



Indigenous Centre for
Cumulative Effects

WAY OF LIFE INDICATORS

HOW BLUEBERRY RIVER FIRST NATION
ADVANCED INDIGENOUS CUMULATIVE EFFECTS
CASE LAW THROUGH THE YAHEY DECISION

MAY 2026

*... I conclude that the time has come, the tipping point has been reached, and that Blueberry's treaty rights (in particular their rights to meaningfully hunt, fish and trap within the Blueberry Claim Area) have been significantly and meaningfully diminished when viewed within **the way of life** in which these rights are grounded (para 1116). – Yahey v. British Columbia, 2021 BCSC 1287*



Way of Life Indicators: How Blueberry River First Nation Advanced Indigenous
Cumulative Effects Case Law Through the Yahey Decision

May 2026

Graphic design by Hands on Publications

This report is available [en Français](#)



Indigenous Centre for
Cumulative Effects

104 – 360 College Street, Toronto, Ontario M5T 1S6
t: 819.410.0580 / **e:** info@icce-caec.ca



PINK MOUNTAIN, BLUEBERRY RIVER FIRST NATION, PHOTO KYLEWITH/Flickr

PART 1 TREATY 8 PROTECTS WAY OF LIFE..... 5

PART 2 EVIDENCE THAT INFLUENCED THE COURT 6

 Access to Core Cultural Areas 7

 Moose Abundance 8

 Connection to Land 9

 Ability to Teach Younger Generations 9

CONCLUSION: Positive Outcomes for Indigenous Nations..... 10





PHOTO: BRANDON SMITH

In the 2021 Yahey Decision (Yahey v. British Columbia, 2021 BCSC 1287), Supreme Court Justice Madame Burke concluded that the Province of B.C. had approved so much development in Blueberry River First Nation's (BRFN) territory over the years that members could no longer fully live their way of life as promised under Treaty 8.

This was the first judgement on infringement of Treaty rights based on the cumulative impacts of development across a First Nation's territory. Throughout the BRFN case, rather than focusing on how any single development has affected BRFN territory, BRFN showed the court that so much land has been taken up and disturbed by all the developments that BRFN can no longer meaningfully exercise their Treaty rights. Furthermore, Justice Burke found that the province's decision-making process for regulating and permitting industrial development was flawed because it did not properly consider cumulative effects in BRFN's territory and the impacts on Treaty rights.



The Yahey Decision is also important because it relied on BRFN members' knowledge and experiences to understand cumulative effects of developments across BRFN territory. Members described how the multiple projects approved by the province over time have impacted animals, the land, and the water, as well as members' ability to access core harvesting areas, practice their culture, and pass their knowledge to younger generations. The judge considered BRFN's testimony as carefully as scientific evidence of ecological disturbance, drawing on both oral evidence and scientific data to make her decision.

PART 1

TREATY 8 PROTECTS WAY OF LIFE

JUSTICE BURKE FOUND that Treaty 8 was meant to ensure that all aspects of BRFN way of life were protected in balance with the province's use of lands. This means that both environmental changes (such as the number of moose and other wildlife, and health of lands and waters) and cultural factors (such as access to areas important for practicing or teaching songs, dance, language, stories, and other components unique to BRFN as a people) must be considered to understand Treaty rights. One of BRFN's expert witnesses, anthropologist Dr. Ridington, who spent time learning from Dane-zaa elders, explained that the way of life is also dependent on keeping language, stories, dances, drumming, and singing alive through gatherings:

An important part of the Dane-zaa's cultural way of life included the summer gatherings where Dane-zaa people come together to camp, share stories, dance, drum and sing led by songkeepers or Dreamers....As Dr. Ridington explained, these gatherings were and are of fundamental importance to maintaining Dane-zaa social and cultural identity. It was here that they developed, maintained and shared the language, culture, spiritual and other values that identified them as a people (para 327).

As Justice Burke noted, BRFN's way of life cannot be reduced to activities such as hunting, trapping, and fishing as economic livelihoods. Instead, these activities should be seen as "signposts" of a way of life supported by other cultural practices (para 214). Justice Burke described this way of life as follows:

Way of life is about means of survival, as well as socialization methods, legal systems, trading patterns, cultural and spiritual beliefs and practices, patterns of land use, and ways of generating and passing on knowledge. To the Indigenous people who entered into Treaty 8, the meaningful exercise of these rights reflects how they live their lives, in their way, on their lands. These rights must be considered in a broader, more contextual way. Based on the evidence in this case, they are rights that are exercised at particular places, at particular times, in relation to particular species, and that are connected to a larger way of life. For the exercise of these rights to be meaningful, protection must also include recognition that the rights to hunt, fish and trap are, in essence, rights to maintain a culture and identity (para 215).



PART 2

EVIDENCE THAT INFLUENCED THE COURT

PHOTO: ANDREW TYLOSKY/PICTUREBC

THE EVIDENCE PRESENTED to Justice Burke was a mix of BRFN members' testimony about what they experience on the land and western science expert testimony on the results of western science data collection. Seven BRFN members aged 15 to 74 testified to Justice Burke about how their way of life has been affected by the cumulative impacts of development within their territory. They shared their experiences and observations of changes throughout their exercise of Treaty rights, including use of areas, access to many types of landscapes and habitats, access to resources, and knowledge of the territory.

Key evidence provided by BRFN members included changes in:

- Access to core cultural areas;
- Wildlife abundance (particularly moose);
- Connection to land; and
- Ability to teach younger generations on the land.

The following sections identify some of the key information shared by BRFN members that helped Justice Burke determine that cumulative effects to BRFN way of life had resulted in an infringement on Treaty 8 rights.

Seven BRFN members aged 15 to 74 testified to Justice Burke about how their way of life has been affected by the cumulative impacts of development within their territory.

ACCESS TO CORE CULTURAL AREAS

BRFN members and anthropology experts identified how important movement is to the Dane-zaa people and their connection to particular places within BRFN territory. Once these places are cut off, they cannot be replaced because they were chosen before settlers came:

Over years – over the years when there were no settlers, when there were no people involved, these were the areas that were found. And I inherited that. And there’s – I just can’t go tomorrow go look for a new place. Say oh, okay, well, this is where they – this is a new place. I’m going to start a new – a new area. It doesn’t work that way within my culture. I have – it’s generations after generations. It’s a place that is shown from me – I don’t know how old is that area; probably since we’re – God created us (para 414).

One such place is the Dancing Grounds, where the Dane-zaa would gather for singing, dancing, telling stories, and maintaining their language. BRFN can no longer access the Dancing Grounds because it is now private land:

Now it is blocked off because of landowners buying land and no more trespassing, so I can’t really go by there unless I ask for permission but a lot of times they don’t want anybody on their land (para 416).

Other places are trapping and hunting areas. One BRFN member stated that many Blueberry members “have cabins near Aitken Creek, which they used when trapping lynx, marten, wolverine, wolves and mink” but that they “no longer trap near Aitken Creek because of the oil and gas development in the area” (para 386). Access to preferred hunting grounds is also cut off by farmers’ fences (para 397). Additionally, there are places that BRFN members choose not to access for hunting, trapping, and fishing because of safety concerns. Industrial traffic on the roads (para 391), and the proximity of oil and gas infrastructure make people feel unsafe:

She said that she would not hunt near pipelines or gas wells as the air quality is poor and it is dangerous to do so, since a stray bullet could hit critical oil and gas infrastructure, such as compressor stations (para 390).



PHOTO: BLUEBERRY RIVER FIRST NATION

MOOSE ABUNDANCE

Moose are critical to BRFN members and have become more difficult to hunt in BRFN territory. BRFN members shared that moose is the main meat in the BRFN diet (paras 366, 324, 376, 383, 398). One BRFN member shared the importance of moose to the people of BRFN:

...just like white people feed chickens, that's how God [Yagesatiin – Sky Keeper] feeds us moose. That's why we have to keep singing and dancing, so he will give us moose. If we don't, it will be hard to get moose. You will miss them, or they will run away, or it will be hard to see any (par. 324).

BRFN members shared how little moose they have been able to harvest in recent years (paras 367, 373, 404, 426). Activities across the landscape have affected the winter habitat of moose, which is why the moose have gone away:

...nowadays it's a little tough getting moose. The traffic, and moose have disappeared, of all the noise and all the clear cuts. They – the forestry cleared an area where no animals will stay. If there's a timber in there, that's where they stay in the wintertime to be warm in the timber. After they clear the timber they can't stay in the open (para 357).

BRFN members must go further and further from their reserve to find moose. This increases the cost of hunting, which affects how often they can hunt.



PHOTO: ARTHUR CHAPMAN/FLICKR

CONNECTION TO LAND

Knowing and understanding the territory is a key piece of BRFN members' identity and way of life. BRFN members shared with Justice Burke how some places they used to know are no longer familiar because of the changes to the landscape. This is a problem today and causes concern for the future.

Sometimes I drive around. Some places I can't remember because it's all flat, no trees. What happens if it's all clear cut? (para 360).

...I left kind of as a young teenager and coming back as an adult, the changes in that country was very, very stark... I couldn't recognize Mile 31 road, because it had changed too. Back in my day it was just a small like one-lane road. Now it could accommodate two logging trucks passing each other. It was a very different road. And was hard for me to recognize...The whole country was just changed (para 402).

He also described how it was "heartbreaking" to go out on the land to places he used to hunt, only to find it turned into a cutblock (para 428).

Notably, cumulative effects are not simply about access to territory, but also disrupt the spiritual relationships between the hunter and animals, including reciprocal bonds Indigenous peoples have with the land (para 325).

ABILITY TO TEACH YOUNGER GENERATIONS

BRFN members' ability to share way of life practices and traditions and to pass along knowledge of the land is directly linked to access to the land. In the past, summer gatherings allowed the Danezaa to come together to maintain social and cultural identity, including maintaining their language, culture, spiritual and other values that identified them as a people. Here, youth were taught singing, drumming, and tea dances on the land, alongside other activities. The availability of land is critical for these gatherings.

That land is how we raise our kids. What the elders taught us you cannot take that away from us, what we were taught. We depend on wildlife. We depend on everything. That's even the plants (para 365).

Today, because of the loss of accessible territory, youth must learn cultural activities by attending a short culture camp at Pink Mountain, which is not the same as learning through everyday activities.

So these individuals were able to learn the skill, these songs, the meanings of them, I guess the rights of them, they were able to learn those because it was part of their life. It wasn't a thing that happened twice a year or two days of a year at a culture camp. It is something that was their everyday life. It was part of them (para 407).



CONCLUSION

POSITIVE OUTCOMES FOR INDIGENOUS NATIONS

PHOTO: TUCHODI/FLICKR CC

...the connection between Blueberry and the animals they harvest runs deeper than sustenance (para. 434)... The Dane-zaa communities gather in the summer to sing, drum, dance, share stories and do their planning. In years gone by, their Prophets or Dreamers would tell of the future of the nation and provide guidance to live by (para 435). Theirs is a way of life that is connected to, dependent on, and respectful of the land and wildlife. It is seen as a "good life," embodying a sense of freedom, health and wellness. Hunting, fishing and trapping is not a hobby, interest or pastime. It is a core aspect of Blueberry's identity and impairing it significantly harms their well-being (para 436).

THE YAHEY DECISION WAS A HISTORIC WIN for Blueberry River First Nations and for Indigenous peoples in Canada. First, it reaffirms BRFN's Treaty right to maintain their way of life and culture through connection and access to an intact landscape. It shows that Treaties between the Crown and Indigenous Nations are not documents of the past that can be ignored. They protected the Nations' way of life at the time of signing and continue to protect this way of life today.

Second, it identifies that cumulative effects of industrial development on the exercise of Treaty rights must be considered in development and resource management decisions in BC. The Yahey decision is a signal to other jurisdictions to reexamine their regulatory frameworks, including how they conduct environmental assessments as well as their diligence in considering cumulative effects when allowing developments across a landscape.

The Yahey decision was a historic win for Blueberry River First Nations and for Indigenous peoples in Canada.

Finally, the decision identifies that cumulative effects to Indigenous peoples' rights go beyond effects to fish, wildlife, and plants. It is not enough for wildlife and vegetation to just be present in a Nation's territory for Treaty rights to be maintained. The province argued that BRFN members had some access to rights, so Treaty 8 was being respected. However, BRFN successfully argued that their way of life is dependent on many opportunities to harvest as well as on connection and access to healthy landscapes. The connection to landscapes is critical for continued cultural practices and is a part of the maintenance of harvesting rights. This is why Indigenous-led cumulative effects assessment is so important for protecting Treaty rights. When jurisdictions rely only on the western science and proponent perspectives for understanding impacts of development, the full extent of those impacts is neither identified nor mitigated.

Ultimately, the Yahey Decision is forcing the province to create new systems for assessing cumulative impacts to BRFN rights. Because of this, BRFN and the province have entered into an implementation agreement that sets up co-management of wildlife, collaborative land-use planning, and a collaborative approach to oil and gas and forestry development in Blueberry River First Nations territory. Through the agreement, BRFN is protecting its Treaty rights for its members today and for future generations. 🍷



"Province, Blueberry River First Nations reach agreement,"
BC government news release, January 18, 2023.

PHOTO: PROVINCE OF BC





Indigenous Centre for
Cumulative Effects

104-360 College Street, Toronto, Ontario M5T 1S6
t: 819.410.0580 / e: info@icce-caec.ca

PHOTO: TUCHOLI/FLICKR