

## **Heritage Conservation Act or Heritage Destruction Act**

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What does conservation really mean to those who implement and work within the current policies of British Columbia Heritage Conservation Act?

Mountains of uncertainty are issues continually rising with the British Columbia (BC) Heritage Conservation Act (HCA) as it relates to Indigenous rights and protection of sacred, culturally significant and archaeological sites – refer as indigenous sites in article. There are many historical and current instances in which the HCA, its bureaucracy, policies and lack of enforcement have not ensured protection of indigenous sites. SPAET (Bear) Mountain, Victoria, BC, are but one example of a current dispute in which a difference of values has been at the root of the issues.

The concerns with indigenous sites including the sacred cave on SPAET were first brought to the greater public on May 24, 2006. Prior to this media release the awareness of these issues were brought forward to first nation's leaders, BC Archaeology Branch, Ministers, municipal staff and the developer. The issue was not being discussed in anyway that included indigenous rights, not by the developer, not by BC Archaeology Branch and not by the various levels of government. It was the next logical step in going to media. It assisted in moving the issue to top of the "to do" pile.

In summary, the immediate concerns and overall issues were not addressed. On November 16, 2006 the cave was scheduled to be “dismantled” – authorized by the BC Archaeology Branch. In an effort to protect the sacred cave, a stand (protest) was made. It occurred early in the morning on November 16, 2006. There were only five of us on the mountain peak to stop the machines and crew from destroying the sacred cave. Later in the day various Chiefs and BC First Nation Leadership Council came to support and ask how they can assist in the issue. The discussions on the issue started. That day and entire week I now refer to as the week of Remembrance.

The next day, November 17, 2006 was busy with court debates and a truce meeting; at the same time the stand continued. The truce meeting took place at the Tsartlip Longhouse and was witnessed by various people. At the end of the meeting the injunction against Songhees, Tsartlip and me was stopped; Len Barrie, principle partner and owner of Bear Mountain Development said he was going to protect the cave and meetings were to take place to sort out the issues. The chiefs echoed the cave will be protected and asked me if I can get the remaining protesters off the mountain. We complied with the understanding the cave was going to be protected. The meetings to discuss the issues were to begin the following week.

Behind closed doors various meetings did take place with a small group of people. A few people attending the meetings insisted the meetings only include a small group of political

representatives and developer. There was no transparency in the meetings or agreements drafted. In the end it left more uncertainty. Overall, there was no protection or conservation for the cave and the remaining sites on SPAET are still at risk. There was no investigation or enforcement of the HCA on any of the questionable contraventions.

To date the state of the cave is uncertain as no one has been allowed to investigate except the archaeologist contracted by the developer. I have seen a few photographs taken by others permitted to be on site. In the photographs there appears to be blasting wire and blasted rock on approximately two thirds of the cave. Apparently, the actions leading to this damage is uncertain. Further, there were no archaeologists or first nations on site when the damage occurred. I understand this was not thoroughly investigated. Is there some conflict of interest in the decision making or with others involved? If investigated by who and who will take responsibility for the damages or if it is destroyed? For further information on SPAET please read pages from these websites: <http://members.crcable.net/pumpkinpatch> and <http://www.firstnations.de/development.htm?06-1-coast-salish-1.htm>.

Value differences continue to impose upon indigenous rights, including the development on SPAET. Indigenous rights are continuously bulldozed over to financial benefit corporations or individuals interests where they seem to only answer to their lending institutions. The lack of action and respect with the issues is rooted to economic discussions over cultural rights. This is an area needing more discussion in reviewing financial institutions lending practices, political decision making and ethical development.

Who has the right to make decisions that horrifically impact indigenous people, their cultural connections to the land and to our collective environmental health? The degrading of the environment and the resulting impacts from development can and do alter indigenous sites; equally, development impacts socially across cultures in many ways. The various issues in BC with development over indigenous sites interconnect with economic factors.

Mountains such as SPAET continue to be significant to the Indigenous people including the Salish people. It is a value that continues to be upheld through the generations with varying rights and practices held by the different families, individuals and nations within Salish peoples. These practices are significant to the connection Indigenous people have to the land. The stories and practices are passed down to individuals within a family for many reasons, one being to protect the ancestral and cultural connection to the land. These are rights held by families or individuals and not always common knowledge by the entire family or community, including Chiefs and Councils.

Cultural knowledge of indigenous sites needs to be protected by families, individuals and nations. In many ways it is still being protected but with development moving like an asphalt ice age over indigenous sites, we need to find ways to protect these rights and cultural knowledge to these sites to ensure a continuum. This is not a knowledge base of practices one would find in a university course, a book or in the memory banks of "experts" or "professionals". It is knowledge held within and practiced by the indigenous people.

Lack of conservation and protection within the current Heritage Conservation Act, including lax policies and enforcement, does not consider, let alone acknowledge or respect, indigenous rights. Obviously, the HCA was not created by and for indigenous people. One wonders why it was created. In my view, it was not created to protect rights or sites for the Indigenous people. In part, it appears to be more of a professional or scholarly protection that expires after completion of an individual's assumptions, opinions, thesis or dissertation is achieved. The end result for these individuals is they become "experts" of a culture they do not live or practice within. Beyond the scholarly practice or position, there are those who make a business out of Indigenous (First Nation's) history and ancestors: this includes archaeology firms and consultants.

The business of development imposes construction on ancestral homelands and it these business interests that keeps archaeology firms operating and consultants employed. Not all firms exist to profit from the destruction of archaeology sites. However, at present, there has been no stopping the degradation from occurring. There are some individuals and groups who do not even realize to what degree they are participating in the issue. Although workers need jobs to participate in the mainstream economy, it is unfortunate that money and economics prevail over human and indigenous rights. There is no doubt there is a need for the development of ethical policies for consultants, professionals and "experts".

The review of ethical practices needs to include Indigenous people. Additionally, Indigenous protocols need to be implemented. The diversity of Indigenous people in BC will need to be considered in the review of the HCA and policy development. I think it is important to consider creating a regional technical group of indigenous grassroots people working province wide to add strength and voice in the review of the HCA, policies, enforcement and implementation in the protection of rights and significant sites.

Division in values and indifferences in current process are at the core of various conflicts between indigenous people, politicians, professionals, corporations, developers and bureaucrats. Which set of rights prevail in these disputes – indigenous rights, corporations or financially privileged individual rights? Who gets to make these decisions?

There is so much uncertainty and lack of acknowledgment and respect for indigenous rights within the current HCA and its policies that bureaucrats at the British Columbia Archaeology Branch follow and invoke. Often these discrepancies, indifferences and disdain benefit developers and deny indigenous perspectives to the detriment of rights, lands, and environment, archaeological and significant areas.

I do not see the issues at hand with the HCA as being related to outdated legislation but as a perpetuation of colonialism. It is legislation that was not created by Indigenous people nor was it meaningfully inclusive of Indigenous people in the decision making process; as such, it does not adequately ensure political will to protect indigenous sites or rights. To acknowledge the HCA as outdated is to accept the echoes of colonialism in its making and practice that continue to impose upon indigenous people. Therefore, the HCA does not reflect the indigenous rights and cultural practices of living indigenous peoples in their ancestral

homelands. It is an issue of colonial law fully disregarding indigenous rights, politically and economically eroding indigenous sites.

The frustration is continuing to escalate as the issues are not being resolved. We all know what is wrong. We indigenous people know our inherent rights. It is time the various levels of government, corporations, developers and the uninformed general public move toward acknowledging indigenous rights and authority in implementing them in their ancestral homelands. The HCA needs revision by indigenous people from all backgrounds and roles within the various nations in BC. It is within the roles of people as they are practiced that cultural values are lived.

Political support to assist in implementing changes to the HCA is needed. There are more aspects to discuss and many important solutions that Indigenous people have and will put forward on the issues. The concerns and solutions with these issues will require more discussion on the HCA, policies and laws relating to the environment. Once solutions are formulated in solidarity they can then be implemented. This would improve the standards of practice by which the HCA protects archaeology and will lead to improvements in how development is conducted in British Columbia.