authority to bring its legal claims was a similar conclusion to past claims the KDC filed vs. the Province of British Columbia and vs. Canada.

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