
IMPLEMENTING DELGAMUUK'W

*Biography of Russell Collier
Gitksan Strategic Watershed Analysis Team*

Russell Collier, an Anglo-Gitksan by descent, lives and works in Gitanmaax, one of the ancient villages within Gitksan territories. Russell is one of several Directors of the Strategic Watershed Analysis Team, the Gitksan lands and resources planning agency, and is the organization's main software/hardware specialist, and its second GIS operator. Russell is actually trained in Fine Arts, at Langara College in Vancouver, BC and Cariboo College in Kamloops, BC, but maintains that learning fine arts first has made computer knowledge much easier to acquire. Russell currently sits as a member of the Forest Renewal BC "Environment Committee", a member of the Helping the Land Heal Conference advisory committee, a director for Northwest Institute for Bioregional Studies, and a director for Strategic Watershed Analysis Team. Russell's Gitksan name is "hli Gyet Hl Spagayt Sagat", but if that seems difficult to pronounce, you can call him "Spaiyt Sagat" for short.

Good morning. I would like to thank the U.B.C.I.C. and Leigh Ogston for inviting me, and also the Coast Salish people for having us on their territories. I'd like to extend, also, an apology from Gordon Sebastian who was supposed to be here yesterday, but he was caught in a court case and couldn't leave his client. He originally budgeted for time to be here but it didn't work, and so he asked me to extend that he couldn't make it.

You did a very good job of try to pronounce my name, hli Gyet Hl Spagayt Sagat. If it's too long, you could just say Spaiyt Sagat.

That was very good, Marty [Weinstein]. That was an excellent overview of all the traditional use study stuff. He touched on actually, probably most of the same points that I'd like to touch on. So I am shortening up an awful lot of what doesn't need to be re-covered again and leave some more time, maybe, for people to talk about things and ask questions.

There were a number of quite specific concerns we had with an information-sharing agreement. We started out with one of the very first traditional use studies, back when it was called a Cultural Heritage Resource Inventory System and it was owned by a different branch of the province, the Ministry of Small Business, Tourism, and Culture. Then it got taken over by the Ministry of Forest and was renamed "traditional use study," and it had been passed back and forth many times between different departments for who had control over it. We got started with this pilot phase. We've never actually done a full-scale traditional use study of our own because we've been in a kind of battle with the province over some of the definitions for a long time. Funding has been withheld from us for around three years to complete our own stuff. We've got a pilot phase done, but we've never actually gone through the whole thing. One of the major problems we had with the information-sharing agreement was that we've found ourselves fighting with the province -- mainly the Attorney-General Branch, through the Ministry of Aboriginal Affairs and through Ministry of Forests -- over the wording of an information-sharing agreement. I just got a quick glance at Donald Bain's traditional use study final product that they have got, together with an information-sharing agreement, and they have a nifty clause in there that I wish we had when we were starting our thing. It reads "Section 6.3.1, such review will not alone fulfill the provincial requirements for consultation with the Lheidli T'enneh regarding protection of Lheidli aboriginal rights and title." Now we tried to get this kind of thing into our information-sharing agreement -- the interim one -- and we got fought back on this really, really strongly. We went through a rolling draft, after rolling draft, after rolling draft which we faxed back and forth and back and forth with the province, and we would always find everything new that we put in -- anything that would tend to strengthen the protection of what was important to us, the information that we have and how it could be used -- anything that would strengthen that or any reference to any outside processes, other than the Ministry of Forest's legislated requirements for consultation purposes, were crossed out and were sent back with something, basically, telling us what was going to happen: "this is the way it's going to happen, we're paying you to do a job, that's what you have to take, like it or lump it." We didn't like it that much, so we tried to negotiate with the province on this. I was pleased to hear you mentioning that's a common thing: almost everybody has tried to renegotiate this information-sharing agreement.

We found when we tried to get recognition from the province that information-sharing, by the very nature of the words in there, imply a two-way process; if we're sharing information with the province, shouldn't we be getting something back, not just a monetary thing which is there to facilitate the program, but shouldn't there be some kind of sharing back? And we were told flat out, "no, actually it's not. This is an information-acquisition process, but we're calling it information-sharing. We are buying your information and we're paying you to do it, paying you to do the work for us." We didn't like that much. We thought that information-sharing, by the words "information-sharing," should mean a two-way process. And we could not get an agreement on that.

Another issue we faced was over the consultation process. I am pretty sure this is a familiar story to everybody here. Our biggest fear was that the information we provided would be used against us, or in place of acceptable consultation. That was the major fear that we had, that the province would somehow either subvert the consultation process and use it in place of actually talking to us, or that they would find a way to turn it around and use it against us. And they did. They demonstrated this even though they promised they wouldn't do that. They went and did it anyway, or they would find a way to negate the importance of it, to downplay how important it was. Stuff that's very important to us meant little if anything to them, and they found ways to legally make it, through their consultation process, make it useless information. Things like targeting, turning information against us. They would target the areas we identified on maps for logging. Little stuff like that. That seems kind of petty, but that's what we were kind of coming up against.

Another concern we had was who would have access to our information and why would they have access to it and when would they be allowed to have access to it. That's an aspect to the consultation process, again. We didn't want government branches just accessing it without permission from our house chiefs. That's our information, and ownership of our information was a really big issue, something we fought over and never came to a really good conclusion with the province over it, was the ownership of it. They maintained at that time -- and this was early on in the traditional use study program -- that they were paying us to provide them information to get them through the legislative requirements for consultation. Difference of interpretation.

Another concern we had was in provincial definitions of what was important; that is, what did or did not constitute valid traditional use study practices? We had pretty strong definitions of what we thought were our traditional uses. Among them were landscape management planning stuff; that we did things out there, we consciously planned for it: "this year we are going to be hunting in this area, because it has been left alone for awhile; that area has been hunted before, let's leave it; let's leave somebody in there to keep count of what's happening; this area we use to burn over there; that area is just regrowing; this one up there...." We did landscaping planning. We did management of the resources that were out there, consciously looked at everything that was out there. We couldn't get those kinds of traditional uses agreed to in the information-sharing agreement as the kind of stuff that constitutes traditional use of an area. We were being locked into the same narrow definition that you have all seen: "the requirements necessary for hunting, fishing, gathering to satisfy ceremonial sustenance and spiritual purposes." Everybody has seen those words, because those are the same kinds of definitions that the province is imposing everywhere. And so that kind of definition of what did or did not constitute a valid traditional use of an area, and what is a practice that we had in an area, was something we couldn't agree to.

Another issue we fought over was the final use we might have over our own information. We experienced open hostility to the notion that we might, for instance, want to use this data in aboriginal title research. That was something that the province outright told us you can't do because -- this is early on, you have remember; things are changing -- because that has legal implications. The information that you have got and the ownership of it and the uses that you're being told that this can be put to has legal implications: the wording you use, the locations used, even the maps you have used.

I was pleased to hear Marty talk about different map scales. Maps are legal documents and they are legal, and they have different impacts at different scales on the consultation processes. Different kinds of maps are inappropriate at different levels of consultation, and you have to really be aware if you are using maps for things. At an operational level, a 1:50,000 scale map is not going to be useful. They start at 1:20,000 and they get finer from there. If you're looking at L.R.M.P.s [Land Resource Management Plan], then 1:50,000 and up is appropriate. Those kinds of map scale things are important to look at.

Our biggest concern -- that of how the information may or may not be used in the consultation process -- still remains a concern for us. It's still a problem. We have signed an interim sharing agreement which explicitly states that it shall not replace normal consultations, and we have documented occurrences about right violations of that signed agreement with a "so what" attitude, like, "what are you going to do about it, are you going to take us to court?" This is some of what we run into. The attitude in the district office that's in our area is that they really don't care what they have signed -- it doesn't matter -- because they've got the Attorney-General Branch behind them and they have got the rest of the legal and technical departments of Ministry of Forests and Aboriginal Affairs.

Now I know that things are changing, over time things are changing, and this decision of December 11, 1997, the decision has shaken things up some. We're still getting outright resistance to change and we have had a lot of experience with consultations, where you might expect this traditional use study information would come into play, at least in the pilot phase information. We have got around 400 meticulously documented and fairly useless referrals to show for it, with no change on anything. And it is leading us down the path we didn't necessarily want or expect we have to go through. This is the "going back to court" thing. We are trying to run a third group at a less expensive, less time-consuming route, a

reconciliation process where the December 11 decision and existing Crown rights are reconciled with each other. We'll see how that works. We are aware, though, that the province is going through its paper trail stuff, meticulously documenting their side of everything in the expectation that everything will go back to court again. So we're looking at this and we are thinking to ourselves, if that is the case, if it says the province is saying, "title is nice in theory but it doesn't exist, so there is nothing to talk about," then, if that's the case, we are faced with what we think is a pretty interesting opportunity -- now that the province is finally agreeing to go ahead with funding our full-scale traditional use study -- of being able to lay out all our traditional use study information as a basis of our next step in the court battle. Back to court again. So I know that's not what they initially wanted this whole traditional use study program to be, and they're trying really hard even now to limit its impact solely to consultation at the operational level, when it's too late to do anything. They are feeling as though they have opened a bag of worms here, that they can't put back in again. No, that's mixed up... let the cat out of the bag. It's too late. They've opened too many doors with it and too many people have been discovering just how much strength there is in rediscovering, or taking stock, of our own cultural information and our own traditional use study information. For us, this is becoming a really useful tool in the next stage, which we'll probably have to go through even though we don't want to do it. We'll probably have to go back to court, and traditional use study information is going to be a foundation of the court battle. So that is all for now. Thanks.