

*Edited by D.B. Tindall, Ronald L. Trosper,
and Pamela Perreault*

Aboriginal Peoples and Forest Lands in Canada



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Acknowledgments

Like the Nisga'a who travelled by canoe from the Nass River to Victoria in the late nineteenth century, this book manuscript travelled on a long journey before it reached its destination: publication.

Thanks to all the contributors for staying in the canoe!

This book began from a desire to present the voices of a mixture of Aboriginal thinkers and social scientists to those who wished to learn more about Aboriginal forestry and related social, natural resource, and forest land issues.

The production of the book began during a critical time in Canada – and in particular in British Columbia – with regard to Aboriginal–non-Aboriginal relations. Over the past decade and a half, issues concerning Aboriginals and forest lands have often been headline news in Canadian media for a variety of reasons (as we discuss further in the introduction). One reason is that some of the first modern treaties came to fruition during this period, when protests and court challenges forced the forest industry (and other natural resource industries) and governments to rethink their relationships with Aboriginal communities. In addition, a process of Aboriginal self-determination was taking root across Canada.

The seeds of this book were germinated in “Conservation 370: Perspectives on First Nations and Forest Lands,” a course in the Faculty of Forestry at the University of British Columbia. David Tindall originally designed and taught the course with the help of Pamela Perreault, among others. Later, Ronald Troster taught this course.

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Part 1
Introduction

1

The Social Context of Aboriginal Peoples and Forest Land Issues

D.B. Tindall and Ronald L. Trosper

Logging Protest by Vancouver Island First Nation Disrupts BC Ferry.

“A First Nation group staging a protest over logging on its territory on Vancouver Island blocked a BC Ferry for more than an hour in Port McNeill Thursday. Members of the Kwakiutl (kwa-CUE'-tul) First Nation had canoes in the water to keep the ferry at the dock and demonstrators on land to stop cars from loading. A BC Ferry spokesman says the demonstration caused a 75 minute delay in the sailing of a ferry that links Port McNeill and Sointula on nearby Malcolm Island. He says the RCMP kept an eye on the demonstrators but there were no arrests and no property damage. The protest was the second of two staged by the Kwakiutl over two days to show their anger over logging in an area the First Nation claims as its traditional territory. The band says the logging violates its rights under the Douglas Treaty, and is demanding the provincial government stop the harvesting and start negotiating commercial forestry rights with the First Nation.” The Canadian Press, August 4, 2011.

Judge Rejects Logging in Favour of Native Rights. “The see-saw battle over Native timber rights in the BC Interior has tipped in the favour of the Okanagan Indian Band. A BC Supreme Court judge has rejected the provincial government’s claim on logging a large tract of forested land west of Okanagan Lake’s north shore. The band says the decision should trigger negotiations to settle a question that’s been outstanding since British Columbia’s first Europeans arrived. How can the province have title and authority over the forests without a treaty? ‘The province does not own our territory. They use it,’ said Chief Byron Louis of the Okanagan Indian Band ... The band sought an injunction, saying the area is the water

source for its 1,800 members. The watershed shows evidence that Aboriginal people occupied it up to 7,500 years ago, and forestry operations would threaten their water and destroy their sacred land, the band said." *Kamloops Daily News*, October 26, 2011, A5.

First Nation Signs \$30M Treaty. "A land-claim treaty is one step closer to reality for a First Nation in the Powell River region. The federal and provincial governments and the Tla'amin First Nation have signed a final agreement that will now be put to the 1,000 members of the First Nation for ratification. The agreement needs final approval in Parliament and the BC legislature. The deal gives the Tla'amin about 8,322 hectares of land and almost \$30 million over 10 years, along with self-government powers, economic-development funding of almost \$7 million, resource revenue sharing and forestry and fishing rights. Chief Clint Williams says the treaty will provide a foundation for his nation's children and grandchildren." *Kamloops Daily News*, A6, October 22, 2011.

Logging Fight Brewing over Flores Island. "Iisaak Forest Resources received a permit from the BC government April 1 to build logging roads on Flores Island, prompting accusations from environmental groups that the forestry company has broken an agreement intended to protect intact watersheds in Clayoquot Sound. 'Flores Island supports a large, intact ancient rainforest that was included in the historic 1999 "no logging in intact valleys' agreement,'" states a media release from Tofino-based Friends of Clayoquot Sound (FOCS). That 1999 Memorandum of Understanding (MOU) was a mutual agreement aimed at protection of undeveloped watersheds in Clayoquot Sound. Iisaak denies logging activity on Flores Island will break the MOU, and says the right to determine where to log should be left to the First Nations who own the company." *Cowichan Valley Citizen*, April 15, 2011, 9.

As the above news media accounts suggest, Aboriginal people in British Columbia in particular, and in Canada in general, have been struggling over the past several decades to gain control of their forest lands. Blockades against logging have been only part of a larger strategy to assert Aboriginal rights and establish Aboriginal title. But Aboriginals have also been concerned about forestry itself, and their inability to influence how the land is managed, as well as the fact that they have generally not benefited from resource extraction.

In many instances, action began with blockades or other related forms of protest. Such protest was often intertwined with seeking recognition of

Aboriginal rights and title through the courts. The courts have clarified Aboriginal rights regarding resources and have established what Aboriginal title contains in principle. These events have motivated the provincial and federal governments to restart the treaty process in British Columbia and to establish various types of interim measures, such as co-management agreements. It has also motivated companies to enter into joint ventures with Aboriginal groups. In some instances, Aboriginal communities have also started their own forestry companies. In these various ways Aboriginals are coming to have more say in decision making about forest lands, and to benefit more directly from forest resources.

In recent years there has been increased participation among British Columbia's Aboriginals in the management of forests (and other natural resources). An advance toward Aboriginal self-determination in British Columbia was achieved with the signing of the Nisga'a Treaty in 1998 by the Nisga'a, the federal government, and the provincial government.¹ Similar agreements have started to come to fruition through the BC treaty process. Interim measures agreements will continue to be signed while treaties are being negotiated. There will also be increased Aboriginal participation in resource management and self-government through alternative processes.

These events mean that professionals – in the private sector, public sector, and not-for-profit sector – working in forestry and conservation will need to understand the context of Aboriginal participation in resource management. The objective of this book is to provide the reader with an opportunity to learn more about Aboriginal issues relating to politics, culture, forest resource use, and land ethics, so that they may have a better understanding of the challenges and opportunities that will arise in the coming years from increased Aboriginal self-government and increased Aboriginal land management.

Although conflicts over forests between Aboriginals and non-Aboriginals have generated headlines during the past several decades, issues pertaining to Aboriginals and forest lands are broader than just those revolving around conflict. In recent years there have been numerous activities on forest lands, including research into traditional knowledge and traditional use of land and resources, contemporary Aboriginal management initiatives, co-management initiatives between Aboriginals and non-Aboriginals, and joint ventures between forestry companies and Aboriginal communities. This book focuses to some extent on the activities that take place on forest lands (co-management, joint ventures, community forestry), but just as importantly, it also focuses on the context that underlies both the conflicts and the cooperative ventures. Hence, this book is very much about the *context* of Aboriginal peoples and forest lands.

The terminology for referring to Aboriginal peoples varies by context, time, and space; consistent usage is difficult. Various labels have been used

to describe the indigenous peoples of Canada, including Indian, Inuit, and Métis. All three of these are used in federal legislation. The term “Indian” was originally used by Europeans to describe the indigenous peoples of North America (excluding those in the far north), and many regard its use as derogatory, substituting “First Nation.” The Inuit are the indigenous people living in the north of Canada (as well as several other countries). The Métis emerged as a result of contact and interaction between Europeans and Indians during the fur trade period. In the title of the book we use the term “Aboriginal” as an inclusive designation for these different categories of indigenous peoples in Canada. We also primarily use this term in this introductory chapter. However, different terms are used by different authors in this book because of the different contexts that they deal with. In British Columbia, for example, Aboriginal groups are now officially known as First Nations. This is also the term used in some of the provincial legislation and policies regarding Aboriginals and forestry in the province. But other terms are used in other jurisdictions and contexts, and accordingly, different terms are used in different chapters of this book.

Main Themes

The news media excerpts that opened this chapter illustrate a number of different aspects of Aboriginal–non-Aboriginal relations in British Columbia and Canada. These include confrontations such as blockades, legal challenges that have been undertaken by Aboriginals regarding rights and title issues, and a shift from conflict to cooperative endeavours, as symbolized by some of the joint ventures that have been undertaken between Aboriginals and forestry companies. In some instances, joint ventures have incorporated traditional ecological knowledge into planning and management, and such cooperative endeavours have provided opportunities for cross-cultural learning. Media coverage has helped shape public opinion, which in turn has changed the context in which Aboriginal peoples, governments, and corporations operate.

Four main interconnected substantive themes integrate the material in this book. These are (1) history: cooperation, conflict, and reconciliation, (2) differing visions, (3) traditional ecological knowledge and use, and (4) collaborative endeavours. Below we elaborate on these themes and briefly describe the contributions made by the authors of this volume. A number of the chapters exemplify several of these themes. Hence, in some instances below, we will discuss particular chapters under one theme while their physical location in the book may be within a different thematic section. In some instances we also talk about particular chapters more than once – to highlight their connection to these multiple themes.

History: Cooperation, Conflict, and Reconciliation

One goal of the book is to give readers who are interested in forestry and natural resource issues an account of the history of Aboriginal–non-Aboriginal relations. This history provides a crucial context for understanding contemporary natural resource issues. As Coates and Carlson note in their chapter in this volume, early relations between Aboriginals and the European newcomers were marked by a good deal of cooperation. Aboriginals vastly outnumbered the European settlers. Aboriginals were central to a variety of activities, including the fur trade, and were integrally involved in endeavours such as logging and mining. European settlers benefited from these relations. Over time in the new colonies, however, Aboriginals were alienated from most of their lands, resources, and rights.

The alienation of Aboriginals from their lands and resources, their substantial exclusion from the workforce, and the consequences of their experiences in residential schools resulted in Aboriginals being among the most disadvantaged groups in Canadian society. High school drop-out rates, substance abuse, legal problems, health problems, and unemployment have persisted in many Aboriginal communities. In this volume Frideres discusses these issues of social inequality. Dale builds on these insights in noting how this history of alienation, marginalization, and resulting social problems has created challenges for Aboriginal communities in terms of participating in collaborative decision making about lands and resources. Dale provides some reflections on the Central Coast Land and Resource Management Plan process in particular.

From the 1970s through the 2000s, Aboriginals in British Columbia progressively gained support from the courts. Also around this time, public opinion about Aboriginals started to change (Ponting 2000), with increasing numbers of the general public in support of their claims. Arguably, to some extent, attitudinal support for Aboriginals was indirectly influenced by the civil rights movement and also the American Indian Movement, which had become active earlier in the United States (Morris 1999). Also, in the 1970s and 1980s, Aboriginals started to engage in various types of protest activities in order to bolster their land claims. These contentious actions garnered a good deal of media attention (Ramos 2006) and likely influenced public opinion. In this volume, Wilkes and Ibrahim examine the practice of direct action against forestry and other enterprises. The influence of direct action as a factor in the development of Aboriginal–non-Aboriginal relations and the evolution of land use planning is also noted in several other chapters.

This constellation of forces – especially increased uncertainty about the legal status of land and resources (Kunin 2001) – motivated the provincial government to finally begin a treaty process in British Columbia in 1993.

Ironically, as Mark Stevenson notes in his chapter, the provincial Liberal Party and its former leader (and then premier) Gordon Campbell were initially adamantly opposed to treaties but later became arguably the biggest boosters of the treaty process and other measures to deal with these unresolved issues. Stevenson provides an overview of the BC treaty process and discusses the limitations of the treaty process from the perspective of Aboriginals.

Differing Visions

There are profoundly different visions about how to proceed to address Aboriginal claims. These visions include analyses of past relations, current relations, and future relations. As Smith and several other authors in this volume observe, past relations have mostly proceeded under the assimilation model whereby Aboriginal peoples were supposed to abandon their language, culture, land, and resources and become assimilated in the larger Canadian society. In her chapter, Smith describes several models of co-management and argues that the types of relationships that the parties have with one another have consequences for the outcomes of such collaborative endeavours.

Passelac-Ross and Smith discuss the issue of land tenure and how the land tenure system needs to be revamped in order to deal with Aboriginal rights and title. They note that the determination of the annual allowable cut has generally not taken Aboriginal treaty rights into consideration and argue that current tenure systems reinforce the assimilation model and result in Aboriginal dependency. They explore two specific cases where alternative land tenure arrangements have been tried: the Nisga'a in British Columbia and the James Bay Cree in northern Quebec.

Marc Stevenson writes about the challenges of incorporating traditional knowledge, and the holders of that knowledge, into sustainable forest management. Traditional ecological knowledge is a body of knowledge and beliefs that is communicated through oral tradition and first-hand observation. Stevenson argues that traditional knowledge exists within particular contexts, and that elements of traditional knowledge cannot be cherry-picked and dropped into a Western scientific framework.

Lewis and Sheppard explore Aboriginals' spiritual perceptions of forested landscapes. They describe, for example, that sacred sites are linked to the identity of the Stó:lō in southwestern British Columbia. Lewis and Sheppard use the relatively novel methodology of visualization coupled with interviews to empirically explore this topic.

In the final chapter, Trosper and Tindall discuss consultation and accommodation. They note that although Aboriginals are constrained in their options by recent legal rulings, consultation and accommodation have the

potential of making invisible losses (such as lifestyles) visible and thus hold some potential for providing better outcomes than have typically occurred in the past.

Traditional Ecological Knowledge and Use

Another theme explored in the book is importance of understanding traditional uses of forest and other natural resources, and traditional ecological knowledge. Brian Chisholm and Andrew Mason describe some of the ways in which archaeologists have documented traditional use of land and resources. Archaeological knowledge has been important in the land-claims process in helping to legally establish continuous use of traditional territories. Andrew Mason talks about some of the legislation that exists regarding the protection of cultural artifacts and makes some suggestions for new policy in this area.

Several of the contributors to this volume compare and contrast traditional knowledge with scientific knowledge, including Michael Blackstock, who describes insights that these two perspectives provide into understanding of water, especially in a forest context. Marc Stevenson talks about how “relationships” are central to traditional knowledge. Traditional knowledge is not simply a compendium of information about the land and resources; rather, it is a system of relationships that are crucial for living in harmony with the ecosystem. In their chapter, Lewis and Sheppard also talk about the importance of relationships for traditional knowledge and management. They focus in particular on the spiritual ties that the Cheam First Nation have to the land, and about the challenges to forest managers of managing for sacred spaces.

Traditional use and knowledge are intimately linked to the other three themes discussed here. Most notably, perhaps, it is a central component of collaborative endeavours such as co-management and joint ventures.

Collaborative Endeavours

There have been many types of collaborative efforts to repair the damaged relationships between Aboriginals and non-Aboriginals and at the same time address land and resource issues. One such effort has been to introduce Aboriginal knowledge and topics into forest management and natural resources education. In this volume, Trena Allen and Naomi Krogman explore such efforts in the Canadian context.

Another important avenue for collaboration has been co-management. Co-management agreements have been pursued by Aboriginals, governments, and other parties. In certain instances they are meant to establish some progress in relationship building and better resource management in lieu of completed treaties; in others they are integrated with the treaty process. In

their chapter, Mabee, Tindall, Hoberg, and Gladu discuss co-management in Clayoquot Sound and on Haida Gwaii, in British Columbia. They argue that an important benefit of co-management processes is the experience that allows the two parties to learn about each other's cultures and world views. They argue also that such cross-cultural exchange and learning processes occurred in both Clayoquot Sound and Haida Gwaii. Other potential benefits of co-management for Aboriginals include capacity building and increased stability. These benefits can accrue through other forms of collaborative endeavours too, such as joint ventures, as discussed by Pechlaner and Tindall. However, in both co-management scenarios and joint ventures, preexisting community capacity is an issue. The benefits of co-management and joint ventures will be diminished if both parties do not have the capacity to fully participate in forest management and planning processes.

Finally, Forsyth, Hoberg, and Bird discuss the evolution of forest policy in British Columbia in recent years, including issues of consultation and accommodation. In particular, they explore a couple of cases where collaborative governance has recently been undertaken: on the north and central coast of British Columbia – the Great Bear Rainforest and Haida Gwaii.

Conclusion

The book provides an overview of the context of Aboriginal peoples and forest land issues in British Columbia and Canada. In this introduction we have given a brief overview of the main themes of the book: (1) History: Cooperation, Conflict, and Reconciliation, (2) Differing Visions, (3) Traditional Ecological Knowledge and Use, and (4) Collaborative Endeavours. To some extent, we are in a transition period from a situation best described as "assimilation" to one marked by "shared power." As Smith in this volume notes, many Aboriginals desire a further transition from shared power to sovereignty. By exploring the four themes in greater detail, the authors of this book help to provide insights for understanding the current transition and what will be necessary for a future transition to take place. A number of authors in this book argue that the "Indian Land Question" (Tennant 1990) will be resolved only when Aboriginals have their world views respected in land use planning, and have their lands, title, resources, and some measure of self-government returned to them.

Notes

- 1 In 2000, the Nisga'a Treaty, the first modern treaty in British Columbia, became law.

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