



STAND WITH NUCHATLAHT



JUSTICE FOR INDIGENOUS PEOPLES REQUIRES RETURNING LAND



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On the west coast of what's now known as North America, there are still places where ancient rainforests descend steep mountain slopes to meet the powerful waves of the Pacific Ocean. These landscapes are often called "rugged" or "wild," but they've been home to people for thousands of years. There are unbreakable connections between this place and Indigenous cultures here.

Nuchatlaht Ha'wiih (hereditary chiefs) have lived on and stewarded every inch of their hahoulthee (territories) on parts of what are now called Nootka and Vancouver Islands and the surrounding waters since time immemorial. Nuchatlaht people are as ingrained in the valleys, coastlines and inlets as these places are in them.

Nootka Island is the site of first contact between Indigenous Peoples and Europeans west of the Rocky Mountains.¹ The Nuchatlaht, like Indigenous Nations across the continent, had their land and children stolen and were excluded from decision-making and the

benefits of resources extracted from their territory. Colonial governments and corporations have degraded the splendour of Nootka Island, raking vast swathes of forests off the land and hauling millions of fish and other marine life from the ocean.²

After many decades of opposing the overexploitation of its territory by logging companies and fishing fleets and appealing to be included in management decisions, the Nuchatlaht launched its historic land title case on behalf of their Ha'wiih in 2017. Hearings began in the spring of 2022, with a final decision expected late in the year or early 2023.³ Gaining legal title to and

ownership of their territory will allow the Nuchatlaht to once again take care of their lands and waters as they see fit.

This case sets a precedent as the first title case in what we call Canada to be filed after the 2014 Tsilhqot'in decision, which granted that Nation title to more than 1,700 square kilometres of land.⁴

The Nuchatlaht case highlights the strength and determination of this Nation and the hypocrisy of the provincial government. Like the federal government and other provincial and territorial governments, B.C.'s NDP government makes promises about reconciliation with Indigenous Peoples and forming a better, relationship with Indigenous Nations that acknowledges their rights and title.⁵

B.C.'s provincial government is the only one in Canada to pass legislation aligning laws with the UN Declaration on the Rights of Indigenous Peoples. And yet it is still fighting tooth and nail against the Nuchatlaht in court.⁶

Politicians go to great lengths in press releases and public events to proclaim the importance of Indigenous rights. At the same time, government

agencies continue operating under policies grounded in racism and take actions that prioritize provincial, federal and corporate interests over those of Indigenous Peoples.

The situation with Nuchatlaht is an example of this reconciliation-with-limits approach. During this case the premier of B.C. spoke at a press conference about action on Indigenous rights the same morning government lawyers were fighting against the First Nation in court.⁷

Nootka Island, like every square metre of Canada, is the territory of Indigenous Peoples. As public interest to protect the environment and fight climate change grows, so should the recognition that justice for the land requires justice for those who have always been on it. Respect for Indigenous rights and the return of land to Indigenous people must be a central demand for all who advocate for healthy ecosystems and a safe climate.

Supporting Nations like Nuchatlaht is a place to start.

Respect for Indigenous rights and the return of land to Indigenous people must be a central demand for all who advocate for healthy ecosystems and a safe climate.



Photo Top: Nootka Sound, Vancouver Island, BC (TJ Watt/Ancient Forest Alliance).
Photo Bottom: Nuchatlaht land back rally at Supreme Court (Alex Hsuan Tsui).



Photo: Coho salmon swimming (Barrie Kovish).

STEWARDS OF THE LAND AND WATER SINCE TIME IMMEMORIAL

The Nuchatlaht people have been on their territory on the northwest part of Nootka Island since time immemorial. With archaeological evidence dating back centuries and oral histories going back many generations, the Nuchatlaht are intertwined with their lands and waters.⁸

As house speaker for the Nuchatlaht Tyee Ha'wilt (head hereditary chief), He Saw Ma Nulth Archie Little has spent years educating people about Nuchatlaht history and governance. It's a role that's continued as the Nuchatlaht title case works its way through the Supreme Court. He Saw Ma Nulth speaks eloquently about the former abundance of salmon, herring, shellfish, game, cedar and other resources

on Nuchatlaht hahoulthee and his people's long tradition of stewarding this richness.

"If we cut all the trees, we were poor and if we caught all the fish, we were poor, so we managed our territory for abundance," He Saw Ma Nulth says.

He also points out that territorial boundaries have been known and respected for centuries, illustrating this point with

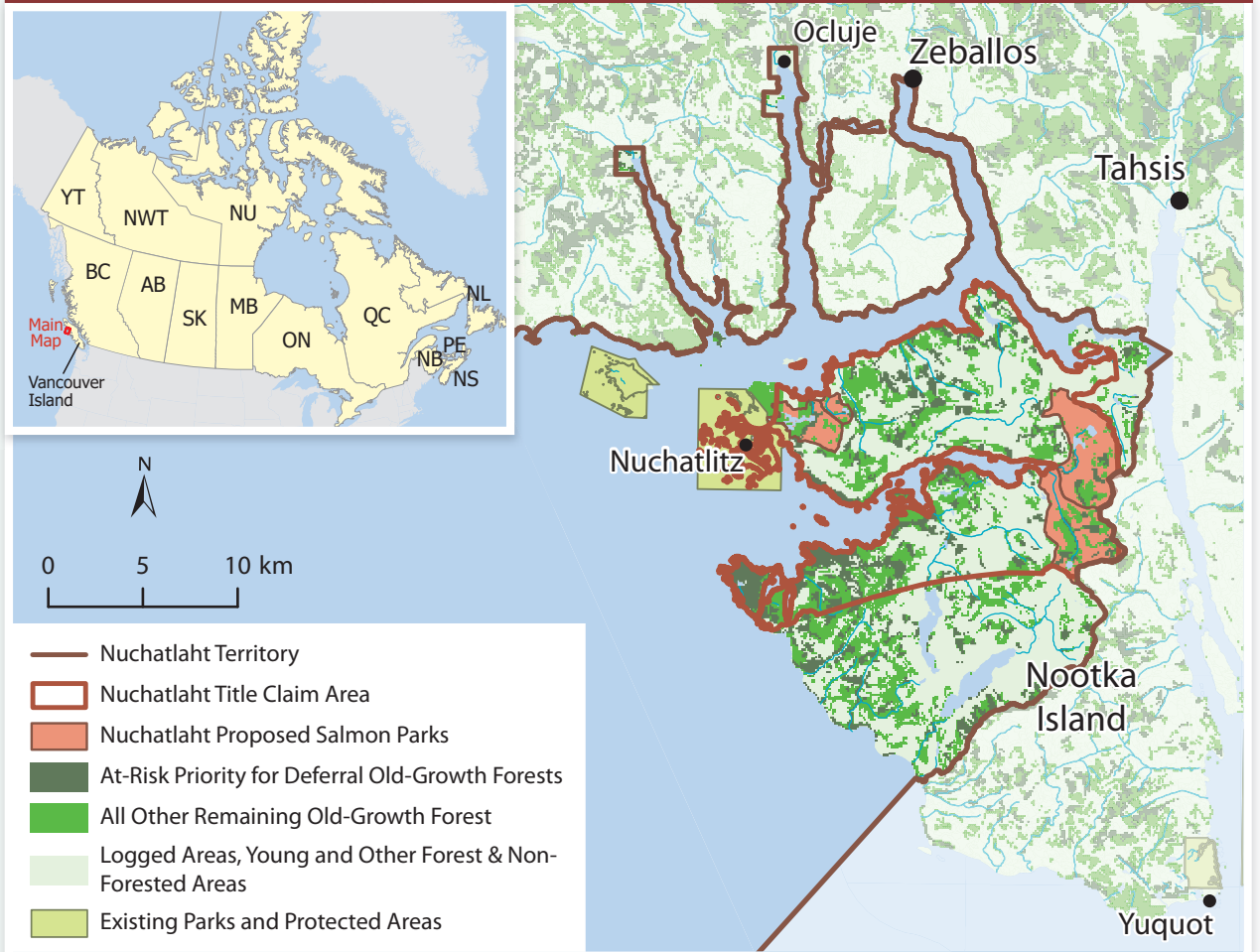
a story of a pre-contact whale hunt. A neighbouring tribe harpooned a whale at a spot they knew was the boundary between their territory and Nuchatlaht's — despite being many kilometres offshore. They brought the whale to the beach and then sent for Nuchatlaht so they could divide the kill fairly and properly.

Nuchatlaht oral history is



Photo: A Nuchatlaht member harvesting shellfish at low tide (Troy Moth).

Nuchatlaht title claim area



clear on which areas were the responsibility of which chiefs. He Saw Ma Nulth stresses that only modern colonial governments fail to understand this and mount challenges based on their uncertainty.

There's immense pride amongst the Nuchatlaht, both for the beauty of their territory and their history taking care of it. Harvesting cedar from

the forest, clams and mussels from the shoreline and salmon and halibut from the ocean was the work of everyone in the community.

For the Nuchatlaht, regaining control of their lands and waters is about strengthening these practices and knowledge systems. It's not about starting something new but about getting back to what they've always done.

CORRECTING DECADES OF OVER-EXPLOITATION

The first Europeans to see Nootka Island came searching for riches. In the decades following, ships from Great Britain and Spain competed for access, nearly resulting in war between the two colonial powers.⁹

Hunting sea otters for furs is now replaced by logging and fishing. Naval captains like George Vancouver and Juan Francisco de la Bodega y Quadra have been replaced by the CEOs of logging corporations and politicians in the B.C. Legislature. **But the assumed ownership of Nuchatlaht lands and resources has continued for over two hundred years.** Nootka Island is notorious for some of the largest clearcuts on the coast.¹⁰ Today the most productive old-growth forests cover only ten per cent of the island.¹¹

Nuchatlaht Tyee Ha'wilt Kla Kwa Skum Jordan Michael rejects the idea that logging on Nootka Island is managed sustainably. "B.C. and Canada seem to have the whole world convinced they're sustainably harvesting timber. But when you get out there on the ground and look around, it's total decimation," he says.

House Speaker He Saw Ma Nulth and other community members point out that while Nuchatlaht is interested in some

parts of their territories being set aside, they aren't saying no to utilizing the forest and ocean as they always have. Restoring traditional governance and management is the key. It's not just to help terrestrial and marine ecosystems recover but to ensure local people have access to the lands and waters and the benefits that flow from them.

"We need healthy forests and healthy fish and healthy people," He Saw Ma Nulth says. "We're not just fighting for Nuchatlaht — we want to show the world that we can manage better, protect better, and there will be enough for everybody."

This brighter, healthier future requires righting the wrongs of both the past and present. The Nuchatlaht Tyee Ha'wilt draws a straight line between the centuries-long efforts of outsiders to gain access and wealth from his territory and the ongoing extraction by logging and fishing industries. "The British and Spanish were fighting over our land without including us in the conversation," Kla Kwa Skum says. "Our people are still on Nootka Island today and we're having that conversation now. And we're fighting to regain part of what was taken from us."



Photo: Old-growth logging in Nuchatlaht Territory (WC Files).

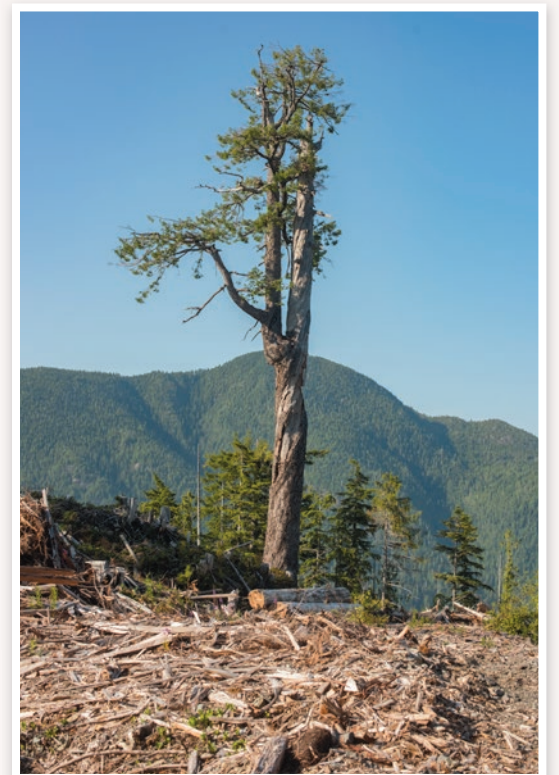


Photo: Clearcuts in Nuchatlaht Territory (WC Files).

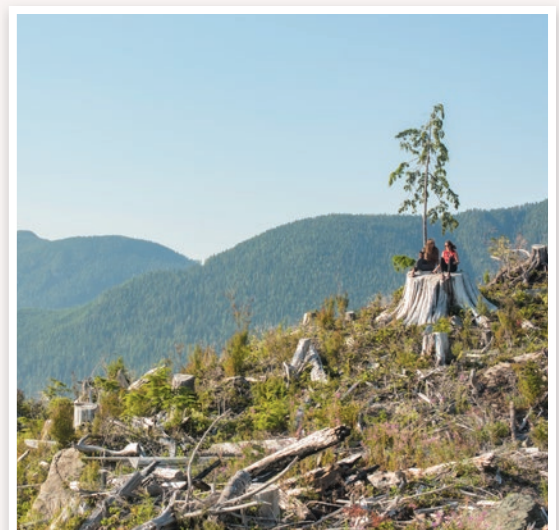


Photo: Clearcuts in Nuchatlaht Territory (WC Files).



BC ALL TALK ON RECONCILIATION

Since its election in 2017, the B.C. NDP government has talked a big game on Indigenous rights and reconciliation. In November 2019, it passed the Declaration on the Rights of Indigenous Peoples Act (DRIPA), promising to align provincial laws with the U.N. Declaration on the Rights of Indigenous Peoples. The government championed the legislation as a turning point to ensure, “we have a better future than our past.”¹²

But for Nations like the Nuchatlaht, not much has changed.

As the Nuchatlaht title case moved through its preliminary stages, government lawyers maintained the Nuchatlaht were “too small and weak” at the time of colonization to hold legal title now.¹³ In a step further, the province said the Nuchatlaht could not own Nootka Island because its people did not live there anymore.¹⁴

However, the Nuchatlaht were



Photo: He Saw Ma Nulth Archie Little and Kla Kwa Skum Jordan Michael at land back town hall (Alex Hsuan Tsui).

forcefully relocated from their village at Nuchatlitz on Nootka Island to a small reserve on Vancouver Island in the 1980s by the federal government.¹⁵ Jack Woodward, the lead lawyer for the Nuchatlaht, calls the B.C. government’s arguments “shameful and offensive.”

A glimmer of hope appeared when the main trial began in March 2022. Just a week and

a half into the hearings, the B.C. government introduced its action plan to implement DRIPA. The action plan includes instructions for the attorney general to direct government lawyers to stop denying Indigenous title and treat Indigenous Peoples with respect during any and all legal action.¹⁶ But the hope was dashed a few weeks later. Government lawyers said then-attorney general David Eby’s new directives would not impact their arguments or conduct in the trial.¹⁷

The Supreme Court hearings wrapped up in early June after Nuchatlaht’s lawyers had presented hundreds of pages of testimony, including historical accounts and

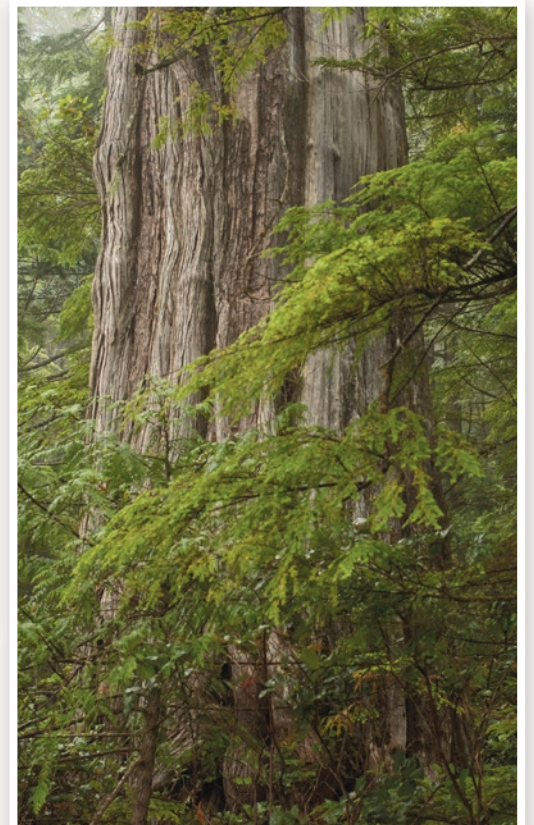


Photo: Cedar tree in Nuchatlaht Territory (WC Files).

expert archaeological evidence. Final arguments begin in late September 2022, with a decision expected at the end of the year or early in 2023.

The Nuchatlaht title case has implications across Canada. It demonstrates both the resolve of First Nations to stand up for what’s theirs, and the unwillingness of federal and provincial governments to admit actual reconciliation means returning land to Indigenous Peoples.



Photo: Breaching humpback whale (John E. Marriott).

SALMON PARKS: INDIGENOUS CONSERVATION IN ACTION

Like much of the Pacific Coast, salmon stocks in Nuchatlaht territory are down and overharvesting by outside interests is to blame for the decline of this and other species.

Also at fault is decades of unsustainable logging practices, which have decimated creeks and streams on Nootka Island in particular. “When the logging company comes in, they log and they leave. It looks like a bomb went off,” He Saw Ma Nulth says.

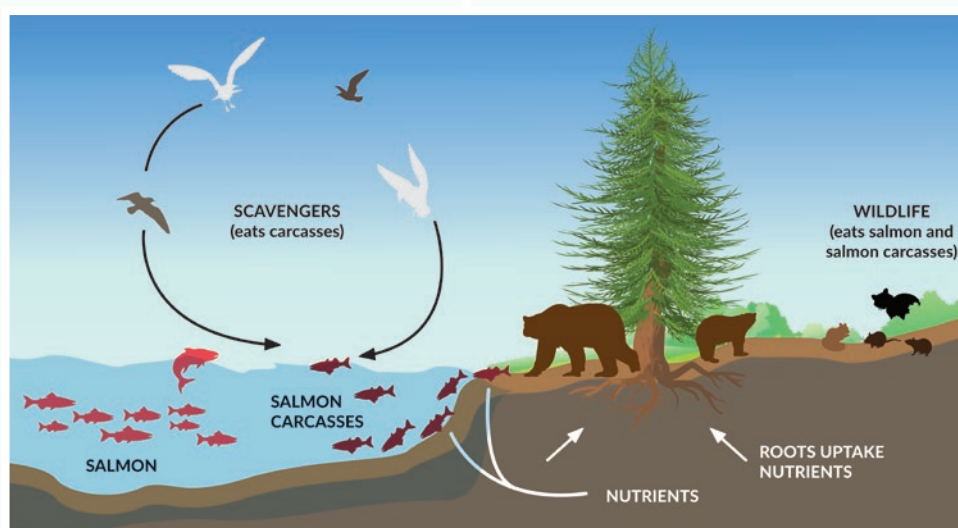
Cathy Michael, a Nuchatlaht member who serves as head of housing and social development, echoes the sentiment saying, “I see them logging all around us and no one asks for permission. Our salmon are dying off and it’s because of the logging.”

Part of Nuchatlaht’s answer is salmon parks. This visionary designation protects the waterways and forests that comprise salmon habitat, from the top of the watershed boundary to the mouth of the creek. At the direction of late Tyee Hawilth Hithla mish Walter Michael, the Nuchatlaht Nation has put forward two salmon parks proposals for their territory on Nootka Island. Neighbouring First Nations have advanced similar proposals on their territories. Salmon parks, which are based on the Nu-u-chah-nulth principle of hishuk ish tsawalk (everything is interconnected), are

gaining attention and momentum. They can be a key tool in protecting rainforests and the salmon habitat within them. Nu-u-chah-nulth Ha’wiih and scientists are working to determine the best way to protect, enhance and recover these critical ecosystems and recognize the relationship between salmon and ancient trees.

“It’s all connected — the fish and the forest,” says Nuchatlaht fisherman and carver Edgar Smith. “We depleted it to an extent where we need to look after it. We need to set aside something.”

“We have to stop somewhere and start helping Mother Earth to recover,” says He Saw Ma Nulth. “We can’t just keep taking and taking — we’re looking for solutions.”



RETURNING LAND BENEFITS MORE THAN ECOSYSTEMS

As recently as fifty years ago, after being cared for by the Nuchatlaht since time immemorial, Nootka Island and the surrounding waters were rich and abundant. Less than a century of mismanagement by colonial governments and resource companies later, much of this ecosystem is severely degraded.

Nuchatlaht history and governance principles make clear Indigenous land and resource management is better for ecosystems and biodiversity. This is obvious on Nootka Island but also other Indigenous territories around the world.¹⁸

Because of the unbreakable connection between people and place, Indigenous Peoples regaining control of their land has benefits that

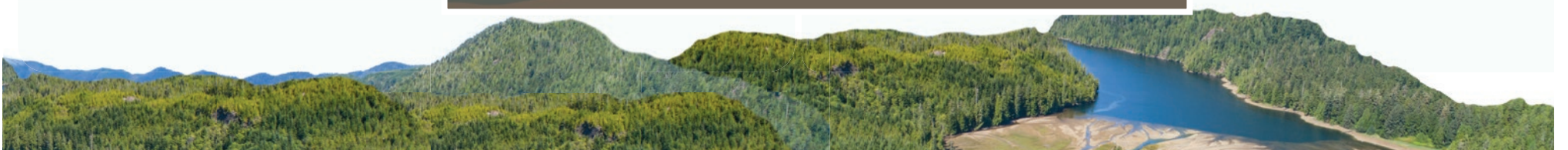
go far beyond restoring over-logged forests or recovering salmon runs. The community’s health, dignity and security are also in the balance.

This is what the Nuchatlaht court case is all about.

While reigning in unsustainable logging and fishing practices are stated goals, Kla Kwa Skum, Cathy Michael and other Nuchatlaht people talk about opportunities to improve housing, healthcare, employment and other tangible community benefits that would flow from regaining legal title to their territory.

The future of Nuchatlaht territory on Nootka Island will be determined by the Nation as a community. It will include harvesting resources from the forests and inlets, ensuring benefits flow to Nuchatlaht people rather than just large corporations based far away.

Nuchatlaht leaders speak of a history where their land was full of healthy people, the community would welcome and take care of visitors. The wealth of the territory made it easy to ensure everyone had enough. That’s the vision the Nuchatlaht are working to restore and it is as beautiful as the most stunning sunset over Nootka Island.



A BETTER FUTURE BUILT ON INDIGENOUS STEWARDSHIP

At a time when more non-Indigenous people are becoming aware of the horrific legacy of the Indian Residential School System, we must grapple with the impacts of colonialism and work to ensure Indigenous communities get the justice and respect they deserve.

In Nootka Sound and everywhere else, Indigenous cultures and ways of being are intricately tied to the territory. So part of this has to include the return of land and jurisdiction over it to Indigenous Nations. **Across Canada, we must support efforts by Indigenous Peoples to get their land back, in whatever forms they take.**

Governments talk about a better relationship with First Nations, Inuit and Métis communities. They are far less enthusiastic about acknowledging that land and waters within provincial and federal borders belong to Indigenous Peoples. When Indigenous communities hold a vision counter to the resource extraction ambitions of prime ministers, premiers or corporations, government commitment to reconciliation gives way to the 150 year-old pattern of colonialism.

"British Columbia is trying to silence the Nuchatlaht Nation so that it can do whatever it wants to our land," Tyeé Ha'wiltsh Kla Kwa Skum says. "We will not be silent while our cultural sites are destroyed, salmon creeks are degraded and old-growth forests are clearcut."¹⁹

We all are responsible for calling out governments when they act dishonourably and supporting



Photo: Nuchatlaht Territory on Nootka Island (WC Files).

Indigenous Peoples and their right to take care of their territories. And we must stand with Nations like the Nuchatlaht and demand provincial and federal governments stop denying Indigenous sovereignty.

As the Nuchatlaht title case enters final arguments and a decision draws nearer, we should all call on the B.C. government to stop denying the Nation's title and on the federal government to intervene when provinces contradict the goal of reconciliation. While the ramifications of the Nuchatlaht title case will be felt across Canada, it's not the only effort we should support. Wherever we are, we must learn whose territory we're on and what we can do to aid

the efforts of Indigenous Peoples to get their lands and sovereignty back.

A better future, where ecosystems and the communities they support thrive under Indigenous stewardship again is well within reach, on Nuchatlaht territory and beyond.



Photo: Sea otter feeding (Isabelle Groc).



Photo: Black bear (John E. Marriott).

TAKE ACTION

- ▶ Support the Nuchatlaht Nation by contributing to their legal fund:
bit.ly/NuchatlahtFund
- ▶ Write to the B.C. premier and Minister of Indigenous Relations and Acting Attorney General Murray Rankin. Demand they stop denying Nuchatlaht Nation title.
WildernessCommittee.org/RespectNuchatlaht
- ▶ Write Prime Minister Justin Trudeau and Federal Minister of Indigenous Relations Marc Miller. Call on the federal government to intervene when provinces contradict the goals of reconciliation.
WildernessCommittee.org/InterveneforReconciliation

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Wilderness Committee, Vol. 41, No. 5, 2022.
 Canadian Mail Product Sales Agreement No. 0900567.
 Posted in Vancouver for free distribution. Printed in Canada on recycled newsprint with vegetable-based inks.
Press Run 21,000 © Wilderness Committee 2022.
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 Published by
Wilderness Committee — National Office
 46 E. 6th Avenue, Vancouver, BC V5T 1J4
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