

Ruling forces B.C. to review treaty process

ANALYSIS: The judgment could have a huge impact, but no one's sure what it will be.

STEWART BELL
VANCOUVER SUN

When the Supreme Court of Canada handed down its ruling on the Delgamuukw land claim Thursday morning, provincial politicians seemed confident the judgment would have little impact on B.C.

But their comments may have been premature. Scores of government lawyers are still analysing the ruling — and should continue doing so for the next few weeks — trying to decipher its subtle meanings.

The court did not say in its decision that B.C. Indians still own their ancestral lands. But it did define aboriginal land rights as being more far-reaching than has ever been recognized before.

SEE LAND CLAIMS, A2

Ruling gives bands broader powers



GLENN BAGLO/Vancouver Sun

HAPPY: Alice Jeffries of the Gitksan Nation applauds decision.

While it's not yet clear what effect the ruling will have, in a province where the economy relies on trees, minerals and fish even a minor change in the way land and resources are exploited can have significance.

The court said that where native tribes have a "special bond" with the land, they have constitutionally protected rights, including the right to have a meaningful say in land-use decisions.

The B.C. government already consults with Indian bands about land-use — a policy that followed the B.C. Court of Appeal ruling on Delgamuukw — but this latest court decision appears to give tribes much broader influence.

The court said that "in most cases," the involvement of tribes in the management of their traditional lands "will be significantly deeper than mere consultation."

Bands may actually have veto power: "Some cases may even require the full consent of an aboriginal nation, particularly when provinces enact hunting and fishing regulations in relation to aboriginal lands," the court said.

Over the past two decades, one of the major concerns of B.C. aboriginal groups has

been the way their traditional lands have been logged, with government approval, by resource companies. If this ruling gives them a new weapon to stop or slow the harvest of timber, it's hard to imagine why they wouldn't use it, especially since tribes are claiming many of those same lands in treaty talks.

The other provincial policy that appears as if it may have to be revisited is the massive treaty process established in 1993, which now involves 44 Indian bands and tribal organizations.

B.C. and Canada have always taken the position that land-claim negotiations are not about the past; they are about giving tribes enough land, resources, money and governing powers to strengthen their impoverished communities in the future. But the court ruling says that when tribal lands are used for purposes that infringe upon aboriginal title, then there must be "fair compensation."

"Government politicians must now stand up and deal with us in a civilized manner," said Squamish Chief Joe Mathias. "They must no longer allow us to drag them to the negotiating table, but now come as a people meeting a nation."