SPECIAL REPORT 2026

Clayoquot Action

THE RIGHTS OF NATURE

FLOWING THE LEGAL MOVEMENT INTO CLAYOQUOT SOUND

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Deeply embedded in Nuu-chah-nulth culture is the understanding that humans and all other elements of nature are inextricably interconnected. Joe Martin, master carver and member of the Tla-o-qui-aht First Nation, shares this understanding through an experience from his childhood. When walking through the forest alongside his father on Meares Island as a child, going to check some mink traps, they stumbled upon a stream full of Coho salmon. As the Coho scattered, his father turned to him and told him: “We have to go back. We can’t disturb these fish.” Joe recalls bushwacking far through the forest to find another path to the traps. This great respect for animals taught by his father conveys the Nuu-chah-nulth understanding of humans as part of a larger community since time immemorial.

These Nuu-chah-nulth values differ from the Anthropocentric relationship with nature that characterizes Western cultures, regarding humans as separate from and superior to the natural world. This conception has been a driving force for environmental destruction around the world, contributing to the mass deforestation of old-growth forests in BC and immense decline of wild Pacific salmon populations in Clayoquot Sound. As stated by Joe Martin, “Mother Nature will provide for our need, but not for our greed.” In response, there has been an international movement to integrate principles of Indigenous worldviews into colonial legal systems, particularly regarding our engagement with the environment. The Rights of Nature doctrine presents a tool to shift these values within colonial law, and may be called upon to protect Clayoquot Sound.

Rights of Nature Legal Movement Setting Roots in Canadian Law

In 2021, Mutehekau Shipu/Magpie River in Quebec became the first non-human natural entity in Canada to be deemed a person in the eyes of the law. A joint resolution passed by the Innu Council of Ekuanitshit and the Minganie Regional County Municipality granted the river legal personhood with nine fundamental rights. Among these are the right to live, respect for its natural cycles, maintain natural biodiversity, be free from pollution and to sue. In turn, Guardians are to be appointed from each of the two groups with a legal duty to ensure these rights are upheld and take legal action on behalf of the Mutehekau Shipu/Magpie should any of these be violated. With the looming threat of hydroelectric development on the river to fulfill the growing energy demand in the province, this legal status may serve as a protection of its cycles against industry, as recognized in the *I am the Magpie River* documentary. The Mutehekau Shipu/Magpie River holds significance to both the Municipality and the Innu Nation. First, the river is esteemed as an internationally renowned adventure tourism destination, being named one of the ten best rivers in the world for whitewater activities. Moreover, the river is culturally and spiritually significant to the Innu people of Ekuanitshit, in whose ancestral territory it exists. According to the Mutehekau Shipu Alliance, the committee that initiated advocacy for the river's legal rights, the rivers and trees are seen as ancestors. This resolution reflects Innu conceptions of the river and human responsibilities toward it.

Through this conception that everything is living and connected, protecting the river is protecting Innu identity. In their resolution, the Council notes that "Innu of Ekuanitshit rely on the good health of [the river] to fully exercise their ancestral fishing rights…and enjoy a harmonious relationship with the river." First, the *ushashameku* (Atlantic salmon) fishery is an ancestral activity integral to Innu culture. With the Western North Shore Atlantic salmon

population, which frequents the mouth of the river, being designated as of special concern by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), damming would put this population at even greater risk. Granting legal rights to the river may work to protect it from this harm. The Innu Council resolution further notes that this movement promotes the recognition of Indigenous legal traditions based on a symbiotic relationship with the land. As the "Innu conception of territory implies a fiduciary relationship [with the land]…over which they must take care in order to hand it over to the next generation in a sustainable manner," this resolution not only upholds the rights of the river, but the responsibilities of humans within this relationship to the land as Guardians. In turn, these ideas may take form in the colonial legal system to ensure more adequate protection of the river.

Each of these factors influencing the granting of legal personhood to the river ring true to Clayoquot Sound. From supporting the tourism sector, wild salmon populations and Indigenous self-determination, particularly from major industry, this model of legal personhood may present a pathway to protecting what is loved here.

Other Adaptations into the Dominant Canadian Legal System

The Rights of Nature doctrine has appeared in other actions under Canadian law. There has been a similar push to recognize the legal personhood of the St. Lawrence River, which is facing "imminent threats that jeopardize the very existence and way of life of those who depend on it," including human and non-human species *(Assembly of First Nations Quebec-Labrador)*. In 2022, both the *St. Lawrence River Capacity and Protection Act* and *An Act to confer rights on the St. Lawrence River* were introduced in the House of Commons and the National Assembly of Quebec, respectively. Flowing from the Mutehekau Shipu/Magpie River resolution, this Act would give the St. Lawrence rights and privileges of a person and establish a council of Guardians to act on its behalf. While there has been no movement on either of these bills in the colonial legal system, the Assembly of First Nations Quebec-Labrador passed a resolution recognizing the legal personhood of the river in 2023 that could be followed in Parliament.

The Southern Chiefs' Organization has moved to enforce the Rights of Nature in Canadian courts through legal action. In 2024, the Organization filed a lawsuit against Manitoba Hydro for improper management and poor damming practices that have left Lake Winnipeg on "life support." With changes in water quality and the introduction of invasive species, populations of fish, birds and plants used for traditional medicines have declined. The lake, traditionally known as *Weeniibiikiisagaygun*, is understood by these nations to have her own spirit, as well as provide sustenance, income and spiritual connection to those relying on her. As such, a number of First Nations are seeking a declaration of the lake as a living entity with associated rights and protections, including to life, liberty and security under section 7 of the *Canadian Charter of Rights and Freedoms.* As "everyone" is entitled to rights under the *Charter*, legal personhood could extend these protections to non-human entities. It is yet to be seen how this Charter challenge will be decided in court, but it may set a precedent for other Rights of Nature claims in Canadian law.

Other legislation, largely developed by Indigenous nations, further reflects this shift. The 2014 *Northwest Territories Wildlife Act*, jointly developed by Indigenous and Canadian governments, states in its principles that "wildlife is to be conserved for its intrinsic value and for the benefit of present and future generations." In 2020, the Tŝilhqot'in Nation enacted the *ʔEsdilagh Sturgeon River Law*, recognizing that "people, animals, fish, plants, the *nen* [land], and the *tu* [water] have rights in the decisions about their care and use that must be considered and respected." This legal doctrine shows clear reflections of Indigenous law and relationships with the land. Yet, distinguishing these legal orders from colonial law is necessary to upholding self-governance.

Differentiating From and Upholding Indigenous Law

While the Rights of Nature doctrine is often discussed as a way to incorporate Indigenous law into dominant legal systems, one must remember that this is still taking place within the boundaries of colonial law. This doctrine does not wholly reflect the Nuu-chah-nulth conception of relationships and interconnectedness, having rights coupled with responsibilities. Indigenous conceptions of the environment are also not exactly translated into the Western conceptions of personhood, as outlined in Mihnea Tănăsescu's book, *Understanding the Rights of Nature*. However, as individual legal personhood is the way in which colonial law recognizes something as rights-holding, this instrument is used to convey these principles. As stated by Gerrard Albert, the lead negotiator for the Whanganui *iwi* (tribe) in the *Te Awa Tupua (Whanganui River Claims Settlement)*, the Rights of Nature doctrine presents an "approximation in law" for the Māori understanding of the river as a living entity. The movement is not breathing life into Indigenous law, but rather working to shift the dominant legal systems to align with some of its principles. As such, this movement must work in tandem with Indigenous law. First, the joint declarations of the Mutehekau Shipu/Magpie River provide a model for co-governance between Indigenous and Western governments. This may be understood as a method of Two-Eyed Seeing, a principle introduced by Mi'kmaw Elder Albert Marshall: learning to see the strengths of Indigenous ways of knowing with one eye, and those of Western ways of knowing with the other, and seeing the world through both. Further, the inherent jurisdiction of Indigenous peoples over their territories, protected under section 35 of the *Constitution Act, 1982*, must be respected through revitalizing Indigenous law and management practices.

Nuu-chah-nulth Legal Order

The Nuu-chah-nulth legal order conveys different approaches to engaging with nature outside the boundaries of colonial law. The Tla-o-qui-aht, Ahousaht and Hesquiaht First Nations are three of the fourteen Nuu-chah-nulth nations residing on the Pacific coastline from Washington state to north Vancouver Island. Their traditional territories encompass the area now called Clayoquot Sound. Residing on these lands from time immemorial, the laws constructing the Nuu-chah-nulth legal order have been learned from the land. These teachings of natural law are passed through generations and reflected in cultural principles shared among the Nuu-chah-nulth nations. Three of these guiding principles are *heshook-ish tsawalk* (everything is one), *iisaak* (respect for all), and *uuathluk* (taking care of). When applied and practiced collectively, they work together to uphold social structures.

Heshook-ish tsawalk (everything is one) outlines the continuity between all elements of nature within the physical and metaphysical realms. As outlined in the book *Tsawalk: A Nuu-chah-nulth Worldview* by Umeek (Richard Atleo), former hereditary chief of the Ahousaht Nation, this "network of relationships" extends to non-human entities. The Nuu-chah-nulth concept of *ha'houlthee* (territory) is understood as inseparable from all beings, characterized by interconnectedness and interdependence. For example, salmon are seen as their own people with their own purpose, related to all other life forms, including humans. This principle also reflects the concept of reciprocal cooperation, being essential to community wellbeing. Asking

for help and depending on one another as *aphey* (kind) are necessary for survival, as success is measured collectively *(Atleo).* This interdependence is what has traditionally kept Nuu-chah-nulth communities strong.

This principle is further characterized by *iisaak* (respect for all). As all of creation holds a common ancestry, *iisaak* is extended to all life forms, including the metaphysical world. Joe Martin exhibits this principle through two other teachings from his life. Having the name Tuu-tah-qwees-nup-sheetl, meaning "teaching the laws of the land," bestowed upon him decades ago, Joe upholds this role and responsibility in sharing millennia of cultural teachings.

Joe learned the practice of carving from his father. It was a rule that one could not cut down trees in the spring or summertime because of nesting birds. His father told him that it was "a crime against nature." Instead, the trees used for carving canoes and building houses were only felled in the fall or wintertime. In turn, while respect for these animals was the driving force for this selective harvesting, the wood taken from trees felled in the fall or winter is optimal for carving. As Joe shared, "that stuff's going to last forever," and is how some totem poles stand after hundreds of years. By comparison, when trees are growing in the summer, they draw up sugars into the wood from their roots. When these are cut down and turned into lumber, they rot sooner. This is a law learned from the land and over thousands of years of teachings, and works alongside the law of *iisaak* to benefit all beings within the interconnected community of nature, including humans.

Joe shared how the rights of beings have been enforced under Nuu-chah-nulth law: "One year, a hunter in the village killed a seal. When the chief found out that seal was pregnant, they cut off all his hair and made him into a slave. When one person messes with Mother Nature, we all pay." This action threatens the rights of the seal to regenerate and continue to exist as well as the rights of humans to continue to access the resources from these seals. As such, the hunter was stripped of his rights, just as he had violated his responsibilities to respect the rights of other beings.

The Nuu-chah-nulth origin story, "How Son of Raven Stole the Light of Day," also shares this principle: because of the Son of Raven's actions in bringing daylight into the people who lived in darkness, the Nuu-chah-nulth now recognize his right and privilege to "enjoy any food that is found on the water's edge" when the tide is out *(Atleo).*

Iisaak is further illustrated through ceremony to pay respect to other living beings. Ceremonies were traditionally conducted in recognition of the lives of cedar trees that would be used for tools, shelter and canoes. Whale hunters would spend up to months engaging in *oosumich*, personal practices to initiate interaction with the spiritual realm, as "the great personage of the whale demanded the honour of extended ceremony" *(Atleo).* Similarly, welcoming ceremonies of recognition and thanksgiving were held for the arrival of the first salmon of the season. The Salmon People are seen as generous beings who give their lives for the nourishment of the Nuu-chah-nulth peoples, with Chum salmon being named "giving people" in the Ahousaht Nation. In turn, salmon bones are returned to the river after harvesting and eating salmon to continue the cycle of reciprocity. Maintaining the protocol of respect for salmon is strict law in Nuu-chah-nulth legal orders to continue to receive their gifts.

Iisaak illustrates various rights and responsibilities held by each being within this interconnected "network of relationships." *Uuathluk* (taking care of) further expands on these responsibilities to both *ha'houlthee* (territory) and future generations.

The Nuu-chah-nulth legal order strictly manages their *ha'houlthee*. The *West Coast Vancouver Island Chinook Salmon Rebuilding Plan* outlines how land is traditionally looked after by specialists with a deep understanding of the area under their care. Taking an ecosystem-based approach, these Guardians have monitored species, habitat conditions and abundance of resources to avoid overharvest. Joe Martin shared that stream keepers would watch the water and fish in designated streams. If water levels were particularly low in the summer, specialists would move salmon between pools to avoid them getting trapped. They would also advise the hereditary leadership, who traditionally made decisions on resource issues. Individuals would then sometimes fish from different parts of the river to not disrupt the salmon cycles.

Natural law reflected in *uuathluk* also emphasizes only taking what you need. Joe Martin outlines how the "wolves, the bears, the eagles, all the creatures out there, take only what they need." As a whale hunter, his grandfather would do the same. His quota would only be as much as they could distribute within the community and no more. This consideration was about more than sustaining a resource for the present, but a responsibility to future generations. Joe sees this as a practice of 'abundability,' rather than sustainability: we must not just keep something around until we don't need it anymore, but leave the land better than we found it, so future generations do not have to work so hard.

Achieving balance and harmony requires the collective application of these three guiding principles. Taking a holistic view of community necessitates respect and caring for all beings, as we are all a part of nature and therefore all hold responsibilities to it. In this way, salmon is not only important to substance, but to cultural and spiritual connection among Nuu-chah-nulth nations as an interconnected community.

These principles are evident in Nuu-chah-nulth management practices today. Indigenous Protected and Conserved Areas (IPCAs) are a mechanism for recognizing Indigenous law and the inherent jurisdiction of Indigenous peoples over their territories, protected under section 35 of the *Constitution*. IPCAs are "lands and waters where Indigenous governments have the primary role in protecting and conserving ecosystems through Indigenous laws, governance and knowledge systems," with culture and language at its core *(Indigenous Circle of Experts)*. Tribal Parks in Clayoquot Sound, established and managed by the Tla-o-qui-aht Nation, are an example of these. In 1984, the Nation established the first Tribal Park in Canada on Meares Island to protect the old-growth forest from threats of clear-cut logging. There are now three other Tribal Parks stewarded by the Tla-o-qui-aht Nation in Clayoquot Sound: Ha'uukmin (Kennedy Lake Watershed), Tranquil Tribal Park and Esowista Tribal Park. These lands and waters are cared for by designated Guardians, fulfilling this traditional role. As *uuathluk* outlines a legal obligation of people to take care of the lands, IPCAs are one way in which Nuu-chah-nulth nations may uphold these responsibilities under Indigenous law. This may work alongside the Rights of Nature to continue to uphold Indigenous self-determination and support environmental protection under Canada's plural legal order.

The Rights of Nature Movement Flowing from the International Sphere

The push to more closely align with principles of Indigenous law and relationships with nature within Canadian colonial law is part of a larger shift in the dominant legal paradigm around the world. In 2010, the Universal Declaration of the Rights of Mother Earth was adopted by a non-governmental People's Conference on Climate Change in Bolivia. The Declaration recognizes humans as indivisible from Mother Earth and that the rights of the interdependent living community must be recognized to restore balance. While not legally-binding, UDRME serves as a guide to enacting Rights of Nature laws internationally.

This legal doctrine has appeared in legislation, court cases and constitutional amendments. The Rights of Nature first appeared in colonial law in 2006, in the small community of Tamaqua Borough, Pennsylvania, US. In light of corporations dumping toxic sewage in the community, the municipality passed a law recognizing natural communities and ecosystems as "persons," considering dumping as a violation of their civil rights. Since then, Aotearoa (New Zealand) and Ecuador have been two leaders in implementing the Rights of Nature in their national legal systems. Aotearoa (New Zealand) has now recognized three natural entities as legal persons in national legislation: the Te Urewera forest (2014), the Whanganui River (2017), and the mountain of Taranaki Mounga (2025). Ecuador is the only country to have Rights of Mother Earth, or Pacha Mama, enshrined in its national constitution, as of 2008. These include the right to "integral respect for its existence" and the right to be restored, mandates for the State to restrict activities that might endanger species, destroy ecosystems or alter natural cycles, and the right for humans to benefit from the environment. These have been upheld in Ecuador's Constitutional Court in various legal challenges, beginning with the Vilcabamba River in 2011, stopping construction of a government highway, and expanding to wild animals, mangrove forests and lakes, among other entities. Similar shifts have been made across each of the continents, from India to Spain to Uganda, and now Canada.

How are the Rights of Nature Actually Applied?

There are differences across legal systems as to how and which entities are granted rights. Some countries explicitly grant legal personhood to specific non-human entities, entitling them to an undefined range of rights and liabilities and the ability to engage in the legal system, such as in Aotearoa (New Zealand). Being overseen by a Guardian, these entities would be given a voice to act within the legal system. Other countries identify nature as a holder of particular rights, often applied more generally, such as in Ecuador. While existing Rights of Nature cases in Canada largely take a legal personhood approach, granting these rights to specific entities to be overseen by a Guardian, the rights granted are specified and may vary depending on the unique properties of the subject in question.

The *Universal Declaration of the Rights of Mother Earth* notes that all beings have rights "specific to their species or kind and appropriate for their role and function within the communities within which they exist." For example, exemptions to the right to life may be set out for consumption, particularly when eating in accordance with food chains and longstanding human practices (UBC). The Ponca Nation's *Resolution Recognizing the Preexisting Tribal Law of Nature* upholds the inherent rights of nature and all beings to live and exist "subject to the traditional roles and ethical harvesting of plants and animals by humans for sustenance." In this sense, the rights granted to nature may not be the same across species or to those of humans, but may share fundamental rights, such as the right to live, regenerate and flourish, and to a clean environment free from pollution.

In Christopher Stone's 1972 article, *Should Trees Have Standing: Towards Legal Rights for Natural Objects*, he identifies three basic rights that nature should have: that nature can institute legal actions of its own through a representative, that a court must take injury to nature into account, and that the legal relief be granted for nature's benefit. According to Stone, the right to sue is essential to upholding the rights of nature, particularly in light of a violation.

While this may seem far outside the realm of what is known in colonial law, legal personhood status is currently held by corporations, municipalities and churches under Canadian law, as noted by environmental lawyer David Boyd in his book, *The Rights of Nature*. Stone notes that "throughout legal history, each successive extension of rights to some new entity, has been, theretofore, a bit unthinkable." This is a step towards shifting from Anthropocentric relationships with nature that reflect Western, colonial conceptions and seek to commodify the natural world. Rather than existing for human benefit, nature is granted inherent rights to exist beyond this relationship while recognizing the interconnectedness of all beings, such as is understood in the Nuu-chah-nulth legal order.

In this way, human rights and nature's rights are inextricably intertwined. The human right to a healthy environment depends on having healthy species and ecosystems. Even more so, the health of nature is needed to exercise constitutionally-protected Aboriginal and Treaty rights to fish, hunt and gather medicines. As reinforced by the Inter-American Court of Human Rights in July 2025, there is a need for an "integrative legal approach, capable of articulating the protection of human rights and the Rights of Nature." The Rights of Nature legal doctrine may present a necessary transformative step to protecting human and nature's rights alongside one another, including in Clayoquot Sound.

Current Legal Protections in Clayoquot Sound

The current protections for salmon, other animals, forests and waters in Clayoquot Sound under Canadian colonial law do not adequately address their critical status or the risks posed by fish farms. The *Canada–British Columbia Agreement on Aquaculture Management*, signed in 2010, sets out aquaculture as both a provincial and federal responsibility as per sections 91 and 92 of the *Constitution*. The federal government has jurisdiction over fisheries, giving the Department of Fisheries and Oceans (DFO) the power to make regulations "respecting the conservation and protection of fish" and issue aquaculture licences under the *Pacific Aquaculture Regulations*. The provincial government has authority over "property and civil rights in the province," enabling BC to issue land tenures for aquaculture under the *Land Act*. While the DFO is drafting a *Federal Aquaculture Act* that has yet to be considered in Parliament, other significant legislation currently governs these protections, with shortcomings.

SPECIES AT RISK ACT

Canada's *Species at Risk Act* (SARA) aims to reverse the decline of wildlife species. The Act outlines extirpated, endangered and threatened species which are afforded legal protection. This includes prohibitions against killing, harming, capturing, buying and selling individuals of these species, including on private lands for aquatic species. SARA also extends critical habitat orders in the areas in which these species reside, prohibiting damage to residences. For species listed as of special concern, being at risk of becoming threatened or endangered, the Minister must create a management plan for conservation of the species and its habitat. However, permits may still be granted under section 73 to authorize harmful activities if their effects are incidental and it is clear that all feasible measures will be taken to minimize the impact on the species. There is concern that this may extend to open-net pen fish farms.

Currently, none of the five species of Pacific salmon are listed under SARA. The only listed salmon species is the endangered Atlantic Inner Bay of Fundy population, residing in another salmon farming hotspot experiencing significant harm to the wild population. Although the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), which assesses and recommends species to be listed under SARA, has designated 46 populations of Pacific salmon in BC as endangered, threatened, or of special concern, the government's decision to list these populations is still pending. Two of these include the North and South West Vancouver Island, Fall, Ocean Chinook populations, designated as threatened in 2021. In their assessment, the COSEWIC referred to Chinook salmon as "one of the most toxin-laden fishes in BC." By comparison, the US Endangered Species Act lists various Chinook, Sockeye, Chum, and Coho salmon populations, many living just below the arbitrary border dividing the ocean.

However, with the Minister considering the social and economic implications of this decision, listing these species may have repercussions for Indigenous fishing rights. Under section 35 of the *Constitution*, Aboriginal and Treaty rights are recognized and affirmed. The 1990 Supreme Court Case *R v Sparrow* confirmed that Indigenous groups have a right to fish for food, social and ceremonial purposes, taking priority over other uses of the resource after conservation. The court decision on *Ahousaht Nation et al v Canada* further confirms these constitutional rights extend to fishing and selling fish for the Ahousaht, Ehattesaht, Hesquiaht, Mowachaht/Muchalaht and Tla-o-qui-aht nations. Prohibiting killing and selling Pacific salmon under SARA conflicts with these constitutional rights. While the Act makes exceptions for Indigenous peoples using these species for "ceremonial or medicinal purposes" under section 83, it is unclear how SARA would implicate fishing for sustenance needs, as treaty rights may be subject to regulation when shown by the Crown to be justified for conservation or other public importance. Therefore, although listing Pacific salmon species under the Act may target harmful industries, such as aquaculture, there may be alternative approaches to targeting corporations without impacting sustainable practices, such as through Rights of Nature laws.

Numerous marine mammal populations that call Clayoquot Sound home are listed under SARA. Sea otters, Eastern North Pacific grey whales and North Pacific humpback whales are all listed as of special concern. Each of the local species of killer whales is listed, with the Northeast Pacific Northern resident, offshore, and transient populations identified as threatened, and the Southern resident population being listed as endangered, with only an estimated 73 remaining individuals. Southern residents spend time in the region, with one of the young whales being named "Tofino" after the place where she was first spotted by researchers. However, the boundaries of the Southern and Northern resident designated critical habitats end just below *Yaaqsis* (Long Beach), right around where the boundary of Clayoquot Sound starts. As such, the area is not afforded protection under SARA, including for loss of prey. As resident killer whales rely heavily on Chinook salmon, with the fish making up around eighty-two percent of the Southern population's diet and being preferred by the Northern population, salmon farming has a direct impact on their survival *(Cohen Commission)*. Yet even within these legally-protected critical habitats, the protections promised under SARA have been undermined, such as in the recent federal court challenge regarding the Roberts Bank Terminal 2 project. Various conservation groups argued that the government-approved construction of a new container shipping terminal, which is projected to destroy crucial Chinook habitat that is part of the

critical habitat for Southern resident killer whales, failed to ensure all feasible measures were in place to limit its impact *(Ecojustice)*. In March 2025, the government also declined to issue an emergency order to enable immediate intervention to protect the Southern resident population, despite a recommendation to do so by the Minister. Instead, they are pursuing "incremental measures" to address this critically endangered animal. Even for endangered and threatened species in Canada, the benefits of protection they are afforded are still not enough.

FISHERIES ACT

The federal *Fisheries Act* is one of Canada's oldest and most important environmental laws, being enacted in 1868. Sections 34 to 36 outline significant legal protections for fish: one cannot engage in any activity other than fishing that kills a fish, "results in the harmful alteration, disruption or destruction of fish habitat," or deposits a harmful substance in water frequented by fish. However, exceptions to these violations exist for those engaging in authorized activities, which may extend to harmful industries, such as fish farming.

Under section 6 of the Act, the Minister is also required to implement measures to maintain fish stocks at or above a designated limit reference point (LRP), and establish a plan to rebuild a stock when falling below this point. As the West Coast Vancouver Island Chinook salmon population was determined to be at or below its prescribed LRP in 2024, the DFO released a Rebuilding Plan in March 2025 in collaboration with the First Nations in the region. The report notes the low returns in many natural populations, with Clayoquot Sound as a particular concern. It further identifies water quality, contaminants, pathogens, parasites, and harmful algae as among the main causes of decline of these populations, listing open-net pen aquaculture as a potential threat from which the industry must transition. Yet, as noted in the plan, it is "not a legally binding instrument which can form the basis of a legal challenge" and can be modified at any time.

IMPACT ASSESSMENT ACT

The *Impact Assessment Act* (IAA) intends to "prevent or mitigate significant adverse effects within federal jurisdiction" caused by designated projects. This Act replaced the *Canadian Environmental Assessment Act* in 2019 to address its shortcomings, including more adequately considering climate change and Indigenous rights in assessments. As fish and fish habitat, aquatic species, cross-boundary marine pollution, and impacts on Indigenous peoples are all areas of federal jurisdiction, aquaculture may be considered a "designated project" under this Act. Section 22 notes that impact assessments must consider the effects of such projects on the environment, economic, social and health conditions, Indigenous cultures, and Aboriginal rights recognized and affirmed by section 35 of the *Constitution*. However, impact assessments are used for newly-proposed projects, and the IAA lacks clear mechanisms to assess the adverse effects of these projects after they are built. As such, it is unlikely that this Act may be leveraged to assess the ongoing impacts of existing fish farms in Clayoquot Sound, especially being here long before this legislation came into effect.

Legislation for Protected Marine Areas

MARINE PROTECTED AND CONSERVATION AREAS

The federal *Oceans Act* sets out a framework for ocean protection in Canada. Primarily, the Act empowers the Minister to designate Marine Protected Areas (MPAs) in which harmful activities may be prohibited at their recommendation. MPAs may be designated for the conservation of fishery resources, endangered or threatened marine species under SARA, unique habitats, areas of high biodiversity, or "for the purpose of maintaining ecological integrity," supporting co-management with Indigenous governments. However, as there are only 14 designated MPAs under this Act, few areas are afforded these protections. As this designation may also conflict with other activities in Clayoquot Sound, such as recreation and tourism, other means of protection may be more appropriate.

Similarly, the *Canada National Marine Conservation Areas Act* governs the establishment and management of National Marine Conservation Areas (NMCAs). These areas are designated by Parks Canada, for the "benefit, education and enjoyment of the people of Canada and the world." With a goal of protecting 30 percent of Canada's oceans and establishing at least 10 more NMCAs by 2030, there is a possibility that Clayoquot Sound may be included in future protections. NMCAs also present opportunities for collaboration between the colonial and Indigenous governments. Many of these areas, including Gwaii Haanas National Marine Conservation Reserve and Tallurutiup Imanga National Marine Conservation Area, were originally designated by the Indigenous councils on whose traditional lands these areas reside, being the Haida Nation and Inuit in the Qikiqtani region, before entering an agreement with the Minister. However, NMCAs continue to focus more on the use of land by people, rather than the intrinsic value of the land and waters, and may work better alongside protections for nature in itself, such as through the Rights of Nature.

NATIONAL AND PROVINCIAL PARKS

The Pacific Rim National Park protects 22,500 hectares of marine area, including within the Long Beach Unit, along the coast and in the inlets. The *Canada National Parks Act* sets out regulations for maintaining these areas for the education and enjoyment of people and future generations. Under the Act, the government may set regulations regarding the "prevention and remedying of any obstruction or pollution of waterways." Three of Creative Salmon's farms operate just outside the boundary of the National Park, with pathogens and parasites likely flowing into and polluting the waters inside the protected Grice Bay. However, as these activities do not take place within the park itself, regulating them under this legislation is challenging.

Similarly, the *BC Park Act* regulates the various provincial parks in Clayoquot Sound, including the marine areas they protect. Under the Act, certain activities, such as commercial logging, mining, and hydroelectric power generation, are restricted in BC parks. Disposal of industrial waste and damaging fish and wildlife for purposes other than hunting or observing is restricted without a valid permit. However, as none of the salmon farms in the area operate within these designated areas, legislation cannot extend to them, even if their runoff impacts the marine protected areas of the parks.

Legislation for Wildlife Protection

The federal and provincial *Wildlife Acts* enable the establishment of National Wildlife Areas and Migratory Bird Sanctuaries, as well as Wildlife Management Areas, respectively, to protect species. The federal *Migratory Birds Convention Act* provides further protections for some migratory bird species. The Tofino Mudflats Wildlife Management Area, designated under the BC *Wildlife Act*, is ranked the most important wetland complex on the west coast of Vancouver Island. The provincial act works to protect this area, being critical to the small fish and invertebrates it houses and migrating shorebirds they feed. However, again, these areas do not encompass salmon farms directly within them and cannot extend protections despite their impact on the waters and creatures that rely on them.

Wild Salmon Policy

Canada's *Wild Salmon Policy* (WSP), adopted in 2005 by the DFO, provides a framework to "restore and maintain healthy and diverse salmon populations and their habitats for the benefit and enjoyment of the people of Canada in perpetuity." The policy acknowledges the significance of salmon to Indigenous populations residing on the Pacific coast for maintaining traditional diets and upholding Aboriginal fishing rights. In stating that action must be taken if specific fish populations are threatened by aquaculture operations, the WSP applies the precautionary principle: a lack of scientific certainty regarding the risks of harm should not be used to postpone taking conservation measures to address the risk, as per the *UN Fish Stocks Agreement (Cohen Commission)*. With respect to these policies and principles, the DFO's ban on open-net pen salmon farming in BC coastal waters by 2029 finally takes a necessary step to protect wild salmon from these harms. However, as policy is not legally binding, it risks weak implementation and failures to meet these promises.

Protections under Aboriginal Law and Co-Governance

Beyond Indigenous self-governance and management of IPCAs through Indigenous law, Aboriginal law, governing the relationship between the Canadian government and Indigenous peoples, may present further protections for joint governance and upholding Indigenous rights that intertwine with environmental rights.

CONSTITUTIONAL RIGHTS

The government holds a legal duty to consult and accommodate Indigenous peoples when it "considers conduct that might adversely impact potential or established Aboriginal or treaty rights" protected under section 35 of the *Constitution*. These rights are rooted in the Honour of the Crown, a principle requiring the government to act in good faith in all relations with Indigenous peoples, and confirmed in the landmark Supreme Court decision on *Haida v BC* in 2004. As the right to fish is constitutionally-protected under section 35, the government holds both a legal duty to consult Indigenous groups when this right may be threatened, and an obligation to protect wild salmon to uphold these rights.

JOINT AGREEMENTS

The *Trilateral Declaration and Accord to Address the Decline of Wild Pacific Salmon* is a shared agreement between the First Nations Fisheries Council of BC, the DFO, and the Ministry of Water, Land and Resource Stewardship, signed in June 2024, committing to working together to address the decline of wild Pacific salmon populations. Recognizing the cultural significance of

UNDRIP

The *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) outlines the rights of Indigenous peoples to protect and preserve their environment:

Article 25: "Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard."

Article 29: "Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination."

UNDRIP has been implemented both federally and in BC, with legislation mandating the government to bring Canadian laws into alignment with the declaration.

Pacific salmon to BC First Nations, and the decrease in its population by over ninety percent since the 1970s, this agreement recognizes the urgency to address this decline and supports joint action between governments.

In 2024, three provincial ministries signed an agreement with the Ahousaht and Tla-o-qui-aht First Nations to convert approximately 77,000 hectares of land authorized for commercial forestry into conservancies in Clayoquot Sound. Being designated under the *Parks Act*, these areas also prohibit certain commercial activities, such as logging and oil and gas extraction. This partnership works to support the involvement of Indigenous nations in old-growth forest stewardship and may create space for governance under Nuu-chah-nulth law.

BARRIERS IN ABORIGINAL LAW

BC's recently passed Bill 15, the *Infrastructure Projects Act*, allows the government to expedite environmental assessment processes on projects deemed "provincially significant." This Act potentially opens the door to project approval without adequate consultation, threatening both the government's duty to consult protected under section 35 of the *Constitution*, and the Indigenous right to Free, Prior and Informed Consent outlined under UNDRIP.

UNDRIP also recognizes the right to Free, Prior and Informed Consent:

Article 18: "Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions."

Article 19: "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them."

Article 32 (2): "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources."

Article 32 (3): "States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact."

Need for Greater Protection

There is shared knowledge among scientists, fishers, Indigenous knowledge holders, and others who have observed the fish and rivers in Clayoquot Sound over time that the wild salmon population is at risk. As Joe Martin states, when he was young, “the land and waters here were rich.” There were all kinds of fish, birds, whales, and other life “all over the place. You’d have to be an idiot to starve here.” Since the farms have been in the water in the area, the stocks have continued to decline each year. In 2024, only one Chinook returned to the Kennedy River. In his opinion, “these farms are the ones that have been killing them off.”

The Cohen Commission, established in 2009 to investigate the decline of Sockeye salmon in the Fraser River, shares this opinion of aquaculture as a key threat to wild salmon populations. Among the impacts listed in their 2012 report, disease and pathogen transmission, sea lice infestations, species competition and pollution from farms were found to be leading causes of decline. The report put forward seventy-five recommendations, including removing open-net pen salmon farms in the Discovery Islands and ending the DFO’s mandated promotion of farmed salmon products. Following these recommendations, the former Minister of Fisheries and Oceans refused to reissue licenses for open-net pen farms in the area. Their nets have been empty since 2022 and there has been a significant decline in sea lice on the juvenile wild salmon populations (ECO). As this investigation was specific to the Fraser River region, these protections did not extend to Clayoquot Sound. Yet the impacts are consistent across BC waters.

Salmon are vital to sustaining life in the Pacific Northwest, feeding land and marine mammals, from whales to bears to wolves, birds, and the forests themselves. When wild populations are exposed to the threats of open-net pen farms, the entire ecosystem is placed at risk. Yet, the current protections for salmon and other species in the dominant Canadian legal system, even for those most at risk, do not reflect this urgency. They continue to favour major industries over taking appropriate measures to address declining populations. There is a need for a shift in the legal paradigm. The Rights of Nature doctrine, coupled with Indigenous law and self-governance, presents a shift to a more holistic approach.

Learning from Other Actions to Apply the Rights of Nature to Clayoquot Sound

Rights of Nature laws may work as a legal tool to protect each of the beings and ecosystems that salmon hold a vital importance to, from individual animals to the entire region. Looking at how the Rights of Nature has been leveraged internationally and the ways in which it has been introduced in Canadian law may provide guidance for its application to Clayoquot Sound.

SALMON

As a keystone species, salmon must be respected for both their intrinsic value and value as a life-sustaining species. The rights granted to them must therefore reflect both. Here, the intertwining nature of human rights and the Rights of Nature is evident. Two cases just across the border may set a precedent for understanding this interconnectedness.

In 2022, the Sauk-Suiattle Tribe sued the city of Seattle in Tribal court for obstructing salmon migrations and nutrient passage on the Skagit River with hydroelectric dams. This claim was put forward on behalf of both the tribe and the *Tsuladxw* (salmon), who are seen as relatives with inherent rights to flourish and a fundamental status akin to human rights *(Eco Jurisprudence Monitor)*. Coupled with the Sauk-Suiattle’s rights to access salmon as part of their cultural identity, the Tribe has responsibilities to protect the salmon, akin to a legal duty. This duty was undermined by the City due to a lack of consultation and consent, in turn undermining the rights of both. As a result, the City settled to incorporate fish passages in the dams, being a win for both the *Tsuladxw* and the Tribe.

The Sauk-Suiattle Tribe followed prior litigation filed by the White Earth Band of Ojibwe in Minnesota. In 2018, the Band adopted the “Rights of Manoomin” law, recognizing the inherent rights of *manoomin* (wild rice), considered by the Anishinaabe people to be a gift from the Creator and a staple to their traditional diets. It also states that any activities which violate the rights of *manoomin* or Tribal members outlined are unlawful, whether they occur inside or outside of the White Earth Reservation. As such, in 2021, the Band sued the Minnesota Department of Natural Resources on behalf of *manoomin* concerning Enbridge’s Line 3 pipeline in Tribal court. The State’s water permit granted to the corporation would violate the rights of *manoomin* to exist, as it depends on abundant fresh water, as well as the treaty rights of Tribal members to harvest for food. While this action was ultimately dismissed, it set a guideline for Indigenous action as the first Tribal law in the US to recognize legally enforceable rights of a plant species and the first Rights of Nature case in a Tribal court.

With consuming salmon being an essential substance and cultural practice among Nuu-chah-nulth nations, the rights of salmon to live may be interpreted on a species level, supporting the continued flourishing of salmon populations, rather than for individual salmon. Unlike SARA, this recognition would support the protection of salmon populations without threatening constitutionally-protected Aboriginal rights to fish and longstanding Indigenous practices.

OTHER ANIMALS

The Rights of Nature movement is predated by the Animal Rights Movement, acting as a springboard for recognition of animals as rights holders *(UBC)*. The growing acceptance of animals as sentient beings that may experience emotion and have complex social systems is reflected in changes in the law, especially for larger animals. In Canada, these shifts have largely taken place for cetaceans, being whales, dolphins and porpoises. The *Ending the Captivity of Whales and Dolphins Act* made amendments to legislation in 2019 to provide greater protection to these beings. First, section 445.2 was added to the *Criminal Code*, largely criminalizing taking and holding a cetacean in captivity. The Act also added to section 23 to prohibit fishing for cetaceans with the intent of taking them into captivity, apart from rehabilitative purposes.

Internationally, there has been a greater shift to recognize the legal personhood of cetaceans and other large animals. In Ecuador in 2022, the Constitutional Court ruled that constitutional Rights of Nature provisions apply to wild animals, respecting their intrinsic value at both an individual and species level. In Argentina in 2016, a habeas corpus writ, a legal process to review the unlawful imprisonment of an individual, was brought on behalf of a chimpanzee and succeeded in moving her from a zoo, being determined a “subject of non-human rights.” In India, a 2019 decision by the Punjab and Haryana High Court declared legal personhood for all animals in Haryana, granting “corresponding rights, duties, and liabilities of a living person.” These progressions could enable the recognition of whales, bears, wolves, eagles and other animals relying on salmon as legal persons as well.

There is a global movement to recognize the legal personhood of cetaceans in particular. Research has shown whales and orcas as having sophisticated social groups, communications, cultures passed down through generations, and the ability to grieve the loss of family and friends. Whales also hold significance to Indigenous groups living across the Pacific, including in Nuu-chah-nulth cultures. The *He Whakaputanga Moana*, or *Declaration for the Ocean*, signed by Indigenous leaders from various Pacific Islands, recognizes whales as legal persons with inherent rights, including freedom of movement and a healthy environment. While not a binding treaty, it opens the door for collaboration with colonial governments and may put pressure on them to legislate, which could be followed by Nuu-chah-nulth nations.

The local whale and orca population is threatened by salmon farms. The farms not only impact the availability of salmon for the resident populations, but also of other vital prey, such as herring. This source is not only relied on by humpback whales, but Chinook salmon and harbour seals, further impacting the resident killer whales who eat salmon and transient killer whales who primarily eat marine mammals. Pesticides used to treat sea lice on farmed salmon also harm other crustaceans when disposed of in the ocean, threatening the copepod population, a significant part of grey whales’ diets. On top of reduced prey availability, the Cermaq and Creative boats create noise pollution that interferes with echolocation for finding prey. Joe Martin has witnessed the change in marine mammals over his lifetime here: he used to see all kinds of life around the Lower Kennedy River and the bay when it was “jumping with fish.” It is not the same now.

If cetaceans or other animals in Clayoquot Sound were granted legal personhood through legislation, a representative may be able to sue on their behalf for a violation of their rights. In particular, these impacts may be deemed a violation of section 7 of the *Charter*, guaranteeing “everyone the right to life, liberty and security of the person,” similar to the Southern Chiefs’ Organization’s lawsuit protecting Lake Winnipeg.

It is important to emphasize that the right to life should not only be granted to animals that we humanize based on complex behaviours, but should be inherent to all beings based on their intrinsic value and ecosystem functions. Although the types of rights determined for different entities will depend on their nature, fundamental rights should apply to all beings in Clayoquot Sound to protect balance within its ecosystems.

WATER

With salmon spending their lives in both freshwater rivers and the ocean, protecting both habitats is vital to their survival. As noted by Joe Martin, water is the “most important ingredient in all life…all creatures need it, including us, so we are not allowed to pollute it.” Protecting this source of life is essential to the rights of all beings.

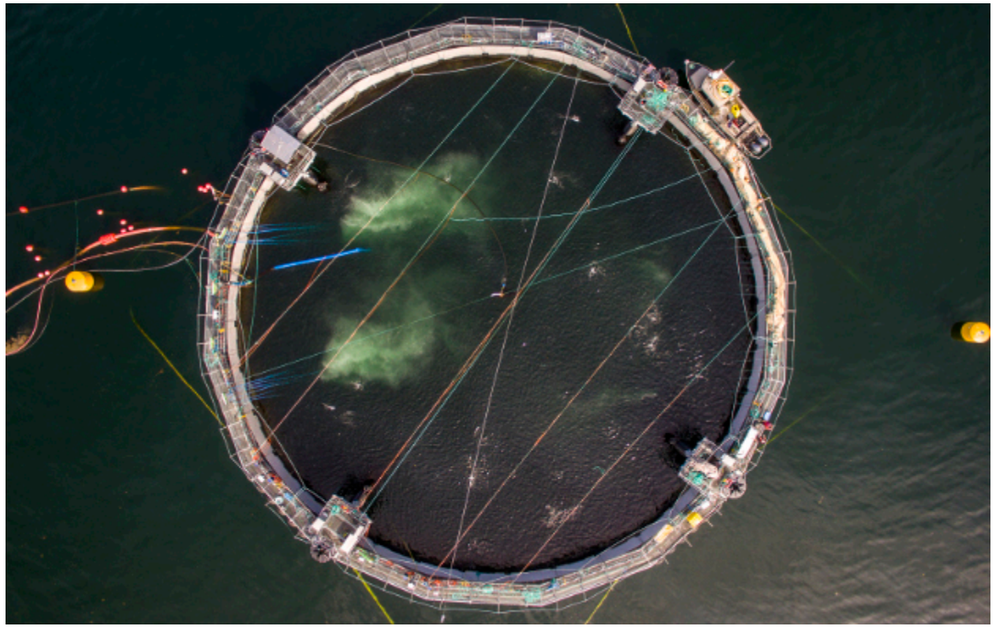
The Nuu-chah-nulth worldview also understands water to convey a connection between the physical and spiritual realms. Similar relationships within other Indigenous cultures have been formally recognized in laws in other parts of the world. In 2019, the Constitutional Court of Guatemala recognized the spiritual and cultural relationship between the Mayan peoples and water, acknowledging it as a living entity. Declarations on the rights of waterways have also extended to these spiritual dimensions.

RIVERS

Rivers have been a focus of granting rights to nature, including in Canada. Aotearoa (New Zealand) was the first to recognize these rights, granting legal personhood and associated “rights, powers, duties and liabilities” to the Whanganui River, named Te Awa Tupua, in 2017. Being grounded in Māori law, the settlement recognizes Te Awa Tupua as a “spiritual and physical entity,” being whole and indivisible between its physical and metaphysical elements. Citing the *Whanganui Settlement*, the High Court of Uttarakhand, India declared the Ganges and Yamuna Rivers legal persons in the same year, making the dumping of untreated sewage and industrial waste illegal as a violation of rights. The two rivers are sacred in Hinduism, holding spiritual significance and importance to Hindu mythology. The Mutehekau Shipu/ Magpie River resolution similarly acknowledges the spiritual importance of the river in Innu culture. These resolutions may be followed in Clayoquot Sound, as Nuu-chah-nulth nations rely on rivers as both a source of spiritual connection and sustenance through salmon.

Healthy rivers are also vital to healthy salmon and ecosystems. These are the habitats in which salmon start and end their lives. When salmon return to their rivers to spawn and continue the

salmon lifecycle, they release nutrients collected from the ocean in inland ecosystems, feeding bears, eagles, wolves and other predators, as well as the forest soil through nitrogen. Granting legal personhood to the rivers in Clayoquot Sound could uphold the rights of these other beings as well, including humans. This may be granted as individual rivers or possibly all rivers within the area, as seen in the High Court of Bangladesh, in recognizing all rivers in the country as living entities with legal rights.



OCEAN

The ocean, on the other hand, is not as widely addressed under existing Rights of Nature actions, but is growing in various facets of law. There is an ongoing global campaign for a *Universal Declaration of Ocean Rights* to recognize its intrinsic value outside human utility and benefit. In Newfoundland, the *Rights of the Atlantic Ocean Bill* was proposed by two organizations in 2022. If adopted, this legislation would extend legal personhood to all bodies of water around the province and allow Guardians to sue on its behalf if impacted by pollution. In 2024, Ecuador's Constitutional Court included coastal marine ecosystems as legal rights holders in its Rights of Nature protections. This decision reinforces that human activities must respect the natural cycles of marine ecosystems and rejects challenges from the industrial fishing sector that threaten these rights. Some Rights of Nature laws also include marine water within the larger ecosystems they address. For example, the Yurok Tribe's resolution on the rights of the Klamath River in the US recognizes the entire ecosystem of the river, including "through and past the estuary into the Pacific Ocean." The municipality of Santa Monica,

California also declared all marine waters within the boundaries of the city to possess rights. These actions present different pathways in which the legal rights of marine waters and ecosystems may be secured in Clayoquot Sound.

There are also shifts to recognize the rights of the ocean in local Indigenous law. The developing *Heiltsuk Nation Oceans Act* is working to uphold marine governance in the nation's traditional territories on the central coast of mainland BC. The Act, titled *Haíkilaxsi eisḷá wáwáx̌tusa gáyáqḷa qṇts dṃxsax̌v: Respecting and Taking Care of our Ocean Relatives*, is intended to acknowledge that all resources in the ocean have rights in themselves and humans have a legal right and responsibility to take care of them. This initiative may act as a model for developing an *Oceans Act* within the Tla-o-qui-aht, Ahousaht and Hesquiaht First Nations, and possibly lead to a joint resolution with the District of Tofino, such as for the Mutehekau Shipu/ Magpie River resolution to support both Indigenous law and the adoption of these principles into colonial law.

FORESTS

Salmon are essential to forests, with the ancient rainforests on Vancouver Island being named "salmon forests" in light of their interconnectedness and reliance on one another. Salmon provide up to eighty percent of the nitrogen in forest soils that feed trees, providing essential habitats for other species as well as the oxygen we breathe. Forests and trees have also provided Nuu-chah-nulth nations with substance, the materials for tools, medicines, totem poles, woven hats and other items, as well as spiritual connection. As stated in the proposed *Universal Declaration of the Rights of Trees*, "the well-being of humankind and the well-being of forests are inseparably linked." Recognizing this significance, the Colombian Supreme Court declared the Amazon Rainforest a "subject of rights" in 2018, mandating the State to protect, conserve, maintain, and restore the forest. In light of their interconnectedness, the rights of forests in Clayoquot Sound, and across Vancouver Island, may be granted to the trees themselves or to the forests as a whole, or as a region, to recognize the waterways and beings they house.

CLAYOQUOT SOUND REGION

Granting legal personhood to the region as a whole may best recognize the interconnectedness of the animals, waters, forests, and humans of Clayoquot Sound, particularly revolving around salmon as a keystone species. There are various international examples for how this can be done, particularly for existing protected areas.

Predominantly, Te Urewera in Aotearoa (New Zealand) was disestablished as a national park in 2014 and instead recognized as a legal entity to be protected by the Māori Tūhoe *iwi*. The government is no longer the 'owner' of the land and it is instead co-managed by a Board of Tūhoe peoples and government representatives appointed to act on its behalf. The *Te Urewera Act* sets out to establish this legal identity for its intrinsic worth, "distinctive natural and

cultural values," and connection to the Tūhoe peoples as a place of spiritual value with its own *mana* and *muari* (living and spiritual force). Farming also requires an activity permit, but may only be granted by the Board if it is provided for in the management plan aligning with the objectives and policies for Te Urewera. With some of the principles being to preserve Indigenous ecological systems in their natural state, conserve soil, water and forests, and exterminate introduced plants and animals, it seems unlikely that fish farming, especially with the introduction of Atlantic salmon, would be an approved activity in an area under this form of protection. Further, as introducing "any substance that the person knows or ought to have known is injurious to plant or animal life" and interfering with an indigenous animal or nest without authorization are both considered offences under the Act, operating open-net pen fish farms would likely violate the Act. If parts of Clayoquot Sound were protected as legal entities such as Te Urewera, including the Long Beach Unit of the Pacific Rim National Park, defending from the harms posed by salmon farming may be more straightforward. There is even a possibility to maintain national park status while gaining legal personhood, as evidenced by the recent status of Taranaki Mounga in Te Papa-Kura-o-Taranaki, formerly called Egmont National Park in Aotearoa (New Zealand).

Further, Colombia's Supreme Court has recognized multiple national parks as subjects of rights in 2020, including La Via Parque Isla Salamanca, which is designated as a UNESCO Biosphere Reserve, just as Clayoquot Sound is. UNESCO Biosphere regions are designated for their significant natural and cultural value, aiming to foster a relationship between humans and the environment. While Clayoquot Sound received this designation in 2000, it does not provide any legal protections for the area, but rather a framework for community-led conservation. However, in the identified marine 'buffer' zone in Bedwell Sound, where "only activities compatible with the conservation objectives can take place," at least three Cermaq farms are operating. The other outer transition areas, where communities are meant to "engage in sustainable economic activities," encompass the remainder of the farms. Granting the region the "rights, powers, duties and liabilities of a legal person," similar to that in Colombia, may better equip the area and its appointed Guardians to defend from these harms.

Finally, a landmark ruling in Ecuador's Constitutional Court upheld the Rights of Nature for Los Cedros Biological Reserve against a mining corporation. In 2021, the Court ruled that mining would harm the biodiversity of the forest and violate its constitutional rights, in turn banning all mining activities within the reserve and prohibiting the granting of future permits. The judgement also held that the human right to a healthy environment is dependent upon the Rights of Nature, emphasizing the intertwined nature of human rights and the rights of Mother Earth. While the Rights of Nature, and environmental rights generally, are not similarly implemented in the Canadian Constitution, this ruling may provide a pathway to shift protections and uphold rights in court.

As the species, waters and lands encompassing Clayoquot Sound cannot be perceived in isolation, recognizing their rights as a whole may expand protection and better reflect their interconnections understood under Nuu-chah-nulth law. As a migratory species, spending their lives across both marine and freshwaters, recognizing the rights of an entire salmon run, even beyond Clayoquot Sound itself, may also afford them greater protection.

Challenges

Despite promising progress made through the Rights of Nature movement, potential uncertainties and shortcomings remain.

As the Rights of Nature have not yet been enforced in Canadian litigation, with the lawsuit regarding Lake Winnipeg being undecided, it is unclear how courts will react. For one, exemptions may provide barriers to upholding the rights granted in legislation, such as those set out for agriculture or human consumption. These exceptions may risk enabling "speciesism," particularly the assumption of human superiority embedded in the Anthropocentric culture in the dominant legal system. Further, if natural entities are granted the undefined range of rights and liabilities held by a legal person, there is a risk of being liable for damage, such as flooding caused by a natural disaster. As the rights granted to different non-human entities are distinct from those of humans, these intricacies may arise in court decisions.

There are also challenges with creating settlements for areas with multiple Indigenous nations holding rights and interests. When bringing the idea up to Joe Martin, he believed that this legal tool presented a positive action for nature, but may encounter challenges for securing rights for the region as a whole because of the different Nuu-chah-nulth nations residing in Clayoquot Sound. This issue arose following the Tŝilhqot'in Nation's adoption of the *ʔEsdilagh Sturgeon River Law*, with challenges in defining boundaries and responsibilities to waterways that move through the traditional territories of multiple nations.

Finally, it is important to remember that the Rights of Nature doctrine still works largely within the colonial legal system. This process may serve as a valuable means to mitigate the risk of harm to non-human entities under the precautionary principle, preventing potentially harmful activities before further damage takes place. However, it does not entirely shift the relationship between humans and nature. Court settlements still must consider legal relief in monetary terms, even if for nature's benefit. As such, it cannot alone protect the intrinsic value of nature and must work alongside Indigenous legal orders.

Next Steps and Recommendations for Leveraging the Rights of Nature Doctrine in Canada and Clayoquot Sound

Under the dual legal order in Canada, the Rights of Nature legal doctrine should not be the only conception that can be worked towards to more adequately protect the non-human world. Instead, the use of this legal tool, taking place largely within the colonial Canadian system, must work alongside Nuu-chah-nulth legal orders to protect Clayoquot Sound.

Legislation is the first step to implementing the Rights of Nature. Due to barriers in making constitutional amendments, declarations on the rights of salmon, cetaceans, rivers, forests, or Clayoquot Sound as a region, among others, may first work to grant legal personhood and associated rights to these entities. These rights may vary based on the “interspecies principle” adopted in Ecuadorean courts, considering the unique rights of beings according to their character and circumstances *(UBC).* Granting a list of specified rights and responsibilities may also work to avoid challenges of liability if the entity were to cause damage. Following the case of the Mutehekau Shipu/Magpie River, joint resolutions should be passed on behalf of both the colonial government and the First Nations within whose traditional territories these entities exist. Considering the diversity among Indigenous cultures across what is now Canada, and within the region, these declarations would likely take place on a more localized level, such as through Tribal Laws in the US, rather than nationally, such as in Aotearoa (New Zealand). As such, these paired resolutions could be put forward by the Municipality of Tofino or the BC government and either individual or collective Nuu-chah-nulth nations, depending on the

natural entity in question. These resolutions would also appoint Guardians to act on behalf of the entity, which could have representatives from all parties involved. In turn, these Guardians could bring forward a legal action to enforce these rights in court and hold fish farming corporations accountable for violating these rights, such as the right to be free from pollution for rivers or the right to exist for salmon. Because of the migratory nature of salmon and their interconnections to oceans, rivers, forests, and a plethora of animals, there is a possibility that lawsuits may be brought forward from beyond Clayoquot Sound. Old-growth forests across Vancouver Island rely on nitrogen from salmon that migrate through Clayoquot Sound: if a patch of this forest was declared a legal person, its Guardians may sue the fish farming corporations here on behalf of the forest for depleting its access to nitrogen and threatening its right to live.

Even with Indigenous involvement in the Rights of Nature movement, there must also be support for Indigenous law and stewardship beyond these partnerships. Protecting Indigenous self-government and upholding IPCAs are two ways in which colonial law may be de-centred to open space for Indigenous stewardship that has supported a reciprocal relationship with salmon since time immemorial. The recognition of IPCAs may also support the Rights of Nature: the Tribal Park Guardians who monitor and uphold responsibilities to the land may also be designated as or work alongside the Guardians appointed in Rights of Nature declarations, allowing them to bring claims forward on behalf of the non-human entities under their care in court.

The Rights of Nature is one tool in the box for protecting the forests, waters and creatures of Clayoquot Sound. It must work alongside Indigenous legal orders to shift dominant relationships with the land and support the inherent jurisdictions of Indigenous peoples. In breathing life into Nuu-chah-nulth law, including *heshook-ish tsawalk,* the interconnectedness of humans and all elements of nature may be understood, and rights may be upheld alongside one another.

About the Author

Nicole Grant (she/her) is a second-year law student at the Schulich School of Law at Dalhousie University with a specialization in Environmental Law. She moved east to west to work with Clayoquot Action as an intern last summer, developing this report on the Rights of Nature in Clayoquot Sound. She enjoys spending as much time as possible in nature and aspires to protect what she loves through her work.

ADVISOR

We wish to thank Ben Isitt of the Benjamin Isitt Law Corporation and the Red Cedar Advocacy Centre for providing guidance to the author and Clayoquot Action in preparation of this report.

For more information on the Rights of Nature movement:

Eco Jurisprudence Monitor

International Rights of Nature Tribunal

Earth Law Centre

Centre for Democratic and Environmental Rights

MOTH (More-Than-Human-Life)

Rights of Nature: A Plain Language Legal Guide for Earth Citizens by Centre for Law & the Environment and Allard School of Law, UBC

The Rights of Nature: A Legal Revolution That Could Save the World by David R. Boyd

The Nature of Things: I am the Magpie River (Documentary)

Understanding the Rights of Nature by Mihnea Tănăsescu

For more information on the status of Pacific salmon:

West Coast Vancouver Island Chinook Salmon Rebuilding Plan

Cohen Commission Reports: The Uncertain Future of Fraser River Sockeye

Not on My Watch by Alexandra Morton

Ecojustice

West Coast Environmental Law

For more information on Indigenous knowledge and protections:

IPCA Knowledge Basket

Uuathluk (Taking Care Of) Nuu-chah-nulth Fisheries

Tsawalk: A Nuu-chah-nulth Worldview by Umeek (E. Richard Atleo)

Tla-o-qui-aht Tribal Parks

First Nation Wild Salmon Alliance

We Rise Together (Report) by the Indigenous Circle of Experts

PHOTO CREDITS

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RIGHTS & TITLE

Clayoquot Action recognizes and supports the Indigenous Rights and Title of the Hesquiaht, Ahousaht, and Tla-o-qui-aht First Nations—stewards since time immemorial of the lands and waters now called Clayoquot Sound.

WHO WE ARE

For over thirty years Clayoquot Action founders Dan Lewis and Bonny Glambeck have been working to protect this awe-inspiring place from the threats of clearcut logging, mining, oil spills, and salmon farming. Clayoquot Action stands for democratic rights, Indigenous rights, and the rights of Mother Earth. Our small but mighty staff, together with local volunteers and backed online by people around the world, run strategic, people-powered campaigns to help Clayoquot Sound remain one of the most beautiful places left on earth.

Clayoquot Action

Published in March 2026 by Clayoquot Action

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