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Carcross/Tagish First Nation Water Governance: Remembering the Way

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Master thesis in Governance and Entrepreneurship in Northern and Indigenous Areas
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Abstract

Carcross/Tagish First Nation (C/TFN) governs their traditional lands via self-determination, sovereign rights, and modern treaties. C/TFN's Traditional Territory is comprised of a vast amount of water. As stewards, C/TFN continues to maintain sacred, and reciprocal relationships between land and water, within a cosmology (*Ha Kus Teyea*) which does not perceive a separation between people, land, and water. Current western-developed, and settler-territorial governance models do not align with C/TFN's worldview and knowledge system. C/TFN is thus developing a land and water governance model that spans Traditional Territory and is guided by C/TFN members' worldviews, knowledges, and practices. To support this model, this research used a sequential mixed methodology to investigate how policy spaces emerge for a sovereign and culturally guided land and water governance system for decision making within C/TFN Traditional Territories. By scoping review to catalog current practices specific to Indigenous governance; interviewing community knowledge keepers; and, reflecting on personal experience, three shortcomings specific to the governance of land and water were revealed: 1) in all cultures, there exists sacred teachings that need to be acknowledged and respected; 2) the colonial assertion of allodial title does not respect Indigenous culture; and, 3) to sustain the environment for future generations, the foundations of current worldviews need to be reevaluated. Recognizing these shortcomings three conclusions were presented: 1) C/TFN is the inherent right holder of both its land and water since land and water is an integral component of C/TFN culture; 2) sovereignty over C/TFN's land and water is a constitutional right; and, 3) C/TFN should hold shared-decision making authority instituted by collaborative legislation. In order to uphold C/TFN's constitutional rights, western governments must break down the allodial title argument and accept C/TFN's worldview that articulates a relationship and interdependency with land and water, not ownership. When the allodial title argument is dismantled, current governance structure can then be adapted to reflect Indigenous worldview in practice. At this time, indigenization will not be complete but C/TFN will be in a position to support their relationship and interdependency with land and water and sustain C/TFN culture. In this time of indigenization, the cultural practices that have worked to sustain Indigenous people for centuries must be considered.

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Glossary of Tagish/Tlingit Translations¹

At wuskú – Knowledge

At yáa awuné – Respect, Respect for things

Gooch – Wolf

Dagay – Swans

Haa daséigu a too yéi yatee – Our life is in the water, our breath is in the water

Ha Kus Teyea– Way of life

Idakát át a yáa ayaduwanéi – all things are respected.

Káx yan aydél wé tl'átgi – stewards of the air, land and sea

Men cho – Big Lake

Men'ltEnl Ca' – November

Tl'atk' – Environment

Toowú latseen – Courage, Inner Strength

Tu/Héen – Water

Wooch yaxh datí – Balance

Yaadachóon yoo x'atánk – Honesty, Straight-forward speaking

Yan haa toowaják w – Integrity, Our Spirit/Mind is Firmly Resolved

¹ *note, these translations are provided to assist the reader, but it is acknowledged that the English translation may not capture the Tagish or Tlingit intent in its entirety.

Yéil – Raven/Crow

Yooch daadé yoo tutuli.átk – Compassion, We are always thinking about each other

Yooch éex tudashéex – Selflessness, We always help each other

Yoosh katudashéix’ – Honour, We praise each other

Tséi Zhéle’ Méne’ – Howling Rock (Windy Arm) Lake

T’ooch’ Heeni – Black (Tutshi) River

L’ál Hèeni/Tl – Jack Pine (Wheaton) River

Taagish Áayi – Tagish Lake

Land Acknowledgement

This thesis was completed on the Traditional Territories of the Yukon First Nations. These Traditional Territories continue to both sustain me and provide me with a strong sense of home. It because of this sense of home within these Traditional Territories that I continue to cherish their land, water and air. I will forever be grateful to be able to visit these Traditional Territories and commit to doing my part to holistically protect these lands, water and airs in a way that respects all cultures, peoples and creatures.

Positionality Statement

My name is Kent Bretzlaff. I am a settler holding a Eurocentric worldview who is a visitor on the Traditional Territories of the Yukon First Nations. I was born to Ralph Bretzlaff and Dorothy Haley near the banks of the Ottawa River on the Traditional Territory of the Algonquin people. I currently reside in Whitehorse, Yukon within the Traditional Territories of the Kwanlin Dün First Nation and Ta'an Kwäch'än Council.

Currently, I am a graduate student in the Joint Master Degree in Governance and Entrepreneurship in Northern and Indigenous Areas (GENI) at the University of Saskatchewan which is based on Treaty 6 Territory and the homeland of the Métis in Saskatoon, Saskatchewan and at UiT the Arctic University of Norway located on the homeland of the Sámi in Tromsø, Norway.

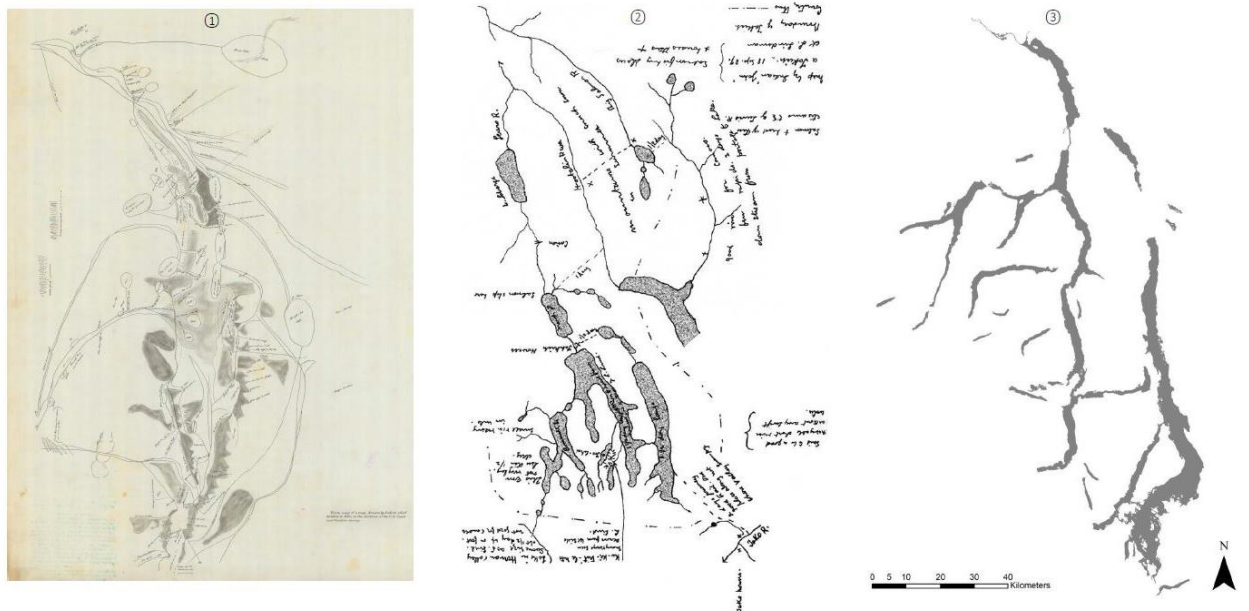
Professionally, I am employed by the Yukon Water Board Secretariat. Although my experience at the YWB has illustrated the current opportunities and barriers to Indigenous worldview within Yukon's current regulatory frameworks, in no way is the dialogue presented in this thesis influenced by or speaking on behalf of the Yukon Water Board or its secretariat.

I identify as Canadian and attempt to understand the historic traumas which result from the colonial actions associated with this. I understand the privilege which come with my heritage, education, employment and socio-economical status. I see my research as a personal journey to respect the various worldviews which surround me and as a means to help indigenize the governance frameworks that I am a product of.

As part of the GENI master's program, I completed an applied research project with C/TFN in 2021. This applied research project focused on recognizing water alongside land under Section 35 of the Canadian Constitution. The thesis presented here is a continuation of this working relationship. I feel very fortunate to have the opportunity to help support C/TFN analyze current wise practices for collaborative water governance which equally represent Indigenous and western worldviews and advances understanding of Tagish and Tlingit culture, values, and policy with respect to holistic water governance.

1 Introduction

All Yukon First Nations have not ceded aboriginal rights, titles or interest of their land, water, resources, or governance and as a result are in a position to govern their own sovereign lands by means of modern treaties. One Yukon First Nation who retains allodial² title is the Carcross/Tagish First Nation (C/TFN) who possess a comprehensive land claim agreement by means of the *C/TFN Final Agreement* (Government of Canada, Government of Yukon, & Carcross/Tagish First Nation, 2005). C/TFN's Traditional Territory covers a large geographic expanse of glaciers, rivers and lakes in both modern-day Yukon and British Columbia (Figure 1). This area is the headwaters of the Yukon River. Currently, within British Columbia's political boundaries, C/TFN is negotiating a modern treaty with Canada and British Columbia.



Earliest surviving maps of the Yukon River *Shaanakhéeni* Headwaters hand drawn by *Tlingit and Tagish* "Indians" (contrasted with a modern version)

- ① Drawn in pencil by Tlingit Chief *Kohlux* with *Tu-eeek* and *gaatchixich* (his two wives) in July 1869 at *Tlákwaan* (Klukwan) near Haines, Alaska, for George Davidson (American scientist leading a US Coast Survey expedition). Remembered from Kohlux's 1852 Journey to the interior from *Tlákwaan*. Pencil on the reverse of a nautical chart. Tlingit place-names transliterated in ink by George Davidson. 109 × 67 cm. Archives of the U.S. Coast and Geodetic Survey. Note the privileging of water bodies.
- ② Drawn by "Indian John of Tagish" for George Dawson (Canadian scientist leading a geological expedition to the Yukon) on 18 September 1887 at *Tl'óoy'u Áa* (Lake Lindeman) Yukon Territory, Canada. Notations on map by George Dawson in his field notebook. Library and Archives Canada. Note that the map was drawn privileging the flow of water (upstream - downstream) and not the cardinal points (N, S, E and W). Also note distance is measured in days travel with precise details of salmon runs, portages and canoe suitability.
- ③ Modern GIS generated map of Yukon River headwaters (Carcross/Tagish First Nation's traditional territory). Data from National Topographic Data Base, Ministry of Natural Resources Canada, Centre for Topographic Information, WGS 1984 UTM Zone 8N

© Eleanor Hayman in collaboration with Veronika Degmayr, LMU Munich, Germany. *S'aag Dis ('groundhog goes into the hole' moon)* November 2015.

Figure 1: C/TFN Traditional Territory (Hayman, 2015)

² With respect to this dialogue, the western concept of allodial title refers to the right to freely hold land tenure that is not governed by another. For example, C/TFN's right to their traditional territory without interference by territorial, provincial or federal governments.

C/TFN's worldview includes the distinction that there exists dependent and reciprocal relationships among natural elements, including land, water, and people, which means that all aspects of nature, including humans, are governed as a whole. This contrasts with westernized governance models which separates the 'rules' for how each; that is, lands, waters, and people, are governed. In opposition, in both Yukon and British Columbia, land and water is regulated by various siloed frameworks and agencies which often do not communicate with each other about management of resources. These frameworks separate the protection of land and water by means of an arbitrary jurisdictional boundary and set of rules on optimizing use of resources, not by sacrality, ancestral lands, natural hydrological flows and cycles, or a dependent animal's travel along waterways.

This difference illustrates one of the many differences between Indigenous worldview and western worldviews (Kapyrka & Dockstator, 2012). Researchers note that one reason Indigenous worldview and holistic protection are under threat is due to a lack of perspectivism³ by settler governments (Ramos, 2012). Settler governments have created governance structures which do not align with C/TFN's worldview and knowledge system. To rectify this, C/TFN is working to develop a land and water governance model that spans Traditional Territory to ensure the holistic protection of their land and water (HWW, n.d.-b; C/TFN, 2022). Thus, this thesis research sought to evaluate existing governance models in order to suggest a policy space which does not value the control of land or water but values a relationship to land and water rooted in respect and reciprocity since land and water is needed to survive and humans are not the only one's dependent on it.

1.1 Background

With C/TFN being a self-governing First Nation with a modern treaty in place, a complex governance framework exists. A complex governance framework that is based in culture and

³ Perspectivism is defined as "the philosophical position that one's access to the world through perception, experience, and reason is possible only through one's own perspective and interpretation" (New World Encyclopedia, 2019). With respect to this dialogue, to practices perspectivism, it is believed that one must view both their own and all other applicable worldviews when discussing ultimate aim of water governance. For example, discussing both western (water as a commodity) and C/TFN (water as an inherent value) worldviews.

traditions while also being enshrined in a western legal structure. In the following background sections, I begin with reviewing C/TFN governance structures, and contrast that with Canadian, Yukon, and British Columbia-based structures. I then state the objectives of this work before proceeding to describe my sequential mixed methodology. In order to respect C/TFN culture and relay the true intent of their languages which form their cultural beliefs, when discussing C/TFN culture, if a Tagish or Tlingit translation was known, it was used and italicised. For translations, refer to the Glossary of Translations.

1.1.1 Carcross/Tagish First Nation

C/TFN citizens descend from the Tagish Dene of Yukon and the Tlingit people of coastal Alaska. Since time immemorial, the inland Tagish and Coastal Tlingit traded and overtime began to intermarry and their respective cultures blend. Stemming from the coastal Tlingit, the C/TFN governance system is based on a clan system includes two moieties: the *Gooch* and the *Yéil*. Six clans exist within these two moieties: the Dakl'aweidí and Yanyedí who form the *Gooch* moiety and the Deisheetaan, Ganaxtedí, Ishkhíttaan and Kookhittaan who form the *Yéil* moiety. The Moiety structure is a pillar of Tagish & Tlingit beliefs and without it, equilibrium is lost and dysfunction is introduced (Hayman, 2018). This governance system introduces, interconnected customs and practices which ensures *wooch yaxh datí, at yáa awuné*, and reciprocity among all beings, land and water. This interconnectedness promotes C/TFN belief that *tu/héen*, is a living being who acts as a teacher and is a fundamental influence when journeying from colonization to indigenization since *tu/héen* offers the opportunity to work together. After experiencing barriers to *Ha Kus Teyea*, C/TFN worked together with other Yukon First Nations to advocate the Federal Government for the recognition of their rights. In 1973, Yukon First Nation leaders presented the Prime Minister of Canada a document entitled *Together Today for our Children Tomorrow*. This document mapped the way to Yukon First Nation land claims and self-government and in 2005, after thirty-two years of negotiation, C/TFN signed their Final Agreement to legally recognizes C/TFN's authority to govern their own people and lands.

In order to reevaluate the foundations of current worldviews, sustain C/TFN's *Ha Kus Teyea*, and holistically protect the Yukon River headwaters, C/TFN has developed a *Draft Water Declaration* (Appendix 1) and made a *Land and Water Proclamation* (Appendix 2). The intent of these documents is guided by C/TFN Elders who are guiding voices for all

cultural matters, and provide ultimate direction on C/TFN governance. This guidance is illustrated by the *Elder's Statement* (Appendix 3) (Government of Canada et al., 2005). Specific to land and water, the Elder's Statement provides the following guidance which is presented in Tagish, Tlingit and then English:

*“Ta ḡish kut'ínè' yi t' ē, Lingít chųh yi t' ē, dàdidi nenh kay' yàni zh' a -
akùt' ē. Dàdidi nenh kay' yèh tū chųh ilani t' ē. Wet' àkudiht' ē dàdidi
naxuts' inilā kùt' ē nenh yèh tū chųh mek' ânùtā' dogā, ch' ètlok kuts' ìh, yē nenh
kay' selā, yē nen t' ey selā chųh kudē y' kuts' enh”.*

*“Tàgish Khwân hà setiyí kha Lingít hà setiyí, hà shegûn áwé ch' águdáxh xhàt
yáxh yenaxh kawsìà. Éch-áwé yá tl' ètgi ìn hà siti, kha yá hîn. Yutusikû
hà wliyexhi À hà jìnáxh ekawsihá yá tl' ètgi ká tuletíni ch' e tlèxh, kha yá hîn,
kha hà tl' ètgi ke.édi ldekét, kha hà tl' ètgi teyì.ádi”.*

“We who are Tagish and we who are Tlingit, our heritage has grown roots into the earth since the olden times. Therefore, we are part of the earth and the water. We know our Creator entrusted us with the responsibility of looking after the land into perpetuity, and the water, and whatever is on our land, and what is beneath our land”.

This excerpt illustrates how C/TFN is destined to *at yáa awuné tl' atk'* and that nature's inherent value is assigned more importance than human benefit. This is the opposite intent of western ideology which aims to dehumanizes nature for human benefit (Foley, 2003; Nogueira, 2013).

To appreciate C/TFNs holistic connection to *tu/héen*, one must appreciate the oral Tagish & Tlingit narratives which describe the reciprocal relationship between nature and people. By doing so, perspectivism can be achieved. Hayman (2018, Pg. 254-255) demonstrates perspectivism by including Angela Sydney's September 27, 1950 telling of *How Crow Got Water (Version One)* within her dissertation.

*Yeil*⁴ went outside. It was the wintertime, and he got some frozen excrement and brought it back inside. He dropped some under the man [who had the water]. Soon it began to thaw out and smell. *Yeil* says, “ax súnée (my uncle, father’s clan), what’s that smell? Look what you’ve done. You’ve done something to yourself!” The old man says, “How come I did that? Maybe I stepped on it.” So he went outside to clean himself up. And *Yeil* drank as much water as he could. He almost burst. When the old man started coming in, *Yeil* flew up through the smokehole. And *Yeil* always makes a noise when he flies up. The old man was mad. He said to his powers of the roof hole, “Grab him!” So *Yeil* got stuck. He tries to fly, and he can’t fly. The old man gets dry pitch and smokes him. Finally *Yeil* is almost choked, but he gets away. Then he drops down a little ways. He is so full, he can’t move. He takes a good rest, and then he starts to fly, and he drips fishes and lakes all over the place.

1.1.2 Canada

When Europeans began their exploration of Turtle Island⁵, authority was given by European monarchs and the Catholic Church to explore all land unknown to Christianity. The ultimate conquest and resulting colonization of Turtle Island was made possible via papal bulls and the *Doctrine of Discovery*. The western-centric *Doctrine of Discovery* legitimized the assertion of sovereignty over *terra nullius* or “vacant land” (Reid, 2010). Reid (2010) describes the principle of *terra nullius* as the ability for Europeans to deem land that was not fulfilling European expectations by the inherent tenants as “vacant” and therefore land title could be claimed. Utilizing the term “vacant” (i.e., “un-used”) portrays the narrow western mindset which did not encompass an Indigenous worldview and which influenced the allodial title principle. Although to a lesser degree, the *terra nullius* ideology has also been described in the context of water by the term *aqua nullius* (Marshall, 2016). The fact that the Latin term

⁴ C/TFN believes *Yeil* to be a creator who causes things to happen.

⁵ With respect to this dialogue, Turtle Island refers the continent of North America and per the Indigenous oral histories that tell stories of a turtle that holds the world on its back.

terra means “earth or land” may be indicative of why in current legislation, the inherent Indigenous rights specific to water are ambiguous.

In 1763, the *Royal Proclamation* was written by and for the British Crown and forbade Indigenous lands to be claimed by settlers unless the land of interest had been bought by the Crown (Government of Canada, 2013a). This proclamation is recognized by some to be the foundation of treaties and the resulting modern right to Indigenous self-determination (University of British Columbia, 2009); for others, it is seen as a legal debate on interpretation. Over the next several hundred years two types of treaties were signed between Indigenous Peoples and the Canadian Government which affirmed both parties’ rights.

In Canada, between 1763 to 1973, 70 historic or numbered treaties were signed; since 1973, 25 modern treaties have been signed (Government of Canada, 2020). The Traditional Territories first explored by the west were colonized and became the prelude of the Hudson Bay Company. Overtime, the western governance model of these colonized lands grew to be the modern-day Indian Act. Today, the Indian Act continues to govern Indigenous groups who Traditional Territories were ceded and who do not possess a modern treaty. In BC and Yukon, due to their respective geographies, colonial contact was delayed and no historic treaties were signed. Due to this, Yukon and British Columbian First Nations have not ceded aboriginal rights, titles or interest of their land, water, resources, or governance and as a result are in a position to govern their own sovereign lands by means of modern treaties. C/TFN’s *Final Agreement* is an example of a modern treaty. In 1982, Section 35 of the *Canadian Constitution* affirmed the existence of Canadian Aboriginal and Treaty Rights and clarifies that Rights are inclusive of the rights associated with land claims agreements (Government of Canada, 1982).

Since 1982, Indigenous Rights have been further supported by caselaw, comprehensive land claim agreements, and documents such as Canada’s Truth and Reconciliation Commission (TRC) *Calls to Action* (Truth and Reconciliation Commission of Canada, 2015) and the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP)(United Nations, 2008). Both the TRC’s *Calls to Action* and UNDRIP provide guidance for what is acceptable with respect to Indigenous Rights in Canada. For example, the TRC’s 49th call to action suggests that religious affiliations cease the use the *Doctrine of*

Discovery and *terra nullius*. Several UNDRIP articles speak to shared decisions making authority (18), spiritual connection to lands and (25) and the right to own and occupy tradition lands and water (26). By adopting the intent of UNDRIP into new legislation, the equal and reciprocal Indigenous relationship that exists between land, water and culture can be recognized and their constitutional rights upheld.

On June 21, 2021, in Canada, UNDRIP, by means of Bill C-15, received Royal Assent (Government of Canada, 2021c). It is now up to individual jurisdictions to adopt UNDRIP within their own legislation. In November 2019, the province of British Columbia passed an UNDRIP declaration act making UNDRIP British Columbia's framework for reconciliation (Government of British Columbia, n.d.).

1.1.3 Yukon

In 2005, C/TFN's asserted rights, titles and interests with respect to its settlement land were formally recognized via a final self-governing agreement between the Government of Yukon and the Government of Canada. C/TFN's *Final Agreement* which was negotiated using the *Umbrella Final Agreement* (UFA) framework (Council for Yukon First Nations, 1993), which formally recognizes water management rights via *Chapter 14*. With respect to water governance, *Chapter 14* stipulated that:

Chapter 14.4.1: The Council for Yukon Indians shall nominate one-third of the members of the Board.

Chapter 14.8.1: a Yukon First Nation has the right to have Water which is on or flowing through or adjacent to its Settlement Land remain substantially unaltered as to quantity, quality and rate of flow, including seasonal rate of flow.

Chapter 14.9.1: Before granting a Licence in any drainage basin in the Yukon that causes substantial alteration in the quality, quantity or rate of flow, including seasonal rate of flow, of Water so as to adversely affect a Traditional Use by a Yukon Indian Person in that Yukon Indian Person's Traditional Territory, the Board shall:

Chapter 14.9.1.1: Give notice, in a form prescribed by the Board, of receipt of an application to the affected Yukon First Nation

Chapter 14 enables Yukon First Nation involvement in decision making via the YWB but since it is a quasi-judicial in nature and not a intergovernmental process, it has been described as limiting First Nation involvement (Government of Yukon, 2021). The YWB is unique in the sense that it possesses both advisory and legal decision-making authority but since Yukon First Nations legal orders specific to water were not incorporated into *Chapter 14* means that Indigenous governance, law and culture does not have equal authority in the process (Wilson, 2020). At the time of negotiating the UFA, it was believed that the resulting Final Agreements were to be living documents in order to incorporate the future maturity of legislation and Indigenous rights (Government of Yukon, 2021).

In 2003, the devolution process was completed when the federal *Yukon Act* was amended to devolve governing authority of land and resources management to Yukon (Government of Canada, 2013b). Upon Devolution, the Federal *Yukon Waters Act* became the *Yukon Waters Act* (Government of Yukon, 2003) which legislates the use and deposit of water in Yukon by means of:

Section 3(1): The Commissioner has the administration and control of all rights in respect of water in Yukon, other than waters in a federal conservation area as defined in the Yukon Act.

Section 8(1): There is hereby established the Yukon Water Board, consisting of from four to nine members appointed by the Commissioner in Executive Council

The Yukon Water Board (YWB) acts as an administrative tribunal and regulates the use and disposal of water via a public water licensing process. Despite being an independent body, the Government of Yukon has the authority to direct the YWB by means of:

Section 11(1): The Minister may give written policy directions to the Board with respect to the carrying out of any of the Board's functions under this Act, and the Board shall, subject to subsections (2) and (3), comply with any such policy directions.

This quasi-judicial⁶ public process provides an opportunity for all Yukon citizens or governments to intervene on water use applications specific to industrial, quartz, placer, municipal, miscellaneous or agricultural undertakings (Yukon Water Board, 2022). The Government of Yukon assertion of ownership over water via the *Yukon Waters Act*, reemphasizes the current colonial framework in Yukon which does not support the fact that Yukon First Nations such as C/TFN are signatory to a modern treaty which legally supports the sovereign governance of land and water by C/TFN.

1.1.4 British Columbia

Having not signed a comprehensive land claim agreement with British Columbia, C/TFN is in a position to build upon C/TFN's Yukon-based *Final Agreement* in order to establish collaborative water legislation which provides joint decision-making authority (Wilson, 2020). To further support this, case law determined by the BC Supreme Court and the Court of Appeal (1973 SCR 313) indicates that British Columbia's Indigenous land title remains unceded since no treaty has extinguished land rights.

Section 92 of the Canadian *Constitution Act* sets out the powers assigned to Provincial legislation including those of pertaining to natural resources (Government of Canada, 1982). British Columbia's *Water Sustainability Act* governs the licensing, diversion and use of C/TFN's water in British Columbia (Government British Columbia, 2014). Similar to the *Yukon Waters Act*, ultimate ownership of British Columbia's water is invested in the provincial government by means of Section 5(1):

Section 5(1): The property in and the right to the use and flow of all the water at any time in a stream in British Columbia are for all purposes vested in the government, except insofar as private rights have been established under authorizations.

⁶ With respect to this dialogue, Quasi-judicial is defined as “having a partly judicial character by possession of the right to hold hearings on and conduct investigations into disputed claims and alleged infractions of rules and regulations and to make decisions in the general manner of courts” (Merriam-Webster, 2022) .

Unlike Yukon, British Columbia has no tri-party board to regulate water use or disposal. Instead, the use and deposit of water is administered by the Water Manager at the Ministry of Forests, Lands, Natural Resource Operations and Rural Development. The Water Manager completes a technical review, determines if consultation is required and untimely licenses the use of water (Government of British Columbia, 2021). Although not a public process, the opportunity to appeal a decision exists via the Environmental Appeal Board.

The *Water Sustainability Act* recognizes Treaty First Nations obligations via Section 40. This recognition allows for the establishment of a water reservation which does not provide ownership but sets aside a water source for a specific reason such as treaty obligations which are to be prioritized (Section 40(1)).

With respect to negotiating a modern treaty in British Columbia, the *Recognition and Reconciliation of Rights Policy for treaty negotiations in British Columbia* (Government of Canada, 2019) acts as a guiding policy document. Various sections within this document supports the argument for equal recognition between land and water. Section 42 promotes the adoption of UNDRIP articles; Section 46 and 54 allow for negotiations to occur specific to the inclusion of Indigenous perspectives on resource title and rights (e.g., water) as well as Indigenous laws and legal systems; and, Section 7 of Schedule A references the term *aqua nullius* by indicating that water-specific annexes be co-developed for the treaty arrangement. This recognition of water specific rights not only supports holistic treaty negotiations but allude to the constitutionally protection of water rights and title.

To summarize, the current Territorial and Provincial legislations of Yukon and British Columbia are built upon 'outdated' interpretations of laws that do not reflect or have not consider the new modern treaties and current reality. These legislations promote colonial ideologies and have created a significant barrier to C/TFN's sovereign water governance. This thesis will now provide details on the methodology chosen to explore ways for C/TFN to overcome the existing barriers to sovereign water governance.

1.2 Objectives and Research Question

This research builds on an applied research project previously completed in collaboration with C/TFN in 2021. The applied research project examined how current western governance

structures can act as barriers for inclusion of Indigenous worldview and to C/TFN's ability to implement self-governance around water and *Ha Kus Teyea*. Derived from gaps identified among C/TFN culture, Canadian history, and global legislation specific to the governance of water, an argument was presented that there exists a policy space for the equal recognition of land and water within Section 35 of the Canadian Constitution. With direction from C/TFN, this continued research imagines such a policy space by exploring the existing support and barriers to C/TFN *Ha Kus Teyea* via the aforementioned methodology. This research aims to help serve C/TFN's goal of creating a sovereign, and culturally aligned land and water governance system for decision making within their Traditional Territory.

1.3 Methodology

Across various professional fields it is recognized that both western science and Indigenous knowledge is required to create modern solutions (Massey & Kirk, 2015). In order to create appropriate solutions, this research methodology aims to reevaluate the foundations of current worldviews. To ensure that the bridging of worldviews was done respectfully, C/TFN has guided all aspects of this work including the approach to research, ethics and content.

1.3.1 Methods

Castleden et al. (2017) specify six R's of research with Indigenous communities; respect, relevance, reciprocity, responsibility, relationality, and reconciliation. Thus, in this thesis, the decisions on what approach and methods to use was guided by C/TFN leadership and community members who had a goal of ensuring that through this work I facilitated knowledge transfer that could create a space for the holistic protection of water on C/TFN territory. A mixed methodology was desired, where I would: 1) reviewing the current understandings specific to Indigenous governance, 2) interviewing community knowledge keepers and experts in the field of water governance, 3) drawing on professional and personal experience to further understand the issue at hand, and 4) sharing research findings in a meaningful way. Below, I briefly describe the different tools used to create knowledge in this thesis.

Systematic Review

To identify current gaps, a systematic review (as per Wallace et al. 2004; Gough, et al. 2017) was first completed of western and Indigenous literature. For western literature,

publicly available and open access peer-reviewed, legal, and grey material from global sources was of focus. For Indigenous literature, material provided by C/TFN was used to ensure the material reviewed was directly relatable to C/TFN values and goals. This included written, oral, legal, and grey material. The review of western and Indigenous literature encompassed the topics of need that C/TFN specified such as Indigenization of governance, co-management, holistic environmental protection, and case studies specific to the declaration of legal personhood for nature and water. The systematic review aimed to establish understanding of C/TFN culture as well as the current supports and barriers for the recognition of Indigenous rights with respect to water governance. A systematic review was selected over a conventional literature review, scoping review, or meta-analysis because of the nature of the sample, inability to draw comparative statistical analyses because of lack of data in the sample, and because of there being the need to learn means to fill knowledge gaps, synthesize several types of knowledge and a volume of diverse literature, clarify concepts, and investigate recommended next steps toward policy change (Munn et al., 2018). These needs extended the purpose beyond that of a literature or scoping review.

Expert Elicitation

To validate and grow knowledge stemming from the systematic review of literatures, qualitative interviews (as per Lillejord & Soreide, 2003; Simonds & Christopher, 2013) were completed in April 2022 with three community members who C/TFN identified as invaluable experts and knowledge keepers for matters of both western and Indigenous worldview, as well as the traditional, current and future of C/TFN's land and water governance. Guided by the systematic review and C/TFN recommendations, the questions presented in Appendix 4 were the foundation of each interview. Not wanting to create a rigid dialogue in order to let the interviewees guide themselves (Simonds & Christopher, 2013), the structure and length of each conversation varied but each conversation orbited the topic of the intrinsic value of water and Indigenous water governance.

Autoethnography

In order to track personal learnings and introduce personal reflection to the research, the practice of autoethnography was undertaken. Autoethnography helps one understand their own (auto) cultural experience (ethno) by approaching research via systematic analysis (graphy) (Ellis, Adams, & Bochner, 2011). Autoethnography is supported by the

understanding that any knowledge that is gained is personal and that alternative understandings of a topic whether specific to a reality or method is required (Wall, 2008). When supporting research needs of partners holding a different worldview, research is a means of self-instruction and it is believed that if the possibility of an alternative understanding is not accepted then meaningful research is barred (Bainbridge, 2007; Graeme, 2013)

Using autoethnography will provide accessible learnings to others, and to practice analyzing and reporting in a reflexive way. To help illustrate the issues that revolve around current water governance, a community-focused autoethnography (as per Hernandez & Ngunjiri, 2013) was chosen to illustrate the personal experience gained from the community-based research. Community-focused autoethnography is said to help manifest the issue at hand since can help provide community-building and cultural intervention (Ellis et al., 2011). In order to track personal learnings, routine response to the questions included in Appendix 5 was completed.

Research Creation

Research creation aims to bring creativity to academic research by expressing the research's findings via artistic expression (Government of Canada, 2021a). Research creation also attempts to intersect artistic expression and theoretical concepts which makes for a complex and experimental practice which cannot be predetermined (The Pedagogical Impulse, n.d.). To present findings in a meaningful and accessible way, it was determined that research creation could provide a collaborative means to document and present resulting research findings. Since artistic expression exists in many forms, the question of how best to present the research findings was posed to C/TFN. Since spirituality and connection to land and water is a pillar of C/TFN culture, the act of ceremony was determined to be most suitable.

2 Results Part 1: Systematic Review of Water Title

C/TFN has now been implementing a modern treaty for 16 years and has made significant progress, however shortcomings exist with respect to recognizing Indigenous worldviews and knowledge systems. There are the additional challenges of collaborative legislation and shared decision-making authority which inhibit the holistic protection of C/TFN's Traditional Territory. By systematically reviewing peer-reviewed, legal, and grey literature from both

western and indigenous sources, this section focused on matters specific to C/TFN culture, holistic environmental protection, the Indigenization of governance and granting legal personhood to water. In addition, through the expansion to global contexts of holistic water protection, Indigenization and legal personhood specific to nature, this review attempts to identify the existing support and barriers specific to two matters. The first being C/TFN’s right to have sovereignty over the governance of their land and water within their Traditional Territory and the second being the development of a culturally aligned land and water governance system for decision making.

For the systematic review, search terms, and databases were selected with input from supervisors, community members, and key words from known articles from the previous work (Table-1). Databases were search between January and April 2022 and included University of Saskatchewan Library and Indigenous Studies Portal, UiT Library, CanLii and Google Scholar. Articles were included if they were a) published in English or included a translation to English, b) recognized varying worldviews and c) provided an understanding of historical or current governance practices.

Table 1: Database Search Terms

Topic Area 1: Indigenous Governance	Topic Area 2: Indigenizing Governance	Topic Area 3 Legal Personhood
Seasonal Round	Co-Management	Legal Personhood
Perspectivism	Shared Decision-Making Authority	Rights of Nature
Indigenous Water Policy	Collaborative Legislation	Aqua Nullius
Inherent Rights	Siloed Governance	Whanganui River
Transboundary Governance	Mother’s Law/Law of Nature	Magpie River
Sacred Teachings		Ganges and Yamuna Rivers
Allodial Title		Rio Atrato River

In the next sections of the thesis, I will review the results from the systematic document review as described above.

2.1 Indigenous Governance Practices

C/TFN governance documents and leaders state that C/TFN’s governance ideology is focused on the belief that everything is connected. The *How We Walk (HWW) Draft Charter* illustrates this belief by stating there must be an acknowledgment that everything is connected within their guiding principles (HWW, 2022). HWW describes that this belief stems from the

concept that everything is living, sentient, not separate; in contrast to not living, singular, separate. Interpretations of the traditional approaches to holistic knowledge in C/TFN would specify that studying water in a reductionist way, and as a singularity, is a practice of western ideology and allows water to be seen as consumable resource. When water or other resources are perceived independently from other components, the cosmology of C/TFN explains that humans can lose respect for water which encourages human to view water as commodity. In doing so, one separates water from the social context, thereby creating ontological violence as a result of Eurocentric epistemologies (Wilson & Inkster, 2018). To show why water should be seen as an interconnected physical and spiritual being and not as a commodity, the following presents results from local records and knowledge keepers on C/TFN culture and cosmologies, interspersing Tagish & Tlingit terminology to respect meaning, then, describe the findings of the document and story review from C/TFN's lens.

C/TFN Culture – A Guiding Cosmology

Knowledge keepers and written records show that C/TFN cosmology presents virtue- and law-based reasons for why C/TFN should have *Ha Kus Teyea* within their Traditional Territory. The C/TFN's evolution also supports why its culture must be the foundation when developing a culturally aligned land and water governance system. According to Tagish & Tlingit *tu/héen* law principles, *tu/héen* possesses a spirit, and therefore, should have a degree of influence over its own jurisdiction. This principle supports the development of collaborative legislation that acknowledges both Indigenous worldview and C/TFN's virtues and values, and commits all components of nature to work together and be considered together. All C/TFN laws stem from the same virtues with each law being a practical application of stories and virtues specific to a situation (C/TFN, n.d.). C/TFN's foundational virtues and values include:

1. *Yooch Éex Tudashéex*, We always help each other
2. *Yoosh Katudashéix'*, We praise each other
3. *At yáa awuné*, Respect for things
4. *Toowú Latseen*, Inner Strength
5. *Yan Haa Toowajákw*, Our Spirit/Mind is Firmly Resolved

6. *At Wuskú*, Knowledge

7. *Yooch Daadé Yoo Tutuli.átk*, We are always thinking about each other

8. *Yaadachóon yoo x' atánk*, Straight-forward speaking

C/TFN land and water on Traditional Territory builds on these virtues and values. These virtues and values have created an equal respect for nature and property which can be described as *idakát át a yáa ayaduwanéi*. To show their respect, C/TFN practices the act of ceremony - the act of giving thanks. C/TFN knowledge keepers identify that this practice is one that western-centric regulatory frameworks have not adopted. It is believed that western-centric regulatory frameworks have not adopted the act of ceremony since western worldviews do not respect or acknowledge practices emerging from Indigenous worldviews (Hayman, James, & Wedge, 2018). Despite a western-centric governance system that is designed to view all aspects of the environment as singular commodities, C/TFN citizens continue to be *káx yan aydél wé tl'átgi* in order to sustain cultural practices on Traditional Territory.

Knowledge keepers recommend that in order for C/TFN culture to achieve *woochéen* between physical, metaphysical and environmental aspects, there needs to exist a holistic relationship between land and *tu/héen*. This is illustrated via the importance C/TFN places on seasonal round (Figure 2). Seasonal round is an ideology that an annual process exist which sees nature and humans follow a reciprocal relationship with *tu/héen*. As *tu/héen* changes physical states throughout the year, so does cultural practices, wildlife migrations and self-awareness. Seasonal round shows the interconnectedness which *tu/héen*, as a living being, has with the spiritual, mental, physical and emotional components of the lunar year. The Tagish lunar calendar illustrates this interconnectedness by portraying the *men'ltEnl Ca'* moon as the moon when all the *men cho* freeze and March's moon as the moon when the *dagay* start coming back (McClellan, 1975). Both seasonal round and C/TFN's lunar calendar show how water defines the landscape and influences the physical and metaphysical aspects of C/TFN culture.

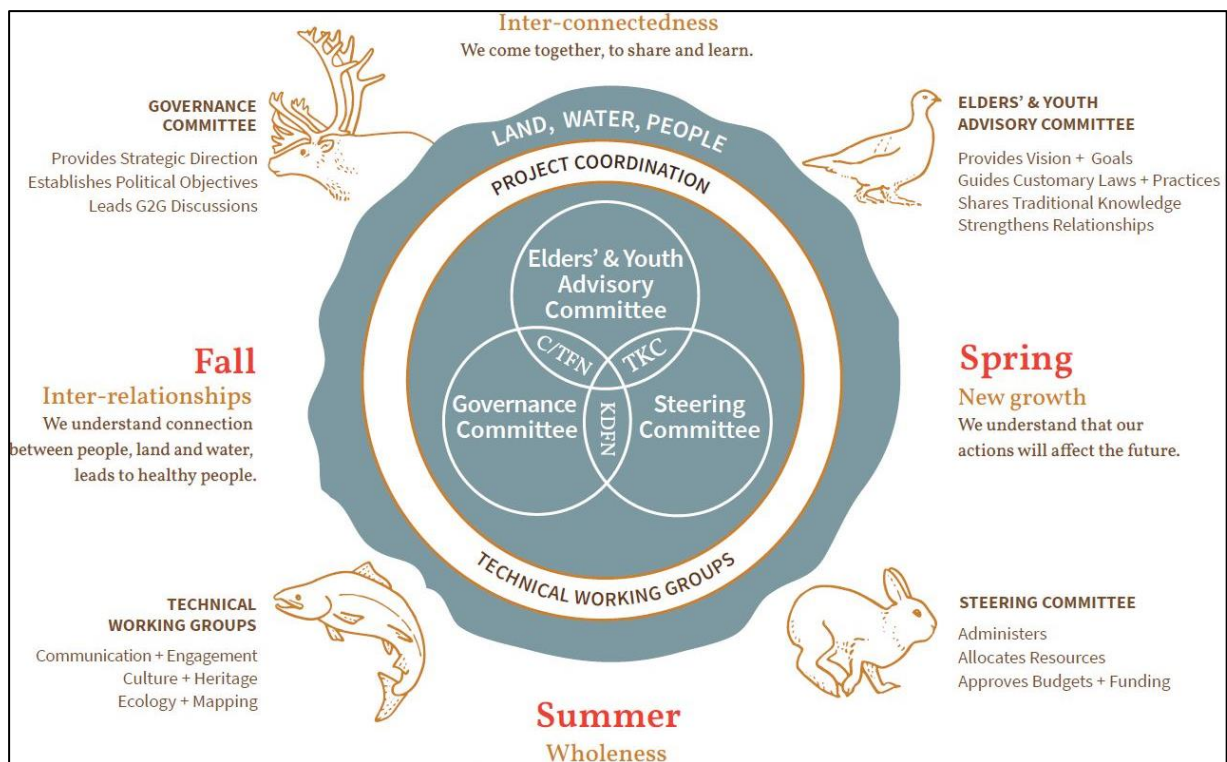


Figure 2: Seasonal Round (HWW, n.d.-b)

With ever-increasing pressure being placed on the land and water within the Traditional Territories of Ta'an Kwach'an Council, Kwanlin Dün First Nation and C/TFN and a delayed commitment from the Government of Yukon to meaningfully develop Land Use Plans with each Nation, the How We Walk with Land and Water initiative was created. Driven by Elders and guided by the community, How We Walk with Land and Water is an evolving preparation initiative of regional land and water relationship planning aimed to create tools and processes by applying ancestral and present-day knowledge to articulate relationships with the land and water, and all that dwell there. (HWW, n.d.-a). The planning framework not only aims to introduce the seasonal round relationship (Figure 2) into western land and water use planning process but to articulate, by means of traditional practices, Indigenous laws, relationships, protocols, philosophy into process and structure that can then be used to mediate Indigenous relationships with the land, water and our fellow inhabitants.

International Parallels to Holistic Protection

There exist global parallels to C/TFN's goals of holistic protection of their traditional territory. In New Zealand, the Māori practice *kaitiakitanga*. *Kaitiakitanga* is to care for the interconnected environment, its resources and the resulting associate guardianship with the

goal of intergenerational equity (Kennedy, McGouran, & Kemper, 2020). Kennedy et. al. (2020, Pg. 829) introduces the term sustainability when describing the Māori goal of intergenerational equity by saying “sustainability ensures that social and natural environments are protected or improved to provide intergenerational equity at the very least”. *Mātauranga Māori* (Māori cultural practice) such as this sustainability goal has formally been incorporated into national policy in order to enable holistic decision making that acknowledges and utilizes *Mātauranga* (EPA, 2020). In Kenya, Maasai Elders acknowledge that due to money and the current political landscape, their way of life has completely changed and that the continuity of their traditional methods specific of pastoral living is being obstructed (Jandreau & Berkes, 2016). This erosion of rights is also apparent in Yukon when you see hunting moratoriums imposed by the western government onto Indigenous lands due to residential expansion. Unlike New Zealand where aspects of Māori culture and cultural practices have been formally recognized by the government, Kenya appears to be initiating Indigenization of national governance.

2.2 Indigenizing Western Governance

Colonial governance specific to the environment is said to have three elements, the institutions which legislate, the structures that decide and the processes that occur (Oduor, 2020). With the western-centric practice of individuality and autonomy being the pillar of western rights (Hayman et al., 2018) and as a result the three aforementioned elements, a reintroduction of Indigenous institutions and traditions into western governance structure is required for indigenization to be effective. Indigenization⁷ has been described as a grassroots social movement born out of sight from colonial actors but which is now front and centre of both international and national stages (Smith, 2008). Despite varying agreements in place between western and Indigenous governments, without true self-governing authority, these agreements do not always guarantee direct and holistic benefits (Kuokkanen, 2019). The following presents results which analyzed vary aspects of governance in an attempt to look at

⁷ With respect to this dialogue, Indigenization is defined as the “process of naturalizing Indigenous knowledge systems and making them evident to transform spaces, places, and hearts” (Antoine, Mason, Roberta, Palahicky, & Rodriguez de France, 2018, Pg. 18)

how western governance can be indigenized to ensure the inherent rights of Indigenous peoples are upheld.

Allodial Title

Allodial title is globally recognized and is often used within the context of a populations who were situated on the land in question prior to settler-contact (Woodman, 1968; Fuglestad, 2018). Allodial title is a western-centric ideology which allows for settlers, colonial government and religious institutions to assert ownership over land and resources of Indigenous lands. Akolgo-Azupogo, Bardy, & Rubens (2021) indicate that in Ghana, land tenure by means of allodial title is vested to the Indigenous community, yet the practical land management is delegated to the various sub-communities. This has parallels to Canada where the recognition of Indigenous peoples and their inherent land right is entrenched within Section 35 of the *Canadian Constitution* yet each Indigenous group is left to self-govern their own Traditional Territory by means of a historic or modern treaty. In Ghana, four ways to acquire allodial title to land exist: 1) conquest and settlement; 2) discovery of unoccupied land by hunter or pioneer; 3) gift; or, 4) purchase (Woodman, 1968) and once obtained, land rights are secure, definite and inheritable and there are no inherent rights are assigned to migrants (Akolgo-Azupogo et al., 2021). Despite both Canadian and Ghanese Indigenous population being colonized, it is recognized from the literature that the Ghanaian context differs to Canada and therefore it was not investigated further. Despite C/TFN having not ceded allodial land title, their *Final Agreement* identifies a small percentage of their Traditional Territory as ‘settlement land’ which C/TFN has autonomy over (Government of Canada et al., 2005). This imbalance of land ownership has been seen else where such as Hawaii where at the time of colonization the Indigenous population was said to be willing to give up one-third of their land to obtain allodial title of the rest (Weaver, 1898). With having been written in 1898, Weaver’s description of the Indigenous population’s ‘willingness’ to give up land illustrates the colonial actions which formed the basis of today’s governance inequality. In general, the topic of allodial title appears to be under research and only specific to land title, not that of water.

Current Governance Structure

The devolution of power from the Government of Canada to the Government of Yukon occurred in 2003 and although many theoretical advantage such as local-level decision

making exist, the actual outcome in Yukon has not fulfilled the expectation of Yukon First Nations (Natcher & Davis, 2007). A possible causation for this shortcoming is the fact that the legislation enacted by Yukon closely resemble that of the previous Federal legislation (Government of Canada, 1992; Government of Yukon, 2003) as does the territorial governance structure (Latta, 2018). As defined as a silo, the current governance is a hierarchical organization that prioritizes vertical compared to horizontal coordination (Scott & Gong, 2021). Vertical coordination effectively puts up blinders to surrounding issues which may or may not be impacted by a decision in order to achieve a centralized goal. For example, a lands management branch only looking at the impacts to land and not looking considering impacts to water, wildlife or culture. Scott & Gong (2021) indicate that in silos-dominated administrations, horizontal coordination is a result of a centralize direction such as political mandate. Therefore, unless there is direction via a mandate, it is very difficult to implement a paradigm shift. This barrier can also be described as discursive power. Discursive power refers to an actors capacity to influence values which ultimately harm others due to not acknowledging the impacts from an implemented decisions (Wilson, Harris, Nelson, & Shah, 2019). By indigenizing the western governance structure, the understanding of water can be broken down and Indigenous ontology can then be promoted. In Yukon, First Nation legislation is being enacted that encompasses social, cultural financial and environmental aspects (Teslin Tlingit Council, 2011; Tr'ondëk Hwëch'in, 2016; Carcross/Tagish First Nation, 1998; Kwanlin Dün First Nation, 2020). Enabled by modern treaties, an alternative to the current territorial governance frameworks is being developed in Yukon. First Nation drafted legislation provides an alternative to “state-like” governance frameworks in order to fulfil Indigenous legal order; enables resources such as water to be seen in its inherent and holistic means; and, enable First Nations to revitalize their legal traditions (Wilson, 2019).

Co-Management of Resources

Resource governance is typically governed via a neoclassical approach which prioritizes economics to ensure the most cost-effective outcome (Steenstra, 2010). Steenstra (2010) argues that to effectively manage resources, local principles [e.g. HWW] must be evaluated when making decisions. Adopting local principles such as community-based resource management which promotes environmental governance can help achieve both social and environmental goals (Oduor, 2020). Community-based resource management or ‘co-management’ aims to share some level of the control and authority over specific resources

and has created a new way of governance which promotes cross-culture collaboration (Clark & Joe-strack, 2017). With the ability to bridge cultural practices, co-management is frequently associated with decision making frameworks specific to natural resources when Indigenous peoples are involved (Wilson, 2020). Due to being located on unceded territories, Yukon possesses many co-management structures which aim to replace the top-down colonial governance model. Although progressive, a number of shortcomings have been identified with co-management. Shortcomings include Nations being seen as stakeholders instead of inherent right holders; western governments further entrenching western worldviews by failing to share decision-making authority; Indigenous governance models not being incorporated; not acknowledging the appropriate allodial title holders, epistemologies, ontologies; and, the lack of capacity available for both First Nations and western governments to meaningfully engage (Wilson, 2020). In British Columbia, the term co-management is being replaced with co-governance in order to surpasses the perceived role of shared technical duties and allude to the creation of shared authority and control (Clark & Joe-strack, 2017).

Shared Decision-Making Authority

Shared decision making is a decision-making process being two or more parties who share equal authority on the matter (Sayers, 2012). Within the context of British Columbia Sayers (2012), describes how the possibility of shared decision-making is infeasible since a Minister holds the final word due to inability to fetter their decision. This is also present within Yukon legislation, as shown by Section 3(1) of the Waters Act which gives a Minister control of all Yukon water rights. It is language such as Section 3(1) which ensures that the Crown retains control over its lands despite the recognition of Indigenous rights within Section 35 of the *Canadian Constitution*. Shared decision-making authority may be achievable via indigenization of legislation which could be supported by policy which adopts the findings of the TRC (Groot, Waldron, Barreno, & Cochran, 2020). If achieved, shared decision making would not only allow for multidisciplinary collaboration but it would require the acknowledgment of colonial actions and resulting stigmas (Groot et al., 2020);

adoption of two-eyed seeing⁸ and the use of traditional knowledge (A. J. Reid et al., 2020; Von Der Porten, De Loë, & McGregor, 2016); and, acceptance for trade-offs which upholds social–ecological perspectives and alternative worldviews (Wheeler & Root-Berstein, 2020; Von Der Porten, De Loë, & McGregor, 2016). In areas where an Indigenous territory remains unceded, when there is a potential impacts the their lands or waters, the recognition of the inherent rights of Indigenous peoples should be present and equal shared decision making authority be granted in order to established what criteria is to be used during the decision-making process (Papillion, 2018). Currently, the western court system is evolving the expectation of multilevel governance and case law is now present that requires the duty to consult to be fulfilled (2017 SCC 40). However, some continue to believe that free, prior and informed consent (FPIC) grants Indigenous peoples veto over any project and that FPIC is a requirement to consult, not create shared-decision making authority (Papillion, 2018).

Collaborative Legislation

Settler colonialism has established a state administrated legal process which controls all land and peoples within a western defined jurisdiction (Curran, 2019). Collaborative legislation⁹ may have the ability to endorse FPIC, recognize the inherent rights of Indigenous peoples and reevaluate the foundations of current worldviews. Indigenous legislation is place-based and built upon a model which embody environmental integrity for not only a small area but for an entirely interconnected territory (Curran, 2019). Western legislation, typically adopts a ‘postage-stamp’ model which allocates the use of resources using a siloed model. With respect to water, western legislation focuses on the authorization of water use and disposal (Curran, 2019; Yukon Water Board, 2022; Government British Columbia, 2014). Acting as a intervenor (not a decision maker) for matters specific to Yukon policy development for the conservation of wetlands, Tr’ondëk Hwëch’in continues to debate that since the ‘postage-stamp’ model does not consider all aspects of a watershed, a ‘postage-

⁸ Mi’kmaw Elder Albert Marshall defines Two-Eyed Seeing as “learning to see from one eye with the strengths of Indigenous knowledges and ways of knowing, and from the other eye with the strengths of mainstream knowledges and ways of knowing, and to use both these eyes together, for the benefit of all”. (A. J. Reid et al., 2020, Pg. 4)

⁹ With respect to this dialogue, collaborative legislation is views as legislation which is co-developed and allows for a shared-decision fraewor which respect of both western and Indigenous worldviews.

stamp' model does not support environmental protection or their inherent rights as highlighted by their *Final Agreement* (Tr'ondëk Hwëch'in, 2020; Governemnt of Canada, Tr'ondëk Hwëch'in, & Government of Yukon, 1998). This is a practical example of how not incorporating FPIC within current western decision-making processes means that the western view of government-to-government relations with Indigenous nations sees there being a duty to solely consult and not share decision-making authority.

2.3 Legal Personhood Case Studies

A change to the current water management paradigm may mean rethinking the understanding of modern water (H₂O) to include water as a living being (Wilson & Inkster, 2018). A living being who is entitled to its own rights and intergenerational personhood. Since the 1970s, there has existed a movement to incorporate legal protection for natural object within common law. As Stone (1972) articulates, there is merit to assigning nature legal rights despite not having a voice since it is common practice to do so for corporation or municipalities who relay on lawyers to voice the three criteria for holding legal rights. The three criteria being the ability to organize legal action, claim injury and benefit from relief.

The recognition of nature in international law stems from the 1972 *Stockholm Declaration* which included regulations specific to environmental issues and the 1982 *World Charter of Nature* which is an international declaration of principles for the protection of natural systems (United Nations, 1972; United Nations, 1982). The 1992 Rio-based Environment and Development conference further solidified the aforementioned advances in natural law recognition (Vargas-Chaves, Rodríguez, Cumbe-Figueroa, & Mora-Garzón, 2020). This formed the bases for many universal declaration specific to the natural rights of ecosystems, wildlife and watercourses (United Nations, n.d.). Several recent examples exist of providing water legal personhood and therefore replacing neo-liberal view of water as a economic commodity (Hayman et al., 2018). To replace the neo-liberal view of water, legal pluralism¹⁰ must be adopted which can create a paradigm shift away from humanity seeing water as a commodity (O'Donnell, 2020). Although potential weaknesses have been

¹⁰ With respect to this dialogue, Legal pluralism refers to the idea that in any one geographical space defined by the conventional boundaries of a nation state, there is more than one law or legal system. (Davies, 2010)

identified with the legal personhood model, it is believed to be an important consideration during periods of environmental crisis (Barcan, 2020).

India

As described by O'Donnell & Talbot-Jones (2018), stemming from concerns specific to the source protection of the Ganges and Yamuna Rivers, the high court in the state of Uttarakhand which is located in the headwaters of the Ganges watershed declared the following:

“The Rivers Ganga and Yamuna, all their tributaries, streams, every natural water flowing with flow continuously or intermittently of these rivers, are declared as juristic/legal persons/living entities having the status of a legal person with all corresponding rights, duties and liabilities of a living person”

(Pg. 6)

The court assessed the sacredness of the rivers which were fundamental to the existence of a large portion of the Indian population and argued that the sacred rivers were at risk of extinction due to environmental degradation and therefore preservation measures were required to ensure conservation. Using a guardianship model to develop a legal personality for the rivers, the rivers were determined to be legal minors. An appeal to the Supreme Court of India in 2017 on the basis of the transboundary aspect of the rivers stalled the legal status of the case. Due to several high-ranking bureaucrats being appointed as guardian participants, this guardian model lacked the required transparency and independence from government. Although there willingness existed for the court to project an image of environmental stewards, due to a lack of acknowledgment of the socio-cultural narrative, the legal ambiguity surrounding assigning legal personhood to nature and no implantation plan, the envisioned goal failed (Jolly & Menon, 2021).

Australia

As described by O'Donnell & Talbot-Jones (2018), due to concerns related to the overuse of water resources in the state of Victoria, the Victorian Environmental Water Holder was determined a legal person in 2013. What was previously the prevue of the Minister for Environment, the Victorian Environmental Water Holder was given the legal authority to set annual water allotments and the ability to perform water market transaction in the form of

buying and selling. Funding stems from a levy (environmental contribution) placed on water users and for the purpose of sustainable management of water resource.

To illustrate an multi-dimensional assignment of legal personhood to nature, in 2014, the Environmental Defenders Office of North Queensland launched a campaign to assign the Great Barrier Reef legal personhood which has since been shelved (Barcan, 2020). Barcan (2020), notes that personhood campaigns may prioritize ecocentrism¹¹ but can be heavily influenced by the western worldview of person or property which can create further tension within the settler colonial context.

South America

Differing from the Stone (1972) legal protection for natural objects model used in India and Australia, South America has prescribed legal rights to water via constitutional protection. In Ecuador, the legal rights for nature were constitutionalized in 2008 which enables the preventive protection of nature and the ability to call upon government to enforce the allotted natural rights to ensure the benefits of the environment can be utilized by all (Republic of Ecuador, 2008). As described by (Vargas-Chaves et al., 2020), in 2016 the Colombian Constitutional Court, recognized the rights of the Atrato River and in 2018, the Supreme Court recognized the same rights with respect to the Colombian Amazon and the Pisba Natural National Park. With the adoption of anthropocentrism¹², biocentrism¹³, and ecocentrism in the 1991 constitution, the rights of nature are reenforced by ensuring any person can call upon the government to enforce the rights specific to nature to ensure conservation and that nature's health is protected from deleterious substances. In Bolivia, the 2010 *Ley de Derechos de la Madre Tierra* (Law of the Rights of Mother Nature) assigned Mother Nature, which is defined as a dynamic, sacred and multi worldview living system,

¹¹ With respect to this dialogue, Ecocentrism is defined as an acknowledgment that the worlds ecosystems sustain human life and that there is no separation between humans and nature (Gray, Whyte, & Curry, 2018).

¹² With respect to this dialogue, Anthropocentrism is defined as the belief that human life has intrinsic value which is superior to that of the natural realm (Boslaugh, 2016) .

¹³ With respect to this dialogue, Biocentrism is defined as the belief that all living beings (human and non-human) should be granted an equal and ethical consideration (DesJardins, 2015).

broad rights which highlighted the State obligations to ensure the harmony, collective good, respect and ultimate guarantee for Mother Earth's regeneration (Republic of Bolivia, 2010).

Latin America's incorporation of Indigenous worldview into legislation presents a paradigm shift and provides a novel tool to combat environmental crisis. However, other aspects such as an evaluation of the economic-centric extraction model need to be reviewed in order to be fully effective and help bridge the gap that exists between theory and practice with respect to the management and protection of rivers in South America (Álvez-Marín, Bañales-Seguel, Castillo, Acuña-Molina, & Torres, 2021).

New Zealand

With increase calls for harmony with nature, New Zealand has instrumentalize aspects of the *Universal Declaration on the Rights of Nature* by assigning legal rights to the Natural Park Te Urewera, Whanganui River and Mount Taranaki (Vargas-Chaves et al., 2020). With respect to water, the management of the Whanganui River as described by (O'Donnell & Talbot-Jones, 2018), was delegated from the New Zealand government to local authorities in 2007 via the *Te Awa Tupua* (Whanganui River Claims Settlement) Act. *Te Awa Tupua* provided a new arrangement which acknowledges the Whanganui River as a living being in both the physical and metaphysical sense who stretches from its headwaters in the mountains to where its flow terminates in the sea. *Te Awa Tupua*, represented by a guardianship who acts and speaks on behalf of the river's well-being is made up of an appointee from the Crown and the Whanganui Iwi to uphold *Treaty of Waitangi* commitments. The act provides both advisory and financial support to ensure effective development and implementation of *Te Awa Tupua*.

The document *Tika Tangata me te Wai* (Human Rights and Water) which was published by the New Zealand Human Rights Commission in 2012, showcases the human rights approach New Zealand is taking to uphold the Treaty of Waitangi and balance water rights and responsibilities to ensure that human rights are at the center of conservations on the protection and use of freshwater (Human Rights Commission, 2012).

Canada

The practice of providing legal personhood to water in Canada is in its infancy. Despite a strong presence of Indigenous land guardianship programs across the nations which

promote land stewardship (Government of Canada, 2021b), the first legal guardianship specific to water occurred in 2021 for Quebec’s Muteshekau-shipu (Magpie River). As described by Raymer (2021), the resolution to grant the Muteshekau-shipu nine legal rights by an alliance which includes the Minganie municipality, the Innu Council and several environmental organizations will be used to lobby the Government of Quebec to formally protect the river. The nine granted rights which are based on Innu cultural practices and customs, provide the Muteshekau-shipu legal personhood and aim to protect the river’s biodiversity by providing the right:

1. to flow;
2. to respect for its cycles;
3. for its natural evolution to be protected and preserved;
4. to maintain its natural biodiversity;
5. to fulfil its essential functions within its ecosystem;
6. to maintain its integrity;
7. to be safe from pollution;
8. to regenerate and be restored; and finally,
9. right to sue.

Despite Toledo, Ohio being located in the U.S.A., it sits on the transboundary waterbody of Lake Erie. Therefore, any impacts from Toledo on Lake Erie will be observed by Canada. As a result of deteriorating lake conditions observed by the citizens of Toledo, a citizen group entitled *Toledanos for Safe Water* petitioned for the *Lake Erie Bill of Rights* which was adopted into the *Constitution of Ohio* in 2019 (Toledanos for Safe Water, n.d.). The bill adopted a holistic worldview as indicated by Section 1 where it states “Lake Erie, and the Lake Erie watershed, possess the right to exist, flourish, and naturally evolve” (Toledanos for Safe Water, n.d.). The *Lake Erie Bill of Rights* was never enforced and the U.S. District Court Northern District of Ohio struck down the bill in 2020 on the basis that it was

unconstitutionally vague (Proffitt, 2020). This illustrated how the arbitrary western administered borders are not effective in acting as the regulatory bounds for environmental protection.

This concludes the summary of the systematic review of water title which analyzed indigenous governance practices, indigenizing western governance and legal personhood case studies. Results indicated that 1) the western-centric ideology of Allodial title is incompatible with Indigenous worldview since Indigenous worldview does not prioritize ownership but interconnectedness; 2) the western governance framework needs to adopt *Ha Kus Teyea*; and, 3) alternative nature-centric models which prioritize sustainability over economy exist. To further investigate and provide C/TFN-specific context, the interview results are now provided.

3 Results Part 2: Interviews

Three interviews with community knowledge keepers occurred in April, 2022 with members identified and selected by C/TFN and self-selected as important knowledge holders around water rights. Interviews lasted no more than an hour and were transcribed for community records. Interview transcripts are property of C/TFN. An interview guide can be found in Appendix 4.

The community knowledge keepers who were interviewed collectively brought both intergenerational and multi-disciplinary expertise to the discussion around C/TFN water governance. The community knowledge keepers' teachings spanned cultural experiences, legislative developments and future aspirations, all with varying perspectives. These perspectives provided insight in the barriers and opportunities which currently exist with respect to C/TFN water sovereignty. Common themes included the current misrepresentation of sacred teachings; how the colonial practice of allodial title does not respect Indigenous culture or the protection of land or water; and, in order to sustain the environment for future generations, the foundations of current worldviews need to be reevaluated within the current governance model. These themes are supported by the literature review findings, however since each Indigenous nation is unique, differences were identified between the literature review and interviews. The main differences include C/TFN emphasis on the allodial title system and how C/TFN is a transboundary nation with multiple treaty and self-determination

initiatives. These differences may create complexities but also create unique opportunities. Each community knowledge keepers shared insight into the cultural value of water as well as their thoughts specific to C/TFN water governance. These insights are further discussed in the following sections. The community knowledge keepers’ teachings influenced my learnings which were reflected upon as described within the following autoethnography section.

3.1 Theme 1: Cultural Value of Water

“Haa daséigu a too yéi yatee” – “Our life is in the water, our breath is in the water”.

The aforementioned quote from David Katzeek is included within C/TFN’s Water Declaration (Appendix 1). This quote was said to be the foundation of each community knowledge keepers’ connection to water. Each community knowledge keeper stated that they personally showed the utmost respect for water, the land which surrounded it and all beings – human, animal or spiritual – who are all co-dependent on water and land. Mark Wedge (personal communication, April 4, 2022) reemphasized this co-dependent relationship by describe water as:

Water is life, just to about everything, it is fundamental (Wedge, April 4, 2022)

From the knowledge keepers’ words, it was apparent how water influences C/TFN culture through the stories each community knowledge keeper provided regarding how their family’s names were derived from water; how travel and harvesting within their Traditional Territory was both influenced and dependent on the conditions and seasonality of water; and due to this dependency, they all were taught to have profound respect for all states of water and knew that they were never in control of water. Collen James (personal communication, April 4, 2022) further illustrated the basis of this respect by saying that:

Tagish and Tlingit people have a moral relationship with everything around them, seen or unseen, and there is a relationship and a way of being in order to not upset the balance of nature and how we are to behave with nature so we don’t bring unfortune to ourselves or our family. We were taught at an early age how to have that respect for the water and water beings, the land and land beings, and fellow humans who are also apart of the land and water, who need

the exact same things I did to live a good life here for our children and future generations. (James, April 4, 2022)

To ensure future generations have a good life and C/TFN culture is sustained, knowledge keepers told me that the connection between land and water and all beings cannot be overlooked. How seasonal round influences C/TFN culture and how it shows the interconnectedness of land and water was described by Colleen James (personal communication, April 4, 2022):

Before greedy box stores were here, [C/TFN] people needed to follow the seasons. Spring was for harvesting; summer was to get caught up on stories, marrying people and trading; fall was when the salmon came and moose rutted; and, winter was time for stories, reflecting, trapping, setting nets and when people split out to there areas. (James, April 4, 2022)

Knowledge keepers asserted that human beings are not, and should not attempt to be in control of seasonal round. Seasonal round is a practice of following the seasons and completing activities when nature allows for them to be completed. Seasonal round also does not differentiate water from land, air or fire since all elements are co-dependent. Norman James (personal communication, April 4, 2022) illustrated this co-dependency and how it has changed:

All that snow there will accumulate berries for the bears [so they] don't go hungry and birds by the millions, all different kinds. Again, I go back 84 years hearing all different types of birds, we don't have that anymore. There is something happening because we are not doing right. (James, April 4, 2022)

James's reference to not 'doing right' alludes to the deterioration of respect and practice of traditional values as he further described:

Talking about this 700 years ago, 400 years ago is suppose to tell us how to take care of mother earth and how to keep it clean but we have left everything behind. If we did things how our ancestors did things, we may be further ahead but we did not listen to them. What they were going by was deeper than bible. What was said back there 800 or 400 years ago [is what] we are suppose to

know today. That message from 400 years ago is still connected to water today. We have no say over that. There is not other way, the way it was manufactured more or less will take care of itself, the way it was suppose to be. If not, mother nature is going to do something about it. (James, April 4, 2022)

Participants share that the traditional values with respect to land and water have eroded over the past 800 years due to colonization. Colonization ensured that C/TFN could not practice their language, cultural or spiritual beliefs. C/TFN language, cultural practices and spiritual beliefs are all built on the foundation of C/TFN's sacred teachings. The following two statements from Mark Wedge (personal communication, April 4, 2022) and Collen James (personal communication, April 4, 2022) describe the concept of sacred teachings:

Sacred teachings are concepts that come from the land and water, which see reciprocity being a fundamental part of it; you never take without giving. We are constantly encouraging people to have ceremony; to thank water for life, to make an offering and educating people how to interact with water in a good way. When people learn about [water] and not control it, you learn to walk and operate with it. (Wedge, April 4, 2022)

Our teaching say you have a place in this world, you have an obligation, not only to future generations but the future fish generations, birds, all of them. As a human you have the power to tip the scales by giving you the information on how to conduct yourself, how to behave out there. If you understand this then you are welcomed here. (James, April 4, 2022)

As described by a community knowledge keeper in personal communication (2022), to decolonize a system, one has to first decolonize themselves. To achieve this, the sacred teachings of how to walk with the land and the water need to be restored from a history of misrepresentation which has created the current governance model. Once the sacred teachings are restored and respected by all parties, the holistically protection of C/TFN's Traditional Territory is feasible and future generations will able to practice their cultural connection to both and water.

3.2 Theme 2: C/TFN Water Governance

Norman James (personal communication, April 4, 2022) illustrates that the current way of being is not the way that it was intended to be:

Everything we need was given to us and we need to look after it. But this new generation is – I don't know what they are doing, they are not suppose to be doing that. (James, April 4, 2022)

All three community knowledge keepers provided teachings which spoke to how governance systems are developed by human beings who interpret their societies sacred teachings (e.g. the Bible, Koran, Traditional Knowledge, etc.). Knowledge keepers said that once human beings start to interpret the sacred teachings, the teaching's intent changes since human beings are subject to greed and temptation. This human influence on sacred teachings created the *Doctrine of Discovery* or *terra nullius* which saw a divergence from the sacred teachings due combining the mandates of both the church and state. The outcomes of this divergence do not support the sacred teachings of sharing, working together or kindness and allowed for an ownership model to be created.

Knowledge keepers expressed that before first contact, an Indigenous governance model existed which represented the sacred teachings by means of a matriarchal structured clan system which saw no boundaries between clans and which believed in a circular natural process. Mark Wedge (personal communication, April 4, 2022) describes this circular process:

A circle is a natural process; campfire ring, moon, sun are in a circle. It is a universal pattern; no body owns it [and we] learn how to live with it.

Worldview comes from this, then you start developing systems. (Wedge, April 4, 2022)

C/TFN's worldview was developed using this circular ideology. A practical example of this ideology is the practice of seasonal round how respect for nature is paramount. Norman James (personal communication, April 4, 2022) described the impacts that human beings and our current governance model have had on traditional practices:

Everything that is happening now is because of human [but] we don't know that because we have never put it into discussion. Our ancestors use to live that way, anything they would put into discussion. There was always somebody in the crowd with something useful to day, dealing with the white people to, just like one big family. (James, April 4, 2022)

As described by Mark Wedge (personal communication, April 4, 2022), the current discussion surrounding land and water governance and allodial title prioritizes a navigation system that is different than Indigenous worldview. This is a model system that prioritizes *how* you navigate compared to *when* you navigate. Knowledge keepers said that the current model is inadequate to deal with water in that traditional manner since we don't know how to legislate water in its holistic complexity, and we certainly don't know how to control it, nor should morally. Knowledge keepers expressed that since humans do not know how to control water, we should certainly not be controlling people through mandates, but by instead monitoring ourselves reflexively. Mark Wedge (personal communication, April 4, 2022) further describes the shortcomings of the current governance system:

Water is a human right but we are allocating to say this is how much water you as a human get – you can't do it that way. Water is here for everybody and if you have that relationship [with] it, it will be here. (Wedge, April 4, 2022)

With no disrespect to human rights, Norman James (personal communication, April 4, 2022) suggests that we should respect nature in the same way and magnitude as we respect humans since only nature knows what nature needs:

The way [water] was manufactured is the only way it is going to work. You can't boss water; nobody can boss water and water is needed. Just think about how many trees are between here and Tagish – spruce trees – how much water is needed to keep one needle? How much do we need? You see we don't know that but nature does. (James, April 4, 2022)

To respect both nature and the C/TFN worldview, knowledge keepers pushed that a new governance model needs to be developed. They suggested that the

governance model be built on all sacred teachings and acknowledges that nature is in ultimate control. Due to the constitutional recognition of Indigenous rights in Canada, and the fact that C/TFN have occupied their Traditional Territory since time immemorial, knowledge keepers suggested that if C/TFN are going to work within the current governance model, and if allodial title of both land and water is to be assigned, it should be assigned to C/TFN, not Canada. They expressed that C/TFN need to step away from the current extraction model and create fundamental laws for how you interact with land, water, air and fire within natural processes. Mark Wedge (personal communication, April 4, 2022) explains how we can re-establish interacting with the natural patterns:

How do you go back to interacting with natural patterns? There is an Indigenous philosophy worldview that is underlaying those colonial [views] and most are driven by the environment. How to interact with environment? Those are the sacred teachings. To renew sacred teachings is to renew our relationship with the environment and not be proud. (Wedge, April 4, 2022)

Knowledge keepers stressed that the western premise of land and water legislation as well as conventional land use planning do not respect reciprocity or relationships with nature which goes against traditional laws and oral teachings. Colleen James (personal communication, April 4, 2022) explains why instead of implementing C/TFN land use planning within their Final Agreement, C/TFN has developed a different approach via the How We Walk with Land and Water initiative:

Right now, we haven't implemented Chapter 16 [the UFA chapter on land use], just because it can't go without regional land use planning. We live in southern Yukon; the Southern Lakes and we are the most highly recreated area. We are within an hour of Whitehorse, so a lot of Whitehorse people come down here for the day. Long storey short, we really do feel like strangers in our own land. We really feel like the water and land chapter are not working for us so we stepped outside the box a little bit into our own traditional laws, our own traditional way of thinking. (James, April 4, 2022)

This traditional way of thinking was further described by Norman James (personal communication, April 4, 2022):

I can't say any better way to look after water other than keep it clean – that is the easiest job there is, nature can do the best. That is how it was manufactured and that is how it is going to work every time – no one is going to change that. (James, April 4, 2022)

Around the world, we are seeing a natural decolonization occurring. Colleen James (personal communication, April 4, 2022) believes that to encourage the decolonization of C/TFN lands and waters, the spirit and intent of the UFA needs to be brought out, dusted off, re-luffed and reworded for all the people coming to C/TFN Traditional Territory. The intent of C/TFN's sacred teachings need to be recognized and respected. The sacred teachings do not promote the assignment of rights to water but if rights are to be assigned, they should be assigned to C/TFN. By C/TFN being the right holder, ceremony can be reintroduced and education can take place in order to establish a working order alongside nature. Mark Wedge (personal communication, April 4, 2022) summarizes the connection between ceremony and working order:

Have ceremony with the river re-establishes your relationship with the river. Sounds like a simple thing but when you start looking at who owns the river – when the salmon run, they own it; when the swans are there, they own it; when the trout are there, you leave it alone. (Wedge, April 4, 2022)

With respect to C/TFN's assertion of allodial right over land and water title, Colleen James (personal communication, April 4, 2022) described it as a plea for others to acknowledge and appreciate the 1000 years that made us apart of the land, apart of the water. Norman James (personal communication, April 4, 2022) describes how C/TFN's does not believe their worldview is superior, only that it is simply another worldview which needs to be considered:

Everything needs to be the truth – white person society is the truth; native society is also the truth. I am not preaching, I am not complaining and I am not

bragging, I am just telling you what I was told 83 years ago. What I hear, that came from way back 700 years ago. (James, April 4, 2022)

4 Results Part 3: Autoethnography

This thesis practiced community-focused autoethnography to document the learnings observed while working with the C/TFN community and review of my own western community ideologies. To reevaluate the foundations of current worldviews three sets of questions were developed and asked on a weekly basis, as well as at the start and end of the research period. The individual sets of questions attempted to track learnings from five different components of the research: 1) the practice of autoethnography, 2) Indigenous culture, 3) personal worldview, 4) the shortcomings of western governance and 5) the outcomes of Indigenization. The questions are presented in Appendix 5.

At the start of the research period, I believed the use of autoethnography would provide added value to the results since I could share my reflections of being a settler with a euro-centric worldview working within a western regulatory framework to other similar to me. For example,

Despite my western-centric education that established a black and white, non-spiritual mindset, from my experience working with Indigenous Nations, I can help articulate varying worldviews. (Bretzlaff, January 15, 2022)

I saw myself having a western-centric analytical skill-set that was influenced by result-oriented efficiency. Parallel to my perceived skill-set was a belief of cultural sensitivity which had been developed through personal experiences in northern Indigenous areas. I understood Indigenization to be a process with a defined and finite endpoint which was being achieved via the policies, mandates, and courts of our current western governments. An example where I believed this was when I stated,

Despite a commitment to reconciliation, the current governance systems promotes economic development over that of the meaningful recognition of Indigenous rights therefore the current legislations need to be updated to allow for indigenization. (Bretzlaff, January 15, 2022)

As an employee of a western government, I struggled when it became evident that the current institutionalized barriers to Indigenization continue to be sustained by political mandates built on rigid 'efficiency-based' worldviews and processes. Even if an individual or group was attempting to Indigenize, I saw these political mandates continuing to promote economic prosperity over meaningful reconciliation. My realizations are evident in this quote:

Everyone has a priority which they see as important – this is what make competition, greed, succusses, failure. Mine is water and fairness but I also have an underlying desire to continue to live my privileged life. (Bretzlaff, January 15, 2022)

Due to the perceived lack of effective Indigenization, I saw my expectations for concrete, actionable outcomes being further entrenched in order to allow for immediate change recognition of Indigenous interests. On January 26, 2022, I noted in my autoethnography that:

With respect to work and school priorities I am currently being pulled in two different directions. For each direction, I want a quick resolution but it is now apparent that a quick resolution is not feasible since each has opposing barriers. I can only imagine how difficult it is to reach consensus on items which require a paradigm shift such as collaborative legislation. (Bretzlaff, January 26, 2022)

The weekly autoethnography question set attempted to capture weekly learnings and the resulting emotions with respect to Indigenization. The expectation was that each week there would be new learnings that were specific to different values of governance but in reality, it was a continuation of one main learning. This learning revolved around the continued attempt of bridging worldviews and how this was deeply entrenched with my connection to land and water. Weekly experiences illustrated how entrenched the barriers which bar a holistic worldview within the western governance structure were. To gain a reprieve from the broken process, I found myself turning to land and water for a means of escape and a sense of restoration. On March 12, 2022, I departed on a ski trip which took me onto C/TFN Traditional Territory for nine days. My autoethnography during that time included the following entries:

It is a modern tragedy that due to intergenerational traumas, not every being has the same opportunity to rejuvenate their mind while on the land or water. (Bretzlaff, March 14, 2022)

This land and water is incredible and requires holistic protection so future generations can explore their “home” as I can in 2022. (Bretzlaff, March 17, 2022)

This made me further appreciate why nature and one’s inherent right to live embedded as a part of nature was so integral to C/TFN culture; that is, a culture which was being impacted by much more significant and frequent barriers than I experienced as a privileged individual of settler-origin.

Now I turn to the deeper learning in the monthly autoethnography. These questions attempted to explore my deepening understanding of the current regulate framework, how it interacts with Indigenous populations and where society is in its journey of Indigenization. At the start of the research period, I believed that within Yukon, we were at an advanced stage of Indigenization due to the successes of the modern land claims process and that it was now up to the old western guard to step aside and allow for more a progressive governance model to be developed. On January 30, 2022 I noted:

There is a lack of commitment to go against economic development since the status quo is easier for the western governments and their intergenerational leaders. (Bretzlaff, January 30, 2022)

In order for this new governance model to be developed, I believed that certain changes were required within the current governance model, such as what I wrote on February 27, 2022:

Western leaders in Yukon are continually trying to promote economic development within Yukon legislation while attempting to consider the UFA – you can’t fully respect Indigenous worldview when you are trying to not erode western priorities (Bretzlaff, February 27, 2022)

Now, it is believed that a change in the overarching western ideology is required prior to seeing meaningful change within Yukon’s current governance model, and more widely.

Learning that via their Land and Water Proclamation, C/TFN is taking steps to exercise their inherent rights outside the modern governance model taught me that there are alternative ways to achieve solutions. Despite these alternative ways being outside of the current process, it was recognized that respectful and calculated strategies allow for new conversations and processes to be developed. Additionally, it was realized that a specific solution does not have to be the end goal but only a step in an unknown, yet positive direction. This realization enabled me to understand my colonial way of thinking; that is, that the world is not black and white and that through patience and respect of a vision (e.g., C/TFN's Elder's Statement) positive change occurs. This was apparent in my February 27, entry:

I think you should only have a long-term vision (e.g., Elders' statement) and then all other goals are situational. You need to be respectfully strategic yet fluid and take opportunities as they come. (Bretzlaff, February 27, 2022)

In the end, the practice of autoethnography provided not only an analysis but introspective learnings of the role I could play within the current and future governance model. These learnings included 1) a recognition of my lack of spirituality and how that influences my black and white worldview, and 2) that my privilege allows for the difficulties I face to not be wicked problems¹⁴ that are interconnected with all other aspects of my life and as a result do not inhibit me from achieving my dreams. As a result, I now make a more conscious effort to understand what I don't know, and understand that it is ok not to know as long as one is open to learning. I also feel compelled to learn my role within the Indigenization process. I understand that as a person of settler-origin, I cannot be the driver of change but can only assist when asked by Indigenous peoples. When not asked, then I can only attempt to respectfully inform others people of settler-origin and ensure that my own practices promote the journey of Indigenization in a positive way.

¹⁴ With respect to this dialogue, wicked problem is defined as a "social or cultural problem that's difficult or impossible to solve - normally because of its complex and interconnected nature." (Interaction Design Foundation, n.d.)

5 Results Part 4: Research Creation

Due to limitations with respect to time, the original vision of holding a ceremony to acknowledge water and its connection land and C/TFN culture did not come to fruition. This does not mean that ceremony will not happen in the future but for this thesis submission an alternative form of ceremony was completed. This alternative form was completed by myself in the form of self-reflection and acknowledgment of the world which surrounds me. Throughout this master's degree, I had the privilege to travel across the C/TFN's Traditional Territory many times. The beauty I encounter was unprecedented and this beauty was created by water in its many forms. Between biking alongside the *Tséi Zhéle' Méne'* during spring break-up, paddling the *T'ooch' Heeni* on a summer evening, drinking from a groundwater spring amongst the fall colours along the *L'ál Hèeni/Tl* or skiing by the glaciers of *Taagish Áayi* on a winter day, an appreciation for these waterways, which was already present, has grown. My appreciation has grown due to a recognition of the C/TFN's culture, understanding of C/TFN virtues and values, and admiration of the work C/TFN is undertaking to protect this territory for future generations. A part of my research creation is this personal appreciation. The practical application of my research creation was sharing the knowledge I have gained with the people whom I traveled this territory with.

6 Discussion

With current discussion happening in British Columbia, Yukon, and across Canada about sovereign governance of Traditional Territories by Indigenous Nations, this research has presented results that illuminated the barriers of asserting allodial rights to land and water, and the opportunities that exist as a result of C/TFN's *Ha Kus Teyea* and their fundamental relationship with water having been developed with *at yáa awuné* to ensure the holistic protection of the Yukon River headwaters. Culturally, there exists an intimate and reciprocal relationship between the land and water which does not see a separation between the land and water. This reciprocal relationship means one cannot simply look at the management of water on C/TFN Traditional Territory without also including the land, culture and beliefs which surround it.

In light of this holistic respect between how water and land are interconnected, C/TFN's Traditional Territory which continue to be impacted by anthropogenic influences and which

are supported by often conflicting water governance models. This has created a complex regulatory framework which entrenches western worldview and interferes with nature's processes. With the current governance models being a representation of a western worldview that have deviated from foundational the western sacred teachings, the resulting regulatory frameworks support competition between humans and not cooperation. The sacred teachings of modern religions such as Judaism, Christianity and Islam all spoke to the to the fact that humans should not see themselves as the sole use of earth and if moral boundaries replace capitalist boundaries, earth can remain a sister of humanity (Gottlieb, 2010). This ideology does not align with the Doctrine of Discovery but it does align with the sacred teachings of Indigenous worldview. This shows that throughout the course of history, influence from both the state and humanity have altered the scared teachings, creating a governance model which promotes extraction, greed and as a result colonization of other worldviews.

Globally there exists the opportunity for Indigenization to occur. Within the Canadian context, there exists a recognition of Indigenous rights, self-governing First Nations and calls to end the underlying colonial assumptions such as the Doctrine of Discovery in order to assign western-style rights to the appropriate parties. C/TFN interests lies in collaboration and joint decision making to allow for Indigenous worldview, not the assignment of rights to a single party since C/TFN worldview believes that humanity must live alongside land and water in a way that respects the natural process. Collaboration and joint decision making would allow for this balanced and respectful approach to safeguarding water in a modern context. To allow for this to occur, the western concept of allodial land and water title need to be eroded so worldviews can be balanced, constitutional rights upheld and Yukon River headwaters holistically protected. A modernized recognition of C/TFN's asserted rights would enable the development of collaborative legislation to allow for shared decision-making authority. With this authority, Indigenous sacred teachings can be reintroduced to promote the restoration of Indigenous culture and its associate practices.

For continued revitalization of C/TFN culture, the current governance model needs to have a policy space in order to reflect *Ha Kus Teyea*. The current governance model lacks the practice of perspectivism, ceremony and seasonal round. To respect *Ha Kus Teyea*, western governments need to adopt the practice of perspectivism and acknowledge both worldviews. An acknowledgment that the basis of C/TFN worldview stems from their sacred teachings,

clan system and the fact that nature possess spirit (*Tl'atk*). This acknowledgment would help shift the western governance model away from an extractive model by creating a policy space for the recognition of land and water within Section 35 of the Canadian Constitution. By practicing perspectivism, western governments enable themselves to recognize the importance of traditional Indigenous practices such as ceremony and how that forms the basis of Indigenous governance. Through educating people to respect and be thankful for natural processes, the ideology of seasonal round can be respected, seasonal practices followed and time given for *Tl'atk* to rest. By letting *Tl'atk* rest, future generations can be sustained. By educating people on the cultural practices which historically have been utilize to sustain *Tl'atk* for future generations, it is assumed that the majority of people will see the value in this approach, respect the processes and then traditional Indigenous practices can be entrenched within current western governance and legal systems.

In order to reevaluate the foundations of current worldviews, current western practices need to reimagine reconciliation by revising political mandates. Indigenous peoples are not stakeholders. Indigenous peoples have the inherent right to sustain their culture, which is dependent on the health of the land and waters. By acknowledging Indigenous ways of knowing and being, the current governance model could allow for shared decision-making authority. This could be accomplished via the creation of a policy space for collaborative legislation, by means of discussion and relationship/trust building. C/TFN's inherent rights can not be effectively upheld if the colonial governments claim full jurisdiction over land or water. If this model of colonial ownership remains, the divergence between western and Indigenous worldviews will continue to grow at the expense of nature and as a result, humankind. Since the current colonial ideology does not achieve holistic protection, we need to stop, reassess and collaborate.

When developing a new process to protect land and water, collaborative and creative processes need to be established. These practices can include the traditional practice of collaborative management, or the incorporation of recent global development such as the assignment of legal personhood to land or water. By incorporating these practices, unique solutions can be achieved which can provide an alternative to western governance models. This was seen when C/TFN signed its *Final Agreement* or through current initiatives such as *How We Walk with Land and Water*. These successes can continue to influence land and

water negotiations which do not recognize political boundaries and continue to promote C/TFN's inherent rights. C/TFN's inherent rights can be further promoted by western governments incorporating the intent of UNDRIP or the *TRC Calls to Action* into their legislation. Alternatively, a legal personhood case can be filed to recognize the spirit of water within C/TFN Traditional Territory. By doing so, an alternative means within the western governance model can be undertaken to promote the holistic protection of the Yukon River headwaters which then can be collaboratively managed by appointed guardians. For all possibilities, respectful collaboration is seen as the basis for success. It takes respect to acknowledge other worldviews and once respect is shown, trust is established and collaboration is possible. When collaboration occurs, great opportunity exists. The singing of C/TFN's *Final Agreement* is proof of this.

6.1 Limitations

Due to the ongoing COVID-19 pandemic it is recognized that an opportunity to walk the land with community knowledge keepers and practice ceremony with the community was lost. To be able to walk the land, gather around a fire, or venture out on a boat to learn from the C/TFN citizens who are guiding their community into a new era of water governance is viewed as the ultimate learning. Although seen as a missed opportunity, not frequently visiting in person was viewed as a necessity to ensure the health and wellbeing of all individuals. Timing made scoping difficult since few opportunities existed to be more involved due to the pandemic. Researcher bias is a limitation of his research and apply in this case since I am embedded in the dominant culture of the Yukon, as is generalizability because of the qualitative nature of the research. Having three, albeit strong and respected voices for the community share their learnings is a benefit, but also a limitation. More time and access would have allowed for further interviewing to gain more perspectives and lived experiences. The scope of this thesis balanced the education opportunities for me, with the benefit of continued employment within the western water governance model, and a balanced life outside my studies and career.

6.2 Opportunities

Despite the shortcomings presented in this thesis, Yukon is a leading example of Indigenous self-governance. Although not analyzed, Indigenous legislative developments

specific to social and economic matters have been enacted by Yukon First Nations (e.g., KDFN's 2020 Lands Act) as well as many others which are currently being developed. These Indigenous-centric legislative developments present an invaluable source of experience for all other Indigenous groups to learn from. Additionally, by looking closer at other Indigenous legislative developments, C/TFN can build upon the progressive momentum that exists within these legislative developments when developing their own land and water governance initiatives. Finally, much like how Yukon's UFA was not intended to be a static document, all of C/TFN's past and current policy or legislation developments could be analyzed in order for others to be made more effective. By looking at the policy or legislation, their implementation and by completing frequent reviews of their successes or failures, gaps and successes can be identified. This could not only help the individual pieces of policy or legislation but C/TFN governance as a whole. It is recognized that such a review is capacity-intensive but it is encouraged if capacity or funding exists.

6.3 Conclusion

Self-governing First Nations such as C/TFN continue to assert their inherent rights by creating progressive legislation and policies which promotes the revitalization of Indigenous worldviews in modern governance models. Despite constitutional acknowledgment of C/TFN's inherent rights, the current colonial governance model continues to struggle with allowing for equal and fair representation of C/TFN *Ha Kus Teyea*. The western mechanism which prevents this equal and fair representation is the fact that colonial governments suggest they retain allodial title of all water and the majority of land within C/TFN's traditional territory. This assumption of allodial title continues to promote an extractive governance model which is the foundation of colonial worldview and that is intent on diminishing nature at an unsustainable rate to allow for consumerism to achieve unprecedented heights. C/TFN's view is that humankind, the natural world and the spiritual realm are co-dependent and reliant on the preservation of nature that is allowed to function without constant anthropogenic influence. If nature is not abused and given the time to adequately recover then humankind's job is easy as described by Norman James (personal communication, April 4, 2022):

You and I have the easiest job about the water. All we have to do is to look after the water and keep it clean, nature has its own way. It was manufactured that way, not the way it works now. (James, April 4, 2022)

Restoring the natural way of being can be promoted if the following three identified main themes are acknowledged within western worldview and the current governance model: 1) in all cultures, there exists sacred teachings that need to be acknowledge and respected; 2) the colonial assertion of allodial title does not respect Indigenous culture or effectively protect land or water; and 3) to sustain the environment for future generations, the foundations of current worldviews need to be reevaluated to allow for policy space that is more reflective of our intrinsic relationship to the land and water. By acknowledging these findings, desire policy space that allows for more then one worldview will be accomplished. Respectful discussions which stem from various worldviews can then explore processes that promote interactions with both physical and spiritual realms that is better understood by all parties. Once this is achieved then a relationship of respect and reciprocity can be achieved as described by Colleen James (personal communication, April 4, 2022):

This relationship of respect and reciprocity is here to stay as told by my brother-in-law. There is a beautiful universal orchestra that is playing the most beautiful music all the time. There is one seat empty as the rest of the universal waits for that species to take their seat in the orchestra because that species has forgotten to play the music with the rest of them. And that's us, the humans. We are getting back there – I wouldn't say it is all doom and gloom – but we are. (James, April 4, 2022)

As Mark Wedge (personal communication, April 4, 2022) indicated, since achieving holistic protection of the headwaters of the Yukon River is such a big endeavor, some people break trail until they are tired and then others take over; this is why indigenization is a journey and not a destination. This research represents only a small step within the long journey that is reconciliation. I recommend that researchers working cross-culturally embed autoethnography into their work so that others, like myself, who are taking on this research with, for, or on behalf of Indigenous communities or movements, can learn and overcome our own biases.

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Appendix 1 - C/TFN Draft Water Declaration

Héen – Water

“Tagish Khwan ha setiyi kha Lingit ha setiyi, ha shegun awe ch’agudaxh xhat yaxh yenaxh kawsia. Ech-awe ya tl’etgi in ha siti, kha yah hin / Héen.” We who are Tagish and we who are Tlingit, our heritage has grown roots into the earth since the olden times. Therefore we are part of the earth and the water. (Elder’s Statement, CTFN (first three lines); Final Agreement of CTFN with the Canadian Government, Ottawa 2005).

“Haa daséigu a too yéi yatee” Our life is in the water, our breath is in the water. (David Katzeek, Tlingit Clan Conference, October 2013, personal communication).

“Ldakát át ayakghwahéiyagu khudzitee” The spirit in all things. (Lance Twitchell website; 2017).

The Tlingit language has a precise and indeed sacred phrase to describe the spirit and agency of all things: Yakg wahéiyagu. Yakg wahéiyagu is described by Tlingit language scholar Lance Twitchell in his new Tlingit online dictionary (2017) as “the ability of everything to comprehend language and intentions.” (Eleanor Hayman with Colleen James and Mark Wedge 2017)

“Shuka is a powerful word in our [Tlingit] language. It means the beginning and the end. A word that is used in the religious world is “eternal”. This Shuka is with us whether we accept it or not. We live with it. It becomes part of our ways. If it has been bad by our actions because of our lack of knowledge it will be bad. IT IS A LAW! Yei áwé! This fact is revealed in all our oral literature. You don’t have to believe it even as other truths are not believed, but it does not change the truth, just like the law of gravity! When we respect ourselves we are respecting the earth. We are of the earth and water as first our oral literature was of the earth and water. Raven and Eagle were on the waters” (David Katzeek, email communication, April 2016).

“When we [Tlingit people] say ‘yáa át wooné ’, that means to learn about it [water]. You are going to meditate on it; you are going to think on it; you are going to develop a relationship with it.” (David Katzeek, 6 Sept 2014, personal communication).

A lot of people translate the Tlingit concept *Woochéen* as “we are all supposed to work together as human beings”. That is part of it but not all of it. We are to work with it, we are to be in harmony with it. We are not to destroy it, we are to work with it. You are going to work with the water - you are not going to work against it. Big words “*Woochéen*”. You are to work together. And what it means is that the mind, the body, the soul, and the spirit - all of that being is put together and focused on one particular subject. That is how you begin to develop a relationship. (David Katzeek, 6 Sept 2014, personal communication).

Tlingit teachings emphasize the concept of a *daa tutan i yux’atangee* which means “to weigh your words with care”, and reflects the power of spoken words themselves. (Katzeek, April 2016 email comms.)

Key Questions

- How does *héen* work, function, define identities, and construct knowledge in the Tlingit and Tagish cultures?
- How has *héen* influenced and co-evolved with the Tlingit and Tagish worldview?
- How has *héen* given meaning and shape to Tlingit and Tagish cultural practices, traditional oral narratives and place-names?
- How do we re-establish relationships, obligations and responsibilities towards *héen*?

Key Tlingit and Tagish concepts based on interviews, participatory action research and Tlingit literature

Foundations of a Tlingit and Tagish approach to héen

- *Héen* as relative (Colleen James; Harold Gatensby; David Katzeek; Mark Wedge)
- *Héen* gives one meaning to the essence and description of the Tlingit people. One meaning of Tlingit (as a people) is “people of the tides”.
- *Héen* as inspiration for “Marrying the Water”, mimicking traditional oral Tlingit and Tagish narratives. (Swanton, McClellan, Katzeek etc.)

Traditional linguistic concepts

- *Héen* as giving place-based meaning, location in the world through the language. For example, “Inland from the sea. Towards the sea”, and “upstream” and “downstream”

are core aqua- centric directionals in the Tlingit language. (Tlingit Elders, Twitchell dictionary: 2013, 2016).

- Héen and respect as one of the most powerful words in the Tlingit language yáa át wooné (CTFN community and David Katzeek)
- Héen as indicator in the Tlingit language of many animals', movement and positioning in relation to water – particularly birds and water animals. (Lance Twitchell in his 2015 online Tlingit dictionary). Activities and types of movement are in relation to water or the hydrology and geography of water. For example, the fish that in the English language is called mackerel is dákdesax'aak, literally translates in Tlingit as “swims underwater out to sea” (Twitchell 2015). The polar bear, héen-táak-xóots-Ÿí, is literally translated in Tlingit as “in the bottom of the water bear” (Crippen 2012). Three excellent bird examples are eek lukaḳées'i which translates as snipe, literally “flood on the point of the beach”; hinyikl'eixi is the dipper or water ouzel and is “dancer in the water”; and hinkag áaxi, the red-throated loon or arctic loon is “cries on the water” (Twitchell 2015).

Traditional concepts

- Héen as primordial shapeshifter (Nora Dauenhauer: 1990)
- Héen as listener (Ted Hall: 2013)
- Héen as healer (Kitty Grant regarding Shamanism/medicine men: 2013, Louise James regarding hot springs: 2013, and Lance Twitchell as spring water as medicine in Tlingit online dictionary: 2015)
- Héen as spirit/spiritual dimension (Mark Wedge: 2013, Ted Hall: 2013, Tlingit oral narratives: 9000 BP)
- Héen as “haa latseení” (strength) (Lance Twitchell: 2015, Louise James – bathing in lakes and rivers: 2013)
- Héen as nourishment within a Tlingit/Tagish Salmon Culture (Colleen James: 2013)
- Héen as a book that can/must be read – ecological or hydrological literacy (Elizabeth Nyman: 1993)
- Héen as “hà kus teyeya” (the Tlingit way) and basis of Tlingit and Tagish cultural practices (CTFN Elders via Colleen James and Teslin Tlingit Council biennial celebrations: 2013)

- Héén and Fish mother, Xat Tlaa, provider of food (south end of Little Atlin Lake, place that never
- freezes over in winter (hot spring there? – description in Angela Sidney’s Place Name manuscript, 1980)
- Héén as agent with Fog mother/Fog woman/Creek maiden stories that Crow Yeil marries (Colleen James: 2013, Keith Wolf Smarch: 2012 etc.)

Traditional cultural practices

- Héén and Tlingit follow a lunar, not solar calendar (i.e. dependant on the tides/water revealing- concealing) (Mark Wedge: 2013; coastal Tlingit/inland Tlingit Catherine McClellan: 1975)
- Héén as identity with Clan names “Haa saaxú” (CTFN). Also with coastal Tlingit, tight relationship between Clan names – locations and the agency of water.
- Héén as basis for over ¾ place-names in the region. Empirical scientific knowledge – hydrological, ecological, geological embedded within them (CTFN-Angela Sidney: 1980)
- Héén as agent in many Wolf and Crow Clan origin stories and histories of their arrival in the Yukon region (Angela Sidney, Lucy Wren, Elders in everything recorded by Catherine McClellan: 1950 onwards.)
- Héén as trade for wrongdoing/corrective wrongdoing. Story of Atlin, and man who wronged his wife. Prevented war, healed rifts. (Colleen James: 2013)
- Héén and drowning. Tradition is that the lake is respectfully left alone – no boating/canoeing, swimming, or fishing setting net etc. at all until body is found and Elders have decided on appropriate protocol. (Teslin Tlingit Council, TTC celebration 2013; Kitty Grant: 2013)

Traditional beliefs

- Héén in glacier form is recognised as sentient, alive - with attitude (in Cruikshank: 1998 etc.).
- Héén as soundscape and/or soundmark as in the Taagish name “the sound of the break-up of ice” (CTFN_ Angela Sidney: 1980)

Traditional virtues/values

- Héén as teacher – humility, lowest path (Mark Wedge: 2012)

- Héén as teacher of virtues – courage, discernment, humility (Annie Austin, Louise James: 2013).
- Héén as teacher of duty. Chore of collecting water (and wood) by children as first duty when arrive in camp. (Colleen James, Leslie Johns: 2014.)
- Héén as cultural generator of oral storytelling (water carrying rewarded by oral storytelling) (Winnie Atlin: 2013)
- Héén as amphibious agent – the frog (shamanic power) in Tlingit and Tagish stories (Ida Calemagne: 2013; David Katzeek 2014)
- Héén as cultural practice (as ice) connecting places for trapping (Keith Wolf Smarch, Leslie Johns, Mark Wedge, Seki Wedge, Heather Jones: 2013, 2014)

Modern ways of relationships with water

- Héén as nexus for activism (Bev Sembsmoen: 2013). For example, the “Idle No More” movement birthed in Dec 2012 by three women - Amnesty International says "changes to the Canadian Environmental Assessment Act, the Fisheries Act, the Navigable Waters Protection Act, and the proposed Safe Drinking Water for First Nations Act have profound implications for the rights of Indigenous peoples as set out in treaties, affirmed in the constitution, and protected by international human rights standards." By Amnesty International
- Héén as connection for female strength and power (Colleen James, Bev Sembsmoen, Shirley Lord, Idle No More: 2013)

Héén in traditional/modern ceremonies


- Héén as essential in ceremony in hunting (cup of water to respect killing of moose/caribou. To say thank you that the moose offered itself. Drink half of the water yourself, put the other half in moose’s mouth, so the moose can go on its spiritual journal. Equally on returning fish bones to the water. Kitty Grant: 2013)
- Héén as core part in “warming of the hands” (Tlingit Clan Conferences 2013 and 2015)
- Héén ceremony with all First Nations of the Yukon River Watershed in the Yukon River Inter- Tribal Watershed Council biennial meetings. Honouring the water – ritual of mixing waters from the entire watershed (Harold Gatensby; David Waterhouse: 2013).

- Héén as agent in origin flood stories and Raven stories (How the Tlingit and Tagish peoples came into being amongst and within a hydrological aqua-centric world) (Colleen James, Keith Wolf Smarch: 2013)
- Héén as basis for empirical scientific knowledge (ishkaheeni is oxygenated, cold water) (David Katzeek: 2013)
- Héén as Tlingit Shamanic tool – water as metaphor (Kitty Grant: 2013)
- Héén as aquatic “directional”. Aqua-centric relationship with the direction of the flow of water in Tlingit language and philosophy (Twitchell: 2013, David Katzeek: 2014, Angela Sidney: 1980)
- Héén as sense of place and therefore identity (revealed through cognitive mapping with CTFN and Norman James: 2013)
- Héén as framework for aqua-centric cultural rhythms (glacial fed southern Yukon lakes rise and fall, also freeze up and break-up of ice). (Mark Wedge: 2013, Colleen James: 2013, Angela Sidney: 1980)
- Héén as currency in relation to ‘modern water’ and the erosion of Tlingit and Tagish identity (Norman James: 2013)
- Héén as inspiration for patterns/designs/symbols in Tlingit material culture – for example ceremonial masks, ceremonial woven hats, ceremonial totem poles (Keith Wolf Smarch: 2013, David Katzeek: 2014)
- Héén as shaper of water-based technology including canoe design and fishing methods (esp. coastal Tlingit canoe design and as example Deasdeash Lake place-name in Yukon Toponyms)
- Héén as metaphor within Tlingit and Tagish storytelling “Living Water” and living stories. Circulation metaphors especially (Tlingit and Tagish oral narratives; for example, “The Two Boys who drifted down the [Yukon] River)
- Héén as shaper of celestial constellations. For example, the constellation of what the West has called “Orion’s Belt” is described within a Tlingit worldview as “Canoes tied in a line” (Twitchell, 2017).
- Héén as metaphor for chaos and calm (emotional states) within storytelling. For example, “whirlpool” translates literally as “navel” and is a metaphor for chaos (Twitchell, 2017). Similarly, a “slack tide” is a metaphor for calm.


- Héen and agency in traditional oral narratives. For example, The Flood Story; Animal Mother; Wealth Woman; Two boys who drifted down the Yukon River; Crow steals Water; Crow and Fish Mother.
- Héen is not only a model for the circulation of the Tlingit and Tagish virtue of yaa at woone, but also the model for the pivotal Tlingit concept of Shuka. It is most importantly a form of what Eurocentric practices and international law call inter-generational justice. From an eco- linguistic mandate, these are the storytellings, the sustainable discourses that can inform global water ethical debates.

This CTFN Water Declaration “Héen Hà Kus Teyea” is based on interviews conducted with CTFN Elders and intellectuals in August/September 2013 and 2014; conversations, discussions, meetings and presentations with CTFN community and government 2012-2016; conversations and interviews with coastal Tlingit Elders and educators 2013-2016; Yukon River Inter-Tribal Watershed Council staff and biennial conferences 2010-2014; Tlingit Clan Conferences 2013, 2015; Ha Kus Teyea Celebration at Teslin 2013; archival/email research specifically Tagish and inland Tlingit Elders with anthropologists Catherine McClellan and Julie Cruikshank research material 1949 - 2006.

Appendix 2 – C/TFN Land and Water Proclamation



**PROCLAMATION AND NOTICE ISSUED BY THE
CARCROSS/TAGISH FIRST NATION ON THIS 30TH DAY
OF MARCH, 2022**



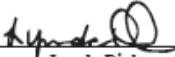
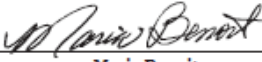
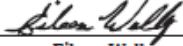
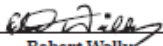
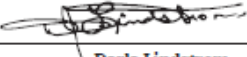
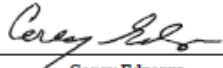

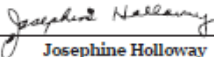
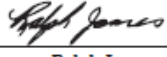
Whereas:
Our Clan Elders have provided us with spiritual guidance and cultural instruction and have clearly stated the following principles and directions:


<p>We who are Tagish and we who are Tlingit Our heritage has grown roots into the earth since the olden times Therefore we are part of the earth and the water We know our Creator entrusted us with the responsibility Of looking after the land into perpetuity, and the water And whatever is on our land, and what is beneath our land So those coming after us, will give them that responsibility into perpetuity Our Elders have assigned us the task of showing respect to things Therefore, we will look after our land as they have told us to do, As did our Elders Because we were the first to come to this land That is now called Canada We will be the bosses of our land We will watch over our land As we have agreed upon And as we ourselves manage things according to our traditions We will bequeath it to those coming after us into perpetuity We will work with people to strengthen our heritage To give a firm foundation to our people's lives And to manage our land well We will work with all peoples to take good care of our land And all the resources of this land</p>	<p>As we have agreed on, and we will be our own masters We who are Tagish and we who are Tlingit We will protect our land So that things will be according to what has been agreed to So that they will live by it According to what we have agreed on We will reform the way we work with the government We will work together with mutual respect And act truthfully toward each other We will all work together Those who own the land those who use the land We will manage together The land and the water and what is on the land Then everything will be prepared for those coming after us As we have on, so we will act We will work as our elders instruct us And improve the lot those coming after us We will use our land with other nations Moreover, we will look after our land well So that our descendants can see how good it is And in this way we will respect our land from which we were born:</p>
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And Whereas:
As Tagish and Tlingit based upon these ancient teachings and covenants we now act to fulfill these time honored obligations by adopting this Proclamation and Notice to all users of lands, waters and other resources within our Traditional Territory in Northern British Columbia and Yukon.

THEREFORE, we who are Tagish and we who are Tlingit, as represented by the Carcross/Tagish First Nation make this Proclamation and issue this Notice as follows:

1. any uses of our lands, waters, and all other resources within our Traditional Territories must be legitimized and validly sanctioned by our Councils;
2. any future uses of our lands, waters and resources must be with our appropriate free, prior and informed consent;
3. a map of our traditional territory is attached;
4. any uses of our lands, waters and other resources, not in compliance of this Proclamation and Notice, will be challenged and disputed in our peacemakers courts and/or in the mainstream courts, as deemed appropriate by C/TFN, and such uses are at the sole risk of the trespasser and such purported user of our lands and waters; and
5. this Notice and Proclamation is duly issued by our General and Executive Councils and take effect on March 30th, 2022.

 <hr style="width: 80%; margin: 0 auto;"/> <p>Lynda Dickson Haa Shaa du Hen</p>	 <hr style="width: 80%; margin: 0 auto;"/> <p>Maria Benoit Deputy Haa Shaa du Hen</p>	 <hr style="width: 80%; margin: 0 auto;"/> <p>Eileen Wally Executive Council, Ishkhaitaan Clan</p>
 <hr style="width: 80%; margin: 0 auto;"/> <p>Robert Wally Executive Council, Kookhittaan Clan</p>	 <hr style="width: 80%; margin: 0 auto;"/> <p>Darla Lindstrom Executive Council, Daklaweidi Clan</p>	 <hr style="width: 80%; margin: 0 auto;"/> <p>Corey Edzerza Executive Council, Gaanaxteidi Clan</p>
 <hr style="width: 80%; margin: 0 auto;"/> <p>Robin Lovelace Executive Council, Yan Yedi Clan</p>	 <hr style="width: 80%; margin: 0 auto;"/> <p>Josephine Holloway Elder advisor for Executive Council – Crow</p>	 <hr style="width: 80%; margin: 0 auto;"/> <p>Ralph James Elder advisor for Executive Council – Wolf</p>



Appendix 3 – C/TFN Elder’s Statement

- Tagish
- Tlingit
- English

Tāgish kut’ínè’ yi t̄ ē, Łingít chųh yi t̄ ē,
Tàgish Khwân hà setiyí kha Łingít hà setiyí,
We who are Tagish and we who are Tlingit,

dàdidi nenh kay’ yàni zh̄ ā akùt’ē.
hà shegûn áwé ch’âgudáxh xhàt yáxh yenaxh kawsià.
our heritage has grown roots into the earth since the olden times.

Dàdidi nenh kay’ yèh tū chųh łani t̄ ē.
Éch-áwé yá tl’étgi in hà siti, kha yá hîn.
Therefore, we are part of the earth and the water

Wet’âkudiht’ē dàdidi naxuts’inilā kùt’ē
Yutusikû hà w̄iyexhi À hà jináxh ekawsihâ
We know our creator entrusted us with the responsibility

nenh yèh tū chųh mek’ânûtà’ doga, ch’ètlok kuts’j̄h,
yá tl’étgi ká tułetini ch’e tlèxh, kha yá hîn,
of looking after the land into perpetuity, and the water,

yē nenh kay’ selā, yē nen t’ey selā chųh kudê y’ kuts’enh.
kha hà tl’étgi ke.édi łdekét, kha hà tl’étgi teyì.ádi.
and whatever is on our land, and what is beneath our land.

Mādahk’èh edèl eyedi ch’ètlok ch’enh yē nen t’ey selā chųh kudê y’ kuts’enh.
Éch hà itnáxh yà ne.et à hes du jìdé keg
So those coming after us, we will give them that responsibility into perpetuity.

K’ohtseh dahchō k’èh dàdidi nen k’ânûhtà’ sh̄h, n̄ ūne chųh, dene chųh.
Hà tlagù khwâni e kék’ yen hes hà yawsikhâ et yâ eyegaxhtùnê.
Our elders have assigned us the task of showing respect to things.

Dàxuts’ ehndī k’èh dahnenè’ k’ânûhtà’ sh̄h,
Éch-áwé hes du xh’akâx’ yá hà tl’étgi ká gaxhtułetîn,
Therefore, we will look after our land as they have told us to do,

dahchō k’èh chųh,
hà tlagù khwâni hes du yáxh,
as did our elders,

dàdidi nen kay’ k’ohtseh łideł akùt’ē,
shux’wânáxh yá tl’étgi kèt yutù.ádi,

because we were the first to come to this land,

dàdidi kēzhēh Canada kùzhē.
yìdét yá Canada yû duwasâgu yé
that is now called Canada.

Dàdidi nen ts'āde yàts'ulè' shīh.
Hà tl'étgi s'átí daxh hà guxhsetí.
We will be the bosses of our land.

Dahnenè sògòsên mek'ânúhtà' shīh
Hà tl'étgi gaxhtuletín
We will watch over our land

medânîlè' k'èh chùh,
àdé khùn yen yawtusikhà yé yáxh,
as we have agreed upon,

dakhuni dahk'èh k'ânúht'īh sh'īh.
kha uhân àdé ét et kawtuwa.àghú yáxh hà shegûn kâx'.
and as we ourselves manage things according to our traditions.

Dene dahk'èh edèl chùh kâkuht'īh shīh ch'ètlok ch'enh.
Hà ítnáxh yà ne.et à hes du jìdé yegaxhtusekhâ ch'e tlèxh.
We will bequeath it to those coming after us into perpetuity.

Dene yèh edesedûdlà' shīh dahk'èh kukden dogà,
Khùn yé jigaxhtùnè hà shegûn gaxhtuletsíní,
We will work with people to strengthen our heritage,

dene dâli nótset dogà,
hà ñingídi khustiyí yen wutuļejàghú,
to give a firm foundation to our people's lives,

dahnenè' sògòsên mek'ânúhtà' dogà.
kha k'edên ét kawtù.àghú uhân hà tl'étgi.
and to manage our land well.

Dene k'adehtla' t'eh yèh edesedûdla' shīh dahnenè' k'ânúhtà' dogà,
Łdekét khwân ìn yé jigaxhtùnè hà tl'étgi k'edên tuletíni,
We will work with all peoples to take good care of our land,

yē yàkū lī chùh dàdidi nenh kay',
kha yá tl'étgi ke.édi łdekét,
and all the resources of this land,

daxuni dahts'āt yàdi Ìèl.
àdé khùn yen yawtusikhà yé chush s'átí hà guxhsetí.

as we have agreed on, we will be our own masters.

Ta ḡish kut'īnè yi tē, Łingít chùh yi t' ē,
Tàgish Khwân hà setiyí kha Łingít hà setiyí,
We who are Tagish, and we who are Tlingit,

dahnenè' mek'ânûhtà' shīh,
hà tl'étgi káxh yénde ekaxhtúdêł,
we will protect our land,

kuch'u t'eh külē shīh,
e yáxh et neghatì àdé yen yawtusikhà yé khùn,
so that things will be according to what has been agreed on,

kuk'èh t'eh yàkūndìh doga.
e kâx' daxh hes khughàghastì yís.
so that they will live by it.

Etl'ah yàđínī k'èh,
Yá àdé khùn yen yawtusikhà yé kâx',
According to what we have agreed on,

sògòsên eyedi dahts'āde yèh edesedûdlà' nih.
yaxh yekaxhtusexixén wé government in yê jiné.
we will reform the way we work with the government.

Īeyèh sògòsén edesedûdla' shīh,
Hùsh yâ ewudenétin hùsh in yê jigaxhtudenê,
We will work together with mutual respect,

Īeyèh tlà' yàts'ūt'èh.
x'èghà ét yáxh khugaxhtùnûk.
and act truthfully [toward each other].

Īeyeh edesedûdla' shīh,
Łdekét hùsh in yê hes jiguxhdenê,
We will all work together

mānen et'ī chùh, mānenh kay' k'âkedèł chùh.
yá hà tl'étgi ká khu.ûwu, kha hà tl'étgi ét ełyèxh à
those who own the land and those who use the land.

Īeyèh mek'ânûtà' shīh
Tle łdekét uhân ét kegaxhtù.âkhw
We will manage together

nen chùh tū chùh yē nenh kay'selā chùh mek'ânûtà' shīh.
yá tlétk kha yá hîn kha yá tl'étgi ke.édi.

the land and the water and what is on the land.

Dene dahk'èh edèl dogà sògà nàkùts'et.

Àghâ tsá ldekét ét hes du jiyís yénde ghwaní hà ítnáxh yà ne.et à.

Then everything will be prepared for those coming after us.

Łū ' yàdînj k'èh, kădît'ī.

Yá àdé khùn yen yawtusikhà yé yáxh gaxhtùsgît.

As we have agreed on, so we will act.

Dahchō yàkùnī k'èh, edesedīdlà' k'èh,

Hà tlagù khwāni hes du xh'ayáxh yé jigaxhtùnê,

We will work as our elders instruct us,

dene dahk'èh edèl ghah, sògòsen kùlī dogà.

kha hà ítnáxh yà ne.et à hes du jiyís kè et kaxhtułek'ê.

and improve the lot of those coming after us.

Łè' dene kuyèh chùh, dahnenè' k'âkudèl dogà.

Yá hà àní ch'e ghune.à nà in ét gaxhtuleyêxh.

We will use our land with other nations.

Dahnenè', sògòsen mek'ânũhta' shīh

E tux' hà, àní k'edên gaxhtuletîn

Moreover, we will look after our land well

dahdunìn dogà, sògà kù'a^hnìh.

hà ítnáxh khâwu hes eghàxhsetini yís àdé yek'èyi yé.

so that our descendents can see how good it is.

Ekùts'ìh na ts'īt'as dàdidi mekay' kuts'en ya kī dl'ī.

Hà ítnáxh khâwu hes eghàxhsetini yís àdé yek'èyi yé.

And in this way too we will respect our land from which we were born.

Appendix 4 – Expert Elicitation Questions

Table 2: Interview Questions for Community knowledge keepers s

1	<p>Please tell me about yourself and your connection to C/TFN.</p> <p><i>Alternative wording: Where were you born, which clan do you belong to, growing up where did you spend your time?</i></p>
2	<p>Please describe how land and water are connected and why this is important to you.</p>
3	<p>Please describe how water and seasonal round are connected and how they influence you.</p> <p><i>Alternative wording: How do you interact with water in the summer, spring, winter and fall?</i></p>
4	<p>Are there things that stop you from accessing water in physical or spiritual ways? If so, please describe how they came to be.</p> <p><i>Alternative wording: Are there differences in how you connect to water now, compared to when you were young?</i></p>
5	<p>With respect to water and land, do you see the original intent C/TFN’s Final Agreement being upheld?</p> <p><i>Alternative wording: How do you believe the Final Agreement applies to land and water? Do you see this intent being upheld?</i></p>
6	<p>Please describe the concept of allodial title, why C/TFN is legally intitled to allodial title of their lands and waters and the opportunities that exist when one holds allodial title.</p> <p><i>Alternative wording: Allodial title is defined as “ownership of property that is independent of any superior landlord”. With respect to C/TFN Traditional Territory, this would imply that only C/TFN has ownership of land and water within their Traditional Territory. What is your opinion on this concept and do you believe that opportunities exist when holding allodial title?</i></p>
7	<p>From your experience, how do you believe C/TFN worldviews could be better represented within the current regulatory framework?</p> <p><i>Alternative wording: Currently land and water is influenced or regulated by YESAB, YG or the Yukon Water Board. How do you believe C/TFN worldviews could be better represented when regulating land or water within C/TFN Traditional Territory?</i></p>

8	C/TFN has drafted a water declaration and a Proclamation of Land and Water. How do you think these can help C/TFN? Do you see any barriers that would not allow these initiatives to be successful?
9	<p>Please describe what collaborative legislation/shared decision making-authority looks like to you?</p> <p><i>Alternative wording: How can all peoples of Yukon and BC work together to ensure both land and water are protected within C/TFN Traditional Territory for future generations of all people, including the tree people, 4 legged, winged, crawlers everything depends on water?</i></p>
10	Thank you for taking the time to meet today. Is there anything else you would like to share at this time?

Appendix 5 – Autoethnography Questions

Table 3: Autoethnography Questions at the Start

1	Why use autoethnography?
2	Describe your worldview/understanding/way of thinking.
3	Describe your spiritual being.
4	Why are you compassionate to Indigenous culture?
5	What does change look like?
6	Where does change come from?
7	What is your biggest frustration with the current framework as you know it?
8	How can you contribute to change?

Table 4: Weekly Autoethnography Questions

1	What was your biggest learning this week?
2	What was your biggest emotion of the week and what caused it?
3	Write up to 3 sentences on what made you excited this week.
4	Write up to 3 sentences on what made you see the struggle of this journey.
5	Describe a situation where resolution could have come quick by looking in another worldview.

Table 5: Monthly Autoethnography Questions

1	Why does the current framework not respect Indigenous worldview?
2	What is stopping the current framework from respecting Indigenous worldview?
3	Where are <i>we</i> at on this journey of indigenization?
4	Describe short, medium and long-term strategies for indigenization.

Table 6: Autoethnography Questions at the End

1	Describe your worldview/understanding/way of thinking.
2	Describe your spiritual being.
3	Why are you compassionate to Indigenous culture?
4	What does change look like?
5	Where does change come from?
6	What is your biggest frustration with the current framework as you know it?
7	How can you contribute to change?
8	Did autoethnography help?

