Is Revenue Sharing Real Reconciliation? Recognizing the role of Indigenous law and governance in British Columbia Crown forestry agreements

by

Tara Dawn Shannon “hahuuła” Atleo

A thesis

presented to the University of Waterloo

in fulfillment of the

thesis requirement for the degree of

Doctor of Philosophy

in

Sustainability Management

Waterloo, Ontario, Canada, 2023

Examining Committee Membership

The following served on the Examining Committee for this thesis. The decision of the Examining Committee is by majority vote.

External Examiner	Dr. Elizabeth Whitsitt Associate Professor Faculty of Law, University of Calgary
Supervisor(s)	Dr. Marie-Claire Cordonier Segger Professor School of Environment, Enterprise and Development, University of Waterloo
	Dr. Simron Singh Professor School of Environment, Enterprise and Development, University of Waterloo
Internal Member	Dr. Juan Moreno-Cruz Associate Professor School of Environment, Enterprise and Development, University of Waterloo
Internal-external Member	Dr. William Nikolakis Assistant Professor Faculty of Forestry, University of British Columbia
Other Member(s)	Dr. Paul Parker Professor School of Environment, Enterprise and Development, University of Waterloo

Author's Declaration

I hereby declare that I am the sole author of this thesis. This is a true copy of the thesis, including any required final revisions, as accepted by my examiners.

I understand that my thesis may be made electronically available to the public.

Abstract

From the banning of cultural protocols to the installation of assimilation and genocidal tactics, Indigenous law and governance within communities throughout British Columbia have experienced tremendous hardship and transformation since first contact. Colonial systems have stifled Indigenous cultural governance structures, compromising Indigenous communities' centuries-old methods of sustainable land and resource management through stewardship. In efforts and with intent to right the wrongdoings of the past, Canadian Crown government bodies have made commitments towards reconciliation with Indigenous peoples throughout the country. There is no single definition for what reconciliation means to Indigenous communities within British Columbia, though it must encompass recognition, respect, reinvigoration and integration of Indigenous law and governance systems and practices in all aspects of society as a path forward.

Vital to Indigenous law and governance systems within Indigenous communities, both past and present, are unique and complex economic systems. Literature has evolved to understand that Indigenous stewardship is key to sustainable development and targeted climate action through recognition of Indigenous communities living within their territories sustainably for millennia. Despite the acknowledged importance of Indigenous stewardship in natural resource management initiatives, land-based decision making within British Columbia continues to design and implement processes and mechanisms that stifle Indigenous law and governance and misrepresent Indigenous values.

Using document analysis of 123 forestry-centric government to government Forest Consultation and Revenue Sharing Agreements within British Columbia, this thesis uses an Indigenous perspective to analyze the recognition of Indigenous law and governance systems and the opportunities to uphold these systems with non-market valuation within natural resource management in Indigenous territories. Nine of the analyzed agreements exhibited inclusion of Indigenous law and governance systems in their terms, while none of the agreements provided evidence of non-market valuation despite providing compensation measures for natural resource extraction on the land base.

By empowering the voices and oral teachings of Indigenous communities within natural resource management through modified economic valuation methods inclusive of Indigenous law and

governance, this thesis discusses opportunities for implementing real reconciliation efforts by demonstrating the means and critical importance of a holistic valuation approach.

Acknowledgements

ƛ̓eekoo [kleck-oh] is the word for *thank you* in the Nuu-chah-nulth language, and many *ƛ̓eekoos* are due to many people and a couple very important pets for their contributions and support throughout my PhD journey:

The Ahousaht Education Authority had provided financial and administrative support throughout my entire post-secondary career, from Econ 101 to PhD defence. I am incredibly grateful for the opportunities that have been offered to me through their support.

To the Ahousaht *hawiiḥ*, hereditary leadership, for encouraging my research and continued education and for upholding our laws and governance. To Maquinna, *tyii hawiɬ*, for taking a chance on me and always being a voice of great comfort, wisdom, and humour.

To my supervisor, Prof. Marie-Claire Cordonier Segger, for encouraging me to continue my research with SEED and for holding open so many doors along the way. And to my co-supervisor, Prof. Simron Singh, for your thoughtful guidance through my time at Waterloo.

To my SEED advisory committee members, Prof. Juan Moreno-Cruz and Prof. Paul Parker, for taking an interest in my work and for taking the time to support me through the milestones and for providing constructive comments on my thesis. Reflecting on our discussions will help me as I move this work forward in practice. To committee member Prof. William Nikolakis from UBC, for your unwavering support and for accommodating inpromptu chats from whereever you are on the globe. And to external examiner Prof. Elizabeth Whitsitt for your careful review and commentary on this thesis and for inspiring interesting discussion and thoughts towards future work.

To my PhD cohort colleauges, our short time together on campus has provided me with a lifetime of inspiration. And to Jane for talking me through pouts and for showing me the ropes. And to my supportive, innovative, and caring work colleagues who are champions of change each day.

To my friends, starting with Prof. Alexandra Harrington whom I had the great privilage to meet and befriend during my time in Waterloo. Your mentorship and snark pulled me through. To the Coaches for all that you've taught me. To the Nilson's for your extreme kindness. To the others that text, visit, and are always there for vents and wine.

And finally to my family: The Atleos, Borsatos, Alexanders, Robinsons, Ders and Fulbers, to name a few. Notably to Grams, Verna, for always answering my calls and for your willingness to always talk about the weather. To naasqwiisqwiisat for teaching me to always keep my elbows up. To ṅaasimyisʔaqsa for always holding down the fort and upholding our ways. To ʕikaatiʔus for the good laughs, good food, and best basenjis. To Mum, nałniʕałnuuk, for fixing all the things and being everything to all of us. And to Jordan and Franklyn for being my home.

ƛ̓eekoo ƛ̓eekoo

Dedication

Huuḥtakšiiḥ.

Keep learning.

Table of Contents

List of Figures

List of Tables

Chapter 1
Introduction

1.1 Problem Statement

From the banning of necessary law and governance protocols to the installation of assimilation and genocidal tactics, Indigenous law and governance within communities throughout British Columbia have experienced tremendous hardship and transformation since first contact (Coté, 2022; Joseph, 2018). Colonial systems have stifled Indigenous cultural governance structures in Canada, compromising Indigenous communities' centuries-old methods of sustainable land and resource management through stewardship (Trosper, 2002, 2009). Rather than support and promote Indigenous stewardship, colonial systems have instead enacted their own management regimes within Indigenous territories, which in many cases undermine the Indigenous cultural values that uphold the environment, society, culture and the economy with sustainable practices. Despite the Canadian Crown government's best efforts to eliminate Indigenous law and governance structures throughout the country, Indigenous communities continue to persevere, and the importance of the values and perspectives held within cultural stewardship practices as guided through Indigenous law and governance is becoming more recognized as invaluable to sustainable management and development and targeted climate action (T. D. Atleo, 2022; Reed et al., 2021; Salick et al., 2007; Sobrevila, 2008; J. Borrows, 2016). Indigenous communities along with their law and governance systems are currently present and active. Their values and rights pertaining to stewardship of their territories exist and are functioning. Nevertheless, participation of Indigenous communities in natural resource decision-making is largely accommodated only through the terms of the colonial structures, as if the alive Indigenous structures are stuck in history. Despite participating within colonial structures and language by agreeing to terms that seem fair and reasonable, the lack of opportunities to represent and account for Indigenous law and governance through the use of Indigenous language and protocol demonstrates the lack of true representation of Indigenous law and governance. Without the representation of Indigenous law and governance, and accompanying acknowledgement of Indigenous values, terms which are fair and reasonable to Indigenous communities cannot be established and the reconciliation efforts that Crown governments claim to strive for to correct past wrongdoings cannot be achieved. There is no single definition for what reconciliation means to Indigenous communities within British Columbia, though it must encompass recognition, respect, reinvigoration and integration of Indigenous law and governance systems and practices in all aspects

of society as a path forward.

Indigenous communities within British Columbia historically used language and oral histories to steward territories sustainably and maintain complex systems of law and governance. In comparison, the Crown Government of British Columbia also uses language to manage resources and guide law and governance, rather through written legal documents and agreements than through oral histories. As demonstrated by the clarification of terms in Section 1.2.1, this thesis aims to bridge gaps through language by first beginning to understand the intent behind perceived efforts of reconciliation based on recognition of Indigenous law and governance made by the Crown Government of British Columbia through forestry revenue sharing impact benefit agreements.

1.2 Indigenous Law and Governance

Indigenous law and governance refers to the inherent systems and protocols that guide Indigenous norms, behaviours, culture and community structure, development, and stewardship (J. Borrows, 2016; Marshall, 2021; Mills, 1994; Redvers et al., 2020). These laws and governance systems pre-date, and exist independently of, the colonial structures that are implemented at the national, provincial, and regional levels within Canada. While Section 35 of Canada's Constitution Act of 1982 may attempt to recognize and affirm Indigenous rights under Crown law assertion, it does not define these rights or recognize their application prior to and outside of the constitution (Constitution Act, Section 35, 1982). The strong influence and enforcement of colonial laws have led some Indigenous communities to adapt their governance to allow for a less contentious relationship with the colonial systems that were initially implemented without Indigenous community consent (Joseph, 2018; Napoleon & Friedland, 2016). As part of the adaptation to their governance, communities may make modifications or adjustments to cultural governance structures in order to allow for more opportunities and recognition of the rights of their members than would otherwise be available considering colonial enforcement. The Indian Act implemented by Canada's federal government in 1867 and developed over time remains in place today. The Act is a policy tool intended to assert the Canadian government's authority over Indigenous people and assimilate Indigenous communities to Western law, governance and society through oppression (Indian Act, 1985; Hamilton et al., 2021; Joseph, 2018). Through the assimilative measures of the Indian Act, a community must comply or adhere to the processes upheld under the Act in order to receive the support outlined within the Act.

There is no option for a community to abstain from the Act and be treated as a municipality without lengthy processes that lead to treaty or other agreements of self-governance (BC Treaty Commission, 2022).

The colonial governance implemented under the Indian Act is an elected chief and council which is comprised of a head leadership role along with councilors who are elected by the community members. The number of councilors that comprise a chief and council is dependent on the number of registered status community members. For a community member to have voting power they must hold Indian status under the Indian Act. Section 6 of the Indian Act outlines the criteria for holding Indian status, though the criteria are complex and have gone through amendments since the Act was first introduced (Indian Act, 1985). Today, to receive Indian status one must have the necessary proof of blood quantum to a particular community. Irrespective of this need to be a status member of the community to elect leadership, there are Indigenous communities in British Columbia that do not require the leadership nominees to have status from that community (Government of Canada, 2022b).

Regarding cultural governance, many Indigenous communities in British Columbia have a hereditary system that assigns leadership roles and responsibilities that are passed down through generations (E. R. Atleo, 2004; Mills, 1994; Wesley, 2019). Within a hereditary system the role that one is responsible for is a part of how one has been raised from birth. The community, as a whole, is a part of one's upbringing and the individual is raised with the necessary values that will enable them to uphold the responsibilities of the role. The colonial electoral system, in many communities, has caused these roles to shift, assigning them to individuals who were not raised with the cultural values needed to fulfill the responsibilities to the community (Russell et al., 1994). This disconnect has disabled many hereditary systems and barred those with birthright responsibilities from being raised with the necessary teachings as a result of tactics of cultural genocide such as the residential school system which took children from communities, aiming to assimilate them to colonial ways through isolation, deprivation, and torture.

1.2.1 Community

For the purposes of this thesis, the term 'Indigenous communities' is meant to be inclusive. The human population includes those living within the geographic territorial boundaries, those who

uphold Indigenous cultural values from their community, and those who have direct bloodlines to their community. This collective definition of community extends beyond the typical human-centric definition captured in the English language. The term Indigenous community is also inclusive of the surrounding lands within the specific territorial boundary, encompassing the biodiversity, geography, climate systems, and all life within them (E. R. Atleo, 2004, 2011; L. K. Borrows, 2018; Coté, 2010, 2022; Mercer et al., 2020). It is often the case that this definition of Indigenous community can only truly be captured through the use of Indigenous language, though the intent of this thesis is to be as aligned with this definition as is possible using the English language.

1.2.2 Cultural Values

Indigenous law and governance guides culture and sustainable living on the land. As mentioned, the breakdown of Indigenous culture and sustainable living can be seen post-contact and after colonial governance systems were enacted via the Indian Act. When decision-makers empowered by colonial systems make decisions on the land, the values guiding the decision making are not mandated and rooted in cultural values. This can even be the case when the decision-makers are members of the Indigenous community and reside in the territory. The outcome, then, is that decision-making from Indigenous leadership is often described as cultural when it may actually be a product of colonial influence. This gap in knowledge is part of what this thesis aims to address, by providing a deeper look into the role of Indigenous law and governance in the decision-making taking place on the lands and waters.

> *"Indigenous communities (…) have lived symbiotically with these ecosystems types like old growth rainforests for a very long time. As a result, we have developed systems of governance that include our active stewardship of the natural resources in a way that's reciprocal, in a way that requires us as a community to be in protocol with the natural systems that give us life. The stewardship efforts of Indigenous peoples around the world are a powerful contribution to the fight against climate change and biodiversity laws."*
> -Tyson Atleo, ʕikaatiʔus, Hereditary Leader, Ahousaht First Nation. (The Nature Conservancy, 2022)

Pertaining to the use of the word 'cultural' there is a distinction between the word 'traditional' that

must be noted. We often see the word traditional used to describe Indigenous knowledge, such as 'traditional ecological knowledge' to describe Indigenous or local knowledge on environmental processes (Berkes et al., 2000; Hosen et al., 2020; Ludwig & Macnaghten, 2020). What traditional knowledge or traditional ecological knowledge intends to reference, however, is indeed cultural knowledge. This is knowledge that has been developed over millennia of observation and interaction with the land as guided by the laws and governance which uphold the culture. Labeling it as traditional confines the knowledge to backward-facing rather than allowing for a more holistic view of historical knowledge, lived experience of Indigenous people today, and an understanding of future patterns. Culture must be left breathing room to evolve and adapt to changing surroundings as this is how cultures and societies have persevered through either gradual or abrupt changes such as climate change or colonization (E. R. Atleo, 2004). The thinking around the evolution of culture will be explored further in Chapter 2.

The distinction between only referencing the past versus what exists and applies today is paramount. Therefore, this thesis uses the term 'cultural' where the term 'traditional' is often seen in literature. The intent is to focus on the analysis of cultural governance decision-making versus governance systems implemented or influenced by colonial structures in the present tense.

1.3 Impact Benefit Agreements

Impact benefit agreements, revenue sharing agreements and reconciliation agreements between Crown governments and Indigenous communities are some of the legal tools offered by the Province of British Columbia to engage Indigenous communities in Provincially sanctioned resource activity within their territories. Typically, when these forms of agreements are between an Indigenous community and a member of industry they are called 'impact benefit agreements.' 'Revenue sharing agreements' are typically between Crown government and Indigenous communities. Within this thesis, the term 'impact benefits agreements' will be used to describe Crown government agreements even if revenue sharing is involved. This distinction is important considering that there is a transaction of benefits in exchange for impacts in Crown agreements, regardless of the title the agreements are given. The variance of impact benefit agreements to reconciliation agreements between Crown government and Indigenous communities, and the reasoning for their exclusion from this analysis, are discussed later in Chapter 3.

Tools such as impact benefit agreements should be a straightforward means for implementing Indigenous values, law and governance into decision-making taking place within the territories considering the engagement and consultation requirements needed for their development (Cascadden et al., 2021). These agreements are meant to provide an opportunity for an agreement of negative impacts that result from resource extraction activity and then a compensation for enduring the negative impacts. Compensation can either be in the form of a direct monetary contribution or consist of a certain share of the revenues generated by the offending activity.

Considering that impacts are taking place and the Indigenous community has signed on to receive compensation or partnership arrangements resulting in marketable goods or services, there is a monetary valuation of the tradeoffs being experienced by the Indigenous community. It is necessary to note that in most cases the tradeoffs being experienced by Crown government or industry will not be comparable, monetarily, or otherwise, to the seemingly same tradeoffs being experienced by an Indigenous community. Using a harvested plot of land as an example, industry and Crown government would experience tradeoffs primarily relating to revenue and labour. The Indigenous community whose territory this plot of land is within, however, will have economic, social, cultural and environmental tradeoffs associated with the harvest. If only the revenue and labour is being considered in formal analysis of the impacts of the harvest, the actual value of the impacts on the Indigenous community is not being appropriately considered.

1.3.1 Forest Consultation and Revenue Sharing Agreements

Impact benefit agreements negotiated with Indigenous communities impacted by existing or proposed development are common within both industry and Crown governments. Agreements negotiated with private industry representatives are often not publicly accessible agreements as they can be concealed through confidentiality clauses (Hummel, 2019). The impact benefit agreements undertaken between the Government of British Columbia and Indigenous communities, however, concern the disbursement of provincial revenues and the details are therefore accessible to the public. Analysis of natural resource sectors such as mining and aquaculture and the impact benefits agreements occurring within each would be fascinating considering the climate action efforts and the current political focus on sustainability. Agreements for forest management, however, are far more valuable due to the industry having historical prevalence and stewardship practices within Indigenous communities in

British Columbia. Additionally, 72% of the Indigenous communities in British Columbia are either currently engaged or were previously engaged in a forestry revenue sharing agreement; of the 203 Indigenous communities in British Columbia, 145 communities have current and historical agreements (Government of Canada, 2023).

Within the realm of impact benefit agreements in British Columbia, agreements for forestry tenures were first established in 2003 to adhere to consultation requirements and to provide an opportunity to engage and revenue share with Indigenous communities in the province that had forestry activity within their territories. These agreements were issued in accordance with the British Columbia Forest Act and began with direct award payments to Indigenous communities. The direct award payments were then replaced with Forest Consultation and Revenue Sharing Agreements which provide a share of forest revenue to communities (Province of British Columbia, 2011).

> *"Forest Consultation and Revenue Sharing Agreement provide First Nations communities with economic benefits returning directly to their community based on harvest activities in their asserted traditional territories."* (Province of British Columbia, 2022a)

The Forest Consultation and Revenue Sharing Agreements share a percentage of forestry revenues with individual communities in exchange for the communities' consent to allow the forestry activity and, in many cases, promise of their compliance to not permit community members to disrupt the forestry activity. Through these agreements the signing Indigenous community is agreeing that the amount of revenue sharing or compensation they are being provided represents their willingness to accept and acknowledge the negative impacts that may occur from the forestry activity in the area. Most of the agreements in British Columbia are signed by elected leadership under the Indian Act, with only a smaller number being signed by leadership representing cultural governance. Having these limited number of agreements being signed by representatives outside of a colonial structure allows for a more comprehensive analysis of the accepted terms of the agreements: whether the Government of British Columbia is adaptable to the needs and values outside of a colonial government structure. Forest Consultation and Revenue Sharing Agreement terms are rather static and rigid in nature; there is little variation in agreements throughout the province, despite Indigenous communities across the province being vastly diverse. The excerpt from White & Danesh (2015, p. 22) below summarizes some of the perceived challenges exuded by the Forest Consultation and Revenue Sharing Agreements:

"Parallel to efforts at consultation and accommodation, and litigation about its requirements, there has been a series of agreements about forestry between the Provincial government and First Nations. These agreements have tended to deal with three issues: (1) the sharing of revenue from forestry activity; (2) processes for consultation and accommodation; and (3) tenuring and licensing opportunities. The initial main model of agreements were called Forest and Range Agreements. These were subsequently replaced by Forest and Range Opportunities Agreements. Currently the model is made up of parallel consultation and revenue sharing agreements (FCRSA) and tenuring agreements (FTOA). All of these models of agreements have been the source of significant controversy and conflict. Among the issues that have been, and remain, problematic, are:

• The "take it or leave it" approach of British Columbia to offering the agreements;

• The minimal level of revenue sharing (a tiny percentage of the revenue derived from the resources);

• The unprincipled formulas for revenue sharing;

• The minimal level of tenure available to First Nations;

• "Matrix" models of consultation that typically sets levels for consultation below basic standards of the law; and,

• Expectations by British Columbia to receive a significant "certainty" for these minimal benefits."

White & Danesh (2015) highlight how the current model of the Forest Consultation and Revenue Sharing Agreement process provides limited opportunity for Indigenous communities to have their needs both reflected and met in terms of the forestry activity occurring within their territories.

1.3.2 British Columbia's Land and Resources

Located on Canada's Pacific West Coast (Figure 1), British Columbia is a province diverse in landscape, biodiversity, climate, and culture.

With a population of approximately 5.2 million as of July 2021 and a vast area of 944,735 km^2 with 25,725 km of coastline, British Columbia hosts an array of rugged terrain and incomparable beauty within its resource rich land base (Destination BC Corp, 2019; Province of British Columbia, 2022d). To begin to classify British Columbia's unique ecosystems, the Government of British Columbia's Ministry of Forests adopted the biogeoclimatic ecosystem classification system shown in Figure 2. This system identifies 14 unique zones which consider the soil and geology as well as the climate and biological nature (Selkirk College, 2022). Each zone is named after a dominant species of tree living within that zone, helping to illustrate not only the importance of the forest to the province's biodiversity, but also demonstrating the unique management needs required to appropriately steward such land sustainably (The University of British Columbia, 2022).

Figure 1 - Spotlight on British Columbia. Source: Arrive, 2020

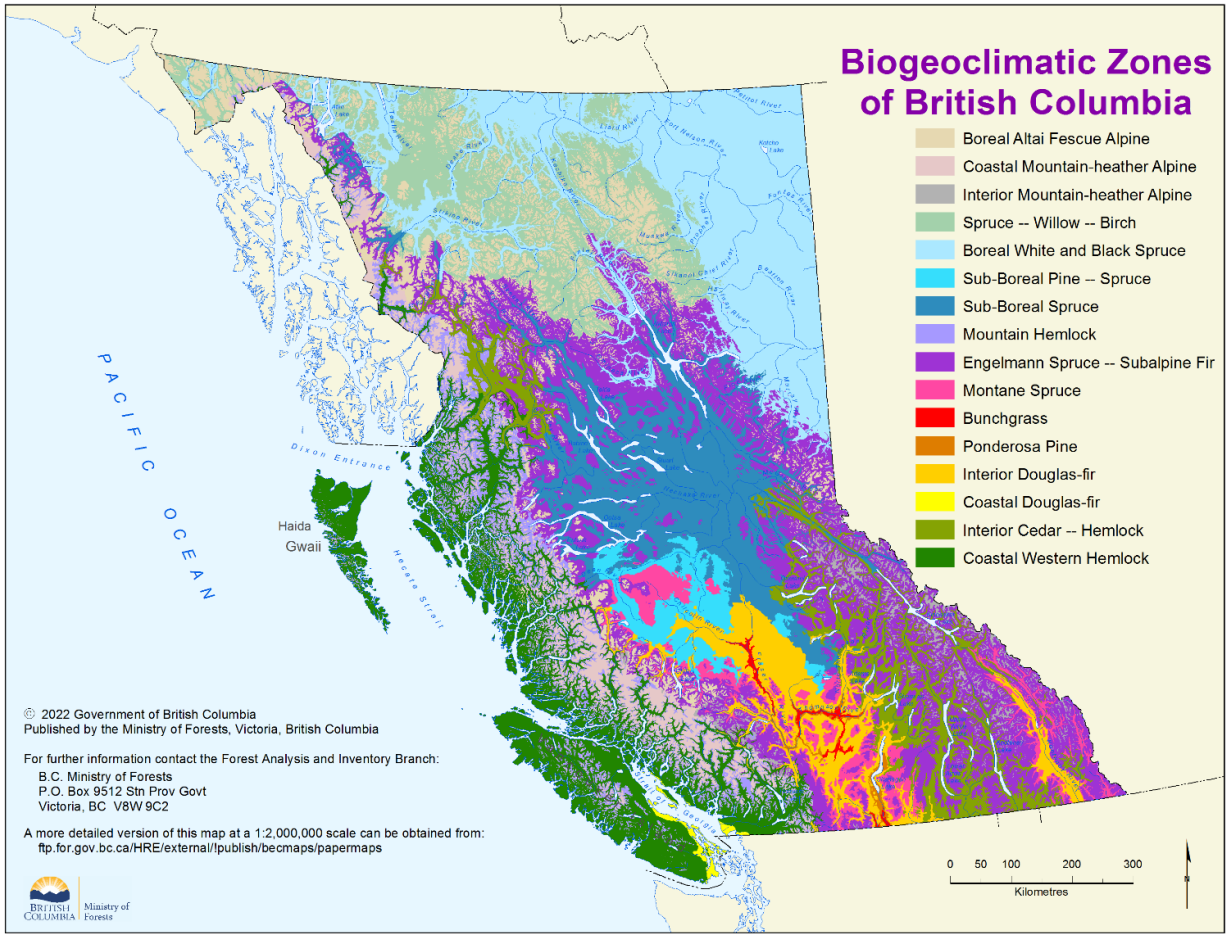


Figure 2 - Biogeoclimatic Map of British Columbia. Source: Forest Service British Columbia, n.d.

Since time immemorial and prior to settler contact, Indigenous communities have been living amongst and stewarding these lands effectively. Two hundred and three Indigenous communities are spread throughout the biogeoclimatic zones of British Columbia, each holding their own distinct law and governance systems. These 203 communities represent 34 distinct Indigenous language groups within numerous regional dialects (First Peoples' Cultural Council, 2018, 2019).

Each of the 34 languages, as shown through the map in Figure 3, is a historically oral language and currently sits at risk of extinction. Despite being home to 60% of the Indigenous languages in Canada, none of the languages within British Columbia are expected to survive due to the dwindling number of fluent speakers and the lack of curriculum and educational support to provide language teaching to

younger Indigenous generations (Galley, 2016; Wade Davis, 2019).

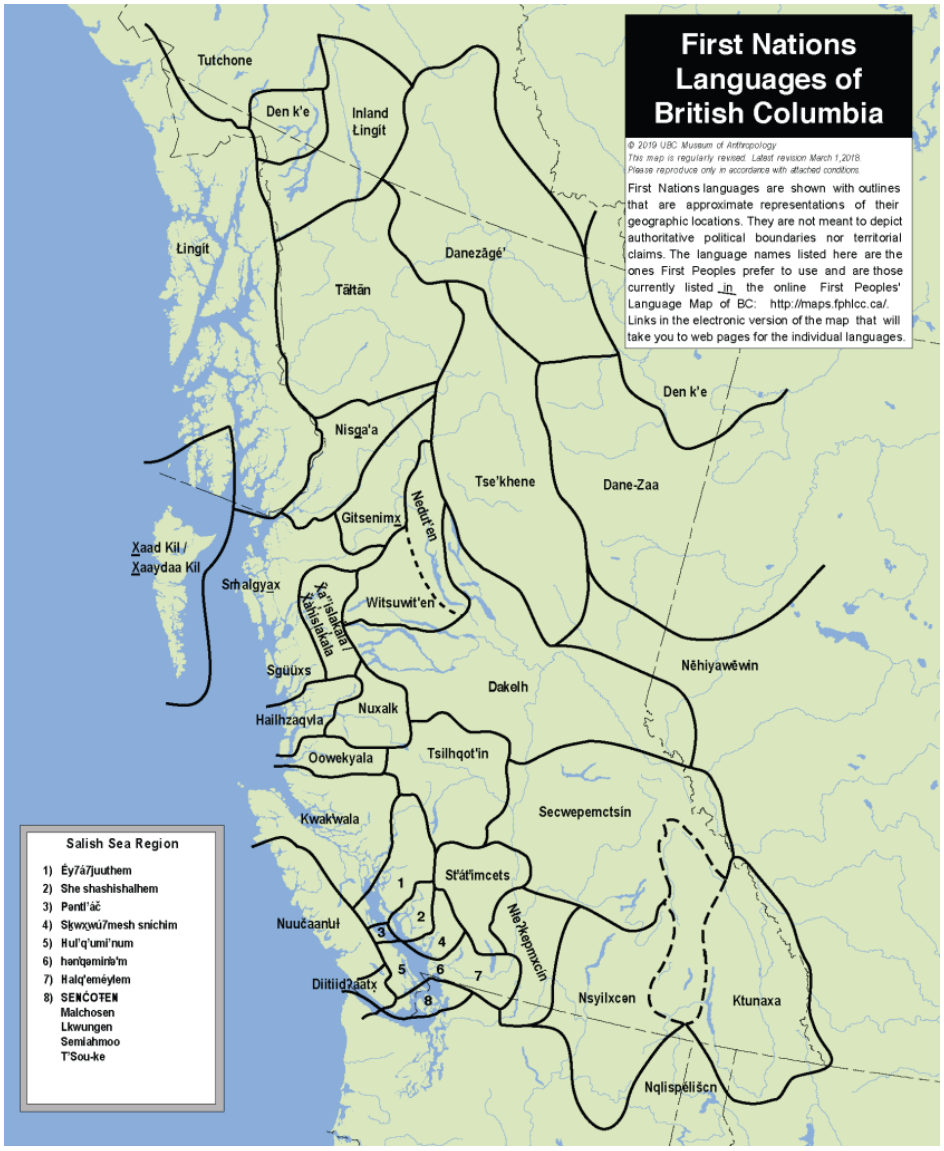


Figure 3 - First Nations Language of British Columbia. Source: University of British Columbia, 2022

Indigenous communities throughout Canada steward diverse geographic territories from coast to coast to coast and are governed by unique and individualized systems of law and culture.

> *"Anishinaabe, Métis, Coastal Salish, Cree, Cherokee. We have nothing much in common. We're all Aboriginal and we have the drum. That's about it."* (King, 2013)

Each Indigenous community and territory have been managed by these systems successfully and sustainability since time immemorial, and in most cases these systems still exist today. These systems, however, have been challenged by the law of the Crown government which has developed a disproportionate system that empowers external stakeholder development and industry rather than the law and management regimes of the rightful Indigenous stewards (Nikolakis et al., 2016). As noted earlier, governance of this disproportionate system is largely through the Indian Act and exacerbated by the residential school system designed to eradicate Indigenous culture and assimilate Indigenous peoples to colonial rule (Indian Act, 1985; Truth and Reconciliation Commission of Canada, 2015).

The modern initial efforts by the Crown to correct past measures of disregard for Indigenous law and governance on the land base, through engaging Indigenous communities in matters of natural resource management and extraction within their territories, has proved problematic. In the Canadian context, consultation with Indigenous communities regarding development in their territories is now mandated, in most cases, by Provincial legislation—although tools for incorporating Indigenous stewardship values and interests continue to lack in implementation and innovation (Nikolakis & Hotte, 2020; Siebenmorgan & Bradshaw, 2011; Simms et al., 2016). This is despite the ongoing development of knowledge, literature and practice that proves Indigenous stewardship provides action to climate change mitigation and adaptation and management capacity for sustainable resource use (T. D. Atleo, 2021; Cordonier Segger & Phillips, 2015; Gadgil et al., 2021; Stevenson, 1996).

Though each territory in British Columbia is unique, with its own resources and terrain, as hinted through the biogeoclimatic zones, it is a consistent challenge for all 203 Indigenous communities to analyze development opportunities in ways that can uphold their Indigenous law and governance, respect the environment, and adhere to cultural stewardship responsibilities.

1.3.3 Economic Considerations

Vital to Indigenous communities with cultural law and governance in both the past and present are unique and complex economic systems. Understanding the sustainable use of resources through maximizing efficiency and effectiveness is at the core of stewardship. Stewarding territories under

Indigenous community law and governance has economic theory and actions at play. Choice and decision-making within Indigenous communities, informing economic theory and actions, requires an understanding of the law and governance. However, to actualize true economic application under Indigenous law and governance within community to values on the land base requires much more than typical colonial market data.

Beginning to investigate land-based economic values leads to ecosystem services. Humans are benefited by many goods and services provided by nature that are not bought and sold on a common market (ran Mä ler et al., 2008; Vardon et al., 2019). These goods and services are in turn impacted by the land-based decision making carried out by humans, such as resource extraction and development authorizations and activities. Non-market valuation is an economic approach that provides a method for valuing these goods and services and thereby understanding the impacts that humans have on these beneficial goods and services (Bockstael, 2007; Champ et al., 2017; T. Haab & McConnell, 2013; Koemle & Yu, 2020). To ensure that the contributions of these precious goods and services are appropriately recognized and are not subject to further degradation, it is necessary to undertake a valuation as part of the decision-making process (Wittmer & Gundimeda, 2012).

Non-market valuation is controversial on its own; placing monetary value on the invaluable may seem convoluted to many. Bringing Indigenous culture, law and governance into the mix adds an additional layer of complexity. Monetizing of the seemingly invaluable, however, occurs constantly on the land-base through natural resource management and extraction activity (Daw et al., 2015). This applies particularly when the proper stewards of the lands do not have decision-making power.

As development projects are approved, or resource tenures are assigned, a specific valuation occurs through the opportunities and resources which are being sought and monetized. Where these valuations are deficient is in their applicability to Indigenous communities and cultural law and governance that have not had to historically defend or participate in such large-scale resource extraction or allocation. This is where cultural evolutions become a consideration, which will be discussed further in Chapter 2, including how Indigenous communities can engage in natural resource decision making on such a large scale while maintaining a cultural mandate and stewardship principles, and who is equipped to make such decisions under this mandate (Cornell et al., 2003).

1.4 Research Approach

Understanding how Indigenous law and governance is represented in British Columbia Crown impact benefit agreements would provide insight into and a more holistic view of the impacts of environmental changes and resource development on Indigenous communities as they exist in oneness with the territories and life within (E. R. Atleo, 2004; Marshall, 2021). This thesis therefore analyzes the recognition of Indigenous law and governance as an indicator on the path towards reconciliation within natural resource management in Indigenous territories using document analysis of the impact benefit agreements for a specific resource, the forests. Employing textual analysis to investigate the qualitative and quantitative terms, such as language and offered compensation respectively, of the impact benefit agreement documents in place within the Province of British Columbia, this thesis will advance knowledge of the decision values upheld to partake in these agreements.

1.4.1 Research Questions

Drawing from gaps in literature, the aim of this thesis is to answer the following three primary research questions:

> Is Indigenous law and governance currently represented in British Columbia's Crown forest impact benefit agreements? If so, how is Indigenous law and governance represented?
>
> Where Indigenous law and governance is represented, does this impact the outcome of British Columbia's Crown impact benefit agreements? If so, how?
>
> What are the opportunities for using non-market valuation to uphold Indigenous law and governance in future British Columbia Crown impact benefit agreements?

1.4.2 Contribution

> *"There's a lot of words that are just lacking in colonial languages that have come to this land and can't adequately describe what life is here. Sučas doesn't just mean tree, it is a verb that describes what that being does, just like everything else. Literally tree, sučiƛ is to hold and ʔus is the land. So literally is land holder. Imagine if all the corporations started talking*

about the annual tree cut and called them land holders."

- Giselle Martin, Clayoquot Tribal Parks and First Nations Old-Growth Protection, Ancient Forest Alliance (Ancient Forest Alliance, 2018)

Literature exploring Indigenous law and governance in natural resource management and economic application is often developed external to Indigenous communities, creating a further divide, and serving as another measure of colonial influence, despite usually good intentions. This thesis, in contrast, is prepared by a cultural Indigenous community member who has been raised with cultural responsibilities and has engaged in sustainable development on the land base, supporting cultural governance decision-making in several operational and research capacities. Methods developed through Western academic contributions will still be applied in this thesis and will be complemented further by an Indigenous perspective and thorough understanding of cultural mandate and the connection, or oneness, with lands and waters.

Guided by this Indigenous perspective, this thesis will demonstrate the necessary and consistent recognition and inclusion of Indigenous law and governance towards reconciliation within British Columbia natural resource management. The objective of this thesis is to further prove the need for recognition of Indigenous law and governance in natural resource management and land use decision-making and to present opportunities to uphold Indigenous law and governance as discovered through the analysis of the Forest Consultation and Revenue Sharing Agreements. Upholding Indigenous law and governance within British Columbia Crown impact benefit agreements would not only benefit impacted Indigenous communities, but also benefit the industries and Crown governments working in partnership with Indigenous communities and within Indigenous territories through enhanced stewardship and real efforts toward reconciliation.

1.4.3 Organization of Thesis

This thesis is structured to firstly provide context and understanding of the problem and then approach the analysis through observing current processes.

This chapter has provided an overview of the historical happenings and impacts of colonization on Indigenous communities in British Columbia, an overview of Indigenous law and governance systems and natural resource impact benefit agreements and refined the scope to the British Columbia

forestry context and the representation of Indigenous law and governance within these agreements along with the economic considerations. Opportunities for using non-market tools to uphold Indigenous law and governance in British Columbia Crown forestry impact benefits agreements are introduced, followed by an overview of the research approach, questions and contributions.

Chapter 2 details a thorough review of the relevant literature which includes broad-level sustainability and stewardship, Indigenous law and governance and the structures and cultural mandates within, natural resource impact benefit agreements with Indigenous communities, environmental economics and specifically non-market valuation methods, approaches, and provided examples. Understanding the valuation of ecosystem services and how that has historically been applied to Indigenous values is an important highlight in the literature. Recommended best-practices from other researchers and critique of data sets and compensation measures are covered. Additionally, literature reviewing stewardship from both an Indigenous cultural perspective and mainstream sustainability management is provided, illuminating that there are distinct differences as well as connections between these two streams. The literature has been arranged to help organize the discussion of the importance of Indigenous law and governance: how it can be represented in impact benefit agreements, and how non-market valuation can be used, with the right intent, to forward stewardship and sustainability measures.

Chapter 3 describes the methodological approach used, detailing the research position and approach, the data collection and contents of the agreements, and the analysis process. Also discussed are the data assumptions and limitations of this methodology with explanation of how the limitations have been minimized.

Chapter 4 presents the results of the analysis and begins by detailing the criterion used for representation of Indigenous law and governance within the agreements. Each criterion and the results found within the data are discussed and supported through examples of the Indigenous communities that are represented by these agreements. The implications of the analysis will be briefly introduced in the chapter, along with an identification of the limitations.

Chapter 5 offers a discussion on the results of the analysis, beginning with implications of the representation of Indigenous law and governance within the analyzed agreements, and the use of non-market valuation as a means to uphold Indigenous law and governance within the agreements. The Indigenous community principle of oneness and interconnectivity and the application to total

economic value, which can support the use of non-market valuation to uphold Indigenous law and governance and in natural resource management within British Columbia, are highlighted. Concluding remarks explore the bounds of stewardship and what 'real' reconciliation could look like, along with the importance and application of language to economic theory and practice under Indigenous law and governance. The chapter is finalized with opportunities for looking forward.

Chapter 2

Literature Review

2.1 Introduction

The emergence of Indigenous law and governance in academic literature is thanks to the thoughtful leadership of both Indigenous and non-Indigenous scholars. The connection of Indigenous law and governance to natural resource management and sustainability is a natural one, highlighted through not only practice on the land base but also through showcasing and analyzing cultural relationships within literature. What is not always as naturally apparent, however, is maintaining a consistent Indigenous perspective. This is a perspective guided by Indigenous law and governance and not easily transcribed, though it is required for the most accurate approach to understanding Indigenous values in natural resource management. Such a perspective originates from community, the culture and from outside the bounds of literary work.

Culturally bound law and governance reaches all facets of the community, creating an intergenerational ripple effect that touches the past, present, and future of community (O'Regan, 2019). This occurs through the teachings, oral history, practice, and protocol enacted and sustained through the Indigenous community's law and governance system. The nature of this practice directly reflects the teachings of interconnectivity. Interconnectivity can be seen in different facets and teachings throughout British Columbia's 34 unique Indigenous languages (E. R. Atleo, 2011; T. D. Atleo, 2022; Marshall, 2021). It is a valued concept that provides a clear demonstration of the necessity to practice and uphold protocol in the implementation of Indigenous law and governance.

2.2 Stewardship and Sustainability

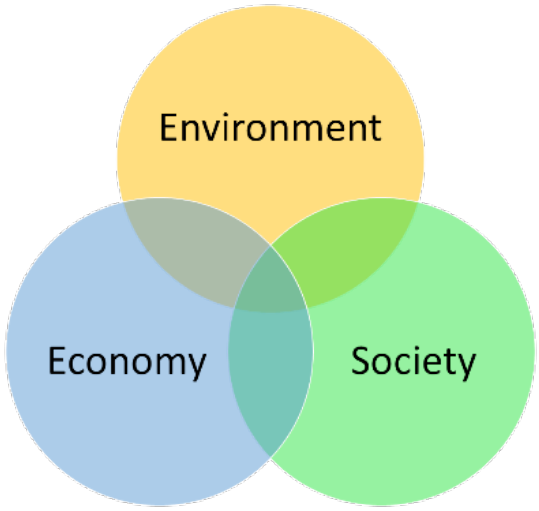


Figure 4 - Triple Bottom Line. Adapted from: United Nations, 1992, 2002

The collection of diverse and distinct disciplines and fields which discuss sustainability within natural resource management and development largely focus on sustainable decision-making impacting economic, social and environmental factors (Williams et al., 2017). Known as the 'triple bottom line', shown above in Figure 4 and as initially described through United Nations sustainable development declarations, each consideration of economy, society and environment act as an equitable pillar under the tabletop of sustainable development (Cordonier Segger & Weeramantry, 2005; Elkington, 1998; Sachs, 2012; United Nations, 1992, 2002). The triple bottom line helps to identify and implement sustainable solutions to current development and natural resource management issues through the application of a multi-faceted and multiple accounts approach. It confirms that to prosper economically, the environment and society must be considered as equal factors. Isolating economic conditions is not sustainable or feasible in real world application.

As important as the recognition of these multiple accounts needs is for international and regional sustainable development, further clarification is required for the pillar of 'society' in order to prevent further marginalization and disassociation from Indigenous communities (Cordonier Segger, 2021). To remedy this, as illustrated below in Figure 5, we can see a fourth pillar of 'culture' emerge as a necessary support and key stronghold in the quest toward sustainable decision-making on the land base (Mitchell, 2008). For the purposes of this thesis, it is necessary to validate this fourth pillar as a

consideration equal to the pillars of environment, economy, and society within the sustainable development framework to resonate operationally. As addressed in Chapter 1, the sense of 'community' for Indigenous communities does not lie solely within 'society' or 'environment", therefore nor does Indigenous culture. Culture is another pillar, another account, that supports stewardship and sustainable development in interconnectivity with society, environment, and the economy.

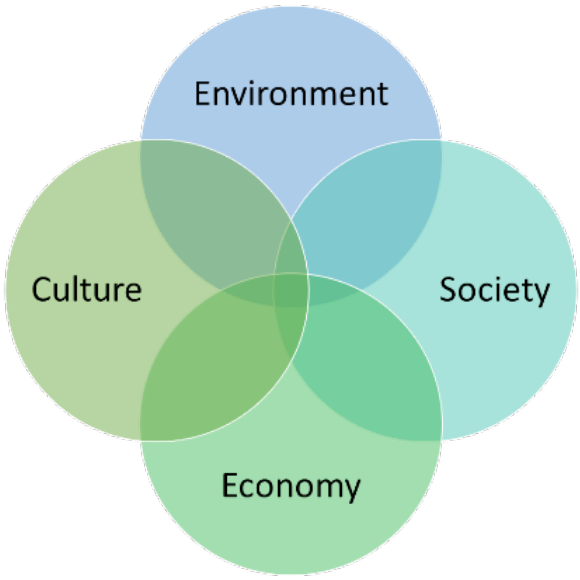


Figure 5 - Four Pillars of Sustainable Development.

> *"These forest gardens demonstrate how our laws were activated through our people and through the living knowledge of the land and water itself. These ancient forest gardens were not tended by the British, they were stewarded by my people long before the queen knew the taste of crabapple."*
>
> - Chief Jordan Michael, Tyee Haẁiɬ- Hereditary Chief, Nuchatlaht Nation. (Simon Fraser University, 2022)

Indigenous stewardship under cultural mandate can continue once an impact benefit agreement is in place regardless of the final decision, as long as that cultural mandate, as guided by Indigenous law and governance, is maintained. The practice of stewardship has boundaries, though, which are subjective on a community-to-community basis. Though identifying the boundaries of stewardship is outside of the scope of this thesis, there is an assumption made that practice of stewardship strives for

balance within Indigenous communities in order to live sustainably on the land for generations. This assumption is based on the knowledge of interconnectivity within Indigenous communities. Considering this assumption, stewardship under cultural mandate would be hard pressed to justify an open pit mine with tailings into a nearby water source, or a clear cut of pristine biodiversity-rich and culturally significant forest, to name a couple examples (J. Borrows, 2019; Cajete, 1999; Kimmerer, 2014; Trosper, 2019).

2.3 Indigenous Law and Governance

> *"One of the unique things about our people is that the land that we live on is what has taught us how to live as humans. That's the animals, the winds, the waters, the forests. All of those things have added to our traditional laws that create our government."*
> -Spencer Greening, Gitga'at First Nation, Indigenous Laws in Coastal BC (Coastal First Nations, 2020)

The causal link between Indigenous communities and their territories is one developed through the laws and governance which uphold the culture and practices of stewardship. Indigenous law pursues correction over conviction and serves community rather than the individual. Indigenous law is not practiced by the same means that Western law is practiced. Indigenous law is enacted in part through protocol. An example of such takes place on the potlatch floor in front of the community and neighbouring communities during events that can take place over many days in a row (E. R. Atleo, 2004; Coté, 2010; Mills, 1994). Such protocol can include coming-of-age ceremonies for youth, or the seating of chieftainships or other important community roles, all of which need to be carried out in front of witnesses to have legal standing in the community. Culture is led by law and governance, as is stewardship and Indigenous community. Indigenous law is similar in principle to that of what is seen in mainstream Canada, but its roots are in the land. Teachings, language, and relationships are what guide Indigenous law (J. Borrows, 2019; L. K. Borrows, 2018; Harland, 2021; Napoleon & Friedland, 2016). The continuity of Indigenous law and governance across communities cannot be mistaken for a homogeneous application, however. Indigenous law and governance and the culture and protocol that it guides is unique to each Indigenous community and therefore does not hold the same jurisdictional bounds used in Western law (J. Borrows, 2010; S. Cornell & Kalt, 2000).

A common theme within the discussion of Indigenous governance is self-governance, which

references Indigenous communities operating as sovereign nations similarly to how they were prior to contact (McCreary, 2014). Self-governing Indigenous communities in present times are not as burdened by colonial systems, and they are free to implement their own law and governance systems rather than be bound by external values (Nikolakis, 2019; D. Smith, 2019). Self-governing communities often have influences from colonial systems. This is due to the long-standing colonial history and the need to maintain relationships and continuity external to the community. The reality of colonial influence considers the challenges of cultural evolution, and how self-governing Indigenous communities can govern their nations under cultural mandate without sacrificing opportunity or putting community members at a disadvantage by not encouraging transferability within external governance structures.

Indigenous communities understand the processes and functions within their territories more so than any other group. This specialized way of knowing is often referred to as Indigenous knowledge and is slowly becoming recognized as both comparable and complementary to Western science (Awatere, 2005; Gadgil et al., 2021; Manero et al., 2022; Stevenson, 1996). Indigenous knowledge, however, is not an independent concept developed on its own solely through observation and experience on a specific land base. Indigenous knowledge is developed through the guidance and protocols set through the law and governance of each individual community. With this in mind, it is not enough for Indigenous knowledge on its own to be a consideration within matters of stewardship and natural resource management (Cajete, 2000; Kimmerer, 2014; Kutz & Tomaselli, 2019). These require the integration of Indigenous law and governance to maintain the practice of Indigenous knowledge and to properly integrate it into planning, policy and operations.

> *"Colonized people live their lives within a dual perspective of the Indigenous worldview and that of the colonizer. Economic decisions by Indigenous people is therefore based on this duality. It is hypothesized that the degree to which one perspective dominated the decision is based on the degree of cultural identity."* (Awatere, 2005)

Additionally, 'Indigenous engagement' or 'Indigenous consent' is not a substitute for, or acknowledgment of, the recognition of Indigenous law and governance. True recognition would acknowledge the law and governance of the Indigenous communities as greater than or equal to Canadian law as applicable within the territorial boundaries of the individual community. Engagement and consent do not suffice. This is not to say that the United Nations principle of Free

Prior and Informed Consent is not an important principle; it is indeed important in the recognition of rights for self-determination for Indigenous communities globally (Anaya, 1996; Food and Agriculture Organization of the United Nations, 2016; Hill et al., 2010; Rodhouse & Vanclay, 2016). The focus on consent, though, is similar to engagement in that Indigenous communities are expected to respond to impacts occurring within their territories, while there is no requirement of partnership or integration of Indigenous values, law or governance. This consent from Indigenous communities is a courtesy rooted in efforts towards reconciliation, but this does not reflect the necessary need for Indigenous perspective, participation and Indigenous law and governance mandate on the land base and in policy development.

2.3.1 Cultural Match

> *"The key lies in culture: it is only the implicit and informal contracts of culture that stand as the meta-enforcers of a society's mechanisms of control and organization.*"(Cornell & Kalt, 1992)

Cultural match refers to the cultural consistency through governance, policy, leadership as linked to sustainable development and economic prosperity (Cornell & Kalt, 2000, 2003, 2006; Russell et al., 1994). Cornell and Kalt (2006) created this term as they identified the alignment between culturally mandated self-governance and economic success through their intensive fieldwork in the United States. Their work showed that the perceived match of culture to governance, as in having a cultural mandate, was prominent in the communities that have been successful in economic development. This was in contrast to the less prosperous economic conditions experienced by Indigenous communities that either continued to be governed through external influence, such as the Federal government as is the case with Canada, or maintained governance systems that were imposed initially through external influence (Cornell and Kalt, 2000). Their findings contradicted the common misconception that culture hinders economic development for Indigenous communities, disproving the notion that in order for Indigenous communities to excel economically, decision-making should not be influenced by culture. These findings are of particular importance to this thesis as they serve as direct evidence for positive outcomes when Indigenous law and governance is represented in matters of resource management (Ayambire et al., 2022). When Indigenous communities are empowered through self-governance that is mandated, or matched, with the culture, the opportunities for

economic success are strengthened.

As discussed within this thesis, it is clear that that Indigenous law and governance did not originate post-colonial contact. Rather it is a long-standing and historic system that guides the interconnectedness and cultural governance structures that have mandated stewardship since time immemorial. Indigenous law and governance goes beyond colonial influence and relates back to the community roles seen under cultural governance structures (Wesley, 2019). This does not imply that Indigenous governance under colonial structures cannot share the values of Indigenous law and governance under cultural governance structures. The timeline of these structures, however, does not correlate to the knowledge and implementation of Indigenous law and governance. In order to capacitate prosperous Indigenous communities, particularly in British Columbia, empowering Indigenous law and governance and cultural mandate in natural resource decision making and moving away from colonial systems such as the Indian Act is necessary.

2.3.2 Evolution of Culture

The Oxford dictionary lists the definition of 'tradition' as passing a custom or belief from generation-to-generation, a practice long exercised in countries throughout the world including in Indigenous communities in British Columbia. Traditions emerged from somewhere, though, and at that point in time they were an innovation rather than tradition. Culture acts as the guide to traditions, responsible for safekeeping but also for development and evolution. Cultures can be ancient and long-standing, though to persevere, cultures go through phases of adaptation in response to internal or external influences. Where the ability to adapt gets tricky is when a culture is largely put on pause, causing generational gaps in the teachings and oral histories. This is reflective of the impacts of assimilation attempts by the Canadian government that resulted through implementation of the Indian Act, the residential school system, and the banning of ceremony and protocol such as the Potlatch in British Columbia (Truth and Reconciliation Commission of Canada, 2015; Galley, 2016). The importance of protocol in upholding Indigenous law and governance was touched on previously. The natural progression of a culture to persist and survive through times of change is severed in such moments of pause, resulting in intergenerational shock and trauma impacting all aspects of daily life and cultural practice.

Though challenging to discern within literature, Atleo (2004; 2011) reflects on this debacle and articulates further through referencing direct experiences. Atleo's work provides a unique opportunity to directly access Indigenous perspective and experience within the realm of academic literature. He highlights the nonsensical and unjust assumption "(…)that as soon as change is introduced to Indigenous cultures, they can no longer be considered authentic" (2004). Generations suffered and continue to suffer, and the culture continues to suffer along with the loss of teachings and language. Culture is needed for healing, but understanding how to maintain culture that was largely forced to halt in time over a century ago is complicated, and more so with the misnomer that these cultures cannot exist with the same principles today as they once did. There is an inherent desire to want to be traditional and maintain traditions. At the same time, understanding what this means in each community has layers of complexity exacerbated by the loss of language and teachings, muddled interpretations, colonial influence, and occasionally bad intentions. Generations that have been fighting to hold on to their culture should not be confined solely by the 'traditional' as it can lie so far outside of the scope of the values that Indigenous peoples' hold today. In many cases the law has shifted, and consequently so should the culture.

Likewise, culture can also evolve in adaptation to modern capitalist markets. Acts towards assimilation and genocide by Canada's Federal and Provincial governments have disabled many communities' abilities to live off the land and sustain themselves solely with the resources available in the territories as they had done prior to contact. Most Indigenous communities, especially in British Columbia, must therefore participate in active economic markets in order to provide themselves with the necessities of life. A clear example points to the reserve system implemented by the Indian Act, which allotted only mere plots of land for Indigenous communities. These plots are still technically 'owned' by the Federal government under the Act and allow for residential habitation and legal sustenance gathering in select areas only. This is a radical shift to having access to entire territories, especially when many Indigenous communities in British Columbia were seasonally nomadic, relying on different regions of their territories for year-round survival.

As an important early work within the realm of evolving Indigenous cultures, Trosper (2009) speaks to resilience and reciprocity within past and existing systems of Indigenous law and governance. He makes the connection of these systems to consistent, sustainable interactions within the environment and economic transactions that Indigenous communities had been able to uphold for millennia. Without romanticizing the success of Indigenous stewardship, Trosper highlights the understanding

that not all human societies are created equal, and not all human societies are growth-centric and unable to sustain themselves in true 'one-ship' with the environment around them. In fact, even in the face of great change and disturbance, the resilient and reciprocal strengths within Indigenous communities to maintain law, governance and stewardship practice should act as a guide to Crown governments and industry who are managing the land base. This thesis is intended to be a part of that guidance. The work developed by Trosper to begin to peel back the layers of integration between ecology and economics in Indigenous communities through historical and present-day analysis of protocol and stewardship provides the groundwork and sets the context to move towards operational implementation and tangible policy changes for natural resource management in British Columbia.

2.4 Impact Benefit Agreements

Impact benefit agreements, also known as benefit sharing agreements or revenue sharing agreements, have a long history in British Columbia between Indigenous communities and both government and industry (Cascadden et al., 2021; Hummel, 2019). As outlined in Chapter 1, impact benefit agreements can be negotiated by Crown government or by private sector industry representatives. These agreements are used to satisfy the directive for consultation and consent with local Indigenous communities that are impacted by a specific resource extraction or development project. Within British Columbia, these agreements can be applied to any natural resource industry including forestry, mining, aquaculture, commercial development, oil and gas, pipelines, renewable energy, conservation, and agreements that contain impacts from multiple industries in one (C. Gunton & Markey, 2021; T. Gunton et al., 2021).

The objective of these agreements can vary. From an optimistic perspective they may intend to minimize costs and the adverse effects of development or natural resource management regimes for Indigenous communities while simultaneously maximizing benefits and opportunities made available through these same regimes (C. Gunton & Markey, 2021). A pessimistic perspective would consider that in order move forward, the intent of the objective is to merely satisfy the legislative requirement of consultation with Indigenous communities. Satisfying that requirement calls for a signed agreement between the proponent and the affected Indigenous community. The optimist would see the sole act of engaging in negotiation as a positive way forward in working in partnership whereas the pessimist would see the usually obvious differences in technical capacity between the parties

(Loutit et al., 2016; Szoke-Burke & Werker, 2021).

> *"First Nations, especially smaller ones, don't have the technical capacity or staff to respond to such a complex and significant issue in the allotted time frame."*
>
> - Dr. Charlene Higgins, CEO, BC First Nations Forestry Council (R. Baker, 2021)

When technical capacity is available to advise decision makers, there is often a higher valuation sought as the terms can be detailed on a more technical basis than would otherwise be possible. Current practice in standardized agreements between Crown government and Indigenous communities, on matters of natural resource management, does not detail specific values. For specific values to be detailed and a comprehensive valuation to occur, technical capacity is required to action such an analysis applicable to both the Crown government and to the impacted Indigenous community. Technical capacity can be challenging and expensive to access, and in many cases, technical experts do not have the cultural understanding to adequately integrate Indigenous values, law and governance. When a Crown government or industry representative seeks to implement an impact benefit agreement, they will have legal representation and technical experts at their disposal and will be expecting the impacted Indigenous community to respond equally to technical considerations even in the absence of equivalent technical capacity (O'Faircheallaigh, 2008, 2013, 2020, 2021; O'Faircheallaigh & MacDonald, 2022). Indigenous communities may appoint representatives to act on their behalf in agreement negotiations either from within their own internal leadership or externally hired technical expertise as resourcing permits. It is also often the case that Crown government will engage their own technical expertise in negotiation, though in their case the resourcing to acquire such capacity is not an issue.

Impact benefit agreements, however, can also be an opportunity for Indigenous communities to regain stewardship and decision-making authority over their territories. Since first contact, activity has been taking place on the land without consent and these agreements present an opportunity for Indigenous communities to engage with Crown government and industry and ultimately authorize activity. The governance system on the side of the Indigenous community is paramount, as this governance is required for engaging necessary legal and technical expertise to adequately address concerns within the impact benefit agreement. The governance is also responsible for adhering to the scope of cultural mandate in consideration of all the terms within the impact benefit agreement, meaning that there can be specific provisions made within the impact benefit agreement as a cultural safeguard (Gogal et al.,

2005; O'Faircheallaigh, 2010; Prno et al., 2010). In most cases of impact benefit agreements with industry, other than a rather recent shift in Nunavut, these agreements are sheltered by confidentiality and remain solely between the negotiating tables and out of the eyes of scrutiny by the community and external stakeholders (Hummel, 2019).

2.4.1 Is Indigenous law and governance currently represented in British Columbia's Crown forest impact benefit agreements?

> *"It's imperative for the province to work with First Nations of British Columbia, to work together to determine the kind of shifts and changes that are required because of the reality of Aboriginal title, and the implementation of title, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and Indigenous people's decision-making power. The existing forestry regime is utterly inconsistent with that reality. So there's an enormous amount of tension. The longer real change to B.C. forestry laws and regime is delayed, the more at-risk the forest economy of the province is."*
>
> - Doug White, Kwulasultun, Lawyer and Former Chief Councilor - Snuneymuxw First Nation (Chadwick, 2021)

Drawing from gaps in literature, the first question that this thesis seeks to answer is how Indigenous law and governance is currently represented in British Columbia Crown impact benefit agreements pertaining to forestry. Beginning with Indigenous law and governance, the expectation is that there will be substantial variance in each instance where Indigenous law and governance is represented. One such will be on the decision-maker and governance structure empowered in each instance. When Indigenous communities are engaged as partners or act as the leading decision maker on matters of natural resource management, when there is a cultural mandate there will be an application of Indigenous law and governance. When Indigenous communities are engaged as stakeholders, or merely consulted, Indigenous law and governance would also play a role when the engaged leadership is acting under cultural mandate. This would also be dependent on the level of engagement taking place as that can vary between instances.

> *"We are in a state of emergency due to wildfires, and the province is carrying on with business as usual, trying to ram through major changes to forest policies based on provincial expediency and priorities."*

- Chief Bill Williams, találsamkin siyám, Hereditary chief of the Squamish Nation. President, First Nations Forestry Council (R. Baker, 2021)

2.4.2 Where Indigenous Law and Governance is represented, does this impact the outcomes of British Columbia Crown impact benefit agreements?

Examining whether the representation of Indigenous law and governance impacts the outcome in the British Columbia Crown forestry impact benefit agreements is the second question that this thesis will answer.

Understanding that Indigenous communities need economic opportunities that adhere to their own laws and governance means that these opportunities need to maximize stewardship within the territories while providing sustainable economic opportunities for community members (S. Cornell & Kalt, 2006; Russell et al., 1994). With the introduction of industrialized natural resource extraction Indigenous communities have been put in the difficult position of having to participate for economic reasons while placing their land-based values and laws at risk. The oneness experienced with the land and life within it also suggests that there is oneness with the impacts that occur through natural resource extraction. Degradation and negative changes to the land base that occur directly impact the law and governance systems of Indigenous communities, therefore impacting health and wellbeing, culture and language, and the ability to provide necessary stewardship measures within the territories of individual communities (Cajete, 1999; Coté, 2022; Daw et al., 2015; Johnston, 2013; Riekhof et al., 2019; Zander, 2013). This direct relationship is currently not a factor in the economic costs and benefits derived through natural resource extraction activity within Indigenous territories. Outside of the normal considerations for assessing natural resource projects, if the health and wellbeing of a human population were being directly negatively impacted by a project or development it would more than likely not move forward (British Columbia Environmental Assessment Office, 2010; British Columbia Ministry of Forests Lands Natural Resource Operations and Rural Development, 2022). The impacts on Indigenous communities are more complex compared to other populations due to the interconnectedness with the environment. This complexity causes many of the negative impacts on Indigenous communities to be overlooked. There is an opportunity through non-market valuation to begin to capture this distinct and deep connection that Indigenous communities have with the land and begin to more accurately assess the positive and negative impacts of natural resource

development on Indigenous communities. This opportunity will be explored further in this thesis through the third research question discussed later in this chapter.

Considering the challenges with isolating cultural ecosystem services discussed earlier in the chapter, what is missing from cultural ecosystem services for Indigenous law and governance application is the purpose, responsibility and connection that is necessary within cultural mandate. A mere tangible 'cultural value' as it pertains to ecosystem services does not capture the element of stewardship that is necessary to adequately assess valuation within Indigenous territories. Therefore, modifications to existing non-market valuation concepts are necessary to accurately capture the extended value system held within Indigenous law and governance. Acknowledging that this form of valuation is not possible on a stand-alone basis, development and impacts are necessary to consider within valuation as it acts as the catalyst for the need to do valuation. In the absence of management changes on the land base there is no basis for valuation.

Through changes to land-based management, however, non-market valuation keeps taking place though it isn't properly accounted for. In the case of impact benefit agreements, the non-market valuation is within the monetary compensation, or other form of compensation that a community agrees with. They may not say or think that they are valuing other aspects of the land base, but when they accept compensation in exchange for negative impacts, they are providing a valuation for the values that are being negatively affected. This is an important consideration of impact benefit agreements and other land-based decision making in general.

In the context of working with Indigenous communities that are governed by Indigenous law and governance, non-market valuation takes on a new meaning due to the interconnectivity that Indigenous communities have to the land. Considering this interconnectivity, the non-market valuation measures are at a different level as the lands, waters and the biodiversity and ecosystem processes within them are all a part of the community, rather than external or in service to the community. Impacts on these values can be seen as similar or equal to impacts on the human population. Without the context provided by Indigenous law and governance the non-market valuation cannot capture the connectedness to the land.

2.5 Non-Market Valuation

The terms of an impact benefit agreement represent a good example of non-market valuation. It is recognized even in the title; impacts are occurring, and the agreement intends to offer means of compensation. When the compensation is not explicitly monetized, there will often be a component that can be given a monetary value, such as an increase in available jobs or investment in conservation efforts.

As discussed earlier in the chapter, the controversial nature surrounding the purpose and process of non-market valuation has, in many cases, created a norm where it is not a consideration in British Columbia natural resource management. Indigenous communities and external partners alike see it as a mere a monetary value of what should be invaluable, and ironically, therefore, see it as a means to devalue the invaluable (Graben, 2013). Analyzing existing impact benefit agreements avoids the barrier caused by an unwarranted rejection of valuation. These are publicly available, existing, signed agreements with binding terms and compensation measures that have been accepted by both parties. The valuation has occurred.

Non-market valuation can take place directly on a specific good or service. However, in the case of impacts from development, if the goods or services are not directly defined, a blanket valuation takes place for all of the impacted goods and services within the area of activity. For example, in an area where forestry activity is taking place there are the typical market metrics of revenue, gross domestic product and labour. The metrics are inclusive of the raw materials, sometimes the processing and transportation, and the impacts that the economic benefit from the forestry activity has on the local and regional economy.

Characteristics of non-market valuation include use and non-use values, which are reflective of one's interaction with a good or service not traded within a traditional market. The total economic value inclusive of non-market valuation includes the market goods but also the use and non-use values that are accounted for using valuation techniques suitable for the individual case (Wittmer & Gundimeda, 2012).

Other marketable economic values within a forestry area include non-timber forest products, tourism opportunities, and carbon projects. Non-market goods and services within the same area include the ecosystem service benefits at all levels of the forest canopy, the aesthetic and cultural values, and the non-use values which include bequest and existence value (Akabua et al., 2000; B. S. Frey, 1997; G.

E. Frey et al., 2019). Nature's processes and materials provide a myriad of benefits not only to local communities but to the larger population, consequently impacting these goods and services has associated costs.

Non-market valuation methods for ecosystem services and impacts to health and wellbeing are an important consideration for this thesis. Many non-market valuation methods are based on data within existing markets that currently have an impact on the resource or in the area where the valuation is to take place. The travel cost method is one example using data from an existing market as it uses metrics determined from visitors to an area (Alberini & Longo, 2006). This method of valuation can be useful in application to recreational areas or tourism development decision-making, though it is not reflective of local needs and values. In consideration of Indigenous values on a specific land base, this method used independently leaves a significant gap. Using the spending of a non-resident population as data may provide help to forecast some business development within a particular market, however it does not speak to local values and therefore cannot accurately even predict longevity of a specific development opportunity.

This is not just a gap in the travel cost method but is a sampling error that can be seen in other valuation studies pertaining to Indigenous communities. Issues of sample data were also evident in a study by Andersen et al. (2012), where they aimed to understand Maori vs non-Maori valuation of natural resources particularly within urban green spaces. Though within this study the sample that was used was not representative of the Maori community. Carson et al. (2020) as another example looked to construct an existence value using contingent valuation methodology for an Indigenous community that is indeed still in existence, and in doing so chose to interview people of the general population who were not associated with the Indigenous community being valued. Such a valuation would have questionable credibility due to the inherent disregard that this community does in fact exist and does in fact have community members who would have their own interpretation of their existence value.

The hedonic pricing method hosts a similar dilemma to the travel cost method by implementing a valuation based on market data that is influenced by external pressures (Champ et al., 2017). In contrast this market data is influenced by local conditions and may in some cases be representative of some local values, though it is still not able to fully capture local socioeconomic or Indigenous values. The word 'hedonic' for the context of valuation refers to pricing which is reflective of positive

or negative attributes. This form of valuation would therefore be very subjective and would be extremely challenging to apply to matters of natural resource management in Indigenous territories. Nothing can equal the connection that a particular community holds to their territories. For this reason, any other consideration of positive or negative attributes would not compare.

Where we begin to see opportunity for representation of Indigenous values in non-market valuation methods is in contingent valuation, revealed and stated preference, and choice modeling. Considering that Indigenous law and governance lies outside the scope of established markets as well as outside the scope to be defined as cultural ecosystem service, numerous methods need to be explored in order to best understand how the perspective and values of Indigenous law and governance can be upheld in Crown impact benefit agreements using non-market valuation.

Contingent valuation technique refers to a stated preference approach that is often obtained through survey-type data collection (T. Haab & McConnell, 2013). Respondents state their valuation for a certain good or service based on their own personal experiences and biases. With this technique comes the risk of overstating. Another technique uses preference data, which is a valuation based on decision-making. To some extent this is also making a statement on valuation as the decision-makers are respondents to issues of valuation such as the choice to develop or to conserve (T. C. Haab et al., 2012; Louviere et al., 2010).

2.5.1 Cultural Ecosystem Services

As the definition of 'community' used for this thesis suggests, Indigenous connection to the lands and waters goes far beyond a service. From a more human-centric perspective, ecosystem services describe the services and benefits provided by the environment to sustain human life. These services include the categories of provisioning, regulating, supporting and cultural services (de Groot et al., 2002; Schröter et al., 2014; Wittmer & Gundimeda, 2012). They reference cultural non-material services given to society by the environment (Boxall et al., 2013; Hernández-Morcillo et al., 2013; Tengberg et al., 2012; Wittmer & Gundimeda, 2012). Examples of these services encompass the aesthetics of the environment, support ways of life on the land and spirituality (Milcu et al., 2013; Oleson et al., 2015; Scholte et al., 2015; Winthrop, 2014). There is indeed alignment with Indigenous cultural relationship on the land base, though the gap between this cultural relationship and cultural

ecosystem services comes from the internal language used by Indigenous communities to describe their oneness and interconnectivity with the environment around them, rather than their use of the environment (Cochran et al., 2008; Gratani et al., 2016; Marshall, 2021). The environment, and life within it, are an extension of one's self and an extension of the community, therefore the definition provided by cultural ecosystem services does not equate with the true meaning of these terms as legal or cultural elements (T. D. Atleo, 2021). This thesis will expand on the scope of culture ecosystem services and identify considerations for more accurate valuation approaches for Indigenous communities.

Gratani et al. (2016) provide a clear recognition of the function Indigenous culture has in enhancing stewardship and sustainability measures in natural resource management. Of particular interest to this thesis is their point that there is a problem when Indigenous cultural values are labeled merely as environmental values. These values are not just of the environment but of the collective. Coté (2010) notes this as well through the erroneous term and image of an "ecological Indian", indicating that Indigenous communities are seen as the figureheads to controversy stirred up by non-Indigenous environmentalists and animal rights activists. Indigenous stewardship principles are not shared to serve and be exploited. These principles are also not equal to environmental values, and the use or non-use as known by settler cultures despite thoughtful exploration of those concepts by some (J. Duffield, 1997). This is a distinction particularly important when considering decision-making for natural resources. Indigenous communities acting with an Indigenous cultural mandate are not equal to decision makers acting with a mandate of environmentalism.

A studied component of non-market valuation includes cultural values that can act as a good or service operating off-market and holds value to a population. Often studies refer to landmarks with a cultural value, or to processes within nature such as the use of specific species of wood for canoe building (B. S. Frey, 1997, 2005; Rolfe & Windle, 2003; Windle & Rolfe, 2005). Cultural value can also refer to the need to access the land for cultural purposes such as cleansing in certain bodies of freshwater or preparing for ceremony by spending days in the forest.

2.5.2 Indigenous Values in Valuation

As discussed in Chapter 1, when assignments are applied to lands and waters in the name of either

development or conservation there is an inherent valuation applied as well. This valuation is either a result of compensation measures, revenue generation, opportunity cost, or some combination of these (T. D. Atleo, 2021). When decisions on the land base are made by governance structures that are not mandated by Indigenous law and governance, often these valuations will be grossly underestimated due to the disconnect from stewardship responsibilities and the applied theory of interconnectivity between environment, society, culture and the economy (Epstein, 2003). In general, regardless of governance in decision making in natural resource management within British Columbia, values on the land base are complex and often under-represented (Gregory & Trousdale, 2009).

When Indigenous communities acting under a culture mandate are leading or partnered with natural resource decision making, valuations are a powerful tool. Valuation methods provide an avenue for Indigenous perspectives and values to be represented and accounted for in the decision-making process.

Manero et al. (2022) provide a warranted discussion on the challenges of representing Indigenous versus non-Indigenous values in non-market valuation. The recently published literature review provides a comprehensive overview on the current state of the literature, how it has evolved, and the opportunities for improvement. Eight out of 62 peer reviewed studies, across 21 different countries, focused on Indigenous communities within Canada. The challenges identified within Manera et al.'s Canadian studies can relate back to the implementation of colonial systems and the Indian Act as discussed in Chapter 1 (Indian Act, 1985). In attempts to shift away from the assimilative descriptor of having Indian Status, agencies have attempted to move into a method of self-determination, which is a trust-based system on which people are expected to know their roots and be truthful about them (Anaya, 1996). Though self-determination is often implemented in the name of inclusion, enacting a trust-based identification process in a system that is rooted in systemic racism and stereotypes signifies that Indigenous people are being marginalized once again, just in a new and different way (Christie, 2019). Perhaps self-identification is a step in the right direction of inclusion, nevertheless it is not the full solution. Simply identifying as Indigenous does not equate to understanding the laws and governance of one's community, nor understanding the challenges and hardships that Indigenous communities have endured since first contact. The true focus should be on the resurgence of cultural opportunities for Indigenous community members including opportunities for cultural stewardship practice on the land base.

The challenge of self-determination is a subsection of the issue identified previously which discusses the challenges of Indigenous community governance structure when it is influenced by colonial structures. When Indigenous communities are partnered or engaged, it does not always equate to decisions being made under a cultural mandate (S. Cornell, 2019; J. W. Duffield et al., 2019). Manero et al (2022) raise an interesting point that challenges Duffield et al's (2021) approach to engaging leadership and decision-makers. This challenge reflects the exclusion of differential effects within the impacted community, or Gender-Based Analysis+ as it is often referenced in Canadian policy (Hankivsky, 2018; Hankivsky & Mussell, 2018; Paterson & Scala, 2021). Understanding the true bounds of this potential exclusion of values requires an understanding of the law and governance regimes that empower leadership and decision-makers. In the case of Indigenous law and cultural governance mandate, leadership and decision-makers would be acting on behalf of the most disadvantaged members of their community, albeit with a collective approach. The collective approach is guided by interconnectivity and therefore cannot ignore the differential effects within communities. Within this approach the challenges faced by the most disadvantaged within the community would also be seen as the challenges faced by the most advantaged within the community in the eyes of leadership. Therefore, what Manero et al (2022) identify here as a gap in identifying values would actually be fully dependent on the governance systems in place.

2.5.3 Indigenous Law and Governance and Non-market Valuation

Valuation can be seen as a form of enslavement per se in the sense that humanity feels superior to the environment and must confine its benefits to a construct decided and designed by humans alone. Providing a monetary valuation to services that are not created by humans, yet fully sustain us, is a human-centric approach (Baker et al., 2019; Coglan et al., 2021). Valuation should intend to translate these imperative benefits provided to the human race by the environment in a way that humans can comprehend. Doing so creates understanding, appreciation, and more thoughtful decision-making that examines elements outside of only the human benefit of land use. Valuation does not equate to ownership or minimization. It is one method of communication used internally, within the human population, to better understand our connection with and responsibility to the environment. This is a very challenging translation, similar to the words or phrases in Indigenous languages that are outside the scope of fulsome translation into the English language (Fine & Love-Nichols, 2021; Guerrettaz,

2020; McIvor, 2020). Non-market valuation can attempt this translation, as well as attempt representing Indigenous communities' connection to and use of the environment that sustains them in decision-making in a way that is outside the traditional norm of economic metrics. Non-market valuation must be done thoughtfully, however, and only when it is necessary to translate these values when changes to the land base are at stake (T. D. Atleo, 2021; Manero et al., 2022). There must be an economic equivalent that is impacting the non-market values that prompts a valuation.

Indigenous law and governance may be seen as one metric that is impossible and inappropriate to integrate into non-market valuation, considering the principle of oneness and interconnectivity with the environment. Some may question whether Indigenous law and government should just be incorporated as a part of the environment (Coté, 2010). Others may question why more traditional economic methodology and frameworks cannot apply without modification when Indigenous law and governance is integrated (Manero et al., 2022). The answer to the latter question is that the cultural mandate of Indigenous law and governance rupture the boundaries of the neoclassical economic scope. Where Adam Smith references Western capitalist superiority to his described lowly and uncivilized Indigenous "savages" observed in the Americas, it is these uncivilized peoples that sustained environment, culture, society and economy for millennia within their territories (A. Smith, 1994). Western capitalist society to date has failed to achieve the same level of sustainability and balance with the environment that Indigenous communities maintained for millennia.

Classic methods of economic application and non-market valuation need inputs pertaining to personal preference or choices. Beginning to explore the integration of Indigenous law and governance into these methods begins with looking at Indigenous law and governance as an input. Using a conservation area designation as an example, there would be different responses to this designation from the general population versus responses from Indigenous governance colonial structures under Canadian law versus responses from Indigenous governance under Indigenous law and cultural mandate (Carson et al., 2020). The general population is guided by what they perceive as benefiting them and their collective livelihood along with what possibly benefits the environment. The Indigenous governance under colonial structures would have a similar response to the general population yet would include a responsibility for promoting co-management and recognition of territorial boundaries. The response by Indigenous governance under cultural mandate would be guided by their laws for stewardship of territories, which includes environmental conservation along with cultural conservation. Their response differs through the understanding of benefits as they are

not immediate or direct, whereas the first two groups have means of immediate satisfaction through their decision-making. Immediate satisfaction does not negate the intent for positive long-term impacts on the environment or society, but it does externalize the decision to something outside of themselves, whereas the cultural mandate internalizes the decision.

Noted earlier in the thesis is that the term Indigenous communities is used to highlight that Indigenous law and governance operates under the collective and not the individual. Putting cultural Indigenous leadership on a pedestal is not the intent of this thesis. Despite most Indigenous leadership claiming focus on cultural values, merely claiming to act under cultural mandates do not bind leadership to act under the collective. As seen in all forms of poor leadership, Indigenous and non-Indigenous, claims to act under the collective can, in some cases, be a guise to individual motive. This thesis does not endeavour to decipher the true intent of Indigenous leadership regardless of governance structure. Rather, in more traditional economic form, the analysis takes place under the assumption that the leadership acting under each governance system is acting exactly how they should in consideration of their mandate and colonial influence. Under this assumption, cultural governance uses Indigenous law and governance to act with a cultural mandate, and colonial influenced Indigenous governance act under a colonial system. This assumption is necessary at this stage of analysis in order to best consider all of the facts of cultural mandate and decision-making within colonial markets when recognizing Indigenous law and governance in natural resource management and Crown impact benefit agreements.

2.5.4 What are the opportunities for using non-market valuation to uphold Indigenous law and governance in future British Columbia Crown impact benefit agreements?

> *"The economic sustainability of our community must be underpinned by sustainable marine and land use planning and that is where we are starting today."*
>
> - Chief Maquinna Lewis George, Tyee Haẃiɬ- Hereditary Chief. Ahousaht First Nation(Lavoie, 2017)

The opportunities of using non-market valuation to uphold Indigenous law and governance in British Columbia Crown impact benefit agreements begin with maximized opportunities for the Indigenous community to benefit and also the mitigation of negative impacts through increased stewardship.

The opportunities to uphold Indigenous law and governance in Crown impact benefit agreements using non-market valuation will enable a more holistic approach to, and application of, stewardship within natural resource management decision making. Without the representation and means to uphold Indigenous perspectives and values, Indigenous stewardship cannot be not fully realized and achieved. A broader take on the beneficial impacts of using non-market valuation is the empowerment of Indigenous communities to partake in, and be represented in, economic considerations on the land base that would otherwise not be considered in impact benefit agreements.

2.5.5 Total Economic Value

Upholding Indigenous law and governance using non-market valuation requires an approach that will capture the interconnectedness, responsibility, and intent to fulfill stewardship obligations within Indigenous territories. Under the current concept of total economic value, as illustrated by Figure 6, there is a differentiation between use and non-use values. Use values are values that humans encounter and have direct impact from in one way or another. Non-use values, on the other hand, are values that humans do not come into direct contact with. They represent the values that humans have in knowing a particular value exists currently or will exist for future generations. Option values represent values that humans may not ever come into contact with, but there is value in knowing that they may be an option to encounter or engage with at some point in the future(Wittmer & Gundimeda, 2012).

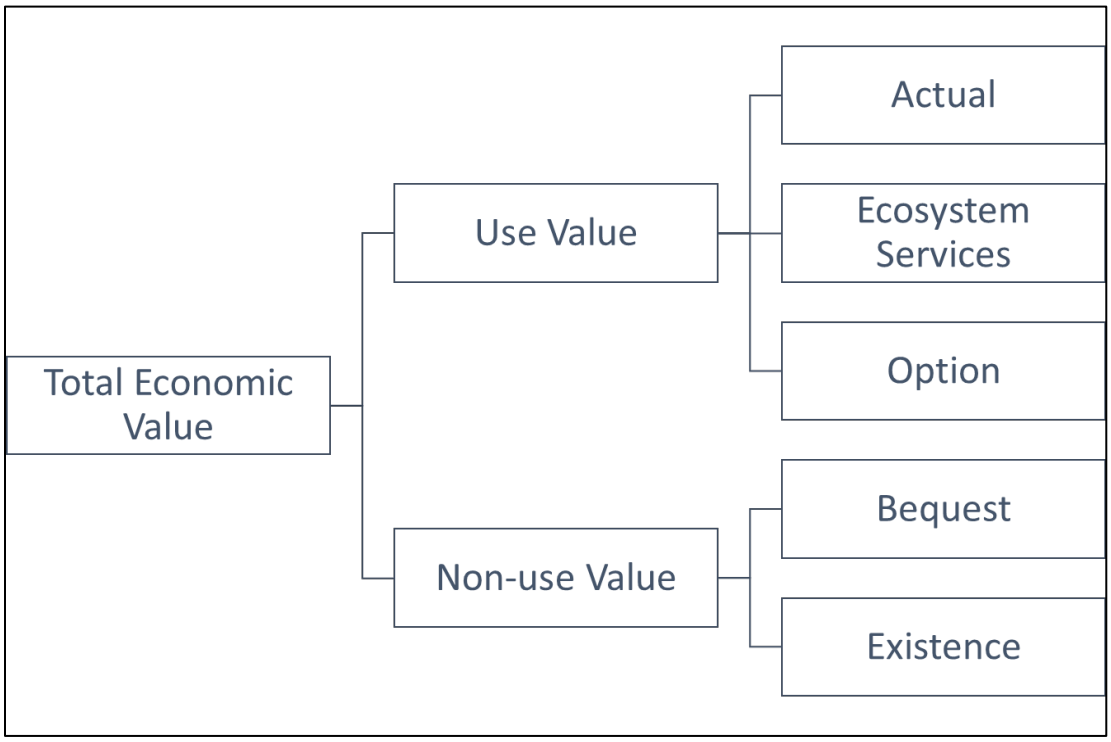


Figure 6 - Total Economic Value. Adapted from: Wittmer & Gundimeda, 2012

Recognizing Indigenous law and governance and therefore interconnectedness into the equation of total economic value would cause all the values to become a use value as illustrated below in Figure 7. As non-use values currently stand, they are designated as non-use because there is no contact or direct connection to them in the present. When a connection to these non-use values is made through Indigenous law and governance, they become use values. The consequence of shifting all values to use values could include potentially higher valuations due to the values being presently active, rather than abstract. This would be indicative of higher risk for associated negative impacts and a greater means of responsibility for impacted values. The shift also represents a new approach to established non-market valuation techniques, namely revealed preference which is not used for the valuation of non-use values as it requires a transaction to take place.

> *"Passive use values, also known as existence value or non-use value, is the willingness to pay for the preservation or improvement of natural resource, without any prospect or intention of direct or in-situ use of the resource(.) Such values cannot be recovered with behavioral methods because by definition they do not motivate behavior and hence have no underlying*

demand curves(.) Even when demand curves exist in principle, CV methods may provide the only hope for valuing certain services." (T. Haab & McConnell, 2013)

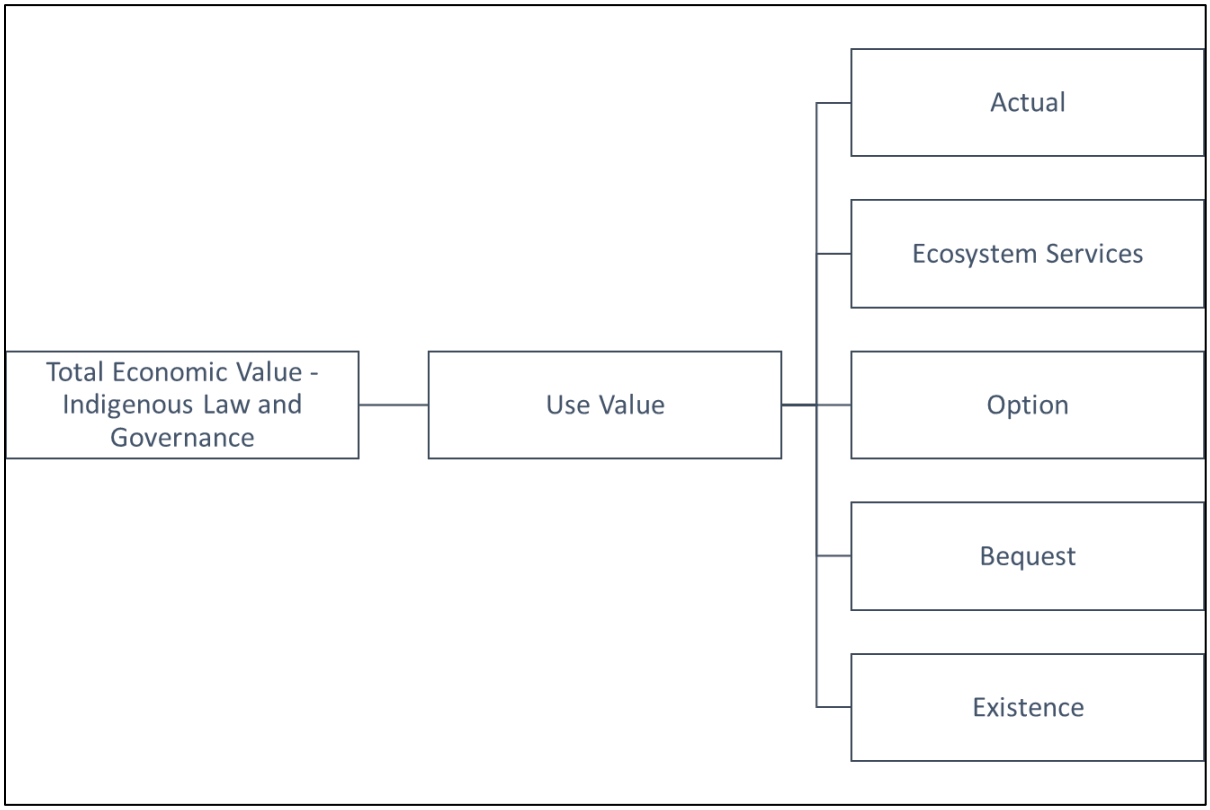


Figure 7 - Total Economic Value Inclusive of Indigenous Law and Governance

Within natural resource decision making occurring in Indigenous territories, we do see bequest and existence value motivating behavior under Indigenous law and governance. There has not yet been an opportunity to reflect these types of values in many agreements or developments, particularly within British Columbia impact benefit agreements. If an opportunity was appropriately presented to include these values as an option in agreements or developments, bequest and existence values would certainly influence decision-making for Indigenous communities. Acting on these values would require representation within the terms of the agreements or developments, including but not limited to terms indicating the duration of a project or management decision, the allowable and non-allowable environmental impact, and the sustainable economic opportunities available to the Indigenous community as a result of signing the agreement.

Chapter 3
Methodology

3.1 Methods

Assessing the representation of Indigenous law and governance within British Columbia natural resource management is a challenging and complex undertaking to cover in a single thesis. Indigenous communities in British Columbia are not homogeneous and each have their own systems of Indigenous law and governance, in conjunction with their own resources and capacity. Assessing the opportunities for non-market valuation to uphold Indigenous law and governance within natural resource decision-making also presents a unique challenge in that there are various methods and approaches that could be applied to multiple ecosystem, social, and cultural components. The purpose of this chapter is to outline the methodology choices for this thesis and to define the reasoning and limitations behind those choices. The selection of methodology for this research was contemplative and mindful, chosen to both optimize the research output and to respect the decision-making processes taking place within Indigenous communities throughout the province. Of particular importance to the methodological approach of this thesis is the researcher position and the use of document analysis.

3.1.1 Research Position

Informing scholarly work with cultural mandate is a delicate process. It is important to state that this thesis is informed by a culturally Indigenous researcher and practitioner who has been raised with community responsibilities and represents a direct association with Indigenous law and governance. Grounding this economic-focused research with an authentic and experienced Indigenous law and governance positioning is a unique opportunity to further define and explore the data and analysis. The research approach and questions were developed based on an observed and experienced need seen through working for and as Indigenous leadership within communities and Crown government alike. To develop a better understanding and implementation opportunities for incorporating Indigenous values and perspective into economic considerations and applications at all levels of government within British Columbia there are urgent operational and policy needs. This thesis seeks to provide direct commentary and analysis to address these urgent practical needs.

3.1.2 Governance Structures

Looking within the bounds of methodological literature, a transformative worldview is an appropriate approach for understanding how Indigenous law and governance is currently represented in British Columbia Crown forestry impact benefit agreements, and how non-market valuation can be used to uphold Indigenous law and governance within these agreements. A transformative worldview describes that there are social issues at play, and that the research approach must be designed with the confrontation of these social issues in mind (Creswell & Creswell, 2018). In idyllic conditions absent of these social issues, decisions made with hereditary or other cultural leadership at the helm will assume to be inclusive of Indigenous law and governance, whereas decisions made by chief and councils under a colonial instilled system will assume to not be inclusive of Indigenous law and governance. Each governance system would be held true to their policy and responsibility and uphold the laws of each system as they would in isolation of one another. Of course, there are limitations to these idyllic conditions. Hereditary or cultural leadership may indeed not hold the capacity nor teachings necessary to represent Indigenous law and governance due to societal and cultural disruptions caused to the teachings of these roles by colonial interference. Though, as the ones who are historically responsible for upholding the law and governance of individual Indigenous communities, hereditary or cultural leadership governance structures are evidently the most inclined to implement this knowledge in modern decision making.

A further limitation exists in the assumption that chief and council systems do not hold the capacity to implement Indigenous law and governance. Individuals that sit as representatives within the chief and council governance structure may hold hereditary or culturally significant roles within the community themselves which would allow them the capacity to implement law and governance within their community. Additionally, special cases may exist where the hereditary or cultural governance structure appoints the representatives of chief and council to carry out law and governance on their behalf, rather than have representatives appointed through an electoral system. The chief and council system in many cases will not appropriately reflect the values and perspectives of Indigenous law and governance due to the colonial roots of this form of governance. In cases where communities have formally adopted chief and council governance as their sole or favoured governance structure, many facets of the Indigenous law and governance within that community will have shifted to accommodate this structure. In communities where this shift occurs, the law and governance within that particular community would reflect a new and evolved reality of cultural responsibilities.

3.2 Approach

Choosing a research approach to understand the current representation of Indigenous law and governance in British Columbia Crown forestry impact benefit agreements and the opportunities to use non-market valuation to uphold Indigenous law and governance in these agreements requires data that is both representative of the majority of Indigenous communities in British Columbia and addresses a situation in which both Indigenous law and governance and non-market valuation will apply. It also requires data that is accessible during a global pandemic, as was the experience with this thesis. With the understanding that colonial systems have inhibited the recognition and representation of Indigenous law and governance into natural resource management within British Columbia, such a sample of data should indicate its absence as well as the opportunity for representation. The lack of inclusion of Indigenous law and governance in the data means that the analysis would not be appropriately representative of informed quantitative values as non-market valuation and the integration of Indigenous law and governance within such will not be represented. Therefore, a qualitative approach is necessary to analyze the data.

Outside of direct investigation into operations and management of the natural resource sector within individual Indigenous communities, analysis of impact benefit agreements and revenue sharing agreements is a clear indication of the opportunities for application of both Indigenous law and governance and non-market valuation on natural resource management within the province (Bowen, 2009). Impact benefit and revenue sharing agreements outline a particular development project, opportunity or industry impact that is being agreed to and compensated for, either through direct payment or through the sharing of revenue that is generated through the activity (Campbell & Hunt, 2013; Fidler, 2010; O'Faircheallaigh, 2011). The use of these agreements often stems from the required duty to consult with Indigenous communities who are being impacted by decision making that is external to their governance, such as either private industry or Crown governments (Champagne, 2013). Impact benefit agreements provide an opportunity for the government or developer to meet the required duty to consult and then attempt to address negative impacts with compensatory measures. This compensation may be monetary, and can be presented in the form of opportunities, such as employment or training opportunities for community members (Prno, 2007). Considering that impact benefit agreements do require that Indigenous governments agree to terms including compensation for negative impacts within their territories, a valuation is taking place through these agreements, allowing for an analysis of non-market valuation metrics. When there are

negative impacts to the environment, cultural, economic and social considerations, the impacts go beyond mere market goods and services and therefore cannot be captured purely in a traditional economic approach.

In many cases of natural resource management in British Columbia non-market valuation is not explicitly mentioned. Management decisions taking place on the land base include inherent valuations whether they are recognized or not. There is a transaction occurring and non-market goods and services on the land base are impacted as a result of either development or conservation measures. In many cases this valuation is not advanced or acknowledged, and the associated costs and benefits pertaining to the impact remain unknown and unaccounted for. The lack of acknowledgment of a valuation taking place indicates that quantitative data which would accompany a valuation will not exist, and the analysis of the quantitative specifics of a valuation cannot take place. Therefore, unaccounted for values would have received a valuation of zero. Due to the absence of the quantitative data, a qualitative approach is required for this research in order to appropriately demonstrate the lack of inclusivity of Indigenous law and governance and non-market valuation in British Columbia natural resource management.

3.2.1 Using Document Analysis

Using the Forest Consultation and Revenue Sharing Agreement documents as a data source is representative of a non-reactive data source as it is clear that the documents were not developed for the intent of this research. The use of provincially developed documents allows for the meeting of Scott's (1990) criteria for state documentation which is to be authentic, credible, representative, and meaningful (Bryman, 2015; Scott, 1990). The use of documents as a data source is a reputable method, though some such as Atkinson and Coffey (2011) issue caveats of their use stating that documents must be seen as representation of "distinct level of reality in their own right"(Atkinson & Coffey, 2011). The understanding of the intended reader and the intended use of the document is key in their applicability to act a data source, as well as the understanding that the contents of the documents may not be completely reflective of reality to Atkinsons and Coffey's point. In the case of using the Forest Consultation and Revenue Sharing Agreement as the data source for this thesis this warning does not heed, as the agreements are legally binding terms between two parties. In order for the reality of these agreements to change there must be an amendment. If the reality indeed does

change and an amendment is not agreed upon there is the risk of breach and the resulting repercussions. As these agreements are analyzed for the recognition and representation of Indigenous law and governance interests and non-market valuation application, the agreements may not reflect the reality that Indigenous communities do incorporate both interests to their natural resource management within the Indigenous territories. Considering the binding nature of the agreements, it is imperative that we see this application explicitly reflected within the text in order to prove the application in reality (Olsen & Fenhann, 2008).

> *"Documents play a role in constructing and perpetuating power inequities and oppression."*
> Source: (Sankofa, 2022)

A key consideration for using document analysis for the Forest Consultation and Revenue Sharing Agreements is represented in the above quote from Sankofa (2022). Within the government-to-government process of negotiating a Forest Consultation and Revenue Sharing Agreement, there is clear potential for power imbalance. Maintaining process equality with all of the Indigenous communities having varied levels of capacity on both sides of the table would be a challenge. The expectation, considering commitments to reconciliation, is that the Government of British Columbia approached all of these agreements equally considering that it is a provincially offered agreement and considering that the Government of British Columbia has a responsibility to its constituents. Even though the values and rights of the Indigenous communities may be referenced within the intent of the agreements, the Crown Provincial Government control over the creation of the templates rather than through an initial joint process, favour the values of the Crown over Indigenous communities from the outset (Jones, 2016; Radonic, 2017; Walton, 2016). Therefore, an inherent risk is associated with Crown government created documents which dictate and facilitate the well-being of already marginalized Indigenous communities by creating a further divide in power dynamics and further potential to oppress (Ferraris, 2013; Ferraris & Martino, 2018).

3.2.2 Data

The data source for this analysis was the British Columbia Government First Nations Forestry Agreement database, listing all First Nations in British Columbia and any corresponding forestry agreements between them and the Government of British Columbia (Province of British Columbia,

2022a). Locating these agreements on the Government of British Columbia website follows a protracted path beginning at Home Page, to Environmental Protection and Sustainability, to Natural Resource Stewardship, to Consulting with First Nations, and finally to First Nations Negotiations. Navigating to the specific Forest Consultation and Revenue Sharing Agreements initially forwards the webpage to a list of all of the Indigenous communities in British Columbia accompanied by the year of their most recent signed Forest Consultation and Revenue Sharing Agreement. Advancing to an individual community opens a brief community profile including all of the current and recent land-based and reconciliation agreements between the Government of British Columbia and the specific Indigenous community. The majority of the posted documents are scanned copies that include signatures. This method of displaying the agreements, including all typographical errors, also provides an indication that a template was used. The typographical errors indicating the use of a template include leaving empty space prompts in the final documents where the name of the Indigenous community was meant to be inserted.

Within the Province of British Columbia there are 136 posted agreements that pertain to and are isolated to forestry. Of the 136 forestry-centric agreements, seven of them are not Forest Compensation and Revenue Sharing Agreements and are executed under a different program or template. Of the remaining 129 posted Forest Consultation and Revenue Sharing Agreements, six agreements were not accessible in their entirety due to improper web coding on the Government of British Columbia website and therefore they were not included in the analysis. The posted agreements were signed in the 2011 to 2022 date range. The Forest Consultation and Revenue Sharing Agreements are in standard Western legal format with each of the Provincial Government and the Indigenous community representing a signing Party. The agreements vary in length, though are typically between 20 and 35 pages including appendices, with upwards of 17 articles. Each template begins with a ‘Whereas’ section and is followed by subsequent articles outlining the specifics and terms of the agreement. Each agreement has associated appendices though the order and supply of each is not consistent throughout all the agreements in the province. Typically, there is an appendix that outlines the geographic boundary of the agreements, along with an appendix detailing the revenue sharing contribution methodology. Other appendices include a statement of community priorities which was not included in all of the agreements and was often incomplete. Considering the inconsistent and business-development focus rather than natural resource management focus of the community priorities appendix, the data it provided was not viable for the analysis of this thesis.

Some of the agreements are labeled as Interim, and although this term is not specifically defined within the agreements it is meant to infer that the interim agreement is a placeholder due to end of the term for the previous agreement. Indigenous communities may seek to hold an interim agreement while pursuing other negotiations external to the forestry-centric Forest Consultation and Revenue Sharing Agreements. Other negotiations may include forestry-related values, such as reconciliation agreements, though these are not solely natural resource focused.

All but three of the 123 posted available agreements within British Columbia are signed by an elected governance system as represented by a chief and council on behalf of the Indigenous communities. Regardless of the Indigenous governance representative, it is clear through analysis of all applicable data that the Forest Consultation and Revenue Sharing Agreement process offers a contractual template to all of the Indigenous communities from which to start negotiations. The starting template format allows for the Forest Consultation and Revenue Sharing Agreement to serve as applicable data in the case of this thesis as the rigidity can be tested for the inclusion of non-market valuation details and the recognition of Indigenous law and governance values.

The Forest Consultation and Revenue Sharing Agreements used in this thesis have been negotiated and eventually agreed to and signed by each party. The terms from each agreement may or may not be reflective of actual operations and implemented as exactly described in the agreements, however the terms are binding and are therefore accurately representative of the values and goals of both the Government of British Columbia and the Indigenous governments. It can therefore be stated that the data gathered through the analysis of the terms of the agreements are reflective of what would be expected if each party were interviewed separately regarding the terms, consequences and opportunities outlined within the agreements. Where an interview would differ, however, would be in the categorization of non-market goods and services. Non-market valuation, particularly in the case of culturally significant non-market goods and services, is at risk of being rejected due to the often-assumed brash intent of monetization. There is an opportunity with impact benefit agreements to analyze the non-market valuations assigned by decision-makers based on the terms that they agreed to, rather than relying on an interview process where the valuation may be inflated from actual bound terms.

3.2.3 Territorial Boundaries

The Government of Canada has published an interactive First Nation profile map, as shown in the Appendix, which hosts census data on each listed community including links to community websites where applicable (Government of Canada, 2022). The location of the federally appointed reserves for each of these Indigenous communities are also listed on each profile, though the cultural territorial boundaries are not included. This is significant to note considering that Forest Consultation and Revenue Sharing Agreement boundaries are based on the forestry activity occurring within territorial boundaries rather than federally appointed reserve boundaries. The best source of data for territorial boundaries resides in oral history for each community (T. D. Atleo, 2021; Godden, 1999; Joseph, 2018; Wiersma, 2005). In order to maintain and carry this knowledge forward, communities have had to translate these boundaries onto maps. Some individual communities self-publish these maps through documents such as land use plans or on community websites, yet the provincial and federal governments have not enacted and appropriately recognized these boundaries. Each Crown government body and process requires new engagement on territorial boundaries, which in turn requires additional capacity and is additionally taxing on Indigenous knowledge holders.

For the purposes of this thesis, each mention of a community's territory, territorial boundaries or geographical boundaries will refer to their specifically stated territory rather than Crown appointed tenure or boundaries. When discussing the findings and introducing territorial boundaries for specific communities, maps published by the community will be chosen first and the maps provided within the Forest Consultation and Revenue Sharing Agreement documents will be used when community mapping is not available through community websites or publicly available documentation. Some of the Forest Consultation and Revenue Sharing Agreement documents refer to shared territory or shared boundary which is in reference to an area that is accounted for under two or more Indigenous community's territorial boundaries. In some cases, these areas may indeed be shared by multiple communities, though in other cases these areas may be in dispute between communities. This thesis will not be addressing the issue of shared territory between Indigenous communities as this can be a contentious issue and should only be discussed between the Indigenous communities involved.

3.3 Analysis

The data used for this analysis is comprised of the posted available Forest Consultation and Revenue Sharing Agreements in existence which are posted publicly on the Government of British Columbia website. Considering that the public does not have access to Government of British Columbia internal communications regarding ongoing negotiations of Forest Consultation and Revenue Sharing Agreements within their final stages prior to public posting, this data set is comprehensive. The analysis strategy used in this thesis is analytical induction. As described by Bryman (2012), analytic induction is a qualitative strategy for testing a theory through exhausting the available data applicable to the hypothesis and resulting in zero cases that do not align with the hypothesis. Using this analysis approach on the qualitative data found within the Forest Consultation and Revenue Sharing Agreements provides a unique opportunity to assess varied communities and social situations under a common, yet diverse, thread. The commonality of the data being the Forest Consultation and Revenue Sharing Agreement process and the analytic induction begins with observing the terms followed by deciphering the dimensions of Indigenous law and governance and non-market valuation within them. The corresponding hypothesis is that this approach would need modifications if this analysis observed that the themed Indigenous law and governance and non-market valuation inclusive terms within the agreements had impact on the implementable outcomes of the agreement.

Analyzing the presence of non-market valuation and Indigenous law and governance in the agreement terms requires a full review of each agreement as a digital document. Analyzing for non-market valuation in isolation includes examining for any acknowledgment of the negative impacts associated with forestry activity. These impacts would include environmental, social, cultural, and economic impacts that would be experienced both within the forestry areas as well as in surrounding areas as externalities from natural resource extraction activity which can occur outside of the direct area where the forestry is taking place. Testing for non-market valuation also includes examining for any acknowledgment that the revenue being shared through the agreement is acting as a form of compensation to the Indigenous community engaged in the agreement in exchange for any negative impacts or trade-offs that will or could arise as a result of engaging in the forestry activity (Prior, 2008). Also indicative of the presence of non-market valuation, though not expected within the Forest Consultation and Revenue Sharing Agreements, would be a detailed inventory of non-market goods and services within the affected area. Such an inventory would be expected in cases where there is a need to provide economic justification for conservation measures, rather than provide economic

justification for increased compensation or revenue sharing in the case of resource extraction.

Analyzing for the presence of Indigenous law and governance in the agreements follows a similar stream in that each of the terms of the digitally documented and signed agreements need to be reviewed to observe the terminology and the intent of the terms. Acknowledgment of the Indigenous government body within the agreement is one such way to test representation. The presence of this acknowledgment would include the naming of a specific organization or form of leadership that is acting as the decision maker for the agreement. The use of Indigenous language within the terms and the reference to teachings and protocol or other culturally specific values would act as a form of acknowledgment of Indigenous law and governance within the agreements. The specific Indigenous language used, of course, would be the language of the community engaging in the agreement. Of the most recently signed and available Forest Consultation and Revenue Sharing Agreements in the province, nine of them provide a form of representation of Indigenous law and governance.

Another acknowledgement of the presence of Indigenous law and governance within the agreements can be observed within the comparable sections listed as either Section 8 or Article 11 respectively. The content of these sections is not conclusive enough to act as a primary source of representation, though this content acts as interesting secondary form of representation. Though the section varies between numbers 8 and 11 within all the agreements the intent remains the same which is to ensure that forestry activity being agreed to in the agreements will not be negatively impacted by community members from the Indigenous community that is participating in the agreements. This section provides interesting context into the actual application of Indigenous law and governance by the participating communities as it provides insight into their perceived authority as the governing body, as well as insight into their negotiating capacity. In many of the agreements, and apparent in the least adapted version of the Forest Consultation and Revenue Sharing Agreement template, the signing community agrees to take measures to stop their community members from taking any action against the forestry activity being agreed to. On the less severe side of the spectrum seen in this section, the signing community agrees to have a discussion with the Government of British Columbia if an issue were to arise. In this case no promises to manage the actions of community members are made. Of all the binding sections within the Forest Consultation and Revenue Sharing Agreements, the content within Sections 8 and 11 respectively have the widest variability and opportunity for negotiation outside of quantitative values such as the agreement term and percentage of revenue sharing.

Regarding non-market valuation, the current process for natural resource management decision making in British Columbia does not include detailed valuation of the true impacts of extractive activity. Non-market valuation has been gaining traction in recent years, though British Columbia natural resource management policy still does not support this depth of analysis. This thesis has previously discussed how an exchange of monetary benefit in exchange for resource extraction activity indicates that an inherent valuation has occurred, whether it is recognized, warranted, or wanted. The expectations for this thesis are that non-market values will not be present within the data, but it is important to highlight projects within the province that are taking values into consideration which would have a non-market consequence, in order to build a comparison. As an example, the British Columbia forestry sector continues to rely solely on labour market data and gross domestic product (GDP) to demonstrate economic success and benefit, when, in reality, the economics of the forest far exceed those figures arising from the forestry sector (Province of British Columbia, 2022a).

To better understand how the potential for inclusion of Indigenous law and governance and non-market valuation through negotiation potential in the Forest Consultation and Revenue Sharing Agreements change over time, analysis is first run using a coded variable averaged by year of signature representing the content seen in Section 8 and Article 11 respectively. Considering that these sections represent the binding section with the highest variability and highest potential impact from negotiating capacity, this analysis will determine whether negotiation capacity increases over time along with the Government of British Columbia's increased reconciliation commitments. As an additional analysis measure, the first instalment for each of the 123 analyzed agreements is also averaged by signing year to show whether there is improvement over time. The first instalment variable is representative of a few different factors within each agreement including the active harvestable area within each territory, the percentage of revenue sharing, and the overall size of the territory of each Indigenous community. In consideration of the first instalment variable representing the overall territory size, this variable would be the best representation of the capacity pool that each individual Indigenous community would have access too through their community members. Due to data constraints and the limitations presented in population data provided through Indian Act metrics, using the size of the territories is more aligned to represent Indigenous community membership under an Indigenous law and governance mandate.

3.3.1 Process

Upon accessing each of the Forest Consultation and Revenue Sharing Agreements through the Government of British Columbia website, all of the agreements are input into a database using an excel spreadsheet and sorted according to the Indigenous community that entered into the agreement. Once all of the communities were catalogued, all of the remaining agreements that were missing were identified. They were missing either due to them not being posted properly on the Government of British Columbia website, or due to the community being engaged in a process that was not the Forest Consultation and Revenue Sharing Agreements. Following the identification of the missing agreements, the residual applicable agreements were analyzed and the data was extracted and input into the database. Extracted data included: the date in which the agreements were signed; whether or not there were amendments present; whether or not there was an extension present; whether the signing authority was a chief and council or a hereditary governance body; the first installment amount of the revenue being shared; the amount capacity funding being provided, if any; the term of the agreement; the percentage of forestry revenue being shared; copied language within the Assistance and Cooperation and Support Against Protest section; the presence of Indigenous law and governance through the direct mention of such in English; the presence and use of Indigenous language; and, additional notes that captured any oddities or errors. Using a textual analysis to extract the qualitative data from the documents was processed through coding the language to either “yes” or “no” that there was English language present within the document that provided mention or alluded to the presence of Indigenous law and governance. As well as “yes” or “no” if there was presence of Indigenous language within the document.

For the section on Cooperation and Support Against Protest, Section 8 or Article 11 in the agreements that is discussed in section 4.6 of this thesis, each section was individually extracted and cataloged into an excel spreadsheet for all of the remaining 123 Forest Consultation and Revenue Sharing Agreements. Once catalogued, each of the Cooperation and Support Against Protest sections for all 123 Indigenous communities are categorized and coded based on the section content. This particular stage of text analysis required subjective judgment to code the strength of language within each section, however, considering that this section was not a qualification criterion for the inclusion of Indigenous law and governance or non-market valuation it does not put any of the thesis objectives at risk. Each of the Cooperation and Support Against Protest section for each Indigenous community are coded as either compliant, compliant/cooperative, cooperative, or considerate based on the perceived

willingness to engage and cooperate with the Government of British Columbia affirmative action against interference by members of that particular Indigenous community on the forestry activity covered by the Forest Consultation and Revenue Sharing Agreement process. To run the averaging and comparative analysis against the year of signing and the average first instalment the coded data are given a numerical value of one, two, three and four respectively.

Once the data was analyzed and the nine communities that were inclusive of Indigenous law and governance in some form were identified, each of the Cooperation and Support Against Protest sections for those nine communities were categorized through use of a summary. They are summarized using key words and then ranked against one another according to the strength of their agreement to promptly and fully cooperate to resolve any action undertaken by members of their community. Isolating the data from the nine Forest Consultation and Revenue Sharing Agreements that were inclusive of Indigenous law and governance allowed the analysis of how inclusion impacted the other terms of the agreement in comparison to the agreements which were not inclusive. The presence of non-market valuation as applied by the inclusion of Indigenous law and governance values would appear within the installment amount, the capacity funding, and the percentage of forestry revenue, as these monetary amounts would then include revenue sharing as well as compensation on the market and non-market values as impacted by the forestry activities.

3.3.2 Data Assumptions

Relying on publicly available data, such as the data used for this thesis, does require some assumptions. Any activity or discussions happening taking place internally or confidentially between Indigenous governments and the Government of British Columbia that pertain to the Forest Consultation and Revenue Sharing Agreements will not be known for the analysis (Altheide, 2000; Gwartney et al., 2002; Martin, 2008). The data collected for this thesis is assumed to be complete as the Government of British Columbia does have a responsibility to post all fully negotiated, completed and signed Forest Consultation and Revenue Sharing Agreements. On that same point, this thesis is not privy to information pertaining to agreements that are currently in negotiation, or to agreements that have been negotiated but not yet finalized and posted. Considering the content of the agreements, it is assumed that all communities that are not now or once were engaged in the Forest Consultation and Revenue Sharing Agreement process were given the same opportunity for participation and were

presented with the same terms upon initiation of the negotiation process, including an allocated duration for negotiation. Within the negotiation, it can also be assumed that Indigenous governments and the Government of British Columbia each have a different level of capacity. The Government of British Columbia being at an obvious advantageous position over Indigenous governments considering that the Government of British Columbia is the controlling party of the resources being negotiated within the agreements. It also needs to be clarified that the Forest Consultation and Revenue Sharing Agreements were initially developed and presented by the Government of British Columbia, and that Government of British Columbia was responsible for the final review prior to posting publicly on their website.

3.3.3 Data Limitations

Analyzing existing agreements for data has its limitations. Decision-makers involved in the Forest Consultation and Revenue Sharing Agreement process are not being directly contacted for data collection in this case to reinforce their terms as laid out in the agreements. As reflected earlier in the assumptions, due to the nature of these agreements acting as binding terms, they are assessed as the operational reality occurring through the implementation of the terms and therefore direct engagement would not change the data.

Forest Consultation and Revenue Sharing Agreements are applied to the majority of communities across the province rather than only a select few which have natural resource extraction industries such as mining and fisheries. Only looking at the one specific type of agreement, Forest Consultation and Revenue Sharing Agreements, does present a limitation in that it is only one type of agreement for one type of natural resource. There are other benefit sharing and compensation forestry agreements within the province of British Columbia, though the regions and communities throughout the province are so varied that a consistent approach under one impact benefit agreement program is needed for reliable data for this thesis.

Reconciliation agreements are another form of agreement that is applied to a number of communities throughout the province of British Columbia and these agreements also often provide funding and apply to various natural resource industries, however they are not as focused as Forest Consultation and Revenue Sharing Agreement. The earliest signed reconciliation agreement in the province of

British Columbia is with the Tseycum First Nation signed in 2012 (Province of British Columbia, 2022c). Rather than provide compensation directly related to natural resource extraction, the Tseycum First Nation details specific uses and requests of compensation in their reconciliation agreement such as funding for a new cemetery as well as capacity funding to be directed to engagement on acquiring land for the community. Using the Tseycum First Nation Reconciliation Agreement as an example, this proves that reconciliation agreements are too varied and broad in scope to provide thoughtful analysis on non-market valuation for natural resource management. The Gitanyow Recognition and Reconciliation Agreement signed in 2016 is far more comprehensive than the Tseycum First Nation Reconciliation Agreement, though again is broader in its intent. The Gitanyow agreement covers many facets of economic and social well-being, and also directly references implementation of their land use plan. Interestingly, section 18 of this agreement specifically states that other resource revenue sharing agreements may be made alongside this Recognition and Reconciliation Agreement, and states that there are no current impact benefit agreements with Crown government available for all land and resource based economic activity (Province of British Columbia, 2022c).

This thesis is limited in that it is not privy to the details of the negotiation process that took place in order to form these agreements, including which terms were presented with the template and which terms were part of the negotiation. Analysis of all of the Forest Consultation and Revenue Sharing Agreements within the province does reveal which terms were likely provided as the initial template, though it cannot be confirmed that each community was provided with the same template or slightly varied versions. The posted Forest Consultation and Revenue Sharing Agreements also do not provide confirmation that the terms within have been implemented and upheld. The data does not show if there has been any deviation in the terms and if so, whether there are any consequences for deviation.

This thesis is also not privy to updates from agreements that have since expired and have not been renewed. It can be seen through investigation of the provincial agreement database that some communities have moved towards more progressive and comprehensive agreements that are inclusive of other industries and economic development opportunities. Their reasoning for moving on and if the terms of their most recently signed and expired Forest Consultation and Revenue Sharing Agreements are still reflective of their operational intent, is not information that is provided along with the new agreements.

Chapter 4
Results

4.1 Purpose

The purpose of this thesis is to broadly understand the implications of integrating Indigenous law and governance into non-market valuation through analysis of existing resource-specific Crown natural resource management impact benefit agreements in British Columbia. Through understanding the discrepancies in language pertaining to stewardship and governance, three core research questions are addressed. The first aims at providing insight into the current state of the recognition of Indigenous law and governance in British Columbia's Crown forest impact benefit agreements. The second identifies if Indigenous law and governance representation in British Columbia Crown impact benefits agreements impacts the outcomes of the agreements and in what way. The third research question explores the opportunities for non-market valuation to uphold Indigenous law and governance in British Columbia Crown impact benefit agreements.

With the context support of Chapters 1 and 2, Chapter 4 answers the bulk of these questions, with particular emphasis on research questions two and three. Following the presentation of the findings within this Chapter, Chapter 5 will provide a discussion and summary of key points within the analysis along with recommendation for future research.

4.2 Forest Consultation and Revenue Sharing Agreement Template

Through this analysis it was discovered that there was a formatting update to the Forest Consultation and Revenue Sharing Agreement template in the year 2016. There were no discernible changes to the Forest Consultation and Revenue Sharing Agreement program or provided reasoning for this update. Within British Columbia, there were also no noticeable changes to legislation involving Indigenous communities and natural resource management in that year or the year prior that would warrant an updated template. The template was updated in its formatting and to improved readability and organization of Articles and Sections. The content in the pre-2016 agreements is largely the same as the content in the 2016 and later agreements. The Articles are merely provided headings and organized more efficiently. The Indigenous communities that used amendments to extend the terms of

their agreements that were signed before 2016 and expired after the implementation of the new template in 2016 remained subject to the old terms unless they were otherwise amended.
One section which was added to the 2016 template is titled Legal Power, Capacity and Authority. The content of this section is seen below in an example from the Gitxaala First Nation Forest Consultation and Revenue Sharing Agreement signed in 2020:

> *"The Gitxaala First nation represents and warrants to the Province , with the intent and understanding that they will be relied on by the Province in entering into this Agreements, that it enters into this Agreement for, and on behalf of itself and its members and that has represented by its Chief and Council, it has the legal power, capacity and authority to enter into and to carry out its obligations under this Agreement."*

The addition of this Section is significant as it would technically allow for the appointment of a signing authority other than the Indian Act chief and council leadership, such as hereditary leadership or another organization representing the interests of the Indigenous community engaging in the Forest Consultation and Revenue Sharing Agreement process. What is often the case, however, is that a Band Council Resolution passed by the chief and council leadership is still necessary in order to appoint cultural leadership as the signing authority for these agreements.

4.3 Evidence of Indigenous Law and Governance

As discussed in Chapter 3, indications of Indigenous law and governance in the text of the agreements were determined using three metrics: a directly stated reference to Indigenous law and governance pertaining to the specific community; direct use of Indigenous language pertaining to the specific community within the body of the agreement; and hereditary leadership acting as the decision-makers and signatories on the main agreement in addition to any extensions or amendments (E. R. Atleo, 2004, 2011; Coté, 2010; Mills, 1994). Of the 123 analyzed agreements, the nine of them listed below, as shown in Table 1, contained indications that Indigenous law and governance was a consideration in the development and signing of the agreements (Government of Canada, 2021):

Table 1 - Nine communities with Forest Consultation and Revenue Sharing Agreements that are inclusive of Indigenous law and governance.

Ahousaht First Nation[1]	Cheam First Nation[2]
Gitanyow Hereditary Chiefs[3]	Gitwangak First Nation[4]
Leq'á:mel First Nation[5]	Lower Similkameen Indian Band[6]
Penticton Indian Band[7]	Sumas First Nation[8]
Xaxli'p First Nation[9]	

Three of these communities, Ahousaht, Gitanyow and Gitwangak, were represented by hereditary leadership. Considering their use of cultural governance as signatories in the Forest Consultation and Revenue Sharing Agreements all of them therefore included references to Indigenous law and governance under this metric. Each of these three communities also included language referencing Indigenous law and governance values, qualifying the data through that metric as well.

The remaining six communities that were inclusive of Indigenous law and governance were Cheam, Leq'á:mel, Lower Similkameen, Penticton, Sumas and Xaxli'p. These communities were represented by the elected chief and council governance structure as the signatories for their agreements. The way in which these agreements referenced Indigenous law and governance values was through the use of Indigenous language or by directly stating Indigenous law and governance values.

4.3.1 Community Examples of Indigenous Law and Governance Assertion

These nine communities are representative of five language groups, and each of these communities and groups are asserting current efforts towards proper recognition of their Indigenous laws and governance within natural resource decision making broadly. The examples and excerpts below highlight the individual efforts of these nine communities and their language groups and the

[1] Website for the Ahousaht First Nation: https://www.ahousaht.ca
[2] Website for the Cheam First Nation: https://cheam.ca
[3] Website for the Gitanyow Chiefs: https://www.gitanyowchiefs.com
[4] Website for the Gitwangak First Nation: https://gitwangakband.ca/
[5] Website for the Leq'á:mel First Nation: https://leqamel.ca/
[6] Website for the Lower Similkameen Indian Band: https://www.lsib.net
[7] Website for the Penticton Indian Band: http://pib.ca
[8] Website for the Sumas First Nation: http://www.sumasfirstnation.com
[9] Website for the Xaxli'p First Nation: http://www.xaxlip.ca

importance and opportunities of Indigenous law and governance in practice. Consistently through each of these communities, language is key to operationalizing their Indigenous law and governance and guiding land-based decision-making.

St'at'imc language - Xaxli'p First Nation:

> *"In the St'at'imc language, the name for "land" is Tmicw, the name for the "people of the land" is Ucwalmicw, and the name of the "language" is Ucwalmicts. These three words are closely related in the language of the St'at'imc people and show how the land, the people and the language are all powerfully tied together. What happens to one happens to the others is the guiding principle of Xaxli'p attitudes toward land use. This means that when you damage one part of the three (land, people, language) you damage all."* (Xaxli'p First Nation, 2017)

Gitxsan language – Gitanyow Hereditary Chiefs and Gitwangak First Nation:

The Gitxsan Development Corporation is an example of the assertion of Indigenous law and governance through a corporation focused on economic development. The structure of the corporation is designed to uphold hereditary leadership and prioritize cultural stewardship while providing sustainable economic opportunities to Gitxsan communities:

> *"The Gitxsan Development Corporation (GDC) is unique, melding the traditional governance of the Gitxsan with the contemporary needs of business, yet remaining faithful to the principles of the Gitxsan Ayookw (laws). Every Gitxsan person, who is a member of a wilp (house group), has a stake in GDC.*
>
> *GDC is governed by a working Board of Directors who make business decisions, taking into consideration the Gitxsan Ayook and the overarching cultural values of the Gitxsan people. The Lax Yip Society and Lipgyet Trust are the shareholders of GDC, on behalf of the Hereditary Chiefs."* (Gitxsan Development Corporation, 2021)

Nuu-chah-nulth language – Ahousaht (ʕaḥuusʔatḥ) First Nation:

Similar to the Gitxsan Development corporation, the hereditary leadership of the Ahousaht First Nation developed a corporate model that guides economic and natural resource decision making within their territories under the guidance of Indigenous law and governance and cultural mandate:

> *"The Maaqutusiis Hahoulthee Stewardship Society (MHSS) Board of Directors is comprised*

of representatives from the three principle houses of the ʕaḥuusʔathˌ Nation. They are supported and advised by the ʕaḥuusʔathˌ muscˇim, Chief Councilor & Council representatives, together with other members of the ʕaḥuusʔathˌ traditional governance structure, legal counsel and technical consultants. The role of MHSS is to exercise and invest in stewardship and the sustainable management of the resources of ʕaḥuusʔathˌ haḥuułii in such a manner so as to balance Ahousaht cultural values, ecological integrity, and the social and economic wellbeing of the ʕaḥuusʔathˌ people." (Maaqutusiis Hahoulthee Stewardship Society, 2022)

Halq'emeylem language – Cheam First Nation, Leq'á:mel First Nation, Sumas First Nation:

"Our Halq'emeylem language was born of the land; this knowledge serves to strengthen our land claims, our claims to S'olh Temexw. By learning Halq'emeylem and its intricacies, our leaders will be able to advocate for what we need to maintain our unique Sto:lo identity embedded in our Halq'emeylem Riverworld view aesthetic. By reviving our Halq'emeylem language, we serve to strengthen the individual Sto:lo, our families and communities, and society in general. Atylexw te Sto:lo Shxweli (The Spirit of the Stolo Lives)." (Gardner, 2004)

nsyilxcən language – Penticton Indian Band, Lower Similkameen Indian Band:

"As Syilx people, located within the Syilx Nation, learning n̓syilxčn̓ is our act of reconciliation and resistance." "Our language strengthens our families, the health of our communities, our youth, Syilx Nation, land-based knowledge, and expresses our title and rights." (Syilx Language House, 2022)

"The Syilx Okanagan Nation is governed by the Chiefs Executive Council (CEC), a leadership body of the Syilx Okanagan Nation established under Syilx law, and comprised of the ỳil̓mixʷm *of the affiliated communities, and the* xa?tus*, the elected leader of the Syilx Okanagan Nation. The mandate of the CEC is to advance, assert, support and preserve Syilx Okanagan Nation sovereignty. The* ỳil̓mixʷm *of the affiliated communities also serve as directors of the Okanagan Nation Alliance, a society that serves the Syilx Okanagan Nation and its people, carrying out work directed by the CEC."* (Okanagan Nation Alliance, 2017)

These examples and excerpts demonstrate that whether it be through the revitalization of language and the development of approaches to reconcile intent in Indigenous language to modern land-based decision making and development, or the establishment of guiding bodies such as corporations, each of these nine communities and their language groups have provided leadership in reconciling their Indigenous law and governance in a world of colonial systems designed to stifle and eradicate Indigenous stewardship and cultural practice.

4.3.2 Indigenous Language

Using the Gitwangak First Nation agreement as an example, this agreement uses their Indigenous language by presenting relative words in Article 1 - Interpretation, under Section 1.1 of their Forest Consultation and Revenue Sharing Agreement. They provided information in the Definitions section as quoted below:

> *""Gitwangak Laxyip" means the area shown in bold black on the map attached in appendix A;" (pg 3)*

This definition makes it clear that the Gitwangak territories are the *Gitwangak Laxyip* and this is asserted within the terms of the Forest Consultation and Revenue Sharing Agreement. The map in Appendix A is aptly named to honour this definition and includes Gitwangak place names to further define boundaries within their territory (Gitanyow Hereditary Chiefs, 2018).

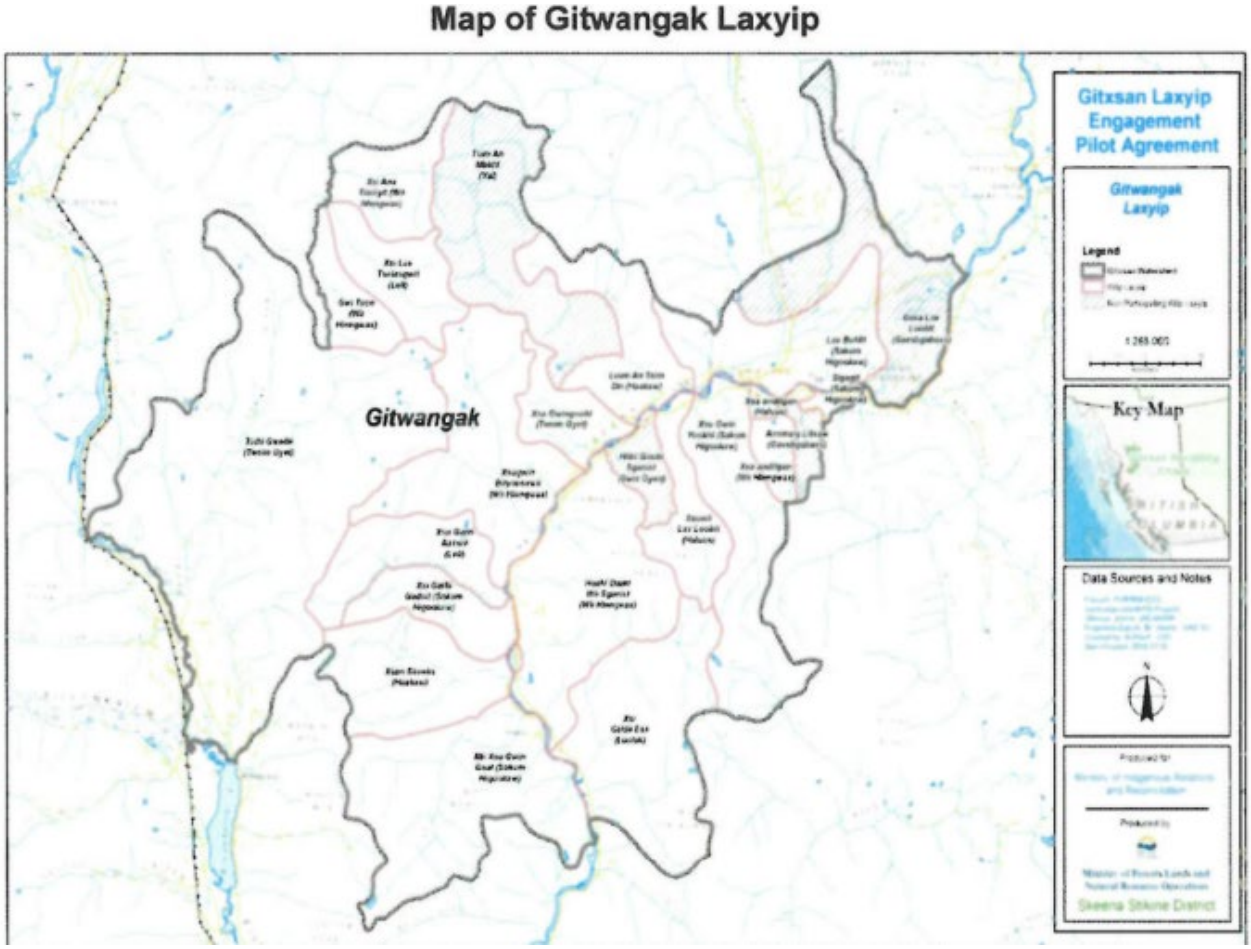


Figure 8 - Map of Gitwangak Territory. Source: Gitwangak Forest Consultation and Revenue Sharing Agreement Appendix A

> *"Gitxsen Ayuukw" means Gitxsen laws and traditions founded on the knowledge, experience and practice of the Gitxsen people since time immemorial which are reaffirmed and updated at the Li'ligit (formal public gatherings/feasts) and encompass all aspects of Gitwangak society; (pg 3)*

The above definition included in the Gitwangak Forest Consultation and Revenue Sharing Agreement is a direct reference to Indigenous law and governance as it pertains to the Gitwangak community. The reference to law is not direct in the Western sense but asserted through knowledge and practice of stewardship and protocol within the Gitwangak community and territory.

4.3.3 Stated Reference to Indigenous Law and Governance

Xaxli'p provides a very clear example of stated reference to their law and governance within the Whereas section of their agreement. Each of the below excerpts provide a link to their cultural mandate, though interestingly also make effort to ensure that the divide between Crown and Xaxli'p law and values is identified. This is important as it establishes Xaxli'p's laws and governance as distinct from that of colonial influence.

> *"Whereas:*
>
> *A. (…)*
>
> *B. Xaxli'p maintains that their Indigenous Title and Rights give Xaxli'p unique responsibilities for stewardship of lands, resulting in a relationship where the health of the land is directly linked to the health of Xaxlip culture, traditions, and way of life, including the maintenance of Xaxlip's community, governance, and economy.*
>
> *C. British Columbia recognizes that Xaxlip has a unique history, culture, traditions and relationship to the land and its resources, with its social and cultural distinctiveness defining Xaxlip. With these characteristics, along with the relationship within British Columbia, assists in formulating the important context for the cooperative efforts needed to enhance Xaxlip community's well-being and prosperity.*
>
> *D. In accordance to the Declaration of the Lillooet tribe signed on May 10 1991, by the St'aimc Chiefs, Xaxlip maintains they hold unceded Aboriginal Titles and Rights within Xaxlip Traditional Territory and Shared Area.*
>
> *E. Xaxlip has developed their Traditional Use Study ("Ntsuwa7lhkalha Tlakmen") and an Ecosystem-based Management Plan for their Traditional Territory and Shared Area, currently used as the management plan for their Community Forest Agreement.*
>
> *F. (…)*
>
> *G. The Parties hold differing views with regard to Aboriginal title, Crown sovereignty, jurisdiction and authority over the lands and resources within the Traditional Territory of Xaxlip, and without prejudice to the differing viewpoints, the Parties seek a more productive government to government relationship with regard to forest resource management and revenue sharing.*

H. Reference in this Agreement to Crown lands are without prejudice to the Xaxlip's Aboriginal Title and Rights to those lands.

I. This Agreement does not attempt to define Xaxlip's Title and Rights and does not reconcile or resolve all potential infringements of Xaxlip Title and/or Rights, nor does it intend to compromise or prejudice any future process that seeks to define those. Rather, the Parties wish to set out a process for consultation regarding forest and range resource development within Xaxlip Traditional Territory and Shared Area and to provide an accommodation for any adverse impacts to Xaxlip's Aboriginal Title and Rights resulting from forest and range resource development."

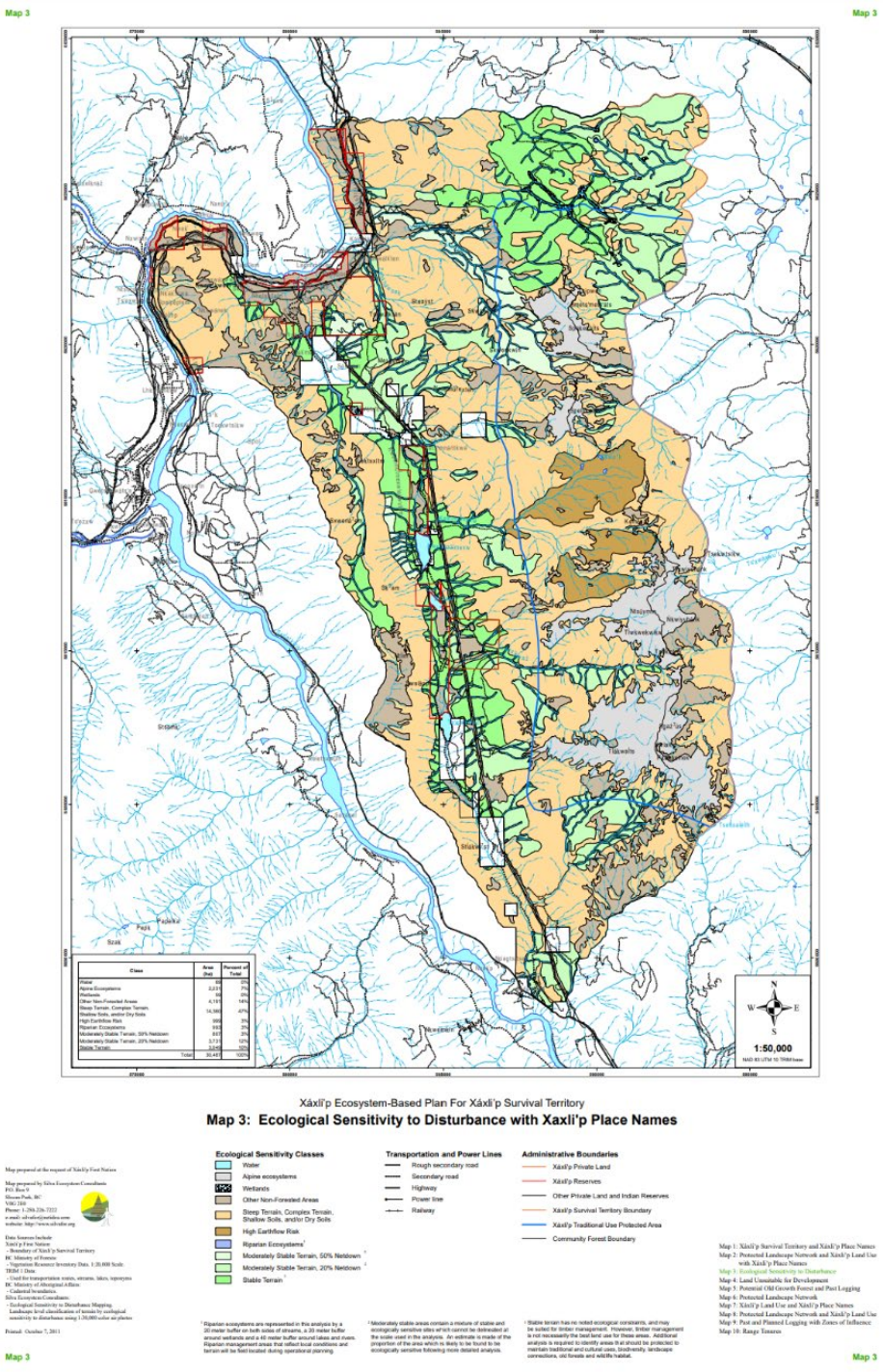


Figure 9 - Xaxli'p Territory, Xaxli'p Ecosystem Based Plan. Source: Xaxli'p Community Forest, 2018

"3.2.2. Inserting Xáxli'p values into government policy

As an additional strategy, Xáxli'p negotiators generated formal recognition of Xáxli'p values within government agreements by insisting on agreement language that stated the XCF would be managed according to the Xáxli'p Ecosystem-based Plan and Traditional Use/Our Way of Life Study. Planning document titles became a proxy for Xáxli'p land management practices and policies, articulated through community planning processes and associated documents. In this way, the community used their plans to accredit Xáxli'p management values within dominant B.C. policy frameworks, thereby enabling a lighter harvest than the Ministry preferred.

Community advocates also protected their ability to pursue Xáxli'p land claims through the courts by adding assurance language to their agreements that stipulated "no prejudice" to existing aboriginal title and rights. The Xáxli'p community was particularly wary of government "accommodation" policies could be used to coerce them into relinquishing their legal rights in the future." (Diver, 2017)

4.4 Recitals and Non-binding Declarations of Cultural Values

Within the agreements, Indigenous law and governance can be seen through additional language predominantly in the Preamble and Whereas sections, through the use of and defining of Indigenous language, and through the signatories representing a cultural governance structure, namely hereditary leadership in the case of the Forest Consultation and Revenue Sharing Agreements. The Preamble and Whereas sections or clauses of a contractual agreement like the Forest Consultation and Revenue Sharing Agreements are also known as a recital though this term is not often included in these agreements (Swegle, 2018). A recital within an agreement such as a Forest Consultation and Revenue Sharing Agreement is used to present facts that are relevant to the body of the agreement including but not limited to reasons for entering the agreement. Recitals may be used to explain the intent of the agreement, though they do not include terms which enforce the agreement (Garner, 2014).

Considering the non-binding terms of the Preamble and Whereas recitals within the Forest Consultation and Revenue Sharing Agreements, having Indigenous law and governance inclusions referenced only in these sections indicate it is being provided as context or background information

and is technically not included within the binding terms of the agreement. Using the example below of the inclusion of Indigenous law and governance from the Cheam First Nation Forest Consultation and Revenue Sharing Agreement as seen within the Whereas section, Cheam First Nation is asserting that the territorial boundaries being discussed is their land that belongs to them, and they are responsible for its care.

> *"Further to the previous recital, British Columbia also recognizes that the Cheam First Nation asserts that:*
>
> > *S'olh temexw te ikw'elo. Xyolhmet te mekw' stam it kwelat.*
> >
> > *'This is our land. We have to take care of everything that belongs to us.*
> >
> > *This declaration is based on our Sxwoxwiyam, our Sqwelqwel and our connection through our Shxweli to S'olh Temexw.*
> >
> > *We make this declaration to protect our Sxoxomes (our gifts), including all the resources from the water, the land and the mountains including Xoletsa (Frozen Lakes) and Mometes.*
> >
> > *We make this declaration to preserve the teachings and to protect S'olh Temexw for our Tomiyeqw (seven generations past and future)."*

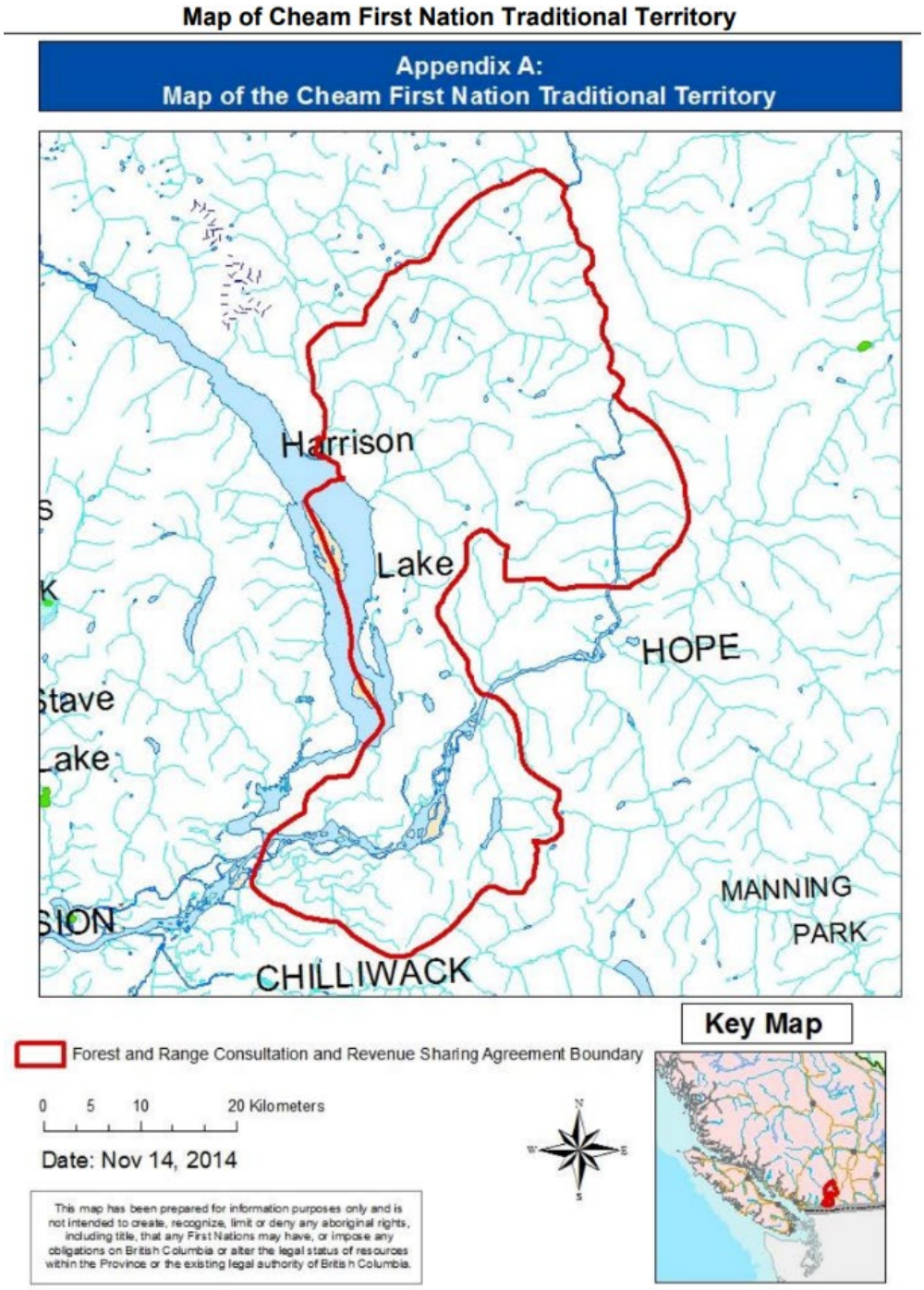


Figure 10 - Cheam First Nation Territory. Source: Cheam First Nation Forest Consultation and Revenue Sharing Agreement, Appendix A

Within the above excerpt the Cheam First Nation, as represented by an elected chief and council governance structure, is using their language to assert cultural law and governance values prior to laying out the terms of the agreements. This is meant to set the stage and guide the intent of the remainder of the agreement, though is non-binding. In the case of a breach of the Forest Consultation and Revenue Sharing Agreement, considering that this statement is not in the binding terms, they would not necessarily have access to this assertion when seeking a remedy. It does explain Cheam First Nation's reasoning for entering into the agreement, but as a matter of context rather than enforcement.

The Lower Similkameen Indian Band also have strong presence of their language and values within the Preamble section of their agreement as quoted below:

> *"PREAMBLE:*
>
> *The Lower Similkameen Indian Band asserts that the (smelqmix) people of the (sn̓ik̓"na?qi̓fnx) Nation are the original inhabitants of the Similkameen Valley with a clearly defined society and relationship (nkʷl'mantet) to the land (tmxʷulaxʷ) and all human (sqilxʷ) and animal (tmixʷ) inhabitants of this land, which is contractual and is clearly defined within our (captik'I) and our ongoing oral tradition. A foundational Principle which guides (smelqmix) view of development within all Similkameen traditional territory is stated as follows:*
>
> > *"Activities in the community will be conducted with respect for the Land (tmxʷula?xʷ), the Traditions (I?_nakʷul'mentat) with Prayer (I?_ank'?amen) and in harmony with our Cultural belief systems (I?_anunxʷina?ten)."*
>
> *We are further guided by our basic community values which state that "All lands will be developed with respect for the environment and with utmost consideration given to the importance of maintaining natural resources and Traditional Lands for generations to come."*
>
> *It is this Spirit that this Agreement is entered into from the perspective of the Lower Similkameen Indian Band."*

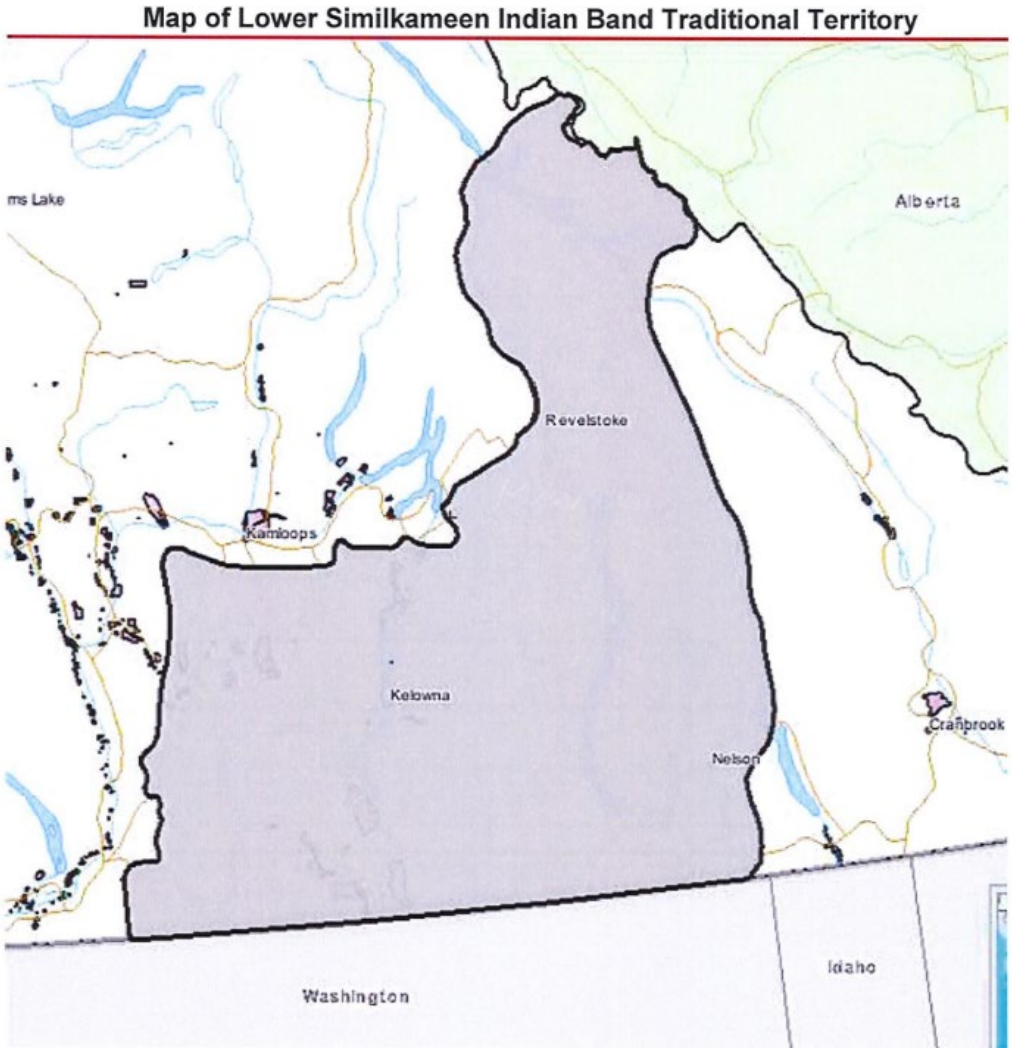


Figure 11 - Lower Similkameen Territory, Map of Okanagan Alliance Boundary. Source: Lower Similkameen Forest Consultation and Revenue Sharing Agreement Appendix A

4.5 Compensation and Economic Accommodation

Throughout all the agreements there are determinations of a monetary compensation calculation which takes place through revenue sharing and is determined through a percentage of revenue earned within the defined forestry areas within each community's territory by the Government of British Columbia. The percentages of revenue sharing within the agreements range between 3-5%. The data does not provide any discernible reasoning for the variances in percentages that are agreed upon with

each individual community. This is consistent in each case for the nine communities which have indications of the inclusion of Indigenous law and governance and cultural mandate. Considering that there is no differentiation between the compensation amounts other than negotiating capacity, it can be concluded that the 3-5% range is merely a fact of the Forest Consultation and Revenue Sharing Agreement template and was not impacted in any significant way by Indigenous values on the land base.

The reasoning for the compensation through revenue sharing is outlined in Article 2 of the agreements titled Purpose and Objectives. The below excerpt from the Sumas First Nation Forest Consultation and Revenue Sharing Agreement Article 2 "Purposes and Objectives" is representative of the Article 2 sections throughout all of the agreements in British Columbia:

> "*Purpose and Objectives. The purposes and objectives of this Agreement are:*
>
> *(a) to establish a consultation process through which the Parties will meet their respective consultation obligations in relation to potential adverse impacts of proposed forest and range resource development activities, including Administrative and/or Operational Decisions or Operational Plans, on Sumas First Nation's Aboriginal Interests;*
>
> *(b) to provide a Revenue Sharing Contribution to support the capacity of the First Nation to participate in the consultation process herein, as an accommodation for any adverse impacts to Sumas First Nation's Aboriginal Interests resulting from forest and range resource development within the Traditional Territory and so that Sumas First Nation may pursue activities that will enhance the social, economic and cultural well being of its members; and*
>
> *(c) to assist in achieving stability and greater certainty for forest and range resource development on Crown lands within the Traditional Territory."*

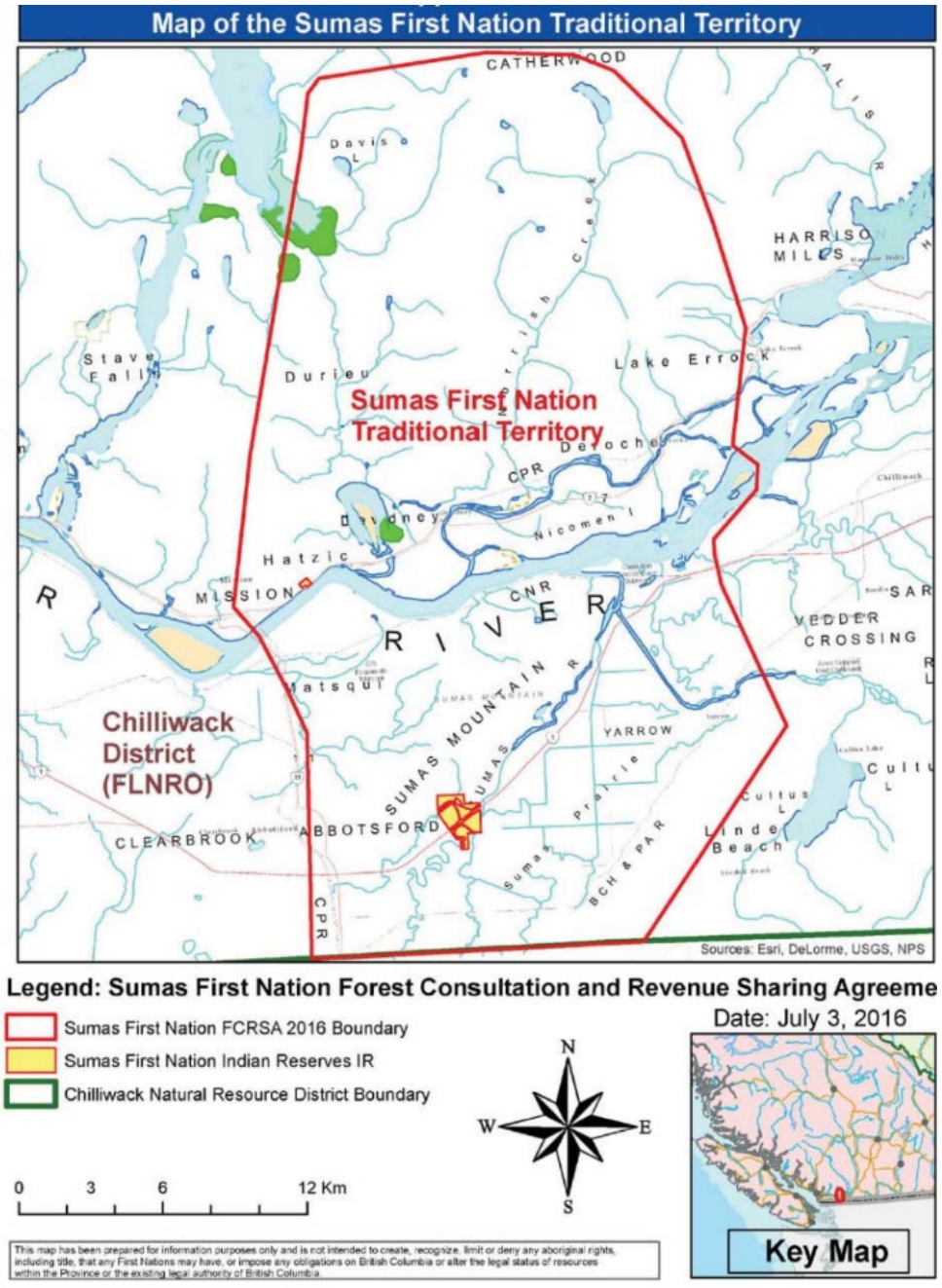


Figure 12 - Sumas First Nation Territory. Source: Sumas First Nation Forest Consultation and Revenue Sharing Agreement Appendix A

This Article affirms the potential for adverse effects on the Aboriginal interests of each individual community within each separate territory as a result of the agreed forest range activities. The claim,

within this section, is that the compensation package will aim to increase capacity and enhance stability of resource development pertaining to forest and range within each of the territories. Interestingly, the potential adverse effects are not detailed, and the compensation is veiled as a direct benefit to the communities rather than as a payment for impending damages to social, cultural, economic and environmental values. There also are no considerations made within the agreements for how adverse impacts may be mitigated. Despite this lack of transparency of the intent of the compensation, all potential adverse effects will have a monetary valuation component, though it is not known whether the compensation provided will be adequate to cover such values. It can be assumed that the intent of the compensation is to cover all values of impacts, and therefore non-market valuation is a consideration despite it not being inherently mentioned or a factor presented for negotiation.

The excerpt from Article 7 in the Gitanyow agreement below is unique to the common agreement template in that it acknowledges the revenue sharing amount as an "economic accommodation", or compensation in exchange for adverse effects. Other versions of this Article within the template used for other agreements do not define the accommodation clearly as "economic", despite the compensation being just that.

> "*Article 7 - Acknowledgments and Covenants*
>
> *7.1 Revenue Sharing Contributions will vary. Gitanyow acknowledges that forest revenues received by British Columbia fluctuate and that the Revenue Sharing Contributions under this Agreement will vary over time.*
>
> *7.2 Revenue Sharing Contributions are an accommodation. Gitanyow agrees that the Revenue Sharing Contributions made under this Agreement are an economic accommodation and constitute a component of any accommodation or compensation that may be required for any potential adverse impacts of Administrative and/or Operational Decisions, and any forest or range development practices that may be carried out under an Operational Plan[s], on Gitanyow's Aboriginal Interests*
>
> *7.3 Where consultation process followed. Gitanyow agrees that if the consultation process set out in Appendix 1 to Schedule C of the Gitanyow Huwilp Recognition and Reconciliation Agreements is followed, British Columbia has consulted and, where appropriate, had identified potential measures to accommodate potential adverse impacts of Administrative*

and/or Operational Decisions, and any forest or range development practices that may be carried out under an Operational Plan, on Gitanyow's Aboriginal Interests." (Gitanyow Hereditary Chiefs, 2013)

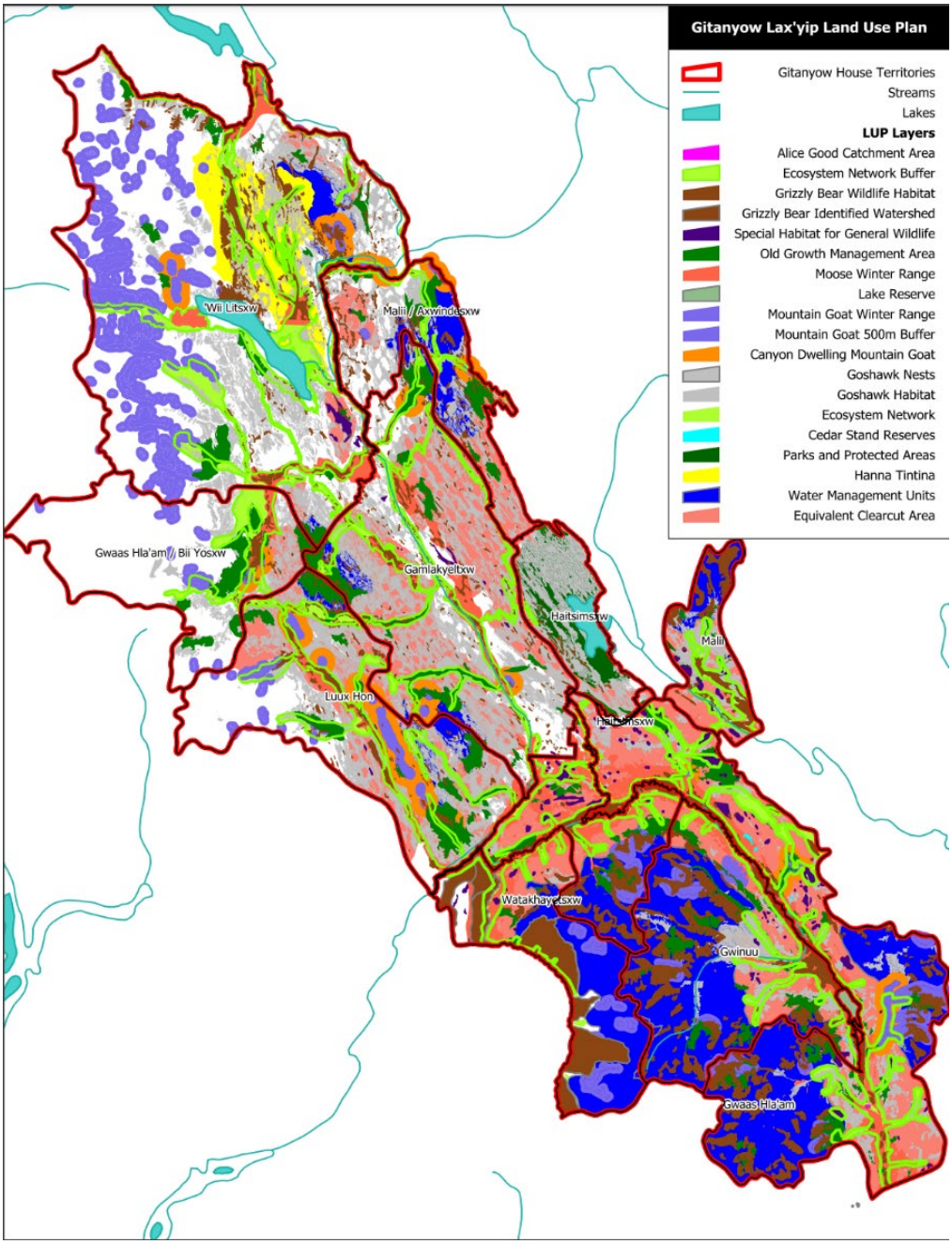


Figure 13 - Map of Gitanyow Territory Land Use Plan. Source: Gitanyow Chiefs

4.5.1 Capacity Funding

Consistent through most of the agreements is also a $35,000 payment allocated for capacity funding. An excerpt from the Penticton Forest Consultation and Revenue Sharing Agreement below details the intent of the capacity funding payment which is to assist with the engagement process as well as act as a minimum payment in the case that the revenue sharing amount would amount to less than $35,000:

> *"6.4 Capacity Funding. The Parties acknowledge and agree that to assist Penticton Indian Band to engage in consultation under this Agreement and in consultation under any SEA or RA that addresses but does not provide capacity funding for forest and range related consultation, Penticton Indian Band will, under 1.4 of Appendix C, receive no less than $35,000 per annum."*

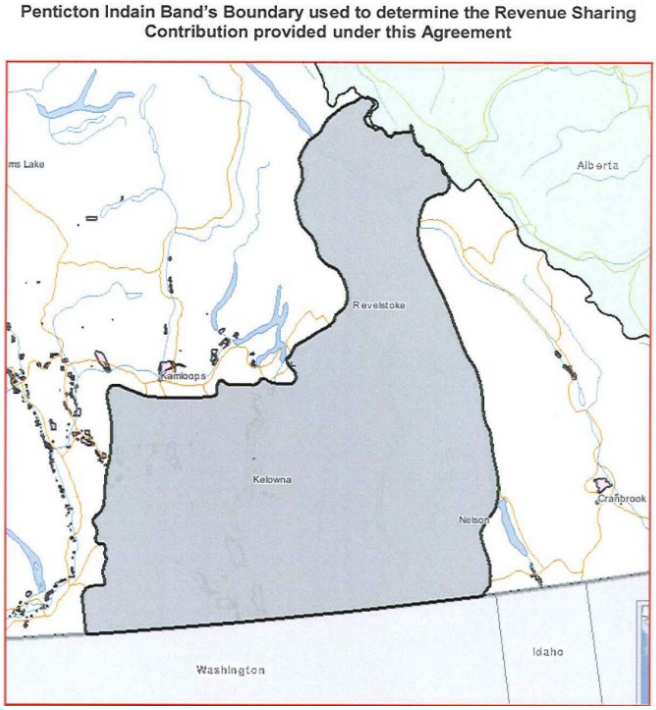


Figure 14 - Penticton Indian Band Territory, Okanagan Alliance Boundary. Source: Penticton Indian Band Forest Consultation and Revenue Sharing Agreement Appendix A

Throughout the 11-year span, 2011 to 2022, of posted Forest Consultation and Revenue Sharing Agreements analyzed for this thesis, the capacity funding amount is consistently equal to $35,000. Of all the agreements that provide capacity funding, there is no deviation to the amount provided.

According to the Bank of Canada inflation calculator, the percentage change of $35,000 in 2011 to 2022 is 23.34%. In consideration of the national consumer price index, a cost of $35,000 in 2011 is equal to a cost of $43,170 in 2022, therefore resulting in a net decrease of value to the provided capacity funding. Furthermore, using the minimum wage in British Columbia as an indication of the cost of capacity, between 2011 and 2022 minimum wage increased 78.85% from $8.75 to $15.65 (Government of Canada, 2022a). Maintaining the $35,000 capacity funding through 11 years of agreements results in a net decrease in buying power both by considering the decreased value due to inflation and the increased cost of capacity with rising wages. The Government of British Columbia's continuance of this same capacity funding amount has put Indigenous communities in a continuously disparaging position for acquiring capacity to assist with negotiating these agreements. Therefore, despite increasing reconciliation commitments by the Government of British Columbia over time, the valuation of capacity funding provided within the Forest Consultation and Revenue Sharing Agreement process to support negotiations and implementation capacity decreases over time.

Several agreements including the Haisla Nation, Samahquam, Skatin First Nation, Tla'amin Nation, and Yale First Nation do not include this capacity funding, furthermore these agreements do not provide reasoning for its absence. In the agreements where the details of capacity funding are provided, the funding is guaranteed even in cases where the forestry revenue sharing percentage may equal less than $35,000. There are nine agreements which include $35,000 as the first installment, indicating that the revenue sharing amount for the first annual term is less than or equal to the capacity funding amount. These nine agreements with a $35,000 first installment are listed below in Table 2 and do not include the agreements that did not include mention of capacity funding:

Table 2 - Forest Consultation and Revenue Sharing Agreements that do not include capacity funding

Kwaw-kwawapilt First Nation	Kwikwetlem First Nation
Malahat First Nation	Popkum Indian Band
Qualicum First Nation	Scia'new First Nation
Snaw-naw-as First Nation	Tlatlasikwala Nation
	T'Sou-ke First Nation

The nine agreements above do not represent any of the nine agreements that are inclusive of Indigenous law and governance. This is important to note as the nine above, considering that they are below the $35,000 revenue sharing threshold, would not be negatively impacted by forestry activity to the same degree as the agreements with revenue sharing instalments above the $35,000 minimum payment.

4.5.2 Term and Renewal

The terms of the agreements range from one - three years, however, the data does not provide specific reasoning for the variances in the number of years for individual agreements. Prior to expiry of the term, the communities have the option to renew entirely or sign amendments to extend the term of the initial agreements on a shorter-term basis. Of the nine communities that were inclusive of Indigenous law and governance: one is expired and was not renewed; four were up for renewal in 2022; three are up for renewal in 2023; and one is up for renewal in 2024. For comparison, there are currently 37 expired posted agreements, 38 posted agreements that were up for renewal in 2022, 16 posted agreements that are up for renewal in 2023, 38 posted agreements that are up for renewal in 2024, and six posted agreements that are up for renewal in 2025. The nine agreements that are inclusive of Indigenous law and governance do not make up a majority of the most recently signed agreements and therefore do not represent an updated approach taken by the Government of British Columbia within Forest Consultation and Revenue Sharing Agreements to allow for the inclusion of Indigenous law and governance. Rather, this is evidence that these nine Indigenous communities took their own initiative to impact the Forest Consultation and Revenue Sharing Agreement template. It is also important to note that there is only one case where an agreement that is inclusive of Indigenous law and governance has expired and was not renewed. This is important because it provides proof that there are likely not more Indigenous communities dropping out of the Forest Consultation and Revenue Sharing Agreement process due to the lack of availability for inclusivity of Indigenous law and governance. Rather, the communities are renewing and continuing with the program, with the exception of the Ahousaht First Nation who did not renew.

4.6 Cooperation and Support Against Protest

The nine communities that included language within the agreements that were reflective of the values of Indigenous law and governance did not have these values reflected within the binding terms of the agreements. An intriguing section included in all the agreements is identified as either Section 8 or Article 11 and is titled either Stability for Land and Resource Use or Assistance with subsections of Cooperation and Support and Non-Interference depending on the restructuring of the agreement template. This Section was labeled as Section 8.0 prior to the template change in 2016 and was modified to be at Article 11 in the 2016 template change. Only one of the current active agreements still has this as Section 8.0 due to their original Agreement being signed prior to the template change in 2016, and the remainder of the active agreements have this as Section 11. All of the expired agreements, except one, have this as Section 8, with one having it as Section 7, and all of these in the expired agreements are titled Stability for Land and Resource Use. Article 11 within the 2016 template update is titled Assistance and has two sub sections titled Non-interference and Cooperation and Support. Within this section, communities are expected to agree to certain terms of preventing their community members from impeding on the forestry activities that they are revenue sharing in as per the agreements. Although the section numbers and titles have changed in all except for one of the active agreements, the intent of this section largely has remained the same over time.

Despite appearing under different numbered articles and sections, each agreement has some variation of this term and there is a range of the willingness and promptness to which the Indigenous community agreed to engage with and react to protest from their community members on the forestry activity occuring as a part of the agreement. The examples below are from two communities which have evidence of Indigenous law and governance values within the agreements, though have two varied promises for actioning cooperation and support against protest by their community members:

Leq'á:mel First Nation Forest Consultation and Revenue Sharing Agreement 2022:

> *"Article 11 - Assistance*
>
> *11.1 Non-Interference. Leq'á:mel First Nation agrees it will not support or participate in any acts that in anyways interfere with provincially authorized forest activities.*
>
> *11.2 Cooperation and Support. Leq'á:mel First Nation will cooperate with and provide its support to British Columbia in seeking to resolve any action that might be taken by a member*

of First Nation[10] that is inconsistent with this Agreement."

Ahousaht Forest Consultation and Revenue Sharing Agreement 2014:

"8.0 Stability for Land and Resource Use

8.1 Ahousaht will respond to any discussions sought by British Columbia in relation to any acts of intentional interference with provincially authorized forest and/or range activities and will work co-operatively with British Columbia to assist in resolving any such matters."

[10] In consideration of the formatting of other Forest Consultation and Revenue Sharing Agreements as well as the contents of the Leq'á:mel First Nation agreement outside of Article 11, it is presumed that "First Nation" is a typographical error and is meant to refer explicitly to Leq'á:mel First Nation.

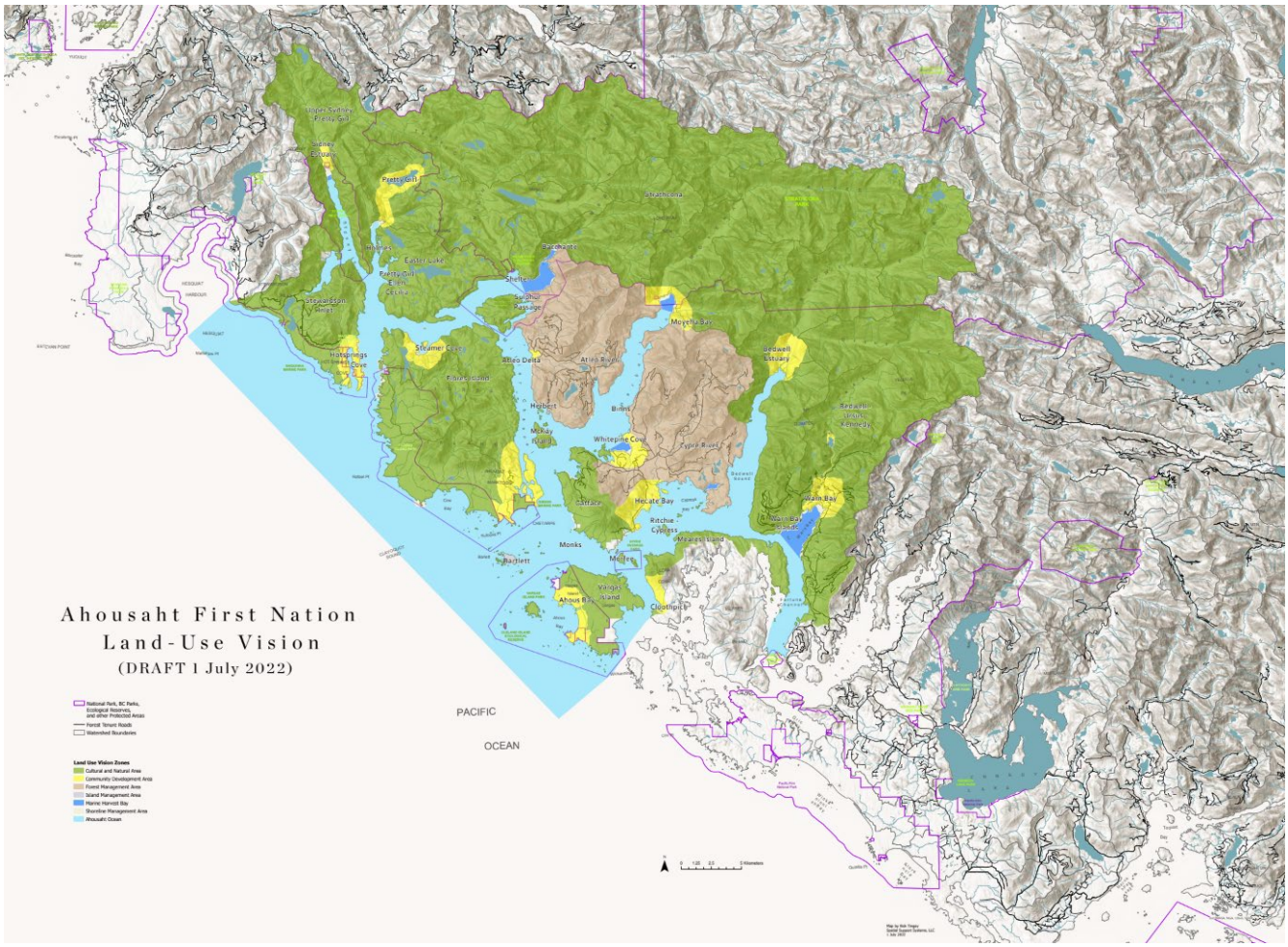


Figure 15 - Map of Ahousaht Territory, Land Use Vision. Source: Maaqutusiis Hahoulthee Stewardship Society 2022

Other than the sections representing numerical difference such as terms, percentages and first instalments, the section representing terms which dictate the required cooperation and support against protest is the most amendable binding portion seen within the Forest Consultation and Revenue Sharing Agreement templates. This Section, therefore, is representative of the perceived negotiation capacity by each community. There were four discernable categories of variance seen through all 123 analyzed agreements. These categories were represented, coded, and justified as follows:

- Compliant: Indicating full and immediate response to requests for intervention by the Government of British Columbia. No modifications to the most common templated terms

were implemented.

- Compliant/Cooperative: Indicating full and timely response to requests for intervention by the Government of British Columbia. A minor modification to the most common templated terms was implemented.
- Cooperative: Indicating moderate and timely response to requests for intervention by the Government of British Columbia. Moderate modifications to the most common templated terms were implemented.
- Considerate: Indicating a consideration to eventually respond to requests for intervention by the Government of British Columbia. Major modifications to the most common templated terms were implemented.

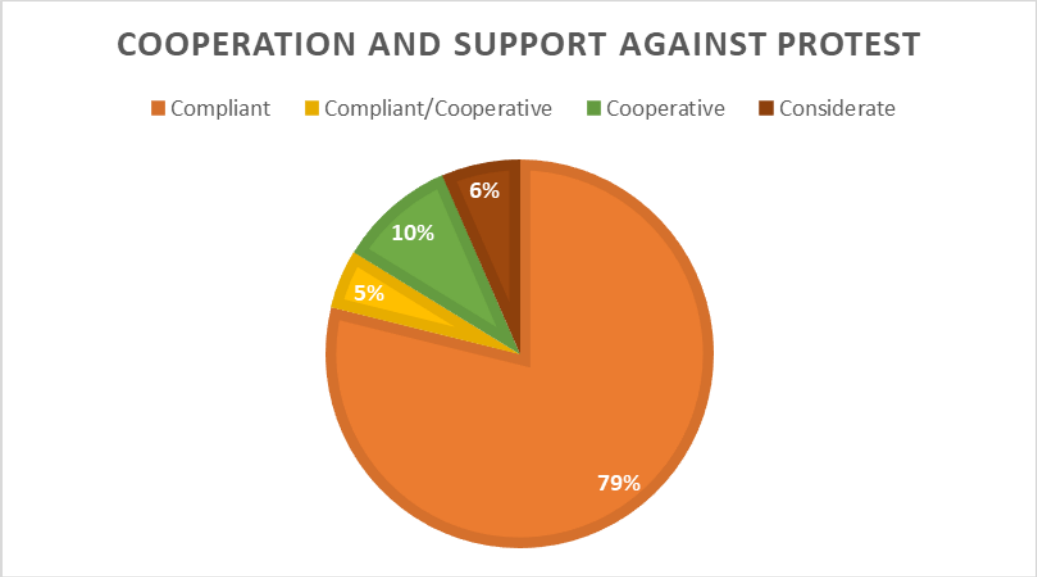


Figure 16 - Categorized Variance of Language of the Section Representing Cooperation and Support Against Protest in 123 Forest Consultation and Revenue Sharing Agreements

Figure 16 represents the percentage distribution of coded categories among all 123 Forest Consultation and Revenue Sharing Agreements. Ninety-seven of the agreements maintained templated terms of compliance, six of the agreements implemented a minor modification and were indicated as compliant/cooperative, 12 agreements implemented a moderate modification and were indicated as cooperative, and eight agreements implemented a major modification to the Article representing cooperation and support against protest and were indicated as considerate.

To determine whether there was any correlation between newer agreements and increased modifications through negotiation capacity to Article 11, the coded categories were averaged according to the year that the agreements were signed in order to account for the varied number of available agreements for each specific year. The modifications were then scaled according to the most impactful modifications. The result of this analysis, as shown below in Table 3, indicates that the year in which the template was changed, 2016, saw the most modifications and most agreements representing considerate changes to the templated terms. Despite this one year of interest, there is no demonstrated correlation between modifications of the terms in Article 11 and the newer agreements. This indicates that negotiation capacity and opportunity for Indigenous communities within the binding terms of the Forest Consultation and Revenue Sharing Agreements has not improved over time. It also demonstrates that the change of the template may have had an immediate impact on opportunity for negotiating within Article 11, but that opportunity was isolated within that one year.

Table 3 - Scaled modifications of Article 11 by year of Agreement signing

Scale	**1** Considerate	**2**	**3** Cooperative	**4**	**5** Compliant/Cooperative	**6**	**7** Compliant
Year	2016	2013	2014	2021	2018 2022	2019	2011 2012 2015 2017 2020

Another potential determinate of negotiating capacity may be represented by the first instalment amount listed within each Forest Consultation and Revenue Sharing Agreement. The potential for the first instalment amount to impact negotiating capacity may be indicated by a larger territorial land base of which the instalment is based off, increased access to funding to procure technical capacity to support negotiation, or a larger capacity pool by which to access considering population over a larger land base. Considering the information on Indigenous community provided in Section 1.3 of this thesis, First Nation membership under the Indian Act is not an accurate representation of the Indigenous population within each community. Therefore, territorial land base is a more appropriate representation of the available internal community capacity pool.

To analyze for improved opportunity for negotiation capacity over time using the first instalment

variable, the first instalments were averaged for each year, again in order to account for the varied number of available agreements for each specific year. The results indicate that there is no considerable change in first instalment amount from the signing of the first posted agreement in 2011 to the signing of the last posted agreement in 2022. Additionally, to determine whether the scaled modifications of Article 11 and the highest average first instalments are correlated which would indicate overall increased negotiation capacity for a given year, the average coded categories of modifications and the average first instalments for each year of signed agreements, as shown below in Figure 17, were compared. The results indicate that there is no single year where the scaled modifications of Article 11 and the average amount for the first instalment align. This indicates inconsistency in negotiating opportunity and capacity for Indigenous communities within the Forest Consultation and Revenue Sharing Agreements.

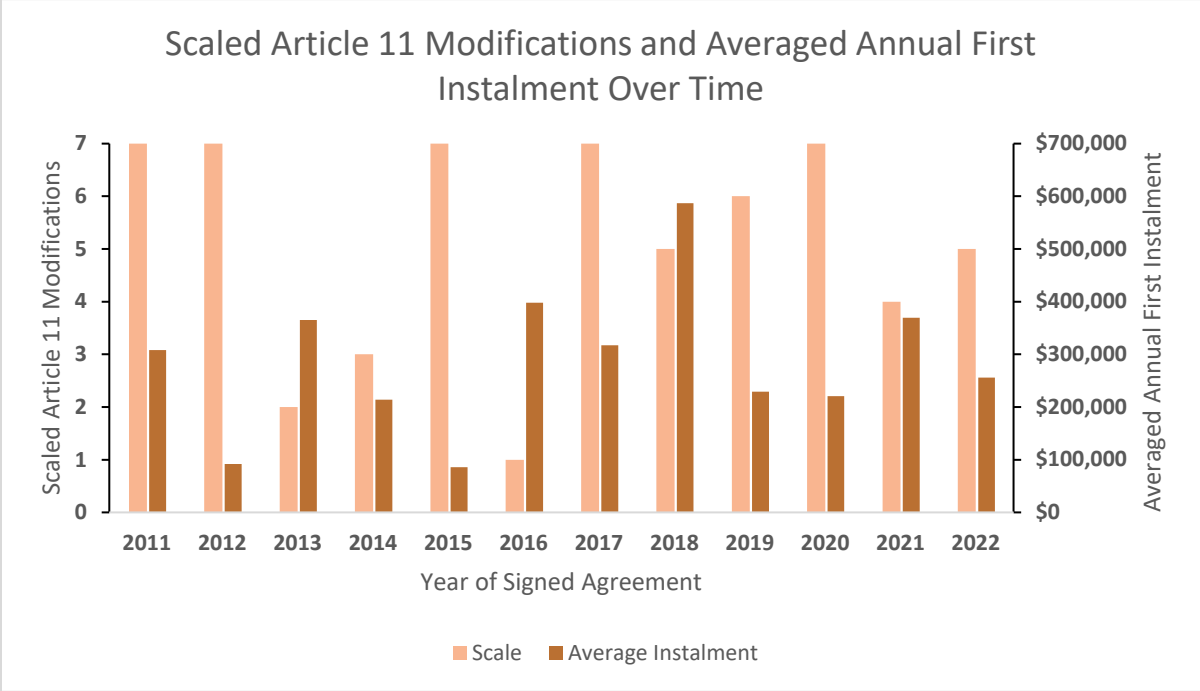


Figure 17 - Scaled Article 11 modifications and averaged annual first instalment over time

Table 4 below showcases the nine agreements, the sections in which the language against protest was included, along with a condensed summary of the anti-protest terms which each community agreed to. From the data analyzed it can be noted that there was no correlation between the strength of the included Indigenous law and governance language within each agreement and the corresponding

willingness to stop protest from community members.

Table 4 - Cooperation and Support Against Protest summaries within nine communities inclusive of Indigenous law and governance within Forest Consultation and Revenue Sharing Agreement

Community	Section	Summary
Ahousaht First Nation	8.0 Stability for Land and Resource Use	Will respond to discussions to specific issues and work co-operatively to resolve
Penticton Indian Band	10.1 Assistance	Will work collaboratively to address concerns
Xaxli'p First Nation	11.1 Cooperation and Support	Will work in partnership to seek to resolve issues in relation to any action that may be taken
Sumas First Nation	11.1 Non-interference 11.2 Cooperation and Support	Will cooperate and provide support
Gitwangak First Nation	11.1 Cooperation and Support	Will respond promptly to any discussions to specific issues and work co-operatively to resolve
Gitanyow Hereditary Chiefs	11.1 Cooperation and Support	Will promptly and fully cooperate to resolve any action that may be taken
Cheam First Nation	11.1 Non-interference 11.2 Cooperation and Support	Will promptly and fully cooperate to resolve any action that may be taken
Leq'á:mel First Nation	11.1 Non-interference 11.2 Cooperation and Support	Will promptly and fully cooperate to resolve any action that may be taken
Lower Similkameen Indian Band	11.1 Non-interference 11.2 Cooperation and Support	Will promptly and fully cooperate to resolve any action that may be taken

Within the excerpts above the differences in language that are more cooperative to the terms against protest can be noted. Leq'á:mel First Nation, as represented by a chief and council governance structure, has agreed to fully cooperate with the Province promptly to resolve any

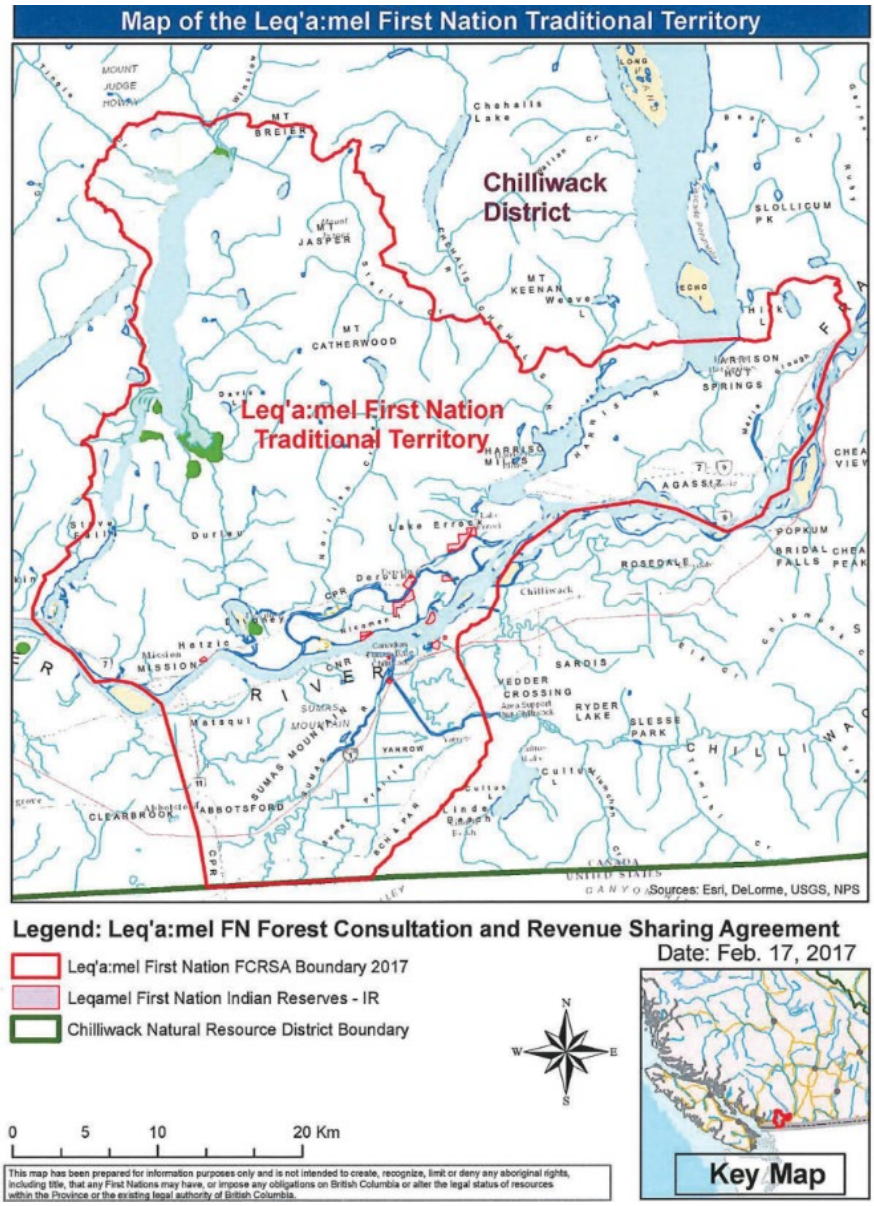


Figure 18 - Map of Leq'á:mel Territory. Source: Leq'á:mel Forest Consultation and Revenue Sharing Agreement Appendix A (2017)

matters regarding their community members and the agreed upon forestry activity. In contrast, Ahousaht First Nation, as represented by a hereditary governance structure, agrees that it will engage in mere discussion with the Government of British Columbia on similar matters of protest, and will work co-operatively to assist in resolving. Both of these communities have worked to include Indigenous law and governance values into their agreements, though in the case of the Leq'á:mel

First Nation and many other communities that have signed Forest Consultation And Revenue Sharing Agreements, they are more agreeable to helping silence their community members on matters of the impacts of forestry in which they are revenue sharing through signing of these agreements.

Out of the nine agreements that were inclusive of Indigenous law and governance values, five of them negotiated terms for this section that did not require them to immediately assist the Government of British Columbia with matters of interference of the forestry activity within the agreements and interfere with the actions of community members.

The significance of the wording within this section considers values of Indigenous law and governance and the importance to reflect the collective. Under a cultural law and governance structure, the concept of oneness with the community and with the environment within the territories would not allow for a singular representative to restrict the voice and actions of others within that same community and within the same territories. Upholding a mandate of Indigenous law and governance within this section would include wording that would reference the collective and perhaps a community-based approach to dispute resolution. Therefore, this section in its strictest terms, as seen in the Leq'á:mel First Nation example above, is not representative of Indigenous law and governance values, despite its inclusion in all the agreements including those which have made efforts to include Indigenous law and governance values. It can be argued that the communities that opted to negotiate less compliant terms within this section were making efforts to be more reflective of cultural values while still having to adhere to a formal Western legal contract template.

4.6.1 Impacts of the Inclusion of Indigenous Law and Governance Values

What is clear from this analysis is that Indigenous communities participating in Forest Consultation and Revenue Sharing Agreements are greatly restricted by the drafted contract template that is provided by the Government of British Columbia considering that there are attempts by communities to include Indigenous law and governance values, but these values continue to be absent within the binding terms. Despite there not being a blank template posted by the Government of British Columbia that is available for public viewing, the fact that 123 Indigenous communities within the province have, in many sections, word for word the exact same terms. It is evident that the negotiation process was limited to specific sections and did not play a role in the construction of the template, at least for the most recently signed agreements. This is aligned with the expectations of this

thesis. Any attempts at inclusion of Indigenous law and governance within the agreements would not have direct impact on the terms or outcome of the signed agreement and subsequent forestry activity.

4.6.2 Impacts of the Inclusion of Non-Market Valuation

The valuation within these agreements as observed through the agreed upon revenue sharing percentage is demonstrated as revealed through the agreed upon compensation measures. The presentation made within the Forest Consultation and Revenue Sharing Agreements is largely that of a shared benefit rather than a compensation measure. The valuation to which the community would assign non-market goods impacted by the forestry activity is implied through the revenue sharing amount they agreed to as they are accepting the resulting impacts. This is aligned with the expectations of this thesis that non-market valuation would be a factor within the compensation measures, though would not be detailed and therefore it would be unknown if the monetary benefit would be adequate for the associated impending impacts from the forestry activity.

4.7 Total Economic Value of Compensation and Shared Revenue

As previously discussed in Chapter 2, the total economic value under Indigenous law and governance would have option, bequest, and existence values as non-use values. Within the Forest Consultation and Revenue Sharing Agreements, the inclusion of Indigenous law and governance values would incorporate the consideration of all option, bequest and existence values within the territories, as the determined shared revenue is equal to the total economic value. The total economic value of the Forest Consultation and Revenue Sharing Agreements is equal to the compensation package that includes both the capacity funding and the revenue sharing arrangement agreed to by each Indigenous community. Therefore, option, bequest and existence values would be valued under this compensation package. Found within the data extracted from the agreements is consistent with what was expected: there is no explicit mention of use values or option, bequest and existence values and therefore the valuation is incomplete and not entirely representative of the values within each individual Indigenous community.

4.8 Identify Limitations

The limitation of these findings is first noted as being restricted to one variety of impact benefit agreement for one specific natural resource, and that is the Forest Consultation and Revenue Sharing Agreementfor forestry activity. Considering that Forest Consultation and Revenue Sharing Agreements are only one form of revenue sharing agreement for one resource within the Province of British Columbia, results of similar analysis using data from other forms of agreements pertaining to other resources and industries may have different results. Nevertheless, having one document that is applicable to 136 Indigenous communities out of 203 within the Province of British Columbia is significant (Government of Canada, 2023).

Additionally, consideration must be made for the Forest Consultation and Revenue Sharing Agreements being made strictly between the Government of British Columbia and Indigenous communities, with no engagement with industry. There are many examples of impact benefit agreements between Indigenous communities and industry directly, though those are often confidential and do not have the same land base applicability to tenure where the Government of British Columbia maintains jurisdiction. Regardless, the results may vary in the analysis of impact benefit agreements used in negotiation with private industry representatives as opposed to negotiation with governments.

As noted earlier, the Forest Consultation and Revenue Sharing Agreement template in its original form as provided to Indigenous communities to start negotiations is not publicly available and therefore cannot be used as the basis for this analysis. The limitation being the public is not privy to the opportunities or amendments to the terms that are offered to communities or presented by communities through negotiation. It is also very important to note that it is not publicly known what capacity the communities have access to so as to effectively engage in balanced negotiation. This is critical as the Government of British Columbia has access to essentially unlimited technical experts, both internal and external contractors,on matters of forestry and this same level of resourcing is not usually available to Indigenous communities. Engaging technical experts requires funding resources as well as administrative and project management resources.

Another notable limitation is that not all of the 123 Forest Consultation and Revenue Sharing Agreements analyzed for this research are currently active. The reasoning for a specific agreement to not be renewed is not published publicly. Reasonings may include that the community no longer

wants to engage in the program, or the community is engaging in a different agreement outside of Forest Consultation and Revenue Sharing Agreement that includes the forestry activity within their territory. Also noted from the Government of British Columbia hosting the signed agreements that many communities are entering into agreements or memorandums of understanding that encompass more values rather than just a single resource as with the Forest Consultation and Revenue Sharing Agreements. Therefore, a number of communities within the provincial boundaries of British Columbia are not engaged in the Forest Consultation and Revenue Sharing Agreement process, though may still be active in revenue sharing or compensation-based agreements by other means including Reconciliation Agreements, Conservation Agreements, or Memorandums of Understanding.

4.9 Summary of Findings

The findings concluded from the analysis of the Forest Consultation and Revenue Sharing Agreement documents aligned with the anticipated findings of this thesis: Indigenous law and governance and non-market valuation are not integrated into the Forest Consultation and Revenue Sharing Agreements despite the high importance of the recognition of Indigenous values and perspectives on matters of natural resource management within Indigenous territories. It was found that the agreements are restrictive due to the fact that they follow a specific template that limits opportunity for negotiation outside of strict Western law terms that provide advantage to the non-Indigenous Western law-abiding party, namely the Government of British Columbia.

Within the current Forest Consultation and Revenue Sharing Agreement templates there remains an opportunity to recognize Indigenous law and governance and non-market valuation into the binding terms. Within the witnessed binding terms, opportunities to further define compensation through detailing the impacts of the forestry activity and analyzing their associated valuation under a cultural mandate. Additionally, there is opportunity with the terms requiring cooperation and support against protest of the forestry activities as part of the agreements to be more reflective of a collective community approach than would be expected under a cultural mandate.

Chapter 5
Discussion

5.1 Real Reconciliation

> *"Reconciliation is an ongoing process through which Indigenous peoples and the Crown work cooperatively to establish and maintain a mutually respectful framework for living together, with a view of fostering strong, healthy, and sustainable Indigenous nations within a strong Canada. As we build a new future, reconciliation requires recognition of rights and that we all acknowledge the wrongs of the past, know our true history, and work together to implement Indigenous rights"* (Government of Canada 2021)

There is no single definition for what reconciliation means to Indigenous communities within British Columbia. Reconciliation is not a favour, and decolonization is not an absolute possibility. Making amends of past wrongdoings is not necessary to just be polite, and completely decoupling from colonial ideologies and opportunities because of past wrongdoings is not logical. Particularly considering that, over time, Indigenous communities in British Columbia have had significant exposure and forced reliance on colonial systems that have required their own systems to evolve. Further decoupling is not the path forward. Recognition, reinvigoration and integration is, nevertheless, a path forward. This means not just recognition and integration for Indigenous communities, but for external governments, industries and societies who live amongst Indigenous communities and within Indigenous territories. As Indigenous communities have been subject to colonial measures since contact, the opportunity and need for the inverse is apparent, but in a more effective way. Economic considerations that embody actual environmental and socioeconomic impacts of natural resource management decision-making would have massive implications for realizing stewardship, economic prosperity and reconciliation for both the Indigenous and non-Indigenous populations of British Columbia (Iniesta-Arandia et al., 2014; Schmidt et al., 2017; Tadesse et al., 2014; Villegas-Palacio et al., 2016).

Within international accounting standards, arguments are being made for integration of non-market valuation and natural capital, and this should not exclude Indigenous values. In the analysis of costs and benefits to each party participating in the Forest Consultation and Revenue Sharing Agreements, who comes out on top? The intent of impact benefit agreements is to acknowledge that there is a negative impact occurring to a specific population and to apply a benefit to ensure that no one is more

negatively affected than the other because of the activity (Craik et al., 2017; Dreyer & Myers, 2004; Fidler & Hitch, 2007; O'Faircheallaigh, 2018). Within Forest Consultation and Revenue Sharing Agreements, Indigenous communities receive monetary benefit and therefore are perceived as participating in the forestry activities happening within their own territory. The Government of British Columbia, in contrast, gives up a nominal amount while maintaining their authority over provincial resources within Indigenous territories. They receive the accolade of accomplishing consultation and obtaining consent from Indigenous communities, which is key under the United Nations Declaration on the Rights of Indigenous Peoples and the British Columbia Declaration Act, and they even receive agreement to limit protest from entire Indigenous populations. Introducing the intended Pareto efficiency of impact benefits agreements, though within the realm of Indigenous law and governance requires a more thoughtful approach to the more classic economics of costs and benefits. The concept of Pareto efficiency requires that there be at least one winner, and no technical losers within a scenario, meaning that no one is in a worse position once the scenario is implemented (Houba et al., 2017). This would also certainly be the case in achieving real reconciliation. Recognition of Indigenous law and governance along with compensation and active partnership in natural resource management and land-based decision-making acts as a win-win for Crown governments holding true to reconciliation commitments.

Within the Forest Consultation and Revenue Sharing Agreement agreements analyzed in this thesis, the winners are those who are initiating and carrying out the forestry activity, the Crown Government of British Columbia. The non-losers are those who agree to accept compensation to offset any of the negative impacts that will incur as a result of this forestry activity. The non-losers in this case would be coming out at net-zero, neither better nor worse off under this theory. This is a favourable justification for the impact benefit agreement process and for the legal template to be developed and maintained by the winners rather than the non-losers. Even though this economic theoretical approach demonstrates a mutually decent agreement in the case of the Forest Consultation and Revenue Sharing Agreement, the actual Pareto efficiency would be impacted by non-market considerations and therefore cannot be fully realized through the current agreement terms. The literature acknowledges Pareto efficiency as a mere theory that does not apply directly to real world situations (Houba et al., 2017). The attempts through policy such as Forest Consultation and Revenue Sharing Agreement to try and maximize utility by making sure everyone involved is a non-loser is not realistic, nor based on efforts towards true reconciliation.

Though the Forest Consultation and Revenue Sharing Agreements seem to be one sided from this economic perspective, Indigenous communities cannot be faulted for engaging in them. There are currently no other means of Indigenous engagement in forest revenue sharing other than through long-term negotiated reconciliation agreements, or memorandums of understanding, through more serious protest, through direct negotiation, or participation with forest industry and operations. The answer to the issue is not for Indigenous communities to necessarily refuse engagement, however, but for the Government of British Columbia to recognize their responsibility under their own reconciliation commitments and amend terms to better facilitate adequate recognition of Indigenous law and governance and more adequate representation of the valuation of negative impacts resulting from natural resource decision making within Indigenous territories.

5.2 Learnings

As discovered through the analysis of the Forest Consultation and Revenue Sharing Agreement data, Indigenous law and governance and non-market valuation are not properly recognized and integrated into this key process of decision-making for natural resource management of British Columbia forests. The analysis demonstrates that the Forest Consultation and Revenue Sharing Agreements are offered initially as a template that is meant to be further, though moderately, refined in its terms on a community-by-community basis. Each Indigenous community is in a distinct varied geographical location with different natural resources and reserves, each has different access to technical capacity for negotiation and administration, and each will have different systems of Indigenous law and governance which guide natural resource management and land-based decision making within their territory. The Government of British Columbia has an opportunity to provide the means for recognition of Indigenous law and governance as well as the integration of non-market valuation into these agreements to create an atmosphere of transparency and appropriate understanding of Indigenous stewardship on the land-base, though within the Forest Consultation and Revenue Sharing Agreement process, as it stands, this opportunity is missed. The gesture of revenue sharing in this case is therefore not representative of real action towards reconciliation, as it is without substance and without proper recognition of Indigenous law and governance that has stewarded the forests in the land now known as British Columbia since time immemorial.

Despite the lack of integration being demonstrated through this analysis, a clear pathway towards

general integration of Indigenous law and governance and non-market valuation in matters of natural resource management in British Columbia can be visualized. This thesis exhibits the efforts made by nine Indigenous communities within the British Columbia Forest Consultation and Revenue Sharing Agreement process to integrate Indigenous law and governance values and perspectives. It also highlights the current valuation of market and non-market goods and services taking place through the provision of compensation by revenue sharing. Comprehensive and thoughtful recognition of both Indigenous law and governance and non-market valuation, as shown through the integrated total economic value model demonstrated in Chapter 2, would be a natural resource management regime in British Columbia that is inclusive of Indigenous stewardship and cultural mandate with a focus on intergenerational equity.

5.3 Lack of Recognition

A key finding of this thesis as outlined in the previous chapter highlights the lack of recognition of Indigenous law and governance and non-market valuation within the Forest Consultation and Revenue Sharing Agreements. As introduced and discussed earlier in this thesis, it was expected that the Forest Consultation and Revenue Sharing Agreements would not be representative of Indigenous law and governance and non-market valuation despite the social, cultural, economic and environmental importance of their inclusion. The issue, as seen within the presented data, is the continued colonial approach to natural resource decision-making and the use of a generic Western legal template demonstrating a lack of actual reconciliation occurring within the Forest Consultation and Revenue Sharing Agreement process. This contractual template restricts the potential for representation of Indigenous cultural mandate within the process and acts as a mere a surface-level means of consultation with Indigenous communities on matters of natural resource management within their territories. The findings also indicate, however, that there is space for the integration of Indigenous law and governance and non-market valuation through the use of more detailed accounts in conjunction with the implementation of the revised notion of total economic value as it pertains to Indigenous law and governance.

Though this thesis similarly references the challenges of capturing Indigenous values and perspectives in the application of non-market valuation on natural resource management, it differs in offering a more prescriptive lens on how Indigenous values and perspectives are derived through law

and governance mandate. Cornell (2003) manages to capture a portion of the importance of law and governance through analyzing the success of Indigenous economic development under cultural and non-cultural governance regimes, but this approach does not explain impacts in these same terms, nor does it explain the intergenerational application of cultural governance that is addressed in this thesis.

Both Indigenous law and governance and non-market valuation have a role in sustainable development and natural resource management, not only within the Province of British Columbia and within resource-specific impact benefit agreements, but on all natural resource matters in Indigenous territories. The recognition of this role is not one that will devalue Indigenous cultural values and perspectives through exploitation or mainstreaming, but the exact opposite. Upholding Indigenous law and governance language in modern approaches to economics and natural resource management, in turn, empowers Indigenous communities to assert their knowledge and ensure that intergenerational equity transcends the limits of internal community governance.

5.4 The Guise of Consultation

> *"BC Declaration Act - 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."* (Declaration on the Rights of Indigenous Peoples Act, 2019)

Considering the Government of British Columbia's commitment to reconciliation with Indigenous communities, concerted efforts towards climate action, and implementation of the British Columbia Declaration Act, it is to be expected that modern impact benefit agreements in the province would be representative of Indigenous cultural values, nuances and needs, as well as be representative of the needs of the land base for sustainable resource use and stewardship.

Particularly when initiated by the Crown government, impact benefit agreements play a significant role in decision-making on the land base, carrying into climate change adaptation and mitigation, habitat preservation and restoration, and health and well-being. With the understanding that Indigenous law and governance embodies the Indigenous connection and oneness with the land and waters, the Forest Consultation and Revenue Sharing Agreements are clearly not reflective of

Indigenous law and governance values. Communities within British Columbia continue to enter into these agreements despite the lack of reflection of their true values as discussed briefly in the first section of this chapter. The reasons for this may be varied. Despite misalignment with Indigenous law and governance values communities may be pressured to engage in Forest Consultation and Revenue Sharing Agreements and other resource management impact benefit agreements in order to have some measure of participation in natural resource operations taking place within their territories. Without formal rights and title arrangements on the land base, Indigenous communities are often at a Western legal loss for managing and enforcing the land base activities that occur within their territories. Forest Consultation and Revenue Sharing Agreement and other impact benefit agreements, therefore, are not a means of granting land base rights, but are merely a form of consultation and a show of mediocre respect to communities that are impacted by resource extraction activities mandated by the Provincial government and carried out by industry. Indigenous communities may also be engaging in these agreements without stated Indigenous values due to a shift in their guiding law and governance. There may be communities that see the Forest Consultation and Revenue Sharing Agreements as perfectly acceptable and representative of their values, and this must be respected. A discussion for further research could consider whether or not such communities need be privy to specialized consultation processes and opportunities such as Forest Consultation and Revenue Sharing Agreements.

Despite the recognition of consultation as key to reconciliation, compensation measures, as seen through revenue sharing with the Forest Consultation and Revenue Sharing Agreements, are of similar importance to reconciliation. It is well documented that Indigenous cultural values constitute a challenge in economic valuation and require a different approach, as highlighted in the literature review published by Manero et al (2022). The lack of opportunity for detailed and tailored valuation in the case of the Forest Consultation and Revenue Sharing Agreements is therefore even beneath a mediocre respect to Indigenous communities; there is no recognition of the need for advanced economic valuation measures to represent Indigenous cultural values that would impact compensation measures. The lack of real attempts at reconciliation are made clear through the Forest Consultation and Revenue Sharing Agreements and through their lack of integration of Indigenous values and perspectives.

5.5 Oneness and Interconnectivity within Total Economic Value

Under the current method of total economic value, bequest and existence values are considered non-use and therefore require different tools than use-values for valuation. A total economic value approach considering Indigenous law and governance includes a function of time and shifts bequest and existence values to use-values in order to capture the principles of oneness and interconnectedness that many Indigenous communities in British Columbia and around the world hold true (E. R. Atleo, 2004; Hanna, 2017; Ramos-Castillo et al., 2017). Under the classic approach to total economic value, bequest and existence values are not intended to influence behavior. Under a cultural mandate, however, each of these values are a consideration of intergenerational equity efforts and most certainly influence stewardship behavior. Bequest value demonstrates the connectedness to past, present and future generations, and existence value demonstrates the connectedness to all within the territory, including what is not directly accessed. Stewardship within Indigenous territories is an active process that is not bound to what is physically present, therefore bequest and existence values under Indigenous law and governance-led stewardship are active values.

This reconsidered approach to total economic value under Indigenous law and governance may not seem like a significant shift to some, though what it does do is change the range of available tools for economic valuation and assessment for Indigenous values. As demonstrated within this thesis, the compensation measures in the Forest Consultation and Revenue Sharing Agreements demonstrate a revealed preference valuation as the Indigenous communities reveal their valuation through acceptance of the measures. Revealed preference method is technically only applicable to use-values, and in the case of a classic approach to total economic value in the analysis of the Forest Consultation and Revenue Sharing Agreement data, bequest and existence value would not be a consideration (Bateman et al., 2011; Bateman & Kling, 2020). This method would, therefore, produce a gross misrepresentation of Indigenous values and perspectives on the land-base. Use of revealed preference approach on analysis of compensation within the impact benefit agreement acts as proof that non-market values are not adequately considered given the low amount of revenue shared in contrast to the significant values held by Indigenous communities within their territories. That is, if the amended total economic value inclusive of Indigenous law and governance were implemented during negotiation of Forest Consultation and Revenue Sharing Agreement and other revenue sharing agreements, all of the use values would be considered prior to determining a compensation amount. In many cases, this would warrant more revenue than the project actually produces, proving the project

as unsustainable.

5.6 Implementation Hesitations

Non-market values can get expensive. When compared to standardized economic considerations of the costs and revenues associated with forestry harvest at an operational level, for example, accounting for the long-term environmental and social impacts that are associated with that same harvest can appear astronomical. The most holistic costing approach, however, is far more accurate in many terms, including but not limited to, future inventory forecasting, climate action, socioeconomics, habitat conservation, and overall net economic benefit. Merely stating the contributions to the labour market or to gross domestic product being provided by one particular industry does not showcase the entirety of what is being sacrificed to achieve those contributions. It can be stated that implementing the concept of even classic total economic value into natural resource management in British Columbia may be a challenge, let alone a total economic value that would be modified to meaningfully recognize Indigenous law and governance. The current state of natural resource management decision-making in British Columbia is at a juncture of needing to diversify economic activity in a particularly robust natural resource-centric economy and to modernize economic considerations while minimizing costs to social wellbeing and maximizing restorative environmental efforts.

Aside from financial hesitation, there may also be moral hesitation stemming from the implementation of a modified total economic value. Much of the non-market valuation literature recognizes the challenges with valuing the invaluable and this is particularly true with matters of cultural significance and Indigenous values (T. D. Atleo, 2021; Manero et al., 2022; Snyder et al., 2003). Moral hesitation could originate from either within the Indigenous community or from the government representation, or possibly even from external parties such as environmental nongovernmental organizations. Despite the critical importance of non-market considerations in natural resource management, this hesitation is not without merit. Integration of Indigenous values and perspectives must be done thoughtfully and comprehensibly. This includes full engagement and leadership from the participating Indigenous community, and the structuring of information safeguards depending on the needs of that community. Indigenous communities, however, do not have a responsibility to share their knowing despite the common assumption of government and

industry. It is up to the individual Indigenous community on how they exert their intelligence and perspective and to what level. Decisions to share this knowledge are also linked to the actual need for integration and valuation. When development or changes on the land base are not being negotiated, there is no actual need to value the non-market goods and services. In other words, if the status quo remains in the favour of the Indigenous community, a valuation is not only not needed but would also not be reasonably possible.

5.7 Stewardship

> *"We know that endowment funds and piecemeal government funding opportunities are not enough to sustain the stewardship requirements of places like this."*
>
> - Tyson Atleo, ʕikaatiʔus, Hereditary Leader, Ahousaht First Nation (Ancient Forest Alliance, 2018)

Identifying the bounds of stewardship are beyond the scope of this thesis, though it is worth considering what is contained within those boundaries through comparing the decisions made in exchange for negative impacts through impact benefit agreements, the recognition of Indigenous law and governance in non-market valuation. Decision making on the land base can reveal the thresholds of degradation that are acceptable under stewardship with cultural mandate, and how these thresholds differ when the cultural mandate has evolved or if colonial governance structures are applied. It is likely that the boundaries of stewardship and the allowable resource management regimes will vary on a community-to-community basis. This variance may be impacted by factors such as the Indigenous law and governance systems within each community, the number of years since first contact, the lack of acknowledgment of cultural governance by Crown government bodies and industry, or by extreme poverty or isolation caused by the Indian Act.

Oral and written history both before and after contact give a clear understanding that Indigenous communities in British Columbia had been living on the land successfully and sustainability without external guidance, mandate, restrictions or management. Stewardship at this level is beyond the early comprehension of sustainable development (Brundtland, 1987). The principle of oneness and interconnectivity of society, environment, culture and economy that Indigenous communities have historically practiced is necessary for the implementation of such stewardship. Today we can witness

a cultural evolution in Indigenous economies and economic participation through the introduction of currency, the need for labour markets and compensation of time, in order to provide the necessities to live in a modern society guided by colonial systems and markets.

Considering the lack of extractive natural resource management in Indigenous communities prior to contact, there was not exposure to the negative impacts created by modern extractive industries(Jackson, 2006; Sawyer & Gomez, 2012, 2014; Venn & Quiggin, 2007). There are no historical references, including oral histories, that indicate Indigenous communities were developing comparable extractive industries prior to these industries being introduced into Indigenous territories without initial consent or participation. What can be referenced, however, is that economically-driven resource industries, as are known today, would not hold utility to culturally mandated stewardship as understood through oral history of how Indigenous communities in British Columbia were living prior to and initially upon first contact (Jackson et al., 2014; Moggridge & Thompson, 2021; O'Garra, 2009). When there is no value obtained through a process which requires a certain amount of degradation, there is no use for the process. It has been proven that Indigenous economies, mandated by Indigenous law and governance, prior to Western market introduction did indeed have transactions and exchange of goods and services similar to modern societies today, though these good and services where under the principles of oneness and interconnectivity (Coté, 2010; Mills, 1994). Without the practice of cultural stewardship practice in production of these goods and services they did not exist. It was not a matter of function and doing one's best to maximize profit and minimize costs, or prioritizing growth and development. It was a matter of explicit necessity and responsibility to one's community.

5.8 Language

A common theme through this thesis has been the use of language and particularly the impacts of language on natural resource management within British Columbia. Language was defined within the introduction of Indigenous law and governance in this thesis, including the use of "community" and "culture". Language was analyzed within the Forest Consultation and Revenue Sharing Agreements in various ways, including the English language terms and the English language descriptions of Indigenous law and governance. Indigenous language within the agreements were also a criterion for if Indigenous law and governance was a factor. This section further explores language and the role

that it plays in the fabric of oneness and interconnectivity within Indigenous communities and to the opportunities of Indigenous law and governance and Indigenous perspective in economics and economic applications.

Though Indigenous law and governance is technically beyond what can be captured within scholarship there is opportunity for the application of a cultural mandate to economic theory and practice. The Indigenous perspective used to draft this thesis aids in the bridge between Indigenous law and governance and economic scholarship. There is a method to understanding economic terminology under a cultural mandate. These terms are still maintained in their integrity, though are interpreted in a way that adheres to a cultural mandate. Using a word such as ‘efficiency’ under cultural mandate still retains the intent of this term. Within economics, efficiency is described as an effort to maximize opportunity, or productivity, while minimizing the associated costs of that outcome(Dietz & Neumayer, 2007; Richardson et al., 2015; Seyfang, 2009). Another way to consider this term is the effort to achieve balance. Achieving balance is the driving factor for stewardship under cultural mandate. Stewardship reflects the efforts to maintain and sustain all interconnected systems within society, environment, culture and economy. The growth-centric interpretation usually associated with ‘efficiency’ is not the intent in this case. The intent of efficiency, or balance, is to achieve intergenerational equity. Intergenerational equity then, in this case, would represent optimal growth within an Indigenous, stewardship-based economy.

> *“What I see now more is that young people are encouraging our generation to stop going to government so much and asking for permission and stop compromising so much. And they are growing up in a time that is different from ours. They have more fear and anxiety around climate change and around loss of culture and species and diversity and biodiversity. They also have a freedom that we didn't. I didn't feel as free as the way young people do today. Really inspiring for me to see these people today so bold and so fearless in terms of giving us the guidance that we need to do the work. “For the work that I do on a daily basis, being guided by our teaching especially the Gitxsan of "right and responsibility we have to pass on the territory" in the same state or better to the next generation. Many of our people say that if we receive a full basket, we have to ensure that we are passing on a full basket to the next generation.”*
>
> -Tara Marsden, Indigenous Women’s Leadership: The Stewards of Conservation (Conservation through Reconciliation Partnership, 2022)

The most challenging trial connection in this thesis is the principle of oneness and interconnectivity within the realm of economics. The integral cultural teaching and principle of oneness and interconnectivity is challenging to interpret into languages other those which it originated. The use of "community" in this thesis is one way to try to demonstrate the serious nature of this teaching and how it applies in modern life. Another rudimentary method of attempting to convey this principle is through consideration of multiple accounts. Accounts within economic analysis help to articulate values in decision-making and can be broken down into indicators that can assist to relay criteria for when these accounts are impacted (Gillespie & Kragt, 2012; Hernández-Morcillo et al., 2013; Yap & Yu, 2016). Classic economic analysis within natural resource management often saw the use of isolated accounts to portray what was thought to be the most important economic data: revenue and labour. What is now starting to take shape is the application of analysis in consideration of multiple accounts, which relies on the concurrent analysis of many different accounts that form the whole picture of actual impacts (Devisscher et al., 2021; Gregory et al., 2020; Grima et al., 2018; Horne et al., 2005; Mazzanti, 2003; McDaniels & Trousdale, 2005; Schwenk et al., 2012). Rather than isolating the economy and considering if a particular project will bring jobs and revenue to an area, considering multiple accounts approach widens the analysis to many accounts under all of society, culture and the environment along with economy to depict a clearer understanding. Though this approach may still not adequately capture the principle of oneness and interconnectivity, it is more demonstrative of the interconnected cultural teaching that is necessary under Indigenous law and governance.

5.9 Concluding Remarks and Looking Forward

> *"We must now sit down with all levels of government and find a solution that creates a truly prosperous sustainable future for our people."*
>
> - Chief John Keitlah, Tlaakisshwiah Ahousaht hereditary chief (Maaqutusiis Hahoulthee Stewardship Society, 2015)

Literature and analysis exploring Indigenous values in non-market valuation is often developed external to Indigenous communities, creating a further divide and serving as another measure of colonial influence. This thesis, in contrast, is conducted by an Indigenous community member who has been raised since birth with cultural responsibilities and clearly understands the mandate of

Indigenous law and governance and its application in practice. This includes being engaged in sustainable development on the land base and supporting cultural governance decision-making in several operational and research capacities. Guided by this Indigenous perspective, this thesis demonstrates the necessary and consistent inclusion and development of Indigenous law and governance within British Columbia natural resource management. This thesis under the Indigenous perspective also demonstrates the methods and approach of application of Indigenous law and governance within economics through non-market valuation. Methods developed through Western academic contributions are applied in this thesis but are complimented by an Indigenous perspective and thorough understanding of cultural mandate and the principle of oneness and interconnectivity held within Indigenous communities.

Using document analysis for this research allowed for a comprehensive review of government-to-government forestry arrangements for communities throughout the Province of British Columbia from diverse cultural backgrounds and geographical landscapes. Careful analysis of the terms of the agreement was required, along with an understanding of how each agreement differs from the standard template that can be seen throughout all active and non-active agreements. From the Forest Consultation and Revenue Sharing Agreement data set analyzed, it is evident that neither Indigenous law and governance nor non-market valuation are a consideration and therefore do not impact the monetary compensation, nor the values associated with impacts to the social, cultural and environmental landscape caused by the forestry activity referenced within each agreement.

Considering the significant impacts of forestry activity experienced on the land base under British Columbia forestry management practices, the Forest Consultation and Revenue Sharing Agreements should act as the model for incorporating land-based stewardship values, though this thesis proves otherwise. The Forest Consultation and Revenue Sharing Agreements are meant as acts of reconciliation by a Crown government to its constituent Indigenous communities, though display a lack of recognition of Indigenous values and perspective. Despite the seemingly inflexible terms offered to Indigenous communities in these agreements, a valuation is still occurring through the agreed compensation, though the valuation being applied is equal to zero. With a valuation occurring, the agreements should allow for a more individualized approach to account for values held within each Indigenous community, but they are unsuccessful in this regard despite their intent as efforts towards reconciliation. As per the inclusion of non-market valuation in the agreements through the compensation measures and revenue sharing taking place, this means of valuation does not integrate

seamlessly into the usual methods of non-market valuation. This same limitation applied to the presence of Indigenous law and governance within the agreements does not integrate seamlessly into a limited number of words but requires a more thorough review of the terms and the intent revealed within the terms. The continuance of this research may be to engage directly with decision makers involved in these impact benefit agreements and to assign non-market values through an interview process. The interviews could then be compared to this work, and the results would reveal any reluctance towards non-market valuation within the scope of the impact benefit agreements. Future research could also dissect each agreement including the compensation measures to commence understanding of the application of Indigenous law and governance in non-market valuation not only for natural resource management but for social matters and community infrastructures as well.

This thesis has a provided further basis for Indigenous communities within the Province of British Columbia to persist in advocating for their full partnership and discretion over stewardship within their territories, in all matters of natural resource management. This thesis has also intended to open the discussion toward the inclusion of Indigenous language within economic application and the methods in which economic approaches can further account for Indigenous values and cultural mandate. Empowering the voices and oral teachings of Indigenous communities within natural resource management and economics is a complicated yet extremely necessary deliverable that this thesis has aimed to amplify. Moving towards economic considerations that recognize and account for Indigenous law and governance will serve both Indigenous and non-Indigenous communities, through application of a sustainable worldview focused on respect, reciprocity and balance in order to shape a better world for future generations.

References

Akabua, K. M., Adamowicz, W. L., & Boxall, P. C. (2000). Spatial non-timber valuation decision support systems. *Forestry Chronicle*, *76*(2). https://doi.org/10.5558/tfc76319-2

Alberini, A., & Longo, A. (2006). Combining the travel cost and contingent behavior methods to value cultural heritage sites: Evidence from Armenia. *Journal of Cultural Economics*, *30*(4), 287–304. https://doi.org/10.1007/s10824-006-9020-9

Altheide, D. L. (2000). Tracking discourse and qualitative document analysis. *Poetics*, *27*(4). https://doi.org/10.1016/S0304-422X(00)00005-X

Anaya, S. J. (1996). *Indigenous Peoples in International Law*. Oxford University Press.

Ancient Forest Alliance. (2018, August 9). *Clayoquot Tribal Parks and First Nations Old-Growth Protection*.

Andersen, M. D., Kerr, G. N., & Lambert, S. J. (2012, August). Cultural differences in environmental valuation. *New Zealand Agricultural & Resource Economics Society Conference*. https://researcharchive.lincoln.ac.nz/bitstream/handle/10182/5123/cultural_differences.pdf?sequence=1&isAllowed=y

Arrive. (2020, May 19). *Provincial spotlight: Introduction to British Columbia for newcomers*.

Atkinson, P., & Coffey, A. (2011). Analysing Documentary Realities. In D. Silverman (Ed.), *Qualitative Research: Theory, Method and Practice* (3rd ed.). Sage.

Atleo, E. R. (2004). *Tsawalk: A Nuu-chah-nulth Worldview*. UBC Press.

Atleo, E. R. (2011). *Principles of Tsawalk: An Indigenous Approach to Global Crisis*. UBC Press.

Atleo, T. D. (2021). Local Indigenous Planning Instruments for Intergenerational Equity in Ahousaht Traditional Territories of Canada. In M.-C. Cordonier Segger, M. Szabó, & A. Harrington (Eds.), *Intergenerational Justice in Sustainable Development Treaty Implementation: Advancing Future Generations Rights through National Institutions* (pp. 528–544). Cambridge University Press.

Atleo, T. D. (2022). *ʔuyaasiɬaƛ̓ ƛ̓aas, or Something happened to the weather: Applying the wisdom of Indigenous place names in a changing climate*. Canadian Climate Institute. https://climateinstitute.ca/publications/something-happened-to-the-weather/

Awatere, S. (2005). *Can non-market valuation measure indigenous knowledge?* https://doi.org/10.22004/ag.econ.137775

Ayambire, R. A., Pittman, J., Drescher, M., Moreno-Cruz, J., & Olive, A. (2022). Governance of working landscapes: a conceptual framework. *Sustainability Science*, *17*(6), 2579–2596. https://doi.org/10.1007/s11625-022-01178-z

Baker, K., Baylis, K., Bull, G. Q., & Barichello, R. (2019). Are non-market values important to smallholders' afforestation decisions? A psychometric segmentation and its implications for afforestation programs. *Forest Policy and Economics*, *100*, 1–13. https://doi.org/10.1016/j.forpol.2018.11.001

Baker, R. (2021, August 11). First Nations urged to boycott 'disingenuous' input process on B.C.'s forestry plan. *Canada's National Observer*.

Bateman, I. J., & Kling, C. L. (2020). Revealed preference methods for nonmarket valuation: An introduction to best practices. *Review of Environmental Economics and Policy*, *14*(2). https://doi.org/10.1093/reep/reaa009

Bateman, I. J., Mace, G. M., Fezzi, C., Atkinson, G., & Turner, K. (2011). Economic analysis for ecosystem service assessments. *Environmental and Resource Economics*, *48*(2), 177–218. https://doi.org/10.1007/s10640-010-9418-x

B.C. Environmental Assessment Office. (2010). *Human and Community Well-Being: Guidelines for Assessing Social, Economic, Cultural and Health Effects in Environmental Assessments in B.C.*

B.C. Ministry of Forests Lands Natural Resource Operations and Rural Development. (2022). *Socio-economic and Environmental Assessment Guidance for Modernized Land Use Plans*.

BC Treaty Commission. (2022). *Made-in-BC Negotiations*. Treaty.

Berkes, F., Colding, J., & Folke, C. (2000). Rediscovery of Traditional Ecological Knowledge as adaptive management. In *Ecological Applications* (Vol. 10, Issue 5). https://doi.org/10.1890/1051-0761(2000)010[1251:ROTEKA]2.0.CO;2

Bockstael, N. (2007). Environmental and resource valuation with revealed preferences: a theoretical guide to empirical models. *The Economics of Non-Market Goods & Resources*, *7*.

Borrows, J. (2010). Canada's indigenous constitution. In *Canada's Indigenous Constitution*.

Borrows, J. (2016). Freedom and indigenous constitutionalism. In *Freedom and Indigenous Constitutionalism*.

Borrows, J. (2019). Law's indigenous ethics. In *Law's Indigenous Ethics*. https://doi.org/10.3138/9781487531140

Borrows, L. K. (2018). *Otter's journey through indigenous language and law*. UBC Press.

Bowen, G. A. (2009). Document analysis as a qualitative research method. *Qualitative Research Journal*, *9*(2). https://doi.org/10.3316/QRJ0902027

Boxall, P., Englin, J., & Adamowicz, W. (2013). The Contribution of Aboriginal Rock Paintings to Wilderness Recreation Values in North America. In *Valuing Cultural Heritage*. https://doi.org/10.4337/9781843765455.00017

Brundtland, G. H. (1987). *Our common future*. Oxford University Press.

Bryman, A. (2015). *Social Research Methods* (5th ed.). Oxford University Press.

Cajete, G. (1999). *A people's ecology : explorations in sustainable living* (1st ed.). Clear Light Publishers.

Cajete, G. (2000). *Native science : natural laws of interdependence* (1st ed.). Clear Light Publishers.

Campbell, D., & Hunt, J. E. (2013). Achieving broader benefits from indigenous land use agreements: Community development in central Australia. *Community Development Journal*, *48*(2). https://doi.org/10.1093/cdj/bss036

Carson, R. T., Hanemann, W. M., & Whittington, D. (2020). The Existence Value of a Distinctive Native American Culture: Survival of the Hopi Reservation. *Environmental and Resource Economics*, *75*(4), 931–951. https://doi.org/10.1007/s10640-020-00412-5

Cascadden, M., Gunton, T., & Rutherford, M. (2021). Best practices for Impact Benefit Agreements. *Resources Policy*, *70*, 101921. https://doi.org/10.1016/j.resourpol.2020.101921

Chadwick, J. (2021, June 11). Q&A: What do the old-growth logging deferrals mean for Fairy Creek? A conversation with distinguished Indigenous lawyer Doug White (Kwulasultun). *The Discourse*.

Champ, P. A., Boyle, K. J., & Brown, T. C. (2017). The Economics of Non-Market Goods and Resources: A Primer on Nonmarket Valuation Second Edition. In *Springer* (Vol. 13).

Champagne, D. (2013). UNDRIP (United Nations Declaration on the Rights of Indigenous Peoples): Human, Civil, and Indigenous Rights. *Wicazo Sa Review*, *28*(1), 9. https://doi.org/10.5749/wicazosareview.28.1.0009

Christie, G. (2019). Canadian law and indigenous self-determination: A naturalist analysis. In *Canadian Law and Indigenous Self-Determination: A Naturalist Analysis*. https://doi.org/10.3138/9781442625501-001

Coastal First Nations. (2020, December 7). *Indigenous laws in Coastal BC*. https://www.youtube.com/watch?v=Vk9C6-nBaZU

Cochran, P. A. L., Marshall, C. A., Garcia-Downing, C., Kendall, E., Cook, D., McCubbin, L., & Gover, R. M. S. (2008). Indigenous ways of knowing: Implications for participatory research and community. In *American Journal of Public Health* (Vol. 98, Issue 1). https://doi.org/10.2105/AJPH.2006.093641

Coglan, L., Pascoe, S., & Scheufele, G. (2021). Availability of Non-Market Values to Inform Decision-Making in Australian Fisheries and Aquaculture: An Audit and Gap Analysis. *Sustainability*, *13*(2), 920. https://doi.org/10.3390/su13020920

Conservation through Reconciliation Partnership. (2022, October 19). *Indigenous Women's Leadership: The Stewards of Conservation*. https://www.youtube.com/watch?v=Idj0rJlJgtM&t=3327s

Cordonier Segger, M.-C. (2021). *Crafting trade and investment accords for sustainable development : Athena's treaties* (First edition.). Oxford University Press.

Cordonier Segger, M.-C., & Phillips, F. K. (2015). Indigenous traditional knowledge for sustainable development: the biodiversity convention and plant treaty regimes. *Journal of Forest Research*, *20*(5), 430–437. https://doi.org/10.1007/s10310-015-0498-x

Cordonier Segger, M.-C., & Weeramantry, C. G. (2005). Sustainable justice : reconciling economic, social and environmental law. In *Reconciling economic, social and environmental law.* M. Nijhoff Publishers.

Cornell, S. (2019). Indigenous Political Transformations in the CANZUS States. In S. Cornell, W. Nikolakis, & H. Nelson (Eds.), *Reclaiming Indigenous Governance* (pp. 15–37). University of Arizona Press. http://www.jstor.org/stable/j.ctvqc6jwv.5

Cornell, S. E., & Kalt, J. P. (2003). Reloading the dice : improving the chances for economic development on American Indian reservations. In *The Harvard Project on American Indian Economic Development* (Vol. 2).

Cornell, S. E. (Stephen E., Kalt, J. P., Native Nations Institute for Leadership, M., & Malcolm Wiener Center for Social Policy. Harvard Project on American Indian Economic Development. (2003). *Reloading the dice : improving the chances for economic development on American Indian reservations*. Native Nations Institute for Leadership, Management, and Policy.

Cornell, S., & Kalt, J. P. (2000). Where's the glue? Institutional and cultural foundations of American Indian economic development. *Journal of Socio-Economics*, *29*(5). https://doi.org/10.1016/S1053-5357(00)00080-9

Cornell, S., & Kalt, J. P. (2006). Two Approaches to Economic Development on American Indian Reservations : One Works, the Other Doesn't. *Joint Occasional Papers on Native Affairs*.

Coté, C. (2010). *Spirits of Our Whaling Ancestors: Revitalizing Makah & Nuu-chah-nulth Traditions*. UBC Press.

Coté, C. (2022). *A Drum in One Hand, A Sockeye in the Other: Stories of Indigenous Food Sovereignty from the Northwest Coast*. University of Washington Press.

Coté, C. (2022). *A drum in one hand, a sockeye in the other : stories of indigenous food sovereignty from the Northwest Coast*. University of Washington Press.

Coté, Charlotte. (2010). *Spirits of our whaling ancestors : revitalizing Makah and Nuu-chah-nulth traditions* (1st ed.). University of Washington Press.

Craik, N., Gardner, H., & McCarthy, D. (2017). Indigenous – corporate private governance and legitimacy: Lessons learned from impact and benefit agreements. *Resources Policy*, *52*. https://doi.org/10.1016/j.resourpol.2017.05.002

Creswell, W. J., & Creswell, J. D. (2018). Research Design: Qualitative, Quantitative adn Mixed Methods Approaches. In *Journal of Chemical Information and Modeling* (Vol. 53, Issue 9).

Daw, T. M., Coulthard, S., Cheung, W. W. L., Brown, K., Abunge, C., Galafassi, D., Peterson, G. D., McClanahan, T. R., Omukoto, J. O., & Munyi, L. (2015). Evaluating taboo trade-offs in ecosystems services and human well-being. *Proceedings of the National Academy of Sciences of the United States of America*, *112*(22). https://doi.org/10.1073/pnas.1414900112

de Groot, R. S., Wilson, M. A., & Boumans, R. M. J. (2002). A typology for the classification, description and valuation of ecosystem functions, goods and services. In *Ecological Economics* (Vol. 41). www.elsevier.com/locate/ecolecon

Destination BC Corp. (2019, April). *BC Fact Sheet*. Https://Www.Hellobc.Com/Content/Uploads/2019/04/TM_BCFactSheet.Pdf.

Devisscher, T., Spies, J., & Griess, V. (2021). Time for change: Learning from community forests to enhance the resilience of multi-value forestry in British Columbia, Canada. *Land Use Policy*, *103*. https://doi.org/10.1016/j.landusepol.2021.105317

Dietz, S., & Neumayer, E. (2007). Weak and strong sustainability in the SEEA: Concepts and measurement. *Ecological Economics*, *61*(4), 617–626. https://doi.org/10.1016/j.ecolecon.2006.09.007

Diver, S. (2017). Negotiating Indigenous knowledge at the science-policy interface: Insights from the Xáxli'p Community Forest. *Environmental Science & Policy*, *73*, 1–11. https://doi.org/10.1016/J.ENVSCI.2017.03.001

Dreyer, D., & Myers, H. (2004). Impact and Benefits Agreements : Do the Ross River Dena benefit from Mineral Projects? In *Materials and Structures* (Vol. 37, Issue 10).

Duffield, J. (1997). Nonmarket valuation and the courts: The case of the Exxon Valdez. *Contemporary Economic Policy*, *15*(4). https://doi.org/10.1111/j.1465-7287.1997.tb00493.x

Duffield, J. W., Neher, C. J., & Patterson, D. A. (2019). Natural resource valuation with a tribal perspective: a case study of the Penobscot Nation. *Applied Economics*, *51*(22), 2377–2389. https://doi.org/10.1080/00036846.2018.1543942

Elkington, J. (1998). *Cannibals with Forks: The Triple Bottom Line of 21st Century Business*. New Society Publishers.

Epstein, R. A. (2003). The regrettable necessity of contingent valuation. *Journal of Cultural Economics*, *27*(3–4). https://doi.org/10.1023/A:1026375220210

Ferraris, M. (2013). Documentality: Why it is necessary to leave traces. In *Documentality: Why It Is Necessary to Leave Traces*. Fordham University Press.

Ferraris, M., & Martino, V. (2018). What is documediality and why traces, documents and archives are normative. *Law, Text, Culture*, *22*, 21–30.

Fidler, C. (2010). Increasing the sustainability of a resource development: Aboriginal engagement and negotiated agreements. *Environment, Development and Sustainability*, *12*(2). https://doi.org/10.1007/s10668-009-9191-6

Fidler, C., & Hitch, M. (2007). Impact and benefit agreements: A contentious issue for environment and aboriginal justice. *Environments*, *35*(2).

Fine, J. C., & Love-Nichols, J. (2021). Language and climate justice: A research agenda. In *Journal of Sociolinguistics* (Vol. 25, Issue 3). https://doi.org/10.1111/josl.12469

First Peoples' Cultural Council. (2018). *Report on the Status of B.C. First Nations Languages*.

First Peoples' Cultural Council. (2019). *First Nations Languages in British Columbia*.

Food and Agriculture Organization of the United Nations. (2016). *Free Prior and Informed Consent: An indigenous people' right and a good practice for local communities*.

Forest Service British Columbia. (n.d.). *Biogeoclimatic Maps*. https://www.for.gov.bc.ca/hre/becweb/resources/maps/ProvinceWideMaps.html

Frey, B. S. (1997). Evaluating Cultural Property: The Economic Approach. *International Journal of Cultural Property*, *6*(2). https://doi.org/10.1017/S0940739197000313

Frey, B. S. (2005). What Values Should Count in the Arts? The Tension between Economic Effects and Cultural Value. In *IDEAS Working Paper Series from RePEc*. Federal Reserve Bank of St Louis.

Frey, G. E., Alexander, S. J., Chamberlain, J. L., Blatner, K. A., Coffin, A. W., & Barlow, R. J. (2019). Markets and Market Values of Nontimber Forest Products in the United States: A Review, Synthesis, and Identification of Future Research Needs. *Journal of Forestry*, *117*(6), 613–631. https://doi.org/10.1093/jofore/fvz051

Gadgil, M., Berkes, F., & Folke, C. (2021). Indigenous knowledge: From local to global. *Ambio*, *50*(5). https://doi.org/10.1007/s13280-020-01478-7

Galley, V. (2016, June 1). Revitalizing Indigenous languages is key to reconciliation. *Policy Options*.

Gardner, S. E. B. (2004). Tset Hikwstexw te Sqwelteltset: We Hold Our Language High. *Canadian Journal of Native Education*, *28*(1–2), 130–148.

Garner, B. A. (2014). *Black's Law Dictionary*. Thomson Reuters.

Gillespie, R., & Kragt, M. E. (2012). Accounting for Nonmarket Impacts in a Benefit-Cost Analysis of Underground Coal Mining in New South Wales, Australia. *Journal of Benefit-Cost Analysis*, *3*(2). https://doi.org/10.1515/2152-2812.1101

Gitanyow Hereditary Chiefs. (2013). *Gitanyow Laxyip Land Use Plan -All Zones*. https://www.gitanyowchiefs.com/media/maps/

Gitanyow Hereditary Chiefs. (2018). *Gitwangak Laxyip Strategic Engagement Agreement*. https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/consulting-with-first-nations/agreements/gitwangak_sea_final_all_parties_signed.pdf

Godden, D. (1999). Attenuating indigenous property rights: Land policy after the Wik decision. *Australian Journal of Agricultural and Resource Economics*, *43*(1). https://doi.org/10.1111/1467-8489.00066

Gogal, S., Reigert, R., & Jamieson, J. (2005). Aboriginal Impact and Benefit Agreements: Practical Considerations. *Alberta Law Review*. https://doi.org/10.29173/alr479

Gitxsan Development Corporation. (2018). *Governance.* https://gitxsanbusiness.com/governance

Constitution Act, Section 35, (1982).

Indian Act, (1985).

Government of Canada. (2021). *Welcome to First Nation Profiles*. https://fnp-ppn.aadnc-aandc.gc.ca/fnp/Main/Index.aspx?lang=eng

Government of Canada. (2022a). *General Hourly Minimum Wage Rates in Canada since 1965*. https://srv116.services.gc.ca/dimt-wid/sm-mw/rpt2.aspx

Government of Canada. (2022b). *Leadership selection in First Nations*. https://www.sac-isc.gc.ca/eng/1323195944486/1565366893158

Government of Canada. (2022c). *Welcome to the First Nation Profiles Interactive Map*. https://geo.aadnc-aandc.gc.ca/cippn-fnpim/index-eng.html

Government of Canada. (2023). *British Columbia region*. https://www.sac-isc.gc.ca/eng/1100100021003/1612465942223

Graben, S. (2013). Rationalizing Risks to Cultural Loss in Resource Development. *Canadian Journal of Law and Jurisprudence*, *26*(January), 83–114.

Gratani, M., Sutton, S. G., Butler, J. R. A., Bohensky, E. L., & Foale, S. (2016). Indigenous environmental values as human values. *Cogent Social Sciences*, *2*(1). https://doi.org/10.1080/23311886.2016.1185811

Gregory, R., Halteman, P., Kaechele, N., Kotaska, J., & Satterfield, T. (2020). Compensating indigenous social and cultural losses: A community-based multiple-attribute approach. *Ecology and Society*, *25*(4). https://doi.org/10.5751/ES-12038-250404

Gregory, R., & Trousdale, W. (2009). Compensating aboriginal cultural losses: An alternative approach to assessing environmental damages. *Journal of Environmental Management*, *90*(8). https://doi.org/10.1016/j.jenvman.2008.12.019

Grima, N., Singh, S. J., & Smetschka, B. (2018). Improving payments for ecosystem services (PES) outcomes through the use of Multi-Criteria Evaluation (MCE) and the software OPTamos. *Ecosystem Services*, *29*, 47–55. https://doi.org/10.1016/j.ecoser.2017.11.019

Guerrettaz, A. M. (2020). “We are the mayas”: Indigenous language revitalization, identification, and postcolonialism in the Yucatan, Mexico. *Linguistics and Education*, *58*. https://doi.org/10.1016/j.linged.2019.100765

Gunton, C., & Markey, S. (2021). The role of community benefit agreements in natural resource governance and community development: Issues and prospects. *Resources Policy*, *73*. https://doi.org/10.1016/j.resourpol.2021.102152

Gunton, T., Werker, E., & Markey, S. (2021). Community benefit agreements and natural resource development: Achieving better outcomes. *Resources Policy*, *73*. https://doi.org/10.1016/j.resourpol.2021.102155

Gwartney, P. A., Fessenden, L., & Landt, G. (2002). Measuring the Long-Term Impact of a Community Conflict Resolution Process: A Case Study Using Content Analysis of Public Documents. *Negotiation Journal*, *18*(1), 51–74. http://search.proquest.com.proxy.lib.uwaterloo.ca/scholarly-journals/measuring-long-term-impact-community-conflict/docview/205183603/se-2?accountid=14906

Haab, T. C., Huang, J. C., & Whitehead, J. C. (2012). Preference data for environmental valuation: Combining revealed and stated approaches. In *Preference Data for Environmental Valuation: Combining Revealed and Stated Approaches*. https://doi.org/10.4324/9780203828991

Haab, T., & McConnell, K. (2013). Valuing Environmental and Natural Resources. In *Valuing Environmental and Natural Resources*. https://doi.org/10.4337/9781843765431

Hamilton, R., Borrows, J., Mainprize, B., Beaton, R., & Nichols, J. B. D. (2021). Wise Practices: Exploring Indigenous Economic Justice and Self-Determination. In *Wise Practices: Exploring Indigenous Economic Justice and Self-Determination*.

Hankivsky, O. (2018). Gender-Based Analysis Plus in Canada. *Canadian Public Policy*, *44*(4).

Hankivsky, O., & Mussell, L. (2018). Gender-based analysis plus in Canada: Problems and possibilities of integrating intersectionality. *Canadian Public Policy*, *44*(4). https://doi.org/10.3138/cpp.2017-058

Hanna, D. (2017). *Legal Issues on Indigenous Economic Development*. LexisNexis Canada Inc.

Harland, F. (2021). Introduction: Moving from the Why to the How of Indigenous Law. *McGill Law Journal*, *61*(4), 721. https://doi.org/10.7202/1038486ar

Hernández-Morcillo, M., Plieninger, T., & Bieling, C. (2013). An empirical review of cultural ecosystem service indicators. In *Ecological Indicators* (Vol. 29). https://doi.org/10.1016/j.ecolind.2013.01.013

Hill, C., Lillywhite, S., & Simon, M. (2010). Guide to Free Prior and Informed Consent. *OXFAM Australia*.

Horne, P., Boxall, P. C., & Adamowicz, W. L. (2005). Multiple-use management of forest recreation sites: A spatially explicit choice experiment. *Forest Ecology and Management*, *207*(1-2 SPEC. ISS.), 189–199. https://doi.org/10.1016/j.foreco.2004.10.026

Hosen, N., Nakamura, H., & Hamzah, A. (2020). Adaptation to climate change: Does traditional ecological knowledge hold the key? *Sustainability (Switzerland)*, *12*(2). https://doi.org/10.3390/su12020676

Houba, H., Luttens, R. I., & Weikard, H. (2017). Pareto efficiency in the jungle. *Review of Economic Design*, *21*(3), 153–161. https://doi.org/https://doi.org/10.1007/s10058-017-0199-3

Hummel, C. (2019). Behind the Curtain, Impact Benefit Agreement Transparency in Nunavut. In *Osgoode. Hall. Law. School).;. student* (Vol. 60, Issue 2). https://doi.org/https://doi.org/10.7202/1060981a

Iniesta-Arandia, I., García-Llorente, M., Aguilera, P. A., Montes, C., & Martín-López, B. (2014). Socio-cultural valuation of ecosystem services: Uncovering the links between values, drivers of change, and human well-being. *Ecological Economics*, *108*, 36–48. https://doi.org/10.1016/j.ecolecon.2014.09.028

Jackson, S. (2006). Compartmentalising culture: The articulation and consideration of Indigenous values in water resource management. *Australian Geographer*, *37*(1). https://doi.org/10.1080/00049180500511947

Jackson, S., Finn, M., & Scheepers, K. (2014). The use of replacement cost method to assess and manage the impacts of water resource development on Australian indigenous customary economies. *Journal of Environmental Management*, *135*. https://doi.org/10.1016/j.jenvman.2014.01.018

Johnston, A. M. (2013). Is the sacred for sale?: Tourism and indigenous peoples. In *Is the Sacred for Sale?: Tourism and Indigenous Peoples*. https://doi.org/10.4324/9781849773874

Jones, N. N. (2016). The technical communicator as advocate: Integrating a social justice approach in technical communication. *Journal of Technical Writing and Communication*, *46*(3). https://doi.org/10.1177/0047281616639472

Joseph, B. (2018). *Twenty-one things you may not know about the Indian Act: Helping Canadians Make Reconciliation with Indigenous Peoples a Reality*. Indigenous Relations Press.

Kimmerer, R. W. (2014). Braiding sweetgrass. In *Braiding sweetgrass : indigenous wisdom, scientific knowledge and the teachings of plants*. Milkweed Editions.

King, T. (2013). *The Inconvenient Indian: A Curious Account of Native People in North America*. Anchor Canada.

Koemle, D., & Yu, X. (2020). Choice experiments in non-market value analysis: some methodological issues. *Forestry Economics Review*, *2*(1). https://doi.org/10.1108/fer-04-2020-0005

Kutz, S., & Tomaselli, M. (2019). "Two-eyed seeing" supports wildlife health Bridging Indigenous and scientific knowledge improves wildlife surveillance and fosters reconciliation. *Science (American Association for the Advancement of Science)*, *364*(6446), 1135–1137. https://doi.org/10.1126/science.aau6170

Lavoie, J. (2017, January 27). This First Nation Just Banned Industrial Logging and Mining from Vancouver Island Territory. *The Narwhal*.

Loutit, J., Mandelbaum, J., & Szoke-Burke, S. (2016). Emerging practices in community development agreements. *Journal of Sustainable Development Law and Policy (The)*, *7*(1). https://doi.org/10.4314/jsdlp.v7i1.4

Louviere, J. J., Hensher, D. A., Swait, J. D., & Adamowicz, W. (2010). Stated Choice Methods: Analysis and Applications. In *Stated Choice Methods* (Issue May 2014). Cambridge University Press.

Ludwig, D., & Macnaghten, P. (2020). Traditional ecological knowledge in innovation governance: a framework for responsible and just innovation. *Journal of Responsible Innovation*, *7*(1). https://doi.org/10.1080/23299460.2019.1676686

Maaqutusiis Hahoulthee Stewardship Society. (2015, October 28). Ahousaht Chiefs Announce a Moratorium on Industrial Logging in Clayoquot Sound. *Ha-Shilth-Sa*.

Maaqutusiis Hahoulthee Stewardship Society. (2022). *Maaqutusis Hahoulthee Stewardship Society (MHSS)*. https://mhssahousaht.ca/mhss/

Manero, A., Taylor, K., Nikolakis, W., Adamowicz, W., Marshall, V., Spencer-Cotton, A., Nguyen, M., & Grafton, R. Q. (2022). A systematic literature review of non-market valuation of Indigenous peoples' values: Current knowledge, best-practice and framing questions for future research. In *Ecosystem Services* (Vol. 54). https://doi.org/10.1016/j.ecoser.2022.101417

Marshall, V. (2021). Indigenous Ontologies in 'Caring for Country': Indigenous Australia's Sustainable Customs, Practices and Laws. In *Clan and Tribal Perspectives on Social, Economic and Environmental Sustainability*. https://doi.org/10.1108/978-1-78973-365-520211004

Martin, P. W. (2008). Online access to court records from documents to data, particulars to patterns. *Villanova Law Review*, *53*(5), 855–888.

Mazzanti, M. (2003). Valuing cultural heritage in a multi-attribute framework microeconomic perspectives and policy implications. *Journal of Socio-Economics*, *32*(5), 549–569. https://doi.org/10.1016/j.socec.2003.08.009

McCreary, T. (2014). The Burden of Sovereignty: Court Configurations of Indigenous and State Authority in Aboriginal Title Litigation in Canada. *North American Dialogue*, *17*(2), 64–78. https://doi.org/10.1111/nad.12016

McDaniels, T. L., & Trousdale, W. (2005). Resource compensation and negotiation support in an aboriginal context: Using community-based multi-attribute analysis to evaluate non-market losses. *Ecological Economics*, *55*(2), 173–186. https://doi.org/10.1016/j.ecolecon.2005.07.027

McIvor, O. (2020). Indigenous Language Revitalization and Applied Linguistics: Parallel Histories, Shared Futures? *Annual Review of Applied Linguistics*, *40*. https://doi.org/10.1017/S0267190520000094

Mercer, N., Hudson, A., Martin, D., & Parker, P. (2020). "That's our traditional way as indigenous peoples": Towards a conceptual framework for understanding community support of sustainable energies in NunatuKavut, Labrador. *Sustainability (Switzerland)*, *12*(15). https://doi.org/10.3390/su12156050

Milcu, A. I., Hanspach, J., Abson, D., & Fischer, J. (2013). Cultural ecosystem services: A literature review and prospects for future research. *Ecology and Society*, *18*(3). https://doi.org/10.5751/ES-05790-180344

Mills, A. (1994). *Eagle down is our law: Witsuwit'en law, feasts, and land claims*. UBC Press.

Mitchell, B. (2008). Resource and environmental management: Connecting the academy with practice. *Canadian Geographer*, *52*(2). https://doi.org/10.1111/j.1541-0064.2008.00205.x

Moggridge, B. J., & Thompson, R. M. (2021). Cultural value of water and western water management: an Australian Indigenous perspective. *Australian Journal of Water Resources*, *25*(1). https://doi.org/10.1080/13241583.2021.1897926

Napoleon, V., & Friedland, H. (2016). An Inside Job: Engaging with Indigenous Legal Traditions through Stories. *McGill Law Journal*, *61*(4). https://doi.org/10.7202/1038487ar

Nikolakis, W. (2019). The Evolution of Self-Governance in Canada. In W. Nikolakis, S. Cornell, & H. Nelson (Eds.), *Reclaiming Indigenous Governance* (pp. 55–70). University of Arizona Press. http://www.jstor.org/stable/j.ctvqc6jwv.7

Nikolakis, W., Akter, S., & Nelson, H. (2016). The effect of communication on individual preferences for common property resources: A case study of two Canadian First Nations. *Land Use Policy*, *58*. https://doi.org/10.1016/j.landusepol.2016.07.007

Nikolakis, W., & Hotte, N. (2020). How Law Shapes Collaborative Forest Governance: A Focus on Indigenous Peoples in Canada and India. *Society and Natural Resources*, *33*(1). https://doi.org/10.1080/08941920.2019.1605433

O'Faircheallaigh, C. (2008). Negotiating cultural heritage? Aboriginal-mining company agreements in Australia. *Development and Change*, *39*(1), 25–51. https://doi.org/10.1111/j.1467-7660.2008.00467.x

O'Faircheallaigh, C. (2010). Aboriginal-mining company contractual agreements in Australia and Canada: Implications for political autonomy and community development. *Canadian Journal of Development Studies*, *30*(1–2). https://doi.org/10.1080/02255189.2010.9669282

O'Faircheallaigh, C. (2011). Indigenous Women and Mining Agreement Negotiations: Australia and Canada. In *Gendering the Field. Towards Sustainable Livelihoods for Mining Communities*. https://doi.org/10.22459/gf.03.2011.06

O'Faircheallaigh, C. (2013). Community development agreements in the mining industry: An emerging global phenomenon. *Community Development*, *44*(2). https://doi.org/10.1080/15575330.2012.705872

O'Faircheallaigh, C. (2018). Using revenues from Indigenous impact and benefit agreements: building theoretical insights. *Canadian Journal of Development Studies / Revue Canadienne d'études Du Développement*, *39*(1), 101–118. https://doi.org/10.1080/02255189.2017.1391068

O'Faircheallaigh, C. (2020). Aboriginal peoples and mining negotiations in Australia and Canada: context and issues. In *Negotiations in the Indigenous World*. https://doi.org/10.4324/9781315717951-11

O'Faircheallaigh, C. (2021). Explaining outcomes from negotiated agreements in Australia and Canada. *Resources Policy*, *70*. https://doi.org/10.1016/j.resourpol.2020.101922

O'Faircheallaigh, C., & MacDonald, A. (2022). Indigenous impact assessment. In *Routledge Handbook of Environmental Impact Assessment*. https://doi.org/10.4324/9780429282492-14

O'Garra, T. (2009). Bequest values for marine resources: How important for indigenous communities in less-developed economies? *Environmental and Resource Economics*, *44*(2). https://doi.org/10.1007/s10640-009-9279-3

Okanagan Nation Alliance. (2017). *Chief Executive Council*. https://www.syilx.org/governance/chief-executive-council/

Oleson, K. L. L., Barnes, M., Brander, L. M., Oliver, T. A., van Beek, I., Zafindrasilivonona, B., & van Beukering, P. (2015). Cultural bequest values for ecosystem service flows among indigenous fishers: A discrete choice experiment validated with mixed methods. *Ecological Economics*, *114*. https://doi.org/10.1016/j.ecolecon.2015.02.028

Olsen, K. H., & Fenhann, J. (2008). Sustainable development benefits of clean development mechanism projects. A new methodology for sustainability assessment based on text analysis of the project design documents submitted for validation. *Energy Policy*, *36*(8). https://doi.org/10.1016/j.enpol.2008.02.044

O'Regan, S. T. (2019). The Economics of Indigenous Survival and the Development of Culturally Relevant Governance. In W. Nikolakis, S. Cornell, & H. Nelson (Eds.), *Reclaiming Indigenous Governance* (pp. 38–54). University of Arizona Press. http://www.jstor.org/stable/j.ctvqc6jwv.6

Paterson, S., & Scala, F. (2021). Understanding Gender Expertise in the Post-Truth Era: Media Representations of Gender-Based Analysis Plus in Canada. *International Review of Public Policy*, *3*(3). https://doi.org/10.4000/irpp.1562

Prior, L. (2008). Researching Documents: Emergent Methods. In *Handbook of Emergent Methods*.

Prno, J. (2007). Assessing the Effectiveness of Impact and Benefit Agreements from the Perspective of their Aboriginal Signatories. In *MA Thesis, University of Guelph*. https://hdl.handle.net/10214/23205

Prno, J., Bradshaw, B., & Lapierre, D. (2010). Impact and Benefit Agreements : Are they working ? *Cim*. https://apo.org.au/sites/default/files/resource-files/2010-01/apo-nid155246.pdf

Province of British Columbia. (2011). *First Nations Direct Award Forest Tenure Opportunities Guidelines*. https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/consulting-with-first-nations/agreements/forestry-agreements/policies-reports/first_nations_direct_award_forest_tenure_opportunities_guidelines.pdf

Declaration on the Rights of Indigenous Peoples Act, (2019).

Province of British Columbia. (2022a). *Forest Consultation and Revenue Sharing Agreements*. Ministry of Indigenous Relations and Reconciliation. https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/forest-consultation-and-revenue-sharing-agreements#:~:text=Forest%20Consultation%20and%20Revenue%20Sharing%20Agreement%20(FCRSAs)%20provide%20First%20Nations,in%20their%20asserted%20traditional%20territories.

Province of British Columbia. (2022b). *Forest Industry Economics*. Modernizing B.C.'s Forest Sector. https://www2.gov.bc.ca/gov/content/industry/forestry/competitive-forest-industry/forest-industry-economics

Province of British Columbia. (2022c). *Reconciliation & Other Agreements*. https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/reconciliation-other-agreements

Province of British Columbia. (2022d, February). *2021 Sub-Provincial Population Estimates Highlights*. Https://Www2.Gov.Bc.ca/Assets/Gov/Data/Statistics/People-Population-Community/Population/Pop_subprovincial_population_highlights.Pdf.

Radonic, L. (2017). Through the aqueduct and the courts: An analysis of the human right to water and indigenous water rights in Northwestern Mexico. *Geoforum*, *84*, 151–159. https://doi.org/10.1016/J.GEOFORUM.2017.06.014

Ramos-Castillo, A., Castellanos, E. J., & Galloway McLean, K. (2017). Indigenous peoples, local communities and climate change mitigation. In *Climatic Change* (Vol. 140, Issue 1). Springer Netherlands. https://doi.org/10.1007/s10584-016-1873-0

ran Mä ler, K.-G., Aniyar, S., & Jansson, Å. (2008). *Accounting for ecosystem services as a way to understand the requirements for sustainable development*. www.pnas.orgcgidoi10.1073pnas.0708856105

Redvers, N., Poelina, A., Schultz, C., Kobei, D. M., Githaiga, C., Perdrisat, M., Prince, D., & Blondin, B. (2020). Indigenous Natural and First Law in Planetary Health. *Challenges*, *11*(2). https://doi.org/10.3390/challe11020029

Richardson, L., Loomis, J., Kroeger, T., & Casey, F. (2015). The role of benefit transfer in ecosystem service valuation. *Ecological Economics*, *115*. https://doi.org/10.1016/j.ecolecon.2014.02.018

Riekhof, M. C., Regnier, E., & Quaas, M. F. (2019). Economic growth, international trade, and the depletion or conservation of renewable natural resources. *Journal of Environmental Economics and Management*, *97*, 116–133. https://doi.org/10.1016/J.JEEM.2018.04.008

Rodhouse, T., & Vanclay, F. (2016). Is free, prior and informed consent a form of corporate social responsibility? In *Journal of Cleaner Production* (Vol. 131). https://doi.org/10.1016/j.jclepro.2016.04.075

Rolfe, J., & Windle, J. (2003). Valuing the protection of aboriginal cultural heritage sites. *Economic Record*, *79*(SPECIAL ISSUE). https://doi.org/10.1111/1475-4932.00094

Russell, S. C., Cornell, S., & Kalt, J. P. (1994). What Can Tribes Do? Strategies and Institutions in American Indian Economic Development. *American Indian Quarterly*, *18*(2), 250. https://doi.org/10.2307/1185252

Sachs, J. D. (2012). From millennium development goals to sustainable development goals. In *The Lancet* (Vol. 379, Issue 9832, pp. 2206–2211). Elsevier B.V. https://doi.org/10.1016/S0140-6736(12)60685-0

Sankofa, N. (2022). Critical method of document analysis. *International Journal of Social Research Methodology*, 1–13. https://doi.org/10.1080/13645579.2022.2113664

Sawyer, S., & Gomez, E. T. (2012). The politics of resource extraction : indigenous peoples, multinational corporations and the state Book. In *International political economy series*.

Sawyer, S., & Gomez, E. T. (2014). On Indigenous Identity and the Language of Rights . In S. Sawyer & E. T. Gomez (Eds.), *The Politics of Resource Extraction: Indigenous Peoples, Multinational Corporations, and the State* (pp. 9–32). Palgrave MacMillan.

Schmidt, K., Walz, A., Martín-López, B., & Sachse, R. (2017). Testing socio-cultural valuation methods of ecosystem services to explain land use preferences. *Ecosystem Services*, *26*, 270–288. https://doi.org/10.1016/j.ecoser.2017.07.001

Scholte, S. S. K., van Teeffelen, A. J. A., & Verburg, P. H. (2015). Integrating socio-cultural perspectives into ecosystem service valuation: A review of concepts and methods. In *Ecological Economics* (Vol. 114, pp. 67–78). Elsevier. https://doi.org/10.1016/j.ecolecon.2015.03.007

Schröter, M., van der Zanden, E. H., van Oudenhoven, A. P. E., Remme, R. P., Serna-Chavez, H. M., de Groot, R. S., & Opdam, P. (2014). Ecosystem Services as a Contested Concept: A Synthesis of Critique and Counter-Arguments. In *Conservation Letters* (Vol. 7, Issue 6). https://doi.org/10.1111/conl.12091

Schwenk, W. S., Donovan, T. M., Keeton, W. S., & Nunery, J. S. (2012). Carbon storage, timber production, and biodiversity: comparing ecosystem services with multi-criteria decision analysis. In *Source: Ecological Applications* (Vol. 22, Issue 5). http://www.jstor.orgURL:http://www.jstor.org/stable/41722877http://www.jstor.org/stable/41722877?seq=1&cid=pdf-reference#references_tab_contents

Scott, J. (1990). *A Matter of Record*. Cambridge: Polity.

Selkirk College. (2022). *What is the biogeoclimatic ecosystem classification?* Https://Selkirk.ca/Discover/Bec/Zones/Whatis.Html.

Seyfang, G. (2009). The New Economics of Sustainable Consumption. In *The New Economics of Sustainable Consumption*. https://doi.org/10.1057/9780230234505

Siebenmorgan, P., & Bradshaw, B. (2011). Re-conceiving Impact and Benefit Agreements as instruments of Aboriginal community development in northern Ontario, Canada. *Oil, Gas and Energy Law Intelligence*, *9*(4).

Simms, R., Harris, L., Joe, N., & Bakker, K. (2016). Navigating the tensions in collaborative watershed governance: Water governance and Indigenous communities in British Columbia, Canada. *Geoforum*, *73*, 6–16. https://doi.org/10.1016/J.GEOFORUM.2016.04.005

Simon Fraser University. (2022, May 26). Ancient Forest Gardens in Nuchatlaht ḥaḥuuɬiʔakʔi (territory) illuminate hishuk'ush tsawalk (everything is one) nisma (land) and caaʔak (water) stewardship. *SFU News*.

Smith, A. (1994). *An Inquiry into the Nature and Causes of the Wealth of Nations*. Modern Library.

Smith, D. (2019). Exercising Incremental Self-Governance in Australia. In W. Nikolakis, S. Cornell, & H. Nelson (Eds.), *Reclaiming Indigenous Governance* (pp. 130–154). University of Arizona Press. http://www.jstor.org/stable/j.ctvqc6jwv.10

Snyder, R., Williams, D., & Peterson, G. (2003). Culture loss and sense of place in resource valuation: Economics, anthropology, and indigenous cultures. *Indigenous Peoples: Resource Management and Global Rights*.

Stevenson, M. G. (1996). Indigenous knowledge in environmental assessment. In *Arctic* (Vol. 49, Issue 3). https://doi.org/10.14430/arctic1203

Swegle, P. A. (2018). *Contract Drafting and Negotiation for Entrepreneurs and Business Professionals*. Business Law Seminar Group, LLC.

Syilx Language House. (2022). *Home*. https://www.thelanguagehouse.ca/

Szoke-Burke, S., & Werker, E. (2021). Benefit sharing, power, and the performance of multi-stakeholder institutions at Ghana's Ahafo mine. *Resources Policy*, *71*, 101969. https://doi.org/10.1016/J.RESOURPOL.2020.101969

Tadesse, G., Zavaleta, E., Shennan, C., & Fitzsimmons, M. (2014). Local ecosystem service use and assessment vary with socio-ecological conditions: A case of native coffee-forests in southwestern Ethiopia. *Human Ecology*, *42*(6). https://doi.org/10.1007/s10745-014-9704-2

Tengberg, A., Fredholm, S., Eliasson, I., Knez, I., Saltzman, K., & Wetterberg, O. (2012). Cultural ecosystem services provided by landscapes: Assessment of heritage values and identity. *Ecosystem Services*, *2*. https://doi.org/10.1016/j.ecoser.2012.07.006

The Nature Conservancy. (2022, November 17). *The Emerald Edge: Nature's Guardians (360° Video)*. https://www.youtube.com/watch?v=ZgEnV_USPu8

The University of British Columbia. (2022). *About BEC and BGC units*. Centre for Forest Conservation Genetics. https://cfcg.forestry.ubc.ca/resources/cataloguing-in-situ-genetic-resources/about-bec-and-bgc-units/

Trosper, R. (2002). Northwest coast indigenous institutions that supported resilience and sustainability. *Ecological Economics*, *41*(2). https://doi.org/10.1016/S0921-8009(02)00041-1

Trosper, R. (2009). Resilience, reciprocity and ecological economics: Northwest coast sustainability. In *Resilience, Reciprocity and Ecological Economics: Northwest Coast Sustainability*. https://doi.org/10.4324/9780203881996

Trosper, R. (2019). How the Salish and Kootenai Tribes Dealt with Settler Colonialism to Acquire and Name Sėliš Ksanka Qĺispė Dam. In W. Nikolakis, S. Cornell, & H. Nelson (Eds.), *Reclaiming Indigenous Governance* (pp. 193–227). University of Arizona Press. http://www.jstor.org/stable/j.ctvqc6jwv.13

Truth and Reconciliation Commission of Canada. (2015). *Canada's Residential Schools: The History, Part 1 Origins to 1939* (Vol. 1). McGill-Queen's University Press.

United Nations. (1992). *Rio Declaration on Environment and Development*.

United Nations. (2002). *Johannesburg Declaration on Sustainable Development and Plan of Implementation of the World Summit on Sustainable Development : the final text of agreements*.

University of British Columbia. (2022). *Language Maps - Aboriginal Maps and Mapping - Research Guides at University of British Columbia*. https://guides.library.ubc.ca/aboriginalmaps/language

Vardon, M., May, S., Keith, H., Burnett, P., & Lindenmayer, D. (2019). Accounting for ecosystem services – Lessons from Australia for its application and use in Oceania to achieve sustainable development. *Ecosystem Services*, *39*. https://doi.org/10.1016/j.ecoser.2019.100986

Venn, T. J., & Quiggin, J. (2007). Accommodating indigenous cultural heritage values in resource assessment: Cape York Peninsula and the Murray-Darling Basin, Australia. *Ecological Economics*, *61*(2–3), 334–344. https://doi.org/10.1016/j.ecolecon.2006.03.003

Villegas-Palacio, C., Berrouet, L., López, C., Ruiz, A., & Upegui, A. (2016). Lessons from the integrated valuation of ecosystem services in a developing country: Three case studies on ecological, socio-cultural and economic valuation. *Ecosystem Services*, *22*, 297–308. https://doi.org/10.1016/j.ecoser.2016.10.017

Wade Davis. (2019, October 1). Why Indigenous languages matter. *Canadian Geographic*.

Walton, R. (2016). Supporting human dignity and human rights: A call to adopt the first principle of human-centered design. *Journal of Technical Writing and Communication*, *46*(4). https://doi.org/10.1177/0047281616653496

Wesley, A. (2019). The Huu-ay-aht Journey Back to Self-Determination and Self-Reliance. In W. Nikolakis, S. Cornell, & H. Nelson (Eds.), *Reclaiming Indigenous Governance* (pp. 107–129). University of Arizona Press. http://www.jstor.org/stable/j.ctvqc6jwv.9

White, D. I. K., & Danesh, R. (2015). Statement of Law Regarding First Nations and Forestry. *First Nations Forestry Council, Vancouver Island University, Center for Pre-Confederation Treaties and Reconciliation* .

Wiersma, L. L. (2005). Indigenous Lands as Cultural Property: A New Approach to Indigenous Land Claims. *Source: Duke Law Journal*, *54*(4).

Williams, A., Kennedy, S., Philipp, F., & Whiteman, G. (2017). Systems thinking: A review of sustainability management research. In *Journal of Cleaner Production* (Vol. 148). https://doi.org/10.1016/j.jclepro.2017.02.002

Windle, J., & Rolfe, J. (2005). Assessing non-use values for environmental protection of an estuary in a great barrier reef catchment. *Australasian Journal of Environmental Management*, *12*(3). https://doi.org/10.1080/14486563.2005.10648645

Winthrop, R. H. (2014). The strange case of cultural services: Limits of the ecosystem services paradigm. *Ecological Economics*, *108*, 208–214. https://doi.org/10.1016/j.ecolecon.2014.10.005

Wittmer, H., & Gundimeda, H. (2012). *The Economics of Ecosystems and Biodiversity in Local and Regional Policy and Management*. Earthscan. https://books.google.ca/books?id=Hv4EduB50poC

Xaxli'p Community Forest. (2018). *Map Downloads*. https://www.xaxlipcommunityforest.ca/map-downloads

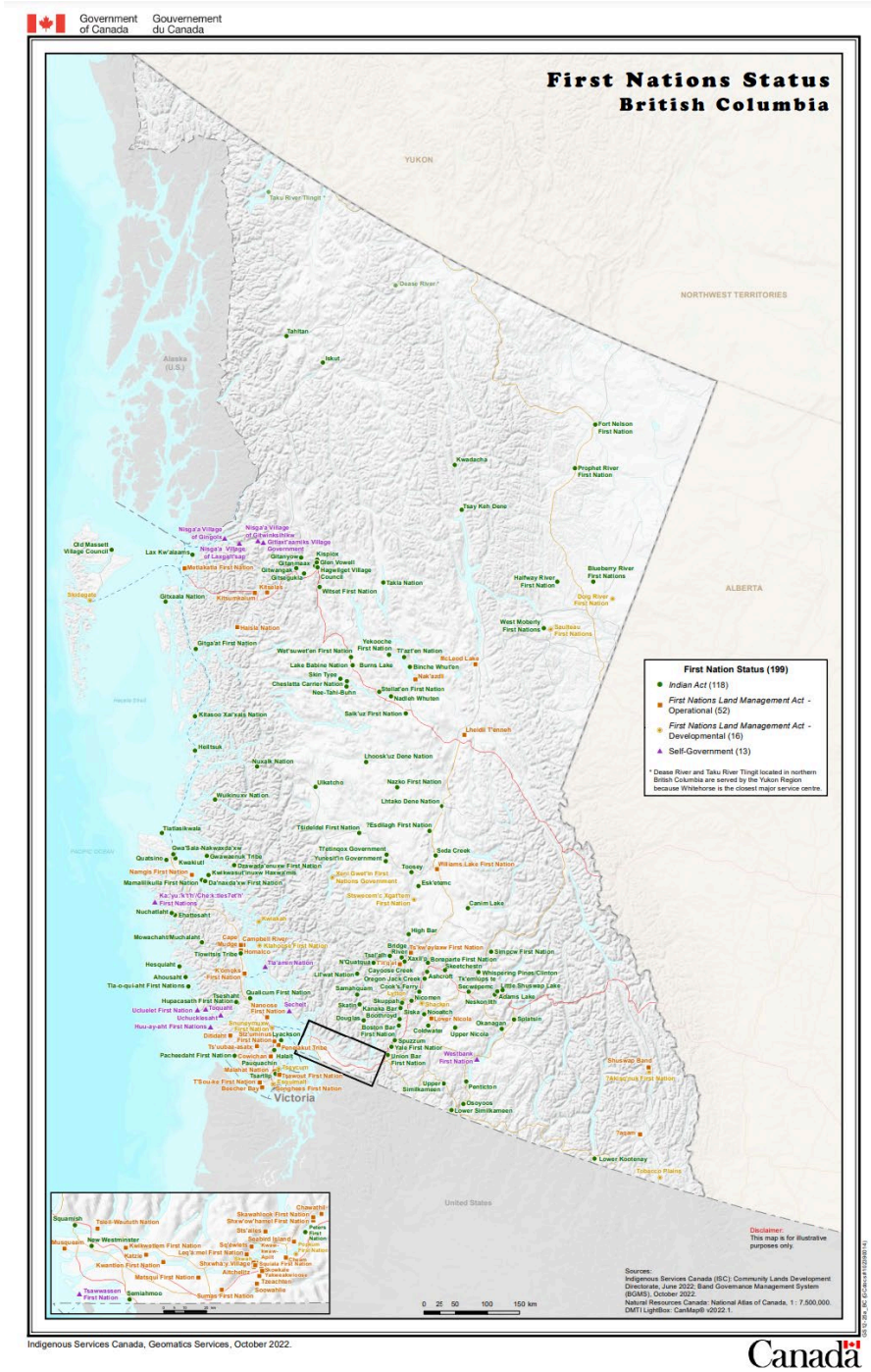
Xaxli'p First Nation. (2017). *Language, Culture, & Values - Xaxli'p*. http://xaxlip.ca/about-us/language-culture-values/

Yap, M., & Yu, E. (2016). Operationalising the capability approach: developing culturally relevant indicators of indigenous wellbeing – an Australian example. *Oxford Development Studies*, *44*(3). https://doi.org/10.1080/13600818.2016.1178223

Zander, K. K. (2013). Understanding public support for indigenous natural resource management in Northern Australia. *Ecology and Society*, *18*(1). https://doi.org/10.5751/ES-05267-180111

Appendix

Government of Canada: Map of First Nations Status in British Columbia, 2022



Available from: https://www.sac-isc.gc.ca/eng/1623334709728/1623335671425#maps