

Institute for Catastrophic Loss Reduction

Final Report

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Project Title: Improving Cooperation and Reducing Conflict in First Nations
Wildfire Management

Amount of Grant: \$4,375.00

Grant Year: July 2017 to December 2018

Field Work Dates: July 9, 2018 – July 13, 2018

Report Date: August 21, 2018

1. Purpose of Funded Project

The project, as originally proposed, had three principal research aims:

1. To assess how the governments of Canada and British Columbia currently support First Nations communities in wildfire prevention, preparedness, response and recovery.
2. To identify causes of conflict and confusion over jurisdictional responsibility between government and First Nations communities.
3. To provide recommendations on how improve co-ordination between government and First Nations communities around wildfire prevention, preparedness, response and recovery.

2. Project Team

Principal Investigator (PI): Jocelyn Stacey, Assistant Professor, Allard School of Law

Research Assistant (RA): Emma Feltes, PhD Candidate, Department of Anthropology, UBC (position funded with ICLR grant)

3. Background to the Project Activities

This project began through relationship building with Chief Russell Myers Ross of the Yunesit'in Nation, one of six Tsilhqot'in communities, and a community that was at the heart of last summer's wildfires. Chief Myers Ross and the PI had conversations over the course of several months that explored opportunities for supporting Yunesit'in in documenting the challenges that the community faced during the wildfire response and recovery. Emma Feltes, a PhD student in Anthropology at the University of British Columbia, joined the project as a research assistant. She was instrumental in facilitating these conversations.

At the same time that the PI and RA were building this relationship with Chief Myers Ross, the Tsilhqot'in National Government was working toward a Collaborative Emergency Management Agreement with the Province of British Columbia and the Government of Canada. This Agreement was announced in April, the first of its kind in the country. As a result of this Agreement and the ongoing connection with Chief Myers

Ross, the PI and RA became part of the Tsilhqot'in National Government's Wildfire Project team and were able to carry out the funded project in conjunction with this broader project.

Notably, section 2(b) of the Collaborative Emergency Management Agreement (2018) identifies the following objective:

“identify and address potential strategic operational and jurisdictional gaps, issues and opportunities for improvement”

This objective mirrors the original, proposed project aim. Final research findings and recommendations will be part of a report, approved by Tsilhqot'in leadership and presented to the provincial and federal governments in fall 2018.

In addition to this objective, PI and RA were also responsible for carrying out community interviews in Yunesit'in (led by the RA) in accordance with the following aim of the Collaborative Emergency Agreement:

“document the experience of the Tsilhqot'in Nation in the 2017 wildfires” (section 2(a)).

4. Research Activities

Wildfire Team Communication:

May-August 2018: Bi- or tri-weekly team conference calls with project lead, Tsilhqot'in National Government negotiations team, Health, Wildfire, and Emergency Management experts.

Preliminary Consents and Approvals:

May 2018: Statement of Research Collaboration concluded between PI and Tsilhqot'in National Government

May 2018: Ethics Approval obtained through UBC Research Ethics Board

Preliminary Trip for Face-to-Face Introductions:

May 27-June 1: RA travelled to Williams Lake

May 28-May 31: PI travelled to Williams Lake

The purpose of this trip was face-to-face meetings with the Chief of Yunesit'in and members of his community who were likely to be interviewed. During this trip, the project purpose and plan was explained to potential interviewees and consent forms

were distributed. The PI and RA also attended interviews carried out by the Wildfire Project Team Lead. This ensured consistency in the interview style across communities and these initial interviews allowed us to revise interview questions to better elicit information about jurisdictional conflict, confusion and coordination.

Yunesit'in Interviews:

July 9-13: RA travelled to Williams Lake and Yunesit'in

The purpose of this trip was to conduct in-depth qualitative interviews in Yunesit'in in order to create a comprehensive record of the community's experience of the wildfire. Over the course of five days, the RA interviewed 16 people, representing a cross-section of perspectives. This included the Chief, band councilors, band staff, forestry experts, members of the community's fire crews, Elders, and other community members. The RA also met with the Wildfire Project Team Lead and with Chief Myers Ross to discuss project progress and outcomes.

5. Preliminary Research Findings

The preliminary research findings pertain to (A) Yunesit'in's experience of the wildfire, focusing on community members' interactions with regional, provincial and federal authorities, and (B) the jurisdictional gaps, conflicts and ambiguities that were revealed in the wildfire response.

A. Yunesit'in Nation – Supports and Challenges with Regional, Provincial and Federal Authorities

Research finding 1: Successful operation of Yunesit'in emergency response

Despite many complex challenges, through strong leadership, coordination, and resilience, Yunesit'in was able to respond to and recover from the 2017 wildfires in a way that prioritized community wellbeing. Coordination was a key challenge, with band members, as well as the Chief and Council, strewn throughout the Province. At the same time, a lack of clear communication, consultation, and jurisdictional clarity with provincial and federal agencies posed operational and governance challenges that needed constant troubleshooting. Nevertheless, by sharing responsibility among the councillors and staff, hiring community members to take on essential roles, and exercising consistent jurisdictional authority, they were able to: successfully train community fire crews; protect the reserve from the worst impacts of the Hanceville fire; access essential governmental and non-governmental services; and support and advocate for community members who had been evacuated.

Research finding 2: Challenges in supporting Elders and community members who chose not to evacuate

Yunesit'in approached evacuation in a way that was culturally sensitive and adaptable to community members' needs. However, this posed unique challenges in supporting community members, and particularly Elders, who opted to stay in the community. Many community members did not feel comfortable leaving their homes, their land, or going to a public evacuation centre, away from family and community supports. For this reason, Yunesit'in Chief and Council approached evacuation with flexibility and care, leaving room for individuals to decide when and whether to leave the reserve, or whether to stay and take on essential roles supporting fire fighting in the community. However, when a large number of band members, including Elders, did opt to stay in the community, this posed capacity and resource challenges. Without sufficient support from provincial and federal service agencies, who did not understand this approach to evacuation, and with significant difficulty transporting food, prescriptions, and other supplies to the community and the camp, supporting Elders and others posed new difficulties.

Taking these lessons into future situations, Elders and other community members recommend better communication and coordination with provincial and federal entities who could better facilitate an evacuation approach more sensitive and responsive to community members' needs.

Research finding 3: Disrespectful conduct by RCMP

One of the key entities who failed to grasp Yunesit'in's jurisdictional authority over the process of evacuation was the RCMP. Failing to grasp the flexible, careful approach of the band, the RCMP took a hard line, attempting to force people leave the reserve and showing disrespect for Elders. At the same time, a constantly rotating contingent of RCMP at checkpoints and roadblocks meant that people who were transporting supplies or doing other essential jobs—including councillors, staff, and even fire crews—were met with inconsistent requirements and changing attitudes as to whether they could get through. In each of these scenarios, the Chief had to intervene, clarifying the scope of RCMP authority, and advocating for respectful protocol and conduct.

Research finding 4: Reimbursement model of emergency response funding creates uncertainty and stress for community

The financial and jurisdictional complexity on reserve created significant uncertainty as to which essential expenses would be reimbursed, how, and by who. Navigating an

intricate web of financial and reporting requirements, spread across multiple agencies including the First Nations Emergency Services Society, Emergency Management BC, Red Cross, and Indigenous and Northern Affairs (now divided into two departments) imposed significant barriers and stress on Yunesit'in staff and impacted decision-making during the emergency. Community leadership felt they had to exercise caution when considering purchasing essential equipment, or take a financial leap of faith in hopes expenses would eventually be reimbursed. In the aftermath of the wildfire, financial reporting has been extremely time-intensive. Conflicting instructions from the different agencies have caused Yunesit'in staff to re-write and re-submit forms repeatedly, and there are still portions of reimbursement and recovery funding that is outstanding and under review at the provincial and federal levels.

Research finding 5: Need for consistent relationships with regional, provincial and federal authorities to adequately prepare for emergencies

For Yunesit'in, one of the key recommendations coming out of the 2017 wildfires is the need for ongoing, consistent relationships with all regional, provincial and federal authorities to ensure that communities are prepared for future emergencies. Long-term relationship-building outside of the fire season would alleviate many of the stresses, inefficiencies, and jurisdictional and communication conflicts that arose in 2017. The establishment of clear protocols, policies, memoranda of understandings, as well as harmonization of decision-making processes that recognize the inherent authority of Tsilhqot'in communities will be vital in bridging many of the existing gaps and sources of conflict ahead of any future emergencies.

B. Jurisdictional Issues

Research finding 1: The 2017 wildfires revealed an assumption on the part of regional, provincial and federal authorities that First Nations play a passive and deferential role in emergency management

Regional, provincial and federal authorities were unprepared for the Tsilhqot'in's leadership and exercise of authority during the 2017 wildfires. The decision by the leaders in Tl'etinqox to refuse to issue an evacuation order was the first time in the province's history that a First Nation has opposed a provincial evacuation order. This exercise of authority resulted in an aggressive confrontation between the RCMP and Tl'etinqox community members. It revealed inadequate preparation and organization on the part of the province to coordinate an emergency response with First Nations remaining in the affected area.

Tsilhqot'in leadership, emergency managers and fire crews were not consulted about critical response decisions. Deployment of community and crews and decisions to back-burn in Tsilhqot'in territory were made unilaterally.

Research finding 2: Tsilhqot'in leaders actively exercised their inherent jurisdiction with respect to their citizens and territory during and after the 2017 wildfires

Tsilhqot'in leaders actively exercised their jurisdiction by: (a) refusing to issue an evacuation order when it was determined not to be in the best interest of the community, (b) issuing a modified, constrained evacuation order so that community members did not have to relocate to major cities, (c) organizing access permits to pass through roadblocks so that essential provisions could reach communities in the evacuation zone, (d) supporting Elders and community members regardless of their location – in the community or at evacuation centres, (e) prohibiting members from hunting moose in the two hunting seasons after the fires to allow for population recovery, (f) enacting and implementing a mushroom harvesting permitting system (see below).

Research finding 3: Regional, provincial and federal authorities lack basic information on BC First Nations such as: their geography, legal authority and governance structure

The wildfire response revealed inadequate training and understanding on the part of emergency responders about the authority of First Nations within their own communities. Provincial and federal authorities did not always follow Band Council Resolutions on reserves and they struggled to understand who, other than the Chief, was qualified to make decisions. Mechanisms were not in place to facilitate communication between regional and provincial authorities and the Tsilhqot'in communities. In only one community was a Tsilhqot'in community liaison appointed and respected by the wildfire response team.

Research finding 4: Provincial and federal authorities threatened to use legal powers within provincial jurisdiction to coerce community leaders into following provincial orders rather than following Tsilhqot'in authority

In multiple Tsilhqot'in communities, the threat of child apprehension was used by RCMP to attempt to convince leaders to evacuate their communities. Preparations by authorities to apprehend children were undertaken by identifying houses with children using flagging on fences and decks.

Research finding 5: Established coordination between provincial and federal authorities for disaster compensation creates a cumbersome process for First Nations in need of disaster relief funds.

Due to lack of capacity, Indigenous Services Canada has arranged for disaster relief for First Nations communities to be processed through provincial emergency management departments (even though it is ultimately funded by the Government of Canada). Despite assurances from federal authorities that the expense of emergency response and recovery in Tsilhqot'in communities would be covered by the federal government, the provincial reimbursement process has been lengthy and cumbersome. Many expense claims have been dismissed as ineligible, resulting in multiple attempts at reimbursement. A year later, communities have yet to be fully reimbursed.

Research finding 6: Provincial and federal enforcement agencies have played a supportive and collaborative role in implementing Tsilhqot'in laws over mushroom harvesting in Tsilhqot'in territory.

The province does not currently regulate mushroom harvesting on Crown land. This absence of provincial regulation means that there is space in which the Tsilhqot'in can exercise its jurisdiction over Tsilhqot'in territory without direct conflict with provincial law.

The implementation of the Tsilhqot'in mushroom permitting laws have been a tremendous collaborative success. Implementation and enforcement has been led by Tsilhqot'in Title Land Rangers with the support of RCMP, Conservation Officers and Natural Resource Officers. The permitting program has allowed the Tsilhqot'in to manage the influx of mushroom pickers and buyers and to protect sensitive cultural sites in their territory. The successful inter-governmental collaboration on this initiative serves as a model for how provincial and federal authorities can respect Tsilhqot'in leadership in Tsilhqot'in territory.