
IMPLEMENTING DELGAMUUK'W

Biography of Terry Tobias

Land Use and Occupancy Mapping Research Consultant

Terry Tobias has 18 years experience designing and conducting various kinds of land use and occupancy research with indigenous peoples, and close to eight of those years have been spent living and working in aboriginal communities. He has worked with dozens of First Nations and has successfully completed traditional use studies with interior communities located as far afield as the Pacific and Atlantic coasts. Terry's approach is highly practical and his most important asset is perhaps his ability to design research that is realistic in the context of a community's specific objectives, skill levels and expectations. Terry moved to BC from Ontario just over three years ago, and since that time most of his work has involved the delivery of community-based TUS research skills workshops, including workshops that focus on research design, data collection, and transcription.

I really want to thank U.B.C.I.C. [Union of British Columbia Indian Chiefs] for putting this event on. It's been a lot of fun for me and I have learned a lot and I am really, really thrilled to be here. So I want to thank Leigh [Ogston] and Angie [Shuter] and everybody who has put so much work into this.

I know that the man who was previously standing at the microphone has the appearance of being calm and reasonable and, maybe, a nice guy. After you have worked with somebody on a number of projects for a lot of years, you can take the liberty of saying certain things about him and to him in public. When Leigh contacted me a few weeks ago and asked me to participate on a couple of panels here, I just said, "Leigh, I am up to my eyeballs in all kinds of things, I'm over-extended, I'm over-committed, I'm about to move, blah, blah, blah. I really have to think about this." And Leigh said, basically, "well, you don't have to talk, you don't have to get up to the microphone and say anything," she says. "Russ [Diabo] is preparing a speech." I thought about that and I said, "okay Leigh, I'll participate because I don't have to prepare anything for this." And that is what I thought of until a few short, well until about lunchtime, when Russ came up to me and said, "Terry, this is what I am talking about on the panel, this is what Peter [Di Gangi] is going to be talking about, and this is what you're going to talk about." It's a longwinded way of coming to the public proclamation that Russ is affectionately known in certain jurisdictions as "the Mohawk From Hell." So I really have nothing prepared.

What Russ ordered me to talk about, is he wanted me to explain very briefly, to revisit some of the major research components that were on the indigenous side of the trilateral agreement. In other words, this was research that the Algonquins felt that they needed to design and undertake to accomplish what their interests were in terms of formulating this integrated resource management plan. So that included... you saw a list of them up on one of the charts a few minutes ago. I am just going to run through those very briefly.

I also want to just preface this quick sort of overview by saying that, if I heard you right Russ, you said that the research for the trilateral agreement cost \$5 million. I may be mistaken, I think it was less than that. I think the \$5 million was research *and* process, so that included the lawyers, the negotiating agreement, and so on. So the research budget was a lot less than \$5 million. That was the cost of maintaining an office for a period of years, and so on. The reason I bothered to mention that is when communities and First Nation people who are working in the real world these days, the day of tight budgets and so on, that's a pretty daunting figure, \$5 million. And it does make a difference, perhaps, if the research budget was, let's say, only \$2 million. As a model for getting what the Algonquins are in the process of accomplishing, or have accomplished for all intents and purposes, which is comprehensive research, this is a model that is not available to most, if any, First Nations communities in the country these days, that sort of budget for multiple-year research. But there are a number of communities that I know of in the country who start off very modestly, and they make certain decisions about how they are going to construct or cultivate cultural research at the community level so that, from here on forward, every piece of research having to do with any aspect of their culture they do is really good quality research. And fitting that component into a broader research strategy and any subsequent pieces of research builds on the strengths of the previous pieces of research that have gone on, and so forth. So instead of having a huge budget and a known period of years to do this, this, and this -- yes, this year we only have a budget to do this but we are going to do it right -- we've a broad research strategy, we've got a general sense of where we are going, we've got a general sense of what the research priorities next year might be, and when we get funding we go for those, and build it sort of brick by brick. Keep in mind this is one model in terms of an avenue which is not likely to be open to many First Nations, certainly this decade -- boy, that's not saying much, is it -- next decade.

There are other models which other First Nations are pursuing and, I think, are pursuing very effectively. They get funding, they do a piece of research, they do it really well, and they've got a broad research strategy based somewhat on

what they know of the trilateral agreement and what kinds of research -- in case law and in negotiations around co-management tables -- get you results in the real world, and then say, "well okay, we are going to do this one next and were going to do it well." Brick by brick, over a period of relatively a short period of years, they get their comprehensive research package done. Now, again, this has not been accomplished but it's well under way in a number of communities. So I don't want this presentation to be a kind of a knock over the head in terms of being intimidating or overwhelming because there is a large research budget and a number of years and a political process that is so receptive, although it was certainly a rough go for a number years on and off with this process, politically. My boss has just corrected me. It was not a politically receptive process, it was a real hard-knock process. But at least there was a process negotiated and in place as a framework.

So getting back to these research components, the first thing that had to be done was is that there had to be a definition of what this study area was for the trilateral agreement. Initially there was one set of maps that was done --there was about a hundred interviews done for that -- and that was simply to map within peoples' living memory places where they had hunted and fished and trapped and gathered berries and so on. So basically it was harvesting sites. Once those data were in, we could take those and break them into a series of thematic maps or composites and overlay all the data and then -- this is simplifying the process -- but draw a line around all of those data, and that was demonstrably and arguably the current traditional land base within living memory. That, for all intents and purposes, became the study area for the trilateral agreement. That line was actually appended to the trilateral agreement that was signed with Quebec and the feds.

Russ alluded to two interim measures, two studies that were done for interim measures. The Algonquins knew that in the five years that it would take to do the research and formulate a plan, then negotiate its implementation, that cutting companies and the outside moose hunters could do a lot more damage to the Algonquin resource base. So the Algonquins insisted on having these interim measures in the agreement, and they were successful. One of them was simply to have the Algonquin Elders, but active harvesters too -- again this is a very detailed mapping -- to map all of what we're calling sensitive areas or culturally sensitive areas: sugar bushes are very important medicine plant sites, winter moose use areas, cabin sites settlements, and on and on. So all of those got mapped for the 10,300 square kilometers. That was one of the interim measures, in that any time forestry companies tabled a cut plan, the cut plan went and ended up with the Algonquins, and the Algonquins said, you know... and this is also relevant. Long before anything was in G.I.S. [Geographic Information System], I was working with the data at home in Ontario and I'd get a phone call from the secretariat office and they'd say, "we're going to fax you a cut plan, go through all the overlays and manually construct an overlay of all our sensitive area data that goes with this cut plan." And I would do that and I would courier that back to them. They would take that data and put it on the cut plan and that cut plan, now with the Algonquins sensitive areas on it, would get tabled with the forestry companies, M.O.F. [Ministry of Forests], regulatory agents in the province, and the Algonquin reps. And then they would negotiate and say, "no, you can't put a primary haul road through there because we have medicine plant sites and our burial ground" or "you can't clear cut this because it's a sacred area, but you can do some cutting over here because it's winter moose use area, but this is how much you are allowed to cut." So the sensitive areas got a certain amount of protection, de facto. But the sensitive areas, you take a look at the sensitive areas and then, if you put all of that on... well you saw some of the maps out in the lobby out there; there's a lot of white spaces on those maps. And, as in Quebec, in British Columbia government and industry see the white spaces on the maps, and one of the things that I think they'd like to assume is that white space means "open for business as usual" and "consultation done." So the other interim measures the Algonquins very cleverly negotiated into the agreement was this, again, "measures to harmonize." We took Elders out and said, "look it, this is a clear cut of a certain size and here is a clear cut of a different size or here is a buffer zone around a stream that is twenty meters, here is a buffer zone around a stream that is larger or smaller, here's selective cutting," and all these techniques of cutting and protecting the environment as the Quebec regulations allowed for, or left standing on the ground. And we asked our Elders, you know, "what do you think works in terms of protecting the medicine plants, what do you think works in terms of moose habitat, what is the problem with this kind of cutting, what kind of cutting would you prefer, and on and on and on?" All of that got distilled in this report called "measures to harmonize." So, if you can picture it, you have got these sensitive zones that are mapped -- you know polygons on maps -- that get a certain kind of protection as an interim measure, and you have got these measures to harmonize and they speak, in a sense, they speak for the blank spaces on the map. There is nothing there, but you can no longer cut up to twenty meters of a stream on the white space. If there is a stream there, you have to leave sixty meters, that is what the Algonquins got negotiated as a result of the interim measures research and the buffer zone research.

Then there is the third mapping project, which was the Indian place names; the toponomy mapping. We ended up mapping at about 900 different Algonquin toponyms. This is an important point: you can take everything about your cultures that you could conceivably put on a set of maps -- cultural areas or cultural hotspots or whatever you want to call them: harvesting sites, travel and trade routes, your Indian place names -- you could take critical wildlife habitats because they are integral to many First Nation cultures and put them on a map and my belief is that in most cases, if not all cases, if

you could do that sort of perfect research, you would still have some white spaces on the map. This is a concern that in the last three years with this T.U.S. [Traditional Use Study] policy in British Columbia I have heard many, many times from different political leaders and technical people at the community level: they're afraid that once you map this stuff, then the government is just going to run with everything else that's not mapped. Of course, it is a really legitimate concern and the risk is real and this kind of mapping, if you don't do it carefully, is dangerous.

The point I want to make around this is that when you do the oral history research, as the Algonquins did -- there was a separate study for traditional ecological knowledge and there was a separate study for social customs -- when you do that kind of research, that's the kind of information from your Elders that explains the system, that underlies and explains the system and explains the data that you see on the set of maps. And when you have got the map data in conjunction with this explanatory data and you put those together, there are indeed no white spaces on the map. As far as I know, that is the only realistic way to approach this dilemma and this risk. There was the speaker this morning who said you have to put very important legal qualifiers or caveats on all your map sheets saying this data is not complete on your reports, saying this report is not to be interpreted or taken out of the context of all the other reports that the Algonquins have put together.

Of course, genealogy is very, very important to do. We did Elder's field trips. After the mapping was done, we took Elders out on the land base for two or three nights in canoe trips, motor boat trips, and by truck -- and the Elders loved it. We would go out with groups as big as forty or fifty people, and we would take our maps -- it's what is called here ground-truthing -- we'd take our maps and we'd add new data and verify the data we had, and so on.

One other study we did is a harvest study. Algonquins are very, very much -- as many communities are in B.C. -- the Algonquins are very, very tied into "traditional economy," or domestic economy. They eat huge quantities of moose meat and all kinds of wild game and fish and so on. If you took that component of their economy away, their culture would be devastated and their economies, you would turn them into a ghettoized economy. So they did a harvest study, which was actually quantifying to find out how much of each resource they got off their traditional territory over a one year or a three year period. Then you had these quantified numbers which in themselves which were very, very impressive. You could convert those numbers of animals or, you know, kilograms of berries or cords of fuel wood; if you want to you could convert all of the meat species into pounds or kilograms of eating meat; and if you want to you could convert all of that stuff into a dollar replacement value. Of course, as we heard this morning -- we all know this -- that's what speaks very powerfully at the negotiating table. You have to be careful about being very clear with people that those numbers are only to be used for those purposes and not for compensation, unless that's what you want out of the game.

That in a nutshell... now that's what I and others have referred to as "comprehensive research," I think only because it's the closest to comprehensive research that has been done so far. You, of course, could do lots more -- there's lots of research that the Algonquins didn't do -- but strategically looking at the pieces and main kinds of tools you could apply to help capture parts of certain aspects of your culture so that you could use that information in a political context, which was very hostile. Those were the pieces that we choose to go for, and they have been really effective to date. But that doesn't mean there's all kinds of other research that could be done and the Algonquins will do. So comprehensive research is never complete. That's a kind of a myth or mistaken belief that the T.U.S. policy guidelines, I think, tends to engender, and certainly it was a mistake and belief of a number of key people at the top of the T.U.S. policy program in Victoria three years ago when I first met with them. They had this idea that we would get this data and it was a one-off deal and that was it. That's what I kind of refer to as a "museum approach" to mapping when it comes to First Nations cultural resources. I was very pleased this morning. There was a question at that mike, where a gentleman got up and said, "what if we're from a community or First Nation where we don't have a lot of oral history that is left." And I was pleased with how one of the panelists fielded that. My belief is -- in agreeing with that panelist -- is that every First Nations community has a living oral tradition or oral culture, and some of those traditions may be deeper historically than others, some may be more shallow than others, but that the cultures are alive and culture is an ongoing process and will continue to change, and cultures have the abilities to have certain renaissances, or rebirths or growth spurts, if you will, and so on, and that's happening in a lot of communities. So I really invite everybody who is involved in traditional use research to stay out of the trap of thinking of culture as a thing of the past because maybe ninety percent of your Elders in the community are gone. That doesn't mean that you don't have an oral history. That's never the case.

I'd just like to leave with a comment -- and please bear with me if I struggle with this, because I haven't thought this through clearly. I was delighted with the panel this morning on oral history. Cynthia [Callison] and Julie [Cruikshank] this morning -- everybody on that panel -- it was great. I was restraining myself terribly because I had a bunch of questions and found it very provocative. Julie gifted me with a really neat thought or observation when she said, look it, this is not new. None of us know what Delgamuuk'w means in terms of oral evidence and oral history. We really don't know where that is

going. The rules for determining what kinds and whose oral testimony in court gets taken seriously or has credibility, those rules are yet to be defined. I believe, as somebody was mentioning this morning on that panel, that case law, future court cases, are going to set precedence and determine that. It is clearly not a case. Delgamuuk'w does not say any Elder who gets up and says anything is going taken seriously by the court. So whether we like it or not -- and I think this works to advantage -- we are still dealing with the arena of social science and the rules that have largely very much governed what evidence is taken seriously in court. And that is something First Nations can use to advantage. So we are still dealing in the same arena, if you will, although maybe the other team with Delgamuuk'w has a player in the penalty box, or we have an extra attacker or something. It is more of a level playing field. But future case law is going to determine what kinds of oral history get taken seriously. There are going to be criteria that develop and come out of the case law, at least that is my opinion. The thing that Julie said that I found very provocative was, look, oral history -- and Neil [Sterritt] was saying that making this distinction between oral history and oral history evidence -- and Julie was saying oral history, you have got to be very careful that, just because the courts have now accepted oral history as something legitimate to be considered as evidence, you've got -- and this is my reading of what Julie was saying -- you've basically got to be careful of however the courts determine what is taken as serious oral history or credible oral history evidence; you have got to be careful not to let that come back in some kind of a feedback loop and determine in your own minds and your own cultures, well, this is legitimate oral history and this isn't. And Neil Sterritt made the wonderful distinction between oral history and oral history evidence; they're two different things. The caution I guess I am making, I guess for myself as I am figuring this out, is don't get confused in your own mind between what oral history is and oral history evidence. Don't play that game, if you will, of social science oral history evidence. But don't let that come back and start massaging your culture in ways that you are not pleased with or in ways where you might have some cultural attrition that you're not pleased with. The light bulb that went off to me when Julie said this was, gosh, I struggle all of the time, every time I see a First Nation, a composite map, or put a line on a map, I say, you know, this is a -- in some First Nations if not many First Nations -- this is a desecration to many Elders -- and desecration may be too strong a word. But I know in many cultures across the country, when you sit down with an Elder and you say, "put a line on a map," if you watch the body language and the change in tone of voice and the change of energy, that is for many Elders a difficult -- not because they can't do it physically -- but psychically and perhaps spiritually, that is a difficult thing for them to do. This whole thing about putting lines on maps, it is a tool -- not to be cynical -- but it is a tool that, for instance, the B.C.T.C. [British Columbia Treaty Commission] has used very effectively to divide and create division among First Nations communities, and to regenerate, perhaps, old latent animosities, and so on and so forth. We could all talk about examples and probably a lot of your First Nations are involved. The B.C.T.C., very glibly, says in the fourth or fifth stage of the process: "overlap. You have gotten this far, you guys sort it out and we will come back and finish the process." I am not going to talk about this now, but there are ways of dealing with this so-called overlap issue. The point I am making that putting a line on a map is an artificial convention, it's an artificial thing that you have been invited -- and in fact you have been told you have to do -- to get from A to B to C; move the yardsticks forwards in terms of rights and title and co-management and everything else. But that in itself is a very risky business. Please bear with me. There is a point I'm coming back to around this. I see an analogy between putting a line on a map as a boundary and this notion that Julie was saying about being careful about oral history. I'm going to shorten the point because I don't think I am articulating this well. There are lots of things in this kind of research that are very uncomfortable for your Elders to participate in. There's all kinds of things. The kinds of questions you ask to get data in a way that would be useful for you in court. The kinds of questions you ask, a lot of Elders look at you like you're crazy, "jesus, what are you asking me this, you just asked me that question," or "why do I have to put points and not polygons" or "why do I have to do it this way?" They want to ring your neck or throw a chair at you, and it's a very difficult fit. It's like putting a round peg into a square hole. It's like a cultural clash. You're taking a tool from one culture, you're taking to work for advantage and you're applying it to another culture, but the modes of communicating are different traditionally and the norms and the cultural cues of communication are different, and how knowledge is passed and how information is passed and what is legitimate information and what is not. So the researchers say, "provide this, provide this," and the Elders are having all these internal problems with providing this, because of this sort of clash of cultures, if you will, or the incompatibility of certain modes of communicating and collecting data.

I just want to say two quick observations now. One is that wherever I have worked I have never -- when the Elder has had time and you have explained things and Elders had time to think about it, and maybe it takes two or three visits -- I have never ever had an Elder say, "no, you cannot record me, you cannot put the tape machine on." Not once in close to twenty years of doing this kind of research has that ever happened. I have Elders say, "I don't want to be tape recorded," but when the Elder has time to understand why we have to sort of play this game this way, if you will, the Elder has always come back and said, "all right, let's do it." So there is a lesson in there.

The other thing that I want to say is that the people who are on the front line of this clash, if you will; the people who have bare the brunt of the Elders' frustration, and sometimes even anger and so on, are the people who are doing the interviews.

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Please note that all transcripts are verbatim.

Usually, they are community people, you know; they are people like Angie Wilson and Beth Humpschit and Mercy Mira and Wanda Christiansen, you know people like Allan McClean in the audience those people, the gang from T'sleil Waututh and so on, T.N.G. [Tsilhqot'in National Government], Chilcotin people. And that work of having to deal with that clash is no fun. That can be really discomfoting because your Elders often experience what you're asking and what you are doing as disrespectful. I just want to leave this with my belief that successful research and this kind of research, if you don't want to have demoralized community workers and if you want to have successful research, the administrators and politicians in the audience, and the administrators and politicians in any community, have to really advocate for your fieldworkers, your data collectors, your interviewers. Don't just get them a bit of training then send them off to dangle in the wind by themselves. This is not a comfortable process and without a lot of support it won't be a successful process.