



CENTRAL COUNCIL
Tlingit and Haida Indian Tribes of Alaska
Office of the President • Edward K. Thomas Building
9097 Glacier Highway • Juneau, Alaska 99801

Executive Council of the Central Council
TLINGIT & HAIDA INDIAN TRIBES OF ALASKA

Resolution EC 22-68

Title: To Protect Our Transboundary Waters and Way of Life

WHEREAS, the Central Council of Tlingit & Haida Indian Tribes of Alaska (Tlingit & Haida) is a federally recognized tribe with more than 34,000 citizens; and

WHEREAS, under Article X of the Tlingit & Haida Constitution, the Executive Council is the governing body of Tlingit & Haida when the Tribal Assembly is not in session; and

WHEREAS, the Tribal Assembly is not in session; and

WHEREAS, the shared Taku (T'aaku), Stikine (Shtax'héen), and Unuk (Joonáx) Rivers are of tremendous and unique cultural, ecological, subsistence, economic, and recreational value as Indigenous peoples from several Nations have stewarded the transboundary region since time immemorial and this region is now home to nearly 80,000 people in dozens of communities; and

WHEREAS, salmon and other traditional foods are the foundation of our cultural existence and economic welfare, these transboundary rivers have nourished our tribal communities since time immemorial; and

WHEREAS, Tlingit & Haida has expressed by way of resolutions, letters and statements for years that the United States (US) must uphold its trust responsibility to tribes and to work with the Canadian government and to utilize all powers under the Boundary Waters Treaty to ensure that our cultural existence and community health are not harmed by upstream development in British Columbia (BC); and

WHEREAS, pursuant to Executive Order 13175 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), affected tribal governments must be consulted with and represented in any policy discussion related to impacts to United States waters and communities; and

WHEREAS, in 2018, BC passed the Declaration of the Rights of Indigenous Peoples Act (DRIPA), and in 2021, Canada passed legislation to implement UNDRIP; and

WHEREAS, UNDRIP acknowledges that Indigenous people have rights to lands, territories, and resources which they have traditionally owned, occupied, or otherwise used or acquired (Articles 25, 26, and 32); and

WHEREAS, in *R. v. Desautel*, the Supreme Court of Canada ruled that non-citizens and non-residents can claim Aboriginal rights under Section 35 of the Constitution; and

WHEREAS, the Desautel court also held that “Aboriginal peoples of Canada,” under Section 35 of the Constitution, applies to the modern-day successors of societies that occupied Canadian territory at the time of European contact, even if such societies are now located outside of Canada; and

WHEREAS, in *Haida Nation v. British Columbia (Minister of Forests)*, the Canadian Supreme Court recognized that Canada has a duty to consult Aboriginal peoples when it acts in a manner that may adversely affect rights guaranteed by Section 35 of the Constitution; and

WHEREAS, the Haida Nation court also held that the right of Aboriginal peoples to consultation need not be proven but only credibly asserted in order to trigger Canada’s duty to consult in the early planning stages of projects, a duty that the court opined should not be acted upon so late that a project is fully defined, which would render any consultation difficult or impossible; and

WHEREAS, preliminary evidence indicates that recognized clan territories extended well into BC prior to the first European contact and that such territories reached land on which several BC mine developments are proposed, abandoned, or operating in the headwaters of the Taku, Stikine, and Unuk Rivers; and

WHEREAS, the Taku, Stikine, and Unuk Rivers are the largest wild salmon producing rivers in Southeast Alaska and some of the most productive on the entire west coast of North America, historically producing 80% of the region’s king salmon, and

WHEREAS, wild salmon populations in the Taku, Stikine, and Unuk Rivers are presently in decline, resulting in the Alaska Department of Fish and Game listing Unuk River king salmon as a Stock of Concern in 2017 and in the 2021 listing of Taku and Stikine River king salmon as Stocks of Concern; and

WHEREAS, the Taku, Stikine, and Unuk Rivers contribute nearly \$50 million in economic activity, \$34 million in direct spending, over 400 jobs, and almost \$20 million in labor income toward Southeast Alaska’s annual multi-billion salmon fishing and visitor industries; and

WHEREAS, more than two-dozen Canadian hardrock mining projects are in various stages of abandonment, permitting, development, or operation in the BC headwaters of the Taku, Stikine, and Unuk Rivers that drain into Southeast Alaska, most of which are large-scale and open-pit gold mines, occur in known acid-generating ore bodies, include tailings dams over 500 feet tall that have to store toxic mine waste forever, and the need for perpetual water treatment, roads, and other infrastructure, and threaten (both in the short term and on geological timescales) the productivity and ecological health of these watersheds through cumulative impacts, contamination, habitat destruction, and/or possible catastrophic failures; and

WHEREAS, BC's environmental assessment process does not set legal requirements or standards for assessing cumulative effects of existing and proposed development; and

WHEREAS, following BC's Mount Polley mine disaster in 2014, an expert panel appointed by the BC government found that if mining companies continue their business-as-usual operations the province could face an average of two dam failures every ten years; and

WHEREAS, the Tulsequah Chief Mine (TCM) has been discharging acid-generating waste into the Taku River watershed since the mine was abandoned in 1957, and despite the fact this pollution is in violation of BC provincial and Canadian federal law, tribes, the State of Alaska, and the US f have requested full cleanup and enforcement of the US-Canada Boundary Waters Treaty of 1909 at TCM for two decades, pollution into the shared Taku watershed continues and several additional BC gold mines are proposed nearby, including New Polaris and Hat; and

WHEREAS, hardrock mining at Greens Creek silver mine and Kensington gold mine are central to Juneau's economy, are not located along shared international rivers, are a fraction of the size of abandoned, proposed, and operating BC mines along the Taku, Stikine, and Unuk Rivers, and are subject to the State of Alaska's water quality regulations and bonding requirements that are more robust than those in BC; and

WHEREAS, thousands of Southeast Alaskans want assurance that BC's mining activities will not negatively impact our livelihoods downstream and if they do, that BC will be held accountable for damages incurred; and

WHEREAS, the Alaska-British Columbia Memorandum of Understanding and associated Statement of Cooperation on Protection of Transboundary Waters signed by the State of Alaska and the Province of BC in 2015 are important, but do not include affected Indigenous governments and cannot provide binding, enforceable protections for the residents, rivers, and watersheds of the Alaska-BC transboundary region;

NOW THEREFORE BE IT RESOLVED, that the Executive Council of the Central Council of Tlingit & Haida Indian Tribes of Alaska calls on President Joe Biden and the United States government and Prime Minister Justin Trudeau and the Canadian government to expeditiously:

1. Utilize their authority under the United States-Canada Boundary Waters Treaty of 1909 to prevent and resolve disputes over the use of shared waters; and
2. Support the request of Alaska tribes and communities for an immediate temporary pause in permitting, exploration, development, and expansion of BC mines on the Canadian side of the border along shared Alaska-BC salmon rivers until a binding international agreement on watershed protections, developed by the federal, tribal, and First Nation governments in these shared transboundary watersheds and consistent with the Boundary Waters Treaty of 1909 is implemented; and

3. Convene with local communities, stakeholders, and indigenous leaders of the Taku, Stikine, and Unuk watersheds to develop the aforementioned binding international agreement on watershed protections; this agreement will identify and honor no-go zones and decisions by indigenous people and local residents on both sides of the international border, ensure mining companies and shareholders are liable for cleaning up their waste and compensating impacted communities for all damages, and enforce requirements for mining best practices, including a permanent ban on the perpetual storage of contaminated water and wet tailings behind earthen dams along these irreplaceable Alaska-BC transboundary salmon rivers.

ADOPTED this 9th day of December 2022, by the Executive Council of the Central Council of Tlingit & Haida Indian Tribes of Alaska, by a vote of 5 yeas, 0 nays, 0 abstentions and 1 absence.

CERTIFY



President Richard J. Peterson

ATTEST



Tribal Secretary Jacqueline L. Pata