

ABORIGINAL FOREST TENURE AND GOVERNANCE
IN BRITISH COLUMBIA:
EXPLORING ALTERNATIVES FROM A STELLAT'EN FIRST
NATION COMMUNITY PERSPECTIVE

by

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Abstract

The purpose of this research is to contribute to the identification of appropriate forest tenure and governance designs that are in congruence with Aboriginal values, interests and rights. The research is highly relevant to current societal deliberations on sustainable forest management as well as to the future of the forest sector in Canada.

First Nations culture and ways of life are intimately and inextricably tied to the land. Some eighty percent of Canada's First Nations communities are situated in productive forest regions (NAFA 2003). Even so, First Nations have been largely excluded from forest development and planning activities. Furthermore, the provincial policy emphasis on industrial timber production may not be consistent with Aboriginal forest values.

This community-based research takes a participatory approach to forest policy analysis. The work is conducted in partnership with the Stellat'en First Nation and Carrier Sekani Tribal Council in central British Columbia. Stellat'en criteria for forest tenure and governance are identified in a series of workshops and interviews. These criteria are then applied in the analysis of four alternative models: the Community Ecosystem Trust, the Gitanyow joint land use planning model, BC Community Forest Agreements and Aboriginal reservations in the United States.

The results indicated that Stellat'en have three main goals regarding forest tenure and governance: protect the traditional territory for future generations, protect Stellat'en culture and support Stellat'en economic self-determination. Implementation of the Stellat'en vision calls for a greater emphasis on ecological and cultural values in forest management, devolution of decision making authority to First Nations, reallocation of harvesting rights and redistribution of wealth generated by forest activities. The Stellat'en perspective emphasizes co-existence and stewardship.

Evaluation of the four alternative models provided useful insights for progressive tenure and governance design. All four models had positive aspects to contribute, as well as shortcomings. The models are not mutually exclusive. Since each model addresses different management and institutional functions, they could be combined into a new system for the future.

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Preface

About the Author

It has becoming increasingly common, especially in the social sciences and community-based research, for research reports to include a description of the author's background. A researcher's background may affect the nature of their interaction with the community, the community's responses and the author's ability to accurately record and interpret those responses. The trend towards including such information recognizes that, no matter how much a researcher aims to be objective, they inevitably bring their own cultural and philosophical lens and biases to the research. In keeping with this recognition, I include here some information about myself as the author.

I am a female, Caucasian Canadian born to a middle class family in Ottawa, Ontario. My immediate family consists of my parents and one younger brother. Both my parents are of European origin. Our ancestors immigrated to North America from Switzerland and Germany some 150-250 years ago. For the most part, I grew up and attended elementary and high school in Ottawa. Due to my father's work in international development, we lived for some years in Bogota, Colombia and New Delhi, India. Immediately after graduating high school, I traveled west to attend university among the mountains and oceans of British Columbia. Upon completing a B.Sc in Natural Resource Conservation, I remained on the west coast, working in a variety of natural resource-related roles throughout the province. I eventually moved out of Vancouver to set up residence in the smaller town of Squamish, BC.

Readers may also be interested to learn about my motivations for choosing to focus on the topic of Aboriginal forest management and tenure. Throughout my life, I have always been interested in Aboriginal culture and worldviews. I feel that modern, western society has much to learn from Aboriginal approaches to ecosystem stewardship. I also am interested in community-based natural resource management. It was due to these dual interests that I was drawn to this particular project for my graduate research. My motivations are also described in an introductory letter to the Chiefs of the Carrier Sekani Tribal Council which I wrote at the beginning of the project (see Appendix 6).

Connections with Eddison Lee-Johnson's thesis

Much of this research was conducted in a team effort with another graduate student, Eddison Lee-Johnson. Eddison and I worked together, with input from Stellat'en and CSTC, on the design, planning and facilitation of the workshops. We also conducted the interviews together, although we each had our own sets of questions to ask. As such, both our theses are based in large part on a common "data set". From there, we each had a different emphasis. Our two tracks are distinct yet also linked and mutually supportive. My thesis focuses on defining Stellat'en forest tenure and governance criteria and comparing them to broadly defined alternatives. Eddison's research, on the other hand, focuses more on the governance aspect, in particular the (re)design of an internal Stellat'en governance structure through which the community would effectively manage forest resources. His thesis also looks at specific processes and practical steps to facilitate the devolution of forest management authority to Stellat'en. Eddison's work is relevant to mine because, regardless of the specific tenure design chosen, devolution of authority is a key criterion for success, as is the creation of culturally relevant internal governance mechanisms that reconcile traditional and contemporary elements. His work supports my analysis of broad conceptual tenure alternatives with more specific steps on how to move in the direction of devolution. Particularly strong linkages are indicated in footnotes throughout this thesis.

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This research was only possible through the collective efforts of a whole community of people. First, I would like to acknowledge the late Tribal Chief Harry Pierre, who was a key initiator of the project. Anne Marie Sam, Paul Blom, Tara Marsden and Beverly Bird played central roles in getting the project underway. Thanks to CSTC staff, Ed John and Dave Porter from the First Nations Summit Executive office who provided provincial/high level political perspectives at the beginning of the project. Thanks also to George George Senior. Appreciation goes to Tribal Chief David Luggi, former Chief Patrick Michell of Stellat'en for his willingness to engage in the research, Interim Chief Doris Louie and current Chief Mabel Louie for their continued support and positive outlooks. Special thanks go to Terry Teegee and Janine Luggi, the CSTC and Stellat'en community research coordinators. Terry was always helpful in providing encouragement, resources and a larger context. Janine played an invaluable role in helping us "navigate" working with the community. Jamie Sanchez helped us coordinate with the concurrent CSTC land use planning process. Juanita Heron and Roselita Louis helped organize meetings and workshops. Candice George, Trevor Louie, Megan George and others were instrumental in getting the first workshops off the ground. Colleen was always a friendly face and helped with setting up the hall on numerous occasions. Carol in the office was always cheerful and willing to assist with anything needed. Thanks to Elaine and Lorraine for managing many important administrative tasks. Sue Mitchell shared her experience in working with Stellat'en as an outside researcher.

Members of the Stellat'en research council contributed generously of their time in listening to progress reports and providing ongoing input and guidance. Zaa Louie, in particular, spent many hours reviewing and commenting on draft and interim documents in great detail.

Thank you to all the other members of the Stellat'en First Nation who contributed their ideas and insights and to the whole Stellat'en community for being so open and trusting with me. This thesis is yours as much as it is mine. It was an honor to work with you.

Much of the research was conducted as a team effort with another Masters student, Eddison Lee-Johnson. My learning and the project as a whole were greatly enriched by his contributions. Thank you Eddison.

Of course, I am grateful for my co-supervisors Ronald Trosper and Thomas Maness, who have provided inspiration, encouragement and wise guidance throughout the entire process. Leonora Angeles provided invaluable perspectives. Thanks also to David Natcher, Principle Investigator for the larger SFMN project. I feel very fortunate to have been supervised by such a high-calibre group of people.

I am thankful to the funders – the Sustainable Forest Management Network and BC Forum on Forest Economics and Policy - for financing this work. I would also like to thank the granters of the Donald S. McPhee Fellowship award.

Closer to home, I would like to thank all my family and friends for their ongoing support and (when needed) diversions! Most of all, appreciation goes to Adrian for his patience, humor and understanding - you deserve an honorary degree for going through this with me.

Dedication

*To Stellat'en First Nation and
their future generations*

Chapter 1: Introduction

1.1 Background and Rationale

This research addresses key questions relevant to sustainable forest management by examining forest tenure and governance design from a First Nations perspective. Attention to the role of First Nations in forest management in British Columbia has increased exponentially in recent years. The salience of this issue is linked to legal decisions and policy commitments, societal concerns with social justice, as well as the public discourse on sustainable forest management. The need to recognize Aboriginal values, rights and interests in forest management is a central theme in the discussion. The ability of First Nations to implement their interests and values vision is strongly related to the system of forest tenure and governance.

Aboriginal values, rights and interests have far reaching implications for the Canadian forest sector. Some eighty percent of Canada's Aboriginal communities are located in productive forest regions (NAFA 2003). First Nations culture and ways of life are intimately and inextricably tied to the land. Despite their location in and cultural ties to forested areas, Aboriginal people have benefited very little from forest resource development activities. Logging and other forms of resource extraction have occurred (and continue to occur) at a large scale on the traditional homelands of indigenous people, altering the land base their culture is tied to and providing them with few if any benefits (Northern Pacific Enterprises 2007; Parfitt 2007a).¹ In the meantime, the Constitution of Canada, recent Supreme Court rulings and international agreements call for the consideration of Aboriginal people in resource management decision making. Court decisions such as *Haida* and *Taku* have found that Canadian federal and provincial governments have a legal obligation to consult and accommodate Aboriginal people who may be affected by activities on the land. Furthermore, in 2005 the government of British Columbia committed to a New Relationship with First Nations in which they agreed to embark on “reconciliation of Aboriginal and Crown titles and jurisdictions” as well as the establishment of “processes and institutions for shared decision-making about the land and resources” (BC Ministry of Aboriginal Relations and Reconciliation 2008).

¹ For example, a recent report estimated that the BC government collected \$297 760 384 in stumpage on harvested volumes removed from the Takla Lake First Nation's traditional territory between 1995 and 2005. The timber volume harvested in that time was approximately 10 605 000m³. Takla Lake First Nation's traditional territory is about 27 555km² in size (Northern Pacific Enterprises 2007).

In an attempt to address political commitments, legal requirements and societal concerns with social justice, the BC provincial government has allocated an increasing number of forest tenures to First Nations, and encouraged the formation of “joint venture” partnerships between First Nations and industry (Brown, Hoberg and Trospen 2006). The majority of new First Nations tenures take the form of Forest and Range Agreements (FRAs) and Forest and Range Opportunities (FROs) – limited offers of timber and revenue sharing according to population-based formulas. Much of the volume for these tenures was taken from existing replaceable licences and converted to short term, small scale and non-replaceable tenures for First Nations. Experience has indicated many of these new tenures are not economically viable.² Furthermore, in the *Huu-ay-Aht* case, the British Columbia Supreme Court (2005) held that basing royalty calculations on a First Nation’s registered membership does not constitute good faith accommodation (McDonald and Ellingson 2005).³ In the meantime, the tenure system as a whole continues to emphasize timber harvesting as the main goal and as such may not be a suitable framework for management based on First Nations values. Thus, while the provincial government initiatives are a step towards enabling Aboriginal participation in the forest sector, many feel these policies continue to fall short of addressing the problems in a comprehensive manner.

The basic structure and objectives of the BC forest tenure system have not changed substantially since its inception in the mid twentieth century (Haley and Nelson 2006). Due to a variety of factors, the forest industry is now struggling and in decline.⁴ There is strong indication that industry, government and public stakeholders agree changes are needed to adapt to new circumstances and new values (Hadley 1999).

² Factors limiting the economic viability of FRA/FROs include the lack of a sufficiently large annual harvesting volume to reduce fixed costs and the short-term duration (i.e. five years), which increases risk, precludes long-term decision making and decreases the chances of obtaining business financing (First Nations Forestry Council 2006). In addition, “the current stumpage system indicates higher rates for these licences compared to BC Timber Sales licences and Community Forest licences. Forest companies are not interested to buy wood from First Nations if they can find other tenures that are substantially cheaper due to the difference in stumpage rates” (Nadleh Whut’en 2007).

³ Numerous other authors have described the shortcomings of FRAs (e.g. Forsyth 2007, Rogers 2007, Title and Rights Alliance 2004).

⁴ Such factors include the declining quality and accessibility of available timber supplies, a rising Canadian dollar, increasing global wood supplies, significant realignments of international supply/consumption relationships and an increasingly competitive global market place (Haley and Nelson 2006).

The current transition period presents an ideal opportunity to address long-outstanding First Nations concerns in a reformed forest tenure system.

1.2 History and Description of Parent Project

A tenure-focused research project was originally proposed by the Carrier Sekani Tribal Council (CSTC), an umbrella group providing political and technical support to eight First Nations who belong to the CSTC society. The Tribal Council is an advocate for, and frequently represents, the interests of its member-nations (CSTC website). CSTC aligned with universities in order to obtain funding for research regarding forest tenure issues. The partnership succeeded in receiving funding through the Sustainable Forest Management Network (SFMN) for a project titled “A Participatory Approach to Aboriginal Tenure Reform in Canada,” led by Principle Investigator Dr. David Natcher.

The overall purpose of the SFMN project is to “assess the opportunities and obstacles associated with the design and implementation of a variety of Aboriginal-held and -negotiated forest tenures” in order to “inform forest policy into the future”. The results are expected to “be of particular value to First Nations across Canada who are seeking tenure reforms within their own traditional territories” (Proposal Application 2005).

The SFMN project looks at three case studies across Canada – Innu Nation, the Kaska Tribal Council and CSTC. Stellat’en First Nation was chosen as the CSTC community in which the research would be carried out. This thesis research falls within and contributes to the larger SFMN project by providing an in-depth examination of the Stellat’en First Nation perspective.

1.3 Thesis Project Description and Organization

The basic purpose of this thesis research is to contribute to the identification of appropriate forest tenure and governance designs that are in congruence with Aboriginal values, interests and rights. Using a case study approach, the research focuses on the perspective of Stellat’en First Nation, a Carrier people whose traditional territory is located in north central British Columbia. The research is conducted in partnership with community researchers and participants from the Stellat’en First Nation and Carrier Sekani Tribal Council. It combines a participatory approach with an analysis of potential alternatives.

The thesis is organized as a report to the Stellat'en community. The introductory chapter provides the background and rationale, research project description, objectives and questions. It also describes the political context and reviews some of the most relevant literature. The second chapter describes Stellat'en First Nation goals and objectives for forest tenure and governance, as interpreted from workshops and semi-structured interviews with the community. The third chapter compares the Stellat'en community criteria to a cross section of alternative tenure models, and analyzes the extent to which each model suits the community objectives. Chapter four summarizes the findings and provides a reflection on the participatory process. Chapter 5 reviews the main research findings and conclusions, and provides recommendations for future work.

1.4 Research Objectives and Questions

The objectives of the research are:

- 1) To identify desired characteristics of forest tenure and governance from the perspective of the Stellat'en community using a participatory approach.
- 2) To identify alternatives to the existing forest tenure and governance system that are consistent with the values, rights, interests and aspirations of the Stellat'en people.
- 3) To validate appropriate methodologies and approaches to participatory research conducted in partnership between universities and First Nation communities.

Two research questions are explored:

- 1) What are Stellat'en First Nation's goals and objectives related to forest tenure and governance?
- 2) What forms of forest tenure and governance best reflect the Stellat'en First Nation goals and objectives?

1.5 Overview of Forest Tenure and Governance in British Columbia

Unlike other areas of Canada, treaties have never been settled in most of British Columbia. The dialogue regarding proposed changes to the BC tenure system thus occurs in a context in which the basic ownership of land is under debate. Most forestland in BC is generally considered to be owned by the provincial government. More than 95 percent of British Columbia is public (i.e. Crown) land and of this, 83 percent is classified as forest land (Clogg 1999a). "However as the Supreme Court of Canada decided in *Delgamuukw v. British Columbia*, Aboriginal title exists as a burden

on the underlying Crown title” (McDonald and Ellingson 2005). The Court affirmed that Aboriginal title was never extinguished in BC by the provincial Crown (Clogg 2001). Furthermore, the Constitutionalization of Aboriginal rights and title calls in to question the sole jurisdiction of the provincial government (Clogg 2001). In the recent *Tsilhqot'in v. BC* case, the court decided that provincial laws would not apply to Aboriginal Title land. However, the court refrained from actually awarding land, suggesting instead that the parties negotiate. The models analyzed in Chapter 3 could inform such negotiations. Despite these ongoing uncertainties relating to title, access to provincial “Crown” land is currently regulated by the province.

Tenure is the mechanism by which the government transfers specific rights to use “Crown” forest land resources to others (BC Ministry of Forests and Range 2006). Forest or timber tenures are statute-based agreements through which the Crown grants rights to harvest timber and manage forest resources without giving up title to the land⁵ (Haley and Luckert 1990). “Timber tenures prescribe how and to whom rights to timber will be awarded, for what compensation and responsibilities. The form, extent and duration of these rights and attendant management responsibilities varies with each tenure agreement” (Cortex 2001). The Crown also grants tenures, permits and licences for other activities (e.g. hunting, guiding, grazing, water use, energy and mineral exploration and development) which may overlap timber agreements (Cortex 2001).

Forest Tenure, Governance and Land Management

The forest tenure system is closely linked with the nature of land management and the governance of forest resources, including the distribution of authority for decision making, standard-setting and enforcement and resource allocation. Currently, tenure exists within an administrative framework in which government defines overarching management objectives, rules and allowable harvest levels. Timber tenure holders are required to harvest timber in accordance with government-set objectives and may also be required to undertake limited forest management activities such as

⁵ The BC and Canadian use of the term “tenure” is more specific than in other parts of the world, where forest tenure broadly refers to ownership, use and access rights to land. For example, a recent FAO paper states that “forest tenure determines who can use what resources, for how long, and under what conditions” (FAO 2006). Harvesting licences are often referred to as “concessions”, with the term “tenure” reserved for the general land ownership pattern. This paper will utilize the British Columbia terminology in which tenure refers to license agreements and their associated regulations. In BC, the term “forest tenure” is often used synonymously with “timber tenure”, even though the majority of forest tenures are focused exclusively on timber harvesting rights.

reforestation and environmental protection. As such, tenure is essentially a mechanism to achieve government policy objectives.⁶ Unfortunately, government policy objectives tend not to respond easily to changes in the dynamic forest. For example, the mountain pine beetle epidemic illustrates that attempts to inhibit natural succession processes by maintaining large areas in mature pine (to provide a steady supply of fibre for production) may not be feasible in the long run.

Since tenure arrangements are the primary means of allocating forest harvesting and use rights and the basis of many management level decisions, they are closely intertwined with forest land use decision making and planning (Clogg 1999a). Discussion about changes to the tenure system “lead to questions about who decides and who manages, how to establish relationships between participants, what is government’s role, and how to provide for review and change” (Hadley 1999).

In view of well-documented First Nations concerns regarding access to resources and standards of land care (e.g. RCAP 1996a), as well as legal precedents requiring First Nations consultation and accommodation - an examination of forest tenure policy from a First Nations perspective necessarily includes consideration of forest governance design. The importance of governance mechanisms such as co-management agreements is stressed by Forsyth 2006, based on his examination of the Nuu-chah-nulth First Nation and Innu Nation experiences. His analysis demonstrates that governance mechanisms, rather than tenure reforms alone, “can ensure that Aboriginal rights and values are effectively incorporated into sustainable forest management” (Forsyth 2006).

Relationship between Treaty and Tenure

Many First Nations in BC are currently engaged in treaty negotiations with the governments of BC and Canada. However, movement towards final agreements has been extremely slow. Many First Nations object to BC’s policies which unilaterally set a limit on the amount of land that can be selected by each First Nation and require them to give up constitutional protection and Aboriginal title to their territories (CSTC 2007).⁷

⁶ “Forest tenure is the primary institutional mechanism by which the government pursues its forest policy objectives (e.g. economic development and sustainable forest management)” (Ambus, Davis-Case and Tyler 2007).

⁷ “In British Columbia, the province negotiates on the basis of a “land selection” model whereby the total land to be held by First Nations in fee simple would be no more than 5 per cent of the provincial land base. Outside this area, the treaty-making process is designed to avoid disruption of existing interests in land, such as leases and licences” (Curran and M’Gonigle 1999, 736).

Some of the questions addressed at the treaty table are similar to those asked in regards to forest tenure and governance design (see Merkel 2007). Thus, there is an overlap between the subject matter of treaty negotiations and First Nations forest tenure and governance design. While this research is not directly intended to inform treaty, it is possible that new tenure and governance arrangements could become part of a treaty agreement in the future, or help to incrementally build towards such an agreement as “interim measures”. New forest tenure and governance arrangements could also provide an alternative means of addressing First Nations concerns outside of the treaty process.

1.6 Literature Review

This section provides a brief review of literature relevant to the research. The goal is not to provide a comprehensive assessment, but rather to highlight some of the key works that are most strongly related to the project. Three literature themes are reviewed; Aboriginal forest tenure and governance, First Nations values in forest management and community-based, participatory research.

1.6.1 Aboriginal Forest Tenure and Governance

Multiple authors have commented on forest tenure and governance design as it relates to Aboriginal values, interests and rights. Some authors describe particular tenure “arrangements” while others look more broadly to Aboriginal involvement in forest governance. Still others frame the issue in terms of First Nations participation in the forest sector. Due to the interconnectedness of these topics, many articles address all of them simultaneously. A key theme throughout the literature is the need for recognition and accommodation of Aboriginal rights and title. Significant contributions to the literature are found in reports produced by government-appointed commissions and Aboriginal advocacy organizations.

Canada’s 1996 Royal Commission on Aboriginal Peoples (RCAP 1996a) constitutes a key reference for much of the literature regarding Aboriginal forest tenure. Its report is based on an extensive public hearings process in which the Commission visited Aboriginal communities across Canada. The findings indicate that Aboriginal concepts of tenure and ownership differ significantly from those of mainstream Canadian society. In contrast to individualized private property and state management with open access, Aboriginal property systems tend to be communal, based on family, clan and

tribal social units. Rights of use are tied with responsibilities to share and maintain the wealth of the land, ensuring all have a means of sustenance. Framed in terms of the “bundle of rights”,⁸ land rights incorporate use by the social group itself and the right to include or exclude others. They do not include the right to alienate, sell, destroy or diminish the lands and resources, or to appropriate land and resources for private gain without regard for reciprocal obligations (RCAP 1996a, 458-459). The continuation of use rights (and leadership authority) depends upon good management. As such, Trospen (2002) likened Aboriginal tenure to a form of “contingent proprietorship.”

The RCAP report emphasized the importance of adequate land and resources and the need to significantly increase land holdings for First Nations in southern Canada (Canadian Encyclopedia). While much of the decision making about redistribution may occur through treaty negotiations, RCAP recommended that governments take interim steps to improve First Nations access to natural resources on Crown land (RCAP 1996b). The Commission also supported a recommendation by the National Aboriginal Forestry Association (NAFA) that “the provinces amend their forestry legislation to establish a special forest tenure category for holistic resource management by Aboriginal communities in their traditional territories” (NAFA 1993; RCAP 1996a, 638). A 10-year report card on RCAP by the Assembly of First Nations (AFN)⁹ and the proceedings of a recent NAFA National Forestry Conference (NAFA 2007a) indicate that many of the RCAP recommendations remain as relevant today as they were a decade ago.

On a smaller scale than RCAP, the Task Force on Native Forestry was established by the Government of British Columbia in 1990, with a mandate to “recommend ways to increase Native participation in the forest sector”, from an economic and community development perspective. The Task Force traveled around BC to hear the views of Native people, the forest industry, and government representatives concerning Native forestry. The final report, presented in 1991, found that after land claims, secure tenure is considered the most important factor to increase Native participation in the forest industry (Task Force on Native Forestry 1991). Access

⁸ Schlager and Ostrom 1992 provide a good overview of the bundle of rights associated with various concepts or degrees of “ownership”.

⁹ AFN issued Canada an “F” on recommendations 2.4.48 and 2.4.77, which dealt with Canada implementing a new approach to lands and resources and interim measures to improve Aboriginal Peoples access to resource based economies, including forestry (NAFA 2007a and AFN 2007)

to resources over the long term is critical. While the proportion of forest tenure held by Aboriginal groups is significantly higher today than it was in 1991, many of the problems remain unresolved and many of the recommendations in the report are still relevant.

The National Aboriginal Forestry Association has played a lead role in commenting on issues related to Aboriginal forest tenure and governance. For example, NAFA intervened in RCAP in order to provide analyses and options to overcome the inaccessibility to land and resources. In their submission, NAFA suggested that access to forestland resources could take several forms including outright ownership, special long-term Aboriginal tenures, resource harvesting leases under existing provincial tenure systems, cooperative or joint management agreements and decision-making or advisory roles in resource management and environment assessment processes on traditional use territories (NAFA 2007a). In 2002, NAFA released a report assessing First Nations forest management as a function of governance. Various case studies are assessed using a simple framework which considers jurisdiction and accountability regarding values and preferences, rights and obligations, sharing of costs and benefits and the resolution of conflicts and differences (NAFA 2002). NAFA has also produced two reports that inventory the number and size of Aboriginal-held forest tenures in Canada (NAFA 2003, 2007b).

In terms of the academic literature, a recent analysis of First Nations forest tenure appears in a seminal synthesis paper by Ross and Smith (2002). Ross and Smith (2002) describe the problem (i.e. lack of recognition and protection of Aboriginal and Treaty rights in forest management), identify the fundamental features of the forest tenure system (i.e. AAC determination, process of allocation and mill appurtenancy) and describe how the system is deficient from the point of view of Aboriginal peoples. They then go on to examine seven innovative approaches to “integrating Aboriginal land ethics, values and governance systems into forest management.” The paper concludes by stating that the case studies are the exception, not the rule and that even “those that are leading the way face what seem to be insurmountable odds of continued structural impediments.” A set of recommendations are provided.

Clogg (2001) discusses forest tenure design as it relates to the need for recognition of Aboriginal title-calling this recognition a “legally and morally defensible foundation for tenure reform.” Curran and M’Gonigle (1999) provide an overview of Aboriginal rights and forestry, and an analysis of Aboriginal forestry as practiced under Crown tenures (i.e. “forests as timber production”) and co-management regimes, on

reserve lands and through treaties. They conclude by emphasizing the need for community ecosystem-based management and traditional governance structures as a basis for Aboriginal forestry. Hutton (2004), Forsyth (2006), and Rogers (2007) also address BC First Nations and forest management, with special emphasis on tenure and governance. Rakai (2005) contributes a “neutral framework for modeling and analyzing Aboriginal land tenure systems.”

A final cluster of literature regarding Aboriginal forest tenure consists of commentaries and critiques of recent BC forest policy. The West Coast Environmental Law Research Foundation (WCEL 2003) analyzes the impacts of the Forestry Revitalization Plan on BC First Nations. Assessments of Forest and Range Agreements are provided by the Title and Rights Alliance (2004), the First Nations Forestry Council (2006), Forsyth (2006) and Rogers (2007). Based on presentations and network conversations at a First Nations forestry conference, Fraser (2005) summarizes the First Nations perspective regarding FRAs and makes recommendations for a “functionally successful model.” Parfitt (2007a) looks at BC policies for resource and revenue sharing with First Nations (including FRAs) and recommends fifty-fifty sharing of management responsibilities and revenues, as well turning “defined areas of forestland over to First Nations under long term, renewable forest tenures.”

1.6.2 First Nations Values and Forest Management

Consideration of First Nations values is a critical aspect of appropriate forest tenure and governance design. In the words of RCAP, “it will not be enough to simply incorporate Aboriginal people into existing systems of forest tenure and management. It is important to give proper consideration to Aboriginal values” (RCAP 1996a). But how do First Nations value the forest? How would they make decisions differently than other groups in society? A growing body of literature from diverse sources is beginning to address these questions.

Aboriginal people are often described as having a strong land ethic, connection to place and a sense of responsibility as stewards of the earth (Paci, Tobin and Robb 2002; Trospen 2003; Bombay 1993; NAFA and Wildlands League 2003). The traditional indigenous worldview is a holistic one, emphasizing the sacredness and interconnected of all of life (Clayoquot Sound Scientific Panel 1995; Stevenson and Webb 2003; Turner, Ignace and Ignace 2000). In their review of Native American thought on the natural world, Booth and Jacobs (1990) consistently find a belief in the need for reciprocity and

balanced relationships among humans and other living beings, and a belief that earth itself is a living, conscious being that must be treated with respect and loving care. They also find a cultural emphasis on connection to place, in which the Native Americans see themselves as part of the land, and the land as part of them.

The archeological fact that Northwest coast peoples had cultural continuity for over two thousand years before contact with Europeans suggests that they did indeed live in a sustainable manner within the ecosystems they inhabited (Trosper 2002). Booth and Jacobs (1990) note that, while natural communities did change considerably as a result of native human activities, Native American relationships with the natural world tended to preserve the biological integrity of those communities. In contrast to the practices of European settlers, native cultures adapted their needs to the capacities of ecosystems.

Aboriginal values and beliefs about the nature of the world are integral to their concepts of property and tenure. RCAP recorded comments from First Nations people describing how their sense of ownership “emphasized stewardship, sharing and conservation of resources, as opposed to the foreign values of ownership, exclusion and domination over nature” (RCAP 1996a, 457). These traditional values are held by Aboriginal people to this day.

In the twenty-first century, First Nations are in a process of reinterpreting their traditional values, so they can find expression in the contemporary world. Many First Nations support an approach that integrates traditional values with economic development (Curran and M’Gonigle 1999; Erasmus 1989).¹⁰ Much of the literature describes this approach as a balancing among cultural, ecological and economic values (NAFA 2002; Bombay 1993; McCorquodale et al 1997). First Nations continue to emphasize the need for a holistic, integrative form of forestry that recognizes multiple values in the forest (e.g. NAFA 1994). The balancing act is a constant challenge, and in some ways there is an inherent conflict between modern economics and traditional worldviews (Kosek 1993). For example, a report on Tl’atz’en First Nation’s experience with managing a Tree Farm License illustrates the difficulties of protecting cultural values and lifeways while engaging in industrial forestry (Booth 2000). RCAP 1996a

¹⁰ Georges Erasmus articulated this ‘integration’ clearly. “As original conservationists, we now aim to combine development and conservation, and to put into practice the concept of equitable, culturally appropriate, sustainable development” (Erasmus 1989).

also provides a good overview of the Aboriginal experience with contemporary forest management.¹¹

Some authors have sought to explicitly describe the current 'balancing' of First Nations values as they relate to forest management. Karjala, Sherry and Dewhurst (2004) express Tl'azt'en First Nation resource and social values through a system of community-level criteria and indicators (C & I). Karjala and Dewhurst (2003) combine the Tl'azt'en C & I with a scenario planning approach to "explore a community perspective of sustainable forest management." Sherry et al (2005) go on to compare these local C & I with three other well-known frameworks. Aboriginal values are expressed in NAFA's (1995) Aboriginal Forest Land Management Guidelines. Hutton (2004) describes a community survey of the forest values of Cowichan Tribes, finding that traditional ecological values are rated as more important than economic values. IFMAT 1993 and 2003 provide comprehensive surveys of forest values among Aboriginal tribes in the United States.

One of the largest sources of documented information regarding current First Nations values are First Nations' own land use plans. Common themes in these plans include the goals of maintaining healthy forests for future generations and protecting cultural values and traditional land uses while also providing for contemporary economic development (Sliammon Natural Resources Committee 2005; Heiltsuk Tribal Council. 2005; Squamish Nation Land and Resources Committee 2001; St'at'imc Land and Resource Authority 2004). Various First Nations have also prepared holistic forest management plans (Collier and Rose 2004; Pinkerton 1998), only to have them rejected by provincial government agencies (Curran and M'Gonigle 1999). Likewise, First Nations values are articulated in responses to proposed development projects and First Nations led impact assessments such as the Carrier Sekani Tribal Council Aboriginal Interests and Use Study on the Enbridge Gateway Pipeline (CSTC 2006).

Further insights to First Nations forest values may be gained by examining the extensive literature on co-management, in which First Nations perspectives play an important part (e.g. Nadasdy 2003; Rusnak 1997; Spiro Mabee and Hoberg 2006). Relevant information may also be found in the recent surge of literature regarding traditional ecological knowledge (TEK), as values are basically an expression of indigenous worldviews. Both the co-management and TEK literature highlight the challenges of reconciling Aboriginal and western values and worldviews. Of particular

¹¹ In particular, see RCAP 1996a pp631-643.

importance is the difference between Aboriginal and western concepts of management. Indigenous people often are uncomfortable with the western concept of forest and resource management, which denotes control of and dominion over the land. In contrast, Aboriginal management is concerned more with managing relationships between humans and the natural world (Stevenson 1998; Stevenson and Webb 2003).

1.6.3 Participatory and Community-based Research

Participatory and community-based researches are broad terms encompassing a wide range of methodologies with diverse origins but common principles and philosophies (Flicker and Savan 2006; Chambers 1994a; Hall 2005). In brief, community based research is “conducted by, for or with the participation of community members” (LOKA website). Common characteristics include starting from the grassroots (bottom up rather than top down), representing diverse stakeholders and perspectives, including different types of knowledge, empowering communities to conduct their own analysis through collective cognitive processes and building capacity (Diaw and Kusumanto 2005; Thrupp, Cabarle and Zazeta 1994; Chambers 1994b; Hoare, Levy and Robinson 1993). The ultimate goal of participatory research is to “link the processes of research, by which data are systematically collected and analyzed, with the purpose of taking action or affecting social change” (Green et al 1997). Outsiders (such as academics, development organizations and others) often take the role of conveners, catalysts and facilitators (Chambers 1994a), practicing the principles of self-critical awareness and personal responsibility (Chambers 1994b)

Participatory research had an early start in social movements and development work during the 1970s, with roots in a family of approaches such as Participatory Rural Appraisal, Rapid Rural Appraisal and Participatory Action Research. Participatory research is also associated with the adult education movement and has more recently merged with the concept of social learning (Diaw and Kusumoto 2005). While many of the concepts originated in the developing world, they are now being widely adopted in North America, in particular as a means to increase the role of diverse stakeholders in natural resource management, policies and decision making (e.g. Beckley, Parkins and Sheppard 2006; Cornwall and Gaventa 2001).

Another impetus for participatory approaches has been the rejection of the paradigm in which scientists or elite experts hold a monopoly on knowledge, especially in the context of uncertainty and environmental risk management (Diaw and Kusumoto

2005; Failing, Gregory and Harstone 2007). Similarly, there has been a movement to integrate social factors with the 'hard sciences' in order to address the complexities of human - ecosystem interactions (Mendoza and Prabhu 2006). For example, soft systems methodologies seek to transcend the limitations of the mechanistic and reductionist scientific management paradigm (Mendoza and Prabhu 2006; Checkland 1988). Related methods emerging from the decision sciences include value-focused thinking (Keeney 1992) and structured decision making (Failing, Gregory and Harstone 2007; Gregory and Failing 2002; Gregory 2000).

Community-based and participatory research has been advocated as an ethical approach to research with indigenous people (St. Denis 1992; Hoare, Levy and Robinson 1993; McDonald 2004). Particular strengths of community-based research for an indigenous context include the emphasis on respectful relationships, responsibility and the acceptance of multiple ways of knowing (Smith 1999; University of Victoria Office of Community-Based Research website).

1.6.4 Literature Review Conclusion

This research contributes to the literature by providing an example of bottom-up community-based approach based on one First Nation community's set of values. The community participated actively at every step, including reviewing the final product. The work advances on previous efforts by tying the literature on First Nations values to the institutional work on governance and tenures for a specific community. Apart from this project, little written material is available regarding Stelat'en First Nation's values and perspectives on forest management, tenure and governance. The thesis also adds to the small collection of written reflections on participatory research methodologies and First Nations–university research partnerships.

1.7 Overview of thesis

Following this introduction and literature review, Chapter 2 proceeds to provide an account of the research conducted with Stellat'en First Nation. The research results consist of a set of criteria (goals, objectives and means) describing the community's vision for forest tenure and governance. These criteria are described in detail, followed by a brief discussion of complementarities and potential conflicts among the goals, as well as a summary of policy implications. In Chapter 3 the Stellat'en criteria are applied in the analysis of four alternative tenure and governance models. Chapter 4 provides a reflection on the participatory process. Chapter 5 reviews the main research findings and conclusions, and gives recommendations for future work.

Chapter 2: A Stelat'en First Nation Vision for Forest Tenure and Governance

2.1 Introduction

As explained in Chapter 1, current forest tenure and governance arrangements in British Columbia do not adequately address First Nations values, rights, interests and aspirations. This chapter describes a First Nations vision for forest tenure and governance as expressed from the particular viewpoint of the Stelat'en First Nation. The chapter seeks to guide future deliberations of regional land-use questions by providing a set of criteria upon which new forest tenure and governance proposals can be evaluated. As such, the chapter addresses research objectives 1 and 3;

- 1) To identify desired characteristics of forest tenure and governance from the perspective of the Stelat'en community using a participatory approach.
- 3) To validate appropriate methodologies and approaches to research conducted in partnership between universities and First Nation communities.

It also seeks to answer research question 1: What are Stelat'en First Nation's goals and objectives related to forest tenure and governance?

2.2 Stelat'en Community and Context

Stelat'en are a Carrier people whose traditional territory is an integral part of a forested land in central British Columbia. Traditionally, Stelat'en are a fishing people, who rely on salmon as an important part of their diet. To this day, fishing, hunting, trapping and gathering are important to the Stelat'en culture and way of life. These activities are now blended with participation in the modern economy.

Prior to European contact, the Stelat'en were semi-nomadic, moving throughout their territory in a pattern of seasonal rounds (Brown 2002). Beginning in the late 1800's, the arrival of European settlers brought profound changes. "The closing decades of the 19th century brought a new era of political and legal domination of white governments over Aboriginal people in British Columbia" (Brown 2002). Similar to the experience of other First Nations, the Stelat'en people were placed onto reserves allotted by the colonial government. The community now lives on the Stellako Reserve at the mouth of the Stellaquo River, on the banks of Nadleh Bun (Fraser Lake), one hundred and sixty kilometers west of Prince George (CSTC website; Stelat'en First

Nation website). The community also has a second small Indian Reserve on Binta Lake. The two reserves total 834 hectares (Department of Indian Affairs and Northern Development, First Nation Profile website). The Binta reserve has been reduced by past governments which took away lands through legislation (Stellat'en First Nation website). The reserve community of Nadleh Whut'en is located close by on the other side of Fraser Lake. Historically, Stellat'en and Nadleh Whut'en comprised one community unit. The location of Stellat'en reserves in relation to nearby municipalities is depicted in Figure 2.1. A map of the entire Stellat'en traditional territory is indicated in Figure 2.2.

Figure 2.1 Stellat'en Reserve and Area with Dakelh Placenames

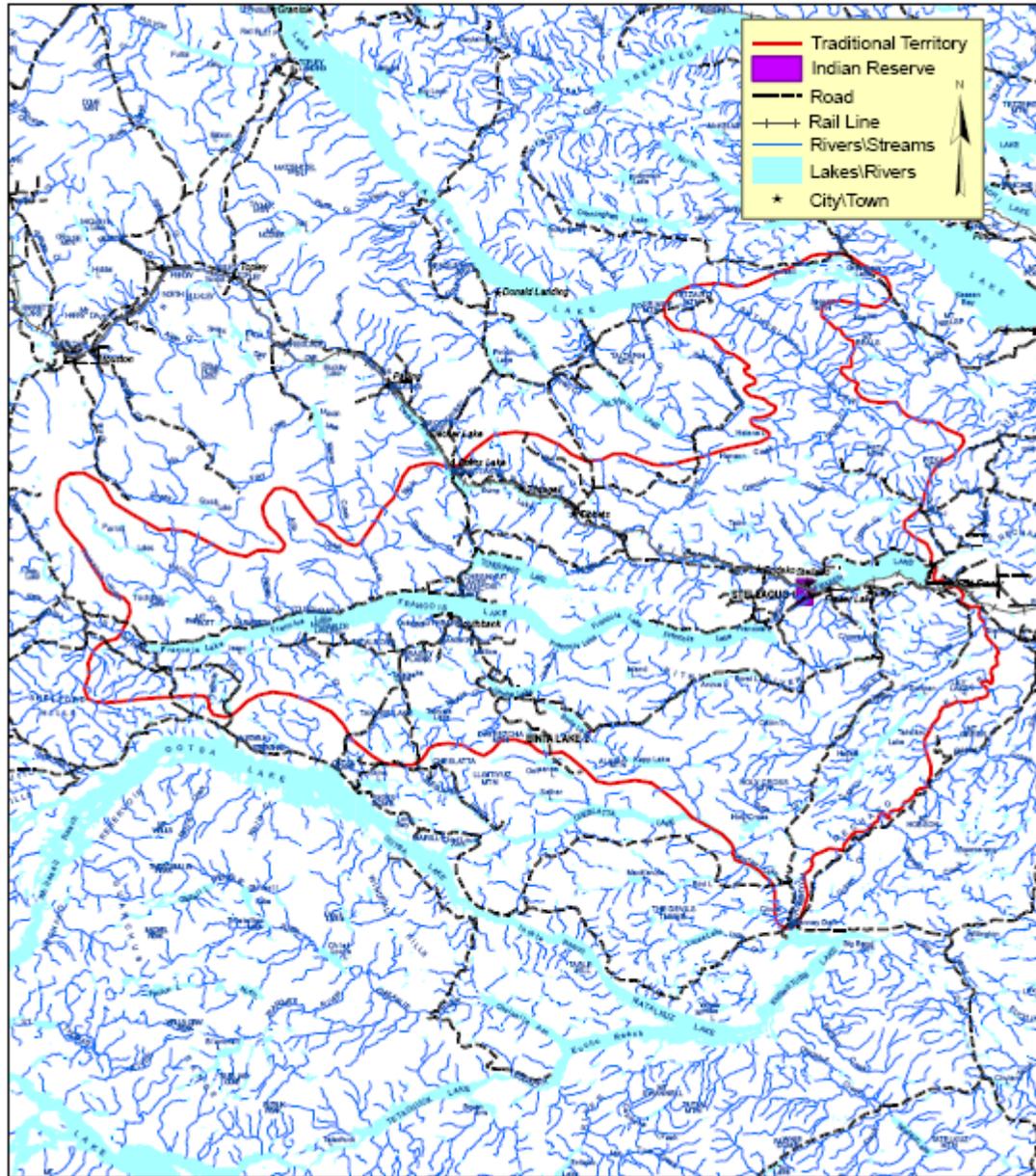


Source: Adapted from CSTC 2006. CSTC Aboriginal Interests and Use Study on the Enbridge Gateway Pipeline.

As of March 2008, Stellat'en First Nation has a registered population of 418 members, of which 205 live on reserve. The on-reserve population includes 107 males and 98 females (Department of Indian Affairs and Northern Development, First Nation Profile website). Other members reside on other reserves, in nearby towns, in Vancouver, and as far abroad as Europe. Census statistics indicate that in 2001 over forty percent of the on-reserve population was under the age of 19, fifty-three percent were aged 20-64 and about six percent were over 65 years (Department of Indian Affairs and Northern Development, First Nation Profile website). In 2001, the median age of the Stellat'en on-reserve population was twenty-nine – much younger than the BC median age of thirty-eight. The majority of people over age fifteen do not have a high school graduation certificate (Department of Indian Affairs and Northern Development, First Nation Profile website – 2001 census statistics). Types of

employment include social services, fisheries and forestry technical work, firefighting, sawmill, mining and construction work, carpentry, trucking, landscaping, service industry work, homemaking, and cultural research.

Figure 2.2 Stellat'en First Nation Traditional Territory



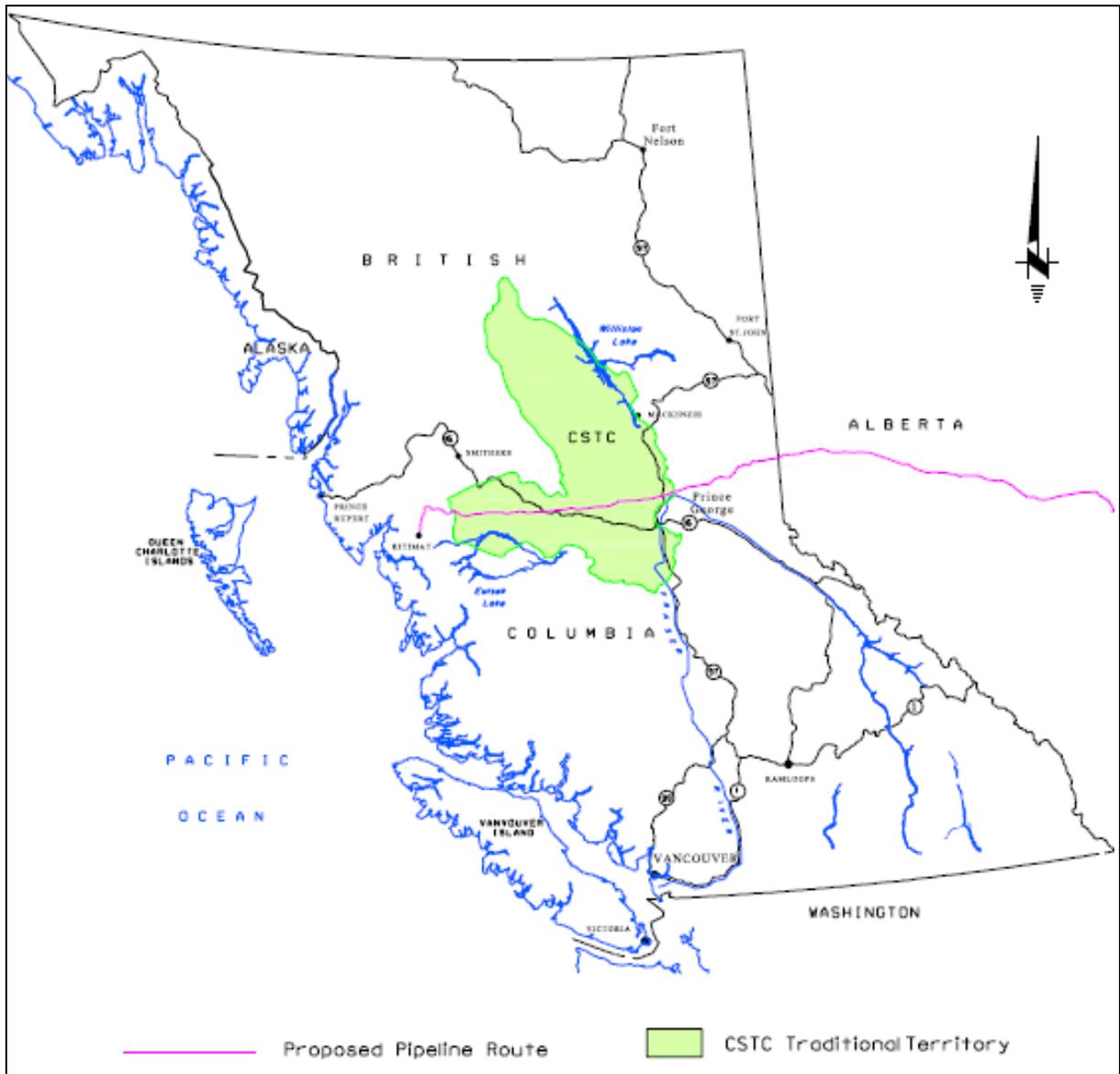
Source: Carrier Sekani Tribal Council website.

While the community elects a Chief and Council under the system mandated by the Department of Indian Affairs, traditional governance structures such as the Bahlats (potlatch) continue to be strongly valued. Traditional social units consist of four clans - Bear, Beaver/Owl, Caribou and Frog – each led by Hereditary Chiefs. Primary social obligations are towards members of one's own clan and family. Clans are matrilineal entities that are maintained through exogamy (CSTC 2006). Through the central governance institution of the Bahlats, clan leadership is recognized and reinforced, collective decisions are made, disputes settled wealth redistributed and clan territories managed, owned and protected (Brown 2002; CSTC 2006). Prior to the arrival of Europeans, Stellat'en governed themselves in this way for thousands of years (CSTC 2006). Under European colonial policies and practices, this ancient governance system was greatly eroded. Today, many Stellat'en are uncomfortable with band election systems and are interested in reviving traditional governance structures.

Stellat'en is a member community of the Carrier Sekani Tribal Council (CSTC). CSTC provides political and technical support to its eight member First Nations (CSTC website). As part of the CSTC, Stellat'en filed their Statement of Intent to negotiate a treaty with the BC Treaty Commission (BCTC) in 1994. Their Framework Agreement (Stage 3 of the six stage treaty process) was signed in 1997. After thirteen years of trying to achieve justice for their people through the BCTC process, little progress has been made (CSTC 2007). A map of the CSTC traditional territory and Statement of Intent area in relation to BC is shown in Figure 2.3. Figure 2.4 illustrates the location of the CSTC communities within the claim area.

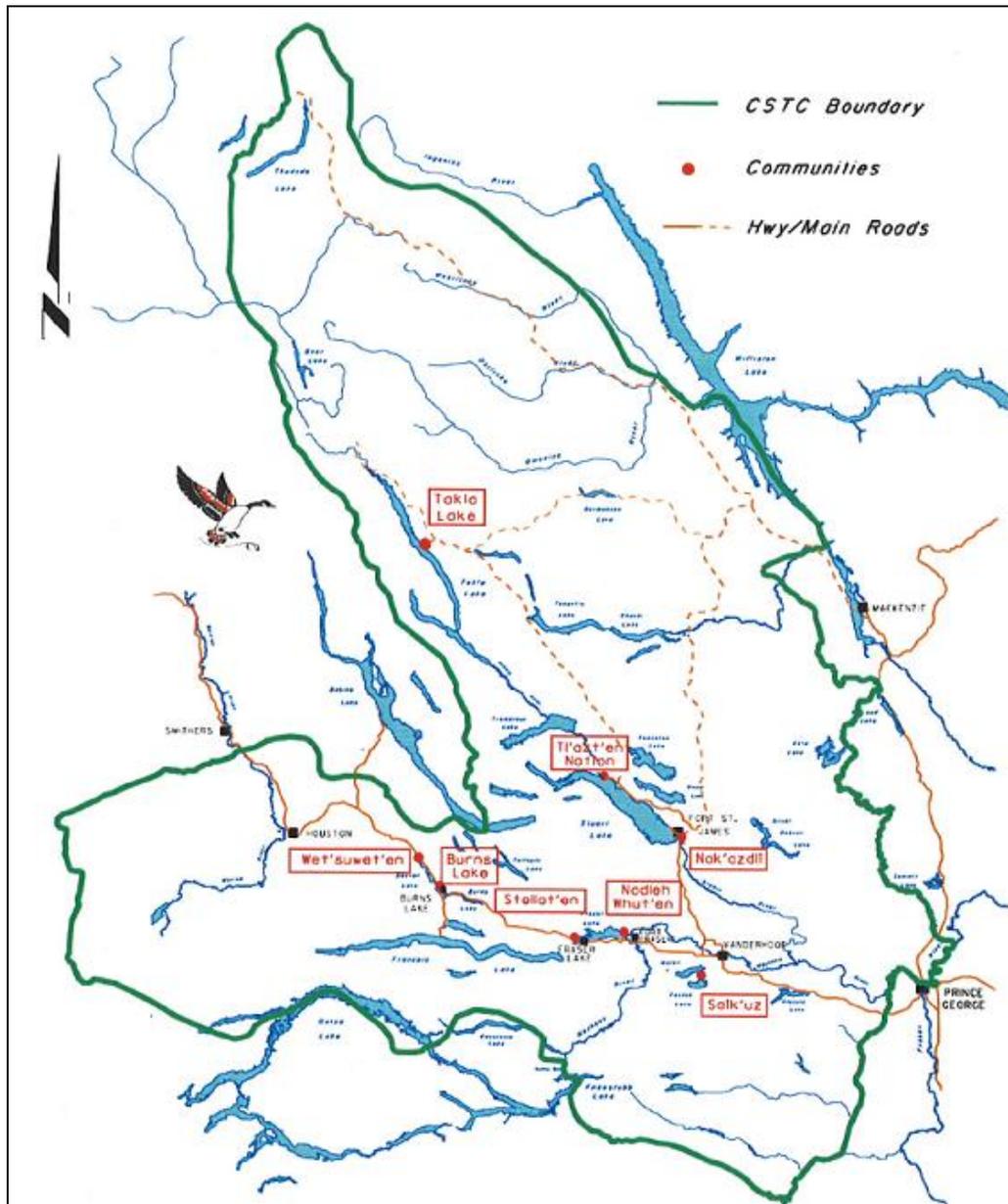
The Stellat'en have occupied their territory since time immemorial. Contrary to what might be indicated through the BC government's assumption of title, Stellat'en have never surrendered ownership or jurisdiction of their land through conquest, treaty or any other legal means to foreign government (CSTC 2007). The integrity of the traditional land base is currently threatened by industrial development activities such as dams, forestry and mining. The Kenney Dam, the Endako mine and accelerated timber harvesting due to the mountain pine beetle have all played a role in degrading the territorial landbase. These activities negatively impact the First Nation while providing them little in the way of benefits.

Figure 2.3 Carrier Sekani Tribal Council Traditional Territory in Relation to British Columbia



Source: CSTC 2006. CSTC Aboriginal Interests and Use Study on the Enbridge Gateway Pipeline.

Figure 2.4 Location of Carrier Sekani Tribal Council Member Communities



Source: Carrier Sekani Tribal Council website.

Numerous jurisdictional and administrative boundaries overlap the Stellat'en traditional territory. In terms of forest management administration, the majority of the territory lies within the Vanderhoof and Nadina Forest Districts of the Northern Interior Forest Region. The territory overlaps three geographic units used by the Ministry of Forests and Range to determine timber harvest levels – the Prince George, Lakes and (for a small portion) Morice timber supply areas. It also overlaps the jurisdictional boundaries of the Regional District of Bulkley-Nechako and contains the municipality of Fraser Lake.

Forestry is an important part of the modern economy in the Stellat'en territory. In the early stages of the forest industry, Stellat'en people worked for the many small mills that were located throughout the area. In the mid 1960's however, smaller mills were shut down in favor of a few central mills and large companies. Under the new structure it was much more difficult for Stellat'en to find work.

Today, Stellat'en are determined to work with co-existence and co-management partnerships to rebuild the nation's economic self-determination and self-sufficiency. They are trying to regain a foothold in the regional forest economy. In the early 1990's they were involved in a joint venture to build and operate a mill with two neighboring bands (Nadleh and Stoney Creek), Slocan Forest Products and Vanderhoof Specialty Wood. The joint venture mill, Dezti Wood Company, produced value-added products such as laminated door stock and posts for Japanese housing (NAFA 2000; Curran and M'Gonigle 1999). At one point the community also had a silviculture business. Stellat'en now has a small woodlot and small portable sawmill, which are used primarily for training purposes. Members of the community also own a forestry contracting business that does operational road and harvesting work.

Stellat'en's struggle regarding forest tenure and governance is taking place against the backdrop of a massive mountain pine beetle infestation. Pine beetles have attacked and killed extensive areas of pine trees in the traditional territory. In response, the provincial government has lifted the annual allowable cut by twenty seven percent to capture the economic value of beetle killed trees before the wood deteriorates (BC Ministry of Forests 2004a). Clearcutting of large swaths of forest is occurring at an unsustainable rate (Parfitt 2007b).

Under a 2003 forestry interim measures agreement, the government directly awarded Stellat'en a non-replaceable forest license (NRFL) which would allow them to harvest 150, 000m³ of timber a year for three years (Stellat'en First Nation Interim

Measures Agreement 2003). Stelat'en later signed and accepted a Forest and Range Agreement (FRA) in September 2005. The more comprehensive FRA extended the non-replaceable forest license by an additional two years (including the 150, 000m³/year allocation), and included 'revenue-sharing' and consultation components (Stelat'en First Nation Forest and Range Agreement 2005). Since it is not economically viable for Stelat'en to conduct the planning and layout themselves, they have formed agreements with established forest companies to manage the license. Through contracts, Stelat'en currently log a portion of the allocated volume and realize a modest income from the resulting timber sales.

2.3 Methodology

This research employed a community-based, participatory approach to learn about the desired characteristics of forest tenure and governance from the perspective of Stelat'en First Nation. The main methods for information gathering were workshops and semi-structured interviews. Following data collection, the information was consolidated and organized into a list of goals, objectives and means. This was an iterative and interactive process and included reviews by the community at several phases. The intention was to create a clear, concise and comprehensive statement of the Stelat'en vision for forest tenure and governance that the Stelat'en people agreed upon.

2.3.1 Community-based Approach

The process was conducted as a partnership between community and university researchers. The research took a bottom-up, participatory approach, seeking the direct input and perspectives of First Nations people. It was tailored along the way to fit with the priorities of Stelat'en First Nation. Research objectives and questions were originally cast very broadly in order to allow room for adapting the project to integrate local needs and ideas. Community guidance was sought throughout the project with a Stelat'en community research council (which was broadly representative of the community) as well as with project coordinators in the Stelat'en First Nation and Carrier Sekani Tribal Council. University researchers respected the guidance of community researchers even when it required modification to preliminary ideas.

A series of guidelines and suggestions for workshop and research design were established during initial meetings with the CSTC:

- It is important that the research provide benefits to the community.
- Submit the research proposal for CSTC community Ethics Review prior to finalizing UBC Ethics Review.¹²
- Involve the youth so that they can learn and contribute to plans for the future.
- Take a broad view of the concept of tenure (beyond just forestry/timber rights).
- Avoid raising unrealistic expectations.
- Focus workshops on the creation of solutions to identified problems.

Introductory and planning meetings with the Stellat'en community and research council resulted in the following guidance points:

- The research should look at tenure from a combined cultural and contemporary capacity.
- Use plain language.
- Workshops should be open to anyone who wants to come.
- Have a separate workshop for youth as they may be quiet around elders and may have different ideas than the older generation.
- Focus on aspirations more than on rights as rights are being more and more narrowly defined by the courts.
- The research needs to take a multi-pronged approach reflecting the different perspectives within the community. Some people are more environment-focused, some economically-focused and some are a mix. The research should show all perspectives and not pigeonhole the community as one thing.
- The research results need to be unique to Stellat'en, not generic to anywhere in BC because each community is different. Stellat'en have "land occupation existence" and may be unique in how they see protection.
- The role of the university researchers is to record and reflect back the voice and aspirations of the community.

¹² The reason for this suggestion is a practical one – if the community wants changes to the methodology and design, it would be easier to make those changes before submitting the project to university ethics review. This could avoid the need for subsequent amendments to the university ethics application based on the community's comments.

University researchers sought CSTC and Stelat'en community input throughout the process. Points and mechanisms for input are indicated in Table 2.1.

Table 2.1 Community Input Opportunities

Community Input Opportunity	Dates
Workshop design and planning	May – July 2006
Workshops	August 2006
Feedback on workshop report	October 2006 – December 2006
Interviews	January and March 2007
Community research council meetings	December 2006; January, March and Oct 2007
Comments on draft documents	December 2006 – December 2007
Community feedback workshop	October 2007

2.3.2 Workshops

In the early stages of the project, Carrier Sekani Tribal Council (CSTC) community researchers and university researchers met to review a variety of potential methods for the project. CSTC researchers preferred workshops as the main method, with complementary methods such as interviews used as a follow-up or to contact key community members who did not attend the workshops.

Workshops are a type of group meeting in which participants are expected to work together to achieve a common goal or develop a product or outcome. They provide a forum for participants to perform specific activities within a given time frame. Workshops were chosen as the main method for the research project because they encourage people to work together and share ideas, enabling a group to develop creative solutions to non-standard problems (Beckley, Parkins and Sheppard 2006).

Two workshops were held. The goal was to achieve a broad representation of ideas, views and experiences within the community. An adult workshop was open to any community member who wished to participate. A second workshop was held specifically for youth. Two Masters students (including the author) from the University of British Columbia facilitated the sessions with the assistance of their supervisor.

Stelat'en community members were involved in many aspects of planning and running the events. An interpreter was provided for people who wished to speak in Dakelh, their native language. The workshops were structured to address four overarching topics;

- 1) Examination of the Current Forest Tenure and Governance Situation,
- 2) Creating a Vision: Aboriginal Forest Tenure and Governance in the Future,
- 3) Identifying Barriers and Challenges, and
- 4) Solutions and Alternatives.

For detailed outlines of the workshop agendas and focus questions see Appendices 2, 3 and 4.

Workshop Attendance

The selection criteria for workshop participants was very broad. Stellat'en people were invited to attend in their capacity as Aboriginal people whose traditional territory is a forested land. Participation in the workshops was thus open to all community members.

The workshops were well attended, with 44 people at the adult workshop 27 at the youth workshop. These numbers can be compared to the total on-reserve population of 205 (Department of Indian Affairs and Northern Development, First Nation Profile website). According to community leaders, the turnout was as good or better than what might usually be expected for community meetings.

In observing a portion of the adult workshop, one community leader commented that the participants represented a good cross section of the "grassroots people". For the most part the participants were not "policy experts". Most were not directly involved in forest policy negotiations - even the term "forest tenure" was initially confusing to many and needed to be explained or translated into more familiar concepts. Participant's ages ranged from mid-teens to late sixties, thereby including youth, mid-aged people and elders. They included twenty-three women and twenty-one men. Both elected council members and hereditary leaders were represented. Clan representation was predominantly frog and caribou.

There were no predetermined age limits for participation in the youth workshop. Rather, it was left open to community members to decide if they self-identified as youth. Of the twenty-seven youth participants, seventeen were male and ten were female. Ages ranged from eight to about thirty, with the majority in their mid teens to mid twenties.

Near the end of the project, a feedback workshop was held, giving the community a chance to hear and comment on the research findings. Thirty-seven members attended and provided comments which have been incorporated into the final results.

It is important to note that the workshops were held on the Stellako reserve and most participants were on-reserve residents. The results thus predominantly reflect the views of the on-reserve population.

2.3.3 Semi-Structured Interviews

Eleven semi-structured interviews were conducted as a complement to the workshops. The interviews served five main purposes:

- 1) To confirm the information obtained in the workshops (a form of triangulation)
- 2) To expand on the workshop information and probe for further detail or clarification
- 3) To obtain information from community leaders and community policy experts, thereby balancing the grassroots responses from the workshops
- 4) To allow individuals who were not able to attend the workshop a chance to participate
- 5) To provide an opportunity for workshop participants to contribute further if they wished

The semi-structured approach to interviews was chosen in order to enable participants to influence the direction and emphasis of the conversation and highlight issues and information most important to them. This method helped minimize the bias of the interviewer and provided insights that might be missed in a pre-determined interview grid. The guiding list of interview questions is shown in Appendix 5.

The community research coordinator and research council assisted the university researchers in compiling a list of potential interview participants. Criteria for selection included representation of the community's policy experts, elders, community leaders (a balance of both traditional leaders and elected representatives) and women. Efforts were also made to include members of each of the four clans (Frog, Bear, Beaver/Owl and Caribou) and both on and off-reserve residents.

2.3.4 Consolidating Information into Stellat'en Goals and Objectives

The information gathered in the workshops and interviews was consolidated and organized into a list of interconnected goals, objectives and means. In the list, "goals" represent the fundamental and broadest overarching purposes of the tenure and governance system. Each "goal" is elaborated on by a series of objectives which articulate in more detail the intention of that "goal." Finally, each objective is supported by a series of "means." The "means" represent practical actions that should be taken in order to implement their associated "objective."¹³ The intention of this process was to create a clear, concise and comprehensive statement of the Stellat'en vision for forest

¹³ While all goals have objectives, not all objectives in the list have associated means.

tenure and governance that could be applied to evaluate proposals and alternatives in the future. This approach, in which values (phrased as objectives) become the key drivers for decision making, is referred to by Keeney (1992) as “value-focused thinking.”

The method for identifying the Stelat’en goals and objectives is summarized in Table 2.2 below. The process began with the author grouping the community statements from the workshops into categories according to theme. Each theme group of statements was examined to determine what features in a tenure system would address the problem, concern or vision referred to. Corresponding objectives were written for each theme group of statements (see Table 2.3 for an illustration). In some cases this required the author to interpret the community input or translate a stated problem into an objective that would guide selection of a solution. Sometimes the words of the community were included directly. The draft list of themes and objectives was given to the community research council for review, with their feedback incorporated into future versions.

The second major step in the process was to organize the objectives into “means-objectives” and “ends-objectives,” or in other words, the ultimate purposes (ends) and the methods (means) for achieving them. This technique serves to eliminate redundancies (Keeney and McDaniels 1992) and group similar purposes under common objectives. “Means” were distinguished from “ends” by asking which statements were end-point goals and which were aimed at accomplishing or supporting a higher goal. The process resulted in an organized list outlining a series of overarching goals, followed by supporting objectives and means (see Figure 2.5).¹⁴ It is important to note that the statements are not listed in order of importance.

Figure 2.5 Organization of Stelat’en’s Tenure and Governance Statements

- 1. Goal
 - 1.1 Objective
 - 1.1.1 Means

¹⁴ The task of separating means and ends was very challenging. Due to the interconnectedness of many aspects of the problem, some objectives could support more than one goal. This indicates that certain objectives can address multiple goals at the same time. The existence of “means” supporting multiple “ends” is a common characteristic of the structure of problems.

It was often difficult to choose which goal an objective was most strongly linked to. Another researcher might organize the information differently. While recognizing this challenge, the author aimed to include *all* the community ideas and concerns in a logically organized form.

At this point, the list was again presented to the community research council and adjusted according to their feedback. For example, Goal 1 was originally stated as “Protect the land and ecosystems for future generations.” However, it was found that the term “land and ecosystems” was too vague as it did not directly include the Stellat’en people. The council wanted to refer specifically to the Stellat’en traditional territory, rather than “land and ecosystems” in general. Accordingly, the goal statement was changed to “Protect Stellat’en traditional territory for future generations.” Additions and alternations were also made based on review and analysis of the interview data and comments at the feedback workshop.

The utility of the goals/objectives list was tested by applying it in the evaluation of four forest tenure and governance models (see Chapter 3). The process of application highlighted more useful ways of organizing the means and ends statements. It also indicated that some features could be reworded to make them easier to operationalize. Thus the final version was created through an iterative process of refining, testing, rewording and reorganizing. Throughout the process, ways were sought to consolidate the list and make it form a clear and comprehensive package.

Table 2.2 Method for Consolidating Stellat’en Goals and Objectives

1. Categorize community statements from the workshops into themes. Interpret and write “objective” statements for each theme group of community statements.
2. Provide draft list to community research council members for review and comment.
3. Organize the list of features into a hierarchical structure of means and ends, to produce a list of goals, objectives and means/strategies.
4. Present the goals/objectives list to the community research council for review.
5. Add to and adjust the list based on review and analysis of the interview data.
6. Apply the goals/objectives list in the evaluation of four tenure and governance models.
7. Iteratively adjust the list based on improvements suggested in its application.
8. Present the list to the full Stellat’en community at a feedback workshop and make final adjustments based on that input.

Table 2.3 Community Statements and Interpreted Objectives for the ‘Stewardship’ Theme

Community Statements	Interpreted Objectives
Lack of First Nations principles BC government dictates sustainable principles	Include Stellat’en stewardship principles in forest management and decision making
Lacks First Nations stewardship	Provide meaningful stewardship role for Stellat’en First Nation.
You can’t harvest only one resource, everything affects one another	Consider multiple forest values in decision making, not just timber.

2.4 Results: Stelat'en Goals and Objectives

This section describes Stelat'en community goals, objectives and means related to forest tenure and governance, drawing on the information gathered in workshops, interviews and feedback from the research council and community members. The results are presented in three main sections – one for each of the overarching goals. The objectives are described in sub-sections for each goal. The means for each objective are displayed in tables at the end of the associated sub-section (see Tables 2.5 - 2.21) for each objective, though not all of the means are discussed in the text. For a consolidated version of the entire goals/objectives/means list see Appendix 1. The Stelat'en vision is explained within the context of the current situation. Solutions proposed by Stelat'en are indicated. A discussion of other potential solutions and the implications for policy change is presented in the Discussion (Section 2.5).

Three overarching goals emerged from the research; 'Protect Stelat'en traditional territory for future generations', 'Protect Stelat'en culture' and 'Support Stelat'en economic self-determination'. These goals and their objectives are displayed in Table 2.4. The relative emphasis placed on each goal and the objectives within it may vary between individual community members. Despite this variability, when taken in its entirety, the set of goals and objectives reflects what the community as a whole expressed regarding their vision for forest tenure and governance. The listed order of goals, objectives and means does not indicate preferred weightings or priorities.

Table 2.4 Stellat'en Goals and Objectives for Forest Tenure and Governance

Goal 1: Protect Stellat'en Traditional Territory for Future Generations

Objectives
1.1 Stellat'en have a high level of decision making authority in forestland management
1.2 Stellat'en have a leadership role in stewardship of forestlands in the traditional territory
1.3 Recognize and respect Aboriginal rights and title
1.4 Explicitly consider future generations in policies and decision making
1.5 Adopt a holistic approach to forest management
1.6 Protect ecosystem integrity

Goal 2: Protect Stellat'en Culture

Objectives
2.1 Protect Stellat'en cultural forest values
2.2 Value non-commercial uses of land
2.3 Involve traditional leaders and elders in early stages of planning
2.4 Implement Stellat'en stewardship principles in forest management
2.5 Protect Stellat'en access to and use of land and resources in the traditional territory
2.6 Include cultural and traditional knowledge in management, planning and decision making
2.7 Provide opportunities for government, industry, local communities and stakeholders to learn Stellat'en culture

Goal 3: Support Stellat'en Economic Self-Determination

Objectives
3.1 Support viable Stellat'en forest based economic ventures (both timber and non-timber based)
3.2 Support Stellat'en livelihoods
3.3. Ensure allocated land base/harvest rights can sustainably support the Stellat'en community
3.4 Ensure Stellat'en benefit economically from sustainable resource development in the traditional territory
3.5 Compensate Stellat'en for impacts
3.6 Support Stellat'en capacity building
3.7 Promote a healthy local economy

2.4.1 Goal 1: Protect Stellat'en Traditional Territory for Future Generations

'Protecting the traditional territory for future generations' emerged as a critical overarching goal guiding the actions of the community. This goal was stated directly during the visioning portion of the workshop. When people were asked what they wanted to manage, protect and harvest in the traditional territory, the responses included "to protect our land for our future generations" and to "protect the traditional territory and all of the resources." This goal is elaborated upon by a series of six objectives, as described below. Though not explicitly described in the text, the means for each objective are depicted in Tables 2.5 to 2.10.

Objective 1.1 Stellat'en have a high level of decision making authority in forestland management

Authority¹⁵ and jurisdiction on territorial lands are key issues for indigenous peoples across Canada, and Stellat'en are no exception. The need and desire for increased decision making authority in forestland management was a central theme of the workshops and interviews. Many individuals expressed frustration at the lack of influence they had in decision making on their own territorial lands. Indeed, Stellat'en would be in a better position to protect the traditional territory if they had a greater degree of authority. However, rather than talking in terms of "authority," one elder preferred to emphasize co-existence through an alternative status and new relationship that would affirm their inherent rights. This comment highlights the interconnectedness of Objective 1.1 with the recognition of rights (Objective 1.3), and the importance of relationships in decision making.

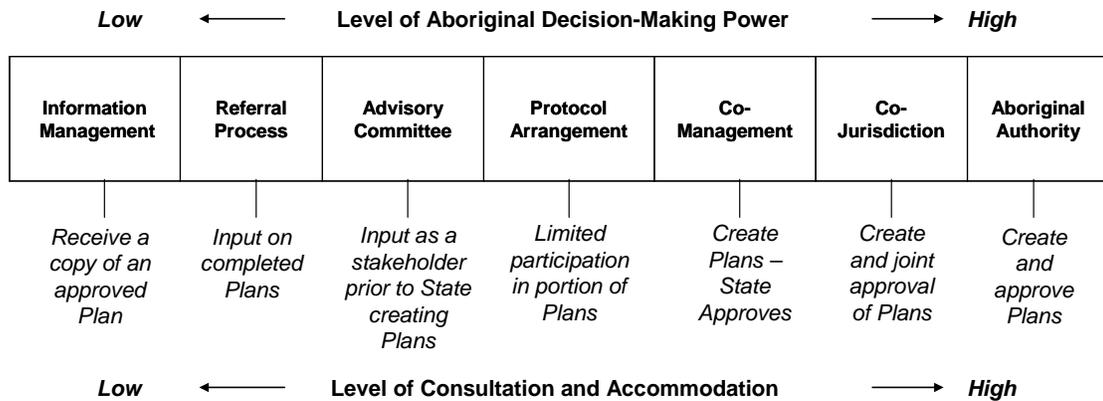
Currently, authority and power for decision making is concentrated in provincial and federal governments, and the major forestry companies. In the case of both the traditional and band elected governance structures, Stellat'en involvement and influence in policy formation is limited. The community feels that essentially government is dictating the rules and unilaterally changing laws in a way that reflects only the government's objectives and not those of First Nations. Consultation and referral processes are flawed. For example, a physical visit to the community is preferred to the standard of simply sending a letter. To Stellat'en, it appears only minimal efforts are made to seek First Nations input, and the input that is received is often ignored.

¹⁵ "While "power" refers to the ability to achieve certain ends, "authority" refers to the legitimacy, justification and right to exercise that power. For example, "whilst a mob has the power to punish a criminal, such as through lynching, only the courts have the authority to order capital punishment" (Wikipedia website). Although power can help Stellat'en achieve their goals, in the long term, Stellat'en are better served with the designation of legal decision-making "authority" rather than simply power and influence.

Stellat'en's Desired Degree of Decision Making Authority or Power

Forsyth (2006) created a scale describing relative levels of Aboriginal and Crown decision-making power. The scale is useful for explaining the degree of power Stellat'en are seeking. It is reproduced in Figure 2.6.¹⁶

Figure 2.6 Aboriginal-Crown Relative Power Spectrum



Source: Forsyth, J. P. 2006. *The Balance of Power: Assessing Conflict and Collaboration in Aboriginal Forest Management*. M.Sc Forestry Thesis. University of British Columbia. Reproduced with permission.

Some Stellat'en members identified the need for improved referrals and consultation processes, citing a lack of communication regarding planning and development in the territory. A "Referral Process" alone, however, is relatively low on the Forsyth scale. Other aspects of the results indicate that Stellat'en would like a higher level of involvement than merely providing input on completed plans. Many stated that Stellat'en should have authority to grant harvesting rights such as tenure licences, that "government should ask First Nations what to do on the land" and that "industry should ask First Nations before any logging or extraction." No activity should take place without the input of local First Nations, and it would have to be "substantial input," "not simply sending a letter asking 'what do you think of this cutblock'." Input would have to be sought early in the planning stages. One person illustrated their desired degree of authority in the context of protecting Devil's Club, a plant with significant cultural value but little recognition in typical industrial forest management;

¹⁶ During the feedback workshop, one person objected to use of the term "state". They preferred to talk about their relationship with the federal and provincial governments, rather than with the "state". The term state is included in Figure 2.5, however, because it is part of a document created separately from and prior to the Stellat'en-based research.

– But we have to have, not necessarily a veto, but we need...a big stick for them to listen sometimes. For example the devil's club idea I had. If they be big as this treaty office where the devil club is, it may be the only access to that area they want to get at. The only other access you need to go by ferry or build a bridge, an expensive bridge somewhere else. Now they could convince us that this little area here doesn't make sense because it'll to cost them piles and piles of money. But for us, this area makes a lot of sense. Find a way around. And if it's too costly to go around, maybe those resources aren't worth extracting. Leave them as they are and go somewhere else. We'll find another use for that particular land. So that's the decision kind of making we need. You can't...they can't come back up to us and say "No, your idea's crazy, it's too expensive." They have to accept the recommendations and then they have to go elsewhere.

Based on the data, it is reasonable to conclude that those who spoke about the need for improved consultation and referral processes are seeking more than to simply be informed or provide input on completed plans. On the contrary, improved consultation and referrals are a necessary step in facilitating First Nations power and authority through input in land-use planning and decision making. In this regard, Stellat'en suggested that consultation should be included as a requirement for all timber sales and forest tenures. Consultation then needs to be followed by accommodation, in which First Nations input has a significant impact on decisions and management in the traditional territory. On the other hand, most Stellat'en also felt that a balanced approach is required, with recognition of the interests of all parties. Decisions need to be democratic, with an emphasis on dialogue with industry, government and non First Nations communities. Translating this into the Forsyth scale, it appears that Stellat'en's aspirations for authority range between co-management, co-jurisdiction and Aboriginal authority. One Stellat'en member described the ideal authority "relationship" as "co-existence" (rather than "co-jurisdiction").

Co-management

At least one person did not approve of co-management as they as they felt that "by saying co-management, you're saying that you're not given the tenure, you're not given the governance. You're assuming that you're getting control but you don't, you don't have any." Another member, who accepted a need for co-management, emphasized the need for fifty percent First Nations representation in any co-management boards, with knowledgeable people as First Nations representatives.

Previous experience has shown that such boards may not function as intended since the First Nations may not have the same level of technical knowledge as others. First Nations perspectives can be overwhelmed and underplayed in forums that emphasize technical detail. A co-management process needs to have a “safety valve,” to reset it should the process get off track.

Distribution of Forest Management Decision Making Authority

When asked who should be involved in forest management decision making and the allocation of harvesting rights, all participants indicated that Stellat’en community should have priority. Many people stressed that the nature of the authority should be community based, meaning that all community members should participate and have a say in the outcomes. Special emphasis was placed on the role of traditional leaders and elders due to their knowledge about the land and culture.¹⁷ Chief and Council were seen to deserve less of a role, as they are merely “an arm of DIA.” Some felt the Carrier Sekani Tribal Council could have some authority, while others felt the CSTC role should be limited to technical support.

While the involvement of traditional leaders, elders and trapline holders was generally seen to be important, having Ministries and companies consulting them at the level of individual blocks had led to problems in the past by putting too much pressure on those individuals.¹⁸ Early involvement of trapline holders, traditional leaders and elders at the regional land-use planning level was preferred.

Some differences existed in how the community thought authority or input should be distributed between different governments and communities. In general, it was preferred that outside governments provide input rather than authority. Some felt the province should have no role, and that if any authority was held by government, it should be placed at the federal level due to their fiscal and fiduciary responsibility for First Nations. Many viewed the ideal situation as a tripartite sharing of authority between federal, provincial and First Nations governments.

There was some dispute as to whether it was appropriate for local non-First Nations communities to have authority in forest management of the traditional territory. While most interviewees felt it was not appropriate, others said that “including non-

¹⁷ This aspect is interconnected with Objective 2.3, which indicates that involving traditional leaders and elders can help to protect Stellat’en culture.

¹⁸ This may also have been a problem as it reinforced a concept of individual ownership that was not consistent with the traditional view of shared land-use.

natives in future tenure and governance is a fair chance.” Most Stellat’en members agreed neighboring First Nations should have input in Stellat’en management decisions, though not necessarily the final say. One elder stressed the need for a regional accord between First Nations in north central BC, stating that ‘no matter what we do, somewhere along the line there is a need to look at a regional approach to negotiations and resource management.”

Conclusions Regarding Authority

In essence, Stellat’en would like more control over “who comes and goes in the traditional territory” and “more of a say in the management of areas affected by logging.” Despite some variation regarding the degree of sharing of decision making, the overall trend is clear – Stellat’en are seeking a much greater degree of authority and power than what they currently have.¹⁹ One person commented that “decision making power is always a law,” indicating a need for authority to be legally established.

Table 2.5 Means for Objective 1.1: Stellat’en have a high level of decision making authority in forestland management

1.1.1 Stellat’en have a high level of authority in creation and approval of plans and policy objectives at both strategic and operational levels
1.1.2 Enable Stellat’en authority to create and enforce forest management standards 1.1.2.1 Create a First Nation Conservation Officer or environmental policing service
1.1.3 Stellat’en have high level of authority in allocating tenure/harvesting rights in territory
1.1.4 Stellat’en have high level of authority in determining harvest levels
1.1.5 Stellat’en determine where they get access to harvesting
1.1.6 Stellat’en are meaningfully consulted 1.1.6.1 Implement appropriate referral and consultation processes 1.1.6.2 Fund Stellat’en participation in consultation and processing of referrals
1.1.7 Strongly accommodate Stellat’en values and interests in resource decisions
1.1.8 Fund Stellat’en participation in planning and policy processes
1.1.9 Enable meaningful involvement of entire Stellat’en community in decision making
1.1.10 Legally establish First Nations decision making authority

¹⁹ Responses to questions about the desired level of authority were sometimes ambiguous, indicating a general increase in authority but not the exact level desired. Within the ambiguity, some responses indicated a higher level of desired authority than others, or a greater or lesser degree of authority-sharing. Regardless, the overall theme was a desire for an increase in authority from the current level.

For a more detailed description of Stellat’en aspirations for authority with regard to specific forest management functions, see Lee-Johnson, forthcoming.

Objective 1.2 Stellat'en have a leadership role in the stewardship of forestlands in the traditional territory

Many Stellat'en people self-identify as keepers of the land and seek to take a role as protectors and caretakers of the traditional territory. Stellat'en feel the current governance "lacks appropriate stewardship" and that the land is not properly taken care of. The community seeks to protect and manage their ecosystem. They are frustrated that the current system cuts them off from the ability to care for their own traditional territory. One elder noted that there are two kinds of settlement: land settlement and stewardship settlement. This distinction recognizes that appropriate stewardship of regional resources also needs to be negotiated. Another felt strongly that the natives should be looking after the forest and forestry business by the time the next generation of trees grows up.

Having an effective stewardship role may require an increase in authority for some forest management functions, such as enforcement. However, some aspects of stewardship can be addressed (to an extent) without changes to authority, such as monitoring ecosystem health and the results of forest practices.

Setting Standards

A key aspect of stewardship in which Stellat'en wish to be involved is the setting of standards for forestland management. Such an arrangement would be very different from the existing situation in which the "BC government dictates sustainable principles." Stellat'en want to see the land and forests managed according to standards that fit the values of their people. Dissatisfaction with existing stewardship was expressed through a wide array of concerns around the degraded state of the land and the low level of care for ecosystem integrity. Some felt a Stellat'en standard would be a step above present government requirements for the land. For example, current reforestation standards only require the replanting of trees, when logging often affects many other plants. Stellat'en would like to see more care taken with medicinal plants and plants that provide food for wildlife. Concern was also expressed that not enough care was being taken with fish and wildlife habitat within their territorial environment. Lacking authority, First Nations could set standards to be used as best practices, using their influence to encourage voluntary compliance. However, having authority to set standards would likely be more effective in the long run.

Despite wanting to be involved in standard setting, many people recognized the current capacity limitations of the community. Most Stellat'en have not had an

opportunity to learn or be involved in the existing system of policies and laws governing forest management. Some felt the First Nation would first have to learn the existing system of laws by working with it - for example by being employed with the Ministry of Forests. As they learned the system, they would then, over time, be able to recognize how it needed to change and could evolve the laws accordingly.

Stellat'en Proposed Stewardship Roles

Stellat'en identified a number of ways they could be more involved in stewardship. One approach was through being granted a license focused on the reforestation of logged lands. Others suggested that traditional people could be involved in monitoring, to make sure what they had planned for a license was being kept in place. The monitoring could include a policing role, or it could be focused on information gathering. This idea was closely related to the idea of having an official role for Stellat'en as caretakers of the land. Special emphasis was placed on the need to look after medicine plants. This "monitoring and caretaking service" would work with industry and the community. Ideally it would have authority in order to enforce standards, as well as a secure funding base.

The idea of First Nations Conservation Officers (COs) was also suggested. First Nations COs would have the same authority and uphold the same laws as existing COs. Stellat'en felt there was a lack of enforcement of environmental laws and were particularly concerned about the lack of control of overhunting and overfishing. A First Nations CO service could fill the enforcement gap while also providing a bridge for better understanding between First Nations and provincial resource agencies.

Impact Assessment

Typically in the past, there has not been adequate assessment and accounting of the potential impacts of resource developments on ecological and cultural values in the traditional territory. For example, mining projects have destroyed significant community berry picking areas and polluted fish bearing rivers. Medicine plants are trampled by skidders in logging operations. In order to address these oversights, First Nations-led ecological and cultural impact assessments should be implemented for all development proposals, including forest management plans. The goal of these assessments would be to recognize the full impact of development on First Nations values, and ensure those values are taken in to account in decision making. Assessments would have to make people "think long term about impacts." Providing funding for a First Nations-led process would help ensure the values were fully reflected

in an assessment. Conducting such assessments could be an important stewardship role for Stellat'en.

Conclusions Regarding Stewardship

Overall, Stellat'en wished to increase the emphasis on stewardship in the attitude towards land management. For example, one elder said they would like to "extend how we look at parks to rest of land base – we have the same concerns." Stewardship has to "come down on paper," be "reflected in land use planning," and "implemented in an ongoing way." Stellat'en aim to develop their own policy for forest management that specifies how cultural and ecological values will be protected. One leader stated that "Stellat'en needs a tenure or policy document that, in 5 years, when government asks what Stellat'en have in place to replace what they are doing, Stellat'en can say here's our document that shows how salmon are protected, how birch are protected..." Future research in the community could develop the details of such a policy, with a focus on the operational level.

Table 2.6 Means for Objective 1.2: Stellat'en have a leadership role in the stewardship of forestlands in the entire traditional territory

1.2.1 Stellat'en have a leadership role in determining standards for forestland management
1.2.2 Stellat'en have a leadership role in monitoring ecosystem health and compliance with objectives, plans and rules
1.2.2.1 Stellat'en have a funded stewardship and monitoring service to look after the land
1.2.3 Stellat'en have a leadership role in ecosystem rehabilitation and restoration
1.2.4 First Nation-led assessments of impacts on environmental and cultural values are required for all development proposals, including forest management plans

Objective 1.3 Recognize and respect Aboriginal rights and title

Recognition of Aboriginal rights is connected with and critical to the implementation of all three overarching goals. Recognition of rights will support Stellat'en to protect their territory, uphold their culture and ensure their economic interests are respected. Stellat'en maintain that, despite the recognition of Aboriginal rights in Section 35 of the Canadian Constitution and recent court rulings affirming Aboriginal title (e.g. *Delgamuukw*), the present governance situation does not respect First Nations rights. While court precedents and the Constitution give high level recognition of rights, these rights are not affirmed in legislation and on-the-ground decisions.²⁰ Stellat'en are constantly required to negotiate for their rights, or even to prove them in court at great personal expense. During negotiations, the Ministry of

²⁰ The general experience of BC First Nations is described by Overstall 2004 when he writes "Aboriginal rights and title thus remain, as they have for over two centuries, largely a legal fiction."

Forests asks First Nations to give up aspects of their title and rights in exchange for other things. Stellat'en holds that these rights are non-negotiable. An Aboriginal tenure should expand the idea of rights to larger protection across the landbase, as opposed to the concept of rights being limited to food and a few trees for a house.

Need for Legal Recognition of Rights

In order to address Stellat'en goals, a tenure and governance system would need to go further than simply relying on high level policy and court directives regarding rights. Stellat'en's Aboriginal rights need to be affirmed with further legislation. This was explained by an elder who said "the agreements we have now never really change legislation, don't really accommodate us. We can say we want to adapt, but in order to adapt, the laws need to change. We win cases in court but it's very hard to change governments and industries legislation. We need to change the law – what our rights mean to us." One specific suggestion was made that would help apply Stellat'en rights and values at the operational level - to attach Stellat'en policies and requirements to timber sales and other tenure documents. Companies awarded the harvesting rights would then have to follow the Stellat'en stipulations, including requirements for consultation (as described in Objective 1.1). While the existing Stellat'en FRA and government policies do contain consultation protocol, their scope and degree of implementation is currently inadequate.

Tripartite Governance Relationship

The recognition of Stellat'en rights and title requires the establishment of a tripartite government-to-government relationship and protocol. This means that the federal and provincial governments should fully recognize Stellat'en as a government in their own right. Communication between Stellat'en, the province and federal representatives needs to happen on a government-to-government level, with their interaction guided by a respectful protocol and an interim measures agreement. The government-to-government relationship is a starting point for meaningful consultation and accommodation, and a high level of Stellat'en decision making authority in the territory (as per Objective 1.1). Recognition of rights is the legal basis of the authority desired in other objectives.

In order to truly support Stellat'en rights, federal and provincial governments must respect and recognize Stellat'en's chosen internal governance structure. Stellat'en wish to determine their own governance structure in a manner that is consistent with their culture and traditions. Currently, the traditional system, which includes roles for

traditional and hereditary leaders, has “no status” in the eyes of federal and provincial governments.

An effective government-to-government relationship needs to be established on a basis of trust and compassion. This means that if, despite their best efforts, the governments still don’t understand each other, “one government’s got to have some compassion and say ‘Okay, we don’t quite understand where it is you’re coming from, but we kind of feel sorry about what’s going on here, and we’re willing to do this and see where it goes.’” So far, says one elder “I haven’t seen trust between us and the province.”

Table 2.7 Means for Objective 1.3: Recognize and respect Aboriginal rights and title

1.3.1 Recognition of Stellat’en rights and title is reflected in laws, policies, agreements (including tenure licences), processes and decisions
1.3.2 Expand the concept of rights to involve broad protection of rights across the landbase
1.3.3 Stellat’en have a tripartite government-to-government relationship with provincial and federal governments and/or a regional protocol 1.3.3.1 The government-to-government relationships are based on a Stellat’en First Nation interim measures agreement
1.3.4 Stellat’en’s internal governance structure is recognized and accepted 1.3.4.1 Stellat’en determine their own internal forestland governance structure

Objective 1.4 Explicitly consider future generations in policies and decision making

The Stellat’en culture places great emphasis on consideration of future generations. Community members feel the logging companies who currently hold tenure do not think about “children that are not born,” but rather focus on money. In contrast, the main concern in the traditional cultural system is to protect and manage the land for future generations. This priority was also highlighted when discussing what types of businesses Stellat’en would like to engage in, to support the goal of economic self-determination. One respondent noted that with any industry, one needs to be mindful so resources are going to be there for future generations.

The current political economy, including features such as short government election cycles and companies focused on quarterly profit reports, creates strong pressure to take a short term view in decision making. Thus while governments or companies may claim they consider future generations, this objective may need to be explicitly included in policies, laws and decision making processes in order to ensure its implementation.

One area in which consideration of future generations is most urgently needed is in planning for the future fall down of timber following the beetle harvest. Participants at the workshops expressed strong concern regarding what will happen since “the future generation of timber is all gone.”

Table 2.8 Means for Objective 1.4: Explicitly consider future generations in decision making

1.4.1 Include mechanisms for consideration of future generations in decision making processes
1.4.2 Emphasize planning for when the beetle timber is gone

Objective 1.5 Adopt a holistic approach to forest management

Stellat’en would like to see forest management approached in a holistic manner. In one sense, this means that forest values other than timber are taken into account. When asked what they would like to manage, harvest and protect, the community came up with a large list of “resource overlays,” timber being only one of them. One person explained that a Stellat’en tenure would “look at the forest in terms of what’s underneath the branches, on the floor itself, not just in cubic meters per hectare.” Special emphasis was placed on the need to protect drinking water and medicinal plants.

Connectivity

In another sense, holistic management means to recognize the connectivity within forest ecosystems – “you can’t harvest only one resource” because “everything affects one another.” Another person added that “forestry management has to be holistic as forestry and water management are closely connected.” This viewpoint was reflected in a concern about flooding and rivers drying up in the future due to heavy harvesting of beetle killed timber.

Multiple Values

Current forest tenures are almost entirely focused on timber harvesting rights. Out of the eleven forms of agreements identified in the *Forest Act*, eight are focused exclusively on timber harvesting.²¹ Since Stellat’en members are interested in more values than simply timber, a First Nations forest tenure would need to be designed accordingly. Access to decision making and/or rights for other activities and resources would need to be included. For example, one person indicated that an “interim measures agreement” would need to include watershed, ecological values, fish and

²¹ Community Forest Agreements are the main exception, as they may also give to the holder rights to harvest, manage and charge fees for botanical forest products and other prescribed products. The other two exceptions are Christmas tree permits and Free Use permits.

wildlife, environment and economic development. Community members suggested that such a tenure would also have to allow experimentation in trying to manage different ways, for different values on a piece of land – similar to a model forest.

Table 2.9 Means for Objective 1.5: Adopt a holistic approach to forest management

1.5.1 Take multiple forest values in to account in decision making, not just timber
1.5.2 Recognize connectivity within forest ecosystems and manage accordingly
1.5.3 Allow for experimentation and innovation in managing for different values

Objective 1.6 Protect ecosystem integrity

Stellat'en highlighted protection of the forest itself as a main priority. There are numerous dimensions of the ecosystem that Stellat'en would like to protect. The most frequently stated values included fish and wildlife and their habitat, as well as biodiversity as a whole. Moose, bears, deer, beaver, furbearers, eagles, swans, porcupines and other animals are all important to Stellat'en. Fishing, wildlife and streams all have to be kept intact continually over the years. Many people spoke about the need to protect waterways, citing a "lack of protection of fish habitat and small and larger creeks used by fish."

Overharvesting

Concerns about overharvesting and clearcutting of timber were dominant themes at the workshops. People felt very strongly that too much timber harvesting was happening too quickly, creating a loss of natural habitat for wildlife, causing wild animals to move in to residential areas, and threatening to destabilize hydrological patterns. Those people that hunted said it was getting harder and harder every year to find animals such as moose.

In order to protect ecosystem integrity, Stellat'en suggested a variety of changes to forest management practices. First of all, overharvesting must stop. When deciding how much to harvest, the first step is to "find out how much the area can sustain without doing damage to environment." Some people suggested limiting the area of land that trees are taken from. In twenty years, the community wants to see "minimal harvesting" and have "an efficient program to harvest as much as needed."

Selective Cutting

A primary area of concurrence was the preference of selective harvesting or patch-cuts in place of clearcutting everywhere. The practice of clearcutting was associated with "greedy companies." Stellat'en felt there should be limits on how much

timber should be taken from an area, and that with smaller patches in a matrix of forest “you see more of the wildlife you’re looking for.” Fish and wildlife should be taken in to account when planning roads, as well as during harvesting. While Stelat’en recognized a need to salvage some of the wood attacked by pine beetle, they also felt that care should be taken to maintain wildlife and fish habitat in the process.

Pesticides and Herbicides

Broad consensus existed regarding the rejection of pesticides and herbicides. People did not like the use of chemicals in forest areas. Spraying was believed to contaminate berries, medicines and other plants important to the people. Animals such as moose eat plants in the sprayed areas, creating health concerns about using them for food. Manual brushing was preferred to spraying, especially as it could also provide jobs.

Reforestation and Rehabilitation

Stelat’en stressed that reforestation and rehabilitation needs to occur promptly wherever there is timber harvesting or other development. Decisions regarding what resources to replant should be made concurrently with decisions regarding what to harvest. Planting of seedlings was accepted as a method of reforestation, though special emphasis was placed on the need to reforest with diverse species, not just pine. Some people felt that plants other than trees, such as medicine plants and plants needed by animals should also be restored. The need for rehabilitation also applies to areas damaged by other industries such as mining. As one person put it, “everything should be brought back to what it was.” These statements could have important implications for stocking standards and “green up” criteria.

The landbase in the traditional territory is currently in a degraded state due to a variety of resource based activities including mining and heavy timber harvesting. Rehabilitating the land to a productive and healthy state will require a steady source of funding for rehabilitation programs, especially if companies are not required by law to bring the land back to a fully functioning condition and if inadequate compensation is provided for accidental impacts such as oil spills. When describing the features they would like to see in an Aboriginal tenure, some Stelat’en indicated that the tenured land base would need to be able to provide revenue for rehabilitation of damaged areas. Thus the land base given in an Aboriginal tenure should not consist only of logged out and degraded lands, as that would not provide them with a source of revenue to use for rehabilitation. In fact, it would be wrong to put the land in a situation where no funds

were available to care for it properly. Stelat'en want to be in a financial position to be able to contribute to the restoration of their traditional lands.

Accountability and Monitoring

Stelat'en felt that there was generally a lack of accountability for actions and decisions, on the part of both the government and forest companies. Under the current system, Stelat'en saw that "decision makers don't have to deal with decisions after" and that governments give contracts to companies who harvest and leave. Furthermore, they saw no penalties being given to companies who don't clean up and replant trees after logging. Strengthening mechanisms for accountability, increasing enforcement and penalizing parties for failure to uphold management standards would help to address Stelat'en concerns. As mentioned earlier, Stelat'en are willing to take on a monitoring and/or policing role in this regard.

Protection of ecosystem integrity, as Stelat'en see it, would require changes to management objectives and standards. While a wide array of environmental laws and objectives do already exist, the Stelat'en experience indicates that either the standards are not high enough, they are not sufficiently enforced, or both.

Mountain Pine Beetle

While government and industry view the beetle attack as a catastrophe, many Stelat'en consider it a natural phenomenon. Some people feel the government is using the term "epidemic" as an excuse to accelerate the exploitation of the resource. The rapid deforestation has led many people to wonder what they will do as "the future generation of timber is all gone."

Despite their concerns about overharvesting, most Stelat'en agree that some harvesting and use of the beetle-killed wood should occur. Some feel that they have no choice but to harvest it. In contrast to the current pattern however, Stelat'en stress that harvesting should occur in a manner that protects wildlife, cultural areas, hydrology and riparian zones. Some areas should be left to let nature run its course, while others are heavily harvested and replanted with diverse species to speed up regrowth.

Table 2.10 Means for Objective 1.6: Protect ecosystem integrity

1.6.1.1 Protect fish and wildlife
1.6.1.2 Stop overhunting and overfishing
1.6.2 Protect fish and wildlife habitat
1.6.2.1 Leave some beetle killed areas for wildlife buffers/corridors
1.6.3 Prohibit use of pesticides and herbicides
1.6.4 Promote more selective timber harvesting, less clearcutting
1.6.5 Protect biodiversity
1.6.5.1 Reforest with diverse species, not just pine
1.6.6 Maintain slope stability
1.6.7 Base timber harvest levels on what the land can sustain without damaging it
1.6.7.1 Provide funding and resources for resource inventory and mapping
1.6.8 Require reforestation and rehabilitation after harvest and extraction (including medicine plants and plants needed by wildlife, not just trees)
1.6.8.1 Provide funding base for rehabilitation of degraded lands and resources (especially from beetle wood revenue)
1.6.9 Implement an effective environmental monitoring system
1.6.10 Protect waterways
1.6.10.1 Prohibit logging near lakes, rivers, streams
1.6.10.2 Prohibit cattle in riparian areas
1.6.11 Strictly enforce forest management standards
1.6.11.1 Hold decision makers accountable for their actions – require parties that damage the ecosystem to do/pay compensation
1.6.12 Minimize environmental impacts of timber harvesting equipment
1.6.12.1 Implement energy efficient forestry equipment and operational procedures

2.4.2 Goal 2: Protect Stellat'en Culture

The second overarching goal to emerge from the workshops and interviews was the protection of Stellat'en culture. As one community leader noted “the top priority is to preserve culture and heritage.” Culture is a central pillar of Stellat'en identity. The community felt strongly that culture needs to be maintained and that forest management should “add value to cultural aspects of forests.” The protection of culture is supported by seven objectives.

Objective 2.1 Protect Stellat'en cultural forest values

A primary objective supporting Stellat'en culture is the protection of cultural forest values. Stellat'en identified a range of culturally important forest values. These include cultural sites such as sacred grounds, culturally modified trees and cache pits, hunting, fishing and gathering areas such as berry sites and traplines, sources of traditional food such as wildlife, fish and berries as well as medicine plants, root plants and birch. Without the existence of these features in the forest, it is difficult for Stellat'en to practice their culture and teach it to their children. Unfortunately, many of these values have

already been severely impacted by past activities. Berries are becoming harder and harder to find. Some community members said they have to go outside the territory now to find some of the foods they need, and that many of the traditional resources have already been destroyed by activities such as mining and timber harvesting. The rapid pace of the beetle salvage harvest also poses a danger to cultural values because "if you accelerate the harvest rate...you run a greater risk of cutting down a lot of our cultural heritage sites."

Co-existence of Commercial and Traditional Land Uses

During the interviews, people were asked if they thought commercial land uses such as logging and mining could co-exist with traditional uses. While some people were skeptical due to negative experience in the past, most felt that such activities could co-exist as long as areas with wildlife habitat or cultural values were off limits to logging or other "destructive operations." At the same time, they recognized that such a system would take a lot of work and big changes in regards to cooperation from industry and government. Many community members proposed a zoning approach, with separate areas for traditional uses and industrial resource extraction. Under this approach certain areas would be completely off limits to some resource-based activities, since they simply could not co-exist on the same landbase. Some activities, however, might be compatible. Tourism, in particular, was widely favored as a form of economic development that was perceived to not interfere with cultural uses. In some cases, culturally and ecologically sensitive areas might be protected by identifying them and putting wildlife tree patches around them. Loggers and other field workers should know how to recognize First Nations forest values, so they can take them into consideration during operations. "When they do road planning, they should also take into consideration...habitats for the animals, for the bears, the berries."

One person also suggested identifying where members are collecting resources in relation to where the logging activity has been happening-to get those two bits of information together so people are more aware of what's being over harvested in terms of the animals. Such information could be collected through an oral history approach – for example by asking people where they got their moose last year.

Changing Values in the Modern World

While cultural values are fundamentally important to the Stelat'en people, they also say that 'my grandfather's values are different from my values today. At this day and age, we can't go back to our grandfather's days'. Thus Stelat'en recognize that some values are changing and that they need to resituate cultural values in the modern context.

Table 2.11 Means for Objective 2.1: Protect Stelat'en cultural forest values

2.1.1 Zone separate areas for cultural and commercial/industrial land uses
2.1.2 Legally require protection of cultural values
2.1.2.1 Require all forest users to protect Stelat'en forest values in their activities
2.1.2.2 Ensure cultural values are protected during beetle wood salvage
2.1.3 Protect cultural sites (e.g. sacred grounds and sites, culturally modified trees, cache pits)
2.1.4 Protect medicinal plants
2.1.5 Protect hunting areas, fishing and gathering sites
2.1.5.1 Protect berry picking sites
2.1.6 Protect traditional food sources (berries, wildlife, fish, plants)
2.1.7 Protect traplines
2.1.8 Protect birch
2.1.9 Protect root plants

Objective 2.2 Value non-commercial uses of land

During the workshops, Stelat'en youth expressed their dislike of seeing too much "commercializing" and increased "logging and commercial property focus" in the traditional territory. The modern world's emphasis on economic values contrasts with the traditional system where "they don't just think of logging as an income." These statements could be interpreted to mean that traditional uses should receive a higher priority, rather than automatically considering commercial or economic purposes as the best and highest use of land. In describing pressures placed on the First Nation to emphasize economic values, one community leader gave the example of how the "balance of conveniences" test is applied by judges in injunction cases. In this test, judges "weigh the inconvenience to the party seeking the injunction of not granting it against the inconvenience to the responding party of granting it" (Overstall 2004). Tollefson and Wipond (1998) explain with reference to a particular case. "The tendency of courts...to regard economic losses as being more serious than threats to species or the loss of old growth forest is well documented in BC case law. The court's decision in *Derickson v The Queen, Weyerhaeuser, and Riverside Forest Products* goes one step further, giving priority to economic interests over species, habitat, old growth and

constitutionally guaranteed aboriginal rights” (Tollefson and Wipond 1998, BC Supreme Court 1996). “Convenience”, it appears, tends to be measured in economic terms. Under such a criterion, cultural values, despite their constitutional protection, often lose out.

The need to protect cultural values from economic pressures was highlighted again at the final community feedback meeting. The current debate surrounding a proposed new forestry road illustrates the challenge. A large forestry company wants to build a new road in the territory to access beetle killed wood. Stellat’en community members (elders in particular) oppose the road due to the impacts it will have on values such as berry picking and trapline sites. The outcome of this debate remains to be seen.

While the strongest pressure to emphasize economic values may come from outside the community, there are also those within it that support a relatively greater weighting of economic development. Community members realize that they must work to find a balance between economic and traditional values.

Table 2.12 Means for Objective 2.2: Value non-commercial uses of land

2.2.1 Give traditional and cultural land uses appropriate weight in relation to economic values

Objective 2.3 Involve traditional leaders and elders in early stages of planning

The involvement of elders and traditional leaders in early planning is important to ensure that cultural values and principles are recognized and included. In making management decisions, Stellat’en “want to zero in on people that understand both the past, the present and the future in such a way that they can make educated decisions on the resources.” Elders know a lot about the land, including the areas where people are not supposed to go. Having elders involved in planning will help ensure cultural values are recognized at an early stage. Traditional leaders and hereditary chiefs are often not the same individuals as the elected representatives in the Chief and Council system, which is described as a “puppet of the Department of Indian Affairs.” It is important for government and industry to recognize that traditional leaders play a large role in the maintenance of Stellat’en culture, and to include those people in planning and discussions.

Objective 2.4 Implement Stelat'en stewardship principles in forest management

The community articulated a set of core stewardship principles. These principles were a consistent theme repeated throughout the workshops and interviews: 'take only what you need', 'give back to the forest when you take', and 'respect the earth'. Implementation of these three simple principles would make forest management much more compatible with Stelat'en culture. Such a task may not be easy, however. It may require a fundamental rethinking of the premises and philosophy of forest management and economic development to emphasize "regional sustainable development."

Take Only What You Need

The first principle – 'take only what you need' - is difficult to comprehend in the context of publicly traded forest companies seeking continual growth and profits for shareholders. How does a corporation, that is legally required to maximize profits to shareholders, define what it "needs" from the land? In the short run, this is determined by the capacity of its mills. In the long run, it can expand capacity. Essentially, its need is unlimited. In contrast, the Stelat'en community can define its "need" as an adequate but not excessive standard of living. Stelat'en have also indicated they would like to balance the need for timber with needs for other resources. Thus, the principle of "take only what you need" may make more sense when business decisions are grounded in a community of place, rather than unbounded in the open global marketplace.

Respect the Earth and Give Back

The principles of "respecting the earth" and "giving back when you take from the forest" are reflected to some extent in the current system. For example, environmental laws and regulations could be interpreted as indicating a respect for the earth. Likewise, laws requiring companies to replant after they harvest reflect one form of "giving back." However, the degraded state of the territorial land base leads Stelat'en to believe that these principles have not been adequately implemented.

Table 2.13 Means for Objective 2.4: Implement Stelat'en stewardship principles in forest management

2.3.1 Limit harvest level to what is needed
2.3.2 Promote an ethic of respect for the earth
2.3.3 Promote a reciprocal relationship with forest (i.e. "give back when take")

Objective 2.5 Protect Stellat'en access to and use of land and resources in the traditional territory

In order to maintain their culture (and support their economic self-determination as per Goal 3), it is critical that Stellat'en are able to access and use the land and resources in the traditional territory. Currently, their ability to do so is limited by the extensive allocation of timber harvesting and development rights to other parties. At the workshop, community members described how their access was limited by "Do not Enter" signs placed on logging roads, and due to the danger of sharing roads with large logging trucks. They also felt that the "present forest government system makes laws that keep First Nations out of their lands and traditional territories."

Forest Tenure as a Means to Access

The reallocation of land to include a First Nations forest tenure in the traditional territory would provide a significant improvement in access. It would support Stellat'en access to areas of the traditional territory beyond their small reservation, to areas that are currently considered Crown land. Stellat'en emphasized that such a tenure should be located in the core traditional territory, because that is their historical land base, and to avoid disputes with neighboring First Nations. The tenure should also include transportation corridors used to access other areas for fishing or hunting, such as the Binta Lake corridor. One area was suggested to be deemed as a "tribal park" for predominantly cultural uses.

Communication and Access Management

Significant improvements to access could also be made by increasing communication between license holders and Stellat'en. At the moment, community members generally are not informed of planned logging, road building or resource development. They only find out when they go out in the woods and find that a "Do not enter" sign has been put up, or a berry patch has been logged. Tensions over access could be eased considerably if there were more open communication between licensees and the First Nation regarding planned activities.

Table 2.14 Means for Objective 2.5: Protect Stellat'en access to and use of land and resources in the traditional territory

2.5.1	Ensure Stellat'en have their own "Aboriginal interest" forest tenure
2.5.2	Locate Stellat'en tenure in the core traditional territory
2.5.3	Include transportation corridors used to access other areas for fishing and hunting etc. (e.g. Binta Lake Corridor) in the Stellat'en tenure
2.5.4	Require all tenure holders/parties to communicate with Stellat'en regarding activities that will affect access (e.g. road building and deactivation)
2.5.5	Prohibit tenure holders from blocking Stellat'en access without prior Stellat'en consent.

Objective 2.6 Include cultural and traditional knowledge in management, planning and decision making

Use of cultural and traditional knowledge²² is closely tied to the recognition and respect of Stellat'en cultural values. First Nations perspectives are often ignored or downplayed when processes emphasize scientific knowledge as the key information source for planning and decision making²³. Intentional efforts to include cultural and traditional knowledge can lead to more culturally balanced decision making. Elders have extensive knowledge of wildlife movement patterns and other ecological features. Seeking out such knowledge can provide important information for good management. Stellat'en interviewees indicated that accounts from elders (e.g. regarding where they used to hunt) could be combined with scientific knowledge from biologists.

Mapping of cultural values is one practical way to increase the use of cultural and traditional knowledge. Unfortunately, to date there have been limited financial resources for recording such information. One elder noted that in order for Stellat'en to effectively convey their knowledge and values, they will need to have the same technical capacity as the federal and provincial governments.

Table 2.15 Means for Objective 2.6: Include cultural and traditional knowledge in management, planning and decision making

2.6.1	Map cultural and traditional use values for the entire Stellat'en territory.
2.6.2	Consider traditional values when deciding what resources to harvest
2.6.3	Provide funding for recording and managing cultural and traditional use data
2.6.4	Stellat'en have equal technical capacity as provincial and federal governments (e.g. in mapping)

²² An elder explained the need to include both "cultural" and "traditional" knowledge, as opposed to just "traditional knowledge. The reason given is that "cultural" knowledge is broader, and may include ideas or perspectives that have evolved or changed. To include only "traditional" knowledge could be limiting.

²³ Nadasdy (2003) describes challenges in the use of cultural knowledge in his description of co-management of the Ruby Range sheep herd in the Yukon.

Objective 2.7 Provide opportunities for government, industry, local communities and stakeholders to learn Stellat'en culture

Regardless of what happens with forest tenure and governance, Stellat'en emphasized the need for education of forestry bureaucracies and industry regarding First Nations culture. Currently there is a lack of basic understanding of Stellat'en culture and insensitivity to the affects of forest policies and resource activities on the community. In addition to protecting Stellat'en culture, such education will support improved communication and understanding, as well as promote the recognition of Stellat'en values in forest management. Stellat'en made various suggestions regarding what form this education could take. Some people had made efforts to organize training sessions for government staff. Others suggested the learning would be better if it was one on one, occurring gradually through an interactive relationship.

2.4.3 Goal 3: Support Stellat'en Economic Self-Determination

The third major goal identified by the research was to "Support Stellat'en economic self-determination." Currently the community relies largely on program transfer monies. They wish to move away from that system, and become independent. As one member put it "we can't survive on a program driven economy." Another person stated that "Aboriginal interest is not confined to cultural values – it includes economic interests as well, for the nation to continue to rebuild itself." Many people spoke about the need for economic means to support new housing. Despite the need for economic benefit to the community, Stellat'en emphasized that "industries need to be sustainable" and the territory must be preserved at the same time. Tenure and land uses should be a way of sustaining the community without harming the land. "We are using it but we still have to...that land, it still has to be there for the future generations." These comments indicated the connections between Goal 3 and Goal 1. With those caveats, the following seven objectives expand upon the goal of Stellat'en economic self-determination.

Objective 3.1 Support viable Stellat'en forest-based economic ventures, both timber and non-timber based

Many community members expressed a strong entrepreneurial spirit and a desire for Stellat'en to have their own businesses. They are interested in a wide range of forest-based businesses, both timber and non-timber focused. In this section, Stellat'en's business aspirations and challenges are described, followed by an outline of "tenure" features that would support Stellat'en's aspirations.

Timber-based Forest Businesses

Stellat'en are interested in participating in the timber harvesting industry, but only if such businesses would be economically viable and environmentally sustainable.²⁴ Some are unsure whether logging will be viable in the long term, due to the current rate of harvest associated with the beetle infestations. Other members don't think there are many opportunities for them in the forest industry. If they do take part in the beetle salvage, Stellat'en recognize that it is a short-term thing. Nevertheless, the people also realize the beetle harvest may provide an opportunity to gain an economic base, enabling them to build capital to transfer to other businesses such as tourism in subsequent years. Thus they feel the next five years are a critical window. And if the forestry industry continues to be viable into the future, most do want to take part in it but on their own terms.

Stellat'en face numerous barriers in entering the forest industry. Many characteristics of the larger system make it difficult for them to establish a viable forestry business. Despite the uplift in harvest levels, there are few viable economic opportunities for the community associated with the beetle harvest - mainly due to the scale of existing forest companies and their allocations and the fact that most tenure is already awarded prior to Stellat'en receiving a small share.²⁵ While they have obtained

²⁴ One person said they couldn't see many of their people going in to the logging or forestry business, probably because of the current lack of opportunities. Overall, however, many people thought that Stellat'en should have logging businesses and be involved in the forest economy on both the harvesting and manufacturing sides.

²⁵ One community leader described the situation as follows: "All the economic opportunities are governed by the licensees right now. And the government gave so much to the licensees and any of the crumbs that are left after the licensees take what they want is provided to the First Nations. So when we come to the table to try to be involved in the economic venture of the pine beetle, we're coming to the table after everything's been divided up. So if I go to the table with a hundred thousand cubic meters for Stellako and say I would like to sell this wood to Canfor...a hundred thousand meters which the Ministry now gave me...they go well we're kind of full for one. We don't really need the wood because the government gave us a whole pile of wood. And your wood could be a little expensive so...But, we'll take it. And they put a lot of conditions

a license to harvest up to 150,000 m³ of timber a year (Stellat'en First Nation Interim Measures Agreement 2003; Stellat'en First Nation FRA 2005), the volume awarded is like "scraps" given to them after the majority of tenure has already been allocated to the large players. The concentration of the interior forest industry and related economy of scale makes it very difficult for the small First Nation to start a viable logging business. Since Stellat'en do not have manufacturing capacity (apart from a small wood miser), they need to sell their logs to the large companies. Those companies generally have rights to harvest more logs than they need for their mills and, being the dominant log buyers, can control the price they are willing to accept. Furthermore, Stellat'en must compete with other licensees to locate places to cut their allocated volume. In some operating areas they are pushed to more difficult terrain since they were added to the chart areas after others companies were already established there.

Non-timber Forest Businesses

Much of the policy dialogue surrounding First Nations forest tenure has focused on how to secure a place for First Nations in the existing timber industry. There is a tendency for government, policy critics and First Nations alike to get so focused on the timber industry that they neglect to examine other potential options for forest-based economic development. Stellat'en question the viability of relying only on timber harvesting and are interested in a range of other forest-based businesses such as tourism, alternative energy (including the use of beetle wood in a pellet mill), silviculture, and tree and plant nurseries.

One forest-based business that seems to resonate strongly with the community is silviculture. The people want to work in growing the forest back, in taking care of the land, replanting and restoring it (with wildlife habitat and medicine plants as well as trees). With the scale of harvesting happening for pine beetle salvage, there will be an ongoing need for that type of work – and Stellat'en feel they should be the ones doing it in the traditional territory. Stellat'en businesses could be supported by providing right of first refusal on silviculture work in the territory or some similar mechanism.

around it. So we don't really, the community doesn't really benefit from that agreement. Now, if in the beginning, the government said...any tree that's got pine beetle in it belongs to First Nations. And if industry wants it they've got to talk to the First Nations...that would have been a different story. Then we would have benefit from it, from the pine beetle. But right now we don't."

Access to Capital

Regardless of the type of businesses Stellat'en engages in, access to capital is a critical factor during start up and to ensure their success. At both the workshops and interviews, lack of financing was identified as a major barrier to starting businesses. One member highlighted how it is difficult for First Nations to get business loans and that the Indian Act contributes to red tape in this area. Much work is required to facilitate First Nations access to capital. Several people suggested that a forest business would have to be a joint venture today, due to both the shortage of capital and lack of internal capacity. Thus, any Aboriginal tenure should support the formation of partnerships with other First Nation communities and/or other companies.

Features of a Stellat'en Forest Tenure Arrangement

Stellat'en emphasized the need to have their own "Aboriginal interest tenure." At this point they are primarily relating and reacting to other people's tenures rather than planning their own activities. The rest of this section will describe the Stellat'en vision of the system conditions and characteristics of a forest tenure arrangement that would support viable Stellat'en forest-based businesses. Such tenure features include a viable scale, quality resources, appropriate stumpage rates, fair pricing, and a long-term duration. One member noted that such a tenure would need to include Stellat'en working with other First Nations in a joint tribal relationship, especially if it involved their "overlap region."

Scale and Quality

Stellat'en indicated that a timber tenure allocation would have to be of a viable scale and include accessible, good quality timber of marketable sizes and species. In terms of scale, the tenure would need to go beyond the current reserve boundary, because that land base is completely insufficient for viable businesses. In terms of quality, Stellat'en explained they are often given poorer quality wood on steep slopes with difficult access, while large companies are operating in more profitable stands on flatter ground. Due to their experience with being given poor quality stands, Stellat'en are clear about the need for an Aboriginal tenure to include a viable timber profile and good access. An adequate size and quality of landbase are also important starting points for other businesses that Stellat'en may wish to enter, apart from timber harvesting.

Stumpage

The stumpage rate is a critical factor affecting the viability of Stellat'en timber businesses. Ideally, a Stellat'en tenure would not require stumpage payments to the Crown. In the least, stumpage payments should be greatly reduced. Two main reasons are given. First, Stellat'en wonder why they are paying for what is already theirs. Second, they find it difficult to pay the same rate of stumpage as large companies. A major complaint was that "the government treats First Nations just like big companies who have huge resources compared to First Nations." The unit costs of a small Stellat'en forest business may be much higher than those of a large integrated timber corporation. They simply can't afford to pay the same stumpage rates as larger, established companies. Stumpage fees are especially challenging during start-up and learning phases, when the consolidated structure of the economy already discriminates against new and smaller entrants.

Timber Pricing

Another element that needs to be addressed to support Stellat'en forest businesses is the issue of pricing. Stellat'en are essentially market loggers, as they do not have any processing facilities beyond a small wood miser mill. The regional industry is controlled by a few main log buyers. Stellat'en has little choice in where to sell their logs. The large companies' control of the log market allows them to set prices. Furthermore, the companies already have their own tenures to harvest large volumes of timber, especially due to the pine beetle. They may not need to buy more wood in an already flooded market, especially First Nations wood that may be more expensive (due to being logged at a smaller scale yet being required to pay the same stumpage). Most large companies are trying to compete based on per unit cost. Purchasing higher priced wood from a supplier would increase their costs and conflict with their business strategy. The combination of a flooded market and a limited number of log buyers makes it very difficult for Stellat'en to sell their logs and make their limited tenure economically viable.

Stellat'en proposed solutions to this conundrum include a reallocation of timber to achieve a more balanced distribution among players and the development of viable markets for First Nations wood. Stellat'en also need flexibility to harvest in appropriate market conditions. Workshop participants observed that "we sell our logs to big companies because we need to harvest in a time frame."

Duration

Stellat'en are seeking a long-term forest tenure. Short term tenures (such as their current five year FRA) do not provide real economic opportunity or access to development. Stellat'en recognize that forestry is a long-term endeavor. Tenures need to be long enough to establish a business and do the necessary mapping and planning. But how long is long-term? Many people judged the definition of "long" in relation to the duration of current licences held by industry. They would like the duration of their tenure to be comparable to what industry has – namely ten to twenty years. Others felt tenure should be ongoing, or permanent and be there for future generations. Those who wanted a permanent tenure seemed to be thinking less about timber licences as currently defined and more in terms of their management role, ownership and jurisdiction for the land. They emphasized that "we own the land, lock, stock and barrel."

One leader explained that "an Aboriginal tenure wouldn't be confined to a timeline necessarily – it's only with Euro Canadian legislation, values and beliefs that they've embedded that concept of limited timelines in the different forest tenures that exist today."

Another member specified that, although a Stellat'en tenure should be perpetual, it should also allow for periodic review and amendment in order to adapt to changing ecological or social conditions, or incorporate lessons learned in the tenure's initial implementation.

Area or Volume-based Tenures

A main question in the debate regarding tenure reform is whether timber licences should be area-based or volume-based. This is one topic on which Stellat'en views differed from the findings of other research. While many authors suggest that area-based would be the best fit for Aboriginal tenure (e.g. Ross and Smith 2002; Fraser 2005), Stellat'en stated they would prefer a mixture of area and volume tenures. The reason for this difference is that "there's nowhere in our territory that's not already logged due to the beetle." As one leader explained, "there would be no area available with existing wood without going into neighboring areas." Stellat'en would have to go into a neighboring First Nation's territory to find enough good timber for a viable area-based licence – a move that could lead to difficulties with their neighbors. Many were concerned about area-based tenures running in to shared territory issues. Having an area-based tenure on another nation's territory could cause tensions, as such a tenure would include management responsibilities. It would not be appropriate for Stellat'en to

take on a decision-making role for their neighbor's territory.²⁶ Volume-based licences were not seen to present that issue since even if Stellat'en were harvesting "volume" from neighboring territories, the management decision making control for the actual landbase would remain with the other First Nation. As they explain, with volume-tenures "we're not involved in the management, its just in and out. If it's an area-based tenure it's kind of like our garden, we need to take care of it." Harvesting a product of the landbase (e.g. timber) while leaving the management authority in the hands of the "owner" is consistent with traditional land use and governance patterns, where people could harvest fish or moose from each other's territories if needed.

Another reason Stellat'en wanted at least a portion of their timber tenure to be volume-based was the perception that such tenures offer more flexibility in terms of finding economically viable wood and piece sizes. Many people felt that the area-based might be more restrictive, have smaller piece sizes and not offer as much choice as to where to harvest from. They seemed to assume that an area-based tenure would be too small to provide the profile needed for an economically viable tenure. However, one leader said that if they could have flexibility, a good profile and a large enough land base within an area-based tenure, then that would be the ideal situation.

Some individuals either didn't understand the difference between area and volume-based tenures, or chose volume-based tenures because that is what they are used to and what most companies have in that part of the province. Others rejected area-based because they thought it meant the whole area would be clearcut.

On the surface, it may seem that the emphasis on obtaining enough volume for an economically viable business is inconsistent with their desire for holistic management, as it avoids the stewardship responsibilities associated with an area-tenure. It is unclear from the research results whether that is actually the case. To a large extent, it may simply be a product of the constrained situation in which Stellat'en find themselves. On one hand, Stellat'en are interested in making a living from timber-harvest businesses. Given the logged-over condition of their territory, and shared territory constraints, a volume-based timber tenure might be the only economically viable option. In fact, since an area-based tenure within their own territory would limit Stellat'en to already depleted locales, some expressed concern that it would not provide

²⁶ Some people spoke of the need to develop "shared related measures" or working agreements with neighbors, so they could manage tenures and resources in partnership. However, that will take some time.

revenue to sustain and rehabilitate that land. Such a situation would not be good for the land. A proposed solution was to combine area and volume tenures, and for an area tenure to include the main core territory and a patchwork of others areas to make up what was lost, such as the Endako mine. With a volume or combination volume-area tenure, “one can make up the difference someplace else.”

When the discussion moved away from a focus purely on timber, the concept of an area-based land tenure seemed to have community support. For example, some people suggested creating a “tribal park” area focused on cultural values or an area to experiment in, like a forest model, where they could try different things. Consistent with the section on Goal 1 (i.e. protection of the territory, including provisions for authority), others said “there should be an area where the First Nation is in control from the top down”, where “we as Stellat’en take ownership and control over this specific area as it relates to forestry.” On the whole, it seems Stellat’en are concerned with both economic viability and environmental stewardship.

Multiple Values and Rights

To support Stellat’en’s interest in non-timber businesses, as well as the protection of cultural forest values, the design of a Stellat’en forest tenure should consider and provide rights for a variety of activities and resources. It should also be flexible in allowing for experimentation and innovation in the use of different forest values. With movement beyond a focus on timber, there is more potential for a tenure to address Goals 1 and 2 – protection of the territory including a stewardship role and protection of culture – in addition to the economic focus of Goal 3. Such a tenure would make room for more holistic and integrated management.

Table 2.16 Means for Objective 3.1: Support viable Stellat'en forest based economic ventures (both timber and non-timber based)

3.1.1 Support viable economic opportunities for Stellat'en from the beetle infestation
3.1.2 Landbase and scale of tenure is large enough to support economically viable businesses
3.1.3 Ensure allocated forests have good timber quality, profile and access 3.1.3.1 Include a mix of area and volume-based tenure 3.1.3.2 Include main core territory and patchwork of other areas to make up what's been lost to mining and other activities
3.1.4 Decrease or eliminate Stellat'en stumpage payment requirements
3.1.5 Support fair pricing for Stellat'en logs and other forest-based products
3.1.6 Promote markets for Stellat'en logs and other forest products
3.1.7 Allow flexibility to harvest in appropriate market conditions
3.1.8 Duration of Stellat'en tenure is long term (10-20 years or permanent)
3.1.9 Enable adaptation to change by allowing for periodic review and amendment of tenure agreements
3.1.10 Allow a wide variety of timber and non-timber uses 3.1.10.1 Support experimentation and innovation in use of different forest values
3.1.11 Support Stellat'en access to business capital
3.1.12 Give Stellat'en priority in receiving silviculture/forestry contracts in territory
3.1.13 Enable formation of partnerships and jointly held tenures with other First Nations

Objective 3.2 Support Stellat'en livelihoods

Another objective related to supporting Stellat'en economic self-determination is the support of Stellat'en livelihoods. Livelihoods can be earned through both traditional and modern means. For traditional livelihoods such as trapping, fishing, hunting and gathering to be feasible, it is critical that associated values on the landbase be protected, as well as harvesting rights and access to land. In terms of trapping, one person suggested that when traplines in the territory go up for sale, they should be offered to Stellat'en first.

For individuals who choose modern livelihoods, there is a strong need for increased employment opportunities. During the early days of the forest industry there were more employment opportunities for Stellat'en people. Workshop participants noted that "before the 1960s we were able to harvest with small contracts, ties." Later, "they slammed the door on us – everything went to the giant companies. That's when the clearcuts started." Today, few Stellat'en members work for the companies who are extracting large amounts of resources from the territory. Stellat'en felt that if resources are going to be taken from the territories, "then it should be us" doing it. Stellat'en people are capable of harvesting, planting and reforestation. Thus an Aboriginal tenure would include Stellat'en working. In addition, some people felt that companies should be providing more employment to the community.

Table 2.17 Means for Objective 3.2: Support Stellat'en livelihoods

3.2.1 Protect forest values needed for traditional livelihoods
3.2.2 Respect Stellat'en traditional harvesting rights
3.2.3 Increase Stellat'en employment
3.2.4 Give Stellat'en right of first refusal on traplines that come up for sale in the traditional territory

Objective 3.3 Ensure the allocated land base and harvest rights can sustainably support the Stellat'en community

This objective is meant to highlight Stellat'en's need for a bigger land base in order to support the community in the present and future. The community has been trying to negotiate a landbase beyond their current small reserves. However, the government land formulas in treaty negotiations offer only a very limited portion (around five percent) of the traditional territory. This objective also emphasizes the community's concern with ecological values, since the land base must be large enough to support Stellat'en in the present without requiring them to overuse it.

Objective 3.4 Ensure Stellat'en benefit economically from resource development in the traditional territory

Stellat'en maintain that they should receive a share of revenues or royalties from economic development in their territory. Such monies would help them to operate effective and stable governance for their community and territory. The shared revenues would also support their independence, and are preferable to "handouts" or monies from DIA which they have to "jump through hoops to use." Sharing is consistent with the Stellat'en culture, in which resources were traditionally shared with the whole community. In contrast, resources are currently being extracted from the territory with little if any benefit flowing to Stellat'en. While limited revenue sharing is offered under their FRA, this amount comes nowhere near to reflecting a fair proportion of the total timber and other resources taken from the territory. As one person put it "there's all this talk about us sharing but that hasn't happened yet." Revenue and profit sharing needs to be consistent with the amount of resources extracted and should include multiple resources, including mining. Sharing could occur at the government level (through sharing of stumpage revenues), directly with the companies, or both. In order to get access to revenue sharing, Stellat'en identified they need to "create a new relationship with Canada and the Province."

Benefits should also flow to Stellat'en through their own economically viable "Aboriginal interest" forest tenure (as described for Objective 3.1). Stellat'en stressed

that an Aboriginal tenure would need to provide greater monetary benefit for First Nations compared to the current situation.

Table 2.18 Means for Objective 3.4: Stellat'en benefit economically from resource development in the traditional territory

3.4.1 Resource revenues are equitably shared with Stellat'en (e.g. stumpage, royalties, profits)
3.4.2 Ensure Stellat'en have their own viable "Aboriginal interest" forest tenure (or jointly held tenure with other First Nations)

Objective 3.5 Compensate Stellat'en for impacts

Throughout the history of development in the territory, numerous industries have impacted negatively on the Stellat'en people and their way of life. For example, lands were flooded by the Williston and Kenney dams, a large area was stripped to make way for the Endako mine, and Canfor and West Fraser continue to log large quantities of timber every year. Community members describe how they used to go berry picking in the area that is now the Endako mine. Traplines that provided important historical livelihoods have been rendered useless by being stripped of vegetation, leaving no habitat for furbearing animals. Hunters find it more difficult every year to find moose. In addition to the lack of profit sharing, Stellat'en have received virtually no compensation for these impacts and disruptions to their way of life.

The perceived theft of resources and negative impacts on the land without due consultation contributes to a distrustful relationship between companies and the community. It is difficult to move towards a positive relationship when historical justice has not been served. The negative pattern of not addressing past impacts creates a barrier to communication and can make it difficult to form positive business partnerships. In resolution, Stellat'en are seeking compensation for past impacts, as well as legal requirements for compensation in the case of future impacts on the environment and habitat. When asked if industries should be allowed to stay following a treaty, some members said that companies should pay "back pay" or "compensation" first and only then would they talk. Numerous respondents identified the need to compensate trapline holders for logging, road building, mining and other impacts on traplines.

Clearly, past developments have not recognized or accounted for impacts to Stellat'en cultural, ecological, social and economic values. In order to avoid similar problems in the future, potential impacts of proposed projects could be anticipated, measured and accounted for through a First Nations-led impact assessment process, as suggested in the discussion of a First Nations stewardship role (see Objective 1.2).

Thus systems would be in place to address any compensation that might be needed to address future developments.

Table 2.19 Means for Objective 3.5: Compensate Stellat'en for impacts

3.5.1 Compensate trapline holders for impacts to traplines
3.5.2 Compensate Stellat'en for stolen and damaged resources
3.5.3 Strengthen legal mechanisms to ensure Stellat'en are compensated in case of future impacts

Objective 3.6 Support Stellat'en Capacity Building

The need for capacity building could fit with any of the overarching goals, but is placed here as it becomes very evident in the area of economic development. Stellat'en people stressed the need for training and education of community members in forestry and natural resource work.²⁷ As Stellat'en put it, they are "tired of eight dollar an hour jobs" and "need more training." Their future vision is to have a program for forestry run by the community where they teach people how to harvest and protect the traditional territory. In the meantime, they need to find resources to support their people through education and professional development. Stellat'en suggested that industry could support training by providing scholarships and on-the-job-training or apprenticeship opportunities, where the band and the employer each pay half of the wage.

While the Stellat'en workshop and interview results emphasized capacity in terms of training and education, recent literature indicates a broader characterization. "Capacity-building may be defined as the sum of efforts needed to nurture, enhance and utilize the skills and capabilities of people and institutions" (Carlson and Berkes 2005). Some authors note the strong linkages between community capacity building, empowerment and sustainable community development (e.g. Barker 2005). In order for a community to effectively carry out renewed forest management and governance functions and responsibilities, a range of capacities (organizational/institutional, communicative, networking, leadership, adaptive, entrepreneurial, problem-solving and others) are needed. Multiple forms of capacity will be critical for Stellat'en to be able to protect the territory and their culture (as in Goals 1 and 2).

²⁷ For a more detailed capacity building needs assessment for the Stellat'en community see Lee-Johnson, forthcoming.

Table 2.20 Means for Objective 3.6: Support Stellat'en Capacity Building

3.6.1 Provide professional development, training and education opportunities (e.g. on-the-job)
3.6.1.1 Implement cost-shared on-the-job training (band pays half wage, employer pays half)
3.6.2 Make stable, long term funds available for First Nations training and education

Objective 3.7 Promote a healthy local economy

Stellat'en economic self-determination would be further supported by the creation of a strong and healthy local area economy. In this respect, the needs of Stellat'en may have commonalities with those of nearby rural communities. For example, Stellat'en felt it was a problem that the tenure system "caters to big companies" and "economically discriminates against smaller, low budget mills." Members were also concerned about jobs being exported from the community along with the wood.

To address these issues, structural changes are required to break up the industry concentration and support small and medium size businesses.²⁸ Potential solutions include supporting local value added processing and encouraging economic benefits to remain in the local area. Planning for the future falldown of timber following the beetle salvage harvest is also critical.

Table 2.21 Means for Objective 3.7: Promote a healthy local economy

3.7.1 Decrease concentration in forest industry
3.7.2 Enable small and medium sized companies to participate in forest sector
3.7.2.1 Ensure standards, rules and expectations are appropriate to target group
3.7.3 Promote utilization of local employment
3.7.4 Support value added processing
3.7.5 Encourage benefits from resource harvesting in territory to remain in local area
3.7.5.1 Support local processing and manufacturing.

²⁸ It is not clear whether Stellat'en want exclusively small and medium -scale businesses. They might want larger scale enterprises as well, as long as activities are culturally and ecologically sustainable and provide a good return to the community. Nevertheless, in starting out, it is likely that Stellat'en businesses will be smaller-scale than the existing major consolidated forest companies, so policy needs to support those smaller scale businesses.

2.5 Discussion

This chapter described Stellat'en First Nation's vision regarding tenure and governance as well as some desired characteristics of a Stellat'en forest-based tenure, touching on many aspects of a complex, multi-faceted topic. A list of goals, objectives and means was used to illustrate the Stellat'en vision in a comprehensive manner. A variety of solutions proposed by the community were also identified. The following section discusses the interplay among Stellat'en goals and the policy implications of the Stellat'en vision.

2.5.1 Stellat'en Goals – Connectivity, Complementarities and Contradictions

As pointed out in the account of the research methodology, it was difficult to isolate individual goals and objectives due to their strong interconnectedness. The implementation of some objectives is connected to the successful implementation of others. For example, stewardship influence will likely be limited if Stellat'en are lacking legal authority. However, even if given legal authority, Stellat'en will have limited power to effectively exercise it without capacity (i.e. knowledge, skills and institutions). Stellat'en need both authority and capacity in order to fulfill their stewardship and management vision. Likewise, it is difficult to gain capacity and wield influence or power without economic independence and self-determination.

Another point of interest is whether all the Stellat'en goals are complementary, or whether some of them contradict one another. A growing body of literature on tradeoff analysis highlights the fact that, when making decisions with multiple objectives, there are usually some objectives that conflict and cannot be attained (or maximized) at the same time. The presence of conflicting objectives requires a process of tradeoffs, where one gives up something of one objective in order to achieve more in terms of another (Hammond, Keeney and Raiffa 1999).

This brings us to the question of whether any of the Stellat'en goals conflict or work against each other. Depending on the context in which the objectives are applied, it appears that this may indeed be the case. The most obvious potential conflict is between the Stellat'en desire for economic self-determination and the objectives of protecting the territory and culture. A similar conflict emerges when comparing Objective 2.2 (Value non-commercial uses of land) with Objective 3.1 (Support viable Stellat'en forest bases economic ventures). Opportunities for commercial economic development – either directly by Stellat'en harvesting resources, or indirectly by

receiving shared revenues from mining, logging and other companies – potentially impact negatively on the ecological integrity of the territory, the amount of resources available for future generations and the protection of cultural values. A focus on commercial economic development would also affect the amount of land designated as “non-commercial.” Frustration with the long history of poverty, the urgent need for improved economic conditions for the Stellat’en people and, particularly among young people, a desire for jobs and modern lifestyles, may cause some to place greater weight on commercial economic development. On the other hand, most research participants indicated that they only want business if it is “sustainable.” They do not want it at the expense of their culture and territorial integrity. Not all members of the community weight the objectives in the same manner. The resolution of this circumstance requires an ongoing process of dialogue and negotiation within the community. Ultimately, it will be up to the Stellat’en people as a whole to decide on the appropriate balance among their various values and objectives. As described in the literature review, the principle of balance is at the core of the Aboriginal worldview.

In the current situation, however, Stellat’en do not have the opportunity to make resource use tradeoffs or find their own balance point. Such decisions are largely made by provincial government and resource companies. Even if they were given an adequate land base and co-jurisdictional authority, Stellat’en’s success in finding an appropriate balance among their various objectives would still be influenced by the dominant economic system and business culture in which they are situated. The mainstream system and culture itself conflicts with Stellat’en objectives as it measures economic development in terms of short term outcomes, and emphasizes competition and individual ownership rather than cooperation and sharing. In the face of such pressures, a First Nations community requires immense internal strength, vision, discipline, creativity and leadership to build economic self-determination in a culturally and ecologically sensitive manner. That is not to say that it is impossible to do so. The ideal solution would be to find economic opportunities that complement rather than contradict Stellat’en cultural and ecological values. The community’s interest in silviculture, alternative energy and tourism indicate that they are seeking such a path. Furthermore, Stellat’en’s interest in restoration and stewardship moves in a direction that would nurture rather than diminish the productive capacity of the earth. This approach could decrease the need for making tradeoffs by increasing the “production possibilities.”

The ability of Stellat'en to find their right "balance point" would be facilitated by reforms to the western concept of tenure, to make it more compatible with the Aboriginal worldview – e.g. tenure as contingent proprietorship with an emphasis on good management and reciprocal social obligations (Trospen 2002). The challenge is to recreate such conditions within the context of the modern nation state, where management, social transfer, and rights allocation decisions are made by central government agents rather than kin-based leaders with intimate personal knowledge of and spiritual connection to place.

These conditions would be assisted by a transformation of business culture such that the "proper defining purpose of business is to serve life and community" (Korten 2006 describing the vision of the founders of BALLE – the Business Alliance for Local Living Economies), rather than solely to make a profit for private parties. The BALLE mission is to support Local Living Economies, in which "economic power resides locally, sustaining healthy community life and natural life as well as long-term economic viability" (BALLE website). The local rootedness of this economic approach would support the implementation of Stellat'en values by being consistent with the indigenous worldview.

2.5.2 Policy Implications of the Stellat'en Vision

The results of this research have far-reaching implications for BC's existing forest tenure and governance system. If the system is to be consistent with the Stellat'en vision, substantial changes will be required. Changes are needed in many areas, including the underlying philosophy, standards and practices of forest management, the distribution of decision making authority, the nature of decision making processes, the quality and scope of communication and consultation, the allocation of harvesting rights, the distribution of wealth generated by forest-based activities and the structure of the regional forest economy. These changes are discussed below.

To be in harmony with the Stellat'en view, the underlying philosophy of forest management needs to shift from a focus on timber and resource extraction to a focus on stewardship. Stellat'en seek a holistic approach that recognizes the multiple values in the ecosystem and their interconnectedness. Greater priority needs to be placed on the protection of cultural and ecological values, with consideration of future generations. Implementation of these changes will likely require investment in inventory and mapping of cultural and ecological values, new zoning and operational procedures to protect cultural areas and wildlife habitat, and greater recognition of these values in decision

making and impact assessment processes. Such changes could lead to a decrease in the annual allowable cut of timber. The Stellat'en vision also implies the need for higher forest management standards and practices and a defined stewardship role for the community.

The research results indicate that authority regarding forest management in the traditional territory needs to be devolved from central and provincial government agencies and shared with the Stellat'en people. The nature of decision making should be community based, reflecting the input of all community members, especially elders and traditional leaders. Decision making processes should be adapted to reflect local culture, values and needs. Stellat'en should play a leadership role in strategic and operational land use planning, the setting of policy objectives, forest management standards and harvest levels. Likewise, they should be involved in monitoring and enforcement, play a key role in allocating harvesting rights, and have authority to determine where they themselves have access to harvesting. Governments and companies (if they are permitted to continue operations in the traditional territory) should share revenues and profits with the First Nation.

Stellat'en need to have a much greater share of harvesting rights, within their own "Aboriginal interest tenure." The duration of a Stellat'en-held forest tenure would be a minimum of ten years, if not permanent. The scale would be large enough to support the community while protecting cultural and ecological values. It would be located in the traditional territory, contain good quality resources and access, be economically viable and enable Stellat'en to benefit from the short term beetle salvage harvest. It should include rights to non-timber resources and support the development of diverse businesses. A Stellat'en tenure could also emphasize restoration and stewardship activities, rather than only resource harvesting and extraction.

The possibility of Stellat'en taking on a stewardship role will depend in part on the availability of funds for silviculture, reforestation and restoration. Currently, such funds depend on the collection of adequate stumpage fees from corporate tenure holders. Given the substantial increase in interior logging rates associated with the beetle, it is critical that stumpage rates accurately reflect log value. Parfitt (2005) provides evidence that this may not always be the case.²⁹ Furthermore, there will be

²⁹ Parfitt (2005) found that "companies pay the province nominal stumpage fees of just 25 cents per cubic metre for beetle-attacked trees that are profitably turned to lumber, when there is evidence that the trees are worth much more."

significant areas of beetle attacked forest that are not harvested yet could benefit from restoration activities. Parfitt (2005) suggests that “a stand-alone reforestation and restoration fund should be set up and all stumpage revenues derived from the temporary (harvest) increase placed in it. As long as beetle-related logging increases remain in place, so should such a fund.” This fund could serve as the basis for supporting First Nation silviculture and restoration programs and businesses. Use of the fund in this way could potentially meet all three of Stellat’en’s overarching goals to some degree. For example, it would aid protection of the territory for future generations by financing restoration and stewardship activities. It could support the restoration of cultural forest values (although it would not help with preventing the initial damage to such values). The fund could also support Stellat’en economic self-determination by providing jobs and business opportunities that are compatible with Stellat’en’s ecological values.

Stellat’en have indicated they are interested in starting alternative energy businesses such as pellet mills based on the surplus of beetle killed wood. With the BC biofuels industry in a fledgling stage, First Nations may have an opportunity to enter this business on the ground floor. However, one analyst noted that a key to success in the new biofuels markets will be the ownership of property rights to the raw materials (i.e. feedstock) and especially the land (Roberts 2007). Extrapolating from the current situation in which a few companies “own” rights to the majority of wood fibre, this could mean that the pattern of First Nations exclusion would simply continue into the biofuels economy. It is critical that policy makers don’t simply extend the rights of existing tenure holders to apply to different uses, without first considering a redistribution of resource rights to First Nations.

Supporting the establishment of Stellat’en community-based businesses may require changes to the forest industry structure, to make room for new entrants and smaller-scale businesses. This entails a re-allocation of forest harvesting rights from the few large scale corporations and a revision of provincial and federal economic development strategies. Currently, the government policy tends to support big forest companies, with the assumption that, since companies provide jobs and government revenue, what’s good for the companies is good for communities. The results of this research suggest that this is not necessarily the case. The dominance of the regional forest economy by a few large corporations can be a barrier to the development of businesses that more directly support the community and to the establishment of a

diverse local economy. First Nations access to business capital and capacity building programs will also be essential.

While this paper refers to policy changes based on the Stellat'en community-level perspective, it may be appropriate (or even necessary, as one elder emphasizes) for some of these changes to be designed and implemented through a regional partnership of First Nations, enabling them to pool capacity. Such a partnership could be based on the Carrier Sekani Tribal Council or some other regional alliance of First Nations, with the caveat that the uniqueness of each community is recognized and reflected. Systems and standards must be created at a scale and level of flexibility that corresponds with and supports regional diversity, needs and values. That scale may vary from place to place, and needs to be negotiated between the relevant parties in each situation.

All aspects of the changes will require greater inter-cultural understanding, communication and cooperation among parties. As expressed by one Stellat'en elder, core principles for the future of forest tenure and governance are co-existence and stewardship.

2.5.3 A New Legal Framework

In order to implement and operationalize the policy changes just listed, a new legal framework is required. The practical reason for this is that third parties need to obey their legal "tenure" contracts with the provincial government or risk being penalized. Though some third parties may be open to cooperating with First Nations, they are unlikely to follow First Nations standards or land use directives where they contradict provincial policy direction. Lower level government agents are also bound to follow strategic government policy. Therefore, the Stellat'en vision for tenure and governance needs to be reflected in law so it can be fully implemented by all parties involved in forest management – from the strategic to the operational scale. This likely entails changes to the *Forest Act*. Implementation will require legal changes at three levels:

- Development of a forest tenure/licence specifically designed for the Stellat'en community (or alliance of regional First Nations), in correspondence with their values and rights
- Mechanisms to ensure the actions of other tenure holders are consistent with Stellat'en values, interests and rights

- Inclusion of Stellat'en in overarching forest governance institutions that 'establish, implement, monitor, and enforce the rules' (Clogg, Hoberg and O'Carroll 2004)

Changes to the legal basis of forest tenure must especially consider the Constitutional status of Aboriginal title as affirmed in *Delgamuukw*. This status "implies that in developing land use decision-making and tenure models, attention must be paid not only to principles arising from Anglo-Canadian land law, but also to approaches rooted in the laws of First Nations and their land tenure systems" (Clogg 2001). Based on the Stellat'en understanding of ownership, this could imply that tenure should be rooted in a philosophy of stewardship and sharing, with an appropriate balance of rights, responsibilities and accountability.

Implementation of Stellat'en goals and objectives may require the creation of a system that does not fit the current definition of tenure. A researcher from the Carrier Sekani Tribal Council observed that "in fact, what is emerging is something new based on First Nations beliefs and customs. As such, the study and objectives may fall outside of the realms of what a tenure is supposed to be according to the current forest policy. So this study could influence the way we see the land the traditional way. We may be getting away from the tenure system-which may be the solution to some of (the) forest policy problems" (T. Teegee, pers. comm. 2007).

2.6 Conclusion

In seeking the perspective of First Nations, this research focused on the experience of one particular First Nations community. As each community is unique, caution must be taken in extrapolating the results to other First Nations. That said, the results generated by this case study are consistent with the findings and recommendations of other authors writing on the topic of First Nations forest tenure (e.g. Clogg 1999b; Clogg 2001; Curran and M'Gonigle 1999; First Nations Forestry Council 2006; Fraser 2005; Forsyth 2006; Parfitt 2007a; RCAP 1996a; Rogers 2007; Ross and Smith 2002; Task Force on Native Forestry 1991). This correspondence serves both to confirm the earlier findings and strengthen the implications of the research.

First Nations forest policy in British Columbia is in the midst of a period of unprecedented change. Over the course of the last five to ten years, First Nations have made gains in the areas of recognition, shared decision-making and economic benefits. Some of the most far-reaching changes have occurred on the Central Coast, where First Nations have substantial government-to-government agreements with the province, and

First Nation visions are being incorporated into strategic land use plans that will guide all activity in the region (e.g. see BC Ministry of Agriculture and Lands 2006).

Despite these overall trends, consideration of First Nations values in forest land use planning and decision-making is not consistent across the province. The situation in the central interior is vastly different than that on the central coast and other parts of the province. In the Stellat'en traditional territory, the degree of recognition is still limited. Multiple barriers continue to block Stellat'en from fully participating in the forest economy and implementing their values and interests vision. Following government policy, companies continue to clearcut large areas of the territory at a rapid pace. The rate of harvest associated with the pine beetle lends urgency to the need for policy change. Several members expressed concern that the land will be given to them only once there is nothing left. What good will it do to implement policies respecting cultural and ecological values when everything is already gone? As one elder put it, "We need to make use of what little resources we have left...to become self-sustaining for future generations."

Stellat'en are seeking to regain their role as steward of the traditional territory. The author hopes the results of this research can provide guidance on how to work towards that goal. To that end, Chapter 3 examines four alternative forest tenure and governance models for their congruence with the Stellat'en vision.

Chapter 3:

Evaluation of Alternative Forest Tenure and Governance Models based on Stellat'en First Nation Goals and Objectives

3.1 Purpose and Approach

The purpose of this chapter is to contribute to the discussion and identification of appropriate forest tenure and governance institutions that are in congruence with Aboriginal values and rights. In so doing, it fulfills research objective 2 (To identify alternatives to the existing forest tenure and governance system that are consistent with the values, rights, interests and aspirations of the Stellat'en people) and responds to research question 2 (What forms of forest tenure and governance best reflect the Stellat'en First Nation goals and objectives?). By including community review and feedback on the analysis, it also contributes to research objective 3 (To validate appropriate methodologies and approaches to research conducted in partnership between universities and First Nation communities).

The chapter evaluates four alternative forest tenure and governance models in relation to the Stellat'en First Nation criteria established in Chapter 2. The alternatives examined comprise a wide array of approaches addressing different institutional functions and scales. The examples include a proposed application of trust law to structure forest governance (the Community Ecosystem Trust), a joint land use planning process (Gitanyow), an existing BC Crown timber tenure (Community Forest Agreements) and a system for Aboriginal forest governance from a neighboring jurisdiction (American Aboriginal reservations). Each of these diverse alternatives is referred to as a "model" in this thesis. A comprehensive analysis based on the list of Stellat'en goals and objectives highlights the strengths and weaknesses of each model, underlines how they might be combined and which elements could be incorporated to create a fully functioning system in the future.

3.2 Evaluation Method

3.2.1 Selection of Models for Evaluation

A large number of potential models were considered for the evaluation. Most models fell in to one of four categories - existing Crown tenures, community-based management, Aboriginal Title and co-management agreements. In making the final selection, the author tried to choose the most promising options that covered this range of categories (while recognizing that the categories also overlap). Community Forest Agreements (CFAs) were chosen as the Crown tenure to be included in the analysis as, on first impression, it seemed to be the current form of Crown tenure most compatible with Stellat'en goals. There seems to be interest in CFAs from other First Nations, as numerous CFAs are held by First Nations communities (see BCCFA 2008). Regarding the Community Ecosystem Trust, there has been recent interest in the idea of a land trust among BC community forest groups (Meyers Norris Penny and Enfor 2006). The Community Ecosystem Trust (CET) is a unique proposal based on trust law that, the author feels, was deserving of further consideration and analysis. As such, the CET was chosen to represent the "community-based management" category. The American model of forest reservations was chosen as the example of Aboriginal title due to its long history, as well as the potential learning advantages of a cross-jurisdiction analysis. This choice was also based on interest expressed by the Stellat'en community. Finally, the Gitanyow model was chosen as the example of co-management due to its status as a provincial leader and its focus on land use planning.

3.2.2 Evaluation Criteria and Rubric

The models are evaluated based on criteria developed through community-based research with the Stellat'en First Nation. The criteria represent the unique perspective of the Stellat'en community. Information gathered in workshops and interviews was consolidated and organized into an organized list of goals and objectives³⁰ (see Table 3.1). The "goals" represent Stellat'en's fundamental overarching purposes for the tenure and governance system. Each "goal" is elaborated on by a series of "objectives" which articulate in more detail the goal's intention.

³⁰ In the full list, each objective is further broken down in to a series of "means" or practical actions. The full table of goals, objectives and means is presented in Appendix 1. Descriptions of the goals and objectives and explanation of the methods used in developing the list are provided in Chapter 2.

The list of goals and objectives in Table 3.1 was applied by the author as an evaluation guide in order to assess the relative merits of the four tenure and governance models. For each model, each objective is examined in turn and given a score based on the categories illustrated in Table 3.2. The score is intended only as a general indication of how effectively each objective is supported.

The results of the author's assessment were presented to Stellat'en at a community feedback workshop. The final scores reflect adjustments made based on the Stellat'en feedback. Comments from the community are also included in the text.

Table 3.1 Stellat'en Goals and Objectives for Forest Tenure and Governance

Goal 1: Protect Stellat'en Traditional Territory for Future Generations

Objectives
1.1 Stellat'en have a high level of decision making authority in forestland management
1.2 Stellat'en have a leadership role in stewardship of forestlands in the traditional territory
1.3 Recognize and respect Aboriginal rights and title
1.4 Explicitly consider future generations in policies and decision making
1.5 Adopt a holistic approach to forest management
1.6 Protect ecosystem integrity

Goal 2: Protect Stellat'en Culture

Objectives
2.1 Protect Stellat'en cultural forest values
2.2 Value non-commercial uses of land
2.3 Involve traditional leaders and elders in early stages of planning
2.4 Implement Stellat'en stewardship principles in forest management
2.5 Protect Stellat'en access to and use of land and resources in the traditional territory
2.6 Include cultural and traditional knowledge in management, planning and decision making
2.7 Provide opportunities for government, industry, local communities and stakeholders to learn Stellat'en culture

Goal 3: Support Stellat'en Economic Self-Determination

Objectives
3.1 Support viable Stellat'en forest based economic ventures (both timber and non-timber based)
3.2 Support Stellat'en livelihoods
3.3. Ensure allocated land base/harvest rights can sustainably support the Stellat'en community
3.4 Ensure Stellat'en benefit economically from sustainable resource development in traditional territory
3.5 Compensate Stellat'en for impacts
3.6 Support Stellat'en capacity building
3.7 Promote a healthy local economy

Table 3.2 Evaluation Rubric

Score	Explanation
Yes	Objective is strongly supported by model
No	Objective is not supported
Somewhat	Objective is somewhat supported
Choice	It is the First Nations choice whether that objective is supported or not.
Requires government approval	The objective may be supported but the final decision is up to the provincial or federal government.
n/a	The objective does not apply to this model.

3.3 Evaluation of Alternative Tenure and Governance Models

In this section, the evaluations of the four alternative tenure and governance models are presented. A description of each model is provided, followed by the evaluation results for each goal and a brief conclusion. The results are summarized in Tables 3.3 to 3.14. The text highlights the main points, but does not go into detail for each objective. Overall discussion and recommendations are presented in Section 3.4.

3.3.1 Community Ecosystem Trust

A. Overview of the Community Ecosystem Trust

This subsection begins with a general description of trust law and its recent applications in Canada and the United States, followed by an outline of the Community Ecosystem Trust proposal.

Introduction to Trust Law

A trust is a specific legal device inherited from the English law of equity.³¹ “Within the law of equity, a trust arises when property is owned by a person, called a trustee, who is obliged to hold and manage it for the benefit of others, called the beneficiaries” (Overstall 2004). Trusts can potentially address many of the issues facing Stellat’en regarding forest tenure and governance, such as the desire for environmental protection, consideration of future generations, maintenance of traditional governance structures, and devolution of decision making authority. The idea of a trust has been presented by multiple authors as a possible means to facilitate effective forest management decision making and the integrated management of multiple resources

³¹ Equity is “a discretionary power given to judges since medieval times to do justice in particular cases where application of the strict rules of the common law would cause unfair hardship” (Overstall 2004 p201-202)

(e.g. Burda et al 1997; Clogg, Hoberg and O'Carroll 2004; Clogg 2001; M'Gonigle et al 2001; Overstall 2004; Wagner 2003).

The basic concept of a trust is simple. Three parties are involved – grantors³², trustees and beneficiaries. Grantors are parties with a “title” interest in property. Grantors place their property interests (whatever those may be) in to a trust, to be managed by trustees according to clearly stated purposes and terms (expressed in the trust instrument), for the benefit of clearly identified beneficiaries. Beneficiaries can include current residents as well as future generations and even non-humans. Trustees are bound by a duty of “undivided loyalty” (Fairfax and Guenzler 2001) to the beneficiaries, and are legally required to make decisions consistent with the trust terms and purposes. Trusts are flexible instruments and, within this basic structure, can vary significantly depending on the trust purpose and context.

Trust law has evolved to be guided by five widely recognized, general principles: clarity, accountability, enforceability, perpetuity and prudence. “Trust law requires that the purposes of the trust be clear and unambiguous” (Fairfax and Guenzler 2001).³³ The practical outcome of the ‘clarity’ principle is illustrated by Souder and Fairfax (1996, 276) in their analysis of United States state trust land management. The authors found that “the distinction between trust land management and federal land management lies in the specificity of the trust goals. Unlike the very vague ‘multiple use’ mandate that guides management of United States Forest Service lands, state trust lands are managed to achieve specific goals.” In terms of sustainable management, “these goals enable state trust land managers to be uncommonly clear about what they must sustain (Souder and Fairfax 1996, 277). Clarity of goals facilitates the second trust principle, that of accountability. Trustees must keep strict records for disclosure to beneficiaries. In turn, such records make monitoring and enforcement possible. Enforcement is also facilitated by the clarity of trust goals-which enable auditors to evaluate whether the trust purposes were achieved. While trust agreements themselves are not necessarily

³² The grantor is also called the settlor, donor, creator or trustor (Wikipedia website). While “settlor” is the most commonly used term, this word can be confused with “settler”, such as the “settlers” who came and settled the Aboriginal lands. Aboriginals may object to being referred to as “settlors”, so the term “grantors” is used here instead.

³³ “Clarity does not require that the trust purpose be minutely described. Generally, the purpose does not enumerate specific activities that would achieve the trust purposes. The trustees are given discretion to interpret trust purposes in the light of emerging needs and changing conditions” (Fairfax and Guenzler 2001 p28).

perpetual³⁴, the principle of perpetuity obliges trustees to maintain the productive capacity of the trust property (Souder and Fairfax 1996). Furthermore, “the trustee is not allowed to prefer any generation of beneficiaries over any other” (Fairfax 1999, 16). Finally, trustees are expected to act with “prudence.”

Although trusts have most commonly been used in the management of monies, they can also be applied to the care of lands and waters. In British Columbia, trusts have been used in a variety of land management contexts. One example, the Babine Watershed Monitoring Trust was established in 2005 to support “planning and funding of impartial effectiveness and implementation monitoring of public land use plans and related natural resource management activities in the Babine Watershed” (Babine Watershed Monitoring Trust Agreement 2005, Section 4.1.1). Another instance - the Islands Trust - sets out to “preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of British Columbia” (*Islands Trust Act* 1996). Clogg, Hoberg and O’Carroll (2004) identify trusts as a “powerful legal instrument” to be considered in implementation of ecosystem-based management on the Central Coast. Trusts have long been used in United States as an institutional structure to manage the assets of school trust lands (Souder and Fairfax 1996). The U.S. government is now considering expanding their use to the management and governance of federal forestlands. In their 1998 report, the Idaho Federal Lands Task Force “recommended development of pilot projects to test three new approaches to federal land management: the collaborative model, the cooperative model and the trust land-management model” (Federal Lands Task Force website; Federal Lands Task Force Working Group 2000). One proposed pilot project, the Central Idaho Ecosystem Trust, would follow a trust law management framework in order to “restore vegetation to desired ecological conditions while meeting social needs.” Another pilot, the Twin Falls/ Cassia Resource Enhancement Trust, would use a “trust management” approach aimed at sustainable economic activity and enhanced ecological conditions (Federal Lands Task Force website; Federal Lands Task Force Working Group 2000; Wagner 2003).

³⁴ “A trust might be liquidated, for example, at the instruction of the trustor...when the purposes for which the trust was established are achieved. The trust purposes can also be changed or the trust terminated if the purpose for which the trust was established is no longer reasonable” (Souder and Fairfax 1996 p3).

Description of the Community Ecosystem Trust

This analysis will focus on the Community Ecosystem Trust, a specific trust proposal³⁵ which seeks to support ecosystem-based management and ground decision making and benefits with local communities. According to its authors, the Community Ecosystem Trust is “a comprehensive vehicle to address concerns about sustainability, community development, and First Nations accommodation” (M’Gonigle et al 2001). The main features (as envisioned by Burda et al 1997 and M’Gonigle et al 2001) are as follows:

- Legislation is enacted by the provincial government, enabling the creation of a trust as a new intermediary land status recognizing both Crown and Aboriginal title.
- Grantors include the provincial (and possibly federal) Crown and Aboriginal peoples.
- Land management authority is devolved from the province to a Community Management Authority (CMA) under specified conditions.
- The CMA is the trustee and governance body of the community trust. The composition of the CMA reflects the whole community within the trust land base and includes both First Nations and non-First Nations trustees.³⁶
- Beneficiaries include the people residing in the trust area (First Nations and non-First Nations), their future generations and possibly, the people of BC.
- A Provincial Trust Charter sets out overarching purposes that serve as parameters for all local trust charters. Purposes include the reconciliation of Crown and Aboriginal title, management according to ecosystem-based principles, participatory and democratic decision-making processes and equitable community economic development.
- A Community Trust Charter (or local charter) details standards and objectives at the local level and is defined by individual communities to suit local conditions and needs.
- The CMA is not a tenure holder but rather an autonomous body responsible for setting, monitoring and enforcing management principles and standards which all tenure holders must comply with.
- The CMA establishes allowable cut levels, allocates and regulates licences and sets the conditions for tenure holders within the trust area. The government could also be involved, but mainly in a technical support capacity.

³⁵ The Community Ecosystem Trust was proposed by Burda et al 1997 and M’Gonigle et al 2001.

³⁶ The literature presents some disagreement regarding who can take on the role of trustee. Overstall 2004 (p206) recommends “in most cases, to avoid conflicts of interest, it may be preferable that they (trustees and trust administrators) not be members of the benefiting group”. This contrasts with M’Gonigle et al 2001, who say “the settlor, trustee and beneficiary need not be three separate people or entities”. This evaluation assumes that Stelat’en values and interests are adequately reflected in trust objectives and management, regardless of whether or not they themselves are trustees.

- The creation of a trust may not change the existing pattern of tenure holders and allocation but requires licensees to uphold the conditions of the trust or have their tenures reallocated.
- The trust would change the flow of revenues, with an emphasis on benefits flowing to local trust beneficiaries. “Subject to an agreed level of contribution to the province, a significant level of public economic rents (i.e. stumpage) will remain in the community and will be directed toward management and reinvestment in the land base” (Burda et al 1997, 103).
- The duration of the trust agreement is determined by the grantors at the outset.
- Both grantors and beneficiaries retain the right to terminate the trust agreement should the trustees fail to manage in accordance with it (M’Gonigle et al 2001, 40).
- The CET arrangement would provide First Nations with co-management jurisdiction in the entire traditional territory or whatever portion of the territory they chose to place into trust status.

B. Evaluation of the Community Ecosystem Trust

In this section, a systematic comparison is conducted of the Community Ecosystem Trust in relation to Stellat’en goals.

i. Community Ecosystem Trust and Protection of the Stellat’en Traditional Territory

The evaluation results of the Community Ecosystem Trust (CET) in comparison to Stellat’en Goal 1 (Protect the traditional territory for future generations) are presented in Table 3.3 and discussed in the following text. The CET proposal has strong potential to support the Stellat’en goal of protecting the traditional territory for future generations, addressing all six Stellat’en objectives in this regard.

Table 3.3 Evaluation of Community Ecosystem Trust based on Stellat'en Goal 1: Protect Stellat'en Traditional Territory for Future Generations

Objective	Evaluation	Score
1.1 Stellat'en have a high level of decision making authority in forestland management	-Trust would provide co-jurisdictional authority over entire traditional land base (or the portion included in trust) -As grantors, Stellat'en have an influential role in planning and determining management objectives -Trust explicitly supports Aboriginal involvement in decision making as an overarching objective But...Stellat'en may prefer to negotiate with the province on a government-to-government basis prior to moving to community-based decision making	Yes
1.2 Stellat'en have a leadership role in stewardship of forestlands in the traditional territory	- Stellat'en have an influential role in determining management standards - Stellat'en play key role in monitoring whether trust standards and objectives are upheld by all parties operating in trust lands -Stellat'en role is balanced by that of other interested parties (e.g. local non-First Nations) -Concept of Stellat'en led impact assessments is consistent with trust objectives of community participation and reconciling Aboriginal and Crown interests	Yes
1.3 Recognize and respect Aboriginal rights and title	-Trust explicitly recognizes both Aboriginal and Crown title in new intermediary land status -Reconciliation of Aboriginal and Crown title is an overarching CET objective -CET charters would recognize constitutional priority of Aboriginal rights But...once trust established, it may be politically unfeasible to convert trust lands to treaty settlement lands	Yes
1.4 Explicitly consider future generations in policies and decision making	-Future generations are identified as trust beneficiaries, legally requiring consideration of their needs -Trustees are required to uphold trust objectives, without influence from self-interested parties or those with short-term views (including current elected governments)	Yes
1.5 Adopt a holistic approach to forest management	-Consistent with objectives of overarching CET legislation -Management on smaller scale (i.e. at community level) enables the flexibility and level of detail needed for holistic management (M'Gonigle et al 2001)	Yes
1.6 Protect ecosystem integrity	-Strongly supported by overarching CET legislation, as maintaining ecosystem integrity is an overarching trust objective -Details of how ecosystem integrity is protected at the local level are negotiated between Stellat'en and other parties (e.g. local non-First Nations)	Yes

Authority and Stewardship

Stellat'en would essentially have co-jurisdictional decision-making authority for the entire traditional territory, or whatever portion of it they chose to place into trust status. Stellat'en would have a key role in setting and enforcing the terms and purposes for the trust and creating strategic management plans to guide all resource management activities. As trustees, they would be involved in the determination of harvest levels and allocation of new harvesting rights. Likewise, the CET would support a Stellat'en role in stewardship of the traditional territory in terms of both setting and monitoring land management standards. Establishment of the trust would ensure that all licensees acted in accordance with the new trust policy objectives.

During the feedback workshop on the proposed models, one community member noted that, even though they thought that non-natives would likely be involved in future tenure and governance, government-to-government negotiation should come before community decision making. Thus negotiations between Stellat'en and local non-First Nations citizens may need to be preceded or balanced by a government-to-government process.

Rights and Title

Trusts are a potential vehicle to legally support recognition of Aboriginal rights and title through a process of reconciliation. While each grantor (party with a "title" interest in land) puts their interest in property in to the trust, it is not necessary to agree on the specific characteristics of each grantor's interest. The main point is that the grantors agree to combine their interests in the trust, to be managed in an agreed upon way, to benefit clearly identified beneficiaries. The trust allows grantors to disagree on the details of the delineation of title, while agreeing on how the trust lands will be managed.³⁷ The trust is one of the only legal mechanisms with this feature (W. Horter, pers. comm. 2007). The specific Community Ecosystem Trust proposal goes further by explicitly specifying the reconciliation of Crown and Aboriginal Title as a central purpose. Furthermore, recognition of the constitutional priority of Aboriginal rights is compatible with the overarching CET objective of community equity (M'Gonigle et al 2001, 53). The issue remains, however, of how a trust would interact with treaty negotiations. Once a trust is established, it may not be politically feasible to remove portions of it for treaty settlement lands. It is not clear whether, upon entering the trust agreement, a First Nation is foreclosing on the possibility of having some lands as uniquely theirs. Due to the province's limited "land selection" policy, some First Nations may prefer an opportunity for co-jurisdiction across their entire territory rather than a small area of fee simple lands awarded under the current treaty process. Nevertheless, the question of which path a particular community prefers and the uncertainty regarding impacts on land

³⁷ Perhaps the closest working example of such an arrangement in British Columbia is the Gwaii Haanas Agreement between the Government of Canada and the Council of the Haida Nation regarding management of Gwaii Haanas/South Moresby. In this agreement, "the parties maintain viewpoints regarding the Archipelago that converge with respect to objectives concerning the care, protection and enjoyment of the Archipelago...and diverge with respect to sovereignty, title or ownership" (Gwaii Haanas Agreement 1993).

claims will be critical factors influencing a First Nation's willingness to place their lands into a trust.³⁸

Future Generations

The CET is particularly effective in addressing "consideration of future generations." The identification of future generations as beneficiaries gives them legal standing and protection. Furthermore, since trustees are legally required to manage according to terms set out in the charter, they are not to be influenced by parties with short term time horizons (such as elected governments and various interest groups). Protection of future generations would likely be best served by establishing a trust in perpetuity.³⁹ Consideration of future generation is also consistent with the trust principle of perpetuity, which supports a long term view.

Holistic Management and Ecosystem Integrity

Stellat'en goals of supporting holistic management and protecting ecosystem integrity are consistent with the overarching CET purposes, which emphasize management according to ecosystem-based principles. The provincial trust charter would require that all local charters be consistent with the purpose of protecting ecosystem integrity through ecosystem management. Details as to how the ecosystem would be protected at the local level (e.g. habitat protection, harvest methods) would need to be negotiated and established among the Stellat'en grantors and other parties. Since the proposed CET supports management on a smaller scale (i.e. at community level as opposed to through centralized provincial bureaucracies) it enables the flexibility and level of detail that may be necessary for holistic management (M'Gonigle et al 2001).

³⁸ This issue is touched on in the recent Community Forest Program Review. The report suggested that a land trust could be examined in a recommended study on the structure of alternative tenure arrangements for community forests. The authors noted that "a land trust arrangement would also create new implications for ongoing treaty negotiations" (Meyers Norris Penny and Enfor 2006).

³⁹ In order to escape legal issues with the "limit on perpetuities", it would be necessary that it be established as a charitable trust – "a purpose trust that does not have persons as objects but, rather, defined charitable purposes" (Overstall 2004, 206).

ii. Community Ecosystem Trust and Protection of the Stellat'en Culture

Results of the CET evaluation in comparison to Stellat'en Goal 2 (Protect Stellat'en Culture) are presented in Table 3.4 and discussed in the following text.

Table 3.4 Evaluation of Community Ecosystem Trust based on Stellat'en Goal 2: Protect Stellat'en Culture

Objective	Evaluation	Score
2.1 Protect Stellat'en cultural forest values	-Consistent with the objectives of overarching CET legislation -Stellat'en have significant role in determining forest management standards and objectives and could advocate protection of cultural forest values in trust charters -Objectives in local trust charter would apply to all tenure holders in entire trust land base	Yes
2.2 Value non-commercial uses of land	- Non-commercial land uses could be respected and protected in local trust charter	Yes
2.3 Involve traditional leaders and elders in early stages of planning	-Inclusion of traditional Aboriginal governance is consistent with overarching CET legislation -Traditional leaders and elders could influence terms of Charter and serve as monitors of trustee decision making	Choice
2.4 Implement Stellat'en stewardship principles in forest management	-Consistent with objectives of overarching CET legislation (e.g. ecological management is consistent with "respect the earth" principle) -Governance within specific landbase at local, community scale increases likelihood of upholding principle of "only take what you need" -Stellat'en stewardship principles could be reflected in local and provincial trust charter objectives	Yes
2.5 Protect Stellat'en access to and use of land and resources in traditional territory	-Recognition of Aboriginal priorities in resource allocation is consistent with overarching CET objectives -As beneficiaries, Stellat'en access to land would be supported though shared with others -Specific degree and conditions of Stellat'en access to land for cultural and economic purposes could be specified in local trust charter	Yes
2.6 Include cultural and traditional knowledge in management, planning and decision making	-Consistent with objectives of overarching CET legislation -Stellat'en role provides forum for use and discussion of cultural and traditional knowledge -Use of cultural and traditional knowledge could be required in local trust charter -Local trust charter could support funding mechanisms for cultural mapping and data management	Yes
2.7 Provide opportunities for government, industry, local communities and stakeholders to learn Stellat'en culture	-Inter-cultural learning opportunities and relationships are created as trust is a forum for ongoing interaction at the community level -Accepting both Aboriginal and Crown title creates a basis for building positive relationships and increases opportunity for mutual learning rather than adversarial bargaining	Yes

Almost all aspects of the CET have the potential to support protection of Stellat'en culture. Protection of Aboriginal culture is consistent with the objectives of the overarching CET legislation, such as the reconciliation of Crown and Aboriginal Title and the protection of Aboriginal rights. Specific provisions for consideration of Stellat'en cultural values, stewardship principles and access to land can be written in to the local

trust charter. The charter would be a legal document ensuring such features are protected across the traditional territory and respected by all parties. The charter could also address the degree of emphasis on commercial as opposed to non-commercial land uses.

As noted in Chapter 2, Stellat'en culture is supported by the involvement of traditional leaders and elders in forest management planning and decision making. The CET could support this objective because traditional forms of Aboriginal governance will have a key place in implementing the overarching trust purpose of supporting participatory decision-making (M'Gonigle et al 2001, 42). Traditional leaders and elders could influence the terms of the trust charter. They could also provide oversight of trustee management decisions. Similarly, use of traditional and cultural knowledge are consistent with the CET intent and could be stipulated in both provincial and community charters.

The CET could strengthen the possibility of implementing Stellat'en stewardship principles. The local scale and community-based decision structure of the trust promotes decision makers' awareness of the consequences of their actions. This increases the chance that people will uphold the principle of "take only what you need." The overarching objective of managing based on ecosystem principles is also consistent with the principle of "respect for the earth."

Finally, the CET provides rich opportunities for inter-cultural learning as the trust provides a forum for long-term relationships and ongoing interaction at the community level. Starting from a basis of accepting Aboriginal title and rights supports the creation of positive relationships and increases the opportunity for mutual learning rather than adversarial bargaining.

iii. Community Ecosystem Trust and Stelat'en Economic Self-Determination

As indicated by the results in Table 3.5, the CET provides support for the Stelat'en goal of economic self-determination in a variety of ways. Most significant in this respect are the overarching CET objective of community economic development and the clear definition of beneficiaries for resource activities in the trust area.

Table 3.5 Evaluation of Community Ecosystem Trust Based on Stelat'en Goal 3: Support Stelat'en Economic Self-Determination

Objective	Evaluation	Score
3.1 Support viable Stelat'en forest based economic ventures (both timber and non-timber based)	-Overarching CET legislation supports flow of economic benefits to communities, thereby supporting local businesses	Yes
3.2 Support Stelat'en livelihoods	-Overarching CET legislation supports flow of economic benefits (such as livelihood opportunities) to communities -Provisions in local trust charter could require employment for Stelat'en people -Local charter could support land being kept in a condition appropriate for traditional livelihood activities such as hunting, trapping, gathering	Yes
3.3 Ensure allocated land base/harvest rights can sustainably support Stelat'en community	-Trust doesn't necessarily require reallocation of tenure/harvesting rights, however... -Stelat'en status as trust beneficiaries, could encourage allocation of harvesting rights to Stelat'en -Reallocation of tenure rights to Stelat'en is consistent with overarching trust objective of supporting flow of economic benefits to communities	Somewhat
3.4 Ensure Stelat'en benefit economically from sustainable resource development in traditional territory	-Overarching CET objectives support flow of economic benefits to communities -Trust legally requires benefits to flow to beneficiaries, which include Stelat'en -With recognition of their constitutional priority, Stelat'en benefits would be balanced with those of other beneficiaries	Yes
3.5 Compensate Stelat'en for impacts	-Trust could legally support compensation for impacted beneficiaries e.g. beneficiaries could sue trustees for failure to uphold trust -But...past impacts likely outside of trust mandate	Yes (Future only)
3.6 Support Stelat'en capacity building	-Consistent with overarching trust objective of creating governance with ongoing democratic participation and legal requirement for supporting beneficiaries -Trust could fund capacity building programs with economic rent remaining in trust area, due to emphasis on economic benefits to communities	Yes
3.7 Promote a healthy local economy	-Requirement of flow of economic and social benefits to local area supports local economy -Funding of programs and services to support local economy would be consistent with overarching trust objectives	Yes

The trust provides a framework in which Stelat'en business ventures (Objective 3.1), employment (Objective 3.2), traditional livelihoods (Objective 3.2) and capacity building (Objective 3.6) could be supported. It also supports the local economy

(Objective 3.7) by encouraging benefits from resource harvesting to remain in the local area. For example, implementation of the trust would require changes to the flow of resource revenues, likely leading to lower stumpage rates for community tenures and a greater portion of revenues remaining with communities. On the other hand, it is not clear how benefits to Stellat'en would be balanced with those to other beneficiaries (as in Objectives 3.3 and 3.4). The balance would need to be negotiated and clearly spelled out in the local trust charter. Recognition of the Constitutional priority of Aboriginal rights would be a guiding principle.

C. Conclusions Regarding the Community Ecosystem Trust

In summary, the Community Ecosystem Trust proposal has strong potential to provide a basis for sustainable resource management that is in congruence with the Stellat'en vision. The CET is an excellent model for stable, accountable, transparent and future-oriented forest management that maintains benefits with local communities and requires licensees to operate within an appropriate ethical framework. The trust raises Stellat'en authority to a co-jurisdictional level, fosters long term thinking by explicitly requiring consideration of future generations and enables Stellat'en to play a leading role in setting management objectives and standards. As explained by Overstall (2004), "terms can reflect the indigenous laws and decision-making pathways of the Aboriginal group that settles the trust." Furthermore, Stellat'en authority could extend over the entire land base of the traditional territory, rather than be limited to small portions as per BC's treaty negotiation policy. Despite these strengths, the success of the trust for Stellat'en will depend largely on the degree to which their goals are specifically written in to the provincial and local trust charters. Since the trust could not be established without Stellat'en consent as grantors, its likelihood of reflecting their values and interests is high.

While Stellat'en authority would increase significantly under the CET proposal (compared to the status quo as described in Chapter 2), it would not be exclusive. Other First Nations and non-First Nations communities within the trust area would also be involved in setting the local charter objectives, making management decisions as trustees and reviewing trustee decisions. The degree to which Stellat'en values are reflected will depend in part on how effectively Stellat'en can communicate their views during the establishment of the trust purposes, and later to the trustees in the Community Management Authority. This last point is related to capacity and the degree of acceptance of indigenous knowledge and worldviews. In the feedback workshop,

Stellat'en also noted that there would need to be some sort of safety valve to put the process back on track should it start to move away from true reflection of First Nations values and interests. Suggestions to this end included having an independent tribunal for adjudication of disputes regarding trust management. It appears that these comments would apply to any form of co-management relationship, not just the CET.

Four aspects of the proposed Community Ecosystem Trust do not entirely address Stellat'en aspirations. First, the trust might have to be combined with a reallocation of harvesting rights, to make room for a viable Stellat'en forest tenure within the trust area.

As noted by Clogg 2001, reforms that shift decision-making authority about how and where forest use should occur, without altering existing allocations of licences to harvest timber should be seen as only part of the picture. Secondly, success will depend on Stellat'en willingness to share decision making authority with local non-First Nation communities. Interviews indicated that not all Stellat'en would be immediately open to this concept, although they do feel the interests of all parties need to be considered. Third, as described, the CET is largely focused on legislation and policy at the provincial level. In contrast, most Stellat'en feel that, due to the federal government's fiduciary duty, agreements need to be made on a tripartite basis or even focus exclusively on the federal Crown and Stellat'en. To address this concern, the CET model could be modified to include greater federal government involvement. Fourth, and perhaps most importantly, once Stellat'en place their land in a trust, it may not be politically feasible to remove it for the purpose of treaty settlement lands. Uncertainty surrounding the potential size and location of successful land claims (in relation to the potential for co-jurisdictional authority across the whole land base) would affect their willingness to grant lands in to a trust. Recent treaties (such as the Nisga'a Final Agreement and the Champagne and Aishihik First Nations Final Agreement) have combined a core area of sole Aboriginal authority with lands subject to co-management. If Stellat'en have to forgo obtaining fee simple lands (e.g. through a treaty or land claim) in order to settle a trust, this will affect their decision whether or not to grant their lands in to a trust.

A final aspect of the CET that will need special consideration is the idea that the composition of trustees should reflect "a broad representation of affected sectors (e.g. local government, First Nations, labour, conservation, etc)" (M'Gonigle et al 2001). Some authors caution against "trustees being members of the benefiting group," as it may lead to conflicts of interest (Overstall 2004, 203). It would be difficult to select

trustees in the aforementioned “representative” manner without at least some of them also being beneficiaries. This issue may to some degree be offset by the clear goals of the trust. For example, as long as Stellat’en values and interests are clearly upheld within the trust charter that guides trustee decision making, it may not be necessary for Stellat’en to act directly as trustees.

If, for whatever reason, Stellat’en decide they are not ready to support the specific Community Ecosystem Trust proposal, general trust law and principles could still be valuable tools to support their values and aspirations. In particular, the trust principles of clarity and perpetuity could help to ensure Stellat’en goals were recognized and upheld amid the clamour of policy rhetoric and short term interests. Likewise, the principles of accountability, enforceability and prudence would support management consistent with the Stellat’en view.

Overstall (2004) describes a co-management trust based on reconciliation of Aboriginal and Crown interests at a provincial or federal, as opposed to a community level. He goes on to suggest that a trust could provide “an interface between the communitarian kinship of Aboriginal societies and the liberal democracy of Crown sovereignty.” Such a trust “would allow information and obligations to flow both ways, ensuring mutual accountability without imposing inappropriate Western governance structures on Aboriginal communities. At the same time, space would be created to allow community members to develop their own governance structures” (Overstall 2004, 202). Similarly, M’Gonigle et al (2001) comment that “a properly constituted trust operates as a useful instrument for recreating a contemporary ‘common property’ regime.”⁴⁰

As explained earlier, numerous authors have proposed consideration of the trust legal instrument in the context of resource management in BC. Despite this support, the concept thus far has remained on the periphery of the BC forest policy discourse. The foregoing analysis indicates that trusts deserve to be given serious consideration by all parties as a potential solution to the issues at hand.

⁴⁰ Maitland (1911, 371) claimed trusts were the main agent of English “social experimentation” and shielded groups from the “assaults of individualistic theory” (quoted in Overstall 2004, 212).

3.3.2 Gitanyow Hereditary Chiefs Planning Model

A. Overview of the Gitanyow Model

The Gitanyow Hereditary Chiefs have clearly articulated an innovative vision for the resolution of First Nations concerns regarding forest management and governance. The Gitanyow Forestry Agreement reflects many aspects of their vision and has been described as one of the most progressive First Nations forestry deals in the province by Parfitt (2007a) and Williams (pers. comm. 2007). Although not all aspects of the Gitanyow vision have been implemented at this time, many aspects are included in their August 2006 Forestry Agreement with the province. For the purpose of this analysis, the Gitanyow vision as a whole will be considered, including those elements that are not yet in place.

The Gitanyow First Nation traditional territory is located in the mid Nass River watershed, including the Upper Kitwanga and Upper Kispiox Rivers (Gitanyow Hereditary Chiefs 2006) (Figure 3.1). While the ecology of the Gitanyow territory is quite different from that of Stelat'en, the impacts of development on the people and land are almost identical. The Gitanyow have had limited involvement in the development of their territories. Many sacred and traditional use sites have been destroyed by logging. Resources are extracted with no economic benefit to the First Nation and community members cannot use the land to support themselves and uphold their traditional obligations (Gitanyow Hereditary Chiefs 2006).

The Gitanyow vision includes a package of components to address the array of issues at hand. Key elements include the co-existence of Gitanyow and Crown title, sustainable land and resource use for the entire traditional territory, the creation of a sound economic climate, and the exercise of Gitanyow rights to economic benefits from their territories (Gitanyow Hereditary Chiefs 2006). The process of joint land use planning is a central thread that ties the components together.

In order to meet Gitanyow's vision of co-existence for Gitanyow and Crown title, the provincial government must first recognize Gitanyow rights and title.⁴¹ In Gitanyow's view, this must include recognition of the rights and title of Gitanyow Houses, of their social structure and traditional system of government and of the strength of their claim

⁴¹ Gitanyow negotiate from a particularly powerful position in this regard, as they have won court cases which found they have a "good prima facie claim of aboriginal title and a strong prima facie claim of aboriginal rights to at least part of the territories claimed by them" (*Honorable Justice Tysoe in Gitxsan and other First Nations v. British Columbia (MoF)* 2002 BCSC 1701 quoted in Gitanyow Hereditary Chiefs 2006).

(Gitanyow Hereditary Chiefs 2006). Their goals regarding recognition are affirmed in the Gitanyow Forestry Agreement, which includes a unique section titled “Recognition” in which the Provincial government specifically addresses these points.

Figure 3.1 Location of Gitanyow Traditional Territory in Relation to BC



Source: Gitanyow Hereditary Chiefs 2006

Gitanyow goals of sustainable land and resource use and a sound economic climate are to be developed through joint land use planning. Two separate processes are utilized – a Landscape Unit Plan (LUP) for Gitanyow House Territories within the Kispiox and Cranberry Timber Supply Areas and a Sustainable Resource Management Plan (SRMP) for Gitanyow’s northern territories in the Kalum Forest District (Gitanyow Hereditary Chiefs 2006). Once these plans are complete, BC and Gitanyow will work with the Integrated Land Management Bureau (ILMB) to merge the objectives jointly developed through the two plans to encompass the whole of the Traditional Territory (Gitanyow Forestry Agreement 2006, Section 4.2).⁴² The joint land use plans are being

⁴² This analysis focuses on information regarding the draft Cranberry/Kispiox Landscape Unit Plan (LUP) and may not reflect the final outcome following integration with the SRMP and consultation with other parties.

developed in partnership between Gitanyow, the BC Ministry of Forests (MoF), the Integrated Land Management Bureau (ILMB) and forest licensees.

A Joint Resources Council (JRC) has been established in order to facilitate “cooperative planning to address Gitanyow’s Aboriginal Interests at the appropriate level of Crown land use planning” (Gitanyow Forestry Agreement 2006, Section 6.1). The JRC provides a regular forum for ongoing consultation, plan implementation and resolution of issues. The Council consists of two Gitanyow and two Ministry of Forests representatives (one each from the Kalum and Skeena-Stikine forest districts).

Gitanyow’s goal is for the joint land use plans to accommodate Gitanyow interests, values and vision for the future. They want the plans to enable Gitanyow use of the territories while also providing for resource extraction and uses by other stakeholders. At this point, the LUP protects important house resources and traditional use areas, ensures sustainable use and provides an opportunity for education on the Gitanyow system of land ownership. The plan designates old growth management areas (OGMAs) and protected areas for wildlife habitat within each house territory. A Forest Ecosystem Network (FEN) provides a wildlife corridor, protects valley bottom riparian habitats and includes the majority of traditional use sites. The LUP also contains management units with a specific focus on the protection of water resources, including protection of community watersheds and the headwater areas of the Hanna and Tintina Creek watersheds (Gitanyow Hereditary Chiefs 2006; G. Williams, pers. comm. 2007). Preliminary timber supply estimates based on the new land use parameters indicate an predicted reduction in the Annual Allowable Cut (AAC) for the area (Parfitt 2007a and G. Williams, pers. comm. 2007).

Gitanyow hope to have the joint land use plans established as Higher Level plans. Under this status the plans would guide all Ministries responsible for land use and resource allocation within the Gitanyow territory. This element of their vision is supported by the Gitanyow Forestry Agreement, which states that “the appropriate government agency will consider enabling the SRMP objectives once Gitanyow and the respective government agency have reached consensus on those objectives” (Gitanyow Forestry Agreement 2006, Section 4.3).

The Gitanyow vision also contains a significant economic component that includes capacity funding for participation in land use planning, restoration monies to rehabilitate the territories from past logging damages, revenue sharing based on the amount of timber harvested from their territories and cash payment in lieu of tenure. In

addition to the government's standard forest tenure and revenue sharing offer (as per other FRAs and FROs), elements in Gitanyow's Forestry Agreement include the provision of capacity funding and \$2 million dollars for reforestation and enhancement activities, which will also provide seasonal jobs for Gitanyow.

In summary, the Gitanyow Hereditary Chiefs model will increase Gitanyow influence on land uses in House territories, provide agreement on protection areas, enable early Gitanyow involvement in strategic planning, provide resources for capacity building and their own source revenue to support social, traditional and modern obligations as well as recognition and respect for Gitanyow rights, traditional law and territories (Gitanyow Hereditary Chiefs 2006). The model illustrates the merits of joint land use planning as a method for reconciling diverse values and accommodating Aboriginal rights.

B. Evaluation of the Gitanyow Model

In this section, a systematic comparison of the Gitanyow model in relation to the Stelat'en vision is conducted. The Gitanyow model contains numerous features that are closely aligned with Stelat'en goals. The model may provide ideas for leverage points and strategies that could be adapted to Stelat'en's situation.

i. Gitanyow Model and Protection of the Stelat'en Traditional Territory

As indicated by the results in Table 3.6, the Gitanyow model contains many elements that support Stelat'en objectives regarding protection of the traditional territory.

Table 3.6 Evaluation of Gitanyow Model based on Stelat'en Goal 1: Protect Stelat'en Traditional Territory for Future Generations

Objective	Evaluation	Score
1.1 Stelat'en have a high level of decision making authority in forestland management	<ul style="list-style-type: none"> -Co-management authority for resources throughout traditional territory -High level of accommodation -Joint land use plans to be established as Higher Level Plans guiding all government Ministries and resource plans -Gitanyow participate in timber supply analysis and harvest level determination -Gitanyow role in land use planning spelled out in Government to Government (G2G) agreement -Resources provided for Gitanyow participation in land use planning -Joint Resources Council provides forum for Gitanyow participation in strategic planning and policy making 	Yes
1.2 Stelat'en have a leadership role in stewardship of forestlands in the traditional territory	<ul style="list-style-type: none"> -Gitanyow values are strongly reflected in joint land use plans -Gitanyow and province agree on protected and restoration areas -Gitanyow participate in restoration planning and "on the ground" work 	Yes
1.3 Recognize and respect Aboriginal rights and title	<ul style="list-style-type: none"> -Aboriginal rights and title of Gitanyow Houses and strength of claim are recognized in G2G agreement -Gitanyow social structure and system of government is recognized by BC -Exercise of Gitanyow rights to economic benefits from their territories -Gitanyow house territory boundaries applied in resources analyses 	Yes
1.4 Explicitly consider future generations in policies and decision making	<ul style="list-style-type: none"> -Draft land use plan ensures sustainable use of land and resources for future Gitanyow members 	Yes
1.5 Adopt a holistic approach to forest management	<ul style="list-style-type: none"> -Multiple forest values and potential land uses recognized in land use plans (wildlife habitat, old growth, water supply) 	Yes
1.6 Protect ecosystem integrity	<ul style="list-style-type: none"> -Timber harvesting limited to areas that will not impact high wildlife and ecosystem values -Land use plans protect elements important to ecosystem integrity (wildlife corridors, old growth) -Funding provided for restoration 	Yes

Authority

Through the joint land use planning process, Gitanyow have significantly increased decision making authority with regards to resource management in their traditional territory. Gitanyow would like to see their territory's resources co-managed by the province and themselves (Parfitt 2007a).⁴³ The Gitanyow model of joint land use

⁴³ The term "co-manage" seems to be used here in a general sense. In the more specific terminology of the Forsyth Aboriginal-Crown Relative Power Spectrum (see Figure 2.1 in Chapter 2), Gitanyow appear to be seeking co-jurisdiction. In both cases the Crown has an obligation to recognize joint decisions, but in co-management the Crown retains the authority to overturn them. Co-jurisdiction also involves high levels of accommodation (as opposed to moderate levels in co-management) (Forsyth 2006).

planning provides a mechanism for participation in strategic level planning and the implementation of Gitanyow values on the landscape. In the joint land use planning model, the First Nation is intimately involved in determining values to be protected as well as areas on the landbase where protection will occur. Gitanyow's vision is to have the strategic plan objectives legally established as Higher Level Plans (Gitanyow Hereditary Chiefs 2006). Higher Level Plan (HLP) status would ensure that all lower plans (e.g. operational) and the actions of all parties within the territory are consistent with the Gitanyow vision as articulated in the HLP. While some work remains to be done regarding implementation mechanisms, the province has agreed to consider enabling some plan objectives through legislation (Gitanyow Forestry Agreement 2006, Section 4.3). In the interim, the Forestry Agreement (Section 4.5) contains a clause stating "BC and Gitanyow agree to encourage Licensees to develop Operational Plans consistent with the joint landscape level plans," thereby moving towards implementing the values at an operational scale.

Other key forest management functions include harvest level determination and resource allocation. The Gitanyow model provides the First Nation some influence in both of these areas. For example, the Forestry Agreement states that "the Chief Forester will consider the results of joint landscape level planning undertaken by the Parties for incorporation into the Timber Supply Review process" (Gitanyow Forestry Agreement 2006, Section 9.11). Furthermore, the Forestry Agreement specifies that "BC will consult with the Gitanyow in Timber Supply Review processes that will lead to AAC determinations...within the traditional territory" (Gitanyow Forestry Agreement 2006, Section 9.10). Similarly, the Gitanyow Forestry Agreement ensures their participation in regards to "the setting of terms and conditions for Forest Tenures and Licences." This important task is listed as a responsibility of the Gitanyow Joint Resources Council (Gitanyow Forestry Agreement 2006, Appendix C: Gitanyow Joint Resources Council Terms of Reference).

Overall, Gitanyow makes significant gains in authority towards the level of co-jurisdiction. While final decision making authority remains with the provincial statutory decision maker, the province's power is curtailed by the Forestry Agreement which states they must "consider all relevant information provided by Gitanyow" and inform Gitanyow of how their Aboriginal interests were addressed (Gitanyow Forestry Agreement 2006, Appendix B: Gitanyow Consultation Protocol). .

Stewardship

The Gitanyow model also illustrates mechanisms to support the Stellat'en objective of being leaders in territorial stewardship. For example, the draft LUP includes a significant degree of protection for old growth areas, fish and wildlife and sensitive watersheds. In addition, Gitanyow are seeking a key role in monitoring and assessment of the joint land use plans. The Gitanyow stewardship role is also recognized in their Forestry Agreement, which provides significant funding for the "Northwest Reforestation/Enhancement Program" as well as for Gitanyow participation in planning and implementation of the restoration program activities.

Rights and Title Recognition

The recognition of Gitanyow rights and title is supported to a degree by their Forestry Agreement, which includes a section entirely dedicated to the topic. In this section, BC acknowledges the court cases that awarded Gitanyow a strong claim and recognizes Gitanyow traditional governance. Furthermore, inclusion of Gitanyow values in a Higher Level Plan constitutes a legal mechanism for the protection of First Nation rights. The use of Gitanyow house territory boundaries in resource analyses also constitutes a recognition of rights.

Future Generations

Gitanyow want the joint land use plans to "ensure sustainable use of land and resources for future Gitanyow members" (Gitanyow Hereditary Chiefs 2006). This is a priority that guides the Gitanyow input to the joint LUP (G. Williams, pers. comm. 2007), which outlines the "Gitanyow vision for future Gitanyow connection with and use of their territories" (Philpot Forestry Services 2005). It is of great importance to the Huwilp members of Gitanyow that they maintain their culture and their connection to and stewardship of their traditional territories (Philpot Forestry Services 2005).

Holistic Management and Ecosystem Integrity

The Gitanyow model supports the goals of holistic management and protection of ecosystem integrity. The land use plans take multiple forest values in to account including wildlife habitat, old growth, traditional use and water supply areas. Timber harvesting is limited to areas that will not impact high wildlife and ecosystem values. While the details of the collaborative plan are not yet finalized, the working version is successful in addressing Gitanyow concerns in this respect. The model makes great strides towards protecting ecosystem integrity through the creation of the Northwest Reforestation/Forest Enhancement Program and \$2 million dollars dedicated by the

province. These funds begin to acknowledge the “serious problem of the failure to restore forests in the past” (Gitanyow Hereditary Chiefs 2006).

ii. Gitanyow Model and Protection of Stellat’en Culture

The ability of the Gitanyow model to “Protect Stellat’en Culture” is outlined in Table 3.7 and the following text. The main areas of correspondence are in the protection of cultural forest values and access to those values, the sharing and use of traditional knowledge and the formal recognition of traditional governance systems.

Table 3.7 Evaluation of Gitanyow Model based on Stellat’en Goal 2: Protect Stellat’en Culture

Objective	Evaluation	Score
2.1 Protect Stellat’en cultural forest values	-Cultural values are mapped and protected in a joint land use plan -Joint plan to be legally enabled as Higher Level Plan, to guide all Ministries and resource users	Yes
2.2 Value non-commercial uses of land	-Non-commercial values considered and protected in land use plan	Yes
2.3 Involve traditional leaders and elders in early stages of planning	-Gitanyow hereditary leaders highly involved in land use planning and decision making -Government agents are negotiating directly with traditional leaders	Yes
2.4 Implement Stellat’en stewardship principles in forest management and decision making	-Harvest level is limited to what the land can sustain while protecting ecological and cultural values -Land use plan provisions for ecological protection indicate an ethic of respect for the earth -Gitanyow vision of restoring their territory illustrates an ethic of “giving back to the land”	Yes
2.5 Protect Stellat’en access to and use of land and resources in the traditional territory	-Land use plan protects traditional use areas and identifies Gitanyow’s envisioned land uses	Yes
2.6 Employ cultural and traditional knowledge in management, planning and decision making	-Traditional knowledge is used in the mapping of important habitat and cultural areas known to Gitanyow -Funding for including Gitanyow knowledge in plans is provided by provincial government	Yes
2.7 Provide opportunity for government, industry, non First Nations communities to learn Stellat’en culture	-Joint land use planning provides opportunities for others to learn about Gitanyow culture, system of land ownership -Land use plan informs all tenure holders about Gitanyow cultural values -LUP expresses Gitanyow objective to educate about culture	Yes

The identification of cultural forest values is an integral part of the Gitanyow/MoF joint Landscape Unit Plan (LUP). The cultural features map, which was an input to the overall plan, identifies fishing sites, hunting areas, food gathering areas such as berry sites, traplines, wildlife habitat, medicinal plants, trails and more (Gitanyow Hereditary Chiefs 2006). The majority of these features are located within the protected Forest

Ecosystem Network. Since the LUP is to be mutually agreed upon by government and First Nations, it is also a system in which all resource users can become familiar with requirements to protect First Nations forest values. The protection mechanisms in the Gitanyow joint LUP also help to create a balance between commercial and non-commercial uses of land.

Gitanyow have chosen to implement their traditional house leadership system, and to be represented by hereditary chiefs in government-to-government negotiations. The central role of traditional leaders in strategic land use planning goes a long way towards the maintenance and protection of Aboriginal culture. While Gitanyow's internal governance structure may not be the path chosen by all First Nations, it does indicate that the BC government can be willing to recognize traditional governments. BC also recognizes traditional governance and social units by using house territory boundaries in resource analyses and planning.

Gitanyow access to the traditional territory is addressed to a degree through the protection of traditional use areas in the Forest Ecosystem Network. In terms of more exclusive access to specific areas of land (e.g. treaty settlement lands or similar), Gitanyow seem to be keeping that for a separate process.

Traditional knowledge is being used in the mapping of important habitat and cultural areas known to Gitanyow. Joint land use planning supports the use of traditional knowledge as oral history knowledge is depicted on maps that inform decision making. The process also provides opportunities for government staff, politicians and forest licensees to learn about Gitanyow cultural values, ways of thinking and stewardship principles in a concrete manner.

The draft LUP indicates that Gitanyow goals include the "education of present and future generations of Gitanyow, other aboriginal and non-aboriginal people regarding Gitanyow history, economics, culture, spiritual values; how Gitanyow lived, used and sustainably managed the resources of the territories through time" (Philpot Forestry Services 2005).

iii. Gitanyow Model and Stelat'en Economic Self-Determination

Results of the evaluation comparing the Gitanyow model to Stelat'en Goal 3 (Protect Stelat'en Economic Self-Determination) are presented in Table 3.8 and discussed in the following text.

Table 3.8 Evaluation of Gitanyow Model based based on Stelat'en Goal 3: Support Stelat'en Economic Self-Determination

Objective	Evaluation	Score
3.1 Support viable Stelat'en forest based economic ventures (both timber and non-timber based)	-Joint strategic land use planning gives Gitanyow a voice in determining future land uses and business opportunities -Gitanyow seek to generate revenue/wealth by creating sound economic climate and protecting ecosystem, sharing revenues -Gitanyow's primary goal is to protect the land and move to sustainability	Yes
3.2 Support Stelat'en livelihoods	-Traditional livelihoods supported by strategic land use plan that protects traditional use areas and wildlife -Direct award silviculture contracts and seasonal restoration work provide employment	Yes
3.3 Ensure allocated land base/harvest rights can sustainably support Stelat'en community	-Gitanyow request cash payment in lieu of forest tenure	n/a
3.4 Ensure Stelat'en benefit economically from sustainable resource development in the traditional territory	-Exercise of Gitanyow rights to economic benefits from their territories -Revenue sharing based on amount of timber harvested from Gitanyow territories	Yes
3.5 Compensate Stelat'en for impacts	-Forestry Agreement provides some restoration funding to address failure to restore forests in the past	Somewhat
3.6 Support Stelat'en capacity building	-Forestry Agreement provides capacity funding for joint land use planning and timber marketing	Yes
3.7 Promote a healthy local economy	-Sound economic climate in the territory -Economic certainty supported by cooperative land use planning between Gitanyow, MoF and forest companies -Gitanyow envision diverse land uses (including non-timber)	Yes

The Gitanyow approach supports economic self-determination through revenue sharing, funding for capacity building and restoration, protection of traditional resources as well as provision of job opportunities in forest rehabilitation. The process of joint land use planning enables the First Nation to influence land use decisions so they are consistent with the type of economic activities they would like to see in the territory - many of which are not timber-based. The Gitanyow vision includes development of Gitanyow economics through guiding, tourism, cultural and educational initiatives, resource extraction, silviculture and restoration and development of traditional fisheries (Philpot Forestry Services 2005, 32). Examples of potential land uses include cabins,

lodges, backcountry ecotourism, hydro-electric, inland fishing, non-forest products and berries (Gitanyow Hereditary Chiefs 2006).

Despite expressing some interest in the forest industry, Gitanyow feel logging is too capital intensive for them and does not create enough jobs (G. Williams, pers. comm. 2007). They feel their primary mandate is to protect the land and move to sustainability (G. Williams, pers. comm. 2007). Part of their goal is to create economic certainty for businesses. Gitanyow would benefit by receiving a good share of the revenues while ensuring that business activities are carried out in a sustainable manner (G. Williams, pers. comm. 2007). Gitanyow differ from Stelat'en in that they are requesting cash payment in lieu of tenure (Gitanyow Hereditary Chiefs 2006).

The joint land use planning process supports Gitanyow livelihoods and economic self-determination by protecting traditional resources and access to those resources. The availability of traditional resources decreases First Nations dependency on wage labour, and enables them to support themselves more directly off the land. Furthermore, since the land use plans take in the entire traditional territory, they support protection of resources over the whole area, not a limited portion as offered in the treaty process. The broad consideration of First Nations resource management goals across the territory mitigates the fact that many areas of land are currently in a degraded condition. Gitanyow livelihoods are also supported by employment opportunities such as silviculture contracts and seasonal restoration work. For example, "BC intends to provide direct opportunities for qualified Gitanyow contractors in planting, brushing and other 'on the ground' enhancement activities under the Northwest Reforestation/Forest Enhancement Program" (Gitanyow Forestry Agreement 2006, Section 5.6).

Revenue sharing was proposed by Stelat'en and is also part of the Gitanyow vision. This feature would ensure that a portion of all revenues from resource harvesting would go to the First Nation. Rather than being based on a per capita formula, as in the current FRAs and FROs, Gitanyow see true revenue sharing being based on the amount of timber harvested from their territories (Gitanyow Hereditary Chiefs 2006). Truly equitably revenue sharing has the potential to support stable First Nations government. It would "provide an economic return on Wilp investments in their land that can be used to enhance and sustain our traditional system" (Gitanyow Hereditary Chiefs 2006). Such funds could be used as capital to start First Nations forest-based enterprises, increase employment by hiring staff to carry out programs and provide a revenue source for the economic planning initiatives of First Nations governments. The

funds would also serve to strengthen the local economy by ensuring money circulates back in to the traditional territory.

Funding for capacity building is supported by the Gitanyow Forestry Agreement. Under Section 7.1.8 of the Agreement, “British Columbia shall provide \$35,000 for the purpose of developing the capacity for Gitanyow to market the timber and to develop forest tenure planning.” This marketing and capacity funding is helpful for the establishment of viable businesses. More significantly, under their Forestry Agreement Gitanyow receive funding to support their capacity to participate in the Joint Resources Council, the implementation of joint land use plans and to engage in the resolution of “key forestry issues early in the planning cycle” (Gitanyow Forestry Agreement 2006, Section 8.1). Capacity support to engage in land use planning and consultation feeds back in to First Nations economic self-determination by enabling them to create a land base and policy environment that is consistent with their economic interests.

A final feature of the Gitanyow vision that would support economic self-determination is the “creation of a sound economic climate” in the territory (Gitanyow Hereditary Chiefs 2006). By participating in the joint land use plans, Gitanyow were able to indicate which areas should be off limits to logging and other development. The result is increased certainty for operators. Additionally, Gitanyow hope the land will be put to diverse economic uses beyond logging. A similar approach would help to create a healthy local economy in the Stellat’en territory.

C. Conclusions Regarding the Gitanyow Model

Analysis of the Gitanyow model reveals that it strongly supports the Stellat’en vision. Many aspects are a direct match with Stellat’en’s stated goals. In particular, the Gitanyow model offers increased stewardship and decision making authority through involvement in strategic planning, legal mechanisms for protection of ecological and cultural values and funding for forest restoration and capacity building. The model illustrates that solutions are possible when First Nations clearly articulate their goals and the government genuinely respects them. Forums such as the Joint Resource Council are critical to facilitating consultation and joint decision making on an ongoing basis.

While this evaluation was based on the Gitanyow vision, it should be pointed out that some aspects of that vision have yet to be implemented. Most notable among the missing elements is an equitable sharing of resource revenues. BC still “insists on imposing the FRA policy which ignores our economic interests” (Gitanyow Hereditary

Chiefs 2006). If necessary, Gitanyow are prepared to go to court to put pressure on the provincial government to implement this feature.

In order to be useful for Stellat'en, the Gitanyow model would need to be adapted to the Stellat'en context. The challenge of adaptation is augmented by the many differences between the Gitanyow and Stellat'en situations. Such differences include Gitanyow's history of court cases supporting their strength of claim and title and Gitanyow's positive and extensive experience in fisheries co-management. The pine beetle infestation also creates a less stable land use planning environment in the Stellat'en territory.

Despite these differences, the Gitanyow model provides many ideas that support the Stellat'en goals. In particular, it illustrates the benefits of a joint land use planning approach. Joint land use planning is a potential path for including First Nations values and interests in forestland management in the interim and outside of treaty, in a manner that encompasses the whole of the traditional territory. It also provides an incremental approach to treaty, as recommended by Tripartite Working Group in their 2002 report "Improving the Treaty Process" (Tripartite Working Group 2002). The Gitanyow model "demonstrates that recognition of Aboriginal Rights and Title can occur on the ground in a practical and non-threatening manner" (Gitanyow Hereditary Chiefs 2006).

3.3.3 British Columbia Community Forest Agreements

A. Overview of BC Community Forest Agreements

Community Forest Agreements (CFAs) are a form of Crown timber tenure awarded by the BC provincial government.⁴⁴ CFAs are a relatively new tenure created in response to calls for greater local involvement in forest management in BC. They are currently the main instrument through which the BC government grants forest management rights to communities. CFAs are one example of a worldwide trend in which, “under pressure from civil society, forest laws are moving towards policies that allow more community-based management” (Gunter 2004, 6).⁴⁵ While some community forests in BC are based on traditional industrial tenures, such as tree farm licenses and forest licences, this analysis will focus specifically on the characteristics of CFA tenures.

CFAs are area-based timber tenures that issue exclusive rights to harvest an annual allowable cut (AAC) in a specific area. As timber tenures, CFAs generally assume that timber harvesting will occur. While CFAs speak to multiple values and are the only Crown tenure to include rights for botanicals, they “are still principally timber focused and botanical forest products are only included in the tenure if desired” (Meyers Norris Penny and Enfor 2006, 31).

Although there is no legislated size cap on CFAs, under current practice their allocations are small in comparison to other licensees. CFAs are generally referred to as “small tenures” (e.g. Cathro, Mulkey and Bradley 2007).⁴⁶ Some communities are now proposing partnerships to achieve economies of scale by combining AAC from their respective licences.

CFAs are first awarded as five-year probationary agreements.⁴⁷ Criteria for the assessment of probationary CFAs fall under seven categories: return to the province,

⁴⁴ “Legislation for community forests is contained within the *Forest Act* section 7.1 - Community Forest Agreements. The *Community Tenures Regulation* (July 2004) defines eligible applicants and establishes criteria used to evaluate applications” (BC Ministry of Forests and Range 2008)

⁴⁵ “More than 60 countries say they are decentralizing some aspect of natural resource management” (Larson 2005; Agrawal 2001).

⁴⁶ As of February 2008, the largest long-term CFA in terms of AAC was held by the Burns Lake Community Forest Corporation (62,631 m³) and in terms of area, by McBride Community Forest Corporation (60,860ha). Bella Coola was recently awarded the largest landbase for a probationary CFA (79,888ha with an AAC of 30,000m³) (BC Community Forest Association 2008).

⁴⁷ A recent review of the CFA program recommended the removal of the probationary CFA (Meyers Norris Penny and Enfor 2006).

economic self-sufficiency, forest practices and management, innovation, governance and compliance, return to the community and incremental use of the landbase (BC Ministry of Forests 2004b). Following an evaluation, probationary CFAs may be extended to a long-term form of 25 to 99 years, replaceable every ten years. Major responsibilities associated with the tenure include strategic and operational planning, inventories, reforestation and stumpage payments (BC Ministry of Forests and Range 2006). Management goals of CFAs are articulated by the community and thus can vary. Licence holders are required to uphold the goals and standards they identify in their application and management plan. However, this flexibility is bounded by a requirement to correspond with government legislation and higher level plans.

CFAs are designed to provide new opportunities for community management of Crown forest land and are intended specifically to be held by community-based organizations. The government's stated objectives for CFAs are to:

- Provide communities greater flexibility to manage local forests
- Provide long-term opportunities for achieving a range of community objectives, including employment, forest-related education and skills training and other social, environmental and economic benefits
- Meet the standards set in legislation in respect of environmental stewardship including the management of timber, water, fisheries, wildlife and cultural heritage resources and in accordance with approved land use plans (LRMP's, Higher Level Plans, etc.)
- Diversify the use of and benefits derived from the community forest agreement area
- Encourage co-operation among stakeholders, and
- Provide social and economic benefits to British Columbia

(BC Ministry of Forests and Range website)

Prior to creating an opportunity for a Probationary Community Forest Agreement, the Crown may consider a number of factors, including the availability of suitable Allowable Annual Cut (AAC) and landbase(s) within certain boundaries (e.g. a Timber Supply Area), the anticipated level of local support for the opportunity; and the potential to address local land use issues (BC Ministry of Forests and Range website). Since the majority of forestland in BC is already allocated or recently logged, the location of a suitable landbase and AAC can be one of the greatest challenges in obtaining a CFA.

While CFAs do provide a substantial amount of decision making authority, community forests must still operate within the established provincial regulatory environment and follow government cut control limits. Each community is responsible for preparing their own management plan and deciding what values they wish to

manage for. However, the province retains ultimate authority to approve or disapprove of the management plan. Within the management plan, communities have authority to make decisions about how to manage for community values, and what type of harvesting patterns to follow. Apart from the required stumpage payments to the Crown, communities also control where the profits from forestry activities are directed.

Despite their unique objectives and circumstances, CFA holders were originally required to pay the same rate of stumpage as larger corporate tenure holders – a condition that led to financial difficulties for many community forests. Due to their (on average) smaller size and choice of management values, they tend to have higher per unit production costs compared to standard industrial tenures. Following a period of negotiations, the provincial government granted special stumpage rates for community forests. As of May 2007, the Coast and Interior Appraisal Manuals were amended “such that the proportion of table rates that CFA holders will pay for stumpage will be fifteen percent in the interior and thirty percent on the coast” (Rich Coleman, Minister of Forests and Range in May 2007 letter to the BC Community Forest Association).

B. Evaluation of BC Community Forest Agreements based on Stellat'en Goals

In this section, Community Forest Agreements (CFAs) are evaluated in comparison to Stellat'en goals.

i. Community Forest Agreements and Protection of Stellat'en Traditional Territory

CFAs address some Stellat'en objectives regarding protection of the traditional territory, though in only to a limited degree. The results are illustrated in Table 3.9.

Table 3.9 Evaluation of CFAs based on Stellat'en Goal 1: Protect Stellat'en Traditional Territory for Future Generations

Objective	Evaluation	Score
1.1 Stellat'en have a high level of decision making authority in forestland management	-CFAs grant authority for operational planning, choice of management objectives, cut levels and harvesting systems, but are subject to provincial government approval, forestry legislation and higher level plans -Authority limited to the CFA landbase, not whole traditional territory	Somewhat
1.2 Stellat'en have a leadership role in stewardship of forestlands in the traditional territory	-CFAs holders determine management values and standards, subject to provincial laws and approval -Self-monitoring required -Stewardship role limited to the CFA landbase, not whole traditional territory	Somewhat
1.3 Recognize and respect Aboriginal rights and title	-CFAs do not explicitly affirm Aboriginal rights and title -As Crown granted timber tenures, CFAs are based on assumption of Crown title	No
1.4 Explicitly consider future generations in policies and decision making	-Stellat'en could choose to include this stipulation in their management plan, but ultimately provincial government must approve the plan -Consideration of future generations could lead to decreased AAC and thus affect likelihood of government approval	Requires government approval
1.5 Adopt a holistic approach to forest management	-CFA management limited primarily to timber and botanicals -Stellat'en could choose to adopt a holistic approach in management plan for CFA, but ultimately provincial government must approve it. -Emphasizing non-timber values could affect AAC and financial viability, and thus government approval	Requires government approval
1.6 Protect ecosystem integrity	-Stellat'en could choose to emphasize ecosystem integrity in their management plan for a CFA but provincial government must approve it -Government acceptance of ecosystem integrity focus may be limited by impacts to timber supply and financial viability	Requires government approval

Through a CFA license, Stellat'en would gain authority in strategic and operational planning for the CFA landbase, as it relates to timber and possibly botanical products. They would also gain influence over cutting levels in the CFA area, as CFA applicants are required to propose an AAC based on the characteristics of the landbase in question and their proposed management goals. Stellat'en would be empowered to choose what type of forest harvesting system to use. They could implement their stated preference of more selective harvesting patterns with higher in-block retention levels. A CFA holder could potentially set their own standards higher than provincial

requirements, although associated impacts on timber supply would be subject to negotiation with the provincial government.

On the other hand, the regional manager has ultimate authority in approving the management plan and level of cut. CFA holders have no special privileges in influencing AAC determinations at larger scales such as in Timber Supply Reviews. Furthermore, management goals for CFAs must be consistent with those identified by the government and with provincial forest management objectives, provincial legislation and higher level plans such as LRMPs. Where Stellat'en goals conflict with existing provincial legislation, a CFA would not provide resolution.

In terms of choosing where they get to harvest, the CFA would not give Stellat'en much greater say than the present situation as they would still have to negotiate with government and industry to identify a landbase for the community forest tenure. Within the CFA, the situation would be improved because Stellat'en would have exclusive harvesting rights for that landbase. They would not have to compete with other operators to locate operable wood within a timber supply area. However, the CFA doesn't give Stellat'en any new authority regarding allocation of harvesting rights to other parties, nor does it increase the chance of industry consulting them prior to harvesting in other areas.

A CFA would potentially increase Stellat'en's stewardship role by enabling them to determine which values to protect and the level of protection. CFAs also provide some authority for determining land management standards since the CFA holder is required to write their own management objectives and plans. While plans must comply with provincial forest management regulations, the holder can choose to go above and beyond those standards. Probationary CFA holders who propose higher than "normal" forest management standards will be required to report on if and how those standards were achieved (BC Ministry of Forests 2004b). Stellat'en would also be involved in monitoring their own activities within the CFA landbase. Probationary CFA applications require the identification of performance measures that "will guide decisions for probationary extension, for replacement with a long-term license, or for ending at term" (BC Ministry of Forests and Range 2007b, Section 10.3).

Despite its strengths, the benefits of a CFA in terms of management authority and stewardship role are limited by the extent of the licensed landbase. While there is no legislation limiting the size of CFAs, these tenures have tended to be small or medium in scale. Based on current trends, the tenure would likely cover only a portion

of the territory and would fall short of providing Stellat'en influence over their entire territory. Nevertheless, a community forest could give Stellat'en a chance to influence stewardship outside the CFA landbase by setting an example with their actions.

While the "Minister must consider the input and concerns of First Nations" in CFA license applications (BC Ministry of Forests and Range 2007b, Section 11.7), CFAs do not explicitly affirm Aboriginal rights and title. On the contrary, as Crown timber tenures awarded by the provincial government, CFAs could be seen as denying Aboriginal title—since they assume Crown ownership of forests and the Crown's right to allocate harvesting and management rights. This would be the case with any form of Crown timber tenure or license. On the other hand, since CFAs offer exclusive timber harvesting rights to the holder, a First Nations held CFA creates flexibility and space on the land base for First Nations manage in a way that will support practicing their rights in the future. The awarding of tenures to First Nations is a step towards greater equality in resource use and management. As such, CFAs and other Crown-granted tenures could be seen as "interim measures" towards full recognition of Aboriginal rights and title.

CFAs provide some support for the Stellat'en goals of consideration of future generations, holistic management and protection of ecosystem integrity by providing strategic planning responsibilities for the CFA landbase. For example, while government objectives do not explicitly require consideration of future generations, Stellat'en could include this stipulation in their management plan. Stellat'en could also choose to adopt a holistic approach to management and place a high emphasis on ecosystem principles. However, since CFA management and harvesting authority is primarily limited to timber and botanicals/non-timber forest products (for which there is no statutory framework), it may be difficult to truly implement a holistic approach. Complicating the matter is the fact that other forms of tenure may overlap the CFA landbase, and it is up to the provincial government, not the CFA holder to "integrate" these various uses. While there is nothing to stop CFA holders from applying for other types of licences, the CFA alone does not provide management authority and harvest rights over as broad a suite of values as might be needed in order to truly implement holistic management. As explained in the Program Review "their authority to manage resources is weak or non-existent for all but timber" (Meyers Norris Penny and Enfor 2006, 32). "They can develop management policies for other resources and their uses but they do not have the authority to regulate their use or access to them" (Meyers Norris Penny and Enfor 2006, 29).

Furthermore, a high emphasis on non-timber values and future generations could decrease the short term timber supply, which could in turn affect short term financial viability and approval of the plan by the provincial government. So, despite the program objective to “diversify the use of and benefits derived from the community forest agreement area,” many current CFA holders experience constraints on their ability to manage for a wider range of values.

ii. Community Forest Agreements and Protection of Stellat’en Culture

The results of the evaluation comparing Community Forest Agreements with Stellat’en Goal 2 (Protect Stellat’en Culture) are presented in Table 3.10 and discussed in the following text. A Community Forest Agreement would support the protection of Stellat’en culture to some degree, though again it would be limited by the ultimate authority of the provincial government and the extent of the licensed land base.

Table 3.10 Evaluation of CFAs based on Stellat'en Goal 2: Protect Stellat'en Culture

Objective	Evaluation	Score
2.1 Protect Stellat'en cultural forest values	-Stellat'en could protect cultural values in CFA management plan, but plan is subject to government approval and higher level objectives -Ability to protect cultural values is limited to the CFA landbase	Requires government approval
2.2 Value non-commercial uses of land	-CFA holder can choose to protect non-commercial values but degree would be constrained by the requirement to run CFA as a business, including the economic harvest of timber	Somewhat
2.3 Involve traditional leaders and elders in early stages of planning	-CFA holder is free to involve traditional leaders and elders in early planning (might be encouraged due to community involvement requirement of CFAs) -However, involvement would only apply to CFA, not other licensees	Choice
2.4 Implement Stellat'en stewardship principles in forest management	-Stellat'en could choose to reflect their stewardship principles in their plan but subject to government approval and higher level objectives	Requires government approval
2.5 Protect Stellat'en access to and use of land and resources in traditional territory	-Within a CFA landbase, Stellat'en would have "exclusive rights to harvest timber" -But...based on current trends of allocation size, CFA landbase would only encompass a portion of territory	Somewhat
2.6 Include cultural and traditional knowledge in management, planning and decision making	-Stellat'en would be free to utilize cultural and traditional knowledge in CFA management -Limited by the availability of funding for recording and managing cultural and traditional use data	Choice
2.7 Provide opportunities for government, industry, local communities and stakeholders to learn Stellat'en culture	-Application for and management of a CFA would necessitate interaction and formation of new working relationships, thereby creating opportunities for cultural learning -Especially true if Stellat'en were to partner with a non-First Nations community to run a CFA	Yes

Under a CFA, Stellat'en would have authority to prioritize the protection of cultural forest values and sites in their management plan. Since they would be the exclusive rights holders for timber and botanical harvest on the CFA landbase, protection of such values would not need to be negotiated with other timber harvesters. Stellat'en could choose to zone areas for no timber harvest. However, Stellat'en might still have to negotiate with other non-timber resource users operating in the CFA area, such as guide outfitters and mining companies. Their plans would also still be subject to the ultimate decision making authority of the province.

The CFA may be in conflict with the emphasis of some Stellat'en members on non-commercial uses of land. While the CFA holder gets considerable leeway in determining which values to emphasize, the provincial government expects CFAs to be managed as a business, including an expectation for an economic harvest of timber. CFA applications must include a business plan identifying proposed products and services to be provided by the community forest (BC Ministry of Forests and Range

2007b). Furthermore, probationary CFA evaluation criteria include 'return to the province' and 'economic self-sufficiency' (BC Ministry of Forests 2004b). So while Stellat'en could choose to keep some areas of the CFA for non-commercial purposes, the degree to which non-commercial uses are valued would be constrained by the requirements to run the CFA landbase as a business and provide a financial return to the province. It would be interesting to see how the province would respond to an emphasis on non-commercial, traditional subsistence activities (i.e. hunting, fishing, gathering) as the economic drivers of the management plan (as opposed to commercial business activities).

A CFA could support the protection of culture by enabling the involvement of traditional leaders and elders in the early stages of planning. Since Stellat'en would be the ones organizing and conducting planning for the community forest, they would be free to involve traditional leaders and elders in whatever way they saw fit. They would not need to negotiate such involvement with other players to as great a degree as would be the case when interacting with other large tenure holders. Involvement of traditional leaders might be encouraged by the CFA because of the license requirement for community participation.

Stellat'en would have some latitude to incorporate their stewardship principles into management under a CFA. For example, Stellat'en could identify "respect for the earth" as an overarching guide in their management plan. Stellat'en might choose to incorporate more comprehensive forms of "giving back" beyond standards reforestation requirements, such as rehabilitating medicine plants. Since the CFA would institutionalize a direct link between the landbase, a specific community and those in charge of management, it could support the idea of limiting the harvest to what is "needed." Again, however, this leeway could be constrained by the need for government approval and compliance with overarching government objectives.

Stellat'en culture is protected through the application of cultural and traditional knowledge. As managers of the community forest, Stellat'en would be able to employ such knowledge in planning and decision making. On the other hand, use of such knowledge would be limited to a degree by the availability of funding for recording and managing cultural and traditional use data. The CFA could also provide opportunities for government, industry, local communities and stakeholders to learn Stellat'en culture. The application for and management of a CFA would necessitate the formation of new working relationships between Stellat'en, the provincial government and neighboring

industries. This process could lead to many opportunities for sharing Stellat'en culture, especially if Stellat'en were to partner with a non-First Nation community to run a CFA.

iii. Community Forest Agreements and Stellat'en Economic Self-Determination

The results of the evaluation comparing Community Forest Agreements with Stellat'en Goal 3 (Support Stellat'en Economic Self-Determination) are presented in Table 3.11 and discussed in the following text. Community Forest Agreements have both strengths and weaknesses in this regard.

Table 3.11 Evaluation of CFA based on Stellat'en Goal 3: Support Stellat'en Economic Self-Determination

Objective	Evaluation	Score
3.1 Support viable Stellat'en forest based economic ventures (both timber and non-timber based)	<ul style="list-style-type: none"> -CFA holders choose what type of businesses they want, but are expected to harvest timber -Exclusive rights to harvest timber and possibly botanical and other products -Stumpage rates lower than standard -Long duration (25-99 years) beyond 5 year probationary term -CFA could support Stellat'en contractors -Can be jointly held between communities -Support of network of other community forests But...CFAs generally small – don't escape scale, unit cost, price and marketing issues for timber -Short term (5 year) probationary period difficult 	Yes
3.2 Support Stellat'en livelihoods	<ul style="list-style-type: none"> -CFA could provide local employment for Stellat'en people. -CFA holder can choose to manage for traditional use values, thus supporting traditional livelihoods But...traditional use values would need to be balanced with expectation to harvest timber and contribute financially to BC 	Somewhat
3.3 Ensure allocated land base/harvest rights can sustainably support Stellat'en	<ul style="list-style-type: none"> -Based on current CFA allocation sizes, the CFA alone might not be enough to entirely support the community -Stellat'en might be able to obtain a larger CFA through partnership with other communities 	Somewhat
3.4 Ensure Stellat'en benefit economically from sustainable resource development in the traditional territory	<ul style="list-style-type: none"> -As CFA holder, Stellat'en would financially benefit by having exclusive timber and other harvesting rights for an area But...CFA does not provide for sharing of revenue from other tenure holders 	Somewhat
3.5 Compensate Stellat'en for impacts	<ul style="list-style-type: none"> -As CFA holder, Stellat'en could decide to compensate those impacted by its own operations. But... CFA would not address compensation for impacts by other tenure holders within and outside the CFA landbase 	No
3.6 Support Stellat'en Capacity Building	<ul style="list-style-type: none"> -CFA provides numerous capacity building opportunities But...challenging as full expectations and responsibilities applied right from start -Funds for paid positions might be limited during start up -Option to jointly hold CFA with other communities mitigates capacity challenges 	Yes
3.7 Promote a healthy local economy	<ul style="list-style-type: none"> -CFA acts as a seed for a healthy local economy -CFA could support local businesses and employment -CFA could encourage benefits from resource harvesting in the traditional territory to remain in the local area. -CFA could reduce industry concentration by requiring reallocation of tenure rights from other licensees. 	Yes

Numerous features of the CFA tenure are consistent with the objective of supporting Stellat'en forest-based enterprises. The community can choose to manage their CFA license in such a way as to support their own businesses, such as by hiring local contractors and supplying local manufacturers. A CFA could also support Stellat'en economic ventures by placing business planning responsibility and exclusive timber and botanical harvest rights in the hands of the community. Stellat'en are interested in a broad range of timber and non-timber forest based businesses, with a particular focus on tourism. The forest management authority provided in a CFA could enable Stellat'en to maintain the landbase in a state consistent with the types of businesses they would like (although additional permits or licences might also be needed for some tourism or guiding businesses). The lower stumpage rate for CFAs in comparison with standard tenures is also a major factor that supports viable economic ventures.

Despite the positive features just described, CFAs are not without their economic challenges. For example, although long term CFAs have a duration of 25-99 years, probationary CFAs are usually awarded first, with a duration of only 5 years. The short-term probationary license can add uncertainty to business planning and development, as there is no guarantee the longer term tenure will be awarded.

Based on current trends, the small size CFAs in relation to other tenures could also pose a challenge. As smaller scale log producers, CFA holders may have higher unit costs than their competitors. This could be especially true in Stellat'en's area, where the forest economy is dominated by large scale producers. On the positive side, as mentioned in the overview, some communities are now proposing partnerships to achieve economies of scale by combining AAC from their respective licences. The government may be amenable to this approach, as suggested by the recent award of a jointly held Probationary CFA to five communities in the lower North Thompson area (BC Ministry of Forests and Range 2007a).

A CFA would not automatically provide any support for marketing and would not lead to pricing agreements for First Nations timber products. They could continue to face many of the same difficulties they face today under their FRA in terms of finding buyers for their logs. These issues would still need to be addressed. On the other hand, as a CFA holder, Stellat'en would become part of a larger existing network of community forests which could provide support for some of Stellat'en's concerns at a policy level, with possible development of a cooperative marketing association.

Stellat'en indicated a desire to be able to adapt to change through experimentation and the provision of timelines for review and amendment of tenure agreements. CFAs are consistent with Stellat'en's desire to experiment as innovation is encouraged in CFA licenses. "Innovation" is one of the assessment criteria for probationary CFAs. On the down side, it can be expensive to experiment. Since CFAs are expected to be financially self-sufficient, they will be required to find their own funds for experimentation. Financing during the start up and probationary period can be especially challenging.

The CFA could play a positive role by supporting Stellat'en employment and traditional livelihoods. The provision of local employment is consistent with the objectives of CFAs. As the tenure holder, Stellat'en would be able to choose who it hired to work for the community forest. The CFA could provide a significant source of employment for Stellat'en people. The CFA could also support traditional livelihoods as Stellat'en could choose to manage its community forest for traditional use values. However, traditional values would need to be balanced with the expectation to harvest timber and contribute financially to British Columbia.

In order to support Stellat'en economic self-determination, the allocated tenure land base would need to be able to sustainably support the Stellat'en community. There is nothing inherent in the CFA that would guarantee an adequate land base. Although there is no explicit policy limiting the size of CFAs, they tend to be small and medium-sized tenures. Depending on its size, the CFA alone might not be enough to entirely support the Stellat'en community. Other sources of income and land might also be needed under different agreements. Furthermore, while the CFA would provide financial benefits by granting exclusive timber harvesting rights in a defined area, the CFA does not provide for sharing of revenue from other tenure holders.

Capacity building is essential to support Stellat'en economic self-determination. Some observers note that "operating community forests could build local management capacity that will be needed after treaties return more land to First Nations' control" (McCarthy 2006). Since Stellat'en would be in charge of managing the license, they would be able to build capacity through direct experience. For example, the CFA would present an opportunity to learn the existing regulatory policy framework, and prepare Stellat'en for figuring out how to "evolve" it to suit their values.⁴⁸ This experience could help Stellat'en develop their own forest policies. On the other hand, the probationary

⁴⁸ Stellat'en suggested this strategy in Chapter 2.

period is challenging because full responsibilities are imposed during the difficult start up period. Furthermore, funding for paid positions might be limited during start up. The possibility of holding a CFA jointly between multiple communities mitigates these capacity challenges.

The health of the Stellat'en economy is strongly related to the state of local and regional economies. A CFA could benefit the local economy by supporting new local businesses and employment and encouraging benefits from resource harvesting in the territory to remain in the local area. The creation of a CFA could also mitigate the concentrated structure of the forest industry by requiring reallocation of tenure rights from other licensees.

C. Conclusions Regarding Community Forest Agreements

While Community Forest Agreements align well with many elements of the Stellat'en vision, they also fail to address a number of objectives. The main benefits of CFAs include the provision of significant decision making authority and stewardship influence over a specific landbase (including a chance to improve forest management standards and prioritize cultural and ecological values), the long term duration of the tenure (except the probationary period), the potential for increased Stellat'en employment and economic benefits remaining in the community, prospects for Stellat'en business enterprises, the availability of a community forest support network, a lower stumpage rate and opportunities for capacity building.

Drawbacks of CFAs from the Stellat'en perspective include the assumption of Crown ownership of forestlands and subsequent failure to fully recognize Aboriginal title, the requirement to pay stumpage to the province (albeit a reduced amount in comparison to other tenures), the requirement to comply with policy objectives set by the provincial government, constraints on cultural and ecological values due to the expectation to harvest timber and produce a financial return, the placement of ultimate authority regarding approval of tenures and management plans with the provincial government and the limitation of the authority and tenured land base to only a small portion of the traditional territory.

As a concept, the CFA could be improved if the limiting factors of size and timber-emphasis were changed. The size limitation could be addressed by the provision of larger timber allocations and areas, since the small tenure size is more a matter of practice than policy. The recent award of CFAs to community partnerships indicates movement in this direction. CFAs could also be made more "holistic" by removing the

expectation for timber harvest and providing a wider range of harvest and management rights, authorities and responsibilities - thus enabling more integrated resource management. This might entail moving the tenure beyond the sole jurisdiction of the Ministry of Forests.

Politically, Community Forest Agreements offer both benefits and risks. A rapidly evolving debate reflects a wide range of positions on the part of different First Nations. On the plus side, CFAs provide First Nations a route toward gaining some control over forests in their traditional territories-perhaps a step toward the far stronger control that might be achieved through treaty negotiations. On the other hand, some critics fear the signing of Community Forest Agreements could actually reduce the political pressure to conduct and conclude treaty negotiations, or even dilute the far more comprehensive authority at stake in such negotiations (McCarthy 2006). However, this may have become a mute point as the same might be said about interim measures agreements that many First Nations have already signed.

Some features assessed received a poor score because the tenure was never intended to directly address them. Such features include the provision of environmental governance authority over the larger landbase (such as standard setting for other resource users and a requirement for First Nations-led environmental and cultural impact assessments), more stringent requirements for companies outside the community forest, compensation for impacts to First Nations, the sharing of resource revenues throughout the entire traditional territory, and the establishment of markets with fair prices for First Nations logs.

First Nations goals and challenges regarding participation in the forest sector have much in common with those of rural non-First Nations communities. Congruence exists in their concerns regarding ecological degradation, availability of employment, and equitable distribution of resource revenues. Likewise, many communities have a desire for greater involvement in decision making regarding the management of the forests surrounding them. The presence of these commonalities indicates that much could be gained by non-First Nations and First Nations communities working together. The CFA provides a unique opportunity for grassroots community building through co-management at a small scale. A CFA could have the capacity building and economic benefits of a joint venture without the pressure to provide profit for outside shareholders. That said, proponents of such partnerships would do well to remember the unique history and rights of First Nations communities and the need for restorative justice.

While theoretically it appears CFAs could provide some benefits to Stellat'en, there are two realities that override the potential benefits and render CFAs basically useless in Stellat'en's particular situation. As explained by a community leader, the area-based nature of CFAs is problematic because "there's nowhere in our territory that's not already logged due to the beetle. Our whole territory is already overcut- so there would be no area available with existing wood without going into neighboring areas." Obtaining an area-based licence in the territory of neighboring First Nations would be problematic as Stellat'en feel it would not be appropriate for them to create management plans for someone else's territory. Simply harvesting a volume of timber from a neighboring territory (as per a volume license) would be less of a problem, as they could do so in accordance with that group's management guidance.

Despite the shortcomings of the CFA, it is an existing form of Crown tenure that is at least somewhat consistent with Stellat'en goals. In terms of duration and management authority, CFAs may be preferable to the FRAs and FROs currently being offered to First Nations. In fact, many First Nations are increasingly negotiating for CFAs as the tenure vehicle within their FRO agreements, likely due to the long term duration and lower stumpage rates. Although CFAs are not specifically First Nations licences, they may be the existing tenure that comes closest to the "special forest tenure category for holistic resource management by Aboriginal communities in their traditional territories" recommended by NAFA (NAFA 1993; RCAP 1996a). CFAs also benefit from a growing political momentum and support from the provincial government.

3.3.4 Forest Management on American Aboriginal Reservations

In this section, the system for forest management on American Aboriginal reservation lands is examined in relation to Stelat'en goals. The cross-jurisdictional analysis will seek to identify ideas that could be incorporated into a new system in British Columbia. While the analysis takes a broad brush approach and does not consider the full complexity and variability of the American experience, the depth is sufficient to provide some useful insights.

A. Overview of Forest Management on American Aboriginal Reservations

The system for forest management on Aboriginal⁴⁹ reservations in the United States is significantly different than in British Columbia, predominantly due to the early signing and subsequent adjudication of treaties. These treaties set aside large tracts of land as reservations, for the exclusive use and benefit of the Tribes. Reservations lands in the U.S. make up a much larger percentage of the total land mass than those in Canada. As explained by Canada's Royal Commission on Aboriginal Peoples, "lands acknowledged as Aboriginal south of the sixtieth parallel make up less than one-half of one per cent of the Canadian land mass. In the United States, (excluding Alaska), where Aboriginal people are a much smaller percentage of the total population, the comparable figure is three percent" (RCAP 1996a, 422). In fact, "all of the reserves in every province in Canada combined would not cover one-half the reservation held by Arizona's Navajo Nation" (White-Harvey 1994).⁵⁰

Forests and forest resources are a valuable component of American reservation lands. During their 1993 assessment, the Indian Forest Management Assessment Team (IFMAT) found that sixteen million acres on 214 reservations in 23 states are forested, nearly half of which are timberland. Forest management on reserve lands gives American tribes relative autonomy from the conflicting interests typical of traditional lands in Canada (Curran and M'Gonigle 1999, 766). Furthermore "Indian tribes enjoy full equitable ownership of timber located upon tribal reservations unless the

⁴⁹ While Aboriginal peoples in the United States are often referred to as "Indians", this term is somewhat sensitive in Canada, where the terms "First Nations" or "Aboriginals" are preferred. In this paper, the term "Aboriginals" is used to refer to American Indians, except where the term "Indian" is included in a quote or title of legislation. American Aboriginal groups are also referred to as "tribes". The term "reservations" refers to land set aside for American tribes, and is different than the Canadian First Nations "reserves".

⁵⁰ White-Harvey 1994 provides a series of maps which graphically illustrate the difference in amount of Aboriginal reserve lands in Canada compared to the United States. These are adapted and reproduced in RCAP 1996a, 422-424.

United States has reserved those rights to itself by treaty” (Giokas 1995,107 quoted in NAFA 2002). Many treaties also give tribes rights to continue hunting, fishing and gathering and to use non-reservation lands for religious and ceremonial purposes (Curran and M’Gonigle 1999, 739).

While the U.S. federal government actually holds title to reservation land, they hold it in trust for Tribal Nations. The meaning of the trust responsibility has evolved through the courts over the years. “Although the exact nature of the trust responsibility has never been explicitly defined, it is generally understood as a long-term stewardship obligation that originated in principles of European jurisprudence, which recognized a responsibility to protect the rights and resources of indigenous peoples – people unfamiliar with the laws and values of colonial powers – from unprincipled exploitation” (Morishima 1997).

The federal trust responsibility includes the management of tribal forests. This is largely carried out by the Bureau of Indian Affairs (BIA), with the involvement of tribal governments (IFMAT 1993).⁵¹ Unfortunately, the BIA has been less than consistent in the application of its trust duty, often choosing to act in the tribes’ interest only when it is in accord with federal priorities (Fairfax and Guenzler 2001, 19). The early history of BIA management on tribal lands generally reflected the values, knowledge systems and economic development priorities of the European society through the implementation of volume-based sustained yield management systems with an emphasis on maximizing an economic return from timber (IFMAT 1993; McQuillan 2001; Trospen 2007). The BIA vision for forest management differed significantly from that of the Aboriginal beneficiaries. This trend is indicated by IFMAT’s 1993 assessment which found that while “tribal members emphasize that an integrative, holistic approach be taken in managing all forest resources, recognizing a multiplicity of use and values,” the “BIA has tended to emphasize commercial timber production” (IFMAT 1993). Since this initial assessment, efforts have been made to bring forest management more in line with tribal members’ vision. The second IFMAT report found a greater consistency between BIA and tribal management goals (IFMAT II 2003, p102; Trospen 2007).

While original treaties gave the BIA full responsibility for managing reservation forests, this changed under the 1934 *Indian Reorganization Act* which gave tribes joint decision making power with the BIA in regards to tribal lands. Management plans and decisions are now subject to a dual approval process. The dual process reflects the

⁵¹ Unlike in Canada, US “state” (akin to Canadian provincial) governments have no jurisdiction over management of reservation lands.

trust responsibility of the BIA to ensure lands are managed in the best interest of tribal members, while enabling tribes to manage the land for their community members and future generations (National Aboriginal Forestry Association 2002). From the 1970's to 90's, a series of new laws gave tribes further authority in governing their own affairs, rather than relying on the initial paternalistic interpretation of the federal trust responsibility. These empowering statutes include the 1975 *Indian Self-Determination and Education Assistance Act*, which established new policies and training programs to facilitate self-determination. This was followed, in 1994, by the *Tribal Self-Governance Act*, "which allows the transfer of administration and control over federal programs and services to a tribe upon request" (Curran and M'Gonigle 1999, 741). One way this transfer can occur is through the mechanism of compact agreements, in which tribes can take over management of any or all federal programs and their associated budgets and exercise authority of the distribution of the budgets among compacted programs (Rasmussen 2005, 8). The 1994 *Tribal Self-Governance Act* further empowered tribes by recognizing they have an inherent right to self-governance (Yazzie-Durglo 1998).

In 1990, the *National Indian Forest Resources Management Act* (NIFRMA) further spelled out the legal framework for management of American Aboriginal forests. NIFRMA gives tribes primary decision-making authority for reservation forests (Curran and M'Gonigle 1999, 741). It authorizes tribal lawmaking for forest management by allowing tribes to adopt legislation governing cut levels, when and where trees will be logged, and the methods to be used (Curran and M'Gonigle 1999 describing NIFRMA Section 3108).

So while the trust responsibility initially construed BIA as the forest manager, the American government eventually "recognized the effects of federal domination of tribes, and established new policies and training programs to facilitate greater self-determination" (Curran and M'Gonigle 1999, 741). Specific legal mechanisms now enable tribal control of natural resource management decision making and law making. Following the passage of various statutes, reservation land management has moved towards greater involvement of tribal members. IFMAT reported that "tribal governments have embraced the concept of self-determination and increasingly are assuming more of the forestry functions previously performed by the BIA" (IFMAT 1993). Some tribes have used their new authority to articulate a clear vision for holistic forest management and are successfully practicing it. "Beginning in the 1970s, tribal management shifted the emphasis to values rooted in sustained utilization,

interrelationships, and balance – to what is commonly called ecosystem management” (Morishima 1997).⁵² Yazzie-Durglo (1998) found that “two tribes - the White Mountain Apache of Arizona, and the Menominee of Wisconsin-are incorporating long-term forest practices while clarifying social and economic objectives.”

Even when tribes choose to take over forest management functions, they still have technical and financial support from BIA. Federal funding for capacity building is authorized by law. There are forestry internship and co-op programs in place in cooperation with the U.S. Forest Service. Revenues from timber sales stay with the tribe, minus up to ten percent for BIA administration that stays with the particular reservation from which it came. Tribes can choose whether they want to manage forests, or let the federal government manage it on their behalf. Tribes can incrementally take on responsibilities at their discretion. This allows for capacity building if a tribe is not in a position to take over control all at once.

Despite these advances, not all tribes have yet been able to take advantage of the legal mechanisms that have been established to support tribal sovereignty and control of forest resources. Many struggle for a variety of reasons including inadequate economic infrastructure or weak governance institutions (Rasmussen 2005). This serves to illustrate that “sovereignty” or “control” alone will not adequately address the current issues of Aboriginal forest management. Culturally relevant and legitimate governance institutions are also needed in order for an American Aboriginal tribe or Canadian First Nation to be able to make use of the opportunity for control and be economically successful (Cornell and Kalt 1998).

⁵² The Yakama Nation, for example, has demonstrated that habitat for old-growth-dependant species like the northern spotted owl can be maintained while still producing substantial quantities of timber. In March 1996, Vice-President Gore presented the Presidential Award for Sustainable Development to the Menominee Tribe for its outstanding forest management practices” (Morishima 1997, 9).

B. Evaluation of American Aboriginal Reservation Forest Management

Despite substantial differences in context, the evaluation of the system for forest management on American Aboriginal reservations provides useful insights for the Canadian situation. A comparison of that system with Stellat'en goals is presented in this section.

i. Forest Management on American Aboriginal Reservations and Protection of the Stellat'en Traditional Territory

The results of the evaluation comparing American Aboriginal reservations with Stellat'en Goal 1 (Protect the Stellat'en traditional territory for future generations) are presented in Table 3.12 and discussed in the following text. Overall, the American system appears to be compatible with the Stellat'en goal of protecting the traditional territory. The main benefits in this regard are the significant degree of tribal decision making authority and stewardship influence for forestland management and the technical support, capacity building and funding provisions of the federal government.

Tribes have the option of exercising extensive management authority and stewardship influence on reservation forests, should they have the capacity and choose to take such control. Under NIFRMA and other legislation, tribes have joint authority with the BIA with regards to all aspects of strategic and operational forest management planning, including the determination of allowable cut levels. Tribes also have the authority to determine where they wish to harvest and to allocate licenses for the harvesting of timber and other resources. Nevertheless, due to its trust responsibility, the BIA still plays a significant role in forest management on reserve lands, even among the most progressive tribes. The BIA holds joint decision making power with tribes, and management is subject to a dual approval process. Conflict can emerge due to poor communication and when the tribal vision contradicts what the BIA considers to be in the best interest of the tribe. For example, if the tribe wants to harvest in a manner or at a rate that the BIA thinks is not in the tribe's best interest, the BIA has been known to try to protect itself against lawsuit by insisting on tribal approval. The existence of similar empowering legislation in the Canadian context would strengthen Stellat'en's ability to protect the traditional territory.

Table 3.12 Evaluation of American Aboriginal Reservation Forest Management based on Stelat'en Goal 1: Protect Stelat'en Traditional Territory for Future Generations

Objective	Evaluation	Score
1.1 Stelat'en have a high level of decision making authority in forestland management	<ul style="list-style-type: none"> -Specific legal statutes give tribes control of forest management on reservation land (e.g. Tribal Self-Governance Act 1994; NIFRMA 1990) -BIA still works closely with tribes even under self-government due to trust responsibility -Tribes can choose to reflect community values in management -But... forest management authority is constrained by BIA trust responsibility and depends on capacity of tribes -Management plans and decisions subject to dual approval process with tribes and Bureau of Indian Affairs -Tribes can create their own regulations that all levels of government must apply on reservation -Tribal regulations can exceed federal standards but must comply with them at a minimum -NIFRMA authorizes tribes to adopt legislation governing cut levels, when, where and how trees will be logged (Curran and M'Gonigle 1999) -Tribes allocate harvesting rights for timber and other resources -Process for tribal participation in federal agency decision making is legally mandated (i.e. NEPA 1969) (Yazzie-Durglo 1998) -Federal government funds tribal forestry programs and BIA managers (though IFMAT 1993 found this funding to be inadequate) 	Yes
1.2 Stelat'en have a leadership role in stewardship of forestlands in the traditional territory	<ul style="list-style-type: none"> -Tribes can manage and conduct monitoring and restoration programs (e.g. through contracts, cooperative or compact agreements) -NEPA 1969 sets out legal procedure for ecological, cultural and social impact assessment, both on and off reservation lands (although law is not clear whether application of NEPA is <i>required</i> on reservations – this is currently disputed) 	Yes
1.3 Recognize and respect Aboriginal rights and title	<ul style="list-style-type: none"> -Most treaties are settled, granting large reservation lands to tribes -Legislation supports Aboriginal self-government on reservation lands (i.e. Tribal Self-Governance Act 1994) -Law (Tribal Self-Governance Act 1994) recognizes that right to self-government flows from the inherent sovereignty of tribes (Curran and M'Gonigle 1999) -Native Americans have a special right to their land and the right to manage it as sovereign nations under the protection of the federal government -Treaties give tribes rights to continue hunting, fishing and gathering and to use non-reservation lands for religious and ceremonial purposes (Curran and M'Gonigle 1999) 	Yes
1.4 Explicitly consider future generations in policies and decision making	<ul style="list-style-type: none"> -Tribes have jurisdictional space to consider future generations -Potentially supported by a federal statute (i.e. NEPA 1969) , though law is unclear whether NEPA is required on reservation lands 	Yes
1.5 Adopt a holistic approach to management	<ul style="list-style-type: none"> -Tribes have jurisdictional space to adopt a holistic approach if they so choose -But...degree of tribal control depends on tribal governance capacity -Moving towards “coordinated resource planning” (IRMPs) which put forestry plans in context of other resources, though federal funding is limited -Guiding regulations/statutes (e.g. NIFRMA) do not explicitly require a holistic approach 	Choice
1.6 Protect ecosystem integrity	<ul style="list-style-type: none"> -Tribes have jurisdictional space to protect ecosystem integrity if they so choose -But...degree of tribal control depends on tribal governance capacity -Guiding regulations/statutes do not explicitly require an ecosystem-based approach 	Choice

Funding for First Nations capacity to take part in strategic and operational planning is needed to help Stellat'en protect the traditional territory. In the American case, BIA technical support and funding can play an important role in enabling American Aboriginals to articulate and implement their forest management authority and stewardship vision. Funding of tribal forestry programs as well as recruitment, education and training programs is stable and supported by legislation (e.g. NIFRMA Sections 311, 314 and 315).

The degree to which tribes are able to emphasize future generations, holistic management and ecological integrity depends on tribal governance capacity as well as BIA interpretation of NIFRMA and associated regulations. As explained in the introduction, NIFRMA spells out the legal framework for management of American Aboriginal forests. The objectives in NIFRMA guide the BIA in upholding their trust responsibility for tribal forestland management. According to NIFRMA, "Indian forest land management activities undertaken by the Secretary shall be designed to achieve the following objectives – (1) the development, maintenance, and enhancement of Indian forest land in a perpetually productive state in accordance with the principles of sustained yield...by providing effective management and protection through the application of sound silvicultural and economic principles" (NIFRMA Section 305 (1)). While taken alone this objective focuses on production and economic values, it is balanced by further objectives such as "the retention of Indian forest land in its natural state when an Indian tribe determines that the recreational, cultural, aesthetic, or traditional values of the Indian forest land represents the highest and best use of the land" (NIFRMA Section 305(5)).

Although the wording of the NIFRMA legislation itself may be fairly balanced, past BIA interpretation and practice has tended to be biased towards economic utilization, in accordance with BIA values. Cornell and Kalt (1998) emphasize that "as long as the BIA or some other outside organization carries the primary responsibility for economic conditions...development decisions will reflect the goals of those organizations, not the goals of the tribe." For example, the BIA has been able to leverage its control of the flow of funds to discourage a tribe's request for additional consideration of ecological values. Despite these past difficulties, tribes have increasingly been able to take over management responsibility and balance ecological and economic values as they see fit. For example, as a result of tribal influence, a more

holistic planning process (Integrated Resource Management Planning)⁵³ has emerged which considers interactions between multiple resources. Unfortunately, the BIA only has funding to support one such plan per year (IFMAT II 2003; Troster 2007). Tribes may also have recourse to the *National Environmental Policy Act* (NEPA 1969), which requires recognition of ecological and cultural values in impact assessment processes.⁵⁴ The application of NEPA can provide a significant avenue for due consideration of Aboriginal values, both on and off reservation.⁵⁵ Notably, some tribes are choosing to combine these two procedures, venturing to produce NEPA Environmental Impact Statements analyzing a range of alternatives for their Integrated Resource Management Plans (IRMPs). For example, the Confederated Salish and Kootenai, Spokane and Coeur d'Alene Tribes have done so.

⁵³ “The term “integrated resource management plan” means the plan developed pursuant to the process used by tribal governments to assess available resources and to provide identified holistic management objectives that include quality of life, production goals and landscape descriptions of all designated resources that may include (but not be limited to) water, fish, wildlife, forestry, agriculture, minerals, and recreation, as well as community and municipal resources, and may include any previously adopted tribal codes and plans related to such resources.” 25 USC Chapter 39 3703 (11) (<http://uscode.house.gov/download/pls/25C39.txt>)

⁵⁴ Tribes can choose whether or not they wish to apply NEPA on reservation lands. Whether or not NEPA is required on reservations is disputed by the BIA, which pays for NEPA work. The law does not currently provide a clear answer.

⁵⁵ For an off-reservation example, see Gowan et al 2006 regarding the case of dam removal on the Elwha River.

ii. Forest Management on American Aboriginal Reservations and the Protection of Stelat'en Culture

As indicated by the results in Table 3.13 and following text, the American system contains significant features that support the protection of Aboriginal culture.

Table 3.13 Evaluation of American Aboriginal Reservation Forest Management based on Stelat'en Goal 2: Protect Stelat'en Culture

Objective	Evaluation	Score
2.1 Protect Stelat'en cultural forest values	-Tribes have jurisdictional space to protect cultural values if they so choose -But...degree of tribal control depends on tribal governance capacity and the influence of BIA managers -While guiding statutes (i.e. NIFRMA) address cultural values, they do not compel their protection -NEPA-mandated impact assessment procedures support consideration of cultural values, though whether NEPA is legally required on reservations is not clear	Choice
2.2 Value non-commercial uses of land	-Tribes have jurisdictional space to value non-commercial uses of land if they choose -But...degree of tribal control depends on tribal governance capacity and the influence of BIA managers -Guiding statutes do not compel consideration of non-commercial land-uses	Choice
2.3 Involve traditional leaders and elders in early stages of planning	-Tribes can choose to do so, as they create their own internal governance institutions	Choice
2.4 Implement Stelat'en stewardship principles in forest management	-Tribes can choose to do so but degree of success depends on their governance capacity in relation to the influence of BIA managers	Choice
2.5 Protect Stelat'en access to and use of land and resources in traditional territory	-Reservation lands are held and managed for the exclusive benefit of the tribe -Many reservations are large and encompass significant portions of traditionally used areas -Treaties give tribes rights to continue hunting, fishing and gathering and to use non-reservation lands for religious and ceremonial purposes (Curran and M'Gonigle 1999)	Yes
2.6 Include cultural and traditional knowledge in management, planning and decision making	-Tribes can choose to do so but degree depends on their capacity in relation to the influence of BIA managers -Federal provision of education and forest management funding supports systems for gathering and implementing traditional knowledge	Choice
2.7 Provide opportunities for government, industry, local communities and stakeholders to learn Stelat'en culture	-BIA still works closely with tribes even under self-government due to trust responsibility -Long term and evolving relationship between tribes and BIA presents opportunities for learning -Business interactions with non-tribal contractors or companies could provide opportunities for cultural learning	Yes

The American system allows tribes to decide to what extent and by what means they will protect cultural values. Since tribes are the exclusive reservation lands users, they do not have to address conflicts with forest tenure licensees and non-tribal forest users (as is the case on BC Crown lands). Rather than balancing their values with

those of others, the challenge for American Aboriginals is to decide among themselves how to balance cultural and other values on their reservation lands. For example, on the Warm Springs reservation, some experimentation took place before they were able to create a system to protect huckleberries while also harvesting timber. Today “ [Warm Springs] tribal land management leaders intensively manage the land to provide optimum conditions for the traditional lifestyle that many members still practice, to the point where harvesting of commercial timber often takes second place to traditional activities” (NAFA 2002, 30).

In terms of legislation, NIFRMA contains some clauses that support the protection of cultural values, though the degree to which they are to be balanced with economic values is open to interpretation (see quotation of NIFRMA Section 305(1) and (5) above). One author finds that, despite the references to cultural values, “the governing statutory principles in NIFRMA do not compel the BIA to include traditional values or perspectives in management. Federal decisions regarding tribal resource management may erode tribal sovereignty by neglecting traditional values or perspectives” (Yazzie-Durglo 1998, 34). The effects on cultural values have been similar to those on ecological values, where past BIA management practice has tended “to focus on commercializing tribal forests to provide jobs and income”(Yazzie-Durglo 1998, 34). For example, if a tribe does not have a diverse stream of revenues, the BIA can have leverage over tribal councils by threatening to slow down timber sales. In order to overcome past economic bias of BIA trustees, Tribes have needed a strong vision and leadership, and the capacity to take advantage their legal right to self-governance. The second IFMAT assessment found that there have been shifts towards tribal empowerment as well as greater congruence between Tribal and BIA values (IFMAT II 2003; Trosper 2007). Furthermore, NEPA provides a legal procedure which “may require federal agencies to integrate tribal culture with forest management through its requirement for assessing the social impacts of alternatives” (Yazzie-Durglo 1998).

An important aspect of the maintenance of Aboriginal culture is the use of cultural and traditional knowledge in forest management. The American experience illustrates the risks of having a government or third party manage resources on the behalf of First Nations, if that party does not truly understand the First Nations knowledge system and values. Historically, reservation forest management followed BIA values and knowledge systems, with minimal communication with tribes and little reflection of traditional knowledge (McQuillan 2001; Trosper 2007). On a positive note,

legislation supporting tribal self-government has created greater opportunities to focus on traditional knowledge and some tribes are moving in that direction. The provision of federal education and forest management funding helps build tribal capacity to bring their knowledge forward.

iii. Forest Management on American Aboriginal Reservations and Stellat'en Economic Self-Determination

The results of the evaluation comparing American Aboriginal reservations with Stellat'en Goal 3 (Support Stellat'en Economic Self-Determination) are presented in Table 3.14 and discussed in the following text. The American model receives a good review for its ability to support First Nations economic self-determination, providing many of the features Stellat'en are seeking.

Table 3.14 Evaluation of American Aboriginal Reservation Forest Management based on Stellat'en Goal 3: Support Stellat'en Economic Self-Determination

Objective	Evaluation	Score
3.1 Support viable Stellat'en forest based economic ventures (both timber and non-timber based)	-Reservations provide large secure landbase with valuable resources for exclusive benefit of the tribe -Tribes choose which types of economic ventures to establish on reservation land -Federal government helps by providing funding for forest management planning	Yes
3.2 Support Stellat'en livelihoods	-Tribal businesses provide employment -Tribe has leading role in determining who gets employment opportunities on reservation -Tribes have jurisdiction to support traditional livelihoods through protection of traditional use values	Yes
3.3 Ensure allocated land base/harvest rights can sustainably support Stellat'en community	-Reservations provide large secure landbase with valuable resources for exclusive benefit of the tribe	Yes
3.4 Stellat'en benefit economically from sustainable resource development in the traditional territory	-Revenue from resource development on reservation remains with tribes -All reservation timber sale revenues stay with tribes (BIA may hold back ten percent for administration costs which support on reservation forest management costs)	Yes
3.5 Compensate Stellat'en for impacts	-Tribes must go to court to claim compensation -System rarely awards compensation for impacts to tribes	No
3.6 Support Stellat'en capacity building	-Federal funding of tribal forest management and education required by legislation -Tribes can choose when and to what degree they take over forest management roles from BIA. -BIA remains involved as technical support and co-manager due to its ongoing trust duty	Yes
3.7 Promote a healthy local economy	-It is up to the tribe to establish a diverse economy -Guiding statues (e.g. NIFRMA) promote economic development (among other values)	Yes

Reservations generally provide a good basis for viable tribal economic ventures. Reservation land bases are generally large, and contain valuable natural resources. Title to the land is quite secure, and corresponds with Stellat'en's desire for a long-term tenure. Tribes choose where, where and what to harvest, and keep the revenue from all development activities. Tribes are in charge of determining who gets employment opportunities for forest management work on reserve and can contract with the BIA to do the operational work required by their forest management plan. Tribes are free to choose what kind of businesses to develop. The development of diverse businesses and revenue streams can in turn support tribal independence by making them less susceptible to BIA pressure to move forward with timber sales.

Despite these strengths, some reserves experience high rates of poverty and unemployment. Factors limiting tribal economic success include a lack of economic opportunities, geographic isolation and the strength of tribal governance and entrepreneurial capacity. Furthermore, in many cases, rich tribal forestland resources have been degraded by BIA mismanagement. Compensation for resource degradation has proven difficult to obtain.

Cornell and Kalt (1998) stress the importance of strong and culturally relevant governance institutions for supporting economic development. The fact that tribes suffer poverty even though many Stellat'en's desired features are in place, illustrates the critical importance of enabling Stellat'en to develop their own governance structure. The issue of tribal entrepreneurial and management capacity is addressed to some extent by capacity funding provisions supported by the NIFRMA legislation.

C. Conclusions Regarding American Aboriginal Reservation Forest Management

In many ways, the forest management system on American reservations illustrates what BC could be like following the settlement of treaties. Consideration of the story gives Stellat'en a chance to ask themselves if that is really what they want. The analysis also highlights some features that could be incorporated outside of treaty or as interim solutions.

In general, the American model is strongly compatible with the Stellat'en vision. The main corresponding feature is the tribes' relative autonomy in decision making for a large and rich landbase. Obviously, having large portions of the traditional territory set aside for their exclusive use and benefit could support Stellat'en cultural, ecological and economic goals. The legislated mandate for tribes to take control of management and stewardship, prioritize cultural and traditional purposes, allocate timber and other

harvesting licences, retain revenues from development activities, along with the provisions for forest management funding, technical support and training are features of the American system that support multiple facets of the Stellat'en vision. The mechanisms allowing tribes to take control in an incremental fashion, at their discretion, are particularly valuable.

Nevertheless, the model of American reservations does not entirely fit with Stellat'en goals. One possible drawback is the federal trust responsibility for tribal lands. Stellat'en is unlikely to accept the federal government as trustee for treaty lands due to the negative history of Canadian Department of Indian Affairs (DIA) mismanagement of reserve forests. Stellat'en have stated they wish to be more independent and move away from being "under the thumb of the DIA." Furthermore, the trend for Canadian treaties is to decrease federal responsibility. For example, unlike the American treaties, the Nisga'a Final Agreement granted Nisga'a their land in fee simple, not under trust of the federal government. Given these trends, it is unlikely that Stellat'en would accept having the federal or provincial government hold the land "in trust" for them, even if other associated legislation granted them parallel decision powers as in the U.S..

While the joint decision-making processes of BIA and American tribes may be similar to emerging co-management regimes in BC, there is a significant difference in their underlying motivation. In BC, co-management is generally based on recognition that both the province and First Nations have title to the land, while in the U.S., it is based on the presumption that tribes need the trust protection of the federal government. The U.S. model has in the past led to a paternalistic approach. Co-management based on mutual recognition of shared title (as in the Community Ecosystem Trust model), or at least recognition of the dispute over title, is likely to be more empowering for First Nations in Canada.

The American model illustrates the risks of allowing non-Aboriginal managers to make decisions on behalf of Aboriginals. The initial result in the American experience was a lack of consideration for traditional knowledge and values. This highlights the need for strong communication between parties in a co-management situation, as well as a requirement that the party of the "dominant" society be open to other forms of knowledge. The recognition of traditional knowledge may need to be explicitly required in legislation, along with adequate funding provisions for its implementation (such as funding for traditional use studies).

Another potential shortcoming of the American system is that the “governing statutory principles in NIFRMA do not compel the BIA to include traditional values or perspectives in management (Yazzie-Durglo 1998). Rather the legislation allows the managers (be they BIA, tribal or both) to decide on the appropriate balance of values. Warm Springs, Menominee and White Mountain Apache tribes show how holistic forest management can emerge when Aboriginals are given meaningful jurisdiction for forest management. On the other hand, some tribes have also developed timber dependant economies, which could make it difficult for them to prioritize cultural and ecological values. While Stellat’en would welcome full autonomy to decide how to prioritize their objectives, most Stellat’en members feel that economic development activities should not endanger ecological integrity. Therefore, First Nations themselves may wish to adopt legislation prioritizing ecological and cultural values on treaty settlement or co-management lands to ensure that such values are upheld in the face of intense political and short term economic development pressures.

A dominant theme in the story of American Aboriginal forest management is the evolving relationship between tribes and the federal government - with an ongoing trend towards devolution of authority to tribes. The story illustrates that, despite capacity issues and reluctance on the part of government bureaucratic agencies, movement towards greater First Aboriginal forest management influence is possible in the long run.

3.4 Discussion

This chapter set out to evaluate a range of alternative forest tenure and governance models in comparison to the Stellat’en community goals. The analysis provided many insights into the strengths and weaknesses of the various approaches. A synopsis of evaluation scores for all models is provided in Table 3.15. In summary, it appears all the models examined provide significant support for the Stellat’en goals and objectives, though each in different ways.

Table 3.15 Summary of Forest Tenure and Governance Model Evaluations

Goal 1: Protect Stellat'en Traditional Territory for Future Generations

Objective	Community Ecosystem Trust	Gitanyow Model	Community Forest Agreements	American Aboriginal Reservations
1.1 Stellat'en have a high level of decision making authority in forestland management	Yes	Yes	Somewhat	Yes
1.2 Stellat'en lead stewardship of forestlands in traditional territory	Yes	Yes	Somewhat	Yes
1.3 Recognize and respect Aboriginal rights and title	Yes	Yes	No	Yes
1.4 Explicitly consider future generations in decision making	Yes	Yes	Requires government approval	Yes
1.5 Adopt a holistic approach to management	Yes	Yes	Requires government approval	Choice
1.6 Protect ecosystem integrity	Yes	Yes	Requires government approval	Choice

Goal 2: Protect Stellat'en Culture

Objective	Community Ecosystem Trust	Gitanyow Model	Community Forest Agreements	American Aboriginal Reservations
2.1 Protects Stellat'en cultural forest values	Yes	Yes	Requires government approval	Choice
2.2 Value non-commercial uses of land	Yes	Yes	Somewhat	Choice
2.3 Involve traditional leaders and elders in early stages of planning	Choice	Yes	Choice	Choice
2.4 Implement Stellat'en stewardship principles in forest management	Yes	Yes	Requires government approval	Choice
2.5 Protect Stellat'en access to and use of land and resources in the traditional territory	Yes	Yes	Somewhat	Yes
2.6 Include cultural and traditional knowledge in management, planning and decision making	Yes	Yes	Choice	Choice
2.7 Provide opportunities for government, industry, local communities and stakeholders to learn Stellat'en culture	Yes	Yes	Yes	Yes

Goal 3: Support Stellat'en Economic Self-Determination

Objective	Community Ecosystem Trust	Gitanyow Model	Community Forest Agreements	American Aboriginal Reservations
3.1 Support viable Stellat'en forest-based economic ventures (both timber and non-timber)	Yes	Yes	Yes	Yes
3.2 Support Stellat'en livelihoods	Yes	Yes	Somewhat	Yes
3.3 Ensure allocated land base/harvest rights can sustainably support Stellat'en community	Somewhat	n/a	Somewhat	Yes
3.4 Ensure Stellat'en benefit economically from sustainable resource development in territory	Yes	Yes	Somewhat	Yes
3.5 Compensate Stellat'en for impacts	Yes (Future only)	Somewhat	No	No
3.6 Support Stellat'en Capacity Building	Yes	Yes	Yes	Yes
3.7 Promote a healthy local economy	Yes	Yes	Yes	Yes

3.4.1 Combining the Models and Moving Forward

Often, the act of evaluating alternatives implies that one is going to choose a preferred option based on the criteria employed. However, this analysis revealed that each models' strengths and weaknesses lie in different areas. Furthermore, the models are not mutually exclusive. Implementation of the Stelat'en vision may be best served through a combination of the models, or key features within them. Since each may be suited to certain functions but not others, they could be combined into a system that draws on their individual strengths.

Chapter 2 noted that, in order to be effective, new tenures should address three general levels and functions:

- A. Development of a forest tenure/licence specifically designed for the Stelat'en community (or partnership of regional First Nations), in correspondence with their values and rights
- B. Mechanisms to ensure the actions of other tenure holders are consistent with the values, interests and rights of the First Nations whose territories they are in
- C. Inclusion of Stelat'en in overarching forest governance institutions that 'establish, implement, monitor, and enforce the rules' (Clogg, Hoberg and O'Carroll 2004)

A comprehensive solution will need to address all three. This section discusses which functions each model addresses (as shown in Table 3.16) and which Stelat'en goals they most strongly support.

The Community Ecosystem Trust (CET) provides a governance framework based on trust law and serves as an institutional organizing structure. As such, it is best suited to addressing changes at levels B and C. It provides First Nations with a co-jurisdictional role in determining standards and guiding stewardship throughout the traditional territory. The trust forms the governing framework with which all tenure holders must comply (including any new First Nations-held tenures). It also serves the functions of grounding decision making and economic flows at the community level and legally requiring consideration of future generations. Apart from the specific CET proposal, application of trust law and trust principles (i.e. clarity, accountability, enforceability, perpetuity and prudence) could form the basis of a governance structure more in tune with the Stelat'en vision.

A unique feature of the CET is its focus on community-to-community as opposed to government-to-government relationships. Depending on the attitudes and experiences of parties at the local level, this may or may not be an appropriate approach at the present time. Although some areas have a history of positive and successful First

Nations/non-First Nations community alliances, other First Nations have focused on reconciling their interests and rights at the federal and provincial government levels. That said, the CET may make it possible to address community, provincial and federal-level reconciliations simultaneously.

The Gitanyow model focuses on the process of joint land use planning, and is supported by a government-to-government agreement (i.e. Gitanyow Forestry Agreement). Again, it addresses level B and, to some degree C. The agreement sets the protocol for the inter-government relationship, including an increased role and recognition for First Nations and their traditional governance systems. The product of the land use planning process is a master plan reflecting First Nations values that guides all resource management activity within the entire traditional territory. The BC Treaty Commission “views land use planning as an important stepping stone to treaty negotiations” (BC Treaty Commission 2005). Stellat’en are currently engaged in developing their land use plan. The results of this research emphasize the critical importance and relevance of that work. However, even though a legally enabled higher level plan would support First Nations values, it might not offer the same degree of protection as the trust. Legal objectives could be revoked by a future government or agreement based on short term interests and resource pressures. To avoid this shortcoming, the joint master plan could be more firmly established as part of the community trust charter. A similar recommendation has already been made for the real life situation of implementing ecosystem-based management (EBM) on the Central Coast.⁵⁶

Community Forest Agreements address issues at the individual licence level (i.e. level A). Although they are not designed specifically for First Nations, they are flexible enough to be able to address many First Nations goals. A CFA would essentially provide a landbase for business activities, enabling the development of First Nations

⁵⁶ “At a minimum, trust instruments should be considered for a role in the implementation of EBM that is:

- associated with the management of funds committed by multiple parties for a common beneficiary(ies), and
- associated with giving a sub-regional or territorial institution the role of trustee over a specified area of land to be managed according to EBM requirements. Careful consideration should be given to employing a trust to generate an institution like the Community Ecosystem Trust” (Clogg, Hoberg and O’Carroll 2004).

The EBM approach is the product of a joint land-use planning process similar to that of Gitanyow (except that in the case of the Central Coast, non-First Nations stakeholders are heavily involved).

enterprises. CFAs do not provide a mandate to influence the actions of other tenure holders, and in current practice are limited to relatively small areas (not the entire traditional territory as for the CET and Gitanyow model). While CFA's can change governance within the CFA landbase, they do not provide authority to influence larger scale policies. Shortcomings at levels B and C could be addressed by nesting a First Nations-held CFA within the overarching framework of the Community Ecosystem Trust, with a master plan such as the Gitanyow joint land use plan providing strategic management direction. In that case, the CFA would be allocated by the local trust's Community Management Authority, with technical support from the provincial and/or federal government(s).

As First Nations licences, CFAs could be improved if they were larger and provided a broader suite of management and harvest rights (beyond timber). While the CFA's decision making authority and effective landbase are limited compared to the other models, the tenure has much strength as an interim measure, providing economic return and capacity building in the short to medium term.

Due to its post-treaty context, the lessons from American Aboriginal reservation forests are somewhat more difficult to ascertain. Since reservations are recognized as Aboriginal lands (not Crown lands as in the pre-treaty world of BC), one would expect them to face less political resistance to the devolution of decision making to First Nations, and the implementation of Aboriginal values in forest management. On the contrary, even after treaties, there was a long period of time in which the federal Bureau of Indian Affairs was essentially in control of forest management. Looking at how much the situation has changed shows it is possible for state agencies to devolve authority to Aboriginal people in the long run.

The American experience serves as a reality check around the assumption that First Nations issues will automatically be resolved once treaty is settled. On the contrary, despite the availability of rich land resources, barriers to economic development on American Aboriginal reservations remain. Cornell and Kalt 1998 emphasize the importance of legitimate and culturally appropriate Aboriginal governance institutions to support economic development. Stellat'en's current unease with governance under the DIA band election system as opposed to the traditional system adds to the difficulty of implementing new tenure models. Stellat'en's efforts to redefine

their own governance structure should thus be encouraged, as they are a critical ingredient to achieving their goals in the future, with or without treaty.⁵⁷

In terms of the three levels identified above, one could imagine American-style reservations as a type of First Nations tenure or land-holding arrangement, and thus as a model for addressing level A. Mechanisms such as contracts, co-operative and compact agreements could be adapted to the BC context to create a form of tenure suited to the First Nations values and aspirations. These mechanisms and the American model in general also address level C by legally enabling Aboriginal governance and stewardship influence on designated lands.

The American model provides some lessons for the implementation of a Community Ecosystem Trust, or other adaptation of the trust legal instrument in BC. Even though the BIA trust duty implicitly employs trust law, its experience highlights the need for clearly and explicitly defined trust goals and standards. Indeed, the 1993 IFMAT report found that the “lack of definition of the trust responsibility contributes to poor communication between the trustee (the BIA) and the beneficiaries (the tribes) and can lead to inadequate forest management.” Trustees need to have management expectations and goals clearly spelled out. This guides trustees in how to uphold their responsibility and enables objective evaluation of trustee management. IFMAT recommended requiring trust standards “to be agreed upon between the tribal governments and the Secretary of the Interior” (IFMAT 1993). In the case of the CET, standards would be determined jointly by First Nations, local community members and possibly some provincial and federal government representatives. IFMAT also recommended that the government role should change to focus more on technical support, similar to the government role suggested in the CET proposal.

⁵⁷ Lee-Johnson (forthcoming) provides an in depth examination of Stelat'en's internal governance structures, with an emphasis on reconciling traditional and contemporary systems.

Table 3.16 Model Correspondence with Three General Levels

Model/Level	A First Nations tenure consistent with Stellat'en values, interests and rights	B Mechanisms to ensure other tenure holders respect Stellat'en values, interests and rights	C Inclusion of Stellat'en in overarching forest governance institutions
Community Ecosystem Trust		X	X
Gitanyow Model		X	X
Community Forest Agreements	X		
American Aboriginal Reservations	X		X

3.5 Conclusion

This chapter evaluated a series of tenure and governance models for their ability to address Stellat'en values and interests regarding forest tenure and governance. The analysis indicated that, while all models support at least some of the criteria, a completely functioning system would require combining elements from each. In real life implementation, all models would need to be adapted to local contexts, with important details decided amongst the affected parties. All the models entail the creation of new legal mechanisms to uphold First Nations values, rights and interests. All models also involve some form or degree of co-management or co-operative effort. In all cases, there remains a relationship between First Nations and other governments and communities. The nature of that relationship is critical in determining how effectively the First Nations vision is implemented. While the legal mechanisms may be necessary, their impact may be limited without a genuine spirit of cooperation, compassion and mutual respect.

The chapter succeeded in applying the criteria generated by the Stellat'en community to identify some institutional designs that would be better aligned with the Stellat'en vision than the current situation. While combining the models would likely be a complex undertaking, the analysis indicates that potential solutions do exist.

Chapter 4: Reflection on the Participatory Research Process

4.1 Introduction

The purpose of this chapter is to provide a reflection on the community-based, participatory research process. This serves to address the third research objective: To validate appropriate methodologies and approaches to participatory research conducted in partnership between universities and First Nation communities. This objective is not explicitly addressed in Chapters 2 and 3, although it is implicitly answered by the fact that the methods used were successful in gathering relevant information about the community's viewpoint. The general method employed was a participatory, community-based approach. The research was conducted as a partnership between Stellat'en First Nation, the Carrier Sekani Tribal Council, researchers from the University of British Columbia and other university researchers involved in the larger Sustainable Forest Management Network project. The particular methods employed included meetings, workshops and semi-structured interviews. These methods were selected by CSTC partners at the beginning of the project, out of a list of possible methods suggested by the university researchers. This combination of methods worked well and is recommended for future use. Nevertheless, the process was not without its challenges. This chapter provides an overview of the process strengths and weaknesses, observations on the challenges of participatory research, as well as some lessons for future university-First Nations community research partnerships.

4.2 Strengths of the Participatory Research Process

Many Aboriginal people have had a negative experience with research as it has often been an extractive process that took away their knowledge, to be used for the benefit of others – with little or no benefit or recognition to them. This project made explicit efforts to avoid that problem, and ensure that Stellat'en would benefit and be recognized. Based on community feedback and responses on the project evaluation forms, it appears the project was largely successful in this regard.

One strength of the process was that university researchers sought to allow room for adapting the project to suit local needs, ideas and modes of interaction. This was achieved in two ways. First, the university researchers were open to guidance from the community regarding how to proceed along the way (rather than coming in with a set research policy and method). Although a formal research protocol was not established

(Stellat'en was in the process of developing such a protocol, but it had not yet been completed prior to this project), the research was guided by guidelines and suggestions made by community members at introductory meetings. The university researchers also reviewed the protocol of nearby communities and found this research to be consistent with them. Second, university researchers were guided by a Stellat'en "research council" – a representative group of community members who met periodically to discuss how the research was going and to ensure it was proceeding in an appropriate manner, continuing to be relevant to the community and reflective of their views. In addition to attending the workshops and meetings, the "research council" also reviewed and commented on the results and draft chapters. In forming the research council, a document was prepared to clearly spell out the role and interests of each party. This clarified the role of the university researchers as recorders of the community viewpoints.

A second strength of the research was the appropriateness and effectiveness of the methods. The workshop format was very well-received, as evidenced by the fact that the workshops were well-attended and received positive feedback. They seemed to really touch a cord and fulfill a community desire for open discussion of the research topic. The workshops were generally successful in engaging a representative cross section of the on-reserve community – including elders, traditional leaders, band councilors, grassroots and 'experts,' members of each clan, youth, women and men. Some efforts were made to engage and represent the off-reserve members (for example, in the choice of interviewees), however, due to time and budget constraints the research was focused on-reserve. Complementing the workshops with semi-structured interviews provided an opportunity to follow up on certain topics in more detail, to balance the broad grassroots perspective with responses from the community's policy experts and a chance to triangulate for confirmation of information.

A third main strength of the process was that the community participated actively at every step. Community members were given a range of opportunities (modes and times) for participating in the research and providing feedback on the draft results. Awareness of the project was promoted through postings in the community newsletter. Community feedback was sought on an ongoing basis, with interim results provided to the community in the form of a workshop report and draft thesis chapters. A final feedback workshop, reporting on results of the entire project, was held prior to writing the final version of the thesis. At end of each workshop, the community was given an

opportunity to evaluate the research process. University researchers also stayed in contact with the Carrier Sekani Tribal Council throughout the process.

4.3 Weaknesses of the Participatory Research Process

Despite the strengths described above, the participatory process was not without its shortcomings. These “weaknesses” are not necessarily negative, but rather can be seen as part of a learning process. This view is consistent with the principle of embracing “self-critical awareness,” in which participatory research practitioners continuously examine their own behaviour, and welcome error as an opportunity to learn (Chambers 1994b). Some of these challenges are shared with and have been observed by other researchers engaging in participatory processes.

One example was the task of finding the balance between community input and constraints on time during the workshops. For example, although one intention for the workshops was to have community members “cluster” the information and identify themes, due to time constraints, this work ended up being done more by the facilitators (i.e. UBC researchers). Some of this work was done during workshop breaks, and presented for community feedback. After the workshop, the author spent a lot of time categorizing and interpreting the workshop data, rewording it into overarching “objective” statements, and organizing these into “ends” and “means.” Ideally, more of this work would have been done by community members themselves during the workshops. The fact that it was not, (despite the original intentions) illustrates the difficulty of addressing the wide scope of the topic in a limited time. It also leads one to reflect on and imagine what types of tools could be used and how workshops could be organized in order to collect information and analysis in the most efficient manner.

In the absence of an existing community policy, it may have been good for the university researchers to write up their own “protocol” based on input from the initial community meeting, the research council guiding document and the review of protocols of neighboring communities. This document could then have been circulated to research council members, band council leaders and others. It would have been available in the case that people had questions regarding the university researchers’ approach and also could have been useful as a record when new participants arose (such as the new Chief). On the other hand, writing down the agreement might have been too formal. The fact that the community was comfortable without one could be taken as a positive sign. In practice, the researchers did comply with good protocol.

When setting research guidelines at the introductory meetings, a few people emphasized that university researchers (and policy makers) need to speak in plain language, so that the information is accessible to all the grassroots people. The university researchers made efforts to do so, and, based on feedback from the community, were largely successful. Nevertheless, they still could have done better. For example, at the final workshop at least one person didn't understand the models and suggested the messages be conveyed in more "layman terms." This experience illustrates the need for university researchers to constantly be aware of the type of language they are using, so that they communicate clearly.

4.4 Challenges of and Observations on the Participatory Process

This section highlights some of the challenges of the research process. These points are intended to identify some of the dynamics and subtle balancing acts that are part of a participatory project.

- In discussions where people are asked to talk about what they want for the future, there is a danger that they come to expect that that is what is going to happen, and then are disappointed when it doesn't. In light of this, one point of guidance provided by CSTC researchers was to avoid unrealistically raising the expectations of the community. While the university researchers kept this guidance in mind, it was challenging trying to balance not raising people's expectations with encouraging them to think about the future and possible alternative tenure proposals. This raises the question of how the mere process of conducting research can have impacts on and change the community. Through this experience, it became apparent that a participatory, community-based process generates learning and change for all parties. While this may be appropriate and beneficial, the potential benefits and risks of such a process need be considered and explicitly recognized by all parties at the beginning of the research.

One way to mitigate the creation of undue expectations is to identify a series of practical actions coming out of the research, and to specify who will do those tasks. In this thesis, some possible steps for Stelat'en are identified in Chapter 5, Section 5.4 (Research Applications and Next Steps). Also, Lee-Johnson's work (forthcoming), conducted in tandem with this research, supported the need for action by identifying concrete steps towards devolution and Aboriginal self-governance.

- As with all participatory processes, it was a challenge to balance getting input on decisions and getting things done, being open and inclusive (e.g. by having open invite to all meetings and workshops) and being efficient by working with a smaller group. This was an ongoing balancing act throughout the process.
- University researchers cannot and likely should not try to "control" the process. However, to a degree it was important for the university researchers to prepare an agenda, structure, questions etc. for the workshops. It was hard to know when to enforce pre-developed guidelines (e.g. regarding a good number of participants) and

when to just let the process be what it needed to be, to evolve to suit the participants. This was another ongoing balancing game.

- It was challenging to keep track of and incorporate the different perspectives of community members. Not everyone in the community had exactly the same values, and ideas, so university researchers had to be very attentive and vigilant to not reflect one perspective more than another.
- Some people attended the later workshops that had not been at the earlier ones. This was challenging because some were confused as they did not understand what the research was about or where it came from. The university researchers tried to mitigate this by providing a brief review/overview of the project at each meeting and workshop.
- The Stellat'en cultural emphasis on "storytelling" as a form of communication created a learning curve for the university researchers, who were normally seeking and expecting direct answers to direct questions. This cultural difference was particularly evident when the author asked for feedback on the draft list of goals and objectives. The author presented the research council with the draft objectives to enquire whether they accurately reflected the Stellat'en view. Rather than commenting directly on the statements, many Stellat'en would recount a story or experience that was somehow related to the statement. For example, when asked about the statements regarding protection of the territory, one person recounted the story of how the Endako river was polluted by mining, killing the fish and causing sickness among the people. These effects on the native people had not been taken into account. Another person talked about how their community used to provide for each other by going out to pick berries together, being careful not to trample the plants (unlike logging skidders). Berry picking was hard work, and stands in sharp contrast to the mass production, "mass taking out of the forest" that occurs today. It was up to the researcher to interpret the key messages of these stories, and determine whether those messages were reflected in the goal and objective statements. The emphasis on story-telling thus had both risks and benefits. On one hand, in making interpretations and inferences there was a risk for researcher biases or misunderstandings to creep in. On the other hand, the sharing of information through stories provided context and illustrated how the researcher's question was related to everything else – where it fit within the bigger picture. Though deciphering the key message of the stories was at times challenging, it was ultimately rewarding and supported a more holistic understanding of the Stellat'en perspective.

Some general observations on the process are as follows:

- The term "tenure" meant different things to different people, and was used in a variety of ways. How the term was used changed from person to person. Sometimes it would refer to an existing Crown licence and other times to a general decision making role in regards to resources. Sometimes it would be applied in the context of what people wanted to see in a treaty agreement. Many people saw a strong relationship between what they were looking for in a long-term tenure, and what they wanted in treaty. Thus it was always necessary to listen carefully to the context to ascertain what version of the term "tenure" they were talking about.

- It is uncertain whether the practice of providing stipends for attendance at workshops and meetings facilitated or reduced the sense of joint ownership of the research process and material. UBC agreed to provide stipends in order to be consistent with the pre-existing internal community policy. The practice of having the university providing stipends, however, may have contributed to a sense that this was “the university’s research.” On the other hand, paying people was good because they were contributing to the research-the stipends were like a payment to be part of the research team.
- The community was generally quite open to working with “outsiders” (i.e. the university researchers) in conducting the research. The provision of new energy, different ideas and a listening ear by “outside” researchers seemed to be mostly well-received.

4.5 Lessons for Future Aboriginal Community - University Research

Partnerships

Based on the experience of conducting this research, presented here are some recommendations for good practices in future Aboriginal community-university research partnerships and processes.

- Ideally, research projects should be initiated by the community. The research objectives, questions and methods should be defined in partnership with (or led by) the community.
- At the outset of the research, it is important to have a candid discussion of expectations, roles, interests and benefits to each party, as well as research protocol. It is good to have this material documented.
- Concluding the research with suggestions for practical actions towards implementation can mitigate the creation of “undue expectations”.
- Use accessible language when talking with community members and writing material for them.
- Be aware that some words may have different or negative connotations in an Aboriginal context. Choose language carefully and be sensitive to responses to language, so you can adapt if necessary.
- Western trained researchers tend to seek and expect direct answers to direct questions. This direct approach contrasts with an Aboriginal emphasis on storytelling as a learning and communication technique. Western researchers would be well advised to be patient and attentive in listening to stories, recognizing their value in providing a holistic understanding. While deciphering stories may initially be challenging for the “western science” trained mind, stories should be recognized as a valuable and comprehensive form of information.
- Research should be of benefit to the community. Requesting a community’s time and energy for a project that is of little benefit to them can be detrimental. Avoid perpetuating the paradigm of “extractive” research.

- Information should only be used if it was provided with free and informed consent. Whether or not it was is not always clear. For example, if you are in a meeting or casually meet someone outside and they tell you a story, you can not automatically assume that you can include it in the research write-up. Researchers need to be continually vigilant of the context in which information was provided and whether permission to use it was given.
- Research results should reflect the cross section of views within a community, not just one angle. There is diversity within communities.
- In participatory processes, one must be aware of how much time and effort is being asked of people. Community participation is good but can be quite time consuming and energy intensive for the participants. There are limitations to how many meetings and workshops people can handle before they get burned out. Researchers need to strategically choose how much input to ask for, on what specific topics. They need to ask effective questions.
- While the workshop approach worked well with the Stelat'en community, each community is different. One would not automatically expect the same degree of success with the same methods elsewhere. Rather, researchers should work with community partners to determine the best methods for a particular circumstance and be willing to change preliminary plans accordingly. On the other hand, it is still important to have preliminary plans to start from.
- Potential exists for mutually beneficial partnerships in which universities and Aboriginal communities work and learn together. For this to succeed, however, the university must be sensitive to and respectful of the community's protocols and ways of thinking, learning and doing. Be aware of how university protocols/policies interact with those of the community.
- It is immensely helpful to have a community member who can act in the capacity of "community coordinator," to be the main contact person regarding the research.

4.6 Conclusion

The research was largely a successful example of a university-community partnership as it provided mutual benefits to all the parties. UBC students gained experience in participatory process design, in facilitation, in working with First Nations communities, as well as material for their Masters theses. The First Nation community received a service in the form of facilitation of community dialogue around salient issues, written materials documenting their ideas to use for their own purposes as well as analysis of alternatives that may be offered the community or that they may propose in the future. Perhaps most importantly, the process gave voice to the community grassroots perspective – providing both relevant information and a forum for people to share their ideas.

Chapter 5: Summary and Conclusions

5.1 Summary and Response to Research Questions

The research produced a comprehensive, organized list of Stellat'en First Nation goals and objectives related to forest tenure and governance. According to Stellat'en First Nation, the tenure system should enable them to protect their traditional territory for future generations, protect their culture and support their economic self-determination. Following from these goals, legal and attitudinal changes are required at the operational level to provide greater decision making authority and a larger stewardship role for the First Nation, a shift towards more holistic and culturally sensitive forest management, and more equitable distribution of resource revenues and harvesting rights. Potential implementation mechanisms include legally enabling First Nations' policies regarding forest management in their territories and zoning for the protection of cultural values. While this community case study largely confirms previous literature regarding Aboriginal forest tenure, it also emphasizes that policies should reflect unique community perspectives and contexts.

The list of goals and objectives elucidated in Chapter 2 is applied in the evaluation of four alternative forest tenure and governance models – the Community Ecosystem Trust, the Gitanyow model, BC Community Forest Agreements and the forest management system on American Aboriginal reservations. These selected models are designed to address a range of institutional levels and functions – from individual Crown tenure agreements to broader governance arrangements. They include examples of existing arrangements (from within BC and the United States) as well as a theoretical proposal. The models are scored according to a simple scale to indicate how well they meet each of the Stellat'en goals and objectives.

The research did not in the end select one tenure and governance model as best matched to the Stellat'en criteria. Rather, it found that, while all models examined supported some of the criteria, a completely functioning system would require combining elements from each. Such a system would have the Community Ecosystem Trust or trust law as the overarching governance framework and a joint land use plan (such as the Gitanyow's) guiding trustee decisions. A greater proportion of harvesting rights within the trust would be allocated to First Nations in long term, community oriented formats such as the CFA. All tenure holders would need to abide by the trust charter

and joint land use plan. The evaluation of existing models also shows how lessons learned from past experience or other jurisdictions can be applied to improve proposals for the future. For example, the American experience highlights the need for clear trust standards and independent oversight in the application of the Community Ecosystem Trust, as well as stable funding and capacity building mechanisms. Regardless of which tenure arrangements are implemented in the end, one Stellat'en elder emphasized the need for alliances of regional First Nations to work together.

The research provides an account of the experience of a university conducting participatory research in partnership with a First Nations community and organization (CSTC). The experience indicated that workshops can be an effective method for engaging the community and generating dialogue in a way that is fruitful for both the project and the community. It illustrated the need to be attentive and flexible, to adapt research methods and approaches to the community.

5.2 Conclusions

The thesis feeds in to a larger societal discourse concerning the reconciliation of Aboriginal and settler societies as it pertains to the management and governance of forestland resources in British Columbia. While this discourse has been unfolding over at least the past century and a half, it has become increasingly salient in recent years, both within Canada and internationally. The global spotlight on these issues is highlighted by the recent ratification of the United Nations Declaration on the Rights of Indigenous Peoples (which Canada voted against).

At their core, issues about Aboriginal forest tenure, management and governance are a reflection of society's struggle to find a way to live together, share resources and make democratic decisions respecting indigenous rights in an increasingly finite world. With population expansion and growing demands for energy and resources, BC is looking further into the hinterlands with its economic development initiatives, putting it on a collision course with cultural and biological integrity. With these mounting resource-use pressures, it becomes more difficult for the Canadian government and industries to retract from or refrain from encroaching into traditional indigenous lands – the very same lands critical to maintaining and restoring traditional indigenous cultures and lifeways. The pine beetle infestation and climate change add another level of complexity and urgency to the problems at hand.

Progressive social organization calls for respect of cultural diversity within the whole. By making space for diversity, Aboriginal values and worldviews can contribute wisdom and guidance in the face of contemporary resource problems. For example, simply considering Stellat'en's three basic principles – respect the earth, take only what you need, and give back when you take – illustrates how far off course we are headed from a sustainable future. That is not to say that First Nations are not equally challenged by the task of balancing cultural, ecological and economic factors in resource decision making. In working towards their goal of economic self-determination, Stellat'en must also strive to find a balanced way of life. This is a task they will face even if they have complete control of the land. All BC citizens, governments and businesses can help Stellat'en and the rest of society to strike this balance by proactively and collectively working to create economic systems that support natural wealth rather than degrade it. This calls for going beyond an emphasis on making trade-offs within the status quo.

Aboriginal tenure issues are also about governance. Stellat'en and other First Nations have clearly articulated a desire to have a greater stewardship role and authority in resource decision making throughout their traditional territories. To a large extent, recent court cases (e.g. *Delgamuukw*, *Haida*, *Taku*, *Tsilhqot'in*) have already created the legal framework for Aboriginal jurisdiction in land management. The challenge now is to bridge the gap between these high level legal directives and on-the-ground implementation. Despite the urgent calls for devolution of authority to First Nations, this is not a process that can happen overnight. The colonial legacies of residential schools and Indian Act governance have caused a generation gap in cultural knowledge, governance and capacity. This gap is compounded by the simultaneous need to adapt traditional institutions to the contemporary context, which calls for interfacing with other governments and non-First Nations communities and resource users. As illustrated by the experience of Yukon First Nations, there is a risk for non-indigenous values, principles and management processes to be perpetuated even following formal devolution and the settlement of land claims, rendering such devolution functionally meaningless (Natcher and Davis 2007). Due to the limited number of technically trained Aboriginal people, many resource management roles in the Yukon remain filled by non-indigenous decision makers who (perhaps unintentionally) perpetuate management according to western paradigms (Natcher and Davis 2007).

Similar issues are illustrated by the American experience, where the management of tribal forests was initially dominated by the values of BIA agents.

In recognizing the challenges demonstrated by the Yukon and United States examples, how can the BC help support Stelat'en in their goals of protecting the territory, protecting their culture and supporting economic self-determination? This research suggests the relevance of a bottom up approach, grounding capacity development and decision making at the community grassroots level. This is a good way to bring cultural wisdom and legitimacy back to the higher levels of resource governance institutions. Furthermore, a spirit of humility and mutual learning in decision making and training programs will build trust and make space for the revival of Aboriginal culture in resource management. Following this approach, Canada can become a world leader in demonstrating a peaceful path to reconciliation and co-existence.

5.3 Research Significance and Contributions

Aboriginal values, rights, and interests have far reaching implications for the Canadian forest sector, in particular regarding the design of forest tenure and governance institutions. The design of these institutions is relevant to all members of society. Provincial and federal governments are seeking means to adhere to Canadian Constitutional law while reconciling Crown and Aboriginal sovereignties. Business and industry are seeking certainty and a stable economic operating environment. Civil society is increasingly concerned with the need for social and economic justice. All parties have expressed a desire to implement the tenets of sustainable forest management, which call for due consideration of ecological, economic and social values. With the BC forest industry in transition and tenure redesign high on the political agenda, the present time provides a window of opportunity to restructure in a way that will support the interests of all parties in the future. The research is thus both timely and relevant to current policy discussions and societal concerns.

This research contributes to the aforementioned efforts by articulating a First Nations vision for forest tenure and governance design, so that their voice can be fully recognized and included in the discussion. Importantly, the particular voice articulated by this research is one that is not extensively represented in the literature-that of the grassroots communities. The thesis contributes by expressing the view of a particular First Nations community. It also confirms the results and recommendations of other

studies regarding the need for and characteristics of Aboriginal forest management, tenure, governance.

Forest tenure is a complex topic involving many different aspects and interests. Research regarding tenure reform often focuses on single aspects, such as stumpage rates or duration. Due to the complexity of the topic, such focus may be required to gain purchase on the subject matter. However, this approach also increases the risk that decisions will be made based on information regarding only a subset of the relevant concerns. One of the main strengths of this research is its comprehensive approach to the issue of First Nations forest tenure and governance design - addressing economic, social, ecological and cultural aspects. By providing a comprehensive list of goals and objectives, this research supports a more holistic view of the problem. The list of goals and objectives can thereby help to situate specialized research projects within the larger whole.

The research adds to the rapidly expanding literature regarding the role of Aboriginal societies in natural resource management, as well as the literature on Aboriginal forest management values and approaches. It also contributes to literature regarding the practice of community based, participatory research, illustrating that communities have their own ideas and solutions that can play an important role in appropriate policy development.

5.4 Research Applications and Next Steps

Several potential applications of the research are readily apparent. The list of goals and objectives can be used as a tool to guide the formation of new forest management, tenure and governance policies and the evaluation of existing ones - by the Stelat'en community themselves, the Carrier Sekani Tribal Council, provincial and federal governments, academics and others. The more detailed list of means can serve as a series of strategies that could be undertaken to address aspects of the current difficulties with forest tenure and governance. Furthermore, the evaluation of the alternative models can provide input to inform future discussions regarding forest tenure and governance design by highlighting the strengths and weaknesses of various possible approaches.

At the outset of the research, Stelat'en indicated a need to develop their own policy for forest management on lands within the traditional territory – to show how they intend to protect resources such as salmon, birch, etc. Though this research did not

directly address that need, the ideas and values expressed by the community and documented by the research constitute the groundwork for such a policy. A next step would be for the Stellat'en community to continue working together and with neighboring nations to transform the general "goals and objectives" into more specific, spatially explicit management guidance. This work ties in well with the land use planning exercise already underway. Stellat'en's internal work to define their management goals and land use desires constitutes a critical step towards successful co-management and joint land use planning such as that described in the Gitanyow model. As illustrated by the Gitanyow and American experiences, in order for the Stellat'en vision to be reflected in any co-management model, it is critical for the First Nation to clearly articulate their own interests and values.

Another possible action would be for Stellat'en to use the list of goals and objectives as criteria to evaluate new tenure proposals or impact benefit agreements, as well as to negotiate the terms of a new tenure.

5.5 Future Research Directions

The thesis points to a wide array of related research that could be undertaken in the future, to address specific problems or needs highlighted by the project and to clarify or resolve questions that were raised by the evaluation of alternative tenure models. A list of suggestions is provided in point form below:

- Identify specific procedures and policies through which the Stellat'en objectives can be "operationalized" (i.e. use the findings of this research to guide the creation of a spatially explicit Stellat'en forest management policy for the traditional territory).
- Study the impacts of logging and forest management on medicinal and food plants (and/or other cultural values), and develop operational procedures and silviculture systems to protect and nurture them.
- Review forestry legislation and identify which specific clauses would need to change to be consistent with Stellat'en goals and objectives.
- Create more detailed monitoring and assessment rubrics for the various objectives. For example, the Forsyth (2006) scale illustrates how the relative degree of Aboriginal authority could be assessed. Rubrics for other objectives could be helpful.
- Research the application of the Community Ecosystem Trust and/or trust law and principles in general. In particular:
 - Investigate the implications for treaty negotiations and future land claim settlements of implementing a trust model.

- Conduct a survey of where/how trust law has been applied in relation to land management in BC and/or worldwide (especially examples involving Aboriginal peoples), including lessons from past failures, and recommended design principles.
- Explore the level of interest among British Columbia communities (First Nations and other) in implementing a trust-approach to land management.
- Evaluate other tenure and governance models based on the Stelat'en goals. Suggestions include stewardship contracts (an initiative in the United States) and BC Conservancies (a new BC land designation that originated through the recent Central Coast land use planning process)
- Identify opportunities, limits and methods for including Aboriginal knowledge and worldviews in forest management (i.e. practical ways to address the culture gap between western and indigenous views). This research could involve a survey of practices across Canada, and suggest some "best practices."
- Inquire how to improve processes for integrated cultural, ecological and social impact assessment, including how such processes might be applied to forest management plans. This research could consider potential adaptations of U.S. NEPA (EIS) policy and coordinated planning processes (such as Tribal Integrated Resource Management Planning) in Canada.

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Appendices

Appendix 1: Stellat'en Forest Tenure and Governance Criteria

Goal 1: Protect Stellat'en Traditional Territory for Future Generations

Objective	Means
1.1 Stellat'en have a high level of decision making authority in forestland management	1.1.1 Stellat'en have a high level of authority in creation and approval of plans and policy objectives at both strategic and operational levels
	1.1.2 Enable Stellat'en authority to create and enforce forest management standards 1.1.2.1 Create First Nation Conservation Officer or monitoring/policing service
	1.1.3 Stellat'en have a high level of authority in allocating tenure/harvesting rights in territory
	1.1.4 Stellat'en have high level of authority in determining harvest levels in territory
	1.1.5 Stellat'en determine where they get access to harvesting
	1.1.6 Stellat'en are meaningfully consulted 1.1.6.1 Implement appropriate referral and consultation processes 1.1.6.2 Fund Stellat'en participation in consultation and processing of referrals
	1.1.7 Strongly accommodate Stellat'en values and interests in resource decisions
	1.1.8 Fund Stellat'en participation in planning and policy processes
	1.1.9 Enable meaningful involvement of entire Stellat'en community in decision making
	1.1.10 Legally establish First Nations decision making authority
1.2 Stellat'en have a leadership role in stewardship of forestlands in the traditional territory	1.2.1 Stellat'en have a leadership role in determining standards for forestland management
	1.2.2 Stellat'en have a leadership role in monitoring ecosystem health and compliance with objectives, plans and rules 1.2.2.1 Stellat'en have a funded stewardship and monitoring service to look after the land
	1.2.3 Stellat'en have a leadership role in ecosystem rehabilitation and restoration
	1.2.4 First Nation-led assessments of impacts on environmental and cultural values are required for all development proposals, including forest management plans
1.3 Recognize and respect Aboriginal rights and title	1.3.1 Recognition of Stellat'en rights and title is reflected in laws, policies, agreements (including tenure licences), processes and decisions
	1.3.2 Expand the concept of rights to involve broad protection of rights across the landbase
	1.3.3 Stellat'en have a tripartite government-to-government relationship with provincial and federal governments and/or a regional protocol 1.3.3.1 The government-to-government relationships are based on a Stellat'en First Nation interim measures agreement
	1.3.4 Stellat'en's internal governance structure is recognized and accepted 1.3.4.1 Stellat'en determine their own internal forestland governance structure

Objective	Means
1.4 Explicitly consider future generations in policies and decision making	1.4.1 Include mechanisms for consideration of future generations in decision making
	1.4.2 Emphasize planning for when the beetle timber is gone
1.5 Adopt a holistic approach to forest management	1.5.1. Take multiple forest values in to account in decision making, not just timber
	1.5.2 Recognize connectivity within forest ecosystems and manage accordingly
	1.5.3 Allow for experimentation and innovation in managing for different values
1.6 Protect ecosystem integrity	1.6.1 Protect fish and wildlife
	1.6.1.1 Stop overhunting and overfishing
	1.6.2 Protect fish and wildlife habitat
	1.6.2.1 Leave some beetle killed areas for wildlife buffers/corridors
	1.6.3 Prohibit use of pesticides and herbicides
	1.6.4 Promote more selective timber harvesting, less clearcutting
	1.6.5 Protect biodiversity
	1.6.5.1 Reforest with diverse species, not just pine
	1.6.6 Maintain slope stability
	1.6.7 Base timber harvest levels on what the land can sustain without damaging it
	1.6.7.1 Provide funding and resources for resource inventory and mapping
	1.6.8 Require reforestation and rehabilitation after harvest and extraction (including medicine plants and plants needed by wildlife, not just trees)
	1.6.8.1 Provide funding base for rehabilitation of degraded lands and resources (especially from beetle wood salvage revenue)
	1.6.9 Implement an effective environmental monitoring system
1.6.10 Protect waterways	
1.6.10.1 Prohibit logging near lakes, rivers, streams	
1.6.10.2 Prohibit cattle in riparian areas	
1.6.11 Strictly enforce forest management standards	
1.6.11.1 Hold decision makers accountable for their actions – require parties that damage the ecosystem to do/pay compensation	
1.6.12 Minimize environmental impacts of timber harvesting equipment	
1.6.12.1 Implement energy efficient forestry equipment and operational procedures	

Goal 2: Protect Stellat'en Culture

Objective	Means
2.1 Protect Stellat'en cultural forest values	2.1.1 Zone separate areas for cultural and commercial/industrial land uses
	2.1.2 Legally require protection of cultural values
	2.1.2.1 Require all forest users to protect Stellat'en forest values in their activities
	2.1.2.2 Ensure cultural values are protected during beetle wood salvage
	2.1.3 Protect cultural sites (e.g. sacred grounds and sites, culturally modified trees, cache pits)
	2.1.4 Protect medicinal plants
	2.1.5 Protect hunting areas, fishing and gathering sites
	2.1.5.1 Protect berry picking sites
	2.1.6 Protect traditional food sources (berries, wildlife, fish,
2.1.7 Protect traplines	
2.1.8 Protect birch	
2.1.9 Protect root plants	
2.2 Value non-commercial uses of land	2.2.1 Give traditional and cultural land uses appropriate weight in relation to economic values
2.3 Involve traditional leaders and elders in early stages of planning	
2.4 Implement Stellat'en stewardship principles in forest management	2.4.1 Limit harvest level to what is needed
	2.4.2 Promote an ethic of respect for the earth
	2.4.3 Promote a reciprocal relationship with forest (i.e. "give back when take")
2.5 Protect Stellat'en access to and use of land and resources in the traditional territory	2.5.1 Ensure Stellat'en has their own "Aboriginal interest" forest tenure
	2.5.2 Locate Stellat'en tenure in the core traditional territory
	2.5.3 Include transportation corridors used to access other areas for fishing and hunting in the Stellat'en tenure (e.g. Binta Lake Corridor)
	2.5.4 Require all tenure holders/parties to communicate with Stellat'en regarding activities that will affect access (e.g. road building and deactivation)
	2.5.5 Prohibit tenure holders from blocking Stellat'en access without prior Stellat'en consent
2.6 Include cultural and traditional knowledge in management, planning and decision making	2.6.1 Map cultural and traditional use values for entire Stellat'en territory
	2.6.2 Consider traditional values when deciding what resources to harvest
	2.6.3 Provide funding for recording and managing cultural and traditional use data
	2.6.4 Stellat'en have equal technical capacity as provincial and federal governments (e.g. in mapping)

Objective	Means
2.7 Provide opportunities for government, industry, local communities and stakeholders to learn Stellat'en culture	

Goal 3: Support Stellat'en Economic Self-Determination

Objective	Means
<p>3.1 Support viable Stellat'en forest based economic ventures, both timber and non-timber based</p>	3.1.1 Support viable economic opportunities for Stellat'en from the beetle infestation
	3.1.2 Landbase and scale of tenure is large enough to support economically viable businesses
	3.1.3 Ensure allocated forests have good timber quality, profile and access
	3.1.3.1 Include a mix of area and volume-based tenure
	3.1.3.2 Include main core territory and patchwork of other areas to make up what's been lost to mining and other activities
	3.1.4 Decrease or eliminate Stellat'en stumpage payment requirements
	3.1.5 Support fair pricing for Stellat'en logs and other forest-based products
	3.1.6 Promote markets for Stellat'en logs and other forest products
	3.1.7 Allow flexibility to harvest in appropriate market conditions
	3.1.8 Duration of Stellat'en tenure is long term (10-20 years or permanent)
	3.1.9 Enable adaptation to change by allowing for periodic review and amendment of tenure agreements
	3.1.10 Allow a wide variety of timber and non-timber uses
	3.1.10.1 Support experimentation and innovation in use of diverse forest values
3.2 Support Stellat'en livelihoods	3.2.1 Protect forest values needed for traditional livelihoods
	3.2.2 Respect Stellat'en traditional harvesting rights
	3.2.3 Increase Stellat'en employment
	3.2.4 Give Stellat'en right of first refusal on traplines that come up for sale in the territory
3.3 Ensure allocated land base and harvest rights can sustainably support the Stellat'en community	
3.4 Stellat'en benefit economically from sustainable resource development in the traditional territory	3.4.1 Resource revenues are equitably shared with Stellat'en (e.g. stumpage, royalties, profits)
3.4.2 Ensure Stellat'en have their own viable "Aboriginal interest" forest tenure or jointly held tenure with other First Nations	
3.5 Compensate Stellat'en for impacts	3.5.1 Compensate trapline holders for impacts to traplines
	3.5.2 Compensate Stellat'en for stolen and damaged resources
	3.5.3 Strengthen legal mechanisms to ensure Stellat'en are compensated in the case of future impacts

3.6 Support Stellat'en capacity building	3.6.1 Provide professional development, training and education opportunities (especially on-the-job) 3.6.1.2 Implement cost-shared on-the-job training (band pays half wage, employer pays half)
	3.6.2 Make stable, long term funds available for training and education
3.7 Promote a healthy local economy	3.7.1 Decrease concentration in forest industry
	3.7.2 Enable small and medium sized companies to participate in forest sector
	3.7.2.1 Ensure standards, rules and expectations are appropriate to target group
	3.7.3 Promote utilization of local employment
	3.7.4 Support value added processing
	3.7.5 Encourage benefits from resource harvesting in territory to remain in local area 3.7.5.1 Support local processing and manufacturing.

Appendix 2: Stelat'en Adult Workshop Agenda

August 9 and 10, 2006

DAY 1:

9:00 a.m. – 9: 30 a.m. Breakfast (30 mins.)

9:30a.m. – 10:30 a.m. Opening/Introduction (1 hr.)

- Welcome
- Research overview: Give a brief concept/scope of the project workshop:
 - i. To evaluate forest tenure and governance. This will involve identifying new forest tenure arrangements and governance relationships that meet the needs, aspirations and rights of First Nations people.
 - ii. Through this workshop, Stelat'en community members define problems and solutions relating to forest tenure and governance in BC.
 - iii. Setting ground rules for the workshop
- Introduce and sign consent forms. Translation of content of the consent Form by a Stelat'en member

10:30 – 11: 00 a.m. Interactive Session on Definition of Terms (30mins.)

- i. Definition of forest/land tenure from provincial government/other perspectives.
- ii. Ask the community to define tenure and other terms and concepts they consider necessary for discussion.

Building a community definition of the specifics of particular forest tenure arrangements is one goal of the workshop.

11:00 a.m. – 11:10 a.m. Refreshment Break (10 mins.)

11:10 a.m. – 12:40 a.m. Session 1: Discussion of the present situation. (1hr:20 mins.)

Participants identify and discuss:

- i. Problems with the present forest tenure system
- ii. Problems with the present forest governance system
- iii. Strengths of current forest tenure and governance system

Each group will have a facilitator and reporter/note taker. The reporter/note taker will be responsible to document the proceedings of the discussion. The role of the reporter/note taker is very important for effective documentation and accurate presentation of fact at the plenary.

DAY 1 continued

12:40 p.m. – 1: 30 p.m. Lunch and interaction (50min.)

Facilitators work on the ideas/concepts identified in Session 1 and the plenary session to design working materials that will be used in the concept mapping session. Problems and benefits identified will form building blocks of nodes that will be used in the mapping

1:30 p.m. – 3:30 p.m. *Session 2: Concept mapping of current situation.* (2hrs)

Concept Mapping is a method used to map a group's thinking about a problem or issue in relation to the causes. There will not be any breakout groups in this session. All participants will work together to brainstorm and map out casual linkages/relationships between the problems and benefits of the current situation identified in Sessions 1 and 2.

2:30 p.m. – 2:40 p.m. Refreshment Break (10 mins.)

3:30 p.m. - 3:45 p.m. Closing Courtesy and Announcements (15 mins.)

- i. Reflection on Day 1 of workshop
- ii. Information about the next day's workshop
- iii. Any other important issue

3:45 p.m. – 4:00 p.m. Door Prize draw (15 mins.)

DAY 2

9:00 a.m. – 9:30 a.m. Breakfast (30 mins.)

9:30 a.m. – 11:00 a.m. *Session 3: Visioning Exercise (1hr: 30 min.)*

The goal of this session is to identify the components and characteristics of an ideal Aboriginal forest tenure and governance system, from the perspective of the Stelat'en community participants.

11:00a.m. – 11:10 a.m. Refreshment Break (10 mins.)

11:10 a.m. – 11:30 a.m. Review of Results of Day 1 (20 min.)

Facilitator/Researcher(s) provide a brief report of the output and results of the concept mapping exercise from Day 1.

11:30 am – 12:30 p.m. *Session 4: Barriers or challenges to achieving the vision (1hr.)*

There will not be any breakout groups in this session. All participants will work together to identify barriers and/or challenges that hinder Stelat'en from achieving their vision. The process shall involve; posting the concept map, asking participants to identify concepts on the map that they consider are barriers to achieving the vision, and facilitating responses for additional concepts.

12:30 p.m. – 1:30 p.m. Lunch and interaction (1 hr)

1:30 p.m. – 2:15 p.m. *Session 5: Solutions and alternatives. (45 mins)*

In this session, participants go in to groups and brainstorm ideas for overcoming the barriers identified in Session 4.

2:15 p.m. – 3:00 *Session 6: Plenary (45 mins.)*

The whole group comes back together. Reporters in sub-groups present their ideas to the larger group. After all the ideas are posted, the group is asked if there are any other ideas that emerge. Is the information presented correctly? Additional input is allowed or welcomed at this time.

3:00p.m. – 3:10 p.m. Refreshment Break (10 mins.)

3:10p.m.–4:30p.m. *Session 7: Strategies and actions for implementation (1hr: 20.)*

All participants will work together to identify specific strategies and actions they that will be useful in overcoming barriers and achieving the vision identified in previous sessions.

Another goal of this session is to assign a time line for the identified strategies and actions for implementation. This is a complementary process to the visioning exercise in Session 4.

DAY 2 continued

4:30p.m. – 4:45p.m. Closing courtesy (15 mins.)

Reflection on Day 2 and the overall workshop.

Ask if there is any information or statements that should be deleted/removed from record. Decision on deletions will need to be made by consensus of the whole group.

Inquire if there is a need for an information session for researchers to present to the wider community a detailed outline of the workshop discussion results.

Inquiry will also be made whether workshop participants wish to be interviewed, and whether they can suggest community members to interview who are not present at the workshop

Collect workshop evaluation forms.

4:45 p.m. - 5:00p.m. Door Prizes Draw

Thank you for participating in the workshop.
Your input is valued and appreciated.

Appendix 3: Stelat'en Youth Workshop Agenda

August 17, 2006

8:30 a.m. – 9: 00 a.m. Breakfast (30 mins.)

9:00a.m. – 9:30 a.m. Opening/Introduction (30 mins.)

- Welcome
- UBC researchers describe why the project is important for them and what the community might do with the results, and how the research fits with other community initiatives
- Research overview: Give a brief concept/scope of the project workshop:
- Setting ground rules for the workshop
- To introduce and sign consent forms.

9:30 – 10: 00 a.m. Session 1 Definition of tenures (30 mins.)

Ask youth to define tenure and other terms and concepts they consider necessary for discussion.

10:00 a.m. – 11:00 a.m. Session2: Discussion of the present situation. (1 hr.)

Participants identify and discuss:

- iv. Problems with the present forest tenure system
- v. Problems with the present forest governance system

11:00 a.m. – 12:30 a.m. Session 3: Traditional Knowledge forum (1.5 hr.)

An interactive session with respected women elders in the Stelat'en community who will pass on teachings and values of forest, land and resources management to youth. Information acquired in this session will be valuable in helping youth to identify solutions to the problems and causes identified in Session 2.

12:30 p.m. – 1: 30 p.m. Lunch and interaction (1 hr.)

Facilitators work on the ideas/concepts identified in Session 1 to design working materials that will be used in the solutions and strategies session.

1:30 p.m. – 2:30 p.m. Session 4: Solutions and Strategies (1hr.)

2:30 p.m. - 2:45 p.m. Evaluation, summary and review (15 mins.)

2:45 p.m. – 3:00 p.m. Closing Courtesy and Door Prize draw (15 mins.)

Appendix 4: Stellat'en Workshop Focus Questions

This document lists examples of focus questions for each session in the workshop. Community members/participants are encouraged to read these ahead of time, and think about their answers, so they come to the workshop prepared with some ideas.

DAY 1

Session 1: Discussion of the present forest tenure and governance situation

1. What are the problems with the current forest tenure system?
2. What are the problems with the present forest governance system?
3. What are some strengths of the current forest tenures?
4. What do you think are the most important benefits that the land and water provides you, your family and the community? Please be specific.
5. What is good about the traditional land tenure and system?
6. What is good about the traditional land governance system?
7. What are some things you see going on in the forest of the traditional territory that you do not like?
8. What are some things you see going on in the forest of the traditional territory that you think are good?

DAY 2

Session 3: Visioning

9. What are some components of a vision for Aboriginal forest tenure in Stellat'en traditional territory?
10. How should governance of forest lands in the traditional territory be organized in 20 years?
11. What rules should govern the Stellat'en people's relationship to the land?
12. What should be the relationship between Stellat'en people and the provincial government as it relates to forest lands?
13. What do you want to manage, protect and harvest in the traditional territory?
14. What are your values and desires for forest management in the next 10 years?
15. How should decisions be made about how much timber or other resources should be harvested from forests?
16. How should decisions be made about what to do on the land and with the forests?

Session 4: Barriers and challenges to achieving the vision

17. Which elements of the current situation are barriers to achieving the Stellat'en vision for aboriginal forest tenure and forest governance?
18. Are there other barriers that have not yet been identified in the discussions?
What obstacles or roadblocks obstruct the realization of the vision?

Session 5: Solutions and Alternatives

19. What solutions/alternatives are presented by Stellat'en people to overcoming the barriers to implementation of their vision?

Session 7: Strategies and Actions for Implementation

20. What specific strategies and actions can be employed to implement the proposed solutions?
21. When should each strategy or action be implemented? (e.g. this year, next year, in five years...)

Appendix 5: Stellat'en Interview Questions

1. Multiple Use

- a. Can commercial resource development co-exist with traditional land use activities such as trapping, hunting, fishing and gathering berries and medicinal plants?
- b. How might these activities co-exist?

2. Characteristics of forest tenure and governance

- a. What would be some important characteristics of an Aboriginal forest tenure?
- b. What activities should be governed under an Aboriginal forest tenure (timber harvest, botanicals, hunting, guide outfitting, tourism, hydro development, mining, other...)?
- c. What should be the duration of a Stellat'en forest tenure?
- d. Do you prefer area based or volume based tenures for timber harvesting?
- e. What is the reason for your preference?
- f. Should the land base of a tenure be within the traditional territory?
- g. What general locations would you seek for a "forest based" tenure?
- h. Is it acceptable to have license/tenure for dispersed areas, or is it preferable to have a continuous area?

3. Co-Management

- a. How would you define co-management?
- b. Do you support the idea of co-management of forest resources in the traditional territory?
- c. If yes, who should be involved?

4. Decision Making

- a. Who should have the authority to make management decisions/guiding rules about the forestlands in the traditional territory? Mark all those that apply.

Keyoh holders, House Leaders, Clan Leaders	
Stellat'en Elders	
Stellat'en Chief and council	
Stellat'en community members	
Neighboring First Nations	
Carrier Sekani Tribal Council	
Local non-First Nation communities	
Provincial government	
Federal government	
First Nation companies	
Non-First Nations companies	
Other? Name here	

- b. Who should be involved in deciding who gets harvesting rights in the forests of the traditional territory? Mark all those that apply.

Keyoh holders, House Leaders, Clan Leaders	
Stellat'en Elders	
Stellat'en Chief and council	
Stellat'en community members	
Neighboring First Nations	
Carrier Sekani Tribal Council	
Local non-First Nation communities	
Provincial government	
Federal government	
First Nations companies	
Non-First Nations companies	
Other? Name here	

- c. Who should be allowed to harvest forest resources in the Stellat'en traditional territory? Mark all those that apply.

Keyoh holders, House Leaders, Clan Leaders	
Stellat'en community members	
Local non-First Nation communities	
Neighboring First Nations	
Provincial government	
Federal government	
First Nations companies	
Non-First Nations companies	
Other? Name here	

5. Traditional System

- a. Should the traditional governance system be used for forest governance in the future? Why or why not?
- b. What elements/characteristics of the traditional land governance system should be used in the future?
- c. Do you support the idea of combining elements of the traditional system, the tribal council, band council system, and the provincial and federal governments in resource decision making?
- d. Why or why not?
- e. How might these systems be combined?
- f. What should be the relationship of non-FN people with the traditional governance system?

7. Pine Beetle

- a. What (if anything) should be done with the beetle killed trees?

6. Input on Models

- a. Are you aware of any examples of forest tenure and governance that you think would be beneficial for Stellat'en First Nation?
- b. If yes, what characteristics of that/those models would you like Stellat'en to adopt?

Appendix 6: Author's Letter of Introduction to Carrier Sekani Tribal Council Chiefs

THE UNIVERSITY OF BRITISH COLUMBIA



June 28, 2006

Department of Forest Resources Management
2nd Floor, Forest Sciences Centre
2045 - 2424 Main Mall
Vancouver, B.C. Canada V6T 1Z4
Tel: (604) 822-3482 Fax: (604) 822-9106
(604) 822-4935

Carrier Sekani Tribal Council
#200 - 1460 6th Avenue
Prince George, BC
V2L 3N2

To the Chiefs of the Carrier Sekani Tribal Council,

I am writing to introduce myself and ask permission to join the team working on the current Participatory Aboriginal Tenure Reform project. I am a graduate student starting the second year of my Masters in Forest Resource Management at the University of British Columbia. I am very much interested in big picture questions of First Nations forest tenure design and governance. At a broad level, I am interested in learning about First Nations culture and systems of land stewardship. I feel the dominant resource management paradigm is deeply flawed and that (larger) society can learn from First Nations in this regard.

The majority of the upcoming year will be dedicated towards completing my Masters thesis project. My goals for my thesis work are to contribute to an aspect of the Participatory Aboriginal Tenure Reform project in a manner consistent with the needs of the First Nations communities involved, to work in a collaborative manner, and to build research that benefits the community.

While the Participatory Aboriginal Tenure Reform project is funded through the Sustainable Forest Management Network (SFMN), I am supported by a stipend from another source. Only my travel costs will rely on the SFMN project budget.

My education and work experience span many aspects of forest and resource management. After completing my B.Sc. Natural Resources Conservation I have worked in a variety of roles in wildlife, forest research and silviculture projects throughout British Columbia. I have also worked as a Backcountry Ranger for BC Parks and an outdoor guide for several small ecotourism companies.

I would be honoured to have the opportunity to work in collaboration with your communities in exploring questions of First Nations forest tenure design. Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads 'Sarah Weber'.

Sarah Weber

Appendix 7: UBC Behavioural Research Ethics Board Certificate of Approval



The University of British Columbia
Office of Research Services
Behavioural Research Ethics Board
Suite 102, 6190 Agronomy Road,
Vancouver, B.C. V6T 1Z3

CERTIFICATE OF APPROVAL- MINIMAL RISK RENEWAL

PRINCIPAL INVESTIGATOR: Ron Trosper	DEPARTMENT: UBC/Forestry/Forest Resources Mgt	UBC BREB NUMBER: H05-80467
INSTITUTION(S) WHERE RESEARCH WILL BE CARRIED OUT:		
Institution	Site	
UBC	Point Grey Site	
Other locations where the research will be conducted: [New] The community centre of the Stellat'en First Nation will be the location of workshops. Interviews will be conducted at the First Nation, usually in the Nation's offices, but also in individual's homes or the community center. [Original Text for this section read as follows: In the traditional territory of the Carrier Sekani Tribal Council and at UBC. The site of the actual interviews will be determined in cooperation with the individuals concerned. Previous research of this kind has been conducted at community centers, in individuals' homes, and at other places in		
CO-INVESTIGATOR(S): George G. Hoberg Eddison Lee-Johnson Sarah Weber		
SPONSORING AGENCIES: Sustainable Forest Management Network (SFM) - Networks of Centres of Excellence (NCE) - "A Participatory Approach to Aboriginal Tenure Reform in Canada"		
PROJECT TITLE: A Participatory Approach to Aboriginal Tenure Reform in Canada		

EXPIRY DATE OF THIS APPROVAL: July 4, 2008

APPROVAL DATE: July 4, 2007

The Annual Renewal for Study have been reviewed and the procedures were found to be acceptable on ethical grounds for research involving human subjects.

*Approval is issued on behalf of the Behavioural Research Ethics Board
and signed electronically by one of the following:*

Dr. Peter Suedfeld, Chair
Dr. Jim Rupert, Associate Chair
Dr. Arminee Kazanjian, Associate Chair
Dr. M. Judith Lynam, Associate Chair
Dr. Laurie Ford, Associate Chair