

ONCE THE LAND IS FOR CERTAIN: THE SELKIRK FIRST NATION APPROACH TO
LAND MANAGEMENT, 1997-2007

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By

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ABSTRACT

In July 1997 Selkirk First Nation Citizens or Selkirk First Nation Peoples in the community of Pelly Crossing, Yukon signed the Selkirk First Nation Final Land Claims Agreement (Modern Day Treaty) and the Selkirk First Nation Self-Government Agreement with the Government of Yukon and the Government of Canada. Prior to 1997 they were under the auspices of the Department of Indian and Northern Affairs (DIAND) and did not have the autonomy to create policy and law for land management. Rather, they were required to adhere to regulations that were mandated by the *Yukon Wildlife Act* and other institutions created by the Yukon or Federal Governments. The methodology employed in this study was aimed at providing an accurate assessment of change while at the same time ensuring that Selkirk First Nation perspectives remained uppermost. To achieve this, community and personal insights were gained through interviews, family group discussions and the observation of community activities. To ensure that these perspectives were positioned in an accurate historical and political context an examination of public, private, and government records were also undertaken. This research has provided the platform upon which I formed my conceptualizations that Selkirk First Nation Peoples are benefiting both culturally and traditionally. The significance of this research will provide alternatives for other First Nations who pursue land claims and who are building their hunting and fishing laws or *Wildlife Acts* upon cultural values and traditional pursuits that are distinct from those mandated federally, provincially, or territorially. It is also anticipated that First Nations who are in the process of negotiating Comprehensive Land Claims Agreements acknowledge that certainty regarding Aboriginal rights and title go above and beyond what is defined by the dominant Governments and the Courts.

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Dedication

This thesis is dedicated to my grandchildren (Brayden, Kingston, and Madysen) born during the course of this study. More specifically (without picking favorites!), my grandson Brayden (Sweeter Man), who was born just as my thesis proposal was in the final stages. He will be 5 and as he (and my thesis) grew, we had a special bond but he ‘demanded’ a lot of my time. As I wrote and locked myself into my office for days and months on end – he would knock on my door calling ‘Gramma’ and I found no matter how busy or stressed I was...I always had time for a ‘Brayden moment.’ You made it all worthwhile – Happy Birthday! Sweeter Man.

This thesis is also dedicated to my Uncle Danny who passed away on August 3, 2007. He was so proud of me.

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LIST OF ABBREVIATIONS

Abbreviation

ARRC Alsek Renewable Resources Council
CYFN Council of Yukon First Nations
CYI Council for Yukon Indians
DIAND Department of Indian and Northern Affairs
HPA Habitat Protection Area
LSCFN Little Salmon/Carmacks First Nation
MDRRC Mayo District Renewable Resources Council
NND First Nation of *Nacho Nyak Dun*
NTC Northern Tutchone Council
PSTA Programs and Services Transfer Agreement
RRC Renewable Resources Council
SFN Selkirk First Nation
SGA Self-Government Agreement
SMA Special Management Area

CHAPTER 1
ONCE THE LAND IS FOR CERTAIN: INTRODUCTION

If we begin with certainties, we shall end in doubts; but if we begin with doubts, and are patient in them, we shall end in certainties (Francis Bacon, 1561 - 1626).

A Personal Introduction

In keeping with the protocol of Yukon First Nation people it is first necessary to introduce themselves by their family before telling a story. In this instance, my thesis will be my story. My Thi'Ts'ach'an Huch'an (Northern Tutchone) name is Head'in Cho and means to 'rise with the sun everyday.' It is a name traditionally given to first-born grandchildren in my family. My Etsun (Grandmother) Jessie (Edwards) Suzé (d. 1994) and the man I knew as Etsi (Grandfather), was Joseph (Old Suzé) Suzé (d. 1979).¹ I am the oldest daughter of Martha Sarah Edwards (1944-1984), a Thi'Ts'ach'an Huch'an from Pelly Crossing, Yukon and Charles (Tex) Mease (d.1970), a Caucasian from Westlock, Alberta. Like the women in my family before me, I am of Thi'Ts'ach'an Huch'an descent and I belong to the Ts'ek'I (Crow) Clan of the Selkirk First Nation (SFN) in Pelly Crossing, Yukon Territory.² I am a 'Status Indian' registered under the Indian Act (1985) as well as a direct descendant, beneficiary and Citizen to the Selkirk First

¹ "Old Suzé was considered the most powerful among [Dän Dezhän or Medicine Men] and the last real Indian doctor among Selkirk people" (Gotthardt, 187: 80).

² Quite often Selkirk First Nation in the Yukon, when referred to as Selkirk Peoples are confused with those in Selkirk, Manitoba (near Red River). Fort Selkirk, Yukon, to which Selkirk First Nation People are named after and Selkirk, Manitoba was both named after Thomas Douglas (1771 – 1820), the 5th Earl of Selkirk. Consequently, there could be confusion between the two although the Aboriginal population near Selkirk, Manitoba is likely a Cree or Métis population. Selkirk First Nation will at some point change their name to a more specific self-naming term.

Nation Final Agreement.³ I am acculturated and educated in both the traditional and modernized world although I tend to identify more strongly with my Northern Tutchone heritage.

To say that my path towards the writing of this thesis began with a dream would be an understatement, a little idiosyncratic, and perhaps non-academic. When people ask me why I do what I am doing, I often say that I am not living my dream but Suzé's dream. I woke up one morning in 1999 and like a person in a robotic state of mind I went to the local Northern Lights College and enrolled in the Social Services diploma program. I had no control, nor desire to attend school. I thought I was quite content with my current life. Having never graduated from high school, I never envisioned myself to be a university student let alone a student writing a M.A. thesis.⁴ So I say it is under Suzé's direction that I am where I am today. I cannot say with certainty when this journey will end because I know it is not over but until then I listen to what I am told and how I am directed.

The three areas that will be examined in this thesis hold great importance to me not only as a Selkirk First Nation person but because it is on these areas of land where we have best maintained our cultural values and traditional laws. To my knowledge, I have not visited Ddhaw Ghro but have been to Tatl á Män and Łutsäw. Łutsäw is one area that I am most familiar with. It is an area I have visited my whole life in search of the precious high and low bush cranberries, blueberries, and chen ghro' (puff balls). The last time I visited Łutsäw was in 2001 and I became seriously ill with bronchial-pneumonia while picking cranberries. This may sound strange but I think I ended up ill because instead of picking the chen ghro' as I was supposed to, I

³ “‘Yukon First Nation Final Agreement’ means a land claims agreement for a Yukon First Nation that includes provisions specific to that Yukon First Nation and incorporates the provisions of the Umbrella Final Agreement” (SFNFA, 1997:10).

⁴ I graduated in 2003 with a double degree in Anthropology/Archeology and Native Studies and was awarded the most distinguished graduate in both disciplines (St. Thomas Moore also awarded me most distinguished graduate in Anthropology).

demonstrated to my children that it is Dooli to step on them, while stepping on one to show them. As I proceeded to step on the puff ball, it took me right back to the warnings we were given as children but it was so much fun to see the yellow/green powder fill the air. However, it was too late to stop my actions and all I could do was to warn my children about its purpose. I expected the consequences as I was becoming sick and used the cranberries that I had picked (along with oxygen, two types of inhalers, and three types of medication) to nurse myself back to health but not before driving sixteen hours to Dawson Creek, B.C.

Introduction

This thesis will examine the role of cultural values and traditional pursuits (Indigenous knowledge) of Selkirk First Nation Peoples as they are applied towards the creation and implementation of land management policies for Special Management Areas (SMA). *Ddhaw Ghro, Łutsäw, and Tatł á Män* were chosen⁵ because they provide examples where autonomous land management by Selkirk Peoples is occurring and is where they have enacted policy and laws mandated by cultural values and traditional pursuits. Generally, it is the dominant Government that mandates the policies and laws that will apply to First Nation lands. This thesis will further show how these two institutions intersect with the directions in the Selkirk First Nation Final Agreement (1997), Selkirk First Nation Final Agreement Implementation Plan, Umbrella Final Agreement Implementation Plan (1997), and Selkirk First Nation Self-Government Agreement (1997). This thesis will show that Selkirk Peoples today are benefiting both culturally and traditionally because adherence to the Agreements requires an increased

⁵ In December 2004, I visited the community to present my proposal to Chief and Council. Upon reading it, they felt it was too broad (they suggested I do a Needs Assessment). They indicated I could focus on land management because this is an area that Self-Government had started to initiate policy and laws according to the Selkirk First Nation Final Agreement Implementation Plan and Umbrella Final Agreement Implementation Plan (SFNFAIP & UFAIP).

reliance and consequently increased usage of their cultural values and traditional pursuits in order to create and implement policy and laws towards land management. The course of this study found that an increased reliance on these two institutions also benefited Selkirk First Nation Peoples in other areas including a revitalization of the Northern Tutchone language and the Clan system.

For the purpose of this thesis, Northern Tutchone (*Thi'Ts'ach'an Huch'an*) and 'Selkirk Citizens' or 'Citizens' will be used interchangeably when making reference to Selkirk First Nation⁶ Peoples of Pelly Crossing in the Yukon Territory.⁷ *Thi'Ts'ach'an Huch'an* in Northern Tutchone refers to the “former king salmon fish camp at Victoria Rock” or *Thi'Ts'ach'an* (Gotthardt and Hare, 1996). Robert Campbell⁸ named the *Thi'Ts'ach'an Huch'an* he first encountered “Gens de Bois (literally ‘Forest People’) or Wood Indians; or Lewes (Yukon) River Indians” (Gotthardt, 1987: 22; 1987: 18; Gotthardt and Hare, 1996: 12).⁹ When Frederick Schwatka, another renowned explorer to the North, came upon *Thi'Ts'ach'an Huch'an* in 1883 he called them “Ayan” meaning “strangers” (Gotthardt, 1987: 23, 1987: 18; Gotthardt and Hare,

⁶ The official name change to Selkirk First Nation came as a result of the Agreement prior to 1997.

⁷ Apparently, [the] Northern Tutchone name for Fort Selkirk is now lost, but the importance of this site in the history of Selkirk people is clearly evident in the oral histories, the archaeological record, and from the mid-19th Century Fort Selkirk post journals written by the Hudson’s Bay factor, Campbell, and his assistant, James Stewart (Gotthardt and Hare, 1996:20).

⁸ Robert Campbell is the first known “k’ot’yan” (Ritter et al., 1977: 82) or “*k’och’én*, meaning ‘cloud people’...whiteman” (Cruikshank, 1991:61) to meet Selkirk Peoples.

⁹ There are two versions of the Selkirk Indian Band: Culture and Land Use Study. The first was a final report submitted to Selkirk First Nation in 1987 and the second version is in publication called Selkirk First Nation: Culture and Land Use Study. I was originally using the first version until Ruth Gotthardt gave me the recently published version with different pagination.

1996: 13).¹⁰ In other instances, Selkirk First Nation Peoples were referred to as the Selkirk Indian Band after the relocation to Pelly Crossing in the 1940s with the exception of being named the Pelly Indian Band through the Department of Indian Affairs (DIA).¹¹ In accordance to the historical self-naming reference, Northern Tutchone is more often used as opposed to Selkirk First Nation or Selkirk First Nation Citizens. Northern Tutchone also refers to the Athapaskan linguistic grouping of Na-Dene that is shared between Selkirk First Nation, *Na-Cho Ny'a'k Dun* (Mayo), and Little Salmon Carmacks First Nation (Carmacks) and it is for this reason that Selkirk First Nation has not changed their name to *Thi'Ts'ach'an Huch'an* or Northern Tutchone.

The Path of Uncertainty

As with any treaty, nothing is for certain because treaties can be broken or reneged upon. The ‘treaties’ that would eventually be signed in the Yukon Territory are referred to as Comprehensive Land Claims or Modern Day Treaty.¹² For the better part, First Nations in the Yukon and the Northwest Territories were excluded from the Numbered Treaties (1871 - 1921) for various reasons until economic development on their lands became inevitable. In the early 1970s there was talk of building a major gas pipeline that would stretch from Perdue Bay, Alaska to the southern United States. Although the pipeline would not cross traditional territories in the Yukon, a major stumbling block was that no previous treaty was signed giving anyone

¹⁰ It was later understood that Ayan were Han from Dawson City and not *Thi'Ts'ach'an Huch'an* from Fort Selkirk. Ostensibly, “[the] objective of Schwatka’s journey was to document the location and number of the Indians inhabiting the country to ascertain whether they could at any time pose a threat to American sovereignty or territories” (Gotthardt, 1987:23: 1987:18).

¹¹ The name was later named the Department of Indian and Northern Affairs (DIAND).

¹² A Comprehensive Land Claim or Modern Day Treaty “[concerns] the loss of traditional use and occupancy of land in areas where native interest has never been extinguished by treaty or superceded by law – an interest which is variously described as ‘Indian Title,’ ‘Aboriginal Title,’ ‘Original Title,’ ‘Native Title’ or ‘Usufructuary Rights,’” (Indian and Northern Affairs, u/k: 2).

permission to usurp, disrupt, or develop on traditional lands that had not been negotiated for title. Yukon First Nations did not sign a prior treaty whatsoever with the Territorial or Canadian Governments at any given moment in history; therefore, at no point in time did they extinguish or cede title to the Crown under any given circumstances. When Chief Jim Boss of the *Ta'an Kwach'an* First Nation (Lake Lebarge) pursued land claim negotiation rather than treaty in 1902 (Penikett, 2006: 101; Coates, 1991: 163), the Government of Canada responded back to his request by stating “there is no Indian title to be extinguished in the Yukon” (Penikett, 2006: 101).

Land claims would not be pursued again until 1968 when the Yukon Native Brotherhood (YNB) formed to represent twelve Yukon Indian Bands who would pursue compensation land claims.¹³ YNB amalgamated with the Yukon Association of Non-Status Indians (YANSI) amid much controversy when they formed the Council for Yukon Indians (CYI) in 1973. It was controversial because the Government of Canada did not recognize non-status Indians or Métis to be legal Indians if they were not registered Indians through the *Indian Act (1876)*. It was problematic because many of the Yukon Indian Chiefs as well as many who considered themselves to be Yukon Indians were non-status Indians who had been enfranchised through the *Indian Act (1876)* by various forces such as going to war, gaining an education, marrying out, or

¹³ Between 1927 and 1951 the universal stance towards the pursuit for land claims was prohibited under the *Indian Act (1876)* and ALL ‘Indian Peoples’ were prohibited from pursuing land claims or to secure a lawyer to do so on their behalf. The *Indian Act*, s. 141, c 98, R.S.C. 1927 states: “Every person who, without the consent of the Superintendent General expressed in writing, receives, obtains, solicits or requests from any Indian any payment or contribution or promise of any payment or contribution for the purpose of raising a fund or providing money for the prosecution of any claim which the tribe belongs, or of which he is a member, has or is represented to have for the recovery of any claim or money for the benefit of the said tribe or band, shall be guilty of an offence and liable upon summary conviction for each offence to a penalty not exceeding two hundred dollars and not less than fifty dollars or to imprisonment for any term not exceeding two months” (Department of Indian and Northern Affairs Canada, v. 1, 1981: 169).

going to saloons and bars, etc.¹⁴ In all, fourteen Yukon First Nations pursued land claims under the Council for Yukon Indians. In 1973, *Together Today For Our Children Tomorrow* was presented to and accepted by Prime Minister Trudeau thus becoming the benchmark for which CYI pursued their land claims.

Yukon First Nations did not want treaty because they felt “[treaties] didn’t work ...and...they were one-sided contracts” (*Yukon Indian People*, 1973:17).¹⁵ Furthermore, “treaties did not protect their resource rights” (Berkes, 1989: 189).¹⁶ Yukon First Nations were not willing to accept the concept of usufructuary rights to land that they already felt an ownership. One of the few things they needed was ‘certainty’ of ownership to “*Dan Kezhi*”¹⁷ or ‘Indian land’ as well as compensation for the land that was already usurped or disrupted (Ritter et al. 1977: 72). The area of reference particular to this thesis is Selkirk First Nation Settlement Land that crossed many boundaries including other Northern Tutchone (*Na’cho N’y’ak Dun* (Mayo) & Little Salmon Carmacks First Nation) and other Yukon First Nations including *Tr’ondëk Hwëch’in* (Dawson City), Kaska First Nation (Ross River), and White River First Nation (Beaver Creek).

¹⁴ CYI was adamant that “[regardless] of status under the Indian Act, the Council was formed to ensure that all Indian people could participate in the claim and as the basis for their negotiations” (*Yukon Indian People*, 1973: preface).

¹⁵ As a result, ‘certainty’ became the word used instead of ‘Aboriginal title’ during the land claims negotiation because they (Yukon First Nations) were not willing to surrender or extinguish their Aboriginal title or rights to the land in question.

¹⁶ “Aboriginal people throughout Canada have told the government that they could not accept an agreement that contains ‘cede, release and surrender’ or extinguishment language They believe that agreeing to these terms would break the spiritual and cultural link they have with their traditional territories and deny their identity as Aboriginal people in Canada” (Federal Treaty Negotiation Office: 2).

¹⁷ Also means “town or village” (Ritter et al, 1977: 88).

Figure 1 is a 1998 map of the Yukon First Nation Traditional Territories Settlement Land in the Yukon.¹⁸

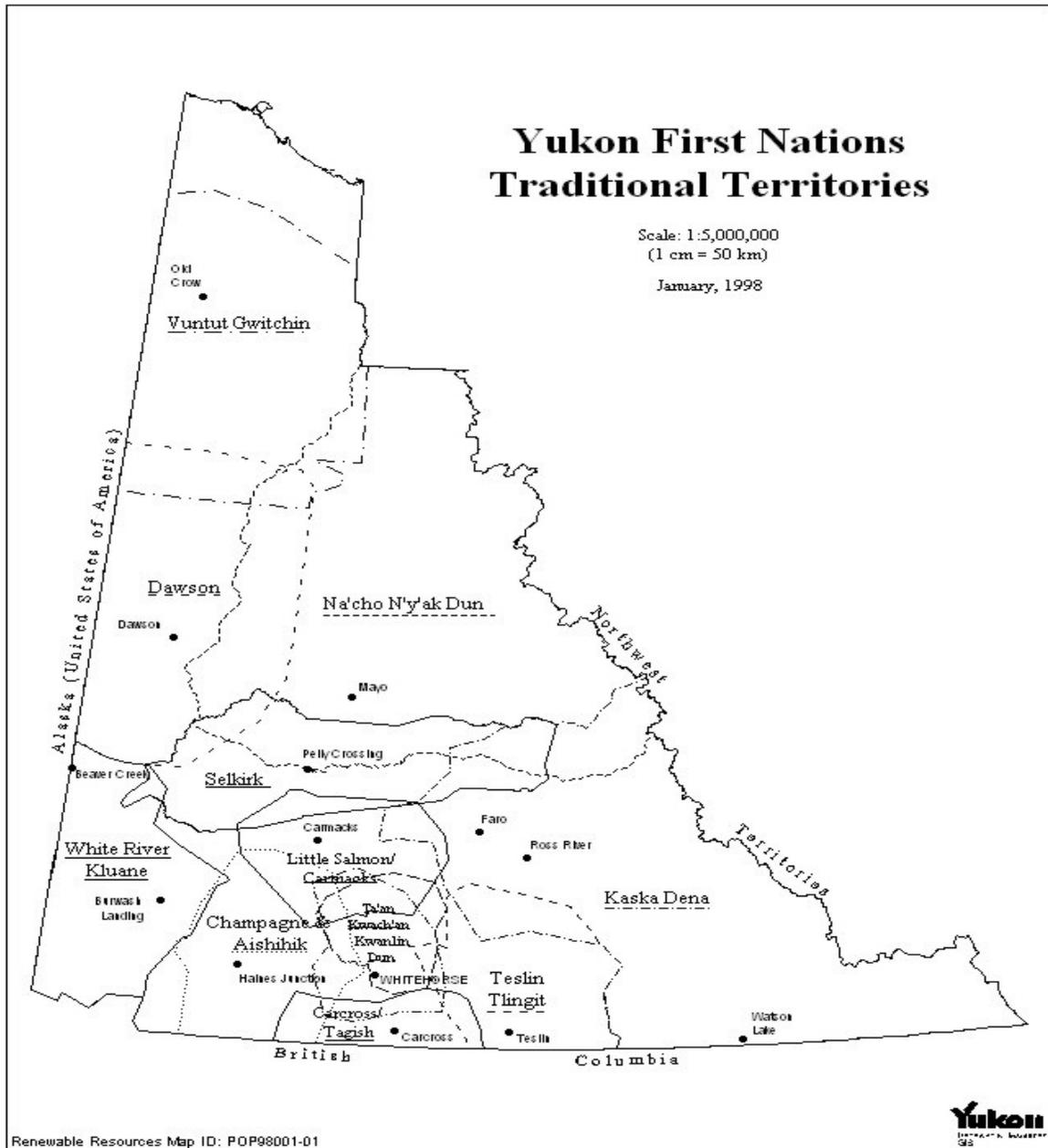


Figure 1: Yukon First Nation Traditional Territory
Source: Department of Environment, Government of Yukon (1998).

¹⁸ There is a recent colored map produced by Yukon Environment in 2005 but its clarity is not as great as this 1998 version that visibly shows lands allocated to Selkirk First Nation.

The Agreement

An Agreement-in-Principle that was for the most part agreeable by both parties was drafted in 1988 after nearly fifteen years of negotiation.¹⁹ In a conference in 1991, Yukon Premier (former land claims negotiator) Tony Penikett stated “the Yukon Land Claim Agreement breaks important ground in this respect, in that the Yukon First Nations and Yukon aboriginal people are not required to surrender aboriginal claims, rights, and titles in and to lands retained by First Nations” (Penikett, 1991: 147). Moreover, Penikett stressed that “Aboriginal title must be recognized and entrenched, not extinguished, on lands retained by First Nations” (Penikett, 1991: 144). Their persistence to acquire land and compensation rather than treaty, per se, paid off when the Yukon Umbrella Final Agreement (UFA), which applies to all fourteen Yukon First Nations, was agreed upon in 1993. Why this Agreement cannot be considered ‘treaty’ per se is evident in 5.2.2 of the Umbrella Final Agreement and Selkirk First Nation Final Agreement that states, “[nothing] in this chapter constitutes an admission by Government that an aboriginal claim, right, title or interest can co-exist with the rights described in 5.4.1.1. (a) and 5.4.1.2, or with treaty” (SFNFA, 1997: 59). Furthermore, the land could only be allocated to Yukon First Nations whose claim was based on certain criteria including “hunting areas; fishing areas; trapping areas; habitat areas and protected areas; gathering areas; historical, archeological or spiritual areas; areas of residence or occupancy; access to waterbodies and use of waterbodies; agriculture or forestry areas; areas of economic development potential; and wilderness areas” (SFNFA, 1997: 106). Apparently, the area of land negotiated for Yukon First Nations “exceeds the total of all land on existing Indian reserves in Canada” (Penikett, 2006: 101).

¹⁹ Yukon First Nations collectively borrowed in excess of “60 million” by which Yukon First Nations “believe that the federal Government should bear the full cost of negotiations since the purpose of negotiations is to remedy transgressions of their rights by the Government of Canada” (McCormick, 63).

In July 1997 the Citizens of Selkirk First Nation in the community of Pelly Crossing, Yukon Territory unanimously signed the Selkirk First Nation Final Agreement (SFNFA), the SFNFA Implementation Plan and Umbrella Final Agreement Implementation Plan; and the Selkirk First Nation Self-Government Agreement²⁰ (*Chapter 24* SFNFA) with the Yukon Territorial Government and the Government of Canada. For the purpose of this thesis, these agreements will be referred to the Agreement or Agreements. In the end, Yukon First Nations were guaranteed “certainty” (Morrison, 1992:170) and “one of the main objectives of the Umbrella Final Agreement is to provide Yukon First Nations and Governments with certainty regarding Aboriginal title and rights in the Yukon” (*Understanding the Final Agreement*, 1997: 5). Along with the Agreements would come various governing powers to enact policies or laws towards land management in areas that would be designated “Special Management Areas” (SMA). The ‘power’ to create and implement policy or laws based on cultural values and traditional pursuits was not privileged prior to the Agreements because land and resource management fell under the *Wildlife Act*, *Yukon Territory Act*, and other institutions mandated by both the federal and territorial governments. Although Selkirk First Nation has Aboriginal title²¹ and Aboriginal rights to both Category A Settlement Land (surface and sub-surface) and Category B Settlement Land (surface) they came with the stipulation under the Agreements that land and resource management can and will only be accomplished through Renewable Resource Councils (RCC)

²⁰ The Self-government Agreement ensures that “[the] Agreement shall not affect the ability of the aboriginal peoples of the Selkirk First Nations to exercise, or to benefit from, any existing or future constitutional rights for aboriginal people that may be applicable to them” (SFNS-GA, 1997:5). This means that if benefits change as a result of the Constitution Act, 1982, then Selkirk First Nation also has the opportunity to take advantage of those changes or benefits. The Selkirk First Nation Self-Government Agreement, *Chapter 24* of the SFNFA was negotiated and signed at the same time as the Selkirk First Nation Final Agreement. It is exempt from the *Indian Act (1985)* but is protected under the *Constitution Act, 1982*.

²¹ ‘Equivalent to fee simple.’

who would oversee, create and implement policies directed towards renewable resources including forestry, hunting & fishing, and mining.

According to Stella Spak in her study of crisis based claims with the *Gwich'in* (Renewable Resource Board), “once a land claim agreement is initiated, wildlife and resource management within the claim area is subject to a ‘double administration’ which consequently leads to the co-management of the natural resources in the claims area” (2001: 17). While the Selkirk First Nation Final Agreement was not signed due to a crisis situation, it could very well have come to that point if it were not for the need to build the Mackenzie Valley Pipeline in the early 1970s. According to RCAP, “comprehensive claims negotiations — such as those leading to the James Bay and Northern Quebec Agreement — were themselves a response to crisis” (Indian and Northern Affairs, Volume 2 Restructuring the Relationship Part Two, Chapter 4 - Lands and Resources). This thesis will show that although co-management regimes are mandated as per the Agreement, Selkirk First Nation initiates higher levels of autonomy to manage their SMAs through cultural values and traditional laws. This is important because not all recent Comprehensive Land Claim Agreements (James Bay or Nisga’a’) in Canada have Aboriginal title.

The Study Area

Mountains, lakes, abundant forest, and the *Ts’éki Netú* (Pelly River) surround the small close-knit community of Pelly Crossing, Yukon. The present day community is located in the central Yukon Territory approximately one hundred and seventy-five miles from the capital City of Whitehorse (Couttes, 1980: 200). The Pelly Crossing and Ft. Selkirk area in the central Yukon is rugged terrain with perpetual permafrost but has been considered home to “*Thi’Ts’ach’an Huch’an*” (Northern Tutchone) for thousands of years (Gotthardt and Hare, 1996: 12). According to Greg Hare, Yukon Archeologist, “[t]he junction of the Pelly and Yukon rivers was

once the extreme eastern edge of Beringia...[and] was the place where humans first entered the New World” (Gotthardt and Hare, 1996: 2). Yukon archeologists Dr. Ruth Gotthardt and Dr. Greg Hare began extensive archeological digs beginning in the 1980s at Fort Selkirk, *Tat’á Män*, *Towata*, and *Ddhaw Ghro*. These archeological digs uncovered artifacts that was essential in showing long-term occupancy of Northern Tutchone peoples in the Pelly Crossing/Fort Selkirk region. Early accounts of *Thi’Ts’ach’an Huch’an* show that they were highly nomadic peoples who migrated frequently in small bands in search of “the wooly mammoth, bison and horses” (Gotthardt and Hare, 1996:3). The land that was once freely occupied and shared jointly for survival and subsistence by *Thi’Ts’ach’an Huch’an* technically came under the auspices of the Government of Canada when C.W. MacPherson undertook one of the first Census and Land Surveys in 1900. By 1901 when the data was submitted to the *Department of the Interior, Topographical Surveys Branch* in Ottawa later that year the *Indian Affairs Survey Records, No. 1618* allocated Northern Tutchone peoples to “Lot 6, Group 4” and hence became known as the Selkirk #7 Reserve (Government of Canada and Library and Archives Canada Indian Reserves - Western Canada.).

The total landmass for the present day community is “32.42” square kilometers (Statistics Canada: 1996). The overall land mass of Settlement Land is 930 square miles or 2408.9 square km of Category A land; 900 square miles or 2330.99 square kilometers of fee simple or Category B land; 1830 square miles or 4739.68 square kilometers of settlement land; and 2.62 square miles or 6.79 square kilometers of additional land to make up the amount of remaining land selection (SFNFA, 1997: 107). The land is classified into three categories. Selkirk First Nation has Aboriginal title or ‘equivalent to fee simple’ to Category A Settlement Land that includes both surface and sub-surface rights. Category B Settlement Land is where they have Aboriginal

title to only surface rights while YTG or the Government of Canada has rights to the sub-surface. ‘Fee simple settlement land’ and ‘non-settlement land’ are typically known as Crown lands and includes tracts of privately owned land or land in negotiation for sale at the time the Agreement was signed. Pelly Crossing is considered Settlement Land and is not a Reserve or a municipality. It is self-government and as a result is exempt from the *Indian Act (1976)*.

The Citizens of Selkirk First Nation

Pelly Crossing is predominately a Selkirk First Nation community. In 1996 there were “238” Citizens who resided permanently in the community. Of this census count, “70.2%” of the population was over the age of fifteen (Statistics Canada, 1996). The population in 2006 was “296” (Statistics Canada, 2006). Of this population, “240” are over the age of 15 (Statistics Canada, 2006). Included in these numbers are approximately 30 non-Selkirk First Nation persons who either married into Selkirk First Nation and/or work in the community for either the Yukon Territorial Government (YTG) or Selkirk First Nation Government.²² There are approximately another 250 Citizens who reside outside of the community and are not counted in the Canada Census but are registered by Selkirk First Nation as Beneficiaries.

The cultural values and traditional pursuits for a majority of Selkirk First Nation Peoples can be attributed to the teachings of *Hudé Hudan* (People a long time ago). The concept of “*Sothän Lekánëte, Leyaele, Ná Le Trāa, and Netśin tu* (caring, sharing, respect, and teaching)” govern our customary, *Dooli*, and traditional laws. As in the past, Selkirk First Nation Peoples are duly guided by these three sets of laws: customary laws, *Dooli* laws, and traditional laws. Accordingly to one Citizen,

...we are two laws now...the Yukon law and our Selkirk First Nation customary laws...there's three different for our laws (1) *Dooli* and spirituality tied to it or religion whatever you can call it (2) Traditional laws...ie don't shoot bear there...that spawning spot...don't do that...(3) Customary laws... look at marriage...it is customary...that marriage is set up by family members...its customary...that must be Wolf and Crow...those are custom laws...see it is quite different from *Dooli* and Traditional Laws laws...(Interview # 9: August 21, 2005)

Customary laws including marriage and kinship “are tied to inherent laws and that is where they do things and you can't change the principle to that” (Interview # 9: August 21, 2005). For instance, those born into Selkirk First Nation society are either born an *Egay* (Wolf) or *Ts'ek'I* (Crow). These are the two Clan systems that are adhered to by Selkirk Peoples as well as every other Yukon First Nation.²³ Clan status at birth is determined through matrilineal lines of descent. Consequently, if the mother is *Ts'ek'I* then her children will be *Ts'ek'I*. This does not change throughout your lifetime for any reason. Being born into either Clan system determines many aspects of one's future “including marriage, duties and obligations to other members of their local group, and their relationships outside of the band, with strangers or distant relatives” (Gotthardt, 1987: 54; 1987: 39).

²² The only housing that is available to YTG employees is the housing that is available for these purposes on Crown land within the community or if Selkirk First Nation provides temporary housing for their employees. Private dwellings by Selkirk First Nation and especially outsiders cannot occur because it is Settlement Land. It could change in the future that Citizens can build private dwellings but as is, all housing belongs to Selkirk First Nation and the land cannot be individually purchased or owned by Citizens.

²³ In listening to stories during visits to various people in Pelly Crossing and throughout the Yukon, it can be understood that the Clan system, as a result of prohibition under the Indian Act (1876) between 1927 and 1951 and forced Residential Schooling may have attributed to the Clan system being ignored by many between the 1960s – 70s (perhaps as early as the 1940 or 50s). This includes those who left the community for Residential School and never returned home until later in life. This is said because there are people I know who are of the same Clan (from different communities in the Yukon) and are married. In most instances, they did not know about or believe in the Clan system back then. The Clan system must have been practiced in the 1970s because I remember defining myself as Crow when people would ask what Clan I belonged and there used to be a joke that if we didn't ask – we might be kissing cousins. Though this aspect of Selkirk First Nation culture was not examined in detail, it may not be too far from the truth (in looking at my genealogy). However, since the governing system for Selkirk Peoples was traditionally built upon Clan systems and in terms of the Agreement, they were required to re-adopt and adhere to such organization and structure as a result.

Dooli laws are exclusive to Northern Tutchone Peoples but the concept of *Dooli* is known throughout the Yukon and others are even adopting certain aspects of *Dooli*. These are sacred and spiritual laws that are interconnected with everything we as Selkirk First Nation Peoples should not do and though others may adopt it, only Selkirk First Nation Peoples know the sacred or spiritual practices attached to *Dooli* laws. These particular laws refer to the things a person should not do regarding all aspects of life including hunting and fishing; protocol at fish camps; all aspects of culture including marriage and Clan systems; *Noho'é* (Potlatch); land and resource management; and medicinal systems. In all instances of *Dooli* laws,

Spirituality is tied to it...in one purpose it unites the family...keeps the family closely bonded...spiritually you are fishing for that fish...you have to have a lot of respect for that salmon...the belief is you have to have lots of respect for that fish...like this fish camp...you do not dirty it...only use for your fishing...don't leave a mess...clean up everyday...kids...you have to watch where they play...how they play...all those things are tied to family...there's lots of laws we have to learn to respect...(Interview # 10: August 21, 2005).

While the existence as Selkirk First Nation Peoples on this continent is traced back several thousand years in the archeological evidence, it is the belief of many; but not all Citizens that their origins are based on “the crow, [who] is responsible for the genesis of the world, [and] is the actual bird” (Legros, 1999:33). Apparently, in the *K'ot'yan* way, “sometimes you have to call him God because that's God who made the world. And sometimes you have to call him crow too, because that's him, the crow, who really made the world we live on. You call him God or crow, either way, back and forth” (Legros, 1999: 43).²⁴ While origin and creation stories are based on *Ts'ek'I*, crow (the bird and name of one Clan) also played an important part in the role of the medicine man “by offering in secret and through dreams, some individuals with its *zhäak* (its spiritual; power as well as ready-made medicine-songs)” (Legros, 1999: 33). *Dän Dezhän*

²⁴ Legros makes an emphasis that ‘crow’ without a capital C is used because to capitalize it would indicate *Ts'ek'I* (crow) to be a “diety...even though crow made the world, crow never was, nor is a god, nor God” (32).

(Medicine Men) are “ Indian doctors [who] were the specialists in traditional medicine, who also possessed the power and training to deal with *yek* or the spirit associated with all things in the world” (Gotthardt, 1987: 79; 1987: 51). According to Gotthardt,

[in] the opinion of McClellan’s Southern Tutchone informants, the Fort Selkirk and Pelly Indian doctors were the most adept and could perform the most spectacular feats...in the early twentieth century, Old Suzé, Old Abraham, Old Andrew (*Ta Nase*), Big Jonathon, and Copper Joe were the Indian doctors at Selkirk (Gotthardt, 1987: 80; 1987: 52).

According to one Selkirk Elder, "a long time ago they had really good Doctors...they had gift...they could heal people even if someone got shot in the leg they could take that bullet and its all healed...today it is not like that...nobody practices it...just threw it away...they lost that gift...all of them...people healed one another because we have no Doctors or nurse" (Interview # 6: July 7, 2005).

Traditional laws are associated to laws governing the land and its resources. This is referred to as traditional pursuits²⁵ or land use occupancy. Based on cultural values and *Dooli* laws, Selkirk Peoples learned where to hunt and fish, when to hunt and fish and why they should or shouldn’t hunt or fish in particular areas. In the winter Selkirk Peoples set up *dan nenetro yedaak* or fish camps at *Tatl’á Män* to catch whitefish and *Lutsäw Män* to catch jackfish. Winter fish camps were also a place where people gathered to celebrate “Indian Christmas (*Nédzyän Cho*)” (Gotthardt, 1987: 78; 1987: 51). During this celebration there was “gift giving and games...[such as] tug-o-war” (Gotthardt, 1987: 78; 1987: 51). In the spring they set up hunting camps “in the valleys and lowlands to hunt and trap” (Gotthardt, 1987: 36; 1987: 25). Beaver were an especially important animal to hunt at this time of year because of its medicinal purposes but were also troublesome because of over-population.

25 Though the term ‘traditional pursuits’ is not embedded into the SFNFA, it is a legal term in the JBNQA, 1975.

In the summer they aggregated into larger groups at Three Way Channel before it shifted. Three Way Channel was one of the most important fishing spots for many families who fished for king salmon. They had what they called the “first salmon feast” where “the first salmon caught during the salmon run had to be cooked up right away and eaten by everyone in the camp” (Gotthardt, 1987: 78; 1987: 51). In the fall they were highly nomadic and traveled in smaller groups in search of the animals that were plentiful at that time of the year including sheep, bear, caribou, moose, ducks, or geese. At the end of the fall hunt many families would meet up at *Hetsutthat* (Minto) to partake in the annual run of dog salmon (Gotthardt, 1987: 37; 1987: 26). During the fall, “dog salmon fish camps were usually made up of two to six families” (Gotthardt, 1987: 37; 1987: 26). In general, the families would meet at one fish camp and stay for weeks or months.

Together, these three sets of laws, which are practiced exclusively by *Thi'Ts'ach'an Huch'an* means that there are certain cultural and traditional rules and protocol that must be followed in all aspects of life in order to protect us from harm as well as to protect and conserve the fish and wildlife habitat so that they will continue to feed us. Selkirk First Nation strictly adhered to these in the past and into the present because if they are not strictly followed, the consequence is *Dooli*, or in other words, bad luck.

Thesis Overview

Chapter one is an introduction to the purpose of the study. It also provides a brief introduction to Selkirk Peoples and the study area. Chapter two is the approach and methodology of this study that includes qualitative methods based on cultural ecological theories. This chapter examines cultural values and traditional pursuits through existing land claims Agreements in the Yukon

and North West Territories in order to show what Aboriginal rights and title were afforded to Selkirk First Nation as per the Agreement. It also provides a literature review on Indigenous knowledge in order to show the cultural forces that directed and now direct the Agreement. Chapters three four, and five are the case studies to show the Selkirk First Nation approach to and understanding of the Agreements, how they apply their perspectives to land management through the development of the management plans, and their working relationship with other levels of Government (*Na-Cho Ny'a'k Dun*, YTG, and Government of Canada) on *Ddhaw Ghro*, *Lutsäw*, and *Tatl'á Män*. Chapter six conceptualizes the cultural and traditional benefits that Selkirk First Nation have maintained or regained since having the autonomy to manage their own land according to their own cultural and traditional laws.

CHAPTER 2 METHODOLOGY

Introduction

The methodology employed in this study is aimed at assessing whether the Agreements have upheld and enhanced the Selkirk First Nation cultural values and traditional pursuits. To achieve this, community and personal insights were gained through interviews, family group discussions and the observation of community activities. In addition, an examination of public, private, and government records were also undertaken to accurately describe the historical and political context and to assess whether cultural values and traditional pursuits were upheld. While the Agreements have given various First Nations in Canada an opportunity to become keepers of their land, they come with various levels of autonomy with various levels of Government intervention. The majority of (if not all) Comprehensive Land Claims come with stipulations of co-management as a means to manage the land. Nonetheless, Selkirk First Nation has remained consistent in their endeavor to maintain, regain, or modify their cultural values and traditional pursuits. More importantly, however, is that the only way that they know how to manage their land is based on those cultural values and traditional pursuits that historically, the Canadian state has attempted to remove.

It is held by Selkirk Citizens that in order for an ‘outsider’ to understand who we are, it is first necessary to understand our perspectives which at first glance appear to be highly idiosyncratic, or stuck in time.²⁶ As a Selkirk First Nation Citizen,²⁷ I fit in between the categories of one raised

²⁶ Those who fit into the category of ‘outsider’ include: Selkirk Peoples not born or raised in the community, those raised in the community but have resided elsewhere for a length of time, any non-Selkirk person (Caucasian, First Nation or otherwise) who resides in the community regardless of their length of stay including any non-Selkirk person who marries into Selkirk Peoples.

in the community and one who has been away from the community for many years. However, it is because of community connections and intermittent visits through the years to attend *dan nenetro yedaak* (fish camps) that I am not considered the ‘outsider.’²⁸ At times throughout my study I experienced hesitation from Selkirk Peoples as to why I am asking so many questions where in most instances they felt I should already know the answers and should not be asking what I should already know. A prime example was my inquiry into fish camps of which I was told in most cases “you know...you never forget because you will always be *Thi’Ts’ach’an Huch’an* no matter how long you go away” (Interview # 9: August 21, 2005). Contrary to what I initially assumed, this emic or insider approach can be problematic if one is too closely connected to the community. One of the greatest challenges for me was to keep a balance between being a Citizen (General Assembly’s or community meetings etc.) and being a researcher. It was difficult at times to not want to voice an opinion or become involved in political affairs. As a Citizen I participated in local affairs (information gathered from those meetings will not be noted here) but as a researcher that local participation is regarded in this thesis as community observation because my observations focused on the activity of the people and not on me as an individual.

²⁷ Under the Selkirk First Nation Self-Government Agreement (Chapter 24, SFNFA), 4.1 A person is a Citizen if he or she is: 4.1.1 enrolled as a beneficiary of the Selkirk First Nation in accordance with the Selkirk First Nation Final Agreement and this Constitution; 4.1.2 a descendant of such a person; 4.1.3 an adopted aboriginal child of such a person; 4.1.4 an aboriginal person determined in accordance with the Selkirk First Nation Final Agreement and this Constitution to have sufficient affiliation to the Selkirk First Nation so as to justify enrollment and citizenship; or 4.1.5 an aboriginal person determined in accordance with this Constitution to have sufficient affiliation to the Selkirk First Nation so as to justify citizenship” (Selkirk First Nation Constitution, 1997: 6).

²⁸ The night before I arrived in Pelly Crossing in 2005, one of the Citizens I had known as a child had a dream that my whole family was sitting and laughing around the campfire at fish camp. When he seen me walk into the Assembly Hall the next day he turned white as a ghost and then told me this story. Sadly, he passed away (2006) in a house fire before he could see my dream come true. Consequently, I have since come to see his dream as a continuation of the one I had that started me on my path to academia.

Prior to the 1980s and prior to the Agreement, Selkirk Peoples either did not have the autonomy and resources to initiate studies or they did not want Selkirk First Nation perspectives exploited by outsiders. According to Marc Stevenson, “[many] aboriginal people feel that requests to access their traditional knowledge represent just another form of exploitation (Yellowknives Dene First Nation, 1995a), because this knowledge can be easily taken out of context and misrepresented” (1996). According to Thomas Greaves in *Tribal Rights (1996)*, “[each] time that happens the cultural heritage itself dies a little, and with it its people” (1996: 25). Similarly,²⁹ according to Battiste and Henderson in *Protecting Indigenous Knowledge and Heritage: A Global Perspective (2001)*, “[each] time that happens, the heritage and knowledge die a little, and with it the people” (12). On the other hand, according to Julie Cruikshank, who has worked extensively with Southern Tutchone “only cultures willing and able to remain flexible and innovative in their response to deteriorating environmental conditions could have survived such changes” (1991: 55).

Beginning the Journey

Once my course work was completed in May 2004, I headed to Pelly Crossing, Yukon where the 2004 annual May Gathering (see below) was occurring. The purpose of this trip was to do an informal survey by way of conversation as to the relevance of my intended study. However, at that point in time I was interested in studying how Selkirk First Nation perspectives were being applied to language and lifestyle, land and environment, and social and political organization in relation to the Selkirk First Nation Final Agreement. A majority of Selkirk First Nation Elders and Citizens were at this meeting as well as Citizens from *Na'cho N'y'ak Dun* (NND) and Little Salmon Carmacks First Nation (LSCFN) so I was able to discuss the topics with all three groups

²⁹ Thomas Greaves writes this statement first in 1996, however, Battiste and Henderson (12) do not cite Greaves as the original author.

of Northern Tutchone. Those I talked to agreed that a study like mine would benefit the community and they liked the idea that ‘finally’ an academic study would be conducted by one of their own people.

In December 2004 I returned to Pelly Crossing with my research proposal to present to Chief and Council for approval.³⁰ Chief and Council decided upon reading my proposal that it would be better if I narrowed it down to land and resources. It was explained to me that this was an area where much work has been done and I could show benefit, whereas not much benefit in their view had occurred in language and lifestyle or social and political organization. This worked out fine for me because in the meantime I had been asked by the Ethics Committee to refine my proposal. Over the course of this study I spent the better part of the summers of 2005 and 2006 in the community conducting interviews, observing, learning, and growing; not only as a researcher but also as a Selkirk First Nation Citizen. I returned by car to Pelly Crossing for the third time for the 2005 annual May Gathering. I submitted my proposal to Chief and Council, which had changed leadership since December 2004. They looked over my proposal and suggested that perhaps I could expand it to include other aspects such as language and lifestyle and political and social organization. I explained that the previous Chief and Council had already asked me to refine it to land and environment and it was feasibly unreasonable to go back and change it especially with the Ethics and Thesis Committee.

³⁰ On this visit to Pelly Crossing in December 2004 the house I was staying in burned to the ground. I lost a few important papers but surprisingly my clothes and belongings that were in a back bedroom did not suffer any damage. Additionally, while the walls in the kitchen and living room burnt to a crisp, my Grandmother’s picture that was hanging between the two burned areas had only the faintest film of smoke damage. People say that she was there watching over us and that is why my clothes were safe and not damaged while everything else burned (except for the odd item in the other back bedroom where everything suffered smoke and water damage).

Methodology

Interviews

Of the fourteen interviews conducted, there was a fair representation of each of the two Clans (*Ts'ek'I* and *Egay*). There were 9 *Ts'ek'I* and 7 *Egay*.³¹ I interviewed both Selkirk First Nation Peoples and non-Selkirk First Nation Peoples during the course of this study (Appendix A). The interviews were semi-structured to unstructured and were conducted in the participant's home, office, or outdoors. The questions for Selkirk Citizens were developed after I heard repeated reference to ownership, land management, and hunting and fishing on the three SMAs at the May Gathering in 2004.³² They were also designed to elicit information on the understanding of the Agreement. The ultimate endeavor was to seek answers to my thesis question, "are Selkirk Peoples benefiting culturally and traditionally as a result of the Agreement"?

At the onset of this study I chose to interview Family Heads³³ and/or Elders because these are the people who still possess the cultural and traditional knowledge that was handed down from *Hudé Hudan*. In many instances, the Elder is also the Family Head or vice-versa. I approached a potential twenty-seven Elders and/or Family Heads from the two lists I possessed. There were five from the Elders list who I could not connect with though they were highly recommended by

³¹ All but one Selkirk First Nation Citizen resides in Pelly Crossing on a permanent basis.

³² Although I had a prepared list of questions for my guideline I found that in order for my Selkirk First Nation participants to understand my intent, I first had to explain my position was that of a researcher and not as a Northern Tutchone. Consequently, it was sometimes problematic being the insider. This was because as a Northern Tutchone, I should not be asking what I already know. However, once I explained that this was a study for a paper for University and although it would be submitted to Selkirk First Nation in the end, it was not a project for Selkirk First Nation (such as the Dooli Project or other internal Selkirk First Nation studies).

³³ Overall, there are seventeen families who are the original beneficiaries to the Agreement. Each family under the Agreement must have a designated Family head. As a beneficiary, I was already in possession of the beneficiary list that includes the list of Family Heads. The Elders list is different from the beneficiary list because it lists only those on the Elders Council.

members of the community.³⁴ Eight potential participants indicated that they were unfamiliar with *Ddhaw Ghro*, *Lutsäw*, and *Tatl'á Män* and could not give an adequate account towards land management. A further eight gave reasons that their traditional perspectives had been altered and/or affected by the effects of Residential schooling and felt they could not offer useful information or adequately recall the way things were done.³⁵

Consent to take part in this study was given either by signing the consent form I prepared or by verbal consent on the recordings. The latter form of consent was the preference of the majority interviewed. Many participants absolutely refused to sign any kind of paper but their consent is noted on the recorded interviews. Since payment for intellectual property has become the norm with research participants, I explained to my participants that I could not pay an honorarium because of my limited budget. They were quite understanding of this and participated without monetary payment. However, I did go to a most pristine area called 'High Country' and picked sage that I braided and I gave as an offering. The Elders were appreciative of this because not many people go to this particular area aside from one family that has wild horses running free near the area and others who have a *dan nenetro yedaak* off the nearby road.

The interviews for non-Selkirk Peoples were semi-structured and the list of questions more specific regarding their participation in Selkirk First Nation land management as 'Government

³⁴ For reasons unknown to me, I had the same difficulty in reaching these potential participants when I was hired by Selkirk First Nation to work on Doolí regarding *Noho'é* (Potlatch).

³⁵ At the time of this study compensation claims were in the process of being filed by individuals throughout the Yukon who had attended the Carcross Residential School in Carcross and the Yukon Residential Hall in Whitehorse. As a Selkirk person who did not attend Residential School but knowing and having been affected by these circumstances, my feeling was that Citizens were afraid to acknowledge our perspectives for fear of adverse effects on their compensation claims if their reference or name was made public in this study. This is because the claimants are to be compensated for a loss of traditional lifestyle so it has greatly affected the extent of information they are willing to share publicly.

People' [See Appendix A (2)]. I interviewed Dr. Mark O'Donoghue,³⁶ YTG Regional Biologist in Mayo, Yukon and Dr. Ruth Gotthardt,³⁷ Yukon Archeologist in Whitehorse. Both participants were specifically chosen because of the close community ties they have developed with Selkirk First Nation. This was to better understand from a non-Selkirk First Nation and Governmental perspective the process in which a working relationship is formed, conducted, and maintained.

Focus Group Discussions

The usual form of focus group discussions³⁸ were not accomplished as hoped for in this study. Initially, I planned to hold eight focus group discussions consisting of 4 groups of *Ts'ek'I* (*Crow*) and 4 groups of *Egay* (*Wolf*) consisting of eight to ten family members. I put up a poster at the Selkirk First Nation Administration Office inviting community members to attend these focus group discussions. However, several Citizens informed me that though there was an interest I would likely not receive a response because it was a busy time of year. I removed the poster deciding that since I would be there for a better part of the summer I would wait until a less busy time. In the middle of June the Selkirk First Nation General Assembly occurred and two weeks later Selkirk First Nation hosted the Yukon First Nation General Assembly (CYFN), thus all community efforts were focused on assuring the smooth transition of these events. Nevertheless,

³⁶ Name used with permission. O'Donoghue has spent the last ten years working closely with Selkirk First Nation, Na'cho N'y'ak Dun, and other Yukon First Nations.

³⁷ Name used with permission. I returned to the Yukon for the in November 2006. At this time one interview was conducted with Dr. Ruth Gotthardt. In this same trip I visited Pelly Crossing but was prevented from interviewing due to the weather (- 48) that made it impossible to get around. Almost all the vehicles in the community would not start. Those who could start their vehicles did not shut them off for days or until their vehicle quit running for mechanical reasons. I was more or less stranded in the house I stayed. There was no telephone, no running water because the water pipes froze, and no vehicle. My only connection to the outside world was a faint Internet signal that I managed to pick up sporadically. On my 5th day in Pelly Crossing I found a ride to Whitehorse. The weather was still - 38.

³⁸ A focus group is a form of qualitative research in which a group of people is asked about their attitude towards a product, service, concept, advertisement, idea, or packaging. Questions are asked in an interactive group setting where participants are free to talk with other group members (Wikipedia).

my dilemma was somewhat solved when I visited various fish camps by chance.³⁹ I concluded that if the people cannot come to me why can't I go to them? In a procedure I called 'fish camp hopping' (as opposed to bar hopping), I went from *dan nenetro yedaak* (fish camp) to *dan nenetro yedaak* in the hope of interviewing family groups. For the purpose of this thesis, 'fish camp hopping' replaced the usual approach to focus group discussion since each fish camp generally consists of several generations or several family members during the fishing season.

I visited a total of seven fish camps. Three were vacant and not prepared for the season; one had just shot a moose and was too busy to stop and talk though they did give us a piece of fresh moose meat; at one camp there was only one female Elder to which my hosts and I helped her to attend to her fishnet which turned out to be empty; and at another fish camp I did not have my recording equipment and was not prepared to interview.⁴⁰ Another excellent but missed opportunity to interview was when I attended a family gathering to carve a caribou. The Family Head indicated that he would tell stories while we were cutting the meat but he did not want it recorded. I interviewed one fish camp that consisted of several family members consisting of four generations and one gathering at Ft. Selkirk.⁴¹

There were two other focus group discussions conducted with one community member and two representatives of Selkirk First Nation Self-government and Lands and Resources. One

³⁹ My hosts and I would go driving most every night 'just looking' and sometimes we would drive the bumpy, dusty roads to see who was in their camps and who was catching fish so that we would know what to expect and how many days it might take for the salmon to reach the fish camps downriver. Consequently, it was difficult to know when or when not to carry my recording equipment and laptop. Besides being heavy and cumbersome, the equipment took up space and most times I thought we were just going for a drive through the community.

⁴⁰ People would laugh at me in a joking way and say, "I bet that stuff you have on your computer is worth a lot of money?"

⁴¹ At one point I had reiterated in frustration to my host about how little I felt I had accomplished but he pointed out the above that we had done. He said, "Why do we always share our first catch whether it is salmon or moose? Why do we always help our Elders? Since you have been here what did you see and what did you learn that you did not remember – your answer will be nothing - right?"

interview was taped and the other was not.⁴² Through these specific discussions I was able to see the autonomy that Selkirk First Nation as a government exercises. Accordingly,

[we] always have to keep in mind that we are going to be stuck with what happens to whatever we get...obviously when we go to make rules, policy, legislation. The bottom line is Selkirk People is going to be living with it...its unique because now they consider us as people...we'll do it the bands way...we are looking at things that will stretch for generations after generations and the benefits gotta go with that too (Interview # 9, August 21, 2005).

Community Observation

When I first arrived in the community the annual May Gathering⁴³ was occurring and any conversation that I took part in or overheard revolved around hunting and fishing. Historically, the May Gathering occurred between Northern Tutchone Peoples and Alaskan Natives, other Yukon First Nations and First Nations from the Northwest Territory (Fort McPherson) as a time for trade, marriage, and feasting. The gathering of Northern Tutchone Peoples had not been an annual event for several years prior to the Agreement. Since becoming an annual event in 2002, it has become an opportunity for Selkirk First Nation to connect with the other two groups of Northern Tutchone Peoples (*Na'cho N'y'ak Dun* and Little Salmon Carmacks First Nation) to discuss land management based on our *Dooli* and traditional laws. Today (2007), the purpose of the gathering is to monitor the land and habitat from a Northern Tutchone perspective. In short, the May Gathering is referred to as the *Selkirk First Nation Wildlife Act* and any information that is decided on by consensus is in turn used to create policy and laws towards hunting and fishing. The Gathering itself portrays the endeavor that Selkirk First Nation has initiated to maintain or regain their cultural values and traditional pursuit.

⁴² One of the interviewee's had jokingly picked up the digital recorder and accidentally turned it off unbeknownst to me.

⁴³ In relation to this thesis, I can only describe the process of the gathering and information that is made public as a result of the May Gathering. As with representatives from YTG and other researchers, I cannot due to rules of confidentiality explain the content or discussion that occurred during the May Gathering.

Through the course of this study there was great significance by Selkirk Peoples towards *dan nenetro yedaak* or ‘fish camps’ as the foundation for our existence and includes ways of managing the land based on stories handed down from *Hudé Hudan*. This came about when I asked the question: *is there a difference in how these areas of land are managed, developed, or protected since the land claims were settled? What differences do you see if any?* Generally the first response was ‘fish camps’ because they connect or re-connect families who might not generally aggregate as families; they connect or re-connect us to the land, plants, and animals; it connects or re-connects us to *Hudé Hudan*; and it is a place where we are taught our *Dooli* laws, our traditional laws, and our customary laws. Selkirk First Nation fish camps are situated on Category A Settlement Land and at the present time are not mandated by the SFNRRC. They are managed and occupied solely by Selkirk First Nation Peoples with the assistance of the Selkirk First Nation Government who from time to time provides materials and monies for upkeep. YTG intervention is limited but is evident through the Harvest Calendars and other methods of monitoring the fish and wildlife stock.

Government Documents

Published, unpublished and soon to be published Yukon Territorial Government and Selkirk First Nation Government documents have been a vital source of data collection in this thesis. The main documents examined were the three Management Plans compiled by YTG and Selkirk First Nation on *Ddhaw Ghro*, *Lutsäw*, and *Tatl’á Män*. I was given various drafts of these planning stages over a couple years. As of this writing, all three drafts have been approved by both Governments (Selkirk First Nation and YTG) and set for publication. In addition to granting me interviews, Gotthardt and O’Donoghue supplied me with published and unpublished reports on their respective studies. Other published reports and documents by YTG were examined as well. In some instances, public Government documents were obtained via the Internet.

The Selkirk First Nation Department of Lands and Resources and the Self-government Department provided me with access to view files and photocopy relevant information pertaining to these study areas. Selkirk First Nation publishes yearly calendars called “Harvest Calendars.” The calendars are exclusively for Selkirk First Nation. The calendars are hand drawn, humorous illustrations of the people, animals, and scenery that are used to describe to the four seasons as they pertain to our cultural values and traditional pursuits. The calendars are printed in both English and *Thi'Ts'ach'an Huch'an*. In addition to these calendars, Selkirk First Nation produced two booklets called *Dooli Traditional Laws* and *Hucha Hudan: Self-government Consultation Booklet* (Alfred and Urquhart: 2003). The *Dooli Traditional Laws* helps to explain in simple terms “the Northern Tutchone traditional management system” which consists thus far of the *Dooli Traditional Laws* booklet; a picture book for Citizens and youth; Selkirk First Nation Game Guardians; identity cards to use when hunting or fishing on other First Nations traditional territory; produce harvest permits of First Nation who do not have a sharing accord; recording all harvesting of resources on Selkirk First Nation traditional territory; and have annual gatherings about how to manage Selkirk First Nation lands (*Dooli Traditional Laws*, u/k: 6; Smith, 2003: 59). The *Hucha Hudan: Self-government Consultation Booklet* is set up the same as the previous booklet but specifically describes historically how the Agreement came to be and it also explains certain processes for implementation of the Agreement.

The Case Studies

The three Special Management Plans that will be described in chapters 3-5 for *Ddhaw Ghro*, *Eutsäw*, and *Tatl'á Män* provide the basic tenets to any land management that occurs on Selkirk First Nation Settlement Land. The management plans were a mandatory requirement of the Agreement. Without the management plans, certain aspects of the Agreement would not have been negotiated by the dominant Governments. According to David Thompson,

[co-management] refers broadly to a sharing of responsibility and authority between government and local resource users, and to various levels of coordination between local and state management systems (Thompson, 1998 quoting, Berkes, et al., 1991; Brechin, et al., 1991; Feit, 1988; Notzke, 1995a; Pinkerton, 1996).

The Royal Commission of Aboriginal People (RCAP) states, “[co-management] is thus essentially a form of power sharing, although the relative balance among parties, and the specifics of the implementing structures, can vary a great deal” (RCAP, 1996: 7.2). Accordingly,

[as] joint or shared stewardship, joint management, or partnerships, co-management has come to mean institutional arrangements whereby governments and Aboriginal entities (and sometimes other parties) enter into formal agreements specifying their respective rights, powers and obligations with reference to the management and allocation of resources in a particular area of Crown lands and waters (RCAP, V. 2 1996).

RCAP further examined the three reasons for co-management. They are as follows:

- *claims-based co-management*, consisting of the land and environment regimes established under comprehensive claims agreements;
- *crisis-based co-management*, which is an ad hoc, and possibly temporary, policy response to crisis.⁴⁴
- *community-based resource management*, which has the least Aboriginal involvement. It consists of government initiatives (such as Ontario’s community forest program) to involve the inhabitants of resource-based communities in resource management planning (Indian and Northern Affairs, Volume 2 Restructuring the Relationship Part Two, Chapter 4 - Lands and Resources).

Stella Spak noted the differences between a crisis and land claims based need for co-management in her 2001 study with Beverly and Qamanirjuaq Caribou Management Board (BQCMB) and *Gwich'in* Renewable Resource Board (GRRB). Accordingly, a crisis based typed of co-management such as the BQCMB, “... is established as a result of conflicting views and

⁴⁴ “These two include the oldest and most widely known co-management arrangements, such as the Beverly-Qaminirjuaq caribou management board, established in 1982, as well as more recent arrangements in political hotspots like Temagami (Ontario) and Clayoquot Sound” (Indian and Northern Affairs, Volume 2 Restructuring the Relationship Part Two, Chapter 4 - Lands and Resources).

understandings between provincial and territorial renewable resource agencies and First Nations regarding a specific resource” (Spak, 2001: 17).

These types of management boards are increasingly becoming somewhat of a requisite part of land claims negotiation.⁴⁵ In the Yukon, co-management was a “political compromise” during negotiations for Selkirk First Nation and became imbedded in *Chapter 10* and *Chapter 16* of the Final Agreement (White, 2003: 6). Co-management boards or Renewable Resource Councils (RRC) are “neither federal nor territorial, nor are they a form of Aboriginal self-government ...they are explicitly established as ‘institutions of public government’” (White, 2003: 62). Paul Nadasdy, who has worked with the Southern Tutchone in Haines Junction, Yukon indicates “Aboriginal- state relations in Canada are now premised on the notion that Canada, the provinces/territories, and First Nations should interact with one another on a government-to-government basis”(2003: 2).

In all instances, the term co-management implies that one party (the Aboriginal) is not capable of managing their own affairs without the assistance of a higher level (Government) of management. It is suggested that “on the surface land claims and co-management seem to be giving Aboriginal Peoples control over their lives and land” but Nadasdy argues that

[these] processes may instead be acting as subtle extensions of empire replacing local Aboriginal ways of talking, thinking, and acting with those specifically sanctioned by the state...and...the processes of land claims and co-management themselves, in both conception and practice, are incompatible with certain First Nations beliefs and practices (2003: 9).

Such recent approaches toward co-management strategies are often referred to as “institutional adaptation,” “institutional learning, or adaptive management” (Berkes, 1999: 60; Natcher, 2003).

Accordingly, scholars “have referred to this adaptive behavior as a society's cultural capital, which refers to factors that provide human societies with the means to adapt to the natural environment as well as to actively modify it” (Natcher, 1999: 42). According to Fikret Berkes,

Adaptive management is an integrated method for natural resource management. It is *adaptive* because it acknowledges that environmental conditions will always change, thus requiring management institutions to respond to feedbacks by adjusting and evolving (1999: 60).

The key word is here is ‘modify.’ Aboriginal societies cannot return to the true traditional methods of their ancestors because times change, people change, and ideas change.

The case studies that will be examined were intended to gain an understanding of the three SMAs, to gain a historical account of the areas, to gain an understanding of Selkirk First Nation perspectives and their approach to land management, to gain an understanding of how the three SMAs fit into the Agreement, and to examine co-management strategies.

Literature Review

A review of the literature examined two concepts that are relevant to this thesis: Indigenous knowledge and Aboriginal rights and title in relation to Comprehensive Land Claim Agreements. While this thesis is more concerned with how Selkirk Peoples apply their perspectives towards land management on *Ddhaw Ghro*, *Łutsäw*, and *Tatl’á Män*, an examination of land management of other First Nations with Agreements is undertaken. The literature review is intended to give more of an overview rather than an analysis of these topics.

⁴⁵ Co-management through councils or boards applies to generally all land claims in British Columbia, the Yukon, and Northwest Territories including Vuntut Gwitchin First Nation, Old Crow, Yukon (Porcupine Caribou Management Board), Champagne – Aisihik First Nation (Alsek Renewable Resource Council), Teslin Tlingit First Nation (Teslin Renewable Resource Council), (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), and Inuvik and McKenzie Valley, Northwest Territory (Gwich'in Renewable Resource Board (GRRB)).

Review of the Literature on Selkirk First Nation Peoples

There have been a select few non-Selkirk Peoples⁴⁶ who in various ways have gained an in depth knowledge, understanding, and more importantly, the trust of Selkirk First Nation through their research. It may not seem like such a big accomplishment to be accepted by the community but trust is vital if any type of research is to be conducted. As a result, the literature on Selkirk First Nation and/or Selkirk peoples is limited. An initial search through the library shows only three references to Selkirk First Nation. Two of the references are the Selkirk First Nation Final Agreement and the other pertains to language. There have been numerous studies conducted on Selkirk First Nation by Ruth Gotthard, Greg Hare, and Dominique Legros between 1987 and 2006. However, they are not made public or they are only accessible through the Yukon Archives, Yukon Territorial Government, or Selkirk First Nation Government. Ruth Gotthardt has done extensive archeological research on areas of land occupied by Selkirk First Nation including Ft. Selkirk, *Ddhaw Ghro*, *Tatl'á Män*, and *Towata*. Gotthardt conducted an extensive study during the 1980s on Selkirk First Nation and the result of that study was a document entitled *Selkirk Indian Band: Culture and Land Study* (1987). The purpose of the study which was an initiative between Selkirk First Nation (Selkirk Indian Band at the time of the study) and YTG prior to the Agreement was to “document aspects of Selkirk’s people’s traditional culture, history and prehistory, and to describe the change in their way of life that have occurred as a result of contact with Euro-Canadian culture” (Gotthardt, 1987: 1). This study proved to be vital for Selkirk First Nation as it mapped traditional pursuits (land use occupancy) and traditional customs.

⁴⁶ For example, Doug Urquhart (Traditional Law Researcher), Ruth Gotthardt (Archeologist), Dominique Legros (Anthropologist) and Mark O’Donoghue (Biologist).

Basically the only studies that have been conducted on Selkirk First Nation since 1997 have been internal studies that relate to revitalizing customary, *Dooli*, and traditional laws. There is a book based on a Ph.D. dissertation published by Dominique Legros entitled *Tommy McGinty's Story of Crow* (1999). The importance of this study is that Dr. Legros interviewed Elders during the 1970s who would have been eighty years or older at the time. According to Legros, "being and having been the sole anthropologist working with the Northern Tutchone people, this data bank offers the only documents available on the culture of the three Northern Tutchone first nations which inhabit, since at least 5000 years ago, what has only recently become Canada" (Legros, Homepage).

Cultural Values

This first part of the literature review pertains to the 'Indian way of life' or 'ways of knowing' or 'Indigenous knowledge or traditional knowledge.' The term, Selkirk First Nation perspectives, will be used interchangeably to mean 'cultural values' and 'traditional pursuits' and when practiced together is referred to as 'Indigenous knowledge' or 'traditional knowledge' The reasons for using these two terms as opposed to 'Indigenous knowledge', 'traditional knowledge', or traditional ecological knowledge is that they are culturally specific terms used by Selkirk First Nation and the terms Indigenous knowledge or traditional knowledge are too ambiguous and controversial to define in this thesis.⁴⁷ However, in academia, Indigenous knowledge is the term that is increasingly used to avoid confusion because the term "is less contentious, more inclusive, and thus more empowering than 'traditional knowledge.' Further, it does not invite misappropriation in the way that 'traditional knowledge' does" (Stevenson,

1996). To define traditional knowledge broadly, “traditional knowledge is a body of knowledge that is intergenerational and acquired in close interaction and contact with nature” (Madjaric, 1999: 34).

The participants from the Alsek Renewable Resource Council (Yukon) in Kelly Hayes’ 2001 study make a clear distinction between local knowledge and traditional knowledge. Local knowledge is term more commonly known to anthropologists than others. Accordingly,

[the] first point of confusion is determining what local knowledge is. Most participants made the distinction between traditional knowledge, which is culturally based and local knowledge or knowledge based on years of observations... Traditional knowledge is more sacred (Hayes, 2001: 102).

In the same instance, the differences between traditional knowledge and traditional ecological knowledge are delineated as follows,

TEK (traditional ecological knowledge) describes those aspects of the Aboriginal peoples knowledge system that is related closely to conservation and management of the environment, while TK (traditional knowledge) in general represents all kinds of knowledge which is deeply imbedded in oral tradition and does not necessarily need to be related to environmental knowledge (Madjaric, 1999: 35).

Traditional ecological knowledge is defined by Marc Stevenson as “1) specific environmental knowledge, 2) knowledge of ecosystem relationships, and 3) a code of ethics governing appropriate human-environmental relationships” (1996; Berkes, 1999: 13). According to Fikret Berkes, in *Sacred Ecology: Traditional Ecological Knowledge and Resource Management*, (1999), “there is no universally accepted definition of traditional ecological knowledge” (5).

More closely related to this study are the meanings of those knowledge systems within a cultural context. Delving into what are called taboos, and what Selkirk First Nation would refer

⁴⁷ My view is that because each Aboriginal grouping is so diverse, the groups themselves can only define traditional knowledge as it relates to them. Consequently, rather than debate or generalize what ‘Indigenous knowledge’ or ‘traditional ecological knowledge’ means and since they are defined elsewhere (Simpson, Berkes, Battiste and Henderson), the terms will not be used to explain Selkirk First Nation perspectives unless they are word specific in the data collection or in the existing literature.

to as *Dooli*, is an area of study that is virtually unexamined. In *The Relations Among Threatened Species, Their Protection, and Taboos* (1997), Johan Colding and Carl Folke define taboos as “unwritten social rules that regulate human behavior. Such constraints not only may govern human social life, but also may affect, and sometimes even directly manage, many constituents of the local natural environment” (1997). From an admitted armchair approach, Colding and Folke in *Social Taboos: Invisible Systems of Local Resource Management and Biological Conservation* (2001), examine “taboos as a subset of informal institutions” in what they call “resource and habitat taboos (RHTs)” (584). The taboos they examined are “based on cultural norms that do not depend on government for either promulgation or enforcement.” They sought to “identify six different categories in which RHTs can be grouped” (Colding and Folke, 2001: 584). They are:

1. Segment taboos which “applies when a cultural group bans the utilization of particular species for specific time periods for human individuals of a particular age, sex, or social status” and “may serve as strategic responses to avoid game depletion in some traditional societies.”
2. Temporal taboos “applies when a cultural group bans access to resources during certain time periods” and “function to reduce harvesting pressure on particular subsistence resources.”
3. Method taboos “applies when a cultural group bans the use of certain methods and techniques for withdrawal of species” and “may serve the institutional function of providing equal access to a resource.”
4. Life history taboos “applies when a cultural group bans the use of certain vulnerable stages of a species' life history based on its age, size, sex, or reproductive status” and “serves resource management ends.”
5. Specific-species taboos “applies when a cultural group totally bans the killing and detrimental use of specific species in both time and space” and “this taboo is not only important at the species level, but at the landscape level.”
6. Habitat taboos “applies when a cultural group regulates both access to and use of resources from particular habitats in space and time” and “the result is a management system which allows for, yet distinguishes between, human use areas and animal refuge areas” (Colding and Folke, 2001: 586 – 592).

All of these taboos could be applied to Selkirk First Nation way of knowing because many of the cultural, *Dooli*, and traditional laws that are adhered to relate to the six RHTs mentioned above.

Colding and Folke concludes “informal institutions may offer advantages in partnership designs of biodiversity conservation and ecosystem management, involving cooperation between conservationists and local human communities” (2001: 584).

Traditional Pursuits

This thesis will attempt to show that the Settlement Land negotiated by Selkirk First Nation can be for certain as long as they continue the trajectory towards traditional land management that they practiced long before the signing of the Agreement in 1997. Ultimately, it is clear that the only Government with sovereignty in Canada is the Government of Canada and as a result First Nations in Canada can only ever hope to achieve the realm of self-government. Under *Chapter 10* of the Agreement came the protection of certain areas of land that would be designated as Special Management Areas (SMA) or Habitat Protection Areas (HPA). According to the International Union for the Conservation of Nature and Natural Resources (IUCN), a protected area is “[an] area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means” (Dudley, N. and Phillips, 2006: 3). On Selkirk First Nation Settlement Land the Special Management Areas are *Ddhaw Ghro*, *Lutsäw*, and *Tatl’á Män*. As opposed to being designated heritage sites, National Parks, or ecological reserves, the three current Special Management Areas on Selkirk First Nation Settlement Land have either become Habitat Protection Areas (*Ddhaw Ghro* and *Lutsäw*) or Special Management Areas (*Tatl’á Män*) since the management plans were completed (the management plans will be examined in Chapters 3, 4, and 5). According to section 187 of the *Wildlife Act*, R.S.Y. 2002, c. 229,

The Commissioner in Executive Council may, by regulation, designate an area to be a Habitat Protection Area if the Commissioner in Executive Council is of the opinion that it is necessary to do so because of the sensitivity of the area to

disturbance, the likelihood of disturbance and the importance of the area as habitat for any population, species or type of wildlife.

The Commissioner in Executive Council may make regulations for the management of Habitat Protection Areas.

Habitat Protection Areas on lands administered by the Government of the Yukon may be withdrawn pursuant to subsection 7(1) of the *Lands Act* (:u/k).

In the Yukon, protected areas fall under the auspices of the Yukon Protected Areas Strategy (YPAS) and are mandated by *Chapter 12: Development Assessment* of the Agreement and through the Parks and Land Certainty Act, 2001(see below). Accordingly, along with the signing of the Agreement, “a process for developing a Yukon Protected Areas Strategy (YPAS) was initiated by the YTG in order to identify, select, and designate a network of protected areas in the territory” (Thompson, 1998:9). All of these areas fall under the auspices of the *Parks and Certainty Lands Act* (2001). Accordingly, this particular Act, which is one of many overseeing protected areas in the Yukon, states:

[recognizing] that the Yukon Government is committed to establishing and managing parks in accordance with settlement agreements and the goals, principles and processes set out in the Yukon Protected Areas Strategy (Parks and Certainty Lands Act, 2001: 3).

Further provisions of the *Parks and Certainty Lands Act* (2001) are “to establish protected areas based on available traditional knowledge, local knowledge and scientific information” and “to establish protected areas through processes that respect aesthetic, cultural, economic, ecological, intrinsic and social values and ensure representative participation of the range of interests that might be affected” (Parks and Certainty Lands Act, 2001: 2). The Yukon Environmental and Socio-economic Assessment Act, 2003 (YESSA), “sets out a process to assess the environmental and socio-economic effects of projects and other activities in the Yukon or that might affect the Yukon” (YESSA, 2003).

As a result of these newly established protection areas, there have been few studies conducted. This is also due to the fact that First Nations in the Yukon now have the authority to choose who will do research in their communities. Jason David Thompson (University of Guelph) is one of very few (perhaps the sole researcher since the late 1990s) to extensively examine SMAs and HPAs in the Yukon. Thompson sought

[to] describe the major philosophies and provisions of northern protected area management, land claims, and resource co management, before and after signing of the Umbrella Final Agreement in 1993; to determine the provisions of the Umbrella Final Agreement which relate specifically to protected area management; to develop a normative model for assessing protected area co-management strategies; to apply this model to determine the impact and effectiveness of local community and First Nations involvement on protected area management in the Yukon (1998: 11).

In using what he refers to as a ‘normative analysis,’ Thompson set out to “evaluate changes to Yukon protected area management strategies pursuant to the settlement of aboriginal claims and increased local community involvement” (1998: abstract). He created a model to assess co-management regimes using ‘nine’ principles ranging from “environment,” “government,” “information,” and “community development” with attributes such as “Is critical wildlife life habitat being protected through creation of new protected areas?” or “Is traditional knowledge recognised [sic] by all stakeholders? Is there integration of traditional scientific knowledge in new structures and working arrangements? (Thompson, 1998: 45).

In his extensive review of the literature regarding protection areas, Thompson notes that “in the establishment of protected areas, considerable negative effects upon aboriginal peoples and cultures have resulted from the imposing of traditional conservationist beliefs, or a ‘culturally-bound vision of natural resource management’, without taking into account the different priorities and perceptions of those affected” (1998: 16). He further indicates these First Nation co-management strategies “represents a significant departure from the traditional and ‘top-down’

‘Whitehorse as capital/rest of territory as hinterland ‘arrangement (Thompson, 1998: 65). Overall he found that protection areas and co-management in the late 1990s were relatively new and too soon to know the outcome but as far as his study could tell, “protected area co-management in the Yukon may be viewed as a tentative success” (Thompson, 1998: 137).

Tradition pursuits can be defined as “activities [that] are in most cases culturally defined and relate to the traditional utilization of renewable (animal) resources for local consumption supported by sharing and trading of the yield within the ethnic communities” (Müller-Wille, 1987: 354). However, without having certainty of Aboriginal title, any traditional activity or means of subsistence (Aboriginal right) would be monitored or controlled by the dominant Governments. In most cases or until most recently, the First Nation way of knowing was not part of any policy planning. While this thesis is not about the debate between scientific and traditional approaches to land management, a short discussion on the scientific approach to land management is warranted. This is because some scientists apparently view spirituality and traditional methods to be a threat in the process of policy planning. Though not accepted by scholars, Vesna Madjaric in *Vuntut Gwitchin Traditional Knowledge and Sustainable Use Practices Associated With Their Subsistence Harvest of the Porcupine Caribou Herd*, (2000) indicated that,

[some] industrially minded scientists like Howard and Widowson (1996) argue that the ancient ways of the First peoples have virtually no relevance and that TK, because of its spiritual component, is a threat to environmental assessment whenever it is applied. According to the authors, incorporation of spiritually based knowledge into public policy, results in the adoption of incorrect assumptions, since spiritual beliefs cannot be challenged or verified. They also argued that the acceptance of spiritual beliefs by governments is dangerous since spiritual beliefs can be used to justify any activity, including the over-exploitation of resources (1999: 39).

Howard and Widowson’s concept in all essences would be contrary to Carl Folke who indicates “[many] local and traditional knowledge systems are characterized by the use of local ecological

knowledge to interpret and respond to environmental feedback to guide the direction of resource management” (Folke, 2003: 187). Sean Black, Richard Kuhn, and Frank Duerden in *An Evaluation of the Effectiveness of First Nations Participation in the Development of Land-Use Plans in the Yukon (1996)* indicate,

[the] realization that Indigenous knowledge has a wide range of applications to land and resource management and the recognition of an apparent philosophical alignment between Indigenous views of the world and the contemporary environmental movement further legitimized First Nations as major stake-holders in northern planning processes (Duerden et al., 1996: 106, quoting Hobson, 1992: 2 and Knudson and Suzuki, 1993).

According to Fran Trippet, “[it] is important for science-oriented policy makers to keep this ‘reality check’ and not dismiss an indigenous community’s commitment to stewardship if it diverges from the romanticized idea” (1997: 8). Regardless of how Indigenous or traditional knowledge is defined, “Aboriginal knowledge is crucial for *the* livelihood and survival of aboriginal cultures as distinct people” (Madjaric, 1999: 50).

Although Aboriginal rights or “existing rights” are not explicitly defined until they are challenged in the Courts; they evidently exist, nonetheless, in Sections 25 (a) (b)⁴⁸ and 35 (1) (2) of the Constitution Act 1982. The term ‘existing’ merely means, “ever since Confederation the provinces have lacked the authority to extinguish Aboriginal title” (McNeil, 2001: 317). It should be noted that Aboriginal rights are not the same as treaty rights. The Constitution Act, 1982 makes this distinction as well in “35. (1) [the] existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed” (*R. v. Powley*, 2003 SCC 43, [2003] 2 S.C.R. 207:1). Treaty rights apply only to First Nations who have signed and belong to

⁴⁸ Section 25 (a)(b) of the Canada Act 1982 states “The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and (b) any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlements” (Laliberte, et al, 550).

a treaty and are on designated reserves while exercising their Aboriginal right, whereas, Aboriginal rights would include rights for 'Indians,' Inuit, and, Métis. Consequently, it can be confusing but to simplify it, treaty rights are exclusive only to treaty Indians; it does not include status Indians who do not belong to a treaty. Status Indians in most instances belong to an Indian Band or First Nation that did not sign treaty but belonged to a land base (as in British Columbia, Yukon, Northwest Territory, Quebec). Status Indians are registered under the Indian Act (1876) and therefore Aboriginal rights as Indian people applies to them. A majority of First Nations who did not sign treaty has either signed or will sign land claim agreements. Métis are a different example and today still fight for recognition as a distinct people with Aboriginal rights.

Aboriginal rights as outlined in the *Constitution Act, 1982* were not clearly known or understood until they were legally challenged in *R v Sparrow* in 1990. Ronald Sparrow, a status Indian from the Musqueam Indian Band in British Columbia was charged for fishing with a fish net larger than limits set out on the *Fisheries Act*. Sparrow claimed he was exercising his Aboriginal rights under s.35 (1) which states, "[the] word "existing" makes it clear that the rights to which s. 35(1) applies are those that were in existence when the *Constitution Act, 1982* came into effect. This means that extinguished rights are not revived by the *Constitution Act, 1982*" (*Sparrow v. The Queen* [1990] 1 S.C.R. 1075). In other parts of Canada where treaty has been signed, the Aboriginal right to hunt and fish is vaguely defined. In land claims, they are more clearly defined. According to Floyd McCormick,

Federal policy on Aboriginal rights had always viewed three concepts - certainty, finality, and extinguishments - as inextricably linked. - In short, agreements with aboriginal peoples must bring certainty to aboriginal, non-aboriginal relations: each side must know what its rights will be and how these rights will be put into practice- Certainty can only be achieved by concluding agreements which will be final: There could be no allowance or the growth of rights in the future or the lodging of additional claims once agreements are signed (McCormick, 1997: 132).

While the Agreement does not stipulate if these rights are inherent or contingent rights, McCormick does. He is one of the first to specifically relate his study to the Yukon Final Umbrella Agreements. He argues that, “inherent Aboriginal rights are Creator given rights” and is historically connected to the land for future generations (McCormick, 1998: 32). He likens inherent Aboriginal rights to moral rights in that “they assert what the relationship between aboriginal peoples and the Canadian state ought to be regardless of what is written in law” (McCormick, 1998: 33). In regards to Aboriginal rights in the Yukon, the UFA simply states “[nothing] in a Yukon First Nation Final Agreement shall affect any aboriginal claim, right, title or interest of a Yukon First Nation claimed in British Columbia or the Northwest Territories” (UFA, 1993: 11).

In other modern day treaties such as Nisga’a, Aboriginal right is also clearly defined. In the Nisga’a’s Agreement, which includes the Nass Wildlife Area (Crown land), “[the] province has ultimate responsibility for wildlife management, and the treaty stipulates that Nisga’a hunting is subject to conservation and public safety, although Nisga’a allocations cannot be altered” (Rynard, 2000: 227). This means that while Nisga’a is allowed to hunt or fish a percentage of the total allocation set out by the B.C. government, they must still abide by hunting and fishing regulations set out by the provincial or federal government guidelines. *Chapter Nine: Wildlife and Migratory Birds* of the Nisga’a Final Agreement (NFA), which mandates the hunting and fishing laws of the Nisga’a Nation states, “[notwithstanding] that Nisga’a wildlife entitlements are treaty rights, a Nisga’a wildlife allocation that is set out as a percentage of the total allowable harvest has the same priority as the recreational and commercial harvest of the total allowable harvest of that species” (NFA, 1990: 133).

The James Bay Northern Quebec Agreement (JBNQA) fought long and hard to retain their Aboriginal rights. The Cree, who can claim occupancy to the land for at least 5000 years “argued that the fact that game existed in the region today demonstrated the effectiveness of their management, and they claimed a right to manage the wildlife of the region” (Feit, 1995: 208). Though neither the habitat population nor the land and resources were in danger of overexploitation, the Government did not see it that way and was adamant to keep control over the administration of the lands that would be allocated in the JBNQA. After both sides backing down several times during negotiations, “[the] government agreed to recognize the right of all Cree to hunt, fish, and trap all kinds of animals at all times, over all the lands traditionally harvested by them, on the understanding that their harvesting rights would be subject to conservation of wildlife” (Feit, 1995: 206).

Summary

The purpose of this study was to examine whether or not Selkirk First Nation Peoples are benefiting culturally and traditionally since the signing of the Agreement in 1997. This was accomplished using semi-structured to unstructured interviews and focus group discussions with Selkirk First Nation and non-Selkirk First Nation participants, through community observation at community meetings and the May Gathering, an examination of Government documents (Selkirk First Nation, YTG, and Canada), through case studies of three Special Management Areas of *Ddhaw Ghro*, *Lutsäw*, and *Tatl á Män* including an examination of the management plans that were developed for each of these areas; and a literature review that provided an overview on Indigenous knowledge and Aboriginal rights and title in regards to land claims and co-management. As a Selkirk First Nation person conducting this study, I became an insider/outsider and researcher/Citizen. This insider approach allowed me to observe and become more connected with the community than would be afforded an outsider. However, this close

community connection could also pose problems if one allows them-self to become too involved in community affairs. Nonetheless, my intimate knowledge of the culture reinforced the interviews that were conducted and the documents that were examined.

Because the term Indigenous knowledge was found to be to 'ambiguous' to define or make specific to Selkirk First Nation, the term cultural values and traditional pursuits replaced the concept of Indigenous knowledge or traditional knowledge which resulted in less confusion when examining these two institutions in the case studies. The onset of colonization and subsequent Government intervention attempted to exclude the perspectives of Selkirk First Nation until it was necessary to negotiate land claims of which the Government insisted Yukon First Nations held no title. In looking at Aboriginal rights and title as they relate to land claim agreements in Canada, a review of the literature found that co-management and Renewable Resource Councils are requisites of many if not all recent land claim settlements. Not all modern day treaties received the same rights or title through negotiation. The Yukon has self-government and Aboriginal title to Category A and Category B Settlement Land but this was in exchange for exemption from the *Indian Act* while Nisga'a and James Bay remained part of the *Indian Act* but do not have Aboriginal title.

Overall, a combination of these approaches enabled this study to show that Selkirk First Nation Peoples today are benefiting culturally and traditionally. This is due in part to the fact that they now have the autonomy to exercise Aboriginal rights and claim Aboriginal title, which they could not before the Agreement because all lands were vested in the Crown. The interviews and focus group discussion showed cultural continuity and were reinforced in government documents and the management plans. The management plans solidified Selkirk First Nation adherence to the Agreement; and the Agreement ensured that traditional forms of governance would mandate

any future endeavors towards land management practices of Selkirk First Nation. The literature review of Indigenous knowledge and Aboriginal rights and title both historically and contemporarily provided the basis for assessment of change in Chapter Six.

CHAPTER 3
CASE STUDY: *DDHAW GHRO*

Introduction

The purpose of this chapter is to show that Selkirk First Nation are benefitting culturally and traditionally within the context of the Agreement. *Ddhaw Ghro*, one of the three Special Management Areas chosen for this study is an area of Settlement Land where autonomy is evident. The Elders⁴⁹ and Selkirk First Nation land claim negotiators in the 1970s were adamant that *Ddhaw Ghro*, and specifically *Chu Tthäw*, become entrenched as Settlement Land into the Selkirk First Nation Final Agreement. In the end, *Ddhaw Ghro* became Crown land with a tri-party sharing accord between YTG, *Na-Cho Ny'a'k Dun* (Mayo District Renewable Resources Councils - MDRRC), and Selkirk First Nation while *Chu Tthäw* (within *Ddhaw Ghro*) became Category A Settlement Land. One of the requirements of the Agreement under *Chapter 10 and Chapter 16* was to establish the Selkirk First Nation Renewable Resource Council that would oversee all aspects of land management on Settlement land. Out of this, the *Ddhaw Ghro* Habitat Protection Area Steering Committee was formed. Their purpose was and continues to oversee the creation and implementation of the *Ddhaw Ghro* Habitat Protection Area Management Plan (DGHPAMP). As of 2006, the DGHPAMP is the governing framework for the creation or implementation of any future policy and/or laws for *Ddhaw Ghro*. Selkirk First Nation was adamant that their perspectives (cultural and traditional) direct any policy or laws that would be created or implemented for *Ddhaw Ghro*.

This chapter will examine how *Thi'Ts'ach'an Huch'an* historically managed *Ddhaw Ghro* through cultural, *Dooli*, and traditional laws and how many of those practices continue today. It

will also examine how the newcomers and the onset of colonizing laws affected the extent to which Selkirk First Nation could subsist or manage their land according to their perspectives. Lastly, the Agreement in relation to *Ddhaw Ghro* is examined because ultimately, it changed everything for Selkirk First Nation by giving them the autonomy to ensure that their perspectives remained uppermost in any decision-making albeit of being within the context of co-management. More importantly, the Agreement ensures that *Ddhaw Ghro* and *Chu Tthäw*, in particular, will be protected for future generations.

I did not visit *Ddhaw Ghro* during the course of this study due to its remoteness, lack of resources (helicopter), nor did I have a purpose (illness or addiction). I also do not recall visiting *Ddhaw Ghro* while growing up but I remember hearing that Suzé was one of the caretakers in his era. People would wonder what he would do up in the mountains for days or weeks at a time. They did not know why until interviews were conducted for the *Dooli* process and I never knew why until I did this study. Evidently, he was managing the land in traditional ways that became the model for which many of the traditional land management practices on Selkirk First Nation Settlement Land are applied today.

The Area

Ddhaw Ghro, meaning “many lookouts,” (*Ddhaw Ghro* Habitat Protection Area Draft Management Plan, 2006: 5) or “many peaks” (Interview # 2: June 13, 2005) is mountainous and rugged terrain containing numerous creeks, rivers, and wetlands. Little Kalzas Lake, Crooked Creek, Nogold Creek, and Kalzas River lie on the boundaries of *Ddhaw Ghro* while Kalzas Twins, Big Kalza Lake, Ethel Lake, Mt. Sether, and Clarke Peak (Clarke Hills) surround the outskirts *Ddhaw Ghro*. One of the features within *Ddhaw Ghro* is Grey Hunter Peak

⁴⁹ Suzé suffered a fatal massive heart attack during a land claims negotiation conference in Whitehorse in 1979. The last words to be spoken by this highly respected and trusted man were “*Ddhaw Ghro*” (Unrecorded interview, 2005).

(63°08'09"N, 135°37'57"W). The mountain has an elevation of “2214 m or 7264 ft” and is best known for its population of Fannin sheep.

Of the three areas of study, *Ddhaw Ghro* has the largest section of land designated to be a Special Management Area. It is located off the Klondike Highway North between Pelly Crossing (km 463) and Stewart Crossing (km 534), Yukon. It has a land base of “1,595 square kilometres or 50 km wide.” *Ddhaw Ghro* is situated on Crown land with the exception of two parcels that are Category A Settlement Land and one small parcel of Category B Settlement Land.

Approximately “90.22 square kilometres” is located on R-27A and another “50 hectares” where the *Chu Tthäw* Hot Springs is located is on S-116A/D. Both of these areas are Category A Settlement Land (SFNFA, 1997: 403-459). The area designated as Category B Settlement Land (S-60B/D) is a small area of “one hectare” on Crystal Lake (SFNFA, 1997: 403-459). The area allocated to Selkirk First Nation also overlaps with land allocated to *Na’cho N’y’ak Dun* in their 1994 Agreement.

A unique and most important landscape on *Ddhaw Ghro* is *Chu Tthäw* (formerly McArthur Hotsprings). *Chu Tthäw* is situated within in the remote southeastern boundaries of *Ddhaw Ghro* on Category A Settlement Land (S-116A/D). According to O’Donoghue,

...it is Category A and is considered developed. It actually has the highest protection that land can get. You are not even supposed to go there without First Nation permission whereas other Category A Settlement Land you can wonder across it for any non-commercial purpose. This is about as high as it gets... (Interview # 1: June 13, 2005).

Chu Tthäw is inaccessible by road due to the remoteness. According to one Elder, “*K’ot’yan* they go in with plane or helicopter...you can walk in but its a long walk about 35 miles...about 15 miles from the river... (Interview # 5, July 7, 2005). *Chu Tthäw* is a sacred and traditional place located high in the mountains and is a highly protected area by Selkirk First Nation and the Agreement. While *Chu Tthäw* is technically situated on *Ddhaw Ghro* it is “not part of the *Ddhaw*

Ghro Habitat Protection Area” because it is situated on Category A Settlement Land thus is not the responsibility of YTG (*Ddhaw Ghro* Habitat Protection Area Draft Management Plan, 2006:

7). The following figure is a map of *Ddhaw Ghro*.

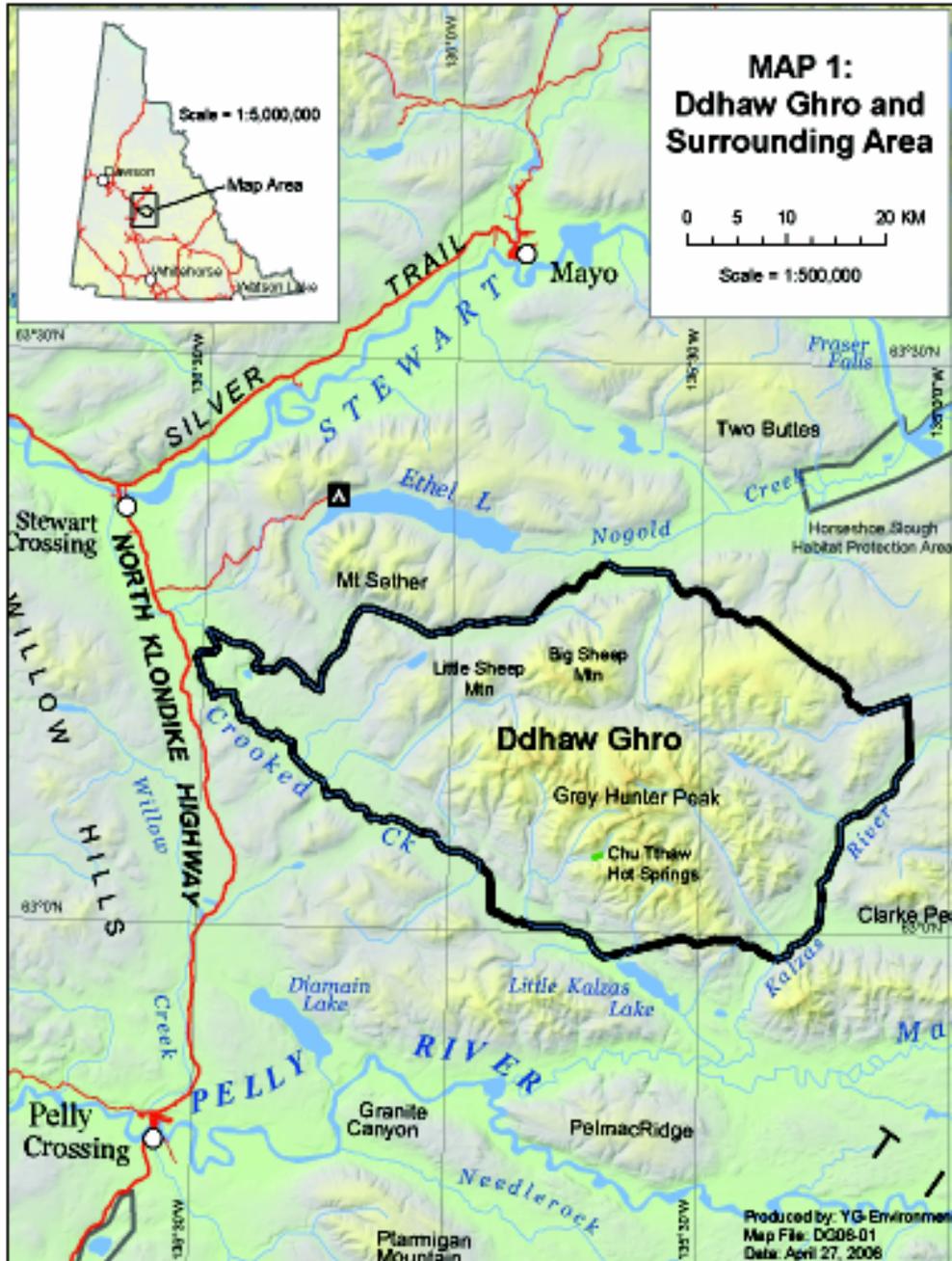


Figure 2: Map of Ddhaw Ghro

Source: *Ddhaw Ghro* Habitat Protection Management Plan, 2006: 4

Historical Overview

According to archeological evidence, Northern Tutchone have been utilizing and occupying the land base at *Ddhaw Ghro* for “3000 [to] 4000” years (DGHPAMP (Draft 1) 2003: 25). According to Gotthardt, “traditional law has guided the use and management of the area for many generations” (DGHPAMP, 2006: 5). A study of heritage sites on *Ddhaw Ghro* led by Gotthardt was conducted in 2000 –2001 and funded by Selkirk First Nation, *Na-Cho Ny'a'k Dun* and Yukon Heritage. *Ddhaw Ghro* is a tri-party sharing accord between Selkirk First Nation, *Na-Cho Ny'a'k Dun* and YTG and is further examined under Sharing the Agreement below. They found “a total of twelve historic cabins/camps...that relate to historic trapping and hunting in the McArthur Range” (Gotthardt: 2002: 3). Aside from SFN hunters, the area has been virtually uninhabited since the 1940s when it was made into a game sanctuary. Up into the 1940s the area was occupied sporadically with cabins built by various Selkirk and non-Selkirk People who lived there on a permanent to semi-permanent basis. The existing cabins that remain at *Ddhaw Ghro* are decrepit and falling apart. At the time of this study there was little information regarding archeological evidence but the work is in progress and there is talk that some of the cabins may be restored.

In response to complaints of the exploitation and near depletion of the local wildlife near Mayo and Pelly Crossing, James Joseph McArthur was hired at the height of the Gold Rush by the Government of Canada to survey *Ddhaw Ghro*. The thousands of gold miners who required provisions of wild game and fish, the “trophy hunters” (Warner, u/k: 1) who wasted the meat, and forest fires all contributed to the near depletion of the wildlife that Selkirk First Nation Peoples and *Na-Cho Ny'a'k Dun* depended upon. In 1931, Dr. Hugh S. Bostock, of the Geological Survey of Canada named *Ddhaw Ghro* “the McArthur Group” after James McArthur

(Warner, u/k: 1). Into the 1930s and 1940s Selkirk First Nation People “used to travel through there and hunt moose up above the Hot Springs and haul moose out with a toboggan and dog teams...and we lived in there in the summer at the *Chu Thäw* Hot Springs and we had pack dogs hunting moose from there...sheep, well there was no caribou then only in the winter” (Interview # 2, June 13, 2005). The families that were living and trapping on *Ddhaw Ghro* were required to vacate the area and their cabins when Bostock recommended in 1947 “there could be no trapping, hunting, or other activity” (Warner, u/k: 3). He also highly recommended that the area be designated as a game sanctuary in order to protect the wildlife and unique vegetation. Based on his recommendations the McArthur Group became one of the most protected game sanctuaries in the Yukon in 1948.

By the 1960s and into early 1970s the wildlife population had dramatically decreased despite the precautions that were in place for the area. It is thought the “sheep population may also have been affected by a succession of forest fires through the plateau surrounding McArthur range ” (Warner, u/k: 3). In 1968 Valerius Geist and Robert Ogilvie of the International Biological Program recommended “in view of its ecological values – the rare plants, hot spring flora and diverse alpine plant communities – major human intrusion be excluded and that a guardian be appointed in order to look after this very valuable area” (Warner, u/k: 3). Numerous studies that were conducted up to the 1970s indicated that more efficient measures of protection and management were required. Selkirk First Nation was in total agreement of this despite the fact that they would be unable to hunt or fish on *Ddhaw Ghro*. More importantly, in the early 1970s there was talk of land claims of which the McArthur Game Sanctuary was situated on Selkirk First Nation and *Na-Cho Ny'a'k Dun*'s traditional territory. *Ddhaw Ghro* became part of *Na-Cho*

Ny'a'k Dun when they signed their Final Agreement in 1994 and Selkirk First Nation when they signed their Agreement in 1997.

Selkirk First Nation Peoples and *Ddhaw Ghro*

When *Ddhaw Ghro* is mentioned to Selkirk Citizens, the thought that immediately comes to mind is *Chu Tthäw* (Hot Springs). Described as ‘unique in all of Canada,’ *Chu Tthäw* was a special place for *Hudé Hudan* who frequented it for medicinal and spiritual purposes. It was also a special place of interest for the earlier scientists who were fascinated with the pristine water that flowed from the mountain and the unique plants and vegetation that surrounded it (Warner, u/k: 3). Meteorologists claimed “at times it seems to brew its own weather... within hours fog, sunshine, rain, sleet, snow, rainbows, and storms result, often in bewildering succession.” (Warner, U/K: 3). According to a report by Hugh Bostock in the 1940s,

[the] water of this small spring is beautifully soft. Clothes are washed in it without soap and it is delightful to lie in though it acts as a purgative on anyone drinking any quantity of it, as it has some H₂S gas in it and fizzes in the mouth. Only a very thin white crust has formed on the stones around it in all the time it has been there (Warner, u/k: 2).

In another report in the early 1940s W.A. Fuller of the Canadian Wildlife Service describes the area as follows,

[the] trail leaves the spruce woods and one is suddenly surrounded by a natural flower garden. Among the showier plants are false hellebore, Heracleum, death camas, grass-of-Parnassus, monks hood, larkspur, fireweed, and several pentstemons. A small purple mint grew around the main spring and the outflow was bordered by a lush growth of fern (Warner, u/k: 3).

The unique plants in and near *Chu Tthäw* continue to be of speculation and confusion today as it was when the first plant inventory was recorded in the 1940s.

Today *Chu Tthäw* is generally only used for healing purposes and more specifically only for Elders and First Nation Peoples in need of detoxification from the effects of drugs and alcohol. Apparently, the hot spring water that flows from the mountain contains medicinal properties that

draw out the toxins in a person when they bathe or soak in the water. Many Elders who were interviewed recalled visiting *Chu Tthäw* as children and not again until they became Elders.

According to one Selkirk Elder

My dad said everything was *Doolí* around there...not supposed to touch ...it was created for healing...the creek close to the river up this way...the hot water...that's where people go in the water there...warm water goes on top them...but when I went there I didn't see that...I never seen it unless it was further down... (Interview # 6, July 7, 2005: 5).

Another Selkirk Elder who reiterates this observation indicates,

...everybody says that way down below...all of a sudden you get sleepy...whatever comes out of your body there...way up higher...you could cook tea...its really hot...but never pick the flowers...don't pick the flowers... (Interview # 5, July 7, 2005).

According to many Citizens, the plants at *Chu Tthäw* alter in form, shape, and variety from year to year. It is a phenomenon that only *Dän Dezhän* can understand and interpret. While scientists are baffled by the sudden change in vegetation or weather at *Chu Tthäw*, Selkirk First Nation Peoples believe it is because certain *Doolí* laws have been broken while people are there. Accordingly, “one year on this side will be a bunch of flowers but you come back the next year and they are on the other side” (Interview #5, # 10, June and July 2005). Furthermore, there are “some plants you’re not supposed to take out...its real good medicine...we have to know how...just some people that know *Doolí* should go there” because taking plants or any other natural resource from the *Chu Tthäw Hot Springs* is considered one of the highest forms of *Doolí* (Interview # 6, July 7, 2005).

Selkirk First Nation Final Agreement and *Ddhaw Ghro*

Soon after the Agreement was signed in 1997 the Government of Canada transferred land title of the McArthur Game Sanctuary (*Ddhaw Ghro*) to the Yukon Territorial Government. Since the area was already considered a protected area before the SFNFA as the McArthur Game

Sanctuary (1948) it fell under *Chapter 10.3.1* that included “provisions in respect of an existing Special Management Area may be set out in a Yukon First Nation Final Agreement” (SFNFA, 1997: 109). The name would be changed to the *Thi'Ts'ach'an Huch'an* name of *Ddhaw Ghro*.

Ddhaw Ghro and more specifically, *Chu Tthāw* proves to be the area of foremost concern for Selkirk First Nation today. This is because the area encompasses both Settlement Land (SFN and NND) and non-Settlement Land (YTG). This means that YTG, Selkirk First Nation Government and *Na'cho N'y'ak Dun* Government all have governing powers because it comprises of Category A, Category B and Crown land. While YTG, Selkirk First Nation and *Na-Cho Ny'a'k Dun* share responsibility for managing areas on *Ddhaw Ghro* that are designated Crown land and Category B Settlement Land, the *Chu Tthāw* Hot Springs which is located on Category A Settlement Land, belongs solely to Selkirk First Nation. They are “solely responsible for management and planning of the Hot Springs settlement parcel” (DGHPAMP, 2006: 5). In 2002 a land use plan was developed for the *Chu Tthāw* Hot Springs and is further examined below.

Objectives of the Selkirk First Nation Final Agreement

The ‘objective’ of the Selkirk First Nation Final Agreement is, “to establish the *Ddhaw Ghro* Habitat Protection Area (“the Area”) to conserve and protect important Fish and Wildlife and Wildlife habitat for the benefit of all Yukon people” (SFNFA, 1997: 115). While this statement makes reference to ‘all Yukon people,’ the most important features of the Agreement for Selkirk First Nation Peoples are:

- To establish the *Ddhaw Ghro* Habitat Protection Area (the "Area") to conserve and protect important Fish and Wildlife and Fish and Wildlife habitat for the benefit of all Yukon people;
- To recognize and protect the use of the Area by the Selkirk People and *Nacho Nyak Dun* and to facilitate their interest in sharing the Area with Little Salmon/Carmacks People and other Yukon Indian People;
- To provide for the management and protection of the Area;

- To protect the full diversity of Wildlife populations and their habitats in the Area from activities which could reduce the Area's capability to support Wildlife; and
- To encourage public awareness of and appreciation for the natural resources of the Area (SFNFA, 1997: 115).

Mining

Ddhaw Ghro is likely the only area that would have potential for mining development of the three areas of study (*Lutsāw & Tatl'á Mān*) because the rugged and mountainous terrain may hold valuable mineral resources such as copper and tungsten. At the current time there are no mining interests for *Ddhaw Ghro*. However, it is for this reason that this particular area is controversial for the two First Nations who do not want mining exploration of any degree conducted on their land. YTG on the other hand is not closed to the prospect of future mining exploration. Pursuant to the Agreement,

Subject to 4.6.1, Canada shall withdraw the mines and minerals in the Area from locating, prospecting or mining under the Yukon Quartz Mining Act, R.S.C. 1985, c. Y-4 and the Yukon Placer Mining Act, R.S.C. 1985, c. Y-3, from exploration and development under the Canadian Petroleum Resources Act, R.S.C. 1985 (2d Supp.), c. 36, and from staking out a location for the mining of coal and from issuance of a license to explore for coal pursuant to the Territorial Lands Act, R.S.C. 1985, c. T-7, for 24 months from the Effective Date of this Agreement or until a management plan is approved under 7.0, whichever is earlier (SFNFA, 1997:)

Since 1998 YTG has on behalf of Selkirk First Nation signed an *Order Respecting the*

Withdrawal from Disposal of Certain Lands in the Yukon Territory (Ddhaw Ghro Habitat

Protection Area) through the *Territorial Lands (Yukon) Act*. The Order states,

[the] purpose of this Order is to withdraw certain lands from disposal to facilitate the establishment of the *Ddhaw Ghro* Habitat Protection Area, on behalf of Selkirk First Nation ...but does not apply to the disposition of (a) substances or minerals under the *Territorial Quarrying Regulations* or (b) timber under the *Timber Regulations (Territorial Lands Act, 2003)*.

The Order is renewed every five years and prohibits anyone, with the exception of existing mining, oil and gas, or forestry permits/operations to enter into *Ddhaw Ghro* to conduct any type development activity. The first term of renewal was signed in 2003 and is in effect until 2008.

In addition to this Order, a request for an *Order Prohibiting Entry on Certain Lands, 2000, No. 3, Ddhaw Ghro Habitat Protection Area, Y.O.I.C. 2003/97* was put forth to the *Canada Gazette*⁵⁰ in 2000 and is as follows:

Whereas the Governor in Council is of the opinion that the lands described in the schedule to the annexed Order may be required to facilitate the establishment of the Ddhaw Ghro Habitat Protection Area in the Yukon Territory;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Indian Affairs and Northern Development, pursuant to section 98 of the Yukon Placer Mining Act and section 14.1 of the Yukon Quartz Mining Act, hereby makes the annexed Order Prohibiting Entry on Certain Lands in the Yukon Territory (2000-No. 3, Ddhaw Ghro Habitat Protection Area, Y.T.). (Government of Canada, *Canada Gazette*, Vol. 134, No. 17 — August 16, 2000)

The Order was approved and becomes part of the *Yukon Lands Act* which states,

The purpose of this Order is to prohibit entry for the purposes described in section 3 on lands that may be required to facilitate the establishment of the Ddhaw Ghro Habitat Protection Area in the Yukon Territory, on behalf of the Selkirk First Nation.

Section 3 states, “no person shall enter on the lands set out in the schedule” (*Yukon Lands Act, 2003*) for purposes of mining activity. Even if interested persons are just picking stones this prohibition refers to such instances while on *Ddhaw Ghro*.

Accordingly,

[the] way that it is dealt with in the other areas is that you won’t have a permanent withdrawal of mining but for the next five years we will agree...the three Governments agree that there will be no mining or no mining exploration during

⁵⁰ The *Canada Gazette* is the official newspaper of the Government of Canada and has been published regularly by the Queen’s Printer since 1841. Published within the *Canada Gazette* are new statutes and regulations, proposed regulations, decisions of administrative boards and an assortment of government notices. Private sector notices which are required by statute to be published to inform the public also appear in the *Canada Gazette* (www.gazette.gc.ca).

the next five years...so with the Final Agreement for all these areas there's been a temporary...what they call withdrawal from any exploration of mineral, oil, gas, or coal...and so what they simply do in these cases is extend that for another five years...they haven't said they would make it forever...they extend it for another five years...(Interview #1, June 13, 2006)

Forestry

Fire management on certain parts of *Ddhaw Ghro* is a controversial subject because the traditional and conventional approaches used by Selkirk First Nation Peoples and those of YTG differs and because the governing powers shift depending on which Category of Settlement Land is in need of protection. The Yukon has what is called the 'zone of active fire suppression' and if tracts of land do not fall into this category, the Government has no obligation to protect it. According to YTG, *Chu Tthäw* does not fall into the zone of active fire suppression because its remote location is considered to be 'wilderness land' and it is on Category A. If there were to be a forest fire at *Chu Tthäw*, YTG has no obligation under the Agreement to send their fire fighting crews into suppress the fire because they do not technically have an obligation to manage Category A Settlement Land. They do however have an obligation to fight fires on the rest of *Ddhaw Ghro* that is situated on Category B Settlement Land and Crown land.

Another controversial topic for Selkirk First Nation people is the methods used by YTG to extinguish forest fires. These would include the application of chemical fire retardants and harsh spurts of water to suppress the fires. Selkirk First Nation stress these methods would be devastating to the existing plants, water, and wildlife. However, there are several factors that restrict Selkirk First Nation from fighting their own forest fires according to their own methods. The main obstacle is a lack of financial resources. As a result, they are limited or restricted from purchasing the necessary equipment such as helicopters to enter into *Chu Tthäw*. Another obstacle is that Citizens lack the training because training opportunities are not in place as of yet. According to the Management Plan, "the communities of Mayo and Pelly Crossing were

frustrated that local First Nation crews were not trained to suppress fires in the *Ddhaw Ghro* area.” (DGHPAMP Recommendations, 10:2006). Since the Agreement, Selkirk First Nation has been developing a “fire smart” program that is built upon traditional methods of fire management and is currently in draft form. One example is to dig a trench to contain the fire area and “let the fire burn naturally” (Interview # 9, August 21, 2005).

Hunting and Fishing

Ddhaw Ghro falls into ‘Zone 4’ of the hunting areas in the Yukon Territory. The Yukon Wildlife Act Regulations clearly states, “*Ddhaw Ghro* is closed to all hunting” (*Yukon Environment, Regulations, 2004 –2005: 52*). With the exception of Selkirk First Nation Citizens, “the public harvesting of Wildlife [is] prohibited within the area” (SFNFA, 1997: 118). Despite laws set out in the Yukon *Wildlife Act (1986)*, Selkirk First Nation Peoples can hunt or fish for subsistence and for ceremonial or community events without restrictions and without a license at any time of the year on *Ddhaw Ghro*. According to one Elder, “if I see a moose I shoot it...I can hunt any time I want...I never seen deer...but there’s some around there...” (Interview # 8, July 6, 2005). In the past ten years Selkirk First Nation Peoples have identified wildlife they never seen in the area before and according to the same Elder, “we even got cougars...never had before...they follow the deer...we never had before either” (Interview # 8, July 6, 2005). Deer are generally considered *Dooli* and are not hunted or eaten by Selkirk First Nation Peoples. The result of this is that deer (and bison) are infringing on the moose and caribou population.

Other Yukon First Nations entering into *Ddhaw Ghro* to hunt or fish for subsistence need Selkirk First Nation permission beforehand. This was one of the stipulations set out in the Agreement as well as the UFA. Under no circumstances will permission be given to anyone, including Selkirk Peoples, to hunt in or near *Chu Tthäw*. This concept is fully understood and adhered to by Selkirk First Nation Peoples through *Dooli* laws. Permission for all outsiders to

enter the area for purposes other than hunting or fishing is acquired through the Lands and Resource Department at the Selkirk First Nation Administration Office.

Sharing the Agreement

The mandate of the Agreement (SFNFA, 1997: Schedule A: 6.2) required that Selkirk First Nation form a Steering Committee that would oversee the management of *Ddhaw Ghro* under the umbrella of the Selkirk First Nation Renewable Resource Council. The *Ddhaw Ghro* Habitat Protection Area Management Steering Committee that formed in 2000 is a sharing accord between Selkirk First Nation Government, *Na-Cho Ny'a'k Dun* Government, and the Yukon Territorial Government. The Steering Committee for *Ddhaw Ghro* consisted of representatives from each of the three governments and one representative from Little Salmon Carmacks First Nation. There were nine representatives from Selkirk First Nation, ten from *Na'cho N'y'ak Dun*, and five representatives from YTG. The plan for *Ddhaw Ghro* was built upon Selkirk First Nation and *Na-Cho Ny'a'k Dun* perspectives that would fit into Yukon Government laws. YTG representatives were just as keen to learn about *Thi'Ts'ach'an Huch'an* perspectives as they were of accepting those perspectives in the development of the management plan. It was important that YTG representatives understood the *Thi'Ts'ach'an Huch'an* approach because

[they] are policies derived from traditional workshops and the results of those workshops becomes a sharing with the parties of agreements. Everyone is going to have to live by it...even the white people will have to live by it (Interview # 9, August 21, 2005).

The first step in this process for the Steering Committee was to gather any known information pertaining to *Ddhaw Ghro*. The compilation of data over the course of six years included oral history and oral tradition; Selkirk First Nation and *Na'cho N'y'ak Dun* perspectives gained through interviews, taped archived interviews of Elders in the 1960s and 1970s, scientific knowledge compiled by geologists, archeologists, and environmentalists, existing maps, land use

planning, place names, and various publications. In accordance to Selkirk First Nation protocol, the second phase for the Steering Committee called for public consultation. Selkirk First Nation in conjunction with Doug Urquhart compiled an unpublished report in 2002 entitled *How to Consult in Selkirk First Nation Territory*. This document served as the guideline for the Steering Committee (and subsequent researchers including myself) to use in order to conduct research with or in the community. A community meeting was called in which Selkirk First Nation, *Na'cho N'y'ak Dun*, Little Salmon Carmacks First Nation, YTG representatives, and any interested person from the general public were invited. At this meeting concerned attendee's had the opportunity to voice their concerns or contribute their knowledge of the area. They had a good public turnout and Citizens from Little Salmon/Carmacks First Nation attended in high numbers because they also have a vested interest in the management of *Ddhaw Ghro* through their respective Agreement.

However, by 2001 differing views and misunderstanding played a key role in a lack of communication between cultural and political approaches to land management for *Ddhaw Ghro*,

...it all ground to a halt about a year after that because YTG Geologist went in there and did a mineral assessment of the area which the First Nations strongly objected saying that was trying to basically drum up mining interests in the area and that became very controversial and the whole process ground to a halt. (Interview # 1 June 13, 2005:8; Interview # 13, Nov 23, 2006).

Consequently, the very presence of the Geologist was enough to remind Selkirk First Nation and *Na'cho N'y'ak Dun* that people who specialize in the sciences (e.g. Geologists, Archeologists) are those whose interests generally lay in exploiting the land for development or exploration. Consequently, Selkirk First Nation and *Na'cho N'y'ak Dun* were not prepared to entertain the concept of opening up *Ddhaw Ghro* for mining extraction, forestry resources, or any other form of economic development. They were quite adamant and vehemently opposed intrusion of any kind by outsiders into *Chu Thäw*. The Steering Committee regrouped in 2002 only after

assurances from YTG that the prospect of mining would be prohibited or restricted through the protection orders. However, YTG made it clear that these options would be open for review in five-year intervals. Only then and with great apprehension did the consultation process resume and further research was allowed to continue for the management plan for *Ddhaw Ghro*.

According to O'Donoghue,

It was decided that we would try again with hiring a facilitator – Doug Urquhart came in as a facilitator to see whether they could find some common ground to re-start the process...and its been going ever since...we cover a big area...the Yukon Government articulated quite strong in saying that this is an area that we want to seriously consider whether resource extraction like mining, forestry and those sorts of activities can happen there...the two First Nations and the Elders have been very, very strong about saying we don't want to see anything developed there...(Interview #1 June 13, 2005: 8)

The final draft by the Steering Committee on *Ddhaw Ghro* was approved and signed by the Selkirk First Nation Government and YTG in May 2006. In all, the Steering Committee made several recommendations including:

[the] permanent withdrawal of the Habitat Protection Area (HPA) from mineral disposition; no commercial forestry; no land dispositions or land use permits permitted; no new access trails, and no new expansion of existing trails; no use of motorized off-road vehicles; the continue exclusion of trapping; and a cautious approach to tourism for the first five years of the plan” (*Ddhaw Ghro* Habitat Protection Area Draft Management Plan, 2006: 1).

Apparently, “the committee’s vision for *Ddhaw Ghro* is to *leave it as it is*” (DGHPAMP, 2006: 1). The management plan will be reviewed in 2011. YTG will continue to have legal jurisdiction under the General Laws of Application on *Ddhaw Ghro*. For example, “any permits that are issued to do anything will be still issued by YTG so they will still manage it but they have to do it by the management plan” (Interview # 1, June 13, 2005). Neither YTG nor *Na'cho N'y'ak Dun* have jurisdiction over the *Chu Tthäw* Hot Springs.

In addition to the management plan for *Ddhaw Ghro* there was also a land use plan developed for *Chu Tthäw* in 2002. Several recommendations and restrictions were created to prevent intrusion and exploitation into *Chu Tthäw*. They include

- No shooting allowed within a 3 mile radius of boundary;
- No trapping or camping unless in designated areas;
- No mining or exploration in the Buffer area;
- Stop fire in the area with minimal damage and contamination;
- No logging;
- No vehicle access except helicopters;
- Human access only with Selkirk First Nation permission;
- Tourism only with permission;
- Ensure that the youth understand the importance of the area and how to look after it (DGHPAMP, 2006: 71).

The management plan will develop a permit system that will allow visitors into *Chu Tthäw*. At this time there is no charge for entering into *Chu Tthäw* but visitors cannot go there without a Selkirk First Nation Game Guardian or other Selkirk First Nation representative to guide them. This exclusion also includes YTG representatives and researchers who wish to explore the area. This restriction into *Chu Tthäw* also applies to Selkirk First Nation Peoples who are interested in studying the area for purposes other than research for *Doolí*. While visitors are at *Chu Tthäw* they are expected to follow the rules that are set out by Selkirk Peoples. Many of the rules in this sacred place are associated to *Doolí* laws and must be adhered to in the strictest sense. Signs will be posted as to the expectations such as no vehicles and no ‘stealing the plants’ while at *Chu Tthäw*.

Summary

Overall, the Agreement has given Selkirk First Nation the autonomy to manage *Ddhaw Ghro* and *Chu Tthäw* according to their traditional ways of life that is built upon cultural, *Doolí*, and traditional laws. These laws direct the cultural values and traditional pursuits that are practiced by Selkirk First Nation Peoples. In order to know what those cultural and traditional laws were they had to go back to the teachings and visions of *Hudé Hudan*. Selkirk First Nation Peoples brought back many *Doolí* laws that were practiced at *Chu Tthäw* such as not disturbing the land by the flora because it might disrupt the ecosystem or not hunting animals such as deer because they not an indigenous animal even though they could serve for subsistence as well as decrease the population of the animals that infringes on the moose and caribou habitat. Prior to the Agreement, though Selkirk First Nation had Aboriginal rights through existence under the *Indian Act (1876)*, land management practices were set out in various laws mandated by Territorial regulations such as the *Yukon Wildlife Act*. The Agreement changed all this and many might wonder how this can be possible? It is because Yukon First Nations refused from the very beginning of negotiations to give up their rights and title and once this was accomplished, Selkirk First Nation was determined to follow traditional forms of government. However, the Government was not so willing to give total control to Selkirk First Nation and stipulations were embedded through the form of RRCs. It was the trade-off for autonomy.

The Management Plan provides the basis to show that Selkirk First Nation Peoples can work in co-operation with the more dominant levels of government as long as the intent is the same. Despite cultural differences, the *Ddhaw Ghro* Steering Committee successfully produced a working plan that will serve as the basis for any further laws or policy that are made regarding *Ddhaw Ghro*. However, it can be problematic because of YTG's withdrawal of responsibility

under the Agreement for land management on Category A Settlement Lands. This means YTG is responsible for land management for all areas except for areas designated Category A Settlement Lands (Parcels R-27A and S-116A/D). *Thi'Ts'ach'an Huch'an* makes it very clear that no mining occur and they are prepared to halt any proposal for mining potential or economic development on *Ddhaw Ghro*. Each party understands and agree that “*Ddhaw Ghro* has a history as protected area and people were saying it was always protected so they would just stay out if it...they have always respected the area...it could have been problematic had there been exception mineral values” (Interview #14: Nov 23, 2004). Despite the withdrawal from mining disposition, there is a possibility that YTG could choose not to renew it should valuable mineral resources or other valuable renewable or non-renewable resources be found on *Ddhaw Ghro*. The Government would then decide, “okay the communities feel so strongly about that its not worth the battle for this area...we’re going to let that happen or they could make a point and fight it...” (Interview # 1, June 13, 2006). If that were the case, under their Agreement, Selkirk First Nation could take it dispute resolution (Chapter 26) to stop or limit any development on *Ddhaw Ghro*. In this instance, the Agreement does not ensure certainty nor does the Government guarantee that *Ddhaw Ghro* will not become a viable location for future economic development such as mining. However, because Selkirk First Nation now have the autonomy to manage *Ddhaw Ghro*, and more specifically, *Chu Tthäw*, they do not have to agree to allow mineral extraction, mining, hunting, fishing, or outsiders into their territory if they chose not to.

Ultimately, Selkirk First Nation Peoples could not exercise their Aboriginal rights because title to *Ddhaw Ghro* was vested in the Crown before the Agreement. Now that Selkirk First Nation knows that Aboriginal title on Category A Settlement Land is for certain, they can be assured that they will be the legal guardians of *Chu Tthäw* for many generations to come. Selkirk

First Nation and *Na-Cho Ny'a'k Dun* will not benefit economically if resources are found sub-surface because the Government has proprietary rights to the sub-surface. Time will tell if the Government upholds their definition of a protected area on *Ddhaw Ghro*. Selkirk First Nation will because their persistence to keep their land intact over-rides any form of economic potential. The following chapter will examine the Selkirk First Nation approach to land management on *Lutsäw*, which was also designated to be a SMA but with a variance in Aboriginal title and Aboriginal rights.

CHAPTER 4 CASE STUDY: *LUTSÄW*

Introduction

Within Selkirk First Nation Settlement Land, one area of importance is the *Lutsäw* Wetland Habitat Protection Area (*LWHPA*) or more commonly known as *Lutsäw* or Jackfish Lake. Selkirk First Nation Peoples have visited, occupied, and managed the area for many generations and they intend to continue to for many more generations to come. This chapter provides insights as how Selkirk First Nation perspectives are applied to the management of the *Lutsäw* Habitat Protection Area. This is accomplished by providing a historical and contemporary overview of Selkirk First Nation approaches to land management. This chapter will further examine stipulations set out in *Chapter 10 and 16* of the *Selkirk First Nation Final Agreement* and it will examine the role that co-management and the Selkirk First Nation Renewable Resource Council plays in the process of creating and implementing policy and laws on *Lutsäw*

The Area

Situated in the center (61'40° N & 68'00° N) of Selkirk First Nation's traditional territory and designated to be an SMA is the *Lutsäw* Wetland Habitat Protection Area (*LWHPA*). *LWHPA* is located approximately 'eight kilometers' southwest of Pelly Crossing and at approximately "km 442" of the Klondike Highway North leading from Whitehorse (*LWHPAMP*, 2004: 4). *LWHPA* is situated on Category A Settlement Land on Parcel R-3A (Settlement land). A small area is Crown land (Non-Settlement land) on Parcel S-122B. The lines of demarcation for the area was surveyed by the Canada Lands Survey Act (1985) and was set out in accordance to *Chapter 9: Settlement Land Amount* in the Selkirk First Nation Final Agreement, 1997 (SFNFA) and the Selkirk First Nation

Self-Government Agreement, 1997 (SFNS-GA). The total landmass allocated to Selkirk First Nation under the Final Agreement (1997) for the *LWHPA* is only 3, 206 hectares or “15 kilometers” in length and “2.5 kilometers” in width (LWHPAMP, 2004: 2). This amount of land allocated under the Agreement is relatively small in comparison to other SMAs on Selkirk Settlement Land such as *Ddhaw Ghro*, which is a larger tract of land (50 km). However, the difference is that *Ddhaw Ghro* consists mainly of Crown Land and Category B Settlement Land with the exception of the *Chu Tthäw* (Category A) while *LWHPA* is Category A Settlement Land with the exception of Parcel S-122B, which is Crown land.

Although *Lutsäw* is located in a “zone of discontinuous permafrost,” the area comprises of several marshes (wetlands), ponds, and lakes including *Lutsäw Män* (Jackfish Lake), *Tthe Ndu Män* (Rock Island Lake), *Chät Män* (Duck Lake), *Män Ts’ändora* (Long Lake), *Män Dinnts’ik* (Stink’in Lake), *Dzäna Män* (Muskrat Lake), and *Deza Män* (Cow Moose Lake). *Lutsäw Män* and *Tthe Ndu Män* are two of the larger lakes on the wetlands. All the lakes on *Lutsäw* drain into *Lutsäw Tagiá* then drain into the Yukon River through *Hetsutthat* (Minto). Accordingly, “traditional and local knowledge suggests sections of *Lutsäw Tagéa* become dewatered during low flow periods...and...the flow of water in these sections has been observed to ‘disappear into the ground’ prior to entering the Yukon River” (LWHPAMP, (draft) March 2004: 5). The area lies in the valley between “rolling hills and plateaus” of what was once heavily forested terrain abundant in Aspen (*t’o*), Poplar (*t’o*), and Black and White Spruce

(*ts'ok*).⁵¹ The area is also referred to as the *Hetsutthat* (Minto) area and Selkirk Peoples use *Lutsäw* and *Hetsutthat* interchangeably to refer to the same area.

ŁWHPA has one of the Yukon's richest ecosystems consisting of the most pristine waters despite poor soil conditions caused by forest fire, natural erosion, and human exploitation to the land. *Lutsäw Män* and *Tthe Ndu Män* are of special interest because of the abundance of unique plants including "sedges, semi aquatic grasses, mosses and several species of aquatic pondweeds." *Tthe Ndu Män* is one of the very few locations in the Yukon (and Canada) where bulrush is found. Bulrush is a type of reed or sedge, like cattail, and is vital to all birds and wildlife that use the plant for sustenance and Selkirk First Nation people who use the weed for medicinal purposes. On the wetlands there are "at least 18 bird species that includes cranes (*dga*), ducks (*chät*), loons (*tútsay*), terns, gulls (*mehk'éñ*), swans (*degay*) and geese (*khe*)." Unique to *Tthe Ndu Män* is the American Coot, a type of waterfowl that is commonly found in the United States. Additionally, there are various moose licks that attract large game such as *hudzi* (caribou) or *denyak* (moose) which are attracted to mineral salts and deposits (ŁWHPAMP, (draft) March 2004: 6).

Aside from being the largest lakes on the wetlands, *Lutsäw Män* and *Tthe Ndu Män* are also the most utilized of the lakes due to the fact that the area is accessible by an established year round gravel road built into the wetlands as well as an accessible boat launch at *Tthe Ndu Män*. However, the "usage of motorized vehicles by people other than Selkirk first Nation members should be confined to existing winter and summer trails

⁵¹ The whole area was heavily burned by forest fire in "1969 and 1995 (Minto Fire)" (ŁWHPAMP, (draft) March 2004: 4).

within the LWMA” (Łutsāw Wetland Management Plan: Workshop Summary- Appendix 2. March 28 and 29, 2001. Pelly Crossing, Yukon: 2).

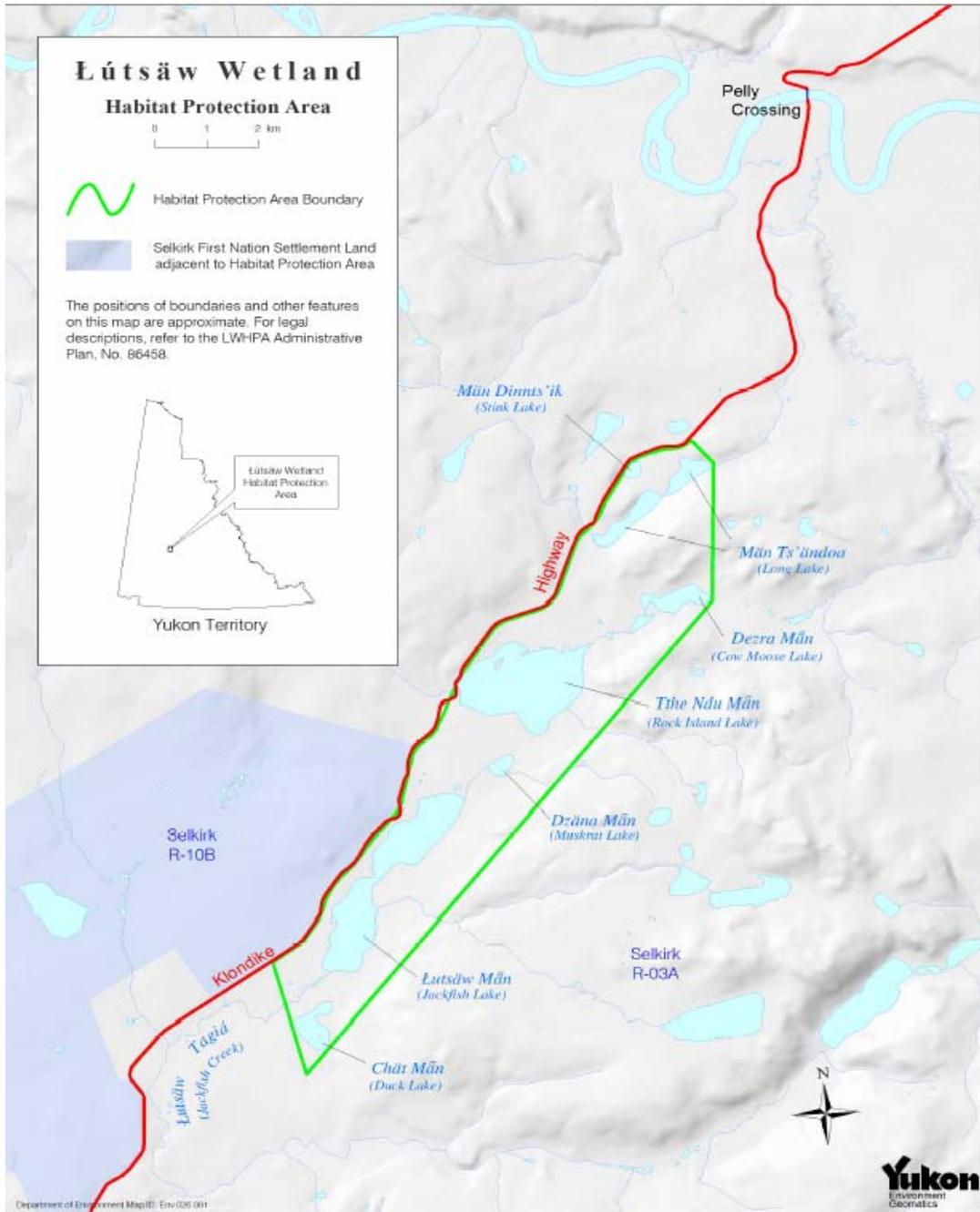


Figure 3: Map of Łutsāw Wetland Habitat Protection Area Management
Source: Łutsāw Wetland Habitat Protection Area Management Plan, 2004: 3

Historical Overview

With a lifestyle that pre-dates European contact, Selkirk First Nation Citizens were able to prove in their endeavor for land claims that they occupied and managed *LWHPA* as part of their traditional territory. There were a “total of 18 archeological sites...identified within the *LWHPA* in addition to numerous historic sites” (*LWHPA*, 2006: 7). Land use and occupation based on archeological evidence dates back approximately “5,000 to 8,000” years though Selkirk First Nation people have only in the last seven years become legal keepers or Guardians of *Lutsäw* (*LWHPA* (Draft), 2005 and 2006: 7). Since about the 1940s-50s nobody has occupied or built houses on *LWHPA* on a permanent basis. Today, there is “just one cabin on *Lutsäw*”⁵² (Interview # 8, July 6, 2005).

In the late 1880s explorer Frederich Schwatka (1849-1892) was one of the first Europeans to enter into an area he named ‘Graf Von Wilczek.’ As others, including Government and Church officials began to expropriate Selkirk First Nation territory in the late 1800s to early 1900s they took it upon themselves to (re) name the landmarks on *Lutsäw* into the English language. However, Selkirk First Nation people referred to the area as *Lutsäw* (pronounced kloot-sow)⁵³ that translates to mean Northern Pike or Jackfish in *Thi’Ts’ach’an Huch’an* (Northern Tutchone). Selkirk First Nation reverted back to their original place name for *Lutsäw* when it legally became known as “Schedule C” in *Chapter 10: Special Management Area* of the Selkirk First Nation Final Agreement

⁵² The management plan indicates three cabins at *Lutsäw*. This particular reference is made to a person who squats on the land with the knowledge of SFN who have thus far not taken measures to have the occupant removed because Special Management Areas cannot be for used human occupation.

(1997). Instead of keeping the English name of Jackfish Lake or Graf Von Wilczek, as the area was known at the time of the Agreement, Graf Von Wilczek would be named for a tiny creek (rather than a whole area) that joins *Lutsäw Män* and *The Ndu Män* (Rock Island Lake). Apparently, “it is also an important Jackfish or Pike fishery between the two lakes that run up from *Lutsäw*, up a little creek to Rock Island Lake” (Interview # 1, June 13, 2005: 14:56). Selkirk First Nation people renamed the creek *Lutsäw Tagiá* (Jackfish Creek) and Jackfish Lake would become *Lutsäw Män*. In any case, the area was aptly named in either language for its abundance of *Lutsäw* (Northern Pike).

Selkirk First Nation Peoples and *Lutsäw*

Seasonal fish camps are setup by a few families as early as May when Jackfish are spawning and again in the fall when they are most plentiful. According to one Elder, "we go there in the fall time...to hunt and fish...just Jackfish...caribou... there's caribou around too sometime...pick berries...cranberries...we got some way up on the hill, the mountain there...way other side of the mountain there is blueberries...(Interview # 8 July 6, 2008). Selkirk First Nation People consider the fish to be the healthiest, tastiest, and most medicinal in the spring as opposed to the fall (Interview # 4: July 4, 2005). Accordingly, "...each May people have traditionally gaffed and caught them as they come up that creek...the creek is tiny..." (Interview # 1, June 13, 2005: 14:56). Selkirk First Nation Peoples and the Management Plan indicate, "access to these fish food is important to people facing hard times" (LWHPMP: 2006: 7).

⁵³ When I did my second interview I was pronouncing Lutsaw as it sounds (loot-saw) but an Elder instructed me on how to say it properly in the Thi'Ts'ach'an Huch'an (kloot-sow).

Even though Selkirk Peoples have the right to hunt and fish anytime of the year on the wetlands, they are choosing to fish in other locations in order to increase the *Lutsäw* (Jackfish) count. This appears to be difficult imposition because Selkirk Peoples rely on this particular fish for medicinal purposes at certain times of the year. However, if they do fish for Jackfish, they do so in moderation and only take what they need. None of the fish parts is wasted and especially if *Lutsäw* is used for medicinal purposes. Otherwise, the fish guts are thrown back in the water in the hope of producing more fish the following year. Scientific studies have shown that fish are at risk due to environmental factors even if those disruptions are not directly on the wetlands. An example would be placer miners whom disrupt the creek beds with their steady shifting of the creek beds or others that pollute the water with spilled toxins or other matter that drains into the wetlands. It makes people wonder “...how come there are dead fish in there now...big fish (3 feet)...” (Interview # 4: July 4, 2005).

An area of importance for Selkirk First Nation Peoples on *Lutsäw* is “Moccasin Trail.” Apparently, ...people [would] go there when they were starving...no hungry...they walk there...to eat Jackfish...because when you eat it the guts and all...it replaces things inside your body you need right away...in a hurry...that’s why they go there...that’s a mild food for starvation... when you eat that fish... (Interview # 4: July 4, 2005). “*Lutsäw Män* Trail” was another important trail that goes through *LWHPA* and connects to trails known as ‘Grandfather’s Trail.’ Grandfather’s Trail refers to worn-down covered trails that at one time connected to all other trails in the territory. ‘Grandfather’s trails’ are well documented on historical foot trail maps. There is only one Elder in the community who holds an original version of a 1925 foot-trail map while other copies are on file at the

Selkirk First Nation Administration Office. I was fortunate to have this copy in my hands but unable to make a copy due to copyright laws that Selkirk First Nation holds. In any instance, these trails proved to be an important path towards a source of livelihood for Selkirk Peoples. Today, *Lutsäw Män* Trail is overgrown with trees and is undistinguishable as a path except in the vague memories of a few Selkirk Elders who once traveled the path. However, there is talk that in the near future these trails will be reconstructed based on historical maps and oral history.

The wetlands also serve many other purposes. Selkirk Peoples have known for generations that where there are wetlands there will be waterfowl (ducks, geese, cranes) and other wildlife such a beaver, muskrat, moose and caribou and freshwater shrimp. They know this because the animals need the plants and water for sustenance, shelter, and protection. This means that in particular areas where there are wetlands there is potential for hunting or fishing. The wetlands are also an important location for medicinal plants that Citizens rely upon such as cranberries for various reasons such as urinary infections, blueberries for inner healing, and the *chen ghro'* (puff-balls) that were used among things as poultices for chest infections.

Selkirk First Nation initiated autonomy to make decisions regarding land management for *LWHPA* long before the Agreement was signed. They had already taken a similar initiative based on their own ways of knowing in the 1990s because they knew the fish population was in danger. Accordingly,

...they voluntarily restricted their own harvest for a number of years and there was a lot of thought a big fire that burned through there in '95 and that may have affected the population so the peoples in Pelly restricted harvest in the late 90s and that's part of this plan as well that Selkirk people still fish there but only take what people absolutely need and go elsewhere if possible because they want to rebuild the population of the

fish there...it did go down quite a bit...in recent years it seems to be getting better... (Interview #1, June 13, 2005).

To ensure that the fish population increases, Selkirk First Nation People have voluntarily turned their focus from fishing Jackfish at *LWHPA* to fishing salmon on the Pelly River in July and August and whitefish or trout at *Tatl'á Män* in varying seasons (Interview # 4, July 9, 2005). Because of this self-imposed moratorium on Jackfish, what was once a fish of abundance becomes a food of a luxury even though they can fish it they choose but it is by choice that they do not.

Selkirk First Nation Final Agreement and *Lutsäw*

Lutsäw became Selkirk First Nation Category A Settlement Land as a Special Management Area through the Agreement in 1997. Section 187 of the *Wildlife Act*, R.S.Y. 2002, c. 229 states “Habitat Protection Areas on lands administered by the Government of the Yukon may be withdrawn pursuant to subsection 7(1) of the *Lands Act*” (Wildlife Act, R.S.Y. 2002, c. 229). *Lutsäw* officially became a Special Management Area in April 2003 under the *Territorial Lands Act*, S.Y. 2003 which states, “[the] purpose of this Order is to withdraw certain lands from disposal to facilitate the establishment of the Lhutsaw Wetland Habitat Protection Area on behalf of the Selkirk First Nation” (Order Respecting the Withdrawal from Disposal of Certain Lands (Lhutsaw Wetland Habitat Protection Area), Y.O.I.C. 2003/124: 2). This Order is only effective to “August 31, 2005” at which time it will either be reviewed or withdrawn by YTG (Order Respecting the Withdrawal from Disposal of Certain Lands (Lhutsaw Wetland Habitat Protection Area), Y.O.I.C. 2003/124: 2). To date, the Order will be renewed every five years and as needed thereafter.

Objectives

Promises that are agreed upon for LWHPA in *Chapter 10: Special Management* are also included in *Chapter 16: Fish and Wildlife (SFNFA)*; *Chapter 17: Forest Resources (SFNFA)*; Selkirk First Nation Self-government Act (1997); Yukon Territorial Government; the *Wildlife Act*, R.S.Y. 2002, c. 229, *Fisheries and Oceans*; *Yukon Fisheries* and the May Gathering. Pursuant to *Chapter 10* of the SFNFA, the ‘objective’ of creating or including a Special Management Area (SMA), namely, *Lutsäw* was to “maintain important features of the Yukon's natural or cultural environment for the benefit of Yukon residents and all Canadians while respecting the rights of Yukon Indian People and Yukon First Nations” (LWHPAMP (draft) March 2004: 13).

Mining

At the current time there are no concerns about mining exploration on *Lutsäw* because it is mainly wetland that lies over either “the Yukon-Tanana terrane or the Quesnel terrane.” Until the glaciers melt it will be unknown for certain what terrane *Lutsäw* belongs. Nonetheless, there could always be potential for mining “...if, however, future detailed bedrock mapping shows that the area is underlain by rocks of Quesnel terrane, then a new assessment should be conducted” (LWHPA, 2003: 11 and 2006: 8). The area is currently in the Yukon Tanana terrane. As far as is known, there are few minerals to be found at *Lutsäw* with the exception of “metamorphic rocks,” “marble,” and “quartz schist” (LWHPA, 2006: 7). Selkirk First Nation would have both surface and sub-surface rights if minerals were discovered or if potential for mining was feasible because it is on Category A Settlement Land. Although there may not be potential for mining at the current time, an *Order Prohibiting Entry on Certain Lands in the Yukon Territory (1997-*

No. 6, *Lhutsaw Wetland Habitat Protection Area, Y.T.*) has been in effect since 1999 (*Canada Gazette*, June 9, 1999: Vol. 133, No. 12).

Forestry

Fire management on *Lutsäw* is not as controversial as on *Ddhaw Ghro* and *Tatl'á Män* because although *Lutsäw* is located on Category A Settlement Land, it lies within “the zone of active fire suppression” (LWHPAMP (draft) March 2004: 10). This means if there were a forest fire on the wetlands YTG would send in fire fighting crews to extinguish the fire because it is easily accessible. Otherwise, forest fires that occur outside of the active zone, such as *Chu Tthäw*, are not considered a priority or obligation by YTG. *Lutsäw* has had its share of forest fires in 1969 and 1995 and apparently, “[at] some sites the intensity of the fire was so great that it left no standing timber” (LWHPAMP (draft) March 2004 and 2006: 4). As you drive the north Klondike Highway near Pelly Crossing there is evidence of forest fires not only by the signs posted which state the year of the fire but for Selkirk First Nation Citizens it leaves behind an image of blackened shadows of an area that was once heavily abundant with flora and fauna. According to Selkirk First Nation Citizens, medicinal plants that existed before the forest fires cannot be replenished or replaced and animals that were forced to change their migration path will not return for many years, if at all.

Hunting and Fishing

The same Aboriginal right to hunt and fish that applies to *Ddhaw Ghro* also applies to *Lutsäw*. The Agreement “[addresses] the rights Yukon Indian People have for Harvesting Fish and Wildlife within the Special Management Area” (SFNFA, 1997: 111). *Lutsäw* falls into “zone 4, Special Area Restrictions” under the hunting regulations (*Yukon Environment*, 2004 – 2005: 52). Everyone except Selkirk Peoples must adhere to hunting

regulations under the *Selkirk First Nation Wildlife Act* (May Gathering), the *Yukon Wildlife Act*, as well as fishing regulations under the *Yukon Fisheries Act*. Outsiders must obtain either a Yukon hunting or fishing license as well as obtain permission from Selkirk First Nation in order to hunt or fish at *Lutsäw*. They cannot hunt or fish without Selkirk First Nation permission even if they have a Yukon valid hunting or fishing license.

According to the Yukon hunting regulations “[you] must have consent, in writing, to hunt on [First Nation] lands” (Yukon Environment, 2004 –2005: 15). Consequently, it is illegal to hunt or fish at *Lutsäw* without both of these requirements. Outsiders would not need permission to hunt on the small block of Category B land because “[everyone has] a right to hunt on undeveloped Category B Settlement Land” (Yukon Environment, 2004 –2005: 15). However, they would still have to follow Yukon fishing regulations. At the current time, Selkirk First Nation has no way of enforcing this law except on the good faith of the hunters and fishers who frequent *Lutsäw*. If a Game Guardian is in the field, they can enforce laws and remind people of the laws that apply and remind them that they are hunting or fishing on private land if it is Category A Settlement Land.

Jackfish are caught by a method that is known as *kakuk* (gaffing). Gaffing of fish is not a fishing privilege that is granted to all fishermen in the Yukon but it is a traditional way of fishing afforded to Selkirk First Nation. For all other fishermen they must adhere to the *Yukon Fisheries Act* and gaffing is not permitted. According to fishing regulations, “[it] is unlawful to use a landing gaff; be in possession of a landing gaff while fishing; use a dip net to catch whitefish or suckers without a permit; and use a dip net to catch any species of fish except whitefish or suckers” (Yukon Environment, 2004 –2005: 9).

Procuring fish in this manner is based on cultural values and traditional pursuits that were

vital before Government laws and regulations were enforced. Selkirk First Nation are allowed to harvest as many Northern Pike as needed for subsistence in this manner without facing legal consequences under the *Fish and Wildlife Act* (Interview #1: June 13, 2005). On the other hand, “[non] First Nation recreational anglers are required by law to have a Yukon Angling License that sets catch limits, gear and season requirements” (LWHPAMP, 2006:12). Some might think this is unfair but for Selkirk First Nation Peoples, it is their inherent and Aboriginal right because it is Settlement Land.

Sharing the Agreement

While the two other Governments (YTG and *Na’cho N’y’ak Dun*) are partners or co-managers on *Ddhaw Ghro* they are not part of the managing process for *Lutsäw*. Land management on *Lutsäw* is strictly a Selkirk First Nation responsibility because *Lutsäw* is on Category A Settlement Land. As a result, “[harvest] of wildlife shall be regulated by the Selkirk First Nation Government on all category A portions of the LWHPA while the harvest of wildlife on the Yukon Government portion of the LWHPA shall be under laws of general application” (*Lutsäw* Wetland Habitat Management Plan, 2006:12). Under the Selkirk First Nation Renewable Resource Council (SFNRRC) there was also a mandate in the Agreement under *Chapter 16* to form a committee that would specifically and separately deal with each Special Management Area that was designated to Selkirk First Nation under the Agreement (Chapter 10 - Schedule ‘A’, ‘B’, and ‘C’). Selkirk First Nation and YTG officials aggregated under a group they named the *Lutsäw* Steering Group in 2000. Their main objective was to evaluate the present state of *Lutsäw* and create guidelines, policy, and rules that would mandate how *Lutsäw* should and should not be managed. I have to add ‘should not’ because that indicates reference to *Dooli*.

The Steering Group consisted of only one YTG representative (Biologist, Mark O'Donoghue) and twenty-two Selkirk Elders. The first of the meetings was held over a three-day period in March 2001. At these meetings they drafted guidelines that were built upon *Dooli* and traditional laws. The first day of meetings was considered to be a public consultation, whereas, the Steering Group invited all interested parties from the Yukon Territorial Government (Fish and Wildlife, Forestry, and Environment) and Selkirk First Nation (Government, Elders, and Citizens) to attend to voice their concerns whether it be about mining, hunting and fishing, bird watching, or any other land related issue regarding *Lutsäw*. Selkirk First Nation Citizens who were in attendance provided information of their traditional knowledge of which most was based on the methods of *Hudé Hudan*. The major topics of discussion included Geographic Names; Traditional and Local Knowledge; Recreation and Scientific Activities; Land Use Activities; Protection of Heritage Values; Protection of Habitat Values; Mineral Resource Values; Fish and Wildlife Values; Forest Resource Values; and Harvesting of Flora and Fauna (*Lutsäw* Wetland Management Plan: Workshop Summary- Appendix 2 - March 28 and 29, 2001: Pelly Crossing, Yukon: 1).

As per Selkirk First Nation protocol, Elders were paid an honorarium for their participation and contribution of their *Thi'Ts'ach'an Huch'an* knowledge while others who were in attendance and may have contributed to this knowledge were not. The second day of the meeting was closed to the public and inclusive only of twenty-two Selkirk Elders and one YTG representative to discuss the concerns brought forward the previous day. Recommendations to come out of the Management Plan includes,

- Archeological studies in the LWMA should be timed to coincide with public school summer holidays to maximize youth participation.
- Elders should teach youth about found artifacts and historic methods of building shelters and gathering food.
- Selkirk First Nation people should encourage the practice of cultural ways in the LWMA.
- Traditional stories should be written in Northern Tutchone for inclusion in the Management Plan.
- Usage of motorized vehicles by people other than Selkirk First Nation members should be confined to existing winter and summer trails within the LWMA.
- Motorized boats should be discouraged on lakes within the LWMA.
- ATVs should be discouraged in wet areas to avoid disturbances to the habitat.
- Present public road access points should be posted with signage to discourage overnight camping or disturbance of heritage sites or wetland habitat.
- No new roads into LWMA by anyone other than Selkirk First Nation members.
- Usage of resources within the LWMA should be exclusively limited to Selkirk First Nation members to practice traditional and historic use.
- Traditional and historic First Nation uses would include hunting, fishing, trapping, grazing of animals, berry picking and fuel wood gathering.
- No live tree harvesting for commercial purposes in the LWMA.
- Usage of resources by First Nation members with and without a sharing agreement by written permission of the Selkirk First Nation (*Lutsäw* Wetland Habitat Management Plan, 2006: Appendix 2 – Workshop Summary).

The final draft of the *Lutsäw Wetland Habitat Management Plan* (2006) was approved and signed in April 2006.

There was also a Management Plan drafted for *Hetsutthat* (Minto) in 2002. It is an appendix to the *LWHPAMP*. The process to set up this Management Plan included community consultation with the intent to document the *Dooli* and traditional laws associated to land use planning at *Hetsutthat*. This area is notably known for its ‘woodlots’ where Citizens obtain their major supply of wood fuel for the winter. Those (mainly Selkirk First Nation Peoples) who have woodlots sell the wood to the community. Wood heat is the sole source of heat in many homes while the newer houses are built with a forced air/wood furnace combination. Consequently, because of the high demand for firewood, especially in the winter months, it is recommended that only Selkirk Citizens should be utilizing *Hetsutthat* for the woodlots. In certain areas such as on Parcel ‘R3A,’ Selkirk Peoples can use this land for commercial logging. The *Hetsutthat* Management Plan recommends, “there be no cutting across from the *Lutsäw* wetlands” (Minto (Hetsutthat) Region Land Use Plan, Appendix 3, *LWHPAMP*, 2004: np).

Yukon Environment in conjunction with Selkirk First Nation conducted a study over several years on the *Lutsäw* Special Management Area on fish and habitat up to 2004. The result of that data was condensed into a large color poster entitled *Lutsäw SMA Fish and Habitat Surveys 2004*. According to the methodology of this particular study, biologists and Selkirk First Nation Game Guardians were hired or contracted to conduct yearly studies that included an approach for testing the fish so that testing is not harmful or stressful to the fish. For instance, “[spring] is the spawning period for Northern Pike

and by avoiding this period, [it] reduces unnecessary sampling stress on spawning adults” (*Yukon Environment* and Selkirk First Nation Poster Presentation. May 2005). Using gillnets, the fish are caught, measured, weighed, and returned to the same lake they were retrieved. The above information was presented in a poster at the 2005 Annual May Gathering of *Thi’Ts’ach’an Huch’an* Elders in Pelly Crossing.⁵⁴

Summary

Overall, although *LWHPA* is a sharing accord between the Selkirk First Nation Government and the Yukon Government and there should be no confusion over autonomy because the area is “95%” Selkirk First Nation owned. But, because the area was designated a Special Management Area, the Yukon and Federal Governments will in part have the final say as to various categories of land management on *Lutsäw*.

Archeological evidence proves that *Thi’Ts’ach’an Huch’an* occupied and used the area for as long as eight thousand years. Under the Agreement, Selkirk First Nation has the autonomy to revert landmarks that were named in English back into *Thi’Ts’ach’an Huch’an*. This proved to be an important endeavor because it forced Selkirk First Nation Peoples to recall places that already had a name such as *Lutsäw* or Minto.

The Management Plans proved to be an effective measure to ensure that all parties are in agreement of the *LWHPAMP*. As mandated by the Agreement, co-management was a requirement in order for Selkirk First Nation to retain *Lutsäw* as Category A Settlement Land. They were adamant during land claim negotiation that *Lutsäw* remain part of their traditional territory. Not only did they have *Lutsäw* in Category A Settlement Land, they have it in Aboriginal title. The trade-off for them was that *Lutsäw* would become a

⁵⁴ At the end of the May Gathering I asked the presenters if I could have the poster to use for my study.

Special Management Area of which enables the dominant Governments could oversee. Otherwise, the other levels of Government technically should have no right to make decisions on Category A Settlement Land. Time will tell if this is true and will be a true test of Aboriginal title should valuable resources be found.

Selkirk First Nation will control the hunting and fishing laws that will apply to all except themselves. They will follow their own *Wildlife Act* in accordance to the LWHPAMP and future May Gatherings. As a result of the Management Plan, any land management planning and any laws that are created and implemented to *Lutsäw* will be built upon Selkirk First Nation cultural, *Doolí*, and traditional laws. Ultimately, everyone will eventually have to acknowledge that *Lutsäw* is Selkirk First Nation Settlement Land and that any laws made by Selkirk Peoples will have to be adhered to in the strictest sense. YTG and Yukoner's in general accept the concept that Selkirk First Nation laws are the only laws on *Lutsäw* but until the Selkirk First Nation Judicial Committee (level with Selkirk First Nation Government) is operational, they do not have judicial laws in place to enforce lawbreakers. At the current time, it is operated on the good faith of those who enter the area for various purposes. The following chapter will examine how the cultural values and traditional pursuits that Selkirk First Nation practice are applied to land management at *Tatl á Män*, which is the last of the three SMAs to be examined in this study.

When I asked how to obtain the same posters/information for previous years, Pat Milligan explained to me that although the year stated 2004, the study was the result of many years of compiling information.

CHAPTER 5
CASE STUDY: *TATL'Á MÄN*

“I am going to think ahead of you when you go” (Interview # 5: July 7, 2005)

Introduction

Tatl'á Män is the third designated Special Management Area of Selkirk First Nation Settlement Land that was examined in this study. *Tatl á* translates to mean “the bay at the end of the lake where people fished” and *Män* means lake (Gotthardt, 1992:1). *Tatl á Män* is the term of reference used by Selkirk First Nation Peoples but is spelled in variation by outsiders including ‘Ta’tla Mun Lake’ or ‘Tatlmain Lake. This part of the thesis will provide insights as to how Selkirk First Nation perspectives are applied to land management practices on the Tatl’á Män Habitat Protection Area. This chapter will examine historical and contemporary Selkirk First Nation approaches to land management. It will also examine stipulations set out in the Selkirk First Nation Final Agreement and examine the role that co-management and the Selkirk First Nation Renewable Resource Council played in the process of creating and implementing policy and laws on *Tatl á Män*.

Tatl'á Män is located “in the central Yukon plateau of the boreal cordillera ecoregion” approximately 40 kilometer southeast (62°37’N 135°59’W) from the settlement of Pelly Crossing (TMSMAMP) 2001: 2). The terrain “is characterized by rolling hills and plateaus with many small and often intermittent streams that flow into the lake from the surrounding steep hillsides” (TMSMAMP, 2001: 2). The freshwater that drains into *Tatl'áMän* comes from the St. Elias, Cassiar-Pelly, and Selwyn-Ogilvie Mountain ranges is designated ‘high quality water.’ *Tatl'á Män* is located on Block R36-A and is on Category A Settlement Land. The area is considered developed Settlement Land although

the majority of the land is covered with water. The total landmass allocated through the Agreement for *Tatl'á Män* is “3,380 hectares” or approximately “23 km in length” (TMSMAMP, 2001: 2). Apparently, “[the] traditional territories extended from the north end of Tadru Lake to *Tatl'á Män*, Ptarmigan Mountain (*Ta'rá Ddhäw*), Towhata Lake (*Taghwát Män*), the Pelly River (*Ts'éki Netú*), Legar Lake (*Legha Män*) and *Lutsäw Män*, down to Minto and upstream on Big Creek (*Tu Nátsat Tagé*)” (Gotthardt, 1991: 7).

Located at the lower end of the lake itself are two important fishing areas called *Taghwát Tage* (Mica Creek) and *Taghwát Män* (Towhata Lake). These two important areas are further examined below.

I had visited this area as a child for *dan nenetro yedaak*. We would go up the Pelly River and set up camp along the river near the mountain. Our greatest fear was always the bear but our dogs kept them at bay or at least would warn us of imminent danger. However, the closest I got to *Tatl'á Män* during the course of this study was looking at it through the front door. The mountain is quite visible from the community and its varying degree of color from dark to grey to blue indicates impending weather changes.

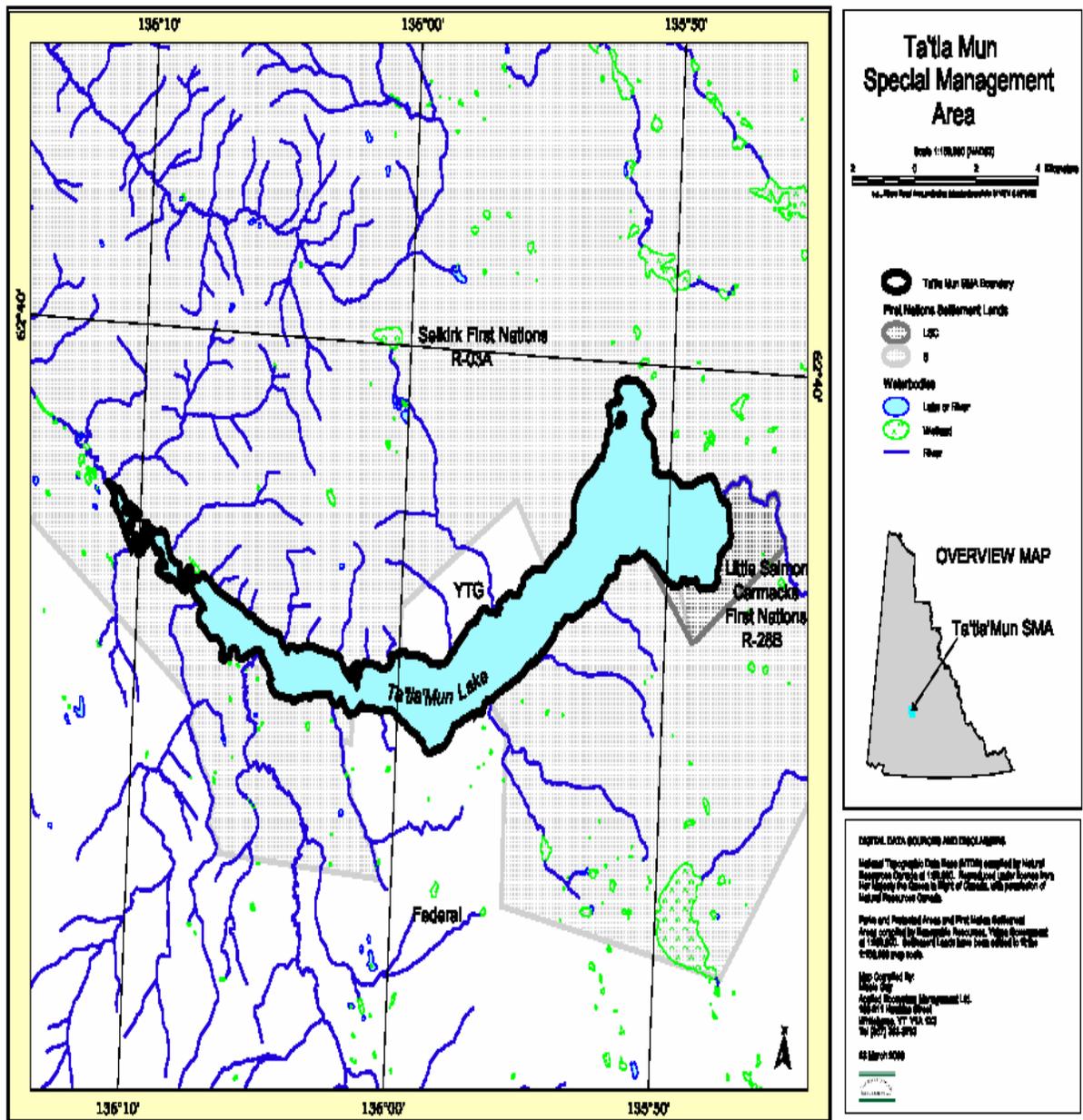


Figure 4: Map of Tat'lá Män

Source: *Tat'lá Män* Special Management Area Management Plan, 2001: 2

Historical Overview

It is estimated through the archaeological evidence that *Thi'Ts'ach'an Huch'an* gathered at *Tat'lá Män* approximately “8000 to 10,000” years ago (TMSMAMP, 2001: 2; Gotthardt, 1992: 4). The other two groups of Northern Tutchone of reference are *Na'cho*

N'y'ak Dun (Mayo) and Little Salmon Carmacks First Nation. The *Tatl'á Män Management Plan* indicates “a total of 27 prehistoric sites have been identified along *Ta'tla Mun's* shoreline” (2003:2) while Gotthardt study indicates “29 sites [of which] 20 were occupied by people in the period from 5000 to 1250 years ago” (Gotthardt, 1991: 6). Approximately ‘1,250’ years ago ‘during the winter’ there was a large volcanic eruption at White River⁵⁵ and *Tatl'á Män* and the Southern part of the Yukon was covered in volcanic ash. However, at *Tatl'á Män*, “much of the ash was probably cleaned out of the lakes and rivers fairly quickly with spring run off, and removed from the slopes to lower lying areas as the snows melted” (Gotthardt, 1991: 9).

Robert Campbell is one of the first known non-Aboriginal persons to enter into *Tatl'á Män*. It was the very place Campbell and his crew relied on for subsistence when he set up the Hudson's Bay Company in Ft. Selkirk in the late 1840s. Apparently, at times as much as “200 lbs” of meat or fish was taken out of the area at one time (Johnson and Legros, 2000:14). As a result, *Tatl'á Män* “became the site of commercial fisheries between 1847 and 1852” (TSMAP, 2001: 4, Johnson and Legros, 2000:14). Campbell and his crew were provisioned with food and leather supplies they traded with *Thi'Ts'ach'an Huch'an* or “Wood Indians [they called] ‘Tichinitah Tinna’” (Johnson and Legros, 2000: 2). While it appears that Campbell and his crew were provisioned most of the time with fish and game; he notes, “some Wood Indians passed down the Lewes today starving...nothing but starvation all over” (Johnson and Legros, 2000: 20).

⁵⁵ According to Gotthardt, “it has been suggested that it was the White River eruption which caused the Apache and Navaho to leave the Yukon, and eventually travel to their present homes in the southwest United States (1991:9).

Between 1852 and the late 1890s the odd explorer passed along the Pelly River but none stayed for any length of time. Following Campbell and other early explorers such as Frederick Schwatka and George Dawson (1849 b. – 1901 d.) came the frenzy of the Gold Rush of 1898. During this time frame thousands of gold miners required copious amounts of fish and meat resources in order to provision their camps. As a result, fish was taken out of *Tatl'á Män* in extremely large numbers. It is noted “[between] 1908 and 1916 harvests of freshwater fish from Ta'tla Mun ranged from 6,000 to 23,000 kilograms” (TSMAP, 2001: 4).

After the Gold Rush ended and the high demand for fish as a provision decreased, *Tatl'á Män* continued to be a semi commercial fishery up into the 1950's by outsiders who moved into the area and set up residency at or near *Tatl'á Män*. However, the whitefish that was caught was sold for profit rather than subsistence. It has been reported that in one fishing session upwards of “5 ton of fish or more [was taken out of *Tatl'á Män*]... a team of horses would haul about 2, 3 ton, and they'd make a couple trips” (Dan Van Bibber transcript in TMSMAMP: *Tatl'á Män* Management Plan Whitehorse Workshop Transcript, 2001: #16). Once caught, the fish was packed into gunnysacks of 100 pounds each, stored in ground caches, and then taken to Dawson City to be sold.

Selkirk Peoples and *Tatl'á Män*

Of the three areas of study, *Tatl'á Män* proves to have the longest term of occupancy and land use by Selkirk First Nations Peoples or *Thi'Ts'ach'an Huch'an*. In the midst of land claim negotiation in the late 1980s Selkirk Peoples initiated an archeological dig at *Tatl'á Män* to “make sure the heritage sites were well documented...they wanted to be armed... making sure they (Government) knew they (Selkirk Peoples) had been using this land for thousands of years...” (Interview # 14, Nov 23, 2006). The evidence produced in

Gotthardt's 1990 and 1991 archeological dig at *Tatl'á Män* indicates, "that people returned to camp at these locations over many generations" (4). Up to approximately '5000' years ago the Northern Tutchone who sporadically occupied *Tatl'á Män* were "hunting rather than fishing on the lake" (Gotthardt, 1991: 4). Apparently, fish was not available in the lake until "about 5000 years ago, [when] the land had recovered fully from the effects of the Ice Age and conditions were very much like the present: the forests were once again widespread; moose had come back to the country; and salmon returned to all the rivers and streams" (Gotthardt, 1991: 4). The residual effects of the volcanic eruption is evident today on land and in the lakes at *Tatl'á Män* and where the lake narrows, "the ash here is very thick, on average 10 -20 cm in most places" (Gotthardt, 1991: 5). This freshwater "is spring water and keeps the lake fresh all the time" but more recently, beaver dams "holds so many water back and the water started to get polluted a little bit...on the creek" (Johnson Edwards transcript in TMSMAMP: *Tatl'á Män* Management Plan Whitehorse Workshop Transcript, 2001: #15).

Although *Tatl'á Män* is not a permanent settlement today, *Thi'Ts'ach'an Huch'an* resided there on a semi to permanent basis for the past "3,630 years." Even after the volcanic eruption 1250 years ago, "what is interesting is that there are signs that people were using this camp, you know, before the ash fell, and there were signs that peoples were using this camp after the ash fell" (Gotthardt transcript in TMSMAMP: *Tatl'á Män* Management Plan Whitehorse Workshop Transcript, 2001: #4). Selkirk First Nation Peoples resided or frequented *Tatl'á Män* until "toward the end of the last century [when] most of the Ta'tla Mun people disappeared as a result of epidemics and/or conflicts with other groups" (TMSMAMP, 2001: 2). Until this time frame Selkirk First Nation "[were]

one of the largest and most powerful of the Northern Tutchone people” (TMSMAMP, 2001: 2). According to oral and traditional history, there was a violent confrontation between the Tlingit (Chilcats) and Northern Tutchone in the late 1800’s at the place known as *Tatl’á Män* Village. This particular village is located approximately two miles from the narrows at *Tatl’á Män*. Oral history indicates “the people who died in a war between Coast Indians and *Tatl’á Män* people a very long time ago, are said to be buried here” (1991: 18).⁵⁶ Today, “*Tatl’á Män* people now make up part of the Selkirk First Nation” (Gotthardt, 1991: 13).

More recently, according to an Elder, “the whole family used to follow a trail along the Pelly River...used to dry fish and meat...moose...bison were transplanted into the area in the 1950s...” (Interview # 8: July 13, 2005). Selkirk Peoples generally gathered at *Taghwát Tage* (Mica Creek) in the fall and winter to fish the *ta’rà* that spawned. *Tezrá* or *Ta’rá* (Whitefish) is most commonly and the most vital food source that are fished out of *Tatl’á Män*. Trout and *Lutsäw* are also found in the lake but are not as an important sustenance as *ta’rà* because trout and *Lutsaw* are found in other areas of Settlement Land and the elsewhere in the Yukon Territory. Winter was the time of year when *ta’rà* was the largest and healthiest. Apparently, at this time of year “they are so fat that you don’t have to put grease in the pan to fry them; they just fry in their own grease” (Gotthardt, 1991: 9). Accordingly, “spawning whitefish were taken in dragnets, in fish traps, and gaffed as people remained at this location throughout the winter months” (TMSMAMP, 2001: 2). Ice fishing was the most common way to catch *ta’rà* when the creek was frozen in the winter months.

⁵⁶ It is *Doolí* for Selkirk First Nation Peoples to discuss this event and especially with Tlingit.

Towata or Towhata Lake is located at the eastern end of *Tatl'á Män* and is another important fishing location for Selkirk Peoples. Accordingly, "Towata Lake they call it but us we call it *t'wat* cause its crooked like that...and the white man they call it something different...Twaddle or something..." (Interview # 6, July 7, 2005). Ruth Gotthardt and Selkirk First Nation began a preliminary archaeological dig on Towata in 2004. The purpose of this particular study into the area was "intended to assist the First Nation in identifying heritage sites that need protection or preservation" (Gotthardt, 2004:2). More importantly, the archeological dig "was just to confirm what people already knew about the area" (Interview # 14: Nov 23, 2006). As a result of this study they found that Selkirk First Nation Peoples have occupied and used Towata for the past "2,000 to 3,600 years" (Gotthardt, 2004: 2).⁵⁷

Selkirk First Nation Final Agreement and *Tatl'á Män*

The *Tatl'á Män* Special Management Area (*Tatl'á Män* SMA) became entrenched into *Chapter 10: Schedule 'B'* and *Chapter 16: Fish and Wildlife* of the Selkirk First Nation Final Land Claims Agreement in 1997. According to one Selkirk Elder, "*Tatl'á Män* was part of land claims under Category A...but Government people want certain pieces..." (Interview # 7, July 9, 2005). *Tatl'á Män* is situated on Category A Settlement Land and Selkirk Peoples have 100% ownership over the area. According to Mark O'Donoghue, "*Tatl'á Män* is a lake South and East of Pelly that has traditionally been very, very important as a food source and *Tatl'á Män* Lake was so important that it was put into the Selkirk Final Agreement as a Special Management Area" (Interview #1, June 13, 2005).

⁵⁷ Through an examination of Towata I found my ancestors buried there. The archeological evidence found that "[only] a few people who are buried here are known: Lena Suzé and her mother Sarah and Kitty Jonathan's baby brother, Chappy" (Gotthardt, 2004: 12). Lena Suzé was my Utsun's sister and first wife of Suzé. Sarah (Johnny) would have been my great grandmother and my mother's namesake.

Objectives

The main objectives of Chapter 10, Schedule 'B' are:

1.1.1 to ensure Conservation in the management and use of the Freshwater Fish resources and their habitat in the lake known as Ta'tla Mun;

1.1.2 to enhance and promote the full participation of the Selkirk First Nation and Selkirk People in the management of the Freshwater Fish resources in Ta'tla Mun;

1.1.3 to integrate the relevant knowledge and experience of both Selkirk People and the scientific communities in respect of Ta'tla Mun in order to achieve Conservation;

1.1.4 to recognize the importance of Ta'tla Mun to Selkirk People and to protect the use of Ta'tla Mun by Selkirk People;

1.1.5 to facilitate the priority of the Freshwater Fish food needs of Selkirk People over other uses of Ta'tla Mun;

1.1.6 to provide quality Sport Fishing opportunities in Ta'tla Mun; and

1.1.7 to deal fairly with all users of Ta'tla Mun

(SFNFA, 1997:123).

Aside from keeping *Tatl'á Män* a clean and safe environment that is free from permanent occupancy, Selkirk Peoples, under the auspices of The Northern Tutchone Tribal Council (NTC) struggled financially to keep *Tatl'á Män* a traditional gathering, healing, and meeting place with modern conveniences. The NTC consists of the three Northern Tutchone Governments of *Na'cho N'y'ak Dun*, Selkirk First Nation, and Little Salmon Carmacks First Nation and is a sharing accord mandated by the Agreement. In 1999, Selkirk Peoples were able to achieve their goal to build a cultural and healing camp with cabins and some modernized amenities at *Tatl'á Män*. The dream to build the cabins at the cultural camp was possible with funding from Selkirk First Nation. Apparently, there are '12' cabins including a cook-shack that are powered by diesel generators

(Interview # 6: July 7, 2005). The cabins and facilities at *Tatl'á Män* are used almost exclusively by Citizens or families that are taken to *Tatl'á Män* for healing purposes but the cabins and facilities are also for rent to groups or organizations that require such an establishment.

Funding to carry out the various healing programs needed to manage *Tatl'á Män* as a cultural and healing center comes from YTG, Selkirk First Nation, and other sources including a “\$130,000” grant from the Winter Works projects (Yukon Government: March 2003). In 2003, the NTC received “\$100,000” from the Aboriginal Healing Foundation “to provide a 'wilderness healing program' that will provide developmentally appropriate, intensive, holistic and culturally relevant treatment that attends to healing the secondary trauma experienced by the descendants of Residential School survivors” (Aboriginal Healing Foundation: 2003). This project was geared towards the youth in Pelly Crossing. Between 2004 and 2006, the NTC received “\$410,800.00” from the Aboriginal Healing Foundation to set up programs that would assist in the recovery of “Elders, parents, Survivors and descendants of Residential Schools” who have been afflicted by the mission school syndrome (Aboriginal Healing Foundation: 2004). This particular project was entitled the “*INAC Tatle Mun Cultural Centre (TCC)*” and is part of the *Programs and Services Transfer Agreement Negotiations (PSTA)*.

Mining

Mining potential at the current time is not a major concern for Selkirk Peoples at *Tatl'á Män* because the area is mainly covered with lake water. Unlike *Ddhaw Ghro* and *Lutsäw*, there are currently no *Protection Orders* or *Withdrawal Orders* applied to *Tatl'á Män*. Instead, *Tatl'á Män* is designated as “*High Quality Water (HQW)*” (TMSMAMP, 2001:6). HQW means that the pristine water that drains from the mountains into *Tatl'á*

Män is fresh water and restrictions to keep it in its natural state will apply. The restrictions included ways in which fishermen could fish (examined below) was put into place by YTG “to protect large lake trout and Northern Pike from overfishing” (TMSMAMP, 2001:7). However, Selkirk Peoples contend that overfishing is not a concern at this time and have requested that YTG “revoke the High Quality Waters (HQW) regulations within *Tatl’á Män* SMA” (TMSMAMP, 2001:7). It is felt that “community management principles outweigh the need for HQW regulations” (TMSMAMP, 2001:7). To date, *Tatl’á Män* remains a High Quality Water area and the restriction has not been removed as requested by Selkirk First Nation.

Forestry

Forestry management on *Tatl’á Män* falls under *Chapter 17: Forest Resources* of the Selkirk First Nation Final Agreement. According to the Agreement, “each Yukon First Nation shall own, manage, allocate and protect the Forest Resources on its Settlement Land” (SFNFA, 1997: 265). Selkirk Peoples are currently in the process of developing their own forestry and fire smart plan based on traditional methods such as ‘letting the fire burn’ and ‘digging trenches.’ Today poplar, white and black spruce, and paper birch are the most common forms of vegetation found at *Tatl’á Män*. At one time, pine trees were present but few are evident today due to past forest fires. Forest fires have been the greatest threat and cause of destruction to all areas on Selkirk First Nation.

Hunting and Fishing

The Selkirk First Nation right to hunt and fish at *Tatl’á Män* is protected under the *Tatl’á Män* Special Management Area Management Plan and *Chapter 16: Fish and Wildlife* and “for greater certainty, the Selkirk First Nation and Selkirk People have, in

respect of Ta'tla Mun, all the rights set out in Chapter 16 - Fish and Wildlife” (SFNFA, 1997: 124). According to O’Donoghue,

...the one really different thing that came out of it is there is a difference of opinions between First Nation and Non-First Nation of catch and release fish. In general First Nation find it really disrespectful and as a result this is the only lake in the Yukon where there is actually a limit on the number of fish any fisherman can catch in a lake. So when you go to that lake you need to get a special permit and that permit says that you can catch five fish then you have to stop fishing...it doesn’t matter if you let them go or keep them. Everywhere else the way it works is that you have a limit on how many fish you can keep but you can sit there and catch as many fish as you want. This way definitely has a very set of different rules because of the First Nation feelings about catch and release fishing (Interview #1, June 13, 2005).

The catch and release restriction of fish in *Tat’á Män* does not apply to Selkirk First Nation people and other Yukon First Nations with a sharing agreement who have permission of Selkirk First Nation. This particular regulation falls under the *Yukon Fisheries Act* and applies to all outsiders, especially sport fishermen. Accordingly, unless one has a ‘sports fishing’ license, “[no] person shall engage in sport fishing in Tatlmän” (Yukon Territory Fishery Regulations, 2003). Further to these regulations, “(2.1) Despite subsection (2), no person shall, in any one day, continue angling on Tatlmän Lake after they have caught and retained or caught and released five fish regardless of species” (Yukon Territory Fishery Regulations, 2003). According to O’Donoghue, “this is just for Non-First Nation...fishing can occur...as much as people need it...there’s no limit set on First Nation can fish in there.” (Interview # 1, June 13, 2005). Although Citizens can catch and release as many fish as they want they choose to follow the guidelines set forth out of respect for the fish. According to one Selkirk Elder,

I always hunt and fish...others cannot do a catch and release...only Selkirk First Nation...they can't throw them away...the Game Guardian keeps track of this...but we (SFN) can go out there any time we want...trout, pike fish,

ling cod...in fall they spawn...better fish...‘just scoop out with a hand net’...just go like this...lots of people go there...I go there...carry out with toboggan...they run around Christmas...(Interview # 6, July 9, 2005).

Gotthardt’s 1991 study indicates, “people would take them with drag nets, by just walking through the water” (Gotthardt, 1991: 9). In one instance one Elder “tells of fishing with her husband this way and catching about 500 ta’rá with one pull. Three hours later they caught about the same amount again” (Gotthardt, 1991: 9).

Sharing the Agreement

As mandated under 5.2 and 5.2.1, *Chapter 10 Schedule ‘B’* of the SFNFA, “[a] steering committee shall be established to prepare the management plan referred to in 5.1.” and “[t]he steering committee shall be comprised of four members of whom two shall be nominated by Government and two shall be nominated by the Selkirk First Nation” (SFNFA, 1997: 124). According to one Selkirk Elder, “before the land claims we could not do Selkirk First Nation land conservation” (Interview #9: August 21, 2005).

O’Donoghue, who has participated in all three Selkirk First Nation Special Area Management Plan Committee’s states,

Selkirk First Nation agreed after the claim was settled they would sit down with the Yukon Government and make a plan. The priority for this lake would be as subsistence for the people and so once the land claim was settled there was a steering group put together with people from Selkirk and the Yukon Government...I was one of the people on that steering group...we put together a plan as to how land use around the lake and fishing in the lake would be managed over the next five years (Interview #1, June 13, 2005).

According to the special provisions for Selkirk First Nation in *Chapter 10: Special Management Areas, Schedule ‘B’* of the Agreement,

5.6 The steering committee shall consider and the management plan may address any matter pertaining to the management of the Freshwater Fish resources in Ta’tla Mun including:

5.6.1 the maintenance of the priority of the Freshwater Fish food needs of Selkirk People over other uses;

5.6.2 the maintenance of quality Sport Fishing opportunities;

5.6.3 the harvest which might arise from Sport Fishing opportunities;

5.6.4 the necessity, if any, of limiting harvest of Freshwater Fish for the purposes of Conservation, including the steps to be taken to achieve such a limit which steps may include:

a) the establishment of a maximum number of Ta'tla Mun Sport Fishing Licenses that may be issued annually; or

b) the placement of conditions on Ta'tla Mun Sport Fishing Licenses (SFNFA, 1997: 125, 126).

5.4 of *Chapter 10, Schedule 'B'* states, “[t]he preparation of the management plan shall include a process for public consultation, which for greater certainty includes consultation with Selkirk People” (SFNFA, 1997: 125). As a result, the first step in this process began with community consultations with Selkirk First Nation Peoples, YTG representatives, and any other concerned Yukon person. They did this in the form of ‘advertised’ workshops that were held in both Pelly Crossing and Whitehorse. The SFNRRC was also invited to participate in the *Tat'l'a Män* Special Management Area Management Plan though they were not an instrumental influence in the planning process. Their role was to approve the final draft before it was submitted for final approval from YTG and Selkirk First Nation Government. In Whitehorse the consultation meetings were held at the CYFN building on January 26, 1999. There were approximately ‘thirty’ in attendance including Selkirk Citizens, YTG Officials, Yukon RRC, Yukon College students, and concerned fishermen. The second set of workshops was held in Pelly Crossing on January 28, 1999 and was open only to Selkirk Peoples and YTG representatives. There were thirteen Selkirk Peoples, two YTG representatives, one

LSCFN Citizen, and one facilitator (Doug Urquhart) in attendance. Over the past few years Doug Urquhart⁵⁸ has been a vital source of knowledge in almost any endeavor that involves revitalizing the cultural values and traditional pursuits of Selkirk Peoples.

Apparently, “issues such as logging of riparian habitat, shoreline development, forest fires and impacts of beaver dams, specifically in the Mica creek drainage, were frequently identified as issues at the public workshops” (TMSMAMP, 2001: 11). The second phase of the process was to draft a Management Plan based on the results of the workshops, oral history, interviews, and Government documents. Several recommendations came as a result of the *Tatl’á Män* management plan. They include,

- Protect waters flowing into the lake
- Keep wildlife around lake healthy
- Protect fish stocks in lake for future generations
- Fish whitefish to improve fish stocks overall
- No barbed hooks
- Include stories in the plan that explain the history and importance of the lake
- Protect all things the fish depend on to live: trees, water, wildlife
- First Nation needs to take control of lake – set up lodge, control who comes in
- Laws should recognize season
- Need to understand what traditions of respect were used (hunting bears on spawning grounds)
- Keep west of lake for culture camp ‘allowed land’

(TMSMAMP, 2001: Appendix 2 – Summary of the Recommendations, Observations, and Concerns expressed)

⁵⁸ Name used with permission.

The steering group completed the third phase of consultation with the completion of the final draft in 2001. It was presented to the Selkirk First Nation Renewable Resources Council (SFNRRC) for review and was the first of the management plans to be signed and approved by both the Selkirk First Nation Government and YTG. As per 8.2, *Chapter 10, Schedule B*, this Management Plan will serve as policy and law for anyone who visits, hunts, fishes, or has an interest in economic development at *Tatl'á Män*. As mandated by the Agreement once the initial Management Plan is reviewed after its first five years of implementation the Management Plan will be reviewed at ten-year intervals. The first review was slated for 2006.

At the current time there are no through roads or highways built into *Tatl'á Män*. There is a well packed trail that leads from Pelly Crossing into *Tatl'á Män* but otherwise the area is only accessible by helicopter or float plane; by all terrain vehicles (ATV); on foot; by boat; or horseback. *Tatl'á Män* is also accessible by sledges (dog team) or snowmobiles in the winter months. It takes approximately two to three hours to reach *Tatl'á Män* by ATV. Selkirk First Nation will not allow a through roadway to be built into *Tatl'á Män* because the area could easily become an accessible hunting and fishing location for outsiders. Generally, most fishermen and hunters into the area are aware of the rules and regulations by signage that is posted as one enters the trail to *Tatl'á Män*.

Summary

Within Selkirk First Nation traditional territory Selkirk First Nation Peoples regard *Tatl'á Män* as one of the most frequented hunting and fishing areas of all time. The archaeological evidence supports the oral history that for at least the past 10,000 years Selkirk Peoples have not only relied on *Tatl'á Män* for subsistence but for other forms of

livelihood including trade. At different times over the last one hundred and fifty years *Tatl'á Män* was the major site for procuring food sources by outsider's who first entered into the area. Today, Selkirk First Nation Citizens who fish and hunt there and the odd sport fishermen are the only ones who frequent *Tatl'á Män*. Because Pelly Crossing is such a small and close knit community, someone will always know when there is an outsider in the area because one has to pass by several houses to reach the entrance point to *Tatl'á Män* or boats can be heard heading up the river. When people hear an unfamiliar boat on the river it is usually investigated to see who it is because many of those in the community know a local person's boat by sound and speed.

Prior to the Agreement Selkirk Peoples hunted and fished at *Tatl'á Män* according to stipulations set out in the *Yukon Fish and Wildlife Act*. The Management Plan has allowed Selkirk Peoples to create laws and policy for land management on *Tatl'á Män* that are in accordance to *Hudé Hudan*. Additionally, these laws and policy are agreed upon and in accordance with the existing Yukon and Federal Government regulations for hunting and fishing. It is too soon to tell what the sharing outcome will be of the 'fire smart' Management Plan if mining on *Tatl'á Män* becomes an issue. Today the area is hunted and fished in moderation by Selkirk Peoples whose self-imposed regulations are enforced when required to maintain and sustain the resources in the lakes and creeks and the area encompassing *Tatl'á Män*. Ultimately, despite the need for large quantities of fish over an extended period of time *Tatl'á Män* has sustained the impact of intrusion and remains as pristine as it was all those thousands of years ago.

Tatl'á Män has always been a gathering place for Northern Tutchone Peoples and remains as such today. Now there is a cultural camp that serves the purpose that many

years ago was to make Northern Tutchone People close and safe. People in need of serious rehabilitation/treatment for various addictions can go to Tatl'á Män instead of the larger centers outside of the Yukon (personal communication: 2006).

The following chapter will tie the three case studies together in order to show that Selkirk First Nation Peoples are benefiting culturally and traditionally within the confines of the Agreement.

CHAPTER 6
ONCE THE LAND IS FOR CERTAIN: CONCLUSIONS AND IMPLICATIONS

“I don’t know anything about taking care of the land but people always did all their life” (Interview # 8, July 7, 2005).

Introduction

The above statement succinctly describes the Selkirk First Nation view towards land management. Land management through traditional ways of knowing are done unconsciously and inherently according to the cultural, *Dooli*, and traditional laws that perpetuate in contemporary times. For the purpose of this thesis, the Indigenous knowledge or ways of knowing of Selkirk First Nation Peoples is referred to as cultural values and traditional pursuits. These rights were part of the bargaining process for the Agreement but will ultimately be required to fit within the confines of the General Laws of Application regardless of the autonomy given. The intent of this study was to show that since the signing of the Agreement, Selkirk First Nation are benefiting culturally and traditionally because of an increased reliance and usage of the cultural laws, *Dooli* laws, and traditional laws that is required in order to apply them to create laws and policy. The question that began this journey will be considered in detail: *Are Selkirk First Nation Citizens today benefiting both culturally and traditionally because adherence to the Agreement requires an increased reliance and consequently increased usage of their cultural values and traditional pursuits in order to create and implement policy and laws towards land management?*

Even though the Agreement under federal Government laws dictate how policy is created and enforced under the Laws of General Application, Selkirk First Nation have benefited culturally and traditionally today because without the Agreement, they would not have the autonomy to exercise Aboriginal rights and/or claim to Aboriginal title as they do now. Selkirk First Nation

directed, and to a high degree, controlled the land claim negotiation based upon their cultural values and traditional pursuits. As a result, they have a vested interest to maintain a level of commitment required to implement their cultural values and traditional pursuits into policy and law. In a sense, their ways of knowing the land and its resources became somewhat of a weapon during negotiation because they would not give up their right to be traditional Peoples.

Moreover, they did not acquire the cultural or traditional institutions because of the Agreement. Selkirk First Nation has always maintained a high degree of their culture and traditions albeit a near loss of language.

Without the Agreement, their lands would have been placed under the auspices of the *Indian Act* and designated a Reserve, be considered similar to Saskatchewan Treaty Land Entitlement (Specific Claims), or it could have followed a path of negotiation as the B.C. Treaty process (Nisga'a). Selkirk First Nation would have remained the designated reserve it already was and would have been subjected to DIAND or INAC guidelines. Aboriginal rights would have been monitored, challenged, or reneged on and Aboriginal title would not be a question because treaty does not come with Aboriginal title nor does it come in the form of fee simple or equivalent to fee simple.

What posed to be the real challenge in 1997 is that historic or heritage sites, SMAs and HPAs, parks and ecological reserves were newly established responsibilities for Yukon First Nation Governments. Direct land ownership in the sense of private ownership and more so the concept of ownership along with the responsibility of management over Special Management Areas and Habitat Protection Areas were relatively new concepts for Selkirk First Nation. This is because they never had a choice or input into how their land was managed prior to the Agreement. All decisions for land management were created and implemented by YTG or the federal

Government through various enactments. As this thesis has shown, Selkirk First Nation took the initial steps towards autonomy when they created the management plans in spite of the differences in ideologies and cultural challenges they were unprepared for. Others who have signed land claims such as *Kwanlin Dun* have not yet developed management plans or do not plan to develop management plans, as has Selkirk First Nation.

An Increased Reliance on Cultural Values

Language

At the onset of this study, I asked a participant what being Selkirk First Nation meant? It was clearly implied that “if you don’t have your language, you don’t have your culture.”⁵⁹ Of the Selkirk First Nation Citizens I interviewed, over half fluently speak Northern Tutchone and the rest can either understand but not speak fluently or cannot understand or speak at all. However, once I finished asking who spoke the language in one family group discussion and when I asked if Northern Tutchone was the first language I was told “its *Dooli*” (Interview # 9: August 21, 2005). Consequently, I did not pursue the questions in other interviews but by then it was my ninth interview. It was okay for me to ask if they spoke the language but nothing more. There appeared to be no particular age group of fluent speakers though the majority appeared to be in the 50 to 70 years age range. My observation at the various community gatherings I attended was that the younger generations complain that conducting the meetings or gathering in both languages is time consuming and the meetings tend to drag on as a result. However, the Elders, who have one of the highest forms of governing powers, insist that all the meetings that are conducted in the community be translated from English to Northern Tutchone. Since English is

⁵⁹ The first time I was told this (yes I was told more than once), I was deeply offended because I had thought I knew my culture and traditions fairly well. I did not consider the importance of language because I had been disconnected from it for over twenty-five years. Generally, I am the only Northern Tutchone person living anywhere I have lived outside of the Yukon.

the first language of the majority, it is first spoken in English then translated to Northern Tutchone rather than vice-versa. It is the hope that many of the words used in English, especially in reference to land and resources, will become fully used terms in Northern Tutchone.

This goal is further accomplished through the Harvest and Salmon Harvest Calendars that are wrote in both languages (with pronunciation) so that those words will become familiar and commonly used terms. The terminology used in many of the documents that are prepared for Selkirk First Nation Peoples are also designed in such a way that everyone can understand the translation. The Northern Tutchone language for many of the Elders interviewed continues to be the most important aspect of Selkirk First Nation culture because for many, the language was nearly abandoned during and after the onset of colonization beginning in the early 1900s. Nonetheless, the language is used more frequently though people will jokingly admit they know only the ‘swear words’ or *southen* (dirty words). In my daily conversation with various community members, the language is evident around the community and especially if they don’t want you to know what is being said.⁶⁰

An increase in the use of the Northern Tutchone language is further evident since the Yukon Native Language Centre (YNLC) became operational in Whitehorse in 1977.⁶¹ The goal was to teach individuals from the rural communities to become language teachers. In turn, they would go back and teach the community their language in the schools and to act as translators at community events and gatherings. Thus far, there are five Citizens, all women, who have completed programs in Northern Tutchone and have gone back to Pelly Crossing and taught the

⁶⁰ I surprised a few people with what I remembered and two Elder’s were overjoyed when I understood when they were talking about *Hudé Hudan*. They clapped and laughed at me for knowing such a word.

⁶¹ “Under the direction of John Ritter, the focus of the project was to develop curriculum, instructor training, and support for the native language courses that were springing up as local programs in the schools” (Pettigrew, 1990: 1).

language as part of the curriculum at the Eliza VanBibber School

(<http://www.ynlc.ca/ynlc/index.html>).

Cultural Laws

If we look at today's fast paced world and all its technology, it does everything for us at the press of a button. *Hudé Hudan* knew that one day their people would be in this predicament. They foresaw it long before in visions of the past and they told it in stories that went unheeded by many of my people until it was necessary to bring those ways of knowing forefront. As illustrated throughout this thesis, Selkirk First Nation has not traded their cultural values or traditional pursuits in exchange for the luxury of modern technology. For example, "modern technology like going to *dan nenetro yedaak* with vehicles has not altered our way of thinking. The most important part is that the family unit supports it and we still have to share the traditional *Dooli* methods. We still carry those traditional values" (Interview #10, August 21, 2005).⁶²

The Clan system continues to be the dominating force behind Selkirk First Nation culture by guiding all areas of life including marriage, social and political organization, and land management. The whole concept towards solemnized marriages began to change with the introduction of Christianity in the late 1890s onward but the Clan system (within the community and) did not change because each have their duties to each other. Though not examined in detail, the introduction of Christianity slightly altered the marriage systems when those who attended but never returned home from Residential School. They either did not know (because they were so young) or they turned their back on the traditional rules of marriage. The result is that

throughout the Yukon, some marriages consist of both being from the same Clan. Those I talked to in ‘girl talk’ conversation in Whitehorse and other communities (Dawson City, Haines Junction, Mayo, Teslin, Whitehorse) I visited indicated they did not know about the Clan system until they moved back to their own communities. Today, everyone in the Yukon is highly aware of which Clan they belong and the rules associated to them. The traditional belief of other Yukon First Nations towards marriage or Clan systems was not examined. For Selkirk First Nation, it is *Doolí*.

The Clan system obligation to each other is to help people of the opposite Clan whenever, or however help is needed. For instance, when a *Ts’ek’I* is born or if a *Ts’ek’I* passes away then it is up to *Egay* to birth the baby or prepare the funeral, burial, and *Noho’é* (Potlatch). The practice of child birthing “died out in the 1930s when hard times prevented people from elaborate gift-giving” (Gotthardt, 1987: 57; 1987: 40). Today, expectant mothers are sent to Whitehorse about two weeks before the birth. Selkirk First Nation pays for their hotel (of which they own with other Yukon First Nations) and accommodations until the baby is born then they return back to the community. The latter practice of *Noho’é* for burial and funeral purposes are strictly adhered to in the past and into contemporary times. In the past, Wolf and Crow from outside the group were treated with utmost respect and privileges in the form of a feast. As visitors, they receive “the best part – the ribs, the brisket, and the head” (Gotthardt, 1987: 55; 1987: 39). This practice continues today and many Elders from throughout the Yukon look forward to a special gathering in Pelly Crossing (death or *Noho’é*, marriage etc) because they always know they will be served bum guts and moose nose. It is custom in the community to serve both traditional and non-

⁶² Within my own knowledge of the culture, the role that continues today of every adult is to teach certain family members certain tasks or certain family knowledge – no matter how old that child might be (like me now). One of the most important instructions my mother left my teacher was to make sure I knew about “cutting fish” (personal knowledge).

traditional foods. Hunters in the community are chosen by their availability and skills to procure enough game to feed whatever the requirement is for any gathering. It is not known for certain by Selkirk Citizens when the Clan system became a part of *Thi'Ts'ach'an Huch'an* culture, but it is thought by anthropologists “[there] were no other kinds of descent groups (phratries, sibs, Clans or lineages etc)” (Legros, 1999:186).

The *dan nenetro yedaak* that are strategically placed along lakes and rivers on Category A Settlement Land is proving to be a dominant force in the cultural and traditional continuity of Selkirk First Nation. Today at every Selkirk First Nation fish camp there are posters hung that outlines many of the important *Dooli* laws associated to *dan nenetro yedaak*. Accordingly, “we put a sign up...could not do before land claims...it was Crown land...” (Interview # 13: August 3, 2006). Prior to these posters being posted many of those laws were handed down orally. Elders are responsible to reinforce the sacred and spiritual beliefs associated to *Dooli* laws. The posters do not outline many of the consequences associated to breaking *Dooli* laws; it is up to the Family Head to tell their family what happens when *Dooli* laws are broken. The posters are highly visible for reminders of what Selkirk First Nation Peoples should not do while at *dan nenetro yedaak*. These posters also serve as notice to any non-Selkirk person who might visit the fish camp because even though they are not Selkirk Peoples the *Dooli* laws still apply. If these procedures are not followed as taught then the result is *Dooli*. Even to talk about *Dooli* at fish camp is *Dooli*.

In most instances, Settlement Land is monitored by Game Guardians. A Selkirk First Nation Elder or Game Guardian almost always accompanies the biologist when the land and environment is being monitored or if animal population counts are conducted. According to one Selkirk Elder, “we usually go if they take Elders or go on a special checking plants, checking

animals and I've gone up there a few times with Mark counting sheep, counting caribou...counting moose" (Interview #2, June 13, 2005: 24:18). Game Guardians are especially meticulous in monitoring *Tatl'á Män* because many outsiders who partake in sport fishing are drawn to the abundance of fish. According to one Game Guardian,

I see the hunter doing that. They take out the hook and they just throw out on the lake. They catch fish and they bring out; they just take it out and look at it; and they laugh at it, and take and throw it back in the water. I thought what they do that for, the first time? I asked the hunter. I said why you catch a fish and throw it back in the lake for? Oh, I just look at it; just took a picture of it of how big the fish grow in the north. I say don't you know you're ruining the fish? He says the fish, they got no feeling, he say. I said let me throw that hook in your mouth and I'll pull it. See how you feel...that's what our people (*Hudé Hudan*) taught us. Anything we catch, don't suffer it. Be sure you kill it the safe way, and use too. Don't throw it away they said... (Johnson Edwards transcript in TMSMAMP: *Tatl'á Män* Management Plan Whitehorse Workshop Transcript, 2001: #14).

At the time of this study there were no paid Game Guardians in the field due to a lack of funding. In any event, individual Citizens who are out hunting and fishing take it upon themselves to become the guardians of the land when there are no Game Guardians in the field. Selkirk First Nation Peoples as a whole keep track of animals they see on a continual basis. This is often done as people go for nightly drives for the sole purpose of monitoring the wildlife. My hosts often did this where most every night we drove for miles to various hunting, fishing, and medicinal spots 'just looking.'

The fish net and methods of procuring fish are a continued and unique way of life for Selkirk First Nation Peoples. Nearly every home in Pelly Crossing that I visited individually owns or shares a fishnet with family. Some families have more than one fish net and often times the net is loaned to those who don't have one. Today, most families buy their fish nets at Canadian Tire and assemble at home. While the making of the fishnets from natural resources is not practiced in contemporary times, the art of assembling a fishnet can be traced back to *Hudé Hudan*. Even though many of the materials used to make a fishnet are store bought; it is the process and

experience required to assemble the net that is important for the retention of culture. When procedures are followed in this manner, it reinforces the Selkirk First Nation perspective in how things are done and ensures an abundance of fish:

you open it up (purchased fish net) and its all in parts...I tell you one thing nobody is going to be there for you...so you gotta start using your mind and think back, gee, that's how my grandparents used to do it so you have to start doing it on your own...no matter if you make mistakes...that's what it is all about...making mistakes is part of knowledge...if you don't accept making mistakes then you are going to get nowhere...that's how it is in life...in Indian life (Interview # 5, August 22, 2005).

Selkirk First Nation Government, through their Social Programs buys the fishnets at cost and sells them to Citizens for half the cost. This is to encourage non-fishing families to partake in fishing activities while at the same time reducing costs to those whose fishnets are damaged from wear and tear. While this offer may attribute to the number of families taking part in the fishing season, it can create conflict between those who purchase them first and those who cannot afford to purchase them first because a set amount of fishnets are ordered and it is a first come, first serve basis.

To further encourage more families to take part in hunting and fishing, Selkirk First Nation Government also provides their employees with one week of paid leave for 'traditional pursuit.' In most cases, Selkirk Peoples take one week of paid time for salmon fishing in July and/or August and one week of unpaid 'traditional pursuit' in the fall for hunting. Generally the fall hunt of moose or caribou is used throughout the winter for sustenance and any remaining meat is dried along with the salmon at the summer *dan nenetro yedaak*.

Overall, these approaches to maintaining or regaining certain aspects of Selkirk First Nation culture is becoming highly evident as many are returning to the cultural way of doing things. The inclusion of language at all Selkirk First Nation community events is strengthening an understanding of Northern Tutchone even if it is first translated in English. The goal is to

someday soon have it reversed so that Northern Tutchone is spoken first and then translated to English and for English to be eliminated altogether. Selkirk First Nation are embracing many of the stories that were told in the past and are re-visiting many places where they can feel the traditional presence, such as *Chu Tthäw*. This is important because it is the cultural values that ensure the Settlement Land we occupy remains intact. As shown in the three case studies, autonomy is evident today in the governance of Selkirk First Nation through cultural and traditional methods. All the *Dooli* laws surrounding land management must be examined before any laws or policy are made. In most instances, it is first discussed by the Elder's Council and then forwarded on to Chief and Council, the May Gathering, and the General Assembly. For the most part, many of the *Dooli* laws that pertain to hunting and fishing have been brought forward in the three management plans.

An Increased Reliance on Traditional Pursuits

Without the language and without the culture, the land is nothing. Traditional pursuits are associated to cultural and traditional laws governing the land and its resources. Selkirk Peoples learned where to hunt and fish, when to hunt and fish, and why they should or shouldn't hunt or fish in particular areas based on their cultural ways of knowing and doing. The creation of the *Selkirk Wildlife Act* through the three management plans required that Selkirk First Nation Peoples return to the ways of knowing of *Hudé Hudan*. They were required to bring back many of the cultural and traditional laws that are associated to land management including hunting and fishing, forestry, and mining. The hunting and fishing seasons Selkirk Peoples adhere to today are outlined in the annual Harvest Calendars and differs from the Yukon *Wildlife Act (1985)* because many of the laws are based on *Dooli*. For instance, the Government might put a quota on fishing because the fish count is low or has been under estimated but for Selkirk First Nation the count is low because cultural, *Dooli*, or traditional laws have been broken. For example, "fish

cannot be taken from the camp until it is cut because it is *Dooli*” (Interview # 12: May28, 2006). The consequence might be that fish do not return the next year. Breaking these particular laws will not only affect that family’s fishing but everyone else that depends on the fish, particularly salmon, for subsistence. One example as to the reasons why hunting and fishing are affected is something that is not a problem at this time (because of adherence to *Dooli* laws), but could be a concern in the future if drugs and alcohol are brought into *dan nenetro yedaak*. According to participants in a *dan nenetro yedaak* interview,

...you look at a young person who are Selkirk First Nation Citizens or members and at one time or another they are participating in fish camps like this, or hunting camps, or beaver camps...they are part of the traditional activities and we still carry that...but today...young people they drink in camps...looks like you come to a hotdog stand...they have everything...if you look at this fish camp...traditional fish camp...it changes the whole essence of fish camp...if you see those people partying...you will see next year what kind of fishing they will have...if you do wrong it comes back on you...most people respect those laws because they grew up with them...if people are drinking they usually do not come to fish camps...When people come drinking to celebrate at the end of fish camp season you change the method of fish camp...once you are done fishing you are done for the season...(Interview # 10: August 21, 2005).

Another area that ensures the cultural and traditional continuity of Selkirk First Nation is *Chu Tthäw*. Today *Chu Tthäw* is generally only used for healing purposes and more specifically only for Elders and First Nation Peoples in need of detoxification from the effects of drugs and alcohol. Apparently, the hot spring water that flows from the mountain contains medicinal properties that draw out the toxins in a person when they bathe or soak in the water. Many of the Elders who were interviewed recalled visiting *Chu Tthäw* as children and not again until they became Elders.

These *Dooli* laws from along time ago are still talked about in the same way today as in the above quotes. The endeavor for Selkirk First Nation people is to keep the *Chu Tthäw* a sacred healing and spiritual place free from outsiders who seek to exploit the plants, water, and

knowledge attached to the Hot Springs. Selkirk First Nation people will not allow *Chu Tthäw* to become a commercialized venture like the Tahkini Hot Springs that is located on the outskirts of Whitehorse. It was realized that if *Chu Tthäw* were to become a tourist attraction then the medicinal and spiritual aspect of *Chu Tthäw* as a healing place would be destroyed and the traditional aspects lessened. In the minds and belief of Selkirk First Nation people, those medicinal plants can never be replaced because of the unique nature in which they grow.

Working Together

As mentioned in Chapter 2, this thesis has not been about a debate between the scientific and traditional approach to land management but it could become a concern in the future if natural resources are found on Selkirk First Nation Settlement Land. Selkirk First Nation does not have a choice at this point of devolution and implementation of the Agreement but to allow the Government to bring in their qualified scientists to monitor or regulate such things as water, fish counts, archeological digs, geological testing, etc. This is due in part to a lack of resources and/or qualified Selkirk First Nation Citizens to conduct the research that would qualify as a scientific knowledge (not traditional knowledge) acceptable by the dominant Governments. However, the difference is that the scientists who come into Selkirk First Nation territory come in with preconceived knowledge of the Agreement and they also have an understanding of the autonomy that Selkirk First Nation can exert over their Settlement Land. According to O'Donoghue, "we don't represent our Government...I think I have made that clear...we're appointed by Government and we're there to come up with the best management plan but we certainly hear from our Government as to what you know the Yukon Government is likely to support and not support..." (Interview #1, June 13, 2005). What the Agreement has done in this instance is provide the platform for scientific evidence that shows that the approaches used by Selkirk

Peoples are true and tested methods built upon cultural values and traditional pursuits from a long time ago. For example,

in going back to bears the old people say...its no good because that bear...listen very carefully...its going to be uniform with the European system...don't shoot bears where fish spawn...why?...because bears keep things clean...the channels open...they are the care takers of that place...when the fish finish spawning they take the dead fish out keeping the spawning streams clean...bears are highly potent...when you kill bears at the stream the blood seeps into the water into the breeding path of that fish and fish won't come for a long period of time...its been proven scientifically and traditionally...we knew all along traditionally...scientists are just trying to prove it...and they are finding it is so...(Interview # 9: August 21, 2005).

Selkirk Peoples benefit culturally and traditionally because in order to show the Government and the scientists what they need to know, they have to prove through practice that the cultural, *Dooli* and traditional laws are just as effective as westernized ideologies. Selkirk First Nation never had the autonomy to initiate such strategies until the Agreement.

If Selkirk Peoples see an animal such as moose or caribou that can be hunted, it is shot and killed on the spot, but if it is an animal that is not within their hunting season the animal is left alone and its sighting and numbers are reported at the May Gathering. Apparently, “they also take a moose count of people who hunt at the end of the year...and fish too...by the Lands and Resources...every year and reported at May Gathering... could not do Selkirk First Nation land conservation before the land claims...our way is good management... its safe to support our approach and it is bound to work...(Interview # 8, July 13, 2005). In this process, all Northern Tutchone (NND and LSCFN) know how many animals were hunted and it gives an indication of what their hunting and fishing allotment for the next year will be estimated at. All three Governments accept this concept towards wildlife laws and they accept it as Selkirk First Nation law. Apparently,

[Selkirk First Nation] don't realize the traditional power they have...even the Governments ...are coming to us...its on the Government negotiating table right

now for PSTA...those are tied to traditional knowledge and the Government is asking me to send a copy immediately of our consultation process...of our *Dooli* traditional practice... that paper clearly spells out self-Government...that's consistency...that's what we said we would do...we can't hold back with the Government anymore...the Government will buy into whatever we want...they are policies derived from traditional workshops...it is the results of those workshops and becomes a sharing with the parties of agreement...(Interview # 9: August 21, 2005).

Selkirk First Nation was adamant that hunting fishing policy and laws were established according to their way of knowing but was without the proper resources to initiate their own studies for comparison. In the same instance, the Government is limited in their degree of infringement on Category A Settlement Land unless invited. Accordingly, "the First Nation wanted more direct technical involvement...wanted more involvement from biologists so our Government put a Regional biologist in the communities...so I work with the three Northern Tutchone First Nations...my job basically is to work with the three communities, with the RRC, and fish and wildlife issues" (Interview # 1, June 13, 2005). Furthermore, according to O'Donoghue,

other First Nations have kind of gone and taken the YTG Wildlife and modified it how it would suit their needs...what Selkirk decided to do was get together some Elders on how they wanted to develop a Wildlife Act and the decision of the Elders was they didn't want to do it like the other First Nations were doing it...they wanted to go back to the way they used to manage wildlife and rather than having a written piece of legislation that YTG was doing they wanted to go back to traditional management so that led to a whole series of workshops with Elders over a couple of years that kept growing and growing...became to be more Elders involved and Elders from the other Northern Tutchone First Nation came too...about how they used to manage hunting...how they used to manage fishing and trapping and I was lucky enough to be involved and got to sit first and listen how they used to manage the use of wildlife and that's led to yearly annual gatherings as they used to be after the winter was over to talk about how the wildlife population... how hunting and fishing would be managed...about making decisions about would happen in the next year...I've been involved in all of these and have worked quite closely with the lands and Heritage staff with the First Nation (Interview #1, June 13, 2005).

Elsewhere, studies conducted by Ruth Gotthardt indicates that “Selkirk Peoples are becoming more active in being active in keeping an eye on what’s going on...I think people always were but now they have clout of being a Government with a voice...being on RRC...that strong voice that has to be listened to...more asking questions...they want to know the information before the project” (Interview #14: Nov 23, 2005).

Overall, the processes in which Selkirk First Nation accomplished and implemented the management plans for *Ddhaw Ghro*, *Lutsäw*, and *Tatl’á Män* are not new ways of approaching land management practices but their level of autonomy through the Agreement makes it unique because they are policy and laws that supersedes policy and laws mandated by YTG. Additionally, each management plan was devised separately based on the need of involved parties and was not treated as one entity to cover all three areas.

Ddhaw Ghro is a tri-party sharing accord and as a result, Selkirk First Nation, *Na-Cho Ny’a’k Dun*, and YTG have full participation in any management or development that should occur. However, the two First Nations (Selkirk First Nation and *Na-Cho Ny’a’k Dun*) are highly resistant to any form of economic development, mining, forestry, or eco tourism. The First Nations and perhaps YTG, are interested in eco-tourism on other areas of Settlement Land but not on the SMAs and especially not at *Chu Tthäw*. *Lutsäw* is solely Selkirk First Nation owned and generally the only outsider’s who partake in land management decisions or implementation is the Regional biologist. For the time being, YTG concerns itself with the portion of Category B Settlement Land and sole decision making for land management on Category A Settlement Land is conducted by Selkirk Peoples through the management plan. *Tatl’á Män* is also a highly protected area owned by Selkirk First Nation and the management plan that was directed and implemented by them is intended to protect the area from intrusion and overfishing.

Conclusions

The purpose of this study was to examine to what extent are Selkirk First Nation Peoples benefiting culturally and traditionally from the Agreement. Through the course of this study it can be argued that as a result of the Agreement, policy making has allowed for an increase in the use of cultural values and traditional pursuits. This is because to create change from your perspective it requires participation of which Selkirk peoples have fully agreed to without hesitation but not without skepticism. The question that remains to be answered is: *Has Selkirk First Nation benefited from the Agreement?* The overall answer would have to be yes, Selkirk First Nation beneficiaries have benefited as far as land management is concerned and as far as cultural and traditional modifications are concerned. While Selkirk First Nation people have not yet have realized or achieved the full potential of self-government we have managed to maintain and bring forth our Selkirk First Nation perspectives in managing our land and environment. Which was the ultimate endeavor in the pursuit for land claims.

It can be reasonably argued that Aboriginal rights afforded to Selkirk First Nation goes beyond Aboriginal rights as understood under Sec 35 (1) of the *Constitution Act, 1982*. Today Selkirk Peoples have the Aboriginal right to hunt and fish on their traditional territory at any time of the season whether it is for subsistence or cultural ceremonies. They have this right without facing fear of being charged or having to challenge it in the courts as long as they hunt or fish within guidelines set out in the three Management Plans, the May Gatherings, and the various chapters of the Selkirk First Nation Final Agreement. Selkirk First Nation can now make policy and laws based on certain aspects of cultural values and traditional pursuits.

In attempting to review the relationship between Selkirk First Nation and YTG, it is difficult to avoid using the term 'co-management' because it is mandated in the Agreement. Co-management implies that one party is not capable of managing their own affairs without the

assistance of a higher level of management. It elicits the question of what is self-government and to what extent of self-determination is applied to Selkirk First Nation Settlement Land without government interference? In any instance, the development of the three management plans would not have been possible without the Agreement because Selkirk Peoples would not have the autonomy or the need to modify or reinforce cultural values and traditional pursuits. This would be because YTG or the Government of Canada would have directed all laws and policies. Consequently, it can be reasonably argued that without the Agreement Selkirk Peoples would not have the autonomy they now have to create and enact policy and laws that are based on cultural values and traditional pursuits. In all essence, the implementation of co-management has been beneficial for both Selkirk First Nation and YTG.

I have learned as Northern Tutchone we have a rich oral and traditional history that is evident today. Citizens who have been strongly influenced by Christianity or the Residential Schools remain skeptical of *Hudé Hudan or Dooli* - but this is slowly changing as more of the younger generations attend and take part in community meetings and gatherings with their parents or grandparents. One example of the endeavor to remain as cultural and traditional Selkirk Peoples is the writing of this thesis. Through the course of my interviews people told me stories that have not been told in a long time and one day those recordings will belong to Selkirk Peoples in our Archives.

Implications

I have been told if I only write about what I do rather than practice the cultural values and traditional pursuits then “at one point in our life you are going to think back to how my grandparents did it...showed me how to do it this way...I am going to do it the same way they did it...that’s what carries the traditional and cultural knowledge” (Interview # 10: August 21, 2005). According to my people, if we do not heed the voice of *Hudé Hudan* then our future

generations are going to suffer hardship and misfortune (*Dooli*) that not even the Agreement can protect because our cultural survival is dependant upon the land and the land is dependant on us. It could be the Government set up Selkirk First Nation and other Yukon First Nations for failure because we are still very much the same traditional people and perhaps academically uneducated people we always were, but it is too soon to tell. At the fairly steady rate that Selkirk First Nation has implemented certain programs, namely the management plans, and if this trajectory continues, failure of self-government will not be a concern. However, if we do not heed those warnings, the land and environment that Selkirk First Nation depends upon for survival, will not be ours but rather back in the hands of the Government. If this were to be the case, we would be admitting that Selkirk First Nation, as a Government could not uphold themselves and all that *Hudé Hudan* done was for not. This will not happen once the land is for certain. *Mussi Cho*.

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Personal Interviews

Interview # 1: June 13, 2005.

Interview # 2: June 13, 2005.

Interview #3: June 20, 2005.

Interview # 4: July 4, 2005.

Interview #5: July 7, 2005.

Interview # 6, July 7, 2005.

Interview # 7, July 9, 2005.

Interview # 8: July 13, 2005.

Interview # 9: August 21, 2005.

Interview # 10: August 21, 2005.

Interview #11: August 23, 2005.

Interview # 12: May 28, 2006.

Interview #13: August 3, 2006.

Interview # 14, Nov 23, 2006.

APPENDIX A
INTERVIEW QUESTIONS

Selkirk Peoples [1]

1. Are you're a member of the Selkirk First Nation?
2. Are you *Egay (Wolf)* or *Ts'ek'I (Crow)*?
3. Do you live in Pelly Crossing on a permanent basis?
4. Do you speak the Northern Tutchone language...is it your first or second language?
5. What is a Selkirk First Nation perspective? What does it mean to you?
6. How important is Northern Tutchone to a Selkirk First Nation perspective?
7. What do you know about? (Show a map of these areas)
 - a) Ddhaw Ghro Habitat Protection Area
 - b) Ta'tla Mun
 - c) Lhutsaw Wetland Habitat Protection Area
8. How important is knowing Northern Tutchone when naming traditional areas? Do you know how they were named...by who...why?
9. Can you tell me what you know about the land claims and land management?
10. What were these areas like before the land claims?
11. What kind of wildlife/fish are in these areas?
12. Do you hunt/fish in these areas?
13. What kind of hunting and fishing practices do you follow when hunting or fishing?
14. Do you know if Government laws or Selkirk First Nation laws are applied to hunting and fishing?
15. How was the land and environment taken care of a long time ago?
16. Is there a difference in how these areas of land are managed, developed, or protected since the land claims were settled? What differences do you see if any?
17. Who is responsible for looking after these areas of land?
18. How much time do you spend in these areas? Why?
19. What part do you have in ensuring that these areas of land are maintained?
20. Do you use a Selkirk First Nation perspective when deciding how these areas of land should be managed or protected? If yes, what are they?
21. Are these areas being developed for purposes other than habitat, hunting, and fishing?
22. Do you think these areas should be developed for economic resources? Traditional purposes? Why or why not
23. Are these areas protected from outsiders? If no, how can these areas be protected from outsiders?

Non-Selkirk Peoples [2]

1. Can you tell me about your part in Selkirk First Nation land and environment?
2. Are familiar with the land claims process and how it relates to land and environment management?
3. Could you give me examples of how Selkirk First Nation perspectives are applied to land management without touching on *Dòoli* laws?
4. Are you familiar with the *Ddhaw Ghro*, *Tatl'á Män*, *Łhutsaw* as part of your job?
5. Do you think that by applying the Selkirk First Nation perspective that it helps to maintain or manage the area?
6. When you do public consultation with Selkirk First Nation in the community do you find you get a good response?
7. Do you think that by applying the Selkirk First Nation perspective towards land management, hunting and fishing, land conservation it has made a difference to help or hinder the process?