AUNDECK OMNI KANING • M'CHIGEENG • SHEGUIANDAH • SHESHEGWANING • WHITEFISH RIVER • ZHIIBAAHAASING

UNITED CHIEFS and COUNCILS
OF MNIDOO MNISING

For Immediate Publication

PRESS RELEASE

SUPREME COURT OF CANADA DECISION IN *MIKISEW CREE FIRST NATION v CANADA (GOVERNOR GENERAL IN COUNCIL)*, 2018 SCC 40

M'CHIGEENG, October 15th, 2018 – Following the Supreme Court of Canada's reasons on October 11 in the case *Mikisew Cree First Nation v. Canada*, the United Chiefs and Councils of Mnidoo Mnising (UCCMM) are disappointed that the Supreme Court of Canada has determined that the fact scenario and the judicial review in the Mikisew Cree case was not a basis to impose a legal duty to consult on the legislative process.

We strongly disagreed with the actions of the Harper government in pushing through Omnibus Bills C-38 and C-45 without consultation. These Bills proposed to amend key federal statutes impacting on First Nations such as the *Fisheries Act* and threatened our members rights to hunt, trap and fish. First Nations must be consulted in the creation of any laws that impact our rights and interests further to our Treaty and Nation to Nation relationships, Canadian and international laws under section 35 and *UNDRIP*, and because this is simply good relations and governance.

This Supreme Court of Canada decision is complex and its ramifications will take additional time to review. We fully support the part of the decision on consultation written by Abella J, with Martin J concurring. We are also pleased to see that all members of the Court have confirmed the duty to consult in both the *Sparrow* and *Haida* framework. They have upheld the key constitutional principles of the honour of the Crown and reconciliation.

We say that, read in its entirety, this decision supports First Nation positions and our reality. Little has changed in that the Crown is still obligated to consult and seek our consent on their executive decision-making (*Haida Nation v BC*, 2004 SCC 73). We will continue to challenge any legislation for failure to consult (*R v Sparrow, [1990] 1 SCR 1075*) and we will use the new language of the Court at paragraphs 44-49 to seek at least declaratory remedies where any legislative process is inconsistent with our section 35 rights and the duty to consult. This area of the law must continue to develop in order for Canadian law to ever fulfil the promises of section 35 and to move forward on the path towards reconciliation.

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