

BRINGING MEANING TO FIRST NATIONS
CONSULTATION IN THE BRITISH COLUMBIA
SALMON AQUACULTURE INDUSTRY

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One aspect of the legal relationship between the Crown and Aboriginal peoples is the duty to consult. This duty is part of the overall fiduciary duty that the Crown owes towards Aboriginal people. The recent Supreme Court of Canada decision of *Haida v. British Columbia* brings the duty to consult into focus specifically in the context of salmon aquaculture in British Columbia. Difficulties arise with regards to the precise content of the duty to consult: is it merely procedural in nature, or do First Nations have a substantive right to consultation? The extent of consultation and accommodation will be determined proportionally to the strength of the claim and the seriousness of the potential infringement. The *Haida* case confirms the requirement of the Crown to act honourably and to effect reconciliation between the Crown and Aboriginal peoples, as has been established in previous Canadian Aboriginal jurisprudence. Consultation is practically difficult because of the fact that salmon aquaculture regulation is divided amongst several government agencies. This paper explores the question of how much input Aboriginal peoples should have and what the nature of accommodation might look like if an Aboriginal band were to protest salmon aquaculture in its territory.