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## Conservancies in British Columbia, Canada: Bringing Together Protected Areas and First Nations' Interests

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# Conservancies in British Columbia, Canada: Bringing Together Protected Areas and First Nations' Interests

## Abstract

The new protected area (PA) designation of *Conservancy* in British Columbia, Canada marks a positive shift in government policy concerning PAs and the role of First Nations in provincial land and resource management and conservation. We present a review of the Conservancy designation within a legal and political ecology context, and assess some of the related opportunities and challenges presented by this new designation. Our data were gathered through document, literature and legal reviews, complemented by field research observations and personal communications with key informants from the Gitga'at First Nation.

## Keywords

Protected Areas, conservancy designation, British Columbia, First Nations, Canada

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## Introduction

The new protected area (PA) designation of *Conservancy* in British Columbia, Canada, is a positive addition to the provincial PA system because it marks a shift in government policy concerning PAs and the role of First Nations in land and resource management and conservation. Until recent decades, many parks and other protected areas in British Columbia, across Canada, and elsewhere were regularly established with little to no recognition of Indigenous People's interests, traditional ecological knowledge, or territorial rights and title (Calverley, 2009; Dearden & Langdon, 2009; Diegues & Nogara, 2005; Kemf, 1993; Spence, 1996). Consequently, ecological conservation through PAs has often resulted in negative impacts for Aboriginal Peoples in Canada and other local and Indigenous Peoples around the world (Adams & Hutton, 2007; Flynn-Burhoe, 2008; Hoole & Berkes, 2010; Peepre & Dearden, 2002; Scientific Panel, 1995). The legal mandate of parks and other PAs, as well as the assumptions surrounding them, however, appear to be changing in ways that better reflect, acknowledge and incorporate the resource and territorial rights of local and Indigenous Peoples (Alcorn, 1993; Canadian Parks Council, 2008; Coastal First Nations, n.d.a; also see, Berkes, 2009; Dudley, 2008; Hoole & Berkes, 2010). The incorporation of Conservancies into the BC Parks System, in 2006, is the first substantive evidence of a new approach to PAs at the Provincial-level in Canada.

Unlike other designations under the BC *Park Act*, Conservancies were created "expressly to recognize the importance of some natural areas to First Nations for food, social and ceremonial purposes" (BC, 2011, p. 6). Individual First Nations and the Provincial Government are enacting this objective through collaborative planning and management (Canadian Parks Council, 2008; Coastal First Nations, n.d.a.). This paper presents a review of Conservancies within a political ecology and legal context, and offers a preliminary assessment of some of the opportunities and challenges presented by this new designation.

We begin by providing an overview of Conservancies in BC. Next, we move to situate the emergence of BC Conservancies within broader political and historical contexts. We do this first by looking briefly at some of the changes that have taken place in recent decades within National PA policy and practice, and then by discussing the set of conditions in BC which prompted the creation of a new PA designation. Finally, we draw particular reference to the experience of the Gitga'at First Nation in the Great Bear Rainforest, in order to consider some of the opportunities and challenges afforded by Conservancies. We bring these insights together with literature to compile a summary and discussion of some of the strengths and weaknesses of the new designation. We conclude that, although Conservancies are still new, they mark a positive shift in government policy concerning the management and purpose of PAs and the role of First Nations in planning, management, decision-making and use of British Columbian lands and resources. Our data were gathered through document, literature and legal reviews, complemented by field research observations and personal communications with Indigenous knowledge holders in the Gitga'at First Nation.

### The New Arrival: An Overview of British Columbia Conservancies

In 2006, the Government of British Columbia amended the province's *Park Act* (the *Act*) to establish *Conservancies* as a new designation of provincial protected area. It is the first and only provincial-level PA designation in Canada to explicitly incorporate First Nations' interests into its legal framework. Pursuant to section 5(3.1) of the *Act*, Conservancies are set-aside for four distinct purposes:

1. "...the protection and maintenance of their biological diversity and natural environments";

2. "...the preservation and maintenance of social, ceremonial and cultural uses of First Nations";
3. "...the protection and maintenance of their recreational values";
4. and, "...to ensure that development or use of their natural resources occurs in a sustainable manner consistent with the" first three purposes.

The Minister of Environment has expressly stated that these four purposes (local ecological integrity, Aboriginal use, recreation, and sustainable resource development) are intended to complement each other, with each being given equal priority in decision-making surrounding the use and management of a Conservancy (BC, 2006).

Conservancies are distinguished from other PA designations under the *Act* by two main features that reflect their purposes. First is the explicit recognition of First Nations' social, cultural and ceremonial uses within the PA. Secondly, the test for issuing Park Use Permits (PUPs) explicitly restricts commercial logging, mining, or commercial hydro-electricity (Park Act, ss. 9(10)(a), (b), and (c)), but allows local First Nations on a priority basis (Turning Point, 2009), and others, to pursue a wider diversity of low-impact economic development activities within a Conservancy than is possible within Class A parks<sup>1</sup> (BC, 2011). Any party, including First Nations, must apply for a PUP permit, which will only be granted if the proposed economic use fits within the framework of the purposes of laid out in s. 5(3.1) of the *Act*, the specific Conservancy management plan, if there is one, as well as BC's Parks Impact Assessment (BC, 2011, p. 9). Permissible economic activities include, wildlife viewing, guided hiking and fishing, shellfish aquaculture, and small-scale, run-of-the-river hydro projects for local and tourism needs (BC, 2011; Turning Point, 2009).

There is also a procedural difference that distinguishes Conservancies from other provincial PAs: the identification of areas for Conservancy classification is undertaken in conjunction between individual First Nations and the Province (Turning Point, 2009; Rozwadowska, 2011). In this way, First Nations are partners in selecting locations within their traditional territories that could benefit from the protection and land use agreements afforded by a Conservancy designation. It is important to remember, however, that aboriginal title has not been extinguished in British Columbia (Delgamuukw v. BC, 1997) and therefore Conservancies may still be subject to Aboriginal land claims despite the cooperative model for establishing and managing these PAs.

The new Conservancy designation has been widely implemented since its inception in 2006. By March 2011, 144 Conservancies, covering 2,119,131 ha of the provinces, were established in BC through inclusion in schedules to the *Protected Areas of British Columbia Act* (BC, 2010a). Conservancies now comprise approximately 16% of the BC's total 13,142,123 ha of protected areas and are second in their contribution to this total only to Class A Parks (at 10,418,083 ha) (BC, 2010a). Though originally created specifically for implementation in the North and Central Coast regions of the province (Bill 28, 2006), the Conservancy designation has since been extended to other regions, including Haida Gwaii, Morice, and Sea-to-Sky (BC, 2010b).

### **Bridging Ecological Conservation, First Nations' Use, Recreation and Economic Opportunity: The Moksgm'ol/Chapple-Cornwall Conservancy Example**

Moksgm'ol/Chapple-Cornwall Conservancy, located in the Great Bear Rainforest, provides an illustration of the four interlocking purposes and uses of a Conservancy (BC, 2010c). It was

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<sup>1</sup> Class A parks are managed by BC Parks and limit the Minister to issuing a PUP where it is *necessary* to preserve and maintain the recreational values of the park (Park Act, ss. 8 and 9). Class B parks are also managed by BC Parks, but have a less onerous test for issuing a PUP. In a Class B park, the Minister must be satisfied the issuance of the PUP will not be detrimental to the recreational values of the park (Park Act, ss. 8 and 9). Lastly, Class C parks have the same test as Class A parks for issuing PUPs, but differ in that their management is delegated to a local park board appointed by the Minister (Park Act, ss. 8 and 9, s.10).

designated in July 2006, covers 29,116 ha of Princess Royal Island (BC, 2010c), and is nested within the traditional territories of the Gitga'at and Gitxaala First Nations.

From an ecological standpoint, this Conservancy provides protection for a vast tract of old-growth coastal rainforest, as well as for lakes, rivers, and intertidal zones. By conserving these local ecosystems, particular species, including Black Bears (*Ursus americanus*), and their subspecies Kermode or Spirit Bear<sup>2</sup>, bald eagles (*Haliaeetus leucocephalus*), Pacific wolves (*Canis lupus*) and many species of salmon are also being protected.

This area is of major cultural significance and has been used by local First Nations for millennia. It encompasses many important harvesting, fishing and other traditional resource-use areas, as well as many archaeological sites. These sites are now protected, along with the activities and cultural opportunities that they afford.

Recreational uses of the area, including hiking, fishing, boating and wildlife viewing, also have existing, or potential, economic dimensions. Guided wildlife viewing, guided fishing, and other ecotourism activities are some of the economic ventures being pursued within and around this Conservancy (BC, 2010c; also see Gitga'at, 2004; King Pacific Lodge, 2009). The Gitga'at are engaged in this regional tourism economy, both through their own tourism operations (Gitga'at, 2004), as well as through seasonal employment at the lodges (Turner, 2010). They are considering expanding the tourism opportunities they currently offer to include experiences for their clients in and around Moksgm'ol/Chapple-Cornwall (Turner, 2010).

Moksgm'ol/Chapple-Cornwall joins with the Kitsoo Spirit Bear Conservancy on the southeastern side of Princess Royal Island and is within close proximity to five other Conservancies within the Gitga'at territory alone (ILMB, 2007). Within this larger, ecosystem-based management context, the Moksgm'ol/Chapple-Cornwall is part of a network of Conservancy areas intended to support ecological integrity, First Nations uses, recreational uses, and sustainable development opportunities in the Great Bear Rainforest (Coastal First Nations, n.d.a; Gitga'at, 2004; Price, Roburn & MacKinnon, 2009).

### Conservancies within Canadian Protected Areas: Policy and Practice

*Conservancies* are an international PA designation and one that is gaining currency in PAs that are designated for local, sustainable resource use in many parts of the world, as in the Conservancies of Namibia (World Resources Institute, 2005). In Canada and the United States, the designation of *Land Trust* has been a more common category than *Conservancy* to denote areas of combined human use and ecological conservation, but these trusts often refer to private lands (Borrini-Feyerabend et al., 2004) and therefore are not appropriate for First Nations' lands. The search for a new category of PA within BC, in many respects mirrors a search in recent decades at international, national and regional levels for PA categories that provide for livelihood needs and "conservation with a human face" (Borgerhoff Mulder & Coppolillo, 2005, p. 37), which includes respect for and recognition of the Rights of Indigenous Peoples (c.f. UN 2008; Inter-American Court of Human Rights, 2009). This search has resulted in new types of PAs that provide more pluralistic options for conservation that recognizes humans as a part of, and not separated from, natural systems.

At the federal level within Canada, changes to national parks policy and practice are fledging, but apparent. The shift in federal policy to recognize the rights and perspectives of Aboriginal Peoples in parks and PA policy has been significantly influenced by a series of legal challenges by Aboriginal Peoples against the Canadian government. The Inuit initiated the first such case during the 1970s. They argued successfully that the Federal Government's plans to expand the National Parks System through the establishment of a number of new northern parks was

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<sup>2</sup> The white Spirit, or Kermode, Bear (*Ursus americanus kermodei*) is a type of black bear that is sacred to coastal First Nations (Campbell, 2005).

tantamount to unilateral expropriation of Aboriginal lands and, therefore, in contravention of the Canadian Bill of Rights (McNamee, 2009). The result was an amendment to the *National Parks Act* that allowed for the creation of National Park Reserves, in which, “the Native People were not giving up their claim to lands to which they asserted Aboriginal title; they simply agreed to allow the federal government to administer parks on their land until such time as their land claims agreement was ratified by both Parliament and the Inuit” (McNamee, 2009, p. 43).

This process set a precedent for other National Parks Reserves<sup>3</sup> subject to land claims in both northern and southern Canada as well as for Federal Government negotiation with both affected Aboriginal Peoples and Provincial or Territorial Governments during the creation of new National Parks (McNamee, 2009). The growing recognition of Aboriginal rights within Canadian PA policy has also been enhanced by a series of other court cases that are accumulating a growing body of law supporting Aboriginal rights and title, including: *The Calder Case*, *The Sparrow Case*, *The Delgamuukw Case* (Delgamuukw v. BC, 1997), and more recently *Haida and Tuke* and *Sappier and Polchies*, as well as lobbying efforts that led to changes in the *Constitution Act, 1982* (Dearden & Langdon, 2009). These cases have established the legally constituted existence of Aboriginal rights, as well as the duty of governments and industry to consult with Aboriginal groups prior to land and resource use decisions affecting Aboriginal peoples and territories.

Changes to Parks Canada policy to recognize Aboriginal interests in ecological protection alongside those of the Government and other stakeholders also have implications for the stability of conservation through parks and other PAs. Boyd (2003) argues, “The strongest legal protection that can be given to a park in Canada is inclusion in treaty and land claims settlements with Aboriginal people” (p. 175). Indeed, it has been suggested that Canadian parks have entered a new era—the Aboriginal Period—in which Aboriginal people are gaining a paramount influence in Canadian conservation policy (Dearden & Rollins, 2009).

In spite of these successes, access by Aboriginal peoples to lands and natural resources in Canadian parks and PAs can depend on a variety of factors, including the particular statutory framework of a park or other PA, treaty rights held by an Aboriginal group<sup>4</sup>, as well as how, where and when Aboriginal rights and title are established.<sup>5</sup> Resultantly, levels of access vary significantly across the country<sup>6</sup> and many Canadian Aboriginal Peoples continue to feel “locked out” (Canadian Parks Council 2008, p. 2) and to petition for access to areas of their traditional territory designated as PAs (Dearden & Langdon, 2009).

Furthermore, changes in federal policy and practice have not been paralleled by substantive changes at the provincial and territorial level. Provincial and territorial PAs constitute approximately two-thirds of Canada's total PA system (Boyd, 2003, p.169). Although there is a diversity of

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<sup>3</sup> These include: Gwaii Haanas National Park Reserve and Haida Heritage Site (established 1993; Parks Canada, 2010); Pacific Rim National Park Reserve (first established in 1970 and renegotiated as a National Park Reserve in 1987; Great Canadian Parks, 2007; Parks Canada, 2011a); and, Gulf Islands National Park Reserve (established 2003; Parks Canada, 2011b) in BC. Feasibility studies for another National Park Reserve in BC, South Okanagan-Lower Similkameen, are also underway (Parks Canada, 2006).

<sup>4</sup> Treaties signed by the Crown and Aboriginal groups often consisted of a grant of title to the Crown in exchange for money and access for an Aboriginal group to unoccupied Crown land for hunting and fishing purposes (Hogg, 2007). When a park or PA is established on treaty land, however, such access is often discontinued by park regulations, which reclassified park areas as occupied crown land (see *R v. Bellegard* and *R v. Sundown*).

<sup>5</sup> Where the Crown seeks to infringe on an Aboriginal right by establishing a PA, part of the justification required under the s. 35 case law imposes a duty to consult with Aboriginal groups beforehand, as per *R v. Sparrow* [1990] 1 S.C.R. 1075 at 1113. For further discussions on duty to consult also see recent case *Brokenhead FN v. Canada* 2009 FC 982.

<sup>6</sup> Peepre and Dearden (2002, p. 333-334) identify 23 out of 37 national parks they surveyed in 2001 as allowing no harvesting of natural resources by Aboriginal peoples. Four parks allowed only *very limited* harvesting, while another ten permitted *limited* harvesting. *Limited* and *very limited* allow for some level of plant and animal resources use, dependent on the park and species involved.

classifications for parks and other PAs at the provincial-level, our review of provincial parks and PA categories across Canada (see Government of Alberta, 2011; Government of New Brunswick, 2011; Government of Newfoundland and Labrador, 2010; Government of PEI, 2011; Government of Saskatchewan, 2011; Ontario Parks, 2009; Province of Manitoba, 2011; Province of New Brunswick, 2010; Province of Nova Scotia, 2011; Redpath Museum, 1999) found the designation of Conservancy in BC to be the only provincial designation that explicitly incorporates First Nations peoples into planning and management, and enshrines the “preservation and maintenance of social, ceremonial and cultural uses of First Nations” (*Act*, s. 5(3.1)), alongside the need for low-impact economic activities, as central features of a PA.

### **Momentum for a New Approach to PAs in British Columbia**

BC's new Conservancy designation emerged as part of a twenty-year shift in Government-First Nations relations in the province (Harcourt, March 3, 2011; ILMB, 2006). Prompted by intense conflict between industry, First Nations, environmentalists and other stakeholders over land and resource use during the 1980s and early 1990s (Harcourt, 3 March 2011; also see Scientific Panel, 1995), the government committed to establishing what it termed a “New Relationship” with British Columbian First Nations (ILMB, 2006; BC, 2006, p. 4096). These New Relationship commitments with First Nations emerged alongside other commitments by the Province to develop a new collaborative land use approach for BC.

The first steps in bridging these commitments focused on land use decisions on the Central and North Coast, which resulted in sub-regional land use plans containing recommendations to the Province with respect to managing public land and resources. These Land and Resource Management Plans (LRMPs) were initiated by the Ministry of Sustainable Resource Management in consultation with a broad set of stakeholders, including governments, conservation groups, industry, and First Nations (BC, 2001). Although Coastal First Nations were represented, they abstained from the decision-making process at the LRMP stage (Coastal First Nations, n.d.b), choosing instead to create their own land and resource management plans designed for their specific territories.

Discrepancies between the LRMPs and the local land use plans were resolved first by Coastal First Nations<sup>7</sup> and the Province entering into the Land and Resource Protocol Agreements (LRPAs) to structure decision-making (CFN and BC, 1996, p. 2) and next through Strategic Land Use Planning Agreements (SLUPAs), negotiated on a government-to-government basis between individual First Nations and the Province (see Coastal First Nations, n.d.b). SLUPAs include demarcations of specific land-use zones in the territory, what those zones are intended for, as well as specific management objectives (c.f. Gitga'at and BC, 2006).

The idea for Conservancies emerged during the LRMPs, LRPAs, and SLUPAs negotiations when it was recognized that a new PA designation was needed to support the LRMPs and the New Relationship (BC, 2011).<sup>8</sup> Areas within First Nations' traditional territory that First Nations and the government felt could benefit from Conservancy status were identified during the creation of Land Use Plans (Turning Point, 2009).

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<sup>7</sup> The Coastal First Nations are a formal coalition of First Nations, consisting of the Gitga'at First Nation, Haisla Nation, Heiltsuk Nation, Kitasoo/Xaixais First Nation, Metlakatla First Nation, and the Wuikinuxv First Nation (Coastal First Nations, n.d.a).

<sup>8</sup> In addition to the amendments to the *Park Act*, enabling Conservancies, legislative amendments were also made to the *Forest and Range Practices Act*, the *Land Act*, and the *Wildlife Act* (BC, 2010d).

## **Assessing the Contribution of Conservancies to the BC PA System**

### **A First Nations' Perspective**

The Gitga'at First Nation traditional territory is located 145 km southeast of Prince Rupert on the BC North Coast. Approximately 170 Gitga'at Band Members live fulltime within their territory in the Village of Hartley Bay. Alongside the imperative of local job creation, Hartley Bay is working towards the goal of becoming "the Greenest First Nation Community in Canada" (Pulse Energy, 2009). The Gitga'at have a long history of stewardship and management of their territory and are deeply committed to ensuring the ecological integrity of their lands and waters into the future (Gitga'at Nation, 2004; McCarthy, 2009). Many Gitga'at continue to actively use their territory to support their traditional economy, much of which is centred on wild food resources (Turner and Clifton 2006).<sup>9</sup>

A key informant explained that Conservancies provide the Gitga'at with a new tool to protect important areas within their traditional territory from ecological damage, while continuing to support and affirm local user rights and low impact economic opportunities within those areas (Anon., Pers. Comm., 2010). For example, the Moksgm'ol/Chapple-Cornwall Conservancy, discussed previously, surrounds the ancestral Gitga'at village site of Kiel. Kiel is used each year as a harvest camp during the month of May. The small village site itself is an Indian Reserve (IR #8 Kayal), and is therefore excluded from the Conservancy; however, the areas surrounding Kiel that now comprise the Moksgm'ol/Chapple-Cornwall Conservancy are also key Gitga'at resource use areas and help ensure the ecological integrity of the whole Kiel area (British Columbia, 2010a). Unlike another important Gitga'at village site, Old Town, which was logged during the 1970s and 1980s (Turner, 2009), Kiel is now protected from logging and other resource extraction activities that could have a negative or detrimental impact on the ecosystem and Gitga'at activities.

The harvest camp and the activities that take place throughout the year in the Kiel area are not only valued by Gitga'at for their contributions to local food sovereignty and food security, but also for the well-being of their society as a whole (Turner, 2010). Opportunities for inter-generational learning and spending time with family and friends, as well as sustaining individual and collective connections with the Gitga'at territory and the other beings that inhabit it are some examples of the other benefits that Gitga'at identified (Turner, 2010).

To date, approximately 30% of the Gitga'at territory has been placed under a Conservancy designation (Anon., Pers. Comm., 2010; also see ILMB, 2007). Many of these areas, as exemplified by the Moksgm'ol/Chapple-Cornwall Conservancy, are important sites for local food harvesting and other natural resources uses. The Gitga'at are also choosing to undertake low-impact economic activities within some of their Conservancies, some with support of funds which the community gained access to by entering into the 2006 SLUPA with the Province (Anon., Pers. Comm., 2010; also see Coast Opportunity Funds, 2010). These initiatives include small-scale shellfish aquaculture, ecotourism activities, such as Spirit Bear viewing, as well as the building of a 1MW micro-hydroelectric facility to shift the community off diesel power (Gitga'at Nation, 2004; Turner, 2010). The ability to pursue these economic activities, and the assurance that Conservancy areas will be protected from large-scale developments in the future, are very important to the livelihoods of Hartley Bay community members and to the community as a whole (Turner, 2010).

The Gitga'at are still in the process of establishing management plans for the Conservancies in their territory. The general structures, however, are laid out in the SLUPA between the Gitga'at and the Province (GFN and BC, 2006). Gitga'at involvement in the permitting process for economic

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<sup>9</sup> Seaweed, halibut, salmon, berries, seals, and other game are examples of some of the foods that are regularly harvested and enjoyed by Gitga'at. Cedar for basketry and carving as well as other plants for medicinal and other purposes are also frequently harvested within the territory (Turner and Clifton, 2006; Turner and Thompson, 2006).

activities in Conservancies, including those initiated and managed by Gitga'at, is also essential and helps support Gitga'at stewardship of their territory (Anon., Pers. Comm., 2010).

The main challenge of Conservancies for the Gitga'at has been building an understanding of the new designation within the community. Many community members are still unaware of the location of Conservancies within their territory and might not know to report illegal activities should they witness them (Anon., Pers. Comm., 2010). As a Key Informant (Anon. Pers. Comm., 2009) explained:

...if you have areas that are being protected, they are more likely to be successful if people from the village are watching them. Right now we have protected areas nearby our community, but nobody knows... if somebody sees a boat, we'll just say, 'We saw a boat.' We won't say, 'I wonder what that guy is doing. Maybe we should go check him out.'

Furthermore, some Gitga'at Band Members are discouraged because some activities that they do not support are still permitted within Conservancies, including black bear sport hunting (Anon., Pers. Comm., 2010; Turner, 2010). In spite of these challenges, Conservancies seem to be helping the Gitga'at pursue their objectives of building their local economy alongside ensuring the long-term environmental integrity of their territory and their exercise their Aboriginal rights and title.

### Assessing New Opportunities and Changes

The experience of the Gitga'at helps to illustrate some of the advantages, challenges and drawbacks of Conservancies, many of which appear to be shared by other First Nations in the Province, for example the Squamish, L'il'wat and In-SHUCK-ch First Nations (Rozwadowska, 2010; 2011). As highlighted above, there are many compelling advantages as well as some potential drawbacks and challenges with the new designation (Table 1).

Table 1

#### *Summary of Conservancy Strengths and Challenges*

Strengths	Challenges
<ul style="list-style-type: none"> <li>• Respects Aboriginal rights and remains subject to unextinguished Aboriginal title and land claims, consistent with shifting International and Parks Canada policies and practices</li> <li>• Addresses some ecological integrity concerns related to the selection and location of PAs (many Conservancies are in ecologically important areas)</li> <li>• Established on a partnership-basis between individual First Nations and the Provincial Government (allowing for cross-scale management)</li> <li>• Supports local level job creation</li> <li>• Provides First Nations with a tool for protecting valued areas</li> </ul>	<ul style="list-style-type: none"> <li>• Balancing the distinct purposes of Conservancies over the long term with changing local needs and interests, including restricting future economic development options</li> <li>• Funding to support the expansion of the BC Protected Areas system over the long-term, including funding for public awareness building</li> <li>• Creating better public awareness, both within First Nations communities directly involved in Conservancy processes, as well as the general public</li> <li>• No guarantee of long-term jobs for First Nations</li> <li>• Some activities (such as sports hunting)</li> </ul>

<ul style="list-style-type: none"> <li>• If included in future land claims settlements, Conservancies will have some of the strongest protection within the Canadian legal system</li> <li>• Facilitated a remarkable expansion of the BC protected area system within a very short period of time (2,119,131 ha between 2006 and 2011; BC, 2011)</li> <li>• Provides a greater diversity of protected area categories within the province to allow for a plurality of approaches to ecological conservation</li> </ul>	<p>deemed undesirable by some First Nations are still allowed within some Conservancies</p> <ul style="list-style-type: none"> <li>• Building and sustaining capacity within BC Parks for monitoring and enforcement of Conservancy relations</li> </ul>
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First and foremost, Conservancies are, to our knowledge, the first PAs of their kind at the Canadian provincial-level that explicitly supports historical and cultural features, on-going traditional and economic practices, and the continuity of specific places of importance to First Nations. Moreover, involving First Nations in the planning, development, implementation and management of Conservancies sets a precedent for new, more equitable land management policies and practices in BC, particularly concerning conservation. The creation of Conservancies therefore signals a dramatic shift in the nature and potential of BC PAs and sets a precedent for bona fide consultation and collaboration in the identification, planning and management of PAs.

Involving First Nations in the identification of areas to be protected from large-scale development also helps ensure that social-cultural as well as ecologically important areas receive protection, which Canadian park authorities, by focusing on areas of high scenic and recreational value, such as mountain tops, have not always done successfully (Boyd, 2003)<sup>10</sup>. Boyd (2003) concludes that throughout Canada as a result of economic factors, "...the areas with the highest biodiversity value, which face the greatest threat from human activities, currently receive the least amount of protection" (p. 179). Significantly, the areas of importance to many First Nations are often places of high biological productivity, such as intertidal and estuarine zones, and consequently are prime areas to protect in order to support biological diversity and ecosystem integrity (Turning Point, 2009).

Taking First Nations' customary and contemporary economic uses into account in the designation and management of Conservancies helps ensure that First Nations concerns related to limited access and use within Class A and B Parks are not transferred to Conservancies (BC, 2011). By reconciling these concerns and bringing together the mutual conservation interests of First Nations, the Province and other stakeholders, Conservancies have made a dramatic contribution to Provincial environmental protection and conservation.<sup>11</sup> The collaborative management of these areas also helps ensure that they will continue to receive protection in the future, as the parties involved have pledged a responsibility to themselves and each other to uphold the mandate of the Conservancies (Wuixkinuxv and BC, 2007; Kitasoo Xaixais and BC, 2007). The network of government-to-government relationships between individual First Nations and the Province helps establish conditions for cross-scale management, facilitating conservation and First Nation specific management strategies, within the broader ecosystem-based management context of the new provincial land-use strategy.

There are also drawbacks and ongoing challenges related to Conservancies that must be recognized. For example, a recent judicial decision (*Da'naxda'xw /Awaetlala v. BC*) suggests that

<sup>10</sup> Boyd (2003, p. 179) cites a BC government study showing that 61.2% of newly created PAs within the province between 1991 and 1996 were located in alpine and subalpine regions.

<sup>11</sup> BC now protects 13.05 million hectares, representing 14.26% of its landmass, the most of any province. This includes 33% of the North and Central Coast (Turning Point, 2009).

conflict over restrictions to First Nations economic development opportunities may occur as local conservation and development priorities change or new opportunities present themselves. Balancing the distinct purposes of the Conservancies may be an ongoing challenge, requiring regular monitoring, evaluation and consultation between the stakeholders. This points to some of the governance challenges involving Conservancies.

Rozwadowska (2011) suggests that many First Nations may not have the capacity or resources to manage Conservancies, even within a collaborative management scheme, or to take advantage of the opportunities for economic benefits. She highlights the need for management and business plans to support potential economic opportunities (p. 52). This suggests that long term funding and support for individual First Nations, through Coastal First Nations, Coastal Opportunities Fund, and others, maybe be of central importance for ensuring Conservancies bring benefits for First Nations.

Ensuring that BC Parks' staff and local First Nations have a clear understanding of the Conservancy designation may be another initial challenge. A specific issue in this regard is related to monitoring and enforcement. First Nations communities, particularly in isolated parts of the Province, such as the Gitga'at Territory, have an important monitoring role to play in order to protect Conservancies from prohibited activities. BC Parks is attempting to formalize these monitoring roles by hiring more First Nations as Park Rangers (North Coast LRMP and British Columbia, 2008, p. 4).<sup>12</sup> The possibility of employment as a Park Ranger, however, has two related problems: such jobs are not guaranteed and it begs the question of whether the devolution of monitoring and enforcement power goes far enough. Currently, the monitoring and enforcement capacity of government authorities, such as Park Rangers, in isolated areas is limited.<sup>13</sup> In response to this, and out of a desire to ensure the protection of their territories, Coastal First Nations are also building their own monitoring capacity through the Coast Guardian Watchmen Network (Coast Guardian Watchmen Network, n.d.). Currently, however, the Watchmen have no legal enforcement authority. In the future, a more effective approach could be to invest in supporting the independent monitoring capacity and enforcement authority of local First Nations, rather than trying to control monitoring and enforcement through top-down approaches.

## Conclusions

BC's Conservancy designation is a positive addition to the BC PAs system, because of the unique combination of local ecological conservation, Aboriginal use, recreation, and allowance for sustainable resource development intertwined in the Conservancy mandate. Furthermore, Conservancies are significant because of the joint-management conditions under which new areas are identified, established and managed. As such, Conservancies are an integrated response to the interlocking challenges facing many parts of the province: pressures for resource development, the need for job creation, and the imperatives of conservation and respect for First Nations rights.

The creation of Conservancies seems to demonstrate a substantive shift in planning and management of parks and other PAs in BC with respect to First Nations-Government relations. However, as Berkes (2007, 2009) cautions, there are no panacea approaches to conservation. Rather, plurality and inclusivity in the tools and approaches to conservation should be sought. In this way, Conservancies are a positive addition to the BC Protected Areas System, since they increase the diversity and scope of PAs within the province.

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<sup>12</sup> In this capacity, First Nations can play a vital role as "BC Park Rangers provide an important function in the overall management of Conservancies by monitoring recreational activities and park use permits and at the same time contributing to the maintenance of public safety and security" (North Coast LRMP and British Columbia, 2008, p. 4).

<sup>13</sup> While BC protected areas have tripled between 1977 and 2000, the number of BC Parks employees has fallen by 10% (Boyd, 2003, p. 180).

Whether or not other provincial park authorities in Canada will adopt similar designations in the future will likely depend on the continued successful implementation and management of BC Conservancies. Likely the success of individual Conservancies in meeting their broad set of objectives will vary, reflecting a range in the effectiveness of capacity building, management plan implementation and evaluation, as well as other local and institutional contexts. An ongoing commitment by both the provincial government and First Nations to work together and to invest time and resources in the management of BC's new PAs is vital in order to ensure that the spirit of the Conservancy legislation, related government-to-government agreements and land management plans continue to be upheld in both the short and long term.

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