

**CO-MANAGEMENT AND PROTECTED AREAS IN CANADA:  
THE CASE OF GWAI HAANAS**

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## **Abstract**

This study evaluates the likely success of the Canada-Haida (Gwaii Haanas) Agreement, based on a set of developed criteria. It is one of the first co-management agreements reached in Canada for a nationally significant protected area.

The notion of co-management springs from recent critiques of conventional approaches to common property resource management. These state-level approaches have long been aimed at avoiding the "Tragedy of the Commons". However, a growing number of critics are questioning both their effectiveness and the fundamental assumptions on which they are based. At the same time, traditional, community based approaches to the management of common property resources are being "rediscovered".

A new blending of the two systems is emerging, in the form of co-management. It is being eyed with growing interest as an alternative and potentially more sustainable means of managing common property resources. Over the past two decades, several co-management agreements have been negotiated with First Nations for fish and wildlife, particularly in the North.

More recently, four such agreements have been negotiated for protected areas. One of these is the 1993 Canada-Haida (Gwaii Haanas) Agreement, reached between the Government of Canada and the Council of the Haida Nation after six years of complex negotiations. In terms of shared decision-making power, it is the most far-reaching co-management in

Canada to date.

Evaluative criteria against which to measure the Canada-Haida Agreement were developed from a literature review on common property resource management. A case study approach is used to describe the Agreement in its political, cultural and biophysical context. This case study is based on a series of multiple, semi-structured interviews, augmented with literature when necessary.

Based on ten criteria, or principles of success, it is determined that the Agreement is likely to be successful (to achieve its goals) in the long term. However, the criteria concerning the Agreement's enforcement and decision-making provisions and the representation of third parties, are not clearly met. These provisions represent both the strength and the weakness of the Agreement, and are probably a natural consequence of its basic nature.

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**LIST OF ACRONYMS**

**AMB:** Archipelago Management Board

**CHN:** Council of the Haida Nation

**CPS:** Canadian Parks Service

**ELUC:** (B.C.) Environment and Land Use Committee

**IPS:** Islands Protection Society (formerly Islands Protection Committee)

**MOU:** Memorandum of Understanding

**RPT:** (South Moresby) Resource Planning Team

**TFL:** Tree Farm Licence

**WAC:** Wilderness Advisory Committee

**WFP:** Western Forest Products

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## 1.0 INTRODUCTION

In July of 1987, the Federal Government and the Province of British Columbia signed an historic agreement to create what was then called the South Moresby National Park Reserve. This Memorandum of Understanding was the culmination of almost fifteen years of often bitter conflict over the protection of Gwaii Haanas (the South Moresby Archipelago), a spectacular 147,000 hectare wilderness area in the southern Queen Charlotte Islands, also known as Haida Gwaii.

That evening, as a celebratory potlatch in Skidegate drew to a close, the Haida, government officials, environmentalists, and many other stakeholders who had been drawn into the vortex of the conflict over the previous decades, heaved a collective sigh of relief and prepared to get on with their lives. However, as they were soon to discover, the struggle was far from over.

During the next several years, a new, somewhat quieter, but no less complex phase of the conflict was to ensue. At its heart was the question of sovereignty. Although Gwaii Haanas was finally protected from industrial logging, the question of whom--the Haida, or the Federal Government--had ultimate jurisdiction over the area, remained highly contentious.

At the end of the day, this conflict, too, has been resolved--at least, for the the time being. The impasse was officially broken on January 30, 1993, when the Minister of State for the Environment and the President of

the Council of the Haida Nation signed the Canada-Haida Agreement on Gwaii Haanas/South Moresby. It is an agreement to share responsibility for, and co-operatively manage, the Archipelago.

At the time, four national protected areas co-operative management agreements existed in Canada. However, the Gwaii Haanas Agreement is innovative and unique. It represents perhaps the highest level of "true co-management" for any protected area in Canada between the Government and a First Nation. With this agreement, decision-making really is shared equally. The nature of the Gwaii Haanas Agreement, and the way in which it was reached, has profound implications for government policy-making and aboriginal sovereignty. If the co-management system established under this agreement is successful, it is likely that other First Nations across Canada will seek similar arrangements.

### **1.1 Purpose and Objectives**

The purpose of this research is to determine the likely success of the Gwaii Haanas Agreement, based on a set of general co-management principles or criteria for success. Specific objectives related to this purpose are twofold. First, the study seeks to identify a set of general principles or criteria for success in co-management. The second objective is to describe the case study, providing a comprehensive picture of the historic events, issues and obstacles that unfolded before and during the negotiations leading to the eventual signing of the Gwaii Haanas Agreement

## **1.2 Scope**

The focus of this study is on the Gwaii Haanas Agreement and the history of negotiations leading to its development. This study does not identify how well, poorly or thoroughly the agreement has been implemented over the past two years. This is because, first and foremost, only two seasons have passed since the agreement was signed. This is far too brief a time period in which to properly evaluate the agreement's effectiveness. Second, such an evaluation would require an additional, extensive phase of field work. In terms of time, cost, and labour, such additional research goes well beyond the feasible scope of this project.

An additional focus of this study is on protected areas co-management as it relates to the emerging theory of natural resources co-management generally. No attempt is made to provide a comprehensive survey or even a summary of all the various co-management regimes which are beginning to emerge for resources such as fish, wildlife, tourism, or forests. However, a description is provided of the other three national protected areas in Canada for which co-management agreements have been recently negotiated to date. This description is necessarily brief, as there is a paucity of literature for these and other co-managed protected areas.

## **1.3 Organization of the Report**

The report is divided into nine major sections, including this introduction. Chapter 2 reviews common property resource theory as it applies to conventional resource management, and some of the major critiques aimed at conventional approaches in recent years. This sets the stage for an alternative and relatively new approach: the practice and emerging theory

of co-management, discussed in Chapter 3. Chapter 4 then extends the discussion of co-management to focus specifically on protected areas in Canada. Chapter 5 outlines the methodology used for this study, and its strengths and weaknesses. Then, based on the literature reviewed in the previous three chapters, a set of principles or criteria is established by which the probable success of a protected areas co-management system may be measured.

A case study of co-management in Gwaii Haanas is provided in Chapter 6. It outlines the history and culture of Haida Gwaii, and the landmark struggle to preserve the area from systematic clearcut logging. Chapter 7 sets out a detailed description of the complex negotiations leading to acceptance in 1993 of the Gwaii Haanas Agreement. In Chapter 8, that agreement is assessed against the criteria for success identified in the literature review. Finally, preliminary conclusions and an outline of a further research agenda related to protected areas co-management is described in Chapter 9.

## **2.0 MANAGING COMMON PROPERTY RESOURCES**

### **2.1 Introduction**

For nearly three centuries, conventional Western management regimes for fish, wildlife, hinterlands and other so-called "common property resources" have been aimed at avoiding what Hardin (1968) termed "the Tragedy of the Commons." However, events such as the collapse of the Atlantic fisheries in Canada and the failure of many international development projects overseas, as well as growing public demands for significantly greater local participation in resource decision-making, have led to serious critiques of the philosophical, theoretical and empirical bases of conventional, centralized Western approaches to common property resource management. This is certainly true in Canada, where First Nations are developing considerable legal and political power, and in many cases are demanding exclusive control over the ways in which resources are allocated and decisions are made in their ancestral territories.

At the same time, a renewed interest has developed over the past decade in traditional, non-Western management regimes for common property resources, many of which endured for hundreds, if not thousands, of years. An emerging paradigm in common property resource theory has given rise to new joint or "co-management" approaches which blend features of both conventional and traditional management systems.

The purpose of this chapter is to expand on this discussion of common property resource theory. This will "set the stage" for a comprehensive

treatment of co-management in Chapter 3 as a promising alternative approach to managing common property resources such as parks.

## **2.2 Resource Management and the "Tragedy of the Commons"**

In conventional economic theory, common property "refers to a category of things which no one can make a property claim and to which no one can be excluded from access or use" (Griggs 1991:12). Thus, the contemporary Western understanding of common property has generally been held to indicate resources which are open-access free goods, 'owned by everyone and therefore no one' (Berkes and Farvar 1989:7). This understanding of the term, coupled with the belief that all people are inexorably driven to act in individual self-interest, has laid the foundation for current approaches to the management of common property resources such as fish, water, wildlife, and parks. Management of these resources has traditionally been aimed at avoiding the 'commons dilemma', or what Garrett Hardin's now-famous paper called "The Tragedy of the Commons" (Hardin 1968).

In 1968, following the work of Canadian fisheries economist H. Scott Gordon (1954) and other resource managers, Hardin vividly captured the prevalent belief that all common property resources were doomed to overexploitation and degradation by users acting in rational self-interest, even at the expense of the common good. Hardin's thesis was summarized well by Berkes and Feeny (1991: 48):

Imagine a village commons, said Hardin, in which a number of herders graze their cattle. What is to stop the herders from adding more animals to their herds? Each herder would find it very attractive to augment his or her herd, even if this meant that the carrying capacity of the grazing area would eventually be exceeded. For each herder as an economically rational decision maker, it would be profitable to graze



more animals because the herder would take all the profit from the extra animals but would bear only a fraction of the cost of overgrazing. Thus, individual rationality would lead to a collective tragedy (in the sense of ancient Greek tragedies) from which there was no escape, declared Hardin.

The only way to avoid the tragedy of resource over-exploitation, Hardin argued, was either privatization or state control (Hardin 1968).

Hardin's model was both powerful and simple, capturing key aspects of many diverse common property resource problems, and demonstrating the potential divergence between collective and individual rationality (Ostrom 1990:6; Berkes and Feeny 1990:48). The "tragedy" model and its proposed remedies of privatization or state ownership outlined the framework of understanding of resource managers and environmentalists for decades afterwards. Indeed, Griggs (1991:12) points out that the 'commons dilemma' "has now assumed sufficient proportions to be accepted as a paradigm unto itself..." As Berkes and Feeny (1990:48) go on to explain,

Few questioned Hardin's assumption of individual interest unchecked by social relations, and his emphasis on competition (rather than cooperation) as the overriding relationship that shaped interactions among resource users. The tragedy of the commons became an important part of environmental education and applied resource management curricula, and provided the essential insight for the genesis of environmental problems for generations of students.

Indeed, centralized state control or the privatization of commonly-held resources are still widely thought to be the only policy solutions to what would otherwise lead to the inevitable tragedy of over-exploitation (Ostrom 1990:7). An article in *The Economist* in 1988 stated that, in order for fisheries to be managed successfully, it must be recognized that "left to their own devices, fishermen will overexploit stocks," and "to avoid disaster, managers must have effective hegemony over them" (cited in Ostrom 1990:8).

If Hardin's model were correct, then this conclusion would certainly be justified. However, simple models, though clear and powerful, are often not transferable to complex, real-life scenarios. Indeed, Hardin's thesis does not withstand empirical observation, and many of its implicit and explicit assumptions have been challenged extensively in recent years (Griggs 1991:17).

### **2.3 Critiques of Conventional Resource Management Approaches**

Scholars and resource managers have offered up a number of critiques in recent years of both Hardin's thesis and the assumptions which underlie it. These are discussed below. Taken together, they build a strong argument for the exploration of alternative management approaches for resources such as parks, fisheries, and other "common property" resources.

#### **2.3.1 Competition vs. Cooperation**

One key, explicit assumption of the "tragedy" model is that individuals will always place self-interest above that of the common good. The pursuit of self-interest, even at the expense of the collective, is viewed as being a natural, instinctive human quality, and therefore unavoidable. In Western culture, this perspective has often seemed justified. Even Aristotle, over two thousand years ago, observed that "what is common to the greatest number has the least care bestowed upon it. Everyone thinks chiefly of his own, hardly at all of the common interest" (Politics, Book II, ch. 3, cited in Ostrom 1990:2).

This view became particularly prevalent in early industrial European society. With the dawning of the Reformation and Scientific Revolution in

the 17th Century, human beings were increasingly seen to be not divine creatures of God, but creatures of Nature, operating in rational self-interest, both reflecting and being shaped by an impersonal and mechanized universe (Tarnas 1991). In their natural state, humans and nature were characterized by Thomas Hobbes in his major work *Leviathan* (1651) as being fundamentally violent and competitive, a perspective which continued to be shared by others, from Charles Darwin to Adam Smith, centuries later. According to Hobbes and others, it followed that a superior external authority, or "*Leviathan*", was necessary to force people to act in the common good, as they were not capable of such action on their own (Berkes and Feeny, 1990:49-50).

Although this view of fundamental human nature is only now beginning to change, it has been occasionally challenged even in Western political philosophy. The Swiss-born philosopher Jean-Jacques Rousseau, in the mid-16th century, asserted in *The Social Contract* (1762) that human nature was *not* essentially competitive, but rather *cooperative*. He argued that, when uncorrupted by civilization, humans were kind, gentle, truthful, and egalitarian (Tarnas 1991:312). Rousseau envisioned a society in which authority was not externally imposed, but was located *within* self-regulating communities and individuals, behaving according to their true natures (Berkes and Feeny, 1990:50).

Peter Kropotkin, a Russian geologist, ecologist and political activist, also argued against the centrality of competition in human and ecological relations. In his most famous book *Mutual Aid: A Factor in Evolution* (1902), Kropotkin maintained that although the struggle for existence was

important, mutual aid was by far the dominant factor in evolution. To support this, he pointed to numerous examples of successful communal institutions, ranging from ancient communal fisheries to 19th century trade unions (Sekelj 1992:369; Berkes and Feeny, 1990:50).

### 2.3.2 The Evidence: "Rediscovering" Traditional Management Regimes

Regardless of whether humans are essentially competitive or cooperative, the assumption that the unregulated exploitation of common property resources leads inevitably to disastrous "free-for-alls" simply fails to withstand empirical observation. This is because the 'tragedy' thesis ignores the moderating influence of culture and society on individual human behaviour -- despite abundant evidence of their importance. As Kropotkin observed, there are hundreds of societies, ranging from the Arabian peninsula to the Canadian North, that have successfully managed communally-owned resources for centuries. Intimate knowledge of the resource, custom and tradition tend to form the basis of such 'self-regulated' systems, and enforcement is generally achieved through peer pressure and other social sanctions. Historically, government agencies have not recognized the validity of local management systems, although this is beginning to change (Berkes *et al.* 1991:12).

There are countless examples of apparently successful, enduring traditional management regimes. In the northern Ilocos provinces of the Philippines, small irrigation-sharing societies called *zanjeras*, built and managed collectively by local communities, have existed for decades (Siy 1982, cited in Cruz 1989). Japanese coastal fishers enjoy guaranteed access to and collective 'ownership' of marine life in local waters,

through a complex system of time-honoured village customary rights and membership in local cooperative associations which has since been incorporated into modern legislation (Ruddle 1989). In Mexico, the Caribbean spiny lobster fishery has recently emerged as a heavily exploited regional industry. In many parts of the region, open-access situations have developed which appear to favour short-term over-exploitation of the resource. However, in the state of Quintana Roo, two local fishing cooperatives have developed a collective management system which limits access and grants individual property rights, yet still recognizes that the fishery belongs to the community" (Miller 1989:185).

In the village of Törbel, Switzerland, peasants privately own agricultural plots, but communally own alpine grazing meadows, forests, "waste" lands, irrigation systems, and the paths and roadways connecting these private and communally owned properties. During the summer, a small group of herders tend the village cattle and produce cheese, which is then distributed to the local cattle-owning families based on the number of cattle each has sent to pasture. This system, which dates back to at least the 11th century, is limited to local citizens, and sets out complex rules governing their rights and responsibilities in accessing and using communally-owned resources (Netting 1976, cited in Ostrom 1990:61-65).

These are merely a sample of hundreds of documented self-managed common property resource regimes, many of which have only recently been "rediscovered" (Berkes and Feeny 1990:50-51). For these cultures, cooperation and responsibility toward the community is the norm, even at the expense of individual needs and wants. This is certainly true for North

American First Nations. Yet, such mores fly in the face of Western industrial cultures, which tend to glorify unbridled individualism (Berkes and Farvar: 1989: 3-4; Grima and Berkes 1989:37). Moreover, these self-managed regimes tend to be stable and enduring, sometimes lasting for thousands of years. As Berkes and Farvar (1989:6) point out:

The truth is that traditional systems ... have been the main means by which societies have managed their natural resources over millennia on a sustainable basis. It is only as a result of this that we have any resources today to speak about.

### 2.3.3 Defining "Common Property"

In large part, the 'tragedy' model fails to account for the empirical evidence described above because of a misconception--or at the very least, a semantic debate-- about the definition of "common property resource." The conventional understanding of the term refers to *open-access* property which is 'owned by no-one and therefore everyone.' However, a growing number of critics assert that this definition reflects a fundamentally flawed interpretation of the institutional nature of common property (Griggs 1991:15). As Berkes and Farvar (1989:7) explain,

Use of the term 'common property' has been controversial. This is partly because of differences at the philosophical basis of traditional views as opposed to Western scientific resource management. The contemporary Western view is that property is either private or it belongs to the state. In this view, resources which are not amenable to private appropriation are called 'common property'. But contrary to traditional view, 'common property' in this sense does not mean that the resource is owned collectively by a group; it means it is not owned by anyone. It is a free good.

According to a second view, common property should be restricted to communally owned resources -- that is, those resources for which there exist communal arrangements for the exclusion of non-owners and for allocation among co-owners. Keeping this distinction in mind, there are at least four possible property regimes. These are described below.

*Open access property:* Resources subject to open access regimes are free-for-all, owned by no one. Rights to access and use the resources are neither exclusive nor transferable (Pearce and Turner 1990:249-250; Berkes and Farvar 1989:10).

*State Property:* State property is owned and managed by the crown or nation state. This may also include public resources for use rights and access rights have not been specified (Berkes and Farvar 1989:10).

*Private Property:* An individual or corporate body holds rights to ownership and management of a resource (Gibbs and Bromley 1989:24).

*Communal Property:* The resource is communally owned and managed by an identifiable group of individuals, usually a specific community, which will typically develop rules of use and limit access to the resource. (Berkes and Farvar 1989:10; Pearce and Turner 1990:249-250; Gibbs and Bromley 1989: 25).

Hardin, Gordon and other theorists and resource managers assume that common property resources are, by their very nature, open-access public goods. However, this is not necessarily so. In fact, it is unlikely; few open access regimes exist anywhere in the world. Even international oceans now fall under the jurisdiction of the International Law of the Sea, which sets out a framework of access and allocation rights for off-shore marine resources (Berkes and Farvar 1989). Moreover, the very concept of 'ownerless property' may be oxymoronic, even on theoretical grounds (Marchak 1985, cited in Griggs 1991:16). Many authors argue for a more restricted definition of "common property", limiting it to communally-owned resources (Griggs 1991:16-17; Grima and Berkes 1989:37).

Interestingly, Hardin's use of a medieval British grazing pasture to illustrate a typical open-access common property resource was historically incorrect. Several authors have pointed that the traditional English commons were not open-access, but were, in fact, strictly regulated. It was only with the passing of the *Enclosures Act*, and the

resultant privatization of the commons for sheep grazing and commercial crop production, that the 'tragedy' of unsustainable exploitation occurred (Cox 1985 and Marchak 1988-89, cited in Griggs 1991:17).

Notwithstanding the persuasive arguments for a rejection of the conventional understanding of common property resources, any impasse between the open-access and communally-owned definitions of the term can be avoided with a more general definition. Berkes and Farvar (1989: 7) use one which clearly applies to the protected wilderness area described in this research paper. It is "a class of resources for which exclusion is difficult and joint use involves subtractability." It is difficult to exclude access to a large wilderness area which is hundreds of square hectares in size. Moreover, if one considers the pristine wilderness experience of such an area to be a resource, then joint use beyond certain levels of visitation involves subtractability of the resource.

#### 2.3.4 The 'Neutrality' of Resource Management

Another set of criticisms of conventional approaches revolve around the underlying notion of resource management as being politically neutral and value-free. The "effective hegemony" of top-down state intervention is seen to be the rational, objective solution to the unsustainable, subjective behaviors of local resource users. Natural resource managers typically maintain that theirs is by contrast a neutral science, one aimed only at solving technical problems of resource conservation and allocation (Usher 1984:1).

However resource management is not value-free. Resource management



involves the allocation of resources, which by its very nature requires non-technical decisions about *which* individuals or groups of people may have access to certain resources, and how those resources may be used. Resource management systems are steeped in the attitudes, beliefs and world views of the societies from which they flow; they therefore vary from culture to culture. Moreover, an understanding of resource management regimes cannot be attained without reference to the underlying systems of property rights on which they are based for a given culture and political climate. As Usher (1984:392) points out

Put very simply, anyone who seriously believes that [resource management] is a purely scientific or technical problem, separate from the political process, and separate from the sphere of property rights, is operating in a world of fantasy and will never develop a workable management regime.

This is particularly important in Canada, where conflicts over the use and allocation of natural resources frequently involves aboriginal and non-aboriginal interests. As Usher (1984:390) explains,

... management is a prerogative that flows from the system of property. Every system of resource management is based on certain assumptions, frequently unstated, about social organization, political authority, and property rights, all of which are closely interrelated. As no two societies or cultures are identical in these respects, there can be no such thing as a scientifically or technically neutral management regime that is equally applicable and acceptable to both. Consequently, where two social systems share an interest in the same resources, there must be some accommodation in the sphere of property, as well as in the system of management, unless one is to be completely obliterated by the other.

## **2.4 The Need for New Approaches**

With the collapse of the Atlantic fisheries and a growing number of failures in international 'development' efforts, it seems clear that new approaches to the management of common property resources are required. 'Conventional, top-down' policy responses assume that state authorities have accurate, up-to-date information about the resource, effective

monitoring capabilities, reliable enforcement, and zero costs of administration (Ostrom 1990:10). These assumptions, of course, are almost invariably false. As a result, conventional resource management systems often fail to meet the needs of local resource users fairly and effectively, and to maintain sustainable use-levels of renewable resources on the ground.

Accurate and reliable data, for example, is difficult to obtain for resources which occur over large areas and vary in space and time. Scientific findings are inherently uncertain, and state-management agencies are not always critical, rigorous or objective (Freeman 1989:96). Despite this,

...decision-makers, grounded in the belief that science offers a powerful means of exerting 'control', and largely ignorant of alternative non-western cultural traditions, will necessarily remain partial to the advice originating from science-based state-management institutions. For their part, scientists are generally held to be purveyors of certified knowledge, and are unlikely to seek to diminish their professional stature by admitting to non-scientists the tenuousness of their findings. (Freeman 1989:106)

Centralized regimes also tend to be cumbersome and ineffective. State authorities simply do not have the resources to study every localized variation of the resource, pursue every user conflict or manage every aspect of complex local resource systems, particularly over large areas such as parks, forests or oceans. Moreover, once local users are deprived of responsibility for the resources on which they depend, opportunistic behaviors may become the norm, and unsustainable 'tragedy' scenarios are far more likely to develop (Ostrom 1990:36). As Gibbs and Bromley (1989:30) observe,

Governments have acted as if they had the capacity to manage resources down to the local level. However, this has created conflicts between local and national interests which individuals rationally exploit in the absence of common-property [communally-owned] regimes.

The resulting information and transaction costs can be high. Traditional community-based systems, on the other hand, can internalize these costs. In terms of enforcement, for example, social censure can be a powerful deterrent to opportunistic behaviour (Ostrom 1991: 36). As Grima and Berkes (1989: 49) point out:

The community has a built-in incentive to stay well within the biological limits of the resource which have been learnt by experience. The community also has at its disposal the requisite social coercive mechanisms to force compliance with expected harvests.

At the same time, some traditional, locally-based management regimes are not always equitable and effective, and may not make ecological sense. Sound technical information is often necessary for common-property resource management, particularly when more than one user-group or resource community is affected (Berkes and Farvar 1989:6). This is certainly true for public parks.

Moreover, the cultural, biophysical and political mosaic underlying many traditional regimes is rapidly changing. In many cases, community-based systems have been undermined or replaced altogether with competitive open-access conditions imposed by external forces (Grima and Berkes 1989:49). The problems created by this "shifting ground" are further compounded by growing ecological, technological, economic and population pressures, which may render many traditional systems untenable, unless they are highly adaptive (Berkes and Farvar 1989: 14).

It is also worth noting that in many parts of the world much traditional knowledge has been tragically lost. In Canada, for instance, European diseases were responsible for obliterating up to eighty percent of indigenous populations less than a century ago.

Increasingly, managers and theorists alike are calling for the development of new institutional arrangements which acknowledge differing property-rights norms for different cultures, and reflect variations in social systems and ecosystems. Such arrangements would also allow for more decentralized, participatory approaches to resource management (Gibbs and Bromley 1989:3; Berkes and Farvar 1989:14). Essentially, these new approaches would 'take the best of both worlds,' blending elements of both traditional and modern systems. As Griggs (1991:32) observes,

It must be recognized that there is much room for flexibility and hybrid approaches. Traditional systems should not be portrayed as static, rustic or parochial systems that constrain innovation and creativity. Rather, there is a great potential for what might be called 'intermediate institutional arrangements' that encourages mutual obligations within a community, and yet exist *with* government support, *despite* government support or that may be created by government regulation; no one approach is exclusive. Indeed, if new approaches are to be truly successful, it is essential that they are modelled according to context.

In several jurisdictions, including Canada, the "intermediate institutional arrangements" Griggs refers to are taking the form of "co-management".

### 3.0 CO-MANAGEMENT: THE NEW ALTERNATIVE

#### 3.1 Definition

Essentially, cooperative management, or "co-management", refers to some combination of centralized, state-level management, and traditional, local-level resource management systems (Berkes *et al.* 1991:12). Table 1, below, outlines key features of the two systems in their purest senses.

**TABLE 1: "IDEALIZED" STATE VS. LOCAL MANAGEMENT SYSTEMS**

State Systems	Local Systems
<ul style="list-style-type: none"> <li>• management is carried out primarily by a centralized authority, like a federal agency</li> <li>• management is based on scientific data and analysis</li> <li>• management uses the authority of government laws and regulation for enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• management is decentralized, locally-based and involve customary authority</li> <li>• management is based on traditional ecological knowledge</li> <li>• rule-making and enforcement occurs at the local level, and relies on consensus, self-regulation and social sanctions</li> </ul>

Source: Adapted from Berkes, 1994. *Northern Perspectives* 22:2-3 at p. 18.

More specifically, a joint stewardship or co-management regime can be described as an institutional arrangement covering a specific geographic area, where local users and the state agree to a system of reciprocal rights and obligations, a collection of rules indicating actions to be undertaken in different circumstances, and procedures and processes for collective decision-making (Osherenko 1988:13).

True or "pure" co-management involves real sharing of decision-making power. In practice, the degree of power-sharing between the state and local users can vary. "Weak" or incomplete co-management systems may

include some minimal level of public participation in government management of a resource. At the other extreme, co-management systems can involve the delegation of full management authority to the local level, with only as much government involvement as necessary (Pinkerton 1989:4; Berkes 1994:18). Table 2 illustrates the range of levels possible with co-management. These levels are listed in descending order, from "strongest" to "weakest".

**TABLE 2: LEVELS OF CO-MANAGEMENT**

<b>7. Partnership/Community Control</b>	Partnership of equals; joint decision-making institutionalized; power delegated to community where feasible
<b>6. Management Boards</b>	Community is given opportunity to participate in developing and implementing management plans
<b>5. Advisory Committees</b>	Partnership in decision-making starts; joint action on common objectives
<b>4. Communication</b>	Start of two-way information exchange; local concerns begin to enter management plans
<b>3. Cooperation</b>	Community starts to have input into management, e.g., use of local knowledge, research assistants
<b>2. Consultation</b>	Start of face-to-face contact; community input heard but not necessarily heeded
<b>1. Informing</b>	Community is informed about decisions already made

Source: Cited in Berkes. 1994. *Northern Perspectives* 22:2-3 at p. 19; adapted from Berkes, George and Preston, *Alternatives* 18(2): 12-18 (1991).

In the sense that co-management involves built-in "checks and balances", it may offer the best of two worlds. As Pinkerton (1989:14) explains,

Co-management can allow a balance to be struck between the needs of local groups for self-determination and the needs of government to have some assurance the resource is being well managed, and that it can step in should there be strong evidence of over-exploitation..

As a means of blending the best of self-management and centralized management systems, while potentially resolving seemingly intractable problems of unsustainable, ineffective, or unfair regimes, co-management is being eyed with growing interest. This is particularly true in the Canadian North, and particularly in relation to aboriginal peoples. Berkes and Feeny (1990:48) go so far as to label co-management as "emerging new paradigm for the future of shared resources". As Berkes (1994:20) points out,

... co-management is an increasingly significant development in the contemporary world in which local-level traditional controls alone are in many cases insufficient, and state-level controls simply inadequate. Ecological interconnectedness suggests that relevant scientific information and technical knowledge have a role to play alongside traditional ecological knowledge and management systems. Some degree of state-level management becomes particularly important in dealing with shared resources, such as waterfowl and migratory fish, and with areas in which several groups have legitimate interests. The state also is crucially important in providing legal recognition for the communal-property rights of aboriginal groups.

### 3.2 Rationale

There are a number of good reasons reasons co-management is being explored and pursued as an alternative to conventional resource management systems. The major benefits sought through co-management, as set out by Pinkerton (1989: 5) are *more appropriate, efficient, and equitable* management. These benefits become more concrete when considered with the following secondary goals or processes:

1. co-management as a route to community-based development;
2. co-management as a route to decentralizing decisions in order to address problems more effectively; and

3. co-management as a means of managing the consent of local users and reducing conflict through participatory democracy.

There is a fourth powerful rationale for instituting co-management. In the case of First Nations, at least, there are compelling legal forces at play which are facilitating--even mandating--the development of co-management arrangements across Canada.

### 3.2.1 Community-based development

By shifting power, responsibility and specific management functions to local users, co-management serves as a means of enhancing community economic (and social) development. At the most practical level, the devolution of power over natural resources necessarily involves the training and hiring of local managers to carry out data-collection, monitoring, enforcement, and other management functions. Examples might include the employment of local park wardens, fisheries enforcement officers, or forest researchers.

Depending on the level to which co-management is actually being achieved, local users may also participate in decisions about harvest allocation, habitat protection, and the enhancement and long-term planning for the resource. Pinkerton (1989: 7) argues that these latter management functions represent the most significant opportunities for resource-based communities "to influence their own development and to prevent the destruction of the resource base which can allow community-based development."



Increasingly, North American hinterland communities and regions are showing renewed interest in this sort of long-term participation in resource use and planning (Reed 1990:82). Much of this demand stems from a series of crises and conflicts in environmental and land-use planning which have led to "a growing sense of cynicism and impotency regarding... [the ability of the public] to affect or influence government decisions" (B.C. Round Table 1992:41-43). Moreover, Pinkerton (1987:7) explains, "this shift comes at a time of global economic change which has shown the limited ability of governments to buffer communities against change".

Traditionally, public involvement into environmental decision-making has been limited to the submission of "public input" by various and often conflicting stakeholder groups. Final decision-making authority almost invariably rests with the government agencies responsible. Government authorities are generally reluctant to relinquish their traditional powers for two reasons. As Crowfoot and Wondellock (1990:22-23) explain:

First, the established processes are the ones that have been institutionalized: they have elements of legislative mandates in them as well as regulations that have been codified in different ways. These institutionalized processes have some level of public acceptance and, in addition, are supported by existing patterns of power among groups and organizations... The second reason... is that there are long-held values and paradigms in agencies and other "authorities" that frequently run counter to the notion of nontraditional dispute settlement.

Nonetheless, the public is demanding that governments adjust to the shifting political climate of greater participatory democracy. This demand is finding expression, at least in part, through an increasing number of co-management arrangements.

The question of cultural appropriateness adds another layer to the discussion of co-management and community development in Canada, where joint management regimes often involve First Nations. In such cases, the merging of cultural property rights systems to which Usher referred in the preceding chapter (Section 2.3.4) is of particular significance. As Davidson (1993, personal communication) notes, "Co-management is both a cornerstone and a barometer in the relationship between aboriginal and non-aboriginal society... Think of co-management arrangements as one of the means by which we formalize the terms of co-existence."

### 3.2.2 More Effective Management

Another powerful rationale for devolving resource management to the local level is the potential for it to become far more effective. Pinkerton (1989) identifies seven management functions that may be enhanced by state-local partnerships. These are: data gathering and analysis; logistical harvesting decisions (such as *when*, *where* and *how* harvesting may take place); allocation decisions; protection of resources from environmental damage; enforcement of practices and regulations; long-term planning and enhancement; and broad policy decision-making.

Data gathering and analysis is one function which can be particularly improved through co-management. Data-gathering is labour-intensive, particularly where very large or complex systems are involved. At the simplest level, local users can contribute labour to data-gathering so that the scope and detail of the data is improved, offering managers a more complete picture.

Moreover, the nature of the data gathered by local users may be quite different, and is sometimes superior to that gathered by state managers. For example, Freeman (1989) describes a case where state and international managers, through the International Whaling Commission, declared a moratorium on the hunting of bowhead whales off the coast of Alaska in 1976. Their biological data, which was admittedly scant, indicated that the Western Arctic bowhead whale population had been decimated to 10% of its original estimated population, and was being wasted through inefficient harvesting methods on the part of the Alaskan native hunt. Based on this data, the moratorium made good sense (Freeman 1989).

However, this decision came as a complete surprise to the Inuit whaling communities, for whom the bowhead was an important economic, cultural and subsistence resource. Moreover, based on their long-term observations and intimate traditional knowledge of the resource, Inuit whalers estimated that the bowhead population was up to seven times greater than the scientists' estimates. By 1977, they and other local whaling communities formed the Alaskan Eskimo Whaling Commission (AEWC) to protest the government-imposed moratorium. The AEWC galvanized the support of international academic and environmental communities. Eventually this led to the development of a highly successful co-management system between Inuit whalers and state managers. Independent scrutiny of the International Whaling Commission's data later revealed serious methodological shortcomings and a significant lack of scientific understanding about the demographic variability, feeding habits

and migratory patterns of the whale (Freeman 1989).

In fact, Berkes (1994:20) notes that a "healthy synergy" can develop between this kind of melding between traditional and scientific forms of knowledge,

by enabling the use of detailed local knowledge accumulated through a long series of observations over many generations. Such 'diachronic' data can be of great value and can compliment 'synchronic' data--snapshots over large areas -- on which science is based.

Osherenko (1988:8) also describes the improved understanding of northern migratory wildlife resources resulting from co-management regimes in the Canadian north. Under co-management systems,

the frontiers of knowledge about wildlife can expand rapidly. University-trained researchers create excellent synchronic data sets covering wide geographic areas (well beyond the limits of knowledge likely to be available in remote native communities). For their part, natives provide remarkably accurate diachronic data for particular localities and specific stocks of animals about which knowledge has been transmitted orally for a hundred years or more. But the two sets of data must be integrated to produce a full picture of the wildlife population dynamics and to generate assessments credible to both communities."

Enforcement can also be significantly improved and rendered less costly through co-management. As Berkes (1994:20) points out, "From the government's point of view, user participation in management is likely to lead to stronger commitment to sustainable use, a higher degree of acceptability and compliance, and lower enforcement costs." Indeed, the costs of imposing state-level regimes on local user communities which may neither accept nor understand those regimes can be substantial, and ultimately wasted. With respect to northern wildlife, Osherenko (1988:8) notes,

some regulations and procedures are so unenforceable that by policy (or individual discretion) public authorities ignore them, thereby undercutting the credibility of the entire system.... Most wildlife managers recognize that they have neither the financial nor the political capital to achieve compliance through conventional enforcement.

### 3.2.3 Managing Consent

The catalyst for co-management is most often what Pinkerton (1989:23) calls a "crisis of consent". The fact is that, on the ground, governments are highly dependent on the good will and cooperation of local resource users for enforcement, the communication of new data, and the monitoring of resources. This is particularly true for large 'hinterland' regions. When that goodwill is lacking a "crisis of consent" may develop, and normal management operations can be rendered ineffective.

Such crises occur for a number of reasons. Where control over resources is highly centralized, local stakeholder groups may struggle to influence or wrest control over policy and management decisions (Reed 1990:72). Interactions between hinterland communities and senior government may be marked by deeply ingrained patterns of conflict and paternalism, of "victim vs. villain" (Reed 1990:246). Government managers may lose credibility with local users if they are viewed as having poor or inaccurate data (as in the case of the Alaskan bowhead whale) or of making unfair or unsound management decisions. When that credibility is gone, so is the basis for the trust and cooperation of local users. Both are essential, particularly during crises in resource abundances or "lean" cycles. As Pinkerton (1989:23) notes,

When credibility and trust are weakened during crises, the entire system is placed in jeopardy. the frequency of such crises has increased in recent years and more governments, acting in enlightened self interest, are moving toward a co-management position.

Co-management is indeed a creative and viable means of ending such impasses (Pinkerton 1989). By sharing both power and accountability, co-management provides an alternative to patterns of paternalism and conflict., while meeting socio-economic and political goals at the same time (Reed: 1990:246). By sharing seats around the decision-making table, both sides can benefit from better relationships, higher levels of trust, the the ability (and necessity) of seeing problems from a more diverse yet integrated perspective.

#### 3.2.4 Co-management and the Law

In addition to the major benefits offered by co-management in the previous sections, it is being pursued across Canada for compelling legal reasons, at least in the case of aboriginal people. First, co-management may be established as part of (or sometimes following) a comprehensive claim agreement. Second, it may be established prior to land claim settlement, in the form of an interim agreement. Finally, a 1990 Supreme Court decision sets out, for the first time, a clear legal framework for allocating resources to aboriginal users under certain circumstances, irrespective of land claims. Many analysts argue that, in light of this decision, it follows that First Nations must have greater involvement in resource management decision-making through some form of co-management. These various influences are discussed below.

The settlement of comprehensive land claim agreements over the past 20 years (such as the James Bay Agreement in 1973 or the Inuvialuit Final Agreement in 1984) has invariably included some provision for co-management over certain resources. Indeed, a 1974 policy statement issued by the Government of Canada describes the form of "co-management" anticipated for fish and wildlife resources at that time:

In addition to dealing with the protection of their rights to hunt, fish and trap the settlements should provide for the involvement of Native people in a much wider spectrum of activities affecting the whole area of wildlife. This could include, for example, fuller participation in wildlife management, such as making recommendations to the government on the establishment and maintenance of wildlife quotas or providing advice on the formulation of management policies and other related matters (*In All Fairness: A Native Claims Policy*, Ottawa: DIAND 1981:7; cited in Doubleday 1989:211).

The James Bay and Northern Quebec Agreement of 1975 was the first comprehensive land claim agreement to be settled in Canada. Although the Agreement's co-management provisions were relatively weak, it set an important precedent in establishing the legal right of aboriginal people to participate in resource management decisions. Subsequent comprehensive land claim agreements in other regions of the North built on and extended those rights (Berkes 1994:18).

The impetus for co-management with First Nations became even more clear with the landmark 1990 decision handed down by the Supreme Court of Canada in *R. v. Sparrow*. Until then, much of co-management's history was marked by a "muddling through" approach to resource allocation (Haugh 1994: 29). The Sparrow decision dramatically changed this. It provided a legal framework with respect to the allocation of fish and wildlife among aboriginal, state (public) and non-native interests. It also

curtailed the right of government managers to restrict aboriginal rights to hunt and fish, regardless of existing treaties (Berkes 1994:18).

Essentially, the Sparrow decision mandated a three-tiered framework of resource allocation. The first priority allocation of natural resources is for the needs of conservation. Aboriginal peoples then have priority access to any surplus of resources after conservation goals have been met. Non-native users have final priority (*R. v. Sparrow* 1990: 185-6, cited in Haugh 1994: 28-29). As Haugh (1994:29) explains,

No longer do governments have unquestioned and exclusive authority to regulate resource harvesting. Governments now must recognize that regulation relating to First Nations' 'domestic' harvesting activities (i.e., activities that are carried out to meet basic food, societal and ceremonial requirements) may be valid only if they can be reasonably justified as necessary for conservation purposes.

Although the Sparrow decision dealt directly with aboriginal fishing, it is widely believed to apply to other natural resources, including protected areas. As Berg et al. (1994: 232) note,

The implications which the Sparrow case may have for park management are not yet fully understood. It appears, however, that the court has given the government a directive to include Aboriginal people in co-operative management of natural resources. Regardless of the true legal implications, it is clear that the ruling will reinforce the perceptions of Aboriginal people, who believe they deserve special recognition in national park management when their traditional territories coincide with park lands.

### **3.3 Unresolved Issues**

Commitment and mutual monitoring are two of the largest problems facing local, self-organized systems (Ostrom 1990:59). With co-managed systems, the problems become even more complex. Some of the potential problems and unresolved issues facing co-management are discussed below.



### 3.3.1 Shifting the Balance of Power

Change is seldom painless, particularly when power is being re-allocated. Even well-meaning bureaucrats may be prone to mistrust and inertia when faced with dramatically different and potentially more complex decision-making regimes. As Griggs (1991: 34) notes, "There is no doubt that co-management carries with it many significant political implications. Bureaucracies do not relinquish control readily and the sharing of power does not come easily."

Traditionally, public involvement into resource management has been limited to the submission of "public input" by various and often conflicting stakeholder groups. Final decision-making authority almost invariably rests with the government agencies responsible. Government authorities are generally reluctant to relinquish these traditional powers for two reasons. As Crowfoot and Wondellock (1990: 22-23) explain:

First, the established processes are the ones that have been institutionalized: they have elements of legislative mandates in them as well as regulations that have been codified in different ways. These institutionalized processes have some level of public acceptance and, in addition, are supported by existing patterns of power among groups and organizations... The second reason... is that there are long-held values and paradigms in agencies and other "authorities" that frequently run counter to the notion of non-traditional dispute settlement.

### 3.3.2 Patterns of Conflict, Paternalism and Dependency

Long-established patterns of conflict and paternalism may also mark relations between the two parties, undermining the potential for full participation in decision making. Berkes (1994: 20) maintains that the devolution of power under land claims has not always been that successful. He notes that "[s]elf-management capabilities of many

indigenous groups has been eroded by a relationship of dependency over many decades. Institution-building for self-governance is likely to take many years."

### 3.3.3 Co-optation

A related concern is that local users may run the risk of being co-opted, with only superficial involvement in real decision-making, while government agencies continue to pursue government management objectives (Reed 1990:75). Some fear that co-management can potentially serve as merely a mechanism for co-optation, a smokescreen for business as usual, or "an expensive re-packaging form common-sense solutions" (Berkes 1994:20). Government agencies may even have an interest in seeing co-management fail, in order to prove to local users how difficult resource allocation is, and ultimately to return to a more familiar management regime. Alternatively, government agencies may use co-management to advance their own interests, by playing off opposing interest groups against one another if there is divided public opinion about a specific policy or plan (Reed 1990:83).

### 3.3.4 Local Accountability

This can also work in reverse, as Reed (1990: 83) explains:

Co-optation might also take place if stakeholder groups use the co-management structure as a forum to advance their own individual interests which do not correspond with those of the broad community they represent. This may be a problem particularly if those brought into the co-management exercise represent a select group within the community. In this regard, Parenteau (1988) issued an important warning with regard to public consultation mechanisms. He warned that co-optation exercises may actually shift the focus from central management or policy questions toward individual or specific interests. The process would thereby favour specialized interest groups., turning a co-management procedure into a mediation exercise among the parties rather than an exercise to address broader environment and development goals.

In other words, co-management committees have strong potential to become *de facto* "select advisory committees" to government. To avoid this, Reed (1990:247) recommends that membership of committees be derived from a broad spectrum of community stakeholders.

The relationship between decentralization of decision-making and greater local participation is not as neatly defined... .. there is no reason to believe that decentralization of functions will necessarily lead to greater accountability at the local level. Decentralization implies broader participation through the involvement of new actors in the planning and decision-making process." (Reed 1990:66). If there is a historical pattern of dependency, it is even more difficult. "In addition, the effectiveness of local participation in achieving decentralization will depend on its proximity to the site of power and its influence on the final decision." (Reed 1990:66)

### 3.3.5 Long-term implementation

A final issue is simply that little is known about how well co-management actually works "on the ground" over the long term. Few regimes have existed in Canada for more than a few years. To date, most of the literature focuses on the ability of co-management to address immediate conflicts (Reed 1990: 81). In the Canadian North, many co-management agreements have been made with aboriginal people, but few have been designed and monitored carefully (Berkes 1994: 20). For example, a survey of sixteen co-management agreements in Manitoba showed that "most tended to be sectoral, of the crisis-response variety, and not comprehensive or well coordinated." (Berkes 1994:20, referring to Haugh 1994:29).

## **3.4 Co-management Boards**

In practice, a management board or committee is the means by which various forms of co-management are usually implemented. These boards

are comprised of representatives from government, local users and sometimes other interested parties, and form "the fundamental building blocks" for shared management (Pinkerton 1993:16).

As this chapter has explained, "co-management" encompasses a broad array of possible power-sharing arrangements between the state and local resource users. Typically, government agencies continue to retain ultimate authority, with most co-management boards serving in an advisory capacity only (MacLachlan 1994: 21). However, in reality local users potentially have much more power than their official co-management agreements indicate. Osherenko (1988: 13) describes what can happen when a co-management board's recommendations are ignored

The role of the user group or joint government-user board created by the agreement may be termed 'advisory', but if the user group does not concur in major management decisions regarding the relevant species, the co-management regime will fall apart, and the user group will no longer be obligated to participate or comply with regime rules.

In fact, co-management boards appear to be getting stronger. This is likely due in part to the *de facto* power local users actually have, partly to a strong trend in resource management toward devolving greater decision-making power to local communities, and partly to increased demands for greater political autonomy by First Nations through the settlement of land claims. In the North, more recent co-management regimes negotiated as part of aboriginal land claim agreements have conferred significantly greater power to their boards than the advisory boards established prior to the 1990s (MacLachlan 1994: 21).

## 4.0 CO-MANAGING PROTECTED AREAS IN CANADA

### 4.1 Introduction

Over the past twenty years, dozens of co-management agreements have been reached across Canada for the management of fish and wildlife.<sup>1</sup> More recently, such agreements have also been arranged for protected areas. Most, though not all, of these protected areas are located in the North (East 1991; Olsen and O'Donnell 1994).

First Nations are central to these regimes. This reflects a recent trend seen around the world, including Australia's Kakadu National Park, among others (Yapp 1989; Hill 1983; Altman 1988). Indeed, since the 19th century, over 2,600 protected areas have been established around the world, many on lands traditionally used by aboriginal peoples. In the past ten years, there has been growing recognition that, both practically and ethically, aboriginal peoples should be integral in the planning and management of such areas (Berg et al. 1993).

There are important differences between co-management regimes for wildlife species or populations, and co-management regimes for protected areas. The latter are much broader, being concerned with more general purpose land management, and they are relatively untested (East 1986: 93). Co-management regimes for parks and other protected areas involve specific contexts and a unique range of ecological, cultural and political

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<sup>1</sup>The vast majority of these involve aboriginal people in the North, who have negotiated joint management regimes for species such as caribou, beluga whales, migratory geese, and fish. See, for example, Osherenko (1988); Usher (1986); and Cizek (1990).

attributes. For example, they include not only a complex range species of fish or ungulates, but entire ecosystems. This clearly complicates the notion of resource "subtractability" discussed in Chapter 2.0. Monitoring the decline of a local deer population is simpler than measuring the impairment of an old-growth forest system. Similarly, it is relatively difficult to measure the ways in which a visitor's wilderness experience is diminished in a national park as a result of overly high visitation levels or a preponderance of boardwalks and trails.

Moreover, protected areas under the jurisdiction of Parks Canada are managed for a broad range of national interests: not just for First Nations and perhaps other local users, but for the use and enjoyment of the Canadian public at large. Thus the notion of common property resource "accessibility" is further complicated when considering protected areas. Parks are, by their very nature, intended to be accessible under Canadian law.

#### **4.2 Defining Power**

Parks Canada is unique in distinguishing between the term "cooperative management" and "joint" or "co-management". This unusual distinction finds its roots in a 1979 policy requiring Parks Canada to negotiate "joint management regimes" with First Nations wherever new national parks were being established in areas subject to land claims. Section 1.3.13 of Parks Canada Policy, 1979, stated:

Where now national parks are established in conjunction with the settlement of land claims of native people, an agreement will be negotiated between Parks Canada and representatives of local native communities prior to formal establishment of the national park creating a joint management regime for the planning and management of the national park.

However, "joint management" was never defined. Whereas Parks managers viewed it to mean, essentially, a strong advisory role for First Nations, aboriginal users assumed that actual decision-making power was being shared with the Minister responsible for Parks. At the time, the *National Parks Act* stated that only the Minister has ultimate decision-making power over national parks (Olsen and O'Donnell 1994:3-5).

Thus, on the advice of the Department of Justice, Parks Canada no longer uses the terms "joint" or "co-management." Although it is also not formally defined, "cooperative management" is used widely within Parks to convey a strong advisory role for local communities in parks management (Olsen and O'Donnell 1994:3-5).

The notion that there is a continuum of possible power sharing arrangements within cooperative management is acknowledged by parks staff, however. East (1995) illustrates this range in Table 3:

TABLE 3: THE NOTION OF A CONTINUUM				
Co-operative Management				
Some Contracted Services	Advisory Committee	Management Committee (some authority)	Management Committee (joint approval)	Direct Mandate Delivery
Low	----- Authority to Make Decisions -----			High

#### 4.3 First Nations and Protected Areas

Although co-management can apply to any local user group or community, all examples in Canada's protected areas currently involve First Nations.

Both parties may benefit. As East (1991: 338) explains,

Native negotiators see park lands as an opportunity to protect these areas and significantly influence their management without selecting them as part of their final land allocation. Park officials, on the other hand, see the claims process as an alternative approach to adding areas of importance to the park system. Both parties accept that some form of joint management regime is a prerequisite to accord.

From an aboriginal perspective, Waquan (1986: 82) notes that "co-management acknowledges that with intelligent planning, mutually beneficial arrangements for resource protection and resource use can be implemented." He adds that one of the purposes of co-management "is to ensure environmental protection and preservation of the resources, while equally ensuring our people's use and benefits from those resources."

Agreements to co-manage protected areas with First Nations are achieved in one of three ways. First, they may be established as *part* of a negotiated land claim settlement. This was the case with the 1984 Inuvialuit Final Agreement. That Agreement resulted in the establishment of Northern Yukon National Park, now renamed Ivvavik National Park (Amos 1993; Olsen and O'Donnell 1994). Similarly, both Aulavik National Park (established in the Northwest Territories in 1992 under the Inuvialuit Final Agreement) and Vuntut (Old Crow Flats, established in the Yukon Territory in 1993 under the Vuntut Gwich'in Council Final Agreement) will be co-operatively managed.

Second, protected areas co-management may be negotiated *after* a land claim settlement has been achieved, according to a process set out in the settlement itself. This was the case with the Tunavut Federation of Nunavut Final Agreement, which set the framework for co-managing a



national park on North Baffin Island (Amos 1993).

Finally, co-management may be achieved as an *interim* measure prior to land claim resolution. In such cases, the state-aboriginal partnership may be the outward expression of a *political* agreement, one which is primarily concerned with fundamental questions of sovereignty, and only secondarily concerned with management over a specific resource or set of resources. The 1989 Memorandum of Understanding between the Montagnais and the CPS to co-manage the Mingan Archipelago National Park Reserve is one such illustration; the 1993 Canada-Haida Agreement to co-manage Gwaii Haanas is another (Amos 1993; Olsen and O'Donnell 1994).

#### **4.4 Co-operative Management Boards**

As with other joint regimes for wildlife or fisheries, cooperative management boards provide a formal process whereby representatives from Parks Canada and local aboriginal communities interact (Olsen and O'Donnell 1994: 4). Because the *National Parks Act* confers final decision-making power on the Minister responsible for Parks, these boards are almost always been advisory in nature. Again, the *de facto* power of the boards may actually be stronger than the formal agreement indicates. As Olsen and O'Donnell (1994:5) explain,

Park-level officials and the local community (or communities) cooperate in managing the national park. This is a meaningful and ultimately very powerful voice that the community has in deciding the management issues related to the park, and influencing the Minister's final decision on any contentious matter. That influence is most strongly felt in the development of the park management plan. It is the park management board that usually presents the plan to the Minister, and therefore it is the board that must agree as to its contents. Without that agreement, the plan can be stalled.

In fact, in the wake of the land title settlements occurring across northern Canada, Parks Canada's authority to restrict aboriginal rights is increasingly limited. As MacLachlan (1994: 26) explains:

The jurisdiction of these boards to regulate and manage wildlife extends to all lands and waters, including national and territorial parks, within the settlement region. This means that Parks Canada no longer has exclusive domain in determining how national parks will be planned, managed, or operated. All northern comprehensive claim agreements allow for the striking of a committee composed in equal parts of appointees of the aboriginal claimant group and of government to guide and oversee management of a national park or a territorial park. In varying degrees, these committees have significant input into, among other things, management guidelines, park management plans, and protection and conservation measures.

Even where title disputes have not yet been resolved, interim co-management agreements may involve substantially greater local power than originally envisioned by government. Certainly, that appears to be the trend. The Gwaii Haanas Agreement, described in Chapter 7, is a dramatic example of the unprecedented sharing of decision-making power between Parks Canada and the Haida Nation.

#### **4.5 Current Examples of Co-managed Protected Areas**

As of April 1994, there were four national parks or park reserves in Canada with formal cooperative management boards. These were: Ivavik National Park, Wood Buffalo National Park, Mingan Archipelago National Park Reserve, and Gwaii Haanas. At least four more cooperatively managed national parks are expected to emerge by 1997 (Olsen and O'Donnell 1994: 6).

4.5.1 Ivavik National Park, on the Yukon North Slope west of the Babbage River, was the first formally co-managed park in Canada. It was established as part of the Inuvialuit Final Agreement (IFA) of 1984.

Through the IFA, the Inuvialuit retain their rights to hunt, fish and trap within the park and to advise the minister responsible for the park on park planning and management. They are also the primary beneficiaries of any economic benefits associated with the park. The settlement legislation requires that the park be zoned and managed as a wilderness area; any change in to the park's wilderness character requires the consent of the Inuvialuit (Olsen and O'Donnell 1994: 6-7; East 1991: 339-341).

Participation in planning and management of Ivavik National Park is formalized through the Wildlife Management Advisory Council, comprised of an equal number of government and aboriginal representatives. As the name suggests, the council advises the Minister, who ostensibly at least, retains ultimate decision-making authority for the park (Olsen and O'Donnell 1994:6-7). However, East (1991: 340) points out,

... the structure of this committee is such that the park is not guaranteed representation or even observer status with the committee. Although the name of the committee implies that it is "advisory," the legislation requires that the committee recommend the management plan. This could have the legal effect that the Inuvialuit must approve the proposed Management Plan before it is submitted to the minister. Given the role of the management plan to establish the nature of any activities permitted within the park and to define the fundamental management perspective toward the park, it is influential indeed.

4.5.2 Wood Buffalo National Park in northern Alberta, was created in 1922 and expanded in 1926 into an area covered by Treaty 8, signed in 1899 by the Cree of Fort Chipewyan. They and other local aboriginal communities continued to hunt and trap within the park boundaries as they had for several centuries (Waquan 1986: 81). In fact, Wood Buffalo was the only national park with a long standing tradition of native subsistence use and involvement. Still, East (1986: 87) observes that

For almost the first fifty years of its existence, the park was characterized by government officials acting in what they perceived to be the best interests of local Native people. The very first act of the park management... was to determine who could continue to hunt and trap in the park and who could not. There is very little evidence that this was done other than arbitrarily and the results remain contentious to this day. The rules and regulations regarding hunting and trapping in the park were made largely without consultation and enforced, it would appear, with inconsistency and even whimsy. The "style" of management fostered a climate of distrust and cynicism which continues to exist today.

The situation improved somewhat in 1976, when local aboriginal communities were extended informal and limited influence over the management of the park, its resources, and the permitting process for wildlife harvesting, through a Hunters and Trappers Association. This was the first informal co-management arrangement for a Canadian park with an outside group (Olsen and O'Donnell 1994: 3).

In December 1986, the Cree of Fort Chipewyan settled their long-standing land claim, part of which extends over the park. This led to the creation of Canada's second formal co-management board. The Wildlife Advisory Board consists of four representatives from the Cree of Fort Chipewyan, three appointed by the Minister, and the park superintendent who sits as a non-voting member. The appointed members represent other aboriginal community members (Waquan 1986; Olsen and O'Donnell 1994: 7-8). Final decision-making authority, as the name suggests, remains with the Minister.

4.5.3 The Mingan Archipelago National Park Reserve was established in Quebec in 1984. Its final boundaries will be established upon settlement of the Mingan Band land claim. A formal cooperative management board was established through the signing of a Memorandum of Understanding on

April 21, 1989. The formal involvement of the band was controversial among local non-native residents. As Olsen and O'Donnell (1994: 9) explain:

Mingan differs from our experiences in the north in that the local Aboriginal community is a small minority within the total local population. The Mingan Band consists of approximately 350 people, or about ten percent of a total population of some 4,000 people. Moreover, in the decades leading up to the establishment of Mingan as a park reserve, it was the local non-Aboriginal community who were more active in hunting, fishing and berry-picking. When the Mingan Band began pressing for interim claim measures that would allow it to participate in the management of the park reserve, there was a decided negative reaction from the local non-Aboriginal community.

The MOU provides for a Management Council consisting of four Mingan Band members, four Ministerial appointees (two of which are nominated by the Regional Municipality of the County of Mingan), and the park superintendent who sits as a non-voting member. Under the terms of the MOU, the park superintendent submits proposals for the park management plan, management and operations to the Management Council. The Council may also consider other matters related to the management of the reserve. Final decision-making authority lies with the Minister (Olsen and O'Donnell 1994: 9-10).

#### **4.6 Outstanding Issues for Protected Areas Co-Management**

In addition to the unresolved issues discussed for co-management generally in Section 4.4 above, there are a number of outstanding questions specific to cooperatively managed protected areas. East (1986; 1991) has identified the following:

1. Advice versus Authority
2. Mutuality of Objectives
3. Protection of Outside interests
5. Employment/Economic Benefits
6. Response Speed and Flexibility
8. Parallel Bureaucracies

#### 4.6.1 Advice vs. Real Power

The extent to which co-management boards should have real decision-making power, as opposed to being ultimately advisory in nature, is controversial. As East (1991: 343) notes,

In according powers to the various boards and committees, the government has stopped short of giving outright authority beyond a narrowly defined range of considerations. Is this an expression of a legitimate government obligation to protect the broader interest? Or is it a statement that the government is not really interested in according real power to native people?

Conversely, it can be argued that if the dynamics of decision making in the public service are taken into account, such questions may seem strictly academic. East (1991: 343) explains that, in practice,

Ministers do not make all the decisions regarding park management; in fact, they make very few of them. Invoking of ministerial involvement in a decision is generally a reflection that the matter has some major political implications. The majority of decisions regarding the management of a park are made at the park level. The actual dynamics of park-level "advisory" boards will be based in a mutual desire to ensure that as few issues as possible are directed to the minister or up through more senior levels of the bureaucracy. This will effectively create a consensual park-board relationship.

#### 4.6.2 Mutuality of Objectives

The objectives of the national parks program may not always be consistent with the interest of local First Nations. According to East (1991: 344), "Park policy has made some considerable concessions in recognition of native aspirations and traditional use, and indeed there are those who contend that the emerging northern park model is incompatible with conventional park standards because of those concessions."

For example, the Cree in Wood Buffalo National Park have proposed activities such as large-scale cutting of firewood as an economic enterprise; growing and harvesting wild rice; and manipulating water levels to improve furbearer habitat (East 1986: 93). There is a distinct

tension between such activities and the conventional application of National Parks Policy in a traditional park model.

On the other hand, such tensions may be perfectly acceptable, even inevitable in a new, more participatory era of parks management. Parks Canada officials Olsen and O'Donnel (1994:2) emphasize the department's commitment to forging new, cooperative relationships and mutually desirable goals over the long term:

Parks Canada has focused on forging relationships with First Nations which respect their rights and interests on a continuing basis... Our desire is to achieve a mutually satisfactory arrangement which will stand the test of time and meet both the objectives of Parks Canada and First Nations over the long term.

#### 4.6.3 Protection of Outside interests

The involvement of "outside" or non-native interests in protected areas planning and management is another potentially thorny issue. To a certain extent, Parks Canada is mandated with representing the broader public interest in managing protected areas. This includes the interests of various native and non-native interests affected by management decisions, assuming they are not represented directly in a cooperative management board.

However, Witty (1994, pers. comm.) argues that regardless of the political context in which a co-management regime may arise, outside interests-- such as non-native local users--should also be directly represented on the management board. On the other hand, co-management agreements with First Nations are essentially government-to-government in nature. Thus, both politically, legally, and of course culturally, the relationship of First Nations to protected areas in their territories, and to the federal

government, is fundamentally different than it is for non-native Canadian citizens.

#### 4.6.4 Economic Benefits

All protected areas co-management agreements will or already do include provision for ensuring that First Nation partners receive substantial economic benefits from the park. Depending on the agreement, this may include training and employing aboriginal management staff and providing economic activities related to the protected area to local First Nation members on a preferential basis. However, East (1991: 344) cautions that

...all parties must be cognizant of the existence of substantial numbers of nonparticipants in the affected area, which are, in fact, a majority in some cases. Outright denial of opportunities to these groups will not be well received.

#### 4.6.5 Response Speed and Flexibility

The merging of two modes of decision-making styles and regulatory mechanisms may at times reduce the speed and flexibility with which a management board can respond to rapidly changing social, cultural or economic conditions. The current regulatory style of Parks Canada, according to East (1991: 344) is "ponderously slow, and at the present time is not able to respond to suggestions to alter management regimes to accommodate often rapidly changing natural conditions." This can work both ways. East (1991: 344) points out that

Expeditious response to urgent problems may not be possible if consultation is demanded on every issue. Some adaptation of the process will be required to ensure that capacity for rapid response when required still exists.



#### 4.6.6 Parallel Bureaucracies

The rise of cumbersome "parallel bureaucracies" is a related concern identified by East (1991: 344-5), who observes, "...there is the danger that joint management, particularly when conferred via the comprehensive claim route, could lead to the creation of parallel bureaucracies that are every bit as cumbersome as those that existed in pre-agreement days." He points to the Inuvialuit Final Agreement, which gave rise to Ivavik National Park and its co-management regime as well as other protected areas and a number of other consultative committees for fish, wildlife and other resources. He adds,

The potential of such a structure to react expeditiously to "grass roots" needs is questionable. Indeed, the capability of both a government and native organizations to provide members for all the boards and committees remains to be seen over the longer term.

#### 4.6.7 Corporate Culture

The notion of the "corporate culture" within Parks Canada is a final unresolved issue (although there are certain to be many more) that should be raised here. The soundest co-management agreements will be worthless if they do not exist in the context of trust, mutual accountability, respect, and a commitment to transform damaged relationships between government and First Nations. At a recent (March 1995) workshop on co-management hosted by Parks Canada in Edmonton, participants noted that a major transformation in government corporate culture of government is necessary for co-management to really work. They noted:

Cultural change is happening within government organizations. Such change has been occurring for the past 20 years. Culture change takes time to achieve; it can be facilitated by exposure to a learning environment in which successes and failures are shared. The staff are themselves key agents of change, but resistance by non-Aboriginal staff to new programs is seen as a major management challenge. (Stuart,

pers. comm., May 24, 1995).

Participants went on to recommend that Parks staff undergo cross-cultural training, conflict resolution and interest-based negotiation, and that they be screened for suitability in terms of attitudes and amenability to power-sharing (Stuart, pers. comm., May 24, 1995).

## **5.0 METHODOLOGY**

This chapter serves two major purposes. First, it contains a description of the research methods used, and the rationale for using them. Second, it lists several criteria or principles of success for protected areas co-management developed from the previous two chapters. The potential success of the Gwaii Haanas Agreement is then measured against these criteria in Chapter 8.

### **5.1 Methods Used**

This study is based on findings emanating from the use of three qualitative research methods. First, several semi-structured interviews were conducted with key informants, all closely involved in the development of the Gwaii Haanas Agreement. Much of the information they provided has not been previously recorded. Second, I used a case study approach, focussing on the Gwaii Haanas Agreement. This was based on both a literature review of the political and cultural history of Gwaii Haanas, and on the interviews with key informants. Third, I conducted a literature review on common property resource theory, the related and emerging theory of co-management, and the even more recent area of protected areas co-management.

#### **Key Informants**

Until now, the history of the Gwaii Haanas Agreement has not been recorded in a single publicly accessible document. This study is heavily dependent on the information provided by several key informants to reconstruct the events leading up to the agreement. These key informants were identified through initial contact with Canadian Parks Service (CPS)

staff at the Pacific Region's head office in West Vancouver. The accuracy of this list of key actors in the agreement was confirmed in subsequent interviews with both Haida and CPS representatives. Each of the people interviewed were among the small number of participants consistently involved in this process over the long term. They were: Miles Richardson; Guujaaw representing the Haida Nation; Bruce Amos (Director of the National Parks Systems Branch), Barry Olsen; and Ron Hooper (Park Superintendent) representing the CPS; and John Broadhead, the unofficial "facilitator" of the negotiations. Further, when two of the informants allowed me to review several relevant confidential files and memos between the Haida and CPS negotiators, I was able to confirm the dates, participants and other specific details provided by the informants.

There were other actors whom I did not interview, either because they were unavailable during the period of field research, or because they did not wish to participate. Most of them were less directly involved in the case, or involved for shorter periods of time. These included: Jim Collinson (Assistant Deputy Minister for Parks, Environment Canada); Sandra Gillis and Jim Christackos, who were briefly involved as colleagues of Bruce Amos; Assistant Deputy Minister for the Department of Justice, Reg Evans; Colin Richardson of the Haida; and Director of National Parks, Pat Thompson. I did not conduct a thorough interview with Miles Richardson, although we spoke and met briefly. He felt that Guujaaw was better able to represent the sequence of events and the Haida perspective on the Agreement, as he had been involved more extensively and for a longer period of time (M. Richardson, 1994, pers. comm.). I did not attempt to interview the two former Ministers responsible for Parks,

Lucien Bouchard and Tom McMillan, given that a personal interview would be highly unlikely with either of them.

The interviews were semi-structured and open-ended. They ranged in duration from 30 minutes to two hours. The four key questions I asked were:

- who were key actors involved in the negotiations leading to the Gwaii Haanas Agreement?
- what prompted Haida/CPS involvement in the negotiations?
- what were the outstanding issues and stumbling blocks?
- what were the chronological events in the development and negotiation of this agreement?

All interviews, both in person or by telephone, were recorded with hand-written notes and, where informants gave their consent, with a hand-held tape-recorder.

Completed portions this report (drafts of chapters 1, 6, 7, and 8), were returned to Bruce Amos, Barry Olsen, Guujaaw, and John Broadhead, for an assessment of content accuracy. Guujaaw and Broadhead relayed their comments by telephone. The reviewers' comments were incorporated as completely and accurately as possible.

### Case Study

This research uses a descriptive, single case study<sup>2</sup>. This approach is ideal for the forms of inquiry used in this research. As Yin (1993) notes,

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<sup>2</sup>Yin (1993) identifies six possible forms of case studies: 1. single and exploratory; 2. multiple and exploratory (more than one); 3. single and descriptive; 4. multiple and descriptive; 5. single and causal; 6. multiple and causal. Descriptive case studies present a complete description of a phenomenon within its context."

Case study research continues to be an essential form of social science inquiry. The method is appropriate when investigators desire to (a) define topics broadly and not narrowly, (b) cover contextual conditions and not just the phenomenon of study, and (c) rely on multiple and not singular sources of evidence."

It is also " the method of choice when the phenomenon under study is not readily distinguishable from its context." (Yin 1993: 3). The final form of the Gwaii Haanas Agreement cannot be explored or subjected to any meaningful analysis without a broad understanding of its complex political, cultural and environmental history.

I selected the case of Gwaii Haanas for two reasons. First, the Agreement is highly innovative; its very structure, setting out two different "parallel perspectives", is unprecedented. The agreement appears to go much further than other protected area co-management agreements (or most co-management agreements in any resource area) in terms of setting out clear power-sharing provisions, shared economic benefits, and cultural benefits. Secondly, because the Gwaii Haanas Agreement is so innovative, it is likely to be reviewed carefully by other First Nations in the process of negotiating similar agreements in Canada. Any preliminary lessons and indications of this agreement's success may be extremely useful for those other processes.

### Literature review

Finally, I reviewed the literature for three interrelated topics: common property resource theory; co-management; and protected areas co-management. The field of enquiry of the latter two topics is so new, I occasionally relied on personal communication with "experts" on co-management and protected areas (eg. Witty, Stuart) to supplement the

literature. Based on those sources, I distilled a set of key principles or criteria by which the likely success of protected areas co-management systems can be measured. These are set out in the following section.

## **5.2 Methodological Strengths and Weaknesses:**

Both qualitative and quantitative forms of data collection are valid for case study research of this type (Yin 1993). Given the nature of this study, it is exclusively dependent on qualitative data collection. It is therefore subject to the potential methodological problems typically associated with qualitative research: overgeneralization and poor representation (Epstein Jayaratne and Stewart, 1991). The number of key informants upon which the case study is based is also small. This means that, while replicating this portion of the study might be relatively simple, the results may be biased by a small "sample size". Also, it is possible that some of the potential informants who were not interviewed would have offered valuable perspectives or other detailed information, ensuring a more complete study.

It is also critical to note that there is no gender balance in this report. An identification of the long-term "key players" and negotiators that developed the Gwaii Haanas Agreement indicates that all were men, including the Haida negotiators, senior Parks staff, and senior Department of Justice staff. The perspective of women of those negotiations, of the Agreement, and the extent to which their vision of Gwaii Haanas may differ from that of the men involved, is therefore not represented in this report. Thus, although I feel confident that this report represents "reality", it is of course a skewed reality.

### **5.3 Principles of Success**

This section sets out several key principles and criteria for co-management, with particular relevance to protected areas. The case study explored in this paper, the Gwaii Haanas Agreement, can then be measured against these principles. Because co-management is a relatively new field of study, the normative criteria proposed here are necessarily tentative. They are based on discussions in this and the previous two chapters, as well as on the work of Pinkerton (1989), Ostrom (1990), East (1995), Griggs (1990), Reed (1990), and Witty (pers. comm.).

Co-management in a protected area is likely to be successful (i.e., most likely to achieve its goals) if an agreement demonstrates the following set of principles. These are summarized in Table 4 and discussed below.

#### **Formal, Long-term Commitment**

Both parties in the co-management must be genuinely committed to making the partnership work over the long term. The relationship at the table must be marked by mutual respect, mutual accountability, honesty about objectives and goals, and the understanding that both parties get more by working together than either could achieve alone. These deep attitudinal perspectives, of course, cannot be guaranteed. However, the signing of a formal agreement between the state and the local users demonstrates a clear intent to try. In the case of interim agreements with First Nations, it is critical that such agreements do not jeopardize or prejudice land claims in any way.



**TABLE 4: PRINCIPLES FOR ACHIEVING LIKELY SUCCESS IN CO-MANAGEMENT:**

**Formal, Long term Commitment:** Both parties should demonstrate a genuine, long term commitment to working together, marked by a formal agreement, with clear mutual objectives.

**Clear Boundaries:** Clearly defined ecological and social boundaries

**Ecological and Cultural Protection:** Protection of both local cultures and ecosystems

**Community Economic Development:** Significant employment and other economic benefits are derived locally.

**Shared Monitoring and Enforcement:** Both state and local users share these responsibilities.

**Shared Information:** Both state and local users work cooperatively in data-gathering and analysis.

**Conflict Resolution:** Clear processes are set out for resolving disputes at the board level and beyond.

**Inclusiveness and Linkages:** External linkages are encouraged with the general public, academics, non-government organizations and other credible organizations. An inclusive approach is taken to consulting with all stakeholders directly affected by management decisions.

**Flexibility and Responsiveness:** The co-management regime is not case in stone, but rather allows both for flexible and speedy responses to immediate needs, and for the evolution of goals, objectives and processes over the long-term. In the short term, decision-making must be responsive enough to deal with immediate conservation or other management needs.

**Continuity and Dedication:** Co-management is more likely to be successful and enduring in practice if there is a dedicated "energy centre", a core group or individual, to consistently apply pressure and advance the process. Continuity is critical to long-term success.

Sources: Pinkerton (1989), Ostrom (1990), Berkes (1994), East (1995), Griggs (1990), Reed (1990), and Witty (pers. comm.).

### **Clearly Defined Boundaries**

Co-management is most likely to succeed where both the biophysical and cultural boundaries are well-defined and of an appropriate scale.

Communities of users should have a cohesive social system based on kinship or ethnicity, so that membership is clear, communication among

members (or sub-groupings, such as villages) is apparent, and regulations can be effectively applied. Individuals with the right to withdraw resources from the system should be clearly identified. Similarly, it is important that the ecosystems involved are not too large and can be readily identified, so that the benefits from the co-managed area may be clearly linked to watersheds or other biophysical features.

Ideally, with most common property or common pool resources, the boundaries of the resource would be not only defined, but made inaccessible to outsiders. Otherwise, local resource users face the risk of having outsiders reap the benefits from local management and stewardship efforts, reducing the benefits available to local users, and at worst, possibly damaging the resource. However, as was mentioned earlier in this chapter, protected areas differ from other common property systems in that generally, access to and use of the land base by outsiders is actually encouraged (Pinkerton 1989; Ostrom 1990; Griggs 1990).

### **Ecological and Cultural Protection**

Co-management is most likely to succeed if both the local ecosystems and cultural systems are preserved, and given equal weight. All management parties should share an ecosystems perspective, keeping in mind the broader ecological context in which their system is embedded. Cultural understanding should be promoted, even enhanced, by the management system (Pinkerton 1989; East 1995; Griggs 1990; Reed 1990). As East (1995) notes, "The loss of a culture or tradition is no less important than the loss of a species."

## **Community Economic Development**

Local users should derive significant direct and indirect economic benefits from the co-managed resource. There should be direct hiring and training of local staff for operations and management of the resource. The employment screening and selection process should be re-oriented, where necessary, to eliminate cultural barriers. Indirect economic benefits, such as preferential access to contract employment, should be encouraged. Generally, it is critical that wealth generated by superior stewardship and management be recirculated back into the local community (Pinkerton 1989; Ostrom 1990; East 1995; Griggs 1990; Reed 1990; and Witty, pers. comm.).

## **Monitoring and Enforcement**

Co-management is most likely to succeed where monitoring and enforcement activities are shared between the state and local users (Pinkerton 1989; Ostrom 1990; Griggs 1990; Reed 1990; and Witty pers. comm.). In fact, there is evidence to suggest that common property resource management is most enduring and successful when the participants themselves monitor and sanction each others' performances (Ostrom 1990). This is because of "quasi-voluntary compliance", where individuals may choose to comply even when they are not directly coerced, as is the case with paying taxes. Those not complying are in danger of being caught and sanctioned. Individuals will adopt a strategy of quasi-voluntary compliance when they are confident that decision-makers will keep their word, and that other individuals will also cooperate. In other words, cooperation is contingent on the cooperation of others; individuals must feel assured that they are not "suckers" (Levi 1988, cited in Ostrom

1990:94).

### **Shared Information**

Co-management is most likely to be successful where the responsibilities for data-collection and analysis are willingly shared by local users and the state. Traditional ecological knowledge and scientific knowledge together will provide a more complete picture of the resource, and should be equally respected and valued in guiding management decisions. In addition, users are likely to hold a higher degree of confidence in data they have helped collect and analyse, and are therefore more likely to comply with decisions based on that data (Pinkerton 1989; Ostrom 1990; Berkes 1994; East 1995; Griggs 1990; Reed 1990).

### **Conflict Resolution**

All parties in the co-management regime must have rapid access to low-cost, local forums to resolve conflicts among local users or between users and state officials. This can range from informal systems, such as those selected as leaders being the basic resolvers of conflict; or very formal, such as having well-developed court mechanisms in place. Whatever the process for dispute resolution, it must be clear and mutually agreeable to all parties. Moreover, there must be a clear agreement concerning alternatives for making necessary decisions if a mutually acceptable agreement is not reached (Pinkerton 1989; Griggs 1990; Witty pers. comm.).

### **Inclusiveness/Linkages**

Co-management is more likely to succeed if external linkages are made

with non-governmental organizations, universities and academics, and other credible organizations. This helps ensure that planning, analysis and decision-making occur not in a "vacuum", but with the broad support, knowledge and skills of a larger community.

At the same time, other stakeholders directly affected by decisions should be represented and involved in decision-making, particularly if those interests are in a position to block or undermine management. Co-management must reflect the diversity of institutional and community interests without compromising natural and cultural values. At the same time, state officials and the public must recognize that regimes involving First Nations are government to government in nature, not just another set of stakeholders (Pinkerton 1989; East 1995; Griggs 1990); and Witty pers. comm.).

### **Flexibility and Responsiveness**

Although it is essential that co-management be guided by mutually-acceptable goals and aspirations, successful co-management systems are not rigid or "cast in stone". Rather, they are likely to be flexible, responsive to dynamic environments, cultures and institutions over time. The goals and aspirations of all parties may evolve and grow. The co-management model must be able to adapt and respond to these changes, while adhering to long-range goals. In the short term, managers must be able to balance management objectives and the need for consultation with immediate management needs or concerns. If the decision-making process is too complex or bureaucratic, it may actually hinder sustainable joint management (Pinkerton 1989; Ostrom 1990; East 1995; Griggs 1990; Reed

1990; and Witty pers. comm.).

**Continuity and Dedication:** Finally, co-management is more likely to be successful and enduring in practice if there is a dedicated "energy centre", such as a core group or an individual, to consistently apply pressure and advance the process. Continuity of knowledge, skills and interest is of critical importance. If there is high turnover of staff and/or other participants in the process, or if it is overly bureaucratic to the point of "burning out" participants, co-management is less likely to succeed (Pinkerton 1989).

## 6.0 BACKGROUND: THE FIGHT TO SAVE GWAI HAANAS

The next two chapters turn to the case study of Gwaii Haanas. This chapter briefly outlines the biophysical, cultural, and political history of Haida Gwaii. Key events in the decades of political struggle which eventually led to the negotiation of the Gwaii Haanas Agreement are then summarized.

### 6.1 Introduction

Haida Gwaii, the "Islands of the People",<sup>3</sup> is a 250 kilometer long, triangular-shaped group of approximately 150 islands and islets, located off the northwest coast of British Columbia. The region of South Moresby, which encompasses the lower half of Moresby Island, is known to the Haida as "Gwaii Haanas", which means "place of wonder and beauty."<sup>4</sup> It is aptly named; with its isolation, nutrient-rich ocean currents, temperate climate, and abundant rainfall, Gwaii Haanas is an archipelago of remarkable beauty and ecological diversity. Cloaked with lush temperate rainforests of cedar, spruce, fir and hemlock, it is home to several endemic subspecies of mammals, including the Queen Charlotte black bear, Haida ermine, deer mice, saw-whet owl and golden pine marten (Sewell 1989:156; May 1990:31).

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<sup>3</sup> Haida Gwaii is more commonly known to non-native Canadians as "The Queen Charlotte Islands", or the "Islands". Either "the Islands" or "Haida Gwaii" are used interchangeably throughout this chapter.

<sup>4</sup> Hereafter, the area is referred to as either "Gwaii Haanas" or "the Archipelago."

The Haida are estimated to have inhabited the Islands for at least seven thousand years (Carey 1991:1). Salmon, as well as other fish, shellfish, and sea mammals were plentiful on the Islands, and comprised the bulk of the traditional Haida diet. The bountiful marine and terrestrial resources of Gwaii Haanas enabled the Haida to establish a rich material culture. Hundreds of ancient Haida villages dotted the intricate coastlines of the Islands, marked by the beautiful carved totem poles for which the Haida are famed. As a maritime people with ready access to vast tracts of cedar, the Haida were master canoe-builders, as well, and traded frequently with other aboriginal nations on the North Pacific coast (McMillan 1988:190-194).

The year 1774 marked the arrival of the first European explorers and traders (Carey 1991:1). Initially, both the Haida and Europeans benefitted greatly from their new trade partnership, exchanging sea otter furs for European goods. Eventually, however, the Haida paid a tremendous price. Smallpox brought by the Europeans decimated Haida populations. By the mid-19th century, the remaining survivors of Haida Gwaii had coalesced into only two small villages: Masset and Skidegate (McMillan 1988:190-194). While many other ancestral villages had been abandoned, however, they were not forgotten; today, the hereditary chiefs of villages such as Ninstints, Skedans, Cumshewa, and many others, continue to be honoured.

## **6.2 The Struggle Begins**

The battle to protect Gwaii Haanas began almost twenty years ago. At that time, Tree Farm Licence #24, granted in 1958, covered much of the Archipelago. In 1974, ITT Rayonier Canada (B.C.) Ltd., owner of the TFL,



submitted a five year logging plan to the Provincial government. The plan included the cutting of timber on Burnaby Island, mid-way along the length of Gwaii Haanas (Sewell 1989:156).

In response, a group of concerned citizens formed the Islands Protection Committee (later changed to the "Islands Protection Society", or IPS) that same month. Aware that the TFL's 21-year term would come up for renewal in 1979, the IPS advocated preserving the area (Pinkerton 1983: 75). Its founding members were Thom Henley and Haida member Gary Edenshaw, now known as Guujaaw. They were later joined by local resident John Broadhead (May 1990).

These two events marked the beginning of what was to become the "Canada's most infamous wilderness battle" (McNamee 1993:42). It would prove to be a relentless struggle, demanding steadfast commitment and highly adaptive strategies from both sides of the debate in the thirteen years that followed.

The IPS quickly drafted the "Southern Moresby Wilderness Proposal", which was soon backed by the Skidegate Band Council. A petition calling for a moratorium on all timber cutting within the Wilderness Proposal was then circulated throughout the Islands. In February, 1975, armed with the signatures of 500 Island residents, the IPS submitted the petition to the provincial Legislature (Gardner 1990; May 1990).

### **6.3 The Government's Response**

In 1975, the Premier promised that the Wilderness Proposal would be seriously examined by the Secretariat of B.C.'s Environment and Land Use Committee, or ELUC. At the same time, however, the province granted Rayonier permission to log Lyell Island, also in the Archipelago. This established a pattern that was to repeat itself over the next 12 years: while study after study on the proposal was being conducted and reviewed, logging in Gwaii Haanas would continue (Gardner 1990; May 1990).

In the Spring of 1977, the Ministry of Forests formed the Queen Charlotte Islands Public Advisory Committee (PAC) to the Forest Service. That PAC was comprised of logging company officials and residents representing a range of concerns (Pinkerton 1983: 78). The committee was ostensibly aimed at facilitating public input into forest management in the area (the PAC was dissolved two years later, having been both highly polarized and virtually ineffectual). That Fall, the PAC recommended that public hearings be held into the renewal of TFL #24 (May 1990:43). In November, the IPS sponsored the second All-Island Symposium, which focused on raising the awareness of native and non-native residents alike about the conflict over the Wilderness Proposal. At the Symposium, a resolution was passed in support of the PAC's recommendation (Gardner 1990:10).

In May 1978, the new B.C. Forest Act was introduced. Many hoped it would deal with the issue of holding public hearings into TFL renewals. The issue was particularly relevant to supporters of the Wilderness Proposal: as TFL #24 was B.C.'s first term lease ever issued, it would be the first in the province to come up for renewal. However, the proposed legislation

"provided for virtually automatic renewal of tree farm licences and... scrapped the notion of `sustained yield'" (May 1990:44). With almost no time for public input or debate, the Act was passed in June 1978 (Gardner 1990; Pinkerton 1983).

#### **6.4 Taking the Minister to Court**

The next strategy of the IPS and its supporters became known as "taking the Minister to court" (Pinkerton 1983). In January 1979, Nathan Young, a Haida trapper; Guujaaw, a Haida hunter-gatherer; and Glen Naylor, a non-native trapper, filed a joint petition in the B.C. Supreme Court. The Islands Protection Society also sought, but did not receive, standing to petition. The petitioners sought "an order declaring that the respondent the Minister of Forests is under a duty to act fairly in exercising his power of decision...with respect to tree-farm licence No. 24." They also sought a ruling that the Minister was under a duty to provide the petitioners with all information relevant to the TFL renewal, and to give them an opportunity to respond to that information (*IPS v. R.* [1979]).

On March 6, 1979, the case was dismissed, on the grounds that a ministerial decision had not yet been made. Although the Judge ruled that the Minister was indeed under a duty to act fairly in considering the renewal, there was no admissible evidence at the time that he would not do so (*IPS v. R.* [1979]). During the proceedings, the Ministry sought to persuade the petitioners to drop their petition, and offered several concessions in return. On May 1979, however, TFL #24 was renewed for 25 years, and "the few concessions which were promised on the terms of TFL 24 were not reflected in the licence..." (Gardner 1990:9). Nonetheless, the

court action successfully raised much greater public awareness of the issue. Also, the court's confirmation that the Minister *was* under a duty to act fairly effectively forced the Ministry to "sit up and take notice" of its now more credible opponents (Gardner 1990:9; Pinkerton 1983).

As a result of the court action, the ELUC released its study on the Wilderness proposal in March, 1979. While supporting the renewal of TFL #24, it called for a 10 year moratorium on timber cutting in some parts of the Archipelago; these recommendations were not followed. The study also recommended the formation of the South Moresby Planning Team (RPT), to be administered by the Forest Service. It was to be comprised of representatives from industry, the Haida, the Forest Service, and the PAC. The RPT was to do a five-year study on land-use options for Gwaii Haanas. The RPT report was issued in 1983. It outlined four land use options, ranging from a priority of development to one of preservation (Gardner 1990:11).

During the RPT's study, logging activities on Lyell Island slowed. This gave the IPS and their supporters valuable time in which to garner further public support. Public awareness about poor logging practices in the area was further raised in the Fall of 1979, when clearcut watersheds on the Islands suffered from significant landslide damage (Gardner 1990).

In 1980, Rayonier Canada was bought out by a consortium of companies called Western Forest Products (WFP). That same year, a team of CPS personnel travelled extensively along the province's West Coast, in order to identify candidate park areas. The team included Barry Olsen, one of the

senior park planners who, years later, would be a key player in co-management negotiations with the Haida. The CPS staff quickly recognized the vast potential of South Moresby as a national park, one which would complement Pacific Rim National Park Reserve on Vancouver Island (Olsen 1993).

### **6.5 The Haida Land Claim**

In the following year, the Haida submitted their formal land claim to the federal government. As Pinkerton (1983: 69) notes, the Haida view of sovereignty over their hereditary lands is based "not only on the fact that they are the original occupants of the Islands, but also on the assertion that they have a moral obligation to manage the resources of the Islands more responsibly than the provincial government and the lease-holding companies have done." Thus, while the common goal of preserving Gwaii Haanas was shared by both the Haida and environmentalists, the Haida had a very specific agenda of their own. It was based not on achieving national park status for the Archipelago--which was what many environmentalists sought--but rather on the Haida's collective sense of direct responsibility for the area.

It is important to add that since approximately 1983, the Haida had been directly protecting and managing Gwaii Haanas on the ground through the "Haida Watchmen Program" (Boyko 1993). Visitors to the area were charged a \$25 travel permit fee to support the costs of food, maintenance and travel for volunteer Watchmen and their camps (Guujaaw 1993; Broadhead 1993).

## **6.6. Raising Public Awareness**

By the early 1980s, several western Canadian environmental groups had officially joined in the struggle to preserve Gwaii Haanas. They included the Sierra Club of Western Canada, the Canadian Parks and Wilderness Society, the Western Canadian Wilderness Committee and the Valhalla Society, among others. By the mid-1980s, an even broader coalition formed when a number of national and international groups joined in, including the Audubon Society, the Sierra Club and Earthlife (Sewell 1989:158). Fuelling the growing international profile was the fact that the ancient Haida village of Ninistints, on Anthony Island, was declared a UNESCO World Heritage Cultural Site in 1982, following a recommendation by the Canadian Parks Service (Gardner 1990:16; May 1990:50). Then, in 1984, the IPS published "Islands at the Edge", which became a popular hardcover "coffee-table" book, bringing the issue into homes across North America.

## **6.7 The First Blockades**

By the Fall of 1985, the Haida had become both well informed and highly critical of forestry practice and policy. They were also prepared to act on their concerns. As Gardner (1990:14) explains:

In October 1985, the President of the Council of the Haida Nation, Miles Richardson, related to the press the frustration of his people after twelve years of fruitless negotiations and threatened a less peaceful approach: "We will not be pushed aside in our own homelands and told that our interests are not worthy of consideration with all the other interests in this province. If we must take this into our own hands, that's what we will do" (Bohn 26 Oct. 1985).

That month, the Haida formed a human chain, and began blockading logging roads on Lyell Island. In defiance of a court injunction, the peaceful

blockades continued until November; each time a group of Haida was arrested, another quietly formed to take its place. By the end of November 1985, 72 Haida elders and youth had been arrested, and eleven were later charged with criminal contempt of court (May 1990; Sewell 1989:161). This pivotal event, captured on television cameras throughout the world, catapulted the Gwaii Haanas issue onto the global stage.

### **6.8 The Wilderness Advisory Committee**

Also in November 1985, the B.C. Minister of Environment appointed the Wilderness Advisory Committee (WAC). The WAC was mandated to assess 16 controversial park proposals, as well as to review the boundaries of eight existing parks. Many environmentalists boycotted the process, having by then become thoroughly disenchanted with the provincial government's penchant for ineffective studies and committees (Gardner 1990:13). There was also increasing concern about the nature of the relationship between the Ministry of Forests and the forest industry, which many critics suspected was unacceptably close. Interestingly, the Minister of Forests, Tom Waterland, was forced to resign in January 1986, when it was revealed that he had invested in a tax shelter involving WFP mills which utilized timber from Gwaii Haanas (Gardner 1990:6).

The WAC report was released in March 1986. It recommended that, with the exception of an Ecological Reserve at Windy Bay, logging should continue on Lyell Island. The WAC also advised that the rest of Gwaii Haanas be preserved, and that B.C. "should offer Parks Canada the opportunity to create a national park on South Moresby." At this point, however, advocates of the Wilderness Proposal were fighting for full

protection of Gwaii Haanas (Gardner 1990:13).

That same year, public awareness and support were galvanized further when the Canadian Nature Federation sponsored the "Save South Moresby Caravan", carrying both Haida and non-native delegates. For several weeks, the Caravan travelled across Canada, holding rallies and information meetings throughout the country (Sewell 1989; Gardner 1990:16).

Meanwhile, federal government support for the protection of Gwaii Haanas was growing. In particular, Environment Minister Tom McMillan and Speaker of the House John Fraser were applying pressure on the B.C. government to initiate discussions on protecting the area as a park. In turn, they were supported by the Liberal and NDP environment critics. By May 1986, negotiations between the federal and provincial governments had begun (Gardner 1990:17).

Nonetheless, in July 1986, the new Minister of Forests followed the WAC recommendation that continued logging on Lyell Island be permitted. In response, the Haida sent a telegram to the Prime Minister Mulroney renouncing the Canadian citizenship of nine of their people (Gardner 1990:15). In December of that year, the Ministry approved another five-year logging plan for Lyell Island, but then imposed a moratorium on further cutting of all but a small portion of the island.

## **6.9 Negotiating the National Park Reserve**

At this point, park negotiations between the two levels of government had greatly intensified (Sewell 1989:161). Although the Haida were not



directly included in these negotiations, the importance of their role was not forgotten. In May 14, 1987, the House of Commons resolved unanimously to "ensure the continued participation of the Haida people in matters affecting South Moresby" (McNamee 1993:44).

Finally, in July 1987, the B.C. and federal governments agreed to establish South Moresby/Gwaii Haanas as a National Park Reserve. On July 11, Prime Minister Brian Mulroney and B.C. Premier Bill Vander Zalm signed a Memorandum of Understanding in Victoria. The MOU provided for a number of concessions to the province, including \$106 million to be used to diversify the local economies through the Regional Economic Development Initiative (REDI), to help compensate logging interests, and for capital and operational expenditures, among other things.<sup>5</sup> In turn, British Columbia contributed approximately \$20 million toward the Forestry Replacement Account and forest industry compensation, in addition to providing Crown land and foregone revenues (Olsen 1993).

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<sup>5</sup> Specifically, the federal funds were allocated as follows: \$38 million for the R.E.D.I.; \$23 million for forestry compensation; \$20 million for capital expenditures; \$12 million each for the Forestry Replacement Account and for operations and maintenance; and \$1 million for miscellaneous costs (Olsen 1993).

## **7.0 NEGOTIATING THE CANADA-HAIDA AGREEMENT**

Over the next six years, critical negotiations took place between the Haida and Canadian governments. The stakes of this convoluted "dance" were extremely high, springing as they did from the fundamental notion of sovereignty. This Chapter sets out the landmark events of those years. As well, a summarized chronology of events is contained in the Appendix. The Chapter then outlines key features of the Canada-Haida Agreement, which was finally achieved in 1993.

### **7.1 Setting the Stage: McMillan Promises Co-operation**

On July 11, 1987, the Memorandum of Understanding (MOU) between the federal and B.C. governments was signed in Victoria. That same day, a lavish Haida Potlatch was held in Skidegate. It quickly turned into a celebration of the long-awaited victory. During the festivities, Minister of Environment Tom McMillan promised the Haida that they would be actively involved in the development of the park reserve. As he said,

I have no interest in imposing upon you and upon the Haida and upon these islands any formula for the National Park Reserve. Much less do I have any answers to provide or any law to lay down on the subject of the land claims. But I do give a commitment to ...all of the Haida Nation that we will enter into those discussions and negotiations with a good spirit, in an act of genuine fairness, so that whatever is worked out will be a credit to the Haida, to the Queen Charlottes and to the people of Canada (CPS 1988b:1).

That September, the Haida notified the federal government that they wished to immediately initiate formal land claims negotiations. They proposed that rather than occur separately, Haida-CPS negotiations for the park reserve should occur within that broader land claim process. Further, they requested that all negotiations between B.C. and the federal

government to implement the 1987 MOU be immediately halted (Broadhead 1989b). As Council of the Haida Nation (CHN) President Miles Richardson explained, the B.C.-federal MOU "may contain clauses which substantially harm Haida interests" (CPS 1988b:1-2).

At that point, the Governments of Canada and British Columbia had already begun negotiating the South Moresby Agreement, which was designed to implement and flesh out the terms of the 1987 MOU.<sup>6</sup> Legally, Gwaii Haanas could not be given national park status until it had been transferred from the provincial Crown to federal jurisdiction. Without a B.C.-federal agreement, this could not occur.

It is important to note that the CPS had hoped to directly include the Haida in the BC-Federal negotiations. Unfortunately, the provincial government of the day was unwilling recognize the Haida as legitimate, full participants in the process (Olsen 1993). At the time, B.C. maintained that all aboriginal rights in the province had long since been extinguished, and did not affect land use planning (Thompson and Morgan 1990:4).

Thus, the federal government was caught in a quandary. On one hand, the provincial government was still unwilling to sit at the negotiating table with the Haida. On the other hand, Haida cooperation in protecting and managing the park was clearly both necessary and desirable. The choice seemed clear: try to do both (Amos 1993).

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<sup>6</sup> In the end, negotiations for the Agreement took the two governments nearly one year to complete. The final document was over 100 pages long.

## 7.2 Agreeing to Cooperate--Informally

On November 3, 1987, senior park official Pat Thomson and other CPS representatives first met with the Haida to discuss co-operatively managing the park--in the absence of any formal land claim agreement. The CPS proposed that negotiations immediately begin to jointly draft an interim park management proposal for 1988. It would provide for Haida involvement in the planning, development and operation of the park reserve, with both Haida and the CPS members sitting on a joint Park Management Board. It would also and allow for the continuation of traditional subsistence use of park resources (Olsen 1993). Most significantly, the proposal identified a number of specific park-related issues over which the Haida would have final authority (Amos 1993).

The concept outlined by Thomson and the others was "revolutionary" for its time (Olsen 1993; Amos 1993). Although CHN President Miles Richardson had requested a more formal agreement, the Haida cautiously decided that this was something they could live with in the meantime (Olsen 1993). The desire of the CPS to work co-operatively with the Haida was emphasized again by McMillan in a January 26 letter to Richardson. The letter offered to forge a mutually-respectful partnership with the Haida (CPS 1988b: 2).

On February 18, 1988, with the tourist season fast approaching, Haida and CPS representatives met in Hull, Quebec to discuss preparations for that summer's activities. Representing the Haida were Miles Richardson, his brother Colin Richardson, and Guujaaw. It was Guujaaw who would prove to be a key player in park negotiations over the next several years. Barry

Olsen, Ron Hooper, and Director of National Parks Pat Thomson, represented the CPS (CPS 1988b: 3).

At the meeting, the parties agreed to work together to protect and manage the park on an informal basis. Specifically, they agreed to begin drafting both an Interim Purpose and Objectives Statement, and a 1988 Working Plan for Gwaii Haanas as quickly as possible (CPS 1988b:3). To achieve this, an interim management and planning team was selected, it was comprised of Guujaaw, Colin Richardson, Hooper and Olsen (Olsen, 1993).

The first tentative steps at informal cooperation were not long-lived. Only one week later, the Haida returned to Haida Gwaii to find that Environment Canada had just issued a press release, announcing that park administration and maintenance buildings, as well as an office for Western Economic Diversification, would be established in Queen Charlotte City and Sandspit, respectively. The Haida were outraged--they had not been consulted about either the decision or the press release (Guujaaw 1993; Hooper 1993). As Guujaaw explained in a letter to Environment Minister Tom McMillan, it appeared that, in the minds of Parks personnel, the Haida were "not to be a factor in decision making. It was an embarrassment to those who attended the meetings in Ottawa; under these circumstances, it is no longer possible to convince our people that we do have a workable relationship." (CPS 1988b:3-4).

McMillan was quick to respond. In a letter dated March 4, he assured the Haida that no future CPS decisions affecting Haida Gwaii would be taken

without meaningful consultation with the Haida. Instead, all matters would be decided by the interim management team by consensus, with the full participation of the Haida members (CPS 1988b:4).

Nonetheless, the "goal posts" had been irrevocably shifted. At the first meeting of the Interim Planning Team, the Haida now insisted that a formal Canada-Haida Agreement be negotiated before proceeding any further with a 1988 working plan or the Purpose and Objectives Statement (Olsen 1993; CPS 1988b:4). Although it caught them off-guard, the CPS members of the team--Olsen and Hooper--were given the mandate to undertake such negotiations by Pat Thomson, and discussions resumed (Olsen 1993).

### **7.3 Negotiating the Canada-Haida Agreement: Round One**

During only two days of intensive meetings, from March 8 to March 9, 1988, the Haida-CPS team had made remarkable progress. By the second day, they had sketched out Terms of Reference for the Gwaii Haanas Coordinating Team; a draft Interim Purpose and Objectives Statement; and a draft Canada-Haida Agreement (CPS 1988b:4). However, with its implications for each party's legal position on Gwaii Haanas, the Preamble for the Agreement proved to be perhaps more onerous than anyone had imagined.

For the next three months, negotiations took place on two levels. On one hand, Guujaaw and Olsen, along with the others, continued working on the Interim Purpose and Objectives Statement for the park. On the other hand, each side continued drafting revised versions of the proposed Canada-

Haida Agreement and its Preamble. Each group attempted to address their mutual concerns over the Agreement's implications for sovereignty. At the same time, negotiations between Canada and British Columbia for the South Moresby Agreement were ongoing--without the Haida.

Throughout the Spring, the two sides bickered over the wording of the draft Canada-Haida Agreement. Among other issues, the Haida were adamant that the Minister should not have ultimate decision-making authority in matters affecting Gwaii Haanas. By late March, the Haida had made it clear that any co-management arrangement with the CPS would not be business-as-usual, with the Minister making final decisions should the Coordinating Team fail to reach consensus. This position was spelled out in a March 25 letter from Guujaaw to the CPS, in which he stated:

No, we would not feel compelled to abide by a minister's decision outside of consensus, and as you stated you would not abide by the Council of the Haida Nation's decision outside of consensus either. The only solution is to meet half way, and if your government is unable or unwilling to do that, we have a problem. (CPS 1988b:5).

Meanwhile, Guujaaw and Olsen (who by then had formed an amicable personal relationship) doggedly worked on modifying the wording on the Interim Purpose and Objectives Statement. Avoiding the issue of sovereignty, they were able to identify a broad range of common objectives and interests for the protected area. By April 19, they had drafted a statement which, both felt, reflected the mutual interests and objectives of the Haida and the federal government. They believed it would provide a sound basis for sharing management and operation of Gwaii Haanas (Guujaaw 1993; Olsen 1993).

The document set out a number of objectives concerning the protection of natural and cultural heritage in the Archipelago. The document acknowledged "that the Haida have lived in harmony with nature for millennia...", and that it was:

a heartland of the Haida people, and a source of inspiration for their culture and art. While South Moresby/Gwaii Haanas is perceived by many as a wilderness, people have lived there for thousands of years. The Haida presence in the area demonstrates how humans can live and prosper in harmony with the environment (CPS 1988a).

Initially, the Statement was reviewed and approved by officials in both the CPS and the Department of Justice, and several thousand copies were printed up. They were slated for release at the July 11 signing ceremony of the Canada-B.C. South Moresby Agreement (Olsen 1993).

In May 1988, however, everything changed. More senior officials in the Department of Justice examined the document, and found several clauses which they perceived to be potentially prejudicial to Canada's position in comprehensive land claim negotiations. Phrases alluding to the Haida's spiritual and cultural ties to Gwaii Haanas, and their traditional use and occupancy of the area, were perceived to be particularly damning (McNamee 1993:45).

The Department of Justice advised that the Purpose and Objectives Statement not be publicly released. As a result, virtually all copies of it were shredded (Broadhead 1993). At this point, the good will that the two sides had worked so hard to achieve began to disintegrate. As one observer noted,

To the Haida, this was a denial of their history as a people, and an insult to their Hereditary Chiefs and other cultural institutions. It signalled that Canada had no intentions to respect their interests, and thus was the point at which they lost faith



in the negotiations (Broadhead 1989b).

By mid-May, negotiations on the Canada-Haida Agreement were becoming increasingly tense and polarized. Two major issues dominated the discussions. The first was directly related to sovereignty. Canada's position was that the area was sovereign Canadian territory, to which the Haida had submitted an unresolved claim. The Haida perspective was just the reverse: the whole of Haida Gwaii had been sovereign Haida territory for millennia; it was *Canada* that was submitting a disputed claim. To address these polarized viewpoints fairly, the Haida proposed that the Preamble make clear that *both* the Haida and Canada had conflicting claims to sovereignty over Gwaii Haanas, which had yet to be resolved (Gardner 1990:19; McNamee 1993:45).

The second issue, while also stemming from the sovereignty question, dealt more specifically with decision-making authority. The CPS sought a general consensus decision-making approach, with specific kinds of decisions--to be outlined in legislation--falling ultimately to either the Haida or the CPS. The Haida, on the other hand, were pressing for veto power over all significant decisions affecting Gwaii Haanas (Gardner 1990:19; Amos 1993). It is worth emphasizing that the Haida had been exercising *de facto* control over the area for at least five years, monitoring and protecting the Archipelago through the Haida Watchmen Program.

By May 12, both parties agreed to hold future meetings with the accompaniment of their respective legal councils (CPS 1988b:6). By May 16, Miles Richardson informed the CPS that he would no longer attend the

discussions unless the Minister of Environment also personally attended.

Several more meetings were held throughout May and June, but the two sides remained intransigent. On June 19, 1988, a meeting was held between Miles Richardson and his lawyer, and Ron Wasnow, Chief of Staff to the Minister. They agreed that future negotiations would no longer be conducted at the level of CPS officials. By the end of the month, negotiations on the Canada-Haida Agreement had ceased altogether (CPS 1988b:8).

#### **7.4 Impasse: The Summer of 1988**

On July 1988, the B.C.-Federal South Moresby Agreement was signed. Legally, the path was now cleared to allow park planning and development to fully proceed. The practical reality was something quite different: the Haida had no intention of allowing planning for the area to go ahead without first negotiating a Canada-Haida agreement. As Guujaaw (1993) explained, "British Columbia had no authority to give Haida lands to Canada, and without an agreement with the Haida Nation, we wouldn't let them put up an outhouse!" That same month, the Haida threatened more blockades, and closed off parts of the archipelago to visitors (Hooper 1993).

The impasse continued throughout the summer. For the most part, both visitors and tourist operators in the area respected the closures (Hooper 1993). The CPS, and particularly Ron Hooper--who was by then, the Superintendent of Gwaii Haanas--also respected the closures. In reality, Hooper and his staff may have had little choice. They were effectively

immobilized by the Haida's practical control over the area, and by the very real potential for the situation to dangerously escalate (Guujaaw 1993). Nonetheless, in the past, when faced with similar "illegal" blockades by local residents in parks elsewhere in Canada, the CPS has worked with law enforcement agencies to assert its legal and administrative authority. Hooper and his staff chose to avoid this potentially inflammatory response. Instead, they simply explained the situation to visitors and residents alike--many of whom were adamantly opposed to this conciliatory approach (Hooper 1993).

Still, the tensions continued to mount. By January, 1990, the Haida had declared self-rule, and began to issue their own passports to tourists wishing to visit Gwaii Haanas. By February, they had formally withdrawn from negotiations with the CPS (Gardner 1990:20). At this point, the potential for good will and meaningful co-operation in the future appeared highly uncertain.

### **7.5 Breaking the Impasse: Drafting the Gwaii Haanas Accord**

Meanwhile, the complex events of the past two years had been quietly observed by John Broadhead, one of the early founders of the Islands Protection Society. By this time, he had become well established as a respected independent consultant on the Islands. Broadhead had worked on contracts for both the CPS and the Haida since the signing of the MOU, and was well aware of both the personalities, concerns and positions of both sides of the negotiations.

As a second season of threatened closures and blockades approached,

Broadhead became deeply concerned that, because "Canada had let Justice nitpick and threaten" the negotiations, the potential for a good co-management process was quickly slipping away (Broadhead 1993). He decided to intervene. That March, after informally consulting with both Guujaaw and Parks staff on the substantive issues and wording that would satisfy the Haida and CPS mandates, Broadhead prepared a Draft South Moresby/Gwaii Haanas Accord. While Broadhead's contribution to the Accord stemmed from its unique structure and format, the content of the Accord remained solidly built on the principles and wording that had already been negotiated by the Haida and CPS staff up to that point.

The Accord was highly innovative. First, neutral terms, such as "Archipelago" in lieu of either "South Moresby" or "Gwaii Haanas," were used. Second, rather than attempting to assert the exclusive jurisdiction of either party, the Accord simply contained parallel statements in two columns, each setting out the position on sovereignty held by the Haida and Canada. Indeed, this parallel structure was Broadhead's greatest contribution to the process. The Accord explained that: "Canada and the Haida maintain viewpoints regarding the Archipelago that diverge with respect to title or ownership, and that converge with respect to objectives concerning the care, protection and enjoyment of the Archipelago..." (Broadhead 1989a).

The Accord contained subsequent sections on Purpose and Objectives, Framework for Negotiation of a Canada-Haida Agreement, the establishment of an Archipelago Management Board, and Consensus decision-making procedures. It continued with sections on Approval and

Execution, Funding, and Federal Expenditures. The Accord concluded with a Without Prejudice clause, aimed at assuring the signators that nothing in the document would prejudice "the viewpoint of either party respecting ownership or title of the Islands, nor is it to be construed as an interpretive aid in determination of any rights, legal or otherwise" (Broadhead 1989a).

In mid-April of 1989, after again informally consulting with both sides, Broadhead took the Draft Accord, prepared a set of briefing notes, and flew to Ottawa. As an independent observer, he would be able to tread where others--particularly CPS representatives--could not. He managed to arrange a 15 minute interview with the Deputy Minister of Justice, John Teit, to discuss the Draft Accord (Broadhead 1993; Amos 1993).

Broadhead explained to Teit that, from the Haida's point of view, many of Canada's actions over the past few years had been insensitive at best, and provocative at worst. Indeed, they were perceived by the Haida "as growing evidence that Canada has reneged on its commitment to honour the special relationship of the Haida to Gwaii Haanas" (Broadhead 1989b).

He also explained that many members of the Haida community did not even *want* a "park". From the Haida perspective, Gwaii Haanas was a Designated Haida Heritage Site. For years, the Haida had been effectively managing the area without the CPS, through their permitting system and through the Haida Watchmen Program. Moreover, these activities were already largely supported by visitors, commercial tour operators, and environmental organizations. The Haida had fought long and hard to protect the area from

large-scale industrial logging and to assert their ancestral role as stewards over Gwaii Haanas--not to turn it into a "park" (Broadhead 1989b); Guujaaw 1993).

In fact, there was "very strong pressure on the Haida political leadership to reject any offer to reopen talks, and to bring the title issue to a head." Broadhead pointed out that should there be further confrontations over sovereignty, it was likely that the Haida would gain the majority of public support in both domestic and international arenas (Broadhead 1989b). He then proposed a solution:

The only possible meaningful gesture that Canada could make to restore a sense of faith would be to offer an agreement based on four principles:

1. recognition of parallel viewpoints on ownership;
2. commitment by Canada to the continuity of traditional Haida cultural activities;
3. mutual consent; and
4. a legally binding document (Broadhead 1989b).

Apparently, the presentation had been convincing. He left one and a half hours later, passing "some very angry-looking men in suits" in the waiting room on the way out (Broadhead 1993).

## **7.6 Starting Over: Bouchard Goes to Haida Gwaii**

Meanwhile, Miles Richardson and the new Minister of Environment, Lucien Bouchard, had been holding discussions on the issue for several weeks, with Bouchard being eager to salvage the negotiations if at all possible (Guujaaw 1993). Shortly thereafter, Bouchard flew up to the Islands to meet with Richardson and several Haida elders. He urged the Haida to reopen negotiations towards a Gwaii Haanas Agreement (Gardner 1990:20).

Bouchard had a personal interest in the position of the Haida Nation. As a sovereigntist Québécois, he strongly empathized with the Haida's desire for self-determination, perhaps even more than his colleagues had anticipated: within weeks, Bouchard had deserted the Conservative party and joined the separatist Parti Québécois. While he was involved, however, Bouchard proved to be one of several positive forces within the federal government allowing it to break new ground in negotiations with the Haida (Amos 1993).

Encouraged by the possibility that this time, the federal government might be willing to be more flexible, the Haida decided to reopen co-management negotiations. Guujaaw continued to serve as the main negotiator, with Miles Richardson, Colin Richardson, and others also participating throughout (Amos 1993; Hooper 1993).

At the same time, a new team of senior federal negotiators was established. This group was not only willing, but also able, to change "the rules of the game". Reg Evans represented the interests of the Department of Justice. As the Department's Assistant Deputy Minister, he had the authority and mandate to make significant decisions regarding Canada's position in further co-management negotiations. Similarly, Jim Collinson, the Assistant Deputy Minister for Parks within Environment Canada, was given the lead for the CPS. Also among the CPS contingent were Bruce Amos, Director of the National Parks Systems Branch, and his colleagues Sandra Gillis and Jim Christakos. Hooper and Olsen were available as observers, and to provide continuity to the negotiations. Occasionally, other federal representatives--including Lucien Bouchard--also

participated (Amos 1993; Olsen 1993).

### **7.7 Negotiating the Canada-Haida Agreement: Round Two**

Very quickly, a new co-management agreement was sketched out, based largely on the earlier Draft Accord (Amos 1993). While the central thrust of the new Agreement again acknowledged the two parties' diverging perspectives on sovereignty and title, it also focused on their common objectives of protecting and managing the park (Amos 1993). Essentially, the two sides "agreed to disagree", in order to proceed with the task at hand.

The agreement was unusual in several respects. As with the Draft Accord, the Preamble was comprised of parallel statements, each reflecting the divergent viewpoints of the parties involved. One column in the Agreement described the Haida's assertion that Gwaii Haanas was a Heritage Site as defined by the Constitution of the Haida Nation, and was sovereign Haida territory. The opposite column set out the federal government's perspective that the Archipelago was sovereign Crown Land, "subject to certain private rights or interests", over which the National Parks Act applied.<sup>7</sup> A summary of the Agreement follows in Table 5.

The Draft Accord was also reflected in the Agreement's use of neutral and mutually-agreeable language such as "Archipelago" (vs. South Moresby or

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<sup>7</sup> The following description follows from discussions with Amos, 1993, and with a close examination of the current agreement. I was not permitted to view the Draft Accord. However, according to Amos, Guujaaw, and Olsen (all 1993), the current agreement is virtually identical to the early drafts negotiated in the Spring of 1989, with the exception of several additional Appendices.



Gwaii Haanas) and "The Islands" (vs. Haida Gwaii or the Queen Charlotte Islands) was used. A "notwithstanding" clause was included, in order to assure each side that the contents and substance of the agreement would not jeopardize either side's position in future land claim negotiations.

Those traditional Haida activities which were to continue in the Archipelago were negotiated and agreed to. In terms of resource extraction, these included hunting of land mammals and trapping for fur-bearing animals; the cutting of selected trees for artistic and ceremonial purposes; the gathering of plants used for medicinal or ceremonial purposes; and fishing for freshwater and anadromous fish. Other traditional uses included travel; the performance of traditional, cultural or spiritual ceremonies; the seeking of cultural and spiritual inspiration; and the use of shelter and facilities necessary to do the above activities.

A keystone to the implementation of the agreement was the Archipelago Management Board. The Board would examine all undertakings affecting the planning, operation and management of Gwaii Haanas. The Board would be responsible for completing a joint Purpose and Objectives Statement and a Management Plan for the Archipelago, in consultation with the public. As with several other co-management agreements between native users and government agencies, the Board was to have equal numbers of Haida and CPS members, with alternating co-chairpersons. In this case, however, the Board would not serve in a mere advisory capacity, but would make actual decisions about the management and planning of Gwaii Haanas.

All decisions by the Board were to be made by consensus. This in itself was not uncommon to similar agreements negotiated elsewhere. However, the agreement included a provision which was unprecedented. In the event of a dispute or failure to reach consensus, final decision-making authority would be "bumped up" a level, to the Council of the Haida Nation and the Government of Canada, respectively, with the provision that the Board could request the assistance of an agreed-upon, neutral third party. This provision--consensus without a stated "bottom line"--is one of the most innovative features of the entire agreement (Amos 1993).

The task was not yet complete, however. For the next year, a number of issues continued to dominate the discussions. One particularly contentious issue concerned the Haida's desire to be able to potentially *build*--and not just use--structures within the Archipelago. In fact, some elders had expressed interest in moving back to their ancestral village sites (Amos 1993; Hooper 1993). The fact that the villages were no longer inhabited was primarily due to the fact that European plagues had nearly wiped out the Haida people in the previous century--but those plagues no longer posed a danger.

From the government's standpoint, this was problematic; if people lived in these relatively remote areas, which government agency would be legally responsible for sewage, power, and other infrastructures which accompany built communities? How would visitors respond, when their expectations hinged not only on experiencing Haida culture, but also a pristine wilderness area? From the federal perspective, the issue begged the question: what makes a "park" a "park" ? Finally, the two parties

settled on specifying the "use" of structures, with specific proposals for construction being referred to the joint Board for review (Amos 1993).

Another issue related to commercial timber harvesting. Initially, the CPS sought the specific prohibition of commercial harvesting, to be included under the section concerned with permissible traditional Haida activities. Once again, the question boiled down to one of sensitivity; in truth, everyone, including the Haida, wanted the area protected from potentially massive clearcut logging! In the end, a caveat was added to the earlier "Purpose and Objectives" section of the document that read: "there will be no extraction or harvesting by *anyone* of the resources of the lands and non-tidal waters of the Archipelago for or in support of commercial enterprise...." (Amos 1993; emphasis added).

In subsequent months, the Haida also negotiated for the inclusion of several additional Appendices. Among other things, these outlined provisions for funding, and the training and hiring of Haida staff on the park reserve (Amos 1993; Olsen 1993).

Finally, by the Spring of 1990, the negotiators had drafted an agreement-in-principle for the shared planning and management of Gwaii Haanas. The document was circulated throughout the Haida community. On May 19, 1990, it was ratified by the Haida Assembly (McNamee 1993:45).

### **7.8 The Home Stretch--With a Few Bumps Along the Way**

Before the government could sign the Canada-Haida Agreement, it first had to amend the National Parks Act, in order to legally permit the Haida

to continue carrying out many of the traditional resource harvesting activities outlined in the Agreement, and to permit the federal government to officially sign the agreement (Olsen 1993; McNamee 1993:45).

However, passing the legislation proved to be more difficult than expected. The bill was introduced on May 22, 1992, and was expected to pass in a matter of hours. Instead, it took almost a month. The Bloc Québécois--led, ironically, by Lucien Bouchard--stalled passage of the bill as leverage, in an attempt to get a seat on a constitutional committee of the House of Commons. Finally, on June 18, 1992, the Act was given royal assent (McNamee 1993:45).

On January 30, 1993, the Canada-Haida Agreement on Gwaii Haanas National Park Reserve was formally signed by Miles Richardson, President of the Council of the Haida Nation, and Mary Collins, Minister of State for the Environment. Over six years had passed since the negotiations had first begun.

The signing ceremony took place during the Haida House of Assembly of the Council of the Haida Nation in Masset, on the Islands. As Collins noted:

The Canada-Haida Agreement is a historic agreement which demonstrates the cooperation between the Government of Canada and the Haida people. It is particularly significant that the accord has been signed during the United Nations International Year of Indigenous People.

In turn, Richardson added:

Through this arrangement, we clarify our relationship with Canada while we look after the things that are important to our people and set an orderly way to share our land and our culture. This clears the path to move ahead on questions of jurisdiction.

**TABLE 5: KEY PROVISIONS OF THE 1993  
CANADA-HAIDA (GWAII HAANAS) AGREEMENT**

**1.0 Reasons for Agreement:** Here the Haida and Government of Canada agree that they share the goals of protecting Gwaii Haanas, and that they have divergent views, expressed in parallel statements, with respect to sovereignty over the area. From the Haida perspective, the Archipelago is under the sole jurisdiction of the Haida Nation, and is designated as the "Gwaii Haanas Heritage Site." From the Government's perspective, the lands and waters of the Archipelago are Crown land, under federal jurisdiction, and are to be designated as National Park and Marine Park reserves, to which the National Parks Act will apply.

**2.0 Definitions and Scope:** While the terms "Gwaii Haanas/South Moresby", and "Haida Gwaii/Queen Charlotte Islands" refer generally to the same areas, the parties agree to use the neutral terms "Archipelago" and "the Islands", respectively. Where the Haida refer to the designation of the Gwaii Haanas Heritage Site, the federal government refers to the designation of a National Park Reserve. The government's intended National Marine Park Reserve is neutrally referred to here as the "Archipelago Marine Area."

**3.0 Purpose and Objectives:** The parties agree that the environment and Haida culture of the Archipelago is to be protected and left unimpaired for future generations. Within this broad objective, Haida culture is to be sustained by providing for continued cultural and traditional harvesting activities. There is to be no commercial resource extraction by anyone except for fur-trapping or selective tree cutting by the Haida for ceremonial or artistic purposes. The Archipelago is to be co-operatively managed through the establishment of the joint Archipelago Management board. Negotiations for the co-management of the Archipelago Marine Area are to be conducted in the future.

**4.0 Archipelago Management Board:** An Archipelago Management Board (AMB) is to be established "to examine all initiatives and undertakings relating to the planning, operation and management of the Archipelago." Among other things, the AMB will complete a joint Purpose and Objectives Statement and Management Plan, with public consultation; manage areas of particular cultural-spiritual significance on a case by case basis; issue permitting and licensing guidelines for commercial tour operations or research; draw up annual work plans; and implement strategies to facilitate Haida economic and employment participation in the planning, operation and management of the Archipelago. The AMB is to be composed of equal numbers of Haida and federal government representatives, starting with two of each; that number can be adjusted by mutual agreement, so long as representation remains equal. Meetings are to be co-chaired by appointed members of both sides.

**5.0 Consensus:** AMB will strive to deliberate on matters "in a constructive and co-operative manner to achieve a consensus decision of the members, which will be deemed recommendations both to the Government of Canada and the Council of the Haida Nation." If consensus cannot be achieved, the matter "will be referred to the Council of the Haida Nation and to the Government of Canada to attempt to reach agreement on the matter in good faith. The parties may request the assistance of an agreed neutral third party(ies) in attempting to reach an agreement."

(continued...)

**6.0 Haida Cultural and Traditional Activities:** The Agreement provides for the following Haida activities on the lands and non-tidal waters: travel to and within the Archipelago; traditional hunting, gathering (including plant gathering for ceremonial or medicinal purposes) and trapping; selective tree cutting for ceremonial or artistic purposes; fishing for freshwater or anadromous fish; conducting ceremonies of traditional, spiritual or religious significance; seeking cultural and spiritual inspiration; and the use of shelter and facilities essential to the pursuit of the above activities.

**7.0 Access:** Nothing in the Agreement prevents the continued access to the Archipelago of authorized Haida or federal government representatives, or of fishermen for essential activities (consistent with Archipelago protection guidelines).

**8.0 Authorization and Execution:** The agreement takes effect when both parties have ratified it. It shall be jointly reviewed two years after taking effect, and every five years after that. After the first two years, either party may request a special review, lasting six months. The Agreement can be terminated with six months' unconditional notice by either party.

**9.0 Without Prejudice:** The Agreement "represents both parties' understanding of their reciprocal good faith and common cause in the protection and preservation of the Archipelago, and is without prejudice to the viewpoint of either party respecting sovereignty, ownership or title." The Agreement does not affect the rights, responsibilities or authority of either party so long as "all reasonable efforts...have been made to reach consensus..."

## **8.0 ANALYSIS: EVALUATING THE GWAII HAANAS AGREEMENT**

In Chapter 2.0 (Methodology), the criteria or principles for successful co-management were set out. In this chapter, each of those same criteria are applied to the case of Gwaii Haanas in order to measure its potential for success.

### **8.1 Formal, Long Term Commitment**

*Principle: Both parties should demonstrate a genuine, long term commitment to working together, marked by a formal agreement, with clear mutual objectives.*

Both the Council of the Haida Nation, and the Government of Canada, have demonstrated a clear and formal commitment co-managing Gwaii Haanas, marked by clearly specified mutual objectives. This commitment culminated with the signing of the Gwaii Haanas Agreement. As the previous chapter demonstrated, this commitment did not come lightly or easily. Both parties, in fact, had to overcome many cultural, political and legal obstacles, before signing the Agreement. At this point, it is too early to tell whether this commendable commitment will endure over time. The true test will come if and when the AMB encounters extensive difficulty in reaching consensus on any given issue.

### **8.2 Clear Boundaries**

*Principle: Social and ecological boundaries should be clearly defined.*

The notion of social boundaries is somewhat problematic for national protected areas. With most co-management systems, the community of users and the co-managers are the same. This helps ensure accountability,

increases local control and benefits, and avoids the difficulties of "open-access" common property resources discussed in Chapter 2.0. However, national parks are, by nature, open-access. For many protected areas, the majority users of the resource may be visitors from other provinces or even other countries, not local residents. Thus, while the criterion of clearly defined social boundaries is of critical importance to co-management, it must be approached from a different perspective when considering public parks.

In a protected area--and here reference is made specifically to a national park--it is proposed that there are actually two kinds of users. First, there are non-local visitors who "consume" the wilderness or natural experience of the park without directly altering it, by hiking, kayaking or conducting other relatively low-impact activities. Second, there are local users (and co-managers) who literally utilize resources, such as harvesting trees for carving, constructing traditional campsites, or hunting and trapping. Access of the former group to the resource can, in fact, be bounded or limited by the use of growth management strategies. Moreover, outside visitors will not directly participate in management decisions, nor will they derive economic benefit from the resource.<sup>8</sup> The latter group is the one to which this criterion directly applies. In the case of the Archipelago, the users and co-managers of the Archipelago are clearly identifiable. The Haida have a distinct cultural, ethnic, and political entity. Moreover, the Haida clearly possess a strong

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<sup>8</sup> Of course, wilderness tour operators and guides, who are not necessarily local, *will* derive economic benefits of the resource by coordinating the activities of park visitors. However, they are not directly "consuming" the resource.



intergenerational commitment to place and sense of community.

The ecological boundaries of the resource (the southern portion of Moresby Island) are also clearly defined in the Agreement. Specifically, Appendices 1 and 2 of the Agreement contain Haida and CPS maps of the Archipelago, each denoting place names in their own respective languages.

### **8.3 Ecological and Cultural Protection**

*Principle: Both local cultures and ecosystems are protected*

The Canada-Haida Agreement is clearly aimed at providing for the conservation of both the local ecosystem and local culture. Specifically, the "Purpose and Objectives" section states that "the Archipelago will be maintained and made use of so as to leave it unimpaired for the benefit, education and enjoyment of future generations." All actions related to the Archipelago "will respect the protection and preservation of the environment, the Haida culture, and the maintenance of a benchmark for science and human understanding."

### **8.4 Community Economic Development**

*Principle: Significant employment and other economic benefits are derived locally.*

There are several provisions within the Canada-Haida Agreement which emphasize the goal of Haida community development and livelihood security. Section 6 outlines the kinds of spiritual, cultural, educational and resource harvesting activities which the Haida may continue to conduct and develop within Gwaii Haanas (see Table). This allows for full involvement of the Haida culture within, and related to, the Archipelago. It

does not appear to preclude the potential for Haida culture to continue evolving and changing over time, so long as the ecological and cultural integrity of the area remain unimpaired. Section 4.3(h) further states that the AMB is to address "strategies to assist Haida individuals and organizations to take advantage of the full range of economic and employment opportunities associated with the planning, operation and management of the Archipelago..."

Provisions for livelihood security of the Haida are also directly addressed through the staffing and funding sections of Appendix Four. Section Two concerns the selection of CPS employees within Gwaii Haanas. First, Haida individuals are to be encouraged and given opportunities for employment with the CPS in the Archipelago (s. 2.1). This includes the provision for training. Second, hiring boards are to be comprised of an equal number of Haida and CPS employees (s. 2.2). Third, qualified applicants are to have knowledge and understanding of Haida heritage and culture, where applicable (s. 2.3). It is worth noting that, as of June 1995, 50% of all CPS staff working in Gwaii Haanas were Haida (Strong 1995, personal communication).

Interestingly, for those Haida who do not wish to be CPS employees, Section 1.2 provides for contracts to be drawn up between the parties, for "certain services and facilities pertaining to the operation and management of the Archipelago." Thus, where the Council of the Haida Nation is on contract to the CPS, Haida "park staff" may work as employees of the Council, and not of the CPS.

## 8.5 Shared Monitoring and Enforcement

*Principle: Both state and local users share responsibilities for enforcement and monitoring.*

There is no explicit provision for enforcement in the Canada-Haida Agreement. Enforcement and monitoring are addressed indirectly in Section 4.3(e), which outlines the AMB's responsibilities for developing guidelines concerning permits or licences for commercial tour operations, research or other activities, and access and use by fishermen. Section 4.3(g) further notes that the AMB may formulate "procedures in advance for dealing with possible emergencies concerning public safety and security and threats to the natural resources and cultural features of the Archipelago, recognizing that nothing in this Agreement shall preclude either party from taking appropriate action in the case of an emergency."

Indeed, in practice, the concept of enforcement--with its implications for legislative authority, and therefore, sovereignty--has apparently been problematic in the Archipelago. This was exemplified by an issue which recently arose in Gwaii Haanas. In many of Canada's national parks, the CPS routinely issues permits for back country recreation use. These permits are a tool by which the CPS can legally enforce protective measures outlined in the *National Parks Act*. However, given that the Haida does not accept the ultimate authority of the CPS, they would not recognize the validity of this permitting system. To resolve the question, a compromise was struck: instead of permits, the two sides agreed to issue back country registration forms. One side of the forms bears the CPS logo; the other bears the logo of the Council of the Haida Nation. The upshot is that, although the Haida and CPS managers have agreed to this

system, it does not carry the force of law. Therefore, it is legally unenforceable (Hooper 1993).

It is not yet clear how similar issues will be resolved in the future. The very essence of the Canada-Haida Agreement is that, pending the resolution of the title dispute, each party is of the view that it maintains ultimate jurisdiction in the Archipelago. Under Canadian law, the CPS is fully within its rights to enforce any regulations made pursuant to the *National Parks Act*. Similarly, under its own Constitution, the Council of the Haida Nation maintains the unfettered rights to enforce its own laws.

## **8.6 Shared Information**

*Principle: Both state and local users should work cooperatively in data-gathering and analysis.*

Provision for sharing data and increasing the pool of available knowledge information is explicitly set out in the agreement. Section 4.2 states: "In a spirit of full and frank disclosure, both parties agree that they will refer any step, activity, or development that affects the planning, operation and management of the Archipelago to the AMB for deliberation..." Further, 4.7 states that "Both parties will inform the AMB of the existence and availability of data, studies, and other documents that pertain to the planning, operation and management of the archipelago, and will provide copies on request and within a reasonable time." Thus, the AMB is to serve as the "clearing house" for all information on the Archipelago.

## 8.7 Conflict Resolution

*Principle: Clear processes should be set out for resolving disputes at the board level and beyond.*

The agreement explicitly provides for dispute resolution in Section Five (Consensus"). It is worth quoting section 5.3, which states:

In the event of a clear and final disagreement of AMB members on a matter, related decisions and any actions arising will be held in abeyance, and will be referred to the Council of the Haida Nation and to the Government of Canada to attempt to reach agreement on the matter in good faith. The parties may request the assistance of an agreed neutral third party(ies) in attempting to reach an agreement.

In other words, unresolved conflicts will simply be "bumped up" to the next level of the Haida and federal governments.

Should the AMB fail to reach a mutually agreeable solution, there is no clearly-defined "fallback" mechanism. On one level, unresolved issues are referred to the Council of the Haida Nation and the Government of Canada, represented by the Minister of Environment. Those bodies must then "attempt to reach agreement on the matter in good faith". Beyond that, however, each side retains the right, at least in its own view, to take matters into its own hands. In this case, however, the lack of a definite "fallback" may be a good thing. First, this uncertainty, with all its potential for fostering serious political, legal, and public relations crises, may well serve as a powerful "bottom line" in and of itself. Second, given that the Agreement involves two vastly different cultures with conflicting views of sovereignty over the Archipelago, a rigid fallback mechanism may be wholly inappropriate.

In the event of a decision-making impasse, unresolved issues are to be "set aside from the normal business of the AMB" until they are resolved.

Further, Section 5.5 states that:

Matters set aside under Section 5.4 will not reduce or fetter the obligation and ability of the AMB to continue to deliberate in good faith and to strive to achieve consensus decisions on other proposals and initiatives..."

Thus, regardless of other disputes, the Archipelago stakeholders have agreed to remain at the table to continue attempting to resolve current issues in good faith.

### **8.8 Inclusiveness and Linkages**

*Principle: External linkages should be encouraged with the general public, academics, non-government organizations and other credible organizations. An inclusive approach should be taken to consulting with all stakeholders directly affected by management decisions.*

External linkages are addressed under Section 4.3(d), which states that the AMB will address "communications with other departments and agencies of the parties which conduct or authorize activities affecting the planning, operation and management of the Archipelago." The concept of linkages, partnerships and regional integration was more fully fleshed out in the recently-drafted *Purpose and Objectives Statement*. The statement refers to economic development, regional integration, the maintenance of local and regional communities, and the development of partnerships and cooperative strategies for enhancing scientific research, resource management, environmental education and tourism within the region (*Gwaii Haanas Newsletter* 1994: 13).

From the perspective of sovereignty, there are two clearly defined stakeholders: the Council of the Haida Nation and the Government of Canada. The agreement, through the Archipelago Management Board,

provides for the meaningful and equitable participation of both parties, and therefore meets the criterion of stakeholder involvement.

From the perspective of *users*, however, other potential stakeholders in the management of Gwaii Haanas, such as the Islands' non-native residents and commercial tour operators, are not directly included in the decision-making process. Instead, they are indirectly represented through the federal members of the AMB. The fairness and effectiveness of AMB decision-making with respect to all key stakeholders in Gwaii Haanas will depend largely on the degree to which the federal government is able to fairly and effectively represent these "third party" interests. According to the Purpose and Objectives Statement, as well as the mandate of Parks Canada, there appears to be a strong desire to ensure a high level of participation and consultation with non-native stakeholders.

### **8.9 Flexibility and Responsiveness**

*Principle: The co-management regime allows both for flexible and speedy responses to immediate needs, and for the evolution of goals, objectives and processes over the long-term.*

The Canada-Haida Agreement is clearly adaptable, providing for regular periods of review. Under Section Eight, the agreement is to be jointly reviewed by January 30, 1995,<sup>9</sup> and every five years after that. After 1995, either party can request a special six-month review.

The Agreement is also flexible and allows for the speedy resolution of

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<sup>9</sup> The agreement states that it is to be reviewed two years after taking effect; it took effect on the date of its signing on January 30, 1993.

immediate ecological or cultural threats to Gwaii Haanas without extensive consultation or inappropriately bureaucratic procedure. Specifically, Section 4.3(g) states that "nothing in this Agreement shall preclude either party from taking appropriate action in the case of an emergency."

### **8.10 Continuity and Dedication**

*Principle: Co-management is more likely to be successful and enduring in practice if there is a dedicated "energy centre".*

Clearly, no formal agreement explicitly provide for such elusive individual or group traits as enthusiasm, dedication, or ongoing commitment. The Agreement does, however, specify that the AMB will have a minimum of four members--two Haida and two CPS representatives. Although this is only conjecture, it is possible that such a relatively small number can aid the decision-making process and perhaps facilitate more intimate involvement of AMB members in the Archipelago.

Moreover, although the purpose of this section is to evaluate the Agreement itself, it is worth mentioning that, to date, it appears that a consistently dedicated energy centre of individuals does exist on the AMB. For one, senior Parks Canada staff live in Haida Gwaii and work in and around the Archipelago on a full-time basis, and (as is the case with all Park wardens and superintendents) are not "distant state authorities".

Moreover, one Haida representative, Guujaaw, has been actively involved in the protection of Gwaii Haanas for over twenty years. He has consistently



represented the Haida since the formation of the IPS in the early 1970s through to the long years of detailed negotiations with the CPS and Government of Canada in the 1980s. Guujaaw is currently the most active Haida member of the AMB. He works very closely, formally and informally, with CPS staff in operational and management decision-making (Strong, Personal Communication 1995; Guujaaw 1993; Richardson 1994).

## **9.0 CONCLUSIONS AND DISCUSSION**

The signing of the Canada-Haida Agreement on January 30, 1993, marked the end of a considerable struggle. Finally, after almost twenty years of conflict, evolving agendas, political wrangling and public relations battles, the magnificent shorelines and forested lands of Gwaii Haanas are fully protected for generations of Canadians to come. Equally important, the Haida people have negotiated an agreement which ensures their full and meaningful participation in planning, managing and operating a critical portion of their ancestral lands.

### **9.1 Evaluating the Canada-Haida Agreement**

The question remains, then, as to how well this Canada-Haida Agreement stands up when tested against normative criteria for an ideal co-management system. In this study, ten principles or normative criteria, derived from the emerging literature on co-management and other alternative common property resource systems, were used to measure the success of the Agreement. Of these, the Gwaii Haanas Agreement (and in some instances, the Appendices or the draft Purpose and Objectives Statements made pursuant to the Agreement) clearly meets the standards suggested for eight of these criteria.

Two other principles--"inclusiveness", and "enforcement"--are met only partially in the agreement. In terms of inclusiveness, non-native stakeholders or interest groups include tourist operators, service industry workers and other residents of Haida Gwaii. Many of these stakeholders have deep attachments to the land and communities in which they live.

Yet, by virtue of being non-Haida, these groups and individuals are not directly involved in decision-making for Gwaii Haanas. Instead, their interests are represented indirectly through the two CPS members of the AMB, along with the interests of the broader Canadian public. Thus, the AMB is not as inclusive as, in theory, it could be.

Similarly, enforcement and sanctioning of inappropriate or illegal behaviour in Gwaii Haanas is not directly addressed by the Agreement. It could perhaps be argued that the *National Parks Act* and regulations made pursuant to the Act are sufficient, and that such legislative and regulatory sanctions need not be made explicit in the Agreement. However, the literature clearly shows that sanctioning and enforcement must be shared-- if not carried out predominantly by the local users-- in order to be maximally effective. In practice, such sharing of enforcement appears to be occurring within Gwaii Haanas. Still, this appears to be murky ground.

A third observation is that, while the principle of conflict resolution was met in the Agreement, it is not "ironclad". That is, the Agreement does not provide for a decision-making "fallback" should the two parties ultimately fail to reach consensus. Yet "fallback" is generally considered essential to a sound, timely and committed decision-making process (Dovetail 1992).

Upon closer examination, however, these apparent shortcomings may be a natural consequence of the Agreement. They reflect the context in which the Agreement evolved and the cross-cultural nature of the parties involved. In fact, they may be unavoidable.

For example, the principle of directly including all stakeholders, including non-natives, in the decision-making "loop" disregards the fact that First Nations have a unique relationship to the Government of Canada. Aboriginal peoples are not "just another set of stakeholders"; relations between them and the State are uniquely government-to-government.

Moreover, the very notion of enforcement implies some form of higher authority, if not an outright legislative power. Yet, the central thrust of the Canada-Haida Agreement is that the two parties have "agreed to disagree", or at least to respectfully maintain and acknowledge their divergent viewpoints until the sovereignty issue is finally settled. It is difficult to envision how any system of legislatively authorized enforcement could occur within these circumstances.

Similarly, decision-making "fallbacks" almost always entail a final decision by a government body (Dovetail 1992). Since the sovereignty issue is unresolved, this option would clearly be unacceptable to the Haida.

The Gwaii Haanas Agreement appears to be a political agreement, even more than it is an agreement to "co-management" a set of resources. This is the crux of the matter: the question of sovereignty underlies the very basis of the Agreement's existence. Sovereignty is both a barrier to the Agreement's matching an ideal co-management system, and it's very reason for existing.

In other words, the strengths of the Canada-Haida Agreement--the fact that it exists in the absence of a stated final authority--may also lead to some of its unavoidable weaknesses. Yet, it is these internal tensions which mark the Canada-Haida Agreement as the most innovative and potentially precedent-setting co-management arrangement for protected areas in Canada. All of this suggests that the Canada-Haida Agreement is sound, and likely to be successful.

## **9.2 Setting the Context: Positive and Negative Forces**

This chapter would be incomplete without a discussion of the context in which the Canada-Haida Agreement exists. Indeed, there were a number of internal obstacles which very nearly stymied the best efforts of those involved. One participant observed that it is, without question, the most difficult co-management agreement the CPS has ever negotiated (Amos 1993). It is also unprecedented for the Haida, as it is the first time they have ever signed an agreement or treaty of this magnitude (Broadhead 1989b).

Obviously, the greatest hurdle for all concerned was the question of title. The Haida took a stance that has never been taken by an aboriginal people before in similar circumstances:<sup>10</sup> they unequivocally refused to recognize the supremacy of the federal government. Indeed, many Haida did not want any agreement at all, fearing that it would potentially compromise future title decisions. Moreover, the Haida presence throughout Gwaii Haanas was

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<sup>10</sup> Reference is made here to other co-management agreements for protected areas in Canada between First Nations and the CPS, pending land claim settlement.

already well-established; they had been managing key sites in the Archipelago for years, without the CPS. Many questioned the need to alter this scenario at all.

Until the federal government was willing to change the "rules of the game", the question of sovereignty continued to pose a proverbial brick wall to achieving a mutually respectful agreement. It was the one central issue that coloured all others throughout the negotiations. Yet, initially, the federal government's approach in the negotiations was inflexible on the title issue. Like the Haida, the federal government refused to recognize the other party's claim to ultimate authority over Gwaii Haanas, and insisted that the Minister responsible for parks retain ultimate decision-making power. As long as both sides insisted on asserting their claim to sovereignty as a precondition of drafting a co-management agreement, the task was impossible.

Another impediment was that the negotiations were originally delegated to government officials and lawyers. Despite their best intentions, these groups had no mandate to make meaningful, far-reaching decisions that could potentially affect title. Thus, the best efforts of the early negotiators were obstructed by high-level officials within the Department of Justice. This seriously undermined the good will and trust which had developed over the previous months.

Given the magnitude of the hurdles faced by the co-management negotiators, one is left begging the question of how the Canada-Haida Agreement ever became finalized. First, there were a number of external

pressures acting on both parties. Both the first and second "rounds" of negotiations took place just before the beginning of the tourist season. Each year, visitation levels were increasing, and so was the profile of the area. There was a pressing need to comprehensively manage and protect the area, a goal which both parties had always shared.

Also, a failure to reach an agreement could easily have developed into a public relations disaster. Neither side could have relished the thought of more blockades, closures, and bad publicity for the area. As well, the high-profile Gwaii Haanas/South Moresby battle, with its poignant televised images of traditionally-clad Haida elders being arrested on their ancestral lands, had drawn worldwide attention to the issue. After proudly declaring the area saved at last, failure to reach an agreement with the Haida would have badly tarnished the international image of the federal government.

Second, there were several positive forces acting on the negotiations, not the least of which was the personalities involved. In addition to Miles Richardson, Guujaaw was critical to the eventual success of the negotiations. His ability to remain both flexible and stalwart in the face of a monolithic, entrenched bureaucracy--while simultaneously addressing the internal dissent of his own people-- was a remarkable feat. His sense of strategy and dogged, long-term commitment to both the process and to Gwaii Haanas itself has certainly been invaluable.

As well, the CPS personnel involved, such as Barry Olsen, Ron Hooper, and Bruce Amos, seemed to genuinely wish to protect Gwaii Haanas and to

foster and maintain goodwill with the Haida. Some of these players appear to have gone well beyond the call of duty in ensuring that these things took place.

Another positive force was the federal government's willingness, in the end, to break new ground, and to change their own rules. The agreement would not likely have been possible without the support of influential politicians and senior policy-makers such as Tom McMillan, Lucien Bouchard, John Teit, and Jim Collinson.

Finally, through his role as a neutral, active observer and unofficial "facilitator", the involvement of John Broadhead was, for a brief and critical period, key. It is possible that without his voluntary intervention, the agreement would never have been accepted.

### **9.3 Outstanding Issues**

A number of potential challenges still remain ahead for the CPS and the Haida. As the discussion in Section 9.1 indicated, the issue of enforcement, the absence of direct "third party" involvement on the AMB, and possibly the lack of a decision-making fallback, were all perhaps inevitable consequences of the Agreement, given its context. At the same time, these issues may hinder the successful implementation of the co-management agreement.

Continuity is another subject which may pose problems. Among senior CPS, frequent turnover is a fact of life. The Haida, on the other hand, are obviously permanent residents of the Islands, and many are well-versed in



the complex history and context of the Canada-Haida Agreement. This lack of continuity and consistent historical involvement may place some senior CPS personnel at a distinct disadvantage. Still other challenges may lie ahead for both parties. These include the deep changes in both corporate and traditional cultures necessary to ensure meaningful, effective and respectful relationships between CPS and Haida staff and managers.

#### **9.4 Further Research Questions**

The area of co-management is just emerging in Canada, particularly with respect to protected areas. It presents an extremely exciting field of enquiry, both applied and academic. Moreover, this particular research project has focussed on the negotiations and principles lying behind an innovative, highly political co-management agreement. As powerful as this agreement may appear on paper, the true test of its success will, naturally, take place--literally--"on the ground". How well will the Agreement be implemented? This raises several important questions for further research:

- How well are the ecosystems and the cultures of Gwaii Haanas being protected? What kind of data is being gathered to measure this, and who is gathering it? To what extent is traditional knowledge being incorporated into data gathering and analysis?
- Are local economic activities stemming from the protection and management of Gwaii Haanas being maximized?
- How successful will current employment strategies be over the long term? How well are skills being transferred?
- How do non-Haida residents actually feel about their involvement in, and relationship to, Gwaii Haanas? Do they feel they are being adequately represented? How involved are they in matters related to

the planning and operation of the protected area?

- How well will the AMB resolve disputes over the long term? What will happen if there is an impasse at both the AMB and senior Canada-Haida levels?
- From a tourism perspective, are back country recreationists and other visitors getting the experience they expect in Gwaii Haanas? Is it better than if it were managed by Parks or the Haida alone?
- In terms of long-term commitment and continuity, what will happen when Guujaaw steps down? How well will the long-term dedication and presence of individual Haida members juxtapose in practice with relatively high staff turnovers among senior Parks staff?

Meanwhile, the Canada-Haida Agreement should be a tremendous source of pride for those who forged it. It is unique in Canada, and perhaps elsewhere, as well. The innovative agreement stands as testimony to the principle of focusing on common ground, while respecting the diverging viewpoints of others. The Canada-Haida Agreement has set a new precedent in the area of protected areas co-management. In the years ahead, it is likely to be closely examined by other First Nations for whom land claim settlements are still pending.

## **APPENDIX: NEGOTIATING THE CANADA-HAIDA AGREEMENT CHRONOLOGY OF EVENTS**

**May 14, 1987:** House of Commons Resolution confirms government's intention to ensure the active participation of the Haida in matters affecting Gwaii Haanas.

**July 11, 1987:** Memorandum of Understanding signed between the Federal and B.C. governments; Minister of Environment Tom McMillan promises the Haida that they will be actively involved in the development of the park reserve

**September, 1987:** the Haida notify the federal government that they wished to initiate formal land claims negotiations, and demand that B.C.-Canada negotiations on the South Moresby Agreement be immediately halted

**November 3, 1987:** Senior CPS representatives first met with the Haida to discuss co-operatively managing the park in the interim, with land claim negotiations still pending

**January 26, 1988:** McMillan writes to Richardson, offering to forge a mutually-respectful partnership with the Haida.

**February 18, 1988:** Haida and CPS representatives meet to discuss preparations for the summer's activities. They select an interim management and planning committee, and agree to begin drafting an Interim Purpose and Objectives Statement and a 1988 Working Plan for Gwaii Haanas.

**February 25, 1988:** Environment Canada issues press release announcing the planned location of Park Administration and Maintenance buildings and a Western Diversification office.

**March 3, 1988:** Guujaaw writes to McMillan, expressing frustration over press release and implying that negotiations may not continue under the circumstances.

**March 4, 1988:** McMillan assures Haida that all future decisions affecting Haida Gwaii will be made only with meaningful consultation.

**March 8-9, 1988:** Haida now insist that negotiations on a formal framework agreement on co-management begin immediately, prior to continuing work on the Purpose and Objectives Statement or 1988 Management Plan.

**March 9, 1988:** Team sketches out its own Terms of Reference; Draft Interim Purpose and Objectives Statement; and Draft Canada-Haida Agreement.

**March to April 1988:** Team works on drafting the Interim Parks Purpose and Objectives Statement; Canada and the Haida exchange version after version of the Canada-Haida Agreement, each side rejecting or significantly rewording the others'. On April 13, negotiations almost derail over issue of Minister having final authority.

**April 19, 1988:** Team successfully completes Interim Purpose and Objectives Statement.

**Between April 20-May 20, 1988:** Justice advises that the Interim Purpose and Objectives Statement is potentially prejudicial to Canada, and should not be publicly released.

**May 10-12, 1988:** CPS representatives begin attending meetings accompanied by legal council.

**May 16, 1988:** Miles Richardson informs CPS that he will no longer attend negotiations unless the Minister of Environment also attends.

**May 19-20, 1988:** Dept. of Justice lawyers begin attending meetings; Haida also now retain legal council at meetings.

**May 6 to 27, 1988:** both sides continue submitting--and rejecting or rewording--several revised versions of a draft Canada-Haida Agreement.

**May 29, 1988:** Miles Richardson indicates to Elizabeth May, Assistant to the Minister, that recent government versions of the Agreement are unacceptable, and further negotiations may be futile.

**June 19, 1988:** Miles Richardson and Chief of Staff to the Minister meet, and determine that future negotiations will no longer be conducted at the level of CPS officials.

**July 12, 1988:** Canada and B.C. sign the South Moresby Agreement;

**July 1988:** Haida threaten to close parts of Gwaii Haanas to tourists.

**January 1989:** Haida withdraw from land claim negotiations and declare self-rule

**February 1989:** Haida formally withdraw from park co-management negotiations

**April, 1989:** John Broadhead meets with the Deputy Minister of Justice, outlining the Haida view and urging the government to adopt more flexible negotiation approaches; Environment Minister Lucien Bouchard visits Haida Gwaii and urges the Haida to re-open land claim and co-management negotiations.

**May 1989 to May 1990:** Canada and the Haida negotiate a new framework Canada-Haida Agreement to share the planning, operations and management of Gwaii Haanas.

**May 19, 1990:** The Agreement-in-Principle is ratified by the Assembly of the Council of the Haida Nation.

**Summer 1990:** Interim Archipelago Management Board begins co-operatively managing Gwaii Haanas.

**May 22, 1992:** Bill introduced permitting the federal government to sign the Canada-Haida Agreement

**June 18, 1992:** Above legislation is given royal assent.

**January 30, 1993:** the Canada-Haida Agreement on Gwaii Haanas National Park Reserve is formally signed by Miles Richardson, President of the Council of the Haida Nation, and Mary Collins, Minister of State for the Environment.

## REFERENCES

- The Agreement*: - News From the Gwaii Haanas/South Moresby Agreement 1 (1992) p. 1.
- Altman, J.C. 1988. "Aborigines, tourism and Development: The Northern Territory Experience. Australian National University Research Unit, Monograph (Darwin, 1988) pp. 175-215.
- Amos, Bruce, CPS. 1993. Personal Communication, May 12, 1993, Ottawa.
- Berg, Lawrence, Terry Fenge, and Philip Dearden. 1993. "The Role of Aboriginal Peoples in National Park Designation, Planning, and Management in Canada, in *Parks and Protected Areas in Canada: Planning and Management*. Philip Dearden and Rick Rollings, editors. (Toronto: Oxford University Press, 1993) pp. 225-255.
- Berkes, Fikret. 1994. "Co-management: Bridging the two solitudes." *Northern Perspectives* 22:2-3 (Summer/Fall 1994) pp. 18-20.
- Berkes, Fikret and M. Taghi Farvar. 1989. "Introduction and Overview", in *Common Property Resources: Ecology and community-based sustainable development*, Fikret Berkes, ed. (London: Belhaven Press) pp. 1-17.
- Berkes, Fikret and David Feeny. 1990. "Paradigms Lost: Changing views on the use of common property resources." *Alternatives* 17:2 (July/August 1990) pp. 48-55.
- Berkes, Fikret, Peter George and Richard J. Preston. 1991. "Co-management: the evolution in Theory and Practice of the Joint Administration of Living Resources." *Alternatives* 18:2 (September/October 1991) pp. 12-18.
- Boyko, Cindy. 1993. (Manager of Haida Gwaii Watchmen Program, Skidegate). Personal Communication (telephone), February 1993.
- B.C. Round Table on the Environment and the Economy. 1992. *Towards a Strategy for Sustainability: A report to the citizens of British Columbia* (Victoria: B.C.Round Table, 1992).
- Broadhead, John. 1989a. "Draft for a South Moresby/Gwaii Haanas

Accord." (unpublished document) March 31, 1989.

Broadhead, John. 1989b. "Impressions of the Haida View" (unpublished briefing notes presented to the Department of Justice) April 12, 1989.

Broadhead, John. 1993. Personal Communication (telephone), May 21, 1993.

Cizek, Petr. 1990. *The Beverly-Kaminuriak Caribou Management Board: A Case Study of Aboriginal Participation in Resource Management*. CARC Background Paper #1. (Ottawa: Canadian Arctic Resources Committee, 1990).

CPS (Canadian Parks Service). 1988a. *South Moresby/Gwaii Haanas National Park Reserve and National Marine Park Reserve: Interim Purpose and Objectives* (not officially released; April/May, 1988).

CPS (Canadian Parks Service). 1988b. "Chronology of Canada-Haida Interaction" (internal briefing notes; 1988).

Crowfoot, James and Julia Wondolleck. 1990. "Environmental Dispute Settlement", in Crowfoot and Wondolleck, editors. *Environmental Disputes: Community Involvement in Conflict Resolution* (Washington, D.C.: Island Press, 1990) pp.17-31.

Cruz, Ma. Concepcion. 1989. "Water as Common Property: The case of water irrigation rights in the Philippines", in *Common Property Resources: Ecology and community-based sustainable development*, Fikret Berkes, ed. (London: Belhaven Press) pp. 218-235.

Davidson, Ken. 1993. Personal communication. UBC, November 12, 1993, Seminar on "Co-management of Resources: The Future for Rural and Resource Land Use?".

Deardon, P. "Wilderness Decision-making", *Natural Resources Journal* Vol. 29 (Winter 1989) pp.158-169.

Doubleday, Nancy. 1994. "Co-management Provisions of the Inuvialuit Final Agreement", in *Co-operative Management of Local Fisheries: New Directions for Improved management and community Development*, Evelyn Pinkerton, ed. (Vancouver: UBC Press, 1989) pp. 209-227.

- Dovetail Consulting. 1992. *Implementing Effective Public Involvement and Shared Decision-Making Processes: A Staff Training Course*. Prepared for the Ministry of Environment, Lands and Parks, Southern Interior Region. (Kamloops, December 15-16, 1992).
- East, Ken. 1995. Notes from presentation at USNPS conference in March 1995, used with permission.
- East, Ken. 1991. "Joint Management of Canada's Northern National Parks", in *Resident Peoples and National Parks.*, Patrick C. West and Steven R. Brechin, eds. (Tuscon: University of Arizona Press, 1991) pp. 333-345.
- East, Ken. 1986. "Resource Co-management in Wood Buffalo National Park: the National Park's Perspective", in *Native People and Renewable Resource Management:* . (Symposium of the Alberta Society of Professional Biologists, 1986) pp. 86-95.
- Epstein Jayaratne, Toby and Abigail J. Stewart. 1991. "Quantitative and Qualitative methods in the Social Sciences: Current Feminist Issues and Practical Strategies" in *Beyond Methodology: Feminist Scholarship as Lived Research*, Mary M. Fonow and Judith Cook, eds. (Indianapolis: Indiana University Press, 1991) pp. 85-106.
- Freeman, Milton. 1989a. "Graphs and Gaffs: A Cautionary Tale in the Common-Property Resources Debate" in *Common Property Resources: Ecology and community-based sustainable development*, Fikret Berkes, ed. (London: Belhaven Press) pp. 92-109.
- Freeman, Milton. 1989b. "The Alaska Eskimo Whaling Commission: Successful Co-Management under Extreme Conditions", in *Co-operative Management of Local Fisheries: New Directions for Improved management and community Development* , Evelyn Pinkerton, ed. (Vancouver: UBC Press, 1989) pp. 137-153.
- Gardner, Julia. *Pressure Group Politics and the Campaign to Protect South Moresby*. UBC School of Community and Regional Planning, Discussion Paper #22, 1990.
- Gibbs, Christopher and Daniel Bromley. "Institutional Arrangements for Management of Rural Resources: Common Property Regimes" in *Common Property Resources: Ecology and community-based*

*sustainable development*, Fikret Berkes, ed. (London: Belhaven Press) pp. 22-32.

Gordon, H. Scott. 1954. "The Economic Theory of a Common-Property Resource: The Fishery," *Journal of Political Economy* vol.62, pp. 124-42

Griggs, Julian. *Developing Cooperative Management Systems for Common Property Resources: Resolving Cross-Cultural Conflict in a West Coast Fishery*. UBC School of Community and Regional Planning, Canadian Planning Issue Paper #29, 1991.

Grima, A. P. Lino and Fikret Berkes. 1989. "Natural Resources: Access, Rights-to-Use and Management," in *Common Property Resources: Ecology and community-based sustainable development*, Fikret Berkes, ed. (London: Belhaven Press) pp. 33-54.

Guujaaw. 1993. Personal Communication (telephone), May 27 and August 10, 1993.

*Gwaii Haanas Newsletter*. No. 2 (April 1994).

Haugh, Alison. "Balancing Rights, Powers and Priveleges: A Window on Co-management Experiences in Manitoba." *Northern Perspectives* 22:2-3 (Summer/Fall 1994) pp. 28-32.

Hill, Michael. 1983. "Kakadu Natioal Park and the Aborigines: Partners in Protectio." *Ambio* 12:34 (1983) pp. 158-167.

Hooper, Ron, CPS. 1993. Personal Communication, May 28, 1993, West Vancouver.

MacLachlan, Letha. "Co-management of Wildlife in Northern Aboriginal Comprehensive Land Claim Agreements." *Northern Perspectives* 22:2-3 (Summer/Fall 1994) pp. 21-27.

McMillan, Alan. *Native Peoples and Cultures of Canada* (Vancouver: Douglas & McIntyre, 1988).

McNamee, Kevin. "Debating the Future of Gwaii Hannas", *Nature Canada* 22:1 (Winter 1993) pp. 42-49.

May, Elizabeth. 1990. *Paradise Won: The Struggle to Save South Moresby*.



(Toronto: McClelland and Stewart Inc., 1990).

- Miller, David L. 1989. "The Evolution of Mexico's Caribbean Spiny Lobster Fisher," in *Common Property Resources: Ecology and community-based sustainable development*, Fikret Berkes, ed. (London: Belhaven Press) pp. 185-198.
- O'Donnel, Brendan, CPS. 1993. Personal Communication, May 12, 1993, Hull.
- Olsen, Barry, CPS. Personal Communication, May 26-June 24, 1993, West Vancouver.
- Olsen, Barry and Brendan O'Donnell, Parks Canada. 1994. "First Nations Involvement in National Parks Establishment and Management - Interim Measures." Prepared for the *Interim Measures During Treaty Negotiations Conference*, Vancouver, B.C., April 22, 1994.
- Osherenko, Gail. 1988. *Sharing Power With Native Users: Co-Management Regimes for Arctic Wildlife*. CARC Policy Paper 5 (Ottawa: Canadian Arctic Resources Committee).
- Ostrom, Elinor. 1990. *Governing the Commons: The Evolution of Institutions for Collective Action*. (Cambridge: Cambridge University Press, 1990).
- Pearce, David and R. Kerry Turner. 1990. *Economics of Natural Resources and the Environment*. (Baltimore: John Hopkins University Press).
- Pinkerton, Evelyn. 1983. "Taking the Minister to Court: Changes in Public Opinion About Forest Management and their Expression in Haida Land Claims," in *B.C. Studies*, No. 57 (Spring 1983, pp. 68-85).
- Pinkerton, Evelyn, editor. 1989. *Co-operative Management of Local Fisheries: New Directions for Improved management and community Development* (Vancouver: UBC Press, 1989).
- Pinkerton, Evelyn. *The Point No Point Treaty Council: Innovations by an Inter-Tribal Fisheries Management Cooperative*. UBC School of Community and Regional Planning, Discussion Paper #26, 1990.
- Pinkerton, Evelyn. "Co-management Efforts as Social Movements,"

*Alternatives* 19:3 (1993) pp. 33-38.

Pinkerton, Evelyn. 1993. "Local Fisheries co-management: A Review of International Experiences and Their Implications for Salmon Management in British Columbia." Discussion Paper. (School of Community and Regional Planning, UBC, July 1993).

Reed, Maureen Gail. *Managing for Sustainable Development: A Case Study of a Hinterland Community, Ignace, Ontario, Canada*. Doctoral Thesis; University of Waterloo, 1990).

Richardson, Miles. 1994. (Chief of the Council of the Haida Nation). Personal Communication, October 1994, Vancouver.

Ruddle, Kenneth. 1989. "Solving the Common-Property Dilemma: Village Fisheries Rights in Japanese Coastal Waters," in *Common Property Resources: Ecology and community-based sustainable development*, Fikret Berkes, ed. (London: Belhaven Press) pp. 168-184.

Sekelj, Laslo. 1992. "Bakunin's and Kropotkin's Theories of Revolution in Comparative Perspective" 5:4 *The Raven Anarchist Quarterly* (October/December 1992) pp. 358-378.

Sewell, W.R. Derrick, Philip Dearden and John Dumbrell. 1989. "Wilderness Decisionmaking and the Role of Environmental Interest Groups: A Comparison of the Franklin Dam, Tasmania and South Moresby, B.C. Cases." *Natural Resources Journal* 29 (Winter 1989) pp. 147-169.

Strong, Maggie. 1995. (CPS: Environmental Education Specialist and Communications for Gwaii Haanas). Personal Communication (telephone), June 30, 1995.

Tarnas, Richard. 1991. *The Passion of the Western Mind: Understanding the Ideas that have Shaped Our World View* (New York: Ballantine Books).

Usher, Peter. 1983. "Property rights: the basis of wildlife management", in *National and Regional Interests in the North: Third National Workshop on People, Resources, and the Environment North of 60° (Yellowknife, NWT, 1-3 June 1983)* (Ottawa: Canadian Arctic Resources Committee, 1983) pp. 389-416.

- Usher, Peter. 1986. *The Devolution of Wildlife Management and the Prospects for Wildlife Conservation in the Northwest Territories*. Canadian Arctic Resources Committee Policy Paper 3. (Ottawa: CARC, 1986).
- Waquan, Chief Archie. 1986. "Resource Co-management in Wood Buffalo National Park: the Cree Band's Perspective", in *Native People and Renewable Resource Management*. (Symposium of the Alberta Society of Professional Biologists, 1986) pp. 81-84.
- Witty, David. 1993. Personal Communication, University of British Columbia, November 12, 1993. Workshop Discussion: "co-management of Resources: the Future for Rural and Resource Land Use?"
- Yapp, Graham A. 1989. "Wilderness in Kakadu National Park: Aboriginal and Other Interests." 29, *Natural Resources Journal* (Winter 1989) pp. 171-184).
- Yin, Robert K. 1993. *Applications of Case Study Research*. Applied Social Research Methods Series, Vol 34. (London: SAGE Publications).