

A Database of Unauthorized Heritage Site Alterations

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In 1960, British Columbia was the first province to enact legislation to protect archaeological heritage sites in Canada. As of 2011, the provincial *Heritage Conservation Act*, R.S.B.C. 1996, Chapter 187 (“HCA”) is among the most pro-active and strongest heritage laws in North America. The HCA provides automatic legal protection against any non-permitted alteration of any recorded or unrecorded archaeological heritage sites or heritage objects on Crown and private lands, and outlines significant penalties for any offence, including up to \$50,000 in fines plus two years incarceration for individuals, and up to \$1,000,000 in fines for corporations and two years incarceration for responsible CEOs.

Despite such force of law, HCA contraventions are common and enforcement is practically nonexistent. Archaeologists, First Nations communities, and provincial and law enforcement officials become aware of new and repeated violations almost daily. Yet few persons or corporations have ever been charged under the HCA. Some blame deficiencies in the HCA itself; others the policies employed in HCA administration and enforcement (see Klassen 2008). The lack of awareness or lack of interest on the part of politicians, law enforcement, and the public at large probably contribute to the problem. In any case, HCA’s bold promise “to encourage and facilitate the protection and conservation of heritage property in British Columbia” remains unfulfilled and our public trust continues to be diminished. These losses are particularly harmful to First Nations and other descendant communities, who

rely on heritage sites as wellsprings of community orientation and vitality.

Why does archaeological heritage continue to be altered and destroyed without proper treatment by descendant communities and archaeologists?

This simple question is complicated to answer due to lack of basic information. HCA contraventions are only occasionally reported in the news. Local media may initially report conflicts over heritage sites, especially where RCMP are involved, yet rarely follow up with the full story. No non-governmental organization has taken up the challenge to advocate for heritage conservation in defence of public interests. The Archaeology Branch, Ministry of Natural Resource Operations, responsible for HCA administration does not systematically track or investigate alleged HCA contraventions (see http://www.tti.gov.bc.ca/archaeology/policies/enforcement_heritage_conservation_act.htm). As a result, most information concerning heritage site destruction in British Columbia is anecdotal, often unspoken private knowledge.

We know that the un- and under-documented alteration and destruction of our finite and priceless archaeological heritage continues at a brisk pace, but not much more. We have no real idea how many sites are accidentally or intentionally destroyed by unregulated land and resource development on a yearly basis, nor how many sites fall through the cracks of the province’s archaeological overview assessment (AOA) and archaeological impact assessment (AIA) processes. We can only guess how widespread or well-organized illegal artefact collecting is in British Columbia. We do not know how many HCA contraventions have taken place since initial legislation was passed 50 years ago, where and when these violations may have occurred, or under what circumstances. Even learning how many recent violations have been reported, investigated, or resolved is difficult due to scattered and inconsistent documentation, privacy concerns, and other challenges.

It seems that nobody is accepting responsibility for tracking and communicating contraventions of our heritage conservation law in British Columbia. What can be done?

Our initial approach is based on the notion that solving the chronic problems of heritage site destruction in British Columbia is difficult when there is no baseline data for all interested parties to share, analyze, and discuss. Our proposal to address this deficiency, described by Quentin Mackie (2010) in his Northwest Coast Archaeology blog as “striking in its simplicity,” is to cooperatively develop a database of unauthorized heritage site alterations since 1996. As archaeologists and concerned citizens, we propose making a list of alleged HCA contraventions for public review. Because knowledge of many HCA contraventions is kept alive in ‘oral histories’ of local archaeologists, First Nations and

Report heritage site alterations not authorized by the Heritage Conservation Act

We invite members of First Nations, the professional and avocational archaeological communities, and the public at large to submit cases for inclusion in the Database of Unauthorized Heritage Site Alterations. Please visit the BCAPA website for a simple form <http://www.bcapa.ca/contact-us/anonymous-report/> for identifying and submitting cases. This can be anonymous. If there is any doubt about whether a case merits inclusion in the database, or if the information on a case is incomplete, send it in and we’ll do the legwork to round out the case(s). You can also submit comments, questions, and cases to John Welch at: welch@sfu.ca

others, we are offering various ways to participate and contribute. Our working premise is that the sharing of knowledge, followed by a careful and systematic data review and analysis, may guide us to the source of ongoing heritage conflicts. This will help us better understand how we can collaboratively realize the intent of the *HCA* in safeguarding heritage sites for posterity and appropriate use.

Toward this end, we are collaborating and reaching out to collectively create a database of documented heritage site alterations not authorized by a permit. The structure of the database, which continues to be fine-tuned in response to colleagues' and contributors' suggestions, presently consists of the following "fields":

1. Project name and location (including land ownership and jurisdiction, if available)
2. Description of nature and scale of site disturbance, where known (i.e., type of land-altering activity, size and depth of disturbance)
3. Description of affected sites and materials (ie. Borden numbers, site types, presence of human remains, artifacts)
4. Date of unauthorized alteration(s)
5. Parties involved (those associated with any alleged alterations, affected First Nations, archaeologists, municipal governments or other)
6. Level of involvement by RCMP or other law enforcement, where relevant (i.e., RCMP alerted, site visit, development halted, objects confiscated, investigation opened, report forwarded to Crown Counsel)
7. Level of involvement of Crown Counsel, where relevant (i.e., charges laid, court proceedings, court settlement).
8. Level of involvement by Archaeology Branch or other ministry (i.e., Permit issued for site inspection, permit issued/denied for further site alteration, permit report filed, site inventory forms updated)
9. Resolution of Incident, where known (or, how alleged contravention were addressed; i.e., no further action taken, site avoidance, mitigation, compensation, purchase of land, public donation etc.)
10. Documentation References (i.e., sources of information on the case, such as permit reports, letter correspondence, newspaper articles, emails, photographs etc.)
11. Photos, maps, field notes, or other supporting materials that may be shared.

Four criteria are required to include an incident in the working database: (1) a heritage site is reported to have been physically-altered (i.e., material remains protected by the *HCA*, including pre-1846 A.D. sites, burial sites, whether designated, recorded or unrecorded in the provincial heritage registry); (2) the alteration occurred after the current *HCA* came into effect in July, 1994; (3) alteration occurred without the issuance of a

provincial heritage permit or other authorization; and (4) written documentation of the alleged contravention is available for review (i.e., permit reports, email or letter correspondence with Archaeology Branch, newspapers, articles, or websites). This is not a database of hearsay and anecdotes. We need to insist upon factual input. We invite assistance in our search for criteria to further assist in discriminating between true *HCA* contraventions and other types of heritage site conflicts.

Importantly, we wish to state that the intention of the database is *not* to publicly shame or embarrass any person, company or organization – personal names and other private information will be kept confidential and not publicly shared. Further, the intention of the database is *not* to collect evidence to prepare charges under the *HCA*. In fact, pursuant to the provincial *General Offence Act*, the statute of limitations for Crown Counsel to lay charges under the *HCA* is only two years. Most cases we expect to compile in this initiative will be ineligible for prosecution. The ultimate goal of the initiative is to examine where contraventions occur, how the *HCA* can be more effectively enforced, and to propose ways to reduce or even prevent ongoing destruction and loss of B.C.'s archaeological heritage.

With good will, cooperation and diligence, we believe that it is possible to find solutions to cooperatively help improve the effectiveness of the *HCA* enforcement in a reasonable time frame, not radiocarbon years. For the long-term goal, however, we believe there is benefit in continuing to rally archaeologists, First Nations, government and the broader heritage community in British Columbia around the one goal we must all agree upon—preserving the archaeological heritage for the future.

References

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