



Duty to Consult FAQ Sheet

November 9, 2015

Chippewas of the Thames First Nation

FAQ

- What is Section 35?
- What are Aboriginal Rights?
- What are Treaty Rights?
- What is Duty to Consult?
- Why are we going to the Supreme Court of Canada?

What is Section 35?

Section 35 is a part of the Constitution Act which recognizes and confirms Aboriginal Rights as well as Treaty Rights. Aboriginal and Treaty Rights are both protected under Section 35 of the Constitution Act, 1982.

What are Aboriginal Rights?

Aboriginal Rights are practices, traditions, and customs that were practiced before European contact. These are rights First Nations hold as a result of their ancestors practicing through the use and occupancy of the lands. Examples of these aboriginal rights are hunting, trapping, fishing, etc. on these ancestral lands.

What are Treaty Rights?

Treaty Rights are First Nation rights agreed upon in treaties. The British Crown entered into treaties with First Nations to encourage peaceful relations and even strategic relations. Many treaties involved First Nations ceding or surrendering rights to the lands in exchange for treaty rights. A few examples of Treaty Rights are; reserve lands, annual payments, certain rights to hunt and fish, etc.

What is Duty to Consult?

Duty to Consult is a requirement by the Crown to accommodate and consult with First Nations before they consider an action or decision that may affect a First Nation's Aboriginal and/or Treaty Rights.

Why are we going to the Supreme Court of Canada?

We are going to the Supreme Court of Canada to appeal the Federal Court of Appeal's recent decision concerning Enbridge's Line 9B pipeline. The Federal Court of appeal decided that Enbridge consulted with the Nation when it's the Crown's duty to consult.

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