

Bargaining Position

This Time, NWT First Nation Groups Are Better Equipped
To Take Part In Pipeline Projects

Floyd Bertram, the 31 year-old chief of the Fort Liard Deh Cho band in the Northwest Territories, just laughs when he is asked whether he can remember Justice Thomas Berger and the Mackenzie Valley pipeline inquiry.

Bertram would have been barely in school when a British Columbia judge barnstormed small communities up and down the valley, giving voice to all who wanted to express their fears and concerns about a proposed massive natural gas pipeline which many believed would irrevocably change their way of life. Now Bertram and others of his generation in positions of leadership acknowledge the Berger legacy, which gave aboriginal groups the means to control their destinies through economic development.

Even without the final settlement of the Deh Cho land claim, Bertram's band has benefited from natural gas activity in the Fort Liard area in the southwestern corner of the Northwest Territories. Its Acho Dene Koe Development Corporation, whose shareholders are the band members, has nine limited partnerships involved in businesses including catering, housebuilding and environmental consulting. "Some are quite successful," says Bertram whose other hat is that of president of the ADK corporate group.

On the phone from Fort Liard, he describes his band's dealing with the oil and gas industry over the last few years as a "good learning experience" for the community. "We know the benefits and it will be interesting to continue working with them," says Bertram.

In his 1977 report that galvanized the North, Berger recommended to the federal Liberal government of Pierre Trudeau that it impose a moratorium on pipeline development for 10 years to allow settlement of native land claims. "If it were built now, it would bring limited economic benefits, its social impact would be devastating and it would frustrate the goals of native claims,"



The Honourable Herb Dhaliwal,
Minister of Natural Resources Canada.

he wrote in his report, Northern Frontier, Northern Homeland. "With time, it may, after all, be possible to reconcile the urgent claims of northern native people with the future requirements of all Canadians for gas and oil," he said.

To the astonishment of many — including the pipeline proponents — the federal government rejected a pipeline proposal from Canadian Arctic Gas Pipeline Ltd. and Alaskan Arctic Gas Pipeline Ltd., which would have run across the northern Yukon

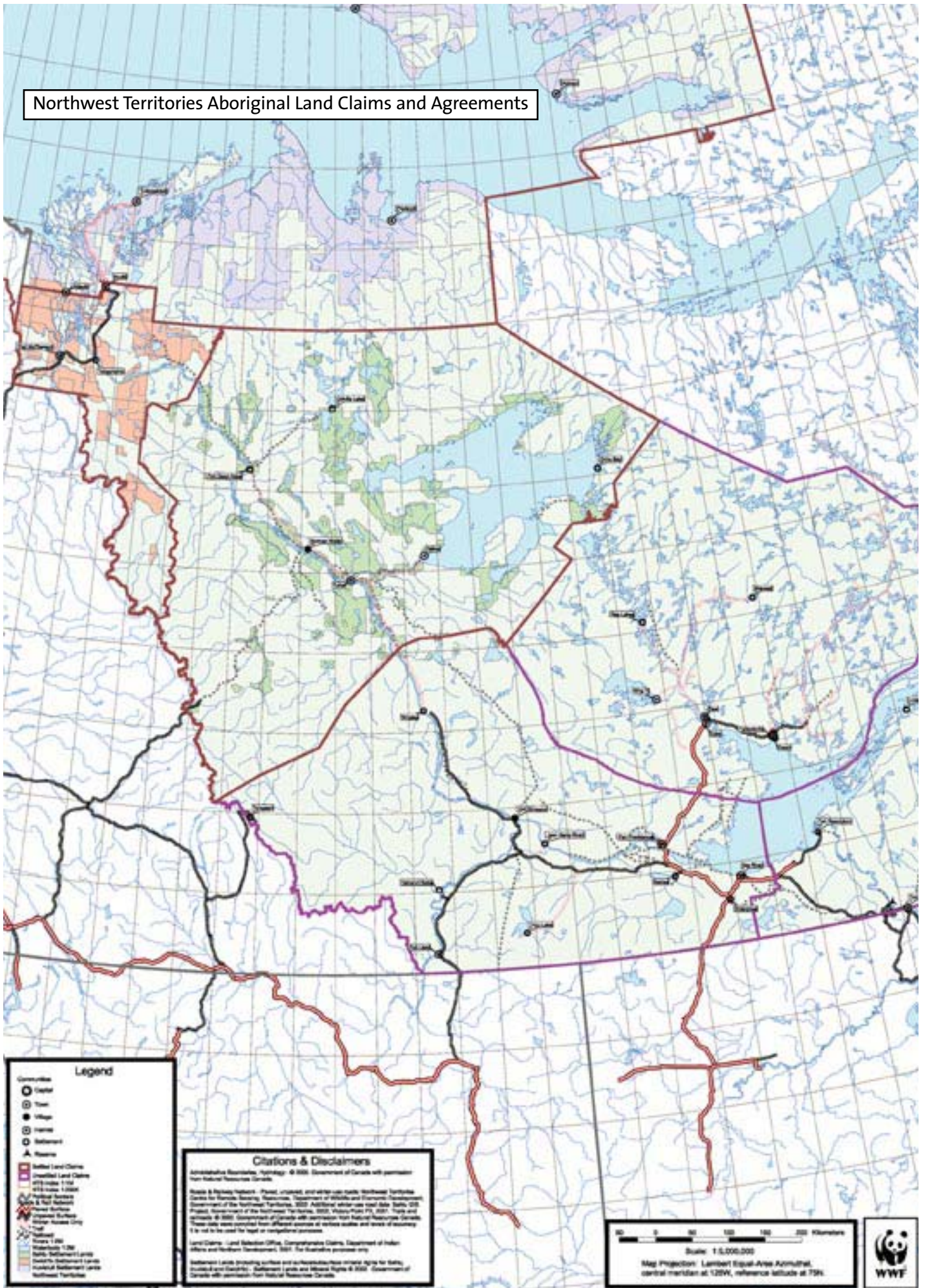
from Alaska. It also refused to approve a proposal from Foothills Pipeline Ltd. for a stand-alone Mackenzie Valley route. In the intervening years, most aboriginal groups were able to settle their land claims.

While it took closer to 20 than 10 years for pipeline activity to return to the North, once again there is talk of a Mackenzie Valley pipeline. And while some of the players have changed, once again there are two proposals: one for an all-Canadian route down the valley and a second that would include both Alaskan and Canadian gas. However, this time around, aboriginal groups in the Northwest Territories will be actively involved in the decisions that are being made, says Jim Antoine, deputy premier and minister of aboriginal affairs and justice in the territorial government. "Politically, the awareness level is very sophisticated," as more northerners with training and education are taking their places in government, he says.

Antoine, a Dene from Fort Simpson, was part of a younger and better-educated generation that supported the moratorium and emphasized the need to settle the land claims. Now 48, he recalls that in the early 1970s there were no offices for the chiefs and council. "People always made fun that all the important papers were carried around in brown paper bags," he says.

At that time, "people were not in any position at all, economically or politically to maximize the benefits from the pipeline," says Antoine. "Now people are ready, as ready as could be." Some still argue that they are not ready - that all land claims

Northwest Territories Aboriginal Land Claims and Agreements



Map courtesy of World Wildlife Fund Canada

should be in place before development proceeds but “generally I think people are more ready now business-wise to be in a position to maximize the benefits of whatever resource development is happening,” he says. The Dogribs near Yellowknife, for example, are benefiting immensely from the diamond activity.

Nellie Cournoyea, the chief executive officer of the Inuvialuit Development Corporation in Inuvik, agrees. “There is a broader base of aboriginal people who understand the political process to get things done and they are less intimidated by it,” she says. “We have not totally got over it but we have a much better understanding of how the decisions that move forward major projects are done.” A more educated aboriginal population wants to see a real and meaningful role for themselves and not be pushed aside because they don’t understand how to get into the process, says Cournoyea.

The former premier attributes the increased politicization of the population to better communication and the involvement of more people in social issues at the community level. “You see more and more aboriginal people taking positions within government institutions in every area,” she says. Much of that experience has come as a result of exposure to the political process. “One of the big problems we have had with some communities is that they never really get exposed to the environment of government or industrial decision making,” says Cournoyea. “It is not in their every day discussions so sometimes it is hard to understand why they are doing things in certain ways.”

The increasing confidence of the aboriginal community is also reflected in the comments of James Firth, chief of the Gwich’in First Nation in the Mackenzie Delta. “We have land claims, we have power, we own the land, we have treaty rights,” he says. “The pipeline goes right through the heart of our country.” Firth also is president of the Northern Route Gas Pipeline Corporation which is working with ArctiGas Resources Corp. on a pipeline to transport gas from Prudhoe Bay offshore Beaufort Sea to the Mackenzie Delta where it would pick up Canadian gas for a pipeline down the valley. “We are tired of going to government with hat in hand saying ‘help us,’” he says. “Part of the land claim is we want to be able to go there with the hat half full of money, saying can you put the other half in.”

While the Berger report played a significant role in changing the face of the North, the land claims process was perhaps even

more important, if less visible, says Cournoyea. “Individuals really had to struggle within themselves to come to conclusions such as whether this claim is going to do what you want it to do after a lot of give and take.” Negotiations with the federal government are “brutal,” she says, after having experienced the process first-hand negotiating the Inuvialuit Settlement Region. Nearly all claims have taken nine or 10 years to settle and some significantly longer, according to Cournoyea. “All that time is just continually trying to hammer your message through from where you sit at the community level and from your environment through to a system that is somewhat inflexible in terms of government policies and procedures.”



Nellie Cournoyea, CEO of the Inuvialuit Development Corporation, and former Premier of N.W.T.

Despite the painstaking process, land claims are in place for most of the Northwest Territories, including agreements with the Inuvialuit in the coastal and Beaufort Sea areas, Gwich’in just to the south in the Mackenzie Delta and Sahtu and Metis in the Central Mackenzie Valley. Although the Deh Cho whose claims extend to the Yukon and northeastern British Columbia have not yet settled, the band has permitted some development to proceed under an interim agreement. While the group has taken the position there should be no development until land claims are settled, it is prepared to make an exception for a pipeline, says Grand Chief Michael Nadli. “We don’t want to block it.”

Even though land claims are in place, it is still difficult to implement them, according to Cournoyea. While aboriginal people and long-term northerners understand how the process works, companies that once worked in the north, left, and have now returned, expect it to be “business as usual,” she says. “There is a great deal of effort having to be made to get a clear

understanding that claims are indeed legitimate legal entities under the Constitution of Canada; it’s difficult for them to understand.”

Cournoyea said it would save a lot of time for everyone if companies operating in the North simply accept the process and figure out what they have to do. Instead, “a lot of people fight it or try to work around it or try to find avenues of keeping business as usual.”

While most land claims have been settled, still more work is needed, say those involved. The next step for the Northwest Territories is to gain control of its resource revenue from the federal government, says Antoine. “All royalties flow to the federal government and people say that even though they control our resources they are practically giving it away compared to rates set by B.C. and Alberta.”

David Peterson, former Liberal Premier of Ontario, has been appointed to resolve the resource sharing issue. A framework agreement which will determine what will be negotiated, is expected by March 2003. The process will then likely take a couple of years although Antoine says his government would like to see it fast-tracked.

There are also huge infrastructure needs. The Northwest Territories government requested \$133 million from the federal infrastructure program and got \$20 million. That money will not go very far when the road between Rae and Yellowknife costs approximately \$1 million a kilometre to blast through the Precambrian Shield along Great Slave Lake.

And that is separate from the \$70 million loan guarantee the Aboriginal Pipeline Corporation, a group of aboriginal bands across the territories, is seeking from Ottawa as its share of the upfront costs of preparing an application for the proposed Mackenzie Valley Pipeline from the Delta to Alberta. In a memorandum of understanding (m.o.u.) signed in 2001, the Mackenzie Valley Producers Group led by Imperial Oil Limited offered the Aboriginal Pipeline Group up to a one-third share in the pipeline. The corporation would be expected to come up with additional gas to ship on the pipeline and arrange for its share of the financing.

However, federal Natural Resources Minister Herb Dhaliwal has said the government is not prepared to provide a loan guarantee to cover that share. The producers group — which also includes Shell Canada Limited, Conoco-Phillips Canada and ExxonMobil Canada — is anxious to file

its preliminary information package with the National Energy Board but is waiting for the aboriginal group. The federal government has asked Roland Priddle, a former NEB chairman, to come up with a solution and he is expected to report back to the government shortly. For its part, Imperial has said that it is hopeful there will be a resolution of the issue.

Firth, who says he signed the (m.o.u.) on the understanding it was simply to determine if the project was feasible, questions the way the project is structured as a joint venture. He says he is concerned Imperial would run the whole show. "They (the producers) say we own one-third but we don't own one-third until we come up with the money and the gas." Aboriginal groups don't have the money or access to the money required for the proposed pipeline which specifically excludes Alaskan gas, he says. "Are we going to make sure we get what is ours and not just sign a piece of paper and give the producers the go-ahead to build it and find out a year or two years later we can't meet our share?"

With the northern route proposal, aboriginal landowners along the pipeline route would own 100% of the corporation which in turn would own the pipeline. The corporation's approach is to "take it slow and make sure you make the right decision, getting as many people involved as possible and getting second opinions," says Firth. His group, which is pushing an energy corridor from the Delta to the Deh Cho lands in the south, has been spending the last few months talking to communities along the pipeline route, making sure they understand what the corridor would involve and the protection that would be provided. Firth says he is finding that while most people support a pipeline, they want to make sure the land, water and wildlife are first taken care of.

Landowners are told that if they sign a land access agreement they will be giving permission for a pipeline carrying only Alaska or Alaska and Delta gas and they would receive money for that access estimated to total \$70 million (U.S.) per year. Each land organization also is given the opportunity to go through the agreement with their own lawyer and economist.

So far, only his Gwich'in band has signed up but Firth is optimistic another one or two will be onboard by the new year. "Once we get land access agreements signed with aboriginals down the valley, we will see things falling into place," Firth says. "I think you will see more support from producers and governments." **By ELSIE ROSS**

Aboriginal Rig Partnership Formed

Western Lakota Energy Services Inc. and the Dene Tha' First Nation recently marked a new partnership for their jointly-owned Lakota Rig 6 with a colourful ceremony at Leduc, Alberta.

Apache Canada Ltd. plans to use the rig in the Zama area of northwestern Alberta, Elson McDougald, president and chief executive officer of Western Lakota, said in an interview. The rig is the third rig jointly-owned by the Dene Tha' and Western Lakota.

Up until now, the Western Lakota-Dene Tha' rigs have been working mainly for EnCana Corporation in the Greater Sierra area of northeastern British Columbia. The company initially provided the long-term contracts that enabled Lakota to form partnerships with the Dene Tha' and the Metis Nation of Alberta, said McDougald.

The first two rigs for the Dene Tha' went into operation in December of 2001 and a third for the Metis Nation in February of this year. Western Lakota is currently building another rig for another First Nation that will be doing work for EnCana.

The Dene Tha', based in the Assumption area of northwestern Alberta, were interested in economic development opportunities for their band, said McDougald. "We are committed to train as many people as are interested and my intention is to bring them into management," he said. The company has about 20 aboriginal employees, including three in management.

"There are a lot of opportunities still out there for those who are willing to take the initiative," said Chief Stephen Didzena in an Edmonton Journal article on the new partnership deal. "I'd like to see us develop our own economy to set an example for the other First Nations."

Another Western Lakota rig, Rig 3, is operated entirely by an aboriginal crew and is performing very well, said McDougald. EnCana, he said, has told the company that the Western Lakota aboriginal-owned rigs are their best-performing rigs.

"There is a lot of activity; we can hardly keep up with the inquiries from the First Nations people and some referrals from oil companies as well," said McDougald.

Western Lakota had just begun to build rigs when it was approached by the Dene Tha' and was able to put a program together with EnCana. Through the federal government, the Dene Tha' received a \$1.9 million grant to help the band in its economic development venture.

The rigs are all heavy-duty telescoping doubles good to about 3 300 metres with four-inch pipe. The next rig, which will be similar, will cost about \$4.7 million to build, said McDougald. **By ELSIE ROSS**

