



MATAWA FIRST NATIONS

FOR IMMEDIATE RELEASE

First Nations' Court Victory Stands After Ontario Backs Down on *Meshake* Hunting Cabin Appeal

March 1, 2011- Ontario abandoned its appeal in *Meshake*, a case about First Nation hunting cabins. Ontario's appeal was scheduled to be heard today at the Ontario Court of Appeal.

Elsie Meshake and Howard Meshake (Cyrette), of Aroland First Nation, built a cabin for hunting, trapping, fishing and gathering. The Ministry of Natural Resources charged them for failing to get a work permit for their cabin and with failing to comply with a stop-work order (an order issued by MNR because the Meshakes did not have a permit).

With Ontario's appeal abandoned, the precedent set by the lower courts stands firm. The trial decision held that the Meshakes' actions in building and using their cabin were protected by their constitutional rights under Treaty 9. It also held that the work permit system under Ontario's *Public Lands Act* unjustifiably infringed these rights.¹ Ontario appealed, and the Meshakes won again before a judge at the Ontario Court of Justice.² Ontario appealed a second time, to the Ontario Court of Appeal. Ontario has now backed down and abandoned this appeal.

¹ *R. v O'Sullivan Lake Outfitters, Elsie Meshake & Howard Meshake* (30 November 2006), Geraldton 04/041305 (OCJ) (interim decision *per* Donio JP) and *R. v O'Sullivan Lake Outfitters, Elsie Meshake & Howard Meshake* (2006 November 2007), Geraldton 04/041305 (OCJ) (final decision *per* Donio JP).

² *R. v O'Sullivan Lake Outfitters, Elsie Meshake & Howard Meshake* (26 September 2008), Thunder Bay 04/041305 (OCJ) (appeal decision *per* Pettit Baig J).





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“Traditionally, we would go out all over our territory to hunt, trap and fish, and we would build shelters for this purpose,” explained Chief Sonny Gagnon, of Aroland First Nation. “We still do this. It has taken a long struggle, but we are interpreting this move as a sign that Ontario is finally accepting our rights to build and use our cabins out on the land.”

In a 1999 Saskatchewan case called *Sundown*, the Supreme Court of Canada recognized that hunting cabins can be protected as reasonably incidental to the exercise of Aboriginal and treaty rights. But until *Meshake*, it was not clear how Ontario’s work permit system under the *Public Lands Act* figured in to that framework.

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