
IMPLEMENTING DELGAMUUK'W

Biography of Don Bain

Lheidli T'enneh Traditional Use Study Coordinator

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Don Bain is currently finishing off his Bachelor of Arts at the University of British Columbia. He is majoring in Cultural Anthropology with a minor in History. He took time off from his studies to head his community's Traditional Use Study. Don Bain was also the conference organizer for the UBCIC Protecting Knowledge Conference of February 2000.

I don't have an impressive bit like these two guys have. I'm just a little, lonely Indian up north, you know. Just wait for this to warm up.

I'm with the community from Lheidli T'enneh. My mum's name is Rita Quaw, her maiden name. My grandmother's name is Elsie George, from Saikuz. I've been doing my degree at U.B.C. [University of British Columbia] for the last couple of years. I'm a borderline professional student -- been there for about ten years. But I took a lot of time off. And what I did this year was, my community asked me to come back up north and help organize and spearhead our traditional use study. Now, what the panelists before me have spoken about, I believe we covered off most of the issues here. And what I'll do for this presentation is I'll just walk you through, basically, our information-sharing agreement. Unfortunately, I didn't get photocopies of this. I've talked to Leigh [Ogston] and it might be available afterwards. If you come up to me, I'll take down your name and I'll mail you a copy, e-mail you a copy of it.

This is where we are. We're right around Prince George, there. We have one of the largest traditional territories in the British Columbia Treaty Commission process right now. We're in stage four of the process. So you could just get a good sense of how large of a territory we are. We are funded by F.R.B.C. [Forest Renewal B.C.], as well as C.L.I.B., which is the Crown Land Information Base, that's what it's called. We have funding for, basically, eighteen months of research. Our budget is about \$276,000, which is about \$26,000 above the average of a traditional use study program. Many of you know that the F.R.B.C. funding is being withdrawn. They are not taking any more T.U.S. applications in our area, that's for sure. Word is that it's going to be totally gone in the next fiscal. They are committed to fund traditional use studies into the next fiscal and the present T.U.S. proposals on-line right now, but anything after that there's no funding, is the word that we're getting.

So, Delgamuuk'w -- stop me if you've heard this -- it affirms aboriginal title, gives us rights to be consulted about the activities in our territory, and, of course, it gives us validity to our oral histories. What does Delgamuuk'w mean to us? Well, in terms of aboriginal title, as I say, we're in stage four of the B.C. Treaty Commission process and, as it was stated I believe on the first day of the conference, it is the present position of the B.C. government -- and especially the B.C. government -- that aboriginal title does not exist. As it is explained to me, aboriginal title does not exist until it's proven in a court of law or until we sign it away. Our treaty negotiator calls it an absurdity. It's like we have a car to sell and we're negotiating, and the government saying, "well, we don't believe it's really your car, but let's keep talking."

In terms of consultation, consultation to us in terms of, you know, on the ground, what's happening in our community amounts to about a thigh-high pile of papers. We get letters, faxes, and phone calls. Mainly the letters and faxes are filled with such jargon that we can't understand them -- talking about five year development plans all the way up to archeological impact assessment permits to mining plans, hydrology permits. We're just a small community of about 250 people. We just don't have the capacity within our community to address these consultation purposes. Consultation is a good step, but right now all we can do just respond with a letter. When we do respond, and do tackle an issue that we feel is important to our community -- I'll talk a little bit later about this.... We have a prime example of a trail that is just south of us, south of Prince George, south of Lheidli -- it's the Punchow Lake Trail. And we went to great lengths. We met with the district manager of the Prince George Forest District, we wrote letters, we actually participated in the archeological impact assessment, we provided information. In the end -- that trail lies within an overlap area of our territory -- they cut a deal with the other community and made their management decision based on this deal, without talking to us. We found out about the management decision after the fact.

In terms of oral history, in order to address the first two -- aboriginal title and consultation -- we had to record oral history, we had to gather it. What we did was use the traditional use study program as a vehicle to do this. Now, what we're doing is sort of a multi-prong approach. We have our traditional use study, but we also are starting to get into natural resource management in terms of doing inventories. Like our fisheries program, we do fisheries inventories or stream inventories, I

should say. We do have a silviculture program. We do send out crews under contract to the local pulp mills and such. We're trying to get our hands into as many avenues, in terms of managing the land.

Now, what we did is we invested heavily into our geographical information system, our G.I.S. Our G.I.S. is Arch-Info, and what we're using it is to centralize all this information that we're gathering, information that we have received after long talks with the government. Such things like trim. Based at a lake trim, a forest cover was a long battle to get from the government. But what we're hoping is that our G.I.S. system will form the basis of an information system, an information system that there will be databases attached to it, that will show our traditional use sites within our territory, and also show everything from the technical side of things from forest cover -- in terms of age, class of trees, primary species, secondary species -- as well as for fisheries -- mapping our repairing zones and such things like that.

This is our traditional territory broken down. The grid there is a trim map sheets. Trim, for those of you who don't know, is a scale of 1:20,000. In our territory, we have 375 trim sheets. If you go buy a digital trim map sheet, it costs you \$600 retail. We got it for free. Call it back-rent. The yellow outline there is the Prince George Forest District and the other colours there, especially in the left-hand corner, are the existing tenures in our territory. So you can see how G.I.S. quickly can assemble all this information for you to make an informed decision. Now what we are working towards right now is creating different layers of information that's based on our traditional use study information.

So, as I was saying, F.R.B.C. and C.L.I.B. fund our T.U.S. and, under contract, we are obliged to share community information. We fought long and hard for a final information-sharing agreement. We did not negotiate an interim information-sharing agreement. We entered into our T.U.S. with our information-sharing agreement in hand. We did not believe that an interim information-sharing agreement was feasible. As the people at M.O.F. [Ministry of Forests] tried to explain to us, it was like they wanted us to be friends, you know, trust us. As we pointed back to them, it's a business relationship and in business you cover off as many corners as possible. There is no true element of friendship in a business relationship.

So how did we do this? As I was saying, we negotiated an information-sharing agreement up front, and that information-sharing agreement has clauses, stipulations, where such things as interview materials reside within our community, it's under our control. We have sole discretion on what we call confidential information. Confidential information is broadly defined, so we can say anything from a sacred area to an interviewee's name, for example. We have encoded our community information, our database -- I'll show you an example of our database in just a moment or two, and I'll explain what I mean about encoding our information. As well, we used polygons and buffers. The point made earlier about map scales, we've used that to help buffer ourselves. We have 1:50,000 as a stipulation. There's a choice of 1:50,000 or 1:20,000. 1:50,000 can't be used for operational planning. As far as we're concerned, the information that they need, the Ministry of Forests and line ministries, all they need is a general sense of what's there. They do not need to know what specifically is the activity; they do not need to know specifically where the activity occurred, or who did the activity.

This is how our information-sharing agreement breaks down. What I'd like to do is just read from my information-sharing agreement. Under Section 1, "Definitions," we have a definition for consultation. Consultation means processes established consistent with the province's duty to avoid or justify infringement at Lheidli T'enneh aboriginal rights and title. We were quite fortunate. We did not experience the same trouble that Russell [Collier] did, and the reason why is we slipped through the cracks. The Attorney-General came down with a directive to all line ministries not to sign any contracts, any information-sharing agreements, anything that mentioned aboriginal title, going back to that same logic, you know, that aboriginal title does not exist until it's proven in a court of law or until we sign it away. But we fell through the cracks. We, basically, had hard negotiations with our Ministry of Forests district, as well as the region, and we came up with these definitions. We have a seven page information-sharing agreement that covers an awful lot of our concerns, a lot of the concerns that have been expressed here over the last couple of days.

The next definition is "cultural/heritage resources," which essentially just means an object or traditional use site or the location of a traditional societal practice that is of historic, cultural, or archeological significance to Lheidli T'enneh. What you see here, we have very broad definitions and these broad definitions worked in our favour.

Another example here of our definition is "traditional use site," and it means any geographically defined site, on land or water, used traditionally by one or more groups of aboriginal people for some type of activity, whether or not there is physical evidence of human-made artifacts or structures, and which maintains cultural significance to a living community of aboriginal people. What we did, we basically ransacked a whole bunch of different definitions to come up with these very broad definitions.

The next section is "purpose." Essentially, the purpose of this information-sharing agreement is to facilitate and enhance consultation processes by collecting an inventory of Lheidli T'enneh cultural/heritage resources. And that's Consultation with a capital "C". That's essentially the gist of our "purpose" section, there.

Number three, there are principles for information-sharing. It was mentioned earlier that information is a resource, which has value and is subject to interpretation. We are aware, and concerned, that this information that we are providing will come back to us and be used against us. I've heard stories of other communities where this has happened. We're going to have to be prepared. I've talked just briefly with Terry Tobias and Russell Diabo about tightening up our methodology. We have a methodology in place that, we felt at the time, adequately covered an awful lot of our concerns, but after spending a couple of days here and last week at the information-sharing workshop in Victoria I need to get my methodology reviewed. And I'm hoping that the people here in this workshop, in this forum, can help us do that.

The principles for information-sharing also embodies that information is essential to land use decision-making, government-to-government negotiations, including treaties and interim measures. Section 3.3 reads that the parties should have access to, and work from, a common information base which is relevant, reliable, accurate, and available in a usable format. That clause is one of the clauses that we used to get the trim maps in our forest cover. We cited that clause. As well, there is a clause in the general service contract that the province of British Columbia makes you sign, where it states that all information that they have in their possession will be made available to you if it's felt that information is required for you to complete your project.

I just got the two minute warning here, so I'll just skip ahead to our information-sharing. Now, this is Section 6 and this basically the heart of the agreement. Section 6.1 reads, "subject to this agreement and Contract No. GR055C" -- which is our T.U.S. agreement -- "Lheidli T'enneh retains exclusive ownership of all information produced by the projects." Section 6.2, "the Ministry of Small Business, Tourism, and Culture, Archeology Branch, may at its discretion refer other land use planning and impact-assessment agencies to Lheidli T'enneh regarding information in the provincial heritage register database." And Section 6.3, which Russell just touched upon briefly, reads, "subject to this agreement, information maintained in the provincial heritage register database will be accessible to provincial ministries and agencies for review prior to making land use planning and allocation decisions, provided that" -- 6.31 -- "such review will not alone fulfill provincial requirements for consultation with the Lheidli T'enneh regarding the protection of Lheidli aboriginal rights and title and no information will be applied by any such ministry or agency in the absence of good-faith efforts to conduct meaningful consultation processes. Only after such efforts have been undertaken, will the information be used in and for decision-making."

I'm just going to conclude here. Actually, let me just run you through here. This is our database. This a screen capture. So what the government needs is this information up on top here. This is the information that we've recorded, down below. You see this is, like, the accuracy, you know, plus or minus fifty meters, one N.T.S. map. This is the minimum information that the government requires, up to site update. What we did is we just created a simple database out of ACCESS -- Daryl Seymour, our G.I.S. technician, did this for us. Here we have the common name for the location -- in this case St. Mary's Lake -- the Carrier name, and the definition of the Carrier name. What we've done, in order to make this database work, we had to assign an index number, but we also have a line ID with an index number. What we have here are different categories. "Resource User," the person that's actually using the resource, be it hunting, fishing, or berry-picking for that fact. Or our "Resource Describer" -- maybe one of our community Elders remembers her grandfather hunting moose, so she talks about how her grandfather hunts moose, so we give her.... I should back up. Everyone in our community has a user ID number and we have the key, only us. We have the access to that key. So we know who "910" is, and it may be here that it's "620." We would know that person, as well. Here's the information: interview two, site purpose. This is where I was talking about encoding information. Here we have "P110-Site Purpose." In this case, "P110" is a cultural land form. So we have all these different broad identification numbers and needs. You go for a "Site Purpose," which is just a very general overview. "Site Activity" is a bit more specific. In this case, it's a cultural land form place name -- "A130" -- and then, here, it might be something else. Like, if it was hunting we'd put "Trapped," or if it was a C.M.T., culturally modified tree, then we would identify as a "Trail Blaze" or "[?] Scar." That's just a brief.... We emptied our out database so it could fit on this little laptop here, just to give you an idea. And what this will do, what our database is set up to do, is we can add as many records as we like to the bottom of this database -- unfortunately, you can't see the far side of the screen here, you can just scroll down. We also have the ability to write up reports. The way we set up our database, we can break it apart and just send the government this basic information, and that's it.

Let me just conclude that the reason why we are doing this, it's not just for us, it's not for the present generation. The way we view this, is that we're doing this for tomorrow's Elders. These are the people who will be directly affected by the decisions that are made today. And really, it's a lot of responsibility. Thank you.