TMPD Workshop Mapping & the FA: A Lands Governance Tool

Richmond, February 19th & 20th 2020

FIRST NATIONS LAND MANAGEMENT RESOURCE CENTRE



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

By the KING, A PROCLAMATION.

EORGE R.

We have a set of the s

Tell. The discussion of algoing baseded on the Labore Coll is disc lines: IF 246, and hum discust by a Labor direct discust from the labor of the Hardon change direct and 2.7. Note to the based. End of the discust by the Labore change direct discust is an end of the labore change direct direct discuss and the set of the labore change direct discussion and the set of the labore change direct discussion of the discussion of the labore change direct direct direct direct discuss and the set of the labore change direct di

Benefity. The Generatories of Ard Florida, benefit in the National by the Guide of Adams, and the Artdensity along, with the Watterson is a Law amount on Epsel of the and Ellow where the Damaters and and the start of the Contract of the Art of the and the start of the Art of the Art

There, the Germann of GM which bunchs as an instantial for the Guide of Allema model of Bandwards and Large at the field of the start of the guide at the start of the Start of the Start Start of the Start Start of the Start Start of the Start Start of the Start of

And, we dee Kad sind the space and the Tables of the Anights may be presented to and areald any space the Canad of Laborate and the adjuster Black, We have shough the with the Advice of the fact Hirty Canad, we prove all the Canad, from the Kirey of Laborate should be spaced on the Hall of Adviced and the prove of the Canada Should Hall of the Should be should be should be addressed of the Hall of Adviced and and the Canada Should Hall of the Should be should be should be addressed of the Hall of Adviced and the Management of Management and the Should be shoul

We have allow with the Advise of Over Trivy Consols, through it to some the Datch of 10 744%, and Gapmore 28 Jaguit, with the Miller Higher Advisors of the Conservation of Anna Rome, We have 30b, with the Advise of Over Trivy Consult advectaria, some to Over Triverson of Georgie with the Landso go Romes in the Constructure of the Advise.

The blance is well among consistence on the three billing the first constrained, and the length first billing of the blance of t

Cancels of Get for Them Yow Colonies upon the Centeres, full Power and Athenty to Athy and parts with disk infestiones. In the into New Colonse, or with an other Poles and all related interpole for the Lot Labor. Therman, and Hendmennes, as an new, or binning field in a four Power to Biperio eff, and Atach Therman, and Hendmennes, as an new, or binning field in a four Power to Biperio eff, and thermal parts and the state of the state Dispersion Laboration are symmel and the Bindla (10) or units Colonies, and the Dispersions at hold repretendence of the state of the state of the state of the Gennes, and the Improvement and Statement of Dise 100 Climbia.

And whereas We are follows, upon all Groubens, or well-by Ore Rayed South and Approbations of the Constant and Berrary of the Officers and Mallann of Ore Arranse, and to meshed the Bars. We do knowly measured and improve COI Construment of Ore Informations, and and the Ore Construmt of Ore South South Construmt of Ore Arranse and Arranse and Arranse and Arranse Construmt of Ore South South Construmt of Ore Arranse and Arranse and Arranse and Arranse Construmt of Ore Arranse and Arranse and Arranse and Arranse and Arranse and Arranse Arranse and Arranse and an architecture for the Arranse and Arranse and Arranse and Arranse and Arranse Arranse and Arranse and

To every Rethn having the Bash of a Told Offen, The should Associate severy Openin, Thus show of Associate To every Neutrino or Soft Offen, The thinked Association-Terrory Non-Constantion Office, The software Associate To every Press, Mars, Felly Assoc.

We is locally architecture and requires the Generators and Generators in Clark of all One Ball Galaxian offer the Characteristic of North derivative program due line Galaxiani, all Lands, and upon the line Galaxiani, is the Machine Clarkment of Galaxian, or disk Assis, on linest and Raule One Balls of North Assis in the Theorem of the Kolekton of Landshorg and Speler in the line Wat, and who Ball particular paper action argin from our sets of a land. Same,

(a) Wy do fasher what a finite call larger WH and Parlow, for no paster as structure, or as so one one structure, the attribution of the structure of the structure of the structure of the parlow of the structure of a structure of the structure of the structure of the structure of the structure of how the structure of structure of the structure of the structure of the structure of the structure of how the structure of structure of the structure of the structure of the structure of the structure of structure of the structure of the structure of the structure of the structure of structure of the structure of the structure of the structure of the structure of structure of the structure of the structure of the structure of the structure of structure of the structure of the structure of the structure of structure of structure of the structure of the structure of the structure of structure of structure of structure of structure of the structure of struct

And We do furthe fieldly equite and explore of Deriva wherein, who has able within we induce only limit derivative, space way Lands wetter for Canastan derivative oblicitiet, or upon way study chails, within an larger hera studie in, or possibility by the set fill solvered to the limit dashes a identicit, function to immers formalises have and a discharger.

And obversa group Franch and Asing how, how measurable is the problem [Asing Asing A

, dot for an inverse empiric point and empire of Ohim's statement, as well blicking as Table amplitude in the Discipance and Discribing of their datase states in Trainings strends as structules in the Uniol the inits Johns, we data appendent of Persien without point, fixeding their well with Tables, Mission with their strends and t

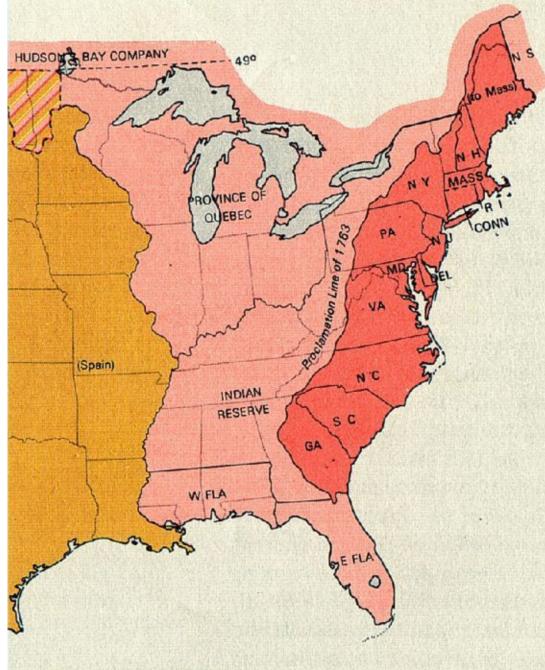
Given at Our Court at Saint Jamer's, the Seventh Day of Odilary, One thousand feven hundred and firsty three, in the Third Year of Oar Reign.

GOD fave the KING.

L O N D O N: Printed by Mark Barkett, Printer to the King's most Excellent Majefly; and by the Afligns of Robert Barkett. 1763.

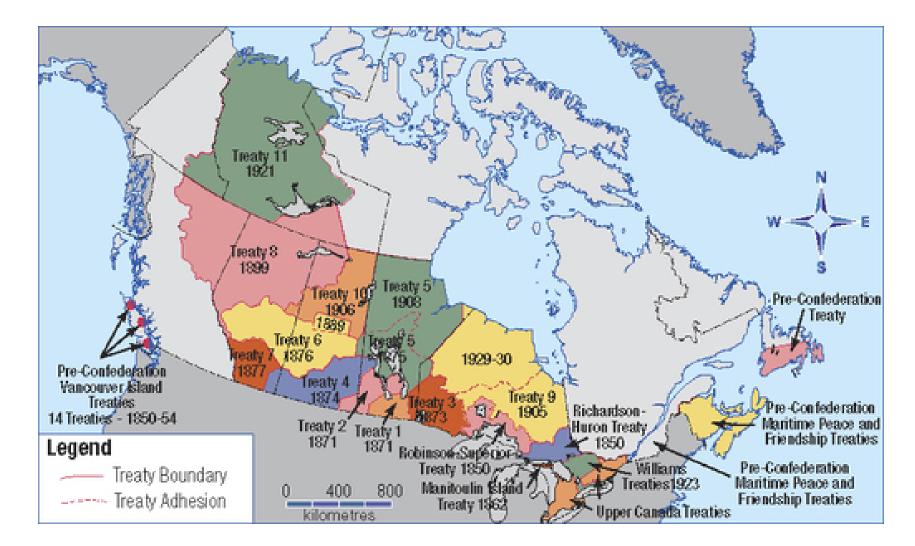
Maps and Land Claims

The Royal Proclamation, 1763, King George III



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



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)

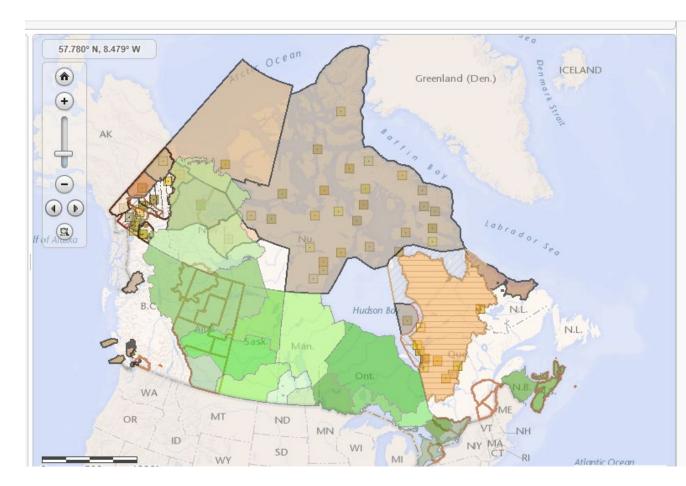
Inuvialuit Final Agreement (1984)

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 Gitxsan, 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

Tsilhquot'in Decision (2014)

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



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

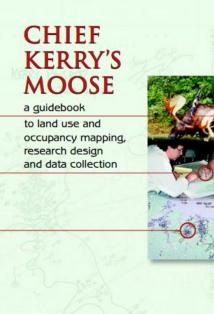
Recommended Reading



Making Native Space



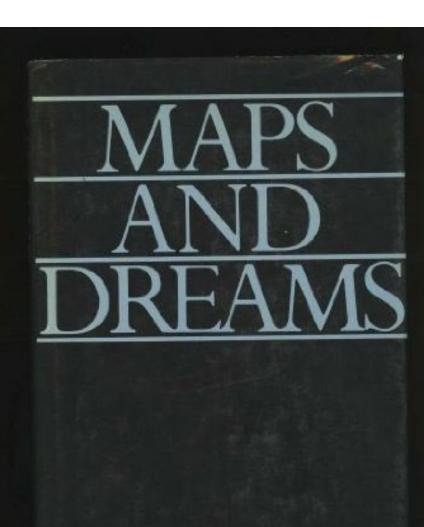
Colonialism, Resistance, and Reserves in British Columbia



by Terry N. Tobias

A Stó:lō-Coast Salish Historical Atlas







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)

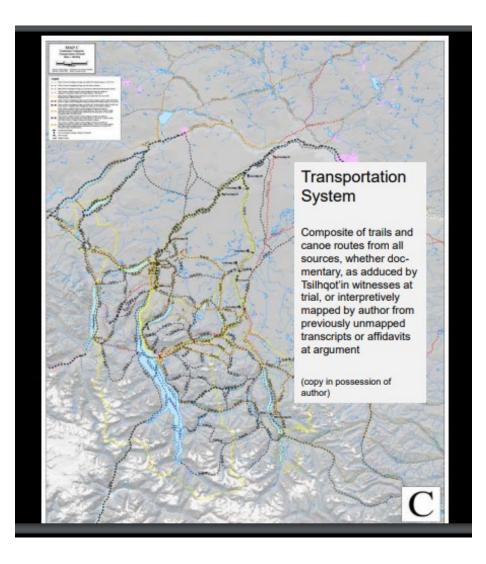
Spiritual or Sacred Sites

Oral History and Ancestral Place Names

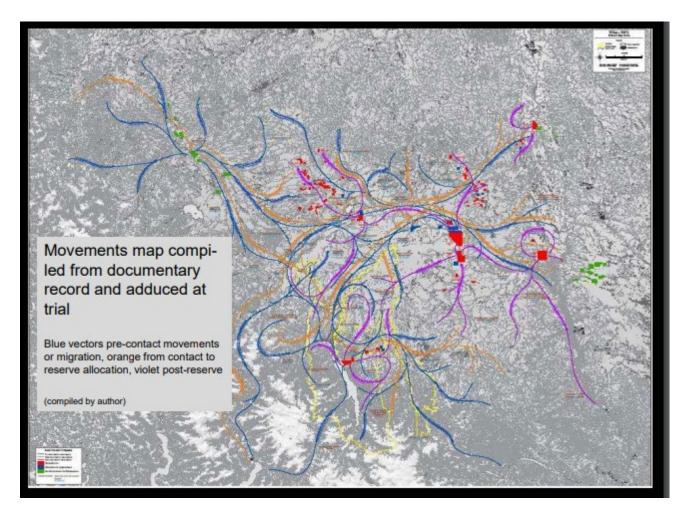
Travel and trade routes, seasonal movements

Contact, conflict

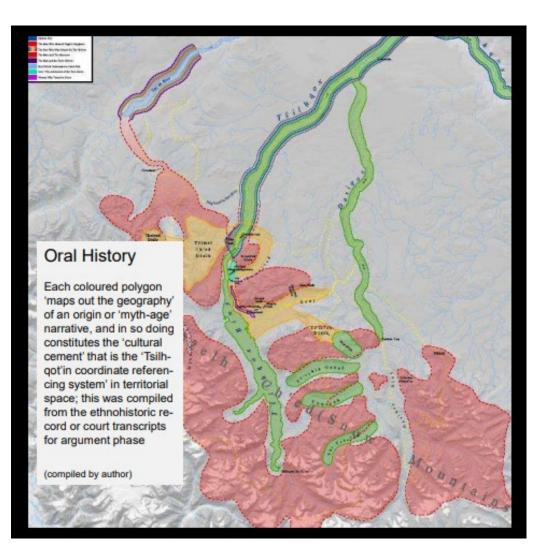
Source: Ken Brealey, University of the Fraser Valley.



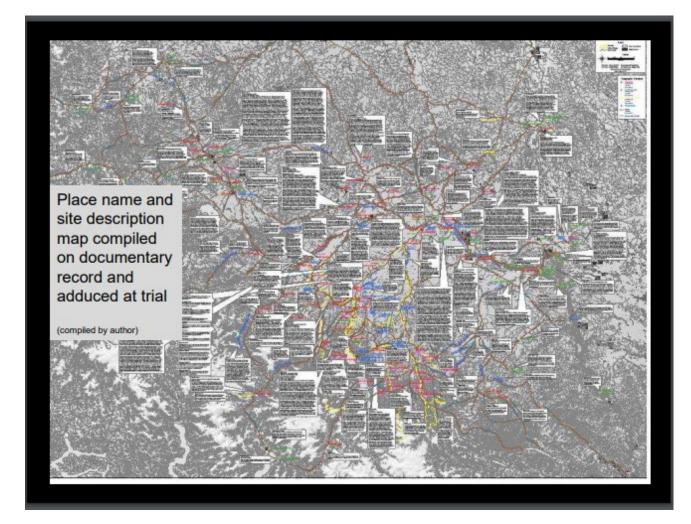
Source: Ken Brealey, University of the Fraser Valley.



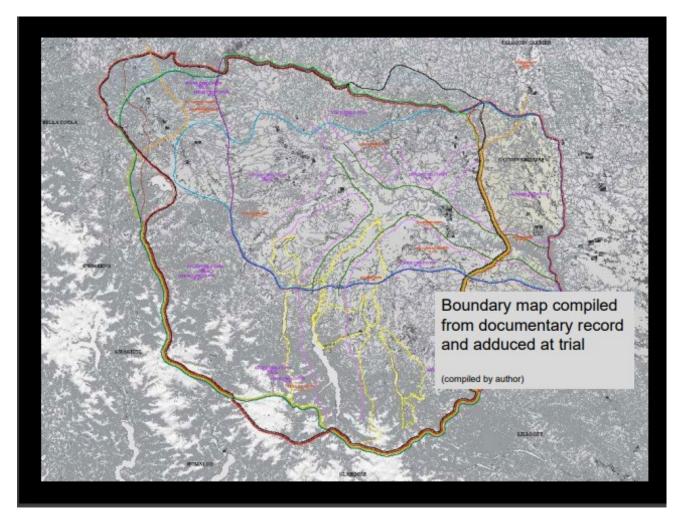
Source: Ken Brealey, University of the Fraser Valley.



Source: Ken Brealey, University of the Fraser Valley.



Source: Ken Brealey, University of the Fraser Valley.



Why do Cultural Mapping?



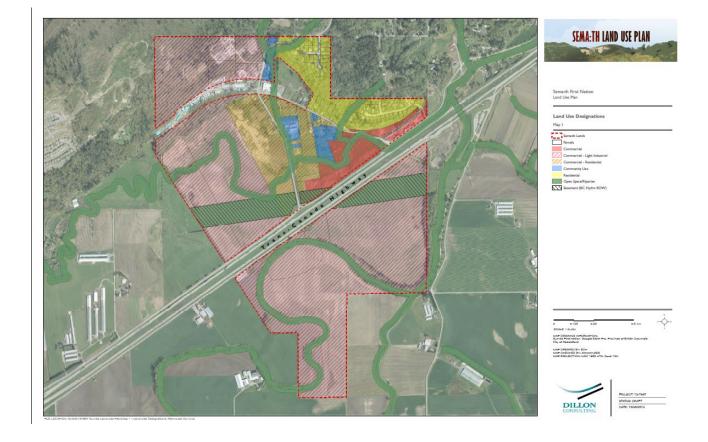
Caution!

- 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

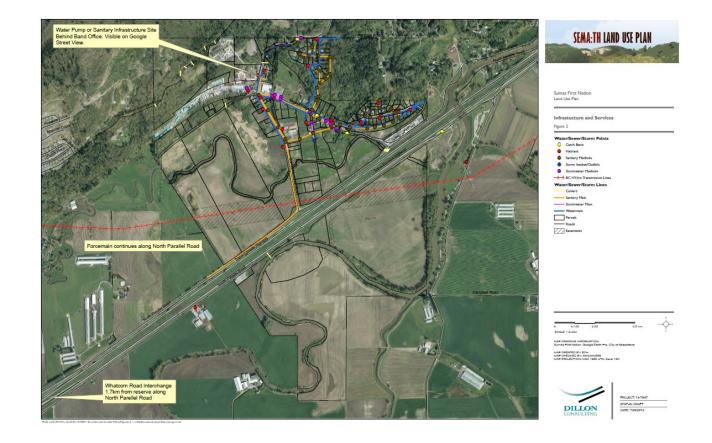
Some outcomes of Cultural Mapping

- 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

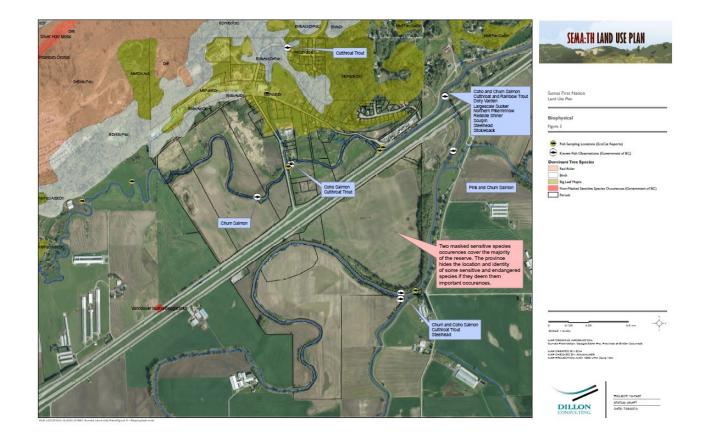
Land Use



Infrastructure



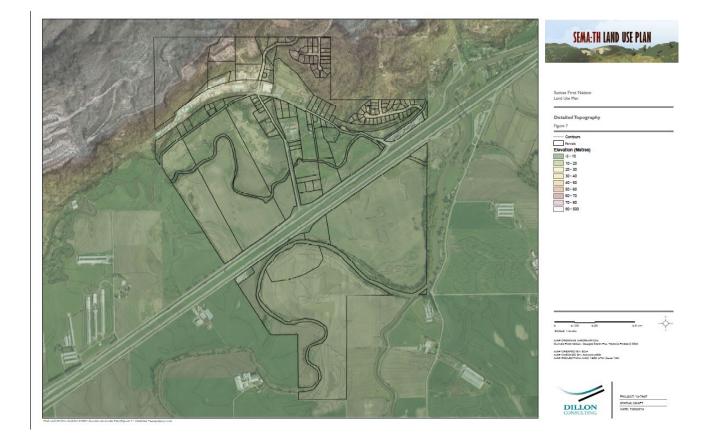
Biophysical



Property ownership



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 (<u>https://canadiangis.com/data.php</u>)
- 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?

