

**CHANGES IN ABORIGINAL PROPERTY RIGHTS:  
A CHRONOLOGICAL ACCOUNT OF LAND USE PRACTICES  
IN THE LIL'WAT NATION**

by

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## ABSTRACT

This study deals with the changing dynamics of land use systems in an aboriginal community of British Columbia, namely the Lil'wat Nation, by employing the concept of *property* as an analytical tool. The focus on the concept of property clarifies the role played by the authority and institutions as regulators and decision-making factors in land use management. The description of the relationship between property and various transitions in aboriginal life constitutes the main contribution of this research project.

The methodology used in this descriptive study is a combination of the participant-observer method and archival data collection. Issues around authority are discussed in terms of the power relationship between Canada and the Lil'wat Nation. Several historical events explain the way in which political and economic imperatives have shaped the relationship between the Lil'wat Nation and Canada, as well as the internal power relationship within the aboriginal community.

It is found that the rapid and important changes in the decision-making situation (i.e., context of institution change) have significantly affected the land use projects on reserve grounds. Those changes include: high rate of population growth, extension of a money economy through forestry and agricultural activities, and exercise of various outside interests on reserve lands. Also, it is found that a number of governmental initiatives created and perpetuated a state of dependency and dissension among the aboriginal community.

Since land use practices cannot be viewed in isolation, this study emphasizes the importance of political reform and sharing of authority. Also, some strategies for Lil'wat's self-determination are identified and the urgency to develop community-based economic projects is stressed.

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## INTRODUCTION

The first white settlers and gold-seekers came to what is now called British Columbia (BC) about one and a half centuries ago. Since then, the history of the aboriginal peoples<sup>1</sup> in BC has been particularly tumultuous. For the most part, the native people have suffered the effects of the Canadian policy of assimilation and, for them, the past one and a half centuries have brought along more losses than gains. The assimilation process distorted traditional social structures and often created a state of dependency on Canada and dissension within the native communities. During the last few decades, however, there have been some positive changes in the relationship between the aboriginal peoples and the rest of Canada, especially in the legal and the political arenas. Increased recognition has been given lately to the native people's struggle for self-determination. Under such circumstances, the major challenge facing the aboriginal peoples in BC appears to be that of finding the right strategy for ensuring a more favorable future (Sanders, 1996).

It is probably true that economic development and political independence are two of the most important goals for the aboriginal peoples. However, it is even more important to articulate the way in which those goals are to be pursued. For example, the influx of government funds without well defined spending provisions brings chaos to the aboriginal communities. Joint economic development projects, corporate ventures, or government funds often conflict with local economic control. Also, traditional systems cannot always accommodate conventional economic development strategies. On the other hand, the proclaimed concept of nominal 'political independence' may lead to a disproportionate power structure in the native communities. Therefore, economic and political initiatives should be carefully scrutinized in light of the actual community structures, as well as the lived experience of aboriginal peoples.

For both aboriginal and non-aboriginal people at large, aboriginal land claims have

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<sup>1</sup> In this thesis, a number of terms are used to describe the original inhabitants of British Columbia: *aboriginal peoples*, *First Nations*, *native peoples*, *Indians*, and *indigenous peoples*. Similarly, the later settlers are referred to as non-aboriginal, *European*, *Euro-Canadian*, or *White*. These terms have been used interchangeably in public debates as well as academic circles, and none of them is intended to convey a pejorative meaning in this document.

become some of the most important legal, political, and economic issues in BC. It is, however, still uncertain how, and to what extent, such claims can be settled. Affected interests, such as the federal and the provincial governments, resource industries, and environmental groups are concerned about the natural resource management in BC after land claim settlements. It is important at this stage (in fact, probably, long over due) that attention be paid to aboriginal land use and management issues.

The Canadian legal system is currently trying to interpret the aboriginal relationship to land (i.e., aboriginal rights and titles). A report of the *Royal Commission on Aboriginal Peoples* (1995) explores this point. It recognizes that, contrary to the Western view of land tenure based on individual rights, the traditional aboriginal understanding of land tenure "is defined principally in terms of responsibilities that flow from that relationship and is best captured by the concept of stewardship." The Royal Commission presents several views on aboriginal land tenure:

1. The tenure where a First Nation would have full rights to manage the area as people see fit: a First Nation is "free to structure its relationship with land in accordance with its worldview, perhaps by building in legal obligations to serve as stewards of the land for future generations."
2. Land rights and jurisdiction could be shared by First Nations and the Crown: e.g., rights to traplines could co-exist with the Crown rights to mineral exploration in accordance with provincial or territorial laws.
3. While First Nations could have some rights to recognize their historical and spiritual relationship with the land, the crown would be given the land tenure with full authority.

It should be appreciated that the Royal Commission recognizes the special character of the aboriginal relationship to land. The arguments in the report, however, fall short of exploring the meaning of the aboriginal relationship to land in the contemporary context.

Similar arguments have been made in the sphere of natural resources management. In fact, it is only in the last few decades that aboriginal belief systems, native people's knowledge of and attitudes toward nature have been acknowledged and reclaimed from the brink of extinction (Berkes, 1984, 1987; Usher, 1984; Little Bear, 1986). According to those arguments, there is a strong hope for contemporary resources management practices to incorporate the



aboriginal knowledge that has sustained the living resource base over extended periods of time. However, here again, the arguments tend to follow only philosophical lines, ignoring the reality of aboriginal people who have been subjected to the politics of assimilation and economic modernization. It is important to explore the aboriginal relationship to land as part of the reality of their life.<sup>2</sup>

In this respect, the following questions need to be addressed: what are the native traditions of land management?: how has the traditional approach to land management been modified during the many years of “colonialism”?: what is the current situation?: and how does this reflect on the future?

Clearly, to provide definitive answers to these questions is a complex task, much beyond the scope of this study. In this descriptive study, this author explores the issues surrounding land use and management in a particular aboriginal community, namely the Lil’wat Nation.<sup>3</sup> The research focus is on the changes in land use systems on the reserves and the traditional territory during the last 50 years. However, a historical review outlining various transition points in the development of property before 1950 will be also presented as a succinct historical background for this descriptive study.

The Lil’wat Nation consists of about 1,000 people living on the reserves, a total area of about 2,500 hectares. There are a total of ten reserves that belong to the Lil’wat Nation or the Mount Currie Indian Band. All the reserves are located along the Pemberton Valley, 100 miles north of Vancouver. The attached map (Figure 1) shows the location of Mount Currie. This community was selected for this study because its people have used the land (traditional territory) extensively during their long history. Also, as this study focuses on *change*, the Lil’wat

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2 It should be also noted that images of Indians have been just about anything the non-Native culture has wanted them to be (Francis, 1992). It is, therefore, dangerous to view the aboriginal relationship to land in a romantic fashion, as suggested by some Western accounts of native spirituality, such as the Gaia myth, or the medicine man. This romantic vision is largely the creation of the white people (Gill, 1990). Similarly, Willems-Braun (1997) argues that “the BC environmental movement risks a subtle imperialism that denies First Nations their voice as modern cultures that are not solely interested in preserving what, at the end of the day, is little more than a mirror-image of industrial production and the object of a middle-class urban desire: wilderness (p. 30)”.

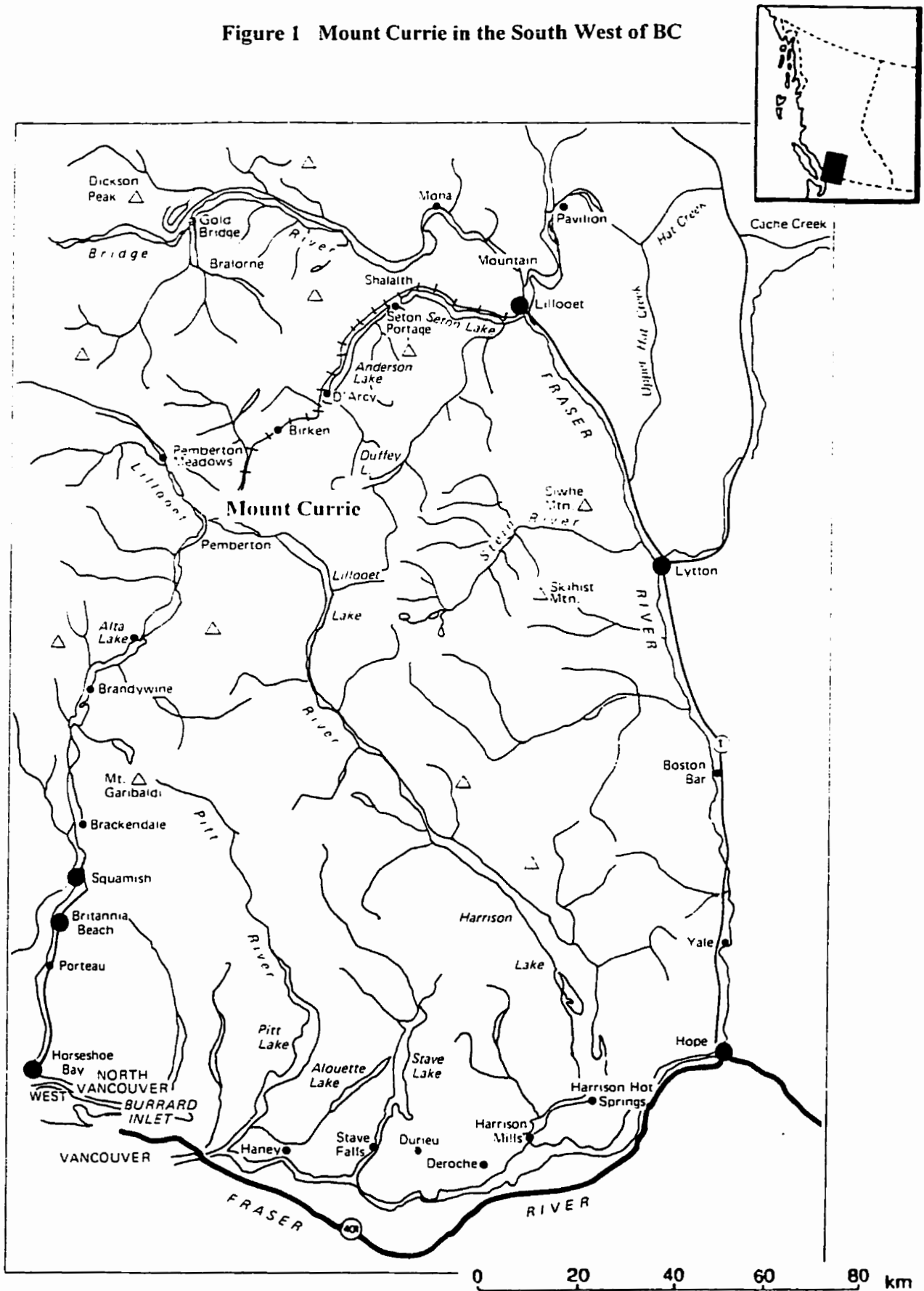
3 The Lil’wat Nation is a division of the Stl’atl’imx people all of whom speak the same language. The spelling *Lil’wat* is used to reflect the correct pronunciation in their language [li:l-uat]. Today’s Lil’wat people are the inhabitants of the Mount Currie area.

community was found to be a typical case of an aboriginal society connected to an urban centre by a highway and experiencing the rapid expansion of money economy, including forest industry, over the last 50 years.

The changes in land use are interpreted within political and economic contexts, and the concept of *property* is used as an analytical tool. Property rights are defined as an enforceable claim to some use or benefit of something, being endorsed by a society. They are structured in terms of institutional arrangements (e.g., customs, traditions, statutes, and constitution). With respect to area resources, such as land and water, a property system in a given time period represents an outcome of existing conflicts of human interests over those resources. Also, it designates and co-ordinates human interests in the resources. In this sense, property systems are an indicator of dynamic human relationships, changing and evolving over time.

In the case of the aboriginal community, the principal actors that induce change in the property systems are: individual community members, groups, and the community (band) itself, as well as governments and corporate organizations. From this point of view, this study analyzes a series of significant events in the recent history of the Lil'wat Nation as they relate to property systems. This sequence of historical events reveals further significant meaning when viewed and interpreted in the context of property systems. The clarification of property systems, as they have evolved in the past, may form the basis for future approaches to land use and land management in the aboriginal communities. Also, a thorough understanding of this dynamic process may contribute to forging a more cooperative relationship between Canada and aboriginal societies

Figure 1 Mount Currie in the South West of BC



## CHAPTER ONE

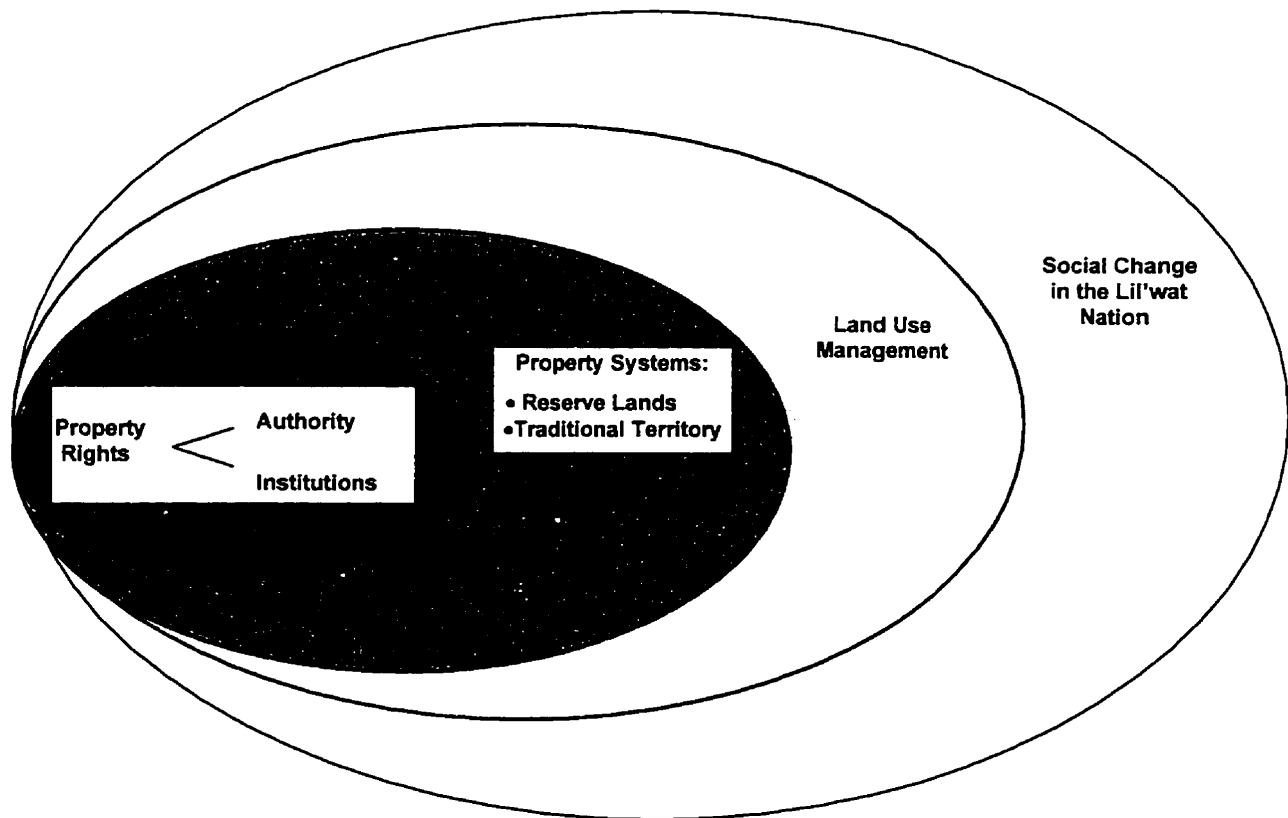
### RESEARCH OBJECTIVES AND METHODOLOGY

#### 1.1. Framework of the Study

##### 1.1.1. Research Objectives

The purpose of this study is to describe the changing dynamics of property systems with respect to both the reserve lands and the traditional territory of the Lil'wat Nation over the last 50 years. For this description, the concept of *property* is employed in order to highlight two sources of structural change over the sample period: changes in institutional arrangements and changes in authority. Thus, the dynamics of property rights are seen to be affected by these two areas, viewed as sources of change. Figure 2 illustrates the conceptual organization of this descriptive framework. As the figure shows, this descriptive framework includes the examination of the larger issues concerning land management and overall social change in the Lil'wat Nation.

**Figure 2 Object of Research**



The following sections of this chapter explain the way in which the concept of property rights applies to the land use practices of the Lil'wat Nation and place the concept of property against Lil'wat's historical context. The chapter then covers the two main sources of change in property rights: institutional changes and authority changes. This is followed by an account of the methodology used in this research and the potential limitations of this study.

### **1.1.2. Property Rights and the Lil'wat Nation - An Overview**

Throughout their history, the Lil'wat people have set aside distinct areas on their traditional territory for different purposes and activities, such as fishing, grazing, hunting, or dwelling. Spiritual activities have always occupied an important place in the life of the Lil'wat community and special grounds on the traditional territory have been assigned for such ceremonial or meditative purposes.

One day, a Lil'wat leader told this researcher: "Stein Valley is, in our tradition, a sacred spiritual ground. Our ancestors and many of my generation have trained themselves in the Valley to be strong men. Each one of them has spent many days alone in the Valley. At first, you've got to learn how to survive by yourself in the deep mountains. It was our custom that you should stay there until you had a vision, or died. You know, once you had a vision, you could see the logic of universe. You could see who you are and why you are here now." These words attest to the importance of spirituality in the life of the Lil'wat people, as well as to a critical sense of control over the traditional territory. Today, the native people of the Lil'wat Nation seem to experience a profound sense of loss of control over their traditional territory. This section attempts to outline this situation from the perspective of property rights.

Among various meanings involved in the term *property*, the definition used in this study follows the one offered by Macpherson (1978):

to have a property is to have a right in the sense of an enforceable claim to some use or benefit of something, [...] property is a claim that will be enforced by society or

the state, by custom or convention or law (p. 3).<sup>4</sup>

This definition of property can be further articulated by making use of Sumner's (1987) account concerning rights in general. Any right must contain a rule system in its structure. Based on Hohfeld's (1919) "fundamental legal conceptions", Sumner (1987) points out that a system of rules is constructed as a combination of: rules defining normative relations (*first-order*) and rules that operationalize those relations (*second-order*). The logical connections among the first-order normative relations can be essentially expressed by two normative positions: "X has a liberty with respect to Y to V" and "Y has a claim against X that X not V" (where X and Y are persons and V is some act). Similarly, the second-order relations are basically expressed as a set of opposite statements: "X has a power over Y to affect R" and "Y has an immunity against X's affecting R" (where R is some normative first-order relation). Therefore, embedded in the concept of property rights is this rule system including both first- and second-order relations.

Although rights always include claims in their structure, it is important to distinguish between *liberty-rights* and *claim-rights*. Wellman (1985) discussed those two kinds of rights by utilizing the distinction between the *core* of a right and its *periphery*. The core of a right defines both its content (what is this a right to) and its scope (subject and object: who holds the right against whom). A liberty-right is a right to do something or not as one pleases; at its core is liberty. A claim-right is a right that something be done by somebody else; at its core is a claim. The periphery of a right is composed of any further ingredients that enhance or protect its core. While a claim-right, having a claim at its core, may have no periphery, a liberty-right must have a periphery the ingredients of which will include a protective perimeter of claims, powers over both the core liberty and these protective claims, and immunities against the similar powers of others. All these ingredients at the core and the periphery of a right represent the *existence condition* for a right (Sumner, 1989).

A property right is a *liberty-right*, which must have a periphery. In other words, a rule

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<sup>4</sup> Macpherson's definition of property discards some of the common usages of property, such as 'property is thing' and 'property is private ownership'. One implication of this definition of property, as an enforceable claim, is that it requires somebody to enforce it. Evidently, property is a relationship among persons. More specifically, this definition of property delineates inclusion and exclusion criteria: in other words, when somebody exercises a property right, others are excluded from it. Furthermore, institutions (e.g., custom, convention, law) regulate the exercise of property rights. Since institutions are under state (society) authority, property also becomes a political phenomenon.

system can generate property rights if it contains rules which can confer liberties, claims, duties (first-order), as well as powers, disabilities, liabilities, and immunities (second-order). All of this constitutes the *existence condition* of a property right. A property right becomes legal when it is accorded official recognition within a legal system, a rule system of some sovereign state, where legislative and adjudicative institutions function to create and apply the rule of the system. However, as long as the existence condition is fulfilled, any conventional system can confer a property right as well. Such systems, therefore, need to have means of determining the content and scope of those rules as well as rules conferring powers. In general, the members of the group, collectively or individually, have certain powers if the members of the group generally accept that they do, thus, if they generally acknowledged and recognized the exercise of those powers.

In the case of the Lil'wat Nation, legends, myths, including symbolic characters in anecdotal stories, attest in their metaphorical way for the existence of traditional property rights before the Lil'wat people were contacted by the Europeans.<sup>5</sup> Apparent examples are stories of warfare with neighboring aboriginal nations over land, resources, and slaves. These stories can be seen as an expression of the core liberty component of a property right: Lil'wat's right over the traditional territory against other aboriginal groups. Also, such legends can reveal that the Lil'wat Nation had a set of protection measures (i.e., preparation for warfare) as the periphery component. For instance, a story concerning the last battle with Nlaka'pamux people (previously called Thompson) shows the way in which the two groups settled conflicts (Bouchard & Kennedy, 1977). In the story, a group of young Nlaka'pamux people, lead by the Chief's son, raided Lil'wat in spite of the Chief's prohibitions. Eventually, most of the group were killed by the Lil'wat warriors and the few survivors were chased away. When those survivors returned to

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<sup>5</sup> The formation of traditional property systems in the Lil'wat Nation falls beyond the focus of this research project, although traditional resource use patterns will be discussed in the Chapter 3. Obviously, it is important to reconstruct the traditional property systems by accumulating evidence relevant to the core-liberty component (what is this a right to, and who held the right against whom) and the periphery component (power formation) of property rights. Analyzing the oral tradition is a viable research direction. The formation of power, for example, may be understood by investigating how people have constructed their belief system. Their beliefs are symbolically expressed in such stories as "The Flood" that brought the "animal-people" and the "transformers" to Lil'wat. The role of the "Great Chief" (or "Great Spirit") may be important in this regard (some of these stories are recorded in 'Lillooet Stories' [Bouchard & Kennedy, 1977]).

Nlaka'pamux, they found they themselves had to die because they had rebelled against their Chief. The severe punishment applied by the Nlaka'pamux Chief was intended to show their respect toward the Lil'wat as well as to sanction the border between them. All over the territory of the Lil'wat Nation numerous stories suggest the existence of internal property arrangements. For example, some stories explain the annual pattern of traditional resource use (including some products used as exchange objects with neighboring aboriginal communities), which may be an indication that various core liberties existed within the traditional territory. Other examples are: fishing sites used by certain family groups, or the above mentioned Stein Valley assigned as a spiritual ground.

As mentioned, in order to generate property rights, these internal property arrangements must contain a certain rule system. With respect to the spiritual ground, for example, at the core of the property right is the content: the use of the Valley as a spiritual ground. The extent to which this is an example of a liberty right may be arguable; however, people agreed to choose this site for their spiritual training. The subject is the Lil'wat community as a collective entity. The object may be someone in the community who is interested in using the Valley for other purposes, or some outsiders who may want to trespass the ground. At the periphery, the core must be protected by imposing a duty on the community members, in this case the duty to protect the site as a spiritual ground. When youngsters violate this rule, adults are responsible for teaching them the importance of the spiritual ground. The ground may be further protected by watchmen in charge of securing its borders. The important point is that these normative rules are supported by a certain power formed in the community. Some community members mentioned that the elders (leaders of family groups) and shamans had a significant degree of power over community affairs. Also, some stories imply that the internal power structure was supported by the Great Spirit whose will was conveyed through the legends or by the shaman, or the Little Man, another mythical figure. Whenever they faced important decisions, the elders got together to discuss the matter. During those meetings, legends were often invoked as they applied to the particular situation. Sometimes a shaman would join the meeting and assist the decision-making process. In this sense, elders, shamans, and mythical figures assumed the role of both legislative and adjudicative institutions. With the recognition of community members, they exercised power over the on-going rules. These layers of protection,



recognized and respected by the members, prove the existence of a property right structure with a defining core and a protective periphery.

The distinctive characteristic of the *existence condition* of those property rights is their underlying logic: (1) what it is for the community to exist, (2) what it is for the community to have rules, and (3) what it is for such rules to confer rights on those to whom they apply (Sumner, 1987). Clearly, the way in which this system of rules worked in the Lil'wat Nation was closely related to the beliefs and worldview of the people in the community. Symbolic expressions, such as songs, motifs, and stories, can be seen as indicators of the shared worldview among all community members. As Hallowell (1964) explains, "symbolic communication is the basis on which a common world of meanings and values is established and transmitted in human societies. Communication at this new level is a necessary condition for the operation of human societies in their characteristic form" (p. 455).

Obviously, the implications of the European contact for the native community were significant in terms of property rights. With the European domination, the very *existence condition* of the traditional property rights started to be threatened. While the native people may have continued to assert the core of the traditional property rights against the colonial government, they lost the protection measures that operate at its periphery, such as the means to impose a duty on the colonial government and the power to control the normative relations over the core liberty. Instead, the property rights of the colonial government (currently Canadian governments) appear to prevail over the native people's rule system.

By the same token, the colonial government (Canadian governments) needed to establish the *existence conditions* for its property rights, in consonance with its own legal system. The colonial government's assumption of property rights over the land represents the core liberty component. In order to secure these rights, the periphery component establishes protection and enforcement measures by legalizing and thus justifying the occupation of land (this process will be addressed in more detail in Chapter 2). In the long-run, however, the way in which the colonial government has secured the core liberty has taken two forms: *segregation* and *assimilation* (Fisher, 1977). While the colonial government placed the native people within the bounds of reserve lands, it developed its own property institutions outside of the bounds of reserve lands (segregation). At the same time, the colonial government has tried to destroy the

traditional belief systems, an important determiner of the aboriginal property rights, in an attempt to incorporate the native population under its legal system (assimilation). This has been done through the introduction of a number of policies, such as prohibiting traditional ceremonial activities, Christening native children and educating them in residential schools, replacing the Lil'wat language with English, introducing provisions for enfranchisement, and encouraging commodity production applicable to the capitalist economy. In addition, new epidemics brought along by the European occupation weakened the native society even further.

In reality, the politics of assimilation have not completely succeeded although they have had a devastating impact on the native community. This is partly because the politics of segregation have enabled the native people to maintain their 'Indianness.' Maintaining their Indianness, however, has not translated into retaining their property rights. Obviously, the legacy of the policy of assimilation is significant, especially for the formation of power in the Lil'wat Nation. Because the traditional formation of power has been shown to be closely related to the spiritual beliefs and worldview of the Lil'wat people, the assimilation process also targeted those traditional belief structures. To the extent to which a system of property rights has survived in the Lil'wat Nation it can be assumed that it has incorporated a number of extraneous elements.

The colonial period has known a transition from the traditional property rights system to a modified version of property rights that can be analyzed in terms of both the core liberty and the periphery components. Whatever the contents of the core liberty component are, it can be presumed that the formation of power occurs at the periphery. It can also be presumed that, in order for the formation of power to occur, there must exist a shared recognition of: (1) what it is for the community to exist, (2) what it is for the community to have rules, and (3) what it is for such rules to confer rights on those to whom they apply. This recognition does not need to be entirely based on 'tradition.' It may be reshaped by the members of the community as they accept and share some common goal. In the case of the Lil'wat Nation, the process of power formation has been constantly challenged by the Canadian authority. This has led to the existence of a dual authority system which is critical for understanding the transition of power in this native community.

Similarly, changes in the core liberty component have occurred due to various reasons. A number of factors have been responsible for changes in the contents of the core liberty: (1) a

change in life style has promoted a new core liberty, (2) a traditional, or an innovative, core liberty has been suppressed by the Canadian authorities, and/or (3) a new core liberty has been imposed by the Canadian authorities or by the general political and economic trend. At the same time, the content of some core liberties has remained unchanged. Among the factors responsible for the maintenance of certain core liberties are: (1) the inability of Canadian authorities to control them, or, conversely, the Lil'wat Nation's determination in maintaining them, and (2) the disinterest of Canadian authorities in controlling or changing those core liberties.

As will be shown in more detail in Chapter 2, treaty negotiations are being scheduled in British Columbia (although the Lil'wat Nation is rejecting the idea of an on-going treaty process). From the viewpoint of property rights, treaty negotiations are a recognition of the existence of core liberties for aboriginal property rights. Aboriginal rights were enshrined in the Constitution Act of 1982. The treaty negotiation process is concerned with establishing the content and object of core liberties, as well as the protection measures, including the formation of powers.

Given this political trend towards reconciliation, treaty negotiations may seem to provide the aboriginal peoples with an opportunity to attain their goal of self-determination. In reality, the people of the Lil'wat Nation are divided in their opinion concerning treaty negotiation. Some think that treaty negotiation is the single option open to them, others are not willing to take part in the process. Native people's opposition to treaty negotiations has been argued along the following lines:

1. Some people regard themselves not as Canadians but as Lil'wats. They invoke the non-negotiable power of a spiritual "Creator" who entrusted this land to them. For them, their activities on the land should not be subject to the Canadian legal system or formulated in terms of "aboriginal rights". The fact that aboriginal rights have become a matter of Canadian constitutional rights is seen by some native people as part of the process of assimilation. According to this view, the very process of negotiation with Canada defeats the goal of self-determination.
2. Some people criticize the political economic system in Canadian capitalist society according to which the Canadian governments promote the interests of the rich at the expense of the poor. Aboriginal people find themselves trapped in this position of ever-

increasing poverty. Treaty negotiations are viewed as yet another strategy of indirectly exploiting the aboriginal people.

3. Some people criticize the Canadian policy of pluralism according to which only a segment of the native culture is integrated into the Canadian mainstream by the tourist industry. This policy of pluralism is considered by some native people as a modern strategy of the assimilation process. They believe that, through the concept of pluralism, the Canadian governments exploit the cultural heritage of the aboriginal peoples for commercial benefits, instead of respecting the vital role of culture in the native society. Treaty negotiations are, therefore, rejected as they are seen as part of the policy of pluralism.
4. Some native people believe that treaty negotiations should be postponed until the Lil'wat nation establishes its own representation entity at the negotiation table. The current band council is under Canadian control and it does not have the ability to negotiate on Lil'wat's behalf. Thus, some native people argued that the band structure has been used by Canada as a means of advancing their policy of 'divide and conquer.'
5. Another reason in favor of postponing the negotiations is related to the current state of Lil'wat's economic dependency. Some people think that, without economic independence, the negotiations are bound to be manipulated by the Canadian governments. In the treaty negotiations, Lil'wat's economic disadvantage may translate into sacrificing aboriginal rights for the sake of short-term economic gains.
6. Some native people point out a number of problems regarding the costs of treaty negotiations. The Lil'wat Nation will have to pay back its share of the treaty negotiation costs from the monetary part of the settlement. The further the negotiations advance, the more difficult it will be for Lil'wat to withdraw from the negotiation table in case of unsatisfactory results.
7. There is also some opposition against the framework of treaty negotiations. Some native people say that the negotiations should be based on a nation-to-nation framework, according to the Royal Proclamation of 1763. The fact that the provincial government is present in the negotiation is against that provision.

All of these arguments against treaty negotiations, whether at this point in time or at any point in

the future, reflect the Lil'wat people's general mistrust in the initiatives taken by the Canadian governments.

From the view point of property rights, one of the key issues is the way in which power is formed in the Lil'wat Nation. Internal power formation is related to the external power affecting the Lil'wat Nation. For the purpose of this study, internal power formation has been operationalized as institutional arrangements, while external power influences have been conceptualized under authority issues. In the following sections, authority issues and institutional changes are further discussed.

### 1.1.3. Issues around Authority

As Macpherson (1978) mentioned, the state or societal authority endorses a property system. Authority is the source of power that enables the protection or alteration of a core liberty in a property right. However, in the history of Lil'wat, it is unclear to what extent Canadian authority has ruled over the Lil'wat people and their territory. Assuming that the Lil'wat Nation has retained its own property systems to a certain degree, the reciprocal influence between the Canadian and the aboriginal property systems remains an open question.

In general, if two concurrent property systems operate under different authorities, the relationship between the two systems will fall under one of the following three types (see also Figure 3)<sup>6</sup>:

- a) *Independent*: One system is effective and self-sufficient, without significant intervention from the other. The *independent* relationship appears when one authority is indifferent to the other (little competition over land and resources), or when a balance of power is maintained.
- b) *Conflicting*: A conflict between diverging interests over land and resources often leads to further conflict when one authority intends to achieve supremacy over the other. A

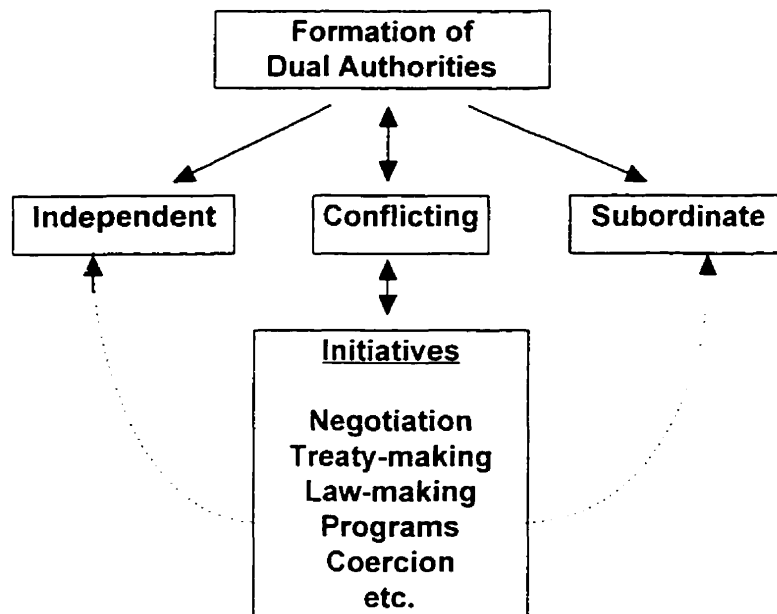
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<sup>6</sup> This tripartite authority model is similar to the functionalist model of ethnic relationships in a state, which is based on domination, separation, or total assimilation. The important difference between this model and the functionalist model of ethnic relationships is that, in the latter, all political options for maintaining social order presuppose domination by one cultural group over the other (Kuper, 1969; Berghe, 1969).

*conflicting* relationship is considered as a transitional relationship before reaching a static phase. In this transitional relationship, both initiative and resistance can be seen, including warfare, diplomacy and treaty-making.

- c) *Subordinate*: A frequent result of a conflict is the formation of a *subordinate* relationship, where one authority rules over the other. At this point, the authority in the oppressed party may no longer be able to function in a practical sense.<sup>7</sup>

**Figure 3 Authority Issues**




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<sup>7</sup> During the history of the relationship between the Euro-Canadian society and aboriginal peoples, the 19th century fur-trade period offers a typical example of an *Independent* relationship. The conventional assumption is that, eventually, a subordinate relationship was formed around the beginning of this century through the adoption of some legal instruments such as Indian Act. However, given the fact that the aboriginal authority structure has not died out, it is too simple to say that the *Subordinate* relationship has been established. Recently, the Canadian policy of assimilation has been discouraged, which led to a growing trend in favor of aboriginal peoples. Also, there has been an increase in the awareness of aboriginal rights. A number of confrontations over land and resources have recently brought the issue of aboriginal authority to the forefront. In some aboriginal communities, traditional authority structures still prevail. All of this seems to indicate that the Canadian authority, through its legal instruments, did not extinguish the aboriginal traditions and that some of the Canadian statutes promoting a subordinate relationship are now outdated.

This study describes the formation of a dual authority system in the Lil'wat Nation during the past 50 years. The reciprocal exercise of power manifests itself in a series of events, of which four critical ones have been selected as anchors for tracing the changes in the power relationship between the two authority systems. Those events are: (1) the collapse of self-sufficient economy in the 1960s, (2) the radical movements in the 1970s, (3) the devolution process, including the introduction of a bureaucratic organizational structure in the community, and (4) the increased dependency on welfare.

The collapse of Lil'wat's self-sufficient economy is a common experience shared by the elders in the community as reported in Kage's (1994) biography of Georgina Nelson, a respected Lil'wat elder. In the biography, Georgina mentions that:

Before the road opened through the Mount Currie reserve of the Lil'wat Nation and before the first beer parlor opened in the neighboring white town of Pemberton, the Lil'wat were a self-sufficient people. They relied on their own garden to grow food, and they hunted, fished, gathered berries and built their homes from the timber on their ancestral lands (Kage, 1994, p. 12-13).

Before the early 1960s, people were somewhat independent economically, but that economic independence gradually disappeared. With respect to this period (late 1950s to early 1970s), the present study has been structured around several research questions: What was the structure of Lil'wat's economy before 1960? How did the property system work?: in other words, what was the role of internal factors (i.e., band, individual members, family groups) as well as external factors (i.e., governments, corporate interests) within the property system? How did Lil'wat's economy and the property system change after the early 1960s?

The political movements in the 1970s, contributed significantly to the overall process of change. Those movements took the form of radical actions against the Canadian authority, such as road blocks and rejection of governmental funds. Many people of the Lil'wat Nation still recall those events as positive steps in the process of reclaiming the traditional authority. Also, significant efforts were directed toward the re-establishment of an economic base in that community. This period seemed to open a new era in the history of the Lil'wat Nation. In this context, the present research also attempts to clarify some of the motivations behind the 1970s movements, as well as explore their effects on the property system.

As the movements phased out and some economic initiatives appeared to be unsuccessful, many people seemed to start realizing the futility of the community-based political and economic activities. This process coincided with the devolution process by which part of administrative functions were transferred from the Department of Indian Affairs to the Lil'wat Nation. Furthermore, some elders pointed out that the conflict of interests within the band administration structure had created dissension among the Lil'wat people. This political trend seems to be another key event for understanding the current state of economic stagnation. The internal dissension can be scrutinized in terms of its determinants and its impact on property systems.

In addition, the dependency on welfare has increased in the community since the 1970s. This is in part due to Canada's welfare state policy, by which public as well as state property has expanded in the form of social housing, health care, public education system, public parks, crown corporations, and so on. This policy has created a new and complex relationship between Canada and the Lil'wat Nation. While for some, the Canadian governments appeared to be a generous supporter, other native people have argued that Canada has been intentionally creating a state of dependency in order to undermine land claims issues which have a potentially larger impact than social welfare costs. It is, therefore, important to include dependency on welfare as a determiner of the power relationship between Canadian governments and the Lil'wat Nation.

#### **1.1.4. Issues of Institutional Change**

In any society, at any given time, property is determined by the purposes it serves. As Macpherson (1978) puts it, "a system of property rights is an instrument by which a society seeks to realize the purposes of its members, or some of the purposes of some of its members" (p. 13). Therefore, as conditions in society change, the goals of its members change as well, which leads to changes in property. Two rationales have been proposed in order to account for this fluctuating quality of property: (a) to maximize individual utilities (functionalist approach), and (b) to facilitate a person or a group of people in power (conflict theory approach).<sup>8</sup>

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<sup>8</sup> Knight (1992) explored several classical and contemporary accounts of institutional change. He claimed that the concept of social institutions as instances of the coordination-for-collective-benefits



Property rights are the social institutions that determine the allocation of decision-making authority, the economic actors in the property rights, and the distribution of wealth in a society. Property can be divided into several regimes depending on who claims the right and who is excluded from the benefits.<sup>9</sup> For example, McKean (1992) defined six kinds of property regimes depending on the type of owner:

- A. *unowned non-property* (or open-access resources) to which no one has rights and from which no potential user can be excluded (e.g. air).
- B. *public property* held in trust for the public by the state, to which the general public often has access (e.g. public park, public road).
- C. *state property* that is essentially the exclusive property of government bodies, to which the general public does not have access (e.g. military base).
- D. *joint owned private property* whose individual co-owners may sell their shares at will without consulting the other co-owner (e.g. condominiums).
- E. *communal property*, or jointly owned private property without unilaterally tradable shares (e.g. many traditional commons).<sup>10</sup>
- F. *individually owned private property* whose individual owners generally have full and complete (fee-simple or freehold) ownership, except as attenuated by government regulation (e.g. private estate).

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came from David Hume, Adam Smith, and Herbert Spencer. In contrast, some theorists like Karl Marx and Max Weber indicated that social institutions can be explained in terms of their beneficial effects on particular segments of the community, focusing on the conflict of interests inherent in distributional questions. In contemporary analysis, the focus on social institutions is reminiscent of the classical tradition of coordination and collective benefits, partly because of the fact that this tradition had better-developed microfoundations of institutional change.

<sup>9</sup> With respect to the property rights involved in natural resources, since Hardin (1968) presented the "tragedy of commons", many scholars have been researching, both theoretically and empirically, the relationship between the types of property rights and natural resources management. That initiative was taken by members of the International Association for the Study of Common Property (IASCP) (Berkes, 1989; Berkes, et al., 1989; Bromley, 1990; Christopher & Bromley, 1989; Ostrom, et al., 1988).

<sup>10</sup> This is the same concept as "common-property". In a general usage, the term "common-property" includes meanings A, B, E, and, possibly, C above, which may bring about some confusion. The technically accurate meaning of "common-property" covers only the definition of E above.

In general, the structure of property regimes in a society characterizes the economic and political system of that society. For example, during the transition from feudalism to capitalism, private property expanded through privatization of communal and feudal lords' property. In the communism ideology, workers collectively represent the state, controlling the means of production including land and natural resources. In a welfare state that puts a high priority on social equality, unlimited appropriation of private property is restricted through the increment of state property and the redistribution of surplus by taxing and social spending. Responding to the various social demands ranging from social infrastructure to people's amenity, public property is allocated in the form of highways, schools, hospitals, public parks, and so on.<sup>11</sup>

At a closer look, however, whatever the proclaimed state system is, local communities often retain their own *de facto* property systems that subsist against the proclaimed *de jure* state legal system. In the academic field of natural resource management, this case has been a matter of debate. In fact, in many parts of the world, community-based *de facto* resource management has not only survived but worked effectively under various conditions (Berkes, 1989). The state's control over local communities depends on such factors as: the expectation that a state has of the local communities, the state's level of power over the local activities, and the community's degree of autonomy. Those communities usually have some abiding interest in survival, in cohesion, and in the benefits and costs attendant to a particular resource use regime (Bromley, 1986).

Based on the investigation of hundreds of local communities in Japan, Kawashima et al. (1959) reported various *de facto* institutional arrangements working in those communities. Since the late 19th century, the Japanese government has been transferring the communal ownership of lands to state, public, and private ownership. This process is said to have founded

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<sup>11</sup> With the development of service and information industries, various property forms have evolved in Canada, affecting both aboriginal and non-aboriginal peoples. For example, the object of property has extended to include *cultural property* (artifacts, rituals, stories, songs, designs, etc.). With this extension, a new source of conflict emerged in terms of who has the rights over such cultural objects. As the capitalist economy encroached upon aboriginal cultural symbols, native people responded by reclaiming their rights over their own cultural heritage. This relatively recent development has added another facet to the conflictual relationship between the two groups.

Japanese capitalism by introducing a centralized system of taxes on land. The communal economy was destroyed as laborers were diverted toward the industry sector in urban areas. On the other hand, facing a survival crisis, local communities have tried to retain some communal economic activities. Community-based *de facto* land management has continued, in this respect, even on private and state lands. These communities could do so through the creation of institutions at various levels of land use and management and through applying creative income distribution methods. Remarkably, in this process, many such institutions were able to accommodate the inevitable expansion of individual material benefits, while maintaining the overall communal values. Two points can be learned from these examples in relation to the study of institutional changes in the Lil'wat Nation: (1) *de facto* property institutions may be observed at various levels of land use activities, and (2) the balance between community and individual benefits is a key factor in forming property institutions.

A property right consists of several levels of institutions. With respect to land and water resources, where bundles of rights are allocated, the criterion indicating to what degree a person or group has the right to resources reflects a complex structure of property rights. Schlager and Ostrom (1992) proposed a property schema as shown in the following table (Table 1). This indicates that several property regimes can co-exist on the same piece of land.

**Table 1 Bundles of Rights Associated with Positions**

	Owner	Proprietor	Claimant	Authorized User
<b>Access</b>	X	X	X	X
<b>Withdrawal</b>	X	X	X	X
<b>Management</b>	X	X	X	
<b>Exclusion</b>	X	X		
<b>Alienation</b>	X			

Source: Schlager and Ostrom (1992)

Where:

*access* = the right to enter a defined physical property

*withdrawal* = the right to obtain the "products" of a resource

*management* = the right to regulate internal use patterns and transform the resource by making improvements

*exclusion* = the right to determine who will have an access right, and how that right may be transferred

*alienation* = the right to sell or lease either or both of the above collective choice rights

For example, while the right to timber on a piece of land can be held by individual community members, the right to manage the same land can be held by the Lil'wat community, although nominal ownership belongs to the Crown. As such, some types of communal property can exist not only at the level of ownership but also at the levels of management or even access.

One important thing is that these distinctions are related to three levels of action: operational level, collective-choice level, constitutional level (Table 2). Operational activities are regulated by collective-choice rules which emerge from collective-choice activities. Constitutional rules are governed by constitutional activities. This implies a hierarchical relationship among rules and activities. For example, a decision about management or exclusion is a collective-choice activity which regulates the operational activities of authorized users through the intermediary of collective-choice rules (Kiser & Ostrom, 1982; Ostrom, 1990; Schlager & Ostrom, 1992). In the case of the reserve land system, although the nominal ownership rests with the Crown (i.e., the Crown has the constitutional power to alienate land through the "surrender" process), the Lil'wat community and individuals hold the power at the level of collective-choice and operational activities.

**Table 2 Relationship Between Level of Action and Governing Rules**

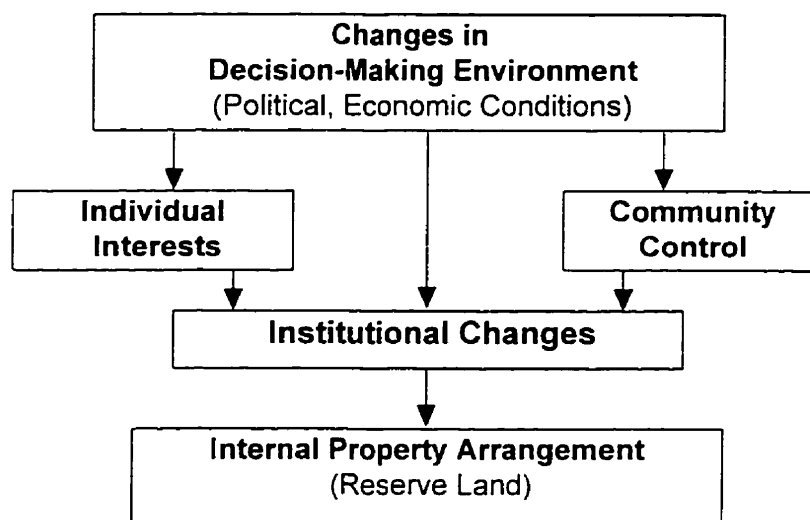
	<b>Levels of Action</b>	<b>Governing Rules</b>
<ul style="list-style-type: none"> <li>• <b>Access</b></li> <li>• <b>Withdrawal</b></li> </ul>	Operational Activities	Collective-Choice Rules
<ul style="list-style-type: none"> <li>• <b>Exclusion</b></li> <li>• <b>Management</b></li> </ul>	Collective-Choice Activities	Constitutional Rules
<ul style="list-style-type: none"> <li>• <b>Alienation</b></li> </ul>	Constitutional Activities	

Source: Schlager and Ostrom (1992)

In general, an institutional change is a result of some form of social change, changes in the surrounding conditions, or the decision-making environment of a property system. Figure 4 illustrates the institutional changes in a property system, as they have been conceptualized in this

study. Particular attention has been given to the balance between individual interests and the community's control over land use practices. From this interplay new property arrangements are shaped. Under the topic of institutional change, only the reserve land has been examined because this is currently the only place where the native community retains a certain degree of control over land use practices.

**Figure 4 Institutional Change**



In order to capture *social change*, it may be useful to adopt some development theory assumptions. While most of the development studies of social change have focused on Third World countries, their theoretical principles are highly relevant to development issues in the Lil'wat Nation. According to So (1990), the current conceptions of development and social change have moved toward an integration of two competing approaches represented by the *modernization school*<sup>12</sup> and the *dependency school*<sup>13</sup>. The underlying principles that inform the

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<sup>12</sup> The modernization school was prominent in the United States during the 1950s and 60s. This school attempted to explain the modernization process in Third World countries by combining an evolutionary approach and a functionalist approach to development and social change. According to So (1990), the modernization school identified eight characteristics of development and social change: phased, homogenizing, Europeanizing (or Americanizing), irreversible, progressive, lengthy, systematic, transformative, and immanent. Methodologically, this approach was anchored at a highly general and abstract level, neglecting unique cases and historically specific events. As such, the modernization school provided an implicit justification to the position of the United States as a role model for the more

current integrationist approach to development and social change provide a valuable supporting framework for exploring the process of social change in the Lil'wat Nation. Those principles are:

1. Development and social change follow a multidirectional path.
2. Tradition and modernity can coexist.
3. Development and social change follow an idiosyncratic pattern, i.e., in keeping with concrete, local characteristics and specific historical determinants.
4. Both internal factors (i.e., cultural values, social institutions, class conflicts) and external factors (i.e., history of colonialism, corporate control, the nature of the international system) contribute the social change.

All of these principles of development and social change apply to the Lil'wat Nation, as can be illustrated by the following examples.

The principle of multidirectionality states that, in many developing countries, social change may not necessarily follow the Western or American model of development. Indeed, in the early 1970s, the Lil'wat Nation established a community-controlled school system in which the Lil'wat language as well as Lil'wat's cultural heritage have been taught. The school has been offering grade 1 to 12 education as well as adult education. Some elders became instructors in the school, teaching students not only language but also, for example, how to catch, cut, and

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"primitive" societies. Critics of the modernization school challenged the assumptions of a unidirectional development, arguing that such concepts as "advanced", "modern", "traditional", and "primitive" are mere ideological labels meant to justify Western superiority. Critics also attacked the notion of the incompatibility between tradition and modernity, arguing that modern and traditional values can coexist. The modernization school was also criticized for ignoring external dynamics such as: the history of colonialism, the control of multinational corporations over Third World economies, and the nature of the international system.

13 The dependency school viewed development and social change from the perspective of Third World countries. It was first developed in Latin America in 1960s in response to the modernization school whose approach failed to account for a number of economic problems such as: unemployment, inflation, and currency devaluation in Latin American countries. Influenced by radical neo-Marxist theories, the dependency school was advocating for a proletarian socialist revolution, skipping over the stage of bourgeois industrial revolution. This perspective also stressed the exploiting role of colonialism and neocolonialism in shaping the underdevelopment of Third World countries. Like the modernization approach, the dependency school anchored its perspective at a highly abstract level, focusing on the general process of development. Consequently, the dependency school was criticized for its methodology, the centrality of concept of dependency, the political implications of its theory, and for neglecting the role of internal idiosyncratic factors.

cook salmon. The social change brought about by this educational establishment revitalized the traditional values, indigenous religion, and folk songs that had been nearly lost in the process of assimilation to the Canadian culture.

Contemporary life in the Lil'wat community shows many examples of the coexistence between tradition and modernity. Traditional deer hunting practices have integrated the use of four-wheel drive vehicles, binoculars, and rifles. Food products are stored in refrigerators or preserved through canning. Smoked salmon can now be stored for longer periods of time in vacuum-sealed packs. These modern preservation techniques have enabled the Lil'wat people to enjoy their traditional food all year round.

The recognition of the role played by idiosyncratic factors in the process of social change and development is highly relevant for the Lil'wat community. Social structures in the Lil'wat Nation have been shaped by its specific geographical location, historical events, and cultural heritage. For example, the charismatic personality and the political activity of George Manuel, an eminent native leader in the 1970s, played a major role in shaping the subsequent social and political movement in the Lil'wat Nation. Led by a group of people in the community, who called themselves Manuelists, the Lil'wat Nation took a number of militant actions in their fight for self-determination. They set up road blockades, occupied the office of the Department of Indian Affairs in Vancouver, and decided to reject any form of governmental funds. Also, this radical strategy later became a source of dissension among community members. All of this can be viewed as examples of local factors, specific to the Lil'wat Nation, that have shaped the course of social change in that community.

The interplay between external forces and internal determinants has been seen to direct social change in the Lil'wat Nation. For example, in the 1950s and 1960s, corporate interests in the forest industry became active on the traditional territory. Forest companies created a labor market in the Lil'wat and many community members got hired as loggers. Eventually, as timber resources depleted, corporate interests began to withdraw. At the same time, the Canadian welfare policy expanded, resulting in Lil'wat's economic dependency on the federal government. The Lil'wat Nation's struggle for self-determination can be seen as the internal response to the external assimilation pressure.

## 1.2. Method of the Study

### 1.2.1. Methodology

To a large extent, this is a pioneering study of the land use practices by an aboriginal community in BC. So far, no study has attempted to systematically describe the changes in resource management strategies in the Lil'wat Nation. Most of the information regarding the object of this study was unknown before the research was started. In this sense, the present study is an in-depth descriptive case-study of the Lil'wat Nation with the purpose of highlighting the changes in land use practices during the past 50 years. Traditionally, case study designs have been employed for descriptive purposes. However, as Yin (1981) pointed out, case studies can serve both a descriptive and/or an explanatory purpose. While the main goal of this research is a descriptive one, the conceptual framework used in this study (i.e., *property rights* as analytical tool and the distinction between *institutional changes* and *authority issues*) transforms the description into an explanatory vehicle. In general, case studies are the preferred strategy when "how" or "why" questions are being posed, when the investigator has little control over events, and when the focus is on a contemporary phenomenon within some real-life context (Yin, 1994). For these reasons, the case-study format has been considered appropriate for this research project.

The holistic methodology has been used in combination with the participant-observer method and archival data collection. According to the holistic methodology, this study has followed a systematic form of storytelling that Kaplan (1964) calls a *pattern model*. This is a mode of explanation in the sense that an event or action is explained by identifying its place in a pattern that characterizes the on-going process of change within the whole system. Reality is defined as the sum of continuous changes in every aspect of human and non-human activities. While absolute completeness of description is impossible to attain, a story can provide a wealth of information that is subjectively meaningful for the lived experience of the informants.

According to Diesing (1971), holistic explanations in social sciences have proven to be a very effective approach. Through the participant-observer method, the individuality of a particular system is emphasized. A researcher develops his/her ideas while being "socialized" in the system. In the course of the socialization process, the researcher is able to access information



directly and to construct tentative hypotheses (interpretations) about parts of that system. Data are continuously reevaluated by means of contextual validation until the saturation point is reached, i.e., no new (disconfirming) data are being encountered. Final evidence in support of a hypothesis must come from replication studies. This issue will be further addressed in section 1.2.3.

### **1.2.2. Field-Work**

The participant-observer method was employed during the “socialization” process and initial hypotheses were developed (*stage 1*). In this stage of the research, this researcher was able to have many informal consultations with Lil’wat community members. The informants offered numerous stories and explanations concerning land use practices, community affairs, life-style accounts, and so on. Then, the researcher corroborated these stories with a systematic examination of archival information, namely band records and minutes of meetings kept with the Mount Currie Indian Band Office. This information was used for validation, revision, or to discard unconfirmed hypotheses (*stage 2*). In that way, this researcher has used two convergent sources of evidence in data collection. In addition, copies of the research document were circulated among some of the important informants who participated in this research. Their endorsement of the descriptive accuracy of the document served as a further cross-validation of this study.

This researcher initially contacted the Office of the Chief and Council of the Mount Currie Indian Band, as the representation of the Lil’wat Nation. The letter of introduction (included herewith as *Appendix 1*), dated November 27, 1993, spelled out the purpose and nature of this research. In response to that letter, the researcher was invited to a band council meeting on January 31, 1994, where he was given an opportunity to explain the logistics of this research project to the chief and councilors of the Band and was given permission to conduct the research on their reserves. Also, by that time, the researcher was informed that a certain Nelson family in the community could provide accommodation for the duration of the field research. For over eight months, from March to November 1994, this researcher was fully engaged in the participant-observer stage of this project.

Part of the research conducted in that period occurred in the band office, where this

researcher spent a number of days that cumulated to a total of three months. A typical research day at the band office would start at nine o'clock in the morning and would end at four o'clock in the afternoon. While at the band office, this researcher was allowed to use a desk, to attend some meetings, and to access band records including minutes of meetings kept with the band office. During that same period of time, important information was also gathered through conversations with a number of councilors and other band members.

For the rest of the time, this researcher participated in the daily activities of the Nelson family, their relatives and friends. Those activities included hunting, fishing, berry-picking, ranching, farming, house construction, and other recreational activities. The purpose of this full participation was to get a vivid sense of the lived experience of Lil'wat community members as they conducted their daily activities. For example, in spring, this researcher joined the activities of the stock holders, such as repairing the fences around the communal grazing fields. Picking soap berries is a common activity in the vicinity of the Bridge River watershed. A full day's work by six adult community members would fill a van of soap berries; the berries would then be squeezed into juice, which would be preserved and used all year round. This researcher accompanied those community members in all of those activities on a number of occasions. Trout fishing goes on during the whole year. Again, this researcher often accompanied the fishermen in their activities. The Lillooet Lake and the Birkenhead River are the main places for trout fishing. Spring Salmon, Sockeye Salmon and Coho Salmon come upstream at different times during the year according to their seasonal spawning patterns. Especially in summer time, people set up camps around the Lillooet Lake for Sockeye Salmon. Some people go over the Fraser River near the mouth of the Bridge River. The Nelson family spent a month in a camp set up on a certain rock along the Fraser River. This researcher helped them cut fish and prepare wind-dry salmon. Hunting activities increase in late summer. Hunters can shoot deer on their reserve lands, but they usually go to higher elevations west of the Lillooet Lake or to the mountain ridges east of the Duffy Lake. This researcher also participated in those hunting activities on several occasions. During the clear-sky, cool nights, this researcher would often join the Nelson family, as they spent many hours gathered around a fire, talking about various topics of interest for them from spirituality to politics, from education to personal relationships.

During all this time, this researcher was able to connect with many community

members, band officers, councilors, elders, fishermen, active hunters, etc. The material provided by these informants represented valuable data for this descriptive study<sup>14</sup>.

### 1.2.3. Limitations of the Study

The issue of the validity and reliability of any research results is of paramount importance and partly rests upon the accuracy of the data collected and the appropriateness of the design format. As has been mentioned, this study employs a holistic methodology that combines the participant-observer method with archival data collection. A number of hypotheses about the property system are to develop during the participant-observer stage and scrutinize through the archival research. By their very nature, the findings presented in this study are open and tentative. Future studies, using different methodologies, could increase the validity of these findings through triangulation. For instance, a future quantitative method (such as a survey) could provide statistically significant descriptions of the same aboriginal community.

The next question that needs to be addressed is whether the findings can be generalized to other communities. The case study format does not lend itself to statistical generalization, but rather to what Yin (1989) called ‘analytical generalization’. By this in-depth analysis, using multiple sources of evidence, this author has attempted to provide a practical application of the concept of property right to land use practices in the Lil’wat community. By following the same methodology used in this study, future qualitative research can focus on other native communities in Canada, thus testing the ‘analytical generalizability’ of the findings of this study.

A third limitation of this study has to do with the gaps in the archival records kept by the Office of the Chief and Council of the Mount Currie Indian Band. In the case of lost or

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<sup>14</sup> After the participant-observer stage of this research project ended and the original draft of this document was completed, this researcher contributed to a community-based initiative called the Association for Sustainable Aboriginal Planning (ASAP). The purpose of this Association has been to contribute to the establishment of an economic base in the Lil’wat community and to raise people’s awareness of aboriginal concerns. An important part of this project has been the periodic publication of a report on the Association’s activities entitled *From the land of Lil’wat Nation: Report of the Friends of ASAP* (I - IV). The Association, through its members and its publication, established ties between the Lil’wat Nation and other non-governmental organizations in Japan, including an Ainu organization in Hokkaido. All of this led to a number of cultural exchange events that took place both in Canada and in Japan.

nonexistent historical records, this researcher has relied on repeated anecdotal evidence provided by various community members in the form of stories, recollections, or personal accounts. Those findings, however, could not be subjected to convergent validity checks and have only been mentioned as tentative descriptions.

In addition, this researcher was restricted from accessing any information stored with the Department of Indian Affairs and Northern Development or other governmental institutions, based on the Information Act, which prevents non-Canadian citizens from accessing certain governmental information. As such, potentially relevant information filed with that office could not be included in this research.

#### **1.2.4. Organization of this Document**

This document is organized in six chapters. Chapter One presents the general framework of this research project. In Chapter Two, some issues surrounding the aboriginal land question (land claims)<sup>15</sup> in BC are presented as a background for the study. That chapter includes the history and current state of the aboriginal land question, as well as the possible future settlements and implications that are being examined in political and academic circles.

In Chapter Three, the property systems identified in the history of the Lil'wat Nation before 1950 are outlined by way of looking at the ethnography and regional history of the study area. This sets the stage for the descriptive study to follow.

Chapters Four and Five integrate the conceptual framework used in this study with the descriptive material provided on the 50 year sample period. In Chapter Four, some events that occurred on reserve lands are the focus of description. Those events are meant to explain various *institutional changes* on the reserve. Governmental policies and corporate interests related to reserve lands are discussed in light of their decision-making implications. Changes are viewed from the perspective of the balance between community control and individual interests. Examples of such changes are: restructuring of land holding systems, timber sale fluctuations, and patterns of farming on reserve.

In Chapter Five, *authority* (power) issues over land and resources are the focus of

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<sup>15</sup> From the viewpoint of the First Nations in BC, the term 'aboriginal land question' is often preferred over 'land claims', to suggest that the First Nations cannot claim land that is already theirs.

description. General economic trends and other contextual changes triggered a shift in authority structures and the exercise of power. These complex changes in the recent history of the Lil'wat Nation have prompted this author to propose the division of the 50 year interval into three periods: (1) oppression period (late 1940s - 1960s), (2) internal cooperation period (1970s), and (3) internal conflict period (1980s - present).

A chronological summary of the community's land use history is presented as a conclusion in Chapter Six. That chapter also addresses some implications for future land use practices in the Lil'wat community.

## CHAPTER TWO

### ABORIGINAL LAND QUESTION IN BRITISH COLUMBIA: PAST, PRESENT, AND FUTURE

A wide range of issues are presented in this chapter, including a historical review of the aboriginal land question in British Columbia, the BC Treaty Commission and treaty-making process, and implications for the future.

#### **2.1. Historical Roots of the Aboriginal Land Question in British Columbia**

In the history of British Columbia (BC), a fur-trading period (from the late 18th century to the mid-19th century) marked the beginning of the relationship between the First Nations and the Europeans. This period has been characterized as a period of co-operation and it was a time of sharing a mutually beneficial economic system (Fisher, 1992)<sup>16</sup>. However, the following settlement period<sup>17</sup> was disruptive because it introduced major cultural changes so rapidly that the First Nations began to lose control over important areas of their traditional life. Especially after Governor Douglas concluded a number of treaties with the First Nations in the 1850s,<sup>18</sup> native peoples have been banished from their lands without any treaties although this process took a complex way<sup>19</sup>. For example, in a series of proclamations from 1858 to 1864, in

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<sup>16</sup> However, some commentators, such as Boyd (1994), pointed out the devastating effects of epidemics. They argued that, since the late 18th century, epidemics, especially smallpox, ravaged the native communities in the Pacific North West, although the exact rate of depopulation is unknown.

<sup>17</sup> This period started with the establishment of the colonial government of the Vancouver Island in 1849 and of the Mainland in 1858. In 1866, the two colonies united into the colony of British Columbia. British Columbia joined the Canadian Confederation in 1871.

<sup>18</sup> Between 1850 and 1854, Douglas signed 14 treaties with the First Nations communities on Vancouver Island, often obtaining the land for a few cents an acre or a few blankets per acre. As part of these treaties, Douglas established several small reserves. Besides, the other treaty (Treaty No. 8) was signed in BC in 1899 by the federal government covering the Peace River east to the Rocky Mountains and northern Alberta.

<sup>19</sup> Governor Douglas's policy on the Indian land question, especially on reserve allocation, is often considered reasonable because, initially, he allowed for unlimited reserve land allocation for aboriginal peoples. His position, however, changed after 1854. According to Tennant (1990), the central elements in Douglas's land policy after 1854 were: (1) his de facto denial of aboriginal title except on a

which settlers were allowed to pre-empt unoccupied, unsurveyed land<sup>20</sup>, native peoples also could commence pre-empting, especially in the Lower Fraser Valley (Tennant, 1990). However, this provision did not last long. The *Colonial Land Ordinance of 1870* prohibited any First Nations from claiming their right of land pre-emption<sup>21</sup> (Mathias & Yabsley, 1991). By the end of last century, the basic configuration of relationships between Canada, BC, and the First Nations had been established within a statutory framework. The reserve system was introduced<sup>22</sup>

part of Vancouver Island, (2) his granting of only small reserves (no more than ten acres per family), and (3) his defense and encouragement of Indian land pre-emption.

20 On the Island a married couple was allowed 200 acres and 10 more for each child; on the Mainland a person could pre-empt 160 acres and buy adjoining land at twenty-five pence an acre.

21 The Colonial Land Ordinance of 1870 stated in section 3:  
 "From and after the date of proclamation in this Colony of Her Majesty's assent to this Ordinance, any male person being a British Subject, of the age of eighteen years or over, may acquire the right to pre-empt any tract of unoccupied, unsurveyed, and unreserved Crown Lands (not being an Indian settlement) not exceeding three hundred and twenty acres in extent in that portion of the Colony situate to the northward and eastward of the Cascade or Coast Range of Mountains, and one hundred and sixty acres in extent in the rest of the colony. Provided that such right of pre-emption shall not be held to extend to any of the Aborigines of this Continent, except to such as shall have obtained the Governor's special permission in writing to that effect (Mathias and Yabsley, 1991: p. 35)."

22 According to the Land Claims Research Centre (1974), four periods can be identified in the history of the Indian reserve system in BC:

- 1850 - 1871: Various land policies were implemented under colonial BC, including Vancouver Island Treaties, Douglas' reserve policy (1850 - 1863), and Trutch's policy (1863 - 1871). Douglas's reserve policy, which allowed Indians to select the size and location of reserve areas, was dramatically reversed by Trutch, a head of the colonial Department of Land and Works. Trutch initiated a policy of reduction of Douglas' reserves, and of reluctance to allocate additional reserves. Exact information on these reductions is unavailable.
- 1871 - 1912: Despite continued encroachment by non-aboriginal settlers onto Indian lands, BC ignored the reserve policy of the federal government (80 acres per family). BC claimed that 10 acres per family was enough. The Indian Commissioner I.W. Powell said, "If there has not been an Indian war, it is not because there has been no injustice to the Indians, but because the Indians have not been sufficiently united." The Indian Reserve Commission (1876 - 1910) was set up by the Federal - Provincial agreement of 1875 to allot and survey Indian reserves. The agreement provided that no basis of acreage be fixed, and the province preserved its right to disallow any reserve that the Indian Reserve Commission allotted. Often the reserves laid out for a band were significantly less than the claims the band had made.
- 1912 - 1916: This is a period when the McKenna-McBride Commission operated. Facing the impasse between the provincial and federal governments over the Indian land question, BC passed a law giving itself the authority to "grant, convey, quit claim, sell or dispose of, on such terms as may be deemed advisable, the interest of the Province, reversionary or otherwise, in any Indian Reserve, or

to keep the First Nations in secluded areas, and the Indian Act<sup>23</sup> was created to establish a patronizing relationship between governments and the First Nations.<sup>24</sup>

At the beginning of this century, there were many movements among First Nations to form intertribal organizations to reclaim their land ownership and to object to the size and location of reserves (Tennant, 1990). In 1906, for example, some representatives of the Coastal and Interior Salish groups went to London, bringing their complaints to an unsuccessful meeting with King Edward VII. Opposing the First Nations' claim-related activities, Canada introduced even harsher policies on the First Nations in order to silence them. This sequence of political events lead to the revision of the Indian Act of 1927, which outlawed receipt of money by any

any portion thereof (Section 127, Chapter 129, Revised Statutes of BC, 1911).” This was contrary to the Indian Act and an open challenge to the federal government. The Mckenna-McBride Agreement was reached in 1912, which gave the Royal Commission the power to recommend the reduction and additional allotments of reserve lands (J.A.J. Mckenna was a Special Commissioner appointed by the federal government, and Richard McBride was the Premier of BC from 1903 to 1915).

1924 - : There have been various ways in which governments take away parts of reserve lands since 1924. For example, the Scott-Cathcart Agreement of 1929, accompanied by the federal order in council No. 208 in 1930 and the provincial order in council No. 1151 in 1930, reconveyed the Railway Belt to the province except for the Indian Reserves located in those areas. Finally, in 1938, the provincial order in council No. 1036 officially transferred the title to all Indian reserve lands outside the Railway Belt from the province to the federal government. Reserve acreages were often reduced in the schedules attached to the Scott-Cathcart Agreement or to the provincial order in council No. 1036 from what was allotted by the Indian Reserve Commission or the Mckenna-McBride Commission. Also, the order in council No. 1036 includes a provision to take reserve lands for pipelines, hydrolines, and so on.

23 The Indian Act was first promulgated in 1876 and has been amended often since then. According to Getty and Lussier (1983), the purpose of the Act, as of all legislations concerning the First Nations, was to assimilate the native people into the Canadian mainstream. For example, section 3 of the Indian Act of 1880 stipulates that:

“Every Indian or other person who engages in or assists in celebrating the Indian festival known as the “Potlatch” or in the Indian dance known as the “Tamanawas” is guilty of a misdemeanor, and shall be liable to imprisonment for a term of not more than six nor less than two months in any gaol or other place of confinement; and any Indian or other person who encourages, directly or indirectly, an Indian or Indians to get up such festival or dance, or to celebrate the same, or who shall assist in the celebration of the same is guilty of a like offense, and shall be liable to the same punishment.”

24 Knight (1978) shows a different picture about First Nations in this period. According to him, by the end of last century, First Nations in some regions had become more intimately and permanently involved in industrial wage work than many Euro-Canadians.



person from any First Nations for any claim-related activity. In addition, the *Special Joint Committee of the Senate and the House of Commons* brought about the denial of aboriginal title (Sanders, 1986). By that time, valuable portions of reserves had been cut off by the McKenna-McBride Reserve Commission.<sup>25</sup> Implementation of the recommendation made by the McKenna-McBride commission was authorized by the *British Columbia Indian Lands Settlement Act* of 1920. The Act ordered reductions or cutoffs to be effected without surrendering the land, thus overriding the Indian Act provisions.

In the 1951 revision, the Indian Act removed the prohibitions against claim-related activities. Tennant (1990) explained three reasons for that change: (1) federal officials assumed that Indians had realized the futility of pursuing the land claims; (2) the officials wanted to remove a potential cause of embarrassment in the liberal post-war international climate of racial tolerance; (3) the Judicial Committee of Privy Council had ceased to be Canada's highest appeal court in 1949 so that there was now no danger from the judicial committee should the Indians go to court. However, the federal government did not negotiate any treaties with the First Nations until 1974.

In the 1969 White Paper on Indian Policy, which is often regarded as adding the finishing touches to Canadian assimilation policies, Canada advocated "to change long-standing policies which separated Indian people from Canadian society and thereby denied them equal opportunity" (Minister of Indian Affairs and Northern Development, 1969), but it virtually ignored the significance of claims and treaties.<sup>26</sup>

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<sup>25</sup> According to Tennant (1990), the McKenna-McBride commission recommended that the total area of reserves in BC be increased from 713,699 to 753,859 acres (47,058 acres be cut off and 87,291 acres be added). However, this added land was valued at about 5.1 dollars an acre, while cut-off land was appraised between 21.2 to 26.5 dollars an acre. Cut-off land was "almost entirely land regarded as highly desirable by white farmers, ranchers, developers, speculators, and municipal officials" (Tennant, 1991, p. 98).

<sup>26</sup> The 1969 White Paper intended the shift of Indian policy from assimilation to integration. However, the distinction between the concept of assimilation and integration is difficult. The Canadian governments have tried to eliminate the so-called 'Indian problem' by 'eliminating the Indian way of life: through education and training, the Red Man would attain civilization. [...] Assimilation was a policy intended to preserve Indians as individuals by destroying them as a people' (Francis, 1992, p. 201). This process may be also regarded as integration.

The last few decades have witnessed a redefinition of the relationship between First Nations and Canada. The issue was brought to a head by the 1973 Calder Case, in which the judges of the Supreme Court of Canada were evenly split on the issue of the continued existence of aboriginal title. The result was a federal policy statement advocating that the federal government could consider two broad categories of native claims: "comprehensive" and "specific". Comprehensive claims were identified as claims based on the traditional native occupancy of lands not previously dealt with by treaties or other means. Specific claims were defined as those which occurred where an existing act, agreement, or treaty had been allegedly violated. By 1988 in BC, 18 comprehensive claims had been accepted for negotiation and three claims had been placed under review by the federal government. The total claim area, which was accepted, or under review by 1988, comprised a land mass roughly equal to that of the entire province including overlaps between some of the claims (Cassidy & Dale 1988).

Significant progress has also been seen in the legal sphere. For example, Canada's 1982 Constitution stipulates in Section 35(1) that "the existing aboriginal and treaty rights of the aboriginal people of Canada are hereby recognized and affirmed," although the contents of aboriginal rights are still ambiguous even after the *Sparrow*<sup>27</sup> case in 1990 and the *Delgamuukw* case<sup>28</sup> of the BC Court of Appeal in 1993.

However, the negotiation of comprehensive claims has not advanced. With respect to comprehensive claims in BC, only the Nisga's have ever been at a negotiating table with Canada

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27 The Sparrow case (*R. v. Sparrow* [1990] 1 S.C.R. 1075) was the first implementation of Section 35(1) of the Constitution Act of 1982. By this decision, the Court recognized that Section 35(1) included the aboriginal right to fish for nourishment, social, and ceremonial purposes, thus overriding the Federal Fisheries Act provisions.

28 After the 1991 McEachern decision in the BC Supreme Court (see the next footnote), the Gitksan and the Wet'suwet'en First Nations took their case to the BC Court of Appeal, which reversed much of the earlier McEachern decision and ruled that the Gitksan and Wet'suwet'en First Nations do have "unextinguished non-exclusive aboriginal rights, other than the right of ownership." In this decision, Mr. Justice Macfarlane made the following comments which imply the nature and the extent of aboriginal rights:

- They are rights which are integral to the distinctive culture of an aboriginal society. The nature and content of the right, and the area within which the right was exercised are questions of fact.
- A practice which had not been integral to the organized society and its distinctive culture, but which became prevalent as a result of European influences would not qualify for protection as an aboriginal right.

during the last 20 years. Until 1992, the BC government denied the aboriginal title. The argument was that aboriginal title did not exist, or, if it did exist it must have been extinguished, and, if it had not been extinguished, it must fall under federal responsibility pursuant to the *Terms of the Union* and the *Constitution Act of 1867* (Montgomery, 1987). The BC government, therefore, insisted that Canada bear the burden of the cost of such settlements, and if Canada sought the assistance of the BC government through the contribution of lands and resources, it was the responsibility of Canada to propose to BC how the Province and the third parties would be compensated for any lands and resources that might be made available (BC Secretariat for Indian Policy and Programs, 1985).

Also, the BC Courts supported the government's stance on land claims. In the case of *Delgamuukw v. The Queen, 1991*, which is one of the latest land claim cases in BC (Cassidy, 1992; Mills, 1994), the Gitksan and Wet'suwet'en people claimed "ownership and control" over approximately 5,000,000 hectares in North Western BC on the Upper Skeena and Bulkley Rivers.<sup>29</sup> This case was important because fundamental social and cultural values of the aboriginal people were on trial virtually for the first time in the history of BC. In this case, the Chief Justice turned down the plaintiff's claims on the ground that the Royal Proclamation of 1763 did not apply to British Columbia, and that, therefore, according to common law, whether or not aboriginal title exists depends on aboriginal occupation and use of land from the earliest times, and on the continuation of such occupation and use of land after the European settlement. The Chief Justice went on to state that the "aboriginal interests" had never included ownership of or jurisdiction over the identified territory. As mentioned, although in 1993 the BC Court of Appeal reversed this decision and recognized aboriginal rights as unextinguished, those rights were narrowly defined. As such, commercial practices (mining, commercial fishing, commercial logging, and other European influences), which had originated with the arrival of the colonial authority, were not considered aboriginal rights.

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29 The plaintiffs challenged the legal judgment by arguing that: (a) they owned the claimed territory (the "Territory"); (b) they were entitled to govern the Territory according to aboriginal laws which were paramount to the law of British Columbia; (c) alternately, they had unspecified aboriginal rights to use the Territory; (d) damages for the loss of all lands and resources transferred to third parties or for the resources removed from the Territory since the establishment of the Colony; and (e) costs (Cassidy, 1992, p. 21).

Since the late 1980s, any changes to the policy of the BC government on the First Nations have occurred mainly because of the pressure from First Nations against the complacency of the federal comprehensive policy. In 1989, the Premier of British Columbia, recognizing that "Aboriginal Peoples are experiencing many difficulties within the province," created the Premier's Council on Native Affairs, which was to make recommendations on provincial policies affecting First Nations (Premier's Council on Native Affairs, 1990). In 1990, a number of First Nations communities chose direct forms of political action (typically in the form of road or rail blockades) to both support the activities of the Mohawk at Oka in Quebec and to draw attention to their own cause. These events led the Premier's Council on Native Affairs to recommend that the government of BC "move quickly to establish a specific process by which aboriginal claims may be received and placed on the negotiating table" (BC Claims Task Force, 1991). At the same time, with the New Democratic Party in power, the political climate in BC became favorable to aboriginal rights. In 1992, in the speech from the throne, the BC government finally and formally recognized aboriginal title, and also the inherent right of aboriginal peoples to self-government. Then, the federal government, the BC government, and the First Nations representatives (the First Nations Summit) signed an agreement to establish the BC Treaty Commission (BCTC) meant to facilitate the treaty negotiation process. The BC treaty process was to include aboriginal self-government as well as land claims settlements.<sup>30</sup> In 1993, the federal and the BC governments signed the *Memorandum of Understanding* on sharing the costs of negotiations and settlements. The BC Treaty Commission Act was passed by Parliament

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<sup>30</sup> Some commentators, such as Smith (1995), argue that the notion of aboriginal title has been rejected by the Canadian courts, as in the *Delgamuukw* case in the BC Court of Appeal, and there has been no legal basis for treaty negotiations that include land and resources as well as jurisdictional matters. The BCTC, however, takes the position that no court has yet described the specifics of the aboriginal title in BC: the concept of aboriginal title falls between 'ownership' in the conventional sense and non-exclusive aboriginal rights to engage in particular activities. The BCTC understands that the courts had confirmed that aboriginal rights still exist in BC, that these rights are unique and unlike conventional property rights, and that the rights are constitutionally entrenched so that neither the federal nor provincial government can interfere with them without following a strict constitutional standard. In turn, the BCTC recognizes that there can be no certainty about the nature and extent of the Crown's title to land and resources, except through a process of negotiation designed to reconcile the respective rights of the Crown and First Nations'. The BCTC interprets the decision of the BC Court of Appeal and makes some recommendations. Since the BC Court of Appeal denied the notion of 'blanket' extinguishment, the First Nations should attempt to establish the specifics of the aboriginal title through negotiations with the federal and provincial governments. "Treaty making is the best way to respect Indian rights" (BCTC, 1996).

in 1995 and proclaimed by provincial and federal governments and First Nations Summit resolution in 1996.

## 2.2. BC Treaty Process

The BC Treaty Commission (BCTC) is the “keeper” of a treaty-making process that is independent of any government authority. The main roles of the BCTC are to accept First Nations into the treaty process, to monitor the progress of negotiation, to assist parties in resolving disputes, and to allocate funds to the First Nations. As of June 30, 1996, 47 BC First Nations had entered the treaty process (BCTC, 1996), representing more than 70% of the total number of status Indians in BC. The treaty process includes six stages that need to be completed: Stage One - Statement of Intent; Stage Two - Preparation for Negotiations; Stage Three - Negotiation for a Framework Agreement; Stage Four - Negotiation of an Agreement in Principle; Stage Five - Negotiation to Finalize a Treaty; Stage Six - Implementation of the Treaty. The 47 First Nations which are currently in the treaty process are the following:

*Stage 1:* Pacheenaht Band

*Stage 2:* Alkali Nation, Cheslatta Carrier Nation, Comox Indian Band, Council of the Haida Nation, Hul'qumi'num First Nations, Katzie Indian Band, Klahoose Nation, Ktunaxa/kinbasket Tribal Council, Kwakiutl First Nations, Nazko Indian Band, Qualicum Indian Band, Quatsino First Nation, Sto:Lo Nation

*Stage 3:* Burrard Nation (Tsleil-Waututh First Nation), Cariboo Tribal Council, Carrier Sekani Tribal Council, Haisla Nation, Heiltsuk Nation, In-SHUCK-ch/N'Quatqua, Lake Babine Nation, Lheit-Lit'en Nation, Musqueam Nation, Nanaimo First Nation, Oweekeno Nation, Squamish Nation, Taku River Tlingit First Nation, Te'Mexw Treaty Association, Tsawwassen First Nation, Tsay Keh Dene Band, Tsimshian Nation, Ts'kw'aylaxw First Nation (Pavillion Indian Band), Westbank Indian Band, Xaxli'p (Fountain Indian Band), Yale First Nation, Yekooche Nation

*Stage 4:* Champagne and Aishihik First Nations, Ditidaht First Nation, Gitanyow Hereditary Chiefs, Gitxsan Hereditary Chiefs, Homalco Indian Band, Kaska Dena Council, Nuuchah-nulth Tribal Council, Sechelt Indian Band, Sliammon Indian Band, Teslin Tlingit Council, Wet'suwet'en Nation

It is difficult to evaluate the BC treaty-making process at this point because there is still no substantial content on the negotiating table with the exception of Nisga'a's case which is outside of the BC treaty process. With more First Nations joining the process in Stage 4 - when the parties are to negotiate jurisdiction over land and resources - the BC treaty process will be tested for its practical relevance. So far, the BCTC and some critics have reported some problems arising in the process: system overload, shortage of funds, lack of interim measures, overlapping claims, third-party consultation, and public information.

The BCTC initially estimated that there could be up to 30 separate negotiations. However, 47 First Nations are currently involved and the number would increase if the treaty process succeeds in the future. This is partly because some First Nations have chosen to organize themselves differently from the BCTC's expectation, resulting in more discrete groups: some are organized in large, regional tribal groups, some in small local band structures, and others in hereditary systems (BCTC, 1996). This state of affairs has resulted in system overload and the shortage of funds. If resources are not increased to meet the demands of all parties, Canada and BC can control the negotiations by means of setting their own agendas, or by moving more quickly with some First Nations and more slowly with others. Funding advanced by the BCTC does not reflect the real need of individual bands, and the amount of money that a band can receive is too small to conduct proper research and negotiation (Christensen, 1995b).

For governments and First Nations, a consultation ability to arrange the interests of their constituency is problematic: each party is to resolve any internal conflict of interests before any tripartite negotiation. For BC government, third-party consultation would be the most difficult stage to go through. Probably, that is why the BC government is pushing for regional and provincial negotiations, although the inclusion of a third party at the negotiation table is against the initial tripartite agreement of "government-to-government" negotiation. Opposition to the treaty-making process comes from some non-aboriginal members of the Treaty Negotiation Advisory Committee (TNAC), who represent before the provincial government the interests of major provincial business, labour, and fish and wildlife groups during the treaty negotiations. They argue that:

- The provincial government continues to conclude interim measures agreements with the First Nations on an ad hoc basis without meaningful input from third party interests.

- Government negotiators have not offered TNAC any satisfying explanation of aboriginal rights or the inherent rights of self-government.
- Government negotiators have not always received a clear mandate to negotiate certain items.
- Government and First Nation negotiators have forged agreements on certain matters before any third party consultation occurred.
- When the views of TNAC are solicited, TNAC is given little time to respond (McKee, 1996, p. 93).

Facing this criticism against the treaty-making process, the BC government has been reluctant to articulate interim measures,<sup>31</sup> which seems to be another sign of the BC government's inability to consult with third party interests. In addition to the TNAC's negative view toward interim measures agreements, some resource industries have expressed their views against the government entering interim measures. For example, the Council of Forest Industries of BC (COFI) has examined 54 interim measures agreements, concluding that at least 20 of them that pertain to land and resources promote false perceptions of aboriginal jurisdiction over asserted traditional territory and generate non-achievable expectations of industry and government. COFI has asked that all negotiations on future interim measures agreements be put on hold until a consistent, workable, and public-supported government policy is in place (Smith, 1995). In the meanwhile, the federal government keeps pursuing the policy of "extinguishment" as a condition of settling treaties, siding with the industry. For example, COFI has proposed the blanket extinguishment of aboriginal title if transfers of Crown land do occur (McKee, 1996). These initiatives are against the provision of both the Hamilton Report (DIAND, 1995) and the report from the Royal Commission on Aboriginal Peoples (1995), which recommend that aboriginal

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<sup>31</sup> Interim measures agreements are designed to provide natives with some assurance that their access to resources or interests in land will not be denied without prior negotiation. In 1993, the BC government entered into a Protocol with the First Nations Summit meant to develop the procedure for interim measures agreements. The BCTC recognized that interim measures agreements are to treaty negotiations what interim injunctions are to litigation: the credibility of the judicial system would have been impaired had the law not established the mechanism of the interim injunction to prevent the subject matter of litigation from being destroyed or consumed before trial (BCTC, 1996).

rights be enshrined rather than extinguished in land claims settlements (Christensen, 1995b).

With respect to the First Nations, the issue of overlapping claims is critical. Some of these conflicts need to be resolved among the various aboriginal groups involved. However, many First Nations (about 20-30%) are still rejecting the treaty process. As the negotiation process continues, it is obvious that boundary issues will become the focal point between those First Nations which are in the process and those which are not. Part of the reason why the treaty process cannot bring unanimous agreement is the wide acceptance by First Nations of a kind of sovereigntist argument, according to which the land was never given up, and, therefore, it is owned by the First Nations and should not be negotiated away.<sup>32</sup> This type of conflict is fairly common not only among First Nations but also within a First Nations community, and that applies even to those First Nations which are already in the treaty process. Many 'traditionalists' sharing the sovereigntist argument often oppose the band council created under the Indian Act, which has also become a source of problems in the treaty process. For example, one of the First Nations entering the process found that there were applications from the hereditary structure along with applications from the Chief and Council for the same lands (Christensen, 1995a). However, these conflicts may represent a possible period of transition in a native community in terms of the political structure. Regardless of the way in which BC treaty-making process evolves, sooner or later, First Nations should overcome internal dissension in order to settle for a common agenda and get most members of their communities involved in the resolution of the aboriginal land question.

In addition, the political climate at both levels of government is another factor that may affect the treaty process. In fact, the issues of aboriginal land question became a part of the political campaign during BC's provincial election in 1996. For example, some companies in the fishing and forest industries have reacted negatively in the Nisga'a deal (see the following section), leading to the Liberal Party's election campaign slogan "one law for all." An even harsher opposition came from the Reform Party which proposed that all treaties be subject to a

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<sup>32</sup> In addition, the First Nations in the interior of the province which belong to the Union of BC Indian Chiefs (UBCIC) do not acknowledge as legitimate the role of the BC government in the negotiations. According to the UBCIC, the treaties are to be negotiated on a nation-to-nation basis, between the First Nations and the federal government (Mckee, 1996).



referendum. If one of those party had won the election, the whole BC treaty process would have been affected in a fundamental way. This type of uncertainty produced by the political climate will exist as long as the aboriginal land question is used in a political power game.<sup>33</sup>

It is fair to say that the BC treaty process is a major step in the history of aboriginal peoples in BC, and that there is a consensus among the majority of stake-holders that negotiated treaties are essential to end the uncertainty that surrounds the issues of land, resource use, and self-government. However, the treaty-making process has shown significant difficulties.

### 2.3. Implications of Land Claims

In February 1996, the Agreement-In-Principle (AIP) toward a Nisga`a`s land claim settlement was announced. According to the AIP document, jointly issued by the government of Canada, the province of BC and Nisga`a Tribal Council (1996), the main deal includes self-government powers (under the Canadian judicial framework),<sup>34</sup> roughly \$190 million in cash that will be paid over a period of years, and about 2,000 m<sup>2</sup> of land ownership (8% of the traditional territory) that will be communally owned by the Nisga`a (Nisga`a Land). The reserve system will be abolished, and the Indian Act will not apply to Nisga`a except for the items concerning membership. Some timber rights (up to 150,000 m<sup>3</sup>) on the traditional territory will be given to the Nisga`a. Also, the right to salmon resources will be endorsed through quotas that will be given to them as a priority, although the contents will be subject to discussion from time to time. In turn, Nisga`a agreed to phase out their tax-exemption status.

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33 Gordon Campbell (Liberal Party leader) stated during the election campaign that the Liberals would continue to work toward the conclusion of treaties with the First Nations, but they would defend the interests of British Columbians 'more vigorously' than the NDP government. He also stated that the Liberals would discontinue the process of interim measures agreements with aboriginal groups (Mckee, 1996).

34 General provisions are: the Nisga`a will continue to be an aboriginal people under the Constitution Act, 1982; Nisga`a people will be entitled to the rights and benefits of other Canadian citizens; lands owned by Nisga`a will no longer be reserve lands under the Indian Act; the Charter of Rights and Freedoms will apply to the Nisga`a government and its institutions; Nisga`a jurisdiction over Nisga`a citizens on Nisga`a land will be phased in over time; eventually, the Indian Act will no longer apply to Nisga`a; All parties acknowledge that the final agreement will provide certainty with respect to Nisga`a rights, title and obligations; and the Criminal Code of Canada and other general laws will continue to apply.

The Nisga'a's AIP, which is outside of the BC treaty process, may be an important precedent for other treaties, although the governments and the First Nations have agreed that each First Nation will hold separate negotiations based on its unique environment. According to McKee (1996), who described the position of the federal and provincial governments toward the treaty-making process, many aspects underlying their arguments can be inferred from the Nisga'a's AIP. A recent discussion between the two governments covered four areas: lands and resources, natural resources, financial benefits to First Nations, and self-government. McKee's (1996) account can be summarized as follows:

*Lands and Resources:* There could be considerable differences in the amount of land available for the settlement of specific treaties: generally, the land allotment to First Nations in major urban centres will be less than to those in rural areas. When all treaties are concluded, the overall land held by all First Nations would be less than 5 % of the total land mass of the province. The federal government expects the First Nations to be self-reliant in the use of those lands. Consequently, DIA's discretionary powers under the Indian Act, as they affect reserve lands, will be eradicated along with the fiduciary obligations which these powers create. Both orders of government have suggested that the jurisdiction of the First Nations over treaty settlement lands will be subject to federal and BC laws of general application, unless specified in particular treaties. The public, the governments, and commercial interests should be offered 'limited' or 'reasonable' forms of access to those lands selected or retained by the First Nations as part of their settlement. The federal government is clear that it will retain its powers of expropriation over aboriginal lands, although these powers will not be used in an arbitrary fashion.

*Natural Resources:* An annual entitlement to fish by First Nations will presumably take the form of an extension to the Aboriginal Fisheries Strategy already in place in BC. If existing fisheries are disrupted by changes to be included in treaty settlement packages, the federal government will offer an 'equitable resolution,' where possible. The right to wildlife will be similar to the current practices by many native groups: the First Nations will maintain hunting and fishing rights for food on unoccupied Crown land. Aboriginal people may conduct environmental impact assessments of projects to be undertaken on treaty settlement lands. Also, aboriginal people are expected to exercise managing authority over forests on

treaty settlement lands although they are required to consult with third party interests, the public and the governments, if particular issues of concern arise.

*Financial Benefits:* In negotiating the cash component of a treaty, the federal government will consider the overall cost of reaching a settlement. The cash component will be considered as capital transfer and thus exempt from taxation. Cash benefits may include certain economic development initiatives for aboriginal people, or funds to be used by First Nations for specific economic activities.

*Self-Government:* Self-government would resemble a municipal government, holding powers weaker than those of provincial governments. The federal government seeks to avoid revising the constitution and to negotiate self-governing arrangements with specific First Nations. The provisions of the Criminal Code will continue to apply to aboriginal people. Aboriginal communities will play no measurable role in the formation of international treaties. The entire body of the Charter of Rights and Freedoms will continue to apply to aboriginal governments and their citizens. Consequently, aboriginal governments will not become sovereign entities in any real sense. The powers that the federal government appears prepared to assign to aboriginal communities would be those law-making powers seen as internal to aboriginal community: integral to their culture and traditions; and related to the management of their lands and natural resources.

With respect to the on-going processes in treaty-making negotiations, the approach varies according to the specificity of the First Nations. According to McKee (1996) who described recent negotiations of the Sechelt Indian Band, the Nuu'Cha'Nulth Tribal Council and the Gitksan First Nation at stage three (Framework Agreement), some of those First Nations claims are:

*Land and Resources:*

- Ownership and control over 11,000 km<sup>2</sup> without any preconditions set by the governments over the selection and control of lands and resources (Gitksan).
- Extension of land and natural resources base, including all subsurface rights (Sechelt).
- Settlement lands that should be sufficient to meet cultural, spiritual, and community needs, including housing, recreation and infrastructure; some parts of existing parks; treaty lands in urban areas outside of their traditional territory (Nuu'Cha'Nulth).

*Natural Resources:*

- ‘Openly occupied’ traditional territory for seasonal game activities (Gitxsan).
- Revenue such as royalties from the natural resources that are shared with BC on an even basis (Sechelt).
- Ownership and jurisdiction over specific fishing areas where halibut and cod stocks lie: right to hunt whale (Nuu’Cha’Nulth).

*Financial Benefits:*

- Damages for the loss of all lands and resources since the establishment of their colony (Gitxsan).
- About \$78 million: right to re-open settlement if a per capita compensation package is smaller than that received by any other First Nations in the treaty settlement (Sechelt).
- Compensation for the prior alienation of lands and resources (Nuu’Cha’Nulth).

*Self-Government:*

- A form of governance based on traditional system - recognition of the authority of hereditary chiefs, decentralized decision-making capacity (Gitxsan).
- Continuation of the form of self-government exercised under the Sechelt Indian Band Self-Government Act (Sechelt).
- Full authority, control and jurisdiction over settlement lands and Nuu’Cha’Nulth people both on and off its settlement lands (Nuu’Cha’Nulth).

Overall, there is still a gap between Canadian governments and the First Nations. However, it seems that the issues to be negotiated have been broken down to the point where a realistic talk may start. One might say that the notion of aboriginal title is minimized when one recalls such remarks as those of James Gosnell, Chairman of Nisga’a Tribal Council, who once said “The Indians across the province own everything - the rivers, the trees, the bugs, the animals [...] That’s what we mean when we say we have aboriginal title to the land” (cited in Smith, 1995, p. 75). Others might say that this is the minimally acceptable condition for the Canadian governments to sit at the negotiation table. In any case, given the current conditions surrounding the treaty-making negotiation, it is not clear what the treaty settlements will actually bring to the First Nations and the rest of society.

In a report commissioned by the BC government, the accounting firm Peat Marwick (KPMG) estimated the financial and economic outcomes from the conclusion of treaties, based on the experience of treaty settlements in Northern Canada and elsewhere and extrapolated to the situation of BC. The report says (KPMG, 1996, p. 1):

Treaty settlements are expected to bring a number of benefits to British Columbia. These include cash and resources for First Nations, which will likely lead to increased employment and greater self-reliance, as well as economic spin-off effects. Increased certainty is expected to lead to an improved investment climate. Over time, governments will also have the capability to realize savings in social program expenditures. Taken as a whole, BC is expected to benefit from the inflow of money from the Federal government. [...] When all the financial impacts in BC are considered, BC can expect about three dollars worth of total financial benefit for every dollar of provincial financial cost. The total financial benefit to BC's First Nations is estimated to be approximately \$6 billion.

KPMG (1996) presented a very positive picture. But there are a number of assumptions for its predictions, some of which are:

- Sixty treaties would be negotiated by the year 2018.
- An initial 125,000 eligible First Nations beneficiaries, growing to approximately 146,000 beneficiaries by the time all treaties are settled.
- Between 3 and 5% of the provincial Crown land would be transferred to First Nations.
- There would be from \$5.3 to \$6.0 billion of cash, including capital transfers, cash equivalents and the transfer of the resource revenue base.

Also, a series of variables will affect these predictions. Such variables include: the negotiating positions and issues of parties, the prevailing economic conditions, and the actions of the First Nations.

It may be still relevant to recall an older study done by Cassidy and Dale (1988) who presented three scenarios concerning natural resource management in BC after the land claims settlement:

(a) First scenario - "Partners in Development":

the settlements reflect a consensus that resource development and the generation of economic benefits is paramount. All parties, would agree that business-like approach to natural resource use should be emphasized. Economic values would take a much higher priority than political objectives or environmental concerns. Economic imperatives rather than governments would determine the rate and direction of resource use. In a sense, native peoples would pursue resource development as the basis for providing other social and economic benefits.

(b) Second scenario - "Allies and Adversaries":

bureaucracies and intergovernmental coordinating committees would proliferate. Regulation, mediation, and coordination through a variety of co-management approaches would become a focal point for the concerned groups. In some instances various parties would work together as allies in resource development and management. In others they would be adversaries.

(c) Third scenario - "Homeland and Hinterland":

native people would be able to preserve and govern large parts of their claimed lands and resources through the exercise of well-defined jurisdictional powers within specifically defined land bases. Native "homelands" would be explicitly separated from the rest of provincial land mass which would remain a "hinterlands" for resource development. The economic, political, and environmental dimensions of resource use and management would vary greatly from region to region.

Some aspects in each scenario may become relevant during the future treaty-making process. Currently, a political trend appears to be favoring the second scenario above; the province has been working on new arrangements for local self-government, the delivery of services to reserves, and the possibilities for co-management of resources. The BC Native Forestry Task Force, for example, established in 1991, made recommendations exactly along these lines. As Pinkerton (1989) argued, co-management can be a route to community-based development, and a route to efficient and democratic decision making. However, because of the

lopsided power relationship between First Nations and governments, the agreements are often made high-handedly, ignoring First Nations' internal problems. In fact, some native people argue that the government is taking advantage of native's socio-economic difficulties: a 'package deal' in the treaty-making negotiations, using economic development as a main part of the treaty, may virtually barter with poor First Nations for their fundamental issues - treaty right, land claims, and self-government.

## CHAPTER THREE

### LAND USE AND PROPERTY SYSTEM BEFORE 1950

#### 3.1. Before the European Contact

The Lil'wat Nation and ten other Nations comprise the Lillooet linguistic group or Stl'atl'imx, a part of the Interior Salish language family. In the beginning of this century, Hill-Tout (1905) mentioned more than 30 villages as settlement sites of Stl'atl'imx. Today only 11 communities remain as a result of Canadian amalgamation policy and population decline. Each community is now being referred to as a "Band" (Indian Act), or "Nation" (aboriginal use). As such, the Lil'wat Nation is also known as the Mount Currie Indian Band (the Pemberton Band until the 1950s). The traditional territory of the Stl'atl'imx extends 200 km in latitude and 100 km in longitude, including Bridge River, Seton and Anderson Lakes, Birkenhead and Lillooet Rivers, Alta and Green Lakes, Duffy Lake, Stein Valley and reaches as far southward as Harrison Lake. The following map (Figure 5) shows the traditional territory of Stl'atl'imx and its four divisions.

Teit (1906) named these four divisions: (1) Lillooet River Band, (2) Pemberton Band, (3) Lake Band, and (4) Fraser River Band. Also, (1) and (2) together are called the "Upper Lillooet," while (3) and (4) are called the "Lower Lillooet." The term "Lil'wat Nation" used in this study refers to the same group that Teit (1906) called "Pemberton Band." According to Teit (1906), the people of Pemberton Band (Lil'wat Nation) resided around Lillooet Lake, Pemberton Meadows, Lillooet River, Birkenhead River, Green Lake. Five villages were recognized by Teit (1906). Their hunting grounds extend westward along the upper reaches of Lillooet River and Squamish River and other streams entering the head of Howe Sound, and beyond the sources and eastern branches of the streams running into the Jervis Inlet. Northerly they extend near the Birkenhead Lake, and easterly beyond Duffy Lake.

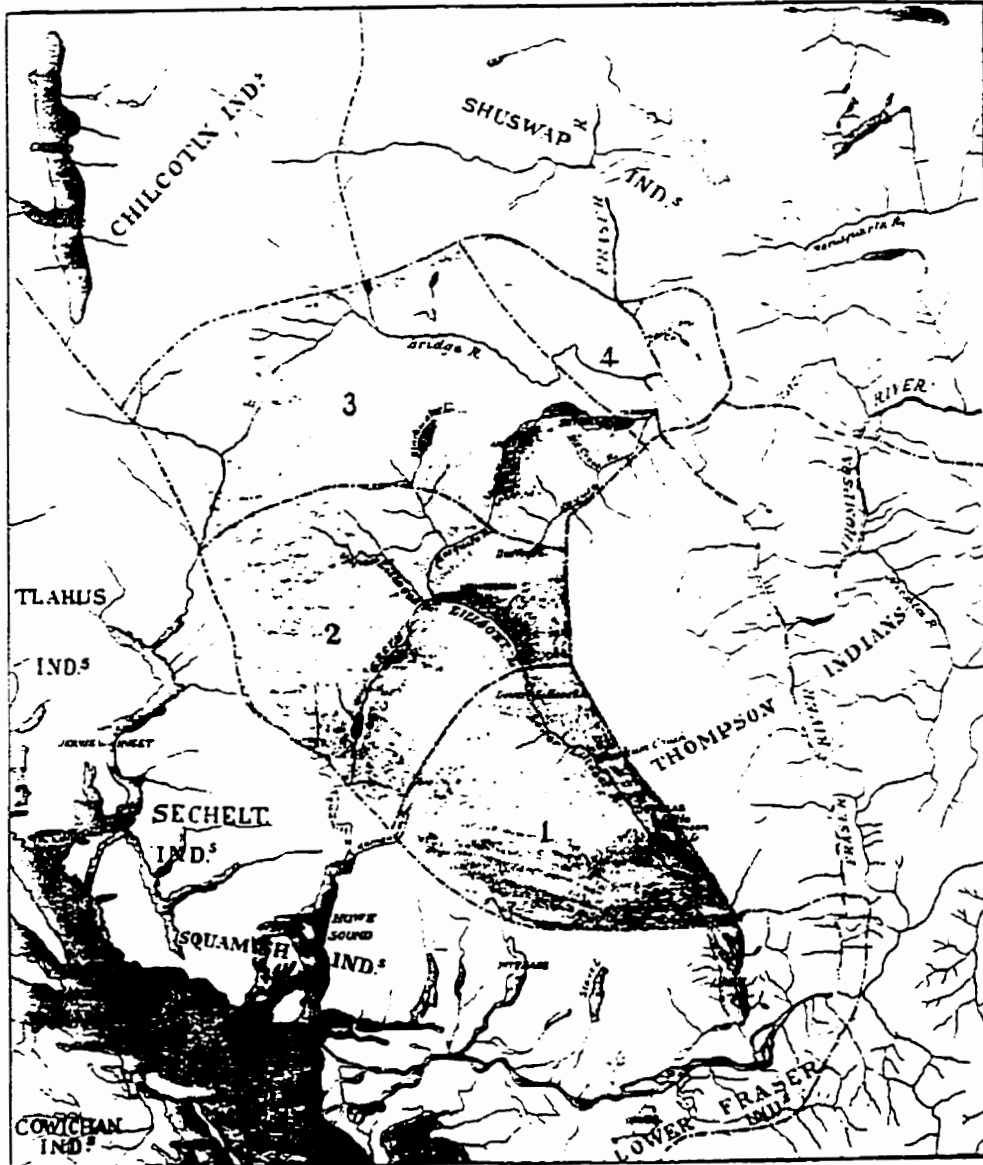
Lil'wat Nation is the most westerly of the Stl'atl'imx and belongs to Lower Lillooet. Although Teit (1906) described the primarily synthetic culture of Upper and Lower Lillooet, the distinction between them is important. The Lower Lillooet inhabited a fundamentally coastal type of environment with diverse resources, while the Upper Lillooet occupied the much drier and ecologically less complex environment along the banks of the Fraser River (Hayden, 1992).



Lower Lillooet is categorized as belonging to the Northwest Coast Culture Area, while Upper Lillooet belongs to the Plateau Culture Area.

**Figure 5 Stl'atl'imx Traditional Territory**

from Teit (1906, p. 201)



Key: 1-Lillooet River Band, 2-Pemberton Band,  
3-Lake Band, 4-Fraser River Band

Throughout the territory, there are places which have special indigenous names. With the help of their elders, Baptiste Ritchie and Charlie Mack, some people of the Lil'wat Nation, have mapped some of these place names within the territory. The map was first produced in 1975 (not available at this time). The place names are the words used by their ancestors, and passed down from one generation to another. In the *sh-KOqual* (the history passed down from the elders), a number of such place names are mentioned. This history reveals that the inhabitants used names for the various areas within the traditional land long before maps were ever produced, and long before white settlers came into the area. Some of the names stand for physical entities, such as a lake. Others show details such as a footprint in a rock. The place names reflect their use of the land over the generations, from time immemorial.

It is considered that the territory had been maintained as common hunting and gathering grounds. Although it is difficult to assess the degree to which these borders were maintained and respected, Teit (1906) reported frequent warfare with neighbouring tribes over the land and resources.<sup>35</sup> Even between the divisions of Stl'atl'imx, there were strict customs governing the territory. For example, Teit (1906) reported that:

Some of the Lower Lillooet who were on good terms with the Lower Fraser tribes were allowed to cross the Fraser River and hunt elk on its south side; but, if strange Lillooet attempted to hunt there, they were driven off or killed (p. 227).

Within a boundary, there were established property systems, some of which were reported by Teit (1906). With respect to fishing activities, he mentioned that:

The right to fish at places where large and important fish-weirs were located, was considered the property of the clan<sup>36</sup> that erected the weir every year. The Lower

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<sup>35</sup> The Chilicotin were among those who often attacked the Lil'wat hunting-parties and camps (Teit, 1906).

<sup>36</sup> Teit (1906) used the term "clan", but a more appropriate term would be "lineage" or "extended family" in today's sociological terminology. According to Teit (1906), among the people of the Lil'wat Nation, there were six "clans": wolf, Hailo'lux (beings half human, half fish), owl, Sa'inux (beings half human, half fish), Swan, and Rainbow Trout. Membership in the clan descended along both the male and female lines. In the case of mixed marriages, a man could not become a member of his wife's clan, or vice versa; but the children were considered members of both clans. In addition, with respect to the decision-making system in the Lil'wat Nation, some people are currently advocating a revival of the clan system under the name of "family head system". This will be discussed in Chapter Five.

Lillooet erected at such places post or poles carved and painted to represent the totem of the clan to which they belonged. Sometimes, instead of posts, a suitable tree was carved and painted (p. 256).

Also, concerning hunting and gathering activities, Teit (1906) mentioned that:

Hunting and root-digging grounds, trails, and trail-routes, were the common property of the tribe. [...] All the large berry-patches in the village and the lower parts of the mountains were under the supervision of the clan chiefs, who saw to it no berries were picked before the proper time, and that the equal rights of all were guarded. Nevertheless the berry-patches were common property: and people of all clans had the right to pick in any patch, so long as they did so at the proper season. When about ready to pick the first berries, each chief gave notice to his own people, to the neighbouring clans, and even to other tribal divisions, telling them when he would start picking, and inviting them to come (p. 256).

The early history of the Lil'wat Nation, before the European contact, is little known except for oral stories, some of which are recorded in "Lillooet Stories" (Bouchard & Kennedy, 1977). In an ethnographic study reconstructing prehistoric land use in the Upper Lillooet area, Alexander (1992) provided some insights into land use pattern and social organizations. It may be presumed that some of those insights would be applicable to the Lil'wat Nation. The author pointed out the importance of hunting and plant gathering for the people as a supplement to salmon fishing which was likely to fluctuate on a yearly basis. People had semi-sedentary villages at the water sites, from which they traveled for game and plant. In the winter time, they stayed in the village or a basecamp to trap game. In the rest of the year, they used the mountain areas in the following way:

In mid-May small family groups began making short trips into the mountains, hunting and plant gathering as they followed the deer and ripening plants up the slope. [...] In June and early July many of the plants were in their prime, and short trip to the Alpine areas to harvest them and to hunt deer were more frequent. [...] Late July and early August were primarily devoted to salmon fishing and mountains were largely abandoned until the end of the salmon runs in mid- August or early September. Deer hunting was most intense immediately following the salmon

fishing when almost all families moved up to the mountains and camped in large groups for up to one or two weeks. [...] The intensity and duration of any hunt was probably dependent on the number of salmon caught prior to the hunt. Hunting by men could have continued into October and early November (pp. 101-106).<sup>37</sup>

As Hayden (1992) mentioned, some important issues in cultural ecology, such as the formation of trade relationship, property rights, and social inequality, certainly correlate with the scarcity or uneven and fluctuating availability of resources. In the case of the Stl'atl'imx people, some plant resources, such as cedar-bark, saskatoon, black huckleberry, seeds of Indian-celery, and fiber from Indian hemp gained the status of exchange commodities because of the uneven growing patterns between divisions.<sup>38</sup> According to Teit (1906),

the Lillooet were great traders, and transported many products of the interior to the coasts, and *vice versa*. They also did considerable trading among themselves. The

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37 This description applies to the Fraser River Band, especially activities on the east side of the Fraser River. A list of some food plants in the Pemberton band area has been compiled from an elder's story recorded by Bouchard and Kennedy (1977). They are: In March, *Lysichiton americanum* (skunk cabbage) - roots, *Typha latifolia* L. (cat-tail) - roots, *Sium suave* (water-parsnip) - roots, *Osmorhiza purpurea* (purple sweet-cicely): In April, *Fritillaria lanceolata* (chocolate lily) - bulbs, *Pteridium aquilinum* (bracken fern) - roots, *Dryopteris expansa* (spiny wood fern), *Calypso bulbosa* (Fairyslipper) - corms: In May, *Lomatium nudicaule* (Indian celery) - leaves, *Brodiaea hyacinthina* (fool's onion) - roots, *Allium cernuum* (nodding onion) - bulbs, *Fritillaria camschatcensis* (northern rice root) - bulbs: In June, *Lilium columbianum* (tiger lily) - bulbs, *Alectoria fremontii* Tuck. (black tree lichen), *Amelanchier alnifolia* (saskatoon): July: *Shepherdia canadensis* (soapberries), *Vaccinium membranaceum* (black mountain huckleberry), *Rubus leucodermis* (blackcaps), *Rubus spectabilis* (salmonberry), *Rubus idaeus* (wild raspberry), *Rubus parviflorus* (thimbleberry), *Sambucus racemosa* (red elderberry): In August, *Cornus sericea* (red-osier dogwood) -berries, *Ribes sanguineum* (red-flowering currant), *Vaccinium parvifolium* (red huckleberry), *Vaccinium ovalifolium* (oval-leaved blueberry), *Claytonia lanceolata* (western spring beauty): In September, *Pinus albicaulis* (whitebark pine) - seeds, *Oxycoccus oxycoccus* (bog cranberry).

38 Besides the exchange value, the relationship between natural resources and human activities is another important topic. For example, Turner (1988) uses the Index of Cultural Significance (ICS), an index that measures the cultural importance of each plant species based on the "uses" ("quality", "intensity", and "exclusivity") of that given species. One year prior, Turner, Boucher, and Kennedy (1987) compiled an exhaustive collection of data, covering more than three hundred species, including ICS evaluations for the divisions of both the Pemberton Band and Fraser Band. Turner (1988) provides essential data concerning 6 plant species that were the most important for the Stl'atl'imx people as a whole some 50 years ago: Douglas-fir, redcedar, cottonwood, lodgepole pine, Indian hellebore, and saskatoon. Turner (1992) also presents 11 highly important plant species in the division of Fraser River band: spring beauty, balsamroot, yellow avalanche lily, nodding onion, saskatoon, black huckleberry, choke cherry, cow-parship, Indian celery, whitebark pine, and Indian-hemp. Some of these were also important to other Stl'atl'imx people.

Lower Lillooet sometimes went to Anderson Lake, where they traded with the Lake band and also picked service-berries [saskatoon]. Occasionally the Lake people went to Pemberton. As a rule, however, large numbers of the Lower Lillooet went with the Lake band right to the Fraser River, where every August and September a great deal of trading was carried on along the river between Lillooet and Fountain. [...] The product disposed of by the Lower Lillooet to the Upper bands were dentalia and other shells; dyed and undyed cedar-bark, yew-wood, and also sometimes vine-maple and yellow-cedar or cypress wood, for the manufacture of bows; black-tail deer-skins, hazel-nuts, dried huckleberries, goat-hair, blankets, fish-oil [oolichan oil], and sometimes slaves from coast. They received in exchange dentalia, bark of hemp, bark twine and rope, dried salmon, *Erythronium grandiflorum, var. minor* [avalanche lily corm] and other kinds of roots, dried service-berries [saskatoon], soap-berries, and other berries, cherries, dried meat and fat, and dressed skins (p. 231-32).

From this description, it could be said that some shells like dentalia played the role of money as well as the means to transform surplus into a kind of prestige, which brought about the formation of social inequality. Unfortunately, there is a lack of information in the literature about these important sociological implications. However, Alexander (1992) offered some insights into the formation of social inequality, and the establishment of 'ownership' over resources in the Fraser River Band. In the original land use in mountain areas, each band (defined as those people associated with a given village) had its habitual hunting and trapping grounds near its home; but those grounds were considered the common property of the entire tribe. Hunting at specific locations was regulated by individual hunting stewards who inherited their position and whose families habitually used those locations. However, they did not 'own' the land and they allowed other people's access to their area. As mentioned earlier, trail, berry-picking areas, and root-digging grounds were also common tribal property. Important berry-picking areas were regulated by a chief. This situation had gradually changed as Alexander (1992) mentioned:

Starting in 1800, some Salish bands, including Pavilion, adopted some social practices from the coastal tribes that resulted in changes in the ownership practices [...] With the creation of clans and an hereditary nobility, hunting territories, root-

digging grounds, berrying resorts, and Montane basecamps became the common property of the nobility of the band (p. 143-44).

However, the degree to which this description applies to the Lil'wat Nation is unknown.

### **3.2. European Contact**

Changes in the Lil'wat people's way of life were brought about by the European contact in the 19th century. In the beginning, changes resulted from the indirect impact of European traders when frequent exchanges started between the Interior and the Coastal peoples. Many coastal people became middle-men, seeking profits from the fur trade with the interior peoples. Some agricultural practices were also brought in from the coast. As early as 1859 potato farming was being adopted by the people of Lil'wat Nation (Palmer, 1859). Also, some social practices from the coastal tribes were adopted by some bands, which resulted in changes in ownership practices.

Europeans' first exploration of the southern part of BC's interior was in 1808 by Simon Fraser (Lamb, 1960) of the North West Company pushing ever westward in search of new trade routes. He followed the Fraser River down to the sea establishing several forts as trading centers. It is presumed that, by the middle of last century, European goods such as guns, axes, cloths, beads had been popularized among the aboriginal peoples. As Fisher (1992) described, however, there were no apparent modifications of the native culture during this period: "The Indians still to a large extent controlled both the trade and their culture, and European traders did not attempt any major interference with their way of life" (p. 24). The influence of the fur brigades on the Lil'wat Nation might have been even smaller because there was no permanent trading post in the district and the Lil'wat Nation was out of the main trading routes.

1827 seems to be the year in which Hudson's Bay men first penetrated the Birkenhead River area, reaching the Lil'wat Nation (Decker, et al., 1977). They were searching for a safe route to bypass the lower Fraser canyons. The first account of any exploration through the district comes from the journal of Alexander C. Anderson in 1846. He wrote about a Lillooet Village (today's Lil'wat Nation) in an entry dated May 21, 1846 as follows (Edwards, 1978):

Upon arriving at Lillooet, we found a channel some 50 yards wide, lying between us and a village, seated upon a low grassy island of considerable extent. Similar

meadows exist in different directions around, affording excellent pasture. The natives whom I saw, amounting in all to about 50 men, with women and children in proportion, were suffering from want of provisions, and therefore unable to supply us any. They described the dearth, to the state of water which impedes the usual fishing. The inhabitants are very miserably clad, and exhibit every symptom of abject poverty. They possess however, some very good cedar canoes, made after the model of those seen on the coast. After parleying, I succeeded in having a couple of these, together with the necessary conductors (p. 72-73).

Anderson was also a Hudson's Bay man who established the route from Lillooet to Fort Langley through Seton Portage, Pemberton Meadow, Lillooet Lake and Harrison Lake. Contrary to his expectation that the route would facilitate fur brigades, it became essential in the gold rush of 1858. During the next 10 years, thousands of gold seekers were passing by the Lil'wat Nation lying on the "Trail to Lillooet", mile zero of the Cariboo Trail. Governor Douglas described the beginning of the road in his letter to England (Harris, 1977):

We have commenced the work of improving internal communications of the country as referred to in my dispatch, July 1858, and have a party of 500 men now engaged in opening a road into upper Fraser's River by the valley of Harrison's River. A sternwheel steam vessel is now running to the upper extremity of Harrison's Lake from where we have been cutting a road through the forest on the left bank of Harrison's River and Lillooet Lake to connect Anderson's Lake with Harrison's Lake total distance between those two points, being about 80 miles of land carriage over a generally level country. The men employed in that important enterprise are gold miners, composed of many nations, British subjects, Americans, French, Germans, Danes, Africans and Chinese who volunteered their services immediately on our wish to open a practicable route into the interior of the Fraser River District being made public (p. 13).

Also, in 1860, a dam was built across the outlet at the lower end of Tenasse Lake, a small lake adjacent to the lower end of the Lillooet Lake, in order to raise the water and enable the steamboats to move easily as they were negotiating the rapids between the two lakes

(Dowton, 1921).<sup>39</sup> In this frantic period, many people of the Lil'wat Nation were hired to transfer the stacks of freight from shore to ship and back to shore (Decker, et al., 1977).

More importantly, gold seekers left behind a legacy of disease and death in the area. Although the exact number of casualties from infections is unknown, some Lil'wat elders say more than two thirds of the native population died in this period.

The route to the gold fields also opened a way for farmers to reach the meadow (Pemberton Meadow) above Lillooet Lake. The incentive was the temporary high prices of vegetables to supply prospectors. Pre-emption of the land in this area was among the first recorded after the 1860 *Pre-Emption Proclamation* in BC. The first and second pre-emptions recorded by P. Smith and J. Show together with W. Jones's pre-empted ground account make up for some 740 acres, which later became a part of the Indian Reserves No. 3 and No. 8.

The new Cariboo Road up the Fraser, begun in 1862, was completed from Yale to Clinton in the next 10 year and the exodus from Pemberton commenced. In 1864 Dodge and Company had 160 animals in transport, but complained that both the Douglas and the Pemberton Portages were almost impassable in certain places (Decker, et al., 1977). Ten years later, in 1874, only a few settlers remained and the native people were returning to their traditional ways.

Another factor that possibly affected the Lil'wat people was the construction of a cattle trail. Around 1872, the large stock-farming interests of the interior were paralyzed for want of an outlet for their beef. Demand for a good outlet to the coast led to a new route connecting over 300 km of land: Lillooet, Pemberton, Squamish, and Burrard Inlet. Work began in 1873 and dragged on for four years. Although only three feet wide, the trail required much blasting, clearing, grading, cribbing, corduroy and stone wall, and no less than 80 bridges (Edwards, 1977). A number of native people were hired for this work (Decker, et al., 1977). In 1877, after \$38,000 had been spent, the trail was declared finished and large numbers of cattle were ready to drive. However, after the first use of the trail by R. Carson, with 200 cattle, it was revealed that the route, especially between Squamish and Burrard Inlet, was too dangerous. With the Canadian Pacific Railway settled, the pressure from Cariboo ranchers for the Pemberton route disappeared

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<sup>39</sup> Because of this dam, the water level of Lillooet Lake, Lillooet River and Birkenhead River rose. Also, the area of Pemberton Meadow lowered and suffered from frequent floods. It was the 1946 Prairie Farm Rehabilitation Act that removed the dam to reduce the water level.



and the route was left to local ranchers who used it until the Pacific Great Eastern Railway was built in 1914 (Decker, et al., 1977).

Even as a grassy route, the road to Squamish was enough to lure some farmers to settle in Pemberton Meadow. Also, in 1880, the McClaren Ross Company decided to build a railway from Squamish to Daisy Lake, which produced the anticipation that Pemberton Meadow would be “filled up soon” and stimulated both land and timber speculations. In 1890, throughout the Valley, close to 5,000 acres were bought by speculators. As for settlers, in 1890 and 1891, 23 individuals, some in partnerships, applied for 33 parcels along the Lillooet River (Decker, et al., 1977). However, not until 1914 did a train run into the Meadow. Many of these settlers had left the Meadow by that time.

With respect to the way of life among the people of Lil’wat Nation at that time, little historical account is available to date. According to a description dated March 1882, by Peter O’Reilly, who had been appointed Indian Reserve Commissioner, and visited the Valley, the life of the people was more or less isolated. He reported that the Pemberton Indians numbered 203, “54 men, 49 women, and 110 Children, the proportion of children to adults being nearly double the general average among Indians.” He also said of the Pemberton Indians that they were:

an industrious and peaceable people; being isolated from the white population they have no opportunity of obtaining spirituous liquors and they gain their living by their natural resources. Their fisheries are their principal means of support, which they supplement by hunting, trapping and mining.

However, these long-standing activity patterns had been mostly replaced by western ones by the end of the 19th century (although some elements of the traditional knowledge base has been carried over to the present time). In fact, even in Teit’s observations in the early 1900s, traditional systems had largely changed. For example, with respect to native dwellings, Teit (1906) mentioned that: “Both the plank houses and the underground houses have now gone completely out of use, their places being taken by lumber and log cabins built after the manner of whites (p. 214).” Concerning food resources, Teit (1906) said that: “At the present day a considerable part of the food-supply consists of potatoes, corn, squash, turnips, etc., raised on reserves; and flour, rice, sugar, tea, etc., obtained from the whites (p. 223).” Early settlers in Pemberton Meadows employed natives for agricultural work such as planting and picking up

potatoes. Also, native people traded apples, greengages, huckleberries, baskets, salmon and venison, for butter, bacon, beef and vegetable, and they loaned some teams of horses to the settlers. Native people were raising fine crops and cultivating fruit such as plums, cherries, apples and currants on their reserve lands (Decker et. al, 1977). Their life in this period can be traced from a record of the McKenna-McBride Royal Commission (1916):

IGNATIUS JACOB IS CALLED AND SWORN (Witness here hands in exhibits containing the following information). Population 315; that is, reserve No. 1, 2 and 3: children of school age 92, male and female; reservation acreage 5,780 of which 1,780 is bottomland; 570 1/2 acres is under cultivation the rest being under water: 4,000 acres of valuable timber and good timber on the hills of which 1,640 acres only merchantable are under timber limits held under the North Pacific Lumber Company; livestock horses 189, between No. 1, 2, and 3 Reserves; cattle 160 between No. 1, 2 and 3 reserves; hogs 148, between No. 1, 2 and 3 reserves; hay average annually in all 459 tons in No. 1, 2 and 3 reserves; fruit trees 1,872 in mostly plums, apples, cherries and pears; poultry all kinds.

From this description, it is presumed that, in this period, the number of families was well under 100.<sup>40</sup> Agriculture with livestock became popular among the people of Lil'wat. By the turn of this century, they seemed to cultivate most arable lands on reserves. Probably many people combined agriculture with other traditional occupations like fishing, hunting, and gathering. So called "family lands" on reserves were probably established by this time. There are many important issues related to these evolving agricultural activities, such as the relationships among Lil'wat families (clans), individual members, and the Lil'wat Nation as a governing body.

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<sup>40</sup> According to the "Census - Pemberton Band of Indians" of 1923 (Table 3) done by the Indian Affairs, 273 people with 75 households were on the record as band members. The distribution of age and sex is shown.

**Table 3 - Population by Age and Sex for the Pemberton Band in 1923**

Age	0-9	10-19	20-29	30-39	40-49	50-59	60-69	70-79	80+	Total
Male	35	35	24	18	14	3	8	5	5	147
Female	34	25	23	11	11	6	5	5	6	126
Total	69	60	47	29	25	9	13	10	11	273

Source: Census - Pemberton Band of Indians of 1923, Indian Affairs

concerning the occupation of fields and the distribution of labour and products. Unfortunately, there are no extensive records to clarify these important issues. In any case, the development of agriculture on reserve lands must have influenced the resource use patterns in the traditional territory, thus, the property system as a whole.

**Table 4 Reserves for Pemberton Indian Band in 1913**

Name	Where Situated	Area, Acres	Remarks
1 Pemberton	at the upper end of the lower Pemberton meadows	188.50	Allotted by Comm'r. O'Reilly, Sept. 6, 1881. Surveyed 1882, Approved, June 4, 1884
2	on the upper Pemberton meadows between the north and south branches of the Lillooet Rivers	105.00	same as above
3 Ne-such	on the lower Pemberton meadows between the north and south branches of the Lillooet rivers	909.50	same as above
4 Lokla	on the Birkenhead river, about seven miles from reserve No. 1	19.50	same as above
5 Grave-yard	near the 20 mile house at the foot of Pemberton lake, on Mr. J. Smith's pre-emption claim	1.40	Allotted by O'Reilly Sept. 6, 1881. Surveyed 1882, Approved June 4, 1884. The exclusive right of fishing in the Lillooet river from the foot of Pemberton lake 1/2 mile down stream is reserved for these Indians.
6	on left bank of Birkenhead river, N. of reserve No. 3	4,000.00	The North Pacific Lumber Co. have the right of cutting timber on 1,640 acres lot 236, group. 1 for 21 years from April 1, 1903. Allotted by Comm'r Vowell June 15, 1904. Surveyed by D.J.F. Ritchie, D. and P.L.S., 1905, Approved Feb. 21 1906
7	same as above	320.00	Allotted by chief Comm'r of Lands and Works. It was previously known as B. Smith's pre-emption
8	L.99 G.I.L.98 G.I.	813.00	Purchased by Dominion Govt. on 4th Nov., 1905 from Bishop Dontenwill, consists of lot 99, group 1, containing 287 acres, east portion of lot 98, containing 320 acres and west portion of lot 98 containing 206 acres

Source: Schedule of Indian Reserves in the Dominion, 1913 (Department of Indian Affairs)

With respect to the formation of reserve lands, parts of their reserves were first allotted

in 1881 when many speculators were starting to buy the lands on Pemberton Meadow<sup>41</sup>. Also, some 800 acres of church lands were taken over in 1905 to be a part of reserve. Details about those reserves in 1913 are provided in Table 4 extracted from the “Schedule of Indian Reserves in the Dominion” (Department of Indian Affairs, 1913):

Not without significance is the way in which the Canadian authority dealt with the land and resources of the Lil’wat Nation. When the colony of BC entered Confederation in 1871, almost all the provincial lands fell under the ownership of provincial Crown. By the beginning of this century, the large portion of the Pemberton Meadow and adjacent areas, a part of the traditional territory of the Lil’wat Nation, was pre-empted. Timber resources had been granted to a number of private companies.<sup>42</sup> In the beginning of this century (1905-1907), a feverish speculative boom, known as “timber staking” occurred. The number of timber licenses abruptly increased in BC at that time (Pearse, 1992). As mentioned earlier, the forest lands adjacent to the Pemberton Meadow had already been the object of speculation in 1890s, and this tendency had continued after that. Although there is not much evidence on this issue in the research, it can be assumed that the timber licenses in this period covered most of the accessible forested lands in the traditional territory of the Lil’wat Nation. In fact, as shown in the Table 4, even on a part of reserve lands (Reserve #6), a cutting permit had been assigned to a forest company.

With respect to fishing practices, Ware (1983) summarized the governmental regulations with special emphasis on the Fraser River prior to the 1940s:

*Pre - 1858:* Indian control of land and resources, no restrictions on Indian participation in commercial fisheries.

*1858 - 1880s:* non-regulation of BC Indian fisheries.

*1880s - 1894:* first attempt to separate Indian participation in the commercial fisheries

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<sup>41</sup> As mentioned earlier, during 1850 to 1863, Governor Douglas had a reserve policy allowing Indians to select reserve areas. However, the federal government did not assume responsibility for Indian lands until 1871. Much of the information on those reserves in Douglas’s period has been lost. In the case of Lil’wat Nation, many people insist that they used to have reserves around Green Lake, Lillooet Lake, and Duffy Lake. No official document has supported these claims.

<sup>42</sup> According to Pearse (1992), around this period, BC granted the lands, including timbering rights, to private sectors. Then, the government adopted a policy initiating the separation of rights to land from rights to timber, and restricting the alienation of title over forest lands.

from “food fishing”, first regulatory clauses in Fisheries Act and BC regulations, early attempts to “administer” fishing laws against Indians.

*1894 - 1914*: significant regulation and restrictions of Indian “food fishing”, offensive launched on weirs and fish dams, a “permit system” established, though haphazardly enforced.

*1914 - 1922*: intensified attack on Indian fisheries; attempt to abolish all nets, then attempts at total prohibition of Fraser River Indian fishing.

*1923 - 1930s*: beginning of the contemporary “Food Fish Permit” system.

Again, the extent to which this general description applies to the Lil’wat Nation is unknown. What is known is that, early this century, the Fisheries Department set up a hatchery on the Birkenhead River adjacent to the reserve. The Department took salmon eggs from the Chilliwack/Cultus Lake to populate the Birkenhead and other rivers. Eggs could hatch in this manner, but few or no fry could live and return to spawn. The people of the Lil’wat Nation quickly realized the damage being done by the hatchery. Chief James of Lil’wat Nation testified against the operations of the hatchery, where a 1924 fiasco wiped out over 60% of the eggs extracted from that year’s run (Ware, 1983). Prior to this time, he also led a protest in a dispute over spear fishing in the Birkenhead (Ware, 1983). Also, a record dated in 1922 shows that 36 people in the Lil’wat Nation were given Indian Fishing Permits. Overall, there were some restrictions against native fishing activities, and there were governmental initiatives to manage salmon resources. However, the people protested against them. In this situation, it is difficult to assess the extent to which governmental authorities controlled the local population.

With respect to hunting practices, on the other hand, the level of governmental regulations over native hunting was much more relaxed than that of fishing activities in this period. This may be because salmon had higher commercial value than game animals. Also, the habitats of each game animal are more difficult to trace, compared to salmon which is caught at specific locations. In other words, more power over local affairs would be required in order for governments to regulate native people’s hunting activities. It is unlikely that this happened in the remote areas in those days. Confrontation between Lil’wat Nations and Canadian governments over animal resources started much later.

There are, however, anecdotes of some internal arrangements concerning hunting

practices in those days. According to some elders, people began using family traplines sometime in the 19th century by importing the idea from other tribal groups. The system of trapline was unknown to the Lil'wat Nation before. If these reports are true, the trapline brought a major change in terms of property rights on the traditional territory. Its main purpose was to access and control the population of fur-bearing animals in order to exchange them for commodities or money without depleting the animal resource. This is an example of adaptation of traditional activities to the money economy, although no data are available to further explore this issue.

Overall, it is difficult to assess property in terms of the way Canadian authorities dealt with the local native population during this period (i.e. from the gold rush era to the early decades of this century). Apparently, the Crown Land system was established, and pre-empted lands were given away. Settlers were acquiring large portion of Pemberton Meadow. Some regulations in fisheries were established. However, with respect to fishing and hunting practices, it is not easy to specify the extent to which governmental regulations imposed upon local activities. In fact, some elders in the Lil'wat Nation recall that there were no restrictions whatsoever concerning fishing and hunting practices prior to the 1960s. It may be reasonable to assume that, during this period, people continued fishing and hunting in their own way, to a certain degree, as an integral part of their life.

In spite of the fact that the Lil'wat people retained some independence in fishing and hunting activities, it should be noted that they did not simply accept their situation once Canadian governments started to undermine the aboriginal authority system. As mentioned earlier, some First Nations people in BC rose against Canadian policies in the early years of this century. The Lil'wat Nation people were also among those who expressed their inherited right to the land. The following is the "Declaration of the Lillooet Tribe" of 1911 signed by 12 chiefs in Stl'atl'imx (excerpt from Drake-Terry, 1989):

We, the underwritten chiefs of the Lillooet tribe (being all the chiefs of said tribe) declare as follows: We speak the truth, and we speak for our whole tribe, numbering about 1400 people at the present time. We claim that we are the rightful owners of our tribal territory, and everything pertaining thereto. We have always lived in our country: at no time have we ever deserted it, or left it to others. We have retained it from the invasion of the other tribes at the cost of our blood. Our ancestors were in

possession of our country centuries before the whites came. It is the same as yesterday when the latter came, and like the day before when the first fur trader came. We are aware the BC government claims our country, like all other Indian territories in BC; but we deny their right to it. We never gave it or sold it to them. They certainly never got the title to the country from us, neither by agreement nor conquest, and more other than us could have any right to give them title. In early days we considered white chiefs like a superior race that never lied nor stole, and always act wisely, and honourably. We expected they would lay claim to what belonged to themselves only. In these considerations we have been mistaken, and gradually have learned how cunning, cruel, untruthful, and thieving some of them can be. We have felt keenly the stealing of our lands by the BC government, but we could never learn how to get redress. We felt helpless and dejected; but lately we begin to hope. We think that perhaps after all we may get redress from the greater white chiefs away in the King's country, or in Ottawa. It seemed to us all white chiefs and governments were against us, but now we commence to think we may get a measure of justice. [...] chiefs of all the Lillooet bands resolved as follows: First - That we join the other Interior tribes affiliated within the Indian Rights Association of the Coast. Second - That we stand with them in the demand for their rights, and the settlement of the Indian land question. Third - That we agree unanimously with them in all the eight articles of their Declaration, as made at Spences Bridge, July, 1910 (pp. 268-269).

In the early 20th century, the policy of assimilation was already in progress in the Lil'wat Nation. By the year 1900, a Roman Catholic church was built in the center of the community and most native people became Christians although some people were actively against the church and the propagation of its message. For example, some people remember an anecdote of late Charlie Mack,<sup>43</sup> a respected Lil'wat elder, who accused a church bishop by saying, "You hold a bible with one hand and steal our lands with the other." The bishop got angry and cast him out by calling him a 'coyote' meaning a kind of trickster or heathen. Also, by

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<sup>43</sup> He is a main story teller in "Lillooet Stories" edited by Bouchard and Kennedy (1977).

this time, many children were taken to residential schools. One of the oldest examples that this researcher was told is that of a 21 year Lil'wat woman who got out of a residential school in 1907 after 17 years of schooling. Children were separated and taken to different residential schools, such as those in Williams Lake, Kamloops, Sechelt, Port Alberni, and Mission. Although a day school opened on reserve in 1939 with one classroom, many children were taken to the other residential schools until the 1960s.<sup>44</sup>

In Pemberton Meadows, many settlers arrived after the railway construction in 1914. According to a census in 1933 conducted by the Board of Trade Statistics, there were 700 whites settling at the Meadows, which was twice the native population of 350 in the Meadow (Decker, et al., 1977). Approximately, 25,000 acres were privately owned and cultivated for root vegetables (mainly potato) and hay. Also, 2,000 head of cattle and 500 head of horses were raised. There were eight sawmills in the Meadows shipping 2,000 poles and 26,500 ties (in 1930).

The influx of settlers that started in the 1920s and 1930s brought opportunities for seasonal work for the native people. Also, many natives were working in the bush as hand-loggers. Besides working in the Meadows, some people were going outside to work. In the summer time, special railroad fares were offered to native workers enabling them to travel to the Fraser Valley and Washington for hop-picking and fruit harvesting (Decker, et al., 1977).

In the same period, the money economy was gradually introduced into the native community. The first store in the community since the gold rush period was built by Bill Kiltz of the Lillooet Lake Trading Company in 1923. The first native store, owned by a certain Williams family, started to operate in the 1930s. The logging industry started expanding in the 1940s and became the largest industry in the Meadows. Although native people had kept their traditional ways along with subsistence agriculture by this time, their life had been largely modified by white settlers with the introduction of the money economy.

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<sup>44</sup> According to Fisher (1977), Roman Catholic missionaries spread out from southern Vancouver Island over the Mainland during the 1860s, converting and 'civilizing' the Indians. Especially, St. Mary's mission, established in 1861 in today's city of Mission, became an important center for disseminating Roman Catholicism among the Salish Peoples. In 1868, St. Mary's Mission became a boarding school.



### 3.3. Summary: Property System Before 1950

The property system of the Lil'wat Nation before the contact with the European has been reviewed in this chapter based on the limited information available. In the traditional territory, the people of the Lil'wat Nation established a resource use pattern that was backed by a firm knowledge basis concerning the surrounding lands and resources. Some of the distinct property systems in the Lil'wat Nation were also identified, including family or clan 'ownership' of fishing sites and berry-picking grounds. Researchers, such as Teit (1906), pointed out that the enhanced trade was practiced among neighbouring First Nations using money-like objects. This indicated that the people had the means to transfer surplus as a matter of prestige, which brought about the formation of social inequality.

People's way of life changed under the indirect and direct influence of Europeans after the middle of the 19th century. The changes in property systems after the European contact has been investigated from two angles:

#### *(a) The way in which Canadian authority systems eroded the Lil'wat property system*

Without any consultation with First Nations, BC joined the Canadian Confederation, establishing provincial Crown Lands on most of BC territory. BC began to sell out lands and timber rights to private sectors, while Canada gradually assigned reserves to the First Nations. This was basically done without any treaty. First Nations people had found themselves on these reserves without any right to appeal this decision. The *Declaration of the Lillooet Tribe* of 1911 clearly stated this situation.

On the other hand, it is questionable whether Canadian laws actually controlled local First Nations affairs, especially, hunting and fishing activities. Although there is a record that Canada issued fishing licenses to some Lil'wat people during the 1920s, elders recall that hunting and fishing activities continued more or less freely (i.e. under the Lil'wat Nation authority) up to the 1960s. The issue of dual authority still needs to be addressed by future research.

#### *(b) The effect of the changes in the people's way of life on the Lil'wat property system*

As Teit (1906) noticed, the traditional use of plant resources for food and materials was

largely replaced with European customs. By the beginning of this century, agricultural practices had taken centre stage.

Another point is related to the effect of money economy. Traditional trade activities among First Nations pre-existed the contact with the Europeans. At the beginning of the European contact, from the gold rush through the road construction period in the 19th century, some people of the Lil'wat Nation were hired as labourers. However, the extent to which people worked as wage labourers had increased significantly since the turn of this century. Agricultural labour for the settlers in Pemberton Meadow became common in the early decades of this century. Also, since the 1920s many people worked for forest companies as loggers.

The expansion of money economy modified the aboriginal self-sufficient economy as a whole. Traditional plant resources were replaced by agricultural products used as commodities (exchange or purchase). The use of traplines is an example of integration of the new money economy system into a traditional activity.

## CHAPTER FOUR

### RESERVE SYSTEM AND PROPERTY RIGHTS

#### 4.1. Outline of the Mount Currie Reserves

Currently, there are a total of ten reserves which belong to the Mount Currie Indian Band. These reserves are located in the Pemberton Valley, 100 miles north of Vancouver. The following map (Figure 6) show the locations of those reserves. All the reserves are located within the traditional territory of the Lil'wat people. As mentioned in Chapter Three, these reserves were formed around the turn of this century. Table 5 is a list of reserve areas.<sup>45</sup>

The structure of the Lil'wat Nation population is heavily skewed towards the younger generation. The "Land Use Plan" of 1982 estimated a 2% annual growth factor for the following

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<sup>45</sup> According to "Mount Currie Reserve Lands - Land Use Plan 1982", some physical aspects of reserve lands can be summarized as follows:

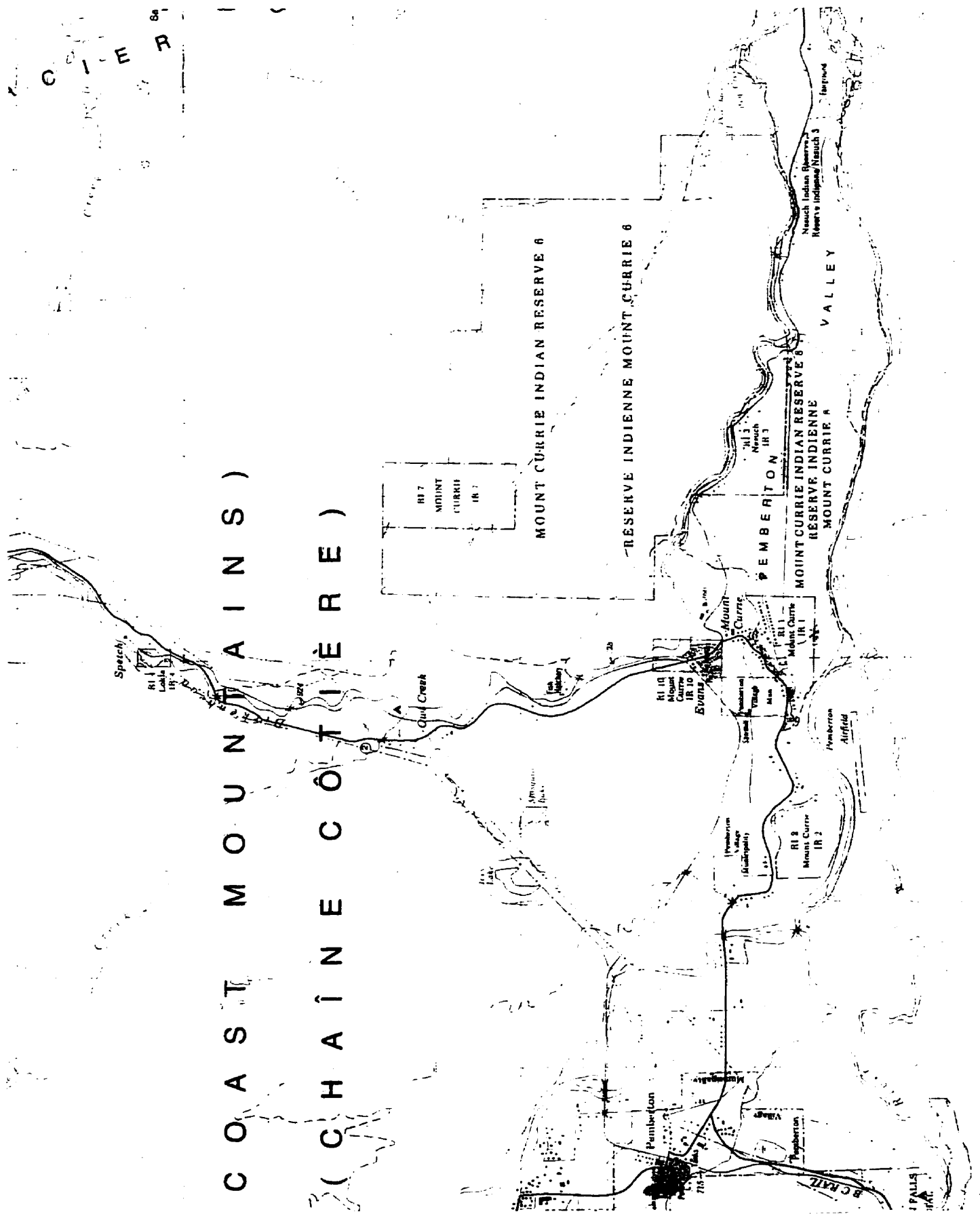
Geologically, the reserve lands consist of deposits of unconsolidated materials in the lower regions of the Lillooet and Birkenhead river valleys. The bedrock in the valley is reported to be intrusive and consists of quartz diorite. The regions at greater elevation generally exhibit bedrock that consists mainly of volcanic materials while deposits of slate, lime stone, and conglomerate also occur.

Briefly, the soil inside the reserve boundaries can be subdivided into two major regions, those found in the lower valley areas and those found at higher elevations. The valley soils are mostly fluvial being deposited by river action. Soils at higher elevation are generally either morainal or colluvial. Morainal soils have been deposited by glacial movement while colluvial soils are the product of mass-wastage being positioned by the action of gravity. Small deposits of organic soil are evidenced and considerable areas of exposed bed rock can be found.

The climate of the area is within the transition zone from coastal marine to interior due to the effects of elevation, distance from the Pacific Ocean, and the surrounding mountain ranges of the Coast Mountains. The recorded annual mean temperature at Pemberton Meadow is 7.2 degrees Celsius with a mean daily mid-summer temperature of 17.2 degrees Celsius. The average freeze free period at Pemberton Meadows is reported to be 150 days during the period April 29th to September 29th. Mean precipitation from October 1st to April 30th is reported at 1024 mm and 187 mm during the May to September period.

The vegetation of the reserve area is considered to belong to the Interior Douglas-fir biogeoclimatic zone. Typically, this zone is characterized by Douglas-fir (*Pseudotsuga menziesii*), ponderosa pine (*P. ponderosa*), western white pine (*P. monticola*), white spruce (*P. glauca*), western larch (*L. occidentalis*) and western redcedar (*Thuja plicata*), often accompanied by trembling aspen (*P. tremuloides*), black cottonwood (*P. balsamifera*), Rocky Mountain maple (*A. glabrum*) and common paper birch (*B. papyrifera*). More specifically, in the reserve area, black cottonwoods are predominant in the valley bottoms and on the lower slopes of the valley sides, while Douglas-fir dominates the well drained slopes lying north of the Birkenhead river. In addition to Douglas-fir, western redcedar, western hemlock (*Tsuga heterophylla*), paper birch and some stands of red alder (*Alnus rubra*) are found.

Figure 6 Mount Currie Indian Reserve



10 years. Indeed, rapid population growth occurred. The following table (Table 6) shows the on- and off-reserve population distribution by age and sex in 1983.

**Table 5 The Mount Currie Indian Reserve Lands**

<b>name</b>	<b>number</b>	<b>acres</b>	<b>hectares</b>
<b>Pemberton</b>	1	188.5	76.15
<b>Mount Currie</b>	2	105.0	42.42
<b>Nesuch</b>	3	999.5	403.78
<b>Lokla</b>	4	13.5	5.45
<b>Graveyard</b>	5	1.4	0.58
<b>Mount Currie</b>	6	4,000.0	1,616.00
<b>Mount Currie</b>	7	320.0	129.28
<b>Mount Currie</b>	8	81.3	32.45
<b>Mount Currie</b>	9	3.7	1.49
<b>Mount Currie</b>	10	74.3	30.02
<b>Total<sup>46</sup></b>		6,818.9	2,633.62

Source: Mount Currie Reserve Lands - Land Use Plan 1982

As mentioned in the previous chapter, there are several records concerning the population of the Lil'wat Nation in the past. For example, a record of the Royal Commission mentioned a population of 315 living on the reserves in 1915. In 1923, a census of the Indian Affairs showed 273 people. A 1933 census conducted by the Board of Trade Statistics showed 350 people as the native population in the Pemberton Meadow. The Pemberton Valley Land Utilization Survey of 1951 stated that the Pemberton band of Indians consisted of about 85 families, totaling some 450 people. In a band minute dated 1975, there is an entry that reads:

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<sup>46</sup> The actual reserve area is larger than this figure by 100 hectares or more, due to the accretion of lands.

**Table 6 Registered Indian Population by Age, Sex and Residence  
for the Mount Currie Indian Band in 1983**  
[On-Reserve] [Off-Reserve] [Total]

Age	M	F	T	M	F	T	M	F	T
0- 9	97	88	185	30	40	70	127	128	255
10-19	107	96	203	59	49	108	166	145	311
20-29	104	99	203	30	32	62	134	131	265
30-39	61	46	107	18	41	59	79	87	166
40-49	35	22	57	12	12	24	47	34	81
50-59	26	15	41	2	7	9	28	22	50
60-69	8	6	14	4	2	6	12	8	20
70-79	7	5	12	1	2	3	8	7	15
80+	4	3	7	1	0	1	5	3	8
<b>Total</b>	<b>449</b>	<b>380</b>	<b>829</b>	<b>157</b>	<b>185</b>	<b>324</b>	<b>607</b>	<b>565</b>	<b>1,172</b>

Source: Statistics Canada

N.B.: M, F, and T stand for male, female and total respectively.

"We apply for Core Funds in the amount of \$27,000 based on an on-reserve Band population of 800." As of 1995, 1,515 people were registered Indians belonging to the Mount Currie Indian Band, out of which 1,053 were living on reserve. Besides natural growth, some political initiatives have been responsible for this significant population increase. The Canadian amalgamation policy, which went into effect in the 1940s, regrouped scattered village sites into larger administrative units. In addition, in 1983, Bill C-31 brought about more inclusive criteria for band membership.

#### 4.2. Indian Reserves in the Canadian Legal System

The Indian Reserve system is a creation of the Indian Act. Three points should be recognized with respect to the Indian Reserve system in Canada: (1) paternal relationship, (2) conflict between individual and collective interests, and (3) enduring customs.

*(1) Paternal Relationship:* The Constitution Act (1867) gave the federal government exclusive authority over the Indian Reserves. The Indian Act defines a reserve as a “tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band.” The Indian Act authorizes the Minister of Indian Affairs and Northern Development (DIA) to exercise certain authorities concerning the management of reserves including: managing reserve lands for the use and benefit of Indian Bands; administering the land interests of individual band members; granting land interest to non-band members; authorizing land use and transfers of land for public purpose; supervising the surrender and designation of reserve lands; and authorizing band management of reserve land. These provisions of the Indian Act are the reflection of a paternal relationship between Canada and First Nations. One of the contradictory points is that the Act does not recognize the bands’ ability to administer their reserve lands<sup>47</sup>. Especially, the Act does not recognize the bands as having proprietary interests in their own reserves. A band cannot independently grant interests in lands, dispose of lands, or manage reserve lands. This also means that any land use activities by individual band members are encumbered by these provisions of the Act (DIAND, 1990).

*(2) Conflict between individual and collective interests:* Comparing the social system in a First Nations community to that of a non-First Nations society, the notion of collectivity clearly illustrates the prominent feature of the First Nation’s traditional relationship to the land. The provisions of the Indian Act, however, undermined this distinctive aspect of the First Nations. The introduction of a *certificate of possession*, a pseudo-private ownership, is a typical example. The system was created to recognize individual land holdings on reserves. Nevertheless, an individual band member cannot ‘own’ the land as a ‘fee-simple’ holding in the Canadian system. The problem becomes eminent when an individual band member intends to set up a business on the reserve lands. The *Certificate of Possession*

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47 The band structure itself is the creation of the Indian Act. Since the Indian Act was established in order to pursue the policy of assimilation, the band does not have the desired degree of autonomy. Rather, it is viewed as a mere extension of the DIA. Some native people say that the DIA is part of a conspiracy to utilize the band structure as a means to ‘divide and conquer.’

enables an individual band member to use his/her land for mortgage purposes. Subject to approval by the Band Council, a *ministerial guarantee* must be obtained. According to this system, if the business fails, the DIA pays the price from the band funds. The band is often reluctant to take this kind of risk to support individual entrepreneurs. More importantly, there is the fear that such a business failure may lead to land alienation. In any case, those who intend to start a business using the lands are often trapped between the individual and collective interests on the reserve. The majority of the First Nation people will agree to have a certain form of land holdings that is lawfully recognized in order to protect the individual interests in the lands. On the other hand, many people do not agree with the certificate of possession because it emphasizes individuality to the detriment of the collective use and benefit on reserve lands.

(3) *Enduring Customs*: Aboriginal traditions have been subjected to a policy of assimilation in Canada. The introduction of the certificate of possession is an example of this policy. However, in many First Nations, including the Lil'wat Nation, the certificate of possession has not been generalized. In most cases, a system of dual authority (i.e., certificate of possession, customary laws) operates. With respect to other land management practices, it is often the case that a band acts in accordance with its own customary law. In the Lil'wat Nation, indeed, the history of *de facto* land use shows that the band, as a governing body, has had certain authority over the management of reserve lands based on customs. Also, some family groups have exclusive customary rights over their family grounds. Certain decisions concerning land management on reserve are made in general band meetings rather than band council meetings.

In general, reserve management can be characterized by the conflict between *individual interests* and *community control*. Individual interests are represented by: the Canadian reserve politics (e.g., certificate of possession), and economic development on and off reserve that inevitably promotes entrepreneurial interests. On the other hand, some customary activities may protect collective interests by not only preserving old customs, but also creating new rules (norms). New rules may be created out of customary decision-making. As such, many initiatives



both from the band and family groups often aim at community control over evolving individual interests.

In the history of Lil'wat Nation, the people have had to face a difficult choice between collective and individual interests. In reality, however, what is more difficult is that there is no clear distinction between the two: what is good for the community is often good for the individuals as well. The effects of any initiative may be observed at a much later date. Each community needs to develop its own land management strategies by scrutinizing the costs and benefits of every initiative. In this sense, the question to be addressed in this chapter is:

*Can a compromise be reached such that it could accommodate both individual interests and collective interests in the community?*

The following sections explore the history of land use on reserve, focusing on the relationship between the band and its members. The key issue to be explored is the evolution of traditional customs given the current reserve system.

### **4.3. The Band's Role in Land Management**

The band represents the customary administrative authority over the reserve lands. The exercise of this administrative authority can be explored in terms of: the system of land holding, land exchange, and community planning.

#### **4.3.1. Land Holding System**

The band itself holds most of the reserve lands as band lands. Conceptually speaking, originally, all the lands were band lands (tribal property). Some groups and individuals started to occupy a portion of the lands for specific purposes.

With respect to the function of band lands, they have incorporated various systems within themselves. As will be mentioned later, one of the uses on band lands was communal use (e.g., firewood production) which is open to every band member. In this case, each band member assumes management responsibility (e.g., avoid depletion). Band lands have recently included public parks. This is a public property where everybody has access and the band assumes management responsibility. Public facilities, such as the band office and a gymnasium, are also public property in this respect. Furthermore, the band has developed some woodlots and forests

reserved for commercial purposes. These land use strategies are similar to the those typical of state property. The band, by contract, allows specific individuals and companies to access the resources. Management responsibility belongs to the band. In theory, with this type of land management, the band can develop land use strategies in order to enhance community control. This can be achieved by addressing the following questions:

- a) Who is actually allowed the access (e.g., band members or outside companies)?
- b) How does a contract on band lands relate to other sectors in the community (e.g., provisions for value-added products)? and,
- c) How does the band use income generated from a contract (e.g., provisions for collective benefits)?

Currently, other than band lands, there are those lands that belong to individual band members. They are not, however, free from the administrative power of the band. They comprise: (1) pasture lands, (2) family lands, (3) lands cleared by individuals, and (4) housing lots. For each form of land holdings, an explanation is given to clarify the way in which customary laws work.

#### *(1) Pasture Lands*

Certain portions of the reserve lands have been managed as a common pasture land. For example, large portions on Reserves #3 and #4 have been used for this purpose. In a sense, they are still a part of the band lands to be used only by stock holders. Around 20 people (households), who are stock holders, formed a stockmen's committee and managed the pasture lands (800130, 800115).<sup>48</sup> The maintenance of the fence around the pasture lands is the main

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<sup>48</sup> Hereafter, all quotations from band minutes are followed by a six digit number, in brackets, representing the date on which the minute was written. For example, 850416 means April 16th, 1985. The minutes since the late 1940s are stored in the band office (the minutes before that time were lost in a fire). Some minutes are type-written, others are hand-written. While some dialogues are written in great detail accompanied by letters and materials relevant to the agenda under discussion, other entries provide only a summary of the discussion. Most minutes were written only for recording purposes; however, some were written in order to be send to the DIA office (typically until the early 1960s). After 1966, the minutes have been recorded by band councilors and band secretaries. Until 1966, the minutes were recorded by a resident Assistant Indian Superintendent who had lived in the community for about 20 years before he committed suicide. While he was an employee with the DIA office, he may not have been just a typical administrative clerk; some elders seem to recall that he did not demonstrate any 'paternalistic' attitude, but rather referred to him as a 'good guy.' However, this researcher does not have any information as to the

activity of the committee (570809). Occasionally, people have asked for permission to cut hay from the pasture lands. The band has been the authority to grant requests (740506). This is a communal use of lands where users have a management authority.

### *(2) Family Lands*

Family lands are the lands belonging to certain family groups. Generally, these lands were cleared prior to the 1940s for agricultural purposes. Some family lands could be traced back before the reserve system was introduced last century. Those lands became family lands because they were handed down from generation to generation within a certain family group.

The management of family land falls under the responsibility of a family group, as is the case with any individual land holding. When it comes to the transfer of lands, however, there is a difference between family lands and individual lands. As will be discussed in a later section, apparently the band can exercise its authority at the stage of land transfer, including the fact that the band can cancel individual rights over a piece of land reclaiming it as a band holding. Family lands are the exception: the band cannot take over the family lands even when those lands are unused.

Concerning the lands that have grown into brush from neglect of owner, the Council can confiscate them, but only land that was issued by the Council to a band member.

The Council cannot take land that is owned by a family and has been handed down to another member of the family. (660412)

On the other hand, without the band's approval, the family lands cannot be alienated to someone who is not a member of that family group.

### *(3) Lands Cleared By Individuals*

Some individual band members have acquired lands through clearing band lands. This type of land acquisition was practiced mostly before the 1970s for the purpose of opening individual farming grounds. In some cases in the 1960s, people requested funds from the DIA to clear stumps (661207). This procedure of acquiring land through clearing can be seen in minute

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extent to which his personality may have affected the content or the accuracy of the band minutes he recorded.

580502:

The council resolved that H. Ram<sup>49</sup> be granted the land on I.R. #2 which he cleared and is using for farm purposes. And that Mr. Jones (Indian Agent) is to go ahead and measure and make a map of this piece of land, which H. Ram wants to claim.

The condition attached to this type of land acquisition is that nobody else should be claiming the same land. But this has often been a source of land dispute among band members because people have relied on memory rather than on written records concerning land occupation, land exchange, and land rent. As has often been the case, a period of several decades may bring about confusion with respect to the original holder of a piece of land. Therefore, one of the band's tasks has been to confirm the holder of a previously cleared land. For example:

We recognize the late P. Miller as the legal owner of approximately 10.8 acres of land on I.R. #3 as described by sketch in color. We recognize the late S. Jones as the legal owner of the property as shown on the attached sketch of approximately 6.20 acres: being the only living heir in the above mentioned estate we do hereby recognize M. Leon as the legal owner of the property in the estate of the late S. Jones, approximately 6.20 acres. (571106)

Consequently, especially in the 1970s, many people requested that the band be the sole authority over land transactions and keep the land register record. A later section will address the issue of the establishment of the Lil'wat Land Law.

Even once a band member has acquired lands through clearing, the band still has a certain power over those holdings. The quotation from minute 660412 above shows that the band can retrieve lands that have stayed unused for a long time. On the other hand, the band also protects those holdings. For example, in reference to a piece of land belonging to a band member who had been away from the community (living in USA), the band discussed that the land should be kept under cultivation by other band members until the original holder returned (600411). Also, the band respects a will when people die (650412). In addition, the band checks to see if an individual had land holdings when he/she died (571106, 600109).

Until 1976, there was no explicit limitation concerning the area that one might acquire.

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<sup>49</sup> To protect Individual confidentiality, fictitious names will be used hereafter.

However, due to population growth, especially among young couples, the band started to worry about the possible shortage of lands in the future which led to setting up certain limitations.

A lot of young people who are going to ask for land and so that the Band Council should begin planning. Clear away from the river so that there will be a river front for others. Limit the acreage to 3 acres. [...] Each person asking for new land should be limited to 3 acres to begin with and each should have a water frontage. And if he needs more, he can clean up some more but it should be used. (760408)

Also, in the 1970s, the band started to consider using some form of land planning. One such initiative can be seen in minute 760129, in which the band proposed to set aside some areas for recreational purposes:

Aides Lake to be a recreation area. Swimming area. A park for ourselves. Possibility of a ski-hill there too. Maybe put the Rodeo Ground there. [...] I want Council to state that is to be strictly recreation area. So Band members won't take sections for their own. [...] Y. Vincent made a motion that we want that area, Aides Lake for a Recreation Area and this to be re-considered of no development in 5 years. Have it zoned. [...] The motion was carried.

#### *(4) Housing Lots*

Another way to acquire individual land holdings is through the allotment of housing lots by the band. Housing lots provided by the band are limited to certain portions on the reserves: I.R. #1, #10, and Xito'lacw housing site on #6.

In some old houses (some were constructed in the last century), the band had to confirm land holdings to avoid the confusion among the people, just like the band did to the cleared lands. Consider the following examples:

- W. Anderson's holding Lot No. 52 on I.R. #10 was verified by the Council. And his wish to sell the lot to R. Dixon was approved (521215).
- The band recognized N. Vickers as the "registered owner" of Lot 12 Reserve #10 (550108).
- A resolution was drawn up to show A. Anderson as the legal owner of Lot #68 (570526).

- The band confirmed that late S. Miller and late F. Alford had no estate (600109).
- The band confirmed that the estate of S. Sale was turned over to F. Victor years ago (600109).
- The band recognized late I. Wing as the owner of Lot 13 (650412).
- Resolutions for three following locations on Mt. Currie Indian Reserves were signed. (a) K. Verba, No. 212 Mt. Currie Band confirmed in ownership of lot 69, sub-division No.10 as per addition of lots 63 - 72. Plan BC 747. April 24 1958. (b) O. Mead, No. 184 Mt. Currie Band confirmed in ownership of lot 64 of sub-division No.10 as per addition of lots 63 - 69. Plan BC 747. April 24, 1958. (c) O. Davis, No. 208 Mt. Currie Band confirmed in ownership of lot 64 of sub-division No.10 as per addition of lots 63 - 72. Plan BC 747. Apr. 24, 1965 (650513).<sup>50</sup>

When a housing lot becomes vacant, or when the band develops new housing lots, the band assigns them to band members. A person who is given a lot becomes the lot holder although the holder has to pay mortgage to the band when the band provides a house to him/her in addition to a lot (610227). Basically, the band gives housing sites to people whenever they need them. In the 1950s, 60s, and 70s, because there was not a constant demand for housing, the band provided houses mostly on a one-by-one basis. For example:

- We assign lots to following band members: V. Miller (lot #101), G. Mowat (lot #102), J. Oliver (lot #103) (541204).
- A proposed list of young couple to occupy the 7 new homes to be purchased are as follows. V. Miller, A. Anderson, K. Vicker, V. Anderson, K. Alford, M. Grant, and M. Dixon (560906).
- Lot 54 on I.R. #10 is allotted to M. Miller to build a house on (570809).
- O. Grant was assigned a lot (580502).
- Jenson was assigned a lot (590919).
- We allowed D. Smith to choose a lot from vacant lots available on #10 Reserve

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<sup>50</sup> Some of the examples here may involve the 'certificate of possession'.

(600411).

- New houses and lots were assigned to P. Olsen and S. Alford (651012).
- Miller has priority for 72 - 73 houses, on an agreement which was made previously (720502).
- We grant a land to Y. Smith (770530).
- We grant a lot to Y. Anderson (791122).

When the demand exceeded available housing, the band sometimes demonstrates its power over the rights of band members to holding lots. For example, minute 541204 reads:

A. Anderson and O. Regan, both young married members of the band wished lots. [...] It is known that some members hold lots on #10 Reserve which it is felt will never be used. D. Mead, a councilor, is going to contact the present owners of these lots and try to obtain releases from them, so that lots may be allotted to persons in immediate need of places to build homes.

The band also gets involved in the consultation process as seen in minute 561028:

In connection with housing and lot, House #64 was for M. Dixon. But as O. Dye is a new man here without a home. The council asked M. Dixon to give a consent that O. Dye would take over lot #64. [...] In connection with lot #68. The band will ask A. Anderson if he can give the Lot #68 to Mr. Drew.

Typically, when the demand for housing exceeds the number of lots available, the band sets up a priority list. Such lists were in use in the 1950s, as seen in minute 570526:

The Chief is to look into the possibility of O. Miller not wishing the house and Lot #63. If O. Miller doesn't wish it, then it will be given to the next name on the list.

In the 1970s, the use of such lists is also seen in a minute from the 1970s (720502). In fact, since a new housing site was developed in the 1980s, most allotment has been done through the priority list.

Other customary practices in which the band has shown its power can be seen in the following examples. In 1965, the band reclaimed some old housing lots as seen in minute 650615, thus exercising its discretion power:

We decide that the three small lots that were destroyed by fire be divided into two bigger lots. These three lots belong to: F. Bell, M. Jordan, and I. Anderson. We will

offer them \$50 for their lots. Then, these lots would be turned over to Band Lots. A similar example is seen in minute 710312: "G. Sharp agreed to let the portion of land go if we agreed to give him a house next year." Some lots were swapped between lot holders with the band's acknowledgment: "We allowed to switch lots between V. Anderson and O. Miller (650412)."

#### **4.3.2. Exchange of Land Holdings**

By the 1950s, the land holders had been allowed to sell the lot to any band members although such cases were rare. The power of the band to administer land exchange has increased since the late 1950s. It may be assumed that the band has had to regulate the exchange and transfer of lands because the people started to regard their holdings as a money source. In fact, records of land exchange in the 1950s are hard to find in the minutes. Land exchange increased after the late 1960s.

In this period of time, many land exchanges had occurred between band members without the band's recognition. The band bought back some lands upon the request from the land holders (760916). In only few cases did the band adopt the transaction style of issuing a bill of sale and having a witness confirm the exchange (720502). Usually, land exchange was performed as a casual transaction between the parties. In order to regulate these transactions, a price for the sale of land was considered (771216). The argument behind it was that the band, in fact, could not trace back the land holdings which generated grievance among band members. Here is a typical example of a land dispute described in a letter exchanged between two band members (810914):

Dear N. Regan: I have become a bit concerned about the property which was given to me by my father R. Vicker. [...] I am going to explain how I happen to own the section that was left to me and the reason I wish to protect my right to that property. [...] The log house in which your family lived belonged to J. Miller. She acquired this through her family. When she passed it on, the next of kin was D. Gray. D. Gray sold it to Mrs. C. Grant and she may have left it to her children but that was only the log house not including the property. [...] This log house originally belonged to R. Vicker's mother who traded it with B. Easton with some chickens.



There was never any question about the land, for it remained R. Vicker's property. Only the log house was traded. [...] I do want you to know that you are encroaching upon my property and would like it cleared up with the council before you begin clearing my section. [...] L. Miller.

With respect to the process of exchange, there was some degree of confusions even within the band council, as can be seen in the following conversation among councilors (770312):

*Councilor S. Tester:* Any individual who wants to sell land, that's up to him.

*Councilor Y. Vicker:* That's not true. Was on who owns land. It is their business who owns land, but it has to go through here when they sell.

*Councilor F. Regan:* Whoever is buying the land, it has to go out in the newsletter to see if there are any grievances.

In this period of time, people shared the idea that written regulations about land holdings and exchange were needed (740715). In addition, a more serious problem was that some band members sold the land to non-band members. Although the legal title over reserve lands belongs to the Crown and no piece of land can be sold or leased without surrender, *de facto* exchanges were often seen with non-First Nation people (800130).

Confusion and conflict became the driving force towards establishing clear written regulations concerning land. Here is an example of a discussion around this topic:

We should have policies how people get land. We should confirm whether land was inherited. All 3 people should sign it together. Need something to stop people selling land when selling under the influence of alcohol. [...] Economic Development Committee should report any grievance. Write down any problems. Appoint a Council of Authority. [...] How are you going to keep track of all this - by lots or by people? All sale of land come through the Band office it will come through. Write up proper agreement of sale. [...] There should be two councilors instead of one. Notify people right away that Council will not recognize sales if not done through here. Put it in the newsletter or at the Post Office (771216).

All these arguments converged into the attempt to implement the Lil'wat Land Law in the 1980s.

### 4.3.3. Lil'wat Land Law

In the band general assembly on July 14, 1982, people discussed the following concerns:

- How is the land issue dealt with in the Indian Act?
- How does the Indian Act address land ownership?
- How does one own the land one lives on?
- How do you hold a title on the land you occupy? and
- How do we protect ourselves as a collective group?

The same meeting proposed the establishment of the 'Land Use Plan' and a mapping system of reserve lands. Four years later, the Mt. Currie Land Management Board was established in 1986 in order to regulate land use on reserve. The main objective of the board was to identify individual land 'owners' on reserve (840626, 860218). One initiative of the Land Management Board was to establish the Lil'wat community's own land law. The draft of the law is attached in *Appendix 2*.

The main purpose of the proposed Lil'wat Land Law is to formalize existing implicit land laws on the reserve lands. Then, the law defines some agencies that are to regulate all land-related matters on reserve. The Band Council is assigned the highest authority and its function will be assisted by the Land Management Board, Land Management Portfolio and Land Registrar. The power of the Lil'wat Land Law is intended to supersede the Indian Act provisions: it clearly states that the *certificate of possession* is subject to the authority of this law. With respect to internal relations, the law makes it clear that the Council retains its ability to overrule any matters initiated by individuals concerning land use activities. While it carefully sorts out the Council's relationship with 'Family', the law also establishes a mechanism for conflict resolution over land-related matters (See *Appendix 2* for more details).

Unfortunately, so far, the law has not been passed by the general assembly, the highest decision-making body of the Lil'wat Nation. Among the reasons for this delay were the very land disputes that initiated the process in the first place. Also, unless these laws are guaranteed not only by the people of Lil'wat Nation, but also by the Canadian legal system, the effort involved in establishing this law is bound to meet with failure. This is particularly important when people start up a business or a land development project by borrowing money from non-

First Nations' lending institutions.<sup>51</sup>

#### 4.3.4. Community Planning

What has been presented so far is an attempt to accommodate individual interests in reserve lands within a collective framework. The band is supposed to perform as an administrator of individual and collective benefits. By using community-planning, the band exercises this role in a very controlling fashion.

The need for community planning in the Lil'wat Nation is a result of population growth as well as individual interests in the land. The band has a responsibility to provide land, houses, and other social services to current and future generations. The initial arguments in favor of community-planning were made in 1965. The band intended to have a new community site on #10 reserve and the adjacent area. Minute 651205 reads:

Be it hereby resolved that we appropriated Band Funds Capital Account for the following purposes: 1) To survey the various parcels to be purchased, 2) To subdivide the development area into suitable village lots, 3) To purchase the non-Indian properties. Be it further resolved that the Department arrange to obtain title to the required lands and such lands be then added to our Pemberton Indian Reserve #10.

For this project, it was necessary for the band to retrieve lands on #10 reserve from band members (651121). The main purpose of that project was to provide fundamental services for the community such as sewage, power, and water (651128). As the population grew, even this community site became too small.

In the 1970s, people started discussing about the new school site and a new community site. Also, they considered the option of hiring a community planner (750617). As mentioned, one of the reasons for the band's moving into this direction was the rapid increase in population

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51 The BC treaty-making process may offer a set of legal arrangements to support a kind of land law like the Lil'wat Land Law as far as it regulates internal matters. Unfortunately, the Lil'wat Nation is rejecting the treaty-making process based on their own belief. It may not be appreciated that the treaty-making is the only route to accommodate these internal laws. It may be the responsibilities of the both levels of government to offer an appropriate legal measures to facilitate internal laws especially for those First Nations which are outside the BC treaty process.

(760408). Also, the band wanted to relocate the community to a higher elevation because of a fear of flooding. In 1976, people started to discuss about community planning in more concrete ways. In a council meeting (760927), some councilors stated that:

Choosing site for the new school is complicated. Once you want a sewage system, going to have to sub-divide. Have to think about water, electricity. The community has to be around the school. [...] We have to go back to the clubs. Have to communicate with the people. [...] We should get somebody to work on this Preliminary Plan Study, who's not associated with us or DIA. Go to the University or the Union.

As the project evolved, the band created a Land Use Plan (820714) and a mapping system (820714). According to the Land Use Plan, the reserve was to be divided into several zones as shown in Table 7.

After several options were investigated, a new site called Xit'olacw was chosen on reserve #6. The new and big community project started in the early 1980s. The project has provided Lil'wat people with modern facilities. However, there were negative aspects involved in this project. One problem is that this project was supported by crown corporations (e.g., Canadian Mortgage and Housing Corporation (CMHC)) and a large amount of money was invested.<sup>52</sup> This project created a short-term boom, which discouraged the small scale business initiatives that had been growing around 1980. Another problem is that the new housing project actually trapped the native people into a state of economic dependency (see Chapter 5 for more details). Furthermore, since this project, the band has become a central job provider. As such, these large projects became a source of conflict between individual and collective needs within the community.

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<sup>52</sup> Since 1977, the CMHC has become a partner of the DIA in providing programs and low-cost loans to improve reserve housing. According to the CMHC (1987), its own financial commitment was about \$1 billion between 1977 and 1987.

**Table 7 - Land Use Plan for I.R. No. 1, 2, 3, 6, 7, 8, and 10  
Schedule of Approximate Areas**

<i>Zone</i>	<i>Hectares</i>
Agriculture Reserve	820.0
Management Forest	398.0
Environmental Zone	188.0
Range	552.0
Secondary Forest/Range/Open Space	540.0
Temporary Forest	64.0
Wildlife Reserve	56.0
Watershed Zone	96.0
Commercial Campsite Area	4.0
Rodeo - Showground	5.0
Picnic Site	2.5
Xit'olacw (new town site)	60.0
Residential Area	7.5
Commercial	1.5
Industrial	4.0
Gravel Reserve	36.0
Community Facilities	2.5
Band Summer Campsite	5.0
<b>Total</b>	<b>2,740.0</b>

Source: Mount Currie Reserve Lands - Land Use Plan 1982

#### **4.4. Canadian Policy and Traditional Customs**

##### **4.4.1. Certificate of Possession**

The endorsement of individual land holdings without written documentation had been a customary practice until the 1950s. Then, the *certificate of possession* was introduced, which did not, however, entirely replace the traditional system of land holdings. Currently, they are co-existing. Even the land holdings registered under the *certificate of possession* are not free from the administrative power of the band.

At this point in the research, the number of pieces of land under the *certificate of possession*<sup>53</sup> is unknown. In the minutes, records of the acquisition of the certificate can be seen

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<sup>53</sup> According to section 21 of the Indian Act, all the records of certification are to be kept in the land registry office in the Department of Indian Affairs and Northern Development (DIANA).

sporadically starting with the late 1950s. For example:

F. Porter has the certificate of possession for the parcel 9 acres described on B.C.R. (580516). The band allowed J. I. Oliver to have the certificate of possession for Lot 72 (601004). The band allowed W. Alford to have the certificate of possession for the parcel 10 acres described on B.C.R. (700320).

The certificate of possession was widely recognized by band members after the mid-1950s. In minute 570122, Mr. W. A. Anderson (Indian Agent) introduced the subject of Land Reclamation by pointing out several facts:

(1) No money will be required from any individual or from the Department. (2) The large sum of money which would be spent on improving the land. (3) No steps would be taken unless the majority of the band agreed. (4) The band members would first receive a ticket of occupation. (5) Two years later, they would be given a *ticket of possession*<sup>54</sup>, and (6) The money received from the lease would go into a trust account for the band.

Obviously, the purpose of Land Reclamation, the essence of which is the introduction of the certificate of possession, was to make the individual rights over a piece of reserve land more compatible with the Canadian system. This is an important step in case the band members want to improve the value of their land as a private property in the market economy.

However, although one could acquire the certificate, there are other restrictions that prevent an individual from becoming a proprietor. As such, it is uncertain whether the certificate of possession was really intended to help the band members. Also, there seemed to be a philosophy in the government that any communal activities among the First Nations were harmful to the capitalist doctrine. The introduction of the certificate was considered an attempt to enforce the government doctrine. Furthermore, it seems reasonable to assume that the governmental policy intended to alienate lands from reserves. In fact, the people were suspicious about the governmental initiative to introduce the certificate. For example, in 1961, there was a proposal that the reserve be surveyed and divided into 10 acre blocks to be assigned to people so

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<sup>54</sup> 'Ticket of occupation' and 'ticket of possession' are the older terms for the current 'certificate of occupation' and 'certificate of possession' respectively.

that they could start farming (610213). The people did not agree with the proposition because they were afraid that such survey may lead to the alienation of lands.

#### **4.4.2. Land Lease as Canadian Policy**

From the 1950s to the early 1970s, the DIA repeatedly recommended that the band surrender lands and lease them.<sup>55</sup> The implications of land leasing generate controversy. On the one hand, it is important for the community to facilitate economic development. On the other hand, many people share the idea that land leasing may lead to a permanent loss of their lands. Some cases of major land lease proposals can be seen in minute 560506, 571215, 600124, 650412, 650513, 660324. For example, the discussion around surrendering reserve lands was subjected to a general vote twice (571215, 580420). According to minute 57125, the DIA superintendent, visited the band and discussed the lease of reserve lands:

The superintendent explained the meaning of the surrender: that it was for leasing purposes and people could expect to benefit from a local labour market, as well as the land rentals. The land rentals for the first few years likely being rather small, possibly no more than some 5,000.00 per annum. It was explained that in any case if the surrender was completed and approved, the area advertised and highest bidder no doubt would receive the lease. It was explained that Indians also might wish to lease some of the land. [...] As there was rather a large gathering in an unheated hall, the Superintendent decided to proceed immediately with the matter of taking the surrender of the 531 acre portion of the Reserves which is proposed be leased. B. S. Victor was officially sworn in to act as interpreter. Mr. W. A. Anderson addressed the meeting giving a brief history on the facts behind the proposed surrender which was enlarged by Superintendent Letcher. Considerable discussion took place and various members of the Band Council and persons from the floor asked questions concerning same. [...] the Superintendent read out the surrender documents which

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<sup>55</sup> It may be worth noticing that Mr. Anfield, a district Superintendent of the Indian Affairs, let Musqueam Indian Band in Vancouver surrender about 162 acres of its reserve land to lease to the Shaughnessy Heights Golf Club in 1957. This event lead to *Guerin v. The Queen* (1984), a landmark court case, which developed the concept of the fiduciary relationship between the Crown and the Indians.

were interpreted by B. S. Victor in full and at great length. The Superintendent explained to the gathering that in order to get a proper surrender at this particular meeting, he asked each individual voting member to come forward to the head table and state his or her wish, either for or against the surrendering of the land for leasing purposes. This was carried out and on the conclusion it was found that out of total of 85 voting members some 62 were in favor of approving of the surrender for leasing purposes. 23 members voted against the surrender. The Superintendent explained to the meeting that in view of the fact that there was a voting membership of some 265 persons, and inasmuch as only 85 had actually attended this meeting, it would be necessary that he report the results to the Department, and the Department no doubt would call another meeting in the near future at which time the same procedure will be followed. The finding of the two meetings would then decide whether or not the surrender could be completed and approved by the Department.

A second meeting was held on this matter as described in 580420:

The surrender documents were read and interpreted by B. Victor. In connection with the surrender and the leasing of 531.9 acres. After this was read, Superintendent Letcher asked if there were any questions arising out of this. [...] B. Victor asked if after a person had leased land from Indian Reserves, then after they had paid rentals over the value of the land, if the lease holder could claim this land, or would it go back to the Indians. Letcher answered no, and said that the only possible way that the Indian could lose any land was by selling only. Chief Gabriel asked if the Indians could kick leases out in the event of an argument between the people that leased and the Indians. The answer was "No" as long as they were not breaking the law. [...] Superintendent Letcher then asked if everyone was ready to vote - they all answered yes. Everyone lined up, came to the booth one at a time and cast their vote, under the supervision of Superintendent Letcher and Chief Gabriel. Chief Gabriel read the results of voting out of a total of 124 that vote: - Against the surrender 99, For the surrender 25.

A couple of years later, there was another leasing proposition initiated by the DIA. Minute 600124 reads:



Mr. V. I. Jones, Indian Agent, explained to this meeting the meaning of the surrender of land - that it was for leasing purposes by having the land brought under cultivation, that it would provide work for the people right close to home, also that they would receive around \$5,000.00 each year in rental and that the reserve lands would be protected by the Dyking Commission. [...] Mr. V. I. Jones outlined what the Department suggested, and what should and could be done with surveying the land now under cultivation, so that the owners could have their land in one parcel instead of in several parcels as at the present time. Discussion on this matter took place, quite a few voiced their opinions, some felt that they do not want to give up the parcels of land that they call their own, others felt that having this land survey into sections would make farm management easily handled. [...] Mr. V. I. Jones suggested that if we were willing to surrender for leasing, to lease for a ten year period with an option for another ten. [...] F. I. Oliver, a councilor requested that the Band Council should take control of this land and operate it as a Band owned farm. [...] The matter was tabled after a very lively discussion.

Yet another case followed suit five years later, as can be seen in minute 650513:

Mr. V. I. Jones, Assistant Indian Agent, brought up subject on the Mr. Rice of Oregon wanting to lease some land on the Mt. Currie Reserve. Mr. Victor, a councilor, showed the councilors the following table that were presented to him.

**Table 8 - A Land Lease Proposal in 1965**

	<b>1 acre</b>	<b>300 acre</b>	<b>500 acre</b>
1 year	\$ 5	\$1,500	\$2,500
2 year	\$ 6	\$1,800	\$3,000
3 year	\$ 7	\$2,100	\$3,500
4 year	\$ 8	\$2,400	\$4,000
5 year	\$ 9	\$2,700	\$4,500
6 - 10 year	\$10	\$3,000	\$5,000
11- 15 year	\$12.5	\$3,750	\$6,250
15 year total	\$147.5	\$44,250	\$73,750

In full crops: Labour requirement would be about \$20,000 per year. Approximately \$250,000 in 15 years. The councilors all agreed that this would be a good thing but

they also agreed that it could not be done because we did not have the acreage.

What we did have is being used as pasture. If it was for a 150 acres it would have been more suitable. However, council voted against offer.

Also, land lease proposals from individuals off reserve were often brought forward. For example, R. Young asked permission from the band to lease lands in order to grow mint. The band rejected the request (660324). In 1972, a land exchange was proposed by the DIA superintendent for forestry purposes. Minute 720706 reads:

E. Smith, D.I.A. Superintendent, said that he wanted to see timber sustain yield system on reserve lands. He recommended the band to exchange of 1,000 acres for 10,000 acres from province develop land. He mentioned that Indians would not lose their rights on exchange of land.

In a similar way, in the 1970s, some corporations were interested in doing business on reserve (710104, 720104, 740514, 740826). One of those was Whistler Frozen Foods. According to the company, their project can be summarized as follows:

We wish to lease some band lands to plant corn, carrots, potatoes, whatever. [...] We were looking at the possibility of about two thousand acres on a long term basis, about a 30 year lease. [...] What we could offer Mt. Currie is employment in the factories, processing, management. The Band members would develop and grow produce for the facility. We would buy the produce from band members. What the Band will be doing for the company is their endorsement in the project. They would be financially involved on terms negotiated between the council and the officer of the company. The reason is to provide a means of living. [...] We have to guarantee a percentage of 2/3 of the Indian people employed in the project. The ARDA application requires the support of the Mt. Currie Band Council and that is what the endorsement is for. [...] There would be 32 male and 32 female all year round employed in the project. There would be a supervisor, which can be male or female, whoever applies for the job. [...] Mt. Currie could participate by developing their own lands. (740514)

However, the band did not introduce all these land lease proposals and projects. Further, by way of the Band Council Resolution (BCR) they decided to reject all projects under

corporate interests outside of the reserve (740912). Notice, however, that they did approve a number of very small land leases (in a *de facto* manner) to some band members and some non-band members. Here are some examples:

- Roger Chosser leased land at \$20 per acre (720404).
- Morris, a band member, leased a band land for 10 year at \$15.00 per year (720404).
- Lot 4899A lease has expired. 4899B is leased under R. Longstaff. Rest is registered as Crown land (711015, 720215).
- Logging Company applied to lease land at the end of lake (491208).

#### **4.5. Chronological Account of Property System and Economic Activities on Reserve**

Focusing on the development of particular economic activities on reserve, the change in the property system is explored in this section. Those economic activities include: timber sale, sawmilling, and farming on reserve lands.

##### **4.5.1. Timber Sale on Reserve**

From the viewpoint of property rights, the way in which the band utilizes timber resources on reserve provides some insight into the property relationship among the band, band members, and companies outside the reserve. Timber practices on the reserve during the last 50 years can be conceptually grouped into three types: (1) self-sufficient logging; (2) small-scale logging; and (3) corporate logging.

###### *(1) Self-Sufficient Logging by Band Members*

These are very small logging operations that many people are engaged in, in order to supply wooden materials for their own households and family members (kin group). The wooden materials include firewood and poles for sheds, crafts, etc. There have not been strict regulations over resource users for this type of timber resources because the amount of timber people consumed was small enough not to jeopardize timber resources. And, in many cases, dead trees, including drift woods, were used for those purposes. This type of logging has certainly been practiced throughout the last 50 years (maybe throughout history).

In property terms, this is a typical form of communal property. With this type of timber use, the band has the responsibility to exclude non-band members (although there is no apparent case to illustrate the band's power of exclusion). On the other hand, band members are expected to be responsible for not depleting this resource and ensuring an easy access to it.

*(2) Small-Scale Logging by Band Members*

This type of logging includes all small-scale logging practiced by band members for exchange purposes. As the money economy had already permeated the economic structures of the Lil'wat people by 1950, timber resources on the reserve would also be used for exchange purposes by this time. However, this type of small-scale logging mainly served to support the domestic economy of band members.

By the early 1960s, the dominant use of small scale logging was tie cutting practiced by many band members. The ties were to be sold to the P.G.E. Railway. Tie cutting was considered important winter work. A store in the community provided food and other necessities to band members through 'tie credits'. Those credits could be used based on an agreement among the band, the community store, and the P.G.E. Railway. The P.G.E. paid for those credits to the store after ties were provided from band members. Minute 541204 provides some details:

Whatever number of ties P.G.E. Railway wished us to cut, Indians would get full price paid by P.G.E. The arrangements for the contract with P.G.E. have already completed so that as soon as the man started on his ties, the store would issue credit week by week, in correspondence to the number of ties cut. The store would receive payment direct from the P.G.E. As it was not known how many ties would be cut this way, no resolution was passed for any specific number of ties. But it was agreed by all that should anyone wish to cut ties this way, the timber could come from the Reserve, and the resolution be passed when required. [...] Indian Agency Assistant stated that arrangements were fairly complete whereby a floater contract could be had with the P.G.E from 1,000 to 2,000 hewn ties. As it was known that many people of the Reserve did not have enough Unemployment Insurance to last through the winter, there would be a number of families who would be in financial difficulties before the spring work commenced. As relief expenses were hoped to be

held down, the floater contract would be taken, so that should anyone need money for food, etc.

The tie cutting in this period was relatively extensive. For example, H. Anderson was allowed to cut 1,000 hewn ties in 1954 (541204). Also, F. G. Oliver was allowed to cut 500 railway ties in 1955.

On the other hand, the band had collected stumpage for the tie cutting by the band members. For example, the band collected the stumpage at a rate of 12 cents per tie (550108). The same rate was used in 1960 when the band gave J. Miller a permit for tie cutting on reserve #10 (600229).

Other than tie cutting, some people had started small-scale logging in this period. For example, P. Smith was allowed to cut one carload of fir piling at the rate of .02 cent per lin ft. directly across from the Pemberton I.R. #10 (550320). A problem arose when band members started pole cutting without approval from the band administration. The band decided that pole cutting permits would have to fall under the jurisdiction of the Chief and Council (570809).

Other examples of small-scale logging are:

- Pelly wants to log on reserve (600229).
- Morris applied to get poles out from reserve #6 (611113).
- Miller requested poles. Stumpage was three cent per foot (650615).
- Alford and F. Jackson requested to make poles "anywhere on the reserve to fill quota of 500 poles" (660815).

These logging activities were more or less within personal needs and the sales were often very small. For example, minute 660324 reads:

Resolutions signed which read as follows. That a timber permit be granted to L. Regan to log one carload of cedar poles for export purposes to be sold to Mr. J. Collins of Pemberton. Stumpage to be collected at the rate of 3 cent per lineal foot. This is considered as welfare measure. The long butts to be made into shake blanks or bolts for which stumpage shall be 1/3 cent per shake and 42.50 per bolt. That a timber permit to be granted to k. Morris to log one carload of cedar poles for sale to Mr. J. Collins of Pemberton. Stumpage to be collected at rate of 3 cent per lineal foot. The long butts to be made into shake blanks or bolts with stumpage at 1/8 cent

per shake and \$2.50 per bolt. This is considered to be assistance to a band member to help this family.

It can be seen that although this small-scale logging may have been a starting point for commercial activities, the timber permits issued to band members in those days were few in number and this type of logging was regarded as a small social assistance to one's domestic economy.

### *(3) Commercial Logging*

It should be noticed that commercial logging was practiced on the reserve before the 1940s. A court case concerning W. B. Thompson's timber dues revealed that he had logged on reserve lands in the 1920s (711121, 720215, 720502, 721014). Apart from that, no other record can be found concerning commercial logging before the 1950s.

Incentives for selling out timber resources from reserve lands can already be identified in the mid 1950s. The band decided to sell all marketable timber on I.R. #6 and #7, but only the timber on the north-east side of the BC Electric Railway right of way (550514). Prior to this decision, the band decided to accept the Indian Timber regulation in the Indian Act authorizing the Department to dispose of the said timber through public advertising (550108, 550306). This was the starting point for the band's practice of selling out the timber on their reserve. The band gave timber licenses to companies outside of the reserve. For example, minute 580420 indicates:

Regarding Maple Ridge Lumber Company for renewal of timber license, with stumpage reduced from \$16.00 to \$10.00. \$44,952.00 was collected from Maple Ridge Lumber Company for timber this last year. Chief suggested that a reduction in stumpage be in order on account of reduced prices in lumber. A resolution was made that the renewal of Timber License be granted the Maple Ridge Lumber Company for a future period of one year, and that stumpage be reduced from \$16.00 to \$10.00 per M for all species. Cedar poles and Fir pilings to be included in timber license. Cedar Poles 6 cent per Lin. ft., Fir Piling 8 cent per lineal foot.

However, it is in the mid 1960s that some companies started relatively large-scale and consistent logging on reserves. One of those companies was Cascade Fir Product as attested by minute 660412, in which the company requested to log on I.R. #7, #6.

Although the band opened its timber resources to outside interests, there was some hesitation in the beginning. The band did have a provision to conserve timber resources. The band often rejected requests from companies to log on reserve, as was the case with Chris Carson Logging Co. (681105). Also, in 1965, in response to the request from Tye Forest Product to log cedar on reserve, the band rejected it on the grounds that there was not enough cedar to sell on reserve (650513, 650615). This shows that the band protected resources from over-exploitation at least until 1965, although it later decided to sell out cedar and other resources.

In the 1970s, some Lil'wat people assumed the role of middlemen, buying timber on reserves for outside companies. From the viewpoint of the companies, to have such middlemen in the community was a much easier way of acquiring timber from the reserve. The companies encouraged those individuals to make contracts with the band and used the results of their labour. Mainly four people worked for outside companies. Those companies were: Canadian Forest Product, B & I Forest Product, and North Inlet (740506). Two of those middlemen later created their own logging company.

In this period, timber sales were under the control of the companies. In 1971 the band started to build up a timber fund to facilitate the band economy (740527), although the project was not successful. Also, the band's effort to regain control over timber sales by increasing the stumpage rate from \$5.00 to \$10.00 per unit (1,000 feet) in 1974 (740506) was overturned in the next year, when the rate decreased from \$10.00 to \$6.00. The changing market conditions were blamed for the decrease (750217). During this period, example of contracts are:

- Indian Agent endorsed the timber permit to N. Dixon and F. Jackson made by the band council (700112).
- Dixon, P. Regan and P. Alford renewed on I.R. #6, #7 (700505).
- Dixon renewed permit to log on I.R. #7 for Canadian Forest Product with \$6.00 per 1,000 cubic feet (710415).
- Dixon renewed permit (720215).
- Alford, P. Regan, and B. Alford got timber permit set \$5.00 per unit (thousand feet) (730502).
- Alford & P. Regan requested salvage logging on I.R. #6 to sell Pemberton Commercial Lumber (730224, 730312).

In the 1960s the band started to take some action towards reforestation. For example, a group called the 4-H Club was given a piece of land from the band for plantation purposes (651012). As indicated in minute 701006, the band decided to start a process of reforestation on the logged-off areas of I.R. #6. However, some problems were reported in connection to logging on those woodlots (730620):

P. Alford & P. Regan should not be logging where they are now because it is the woodlot. Apparently a resolution was made about 4 years ago that no one could log the woodlot. [...] We should get a copy of the resolution. [...] The woodlot should be ribboned off so that the loggers would know where it was. P. Alford said that the Council had given him permission to log where he is now. [...] The Council did not realize at that time that it was the woodlot.

Also, according to some, the reforestation efforts did not go in the right direction:

A few tree planters did not get paid from J. Oliver. Legal Affairs Portfolio to look into J. Oliver's contracting and the bill from Brent Pipe's clothing store. (\$6,000.00) for rain gear, and report back to Council (810310).

Band members argued that a comprehensive forest resource management was needed. For example, minute 816205 shows that:

M. Alford gave a report regarding the need for a mandate from the people to sell cottonwood and other species, also, the importance of an inventory of species to be done, and study is needed for forest management, from selective cutting to re-planting trees and clean up. [...] We resolved that we give the Economic Portfolio a mandate to plan a study for forest management and to sell cottonwood and other species for the benefit of the Band (816205).

As a result, the band invited a forestry planner:

G. Scott will be coming next week. He is the resource person involved with Oweekeno Band forestry program. Economic portfolio is seeking \$2,500 in funds so that a preliminary study can be done regarding forestry (810707).

However, the tendency towards forest resource depletion did not stop instantly. In the 1980s, due to the depletion of timber resources, most companies lost interest in timber resources on reserve. When timber resources became dangerously scarce, some people started criticizing



the limited access to the benefits from the band property (841024). One of the last contracts dealing with cottonwood was mentioned in minute 851029:

We accept the proposal from N. Dixon to purchase from the band cottonwood at the stumpage rate up to four hundred truck loads to sell to Weldwood of Canada and using stamp I.D. 16 and that cottonwood be taken from I.R. #3, 6 and 8.

By this time (1985), a proper forestry management plan was not developed. As a result, forest resources were virtually depleted on the reserve.

#### **4.5.2. Sawmill**

With respect to the use of timber resources on reserve, it is important to see the degree to which the band and band members were involved in the process of resource marketing. During the time when commercial logging prevailed on reserve, the band was considering having their own sawmill in order to derive additional value from their own resources. An attempt to acquire a sawmill in 1950s failed partially because the money collected for purchasing the mill was missing (570302, 591110).

In the 1950s, there existed only a small sawmill owned by R. Anderson, a band member (541204). The band tried to help him run the operation of the sawmill. For example, when Fleet Wood Logging Co. slashed the timber along the railway power line right-of-way and sold it out of the community, the band requested the company to buy back the timber for the R. Anderson's sawmill (541204).

Some band members tried to acquire sawmill in 1960s. L. Morrie and K. Miller applied for loans in order to start a sawmill (601214). Concerning W. Hunt's application for a loan to buy a small sawmill, the band asked if BC Special could provide that loan for him (611113). The request was rejected.

During the 1970s, the band was eager to establish its own sawmill as an important part of the economic development. Once the band considered building a paper mill, but the proposal did not get through (711016). There was, in fact, an opportunity to take over all or a part of the operation of Evans Product Sawmill in Pemberton. Unfortunately, the band did not have enough timber to run the mill. Minute 751030 states:

Sort of Economic Development for the Pemberton Valley, push hard for the Evans

Products Mill to get it going. [...] Mr. Peter Gregon is interested in a possible joint venture, partnership, or management contract. Should the Mt. Currie Band or any other group of Indians proceed with the acquisition of all or a portion of Pemberton Sawmills Operation of Evance Products, conditional of course, upon the concurrent acquisition of certain cutting rights for the supply of logs. [...] No use buying the mill if can't get timber for it. Duffy Lake is under McMillan and Bloedell. These things can be changed. That's all our timber. We should get stumpage from that too.

The band bought a smaller sawmill in 1976. The cost was: mill \$7,000, loader \$3,000, air compression \$500, batty pump with tank \$500, total \$11,000. A number of arguments around the sawmill and timber rights were discussed:

Question of where we can get the timber. We come up with maybe a part of I.R. No.7 or 6. We should set a meeting with Canadian Forest Product [the company has cutting right on those reserves]. [...] We should start with a feasibility study, how much and where the trees are coming from. Start off with a small one. Economic Development Committee try to get timber from CFP timber. [...] So much red tape trying to get timber from Crown lands. [...] I got a letter from Squamish, Sechelt, Musqueam - "the Alliance". They are going to have Economic Development workshop. It will be at the Squamish Band office (760217).

In 1979, the band decided to sell the old sawmill for \$5,000 and buy a second sawmill, later called Lil'wat Sawmill. Again, there was not enough timber to run the mill (790218):

We buy the sawmill for Band use and not commercial purpose. [...] We find out where the money is for the first sawmill that was resold. We received \$5,000 back. Also, that there be an investigation into where the parts are for the first sawmill bought from Oscar Barube - it was resold at a lower price because of part lost. [...] Concerning the question of where we are going to get the saw materials, how we can get more logs through N. Dixon's operation? [...] \$18,360 for sawmill - \$8,640 is left after the payment of the mill.

With the operation of the Lil'wat Sawmill, the band tried to provide jobs for band members. The band made a resolution stating that "we get incentive money for Social Assistance recipients to work on getting and sorting logs at the mill" (790218). But that never happened and

the sawmill itself did not run well.

In fact, the Lil'wat Sawmill had difficulties in keeping up with the fuel cost of \$50 minimum a day. The band decided to borrow \$5,000 from MacGill & Gibbs Co. (810414). Also, the development fund helped the operation (810423). Fortunately, a lumber contract with someone in Vancouver helped the sawmill operation through the crisis. Using this opportunity, the band started to think about timber supply. The need to prepare a forest inventory and map was discussed:

The economic portfolio has established an export market with Mr. Ty, for a sample shipment of 40,000 board feet of cottonwood and other species. \$140.00 per thousand board feet was agreed upon on June 17, 1981. The Mt. Currie Band needs to have an inventory done a forest cover map, complete forest management including tree management, tree planting and clean up. The province gave the trees from I.R. #6 to Canadian Forest Products. The Band wrote to CFP regarding these trees. The province should give these trees back to the Band on a 10 to 1 basis. [...] The Band plans to ship only those trees that Lil'wat sawmill can't handle. [...] L. Alford moved that the export of the 40,000 sample shipment of cottonwood and other species proceed with Chiano Chun Ty of Kings Park Drive, Vancouver. The Band Council will hire N. Dixon as the contractor for the Band, at \$300.00 per load (810616).

The Lil'wat Sawmill was relocated to a place closer to the new housing site on I.R. #6 (810623, 810707). For this relocation, H. Grant, a band member, took the initiative of opening the Lil'wat Sawmill Co. (810623, 810707). In order to help the sawmill operation, the band tried to find a demand for lumber in the community, such as house construction projects and rodeo ground facilities (830428). Also, the band made a resolution stating that "the DIA contribute \$15,000 towards the purchase of a used skidder, \$20,000 towards the purchase of flat bed lumber truck, and \$6,000 to purchase a sawdust conveyer for our sawmill (850117)." However, the management of the sawmill was not going well. There was a proposal to sell out the mill in 1986, although the band opposed it deciding that "Lil'wat Sawmill should be situated on the reserve by Special ARDA funding of \$25,000 (860304)."

### 4.5.3. Farming on Reserve

In the 1950s and the 1960s, the band encouraged people to farm on the reserves. This was also a DIA policy. The band's (band members') agricultural activities for the next season were discussed in the council meeting. The councilors calculated the requirements of seeds, fertilizers, drainage, stock, and equipment, and asked the DIA to provide them (541204, 600123, 610213). In fact, farming was the main land use activity on the reserves. In 1958, people discussed the future of farming operations. According to a survey conducted in the same year, there were about 600 acres of land on I.R. #3, #5, and #8 that could be used as agricultural fields (570122).

There were two conflicting views about the way in which farm operations should be managed in the future. One way was a sort of communal farming, as seen in minute 600124. Here, a councilor requested that the band council should control the reserve lands and operate the farm as a band owned farm. Another way was to provide individual incentives for farming by dividing the lands into small lots (10 acre).

The former idea led to a communal seed farm (Clover Timothy) in the late 1960s (660324), and another farm project at the Band's initiative in the early 1970s. Although these projects were short-lived, similar ideas have been brought up from time to time to the present. For example, the band intended to start a cattle ranch by leasing lands from individual holders (730212). In 1975, the Band opened a community garden where ploughed portions of land were offered to unemployed band members (750609). This related to the road blockade and the denial of governmental funds in the same year. In any event, the idea of communal farming still remains today partially under the form of management of common pasture lands as well as band's administration over reserve areas. Such is the case with the band controlled thistle and burdock on agricultural fields (740506).

In the case of a band initiative for farming in 1970, the band decided to conduct a farm operation by itself to grow potatoes, strawberries, and barley on the band lands. The band appropriated \$12,000 from the Band Capital Account to set up the operation. The band also bought a new tractor with \$3,000 for the project (700407). Besides, the band helped potato diggers with providing a loan from Capital Funds so that they could survive until the potato digging season commenced (700901).

On the other hand, individual farming continued on the family lands and the lands that band members had cleared up. However, the concept of individual farming did not go to the point of dividing band lands into lots. This is probably because the proposition of dividing the lands into blocks was related to the surrender and land lease issues at that time, so that the majority of people did not want to take the risk involved in that option (600124). In this context, the role that the Agriculture Rural Development Act (ARDA) played was worth noting. It was supposed to provide funds for infrastructure and some programs to help agricultural operations. In the 1960s and the 1970s, however, it actually put the emphasis on a direction that had the potential of alienating reserve lands through land survey, surrender, and land lease (720201).

In any case, agricultural activities, once the main activities in the community, had shrunk dramatically in the 1960s and 1970s. Many band initiatives mentioned above were in a sense efforts to stop such a decline. In 1981, only one-tenth of the arable land was used for agriculture and lands were deteriorating (810602). It is difficult to specify the reason for this decline in farming practices. Some people, like former Chief B. Victor, blame welfare:

Long time ago when social assistance came here, we did not want it, but the government threatened that they would be no other money source, to get the people started. [...] They think that all we do is live on welfare, that we can not do anything else, that we are helpless so just keep giving us more welfare each year (810602).

#### **4.5.4. Outside Interests on Reserve**

As mentioned earlier, off-reserve companies as well as non-band members have been interested in timber resources and land leases on reserve lands. There are some other interests that companies and individuals outside of the reserves take in reserve resources. In most cases, the band has exercised its power to decide whether or not those companies or individuals are allowed to act on reserves in their own interests. Also, the band has set rules and prices for these activities. As the minutes show, until the mid-1970s, such propositions were numerous. Here are some examples:

- Building lease (551018)
- Imperial Oil Co. stored oil tanks on reserve at \$100.00 per year (551018, 561028).

- The band allowed the emergency aircraft to land on the reserve pasture if it is not a hay season (570929).
- The band imposed BC Electric \$200 per year for having a side track and asked a compensation for damage done on the ground (571106).
- BC Electric right of way over IR #4 was granted with \$82 in 1931. and agreed again 1948. And agreed with \$125.00 for 3.1 acres in 1958 ( 580112, 580123).
- Discussion on airport (700901), air strip on #3 reserve (591110).
- A movie company, Arthur Rank Film, wanted to use a half acre to be used as an Indian Camp site for their film. The band allowed them with the charge of \$100 which will donate to the Mt. Currie Youth Centre (651110).
- BC Railway Spur line: Concerning a railway spur on I.R. #10, the band agreed to give Cascade Fir Product another 5 year permit at the rate of \$200.00 per year (610918). In 1966, the lease of another spur line was transferred from Fleetwood Logging Ltd. to Cascade Fir Product Ltd. (661207). Pemberton Pole & Piling wants to take over as permittee on that one spur. They were willing to draw up a new lease for a 20 year term for \$600 per year, and royalty at 30 cent per log they ship (731009). The band asked \$700 per year for four year term (711116, 720201, 720215, 720502, 730219, 731114). Previous permittee C.R.B. Logging was agreed in 1953 to pay \$300 plus 25 cent per 1,000 board feet (720215).
- R. Frank wanted to pass through the reserve (700901).
- The band denied someone's request to go through reserve (840824).
- A mining company, Mt. Currie Mining and Milling, wanted to explore I.R. #6 for mining. Minute 711121 reads:

There may be copper and silver above Indian Reserve #6. They would go up through BC hydro road or use logging road. [...] They said our people would be given first opportunity for jobs. Also would like to meet with band from time to time, to see no harm would come to our reserve. Also if anything good is on there and there would be any work we would be

given a better deal. [...] We will allowed the miners to go up above Indian reserve #6, for year at \$200.00 for use of the road. A written agreement is to be signed between Mt. Currie Band Council and Mount Currie Mining and Milling.

- Boats and cabins were damaged by Evans Products, and survey post by Evans product was found (711121).
- B. Jensens requested to lease lands, which was rejected (720111).
- Water tanks of John Plunt encroaches band lands. Ask \$3,000 (720502).
- Argument of Pemberton Pole's to pass through band lands (740508).
- Rio Del Oro Mining wanted lease lands (700811, 720706, 740508), logging road and bridge to I.R. #7 (740506).
- Gravel: The band decided to sell the two acre of land on #10 reserve containing gravel for \$350.00 per acre (550306). Discussion on gravel (611113), and gravel pit on I.R. #10 (731009).

Since then, it seems that the band has been reluctant to sign new contracts with outside companies. This may be related to the 1975 road blockade and to the attempt to freeze traditional territory. Following that, the band kept some distance from outside interests.

#### **4.6. Controversial Issues**

A number of controversial issues concerning land use on reserve may be of particular interest for further research. They will be mentioned briefly in this section.

##### *(1) Dyking*

Cooperation between Lil'wat Nation and Pemberton, a neighbouring town, was required for the management of the Lillooet River and Birkenhead River watershed. There has been a constant fear of floods in the Pemberton Meadow. In 1946, the Prairie Farm Rehabilitation program (PFR) was introduced, which resulted in lowering the level of Lillooet Lake. In 1970, the reserve lands were included in the Pemberton Valley Dyking District (700203).

Some controversy arose between the Lil'wat Nation and Pemberton when the federal

and provincial governments initiated a dyking project. The disagreements centred around allocation of funds and construction planning (731009, 761122). Later, as a part of a devolution process, the Dyking Commission was created in order to be responsible for river banks and road maintenance (810511, 810423). Funds allocation by the committee became a seed of conflict within the Lil'wat Nation.

*(2) Dispute over Timber on #6 and #7 Reserve*

Originally, a cutting permit on reserve #6 was given to the North Pacific Lumber Co. in 1903, before the reserve was assigned to the band. Following a history of subsequent take-overs by various companies, currently Canadian Forest Product owns the timber rights along with other contracts on I.R. #6 and #7. Because both the initial cutting permit and several renewed contracts are old, there had been some dispute over the effect of those contracts. The disputes have led to the band's decision to go to court (660412, 740508, 750715).

*(3) Purchase of Lands to Be Added to the Reserve*

The band intended to increase the size of the reserve by purchasing additional lands. For example, the band discussed the acquisition of Owl Creek Valley (570817). The band sought to reclaim the Spetch's land, a pre-empted piece of land believed to belong to the band (570623). In 1971, the band paid \$7,500 for this acquisition (710415, 711121). The property also came with some restrictive conditions that became the object of discussions (730802).

Also, in 1965, as part of community planning, some band members demanded that the lands adjacent to reserve #10 be increased. Some private owners were willing to sell the lands to the band:

Concerning the proposed development program for relocating band members from the Pemberton Indian Reserve #1 and 10 requires the procurement of non-Indian lands adjacent to the Reserve #10. And whereas the owners of the non-Indian lands have indicated a willingness to assist in the project by the sale of their property. And whereas the interim report from the Consultant Firm of Underwood, McLellan and Association Limited, dated October 27, 1965 recommends purchase of several parcels of privately owned lands comprising an estimated 71.4 acres more or less



which they have appraised at a valuation of \$30,060 on 29 November 1965 (651205).

*(4) Highway Dispute*

A portion of Highway #99 passes through the reserve. The right to the road has been under dispute between the band and the BC Highway Department since the early 1970s. Minute 730405 states:

The request should be made to Minister of Highways that whereas the Dept. of Highway has trespassed on the reserve and unlawfully removed gravel from the reserve they replace the gravel according to the wishes of Chief and Council or action will be taken as per section 30, 31 and 93 of the Indian Act.

In 1990, the people of Lil'wat Nation blocked the road in order to support the Mohawk people at Oka. Also, this blockade brought to the forefront the highway issue and Lil'wat sovereignty.

*(5) Dispute over Accretion Area*

During the gold rush era, a dam was constructed near the lower part of Lillooet Lake so that steamboats could climb up the rapids. This dam, however, caused the a reduction in the size of the flat area of Pemberton Valley. The Prairie Farm Rehabilitation program (PFR), removed the dam and lowered the lake level. As a result, some flat areas were re-created in the reserve.

When the reserve lands were assigned to the Lil'wat people, the waters of Lillooet Lake were at a high level. After the water level lowered, BC government argued that the accretion area created by the PFR belonged to the provincial Crown. The dispute still continues today.

**CHAPTER FIVE**  
**CHANGES IN AUTHORITY OVER PROPERTY:**  
**CHRONOLOGICAL ACCOUNT OF THE EXERCISE OF POWER**

In this chapter, the past 50 year period of the Lil'wat Nation is interpreted in a wider context. Authority issues over land and resources are the main focus of this description. General economic trends and other contextual changes triggered a shift in authority structures and the exercise of power. These complex changes in the recent history of the Lil'wat Nation community have prompted this author to propose the division of the 50 year interval into three periods: (1) oppression period (late 1940s - 1960s),<sup>56</sup> (2) internal cooperation period (1970s), and (3) internal conflict period (1980s - present).<sup>57</sup> Although such concepts as *oppression*, *cooperation*, and *conflict* may be present in any historical account of a given aboriginal community, each period is characterized by a specific focus on one or the other of these dynamic patterns.

### **5.1. The Oppression Period**

The first period, hereby referred to as the *Oppression Period*, designates a particular kind of relationship between the First Nations and the federal and provincial authorities that continued until the early 1970s. As mentioned in Chapter 1, the early resistance raised by the First Nations at the turn of this century was mostly suppressed by the time when the Indian Act was revised in 1927. The Canadian policy of suppression and assimilation of the First Nations strengthened after that. Canada's paternal relationship toward the First Nations was firmly building up. Although some highly restrictive items in the Act were removed in 1951, the old

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<sup>56</sup> The exclusive use of the term 'oppression' in reference to this period may be misleading. Oppression had begun a long time before that period and continues today. Indeed, oppression started prior to this century with the legalized theft of First Nations' rights to their own land. The oppression is bound to continue until every aspect of colonial policy is resolved. The name "oppression" has been given to that period within the past 50 years because that time shares the most typical characteristics of Lil'wat/White colonial relations.

<sup>57</sup> The labels of *internal cooperation* and *internal conflict* have been chosen for the following reasons. The *internal cooperation* period is the time when people collectively resisted against the external forces. This period is characterized by a sense of cohesion and unity among native community members in their struggle against the Canadian governments. During the *internal conflict* period, a number of community initiatives failed because of disagreements and dissension among community members.

pattern of oppression continued beyond that date.<sup>58</sup>

In the following sections, first, the nature of this relationship will be examined, including a description of the level of awareness among the First Nations people regarding land rights. Second, economic and financial aspects will be examined. In spite of political subjugation during this period, the community was economically independent from the governmental assistance. Also, from the view point of property rights, this period is considered a transition period. This transition is illustrated by the native people's gradual withdrawal from the traditional territory as trappers and hunters (only salmon fishing has largely retained its traditional character). Many aboriginal people become loggers on the traditional territory as they sought employment with forestry companies. Farming, which had sustained aboriginal people's lives on reserve during the past century, declined in the 1960s. The forests on reserve, that had provided the people's basic needs, became the target of commercial logging. Also, aboriginal people's dependency on welfare increased during this period.

#### **5.1.1. Relationships Between Canada (DIA) and the Band**

By the 1950s, a paternal relationship between Canada and the band had been firmly established. This paternal relationship was made obvious when band members sang "Oh Canada" and "God Save the Queen" at a welcome ceremony for government officials on a visit to the community (571215). Until 1966, an Assistant Superintendent from the Department of Indian Affairs (DIA) used to reside in the community. He attended every meeting and directed the band council. Any arguments in the council were reported to the DIA through him. The following letter from the Superintendent to the Assistant Superintendent shows the degree to which the DIA directed the band.

Reference your letter of December 4, 1954: I am glad to note that the Council appears to be functioning well. May I ask you to remind the Council that this office must have written council minutes sent here. We do not want a record of the

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<sup>58</sup> Assimilation policy with statutory consolidation started in the Indian Act, 1876 which made provision for: the definition of 'Indian'; management of reserves; the election of council and chiefs; and 'enfranchisement'. These provisions of the Act were tightened up to the 1940s (Tobias, 1976). The 1951 Indian Act emphasized practical measures for integrating services to First Nations peoples with services to all Canadians, but its primary objective remained assimilation (Armitaga, 1995).

discussions held, but a factual report on date, time and place of meetings, those present, and the agenda with resolutions and specific acts done by the Council. The minutes should be signed by the Secretary and Subsequent members, which will of course show the confirmation and adoption of these minutes by resolution. All resolutions dealt with by Council must of course show as items of business and should be attached to the minutes with your report on same, with your comments and recommendations if indicated.

Also, the Superintendent often instructed the assistant about the procedures of council meeting. For example, with respect to by-laws, the Superintendent wrote in a letter dated on January 23, 1958:

[...] It is also noted that you had quite a discussion in connection with several by-laws which the Band hope to have put into effect in the near future. It is necessary under the Indian Act that by-laws which as such be signed and be forwarded to the Department in four days of the meeting date on which it was decided to adopt the by-laws. This has not been possible in the case of the Mount Currie Band, and therefore, it is our intention to draw up the required by-laws and then present them to the next general meeting of the Band, and at that time have the required forms signed by the Council. It is not likely that by-laws would become effective until forty days after that date.

The government's paternal attitude toward the Lil'wat Nation can be also seen in the remarks made by the Superintendent when he visited the band and talked about community development issues. The way the Superintendent spoke to the people was reminiscent of a teacher speaking to his school children:

The reserve's biggest problem is sanitation. Better facilities are needed. We can't put all our money and time into Mt. Currie as we have other reserves across Canada, these other places need many things too. Don't expect the Indian Dept. to do it all. That is, don't expect Dept. to built all the houses and all you have to do is move in. The hall you wish to build will take a little time, but time doesn't seem to mean too much to the people of Mt. Currie. [he ironically said this because people showed up late at the meeting.] (651205).

The decision-making process was supervised by the DIA down to the smallest details.

Some examples:

- DIA allowed the band to get a cut-off saw (501014).
- DIA allowed the band to exchange a bull with the other band (550329).
- DIA allowed the band to get salt for salting fish (570809).
- DIA allowed the band to repair water pump (570623).
- DIA provided cows called 'government cows' for propagation purposes (650325) [throughout 1960s].
- DIA financed individual band members who want to clear lands on reserves (661207).
- DIA supervised farm operations on reserves (700407).
- DIA allowed the band to borrow outboat motors (720706).
- DIA instructed garbage collection (711121).
- DIA provided a tractor for the band (580309, 700407).
- DIA paid salaries to band members to do house repair etc. (711121).
- DIA paid salaries to the staff in recreation directory (7110312).

As suggested earlier, until 1951 when the Indian Act was revised, claim-related activities, including fund-raising and meetings, had been prohibited. Even after the revision, due to the long time suppression, claim-related political activities were not very active especially in the southern interior of BC. In fact, in the early 1950s, the knowledge of the rights that the aboriginal people could have claimed was not explicitly shared among the band members. Minute 570623 shows how a band member and Chief Thevarge (from Anderson Lake Band) advocated for the rights of First Nations people. Such political speeches were rare in those days and not well organized. After an aboriginal conference held in Vancouver in 1957, some political issues were shared among the First Nations. Yet, issues such as aboriginal rights and land claims were not shared among them. According to minute 570707, the agenda put forward at the Vancouver conference was:

- All Indians should be given the Federal vote.

- Indians should be given liquor rights.
- Band Councils should have the right to levy local taxes on residence and property owners.
- Indians should not pay provincial taxes no matter where they live.
- White or Indians should not be prevented from living on reserves.
- Indian probate courts should be considered for each agency and be composed of Indian members.
- Indian officers should be used to police on Indian reserves.
- Stipendiary magistrates should be replaced with circuit magistrates.
- Members of the bar should act as prosecutors in rural areas instead of police officers.
- Indian Bands should set up corporations to handle band rights and funds, the corporation should ultimately become indistinguishable from Liability Companies.

At this point, the First Nations' main concern was to attain a level of civil rights that the rest of society was enjoying. At the same time, the First Nations wanted to maintain their distinctive status in the Canadian system. Also, they wanted the band council to have stronger power over their own affairs.

It was in the late 1950s that some leaders from the Interior began to organize political groups focusing on land claims. For example, the Aboriginal Native Rights Committee of the Interior Tribes of British Columbia was formed in 1958 by George Manuel and others. This trend in southern BC reached a peak with the formation of the Union of BC Indian Chiefs in 1969 when the federal White Paper was announced (Tennant, 1990). These political trends toward aboriginal rights stimulated the people of the Lil'wat Nation.

### **5.1.2. Economic Activities**

As mentioned earlier, the Pacific Great Eastern Railway (now BC Rail) reached from Squamish to Pemberton in 1914, which attracted some farm settlers. However, as a means of transportation, the train in those days was slow (at most 25 miles per hour) and unreliable, and many troubles were reported (Decker, et al., 1977). In general, the Pemberton Meadow remained

isolated until 1960, when Highway 99 was opened between Vancouver and Pemberton Meadow. Prior to this time, electricity came to the Lil'wat Nation in 1954, and running water was introduced about the same time (Decker, et al., 1977).

There are not many documents to attest to native people's economic activities in this period. However, technological development altered many aspects of the people's economic activities as well as their way of life in general. Among the preferred produce, the seed potato was favored by the settlers in Pemberton Meadow from the 1940s through to the 1960s. The isolated location protected this crop from disease that prevailed in the Fraser Valley (Decker, et al., 1977). The following are approximate volumes of commodities shipped from Pemberton in 1950 (Faulkner, 1951):

Table potatoes	854 tons
Seed potatoes	329 tons
Turnips	135 tons
Carrots	1.5 tons
Hay	5 cars

Farmers usually raised cattle and horses. The estimated livestock population in Pemberton in 1950 was (Faulkner, 1951):

Beef cattle	250
Dairy cattle	120
Horses	50
Hogs	25
Poultry	700

The area of agricultural fields in Pemberton Meadow had been extended in the 1940s owing to the Prairie Farm Rehabilitation (PFR) act of 1946, which resulted in the Lillooet River being lowered by nearly 15 feet. Agriculture in the Lil'wat Nation communities was also promising. The reserve lands increased due to the PFR. Pemberton certified seed potatoes started to be cultivated on the Indian Reserve of Lil'wat.

However, as mass production, using many kinds of machinery, became a common trend among the settlers in the 1950s and the 1960s, it became difficult for the farmers in the Lil'wat Nation to obtain the necessary capital to compete with the settlers. Native people's inclusion and alienation process in a local agricultural market started in the 1940s when the

settlers needed larger crews for their early mechanization in potato farming. Those machines include tractor and the Wacker, an early type of digger which threw the potatoes out sideways. Many people in the Lil'wat Nation were hired as potato diggers by the settlers. Later, as the mechanization advanced, the Lil'wat potato diggers hired by settlers were gradually replaced by machines, including sorting machines and trucks (Decker, et al., 1977). According to Decker et al. (1977), trends in capital intensive agriculture led to the concentration of fields in the hands of fewer and fewer people. Some people became part-time farmers while taking other part-time jobs in the forest industries, with the government, or the railway company. While some settlers adapted to this situation, others moved out of the Meadow (Decker, et al., 1977). Unlike the settlers, the majority of the Lil'wat Nation people stayed in the community regardless of how successful or unsuccessful they were in their jobs.

With respect to the logging industry in the Pemberton Meadow, logging operations in the 1940s were restricted to one small sawmill, one horse logging outfit, and pole cutting (Decker, et al., 1977). Faulknor (1951), describes the state of timber production in the Pemberton area in the late 1940s:

There is one small sawmill in the Valley with an annual lumber production of 200,000 F.B.M., and a shingle mill producing about 800,000 feet of shingles yearly. A small lumber and planing mill near Creekside cuts about 500,000 feet of ties and lumber in the same period. An extensive new operation of Fleetwood Logging Company on Lillooet Lake is expected to ship 15,000,000 F.B.M. per year when it assumes full production (p. 11).

Starting with the early 1950s, logging became the centre of industrial activities in the region. Decker et al. (1977) mentioned that "the arrival of the Fleetwood Logging Company [later called Cascade Fir Logging] around 1950 signaled the start of bigtime logging in Pemberton."

Along with tens of small operators, some larger logging companies operated in the area throughout 1950s and 1960s, which attracted hundreds of workers from the outside. Between 1951 and 1966, the population of Pemberton increased from 250 to 768 (Decker, et al., 1977). The logging industries hired most workers in Pemberton. More than a hundred workers in the Lil'wat Nation were also hired as loggers. In fact, Fleetwood Logging built camps around the



Indian reserves, such as Mosquito Lake, Upper End of Lillooet Lake and Ure Creek, where many native people were hired. Also, as mentioned in Chapter Four, a couple of sawmills were built on reserve in this period.

Having a life based on wage labour, many people had to give up the traditional life style. Family traplines were registered under the BC government (541204). The last registration was in 1955. It is considered that most traplines were abandoned by the end of 1950s. Agriculture on reserves started to decay in the 1960s, when people found that farming was less amenable to commercialization. Even farming for subsistence purposes was abandoned. Unfortunately, the boom in the forest industry did not last long. By 1970, most native loggers were out of work. Once they found themselves unemployed, most people chose not to return to the traditional way of life, but rather to stay as welfare recipients. Only fishing and deer hunting have been practiced, largely as subsistence economic activities.

### 5.1.3. Band Finance

During the 1950s, the budget of the band was modest. The following Table 9 and 10 are the budget plans for the fiscal years 1955 - 56 and 1958 - 59. The budgets were in the \$2,000 to \$7,000 range, of which the main portions were set aside for social assistance in the form of food, clothing and fuel. Band budgets remained at this level until the mid-1960s.

**Table 9 - Budget Plan for 1956-57**

<b>Relief food</b>	\$1,400
<b>Fuel</b>	\$50
<b>Funeral expenses</b>	\$100
<b>Water supply system caretaker</b>	\$60
<b>Repairs water supply pumping unit</b>	\$50
<b>Electricity water supply system</b>	\$250
<b>Village street lighting</b>	\$250
<b>Insurance: Council Hall</b>	\$35
<b>Dispensary</b>	\$6
<b>pump house &amp; pumping unit</b>	\$9
<b>implement shed &amp; contents</b>	\$25
<b>Total</b>	<b>\$2,235</b>

Source: Chief and Council minute on February 20, 1956

**Table 10 - Budget Plan for 1958-59**

<b>Relief Food</b>	<b>\$2,000</b>
<b>Relief Wood</b>	<b>\$200</b>
<b>Relief Clothing</b>	<b>\$300</b>
<b>Dentures &amp; Glasses</b>	<b>\$100</b>
<b>Funerals</b>	<b>\$200</b>
<b>Water System: Repair of Line</b>	<b>\$100</b>
<b>Electricity for Pumping</b>	<b>\$400</b>
<b>Repairs</b>	<b>\$1,200</b>
<b>Council Expenses</b>	<b>\$100</b>
<b>Road, Ditches, etc.</b>	<b>\$300</b>
<b>Fencing</b>	<b>\$300</b>
<b>Total</b>	<b>\$5,200</b>

Source: Chief and Council minute on April 21, 1956

B.N.: Besides, \$2,000 was appropriated from the band fund for the improvement of community hall.

The system of social assistance has good and bad aspects. The principal reason behind it is to help the needy. However, according to some commentators, even from the ranks of the aboriginal people, it may have the negative effect of keeping the welfare recipients trapped in a vicious circle of deprivation and dependency. The nature of social assistance changed significantly during the 1960s and the 1970s.

As shown in Table 8, in 1956-57, out of a total budget of \$2,235, the relief expense - the equivalent of today's social assistance - was \$1,400 (63%). The average monthly spending on relief was around \$120 and this was done through providing food not money. The recipient of the relief was strictly scrutinized by the band (541204, 570809). For example, minute 580105 shows: "We should provide welfare for food relief to Mrs. A. Miller because her husband is deceased and she has seven children," and "A. Regan should be given food and wood ration because her husband is in jail." Also, minute 521215 reads: "The question of increasing the relief allowance for Mrs. C. Benet was discussed. The Council recommended that the allowance be increased including tomato juice." In this period, many band members were suffering from tuberculosis. The band helped these people by providing special TB rations (541204, 570526, 580105).

Beginning with the 1960s, the band started to set aside jobs for relief recipients, which indicates that some people were receiving relief assistance in addition to the opportunity to work.

For example, minute 611113 attests: "Some of the men receiving Relief should be put to dig a ditch along the end of the new race track." Similar cases can be found in other minutes. Minute 711121 shows that the band provided Winter Work Project (\$ 100 each) for welfare recipients.

Starting around 1965, the DIA would send welfare money directly to the recipient. This meant that the band lost its control over welfare money. Minute 650325 reads:

Concerning Social Allowances, checks are now delivered directly to applicants.

Department is hoping that the money will be properly used. If anyone is not using money properly, he or she will not receive any more checks. The forms attached to the checks, if assistance is needed the following month, should be sent in on the 9th of the following month. Department has tried to time checks so that applicant has no difficulties. That is those getting family allowances will get them on 20 to 22 of now pensions will come at the end of the month. Concerning Family Allowance, peoples will be responsible for making their own application for family allowances.

They will be able to obtain these from the post office.

At this time, the aboriginal people were still unaware of the deeper causes of their predicament and seemed to focus their immediate energy in trying to derive as many benefits from the DIA as they could. Minute 650325 provides the following example:

A. Smith asked if the children attending Pemberton High school will be receiving any assistance concerning their lunches. Mr. Lecher answered that the Department will consider this during the summer, but in the meantime parents must try to make ends meet, with Social Allowance checks.

The dependency on welfare became the pivotal aspect of the band's economy during the late 1960s, although it is difficult to specify the exact year and the exact reasons. It is fair to say that people had to depend on government money due to the change in overall economic conditions.

Also, the 1966 community development plan required half a million dollars in five years. This was an exceptionally large amount of money for the band in those days.

That whereas a major development plan is under Developmental study affecting our Pemberton Indian Reserve No.1 and 10 and envisages total cost of almost one and one-half million dollars in a five year plan. [...] Be it hereby resolved that an amount of \$114,332.00 of our Band Funds Capital Account No.89987 be appropriated as a

Capital Budget for 1966 - 67. [...] That whereas anticipated Revenue income for the fiscal year 1966 - 67 is estimated at \$10,150.00. Be it hereby resolved that an amount of \$8,694 be appropriated from our Band Funds Revenue Account number 89987 for the purpose of our 1966 - 67 Band Budget. (660324)

In addition to welfare payments, this community planning marked the beginning of a state of dependency on government funds, although the money this time was from the capital account belonging to the Lil'wat Nation.

In a larger context, as Canada started to move toward a welfare state, Canadian governments certainly supported the people of Lil'wat by allocating social funds through various channels. In the long-run, however, this political direction has created the economic dependency in the native community. Also, this trend has affected the formation of power in the DIA/Lil'wat relationship as well as internal power structure. Budget management has been used as a means of control and coordination of interests among people. While the funds from the DIA have directed the band, the band has been given a small room for a discretion (e.g., determining job contractors) which became a source of grievance among the community members. This structure constructed around the governmental funds has become a typical example of the relationship among DIA, band, and individual band members.

## 5.2. The Internal Cooperation Period

The second period (mainly the 1970s), hereby referred to as the *Internal Cooperation Period*, is marked by a tendency to redefine the relationships between native community members and the federal and provincial authorities. Among the people of the Lil'wat Nation, the political awareness about land rights emerged in the early 1970s. The Liberation Movement was formed in the community to struggle with some native leaders and organizations (e.g. George Manuel, the Union of BC Indian Chiefs). The road blockade and the rejection of governmental funds in 1975 were an important momentum that catalized the trend even further.

On the other hand, this period was the time when people were giving up farming and other agricultural activities, although some efforts to re-construct the self-sufficient economy were visible from time to time. People had to withdraw even from the regional labour market, and they had to depend almost entirely on the welfare and governmental funds. Also, commercial

logging on reserves led to the depletion of forest resources. Along with this devolution process, a transfer of administrative programs and money took place from the DIA to the band. The amounts of money that the band was dealing with escalated from thousands of dollars to millions of dollars during this period.

From the view point of property rights, while the awareness of rights over the traditional territory increased, the native people got more and more separated from the land due to the changes in their economic activities. On the reserve lands, the band had started to regulate land registration, such as land holdings and transfer, moving towards an integration of the traditional Lil'wat systems with the Canadian system (e.g. the certificate of possession). With respect to the authority issue, two opposite powers within the community were confronting each other. They were (1) the Lil'wat traditionalist group, trying to recover the traditional authority system, and (2) the pro-DIA group, managing the DIA's financial resources. This conflict factor becomes an acute feature typical in the following *Internal conflict* period.

### **5.2.1. Awareness of Land Rights**

In 1969, the federal White Paper was issued, which aimed at eliminating all First Nations' issues from the Canadian political agenda, including land claims (Tennant, 1990). In response to such governmental initiatives, some inter-tribal organizations were formed in BC, which made First Nations politically active. A conference held in Kamloops in the same year gathered together many First Nations in BC, and proposed the formation of the Union of BC Indian Chiefs (UBCIC) (McFarlane, 1993). Its purpose was to follow up on all land claims in the province of BC. Consequently, the Lil'wat people's awareness of land rights advanced even further during this period of time.

In the early 1970s, however, the Lil'wat people were not yet convinced that the UBCIC could help their land claims in a practical sense. Minute 710802 stated that "the Council felt that the UBCIC was not doing anything useful for Mt. Currie so that the membership fees would not be paid this year." It was in the mid-1970s that the UBCIC started to influence the Lil'wat Nation, partially because a leader of the Lillooet Tribal Council, Victor Adolph, became one of the heads of the UBCIC. In a meeting, E. Thevarge of Anderson Lake Band was citing Victor Adolph's words saying "with these land claims, we need to ask for support of our own people

and of our non-Indian friends, and we should not be too harsh when speaking to our non-Indian friends about this” (740514). In short, land claims became a realistic target in the minds of the Lil’wat people and careful consideration was now given to choosing the best strategy for advancing their cause. Sometimes staffs from the UBCIC visited the community and provided band members with information, such as land claims booklets (740715).

Not only were the Lil’wat people waiting for instructions from outside of the community, but also they initiated their own movements toward land claims in the early 1970s. In 1972, for example, some Lil’wat band members formed a delegation to bring forward their land claims before Ottawa. The Lil’wat Nation became a member of the Lillooet Tribal Council, which was formed from the Stl’atl’imx people and included 12 Band Councils. The revival of tribal groups was the political trend among the First Nations in BC during this period. The purpose was to remove the barriers between bands that the Indian Act had generated and to have a central body representing the Stl’atl’imx people’s land claims.

In the band meetings, native people’s interventions around land claims and aboriginal rights became much more focused than they were in the past. For example, people made concrete proposals about how to proceed with their land claims, such as councilor J. Alford’s intervention:

How are we going to settle on Claims. Got to get ready: get map, boundaries. Timber, what kind of settlement do we want on that. Indians should have timber rights. BC is ours, not going to settle for anything less. We are going to claim all of BC that has no treaties. Draft up a proposal. We’ll go to any lengths to get this settled (750517).

Also, the band reached a Band Council Resolution (BCR), dated May 29, 1975, stating their determination to pursue aboriginal rights over their territory.

### **5.2.2. Conflicts over Hunting Rights**

The government’s position toward the First Nations did not change much during the period under investigation. Since the 1950s, government officials visited the band and offered hunting permits. One official mentioned that the permit system came into effect and became enforceable in 1965 (841114), although the band had ignored it. In any case, the government’s

intention was to place native hunting under government regulation. But the people rejected the idea of the permits. Several meetings were held around the issue of hunting permits, as attested in minutes 570707, 570817, 570923, 750123, and 841114. The following is a record from minute 750123 where B. Lawrence (Fish and Wildlife) and J. Alford (band councilor) had some discussions concerning hunting permits:

*B. L.:* I'm concerned about the deer...

*J. A.:* I want to ask about the hunting, we are supposed to have a '30-mile radius' for hunting.

*B. L.:* That is about the trapping line. The trapping line was only concerned with small games, not big ones.

*J. A.:* We have an understanding that we are entitled to hunt all year around. Indian rights should be protected.

*B. L.:* We have got to have some regulations. For example, does should not be hunted. Also, no hunting should be done in March and April as that is when the bucks start shedding their antlers. [...] There will be one permit per deer. ...

*J. A.:* How close together can a person take a permit?

*B. L.:* I don't want to see a guy taking ten permits. ...

*J. A.:* We share the Indian custom that usually one person hunts for maybe 5-6 families...

*B. L.:* Trap line application has to be re-registered by September 30th every year...

[The band had not registered traplines since 1955.]

As the councilor mentioned in the above quotation, beginning in the early 1970s, the people insisted on a '30-mile radius' as the area where the exclusive hunting rights belonged to the Lil'wat Nation. The people chose the term '30-mile radius' probably because it was an easier way of indicating a boundary on the traditional territory, the relief of which is rather complicated. At a meeting, a councilor mentioned that:

We can say we don't want any restrictions within 30-mile radius. [...] We can keep our hunting cabins in shape, so other people know we are using it. They see it all wrecked. They will just say 'Oh, nobody is living there' and move in. That is Indian game ground (751020).

This '30-mile radius' soon became a standard value of aboriginal rights with the Lil'wat Nation (820714).

It seems that entering the 1970s, the tension between the First Nations and governments concerning fish and animals grew. With respect to hunting rights, there was an incident in 1976, which can be seen in minute 760129:

I shot a moose at Pool Creek. Today the cop and game warden came and took the hide and meat. Now, I have to go to court. I gave half of the meat to G. Swift. Put the hide on our clothe line. They must have seen it. If I knew we were not supposed to hunt moose, I would not have hung the hide on the line. They said they had a search warrant. They came at 12:15 this afternoon.

During the 1970s, whenever incidents like this occurred, the UBCIC advised the band on the appropriate solution. In fact, a councilor even asked the UBCIC if aboriginal rights would apply in this case. These incidents also represented an opportunity for the band to set its own regulations over hunting. After these incidents, some councilors discussed this, as recorded in minute 760129:

Should make a law with ourselves as far as hunting goes. We have to take consideration future years. We don't like what some of our people are doing. Should limit them. They shoot does. 2-3 of them within 2 weeks. They don't have any more. They exchange for booze. Take advantage of it, and bugger up the rest of Band members. [...] We should get a watchman to look after all this. [...] We have to make laws of our own. Doesn't have to be written on paper, just for our own good.

Another similar incident occurred in 1984. The band was pleading not guilty, insisting that the '30 mile radius' was the standard for aboriginal rights (840110).

### **5.2.3. The 1975 Incident**

The conflicts over fishing rights intensified in the 1970s. A symbolic incident which occurred in 1975 further raised people's awareness of aboriginal rights.

The incident occurred at the shore of the Lillooet Lake, a traditional fishing ground, where some federal fish wardens cut up several nets belonging to the elders of the Lil'wat Nation. After the incident, the Band held an emergency meeting with government officials,



including L. Freeman from the DIA and B. Lawrence from the Provincial Fish and Wildlife Department. The following is a part of the record of that emergency meeting. Some lengthy discussions are quoted here because they help make a number of important points: the native people's views toward salmon, the feelings that people were sharing in this period of time, and some implications for the relationships between the Lil'wat Nation and governments.

*Chief:* One of the main reasons why we are having this meeting tonight is in regard to the fishing. The old timer's fish nets were cut up. Very disappointed what the fish warden did down the lake. We feel that wasn't right. We all have respect for our old people. [...] This concerns the whole Band. Every person in the reserve is involved.

*A. J. (councilor):* The fishing notice does not specify the salmon.

*L. Freeman:* The notice applies to all species of salmon. Fishing is from 6 p.m. Wednesday to 6 p.m. Sunday of each week.

*Chief:* This meeting is concerning Spring Salmon. First time this year that this has ever happened. Before, the old timers could catch Spring Salmon without the fish warden pudding in. When they take the nets out there, they are lucky to catch maybe one or two fish a week. Then, the white man comes along and does away with the catching of spring salmon by net. It is our right to catch fish...

*S. P. (councilor):* I have been fishing all my life. There was never a time when the fish warden - they never bother the Indians, never mentioned about a permit. I don't believe in permits. That's how I make a living, all my life, by fishing and hunting. ...

*L. Freeman:* Indian rights to take fish for food is second only to conservation. As far as I know, that policy still exists. If we sit and discuss this, but if we all say to heck with it, I'm getting my share, there won't be any Spring Salmon. ....

*B. Lawrence:* I am not the fish warden in question. I am from the provincial, and it is the Federal Fish and Wildlife branch that is responsible for removing the nets. ...

*B. S. (elder):* A game warden came up to me and asked who owned those four nets out there. He said those fish nets were not supposed to be in the water. He asked me to help him remove them. The nets were not cut up at that time.

*J. W. (elder):* I looked for my net for two days before I found it. My net was cut on the top line.

*L. W. (councilor):* I wonder what would happened to these old ladies. When the white people cut the nets they will come along and say "Oh that warden was just doing his job." The Indian have been fishing here for years and years. ...

*D. M. (band member):* Do you people condone this type of action? Do you accept regulations and laws of the Federal? People do depend on fish for a living. Do you condone this action done by one of the officers who destroyed the nets. Old ladies are still trying to retrieve their nets. ...

*L. Freeman:* We do not condone this action. I understand that the net were removed and put on the shore line.

*G. P. (councilor):* I think it should be made public who cut the nets. ...

*L. Freeman:* I am still unsure of who is responsible. I will accept the responsibility at this time.

*V. S. (councilor):* Do you believe that one of your employees has cut nets of our people here.

*L. Freeman:* I believe that this incident occurred until investigation has been carried out, I don't believe anything like this has happened. I believe something occurred. I recognize it. I will write to the Chief after an investigation has been done.

*V. S. (councilor):* We want to find out who was in the area at that time.

*L. Freeman:* I will accept the responsibility at this time, that I will not accuse any of my staff.

*V. S. (councilor):* You are accusing the Indian People that are here before the white people. ...

[Eventually, L. Freeman gave the names of four officials who had been in the area during the past 10 days.]

*L. Freeman:* We don't condone what has happened. We will investigate it. I will write to the Chief about this. If the net were destroyed maliciously by a member of my staff, it will be replaced. ...

*V. S. (councilor):* We should take this to higher levels because we are not getting anywhere with these officials.

*L. Freeman:* I can't say I'm leaving very happy, particularly because we are not

welcome in your area because of this incident that has occurred. Investigation will be carried out. We don't condone this situation. I acknowledge the problems. I do hope that we will be invited to come here in the near future. Hope this is not the last time. We come here again. ...

[After L. Freeman and other officials left, people continued the discussion.]

*R. D. (councilor):* I want everybody to fish anytime they feel like it. It is our rights.

*R. J. (band member):* We don't sell our fish, when we fish, we put away for us to eat. I think the commercial fisherman should fish four days a week, not us. They are making money, not us. We fish for a living. ...

*G. A. (visitor):* I'm concerned about fishing and hunting rights that are happening here in Mt. Currie. This has been getting out of hand all over. I have been traveling all across Canada. I'm in the Indian movement. I consider myself a member of AIM. Our ancestors, the only fish warden they had was Great Spirit. We were here first, we are here now, and we will be here when the rest of the world is gone. DIA. I'm not your Indian any more. We don't need you any more. We can live our own way.

*G. W. (councilor):* I believe in aboriginal rights. I follow that. I already know they are going to ask us to get permits. They are going to ask us to go by the laws of white man. We don't believe in White man's law. I will not condone what has happened here. They follow government policies.

*W. J. (councilor):* I would like to remind everyone about the Chilliwack Conference. There was a motion passed that we will continue to hunt and fish and not be bothered by white man as we do so. ...

*F. W. (councilor):* I think that too long we have been silent. Too long our people have been dying off. We stated that we fish and hunt as we please because that is our right and no one is going to take it from us. We are not saying we are going to fish every fish that comes up that river.

*V. R. (elder):* No restriction what so ever of our rights. The government shouldn't take away the fish and game from the table of the native people. There has never been any law against fishing spring salmon. The commercial fisherman and sports

fisherman should quit for a while. ...

*B. M. (visitor):* You people have problems. We have these kind of problems too. Those people here today, their real course is money. They work for their money just like anybody else. What we figure, they are working the wrong way and hurting the Indian People. We have had meetings with these people, that's just like talking to a stump. We have been down here to listen to what these people have to say against the Indian People. It is no use talking to them. We hope to get somewhere talking to higher officials than these guys.

[A band member A. R. made a motion that:]

Whereas our fathers and their fathers before them have enjoyed the right to hunt and fish at their discretion and according to their conscience. And whereas Indians have not been a party to federal or provincial statutes regarding the taking of fish and wildlife. Be it therefore resolved that any actions taken by federal or provincial officials shall be opposed in whatever manner we deem necessary, until our aboriginal rights and the Land Question is settled. [The motion was carried.]

(750529)

This incident revealed the grievances existing among band members. Some people proposed to freeze the traditional territory. Some days later, the band invited George Manuel, who was a very influential person, to lead the band against the DIA and mainstream Canada. In another band meeting George Manuel advocated that Canada was still using a policy of assimilation toward the First Nations. In his mind, the band council was simply being used as an extension of the DIA. He said that:

Principle motives of government is to assimilate the Indian. [...] Well, the reason is simple. They stole your land. They stole all your resources. [...] There are new guidelines. These new guidelines compels the Band Council to be an extension of Indian Affairs. Regulation to compel your welfare services to your own people under very strict regulations. To administrate welfare is the worst program for any Band. [...] Now it's your Band Council. They are the one to be criticized and condemned, because it's not adequate to meet the needs of the Indian people that are applying for welfare. [...] With respect to funding, they increased the funding with

which Indian people have sent from government. I think we have seen over the past 30 years Indian funds from the DIA increased from less than \$50 million to \$500 million. The greater the increase of the funds, the poorer the Indians have gotten over the past years. [...] One of the biggest problem is that Indians have become big business to the white people in government. We become business just like animals are to farmers. White people draw a salary of amount \$30,000 because you insist (750602).

Backed by such arguments, the Lil'wat Nation was able to adopt a more radical position. Another similar incident happened within a month, which ignited the native people's anger and led to the road blockade and the refusal of governmental funds.

#### **5.2.4. Radical Movements**

As already seen, there was an incident in 1975 when some elders' nets were cut up by the government officials. This incident ignited the native people's accumulated anger. Detail of the blockade process have been recorded in minute 750610:

*Chief:* You all know what happened this morning. The Fisheries Department or wardens went down the lake and seized more nets from our band members. The last meeting we had with Fisheries, and yet they turn around and do something like this again. They were the Federal people. And the Minister of Fisheries was one of them that was here. He was here at the last meeting. What do you feel? Don't be afraid to speak. Does that resolution still stand? Are you going to stand by it? Or do you wish to go by the white man's laws? Or on your own? Does each individual member go on your own to look after your own permit? Or are you ready to stand behind the other Resolution that was made at Chilliwack, if you don't follow the white man's law? We were talking to one of the Executives, Bill Wilson, that stand behind the resolution. All they can do is give you a summons, or charge you, but they won't put you away in the Can. Because a majority, maybe roughly so far 50 or 60 Indian People in BC already being charged for fishing without permits. Sooner or later through Bill Wilson, able to represent those people that's being charged, without no permit, or violating the white man's fishing law. Don't be afraid to come up here

and say what you think. The more people that come up here and say what you think, the more prouder our Band here will be.

*D. W. (band member):* From now on, there's nobody going to deprive us of our livelihood. We had a meeting in regards to what happened this morning, and how we can get those nets back. ...

*E. T. (Anderson Lake Band Chief):* Suggestion in Council, that we have an intention of laying a charge against the crown. [...] we will find out more information of how we should proceed to lay charge against the fish wardens for trespassing on reserve and taking things that belong to an Indian...

*H. G. (band member):* Talk on Resolution that was part at the previous general band meeting. Having American Indian Movement to come and train our own how to control our demonstrations.

*W. J. (band member):* I have got enough information to close the Lillooet Lake Road. That way there will be no sports fisherman going down. We found a brochure being posted by BC Forest Service, they have without our consent invited the public out here. To close the Lillooet Lake road is very important. This is their first step in developing this area. They are planning to develop the road from Mt. Currie to Harrison Hot Springs. We are got to stop this. ...

*A. R. (band member):* I would like to make a motion that: We invite the American Indian Movement, Vancouver Chapter to help support, police and patrol campsites and dances that will be taking place on the Indian Cultural Independence Week, June 21 - 25th, 1975 AND THAT the American Indian Movement help to control the Lillooet Lake Road Blockade. [The motion was carried.]

The native people set up a road blockade within a few days after this meeting. They expressed their purposes for the action as follows:

**Purpose of Mt. Currie Band's Blockade:**

1. Protect hereditary fishing grounds from Fisheries Department Officials.
2. Protect hereditary hunting grounds.
3. Federal Government's failure to negotiate with the Mt. Currie Band regarding

public use of the Band's road to Lillooet Lake.

4. Federal Government's failure to recognize aboriginal hereditary hunting and fishing grounds.
5. To prevent the Federal and Provincial governments from issuing future timber rights on the Crown Land within the 30 mile territorial trap line.
6. The Federal Government's leasing of Crown Land within the 30 mile territorial trap line.
7. To prevent the Federal Government's from issuing mining permits in the 30 mile territorial trap line.
8. Refusal of the Federal Government to compensate for erosion and other damage caused by the dredging of Lillooet Lake and the failure to negotiate within Band prior to the dredging.
9. The Federal Government's refusal to compensate BC Native Indians for resources taken from our land.
10. And mainly, as all the above are just a part of the federal government to recognize the Land Claims issue.

The band also set rules and regulations for the road block as follows:

**Rules and Regulations:**

1. No children allowed at the blockade.
2. No alcohol and no drugs.
3. No women allowed at the blockade.
4. Spokesman: L. W., A. R., B. J., K. D., G. A., L. L.

Minute 750619 recorded the discussion held in the emergency meeting just after they started the road block:

*Chief:* Concerning the road block, the majority of our Band members are getting calls asking questions about what Council feels. At the last Band meeting, we invited AIM to patrol, security during 5 day pow-wow. The road block started ahead of time. Our own people should be participating. Council should acknowledge to the public, that Council is going to be responsible. [...] The Council got railroaded, if anyone got hurt, we will get all the blame. [...] The Band lawyer, Mr. E. Kwan said,

to be safe, move legal blockade. It should be on No.3 Reserve where the blockade is now is sort of legal because the Highway Dept. didn't up keep the road. We should get out more pamphlets, give to non-Indians. ...

*E. T. (Anderson Lake Band Chief):* We have been expecting to do this, that we should have a blockade, when the nets were seized. It will put a lot of impression on the Federal Fisheries.

*L. W. (councilor):* The people at the blockade are not touching alcohol. We had 34 securities. They are all participating. We kicked the kids out.

*V. S. (councilor):* Is there any councilor against the road block? What do we expect to gain? Who should get through? Then we will be able to set rules and regulations.

*H. G. (band member):* I feel that the blockade started ahead of time. I have been against the blockade. What will happen to our people, the ambulance, fire truck.

*L. W. (councilor):* We made a rule, that anybody who is sick, they can go by. But all this that has happened, has done good for our people, no drugs, no drinking. There are also a rumour that Pemberton was closing the road.

*V. S. (councilor):* It can very easily get out of hand. I feel we are responsible for the people. Maybe it is Council's fault for not getting together to plan. We are doing this for our rights, not races. ...

*Chief:* We got let the non-Indians know why we are doing it. Give pamphlets. I'm for the blockade. Cars going to the lake, no block coming from Lillooet.[...] General information regarding the blockade: No toll fee for anyone. Only emergency cases allowed through - BC Tel, BC Hydro, ambulances, fire trucks, delivery of oil or propane, RCMP in case of extreme emergencies.

During the road block, people were considering the rejection of all governmental funds. And they finally decided to do so. This was actually in response to the UBCIC meeting held in Chilliwack prior to this time, in which the UBCIC had decided to reject all federal and provincial funds including welfare money.

Obviously, the native people had to find ways to survive without government money. One proposition was to start farming on the reserve. Minute 750609 reads:

We should send a news letter out. We have rejected funds. There are the things that



have been planned. Tell them about the administration. Welfare. Education. [...] We are all for the rejection. We should have a big garden for the people. It is not too late to make a big garden. Lots of the young people have been thinking about it. The old people are gardening. We can just learn by watching the old people. All people unemployed and dependable, should go into gardening. Send letter to those people asking to garden. [...] We have got lots of land. We should get together, plough up the field, start developing to feed our people. We can start a co-op. Sell potatoes. [...] We should have a General Band Meeting with the people concerning the garden. We want everyone to participate in the planting. Ask them also for suggestion about what we could do.

There was some opposition as illustrated by the councilor's remarks:

We have also got the people that don't want the type of thing that we're going to do. Some people are not a bit interested in gardening. If they don't want to go along, they are just going to suffer.

Another problem was to convince the welfare recipients who now formed the majority in the band. Concerning this problem, a councilor said:

We should make a list of the people on welfare. We should know exactly what people we need to look after. Some people are just waiting to be taken by the hand. We are destroying our own people. Drinking themselves to death. [...] We should see how many people are going to work with. Family groups is a part of our culture. Gotten to the point where people don't care about each other. Individualism. Reason why we are rejecting because it has been a hand to mouth thing. Band Council is too weak, no thread to hang on to. We are going to fall apart.

Also, medical care was a problem. Medical insurance is essential for some band members. It was reported that an ambulance driver refused to take a patient from the Lil'wat community as a result of the racial tension created by the road blockade.

By this time, after the UBCIC decided to reject governmental funds in Chilliwack, many Salish bands which had agreed to UBCIC's decision changed their minds. Minute 750611 shows that:

25 bands have accepted the funds. Mostly from Fraser East. Fountain Band accepted

their Capital money - housing. [...] We should go ask for proof that they did accept these funds. [...] Masqueam accepted a 12% increase. Gayle Sparrow explained why they accepted, because they were living in the city, and could not possibly live without these funds. 90% are still rejecting funds.

One month later, the band decided to accept a portion of welfare funds. One reason was the dishonest strategy adopted by the DIA toward the Lil'wat Nation. At the beginning of the rejection, DIA officials said that "the Band can't reject welfare because it is every individual's right (750710)." Some officials have been reported to visit each family and persuade people into accepting welfare. But later, when the most needy band members called to the DIA office with their welfare slips, the DIA officials did not accept those slips saying "We want a Band Resolution stating that the Band accept the Department to release money to the people on reserve (750710)." According to minute 750710,

Band Council Resolution: Whereas Social Assistance is necessary for some person in dire need in the Mt. Currie Band. Therefore be it resolved that the Mount Currie Band Council allows DIA to release Social Assistance funds from the Social Assistance Program for the needy persons such as child care, orphans, handicapped, on the reserve. [...] Declaration slip (yellow slip) will then be forwarded by the individual to Fraser Indian District to administer and effect payment.

Apart from welfare funds, the band was also rejecting other types of governmental funds at this point. However, some people started complaining about the band's policy, which resulted in a break in solidarity. For example, in the same meeting, a councilor mentioned that:

This can go on for years. Imagine what's going to happen during the winter. [...] We've got sewage problems. One pump is haywire. Would cost average \$1,000.00 to fix one. [...] Think of the old people with their grandchildren. They really need the money. [...] Everybody knew there was going to be no money, yet amount of drinking hasn't even gone down. [...] Some people were quite angry about the rejection of the funds. I know some people were saying 'How come the Chief and Council did that to us?' [...] Road Block is one issue. People divides because of the road block.

The road block also brought racial conflict between the Lil'wat Nation and the

neighbouring town of Pemberton. According to minute 750715, the situation between Pemberton and Mt. Currie was tinder dry, and there was a rumour that Pemberton would start road blockades against the natives of Lil'wat at any time.

In the meanwhile, the government was about to send the RCMP to break down the road block. According to the Attorney General, McDonald, the government was taking the stand that the highway is a BC Crown road, that the road block is unlawful and must come down, or else action will be taken to bring it down. Also, he asked the Department of Highways to do an immediate survey of the road, including the title, ownership, and the improvements made on the road.

In a meeting with RCMP personnel, some councilors explained the band's position (750717):

We told the Deputy Attorney General Vickers that the road block will not come down until our trapping, our hunting grounds, the roads, which we own legal title to, it's ours, it will be always ours, until that is put on writing, that road block will stay. In turn, Chief Superintendent Simons from the RCMP kept clarifying their position: "Take your items to the courts. [...] I'm coming here because I was told to open the road. I'm not here to debate the issue. I don't speak for the government." At the time the meeting ended the native people were even more determined to continue the road block. For example, a councilor mentioned that: "I hope you people realize what the situation is. We expect violence. We are going to be prepared for it. [...] We are prepared to die for our land." Another band member said that: "I'm down at the blockade and plan to stay there. If they want me out of there, they are going to have to carry me in my corpse. ..."

The Chief tried to calm people down, although he himself was for the road block. He mentioned that:

This is important. It's dealing with our land here. If we keep that blockade up, all the weapons have to be removed. We'll just sit on the road, sing Indian songs. The T.V. and press people will be there. Will be good publicity. This will be more support for the Land Claims issue. This is what Bill Wilson recommended.

The band sent a letter regarding the road block to the Attorney General in Victoria dated July 18, 1975:

Dear Mr. Minister: This letter is written to inform you on the Mt. Currie Indian Band's position regarding our blockade on the road from Pemberton to Lillooet Lake. At a Band meeting held last evening, we considered the position you have taken, stated by Mr. Vickers in his letter of July 15/75. The Band decided that at this time we cannot agree to removing the blockade although the documents we have available to us indicate that by maintaining the blockade, we are merely protecting our rights. We are however still open minded about the situation. We would appreciate speaking to you or your representatives further about this matter. In this regard we ask you to send us documents that you feel indicate the Crown's rights to the road. And equipped with such "new" documents. We would be more than willing to reconsider our position. We hope that you will delay any action you may have planned in regard to the blockade until such time as we can receive and study any new documents. We propose that one full week be agreed on between us to allow time for you to supply us with the "new" document and for us to consider them at a Band meeting. In conclusion, Mr. Minister we can only say that like you we also have a responsibility to protect people and property, but our protection of people and property is really protection of our way of life. It is in fact part in parcel, our struggle for survival. We ask you to consider this and not look at it simply as a legal question.

However, a few days later, RCMP broke down the road block, and arrested 53 band members. They were charged with "obstructing a public highway." The band hired a lawyer, E. Kwan, to defend the people arrested. As recorded in minute 750723, the lawyer mentioned:

I want all of you aware that this is a criminal code offense. The maximum sentence is a 6 month and a \$500.00 fine. [...] The Crown has decided that only one test case will be heard. If someone's prepared to volunteer, whoever that person is, should have a clean record.

S. W., was chosen to be a representative. His test case for hearing was set on Thursday, August 28, 1975. The other 52 cases would be heard on Oct. 2, 1975. The lawyer also clarified some defense strategies:

What the Attorney General is trying to do is to try and prove their point that road is

property gazetted. [...] The question is whether that road was property gazetted. Whether the road that was built in 1949 is the same road that is out there now. [...] I'm aware of both those sections (section 6 of Highway Act and 1036<sup>59</sup> of Order in Council). One of the problems is that your reserve is involved in 1036. [...] To proper research, it will take until late September. Got to get all documents together. One of the possible defense is that the road that was gazetted in 1949, is not the same road as the one here now. Will have to do survey. The river washed away the bank and the road. They went in further to the reserve to built the road. [...] The Department of Highways, Provincial Government, made detours in the road, without consulting the Band. The documents obtained from DIA, I'm suspicious of their validity, the way it was signed, in the resolution, certain portions that are struck out, the language used, is not enough, to cover all things concerning that road.

The lawyer also asked elders about what happened when the road was constructed. An elder answered that:

It was a logging outfit that started that road. They had that road from Pemberton down to the lake. It was the loggers who built that road. They had statements, conditions in there, that they had to up-keep the road. [...] Those fellow that had properties within that area, were given \$30.00 for just moving their fences, it was not for payment of the road itself. They had a General Band meeting shortly after. The chief was asked to see whether they could go by, with the conditions about the road. The majority of the people were there, raised their hands, and went with it, proving that they up-keep that road.

His point was not considered in court. But the conflicts around the road have persisted to this

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<sup>59</sup> By a provincial order in council No. 1036 in 1938, those reserve lands assinged through Mckenna-McBride Commission's recommandation during 1912 to 1916, were formally transferred from the provincial crown to the federal crown. Since the early 1970s, those lands reduced by the order in council No. 1036 have been a focus of First Nations claims over land and resources along with aboriginal land question concerning traditional territories. The both levels of governments basically recognized injustice done by the 'cut-off' and agreed to return or compensate for those lands. However, it has not been entirely identified that the location and size of each parcel of land that was object of the order in council No. 1036.

day. In another meeting, the lawyer also indicated (751019):

The Problem is where the Road Block was. We were 66 feet off I.R. #8. Ideally Department of Highways committed trespass in the sense they have gone off the Right-of-way. Tomorrow when the case goes ahead, it doesn't look good. Situation is that because road block is off the reserve and on the right-of-way. It would be same as if I had gone and blockade the road. [...] As I can see from the BCR from the minutes - appeared only was compensation. Taking away of land. All those people didn't have tickets didn't get compensated. We got to the point of issue - Council has never past BCR saying that they could have the Right-of-way. Section of the Indian Act provides that the Minister can give away your land without consultation. This is the Privy Council Order. If they exercise 1036, they are going to get the road. They have said 1036 has never been used. 1036 - Province would have a right to come back and take 20% of the land. The province can do it now, for sidewalks, curbs etc. The Dept. of Highways can take 1/5 of your land for Highways.

Minute 751020 reflects the band's resolution concerning the road block and the issues around it:

Whereas the Government of Province of British Columbia committed trespass upon the lands of the Mt. Currie Band in the construction of the Lillooet Lake Road and continues to commit trespass upon the said lands in the maintenance and use of the road. And whereas all persons using the said road without permission of the Mt. Currie Band are also committing trespass. And whereas to enforce the rights of the Mt. Currie Band to prevent future acts of trespass a road block was established on the said road on the 17th day of June 1975. And whereas 53 of people were arrested and charged for their participation in the road block. And whereas the Government of the Province of British Columbia and Attorney General for the Province of British Columbia has agreed to have all charges relating to the road block dismissed. And whereas the Government of the Province of British Columbia has agreed to meet with representatives of the Mount Currie Band to negotiate upon certain matters (some of which are here and after set forth). Be and it is hereby

resolved that the Mount Currie Band Council undertakes to do its utmost to insure that the members of the Band will keep the peace and be of good behavior so long as negotiations continue between the Government of the Province of British Columbia and the Representatives of the Band. On these certain matters of concern to the Band, some of which are follows:

1. Present and Future state of the Lillooet Lake Road.
2. Flood and Erosion control of our lands abutting Birkenhead River and Lillooet River.
3. Addition of accreted lands at the head of Lillooet Lake. Said Lands adjoining Mount Currie (ne-such) I.R. #3.
4. Confirmation of our traditional hunting and fishing rights.
5. Control by the Band over the use of Native Resources and Land Development both at the present time and in the future over these areas traditionally used and occupied by our people.

With respect to the governmental funds, the band had finally decided to accept them in September. Minute 750915 reads:

Core Funding is already in. Revenue and Capital not made yet. These are the ones from Ottawa. There was \$6,000.00 there, we left it there to make more percentage. BC Special. \$2.50 per Indian in BC. The share we got on the reserve came up in the General Assembly, the money to be sent to the UBCIC Land Claims. We have to make a BCR to send it directly to the Union. Administration for Social Assistance is already in. House keeping is not out yet. Recreation and Library not in yet. Revenue and Capital has to be done as soon as possible. We are already accepting the Education and Welfare.

At the same time, the UBCIC policy on rejecting government funds was an important concern for the people at this point. The band discussed the issue and concluded (751030):

1. That the Mount Currie Band Council requests UBCIC should deal strictly with Land Claims.
2. That the Mt. Currie Band Council requests the UBCIC to support them in protecting their aboriginal hunting and trapping ground, presently being logged

and inhabited. There are no shooting signs within our hunting grounds. Timber Permits have been sold and the area is now approximately 3/4's logged out by strip logging methods. The Mount Currie Band feels that the only possible means of protecting our hunting and trapping ground would be to put an immediate freeze on the area: until such time as the problem can be settled by negotiation. The obvious fact is that there will be nothing left for the Mt. Currie Band should we negotiate without the immediate freeze. (Resolution #2 should also go to National Indian Brotherhood. George Manuel).

#### 5.2.5. DIA's New Control Strategy

The outcomes of the radical movements in 1970s can be summarized in three points:

- I. Native people's awareness of land rights increased;
- II. Governments increased the funding to the people of the Lil'wat Nation in response to their grievances;
- III. Strategic divisions were formed in the Lil'wat Nation.

**Table 11 - Federal Labour Intensive Projects in 1975**

1. Recreation Bldg. Fencing -----	\$13,440.00
2. Skating Rink etc. -----	\$48,480.00
3. Carpenter Shop -----	\$6,720.00
4. Bridge Construction -----	\$24,800.00
5. Elder's Homes -----	\$4,320.00
6. Bus Shop -----	\$600.00
7. Rodeo -----	\$18,400.00
8. Ancestral Fish -----	\$825.00
9. Ski-hill Dev. -----	\$1,320.00
10. Recreation Co-ordinator -----	\$5,300.00
11. New Dump -----	\$5,400.00

Source: Chief and Council minutes on September 15, 1975

The government's paradoxical position toward the First Nations who opposed governmental funding was to increase funds. Some people were in favor of the increased funding and they eventually became the majority in the community. Consequently, the band's efforts to reject government funding had to be abandoned. In fact, the government sent money to the



community through many channels. An example would be the O&M funds (what these capital letters stand for are not detected), where some \$10,943.60 were sent to the Lil'wat community immediately after the road block. Also, the band received the funding for the Federal Labour Intensive Projects. The program was to be in effect from Nov. 1, 1975 to May 31, 1976. A summary of the program is shown in Table 11.

Initially, nobody opposed the immediate benefits. Eventually, though, it became clear that self-governance could not be attained while accepting large amounts of money from the government. The difference of opinion on this issue created strong divisions within the community, thus undermining the people's sense of solidarity.

### **5.2.6. Governmental Regulation over Fishing Rights**

As mentioned earlier, the band had rejected any permit system that would regulate native fishing and hunting. On the other hand, the band accepted the quota system introduced in the mid-1970s. In 1975, before the incident of the fishing nets, the Federal Fishery set fishing days (four days a week), as well as quotas for each salmon species. Such regulations, however, were not fully understood by the people, which led to the fishing net incident.

In 1976, due to the drastic decrease in salmon resources, the government introduced a more restrictive quota system. Minute 760301 reflects this issue. Although the majority of the Lil'wat people did not believe in governmental initiatives concerning fish and wildlife, they accepted the quota system without much opposition. By now, only the embers of the 1975 bonfire remained. In that meeting, I. Todd from the Fishery Department mentioned that:

After we had our meeting in July, where we settled on a plan to cover last year's fishing, 7-day fishing. We established quotas on the Sockeye and Coho. Last year we agreed upon a quota on Sockeye, 14,000. 7,000 Sockeye, that was from the Lillooet Lake and Birkenhead. Coho agreed on a quota of 2,500. Catch estimate showed 2,700 - 2,800 were actually caught. [...] Since then, two things have changed. #1. Increase in the commercial troll fishing off the West Coast of Vancouver Island. Only place control catching is in the Fraser River Commercial Fishery. Fraser River Sport Fishing and Indian Food Fishery. [...] We have also closed the Fraser River Bank Fishing - sports fishing. Goes from Oak street Bridge

right up to the mouth of the Harrison River. We closed Harrison River, Harrison Lake, Lillooet River, Lillooet Lake, Birkenhead to sports fishing for Spring Salmon, right through until October. [...] #2. Lillooet - Birkenhead River system have declined drastically. Annual spawning escapements to the Birkenhead River prior to 1971 averaged about 900 Chinook Salmon. By comparison, annual escapements to the Birkenhead since 1971 have been as follows: 1971 - 250, 1972 - 400, 1973 - 200, 1974 - 400, 1975 - 200. Before 1971, used to have a escapements 1,500 - 2,000 in Birkenhead. We would really like to see those numbers in there. Being dropping since the mid '60s. [...] What we propose, that we are very reluctantly agreeable in providing fishing for the maximum of 25 fish. Like to see that its just the older people that going to do the fish. [...] Agreement for this year:

1. The food fish quota for sockeye to be taken from Lillooet Lake in 1976 will be 14,000 fish.
2. The food fish quota for spring salmon to be taken from Lillooet lake prior to August 1, 1976 will be 25 fish.
3. The food fish quota for coho to be taken from Lillooet Lake in 1976 will be 3,000 fish.

In 1978, the quota for Spring Salmon was still 25 a year. The government initiated the Salmon Enhancement Program. The proposal was to employ four people from the band as workers in fish hatcheries on the reserve. However, the band rejected the proposal.

During the 1980s, a new governmental initiative to introduce fishing licenses was backed by the P. H. Pearse Royal Commission. But the band rejected it too, by saying that "we don't sign the Indian Food License, presented by Fisheries, and we make our own by-laws and issue our own Fishing License for the Lil'wat Nation" (810602).

In 1985, as part of the effort to regulate their own fishing activities, the band hired two band members. According to minute 850908, they were going to patrol and protect the traditional fishing ground. However, the governmental power has been the overwhelming authority over fishing rights, as revealed in a court case in 1986 where two band members were charged with a fishing violation (860205).

### 5.2.7. Social Assistance

As mentioned earlier, many people were living on welfare money by the end of 1960s. In the early 1970s, the native people made some efforts to break out of the vicious circle of dependency. In 1972, when the band started to follow the provincial welfare policy, more than 80% of the band members depended on welfare money. The provincial government introduced Social Welfare Aides, which “can administer welfare cheques, give grocery orders, and give counseling to recipients.” In 1972, the band council interviewed each social welfare as part of a training program (720111). Also, for the purpose of regaining band’s control over welfare money, the band proposed that all cheques be sent to the band office rather than directly to the bank (730312).

On June 1st, 1973, Social Assistance rates went up. It was assumed that the DIA would go along with provincial rates (730802). In 1974, as part of devolution process, the band was to take over the social assistance program from the DIA (740729). Around this period, the detrimental consequences of the welfare system were already being pointed out (750609).

The band realized that the administration of welfare was going to be the focus of constant criticism. George Manuel remarked that “regulation will compel your welfare services to your own people under very strict regulations (750602).” He also said that the band would be the one to be criticized and condemned because the welfare money would not be adequate to meet the needs of the Indian people. Many people also believed that welfare money from the government was destroying the community economy.

The band took over the welfare program in 1977. But the band did not have the authority to make any changes concerning core issues involved in the system. Since the late 1970s, the amount of social assistance had been further increased, as reflected in minute 770213:

Concerning social assistance, we have already asked for additional \$30,000 but its not going to cover to March 31, 1979. [...] We should ask for additional social assistance in the amount of \$15,000. [...] Average at the beginning of this year (April) was \$24,000 for the social assistance. Now we are averaging \$33,000 to \$35,000. In December and January, we spent \$38,000 for recipients. In February, it was \$35,000 and it is still not the end of the month.

According to the Welfare Portfolio report (810602), the amount spent in social

assistance in May (for one month) was \$62,000, which means that about 300 adults were receiving welfare. The Social Assistant Aides programs, though in operation, did not work well. Various additional incentives for the welfare recipients did not prove effective either (790213, 790218, 810707):

We should look into getting incentive money for Social Assistance Recipients to work on getting logs sorted at the location [Lil'wat Sawmill] where they could be cut into lumber (790218).

In the 1980s, welfare dependency became well entrenched. While many were advocating political independence, without effective concrete solutions, the Lil'wat people became more and more dependent on the system. Some people believed that this welfare dependency was the result of a conspiracy designed by the DIA. In any event, one undeniable consequence has been the ever increasing level of frustration among the aboriginal people of the Lil'wat Nation.

### **5.3. The Internal Conflict Period**

The *Internal Conflict Period* extends from around 1980 until the present time. During this period, diversity of interests has led to the deepening of political divisions within the community. The liberation movement has dissipated into a multitude of avenues with different focuses (political, cultural, economic). While many were suffering from a sort of apathy, some people became strong followers of Canadian politics as a way to control the large amounts of money coming into the community. The allocation of those governmental funds produced an economic stratification in the community. Consequently, internal conflicts arose among groups, and the people's solidarity in their land claims struggle was undermined. Nevertheless, the road block of 1990 proved that the native people's sense of unity was still alive.

The separation of the people from the traditional territory has further progressed. The unemployment rate has stabilized around 80%. Agricultural activities on reserve are disappearing. Most fields are deteriorating. Also, commercial logging on reserves has come to an end once the forest resources have been depleted. Although some initiatives to establish small, self-sufficient businesses surfaced here and there, they were quickly abandoned due to various natural disasters, such as floods, or in the face of some bigger projects on the reserve (e.g. the

construction of new town site). The larger projects may have brought big money and jobs but only on a short-term basis.

The new life style imposed new financial arrangements. As welfare recipients, aboriginal people have been exempted from the immediate payment of rent and utilities, which may have encouraged some people to prefer to stay on welfare.

The following sections focus on the divisions formed within the community, as well as the specific contexts in which those internal conflicts arose. This internal conflict period is explored in terms of: the devolution process, pursuance for self-governance, and, finally, problems concerning social assistance. Also, important for this period are several topics like: new housing projects, the 1990 road blockade, and community-based economic initiatives, such as the Association for Sustainable Aboriginal Planning (ASAP).

### **5.3.1. Band Administration and Devolution Process**

In the 1960s, the native people shared the idea that the DIA would be abolished soon. The devolution process advanced and the amount of work that the band had to do increased. The band also had to take over the responsibilities of a DIA official who died in 1966. Faced with unfamiliar tasks, the band councilors felt increasingly overwhelmed. The band's administration of its own affairs became the main point of concern. The band finally decided to hire a band manager who would take over the responsibility of governmental office work (700216). In 1974, Ken Matsune, a social worker from the Fraser Indian District, was called upon to explain the transfer of Departmental Programs to Bands. He mentioned that:

The Social Assistance Transfer to the Band is a program of the DIA.[...] When Band takes over, Chief and Council, there will be all kind of responsibilities. The Band manager becomes the Chief Administrator, the supervisor of Social Services. The Band manager, Chief & Council, will use the Social Service Policy Guidelines etc. [...] When the Band plans to take over, they must present a budget which consists of: Social Assistance, House Keeping Services, Funeral Expenses, Salary, Travel Expenses. Also, supports staff, facilities & supplies. [...] When the Band takes over the program, one quarter of the annual Budget transferred to the Band (740729).

As a personal opinion, he also pointed out some possible consequences of the devolution

process:

Advantage of take-over of program - quick service, taking total responsibility. The Band will have some authority that is now vested in the Fraser District [DIA]. The workers, administrator, will have really more control of how to help Band members. [...] Disadvantage - Social Worker will have to make unpopular decisions. Particularly so when you are adapting the policy of DIA, you can't always make popular decisions (740729).

For several years prior to 1976, the same person acted as both Chief and Band Manager. As the devolution process advanced, it became impossible for one person to deal with the overwhelming amount of work. Minute 760610 reflects that point:

New Aiyamsh Project - Eliminate DIA, close the local district offices, deal directly with Ottawa. [...] It is necessary that the Chief's and Band Manager's position be separated. The Chief is being placed in a position where he is answerable for every thing. Chief is so tied down with the Band Manager job, very little time for the jobs as Chief. In next 3 - 5 years, may get into the million dollar range, very many problems, impossible for one man. The immediate problem is how do we get 60 - 70 thousand dollars out of DIA to solve the problem. Flood - proofing the valley is much better project.

Throughout the 1970s, 1980s, and 1990s, the band's administrative body got bigger and bigger. Table 12 summarizes this process. With this diversification process, one thing that should be noticed is the bureaucratic character of the Chief and Council. Some elders mentioned that these advisory positions used to be paid considerable respect. With the process of devolution under way, DIA's paternal attitude was expected to be replaced with the band's more autonomous style. However, the band has been acting more and more like a branch of the DIA rather than a self-governing body. This enabled the DIA to exercise a more distant control. In the area of economic development as well as social services, the role of the band is none other than to seek grants from the DIA. In return, the band has to act within the DIA's requirements, which are set as conditions for the grant. For example, in a meeting with DIA regional officers, Mr. Price from the DIA stated that:

About some ideas that the Indian people might do for themselves rather than

proposal from outsiders: Economic Development will include management of business that is feasible. Grant will include management of business for the first few years and training. When making application send copy to Fraser District Supervisor - Mr. Hett, Mr. Walchli - Regional Superintendent of Economic Development, Mr. Rothery - Regional Fisheries Specialist, Mr. Cedric Telford - Regional Forester (720104).

**Table 12 - Development of Band Administration**

<b>Year</b>	<b>Administration Structure</b>
<b>1955</b>	1 Chief, 5 councilors
<b>1959</b>	Secretary was introduced.
<b>1961</b>	1 Chief, 6 councilors
<b>1965</b>	1 Chief, 7 councilors
<b>1966</b>	DIA Assistant Superintendent died. He was the last DIA official residing in the community. Chief and councilors started to receive salary.
<b>1970</b>	Band manager was introduced.
<b>1971</b>	School Board was formed.
<b>1972</b>	Book keeper was hired.
<b>1973</b>	5 portfolios were formed and distributed among councilors: (1) Housing, (2) Economic Development, (3) Health and Welfare, (4) Education, (5) Recreation and Cultural Affairs.
<b>1974</b>	Economic Development Committee was formed. Council of Elders for the Lillooet District was formed.
<b>1976</b>	1 Chief, 9 councilors. Band manager was introduced. Management advisor and trainer were hired from DIA office. Band receptionist and band accountant were introduced. Land Claim Negotiation Committee was formed.
<b>1977</b>	Band Development Training Program is introduced.
<b>1980</b>	Band planner is introduced.
<b>1981</b>	1 chief, 10 councilors, 1 band manager, 1 secretary
<b>1983</b>	Portfolios were diversified: (1) Lil'wat Government, Land Claim Legal Affairs, (2) Recreation, (3) Education, (4) Social Development, (5) Housing, (6) Public Works, (7) Education Development, (8) External Affairs, (9) Finance, (10) Land Management
<b>1984</b>	Land portfolio is formed.
<b>1985</b>	1 Chief, 12 councilors, 1 band manager, 1 secretary
<b>1990</b>	Tribal police is introduced.

Source: Chief and Council minutes

This shows that funds will be granted for the project only if the DIA deems it feasible.

This has become a basic pattern of relationship between the Lil'wat Nation and the governments. Contrary to the general expectation, the devolution process has created a stronger, even though more distant, DIA control.

### **5.3.2. Effort Toward Self-Governance**

#### *(1) Education*

The efforts toward self-governance are evident in the area of education. For a long time, the people of Lil'wat Nation have tried to gain control over the preservation of their own culture. In 1970, the Lil'wat Nation finally established a school under band control. The school has been offering grade 1 to 12 education as well as adult education. The school, emphasizing cultural education, was expected to counterbalance the process of alienation and indoctrination that native students have been subjected to in the Canadian educational system. Of course, the success of these objectives has been intimately linked with the issue of allocation of funds:

The Federal and Provincial Government negotiating the Master Tuition Agreement without the Indian people. We have control of our education. We want to gain control of the money to operate our school, not to go begging to DIA every time we need money. [...] We want to be in control of what is happening. We have 53 people on staff. Most of them from the Band. Be all Indian teachers soon. 14 people be getting their teaching license. [...] We want to gain control of the money. 400 million dollars is spent on Indians. Only 1/3 of that comes to the Band. The rest goes to the administration staff. Why can't the people get the money? (770117)

A school board has been created in the Lil'wat community and the band members acting as board officials have been struggling with administrative, financial, and curriculum-related problems.

#### *(2) Indian Court*

The band has tried to establish its authority over aboriginal legal matters. One example is the Indian Court designed to deal with criminal cases among the native population. The system came into effect in the 1980s.

The Indian Court arbitrates over disputes and sentences the offenders (e.g. 'join the



plumbing crew for a week' [810707], 'no drink for 3 months' [810310]). This system gives the band the right to law enforcement based on native customs and values. As such, it has important implications for property rights.

Several court cases were handled mainly in the early 1980s. However, the system has not been firmly established. A jurisdictional difficulty was revealed in the council meeting on Dec. 20, 1984, following a concrete case. In that incident, some band members who had broken into a post office (federal facility), upon being caught by a band member, were given the choice of trial avenues between the Indian Court and the RCMP (810414).

Another complaint was raised about the band's excessive intervention into family matters, as illustrated in an Indian Court case dated June 12, 1983. Furthermore, an elder mentioned that the system used to work in the past on the basis of mutual respect among band members, but it lost its effectiveness today, when people no longer respect the band councilors acting as judges and instructors.

### *(3) Band Membership*

Band membership centers around the right to the band property. So far, the Indian Act has been the only legal authority to determine who is a band member. This is a typical example of the government's paternal relationship towards the First Nations. It is no wonder that the First Nations have wanted to develop their own regulations on the issue of band membership. In that sense, during the 1980s, the band tried to extricate itself from the Indian Act. According to the minute of the council meeting on June 16, 1981 and again on Feb. 21, 1986, when Bill C-31 was introduced, the band set its own rules:

- a. The children who are born after April 17, 1985, who have one parent who is non-status, will have status, but not band membership.
- b. When another person marries into the Band from another band, they do not automatically get transferred.
- c. If the Band does not design their own membership code within two years, beginning April 17, 1985, then the Band membership and status will be according to the Indian Act.

In short, the band proposed that the Band Council should be the only governing body to

determine band membership.

*(4) Family Heads System*

Another example of the effort toward self-governance can be seen in the discussion concerning the family heads system, a traditional decision-making system. In the late 1970s, the majority of the people were in favor of returning to the family heads system, thus replacing the Chief and Council system specified in the Indian Act.

The family heads system is a traditional structure, but it has not been in use for a long time (maybe 100 years). As a result, some people don't know which line to choose as their family group, the mother side or the father side. Other people have expressed their confusion around various issues: "How do we know what family we belong to? Some have large families. How are they going to vote?" At a meeting (810108), a councilor mentioned that "It is the people's choice on who is going to be your leader. Does not have to be a relative." Another band member said that: "it is not fair that one family is going to over power the other." However, some councilors were in favor of going with the family heads system. A councilor mentioned that:

This issue was brought up four years ago. It was discussed at the last election and the last General Meeting, and was passed. We have a mandate to go to family heads. [...] The family should be the controller. For example, housing: it should be the family to decide who will get a house. Same thing in education, land, etc.

At another meeting (830130), the Lil'wat people addressed again the family heads system. Some people were supportive of the traditional system:

Chairman told the general assembly that there were two options that they should consider: 1) Indian Act, 2) the people's way. A councilor, Y. W. stated that about 6 - 8 years ago it was passed that we go the traditional way. Why didn't it go through if it was passed at a general meeting. A councilor M. W. said that we should not go under the Indian Act, because it may not be there for very long. [...] I have one priority and that is to fight along with George Manuel for the movement. If you go the other way then we are out. [...] Band member A. H.: I support the traditional way. I'm working toward for the children. I work with elders. The people used to

get together, but now we are splitting. Band member A. N.: We should go through the family head way. [...] Now is the time to decide from family heads down.

At this meeting, the people decided that the Chief and Council would stay for another two years, so that families could work toward the family head system during that period.

Minute 830612 shows that the Chief and Band Council was voted in for two years and that band members were supposed to work on the traditional system for one year. But in the same meeting, the Chief mentioned that:

Three months is gone by we return it to family and some said people said no way they would go for family head problems if that's they it would work. We have to go ahead with open minds. [...] Some individuals and elders say it won't work and we still have to work on family heads problems. There still has to be more work on the mandates.

One year passed without any discussion on the issue of the family heads system. Minute 840626 already shows the people's frustration with the slow process:

There is 5 more months before the next Chief and Council election, that is supposed to go traditional. [...] We got no support what so ever. [...] This present system is the only way it will work.

In 1985 the topic of the adoption of the traditional system was subjected to a vote. At the meeting, a councilor mentioned:

There was a mandate given by the people written in 1983. Chief informed that the people at the general assembly January 30th 1984, about going the traditional system for 1 year and Chief and Council was voted in for two years. If the Lil'wat people are going by the Indian Act, if the people gave Chief and Council a mandate, why go back under Indian Act? We are supposed to be a self-reliant, self-governing, sovereign nation. I will read to you the 1867 British Northern American Act. I don't want it to go under the Indian Act. I want my name taken off the Band list. ...

Chief mentioned that:

There was over 100 people present when the traditional system was passed. Regrettably, a few people have dropped out of this altogether. We were talking about the 2 phased system which Chief and Council as one body, the other working

on politics. O.K. to all people who can vote under the Referendum: Do you want to remain under the same system? or Do you want to change it? [...] As far as going under the traditional system, I was talking to the elders, and they were saying that it won't work, it will take too long to get started (850113).

Finally, people voted on this point of the agenda and the majority chose to remain under the Indian Act. The vote, however, has not put an end to this controversy which is still ongoing.

### **5.3.3. Divisions within the Lil'wat Nation**

Since the road block in 1975, the divisions among the band members have deepened. The arguments around the family heads system, as an alternative decision-making system, is a reflection of the confrontations within the Lil'wat community. The group of people called 'traditionalists' were at the centre of the liberation movement of the 1970s. Today, their central idea is to be free from DIA's control, by reviving the traditional aboriginal way of life as well as by increasing economic autonomy. In the mid-80s, some of them were still advocating the rejection of governmental funds (840626).

On the other hand, the mainstream of the band have been insisting the importance of a 'realistic' solution and they have chosen to go along with the DIA's control. Finally, a group of undecided people seem to simply follow the mainstream group. This is probably because the band is literally the only money distributor in the community. Being against the band often means losing jobs. For example, minute 830615 acknowledges that: "Members of the Grievance Committee expressed their concern that there was a monopoly on jobs in the community." Some 'traditionalists' are complaining that they are unfairly attacked.

It is difficult to assess the people's complex opinions around these issues. It is even harder to estimate the effect of possible persuasive or manipulative tendencies. What is evident is the strong divisive character of the current community life in the Lil'wat Nation.

### **5.3.4. Vicious Circle**

The band seems to have lost control over the administration of welfare funds (790213). In connection with this a councilor mentioned that:

There are certain people that should receive welfare: elders, disabled, single mothers with children. A lot of people are manipulating program. The government are taking little by little from the Indians and Indians are just living on welfare thinking its going to last forever. [...] Health and Welfare Portfolios and Social Welfare should start digging up facts and statistics on our social welfare system (810602).

Similarly, minute 830615 reads:

The Band should have control on the Social Welfare. Some band members don't report the extra moneys that they receive. The SA workers should get a pay sheet from the school and the cash dispersement also.

At another meeting, Chief mentioned:

People that are employed are still receiving Social assistance. why? [...] The client is responsible to notify the Social Assistance Worker when employed. [...] We should form Social Assistance Committee (840828).

Some people are desperately insisting on returning to agriculture for self-reliance, just as they discussed in 1975 when they rejected the governmental funds. Minute 810602 illustrates this point:

We should make gardens on these pieces of land, and ask for volunteer work from people. [...] We tried last year to grow and raise our own garden and animals. We failed, but we did not give up because we tried again this year and it worked. We did this with the help of social assistance and now this stretch our food through the winter.

One of the many reasons why people prefer to be on welfare is that they can enjoy other advantages in housing and social services. For example, when the band decides to collect user fees for water and sewage, the welfare recipients are automatically excluded from paying those fees. This is attested in minute 810625:

Please note that people who do not pay the users fee, their water will be shut off. [...] How can you tell who paid or not? Some people on social assistance and some elders didn't get a bill. [...] This is where the third party agreement comes in through the social assistance program and DIA. For the ones who do not apply

under either social assistance or G.A.I.N. should expect a bill in the mail from the band office.

Since the mid-1980s, the new construction site has been able to provide accommodation for the majority of the people in the Lil'wat community. This imposed new financial arrangements for the new tenants. The payment arrangements for rent and utilities may have strengthened people's dependency on welfare. As mentioned earlier, the arrangements exempt the welfare recipients from immediate payment. The following is an example of a concrete case.

This is the case of a man in his mid-30s having a wife and two children. Both the wife and her husband are unemployed. As welfare recipients, both are entitled to receive \$220/month each. In addition, the husband receives some money for the support of his children, say \$200 a month. In total, the family will receive \$640 a month. The immediate payment of the rent and utilities may be avoided, and that can be estimated to around \$800 a month. In short, this family's life on welfare in a new house is equivalent to a life with a salary of \$1,440/month. For this reason, the man in the example above will want to make sure that his income is well over \$1,440 if he is to start working. Unfortunately, such jobs are hard to come by on reserve.

This is a typical example of a vicious circle that currently entraps the majority of people in the Lil'wat community. In the face of these enduring problems, it may be difficult to maintain an optimistic vision of the future. The imperative of pursuing self-determination appears even more clearly.

### **5.3.5. Forestry Activities on the Traditional Territory**

On the traditional territory, the dominant land use today is forestry. But the First Nations have virtually been excluded from the industry since the 1970s. The most part of the traditional territory is under the Crown Land System. The Garibaldi Provincial Park sits in the centre, and the rest is almost entirely within the Soo Timber Supply Area (TSA), and Tree Farm License (TFL) #38 owned by Weldwood of Canada Limited. TFL #38 has 263,000 cubic meters of Allowable Annual Cut (AAC). The Soo TSA has an AAC of 580,000 cubic meters. In this TSA, nine larger companies hold 75% of the AAC. N'Quatqua Logging Co., which is the only First Nation's logging enterprise (Anderson Lake Band) operating in the Lower Lillooet

traditional territory, shares 1.2% of the AAC of the Soo TSA through the Small Business Forest Enterprise Program. In 1993, the total number of employees in harvesting in those nine larger companies was 261 people, of which merely 11 were aboriginal people, including some from the Squamish Indian Band (Crane Management Consultants Ltd. 1994).<sup>60</sup>

### **5.3.6. The 1990 Road Blockade**

In 1990, a group of Lil'wat People, "Lil'wat Nation Peoples' Movement", blocked Highway 99 that passes through the reserve. The stand was removed by the police force who arrested 56 people nearly two month after the blockade was set up. The people in the blockade prepared a poster with a strong message appealing to the rest of the Lil'wat People:

#### **TO THE LIL'WAT PEOPLE**

We have opened the Lillooet Lake road only to Lil'wat and native people. Backroad are too dangerous and will be closed for the safety of the Lil'wat People. We invite you to participate with us in honouring our grandfathers' and grand mothers' declaration. They did not give up our rights, land, or jurisdiction. We feel we owe it to our ancestors, our people and our future to uphold our rights. We support the Mohawk Indians as they are a native peoples standing up against the government. We are also a sovereign Nation demanding reparation for damages to our land & environment. You owe it to yourself and your children to educate yourself on this issue. We are: a passive, positive movement. Welcoming anyone for support and input. Determined to stop logging on our territory, pesticides, disposal of chemicals on our land, and we are claiming our fishing, hunting and trapping rights. You can

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<sup>60</sup> The way in which extractive capital is legitimated in BC is well explained by Willems-Braun (1997). In the case of MacMillan Bloedel (MB), a leading forest company in BC, he argues that "Fully aware that legal arguments regarding tenure are inadequate (especially since most tenure-holdings in BC are granted by the Crown and are not hold in fee-simple), MB sets out to legitimate its authority by extending an invitation to evaluate its forest practices in terms of three criteria: expertise, efficiency, and responsibility (p. 11)." However, he points out that "Emptied of cultural histories, the forest becomes a unit governed by natural history and, thus, is free to be subsumed into a discourse of resource management (recently bound to a new, powerful metanarrative of sustainability) and tied to the administrative spaces of the province rather than to the local lifeworlds of its Native inhabitants (p. 15)."

help: educate yourself on this issue - come and ask questions, talk to people, ask for literature. Let us know where you stand. Donate time: even if you just come and sit with us or camp out here. Donate food or money for food. Native people are the keeper of the earth who honour, respect and care for the land. We ask you to think about who you are and what Lil'wat people stand for.

Some hundreds of people in the Lil'wat Nation supported the blockade at that time. This episode shows beyond any doubt that a centripetal force toward solidarity is still alive in the Lil'wat Nation. Solidarity is the key ingredient of any future chances for self-determination and dignity for the people of the Lil'wat Nation.



## CHAPTER SIX

### CONCLUSION AND DISCUSSION

In this study, aboriginal land use issues have been explored from the view point of property rights. The argument has focused on the changes in institutions and authority, as reflected by the dynamics of property systems. In this final chapter, the most important events in the history of the Lil'wat Nation are summarized and future directions for land use and management are addressed.

#### **6.1. Changes in Institutions**

People in the Lil'wat Nation have experienced a wide range of changes in almost every aspect of their lives. The history of reserve systems parallels the evolution of the property system in the Lil'wat Nation. The thorough examination of the property system on reserves has been crucial for understanding the complex dynamics between the band and its members. The reserve has been found to encapsulate social and economic structures that are specific to the aboriginal people.

The changes in institutions have been explored in terms of three major areas: the creation and dissolution of institutions, the decision-making situation (i.e., context of institutional change), and the decision-making process (i.e., the rise and fall of aboriginal authority). The rapid and important changes in the decision-making situation have significantly affected the land use projects on reserve grounds. Those changes include: population increase, extension of money economy through forestry and agricultural activities, and the exercise of various outside interests on reserve lands. Also, governmental initiatives, such as the introduction of the Certificate of Possession and land rent proposals, put the aboriginal people in a position to make important decisions affecting the entire economic and social structure of their community.

In the area of institutional changes, the events that relate to property rights reflect the balance between individual interests and collective well-being. Two questions became apparent in this process:

1. Has the native community been able to protect collective interests from the pressure of

individual and/or outside interests?; and

2. Have the emerging institutions and arrangements in the community been able to meet the needs of community members?

The following discussion addresses these questions. To begin with, some important aspects of property systems on reserves are summarized. Table 13 shows the land holding structure based on customary practices on the reserve lands. Depending on the kind of property right and the level of activity (such as operational, collective-choice, or constitutional), each land use agent plays a different role. The agents include individual band members, family groups, and the band. While most areas are open to individual access and use, the community (or the band) has retained a discretionary power over the reserve management in general. This is obvious when it comes to the issue of the alienation of land. Although the right to alienation ultimately belongs to the Crown, in the customary practice, the band appears to hold the right to alienation, i.e., to dispose of a piece of land regardless of the user's intention. Alienation has happened when the band thought that the action would be beneficial for the community at large.

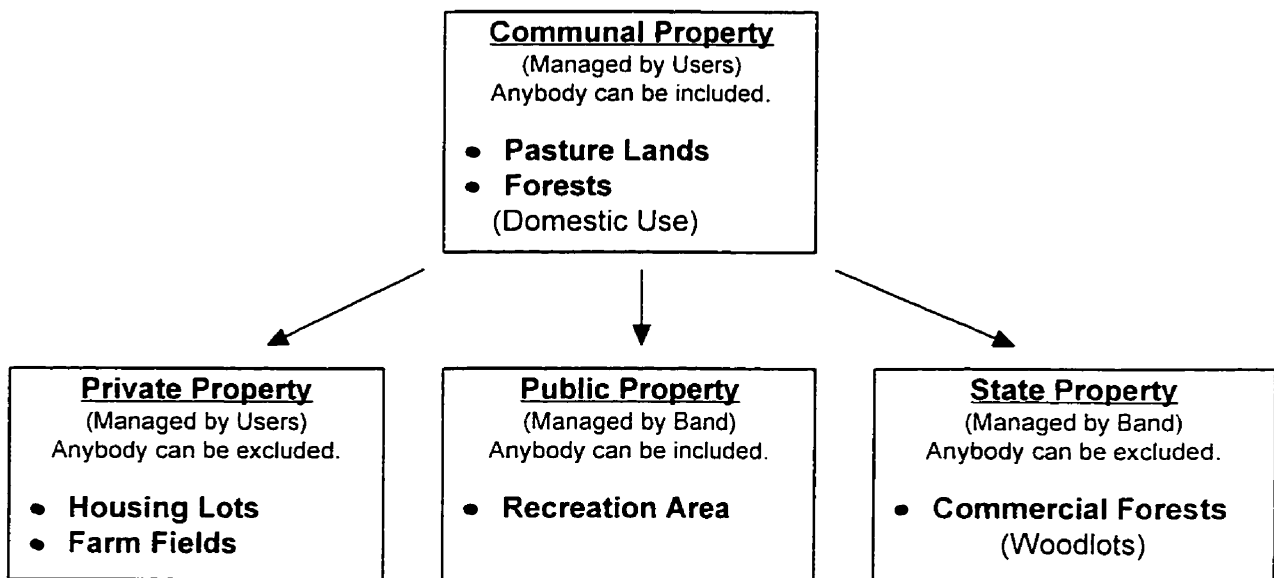
**Table 13 Internal Property Structure on Reserve Lands**

	<b>Access Withdrawal</b>	<b>Management Exclusion</b>	<b>Alienation</b>
<b>Public Spaces</b>	Individuals	Band	Band
<b>Forest Lands</b>	Individuals Companies	Band	Band
<b>Pasture Lands</b>	Stock Holders	Stockman's Committee	Band
<b>Family Fields</b>	Family Members	Family	Family/ Band
<b>Individual Fields</b>	Individuals	Individuals	Band/ Individuals
<b>Housing Lots</b>	Individuals	Individuals	Band/ Individuals

In general, the use of band lands has changed over the past 50 years. In addition to private holdings that replaced a part of band lands and the continuation of communal use of lands, such as pasture and forest lands, property arrangements similar to public property and

state property have gradually appeared on band lands. Those are represented by recreational areas and woodlots. This reflects a change in the relationship between the band and band members, whereby the band adopted some land management strategies similar to those employed by the Canadian governments (Figure 7).

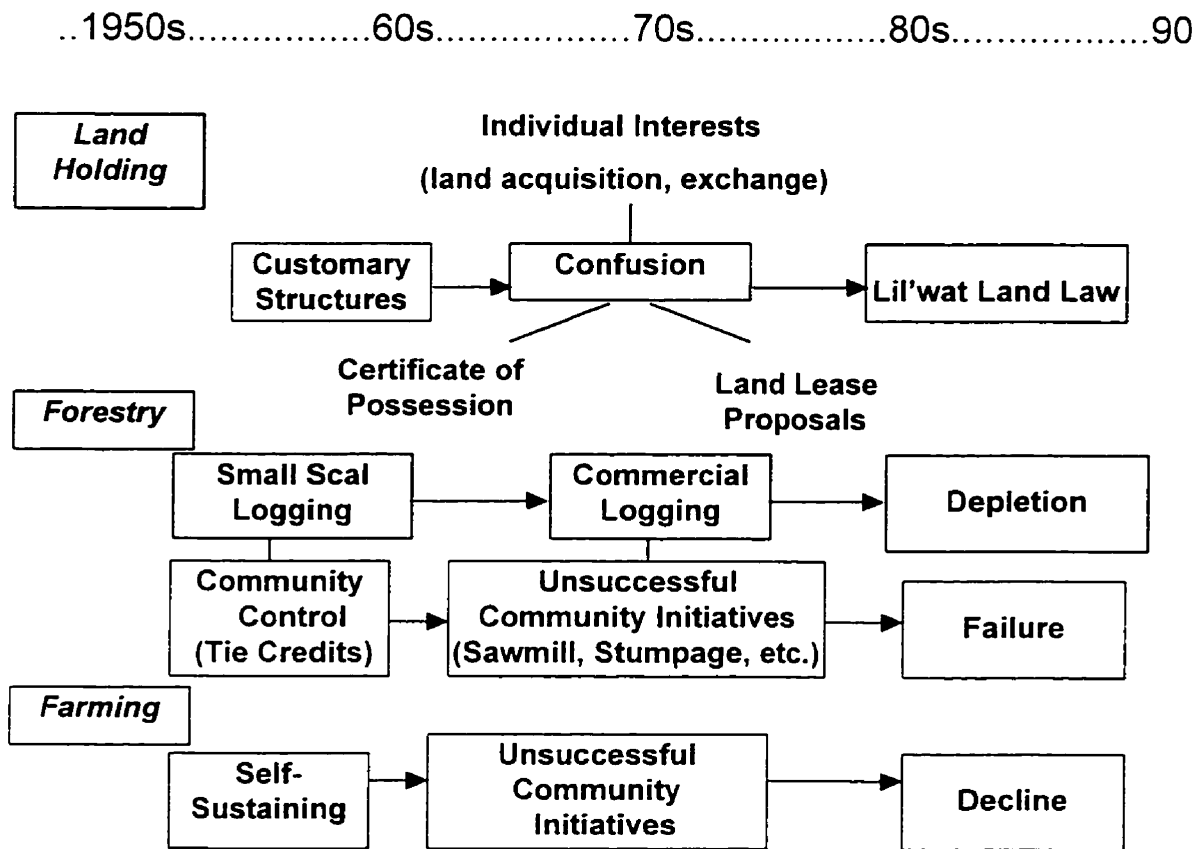
**Figure 7 Changes in the Use of Band Lands**



In order to interpret these changes in terms of the balance between community control and individual/corporate interests, the following diagram (Figure 8) summarizes the events that relate to the institutional changes on reserve grounds. A number of factors led to a state of confusion over the customary land holding structures. In the 1960s and 1970s, individual interests in land development increased for housing and farming purposes. In this period people started to regard parcels of land as exchange objects. As land transactions became more frequent, the band failed in its task to administer the land holdings. Also, some Canadian initiatives impacted heavily on the reserve land use system. In particular, the introduction of the Certificate of Possession undermined the customary land holding arrangements of the Lil'wat Nation. Eventually, the Lil'wat Land Law, which formalized the existing customary activities, emerged from the band's initiative in the 1980s. However, the land law is still in need of refinement and

recognition in order to function as a governing land law on the reserve.

**Figure 8 Land Use Structures On Reserve Lands  
(Institutional Changes)**



With respect to timber production, during the 1950s and the early 1960s, the community was controlling the flow of timber resources in order to enhance the collective interests. That type of control excluded commercial logging. Also, the community used the 'tie credits,' a payment agreement among the Pacific Great Eastern Railway, the community store in Lil'wat, and the railway tie makers in the community. Commercial logging started in the 1960s by involving community members as middlemen, which depleted forest resources on reserve lands. The community's efforts to control commercial logging proved unsuccessful. Those

efforts included an increase in stumpage rates and the construction of a sawmill on the reserve. Farming was once a central activity in the Lil'wat Nation. Farming activities, however, have declined since 1960s. The band made several futile attempts to manage the community fields.

In summary, from the 1970s onward, the community has been losing control in most areas that relate to land management on reserve. The results of this research show that the native community has not been able to protect collective interests from the pressure of individual and/or outside interests. Also, the emerging institutions and arrangements in the community have not been able to meet the needs of individual community members. Originally, the community had the power to control its own affairs, but the rapid economic and political changes affecting the land and the resources, particularly after the 1960s, have had devastating effects on the exercise of community control.

One of the controversial issues in community planning during this period has been the allocation of a certain portion of reserve lands for new town sites. While people's need for appropriate housing is real, the rent exemptions for low income families have deepened unemployment and have accentuated the state of dependency, as explained earlier in Chapter 5. This example is part of the bigger picture represented by Canada's welfare policy. According to that policy, significant funding is aimed at reducing social inequality. It is ironic that the very policy meant to reduce social inequality in fact promotes economic dependency. Thus, it is clear that property systems in the Lil'wat Nation cannot be viewed in isolation from Canadian policy and other external factors. In this respect, the relationship between the Lil'wat Nation and Canadian governments is essential for understanding the dynamics of property rights in this native community.

## **6.2. Issues around Authority**

With respect to the issue of authority, this study has dealt with the power relationship between Canada and the Lil'wat Nation. The development of the relationship between the two has been described through a number of historical events meant to explain the way in which political and economic imperatives have shaped the relationship. Those historical events also determined the internal power relationship within the aboriginal community. The following is a chronological outline of that process.

Pre-1950:

Before the contact with the Europeans, the people of the Lil'wat Nation were observing a traditional way of life. The traditional economic system, defined as the hunter-fisher-gatherer system, was altered by the introduction of agriculture in the late 19th century. However, the two systems co-existed and ensured a self-sustained economy until the 1940s, with an ever increasing emphasis on agriculture. The importance of traditional plants as food and material sources diminished around the beginning of this century, and largely disappeared by 1950. Around 1950, the money economy gradually permeated the aboriginal society through the numerous job opportunities in the forest industries. This change significantly altered the traditional economic system. It is important to notice that, while most other aboriginal people were politically and culturally oppressed by both the federal and provincial governments in Canada, the Lil'wat people retained a certain degree of control over hunting and fishing. In other words, the Canadian authority could not tightly regulate local First Nations' fishing and hunting practices.

Post-1950:

The following diagram (Figure 9) summarizes the changes in the power relationship between Canada and the Lil'wat Nation. The history of the Lil'wat Nation after 1950 has been subdivided into three periods: (1) the *oppression period* (late 1940s - 1960s), (2) the *internal cooperation period* (the 1970s), and (3) the *internal conflict period* (from the 1980s up to the present).

*Oppression Period:*

The oppression period is represented by the time when Canada, through the Department of Indian Affairs, exerted a certain paternalistic attitude toward the Lil'wat community. An agent from the DIA lived in the community and attended every band meeting. In spite of the DIA's presence, the community was able to maintain a certain amount of control over local affairs. The issue of rights over the traditional territory was not addressed at the band meetings. In this period, fewer and fewer people in the community were engaged in trapping and hunting activities. Eventually, they became wage laborers working for the logging companies

that now had the rights to timber resources on the traditional territory of the Lil'wat Nation. The traditional occupations could only be classified as withdrawal activities. Traplines were mostly abandoned in the late 1950s. The end of the oppression period was characterized by a general decay in productive activities, whether in the agricultural area or in the forestry industry.

*Internal Cooperation Period:*

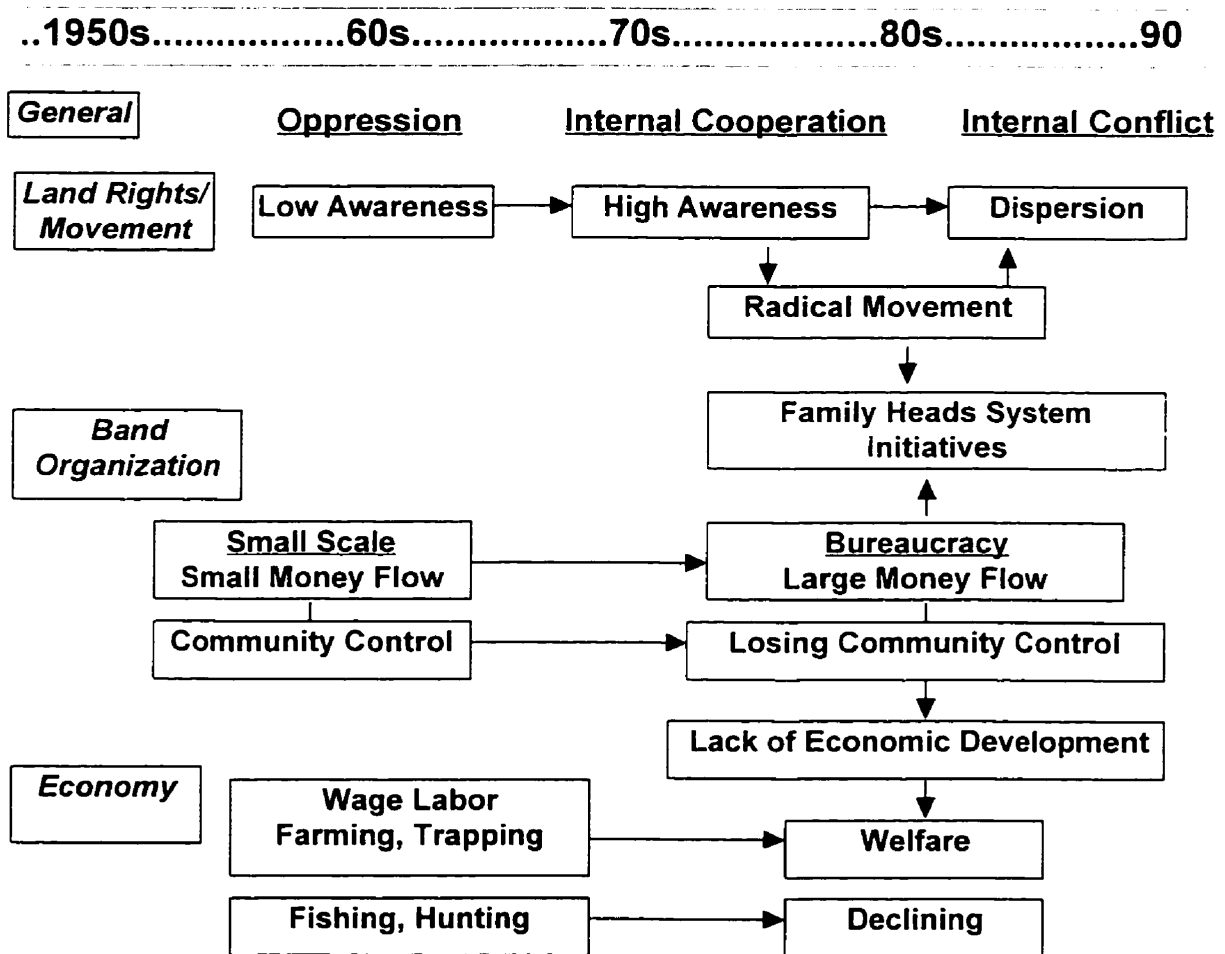
The internal cooperation period is the time when conflict intensified between Canada and the Lil'wat Nation. The community's awareness of land rights increased. The Liberation Movement was formed in the community and it involved, among others, the Union of BC Indian Chiefs, and George Manuel, a prominent native leader at that time. The road blockade and the rejection of governmental funds in 1975 were important moments in this process. Conflicts between the Lil'wat Nation and the Canadian governments were seen around salmon resources on the traditional territory. All of this marked the process of re-definition of property systems, not only over fish resources but also over the fundamental relationship between the Lil'wat Nation and Canada. This is the first time that the two systems actually confronted each other in terms of their authority and control over the traditional territory. Unfortunately, the movement did not materialize in the development of a native land use strategy on the traditional territory due to the fact that no management authority was given to the aboriginal people. Although some attempts were made to re-construct a self-sufficient economy, they did not result in long-lasting, fully autonomous institutions and policies. On the contrary, as logging companies started to withdraw from the regional labor market, the Lil'wat people became almost entirely dependent on welfare and governmental funds.

*Internal Conflict Period:*

In the internal conflict period, the diversity of interests led to strong political divisions within the community. The earlier liberation movement dissipated onto many avenues, following various political, economic, and cultural interests. Under these circumstances, the band's ability to administer resources and programs became the central concern. The DIA controlled the allocation of governmental funds which left the majority of the community members unable to develop their own community strategies. The allocation of governmental funds also produced an

economic stratification within the community. The economic and political stratification within the community undermined the solidarity of the people around land questions. Essentially, this period witnessed a polarization between two camps within the native community: the so-called 'traditionalists' have been advocating a return to self-determination and autonomy (such as the re-introduction of the family heads system of decision making), while the so-called 'realists' have been pleading for a feasible agenda, along the lines of a compromise with Canadian institutions. However, the road blockade of 1990 demonstrated the native people's potential for unity under critical circumstances.

Figure 9 Authority Issue





In summary, since the 1970s onward, the Lil'wat Nation has failed to develop internal property arrangements. By definition, no property system can survive without a consistent authority. The customary authority has been undermined in the Lil'wat Nation. Especially, the devolution process has transferred administrative programs and funds from the DIA to the band, and it has brought about a bureaucracy, which has not only led to a general sense of alienation of the band members from band management, but also diminished the function of the traditional decision-making process. Currently, the band's financial decisions resulting from the devolution process are nothing more than an extension of the DIA's control. Every program and the allocated budget is controlled by Canada, so that there is little room for the band council to implement its own plans. This has weakened the economic base of the community to the point where the Lil'wat Nation has virtually no bargaining power in the dialogue with Canadian institutions.

### **6.3. Future Directions**

A descriptive study such as this research project is not meant to generate normative conclusions. However, this final section covers some potentially important land use strategies for the Lil'wat Nation, based on the community's expressed ultimate goal, which is self-determination.

There are various opinions concerning the way to reach self-determination. While most Lil'wat people may agree that the long-term goal is to reconstruct their own decision-making authority, there is some disagreement with respect to the short-term strategies to be used in their relationship with the Canadian authorities. Similarly, while some native people insist that economic independence is the key to self-determination, others say that economic advancement along the lines of today's capitalist society will mean furthering the process of assimilation. As such, there is no single agreed-upon formulation for self-determination.<sup>61</sup> With respect to future

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<sup>61</sup> Predicting future directions is inevitably difficult, as can be seen by a number of questions raised by Sanders (1996) regarding the larger historical context: Why has the post-war period seen a revival of concerns about ethnicity, ethnic nationalism, religious "fundamentalism", aboriginal rights, and issues of cultural identity and difference?: Were both liberal and Marxist assumptions on modernization wrong?: Will the new deference to cultural pluralism continue?: or, Is this a transitional phase in a longer-term pattern of modernization and assimilation? For aboriginal peoples, the very struggle to compete with the Canadian mainstream often makes native people choose to stay in or return to the traditional way of

directions, three levels of concern among Lil'wat people are addressed: (1) internal agreement, (2) framework of relationship with Canada, and (3) economic development.

*(1) Internal Agreement*

Consensus among the people of the Lil'wat Nation is important when making any future projections. In the long-run, rebuilding a sense of cohesiveness in the Lil'wat Nation may need the development of a sense of cultural identity through the advancement in education. Promoting cultural identity through education will foster a sense of pride among the members of the Lil'wat Nation.

Of immediate concern is resolving a number of political divisions among community members. Due to those internal divisions, many former leaders of the 1970s and 1980s have withdrawn from political life, which has translated into a significant loss of moral authority and leadership for the native community.

Furthermore, currently, a large part of the people are indifferent to political issues. This may be partly due to economic difficulties that have eroded native people's sense of hope and motivation. Immediate and effective action is required in order to restore a viable level of political participation.

*(2) Framework of Relationship with Canada*

Chapter One presented the different views expressed by Lil'wat Nation community members concerning the BC Treaty. A similar range of disagreement can be found in the community's views on the possible framework of relationship with Canada. It is this author's opinion that, in order for the Lil'wat community to reach an informed consensus on the desired type of relationship with Canada, a solid knowledge of traditional property rights and their changes must occur and must be shared by all community members. This knowledge can help

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life. As Eller and Coughlan (1993) mentioned, ethnicity is a political process, emerging and coalescing within political struggles. These struggles generate emotional intensity, which, in turn, reflects back onto ethnic group identity. This applies very well to Canadian social order, as identified by Porter (1965) under the term of "vertical mosaic." Different racial and ethnic groups are organized vertically by class: people of White Anglo-Saxon Protestant origin sit at the top of the hierarchy, while aboriginal people are at the bottom.

the Lil'wat people articulate their aspirations for a better future.

As illustrated earlier in Chapter One, traditional property rights are based on the aboriginal worldview. Traditional authorities accompanied by traditional institutional arrangements governed traditional land use activities. In-depth information needs to be acquired concerning both the contents of the traditional property rights and the formation of authority. At the same time, it is important to understand the changes in property rights. Changes in Lil'wat's property rights have been the focus of this study. The following factors have been identified as influencing property rights: overall changes in the people's way of life, the presence of dual authority, the Canadian policy of assimilation, and native people's struggle towards self-determination. Future studies, using different research methods, may reveal the existence of some already entrenched modern aspects of Lil'wat's life. Although relatively recent, those changes in favour of modernity may be found to be irreversible. The analysis of property rights and their changing dynamics can help the Lil'wat community generate informed strategies in terms of what they need to protect, revive, or create in order to attain self-determination.

The strategies drawn from a study on property rights are particularly important if the Lil'wat Nation chooses to start a dialogue with the Canadian governments. For example, those strategies could serve as a basis for the BC Treaty if Lil'wat chooses to participate in the treaty-making process. Treaty negotiations are bound to cover the issue of distribution of authority over the traditional territory. The analysis of property rights may also help native people articulate the contents of 'aboriginal rights' from the point of view of the Lil'wat Nation. This will be an important step given the fact that the definition of aboriginal rights is still ambiguous and often limited to the withdrawal activities, such as fishing, hunting and gathering, without the specification of management authorities.

In Canada, a rights-based legal arrangement may be the only way to involve the Canadian people into a constructive dialogue. "Aboriginal rights" are an evolving concept, although the content of aboriginal rights has been narrowly defined by the Court (see Chapter 1). In fact, the most recent court decision, the *Delgamuukw v. British Columbia* by the Supreme Court of Canada in December 1997, may bring a new light on the issue of aboriginal rights and title by suggesting that aspects of cultural heritage can be incorporated as evidence for establishing aboriginal rights and title. Sanders (1996) argues that aboriginal peoples have been

employing the process of litigation in an attempt to advance their own cause. At the same time, the concept of aboriginal rights has been accommodated by the provincial and federal governments because, as a modern state, Canada fosters a fundamental respect toward minority cultures. As such, it has been in the national interest to accommodate aboriginal rights, acknowledge the differences, and promote integration.

*(3) Economic Development:*

The people of the Lil'wat Nation agree to the need to end the state of economic dependency, thus reducing the high rate of welfare recipients. However, it is difficult to reach a consensus on the most effective way to achieve economic independent. Typical disagreements centre around the questions: (a) whether the Lil'wat Nation should depend on governmental funds, and (b) how governmental funds should be used. In place of governmental funds, some community members propose the revival of a self-support economy based on fishing, hunting, and farming. Others advocate the construction of small-scale economic projects by utilizing regional resources. Finally, for some, a total rejection of governmental funds is not a realistic option. They criticize the DIA's control over the governmental funds and believe that the DIA can be persuaded into giving the native community more discretionary power in the administration of those funds. It is hoped that this may lead to the creation of a new economic base under native control. In any case, these arguments are closely related to the authority issue, the relationship between the Lil'wat Nation and the DIA or Canada.

Although only the people of the Lil'wat Nation can choose a path for their economic development, it may be worth considering an on-going economic plan as an example. Currently, a group of people in the Lil'wat community are initiating an economic project that does not depend on governmental funds. They advocate that, even with limited resources, they can start some grass-roots economic projects. The Association for Sustainable Aboriginal Planning (ASAP) is an example of such a community-based initiative (see also *Appendix 3*). The ASAP aims at helping the people in the Lil'wat Nation set up an autonomous commercial project involving the construction of a gas station, restaurant, and an aboriginal art shop. Fund raising, volunteering, and awareness raising have been done by members of the ASAP who intend to contribute to the general process of increasing a sense of identity, pride, and confidence among

the people of Lil'wat. They hope that the project will help the people of Lil'wat in their efforts toward self-determination, autonomy, and a higher degree of control over their land and resources. They also hope that other native communities may find a source of inspiration in this project and may try to implement some of these initiatives in accordance with their specific local conditions.

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***Appendix 1. The Contact Letter***

Akihiko Nemoto  
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V6T 2B9  
phone: 224-0776

November 27, 1993

Chief and Council  
Mount Currie Indian Band  
P.O. Box 165  
Mount Currie, B.C.  
V0N 2K0

Dear Chief and Council:

My name is Akihiko Nemoto. I graduated from Hokkaido University in Japan where I received the Master's degree in Forestry. Currently, I am a doctoral student in the Department of Forest Resources Management at the University of British Columbia. I have studied forest management and policy. My major research interest is community-based forest management systems.

In my doctoral thesis, I intend to explore the traditional and current land use practices of the native people of British Columbia and to focus on Indian Reserves as the only land base under their control. The research is expected to not only identify some features of contemporary land use practices by native peoples, but also provide basic information to the stakeholders in the land claims' process (i.e. aboriginal peoples, governments, resource industries and concerned citizens) which will help them in finding a reasonable direction to settle their interests.

With respect to forest resource management, it has become obvious that the imposition of 'scientific' management regimes falls victim of its own complex web of ecological relationships to the natural resources. Also, the resource management by large corporations has not been capable of either administering forest resources in a sustainable manner, or generating long-term benefits to regional economies. In this context, I believe that a forest management strategy that welcomes the participation of the local community and incorporates their traditional systems will contribute to the realization of 'sustainable development.'

In British Columbia, native peoples have been virtually excluded from land management in their traditional territories, which are now Crown Land. Recently, however, through the constitutional recognition of aboriginal rights, and the natives' efforts to regain their own rights, the re-allocation of property rights between native and non-native people has become one of the most important issues in Canadian politics. From my perspective, the issue has significant consequences on three distinct levels: the social and economic well-being of the

native peoples, human rights in general, and the achievement of sustainable resource management.

The land claim process, however, has been slowed down by groundless doubts about the ability of the native peoples to manage their natural resources. Although a number of native speakers have repeatedly described their relationship with nature as one based on a cyclic and holistic philosophy and on communal use, their arguments have not made a strong impact on the non-native community. One of the reasons may have been the lack of comprehensive research on the current land use practices by native peoples. It is high time that such an investigation was undertaken, especially in the light of the evolution of the land claim process.

Clearly to address these problems comprehensively for the whole province of B.C. would be an impossible task for someone in my situation with limited time and resources. However, I believe much can be learned by studying the land use philosophy and practices of one native community in detail. The Mount Currie Band has a long and continuing association with the forest lands over a considerable territory and would provide, I believe, an interesting and rewarding focus for my work. I seek, therefore, your permission to work with you and your people in this endeavour.

Please find attached herewith my 'thesis proposal', which explains in further detail my research interests. I hope that it will be possible to meet with you soon. I would appreciate the opportunity to discuss my thesis with you in more detail and benefit from your suggestions based on your experiences in these matters.

Finally, let me mention that my research project is conducted under the coordination of:

Supervisor:

Dr. David Haley (Faculty of Forestry),

Committee Members:

Dr. John Borrows (Director, First Nation Law Program, Faculty of Law)\*,

Dr. Alan Chambers (Faculty of Forestry),

Dr. Michael Kew (Department of Anthropology and Sociology).

Thank you very much for your attention to this matter. I look forward to receiving your reply in the near future.

Yours, sincerely

Akihiko Nemoto

\* Dr. John Borrows served briefly on Mr. Nemoto's committee during the preliminary stage of problem formulation in 1993-94. He stepped down in 1994 to be replaced by Dr. David Tindall (David Haley, April 1998).

*Appendix 2***Mount Currie Indian Band****Lil'wat Land Law<sup>62</sup>**

**WHEREAS** the Mount Currie Indian Band (the "Band") has had its own customs, rules and proceedings relating to the use of Mount Currie Indian Band land;

**AND WHEREAS** the Land Management Portfolio of the Band has prepared this land law as a reflection of previously existing laws of the Indian People of Mount Currie;

**AND WHEREAS** at a general meeting of the Band, held March 23, 1986, the Band membership has approved the land law hereinafter set out, and has approved that the Indian Government of the Band will continue, in the future, to assert jurisdiction over the use of Band land;

**NOW THEREFORE** the Council of the Band, in accordance with the wishes of the members of the Band enacts as its law the following land law:

**A. DEFINITIONS:**

"Band"	means the Mount Currie Indian Band;
"Council" or "Band Council"	means the elected council of the Mount Currie Indian Band, and includes the Chief Councilor;
"Family"	includes grandparents, parents, siblings and children of any Band member;
"Family Land"	means land in the Reserve which has been used and occupied by a family;

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<sup>62</sup> This is a draft written in 1986 in response to the resolution of band general meeting on March 23, 1986.

“Land Management Board”	means those persons appointed by Band Council Resolution or by election of the Band, as the case may be, to perform duties and functions under this Land Law:
“Land Management Portfolio”	means those persons appointed by Band Council Resolution to perform duties and functions under this land law:
“Land Registrar”	means the person appointed by resolution of the Band Council to perform the duties and functions under this Land Law:
“Land Use Plan”	means the Mount Currie Reserve Land Use Plan prepared in May, 1982, attached as Schedule “A” to this Land Law:
“Reserve”	means all those lands set aside for the use and benefit of the Mount Currie Indian Band:

**B. ZONING:**

1. The land within the Reserves will be zoned for use according to the Land Use Plan.
2. The Land Use Plan may be amended from time to time by Resolution of the Council, after such amendments have been approved at a meeting of members of the Band. Thereafter the amended Land Use Plan shall form part of this Land Law.
3. Any use of Reserve land by a Band member (provided that the Band member has had historical use of the land) which, at the time of coming into force of this Land Law, conflicts with the Land Use Plan, will be considered as a non-conforming use. Such non-conforming use may be continued, PROVIDED HOWEVER THAT any change to the historic use which is contrary to the Land Use Plan is also contrary to this Land Law, and shall be dealt with in accordance with Clause L(2), hereof.
4. Band land within the Reserve shall only be developed according to the uses specified in the Land Use Plan.
5. If a Band member wishes to develop Band land for any particular use, he or she shall apply to the Land Management Board.
  - a. The application shall state the desired use of the land, the length of time the Band member wishes to use the land, and any proposed license fee.

- b. The Land Management Board will review the proposal, and discuss it with the Band member, making any necessary changes.
  - c. The Land Management Board will present the application to Chief and Council, indicating whether the Land Management Board approves or disapproves of the application.
  - d. The Land Management Board will consult with the Economic Development Portfolio as to any recommendation for a license fee for the use of the land to be attached as a condition for the approval of the application.
  - e. The recommendations of the Economic Development Portfolio will be submitted by the Land Management Board to the Band Council for approval or disapproval with the application.
  - f. Band Council will either approve or disapprove the proposal. If the proposal is rejected, no new application can be made for the same use for a period of six months from the date of Band Council's decision.
6. Except for the designated area in I.R. #7, as set out on the Land Use Plan, no timber shall be cut on any of the Reserves, whether for commercial or domestic use, without the approval of the Land Management Board.
- a. An application for a permit to cut wood by any Band member shall be made to the Land Management Board, who shall decide whether to issue a permit.
  - b. The Land Management Board shall charge stumpage rate for commercial use permits as established each year by the Economic Development Portfolio, with a base rate as at 1985, and variations made thereafter according to market conditions.
  - c. If the Land Management Board approves of the application, a permit will be issued by the Land Management Board. If the permit is refused, the Band member may appeal to the Council for a review of the decision of the Land Management Board. Such appeal shall be made within 30 days of the decision of the Land Management Board. Council will hear the appeal within 14 days of receiving notice of the appeal.



**C. PASTURE LAND:**

Pasture land on the Reserve will be opened for use by all Band members. Band Council may close such pasture land as and when it deems necessary for the purposes of restoring or upgrading the land.

**D. FAMILY LAND:**

1. Band members shall not register their land under Certificates of Possession pursuant to the Indian Act, but shall be governed by the provisions of this Land Law.
2. All land transactions involving family land will require the approval of the Land Registrar.
3. The Land Registrar shall approve the transfer of family land in accordance with the following conditions:
  - a. Family land will not be sold outside the family, unless all members of the family consent to such disposition. The land Registrar shall ensure that such consent has been obtained, on evidence satisfactory to the Land Registrar, before considering the transfer. If there is only one member of the family who is alive, the consent of that person's cousins, nieces and nephews must be obtained.
  - b. The Land Registrar shall approve any transfer of family land to other family members.
  - c. Transfers of family land shall only be to members of the Band.
  - d.
    - i. If family land on the Reserve is not being used and occupied by that family, in whole or in part, then any Band member may apply to the Land Management Portfolio to use the land.
    - ii. After receiving such an application the Land Management Portfolio shall prepare a report and make a recommendation to the Land Management Board who shall decide whether the applicant should be allowed to use the family land. In so deciding, the Board will contact the family and hold such interviews as it may deem advisable in an attempt to get agreement with the family on the

application.

- iii. If the Land Management Board cannot obtain such agreement with the family the issue will be referred to Band Council. Band Council may allow any other member of the Mount Currie Band to use that land for a certain period of time, including using the land for the purposes of a residence. Notice of such a decision will be given to the head of the family.
- e. Any transfer of family land will not be considered valid without the approval of the Land Registrar, and the proper forms filed in the Land Registry, as provided in Clause F, hereof.

4. Documentation on Historic Use:

- a. No transfer of any family land will be approved under this Land Law unless the Land Management Portfolio is satisfied that there is no dispute involving such land.
- b. No transactions or transfers of land will be approved unless the Land Management Portfolio is satisfied that the person transferring the land is fully aware of the nature and extent of the transaction.
- c. The Land Management Portfolio will document all areas held by a family, at the request of the family. The purpose of the documentation shall be to ascertain which family has the right to use and occupy such land.
- d. At the request of any Band member, the Land Management Portfolio will conduct a search into the history of any piece of land on the Reserve. Such history will include the taking of oral evidence, and searching documentary evidence as to title.
- e. Any member of the Land Management Board may conduct such an inquiry. If, in the course of such inquiry, there are disagreements as to the historic use or entitlement, a member of the Land Management Board shall meet with the parties to the dispute, and review the oral and documentary evidence surrounding the history of the land. The Land Management Board member will attempt to resolve such disputes, and make a decision as to land entitlement, if possible. If such a decision is reached, the Board will present a report to Band Council on the decision. The Band member may appeal this decision within 60 days of receiving notice of it. The appeal shall be heard

by the Band Council.

- f. If improvements have been made on land, which add to the value of land, in an area where there is a dispute as to the land, the individual making such improvements shall be compensated for those improvements by the person entitled to use the land, provided that the improvements were made with the consent and knowledge of the disputes.

**E. CHARGING LAND:**

No Reserve land will be used as equity for the securing of a loan, without the consent of the Band Council.

**F. LAND REGISTRY FORMS:**

1. Land Registry Form #1 shall be used in transferring land from one person to another. It shall also be used in the resolution of disputes.
2. Land Registry Form #2 shall be used when any Band member makes application to use Reserve land.

**G. TRANSITIONAL PROVISIONS:**

Any Certificates of Possession which have been issued prior to the coming into force of this Land Law shall be re-issued under the terms and conditions of this Land Law. Any and all uses of Reserve land by Band members shall only be authorized under the terms and conditions of the Land Law, which shall include agreements relating to the Xito'lacw Housing Project.

**H. ROAD AND EASEMENTS:**

1. The Land Management Portfolio, in consultation with Chief and Council as may be necessary, shall provide easements through Reserve land required for road, sewer, water, or

other community purposes. As far as possible, the Portfolio will obtain the consent of Band members when required to go through family land, provided that such consent shall not be unreasonably withheld.

2. All trails and roads through the Reserve shall be for the use of Band members, except such roads as are built solely by a Band member, for the specific use of a particular piece of family land. Band members are absolutely prohibited from fencing their property in such a way to prevent access to other parts of the Reserve, by other Band members. With the approval of the Land Management Board, any Band member may install a gate to the satisfaction of the Land Management Board, so that access is provided.

**I. AGREEMENTS WITH BAND EMPLOYEES:**

Band Council may enter into agreements with any Band employee who is not a Band member for the temporary use of Reserve land for residential purposes. The rates charged for such land shall be similar to those charged under the Tenancy Agreement for the trailer court.

**J. ALL LAND REQUIRED:**

The Band declares that all Reserve land is required for the use of buildings, gardens or for the more convenient use of buildings located on Reserve.

**K. LAND DISPUTES:**

1. In addition to Clause 4 hereof, there shall be a procedure established for the resolution of disputes as to land entitlement on the Reserve. The disputes which shall be resolved in accordance with this procedure shall be the following:
  - i. Inter-family disagreements;
  - ii. Disagreements between one family and another;
  - iii. Disagreements between the Band, as represented by Band Council, and a family or family members.

2. The objective of this procedure shall be to clarify the existing land holdings in a manner satisfactory to Band members, and without the involvement of outside parties.
3. The head of the Land Management Portfolio will be responsible for meeting with members of the Band and charting the existing land holdings on the Reserve. As part of this procedure, it will be necessary to try to resolve all outstanding disputes by hearing both sides of the issue and coming to a resolution. The charting of the existing land holdings will involve both mapping and documenting the land holdings. This task may be delegate by the head of the portfolio to a staff member.
4. If the Land Management Portfolio is not able to resolve the disputes as to entitlement, the question shall be referred to a panel consisting of Chief and Council and the Land Management Board. The families involved in the issue may meet with the Panel and present their viewpoints. The Panel will attempt to resolve whatever differences arise.
5. For issues which are resolved either by the Land Management Portfolio or by the Panel, there will be a document which will certify the resolution of issues and the state of the existing land holdings. Once certified, it will be entered in the records of the Land Registry, and be considered proof of entitlement to the land.
6. If there is an unresolved dispute over the ownership of the land, no transfer shall be made until that dispute is resolved.
7. The Land Registry office will be responsible for the custody of all documents concerning Reserve land. The Land Registry shall also be in charge of the documents dealing with other land alienations on reserve (such as hydro agreements, roads, spurline agreements etc.). Survey plans and maps shall be kept in the Land Registry office.
8. The person appointed as Land Registrar will obtain a commission for taking oaths as notary public. In that way, statutory declarations and affidavits can be certified by the Land Registrar and have the force of law.

**L. ENFORCEMENT:**

1. This Land Law shall come into force on a day fixed by Resolution of the Band Council.
2. If any Band member acts in breach or in violation of the provisions of this Land Law, the

Band Council, by notice served on the Band member, shall require the attendance of the Band member at a duly convened meeting of the Band Council. Band Council may impose such sanctions on the Band member as it deems meet, including, but not limited to the cancellation of any permission to use Reserve Land. The penalty imposed by Band Council shall be confirmed at the next general meeting held after the meeting of Band Council.

### *Appendix 3*

## **A Proposal for the Foundation of The Association for Sustainable Aboriginal Planning (ASAP)**

### **1. Why we need it?**

Don't you think that we are trapped in a vicious circle in which the welfare system discourages us from improving our own life? Don't you think that we are about to lose our culture, traditions and even our pride as human beings? Isn't it sad to see people living from hand to mouth without much hope in the future?.

Have we already given up? No! The 1990 road blockade, for example, has shown us that we still have the power to fight together as a family of Lil'wat Nation, and to concentrate our strength in a certain direction.

You know, we have a lot of land to cultivate. We have abundant nature around us that waits to be utilized. We have a lot of skills we can use. That means we do have enough resources to support ourselves. All we need is an idea and the courage to take advantage of our wonderful resources. Why don't we give it a try?

Here is an idea that is called ASAP. ASAP helps people to get out of the vicious circle. How? The answer is simple - by earning our living through using our own resources. The important thing here is that we should start with small projects that everybody can participate in. Even if the ASAP's projects are small in the beginning, we can be proud of ourselves because we can feel we are part of it. Then, if things go well, the projects can get bigger and bigger. In any case there is nothing to lose. So, let's find out what the ASAP is.

### **2. Purpose of the ASAP**

ASAP aims at improving:

- (1) self-control over regional resources,
- (2) independent family economy through job creation, and
- (3) social and economical improvement of our community.

### **3. Outline of the ASAP**

ASAP consists of members of the Lil'wat Nation managing a trust fund. The management of the fund is based on the "priority system", defined on a project-by-period basis. The sources of the fund are:

- (1) benefits from projects.
- (2) ASAP membership fees, and
- (3) contributions from people outside of the community.  
(e.g. Friends of ASAP in Vancouver and elsewhere)

Any ASAP project will be reported at the meetings of the General Assembly who can direct and finalize the projects, and reflect the people's concerns.

### **4. Priority System**

Although the priority among various ASAP projects is subject to consultation with the General Assembly, two initial projects have been set up:

- (1) Gas Station Project (1st stage).
- (2) Produce Store Project (2nd stage).

These may be followed by other projects, such as: creation of agricultural fields for people's gardening, construction of green house for organic vegetables (which are currently in significant demand in urban areas), revival of traditional food, herb and medicine (including secondary products), the establishment of Indian Art shop (to support Native craftsmanship), development of forestry system on reserve lands, etc.

#### **(1) The Gas Station Project**

This is an initial project for the ASAP. The profits from this project will support other ASAP projects.

A gas station on the reserve presents the following advantages:

- 1) strategic location - along the main highway in the area.
- 2) tax free (less tax?) - it can easily compete with off reserve gas stations in price.

The initial investment for this project and the running costs in the first short-term



period are expected to be supported by the people on and off reserve - not only in Canada but also elsewhere in the world.

## **(2) The Produce Store Project**

One problem that has already been noticed is that the money for everyday consumption immediately leaves the community because of the lack of market places in the community. The Store that will be created will purchase commodities from whole sellers and resell them to people both on and off reserve. We will have the different prices between our people and others.

Also, the Store will buy local products such as extra vegetables from people's gardens, traditional vegetables, herb and berries from the woods nearby. The Store also intends to produce secondary products from them, and to sell them to people not only at the Store on reserve, but also at Whistler, Vancouver, and even outside of Canada. In this sense, the Store will become a sort of middleman, playing the role of both selling and buying, to utilize our own resources.

The Produce Store can encourage gardening activities. In this stage, the creation of fields can be supported as part of the ASAP project. Also, the market encourages people's traditional activities such as hunting and gathering. If this is going well, the market can expand to deal with traditional arts and crafts. At this point an Art Shop project could be developed. More importantly, through these ASAP projects, we can regain part of our cultural identities.

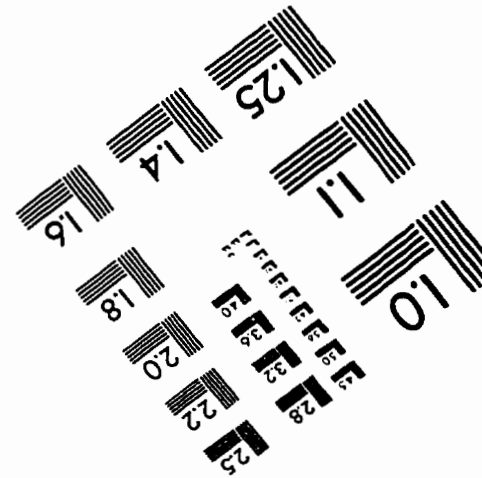
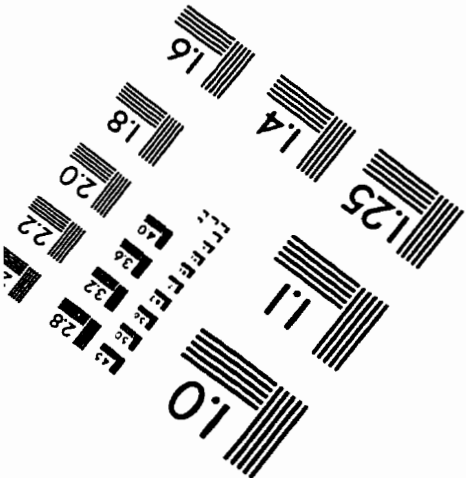
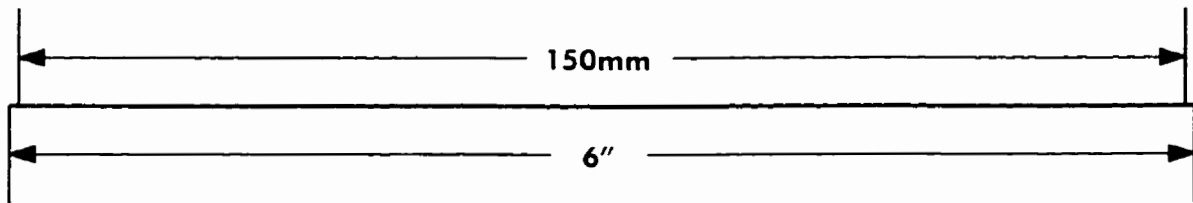
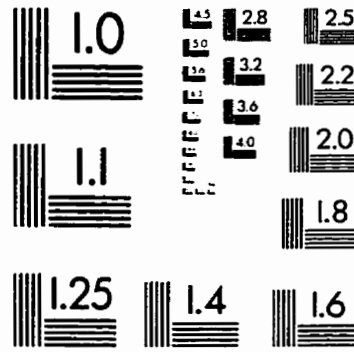
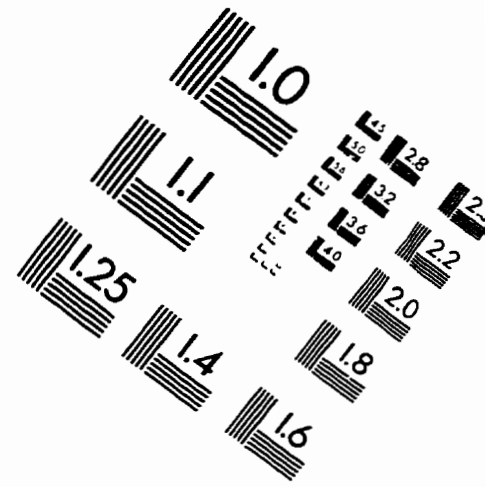
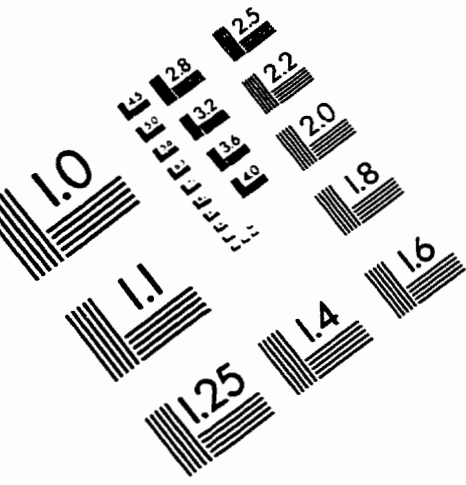
## **5. Account System**

It is essential for the ASAP to have a clear and explanatory account system using a well trained accountant. A financial report of the ASAP should be published at least annually.

## **6. News Letter**

The ASAP will have the obligation to issue reports of its activities to all ASAP members, the major contributors, and other Native communities. Whether or not our initiative is successful, our experience and endeavour will be an example for our children and for people in similar situations.

# IMAGE EVALUATION TEST TARGET (QA-3)




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