

# **In the Court of Appeal for the Northwest Territories**

**Citation:** *Colville Lake Renewable Resources Council v Northwest Territories (Minister of Environment and Natural Resources)*, 2024 NWTCA 4

**Date:** 2024 06 05

**Docket:** A1-AP-2023-000-011

**Registry:** Yellowknife, N.W.T.

**Between:**

**Sahtu Secretariat Incorporation**

Applicant  
(Proposed Intervenor)

-and-

**Colville Lake Renewable Resources Council, Bedhzi Ahda” First Nation  
Ayoni Keh Land Corporation**

Respondents

-and-

**Government of the Northwest Territories, as represented by  
the Minister of Environment and Natural Resources**

Respondent

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**Reasons for Decision of  
The Honourable Justice Jane A. Fagnan**

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Application for Intervenor Status

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**Reasons for Decision of  
The Honourable Justice Fagnan**

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[1] Sahtu Secretariat Incorporation (SSI) applies for leave to intervene in the appeal of the judicial review decision cited as: *Colville Lake Renewable Resources Council v Northwest Territories (Minister of Environment and Natural Resources)*, 2023 NWTSC 22. The application proceeded under Rules 46 and 26(2)(e) of the *Rules of the Court of Appeal for the Northwest Territories Respecting Civil Appeals*, NWT Reg 091-2018 by way of written materials pursuant to a consent order dated April 19, 2024.

[2] The appeal relates to management of the harvesting of the migratory Bluenose West Caribou Herd within the Sahtu region including through the implementation of community conservation plans. It involves the interpretation of s. 13.9.4(b) of the *Sahtu Dene and Metis Comprehensive Land Claim Agreement* (Treaty) concerning the powers of wildlife management bodies under the Treaty.

[3] The Sahtu Tribal Council was the negotiating partner and signatory of the Treaty along with the Government of the Northwest Territories (GNWT) and Canada. SSI is the assignee and successor of the rights of the Sahtu Tribal Council. As such, SSI is tasked with representing the collective interests of the Sahtu Dene and Metis. It holds and administers the collective property, funds, and other assets received by the Sahtu Dene and Metis people pursuant to the Treaty and is the collective entity that implements the Treaty on behalf of all the Sahtu Dene and Metis parties.

[4] If leave is granted, SSI intends to argue as follows. SSI has standing in a judicial proceeding to act on behalf of the Sahtu with respect to an action in relation to the Treaty and to participate in any constitutional conference or similar process for reform of the constitution of the Northwest Territories under ss. 6.1.6 and 5.1.12 of the Treaty. This appeal could set an important precedent for the future co-management of the Sahtu Settlement Area under the Sahtu Treaty. As the main issue in the appeal is whether Renewable Resources Councils (RRCs) can make decisions about managing wildlife and land in their areas, not just their people, the appeal will affect not only SSI's ability to manage harvesting and wildlife under the Treaty but will have broad implications for the Sahtu self-government rights. The RRCs' authority over local areas is essential for advancing the Sahtu governance beyond community management to encompass comprehensive land stewardship.

[5] SSI also proposes to make submissions concerning the interpretation of the Sahtu Treaty having regard to the *United Nations (General Assembly) (2007) Declaration on the Rights of Indigenous Peoples (UNDRIP)*, the *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c 14, and the *Northwest Territories' United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*, SNWT 2023, c 36.

[6] The first three respondents on this application represent the interests of the community of Colville Lake, one of the Sahtu parties to the Treaty. The Behdzi Ahda' First Nation and the Ayoni Keh Land Corporation are Designated Sahtu Organizations pursuant to Chapter 7 of the Treaty, and the Colville Lake RRC is a body established pursuant to Chapter 13 of the Treaty. They support SSI's application to intervene.

[7] The fourth respondent on this application, the GNWT as represented by the Minister of Environment and Natural Resources, opposes the intervention noting that SSI did not attend or make any submissions at the public listening session in January 2020 prior to the Minister's decision, nor did it seek intervenor status at the judicial review hearing. Further, it argues that the issues raised in the appeal will be adequately canvassed by the existing parties and it is not clear how SSI's submissions would be unique or of assistance to the Court.

[8] The principles and factors relevant to a permission to intervene are outlined in *Yellowknife Public Denominational District Education Authority v Euchner*, 2008 NWTCA 1.

[9] The Court's decision in this matter will relate to the constitutional rights of the Sahtu Dene and Métis under the Treaty. As such, it will directly affect how the Treaty will be implemented by all Sahtu Dene and Metis communities. In particular, the interpretation of the relevant provisions in the Treaty will impact the rights and interests of all Sahtu Dene and Metis participants in wildlife management under the Treaty including through their respective community Renewable Resources Councils.

[10] As the collective entity that implements the Treaty on behalf of all the Sahtu Dene and Metis parties, the SSI will be directly affected by the Court's decision on the interpretation of the Treaty. The appeal will directly affect SSI's interests under the Treaty and its oversight obligations.

[11] SSI's interest in the appeal will not be fully protected by the Minister and the Colville Lake respondents given the breadth of SSI's mandate which gives SSI a unique perspective. SSI has knowledge and expertise regarding the Treaty and its implementation and can provide information on the possible impact that the interpretation of s. 13.9.4(b) will have on all the rights and interests of all Sahtu Dene and Metis participants. Therefore, SSI's presence is necessary for the Court to properly decide the matter.

[12] SSI is not seeking any extension of time to file its materials nor any delay or adjournment of any appeal hearing date. There is no potential prejudice to the parties if SSI's is granted leave to intervene.

[13] SSI's intervention will provide a unique perspective and will not widen the *lis* between the parties nor transform the court into a political arena.

[14] Therefore, SSI may file and serve upon the parties an intervenor factum, not exceeding 20 pages, by 4:00 p.m. on June 28, 2024. The SSI may not raise or argue issues not raised by the other parties to the appeal. The factum should not be repetitive of the Colville respondent's arguments.

[15] The respondent GNWT may file and serve a written reply to the submissions of the SSI, such reply not to exceed 10 pages, not later than 4:00 p.m. on July 31, 2024.

[16] The panel hearing the appeal will determine whether it will grant permission for SSI to present oral argument, and if so, any time limits or other limits on such oral arguments.

[17] Any costs associated with this application will be addressed at the appeal hearing.

Written submissions filed on March 15, May 7 and May 27, 2024.

Reasons filed at Yellowknife, NWT  
this 5th day of June, 2024

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Fagnan, J.A.

**Appearances:**

J.M. Coady, K.C.

D. Leas

J.S. Burg

c/o Matthew Turzansky  
for the Applicant

L. Innes

S. Luk

K. Nerland

G. Groux

for the Respondent, Colville Lake Renewable Resources Council and Bedhzi Ahda” First  
Nation Ayoni Keh Land Corporation

J. Inglis

for the Respondent, Government of the Northwest Territories, as represented by the  
Minister of Environment and Natural Resources

IN THE COURT OF APPEAL  
FOR THE NORTHWEST TERRITORIES

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REASONS FOR DECISION

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