

University of Alberta

**People, Land, and Pipelines: Perspectives on Resource Decision-Making
Processes in the Sahtu Region, Northwest Territories**

by

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Abstract:

This dissertation examines the ways in which three Aboriginal communities in the Sahtu Region of the Northwest Territories are participating in decisions and activities related to non-renewable resource extraction on Sahtu lands. In particular, I examine local involvement in the assessment and regulation of a 1,220 km natural gas pipeline and related infrastructure, collectively termed the Mackenzie Gas Project, currently proposed for the Mackenzie Valley. Overall, this work addresses the conditions under which Sahtu Dene and Métis participation in resource decision-making takes place; it identifies and offers a critique of some of the assumptions inherent in regulatory, environmental assessment, and consultative processes currently in place in the Sahtu region, and argues that while there has been significant progress in establishing avenues for Sahtu Dene and Métis participation in resource decision-making, non-local epistemological underpinnings of governance, regulatory, and environmental assessment institutions and practices can hinder local participation in resource decision-making and may serve to reinforce existing power relationships between proponents, Aboriginal communities, and the Canadian state. The findings of this research suggest that there are several barriers to Sahtu Dene and Métis participation in resource decision-making, including: 1) how environmental impacts are assessed and the associated determination of their ‘significance’ in environmental assessment and management regimes; 2) the naturalization of techno-rational knowledge paradigms and legalistic discourse in environmental assessment and regulatory processes; 3) incongruent communicative practices and norms of appropriate human and human/other than-human relationships between

local Dene and Métis participants and those of large development corporations and governments; 4) divergent perceptions of the landscape; and 5) changing governance structures resulting from the Sahtu Dene and Métis Comprehensive Land Claim. This research contributes to a growing assessment of current participatory and resource co-management processes in the Canadian north, and addresses the call for research reflecting local experiences of various participatory processes in resource management, including the often messy and contradictory positions taken by members of a diverse community.

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Chapter 1

Introduction

Introduction:

Since time immemorial, the Sahtu region of the Northwest Territories (NWT) has been known as a land rich in resources. While many people might imagine Canada's western subarctic as a desolate and inhospitable land, for indigenous peoples who have made this their homeland, the Sahtu has provided adequate resources to afford a comfortable living for thousands of years. After Alexander Mackenzie's 1789 expedition down the river which now bears his name in cartographic records, a vision of wealth and prosperity based on valuable fur commodities was fashioned by European traders. By the twentieth century, with fur prices down and the depopulation of fur-bearing animals due to over-hunting and over-trapping, new commodities of value were sought in oil, gas, and mineral deposits found throughout the Sahtu. In the face of these many and layered 'frontiers' Sahtu Dene peoples have continued to harvest the resources of their lands, and to teach their young people the stories, skills, and knowledge of their Elders. Sahtu Dene peoples have remained fundamentally engaged with a landscape that is seen by them as their means of survival, as a principle source of their identity, and as a web of social and kinship relations of which human beings are merely one component. Sahtu Dene peoples have also managed to voice their concerns regarding resource extraction on their lands in a variety of ways, utilizing an array of methods, and resulting in a range of outcomes.

Yet, while Sahtu Dene and Metis peoples maintain fundamental physical, social, and moral relationships with their landscape, they are likewise engaged in regional and global markets and forms of exchange which require participation in

cash economies and resource production. Over the past eight years, Aboriginal communities in the Sahtu Region have experienced a significant increase in oil and gas activities on their lands. For many local people, the establishment of a sustainable hydrocarbon-based economy can provide opportunities for direct and indirect employment, the procurement of business contracts and partnerships, and increased revenue and resources secured through Access and Benefits Agreements. For others, however, an increase in oil and gas activities brings significant and irreversible changes in local lifeways including a disruption of harvesting practices, animal-human relationships, and the ability to spend time on the land. This tension between protecting an ancient and valued subsistence way of life, and fostering a growing non-renewable resource-based economy exists both within and between people in the Sahtu, contributing to shifting community dynamics and governance structures.

The first time that I saw the Sahtu landscape was from the window of a Canadian North Airlines flight. I had caught the early morning flight from Edmonton to Yellowknife in March 2006, and from Yellowknife I changed planes and headed northward into the territory of the Sahtu Dene. Looking out of the plane window I saw vast expanses of treed lands and an astonishingly large number of lakes and waterways that speckled the snow-covered ground. The landscape was still frozen, even in March, and it appeared silent and still except for the occasional tracks made by various game that were apparent when the plane flew closer to the ground. These tracks appeared to me as beads on a string and seemed to meander around without direction until they disappeared into some distant

space. As we approached Norman Wells, the trees became noticeably smaller and sparser as they rested in the frozen and rocky soil. There was an amazing and indescribable stillness in the frozen landscape. As I would learn on my subsequent trips to the Sahtu, the summer landscape is equally awe-inspiring, yet in ways that differ markedly from those of the ice-covered winter. The vibrancy of the greens, reds, purples, and florescent yellows from the algae in the lakes make for a stunning patchwork of colours that enable one to almost feel the freshness and health of the land. A few cut-lines can be seen, as well as the Enbridge Pipeline right-of-way, and the markings of the winter road, but for the most part the land remains unmarked by industrialization, and the vastness of the land is striking. In the distance, the Mackenzie Mountains, and the few scattered mountains to the East of the Deh Cho stand like statues painted in a cool deep blue.

I had come to the Sahtu as an anthropology graduate student interested in the role that local community members were playing in the assessment and regulation of the proposed Mackenzie Gas Project (MGP). My interest in the proposed MGP began while working as a research consultant for the National Energy Board (NEB) in 2004. During this research I became aware that proponents of the Mackenzie Gas Project and various government agencies had been engaged in Aboriginal community consultations in the Northwest Territories and had been met with both positive and negative responses to the pipeline's proposal. Interestingly, however, despite investing a great deal of time and capital in Aboriginal community engagement, resource companies and

government agencies continued to experience complications in consultation processes (McLafferty & Dokis, 2004). Given that so much time and effort had been put forth by all parties in creating a truly participatory process for the assessment of the MGP, I wanted to understand why this process was sometimes frustrated. Furthermore, I had heard a great deal of talk in the newspapers and other media in the Canadian south that Aboriginal groups in the Northwest Territories fell into two camps, so to speak, regarding the proposed pipeline: those who were eager to engage in business opportunities and who would make a great deal of money off of the proposed project, and those who were adamantly opposed to a pipeline running through their territories because they wanted to preserve a 'traditional' lifestyle. I was not satisfied with this rather simplistic diagnostic account, and wanted to engage in a more systematic analysis of local perspectives of the MGP: what was it that local people were really saying and was what they were saying going to be appropriately considered by decision-makers? So, in March 2006 I boarded a plane to the Sahtu Region to begin nine months of intermittent fieldwork in the Sahtu, and this, along with fieldwork conducted in Calgary and Yellowknife, forms the basis of this work. As it turns out, the dynamics surrounding the decisions being made about the MGP at the local level are indeed even more complex than I ever could have anticipated as I began this research.

This dissertation begins with a general introduction to the significance of this research; what I hoped to accomplish, why it is important, and my general methodological and theoretical underpinnings. Included in this chapter is a

description of the communities that I worked in, and a contextualization of the Sahtu Region within wider geographical, social, and economic arenas. Chapter 2 sets out the general historical background of the Sahtu and of the current regulatory and resource management regime in the Northwest Territories. Chapter 3 describes the Mackenzie Gas Project in detail, and offers an ethnographic account of the Joint Review Panel for the Mackenzie Gas Project (JRP) community hearings, one of the main avenues for local participation in the assessment of the MGP. Chapter 4 discusses what I consider to be significant barriers to Sahtu Dene and Métis participation in resource decision-making including how the significance of impacts associated with extractive projects are considered within environmental assessment regimes, and the associated politics of knowledge integration. Chapter 5 addresses the institutional structures associated with how decisions about land management are made in the Sahtu, and examines changing governance structures under the Sahtu Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA) and the roles that these new institutional lines of authority have in shaping collective land use decisions and local community dynamics. And, finally, Chapter 6 considers the consequences of formal and informal participatory processes in the Sahtu including community consultation and ‘Traditional Knowledge Studies’ as a means of eliciting local views about, and often consent to, extractive projects. The Post-Script offers a short summary of my findings, as well as any additional developments that have occurred with regard to the MGP regulation up until the point of writing.

Research Background:

Discourses of public participation in resource management have become prevalent in the context of environmental assessment in North America, Europe, and increasingly, in developing countries, with significant implications for corporations, governments and lending institutions (Cooper & Elliot, 2000). Public participation, and in the Canadian context consultation with Aboriginal communities, in resource development projects is seen by many developers and centralized governments as a more efficient and cost effective way to manage resources and avoid conflict between large multinational corporations and the needs and concerns of local communities most directly impacted by the effects of development (Nadasdy 2005, Ferguson 1994). To a large extent, public participation in environmental assessment is seen as a linear extension of Western ideals of appropriate governance as participatory democracy; as Webler and Renn have suggested: “public participation is deemed to represent the proper conduct of democratic government, and the legitimacy of decision-making is enhanced through open and fair processes and the accountability of institutions” (Webler & Renn, 1995). Indeed, as Paul Nadasdy has recently pointed out, the participation of local communities in resource management decisions is not only seen as cost effective, but is also intended to lead to the “empowerment of local populations by giving them a meaningful role in planning and implementing projects that will directly affect them” (2005:217).

In the Canadian north, public participation in resource management, and particular roles for the participation of Aboriginal peoples in decisions related to

their lands and resources, have been secured through recently created resource co-management structures and requirements for consultation established through comprehensive land claims. Through this complex constellation of co-management boards, land corporations, quasi-judicial regulatory bodies, and government agencies, local people are expected to have an increased say in the decisions that impact their resources and their lives. Yet, to a large extent, the public (and often the various boards that are responsible for conducting the participatory process) fulfill only advisory roles, and final decision-making authority rests outside of local or even regional jurisdictions. In other words, the state maintains sovereign decision-making authority in development decisions (though certain non-fundamental concessions may be offered in order to maintain institutional legitimation) and, it has been argued, the legitimation of that authority is achieved by the appearance of public participation in decision-making processes. And, there has been a growing and well documented critique of the ways in which participation in participatory processes can serve to produce unanticipated effects including the expansion of state and bureaucratic power and the cooptation of local peoples into foreign development schemes that rarely benefit local populations (Cook & Kothari 2001, Ferguson 1994, Olivier de Sardan 2005).

This concept of institutional legitimation is most widely associated with the work of German political theorist, Jürgen Habermas. In a 1975 book, entitled *Legitimation Crisis*, Habermas touches circuitously on ideas of public involvement in liberal capitalist will-formation. Following Durkheim (1951), Habermas argues

that when members of a society experience structural alterations that are beyond the range of acceptable tolerances, or that are incompatible with normative structures and goal values, social integration is threatened, and we can speak of 'a Legitimation Crisis.' I would argue that this is precisely what occurred in Canada during the late 1960's and 1970's when increased attention and public education surrounding questions of Aboriginal rights came to the forefront of the Canadian political scene with events such as the White Paper (and associated Red Paper) in 1969, the James Bay Hydro Project and James Bay Northern Quebec Agreement in 1975, the Berger Inquiry in 1977, and the entrenchment of 'existing' Aboriginal rights into Section 35(1) of the Canadian Constitution in 1982. Yet, the incorporation of Aboriginal rights into the Canadian national interest is only partially complete, as evident by the court's approach to the justifiable infringement of Aboriginal rights as laid out in court decisions such as *R. v. Sparrow*, and *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*. In these rulings, constitutionally entrenched Aboriginal rights can be infringed, so long as that infringement can be met by a test for justification. Thus, while Aboriginal rights are given legal priority (i.e. they are constitutionally protected rights), they can still be infringed if, for example, the need for the infringement is in the national interest.

This justifiable infringement of constitutionally protected Aboriginal rights has significant consequences for Aboriginal peoples, particularly when their rights may conflict with projects that the state deems necessary for economic 'development'. In liberal capitalist states, the competitiveness of the domestic

economy is ensured, to a large extent, by political means that serve “above all to maintain the general conditions of production which make possible market regulated sustainability or expansion” (Habermas 1975:21). In the event of a Legitimation Crisis, this coupling of the economic and political roles of the state is realized as an essential contradiction within the social system. That is, within a liberal capitalist state, there is a normative expectation of some form of participatory democracy that is supported by the will of the people and independent of capitalist production, but also a substantial state role in the creation and maintenance of the conditions of production and market regulation. Here, in avoidance of a dissolution of social integration and loss of mass-loyalty, legitimation of governing institutions must be re-established through a political compromise whereby the state gives the appearance of minimal application of institutions and procedures that are democratic in form to maintain the requisite level of mass public loyalty; but the state must also maintain the ability to exercise sovereign administrative decisions independently of its citizenry in order to fulfill its economic role. As Habermas puts it:

“The state apparatus must fulfill its tasks in the economic system under the limiting condition that mass loyalty be simultaneously secured within the framework of a formal democracy and in accord with ruling universalistic value systems” (1975:59).

When questions of system legitimation, or what Habermas would call a ‘Legitimation Crisis’ arise, they cannot be adequately integrated by the political system on its own accord, but must be seen as legitimated by politically

independent institutions or institutions symbolically representative of the normative structures of society; here Habermas points to the symbolic use of public hearings, expert judgments, and judicial decisions as a mechanism of securing mass loyalty (1975: 69).

Michel Foucault makes a similar argument regarding the fundamental link between specialized knowledge, power, and the nation-state (1979, 1980). In his analysis of a variety of topics including the prison, sexuality, madness, and judicial forms Foucault has shown that the emergence of specialized knowledge is enmeshed in the problems and practices of power, the social government, and the management of individuals. For Foucault, “the exercise of power creates and causes to emerge new objects of knowledge and accumulates new bodies of information...The exercise of power perpetually creates knowledge and conversely, knowledge constantly induces effects of power” (1990:xvi). This also holds true in the art of government, or what Foucault calls governmentality, which he considers to be “the ensemble formed by the institutions, procedures, analyses, and reflections, the calculations and tactics that allow the exercise of this very specific albeit complex form of power, which has as its target population, as its principal form of knowledge political economy, and as its essential technical means apparatuses of security” (1990:220).

What Foucault and Habermas are suggesting, I think, is that vast domains of daily life are transformed and evaluated by specialists, experts, and others who are said to have the appropriate and requisite knowledge to draw conclusions or inferences relative to the subject at hand. When Regulatory processes associated

with resource development in the Northwest Territories are examined, it is evident that the role of specialists, expert judgments, and technocratic artifacts are paramount in identifying and assessing the impacts of industrial projects. Indeed, the creation of new co-management boards and regulatory processes has developed into a resource management industry in the Canadian north, employing hundreds of consultants, lawyers, and experts. These experts, and the complex apparatus and forms of discourse within which they are situated, are constructed around specific paradigms of thought and associated values, such as the trust placed in certain processes of scientific rationality and the perceived benefits of industrial development.

One of the complications surrounding the hegemonic nature of expert judgments is that they limit the ability for other types of knowledge and knowledge expression to form a basis of critique or truth-making. In an article entitled *Narration as a Communication Paradigm*, Walter Fisher (1984) suggests that particular forms of reasoning, as conceived and practiced within EuroAmerican technorational regimes, leave little room for the consideration of public or lay expressions of knowledge or alternative conceptions of truth. For Fischer, the base of Western argumentative constructs presupposes: “(1) humans are essentially rational beings; (2) the paradigmatic mode of human decision-making and communication is argument – clear-cut inferential structures; (3) the conduct of argument is ruled by the dictates of situations – legal, scientific, legislative, public and so on; (4) rationality is determined by subject matter knowledge, argumentative ability, and skill in employing the rules of advocacy in

given fields; and (5) the world is a set of logical puzzles which can be resolved through appropriate analysis and application of reason conceived as an argumentative construct”(Fisher 1984:4). Fischer proposes an alternative means of conceptualizing human communicative reasoning: the narrative paradigm. For Fischer, the narrative paradigm presupposes that: “(1) humans are essentially storytellers; (2) the paradigmatic mode of human decision-making and communication is ‘good reasons’; (3) the production and practice of good reasons is ruled by matters of history, biography, culture, and character; (4) rationality is determined by the nature of persons as narrative beings; and (5) the world is a set of stories which must be chosen among to live the good life in a process of continual recreation” (1984:8). In this way, narration considered as an instrument of reason offers a descriptive account of human experience, choice, and action rather than an evaluation of arguments based upon technorational standards of inference and formal logic. Importantly, Fischer argues, the narrative paradigm does not negate the use of technorational forms of argument, but rather, subsumes them as one of the many stories that have something to say about the world.

If we suspend for a moment the idea that technocratic artifacts associated with assessing environmental impacts (i.e. Environmental Impact Statements) are not privileged forms of truth, we can consider them as one of the many narratives told, alongside those of local people, about the effects of industrial development. Scott Rushforth demonstrates that Sahtu Dene peoples are often skeptical of non-local ‘expert’ knowledge of the subarctic because of the “widespread lack of

personal experience in the north” (1994:339). For many Athapaskan peoples, primary experiential knowledge (Rushforth 1992), knowledge acquired through generations of living on and intimately interacting with the land and animals (Brody 1981), knowledge acquired through dreams or other mediums (Riddington 1990), and knowledge acquired through the telling and hearing of stories (Blondin 1990) are considered in their own right as valuable as technocratic forms of evidence. My research seeks to explore how local people who are holders of particular forms of knowledge acquired through the means listed above, and through generations of living in intimate relation with the land, are participating in assessment processes that are constructed around very specific technocratic forms of evidence and rationality through a specific context: the proposed Mackenzie Gas Project.

Research Questions:

This research investigates the ways in which three Aboriginal communities in the Sahtu Region of the Northwest Territories are participating in decisions and activities related to non-renewable resource extraction on Sahtu lands. Specifically, I examine local involvement in the assessment and regulation of a 1,220 km gas pipeline and related infrastructure, collectively termed the Mackenzie Gas Project, or MGP, currently proposed for the Mackenzie valley. The three main lines of inquiry for my research include: 1) an exploration of the ways in which Sahtu Dene and Métis people engage in consultation, regulatory, governance, and environmental assessment processes surrounding proposed extractive industries, particularly within the contexts of public and community

hearings; 2) an analysis of how discourses surrounding experiences of impacts of non-renewable resource extraction are constructed and produced locally among Sahtu Dene and Métis people, and through multi-regional environmental assessment regimes; and 3) an examination of changing governance, socio-economic, and socio-cultural systems as a result of the implementation of comprehensive land claims and associated resource co-management institutions, and the potential transition to a hydro-carbon based economy.

The development of a pipeline through the Mackenzie valley and the associated construction, transportation, and exploration infrastructure that follows would undoubtedly have considerable impacts on Aboriginal economic, social, and political systems throughout the Northwest Territories (Able 1993, Elias 1995, Espiritu 1997, Smith 1997, Wilson 1986). How Aboriginal communities in the NWT are affected by oil and gas activity and how they are participating in decision-making processes concerning resource development is an emerging area of interest for scholars and policy makers alike.¹ In Canada there has been very limited oil and gas production north of the 60th parallel due to marketing, transportation, logistical and other constraints (Zavitz 1997).² Drilling through ice, getting supplies and personnel to exploration sites, and the exportation of oil and gas to southern markets are among a long list of project challenges. And,

¹ For example, there has been an increased focus on the study of the effects of oil and gas development on circumpolar peoples including the 2002 recommendation of Arctic Council ministers that there be an assessment of oil and gas activities in the Arctic by the Arctic Marine Assessment Programme, which culminated in the Arctic Council Oil and Gas Assessment, released in 2008.

²A few exceptions to this are the Norman Wells oil field in the Sahtu which is operated by Imperial Oil, the Bent Horn oil field on Cameron Island which was operated by Panarctic Oils from 1985 to 1986, the Ikhil field/Inuvik Gas Project which is owned equally by the Inuvialuit Petroleum Corporation, AltaGas, and Enbridge pipelines.

while there has been extensive exploration for oil and gas in the Canadian north, including over one hundred and seventy exploratory test wells at onshore locations in the Mackenzie Delta, and another seventy off-shore wells in the south Beaufort Sea, and additional wells in the Arctic Islands and central Mackenzie valley (Fast, Mathias & Banias 2001), there is still no licensed means to transport oil or gas to markets in the south, and future production is likely contingent on the approval and construction of the Mackenzie Gas Project or another similar undertaking.

In the 1970's, when a gas pipeline down the Mackenzie Valley was first proposed, questions of Aboriginal title to the land have not yet been resolved, and there was no formalized means for Aboriginal people to participate in land-use planning or resource decision-making processes, though Justice Berger's Inquiry did make extensive use of Aboriginal people's testimony at community and public hearings. Now, however, newly implemented land claim agreements have established resource co-management regimes and cooperative decision-making bodies that are intended to provide a space for Aboriginal peoples and political bodies at decision-making tables. A growing emphasis on public participation in environmental assessment, and legal requirements for Aboriginal community consultation in decisions related to Aboriginal lands and rights has promised a more inclusive voice for northern Aboriginal peoples in resource decision-making processes. Presently, processes such as the inclusion of what has been politically categorized as 'traditional ecological knowledge' in scientific and management regimes, and legal requirements for consultation by government and industry in

projects on or near Aboriginal lands have provided Aboriginal communities with state-sanctioned mechanisms for addressing developers, government officials, and scientists. Nevertheless, perceptions of consultation and public participation processes, resource co-management, and industrial impacts are often differently perceived by those who do not participate in Aboriginal lifeways (Adelson 1998, Brody 1981, Cruikshank 1998, Rushforth 1992), and the efficacy of integrating indigenous knowledge and political systems and Euro-American institutional and ideological apparatuses has been seriously questioned by anthropologists working in the Canadian north and elsewhere (Escobar 1999, Ferguson 1994, Nadasdy 2003, Morrow & Hensel 1992). For example, it has been well established that the intimate relationship between Aboriginal peoples and their environment encompasses a host of cultural, spiritual, and cosmological relationships that are not easily translated into quantifiable, techno-rational categories (Abel 1993, Adelson 1998, Basso 1996, Blondin 1990, Palmer 2005, Preston 1975). Anthropologists have shown that the integration of traditional knowledge and management regimes often removes traditional knowledge from particular ways of viewing the world into codified and predominantly western categories that may not fit with original intent or meaning (Brody 1981, Morrow & Hensel 1992, Nadasdy 2003). Similarly, legal discussions of Aboriginal rights, title, and governance typically rest in Euro-American discourses of property, ownership, and longstanding beliefs about human and societal development that may not coincide with Aboriginal views of land or entitlements (*c.f.* Asch 1997, Bourdieu 1987, Culhane 1998, Derrida 1992, Jackson 1984, Rose 1994, Spivak 1998).

This research contributes to a growing assessment of current participatory and resource co-management processes in the Canadian north (*cf.* Able 1997, Armitage 2005, Berkes 1999, Christensen & Grant 2007, Ellis 2005, Kofinas 2005, Stevenson 1996). Paul Nadasdy (2003) and others (*cf.* Ferguson 1990, Mulrennan & Scott 2005, White 2002, 2006), have offered an excellent discussion of the ways in which modern land claims and co-management arrangements often give the appearance of eliciting Aboriginal people's input into resource and land management decisions, but also effectively extend the capacity of nation-states to govern land and peoples. Graham White has demonstrated how cooperative management models structured along Euro-Canadian lines of evidence, inquiry, and examination of testimony are incongruous with Aboriginal people's forms of decision-making, governance, and thought (2006). Harvey Feit, on the other hand, reminds us that public participation in impact review processes and co-management institutions can channel the demands of groups affected by resource developments and that "contestation by consulted groups often emerges in and expands beyond the context of the participatory regime" (2005:269). Indeed, it could be argued that the comprehensive land claim process in Canada began in just this manner.³

A main consideration of this research involves an examination of institutional decision-making structures established as a result of comprehensive land claim

³ The James Bay Hydro-electric development project was announced in 1971 without consultation with the James Bay Cree or the Inuit of Quebec; however, protests surrounding this development contributed to the establishment of the James Bay and Northern Quebec Agreement which is considered to be the first modern land claims settlement in Canada (Mulrennan & Scott, 2005). Similarly, the report of the Berger Inquiry is considered to have contributed to the comprehensive land claim process in the Northwest Territories (*cf.* Berger 1977, Auld & Kershaw 2005).

agreements, and the experiences and negotiation of these processes by local peoples. More specifically, I examine how participation in oil and gas decision-making practices is framed by very specific cultural processes, and the social construction and evaluation of associated impacts. Indeed, local discourses surrounding the impacts and benefits of non-renewable resource extraction do sometimes conflict with environmental assessments attempting to predict the effects of large scale industrial projects. In the Sahtu, this conflict exists even when newly created environmental assessment regimes, established under comprehensive land claim agreements, fall under the rubric of resource co-management. As a result of the creation of complex bureaucratic institutions under land claim agreements and recent case law upholding Canada's fiduciary duty to consult with Aboriginal peoples regarding development decisions that have the potential to infringe upon rights and lands, Aboriginal peoples have had to adopt new and perhaps uncharacteristic ways of speaking, making decisions, and organizing in order to interface with industry and various levels of government (Asch 1984, Cruikshank 1998, Nadasdy 2003). Ways in which decisions are made, and how positions on resource development are taken, are influenced by multiple and complex factors neither wholly novel, nor wholly traditional (*cf.* Gupta 2003, Appadurai 2003). This weaving of traditional and novel ways of participating in decision-making processes allows interactions between Aboriginal communities, government, and industry representatives to be sites of creativity and contestation, continually redefining conceptions of knowledge, industrial impacts, rights, governance, and models of appropriate development (*cf.* Lavie 1996). My research will start from interactive sites of

participation in resource decision-making processes in an exploration of not only present conceptions of harms and benefits associated with the proposed MGP, or power struggles between local communities and trans-local development schemes, but also as avenues for resourcefulness and resistance utilized by local people to assert their own conceptions of the world. Indeed, several scholars have indicated that studies involving the ‘impacts’ of resource development can sometimes neglect to consider the ways in which Aboriginal peoples are active (though perhaps not politically equal) participants in larger socio-political processes, often with unanticipated consequences (*cf.* Brody 1981, Feit 2005, Nadasdy 2003, Riddington 1988). That is, these kinds of resource development projects, and their assessment and regulation, are not simply imposed upon Sahtu Dene peoples without their will (*cf.* Ferguson 1990). Nonetheless, these development projects and associated regulatory and conceptual apparatuses have significant effects, not only in terms of ecological impacts, but in terms of social and political ones as well. This research addresses the call for research reflecting local experiences of various participatory processes in resource management, including the often messy and contradictory positions taken by diverse community membership. It is no longer the case (if it ever was) that all people in the Sahtu are opposed to industrial development on their lands and it is important to bear in mind that Sahtu Dene and Métis peoples can and have been proponents of particular industrial projects. The ways in which individual actors and local institutions manoeuvre the economic, social, and political opportunities and constraints available to them in the face of large-scale industrial projects form an important component surrounding how decisions about land use and

resource extraction are made. My research will explore how changing governance, social, and economic institutions influence the ways in which decisions about resource exploitation and land use planning are made within and between communities in the Sahtu.

Nevertheless, there are some commonalities in the participatory practices of Sahtu Dene and Métis peoples, and important relationships and fields of power embedded in participatory structures that I will outline through the course of this dissertation. Statements made in the context of public participation processes contain multiple and shifting meanings that are rooted in particular histories, past events, experiences with the nation-state, and cultural values. In other words, I would argue that what is said in the context of public participation processes are not only deeply felt expressions of concern over industrial impacts, or struggles to influence power structures (though, these are certainly evident as well), but they are also expressions about what it means to be Dene.

The proposed MGP is one of the largest industrial projects ever contemplated for the Canadian north, and the associated environmental assessment and regulatory review reflects the magnitude of the project itself, and of its potential effects. My research undertakes to document the MGP decision-making process as it relates to three Dene and Métis communities within the Sahtu Settlement Area. Given the transboundary nature of both the impacts of the MGP, and of the project itself, the Sahtu Dene and Métis, of course, are not the only parties participating in the MGP's regulation or assessment. This presents an interesting perspective

through which to view interactions between local communities, multi-national development regimes, and various layers of territorial, and federal government. In many ways the assessment of the MGP has put the recently implemented regulatory structure in the Northwest Territories to its ultimate test, and the stakes have never been higher for all parties involved.

Research Methodology:

I began my research in the Sahtu on a chilly day in March of 2006. I had traveled to the Sahtu to view a series of public hearings held as a part of the Joint Review Panel for the Mackenzie Gas Project environmental impact assessment. Finding my way to the Sahtu, and finding places to stay in very small communities on a graduate student's budget was not an easy task. However, with help from a member of my Ph.D. committee who was conducting work in Déline, and a little luck, I was able to locate and book tickets on the small airline that serviced the communities, and, more importantly, to find families to stay with in each of the communities I visited. I would later learn that people in Sahtu communities are tremendously generous and would often open their homes graciously to travelers, students, and researchers.

During my initial visits to the communities, I met with community leadership and began a sustained process of relationship building with community leaders and members at large. In January 2006, I applied for and received ethics approval for my research from the University of Alberta Arts, Science & Law Research Ethics Board (ASL REB) (License No. LKP#1096). The ASL REB ethics certification was

renewed the following year and expired on January 15, 2008. Under the *NWT Scientists Act*, I was also required to obtain a Northwest Territories Research License from the Aurora Research Institute. As part of the application for a Northwest Territories Research License, I was required to consult with the respective communities with whom I was proposing to work. I engaged in discussions about my research project with leadership in all three communities, who were all supportive of my project. Various community agencies in each community approved the licensing of my research project,⁴ and three Northwest Territories Research licenses were issued to me by the Aurora Research Institute for this research project: License No. 14063 in 2006, and License No. 14103 and 14250 in 2007.

In all three Sahtu communities, I worked alongside community agencies on projects related to my research that would prove mutually beneficial. In Déline, community leadership requested that I review and comment on Traditional Knowledge Studies that had been conducted in the Déline District for license and permitting processes. I reviewed these studies and in October 2006, I submitted a report to the Déline Land Corporation outlining the current status and content of Traditional Knowledge Studies, and my perspectives on how these kinds of studies could be improved for future licensing processes. In Tuli't'a, a number of

⁴ Under the Aurora Research Institute's NWT Research Licensing process, all local community bodies (i.e. Hamlet governments, Chief and Council, Dene and Métis Land Corporations, and Renewable Resource Boards) are made aware of the request for a research license, and are asked to contact the Aurora Research Institute should they have any concerns about the proposed research. Notification is often made by e-mail, and electronic posting, and by fax. Community bodies are given a period of a few weeks to respond to the Aurora Research Institute, after which time the Aurora Research Institutes contacts the community bodies to check on the status of the application. Documentation of consultation with communities is a required component of any NWT Research License application.

community political bodies were interested in a semi-formal study on community perspectives of consultation processes, an analysis of how consultation processes might be improved from community members' viewpoints, and the development of a community-driven consultation plan and protocol. A community consultation report and recommended consultation plan and protocol were delivered to Dene and Métis Land Corporations in Tuli't'a, and the Tuli't'a Band Chief and Council in February 2007. In Colville Lake, the community leadership indicated that they were interested in utilizing the preliminary findings of my research to support their submission to the Joint Review Panel for the Mackenzie Gas Project final hearings. After reviewing my preliminary findings with the community at large, a report was drafted for the Ayoni Keh Land Corporation and Behzi Ahda First Nation in October 2007 for use and incorporation into their Joint Review Panel submission.

After receiving ethics approval and my Northwest Territories Research License, I commenced field work in the Sahtu communities of Déline, Colville Lake, and Tuli't'a. While in each community, I employed traditional anthropological research methodology in the form of participant observation in everyday community life. I kept detailed notes in a field journal of my daily experiences, thoughts, reflections, observations, and conversations. I also conducted informal interviews in each community with various community members including governing officials, Elders, local land users, teachers, youth workers, members of resource management boards including Renewable Resource Councils, and others. I was careful to interview both male and female members of each

community in order to address any potential gendered experiences or perceptions of industrial impacts, and to gain a further understanding of the gendered nature of land use activities and division of labour. I obtained informed consent from research participants prior to any interview process, and asked for consent to record the interview. Many interview participants agreed to the recording of their interviews, and copies of the interview recording were given to interview participants, and to their families upon their request. I also requested and received permission from community leadership to attend and observe community gatherings and meetings such as consultation sessions with oil and gas or mining companies, and other community decision-making forums. I was also given permission to attend the Sahtu Secretariat Incorporated General Assembly held in Déline in September 2006. Because many consultation sessions, Access and Benefits negotiations, and industry trade shows were held in Calgary or Edmonton, I was often able to meet and interview people from the Sahtu in that context. On numerous occasions I picked people from the Sahtu up or dropped them off at the airport, and I became very familiar with the places that they liked to stay and eat at 'in the big city'.

Each community had their own unique approach as to how they wanted to see my research proceed, and I respected the wishes and diverse levels of comfort with various research methodologies expressed by community membership and leadership. For example, the community of Déline has considerable experience with researchers and research methodologies through their involvement in the Canada-Déline Uranium Table. Several community members have worked as

research collaborators in the areas of translation, transcription, and general consulting, and as community researchers on several projects. I was directed to one local individual who had experience in community research and translation who worked as a community research assistant with me. I was told very early on during my research in Déline that the community wanted to hold two focus groups: one for men and one for women so that men and women would feel comfortable speaking about their respective spheres of knowledge. In addition to my other methodologies, I held two separate focus groups in Déline: one for men, and one for women, both in September 2006. The communities of Tuli't'a and Colville Lake however, did not express an interest in focus groups, but indicated to me that they were much more comfortable conducting one-on-one interviews. Individuals with translation experience in Tuli't'a and Colville Lake were hired as translators during semi-formal interviews; however neither individual had prior formal experience as a community researcher.

As part of this research I attended all of the Joint Review Panel for the Mackenzie Gas Project (JRP) community hearings held in the Sahtu Region in March and April 2006. Narratives from the JRP community hearings and my fieldwork are utilized to demonstrate Sahtu Dene and Métis experiences and expressions of the impacts of non-renewable resource extraction both locally and on a cumulative scale, and what it is that Sahtu Dene and Métis people say about how 'big' decisions about the land ought to be made between human beings in the context of the everyday. In this way, the statements made by Sahtu Dene and Métis people in the JRP process are contextualized against a background of local norms

and expectations about how people come to know the things they know, how this knowledge comes to be regarded as true, how knowledge is to be appropriately communicated to and considered by another human being, and how these variables intersect with current land use planning and environmental assessment institutional practices.

In addition to attending the JRP hearings in the Sahtu, I attended one JRP hearing in Yellowknife, and one JRP hearing held in Edmonton in March 2007; this was the only JRP hearing held in southern Canada. In order to gain an understanding of the Northwest Territories regulatory review process, and the day to day operation of co-management boards, I spent a week at the Mackenzie Valley Environmental Impact Review Board (MVEIRB) offices in Yellowknife in February 2006 interviewing staff and going through archives and open environmental assessment documents and recordings available in the MVEIRB registry.

Seeing that this research examines how the construction and analysis of industrial impacts in current environmental assessment practices are framed by very specific cultural processes, I also engage Sahtu Dene environmental assessment discourses, and explore the ways in which local experiences and expressions of industrial impacts reflect the complex physical, social, and moral relationships between Sahtu Dene peoples and their land. My understandings of the ways in which Sahtu Dene and Métis people view, talk, and interact with their landscape, and participate in environmental assessment processes, stem from a witnessing of what people in three Sahtu communities do upon their land:

the inter-related forms of practice conducted upon the landscape, how people talk about their relationships with the land in the context of everyday life, how local people talk about their relationships with the land in the face of increased non-renewable resource extraction activities, and how these discourses can sometimes conflict with environmental assessments attempting to predict the associated environmental effects.

Research Context:

The Sahtu Settlement Area encompasses large parts of the central Mackenzie valley including parts of the Mackenzie River, Mackenzie Mountains and Great Bear Lake. The Sahtu Region is characterized by long dark winters and relatively warm summers, with the average daily temperatures in January between -20 and -30 degrees Celsius, and summer temperatures averaging 10 to 15 degrees Celsius in July (Auld & Kershaw 2005:33). It is not uncommon for winter temperatures in the Sahtu to drop below -40 degrees Celsius in the winter. Winter is also remarkably dark, with mornings and evenings draped in a kind of dream-like twilight, and only approximately three and a half hours of direct daylight (Auld & Kershaw 2005:32). Conversely, summers are relatively bright with almost twenty-four hour daylight. While the vegetation and ecozones vary from place to place within the Sahtu Region, most of the vegetation consists of black spruce, dwarf birch and willow, tamarack, cottongrass, lichen and moss, and some white spruce and occasionally aspen. The Sahtu is home to 30 watershed regions (Auld & Kershaw 2005:37), with most waterways freezing by late November, and breaking up again between May and July.

The Sahtu is home to five communities including Colville Lake, Déline, Fort Good Hope, Norman Wells, and Tuli't'a which, as of 2006, have populations varying from between 126 and 761 people. With the exception of Norman Wells –which was established largely as a result of oil fields operated by Imperial Oil –all of the communities are 91% or more Dene or Métis.⁵ All of the communities are accessible by aircraft year-round, and can be reached by winter road from approximately the end of December to the middle of April, and by boat when the waterways are clear of ice. There is daily flight service to Norman Wells from Yellowknife, and flight service from Norman Wells to the remaining communities is very regular with Déline, Tuli't'a, and Fort Good Hope receiving flight service every day of the week with the exception of Sundays, and daily flight service to Colville Lake on weekdays.

My main field sites were the Sahtu communities of Déline, Tuli't'a, and Colville Lake. I decided to conduct field work in three communities in the Sahtu Region for several reasons. By conducting multi-sited fieldwork, I was able to gain insight into similarities and differences with regard to how each community is participating in the assessment and regulation of resource development within its territories. While each community falls under the Sahtu Dene and Métis Comprehensive Land Claim, and shares a similar formal governance structure, each community is also unique in its previous experiences of outside incursions on their lands. For example, while conducting fieldwork in Déline, I found that oil and gas activities have been relatively recent in the Déline District, while oil

⁵ Statistics are from the 2006 Community Profiles compiled by Statistics Canada.

and gas activities in Tuli't'a and Colville Lake have been more intensive and longer in duration. In addition, while all three communities have emphasized the paramount importance of a land-based subsistence economy, and have expressed similar frustrations surrounding present governance institutions and structures, there are several factors that have influenced participation in resource decision-making including: perceptions of costs and benefits relative to the location of the proposed project, the ownership of sub-surface rights, the establishment of one comprehensive governance body or, alternatively, the establishment of separate governance bodies for Dene and Métis populations, and the duration and amount of exposure to resource development activities on lands near the respective community. Comparison between three Sahtu communities has also allowed for an examination of additional factors such as mobility and interconnectedness between communities, the circulation of knowledge and information, and the role of leadership (both formal and informal) in community decision-making practices.

The community of Déline is located near the mouth of the Bear River on the north western shore of Keith Arm on Great Bear Lake. Déline is one of the largest communities in the Sahtu, with a population of 524, with 495 residents identifying as Aboriginal people (Statistics Canada 2006). The community is located along the shores of Great Bear Lake, and the layout of the community reflects the importance of the lake to daily activities. In summer, people keep boats along the shoreline, and in the winter, the lake makes for an effective roadway for both cars and snowmobiles. While all people in the community live

in fairly modernized housing, many people continue to maintain tepees or other shelters for smoking and preparing fish, meat, and hides. Most homes use a mixture of diesel furnace and woodstoves for heat. Language retention rates are high in Déline, with 95.8% of Dene residents reporting that they speak Slavey in 2004 (GNWT 2007), and 58% of residents reporting that they speak Slavey as their primary language at home (Statistics Canada 2006).

The main employment sectors in Déline include government, health, social services and education, and, as of 2006, the labour force participation rate was 59.2% with the average personal income around \$30,754 (GNWT 2007). The Land Corporation also owns subsidiary businesses including the Grey Goose Lodge, and a technology and management company called Techiq Ltd. There are also a few private businesses including a chip stand, and general contractors. The latest Government of the Northwest Territories statistics reveal that in 2003, 42% of the population in Déline hunted and fished, and 12% of the population trapped (GNWT 2007). Infrastructure in Déline includes an airstrip and small airport, a dump, a power generation station, government offices, post office, school, community hall, hockey arena, health centre, community dock, community learning centre, and an RCMP detachment. Water is delivered by truck to holding tanks in private dwellings twice per week, and sewage is removed from holding tanks twice per week as well. There are two grocery stores in Déline, the Northern Store and the Great Bear Co-Op. Both stores sell a variety of goods including groceries, gear and supplies, and some clothing, all at northern prices.

Déline has a long and rather troubled history with uranium mining, with several individuals from Déline employed at Port Radium prior to its closure in the 1980's. During the course of my fieldwork, Alberta Star, a prospecting company, was proposing to explore and produce uranium in 2006, however after complications with the regulatory review process, significant community concerns, and a drop in the price of uranium on the world markets, Alberta Star withdrew their proposal. Déline has had limited experience with oil and gas exploration, and there are currently no exploratory or producing wells in the Déline District, though there has been seismic exploration activity in the area.

The community of Tuli't'a is located at the intersection of the Mackenzie and Bear Rivers. Meaning 'where the river's meet' in Slavey, Tuli't'a sits just beneath the shadows of Bear Rock, a significant place in Dene oral history and teachings. Tuli't'a is slightly smaller than Déline, with a population of 505 persons, 460 of whom identify as Aboriginal people (Statistics Canada 2006). Again, the layout of the community reflects the importance of the two rivers, and the majority of the hamlet is built high on the banks of the Mackenzie river. From the townsite one can see the Mackenzie Mountains far to the west, an important harvesting area for the Mountain Dene. The Bear River provides a fairly easy passage to interior lakes such as Kelly Lake, Willow (Brackett) Lake, and Lennie Lake, as well as to the community of Déline. In years past, Tuli't'a served as a summer gathering place for Dene peoples all over Denendeh, with people traveling to meet in the fairly centralized location. Today, in the winter, the winter road connects Tuli't'a to Déline to the east, Norman Wells to the north, and Wrigley to the

south. Language retention in Tuli't'a is not as strong as in Déline, perhaps as a result of the community's long contact history with traders up and down the Mackenzie river, with 47.3% of individuals reporting in 2004 that they speak Slavey (GNWT 2007), and 9% reporting speaking Slavey at home (Statistics Canada 2006).

As is the case in Déline, the main employment sectors include government, health, social services, and education. However, there are a number of private and land corporation businesses that provide a variety of services to oil and gas industries including MacKay Range Oilfield Services, and three general contracting and slashing companies. The Tuli't'a Hotel is owned by the band, and there is one private bed and breakfast that is privately owned. In 2006 the labour force participation rate was 59.4%, and the average personal income was \$33,045 (GNWT 2007). According to the latest Government of the Northwest Territories statistics, slightly more people in Tuli't'a participated in subsistence activities in 2003 than Déline respondents, with 52.1% of Tuli't'a residents reporting that they hunted or fished, and 17% reporting that they trapped (GNWT 2007). Infrastructure in Tuli't'a is comparable to Déline, including an airstrip and small airport, dump, power generation station, government offices, post office, a new school built in 2007, a hockey arena and community hall, health centre, community learning centre, and RCMP detachment. Like Déline, water is delivered by truck to holding tanks twice a week, and sewage is similarly removed. A new Northern Store was completed in Tuli't'a in 2006, and while

there is no competition from a Co-op store, prices for goods sold in the Northern Store in Tuli't'a tend to be slightly less expensive than prices in Déline.

The Tuli't'a District has a long history of experience of oil and gas exploration and production, beginning with the Norman Wells oilfield in 1921. After the signing of the Norman Wells Proven Area Agreement in 1944 by Imperial Oil and the federal government, Imperial oil has had the exclusive right to drill for petroleum and natural gas, and the federal government, as a partner in the project, receives a percentage of the overall production. In 1985 a pipeline was built by Interprovincial Pipelines Ltd. (now Enbridge Inc.) from Norman Wells to Zama, Alberta. While the Imperial Oil field is located in and around the town of Norman Wells, some 72 km north, Norman Wells and the Imperial Oil field are included in the Tuli't'a District under the Sahtu Dene and Métis Land Claim Agreement. In addition to the long-standing production of Imperial Oil, several other companies have been active near Tuli't'a including Husky Oil, International Frontier, Northrock Resources, and EnCana Corporation. Husky's (and Northrock's) Summit Creek activity has seen several successful exploration wells drilled and the Summit Creek reserve, located approximately 55 km southwest of Tuli't'a, is reported to be a significant discovery. Several mining prospecting companies are also active in the Mackenzie Mountains and downstream of Tuli't'a at a location known by locals as the "smokes", a burning coal seam located on the west side of the Mackenzie river, approximately 4 km south of the community.

The community of Colville Lake is commonly referred to by many local people as the most 'traditional' community in the Sahtu. Officially, the community was not

established until 1962 when oblate missionary Bern Will Brown established a Roman Catholic mission at the present day town-site and several families moved to the community to re-establish a trapping economy. However, Colville Lake has been an important fishing and ptarmigan harvesting location for Dene peoples since time immemorial, and the community's Dene name, K'áhbamitué, meaning ptarmigan net, reflects its importance as a harvesting area. Colville Lake is also the smallest community in the Sahtu, with a 2006 population of 126 residents, 115 of whom identify as Aboriginal people (Statistics Canada 2006). The community is nestled on a bay on the south side of Colville Lake on a stretch of land that separates Colville Lake from Lake Beloit. Most of the structures in the community run along the lakeshore, again reflecting the importance of the lake as a travel route, for fishing and setting fish nets, and for collecting water. Language retention in Colville Lake is less than in Déline, but higher than in Tulit'a, with 65.3% of Colville Lake residents reporting that they speak Slavey (GNWT 2007). Colville Lake is considered to be one of the most isolated communities in the Northwest Territories, mostly because the community is land-locked and is inaccessible by boat or barge. Thus, food, fuel and other supplies must either be flown into the community, or, come on the winter road during its seasonal operation from the end of December until mid-April. While most people now travel to and from the community via aircraft, people also travel by vehicle or occasionally by snowmobile on the winter road that connects Colville Lake to Fort Good Hope. It is commonly known by people in the Sahtu that air travel into and out of Colville Lake in the fall time is often problematic as there is a dense fog caused by the freeze-up of Colville Lake and Lake Belot because they freeze at

different times due to their unequal depth. Indeed, one late October I was scheduled to fly out of the community on a Thursday, and was not able to travel until the following Tuesday.

As is the case in Déline and Tuli't'a, the main employment sectors in Colville Lake include government, health, social services, and education. There is a small hotel that is owned and operated by the band, and Bern Will Brown operates a lodge aimed at sports hunting and fishing. Statistics are not available for individuals employed in oil and gas-related activities, however, there have been some local people who have worked seasonally as environmental monitors or slashers on seismic lines and drilling locations. In 2006, the labour force participation rate in Colville Lake was 66.7%; statistics on income levels are not available for Colville Lake (GNWT 2007). Trapping continues to play an important role in the Colville Lake economy, with 27.5% of residents reporting that they trap; 58.8% of residents also report that they hunt and fish (GNWT 2007). Infrastructure in Colville Lake reflects the size and location of the community. Colville Lake has one office for its Band and Land Corporation offices, and a smaller structure for the government of the Northwest Territories offices. There is a small airstrip (but no airport), dump, power generation station, community arena, community learning centre, wireless internet access, and a school. Bern Will Brown operates a small museum and a church, but these are seldom used by local community members. There is no RCMP detachment in Colville Lake, though there is a small log cabin that RCMP officers use when they fly into the community from Fort Good Hope.

One of the most striking features of Colville Lake is that there is no water delivery or sewage removal services. Community residents continue to haul their water out of Colville Lake for all of their water needs. Sewage is deposited in thick garbage bags that line toilets and is placed outside once per week for pickup by a band employee on ATV or skidoo, and then hauled to the community dump. When talking with people from the community, many people emphatically state that they prefer this system of obtaining water and removing waste. According to one community leader: “it keeps us independent. If we rely on the government to get our water for us, then what else will we have to rely on them for? Besides,” he stated, “you are the only mola⁶ I know that would haul their own water, so it keeps our community Dene”.⁷

There is a Co-op store in Colville Lake that sells groceries and other supplies, and houses the community post office. Prices for groceries in Colville Lake are significantly higher than in other Sahtu communities as a result of the remote location of the community: I went to the grocery store in October of 2007 and purchased a 1 litre bottle of water, 12 eggs, and a can of condensed carnation milk for just over \$17.00. Consequently, most people in Colville Lake depend heavily on meat, fish, and other items harvested from the land to offset the cost of groceries.

Like Tulit’a, Colville Lake has extensive experience with oil and gas activities near their community. There are currently four discovered gas fields in the

⁶ Mola is a term used by Dene to refer to non-Dene, meaning ‘ringed finger’ after the common use of wedding rings by early fur traders.

⁷ Interview conducted on October 8, 2007.

Colville Hills including Tweed Lake, Tedji Lake, Bele, and Nogha, and additional exploration activity at Turton Lake, and Tate Lake. Companies active in exploration drilling in the area include Petro Canada, Paramount Resources, Apache Canada, AEC West, Devlan Exploration, and Canadian Natural Resources. Importantly, companies active near Colville Lake are exploring on both Crown lands and lands where the subsurface rights are owned by the Kasho Gotine District Land Corporation under the Sahtu Dene and Métis Comprehensive Land Claim Agreement, meaning that the Kasho Gotine District, and subsequently the community of Colville Lake, stand to generate a substantial income from the subsurface royalties should any of the exploratory wells located on Sahtu private lands come on-line. This places Colville Lake in the interesting position of being the community with the highest percentage of residents who engage in trapping pursuits, while at the same time, the community that stands to benefit the most from the establishment of pipeline infrastructure that could bring current and future discoveries to market.

Indeed, the central Mackenzie valley, along with the Mackenzie Delta and the Cameron Hills, has become a major area of interest within Canada's northern oil and gas sectors. In general, over the past eight years or so, the Sahtu Region has seen an increased interest in exploratory oil and gas activities, with one exploratory well drilled in 1996/1997, to a more recent peak of seven exploratory wells drilled in the 2003/2004 drilling season (Indian and Northern Affairs Canada 2004). This is a more general reflection of the estimation of Canadian north as a significant oil and gas basin, with the Northwest Territories, Nunavut,

and the Canadian Arctic Islands estimated to hold 33% of Canada's remaining conventional recoverable resources of natural gas, and 35% of the remaining recoverable light crude oil with approximately half of those reserves estimated to be located in the Western Arctic (Indian and Northern Affairs Canada 2004:8). However, exploring for and producing oil and gas resources in the Canadian north has been somewhat limited due to the logistical, cost, and transportation challenges previously described. Indeed, exploring for oil and gas in the Canadian north is a high stakes endeavour, with company expenditures on northern oil and gas activities estimated at \$184 million in 2004 alone (Indian and Northern Affairs Canada 2004: 17). And, until there is a means to transport oil and gas to southern markets, a return on these investments at this time has not been realized.⁸ Nonetheless, interest in exploring Canada's north for oil and gas is high, and while investments in northern exploration and drilling programs remain dependent on world market prices for oil and gas, it is reasonable to predict that interest in the hydrocarbon resources in the Canadian north will remain so long as there is market demand and more conventional reserves become depleted. It is the local experiences of this increased oil and gas activity in the northern regions that is the focus of this research. Here, I will provide a case study of three Dene and Métis communities in the Sahtu Region of the Northwest Territories in an exploration of how decisions surrounding oil and gas activities are made, how local people are participating in these decision-making forums, and the changing

⁸ This is, of course, with the exception of the Norman Wells field and associated Enbridge pipeline.

governance, social, and economic institutions that ultimately structure and influence these processes.

Chapter 2

Land and Lifeways: An Overview of Resource
Extraction and Decision-Making in the Sahtu

Introduction:

The drainage system of the Mackenzie River is one of the largest fresh water river systems in the world. The total length of the river from the head of the Finlay River in British Columbia to the Beaufort Sea is 4,241 km (Dickerson 1992). The Mackenzie River is something to behold, even in its frozen and apparent stillness. In the winter, ice and snow cover the water in waves, and there are sharp ridges made by wind exposure. In the Sahtu, it sits as a primary landmark, flanked on both sides by mountain ranges. Looming over the river and the town, The Mackenzie Range is a mysterious place of frozen peaks and valleys and its snow-covered tips seem to intermix with the whiteness of northern skies. To the east stands the smaller Norman Wells Range, with rolling hills and deep gullies that hide spectacular fish lakes and stories.

A majority of the indigenous peoples living along the Mackenzie River valley proper call themselves Dene, meaning 'people' in the series of closely related Athapaskan languages spoken up and down the river. Historical cartographic maps of the Northwest Territories tend to depict the territorial boundaries of these peoples according to language use; however, in reality, boundaries between linguistic groups are fluid, and people often understand several related dialects (Wilson 1986), with the exception of the Inuvialuit who occupy the Mackenzie River delta, and Métis peoples who are descendants of early fur traders and local indigenous peoples.

Dene people have been living on these lands since before anyone can remember; they argue that they have lived here since the beginning of the world as it now exists. Their stories tell of how the world was created and of how human beings ought to conduct themselves to maintain the world as it is now. Their vast and intimate knowledge of their landscape allows them to continue to live in one of the coldest climates on Earth, and to successfully cultivate the resources of their lands. Many Elders in the Sahtu region were born and raised on the land and have only moved into permanent villages in the past half-century. The Sahtu Dene and Métis youth who have grown up in these villages have never spent an entire winter season in the bush, although there are Sahtu communities, such as Colville Lake, where entire families, children included, go out to their trap lines in late September and do not return until Christmas. Despite the varying length of time spent engaged in land-based activities, whether or not Sahtu Dene or Métis youth have 'grown up' exclusively in the bush, they express a deep reverence for the land and a knowledge of the particular kinds of relationships that are required to sustain the unique place that Sahtu Dene and Métis people have in their world.

For the past two hundred years the Dene people of the Sahtu Region have borne witness to incredible changes upon their landscape and in their lives. As a result of the fur trade, they have seen the influx of non-Dene trappers and traders into their traditional lands; some of them stayed, married, and settled in the region, and others returned south after seeking their fortunes. Many of these newcomers brought new goods, languages, and diseases when they came, transforming Dene life in ways that were both positive and destructive. Sahtu Dene peoples have

seen prospectors, oil companies, and miners invade their lands, and have witnessed the building of roads, pipelines, airstrips, and mine shafts to support their expansive projects. Most of these projects were undertaken without consultation with the local Dene; all, at least up until the time of this writing, were conducted without their consent. Dene people in the Sahtu Region have experienced the transition from a life lived out on the land, with perhaps intermittent visits to trading posts, to a life lived mostly in permanent communities. Dene people can now buy their food in the Northern Store⁹ (though it can be prohibitively expensive to do so), they can get 'American Idol', 'Deal or No Deal', and all of the other new shows on satellite television, and they can even access the world wide web, though most people do so at the Band Office or Land Corporation because many homes do not yet have internet service. When I stayed with families with teenaged children in the Sahtu, I would often hear the same songs booming on their stereo systems as I would hear played on stereo systems in southern Canada.

Yet, despite these changes, Dene and Métis people in the Sahtu Region retain many elements of their lives that are, indeed, distinctly Dene. This is despite intensified pressure by outside forces to gain access to Sahtu lands, and for Dene peoples to assimilate into so-called 'mainstream' Canadian educational, religious, legal, economic, political, and social institutions. Since the first contact between Dene people and those people who came to Dene lands in search of resources,

⁹ The Northern Store is a chain of stores that sell groceries, supplies, and household items throughout northern Canada. In the Sahtu, all communities with the exception of Colville Lake have a Northern Store.

Dene people have struggled to preserve and defend the kind of life that they want for themselves and for their children, often in the face of great obstacles.

This chapter addresses the historical and ethnographical context for current approaches to resource management and development activities in the Sahtu. I begin with a brief summary of ethnographic accounts from the Sahtu, followed by a history of the multiple and layered waves of resource extraction in the Region and the subsequent political movements that these extractive projects spawned. I then examine the outcomes of this mobilization of Dene peoples for their right to have a say in their own matters of land tenure and use with regard to the Sahtu Dene and Métis Comprehensive Land Claim Agreement and the structure of current resource ‘co-management’ in the Northwest Territories. While with this chapter I attempt to outline the historical influences, events, and junctures that have shaped current experiences and management of lands and resources in the Sahtu, my ultimate interest is in exploring wider questions surrounding the effectiveness of current co-management and regulatory regimes, and the extent to which Sahtu Dene and Métis people, after many years of ill consideration, might now have a genuine say in the kinds of activities that occur upon their lands. This question, of course, will not be answered in this chapter alone; what this chapter aims to provide is a background for a consideration of contemporary Sahtu Dene and Métis participation in land management processes by contextualizing current resource decision-making practices against a backdrop of local experiences, norms, values, and history, and to provide an outline and textual

analysis of how institutionalized resource decision-making practices are conducted in the Mackenzie Valley today.

Ethnographic Accounts from the Sahtu:

Anthropologists, and the Dene themselves, have generally considered there to be four inter-related Dene groups that occupy the Sahtu region, each speaking a slightly different but mutually intelligible dialect of North Slavey (Abel 1993, Wilson 1986). Each group, or regional band, is also associated with “a particular ‘home’ land use area, although use areas are fluid, and people are not restricted to harvesting in only one area” (Auld & Kershaw 2005:5). The territory of the Shita (Shuta) Got’ine or Mountain People runs along the slopes of the Mackenzie Mountains, to the west of the Mackenzie River and north of the Laird River. The territory of the K’áálo Got’ine or Willow Lake people runs along the east side of the Mackenzie River around what is known as Willow Lake. The Sahtù Got’ine, also known as the Great Bear Lake people, utilize the lands around Great Bear Lake, and the K’ahsho Got’ine, or Hare people, utilize the most northern areas of the Sahtu region including the area between Fort Good Hope and Colville Lake. [See Figure.1, below.] The four regional bands share a common culture, often intermarry, and continue to gather for festivals and special occasions; however, each group also has its own unique identity, and has different stories and places of cultural and spiritual significance (Basso 1978:692, Blondin 1990, Auld & Kershaw 2005).

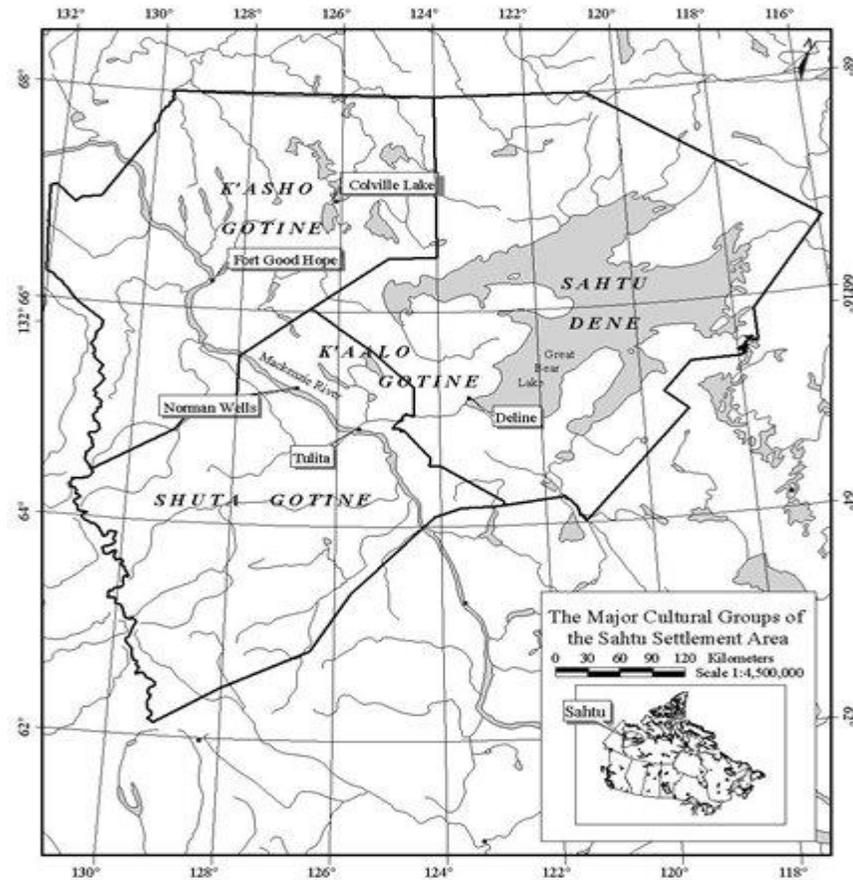


Figure 1. Major Cultural Groups of the Sahtu Settlement Area. Used with permission from the Sahtu GIS Project and the Prince of Wales Heritage Centre.

These groups relied on harvesting the many resources found in their environment including a wide variety of fish species, small game animals such as marten, fox, beaver, muskrat, and hare, some bird species such as ptarmigan, big game such as moose and woodland and barren-land caribou, edible berries and other plants. Prior to the use of firearms, hunting big game animals such as barren-land caribou often required a collective effort, and caribou were often driven into a caribou pound or surround, a structure made out of stones in the form of a V or crescent, in order to make spearing or snaring more effective. One such hunting place, located near Horton Lake on the Barrenlands, is still in use by people from

Colville Lake today, though caribou are no longer driven but are shot with ammunition. Women typically snared small game, though men could also participate in the harvest. While both small and large game were often hunted and stored when possible (Asch 1977:45, Déline First Nation 2005:3, Auld & Kershaw 2005:4, Rushforth 1977:35), the staple of the Dene diet was fish. Utilizing fish nets, the peoples of the Sahtu caught large quantities of lake trout, whitefish, herring, and grayling in the many lakes and rivers in the region. Fish supplies were utilized as a reliable source of food for human consumption, but also provided feed for dogs, and ethnographical accounts suggest that the amount of fishing a person did was directly tied to individual needs and the number of dogs a person owned (Rushforth 1977:37, Savishinsky 1974:11). In order to harvest these resources, the peoples of the Sahtu region developed a keen understanding of productive harvesting places and of the seasons in which harvesting would be most successful. As Joel Savishinsky observed about the Sahtu: “each locale, and every period of the year presents a unique landscape that is rich and nuance in character” (1974:9). Thus, the pattern of traditional Dene life in the Sahtu followed the seasonal migrations of wildlife and other resources, with major changes marked by the freezeup of waterways in autumn and the breakup of ice in spring (Asch 1977:48, Auld & Kershaw 2005:6). Prior to the arrival of Europeans transportation was done mostly on foot, with snowshoes facilitating movement through the deep snow.¹⁰ Later the use of dog teams facilitated

¹⁰ Michael Asch argues that it was not until after contact with Europeans that the use of dog-teams became a major mode of transportation. Asch argues that prior to the fur trade it was more efficient to bring the people to game rather than to haul the game back to people. Thus dog teams were simply not needed to haul large quantities of food and may, in fact, have proven to be a liability due to the quantity of fish required to feed the dogs (*cf.* Asch 1977:45).

movement in the winter months. In summer, people traveled the waterways in canoes made of birch bark, or occasionally moose hide (Asch 1977:48).

The social organization of each local group varied according to its purpose, the time of year, and the nature of the available food supply (Able 1993, Savishinsky 1974). Social groups were flexible and single family groupings would sometimes set off on their own to hunt or fish. At other times, multiple families grouped together around a successful hunter or person with power who could provide food or other necessities for the group (Able 1993). Marriages were often arranged, and there is evidence of some polygynous marriage practices, though this type of marriage was not common (Able 1993). Children were highly valued and, in keeping with values of non-interference, were given substantial freedom. Relationships between bands were maintained through trade, marriage, and adoption, and these bands would routinely come together at preferred seasonal harvesting areas in the summer months. Resources within these local groups were distributed on the basis of reciprocity and sharing, as Michael Asch stated: “generally speaking all participated equally in the good fortune of the hunters and all suffered equally when their luck turned bad” (1977:48). Asch also points out, however, that certain specific animal parts may have been reserved for the hunter and persons closely related to his or her immediate family (1977:48).

Among many Dene peoples of the Sahtu region, there is a belief in a distant time where significant events took place that now explain the characteristics of the modern universe. At this time, “when the world was new” (Blondin 1990), the land was inhabited by giant animals, mysterious creatures, and people who could

transform themselves into other beings. It was often through the actions of these ancient beings that the world, as it now exists, was created (Able 1993, Blondin 1990). These events are often recounted in stories that are passed on from generation to generation by Dene storytellers and Elders, and contain principles of proper behavior and action (Blondin 1990, 1997, Rushforth 1992:486). These stories tell of how Naácho, or giant animals, roamed and helped shape the world, and often recall significant events surrounding culture heroes such as Yamoría, The Law-Giver, or Yamoga and Eyonecho, The Warriors (Blondin 1990). At this time, both animate and inanimate entities (including people, animals, and places) had a great deal of power; and this power could be used to help others, cure people, win hand-games, travel safely, and to communicate with animals and other beings (Blondin 1990, 1997). This power could be attained at birth, through dreaming, or by acquiring a spirit/animal helper (Able 1993, Blondin 1990, Rushforth 1992:486). Songs are also given to people in dreams, and can be used for either personal or communal benefit. Dene people of the Sahtu region continue to regard drumming as a powerful medium, and drum dances are held at many significant community events.

Open dialogue about personal power, or the suspected power of another person or being, is typically very limited. It is generally thought that talk about one's own power might cause that power to diminish or to leave the person entirely.¹¹ To discuss another person's power, particularly when they are still alive, is a violation of a norms of non-interference in another person's affairs and could

¹¹ Fieldnotes, September 5, 2006

result in misfortune. Thus, references about who might have what kinds of power (and how strong this power might be) are often indirect. People might guess that another person has a form of power if, for example, they are particularly adept at winning hand games, at harvesting a particular animal, or at predicting the future. If a person demonstrates the ability to transform outside circumstances or predict events fairly consistently, this is often noted in subtle ways, and discussions of who is thought to have power persist in a very opaque manner. For example, prior to travelling to Colville Lake, I had heard rather discreetly from individuals in other communities that there was a gentleman who lived there who was very powerful. Upon my arrival in Colville Lake, no one directly indicated to me that this was the case, however, after some time in the community, I had noticed that several respected leaders continued to ask me if I had talked to one particular individual. “Have you spoken with Johnny¹² yet?” they would ask. “You should really go and talk to him. He knows things.” Or, “you should talk to Johnny. Whatever he says is the truth.” People would also relay his accomplishments through the use of stories: “one time Johnny saved the whole community by feeding all the people when they were starving. He called the caribou back to the community by rubbing two sticks together”. I did sense the collective insistence from many different community members that I go and visit with Johnny. After a series of setbacks related to translators and a community consultant that I was working with, my visit with Johnny was somewhat delayed. However, the chief of the community saw it was necessary that I go and visit Johnny right away, and one snowy evening after dark the Chief

¹² I am using the pseudonym ‘Johnny’ here to protect the identity of the individual discussed.

pulled up on his snowmobile outside my cabin and told me to come with him; he would assist in the translation for my first visit with Johnny. While no one has ever said to me that Johnny is any more significant than any other person living in Colville Lake, people's regard for his power, while not discussed, is palpable.

While many people in the Sahtu Region have converted to Catholicism in the past century as a result of active Catholic missionary activities in the Sahtu (Smith 1977:198, Dickerson 1992) this idea of power continues to inform many stories and experiences of everyday events.¹³ One exception to the open discussion of personal power is when the power-holder is deceased. This is particularly the case when the deceased person held a great deal of power; these people are sometimes referred to as Prophets. There is a strong Prophet Tradition in the Sahtu whereby individuals with strong powers receive visions that enable them to help others and to foretell future events. Prophecy traditions have been well documented by anthropologists and others working among northern Athabaskan peoples (*c.f.* Brody 1981, Goulet 1998, 1996, Mills 1986, 1982, Ridington 1988, 1990). Emile Petitot reported 'seers' at Fort Good Hope who prophesized that there would be a flood that destroyed the mission, trading post, and "white man's buildings" (as quoted in Able 1993: 129). These individuals can also use their acquired power to precipitate events, avoid misfortune, or to communicate with and travel to unseen worlds. One of the most revered Prophets in the Sahtu was a man named Ayah, who lived in Déline from his birth in the 1850's¹⁴ to his death in 1941 (Blondin 1990:239). Often, late in the evening or on Sunday

¹³ Personal communication April 1, 2006.

¹⁴ Conflicting sources place his birth between the years 1850 and 1858 (*c.f.* Blondin 1990:239, Déline First Nation 2005:6, and Kershaw et al 2005:23,).

afternoons, when most houses are quiet, people would begin to talk about Ayah and his prophecies. According to the stories, Ayah had seen everything from the beginning until the end of time. He had predicted many local and world events including World War II, September 11th, and the mining of uranium from Port Radium. Many people believe that some of Ayah's prophecies are yet to be fulfilled. One of these prophecies includes a famine that will come from the south and continue to the Sahtu until nothing is left. Ayah has shown people the three locations in the Sahtu that will be the only places on earth to have fish. Ayah is said to have been able to see everything that people had done in their lives just by shaking their hands. Wrapped in the stories that people tell about the Prophet are lessons that one should live by to be a good Dene person, and to be able to go to heaven. Some of the more important of these lessons involve generosity, respect for oneself and others, and the importance of non-interference and the corresponding value of taking responsibility for one's self. The prophecies and the Prophet Tradition in the Sahtu region continue to inform, in very significant ways, how people view the world and their place in it.

For many Sahtu Dene people, the entire world is infused with power and agency. There is little distinct separation between physical and spiritual realms or spheres of life, and consequently, nearly every aspect of Sahtu Dene and life is governed by moral rules and the social and physical relationships that are dependent on the upholding of these rules. In contemporary times, these rules are referred to as 'Dene Law' and include very specific actions that must be taken, such as paying the land with tobacco or another item of value when travelling or

hunting, and more general ideals such as the generosity, respect for the land, or assistance to others in a time of hardship. According to Kerry Abel “events were not randomly caused or the result of good or bad luck. Rather the spirits were constantly at work, interacting with each other and with people” (1993:40). Indeed, in order to ensure a successful hunt, a hunter must act in accordance with laws governing the respectful reciprocal relationships and mutual obligations between humans and other-than-human beings. If the hunter fails to follow these laws, the animal might not give itself to the hunter and the hunt will be unsuccessful. These laws range from how human beings ought to conduct themselves in the course of their daily lives, to how they treat the bones of the animals that they kill, to the kinds of thoughts that the hunter ought to be thinking before and after the hunt, and the kinds of foods that the hunter eats.

Today, Sahtu Dene harvesters take a great deal of care to ensure that Dene Law is upheld, particularly when it comes to the treatment of animals or other components of the landscape. It is still generally thought that if a hunter breaks a Dene Law the relationships of mutual reciprocity will break down, resulting in animals refusing to ‘come around anymore’. In the winter of 2005/2006 when the caribou did not come to Colville Lake, local people suggested either that the absence of caribou was due to increased oil and gas activities in the area, or that it was because a young person had hit a caribou with a stick the previous winter, thus breaking Dene Law. In Déline, there are stories about how the people stopped conducting a ceremony called ‘feeding the fire’ where a fire is literally fed by community members with food, tobacco, cloth, and prayers. The story tells of

how caribou disappeared from around Déline for a number of years in the mid-1980's, but that when people started feeding the fire again, the caribou returned. It is thought that there is a strong association between feeding the fire with thanks and prayers, and the caribou choosing to give themselves to Déline hunters.

Several ethnographers who have written on the peoples of the Sahtu region have identified a strong connection between conceptions of knowledge and power (Basso 1978, Savishinsky 1974, Rushforth 1992, 1994). Scott Rushforth (1992, 1994) argues that for Bearlake peoples (Sahtú Got'ine) primary knowledge obtained through personal experience constitutes truth and thus, in turn, power. Knowledge obtained by primary epistemic evidence, or personal encounters through dreaming or other means, constitutes a primary way of knowing (Rushforth 1992:485). Similarly, Ellen Basso writes that for both Shita Got'ine and K'áalo Got'ine the acquisition of 'lk'óó or knowledge about the natural world occurs during bush activities and provides the means by which survival is made possible (1978:698). Basso writes:

“lk'óó is not an easily interpreted word, although it can be loosely translated as 'supernatural power' or 'medicine.' As power, it can be thought of both as the source of a person's capacity for survival in the world and the strength or amount of control a person has over things in the world. As medicine, it can be thought of as the means by which a hidden esoteric manipulation of empirical phenomenon proceeds and thus as esoteric knowledge itself” (Basso 1978:698).

This conception of personal and spiritual knowledge obtained through personal bush activities echoes ethnographic accounts of northern Athapaskan peoples elsewhere (*c.f.* Brody 1981, Ridington 1988, 1990).

At the heart of Sahtu Dene conceptions of morality and relationships with other than human beings is the concept of respecting the land. This goes beyond a simple consideration for not contaminating the landscape, or a care not to over-harvest a particular resource or area, to a profound reverence for the life-giving properties of the earth, water, animals, weather, insects, fire, fish, and all other components of the other-than-human world. Dene people talk about the land as a provider of physical, spiritual, emotional, and intellectual sustenance. The land provides the physical necessities of life in the form of food and materials; it offers spiritual fulfillment because it is on the landscape where the acquisition and experience of power is most profound; it sustains emotional connections to people, ancestors, places, and 'being Dene'; and it is through primary experience in the bush that knowledge can come to be understood as true. According to Sahtu Dene people, the land provides all of these things at no cost. As one individual stated, "we and the animals do not have to pay to live on the land. The birds, and moose, and caribou and all of the other animals have places to live on the land and they follow a universal law and do not break it. We can live on the land and it is free, just as long as we follow the law."¹⁵ Beliefs about respecting the land, and upholding Dene Law, are about the protection of land for subsistence

¹⁵ Fieldnotes, August 25, 2006.

livelihoods, but they are also deeply stated commitments to protecting the very fabric of what it means to be a Dene person.

Contact History and the Establishment of Non-Local Resource Extraction in the Sahtu:

Initial contact between the Dene of the Sahtu region and Europeans came as a result of the fur trade. Although trading posts were not established in the Sahtu region until after Alexander Mackenzie's 1789 voyage down the Mackenzie River, traditional trade routes between the Dene Sulline to the southeast (Chipewyan peoples) and Dene peoples of the Sahtu brought increased European goods and diseases into the Sahtu long before direct contact with European traders (Able 1993, Dickason 1997, Auld & Kershaw 2005, Smith 1997). In 1799, the North West Company established a trading post in Déline (then Fort Franklin). In 1805 a trading post was established in Fort Good Hope, and a trading post was built in Tuli't'a (then Fort Norman) in 1810. Michael Ash has argued that as late as the 1890's transportation challenges limited the quantity of goods and furs that could be brought in and out of the Northwest Territories, and as a consequence, a great deal of trade actually consisted of Dene peoples providing food to traders in exchange for western goods (Asch 1977:49).

By 1885 steamships were running up and down the Mackenzie River, facilitating the movement of both people and goods. Increased accessibility to the region, the Yukon Gold Rush of 1898, and rising fur prices during the First World War increased the significance of the trade economy in the region and this led to

changes in the ways of life for the Dene peoples of the Sahtu (Asch 1977:50). Local traders were less reliant on Dene people for the supply of food and other necessities, and traders encouraged Dene people to trade with furs rather than provisions. Money was introduced as the medium of exchange, and the ability to barter with other goods was diminished (Asch 1977:51). However, Kerry Able argues that though Dene understandings of acceptable trade relationships differed from those of the European traders, Dene participation in the fur trade was not only practical and economical, but that it was consistent with Dene lifeways and morality (Able 1993:106). Despite fur trade adaptations, Dene people showed remarkable skill at maintaining key components of their domestic economy and values, including abstaining from trading furs in times of scarcity in order to concentrate on harvesting food, destroying furs collected from deceased hunters, and continuing food and other resource sharing and distributive practices (Able 1993, Asch 1997).

Nonetheless, for the Dene of the Sahtu region, the fur trade had numerous consequences. The introduction of new goods, particularly guns and steel traps had an impact on the Dene economy and relationships with other Dene groups (Asch 1977, Helm 2000, Dickason 1997, Rushforth 1977). New technologies such as dog sleds, for example, made the movement of people and goods more efficient. However, these new elements also brought new demands: a dog team required large quantities of fish, and trade goods required individuals to harvest local resources at a higher level. As trading posts were established in the region, Sahtu Dene peoples became increasingly dependent on the posts to provide white trade

goods such as steel traps, guns, sugar, and flour even if the post was only visited a few times per year. Yet, as June Helm points out, the era of the early fur trade encouraged Dene hunters and trappers to remain on the land, as it was in the interests of the fur traders that Dene peoples do so (2000:110). However, some families began to establish semi-permanent dwellings closer to trading posts, though many people still maintained dwellings at fish lakes and traplines (Rushforth 1977:43, Asch 1977:51). People also settled closer to trading posts for services and schools provided by missionaries, traders, and the government (Rushforth 1977:43). Yet, these early changes were limited in scope and the ensuing way of life was relatively stable well into the early 20th century (Able 1993, Asch 1977, Dickason 1997, Rushforth 1977).

The introduction of new diseases such as scarlet fever, tuberculosis, smallpox, measles, and influenza also had a significant impact on Sahtu Dene experiences of contact history and colonization. These new diseases were brought to the north by traders and other Europeans and had a devastating effect on local populations who had little or no resistance to the European diseases. Influenza broke out among the Sahtu and other Dene groups in 1865 and again in 1928 (Helm 2000, Osgood 1932). Outbreaks of tuberculosis were widespread in the Sahtu, as in other locations in the Northwest Territories, in the 1940's and 1950's. In addition to the effects of tuberculosis, the federal government instituted a program of tuberculosis eradication which saw men and women with tuberculosis removed from Sahtu communities to Charles Camsell Hospital in Edmonton. While the need to eradicate tuberculosis was very real, the removal of tuberculosis patients

had several consequences. People who were sent to the Charles Camsell hospital were isolated in a hospital far away from their home communities and encountered strange diets, customs, and language. Communication between patients and their home communities was virtually non-existent, with very little contact between tuberculosis patients and relatives back home for years at a time. Many of the people who left for Charles Camsell Hospital did not survive, and their bodies were not returned to their relatives in the Sahtu for burial, but rather remained in Edmonton. Tuberculosis eradication programs also had an impact on Sahtu family structures and subsistence practices. If a male hunter was sent to Charles Camsell Hospital, the family was often not able to secure the bush resources they needed for food or other necessities. If a mother was taken to Charles Camsell Hospital, or if the family was deemed not able to support itself sufficiently, children were placed in residential schools in Inuvik or Aklavik. Several individuals in the Sahtu today recall years spent in residential school as a result of their mothers being taken to the Charles Camsell Hospital in Edmonton.

In the 1920's, southern interest in northern resources began to shift from furs to minerals and fossil fuels. In 1919, a geological field group working for Imperial Oil and headed by a man named Ted Link "discovered" oil along the Mackenzie River near what today is Norman Wells (Smith 1977:140). However, the people of the Sahtu region tell a different story of how the oil was found. John Blondin writes:

*"There is a thing I would like to say about the oil in Lególi (Norman Wells).
What was the name of the man who found that oil? It was our own father,
Francis Nineye. When he found the oil, he took a sample of it, put it in a lard*

pail and brought it out into Tulit'a. That same summer, he had an accident and died. Now the white people turn around and claim they found the oil. My dad was the first guy to find that oil...He gave it to Gene Gaudet, the Hudson's Bay Manager and he sent it out on the boat...We never heard of that oil again and we never got the lard kettle back" (Dene Cultural Institute 1989:40, as quoted in Auld & Kershaw 2005:21).

Marketing difficulties resulting from a lack of local demand and the slowness and expense of transporting oil out of the Sahtu meant that oil production at Norman Wells was not significant in the 1920's (Auld & Kershaw 2005:7, Smith 1977:143, Watkins 1977:85-86). However, in the 1930's pitchblende was "discovered"¹⁶ along the eastern shores of Great Bear Lake at Echo Bay, or Somba K'e (meaning "place of money" in N. Slavey), and in 1932 Port Radium was opened for uranium mining by Eldorado Gold Mines (Délina First Nation 2005:9, Dickerson 1992:18). In 1937 gold mines were opened in Yellowknife, and the local demand for oil from both uranium and gold mining intensified, allowing Imperial Oil to build and operate a refinery at Norman Wells (Auld & Kershaw 2005:7, Smith 1977:143).

Dene peoples in what is now the Northwest Territories began petitioning Ottawa for a treaty beginning in the 1880's. The main concern for Dene peoples was for the protection of their hunting, fishing, and trapping rights from the increasing

¹⁶ Much like the story of oil "discovered" at what is now Norman Wells, Sahtú Got'ine Elders say that there are stories told that have long prophesized what would happen at Port Radium (*c.f.* Auld & Kershaw 2005:63). Furthermore, the Sahtú Got'ine tell of a Dene man (Victor Beyonnie's father, or Grandfather Beyonnie) who found an unusual rock at Echo Bay while traveling to Caribou Point. Grandfather Beyonnie gave the rock to a prospector who then gave it to Gilbert Labine. Later Gilbert Labine began staking claims at Echo Bay, which became the site of the Port Radium mine (Délina First Nation 2005:7).

encroachment of non-Aboriginal settlers (Berger 1977:168). Ottawa, however, claimed that a treaty was unnecessary, as there was little prospect of significant settlement north of the sixtieth parallel (Dickason 1997, Fumoleau 1977, Watkins 1977). After the “discovery” of oil at Norman Wells, however, the federal government undertook to conclude Treaty 11 during the summer of 1921.¹⁷ People in the Sahtu still recall the stories of the negotiation and signing of Treaty 11, held at Fort Norman –a significant gathering trading location where the Bear and Deh Cho rivers meet. One respected Elder from Déline recalls:

“In 1921 the Elders came all together. Even those who gave prophecies and were Prophets. And they were told that they could hunt, fish, and trap and live their way of life as long as the Mackenzie flowed that one way, and the sun went from east to west. The Elders said that ‘no, the Mackenzie will never change direction, and no the sun will never go from west to east and so they agreed with the treaty. But now they [the federal government] no longer honour that and it is turning into like what it is down south. This is going to cause a great famine. Some of these prophecies have come true, and some are yet to come.”¹⁸

Treaty 11 was never implemented, and while Sahtu Dene and Métis people did continue to harvest the resources of their lands, they continued to face increased pressure from outside interests looking to extract resources from their traditional lands.

¹⁷ For more on Treaty 11 see Chapter 4.

¹⁸ Interview, August 25, 2006.

During World War II, the United States became increasingly concerned with the threat of a Japanese attack on the US mainland via Alaska and the Aleutian Islands. The United States government saw oil from Norman Wells as a means of providing a fuel supply for the increasing number of American troops stationed in Alaska (Dickerson 1992:19). In 1942, the United States government built a pipeline to carry the oil westward from the refinery at Norman Wells, across the Mackenzie Mountains to Whitehorse, Yukon (Dickerson 1992:19, Smith 1977:144). Known as the Canol Pipeline, this enormous project required numerous airfields, and involved laying a small diameter pipeline “up and down the canyon-strewn flanks of the Mackenzie Mountains” (Smith 1977:144). Unfamiliar with building a pipeline across such a cold and rugged landscape, the US Army Corps of Engineers experienced great difficulty, and incurred great cost in order to get the pipeline finished. Shortly after its completion, with World War II coming to an end and the threat of Japanese military attack weakened, interest in the transportation of oil to Alaska lessened, and the Canol Pipeline was simply abandoned, equipment and all, at the end of 1945. In the end, approximately one million barrels of oil had been pumped over the Mackenzie Mountains at a cost of just over \$300 million dollars (Dickerson 1992:19, Auld & Kershaw 2005:66, Smith 1977:144).

As outside interests began expropriating hydrocarbons, minerals, and other resources from the Sahtu, local Dene people were often relegated to marginal positions within commodity-oriented economies. The non-Aboriginal population in the Northwest Territories increased significantly as southern worker workers

were recruited to work on the development projects (Able 1993:212). Some Dene workers gathered around artificially created town sites such as Port Radium, or Norman Wells in search of work in the mine or oil field. Others would make a living selling country food, crafts, or clothing to the people at the town-site, or by providing other services such as guiding to the influx of white laborers. Some Dene men, mostly from what is now the community of Déline, were employed at Port Radium as casual laborers carrying burlap bags of raw uranium ore from the mine to the transport ships across Great Bear Lake. Sahtu Dene men also carried burlap sacks of uranium ore around the rapids on the Great Bear River to be loaded onto Mackenzie River barges headed south to Port Hope, Ontario. While a report released by the Canada-Déline Uranium Table (2005) indicated that it was not possible to determine that the direct cause of death of many of the ore carriers was a result of radiation exposure, many people in Déline believe that exposure to the radioactive uranium ore carried by bag transporters has resulted in high rates of cancer and death among these men. These men were never informed about the potential health effects of handling radioactive material. The same report maintains that the estimated 740,000 tonnes of radioactive tailings dumped in and around the lake at the Port Radium site is localized and not affecting the health of people in Déline. Fear over contamination and illness as a result of Port Radium continues to cause a great deal of fear and concern among community members. In 2005, some seventy five years after uranium was first mined out of Port Radium, the federal government agreed to remediate the Port Radium site and to implement a long-term monitoring program. Experiences of

Port Radium have influenced perceptions of resource extraction in the Sahtu enormously.

Following World War II, world demand for fur products declined and fur prices dropped resulting in a near total collapse of the northern fur based economy (Able 1993, Dickerson 1992). The 1950's saw most Sahtu Dene families' transition from seasonal residence patterns to settlement in permanent communities. By 1950 most Sahtu communities had established a church, a Hudson's Bay Company store, a school and a nursing station.¹⁹ Scott Rushforth writes that people in Déline (the Fort Franklin) reference services provided by the church, store, and particularly the schools, as significant reasons for settling in the hamlet (Rushforth 1977:43). Indeed, in order to encourage the settlement of Dene peoples into communities, the federal government withheld pensions, family allowance, and other government support for individuals whose children were not enrolled in school. Instead of leaving children alone in the settlements, most Dene families chose to reside permanently in the communities, with men going out onto the land to harvest land-based resources on a consistent basis (Rushforth 1977:43). Many scholars have argued that the transition from a land-based seasonal residence pattern to settlement in communities has been the most significant change in Sahtu Dene life. Scott Rushforth writes:

Since moving into Franklin (Déline) the Bear Lake people have faced many changes in their way of life. Children have been educated in a white school

¹⁹ Though the present location of Colville Lake was utilized as an important harvesting area by Dene peoples from time immemorial, the community of Colville Lake was not established until 1962 when people moved from Fort Good Hope to a newly established Catholic mission.

system; English has been learned by many of the people; band and hamlet councils have been established; freight coming into Franklin has increased tremendously; a community co-op store has been organized; rental housing has been built; and wage labour has increased (Rushforth 1977:44).

Anthropologists June Helm, who conducted fieldwork among the Dene in the Northwest Territories between 1951 and 1975, wrote that “since World War II the subarctic Indians have become continually more subject to pressures that issue from big government, large-scale commerce and industry, aggregation into white-dominant settlements, and the accelerated communication of aspects of white lifestyle” (2000: 107). Through what was described as ‘federal Indian policy’ and legislation aimed specifically at Aboriginal peoples in Canada, such as the Indian Act and its various amendments, the federal government assumed responsibility, at least on paper, for a multitude of aspects of Sahtu Dene life including education, health, housing, wildlife management, social assistance, child welfare, governance, economic development and justice, to name a few. In order to keep their children in school in the settlements, many Dene women would live in the settlement year round, and men traveled out to fishlakes, their traplines, and to pursue harvesting activities in the bush. Mobility and travel patterns were influenced significantly, with women engaging in very little travel except in the summer when children were out of school, and men traveling to trapping, fishing, and hunting areas closer to settlements. Children, in particular, spent significantly less time in the bush and more time in formal schools, and rarely spent the winter months out on the land.

Yet, in spite of all of these changes, many scholars also argue that fundamental components of Sahtu Dene cultures and value systems have changed very little. Michael Asch reports that concepts of reciprocity and distribution of bush resources remained stable at this time despite the introduction of cash in the form of wages, social assistance, pensions, and family allowance payments, though he does note that the introduction of wage labour has created a reduction in the reciprocal distribution of cash and a greater division between those who have cash and those who do not (Asch 1977). Other changes, such as what some scholars have described as a growing dependence on government programs, and increasing external interference in local governance structures have modified some significant aspects of Dene life. Yet, despite incredible pressures imposed on Dene peoples from outside forces, Dene people have maintained core elements of their traditions, values, economy, and have continued to harvest the resources of their lands. Indeed, in the above noted quote, Scott Rushforth concludes his assertions by saying:

In spite of all these changes, most of which are in the material or technological realm, the Bear Lake people retain much of their traditional culture and most of their traditional values. When organizing their way of living, they rely, for the most part, upon their own cultural knowledge and their own values, not those of white society (Rushforth 1977:44).

In some respects, at least, and despite many challenges, the Dene people of the Sahtu Region were able to maintain some measure of autonomy from non-local

systems of governance, economy, and social life well into the latter part of the twentieth century.

The Berger Inquiry:

Interest in finding and transporting oil and natural gas in the Northwest Territories, however, did not weaken after the Norman Wells discovery, and shortly after the discovery of oil and gas at Prudhoe Bay, Alaska in 1968, oil and gas exploration increased at the nearby Mackenzie Delta. By 1972, petroleum companies had made significant natural gas finds in the Beaufort Sea and were beginning to push for a means to transport this gas to the south for consumption in domestic and international markets. In 1974 the Department of Indian Affairs and Northern Development established a Commission of Inquiry, led by Justice Thomas Berger, into the feasibility of a pipeline through the Mackenzie Valley.

Justice Berger spent over three years conducting hearings with 1717 witnesses (Smith 1977:239) in thirty-two communities in the Northwest Territories, two communities in the Yukon, and ten metropolitan centres in southern Canada. Many Elders in the Sahtu region participated in these hearings, and the legacy of the Berger Inquiry is still recalled throughout the Sahtu today as a successful example of a compassionate man who really listened to the Dene²⁰. Justice Berger is credited, at least by many Dene, as a major contributor to the success of the Inquiry (Scott 2007). Leading a single man inquiry, Justice Berger held hearings in fancy ballrooms in Yellowknife hotels, at community centres across the north, at

²⁰ Personal communication, April 4, 2006.

fishlakes and cabins, and along people's traplines. Locals recall how during the Inquiry Justice Berger was once flying over the vast expanse of trees and lakes that overwhelmingly encompasses the Northwest Territories and spotted a Dene man at his trapline. Justice Berger asked the bush pilot to land on the nearest lake so that he could go and have tea with the man and listen to what he had to say. His words at the community hearing at Déline (then Fort Franklin) are emblematic of the mandate of the Inquiry, and of the seriousness with which Justice Berger took his charge of listening to the people of the north:

I want you, the people who live here, who make the North your home, to tell me what you would say to the government of Canada, if you could tell them what was in your minds. I want to hear from anyone who wishes to speak, because you have the right to speak, to tell me what you think this proposed pipeline will mean to you, to your family, and to your life. I am here to listen to you (Mackenzie Valley Pipeline Inquiry Transcripts. Vol.7: 595-596).

Dene people all over the Northwest Territories spoke out in vehement opposition to the construction of a pipeline through their lands. A significant concern for Sahtu Dene people were outstanding issues surrounding Treaty 11 and a Dene land settlement. Differing interpretations of the spirit and intent of Treaty 11 came to a head in the early 1970's, just prior to the Berger Inquiry. Dene peoples have long regarded Treaty 11 as a document of peace and friendship that would guarantee their fundamental rights to the land, rather than a cession of rights or lands to the federal government. In 1970 a number of Dene chiefs ratified the Charter of the Brotherhood (or Indian Brotherhood of the Northwest Territories)

which became the “principal vehicle for status or treaty Indians in the Western Arctic” (Dickerson 1992:101). In 1975 the Indian Brotherhood published the Dene Declaration, stating that as a Nation the Dene had rights to traditional lands and self-determination. In many ways, the Berger Inquiry became an effective arena for people to express their visions and plans for their future, their land, and their way of life.

In addition to voicing their claims to rights, land, and self-determination, Dene people spoke about the possible environmental, social, economic, and political impacts of a pipeline through Denendeh. Some people thought that a pipeline would be pushed through without a consideration of the promises made in Treaty 11. Others saw the building of a pipeline as a means for the government to make Treaty 11 null and void. Rosi Sewi, described her position before Justice Berger at a community hearing in Déline (then Fort Franklin):

And that law that they made then, was the river flowing and the sun rise, that is the law that was made in 1921... And she also says that they made the law, saying that as long as the river flows, and as long as the sun sets in the same direction, that law still exists for us. But it seems to her that the law doesn't stand anymore for the government who made that law. She says that we never changed that law. But it seems to her that the government is changing that law, and you know, the changes are occurring right now. She says that when you introduce the pipeline, the government must be thinking in terms of changing the law, you know change the laws and saying that they, you know, they will probably stop the rising of the sun.

They will probably stop the river flowing. She says that the information that they gathered about the pipeline is that the pipeline would be built underneath the Bear River, right across from Fort Norman. And she says, when you are talking about things like that, she says, when the people talk about you know, how important the land is to them, they also know that when the ice breaks out, towards the river, they don't even know how strong it is. They know what they are saying they are talking about how strong the ice is. Probably the strongest thing on this land is the breaking up of the ice and the flowing down of the ice through the Bear River. She says that sometimes when the ice breaks up and it flows down the river, there is a lot of sand that moves. And there is a lot of ice that scrapes the bottom of the lake, of the river. And she says that there is a lot of, you know, like all of the sticks and stuff like, the wood piles all around the shores of the river, it all goes into the river. You know, and it really sort of blocks everything in its path. She says that when the wood and the stuff like that flow down the river, it piles up on top of each other. And if the pipeline is underneath the river, she says that a lot of those logs will pile up into great heights. - just, you know, that is a stop for them. That all of the logs will -- it wouldn't flow any more. And she says and if that happens, then that sort of stops the river from flowing. Then, that will break one of the laws. "As long as the river flows"? That -- it is sort of a blockade, so that stops the river from flowing. And then that is the breaking of one of our laws (Mackenzie Valley Pipeline Inquiry Transcripts. Vol. 9: 795-797).

People were also concerned about damage to the land. Joe Naedzo, from Déline (then Fort Franklin) spoke:

So I have mentioned a lot of damages done to the land, he says. Think about what the pipeline will do. Even the little things, you know, like seismic work and stuff like that. And it has done enough damage. Now think about what the pipeline can do. He says, we don't want the pipeline. We don't want all of this destruction to come into our land. Suppose it breaks, think about the oil spills? And you know, sometimes people travel, they don't get anything for days, eh? And suppose they see a dead animal there and they decided to eat it? And the animal had eaten some of the things that had been left around, left by the crews there. Think of what would happen to them? Think of the oil spills. What about the fishing areas? What about the land damage? You can not replace the land. He says that I will state again that the Native people do not want the pipeline. The land is very important to us (Mackenzie Valley Pipeline Inquiry Transcripts. Vol. 7: 640-641).

Sahtu Dene people spoke very candidly to Justice Berger, and they believed he was listening. A women from Déline (then Fort Franklin) stated:

Since 1921, there is a lot of things that have happened to them. A lot of destroying of the land, a lot of damage, has been done to their land. She says, we can not let this, we can not allow this to happen anymore. That is why all of the old people are talking to you, to try -- you know, that is why, you know, they are trying to plead to

you that this is important to them. That these kind of damages shouldn't continue
(Mackenzie Valley Pipeline Inquiry Transcripts. Vol. 9: 799-800).

In the end, Justice Berger earned the respect of the Dene people. In 1977, Justice Berger issued the recommendations of the Mackenzie Valley Pipeline Inquiry in a two volume report entitled *Northern Frontier, Northern Homeland*. In his report, Justice Berger stated:

There should be no pipeline across the Northern Yukon. It would entail irreparable environmental losses of national and international importance. And a Mackenzie Valley Pipeline should be postponed for ten years. 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. Postponement will allow sufficient time for native claims to be settled, and for new programs and new institutions to be established. But it does not mean that we must renounce our northern gas and oil. But it does mean that we must allow sufficient time for an orderly, not hasty, program of exploration to determine the full extent of our oil and gas reserves in the Mackenzie Delta and the Beaufort Sea” (Berger 1977:xxvi-xxvii).

Generally speaking, the people of the Sahtu welcomed Justice Berger’s recommendations. There was a general feeling that their voices had been heard, and that this would result in progress in establishing a land claim in the region. However, despite the Berger Report, and overwhelming opposition to the construction of any pipeline expressed throughout the Sahtu during the Berger Inquiry public hearings, in July 1981 the National Energy Board (NEB) granted

Interprovincial Pipeline Ltd. (now Enbridge Pipelines) permission to construct an 866 km buried pipeline to carry oil from Norman Wells to Zama, Alberta. The Interprovincial, or Enbridge Pipeline as it is now known, became the first major hydrocarbon transportation project in the Northwest Territories (Wilson 1992). The approval and building of the Enbridge Pipeline so soon after the Berger Report has had long-standing effects on how the people of the Sahtu view industrial application and approval processes, and the extent to which their voices are heard with respect to industrial activities in the Sahtu.

In the end, and despite great Dene opposition, the Interprovincial Pipeline was constructed in 1985. Initially, Interprovincial Pipeline did offer the Dene Nation a ten percent stake in the pipeline, however, when the Dene attempted to negotiate a higher stake in the project, Interprovincial Pipelines withdrew their offer and built the pipeline without any Dene ownership stake. After the project received federal approval, however, the Dene “made a reluctant decision to give conditional approval to the Norman Wells Project and to use it as a test case to see whether or not large scale development could in fact bring benefits to northern natives without the native people having negotiated control” (Dene Nation as quoted in Wilson 1992: 4). Studies of Dene involvement in the project suggests, however, that aside for some slight economic benefits provided mostly through contracts during the construction phase of the pipeline, the Dene of the Sahtu region did not see a significant benefit from pipeline activities. In particular, Shannon Wilson’s study of Dene involvement in the monitoring institutions established as a condition of project approval failed the test case

miserably because these institutions were “divorced from any real decision-making powers” (Wilson 1992:73).

A New Political Landscape: Comprehensive Land Claims, Co-Management, and the Mackenzie Valley Resource Management Act:

Despite the continued exploration, production, and transportation of oil and gas after the Berger Inquiry, the Berger Report, along with continued determination on the part of Dene peoples, did contribute to a renewed political landscape within the Northwest Territories. After Northwest Territories Supreme Court Justice William Morrow permitted the Indian Brotherhood of the Northwest Territories to file a caveat claiming interest in more than one million square kilometers of land in the Northwest Territories, and under continuing pressure from Dene groups and the Berger Inquiry report, the Government of Canada entered into combined land claim negotiations with the Dene of the Northwest Territories in 1976 and reached an Agreement-In-Principle for the Dene/Métis Western Arctic Land Claim. However, after almost fourteen years without ratifying the claim, the federal government decided to withdraw the agreement, and begin a regional approach to settling land claims in the Northwest Territories.

In 1993 the Sahtu Dene Métis Comprehensive Land Claim Agreement (SDMCLCA) was ratified by the Government of Canada, the Government of the Northwest Territories, and the Chiefs and Presidents representing the Sahtu Dene and Métis. The agreement came into effect on June 23, 1994 and provides the Sahtu Dene with fee simple title to 41,437 km² of settlements lands, some

(22.5%) of which include subsurface rights, and payment of monetary compensation to “designated organizations accountable to Sahtu Dene and Métis beneficiaries” (Auld & Kershaw 2005:11). The entire Sahtu Settlement Area, including Crown Lands, encompasses an area just over 280,000 km².²¹ The establishment of the Sahtu Dene Métis Comprehensive Land Claim Agreement also contributed to an integrated system of resource co-management that seeks to involve Sahtu people more directly in resource development decisions that have the potential to impact their rights or lands.

In the Mackenzie Valley, as with many regions in the Canadian north, the *Mackenzie Valley Resources Management Act* (MVRMA), and comprehensive land claim agreements have institutionalized a collaborative approach to resource decision-making and land use regulation through a complex network of regional Land and Water boards and the Mackenzie Valley Environmental Impact Review Board (MVEIRB).²² The MVRMA was passed by the Canadian Parliament on June 19, 1998 and fulfilled federal obligations outlined in both the Sahtu and Gwich'in comprehensive land claims to establish land and water boards for each settlement area, an environmental impact review board for the entire Mackenzie Valley, and a land and water board that would examine issues of an inter-jurisdictional nature. These boards are established as institutions of public

²¹ The structure of the SDMCLCA, along with the instituted system of land tenure, enrollment, and jurisdictional authority are addressed in detail in Chapter 5.

²² The Sahtu Renewable Resource Board is the only organization established by the land claim itself; however, several other organizations such as the Sahtu Land Use Planning Board, the Sahtu Land and Water Board, and the Mackenzie Valley Environmental Impact Review Board were established by the *Mackenzie Valley Resource Management Act* of 1998.

government,²³ and membership consists of individuals appointed by the federal and territorial governments, as well as designated land claim institutions. Funding for the operation of the boards is provided by the federal government. In terms of resource decision-making processes in the Sahtu Settlement Area, two boards are of particular note and consequence: the Sahtu Land and Water Board, and the Mackenzie Valley Environmental Impact Review Board. A third board, the Sahtu Land Use Planning Board, was also established in the MVRMA and is responsible for the development of a Land Use Plan for the Sahtu Settlement Area. At the time of writing, the Sahtu Land Use Plan was still in draft stages.

The Sahtu Land and Water Board (SLWB) is an institution of public government that is responsible for the regulation of the use of land and water in the Sahtu Settlement Area “in a manner that will provide for the optimum benefit for residents of their respective management area and of the Mackenzie Valley and for all Canadians” (MVRMA, Section 58.2). The SLWB does this through the issuance, amendment, renewal, suspension, and general management of land and water permits. The SLWB consists of a Chairperson, two members nominated by the Sahtu Secretariat Inc., one member nominated by the federal government, and one member nominated by the territorial government. All members must ultimately be approved by the federal minister of Indian Affairs and Northern Development.

²³ As Graham White (2002) has pointed out, the establishment of these Boards as institutions of public government was intended to promote consensus building as all members of the Boards are required to represent the interests of the public good, rather than the interests of their appointing institution. White has offered an insightful critique of the co-management board as an institution of public government, arguing that the premise of co-operative management necessitates that individuals represent their appointing institutions and that funding arrangements and other complications tend to favour the interests of the federal government.

Two types of permits are issued by the SLWB: land use permits, and water licenses. Land use permits are required for a variety of activities on all Crown, settlement, or private lands within the Sahtu Settlement Area with the exception of Sahtu Dene and Métis beneficiary construction and occupation of camps or cabins for harvesting, Sahtu Dene and Métis beneficiary hunting, trapping, or fishing, or activities done in the course of prospecting or staking a mineral claim. Water licenses are required for a variety of activities that use more than 100m³ of water per day, any activity that involves the deposit of waste, or that might cause an alteration in the channel, bank, or flow of a watercourse. Water permits are not required for the domestic consumption of water, or a non-commercial instream user of water for the purposes of travel, swimming, or fishing.

The method for obtaining water licenses and land use permits adheres to a similar general process. Both water license and land use applicants must adhere to a general process including consulting and, in the case of oil and gas activities, reaching an Access and Benefits Agreement with the land owner (this could include, depending on the location of the proposed activity, the Crown, the GNWT, or one of the respective Sahtu Dene and Métis District Land Corporations), conformity with the Sahtu Land Use Plan (which is currently only in draft stages), consultation with potentially affected Aboriginal communities, and the incorporation of 'Traditional Knowledge' into applications and environmental impact statements. Once land use permit or water license applications have been received by the SLWB they are screened for completeness, conformity to the draft Land Use Plan, and relevance to regional jurisdiction. If

impacts associated with the proposed activity are transboundary in nature, the application is transferred to the Mackenzie Valley Land and Water Board. The SLWB also notifies local Land Corporations, government agencies, First Nations, the Sahtu Renewable Resource Board and community Renewable Resource Councils and others on a list of referrals that an application has been submitted and invites these organizations to provide input and recommendations. The SLWB then undertakes a Preliminary Screening of the application to identify potential impacts or public concern surrounding the proposed project. A Preliminary Screening Report is drafted, along with the SLWB recommendations for the approval, approval with mitigation, or rejection of the application and sent to MVEIRB. If there is significant public concern, or if the potential impacts of the project are deemed to be sizeable, the SLWB can request that MVEIRB conduct an Environmental Assessment. MVEIRB also examines all Preliminary Screening Reports prepared by the SLWB for completeness or to determine whether an Environmental Assessment is required; this can be done with or without a request for an Environmental Assessment by the SLWB. If MVEIRB does determine that an Environmental Assessment is necessary, the application will be forwarded to MVEIRB for further evaluation.

The Mackenzie Valley Environmental Impact Review Board (MVEIRB) was established in 1998 as a result of the MVRMA and is now the principal body responsible for Environmental Assessment and Environmental Impact Review in the Mackenzie Valley. It is made up of at least a seven member board, half of whom are nominated by Aboriginal Land Claim Organizations, and half by

federal or territorial governments. Again, in the end, all members must be appointed by the minister of Indian Affairs and Northern Development.

Essentially, there are three steps in the MVEIRB environmental impact assessment process: Preliminary Screening, Environmental Assessment, and Environmental Impact Review. At the time of writing, only two projects under MVEIRB jurisdiction have ever been ordered to Environmental Impact Review: the Mackenzie Gas Project in 2004, and the De Beers Canada Inc. Gahcho Kue Diamond Mine in 2006.

As outlined in the process for land use and water regulation by the SLWB, most new developments go through a Preliminary Screening where a proposed development is examined for the potential for environmental impacts and levels of public concern. The preliminary screening body determines whether there 'might' be environmental impacts or public concern and can either refer the proposal to MVEIRB for Environmental Assessment, or allow it to proceed to permitting applications. According to a 2004 report by MVEIRB, most proposed developments are accepted at the preliminary screening stage (MVEIRB, 2003:5).

Should a proposed development be referred to Environmental Assessment (EA), whether by the preliminary screening body or because MVEIRB identifies the potential for sizable environmental impacts or levels of community concern at the Preliminary Screening Stage, MVEIRB is responsible for identifying, evaluating, and reporting on ecological, social, cultural, and economic impacts of a proposed development. Through the course of the EA, MVEIRB will go through a more detailed analysis than the Preliminary Screening stage including project scoping,

technical review, and public hearings. Indeed, public hearings, as described by MVEIRB, are at the heart of the EA process in the Mackenzie Valley (MVEIRB 2005:43). During the EA process, proponents, interveners, and members of the public are welcome to send their comments to MVEIRB, or to make oral statements at public hearings. MVEIRB then considers all of the evidence and prepares a report of the Environmental Assessment, which is then sent to the Minister of Indian and Northern Affairs Canada (INAC) for consideration. MVEIRB can recommend that the project be approved, approved with mitigations or rejected; MVEIRB can also recommend that the project be sent to Environmental Impact Review. The Minister can adopt the recommendations of the MVEIRB, refer the report back to the MVEIRB for further consideration, consult MVEIRB and adopt the recommendations with modifications, or reject the recommendations outright.

The lines of authority to grant land use permits and water licenses institutionalized as a result of the complex constellation of regulatory boards in the Northwest Territories has presented several significant complications. First, and most obvious, the complex permit and regulatory institutions and processes often make it difficult for local individuals and proponents to navigate the successive layers of regulatory bureaucracy. Some local individuals find the regulatory process overly obscure and are reluctant to participate in regulatory proceedings because the process is alienating and utterly foreign to how local decisions about land use are typically made. On numerous occasions local people have identified the regulatory process as procedural, intimidating, and overly

technocratic. MVEIRB has recognized the need to more effectively engage local community members in the regulatory process and has successfully initiated a number of modifications including workshops and training sessions aimed at encouraging community capacity building and engagement, and revising public hearing processes to better accommodate local communicative norms and values.

Proponents of resource exploration and extraction projects have also been critical of the current regulatory and management regime in the Northwest Territories. Developers are often confused with regard to which regulatory body ought to be approached concerning a land or water permit and when, and who has jurisdiction over their permit application. Proponents have argued that the administration of these processes is unduly burdensome and time consuming resulting in prohibitive costs to explore and/or develop potential projects. Indeed, even communities who have wanted to fast-track certain development projects have found it frustrating when their negotiations with potential developers have deteriorated as a result of delays in regional or territorial regulatory institutions.

At the same time, the process whereby MVEIRB has the authority to order an Environmental Assessment, despite the issuance of a permit at the Preliminary Screening stage by the SLWB or other regional Preliminary Screening bodies, can and has led to conflict and competition between regional land management boards (i.e. the SLWB), and those at a territorial level (i.e. MVEIRB). For example, on July 3 2007 the SLWB issued a land use permit to Hunter Bay Resources for a uranium exploration program near the McTavish Arm of Great Bear Lake, after conducting a Preliminary Screening. The proposed drilling

program was located near Caribou Point, which is an important caribou harvesting location for the community of Déline. Several organizations in the Sahtu, including the Sahtu Renewable Resource Board, and the Déline Renewable Resource Council expressed their concern over the project, and also pointed out that the area under consideration was within a potential protected area and proposed conservation zone in the Draft Sahtu Land Use Plan. The Preliminary Screening report issued by the SLWB, and the Developers Report submitted by Hunter Bay Resources argued that the Draft Sahtu Land Use Plan is not yet legally binding. After reviewing the Preliminary Screening, MVEIRB referred the project to an Environmental Assessment on its own motion after determining that more information was needed regarding mitigation measures relating to caribou and outstanding community concerns. Consequently, the decision by the SLWB to grant a land use permit to Hunter Bay Resources was challenged pending an Environmental Assessment by MVEIRB. In a letter from the INAC Environment & Conservation office in Yellowknife, the Director states:

“INAC notes that the Sahtu Land and Water Board issued a land use permit for the Hunter Bay Minerals exploration project on July 3, 2007 and that the same project is now the subject of an environmental assessment by the Mackenzie Valley Environmental Impact Review Board following referral on September 4, 2007 by the Review Board itself. This situation raises several concerns for this department. The environmental assessment and regulatory process established by the Mackenzie Valley Resource Management Act sets out a linear process for project review and approval... In this case we have a project which has received regulatory

approval by the Sahtu Land and Water Board, has been initiated by the proponent, and is now undergoing environmental assessment. This raises questions about the validity of the land use permit and the appropriateness of the environmental assessment. We strongly encourage the Review Board to resolve these uncertainties with the Sahtu Land and Water Board...”²⁴

On February 16, 2008 Hunter Bay Resources submitted a notice of their decision not to pursue the land use permit to the SLWB, and the permit was discontinued. This case, in particular, highlights the conflicting and multiple interests of local, regional, and territorial institutions as they jockey and maneuver for diverse interests, positions of power, and economic gain. These sometimes conflicting interests can be seen at the local level of individual politics, between for example those community members who see a particular mining operation as advantageous and those who express concerns about the impacts of such mining on a significant community harvesting location. Community and regional politics, for example those who have the authority to sign off on these types of land permits and those who do not, and territorial politics, where multi-regional institutions can, at times, have the power to override regional decision-making bodies even if countermand is the result of concerns expressed by some local community members themselves.²⁵

²⁴ Letter from David Livingstone, Director Renewable Resources and Environment, INAC Environment & Conservation to MVEIRB, dated December 14, 2007. Available on the MVEIRB Public Registry EA0708-006 Hunter Bay Mineral Exploration.

²⁵ Another example when local interests conflicted with a decision made by MVEIRB includes the case of a Well Land Use Permit and Water Licence application submitted by Paramount Resources Ltd. in the Cameron Hills area of the Deh Cho Region in 2003 whereby, after an Environmental Assessment, MVEIRB recommended that the licence and permit application proceed to permitting

At the same time, the mandate of MVEIRB, and the role of the federal government as the financier and the ultimate authority in the regulatory process has, on several occasions, created conflict and tension between the decisions of MVEIRB and INAC, particularly when an MVEIRB recommendation imposes conditions on resource development or when MVEIRB recommends that the development not proceed at all. When we examine the results of MVEIRB recommendations to the Minister of INAC throughout its limited lifespan, we can see that MVEIRB has often required the implementation of mitigation measures such as more community involvement in projects that have significant “public” concern, or that involve lands that have significant cultural, economic, or spiritual value as a condition to proceed with permit applications.²⁶ These decisions have been based on information provided by community members in public hearings or in written notices. On several occasions corporations have withdrawn their permit applications because mitigatory measures recommended by MVEIRB have been seen as either too expensive or unnecessarily burdensome to implement; thus, effectively halting the proposed development, at least for the time being. Other corporations have withdrawn their applications at the initial stages of an EA because the EA is seen as costly and overly time consuming.

However, according to data obtained from a listing of Environmental Assessment documents on the MVEIRB public registry, MVEIRB has only recommended that

stages with suggested mitigation measures. INAC adopted the recommendations of MVEIRB, and the Ka’a’Gee Tu First Nation threatened legal action against INAC and MVEIRB stating that the modified recommendations were unacceptable to the Ka’a’Gee Tu, and are insufficient to meet the legal obligations of the Crown to the First Nation.

²⁶ See Consolidated Goldwin Ventures EA03-02 Drybones Bay Preliminary Exploration Environmental Assessment, ExplorData Ltd EA00-001 Laird Seismic Survey Environmental Assessment, Northrock Resources Ltd. EA03-001 Summit Creek Exploration Well Environmental Assessment, DeBeers Canada Mining Ltd. EA01-004 Snap Lake Diamond Mine.

two projects²⁷ not proceed to permitting applications on the basis of significant environmental impacts or significant public concern, despite public and Aboriginal community concern expressed in both written form and at public hearings on numerous projects.²⁸ In the Ur Energy Inc. EA0607-003 Screech Lake Uranium Exploration Project, a permit was sought to explore for uranium near the Thelon Game Sanctuary. INAC initiated a 'consult to modify' process which included establishing a long term land and resource management plan for the Thelon geologic basin which "balances the various interests of all parties and guides development in the region". INAC did, however, accept MVEIRB's recommendation to reject the exploration work proposed by Ur Energy in the upper Thelon region, but did outline their short and long-term land and resource management plan goals for the area. In a letter sent to MVEIRB and all interested parties involved in the EA process, INAC describes their short term goal of creating an atmosphere in which all interests can be accommodated. However, INAC goes on to acknowledge that "the Crown has significant interest in the Thelon geologic basin as it contains uranium resources that represent a strategic commodity that are an important source of 'green' energy for Canada" and that they will "work with decision-making partners and other parties to seek agreement for a portion of the Thelon geologic basin to be defined as 'open for business', thus allowing at least some mineral exploration to proceed."²⁹ The

²⁷ These projects include Ur Energy Inc. EA0607-003 Screech Lake Uranium Exploration Project, New Shoshoni Ventures EA03-004 Drybones Bay Mineral Exploration,

²⁸ See New Shoshoni Ventures EA03-004 Drybones Bay Mineral Exploration Environmental Assessment.

²⁹ Letter from the Regional General Director of INAC, Trish Merrithew-Mecredi to all interested parties, dated December 7, 2007. Available on MVEIRB Public Registry Ur Energy Inc. EA0607-003 Screech Lake Uranium Exploration Project.

establishment of a long-term land and resource management plan for the Thelon geologic basin is expected by 2010.

In the spring of 2003, a diamond exploration company, New Shoshoni Ventures, proposed a diamond exploration program in the area of Drybones Bay, an important cultural and heritage area for the Yellowknives First Nation, the North Slave Métis Alliance, and Lutsel K'e First Nation. Though the exploration program was only proposing to drill ten holes, and construct a semi-permanent 8 person camp, MVEIRB concluded that significant adverse cumulative impacts on the culture of the First Nations involved would result from the continued development of the Drybones Bay area by New Shoshoni Ventures, and three other interested diamond exploration companies. Furthermore, MVEIRB found that consultation undertaken by New Shoshoni Ventures “did not lead to greater understanding of the cultural importance and use of the area thus limiting the value of the mitigation measures proposed.”³⁰ In the Report of the Environmental Assessment released on February 10, 2004, MVEIRB recommended that the applications for this project be rejected because the cumulative impact on the environment and peoples was so significant that it could not be justified.

In April of that year, the Minister of INAC, after receiving MVEIRB's recommendation not to proceed to permitting application, referred the decision back to MVEIRB for further consideration. In a letter from Andy Scott (then Minister of INAC) to MVEIRB, Mr. Scott states:

³⁰ Report of Environmental Assessment and Reasons for Decision on the New Shoshoni Ventures Preliminary Diamond Exploration in Drybones Bay, EA03-004.

“After considering the Report...the responsible Ministers and I have agreed to refer the recommendation back to the Review Board for further consideration...In our review of the Report, we have determined that the Review Board did not fully and clearly outline its analysis that led to the recommendation to reject this proposed development.”³¹

In a rebuttal, MVEIRB sent a letter back to the Minister stating:

“The Review Board has confirmed that the evidence on the public record supports its original decision. The Review Board has thus not changed its original recommendation that the project be rejected without an Environmental Impact Review. Further, the Review Board reaffirms its determination that the significant adverse impact caused by the project cannot be mitigated.”³²

For two years, there was no reply from the Minister on the standing of the Drybones Bay proposed diamond exploration program, or the MVEIRB recommendation to reject the development. Thus, the project remained at a precipice: it had not been approved as it needed Ministerial approval, but nor it has not been officially rejected either. This presented an interesting situation, and a test of power of sorts between INAC and MVEIRB. The Minister had adopted MVEIRB's recommendations on other projects, most notably on projects that had been approved by MVEIRB or approved with mitigation. The Minister had also, and most often, initiated a consult to modify process with MVEIRB on mitigation

³¹ See Letter from the Minister of Indian and Northern Affairs to MVEIRB re: New Shoshoni Ventures Preliminary Diamond Exploration (April 1, 2005), EA03-004.

³² See Letter from MVEIRB to the Minister of Indian and Northern Affairs re: New Shoshoni Ventures Preliminary Diamond Exploration (June 23, 2005), EA03-004.

recommendations, or had referred the recommendation back to MVEIRB for further consideration. Ultimately, in the end, the decision remained with the Minister as MVEIRB devolved its responsibility to the final decision-making authority, as it is required by law to do. Finally, on April 10 2006, the Minister adopted MVEIRB's recommendations, and the Drybones Bay program was officially abandoned.

When examining the history of resource decision-making in the Northwest Territories, the establishment of an integrated resource regulatory regime that provides a specific space for Aboriginal community participation and is based on the philosophy of co-operative management may be seen as a mighty step forward. One could look at considerations of concern expressed in the contexts of Aboriginal community participation with optimism, insofar as two proposed development have been halted based on MVEIRB recommendations made with the consideration of evidence presented throughout direct Aboriginal participation in EA and regulatory processes. On the other hand, one must ask whether or not real power sharing exists within current resource regulatory structures in Northwest Territories, and whether or not these newly created regulatory institutions can sincerely be considered as co-operative management bodies when their Boards fulfill only advisory roles, and final decision-making authority rests outside of local (or even regional) jurisdictions. Certainly, Aboriginal communities in the Northwest Territories do participate in resource development decisions through various avenues and are recognized as having an interest in development decisions. Yet, as the above examples have demonstrated

there is still the potential for the state to exercise its muscle, so to speak, when land use and water regulation decisions do not coincide with the state's goals of national 'development'; after all, in spite of the implementation of co-management institutions in the Northwest Territories, the state does maintain sovereign administrative decision-making authority in development decisions. It could be argued that the legitimation of that authority is achieved by the appearance of Aboriginal participation in decision-making processes through resource co-management institutions, public hearings, and judicial requirements for consultation rather than a consideration of Aboriginal perspectives of resource management for their own sake. Thus, co-operative resource management could be seen as arising not as a means of meaningful engagement, but as a means to mediate a Legitimation Crisis.

The idea that recently implemented co-management and regulatory institutions in the Northwest Territories may not adequately represent the concerns, needs, or visions of local Dene communities is not new; nor does it go unnoticed by the people who participate in regulatory processes. Recent reviews of public consultation in EA processes elsewhere have suggested that rather than enhancing public empowerment to influence decisions related to resource development, public consultation has amounted to little more than a form of political tokenism, which has "most widely involved the gathering of comments from the public and information dissemination rather than local people exerting any real influence on decision-making" (Cooper & Elliot, 2000:343); or as Petts (1999) suggests, is treated as "a limited set of disjointed public relations events"

(Petts, 1999:171). Other scholars have argued that current co-management regimes and associated Aboriginal consultation in the Canadian north are yet another means of co-opting local governance and management structures, extending the capacity of nation-states to govern lands and peoples (Mulrennan & Scott 2005, Nixon 1993, Nadasdy 2003, 2005). Others have criticized that an overly narrow focus on the formal and structural limitations of Aboriginal consultations limits interactions in the context of resource co-management to political and legal frameworks that lack consideration of local contexts, histories, and meanings of what is actually being said.

Yet, despite the complicated structures, the issues surrounding funding, the requirement for Board members to be 'approved' by the Minister of Indian Affairs and Northern Development even when appointed by their respective nominating bodies, and the ultimate decision-making authority resting with the federal government, overall, people engaged in these resource regulation and management institutions have maintained an impressive commitment to a collaborative resource management process. Institutionally, MVEIRB has put forth very progressive guidelines on conducting social and cultural impact assessments and on incorporating and using 'Traditional Knowledge' in environmental assessment practices. The Yellowknife offices of INAC have established forward-looking co-management plans with various Aboriginal organizations, and have engaged in various projects aimed at improving the collaborative nature of resource management in the Northwest Territories. Individuals, too, have demonstrated steadfastness in their ongoing work to

maintain the intent and nature of a collaborative resource management and regulatory regime. Thus, despite the structural, and sometimes procedural, barriers presented here, there are times of great optimism; indeed, as the Drybones Bay and Screech Lake Uranium Exploration Project show, there are examples of successful Aboriginal participation in co-management institutions. However, due to the structure of resource decision-making in the Northwest Territories (i.e. that the ultimate decisions continue to rest with the Crown), it is important to ask: is there a point where the cost of participating in the niceties of resource co-management are too great for the federal government? Or perhaps, put another way, under the current co-management regime will Dene peoples be able to exercise their own visions for their land and their future if these conflict to too large a degree with the interests of the federal government?

Toward An Analysis of Participatory Practices in the Sahtu:

For over two hundred years, Dene and Métis peoples in the Sahtu Region have witnessed the encroachment of outside interests looking to make a profit off of their traditional lands. Sometimes these outside incursions were brief and had very little influence on Sahtu Dene and Métis life, other times they were far more intrusive and destructive. For a vast majority of this time, Sahtu Dene and Métis people, though they articulated their concerns and their own visions for their future, were drastically unequal players in the fields of Euro-Canadian bureaucratic, economic, and state power and thus found themselves on the periphery of resource decision-making processes concerning their homelands. After a series of political movements in the 1970's, Sahtu Dene and Métis peoples

negotiated and ratified a comprehensive land claim that aimed to provide them with a central role in the regulation and assessment of activities proposed on Sahtu lands. This chapter has traced the process and experiences leading up to the SDMCLA, and has offered a description and analysis of the current regulatory regime in the central Mackenzie Valley.

The extent to which the ratification of the SDMCLA, and the subsequent establishment of a co-operative resource management and regulatory regime, has provided Sahtu Dene and Métis peoples with more authority regarding land use decisions is a matter of debate. Some analysts have argued that the current resource management regime works very well (*cf.* Christensen & Grant 2007), and others have argued that there is still a considerable amount of work to be done (*cf.* White 2006, 2002). Michael Asch has pointed out that from the perspective of many Dene people comprehensive claim agreements were not viewed as an abandonment of traditional life styles, but as a means to protect themselves and their rights in the future (Asch 1977:57). This included securing an active role in land-use planning, resource management, and the development of local economies and institutions.

Part of the development of local economies has included a degree of resource extractive activities on Sahtu lands, and indeed, some people in the Sahtu region have, on occasion, been active proponents of some industrial projects, including a current proposal to construct a hydro-electric dam on the Great Bear River. However, in planning for industrial projects, people in the Sahtu region have also insisted that lands should be primarily protected for further subsistence through

hunting, fishing, trapping, and gathering with a consideration of domestic commodity production and industrial production only after subsistence protection has been secured (Asch 1984). While obtaining food and other products from harvesting activities can off-set the high costs of living in the north, time on the land also plays an important role in the transmission and acquisition of knowledge, and maintenance of identity and community ties. As Scott Rushforth writes about Bearlake (Sahtu Got'ine) peoples:

It is obvious that their land and bush-oriented way of life mean much more to the Bear Lake people than can be expressed in Western dollar terms. By measuring the utility of traditional land-use activities in dollars only, one misses or obscures many of the subjective preferences or values which people associate with such activities. The Bearlake People, of course, discuss the importance of the foods and materials which they take from the land. However, they also emphasize a number of other positive values which can not be measured in dollars. Such values were learned by them from their ancestors and are considered by them to be constants in their cultural tradition (Rushforth 1977:45).

Considering the central place of the land and land-based activities, the emphasis placed on mechanisms that are intended to provide increased control over Sahtu lands and resources, and past experiences of resource extraction in the Sahtu, a number of interesting questions arise. Firstly, and most obviously, we must question the extent to which Sahtu Dene peoples are able to participate as equal

players in resource decision-making processes involving their lands. This includes a consideration of the structural limitations of resource decision-making including the legal duty to consult with Aboriginal peoples, and the ways in which environmental and socio-economic impacts are considered within environmental assessment regimes. Ciaran O'Faircheallaigh has argued that environmental assessment processes often "fail to acknowledge the values and perspectives of Aboriginal peoples where these conflict with the dominant social ethos of the country concerned" (1999:64). In this way, Aboriginal perspectives of industrial impacts can be marginalized and excluded from environmental assessment processes thereby limiting the ability for decision-makers to fully and accurately consider the values and needs of Aboriginal communities when it comes to industrial activities on their lands. But we must also consider that Sahtu Dene people can also be active participants, even proponents of industrial projects. We must also ask then, under what conditions are industrial projects acceptable for people in the Sahtu, and for what reasons? Finally, I think it is important to consider the ways in which Sahtu Dene peoples are participating in resource decision-making processes, including strategies of interaction between local people, proponents, governments, and larger global networks. I will argue here that strategies employed by Sahtu Dene peoples in public participation processes form a valuable cultural text rich with sometimes overt and sometimes enigmatic modes of resistance that helps to define modes of acceptable behavior, ways of knowing, and conceptions of Sahtu Dene rights and lifeways (*c.f.* Scott 1990). These are themes I will address in the following chapters.

Chapter 3

The Mackenzie Gas Project & The Community
Hearing Process

Introduction:

In the Northwest Territories, many regulatory and environmental assessment responsibilities have been taken over by co-management boards established as a result of comprehensive land claims. The aim of these claim-mandated boards is to integrate the perspectives and interests of federal and territorial governments with those of Aboriginal organizations and to provide a mechanism through which Aboriginal peoples have an increased say in resource development and management. Indeed, several scholars have considered the regulatory process in the Mackenzie Valley to be one of the more successful examples of collaborative resource decision-making with clear requirements for Aboriginal participation as well as the integration of multiple forms of knowledge (Armitage 2005, Christensen & Grant 2007, White 2002). One of the major contributions of the regulatory regime in the Mackenzie Valley to environmental assessments is the process of accepting evidence presented by community members at public hearings. Community hearings are intended to encourage local participation in the assessment and regulation of proposed projects where there is deemed public or community concern.

Yet, while the role of community hearings has been a significant avenue for eliciting Aboriginal input into resource decision-making in the Northwest Territories, it is not yet clear whether or not the use of community hearings has led to an increase in local authority in resource decision-making. Complications surrounding the attempted integration of differing epistemological foundations, linguistic and conceptual translation, and ways of viewing the land in resource

management, and decision-making have been examined in great detail both in the Canadian north (*cf.* Armitage 2005, Asch 1997, Brody 1981, Ellis 2005, Feit 2005, Kofinas 2005, Mulrennan & Scott 2005, Nadasdy 2005, 2003, 1999, Stevenson 1996, Westman 2006, White 2006) and in other circumpolar countries (Fondahl & Sirina 2006, Morrow & Hensel 1992, Povoroznyuk 2006). These authors have raised serious questions concerning the extent to which institutionalized joint decision-making (and particularly institutionalized joint decision-making modeled upon non-local assumptions about the nature of the world, legalistic proceedings, and technocratic discourses) can ever truly reflect Aboriginal views even where there is genuine consideration given to traditional and land-based knowledge (*cf.* Nadasdy 2003, White, 2006).

Here, I examine a particular set of community hearings surrounding the proposed Mackenzie Gas Project (MGP) in an attempt to show, ethnographically, the ways in which participation in resource decision-making is not simply a matter of ‘showing up’ for a hearing, but rests in deeply embedded ways of thinking about the world; the constitution of community members’ knowledge; and appropriate human conduct. Community hearings offer situations of inter-cultural confrontation, or what scholars such as Jean-Pierre Olivier de Sardan (2005) and Norman Long (1989) have called ‘encounters at the interface’. These encounters can provide the grounds for a systematic analysis of the interactions between members of differing cultures, where “agents who not only have different resources, but also play the games according to different rules, confront each other” (Olivier de Sardan 2005:102). At the same time, because these inter-

cultural interactions are also placed in relationships of power, the use of community hearings can provide a frame for analysis of interactions between local social actors and representatives of abstract systems (*c.f.* Rushforth 1994:339).

Indeed, the structure and format of the Joint Review Panel (JRP) community hearings and the deliverance of JRP testimonies are culturally framed, and can include explicit and implicit messages about the interpretation and negotiation of meaning (*c.f.* Bauman 1975). This chapter will begin with a brief overview of the Mackenzie Gas Project, followed by a description of the history and expansion of the JRP process. I then examine the JRP community hearings as interactive sites of participation in resource decision-making. The content and form of the JRP community hearings are examined not only for local conceptions of harms and benefits associated with the proposed Mackenzie Gas Project, and the resulting power struggles between local communities and trans-local development schemes, but also examined as avenues for negotiation as utilized by local people to assert their own conceptions of the world. The ways in which decisions are made in the Sahtu region (and how positions on resource development are taken and expressed) are influenced by multiple and complex factors including individual and collective interests, past experiences with extractive projects, relationships with various levels of government and the nation-state, and values about human conduct and interaction. This weaving of diverse interests, opportunities, and constraints in decision-making processes does allow these 'encounters at the interface' to be sites of creativity and contestation, continually

challenging and redefining conceptions of knowledge, appropriate human interaction, and perceptions of entitlements and appropriate development.

The Mackenzie Gas Project:

On October 7, 2004 Imperial Oil, on behalf of ConocoPhillips Canada, Shell Canada, ExxonMobil Canada, and the Aboriginal Pipeline Group (collectively referred to as the Mackenzie Gas Project, or MGP), submitted applications to construct and operate a 16.2 billion dollar pipeline and related infrastructure from the Beaufort Delta through the Mackenzie Valley.³³ This mega-project seeks to develop three onshore gas fields and to transport natural gas, and natural gas liquids (NGL's) through a 1,220 km pipeline from processing facilities near Inuvik into existing Alberta pipelines. The three anchor fields, Taglu, Parsons Lake, and Niglintgak, are expected to produce approximately six trillion cubic feet of natural gas. The Mackenzie Gas Pipeline is designed to carry 1.2 billion cubic feet per day and would have the potential to expand capacity to accommodate gas from additional future discoveries (Mackenzie Gas Project 2004).

The MGP has been touted as a principal means of opening up Canada's northern energy frontier not only because of the capacity for the proposed pipeline to carry natural gas and NGL's from current discoveries, but also because of its potential to transport natural gas from future exploration and production. The proponents have called it "the pipeline to the future"³⁴, and industry representatives have

³³ In 2004, Imperial Oil estimated the cost of the MGP at approximately 7.2 billion dollars (CDN.). The revised 16.2 billion dollar cost estimate was filed by Imperial Oil on March 12, 2007.

³⁴ This phrase was utilized by the MGP in a series of advertisements in *Up Here Magazine* in 2006/2007.

termed the MGP “a basin-opening pipeline”³⁵ referring to the potential for opening new supply regions. Politicians, too, have made no secret of their desire to see the pipeline proceed. In a speech made to a Calgary business audience and reporters in November 2006, then Minister of Indian Affairs and Northern Development, Jim Prentice, stated: “the (project) is an important piece of infrastructure in this country and I intend to do everything I need to as the Minister responsible.”³⁶

However, traversing the rugged northern terrain and the equally demanding assessment and regulatory regimes in place in the Northwest Territories is by no means an easy task. If approved, the MGP will pass through four Aboriginal land claim areas, cross over 500 water bodies, use approximately 110 granular borrow sites, and have the potential to affect up to 32 communities in the Northwest Territories and northern Alberta (Mackenzie Gas Project 2004). A large portion of the pipeline right-of-way would be built in areas with no all-season roads, and complications surrounding melting permafrost and the dramatic ice freeze-up and break-up cycles are just a few items on a long list of project challenges.

As part of their regulatory application, the MGP was required to submit an Environmental Impact Statement (EIS), an eight volume overview and appraisal of the proposed project. Within their EIS, the MGP describe baseline biophysical and socio-economic conditions in the project area, provide an assessment of potential impacts directly related to pipeline activities, and present mitigation or

³⁵ Bob Reid, president of the Aboriginal Pipeline Group, utilized this phrase during an interview for the *Calgary Herald* (Calgary Herald, January 23, 2006).

³⁶ Jim Prentice as quoted by James Mahony in the *Daily Oil Bulletin*, November 21, 2006

management measures aimed at reducing any anticipated adverse effects. The MGP EIS identifies several biophysical components that have the potential to be adversely affected by project impacts, including: impacts to air quality as a result of increased emissions and dust generated from disturbed areas and constructions camps; noise disturbances during construction stages and near compressor stations; changes in groundwater due to the removal of granular material; changes in hydrology and water quality due to increased sedimentation, water draw-downs from lakes and rivers and increased barge traffic; effects on fish and fish habitat at pipeline watercourse crossings; changes in vegetation as a result of construction activities on the pipeline right-of-way; and adverse impacts on wildlife due to habitat and vegetation loss and increased access and disturbance by humans and other predators. However, the MGP reports in their EIS that while there may be some cases of low to moderate effects resulting from the MGP, there are no anticipated “significant impacts” on any element of the biophysical environment (Mackenzie Gas Project 2004: 23-29).

The MGP also maintains that while there may be some adverse effects on community well being, the project has the potential to provide significant positive socio-economic benefits in the areas of job creation, procurement, regional economic development, and will generate “substantial” government revenue through access and benefits agreements, taxation, and royalty payments³⁷. Unlike any other case, the Aboriginal people of the north will be

³⁷ As pointed out in the MGP EIS, the Government of the Northwest Territories (GNWT) does not stand to benefit from increased taxation as the tax revenue will reduce the Formula Financing Grant issued by the Canadian federal government. Thus, the federal government stands to generate significant taxation revenue, but the revenue will not be significant for the GNWT (*c.f.* Mackenzie

“owners of the pipeline”³⁸ through a one-third stake in the Mackenzie Valley pipeline (excluding the processing and connecting facilities for the three anchor fields). The Aboriginal Pipeline Group, or APG, includes shareholders from Aboriginal organizations in the Northwest Territories and, should the MGP be approved, the APG would generate earnings through tolls charged on the shipment of gas through the pipeline that would then be distributed as dividends to shareholders.³⁹

According to Imperial Oil, at its peak the MGP is expected to provide northern residents with nearly 4,647 jobs directly related to pipeline activities, and provisions have been put in place to hire northern and Aboriginal workers (Imperial Oil 2007:10-10). The size of the project is also anticipated to create various spin-off businesses such as camp catering, transportation, slashing, and construction. Local and Aboriginal businesses are expected to obtain a number of contracts to provide services as well as to conduct work on the pipeline itself. Both the federal and territorial governments and the MGP have committed to

Gas Project 2004:31). This also applies to royalty payments as the majority of royalty payments for the Northwest Territories (excluding relatively small parcels of lands where subsurface rights are owned by Aboriginal governments) are paid to the federal, rather than the Territorial or Aboriginal governments.

³⁸ The Aboriginal Pipeline Group (APG) advertises ownership in the MGP in *Above & Beyond: Canada's Arctic Journal*. January/February 2006. pp.45, and in presentations to the Sahtu Dene Council/Sahtu Secretariat Inc. General Assembly held in Déline on September 7-9, 2006.

³⁹ APG ownership and benefits grow with pipeline volumes. For example, a 33.33% ownership would be realized only if the shipment of gas through the pipeline increases in volume to +400 mmcf/d. Should there be no incremental increase in volume, the APG would only own a 3% share. Additionally, the APG has negotiated a loan in excess of \$100 million from TransCanada Corp. to cover APG's share of project costs during the pipeline pre-development period, and would seek bank loans to cover APG's share of construction costs should the MGP receive regulatory approval. Thus, any APG profits initially generated from pipeline tolls will be utilized to repay loans, rather than be transferred to shareholders. Data taken from an APG presentation to the Sahtu Dene Council/Sahtu Secretariat Inc. General Assembly held in Déline on September 7-9, 2006.

supporting the development of northern and Aboriginal education and training programs so that workers have the skills necessary to gain employment.

However, the majority of jobs created by the MGP will be during the construction period of the project and are expected to last only three winter work seasons. On average, only 205 jobs resulting from direct pipeline activities are forecasted for long-term pipeline and facility operations (Imperial Oil 2007:10-14). Even though the MGP may provide some short-term or seasonal employment leading to increased household incomes, as experience elsewhere in Canada has indicated, a rapid influx of money into small communities does not always contribute to enhanced community well-being, and indeed can present a unique set of challenges including increased access to drugs and alcohol, and increased gambling.

The Proponents have identified other potential adverse socio-economic effects in their EIS as well, including possible rapid migration of foreign workers into northern communities overburdening community infrastructure and heightening already existing strains in the areas of policing, social and health services, transportation, recreation, housing, and domestic energy supplies. In addition, it is estimated that large construction camps located near the communities of Fort Good Hope, Inuvik, Norman Wells, Tulit'a, and Fort Simpson will present opportunities for (mostly male) project workers to interact with local residents creating concerns over adverse effects on community health and wellness. The proponent's EIS identified that an increase in foreign workers, and improved access to lands resulting from road construction and pipeline right-of-ways,

could potentially lead to the intensification of sport and non-local hunting, thus creating further strain on renewable resources. The EIS raised the possibility that local young people might leave school prematurely to gain short-term employment on the MGP and, of course, the EIS addressed probable effects on harvesting, language and culture transmission, and traditional resource use. However, as a result of mitigation and management measures proposed by the proponent, and the predicted low to moderate magnitude of adverse socio-economic effects identified in the EIS, the MGP concluded that there “will be disruptions to the people in the North, but they will be short term, and over a small area, mainly during construction. Therefore, the disruptions will not be significant” (Mackenzie Gas Project 2004b:7).

The Public Hearing Process: The Joint Review Panel for the Mackenzie Gas Project:

In many ways the MGP has become a symbol of northern change and contestation. There have been other large projects approved by current regulatory bodies in the Northwest Territories, including the 3000 tonne per day De Beers Snap Lake Diamond Mine northeast of Yellowknife in 2003. There have only been two projects ever ordered by MVEIRB to the highest level of environmental impact assessment: the MGP in 2003, and the DeBeers Gahcho Kue Diamond Mine in 2007 (MVEIRB 2007). Furthermore, there have been additional large projects approved in the Northwest Territories under the Canadian Environmental Assessment Act (CEAA) prior to the implementation of co-management institutions including the BHP Billiton Ekati Diamond Mine,

approved by the Minister of Indian Affairs and Northern Development in 1996, and the Diavik Diamond Mine approved by the federal government in 1999. There have also been pipelines built in the Northwest Territories before including the Canol Pipeline in 1942 and the Norman Wells Pipeline in 1985. However, for people in the north, and in other parts of Canada as well, the MGP has come to represent an intersection, a tipping point of sorts, between perceptions of the north as a relatively pristine wilderness, and a view of the north as an area of untapped resources. On one side of the scale, should the MGP proceed, it would induce further oil and gas exploration and production, cause irreparable damage to the land and wildlife, contribute to global climate change, and forever alter the local lifeways of people in the north. On the other side, the consequences should MGP *not* proceed would be a stagnation of the northern economy, and the existing gas wells that sit on the northern landscape now lacking a means of transport would represent missed opportunities to exploit the riches of the north. Advocates of both perspectives, and of many others, were given the opportunity to present their positions, concerns, and justifications for or in opposition to the MGP at one of the largest and most complicated environmental impact assessment and regulatory reviews in Canada's history.⁴⁰

⁴⁰ Similar to terms utilized in the Cooperation Plan for the Environmental Impact Assessment and Regulatory Review of a Northern Gas Pipeline Project through the NWT, the term environmental impact assessment (EIA) is used to describe the general process for reviewing the effects of a proposed industrial project, or project components. The term Environmental Assessment (EA), is used to describe the specific process of the second level of environmental impact assessment by MVEIRB, and the term Environmental Impact Review (EIR) is used to describe the specific process of the highest level of environmental impact assessment by MVEIRB as outlined in the MVRMA (*c.f.* Northern Pipeline Environmental Impact Assessment and Regulatory Chairs Committee 2002:1).

One of the reasons for the grandiose attention paid to the assessment and regulation of the MGP is its trans-boundary and trans-jurisdictional nature. Long before Imperial Oil filed regulatory applications, efforts were underway by a number of agencies and government ministries to determine just how an assessment of a northern pipeline would work. A meeting initiated by MVEIRB in December 2000 brought together the Mackenzie Valley environmental impact assessment boards, the Inuvialuit Settlement Area Board, the National Energy Board (NEB), the CEAA, the GNWT, and INAC to begin discussions to coordinate the various regulatory and environmental impact assessment legislation in preparation for an application to build the MGP. In 2002, a *Cooperation Plan for the Environmental Impact Assessment and Regulatory Review of a Northern Gas Pipeline Project Through the Northwest Territories* (Cooperation Plan) was developed between the boards and agencies responsible for assessing and regulating energy developments in the Northwest Territories. This plan described the means for coordinating the review of a trans-regional natural gas pipeline. Essentially, the Cooperation Plan expressed a desire and process for responsible agencies to work collaboratively in order to avoid duplication in the review of a northern pipeline and expressed the need for a “made in the north” process that enhanced public participation and ensured that potential impacts were fully and thoroughly considered before project decisions were made (Northern Pipeline Environmental Impact Assessment and Regulatory Chairs’ Committee 2002:5). It was determined that two panels should be established: a Joint EIA panel (later to become the Joint Review Panel for the Mackenzie Gas Project, or JRP) which would be responsible for an evaluation of the potential environmental and socio-

economic impacts of a proposed pipeline in the project area, and an NEB panel responsible for regulatory hearings (including topics such as tolls, tariffs, engineering and design, operating safety, resource supply, economic feasibility) and consideration of issuance for a Certificate of Public Convenience and Necessity pursuant to the *National Energy Board Act*. Justification for the establishment of two assessment panels included a need to provide for distinct northern circumstances, and to establish targeted forums for public participation and debate. As the Cooperation Plan outlines:

“The Agencies wanted to develop a process that would enable northerners to participate in a manner that was familiar to them and to ensure northern communities potentially affected by the project would be able to provide input. The Agencies also believed that the framework should facilitate the incorporation of traditional knowledge into the EIA and regulatory process. Initially, efforts were made to combine the public hearings aspects of the EIA and regulatory process. However, this would have resulted in a large and unwieldy panel, and to address this, the Agencies agreed that the EIA and regulatory hearing processes should be separate. This will also allow the Joint EIA Panel to proceed in a less formal manner that will be more responsive to local needs and expectations” (Northern Pipeline Environmental Impact Assessment and Regulatory Chairs’ Committee 2002:5).

As per the Cooperation Plan, and after receiving preliminary information packages from MGP Proponents, the Chairs of MVEIRB (responsible for

administering the MVRMA), the Inuvialuit Game Council (or IGC, representing the collective interests of the Inuvialuit under the Inuvialuit Final Agreement), and the Minister of the Environment (responsible for administering the CEAA) executed the *Agreement for an Environmental Impact Review of the Mackenzie Gas Project* (the Agreement) on August 18, 2004. Along with the scope and procedures of the Environmental Impact Review (EIR), the Agreement established a seven member Joint Review Panel (JRP) to conduct the EIR. The JRP was established as an independent body that has the authority to meet the requirements of comprehensive land claims and federal environmental impact assessment legislation. Membership on the Panel was appointed by the respective responsible authorities executing the Agreement, with MVEIRB selecting three Panel members, the Minister of the Environment selecting four Panel members (two of whom were nominated by the IGC), and all parties approving the selection of the Panel Chair. Not only did appointed Panel members need to be free from conflicts of interest relative to the proposed project, but they also needed to possess various types of knowledge “including, as appropriate, traditional knowledge, or experience relevant to the anticipated impacts of the Project on the environment” (Agreement for an Environmental Review of the Mackenzie Gas Project 2004: Section 4(d)). In the end, the membership of the Panel reflected the collaborative management approach established in the Cooperation Plan.

Pursuant to the Agreement, a public registry was established in both paper and electronic form under the principle that all submissions should become a matter

of public record. The JRP Panel was to consider all evidence submitted by the public either in writing or through public hearings in their evaluation of the proposed project and was, upon the completion of intensive community and technical hearings, to issue an environmental assessment report and final recommendations. The report would also become a matter of public record, and would be submitted to the Minister of the Environment, the Minister of Indian Affairs and Northern Development, the National Energy Board, and all other boards responsible for regulating pipeline activity in the Northwest Territories. Finally, the responsible ministers will be expected to take the Panel's report into consideration before making any decisions related to the approval of the proposed project.

With much fanfare, the JRP began their public hearing process in Inuvik on February 14, 2006. Before the final concluding hearings were held some 21 months later, the JRP had held more than 115 days of hearings in 26 communities, and had produced more than 11,000 pages of transcripts.

The Structure & Format of the Community Hearings: Ethnographic Accounts from the Sahtu:

The Community Hearings of the Joint Review Panel for the Mackenzie Gas Project in the Sahtu Settlement Area began on a crisp spring afternoon of April 3, 2006. The day before, several people from the first Sahtu community to host the JRP hearings were passing an unseasonably warm Sunday afternoon fishing. They were getting ready to pack it in for the day when a Dash-8 landed at the local airport. As it happens in many small northern communities, several people went

to the airport to see who had arrived. In this particular case, the arrival of a Dash-8, rather than the small Twin Otter or Grand Caravan which usually provide the daily flight service to the community, meant a chartered aircraft. While there was a general awareness that the JRP hearings to be held the following day, life in the community had been filled with the preoccupations of the everyday, and with the beautiful weather that was so perfect for ice-fishing. Thus, while the arrival of a chartered aircraft may not have been a surprise, it did feel strangely out of place on that sunny afternoon.

For the few days before the JRP hearings life in the community had maintained a sense of normalcy, only occasionally interrupted by talk of the hearing itself. Women attended their regular Friday night bingo game, some secondary students were visiting from southern Canada and locals were eager to show them a hand-game, a Drum Dance, and to teach them about fishing. Yet, from time to time, someone would comment on what they wanted to say in the hearing. One individual had made a mental list of his questions, concerns, and conditions. While putting a small herring onto a three-pronged hook for bait he stated: 'I think I will ask them about if they can be 100% sure that there won't be a spill. If they can't be 100% sure that there won't be a spill, I don't think they should do it.' Later the same evening, over a late night cup of tea he commented again: 'I will say that without our land, we cannot survive. We must protect it.'⁴¹

For the many observers and participants on their way to the community, the JRP hearing was a much anticipated event. PowerPoint presentations had been

⁴¹ Fieldnotes, March 31, 2006.

developed, and hand-outs printed. Journalists were on their way, and lawyers had prepared answers to anticipated questions. Representatives from a multitude of government departments were all traveling to the Sahtu. However, until the Dash-8 landed at the community air-strip the JRP hearing did not attain a pronounced signification of eminence in the community. And, even after the plane came, local people inquired mostly about the time of the hearing, and whether or not people would be able to attend. It was only then that it became apparent that in order for many people in the community to participate in the entire hearing session, they would have to take the afternoon off of work.

The notion that meetings, hearings, land claim negotiations, and legal proceedings are founded upon a particular and culturally-specific way of viewing the world is not new. Hilda Kuper (2003) demonstrates how the role of space among Swazi situates traditional forms and practices conducted in meetings, such as the need to sit on the floor to be close to ancestors, in structural and ideological opposition to European concepts of space and meetings. Fred Myers (1988) examines a meeting that took place in an Aboriginal community in Australia's northern territory whereby local values of sustaining relations and cultivating a sense of shared identity is the primary function of meetings rather than decision-making or planning. For the Pintupi of Australia, meetings are a place to affirm identity and cohesion rather than actions or discussions that may result in real or perceived conflict and fracture. In the Mackenzie Valley, community hearings have played a significant role in the assessment of potential social and environmental impacts of the proposed MGP, and have served as

public forums for intense discussion of the potential changes that a northern pipeline would bring. However, it is not at all clear whether or not community hearings are a culturally appropriate medium for Sahtu Dene and Métis participation in the assessment of the MGP. Variables such as the spatial and temporal construction of the hearing area, perceptions and politics of knowledge acquisition and presentation, and power-relations embedded in resource decision-making all present potential barriers for people in the Sahtu region to effectively participate in a way that is consistent with collectively held values and norms. At the same time, hearing-spaces can also be transformed into places of power, where the interaction between local community members and large trans-local systems can call into question forms of authority and knowledge, and perhaps provide for a form of recognition for locally held entitlements and knowledge.

I now examine four aspects surrounding the structure and format of the JRP hearings: the hearing space, the significance of cultural idioms of generosity and appropriateness, prevalent modes of discourse and communication of evidence, and the role of knowledge acquisition and legitimacy as it relates to cultural perceptions of truth-telling. Finally, I examine the role of humor in the JRP hearings and trace how local actors can at times appropriate the hearing space to provide for agentive and purposeful claims to power.

The Hearing Space:

The JRP conducted hearings in all of the communities in the Sahtu, with two days of hearings in those communities along the pipeline right-of-way. All of the community hearings in the Sahtu had a similar spatial structure, and followed more or less the same general format. The seven members of the Panel were seated at a table at the front of the room with the Panel Chair seated in the centre. To one side, another table placed at a perpendicular angle to the Panel, housed the technical staff, transcribers, and support staff for the JRP. These staff was charged with the task of ensuring that the hearing was a technical success, and that it was recorded for live web-cast and later transcribed for public reading. On the other side of the room was another table, also placed at a perpendicular angle to the Panel, which was occupied by representatives from Imperial Oil. Generally, there were between three and five people sitting at the Proponents' table, though individuals sitting at the table often exchange places with various lawyers, geologists, engineers, and scientists sitting in the audience just behind them. Stacked on top of the Proponent's table were thick binders containing the MGP Environmental Impact Statement. There was yet another small square table placed directly in front and facing the Panel's table; this table was reserved for community members who wish to speak to the Panel or the Proponent. Hanging from the Panel's table was a sign, written in English that read "SPEAK SLOWLY." Finally, to the back of the room were chairs for the audience –observers from both the community, and from elsewhere.

The procedural aspects of the JRP community hearings had been well established in advance. The proceedings began with a prayer followed by a statement read by the Panel Chair introducing the Panel members and outlining the purpose of the Panel and the Environmental Impact Review. Instructions were given to those community members who wished to present their views or ask questions. Witnesses were asked to state their names into the microphones before they started speaking, and to identify themselves subsequently thereafter in order to ease transcript production. While there were microphones that could be passed out to audience members so that they did not have to walk up the small witness table facing the Panel, most witnesses did approach the small table, and sat there to give their testimony. After the opening remarks by the Panel Chair, Imperial Oil gave a presentation running approximately twenty (20) minutes outlining the Mackenzie Gas Project, their Environmental Impact Statement including any anticipated effects on the community, wildlife, or lands, measures adopted to ensure Aboriginal employment and safety in project activities, and mitigation measures adopted as a result of previous input by community groups or others. The Panel then presented questions to the Proponent on their presentation, and this was followed by questions about the presentation from the community. Finally, the floor was opened to community members or organizations who wish to make presentations to the Panel, or to address Imperial Oil. Witnesses were given fifteen minutes to speak, and while I did not witness anyone being cut off, and not everyone adhered to the imposed time-limit, there was a general awareness that any narrative must be kept within established parameters. On more than one occasion, the Panel chair pointed frantically to the “SPEAK

SLOWLY' sign hanging from the Panel table, so that translators could reasonably keep up with the narrative. Coffee, tea, and small cookies were placed on tables near the exits and frequent health breaks provided temporary adjournments in the proceedings throughout the day. During breaks, classical music played on the speakers overhead.

For anyone who has spent time in the Central Mackenzie Valley, or in other rural communities in the Northwest Territories, it does not take long to discover the significance of particular kinds of music. Most important community events include some manner of drumming, usually as a part of Drum Dances. Drum songs, though often shared between communities, are associated with particular places and people: they tell stories, and most have been handed to human beings through a form of dreaming. Dene Drum Music is played on the radio, and many communities have their own Drum Groups who make and distribute CD's throughout the Territories and beyond. At certain hours of the day, local radio stations interrupt the popular country music to play Drum Songs, only to return to the music of Hank Williams or another old-time country artist. And while community youth keep up with the latest trends on the pop-charts and hip-hop scenes, and there is a general appreciation of many kinds of music, old-timer country and Dene Drum Music are most closely associated with times of communal festivity, and feelings of a home-place.

Not once during my almost nine months in the Sahtu region did I ever hear classical music. This is, perhaps, not a strange phenomenon. I generally don't hear much classical music while walking around the city in which I live either.

However, in light of the frequency and preference for Dene Drum Music, and (perhaps for disparate reasons) old-timer country music, the playing of classical music at the JRP hearings in the Sahtu seemed distinctly out of place. The classical music was not played at loud volumes, but it did serve to transform the Community Arena, where the hearing was being held, into another kind of place; into a hearing-space.

For the most part, Community Arenas in the Sahtu are utilized for community initiated activities: bingo games, Band meetings, badminton, and floor hockey. Depending on the size of the event, many Community Arenas host talent shows, parties, feasts, and especially Drum Dances. In all of these cases, the Community Arena is a space created and maintained by people in the community; it is a community space. However, for the purposes of the JRP community hearings, the Community Arena needed to be transformed into an other-than-community space, a place where interactions between local community members, governments, regulators, and large development corporations could be conducted on a kind of blank palate. Walking into the hearing-space, one encountered entire tables of lap-top computers, cables, wires, transcription and translation equipment, monitors, and projectors, most often organized along one wall of the room. The physical lay-out of the hearing-space resembled a kind of make-shift court-room, with observers and witnesses gathered in front of a central focal point (the Panel table) in a kind of semi-circle, and flanked on both sides by tables of 'experts' from other places (Imperial Oil on one side, and the technical team and equipment on the other). Thus, on the days of the JRP hearings

Community Arenas in the Sahtu were not places where folks gathered last week for a Drum Dance, or for a feast, but were spaces created for and by outside actors.

The structural and procedural forms of the JRP community hearings were not lost on community members themselves. Some individuals pointed out their discomfort with the hearing process. One participant stated “sometimes it is really hard for us to make speeches because, as youths and Elders we’re not used to the formal Panel doing the protocol in line with making discussions” (JRP Community Hearing Transcripts Vol. 17 2006:1745). Others recalled the Berger commission, and pointed out the more informal nature of the earlier Berger hearings:

What I have to say is, like, coming here, I know back in the Berger days -- Berger days when I was just a young person then. I was just -- one man was sitting there and seen a lot of elders speaking out...Time have changed. A lot of things have changed. Like today -- they didn't have those on the screen when Berger days now. You could see the change that happening with us”(JRP Community Hearing Transcripts Vol. 17 1723:6-14).

Indeed, for the particular community in question, Justice Berger had visited people who were camped at a prominent spring harvesting area, and held a round of hearings in people’s cabins at Brackett (Willow) Lake. The informal setting out on the land stood in stark contrast to the highly technocratic structure of the current regulatory hearings.

However, despite the formal aspects of the JRP hearings and hearing-spaces, people in the Sahtu were able to employ techniques that claimed the hearing-space as a local place. Without consulting hearing organizers, people in the community frequently moved the chairs in the audience to suit desired seating arrangements. Instead of observing the rigid rows of chairs set-up around the central focal point, or even the aisles provided for easy access to the witness chair or Panel, people moved the chairs so that they could sit near children, relatives, friends, or other community members. Chairs were moved for Elders so that they did not have to walk quite so far, or they were moved for a better view of the hearing proceedings. Throughout the hearings, local people would get up and go outside for coffee or to visit; people went outside for air, or for a cigarette, and they got up to get tea or cookies provided on the small table by the door. Once they returned to their seats, people put their tea-cups on the floor, or on the chair beside them. In all of these cases, people *did* what it was that they would do in any other community gathering; they did not wait to be excused by the Panel for a health break, and they did not ask for permission to alter the structure of the hearing-space. Instead, people claimed the space as distinctly their own, and in doing so they negotiated a hearing-space that necessarily included a community-place.

Modes of Talking: Forms of Evidence:

“In a culture where the wisest and most competent members regard outspokenness and adamance as foolhardy, childish, and profoundly self-defeating, how can a way of life

protect itself, when its protection requires outspoken and adamant protests” (Brody 1981:97).

In addition to spatial and temporal considerations of meeting or hearing places, other scholars such as Michael Asch (1994, 1997), Dara Culhane (1998), and Andie Palmer (2000), among others, have offered insightful critiques of the cultural dissimilarities and inequalities embedded in the presentation of evidence and forms of fact-finding within Canadian legal systems. In no small part, the predominance of technical and specialized legal discourses involved in the JRP hearing process limited full participation to persons knowledgeable of those particular linguistic fields. Thus, despite claiming a ‘made in the north’ process that encourages local participation, the technical and scientific information that formed a large part of the JRP process remains inaccessible to many members of the public, and the legalistic tone of the JRP hearings was strangely unfamiliar to people with limited knowledge of court-room-like proceedings and protocol. In many ways, the structure and format of public hearings were presented as a culture-free medium for the full and whole-hearted participation of Aboriginal contributors. Here, however, I will look at some specific examples of how the presentation of knowledge (and the normative modes of talking about things that people know) may limit the ability for some northern Aboriginal peoples to effectively participate in public hearing processes.

First, however, it is worth noting that complications surrounding the understandability of information presented in public hearings associated with environmental assessments is not limited to small Aboriginal communities in the

Canadian north. In a case study of an environmental assessment involving a hog processing facility and accompanying wastewater treatment plant near Brandon, Manitoba, Alan Diduck and Bruce Mitchell (2003) noted that the readability and comprehension of the Environmental Impact Statement and other environmental assessment documents may have constrained public involvement in the public hearing process, and that consequently, the associated public hearings often served as a kind of efficacious forms of public involvement. Ciaran O'Faircheallaigh has also examined a cross-section of social impact assessments in Canada and Australia and has concluded that in many cases "indigenous groups often lack the financial resources and the access to technical information and expertise to ensure effective participation" (1999:64).

The lack of access to technical information has proven a major challenge in supporting Sahtu Dene and Métis participation in the JRP hearing process. While a public registry (including all evidence submitted to the JRP Panel, and a record of hearing transcripts) has been maintained, it is maintained in electronic format accessible through the internet. Although most communities in the Sahtu now have at least dial-up internet connection capabilities, the use of home computers is not common-place; and the use of home computers among some segments of the community population, such as Elders, is almost unheard of. Thus, even for people who are comfortable enough with computers to navigate through the massive quantity of electronic documents on the JRP public registry, many people must use computers at work or use one of the public or community computers located at the band office, Land Corporation, or school. The use of public

computers to download large documents and files could be described as inconvenient, at best. Certainly, information is often available in print form at regional MGP offices, and at local Land Corporation or Band offices; however, in a process that changes daily the ability to keep pace with the JRP hearings requires immediate and frequent access to on-line resources. Moreover, while an 'EIS in Brief'⁴² was prepared by Imperial Oil in multiple Aboriginal languages, and there have been individuals from the communities hired to conduct house-visits to explain the MGP EIS and other components of the regulatory process, the 'in brief' documents are often too simplistic to provide enough detailed information to enable people to develop well informed arguments based on that information alone.

Simply keeping up with the flow of information surrounding the JRP process became immensely time consuming. Some government departments, the Proponents, and non-governmental organizations can and have hired individuals to follow and track the regulatory process on a full-time basis. However, community organizations (let alone individual community members) do not have the financial or human resources required for effective monitoring of the JRP process, and for the most part have secured only enough funds to hire lawyers or consultants to advise the community on formal presentations that should be made before either the JRP or NEB regulatory Panels. As one Land Corporation President pointed out, "our community members have not learned anything from

⁴² The EIS In Brief was prepared by the Proponents as a summary of the Environmental Impact Statement. The EIS In Brief was translated into four Aboriginal languages and was designed to allow easier interpretation of the MGP EIS.

this process; all of the money has gone to pay for lawyers or consultants.”⁴³ One witness stated before the JRP:

“... Imperial Oil has tons of material for us to read, and it’s really hard for us to understand that. There’s no funds set aside for us to have a community workshop on the materials that’s presented to us. We’ve been through tons of materials, yet we have a hard time understanding the materials that are before each community. We don’t have the expertise. We don’t have the technical help that is required to understand each material. There’s volumes of tons of it that is before us, and it’s really hard –even for me. I have a good education, but it’s really hard for me to understand the materials in the books that are sent to each community” (JRP Community Hearing Transcripts Vol. 17 1745:33-42).

Even within the JRP community hearings, local community members pointed out their frustration with the ways in which knowledge was conveyed. During a round of questioning of Imperial Oil’s preliminary presentation, one witness stated:

“Those are just some of the questions that I wanted to ask regarding your presentation, because a lot of your wording on here won’t make sense to a lot of people. It’s very –a lawyer wrote it. To me you’re using word tricks. And I’m not saying it in a negative way. I’m not for or against the pipeline, it’s just some personal things that come to my attention and I just wanted to bring it up” (JRP Community Hearing Transcripts Vol. 21 1976:30-34).

⁴³ Interview conducted with president of Ayoni Keh Land Corporation on October 5, 2007.

Quite significantly, the incomprehensibility of environmental assessment documents by public audiences has presented frustrations for local participants. However, the understandability and exchange of highly technocratic information can become even more complicated when conducted in an inter-cultural context where ideas about the acquisition of knowledge and most appropriate means of knowledge-sharing may not coincide.

For example, in the Sahtu, even among elected leadership, there is a general apprehension with regard to speaking on behalf of other people (*c.f.* Rushforth 1992:487). Strongly tied to the importance placed upon individual autonomy and the acquisition of knowledge (discussed later in this chapter), the act of speaking for a person other than oneself implies that the other person is not able to speak for her or himself and/or that the speaker and the person being spoken for share the same repertoire of primary (and thus true) knowledge. Instead, generally in the Sahtu, when it comes to sharing information in large public gatherings, people with experience of the subject at hand (most often times, Elders) engage in long oratories, often containing very specific and vivid details of personal experience along with appropriate moral instruction (*c.f.* Basso 1978, Fumoleau 1977). Many Elders who gave testimony at the JRP hearing spoke in this fashion. For example, an Elder from Tuli't'a at the JRP hearing on April 5, 2006:

“So as Dene, we have to go hunting. Everything we do -- without it, we won't be here, we won't be eating. So that's why it's very important to live on this land, to go hunting, to survive. There is a lot of stories to it. So that's why the Higher Power put us on this earth to help each other to live well. And always the elders say: You live well when you

share stories and help each other” (JRP Community Hearing Transcripts Vol. 17 1761:1-14).

As Ellen Basso pointed out during her work in the 1970's with people at Willow Lake near Tuli't'a, individuals are not asked to tell stories, but are compelled to do so because the knowledge contained in these narratives is collectively beneficial and important to the group as a whole (1978:693). What's more, it is considered inappropriate to interrupt the narrative, to ask the speaker to repeat themselves, or to ask questions relating to what was just relayed.

The narrative ways in which some Sahtu Dene and Métis people talk about what people know are fundamentally at odds with the mode of fact-finding inherent in resource co-management institutions in the Canadian north. In his work on northern Canadian land claim and co-management boards, Graham White writes that “by design the Western legal system is highly adversarial, built upon the assumption that ‘the truth’ will come out through the cut and thrust of debate and the challenge of evidence”(2006: 411). He goes on to argue that one of the complications surrounding cooperative resource management in the Canadian north rests in the incapability of conceptions of knowledge and truth as embedded in Western legal systems and indigenous forms of decision-making, thought, and governance. This is most evident, I would argue, in the interaction between local community members and abstract regulatory systems in the contexts of community hearings. If, as White argues, hearings are places where facts are questioned, and truth is found through the demands of proof according to specific rules of evidence and the aggressive cross-examination of witnesses,

the normative mode of talk surrounding Sahtu Dene and Métis conveyance of knowledge and truth becomes fundamentally outside of the field of play.

Complications surrounding the integration of normative communication systems in inter-cultural hearing processes have been noted in other regions of the Canadian and Alaskan north. Armitage (2005) notes that environmental assessment processes in most Canadian jurisdictions have remained “technically oriented because the primary objective of the assessment process is to offer predictive analysis and confer a degree of certainty about expected impacts of development activities” (241). In this respect, the environmental assessment process remains proponent-driven, and geared toward the demands of proof entrenched in the Euro-Canadian cultural tradition of decision-making. Stephen Ellis (2005) has pointed out that the incorporation of differing forms of knowledge (and particularly indigenous knowledge) often threatens the stability of structures rooted in the Western industrial complex, behind which are ultimately requirements for growth and development. Thus, for Ellis, the incorporation of indigenous forms of knowledge into environmental decision-making is not an automatic function of Aboriginal participation in the decision-making process, but rather is often seen as legitimate only when “it has been adapted to the specialized narrative of science” (2005:72). In a 1992 article Phyllis Morrow and Chase Hensel made similar observations regarding Yupiit peoples in Alaska, stating that in order for Yupiit peoples to participate effectively in hearings they had to use non-Native vocabulary and forms of expression. Paul Nadasdy (2003), working among Aboriginal people in the Southwest Yukon,

points out that the success with which Kluane people are able to participate in resource co-management is dependent on the adoption of official linguistic fields, the consequences of which are to “tacitly agree to play by the rules of the knowledge game as set out by the state” (139). In other words, while Sahtu Dene and Métis people were invited to play a part in the JRP hearing process, the effectiveness of their participation rested largely on their ability to express themselves in a way that is understandable to Western systems of knowledge, and conforms to acceptable (and foreign) norms of procedure and protocol.

These People Are Telling the Truth: The Role of Primary & Secondary Knowledge:

Notions about the most appropriate ways to present and share knowledge may rest more fundamentally in ideas about what constitutes real (or true) knowledge, and how that knowledge is acquired by human beings. Time and time again, during the course of the JRP community hearings, local witnesses insistently stated that what they and the other community members were saying was true. As the acting Chief of Déline stated before the JRP Panel: “What we are talking about now, about our land and that, it is all the truth” (JRP Community Hearing Transcripts Vol. 16 1683:17-9). Why was it that Sahtu Dene and Métis people so frequently and emphatically claimed that what they were saying was true? For this we must examine common conceptions of truth as understood by Sahtu Dene and Métis people, and how these may differ from conceptions of knowledge as presented in the JRP community hearings.

Several ethnographers working in the Sahtu region have identified strong connections between conceptions of knowledge, power, and individual experience (Basso 1978, Savishinsky 1974, Rushforth 1992, 1994). Scott Rushforth (1992) argues that for Sahtúot'ine (Bearlake) peoples, knowledge obtained by primary epistemic evidence or personal encounters through dreaming or other means constitutes a principal way of knowing (Rushforth 1992:485). Rushforth goes on to identify a linguistic distinction made among Sahtúot'ine whereby people distinguish between “ekw'i'yek'éodehsho (she/he knows it directly – he/she knows the truth) and 'agoni'a' yek'éodehsho (she/he knows it indirectly)”(1992:485). Similarly, Ellen Basso writes that for K'ááloot'ine (Willow Lake People) the acquisition of 'lk'óó, an important form of knowledge, occurs during bush activities and provides the means by which survival is made possible (1978:698). Basso writes:

“lk'óó is not an easily interpreted word, although it can be loosely translated as 'supernatural power' or 'medicine.' As power, it can be thought of both as the source of a person's capacity for survival in the world and the strength or amount of control a person has over things in the world” (Basso 1978:698).

As demonstrated above, for many Sahtu Dene and Métis people, the cultivation of personal experience constitutes a primary form of knowledge. 'Knowing' about a particular place involves spending time there, and as a result, people may know a different amount of things about specific places. Thus, primary experimental knowledge is not necessarily exchangeable between communities or individuals even within the Sahtu; it is not easily extrapolated into even regional

generalizations. As one individual said in response to discussions about the land around his family cabin: “I have never seen them (people from a different community) hunt or trap there. Their footprints are not on that land. But for people who have grown up and trapped in the area, what they are saying (about the land) is really true.”⁴⁴

While experiential knowledge is highly valued as true, knowledge can also be shared through narrative means. Most Sahtu Dene and Métis people talk about how they have listened to Elders (who often have a large repertoires of primary knowledge), and have learned from them. However, the processing and comprehension of secondary knowledge is not automatic, and is often only fully understood as a result of an event, through careful observation, or through a great deal of ‘thinking about it’. There is, in many respects, a general assumption that when individuals are ready (both morally and physically) to know the meaning of a story or other secondary knowledge, the meaning will become available to them and is then transformed (through a great deal of introspection) into a kind of primary knowledge. For example, at the JRP community hearings in Tuli’t’a, the Chief got up and addressed the JRP Panel and talked about some of the old-timer stories that were told to him by his Elders. In legitimation of the knowledge that the Chief has acquired, another Elder got up and spoke:

“...I believe in him, our Chief Frank Andrew. He's picking all the stories. So that's why now he's talking everything. He picking up stories. That's why he's talking to all the

⁴⁴ Interview, October 3 2007.

people. That's how we learn" (JRP Community Hearing Transcripts Vol. 17
1763: 23-26).

Thus, while secondary knowledge can be taken and re-worked (with the requisite experience, event, and/or contemplation) and can be considered in many ways a form of experiential knowledge (even though someone else has said it, it is true because I have subsequently seen or experienced it myself), it cannot be transferred to another person without a great deal of work.

The role of differing conceptions of knowledge and truth in shaping Sahtu Dene and Métis participation in public hearings has been addressed in great detail by anthropologist Scott Rushforth. Rushforth (1994) describes a hearing among Sahtúot'ine at Fort Franklin (now Déline) during the Berger Inquiry and convincingly shows how Sahtúot'ine participation in the hearing was greatly informed by perspectives about knowledge, authority, and the constitution of truth (1994:339). For Sahtúot'ine, Rushforth argues, there was a general mistrust of testimony given by outsiders because outside 'experts' lacked any widespread personal experience in the north. As justification for their mistrust, Sahtúot'ine contrasted previous experiences with representatives from the Canadian government and industry and the effects that the actions of outsiders actions have had on the land and people in the Sahtu (1994:339). Rushforth further points out that outside expert witnesses, in turn, questioned the legitimacy of local people's testimony because it was "not warranted by such nonepistemic reasons such as college diplomas and references in academic or professional journals" (346). Here, Sahtu Dene and Métis people cited the lack of outsiders' primary

knowledge as a means for skepticism, while expert witnesses relied on the authority of academically (rather than locally) recognized accreditations.

Likewise, in the JRP community hearings, Sahtu Dene and Métis peoples recalled the impacts of previous extractive projects on Sahtu lands, and questioned the ability of outsiders to make predictions about MGP induced impacts. One by one, local people told about their experiences at Port Radium, with the Norman Wells Pipeline, and with recent exploration and drilling. People talked about the impact previous extractive projects have had on the land and on Sahtu communities; they talked about the lack of jobs and training provided for Sahtu Dene and Métis people on past projects; and they talked about the failed promises of the 1921 Treaty. In addition to questioning the socio-economic impacts of the proposed MGP, people also questioned the predictions surrounding environmental impacts. One individual stated:

“Another thing that I want to ask about...if the oil, or whatever, is drilled, the place that they are drilling, if they have a spill, not only the pipeline, also the vehicles. That’s what it says. If there’s an oil spill, in the event of an oil spill there could be damage to water, to the land, to our wildlife, to our fish. ‘Might’, it says. I think that maybe that’s a typo. It should be written –that typo should be taken out and it should be written ‘will’ because that’s what will happen in the event of a spill” (JRP Community Hearing Transcripts Vol. 16 1626:26-35).

The general mistrust of evidence presented by outsiders in the JRP community hearings was based in part on Sahtu Dene and Métis conceptions about the

constitution of knowledge, and partly in Sahtu Dene and Métis previous experiences of the promises of large-scale projects and government programs in the Canadian north; occasionally it was both perceptions operating simultaneously. As one respected Elder from Déline put it:

“In the old day, my elder can memorize, in those day none of them did not speak English. And they have a very poor translation. And anything that’s come up like this oil company, and any other company that come along and they bring the message across to the Elders and they did not receive the full information. All they do to them was a very nice talk in a very beautiful way so that they can say ‘yes’ (JRP Community Hearing Transcripts Vol. 16 1642:29-33).

I would argue, however, that despite the frequency with which Sahtu Dene and Métis people emphasized that they were speaking the truth in front of the JRP Panel, for many Sahtu Dene and Métis people who chose to participate in the JRP hearing process, the hearings also had to do with appropriate forms of human conduct, and participation in the JRP hearings was additionally informed by what human beings ought to do in the face of large decisions.

Given the strong Prophecy tradition so prevalent in the Sahtu (and the consideration of Prophecies and dreaming as a form of primary epistemic knowledge), for many Sahtu Dene and Métis peoples respected Prophets have already foretold the events of the future, thus making participation a process designed to predict the future a rather futile undertaking. It is not so much that

the knowledge of the Prophecies precludes any active participation in shaping the future, but there is a strong belief among many Sahtu Dene and Métis people that what the Prophets have said is true and unquestionable, and thus Prophecies about the forthcoming events are incorporated into ways of talking about the future that differ from the predictive analyses provided by Western technocratic models. As one individual stated:

“As an old prophet said –back then, he said a few words on behalf for the future, and I still remember. As he said about the future, an old prophet knew about it, what’s going to happen in the future, because the high power already talked to him about that, and he knows about it, and he already mentioned to us so we all know about the story. And he said it’s going to happen in the future. That’s what has happened today with the oil pipeline” (JRP Community Transcripts Vol. 16 1647:8-14).

Another Elder spoke:

“But us, we too, what we think about, how our ancestors raised us, what’s going to happen in the future, the stories already there for us. So that’s why –as Aboriginal people, that’s why we’re talking to you guys about that, us Dene people. When you talk about to help each other and love each other, we people have to help each other and make it strong” (JRP Community Hearings Transcripts Vol. 16 1652:16-21).

If, as the above narratives suggest, everyone (meaning everyone who has heard and understands the Prophecies) already knows ‘the story’, perhaps there are additional reasons beyond the interrogation and presentation of knowledge that

motivated individuals to testify in the JRP community hearings. As we have seen, statements made in the context of public participation processes often contain multiple and shifting meanings that are rooted in particular histories, past events, experiences with the nation-state, and cultural values. However, I would argue that what is said in the context of public participation processes are not only deeply felt expressions of concern over industrial impacts, or struggles to influence power structures (though, these are certainly evident as well), but they are also expressions about what it means to be Dene.

Generosity, Appropriateness, & Being Dene:

Dene peoples in the Sahtu Region often talk about Dene law – a code of conduct handed down from the earliest times that outlines how Dene people ought to live in order to lead a good life. While Dene law is a complex and sophisticated way of conducting oneself, and there are many aspects of Dene law that cannot be addressed here, we will consider three components of normative practice as they relate to Sahtu Dene and Métis people’s participation in the JRP hearing process: helping others, non-interference, and generosity.

One October morning, a gentleman from Colville Lake told a story about how different gifts had been given to different people. Mola (people of European descent) were given the gift of money, other people were given gifts to make and fix things, but Aboriginal people were given the gift of land. He said that even though people from Colville Lake know that they have oil and gas under the land they do not know how to get it out, so they need the help of Mola. But, he argued,

because Mola and people from Colville Lake need help from one another to get the oil and gas out of the earth, the people from Colville Lake should be partners and get fifty percent of any profits. He went on to say that if governments and proponents worked together, everyone would be stronger:

“Native people need Mola, and Mola needs Native people because they were here first and they have all the land...they are the keepers of the land. So, if the government worked with the communities together and they built each other up, then the community would be strong and the government would be strong. But when the government wants to keep the people down the community is not strong, and neither is the government. We all need to work together and share because we are all part of Canada. The government thinks that the Dene just want to block everything, and that they are enemies, but this is not true, they just want everything to be fair.”⁴⁵

The importance of working together is echoed in other stories, Prophecies, and forms an important part of how Sahtu Dene and Métis people approach environmental assessment processes. Rather than simply an instrument for the prediction of future impacts relative to the MGP, for many people in the Sahtu region the JRP community hearings became an opportunity to do what human beings should do when a big decision is to be made: to sit down and talk with one another. Repeatedly throughout the JRP hearing process, people from the Sahtu region expressed thanks to the JRP Panel for coming to the communities so that

⁴⁵ Interview, October 5, 2007.

they could hear what people had to say. An Elder from the community of Déline said as follows:

“This is something really big. When we work on something really big, we have to talk with each other and know what is going on then. That way, we have to really discuss things with each other. If it’s in a good way, we can work on it, but if it’s not good, we can’t work on those kinds of things”(JRP Community Hearing Transcripts Vol. 16 1649:1-4).

Time and again, from community to community, individuals emphasized the importance of talking together. Another witness described why he chose to participate:

“So we’re here to talk to you to help us. This is something we concerned about. We’re here to listen to each other because we are neighbors... So this kind of issue you guys talking about, we have to help each other because we’re neighbors” (JRP Community Hearing Vol. 16 1671:33-39).

However, the action of sitting down and talking to one another was not done without frustration and a great deal of skepticism; after all, this was not the first time that Sahtu Dene and Métis people had sat down to talk with outsiders about a potential gas or oil pipeline. In many respects, among Sahtu Dene and Métis people there was a general feeling that the people gathered at the hearings were not really talking together, but rather, that the Proponents and governments were there asking for things. Of course, the nature of the regulatory process necessitates Imperial Oil asking (in a very complicated way) for permission to

run a 1,220 km natural gas pipeline through the Mackenzie Valley. However, Sahtu Dene and Métis people who had been asked about building pipelines before, saw the continued pressure by Proponents (and governments who are involved in the regulatory process) as bothersome; not because it is inconvenient, but because it involves the frequent interjection into other people's affairs.

Just as it is inappropriate to speak on behalf of someone other than oneself, in the Sahtu region it is also generally considered inappropriate to unnecessarily interfere in other the affairs of others. This includes gratuitous interference with both human and other-than-human beings. For example, Sahtu Dene and Métis people talk frequently about the harm done to caribou through unnecessary caribou/human interaction, and people can identify changes in the taste of caribou meat when it has been under unnecessary duress as a result of being chased by a snowmobile. Non-interference also characterizes appropriate human interaction and applies equally to interactions between community (or even family) members, and exchanges with outsiders.

During an afternoon focus group, a gentleman from Déline said: "Dene and Mola have two different lifestyles. Even them (Mola) they go up to the moon and stars. Why are they doing that? Why are they bothering things like that? It's not good to bother things like that, they should just leave it."⁴⁶ The idea that outsiders frequently involve themselves in the lands and affairs of others reflects both Sahtu Dene and Métis past experiences of outside practices on Sahtu lands, and their experiences with prior regulatory processes. Frequently, Sahtu Dene and Métis

⁴⁶ Men's Focus Group, held in Déline on September 13, 2006.

people would ask: ‘why do they keep bothering us about this pipeline?’⁴⁷ Or, ‘we already told them we don’t want this pipeline (referring to the Berger inquiry), so why do they keep bothering us?’⁴⁸ Thus, in some ways, the current JRP community hearings had become just another example of outsider interference in community affairs. As one witness stated: “you should think twice before you talk to us or bothering for our land here. I know where there’s something under, that’s what you want” (JRP Community Hearing Transcripts Vol. 20 2000:11-12). Many people who participated in the JRP community hearings had the impression that the MGP had already been planned, and that asking the opinion of people in the communities at this point in the process was a further indication that the Proponents did not really ‘want to talk’, but rather just wanted project approval. And, despite the fact that Imperial Oil had held several information sessions, consultation meetings, and knowledge gathering workshops in Sahtu communities, these were not perceived by community members as a significant community contribution to the planning process.⁴⁹ In other words, many people in Sahtu communities felt uninformed and uninvolved in meaningful planning for the project; they felt that they should have talked together first and began planning for the project afterwards.

⁴⁷ Men’s Focus Group, held in Déline on September 13, 2006.

⁴⁸ Fieldnotes February 22, 2007

⁴⁹ According to Imperial Oil, after collecting secondary data, there were two Rounds of community meetings and a regional workshop held in the Sahtu. Round 1 community meetings (identification and scope of community issues) were held in Déline on March 11, 2003; in Tulit’a on March 12 & 13, 2003; and in Colville Lake on April 15, 2003. The Round 1 Regional EIS workshop was held on June 4 & 5, 2003. Round 2 community meetings (to share potential effects of MGP and mitigation measures) were held in Déline on February 20, 2004; in Tulit’a on February 19, 2004; in Colville Lake on February 17, 2004. Regional Round 2 workshops were held on December 3 & 4, 2003 and again on May 11 & 12, 2004.

However, the continual asking for permission to build a natural gas pipeline through the Mackenzie Valley has additional consequences beyond perceptions of inappropriate interference in the affairs of others; it also potentially places Sahtu Dene and Métis people in a position of appearing ungenerous, and uncooperative. Another fundamental component of Dene laws is to share what one has with others, at all times. Joel Savishinsky (1972) has documented the central role of concepts of generosity while working among people of Colville Lake, emphasizing that “generosity operates as a diffuse source of pressure on all people”(605), and that:

“A person’s stature and position within the community is closely related to other people’s estimation of him as either a generous or stingy individual. People are consequently very sensitive about how they are regarded in this matter, and they are in turn very aware of how others behave in these same respects” (611).

Common stories told by people in the Sahtu often emphasize the importance of sharing, and many of the Prophecies contain instructions on the importance of generosity. One story involves a respected Prophet named Ehtseo (Grandfather) Ayah, who is said to have seen all of the events of the world from the beginning of time until the end. It is said that one day a child came to the Prophet’s house asking for food because he was hungry and people didn’t have much food. The Prophet’s wife did not know what to do because she only had a half a fish left for her own family. The Prophet said: ‘if we give away the fish, it will come back to us threefold by the time the sun falls.’ So the Prophet’s wife gave away her last fish and shortly thereafter a friend of the Prophet’s came back from hunting and

brought him two Moose. The individual who relayed this story told me that it was an example of how people ought to give to others.⁵⁰

Not long after I began my research in the Sahtu, I was sitting in a workshop with several Elders when one gentleman stated that he was glad that I was there doing research on Sahtu Dene and Métis participation in oil and gas decision-making because, as he put it, “We Dene always say yes –even if we want to say no, we say yes because we do not want to be disrespectful. Our people need to learn to say no.”⁵¹ This was not the first time I had heard a statement of this nature. When speaking with an MVEIRB Board member in September 2006, I was told that there had been at least one occasion when a land-use permit had been issued to an oil and gas company simply because MVEIRB had not heard a strong ‘no’ from community leadership. Indeed, this has been a dilemma for Dene people sitting on regulatory and resource co-management boards who suspect that (at least the general population in a community) does not want a particular development, but is obliged to grant a license or permit because they have no direct evidence otherwise.⁵²

It appears that the tension created as a result of voicing dissent in a forceful manner may rest, in part, in Sahtu Dene and Métis idioms of generosity and sharing. If, on one hand, Sahtu Dene or Métis individuals voice dissent regarding being asked to share resources (or access to land), they are not acting in accord with Dene expectations of generosity and sharing. On the other hand, not voicing

⁵⁰ Fieldnotes, September 21, 2006.

⁵¹ Fieldnotes August 30, 2006.

⁵² Personal communication with an MVEIRB board member, September 7, 2006.

dissent in a forceful manner may result in the approval of a project that may be unwelcome for any number of reasons. Furthermore, because the hearings are in the public domain –that is, they are witnessed by the community and public at large – and they become part of the public record, the appearance of being ungenerous is not only witnessed by the Panel or proponents, but is witnessed by the community (and general public) as a whole.

Some Sahtu Dene peoples, however, have developed strategies to avoid this double-bind by circumventing conventional means of voicing opposition to resource extraction. A common story told by many residents of the Sahtu again involves Prophet Ayah. Sitting around a small kitchen table one evening, we were discussing the possibility of pipeline over a cup of tea when one individual relayed to me: “You know, Prophet Ayah said that people from the south would come to the Sahtu and ask us for our land. He told us that we should tell them yes. He said, “always tell them ‘yes’, but also tell them that if they want the land, they will have to take it with them when they go.” The request to ‘take the land with them when they go’ relieves the individual from appearing ungenerous while at the same time creates the impossibility of the project proceeding in accordance with local requisition. In a way, the use of this story removes the individual from the precarious situation of saying no when asked for access to their lands and resources. At the same time, however, the extent to which the story is effective is dependent upon the understanding of the context and cultural-framing of the story being told, and the ability for regulatory boards to accept alternate forms of voice as an equally valid (and equally purposeful) modes of expression.

While I have shown that normative values surrounding generosity, non-interference, and assisting others can influence the ways in which Sahtu Dene and Métis people participate in the JRP process as it is now conducted, that is not to say that people in the Sahtu do not voice their dissent to industrial projects. As one individual testified before the JRP: “today, when we are speaking to you, we are talking very aggressively about our land and I feel that we have a right to do so” (JRP Community Hearings Transcripts Vol. 20 2006:35-36). Nor do I suggest that all Sahtu Dene peoples are opposed to extractive industries. I do, however, mean to point out that in voicing dissent, some Sahtu Dene peoples were put in the position of choosing to act in accordance with being a good human being, or in complying with the foreign extraction of resources from Sahtu lands. In fact, the question as to whether the pipeline should be given approval was met with a variety of responses, sometimes in favor of the pipeline, and sometimes in opposition. However, for many people who participated in the community hearings in the Sahtu region, questions of voice, and of working together for the benefit of all those involved (including Sahtu communities) took priority. As a witness said in Déline:

“We’re talking about the pipeline with them, we don’t say ‘yes’ or ‘no’. If we do it really right, then we both will say ‘yes’ (JRP Community Hearing Transcripts Vol. 16 1648:3-4).

Places of Power:

In addition to utilizing the JRP Community Hearings as an arena to talk about proper and appropriate human interaction, knowledge acquisition and communication, and conceptions of truth, people in the Sahtu region utilized the JRP Community Hearings to address a wide range of socio-economic concerns that extend beyond immediate impacts associated with the MGP. People discussed the high cost and low availability of housing in Sahtu communities; issues were raised surrounding a lack of child care and day care programs; people talked about the high cost of fuel, and the lack of funding for harvesters programs; people said that there is limited training provided for young people both in trades and in the skills needed for a subsistence based economy. In terms of community preparedness, people pointed to the lack of substance abuse programs in the north, and expressed concerns about increased access and use of drugs and alcohol. People talked about the need for a ratified Land Use Plan, and about their frustrations with the failed promises of other industrial projects, government intrusions, the 1921 Treaty, and difficulties surrounding the current Land Claim Agreement. In short, people in the Sahtu region utilized the JRP Community Hearings as a platform for voicing items of concern that may otherwise have required a whole host of other parties: governments, NGO's, environmental groups, and extractive industries. In engaging a physical government-sponsored entity (the Panel), Sahtu Dene and Métis people were able to confront a face, so to speak, that simultaneously represented outside incursions on Sahtu lands and

communities, but also possibilities for change. And, most importantly, Sahtu Dene and Métis people were told that what they had to say counted.

In this respect, Sahtu Dene and Métis people did utilize the hearing space as a place of negotiation. While, in reality, many issues raised by local people in the context of the JRP Community Hearings were beyond the scope of the Environmental Impact Review (issues concerning Treaty 11 or past impacts associated with the Norman Wells Pipeline and Port Radium, for example), Sahtu Dene and Métis people could call governments and others to task regarding their failure to provide for the socio-economic well-being of Sahtu communities on past projects and initiatives. Sahtu Dene and Métis people also utilized their current positions to negotiate for increased benefits (both immediate and long-term), should the MGP be approved. For example, people pointed to the perceived lack of employment on the Norman Wells Pipeline to ensure that training would be provided for local workers before the construction phase of the MGP, that there were local hiring practices in place, and that Sahtu businesses would be awarded contracts. And, people looked to the Proponents and government to provide both expertise and economic and support to ensure communities could manage any negative impacts. A local businessman stated:

“We have to have some cooperation from government and from Imperial Oil and its partners to start providing, to Tulita, financial resources and then some expertise to start assessing areas we need to strengthen up here in the community to handle the impact of the Mackenzie Gas Project. And if not, you know, we’re just not ready for it” (JRP Community Hearings Vol. 17 1710:26-29).

Indeed, despite efforts to transform Community Arenas in the Sahtu into neutral hearing-spaces, the hearing-spaces did take place in distinctly local places, and the Proponents made adjustments to minimize their appearances as outsiders. As Sahtu Dene witnesses wore Dene vests as symbolic markers of identity, and Métis people wore the Métis sash, a representative from Imperial Oil wore Dene-style moccasins. At all of the hearings representatives from Imperial Oil wore casual clothing, not the suit and tie required for business meetings in Calgary or other southern venues. In Colville Lake, as in other Sahtu communities, children were present for most of the hearing proceedings, and at one point an elected community leader gave his testimony with his child sitting and playing on his lap. In all of these cases, the symbolic claiming of space and identity marked the hearing-space as both local, and a place where Sahtu Dene and Métis people had elements of authority.

Another example of the ways in which Sahtu Dene and Métis people claimed hearing-spaces came through the use of humor. Humor is utilized in Sahtu communities in a variety of ways and for a number of purposes. Humor is used for its own sake (i.e. to make oneself or another person happy –an important value in and of itself), but it is also used as a means of moral instruction. That is, through the use of humor one can be self-depreciating or depreciating of another without telling someone what she/he should or should not do (interference in another person's affairs). The use of humor can also provide a means of ambiguity, the meaning of which could be interpreted differently by locals than by outsiders. At the JRP community hearings in the Sahtu humor was used as a method of

channeling and voicing frustrations with the technocratic nature of the hearings, and served to transform the space into a locally-understood and claimed place. For example, after being questioned by the Panel and proponent, the Chief of Tuli't'a stood up from the witness chair and claimed: "I think I won" (JRP Community Hearing Transcripts Vol. 17 1738:35). To which there was laughter and applause from the local audience, and a somewhat awkward response by the Panel chair: "we hope you win, I hope we can all win" (ibid:41). In another case, after a long oratory which included stories and instruction on proper human conduct a well respected Elder finished his testimony by saying:

"My grandma raised us –there's three of us –and at that time there's no pension, nothing. Sometimes we don't have nothing to eat, but our granny have even maybe one macaroni for us. Sometimes in the week we don't have nothing to eat. But we go hunting and get traditional food. That's why we're happy about that. But now today we're talking about lots of money. And now I want money. So that's why I'm talking to you guys. I want money" (JRP Community Hearing Transcripts Vol. 17 1764-1765:39-2).

To those people familiar with the character of the Elder who made the above statement, the claim to "want money" is both a partial-truth, and a pointed observation of a monetary-driven industrial complex. In making a joke about his reasons for participating, the individual was demonstrating his understanding and ability to negotiate the hearing-space, but at the same time, he was providing a very serious commentary on the nature of the hearing process itself.

Conclusion:

There tends to be a general assumption that because people are invited to participate in environmental assessments and resource decision-making, or to voice their concerns in a community hearing, they are able to do so without any degree of difficulty. As this chapter shows, the structure and format of the community hearings for the JRP are based upon Euro-Canadian assumptions about proper proceedings, ways of speaking, and communicative interaction that may not be suitable in an inter-cultural context. And, while the use of community hearings has been touted as a significant contribution to participatory and co-operative environmental assessment, the practice of public hearings naturalizes the legalistic nature of the proceeding, and takes the Euro-Canadian institutional apparatuses upon which the hearings are based as given. Indeed, for northern Aboriginal peoples, the way to enable one's voice to be heard in the regulatory process requires participating in a mode of communication that can create tension between collectively held values and norms, and the protocol and nature of community hearings. At the same time, by participating in a way that is consistent with cultural idioms of generosity and appropriateness Sahtu Dene people run the risk that proponents and regulators take a lack of forceful voiced dissent as consent.

That is, just as the integration of knowledge paradigms, or the negotiation of land claims are more complicated than simply inserting local interests into a dominant paradigm, the current participatory process is fraught with the naturalization of existing power relations between Aboriginal groups and the nation-state. The

genuine participation of Aboriginal groups requires more than simply inserting local people into a hearing process, it requires sensitivity as to the power relations embedded in regulatory institutions, and the particular cultural framing of how and why people participate. This is not unknown to many persons within the Northwest Territories regulatory establishment, and to the credit of many individuals who sit on assessment boards and work in environmental co-management, much work is being done to create a more culturally appropriate space for including local and community voices. Institutions such as the Mackenzie Valley Environmental Impact Review Board (MVEIRB) have run translation and practitioner workshops to increase community capacity to this end.

Impacts of industrial developments result from not only the industrial activity itself, but also from the *process* of environmental assessment. This comes in terms of the time and human resources required to participate effectively, but also because the process can call into question long-standing views about the world and negate the ways in which people think about themselves. At the same time, local people can utilize the hearing-space as places of negotiation and, in spite of the limitations outlined here, may indeed lead to increased local authority over decisions regarding lands and resources. As Olivier de Sardan points out, people have really good reasons for doing what they do (2005:157). That is to say, Sahtu Dene and Métis people do not participate in public or community hearings in a haphazard way. Thus, what it is that is said within the context of community hearings must be considered not only for what it suggests about how people view

a particular industrial project, but also necessitates a consideration of what the contribution means for local participants, how it may or may not influence existing power structures, and what it says about local perceptions of the impacts of outside incursions on Sahtu lands on a cumulative scale.

Chapter 4

“But We Know Different, We Live Here”:
Differing Perceptions of Industrial Impacts

Introduction:

“One of the things that the old people always taught the younger people is that you must always keep your food good. If you treat your food good, the food in return will treat you good.”

-Joe Naedzo, Berger Inquiry Transcripts, June 24, 1975. Fort Franklin. Vol.7:601

For Dene people living in the Sahtu region of the Northwest Territories the ability to successfully cultivate resources on the land remains not only a significant source of dietary and economic subsistence, but also a vital component of what it means to be Dene. ‘Going out on the land’ provides an important context for the intergenerational transmission of knowledge and skills as well as the maintenance of cultural, community, and family ties. Indeed, spending time on the land, the consumption of country foods, the establishment and maintenance of proper relationships with human and other-than-human dimensions of the landscape, and the ability to know how to work ‘in the bush’ is strongly associated with Sahtu Dene conceptions of well being.

However, industrial activities have altered the landscape in much of the Sahtu region, and in many cases socio-cultural and environmental impacts stemming from an intensification of extractive industries have created a concern among locals over contamination and illness. Over a relatively short period of time local land users have witnessed a mounting demand on non-renewable resources, a demand that is perceived to interfere with land-based activities. And, while local people have been increasingly involved in the regulation of extractive industries on Sahtu lands, apprehension over the impacts of such projects has remained.

This chapter examines the inter-relationship between notions of industrial impacts and sickness in Sahtu Dene environmental assessment discourses surrounding oil and gas pipeline activities in the central Mackenzie Valley. Here, I examine how discourses surrounding industrial impacts are constructed and produced through non-local environmental assessment regimes. I argue that the construction and analysis of industrial impacts in current environmental assessment practices are framed by very specific cultural processes that serve to privilege certain views of the landscape, often at the cost of others.

The title of this chapter was a statement made at an Environmental Impact Review hearing conducted by the Joint Review Panel for the Mackenzie Gas Project in the Sahtu region in April 2006. Public hearings are one of the many tools utilized by governments and industry representatives to examine the multi-layered effects of industrial projects in the Canadian north. Utilizing field-notes and the transcripts from both the Berger Inquiry and the more recent Joint Review Panel for the Mackenzie Gas Project (JRP) Community Hearings, in addition to fieldwork conducted in three Sahtu communities intermittently during 2006 and 2007, I will demonstrate the continuity of Sahtu Dene discourses of industrial impacts as sickness across time and political landscapes. My understandings of the ways in which Sahtu Dene and Métis people view, talk, and interact with their landscape, and participate in environmental assessment processes, stems from a witnessing of what people in these three Sahtu communities do upon their land: the inter-related forms of practice conducted upon the landscape, how people talk about their relationships with the land in

the context of everyday life (*cf.* Hensel 1996), how local people talk about their relationships with the land in the face of increased industrial activities, and how these discourses can conflict with environmental assessments attempting to predict the associated environmental effects. I ultimately argue that the present form of environmental impact assessment associated with extractive industries in the Sahtu region fails to appropriately consider Sahtu Dene perspectives of ecological and socio-cultural impacts, and that the reconfiguration of environmental impacts as sickness may have more relevance as to how industrial impacts are experienced by Sahtu Dene peoples.

This chapter will begin with a consideration of how perspectives of the land are culturally constructed, and how these perspectives can differ cross-culturally as a result of the ways in which human beings engage with their surrounding environments. I discuss the very specific ways in which Sahtu Dene and Métis people view the land and appropriate human relationships with the landscape, and how this is often misrecognized and goes unacknowledged by proponents of large scale industrial projects in some very fundamental ways. I then examine the consequences of this misrecognition, both in terms of how industrial impacts are experienced and expressed by Sahtu Dene and Métis peoples, but also how these misrecognitions affect subjectivities, means and ways of participation in environmental assessment, and ultimately the types of relationships (and types of mitigation should these relationships be disrupted) that Sahtu Dene and Métis people have with their land. In this way, the impact of industrial activities on Sahtu lands can stem not only from the activity itself, but also from the ways that

industrial impacts are considered, produced, evaluated, and mitigated within environmental assessment processes.

Considerations of the Cultural Construction of Landscape:

Arturo Escobar writes that considering “the primacy of embodied perception, we always find ourselves in places” (Escobar 2001:143). With the recent attention to the cultural construction of land and landscape by anthropologists, human geographers, sociologists, and others, this ‘sense of place’ has taken on multiple and complex forms. Places have been considered as sites of power and contestation (Appadurai 2003, DeLyser 2001, Katriel 1999), identity and rootedness (Basso 1996, Bordo, Klein & Silverman 1998), diaspora and displacement (Appadurai 1996, Gupta 2003), marginality and centrifuge (Lavie 1996, Low 2003) resistance and empowerment (Rodman 2003, Gupta 2003); there have been studies of the physical and social structure of places (Bourdieu 1971, Levi Strauss 1966, Whitridge 2004), the linguistic markers of place (Basso 1996, Duranti 1997, Feld 1996, Palmer 2005), proxemics (Hall 1968, Mauss 1979), and the embodied nature of place (Heidegger 1977, Ingold 1993). Despite the varied approaches to the consideration of place as a central part of human experience, the idea of place has moved decisively beyond a simple consideration of geographic, environmental, or topological significance squarely into the realm of culture.

Just as human beings are always-already subjects, as pointed out by Louis Althusser (1984), so too do human beings dwell in a world of places. Edward

Casey (1996) has suggested that “both sensations and spaces are themselves emplaced from the very first moment and at every subsequent moment as well” (Casey 1996:18). Places are imbued with significance through perception: they gather a whole host of emotions, feelings, stories, memories and actions which are informed by both individual biographies and experiences of any particular place, and collective representations of shared symbols, language, and movement (Escobar 2001:143). As Steven Feld puts it, “as place is sensed, senses are placed; as places make sense, senses make place” (Feld 1996:91). Senses of place become deeply entwined in our personal and social identities; we become connected to places both as inward landscapes of the self and outward attentiveness to the exterior world.

Peoples everywhere must come to terms with the physical reality of their embodied experience of places, but how these experiences are conceptualized is culturally variable and structured through particular sets of lenses (Kuper 2003:412). Keith Basso (1996) has suggested that for certain Apache peoples, the importance of place cannot be separated from sentiments of belonging, rootedness, and connection to collective cultural and physical landscapes. It is through the recollection of places on the landscape that Apache people recall the stories and knowledge gathered within these places. Experiences of particular places on the landscape are needed to possess wisdom; wisdom to foresee misfortune, fend off disasters, and live in relationship with people and other-than-human beings. Places serve as referential markers and as vehicles for

recalling useful knowledge. As Dudley Patterson articulated to anthropologist Keith Basso:

“How will you walk along this trail of wisdom? Well, you will go to many places. You must look at them closely. You must remember all of them. Your relatives will talk to you about them. You must remember everything they tell you... Wisdom sits in places, it is like water that never dries up.” (Basso 1996:70).

As the quote by Dudley Patterson demonstrates, senses of place are not void of geographical or topological significance although, some scholars have argued that, in the case of diasporas, migration, or displacement, a sense of placelessness can in essence conjure a sense of place in and of itself *c.f.* Lavie 1996, Appadurai 2003), but are made meaningful through the mutual interaction between biophysical and human environments. Tim Ingold, as well, has demonstrated that binary distinctions made between ‘natural’ environments and experiences of places are often problematic because they reproduce a dichotomy between a “physical world of neutral objects” and the landscape as an ideational or symbolic construct imposed by human beings who dwell there (Ingold 1993:157). For Ingold, human beings acquire knowledge of their environment through actions; and these actions are, at the same time, always shaped by the particular nature of physical landscapes. Ingold writes that: “our immediate perception of the environment is in terms of what it affords for the pursuit of action in which we are currently engaged” (1986:45). Thus, for Ingold, conceptualizations of our physical surroundings are shaped by what he calls a “taskcape”, an ensemble of

interlocking actions that are inseparable from productive practices. In this way, any consideration of place must necessarily include a consideration of the mutual constitution of persons and environments, and the co-creation of perception and experience encountered through practical activities carried out in the landscape.

By taking the engaged nature of human interactions the landscape as a starting point for how places are represented and constructed, we can see how differing conceptions of 'environment' and 'nature' are indeed strongly tied to productive practices. In a 1999 article, Arturo Escobar traces how the meaning of nature has shifted throughout history according to various political and economic factors. Essentially arguing that the concept of 'nature' is relational and historically contingent, Escobar examines how perspectives of nature are produced through particular discourses, including what he calls: capitalist nature, organic nature, and technonature. He demonstrates that a capitalist view of nature includes a particular separation of biophysical and social facts and is linked to the increased colonization of time, rational forms of management and surveillance, the creation of maps and other statistical data, and the association of particular landscapes with national identities. Escobar goes on to show that engagement with non-Western constructions of nature, culture, and society must include a consideration of diverse constructions of the relationship between biological and human worlds, and that capitalist concepts of nature ought not to be imposed onto other social orders, but must be considered as informed by particular cultural and productive practices.

Indeed, capitalist constructions of landscape have long contributed to divergent views surrounding the appropriate uses of land and resources in colonial states including the ways in which entitlements to the land are justified in legal and social realms, and how decisions regarding land-use are negotiated. Several scholars have identified a fundamental link between conceptions of landscape, knowledge, and appropriate human development, including the ways in which notions of landscape can shape industrial processes (*cf.* Brody 1981, Escobar 1999, Seed 2001). Patricia Seed (2001) has offered an excellent discussion of how the cultural values surrounding land, gender, labour, wealth, and private property brought to the Americas by Europeans in the sixteenth century contributed greatly to the colonization of the “new world” and continue to inform the Canadian and American national present. Seed points to how long-held Western-European traditions surrounding land-ownership and “improvement”, hunting, agriculture, the gendered division of labour, and conceptions of waste or “wastelands,” were used as a justification for the appropriation of Aboriginal lands and resources for English colonialists. David Hurst Thomas (2000) has also demonstrated how conceptions of land and appropriate human development (coupled with science) have contributed to a marginalization of Aboriginal perspectives of history, knowledge, land, governance, and entitlements. Hugh Brody, in his 1981 book *Maps and Dreams*, points to the ways in which stereotypes of Aboriginal peoples in northeastern British Columbia coupled with dreams of resource-rich frontier lands has rationalized European claims to “new-found” territories. Many scholars (Seed 2001, Brody 1981, Culhane 1998, Rushforth 1977) have also convincingly shown how the concept of *Terra Nullius* and notions of

pristine, un-touched, un-used land have contributed to the many industrial frontiers in western and northern Canada. The writings of these scholars have contributed greatly to understanding the ways in which cultural constructions of landscape (and peoples) by Europeans have rationalized the expropriation of Aboriginal lands in Canadian legal jurisprudence and has fostered multiple images of 'the north' in popular national imaginations.

While proponents of large-scale industrial projects tend to perceive nature as passive, separate from people, and fully realized through labour, commodification, and the expropriation of resources, for many peoples whose livelihoods depend on an intimate knowledge of their environment senses of place often involve not only attachments to particular places related to stories, memories, emotions and movement (though this may often be the case), but also a keen understanding of what is needed to successfully live in that environment, how to utilize particular resources, how to locate, obtain, and sustain them, and how to avoid danger. The centrality of land and land-based activities among Athabaskan peoples has been well documented by anthropologists and others working in the Canadian sub-arctic (*c.f.* Basso 1978, Brody 1981, Riddington 1990, 1998, Rushforth 1994, 1992, Savishinsky 1974). In the Sahtu region, people often refer to the land as 'their bank', Great Bear Lake as their 'deepfreeze', and the surrounding environment as 'their grocery store'. As important as the land is in an economic sense, the land is also viewed in a deeply personal and often spiritual manner. For Sahtu Dene and Métis peoples, human beings and the landscape are implicated in intricate moral and physical obligations that include relationships based upon mutual respect

and understanding. The land and all of its components are conceptualized as animate and sentient beings imbued with power and agency. In the following section I examine how activities exercised by Sahtu Dene and Métis peoples in their engagement with the landscape involve productive practices that contribute to senses of individual and collective well-being. Here I will show that rather than viewing the environment in terms of the separation of biophysical and social realms, Sahtu Dene and Métis perspectives of the land include a necessary connection between the social, biophysical, and spiritual components of the landscape.

Spending Time on the Land: Land-Based Activities and Sahtu Dene and Métis Identity and Wellbeing:

Every fall-time, people living in the Sahtu region look forward to the taste of fresh caribou meat. Most years, the caribou return to a particular point on Great Bear Lake and local harvesters from the community of Déline greatly anticipate their arrival. During one of my stays in Déline, I was fortunate to be able to be in the community as local hunters went out across the lake to hunt Caribou. After several days and nights of their absence, one evening the woman that I was staying with said: “the men are coming back, let’s go out and meet them.” So we drove the short distance to the community dock, where their boats would be coming in. To my surprise we were not alone. In fact, seven other trucks, and many more people, had also gathered at the dock in anticipation of the men’s arrival back to the community with fresh caribou meat. About twenty-five people were gathered around the dock, watching the horizon for whitecaps or lights. As the sun went down, and it started getting cold, we began to see the

lights of a boat from the shoreline. The children who were gathered, and everyone else along with them, got very excited. I was struck with the surrounding sensation of relief, gratitude, and the genuine sense of community: as the men's boats rolled into the dock one by one, everyone was there to welcome them home.⁵³

The latest Government of the Northwest Territories Bureau of Statistics profile of community indicators reported that on average 59% of households in the Sahtu communities of Colville Lake, Déline, and Tulit'a rely on country foods for most or all of the household meat consumed (GNWT Bureau of Statistics 2007). Indeed, local people often talk about their desire for what they call "Dene foods." Dene food is viewed to be more nutritious than store bought food, which is transported into the communities by aircraft, winter road (from January to April), or barges in the summer months. The long travel times required to import food, and the associated expense, limits both the nutritional value and economic feasibility of food purchased from the store. Furthermore, for local Dene people, store bought food is often associated with artificial preservatives, and there is a strong skepticism surrounding the raising and processing of farmed meat.⁵⁴ However, the preference for 'Dene foods' extends beyond nutritional and economic considerations to include what people have described as 'a taste for something'. Individuals will often express that their bodies "need" caribou meat, and that they have cravings for food harvested from the land.

⁵³ Fieldnotes, August 29, 2006.

⁵⁴ For an excellent discussion of the connection between health and narratives of country foods see Adelson, Naomi (1998) "Health Beliefs and the Politics of Cree Well-Being" in *Health* 2(1): 188-213.

Food harvested from the land also plays a strong role in establishing and sustaining community cohesion through the creation and maintenance of social and ancestral ties. As demonstrated in the above description of the caribou hunters' return to their home community, harvesting food from the land creates not only opportunities for people to travel and spend time in seasonal harvesting areas, but also generates great excitement and anticipation for the consumption of seasonal delicacies. Harvesting spawning whitefish in the fall-time for fish eggs, or returning to a favorite duck or goose harvesting area in the spring, is anticipated not only by those who actually engage in the activity, but also for those who share in the fruits of the harvest. The collection of food, and the practice of food preparation and consumption helps to recall places on the landscape where ancestors have harvested since time immemorial.

The circulation and sharing of Dene foods also produces intense communal responsibilities and obligations. On a regional scale, some communities in the Sahtu have greater access to fish, and requests to send fish to surrounding communities are common. At other times, caribou herds might be particularly accessible to one community, and the harvested meat will be packaged and sent to relatives and friends throughout the Sahtu and abroad. One of the main worries that community members have for loved ones living away from the region is the lack of Dene foods in their diet. Caribou meat, fish, and particularly dry-meat are often packaged and sent to relatives living elsewhere. In my travels to and from Sahtu communities, I often had several requests from local harvesters to bring dry-meat, berries, or fish to relatives living in southern cities. In all of these

cases Dene food is exchanged and circulated throughout the region and beyond, creating a network of social responsibilities and obligations, and minimizing the threat of going without Dene foods.

In addition to circulating Dene food outside of the region, food is also shared between community members on a local scale. If a harvester kills a caribou or moose, the meat is distributed throughout the community to relatives, Elders, lone-parent households, and others who are in need of or request meat. Certain parts of animals, such as the Caribou head for example, are considered especially tasty and are often reserved for Elders or given away as a sign of respect. Community members are very aware of who has set fish nets in the surrounding lakes or rivers, and will often ask for fish for food or bait. During one of my visits to the Sahtu, I was staying with a family who had set a fish-net in the lake and the oldest son was checking the net on a daily basis. Over the course of my stay, friends and relatives would often come by for a visit, and to request fish. Often, requests for fish or meat are conducted indirectly, and involve stating that a person has a “taste for something”, or that they are “dying for a taste of (a certain food)”. Most times, if the food is available, it is brought out of the freezer or store-shed and shared, and there is a general conviction that because the food comes to people freely from the land, it ought to be exchanged freely (and, for the most part, without monetary payment) between them.

In the Sahtu, where the price of store-bought food is extremely high, the harvesting and consumption of country foods greatly off-sets the high cost of living in the north. However, as Ellen Basso points out in her work with people in

the Sahtu region in the late 1970's, harvesting is also very much a social act, and a process that is fundamental for personal development. As she states:

“It is in the bush that Dene concepts of personal identity and even life itself takes on full meaning. The bush is the setting in which communications between humans and other living things is most conspicuously enacted. The acquisition of knowledge about and control over the natural world, by means of which survival is made possible occurs only in the bush” (Basso 1978:9).

Indeed, life in the bush is strongly contrasted with life in the communities. People often discuss the freedom of bush life, both in the sense that bush resources can be harvested without monetary payment, but also in the sense that while in the bush people maintain the ability to make decisions free of external control –something that one is often unable to do in the community. In some households, for example, families choose to heat their homes with wood stoves not only because it provides opportunities to spend time on the land harvesting wood, but also because burning wood minimizes dependence on western commodities and government programs. As the president of a community Renewable Resource Council expressed, “what the land provides is free. One does not pay for fish, for caribou. One has no rules, or government.”⁵⁵ Alternatively, life in the community is often associated with non-Dene institutions and management, a climate of dependence, idleness, substance abuse, and enforcement (*cf.* Basso 1978:697, Savishinsky 1974). In the bush, however, people must ‘work hard’ for their food and other material goods; they must

⁵⁵ Personal communication, President of the Déline RRC. August 25, 2006.

exercise good judgment and utilize individual initiative to work themselves out of sometimes troublesome situations. There is no time for alcohol in the bush, nor is there social assistance, as a local harvester from Colville Lake stated before the JRP:

“When you live off the land you are—because of living on the land you are an honest and straight person; but living in the community, there’s a lot of negative impacts like drugs and alcohol” (Joint Review Panel for the Mackenzie Gas Project Community Hearings Transcripts, Held in Colville Lake on April 10, 2006. Vol. 21:1995).

The ability to survive ‘in the bush’ and to harvest the resources of the land is indeed a great source of pride, and is seen as strong indicator of cultural continuity. People will frequently point out that their ancestors have lived on the land for many generations, and that they have passed down experiential knowledge of how to find game, good berry-picking places, and other resources necessary for survival; they know where the good fish lakes are, and how to butcher and prepare Dene foods. Young people are taught how to keep warm in extreme temperatures, how to make emergency shelters, and how to use Dene ‘bush’ medicine to heal wounds, burns and other injuries that may occur while on the land. Life in the bush is not presented as easy, but it is presented as distinctly Dene; that is, that through generations of experience, skills, and knowledge gained in the bush, Dene people know the land in ways that outsiders never could.

Relationships with the landscape form an important component of how Sahtu Dene and Métis people think about themselves and their place in the world: the land provides physical sustenance through food and spending time on the land, and facilitates intense connections between members of the community, ancestors, and practices that are seen as fundamental to 'being Dene'. However, Sahtu Dene and Métis relationships to the land are also profoundly moral, in the sense that human beings and multiple components of the landscape are implicated in a series of relationships that include, yet extend beyond, taking care of the land. As an Elder and harvester from the community of Colville Lake stated before the Mackenzie Valley Pipeline Inquiry in 1975:

“(Speaking through an interpreter) This is the land that we make our living on, he says. He says this land is not for us to make money out of like to dig for oil and to dig for gold or stuff like that on it, he said. Yet, we live on it to make our living the simple way, to fish on it, to hunt on it, and to trap on it and just live off the land. That’s what we think this land is that, he said, but not to make money from it...Even before the white people came, he said, we made our living off this land. He said, we were all brought up from what was from the land our parents hunted and fished and that’s how we were brought up. So, he said, this land fed us all the time, even before white people came to the north. To us, he said, it’s just like a mother that brought her children up, he said, that is how we think about this country. He said, it is just like a mother to us. He said that’s how serious it is that we think about the

land around here” (Isadore Cuzon, Berger Inquiry: Mackenzie Valley Pipeline Community Hearing Transcripts, held in Colville Lake on August 21, 1976. Vol. 75:308-8309).

According to many people in the Sahtu, Sahtu Dene and Métis relationships with the land are informed by a universal law that is followed by all human and other-than human dimensions of the landscape. As a result of this law the birds, moose, caribou, mice and all of the animals have places to live on the land: they all follow the same law, and are able to gain physical, social and spiritual sustenance so long as they do not break it.

An important element of this universal law involves honoring components of the landscape by conducting oneself in a manner that demonstrates respect. Simply put, this is done by not offending other creatures or the land, and through making offerings to the landscape. I was told by many people in the Sahtu that when one is traveling, visiting a place for the first time, or taking something from the land, one should always pay the land. People can pay the land with a variety of items of value, but most frequently people use money or tobacco. When crossing multiple waterways, for example traveling from Great Bear Lake to the Bear River, individuals are required to pay both the lake and the river. The payment (as it is often called) or offering is a request for safe passageway on the water. For Sahtu Dene and Métis people then, it is the land that determines the fate of human-beings (rather than human beings able to manipulate the land). Indeed, one of the first phrases I learned when traveling to Déline, for example is “Sahtu k’a weh,” meaning: “Sahtu (Great Bear Lake) is the boss.” This is the most common

response to any question about travel or general activities that involve going out on the land.

There are other ways of properly conducting oneself in relationship to other-than-human components of the landscape that are required to uphold the universal law as well. I was once sitting around a kitchen table with a group of local harvesters, when an experienced hunter mentioned the new posters that had recently been put up in local airports about how to tell if a caribou was a male or a female. One of the main purposes of these posters was to promote sex-specific hunting of caribou: the Ministry of Natural Resources was advocating killing older male caribou, rather than female cows, because the reproductive factor of female cows was considered to be more important for the overall sustainability of the herd. However, the local harvesters gathered around the kitchen table that night seemed very concerned about this form of wildlife management. One man spoke: "It is not right for people to kill all of the old men. It would be like killing off all of the male Elders in our community. If we kill off the old male caribou, then how will the herd know how to go?"⁵⁶ From this perspective, the social organization of a caribou herd is akin to a community of human-beings, and demanding of the same considerations for sustainability in terms of its physical and social composition. In this case, the killing of only older male caribou would represent a loss of knowledge for the herd as a whole, knowledge that is just as important as physical reproduction for community survival.

⁵⁶ Fieldnotes, April 2, 2006

The likeness of human beings and other-than-human components of the landscape can also be translated at the level of the individual. On several occasions, I had the opportunity to sit with one Elder during the course of several feasts. Each time we would sit down to eat, I noticed that he did not have any fish on his plate. I found this rather interesting as fish is a staple of many people's diets in the Sahtu region. After several sittings together with our meals, the Elder leaned over and very quietly said: "I don't eat fish. Get sick in my stomach. From that time I went down there and better not for me to (eat fish) after that."⁵⁷ What this Elder was referring to was dietary restrictions that he adheres to uphold certain types of relationships that he has made with other-than-human components of the landscape. His particular relationship with the landscape must be maintained in very careful ways, so as to uphold mutual obligations and commitments. What this story also demonstrates is that the landscape and human-beings are not seen as separate entities not only in terms of how human beings dwell upon (and engage with) the land, but in much more fundamental ways as well.

The Cultural Constitution of Environmental Impacts:

What constitutes 'the environment' has proven a major dilemma within environmental assessment regimes in the Canadian north and elsewhere. The Environmental Impact Assessment Guidelines released by the Mackenzie Valley Environmental Impact Review Board (MVEIRB) in 2004 defines 'the environment' as: "the components of the Earth including (a) land, water and air,

⁵⁷ Fieldnotes, September 5, 2006

including all layers of the atmosphere; (b) all organic and inorganic matter and living organisms; and (c) the interacting natural systems that include components referred to in (a) and (b)” (MVEIRB 2004:50). This is the same definition of environment given by the Proponents of the Mackenzie Gas Project (MGP) in their Environmental Impact Statement (EIS). In the same report, MVEIRB goes on to define an impact on the environment as “any effect on land, water, air or any other component of the environment as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources” (MVEIRB 2004:51). Thus while MVEIRB defines the environment as a ‘natural’ system, in terms of the consideration of environmental impacts there is a general recognition of the intersection between a natural system and social and cultural components of the landscape.

Several forms of impact assessment have emerged in order to address both ecological and socio-cultural attributes of the environment, including environmental impact assessment (EIA), socio-economic impact assessment (SIA) and health impact assessment (HIA). Many of these processes involve identifying ecological or socio-economic thresholds, the prediction of ecological and socio-economic impacts, and the implementation of appropriate mitigation measures or, when this cannot be accomplished, the establishment of various types of compensation. However, several scholars have been critical of the role of SIA in environmental assessment, suggesting that social and cultural impacts are not taken seriously within environmental assessment regimes (O’Faircheallaigh 1999, Vanclay 2004), that SIA evaluation processes do not reflect the multiple

perspectives of stakeholders (Lemon et. al. 2004: 190), that “SIA procedures may fail to acknowledge the values and perspectives of indigenous people where these conflict with the dominant social ethos of society” (O’Faircheallaigh 1999:64), and that quantifiable variables and socio-economic algorithms do not adequately portray social systems or cultural conceptions of environmental impacts (Vanclay 2004:280).

Given the attention paid to cultural constructions of landscape, as noted above, it is surprising then that less attention has been paid to cultural conceptions of impacts relative to industrial projects. It has been pointed out that costs and benefits of resource development are often differently perceived by those who do not participate in Aboriginal lifeways (Brody 1981, Cruikshank 1998, Elias 1995, Ridington 1988, Rushforth 1992, Smith 1977). For example, it has been well established that the intimate relationship between Aboriginal peoples and their environments encompasses a host of cultural, spiritual, and cosmological relationships that are not easily translated into quantifiable, techno-rational categories (*c.f.* Cruikshank 1998, Nadasdy 2005). Julie Cruikshank (1998) has also demonstrated that the integration of traditional knowledge and management regimes often removes traditional knowledge from particular ways of viewing the world into codified and predominantly western categories that may not fit with original intent or meaning.

The naturalization of a dichotomy between human and ‘natural’ components of the environment is well illustrated in current environmental assessment practices related to industrial activities on Sahtu lands. In this section I will examine the

dissociation between the determination of environmental impacts in the assessment of the Mackenzie Gas Project and Sahtu Dene and Métis perceptions of their land. I argue that despite considerations given to the social, cultural, and economic importance of the land and land-based activities for the lives of Sahtu Dene and Métis peoples, the present means of determining and expressing environmental impacts associated with the MGP fails to appropriately recognize the precise nature of Sahtu Dene and Métis relationships with their landscape. That is, the failure of institutional environmental assessment apparatuses to take seriously the moral nature of Sahtu Dene and Métis relationships with the landscape likewise leads to an inability to accurately assess the constitution (and consequences) of industrial impacts for Sahtu Dene and Métis peoples.

Dissociations Between Biophysical, Social, and Moral Worlds in Environmental Assessment Practices and the Determination of Industrial Impacts:

It is a common practice for environmental assessment practitioners to identify what is called a Valued Ecosystem Component (VEC) as a primary variable for the evaluation of potential industrial impacts. A VEC, as generally considered in environmental assessment processes, is an environmental feature that is considered important (economically, culturally, or spiritually) to a local human population and/or ecosystem. VEC's are usually identified by environmental assessment practitioners through consultation with local communities and harvesters and through an examination of existing baseline ecological data.

Prior to the Environmental Impact Review for the Mackenzie Gas Project, Imperial Oil was required to submit an Environmental Impact Statement (EIS)

which included an identification and description of VEC's and other baseline biophysical and socio-economic conditions in the project area, an assessment of potential impacts on those conditions, and mitigation or management strategies aimed at reducing anticipated adverse ecological and socio-economic effects. Table 1., for example, is taken from Volume 5 (Biophysical Impact Assessment) of the EIS for the Mackenzie Gas Project, and demonstrates the identified VEC, and how the significance of potential environmental impacts are expressed and considered:

Table 10-97: Significance of Potential Effects of the Pipeline Corridor on Wildlife Habitat Availability

Valued Component	Phase When Impact Occurs	Effect Attribute				Significant
		Direction	Maximum Magnitude	Maximum Geographic Extent	Maximum Duration	
Barren-ground caribou	Construction	Adverse	Low	Local	Far future	No
	Operations	Adverse	Low	Local	Far future	No
	Decommissioning and abandonment	Adverse	Low	Local	Far future	No
Woodland Caribou	Construction	Adverse	Low	Local	Far future	No
	Operations	Adverse	Low	Local	Far future	No
	Decommissioning and abandonment	Adverse	Low	Local	Far future	No
Moose	Construction	Adverse	Moderate	Local	Medium term	No
	Operations	Adverse	Low	Local	Long term	No
	Decommissioning and abandonment	Adverse	Low	Local	Long term	No
Grizzly bear	Construction	Adverse	Low	Local	Long term	No
	Operations	Adverse	Low	Local	Long term	No
	Decommissioning and abandonment	Adverse	Low	Local	Long term	No
Marten	Construction	Adverse	Low	Local	Far future	No
	Operations	Adverse	Low	Local	Far future	No
	Decommissioning and abandonment	Adverse	Low	Local	Far future	No

Table 1. MGP Environmental Impact Statement 2004, Volume 5. Biophysical IA, Section 10:214)

The results of the Environmental Impact Statement for the Mackenzie Gas Project were published in an eight volume report in August 2004, and were also

summarized in the Proponent's presentation to the community of Déline during the JRP Community Hearings on April 3, 2006.

One afternoon, while sitting with some Elders in Déline, I asked them what they thought about how proponents determine the extent of industrial impacts on VEC's. I was quickly informed by the community collaborator with whom I was working with that I was asking the wrong question. The question that I should be asking, she said, is what they think about the possibility that one part of the environment could be more valuable than another part. Not surprisingly, the Elders told me that the proposition that parts of the environment could be separated from one another is absurd, and that all parts of the environment are equally important. One Elder stated:

*"You know, we know the importance of the land, we are so connected. People that come in and do the exploration and they don't know much about the land. It is so different for us Dene. A couple of years ago they did some exploring right across from here. When they were drilling, we could feel the ground shake. The caribou could feel it. They went in a different direction...so you can pretty well see how animals react to the exploration. All of the water, animals, even the mouse... all of the mouse dens, even the beaver. They don't see that. But we, the people who live off of the land, we see it."*⁵⁸

The notion that one part of the environment could be more valuable than another is, of course, totally foreign and incompatible with many Dene concepts of the

⁵⁸ Men's focus group held in Déline, NT on September 18, 2006

holistic and inter-related components of landscape. As another Elder spoke: “we are a part of the land, and the land is a part of us.”⁵⁹

The premise that diverse components of the landscape can be separated (and then evaluated as diverse entities) is rooted in the ways in which proponents conceptualize the distinctions between biophysical (what is considered to be ‘natural’) and human elements of the land. This premise is well illustrated in an example taken from Imperial Oil’s description of their EIS findings at the Joint Review Panel community hearings for the Mackenzie Gas Project. After a short introduction to the JRP hearings by the Panel Chair, Imperial Oil opened the hearings with a lengthy presentation including a description of the proposed project, and an overview of the findings of their EIS. For the purposes of the presentation, the Proponent broke down the EIS findings into two categories: EIS Findings for the ‘Land’ (including air & noise, land, vegetation, water, fish, and wildlife), and EIS Findings for ‘People’ (including the economy, employment & income, communities, community wellness, traditional culture, non-traditional land and resources use, and heritage resources). The Proponent also included a graphic representation of their categorical separation between impacts on the land, and impacts on people, shown in Figure 3.:

⁵⁹ Men’s focus group held in Déline, NT on September 18, 2006

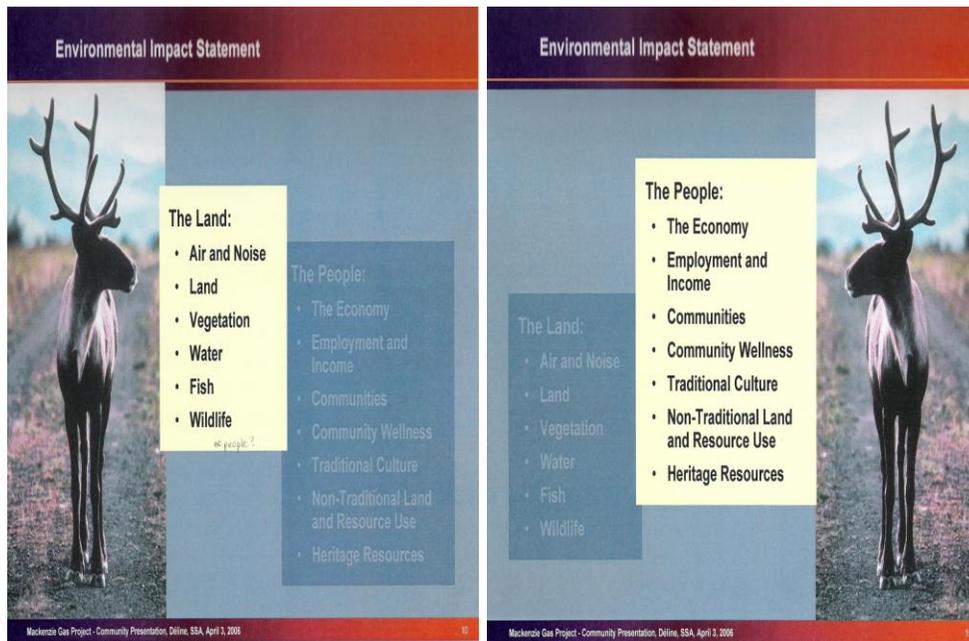


Figure 3. Source: Mackenzie Gas Project – Community Hearing Presentation, Déline, April 3, 2006)

At a community hearing held in Déline, a local Elder and harvester asked the Proponent why there weren't any people in the land category. The proponent responded: “on a separate chart...we listed the items we looked at with respect to potential impacts on people...and so we identified those concerns and measures we could take to address the kinds of concerns that you referred to” (Randy Ottenbreit, Joint Review Panel for the Mackenzie Gas Project Community Hearings Transcripts, Held in Déline on April 3, 2006. Vol. 16.1666:25-29). This example makes evident that while Imperial Oil did recognize the need to address various human components of the landscape, this was done only in terms of the types of activities that people do upon the land (for example, harvesting), or ways in which the proposed project might affect associated tangible (and thus

empirically measurable) components of the social environment (for example, heritage resources, the economy, non-traditional resource use). Importantly, the ways in which Imperial Oil addressed the human dimensions of the landscape did not include a recognition of the very fundamental ways in which Sahtu Dene and Métis people see themselves as a part of the land, and the land as a part of them. In other words, while there was a recognition that impacts on the land might also translate into impacts on people, the recognition was such as to maintain the ontological distinctions between human-beings and the land.

Determining 'Significance': Misrecognitions of Diverse Perceptions of Industrial Impacts in Environmental Assessment Practices:

By maintaining ontological distinctions between human-beings and the landscape, proponents of large industrial projects often fail to accurately consider the precise nature of industrial impacts as experienced by Sahtu Dene and Metis peoples. The consequences of this misrecognition can and does have profound effects on how seriously Sahtu Dene and Metis concerns about environmental impacts are heard and considered, in an appropriate way, by decision-makers, regulators, and proponents. For instance, by failing to acknowledge the precise nature of Sahtu Dene and Metis relationships with the landscape, the 'significance' of industrial impacts on Sahtu Dene and Metis subjectivities are also misunderstood. Environmental assessment institutional practices do consider the significance of industrial impacts on the landscape, but as I will show here, the determination of the significance of environmental impacts does not make room for a genuine consideration of the ways in which Sahtu Dene and Metis relationships with the landscape are disrupted by industrial activities.

Within an EIS, impacts are often considered to be ecological or socio-economic in nature and typically involve any change to the ecological or human environment, whether adverse or beneficial, resulting from a product, process, or approach. The EIS for the Mackenzie Gas Project utilized four basic questions to determine effect attributes: is the effect good or bad (effect direction); how intense is the effect (effect magnitude); how large an area will be affected (geographic extent of the effect); and how long will the effect last (effect duration) (MGP 2004:2-26). The evaluation of the extent of industrial impacts in the MGP EIS stems from the presupposition that the significance of the impact is directly related to the intensity, geographic extent and location, duration, and reversibility of the effect (see Figure 1.).

In the summary of their Environmental Impact Statement findings regarding the land, Imperial Oil relayed the following narrative at a JRP community hearing in the Sahtu Region:

The assessment of impacts on the land included the topics of impacts on air, and noise levels, impacts on land, vegetation, water, fish, and wildlife. In our meetings with you (the community of Déline), you told us that you had the following concerns: You told us that construction activities should be sensitive to areas of cultural and environmental significance; areas such as Bear Rock, the Great Bear River, and the Blackwater River. You told us that caribou, moose, birds, fish, and their habitats should be protected...You told us that impacts on wildlife harvesters should be compensated...The following are some

examples of measures that the project will undertake to address these concerns. Based on the input we've received, we've modified our plans to reduce disturbances on areas that are culturally and environmentally significant. By way of example, we've eliminated the use of granular resources near Bear Rock. We've rerouted the pipeline crossing of the Great Bear River, and that crossing will be done by drilling underneath the river. We've moved the compressor station and associated facilities away from the Blackwater River, and we're applying measures to stream crossings to reduce the effects of those stream crossings on fish and fish habitat. The findings of the environmental assessment of impacts on the land were that most environmental effects will occur during the construction phase, and we believe that they can be managed so that those effects will be localized and short term. The assessment also determined that people's ability to harvest might be disrupted in the short term during the construction phase and that the project effects on air, water, land, fish, or wildlife will not last a long time or affect a large area (Randy Ottenbright, Transcripts of the Joint Review Panel for the Mackenzie Gas Project, Community Hearing in Déline, April 3, 2006: 1614-1615).

The assertion that the impacts on the land will be localized and short term stems from information collected and reported in the EIS. Narrative expressions of specific environmental impacts within the Environmental Impact Statement (e.g.

effects on moose populations) are typically based upon public⁶⁰ and professional judgements of biophysical indicators, current abundance and distribution of wildlife populations, and the identification of important habitats that might be affected by project development (MGP 2004:10-1). For example, when talking about effects on moose, the Environmental Impact Statements reads:

“Moose use habitat along the edges of waterways. Although clearing vegetation in forested areas will produce more browse for moose, clearing areas along rivers and streams will affect moose habitat availability and might affect how moose move along these corridors and use them for overwintering. Moose might be displaced from habitat from construction noise, but once people leave disturbed sites, moose will often return to use them. Effects on moose habitat during operations should be less than construction because fewer people will be working along the right-of-way and because shrub communities cleared during construction will regrow and provide forage for moose. Access roads and rights-of-way could increase hunting pressure, particularly in remote riparian areas used by moose in winter. The largest potential effect is of moderate magnitude and long-term duration” (MGP 2004:10-3).

Thus, for the Proponent, project effects on moose do not constitute a significant impact. The reasons that this impact is not significant are: 1) moose might be displaced from certain areas because of construction activities but they will

⁶⁰ As part of their Environmental Impact Statement, Imperial Oil conducted surveys of local hunters and harvesters (both Aboriginal and non-Aboriginal) to gain insights into wildlife distribution and population levels for base-line data.

return at a later time, 2) the vegetation and forest cleared for project activities will grow back, and 3) the geographical extent of disturbance is limited to the construction zones, the pipeline right-of-way, and project access roads, although there is an acknowledgment that extended road infrastructure might lead to increased hunting pressure. In the end, this small disruption to moose and moose habitat is considered to be of “moderate magnitude,” and certainly not enough to justify termination of the proposed pipeline.

However, when we examine how Sahtu Dene people speak about moose, we can see fundamental differences in how project activities and impacts are conceptualized. The following is a narrative given by a local harvester and Elder during a Community Hearing of the Joint Review Panel for the Mackenzie Gas project in Déline in April, 2006:

(Speaking through an interpreter) “I want to talk about those stuff, which that connecting to the universal law that they (the Elders) follow, the universal law of the water, they follow that. And then the universal law of the tree, and they obey that one. And the universal law of all the birds, and they obey it. And they obey the universal law of the animals, moose, and caribou and any animals. They obey the universal law. And this universal law has been destroyed with the animals. The moose have their own universal law how to go on the land. The moose are a very, very intelligent animals. They’re very clever, and he knows the area. Once you come back to that area when he was a thousand miles away, he’ll come back. There’s something wrong, no, I’m not going to go back

there again. He going the other way...And here the universal law that going across Mackenzie, the universal law for the animals and the waters and the minerals, we live by that a lot. And animals themselves, they live by their own law. So we both are very pleased with each other. The animals are very pleased with us and we're very pleased with them because we obey those universal law. We really respect the land. And then, the elders saying your whole land, from way up in the Arctic to all the way down south, and the whole North American and South America, they're like your whole body. And your body is all being ripped apart. It's being ripped apart and the scar all over the body. And one rip right across from the tip of your hand to all the way across your whole body to the end of the tips...And then, the elders said they never been down South. But the elder, they have seen this prophecy. And that's all the land – the land are just like a floor tile down south. There's no room for it. And they look up this way. Only a little piece left, from your chest and up. And now the damage is coming up to your head. It is already too much to have in your body already...These are the things we need to understand the land. We didn't understand the oil company. All we understand is that addicted to oil; money. We're not looking forward to that, if there's no more fish, no more caribou, no more moose and birds" (Charlie Neyelle, Transcripts of the Joint Review Panel for the Mackenzie Gas Project, Community Hearing in Déline, April 3, 2006: 1643-1645).

As seen in the above narrative, effects of industrial development constitute more than what might be termed a significant impact. Indeed, they amount to a breakdown in moral and physical relationships that extend beyond particular projects, or isolated project affects. When speaking about moose, this individual indicates that there is a unique relationship between humans and animals that is based upon mutual respect, that both humans and animals are responsible for maintaining that relationship, that moose are intelligent and sentient beings who choose whether or not to return to a damaged area, and that the relationship between humans and animals cannot be restored through monetary means. This individual also speaks of a universal law that connects animals, humans, and the landscape that must be obeyed in order for the relationship between them to be maintained. The narrative, however, goes beyond a consideration of project impacts solely on moose. This individual describes the landscape as an extension of his physical body, and the effects of industrial activities as scars and the ripping of his flesh. For this individual, it seems, impacts constitute not only ecological changes in the environment as a result of industrial activities, but a literal tearing apart of his physical and social body.

“There Are no Doctors for the Fish”: Industrial Impacts & Sickness in Sahtu Dene and Métis Environmental Assessment Discourse:

One September afternoon I was sitting with some Elders in a small cabin near the shores of Great Bear Lake drinking tea and listening to the crackling of the woodstove when one Elder commented: “as far back as they can remember our ancestors lived off of the land. It is still like that today. We live off our land; it is our money, our food... it is who we are. Even you, I have seen you walking around

by the shore, and we have nets in that water, and we catch fish. You can see how peaceful it is here...if the pipeline goes through it might not be like that anymore.”⁶¹ In this chapter I have argued that Sahtu Dene and Métis perceptions of the landscape differ quite substantially from the ways in which proponents of large industrial projects view the land. I have also argued that, as a result of these disparate views of the environment, Sahtu Dene and Métis perceptions of the consequences of industrial impacts upon the land are likewise dissimilar to the ways in which impacts are considered as ‘significant’ within (largely proponent driven) environmental assessment practices. In this section I will examine the ways in which industrial impacts are often experienced and expressed by Sahtu Dene and Métis peoples. If, as the narrative by the local harvester and Elder from Déline suggests, industrial impacts are experienced as a scarring of physical and social bodies, what are the consequences for the individuals and collectivities that experience them? In other words, what happens, in the eyes of Sahtu Dene and Métis persons, when human beings and other-than-human components of the landscape do not obey the universal law?

At the 2006 Sahtu Secretariat Inc. (SSI) General Assembly a respected Elder and harvester from the community of Tullit’a stood up and addressed the delegates in reference to a natural gas pipeline proposed for the Mackenzie Valley. He stated:

⁶¹ Men’s focus group held in Déline, Sept 18, 2006

“All the lakes and streams are alive, so we really need to take care of the water. We eat the wildlife, those are the things I am concerned about... We need to take care of the land, because when we damage it that causes the sickness.”⁶²

Local concerns over the ways in which increased oil and gas exploration and production have impacted the land have been acute and long-standing. Prior to the Sahtu Dene and Métis Comprehensive Land Claim Agreement, people in the Sahtu region vehemently expressed their concern over industrial impacts on Sahtu lands, and over a lack of formal avenues for community participation in decisions related to land and resources. In 1975, when a natural gas pipeline was first proposed for the Mackenzie Valley, Justice Thomas Berger visited the Sahtu for the Mackenzie Valley Pipeline Inquiry, and local harvesters bore witness to their experiences with industrial impacts. One individual testified:

“Since the beginning of introducing the pipeline...a lot of the oil companies have been making roads all over the place. In making those roads, I guess there is a lot of gas just left on the roads and stuff like that. And that caused this year –a moose was shot and usually when a moose is shot, they distribute the meat amongst the community. And the meat caused a lot of sickness. And there was one—it was one of those seismic lines. And also (a community member) was on the seismic line and saw a beaver there. But the beaver was so sick that they had to kill it” (Joe Naedzo, Berger Inquiry: Mackenzie Valley Pipeline

⁶² Fieldnotes from the Sahtu Secretariat Inc. (SSI) General Assembly held in Déline, September, 2006.

*Community Hearing Transcripts, held in Fort Franklin (D line) on June 24,
1975. Vol. 7:604)*

Other witnesses corroborated these sorts of statements, often emphasizing that people were speaking the truth, because they have primary experiential knowledge of the land (c.f. Rushforth 1994, 1992). Local people talked about associations between work conducted by oil and gas companies and the contamination of lakes. One trapper pointed out that during the spring hunt he looked into a local fish lake and saw “a whole slew of muskrats dead in that water”, he went on to say that it was the same lake that the oil companies were working on the previous winter (Paul Macaulay, Berger Inquiry: Mackenzie Valley Pipeline Community Hearing Transcripts, held in Fort Norman (Tulit’a) on June 27, 1975. Vol. 8:898).

In Colville Lake, a local harvester talked about the effects of seismic lines on the land and animals:

“(Speaking through an interpreter) Even now...before anything like a pipeline is started, all these explorations being going on, (he say) the roads being cut through all over in the country (he said)...you can see the difference in the wildlife, (he said) it is not the same because it has been disturbed. (He says) you can see. There’s hardly any rabbits anymore. There used to be all kinds of ptarmigans around here. (He said) he hardly sees any of that either, (he says). (He says) even when he traps (he said) the fur that he catches, it is not it doesn’t look very healthy (he said). So (he said) maybe it is on account of all of the

exploration that has been going on had something to do with it” (Pierre Blanche, Berger Inquiry: Mackenzie Valley Pipeline Community Hearing Transcripts, held in Colville Lake on August 21, 1976. Vol. 75:8310-8311).

In communities throughout the Sahtu, local people talked about their concerns over young people not being able to tell whether an animal was contaminated due to lack of bush experiences, and they talked about community members who have died from a foreign a sickness that “one can’t see.”

Importantly, historical experiences with previous extractive projects and with non-local interference with animal-human relationships were also recalled and told. People discussed the damage caused by government-led wolf poisoning programs, and the ways in which sports-fishing has contributed to a decline in fish. A man who worked as a guide for fishing lodges on Great Bear Lake talked about how he was required to throw live fish back in the water for sports-fishermen when the fish was not trophy-sized:

“But you only kill a fish when it touches its throat. And sometimes the fish may be more harmed than you know. The fish may be more harmed than we think but we still have to throw it back...And sometimes there is blood coming out of the mouth and stuff like that...But there is no doctors available for those fish in the water when you throw it back...this is why (he says) that causes the decrease in the fish” (Victor Dolphus, Berger Inquiry: Mackenzie Valley Pipeline Community Hearing Transcripts, held in Fort Franklin (Deline) on June 26, 1975. Vol. 9:817)

For peoples who consider the world to be based upon a universal law that upholds mutual respect and obligations between humans and animals, the act of throwing an injured fish back into the water breaks that law, disrupting animal-human relations and resulting in serious consequences –not the least of which is an increased difficulty harvesting fish.

At the time of the Berger Inquiry, comprehensive land claims and formal co-management institutions had not yet come into being, leaving local harvesters with little formal input into development decisions or the determination of industrial impacts. The Berger Inquiry was a rare example of Sahtu Dene and Métis involvement in land-use decision-making in the region, and Justice Berger's recommendation of a ten year moratorium on the building of a Mackenzie Valley Pipeline was celebrated by Aboriginal people across the Northwest Territories as a major triumph in the struggle to gain recognition of Aboriginal rights and relationships with the land. When another pipeline (the Enbridge or Interprovincial Pipeline) was approved and built from Norman Wells to Zama Alberta less than seven years later, the people of the Sahtu once again saw their concerns about and relationships to the land ill-considered in the assessment of industrial activities on ancestral lands.

Presently, however, with the signing and implementation of the Sahtu Dene and Métis Comprehensive Land Claim Agreement in 1993, there exists a complex permitting and regulatory regime that has promised a more inclusive voice for Aboriginal peoples in environmental assessment and resource decision-making through representation on public boards, requirements for proponents to consult

with and (in most cases) reach an agreement for surface access with relevant Land Corporations; and, requirements for the integration of multiple forms of knowledge, including traditional ecological knowledge, in license and permit applications. At the same time, oil and gas activities have intensified in the Sahtu region, particularly over the past six years, and as of the fall of 2006 there were eleven companies who had been issued drilling permits in the Sahtu, and seven others who were conducting seismic activities.

Since the Berger Inquiry, Sahtu Dene and Métis people have faced increasing challenges to spending time on the land. Youth now spend a majority of their time in the community for school, thus limiting their ability to go out on the land to weekends, summers, and school-initiated events. The influence of bingo, television, internet, and popular culture also play a role in the amount of time dedicated to land-based activities. Somewhat ironically, due to the high costs of fuel and equipment such as skidoos, traps, and ammunition Sahtu Dene peoples increasingly find it necessary to engage in wage labour in order to participate in harvesting. This, in turn, shapes to a large degree the ways in which people use the land, the directions and distances that they travel, and the length of time people spend there engaged in harvesting practices. And, while some aspects of increased oil and gas exploration, such as the frequent use of seismic lines for travel, have provided easier access for some harvesters, other effects are seen to seriously interfere with animal behavior and wellness and human/other-than-human relations.

However, changes in the amount of time spent engaged in bush activities and the ways in which the land is utilized since the Berger Inquiry has not tempered local people's emphasis on the importance of spending time on the land and the consumption of Dene foods. Nor have co-management institutions established as a result of comprehensive claims changed the ways in which local people express the inter-connection between landscape and people or industrial impacts and sickness. As at the Berger Inquiry, local people spoke at the JRP Community Hearings and expressed their concerns about contamination and sickness associated with pipelines and increased oil and gas activity. Individuals spoke about their concerns regarding noise pollution, claiming that animals and fish would be able to hear the vibrations made by the pipeline and associated infrastructure, and that the animals would choose to avoid those areas. An Elder and harvester from the community of Déline spoke:

“Even this winter, even all the animals are all over. It's not the same. Even they're still having a noise, but the animals all over. And all the migration. They going to different route. That's why it's happening now this winter. It happens to the caribou. If you went and hunt for caribou, it's not the same as before. Even when they shoot the caribou, they're so skinny, some of it. And now with the pipeline, if they go ahead with the pipeline, it's not going to be the same with the animals. Also, the people are like that too” (Alfred Taniton, Joint Review Panel for the Mackenzie Gas Project Community Hearings Transcripts, Held in Déline on April 3, 2006. Vol.16. 1651-1652:40-43, 1-5).

Other individuals expressed their concerns over what would happen to the land if there were to be a leak in the pipeline or a spill:

“fish, animals, ducks, everything, different kinds of animals, if there’s an oil spill, how are they going to know it? But they’re still going to drink the water if there’s still oil on the land; then, too, they’re going to suffer and die from it too”

(Morris Neyelle, Joint Review Panel for the Mackenzie Gas Project Community Hearings Transcripts, Held in Déline on April 3, 2006. Vol.16. 1636:29-32).

The point is not so much that an oil spill may occur (as the pipeline will not carry oil but natural gas and natural gas liquids), but that industrial contamination affects multiple ecological and social dimensions, and that as keepers of the land Dene people have a responsibility not only to themselves (in terms of keeping their food good), but also to maintain and uphold a moral relationship with all aspects of the landscape.

Indeed, consequences for Sahtu Dene and Métis people should moral relationships with the landscape not be upheld, are quite severe. An earlier example regarding sport fishing demonstrated Sahtu Dene and Métis perceptions of the consequences of throwing live fish back into the water after they are caught, and how this could result in a decline in fish. In Colville Lake, where oil and gas companies have been very active in the exploration and production of the Colville Hills natural gas deposits, the community noticed that the caribou were not coming around anymore to a point on the lake where they had migrated for a

number of years. There were two possible reasons given by local Elders as to why the caribou had disappeared: first that the noise disturbance as a result of oil and gas activity drove the caribou away; or, secondly, that perhaps one of the youth in the community who had walked up to a caribou the previous fall and hit it with a stick had broken an ancient Dene law about animal-human relations resulting in the caribou 'choosing not to come around anymore.' In both of the possible reasons given by the Elders for the decline in caribou, it was human activity on the landscape that violated principles of how one ought to treat caribou and disrupted caribou-human relations. The community of Colville Lake requested that oil and gas activities be suspended for at least a year, and the caribou did eventually return to the area.

Local residents discussed the consequences of declining animal populations and the impact of decreased access to Dene foods on human health. An Elder and harvester from Colville Lake remarked:

"In the last three years, we had a lot of development activities on our land. All our wildlife, the chickens, the rabbits, the caribou, everything started disappearing for three years. And there was many of us that went to the hospital. Now I am 72 years old and I have ...been to the hospital, and because I (ate) store bought food, that's what made me ill (John B. Gully, Joint Review Panel for the Mackenzie Gas Project Community Hearings Transcripts, Held in Colville Lake on April 10, 2006. Vol. 21. 1996:37-42)."

Still others emphasized how the increase emphasis on a wage economy would leave little time for land-based activities, pointing out that, “if everybody was employed, then –then the children are going to be discouraged to go out on the land (John B. Gully, Joint Review Panel for the Mackenzie Gas Project Community Hearings Transcripts, Held in Colville Lake on April 10, 2006. Vol. 21. 1996: 23- 25). Community members made it clear that while they want their children to obtain meaningful employment, they also want their children to acquire ‘bush’ skills, and to be able to maintain a land based economy, if they so choose.

However, while concerns surrounding environmental impacts associated with the MGP are sometimes addressed by Sahtu Dene and Métis people in terms of physical, emotional, mental and social health, employment, pollution, physical disruption of animal habitat, and potential adverse effects on education and drug and alcohol access and consumption, Sahtu Dene and Métis people recurrently talk about industrial impacts as sickness. I would argue that what people are referring to when they speak about industrial impacts as sickness is not only the loss of the nutritional value associated with traditional diets, or a loss of physical activity as a result of engaging in activities on the land, or not even the contamination of wildlife or the landscape from oil spills and other associated pollution (those these may all be the case); what people are referring to is a moral sickness, a sickness resulting from not being able to be fully Dene, a sickness that results from a breaking of the universal law. When viewed in this way, the constitution and consequences of any impact is “significant” in the sense that it

disrupts the universal law. When the landscape is perceived as both an animate and feeling entity, and as an extension of one's body, industrial impacts compromise the health, well-being, and ultimately survival of the self.

A New Political Landscape?

Several scholars have pointed out that the ways in which the Canadian nation-state has considered Aboriginal perspectives on resource management has changed dramatically over recent decades (Asch 1997, 1984, Smith 1997, Nadasdy 2003). Prior to the 1970's little was done by either governments or industry to incorporate Aboriginal perspectives on environmental or socio-economic impacts of industrial projects in resource decision-making. The James Bay Hydro-electric development project, which is considered to have contributed to the establishment of the first modern land claims settlement in Canada, was announced in 1971 without consultation with the James Bay Cree or the Inuit of Quebec (Mulrennan & Scott, 2005), and the first court case establishing a duty to consult with Aboriginal peoples in land use and development did not come until the *Sparrow* decision heard before the Canadian Supreme Court in 1990.⁶³ Indeed, from a structural standpoint, the use of coercive state power to restrict Aboriginal participation in resource decision-making was ubiquitous in the form of imposed institutions of governance, refusal to negotiate land claim and self-governance agreements, and limited state-sanctioned avenues for Aboriginal political participation (in reality, of course, Aboriginal groups did maintain

⁶³ See *R v. Sparrow* [1990] 1 S.C.R. 1075

avenues for control of local resources, even if in opaque and resistive in nature (*cf.* Feit 2005). Importantly, I would argue, a general lack of awareness of Aboriginal lifeways and struggles for self-determination on behalf of non-Aboriginal Canadians contributed to ideologies of resource-rich hinterlands uninhabited or uninhabitable by mainstream populations and, thus, open to resource appropriation.

However, by the mid 1970's as result of continued Aboriginal contestation of industrial projects that eroded Aboriginal territories, increased Aboriginal political organization throughout North America, and increased international attention focused on indigenous and human rights (Nadasdy, 2005), outright appropriation of indigenous lands rich in resources was no longer seen by the Canadian public as an acceptable option for large multi-national developers, in partnership with the Canadian state. Increased avenues for Aboriginal political participation in the form of modern day treaties or comprehensive land claim agreements were established beginning with the James Bay and Northern Quebec Agreement in 1975 and continuing on throughout northern Canada until the present day. Many of these comprehensive claims include provisions for resource co-management and increased Aboriginal community input through both the structural organization of the boards, and increased consultation with Aboriginal communities in the form of public hearings. Processes such as the inclusion of what has been politically categorized as 'traditional ecological knowledge' in scientific and management regimes, and legal requirements for consultation by government and industry in projects on or near Aboriginal lands have provided

Aboriginal communities with state-sanctioned mechanisms for addressing proponents, government officials, and scientists.

In the Northwest Territories, completed comprehensive claim agreements include provisions for resource co-management and increased Aboriginal community input through the structural organization of environmental assessment and regulatory boards, and the inclusion of what has been politically categorized as 'Traditional Ecological Knowledge' in assessment, regulatory and land-permitting processes. The extent to which the current regulatory and environmental assessment regimes in the Northwest Territories has increased local participation (and perhaps more importantly, local authority) in resource decision-making, however, is a subject of considerable debate. In a recent article, Julia Christensen and Miriam Grant argue that the strong Aboriginal presence on regulatory boards and the greater autonomy of the territorial government has facilitated an increase in local participation in resource decision-making, despite complications surrounding the devolution of powers and sub-surface royalties to the territorial government (2007:119). Alternatively, Graham White has recently offered an insightful critique of co-management boards, arguing that local participation and the inclusion of Aboriginal perspectives of land and land management in resource decision-making is extremely limited due to the fact that regulatory regimes are based upon Euro-Western bureaucratic structures that are often incompatible with indigenous ways of decision-making and governance (2006). Similar arguments have been made about co-management institutions and the integration of traditional

knowledge by scholars working in other areas of the Canadian north (c.f. Nadasdy 2003, 2005, Ellis 2005, Stevenson 1996). In terms of Environmental Assessment (EA), critiques have been raised regarding how variables are constructed by outsiders, claiming that the constitution of impacts is in itself an anthropocentric exercise (Notzke 1994:263).

It has been pointed out by Derrick Armitage that despite Aboriginal people's representation on resource co-management boards, the politics of integrating Aboriginal people's views into environmental assessment regimes has remained, almost exclusively, driven by the proponents of industrial projects (2005:253). Proponents of industrial projects prepare the lengthy Environmental Impact Statements as a part of applying for regulatory permits, and despite consultation with local communities, proponents are ultimately the ones who decide what kinds of knowledge are included in the EIS, often at the exclusion of other forms of knowledge. I do not mean to imply that the practice of knowledge exclusion is always a purposeful act, however as I have argued in this chapter, it is often a result of disparate views and visions of the landscape and longstanding beliefs about appropriate human and societal engagement with the land. Indeed, it is evident that in the course of the environmental assessment of the Mackenzie Gas Project serious consideration has been given to anticipated ecological impacts resulting from pipeline activities, and some mitigation measures have been recommended and adopted (such as the re-routing of the pipeline corridor to avoid ecologically or culturally sensitive areas identified by local community members). Socio-cultural impacts have also been seriously considered, and these

are most often related to issues of employment, land-use activities, the use of specific sacred or culturally significant sites, and the disruption of community and social ties that often stem from rapid economic and industrial growth. However, as we saw earlier, none of the pipeline activities are identified by Imperial Oil as constituting a 'significant' impact upon the land, though there is a recognition that some harvesting and trapping activities may be adversely impacted.

The current practice of assessing the effects of industrial activities on the landscape is an attempt by proponents at a predictive analysis of the intensity of industrial effects, and the ability and most suitable means to mitigate these if possible. When this is not possible, proponents have been forthcoming in their commitment to provide monetary compensation to those humans most likely to be affected by the industrial activity. In these cases, mitigation measures suggested by Imperial Oil for land-users are primarily in the form of monetary compensation. For example, the proponent has proposed a complex process for determining and compensating harvesters of fur-bearing animals including requiring the harvester to submit (written) records to determine the approximate seasonal yield of a particular harvesting area, to provide evidence of how many traps were set each season, and show anticipated fur and auction values.⁶⁴ However, the use of monetary payment as mitigation to loss of harvesting

⁶⁴ See for example *Dee Brandes (Community Relations, Imperial Oil), Joint Review Panel for the Mackenzie Gas Project Community Hearings Transcripts, Held in Tuli't'a on April 4, 2006. Vol.17.1709:29-34*).

activities does not account for the multi-dimensional relationship that Dene people share with the landscape. As one harvester relayed:

“If the oil company provide us a billion dollars, that you can use this billion dollars, but that billion dollars cannot create a fish. A billion dollars cannot create a moose. And billions and billions of dollars cannot create any other animals” (Charlie Neyelle, Joint Review Panel for the Mackenzie Gas Project Community Hearings Transcripts, Held in Déline on April 3, 2006. Vol. 16, 1645:15-17).

The failure of proponents to acknowledge any environmental impact associated with the MGP as ‘significant’ in their EIS, and their suggestion that monetary compensation suffices for the disruption of land-based activities, represents a systematic denial of the very fundamental ways that Sahtu Dene and Métis people view appropriate human relationships with the land. That is, unless there is a fundamental shift in how industrial impacts are constructed by proponents that moves to recognize the diverse social, physical, and moral relationships that Sahtu Dene and Métis peoples have with the landscape, the analysis of impacts associated with industrial activities will continue to misrepresent Sahtu Dene expressions and experiences of industrial impacts, even where there is consultation and involvement with local Aboriginal harvesters, land-users, Elders, and others. As one Elder put it, “in my Dene language, if we were going to talk about impact it would be a long, long concept.”⁶⁵

⁶⁵ Women’s focus group held in Déline on September 14, 2008

Perhaps even more significantly, the failure to appropriately consider Sahtu Dene and Métis perspectives on the severity and nature of industrial impacts places, from the very beginning of environmental assessment activities, the proponent's perspectives of the land (and their analysis of the severity of impacts upon the landscape) in an authoritative position of power, and requires Sahtu Dene and Métis people to 'prove' the proponent incorrect in their assessment of anticipated impacts, should Sahtu Dene and Métis people see the analysis otherwise. Given the valuation of quantifiable and techno-rational biophysical data contained in EIS's (and their privileged positions as artifacts of truth), this is indeed a mighty task.

Conclusion:

I am always struck by the smell of the houses in the Sahtu; it is a warm mix of tea, logs, freshly gutted fish, fire, and earth. It is such a familiar smell, and yet so distinct to this region. This intermingling of earth and people represents not only what human beings are doing in their engagement with the surrounding landscape (in terms of harvesting resources from the land) but also a very sensual expression of how Sahtu Dene and Métis people see themselves as a part of the land, and the land a part of them. And, while Sahtu Dene and Métis activities on the land may have undergone changes to accommodate increased pressures to engage in a cash economy, to incorporate new technologies, and general practices associated with living in sedentary communities, the fundamental ways in which Sahtu Dene and Métis people view their relationships with the landscape have changed very little.

In 1995, Peter Elias wrote that in planning for industrial projects, Dene people have often insisted that lands should be primarily protected for further subsistence through hunting, fishing, trapping, and gathering with a consideration of domestic commodity production only after subsistence has been secured (Elias 1995). I argue that this remains the case today. In this chapter, I have shown that within Sahtu Dene environmental assessment discourses, industrial impacts are framed in such a way as to reflect the complex physical, social and moral relationships between Sahtu Dene and Métis peoples and their land. In this way, industrial impacts extend beyond ecological contamination to an entire range of social, cultural, and metaphysical change. Furthermore, while ecological impacts related to pipeline activities in the Sahtu Region may be concentrated and short-term, there are also larger and long-term consequences for the fundamental moral and social fabric of Sahtu Dene communities. Thus, the assertion by proponents that industrial activities will have ‘no significant impact’ on communities or landscape fails to capture the essence of Sahtu Dene relationships with the land, and thus minimizes the types of concerns that local people express. What are encountered through the various narratives regarding the effects of industrial activities are questions of voice; they are examples of what Walter Fisher (1984:14) describes as rival stories being told. In considering the impacts of industrial development as insignificant, proponents of industrial projects deny the self-conceptions that local people have about themselves and about the world. Until Environmental Assessment processes more widely reflect Aboriginal views about the land, the world, and their place in it, Aboriginal participation in processes aimed at assessing environmental impacts remains an

insertion into a dominant paradigm of knowledge, rather than a serious challenge to the paradigm itself.

I do not mean to suggest that Sahtu Dene and Métis people are always in opposition to oil and gas activities on their lands, only that such activities must be cognizant of the types of impacts associated with increased extractive industries; that they are sustainable, and the risk of sickness (in all of its dimensions) is minimized. However, I would also argue that the minimization of real or perceived sickness involves more than simple compensation for a loss of wildlife or economic income, but necessarily includes an acknowledgement of the various types of relationships that Sahtu Dene people have with their land, and recognition of the types of changes to these relationships that increased extractive industries will undoubtedly bring.

In his analysis of social movements in the rainforest, however, Arturo Escobar points to the ways in which local peoples can simultaneously engage with forms of commodity production and market exchange, but may also “resist a purely capitalist valorization of nature” by incorporating multiple constructions of nature in order to negotiate with trans-local forces (1999: 13). That is, the ways in which nature and landscape are constructed are fluid and flexible and thus allow for malleability within the contexts of social movements and global change. Escobar is quick to point out that in the context of an increasingly globalized world, the porosity of boundaries necessitates linkages between localized places and global networks, and shows how individuals and collectives can inhabit multiple positionalities simultaneously (Escobar 2001:143-144). In this way,

connections to place and landscape both inform and are informed by wider global processes, including struggles for the recognition of entitlements and the resources of the land.

I find Escobar's analysis of the ways in which localized places can simultaneously retain fundamental characteristics and perspectives of local landscapes and economies while engaging in non-local forms of commodity production, useful in examining Sahtu Dene and Métis participation in non-local (or quasi-local) forms of land management, governance, and extractive industries. While I have argued here that Sahtu Dene and Métis peoples have, and continue to maintain fundamental physical, social, and moral relationships with their landscape, they are likewise engaged in regional and global markets and forms of exchange which require participation in cash economies and resource production. Sahtu Dene and Métis peoples and communities are not passive players in the development of local economies and resources, and while I argue that there are very serious limitations to Sahtu Dene participation in current regulatory regimes, it is also the case that some community members may be very supportive, even proponents of industrial projects. The extent to which individual actors and local institutions manoeuvre the opportunities and constraints available to them in the face of large-scale industrial projects, and how this is approached and navigated, are important components in the consideration of how decisions about land use and resource extraction are made, and are deserving of further consideration. These are themes I will turn to in the following chapter.

Chapter 5

Modern-Day Treaties: 'Development,' Politics,
and the Corporatization of Land in the Sahtu
Dene and Métis Comprehensive Land Claim
Agreement

Introduction

In July 1993, Dene and Métis people in the Central Mackenzie Valley voted to approve the Sahtu Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA). Of those individuals who voted, 85% of Dene, and 99% of Métis people voted in favour of the SDMCLCA (Indian and Northern Affairs Canada 1994:1). The outcome of many years of negotiations, the SDMCLCA provides the Sahtu Dene and Métis with fee simple title to 41,437 km² of the 283,171 km² of land within the Sahtu Settlement Area (SSA). Some 1,813 km² of the lands held by the Sahtu Dene and Métis in fee simple title includes subsurface rights [See Figure. 2]. The SDMCLCA also provides for federal government payments of \$75 million Canadian dollars over a fifteen year period to designated land claim organizations accountable to Sahtu Dene and Métis beneficiaries. As part of the comprehensive land claim, Sahtu Dene and Métis people secure rights to hunt and fish throughout the SSA, and retain the exclusive right to trap on settlement lands. The SDMCLCA also includes provisions for an integrated system of resource co-management that seeks to involve Sahtu Dene and Métis people more directly in resource management decisions in the SSA, including decisions related to the management of renewable and non-renewable resources, land-use planning, environmental impact assessment, and the regulation of land and water use within the settlement area. On September 6, 1993 representatives from the federal and territorial governments and Sahtu Dene and Métis peoples met in Tuli't'a (then Fort Norman) to formally execute the SDMCLCA. After receiving approval from Parliament, the Sahtu Dene and Métis Land Claim Settlement Act

came into effect on June 23, 1994, bringing with it radically new jurisdictional and administrative boundaries, and new corporate and governance institutional structures.

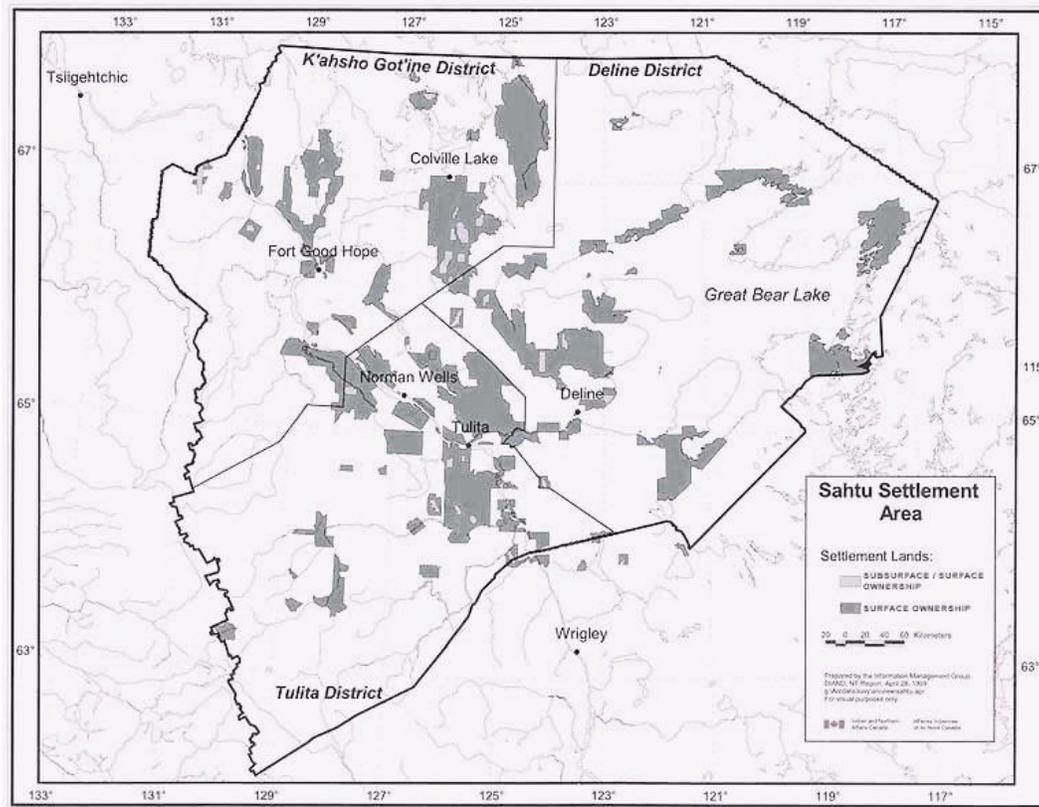


Figure 2. Sahtu Settlement Area Settlement Lands. Used with Permission from Indian and Northern Affairs Canada.

The negotiation and implementation of comprehensive land claims in Canada are often held as momentous markers of governmental recognition and commitment to Aboriginal rights to land, resources, cultures, identities, and histories, as well as very tangible (and legal) expressions of the roles and responsibilities of newly created land claim institutions, and respective federal, territorial and/or provincial governments. At the same time, comprehensive land claims also produce very specific forms of knowledge and practice: they restructure and

demand diverse spatial commitment and identity, and validate certain forms of governance and economies while simultaneously circumscribing others.

In the Sahtu, as a result of the SDMCLCA, flexible and porous geographical boundaries became entrenched and codified through mapping and district jurisdictions. The SDMCLACA has radically altered governance structures in the region, replacing Chief and Council with the Land Corporation as the primary decision-making authority regarding access to lands and resources. Dene forms of land management and political governance, and even political governance imposed by non-local colonialist regimes but practiced in the region for decades, were subsumed under the newly created land management structure of the Land Corporation. The current role of the Land Corporation has required a broad transformation of the ways that Sahtu Dene and Métis communities engage outside interests looking to conduct work on Sahtu lands. Land Corporation Presidents, along with their Management Boards are, at the same time, engaged in sophisticated strategies for the negotiation of agreements and partnerships to increase social and economic profits. These negotiations necessitate the establishment of strategic networks, the learning of new terminology and skills, and the implementation of novel means of decision-making.

Correspondingly, shifting community dynamics as a result of changing governance structures can bring and have brought about internal conflict and fracture within the Sahtu, particularly when there are multiple and conflicting governance institutions operating in the same arenas. In some Districts, people who had previously thought of themselves as being members of larger

communities, or who identified with particular spatial or social groupings, became obliged to enrol in the comprehensive claim as either 'Dene' or 'Métis', thus reinforcing and entrenching inter-personal and political fissures into the land claim itself. Communities that maintain strong senses of independence and identity are grouped into Districts, creating new alliances and grievances as they negotiate and struggle for power both locally, regionally, and on a national scale.

Indeed, the implementation of the SDMCLCA has brought with it both challenges and distress and, at times, tremendous opportunities. In some ways, the SDMCLCA can be viewed as entrenching Sahtu Dene and Métis rights and ownership of the land in ways that encourage economic development, and increased local involvement in decision-making, particularly concerning lands, resources, employment, training, and business opportunities. However, some fifteen years after its ratification, individuals and institutions in the Sahtu are increasingly questioning the ability of the claim to meet the needs of Sahtu communities, particularly as certain parts of the claim are, thus far, yet to be implemented. Some have gone as far as to suggest that the Sahtu Dene and Métis now have a weakened role in decision-making processes, because the establishment of designated Sahtu organizations, modeled upon Euro-American institutional and corporate structures, neglects local ways of making decisions in favour of non-local bureaucratic structures and formats. More than once during the course of my field research I heard local people say that Sahtu Dene and Métis people are "worse off" after the implementation of the land claim and that it has not brought with it the benefits and independence that local people had

anticipated. In this chapter, the SDMCLCA is examined for the ways in which it structures and situates individuals and collectivities geographically, politically, socially, and economically. I argue here that the structure of the SDMCLCA imposes particular forms of governance, economies, and identities that tacitly serve to favour non-renewable resource extraction on Sahtu lands, while simultaneously undermining local democratic and land management practices. In addition to examining what the comprehensive claim does, in terms of its structuring practices, I examine the conduct of local peoples in their negotiation of political, economic, and social strategies in relation to the newly implemented claim, and the corresponding decisions regarding oil and gas exploration and production in the SSA. Three lines of questioning are pursued: how do current land claim institutions fit into wider contexts of Sahtu Dene and Métis governance and decision-making processes? How are these newly created institutions experienced by local peoples? And, who benefits from oil and gas exploration and production in the Sahtu and why?

The Sahtu Dene and Métis Comprehensive Land Claim Agreement:

The ratification and implementation of SDMCLCA carved the Sahtu Settlement Area (SSA) out of land in the central Mackenzie region of the Northwest Territories that had been inhabited by Dene peoples since time immemorial. Prior to contact with European fur traders and explorers, Dene peoples in the central Mackenzie region lived in small, self-sufficient groups who were connected through kinship ties (Asch 1977, Auld & Kershaw 2005, Savishinsky 1974, Wilson 1986). In the late eighteenth and early nineteenth century the fur

trade brought European traders to the central Mackenzie valley, many of whom came briefly to the region to exploit the rich fur resources of the land and return to southern Canada or elsewhere; yet some traders remained to trap, manage trading posts and administrative centres, and those who stayed often married and made their homes in the region. It is the descendants of these traders and local Dene people that are often identified in central Mackenzie region as Métis.

Dene peoples in the central Mackenzie region began petitioning Ottawa for a treaty in the late nineteenth century to protect their land from outsiders who came north to exploit the resources of the land, first in the form of furs, and later in the form of oil and minerals (Fumoleau 1977). In 1920, after oil was ‘discovered’ at the present site of Norman Wells, the federal government sought to settle issues surrounding title to the land and to pave the way for future resource development. Though never fully implemented, Treaty II was signed between the Crown and the Dene of the central Mackenzie region in the summer of 1921. Dene people have long regarded Treaty II as a document of peace and friendship that would guarantee their fundamental rights to land, rather than a cessation of their rights to land to the federal government. When the feasibility of exporting oil from the Norman Wells field proved unprofitable, the federal government’s interest in the administration of Treaty II lands waned considerably, and allocation in the Northwest Territories was never executed.⁶⁶ While the Dene of the central Mackenzie region were not particularly interested in the allocation of

⁶⁶ With the exception of the Hay River reserve established on the east bank of the Hay River, NT in 1974 and the Salt River First Nation Indian Reserve established at several locations in and around Fort Smith, NT and Wood Buffalo National Park in 2008 as a part of a Treaty Land Entitlement agreement.

reserves, but rather in the protection of their hunting, fishing, and trapping rights (Berger 1977:168), the federal government was primarily concerned with potential future resource extraction in the north, and was concerned that northern lands set aside as reserves would not be available for future 'development' (Indian and Northern Affairs Canada 1986). The failure to fully implement Treaty 11, along with issues concerning Dene and Métis representation at the treaty negotiations and in the treaty documents, resulted in long-standing disputes surrounding Dene and Métis rights and land and entitlements.⁶⁷

From the perspective of the Federal government, the SDMCLCA was a means of resolving these long-standing disputes stemming from questions surrounding underlying title to the land,⁶⁸ Dene and Métis rights to land management and harvesting access, and the failures of Treaty 11. During the 1970's, the federal government had seen increasing legal and political pressure to resolve comprehensive land claims in the Northwest Territories, first from Dene and Métis political organizations themselves in the form of the Indian Brotherhood of the Northwest Territories (renamed the Dene Nation in 1978) and the Métis and Non-Status Native Association of the Northwest Territories (later to become the Métis Nation), and from legal rulings and quasi-judicial inquiries. Dene and Métis claims to an interest in Treaty 11 (and Treaty 8) lands gained momentum with a 1973 decision from NWT Supreme Court Justice William Morrow allowing the Indian Brotherhood of the Northwest Territories to file a caveat claiming an

⁶⁷ For a more detailed discussion of the terms of Treaty 11, and the Treaty 11 negotiations see Chapter 2.

⁶⁸ Michael Asch and Norman Zlotkin rightly note that from the federal government's perspective, questions of underlying title include not only ownership of the land, but also jurisdiction to govern the land in question (c.f. Asch & Zlotkin 1997:212).

interest in more than one million square kilometres of land in the Northwest Territories. While the caveat was overturned by the NWT Court of Appeal⁶⁹ in 1975 on technical grounds, and later by the Supreme Court of Canada in 1977, neither ruling directly challenged the existence of Aboriginal rights as suggested by Justice Morrow in 1973. These rulings ultimately left the door open for further negotiations between the federal government and Dene and Métis organizations with regard to questions surrounding Dene and Métis rights and title to traditional lands.

Also in 1977, Justice Berger released his report of his Mackenzie Valley Pipeline Inquiry. Titled *Northern Frontier: Northern Homeland*, Justice Berger wrote in his report and recommendations that there should be no pipeline constructed through the Mackenzie Valley until land claims with Aboriginal groups in the region had been settled. Once more, with the prospect of resource development again on the horizon, the federal government entered into combined Dene and Métis comprehensive claim negotiations in 1981 and reached an Agreement-In-Principle for the *Dene/Métis Western Arctic Land Claim* in 1990. The *Dene/Métis Western Arctic Land Claim* represented a combined claim with Dene and Métis groups in most of the eastern Northwest Territories (with the exception of the Inuvialuit), and sought to establish a new political territory, Denendeh or 'land of the Dene'. When the Dene and Métis voted later that year not to proceed with the ratification of the Agreement-In-Principle, the federal government discontinued negotiations of the combined comprehensive claim, and authorized the

⁶⁹ The Supreme Court of Alberta was then the court of appeal for cases heard by the Supreme Court of the NWT.

negotiation of separate regional comprehensive land claim settlements. The Gwich'in were the first Dene group to reach a comprehensive land claim agreement with the federal government in 1992, followed by the Sahtu Dene and Métis in 1994, and the Tlicho in 2005. The Sahtu Dene and Métis Comprehensive Land Claim is the only land claim in the Northwest Territories to explicitly include both Dene and Métis in the comprehensive land claim agreement.

Sahtu Dene and Métis Land, Title, and Subsurface Rights:

For the government of Canada, The SDMCLCA was first and foremost an economic agreement whereby the Sahtu Dene and Métis agreed to yield exclusive use of their ancestral lands in exchange for guaranteed rights in the form of land, participation in land management and institutions of public government (IPGs) regulating land-use, rights to hunt, fish, and trap throughout the claim area, and cash payments. The SDMCLCA recognizes the historical and cultural significance of Treaty 11, and confirms existing Treaty rights not ceded, released, or surrendered as a part of the SDMCLCA. The comprehensive claim also affirms that the ratification of, and enrolment in, the SDMCLCA does not affect signatories' ability to participate in government programs for status, non-status, or Métis persons, or the status of SSA Indian Bands under the *Indian Act*. Sahtu Designated Organizations (SDOs) were established to administer the capital and land transfers from the federal government, and all beneficiaries of the SDMCLA hold a non-transferable equal interest in their respective SDOs. According to the SDMCLA, once the SDOs receive the capital and land transfers from the federal government, the government is then deemed to have discharged its obligations

regarding the transfer of monies and land. Capital payments from the federal government to SDOs began on the date of legislation, and are scheduled to be paid every year on the anniversary of the agreement for fifteen years (Indian Affairs and Northern Development 1992:23).

In the Sahtu, the principle SDO for the management of capital and land transfers comes in the form of a Land Corporation. As per the terms of the SDMCLA, land in the SSA is divided into two distinct categories: Sahtu Municipal Lands which include lands within municipal boundaries, and Sahtu Settlement Lands, which consists of lands owned by the Sahtu Dene and Métis in fee simple title outside of Municipal Lands. Sahtu Municipal Lands are managed by the Government of the Northwest Territories through municipal organizations and the Department of Municipal and Community Affairs (MACA). However, title to Sahtu Settlement Lands is held by one of the three District Land Corporations: the Kasho Got'ine District Land Corporation, the Tulit'a District Land Corporation, and the Déline District Land Corporation. Sahtu Settlement Lands are considered to be private lands,⁷⁰ and as such Sahtu Dene and Métis people are considered to be the land 'owners'. Thus, rules regarding land access and trespassing apply to Sahtu Settlement Lands in addition to specific Sahtu Dene and Métis rights surrounding trapping and harvesting activities.

While title to Sahtu Settlement lands lies with the District Land Corporation, each District Land Corporation is also comprised of representatives from

⁷⁰ While Sahtu Settlement lands are considered to be private, title to these lands is held in the collective interest of Sahtu Dene and Métis people, and as such, there are provisions in the SDMCLCA that restrict the sale or transference of these lands to non-beneficiaries of the SDMCLCA.

community-level Land Corporations from within their respective District. For example, the Tuli't'a District Land Corporation is comprised of representatives from the Fort Norman Métis Land Corporation (Tuli't'a), the Tuli't'a Dene Land Corporation (Tulita), and the Ernie MacDonald Land Corporation (Norman Wells); the Kasho Got'ine Land Corporation is comprised of representatives from the Fort Good Hope Métis Land Corporation (Fort Good Hope), the Yamoga Land Corporation (Fort Good Hope), and the Ayoni Keh Land Corporation (Colville Lake). In this way, Sahtu Settlement Lands in the Yamoga and Tuli't'a Districts are jointly owned and administered by three community-level Land Corporations, some specifically representing Dene beneficiaries of the claim and others specifically representing Métis. The Déline District is the only District comprised of only one community-level Land Corporation: the Déline Land Corporation. The Sahtu Secretariat Incorporated (SSI) does not own Sahtu Settlement Lands, but acts as the coordinating body for the seven community-level Land Corporations, and functions to facilitate the implement the SDMCLCA and associated services and programs for the benefit of Sahtu Dene and Métis beneficiaries.

In the context of oil and gas development, terms of access to or across Sahtu Settlement Lands must be negotiated with the respective District Land Corporation. If a company intends to explore or produce oil or gas on lands where the subsurface rights rest with one of the District Land Corporations, any exploration or production of those subsurface resources requires the consent of the District Land Corporation. However, where subsurface rights under Sahtu

Settlement Lands are owned by the Crown, the federal government must only notify the District Land Corporation, and consider their views on the proposed activity. In the Sahtu Region, this is done through a call for nominations for exploration licences, whereby INAC provides an opportunity (as well as outlines potential restrictions and identifies required commitments from proponents) for companies interested in exploring subsurface resources in the Sahtu to identify lands they would like to see open for public bidding. After nominations for parcels of land are received, INAC consults with and considers various stakeholder recommendations and may open parcels of land up for bid. Should a company secure an exploration license for a parcel of land through the public bidding process, they do have a right of access across Sahtu Settlement Lands, but this access must be negotiated with the appropriate District Land Corporation. The negotiation of the terms of access typically comes in the form of an Access and Benefits Agreement (ABA), and often includes provisions surrounding payment for surface access and the provision of business or employment opportunities for local people. According to the SDMCLCA, corporations wishing to undertake work on Sahtu Settlement Lands must also enter into consultations with various District and community-level organizations on issues surrounding environmental impacts and impacts on wildlife harvesting. Consultations with District and community-level organizations, Hamlet and Band governments, and Land Corporations are also required as part of water and land permitting applications throughout all lands within the SSA boundaries.

Incentives for District Land Corporations to open up Sahtu Settlement Lands for oil and gas activities include the negotiation of money, jobs, and business partnerships secured through ABA's, but also through the collection of some subsurface royalties for oil or gas extracted from beneath the surface of the ground. The SDMCLCA includes provisions for resource-royalty sharing arrangements between the federal government and the Sahtu Secretariat Inc. concerning resources extracted on Crown lands within the SSA. Unlike oil and gas rich provinces in Canada such as Alberta, Saskatchewan, British Columbia, and Manitoba, control over natural resources on Crown lands in the Northwest Territories is not vested with the Territorial government.⁷¹ Instead, the Government of Canada, through the Oil and Gas Management Directorate and the Department of Indian Affairs and Northern Development, is responsible for the management of oil and gas resources in the Northwest Territories. Accordingly, the setting and collecting of royalties generated from any oil and gas extraction in the Northwest Territories remains a federal responsibility, with all monies generated (with the exception of resource-royalty sharing arrangements as a result of comprehensive claims) going to Ottawa rather than to the Government of the Northwest Territories. Not surprisingly, the Government of the Northwest Territories has been pushing for devolution of these (and other)

⁷¹ In 1930, the Natural Resources Transfer Agreement (NRTA) transferred jurisdiction over Crown lands and resources within the Provinces of Manitoba, Saskatchewan, Alberta, and British Columbia from the federal government to the respective provinces. Resource transfers on Crown lands to the Provinces were conducted without consultation with Aboriginal groups; however the Crown did require the Provinces to provide sufficient unoccupied Crown land to fulfill outstanding treaty obligations to First Nations, and the NRTA limits the Province's right to make laws applicable to First Nations concerning hunting, trapping, and fishing on unoccupied Crown lands. In many of these provinces, Crown lands are still undergoing Treaty Land Entitlement settlement negotiations.

powers from the federal government to the Territory, but until such a time as a devolution agreement is concluded, the Government of the Northwest Territories is considered a general stakeholder in the management and control of oil and gas revenues in the Territory. However, despite resource royalty sharing arrangements between the federal government and Sahtu Designated Organizations entrenched in the SDMCLCA, the current agreement does not provide Sahtu Designated Organizations with a total, or even equal share of monies collected from the extraction of oil and gas resources. In fact, the current resource-royalty 'sharing' agreement provides Sahtu Designated Organizations with a mere 7.5% of the first \$2.0 million CDN of resource royalties received by the federal government annually, and 1.5% of any additional resource royalties received thereafter in that same year (Indian Affairs and Northern Development 1992:27). The Sahtu Trust was created by the seven community-level Land Corporations eligible for monies and royalties under the terms of the SDMCLCA. Under the direction of SSI, the Sahtu Trust is managed by two fund managers and the income and interest earned from royalties and capital transfers, less fees accrued, is paid twice a year to the community-level Land Corporations on a per-capita basis.

The primary role of the various Land Corporations within the SSA is to administer Sahtu Settlement Lands and land use within their respective jurisdictions, and to manage monies and royalties received from the Sahtu Trust. Most community-level Land Corporations in the Sahtu also have various subsidiary companies or development corporations, such as MacKay Range

Development Corporation in Tulit'a, which seek and execute business partnerships with companies looking to conduct work in the Sahtu Region.⁷² Individual Land Corporation membership is determined by the SDMCLCA enrolment process, whereby all individuals eligible for enrolment in the SDMCLCA⁷³ can submit an application for enrolment to the Enrolment Board. Sahtu Dene and/or Métis individuals who wish to become participants in the SDMCLCA must, at the time of enrolment, specify which "Aboriginal Community" they would like to enrol with. "Aboriginal Community" within the SDMCLCA is defined as: (a) a Dene band in Colville Lake, Déline, Fort Good Hope or Fort Norman or (b) the Métis local in Fort Good Hope, Fort Norman or Norman Wells. Thus, membership and shares in a Land Corporation (other than the requirements laid out for general enrolment in the SDMCLA) is a process of self-identification, and an individual could pick any one of the seven "Aboriginal Communities" for enrolment. Sahtu Dene and Métis Land Corporations are designed to be accountable to and democratically controlled by their 'shareholders'. Beneficiaries of the SDMCLCA enrolled with one of the seven "Aboriginal Communities" elect their respective community-level Land Corporation Management Board and President every two years, and the Board and President provide direction for the day-to-day operation of the Land

⁷² Mackay Range Development Corporation, for example has created MacKay Range Oilfield Services specifically for oil-and gas-related opportunities and provides oilfield transportation and services in the Tulit'a District. Partners in MacKay Range Oilfield Services include various drilling, transportation, and oilfield services companies. Other Land Corporations, such as the Déline Land Corporation in Déline have shares in various service companies or subsidiaries such as The Grey Goose Lodge, NorthWright Airways, and Techit'q Ltd.

⁷³ Requirements for enrolment in the SDMCLC include items such as descent, residence, enrolment in other claims, adoption by a Sahtu Dene or Métis person, and Canadian Citizenship. Specific enrolment requirements can be found in Sec. 4.2.1. of the SDMCLCA.

Corporation. District Land Corporations are comprised of Presidents from each of the community-level Land Corporations. While Sahtu Dene and Métis people enrolled in the SDMCLCA are shareholders in their respective Land Corporations, the Land Corporations themselves do not pay dividends to their shareholders, and thus do not generally contribute capital directly to local Sahtu Dene and Métis beneficiaries. However, some capital is provided by Land Corporations in the form of harvesters support and other community programs, and Land Corporation subsidiary companies contribute capital to local economies indirectly through the generation of additional economic activities.

Importantly, while Land Corporations and other SDO's established as a result of the SDMCLCA deal directly with questions surrounding land access, ownership, management, use, regulation, and Sahtu Dene and Métis harvesting rights, nothing within the SDMCLCA deals directly with political institutions established under the *Indian Act*, education, health care, or other matters of community governance.⁷⁴ Thus, the establishment of separate institutions for the management of lands and resources creates, in a very palpable way, divergent systems of community authority: one for the wider control of Sahtu Settlement lands, resources, and economies under the jurisdiction of the Land Corporation, one for the management of general municipal services in the form of a Hamlet government, and one for the administration of rights, duties, and programs for band members under the *Indian Act*, in the form of the Band Chief and Council.

⁷⁴ The SDMCLCA does provide provisions for the separate negotiation of self-government agreements, but the substance of self-government institutions and powers is not included in the SDMCLCA itself, but must be negotiated by individual communities as part of a separate process. Three communities in the Sahtu are currently engaged in self-government negotiations with the federal and territorial governments, including Tuli't'a, Déline, and Fort Good Hope.

While the mandate and jurisdiction of each institutional authority may be explicit in terms of their respective economic and political spheres, in reality, the interests and activities of each overlap. These intersections come not only at the level of stewarding community direction, but also in the lives of individuals who must locate themselves on axes of belonging and identity (as shareholders, band members, and members of a larger communities), and who must navigate the various and sometimes competing decision-making authorities in the course of their everyday activities. Thus, the ratification and implementation of the SDMCLCA in 1993 not only institutionalized specific lines of authority surrounding rights to land and resources in the Sahtu, it also transformed, in very fundamental ways, structures of social and economic relations within the SSA.

Structuring Practices: Western Bureaucracies and Sahtu Dene and Métis Values:

From the perspective of many Sahtu Dene and Métis peoples, the negotiation of a comprehensive land claim in the Central Mackenzie Valley was a formal recognition of fundamental rights to land, resources, and lifeways exercised and cherished by their ancestors since time immemorial. Among many Dene and Métis people in the Sahtu, the primary motive for entering into a comprehensive land claim was the formal protection of land and culture, and to ensure that young people in the community could participate in meaningful employment while still being able to spend time out on the land. For Sahtu Dene and Métis people, the SDMCLC was widely seen as an instrument with the potential to balance traditional and wage-based economies, to provide for sanctioned participation in decisions that pertain to lands and economic practices within the

SSA, and a means of protecting the fundamental relationships that Sahtu Dene and Métis people have with their land. And, despite the absence of provisions dealing with most aspects of community governance within the SDMCLC itself, there was, and continues to be, a strong feeling among local people in the Sahtu that the comprehensive land claim would (or ought to) provide Sahtu Dene and Métis with more control over their lands and their lives, their economies, and their visions of the future; Sahtu Dene and Métis people are now, after all, the legal “land owners.”

Yet, while it was commonly assumed among people in the Sahtu Region that the SDMCLCA would provide local people with increased authority concerning Sahtu lands and resources, the general impression among Sahtu Dene and Métis people is that, at least in practice, it has not met their visions for the future. As many people within the Sahtu point out, very little within the SDMCLC resembles Dene Laws or local forms of land tenure, management, or community governance. Within the SDMCLCA the land is objectified as a thing that can be owned, commodified, controlled, and subject to corporate authority. District corporate entities are now landowners of disparate parcels of lands held in fee simple title. Sahtu Dene and Métis people, too, must now self-identify as shareholders in these corporations in ways that formalize and cement formally fluid social identities and relationships into bounded political, social, and economic units. With this in mind, I suggest that the institutional structures and institutional lines of authority established as a result of the SDMCLCA are not benign in terms of their consequences; in the Sahtu, as is the case elsewhere,

peoples and practices are shaped in important ways by the structure of social relations. What is important to consider, then, are the means by which the SDMCLCA restructures social relations and the lines on which these relations are ruptured, contradicted, and overlapped. In other words, which forms of land tenure, governance, and social subjectivities in the Sahtu are in place now as a result of the SDMCLCA?

The Structuring of Geographical Boundaries:

As we have seen, the SDMCLCA arranges the Sahtu Region into three distinct geographical and administrative Districts [See Map. 1]. Suddenly, after July 1993, Sahtu Dene and Métis people who had utilized the land in particular areas for generations now found their land part of a District, and subject to District administration. Prior to the ratification and implementation of the SDMCLCA, systems of land-use and tenure in the Sahtu region were known, recognized, and practiced both within and between local families, bands, and neighbouring political groups (Auld & Kershaw 2005, Savashinsky 1974). Anthropologists and others working in the Central Mackenzie Valley have typically identified four Dene groups that have occupied the Sahtu region since at least the time of contact with European traders, each speaking a slightly different but mutually intelligible dialect of North Slavey (Abel 1993, Wilson 1986). Each group, or regional band, is also associated with a particular land-use area, although the use of land areas is

fluid, and people are not restricted to harvesting in one area only (Auld & Kershaw 2005:5).

It is commonly known by people in the Sahtu region that the Shi'ta Got'ine, or Mountain Dene people (now living primarily in the communities of Tuli't'a, Fort Good Hope, and Wrigley⁷⁵), most frequently utilize the areas running along the slopes of the Mackenzie Mountains, to the west of the Mackenzie River and north of the Laird River. Prior to their settlement in Tuli't'a, Fort Good Hope, and Wrigley, the Shi'ta Got'ine people remained in the Mackenzie Mountains every fall-time to harvest woodland caribou and other animals over the winter months. Many Shi'ta Got'ine people traveled to Tuli't'a at Christmas and in the spring to visit relatives, sell furs, and obtain supplies for the coming months spent out on the land. Shi'ta Got'ine people in Tuli't'a still maintain cabins east of the Mackenzie River, and travel to known harvesting areas for moose and caribou hunting, fishing, and gathering berries and other plants. Shi'ta Got'ine people recall important stories and prophecies told to them by their ancestors about places in the Mackenzie Mountains, and some of these prophecies are recalled and handed down in Drum Songs and dances. Shi'ta Got'ine people in Tuli't'a know the dangerous parts of certain rivers and how to navigate them, and the best lakes for fishing. And every year Shi'ta Got'ine families and relatives return to the mountains, even if only for a few days, to harvest the resources of their land.

⁷⁵ Wrigley is approximately 250 km south of Tuli't'a, and is located outside of the Sahtu Settlement Area on lands currently under negotiation as a part of the Deh Cho comprehensive land claims process.

The territory of the K'aalo Got'ine, or Willow Lake people (now living primarily in the communities of Tulin'a and Déline), runs along the east side of the Mackenzie River and includes areas between Tulin'a and Déline. Kaa'lo Got'ine people spend time at cabins and campsites at Willow (Brackett) Lake and harvest the resources surrounding the shallow lake at specific times of the year. Spring-time is a particularly important time of the year at Willow Lake, and families from Tulin'a and Déline go out to their cabins for prolonged periods to hunt migratory waterfowl that return to the lake from the south.⁷⁶ One of the women I stayed with during my time in Tulin'a recalled memories of her time spent out on the land at Willow Lake with her relatives. It is there, she said, at Willow Lake, where she can truly breathe; where she can be fully Dene, where her happiest moments lie.⁷⁷ Indeed, that Spring she, her children, her mother, and her siblings and their families traveled by skidoo to Willow Lake in early May to go duck hunting during the spring thaw.

Sahtu Got'ine, or Great Bear Lake people (now living primarily in the community of Déline), continue to utilize the lands and waters surrounding Great Bear Lake, as their ancestors have done since time immemorial. Sahtu Got'ine people know the best locations to harvest spawning whitefish in the fall-time for fish eggs, and where to set fish nets. Every fall-time people from Déline wait, with great anticipation, for the first sightings of caribou on the east side of the lake as they return on their annual migration from the Barrenlands. And, Sahtu Dene peoples know the multiple and shifting temperaments of the vast lake on which they

⁷⁶ Willow Lake thaws rapidly in the spring-time as a result of its shallow depth and attracts some of the earliest northward migrations of ducks and geese.

⁷⁷ Personal communication, February 15, 2006.

travel. Scott Rushforth, in his 1977 article “Country Food” discusses seven regional harvesting areas frequented by Sahtu Got’ine encompassing the entire area surrounding Great Bear Lake. Some of the more significant of these for caribou hunting include Hottah Lake and Caribou Point. Other important sites for trapping activities include the Johnny Hoe region, and the areas around Porcupine River, Tuitatui Lake, and Whitefish River. Though Rushforth’s findings were based on fieldwork conducted in the mid 1970’s, these areas were still important harvesting locations when I conducted my fieldwork in Déline in 2006-2007.

K’asho Got’ine, or Hare people (now living primarily in the community of Colville Lake and Fort Good Hope), utilize the most northern and eastern areas of the Sahtu Region, including areas east of Colville Lake extending out onto the Barrenlands, and areas between Fort Good Hope and Colville Lake. Every fall, K’asho Got’ine people from Colville Lake participate in a community caribou hunt at Horton Lake. As many as thirty people from Colville Lake charter aircraft and fly to Horton Lake to harvest caribou as they return from their summer migration to the Barrenlands. For up to ten days, K’asho Got’ine set up camps, harvest, butcher, and prepare caribou meat, and gather berries as their ancestors have done at this seasonal harvesting location since time immemorial.⁷⁸ People from Colville lake talk about other seasonal harvesting locations as well including a small creek on the other side of Colville Lake where whitefish spawn upriver in

⁷⁸ Prior to the use of firearms, K’asho Got’ine people recall stories of their ancestors harvesting caribou at this location with the use of stone caribou corrals arranged in a triangle, whereby caribou would be driven into the corral to be killed. Features of these corrals are still visible on the landscape.

the late fall. After the lake freezes, people from Colville Lake travel to the creek to set fish nets. Whitefish and whitefish eggs harvested at this location at this specific time of year are considered a special delicacy, and Whitefish eggs are often described as “candy for the kids.”⁷⁹

K’asho Got’ine people from Colville Lake insist that their ancestors ‘knew this land’; they knew all of the good places for harvesting, all of the good fish lakes, where the caribou come, and they knew the very texture and substance of the land. Talking with a leader of the community, I was told that his ancestors knew that the point at which the present-day community is located looks like a caribou. He said that the name of the First Nation (Behzi Adaha) came from a point in the lake which juts out from the north part of the bay directly in front of the community. This gentleman showed me an aerial picture of the point, and showed me the outline of a caribou, complete with a lake for the eyes, and another small point for the ears. He said that hundreds of years ago, his ancestors did not have airplanes, but they still knew the exact spatial representation of the point. In a very real way, the ancestors of the K’asho Got’ine people are still present upon the landscape; their transference of knowledge to subsequent generations shapes the ways in which people utilize the landscape today, and their names for significant places continue to serve as referential markers scattered across the landscape.

In the Sahtu, each regional band continues to maintain their own unique identity, and each band has different stories, places of cultural and spiritual significance,

⁷⁹ Fieldnotes, October 3, 2007.

prophets and prophecies, and songs (Basso 1978:692, Blondin 1990, Auld & Kershaw 2005). In Colville Lake, for example, the name of their community-level Land Corporation, Ayoni Keh, comes from an ancient story of how the people came to live in the area around Colville Lake. Out on the land, just northeast of Colville Lake, there is a tall mountain named Ayoni Keh. The story associated with that place was told to me by a leader from Colville Lake, and he said that a long time ago a group of people lived on the top of that mountain. One particular day there were two young boys who were playing with an owl feather. One boy made the other boy cry, and then the father of the crying boy came and made the other boy cry. The two fathers then got into a fight, and one man was killed. According to the story, there was a big war fought by the relatives of the two men, and many people were killed. I was told that even today there is said to be a lake of blood at the top of the mountain. Eventually, the people parted ways and went in different directions. The young men went down south and they became the Chippewyan people. The adult men went north and they became the Inuit people, the dogs went west and they became the Gwitch'in people. But, the older people who couldn't walk, and the very young babies stayed in the area of Colville Lake. As the story goes, this is why the K'asho Got'ine people are wise and strong with their minds.⁸⁰

In Déline and Tulit'a, there are stories about how a special man named Yamoria came into the Sahtu Region and put everything in its place, and in so doing, set laws for the people to follow (Blondin 1990). According to an ancient story, a long

⁸⁰ Fieldnotes, October 2, 2007.

time ago Yamoria saved the people living near Great Bear Lake from flooding when three very large beavers built a dam on the Great Bear River. Yamoria killed the large beavers that built the dam, cooked their meat on “the smokes”⁸¹ just southwest of Tulit’a, and hung the beaver pelts on Bear Rock. Yamoria also shot two large arrows from Bear Rock into the water where the Mackenzie and Great Bear Rivers meet. These two large poles, called Yamoria’s Arrows by local people, are visible at this location, even today. On one of my first visits to the Sahtu region, I happened to be traveling on the same small plane as a prominent leader from the community of Tulit’a and as we flew over the landscape, he began to point out markers upon the land. He pointed at the Norman Wells mountain range visible out of our plane window. “The old timers look at the hills to see when spring is coming,” he said, “they can tell by the way that the snow melts on the tops of the hills.” As we watched the few cars pass on the winter-road that connects Norman Wells to Tulit’a, he told me about the good fishing places and the good hunting places along the way. When we got closer to Tulit’a, we came across a large mountain that rose out of the rolling hills. This gentleman pointed to it and told me that this is where the Great Bear River meets the Mackenzie. “It is called Bear Rock,” he said, “there is a very important story about it. There are three Beaver pelts up there. In the summer, you can see them.”⁸² Incidentally, the following summer I did return to Tulit’a, and did indeed see three beaver pelts.

⁸¹ What is known as “the smokes” by Sahtu Dene and Métis people is a large burning coal-seam located on the west side of the Mackenzie River, about 4 km south of Tulit’a. The coal seam burns continuously, and according to locals, if a person is able to see the smoke rising from the coal seam, it means that the person will live a long life. It is said that this is the campfire made by Yamoria when he cooked the meat of the large beavers who built a dam on Great Bear River.

⁸² Fieldnotes, March 31, 2006.

Within communities as well, different families became associated with certain land-use areas; areas that individuals and families know best and in which they and their ancestors trapped, hunted, gathered, fished, and secured economic and nutritional resources for generations. Sitting with locals over tea, they can tell me very specifically where they frequently trap, hunt, fish, and which areas of the land their fathers and grandfathers had frequented. On the rare occasions that we would travel by truck on the winter-road, locals would point in the direction of areas in which they had spent many seasons, and recall stories by markers on the landscape (*cf.* Palmer 2005). One crisp day in February, I was traveling with a gentleman named Alvin Yalle to check on several oil and gas exploration camps along the winter road south of Tuli't'a, near Blackwater River. It was a beautiful day to travel: the sun was bright, and although the thermometer on the truck read -29 degrees Celsius, it felt like it was balmy. After several kilometres of contented silence, Alvin broke the soft drone of the country music playing on the satellite radio to point out specific markers upon the land. He spoke about the trails that have been woven through the landscape, and said that he had traveled these trails as a young boy by dog team. He said that these trails had been there for centuries, and he would point them out to me and tell me where they led in each direction: "if you follow this one, it will lead you to a good fish lake way in the back there," or "this one heads down to the Mackenzie River." Each trail had a specific destination and purpose. Alvin talked a lot about his childhood, as the markers on the landscape stood as reminders of his fathers and his grandfathers' traditional hunting and trapping areas. "My dad," he said, "he had traps all over here. Me, I spent time out here as a kid. I never went to school until I was eleven years old.

My education was out here, with my dad.”⁸³ He pointed out old camps that they had used, and trails that they had traveled by dog team. He could name almost every creek, although he did not recall the names in Slavey. As we drove and the land called back memories for Alvin, in almost all of the places we traveled there were tracks –some small martin tracks, some large moose tracks. Alvin could tell almost all of them, whether they were fresh or old, and he would always notice them before I would. Several kilometres later we stopped at some of Alvin’s traps set along the highway. At one place, Alvin jumped out the truck and ran into the bush. A few seconds later, he emerged with a frozen Martin in his trap. He held it up grinning, and threw it into the back of his truck.

While common land-use patterns and preferred harvesting areas were widely known and acknowledged, the systems of land-use and tenure remained flexible, fluid, and managed according to non-written laws. It is widely believed that the land is not owned (in the sense of common property law), but rather it is known. That is, that certain individuals and families have acquired more primary experiential knowledge of some areas of land through continued and frequent use, and thus these individuals and families are better equipped to successfully harvest the resources in that area (and employ conservation tactics to ensure sustainable harvesting for following years). However, traditional land-use areas are not sectioned into tidy bundles: they often overlap, intersect, and change as animals migrate or harvesting conditions change. Indeed, some harvesting areas are frequented by entire communities, such as the annual community caribou

⁸³ Conversation with Alvin Yalle, February 21, 2007.

hunt held every fall-time by Colville Lake on the Barrenlands. Other areas tend to be particularly rich in seasonal resources (such as fish spawning locations) and are frequented by selected harvesters over a shorter period of time. Thus, for Sahtu Dene and Métis peoples, the ability to go out into the bush and successfully cultivate the resources of the land is not based upon asking permission to utilize the land, or obtaining some form of land ownership or proprietary rights, but rather in acquiring intimate knowledge of the landscape, and by conducting oneself in a proper way in relationship to human and other-than-human components of the environment. Acquiring this knowledge comes from conducting oneself in accordance with Dene Law, through spending time on the land with other individuals who have intimate knowledge of the landscape, by watching and listening to them, and by appropriately asking the advice of Elders and other knowledgeable individuals. Most frequently, this transference and acquisition of knowledge is established through close family members, but it can also be acquired through extended kin and social networks, thus interlinking individuals and communities through comprehensive networks of land use and practice. To a large degree, land-use boundaries remained socially and morally negotiated through economic and social ties with individuals and groups both within the Sahtu and in surrounding regions.

Now, however, with the ratification and implementation of the SDMCLCA, the spatial and administrative distribution of the land has become marked with permanent and artificially constructed boundaries that do not necessarily represent how the land is conceptualized or utilized by local people. As one Elder

from Colville Lake described in the Sahtu Land Use Planning Board Community Interviews “in looking at the map of the Sahtu Region, I am concerned about the fragmentation of the land into districts. It doesn’t reflect our use of the land” (Sahtu Land Use Planning Board, 2004:31). Indeed, as the Sahtu Land Use Plan Draft 1 Map of Sahtu Traditional Trails shows [See Figure. 4.], land-use and travel in the Sahtu was flexible and overlapping, reflecting both the use of the land and the ways in which inter-community linkages and bonds were, in a very real way, established and maintained through the fluidity of land-use practices and porous nature of land-use boundaries.

Under the SDMCLCA, Sahtu Settlement Land is now ‘owned’ by corporate entities with corresponding rights and obligations under Canadian property law. Decisions about who gets to use the land and for what purpose are now under the authority of District corporations and regional co-management boards, such as the Sahtu Land and Water Board (SLWB) which is responsible for issuing land-use and water permits for lands throughout the SSA. While the community and District Land Corporations Boards and Presidents are elected by beneficiaries of the SDMCLCA, and the membership of the SLWB is comprised of two members nominated by the SSI (with the remaining two members nominated by the GNWT, and the Federal Government, respectively) the overall permitting process is generally seen by many local people as an attempt to assert non-local jurisdiction and control over the land. Though the SDMCLCA

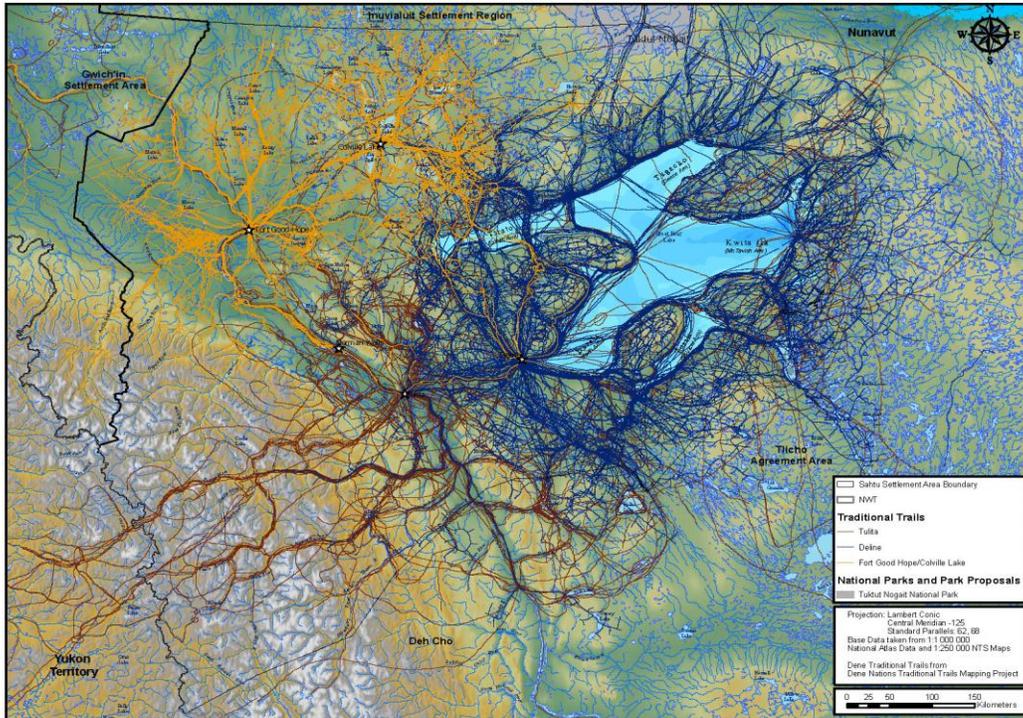


Figure 4. Sahtu Dene and Métis Traditional Trails. Used with permission from the Sahtu GIS Project and Dene Nation.

does not require beneficiaries to obtain land-use permits for the construction of camps or cabins for the purposes of harvesting, there is the general impression among local people that the permitting process has had two significant effects: that it has removed local decisions about how the land ought to be used and by whom from localized lines of authority and placed it under District or regional control; and two, that in so doing, it has contributed to heightened tension (and sometimes overt conflict) surrounding the legitimacy of these kinds of decisions, should local and regional levels of authority conflict.

For example, a leader from one of the communities in the Sahtu once contacted the SLWB to ask whether or not he would need a permit to build a cabin on

Sahtu Settlement Lands that were owned by the District Land Corporation of which he was a beneficiary. According to this particular gentleman, the response from the SLWB was that yes he did need a permit. He then asked the SLWB what they would do if he did not apply for a permit, and he said that the answer from the SLWB was that they would fine him \$5,000 for taking the logs to make the cabin. In response, the gentleman stated:

“So, I told all the people to go out on the land and build cabins. I am doing that so that people will understand that it is their land. When they (the SLWB) ask whether or not they have permits for their land, they will tell them that they were built before the permitting system. But, this will make everyone understand whose land it is, because people have cabins there. When they ask: who owns this land, the community can reply ‘we do because we have been trapping on this land for as long as anyone can remember’.”⁸⁴

Thus, while local forms of land tenure require the involvement of individuals or families who have primary and intimate knowledge of the landscape (and who often depend on the sustainability of particular areas for the purposes of harvesting food or other resources), non-local forms of land management require an elaborate bureaucratic formula to determine, regulate, and enforce who will have access to the land and for what reasons. The decision to grant a land-use permit to a SDMCLCA beneficiary for the construction of a cabin is one case in which (either in reality or perception) non-local institutions claim control over

⁸⁴ Interview, October 4 2007.

land use decision-making through the SDMCLCA,⁸⁵ however, granting a permit to a proponent planning to undertake oil or gas exploration or production is considerably larger in scale (with the potential for more significant ecological, social, and cultural impacts), and the consequences in terms of who has the authority to grant such permits is magnified proportionately. Indeed, while Sahtu Dene and Métis people sit on management boards who ultimately influence these sorts of decisions, as James C. Scott reminds us, “the transformative power (of maps) resides not in the map, of course, but rather in the power possessed by those who deploy the perspective of that particular map” (Scott 1998:87), whether the reader of the map is Sahtu Dene or Métis, or not. And, in the case of the map etched out of what was to become the ‘Sahtu Settlement Area’ in the SDMCLCA, the physical, metaphorical, and jurisdictional lines were drawn and firmly imprinted according to corporate standards, and those of private property law. The enforcement of the particular map of the Sahtu Settlement Area created as a result of the SDMCLCA rests in legislation rather than in local practice; with the federal government, rather than with Dene Law.

Structuring Collective Identities: Processes of Identification and Political Fissure

At the same time as the SDMCLCA serves to restructure formerly fluid geographical boundaries, the SDMCLCA enrolment process simultaneously encodes social identities into beneficiary membership requirements. As stated earlier, the enrolment process established as a part of the SDMCLCA requires

⁸⁵ Indeed, as per the terms of the SDMCLCA a permit is not needed for beneficiaries when constructing a cabin that is used primarily for harvesting purposes.

that an individual enlist with only one community-level Land Corporation. Thus, individuals who qualify for membership in the SDMCLCA must identify, at the time of enrolment, which community they are a part of, and whether or not they consider themselves to be either Dene or Métis. At the outset, communities such as Déline determined that there should be no distinction made between Dene and Métis members of the community, and only one local Land Corporation was established to represent the interests of the entire community. In the words of one elder from Déline, from their perspective “we are all Dene”. In Tuli’t’a, however (and in other communities such as Fort Good Hope), there were two local Land Corporations established: the Tuli’t’a Land Corporation, representing the interests of the Tuli’t’a Dene, and the Fort Norman Métis Land Corporation, representing the interests of the Fort Norman Métis.

The establishment of two local Land Corporations in Tuli’t’a has caused tremendous bureaucratic complications concerning the negotiation of Access and Benefits Agreements, consultation processes, approval of development projects, and other jurisdictional issues. For example, if an oil and gas company wants to conduct work on lands near Tuli’t’a, they must obtain permission from both the Dene and the Métis Land Corporations, and must negotiate an Access and Benefits Agreement that is suitable to both.⁸⁶ However, in reality, the complexity and layers of bureaucracy often mean that companies consult with one Land Corporation, and not the other, resulting in tensions between the local Land Corporations and the general community membership. In Tuli’t’a, as in other

⁸⁶ Indeed, the company must negotiate an Access and Benefits Agreement with both Land Corporations in Tuli’t’a and the Ernie MacDonald Land Corporation in Norman Wells as combined members of the Tuli’t’a District Land Corporation.

communities, the Dene and Métis Land Corporations have separate offices, across town, and conduct their business separately. As one local leader from Tuli't'a put it:

*“the land claim in Tuli't'a has split the community and has established all kinds of organizations that operate on their own and don't know what the other one is doing; this has split the operating money and any money that people might get in benefits”.*⁸⁷

I spent a great deal of time during my stay in Tuli't'a attempting to determine how individuals decided to enrol in the SDMCLCA as either Dene or Métis. For the most part, individuals enrolled in the same Land Corporation as their families and closest relatives, though there were selected cases when one sibling enrolled in the Métis Land Corporation while their half-sibling enrolled in the Dene Land Corporation. There has been a long history of Dene and Métis relationships in Tuli't'a, with certain families identifying as Métis, and others as Dene; and, historical relationships between Dene and Métis families have, at times, been inharmonious. Dene families have expressed misgivings about Métis families occupying certain jobs or places on the landscape, and Métis families have been concerned about not being able to secure Aboriginal rights to lands and resources, or not being able to be full participants in comprehensive land claims and treaties. Yet, while these tensions may have existed from time to time in the small community, people generally thought of themselves as collectively being

⁸⁷ Fieldnotes February 9, 2007.

from Tuli't'a, and given the cultural value placed upon generosity and helping others, Dene and Métis families would often find mutual support in one another.

After the SDMCLCA, however, with the establishment of two distinct Land Corporations, and the requirement that individuals identify and enlist as either Dene or Métis, these political fissures were entrenched into the land claim itself. While many of the divisions between Dene and Métis families were and continue to be only slightly palpable on individual levels, frustration with community divisions is growing, and has become very obvious at the level of community politics. This discord is evident not only in terms of the locations of the specific Land Corporation offices on the opposite sides of town, but also in some community meetings where one Land Corporation would be in the process of negotiating business contracts with a proponent while the other has no knowledge of the proposed activity. As one individual from Tuli't'a put it, "for such a small community of 500 people, we can't seem to get along. The electoral system divides people and once people are divided it is hard to work together and hard to get things done."⁸⁸

Many individuals in Tuli't'a have recognized the structuring practices of the comprehensive land claim, and the growing tension that it has created between Dene and Métis beneficiaries. In late 2006, with the MGP potentially on the horizon and Husky Oil wishing to conduct further exploration on lands near Tuli't'a, the community of Tuli't'a decided that in order to properly prepare for the projected increase of outside interests looking to conduct work on or near Tuli't'a

⁸⁸ Fieldnotes, February 17, 2007

lands, something had to be done to address the rift between Dene and Métis political bodies. Thus, in February 2007 the community of Tuli't'a hosted what they called "The Tuli't'a Unity Accord", an agreement signed between the Dene and Métis of Tuli't'a to work together under the terms of the SDMCLCA. The Tuli't'a Unity Accord brought together Dene and Métis community leaders, beneficiaries, Elders, and other dignitaries from across the Northwest Territories, including then Premier Joe Handley and Sahtu MLA Norman Yakeleya, to engage in celebrations and workshops to improve community cohesiveness. Lesley Nelson, a celebrity and actor who lived in Tuli't'a in his youth came and spoke, as did Clarence Louie, the Chief of the Osoyoos Indian Band. Expert fiddlers were brought in to run workshops for community youth, as were experts on building self-esteem. Elders participated in story-telling programs at the local school, and Northwest Territories regulatory bodies, including the Chair of MVEIRB, came to Tuli't'a to run workshops on how to understand the regulatory process. The celebrations for the Tuli't'a Unity Accord lasted for four days, with Drum Dances, feasting, and old-timer dances. On February 17, Rocky Norwegian, the President of the Fort Norman Métis Land Corporation, and Grand Chief Frank Andrew from the Sahtu Dene Council exchanged gifts of a fiddle, and a Drum, respectively, and in an emotional ceremony, signed the Accord vowing to work together in the spirit of cooperation.

The Tuli't'a Unity Accord was a significant marker of public recognition of the social and political structuring power of the SDMCLCA. While I had heard private discussions regarding the discord surrounding local (and even regional)

Land Corporations in their various jurisdictional struggles, the tensions inherent in the SDMCLCA were widely acknowledged and discussed openly at the Tuli't'a Unity Accord celebrations. As a former MLA for the Sahtu Region, Steve Kakfwi, spoke:

“The land claim was organized to keep people separate—the Dene Land Corporation, the Métis Land Corporation, the Chief and Council –the companies come in and they meet with the different organizations separately. We have different offices, and sometimes one group will make a deal and support a project, and one will not support it. I mean, how many organizations does one community need? The Band and the Land Corporations try to do a good job, but it is very difficult. It (the SDMCLCA) is meant to divide and conquer.”⁸⁹

Others discussed how the lines of authority related to land-use decision-making contained within the SDMCLCA have been ineffective in representing the views of the beneficiaries. As a local individual working for the Protected Areas Strategy pointed out during his talk at the Tuli't'a Unity Accord:

“The District Land Corporation is the administrator of the lands in the Tuli't'a District. What that means is that basically nothing happens until the District Land Corporation approves it. And the District Land Corporation gets its marching orders from the people –or at least that is supposed to be how it works. The Land Claim is supposed to give us more say from the bottom up, not from the

⁸⁹ Steven Kakfwi, presentation at the Tuli't'a Unity Accord. February 17, 2007.

top down. We were trying to get away from that. But it is happening from the top down.”⁹⁰

People commonly talked about leadership, and the importance of beneficiaries’ participation in land-use decision-making. Steve Kakfwi, again, very honestly stated:

“The communities could have a lot of money, they have a lot of staff, but we have different leaders who have their own interests. Some are after money, and jobs, and contracts. Some are after protecting the land or social services. What do you want your leaders to do? Do you just want them to go after jobs, money, and contracts? Do you want to protect the land? Do you want a balance? You need to stand up and say that. You need a common vision as to what Tuli’t’a wants to do.”⁹¹

The Tuli’t’a Unity Accord was a document of hope and optimism; it was a celebration of the possibility of community cohesion and collective promise. At the same time, the Tuli’t’a Unity Accord was an honest recognition of the shortcomings of both the land claim itself, and of the participants of the claim who had not upheld the collective spirit and intent of the claim: to increase benefits and control for all beneficiaries. After the Accord was signed, Dene and Métis Land Corporations (as well as the Chief and Council) did establish a schedule of bi-weekly meetings to better coordinate their activities, and there were also discussions surrounding centralizing the various political offices into

⁹⁰ Angus Lennie, Protected Areas Strategy presentation at the Tuli’t’a Unity Accord. February 17, 2007.

⁹¹ Steven Kakfwi, presentation at the Tuli’t’a Unity Accord. February 17, 2007.

one building. The extent to which the Tuli't'a Unity Accord has mended Dene and Métis relationships in Tuli't'a still remains to be seen. However, the Tuli't'a Unity Accord is an exceptional example of a Treaty signed between two Aboriginal groups, one Dene and one Métis, in an attempt to put collective interests before those of political factions.

It is not only Dene and Métis beneficiaries who have experienced widening political factions as a result of the SDMCLCA, but inter-community relationships have, at times, become contentious as well. Communities such as Colville Lake, with a very small population, were apprehensive about entering into the SDMCLCA in the first place because of concerns about other communities with larger populations over-powering decision-making processes.⁹² Thus, Colville Lake insisted that the SDMCLCA include a provision whereby Colville Lake maintains a veto on all Sahtu lands claimed by Colville Lake. However, because Colville Lake is part of the Kasho Gotine District, along with the Dene (Yamoga) Land Corporation in Fort Good Hope and the Fort Good Hope Métis Land Corporation, the negotiation of Access and Benefits Agreements must be done collectively. This means, for example, that business contracts, employment opportunities, and payment for access to lands must be agreeable to all three local Land Corporations, even if the work being done is being conducted only on lands near Colville Lake. This has caused a number of open conflicts, the most prominent of these resulting in Petro Canada attempting to take all three Land Corporations to arbitration over disputes in a prolonged Access and Benefits

⁹² Interview October 3, 2007

Agreement negotiation. Apparently, Fort Good Hope and Colville Lake could not come to agreement regarding which community should be entitled to contracts and other financial resources. According to one source working for one of the local Land Corporations, “it (the failure of the Access and Benefits negotiations) is actually not Petro Canada’s fault; they are just caught in the middle of a battle for power between Fort Good Hope and Colville Lake.”⁹³

Other communities, as well, have expressed their frustration with the allocation of business contracts outlined in Access and Benefits Agreements to one community over another. Some express concern over projects that are approved (or have support) in one District, but are perceived to have impacts on another, for example, the proposed hydro electric dam on Great Bear River which would impact both Tuli't'a and Déline, or the potential of a bridge over the Great Bear River for the proposed all-weather highway connecting Wrigley to Inuvik. In these cases, inter-jurisdictional environmental impacts and effects on wildlife are a significant concern; however, so are concerns over who (and what community) will get business contracts for activities such as slashing and catering, and which Northern Store will be the supplier of groceries and other supplies for work camps. During an interview with one individual, she expressed her frustration:

“I think most of the contracts come from XXX⁹⁴. There are oil companies out there right now and they have a \$50 million dollar project, but it is all from XXX. They even get their groceries from XXX. I questioned the man and told

⁹³ Interview October 3, 2007

⁹⁴ XXX is a community in the Sahtu. I have chosen to keep the identity of the community anonymous so as not to contribute to inter-community antagonisms.

him that he should give us groceries and he just laughed. There are people out there making money, but none of it comes back to the community.”⁹⁵

While friendly rivalries between communities exist outside political and economic arenas, for example there is often collective teasing about which community speaks more Slavey or eats more country food, many communities maintain intense social, historical, and kinship ties. This is particularly the case between the communities of Déline and Tullit’a where family members and friends often travel back and forth between the two communities, and the communities of Colville Lake and Fort Good Hope where close relatives often visit one another. In the case of regional celebrations or tragedies, all of the communities come together to offer each other mutual support. For example, following a tragic plane crash near the community of Fort Good Hope in 2006, people from all over the Sahtu immediately traveled to the community to prepare food, sit with mourners, and assist the community in that very difficult time. Thus the inter-community animosity generated as a result of Access and Benefits Agreements, business contracts, and other jurisdictional issues related to the SDMCLCA appear to remain at the level of community politics, rather than individual relationships. This suggests that there are two very interesting and often contradictory forces at work in the lives of Sahtu Dene and Métis peoples: what people ought to do to support a fellow kinfolk (and thus be a good human being), which plays out at the level of interpersonal relationships, and what people must do in order to maintain some form of economic or jurisdictional benefit, which can be seen at

⁹⁵ Interview September 18, 2006.

the level of community politics. As I will show in the following section, these contradictory forces are, at least in part, a result of a lack of integration between Sahtu Dene and Métis values of generosity, and mutual support on the one hand, and the decision-making processes, lines of authority, and economic relations established in the SDMCLCA on the other. That is, the political fissures and friction, both between Dene and Métis beneficiaries and between Sahtu communities, is heightened as a result of the SDMCLCA primarily because the SDMCLCA does not take into account local normative practice. That is not to say that prior to the SDMCLCA communities in the Sahtu existed as harmonious examples of peaceful cooperation, or that without the SDMCLCA Sahtu communities would even do so even now, especially given the recent pressure to 'develop' non-renewable resources in the region. However, what the structure of the SDMCLCA has done is fix these fissures and contradictory forces into permanent composition; it has entrenched distinctly non-local forms of land tenure, governance, and social relations into solid form.

The 'Corporation' as a Privileged Form of Management:

From the outset, the SDMCLCA required Sahtu Dene and Métis people to set aside local values surrounding lands, economies, and forms of exchange in favour of motives for profits, money, and business contracts. The conceptualization of Sahtu Settlement Land in the form of private property rights as entrenched within the SDMCLCA, and the institution of a corporate framework for the

management of such lands, serves several purposes. First, as a result of the SDMCLCA, Sahtu Dene and Métis people are now shareholders in a corporate structure which, in order to be profitable, necessitates that the land be used as an economic instrument for the generation of wealth. Second, by vesting title to SSA lands in District Land Corporations, the SDMCLCA fundamentally limits political institutions like Chief and Councils in important land-use decision-making practices within the Sahtu. Thus, the political body that once served to represent the interests of the Indian Band now finds itself on the periphery of decision-making processes that have to do with very fundamental components of Sahtu Dene and Métis life: hunting and trapping rights and other forms of land-based economic and/or community development practices. Finally, the establishment of Sahtu Dene and Métis rights to land in the form of private property law endorses very particular ways of viewing relationships between human beings and the environment. To put it simply, while the SDMCLCA secured a fundamental place for Sahtu Dene and Métis involvement in the administration of lands and resources, it has done so in a very particular way: through the establishment of a corporate structure designed to generate profits from the exploitation of land.

At the same time, Sahtu Dene and Métis peoples are now 'land owners', and the decisions that are made by Land Corporations about the ways in which the land can and should be used (though perhaps not made without constraints surrounding proponents' rights of access to lands where subsurface rights are held by the Crown) are made by corporations composed of Sahtu Dene and Métis

Presidents, staff, and shareholders. Sahtu Dene and Métis peoples now, as a result of the SDMCLCA, have rights to hunt, trap, and fish throughout the SSA; they also have rights to participate in environmental assessments and regulatory processes. Thus, beneficiaries of the SDMCLCA find themselves in the very precarious situation of participating in institutions that are seen to both protect Sahtu Dene and Métis rights to land and harvesting practices and simultaneously endorse the commodification of land and land-based resources. The paradox inherent in this complex constellation of governance, business, and land is this: Sahtu Dene and Métis peoples are now owners of their land; however this particular form of land management simultaneously undermines local values surrounding relationships with and to the landscape.

Indeed, the establishment of a corporate structure to manage private land holdings has required that Land Corporation Presidents, Board members, and staff learn and develop sophisticated negotiating skills, and become experts in regulatory processes and oil and gas vernacular. In order to participate effectively in negotiations with oil and gas companies, those individuals working within Land Corporation offices have had to cultivate skills in contract and proposal writing, reading and comprehension of complex documents, they have had to develop and cultivate strategic relationships with people in different industries including suppliers and oil and gas service companies; and decisions have had to be made quickly and according to corporate time-lines. Indeed, in many ways the offices of Land Corporations have become the technological hub of communities, with access to resources such as sophisticated maps and mapping tools and high

speed internet services. In the community of Colville Lake, a community who have collectively refused water delivery and treatment infrastructure because it is not consistent with community values and poses the risk of making the community dependent on government services, the Land Corporation has established wireless internet services via satellite because the Land Corporation needed high speed communication in their dealings with the many gas companies interested in exploring the Colville Hills.

Importantly, changes in the ways in which Land Corporation leaders and staff engage outside interests looking to conduct work on Sahtu lands have also required novel means of making decisions and lines of authority. A number of factors have influenced these changes including the overall complexity of the regulatory and negotiation process, a general limited familiarity with the oil and gas industry among most beneficiaries working outside of the Land Corporations, the need to make decisions quickly and remotely (i.e. with companies in Calgary, rather than in the Sahtu), and the nature of the closed ‘corporate boardroom meetings’ as the primary decision-making arena for granting land access. In the following section I address the implications of these changes and how they influence community dynamics. I argue here that the corporate structure of the SDMCLCA necessitates that formal community leadership participate in decision-making processes that are not always in line with what Sahtu beneficiaries say they want for themselves, and that ultimately, these forms of decision-making processes can be divisive for Sahtu communities.

Corporate Decision-Making Authority: The Boardroom and the Negotiation of Access and Benefits Agreements:

The primary means through which oil and gas or other development companies obtain permission to conduct work on Sahtu Settlement Lands is through an Access and Benefits Agreement. Access and Benefits Agreements (ABA), or Impact Benefits Agreements (IBA) as they are sometimes called, are a common type of contract negotiated and signed between development corporations and indigenous communities in Canada and elsewhere (*c.f.* O’Faircheallaigh 1999). The premise behind ABAs is that development work being conducted on indigenous land is likely to result in some form of social, environmental, or economic impact on the community in question and thus, in order to minimize any adverse effects of the project and to ensure local benefits in the areas of employment and training, communities and companies enter into binding agreements that establish formal relationships between the companies and the communities. In the Sahtu, where SDMCLCA beneficiaries are ‘land-owners’, companies are also required to get permission and pay for access to or across Sahtu Settlement Lands. Thus, negotiations for ABAs include payment and conditions for access to lands, and commitments to economic opportunities for local communities. In the SSA, as in other areas of the NWT, ABAs are confidential and the terms, conditions, and commitments are only shared between the company and Land Corporation beneficiaries in question, regulators, and the Department of Indian Affairs and Northern Development. Access and Benefits Agreements are required for licensing and permitting processes, and in most cases must be approved by the Minister of Indian Affairs. The negotiation of ABAs often occurs at the very

early stages of development planning, prior to the submission of application permits, or other consultation processes. ABAs are most often negotiated between oil and gas companies and Land Corporation Presidents and management Boards. Sometimes, the Land Corporation President and Board puts the terms of the ABA to their beneficiaries for a vote; sometimes they do not, though the status of the project and of the ABA as well as other Land Corporation financial dealings would be presented at an annual Land Corporation meeting.

The negotiation and implementation of an ABA is often conducted in a relatively short period of time, as companies seek to begin their development projects and require an ABA prior to submission of permit application processes. Negotiations take place between companies and the Land Corporation Presidents, sometimes alongside selected Land Corporation staff and outside lawyers and consultants. The nature of ABA negotiation processes requires that Land Corporation Presidents and staff develop communicative competence in board room negotiations and the oil and gas field, and an in-depth knowledge of how oil and gas projects work. Strategies employed by Land Corporation Presidents often involve securing maximum benefits in the form of access payments, allocation of business contracts and opportunities, joint-partnership initiatives, training, and other community initiatives without jeopardizing the negotiation process. Land Corporation Presidents must be able to intuitively judge how much the corporation is willing to give, and under what conditions. And, they must have a

general awareness of what other Land Corporations in other Districts or communities have negotiated in similar situations.⁹⁶

Negotiations for ABAs are conducted over the phone, via e-mail and the internet, and to a more limited degree, through face-to-face meetings. While a company wishing to conduct work on Sahtu lands will often arrange for at least one consultation meeting with local people in the community,⁹⁷ most of the actual negotiations for ABAs occur in closed meetings. These meetings sometimes take place in the community, but are most often conducted in boardrooms in large urban centres, such as Calgary.⁹⁸ Holding ABA meetings outside of the community presents a series of complications. First, a closed meeting necessarily means that most beneficiaries are excluded from the negotiation process. Thus, the President of the Land Corporation and Land Corporation staff wield a significant amount of power to determine the terms of access and the types of benefits that the community will receive. Second, when meetings are held outside the community, Land Corporation Presidents and their staff are often flown to the urban centre and housed at very expensive hotels, courtesy of the oil and gas company. Oil and gas company executives and negotiation teams often host dinners, and have even established open-bar tabs at some of the hottest night clubs in Calgary for their Sahtu guests; all gestures of good-will, perhaps, but ones that can have significant sway over the results of the negotiation. In one

⁹⁶ Because ABAs are confidential, even between communities, Land Corporations Presidents and Boards are often not aware of the terms of other ABAs, and thus are not able to use them as leverage in negotiation processes.

⁹⁷ Issues surrounding consultation and general community participation will be addressed in more detail in the following chapter.

⁹⁸ ABAs for the oil and gas industry often take place in Calgary where most company headquarters are located. ABAs for mining often take place in Vancouver, for the same reasons.

community, the Chief has made personal requests for the oil and gas companies to stop providing Land Corporation delegates open-tabs at Calgary nightclubs and bars.

The exclusion of beneficiaries from negotiation processes, either because the meeting is held remotely or because the meeting is 'closed', is in direct opposition to conventional decision-making processes in the Sahtu. Typically, when an important decision needs to be made in the Sahtu, or when important information must be shared, the entire community is invited to a gathering where Elders present long oratories and instruction through stories (Basso 1978). Elders are considered to be vast stores of important primary knowledge, and their words and advice are highly regarded. As one local man said, "prophets and Elders always talked about how we should live our lives in the future.... what to protect. We have to use this knowledge to make us stronger."⁹⁹ However, the types of meetings typically held for ABA negotiations often exclude Elders in their conventional role as advisors. One Elder commented,

"Today, it is really different. We have young leaders so they have hardly been on the land. The young leaders don't ask the Elders, or involve them in the decision-making process. The young leaders just go out and make the decision right there. I went out on the land just recently across the lake and all of the

⁹⁹ Men's focus group, September 2006.

lodges are closed but there were some big game hunters at XXX bay and I didn't know anything about it.”¹⁰⁰

In many ways the exclusion of Elders from ABA negotiation processes is a result of the use of non-local discursive fields of the oil and gas industry in negotiations, and perhaps an unfamiliarity with corporate politics and norms. Land Corporation Presidents are often young men who have had some formal educational training outside of the community. Elders, on the other hand, often speak very little English and though they may not frame their questions in oil and gas linguistic register, they have tremendous repertoires of knowledge regarding the environment, the history of their people, and the values and norms of their community. Ironically, those who know the most about the landscape are often prohibited from participating in land-use decisions in the course of ABA negotiations, either because they are not present during the meeting or because the ways in which the Elders speak about the landscape is not readily understood by the corporate community. Several people in the Sahtu have begun to argue that the Elders need to have a more direct role in the early stages of these decision-making processes. As one individual put it, “the Elders are smart people, and what are they doing, they are just sitting there... they are doing nothing. We need to bring them back. They have things to say.”¹⁰¹ The gaps in generation and in discursive fields used in decision-making processes have led to a widening chasm between older and younger generations within Sahtu communities.

¹⁰⁰ Women’s focus group, September 2006.

¹⁰¹ Public comment made at the Tulit’a Unity Accord.

The negotiation and ratification of an ABA can have other significant consequences for Sahtu communities as well. First and foremost, the signing of an ABA between a community and a proponent essentially amounts to permission for the company to conduct the work in question. Because title to the land rests with the Land Corporations, the signing of an ABA fulfills the requirement for development corporations to obtain ‘permission’ from the land-owner, even if the beneficiaries of the Land Corporation, the local people themselves, have no knowledge of the proposed project. And, because the negotiation and signing of an ABA is a requirement for subsequent stages of regulatory approval processes and is often conducted prior to ‘community consultation’, local people often find themselves in information meetings where ‘permission of the landholders’ has already been obtained. As one local woman stated, “nobody reports to the community about what was said in meetings. They are really secret about it. People don’t know what is going on. Even us, when we ask for information we are told it is confidential.”¹⁰²

The ‘closed door’ nature of ABA negotiations can also lead to widespread rumours or suspicions that those directly involved in the negotiations are somehow profiting from private business contracts or business dealings. One morning I was sitting drinking tea at my kitchen table when a local man came by for a visit. He told me that he had worked as a slasher and an environmental monitor on some of the oil and gas projects near his community, and that the companies did not listen to him when he voiced his concerns. He said “they (the companies) take water

¹⁰² Interview, September 2006.

out of the good fish lakes and the beaver lakes. And, the companies don't report it when they spill water or oil on the land. At one lake, they use the ice surface as an airfield and they store drums of fuel on the lake."¹⁰³ This individual went on to say that he was very concerned because if the oil drum spills, it would go right into the lake. He stated that he and another man from the community were "the first ones to raise concerns about all of the oil companies, but that the leadership did not listen to them. All the leadership was getting rich off of all of the development. Maybe they were getting paid by the companies, and that they were making money only for themselves and their families."¹⁰⁴

There is a general concern that those in the position to negotiate ABAs are indeed focused on money and business contracts rather than the needs of the community or appropriate human relationships with the environment. There have been general warnings from Prophets about Dene dependence on money, and the potential effects that this might bring. As one Elder said,

"Old Andre (Prophet) he told them what to watch out for in the future, which is true. One of these things that we should watch out for is money. In the future, money would be controlling Dene people, so that young people would say yes to things right away without thinking about the results. The land is alive."¹⁰⁵

Now, some people say, what the Prophets have been saying is being fulfilled. As one individual put it,

¹⁰³ Interview, October 2007.

¹⁰⁴ Ibid.

¹⁰⁵ Men's focus group, September 2006

“People want money so badly they just sign the contract just to make money, but they don’t know what they are doing. Contractors will make money, but not the people here.”¹⁰⁶

In general, as a result of the corporate nature of the SDMCLCA, and because oil and gas companies who secure subsurface rights to minerals under Crown land do have a right of access across SSA lands provided that compensation is paid, Land Corporation representatives *are* highly motivated to secure the most profitable ABA that they can negotiate. After all, under the terms of the SDMCLCA, simply ‘owning’ the land as the District Land Corporations do does not entitle the land-owners to a veto right in terms of granting access to land with development potential. Thus, in many ways, the negotiation of a profitable ABA is one way to ensure that local communities receive at least some form of benefit as a result of development projects, even if in comparison to the total revenues generated as the result of a project that benefit is ridiculously small. However, people in the Sahtu are likewise engaged in quests for power and prestige and are, therefore, not simply agents of large development schemes or victims of development projects. Different individuals have differential access to resources, both political and economic; they have different visions for the future, motives for their actions, and different constraints and opportunities to manoeuvre. Individuals who work within Land Corporations often already possess the skills and complex fields of knowledge required for work within oil and gas projects; they also often possess the economic capital to purchase

¹⁰⁶ Women’s focus group, September 2006

equipment and supplies necessary to procure business contracts. Thus, there are examples of businesses owned or operated by either current or former Land Corporation Presidents benefiting from oil and gas contracts and business opportunities. This is not necessarily a result of any form of kick-back or corruption on the part of Land Corporation negotiators, but may simply be a result of a) strategic business networks established with companies or other potential joint-venture companies as a result of proximity and more frequent exposure; b) competency in procurement and business processes; c) familiarity with the discursive and linguistic fields of play; and d) needing fall-back employment should an elected representative of a Land Corporation not be re-elected in the annual election. Thus, there are cases where certain individuals may be seen to benefit more from oil and gas development than others, not necessarily because of nepotism or other forms of corruption (though this may sometimes be the case), but rather because those who are in the position of negotiating ABAs are also those who are often in the best position to operate independent businesses.

The idea that a handful of individuals would benefit from land-based pursuits over the rest of the community, or that a few individuals could make these large decisions about what ought to be done on the land without the assistance of others, contradicts what many of the Elders say about the proper nature of social relations in the Sahtu. One day, after a long focus group meeting, I asked one of the Elders if there was anything he wanted to say into the tape-recorder so that future generations could hear him. This is what he said:

“From today on, I hope that the youth work together. It can’t be just one person who has a good job and makes good money. Everyone should be the same. No more than the other. It is the only way it will work. The important thing is that I hope that they love one another and support one another and know that there is a Creator out there who can help them. I hope that they never let go of that. To love one another and support one another and not to let go of the stories, and the hand games, and the drum dances, and the songs... the traditional way of life.”¹⁰⁷

The Role of Sahtu Economies

There are uncertain tensions between those individuals in Sahtu who seek to maintain traditional lifeways, and those who see a sustainable hydro-carbon based economy as providing a key to the future for their youth. However, it is clear that these tensions also exist within individuals; for those who seek oil and gas development as a way forward, there is a cautious optimism and a concern over both ecological and socio-cultural impacts and a loss of Dene lifeways. For those who seek to maintain land-based lifestyles, there is an increasing realization that young people both want and need to take part in a cash economy alongside a subsistence pursuits. Leadership, and particularly those who have the authority to approve industrial permits on SSA lands, are often caught in the middle. These tensions between protecting a valued and ancient way of life, and looking forward to a future that involves sustainable hydro-carbon exploration and production, are very much a reflection of changing Sahtu economies.

¹⁰⁷ Men’s focus group, September 2006.

Most Elders in the Sahtu were born and raised in the bush. These Elders grew up on the land and know the ways of the earth, the animals, the water, and the weather; they know how to locate game, how to set traps, how to prepare furs, how to find moss for diaper bags, how to make shelters and keep warm, how to make fire, how to locate medicine. Life depended on the seasonal rounds and the ability to successfully know and cultivate the resources of the land. These Elders are comfortable spending extended periods of time on the land and continue to do so whenever they are given the opportunity. One couple that I had the privilege of staying with in Colville Lake went out on the land to trap for months at a time in the fall, even though they both were well into their eighties.

However, spending time on the land now often requires access to cash. Very few people in the Sahtu continue to raise or use dog-teams, and most travel is conducted by skidoo in the winter and by ATV or some form of motorized boat in the summer. Thus, not only does the equipment require a fairly substantial capital investment (and particularly so in the Sahtu where one must pay freight costs or make the long trip to Yellowknife or Edmonton to pick it up), but people must also be able to pay for fuel to run the machines. The cost of fuel is the focus of frequent and fervent dialogue in the Sahtu, with local prices for fuel often three or more times the cost of fuel in the South. In my discussions with local harvesters, the high cost of fuel was overwhelmingly the most significant barrier to spending time on the land and accessing land-based resources. In addition to fuel and transportation costs, harvesters are often faced with high costs for equipment such as guns and ammunition, traps, fish-nets, and other essential

supplies. Thus, going out on the land in the Sahtu these days is not cheap, and if one or more family members does not have access to cash, it can be prohibitively expensive. Increasingly in the Sahtu, in order to be able to participate in harvesting activities, one (or one's family members) must also participate in a cash economy. Yet, participation in a cash economy has additional and immediate consequences including having to remain in the community to work, and thus limiting the amount of time that can be dedicated to land-based activities and the distances that one can travel.

Additionally, participation in a cash economy also requires that one has access to a job. According to the 2006 NWT Bureau of Statistics Selected Socio-Economic Indicators, the unemployment rate in the Sahtu was 15.1% (GNWT 2008). Of those who were employed, most were employed in government, health, or social service sectors; a very high percentage of people in the Sahtu work in rotational or seasonal work. For the most part, those who gain employment in government, health, or social service sectors require some form of formal education, though not necessarily post-secondary education. Most young people in the Sahtu are enrolled in formal educational institutions which require residence in the community on a full-time basis.¹⁰⁸ However, while formal educational institutions provide the necessary training for employment and participation in cash economies, they simultaneously limit the amount of time that youth are able to spend on the land, and their ability to acquire land-based skills. With the

¹⁰⁸ In Colville Lake it is common for children to leave school in the fall for several months to spend time with parents or Elders trapping in the bush. This is the only community that I witnessed where children were excused from formal educational systems to participate in subsistence activities for extended periods of time.

exception of formal on-the-land programs established through the school system,¹⁰⁹ time spent out on the land is thus limited to afterschool, weekends, and the summer months. Again, this shapes the seasons, and directions of travel, and the amount of time dedicated to learning harvesting skills. This is not to say that young people in the Sahtu are not learning land-based skills; young people are remarkably interested in learning bush skills and can be exceptionally proficient in the knowledge required to harvest the resources of the land. Spending time on the land and protection of traditional lifeways is something that many young people say is of vital importance to them. However, young people are often less comfortable spending extended periods of time in the bush than previous generations were, and there is a general emphasis among youth surrounding the creation of meaningful employment when they are finished their schooling.

Land Corporation Presidents, typically younger men who have received some level of education and training outside of the community, are afforded less time to spend on the land as a result of their full time employment. For these individuals, living on the land full time is no longer a viable option for their people, and they are looking toward a future for the youth – a future that involves the creation of jobs. However, it is also important to point out that for those individuals who see increased oil and gas exploration as a means of increasing opportunities for employment, it is not that the land is seen as an insignificant component of community life, but rather, there is an assumption that people will not be using vast tracks of land as they have in the past. In fact, in two of the three Sahtu

¹⁰⁹ Various on-the land programs have been run through local schools including a Trapping Skills program in 2004 whereby students learned skills in trapping, survival, and hide preparation and marketing.

communities where I conducted fieldwork, Land Corporation Presidents were actively engaged in harvesting activities after work and on the weekends; they too harvested fish, caribou, hides, and edible berries. However, their visions of the future include creating sustainable employment to complement harvesting activities and a balance between cash and subsistence economies. There is a general assumption among younger leaders that harvesting will be done in locations close to the community, thus leaving more inaccessible places, or places further from the community, open for development. As one Land Corporation President said to me, “when we look at the land, we see it differently than our Elders did.” Thus, major concerns among Land Corporation leadership often revolve around controlling the pace and locations of development and ensuring that real and meaningful benefits flow to the communities in the form of money and jobs. Indeed, the corporatization of land and decision-making in the Sahtu, and the lack of a veto power to override proposed development projects where subsurface rights belong to the Crown, influences this form of prioritizing in a very significant way.

However, as I have argued elsewhere, for others the creation of jobs, the procurement of business contracts, and the generation of wealth as a result of development activities is not worth the risk of disrupting vital relationships between human beings and the landscape. Indeed, for many people in the Sahtu, it is the relationships that Sahtu Dene and Métis people have with their land that forms the very sustenance of life. As one individual stated before the JRP:

“Without the animals on the land, as Aboriginal people, it’s not worth living. That’s how it is. That’s how I feel. Even for me, I think about it, it’s not worth living without animals. Even though you gave us lots of money, but if there’s no animal what’s the use? Even though there’s no money, but if there’s –if there’s an animal on the land, I can survive by that” (Morris Neyelle, JRP Transcripts Vol. 16 Pp. 1635:12-17).

There are many people in Sahtu communities who feel that a reliance on money (and thus participation in a cash economy) is a temporary phase of Sahtu Dene and Métis history, and there are several Prophecies about the need to return to the land for survival. Once such Prophecy comes from the community of Déline:

“One of the things that will happen, and there are Prophecies about that, is that Déline will be the last place. There will be a big famine, and he (the Prophet) has shown people here the three places that will be the only ones on earth that will have fish left. It will come from the south and come up here until no one and nothing is left.”¹¹⁰

And another from Colville Lake:

The pipeline builders will come like a big tornado and destroy our land and our rivers, and many of us are not happy about it. They will not destroy only the land, but also the animals. The time of plenty, we think that everything is going to be okay, but it is not. It won't last long. As long as we keep believing in the Creator,

¹¹⁰ Interview, August 27, 2006.

it will be okay. The elders a long time ago, they always used to say there will be a great starvation. They said we are going to eat worms and mouse and all kinds of things like that. We never went through anything like this before, but I believed them. I would like to remind people about this” (Marie Kochon, JRP Transcripts Vol. 21, 1975:24-35).

The Prophecies surrounding famine as a result of an influx of people and money from the South are not benign in nature. People in the Sahtu place great confidence in their Prophecies, and many see the MGP as a fulfillment of the prediction of famine and a return to the land. Thus, for some people, the coming of the MGP and an increased reliance on a cash economy is simply the Prophecy fulfilling itself, as it was meant to do. And, because Prophecies are beyond question, these same people believe that there is nothing that they can do to stop it, and thus their approach to participation in decision-making is rather indifferent. There are others, however, who see the famine Prophecy as yet to be fulfilled, and they are very concerned about maintaining the integrity of their environment so that when it does come, they will be prepared. In these cases the ‘selling of the land’ to developers for profit is seen as putting the region at great risk for when the famine does arrive. Thus, the tensions between the creation of a hydro-carbon based economy and the maintenance of a subsistence economy are multiple and complex; they involve not only contradictory approaches to relationships to the environment (i.e. the environment as a commodity, and the environment as a living thing) and ways of making decisions, but also diverse

visions of what the community and young people will need for their future survival.

For people living in the Sahtu Region, questions surrounding increased interest in large development projects are twofold. First, can there indeed be a balance of subsistence and hydro-carbon based economies? And second, can and will local people actually benefit from such projects on a community-wide scale? The answers to these questions remain to be seen. Without a means to transport gas to market, hydro-carbon exploration has been relatively minimal in the Sahtu Region.¹¹¹ And with the exception of the Enbridge oil pipeline from Norman Wells to Zama, Alberta there have been no pipelines built in the Sahtu. However, should the MGP proceed interest in producing gas from current discoveries in the Colville Hills and Stewart Lake area would likely increase, as would exploration for additional discoveries. If this should happen, will there come a point at which Sahtu Dene and Métis communities cross a precipice both in terms of ecological sustainability but also in terms of their ability to choose the degree to which they are able to participate in either a cash or subsistence economy?

Conclusion:

While many people in the Sahtu Region thought that the SDMCLC would enhance local control over decisions surrounding lands and resources, many people in the Sahtu are growing increasingly frustrated with institutions formulated on non-local lines of authority and decision-making. Yes, local people

¹¹¹ With the exception of the Norman Wells oil field, however this field has been confined to a fairly small area within the Sahtu.

are now participants on corporate and co-management boards that ‘manage’ lands and resources by issuing land-use permits, conducting environmental assessments, and negotiating terms of land access. However, in order to participate in land use decisions and stewardship of natural resources, these entities must adhere to the terms of modern-day treaties and rules that are at once at odds with how local people conceptualize appropriate uses of the land, and how decisions about the land ought to be made. People in the Sahtu thought that the comprehensive land claim would, in effect, increase local authority in a key aspect of what had previously been experienced as coercive state power to unilaterally make decisions about what kinds of activities could and would be conducted on Sahtu lands. As it turns out, what the land claim actually does in terms of its structuring power is put Sahtu representatives on corporate and co-management boards in positions where they are now the agents and arbiters of federal (not Dene) laws concerning resource management and development.

Some people may maintain that complications surrounding the SDMCLCA are internal ones; that is, that they are complications with how community leadership communicates and considers the voices and concerns of their membership. And, to some degree this may indeed be the case. However, the internal fissures, miscommunications, and strategies for social and economic profits are also manipulated and exploited by outside agencies. Oil and gas companies do wine-and-dine community leadership during meetings held in Calgary, and the federal government does capitalize on community divisions in order to meet specific objectives. Not long after returning from a field trip to one

of the communities in the Sahtu I received a phone call from an individual working for a government department. I had done some work for the community and had talked to people employed at various community organizations, community leadership, land claim institution leaders, and general community members and prepared a report for the community on diverse community perspectives of consultation processes. The report was given to all community leadership, and no one else had received copies (though community leadership were authorized to share and use the report as they needed). The government worker told me that they had received a copy of that report, and wanted to know the names of all of the people that I had talked to in the community regarding consultation. I was told that my report 'was not reliable' without those names, and that in preparation for a government meeting on consultation to be held in the community, the names of the individuals I had interviewed was essential in determining the 'validity' of what my report revealed. Knowing that the community in question had a history of political fracture, and that part of my commitment to those with whom I had spoken included conditions of anonymity concerning outside agencies, I refused to reveal the names of the individuals interviewed and politely suggested that if the government worker wanted to confirm the 'validity' and 'reliability' of my report (in terms of whether or not it reflected community views), they may want to find out how they got the report in the first place. After a call to the community, I learned that community leadership did indeed send the report to government agencies as an example of community perspectives of what consultation processes ought to resemble. This

is but one example of the ways in which outside interests can and have manipulated local politics and decision-making processes in the Sahtu.

The use of a corporate model for the settlement of outstanding land claims and establishment of jurisdiction and management of indigenous lands has received criticism from other areas of the Canadian north and Alaska. In her book, *From Talking Chiefs to A Native Corporate Elite: The Birth of Class and Nationalism Among Canadian Inuit*, Marybelle Mitchell (1996) traces the transformation of Inuit economic and political systems and their attendant social relations from early contact history to the establishment of the Territory of Nunavut. Mitchell convincingly argues that rather than being instruments of economic development and increased authority for the general Inuit population, Inuit Development Corporations have created a rigid class structure which sees Inuit ruling classes serving the interests of the state and of non-Inuit private enterprise. She states:

“The development corporations are the vehicles that perpetuate an Inuit ruling class, one without a power source of its own. The original capital comes from the state. We can say, therefore, that the state created a ruling class that facilitated industrial development of the north. This dependent ‘ruling class’ is helping state/industry to dispossess all Inuit of their land, and it controls the capital paid by the state to all Inuit (indirectly) as compensation for dispossession” (Mitchell 1996: 387-398).

Her findings strongly resemble the aftermath of corporatization in the Sahtu.

In his report of the Alaska Native Claims Commission, entitled *Village Journey*, Justice Thomas Berger (1985) offers a telling critique of the Alaska Native Claims Settlement Act (ANCSA). Following general dissatisfaction with ANSCA, the threat of alienation and the ‘selling’ of tribal lands, the widening gap between those development corporations who are rich, and those who are poor, and the disjuncture between the goals of the village corporations and those of its membership, the Inuit Circumpolar Conference commissioned Justice Berger to review the Alaska Native Claims Settlement Act of 1971. In hearings held throughout Alaska, Berger heard the experiences of Alaska Native’s¹¹² under ANSCA and how Alaska Natives want to retribalize their lands by removing them from the jurisdiction of ANSCA corporations and returning them to tribal governments. Justice Berger recommends in his report that this should indeed be done, and his justification is as follows:

“A corporation cannot take from the rich and give to the poor without facing a shareholder’s suit; but a tribal government can implement measures designed to achieve social justice. A corporation can claim no immunity to state laws—it is a creature of state laws—but a tribal government can assert immunity from them. A profit-making corporation is comprised of stockholders who own shares but a tribal government is comprised of members identified by who they are, not what they own. A corporation’s existence depends upon statements of its profits

¹¹² Berger recognizes the rich cultural heritage of diverse Alaskan ‘Native’ groups including the Yup’ik, Inupiat, and Athabascan peoples. However, he uses the term Alaskan Natives to refer to those diverse groups as a collective.

and loss, but a tribe's existence is endlessly renewed with each generation"

(Berger 1985:159).

Berger also recognizes the inherent contradiction between the needs and visions of Alaskan Native villagers, and those of their village corporations. He states, "the village corporations are legally constituted to make profits, to pursue economic purposes. Yet, the villagers themselves are chiefly concerned with subsistence activities. This can place the corporations at cross purposes with their village shareholders" (Berger 1985:9). While there are distinct differences between the organizing structures of the SDMCLCA and those of ANSCA and the Nunavut Land Claim, the responses to the corporatization of lands and land-use decision-making is remarkably similar in its critique. In all three cases, Aboriginal peoples believed that their land claim would protect their lands. Yet, in all three cases, many people feel that, in the end, the comprehensive land claims and the 'development corporations' have become the very tools of dispossession and transformation.

A local critique of the SDMCLCA has begun in the Sahtu, though it is as yet difficult to voice. One of the complications surrounding an open critique of the SDMCLA is that those who negotiated and ratified the claim are often vital members of Sahtu communities; they are people's fathers, brothers, uncles, and friends. I have been fortunate to meet many of these people, and have come to understand that they believed at the time that the SDMCLCA would improve the lives of their people; and, although it has not brought with it the independence that many Sahtu Dene and Métis people had hoped, there is evidence that

comprehensive land claims in general have contributed to improvements in local economic development (Saku 2002, Saku & Bone 2000a, 2000b). Second, there are several components of the SDMCLCA that have never been fully implemented, even fifteen years after its ratification. Some of the more significant of these components include a regional Protected Areas Strategy and land-use plan which would enable local Sahtu communities to set aside tracts of land that would be unavailable for future resource development. One of the significant fears of people in the Sahtu is that should the MGP receive approval before a ratified land-use plan is in place, the pace of development would quickly overrun areas that might be considered for protection. Third, an overwhelming number of Sahtu Dene and Métis individuals voted to ratify the SDMCLCA, and many more have enrolled as beneficiaries. In fact, with the exception of a small number of people in Tuli't'a who have refused to sign or enrol in the SDMCLCA, most of those individuals who are eligible for enrolment, have done so with 3,173 individuals enrolled in the SDMCLCA as of 2008 (Sahtu Secretariat Incorporated 2008:15).¹¹³

In a very real way Sahtu Dene and Métis peoples are and have always been participants in their comprehensive land claim, though not without constraints imposed by outside forces. However, this participation has not always been on Sahtu Dene and Métis terms, and in many ways Sahtu Dene and Métis participation has undermined local practices surrounding land, land-use, access to resources, and governance and simultaneously endorsed the corporatization of decision-making processes and the commodification of land. However, the alternative, that of not participating in a comprehensive land claim, would have

resulted in a lack of security for Sahtu Dene and Métis rights, involvement in resource decision-making, and virtually no economic benefit resulting from resource development in the region. The results of this alternative can be seen among those in Tuli't'a who have refused to enrol in the SDMCLCA, and among those Dene and Métis people without a comprehensive land claim in the Deh Cho Region of the Northwest Territories. In the next chapter, I will examine the politics of participation and the ways in which local participation in non-local land-use decision-making and environmental assessments can sometimes be used to legitimize and naturalize non-Dene institutional apparatuses and models of appropriate development.

Chapter 6

The Politics of Participation

Introduction:

In the Sahtu Region, community participation in non-renewable resource decision-making processes comes in several forms. Community members are able to participate in public hearings as general stakeholders in environmental assessment processes, they participate through the negotiation of Access and Benefit Agreements (ABA's) as required by the SDMCLCA, they participate in distinct consultation processes as a result of the Crown's legal duty to consult with Aboriginal peoples (and again, as a requirement established in the SDMCLCA), and they participate through 'Traditional Knowledge' gathering and documentation as mandated by regulatory boards and the MVRMA. While previous chapters have examined the participation of Sahtu Dene and Métis peoples in public hearings, environmental assessment, governance and ABA negotiations, the focus of this chapter is on the latter two forms of participation in non-renewable resource decision-making: that of the legal category of consultation, and of the use of 'Traditional Knowledge' studies as a component of regulatory compliance.

In large part, increased emphasis on behalf of proponents and governments in Aboriginal consultation as a formal component of resource decision-making in Canada stems from two interrelated corporate and institutional realities. First, it makes good business sense and government practice to work alongside local communities to streamline permit applications and avoid other unnecessary delays (and costs) resulting from community grievances. Second, recent court decisions have upheld the Crown's duty to consult with Aboriginal peoples in

decisions that have the potential to affect Aboriginal rights or lands. In this new environment of ‘consultation’ Aboriginal rights to participate in decisions related to lands and resources have been supported in law, and in the case of the Sahtu Region, within the text of the Sahtu Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA). Thus, for governments and proponents looking to conduct work in the SSA, failure to engage in consultation measures could mean a costly delay or denial of regulatory permits, the potential of lengthy litigation, and the possible ultimate derailing of development projects. Not surprisingly, then, provincial, territorial and federal levels of government and the private sector have begun to take the duty to consult with Aboriginal groups quite seriously in most cases.¹¹⁴

However, complications surrounding the nature and extent of ‘consultation’, and indeed the very essence of a consultative-type relationship, vary considerably between diverse corporate, community, and government parties. Here, I trace the legal context surrounding the duty to consult, and consider the complexities and ambiguities involved in the construction of a consultation-type relationship. While the interpretation and implementation of the fiduciary duty to consult with Aboriginal peoples is currently driving government and industry engagement with Aboriginal peoples, little is known about what consultation processes actually produce in terms of real power-sharing. That is, to what extent

¹¹⁴ There are exceptions to this, including the case of *Dene Tha’ First Nation v. Canada (Minister of the Environment)* in 2006 when the Federal Court found that the federal government breached their duty to consult the Dene Tha’ on the creation and environmental review processes surrounding the MGP as early as the planning of the regulatory process, and that the duty to consult continued to be breached until a remedy to Dene Tha’ participation in the MGP regulatory process could be reached at a ‘remedies hearing’.

are Aboriginal peoples' views about environmental, social, cultural, and other impacts associated with industrial processes heard throughout consultation processes, and to what degree do these translate into actual resource management decisions? Or, perhaps more fundamentally, what are the contexts, associations, and ultimately, power relations involved in a consultation-type of relationship, and what can consultation, as a state sanctioned mechanism for eliciting Aboriginal input into resource management decisions, tell us about the epistemological underpinnings of relationships between Aboriginal peoples and the Canadian nation-state?

Michael Asch, a prominent anthropologist who has written extensively on law and its relation to Aboriginal peoples in Canada, states that "the law has two contrasting faces...since Confederation, Canadian law has represented a fundamental means whereby the values and institutions derived from the culture of settlers, immigrants, colonists, and their descendents were to be imposed upon Indigenous peoples. At the same time, there have been moments when these institutions and values have been successfully challenged through the application of the rule of law" (Asch 1997:i). Indeed, several scholars have pointed to the ways in which the judicial system in Canada, and associated forms of discourse and fact-finding processes, may not coincide with Aboriginal views about the world (*c.f.* Asch 1997, Culhane 1998, Nadasdy 2003, Palmer 2000). For example, Andie Palmer (2000) points to the ways in which oral histories may be treated by the courts as a lesser standard of proof of past events in establishing evidence for land claims. Paul Nadasdy has suggested that legal discourses of property and

ownership reflect long-standing Euro-American beliefs about human and societal development and that participation by Aboriginal groups in legal processes may, in fact, “serve to reinforce the symbolic power of the dominant classes” (2003:5). And, Michael Asch has argued that the principal of *stare decisis* limits the ability of the courts to move away from prior rulings that are based upon premises that are no longer tenable and move toward providing an instrument through which the judicial system can determine legal rights fairly (Asch 1997:74).

On the other hand, a cursory examination of recent judicial consideration of Aboriginal rights in resource development decisions suggests that courts *are* increasingly pointing to higher standards in how industry and governments ought to interact with Aboriginal peoples with regard to resource development decision-making processes. The entrenchment of certain ‘existing’ Aboriginal rights in section 35(1) of the Canadian Constitution, on-going land claim and self-governance processes, and the establishment of the Crown’s fiduciary duty to consult with Aboriginal groups on projects that have the potential to infringe upon rights and lands have provided a legal framework whereby Aboriginal rights might at last be taken seriously by project proponents and Canadian governments. In the case of the Northwest Territories, several avenues for participation in development and land management decisions have been entrenched in law as a result of comprehensive land claim agreements including cooperative management boards responsible for issuing land and water permits, and the requirement to include ‘Traditional Knowledge’ in land and permit applications.

Yet, it is unclear to what extent these processes of consultation and participation in resource decision-making have resulted in a transformation in power relationships from the imposition of resource decisions made by federal governments and multinational corporations, to genuine power sharing between local Sahtu Dene and Métis peoples and outside interests looking to conduct work on Sahtu lands. From the perspective of many Sahtu Dene and Métis people, despite being entrenched in the SDMCLCA, the processes and practices of consultation have not resulted in the kinds of collaborative relationships and decision-making processes once envisioned by Sahtu Dene and Métis people. Indeed, as I have heard from several distinguished national Aboriginal leaders, consultation has become a 'dirty word' in many Aboriginal communities across Canada. So, what is it about current 'consultation' processes and practices that has resulted in the disillusionment of those whom consultation is intended to engage in the first place? This chapter will examine the various consultative processes surrounding non-renewable resource development in the Sahtu with particular attention paid to claims made by many Sahtu Dene and Métis people that participation in consultation processes has not resulted in significant community influence in non-renewable decision-making planning or regulation. I will document the very specific processes involved in consultation practices and examine the culturally framed beliefs, motivations, and engagement strategies that proponents and community members bring to the consultation arena. Ultimately, I argue that despite increased investment on behalf of proponents and communities in consultation activities, consultation with Sahtu Dene and Métis communities has not necessarily led to improved relationships between

proponents of development projects and those communities on whose land they are working. Indeed, evidence from the Sahtu suggests that the institutionalization of requirements for consultation required as a result of Canadian legal jurisprudence, and through the SDMCLCA, has not necessarily resulted in substantial increases in community empowerment, nor does it necessarily result in increased community input into development decisions. This chapter will present a detailed analysis of consultation processes in the Sahtu, and will examine the politics of instituting formal relationship building between communities and proponents in the Sahtu.

Legal Requirements for Aboriginal Community Consultation in Canada:

Canadian legal jurisprudence and recent case law have dealt with the Crown's duty to consult with and (where appropriate) accommodate Aboriginal peoples in decisions concerning Aboriginal rights and lands. The duty to consult originates in the fiduciary duty of the Crown under its responsibility to Aboriginal peoples. Thomas Isaac and Anthony Knox note that the Supreme Court of Canada began a serious discussion of the Crown's duty to consult in *Delgamuukw v. B.C.* by noting that "the fiduciary relationship between the Crown and Aboriginal people may be satisfied by the involvement of Aboriginal peoples in decisions taken with respect to their lands" (2003:58). However, requirements for Crown consultation with Aboriginal groups was first established seven years earlier in *R. v. Sparrow*, heard before the Supreme Court of Canada in 1990. In this case the court ruled that laws interfering with the exercise of constitutionally protected Aboriginal rights must conform to constitutional standards of

justification. In other words, the court found that although Aboriginal rights under section 35(1) of the Canadian Constitution must be taken seriously, they do not constitute absolute rights, and therefore can be infringed upon provided the Crown can establish a legitimate purpose for the infringement and that the infringement is consistent with the honour of the Crown (Culhane 1998). Under this ruling, consultation with Aboriginal groups constitutes one of the tests for justification of the infringement of constitutionally protected rights, otherwise known as the Sparrow Test¹¹⁵ (Brackstone 2002).

Prior to 2004, judicial references to the Crown's duty to consult had only been considered in reference to the Aboriginal rights entrenched in the Canadian constitution, thereby requiring Aboriginal rights to be existing in order for the duty to consult being engaged (Isaac & Knox 2003:58). However, in 2004, the Supreme Court of Canada issued rulings in two cases involving First Nations in British Columbia. Both cases, (*Haida Nation v. B.C.* and *Taku River Tlingit First Nation v. B.C.*) involved questions regarding the Crown's duty to consult with and (where appropriate) accommodate Aboriginal peoples in decisions concerning Aboriginal rights and lands. In these cases the courts found that the duty to consult includes instances when there exists potential infringement of Aboriginal rights, or potential adverse effects on land claims before the claim itself has been settled. While the extension of the duty to consult to include potential Aboriginal rights or lands can be seen as a step forward in Aboriginal community engagement, both

¹¹⁵ Other elements of the Sparrow Test include an examination of whether the pending law has the effect of interfering with an existing Aboriginal or treaty right. Should the infringement be demonstrated, the Crown must demonstrate that it is acting relative to a valid legislative objective (i.e. development of agriculture, forestry, mining, or other resources) and that the infringement is consistent with the honour of the Crown.

the *Haida* and *Taku River* cases also leave the nature of consultation, and the degree to which third parties are obliged to engage Aboriginal communities open for considerable interpretation. Effectively, the *Haida* decision stipulates that the honour of the Crown, and thus the duty to consult, does not extend to third parties, though third parties can be held liable if they act negligently in their dealings with Aboriginal groups. In addition, both the *Haida*, and the *Taku River* cases establish that while the Crown has a duty to consult, it does not have a duty to reach an agreement with Aboriginal groups. Finally, both cases also maintain that the level of consultation needed varies with particular circumstances, establishing a wide spectrum ranging from 'minimal consultation' on one end (involving such actions such as giving notice to Aboriginal groups regarding decisions that have the potential to impact Aboriginal lands or rights), to 'deep consultation' at the other (aimed at finding a mutually satisfactory solution, and possible accommodation of community requirements).

The duty to consult with Aboriginal groups in decisions that have the potential to infringe upon rights and lands is intended to give Aboriginal groups an increased role in decision-making processes, and perhaps even more importantly, it is meant to serve as a means of reconciling relationships between Aboriginal peoples and the Crown. However, while the duty to consult establishes a legal foundation for dialogue with Aboriginal groups, questions remain as to effectiveness of a consultation dialogue, and the extent to which Aboriginal groups are able to influence decision-making outcomes. The reasons for this, I believe, are twofold: the ambiguity surrounding what constitutes Aboriginal

consultation in the first place, and when the duty to consult and accommodate is triggered (though the former was addressed to some degree in the 2005 case *Mikisew Cree First Nation v. Canada* and *Dene Tha' First Nation v. Canada* in 2006), and differing approaches and conceptions surrounding the nature of consultation processes on behalf of proponents, government, and Aboriginal groups.

Generally speaking, the courts have been relatively vague in terms of defining what constitutes Aboriginal consultation. In *Delgamuukw*, Lamer C.J.C. describes:

*“The nature and scope of consultation will vary with the circumstances. In occasional cases, when the breach is less serious or relatively minor, it will be no more than a duty to discuss important decisions...Of course, even in these rare cases when the minimum acceptable standard is consultation, this consultation must be in good faith, and with the intention of substantially addressing the concern of the Aboriginal peoples whose lands are at issue. In most cases, it will be significantly deeper than mere consultation. Some cases may even require the full consent of an Aboriginal nation.”*¹¹⁶

In *Halfway River First Nation v. B.C.* the court elaborated on the nature of the duty to consult:

“The Crown’s duty to consult imposes on it a positive obligation to reasonably ensure that Aboriginal peoples are provided with all necessary information in a timely way so that they have an opportunity to express their interests and

¹¹⁶ *Delgamuukw v. British Columbia* [1997] S.C.R. 1010 at 168

concerns, and to ensure that their representations are seriously considered, and wherever possible, demonstrably integrated into the proposed plan of action.”

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And in 2005, the Supreme Court of Canada issued a ruling in *Mikisew Cree First Nation v. Canada* finding that the duty to consult properly with the Mikisew was breached by the Crown:

“The Crown is required to provide notice to the Mikisew and to engage directly with them. This engagement should include the provision of information about the project, addressing what the Crown knew to be the Mikisew’s interests and what the Crown anticipated might be the potential adverse impact on those interests. The Crown must also listen carefully to the Mikisew’s concerns, and attempt to minimize adverse effects on its treaty rights...The Crown failed to demonstrate an intention of substantially addressing aboriginal concerns through a meaningful process of consultation.”¹¹⁸

As we can see in the above cases, the Supreme Court of Canada has been reluctant to define the parameters of what constitutes minimal consultation, preferring instead to establish a general framework whereby the duty to consult, and where appropriate accommodate, Aboriginal groups is discussed in general – but not universally binding—terms. On the one hand, this pliable approach to consultation allows for flexibility, enabling the creation of individual

¹¹⁷ *Halfway River First Nation v. B.C. (Minister of Forests)*, (1999) 178 D.L.R. (4th) 666 (BCAA)

¹¹⁸ *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, [2005] 3 S.C.R. 388, 2005 SCC 69 at 64

consultation processes that meet the needs of particular Aboriginal groups, industry or government goals. On the other hand, because there is no established uniform process or protocol for Aboriginal community consultation, many Aboriginal groups are reluctant to enter into dialogue with government or industry until a clear meaning of consultation principals and processes is agreed upon. For example, several Aboriginal groups including the Deh Cho First Nation in the NWT, and the Dene Tha' First Nation in Alberta have expressed their concerns regarding 'jumping into consultation' with government or industry regarding the MGP without a clear understanding of what constitutes consultation in the first place. The concern in these cases is for a clear outline of the responsibilities of each party in order to ensure a formal consultation process, to allow Aboriginal groups sufficient time to secure appropriate funding to obtain adequate technical expertise and analysis, and to avoid situations where industry argues that it has 'consulted' with the First Nations, without participating in meaningful consultation processes.

The question of third party or industry consultation with Aboriginal groups remains even more ambiguous. Both the *Haida* and *Taku River* cases suggest that third parties simultaneously do not have a legal duty to consult with Aboriginal groups, but risk potential liability if meaningful consultation is not undertaken. Because of this potential liability, third party and industry sectors have begun developing their own individual Aboriginal engagement processes, and have implemented strategies aimed at facilitating Aboriginal consultation. Although the creation of Aboriginal policies for organizations marks a significant

acknowledgement of Aboriginal rights and corporate responsibility to Aboriginal communities in Canada, it has also, in some cases, created complex organizational bureaucracies and failed partnerships as the goals of communities and the timelines of industry do not always operate in tandem.

Generally, for industry, the ultimate goals of consultation processes remain market-driven and outcome based, rather than necessarily achieving sustainable long-term relationships with Aboriginal groups or addressing the wider cultural, spiritual, economic, or social needs of communities. And, corporations are often quick to point out that they are not in the business of providing social programs, or in ‘reconciling’ the relationship between Aboriginal peoples and the Crown – this, they rightly argue, is the sole responsibility of governments. However, corporate objectives for engaging in consultation processes (i.e. for business sake) immediately contrast with some Aboriginal community approaches to consultation considered to be a relationship-building process that includes historical, spiritual, and cultural understandings in addition to specific economic goals. After all, for northern Aboriginal communities the impacts of many ‘development projects’ can involve very serious social consequences, and communities often have much more than an economic bottom-line at stake. In this way, for many Aboriginal groups, consultation is not limited to a single isolated meeting, project or outcome, but involves an entire range of long-term commitments and the establishment of sustainable relationships (McLafferty & Dokis 2004). Ciaran O’Faircheallaigh has pointed out that time allowed for project planning and approval is “generally excessively short, particularly given

that indigenous decision-making processes may be protracted” (1999:64). Other scholars have argued that indigenous perspectives on social, cultural, ecological or other impacts are often not considered seriously in consultation processes, resulting in a marginalization from resource decision-making processes (Edelstein & Kleese 1995). Furthermore, despite the importance placed on public participation in environmental assessment, the Canadian Environmental Assessment Agency (CEAA) has itself suggested that Aboriginal peoples continue to play a minor role in the environmental assessment process, and because many environmental assessment panels are considered quasi-judicial independent bodies (i.e. not acting as representatives of the Crown), Aboriginal peoples are considered as part of the general public, or as “simply one of many stakeholders” in the EA process (CEAA, 2004). That is, there is no requirement within the *Canadian Environmental Assessment Act* to consult with Aboriginal peoples, as distinct peoples, in the course of environmental assessment.

While several legal scholars have traced the evolution of the duty to consult in Canadian legal jurisprudence (Bergner 2005, Brackstone 2002, Isaac & Knox 2003, Szatylo 2002), and many corporations have established policy documents outlining approaches to consulting with Aboriginal groups, research pertaining to the effectiveness of Aboriginal community consultation is not readily available in the anthropological literature. Paul Nadasdy has touched briefly on consultation in the contexts of resource co-management institutions, stating that the engagement of Aboriginal groups in resource decision-making processes varies widely from “simple consultation, which consists of an explicit attempt on

the part of resource managers to elicit the views of local people, to the actual institutionalization of joint decision-making” (2003:115). Nadasdy ultimately argues that the structure of co-management “takes those very institutions and practices as givens and thus perpetuates rather than transforms unequal power relations” (2003:185). This echoes critiques of consultation processes elsewhere. For example, Lawrence and Macklem (2000) suggest that rather than establishing co-operative relationships, “consultation processes, by and large, have not led to lasting settlements. Instead, consultations increasingly serve as a kind of pre-trial discovery process, closely resembling the litigation they were intended to forestall, and constituting the first step in protracted legal disputes” (254). In my view, similar complications surrounding the legitimation of decision-making authority surrounding critiques of public participation in environmental assessment are also relevant here. That is, while certain ‘existing’ Aboriginal rights are entrenched in section 35(1) of the Canadian Constitution, they are not absolute rights and can be infringed provided that the Crown can provide a legitimate purpose for the infringement; part of the legitimation includes consulting with Aboriginal groups most likely to be affected by the infringement of the right. That is, in the extreme, consultation could be conceived as a means for proponents and governments to justify the abrogation of potential or existing Aboriginal rights through legal means. After all, as outlined in the above legal rulings, consultation does not amount to a veto right on the part of Aboriginal groups. Thus, on one hand, the legal requirement for consultation with Aboriginal groups does seek to establish a legal framework whereby the needs of local communities must be considered in the context of land-use or industrial

planning. On the other, however, the motivations and procedures utilized by industrial proponents and governments within consultation processes tend to limit the ability for decision-makers to fully and accurately consider the values and needs of Aboriginal communities when it comes to industrial activities on their lands.

An excellent example of this is the recent trend within government departments and agencies, and various industry sectors of offering seminars to staff and management aimed at increasing knowledge and understanding of diverse Aboriginal cultures, histories, economies, and perspectives on legal frameworks. These seminars often involve an exploration of Aboriginal worldviews, relationships to the land, and best practices in Aboriginal community engagement. However, while government and industry are calling for an increased awareness of how Aboriginal peoples perceive case law and legislation, Aboriginal views on these issues often conflict with official government and industry stances, particularly in the case of land claims, interpretations of case law, and treaty rights. For example, references to what Aboriginal groups consider to be traditional territories, not covered by treaty, are often removed or neglected in training seminars with the argument that mentions of traditional territory might lead to a conflict of interests whereby any confirmation of traditional territory by a government agency may serve to facilitate confirmation of Aboriginal title or rights in later land claim cases. Similarly, Aboriginal interpretations of case law and treaty rights are often mediated by pedagogical caution, preferring to refer to specific reasons for judgment or legal head notes,

rather than considering the ways that judicial decisions impact Aboriginal communities on the ground. This perceived conflict of interest often results in a minimization of Aboriginal perspectives on these issues and lessens the effectiveness of organizations and government to effectively engage Aboriginal communities.

One of the critiques of the consideration of Aboriginal perspectives on consultation processes within legal contexts is that it is overly generalized, and therefore conceptions and practices of ‘consultation’ are often discussed in terms of their translocal nature. This approach regularly results in the creation of a monolithic picture of Aboriginality (i.e. all Aboriginal groups perceive consultation in a particular way), while at the same time neglects to develop a clear grounding of base-line minimal standards for consultation whereby the needs and expectations of multiple Aboriginal communities can be reasonably considered. What follows in this chapter is an exploration of the effectiveness and experiences of consultation processes in the SSA. I will consider the consultation strategies employed by industry, governments, and Aboriginal groups, but also the structural limitations of consultation processes as a result of the SDMCLCA. Most importantly, in my view, I will examine the expectations and values that industry, government and Sahtu Dene and Métis peoples bring to the table, including the very important question, what does it mean to consult with another human being in an inter-cultural context?

Consultation in Practice, Consultation in Principle: The Consultation Process Revisited:

In the Sahtu Region, the legal requirement for consultation rests not only in Canadian legal jurisprudence, but also as a requirement for license and permitting processes through the Sahtu Land and Water Board, and as a legal requirement within the body of the SDMCLCA itself. According to the SDMCLCA, the government must engage in consultation with the Sahtu Tribal Council in matters ranging from wildlife harvesting regulations, the creation of National or Territorial Parks or Protected Areas, the tendering of calls for nomination for oil or gas subsurface licenses, and various other matters. The SDMCLCA also stipulates that a 'person' wishing to explore for oil and gas must consult with the Sahtu Tribal Council prior to any oil or gas exploration taking place. 'Persons' interested in exploring for minerals other than oil and gas (i.e. mining) must consult with the Sahtu Tribal Council only if their activity requires a land-use or water license, or if they wish to develop or produce the material. In other words, as stated within the SDMCLCA, companies wishing to explore for oil and/or gas must consult with the Sahtu Tribal Council or their designated authority prior to any exploration activity, however, a company seeking to explore for other subsurface materials can do so without consultation so long as they do not need a water or land-use permit, but must consult with the Sahtu Tribal Council prior to the development or production of any mineral claim.

The differences in consultation requirements for oil and gas and mining industries has had several consequences. First, because oil and gas companies are

required to consult earlier and more frequently with communities, they often have much more experience in consultation practices. Second, the disparate consultation requirements between mining and oil and gas industries often result in confusion and unease among local people who have come to expect consultation to happen early in the case of oil and gas exploration, but who often see mining prospectors and wonder what they are doing on their land and why they have not come to talk to local folks about their activities. For example, just prior to my first trip to Colville Lake, I had heard that a long-time resident and former missionary in Colville Lake rented out bunks for people wanting to visit the community. I called this individual and inquired as to the availability of accommodation, and what it would cost. He told me that for \$120 per night I could rent a bunk that would include a pail of fresh water every morning and some wood for the wood-stove. When I told him that I was a single woman traveling on my own, he suggested that it would not be appropriate for me to stay in his bunks in Colville Lake. “These are shared bunks,” he said “twelve bunks to a room, and right now I have eleven diamond prospectors staying with me. You might want to find something else.”¹¹⁹ Incidentally, the following month Elders in Colville Lake emphatically remarked at the JRP hearings that they do not want these diamond prospectors “poking around” their lands without their knowledge or consent. The diverse approaches and regulations surrounding the timing of consultation for mining and oil and gas industries can lead and has led to much confusion among local peoples about who should be consulting and at what stage in the project this ought to be done.

¹¹⁹ Conversation with Bern Will Brown, March 2006.

During my time in the Sahtu, I heard numerous peoples say that they have a right to be consulted on any projects that take place on or near their lands. People have rightly pointed out that the requirement for companies to consult with potentially affected communities is entrenched in the Sahtu Dene and Métis Comprehensive Land Claim Agreement. In Section 2.1.1 of the SDMCLCA, the definition of consultation is given as:

- (a) *the provision to the party to be consulted of notice of a matter to be decided in sufficient form and detail to allow that party to prepare its views on the matter.*
- (b) *the provision of a reasonable period of time in which the party to be consulted may prepare its views on the matter, and provision of an opportunity to present such views to the party obliged to consult;
and*
- (c) *full and fair consideration by the party obliged to consult of any views presented;*¹²⁰

As is the case with Canadian legal jurisprudence, while the SDMCLCA includes a skeletal outline of what must be included in consultation activities, the nature and extent of consultation remains generalized and opaque; it does not describe the process of consultation, or how consultation is to be carried out. For example, while the definition of consultation states that the consultation activity must come in a sufficient form, it does not state what that form might be, or who

¹²⁰ Sahtu Dene and Métis Comprehensive Land Claim Agreement. (1993) Volume 1: Section 2.1.1 “Definitions”. Pp. 3.

determines whether or not it is sufficient. Similarly, timeframes for consultation must be reasonable, but standards of reasonableness are variable, particularly when communities and governments have diverse pressures and objectives for consultation activities. Finally, while full and fair consideration of community views must be undertaken by proponents, it does not provide a means for the effectiveness of this consideration to be evaluated. In other words, while the definition of consultation as provided within the SDMCLCA does state that the consideration of community views must be full and fair, there is no indication as to the standards of fairness, or who gets to decide whether or not community views have been fairly or completely considered. The ambiguity of the SDMCLCA definition of consultation has had significant implications for relationships between Sahtu Dene and Metis communities and proponents wanting to conduct work on Sahtu lands in three different areas: 1) the format of community consultations, 2) the constitution of fairness and reasonableness within the consultative relationship, and 3) the timing of consultation in the overall project planning and permitting process.

The Process of Community Consultations in the Sahtu Region:

Despite a lack of clarity within the text of the SDMCLCA surrounding what constitutes consultation, the process of consultation in the Sahtu follows a fairly consistent pattern. In contrast to an Access and Benefits Agreement negotiation, which is typically conducted in closed meetings with select representatives of the various Land Corporations, consultation in the Sahtu often comes in the form of a public meeting. The structure and format of the public meeting are fairly similar:

proponents introduce themselves and ask for people to sign their name on a 'list of attendees' of the meeting. Proponents then give a presentation of their project, and then allow a small amount of time for people to ask questions. In order to get people to attend the meeting, proponents often have the event catered and either hire local cooks to provide moose, fish, turkey, potatoes, salads, bannock, and other foods, or they bring chinese food in from Norman Wells. Without exception, corporate representatives fly in to the community a few hours prior to the public meeting for private meetings with Land Corporations or other government leaders, and leave on chartered aircraft as soon as the meeting is over. Afterward, the company prepares a short report of the meeting, including the names of the people in attendance, and includes this with their permit applications to the Sahtu Land and Water Board.

I have attended several consultation meetings in the Sahtu for both mining and oil and gas sectors. The following is a description of one of the meetings that I attended, and although I do believe it is representative of consultation meetings held in the Sahtu generally, it is an especially powerful example of how poorly consultation process in the Sahtu serve to develop relationships between proponents and communities in the Sahtu. For this particular meeting, representatives of the proponent flew into the community at about four o'clock one Tuesday afternoon in April. The meeting began at seven o'clock in the evening, but as usual, things were slow getting started. Before long, several people from the local community came in and those gathered began eating the incredible feast that was provided by several women in the community who had been hired

for the occasion as cooks. The people gathered made small talk, but there was a general sense of unease in the room, and the representatives of the proponent looked rather uncomfortable. One lady representing the proponent walked around the room and shook everyone's hand. After a while one of the representatives from the proponent stood up and said that the meeting should begin.

The proponent gave a very technical power-point presentation that described the mineral deposits in the ground in the area of interest and how they planned to extract these minerals. They talked about how many jobs the project was expected to create for local residents, and about the anticipated ecological impact of the project. After the presentation, the proponent opened the floor up for questions.

The first question came from the President of one of two Land Corporations operating in the community. He wanted to know why his Land Corporation had not been consulted regarding this particular project. The proponents stated that they had consulted with 'the community', but that they had consulted with the other Land Corporation and the Hamlet, and that they thought that this was sufficient. The proponent stated that they did not know that they had to consult with the other Land Corporation (or Chief and Council) as well. After further prodding, it was revealed that the proponent had already submitted their license applicatioin to the Sahtu Land and Water Board, even though this consultation (and the negotiation of an Access and Benefits Agreement) had not been carried out. Those gathered pointed out to the proponent that "they would be hearing

from the Sahtu Land and Water Board soon,”¹²¹ as consultation and the negotiation of Access and Benefits was a requirement for licensing approval. The Land Corporation President then stated that perhaps while the proponent was in town they could have a meeting to discuss the development of an Access and Benefits Agreement. The proponent replied that they were leaving the community right after the meeting, and that even if they could stay, no one there from the company had the authority to be negotiating Access and Benefits Agreements.

After the meeting was over, I had a brief discussion with the President of the Land Corporation who had questioned the proponent about why his organization was not consulted prior to the public meeting. He was obviously distraught over the events of the meeting, and the lack of consideration given to his Land Corporation by the proponent. He kept saying “no matter what, they are going to have to come back and consult”. And then he stated to me, “I do not know why companies won’t consult. It is like they think that we are anti-development, that consultation will lead to us either saying no or asking for a million dollars. We are not anti-development, we just want to participate.”¹²²

As the above example shows, the use of public meetings as the primary forum for community consultation presents several barriers. First, while proponents often attempt to create an informal atmosphere for consultation meetings by providing a feast where people can mingle before the official meeting takes place, this informal component of the meeting is often very brief and does not allow for sufficient time for local community members to ‘get to know’ proponent

¹²¹ Fieldnotes, April 10, 2007.

¹²² Personal conversation, April 10, 2007.

representatives on a more personal basis—something that is often vital for community members in the development of a trust relationship with outsiders. Since the late nineteenth century, furtraders, mining prospectors, military, researchers, and oil and gas developers have come and left the Sahtu, often leaving disastrous consequences in their wake.¹²³ Just as is the case with current proponents, many of the outsiders who have come to profit from the resources of the Sahtu returned to the south once their exploits were over, leaving local residents to deal with the impacts of such projects. Very few of these endeavors have ever resulted in benefits for local communities, and local people were rarely ‘consulted’ about their views of the projects. This history of outside exploitation of Sahtu lands continues to play a significant role in local peoples perceptions of proponents and consultation processes. Proponents who come and go quickly from communities (as most do), and who do not spend time developing rapport with community leadership, Elders, and members at large are often deeply distrusted, as are their projects and promises of jobs and benefits.

The impersonal nature of consultation meetings and processes does little to ease local concerns that proponents will be accountable to local communities, or that community voices are being appropriately heard in development plans. In the Sahtu most exchanges of information among the general population are conducted in informal settings: through visiting homes, sharing tea, or at church, handgames, or other celebrations. And, at least in my experience, the exchange of information in these contexts is just that: an *exchange*, whereby it is just as

¹²³ See chapter 2 on the history of uranium mining at Port Radium, the oil fields at Norman Wells, and the Canoil pipeline, among others.

important for local people to learn about you as it is for you to learn about their life experiences. By flying in and out of communities within hours of consultation meetings, proponents send very clear messages to community members that they are not interested in learning about or getting to know the communities with whom they work; instead they present the image that they are interested in getting project approval in the quickest, most cost effective way possible.

The substantive component of the formal consultation meeting is the formal presentation made by the proponent to the community members. These presentations usually include power point presentations, very detailed cartesian maps, engineering designs, and specialized geophysical graphs and data that are often very difficult to understand, particularly at short glance. As is the case in environmental assessment hearings, this highly technical data can be extremely intimidating for local residents, particularly if they are not familiar with industry vernacular. Local residents, if they come to consultation meetings at all, have often expressed to me privately that they feel very intimidated asking questions in the context of these formal meetings. Speaking with an employee of one local Land Corporation, she indicated to me that formal meetings can present a barrier to effective engagement with Elders. In an interview she stated that, from her perspective the consultation process is very flawed:

“Elders are often not consulted, and they are sometimes too shy to participate in public hearings. There is one Elder in particular who is Tulit’a’s last trapper. He is very knowledgeable and he has told me that he has a lot to say about this development as it is going on all along his trap line. But he will not go to the public

meetings because no one will listen to him anyway, and it is just a waste of his time.

There are a lot of people that do not know what is going on with the projects, and they are often confused about what is happening. People in the community have a lot to say about this.”¹²⁴

In many cases, public meetings are the first time that community members hear about proposed development projects and, unlike the proponents who have often spent months preparing detailed studies of anticipated impacts and design features, they have not had time to consider the project under proposal. Thus, community members are required to digest the information presented in the course of a short (often approximately 30 minute) presentation and must be able to formulate any questions that they might have immediately, something that is very difficult to do even for individuals who have a working knowledge of oil and gas or mining terminology. Contrary to the short timelines for considering projects, asking questions, and voicing concerns provided by consultation meetings, information exchange and decision-making in the Sahtu is often conducted over a longer period of time. People in the Sahtu often talk about the need or practice of sitting down and “really thinking about” what is under consideration. This is done both for individual or personal dilemmas that people might face in the course of their daily lives, but especially when or if a ‘big decision’ is about to be made; and for Sahtu people development projects are certainly big decisions. Just as the acquisition of other forms of knowledge attained through the use of stories or land-based experience is not time-specific,

¹²⁴ Interview with a Land Corporation office executive, February 12, 2007.

important information acquired through meetings must be thought about carefully before any form of decision can be made. For example, while stories are considered an important form of knowledge transfer, knowledge transference is not immediate but rests upon the preparedness of the individual to understand the story and the work that the individual puts into its comprehension. Similarly, in the Sahtu, there is a general understanding that an important decision cannot be rushed, but can only be made once it has revealed itself through a great deal of 'thinking about it'. As one Elder stated in response to the MGP: "for now, we don't say "yes" and [we don't say] "no". We have to really think about it, and if we say "yes", it's just like we put a rock over there, and then we have to work together" (JRP Community Hearings Transcripts. Déline, April 3, 2006. Vol. 16, 1648:26-27).

If the project is not new, but rather an extension of previous work conducted in the area, local people may be more familiar with the project plans and be able to speak to certain impacts that they have witnessed on their communities or the landscape. However, observations made by community members about project impacts are often countered by highly technical reports prepared by the proponent. For example, during a consultation meeting held in July 2005 for the Husky Summit-Keele 2006 Drilling Program located approximately 60 km SSW of the community of Tuli't'a, local residents expressed concerns over the proximity of the existing program access route to an important fishing location, Stewart Lake. The consultation report filed by Husky states:

“several elders identified a need to re-evaluate the existing access at Stewart Lake. Participants voiced their concern that vehicular traffic through the area could threaten important fish stocks in the lake, and in the event of a disaster, could irreparably damage an area of significant traditional value. The community stated that regardless of any mitigation measures imposed, some risk to Stewart Lake will remain.”¹²⁵

However, despite the articulation of local concerns surrounding the potential harm posed to a favoured harvesting location expressed at the consultation meeting, Husky concluded that they would, indeed, propose to go ahead with the Stewart Lake Access Route:

“Husky project management team examined the Stewart Lake and Alternate Route B options from the perspective of safety, environment, cultural values, long term planning, and regulatory compliance. Once all of the pertinent information was balanced, the team elected to use the existing Stewart Lake access route for the 2005/2006 drilling season.”¹²⁶

In the end, Husky concludes its report and permit application with the following claim:

“A review of the available information indicates that those consulted have no significant concerns in the areas proposed for development. Areas of traditional and

¹²⁵ Husky Oil Operations Ltd. Land Use Permit & Water License Application (Summit-Keele 2006 Drilling Program).

¹²⁶ *ibid*

historical significance can be protected by taking a progressive and consultative approach to land and water use in the planning and execution phases of the proposed drilling program.”¹²⁷

This example illustrates three fundamental components of the consultative relationship between proponents and community members in the Sahtu. First, just as is the case in Environmental Impact Statements and assessments, the process remains proponent driven and the flow of information remains unilateral: from project proponents to communities, rather than an exchange of knowledge. When proponents come to Sahtu communities to ‘consult’ with local peoples about proposed developments, development plans have already been established and proponents seek to explain these development plans to local community members in the hopes of gaining support for (or at least not active resistance to) their projects. As exemplified by the short amount of time proponents spend actually engaging with local community members, proponents are generally uninterested in reciprocal forms of knowledge exchange, unless this knowledge exchange is specifically mandated by management or regulatory bodies for land-use or water permit applications.¹²⁸

Second, even when local community members give their opinions or suggestions, or voice their concerns, there is no guarantee that proponents will accommodate community concerns. Providing a space where community concerns can be

¹²⁷ Husky Oil Operations Ltd. Land Use Permit & Water License Application (Summit-Keele 2006 Drilling Program).

¹²⁸ Proponents are required to engage in Traditional Knowledge Studies as a requirement for land-use and water permits in the Sahtu, but these studies are often dictated by the proponent and include very specific methods of data collection. Complications surrounding the use of Traditional Knowledge Studies are addressed later in this chapter.

expressed, and appropriately listening to those concerns in an inter-cultural context are two different matters entirely. In the above example, Husky Oil decided not to move their proposed access route for reasons described as a balance of safety, environment, and long term planning. Thus, local concerns surrounding the integrity of an important harvesting and traditional-use area, while taken into consideration, were deemed to be not as important as other factors. This is despite the fact that local community members were expressing their concerns about what they saw as the potential for project activities to adversely affect fish stocks in the lake, and the potential environmental consequences of oil spills or leaks from vehicular traffic. Local people *were* talking about environmental and safety considerations, however, the points raised by local community members were set aside for what the proponent considered to be the 'really pertinent' information.

Third, proponents, not communities, are responsible for submitting reports of consultation meetings and processes to regulatory boards for permit applications. For the most part, these consultation reports include items such as the dates and times that the proponent held public meetings in the community, how many people attended (and their names), and only occasionally an overview of what was said in the meeting. All of the consultation reports that I have seen have concluded with the same general theme: that, "a review of the available information indicates that those consulted have no significant concerns in the areas proposed for development." This is true, as in the above example regarding Husky Oil's Summit-Keele drilling program and the concerns voiced regarding

access to Stewart Lake, even when community concerns are voiced in consultation meetings. The ability for the proponent to single-handedly determine whether or not what people have said in consultation meetings was 'significant' can severely undermine any concerns that local people may have regarding proposed developments and subverts the position of local community members as active participants in consultative processes. Consequently, local people have begun to see consultation processes as a means for proponents to obtain regulatory permits, rather than a process of meaningful relationship-building, and at least in some cases, some local people have chosen not to participate in consultation processes at all.

The perceived lack of consideration of local voices in the course of consultation meetings speaks to diverse conceptions of what the nature of a consultative relationship ought to be. Sahtu Dene and Metis people are correct when they point out that proponents must consult with local communities; "it is in the land claim", they often say, and they are right. However, the interpretation of consultation as laid out in the SDMCLCA, and as it is construed by proponents is not how Sahtu Dene and Metis people intended it to be. When speaking with a Chief of a Sahtu community he said:

"When the land claim was created, the people thought that consultation would mean building relationships and having a real say in what happens on the land. But now, companies can come in and shake your hand and say that they have consulted. And if the person that they talk to says no, then they can just go and talk to

*someone else who says yes—then they will say that they have consulted and the community says yes”.*¹²⁹

What constitutes consultation, then, has become a question of voice; of who speaks for a community, and of what consultation means for those people that it impacts the most.

The Nature of a Consultative Relationship: Exchange, Reconciliation, and Building Sustainable Partnerships:

When I first arrived in the Sahtu, I asked a man who worked for a local Sahtu Designated Organization what he thought consultation was. “A meeting”, he smiled in return. This statement reflects the experience of consultation by most people in the Sahtu; in general, local people feel as though consultation is another check on the box for big corporations who want access to Sahtu lands. However, when I rephrased my question, and asked: what do you think consultation ought to be? I received a very different answer. This gentleman explained then that consultation should be a process whereby local people and proponents can begin to feel comfortable enough with one another so that they can begin talking about a project and a permit application.

These two differing visions of the nature of a consultative-type relationship lie at the heart of why so many people in the Sahtu have become disenchanted with engagement and participatory processes. From the perspective of many Sahtu Dene and Metis people, there are wide discrepancies between their perceptions of current consultative practices in the Sahtu, and their visions of what a

¹²⁹ Interview, April 5, 2007.

consultative relationship ought to be. Numerous individuals in the Sahtu have told me that, from their perspective, most companies see the consultation process as a means of fulfilling regulatory requirements, rather than engaging communities in a meaningful dialogue. Means of meeting regulatory requirements come at best in the form of a public meeting, one that often does not involve an exchange of information but more accurately reflects an old paternalistic idiom of telling local communities what proponents plan to do upon their lands; in other cases, depending on the project proposed, consultation has involved as little as a proponent contacting selected Sahtu Designated Organizations by telephone. Local experiences of consultative processes have indicated that proponents document all forms of communication with community representatives as ‘consultation’, ranging from the number of time that proponents have phoned the community and the nature of these phone conversations, to the names of people who were in attendance at public meetings. Proponents document these encounters and send them as consultation reports to regulators as evidence of community consultation for permitting purposes. One evening I was having tea with a President of a local Land Corporation and our conversation ultimately turned to consultation processes. This gentleman said, “you know, companies use any communication with the community as an example of consultation. They call up here and they say that they have consulted. That is not consultation, it is just to set up meetings. People at the public meetings are forced to sign their names. But I tell my people not to sign their

names because this means that the meetings are consultation and that they have agreed to participate. It can be used against them.”¹³⁰

In part, complications surrounding a mutually agreeable conception of what constitutes community consultation comes from the vagueness of the definition of consultation itself. In English the word consultation is used to describe a number of activities, ranging from getting an opinion from a doctor in the case of a medical question, to seeking the advice of a lawyer regarding a legal matter. One can also consult with a spouse, for example, before taking a new job, and politicians often use the word ‘consult’ when they speak with their constituents. The Oxford English Dictionary lists the verb consult as “to seek information or advice from”, and indeed the common usage of the english verb ‘to consult’ involves some measure of taking council, of seeking another’s opinion, and perhaps even asking for guidance. However, nowhere in the common usage of the english verb ‘to consult’ is there a corresponding obligation for the consulting party to adhere to the advice they seek; people are not obliged to listen to the advice of their doctors or lawyers, and indeed, the degree to which politicians heed the advice of their constituents is always some matter of debate. Hence, the nature of a consultative relationship is ultimately unilateral; it implies the power of one party to impose its will even when it has sought the advice of others.

Definitions of what is meant by consultation in Canadian legal jurisprudence are equally vague. As demonstrated above, the nature of the consultative process as described in cases such as *Delgamuukw v. B.C* is dependent on circumstances, and

¹³⁰ Personal communication, February 10, 2007.

the scope of the duty to consult with Aboriginal peoples is proportionate to the strength of the case supporting the existence of the right or title, and the seriousness of the potentially adverse effect upon the right claimed. Yet, while the *Delgamuukw v. B.C.* decision does stipulate that consultation must be done with the intention of substantially addressing Aboriginal concerns even in cases of minimal standards of consultation, guidance is not provided in terms of how this is to be accomplished. The *Halfway River First Nation v. B.C.* decision does go slightly further in providing concrete outcomes for consultation processes, and suggests that when voiced, Aboriginal concerns must “wherever possible, be demonstrably integrated into the proposed plan of action.”¹³¹ Nevertheless, while recent decisions such as *Halfway River First Nation v. B.C.*, *Dene Tha’ First Nation v. Canada*, and *Mikisew Cree First Nation v. Canada* demonstrate that the nature of the Crown’s duty to consult is indeed taken very seriously by the courts, the precise nature of the consultative relationship continues to be determined on a case-to-case basis, which can leave Aboriginal groups vulnerable to diverse interpretations of the strength of their claims to land title and rights, and of their concerns about potential development projects being appropriately heard by both judges and proponents. And, while it is the case that consultation has recently been described as a means of reconciliation between Aboriginal peoples and the Crown (*cf. Mikisew Cree First Nation v. Canada*), it is important to remember that the first mentions of the Crown’s duty to consult with Aboriginal came in the form of a test for justification to infringe upon constitutionally protected

¹³¹ *Halfway River First Nation v. B.C. (Minister of Forests)*, (1999) 178 D.L.R. (4th) 666 (BCAA)

Aboriginal and Treaty rights. In other words, according to *R. v. Sparrow*, consultation (along with other components of the Sparrow Test) can serve as a means to justify a legitimate regulation of a constitutional right in the interest of “conservation, public safety, or the public interest.” That is, consultation, at least as it was originally considered by the courts, was a means through which governments could legitimately restrict Aboriginal rights.

However, in the Sahtu, specific Sahtu Dene and Métis rights are protected both constitutionally and through the SDMCLCA. Thus, the nature of consultative relationships, in the Sahtu at least, should be plain and clear. Proponents are required to consult with Aboriginal communities before exploring for oil and gas, and prior to ‘developing’ any mineral claim in the SSA, and while communities still do not hold veto rights in consultative processes, other mechanisms such as regulatory and permitting processes and the requirement for proponents to obtain access to Sahtu lands from District Land Corporations could be seen as providing Sahtu Dene and Métis people with substantial power in resource decision-making processes. Thus, in the Sahtu, questions surrounding Aboriginal community consultation are not about whether or not consultation should occur, but rather, what ought to constitute consultation in the first place.

In Dene, there is no word that translates directly to mean ‘consult’. Indeed, when I have asked Sahtu Dene and Métis people if there is a Dene word that they would use to describe something like ‘consultation’, they have replied that in Dene the essence of a consultative relationship is ‘a very long concept’. Throughout the Sahtu, people have told me very directly that for them the essence of consultation

is a process of building and maintaining long-term relationships so that companies and communities can work together to make sure that everyone benefits. Consultation involves getting to know proponents, and very importantly proponents getting to know the communities; in this way, people have told me, proponents will know what people mean when they say that the land is important to them, how very much people depend upon the land for physical, social, and spiritual sustenance, and what community priorities are in terms of future economic development. People have said that it is good to have public meetings, but that the meetings should not be the only form of consultation. For many people that I spoke with, consultation is much different than just having a meeting. Consultation is about listening to one another, and working together so that each party meets its respective obligations and goals. Indeed, one of the primary reasons that community members experience dissatisfaction with current consultation practices is that people in the Sahtu see the consultative relationship as a long-term process rather than a one-time event. In the Sahtu, when an important decision is to be made all of the people who have a stake in that decision gather and share their concerns and views; this process can last several days. Most of the time, informal decision-making processes are led by Elders, though everyone is able and invited to speak without interruption. Concerns may be discussed in the form of stories that have been handed down from generation to generation, they may be prophecies, they may be told through personal accounts and narratives, or they may be sung or drummed. However, each person in the Sahtu is given the opportunity to present their views on a

matter, without a concern for timelines, and with a genuine intent to hear, share, and build consensus.

Perhaps Sahtu Dene and Métis conceptions of the nature of the consultative process, one of an exchange and partnership, more accurately reflects the type of consultative relationships envisioned by Canadian Justices in their more recent rulings on consultation. In a recent decision in *Mikisew Cree First Nation v. Canada*, Justice Binnie writes:

“The fundamental objective of the modern law of aboriginal and treaty rights is the reconciliation of aboriginal peoples and non-aboriginal peoples and their respective claims, interests and ambitions... the multitude of smaller grievances created by the indifference of some government officials to aboriginal people’s concerns, and the lack of respect inherent in that indifference has been as destructive of the process of reconciliation as some of the larger and more explosive controversies” (Mikisew Cree First Nation v. Canada. Reasons for Judgment. Pp. 9[1]).

Justice Binnie goes on to say that, at least in the context of a consultative-type relationship, “Consultation that excludes from the outset any form of accommodation would be meaningless. The contemplated process is not simply one of giving the Mikisew an opportunity to blow off steam before the Minister proceeds to do what she intended to do all along” (*Mikisew Cree First Nation v. Canada. Reasons for Judgment. Pp. 34[54]*). In other words, the nature of a consultative relationship ought to be reconciliatory, and one of building relationships where,

instead of a unilateral transference of knowledge or a process of one-sided decision-making, there ought to be a genuine and appropriate consideration of the needs, rights, and visions of aboriginal peoples as they are engaged in consultative processes. Thus, consultation is not to be undertaken for consultation's sake, nor to necessarily justify an abrogation of potential or existing Aboriginal or treaty rights, but rather, to mend relationships between Aboriginal and non-Aboriginal Canadians, and to establish them anew.

The Politics of Participation: The Timing of Consultation in the Sahtu:

A significantly complicating factor in the establishment of a reconciliatory consultative process between proponents and community members at large is when the community consultation actually occurs in the course of project planning and regulation. In the Sahtu, because proponents require permission from the land owners now embodied in the form of a corporate entity, the first point of contact for many proponents wishing to conduct work on Sahtu lands is with the respective Land Corporations. To ensure the feasibility of the project, and as a first course of action for securing regulatory permits, they must garner the support of the local Land Corporation. This support is formalized and becomes official with the negotiation and execution of an Access and Benefits Agreement (ABA). Access and Benefits Agreements are negotiated by proponents and respective Land Corporations as means of articulating project approval, and as stated previously, occur in closed meetings between Land Corporation Presidents, selected staff, and the proponent. ABA negotiations are not conducted publicly and their substance is not made public, though officially beneficiaries of

the respective Land Corporations can obtain the content of an ABA at their respective Land Corporation offices. This is rarely done, however, as Land Corporation beneficiaries are often unaware of the negotiations until the ABA is already signed. Only once during my fieldwork activities was a proposed ABA put to the community for a vote prior to its execution by a Land Corporation. The failure of Land Corporations to consult with their beneficiaries is not necessarily the result of exclusionary tactics, but more often reflects the overwhelming number of companies seeking to negotiate ABA's, and 'consultation fatigue' experienced by both community leadership and members at large.

As a consequence, however, when proponents come to Sahtu communities to conduct community consultation meetings, presentations by proponents are made as though the project has already been approved by responsible community authorities, and indeed if an ABA has been signed, it often is. Thus, what community members say during the course of consultation processes may serve to modify existing project plans, but the essential approval of the project by community authorities has already been obtained through the ABA. The result is that community members often feel as though what they have to say in consultation processes does not really count; after all, official support for the project has already been achieved. As one community member said to me, "what is the point of doing consultation if an Access and Benefits Agreement has already been signed?"¹³²

¹³² Interview, April 9, 2007.

Technically speaking, in the Sahtu, community members at large are able to influence the permitting approval of any development project on their lands even when an ABA has been signed. The regulatory process, as established in the Mackenzie Valley Resource Management Act (MVRMA), does provide a means for community members concerns to be heard outside of consultation meetings and ABA negotiations. The Sahtu Land and Water Board (SLWB) regulates all land use permits and water licences within the SSA, including all Crown lands, Sahtu lands, and private lands. Once the SLWB receives a complete application from a proponent (including, in the case of oil and gas development, an executed ABA, evidence of consultation, and the use of Traditional Knowledge in their environmental impact statement) the SLWB can either issue a permit subject to certain conditions, hold public hearings on the proposed project, or refer the proposed project to the Mackenzie Valley Environmental Impact Review Board (MVEIRB) for an environmental assessment. One of the criteria for referring a proposed permit application to MVEIRB is evidence of significant public concern over the project. The SLWB has referred projects to MVEIRB for environmental assessment because of expressed community concern including a land use permit by Northrock Resources Ltd. for a winter airstrip near the Peele river staging area in 2004, and a permit application, again by Northrock Resources Ltd., for their Summit Creek drilling program in 2003. However, as is the case with determining the 'significance' of public concern or environmental impacts in other resource decision-making arenas, the degree of concern is often subjective and subject to the interpretation of third parties. For example, during the course of regulatory approvals for a land use permit for mineral exploration on the McTavish Arm of

Great Bear Lake, several Sahtu agencies including the Sahtu Renewable Resources Board and the Déline Renewable Resources Board expressed significant concerns both informally and through written letters to the SLWB. Yet, the SLWB concluded that the development proposal would have no adverse environmental impact or public concern and recommended the issuance of a Land Use Permit, until the MVEIRB conducted its own Preliminary Screening and found that there were indeed community concerns over caribou migration and a potential conservation zone where the drilling target was proposed. The MVEIRB, exercising its power under the MVRMA, did order the proposed project to an Environmental Assessment in September of 2007. Thus, while public concern expressed outside consultation meetings does have the potential to influence project approval, the actual cases of this occurring are rare in the Sahtu partly because it is dependent on the determination of community concerns as significant by regulatory boards such as the SLWB and MVEIRB.

Thus, the negotiation of ABA's, rather than engaging community members in a reconciliatory process of consultation, are often viewed as the only substantial means for communities to obtain some kind of benefit from a proposed development. Because proponents, once they have obtained a land parcel from INAC, do have a right of access to the proposed site subject to reaching an ABA with the respective Land Corporations, there is a general perception that ABA's are the best course of action to secure financial and other benefits from proponents. While proposed projects could be sent to environmental assessments based on environmental or other community concerns, the fact that

the outcomes of these processes are dependent on third party interpretations of expressed concerns or environmental impacts leaves communities vulnerable to outside decision-making authorities. In contrast, when a community enters into an ABA negotiation prior to the permitting process of a proposed project, Land Corporations are able to negotiate from a position of relative power; proponents do not want their projects to undergo environmental assessments or other supplementary regulatory requirements as they are very costly and can result in project delays of substantial time. Thus, proponents are often quite eager to engage community interests so long as they lead to a conclusion of ABA negotiations and are often willing to provide additional incentives to establish relationships with communities to gain their favour. For example, several fairly significant community events have been funded through proponent monies such as community hunts, hand game tournaments, and travel and accommodation for select community members to attend conferences and trade shows in southern Canada. However, the use of ABAs as a means of negotiating project approval has been critiqued from both within and outside of the Sahtu (*c.f.* Mitchell 1986, O’Faircheallaigh 1999). One cold February afternoon while I was on the way to the Northern Store, I stopped to talk with a local gentleman and, perhaps because there was yet another consultation meeting in the community that night, our conversation eventually turned to the topic of consultation. The gentleman said that from his perspective, “companies come in and they have already purchased the land parcels that were put up for sale by Indian and Northern Affairs Canada. The companies already have their drilling or mining, or exploration plans and they come to buy off the community with ABAs.” For him, consultation processes

are not consultation at all, in the sense that people have any real say in whether or not a project would or should happen on their lands, but they “have become a negotiation –a negotiation for money, for an ABA, for jobs.”¹³³

Some communities have capitalized on ABA agreements and have established subsidiary corporations and business development branches of their respective Land Corporations. Again, while the substance of any given ABA is not available for public consumption, there is no doubt that ABAs have provided training and employment opportunities to some community workers, and some contracts for local businesses. However, there is also a critique among local people that direct capital gained through access and benefits agreements does not trickle down to those who are using the land and most specifically to hunters and trappers who want to maintain a land-based economy.¹³⁴ Many local land users that I have spoken with have been very uncomfortable with the process of ‘selling the land’, as ABA’s are often viewed, and they feel as though a consideration of development project impacts on the land is given very little weight in ABA negotiations. Local land users have often expressed that the process of ABA negotiations and proponent consultation with the community in general, has emphasized the acquisition of money and jobs, often at the expense of the land. And, generally speaking, local land users feel as though their priority of maintaining a sustainable land-based economy is subsumed under the rubric of corporate aspirations, both by proponents and local business elites.

¹³³ Interview, April 9, 2007.

¹³⁴ For a detailed discussion of the tension between hydro-carbon and land-based economies in the Sahtu, see Chapter 6.

Participation as Cooptation: The Use of 'Traditional Knowledge' Gathering as a means of Legitimation:

One of the ways in which local land users do participate in the negotiation of ABAs is through the use of what has been termed 'Traditional' Knowledge studies. According to the SLWB permitting process, as a part of a permit application, proponents are required to collect "current, practical and site-specific" traditional/local ecological knowledge from "elders and others who have an intimate knowledge of the proposed project area"(SLWB 2004:5); this knowledge is assembled in a 'Traditional Knowledge' study. The associated costs of a 'Traditional Knowledge' study are negotiated between proponents and the respective Land Corporations, often as a part of ABA negotiations, and include items such as the budget and timing of the study. The methods by which 'Traditional Knowledge' studies are conducted in the Sahtu varies according to each community. For example, in Tuli't'a, the Mackay Range Development Corporation has assumed responsibility for conducting 'Traditional Knowledge' studies for the Tuli't'a Dene; Mackay Range has an employee who conducts the 'Traditional Knowledge' study in conjunction with local Dene land users, and who retains the information collected in an internal database for community use. Mackay Range then prepares a 'Traditional Knowledge' study report for proponents, but maintains proprietary rights over the information gathered. In other communities, however, there is no established prototype for conducting a 'Traditional Knowledge' study, and these studies are often conducted on short notice by various community researchers hired on short term contracts by the

Land Corporation, or when they are not available, by outside researchers or environmental consulting firms.

A review of the 'Traditional Knowledge' studies conducted in the Sahtu Region reveals that most of the studies follow a similar format, in part as a result of the information needed to accompany an application for a Land Use Permit, as advised by the SLWB in their 2004 Land Use Permit Process application checklist. The SLWB suggests that the following information may be considered as a part of the traditional/local environmental knowledge base: spatial elements, topography, soils, geology, climate, vegetation, water use, stream flow, wildlife considerations, annual and seasonal trends, transportation, burial sites or other sites of archaeological significance, and concepts; the SLWB also recommends that the 'Traditional Knowledge' study address why the land is important for Sahtu Dene and Métis peoples and include specific local beliefs associated with the land and land-use (SLWB 2004:6). Most of the information gathered as a part of 'Traditional Knowledge' studies is collected through individual interviews or focus groups with local land users, though some 'Traditional Knowledge' studies make use of secondary sources such as books, government reports, or information collected as a part of an on-going Sahtu GIS project.

The use of what has been politically termed 'Traditional' or 'Local' Ecological Knowledge in environmental assessment and management has been the subject of vocal critique among anthropologists and others working in the Canadian north. Stephen Ellis (2005), and Paul Nadasdy (2003) have both convincingly argued that the use of 'Traditional Knowledge' in environmental management and

planning is seen as legitimate only when it is incorporated into “the specialized narrative of science” (Ellis 2005), thus serving to discount the ways in which ‘Traditional Knowledge’ holders view, understand, and express their experiences of the world. Indeed, Mark Stevenson has pointed out that Aboriginal peoples’ participation in Traditional Knowledge gathering often requires Traditional Knowledge holders to “communicate their concepts and understanding of the environment and their place in it in the language of the dominant ideology” of wildlife management (Stevenson 1996). This, Stevenson argues, has led Aboriginal people to view the process of ‘Traditional Knowledge’ gathering as a form of theft and appropriation, and has resulted in a reluctance on the part of Aboriginal to participate in ‘Traditional Knowledge’ gathering processes at all. Derrick Armitage has pointed out that in the context of the MVRMA, the institutionalization of collaborative approaches to knowledge integration for assessment and permitting processes does show evidence of the gradual transformation of power relationships and continued local challenges to non-local worldviews and values embedded in resource co-management (Armitage 2005). However, he too points out that as a result of economic development goals, the absence of land use plans, and the proponent-driven nature of traditional knowledge gathering, “proponents are able to side step much of the responsibility” for seriously examining the politics of knowledge integration in the assessment of development projects in the Central Mackenzie Valley thus resulting in a reluctance on behalf of local people to participate in knowledge integration practices (Armitage 2005:252).

In the Sahtu the politics of knowledge integration is exemplified by the ways in which environmental assessment knowledge paradigms and those of local peoples collide in the context of 'Traditional Knowledge' gathering. While local researchers were often hired to conduct the interviews or facilitate focus groups, the design and execution of 'Traditional Knowledge' studies reflected distinctly non-local interests and conceptions of the landscape. Overall, in terms of completeness, the quality of the Traditional Knowledge studies are quite varied, ranging from very detailed information in some Traditional Knowledge study reports, to very brief summaries in others. In part, the level of detail included in the Traditional Knowledge study was directly related to time constraints and the demands of proponents. Because Traditional Knowledge studies remain proponent driven, and must be concluded prior to the submission of proponent applications for licenses and permits, proponents are often eager to have them completed so that permitting processes can get underway according to proponent time limitations. Much of the work conducted in the oil and gas sector in the Sahtu is extremely time sensitive, as companies must bring equipment in at certain times of the year when travel is easier, for example, in the fall when equipment can be brought in by boat before winter freeze-up. This can result in enormous demands upon proponents to obtain timely project approval and permits, and in turn places immense pressure on Land Corporations who consequently have a very small window of time to negotiate ABAs before the proponent declares that the planned annual activities are no longer feasible. Thus, some Traditional Knowledge studies in the Sahtu have been conducted in as little time as a few weeks.

The content of the Traditional Knowledge studies additionally serves to maximize proponents' ability to document and address areas of potential ecological and political sensitivity, and to identify local community members who might be adversely affected, and thus might require additional 'consultation'. Questions included in a Traditional Knowledge study, rather than attempting to document relationships between Sahtu Dene and Métis peoples and their land, function to create a kind of ecological inventory, and a list of who is using the land and for what purposes. The following is a sample of questions typically asked in the context of a Traditional Knowledge study conducted in the Sahtu:

- What types of animals, birds, or fish are found in the area?
- How did people from (community X) use the area in the past?
- Which families or individuals used the area?
- How do people from (community X) use the area now?
- Which families or individuals use the area?
- How will people from (community X) use the area in the future?
- How will the planned activities affect the way that people from (community X) use the area now and in the future?

Most of these interview questions require the respondent to describe only one aspect of the environment at a time. For example, respondents are asked to list the kinds of birds that are found in the area, followed by wildlife, and finally fish species. The delineation of distinct components of the environment, and an attempt to establish a categorical inventory of ecological features, reflects both a compartmentalized view of the landscape and the way in which environmental

impacts are determined in Environmental Impact Statements.¹³⁵ Most Sahtu Dene and Métis people emphatically state that the landscape cannot be broken up into categories, but rather the environment is viewed as intimately bound together on various ecological, social and moral planes. Additionally, despite the fact that most interviews with ‘Traditional Knowledge’ holders, local land-users, and Elders are conducted in Dene language, interview questionnaires and final reports are exclusively written in English. Thus, concepts about the land that are expressed in Dene by ‘Traditional Knowledge’ study participants are subsequently translated into English words and concepts that may not fit with original intent or meaning.

The types of questions asked in the context of the Traditional Knowledge Studies, the language used to record and report information, and the associated view of the landscape as inanimate and detached, is reflected in the final Traditional Knowledge Study reports submitted to the SLWB for licensing and permitting processes. With the exception of Traditional Knowledge study reports submitted by Mackay Range Development Corporation in Tullit’a, most ‘Traditional Knowledge’ Study reports conducted for the Sahtu are submitted by the proponent to the SLWB. Thus, community participants in ‘Traditional Knowledge’ studies have very little say in the composition or accuracy of the final report, and, indeed, often do not see the final report prior to, or even after its submission. This, of course, has serious implications for the ability of ‘Traditional Knowledge’ study participants to verify the accuracy of both the content and type

¹³⁵ For more on the ways in which environmental impacts are considered in environmental impact statements see Chapter 4.

of knowledge collected. For the most part, 'Traditional Knowledge' study reports are very short, often less than three pages in length, and the bulk of the report details the kinds of ecological features or wildlife found in the area under consideration. Very often final reports of 'Traditional Knowledge' studies discuss the importance of the area as a travel route, a heritage place, or a traditional use location. In most cases, the final report lists the names of the individuals or families who have or continue to utilize the land, and there is often some discussion about how harvesting is an important economic activity, and how potential impacts on wildlife (especially caribou and fur bearing animals) might influence how local land users hunt or trap. Occasionally, the final report will identify potential burial sites or other important features of the landscape such as old camps. Thus, most of the final reports identify how the land is important for ecological, archaeological, and economic reasons. This kind of information is often used by proponents to offer mitigation aimed at reducing potential adverse effects of the proposed project, or by offering compensation to affected land users. Yet, the 'Traditional Knowledge' study final reports do not typically address cultural or moral relationships that many Sahtu Dene and Métis people have with their land. The final reports include very few, if any, stories about local people's relationship to the land, and very rarely do the final reports address the ways in which the land (and activities conducted upon the landscape) are important elements of cultural continuity, identity, and are fundamental components of the physical, social, and moral wellbeing of the Sahtu Dene and Métis. Thus, final reports offer a categorical inventory of certain items or activities that the proponents deem significant for the purposes of regulatory permitting and

project execution, rather than a genuine incorporation of Sahtu Dene and Métis perspectives on and knowledge of the landscape.

Indeed, as identified previously, 'Traditional Knowledge' studies are often short both in the length of the final reports, and in the time dedicated to undertaking the study. Many proponents have argued that they only want to conduct one 'Traditional Knowledge' study for several different projects, despite the requirement from the SLWB that a new 'Traditional Knowledge' study be conducted for each permit application. For example, during my time in one Sahtu community one of the Land Corporations was engaged in intense ABA negotiations and part of the proponent's requests was that they only wanted to pay for one 'Traditional Knowledge' study that would cover work for activities proposed over a period of several years. However, the idea that 'Traditional Knowledge' is not site specific, or that it does not change over time, runs contrary to how local people perceive the knowledge that they hold about their land. For local land users, the knowledge that they acquire about the land is dynamic, and both knowledge about the land and the ways in which the land is utilized changes over time. The argument made by proponents that conducting one 'Traditional Knowledge' study for a large area or a range of projects limits the opportunity to effectively include any kind of local knowledge in project planning, design, and assessment.

In part, the lack of attention to cultural and moral relationships that Sahtu Dene and Métis people have with their land in the 'Traditional Knowledge' study reports reflects the ways in which 'Traditional Knowledge' studies have become

codified and reworked to adapt to the twin narratives of Western environmental science and economic development. Indeed, there is very little room for old-timer stories or for the inclusion of particular moral relationships that Sahtu Dene and Métis people might have with the land within the context of proponent's Environmental Impact Statements. The focus of 'Traditional Knowledge' studies is to quantifiably measure baseline environmental and economic data for the purposes of predicting potential project impacts and for establishing mitigation measures to avoid adverse effects, or when this is not possible, to identify potential means of compensation. However, for local people, relationships with the landscape do not fit with the typical cost-benefit analysis often employed by proponents and regulators as a means of considering harms and benefits of potential projects. After all, while it might be relatively feasible to identify a strategy to compensate a trapper whose trap line will be located on or near a potential project site and who is likely to see a reduction in annual trapping income as a result, it becomes much more difficult to identify and compensate the individual who perceives a seismic line or road as a literal tearing apart of his or her physical and social body.¹³⁶

However, there is another potential reason for the absence of stories of cultural or moral significance as well. One of the major concerns that people expressed regarding 'Traditional Knowledge' studies was how the information collected in the study would be used, and who would 'take care' of the information collected. Just as Stevenson (1996) argues that there is a general hesitation on behalf

¹³⁶ For more on the ways in which development impacts are often perceived by local peoples as a disruption in the social and physical body, see Ch. 6.

northern peoples to participate in 'Traditional Knowledge' gathering due to concerns over knowledge appropriation, many people in the Sahtu have become very reluctant to participate in 'Traditional Knowledge' gathering because they are often unclear about how the knowledge will be utilized. Proponents and those conducting 'Traditional Knowledge' studies for licensing and permitting processes often emphasize that the information in 'Traditional Knowledge' studies is being collected so that proponents can avoid disrupting potentially sensitive ecological and or cultural sites. However, participants in 'Traditional Knowledge' studies often find that their very participation in these studies is utilized by proponents as a means of consenting to the project's approval. In consultation summaries submitted to the SLWB along with 'Traditional Knowledge' studies, proponents often reference the names of the people who participated in the 'Traditional Knowledge' study, say that they have consulted with the appropriate land users (through the 'Traditional Knowledge' study), and that no significant concerns were identified by study participants. This, however, is often misleading as 'Traditional Knowledge' studies do not directly ask if the participants have concerns about the project, but rather ask for other types of information such as the location of camps or trap lines, or for an ecological inventory of species in the area. Thus, participation in 'Traditional Knowledge' studies is indeed a form of cooptation; an appropriation not only of knowledge, but also of consent.

The use of 'Traditional Knowledge' studies consequently places local land-users in the Sahtu in a particularly tricky situation. On the one hand, if local land users

do not participate in a 'Traditional Knowledge' study, their ties to a particular area (even if only considered for what it means in terms of economic or subsistence activity related to hunting, fishing, or trapping) go undocumented – this makes it very difficult to negotiate claims for compensation for loss of income, or to influence project planning. However, by participating in 'Traditional Knowledge' studies, local land users risk proponents mistaking participation in 'Traditional Knowledge' studies for consent to project approval. Local participation in this kind of 'Traditional Knowledge' gathering is thus utilized by proponents as a form of consultation, and indeed is seen by many members of Sahtu communities as one of several avenues for 'consultation'. When speaking with one community leader, she told me that “because meetings are sometimes poorly attended, much of the consultation process comes through the 'Traditional Knowledge' studies”. However, even she agreed that 'Traditional Knowledge' studies are “often short and do not always identify community needs”.¹³⁷ The conflation of the practices of consultation and 'Traditional Knowledge' studies is not benign in terms of its consequences for local participation in decisions concerning land use and management. The official objectives of 'Traditional Knowledge' studies are to develop a knowledge base for project planning, assessment of project impacts, and the eventual development of environmental protection plans or mitigation for the proposed project. Yet, “Traditional Knowledge' gathering, as currently practiced in the Sahtu, has been conceptualized by proponents and others as another means of consulting with local land users in such a way as to imply that if a person was to participate in a

¹³⁷ Interview, August 24, 2006.

'Traditional Knowledge' study, the very act of their participation signals a willing support for the project. In other words, in the eyes of proponents and regulators, simply by their act of participation, local Dene and Métis land-users simultaneously indicate their consent for the project and provide for the incorporation of 'Traditional Knowledge' into project management and planning. All this, without ever being asked what their views of the project might be, or whether or not the knowledge that they have shared has been heard, recorded, or interpreted with any manner of accuracy.

Beyond the Margins: Suggestions for Community Empowerment Through Consultation Processes:

The practice of community consultation has been seen by many developers and governments as a more efficient and cost effective way to manage resources and avoid conflicts between large multinational corporations and the needs and concerns of local communities most directly impacted by the effects of development (Nadasdy 2005, Ferguson 1994). To a large extent, community consultation is seen by many proponents, governments, and policy-makers as a linear extension of Western ideals of appropriate governance as participatory democracy. As Webler and Renn have suggested "public participation is deemed to represent the proper conduct of democratic government, and the legitimacy of decision-making is enhanced through open and fair processes and the accountability of institutions" (Webler & Renn, 1995). Yet, as this chapter demonstrates, consultation processes do not necessarily lead to increased transparency, standards of fairness, or accountability on behalf of proponents or regulators. Nor do they automatically translate into enhanced capacity for

governments or proponents to appropriately hear or address community concerns. On the contrary, in some cases, consultation can be and has been used to legitimate non-renewable resource decisions even when community participation in consultative processes indicates that local land users have significant concerns about, if not outright objections to, the approval of development projects. This is particularly the case when consultation occurs in an inter-cultural context where visions of appropriate economic development, relationships with the landscape, and the actual meaning of what it means to consult are not shared between parties.

However, while there have been several vocal critics of the current use of consultation processes in resource development projects, there is evidence of potential opportunities for a more inclusive voice for Sahtu Dene and Métis peoples through consultative processes. Because the SDMCLCA and Canadian case law have provided only a framework within which consultation ought to take place, the exact nature and process of consultation can be established on a case-by-case basis, as long as it fits within the framework established. This allows for the development of community-driven processes of consultation that are flexible enough to meet the needs of each individual project, but also to encapsulate the specific needs and values of each community. Indeed, community members often emphatically state that “we have a right to be consulted”, indicating a trust that consultation processes could work as avenues for increased influence in resource decision-making. During the course of my work in the Sahtu, several community members indicated a keen interest in working with

proponents to establish a consultative process that both satisfied legal and regulatory requirements, but also met the needs of their communities. I believe that there can and ought to be a strong community role in shaping how the consultation process should happen, and in laying out guidelines of appropriate engagement. A significant step in this process would be to establish an explicit and workable definition of consultation and consultation protocol that was specific to each community; a kind of consultation template or consultation guidelines that could be established to provide clear direction for proponents and community members alike. Ideally, this process would be community initiated and driven to ensure that it reflects the needs, values, and future goals of various community members including youth, elders, the Land Corporation, Renewable Resource Councils (and local land-users), and the Band. The consultation protocol could include a step-by-step process of which people and organizations in the community the proponent should approach for consultation and at what stage in the project design or planning this should occur. In this way, each community can ensure that there is a systematic way of approaching consultation and that no one organization is left out of the consultation process.

Several times throughout the course of my fieldwork I heard from local people that while it is good to have public meetings, much of the knowledge exchanged in the Sahtu comes through informal processes such as visiting people's houses for tea. As a part of the consultation guidelines, the community could suggest that the proponent hire a local individual to act as a liaison between the proponent and the community. The community liaison could work with the Band or the

local Land Corporation, but be funded by the proponent. Thus, rather than a public meeting being the only form of formal consultation with community members, the local liaison person could conduct house visits to explain the proposed project and listen to people's concerns or suggestions. These house visits could be done throughout the life of the project so that people are kept up to date with what the proponent is planning, and so that people can raise new concerns or suggestions as they arise. Perhaps then, at the public meetings, the community liaison could present a summary of their house visits to the proponent, rather than current practice whereby the proponent is the only party to make an official presentation. This challenges the current flow of information from the proponent to the community to include a more genuine knowledge exchange. In addition, to allow for local people to engage in knowledge exchange in their own time, communities could request that proponents have a second follow-up consultation meeting a few days later. By spending more time in the community, the proponent can gain a better understanding of the unique needs and goals of each community and can develop critical community rapport that will facilitate trust relationships. Finally, in addition to the current practice of the proponent submitting consultation reports to regulators, each community could also submit its own consultation report to regulators that documents community perspectives of consultation processes and any concerns about impacts on trap-lines or harvesting, for example, or arrangements for employment opportunities. In this way, rather than the current practice of proponents submitting consultation reports that document "no significant concerns" were raised by community members, the community ensures that what their members have

stated in consultative processes is appropriately heard and documented, and will be considered by regulating bodies.

A similar process to the consultation guidelines could be established for the practice of 'Traditional Knowledge' gathering in the Sahtu. Each Sahtu community, in collaboration with its membership, could establish its own method and design for 'Traditional Knowledge' gathering processes. Again, the design of 'Traditional Knowledge' studies should be flexible enough to accommodate the unique needs or concerns of each project, but should also establish general standards. In this way, the community will have more control over how, when, and how much time would be needed to conduct the study, and because the 'Traditional Knowledge' study would be designed by the community, it may better reflect and address the kind of issues that people in the community think are important. Dene language would then be the starting point for conducting 'Traditional Knowledge' gathering, rather than English, which may avoid the complications of trying to fit Dene concepts about the environment into English words. Eventually, many parts of the 'Traditional Knowledge' study would require translation so that non-Dene speaking regulators and proponents could gain access to the report, however, each community could employ a local interpreter to translate the final report, providing increased community control over the translation process and only requiring the final report to be transcribed, not the entire 'Traditional Knowledge' gathering process. By utilizing Dene language as a starting point for conducting TK studies the final reports might better reflect all of the ways in which the land is important to Dene peoples, and

also *why* the land is so important to Dene peoples. In this way, perhaps mitigation plans and processes can be established to ensure not only that the land is not damaged from an ecological standpoint, but also that the use of the land is consistent with Dene values about respecting the land. One way to include Dene values about the land in mitigation measures might be to demonstrate the need to establish programs that encourage and foster youth and community activities on the land along with harvester's compensation programs.

In addition to re-working how 'Traditional Knowledge' studies are conducted, communities could initiate changes to the ways in which 'Traditional Knowledge' studies are reported. One way might be for the community to submit the report directly to the SLWB. Another change might be for the community to have a focus group to workshop the final 'Traditional Knowledge' study reports to make sure that knowledge and people's participation in the knowledge gathering is not misrepresented. Finally, to address the concerns that 'Traditional Knowledge' study participants have with how knowledge collected will be used and stored, community knowledge centres could be established so that there is a central place where all 'Traditional Knowledge' gathered could be kept. For the most part, the information collected as a part of 'Traditional Knowledge' studies conducted in the Sahtu is not kept in a systematic way. For example, I did not see any tapes of interviews or focus groups, or any maps or diagrams retained in the community with the 'Traditional Knowledge' study reports. The establishment of community knowledge centres is a vital means of conducting 'Traditional Knowledge' research that will serve to benefit Sahtu communities. If

such centres are established, knowledge could be retained in communities, communities would have greater control over who can see the information, and it would be easier for the community to access and use the information gathered. Currently, Mackay Range Development Corporation in Tuli't'a does prepare its own 'Traditional Knowledge' study reports, and retains its own 'Traditional Knowledge' study information. Community leaders have expressed an interest in incorporating this knowledge into school curriculum and youth programs so that it can be transferred to future generations.

While the establishment of community driven consultation processes may be viewed by some proponents of development projects as providing undue authority to Sahtu communities in project planning and regulations, some proponents have been welcoming of such changes. Current complications with consultation processes have led to project delays and confusion surrounding the constitution of adequate consultation. Some proponents have invested a great deal of capital and time in community consultation, and a more clearly defined consultation process would allow proponents to know exactly what needs to be done for consultation and 'Traditional Knowledge' gathering at the very beginning of project negotiations and can plan accordingly. Conducting community sanctioned consultation and 'Traditional Knowledge' studies can thus avoid project and regulatory delays, and may avoid costly legal disputes surrounding the adequacy of consultation engagement. Indeed, participation in community driven forms of consultation may facilitate project approval and general support for a project because it may facilitate the much needed

development of community trust and accountability to those who live in the project area.

However, ultimately consultation processes will only be successful if a reconciliatory approach to consultation is undertaken, and local perceptions of a consultative relationship are taken seriously. This means that community leadership, and members at large, must be able to have their concerns appropriately heard by proponents early in the course of project planning, and there must be a genuine commitment on behalf of proponents to alter conventional means of conducting business, and to adjust project plans based upon the results of community engagement. As this chapter has shown, existing consultation processes and the current practice of utilizing 'Traditional Knowledge' studies as a means of consulting with local land users in the Sahtu is woefully inadequate. In order to cultivate a truly reconciliatory approach to consultation, proponents must amend current visions of Aboriginal communities as impediments to development projects, and must consider them as partners based upon mutual recognition and respect for difference. Yet, Sahtu Dene and Métis communities have a role to play too, and in asserting community driven approaches to consultation and 'Traditional Knowledge' gathering and use, Sahtu Dene and Métis communities can play a powerful role in shaping the nature of proponent-community relationships well into the future.

Conclusion

Local Decision-Making Authority: Celebrations, Chiefs, & the Hand Game Tournament

One of the first lessons I learned concerning time and travel in the Sahtu is that one can never make plans, and that one can never count on the travel plans of anyone else. This statement is, of course, by no means a reflection of the planning ability of Sahtu travelers, or a minimization of people's preparedness to travel; rather, it is quite simply a matter of certainty that the land (rather than a human being) will determine when and where one can travel. On the night before several people from the community of Déline had planned to travel to Tulit'a by boat across the short distance of the end of Keith Arm of Great Bear Lake, and down the Great Bear River to the Mackenzie, we were expecting the arrival of an experienced bushman from Tulit'a. This gentleman's name was Jimmy Mendo, and he had agreed to travel the 160 km up the Great Bear River to Déline to pick us up and take us back to Tulit'a so that we could attend the Tulit'a Hand Game Tournament. Just as night was falling, we received a call from a satellite phone. It was Jimmy, and he was stranded on the other side of the lake. The white caps were too rough, he said, and because he was a 'river' person, and not a 'lake' person, he was wondering if someone from Déline (who had more experience traveling on Great Bear Lake) could come and guide him over. After much debate about whether or not he should set up camp for the night on the other side of the lake, or whether or not someone should go and get him, Jimmy decided to cross the lake himself, and made it in to Déline shortly after 11pm.

The next morning, at 6am, sixteen people had gathered at 'the Little Lake' near Déline to make the journey to Tuli't'a. There were two boats, and after the drivers checked the gas and supplies and debated the conditions on the lake, we decided to attempt to cross, and all sixteen of us loaded up and made our way across the Little Lake to the small mouth where it opened up into Great Bear Lake. For someone who has never been in a small boat on Great Bear Lake, it is impossible to describe the height and ferocity of the waves and water. Though the lake looked rather calm as we approached it, before long there were massive five foot waves that rocked the boat back and forth, and once in a while took a good solid shot at the hull, as if daring us to go further. Water and waves splashed over the travelers, so that by the time we got to the other side, many of us were drenched. I had been told by some women in Déline that when I was traveling, or visiting a place for the first time, I should pay the land. People can pay the land with various items of value, but most people use money or tobacco. This particular trip I was required to pay both the lake and the river (two different waterways) for my crossing, and I used tobacco. Once we successfully navigated the lake and were on Great Bear River, the wind died down and the waves subsided.

Great Bear River is beautiful; often glassy, sometimes with swirling pools and currents that run an amazing blue-green. I am told that in places it can be very shallow, and that in order to travel it safely one must be able to 'read the river'. Jimmy, it was explained, was one of the best river readers around, as he had traveled the river all his life. All along the banks, willows, spruce, and other vegetation were beginning to turn every shade of red, purple, orange and yellow

as fall came to the Sahtu. One of the women in the boat pointed out the remnants of an old camp – it had spruce trees laid out as a drying rack – and she said that a previous researcher had camped there during a medicine camp once. About half way down the river we come to what people call “the Rapids” and the old site of Bennet Field. Bennet Field was a now abandoned air strip and the landing place for many of the boats that carried uranium ore from Port Radium down the Great Bear River to the Mackenzie. In fact, you can still see the old dock and even the road leading up to the old air strip from the water. Travelers pointed out the portage trail that people once used to cross the rapids in canoes, and that people still walk when they are using boats with outboard motors today. We, however, were in a jet boat so we did not need to Portage. We navigated easily through the rapids, and passed the Norman Mountain range and sailed into Tuli't'a at just after one. As we pulled up to the docks in Tuli't'a there were people waiting to take us and our gear to where we were staying for the next four days. As I stepped out onto the dock I saw four caribou and a moose that had already been butchered and brought in from Stewart Lake, a preferred Mountain Dene harvesting area near Tuli't'a. I suspected that somehow they would be feeding the people that would be gathering in Tuli't'a over the weekend.

Dene hand games are complex social practices that involve two teams who use their power to ‘know’ where members of the opposite team are keeping certain objects. Each member of each team has an object that they hold in one of their hands. Any small object can be used, and some people use small coins, while others use items of personal or spiritual significance. The general objective of the

hand game is for people from one team to guess which hand the members of the opposing team are holding the object in, through a series of very elaborate hand gestures. Depending on the accuracy of the speculation, one team is awarded a stick, and over time the ultimate goal of the game is to collect all of the sticks. Drums and songs are used to assist people with their power to 'know' which hand the other teams members might be holding the object in. While at the Tuli't'a Hand Game Tournament each of the teams was associated with a particular community (i.e. Déline had two teams, Tuli't'a had two teams, Norman Wells had a team, Meander and Bushy River from northern Alberta each had a team, and there was a team each from What'i, and Wekweeti in the Tlicho Region), I was told that people were not supposed to cheer for any one team in particular, and that drummers are supposed to drum for everyone. The prize money for the winning team at the Tuli't'a Hand Game Tournament that year was \$50,000; the Tuli't'a Hand Game Tournament was no small matter, and the stakes were significant.

Dene hand games have been well documented by anthropologists and others working with Athabaskan peoples from the Northwest Territories, northern Alberta, northeastern B.C., and the Yukon (*cf.* Able 2003, Giles 2005a, 2005b, Goulet 1998, Helm 2000), and have formed a fundamental component of many collective gatherings since before the time of contact between Dene and European traders. Several Elders whom I spoke with told me that a long, long time ago people would gather and challenge each other for goods such as food, clothing, and other supplies rather than for money. In the old days powerful medicine men,

it is said, would meet to use their power in the hand game, and the more power that a person had, the better they would do at hand games. Sometimes, I was told, hand games became too powerful and someone would be killed. One leader from the community of Tuli't'a expressed his concern at the pot of this hand game tournament, "\$50,000 is too much", he said, "people might bring too much power and then something could go wrong".

More importantly, bringing people together to participate in traditional hand games involves a rekindling of family and collective ties, a cultivation of identity through cultural practice, and in a subtle way, a certain drawing of particular lines of authority and power; after all, those who possess power (acquired through land-based activities and conducting oneself in an appropriate way with human and other than human components of the landscape) may be able to use that power to transform the outcome of the game, just as they may be able to use that power in other facets of daily life. At one time, during a session of the Northwest Territories provincial legislature held in the community of Déline, the then chief of the community suggested to the Premier that the people from Déline and the representatives of the Provincial government ought to "play a hand game for the land."¹³⁸ Of course, the Premier thought this was a kind-hearted joke; I on the other hand, was not so sure that it wasn't a challenge.

The Tuli't'a Hand Game Tournament began with an opening ceremony, which included a feeding of the fire, prayers, and drum songs. Following a feast, the hand games began in all of their fury. There were eight to ten men on each team

¹³⁸ Fieldnotes, September 7 2006

(in the Sahtu region, women do not play hand games), and countless drummers who create an atmosphere of excitement and sacredness as the games go on for hours. This particular night, the hand games went on until one in the morning. At that time, when the hand games finished, people began getting ready for a drum dance. Drum dances in the Sahtu involve a series of drummers who drum and sing particular songs. Many of these songs have been handed down in dreams or other prophecies; others have to do with specific peoples or places on the landscape. People dance to these songs in a circle, and most people gathered do participate in the dancing including the very young and the very old. Drummers and dancers encourage and sometimes vie with each other as the night goes on; if the dancers get tired, the drummers spur them on with more drum songs, if the drummers get tired, the dancers keep dancing and call out for more songs. Thus, drum dances often go on until the early morning, and most people stay until they are over.

The Tuli't'a Hand Game Tournament lasted for four days. Every day the community of Tuli't'a hosted a morning and an evening feast, and the hand games began at 9am and continued until well after midnight. There was little time for sleep, and those people who were not playing hand games spent most of their days watching the games and visiting and reacquainting themselves with people that had gathered in Tuli't'a. After the last hand game was finished there was another drum dance. This time, however, as the hand game tournament was drawing to a close, a respected elder and spiritual leader from the community of Déline addressed the people gathered with a long oration essentially telling the people that it was not the importance of money that was the goal of this

tournament, but the rekindling of social ties. “Even sometimes it is important to weep when we are happy”, he said “and when we meet again to show our joy”.¹³⁹ After the leader from Déline finished speaking, the Grand Chief of the Tlicho rose and spoke about the power of people when they come together and practice the ‘traditional’ ways of the Dene. He talked about the importance of Dene culture and identity in keeping people strong in their struggle for self-government agreements and on-going land claims negotiations. After several other speakers, who all got up and shared their knowledge with the whole group without being asked, the drumming began with the Tuli’ta drummers, followed by the Dogrib, the Meander, and finally the Déline drummers. Everyone danced and sang loudly, and I was reminded of Emile Durkheim’s concept of collective effervescence as the power of the drum and of the singing in the room seemed to take us to another place. Many people danced late into the night, and when the drummers got tired at about 3am, people continued to dance –using their voices and songs to keep time. One of the locals leaned over and whispered to me: “many people now come together only for meetings, or other serious events. Decisions and other important things should be made during the contexts of celebrations, in traditional ways, rather than in board rooms”.¹⁴⁰ This comment makes me think about how far removed the JRP hearings were, held in this very space, from this kind of atmosphere.

¹³⁹ Fieldnotes, September 3 2006

¹⁴⁰ Fieldnotes, September 3 2006.

Current Resource Decision-making Practices in the Sahtu:

As this work demonstrates, there are several barriers to Sahtu Dene participation in resource decision-making including: how environmental impacts are assessed and the associated determination of their 'significance' in Environmental Impact Statements, the naturalization of techno-rational knowledge paradigms and legalistic discourses in environmental assessment and regulatory processes, incongruent communicative practices and norms of appropriate human and human/other than-human relationships between local Dene and Métis participants and those of large development corporations and governments, and changing governance structures resulting from the Sahtu Dene and Métis Comprehensive Land Claim.

Indeed, participation in resource decision-making is framed by very specific cultural processes that include differing perceptions of industrial impacts and their associated consequences, and disparate epistemological foundations embedded in co-management, environmental assessment, and regulatory institutions. Through the narratives presented by local people at the MGP hearings held in the Sahtu region, we encounter a perception of industrial impacts that is very different from the ones presented in the MGP Environmental Impact Statement prepared by Imperial Oil. We hear individuals describe their desire to maintain a way of life that they see as valuable and worthwhile, and potentially jeopardized by the cumulative effects of industrial projects; we hear of the animate nature of moose and other wildlife, and the universal law that upholds the relationships between humans and animals; and we hear that the

impacts of industrial activities amounts to the destruction of the physical and the social body, and the well being of individuals and communities. The significance of these impacts cannot be measured utilizing technocratic artifacts, and nor can they be mitigated by altering the project design or providing monetary compensation. Questions surrounding the effects of industrial development in these instances are not only of economic, environmental, and political concern, but are also moral in nature and are founded not only on ecological or socio-economic issues, but also on conceptions of respect, integrity, and what it means to be a member of a particular culture. That is, for the Sahtu Dene and Métis people who presented narratives in these public hearings, conceptions of impacts rest in moral arguments that involve questions of what is valuable, meaningful, what are preferred modes of living, and ultimately, how persons and environments ought to be treated.

Some of the discrepancies surrounding the constitution and consequences of environmental impacts stemming from industrial projects between Sahtu Dene and Métis participants and those of governments, environmental assessment practitioners, scientists, and proponents stem from fundamentally divergent views of the landscape. For proponents of large industrial projects, and their supporters, the landscape is objectified as a thing to be exploited, to be made profitable, to be improved, something that ought to be subject to human management and manipulation, and is separable from conceptions of self. Yet, for Sahtu Dene and Métis people, there are strong connections between biophysical, social, and spiritual components of the landscape and Sahtu Dene and Métis

people are implicated in a series of mutually constructive relationships with their land that are physical, social, moral, deeply personal, and in many ways constitutive of what it means to be Dene. The current process of assessing the significance of environmental impacts fails to seriously consider non-Westernized views of the landscape, including Sahtu Dene and Métis views of the relationships that they have with the land. Examples of this included in this work are the process of separating biophysical, social, and moral aspects of the landscape when assessing the extent, intensity, and significance of environmental impacts, the separation of the physical environment into ‘Valued Ecosystem Components’, and the nature of the consequences of environmental impacts on Sahtu Dene and Métis subjectivities and peoples. And, while what has been politically categorized as ‘Traditional Ecological Knowledge’ has been incorporated into environmental management and regulatory regimes in the Northwest Territories, the underlying assumptions and epistemological foundations behind how environmental impacts are determined and assessed remain viewed through the particular cultural lens of Western scientific rationality. Thus, environmental managers and assessment practitioners do not seriously consider that Moose may ‘choose’ not to come around anymore as a result of the choices that human beings make and the actions that they take upon the land (*cf.* Nadasdy 2007); rather, another so-called ‘scientific’ model is sought for Moose population predictions in quantifiable numbers and wildlife surveys, and the information provided by Sahtu Dene and Métis persons is relegated to items such as the number of species seen or harvested in specific seasons, where they are seen, where their sensitive habitat may be located, and whether or not

their numbers are increasing or decreasing. From the perspective of environmental managers and regulators, the relationships between the landscape and human beings are of economic and ecological significance, not ones of kinship, morality, or intertwined subjectivities. The consequences of this, as Paul Nadasdy (2007, 2005b) has pointed out, are not only that Aboriginal concepts and experiences of environmental impacts are evaluated by Euro-American frameworks, but that these frameworks are viewed as rigidly objective and culture-free mediums for evaluation, whereas Sahtu Dene and Métis conceptions of the landscape (and their associated concerns over environmental impacts) are viewed as distinctly cultural. In other words, more attention must be paid to some of the underlying cultural assumptions implicit in Western forms of environmental assessment, management, and regulation and the ways in which these privilege certain kinds of knowledge and cultural values, often at the cost of others.

An additional challenge to the inclusion of Sahtu Dene and Métis perspectives on the constitution and consequences of environmental impacts stemming from industrial projects is the structure and format of participatory avenues designed to elicit local perspectives on a proposed project. While significant progress has been made in terms of securing avenues for Aboriginal peoples' participation in non-renewable resources decision-making in the Northwest Territories, including Aboriginal representation on co-management and regulatory boards and public and community hearings during the course of regulatory and permitting activities, the structure and format of the community hearings for the

JRP remain based upon Euro-Canadian assumptions about proper proceedings, ways of speaking, and communicative interaction. Starting with the basic spatial and temporal construction of the hearing-space, including its resemblance to a court-room with a Panel of experts situated at a focal point in the room and a witness table provided for speakers to address the Panel, establishes certain kinds of power relationships that privileges non-Dene forms of knowledge and discourse, and serves to naturalize existing lines of authority between Dene peoples and the nation-state. The predominance of technical and specialized legal discourses and the use of highly technocratic information to convey knowledge limits full participation in environmental assessment hearings to those individuals familiar with these particular linguistic fields. At the same time, the normative means of conceptualizing and talking about how people come to know the things that people know for Sahtu Dene and Métis peoples is simultaneously minimized. For example, the cultivation of primary epistemic evidence as a form of knowledge, and the associated conceptions of truth contained in Sahtu Dene and Métis personal experience are often not given the same weight as technocratic artifacts: they become 'stories' that are included as evidence in transcripts, but are often not formally included in Environmental Impact Statements or even within so-called 'Traditional Knowledge' Studies conducted for licensing and permitting processes. And, finally, underlying assumptions about proper communicative norms and practices, and means to communicate acquired knowledge, often places Sahtu Dene and Métis community hearing participants in the awkward position of having their linguistic messages misunderstood; for instance, it is not that Elders or other community leaders

cannot speak on behalf of other community members, but rather that it is inappropriate to do so, and it is not that Sahtu Dene and Métis participants are unable or unwilling to say 'no' to a particular project, but that in doing so it may give the appearance of a lack of generosity, something that is in direct contradiction of Dene laws. These intercultural miscommunications can have and have had significant consequences for how, and in what manner, Sahtu Dene and Métis people participate in regulatory and co-management processes, and the ways in which their voices are heard and interpreted by decision makers. In order to be appropriately heard, Sahtu Dene and Métis speakers must adhere to Euro-Canadian standards of finding and demonstrating knowledge, rather than Sahtu Dene and Métis normative communicative practice, and they must adopt and display non-local modes of discourse and conceptualization. Thus, the impacts of industrial development stem not only from the proposed activity itself, but from the process of assessing that activity in the course of regulatory and environmental assessment procedures. I remember thinking as I sat and listened to the Sahtu Dene and Métis people speak at the JRP community hearings that these individuals were emphatically stating that what they were saying was true; that they have lived since time immemorial on their lands, that their lands provided for all of their needs, and that they wished to continue to live in close relation to their environment, and that their landscape was fundamentally a part of who they are as individuals and as a people. They made these statements matter-of-factly, but also in such a way as if to defend their traditions, their knowledge, their way of life, and even their existence; all as though the Panel and other members of the audience needed convincing.

Barriers faced by Sahtu Dene and Métis peoples in the course of the JRP hearings can be more widely seen as related to non-renewable resource decision-making processes in the Sahtu generally. The use of ‘Traditional Knowledge Studies’ as a part of Access and Benefits Agreements and regulatory permitting reflects distinctly Western perspectives on the landscape, creating ecological inventories of the environment rather than documenting the substantial moral, personal, spiritual, and emotional relationships that Sahtu Dene and Métis people have with their land. Processes such as ‘community consultation’ tend to reflect non-local conceptions and interpretations of what these kinds of relationships ought to be. Just as conceptions of the landscape or environmental impacts are culturally contingent, so too are conceptions of what ought to constitute a consultative-type relationship. As discussed in this work, consultation processes in the Sahtu are typically proponent driven and, much like the significance of environmental impacts within an Environmental Impact Statement, the nature and significance of community concerns are evaluated and reported by proponents rather than community members themselves. Typically, consultation meetings occur only once, proponents spend little time in the community, and knowledge exchange is unilateral with the proponent often telling community members of their plans, and gauging community members’ responses. For many Sahtu Dene and Métis people, this type of consultative relationship has been interpreted as a means for proponents to satisfy regulatory requirements, rather than the development of meaningful long term relationships that will serve to benefit the community. For proponents, consultative relationships are necessarily business relationships that accomplish certain objectives and may last as long as

the corporation is active in the area, or as long as formally committed by contracts or Access and Benefits Agreements. For Sahtu Dene and Métis peoples, consultative relationships are also about business, but when dealing with questions of resource development distinctions between social, economic, and cultural arenas of community life are blurred and overlapping as the consequences of the impacts of development are not restricted to the economic sphere, but necessarily include questions of a multitude of elements that influence personal, family, and community wellbeing. Thus, for many Sahtu Dene and Métis people, consultative relationships are about the cultivation of trust and the proper conduct of human beings when ‘big decisions’ need to be made. These divergent conceptions of consultative relationships can frustrate the consultation process and lead to dissatisfaction with processes of engagement. The development of a workable definition of consultation and associated community-driven consultation protocol, as suggested in Chapter 6, may provide more clarity and direction for proponents, governments, and communities alike.

Yet, in many ways, it is the Sahtu Dene and Métis Comprehensive Land Claim Agreement that serves to restructure decision-making forums, lines of authority, and forms of governance in the Sahtu such that resource development decisions are often made in boardrooms and corporate offices rather than according to normative practice. Informally in the Sahtu, when an important decision needs to be made, people gather often for an extended period of time to discuss their views, concerns, and opinions. The Tuli't'a Hand Game Tournament is instructive in terms of the contradictions contained in the forms of decision-making

formalized through environmental assessments, consultation, and through the SDMCLCA and those embedded in cultural practice. Indeed, the Tuli't'a Hand Game Tournament is fundamentally political, both in that it closely resembles continued forms of distinctly local decision-making processes and consensus-building, and in that social bonds established as a result of these gatherings (and traveling to them) spill over into other aspects of community life. It is precisely because the Tuli't'a Hand Game Tournament is located outside of formal decision-making forums that it provides for a constructive account of how local forms of decision-making are enacted and negotiated by social actors, and how these contrast with current institutionalized forms of resource decision-making in the Sahtu, like the negotiation of Access and Benefits Agreements. In many ways, the establishment of a corporate structure to manage Sahtu lands has required Land Corporation Presidents, Board members and staff to develop sophisticated negotiating skills to negotiate business contracts, compensation, and other social and economic profits for their communities. At the same time, the use of closed boardroom meetings or meetings held outside of the community to negotiate Access and Benefits Agreements alters governance structures in the region and severely limits Chief and Council and beneficiaries from directly participating in these kinds of decisions. Indeed, the use of Access and Benefits Agreements to secure formal support for projects prior to engaging in consultation efforts with the community has resulted in community members feeling as though what they have to say at consultation meetings or public hearings does not really count.

In addition to altering governance structures in the Sahtu, including the establishment of Land Corporations as primary decision-making bodies concerning lands and resources and the division of some communities into Dene and Métis corporate bodies, the SDMCLCA has formulated participatory avenues along lines of non-local practices. Many individuals feel as though the SDMCLCA, and associated decision-making processes, emphasize the acquisition of money and jobs at the expense of the land. Indeed, as this work shows, the establishment of Sahtu Dene and Métis entitlements to land in the form of private property rights that are managed by corporate entities is designed to generate profits from the exploitation of land, something that many people in the Sahtu see as fundamentally at odds with how the land ought to be treated. From the outset, comprehensive land claims were viewed by governments as instruments for the integration of northern Aboriginal communities into market economies (Saku 2002). Through the corporatization of land as a result of the SDMCLA, Sahtu Dene and Métis beneficiaries find themselves participating in institutions that are seen to protect Sahtu Dene and Métis rights to land and harvesting practices, but that simultaneously endorse the commodification of land and land-based resources. This is particularly the case in the Sahtu where a final Sahtu Land Use Plan has yet to be established.

Yet, shifting Sahtu economies necessitate that community leaders seek to maximize community benefits from extractive industries, including pursuing avenues to increase participation opportunities in a wage economy. Land-based activities including fishing, hunting, and trapping now require access to cash for

supplies and fuel; many young people, though they emphasize that they wish to continue to engage in harvesting activities, also look to a future that includes employment in a cash economy. Given the interest by oil and gas companies in the region, and the opportunities and capital available through Access and Benefit Agreements (and to a lesser extent current resource royalty sharing arrangements), it is not surprising that oil and gas sectors are seen by some Sahtu Dene and Métis peoples as providing a platform for community and regional economic development. Indeed, community leaders have repeatedly stated that they welcome controlled oil and gas development in the region, so long as communities are able to participate as equal players in the regulation and determination of the pace of oil and gas exploration and production, and in the benefits and profits that it would generate. Somewhat paradoxically, it is through the SDMCLCA, the same instrument that has served to transform governance structures in the region and that presents a commodified view of the land, that many of the benefits of current and/or potential oil and gas development are secured. It is through the SDMCLCA that companies are legally required to enter into Access and Benefits Agreements prior to project approval, and that resource royalty sharing arrangements, as unequal as they may be, are entrenched. And, there are several studies that indicate that overall, communities that have entered into comprehensive land claim agreements in the Canadian north have shown a persistent improvement in socio-economic variables such as education, employment, income and housing (Saku 2002, Saku & Bone 2000a, 2000b); though those same studies also demonstrate a reduction in the percentage of residents who speak an Aboriginal language (Saku 2002).

It is also through the SDMCLCA that avenues for participation, despite the limitations outlined in this work, are secured. While this work documents a series of considerable barriers to Sahtu Dene and Métis participation in resource decision-making in the Sahtu, it is important to bear in mind that prior to the SDMCLCA, formal avenues for Sahtu Dene and Métis peoples to participate in the decisions that affected their land, lives, and resources were virtually non-existent¹⁴¹, and certainly by no means systematic. The SDMCLCA entrenched the requirement for consultation into the land claim, thus requiring that companies engage with communities and consider their opinions prior to project approval; the SDMCLCA, alongside other comprehensive land claims executed in the Northwest Territories, established a series of regulatory and co-management boards whereby land claim institutions each nominate board members and where the inclusion of Traditional Ecological Knowledge, despite the obstacles contained in the process of knowledge integration, forms a part of the boards' mandates. Sahtu Dene and Métis peoples, along with other Aboriginal peoples in the Northwest Territories, are active participants in regulatory and environmental management processes, just as they are active participants in other areas of politics and governance. This work has addressed the conditions under which Sahtu Dene and Métis participation in resource decision-making takes place; it has identified and offered a critique of some of the assumptions inherent in regulatory, environmental assessment, and consultative processes currently in place in the Sahtu region, and has argued that while there has been significant progress in establishing avenues for Sahtu Dene and Métis participation in

¹⁴¹ An exception to this, of course, is the Berger Inquiry.

resource decision-making, non-local epistemological underpinnings of governance, regulatory, and environmental assessment institutions and practices can hinder local participation in resource decision-making and may serve to reinforce existing power relationships between proponents, Aboriginal communities, and the Canadian state.

One question that I have tried to avoid throughout the course of this work is whether or not people in the Sahtu Region 'want' the Mackenzie Gas Project to proceed. This is a complex question, with many answers that change on a daily basis. Rather, I have attempted to make visible points of contestation and opportunities between community members' visions and goals, and those of non-local environmental management and development regimes. The results of this research engage anthropological and policy debates about the complications surrounding the effective integration of local and non-local forms of knowledge and practice in environmental management and planning, and provide insight into potential opportunities and barriers to Aboriginal peoples' participation in oil and gas decision-making in the Canadian north.

JRP Reporting and the Fate of the Mackenzie Gas Project:

The extent to which evidence provided by individuals at the JRP community hearings will weave its way into the decision-making process remains to be seen. The final report of the JRP has been delayed numerous times. Originally scheduled to be released in the spring of 2008, the JRP report and recommendations is now expected to be released by late December 2009. What is

known, and has been pointed out by several Sahtu Dene and Métis people at the community hearings, is that there is no formal mechanism whereby the Panel (or other decision-making bodies, for that matter) is made to be accountable to the people who participate in the community hearings. Recommendations and final reports will be produced by the JRP, which will then be considered by the NEB who will subsequently produce a report and recommendations to the Minister of Indian Affairs and Northern Development. The former Minister, Jim Prentice, made it widely known that he is determined to go ahead with the pipeline. In a newsletter sent by the Minister to his constituents in the summer of 2006, he declared “Stephen Harper is bound and determined to get his pipeline announcement.”¹⁴² Statements of this nature have a tremendous impact on northern and Aboriginal participation in the community hearing process. Individuals feel that not only is the hearing process a sometimes awkward and intimidating one, but that their participation doesn’t count.

The final hearings for the Joint Review Panel for the Mackenzie Gas Project were held in Inuvik in late November of 2007. The closing hearings attracted much less fan fare than the opening hearings held in Yellowknife, some twenty one months earlier. On a graduate student’s budget, I had the choice to go to the closing hearings in Inuvik, or to spend some more time in the community of Colville Lake; my experience with the general hearings held for the JRP told me that I would be more productive in Colville, and besides, no one from the three Sahtu

¹⁴² Prentice, Jim (2006) “Jim Prentice Isn’t Bluffing” in *The Prentice Post*. Vol. 7(10) August 2006.

communities that I had worked with would be attending the hearings, though Colville Lake was sending a lawyer to submit concluding remarks on its behalf. So, I decided to conduct additional fieldwork in Colville Lake and listen to the concluding hearings on the radio. Indeed, as I listened to the familiar voices of the Panel, and the unfamiliar ones of the lawyers, bureaucrats and consultants, the shuffling of the paper and the speakers' breath into the microphone, I noticed that, with the exception of Nellie Cournoyea representing the Inuvialuit Regional Corporation, Fred Carmichael representing the Gwich'in Tribal Council, and a lawyer representing the Deh Gah Got'ie Dene Council, there were no community members at large that spoke to the Panel. Twenty one months of hearings, numerous interveners, and one of the largest environmental assessments in Canadian history, and, at least for people in Colville Lake, the concluding hearings for the JRP passed with relatively little reference.

One night in February 2007 I was driving around Tulit'a with a local RCMP officer. This officer was a Dene man from Tulit'a, but he had been working as an RCMP officer for the past few years in Yellowknife and was now taking over duties in Tulit'a for a few weeks as the Tulit'a RCMP officer was on holidays in the South. It was a brutally cold night, and the town was quiet at the late hour. It was late, and dark, and smoke from the woodstoves burning in people's houses rose and seemed to cling to the frozen air. We drove out onto the winter road on the Mackenzie, and looked back at the scattered lights of the town. "Remember this place as it is now," he said of the small town of 450 people, "because if the

pipeline goes ahead in four or five years it will be really, really different.”¹⁴³ The RCMP officer did not say whether the change would be for the betterment or to the detriment of the people of Tuli'ta, only that if the pipeline were to come, change was certain as well. As there is a 400 person work camp planned for just four miles out of town if the pipeline goes ahead, I imagine that he might be right.

¹⁴³ Fieldnotes, February 12 2007.

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