THE TAHLTAN NATION AND OUR CONSULTATION PROCESS WITH MINING INDUSTRY: HOW A LAND USE PLAN MIGHT IMPROVE THE PROCESS

By

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Abstract

First Nations' participation in resource development projects is continuously changing. Some would argue that it is improving the situation for First Nations and their communities, while others would argue that First Nations still lack meaningful decision-making regarding the land on which we live. This thesis focuses on ways in which First Nations, more specifically the Tahltan First Nation, might improve consultation processes with government, industry, as well as internal consultation between leadership and membership. In undertaking this research, I show the Tahltan how a completed First Nation (Heiltsuk Nation) land use plan might raise and address the kinds of issues being discussed in Tahltan communities. My hope is that this research will better inform the Tahltan, and potentially other First Nations, on the role and the potential benefits of a land use plan.

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List of Acronyms

AGM- Annual General Meeting

BC- British Columbia

CIS- Cassiar Iskut Stikine

EA- Environmental Assessment

HBC- Hudson Bay Company

IBA- Impacts Benefit Agreement

IISD- International Institute for Sustainable Development

ILMB- Integrated Land Management Bureau

INAC- Indian and Northern Affairs Canada

LUP- Land Use Plan

LRMP- Land and Resource Management Plan

SRMP- Sustainable Resource Management Plan

TCC- Tahltan Central Council

THREAT- Tahltan Heritage Resource Environmental Assessment Team

TK- Traditional Knowledge

TLSP- Tahltan Land Stewardship Plan

TNDC- Tahltan Nation Development Corporation

SRMP- Sustainable Resource Management Plan

UNBC- University of Northern British Columbia

VGFN- Vuntut Gwitchin First Nation

Chapter One: Introduction

1.0 Interest in Research Topic

I embarked on this study hoping that it would strongly reinforce the benefits of First Nations land use planning to help make possible meaningful consultation with resource industries. My research topic involves the Tahltan First Nation and our consultation process with the mining industry. I am interested in these issues because I am a Tahltan member who was raised in Dease Lake (Tahltan Territory). I am part of the *E-etheny* family, from the *Ch'iyone* clan, and grew up in a family who owns and operates a guide and outfitting business. Each of these attributes connects me to my land and my people. I also feel that as a First Nations person it is of utmost importance to maintain responsible stewardship over our traditional territories that the Creator has given to our people.

The Tahltan First Nation is required to compete with other land users within our Traditional Territory. The other land users vary from non-native resident hunters, who, in the Tahltan's opinion, are diminishing our subsistence resources, to resource industries that are depleting the minerals and degrading the land base on which the Tahltan rely. As a result of my experience from living and working in the area, I feel the mining industry within Tahltan Traditional Territory is destroying the land and the resources. I also feel community consultation procedures are not adequately addressing the effects of mining. It is my hope that a land use plan (LUP) completed by the Tahltan will improve community consultation processes and address our expectations and/or concerns.

This topic is important not only for me but also for the Tahltan, indigenous peoples everywhere, and anyone who lives and/or works in an area of resource extraction where indigenous peoples live in British Columbia (BC) and beyond. In BC, resource extraction is

taking place on First Nations traditional territories in a pre-treaty environment; mining and other activities compete with others, including activities First Nations depend on. Resource-extracting industries have a legal and ethical obligation to 'consult' with First Nations when planning to work on their territories, yet to date consultation processes have been mostly inadequate (Marsden, 2005). This is the case in Tahltan Traditional Territory.

The Tahltans have been involved with mining for thousands of years, beginning with the trading of obsidian from Mt. Edziza across spatially vast networks (Fladmark, 1985). Modern mining activities by outsiders within Tahltan Territory date back to 1861 when gold was discovered in the Stikine River (International Institute for Sustainable Development [IISD], 2004, pg. 1). Today, the Tahltans involvement with modern mining practices varies considerably. While some Tahltans' work with/for mining companies others protest against certain mining projects. As resource-extracting activities have grown over the past few decades, and mining has become the dominant industry in Tahltan Territory, the Tahltans have become accustomed to various mining processes.

I begin by discussing my interest in this topic, which stems from a personal and a professional background. As a member of the Tahltan Nation, along with my related work experience, I have come to realize the difficulties we face. Prior to starting my masters' degree I worked for the Tahltan Central Council (TCC) as the Land Stewardship Coordinator. It was my duty to organize community meetings, interviews, and focus groups to gather traditional knowledge (TK) of the land base and resources. I was also a member of THREAT (Tahltan Heritage Resource Environmental Assessment Team), a Tahltan organization that works with the provincial government and industry to ensure that Tahltan values are incorporated into the environmental assessment (EA) process. During that time, I

gained an interest in how industry consults and accommodates First Nations. I found it frustrating how consultation was not more successful between the two parties. Therefore, this research reflects on how the Tahltan would like to improve the process of consultation between the provincial government, resource industries, and the Tahltan Nation.

1.1 Research Objectives and Research Questions

My research focuses on the numerous mining and exploration developments currently exploiting Tahltan Traditional land and resources. My research objectives are fourfold:

1) to identify areas the Tahltan people would like to see protected from resource development;

2) to bring together literature on consultation and accommodation, Aboriginal title and rights, and public participation to help inform the Tahltan people in designing processes that fit the community;

3) to draw on my own experience and opinions, as a Tahltan member who has lived and worked in the communities, as well as the experiences and opinions of Tahltan members on how future consultation should be carried out; and

4) to examine a completed First Nation LUP to see if it raises and addresses the kinds of issues being discussed in Tahltan communities.

I believe my research can make a difference because, as Tahltan people, we have land use goals. We are progressing towards a better understanding of the steps required to reach those goals. Based on these objectives, my research sets out to answer three questions: how do the Tahltan want to proceed with future consultation with the mining industry? How

has a land plan raised and addressed land and resource issues for another First Nation group? And how might having such a plan improve the consultation process for the Tahltan?

1.2 Tahltan Traditional Territory

Tahltan Traditional Territory covers roughly 93,500 km squared in northwestern BC (IISD, 2004, pg.3), see Map 1. The people who occupy this territory are primarily members of the Tahltan First Nation. In 2003, there were about 5,000 Tahltan people registered as members of the Nation. Of this 5,000, about 1,000 permanently reside within the Traditional Territory (IISD, 2004, pg. 6). Three Tahltan communities are located within the Territory: Iskut, Dease Lake, and Telegraph Creek. Both Iskut and Telegraph Creek are small communities, with a population of approximately 200 people each, located on Indian reserve land. Dease Lake, although not located on an Indian reserve, is home to the majority of Tahltan living in the Territory. Two Indian Bands comprise the Tahltan First Nation: the Tahltan Band centered in Telegraph Creek, and the Iskut Band centered in Iskut (See map 2). The first major influx of non-Tahltan people into the Territory began in 1861 during the Stikine River Gold Rush (IISD, 2004, pg. 7). It was not until the 1970's that the population within the Territory increased with "homesteaders coming in from southern B.C. and the U.S." (IISD, 2004, pg. 7).

1.3 Context

To begin discussing the Tahltan and our Traditional Territory, I must first acknowledge "The Declaration of the Tahltan Tribe 1910" (also referred to as the "1910 Declaration", see Appendix 1). This document asserts our sovereignty over our Traditional

Territory that has existed from time immemorial. A common belief among Tahltans is that all land and resource issues must begin and end with what is asserted within the 1910 Declaration. I will refer to this document and reiterate the significance it has for me and for my people throughout this thesis. The 1910 Declaration is discussed in some detail in Chapter 4.

As a member of the Tahltan First Nation, I have experienced living and working within the three Tahltan communities. My job as the Land Stewardship Coordinator, acquired after completing my undergraduate degree (2006-2008), focused around the construction of a land stewardship plan, also known as *Ze Dūh Ke yea, Dūh-nē-nē (Forever Our Land, Our Country): Tahltan Land Stewardship Plan* (TLSP). Due to the dissension between the various Tahltan groups (e.g. Klabona Keepers[1], the Elders, TCC) I did not receive much Tahltan participation in the TLSP process. It is my hope, through the research completed for this thesis that I will be able to show why a land plan developed with participation of a large percent of the Tahltan population will be a beneficial document.

I believe that if a majority of Tahltan people had been involved with the TLSP process, there might have been less disagreement with regards to resource use and consultation issues because the TLSP would determine the requirements to meet suitable resource decisions and meaningful consultation with industry and government. I also realize a land plan for the Tahltan could provide the means for adequate community based consultation. As stated in the TLSP Introduction/Vision Statement, the purpose of the TLSP is:

[1] The Klabona Keepers are a self-appointed group of Iskut Band members of the Tahltan Nation who aim to ensure responsible stewardship of the sacred headwaters (Klabona) of the Nass, Stikine and Skeena Rivers (Sacred Headwaters: Skeena/Nass/Stikine). The Klabona Keepers became a registered society, under the British Columbia Society Act, on August 21, 2006.

> To provide a means for the Tahltan members to have a say in the land and resource issues within Tahltan Territory. The elected Tahltan government representatives and staff will use this strategic plan as a guide to prepare for and participate in negotiations with the federal and provincial governments and industry. This plan is a vision of what the Tahltan Nation would like to achieve in land and resource issues over the next few years (Tahltan Nation, 2008, pg. 7).

The TLSP was to be a document written by the Tahltan for the Tahltan.

Tahltan members had little trust in the TCC when I lived and worked in the communities (2006-2008). Since that time, however, there have been changes in the elected leadership. The mistrust began several years ago (2004) with the newly elected leadership. Many people felt that the leadership did not properly represent them or their concerns, and did not fully inform them on all issues regarding resource development. For example, the division within the Tahltan communities was evident when Terry Brown, a Tahltan member, accused prior Tahltan Chief, Jerry Asp, of "signing an environmentally dangerous deal with Fortune [Minerals Ltd.] without consulting his people...They built a blockade in response and have been holding a sit in calling for him to step down for months" (Carmichael, 2005). A short time after Jerry Asp stepped down as Tahltan Chief (2006), a newly elected leadership was brought in. As a result of the past mistrust in TCC, several other groups formed with the idea they should be the broad governing body for the Tahltan Nation. One group, who call themselves 'The Elders'[2], believe they hold "the responsibility to uphold Tahltan beliefs, customs, values and laws for future generations" (Tahltan Elders, 2005).

[2] The Elders group primarily consists of Tahltan Elders from Telegraph Creek. The Elders group has been active within the communities, especially in regards to meetings concerning land and resource issues.

In 2005, nine Tahltan Elders who were trying to defend an area near the headwaters of the Stikine from coalbed methane drilling were arrested (Carmichael, 2005). Table 1.1 lists those events leading up to, and surrounding the arrests. During the time I worked with and for the Tahltan people I became more knowledgeable about the circumstances of these arrests. Most, if not all, the people arrested that day belong to the Klabona Keepers. An article by Amy Carmichael (2005) shows the degree to which the community was split on some mining projects. For example, Carmichael writes that speeches were made by two elected leaders prior to the arrest of the Elders; those speeches stated the division within the communities. The article further exemplifies the division by the quoting Garry Merkel, a Tahltan member and at the time chair of the Tahltan Nation Development Corporation (TNDC) "if the blockade continues, 60 jobs could be lost, along with a $1.5-million contract" (Carmichael, 2005). The article illustrates how Tahltan Elders blockaded to protect our Traditional Territory and to keep a mining company from coming in to drill certain areas of our land.

Table 1.1 Chronological List of Mentioned Events

2004	Large scale mistrust in newly elected leadership begins due to division of community opinions on resource use and/or development
2005	Sit-in by Elders group at the Tahltan Band Council begins
March 2005	Klabona Keepers blockade the Klappan road from resource development by Shell Canada, and Fortune Minerals Ltd.
September 2005	Nine Tahltan Elders Arrested
August 2006	Klabona Keepers become a registered society under the BC Society Act

The blockade was as a result of concerned individuals who chose to defend what they understood to be sovereign rights to their territory and land entitlement. Historically, common territorial interests and concerns among many Aboriginal people

have been ignored by government policies that serve the interests of many BC residents, but where the costs are born by First Nations. One example is the Cassiar asbestos mine, located off Highway 37 north of Dease Lake. The Cassiar asbestos mine began producing in 1952, and although the mine is not within Tahltan Territory, it did hire many Tahltan members as well as other surrounding First Nations. The Cassiar asbestos mine "began a cycle of industrial boom & bust mines that has wrecked havoc on the Northwest. Today Tahltan Territory continues to be ravaged by an international mining industry made rich and powerful from its century old dual practice of lawless colonial plunder and ruthless human and environmental depredation" (First Nations Land Right and Environmentalism in British Columbia, 2008, ¶ 8).

The blockading by the Klabona Keepers meant direct action to halt mining movements on traditional lands. Blockades have commonly been used as a political tool or a complex tactic in order to demand negotiations regarding Aboriginal title and ownership (Blomley, 1996). Blockades have also been used to attract media and government attention to controversial negotiations that involve a top down approach by government, or suffer from inadequate or lack of consultation processes by resource companies.

Many of the Tahltan people who reside in Iskut, and associate themselves with the Klabona Keepers, came together to blockade Shell Canada and Fortune Minerals Ltd from going into Klappan, their traditional hunting territory, during the summer of 2005. Since then the Klabona Keepers have continued the stewardship of the Klappan, preventing other land users from depleting our resources. The most recent incident involved non-native resident hunters during peak hunting season. Previous to the blockade, other mining

companies came into Tahltan Territory and without much consultation with local people were able to go ahead with business as they pleased. The companies have been many, and the operating mines have included Eskay Creek (1995-2008), Golden Bear (1990-2002), Johnny Mountain (1988-1990) and Snip (1991-1999). The Klabona Keepers were not going to let this continue to happen and were willing to fight to protect the land and its resources in the only manner they felt might stop resource industries.

Loomis (2000) shares his experience of working with First Nations who are overcome with land conflicts. He states, "some First Nations peoples have been understandably reluctant to engage in dialogue for fear of losing control over their knowledge, or becoming embroiled in abstract debates about issues that are for them a matter of survival" (pg. 896). Education within the communities is mandatory for overcoming the fear of engaging with resource developers and possibly limiting the need for blockading. There is no Tahltan policy in place for adequate consultation with the community members outside of the TCC. It is important for me to reiterate that Tahltan leadership has changed since my time working at TCC. It is also important to state within the thesis that, according to some of the participants, Tahltan consultation policies have somewhat improved; this will be further elaborated in section 6.3.

1.4 Summary of Thesis Chapters

Following this introductory chapter, is a literature review chapter which has three parts. The first has three subsections: Aboriginal rights and title, public participation in consultation practices, and consultation with First Nations. The second part of the literature review chapter establishes the background information on Tahltan governance and the ways

in which a Nation can improve their welfare through nation-building. The third part looks at the conceptual framework used for this thesis.

Chapter three outlines the research methodology used both in carrying out my fieldwork and in writing this thesis. It begins with how I addressed issues of power and control, and how my insider/outsider experiences played a role. The chapter then details how I gained permission from the Band Councils and TCC, incorporated community input, carried out pre-testing, determined sample targets, and research participants (28 in total). Next I discuss ethical considerations, such as informed consent and preserving anonymity among participants. The rest of the chapter describes contact procedures, the interviewing process, and participant verification. It provides my framework for content analysis, data coding, and how the community was able to verify each stage of my research. The chapter concludes by identifying limitations within the research methodology, and my position as a Tahltan researcher conducting research within my home communities.

The following three chapters (Chapters 4, 5, and 6) seek to answer the first research question: how do the Tahltan want to proceed with future consultation with the mining industry? Chapter four discusses how the Tahltan view land use planning and consultation. Within this chapter past land use planning initiatives by the Tahltan are also discussed, such as the "1987 Resource Development Policy Statement" and the "2003 Out of Respect Report" and their importance to resource development within Tahltan Territory.

Chapter five is an analysis of the interview data and is divided into five sections. To start off, I list suggested areas for protection or development. Next, I discuss consultation with industry and summarize how the Tahltan want future consultation with resource industry to proceed. In the third section, I discuss consultation with the provincial

government, which leads me to summarize how Tahltan believe the province *should* carry out consultation and accommodation. In the fourth section the participants' opinions on how the TCC is consulting our members is discussed. Finally, I summarize participants' opinions on how a LUP might improve consultation, how a LUP might improve the environmental standards for resource development, and how we might ensure Tahltan participation in a land use planning processes.

Chapter six examines a LUP completed by the Heiltsuk Nation, to determine how that LUP raised and addressed similar issues being discussed in Tahltan communities, and assesses whether a LUP for the Tahltan will be beneficial to the consultation process. The seventh and final chapter offers conclusions, recommendations, and poses further research questions that arise from this study.

1.5 Terminology

This thesis italicizes Tahltan words, and place names, but not the names of First Nations (e.g. Tahltan, Heiltsuk). I have also italicized direct quotes from the interviews. I have capitalized 'Traditional Territory' when referring to Tahltan Traditional Territory just as one would capitalize the name of countries, provinces, etc. In showing respect I have capitalized the word 'Elder' throughout as well. Tahltan communities (i.e. Dease Lake, Iskut and Telegraph Creek) refer to the three communities located within the Tahltan Traditional Territory. Tahltan Nation refers to the entire group of people who associate themselves with 'being' Tahltan. It should also be noted that "Tahltan" also refers to the language, a fishing village, and a river; I distinguish between each as needed. Throughout

this thesis I use the term 'our' when referring to the Tahltan Nation's views, goals, and beliefs, as I am a member of the Tahltan Nation.

Chapter Two: Literature Review

2.0 Introduction

This chapter is divided in three sections. First, I explore background literature regarding consultation as it pertains to Aboriginal title and rights, general public participation, and consultation with First Nations. Then I discuss Tahltan governance and our social and political frameworks of the past and present. Within this section I discuss the ways in which a Nation can move towards practical decision-making though Cornell and Kalt's (2006) nation-building approach. The final section outlines my conceptual framework.

2.1 Literature Review

2.1.1 Aboriginal Title and Rights

To discuss both federal and provincial governments' duty to consult and accommodate, I draw on McNeil's (2007) paper "The Jurisdiction of Inherent Right Aboriginal Governments". McNeil attempts to answer questions such as "what is the scope of the governmental authority, or jurisdiction, that is exercisable by inherent right Aboriginal governments? And how does the jurisdiction of Aboriginal governments interact with the jurisdiction of other governments in Canada, especially the federal and provincial governments?" (pg. 1).

An inherent right to Aboriginal governance has become a generally accepted aspect of Canadian constitutional law (McNeil, 2006). But if Aboriginal people want to avoid court challenges it would be "safest for them to exercise jurisdiction in relation to Aboriginal and treaty rights that they claim they already have" (McNeil, 2006, pg. 30).

The BC *Campbell* court case of 2000 decided that First Nations do have a right of self-government. Thus, if an Aboriginal group has a claim to their traditional territory, they can assert a right of self-government and if the provincial government exercises jurisdiction over those same lands there is "potential infringement of their Aboriginal title and of their decision-making authority in relation to those lands" (McNeil, 2006, pg. 30). Potential infringement would trigger the provincial government's duty to consult with Aboriginal people and, when appropriate, accommodate their interests.

Bankes and Sharvit (1998) discuss mining legislation in the Yukon and Northwest Territories and how this legislation allows miners to enter "Aboriginal traditional lands, stake claims, go to lease and produce and export minerals without requiring the consent" of these Aboriginal groups (pg. 1). The authors analyze the mining legislation and describe conflicts between free entry mineral exploration and Aboriginal peoples' rights. Bankes and Sharvit give three case studies: the Baker Lake uranium staking rush in the 1970's, the Lac de Gras diamond rush in the 1990's, and the Finlayson-Wolverine Lake staking rush in the 1990's. During the Lac de Gras diamond rush "prospectors actually staked portions of the community without any communication with community leaders. Such consultation often occurs after the event when companies require further regulatory approvals…A rush of this kind can result in direct interference with the traditional uses Aboriginal peoples make of their land" (Bankes and Sharvit, 1998, pg. 9). The chapter continues to explain conflicts between Aboriginal people and prospectors, as well as how these disputes were dealt, or not dealt, with.

The authors outline the difference of Aboriginal rights compared to Aboriginal title when questioning a mineral disposition system. They describe how Aboriginal

peoples might have a difficult time proving an infringement on Aboriginal rights: "the practice, custom or tradition must have been central to the society as it existed prior to contact with Europeans and the plaintiff must demonstrate the continuity of that practice, custom or tradition" (Bankes and Sharvit, 1998, pg. 58-59). Alternatively "a claim based upon title poses fewer difficulties primarily because an Aboriginal title represents an exclusive claim" (Bankes and Sharvit, 1998, pg. 57). Claims to Aboriginal title are encompassed within the Aboriginal rights conceptual framework, but Aboriginal rights do not exist exclusively where a claim to Aboriginal title has been made.

Bartlett's (1991) book *Resource Development and Aboriginal Land Rights* consists of two-background research papers, "Resource Development and Aboriginal Title in Canada" and "Resource Development and Treaty Entitlement in Western Canada". Both papers reflect research Bartlett carried out as Chair of Natural Resources Law in the Faculty of Law at the University of Calgary. The content of these two papers shows the need for government to reach an agreement with Aboriginal peoples regarding the terms in which resource development may proceed. The author defines and debates Aboriginal title and asks questions such as: "do Aboriginal people have complete ownership? Or traditional uses only?" (Bartlett, 1991, pg. 5). He also asks, "Who has dominant title: the resource developers? Or the Aboriginal people?" (Bartlett, 1991, pg. 12).

Bartlett (1991) suggests "the legal framework now in place requires agreement with the Aboriginal people as to the terms under which resource development may take place" (pg. v). He describes the content of Aboriginal title and its significance in determining who may authorize resource development. He elaborates on "who is entitled

to the benefits of ownership of resources, and, if such rights are not vested in the Aboriginal people, whether Aboriginal title is a bar to resource development without the consent of the Aboriginal people" (Bartlett, 1991, pg. 5).

Isaac (2006) provides background information on Aboriginal law through a time line that begins with the historical view of Aboriginal title, the Royal Proclamation of 1763, as well as case law in the pre-*Delgamuukw* and post-*Delgamuukw* periods. The section titled "Remedies" discusses the Crown's duty to consult and accommodate Aboriginal people. Isaac explains how the *Delgamuukw* case identified three 'degrees' of consultation. These three degrees include:

- The rare or occasional category of 'mere consultation' which must occur to address the concerns of Aboriginal people (i.e., notification, information sharing and dialogue);
- The most common category where something 'significantly deeper than mere consultation' will be required (i.e., likely 'mere consultation' plus substantive engagement with Aboriginal peoples, with clear evidence of how their concerns were considered and addressed); and
- The final narrow category where the nature of the Aboriginal interest is such that it requires that the government must obtain the 'consent' of the Aboriginal group involved (Isaac, 2006, quoting *Delgamuukw*, Supra note 4 at para. 168, pg. 35)

The Crown always has the duty to "act honorably" when consulting with First Nations, but that consultation "varies with the nature of the claim and the nature of the infringement" (Isaac, 2006, pg. 35). The book is a recent source that reflects on consultation and provides references to the most recent cases relative to consultation and Aboriginal title.

To define the Crown's duty to consult and accommodate I examined Morellato's (2008) paper "The Crown's Constitutional Duty to Consult and Accommodate

Aboriginal and Treaty Rights". Morellato notes that Crown decisions regarding Aboriginal rights over land, resources, and governance structures

> can galvanize the rights of Indigenous peoples within Canada, advance their quest for self-determination within our Canadian constitutional fabric and, in doing so, facilitate the necessary reconciliation process. Conversely, Crown decisions and decision-making processes can engender further injustice, marginalization, poverty and suffering (Morellato, 2008, pg. 4).

Thus, First Nations need to know and understand the ways in which the Crown's decisions and decision-making processes affect their land and resources in order to mitigate those unjust decisions for the better.

Morellato (2008) explains that if Aboriginal governance rights are not incorporated into the consultation and accommodation process then it will lack authenticity and workability, and will further contribute to a "unilateral exercise of Crown authority" (pg. 4). The Aboriginal people whose treaty rights are being impacted should inform and shape the Crown's decisions because Aboriginal people are "better decision-makers about their own affairs, resources, and futures because they have the largest stake in the outcomes" (Cornell and Kalt, 2006, pg. 14).

Morellato describes how cases such as *Delgamuukw* and *Haida* established the legislation to accommodate Aboriginal people when government actions infringe potential or existing Aboriginal rights. She continues to explain that if infringement is not minimized by the federal government and "goes beyond what is required to achieve a valid legislative objective, and if fair compensation or other meaningful accommodation is not made" then a court challenge could leave the Crown decision, license, or permit

unconstitutional and worthless (Morellato, 2008, pg. 8). In order for adequate compensation, First Nations need to realize the legal obligations of the federal government prior to infringement.

The *Delgamuukw* case addressed the fiduciary relationship between the Crown and Aboriginal peoples. This case set out the requirements for the federal government to accommodate Aboriginal title rights by "facilitating the participation of Aboriginal peoples in the development of resources within their traditional lands" (Morellato, 2008, pg. 19). With respect to Aboriginal title itself, the Court reasoned as follows:

> ....Three aspects of Aboriginal title are relevant here. First, Aboriginal title encompasses the right to exclusive use and occupation of the lands; second, Aboriginal title encompasses the right to choose to what use land can be put, subject to the ultimate limit that those uses cannot destroy the ability of the land to sustain future generations of Aboriginal peoples; and third, the lands held pursuant to Aboriginal title have an inescapable economic component (Morellato, 2008, pg. 18, quoting *Delgamuukw, supra* note 9 at paras. 166-167).

I find the *Delgamuukw* case most relevant to my research questions regarding Tahltan consultation on resource and land issues. Consultation and the principle that "Aboriginal title encompasses the right to choose how land can be used, gives rise to the duty on the part of the Crown to involve Aboriginal peoples in its decision-making with respect to traditional Aboriginal lands" (Morellato, 2008, p. 20) is beneficial for those First Nations seeking greater input into government decision-making processes. The difficulty with this is, what is meant by the term *consultation*? Is it that the Crown has the duty to notify First Nations of intended activity or would consultation "require the full consent of a

First Nation prior to government action" (Morellato, 2008, p. 20)? Drawing on experiences the Tahltan have had with resource development, some parties (i.e. industries and government) seem to think that a telephone call or quickly organized meeting is consultation, whereas First Nations believe consultation requires a more sustained dialogue, discussion, and/or negotiation before undertaking a coarse of action.

2.1.2 Public Dialogue and Relationship Building in Consultation Practices

I identified a shortage of literature on First Nations participation in the public consultation processes. The lack of such literature will leave a gap in my research, which I hope will be filled through further research outside the scope of this thesis. This section of the literature review includes discussions of a variety of authors' analyses of approaches to public participation. Some used case studies to critique and suggest ways of improving the existing process, while others discussed the required consultation between government and the general public, looking at what worked and what needed improvement.

Beierle and Cayford's (2002) work, *Democracy in Practice: Public Participation in Environmental Decisions,* discusses the use and conservation of natural resources and how public participation processes fit into environmental issues. The authors believe that the role of public participation is "crucial for understanding how government makes and carries out environmental policy" (pg. 1). They discuss how public participation plays a central role in environmental policy making. The literature examines a large number of case studies in the United States but does not discuss Aboriginal involvement in policy

making. However, many of the issues argued may be useful to the overall topic of third party involvement (those not related to government and industry).

The authors outline a conceptual model for public participation, which includes three categories: context, process, and results. The context category "refers to all the features of a given situation that a public participation process confronts" (Beierle and Cayford, 2002, pg. 10), and may include types of issues, preexisting relationships (e.g. mistrust of government), and institutional settings. The process category might include public meetings, advisory committees, or negotiations. Process also includes the types of mechanisms (i.e. selection of participants) and variable process features. The results category is a combination of the context and process, which includes a "specific output of the public participation process" (Beierle and Cayford, 2002, pg.12-13).

To evaluate the results category, Beierle and Cayford give five social goals: 1) incorporating public values into decisions; 2) improving the substantive quality of decisions; 3) resolving conflict among competing interests; 4) building trust in institutions; 5) and educating and informing the public (2002, pg.14-15). These goals are key in determining success in public participation. The most pertinent suggestion to my research, due to the general agreement by Tahltan participants that consultation is largely inadequate, is "public participation processes do need to effectively incorporate technical information, education and analysis" in order to break the cycle of the "all-too common public hearing" (Beierle and Cayford, 2002, pg. 75).

Halseth and Booth (2003) discuss aspects of consultation between government and the general public. Their paper looks at data from a household survey and "examines the public's familiarity with resource planning processes and the perceptions by those

members of the public who were active in a local resource planning exercise about what works well and what needs improvement in these processes" (Halseth and Booth, 2003, pg. 438). The authors describe a timeline of the public's concern in environmental issues, starting in 1945 in North American society, which further increased over time as "environmental issues such as pollution and species extinction" increased (pg. 440). They also highlight three main areas where policy makers should direct their attention. First, there needs to be "advance knowledge and awareness about where and when these events are taking place" (Halseth and Booth, 2003, pg. 445). Second, there is "a need for access to timely, relevant and readable information" (Halseth and Booth, 2003, pg. 437). The authors also note that "legal notices with abstract language and indecipherable boundary definition statements are not effective in capturing the attention of the general public" (Halseth and Booth, 2003, pg. 445). Third, there needs to be "greater clarity about the process itself, including mandates, participants and decision-making powers" (Halseth and Booth, 2003, pg. 437).

Nearly 60 per cent of all respondents in the household survey of Halseth and Booth's study had some prior participation in local public consultation processes. This varied from "written submissions to direct involvement in roundtable debates" (Halseth and Booth, 2003, pg. 444). Although these respondents were involved, the authors noted that participation declines for "activity or engagement with the resource planning processes" (Halseth and Booth, 2003, pg. 444). The suggestions that Halseth and Booth give on what works (i.e. public consultation aspect of the process) and what needs improvement (i.e. communication, access to information) will direct policy makers' attention towards the general problems the public face when dealing with consultation.

Giesbrecht's (2003) masters thesis *Public Participation in Resource Management: The Bulkley Valley Community Resources Board* explores traditional public participation in management planning and decision-making processes. Giesbrecht recognizes that public participation in government-initiated planning "does not result in a level of influence over process outcomes" (2003, pg. 1). She identifies that this is largely due to the 'top-down' nature of government and that "public participation mechanisms are often treated as an 'add-on' or afterthought to such pre-existing processes" (Giesbrecht, 2003, pg. 1). The research illustrates how public participation has evolved from the early stages to the process it is today. Giesbrecht explores the linkages between "public participation, community conflict, community organization, and community power" (2003, pg. ii).

Bureaucracies enjoy power and influence in decision-making processes, most notably due to the resources available to them (i.e. material resources, skills, expertise, and information) (Giesbrecht, referencing Desario and Langton, 1987; Hessing and Howlett, 1997, pg. 127). As a result, bureaucracies are hesitant to change decision-making processes. However, the changes that have occurred move towards grassroots community organizations and inclusion in planning and decision-making of groups who in the past had little input. The ideas presented illustrate important aspects of an increased public role in typically top-down processes.

By incorporating public participation into decision–making processes, as shown in the work of Beierle and Cayford, and Giesbrecht, we move towards an inclusive policymaking process, rather than the top-down approach seen in the past. The suggestions of Halseth and Booth provide ways to improve public participation so it

aligns with how the Tahltan wish to see dialogue and relationship building improved. Increased Tahltan involvement and input in decision-making from the beginning stages, and throughout, will resolve much of the underlying issues when it comes to having a successful project in Tahltan Territory.

2.1.3 Consultation with First Nations

Current understandings of the term consultation differ depending on who is defining it. While all provincial ministries in BC have their own consultation guidelines, these must, however, conform to the *Provincial Policy for Consultation with First Nations (October 2002)* (Marsden, 2005, pg. 58). The *Provincial Policy* states that "until aboriginal rights and/or title are proven through a court process, the Province has an obligation to consider aboriginal interests in decision-making processes that could lead to impacts on those interests" (British Columbia, 2002, pg. 5).

While many of the Tahltan have voiced that is it the duty of the province to consult and accommodate, they also want meaningful dialogue and relationship building with resource development companies. Some companies have considered a phone call to a First Nations Band office to constitute consultation, while others have strived to truly accommodate the First Nation whose title and rights have been infringed upon. Some First Nations define consultation as "a tool to further the ends of reconciliation of competing notions of sovereignty, title, jurisdiction and rights" (Marsden, 2005, pg. 38). This understanding of consultation is closer to accommodation, and recognizes Tahltan rights and title.

Howitt (2001) offers a framework for revising the dominant approaches to resource management. He discusses the relationships between resource projects and indigenous peoples; his main argument is that current resource management practices do not consider indigenous values. Howitt states, "we must rethink resource management in order to make resource management decisions more accountable to critical human values such as social justice, ecological sustainability, economic equity and cultural diversity" (Howitt, 2001, p.xv). Howitt utilizes the field of human geography to analyze several case studies and discuss 'ways of thinking' regarding landscapes. Howitt's discussion on resource management was influential in grounding my work on a geographical scale. He states "places are conceptualized as complex sites of interaction which are constructed and reconstructed at multiple scales, and where links between predominantly 'local' and predominantly 'global' imperatives shape lives and opportunities" (Howitt, 2001, pg.108). The value of this approach for First Nations is key due to the strong connection First Nations have with their land and sense of place.

Howitt also addresses cross-cultural factors in social impact assessment processes, and why they are ignored in impact assessments regarding resource management. He suggests six steps to a successful social impact assessment process: 1) scoping; 2) profiling; 3) formulating alternatives; 4) predicting effects; 5) monitoring and mitigating; and 6) evaluating (Howitt, 2001). Howitt also suggests that "the integration of impact assessment and indigenous negotiations may increase the certainty in the planning process, even the limited opportunities indigenous people have to participate in impact assessments are resented by some commentators" (2001, pg. 341-342).

Marsden's (2005) masters thesis, *From the Land to the Supreme Court, and Back*

Again: Defining Meaningful Consultation with First Nations in Northern British Columbia discusses "provincial consultation with and accommodation for First Nations in Northern B.C." (pg.1). The research question posed is "how does the Supreme Court of Canada, First Nations within Northern BC, and the provincial government define meaningful consultation?" (Marsden, 2005, pg. 3). The thesis examines a wide range of landmark court decisions including the *Sparrow*, *Delgamuukw*, *Haida*, and the *Taku* cases. These court cases rule how meaningful consultation should be carried out, which ultimately is the groundwork for her thesis. Marsden also focuses on what "constitutes meaningful consultation when consultation is required" (2005, pg. 1).

Marsden summarizes the principles of meaningful consultation established by the Supreme Court of Canada, the government of BC, and by First Nations in Northern BC, which are listed below in her Table 2.1. The principles within the table rest on the underlying notion of consent. Marsden (2005) notes that,

> To consult can mean to seek advice or input, or to seek permission or approval. The Province, now with the support of the Supreme Court through the *Haida* and *Taku* decisions, is seeking to achieve the former in their consultation efforts. On the other hand, First Nations maintain that their consent is integral to resource management decision making, pointing to previous and existing consultation practices which have only resulted in their 'participation in participation.' Now that government is not required to seek First Nations consent in consultation, except in very exceptional circumstances, such processes that demand intensive human and financial resources for First Nations to participate, may appear hollow and meaningless (pg. 100-101).

Table 2.1 Principles of Meaningful Consultation

Criteria as found in the literature	Legal Principles established by Supreme Court of Canada	As described by the Government of British Columbia	As described by First Nations in Northern B.C.
Overall Purpose of Relationship-Building	• Consultation in context of Honour of the Crown in dealing with Aboriginal people. • Part of larger goal of reconciliation	• Purpose of discharging legal duty and achieving certainty on land base. • All interaction With Prejudice.	• Government-to-Government relationship. • Reconciling First Nation sovereignty (Ab. Title & rights) with Crown asserted sovereignty. • *With Prejudice* erodes relationships.
Pro-Active, Not Re-Active	• Emphasize negotiations over litigation.	• Duty of consultation result of litigation. • Policy meets minimal legal requirements.	• Reconciliation and protection of Aboriginal title and rights prevents litigation.
Representation	• No specific reference.	• Indian Act Chief & Council, or their authorized representative.	• Traditional leaders-legal basis. • No uniform position. • Critical of accommodating only First Nations who support decision.
Continuous Cycle of Consultation	• Strategic level planning consultation may be more effective, in some cases	• Some high level/strategic consultation. • B.C.'s discretion over what policy, decision, legislation to consult on.	• Multi-level; jointly determined: Planning, policy, legislation, operational- anything with potential to impact.
Ability to Modify Decision	• No duty to reach agreement.	• No consent required. • B.C.'s discretion to incorporate input.	• Consent required. • Need guarantees of incorporation of input, otherwise process meaningless.
Respecting the Right of Non-Participation	• Consultation is "two-way street." (no 'unreasonable thwarting of government process')	• First Nations must participate in government consultation process. • Assessing impacts and process will go on	• May be sign of lack of capacity, lack of trust, or issue with process. • Not to be taken as lack of interest or no impacts.

		without First Nations.	
Criteria as found in the literature	**Legal Principles established by Supreme Court of Canada**	**As described by the Government of British Columbia**	**As described by First Nations in Northern B.C.**
Financial Resources	• No legal duty on government to provide funding to First Nations. • Compensation may be required for infringement of Aboriginal title.	• No blanket funding for consultation. • Case-by-case basis. • Can be result of accommodation, expected to cover consultation costs.	• Should reflect revenues generated from land base. • B.C. acts as proponent, creates interest in land, should provide funds equivalent to what industry receives.
No Unilateral Changes	• Did not question B.C.'s abrupt end to EAA process in *Taku*	• Asserts unilateral discretion over most aspects of process.	• Unilateral changes call final decision into question.
Two-Way Process	• Consultation is "two-way street."	• First Nations bound to participate in B.C.'s process.	• No specific reference.
Equal Value of Inputs	• Recognition of oral history.	• Cost/benefit analysis. • Emphasis on economic development	• Traditional knowledge. • Oral history.
Balance of Substantive and Process-Based Approaches	• Emphasize meaningful process, no duty to reach agreement, no requirements of final decision.	• Emphasis legally adequate process, show due diligence. • No duty to reach agreement. • Final decision must balance interests of First Nations and all of British Columbians.	• Frustrated by 'participating in participating' – no substantive outcome or change. • Outcome must be a joint decision.
Sound Research	• No specific reference.	• Consultative Areas Database-Confidential.	• No specific reference.
Legitimate Decision-Making	• Some cases focus more on justification of infringement as purpose of consultation.	• Focus on discharging legal duty. • Justifying infringement before avoiding it.	• Avoid infringements before justifying them. • Recognize and protect Aboriginal rights and title.

Source: Marsden, 2005, pg. 99-100

According to Woodward, consultation is a doctrinal mechanism that is part of how the Crown justifies infringement of Aboriginal rights. Consultation can be understood to exist on a continuum: the deeper the potential infringement of the

proposed activity the deeper the required consultation will be, in order to satisfy the obligations of maintaining the 'honour of the Crown'. At the lower end of the continuum the Crown's duty will be to "give notice, disclose information, and discuss any issues raised in response to notice. At the higher end of the spectrum, the Crown will seem to work with the Aboriginal group to try to find a satisfactory way of accommodating the group's reasonable concerns" (Woodward, 1994, pg. 5-42-43).

Many of the cases Marsden refers to are situated in northern B.C. The author details the issues related to treaty negotiations and First Nations-BC government relations. Marsden (2005) notes that, "for First Nations, the driving force behind their political life has been prevention or reversal of their dispossession of land. For the province, the impetus has been the development of the land and resources, to both sustain settler populations and to utilize land deemed underdeveloped" (pg. 5). She also notes that treaty negotiations remain the "primary vehicle for the resolution of the land question, consultation and accommodation has become increasingly important because of the protracted and lengthy negotiations towards treaties" (Marsden, 2005, pg. 7).

Sharvit's et al. (1999) work *Resource Developments on Traditional Lands: The Duty to Consult* discusses emerging law on the duty to consult with Aboriginal peoples in Canada. This document covers basic requirements, general principles of consultation, and comments and suggestions on aspects of the consultation process. The authors outline who must engage in consultation, among the government, the levels of government, and within Aboriginal communities. Chapter three explains Section 35 (1) of the Constitution Act, 1982, which "requires government to give Aboriginal and treaty

rights priority, and to infringe upon them only to the extent necessary to achieve a compelling and substantial objective" (Sharvit et al., 1999, pg. 5).

The authors note, "the courts have determined Aboriginal and treaty rights to be collective rights" (Sharvit et al., 1999, pg. 11), thus making it more difficult to determine whom government should consult with in Aboriginal communities. They suggest project components "should not be consulting solely with individuals who are affected in their particular exercise of those collective rights, but also with community representatives" (Sharvit et al., 1999, pg. 11). Government and project proponents should consult with those "whom government can reasonably assume are in a position to represent the needs of a group and make decisions on behalf of that group" (Sharvit et al., 1999, pg. 11). McNeil (2006) explains that,

> in situations where Aboriginal rights are asserted but not yet proven, we have seen that the Crown has a duty to consult the Aboriginal Nation making the claim and to accommodate their interests in appropriate circumstances. Those interests would include their claim to a right of self-government over the Aboriginal rights being asserted (pg. 18).

This means that the Crown's duty to consult and accommodate has to take into account First Nations decision-making authority over their Aboriginal title lands. For the Tahltan Nation, our current decision-making authority, and governance system, would be the TCC.

Urquhart's (2010) masters thesis *Building Consultation from the Bottom Up: A Case Study of the North Yukon* is a prime example of current consultation principles and procedures in a small First Nation community. Urquhart discusses the broad definition of

consultation and how First Nations need to define consultation in their own terms. Urquhart (2010) attempts to define consultation as "the vehicle for bringing diverse interests together to reach mutual agreements on how to proceed with respect to resource development" (pg. 8). The ideas presented in his thesis reflect the concept of consultation from the perspective of the community of Old Crow, Yukon and the Vuntut Gwitchin First Nation (VGFN). Urquhart describes the tie First Nations have to their land and how this is usually overlooked in resource related consultation (referencing McKillop, 2002, pg. 13). The author recognizes the VGFN's tie with their land but how that connection affects consultation is yet to be addressed.

Consultation with First Nations has changed drastically over the last few decades. Howitt's work shows how the consultation process and resource management can continue to improve in order for indigenous values to be incorporated in the planning process. The Tahltan have voiced their concern about what constitutes meaningful consultation and when consultation needs to occur. The work done by Marsden and by Sharvit et. al. attempts to define the basic legal requirements and the ways in which First Nations can utilize past experiences for the betterment of consultation practiced today. Urquhart illustrates how a First Nation community might define consultation based on that community's value of the land.

2.2 Tahltan Governance

To explore the Tahltan Nation's consultation process, it is necessary to give readers insight on the past and present political framework of the Tahltan governance, so that they may better understand how the consultation process and policies are typically

organized. By understanding how our governance is organized one can be more clear on how the Tahltan have structured our Nation. In the next sub-section I discuss nation-building and what that means for the Tahltan of the past, and the ways in which it will help shape our future. For this section, I begin with the historical organization of the Tahltan people.

Both historically and presently two clans comprise the Nation: the *Ch'iyone* (Wolf) and the *Tsesk'iye* (Crow) clans. Originally, there were six family groups, which included *Tudenekoten, Naloten, Tlepanoten, Talakoten, Naskoten,* and *Tagicoten* (see Map 3). In *Recording Their Story,* Thompson, a member of Tahltan Nation, expands on James Teit's work with the Tahltan and states, "each phratry [Wolf and Crow] consists of three clans [family groups]...each of which has a hereditary chief and territory of its own. These six chiefs form the governing body of the tribe" (Thompson, 2007, pg. 57).

The six-family system of the past is no longer in use as the governing body. The current governing framework is comprised of two Band Chiefs (Tahltan Band and Iskut First Nation), the chair of the TCC, and a board of ten directors whose seats carry a term of two years. Each board member represents one of the ten contemporary Tahltan families: *Thicke/ Stikine Claw, Shoe-kawk/ Howd-a-Ghtte, Good-za-ma, Cawtoonma, Carlick, Thud ga, Quock, Etzenlee, Simgaldtadta,* and *E-etheny*. The traditional governance will be further elaborated on in chapter 4.

2.2.1 Nation-building Characteristics

The decision-making process for our communities has greatly improved over the years; as a member living outside the territory I see this in some of the recent community

meetings held in Prince George, BC. Prior to the signing of the Galore Creek impact benefit agreement (IBA) the decision-making process for the Tahltan was largely a top-down process without a great deal of input from community members, especially those outside of the Traditional Territory. However, there are still ways in which our leaders can improve the decision-making process. Cornell and Kalt's (2006) article, *Two Approaches to Economic Development on American Indian Reservations: One Works, the Other Doesn't,* offers suggestions on nation-building and provides central characteristics on how a Nation should begin practical decision-making. Some of the nation-building approaches that Cornell and Kalt suggest include practical sovereignty, effective governing institutions, cultural match, strategic orientation, and nation-building leadership.

Through the nation-building approach and its characteristics many First Nations are "building the foundational, institutional capacity to exercise sovereignty effectively" (Cornell and Kalt, 2006, pg. 11). Cornell and Kalt describe the "three distinct stages in the evolution of tribal sovereignty: law, policy, and practice" (2006, pg. 12). The authors discuss how nation-building provides the means to build foundational institutional capacity, in order to exercise sovereignty. In doing so, a Nation can provide its communities with a positive environment for sustained economic development.

Effective governing institutions put in place "the rules by which the members of a society make decisions, cooperate with each other, resolve disputes, and pursue their jointly held objectives" (Cornell and Kalt, 2006, pg. 14). These rules address the proper ways of doing day-to-day activities according to that particular government; "they represent agreement among a society's members about how collective life should be

organized" (Cornell and Kalt, 2006, pg. 14). Therefore, it is key to have a government that encourages economic activity, and growth for that Nation.

Cornell and Kalt explain that government institutions should culturally match or reflect how the Nation would like to see authority organized and exercised because it ensures that "authority will be recognized and used in a politically consonant manner" (King and Begay, 2003, pg. 55). Formal governing institutions and Aboriginal ideas about the form and organization of political power are almost always mismatched. Cornell and Kalt state, "where cultural match is high, economic development tends to be more successful. Where cultural match is low, the legitimacy of tribal government also is low, the governing institutions consequently are less effective, and economic development falters" (2006, pg. 16). The authors note that governing institutions must reflect "deeply-held community beliefs" about authority but must also be able to adjust to the demands of contemporary times (2006, pg. 16).

The National Center for First Nations Governance (NCFNG) website states that, "through the *Indian Act*, traditional governance was separated from formal decision-making power and authority". However, in the early 1990s, federal and Yukon territorial settlement legislation provided the basis for the creation and ratification of the *Teslin Tlingit Council Final and Self-Government Agreements* (NCFNG, n.d., ¶ 1). This is an excellent example of a First Nation trying to recapture aspects of traditional governance. The Teslin Tlingit, one of the Tahltan's neighboring Nations, incorporates their traditional clan system into modern government and organizational practices, "the results are institutions of governance that are aligned with the traditions and belief systems of

the citizens they govern and represent" (NCFNG, n.d., ¶ 2). The clan design and practice is considered "a best practice in cultural alignment of institutions" (NCFNG, n.d., ¶ 3).

The fourth characteristic Cornell and Kalt suggest includes strategic orientation, which involves "determining long-term objectives, identifying priorities and concerns" (2006, pg. 17), all of which require a shift from reactive to proactive thinking, short-term to long-term thinking, opportunistic toward systemic thinking, and from a narrow problem focus to a broader societal focus (Cornell and Kalt, 2006; see also Keeney, 1996; King and Begay, 2003). By focusing early on our values as a Nation when faced with difficult decision-making we will be able to "create better alternatives than those already identified, and to evaluate more carefully the desirability of the alternatives" (Keeney, 1996, pg. 4).

The final characteristic to nation-building involves the leadership that acts as the driving force; the Nation's primary concern is "institutional and strategic foundations for sustained development and enhanced community welfare. This often means a loss of power for some people and institutions" (Cornell and Kalt, 2006, pg. 17). Cornell and Kalt explain that in the nation-building approach "leadership is not limited to elected officials. It can be found anywhere: in the schools, in local communities, in businesses and programs. Its distinctive features are its public-spiritedness and its determination that empowering the Nation as a whole is more important than empowering individuals or factions" (2006, pg. 18). A leader is one who facilitates activity with her/his people, "rather than commanding or wielding power over them" (King and Begay, 2003, pg. 62). The foundation for First Nations capacity to engage in successful culturally appropriate

resource management and decision-making can be built upon these five nation-building characteristics.

2.3 Conceptual Framework

Due to my background in social geography, and for the purpose of this research, I will deal with the broader issues of social, environmental, cultural, and political interactions within the scope of my research. Throughout the thesis I use Cornell and Kalt's (2006) article on nation-building to suggest ways in which the Tahltan can improve the overall decision-making process for the communities and our members.

Howitt's (2001) *Rethinking Resource Management: Justice, Sustainability and Indigenous Peoples,* states "in entering the discursive spaces of social theory, it is important to keep our purpose clearly in mind. It is all [too] easy to be sidetracked into specious debates about terminology, nuances, and dogma" (pg. 107). Howitt (2001) suggests:

- think simultaneously at multiple scales (world markets; national policies; local communities; micro-environmental niches);
- rigorous analysis linkages between systems that are conventionally kept separate (corporate boardrooms and local community forums; government policy processes and biophysical environmental processes);
- respond practically to complex processes of interaction and change within holistically defined resource management systems (pg. 107).

I use the work of these authors to discuss how to improve the consultation process, and discuss ways to improve the management of our land and resources based on Tahltan values.

Throughout my research it was important for me to keep in mind that, "within resource localities, there are multiple voices, orientated towards multiple goals, imperatives

and concerns, each exercising some influence on the local trajectory of resource management, and each raising theoretical issues" (Howitt, 2001, pg. 108). I have found Howitt's approach to resource management to fit best with my topic as it is rather complex and dynamic, but also fits within the holistic view First Nations people have on land and resources as described by Benson et al., 1989; Kunkel, 2008; and Loomis, 2000.

2.4 Conclusion

The literature reviewed in this chapter covered three main topics: Aboriginal rights and title, public participation in consultation practices, and consultation with First Nations. These topics provide background knowledge for my study, which explores ways of improving community-based consultation through the development of a LUP. The literature notes that court cases, such as *Haida* and *Taku*, established the Crown's legal duty to consult and, if appropriate, accommodate, when the Crown infringes Aboriginal and treaty rights. The section on nation-building provides an overview of central characteristics the Tahltan should be, and in some cases have been, working towards to improve our practical decision-making process. With this research, and the interviews conducted, the Tahltan can determine how we would like to proceed with future consultation with mining industry.

Chapter Three: Methodology

3.0 Introduction

This chapter presents the methods used to investigate and evaluate how the Tahltan want to proceed with future consultation. In this chapter, the research design, the data gathering methods, and the sample selection criteria will be discussed. The chapter also explains the techniques used for data coding and analysis. I conclude the chapter with the methodological limitations of this research and my positionality.

It is key to understand the views and opinions of Tahltan people in order to answer my first research question and key to understand the views and opinions of those communities who have completed a LUP. Thus, I used qualitative methods that consisted of in-depth semi-structured interviews with Tahltan members. To answer my second research question I was unable to collect inside opinions from a Nation who has a completed LUP. Therefore, to gain insight into their issues they included in their LUP, I analyzed the completed Heiltsuk Nation's LUP. I focused on consultation, law, and governance to frame how a LUP might improve the situation for how the Tahltan want to collectively manage our land and resources.

3.1 Insider/Outsider Experience

It is impossible to conduct unbiased research while studying one's own cultures. The researcher's personal experiences while in the field will ultimately shape the outcome of her/his research (Behar, 1996). The role of insider/outsider and participant observer has had the most significant impact on my field research, as researchers studying their home communities and nations can blur the line between "participant and observer, friend and stranger, Aboriginal and alien" (Behar, 1996, pg. 28).

I am considered an insider since I am from the Tahltan Nation. This position has both pros and cons. Dowling (2005) says that "as an insider both the information you collect and your interpretations of it are more valid than those of an 'outsider'" (pg. 26). I felt that the Tahltan interviewees spoke more freely and openly because I know many of them personally but also because I am "more likely to understand what they are saying because I share their outlook on the world" (Dowling, 2005, pg. 26). The ways in which Dowling (2005) exemplifies the positive aspects of being an insider re-assured me when conducting my research. However, Dowling also outlines the negative aspects of being an insider; her main argument is that when the researcher is an outsider, "people make more of an effort to clearly articulate events, circumstances, and feelings to the researcher" (2005, pg. 26).

When the participants viewed me as an insider, they also assumed commonly shared views and feelings. As a researcher, as I listened to the interviews and reflected back, I notice how some of the interviewees overlooked communicating simple details such as English names to go along with the Tahltan place names; this would have been helpful in order for me to map out where these places are located. As an insider, I was familiar with many of the issues and subjects brought up; subsequently this reduced the number of times I asked for clarification on certain subjects. Throughout the project I reflected on the relationship I have with the study group; this allowed me to recognize the different aspects of the relationship that either helped or hindered my research.

Working as an inside researcher can influence our objectivity, and "the social dynamics that shape the qualitative interview" (Ganga and Scott, 2006, ¶ 5). The challenges I have faced as an inside researcher have affected the way in which I perceive

certain community members, and possibly the way they perceive me. Ganga and Scott (2006) term my situation as "diversity in proximity", which "brings to the fore a range of social fissures that structure interaction between researcher and participant, fissures that may otherwise have remained hidden" (¶ 8). When conducting insider research, we work closer to our private selves, whereas an outside researcher might work closer to her/his public self (Ganga and Scott, 2006), thus leaving an inside researcher open to personal scrutiny by her/his community members.

Others may view me as an outsider because I moved from Dease Lake when I was thirteen. Due to the long absence from the community, I do not have a solid relationship with many of the Elders. Although I know who many of them are, the Elders themselves do not know me much as I would like. When I introduced myself to people within the community, especially Elders, it was important to first tell who my parents are, and sometimes my grandparents. Once I introduced myself in this manner I felt less like an outsider and whatever barrier might have been seemed to dissolve.

3.2 Fieldwork Research and Design

My fieldwork consisted of interviews conducted from June 2009 to October 2009. The fieldwork consisted of two planned phases. The first phase sought to answer my first research question: 'how do the Tahltan want to proceed with future consultation with the mining industry?' I conducted in-depth, semi-structured interviews with 28 Tahltan community members who are currently active in the consultation process, including our Band Chiefs, Council members, TCC employees, and others who are active in the field of community consultation. The second phase consisted of examining

a completed First Nation LUP, in order to answer my second research question: 'How has a land plan raised and addressed land and resource issues for another First Nation group?'

3.2.1 Incorporating Community Input

The participatory methods I have chosen incorporated the Tahltan people to the greatest extent possible. One of the ways I used to ensure that the Tahltan communities find my research useful was to collaborate with community members, and to use a participatory approach in the research process. Weaver and Cousins state:

> Members of the community of practice engage with researchers or evaluators to produce knowledge that bears upon identifiable practical problems. To the extent that the research is grounded in the context for use and thereby rendered meaningful to those responsible for problem solving, decision making, the knowledge produced will be of greater use (2004, pg. 21).

Many Tahltan people are very passionate about the topic at hand. On one hand, many are willing to involve themselves in different aspects to make positive changes. On the other hand, those who want to see change occur but are not willing to work as a unified Nation have sometimes caused problems rather than solutions. Regardless, I am sure those involved appreciated being included in my research process from the beginning stages. Measuring the communities' views and opinions of different consultation processes can only be done through incorporating Tahltan voice throughout the research.

Kirby and McKenna assert that the "researcher's words are the glue that holds the report together. However, the research report must be grounded in the experience, and

therefore the voices, of the participants" (1989, p. 156). For this reason I use direct quotes throughout the thesis to communicate the exact thoughts of the interview participants.

3.2.2 Permissions

Before submitting my research for UNBC ethics clearance I provided both Band Councils, and the TCC my proposed set of interview questions for their review (see Appendix 3). This gave the leadership the opportunity to address cultural sensitivity, cohesion, especially for the Elders, and overall appropriateness of the interview itself. Neither of the Band Councils, or the TCC had any suggestions on how to improve my original questions. The UNBC Research Ethics Board consented to proceed with the research.

3.2.3 Pretesting

I conducted an interview pre-test with a group of four Tahltan members (youth group) who have past experience working in the mining industry, as well as experience working with Elders in the communities. The pre-test is critical for providing feedback on whether the questions were clear, both for the respondents and the interviewer. The pre-test allowed me to identify problems related to question content, timing, interview technique, and interview format. I revised the interview questions accordingly.

3.2.4 Sample Targets

Establishing potential groups from which it was desirable to draw research participants before commencing the first phase of questioning helped to determine the sample size. The initial sample size reflects the desired number of three to four participants from each of the four targeted groups: THREAT, leadership, Elders group, and the Klabona Keepers. Therefore, my original sample target was to complete 12-16 interviews. With this sample size, my hope was to reach 'saturation', the point where no new information is revealed (Baxter and Eyles, 1997). I chose these as the targeted groups due to THREAT (Tahltan Heritage Resource Environmental Assessment Team)'s and leadership's extensive involvement in consultation, and the desire for the Elders group and the Klabona Keepers to have increased involvement in consultation processes.

To select individuals within each of my target groups I approached the respective spokesperson's to explain my research and to obtain recommendations for potential interviewees. I asked: who do you suggest I talk with? Who would be most knowledgeable? Once I started fieldwork the number of recommended research participants escalated. After each interview, I asked the participant if s/he could suggest anyone else from the Tahltan Nation who is knowledgeable in the subject at hand; this is referred to as the 'snowball' sampling technique. After interviewing several participants, I noticed a pattern of the same few people being suggested. I decided it was beneficial to include several other 'groups' because those suggested did not fall within one of the target sample groups. These groups included the 'guides and outfitters', and 'general community members'. As a result of staying consistent with my original target of three

to four participants within each group, the final number of participants totaled twenty-eight. I felt saturation was reached and no new themes or ideas were being introduced.

When I selected people to be interviewed, I took into account Bradshaw and Stratford's (2005) suggestions about choosing the 'right' people. It seems clear that the people I choose "provide[d] significant insights into [my] research issue" (Bradshaw and Stratford, 2005, pg. 72). I am an insider of the Tahltan Nation; therefore I found it difficult not to choose participants based solely on my knowledge of which community members hold relevant information. The choosing of participants was based on who, from each group, was interested in partaking in the research, as well as the recommendations from those interviewed.

For the second phase of fieldwork I selected a member of the Heiltsuk First Nation, a Nation who has completed their LUP, for interviewing. Initial contact with a member of the Nation was done via e-mail, followed by phone call conversations to determine that the person from the Heiltsuk Nation identified was the appropriate person to interview. After several failed attempts to receive a Band Council Resolution to go ahead with the interview, I decided that the delay was hindering my thesis completion. At this point I decided that by examining the Heiltsuk LUP, to see if they raise and address similar issues that the Tahltan face, must be sufficient in answering my research question.

3.2.5 Research Participants

Prior to commencing fieldwork, e-mails and phone calls were made to the spokesperson or head of each of the targeted groups. Once contact was made with the

spokespersons, with the exception of the Elders group and the Klabona Keepers, they suggested interview respondents and provided contact information. Interview dates were then scheduled.

3.3 Ethical Considerations

3.3.1 Informed Consent

Informed consent is one of the processes UNBC requires when conducting research with human participants. Prior to each interview I gave the participant a package with a letter explaining the research purpose, the interview questions, as well as the consent form. At the beginning of the interview I explained the consent form (Appendix 4) and why it was necessary for them to have a choice about both anonymity and confidentiality of the participant. None of the participants had a problem with signing the consent form.

3.3.2 Anonymity Among Participants

Most of the participants agreed to use their names within the research; however a few participants wished to be anonymous. Due to the small sample size and the awareness many community members have of who the participants included, I needed to maintain the anonymity of all participants to protect the identity of the few. This has the consequence of not giving credit to specific ideas/opinions of individuals who might have liked these known and recorded as theirs. I feel it is important for the Tahltan community members to have a general idea of who was interviewed. Therefore, I coded

the interview participants in a manner that allows the reader to identify which community and which group each participant is associated with.

Each participant code first includes a number that represents the interview number, then a capital letter representing the group associated with (i.e. THREAT = T, Leadership= L, Elders= E, Klabona Keepers= K, Guide Outfitter= O, General Community= G, and Youth= Y), as well as a bold capital letter representing which community they reside in (i.e. Telegraph Creek= **T**, Dease Lake = **D**, and Iskut= **I**). In several cases there was more then one participant being interviewed; to distinguish between these participants a lower case letter (i.e. a,b,c) was used. In some cases a participant identified with more then one group and was coded as such, as well as listed in Table 3.1 under each category (i.e. more than once). For example one participant is coded as '14-L/T-**I**'; the reader then understands that participant number 14 is part of leadership, as well as a member of THREAT and resides in Iskut. Table 3.1 below shows all participants (some more than once), which groups they are associated, and what town they reside in.

Table 3.1 Tahltan Participants

	Dease Lake	Telegraph Creek	Iskut
THREAT	03-T-**D**	04-T-**T**	14-L/T-**I*** 18-K/T-**I***
Leadership	02-L/O-**D***	10b-O/L-**T*** 12-L-T	07a-L-**I** 20-L-**I** 14-L/T-**I***
Elders	16-E-**D** 22a-E-**D** 22b-E-**D** 10a-O/E-**D***	08-E-**T** 17-E-**T**	11-K/E-**I*** 21-E-**I**
Guide Outfitters	02-L/O-**D*** 10a-O/E-**D***	10b-O/L-**T** * 15-O-**T**	
Klabona Keepers			11-K/E-**I*** 13-K-**I** 18-K/T-**I***
General Community	07b-G-**D** 05-G-**D** 09-G-**D** 19-G-**D**		06-G-**I**
Youth	01b-Y-**D** 01c-Y-**D**	01a-Y-**T** 01d-Y-**T**	

*Some participants fall under more then one category

3.4 Interviewing

3.4.1 Contact Procedures

During the 2009 field season, I contacted the 28 participants using a variety of ways. Most were initially contacted though e-mail, followed by phone conversations; some were initially contacted during informal meetings, followed with phone calls; and a few of the participants were first contacted by phone. Due to the fact that the communities are small, and I know most members on a personal basis, it made it very easy to approach the participants in an informal fashion. Although I did not have a list of who was a member of each of the groups, I had a general idea of which people associated themselves with which group.

As I did not have a list of who were active members of THREAT, I sent an e-mail to then THREAT coordinator Nalaine Morin, asking if she could forward it to THREAT members The e-mail outlined the research project, included the questionnaire, and asked if any members would be interested in participating The same process was used for leadership, e-mails sent to Rick McLean (Tahltan Band Chief), Marie Quock (Iskut Band Chief), and Annita McPhee (TCC Chair) requesting that they be passed on to their respective Council members I received four responses from THREAT members, which I followed up with phone calls, to schedule interview dates Several follow up e-mails were sent to leadership, asking if any Council members were interested in participating Besides the scheduled interviews with the two Chiefs, I had not heard back from any of the leadership group Therefore, all interviews conducted with Council members were done after I informally asked them during personal conversations I interviewed six members of leadership, which included the two Chiefs, two Iskut Band Councilors, and two Tahltan Band Councilors

Several well-placed community members informed me who the spokesperson for the Elders Group was, I met with her on two separate occasions, June 18th and July 9th, 2009, in hopes of meeting with members of the Elders Group Due to the busy time of year (salmon fishing season), I was unable to set any dates with the Elders However, I was given the opportunity to attend the 2009 Shesley River culture camp[3], where, I was told, many Elders would be present I spoke about the purpose of my research, and informed those who attended the 10-day culture camp about the importance of having the

[3] The Shesley River culture camp took place July 2009 at Rudy Day's camp northwest of Telegraph Creek where an old Tahltan village once was located Elders, youth and anyone else that wished to participate were given the chance to take part in a week of camping, hunting, horse back riding, fishing, visiting, learning, cooking, and various other activities

Elders' input into my research. I approached four Elders who are part of the Elders Group and asked if they would like to contribute to my research. Each of them declined. Due to lack of time I decided to shift my focus from the Elders Group to the Elders Advisory Council, which is organized under the TCC.

The Elders Advisory Council is made up of representatives of the 10 families (see section 2.1). One family member is elected as family representative, but there is also an Elder representative for each family. The members of that family elect these representatives during the Tahltan Annual General Meeting (AGM). The Elders Advisory Council includes: Andy Quock, Nancy McGee and Loveman Nole (*Quock*), William Bob, and Lydia Russel (*Carlick*), Beatrice McPhee (*Good-za-ma*), Louis Louie and Bertha Louie (*Simgaldtadta*), Ed Asp (*Cawtoonma*), Gerald Etzerza (*Etzenlee*), Grace Williams and Mary Dennis (*E-etheny*). At the time of writing this thesis there are no Elder representative for *Shoe-kawk/Howd-a-ghtte* family, *Thud ga* family or *Stikine Claw and Thicke* family (Tahltan Central Council: Tahltan Dena c'o ok', March 2010).

Bradshaw and Stratford state that in qualitative research, "the number of people we interview, communities we observe, or texts we read is less important than the quality of who or what we involve in our research, and how we conduct that research" (2005, pg. 67). Due to my late decision on switching from the 'Elders group' to the Elders Advisory Council, I decided that interviewing all seven representatives would be too lengthy. By discussing the list of possible interviewees with several well-placed community members I was able to determine a prioritized list of four Elders who would be most beneficial to my research. The same process was done with members of the Klabona Keepers. I was not able to receive a list of who is a Klabona Keeper and so I made a list of six people

who were brought up in previous interviews as well as those who I thought would be key people to speak with. From that list I asked the same well-placed community members to prioritize which Klabona Keepers should be interviewed; two key people were identified, and both agreed to be interviewed.

After the Shesley River culture camp and interviewing different community members from the targeted groups, I decided to include 'guides and outfitters' and 'general community members' as two separate groups. This allowed for more voices to be heard. The 'general community members' group was formed once I was in the communities for several weeks: others who had been interviewed previously suggested participants, or the participants themselves became interested once hearing about my research. I gave all members the opportunity to participate in my research if they were interested, whether they were informed of the project by word of mouth or by the posters that were hung in each Band office as well as the TCC office. Thus, not only was the 'snowballing' method used, but also the 'self-identifying' method was used to recruit participants.

While the 'self-identification' might have caused some bias in the participant's responses, it also helped recruit more Tahltan members to take part, which provided more Tahltan voice over all. People who volunteer to be part of a study are often the more active members of a society; they often have stronger and more well developed views on topics.

3.4.2 Interviewing

Data was collected using a semi-structured interview (Appendix 3). Each participant was provided with background information on the research project, the interview questions, and the consent form well in advance of the actual interview. Providing the participant with this package allowed them time to reflect on the questions, structure their answers, and prepare any questions they might have had prior to the interview. Most interviews were conducted individually, but four group interviews were also conducted because the circumstances were fitting (i.e. two or more participants who fall into the same category) and the participants preferred this method of gathering information.

Once the participant was informed of the research purpose, either in person or over the phone, a potential interview date and location was then established. As discussed earlier, UNBC requires a signed consent, which was received in writing from each participant prior to conducting the interview. Each interview was conducted in a location of the participant's choice, so that s/he would be at greatest ease. A range of settings was used: the participant's home or work place, the Klabona Keepers meeting hall, restaurants in the communities, as well as on the land while camping. All research participants were interviewed in person. I asked a few introductory questions (i.e. What is your job position? How have you been involved in the consultation process? etc.), to establish comfort and to "get the ball rolling".

Before starting the interviews, I asked each participant if s/he minded that the interview be recorded. Each participant permitted recording of the interview using Audacity computer software. During the interview I wrote notes regarding atmosphere,

tension, behavior of participant, and body language. I did my best in not allowing the participants to see any of the note taking in case it distracted them. I was respectful of each participant who shared her or his thoughts and knowledge. I aimed to be trustworthy, attentive, and interested in participant's answers. Interviews lasted from twenty minutes to one hour. All interviews were transcribed by myself, which allowed further engagement with the data. When the transcripts were sent back for review, participants were provided with a thank you note.

3.4.3 Participant Verification

A variety of methods were used to return the transcripts to the participants, including e-mail, hand-deliver and courier. Each participant was given the opportunity to review, reflect, and alter her/his interview responses. Dunn (2005) describes this process of bringing the data back to the interviewee as 'member checking' or 'participant checking'. Dunn (2005) describes participant checking as "the involvement of the informants in the research process [which] provides them with their own record of the interview" (p. 98). Allowing the participants the chance to review the data and verify my findings before I completed the writing phase of my research ensured that I am representing their ideas and concepts correctly. Only a few participants provided feedback, which consisted of grammatical errors and clarity of ideas/thoughts.

3.5 Coding and Analyzing

3.5.1 Document Analysis

The documents I choose for analysis included literature from graduate classes

attended from September 2008-April 2009, known Tahltan documents related to land and resource management topics (i.e. Out of Respect and 1910 Declaration), as well as suggested literature from supervisors and other academics knowledgeable in the subject. The graduate classes that determined the literature were an independent study focused around First Nations consultation, a qualitative methodologies class, as well as a class on geographical perspectives in restructuring.

3.5.2 Content Analysis

Content analysis transforms the interview data into meaningful material; this process allows one to "construct themes, relations between variables and patterns in the data" (Dunn, 2000, pg.76). I coded the interviews based on latent content analysis; Dunn (2000, pg. 76) describes this process as "searching the document for themes". Latent content analysis allowed me to look for the structural meaning within the interviews.

Coding is the marking of data with symbols, descriptive words, or category names and divided that data into meaningful analytical units. I used the inductive coding method, which requires the researcher to develop codes by directly examining the data. Kirby and McKenna (1989, pg. 130) state that the "analysis is an ongoing process" and that "analysis and data collection continually overlap". Once the coding was completed I organized the data into research question categories, divided the topics into sub-categories, all of which include several topic responses. These categories and sub-categories helped me make sense of the large amount of data collected.

Kirby and McKenna (1989, pg. 128) state "the researcher constantly reflects on both the data and the process of analyzing it. In this way, analysis emerges from the information at hand". During the analysis process of my research I was critically

reflecting on the data within the interviews and trying to make connections between the different interview responses. I found it useful to go back to my interview notes to understand what the participant's mood was at the time of interviewing and how that may have influenced a response. Kirby and McKenna (1989, pg. 129) discuss how a researcher makes sense of data and that one dynamic is the "constant moving, back and forth, between data and concepts, and between individual ideas and research explanations in order to fully describe and explain what is being researched".

After examination of the data, I compared "data items with other data items until sections that 'go together with' or 'seem to help describe something'" (Kirby and McKenna, 1989, pg. 130) emerged. Kirby and McKenna (1989, pg. 141) state the "best coding comes from knowing the data and being able to move it about comfortably and wisely". I think coding the data came easily to me because I am an 'insider' and have previous background knowledge on the research subject.

3.5.3 Data Coding

The data coding was conducted in two phases. First I read all interviews, set them aside, and then wrote out all key themes brought up, key words and/or phrases. I then began coding all interviews. Once complete, I re-wrote my list of key themes and key words/phrases; this allowed me to have a clear picture of the common thread within each interview.

To cross check my analysis I compared my coding style to a fellow graduate student, Jamie Pepper, by co-analyzing a random selection of 25 percent of our interviews (inter-rater reliability check). Jamie Pepper is a non-native working on

resource management in a First Nations community in southwestern BC. I found that our coding style was slightly different; Jamie used actual codes (i.e pp=provincial park, v=values, etc.) whereas I summarized main points and key themes. Although our coding styles differed somewhat, I found that we were picking up on the same issues, ideas, and overall message that the participants were communicating. I reciprocated Jamie's involvement in my research by analyzing 25 percent of his interviews to check his coding reliability.

I performed two rounds of coding. In the first round I read each interview, in no particular order, and then reread through the interviews and summarized each key point on the left hand margin. I also highlighted key words and compiled a list of areas that the interviewees recommended be protected. It was during the first round of coding that I co-coded with Jamie Pepper. A scheduled meeting with one of my supervisors to assess the organization and evaluation of process and progress of my fieldwork led me to re-evaluate how I was coding and analyzing my data. It was suggested that I re-read each interview in order of the date conducted without making any notes or coding.

I read the 22 interviews from beginning to end. I then made two separate lists: one for manifest data and one for latent data. The manifest data consisted of key words brought up (i.e. values, relationship building, communication/miscommunication, decision-making, etc.) and how many times those words were brought up. The manifest data also included a list of geographical areas participants indicated that needed to be protected from resource development. The latent data included three pages of key themes and ideas brought up through out the interviews. While coding the data specific quotes was also identified for future use.

3.6 Community Verification

One method of ensuring trustworthiness is by using a "kind of 'hermeneutic circle' starting from our interpretive community, involving our research participant community and ourselves, before returning to our interpretive community of assessment" (Bradshaw and Stratford, 2005, pg. 74). Using Bradshaw and Stratford's circle idea shows rigor in my research and allowed my community members to check for credibility, dependability, and good practice. This verification process also allowed for community members to check that I was hearing their ideas correctly and not distorting their ideas. I have lived in and come from, those communities; therefore, I believe my research might be scrutinized at a personal level. I attempted to apply rigorous practices at each stage of my research project.

Those who live in the communities know best how they like to receive and review information. Therefore, I asked each participant "how would you like to receive and review information on the outcomes of my research once it is complete (e.g. community get together, newsletter, etc.)?" I took into account the responses when bringing the preliminary results back to the communities. I also used the responses for developing the community report and deciding how this was presented to the Tahltan once all research was complete.

The community report/newsletter on the preliminary findings was provided to all participants as well as each household in the three Tahltan communities. A copy was also given to the TCC to allow further distribution to Tahltan members outside of the communities via membership e-mail list. Community information meetings were held in each of the three Tahltan communities on January 28th and 29th, 2010 in order to share

preliminary findings. The sessions also allowed community members to provide further feedback and add concerns that may have been missed. The feedback provided during the community meetings was added to the thesis.

I found it desirable to have a Tahltan member review my thesis prior to the defense. This allowed for inside community review and provided feedback on where I might need clarification, or explanation of certain topics presented, as well as overall input on how the community might react to my research. Once the first draft of the thesis was complete, I identified Tahltan member Vera Asp, who holds inside community knowledge and experience but also western academic knowledge. Vera is currently working on her PhD in Anthropology at Simon Fraser University; she is also a member of THREAT and a respected Tahltan community member. Once I identified Vera, I asked the leadership if they felt she was the 'right' person. Both Band Chiefs agreed that Vera would have invaluable insight into my research.

Not only do I plan to share my research through this thesis but also I plan to bring my research back to the Tahltan members in a community report given to the TCC and available for all community members. This will provide a more accessible format of key research findings. When I bring my research back to the Tahltan communities my hope is that they recognize all the community verification efforts done with the time and resources provided. It is my hope that they know "the central goal, however, is not sample size, but representativeness…a single articulate person may describe phenomena that are meaningful to hundreds (i.e. the phenomena are representative) but might otherwise be overlooked, despite actually talking to those hundreds" (Baxter and Eyles, 1999, pg. 181).

3.7 Limitations

This study faces a range of limitations. First, as the research is focused on the Tahltan Nation, the conclusions will not be applicable to all First Nations. The results should be used rather as a base for First Nations to build upon for future projects. Second, the views and opinions represented are strictly Tahltan (and even then only those of the people interviewed). Identifying resource industry and government views and opinions on improving consultation with the Tahltan was not the objective of the thesis. Third, by circulating information posters within the Tahltan communities and inviting everyone to be interviewed if they chose, some of the Tahltan participants were self-identified and not chosen because of their position and/or knowledge base. Fourth, the study focuses on the current situation in regards to consultation. Consultation with First Nations people is constantly changing and adapting; thus, this research will hopefully become outdated.

In qualitative research the overall "goal is not to produce a standardized set of results". One researcher studying the same topic may produce something completely different than another researcher based on that researcher's "individual attributes and perspectives". Rather one's goal should be to "produce a coherent and illuminating description of and perspective on a situation that is based on and consistent with detailed study of the situation" (Ward-Schofield 1993, cited in Baxter and Eyles, 1999, pg.172). Due to the fact that qualitative research is so personal to the researcher, there is no guarantee that a different researcher would not have come to radically different conclusions and while the outcomes of this study will reflect my perspective on the topic

at hand, another researcher can enhance the chance of reliability if someone chooses to repeat this process.

3.8 Positionality

My experience living and working in the Tahltan communities helped me identify the questions that my thesis sets out to answer. An advantage to my research is that I am Tahltan, and I bring to the process Tahltan reality and an understanding of community concerns. My wish is for the Tahltan people to recognize my efforts in including them as much as possible in the research process and its design, so that my work is deemed valuable and authentic. I believe the strategies used to carry out this research were done in a culturally appropriate and respectful way and ensured that the participants' voices were heard, rather than just my own as the researcher.

Absolon and Willett, two indigenous researchers, state, "if you want to do ethical research that accurately represents who it is for and who it represents, then you have to be positioned in it and connected to it" (2005, pg. 104). I speak and write from my own experiences, perspective, and position, which does not represent those of all Tahltan people. The only voice I can fully represent is my own. As a researcher, especially in small communities, "when we put ourselves forward, when I say who I am and where I'm from, we have those exchanges where we identify ourselves" (Absolon and Willett, 2005, pg. 103). By making clear to the Tahltan participants, as well as to the reader, who I am and where I come from, I am better able to illustrate my position and connection to this research.

Staeheli and Lawson (1994) ask how "can we as researchers speak for politically marginalized peoples and groups if we do not belong to those groups?" (pg. 99). Since I am a Tahltan member but have lived less than half of my life within the communities I am torn between whether I do or do not represent Tahltan community opinions and views. Due to this fact, I found it important to focus on both the commonalities and differences between myself, as a researcher, and those I interviewed.

Kobayashi's research addresses the concerns and challenges about one individual or group representing another through research. Kobayashi (1994) concentrates on the issues of legitimacy and representation and states, "political ends will be achieved when representation is organized so that those previously disempowered are given voice" (pg. 76). Throughout my research, I was aware of the barriers of difference, such as class, formal education, professional qualification, "race", gender and sex, before conducting each interview to identify those commonalities and differences, thus giving voice to those who have been, to date, rather disempowered by a disingenuous consultation process. Thinking about my own biases and assumptions (i.e. family connections in small towns) prior to starting my study allowed me to minimize their influence on the evaluation of participants and the outcomes of the study.

Every researcher brings a lifetime of experience and cultural history that shapes the review process, by recognizing those biases and assumptions I ensured that they did not dominate or bias the research or the analysis process. This helped me present myself, gain trust, and establish rapport with those participants with whom I didn't already have that previous relationship. Most participants I have known my entire life, which made it easy to start and complete the interview. After explaining the consent form (Appendix 4),

I informed participants that they could choose to not answer any question that makes them uncomfortable, and they had the right to terminate the interview at any time and have all the information provided withdrawn from the study if they wished. All of the participants completed the interview with two interviewees skipping one question (the same one in each case), and one interviewee skipping a question due to job related conflict. No participants withdrew from the study.

The interactions I have with my community members may have affected the way in which some Tahltan members perceive me within our close small town social world, but also the ways in which they perceive my research. Those social interactions, and my emotions related to those interactions, during the time I was conducting research and while writing this thesis, have changed the way I view certain people within the communities: much of the support I thought I would have received fell short of my expectations.

My interest in the research completed for this thesis stems from my position as the TCC Land Stewardship Coordinator. I left that position in January 2008 to pursue a Masters degree. When I left my job position with TCC, the TLSP responsibilities surrounding that position were not carried on by anyone else. Since this time there have been several land use planning initiatives that the new leadership has engaged in. Those initiatives are discussed in further detail in section 4.5 below. Again, it is my hope that by completing this thesis I can show the Tahltan people the importance of land use planning and the ways in which it can sustain our land and resources for generations.

3.9 Conclusion

When conducting research within one's home communities, one must be aware of the opportunities and challenges that result from being immersed in one's culture, political environment, history, and the communities current hardships. The research undertaken for this thesis is very personal for many Tahltans, including myself. I had underestimated the challenges associated with working as an insider and should have not taken negative experiences of the research project on personal levels, whether those experiences were rooted in miscommunication, no communication, refusing to partake in research, or overall lack of support.

One of the biggest struggles Tahltan communities face is communication. Not only was this brought up throughout the interviews but I recognize the struggles of informing others while conducting my research. Information and research need to be accessible for those to whom the information is relevant: what use will this research be if I do not provide the outcomes in a report that will easily reach our Elders, youth, and everyone in between? We must recognize that although it is our leaders' duty to communicate information to the membership, it is ultimately the membership who must want to be informed, and take the responsibility to use the information provided to us.

My hope is that the Tahltan find my representation of our collective circumstances honest and accurate. I believe my position as an insider has helped me. I want to bring my research and what I have learned back to my communities so that further work can build upon what I have started in my thesis research. Since the data I collected is not considered Traditional Knowledge (TK), all raw research data (i.e. personal data, transcripts and tapes) do not need to be shared with the TCC or the two

Band Councils. This would also compromise the anonymity of the participants (i.e. voices could be recognized). I will provide the Tahltan with all aggregate data once complete.

I feel it is necessary that my thesis connect to larger bodies of knowledge, to related ideas, and outside locations. Otherwise, how can we learn from one another? And, in my case, what meaning would my research have without contributing to something greater than the scope of my thesis? In order for my research to be considered useful by my people, they must find it trustworthy.

Chapter Four: Tahltan View on Land Use Planning and Consultation

4.0 Introduction

In discussions about 'consultation', it is important to differentiate across a continuum. At one end there is ongoing respectful dialogue while at the other end, there are legal requirements to consult and accommodate. I discuss what this means for the Tahltan and how I hope we can move, not just towards the required duty to consult and accommodate, but towards a consultation process with industry that is respectful of the land, resources, and our people. Several landmark court decisions provide the parameters of the Crown's duty to consult and, where appropriate, accommodate in circumstances where Aboriginal interests have been asserted, but not proven. Those cases also provide a framework for Aboriginal consultation activity related to potential infringements of Aboriginal rights caused by land and resource development activities. All topics covered in this chapter give the reader background information on key documents the Tahltan have produced in regards to land planning and consultation.

4.1 The Duty to Consult and Accommodate

The laws in BC that are relevant to land and resource issues in Tahltan Territory are described in Kent McNeil's (2007) paper "The Jurisdiction of Inherent Right Aboriginal Governments". McNeil describes the basic concepts of jurisdiction as territorial or personal or a combination of both. He states that it can be exclusive, meaning "it can be exercised by only one government", or it can be concurrent, meaning "it is shared and can be exercised by two or more governments" (McNeil, 2006, pg. 2). Jurisdiction is divided among the three branches of government in the Canadian

parliamentary system: legislative jurisdiction, executive jurisdiction and judicial jurisdiction. Legislative jurisdiction is "the authority of legislative bodies such as the Parliament of Canada to make laws"; Executive jurisdiction is "the authority of the executive branch (for example, the federal cabinet and government departments, such as Indian Affairs) to make and implement government policy, and administer laws made by legislative bodies" (McNeil, 2006, pg. 2). Judicial jurisdiction will not be dealt with in this thesis.

The scope of Aboriginal governments jurisdiction depends to a large degree on the source of that jurisdiction. As stated previously, the two Indian Bands in Tahltan Territory under the Indian Act exercise delegated jurisdiction over the reserve lands. This is "jurisdiction that has been conferred on them and their Band Councils by the provisions of that Act" (McNeil, 2006, pg. 3). Land and resource issues pertinent to my research are not limited to reserve lands; therefore, the delegated authority of Band Councils will not be covered and I will focus on the inherent jurisdiction of Aboriginal governments. The Indian and Northern Affairs Canada (INAC) website states that "recognition of the inherent right is based on the view that the Aboriginal peoples of Canada have the right to govern themselves in relation to matters that are internal to their communities, integral to their unique cultures, identities, traditions, languages and institutions, and with respect to their special relationship to their land and their resources" (*INAC*, 2010, The Inherent Right of Self-Government is a Section 35 Right section, ¶ 1).

The source of the inherent jurisdiction of Aboriginal governments, from the perspective of the Canadian legal system and the Supreme Court of Canada, is "based on

the fact that Aboriginal nations occupied lands as peoples with their own distinctive cultures prior to European colonization" (McNeil, 2006, pg. 6-7). Due to the *Sparrow* case, the Crown now acknowledges the fact that Aboriginal peoples had pre-existing communities prior to non-Aboriginal settlement. Morellato summarizes a few court cases and what these cases mean for Aboriginal rights and title to land. She states

> "the constitutional framework of s. 35(1) applies equally to the pre-proof scenario [meaning aboriginal rights exist and are applied equally regardless if they have been proven in court]...These principles clearly inform the nature and scope of the duty to consult and accommodate in the context of unproven Aboriginal or treaty rights; otherwise s.35 would be rendered meaningless for the majority of Aboriginal peoples in this country who have not proven their rights in a courtroom (Morellato, 2006, pg. 9).

Gordon Campbell, in the *Campbell v. British Columbia* case, argued that "the Canadian Constitution did not leave any space for Aboriginal governments because all the legislative powers had been distributed between the federal and provincial governments by the *Constitution Act, 1867*" (McNeil, 2006, pg.15). Justice Williamson decided that "legislative powers had not been exhaustively distributed in 1867, and so there was room in the Canadian Constitution for Aboriginal governments to exist and to exercise inherent jurisdiction" (McNeil, 2006, pg.15).

In litigation, Aboriginal people have to first prove that they have Aboriginal title in order to establish jurisdiction over their land (Woodward, et al., 2008, Hunter, 2008, Wherrett, 1999). This means they must prove that they "were in exclusive occupation of the claimed land at the time of Crown assertion of sovereignty" (McNeil, 2006, pg. 17).

Although the Tahltan have never gone to court for issues regarding land and resources, we still assert our jurisdiction over our Traditional Territory, which was first recorded in the 1910 Declaration.

4.2 Land Use Planning

4.2.1 Traditional Use and Stewardship of Tahltan Land

As explained in chapter 2, the Tahltan were originally organized into six clans. Through Albright's 1984 work, *Tahltan Ethnoarchaeology,* which is based on Emmons and Tiet's early twentieth century ethnographic notes, I explain how these six clans formed the early social organization for the Tahltan Nation. I then briefly explain how these six clans traditionally planned the use and stewardship of their clan territories.

The original six clans, *Tudenekoten, Naloten, Tlepanoten, Talakoten, Naskoten,* and *Tagicoten,* 'owned' tribal territories (see Map 2). There was also a seventh clan later recognized, the *nana'ai*, but they had "no recognized territory, but hunted with others or along the lower Stikine River" (Albright, 1984, pg. 12). Each clan consisted of a group of families with common origin; Albright describes them as "the original possessors and inhabitants of a certain district" (Albright, 1984, pg. 12). Albright quotes Teit and summarizes how each of the six clans regulated their clan territory:

> Hunting territories belonged to the whole clan, although generally each family had its favorite and customary hunting and fishing grounds. The chief of the clan directed the hunting and trapping so that he knew where each household was…The chief made regulation concerning the use of the hunting and settled any disputes, although he himself had no special privilege or ownership of hunting grounds (Teit, quoted in Albright, 1984, pg.12).

Albright further explains how intermarriages and alliances played key roles in the use of clan territories. However, today this system has been displaced, because the clan system for land distribution is currently not a common practice with the Tahltan. Families do continue to utilize certain hunting/fishing grounds annually. The following section describes how other institutions of land planning came to displace the original six clan system of governing our Traditional Territory.

4.2.2 Modern/Current Land Planning in Tahltan Territory

People use land planning for many reasons, including environmental, social, economic, and cultural protection. In BC, there have been several forms of land use planning and land management. Halseth and Giesbrecht state, "until recently, planning processes were largely dominated by the Ministry of Forests" (2003, pg.1). Now land management primarily includes the Land and Resource Management Plan (LRMP) process introduced in 1993 and the Sustainable Resource Management Plan (SRMP) process introduced in 2001. The authors note that there have been many changes to traditional decision making processes, including increased public and First Nations participation to ensure sensitivity to Aboriginal issues and interests are addressed (Halseth and Giesbrecht, 2003). Resource management and land use planning in BC will continue to change, hopefully so that improvement is made to the management of our land and our resources, and to the quality-of-life for all those who choose to enjoy the natural environment.

The Tahltan have been involved for many years in some form of land use planning. As stated earlier, the Tahltan at one time divided our Territory into clan

territories (see Map 2). These territories helped in the management of resources, such as hunting and subsistence gathering, by the clan leader or Chief. The clan territories and what we know of land use at the end of the 1800's are based on James Teit's notes and the 1910 Declaration (see Appendix 1), which will be further discussed in the following section. There is little written with regard to land use before this time and for a long time after Teit's work.

More recently some Tahltan members participated in the LRMP for the Cassiar-Iskut Stikine (CIS) region. After several years of debate the LRMP was implemented in 2001. From experience living in the communities I understand that not all Tahltans were completely happy with how the LRMP process was conducted. However, the "Report on the Status of Strategic Land Use Plan in British Columbia, October 2006", states:

> Tahltan were direct participants in process, formalized through agreement with the province, with full participation on the Technical Support Team and planning table…Recently new leadership in the Tahltan have expressed concern about the CIS LRMP and Cabinet has recently directed ILMB [Integrated Land Management Bureau] to update the CIS LRMP in partnership with the Tahltan through a broader provincial initiative called the reconciliation strategy (Land Policy Branch Integrated Land Management Bureau Ministry of Agriculture and Lands, pg.7).

Not only were the Tahltans involved in the CIS-LRMP provincial planning process; we also contributed to the Klappan SRMP in 2006, a management plan that is not complete at the time of this thesis' writing.

The Tahltan, in regards to land and resource planning, have also developed the "1987 Resource Development Policy" and the "2003 Tahltan Mining Symposium Report: Out of Respect". The "1987 Resource Development Policy" lists eight elements and principles that lead to project participation agreement between resource industry and TCC. The "2003 Tahltan Mining Symposium Report: Out-of-Respect" is a document that assists mining industries to build a win-win relationship with the Tahltan, based on our needs and interests. Both documents will be further discussed in the next section.

The Tahltan began working on the TLSP in the summer of 2006. If and when this document is complete and implemented, the Tahltan will have moved into a new era of managing our land and resources. For example, the movement towards rebuilding of First Nations governance (nation-building) and self-determination, through the LUP, is seen as "a means to change the desperate socio-economic conditions of First Nations people" (Missens, 2008, pg.2). First Nations need to back up their sovereignty with effective governing institutions, due to the fact that governing institutions put in place "the rules by which the members of a society make decisions, cooperate with each other, resolve disputes, and pursue their jointly held objectives" (Cornell and Kalt, 2006, pg. 14). If our LUP represents all "the rules" which the TCC follows, then there is a collective agreement about how decisions should be made, thus exercising inherent jurisdiction over our Territory.

Through the nation-building approach and its characteristics, many Nations are "building the foundational, institutional capacity to exercise sovereignty effectively" (Cornell and Kalt, 2006, pg. 11). Cornell and Kent assert there are "three distinct stages in the evolution of tribal sovereignty: law, policy, and practice" (2006, pg. 12). If the

Tahltan move towards self-determination through land planning policies and practice, we will be better equipped to deal with and better able to understand the increased amount of resource extraction happening within our Territory.

4.3 Previous Land Management Documents

4.3.1 1910 Declaration of the Tahltan Tribe

As stated in Chapter 1, the "1910 Declaration of the Tahltan Tribe" (Appendix 1) is an important document to the Tahltan, one that states our rights to the land and our sovereignty. This document is one of the first written records that the Tahltan produced in regards to land management. It was through this document that "Tahltan Ancestors, the Elders, and our parents left us with a legacy to be proud of and have 'educated' us, deliberate, consciously, and whole in system, to who we are today" (Tahltan Central Council: Tahltan Dena c'o ok', March 2010, pg. 9).

The ethnographer, James Teit, spent many years (1903 to 1915) with the Tahltan (Albright, 1984, pg. 9). Based on Teit's notes, the "Tahltan had concerns with respect to their lands and rights, but up until 1910 they appear not to have been actively engaged in petitioning the federal and provincial governments regarding these issues" (Drucker 1958 quoted in Thompson, 2007, pg. 39). Thompson notes that Teit "almost certainly" had direct involvement with the Tahltan joining the larger "Indian" movement in southern BC. This movement focused on "issues that were dominating Native politics in southern British Columbia" with respect to their lands and rights (Thompson, 2007, pg. 39). Thus, according to Thompson, the 1910 Declaration was created from discussions Teit had with Tahltan leadership regarding Indian lands and rights.

Thompson states "Teit's name does not appear on the Tahltan declaration, but there can be little doubt that he was not only the catalyst behind its production but also its author" (2007, pg. 39). The wording of 1910 Declaration makes it obvious that the Tahltan were "well informed as to recent developments in the Indian rights movement in the southern interior of the province" (Thompson, 2007, pg. 41). Much of what is stated within the 1910 Declaration is based on earlier work Teit did with southern First Nations groups at the time,

> ...we have read the Declaration made by the chiefs of the southern interior tribes at Spences Bridge on the 16th July last, and we hereby declare our complete agreements with the demands of same, and with the position taken by the said chiefs, and their people on all the questions stated in the...(1910 Declaration of the Tahltan Tribe, ¶ 1)

By joining with the southern Indian groups "in the fight for our mutual rights" the Tahltan took a stance in protecting our land and rights. The 1910 Declaration was dated October 18, 1910, "the day before Teit left Telegraph Creek on his homeward journey" (Thompson, 2007, pg. 39).[4]

The 1910 Declaration has five sections. The first describes our sovereignty over our Traditional Territory: the document states "We claim the sovereign right to all the country of our tribe-this country of ours which we have held intact from the encroachments of other tribes, from time immemorial...We are still, as heretofore, dependant for our living on our country, and we do not intend to give away the title to any part of same without adequate compensation" (1910 Declaration of the Tahltan Tribe, ¶ 2). This strategic statement

[4] Just recently, October 18th was designated as "Tahltan Day" within Tahltan Territory; on this day community events occur that celebrate our culture and traditions to inform our community members, and especially the younger people, on what it means to be Tahltan.

informs government and all third party shareholders that the Tahltan assert practical sovereignty over their lands and resources. Since 1910, and even prior to the signing of the Declaration, the Tahltan have always been responsible stewards of our Traditional Territory. Cornell and Kalt state that First Nations, in general, "are better decision-makers about their own affairs, resources, and futures because they have the largest stake in the outcomes" (2005, pg. 14).

The second section explains how we are willing to relinquish to the BC government, parts of our Territory for adequate compensation. However, it first states "We desire that a part of our country, consisting of one or more large areas (to be selected by us), be retained by us for our own use, said lands and all thereon to be acknowledged by the government as our absolute property" (1910 Declaration of the Tahltan Tribe). Again, this strategic statement is reiterating the need for the Tahltan to protect large areas in order to continue the practice of traditional activities (i.e. hunting, gathering, camping, etc.) for current and future generations. Specific areas are discussed in the next section.

The third section discusses Indian Reserve land. The statement informs us that at the time, Tahltan Indian reserves consisted of "a small portion of our lands at the mouth of the Tahltan river" and that "these few acres are the only reservation made for our tribe" (1910 Declaration of the Tahltan Tribe). Today there are more Tahltan Indian Reserve lands (see map 3). Indian Reserves under the administration of the Tahltan First Nation are:

- Tahltan IR No.1, one mile north of the confluence of the Klastline River and Stikine River;
- Hiusta's Meadow IR No.2, three miles north of the confluence of the Tahltan and Stikine Rivers;
- Salmon Creek IR No.3, one mile west of Hatchau Lake on the Hackett River;

- Upper Tahltan IR No.4, on the Little Tahltan River, two miles north of Saloon Lake;
- Tahltan Forks IR No.5, at the forks of the Tahltan River, three miles east of Saloon Lake;
- Telegraph Creek IR No.6, right bank of the Stikine River near settlement of Telegraph Creek;
- Telegraph Creek IR No.6A, right bank of the Stikine River, adjoins Telegraph Creek IR No.6;
- Classy Creek IR No.8, one mile south of Mincho Lake, five miles north of the confluence of Classy Creek and the Tuya River;
- Dease Lake IR No.9, near south end of Dease Lake, opposite the settlement of Dease Lake;
- Tatcho Creek IR. No.11, on right bank of Tanzilla River, at the mouth of Tatcho Creek, seven miles SW of Dease Lake; and
- Guhthe Tah IR No.12 (Tahltan First Nation: Indian Reserves, 2010).

The fourth and fifth sections of the 1910 Declaration relate to treaty developments. The document states that "all question regarding our lands, hunting, fishing, etc., and every matter concerning our welfare, be settled by treaty between us and the Dominion and B.C. governments" and "We are of the opinion it will be better for ourselves, also better for the governments and all concerned, if these treaties are made with us at a very early date, so all friction, and misunderstanding between us and the whites may be avoided" (1910 Declaration of the Tahltan Tribe). However, the Tahltan have never signed a treaty, nor are we involved in any stages of the current BC treaty process.

The different bodies of government need to acknowledge the relationship First Nations have with the land, as well as the complete measure of our inherent jurisdiction

over the lands and resources. Again, the 1910 Declaration has much significant value and meaning for the Tahltan. It is one of the earliest documents used for the protection and management of our Traditional Territories. It is not only significant in terms of its contents but also because of who signed the document. The 1910 declaration was signed by then Tahltan leaders, including Chief Nanok, Nastulta (alias Little Jackson), George Assadza, Kenetl (alias Big Jackson) and eighty other members of the Nation. This document has borne significance over time. The Tahltan Nation celebrated the 100th anniversary of the 1910 Declaration, as I finalized this thesis.

4.3.2 Out of Respect

"Out of Respect: The Tahltan, Mining, and the Seven Questions to Sustainability" report is a strategy to guide the Tahltan-mining industry interface. This report was created during the Tahltan mining symposium (April 4th-6th, 2003), held in conjunction with the IISD. The IISD's vision is "better living for all—sustainably; its mission is to champion innovation, enabling societies to live sustainably" (IISD, 2004, pg. ii). The report was completed by the collaborative efforts of 28 Tahltan, nine representatives from industry and government, and the IISD facilitator. The report reflects the collective effort of all participants of the Tahltan mining symposium.

The document states that all participants were given the opportunity to review the draft report, and the full draft was "vetted" by the Tahltan Band, the Iskut Band, and the TCC (IISD, 2004, pg. v). The preface indicates that during the drafting of the report, every effort was made to truthfully reflect the views of the participants, "particularly the Tahltan people whose priorities and concerns drove the symposium process" (IISD,

2004, pg. v). The report lists all the participants who were involved, indicating a good representation of people from Telegraph Creek, Dease Lake, and Iskut.

The report focuses on the Seven Questions to Sustainability (7QS), which provide a "robust framework for assessing the compatibility of mining and mineral projects/operations with the concept of sustainable development" (IISD, 2004, pg. 1). The Tahltan mining symposium provided the opportunity to test the effectiveness of the 7QS approach. Six objectives set during the symposium included:

> a.) Provide an opportunity for the Tahltan First Nation to apprise itself of mining and mineral activity in the Tahltan Traditional Territory (the Stikine Watershed)—past, present and future—and to express their sense of what this has meant, or could mean, to the Tahltan;
>
> b.) Use the 7QS Assessment Framework to systematically identify and review implications of mining/mineral activity to the Tahltan people and, in the process, test the effectiveness of the framework;
>
> c.) Identify issues and concerns from the perspective of the Tahltan people, the mining industry, government and others;
>
> d.) Undertake a preliminary and cursory assessment in order to build a sense of: (i) sources of data and information; (ii) the state of current knowledge; and (iii) current capacity to fill gaps;
>
> e.) Build an initial strategy and action plan for guiding future Tahltan relationships with the mining/minerals industry; and
>
> f.) Decide on next steps to be taken (if any) for implementation of a more rigorous Phase 3 7QS Assessment (IISD, 2004, pg. 1-2).

The project was a three-phase process: 1) the decision (by the Tahltan) to go ahead with the project was made, 2) the symposium was held and the six objectives were identified; and 3) a follow-up/implementation of the action plan, created at the symposium, was created as a guide (IISD, 2004).

The document includes a table of key events affecting the Tahltan, 1861-present.

The table includes dates when early gold rushes within Tahltan Territory occurred, key events in BC history, as well as significant events for the Tahltan (i.e. 1910 Declaration). I found this table (Appendix 5) to be a most informative timeline for the period prior to 1995. Since 1995 other major mining related events have occurred. The document also has several maps, showing 1) the mineral and coal occurrences discovered in the last 150 years; 2) the mineral and coal claims as of February 2003; 3) active and historic mines; and 4) the mineral potential within Tahltan Territory. These four maps illustrate the intense amount of resource development and potential for development within Tahltan Territory.

The 7QS came from seven topics deemed essential when applying "the ideas of sustainability in a practical way on the ground" (IISD, 2004, pg. 15). These seven topics were crafted into questions that can be applied to any project or operation. These questions are used to guide an assessment of the relationship between industry and the Tahltan-past, present and future. The 7QS in summary form are:

1. Engagement. Are engagement processes in place and working effectively?

2. People. Will people's well-being be maintained or improved?

3. Environment. Is the integrity of the environment assured over the long term?

4. Economy. Is the economic viability of the project or operation assured, and will the economy of the community and beyond be better off as a result?

5. Traditional and Non-market Activities. Are traditional and non-market activities in the community and surrounding area accounted for in a way that is acceptable to the local people?

6. Institutional Arrangements and Governance. Are rules, incentives, programs and capacities in place to address project or operational consequences?

7. Syntheses and Continuous Learning. Does a full synthesis show that the net result will be positive or negative in the long term, and will there be periodic

reassessments? (IISD, 2004, pg. 16).

Each of the seven questions is elaborated in further detail, all with sub-elements. From the symposium three tables were generated that describe the conditions regarding mining exploration of the past, present and future (desired) within Tahltan Territory.

The mining symposium set out to review resource development from a Tahltan perspective; it set out to ensure that mining developments within Tahltan Territory lead to a positive gain for our people and our land. The document concludes by listing potential actions for the Tahltan people. These included: improving internal communication, reviewing the "1987 Resource Development Policy Statement", creating a Tahltan mining/mineral resource committee, establishing a mining/mineral resource data base and inventory, developing a business plan (Tahltan corporate development), improving external communication with industry, monitoring progress, involving the youth (setting up scholarships, encouraging career choices, etc.), building Tahltan capacity, involving and informing Elders of mining process, making an effort to address health/social/cultural implications of mining and mineral activities, and finally, seeking funding to support the Tahltan mining/minerals action plan. Out of Respect also lists actions that need to be filled by industry and government.

The Tahltan are moving towards the desired actions mentioned above. Fidler's masters thesis on the Tahltan's involvement with the Galore Creek IBA describes the inclusive involvement of the Tahltan in the development of a project based on consultation, partnership and participation. Fidler (2008) states, "IBAs and EA have the potential to enhance Aboriginal involvement in mineral development and positively influence the design and planning of the mine" (pg. ii). This thesis portrays the Tahltan

Nation's participation in a resource development project and depicts recent successes that the Tahltan have accomplished toward the goals laid out in the Out of Respect document.

4.3.3 1987 Resource Development Policy Statement

The "1987 Resource Development Policy Statement" (Appendix 2) was developed by the TCC in April 1987. It begins by briefly describing the Tahltan history of first contact with Europeans, the history of early trading with the Hudson Bay Company (HBC), and the history of playing the middleman between the coastal tribes and the tribes living north and east of the Stikine country. The document then states,

> Even though our people have lost the monopoly position of business in our own country, we are still active on many business fronts. Our present tribal objective is to increase our participation in all business that develops within the borders of our tribal territory so that we can again enjoy a self-sustaining, healthy and enterprising economy (TCC, 1987).

This policy lists eight elements and principles that lead to project participation agreement between resource industries and TCC. The document asserts that the Tahltan are not opposed to resource development within the Territory. However, "we do feel strongly that any development within our tribal territory must adhere to some basic principles that the TCC has developed" (TCC, 1987). The eight elements include:

- Assurance that the development will not pose a threat of irreparable environmental damage;
- Assurance that the development will not jeopardize, prejudice or otherwise compromise the outstanding Tahltan Aboriginal rights claim;

- Assurance that the project will provide more positive than negative social impact on Tahltan people;
- Provisions for the widest possible opportunity for education and direct employment-related training for Tahltan people in connection with the project;
- Provisions for the widest possible employment opportunities for Tahltan people with respect to all phases of the development;
- Provision for substantial equity participation by Tahltans in the total project;
- Provisions for the widest possible development of Tahltan business opportunities over which the developer may have control or influence; and
- Provisions for the developer to assist the Tahltans to accomplish the objectives stated above by providing financial and managerial assistance and advice where deemed necessary (TCC, 1987).

The policy ends on a positive note of relationship building and the benefits of reaching an IBA between resource developers and the TCC.

4.4 Tahltan Land Stewardship Plan (TLSP)

The TLSP was a broad vision for the land that would contribute to a healthy, productive and sustainable lifestyle for the Tahltan people and Tahltan Territory. The TLSP was an LUP initiative started in conjunction with the provincial government. I was hired by the TCC as the Land Stewardship Coordinator in May 2006; the objective of the job was to guide the development of the TLSP. My duties required me to research land planning techniques and processes so the most culturally appropriate land management techniques could be applied to the Tahltan process.

One of my first duties as the Land Stewardship Coordinator was to form a TLSP committee. The committee was established to support the development of the TLSP and other land planning processes. The duties of the committee included: 1) representing the

communities, gives advice, assist and guide the land use planning coordinator and the land planning process; 2) assisting in developing a detailed work plan; and 3) assisting the coordinator with informing communities and gathering community input.
The committee consisted of 21 Tahltan members, each representing different communities (Telegraph Creek, Dease Lake, Iskut, Prince George, Smithers, and Vancouver). The Committee was formed during the 2006 AGM on a voluntary basis.

The TLSP committee and other TCC staff held multiple meetings in the three Tahltan communities as well as in towns outside of Tahltan Territory. The meetings held outside of the territory were to inform as many Tahltan members as possible about the TLSP process and how they could be involved in the process. Once the initial meetings were held to inform membership about land planning, why it was important to start the TLSP, and how they could be involved, a second round of meetings was held. The second round of meetings included more in-depth gathering of land and resource descriptions, and TK. The gathering of this information provided the basis for the TLSP.

While working on the TLSP, the TCC Heritage/Lands and Resource staff also participated in other joint planning initiatives with ILMB. One product of the joint planning with the province was the "Joint Planning Information Package for the *Tlebāne* / Klappan" (draft form). The joint planning package for the Klappan area was to provide groundwork information and analysis "for future land use planning for the *Tlebāne* [Klappan] and help to inform referrals and decisions related to development activities in the area" (TCC, 2008, pg. 1). The main components of this package are:

- A description of the *Tlebāne* study area, including biophysical, social and economic characteristics;

- A comprehensive set of information and data about the area, including updated mapping of Tahltan traditional use areas and wildlife habitat;
- A cumulative effects assessment tool to estimate the effects of multiple developments within the *Tlebāne.* The basic structure of this model could be applied to other geographic areas;
- A methodology for assessing the implications of cumulative effects on Tahltan cultural values and environmental values (wildlife and water). This methodology may be expanded to include assessments of other values;
- An approach to linking effects on spatially-defined Tahltan values (e.g., campsites, trails, hunting areas) to non-spatial social and cultural values such as education, language, spiritual values, and community well-being; and
- Maps to show the spatial distribution of resource values considered during the project. Wherever possible, we have used Tahltan names to describe geographic locations (Tahltan Central Council, 2008, pg. 1).

An important element of the joint planning product is that it provides a "cumulative effects assessment model that has been developed as a decision support tool for assessing complex changes associated with multiple developments" (TCC, 2008, pg. 1). The joint planning package is a tool that was prepared specifically for the Klappan, but could be adapted and applied to other areas in Tahltan Territory.

Due to a number of factors the TLSP process has not been completed. Some of those factors included the mentioned trust issues surrounding the Tahltan leadership at the time, the amount of resource development our people faced at the time, and an overall lack of understanding of land planning processes, by myself, the Land Stewardship Coordinator.

4.5 Recent Land Use Planning Initiatives

It is important to acknowledge the land use planning initiatives that the TCC has completed in the last few years, since my job with TCC ended. I contacted Annita

McPhee, chair of the TCC, about such initiatives. However, I was unable to obtain specific dates of LUP meetings, or reports/newsletters/updates that were created from those meetings. The TCC has been working in conjunction with Ecotrust Canada[5] since September 2009, essentially working with the THREAT team to safely store our use and occupancy information (through GIS), to digitize TUS, and to train staff. The training allowed the TCC staff to access the information and continue to add new data to the maps. The TCC has been successful getting 2010 funding from BC Capacity Initiative to continue this work.

The documents described in this chapter, including the TLSP (once complete), will better position the Tahltan for consultation and accommodation processes. Both traditional and current land planning in Tahltan Territory have utilized the TK of our people. We need to diversify our knowledge base and make use of other First Nations experiences, challenges, and successes in the LUP process.

[5] Ecotrust Canada is an enterprising nonprofit whose purpose is to build the conservation economy in coastal BC. We work at the intersection of conservation and community economic development promoting innovation and providing services for communities, First Nations and enterprises to green and grow their local economies (http://www.ecotrust ca/)

Chapter Five: Analysis

5.0 Introduction

This chapter uses the voices of the Tahltan participants to explore how the Tahltan would like future consultation with industry to proceed. Dividing the interview questions into five sections helped me understand the particular data being analyzed. The first section, summarizes areas listed by interviews as needing some form of protection. Included in this summary of the reasons why participants chose certain areas for protection while suggesting other areas for development. The second section, describes participant's responses related to consultation with industry, and how the Tahltan want future consultation with resource industry to proceed. The third section relates to consultation with provincial government and a summary of views on how the province should carry out consultation and accommodation, with suggestions from participants on ways to improve the situation for decision makers. The fourth section, examines participants' personal opinions on how the TCC is consulting our members. The fifth section summarizes participants' opinions on how a LUP might improve consultation, how a LUP might improve the environmental standards for resource development, and how we gain Tahltan participation in LUP processes. By categorizing the interview questions into five main topics I was able to "look for relationships that connect statements and events within a context into a coherent whole" (Maxwell, 1996, pg. 79). I would like to point out that some of the categories were heavily saturated, while others only contain limited data and will only be briefly described or not at all.

5.1 Areas for Protection/Development

When asked, "Do you support keeping some areas of the Tahltan Territory undeveloped and in their natural state for traditional uses, wildlife conservation, or other reasons?", all participants answered "yes". Following this question the participant was asked "where and why?" Not all participants' answers included specific areas or regions but 12 general areas were identified. Table 5.1 lists the areas that participants feel need some form of protection and also lists the amount of times those areas were brought up during the interviews.

Table 5.1 Areas Tahltan Members Identified for Protection

Areas to Protect	Number of times mentioned
Shesley	9
Klappan (Big and Little Klappan Rivers)	9
Level Mountain	8
Areas surrounding the Communities	3
Nahlin	2
Turnagin River	2
Tsekeye Cho Kime (Tahltan)	2
Parts of the Stikine and Iskut Rivers	2
Todagin	2
Mt. Edziza	2
Barrage berry patch	1
Old Tahltan Village	1

Source: Thesis Interviews 2009.

Participants identified the reasons for protecting the different areas. The specific reasons varied but overall the general argument for protection was for the continued availability of the place for traditional and cultural activities. Ten participants mentioned wildlife habitat, calving/wintering grounds, wildlife corridors, fish spawning areas, and hunting/trapping areas as the principle factor for preservation of certain areas. Another reason for protecting areas was the historical significance of that particular site; seven

participants described areas identified through TUS as being areas with a high priority for being protected from resource development. These included archeological sites, burial grounds/funeral areas, old villages, petroglyphs, rock cairns, battle sites, heritage sites, cultural camps, and sacred sites. The general message that participants were communicating is that the overall sustainability of our culture is reliant on the land and resources.

Although not mentioned as often for specific wildlife and cultural ties, an important area identified for protection is the perimeter of each community, which insures easy accessibility for hunting and gathering sustenance resources. Three participants expressed that some areas should have priority for protection due to their inaccessibility and current lack of development. These areas included Level Mountain, Shesley, and Nahlin. When discussing protection, six participants discussed how provincial parks within Tahltan Territory (i.e. Stikine River Provincial Park, Mount Edziza Provincial Park, Spatsizi Plateau Wilderness Provincial Park, Todagin South Slope Provincial Park, etc.), although adding a level of protection, ultimately limit Tahltan use in those areas.

The participants feel that the different types and scales of development within these areas need to be determined by the Nation during the LUP process. The participants also feel that those areas listed for protection have the potential for development depending on the nature of the project. Participants were asked, "In your opinion, is there any kind of development that Tahltan Territory currently has too much of? And what kind of development would you like to see more of in Tahltan Territory?"

All participants' responses involved less non-renewable development (i.e. mining), while diversifying in other developments that have less impact on the land and resources.

Most participants felt that we should move into some form of tourism for future development. While eight participants mentioned tourism in general, another eight participants specified eco-tourism. Others listed the types of eco-tourism attractions that would benefit the Nation without too much disruption to the land base; these included river rafting, heli-skiing, cross-country skiing, horse trail riding and recreational/commercial fishing. Other than tourism the only other developments participants would like to see occur within Tahltan Territory is renewable energy (also described as green energy). The five participants who mentioned green energy specified wind, hydro, or geo-thermal energy developments as industries the Tahltan need to seriously consider for future development projects.

Some participants mentioned the need for more Tahltan owned and operated businesses; three participants specifically mentioned showcasing Tahltan heritage (i.e. snowshoe making, cultural camps, etc.) as a method of preserving and passing down our culture but also as a tourist attraction. Development within the community, especially infrastructure benefiting our youth and Elders, was mentioned by three participants.

5.2 Consultation with Industry

Tahltans have expressed that they are not happy with how current consultation regarding resource industry occurs; thus the genesis of this thesis. I asked participants "What do you think is the best way for mining companies to consult with Tahltan members and stakeholders about important issues in Tahltan Territory?" Suggestions

varied: some participants expressed that it is not up to the mining companies to consult with First Nations, that it is the duty of the province. Many participants felt that the current consultation process with industry works well to a degree but still had suggestions on how to improve that process. One participant recognizes that *"consultation with mining companies has to be from a relationship point of view and that relationship has to revolve around the principle of respect and principle of understanding and a principle of truth and honesty"* (09-G-**D**).

Seven participants liked the process of consultation with industry, which includes community meetings and information sharing. However, they have suggested that the communication between industry and First Nations communities needs to be improved. A few participants suggested an increase in community meetings; the problem with this is meeting fatigue. Some participants suggested a mining forum format allows multiple companies to present their project to membership at once, decreasing meeting fatigue. Other methods of improving consultation involve a diversification of communication methods (i.e. informational DVD's, radio station broadcasts, websites, newsletters, etc.), and according to the participants all of those communication methods should be developed in conjunction with TCC.

Most participants relayed their frustrations regarding timelines set by both the province and industry. Those participants stated that timelines are always too short for leadership to properly consult community members, let alone the membership outside of the three communities. The same issue was raised around timelines for referrals and permitting. Several participants felt that industry should consult membership prior to starting exploration work, by informing us what their plans are, and identifying any

concerns the members might have. This would ultimately help prevent events from occurring such as the 2005 roadblock against Shell and Fortune Minerals Ltd. Participants feel if industry consults prior to exploration, it will set the stage for relationship building with the Tahltan. More than half the participants stated that relationship building is key to having a successful project within Tahltan Territory.

One participant described his career history as "*a lot of work with regards to Aboriginal relationship building between industry and First Nations*" (09-G-**D**). This participant suggested that a "rulebook" needs to be created, one that outlines how industry consults and engages with First Nations about development projects. Such a rulebook is an excellent idea because First Nations are usually torn between protecting the environment and providing their communities with job opportunities and development. Therefore, "*there needs to be an engagement process that is developed in this province that says this is how you can engage First Nations and First Nations should be the ones writing that rulebook and it should be fair*" (09-G-**D**). This rulebook would also address the fact that consultation is open to interpretation.

5.3 Consultation with Provincial Government

Participants had similar answers when it came to how they would like to consult with the provincial government. I asked each participant "To what extent do you feel that the provincial government is consulting and accommodating Tahltans on the use of our land for development? And how do you want to see this process improved?" One participant stated "*I think they failed miserably, the government, I think they do. I don't think that they take near seriously enough, any aspect of it*" (19-G-**D**). Some participants

felt that the province is not fulfilling/abiding by their own regulations. The fact that consultation needs to happen prior to the allocation of tenures was brought up by nine participants. Participants noted that it is the duty of the province to consult Tahltan members before tenures are distributed to industry. One participant asserts that *"if we start our consultation and accommodation process prior to the sale of our land then we could start talking about and developing a revenue sharing process and it will go a long ways to level the playing field to make everything equal and make us happy and a part of what is happening on our land and I think that would be the way to go, is to honor their* [the government] *own policies"* (13-K-**I**). Currently the province leaves the responsibility of consultation and accommodation up to resource industry.

Not only is the province leaving consultation matters up to industry; two participants felt the province also places the burden on Tahltan leadership. Those participants felt that when the province leaves consultation up to the leadership, it in turn causes "*backlashes from the members towards the leadership and that has caused a barrier there to communicate with each other because there is so much angry feelings*" (14-L/T-**I**). Participants stated that when the province does send representatives into the communities to consult they almost never send those with the authority to make decisions. Two participants felt that the First Nation must be able to consult with provincial decision-makers who have the authority to make serious changes (i.e. Ministers).

Many participants felt the consultation process between the Tahltan and the province has improved drastically since the creation of THREAT. Others felt that although THREAT allows more Tahltan involvement in the provincial EA process, there

is still a lack of serious incorporation of Tahltan concerns from the province. Tahltan concerns are usually recorded but four participants note that the province rarely takes those concerns seriously, leaving us out of the important decision-making. Just as consultation timelines and the fact that consultation is open to interpretation are issues with industry, so too are they issues when it comes to consulting with government.

Many of the suggestions on how to improve the province's consultation and accommodation process with the Tahltan involve funding, capacity building, training and further distribution of information regarding resource development. The four participants who mentioned more funding for the Tahltan suggested that this funding needs to be geared towards completing baseline studies, addressing referral and permitting processes, or to hold more meetings. The Nation does not always have the capacity to respond to referral and permitting processes: two members noted that the province should build capacity or provide training to address these issues. In terms of improving communications, three participants explained that the province has the resources, unlike TCC, to distribute more information to membership, and should be doing so. Each of these suggestions is further explained in the next paragraphs with a related interview question.

Participants were asked "what ways are there to improve the situation for decision-makers (Tahltan leadership) and local communities so that a balance is achieved between local interests and the interests of the province regarding proposals for economic development?" All but three participants responded to the question. Many of the suggestions on ways to improve the situation for decision makers stems from

problems related to lack of education about the process, a shortage of community meetings, difficulties with communications, funding, and timelines.

Four participants felt that education and training about the process is one way that will improve consultation for both parties; this should be done through more community meetings. Most participants felt that there currently are not enough meetings held between the Tahltan and the province. Many participants also expressed that these meetings need adequate notice, which is not always given. Some participants suggested that all meetings about Tahltan land should be held within one of the three Tahltan communities.

Communication between provincial representatives coming into the communities and Tahltan members needs to be considerate of members who may not be educated in the western sciences or may not have a high level of formal education. For example one participant describes how past community meetings with the province included too many abbreviations and terminology that Elders could not understand. Some felt that the LUP itself will improve the situation because it will inform provincial decision makers of who the Tahltan people are; it will give them insight into our values as a people and how they differ from the mainly economic values of non-First Nations people.

One of the biggest concerns is that the province needs to "*recognize that First Nations do have sovereignty over their territory and that people are tired of business going the way it has in the past...the province needs to come to the table with First Nations and recognize that the land and resources does belong to us and work with us to share revenue based on the activities on that land, and I think that will then help us find*

the balance for economic development proposals" (09-G-**D**). The province needs to accept the 1910 Declaration.

5.4 Internal Consultation with TCC and Members

In the interviews, participants described their personal opinion on how the TCC either adequately or inadequately fulfils its duty to consult membership on resource development projects. I felt that my common heritage with the interviewees, despite my partial outside status, encouraged them to share more freely and honestly their critiques. My initial assumption, based on my time working within the communities, was that most participants would feel that the TCC is not living up to the communities' satisfaction. However, 14 participants felt that TCC was doing a good to fair job, or that it is doing a better job than in the past, while three participants stated that TCC could do a better job if it had the proper capacity and funding. Yet other participants asserted that TCC was not informing membership and should be working to improve this situation.

Table 5.2 lists participants' opinions when asked "Do you feel the TCC is doing a good job with informing the communities adequately about important issues?" The left column lists the participants answers' if they gave a direct "yes" or "no" response, the right column summarizes their thoughts on whether the TCC is or is not adequately consulting membership both within the three communities and outside of the Territory.

Table 5.2 Opinions about TCC Consultation with Community Members
In order of Interview date (N=28)

Opinion Summary	Comments
N/A	S/he cannot comment because s/he does not live within the Territory and is "not sure if TCC is consulting adequately" [leads me to believe they are not consulting outside members as often as possible]
N/A	S/he notices that when TCC has meetings not many people attend; "it's hard to consult members when they are not available"
N/A	No Comment
N/A	No Comment
Yes and No	S/he feels that "The TCC is under-resourced, both capacity and funding wise, to carry out duties asked of them. If they had proper funding they could carry out their tasks properly"
N/A	No Comment
No, but not their fault	S/he states that the TCC is "not consulting members due to the fact that timelines on most development projects is too short for adequate consultation"
Yes and No	S/he feels that the "TCC does their due diligence" but since the participant moved away from the communities s/he "hasn't heard much regarding resource development" [TCC may not be consulting outside members as often as possible]
Yes	S/he states "when TCC has the funding to consult they do it well, especially putting the extra effort into traveling to outside communities"
Yes	S/he felt that TCC gets their information out "most of the time"
Yes	S/he states the TCC does "a pretty good job for the amount of resources the TCC has to allocate to tasks, such as communications. But they should be looking at other techniques of getting the information out"
Yes	S/he feels that the "TCC is doing a good job but should have a monthly newsletter"
Yes and No	S/he thinks the TCC is "doing the best job they can at the moment, it's an evolving process and there is room for improvement. On the other hand communication 'is a two way street' and membership has to want to be informed"
Yes	S/he feels the TCC does a "fair job" with informing membership
Yes	S/he "has seen a great deal of [positive] change over the past five years" and "doesn't see TCC consulting any other way"
Yes	S/he states "after the road blocking of Shell and Fortune Minerals Ltd. the TCC is doing a better job with informing membership"
Yes	S/he feels that "the evolution and development of our governance is taking place…politics have changed drastically and TCC has continuously improved our situation over the years"
No	S/he feels "the TCC can be more pro-active rather then reactive to industry…they could do a lot better job"

Yes	S/he feels the TCC is "getting better than before…it's a slow long process"
No	S/he doesn't feel the TCC are "addressing some issues enough but at the same time is well informed of other matters"
N/A	No Comment
Yes	S/he states "this is the first good group within TCC…they have significantly advanced in the past few years"
No	S/he states that the TCC "keep running into the same problems over and over…can't blame it on the people that are in there, it's the system that is failing"
Yes	S/he feels that "if you put your vote in for a leader then you should trust that that person is going to do what you direct them to do, and if they report back, that should be enough…leadership is expected to do a pretty phenomenal exchange of information…Membership has to want to be informed…currently no members come to meetings"
Yes	S/he feels that the "TCC is starting to do a better job, especially with traveling to outside communities for development projects updates"
No	S/he feels that the "TCC is doing too many meetings outside of the communities and not enough within the three towns"
No	S/he feels the TCC "need to have more newsletters and updates about when they meet with industry and government. But they are doing a better job than before"
Yes	S/he feels the TCC "need[s] to work on communications but have increased the involvement of outside membership lately"

Source: Thesis Interviews 2009.

Summarizing the participant's responses on the TCC's ability to consult with membership is important not only for the purpose of this study but also for the TCC to understand how the membership views our governance organization. This information will be important when it comes to nation-building and the ways in which the TCC might improve internal consultation and decision-making. One participant states that *"we need to develop a decision making process, we don't have any process right now, the process we do have is top down decision making we need bottom-up decision making. Start with the grass roots to the top, it's the way it use to be"* (18-K/T-**I**). Further details on the participant's responses will be elaborated in the community report given to the TCC and other Tahltan members.

5. 5 Land Use Planning

This section relates to land use planning and how the Tahltan would like to see land and resource management occur if we chose to complete the TLSP process. I asked participants "If the TCC began the TLSP process again would you participate?" Of those who gave a direct answer, 12 participants said they would participate and only one said his/her involvement would be based on who was involved with organizing and completing the LUP and how serious those people were. The other 15 participants didn't directly give a "yes" or "no" answer to whether they would or would not participate, but rather jumped into the second part of the question, "How would you like to participate?" Community meetings were named as the best way to gather information from a range of people. Five participants said meetings also allow for brainstorming and information sharing. However, two participants felt that individual interviews were the best way to gather information because it allows the interviewee to speak freely and with more attention paid by the interviewer. Eight participants thought a mixture of community meetings and individual interviews are necessary for collecting data. It was suggested that once community meetings are held people attending those meetings could be targeted for interviewing. One other suggestion brought up by one participant was the use of the 10 family representatives to hold meetings and gather information. To trigger Elders' memories, and for younger people to learn why our land is important: two participants felt strongly about having some of the meetings out on the land.

I asked "if a majority of the Tahltan Nation could be involved with the development of a LUP do you feel that LUP document would improve the current consultation process? And how?" To answer the second part of the question, nine

participants stated that it would allow for a collective voice, and collective decision-making; four participants felt it will provide a 'roadmap' for government, industry and ourselves; one participant thought it would allow for a higher level of consultation and prove to government we can manage our own lands. However, two participants felt that it wouldn't change or improve the consultation process due to a lack of hope by community members. One participant stated,

> *if everybody was involved in putting that plan together then all of that stuff has already been identified and there is a written document that tells you what kind of development you would allow and what kind of development we would defiantly not allow, and I think it will make that process a whole lot easier if we had that document that drives every resource development. It doesn't matter what it is, or on what scale. There is one document that drives everything and the policies stick. It doesn't matter what part of the Territory you are talking about; there is a governing document that's been created by our people and that's what answers all those questions. It will just make it so much easier and more consistent from project to project* (19-G-**D**).

The overall message presented by participants is that land use planning will allow for a collective voice, which in turn will lead to unity amongst our people.

Due to the fact that the TCC had started the TLSP process previously with little success I found it essential to ask participants "What would need to happen to allow fuller involvement [from membership in a LUP process]?" Participants listed six different methods to improving the participation rate in the planning process; they are listed by the number of times mentioned. Eight participants mentioned education and

awareness. Improving communication between the leadership and membership was mentioned five times. Being consistent with regular meetings was mentioned four times. Three participants felt it necessary that membership be involved from the beginning of the process. Two participants noted the importance of incentives (per diems, or food vouchers), especially when asking people for their knowledge. Finally, two participants felt that our leadership needs to build integrity in order for membership to gain trust, so they too are willing to participate.

The overall agreement is that the TLSP must be complete in order for there to be one vision for our land and resources. I was, however, curious whether the participants felt the LUP would change the way we interact with industry. I asked "Do you expect mining/resource companies to protect the environment according to Tahltan ways and understanding once the LUP is complete?" The opinions on this topic were mixed; two participants felt that if our rules and regulations laid out in the plan cost industry more money than what the province requires them to pay, then they will not abide by our LUP. A similar response by two other participants stated that the LUP wouldn't make a difference in protecting our environment. However, six participants thought that if we hold the companies accountable it will go a long ways towards the protection of our land and resources. In order to hold the companies responsible, and to make sure they adhere to our rules and regulations, seven participants felt that a trained Tahltan monitor should be present at all development sites.

The second part of the question asked participants "how do you feel the LUP will change the current situation?" All responses envisioned an improvement; three participants felt it will improve the situation in regards to environmental degradation; six

felt it will provide a 'roadmap' for industry on what our rules and regulations are when it comes to protecting the environment; two participants stated that the LUP will have our designated areas -'no-go zones'- mapped out, giving developers a heads up as to where they will receive backlash from the communities.

5.6 Conclusion

Opinions on whether consultation with industry and government is adequate vary between the participants. A majority of the participants expressed that there is always room for improvement and gave detail into how industry and government can go beyond their due diligence and truly accommodate our needs as a Nation. My assumptions about internal consultation between leadership and membership as mostly inadequate were challenged: although some participants still felt our leadership was not meeting their needs, many participants felt that leadership has improved its efforts in consulting our people on issues of resource development. My general conclusion is that participants felt a LUP is needed to not only improve consultation with outside proponents but also to gain the collective voice of the Nation.

Overall, the majority of participants claim they would participate, one way or another, in land use planning. Participants felt a number of methods could be used to entice a majority of membership to participate. Some felt that examples of land planning, education about process, and communication improvements within the communities would contribute to the completion of the TLSP. One of the biggest concerns for participants was the lack of communication within the Nation: "*unfortunately year after year we find that communication is something that our Nation*

has always been weak on" (12-L-**T**). Communication between the Tahltan, government and industry was also a reoccurring topic in many of the interviews.

Chapter 6: Discussion

6.0 Overview

One goal of the research was to determine if the Tahltan should proceed in land use planning processes to improve our community based consultation. The information presented in this thesis, along with the body of knowledge on consultation and land planning, will provide the communities with information that could be useful in the development of a LUP. This chapter outlines the key findings of the research, which is summarized in three categories: (1) First Nations land use planning, using the Heiltsuk LUP as an example, (2) areas for protection and areas for development, and (3) areas in which consultation can be improved, whether by consultation with industry, government or internally among the Tahltan.

I was not able to discuss the contents of the Heiltsuk LUP with the Tahltan during the writing of this thesis, nor incorporate its analysis as early as I had hoped. I had originally planned to review and analysis two First Nation's LUP's, as well as interview at least one representative member within each of the respective Nations about the impact of the LUP. However, I never received the LUP from the one Nation, despite multiple requests. I was grateful to obtain a copy of the Heiltsuk LUP (although it came rather later in my thesis journey than anticipated). I held initial conversations with a Heiltsuk member about an interview, but I was not able to successfully set an interview date, again despite multiple requests. I will include discussion of lessons learned from my analysis of the Heiltsuk LUP within the community report based on my thesis that I plan to prepare for the TCC.

By including direct quotations from the interviews I conducted, I insert the researched voices into this thesis. I acknowledge and make use of these quotes as,

"quotations are important in revealing how meanings are expressed in the respondents' own words rather than the words of the researcher" (Baxter and Eyles, 1997, pg. 508).

6.1 Land Use Planning

Howitt (2001) explains that for many resource managers "it is easy for the resources they manage to become 'naturalised'- to appear as if they are substances or things created (and therefore manageable) outside any cultural context" (pg. 7). Managers managing 'natural' resources can be a technical and professional task. For First Nations, the management of our land is much more. Howitt (2001) suggests that "we need to develop new ways of 'seeing' the field of resource management in ways that make visible the complex consequences of resource management decisions...[as well as] new ways of 'thinking' that accept the contextual complexities of resource decision making. And finally, we need to develop new ways of 'doing' resource management" (pg. 8).

I believe First Nations have recognized the need for more adequate resource management for some time and have sought new ways of approaching management that are "consistent with the core values of social justice, ecological sustainability, economic equity and cultural diversity" (Howitt, 2001, pg. 12). This approach is reflected in many of the modern LUPs that First Nations have created. I reviewed a First Nations LUP that focuses on stewardship and integrated use areas, which are based on the same general values as those of the Tahltan. For LUPs with those values, the Ecosystem Stewardship Planning working group states that a:

Priority goal is to provide land base for sustainable economic development.

> Generally all surface and sub-surface developments are permissible subject to mitigation and minimization of impacts on other resource values and generation of benefits for the First Nation (n.d., pg. 10).

To answer in part my research question pertaining to land use planning and improving the consultation process for another First Nation group, I analyzed the Heiltsuk First Nations LUP, which deals with similar issues to those the Tahltan experience, such as resource development. I examined this LUP, so as to bring forth this data to the Tahltan communities to show the impacts and benefits a LUP may have on communities committing to the planning processes.

Through this research, I have determined that the Tahltan desire to have our collective goals and visions documented in a LUP that will guide decision-making. The overall goal of the Heiltsuk LUP is to document their vision of management, in order to govern their "territory as rightful landowners" (2005, pg. 1). The Heiltsuk LUP, otherwise known as "*Qn qnts sásmλáts 7ns7a;* For Our Childrens Tomorrow", directs the Nation to "balance the health of the land and the needs of our people" (Heiltsuk First Nation, 2005, pg. 1). The Heiltsuk vision statement is similar to the vision statement the Tahltan land stewardship committee drafted in the first draft of the TLSP. In my view it is of utmost importance to focus on over arching goals of the Nation and shift from short-term to long-term thinking. This is in line with one of Cornell and Kalt's nation-building characteristics that involve identifying priorities and concerns, and then determining long-term objectives to meet those priorities and concerns.

Tahltan participants recognized that a LUP will act as a guide or 'road map' for Tahltan leadership engaging with government and industry. Although the Tahltan have

values and interests regarding resource management, we need to prioritize those values and interests just as the Heiltsuk guiding principles have. The Heiltsuk LUP is grounded in TK and "supported by a great deal of technical work and data with assistance from other sources" (Heiltsuk First Nation, 2005, pg. 7). The LUP is a reference tool for Heiltsuk leaders and resource staff, for assisting in government negotiations, development referrals, land use decisions, and also provides a guide for non-Heiltsuk proposed developments. The guiding principles for land management of the LUP include: "(1) Ensure conservation of natural and cultural resources, (2) Ensure Heiltsuk priority access to resources for cultural and sustenance use, (3) Enable appropriate Heiltsuk commercial and recreational use of resources, and (4) Enable appropriate non-Heiltsuk commercial and recreational use of resources" (Heiltsuk First Nation, 2005, pg. 8). The guiding principles, listed in order of priority, ensure the availablity of Heiltsuk cultural practices over the development of land and resources for economic purposes. In my view, when the Tahltan develop our guiding principles, we will better direct our leadership on decision-making and identifying the types of development that meet the desires of the members while ensuring sustainable management.

The Heiltsuk use the word *7ˇáxvái*, which translates as "the 'power' or "authority" people derive from their ownership of and connection to the land" (Heiltsuk First Nation, 2005, pg. 8), to communicate their sovereignty over Heiltsuk land. When First Nations exert sovereignty, the way in which the Heiltsuk have, they enhance the decision-making process because "self-governance marries decisions and their consequences, leading to better decisions" (Cornell and Kalt, 2006, pg. 13). Cornell and Kalt state that "decision-makers bear the costs of their own mistakes, and they reap the

benefits of their own successes" (2006, pg. 13). One can argue that First Nations decisions regarding land and resources are more vaild than those made by a decision-maker who does not live off the land, because First Nations know the land on which they rely and the ways in which they need to protect it to sustain their way of life.

Tahltan particpants have illistrated their concerns with the overwhelming land and resource issues in our Traditional Territoy and recognize the need to address the cumlative impacts of these issues. The Heiltsuk LUP focuses on six pressing land and resource issues. The six issues consist of referrals and consultation, ecosystem-based management, salmon aquaculture, cedar, offshore oil and gas, and protected areas. By highlighting those issues the Heiltsuk are better suited to provide a clear position on, and employ better decision-making regarding those issues. In my opinion, if the Tahltan adopt a simular process by first determining what the membership regard as pressing issues, and then by determining appropriate mitigation measures, we will shift from reactive thinking to proactive thinking. Although there are differences between Tahltan land and resource issues than those of the Heiltsuk, I have made several connections on the ways in which the Tahltan can learn from the Heiltsuk process and framework and how a LUP might improve the consultation process for Tahltan.

Tahltan participants voiced their concerns with federally and provincially protected lands; many participants felt that creation of protected areas (i.e. provincial parks) in Tahltan Territory was done without much Tahltan input. A section of the Heiltsuk LUP regarding protected areas would be of interest to the Tahltan due to the government to government consultation requirement the Heiltsuk have outlined. If federal or provincial governments propose the designation of new parks, conservancies,

nature reserves, or other legislated protected areas in Heiltsuk Territoy, that government must pursue co-management agreements with the Heiltsuk. In my view, the Tahltan LUP should include simular standards as the Heiltsuk, regarding the creation of protected areas, as well as determine the management, or co-management, rules and regulations for those areas.

The social impacts of resource development in Tahltan Territory, as some Tahltan interviewees illustrated, have been rather destructive in the past. The number of non-Tahltan people along with their non-Tahltan lifestyles, brought into the Territory due to large resource development projects, has negatively impacted our small communities. The Heiltsuk LUP states, "we will maintain our cultural practices for Heiltsuk wellness, community strength and identity" (Heiltsuk First Nation, 2005, pg. 14). The Heiltsuk LUP works to merge traditional values with modern land and resource development procedures. In my view, the Tahltan LUP needs to address the social impacts of multiple projects occurring at once, and adopt a similar approach as the Heiltsuk when completing our own LUP. Identifying social impacts caused by resource development can be learned from our own past experiences, for example Eskay Creek and the social impacts surrounding the opening and closing of the mine, as well as lessons learned from other First Nations. This will enable the Tahltan to create the preventative measures needed within the LUP for the well-being of all Tahltan members.

The Tahltan interviewees showed a great deal of interest in developing the tourism sector. Therefore, the Tahltan LUP should have an equally strong focus on how and where tourism should be developed. The Heiltsuk LUP discusses tourism opportunities for wildlife-viewing, as well as showcasing Heiltsuk culture and history.

The Heiltsuk wish to increase "management capacity and monitoring of tourism and recreational activities" (Heiltsuk First Nation, 2005, pg. 26), in order to ensure tourism developments that "minimize adverse impacts on wildlife and natural areas, and [do] not interfere with Heiltsuk culture, traditional use and recreational activities" (Heiltsuk First Nation, 2005, pg. 26). In my opinion, if the Tahltan adopt the same view, or one similar, we can strengthen our participation in the tourism sector and provide a rich foundation for tourism based on Tahltan values.

Some Tahltan participants have stated that the LUP will be difficult to implement, and voiced their concern with whether mining/resource companies will abide by our rules and regulations laid out in the LUP. The Heiltsuk recognize the challenge in implementing their LUP and state that it is a "joint responsibility of the Heiltsuk Tribal Council, *Yím'as* and the Heiltsuk people (Heiltsuk First Nation, 2005, pg. 33). Just as the Heiltsuk LUP has done, the TLSP can provide our Nation with one collective vision for our land and resources. Based on my work experience, it is my observation that the Tahltan need to understand that a LUP is a responsibility not only for the TCC to complete and implement, but also for the entire Nation. The Tahltan members who are organizing and initiating the development of the Tahltan LUP should review the process used, from beginning to end, in completing the Heiltsuk LUP or one like it, to learn what advanced the process and what did not work so well.

TK is a way of knowing and fitting into the environment. Similar to western science, TK is an accumulation of observations over time. Howitt (2001) states, "traditional knowledge systems are not just information sets. They are also coherent, culturally contextualized ways of seeing, understanding and relating to the world

(human, environmental, and cosmological) (pg. 36). Berkes et al. (2000) describe Traditional Ecological Knowledge, or TK, as a "cumulative body of knowledge, practice, and belief, evolving by adaptive process and handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environment" (pg. 1252). This working definition, in my view, illustrates how both the Tahltan and the Heiltsuk depict their LUP as a living document, which will be added to and updated over time.

The ways in which TK can be incorporated into land planning and resource management is entirely dependant on that Nation's TK base, and their ability to document, or recapture TK. TK can serve as a guide or method for First Nations leaders/stewards to manage their land and resources. Some TK management systems were "characterized by the use of local ecological knowledge to interpret and respond to feedbacks from the environment to guide the direction of resource management" (Berkes et al., 2000, pg. 1251). First Nations have always used TK when planning for our land and resources; this is evident throughout the Heiltsuk LUP. Only recently have formal resource management decision making structures incorporated TK with western knowledge. The ways in which TK was incorporated into the Heiltsuk LUP is one key process the Tahltan need to ensure happens when developing the TLSP.

One Tahltan participant, who falls into both the guide and outfitters group and the leadership group, and thus has vast amounts of both TK and western knowledge, recognizes the difficulties in tracking the smaller exploration companies and placer miners. S/he suggests that we need to find a method of making these smaller proponents accountable for the damage done to our land. One participant states, "*during exploration*

we see a pattern develop that they have no respect for our regulations and expectations. So why would we support their development project, their project going into development? So there becomes that type of incentive for them to do that" (07b-G-**D**).

The Tahltan LUP can operate as a roadmap for leadership, industry, and government. Not only can the LUP act as a guide, it can also help our leaders set standards; one participant suggests it will help us "*assess what is a good company and what is a bad company and based on that criteria assess whether we engage with them or not*" (09-G-**D**). In order for the Tahltan, or any First Nation, to properly develop these criteria or standards, we need to focus on both TK and western knowledge within a LUP. TK systems provide for qualitative (or abstract/holistic) management of resources, whereas western bodies of knowledge tend to be more quantitative. TK can be viewed as a "library of information on how to cope with dynamic change in complex systems. It may help connect the present to the past and reestablish resilience" (Gunderson et al. 1997, quoted in Berkes et al., 2000, pg. 1260).

First Nations can learn from lessons learned from systems of TK and practice. Berkes et al. (2000) list those lessons learned:

> (1) management may be carried out using rules that are locally crafted and socially enforced by the users themselves;
>
> (2) resource use tends to be flexible, using area rotations, species switching, and other practices;
>
> (3) the users have accumulated an ecological knowledge base that helps respond to environmental feedbacks, such as changes in the catch per unit of effort that help monitor the status of the resource;
>
> (4) a diversity of resources are used for livelihood security, keeping options open and minimizing risk; and
>
> (5) it is carried out using qualitative management wherein feedbacks of resource

> and ecosystem change indicate the direction in which management should move (more exploitation/less exploitation) rather than toward a quantitative yield target (pg. 1259).

Berkes et al. (2000) note that building TK to understand qualitative changes in complex systems has been a means for improving a group's chances of survival.

Using many of the lessons learned from other Nations, such as the Heiltsuk, the Tahltan can move towards actions such as those identified in the Out of Respect report. I find the 7QS assessments to be accurate descriptions of the situation the Tahltan have faced. I also find the desired future assessments, earlier discussed in section 4. 3. 2, to be similar to expectations I identified during the interviews conducted with Tahltan members. The actions resulting from the 7QS outlined in the Out of Respect report required for future sustainable resource development address many of the same issues that a LUP will speak to.

The final overall message communicated by the Tahltan participants was in regards to enforcement of the rules and regulations laid out in our LUP. The LUP must hold the proponents accountable for all actions: "*we have Aboriginal rights and title, we have a tremendous leverage, and you know I think we could force them, we could force them to do whatever we want, this is our land, our trees, and our declaration says it, the declaration isn't worth the paper it is written on if we don't enforce what we're saying and I believe we can do it, as long as we enforce it*" (13-K-**I**).

6.2 Areas for Protection and Areas for Future Economic Development

Participants recognize that in order for the Tahltan to have a sustainable and equitable future we must incorporate core Tahltan values, beliefs, and knowledge into

resource planning and decision-making. As discussed in the interviews, many Tahltans are not opposed to resource development but do feel there are too many proposed mines within Tahltan Territory. One participant states, "*the development is going to take place whether we want it or not, that's one thing that we all got to live with development and change. The trick is to try and control the rate, pace and scale of development so that our people can adjust in a timely manner and sustain us for generations to come*" (02-L/O-**D**). Together, as a Nation, we need to determine the areas in need of protection and the areas appropriate for future economic development.

6.2.1 Areas in Need of Some Type of Protection

Participants listed the reasons for protecting the different areas mentioned; the reasons varied but overall the general agreement for protection was for the continued and future availability of traditional activities. Some participants recognized that although there needs to be areas set aside for protection these areas need to have different levels of protection depending on the site. One member suggests, "*there should be a tiered system of no-go zones, limited use, low use, medium and high use*" (05-G-**D**); where one end of the spectrum involves areas designated for economic development activities, and the other end of the spectrum involves 'no-go zones' designated for sacred or spiritual activities. That participant felt that the tiered system would protect the integrity of certain areas but at the same time allow different levels of access and development in other areas.

One topic discussed by many participants was the issue of provincial parks; those participants suggested that Tahltan people must be more involved in the management of

these areas. Howitt (2001) states "areas of high natural heritage value are often areas in which indigenous peoples retain strong interests" (pg. 370). One Elder explains, "*the Stikine should be one that should have never been a park. It should have been a Tahltan park not a provincial park. Same with Mt. Edziza and Spatsizi*" (22b-E-**D**). Aboriginal ownership of these important areas needs to be recognized and incorporated into the conservation and management of the existing parks in Tahltan Territory. First Nations need to entrench our rights into similar resolutions such as this:

> National Parks should be under Aboriginal control, Aboriginal people should make the rules. Aboriginal People should prepare the management plans, and to have access to all areas within National Parks...All National Parks should be make A Class Aboriginal Reserves [under the WA Land Act 1933 and Aboriginal Affairs Planning Authority Act 1972] and Aboriginal People can look at sub-leasing then to National Parks (Kimberly Land Council 1991: 7, Resolution no. 61, quoted by Howitt 2001, pg. 371).

I am not suggesting that parks should *only* be under Aboriginal control. If government officials, whether it's federal or provincial, are well meaning and genuinely interested in granting Aboriginal people a meaningful role in the co-management of parks, than a co-management approach might ensure that Aboriginal knowledge and values are appropriately incorporated into that process.

Participants were in agreement that some areas need Tahltan protection, "*and one of those areas is the Level Mountain, Shesley, Nahlin area. Or Naha-lee. I would like to see that area be kept in the state it is in now, without further access put into it...We have to keep some areas pristine and this is one of them*" (02-L/O-**D**). Howitt (2001) notes,

"in all resource management systems, the perceptions, attitudes, values, ethical standards and aspirations of those involved are fundamental to its structure and operation" (pg. 165). Due to the fact that the Level Mountain, Shesley, and Nahlin are sacred, we need to strategically determine how we want to protect and manage for the continued sustainability of these areas: "the most important element of an ecosystem is the state of mind of the persons who use it" (Howitt, 2001, pg. 165, quoting Blay 1984: 130).

Resource managers and land planners need to rethink the dominant approach to management practices. Co-management is one method of empowering and including Aboriginal people in those practices. The Tahltan want and need to have more of a participatory role in the sustainable practices of resource management. Co-management should start with the revision of current policy surrounding provincial parks. I recognize that this will present challenges for both Tahltan and those who currently manage our lands; however, "we *need* to rethink the building blocks that come in the form of words, ideas, and propositions as well as applying new analytical tools to the material relationships and processes" (Howitt, 2001, pg. 159, emphasis added).

6.2.2 Areas for Future Economic Development

As stated earlier, the Tahltan are not opposed to mining. We do feel that there are too many projects being pushed forward without adequate community based consultation. Many Tahltan believe mining within our Territory is a necessity in order to provide employment for our people. As one participant mentions, "*those resources have to provide jobs, opportunities for our people and the ways we develop them is something that is very difficult to control because unfortunately the world economy is on our door*

step and a lot of the times people feel like we can develop one mine, and thirty years down the road develop another, but that's not the way it works" (12-L-**T**). We need to be able to weigh the costs and benefits of resource development so that we can make informed decisions on which projects we will support and which ones should not be considered.

When it comes to regional economic development and resource management, Howitt (2001) suggests five strategies aimed at improving outcomes for Aboriginal people: planning, management, capacity building, institutional strengthening and negotiating (pg. 155). These suggestions are much in line with the nation-building approaches (practical sovereignty, effective governing institutions, cultural match, strategic orientation, and nation-building leadership) that Cornell and Kalt (2006) suggest. The Tahltan have a long history of working in and with the mining industry. As a result of this extensive history, the ways in which we protect and manage our land and resources has progressed and improved, and much of these improvements are due to the strategies that Howitt describes.

Tahltans have been involved in mining for years. Participants expressed that they would like to move away from resource development and focus on development that utilizes the natural landscape. Much of Tahltan Territory is pristine wilderness. One participant said,

> *I would like to see more Tahltans opening up things like recreational opportunities for rafting tips, or cultural camps, or that kind of thing to be able to show case our land and the significance in the Tahltan culture as a Nation to other people and to tourists. So I think that would be really good opportunities to*

utilize some of the natural beauty and landscape for those activities but I do believe they should be owned and operated and led by Tahltans so that areas that are significantly sacred to us as Tahltans would be protected adequately (05-G-**D**).

Participants felt that showcasing Tahltan heritage would act both as a method of preserving and passing down our culture but also as a tourist attraction; "*we don't have nothing to show who we are actually, they could be putting more input into our, like building snowshoes, moccasins, etc.*" (15-O-**T**). Kutzner and Wright (2010) suggest "Aboriginal tourism, properly managed, may provide the opportunity for Aboriginal people to share their culture with outsiders in a manner they prefer" (pg. 105).

Kutzner and Wright (2010) also suggest that Aboriginal tourism can be "seen as a development which has the potential for indigenous peoples to foster and revive their culture" (pg. 97). Participants hope the tourism sector will help diversify development activities in Tahltan Territory but also serve as a method of revitalizing our culture. Their article, a study into the demand for Aboriginal tourism as a strategy for economic diversification by First Nations communities using Tl'azt'en Nation in northern BC as a case study, might serve as a useful tool for the Tahltan when determining how we might prosper from this niche tourism market. However, the authors also recognize that "in northern BC, as with other remote indigenous communities, resources are limited and opening a community up to tourism must be considered carefully" (Kutzner and Wright, 2010, pg. 109).

Some participants mentioned the need for more Tahltan owned and operated businesses. One that struck me was the desire for more Tahltan owned and operated

guide and outfitting. My family owns and operates Kinaskan Lake Outfitters and my personal opinion is that as Tahltan outfitters, we exceed regulations set out for all outfitters because our hunting territory is also Tahltan Territory. Kinaskan Lake Outfitters takes special pride in protecting the land and not over-harvesting our animals. Tahltan guide and outfitters know and rely on Tahltan land, not only in a business sense, but for reasons pertaining to our traditional subsistance practices as First Nations people. First Nations decisions are informed by observations made over many generations that reflect and respect traditional subsistence practices. As such, they are more likely to respect long-term sustainability objectives.

Another suggestion made by participants was the development of renewable or 'green energy'. One participant suggests "*if it's renewable energy, whether it's water, wind or geo-thermal it's always there and it's not as bad as mines for the environment. Also there will always be revenue coming in from the renewable energy projects, if things are done right*" (20-L-**I**). First Nations in northern Ontario see the benefits of being involved in energy developments. In the article "Renewable Energy Sparking Hope for First Nations: Several Hydroelectric Projects Already Underway", Stewart (2009) states "in the short term, this may represent community revenues through equity shares; in the long term, it will allow them to develop the capacity to participate in greater economic opportunities...Having the ability to draw upon some of the power projects as a local resource for community improvement would further enhance economic development opportunities beyond straight revenue".

When engaging in community economic development, First Nations have worked in co-operation with external businesses and institutions to generate economic growth.

Lewis (1994) states, "partnership opportunities should be actively pursued to the extent that they increase Aboriginal ownership of economic assets and promise a systematic, socially beneficial, and culturally consistent approach to local job creation and training" (pg. 3). One participant believes that not only should we partake in development but "*we should own all that* [development] *and we should control it and we should develop in a way that will get us off of INAC in 50 years and even move our people down a path that is self determined and not dependant on that INAC welfare system*" (13-K-**I**).

Marketwire, a newswire service released an article on May 28th, 2010, discussing the newly signed IBA between the Tahltan Nation and AtlaGas regarding the Forest Kerr Project. The Forest Kerr Project, a 195 mega-watt run-of-river hydroelectric project, is an example of Tahltan nation-building, which seeks to "create an environment which attracts investors and in which businesses and individuals can safely pursue economic prosperity" (King and Begay, 2003, pg.54). In the *Marketwire* article, Annita McPhee states, "this agreement establishes ownership, management of our resources and profit sharing while taking into consideration the protection of our environment as a renewable energy project. This IBA will set the bar for resource development projects and demonstrate the results of a successful relationship with a company in Tahltan Territory that respects our Aboriginal title and rights" (*Marketwire*, 2010).

6.3 Recommendations for Improving Consultation Efficiency and Outcomes

As discussed earlier, the understanding of consultation varies depending on who is defining it: some resource development companies believe it means leaving a voice message or sending an email; governmental agencies have their own take; First Nations

want/demand that consultation mean something more interactive. First Nations are usually left with little or no consultation or participation in decisions that may significantly impact their lives and lands. One of the questions this thesis aimed to answer entails how the Tahltan want to proceed with future consultation with mining industry. The Tahltan participants had many suggestions on improving consultation with both industry and government, as well as internal consultation between our leadership and membership. One member states that consultation is,

> *defined or interpreted differently by so many different people...so I think for real consultation to take place they do have to sit down and listen to all those concerns and they need to find a way to address all those concerns so that we can genuinely can say yes we were consulted upon and they accommodated in this fashion, or with this study, or with this, or whatever. But I think we are really lacking in the actual consultation on any level right now* (19-G-**D**).

Much of the improvements that can be made regarding consultation between government and First Nations can to be applied to consultations between industry and First Nations.

6.3.1 Consultation with Industry

Some of the Tahltan participants voiced their concern with how consultation between the Tahltan and resource proponents has taken place in the past. One Tahltan participant 13-K-**I** notes that consultations done in the past by one mining proponent, whose report s/he reviewed, consisted of two phone calls to then Tahltan Chief Jerry Asp, and one phone call to then Iskut Chief Louis Louie. S/he notes that due to medical issues of the Iskut Chief at the time, the mining proponent was not able to make initial

contact, therefore "*they dropped some information off at the Band office and that was their consultation*" (13-K-**I**). Examples such as this explain why the Tahltan TLSP needs to clearly define appropriate and acceptable consultation procedures.

The consultation section of the Heiltsuk LUP is short and to the point. It determines what procedures are suitable for initial contact with the people, who this contact should be made through, and how this contact should be carried out. First Nations rights are collective rights; therefore proponents "should not be consulting solely with individuals who are affected in their particular exercise of those collective rights, but also with the community representatives" (Sharvit et al., 1999, pg. 11). These proponents need to consult with those who are in the position of representing the group in a manner that the First Nation deems suitable.

The Heiltsuk LUP differentiates the consultation policies depending on the nature and scope of the proposed development and states,

> The proponent and government shall provide the Heiltsuk with a detailed written proposal for the activity being requested, including all relevant and available data. The Heiltsuk will review proposals and provide permission for proposals that are deemed appropriate. Where there are concerns or problems, the proponent shall either accommodate Heiltsuk concerns or withdraw the proposal (Heiltsuk First Nation, 2005, pg. 14).

It also outlines what types of consultation are deemed appropriate (i.e. telephone contact, casual or unplanned meetings with Heiltsuk members or officials) and states, "early and full involvement of the Heiltsuk in proposed developments is required. Proposals that are

brought before the Heiltsuk at the last moment will not receive expedited review" (Heiltsuk First Nation, 2005, pg. 14).

Resource development companies must work collaboratively with Tahltan advocates when moving from exploration to development and production itself. The Tahltan people wish to be involved from the beginning of this stage. One participant states, "*the most important thing I see is to build a relationship from the beginning with the leadership and the people...sometimes they are not going to agree with what you want but you both will come to a common understanding and build a relationship right there and work together*" (14-L/T-**I**). In my opinion, opportunities for First Nations to be consulted with should happen throughout the life of the mine.

During the production stage of a mine, First Nations are usually promised revenue sharing and employment opportunities. One Tahltan participant, who is in a leadership position, briefly touched upon the participation agreement made with NovaGold (Galore Creek project) and the support surrounding that agreement. Fidler (2008) explains that while IBAs or participation agreements "are generally not compulsory for third parties entitlements, they are increasingly becoming part of a standard package of agreements, negotiated between an industrial proponent and a representative Aboriginal organization, which can acknowledge the rights and interests of Aboriginal peoples" (pg. 26-27). Participation agreements such as the one made with NovaGold act as an "affirmative action plan to initiate a partnership development" (Filder, 2008, pg. 27).

The reclamation stage of the mine life is critical when the project lies within First Nations territory. Many post-production sites pose lingering risks of contamination and

due to the fact that First Nations culture is inextricably linked to land and resources, the ways in which to communicate, or lack thereof, is one of the biggest problems First Nations are faced with today. Many Tahltan members depend on traditional subsistence activities for food and medicine, and will continue to practice these activities because of their important social and cultural purposes. Resource development companies must work with First Nations on effective consultation efforts, providing complete accessible information throughout the life of the mine due to the high potential of contaminating our traditional territories.

6.3.2 Consultation with Government

Consultation between parties is done for a number of reasons, but the fiduciary duty requires that "consultation must be done in good faith, and with the intention of substantially addressing the concerns of the Aboriginal peoples whose lands [or other rights] are at issue" (*Delgamuukw, supra* note 6 at 1112, quoted in Sharvit et al., pg. 7). Although the Crown's duty to consult varies depending on the nature of the infringement on Aboriginal rights and title, the Tahltan participants' desires regarding consultation with government reflect much of the findings of case law (i.e. *Delgamuukw*) as described in the literature. One participant states "*government isn't following their own policies.... I believe if they continue to go against their own policies there is always going to be people who are going to say no, this is not how its suppose to be, they are always going to come up against opposition and it's never going to work*" (13-K-**I**).

Sharvit et al. (1999) discuss decision-making regarding natural resources, and state that "government must seek to protect the prior interests of Aboriginal peoples in

both the process and end result of decision making" (pg. 5). One of the biggest concerns that Tahltan participants noted was that the provincial government needs to consult *prior* to the allocation of tenure; "*I think the government prior to the sale of any tenure on our Territory should have come to us and consult with us, truly consult, not have someone come in and phone our Band office*" (13-K-**I**). Morellato (2008) suggests that in order for First Nations to gain adequate compensation, we, as First Nations people, need to realize the legal obligation of government to consult, prior to infringement. These requirements for consulting with First Nations by government are addressed in *Delgamuukw* (Morellato, 2008, p. 19).

Since *Delgamuukw* established the content of the Crown's duty to consult and accommodate, so it too outlines the three 'degrees' of the duty to consult. The first involves 'mere consultation' which should occur addressing the concerns of Aboriginal people, which are done through notification, information sharing and dialogue, etc. (Isaac, 2006, pg. 35). Some Tahltan participants felt this was working well but suggested that it needed to happen more frequently.

The second degree is 'mere consultation' plus inclusion of Aboriginal concerns and evidence of how they were addressed (Isaac, 2006, pg. 35). Once Aboriginal rights are incorporated into the consultation and accommodation by the provincial government, then it will reflect "authenticity and workability" for the First Nation (Morellato, 2008, p. 4). The First Nation needs to have input on how the province engages with their Nation; the decisions should be informed and shaped by the priorities and choices of those peoples (Morellato, 2008). One Tahltan participant notes "*the past couple of years have improved with the Tahltans' input, and I think it's because of the development of the*

THREAT committee and the involvement of Tahltans in reviewing these projects, so I think it has improved but I have never seen a project being halted because of the Tahltans' input into that" (06-G-**I**).

The final 'degree' of the duty to consult is when "Aboriginal interests is such that it requires that the government must obtain the consent of the Aboriginal group involved" (Isaac, 2006, pg. 35 referencing *Delgamuukw, supra* note 4 at para. 168). However, "the duty to seek consent is likely to be reserved for relatively rare instances in which Aboriginal title has been established" (Isaac, 2006, pg. 39). However, Isaac (2006) notes "*Delgamuukw* provided little direction as to where these different degrees of the Crown's duty would be engaged" (pg. 35).

Throughout the different degrees of consultation the lack of time given to respond to both government and industry is described by one participant, as "*really inadequate*". That participant states, "*the process usually gives First Nations only thirty days to respond with any concerns*" (04-T-**T**). The short deadline given to First Nations makes it unrealistic to prepare an adequate response. Not only do the Tahltan feel timelines are unfair, but those First Nations involved with Mt. Milligan, Kemess and Huckleberry Mines also felt timelines were inadequate. Baker and McLelland's (2003) study notes, "First Nations [involved in those three projects] did receive resources, but it appears that information was given in an inappropriate form and that there was inadequate time for preparation" (pg. 597).

Urquhart (2010) not only recognizes the lack of time given but also suggests that timelines should be "community-friendly" (pg. 121). A community-friendly timeline would take into consideration traditional activities, time of year, and the time needed to

translate the issues at hand (Urquhart, 2010). First Nations throughout the province should monitor and evaluate the (lack of) time given for projects. By working collaboratively, First Nations can document the inadequacy of the province's process, policy, and practice when it comes to timelines on referrals and other consultation matters.

Beierle and Cayford (2002) recognize that "one reason that participation has become more central to environmental decision-making is an expectation that it can temper the confrontational politics that typify environmental policy" (pg. 5). If government is obligated to include the voices of different interest groups, most notably First Nations, they must provide the necessary financial resources to enable those First Nations to participate effectively. The economic inequities between First Nation governments and the province, favor the province in terms of being able to properly administer the process. Budget limitations limit the number of staff required to respond to referrals, whether they are in-house or external. Hiring external experts is difficult and expensive, especially for the Tahltan due to our remote and rural location.

One Tahltan participant recognizes the lack of monetary funds dispersed by the Crown to properly consult. S/he states the government needs to "*put the money up so we* [the Tahltan] *can sit down and talk and come up with plans together that accommodate what we* [the Tahltan] *want and that are going to make it easy for you to come in and do business in our Territory*" (19-G-**D**). Fidler (2008) suggests "by encouraging collaboration and giving greater opportunity to interested parties to provide input, a more sustainable mine can operate" (pg. 24). Sharvit et al. (1999) discuss the Crown's obligation to provide funding for meaningful consultation. However, the authors

recognize the inconsistencies between those obligations and the principles and requirements emerging from case law where the fiduciary duty of the Crown was rejected or overturned by provincial government.

Just as the government makes little effort to provide funds, in many cases it makes no effort to assist the public in understanding information. Beierle and Cayford (2002) state, "when insufficient attention was devoted to educating and informing the public, participants remained largely powerless to engage effectively in decision-making" (pg. 32). One participant states,

> "*the capacity to review each permit application and make an informed assessment on whether or not a permit should be granted is very lacking. I know that the capacity to deal with that from the First Nation point of view, in many cases there is no capacity for that and I think if government wants to get over the hump of competing for interest on the land then they need to find a way with our help to create that capacity*" (09-G-**D**).

Both provincial and federal governments need to increase the educational outreach to First Nations communities in order for there to be wider involvement and more comprehensive input from those communities.

The suggestion on how to improve consultation between government and First Nations mainly include recognizing current law and policy regarding Aboriginal title and rights, improving communications between the two parties, increased timelines, and increasing funding, whether to fund capacity building, completing studies, or improving internal communication. Cornell and Kalt (2006) suggest that in the nation-building approach non-indigenous governments move from a decision-making role to a resource

role. One Tahltan participant sums up the overall ideas of this section by stating, "*the bureaucracy has to be willing to change and to think outside of the box rather then within that very narrow scope of policy that they have that has no room for First Nations interest. Those policy manuals need to be changed, those policy manuals need to reflect that there are First Nations with land and title and rights and they need to damn well start recognizing that*" (09-G-**D**).

6.3.3 Internal Consultation with Tahltan Membership

Participants felt that internal Tahltan consultation will improve when our leadership improves communication within and amongst the communities. However, one participant notes,

> "*communication and information exchange is a two way street, and our membership have to take some responsibility for informing themselves about what the issues are. There's too much of the 'leave it to them approach'...So responsibility rests on the membership's shoulders as well. To point the finger at Central Council, or any other First Nations governing process I think is short sighted and simply passing the buck for the member, the individual member lack of commitment to the process*" (09-G-**D**).

Adequate consultation includes education, preparation, and awareness. We need to "*prepare people ahead of time and where you see a lot of backlash is when you just throw a decision at people at the last minute and not have their involvement in it*" (14-L/T-**I**). Participants felt that it is the responsibility, not only of our leadership, but also of each individual to ensure adequate consultation is occurring.

We, as a Tahltan collective, need to support our leadership and the decisions they make. Many Tahltan participants felt that our leaders are carrying out their duties to the best of their abilities. One participant states, "*if you cast your vote for a Leader, you're putting that trust in that person, that that person is going to go forward and do what you direct them to do. And if our leadership reports out to us and we see the results of what they are trying to do then I think that should be enough*" (19-G-**D**). In regards to the Galore Creek participation agreement, "the process is ideal for both parties [Tahltan and proponent], granted that there is a collective community agreement behind the TCC as the decision maker and representative voice" (Fidler, 2008, pg. 47).

Others felt that some "*people are just demanding too much from our leaders right now...I really think they are expected to do some pretty phenomenal exchange of information with members*" (19-G-**D**). Participants suggest that we need to recognize the efforts, successes, and sacrifices our leadership has made over the years. According to Cornell and Kalt's nation-building characteristic regarding cultural match, Tahltan governance has moved towards a more effective governing institution by implementing the ten family organization. As mentioned in section 2.2.1, governing institutions that culturally match their society ensure that authority is better recognized by its members because it reflects that community's beliefs and values. One participant stated that if Tahltan membership make use of the ten family structure to organize and communicate to our leadership, the leadership will be in a better position to address the many demands of the membership.

One way for our Nation to improve internal consultation is to recognize and move towards strategic thinking by determining "long-term objectives, identifying priorities

and concerns, and taking a hard-nosed look at the assets the tribe has to work with and the constraints it has to deal with" (Cornell and Kalt, 2005, pg.17). In my opinion, it is up to the entire Nation to support and encourage leadership within Tahltan governing institutions, and elsewhere, in figuring out where we want to go, and putting in place the policies that can get us there.

6.4 Conclusion

This chapter has provided a discussion on ways in which land planning and consultation might improve the situation the Tahltan are faced with when it comes to resource extraction on our traditional lands. This section has also highlighted that the relationship between the proponent, government and First Nations is complex and requires modification to meet the needs of each party, particularly First Nations. The final report of this research (i.e. this thesis) is an important document that shows what was learned from the research and how it can be used.

Chapter Seven: Recommendations and Conclusion

7.0 Introduction

The objective of this research was to investigate how the Tahltan might improve consultation processes and procedures through the development of a LUP. By examining the history of consultation, and employing key informant interviews, the results indicate that the Tahltan are seeking new ways of improving consultation in regards to mineral development. The reason for the key informant interviews was to investigate how the Tahltan currently participate in consultation processes and how we would like to ideally participate in the future. I wanted to show the Tahltan how a LUP can raise and address land and resource issues for another First Nation group. A goal/hope of the Heiltsuk Nation is that their LUP's long-term outlook can ensure their Nation achieves their land and resource management goals from beginning to end. With a similar long-term outlook in mind, the Tahltan can add value and enhance our participation in mineral development activities through a LUP that holds collective Tahltan values and concerns.

7.1 Recommendations

One can argue that First Nations across Canada have struggled with land and resource development issues since contact. First Nations need to learn from the past struggles of other First Nations who have gone to court regarding rights and title. Many landmark court decisions including the *Sparrow, Delgamuukw, Haida*, and the *Taku* need to be fully understood by First Nation governments so that we can put into practice meaningful consultation.

I recommend that all First Nations become involved in the protection of their land and resources through a LUP because First Nations culture and traditions are completely

entwined with our natural environment. Generally, First Nations recognize the need to sustain our land base and resources for future generations. However, recognizing this fact and putting it into practice is an issue many First Nations struggle with. In the past First Nations land and resources have been extracted and developed without input from that particular First Nation. But also, more recently, First Nations struggle with finding the balance between providing employments for their members and protecting the resources for traditional practices.

The Tahltan, in past years, have struggled with being a unified Nation. Today, I see many improvements to our governance system; we are working towards many of the suggestions Cornell and Kalt offer regarding practical sovereignty, effective governing institutions, cultural match, strategic orientation, and nation-building leadership. If First Nations across Canada worked to improve each of these areas, not only with short-term goals in mind, but worked towards a long term goal of nation-building, we would all be in a better position to exercise sovereignty over our traditional lands. I recommend that each Tahltan, not only those in leadership roles, take on the responsibility of working with one another to become a unified Nation.

When the TCC begins the LUP process again, I suggest that it is done in a manner that utilizes current data resources and forms innovative methods for gathering and documenting Tahltan knowledge in order to select and adopt the best land-use options. The Tahltan LUP will help our leadership select options that increase our productivity, are sustainable, and meet the needs of the Tahltan people.

I recommend that the TCC follow some general steps when completing the document. These include, 1) establish our vision, goals, and terms of reference (or make

use the existing vision/goals in the draft TLSP), 2) organize, and delegate the work (the TCC may need to seek outside assistance if we continue to struggle with capacity issues), 3) analyze the problems and/or development projects, 4) identify opportunities for change, 5) evaluate land suitability for development and determine where and how other areas will be protected, 6) appraise the alternatives: environmental, economic, and socio-cultural analysis, 7) choose the best option(s), 8) prepare the LUP, 9) implement the LUP, and 10) monitor, revise, and update the LUP as a living document. Once complete, the LUP will help select and put into practice those land uses that will best meet the needs of the Tahltan people while safeguarding our land and resources for the future.

There have been multiple Tahltan documents over the years that have improved consultation with both government and industry. Those documents include, but are not limited to; the "Guidelines for Development Consultation in Iskut Territory including Protocols for Determining Heritage Resource Values at Iskut", "the Northwest Transmission Line (NTL) Socio-Cultural Impact Assessment (SCIA) Report", and "the Tahltan Archeological Standards". I recommend that these documents, as well as other Tahltan documents that I did not have access to, become more accessible to Tahltan members, as well as researchers conducting work in Tahltan Territory. During the time that I worked for TCC, there were several documents produced that facilitate land planning of certain areas, they included the "Tahltan-ILMB Joint Planning Information Package for the Tlebāne/Klappan" (draft form), "the Tahltan Heritage Policy" (draft form), and the Tahltan Use Studies for the "Mt Klappan Anthracite Coal Project Area"; "the Shaft Creek Project Area"; "the Kutcho Creek Project Area"; "Klappan Project Area"; and "the Red Chris Project Area". I recommend that these documents, as well as

others, be used to help support the LUP process to ensure that key Tahltan values and beliefs are protected and maintained within Tahltan Territory.

The documents listed above will be further elaborated in the Tahltan community report, which is a short synopsis, in lay language, of the key research findings, that will be given to the TCC and available for all community members. The community report draws on my thesis and will include additional information received since I completed my research. The documents listed above not only facilitate the consultation process; they may also provide key information for the development of the Tahltan LUP. I strongly recommend that when the TCC develops our LUP they draw on these sources, make use of the compiled information in my research, and seek the best ways of using all available resources.

The Tahltan have always struggled with communication amongst our membership, I recommend that we seek innovative avenues of communication to reach a wider audience; the same goes for industry, government and First Nations alike. I also recommend that Tahltan leadership become more accessible/available for Tahltan members who are seeking information, direction, and overall guidance for educational purposes.

7.2 Future Research

Further research into how a First Nation has completed their LUP from beginning to end would help First Nations learn from the experiences of others. Reflecting back on the entire process will provide First Nations with a tool useful in completing their own LUP and will assess the most practical way to move the LUP process forward. Learning

from the trials and tribulations of those who have experienced the LUP process will provide a framework for what worked well and what did not work well. Further to that, examining the role of a community in developing a LUP would be invaluable. This inquiry could question the most effective way to increase community participation to inform and guide leadership in the LUP process from development to implementation.

7.4 Conclusion

Based on the results of the interviews, I was able to answer my first research question on how the Tahltan want to proceed with future consultation with the mining industry. Through my research it appears that the Tahltan are seeking new innovative ways to improve the consultation process between government, industry, as well as within our Nation. The ways in which consultation can be improved were detailed in section 6.3, and include: defining meaningful consultation for all parties; improving communications; increasing timelines for adequate response; increasing funding; as well as capacity building, awareness, and education, not only for First Nation but for government and industry on First Nations issues.

In answering my second research question on how a completed LUP has improved the consultation process for another First Nation, the Heiltsuk LUP reflects many of the same land and resource goals the Tahltan participants voiced in their interviews. The Heiltsuk LUP identifies how consultation, regarding land and resource use, is to be carried out in a manner that meets Heiltsuk needs based on their collective goals and values.

In answering my final research question I am better able to show the Tahltan that having a LUP might help to raise and address the kinds of issues being discussed in

Tahltan communities. Based on experiences I have, from both living and working in Tahltan Territory, and from evidence in this thesis, I feel that a LUP will provide a means for collective land and resource decision-making, as well as provide a 'road map' for government and industry alike. Although the Tahltan do not have a complete LUP they have begun the process and through my thesis research I hope to communicate to the Nation why it is of utmost importance to complete the LUP process.

It is import to understand how Aboriginal title and rights impact the decision-making process. The *Delgamuukw v. British Columbia* case states:

> A further dimension of Aboriginal title is the fact that it is held *communally*. Aboriginal title cannot be held by individual Aboriginal persons. It is a collective right to land held by all members of an Aboriginal nation. Decisions with respect to that land are also made by that community (McNeil, 2006, p. 16, quoting *Delgamuukw v. British Columbia*, above note 18 at para. 115 [Lamer C.J.'s emphasis])

McNeil (2006) explains how Aboriginal communities must have decision-making authority over how those rights to land can be exercised. This decision-making authority comes from a political structure, which is ultimately the government for exercising authority. As stated earlier, the governance system for the Tahltan Nation is the TCC. It will be the TCC that initiates the LUP process, carries out the process, and finally implements the LUP for the Nation. But it is important to understand that the LUP will be a collective decision-making process and not a top-down process employed by the TCC.

Cornell and Kalt (2006) discuss how if First Nations are in the driver's seat when it

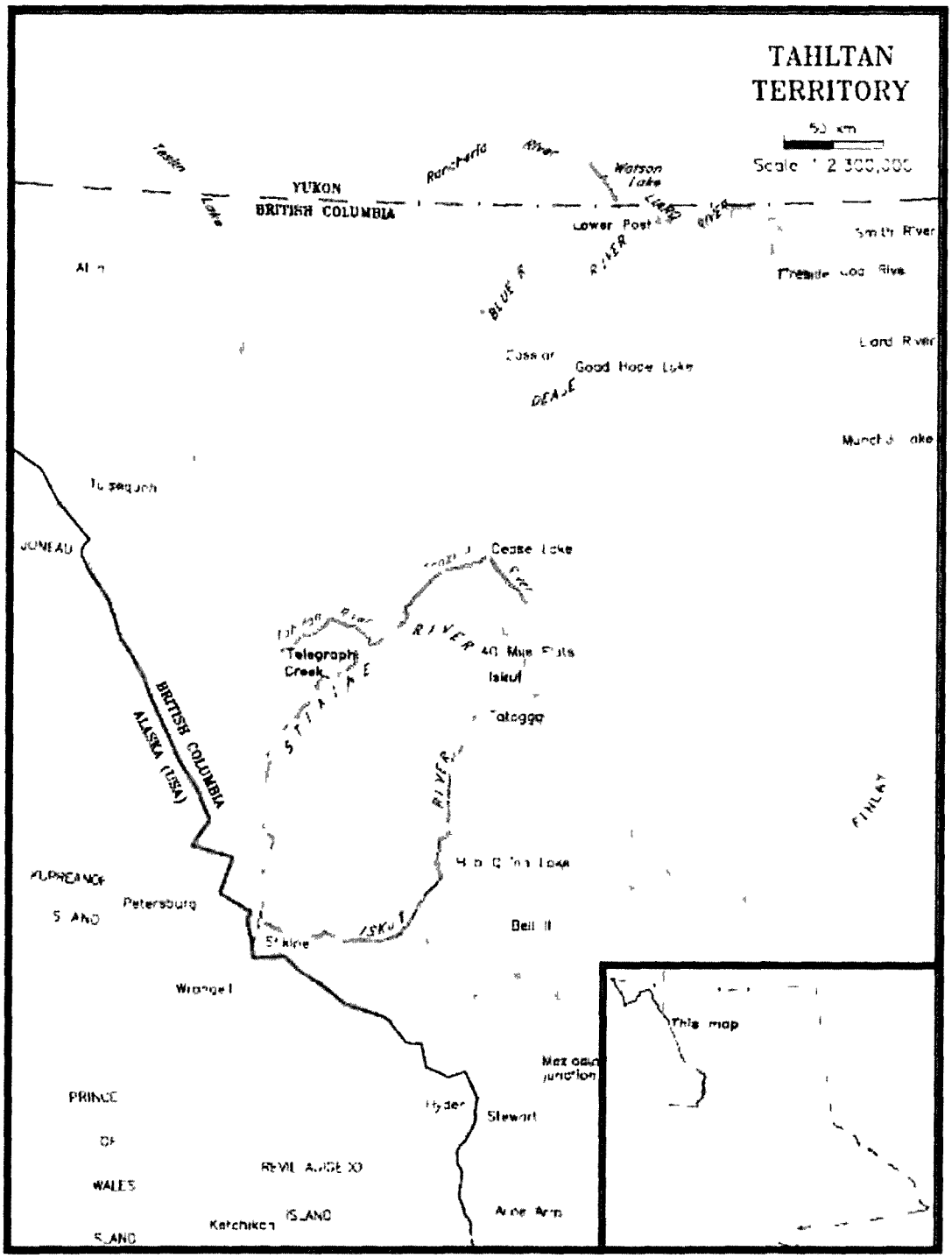
comes to nation-building, then "the move to practical sovereignty or genuine self-rule—turns out to be a key to sustainable development" (pg. 13). The two primary reasons are that self-governance allows a First Nation to develop its own agenda, "when decisions move into tribal hands, agendas begin to reflect tribal interests, perceptions, and concerns" (Cornell and Kalt, 2006, pg. 13). The second reason, discussed earlier in section 6.1, is that self-government allows for the First Nations to be the decision-makers, which leads to better decision-making because they must live with the consequences: "as a result, over time and allowing for a learning curve, the quality of their decisions improves" (Cornell and Kalt, 2006, pg. 14). A LUP will allow the Tahltan to make the decisions regarding development strategy and resource use based on our interests, values, and concerns.

The "First Nations Land Use Planning" document states that there are 47 First Nations LUPs in BC. Of these 47, only 14 are complete, which reinforces that the LUP process, especially for First Nations, is a long and tedious. The Heiltsuk LUP is an excellent example, one Heiltsuk member states that the process was carried out over "a solid 10-12 years. The LUP is considered a living document, but it took a good chunk of time to develop" (personal conversation, July 18, 2010). The same Heiltsuk informant stated that the LUP started with "the Chiefs, Elders and body of our Nation to come up with values and overall goals. Next was the TUS, which took place over several years, identifying areas that were more sacred/important than others, prioritizing more or less" (personal conversation, July 18, 2010). The Heiltsuk LUP has changed and shaped the consultation process for the Heiltsuk by communicating to government and industry the Heiltsuk's land and resource management goals.

Today, many First Nations see the benefits of modern land use planning practices; they are aware and more involved in the non-traditional management of their own land and resources. The Heiltsuk is just one example of a Nation who has undergone the planning process and improved the Nation's ability to manage and protect their land and resources. The Tahltan must continue in a planning process. Regardless of conflicting interests within the Nation, we must unite and strive towards completing our LUP in a timely fashion.

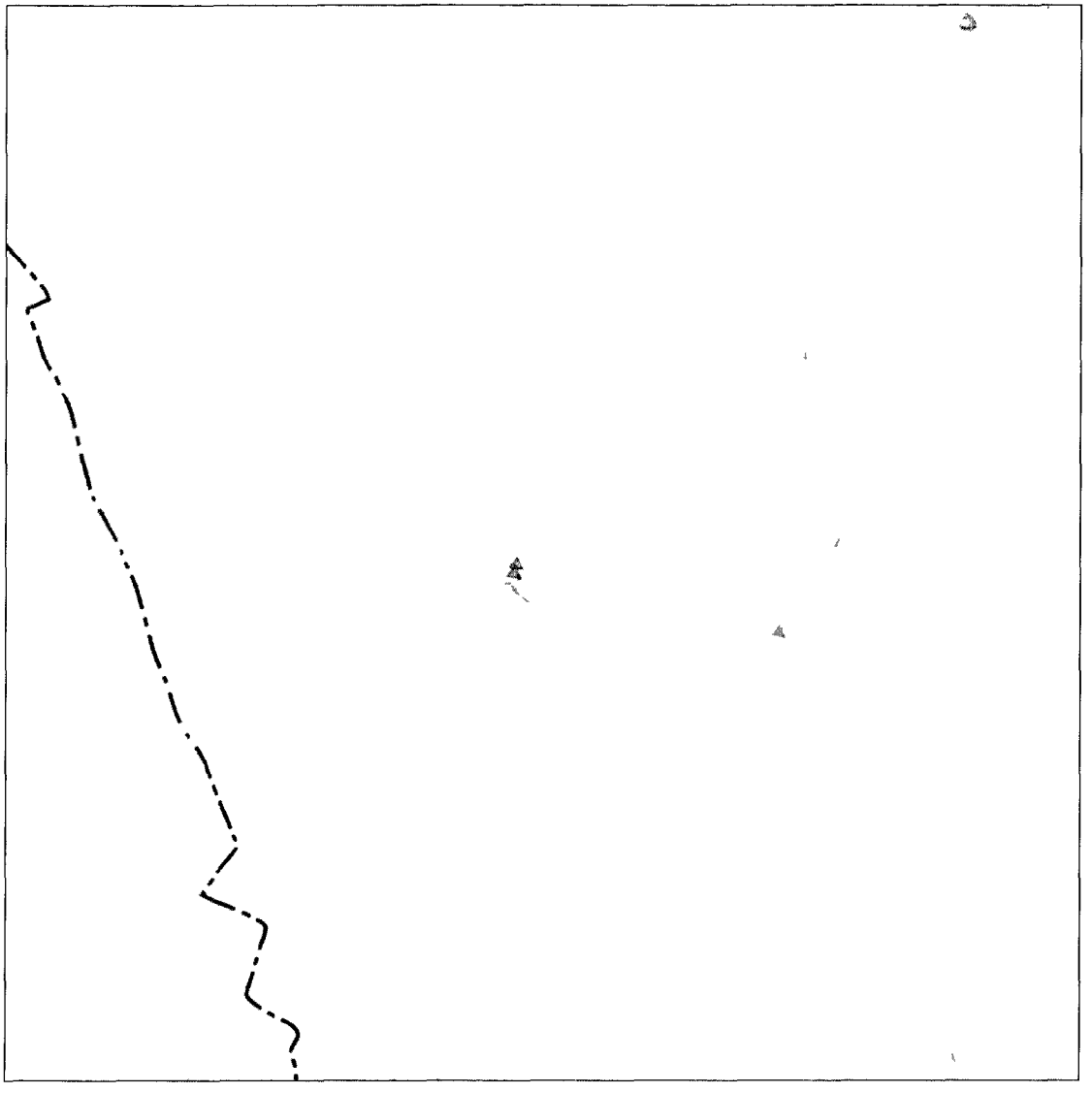
I think research adds power to people's stories; the sharing of these stories and experiences may create change. I hope that this thesis might inspire the Tahltan people to begin the TLSP process once more in order for us to participate in consultation processes in a manner that reflects our values as First Nations people. Kirby and McKenna (1989) state, "doing research allows us to begin to rename our experiences, and thus participate in creating knowledge we can use" (pg. 170). As noted, it is my hope that through this thesis the Tahltan will be better informed of the role of a LUP and why I feel a LUP will insure our lands and resources are protected for future generations. I believe other First Nations could use this research and the generalities throughout to benefit their Nation. Bailey et al. (1999) suggest that "qualitative research findings can extend beyond particular cases and act as agents of change" (pg. 183). I think this research and the outcomes of the interviews speak on a personal level and will allow for a wider audience to find the outcomes useful.

Map 1- Tahltan Territory



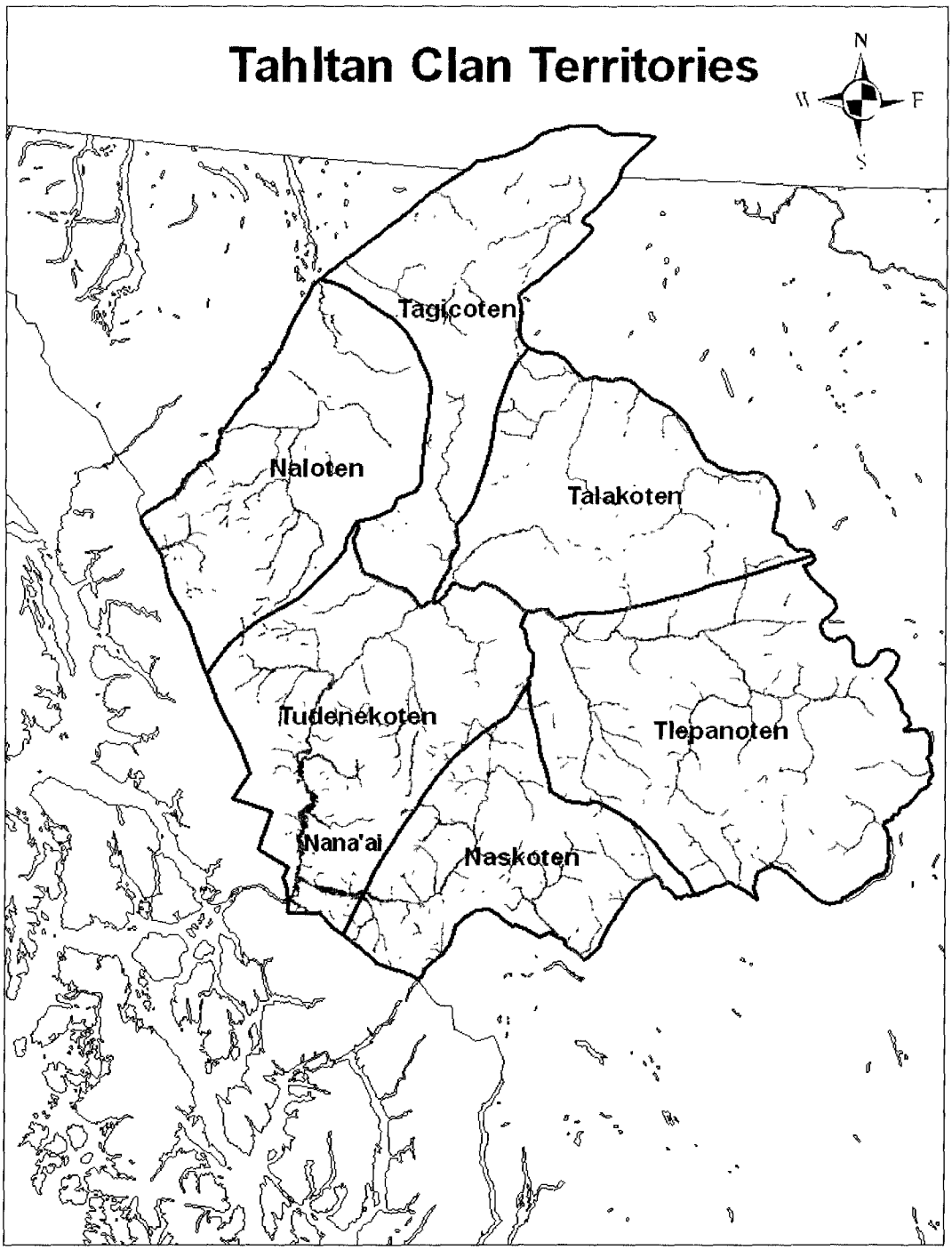
Source:
http://www.firstnations.de/mining/lecture_in_victoria.htm

Map 2- Tahltan Indian Reserves



Source:
http://atlas.nrcan.gc.ca/auth/english/maps/archives/reference/indian_inuit/mcr_4029/archivemap_print?maxwidth=800&maxheight=800&mode=navigator&upperleftx=1108&upperlefty=664&lowerrightx=1908&lowerrighty=1464&mag=1.0

Map 3- Original Tahltan Family Groups



Source:
TCC, 2006

Appendix 1- Declaration of the Tahltan Tribe 1910

We, the undersigned members of the Tahltan tribe, speaking for ourselves, and our entire tribe, hereby make known to all whom it may concern, that we have heard of the Indian rights movement among the Indian tribes of the Coast, and of the southern interior of B.C. Also we have read the Declaration made by the chiefs of the southern interior tribes at Spences Bridge on the 16th July last, and we hereby declare our complete agreements with the demands of same, and with the position taken by the said chiefs, and their people on all the questions stated in the said Declaration, and we furthermore make known that it is our desire and intention to join with them in the fight for our mutual rights, and that we will assist in the furtherance of this object in every way we can, until such time as all these matters of moment to us are finally settle. We further declare as follows:-

Firstly- We claim the sovereign right to all the country of our tribe-this country of ours which we have held intact from the encroachments of other tribes, from time immemorial, at the cost of our own blood. We have done this because our lives depended on our country. To lose it meant we would lose our means of living, and therefore our lives. We are still, as heretofore, dependant for our living on our country, and we do not intend to give away the title to any part of same without adequate compensation. We deny the B.C. government has any title or right of ownership in our country. We have never treated with them, nor given them any such title (We have only very lately learned the B.C. government makes this claim and that it has for long considered as its property and the territories of the Indian tribes in B.C.)

Secondly-We desire that a part of our country, consisting of one or more large areas (to be selected by us), be retained by us for our own use, said lands and all thereon to be acknowledged by the government as our absolute property. The rest of our tribal land we are willing to relinquish to the B.C. government for adequate compensation.

Thirdly- We wish it known that a small portion of our lands at the mouth of the Tahltan river, was set apart a few years ago by Mr. Vowell as an Indian reservation. These few acres are the only reservation made for our tribe. We may state we never applied for the reservation of this piece of land of land, and we had no knowledge why the government set it apart for us, nor do we know exactly yet.

Fourthly- We desire that all question regarding our lands, hunting, fishing, etc., and every matter concerning our welfare, be settled by treaty between us and the Dominion and B.C. governments.

Fifthly- We are of the opinion it will be better for ourselves, also better for the governments and all concerned, if these treaties are made with us at a very early date, so all friction, and misunderstanding between us and the whites may be avoided, for we hear lately much talk of white settlement in the region, and the building of railways, etc., in the near future.

Signed at Telegraph Creek, B.C.,
this eighteenth day of October, nineteen hundred and ten,
by Nanok,, Chief of the Tahltans,
Nastulta, alias Little Jackson,
George Assadza,
Kenetl, alias Big Jackson and
eighty other members of the tribe

Appendix 2- 1987 Resource Development Policy Statement

In history as well as in mythology, The Tahltan First Nation people have always been acknowledged as the original inhabitants of the Stikine River watershed in northern British Columbia. Archaeological evidence has determined that the Tahltan people have continuously occupied this area for thousands of years, perhaps as many as 10,000. This is what is often referred to in poetic terms as "since time immemorial".

The first white person to come into Tahltan country was Samuel Black who arrived in 1821 exploring for the Northwest Trading Company, Our people never met Black and so it wasn't until 1838 when the second white person, Robert Campbell of the Hudson Bay Company, entered our territory that European contact with our people was first made.

Tahltan had an elaborate trading economy already established when the HBC encountered our tribe. Although the HBC was very interested in immediately setting up a competing trading operation in Tahltan country, our people blocked them for approximately forty years so as to protect our own established trading economy. At that time Tahltans had an active commercial network based on our position as middlemen between the coastal tribes and the tribes living north and east of the Stikine country. We also traded our own fish and furs and other natural resources such as obsidian to all peoples who came into our country.

Tahltan people are very proud of our tradition of commercial enterprise and equally proud that we were able to protect our interests against the mighty HBC Empire for those many years. It wasn't until the 1870's, when the Cassiar gold rush was in full swing, that the HBC was able to open its first trading post in Tahltan traditional territory.

Even though our people have lost the monopoly position of business in our own country, we are still active on many business fronts. Our present tribal objective is to increase our participation in all business that develops within the borders of our tribal territory so that we can again enjoy a self-sustaining, healthy and enterprising economy.

We wish to make it very clear that Tahltan people and the Tahltan Central Council are not inherently opposed to any development within our country. However, we do feel strongly that any development within our tribal territory must adhere to some basic principles that the Tahltan Central Council has developed.

We appreciate that most private developers "just want to conduct their business". They do not want to have any discussions or participate in any actions that have overtones of aboriginal rights or native politics. We in one sense sympathize with that wish of developers because we, as businessmen, also experience frustration when politics begin to directly affect our business endeavours, However, the reality is that if our tribal objective of achieving substantial participation in business development within our country is to be realized within a reasonable time, we must combine politics and business when dealing with developers wishing to establish themselves within Tahltan country.

Developers will have to come to terms with this reality if they expect to function successfully within our territory.

Before a resource development project can commence within Tahltan tribal territory, it will be necessary for the developer and the Tahltan Central Council to enter into a project participation agreement that encompasses the following elements and basic principles;

1. **Assurance that the development will not pose a threat of irreparable environmental damage;**

2. **Assurance that the development will not jeopardize, prejudice or otherwise compromise the outstanding Tahltan aboriginal rights claim;**

3. **Assurance that the project will provide more positive than negative social impact on Tahltan people;**

4. **Provisions for the widest possible opportunity for education and direct employment-related training for Tahltan people in connection with the project;**

5. **Provisions for the widest possible employment opportunities for Tahltan people with respect to all phases of the development;**

6. **Provision for substantial equity participation by Tahltans in the total project;**

7. **Provisions for the widest possible development of Tahltan business opportunities over which the developer may have control or influence;**

8. **Provisions for the developer to assist the Tahltans to accomplish the objectives stated above by providing financial and managerial assistance and advice where deemed necessary.**

If resource developers and the Tahltan Central Council can reach agreement embracing the points noted above, then we believe that Tahltans, the developers and all other Canadians will enjoy equitable benefits from each resource development undertaken and there will be business harmony within Tahltan traditional tribal territory.

Tahltan Central Council
April 1987

Appendix 3- Interview Questions for Tahltan Participants

Introductory Questions:

1. What is your job position?
2. How long have you been in this position?
3. How did you start your involvement with this organization?
4. Is this position held within the (name of First Nation) Indian Band? Or another First Nation organization?
5. How have you been involved in the LUP process?
6. How have you been involved in the consultation process?
7. Do you continue to be a part of Land and Resource management or the consultation?

Interview Questions:

1. Do you support keeping some areas of the Tahltan Territory undeveloped and in their natural state for traditional uses, wildlife conservation, or other reasons?
    a. If yes, where and why?
    b. If no, why not?
2. What do you think is the best way for mining companies to consult with Tahltan members and stakeholders about important issues in Tahltan Territory?
    a. Do you feel the TCC is doing a good job with informing the communities adequately about important issues?
3. In your opinion, is there any kind of development that Tahltan Territory currently has too much of?
    a. What kind of development would you like to see more of in Tahltan Territory?
4. To what extent do you feel that the provincial government is consulting and accommodating Tahltans on the use of our land for development?
    a. How do you want to see this process improved?

5. Do you expect mining/resource companies to protect the environment according to Tahltan ways and understanding once the LUP is complete?

    a. How do you feel the LUP will change the current situation?

6. What ways are there to improve the situation for decision-makers and local communities so that a balance is achieved between local interests and the interests of the province regarding proposals for economic development?

7. If a majority of the Tahltan Nation could be involved with the development of a LUP do you feel that LUP document would improve the current consultation process? And how?

    a. What would need to happen to allow fuller involvement?

8. If the Tahltan Central Council (TCC) began the Tahltan Land Stewardship Plan (TLSP) process again would you participate? How would you like to participate? (Individual interview, focus groups, community meeting, other)

9. How do you want future consultations with the mining industry to proceed?

10. How would you like to receive and review information on the outcomes of my research once it is complete?

    a. community get together, newsletter, etc.

11. From the experiences you have had, can you think of anything else that has not been touched on here about Land Use Planning and how consultation can be improved?

12. Are there any other issues or topics related to consultation that you would like to comment upon?

Appendix 4- Interview Information Consent Form

The Tahltan Nation and Our Consultation process with Mining Industry; how a Land Use Plan might improve the process and policies.
Interview Consent Form

Purpose - This project seeks to determine how a Land Use Plan might improve the consultation process and policies for the Tahltan First Nation My research will focus on the numerous mining and exploration developments currently exploiting Tahltan Traditional land and resources My research objectives are to 1) determine where the Tahltan people would like to see mine developments occur based on the documented traditional use sites (TUS), 2) to examine other First Nations land use plans (LUP) to determine how a LUP for the Tahltan might improve the current consultation process, and 3) to research the history of mining consultation with other First Nations to get an idea of where we are and where we want to go

How Respondents Were Chosen - I will conduct semi-structured interviews with Tahltan members who are currently involved in the consultation process, Tahltan Chief and Council, and Tahltan Central Council (TCC) employees as well as with others who wish to voice their opinion, such as members of the Klabona Keepers, the Elders group and possibly others I hope to conduct interviews with members of the group THREAT (a group under the TCC), then interview the 2 Chiefs, and if they suggest other Council members I will interview them as well I will ask the spokespersons of the Klabona Keepers and the Elders Group for an interview, I will interview other knowledgeable people within those groups suggested by these spokespersons I have informed the community members of my work through community newsletters and information sheets hung at the Band offices, and will solicit input from community members by means of public invitations via newsletters

Anonymity And Confidentiality The people selected for these interviews are local experts in the consultation process with mining industry All information shared in this interview will be held within strict confidence All records will be kept in a locked research room at UNBC and will be accessible only to the researcher The names of participants will not be used in any reporting, nor will any information which may be used to identify individuals, unless the informant specifically indicates that he or she wishes to be indentified The information will be kept until the final report of the project is complete After this time, only the aggregate data will be given to the Tahltan Central Council and the two Bands for their use or disposal

Potential Risks And Benefits This project has been assessed by the UNBC Research Ethics Board I do not consider there to be any risks to participation I hope that by participating you will increase the knowledge of Land Use Planning in the three Tahltan communities and help in the identification of solutions and options to address more adequate community based consultation

Voluntary Participation - Your participation in the research project is entirely voluntary and, as such, you may choose not to participate If you participate, you may choose to not answer any question that makes you uncomfortable, and you have the right to terminate the interview at any time and have all the information you provided withdrawn from the study

Research Results - In case of any questions that may arise from this research, please feel free to contact my supervisors Greg Halseth (halseth@unbc ca or 250 960-5826) or Gail Fondahl (fondahlg@unbc ca or 250-960 5856) at UNBC The names of all interviewees will be added to the distribution list for the final project report

Complaints - Any complaints about this project should be directed to the Office of Research, UNBC (250) 960 5820 reb@unbc ca

I have read the above description of the study and I understand the conditions of my participation. My signature indicates that I agree to participate in this study

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(Name -please print) (Signature) (Date)

Appendix 5- Key Events Affecting the Tahltan, 1861-Present

Date	Event/Comment
1861–1862	Stikine River Gold Rush, placer gold; first major influx of non-Tahltan into Tahltan Country.
1862	River boat service initiated from Wrangell to Telegraph Creek.
1863	Governor James Douglas claims all land north to the 60th parallel as part of British Columbia. The effect is to open up Tahltan Country to outsiders. Tahltan role as principal trader falls quickly.
1865–1866	Abortive attempt by Perry McDonough Collins to establish a transcontinental telegraph connection between North America and Russia. Telegraph Creek used as a staging area.
1871	British Columbia joins Confederation.
1874–1876	Cassiar Gold Rush, placer gold. Placer mining continues within the Tahltan traditional territory to modern day with activity levels that fluctuate with gold prices.
Around 1875	First horses introduced as a transport mode; Tahltan people quickly become adept handlers.
1898–1903	Klondike Gold Rush in the Yukon.
1901	Yukon Telegraph Line completed to Dawson City using route of the 1865–66 Collins initiative.
1910	1910 Tahltan Declaration of the Tahltan Tribe asks for resolution of land and rights issue through the development of a treaty among the Tahltan, the Government of Canada and the Government of British Columbia.
1928	The pack trail from Telegraph Creek to Dease Lake is upgraded to a road. The Stikine, Telegraph Creek and Dease Lake become essential transportation links between southern B.C. and the northern interior.
1930s	Bush planes provide new means of access to remote areas.
1941–1942	Stikine River used to transport heavy equipment and supplies for construction of the Alaska Highway.
1952	Production at the Cassiar Asbestos mine begins; continues until 1992.
1950s and 1960s	A number of Tahltan worked in mineral exploration industry.
1960s	Increasingly common use of fixed wing aircraft and the helicopter (which started in the 1950s) leads to the reduction in the use of Telegraph Creek as a staging point for exploration in Tahltan Country in favour of Smithers. Tahltan involvement in exploration activities declines as a result.
1970s	Population increase in the Iskut-Stikine area with homesteaders coming in from southern B.C. and the U.S.; focus is generally on subsistence living.
1972	Stewart-Cassiar Highway (37) completed; easy access to Tahltan Country established.
1972–1977	Road bed for the northern extension of B.C. Rail completed from Fort St. John to Dease Lake through Tahltan Country. Project abandoned in 1977 with the extension of the rail line never completed.
1982	Canadian constitution repatriated from England; aboriginal rights re-affirmed.
1990	Production at the Golden Bear Mine begins. It operates until 1994 and then again 1997–2001 (in 1997 becoming the first heap leach operation permitted in British Columbia).
1990s	Tahltan people became more directly involved with mining operations in their traditional territory by providing services such as road construction and maintenance and camp catering; interaction with mining companies increases.
1991	Production at the Snip Mine begins; operated until 1999.
1995	Production at Eskay Creek Mine begins; still operating, with 8–10 years of estimated mine life remaining.

Source: IISD, 2004, pg. 7

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