



PRESS RELEASE

CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

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US Supreme Court Declines to Hear Teck Appeal, Finalizing Colville Tribes' Victories In Columbia River Damages Case

NESPELEM, WA—The US Supreme Court today declined to hear an appeal by Teck, Inc., of the Colville Tribes' victories in a landmark environmental enforcement case, establishing that the Canadian mining giant's actions in dumping millions of tons of toxic waste into the Upper Columbia River make it a responsible party under United States law.

"This decision brings the Tribes' more than 20-year legal battle with Teck to a close," Rodney Cawston, Chairman of the Colville Business Council, said today. "We are very grateful for this result, that the highest Court in the land agrees that Teck is liable for the enormous damage it inflicted on our river."

Cawston said that Colville never wavered in its fight against Teck, one of the world's largest mining companies, which released nearly 10 million tons of toxic slag over nearly a century from its Trail, BC smelter.

"The Tribes was determined to protect our river, to do everything we could to right this wrong," Cawston said.

Cawston said there were many Colville leaders and staff to thank for this victory

"I want to recognize and honor the determination and commitment of Colville Business Council members in the past, who began this difficult journey in the 1990s," he said. "Their courage and support of this cause has brought us where we are today."

He also applauded the Tribes' Environmental Trust Department for its commitment to hold Teck accountable, including former Environmental Trust Director

Gary Passmore, who worked on the case for many years, and current Director Amelia Marchand. “I must particularly thank Patti Bailey, who coordinated the Teck work for Environmental Trust” he said. She worked passionately and tirelessly with our staff scientists and other experts to marshal the facts and arguments we needed to win.” Cawston said that although Bailey retired recently, handing over her work to Cindy Marchand, “Patti’s warrior spirit has kept us going.”

He said that the Tribes’ longtime chief litigator, Paul Dayton of Ogden Murphy Wallace (formerly Short Cressman Burgess) in Seattle, “has been our champion over the years, doing all the difficult and complex legal work required in this historic case.” And, Richard DuBey, also of Ogden Murphy, guided the start of effort and the first federal court filing in 2004.

The Tribes were joined by the State of Washington as co-plaintiffs against Teck in 2004. “We appreciate the work of the State of Washington, which has stood with us in this cause,” Cawston said. “We hope that now Teck will step up and do the right thing—to clean up its releases of hazardous substances in the Upper Columbia.”

Both the Tribes and the State argued that Teck should be found liable under the Comprehensive Environmental Response, Cleanup, and Liability Act (“CERCLA”) for its releases of slag and effluent into the Upper Columbia River for almost 100 years.

“This is a great example of what can be accomplished when two sovereigns—the Colville Tribes and the State of Washington—join forces to protect the environment and hold polluters accountable,” Cawston said.

The case establishes that federal environmental law can be used to hold a Canadian company liable when its operations cause from releases of hazardous substances in the United States. Teck had claimed that US courts lack jurisdiction over the company, but the Ninth Circuit found it “inconceivable” that Teck did not know its waste was aimed at Washington when it discharged slag and effluent directly to the Columbia River a few miles upstream from the US.

The Tribes has also prevailed in its effort to establish that Teck has “joint and several” liability for damages caused by its waste, meaning Teck will be responsible for all damages regardless of whether others may have also contributed to the harm.

Today's Supreme Court decision not to revisit the case also means the Tribes will recover than \$8.5 million in scientific investigative costs and attorney's fees incurred for assessing the site and proving Teck's liability, and pre-judgment interest.

Cawston said the next step is for the Environmental Protection Agency to enforce the Ninth Circuit's judgment and begin cleanup and restoration of the Upper Columbia. The Tribes, along with the Department of Interior, the State of Washington and the Spokane Tribe of Indians, will continue enforcement actions to recover natural resource damages resulting from Teck's contamination of the river.

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About the Colville Tribes:

The Confederated Tribes of the Colville Reservation works to maintain and protect viable populations of native and desired non-native species of fish and wildlife and their supporting habitats, while providing sufficient numbers to meet the cultural, subsistence, recreational and economic needs of the tribal membership.

Today, more than 9,365 descendants of 12 aboriginal tribes of Indians are enrolled in the Confederated Tribes of the Colville. The tribes, commonly known by English and French names, are the Colville, the Nespelem, the San Poil, the Lake, the Palus, the Wenatchi (Wenatchee), the Chelan, the Entiat, the Methow, the southern Okanogan, the Moses Columbia and the Nez Perce of Chief Joseph's Bands.