



TMPD Workshop Mapping & the FA: A Lands Governance Tool

Richmond, February 19th & 20th 2020



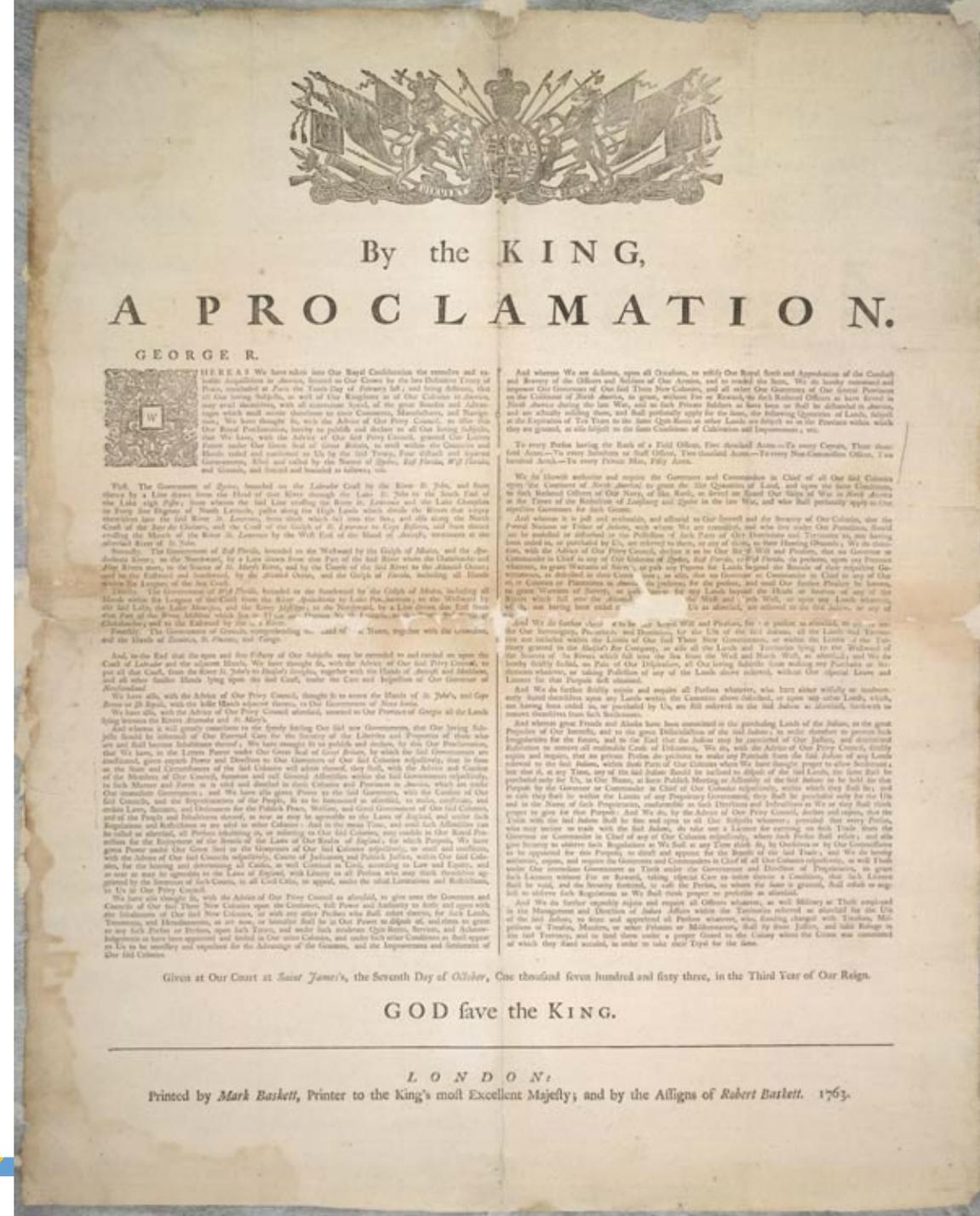
Mapping as a Lands Governance Tool

- Land Claims and Mapping
- Cultural Mapping
- Maps as a Planning Tool
- Examples of Mapping Tools

Maps and Land Claims

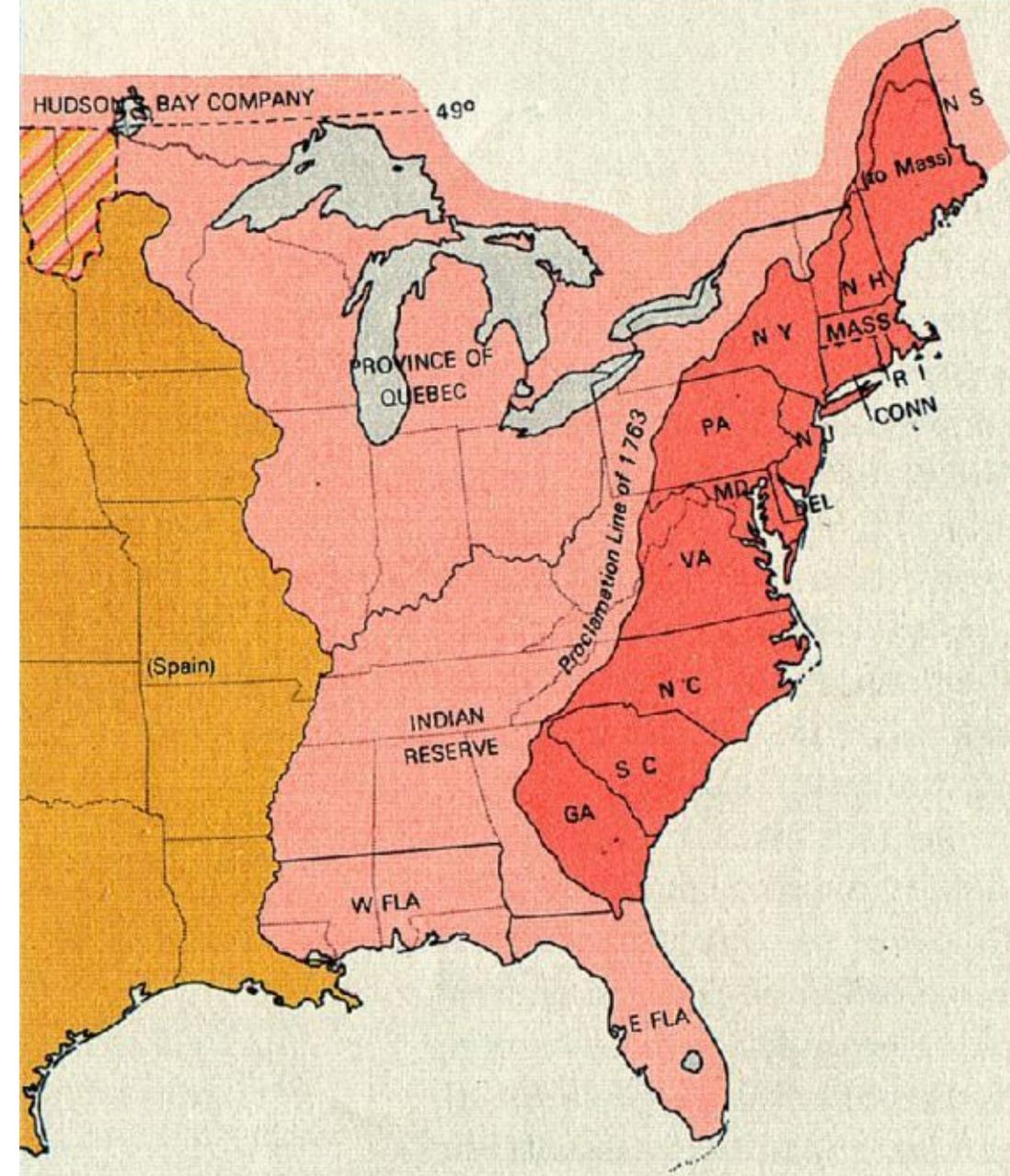
The Royal Proclamation, 1763, King George III

- Established British policy for settlement in what is now North America
- Issued after Britain won the Seven Years War against France
- Recognizes that Aboriginal title has existed and will continue to exist, all land will be considered Aboriginal land until ceded to the Crown by Treaty
- Forbids Settlers from claiming or purchasing lands from Aboriginal peoples, only the Crown can buy land from native inhabitants.
- Enshrined in s. 25 of the Canadian Constitution



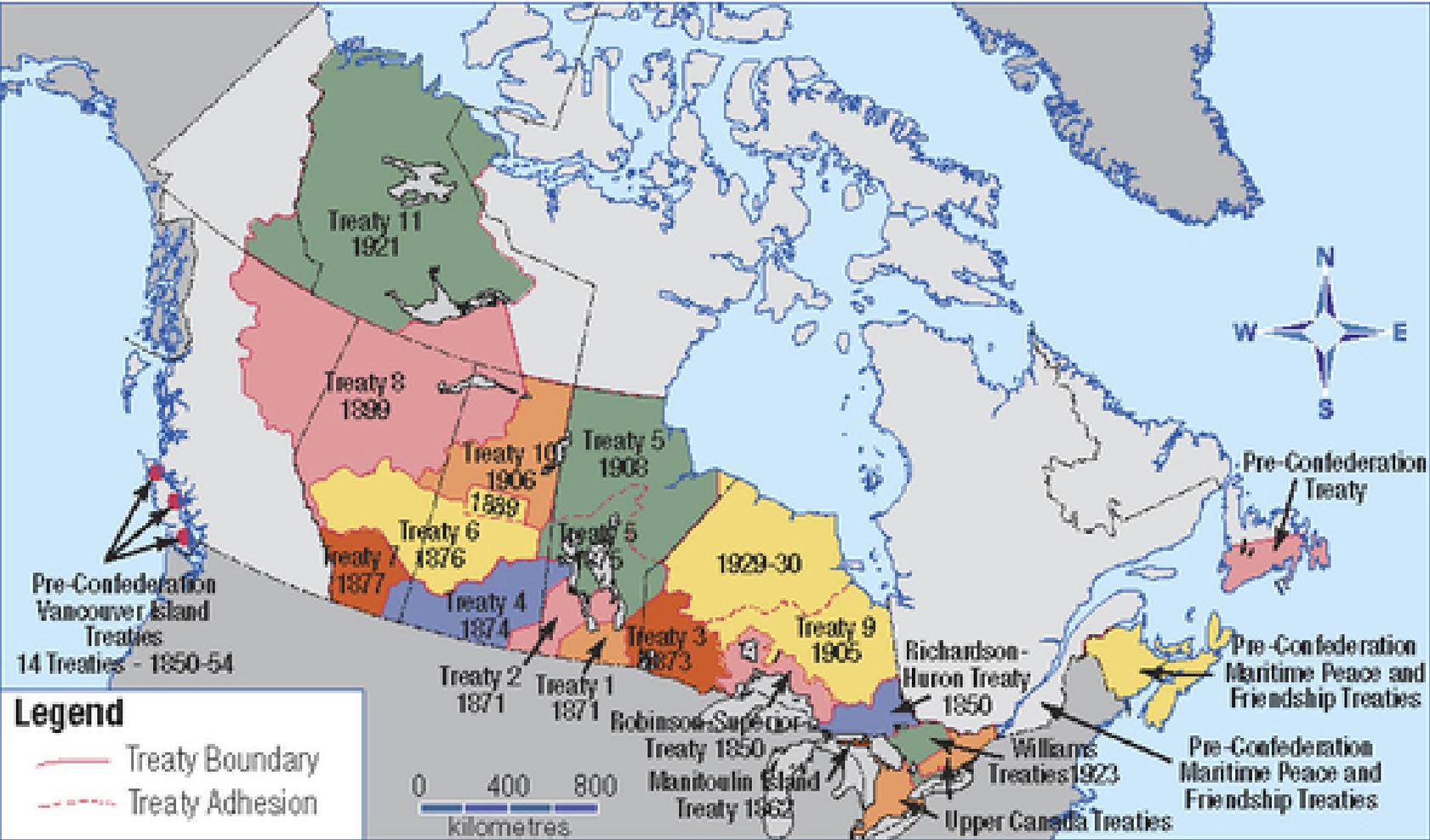
Maps and Land Claims

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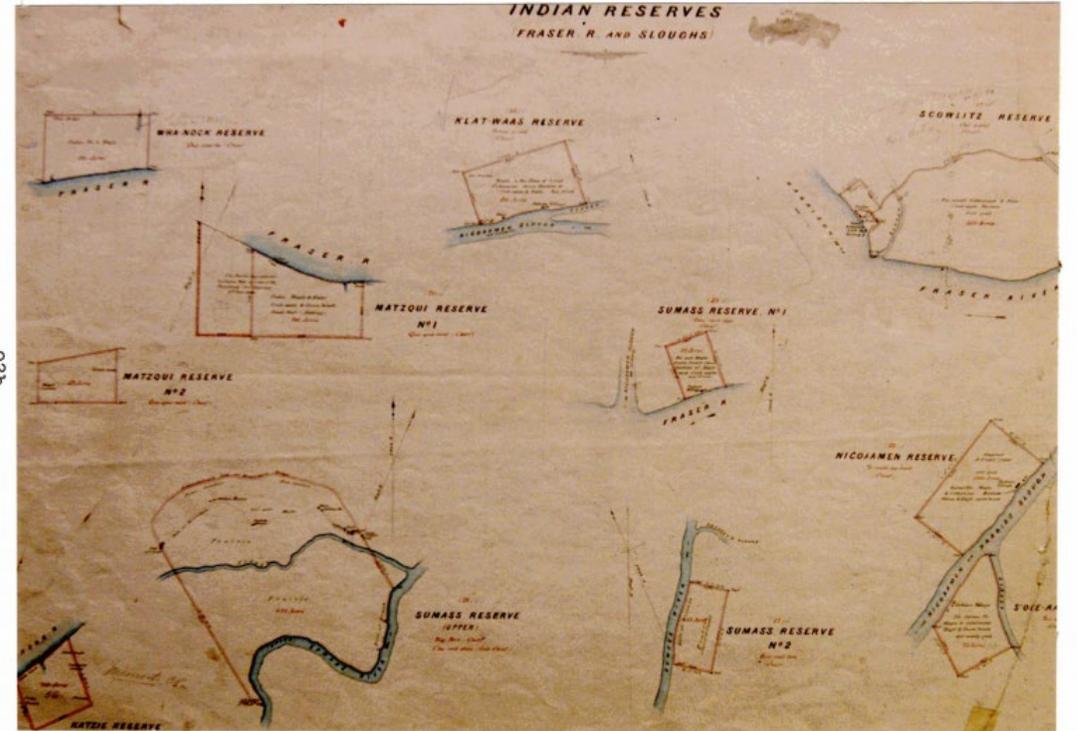


Boundary between Mississippi River and 49th parallel uncertain due to misconception that source of Mississippi River lay further north

Maps and Land Claims: Treaties



Maps and Reserve Creation



024

The *Calder* Decision

The Nisga'a Nation and *Calder et al v. Attorney-General of British Columbia, 1973*

Nisga'a Nation desire to resolve their "land question" was documented as early as 1890. Nisga'a petition in 1913 to the Privy Council in England demanded a Treaty in accordance with the Royal Proclamation.

Frank Calder helped organize the Nisga'a Tribal Council in 1955 to pursue the mandate described in the 1913 petition.

White Paper of 1969.



The *Calder* Decision (1973)

Nisga'a seeking a declaration that "the aboriginal title...to their ancient tribal territory...has never been lawfully extinguished" in accordance with the Royal Proclamation of 1763.

3 judges ruled that the Laws of British Columbia extinguished Nisga'a Title prior to Confederation.

3 judges ruled that the Laws of British Columbia did not extinguish Nisga'a Title prior to Confederation.

1 judge ruled against the Nisga'a on the basis of a procedural technicality.

6 of 7 Judges ruled that Aboriginal title existed as a matter of law in Canada.

Technically a loss, Nisga'a still transformed Canadian Law.



The *Calder* Decision: Impacts

Nisga'a Final Agreement:

Prior to the Calder Decision, the Crown refused to negotiate with the Nisga'a over the "land question." Canada came to the table with Nisga'a in 1976, BC in 1990. First modern-day Treaty.

S. 35 of the Canadian Constitution, 1982

Legal scholars now recognize the importance of the Calder case for building momentum for Aboriginal rights in Canada, and the inclusion of section 35 of the Canadian Constitution, 1982, which "recognizes and affirms existing Aboriginal treaty rights."

Canada's Land Claims Policy

Calder resulted in a major shift in government policy towards the "land question." Canada released a policy on comprehensive land claims (aka "the unfinished business of treaty-making" in Canada) in 1973.

Supreme Court Victories for Aboriginal Law

So what?

James Bay and Northern Quebec Agreement (1975)

Northeastern Quebec Agreement (1978)

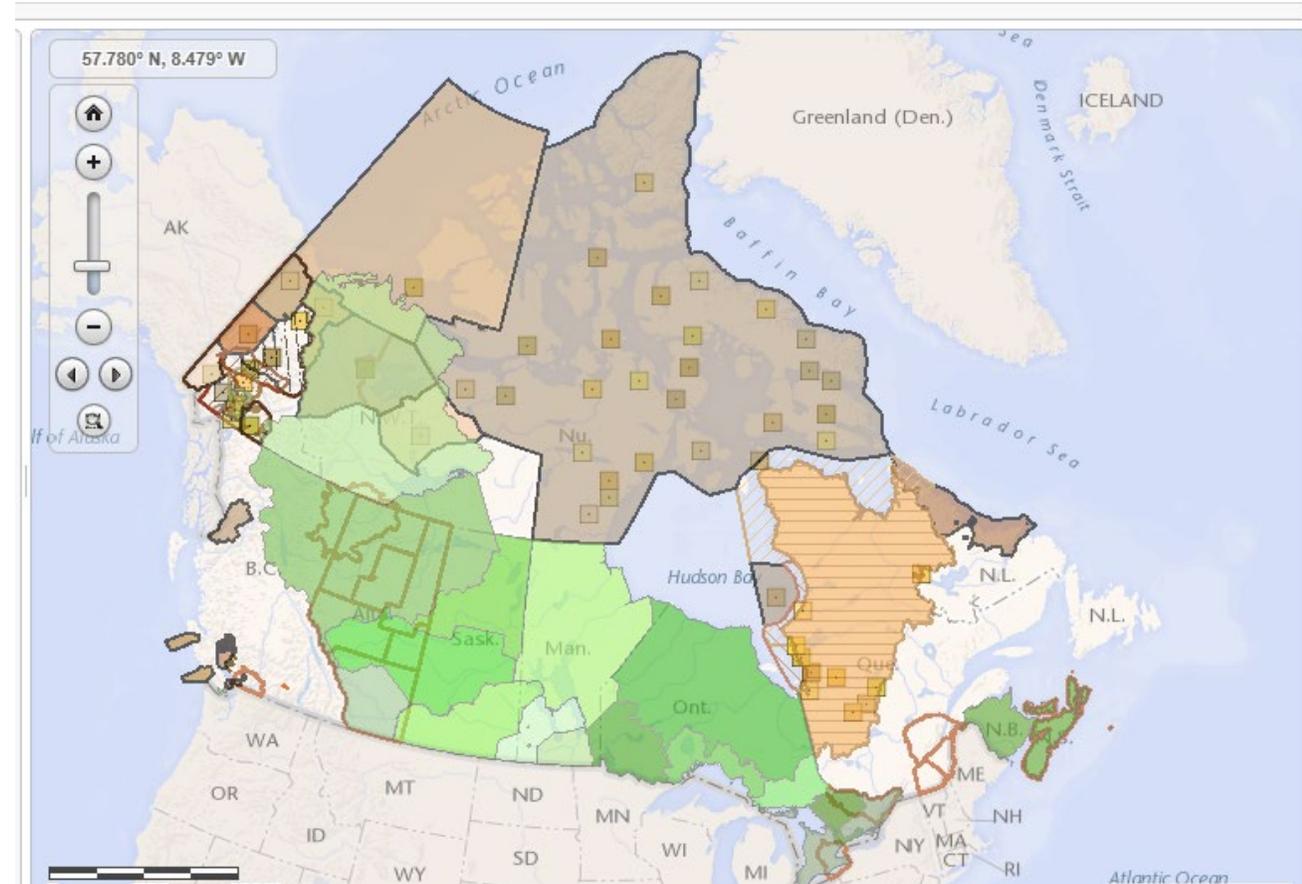
Inuvialuit Final Agreement (1984)

Nunavut Land Claims Agreement (1993)

Since 1973, about 26 comprehensive land claims have been finalized, resulting in Aboriginal ownership of over 600,000 km².

Comprehensive Claims Process is still ongoing.

Use and Occupancy Mapping is a central tool in the Claims process.



*Aboriginal and Treaty Rights Information System

So what?

Delgamuukw v. British Columbia (1997)

While the SCC did not issue a declaration of Aboriginal Title for the Wet'suwet'en and the Gitksan, the SCC established a 3-part test for Aboriginal title in the Delgamuukw case:

- In order to prove Aboriginal title to an area of land, occupation must be *sufficient*, it must be *continuous*, and it must be *exclusive*. How does an Aboriginal group prove this?

The SCC also reaffirmed that oral history is admissible as evidence

Tsilhqot'in Decision (2014)

For the first time in Canada, the SCC issued a declaration of Aboriginal Title to an indigenous community.



So what?

Forestry/resource management, archaeology



Cultural Mapping as a Lands Governance Tool

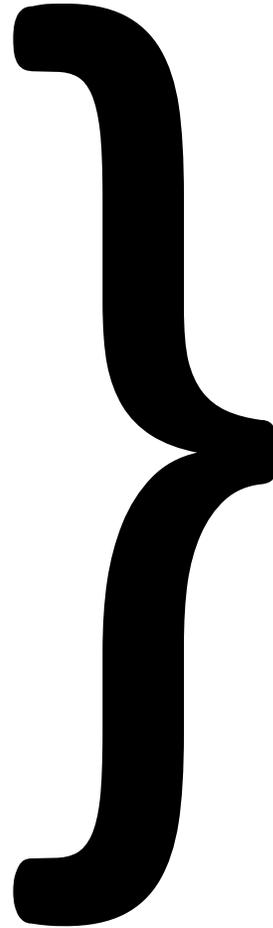
Traditional Use and Occupancy Mapping

Traditional Ecological Knowledge Mapping

Aboriginal Knowledge Mapping

Land Use and Occupancy Mapping

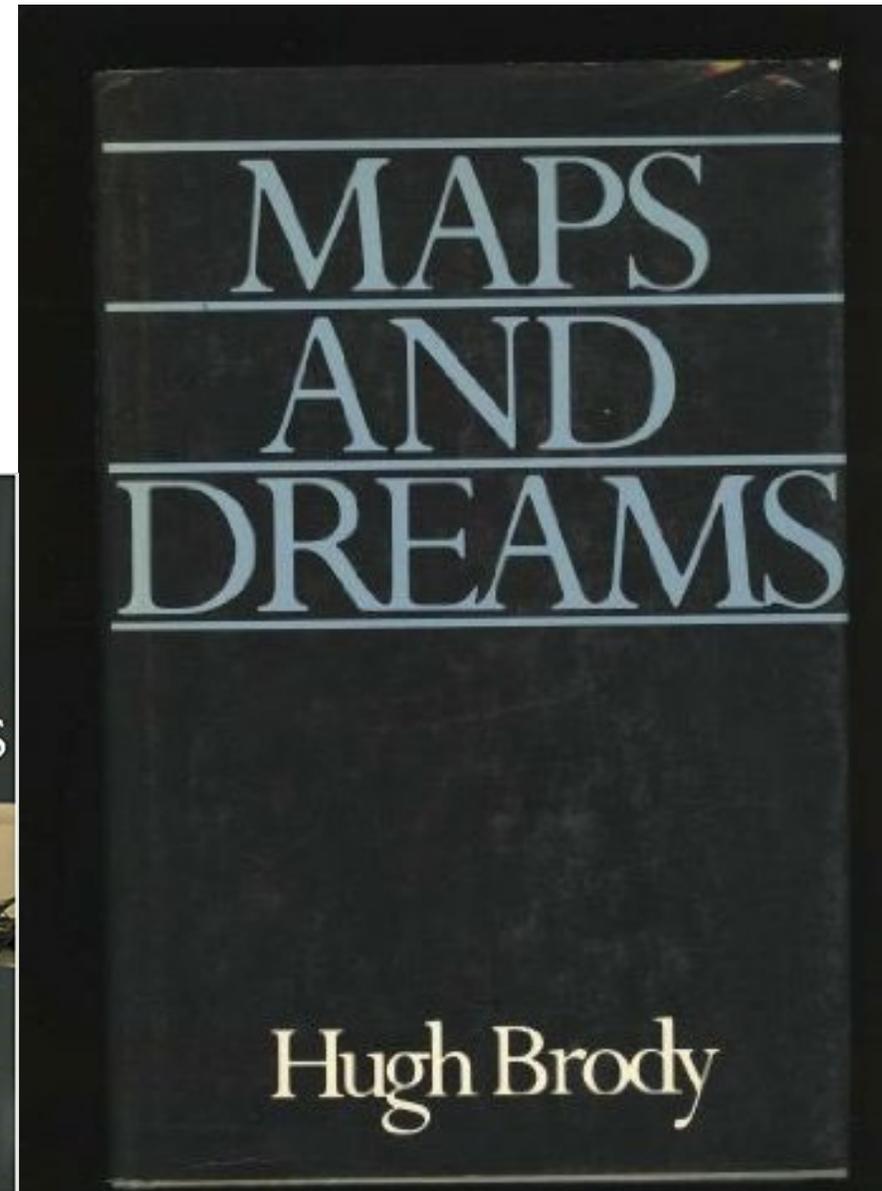
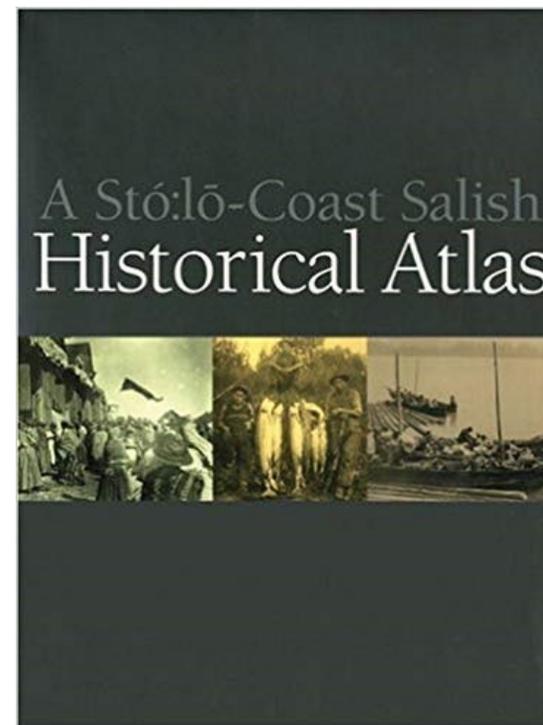
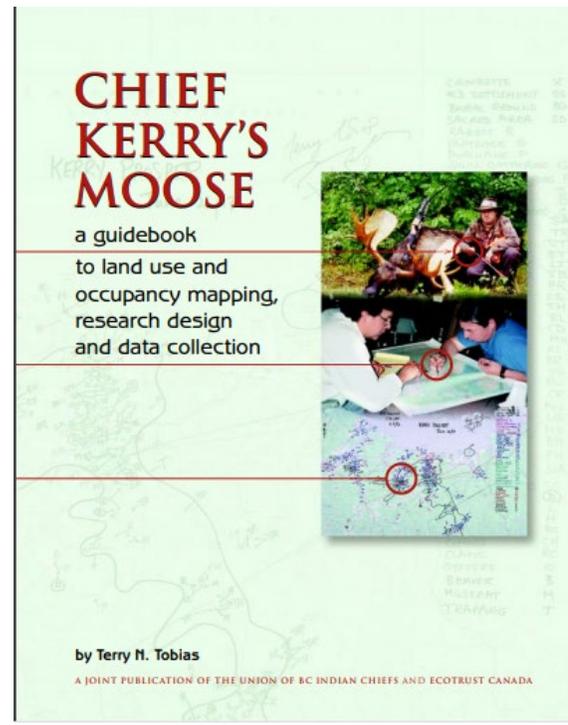
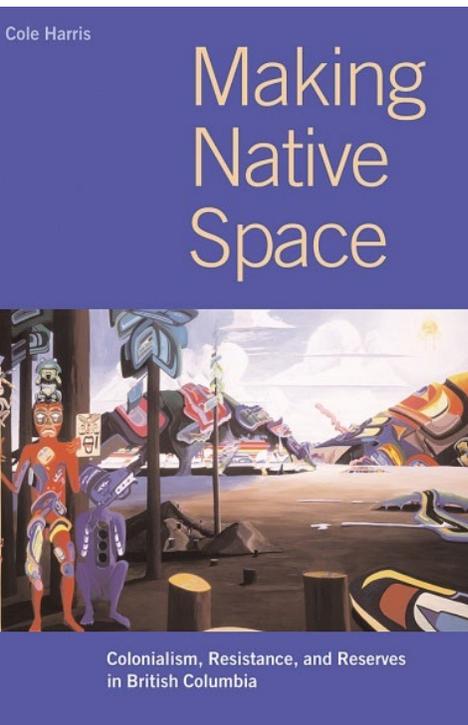
Traditional Land Use Mapping



Cultural Mapping



Recommended Reading



What is Cultural Mapping?

Spatial representation of use and occupation on the landscape over time. Translating indigenous lived activities on the land into a representational framework (categories of use, icons, polygons, text labels, etc.) and placing them on a map, sometimes in a geographic information system.

Hunting, Fishing & Trapping

Medicine & Supply Gathering

Tool-making

Ecological knowledge (habitat, migration areas, nesting grounds, spawning & rearing beds, etc.)

Habitation sites (houses, pit houses, village sites, camps, burial grounds)

Spiritual or Sacred Sites

Oral History and Ancestral Place Names

Travel and trade routes, seasonal movements

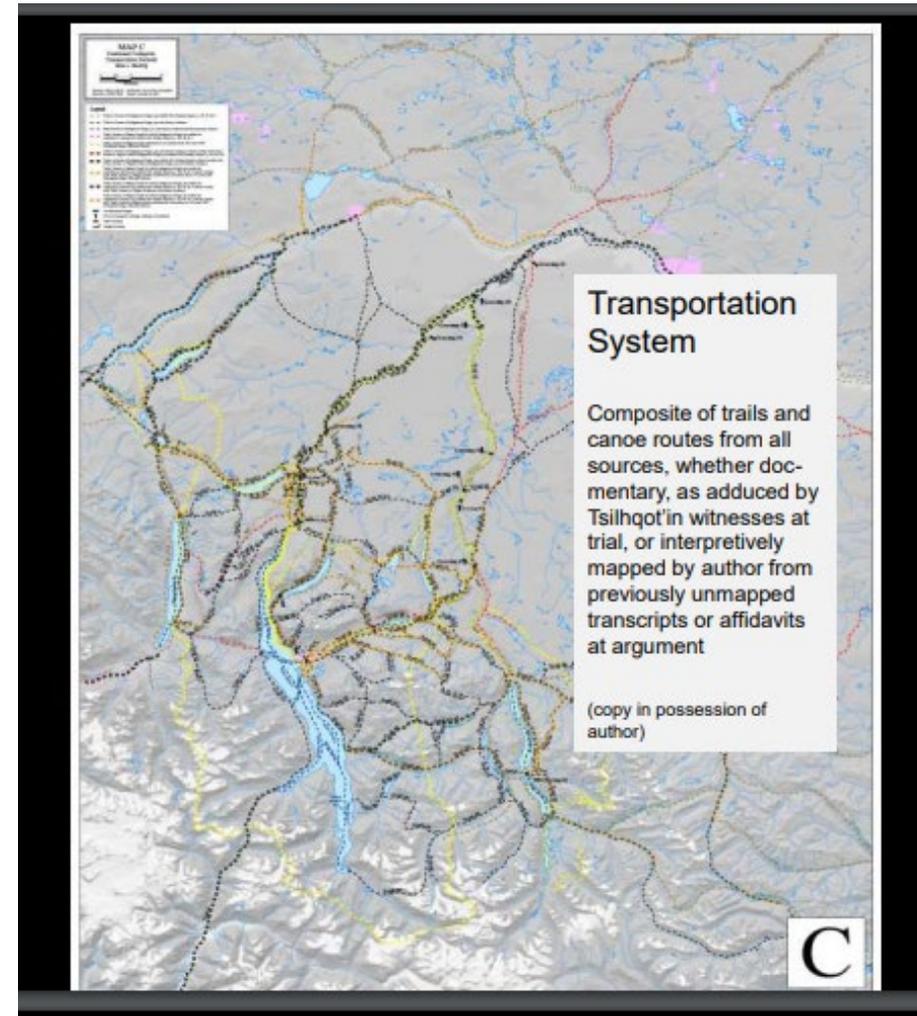
Contact, conflict



Examples of Cultural Mapping – Tsilhqot'in

Source: Ken Brealey, University of the Fraser Valley.

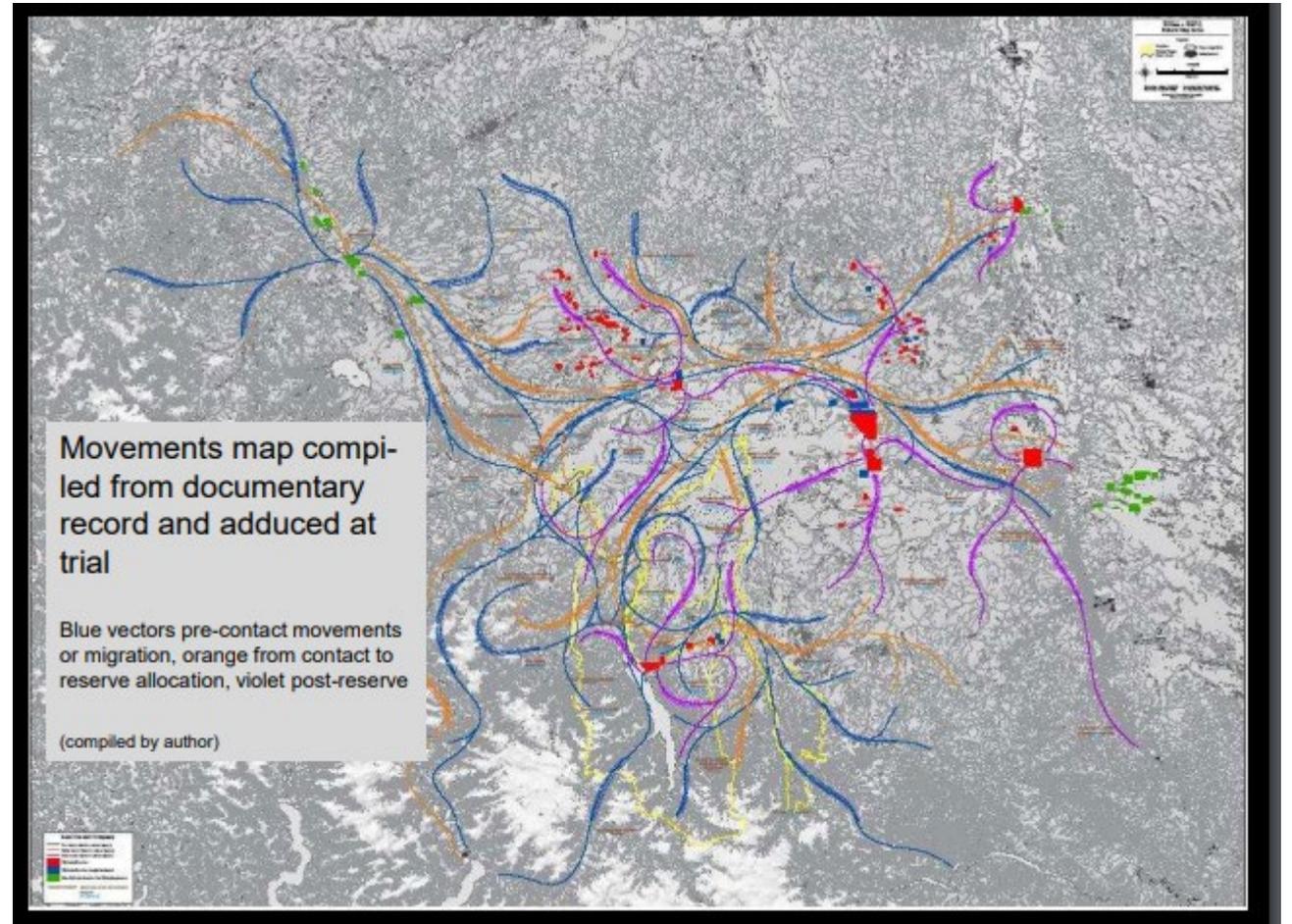
“Mapping Aboriginal Title: Tsilhqot'in v. British Columbia” (available online)



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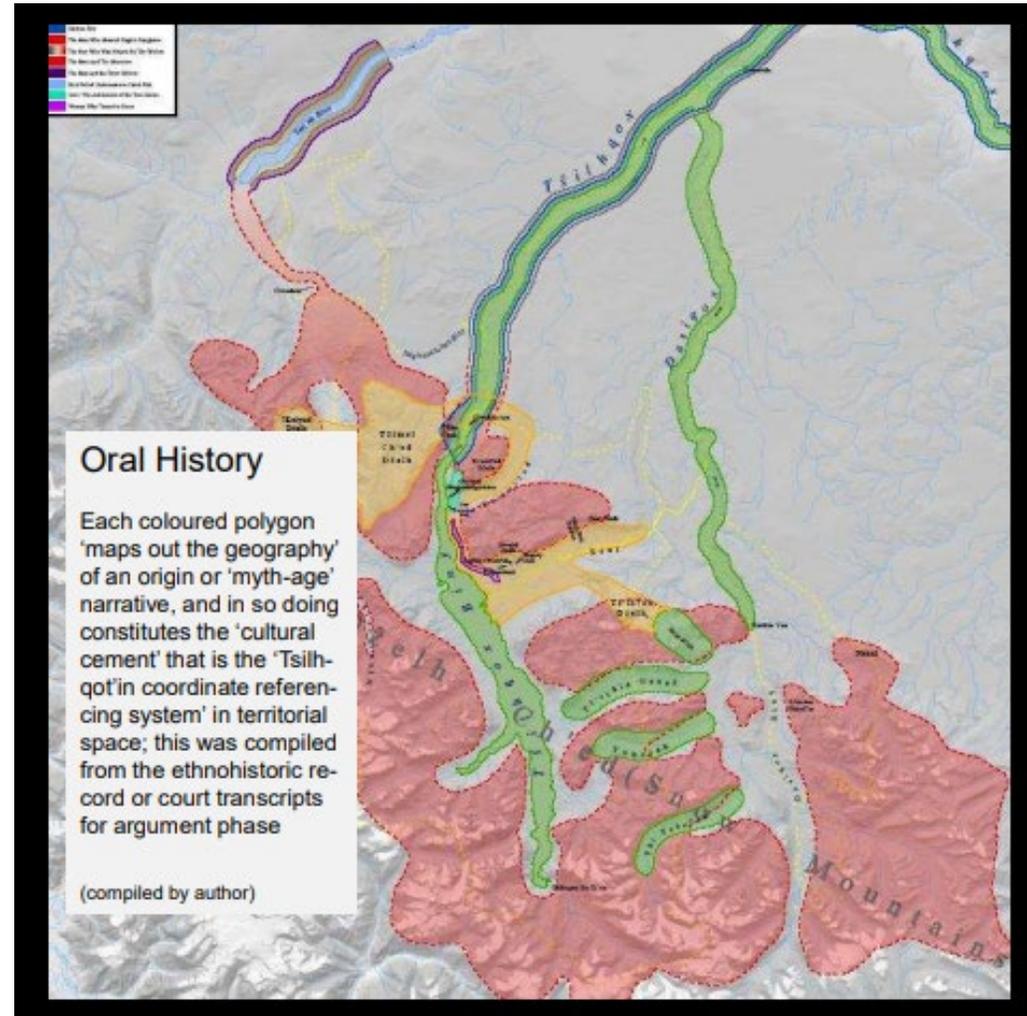
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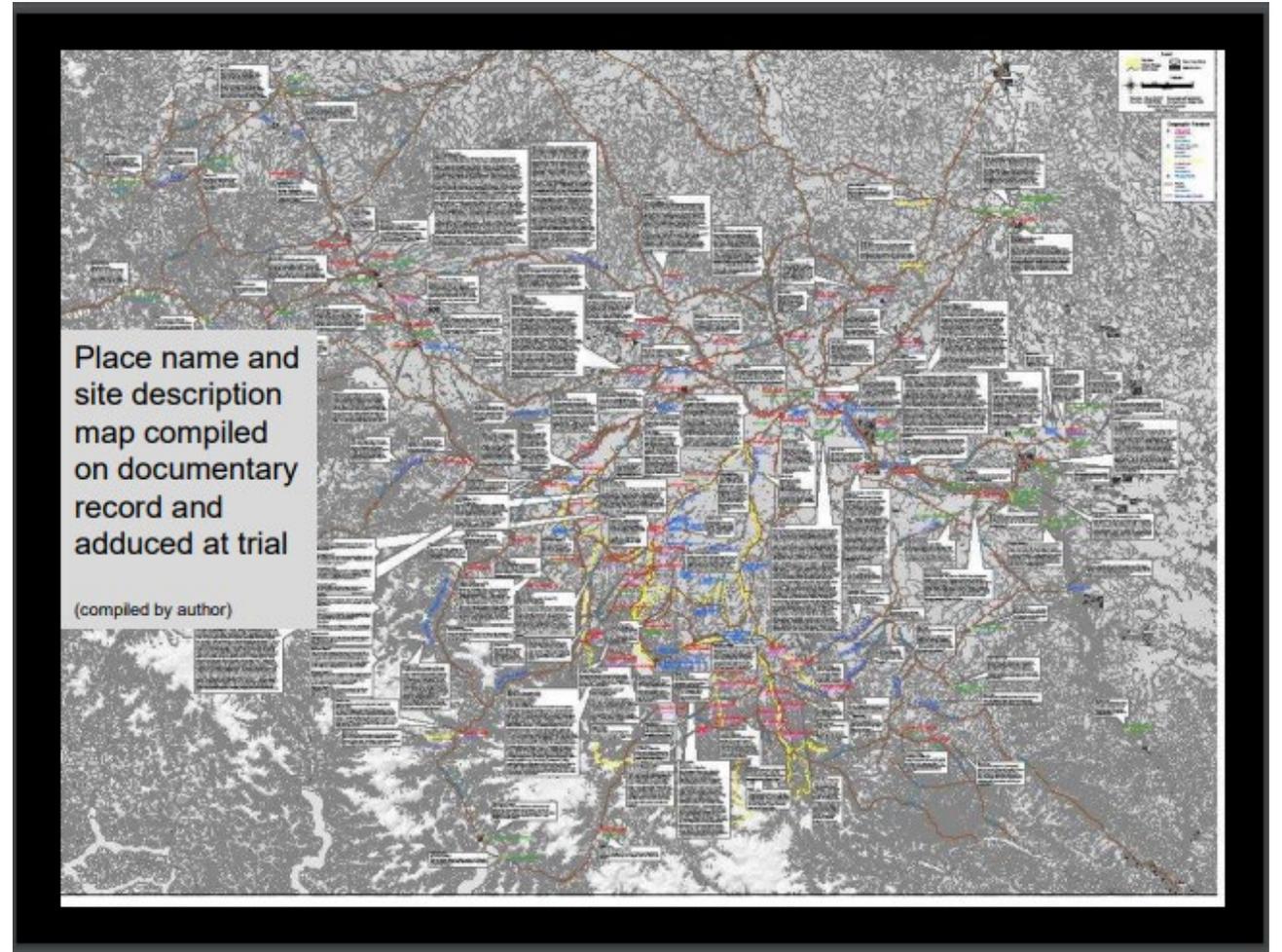
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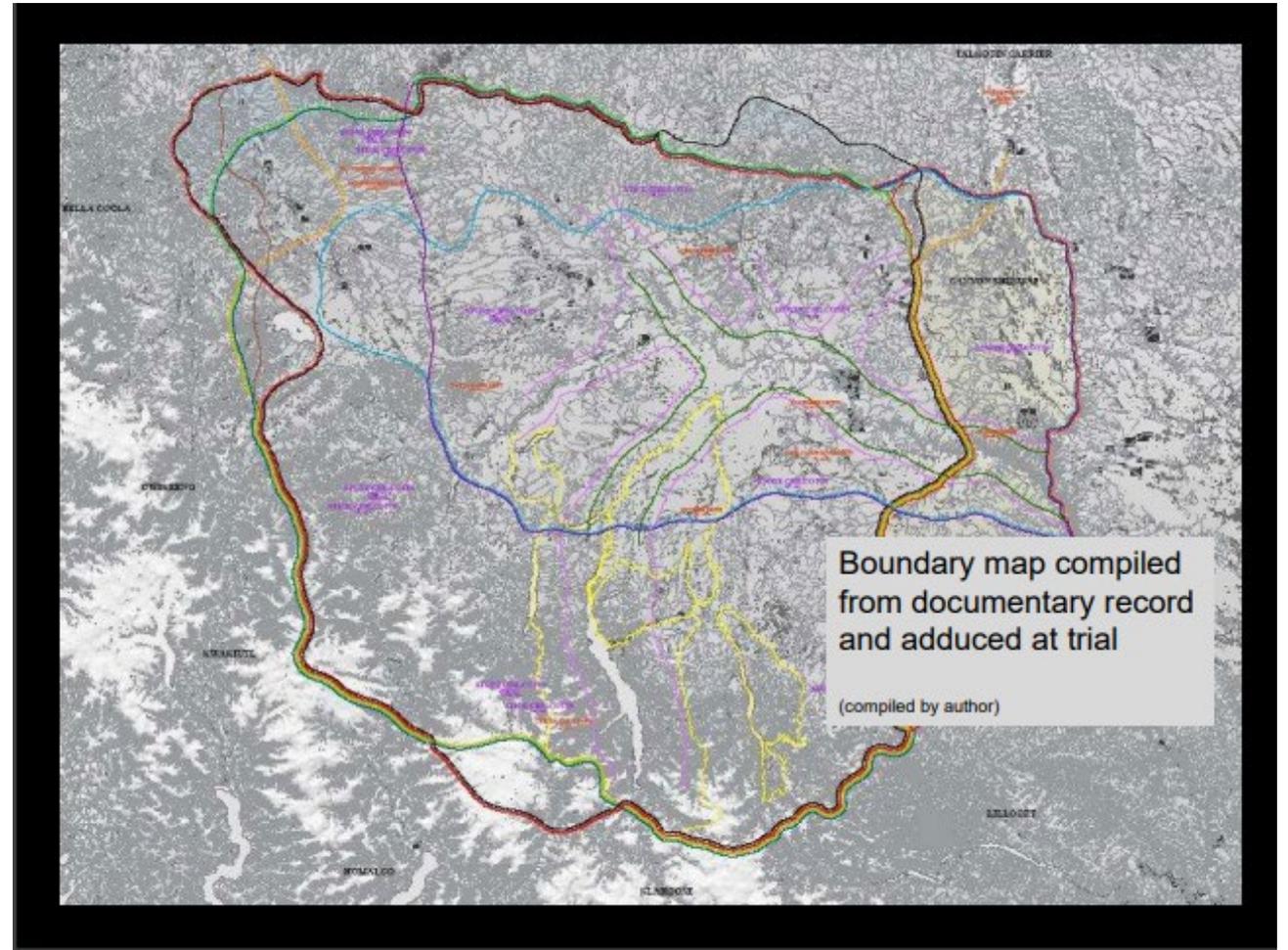
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Why do Cultural Mapping?



NEGOTIATE
AGREEMENTS



DETERMINE
BOUNDARIES



PROVIDE EVIDENCE IN
COURT



SETTLE LAND CLAIMS



SUPPORT
COMPENSATION
CLAIMS



DETERMINE IMPACTS
FROM DEVELOPMENT



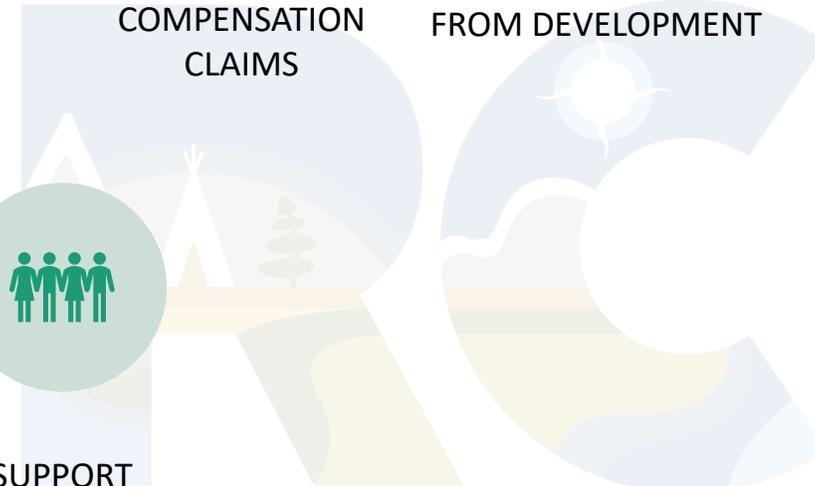
DOCUMENT AND
CELEBRATE ELDER'S
KNOWLEDGE



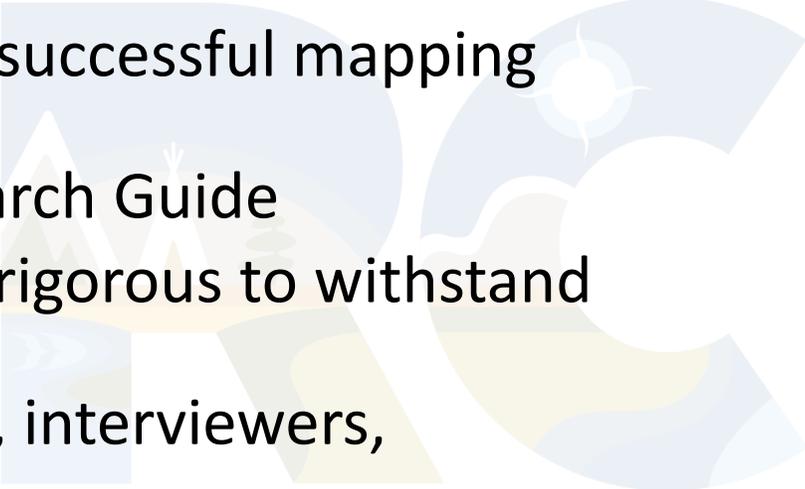
SHARE YOUR
COMMUNITY STORY



SUPPORT
COMMUNITY AND
LAND-USE PLANNING



Caution!

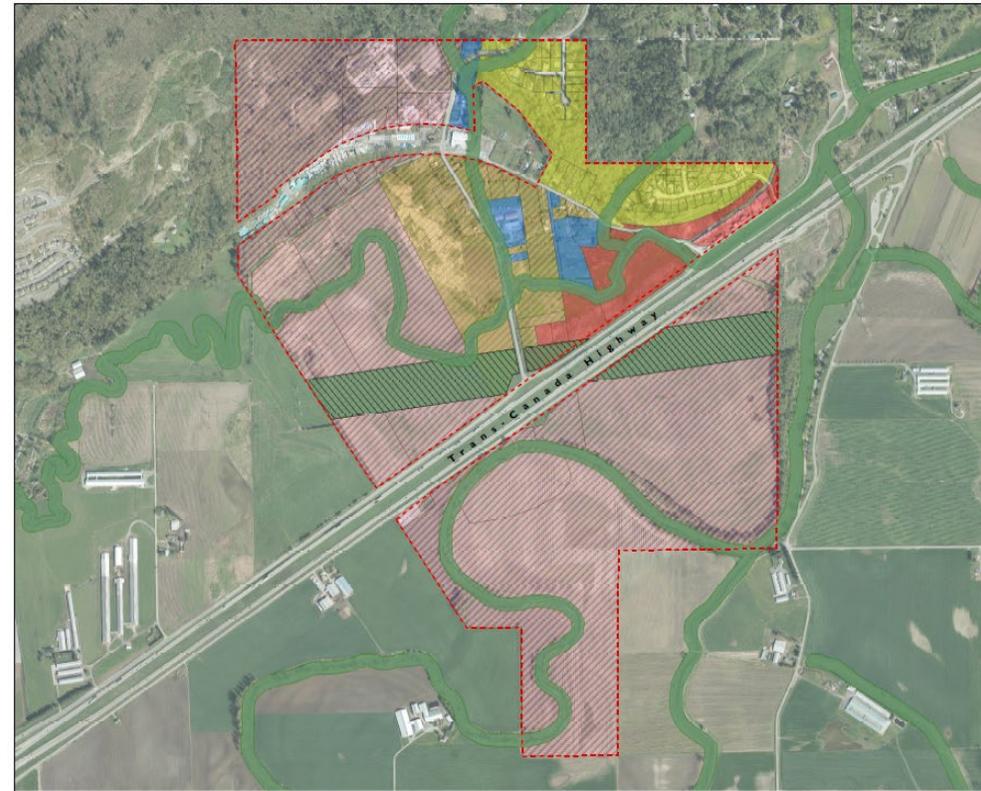
- Cultural mapping is delicate, time-consuming, and complex
 - Issues around control, access, ownership and interpretation of sensitive & confidential information
 - Lack of trust with the mappers
 - Soft approach is key!
 - Accountability & Transparency are essential for a successful mapping project
 - Develop a Community-based Methodology/Research Guide
 - If done for legal purposes, methodology must be rigorous to withstand challenges in court
 - Requires capacity, including project management, interviewers, transcribers, GIS and/or mappers
- 

Some outcomes of Cultural Mapping

- Awesome maps and map-making skills
- Increase your community's awareness of their connection to Territory. Pride in identity.
- Powerful tool to respond to Lands Governance issues (planning, referrals, rights & title, resource management, etc.)
- Incorporate and honor language, culture and protocol in Lands work, promote intergenerational sharing and knowledge exchange
- Foster, maintain & improve relationships between a Lands Department and a community. Build confidence in the work of staff.
- Practice gentle, de-colonized approach to research that empowers and re-territorializes our communities
- Celebrate community identity and contribute to an overall Sense of Place, for members and staff
- Build capacity (research, data collection, GIS, transcription, data governance, etc.)
- Provide clarity in your community regarding how maps are produced, who produces them and what they're used for
- Sets the standards, protocol and requirements (e.g. consent) for future research

Maps as a Planning Tool

Land Use



Semath First Nation
Land Use Plan

Map 1

- Land Use Designations
- Semath Lands
 - Parks
 - Commercial
 - Commercial - Light Industrial
 - Commercial - Residential
 - Community Use
 - Residential
 - Open Space/Recreation
 - Easement (BC Hydro ROW)



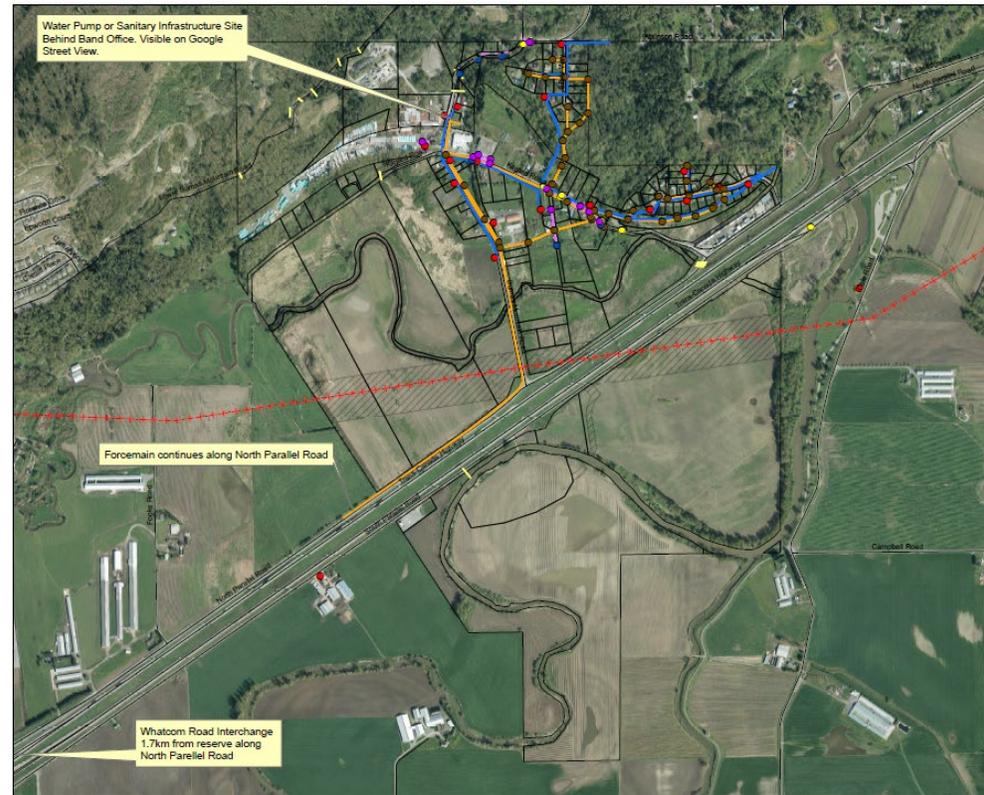
SCALE: 1:6,000
MAP PREPARED BY: DILLON CONSULTING
SEMATH FIRST NATION - Strategic Easement Profile and British Columbia
City of Vancouver
MAP CREATED BY: EDW
MAP CHECKED BY: ANNE/ANNE
MAP PROJECTION: NAD 1983 UTM Zone 19N

PROJECT: 13-7687
DRAFT: 04/27/2013
DATE: 10/08/2013

FILE LOCATION: S:\PROJECTS\Semath Land Use Planning\1 - Land Use Designations\Semath LU.mxd

Maps as a Planning Tool

Infrastructure



SEMA:TH LAND USE PLAN

Sumas First Nation
Land Use Plan

Infrastructure and Services
Figure 2

Water/Sewer/Storm Points

- Catch Basin
- Hydrant
- Sanitary Manhole
- Storm Inflow/Outflow
- Stormwater Manhole
- BC HYdro Transmission Lines

Water/Sewer/Storm Lines

- Culvert
- Sanitary Main
- Stormwater Main
- Watermain

Parcels
Roads
Easements

SCALE 1:8,000

0 0.125 0.25 0.5 km

MAP OBSOLETE INFORMATION
Sumsa Position: Google Earth Pro, City of Vancouver

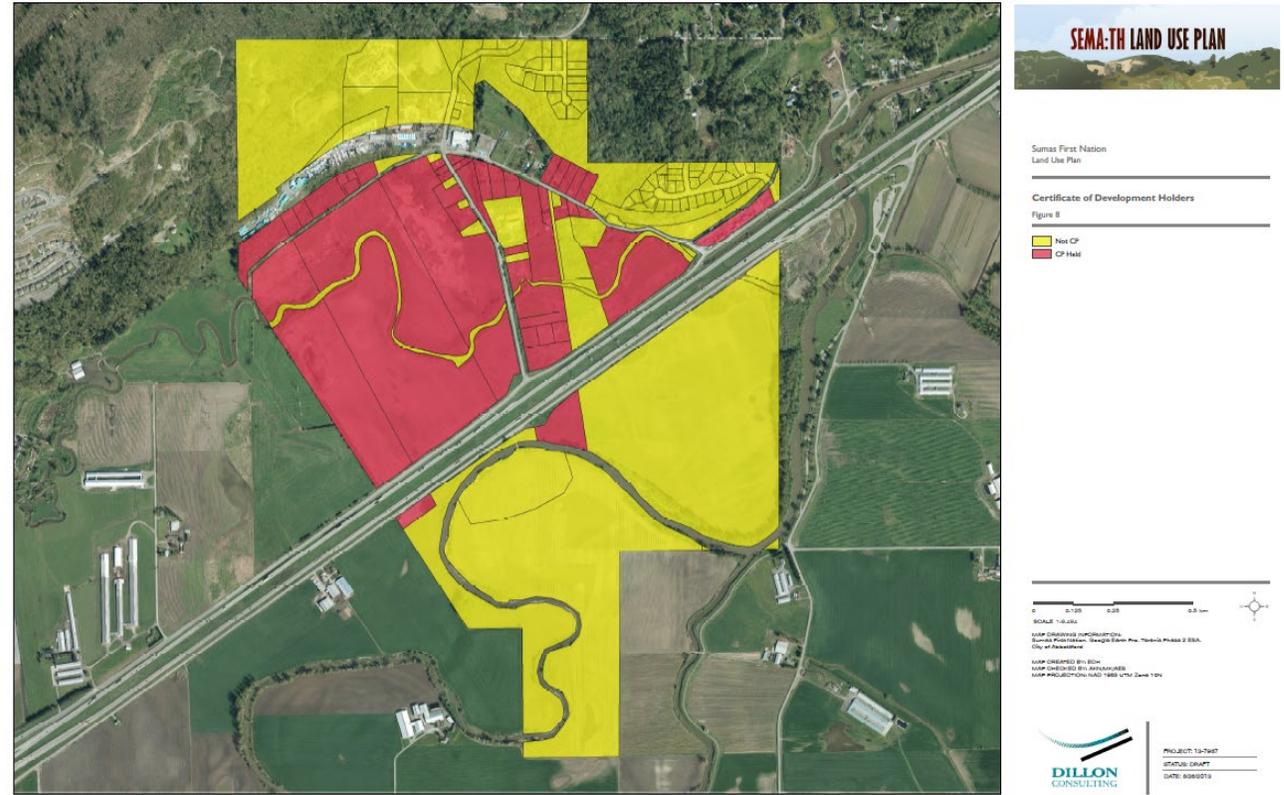
MAP CREATED BY: SDW
MAP CHECKED BY: MCKENZIE
MAP PROJECT/FILE NAME: 1885 WTR 2019

DILLON CONSULTING

PROJECT: 18-7987
SUCIAL CLIENT
DATE: 10/8/2019

Maps as a Planning Tool

Property ownership



Maps as a Planning Tool

Topography



Utilizing Spatial Thinking in Planning

Identifying the Vision, Values, and Needs of your Community.



Utilizing Spatial Thinking in Planning



What space do you have available to use in a planning process?



How has that space been used in the past? What are community's attitudes towards those spaces?



How accessible is that space?



In what ways can you use that space in a healthy and creative way to evoke your members' thoughts and feelings about Lands Governance issues?



What tools do you have available to use the space creatively and as a celebration of your community?

Utilizing Spatial Thinking in Planning

Examples of Community Mapping Exercises:

Have large maps of your community (e.g. reserve land, territory) available for people to draw on, add sticky notes, etc.

- In community engagement sessions, ask your community questions relevant to your planning project, and have them interacting with maps and answer questions, such as:
 - Value-centric:
 - On this map, circle what matters to you most in the community, or place a sticky note next to things in our community that makes you proud, and share why that matters (answer can be recorded or written).
 - Where are some areas in our community that need to be protected from development and why?
 - Informational (e.g. Land & Culture related)
 - Show me where you think your property lines are, or where is your house located?
 - Can you circle any areas where you gather medicine?
 - Aspirational:
 - Write or Draw what you would like to see on a certain property.
 - How tall should buildings be allowed to be in this neighborhood? How close should homes be placed next to

Leave the maps up (if appropriate) in a public space for everyone to view

Examples of Mapping Tools

- Geographic Information System (GIS)



Examples of Mapping Tools

- Google Earth



Examples of Mapping Tools

- NRCAN PLAN SEARCH
- Federal Mapping Systems (e.g. ATRIS)
- Canadian Open and Free Geo Spatial Data (<https://canadiangis.com/data.php>)
- Provincial Mapping Systems (e.g. iMap BC)
- Local Government Online Mapping Systems (e.g. COSMOS)
- Non-profit mapping systems (e.g. Global Forestry Watch)
- Integrated Cadastral Information Society (ICIS)



Discussion

Thinking of the work you do in your community, what are some things you'd like to be able to map?

