

2-3/06

INDIGENOUS AFFAIRS

ARCTIC OIL AND GAS DEVELOPMENT



IWGIA

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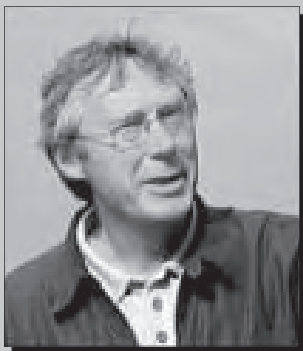
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Cover: Nenets herders migrate through the infrastructure of an active gas field, Yamal Peninsula.
Photo: Bruce Forbes



NEWS ON IWGIA'S DIRECTORSHIP

As many of our readers, members, colleagues and friends may know, Jens Dahl left his position as IWGIA's Director in October 2006. Jens Dahl was director of IWGIA from 1989 to 1994 and again from 1998 to 2006.

Throughout all these years, his contribution to the organisation and to the cause of indigenous peoples has been enormous. His knowledge, dedication and commitment have guided IWGIA and inspired us all. He was able to lead IWGIA's growth without compromising the principles and visions under which the organisation was founded in 1968. Under his leadership, the organisation gained support, credibility and strength without losing its soul, maintaining its deep commitment to indigenous peoples' struggles for survival and recognition.

Everyone at IWGIA would therefore like to wish Jens every happiness and success in his new endeavours and our heartfelt thanks for all he has done for IWGIA and the cause of indigenous peoples.

We would also like to take this opportunity to welcome our new Director, Ulla Godtfredsen.

Ulla is a Danish anthropologist, educated in Denmark. She has been Executive Director of the MS Training Centre for Development Cooperation in Tanzania since 2002. She has previously worked for both the Danish Refugee Council and Danchurchaid, and undertaken a number of consultancies. Ulla will take up her new position from mid-January 2007 and, until then, Deputy Director Lola Garcia Alix will hold the reins as acting Director.

Erratum: We would like to apologize for a mistake in the introduction to the Annual Report 2005 regarding our former board member Georg Henriksen. Georg joined the Board in 1981 and chaired it from 1982 onwards, with the exception of one short period. Once again, thank you Georg for your long commitment to IWGIA!

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Mark Nuttall and
Kathrin Wessendorf

Indigenous peoples in the Arctic are increasingly concerned at the interest of industry and national governments in, and the far-reaching impact of the world market on their homelands, due to the wealth of natural resources in the Circumpolar North and their increasing importance in terms of meeting global energy demands. Pressure to sign up to development projects, to communicate and negotiate with industry and governments, and to adapt to a changing environment resulting from the activities of extractive industries is increasing. As a result, some indigenous peoples feel they are losing control over their homelands and over their livelihoods. Additionally, the prospect of a changing climate, particularly affecting the Arctic, and hence easier access to the region, creates enthusiasm within industry and governments eager to pursue development. Although discussion about oil and gas development is being undertaken at the level of the Arctic Council (most notably in the form of an Assessment of Oil and Gas Activities in the Arctic under the auspices of the Arctic Monitoring and Assessment Programme (AMAP), a working group under the Arctic Council), indigenous peoples are nonetheless left alone in their considerations, anxieties and concerns about the challenges and problems that might come with this development.

Oil and gas development activities in the Arctic are critically important to indigenous peoples throughout the Circumpolar North, as they have both negative and positive impacts and consequences. In addition to direct effects and impacts on the environment, oil and gas development has many cumulative effects on wildlife and on the economies, societies and well-being of local peoples, including changing work, family and household patterns for local residents, migrant labour, the fragmentation of habitat, and increased access to remote regions by non-residents.

Global interests

For the oil and gas industry, Arctic and Subarctic regions are considered to be some of the world's last energy frontiers. One recent study by the United States Geological Survey (USGS) suggests that twenty-five

percent of the world's untapped reserves in areas known to contain oil are found in the Circumpolar North (Hargreaves 2006). Changes in world energy markets and technology have led to a major and rapid expansion of oil and gas exploration and development in several regions of the Arctic and Subarctic over the past thirty years. Most activity to date involves oil on-shore along the North Slope of Alaska and in western Siberia, and offshore in the Barents and Beaufort seas. However, the Alaskan North Slope, the Mackenzie Delta of Canada, the Yamal Peninsula of Russia and their adjacent offshore areas hold enormous natural gas deposits that are planned for development over the next decade. Furthermore, exploration for oil continues off west Greenland.

Current developments and further exploration are likely to continue throughout the Arctic as climate change contributes to reductions in sea ice, opening new sea and river routes and reducing exploration, development and transportation costs. Global changes in politics, corporate structure, issues of sovereignty and security, resource demands and energy needs strongly influence the patterns and rates of resource extraction at high latitudes. For example, much of the projected oil and gas development in northern Alaska and northern Canada will take place to satisfy market demand in the USA, but it is also driven by domestic security concerns. As Chinese and South Korean investment in Alberta's booming oilsands industry also shows, many other countries are looking to northern Canada for their energy needs. European countries are increasingly dependent on Russian energy resources, and this influences political and economic strategies and international relations between states. Furthermore, Russian companies hope to cover between 10-15% of crude oil consumption in the U.S. by 2010.

Impacts and cumulative effects

As petroleum and military development in the Arctic spread in the latter half of the 20th century, transportation infrastructure (roads, pipelines, airstrips, ports) contributed significantly to surface disturbance and habitat fragmentation. Between 1900 and 1950, less than 5% of the Arctic was affected by infrastructure development. By 2050, 50-80% of the Arctic is projected to have been disturbed, although this level of disturbance may occur by 2020 in Fennoscandia and some areas of Russia.

Throughout the Arctic, traditional resource use practices of hunting, herding, fishing and gathering re-

main crucially important for the local economies and cultures of indigenous peoples. Human impacts and environmental transformation have intensified in the last few decades. Significant climate change is becoming more evident, as is the destructive impact of industry. In Russia, for example, the oil and gas industries are the biggest sources of pollution, affecting reindeer pasture and marine and freshwater environments.

Although environmental threats to the Arctic associated with oil and gas development, production and transport are primarily local and/or regional, rather than circumpolar in scale and extent, important exceptions can occur for certain species of migratory animals if they congregate within relatively small areas affected by intense disturbances (e.g. large oil spills). In such cases, devastating impacts could occur at the population level. Onshore oil and gas activities, such as construction of pipelines and the actual production of oil and gas, also impede access to traditional hunting and herding areas, disrupting community activities and traditional practices. Pipelines and facilities create obstacles to the free movement of reindeer herds and impact on traditional harvesting practices. Destruction of vegetation due to facilities, road and pipeline construction, and off-road vehicle traffic in the intensively developed Yamal Peninsula in Western Siberia exceeds 2,500 km² and could more than double under current development plans. The resulting concentration of reindeer herds into an ever-decreasing undeveloped area has led to overgrazing, with potential long-term adverse effects on ecosystem productivity and local economies. Pipeline construction, which creates the need for roads and thereby leads to easier access to formerly isolated regions, also opens up larger areas to additional resource development.

Northern oil and gas development may also influence marine mammals. Noise from offshore oil exploration in the Beaufort Sea disturbs bowhead whales and could deflect them from migration routes, making them less accessible to hunters. Fall-migrating bowheads, for example, stay 20 km from seismic vessels. Oil spills from marine transportation or offshore oil platforms have the potential for widespread ecological damage, particularly in ice-covered Arctic waters. Spills from pipelines in temperate-zone oil basins in the headwaters of Arctic rivers such as the Ob, Pechora, and Mackenzie could also contaminate Arctic waters.

Migrant labour is one of the most distinctive features of oil and gas development. This has attracted considerable attention from social scientists in Scotland, Norway and Newfoundland, but is less well-chronicled, if at all, in the Arctic. Commonly, areas affected by migrant labour have not had an indige-

nous labour pool, so temporary and permanent immigration has been necessary. In some cases, communities grow to three times their size due to, mainly male, immigrants from southern areas. The heavy influx of workers is apparent for many years after exploration or construction has ended and can create long term social, political and economic changes in local communities.

The aim of this thematic issue of *Indigenous Affairs* is, however, to move beyond a simplistic discussion of negative vs. positive impacts. In addition to providing a survey of the situations facing indigenous peoples confronted with oil and gas development, the articles gathered here highlight indigenous perspectives and concerns over such development. The contributors explore the processes of decision-making, social impact assessment and environmental review assessments in the face of proposals to build pipelines across Russia, Alaska, Canada's Yukon Territory and Northwest Territories; consider indigenous livelihood rights and oil development in northern Alberta; and examine the political and social mood over oil exploration in Greenland. The articles highlight the diversity of understandings and definitions of sustainable development throughout the Arctic, as well as the multidimensional forms of interaction and dialogue between governments, industry, local communities and other stakeholders.

Mark Nuttall outlines aspects of the continuing debate over potential oil development in the Arctic National Wildlife Refuge in Alaska, showing how Alaska Native interests are divided over the issue. On the one hand, Alaska Native communities have opportunities to capture some of the economic benefits from industrial development, both through employment and corporate investment, benefits in the form of improved public infrastructure, educational services and health care. Yet, on the other hand, oil development brings the very real threat of irreversible damage to environment and wildlife, making it an issue of cultural survival for some indigenous communities.

Alaska and northwest Canada are currently faced with the possibility of the construction of the Alaska Highway Natural Gas Pipeline (AHGP) to transport natural gas from northern Alaska to markets elsewhere in the United States. David Roddick presents a general overview of the situation of Athabaskan peoples as they consider the prospect of the construction of this pipeline through their traditional territories in Canada's southern Yukon. Roddick considers the estimated economic impact of the AHGP, and looks at the regulatory framework governing its construction. As

he shows, the views of the Athabaskan people towards oil and gas development are framed within the context of previous large-scale development projects in the Yukon.

In his second article in this issue, Mark Nuttall examines northern Canada's Mackenzie Gas Project and its possible implications for Aboriginal peoples in the Northwest Territories and northern Alberta. The Mackenzie Gas Project would see the development on Aboriginal lands of natural gas from three fields in the Mackenzie Delta area for delivery to markets in Canada and the United States by a pipeline up the Mackenzie Valley, as well as to power further development in northern Alberta's oilsands industry. Nuttall looks at some of the key issues of this controversial project, and shows how it provides insight into some of the contested perspectives on the future of northern Canada, its peoples and the environment.

The fourth article in this issue remains in Canada, but moves further south to the massive oilsands operations in Subarctic northern Alberta. Clint Westman examines the impacts of oilsands development on Aboriginal people, and the policy environment for assessing these impacts. Arguing that the social impact assessment industry around the oilsands works to aid further development of this resource to the detriment of Aboriginal rights, Westman points to the urgent need to position social impact assessment as a public policy tool with which to defend Aboriginal land rights.

Moving eastwards across the North American Arctic to Greenland, Rasmus Ole Rasmussen's article provides a thorough analysis of political, economic and social ideas in Greenland around the exploration and exploitation of oil. Rasmussen explores the Home Rule Government's position on oil development, the legal framework for oil discovery and exploitation, and the institutional structures and management responsibilities that are necessary for successful development. Considering the public debate in Greenland, Rasmussen shows how the Home Rule position towards oil development has mirrored changing social and cultural attitudes to non-renewable resource development generally, as the Greenland population at large seems to become more accepting of the need to build a strong, diversified national economy.

The Russian North has experienced some of the more far-reaching effects of oil and gas development in the entire Arctic. In the first of three articles examining the situation for the indigenous peoples of northern Russia and Siberia, Florian Stammmler and Bruce Forbes describe Russia's growing importance

as a major supplier of oil and gas to Europe, eastern Asia and even North America. Focusing on the giant oil fields of the Nenets Autonomous Okrug (NAO), Khanti-Mansi Autonomous Okrug (KMAO) and the enormous gas fields of the Yamal-Nenets Autonomous Okrug (YNAO), Stammmler and Forbes discuss the implications (both in terms of the benefits, but also the direct and cumulative impacts) of these huge developments for the region's economies and local people, in particular indigenous groups, as well as the diverse strategies indigenous organisations in the three regions use when dealing with industry.

Gail Fondahl and Anna Sirina explore some of the controversies surrounding the Eastern Siberia-Pacific Ocean Pipeline, a major new project stretching over 5,000 km across Eastern Siberia, and the concerns of the Evenki people with regard to this development. These concerns include environmental issues, as well as the threat to their living conditions caused by an influx of outsiders. Fondahl and Sirina also look at the legal aspect of indigenous rights and stress the need to respond to indigenous people's demands for participation in the planning stages of the project.

The final article by Olga Povoroznyuk explores the situation of the Evenki people in the Chitinskaya province of Eastern Siberia and looks at some of the changes that have affected the indigenous peoples in Eastern Siberia since the fall of the Soviet Union, along with their current socio-economic situation. Povoroznyuk looks particularly at the role of government in providing opportunities for indigenous peoples to pursue both traditional and non-traditional ways of life.

Taken together, these articles provide a well-rounded portrait of some of the major oil and gas development projects that affect the lives and lands of indigenous peoples throughout the Circumpolar North. While local experiences and responses to oil and gas development may not be universal, the contributors seek to understand how communities differ in their experiences, and what common perspectives, understandings and experiences they may share. □

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AMAP: www.amap.no

Hargreaves, S., 2006: "The Arctic: oil's last frontier" CNNMoney.com, 27th September, http://money.cnn.com/2006/09/27/news/economy/arctic_drilling/index.htm

As this issue of "Indigenous Affairs" goes to print, IWGIA remains optimistic that we will all be celebrating the adoption of the *Declaration on the Rights of Indigenous Peoples* on the part of the UN General Assembly by the end of the year.

The Declaration's text, as adopted by an overwhelming majority at the Human Rights Council in June 2006, is the result of more than 20 years of exhaustive deliberations between states and indigenous peoples within the UN's human rights bodies. This arduous process has resulted in a text that is considered fair and balanced by both indigenous peoples and a very large number of states for, although it recognises the fundamental rights of indigenous peoples, it also takes into account the concerns of states and is consistent with all norms of international law.

Unfortunately, IWGIA has been receiving troubling news from the Indigenous Caucus in New York regarding persistent efforts on the part of Australia, New Zealand, the United States and Canada to induce unwarranted fears regarding the Declaration among other states.

We have also heard that Namibia, on behalf of the African Group of States, has now drafted a resolution amending that of the Peruvian Delegation (which calls for the adoption of the UN Declaration on the Rights of Indigenous Peoples). This new draft resolution requests that a decision on the Declaration be deferred until it has been further considered by UN member states.

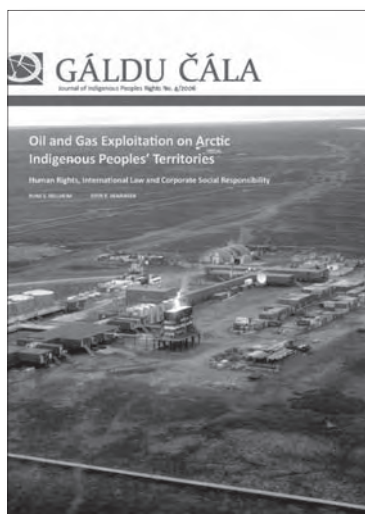
IWGIA is extremely concerned in this regard because the most likely outcome of the African Group's proposal – if adopted – would be to prevent the United Nations from adopting a Declaration.

IWGIA firmly believes that there is no longer any reason to justify further delay in the adoption of this new international instrument, which will not only establish the minimum standards essential for the survival, dignity and well-being of the world's indigenous peoples but will also strengthen the universal human rights system as a whole, promoting peace and justice for all peoples of the world.

We therefore join our voice to that of the World's Indigenous Peoples and urge all United Nations member states to support the adoption of the Declaration on the Rights of Indigenous Peoples without further delay, thus taking an historic step forward in recognising the rights and legitimate aspirations of the world's indigenous peoples.

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ALASKA'S ARCTIC NATIONAL WILDLIFE REFUGE DEBATE

Mark Nuttall

Since oil first began flowing through the 800-mile long Trans-Alaska Pipeline from Prudhoe Bay on Alaska's Arctic North Slope in the 1970s, oil revenues have supplied about 85% of the Alaskan state budget. Oil has also transformed the social, cultural and economic landscape of much of the region within the borders of the North Slope Borough, which is home to some 7,400 people, the majority of whom are Inupiat Eskimos. While there have been many benefits to Alaska Native communities in northern Alaska, including jobs, investment in schools and improved medical care, oil infrastructure and development have nonetheless had significant environmental and social impacts (NRC 2003). With production from Prudhoe Bay having peaked some years ago, and demand for energy in the United States increasing, the search is continuing for viable alternatives to the oil produced from these vast reserves. Since 2001, Alaska has seen a new surge in exploration for oil and gas in under-explored areas of the state, including several parts of the interior and the Alaska Peninsula (Alaska Department of Natural Resources 2006).

Proposals to develop and exploit oil reserves on the northern Coastal Plain area of the Arctic National Wildlife Refuge (ANWR) continue to fuel ongoing controversy. ANWR is an ecologically sensitive area of the North Slope, often called "America's Serengeti" because of its abundant wildlife, which includes large mammals such as caribou, grizzly bears, wolves and polar bears. Originally established in 1960 as the 8.9 million acre Arctic National Wildlife Range, the present size and status of ANWR was established by the US Congress in 1980 in the Alaska National Interest Lands Conservation Act (ANILCA), and now includes some 19 million acres. Bordered on the north by the Beaufort Sea, the only community within the boundaries of ANWR is the Inupiat village of Kaktovik (pop. 220) on Barter Island. The Gwich'in community of Arctic Village (pop. 250) nudges the southern boundary of the Range. ANWR's lands are a critical habitat for the migratory Porcupine caribou herd, a principal form of subsistence for both Inupiat and Gwich'in peoples. Yet while oil development presents an environmental risk to the Coastal Plain of ANWR – and indeed to the entire Refuge – it is also an issue that divides Alaska Native communities: for the Inupiat, oil development presents economic opportuni-

ty, while for the Gwich'in (and neighbouring Gwich'in communities in Canada's Yukon Territory) it threatens cultural survival.

ANWR and Oil

Situated in north-east Alaska and managed by the U.S. Fish and Wildlife Service, the Arctic National Wildlife Refuge has only one inholding, comprising a large surface estate owned by the Inupiat Eskimo village of Kaktovik and a subsurface estate owned by the Inupiat-controlled Arctic Slope Regional Corporation (ASRC) (1). ANWR is also one of the last regions of the U.S. Arctic (and the Coastal Plain is the only region of the North Slope) not open to oil and gas development. To the west and north of the Refuge, the Alaskan state government and U.S. federal government are pursuing leasing programs in the National Petroleum Reserve-Alaska (NPRA) and in the Alaskan Beaufort Sea. A recent major report carried out by the Committee on Cumulative Environmental Effects of Oil and Gas Activities on Alaska's North Slope (NRC 2003) showed that more than 1,000 square kilometres of the North Slope have been transformed into a sprawling industrial complex. Ongoing leasing activities and advances in oil recovery technologies on the North Slope and in the Beaufort Sea mean a substantial increase in the area of northern Alaska open for exploration and development.

Long regarded as a potential source of significant oil and gas reserves, the U.S. Geological Survey estimates that the Refuge contains 10.36 billion barrels of oil, with 4.5 billion barrels under the Coastal Plain, and 12 trillion cubic feet of gas. While these are not enormous reserves when compared globally, the Refuge nonetheless has tremendous symbolic value for all sides in the long-running debate over its future. Proponents of opening up ANWR to development argue that it could represent one of the last great oil discoveries in the United States, and its development would ease U.S. dependence on imported oil from the Middle East. Environmentalists argue that ANWR contains some of the last great wilderness areas in the country, which would be destroyed if development went ahead. The Gwich'in people of Alaska and Western Canada, whose subsistence lifestyle

depends on the nearly 130,000-strong Porcupine caribou herd that relies on the Coastal Plain as its annual calving ground, call it “the sacred place where life begins” and are generally opposed to development. While Inupiat Eskimo hunters in northern Alaska also rely to some extent on the Porcupine caribou herd, the Inupiat support exploration and would stand to benefit financially from the development by leasing lands they hold in ANWR to oil companies.

Opening up ANWR

For two decades, industry has lobbied for access to oil resources within the Refuge, while environmentalists continue to campaign that ANWR should remain a wilderness with no development within its borders. As political scientists McBeath and Morehouse (1994: 1) wrote, ANWR “pits the interests of Alaska economic development against those of national environmental conservation. It also juxtaposes the consensus of opinion in the United States, which has favoured preserving the Refuge, against the will of a majority of Alaskans who look to ANWR for future economic security.”

The U.S. Congress has long attempted to balance its desire to preserve ANWR as an ecologically-rich area with the need to explore its potential as an oil-rich frontier. This is reflected in section 1002 of ANILCA, in which Congress requested a report and recommendation on development. ANWR’s Coastal Plain (called the 1002 Area) consists of 1.5 million acres (which is approximately 10% of ANWR’s total acreage). The “1002 report” (and hence the Coastal Plain’s 1002 Area appellation), as it became known, was submitted to Congress on 1 June 1987, and it recommended for the first time that Congress should enact legislation to open the Coastal Plain up for oil and gas exploration and development. A U.S. Fish and Wildlife Service report argues, however, that the 1002 Area is critically important for the ecological integrity of the entire Refuge (U.S. Fish and Wildlife Service 2001).

Since then, attempts have been made to push a number of bills through U.S. Congress, some aiming to implement the recommendation, and others that would ban development and declare the Coastal Plain a wilderness area. Until recently, movements to have ANWR opened up to industry have been unsuccessful in the U.S. government. Motions were defeated by Democrats under the Clinton administration but have received greater support under George W. Bush. In May 2005, the U.S. Congress voted in favour of allowing drilling within the refuge, by way of approving a Budget Resolution containing a provision to open the Refuge up through



the annual budget process rather than through energy policy legislation. In October 2005, the Senate Energy Committee voted to open ANWR up to oil drilling as part of a broad budget plan, yet two months later the U.S. Senate voted against drilling. For now, the Arctic National Wildlife Refuge remains the only area on Alaska’s North Slope where oil and gas development is specifically prohibited. The rest of the North Slope is available for oil and gas development through decisions made by the Secretary of State of the Interior for the National Petroleum Reserve-Alaska and the Beaufort Sea, and by the Commissioner of the Alaska Department of Natural Resources for state lands and waters (U.S. Fish and Wildlife Service 2001).

Alaska Native interests in oil and gas

The discovery of oil at Prudhoe Bay on Alaska’s North Slope in the 1960s led to demands for land claims by the Alaska Federation of Natives (AFN). In 1971 the United States Congress passed the Alaska Native Claims Settlement Act (ANCSA) which, while not recognizing a Native land claim to the whole of Alaska, nonetheless established twelve regional Native corporations effectively giving them control over one-ninth of the state. Today, many of these corporations are involved in some way in the oil and gas industry. On the North Slope, Native corporations are actively involved in the oil and gas industries in different ways, such as oil spill response and pipeline work, Native-run oil and gas companies, and various oilfield support services. Inupiat Eskimos in Alas-

ka support the opening up of ANWR, and particularly the coastal plain, to industry. They, along with residents of other Alaskan communities, look to development as a source of jobs, schools and other opportunities.

The oil and gas fields of northern Alaska play a major role for Alaska Natives. Ongoing leasing activities and advancement of oil recovery technologies on Alaska's North Slope continue to provide new opportunities for exploration and development support, areas in which Alaska Native corporations are key players. In anticipation of a decision by Congress to open up ANWR's Coastal Plain to oil and gas exploration and development in the 1980s, the U.S. Department of the Interior (DOI) engaged in land exchange negotiations with several Native corporations. The U.S. Fish and Wildlife Service proposed trading oil and gas rights within the coastal plain for ANCSA village and regional corporation lands within or adjacent to parts of the national wildlife refuge system in Alaska. Land exchange negotiations between the DOI and several ANCSA corporations resulted in an agreement that would allow them to make oil and gas tract selections in the coastal plain. These changes, which were written into ANILCA, allowed the Barrow-based Arctic Slope Regional Corporation to swap some of its land for land in the National Petroleum Reserve and in ANWR.

As a successful Alaska Native corporation, ASRC is now positioning itself to export its oil field expertise around the world. Alaska's North Slope Borough is a positive example of what can happen when Arctic residents have opportunities to capture some of the economic benefits from industrial development, both through employment and corporate investments. Benefits in the form of improved public infrastructure, educational services and health care can be significant. Trade-offs can be decreased where communities of resource users are afforded adequate authority over development planning and operation policies to ensure that community concerns are adequately addressed. Yet oil development also brings its own dilemma of how best to balance the economic benefits with the major social changes and cultural impacts such development brings. The Inupiat Eskimo people of the North Slope have a nutritional, cultural and spiritual relationship with the bowhead whale and other marine mammals that are threatened by current and projected oil and gas activity. Noise from exploratory drilling and seismic exploration in the Beaufort Sea, for example, has disturbed bowhead whale migration routes, forcing hunters to travel further and exposing them to greater risks (NRC 2003).

Caribou People

The Porcupine caribou herd spends each winter in northern Canada, in the Northwest Territories' Richardson Mountains and in central Yukon, and in north-eastern Alaska. The herd moves west and north during spring to its calving grounds on ANWR's Coastal Plain. Biologists tend to believe that the caribou make the journey to give birth on the coastal plain because there are fewer predators, and rich tundra plants provide a critical source of nourishment for calves and nursing caribou cows. In late June and July, the herd disperses in groups of tens of thousands of animals and continues its annual migration south and east between Canada and Alaska during autumn and winter.

Gwich'in have relied on the Porcupine caribou herd to meet essential subsistence, nutritional, cultural and spiritual needs for thousands of years. There are about nine thousand Gwich'in people who currently make their home on or near the migratory route of the Porcupine caribou herd in communities in Alaska, Yukon and the Northwest Territories (2). In response to the possibility of the 1002 Area being opened up to development, the Gwich'in formed the Gwich'in Steering Committee at a meeting in Arctic Village in 1988. The Committee asserted that opening ANWR up constituted a threat to the caribou calving grounds, which in turn was a threat to the very heart of the Gwich'in as a people. The Gwich'in Steering Committee was established with a resolution, Gwich'in Niintsyaa, proclaiming the inherent right to their means of subsistence, and asserting that oil development brings the real threat of endangering Gwich'in society and culture. (3)

As with the Inupiat concerns about offshore development affecting bowhead whales, the Gwich'in worry about oil development disturbing herd reproductive and migratory behaviour. These concerns are intense and widespread in Gwich'in communities and are backed up by research which has already shown that caribou are sensitive to disturbance during calving (Griffith et al. 2002). It is clear that oil development in the 1002 Area would potentially impact on the Porcupine caribou herd. Infrastructure development, in terms of pipelines, seismic trails, access roads, well-pads and other structures, is likely to reduce the amount and quality of forage for caribou during and after calving, restrict access to insect-relief habitats, expose the herd to higher predation, and affect the herd's migratory pattern (U.S. Fish and Wildlife Service 2001).

Canada opposes oil development in ANWR. An agreement signed in 1987 between Canada and the United States recognizes that the two countries have a joint responsibility to oversee the habitat of the herd and to protect the calving grounds. Indeed, ANWR is a critical-

ly important part of a larger international network of protected Arctic and Subarctic areas. In the northern part of Canada's Yukon Territory, the Canadian federal government worked with First Nations to establish Ivvavik and Vuntut National Parks, two areas that border ANWR and in which oil and gas exploration and production are banned.

As the only group that lives within the boundaries of the Refuge, the Inupiat residents of Kaktovik claim that it should be their opinion that takes precedence over groups living outside of the Refuge. ANWR here becomes an issue of stewardship, with the Inupiat arguing that they are knowledgeable enough about the land to make decisions regarding development. They advance the claims that North Slope development did not have the devastating effect on wildlife that was anticipated, and the Inupiat now know that industry can be responsible and coexist well with the environment. The Inupiat assert that they, too, rely on the Porcupine caribou herd, would not wish to see it threatened and argue that they have seen elsewhere on the North Slope that caribou and industry can coexist successfully.

Conclusions: are there real benefits to developing the 1002 Area?

The debate over ANWR is not just about wilderness preservation and cultural survival in a small corner of the Arctic. ANWR's potential as a major source of energy is advanced by advocates of development as a national security issue, whereby oil from ANWR will be crucial to ease U.S. dependence on foreign oil at a time of increasing U.S. oil consumption. Opponents of ANWR development, including the Gwich'in Steering Committee, argue that opening the 1002 Area up to drilling would be a fiscally irresponsible decision, since there is no way of yet knowing – despite all estimates – how much oil is available. Environmental groups also argue that the financial costs incurred in exploration and development may not be recovered from the oil reserves, which may not be as significant as hoped. In the 1990s, for example, it has been claimed that a U.S. Geological Survey report, which gave a low figure for reserves in ANWR, was withdrawn under pressure from Alaskan politicians and rewritten with a slightly more optimistic conclusion (Roberts 2004: 62). And as Ricki Ott points out in a recent book on the *Exxon Valdez*, what about the environmental and human health consequences of U.S. dependence on oil? Between 1996 and 2004, exploration and production operations in the sprawling Prudhoe Bay complex resulted in an average of more than 500 reported oil spills annually. (4) In March

2006, around 6,400 barrels of oil leaked from a corroded transit pipe at BP Alaska's operation at Prudhoe Bay, forcing the company to temporarily shutdown production of 400,000 barrels a day. Such incidents, as well as the continuing legacy of the *Exxon Valdez* disaster in Prince William Sound in 1989, continue to focus attention and concern on Alaska's continued dependence on oil.

For the Gwich'in, environmentalists, and others campaigning to keep industry out of ANWR, such uncertainty cannot justify damage to the land, its wildlife and ecosystem integrity, or to the culture of peoples dependent on the Porcupine caribou herd. □

Notes

1. Arctic Slope Regional Corporation is an Alaska Native-owned for profit company pursuant to the Alaska Native Claims Settlement Act (ANCSA) of 1971. ASRC represents eight Inupiat villages, owning approximately 5 million acres of the North Slope. Essentially a natural resource-based corporation, ASRC aims to develop natural resources without compromising the traditional subsistence values of Inupiat communities.
2. Gwich'in Steering Committee, www.gwichinsteeringcommittee.org
3. Gwich'in Niintsyaa (Resolution) <http://www.gwichinsteeringcommittee.org/gwichinniintsyaa.html>
4. Alaska Department of Environmental Conservation, North Slope Oil Spill Database, 2004.

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YUKON FIRST NATIONS AND THE ALASKA HIGHWAY GAS PIPELINE

David Roddick



In 2001, rising North American demand for natural gas prompted major arctic gas producers to propose completing the Alaska Highway Gas Pipeline (AHGP). The AHGP is estimated to cost US\$20 billion and expected to take seven years to complete. It was first proposed for construction in 1969 but has been delayed several times awaiting the right social, political and economic conditions for development. Today, it is closer to being built than it has been at any time in its history.

This article provides a general overview of the current status of a proposal to construct the AHGP project and, more specifically, the situation of Yukon Athabaskan peoples and their views on oil and gas development generally, as they contemplate the prospect of a major gas pipeline crossing their traditional territories.

Background: Yukon Major Project-related Development Experience

The history of major development activity in Canada's north-west provides an important contextual framework for understanding how projects like the AHGP are perceived by Athabaskan peoples. Events such as the 1896-98 Klondike Gold rush and the 1942-43 Alaska Highway and Canol pipeline construction projects shaped and defined Athabaskan perceptions and expectations of development. The cumulative impacts of these experiences still resonate within individuals and communities and are reflected in the concerns they express regarding future development projects.

Prior to Yukon's 1896 Klondike Gold rush the resilience of Athabaskan communities had been severely tested by the penetration of new diseases communicated by Russian and European fur traders. In 1896, the discovery of gold at a time of worldwide economic depression led to an unprecedented, mass migration of fortune-seekers. Within the span of a few years, thirty to forty thousand migrants, mostly men, had descended upon the Yukon. Impacts were especially noticeable along the north-south transportation corridor between the Pacific coastal port of Skagway and along the Yukon River up to Dawson City and beyond.

Between 1942-43, the United States government undertook the construction of the Alaska Highway and Canol pipelines as emergency wartime projects. The arrival of twenty thousands soldiers within nine months had a profound effect on the health of Aboriginal communities. Between 1939 and 1949, the Yukon's Aboriginal population declined by 7%, from 1,563 to 1,443, at the same time as the national Indian registry population increased by 16%. Over the decade registered Indian deaths more than tripled, more than half of these being children under the age of ten (Coates, 1985: 158-60).

Between 1974-77, the construction of the Alyeska pipeline from Prudhoe Bay Alaska to the port of Valdez meant a third major in-migration by non-Aboriginal people into the traditional territories of the Athabaskan people. Accordingly, the prospect of another mass in-migration sparked by the AHGP project has been a very real concern for Athabaskan community leaders and has served as a constant backdrop to political decision-making over the past thirty years.

Alaska Highway Gas Pipeline (AHGP) Proposal

Since 1968, several different proposals have come forward to move Arctic gas from Prudhoe Bay, Alaska, to southern United States markets. From its inception, the AHGP has competed with an alternative proposal to build a pipeline from Canada's Mackenzie Delta and up the Mackenzie River valley to northern Alberta. Currently this is undergoing consideration as the Mackenzie Gas Project (MGP). In 1974, however, strong opposition from environmental and Aboriginal organizations led the Canadian government to convene a public inquiry into the proposed routing. The subsequent 1977 *Report of the Mackenzie Valley Pipeline Inquiry* by Chief Justice Thomas Berger recommended a permanent moratorium on pipeline construction for ten years to allow land claims to be settled. A suggestion was also made that the Alaska Highway route might pose fewer environmental difficulties (Canada 1977).

After adopting most of the recommendations of the Berger report, the Canadian government initiated a second northern pipeline inquiry to consider an application to construct the AHGP. The *Alaska Highway Pipeline Inquiry* was more accommodating to industry, and recommended a delay in AHGP construction for four years to allow for Yukon land claims to be settled, but suggested such a delay would not be an impediment to construction as it would allow time for completion of the southern Alberta portion of the pipeline. Industry completed this work in 1982, but it was not until 2001 that natural gas producers felt economic conditions justified pressing ahead with a new application to complete the original AHGP.

International and Domestic Regulatory Context

In 2004, the United States government approved legislation to provide tax incentives to expedite AHGP construction. The effect of this was to kick-start serious pipeline negotiations.

In Canada, the regulatory framework for AHGP construction had been put in place as early as 1978 when Canada created an independent agency under the *Northern Pipeline Act* (1978) to oversee all aspects of the proposed AHGP construction. However, while the United States government has recently forged ahead with a new regulatory package and tax incentives, the Canadian government as yet has not declared whether the new AHGP proposal will be built under the aegis of

the old *Northern Pipeline Agency* or subject to a new review under the *National Energy Board Act* (Canada 2006, p.2). In the interim, the Canadian government is focussing its efforts on bringing the current regulatory review of the MGP to completion.

Analysis of Economic Impacts - AHGP Renewed Proposal

Current estimates put the cost of constructing the AHGP at Can\$20 billion with project planning commencing in 2007 and the construction phase occurring between 2011-14 (Alaska 2006). Projections of AHGP generated revenues predict Can\$155.2 billion in direct revenues. Labour income is forecast to be approximately Can\$7.2 billion. As currently conceived, the AHGP would be 2,815 kilometres in length and approximately 42-45" in diameter. It would have a carrying capacity of 4.5-5.6 billion cubic feet/day of natural gas. One-third of the total length of the pipeline or 823 kilometres would run through the Yukon Territory (Alberta 2003, p.34-42).

In 2002, the Yukon government commissioned a report on the economic effects of the AHGP construction and early operation phases. The report estimated the construction phase alone would create an estimated 30,000 person years of employment in Canada and about the same number in Alaska. Indirect employment related to the delivery of materials, manufacturing and other activities would raise the total to between 73,000 to 194,000 person years. The transient workforce is expected to exceed 4,000 during the peak construction year, and an average of almost 1,000 over the entire construction period. Employment gains for local residents are expected to average over 900 per year over the construction period, and if governments recycle improved revenues into new programs and services, this may reach upwards of 1,700 per year. The report concluded that a much larger in-migration could occur if there was an advantage given to residents for employment on the pipeline's construction (Yukon 2002, pp.14-15; Yukon 2002, p. ii).

If built, the AHGP is predicted to swell government tax coffers. An estimated Can\$ 58.3 billion in total direct state, provincial (territorial) and federal revenues would be collected in the form of property taxes, income taxes and royalties. Almost 92.8% of these revenues would go to Alaska, mostly in the form of royalty payments from gas producers. The balance of Can\$ 2.2 billion would be shared between the governments of the Yukon Territory and Province of British Columbia. Construction of the Canadian portion is expected to create 72,364 person years of employment, with Can\$ 1.6 billion or 21% of all

labour income and slightly more than half of all employment accruing to Alberta (Alberta 2003, Pp. 42-46).

Yukon Aboriginal Response to Oil, Gas and Pipeline Development

Yukon Aboriginal peoples today are organized into fourteen, separate community-based government entities. Eleven of these communities operate under federal *Yukon First Nation Self-Government Act* (1995) legislation as self-governing jurisdictions responsible for the administration of land claims rights and benefits. Another three communities, without land claim settlements, operate as band councils under the federal *Indian Act*. Altogether, they represent approximately 10,000 Aboriginal members belonging to eleven different language groups. Most Aboriginal governments also participate in one or more regional tribal organizations. The largest regional body, the Council of Yukon First Nations (the successor umbrella organization the Council for Yukon Indians that negotiated the 1993 *Yukon Land Claims Umbrella Final Agreement*) represents nine self-governing Yukon First Nations.

In 1975, the initial application for AHGP authorization served as a catalyst to re-start faltering land claims negotiations between the Council for Yukon Indians and the federal and territorial governments. At the time, the prospect of gas pipeline construction galvanized Yukon Aboriginal leadership and led to a major re-assessment of objectives for a land claim settlement. In the years following the report of the *Alaska Highway Gas Pipeline Inquiry*, Yukon Aboriginal leaders were frequent visitors to Ottawa and Washington D.C., lobbying against pipeline construction. As a result of their political efforts, the federal and territorial governments and the Council for Yukon Indians made significant progress in land claim negotiations during the late 1970s and early 1980s.

In preparing for their land claim settlement, Yukon Aboriginal peoples actively sought out information about the experience of other Aboriginal organizations affected by oil and gas development. Interest in neighbouring Alaska's experience was particularly high and, in June 1981, the Council for Yukon Indians sent a research team to study the Alaskan situation. Their report – *Land Before Money, Cooperation Before Competition* – anticipated by several years the findings of Thomas Berger in *Village Journey: Report of the Alaska Native Review Commission*, a study initiated by Alaskan Inuit communities. It noted that Alaska Native regional development corporations had failed at both the local and regional level to improve the situation of the majority of Alaskan Native people:

A small elite have benefited greatly, but the life of the villager, especially, has not been changed significantly....The "business solution" to a land claim settlement is therefore a very limited solution. It is not one which is in the best long-term interests of Yukon Indian communities. (Council of Yukon Indians 1981)

Four years later, writing in *Village Journey*, Thomas Berger also identified the corporate governance structure of the *Alaska Native Claims Settlement Act* (ANCSA, 1971) as one of the major flaws of the Alaska Native claims settlement agreement. Specifically, he criticized the United States Congress, as the architects of ANCSA, for attempting to apply international theories of development to force persons still active in the traditional sector of the economy to seek employment in the modern sector, in effect to create a "Main Street" on the tundra:

It is unsound to say that, given more time, its beneficial effects will be more widely felt in the villages. They won't. The Native corporations are trickle-down mechanisms, but the trickle will never be greater than it is now because villagers are not in a position to make claims on the stream of income resulting from economic activity. (Berger 1985, p.46)

In Alaska, after ANCSA became law, competition between village corporations and larger Native regional development corporations for control of almost every aspect of daily life touched upon by the settlement increased. In particular, some village corporations aligned themselves with traditional subsistence practices, while their regional corporations became advocates for development. In such circumstances, this led to conflict between village corporations and regional corporations over appropriate directions for future development. Moreover, it created an uneven playing field whereby Alaska village political leaders found themselves competing with regional development corporation leaderships for influence over federal and state level decision-making as they were no longer considered a party to many discussions. Their loss of political influence in this area significantly reduced the scope for political influence at the level of village corporations.

According to Randy Mayo, former chief of Steven's Village Alaska, after ANCSA became law, villages very quickly learned they had to make as much noise publicly as soon as possible in order to be heard. This was an early indication that something was wrong with ANCSA: "...we were like the miners' canary, we were the warning signal". Despite this, Mayo says, many Alaska villages still do not understand the new legal regime governing their rights.



The proposed Alaska Highway Gas Pipeline will pass through the traditional territories of several First Nations in southern Yukon Territory. Photo: Mark Nuttall

Like a bad dream coming back, that legislation set the precedent and the land pattern in ownership for all other development. It started with the oil and now – with more development such as mining and other resource activities that bring population increases.... For the smaller more remote communities that were safe in the past, they are not prepared to deal with these new developments. (AAC 2005)

In contrast to the Alaskan situation, Yukon Aboriginal people today have the right to participate in regulatory decision-making processes as Yukon First Nations on behalf of land claim beneficiaries. Their regional development corporations are separate legal entities, usually incorporated under federal corporations act legislation and not under land claim settlement legislation, as is the case in Alaska. However, while Yukon First Nation regional development corporations operate with a degree of independence from First Nations governments, they are still responsible to, and held accountable by, First Nation membership -- the same membership that elects the political leadership of each First Nation.

In the Yukon Territory, the proposed AHGP route will cross nine of fourteen First Nation traditional territories. Six of these First Nations have finalized and ratified their land claims settlements, and another two are at an impasse with the federal government as to how to approach the final stage of their negotiations.

In preparation for possible construction of the AHGP, Yukon First Nations have undertaken a variety of initiatives. In 2002, the Council of Yukon First Nations organized a major *Strategic Oil and Gas Preparedness Plan* and coordinated several First Nation symposia. The Kwanlin Dun First Nation, Yukon's largest urban First Nation, based in Whitehorse, has developed a *Pipeline*

Engagement Strategy. These separate efforts have also given rise to the establishment of a *Yukon First Nations Aboriginal Pipeline Coalition (APC)* made up of Yukon First Nations with settlements along the proposed AHGP pipeline corridor.

James Allen, Chief of the Champagne and Aishihik First Nations and a director of APC, believes that as a result of their land claim settlement, Aboriginal peoples in the Yukon exercise greater control over the fate of their lands than they did during the 1896-8 Klondike Gold rush or 1942-43 construction of the Alaska Highway.

Many of our nations are governing first nations. We are governments and we have an obligation to ensure that our people receive a lasting share of the benefits as a result of this massive engineering project across our lands. (AAC 2005)

The APC differs from both individual Yukon First Nations governments or First Nation development corporations in that it is an intergovernmental body whose sole purpose is to act as the central coordinating body between First Nations along the pipeline corridor, other governments and industry. The goal of the APC is to share information among First Nations, advise government and industry about First Nations interests, and research and advocate for First Nations to ensure their voice is heard in any proposed regulatory assessment process.

The APC also differs in important ways from groups such as the Aboriginal Pipeline Group (APG) of the Northwest Territories. The purpose of the APG was to obtain an equity partnership role in the construction and operation of the Mackenzie Valley Gas Pipeline (see the article by Nuttall on the Mackenzie Gas Project in this issue). Yukon APC's role does not extend to direct involvement in negotiations with either govern-



Klukhu, a community belonging to the Champagne Aishishik First Nation (CAFN) in southwest Yukon. The proposed pipeline will pass through CAFN traditional territories about 60 km north of the village. Photo: Kathrin Wessendorf

ment or industry on pipeline impact benefits. Individual Yukon First Nations intend to negotiate AHGP-related impact benefit agreements and business arrangements directly with producers and governments on behalf of land claim beneficiaries.

Anticipated Social and Economic Effects of Pipeline Construction

Overall, the estimated net economic benefit to Yukon of AHGP is predicted to be relatively small. In terms of resident pipeline employment opportunities, transient workers are likely to fill many jobs that would otherwise be available to Yukon residents because Yukoners, generally, lack the requisite skills and training to perform the work. The Yukon lacks much of the industrial infrastructure to take advantage of opportunities arising from pipeline construction, and so many mid-level type services, such as accommodation, catering, transportation, and semi-industrial services, such as power generation and co-generation services, will be outsourced to out-of-territory suppliers, lessening the impact of secondary employment creation (Yukon 2002, pp.i-ii).

In terms of increased government revenues, if the AHGP were to proceed, of an estimated potential Can\$ 2.2 billion increase in revenues that are expected to accrue to Yukon Territorial government, approximately 75% or Can\$ 1.7 billion would go back to the federal government in the form of grant reductions (Alberta, 2003, p.42). Alternatively, if the AHGP were not to proceed but the MGP project in neighbouring Northwest Territories went ahead alone, under current federal formula grant entitlements, the Yukon government's grant

contribution from the federal government would be impacted positively (Zucker and Robinson 2005, p.60).

In terms of negative social impacts, the Yukon Territory will bear the largest share of any AHGP-affected jurisdiction with the possible exception of Alaska, and Yukon Aboriginal people will be the most at risk of any segment of the Yukon population.

Yukon Aboriginal peoples make up 24.5% of Yukon's total population of 28,520. Whitehorse, Yukon's largest community (population: 19,058) does not have the housing infrastructure or services to support significant in-flows of migrant workers and their families. Smaller communities along the Alaska Highway corridor (ranging in size from just under 2,000 to less than 200 people) would be even less able to absorb the impact (Canada 2006).

Responding to the Negative Impacts of AGHP construction

Yukon First Nations are concerned that any economic benefit associated with AHGP construction will be outweighed by its negative social impact on their small communities. They fear that the economic growth alone will be used as justification for project approval, even where these negative impacts are obvious and impose heavy burdens on smaller settlements.

From the perspective of Yukon Aboriginal leaders, the impact of mass in-migration by transient workers on the long-term social well-being of Aboriginal communities is one of the most worrisome aspects of AHGP construction. Yukon Aboriginal people's past experience with mass in-migrations, with all their attendant social, housing and health problems, has shown that

negative social impacts of such events can persist among families for generations after the initial impact. During the construction of the Alaska Highway, alcoholism became endemic among Yukon Aboriginal communities. This experience provides the clearest evidence of the negative impacts resulting from sudden, mass immigrations of a predominately male workforce.

During the first five years of highway construction, conviction rates for drunkenness among Yukon Aboriginal people nearly doubled, and more than tripled during the five years immediately following highway completion (Coates 1985, pp.164). The most damaging longer-term impacts arose as a result of interactions between transients and Aboriginal residents in the context of alcohol abuse. Both Aboriginal men and women were vulnerable, but in different ways: Aboriginal women were at risk from the sudden influx of single, transient males – destabilizing existing social patterns and relations as they often solicited sexual favours with alcohol or money. Aboriginal men came to learn to use alcohol and drugs in self-destructive ways. (Coates, p. 162; Cruikshank, p. 182; Nadasdy, 2003, p.34).

Drawing on these past experiences of past development, Ed Schultz, former chair of the Council of Yukon First Nations, observed that the most critical issue in relation to proposed AHGP development is the degree to which Yukon First Nations are prepared to respond to these potential social impacts once industry decides to proceed.

Many studies have shown that the well being of any Aboriginal population is not necessarily dependant solely on western economic factors. We need to make sure that industry, government and regulatory bodies are cognizant of that reality. Simply by creating economic wealth does not mean that you will create healthy cultures and lifestyles if there is no clear plan to do so. (AAC 2005)

Marion Sheldon, a councillor with the Teslin Tlingit Council in south central Yukon, is concerned that Yukon self-governing First Nations, under-funded in their capacity to deliver federal programs and services to First Nation citizens under current bilateral implementation agreements, will be overwhelmed once pipeline construction begins and will not be able to adequately monitor the impacts on and needs of First Nations.

Aboriginal cultures themselves may be highly adaptable but, regardless of their natural adaptability, learned dysfunctional behaviours have been shown to persist long after migrant workers have left (Coates 1985, p.164). Some Athabaskan Aboriginal leaders believe the youth in their communities are most at risk

and that this risk may increase in time as development spreads:

Our community has a problem with suicide and I wonder why they are doing that. Maybe it is because of the outside influences. In the future I want to see my people proud of their heritage and thank the creator for putting us on own land with all the food he has out there for us. All this gas and oil and diamonds are only for a few years, and we have to find ways to benefit everyone. ...They should not take everything out of our land today as our young people may need some in the future. (AAC 2005)

Competition from in-migrants for local jobs and direct and indirect employment associated with pipeline construction will also be more intense in smaller communities. Yukon Aboriginal peoples make up approximately 13% of the population of the City of Whitehorse but constitute a majority of the population in smaller communities along the highway corridor. These communities are the most likely to be adversely affected by pipeline construction (Yukon, 2002).

Ed Schultz, in summarizing the dilemma faced by First Nations planning for AHGP construction, characterized the problem as one of governments and corporations ignoring the importance of measures to mitigate social impacts and focussing only on a short-term planning horizon. Their attention, he says, always seems to be narrowly fixated on the front end – the boom that lasts only 4-5 years. He suggests the solution is to refocus on what happens after the boom.

We have seen this in the Yukon when mining industries promised 15-40 years of mine life and encouraged everyone to get loans and mortgages and then shuts down in 5 years. The community which did not really exist before this boom but has now grown and built large public infrastructures such as swimming pools based on the revenues it was getting from the mine, is now in a bust. No one really plans well for the bust. This is where we could make a big difference as a people if we plan for both the boom and the inevitable bust as we know that this oil and gas industry is not sustainable, that it depends on the finite amount of the local resources and moves on when this is depleted. (AAC 2005)

Conclusions

Mass in-migrations into the Yukon Territory have occurred with almost clockwork regularity every fifty years since 1896. The cumulative impact on Yukon's

Aboriginal people is well documented and has been significant in terms of its negative, long-term impacts on the health of the Aboriginal population generally. An inventory of the successive impacts of previous development projects would lead an objective observer to conclude that the Yukon Athabaskan population is still in "recovery" mode. While significant progress has been made in settling land claims and establishing communities as the locus for governance and the management of community wealth, key aspects of culture, such as languages, are at risk or verging on extinction.

In developing a baseline to use in assessing the potential negative social impacts of AHGP development, the history of the cumulative impact of successive developments should play an important role in determining the future mitigating measures. Proponents of development are unlikely to agree, but governments and regulators must account for the failure of past government policies to protect the social and economic well-being of Aboriginal communities from project developments when assessing the impacts of future development.

While it is difficult to challenge the economic viability of a project like the AHGP from the national perspective when its direct investment potential is measured in the hundreds of billions of dollars, its *net* economic benefit cannot be assessed in isolation from other, future possible scenarios for economic development, together with their potential social consequences. While there is no question the AHGP will generate billions of dollars of revenue for Canada and the provinces, unlike the State of Alaska, few net economic benefits are predicted to accrue to the Yukon Territory. And overall, Yukon Aboriginal communities, including vulnerable groups and youth, are more likely to sustain significant, long-term negative impacts if the AHGP proceeds. Some of this will be as a result of competition for employment and strain on existing social infrastructure, such as housing. Most of it will be as a result of mass in-migration of single, predominantly male workers and the social dysfunctional behaviours that will be propagated by such a large, transient population. □

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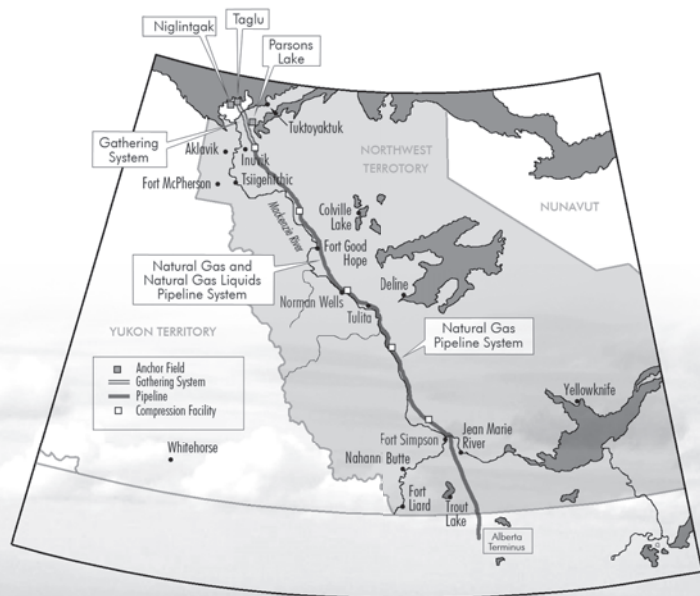
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Mark Nuttall

THE MACKENZIE GAS PROJECT



ABORIGINAL INTERESTS,
THE ENVIRONMENT AND
NORTHERN CANADA'S ENERGY FRONTIER



The Mackenzie Valley - Photo: Mark Nuttall

Introduction

For the Aboriginal peoples of Canada's Northwest Territories, major developments in the oil and gas industries raise the prospect of far-reaching social, economic and environmental changes. In recent years, several large-scale development applications have been submitted by energy companies to Canadian federal, provincial and territorial regulators. The most controversial development plan pending approval is the Mackenzie Gas Project, a Can\$ 7.5 billion joint proposal by Shell Canada Limited, Conoco Phillips Canada (North) Limited, ExxonMobil, Imperial Oil Resources Ventures Limited and the Aboriginal Pipeline Group (collectively referred to as "the proponents"). This mega-project would see the development on Aboriginal lands of natural gas from three fields in the Mackenzie Delta area for delivery to markets in Canada and the United States by a pipeline up the Mackenzie Valley, as well as to power further development in northern Alberta's oilsands industry.

The Mackenzie Gas Project is a venture which throws into relief contested perspectives on the future of northern Canada, its peoples and the environment. As a recent report put it, oil and gas development in Canada's North is "both the bearer of great opportunities and the potential harbinger of devastating social influences that will forever change traditional aboriginal communities". (1) Public hearings are currently underway as part of the regulatory review process. This is the responsibility of the National Energy Board (NEB), which focuses on the economic, technical and engineering aspects of the project, and the seven-member Joint Review Panel (JRP), which is looking at the social and environmental aspects. All stakeholders concur in that the project has tremendous potential benefit for the Canadian North, and more than thirty Aboriginal groups have signed a Memorandum of Understanding with the private sector under the umbrella of the Aboriginal Pipeline Group (APG). However, not all are in agreement with the current plans for the Mackenzie Gas Project. Land claim and negotiation issues between the federal government and the Deh Cho First Nation in the central Mackenzie Valley remain unresolved; there is a lawsuit filed by the Dene Tha' people of northern Alberta, who are against the project; and there are many concerns about environmental and social impacts



voiced by environmental NGOs and by various Aboriginal groups and individuals.

In my research on oil and gas development in northern Canada, I have interviewed and talked with a variety of people about their views and perspectives. One commonplace remark I hear wherever I go, and from many people with whom I speak, is "This pipeline will change the North forever." Some speak of this in a positive way, talking of their hopes for the future of their communities; others are concerned about irreversible negative social, economic and environmental impacts and wish to speak out against the pipeline; while many are simply resigned to the inevitability of development, whatever their opinion may be. In this article I provide a brief introduction to some of the key issues of the project and consider some of the controversies as they relate to the situation and concerns of Aboriginal peoples in the Northwest Territories and northern Alberta.

Oil, Gas and Aboriginal People in the Mackenzie Basin

The Mackenzie Delta is, after Russia's Lena River Delta, the second largest Arctic delta. Some 1,800 kms in length, the Mackenzie River is the main branch of the second largest river system in North America (after the Mississippi-Missouri river system). The watershed of the Mackenzie River is called the Mackenzie Basin and drains approximately 20% of Canada. The Mackenzie Basin is the traditional territory of Inuvialuit, Gwich'in, Dene and Métis indigenous peoples in the NWT, and Dene and Cree in northern Alberta. Fur trading was the primary economic activity in the Mackenzie Basin from the early nineteenth century until the 1930s and Northern communities have often experienced the boom and bust nature of non-renewable resource development. Today, Aboriginal households and communities in the Northwest Territories are characterized by a blend of formal economies (e.g., involvement in commercial harvesting of fish and other animals, oil and mineral extraction, and tourism) and informal economies (e.g., harvesting renewable resources from land and sea primarily for household consumption). The ability to carry out harvesting activities is not just dependent on the availability of animals but on the availability of cash, as the technologies of modern harvesting activities are extremely expensive in remote and distant Northern communities.

In mixed economies, a half or more of household incomes may come from wage employment, simple commodity production, or from government transfer payments (Nuttall *et al.* 2005). Such increasing reliance on

*The Mackenzie Valley gas pipeline will pass through the traditional hunting and fishing territories of indigenous peoples. Colville Lake, South Dene region.
Photo: Mark Nuttall*

other economic activities does not mean that production of food for the household has declined in importance. Hunting, trapping, gathering and fishing are activities mainly aimed at satisfying the important social, cultural and nutritional needs, as well as the economic needs, of families, households, and communities. Research points to the continued importance of harvesting activities in the NWT despite a growing proportion of the population of indigenous communities not being directly involved in harvesting (e.g., Usher, 2002). While food procured from renewable resource harvesting continues to provide Northern peoples with important nutritional, socio-economic and cultural benefits, finding ways to earn money is a major concern in many Northern communities. The interdependence between formal and informal economic sectors, as well as the seasonal and irregular nature of wage-generating activities (such as tourism) means that families and households are often faced with a major problem in ensuring a regular cash-flow.

It is within this socio-economic context that oil and gas development is viewed as providing the potential for employment and prosperity for Northern communities. Preliminary estimates suggest employment for as many as 2,600 short-term positions during the construction phase of the Mackenzie Gas Project, as well as fifty permanent, long-term jobs related to the Mackenzie Valley pipeline and other facilities during the operational phase. The anchor field development promises yet more employment, with construction, drilling and servicing and operations staff required for the project. NWT government officials, optimistic that the territory will reap the benefits from non-renewable resource development in the same way as Alberta (the neighboring province to the south) has, point to the economic growth beyond the immediate job offerings.

The Berger Inquiry

Although explorer Alexander Mackenzie was the first European to notice oil seeping from the ground around the area that is now known as Norman Wells in 1789, Dene who lived along the Mackenzie River knew about oil in the area long before any explorer, fur trader or geologist. Tar from the oil seeps was mixed with tree sap to waterproof their canoes, and they may have traded this valuable material with other people. In the early 1900s, Dene acted as guides to geologists who were exploring the region around Fort Norman (Tulita), taking them to Legohli, a place meaning “where the oil is” in the Dene language. Imperial Oil Ltd began

exploratory drilling for oil in 1919 and opened a refinery the following year in Norman Wells. During World War II, northern Canada’s energy resources became important strategically, illustrated by the construction of the Canadian Oil (Canol) pipeline from Norman Wells to Whitehorse during World War II to provide oil for military needs.

Exploration and drilling for oil and gas continued after World War II, but interest in the potential of vast Mackenzie Delta and Beaufort Sea reserves heightened in the 1970s. The idea to construct an oil or gas pipeline up the Mackenzie Valley to northern Alberta became a significant issue of public policy. In 1974 the Canadian Arctic Gas consortium made a formal application to the Canadian government to build a natural gas pipeline. The Canadian government established a Royal Commission of Inquiry to assess the potential environmental, social and economic impacts, chaired by Justice Thomas R. Berger.

Preliminary and later formal hearings were conducted during 1974-75, where Berger collected testimony from 300 experts on the North – including scientists, economists, oil company experts – as well as Northern residents. Furthermore, he listened to the concerns and opinions of the residents of 35 communities. Berger concluded that oil and gas development in the Mackenzie Delta and Beaufort Sea region was inevitable and he was positive about the feasibility of developing and building an energy corridor along the Mackenzie Valley to Alberta.

However, in his 1977 report *Northern Frontier, Northern Homeland*, Berger made two main recommendations to the federal government. Firstly, he was particularly concerned about the rights of Aboriginal people to have some say and involvement in development plans and his principal recommendation was that a 10-year moratorium should be placed on pipeline construction until Aboriginal land claims had been settled. Berger was also concerned about employment, questioning whether the pipeline would provide meaningful and continuing employment for Aboriginal people. Berger’s second main recommendation was a ban on construction of another proposed pipeline across the northern coastal plain of Yukon Territory because of fears that a pipeline and energy corridor would do irreparable harm to caribou herds, birds, other wildlife and to the people who relied on them for their livelihoods. On the issue of cumulative impacts, Berger believed the proposed natural gas pipeline should not be considered in isolation. He stated that construction of a gas pipeline and establishment of an energy corridor would intensify oil and gas exploration adjacent to it. He was concerned that

the cumulative impact of these developments would bring immense and irreversible social and environmental changes to the Mackenzie Valley and the entire Canadian western Arctic. Although Berger noted that the *Expanded Guidelines for Northern Pipelines* tabled in Canada's House of Commons on 28 June 1972 called for an examination of proposed pipelines from the point of view of cumulative impact, the issue of cumulative impact has not been specifically addressed to date, nor is it an explicit concern for the current hearings of the Mackenzie Gas Project (see below).

The Berger Inquiry, as it became known, was significant in that it made an event out of public hearings for environmental impacts. No major frontier project in Canada had ever been reviewed through public participation before construction was permitted (Nassichuk 1987). It also did its part in a decade that "thrust the North into the Canadian consciousness" (Dacks 1981: 1). Berger found critical gaps in information about the northern environment, environmental impacts, and engineering design and construction on permafrost terrain and under Arctic conditions and called for a continuing process of northern science and research which would provide an independent body of knowledge. Prior to Berger, only a handful of environmental impact studies had been conducted in the Mackenzie Delta, perhaps the most significant being *The Environmental Impact of the Proposed Mackenzie Delta Gas Development System* carried out by Gulf Oil Canada, Imperial Oil and Shell Canada in 1976. Only a few more major environmental impact studies have been carried out since (e.g. *Pipeline Environmental Effects* by Polar Gas in 1984; and *Environmental Assessment of the Fort Liard Gas Pipeline and Facilities* by Chevron Canada Resources in 1999). Berger changed the way Canadians view resource development, but his report also pointed out that his inquiry was about more than pipelines; it was about protecting the northern environment and the future of northern peoples.

The Mackenzie Gas Project

The Government of Canada took Berger's recommendations seriously -- there was in fact a 17-year moratorium on the issuance of exploration rights for oil and natural gas in the Mackenzie Valley and southern NWT. Yet despite this, a decline in oil and gas prices also meant that energy companies felt less favourable towards investing in northern projects. However, renewed interest in oil and gas exploration in northern Canada has followed on from rising demand, pres-

ures on supply, and a rapid rise in energy prices in the last few years. In October 2004, energy companies submitted applications for construction and operating permits for a Mackenzie Valley pipeline route as an essential element of the Mackenzie Gas Project.

In the Northwest Territories, 2005 was dominated by discussion over the regulatory process and procedures for the technical, environmental and social assessment for the Mackenzie Gas Project. Public hearings, which had been delayed much to the disappointment of the energy companies behind the project, finally began in Inuvik on the afternoon of Wednesday 25 January 2006. The Mackenzie Gas Project comprises several elements. A gathering pipeline system will connect three natural gas production anchor fields in the Mackenzie Delta -- Taglu (Imperial), Parsons Lake (ConocoPhillips, Exxon Mobil) and Niglintgak (Shell) -- to a gas processing facility near Inuvik, where the gas and liquids will be separated. From there, gas will be transported by a 30 inch 500km natural gas liquids pipeline to Norman Wells on the Mackenzie River. Continuing from Norman Wells, a 30 inch buried dry gas transmission pipeline of 800km will parallel an existing oil pipeline to northern Alberta and will connect to the natural gas pipeline system operated by TransCanada. Compressor stations will also be built at intervals along the route. The proposed project crosses four Aboriginal regions in the Northwest Territories (the Inuvialuit Settlement Region, the Gwich'in Settlement Area, the Sahtu Settlement Area and the Deh Cho Territory). A short segment will be in north-western Alberta near the NWT border.

The Mackenzie Gas Project is a multi-year phased project, with stakeholders originally hoping for gas production starting between 2008 and 2010. However, with a series of delays associated with the hearings and negotiations between federal and territorial governments and Aboriginal groups, the pipeline may not be in service before 2011. The three anchor fields supplying the gas can generate about 800 million cubic feet per day. The pipeline will be designed for 1.2 billion cubic feet per day as the proponents hope that future development in the Mackenzie Delta and the Colville Hills area will add more gas to the pipeline. The total length of the natural gas pipeline will be about 1,300 kilometres and it is this pipeline that is at the centre of controversy and debate, so much so that the other elements of the Mackenzie Gas Project are often forgotten.

The regulatory hearings process comprises technical hearings by Canada's National Energy Board (NEB) along with parallel hearings on environmental, social and economic issues conducted by the federal government-appointed Joint Review Panel (JRP). They began

after a period of several years during which the proponents engaged in public consultation, carried out traditional knowledge studies, conducted technical engineering and environmental studies, assessed the impacts on local communities and developed northern benefits plans that address education, training, employment and business opportunities.

Throughout 2006, the hearings have been carried out in 26 communities in the Northwest Territories, along with communities in Alberta. Originally, it was planned that the hearings would conclude in December. However, in July 2006 the Joint Review Panel announced it would extend its hearings until April 2007, as more testimony and evidence needed to be considered. At the end of the hearings, the Joint Review Panel will write its report, releasing it in August 2007. The National Energy Board will review the testimony and all information presented by the proponents, interveners and communities at both sets of hearings and give its decision to the Canadian government concerning development. If approval is given for the Mackenzie Gas project, the regulators will issue the necessary permits and licenses.

Aboriginal Land Claims

What has changed since Berger made his recommendations in the late 1970s? Perhaps the most significant change in the Canadian North has been the settlement of Aboriginal land claims. Oil and gas development in the Mackenzie Delta and Beaufort Sea prompted the Inuvialuit to break away from a pan-Inuit land claim process in the Northwest Territories and seek an agreement that recognized their rights to participate and benefit from development. The 1984 Inuvialuit Final Agreement extinguished rights and interests in land in exchange for ownership of 91,000 km² of land, cash compensation of Can\$170 million, preferential hunting rights, participation in resource management, subsurface mineral rights to a small area of land, and a provision for future self-government. In 1992 the Gwich'in Comprehensive Claim Agreement gave the Gwich'in ownership of 22,331 km² of traditional lands with subsurface mineral rights to one-third of that area. Other rights and benefits include Can\$75 million, a share of Mackenzie Valley resource royalties, participation in the planning and management of land, water and resource use, and a federal commitment to negotiate self-government. The Sahtu Dene and Métis Agreement (1993) gave beneficiaries 41,437 km² of land, with subsurface rights over 1813 km², and has similar provisions to the Gwich'in agreement (Irlbacher-Fox 2005).

Aboriginal rights, then, have been more clearly defined. Aboriginal involvement in decision-making for resource development is also guaranteed under the Mackenzie Valley Resource Management Act, which grew out of the comprehensive land claims agreements of the Gwich'in, Sahtu Dene and Métis. The Government of Canada, through the National Energy Board (NEB) and Indian and Northern Affairs Canada (INAC) controls more than 90% of the petroleum subsurface rights in the NWT. However, those Aboriginal groups that have concluded land claims agreements have responsibility for subsurface rights and royalty regimes in parts of their territories. Today, senior executives of Imperial Oil state publicly that the Mackenzie Valley gas pipeline will never be constructed without the support of Aboriginal communities in the North. Indeed, if proponents are to be successful in obtaining regulatory approval to construct and operate pipelines, they must have a good understanding of northern Canada's complex social, cultural and political environment and be able to negotiate it successfully. Pipelines must pass through Native lands, which may be subject to historic treaty, a modern land claims settlement or an outstanding land claim. To consult and deal with Aboriginal communities may be a statutory requirement, but it is also a practical business matter. In the NWT, comprehensive land claim agreements require that project proponents enter into certain forms of agreements with the beneficiaries over specific issues. Different types of agreements may be entered into depending on the type of land claim agreements or treaty that applies in the area where the planned pipeline is to be constructed.

Aboriginal Participation

The latest plan to build a pipeline sees Aboriginal peoples as major stakeholders in the project. With most Aboriginal groups in the NWT having had land claims settled, a milestone meeting took place in Fort Liard in the NWT in January 2000. Aboriginal groups met to discuss oil and gas development for the first time since the Berger Inquiry. Rather than telling industry not to build a pipeline on Aboriginal lands, the group discussed how they might be involved in a pipeline project. The leaders of the Inuvialuit, the Gwich'in and the Sahtu Dene formed the Aboriginal Pipeline Group (APG) and partnered with Imperial Oil, ConocoPhillips, Shell Canada and Exxon Mobil in the Mackenzie Gas Project consortium.

Essentially a business venture owned and controlled by NWT Aboriginal groups, the idea behind the

APG is to offer a new model for Aboriginal participation in the developing economy of the NWT, to maximize Aboriginal ownership of development projects and benefits from the proposed Mackenzie Valley pipeline, and to support greater independence and self-reliance among Aboriginal people. If built, the APG will be one-third shareholders in the pipeline. Aboriginal attitudes have thus changed significantly since the Berger Inquiry, exemplified by the activities and perspectives of key Aboriginal leaders. Nellie Cournoyea, leader of the Inuvialuit land claim organization in the Mackenzie Delta and a former NWT Premier, lobbied against pipeline development in the 1970s. Now she is one of its most vocal supporters.

One big difference between now and then, as leaders like Cournoyea point out, is that there was previously no real desire on the part of industry or government to think of Aboriginal people as meaningful participants in the pipeline project. One other crucial difference is that Berger wrote his report at a time when Aboriginal communities in the Mackenzie Basin were still largely dependent on trapping, hunting and fishing. At the start of the Joint Review Panel hearings in February 2006, Fred Carmichael, chair of the Aboriginal Pipeline Group and president of the Gwich'in Tribal Council, laid out his arguments as to why the pipeline had to be built: "A pipeline down the Mackenzie Valley will...not destroy the land, but without some form of economic base we will surely destroy our people." At the JRP hearings in Fort McPherson on 17 February, Chief Charlie Furlong spoke of his hopes for economic independence in the wake of the pipeline:

The royalties, the taxes that will be generated from exploration and the pipeline will give us that independence. If we are to rebuild as a nation, then we must take advantage of economic opportunities to build our own source revenue that will allow us to be truly self-governing and perhaps one day be the proud nations our grandparents talked about. (2)

Divided Perspectives on the Mackenzie Gas Project

Aboriginal leaders are key supporters of the Mackenzie Gas Project, arguing that oil and gas development is the only way Aboriginal communities – and the economy of the Northwest Territories as a whole – can achieve jobs and prosperity. Yet 2005 was characterized by dispute, with each player (Aboriginal, federal and territorial governments, industry) pushing its own

interests and struggling to reach agreement on the most appropriate way forward for the project. While Aboriginal leaders demonstrated their support for the project, they also argued that it was the responsibility of both industry and the Canadian government to meet the costs of social and economic impacts, and to settle housing and education concerns. Some Aboriginal people also doubt that employment will be as high as promised for northern communities. Access and benefits agreements also dominated the agenda of talks between Aboriginal groups such as the Sahtu and Imperial and other proponents. Such concerns appear to have been resolved and the Canadian Liberal government announced that it would be giving Can\$500 million to Aboriginal communities to help deal with social and economic impacts. The current Conservative government (elected in January 2006) has indicated that it will honour this.

The hearings have offered the space for the expression of a diversity of views. Beyond the rhetoric of Northern leaders and politicians about economic opportunities, Aboriginal employment and the future of the NWT, there remain widespread concerns at the community level over the social, economic and environmental impacts of the Mackenzie Gas Project. The support of Aboriginal political and business leaders has given industry, government and the media the impression of unequivocal support for the project, yet the majority of Aboriginal voices have been muted. Until recently, feelings of uncertainty over the project as well as the extent of opposition to the pipeline remained unknown. The hearings process has given Aboriginal peoples living in Mackenzie Delta and Valley communities an unprecedented opportunity to express their feelings, anxieties and concerns about the pipeline and facility operations. At the Fort McPherson hearings, testimony from Elaine Alexie of the Tetl'it Gwich'in Nation summed up the feelings of many young people who have appeared at community hearings throughout the NWT:

I am opposed to the proposed Mackenzie Valley Pipeline. As a Gwich'in youth, I feel that this multi-billion dollar project will not only provide economic means to our communities, which is deemed through the eyes of the industry and of our own leadership as opportunity to our people, but I strongly feel that this development project will destructively affect and worsen the social, cultural spiritual, physical, and environmental well-being of our communities. (3)



Canada's North is on the verge of major developments in the oil and gas industries. Drilling rigs, seismic trails and access roads are already found oil in previously isolated areas. Photo: Mark Nuttall

The Deh Cho and the Dene Tha': Livelihood Rights

There are two major stumbling blocks for the project proponents: the unresolved land claim of the Deh Cho in the central Mackenzie Valley, and the legal action of the Dene Tha' of northern Alberta and northwest British Columbia. The Deh Cho First Nation is a tribal council representing thirteen Dene and Métis communities in the central NWT. The proposed pipeline route runs approximately 40% through Deh Cho traditional territory. Although not opposed to the project, nor to membership of the Aboriginal Pipeline Group, for the Deh Cho a land claim settlement is a precondition before discussions can begin. The Deh Cho argue that they are entitled to have revenue from the Mackenzie gas pipeline paid to them directly as a separate level of government. They are also asking for greater clarity around royalty sharing, better environmental assessment, greater understanding of the social impacts, information about impacts on caribou and moose populations and on traplines, and a guaranteed voice on the Joint Review Panel. The Deh Cho Interim Measures Agreement, a temporary arrangement introduced to allow for a measure of protection for the Deh Cho while the land claim is being negotiated, provides for participation in land and water regulation through membership of the Mackenzie Valley Environmental Impact Review Board and creation of a Deh Cho panel of the

Mackenzie Valley Land and Water Board. The Agreement also sets out the requirements for benefit plans related to oil and gas activities in the region.

There are signs that the Mackenzie Gas Project proponents, including the Aboriginal Pipeline Group, are becoming impatient with the Deh Cho position – the chairman of the APG gave the Deh Cho until 31 July 2006 to join the group or lose out on the opportunity, a deadline the Deh Cho rejected. Deh Cho Grand Chief Herb Norwegian has stated that there is no rush for them to join the APG, pointing out that it would be several months before the Deh Cho are ready to make a decision because the project still has too many unknown aspects. One of Norwegian's main concerns is over the economic viability of the pipeline and the rising and uncertain costs involved in the APG's participation in the venture. Above all, the main worry for the Deh Cho has been that, by joining the Aboriginal Pipeline Group, their negotiations with the federal government over a land claim deal would be impaired. While the Deh Cho argue that the pipeline cannot be built without their approval and support, the federal Indian Affairs Minister has said that the pipeline is crucial for economic development in the western Arctic and its construction will not be held up by the objections of one group. (4)

The Dene Tha' issue differs from the Deh Cho situation but is based on a grievance that arises from similar concerns over control of the Mackenzie Gas Project, exclusion from consultation and from the regulatory

process, exclusion from the environmental assessment, and profound concerns over the social, economic and environmental impacts of the pipeline passing through traditional lands. In May 2006, the Dene Tha' launched legal action against the project. (5) Their lawyers filed a judicial review with the Supreme Court of Canada against the federal government, the NEB, Imperial Oil and the JRP, alleging that they had failed to consult with Dene Tha' leaders and communities and complaining that they had been left out of impact and benefit negotiations. They also maintain that their status in the regulatory review process - being only interveners - is inadequate, that the Alberta sections of the pipeline should be included in the federal review, and that the mega-project and its associated development infringes Dene Tha' Aboriginal rights and titles in NWT and Alberta. Earlier, in January, they had requested that the JRP delay the hearings until after their applications for a judicial review. This request was denied, as the JRP said that many of the Dene Tha' concerns were beyond the scope of the regulatory review process. (6)

The Mackenzie Gas Project is regulated by the NEB and is a federal government concern, but the difficulty for the Dene Tha' is that the Alberta section will be decided upon by TransCanada Pipelines and the Alberta Energy and Utilities Board, making the regulatory process for this part of the route a joint concern for energy companies and the Alberta provincial government. Furthermore, First Nations communities in Alberta will not be included in the Can\$500 million federal community support programme, nor in industrial benefits deals with the energy companies. The Dene Tha' concern is that, as the final 100 kms or so of pipeline is merely defined as a routine extension of the existing TransCanada system, this crucial southern link is being disguised as a minor project by energy companies and by Alberta industry and pipeline regulators. The NEB and JRP positions are clear: both assert their federal status and refuse to be drawn into a jurisdictional controversy with Alberta and TransCanada, while the JRP points out that it has no mandate or power to make Alberta enforce directives for wildlife conservation, habitat protection, or community concerns. At the JRP hearings in High Level in northern Alberta, Dene Tha' leaders participated as interveners, turning them into a forum for spirited resistance. Chief James Ahnassay told the session, "We're participating under protest. We question the legitimacy of these hearings." He added that "the process has become deeply hurtful and insulting to us." (7) For the Dene Tha', the hearings were an opportunity to relay to the panel the fact that they were not properly consulted, that the oil and gas industry would adversely affect their use of the land, and they had not benefited from devel-

opment in the past. Above all, elders reminded the JRP that oil and gas were finite resources, warning that the industry was merely a passing phase compared to the endurance of Aboriginal cultures.

Cumulative impacts

A number of NGOs, northern and southern, have also established a wide array of positions on the pipeline, arguing that the project has to be in Canada's interest as a whole. As the hearings for the Joint Review Panel began in February 2006, Aboriginal leaders criticized environmental groups such as the Sierra Club and Worldwide Fund for Nature (WWF) for being similar to the anti-trapping organizations of the 1970s and 1980s that impoverished Aboriginal communities as a result of their successful campaigns. Yet the Sierra Club, an active intervener throughout the hearings process, claims that rather than sending relatively clean energy to replace the coal or diesel being burned in southern Canada and the U.S., the pipeline will carry gas from the Mackenzie Delta to northern Alberta, where it will be burned to heat up the viscous mix of bitumen, clay, sand and water that is known as oilsand.

The Alberta-based Pembina Institute, a research, education and advocacy organisation concerned with sustainable energy, argues for consideration of the cumulative impacts of the Mackenzie Gas Project. Their recent report *A Peak into the Future* (Holroyd and Retzer 2005) claims that Northerners have been provided with little information that illustrates potential scenarios for oil and gas development over a 30 to 50-year time period. Similarly, information about the potential cumulative, long-term ecological, economic and social impacts of full-scale natural gas exploration and development is limited. As Holroyd and Retzer point out, the emphasis to date has been on individual gas projects, such as seismic projects, exploration drilling and the Mackenzie Gas Project, which represent only one stage of a much larger development process. Their findings suggest that Northerners can expect industrial development to increase significantly over a period of 10 to 20 years and then, unless more reserves are found, decline. Their report shows that the rate of development and ultimate environmental footprint will be similar to other mature gas fields in Western Canada's Sedimentary Basin that are now fully developed and have left significant surface disturbance on the landscape.

Holroyd and Retzer's concerns over the lack of consideration of cumulative impacts is significant given that exploration activity for oil and gas has already stepped up in anticipation of the Mackenzie Valley pipe-

line decision. The vice-presidents of markets for the Canadian Association of Petroleum Producers has said that the Mackenzie Valley pipeline proposal is the real driver of all Arctic oil and gas exploration, whether on land or in the Beaufort Sea, confirming that the energy companies operating in Canada's North will focus their activities on exploration in the mid-Northwest Territories, the Mackenzie Delta and the Beaufort Sea. (8) The major energy companies are positioning themselves and are using the hearings to ensure that the National Energy Board recommends that the pipeline will have "open access" to anyone who wants to bring gas into the system, as well as addressing the issue of the cost of service tolls for transporting gas, which are directly related to the capital costs of the infrastructure. The higher the cost of the pipeline, the higher the tolls based on a percentage.

Conclusion

Renewed interest in developing the oil and gas resources of northern Canada presents both Aboriginal and non-Aboriginal people with possible economic opportunities as well as significant social and environmental risks. From Inuvik in the northern NWT to High Level in northern Alberta, the hearings have been filled with rich testimony from Aboriginal people demonstrating that the memories of traditional hunting, fishing and trapping ways of life are still fresh. Yet these are not simply nostalgic laments for a heritage many see as passing. When people speak powerfully about being out on the land they remind us that this heritage is a living one. Stories of traditional life also provide a discursive context for the expression of hopes for the achievement of economic independence. Observing the hearings and reading the transcripts, one is also struck by how people have used the Berger report as a referent, a baseline to approach the current hearings and to frame their understanding of the scale of industrial activity. While communities in the Northwest Territories are on the verge of industrial development, from the perspective of living in a part of Canada splattered with countless oil and gas wells and crisscrossed by thousands of seismic trails and access roads, Dene Tha' leaders in northern Alberta have stressed the urgent need for the Joint Review Panel to recommend measures to control industrial sprawl as a result of oil and gas activity.

For Aboriginal peoples – and indeed all residents of the NWT – the hearings have offered the opportunity and space for open conversation and debate, for the exchange of information and ideas and for a greater un-

derstanding of the scope of the project before a final decision is made and the specific conditions are set out. With other large-scale development proposals submitted and pending, the Mackenzie Gas Project hearings have also demonstrated the fundamental importance for Northerners to have access to reliable and detailed information, and for them to develop a sound understanding of the oil and gas industry in order to make informed decisions about the potential environmental impact of these developments. Thirty years on, the 2006 hearings have illustrated what Thomas Berger highlighted – the complexity of building a pipeline in Canada's northern energy frontier region. □

Notes

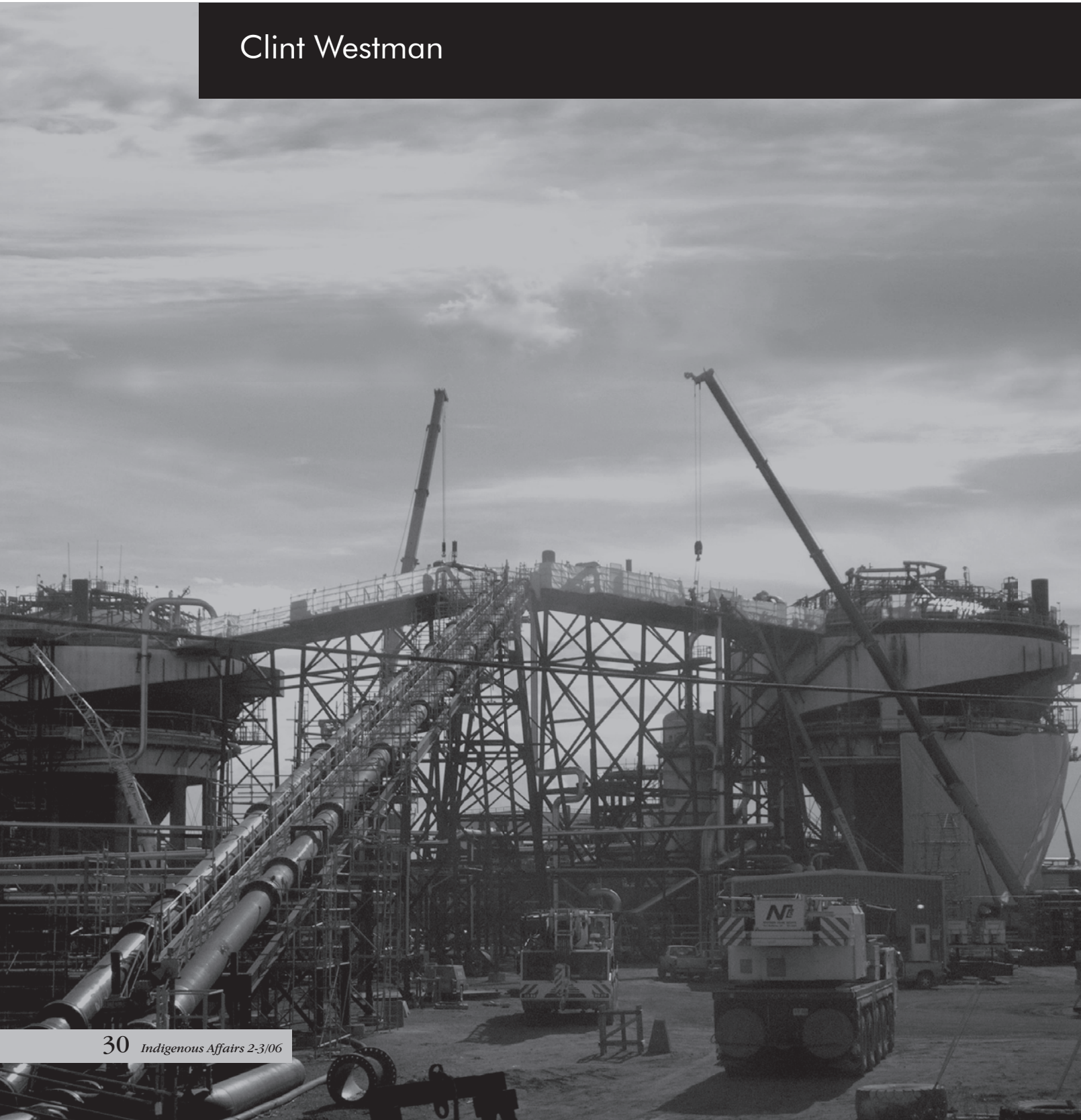
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ASSESSING THE IMPACTS OF OILSANDS DEVELOPMENT ON INDIGENOUS PEOPLES IN ALBERTA, CANADA

Clint Westman



Oilsands in context: the development of Northern Alberta

The vast oilsands beneath the boreal forests of Northern Alberta (in Western Canada) are touted as a cure for the world's energy woes, but recent development of this resource has had major impacts on the environment and local people. Oilsands expansion undermines hunting and other rights that Aboriginal peoples have secured through treaties, constitutional negotiations and litigation. In this article, I examine the impacts of oilsands development on Aboriginal peoples, and also the policy environment for assessing these impacts. I find that the social impact assessment industry around the oilsands has become an aid in development of this resource, to the detriment of Aboriginal rights.

The signing of Treaty 8 by Canada with First Nation representatives of Northern Alberta, in 1899-1900, was seen by First Nations as an agreement to share the land while continuing their foraging lifestyle. The Canadian government, for its part, viewed the treaty as a land surrender and acted accordingly in its subsequent efforts to develop the north. As the fur trade diminished in importance during the mid-twentieth century, resource industries such as oil and gas exploration and forestry became more prominent in the region. Even as development has moved ahead, Alberta has had a cyclical economy owing to dependence on these primary resources. However, we are led to believe that it is the oilsands deposits which promise long-term wealth for all.

The oilsands of Northern Alberta contain deposits of bitumen that are second only to Saudi Arabia's oil reserves, with an estimated 1.7 to 2.5 trillion barrels of



oil trapped in a viscous mixture of sand, water and clay. The oilsands are typically exploited by open pit mining covering a vast area. The extraction process is a complex and costly one, involving the separation of sand, water and bitumen using heated water and other hydrocarbons. Once extracted, the bitumen is sent for cleaning, processing and refining.

The oilsands deposits underlie the traditional lands of the Dene and Cree First Nations, as well as those of the Métis (people with Aboriginal and Non-Aboriginal background, many of whom live in a traditional lifestyle). Today, Northern Alberta (as defined by Treaty 8) is home to 23 First Nations (formerly known as Indian Bands), four Métis Settlements, and numerous other, unrecognized, Aboriginal hamlets on Crown land. A number of these communities are located in close proximity to oilsands deposits.

Currently, some eight communities are dealing with active oilsands development in their traditional territory. A few other communities in the Cold Lake region, outside the Treaty 8 boundary face similar pressures in concert with the expansion of conventional oil, gas, military and forestry activities. Altogether the region is home to tens of thousands of Aboriginal people, who constitute the primary regional minority. Aboriginals in Northern Alberta are a diverse group, ranging from urban dwellers to geographically isolated communities far from roads. Many Aboriginal people in the region continue to speak their native language and to practice traditional subsistence activities, at least periodically. There is generally a strong sense of Aboriginal identity in the region.

Impacts of oilsands development on Aboriginal peoples

The concerns of Aboriginal peoples with regard to oilsands development range from air and water pollution to habitat loss for animals. However, for those who are active in subsistence activities in the immediate areas proposed for development, the loss of the land itself to strip mining is a paramount concern. Trappers hold fur management licenses ("traplines") over a prescribed area, where traditional knowledge is developed. Individually, impacted trappers are interviewed and paid out an undisclosed fee, some losing their lifestyle. The almost total impact of the oilsands on the relatively pristine traplines of a few core trapping families in the immediate region is of major cultural consequence. Many of these individuals are torn between the world of work and the bush.¹

As to the collective interests of Aboriginal peoples as a whole, Aboriginal leaders have addressed oilsands development in a pragmatic manner, recognizing that such development will likely go ahead regardless of Aboriginal concerns.

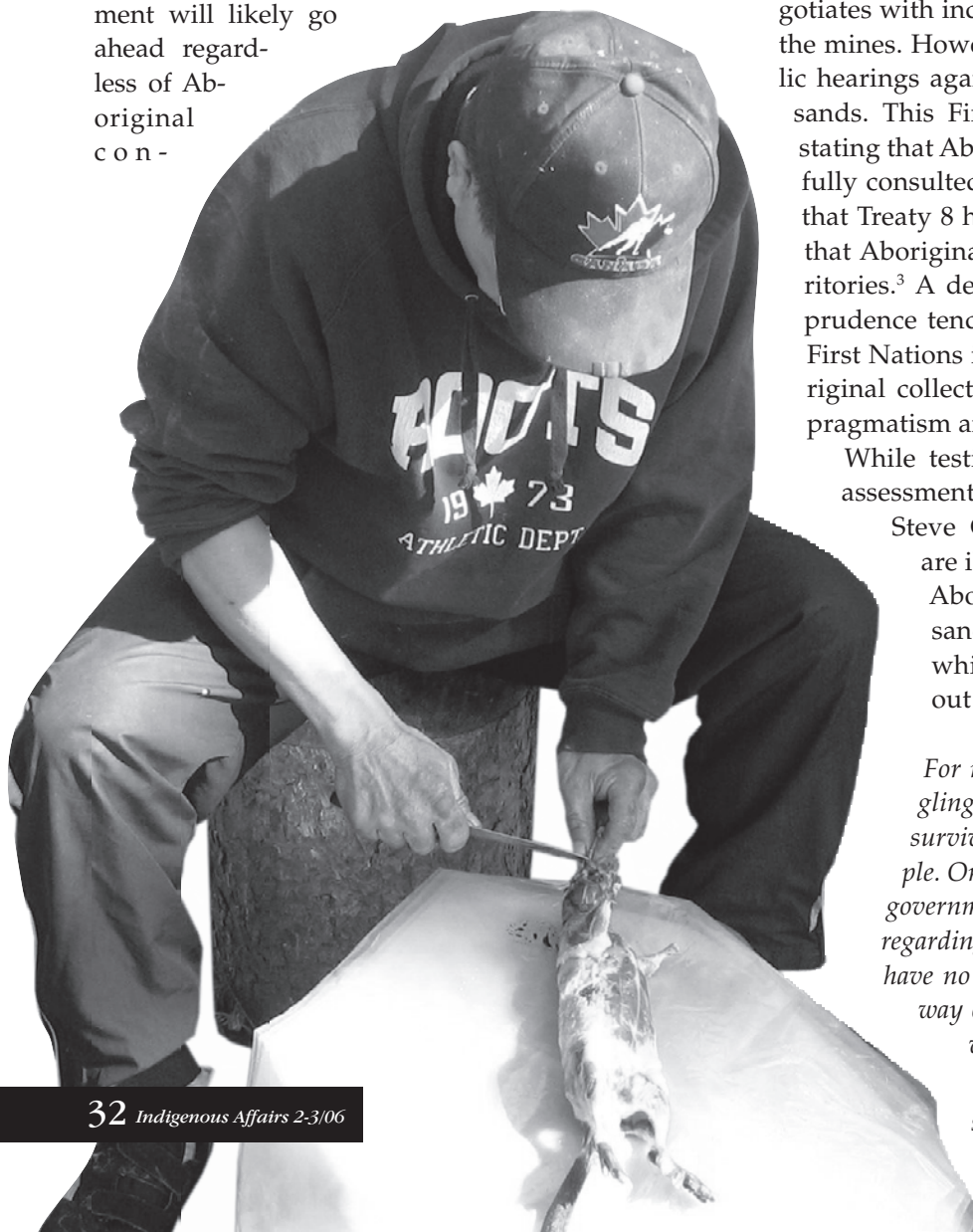
cerns if it is perceived as being in the "National Interest".² Attempts by Aboriginal groups to prevent development and/or assert Aboriginal title by means of caveat applications and court actions have generally been unsuccessful. Thus, Aboriginal leaders operate on many fronts, advancing strategic lawsuits stating ownership of the area, while also negotiating with industry and government on the impacts and benefits of projects.

In the case of the Fort McKay First Nation, the community most impacted by oilsands development to date, this community has received (through essentially unrelated treaty land entitlement claim negotiations) a land base within the mineable oilsands zone which will be the key to its economic development for years to come. This First Nation is currently exploring joint ventures with industry and has a high rate of labour market participation. However, this does not necessarily reflect a regional consensus among Aboriginal peoples.

Downwind and downstream of the mines, at Fort Chipewyan, the Mikisew Cree First Nation also negotiates with industry and has members working in the mines. However, Mikisew has protested at public hearings against the rapid expansion of the oilsands. This First Nation recently won a lawsuit stating that Aboriginal peoples had to be meaningfully consulted, and has another lawsuit claiming that Treaty 8 has not been implemented fully and that Aboriginal peoples own their traditional territories.³ A developing theme in Canadian jurisprudence tends to support this claim. These two First Nations illustrate the wide diversity of Aboriginal collective responses to industry, between pragmatism and litigiousness.

While testifying at an environmental impact assessment public hearing, Mikisew official, Steve Courtoreille, made remarks which are illustrative of the ambivalence many Aboriginal people feel towards the oilsands industry, and of the double bind which faces First Nations who speak out against development:

For me, personally, it's almost like a juggling act. On one hand, we're trying to survive by getting employment for our people. On the other hand, we're cautioning the government and industry about our concerns regarding the environment being polluted. We have no choice but to seek work because our way of life has been destroyed... Because we've been very outspoken in our be-



lief in trying to protect the environment, we're not treated fairly. We get threats in terms of losing our contracts. We're not going to be intimidated by anybody who comes and threatens us... Our way of life and our environment is not a bargaining tool...⁴

Courtoreille's remarks outline the Aboriginal commitment to a mixed economy of foraging and wage labour.

Many Aboriginal people in Northern Alberta's more remote communities maintain a close relationship with their traditional territory. This is manifested both in terms of economic production as well as the discursive or symbolic importance of time spent on the land. Apart from the nutritional and physical benefits of subsistence activities, individuals and families often have an intense bond of a spiritual nature with "the bush", its resources and its stories. These are jeopardized by development, which irrevocably destroys large tracts of virgin wilderness, and pollutes the surrounding area with noise, fumes, cutlines and pipelines.

Oil sands development in Alberta

Alberta's oilsands were long-known to Aboriginal peoples and attracted the interest of explorers early on. However, due to technological and access difficulties, sustained production only began in the 1960s. For decades, development was limited to one or two mines but the latest round of proposed developments is of another order of magnitude altogether.

As recently as 2003, there were just three oilsands operations in the Fort McMurray region of Alberta, operated by Syncrude, Suncor and (since more recently) Albion Sands. Due to high costs, these first three projects all began as joint ventures, including significant public investment in the former two cases. All projects involve open pit mines, with the Syncrude and Suncor operations undergoing expansion. Several other additional projects are either under construction or slated to begin operations in the near future (totaling over 17 billion dollars in development).

Canada's National Energy Board has forecast that nearly 100 billion dollars of oilsands capital development will occur by 2015.⁵ The output from oilsands producers in Alberta could triple to 3 million barrels a day by that date. This 2006 production estimate is 40% higher than the board's 2004 estimate for 2015,⁶ as costs and investment are increasing rapidly. Currently, Alberta's oilsands already provide

over 50% of Canada's total oil production, and nearly 10% of total US oil imports.⁷ Canada is the single largest source of US oil and gas. Within 10 years, three-quarters of Canadian oil exports will be from the oilsands.⁸

The mines have negative effects on water quality and quantity, and gobble up virgin wilderness lands. The cumulative disturbance to date is over 15,000 hectares or 150 square kilometres. Some estimates suggest that by the year 2023 the impacted area may be as much as 10 times the area affected to date, potentially exceeding 1,406 square kilometers, not including the space required for tailings facilities.⁹ Currently, the 50 square kilometers in existing tailing ponds are visible from space.¹⁰ In the context of increasing development in other sectors and the promise of massive future oilsands development, the loss of animal habitat and hunting territory is a serious threat to the environmental and cultural health of local Aboriginal people. These are not the only effects: the Aboriginal community of Fort Chipewyan has been struck by multiple cases of a rare cancer, which local representatives contend relates to air and water pollution from the oilsands. The globalization of the oilsands resource raises questions about who benefits, and who pays.

Cumulative effect of oilsands development

The oilsands themselves have triggered a new wave of development frenzy in search of new energy sources, given the high energy cost of refining useful fuel from bitumen. This has led to speculation that a nuclear reactor (the first in Western Canada) may be required for the region, or that the bulk of Canada's Mackenzie Delta natural gas might be used as an electricity source for refineries.¹¹ Of course, these proposals would have their own environmental implications. Even "in situ" alternatives to the traditional strip mining extraction method are not environmentally benign, requiring large amounts of water (drained from surface sources such as rivers and wetlands), as well as extensive drilling, piping and pumping infrastructure. Whether mined or exploited *in situ*, the expansion of the oilsands will lead directly to more linear disturbances on the land, including pipelines, roads and, potentially, railways. Another long-term risk to traditional land use which must be addressed is the spectre of acid rain, previously unknown in Western Canada, resulting from oilsands refining activities.



Heavy hauler trucks carrying oilsands deposits at Syncrude's Aurora mine, northern Alberta. Photo: Mark Nuttall



A Syncrude truck parked on the Mall in Washington DC during the Smithsonian Folklife Festival, July 2006. Photo: Mark Nuttall

Oilsands development will add to the already high impact of Alberta's oil patch on the land. These disturbances include: over 300,000 km of pipelines; over 4,000 processing plants; countless pump jacks; over 5,000 sour gas wells and hundreds of thousands of kilometres of roads and cutlines. As rising prices make oilsands more viable, so too the maturing conventional oil industry also strives to expand production, as do natural gas operators. While oil and gas exploration disturb more land than does forestry, Alberta is also home to a forest industry that has expanded rapidly in the last 15-20 years. Satellite imagery depicts the great extent to which development has altered the land in Alberta, relative to other boreal forest jurisdictions. The oilsands represent both an intensification of this development process (as large amounts of land and habitat are excavated or inundated with poisonous sludge) and an overall increase in scale and capital. This has necessitated a major industrialization of a relatively isolated region over a short time.

Global scope and significance of oilsands in Alberta

In early July 2006, a "Heavy Hauler" oilsands truck was parked on The Mall in Washington, D.C., as Alberta advertised the availability of a new, long-term source of energy for the USA, with a provincial government ready to do business. Thus, oilsands development in Alberta must be seen in the context of the global political economy, where war, SUVs and boreal foraging are inter-related. With the largest oilsands

deposits in the world, Canada is a major "domestic" source of energy for the North American market. However, this prospect alone was not enough to make the projects economically attractive to investors: during the 1990s, the governments of Canada and Alberta agreed to design a comprehensive tax and royalty reduction to attract new investment, including a royalty rate of 1% until projects reached profitability. In documenting the poor planning and large impacts of oilsands projects, environmental think tanks such as the Pembina Institute have advised a reconsideration of the province's long-term economic strategy.¹² Aboriginal communities, health authorities, social service providers, provincial and municipal politicians have also endorsed this viewpoint.

Traditional land use, traditional environmental knowledge and "experts"

Resource companies in Canada are required by federal and provincial laws to assess the likely impacts of their projects on the environment and on local communities. This includes an assessment of impact on Aboriginal peoples' use of the land for traditional and subsistence purposes. Companies tout their observance of these laws as voluntary, good corporate citizenship.¹³ In reality, however, the collection and usage of traditional land use and traditional environmental knowledge information by proponents has not respected or comprehended the sacred nature of this information, and Aboriginal peoples have become a public relations tool in this regard. A major advertisement placed by one company showed a photo of a smiling native elder in front of a pristine



Oilsands production is strip mining, leaving behind a devastated terrain once the resource has been mined. Photo: Mark Nuttall



Skinning beaver, northern Alberta. Photo: Clint Westman

lake, with no oilsands infrastructure to be seen. The caption for the ad stated: “Not all the experts we listen to are employed by Shell”. The fine print detailed the company’s close working relationship with local Aboriginal peoples.¹⁴ However, my research suggests that the social impact assessment techniques used on the oilsands project do not meet the promise of this advertisement, which purports to treat Aboriginal elders as experts.¹⁵

All in all, environmental consultation and management in Alberta – indeed, all over Canada -- may not meet the requirements of the courts or of international law.¹⁶ In spite of constitutionally protected treaty rights to hunt, trap and live traditionally on the land, and a documented interest in continuing this practice, development has had major impacts on Aboriginal traditional land use in Alberta. Regrettably, environmental impact assessment is an important handmaiden in this process, through the close working relationships between consultants, industry and government.

Problems in assessing traditional land use impacts¹⁷

Environmental impact assessment is among the most stringent means of cumulative effects management available to policy makers;¹⁸ thus critique and reform of environmental impact assessment are critical in protecting the environment and Aboriginal rights. In Canada, the *Canadian Environmental Assessment Act* (CEAA), as well as some provincial and territorial statutes, have since the mid-1990s required the assess-

ment of development impacts on traditional land use. However, the early promise of such statutes is betrayed by the reality of social impact assessment practice.

Traditional environmental knowledge has developed in Aboriginal communities over millennia, and is deeply intertwined with practice (traditional land use), religion and ethics.¹⁹ Given the cultural specificity of traditional environmental knowledge and traditional land use, it may be difficult for environmental impact assessment to live up to the promise of legislative provisions in creating a new dialogue between Aboriginal peoples, scientists and development proponents.²⁰ In environmental impact assessment work, the underlying structures, processes and worldviews of public and private sector resource managers and consultants can effectively block communication of meaningful ideas from Aboriginal peoples, in spite of lawmakers’ intentions.²¹

As it stands, both science and public policy methods are premised on an underlying set of assumptions about reality, and those who do not share these assumptions may be prejudiced from the start in their ability to influence decision-makers.²² A number of commentators have pointed out that environmental impact assessment documents tend to “narrativize” development as inevitable, desirable and progressive.²³ Furthermore, practitioners do not fully comprehend Aboriginal insights into land and religion.²⁴ Finally, environmental impact assessment in general has not addressed the impacts of past and present developments on traditional land use, let alone the likely cumulative effects of future developments.²⁵



Butchering moosemeat after a ceremony to give thanks. Photo: Clint Westman



Cleaning fish at a bush camp, northern Alberta. Photo: Clint Westman

The traditional land use industry

In Canada, large resource extraction companies employ large consulting firms to conduct environmental and social impact assessments in accordance with the law. These documents are then reviewed by committees drawn from within the provincial and federal governments. The production of environmental impact assessment documents, then, draws on certain assumptions inherent to planning in capitalist, highly organized societies. As such, the document does not seriously question development, nor provide information that would assist those who wish to question it. In this way, the document functions to obscure, not to expose, projected traditional land use impacts.

Typical oilsands documents analyze traditional land use as one chapter or component in an overall assessment heavily weighted towards the natural and physical science aspects of the project. As such, those conducting the studies may not be trained in social science research methods or ethics, let alone in local language, culture or religion. As such, the studies often provide little information which would assist panelists or politicians in assessing the true nature of impacts and values in the Aboriginal communities nearby.

In many cases, writing-up "the data" becomes part of the process of obscuring its significance. There is usually little historical background or projected information on the cumulative impacts of future development in the document. Taking advantage of soft data and inadequate models, consultants may present information in such a way as to downplay the amount of cumulative development to date on a First Nation's traditional territory. This rather slipshod approach allows for a technical, almost strictly quantitative, assessment of cumulative impacts which fails to provide adequate information about the human cost of development on a culturally bound activity such as subsistence harvesting.

In this regard, Golder Associates' 2002 study of Shell Canada's Jackpine mine demonstrates the problems with the existing regime. Golder is one of the major companies in Canada conducting impact assessments on large projects, and thus has adopted a formulaic approach to its methods, in order to benefit from economies of scale in the consulting market. With Golder's assessment, Shell Canada, a local branch of the large transnational energy corporation, received approval in 2004 to begin its Jackpine project, north of Fort McMurray, Alberta. The Jackpine mine is a major project, expected to produce 200,000 barrels per day of oil at its peak. Jackpine is one of two Shell mines approved in recent years, along with a suite of other competitors on neighbouring sites. So, the impact assessment for this project represents the standard practice of these major players in the oilsands game. This is a pity, as the methodology used in this study gives cause for some concern about the representation of Aboriginal concerns regarding these projects overall.

The study's chief failing regarding traditional land use is its handling of qualitative data about local knowledge and practice in the proposed mine's footprint, consisting of three interviews with the trappers most directly impacted. This is the heart of the social impact assessment side of the document, and the consultant's inability to deliver meaningful interpretive and contextual information here is critical. However, rather than take a broad spectrum approach to research, the consultants focus to a large extent on the impacts expected to accrue to male trapline holders. Women do not appear to fit into this formula for a basic, profitable assessment methodology. This neglects the importance of many people going to and through the land that is a trapline; it may also support a gender bias neglecting women's land use.



The fiction of consultation: in-depth interviews with trapline holders in Social Impact Assessments

Golder's abstracts of the three interviews with the trapline holders are instructive. We learn that, while the footprint of the project will obliterate only a minority of any one trapline, this includes several key trails and waterways, as well as the richest portion of one line. Trappers express further concerns over noise, access and a change in the spiritual or contemplative character of the land throughout the area.

Golder's consultants are assigned to collect culturally laden information, the use of which they do not adequately problematize or explain for the proponent, regulators or the public. This results in the use of blasé or neutered discourse, as we shall see from but one naïvely understated example:

Healing the Land is a major challenge for the ongoing success of (Traditional Land Use) in the Oil Sands Region.²⁶

What "Healing the Land" might entail given the lack of effective reclamation strategies and the complexity of boreal environments is never explained, nor is another informant's use of the term "sacred" explored or contextualized. So, how can decision makers at the bureaucratic or political level access this information? Methodologically and theoretically, the result is not up to social science research standards.²⁷ Numerous examples of solid ethnographic work exist which would provide context for an investigation of this source.²⁸ But first, understanding requires an effort on the part of governments, industry and consultants to overcome bias and destabilize assumptions.

Contextualizing traditional land use

Contextualizing traditional land use is the true work of the cross-cultural encounter, a challenge which invites us to reconceptualize traditional land use as something not limited to hunting or eating, but based in family relationships, learning, reciprocity and obligation. Dene elder Frank McIntyre's insights give us a basis for understanding traditional land use and spirituality along these lines:

My father used to tell me, we need to make a thanksgiving... (he said) you know my son we are alone and you may think we are the first persons in this area, but our great grandfathers were here before us... I am going to

sing a song to bring a thanksgiving to the Creator and to Mother Earth who has supplied us. Now you sing with me if you can. So he starts singing and I start repeating his song and he would tell me to stop. So we would stop, now listen to our grandfathers and great-grandfathers. You can hear them singing with us. In every hill around us you could hear the echo, even further, now you hear that? We are not the first persons in this country. They were our forefathers, our great-grandfathers that were here. I could hear all the echo all around us and that is the spirit of our great-grandfathers and also that is the Mother Earth supporting us.²⁹

Such a framework incorporates co-existing past and future generations and non-human persons into an overall traditional land use matrix that extends well beyond the production of food, but must go on to honour powerful others.

Set in these terms, we might understand traditional land use as, for at least some Aboriginal peoples, an obligation central to meaningful life, not just a fringe benefit to be enjoyed on evenings and weekends. To incorporate these insights into impact assessment, we must go beyond policy tinkering, towards an approach to knowledge which allows Aboriginal peoples to speak in their own voices. "Progressively contextualizing", building our understanding of these insights, based on respect, attentiveness and sound ethnographic methods and data,³⁰ would be one step in repositioning social impact assessment as a public policy tool to defend Aboriginal land rights.

An impact assessment document can be a narrative about the withering away of traditional land use and traditional environmental knowledge in the advent of science and industry. For one thing, the narrative specifies that the mine *will* go ahead, rather than seeking information about impacts *if* it goes ahead. Traditional land use is part of the past, to be replaced to a large extent with wage employment, even though this is not a sustainable alternative over the long term, since the mine will have a definite sunset. This reflects the so-called triumph of less sustainable modes of production over foraging on a global scale. Incremental impacts on traditional land use are just part of progress, according to this view. To begin to understand Aboriginal traditional land use and traditional knowledge, we must question the narratives which implicitly suggest that hunting belongs in the past and oil is the future.³¹ As such, this article challenges both the conclusions of social impact assessment consultants, that the oilsands are in the public interest, as well as the methods and interpretive stance used to induce these conclusions. □

Notes

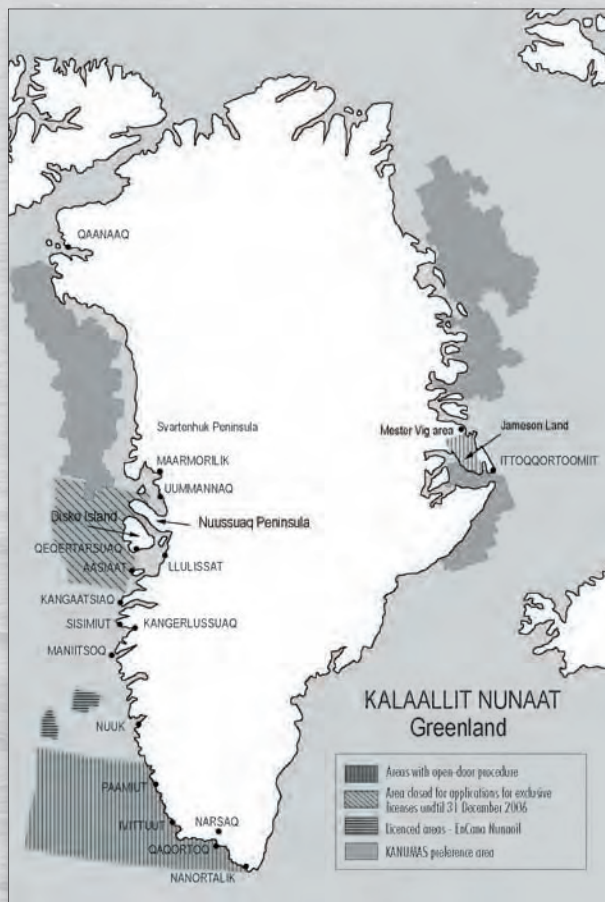
- 1 The economic participation of Aboriginal peoples reflects their overall marginalization from Canadian society. They are more frequently at the margin of the labour force, but males are highly represented in working-class resource extraction jobs. As recently as the 1950s and 1960s, trapping was the norm for men in small communities. Until the global decline in fur demand in the 1970s, many Aboriginal people lived by a mix of casual labour, trapping and government transfers. Today, a mixed economy is still practiced, and bush food still frequently consumed, but income from labour and other transfers tends to predominate over trapping income
- 2 Boldt, Menno. 1993. *Surviving as Indians*. Toronto: University of Toronto Press.
- 3 At least one other First Nation impacted by oilsands development, the Lubicon Lake First Nation, also takes the position that their ownership of their traditional lands was not extinguished by Treaty 8.
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- 5 Notably, new expansions are dominated by transnational companies, whereas early oilsands players were Canadian companies.
- 6 Schmidt, Lisa. 2006. "Oilsands output to triple." *Calgary Herald*, June 2 (online edition).
- 7 TD Securities. 2004. *Overview of Canada's oilsands*. Canada: TD Securities. P4
- 8 Woynillowicz, Dan, Chris Severson-Baker and Marlo Reynolds. 2005. *Oilsands fever: The environmental implications of Canada's oilsands rush*. Edmonton: The Pembina Institute. P. 5
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- 15 Westman, Clint. 2003. "Traditional land use in the Jackpine mine SIA." Unpublished term paper submitted to Dr. David Schindler and Dr. Naomi Krogman, Rural Sociology 501, University of Alberta.
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- 17 I have experience of looking at oilsands environmental impact assessment documents both as a professional and as an academic. I have conducted 13 months of fieldwork in Northern Alberta Cree and Métis communities which have been impacted by oil and gas development. These communities are also closely located to oilsands deposits which are in the early stages of their development. I worked on a traditional land use study for a First Nation facing expanding oilsands activity. My interest in oilsands issues is closely related to my attempts to understand the meaning of place and sacredness through the eyes of my informants in these communities.
- 18 Kennett, Steven A. 1999. *Towards a new paradigm for cumulative effects management*. Occasional Paper #8. Calgary: Canadian Institute of Resources Law.
- 19 Tanner, Adrian. 1979. *Bringing home animals: religious ideology and mode of production among the Mistassini Cree*. St. John's Nfld.: Memorial University Press.
- 20 Patterson, Michael E. and Daniel R. Williams. 1998. "Paradigms and problems: the practice of social science in natural resource management." *Society and Natural Resources*. 11, pp. 279-295
- 21 Patterson 1998
- 22 Stone, Deborah. 1997. *Policy paradox: the art of political decision making* (2nd ed.). NY, NY: WW Norton & Co.
- 23 Howitt, Richard. 1995. "Social impact assessment, sustainability and developmental narratives of resource Regions." *Impact Assessment*. Vol. 13. No. 4, pp.387-402. (Also see Asch, Michael. 1990. "The future of hunting and trapping and economic development in Alberta's North: some myths and facts about inevitability." *Proceedings of the Fort Chipewyan and Fort Vermillion Bicentennial Conference*. McCormack, Patricia A. and R. Geoffrey Ironsides, eds. Edmonton: Boreal Institute for Northern Studies, pp. 25-29; Espe-land, Wendy. 1993. "Power, policy and paperwork: the bureaucratic representation of interests." *Qualitative Sociology*. Vol.16. No. 3, pp.297-317; Sandberg, L. Anders and Joel Slogget. 1989. "Geography in the Canadian North, c. 1945-1988." *Geografiska Annaler*. 71 B 2, pp.125-134.)
- 24 Mulvihill, Peter R. and Douglas C. Baker. 2001. "Ambitious and restrictive scoping: Case studies from Northern Canada." *Environmental Impact Assessment Review*. Vol. 21, pp. 363-384; Paci, Chris, Ann Tobin and Peter Robb. 2002. "Reconsidering the Canadian Environmental Assessment Act: a place for traditional environmental knowledge." *Environmental Impact Assessment Review*. Vol. 22, pp. 111-127; Usher, Peter. 2000. "Traditional ecological knowledge in environmental assessment and management." *Arctic*. 53(2):183-93; Vayda, Andrew P. 1983. "Progressive contextualization: methods for research in human ecology." *Human Ecology*. Vol. 11 No. 3, pp. 265-280; Wiles, Anne, John McEwen and M. Husain Sadar. 1999. "Use of traditional ecological knowledge in environmental assessment of uranium mining in the Athabasca, Saskatchewan." *Impact Assessment and Project Appraisal*. Vol. 18. No. 2. pp. 107-114.
- 25 Kennett 1999; Tollefson, C. and K. Wipond. 1998. "Cumulative environmental impacts and land rights." *Environmental Impact Assessment Review*. Vol. 18, pp. 371-390.
- 26 Golder and Assoc. 2002. "Traditional land use Assessment." *Shell Canada Limited: Jackpine - Phase 1*. Volume 6. Chapter 4, pp. 4-1 - 4-47.
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- 28 Tanner 1979, Brightman, Robert. 2002. *Grateful prey: Rock Cree human-animal relationships*. Regina: Canadian Plains Research Centre; Goulet, J-G. 1992. *Ways of knowing: experience, knowledge and power among the Dene Tha*. Lincoln: University of Nebraska Press.
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- 30 Vayda 1993
- 31 Cf. Asch 1990

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OIL EXPLORATION IN GREENLAND

Rasmus Ole Rasmussen



Introduction

Greenland – or rather Kalaallit Nunaat in Greenlandic – is the world's largest island, covering 2,166,086 square km and lying in the North Atlantic Ocean. It is a part of the Danish realm, with the capital Nuuk (Godthåb). Greenland's major physical feature is its massive ice sheet, which is second only to Antarctica's in size. Long, deep fjords reach far into both the east and west coasts of Greenland in complex systems, and with the West Coast climate and sea conditions influenced by the Gulf Stream, it offers excellent conditions for crustaceans, fish, sea mammals and birds as a basis for both prehistoric, historic and present human life.

Of the total population of 56,901 (2006), more than 88% are native Greenlanders while 12% are immigrants, mostly Danes. The Greenlanders are principally of Inuit, or Eskimo, descent but they are very strongly admixed with early European immigrants. The population of Greenland is widely dispersed. The majority – approximately four-fifths – live in the 18 municipal centres, while the rest live in more than 60 villages.



The open-air market in Nuuk. Photo: Kathrin Wessendorf



*Humpback whales forage at the entrance of Nuuk fiord.
Photo: Kuupik Kleist*

(left) A heatflow-probe being lowered into the sea, to obtain temperature measurements from the near surface seabed sediments. 2006 marine-geological investigations, west coast of Greenland. Photo: NunaOil

Greenland's economy is basically based on fishing and transfers from Denmark. Seal hunting, once the mainstay of the economy, declined drastically in the early 20th century and was replaced by fishing, and the processing of prawns, Greenland halibut, cod and other marine life.

A key question in relation to the present situation of oil exploitation is the status of the Home Rule Government, and in this connection the establishment of the Home Rule in 1979.

The Home Rule Government

The first step towards abolishing the colonial system came in 1953 when Denmark's constitution was amended. Greenland was then given two members in the Danish Parliament, and at the same time became incorporated into the kingdom of Denmark. The 1953 amendment was not only a formal change of administrative structure but, in reality, became a new starting point for the development of Greenland, and in the end a part of the formal abolition of colonial relations giving the Greenlanders similar status as the rest of the Kingdom.

In 1964, the "*Grønlandsrådet*" – or Greenland Council – was established to administer and promote industrial development in Greenland. It was in this administrative and political entity that the future plans for a self-governed Greenland were discussed, and a procedure was laid out. In 1975, local administration was transferred from the state authority to the municipal councils in Greenland, and finally the Home Rule became a reality in 1979 with the creation of a parliament – *Landstinget* – and the authority to legislate on most matters regarding internal affairs. With the arrangement was a decision to compensate the handover of management and economic and social responsibilities with an adequate yearly transfer of money from the Danish State to Greenland. This transfer payment is currently around 3.5 billion DKK, paid as a block grant to the Home Rule Government.

The resource base

The issue of exploiting Greenland's wealth of non-renewable resources has been a perennial one in official development policy, both before and after the establishment of Home Rule. Despite Greenland's wealth of resources, however, the level of exploitation has been quite modest compared to other Arctic regions. This is largely due to a combination of three factors: (i) a con-

tinuous focus on renewable resources - fisheries and sea mammals - as the primary basis for development; (ii) variations in policies towards non-renewable resource exploitation due to the risks involved; (iii) limited interest from international companies.

Over the last ten to fifteen years, however, the Home Rule Government has been more open towards taking non-renewable resources (including oil) into account as a means of establishing an alternative to renewable resource exploitation. This move towards a more favourable attitude regarding non-renewable resources must be seen within the context of nation-building and the process towards a higher level of self-governance, where the development of non renewable and energy resources is seen as a means of reducing the dependency on the yearly block grant of 3.5 billion DKK from Denmark.

The background to oil development

Mineral and energy resources in Greenland were exploited by the Danish colonial authorities in the 18th and 19th centuries. However, the extraction of such minerals as copper, silver, graphite and cryolite was primarily small-scale and more or less based on private activities. During the 20th century, however, a more systematic approach was made by the Danish authorities, leading to the mining of resources such as lead and zinc in Mesters Vig in East Greenland and marble, lead, zinc and silver in Maarmorilik, West Greenland.

The colonial authorities noted the existence of energy resources in Greenland at a very early point in time. In many places on Disko Island and the Nuussuaq Peninsula, coal seams were visible on the surface, and commercial coal mining in Greenland started on the island of Disko in 1924. This production became the energy base for the first generation of power stations established in the larger towns. Maintaining a secure supply of coal was a priority for the colonial government, but with the implementation of a modernization plan after World War II the question of profitability became an issue. And with declining oil prices during the late 1960s and the early 1970s, it was decided to stop coal production in 1972.

The potential of oil reserves had first been noted by Danish colonists through the seeping of liquids containing hydrocarbons from rocks on the Nuussuaq Peninsula. But it was the dramatic rise in oil prices in the mid 1970s that led to petroleum exploration in offshore areas in West Greenland. The first companies to obtain licenses for exploration activities over a 19,082 km² area were six groups headed by BP Amoco (UK), Chevron, ARCO and Mobil (USA), Total (France) and Ultramar

(Canada). They were responsible for the first five exploratory wells. All the wells were, however, declared dry by the operators, so exploration was halted in 1978. Re-investigations in 1997 of the well data showed traces of hydrocarbons in one of the wells, and this has therefore contributed to more recent re-interpretations of the geological structures in the region. But the situation in 1978 did not give any clear indication of any immediate oil and gas development in West Greenland.

The discovery of vast oil fields in the northern North Sea in the 1960s and 1970s had drawn attention towards areas offshore East Greenland, where similar geological structures existed. The first surveys, however, did not give any conclusive results. So this was the status of oil and gas development with the advent of Home Rule in 1979.

The legal framework for Home Rule oil exploitation

With the 1953 recognition of Greenland as a Danish country, non-renewable resource management was based on the same laws that existed in Denmark. The potential for future exploitation activities in Greenland, however, led to the establishment of a joint Danish-Greenlandic commission on the regulation of mining activities in 1960, as it was recognized that the management of future exploitation activities would need a set of regulations that took the special conditions in Greenland into consideration. Consequently, the first law on non-renewable resources in Greenland was passed by Denmark in 1965.

The 1960s and 70s was a period characterized by the Danish Government's focus on the modernization process, which was introduced through two major plans for economic, social and infrastructural development, the G50 plan prepared by the "*Grønlandskommissionen af 1950*" (The Greenland Commission of 1950) and the G60 plan by "*Grønlandsudvalget af 1960*" (The Greenland Committee of 1960). This led to significant research activities and mapping of potential resources. When Home Rule came into being in 1970, the newly established government emphasised the importance of renewable resources, yet the question of rights to mineral and energy resources had been a crucial part of the Home Rule negotiations. The Greenlanders had demanded full rights to all resources, but the Danish Government only accepted that rights to renewable resources should be handed over to the Home Rule Government, while no clear answer was given regarding energy and mineral resources.

The legal framework for the exploitation of mineral and energy resources is established in the Home Rule

Law (*Lov om Grønlands Hjemmestyre*) and in the Law on Mineral Resources (*Lov om mineralske råstoffer i Grønland*). According to § 8 of the Home Rule Law, the political responsibility for mineral resources and energy is maintained as a joint issue between Denmark and Greenland. And in the Law on Mineral Resources, § 22, it is stated that revenue from resource exploitation of less than 500 million DKK should be divided equally, with 50% for Greenland and 50% for Denmark. Revenue beyond the 500 million DKK limit would require new negotiations between the Home Rule Government and the Danish State.

The Institutional Structure

The key organisation is the Joint Committee on Mineral Resources in Greenland (*Fællesrådet vedrørende Mineralske Råstoffer i Grønland*), a Danish-Greenlandic political forum for discussing and negotiating the interests of both sides. All main questions regarding both mineral and energy resources are discussed, just as the guidelines for exploration, exploitation and division of revenue are decided on and presented to the parliaments in Denmark and Greenland. Basically, the Committee has responsibility for considering all relevant questions regarding energy and mineral resources and for making suggestions to both the Danish and Home Rule governments. The Committee consists of five members from Greenland Home Rule and five members from the Danish Parliament, and is headed by a chairman who is formally appointed by the Danish Queen but based on joint recommendations from the Danish and Home Rule governments. Their work is supported by a number of authorities in both Greenland and Denmark, such as the Geological Survey of Denmark and Greenland (GEUS), the National Environmental Research Institute, and others.

Until 1998, the Joint Committee office was situated in Denmark but, since 1st July 1998, the Bureau of Minerals and Petroleum in Nuuk has been the Greenlandic authority responsible for managing all mineral and energy resource activities in Greenland, as well as promoting Greenland's mineral potential to the international mining industry.

Responsibilities

This management responsibility includes the administration of licences, advertising of new opportunities and processing of applications. It is the only office which new companies have to approach in order to get

involved in Greenland, ensuring an efficient case processing of mineral resource activities. In addition to the processing capacity, the office also contributes to the financing and implementation of a number of projects aimed at providing new knowledge about Greenland's mineral potential. In this way, the authorities are attempting to encourage private enterprise - both nationally and internationally - to become involved in exploration activities in Greenland. In 2004, the Home Rule Government introduced a slightly modified development strategy with the aim of making Greenland attractive to foreign companies.

A key question arising from the involvement of international capital in mining and energy extraction activities is the level of the "government take", and the total royalties generated should activities take off on a larger scale. Presently Greenland is on a similar level with countries such as Sweden, Norway, Chile and South Africa, while more well established countries such as Canada and Australia are demanding a higher level. One of the current recommendations from the Joint Committee is not to change the conditions, and that a decision on the introduction of royalties or surplus royalties should be taken into consideration when the activity has reached a level comparable to other countries with similar levels of royalties. And as long as the total generated incomes are kept at a reasonably low level, the situation is considered to be stable, and does not call for any immediate changes in the agreements with the Danish state.

The most important questions, however, remain unresolved: who should own the sub-soil resources? And how should substantial future income be divided? When Home Rule was established, the question of sub-soil rights was more or less the only one that was not answered. Many models have been suggested - for instance that income should be divided 50/50, or that Greenland's income should be followed by a certain percentage reduction in the block grant from Denmark, along with other combinations of these two main models. But due to differences in interpretations by the Danish and the Greenland contingents in the Joint Committee, decisions have been postponed until a situation has been reached where the revenue surpasses the substantial costs of promoting mineral and energy development. Developments thus far do not indicate that such a situation will be reached in the near future.

The current status of oil exploration in Greenland

After the Home Rule Government was installed in 1979, several initiatives regarding energy resource ex-

ploitation took place. In North Greenland, a major mapping programme was conducted in 1984-87 focussing on different potential hydrocarbon source rocks, and from 1984-90 the focus was once again turned towards East Greenland. In this case it was in Jameson Land, where ARCO and Agip had accumulated 1,800 km of seismic data. These activities caused great expectations within the Home Rule Government. In order to be able to provide skilled labour in case drilling activities began, a vocational training program was planned, with contacts in both the oil companies and North Sea oil activities in order to enable on-the-job training positions. The prospects, however, did not look promising enough, so the companies withdrew their involvement.

In order to be in a greater position of control, the Home Rule Government - together with the Danish national oil and gas company Dansk Olie og Naturgas A/S (DONG) - founded Nunaoil A/S in 1985. The objectives of this company were, from the beginning, to encourage and generate new interest in oil and gas exploration in Greenland through comprehensive co-operation with the oil industry, and to help with facilitating the operations of international oil companies. Consequently, Nunaoil has had a share in all hydrocarbon licences in Greenland since it was established, and has acted as a carried - i.e. non paying - partner in the license arrangements. This means that the other partners are expected to pay all initial exploration and development costs for the contract area at their own risk, subsequently recovering the costs of carrying the government's interest in the area from total production. Technically this could be considered as a tax.

One of Nunaoil's first responsibilities was the Kallaallit Nunaat Marine Seismic project (KANUMAS) from 1990 to 1996. This aimed to gather better background data from the more inaccessible areas of the northern and eastern parts of Greenland so, based on funding from six major oil companies (BP, Exxon, Japan National Oil Company, Shell, Statoil, and Texaco) and with Nunaoil as carried partner and operator, seismic data covering a total of 4.071 km off North-West Greenland, 5.637 km off North-East Greenland and 1.323 km off central East Greenland was collected. The investments gave the oil companies preferential positions in relation to future explorations but did not result in any further action.

Parallel to this, more than 8,000 km of seismic data was collected in West Greenland, and old data was also reinterpreted. One conclusion was that the region had been abandoned prematurely, supported by the fact that oil seeps were being registered at different locations on Disko Island, the Nuussuaq peninsula and the Svarten-



Deployment + retrieval of a sidescan sonar. The device transmits direct images of the seabed to the scientific crew on board the ship. 2006 marine geological investigations, west coast of Greenland. Photo: NunaOil



huk Peninsula. Consequently a new drilling - the Mar-
raat-1 - was arranged in 1993, showing clear indications
of oil, and therefore also encouraging new initiatives in
the region. A new round of licensing covering parts of
offshore West Greenland in 1992-93 did not result in any
applications, so an open-door policy for both onshore
and offshore areas in West Greenland and for Jameson
Land in East Greenland was introduced in 1994.

This policy led to several initiatives. In 1995, on-
shore licenses on Nuussuaq and Disko were granted to
a group consisting of a rather small company, Grøn-
Arctic Energy Inc of Calgary, Canada as operator, and
including the Greenland-based company Platinova A/
S. They drilled holes, of which several were declared
dry but one of which showed the existence of hydro-
carbons. Due to lack of funding, however, they were
not able to continue their activities.

Even for the previous offshore wells that were origi-
nally declared dry, more recent studies have demon-
strated that one of the drillings probably made a dis-
covery of condensate. At the same time, reinterpretations
of old seismic data combined with new shots
covering the Fylla area situated close to Nuuk showed
promising geological structures - so called "flat-spots".
The positive results led, in 1996, to a licence covering
9,487 km² of the region being issued to a consortium
consisting of Statoil as operator, Phillips Petroleum and
Dansk Olie og Naturgas (DONG) as partners, and Nu-
naoil as carried partner.

In 1998, a new licence was granted - this time off
Sisimiut in West Greenland, covering an area of 4,744
km² and held by Phillips Petroleum as operator, with
Statoil and DONG as partners, and with Nunaoil as
carried partner in the exploration phase.

When in 1998 the management and offices of the Joint
Committee were moved to the Bureau of Minerals and
Petroleum under the Greenland Home Rule, a working
group was established to re-evaluate the oil strategy. The
open-door policy was suspended for offshore activities in

West Greenland, and new strategies were planned for the
land activities. A licensing round in 2001 did not result in
any additional activities but new seismic data revealed
potential resources in offshore West Greenland due to
geological structures linking to known petroleum depos-
its in the Labrador Sea. So a new offshore licensing round
was announced in West Greenland in 2002, and the com-
pany EnCana was granted an exploration licence cover-
ing an area of 3,985 km² in the Nuuk Basin, but without
any drilling activities thus far. EnCana is an Alberta-based
Canadian oil company established through the merger of
AEC, Canada's largest natural gas producer, and PanCa-
nadian, the largest independent producer of crude oil and
natural gas in Canada. A new licensing round was opened
in 2004, leading to EnCana and Nunaoil also being grant-
ed an exploration and production license for an area of
2,897 km² around 250 km. west of Nuuk, the capital of
Greenland.

During 2005, NunaOil and EnCana conducted seis-
mic and geological research in the license areas, and
the results of the 2006 extensive seismic data collec-
tions from the Disko-Nuussuaq offshore region are
adding to the knowledge of the oil companies, provid-
ing a basis of decisions as to whether or not EnCana
will continue its activities. Similarly, the Bureau of Min-
ing has considered a re-opening of the Disko-Nuus-
suaq region for new applications regarding exploita-
tion and production in 2006.

According to the Home Rule strategy on oil and
gas, a new plan for future activities is supposed to be
presented in 2006. This will outline the license policy
for the Disko-Nuussuaq region, as well as selected ar-
eas to the south. Similarly, the strategy will include any
new decisions regarding license areas, such as status,
size and license conditions. Before any new licenses are
issued, however, Baseline Studies and Environmental
Impact Assessment will be conducted in the area, in
order to be pro-active in relation to future activities.

This kind of analysis is standard in most other countries, but has so far been absent in Greenland.

The Home Rule Government position on oil exploration and development

In the years just after Home Rule was established, the policy on non-renewable resources was clearly against any new endeavours. Greenlandic politicians had a clear vision that the newly gained sovereignty should be founded on the traditional basis for local livelihoods, i.e. renewable resources. As a consequence, several potential non-renewable resource projects were shelved.

This policy appeared to work well during the first decade of Home Rule, when an expanding shrimp fishery and increased block grant provided a firm economic basis for development. But as the cod, which was once the most important fish for Greenland's economy, disappeared due to cooling of the water, shrimp resources were exploited to their maximum and dwindling world market prices resulted in reduced incomes. The need for alternatives to maintain living conditions throughout Greenland became obvious. As discussed in this article, the Greenland Home Rule has been very active in promoting initiatives related to energy resource development. It has tried to facilitate access to important seismic data, and has been open to approaches from oil companies.

With the focus on establishing a new and more independent self-governance structure, less dependent on the block grant from Denmark, non-renewable resources - especially oil - have become a key element in the new political reality. As stated in the documents from the Commission on Self-Governance, the issue of a self-sustained economy is the decisive one when looking towards a new level of self-governance or autonomy and, in this connection, Greenland's energy resources may be crucial: "The block grant and a one-sided focus on fisheries give Greenland a very limited opportunity to develop a self-sustained economy".

Even if the development of energy resources may create another type of dependency, it is quite clear that Greenlanders are willing to take this risk – above all, it is a situation they prefer to the current dependency on relations with Denmark. As stated by the Minister for Minerals and Petroleum, Jørgen Wæver Johansen in his speech at the Prospectors and Developers Association of Canada (PDAC) meeting in Toronto in March 2006: "With these projects in mind, it is fair to say that the future for mineral (and energy) exploration in Greenland looks very, very prosperous!".

The debate

The changing policy of the Home Rule Government has in many ways mirrored the general debate amongst the population at large. When Home Rule was established, it was clear to everybody that the development process should be based on exploitation of renewable resources, with proper reference to traditions by emphasizing the villages as being "the backbone of the Greenland identity".

But the limitations of this model soon became clear and alternative resource exploitation gradually became a generally accepted scenario. The possibility of creating skilled jobs in Greenland's future non-renewable industries became an attractive option. Even though jobs were never established in the 1980s, it was nevertheless an indicator of what might be, if oil were to be found.

But there have been several other important elements in the process of generating this general acceptance of oil exploitation as an option, the most important probably being the establishment of Nunaoil A/S in 1985. As a company controlled by the Greenland Government, and with the objective of encouraging and generating new interest in oil exploration in Greenland through comprehensive co-operation with the oil industry, it was generally felt that Greenland would be in control of the process. Nunaoil has had a share in all hydrocarbon licences in Greenland since it was established.

Another element has been the INUTEK organisation. It commenced activities in 1986, organising public meetings and hearings aimed at creating inter-disciplinary contact between individuals, institutions and companies with an interest in technology and science in Greenland. Since its establishment, it has arranged several public hearings on facts and fiction relating to the ongoing process of oil development, and has thereby been a major contributor in making the necessary background information available to a broader audience.

The current opinion in Greenland is, therefore, that mineral and hydrocarbon resource development is necessary in order to establish a proper basis for the country's future economy. It is expected that the Greenland subsoil contains both mineral resources and oil and gas in commercially-viable amounts, and that raw materials will in the future contribute positively to economic development and create new jobs in the country by providing the economic background for both society and private companies.

A general concern among many Greenlanders, however, is the lack of laws and regulations regarding Environmental and Social Impact Assessment (EIA and SIA). There has been a general concern related to this type of information being made accessible to the

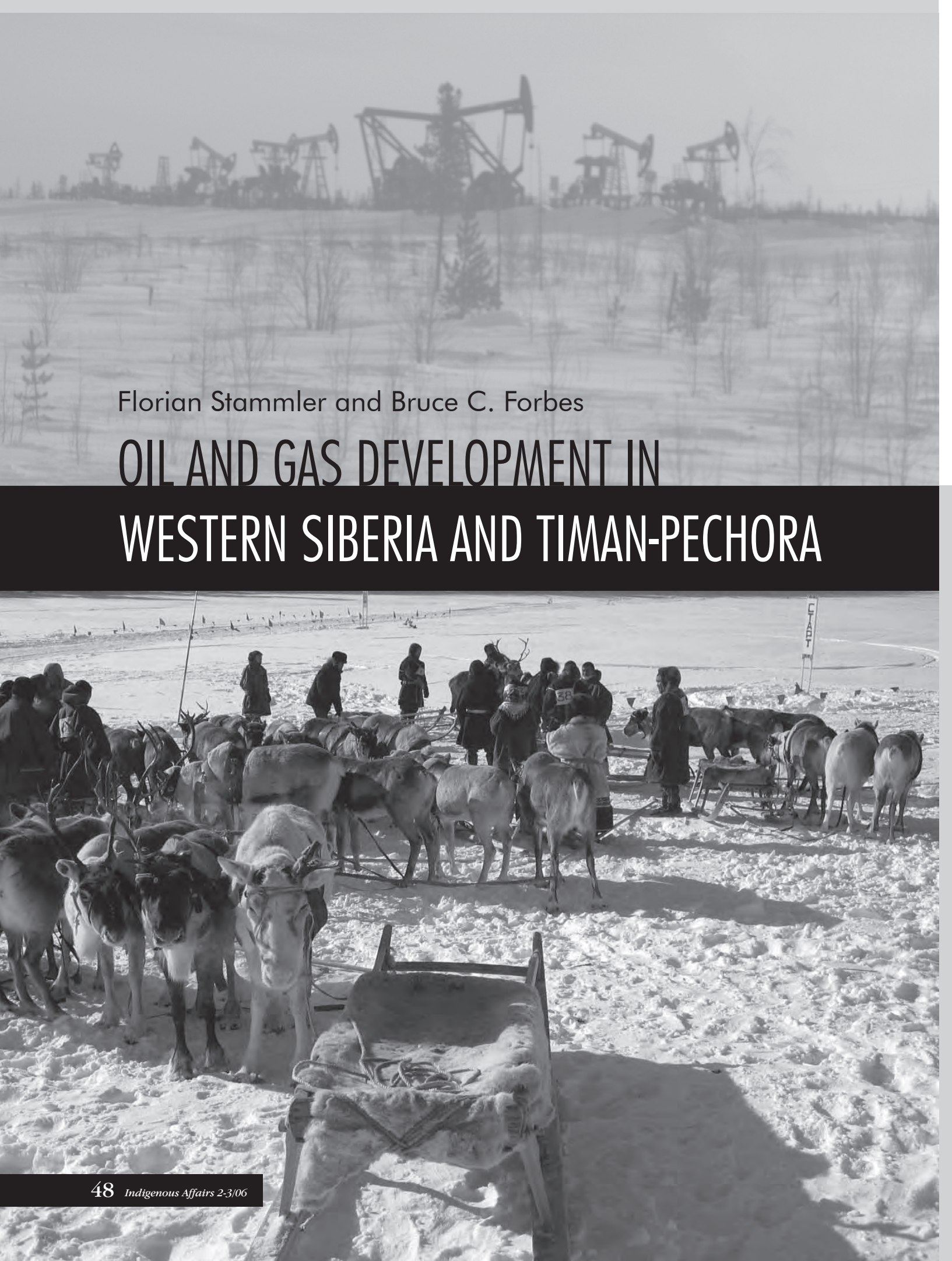
public, and so far only Statoil has fulfilled its own ambitions in connection with its involvement at the Fylla Field by preparing an "Environmental Appraisal of the Fylla Field, Greenland". Attempts have been made to establish a better background of public information, but without any legal ramifications.

The present government, therefore, has placed the emphasis on the need to develop a proper EIA and SIA procedure before new licenses are distributed, in advance of re-opening the area. The EIA will focus on the possible consequences of hydrocarbon activities for the environment and for local communities, first of all in order to fulfil a commitment, but also because such assessments are an international standard today and must be performed before opening environmentally sensitive areas up for hydrocarbon exploration. □

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Florian Stammler and Bruce C. Forbes

OIL AND GAS DEVELOPMENT IN WESTERN SIBERIA AND TIMAN-PECHORA





In tundra reindeer herding, herders jointly watch the herd 24/7 much of the year. Photo: Florian Stammer

Introduction and background

The collapse of the Soviet Union led to a drastic restructuring of the national economies of Russia and several neighbouring countries throughout the 1990s. In the first years of the 21st century, it is clear that Russia has developed a new geopolitical position on the world stage. It has once again become a powerful trading partner, in particular as a major source of energy for the global market. As oil and gas supplies from the Middle East and Venezuela have become ever more insecure, the attraction of the vast fossil fuel reserves of the Far North has greatly increased. In fact, oil and gas are among the most stable and well-developed industries in the economy of northern Russia and the most important sector of the Russian economy overall. As the world's No. 1 exporter and producer of natural gas and No. 2 oil producer and exporter (in 2004), after Saudi Arabia, Russia is seeking new markets outside Europe, while the U.S., the world's largest oil consumer, wants to cut its reliance on oil-rich but politically volatile regions.

Russia is working hard to secure the necessary domestic and international investments to get its supplies of oil and gas to Europe, eastern Asia and even North America. This is to be accomplished through a combination of overland and submarine pipelines across eastern and central Europe and tanker traffic via the Northern Sea Route. Among the main sources

are the giant oil fields of the Nenets Autonomous Okrug (NAO), Khanti-Mansiisk Autonomous Okrug (KMAO) and the supergiant gas fields of the Yamalo-Nenets Autonomous Okrug (YNAO). Substantial resources also exist in the neighbouring Komi Republic. However, almost all known reserves in European Russia derive from the Timan-Pechora oil and gas province, the northern half of which lies in NAO, the fastest growing Russian oil region, and therefore a battlefield for Federal politics and oil companies both within and outside Russia.

As industrial infrastructure expands rapidly throughout Russia's north, it has profound implications for the region's economies and local people, in particular indigenous groups practising traditional livelihoods such as herding domestic reindeer, hunting and fishing. Reindeer constitute a biological resource of vital importance to the physical and cultural survival of residents across the Eurasian Arctic. The exploration and exploitation phases of petroleum development result in benefits and wealth but also, at the same time, in a large number of direct and cumulative impacts on ecosystems and cultures all along the route from the source to the market (Forbes 2004). In those regions with a long history of oil and gas extraction, these impacts are reaching a critical threshold. In KMAO, hunting and fishing grounds and rein-

deer pastures were heavily contaminated by oil during Soviet times, and in the YNAO the withdrawal of lands for industrial infrastructure has pushed a steadily increasing number of animals onto progressively smaller areas of tundra "pastures". This is leading to desertification in places and, according to Russian scientists, a serious decline in the quantity and quality of the remaining tundra suitable for reindeer pasture. During the same period, the indigenous Nenets population has been exposed to a number of new health and demographic problems directly related to the industrial development.

The importance of Russian supplies

At present, Russia supplies 25% of the world's natural gas. Some 90% of this production comes from West Siberia. As for oil, 60% is from West Siberia. By 2010, Russian companies hope to cover 10-15% of crude oil consumption in the U.S. Furthermore, EU dependency on both oil and gas from Russia is high, and increasing. In 2005 the European Union received 25% of its oil (30% of all imports) and 25% of its gas (50% of all imports) from Russia. Dependency on Russia among individual EU countries, however, varies greatly. For ex-

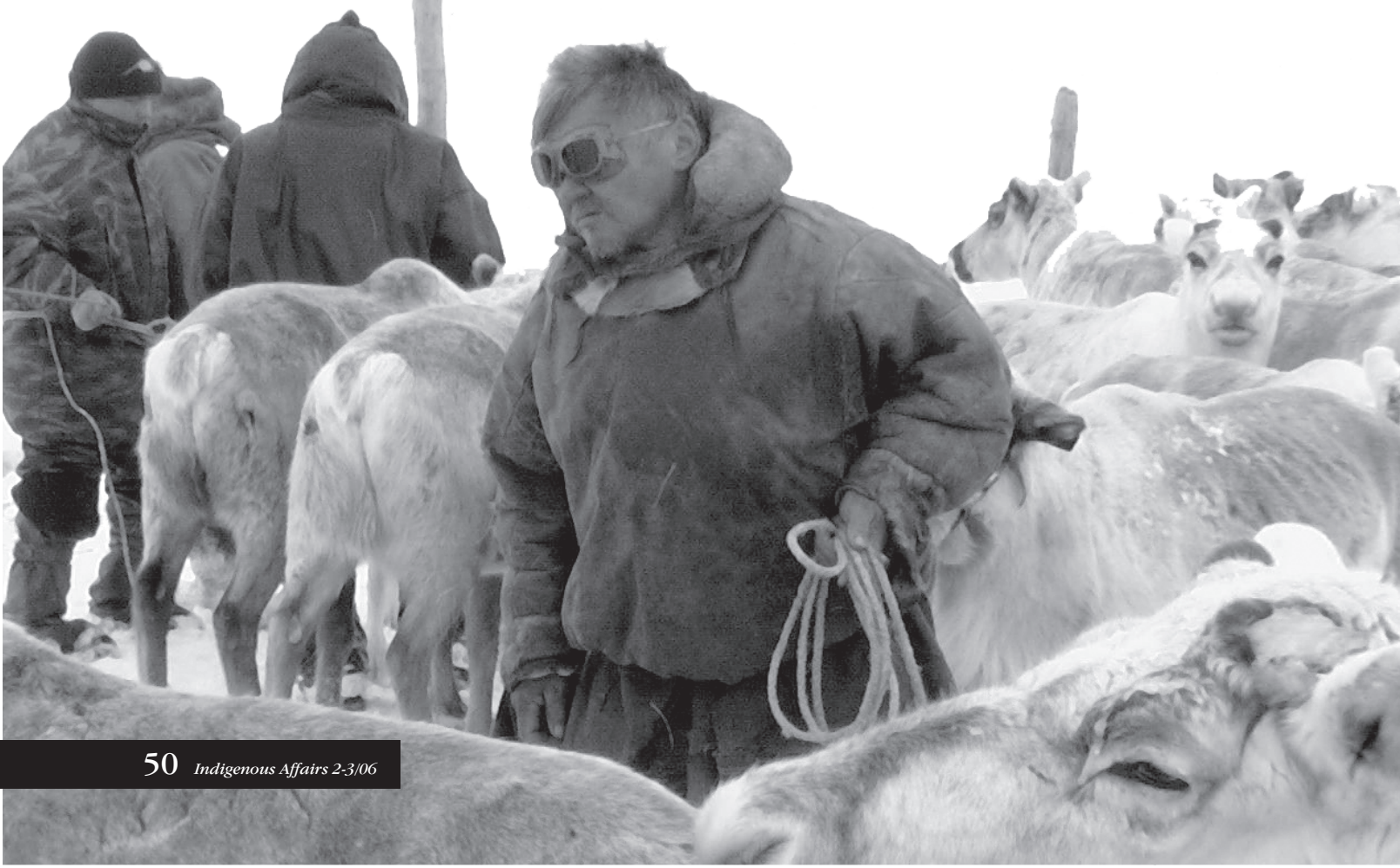
ample, Finland relies 100% on Russian

gas sources, whereas France - with its traditional ties to Algeria - imported only 24% from Russia as of 2004. More than 60% of Russia's export revenue comes from energy, and most of it is in the form of exports to the EU.

Introduction of the regions

The **Yamal-Nenets Autonomous Okrug (YNAO)** encompasses a territory of 750,300 km²; the length of YNAO from north to south is 1,200 km and from east to west 1,130 km. In the Nenets' own language, "Yamal" means roughly "the end of the earth" or "land's end". Much of the terrain is considered moderately to extremely unstable for purposes of engineering and infrastructure developments (roads, bridges, pipelines, etc.). For the indigenous Nenets, their needs are met mainly by reindeer. On the shores of lakes, rivers and bays, subsistence fishing is of major importance too.

Today the YNAO is numerically the world's most productive reindeer herding region with 556,000 domestic reindeer, herded by approximately 13,000 nomadic Nenets and, to a lesser extent, Komi and Khanty families. At the same time, the gas deposits discovered here are the largest worldwide, both the ones already developed, such as Medvezhee near Nozzy



Urengoi and Zapolyarnoe near Yamburg, as well as the untapped ones of Bovanenkovo, Kharasavei and the Ob' Bay. Large-scale industrialisation since the 1970s has led to an influx of population from the south, which is why today the indigenous share of the overall population is less than 7%.

The **Khanty-Mansiisk Autonomous Okrug (KMAO)** south of the YNAO is Russia's major oil extraction region. With a territory of 534,800 km², it lies at the centre of the giant west Siberian wetland basin and is entirely covered by dense boreal forest. The ground of these forests is widely covered with dense beds of lichen, favourable pastures for reindeer. The capital, Khanty-Mansiisk, is on the confluence of two big rivers, the Ob' and the Irtysh. The indigenous Khanty and Mansi traditionally live from hunting and fishing, supplemented by reindeer herding on a smaller scale. Fish is the main staple food for most taiga dwellers. There has been a tendency towards reviving private reindeer herding, hunting and fishing since the fall of the Soviet Union, supported by the regional administration.

The region received much attention from the Soviet government after WWII for its oil resources, extraction of which started in the 1960s at the giant fields of Samotlor close to Nizhnevartovsk, and Federovskoe close to Surgut. The influx of industrial workers meant the share of indigenous inhabitants decreased to less than 2%. However, due to funding by the regional government, the number of permanent indigenous residents of the forests is increasing again (around 3,000 registered, the real number considerably higher), as is the number of domestic reindeer in private tenure (around 14,000). The KMAO is unique in its current legislation governing indigenous land rights, which have been granted over approximately 1/3 of its territory (see section on "land rights" below).

It is worth mentioning that both the KMAO and YNAO are renowned inside Russia for the comparatively well-preserved indigenous lifeways of the Khanty, Mansi, Nenets Komi-izhemtsy and Sel'kup fishermen, reindeer herders and hunters, many of whom are still nomadic or semi-nomadic. Since both regions simultaneously fuel the Russian economy, indigenous representatives from other Russian provinces have repeatedly pointed to the relevance of these two cases as exemplars for the coexistence of the extractive industry alongside subsistence economies (e.g. Peskov 2003).

The **Nenets Autonomous Okrug (NAO)** belongs to the North-Western Russian Federal district. The territory of 176,700 km² is almost entirely north of the Arctic Circle.

Ethnic groups of the entire region according to 2002 census

41,454 Nentsy, 28,773 Khanty, 15,607 Komi-izhemtsy, 11,432 Mansi, 4,367 Sel'kup

The NAO has a permanent population of 48,000 inhabitants, half of whom live in the regional capital, Naryan Mar. The indigenous Nenets population accounts for 14% of the permanent population. 70 % of the territory of the NAO is classified as reindeer pasture. The number of reindeer in the NAO has decreased slightly since the demise of the Soviet Union, although not nearly as disastrously as in the Russian Far East. In 2005 there were officially 120,000 reindeer herded by Komi and Nenets herders in 14 successor enterprises of Soviet kolkhozy and sovkhozy. Indigenous communities (*obshchiny*) become more and more popular as a new institutional form for traditional economies. Reindeer herding is the main occupation of approximately 2,500 people, of which 1,500 live in the tundra. However, almost all the life in the communities of the NAO is connected to reindeer herding, since most villages were founded as centres of the herding enterprises. In addition, brigades from 7 reindeer enterprises from the land-locked Komi Republic migrate with their herds towards the coast of the Barents Sea to summer pastures in the NAO. Several of these migration routes cross large oil deposits.

The West Siberian regions have experienced continuously increasing connectedness through infrastructure to central Russia, particularly through railway links. In the NAO there is still no railway connection. Oil and gas is transported by pipeline, railway and also shipped in smaller amounts from onshore deposits along the Barents and Kara Sea coasts. Plans for the further development of production and transport via the Northern Sea Route have been gaining ground for some time, especially as the sea ice is expected to retreat in the next few decades.

Generally, reindeer herding in NAO is still carried out as a nomadic way of life in the eastern parts of the okrug – called *bolshezemel'skaia tundra* – where most of the oil development is taking place, and on the western Kanin Peninsula. Oil production started in the 1970s as part of the opening up of the Timan oil basin. Western companies entered the NAO very early on. The first joint venture "Northern Lights Company" between Conoco and Arkhangelskgeologia to develop the Ardalín oil deposit was established in January 1991 and began pumping in August 1994. It is the old-



Vladislav Peskov (right), president of Yasavey, at a round table discussion with oil companies. Narjan Mar, Nenets AO. Photo: Kathrin Wessendorf

est joint venture in continual operation and has produced an average of 25,000 barrels per day. While many point to it as an example of good practice (Tuisku 2002), this project received unpleasant attention in 2003 when an oil spill polluted the River Kolva and the concentrations of oil in the liver of fish increased fivefold.

Coexistence in the Soviet time and its legacy

The North's resources have been the backbone of the Russian economy for centuries. During Tsarist times, the major hard currency income of the Russian empire came from Siberian fur sold to Western Europe. In the 20th century, mineral resources replaced fur as the main source of state budget. In the Soviet planned economy, mineral resources fuelled economic development and competition during the Cold War but there was also a socio-economic component: "mastering the north", *osvoenie severa*, also meant to prove the superiority of humans – especially Soviet industry – over nature. Many contemporary Russian northern cities were built as monuments to the Soviet mastery of extreme natural conditions. Soviet industrialisation, especially in the oil and gas-bearing regions, generated a large influx of labour from the south of the Soviet Union to the north.

Intra-Soviet migration, induced by the state, turned the demographic situation upside down, and indigenous peoples found themselves minorities after the 1970s, whereas they had been the majority of the

population in the first half of the 20th century (Shapalin 1965). Indigenous economies such as reindeer herding became collectivised, organised according to a unified Soviet enterprise structure. Sovkhozy were set up to incorporate tundra and taiga economies into Soviet industrial development. Reindeer meat was a comparably cheaply produced local good, and the sovkhozy worked profitably according to Soviet measures of production.

The coexistence of different ways of land use was closely managed under the umbrella of the state, with government planners being responsible for both mineral resources and native economies. In fact, enterprises in both economic spheres were organised in an identical way in Soviet times. Being "total social institutions" (Humphrey 1995), they had the same departments, responsibilities, hierarchies imposed by the central planning authorities, united by the overarching broad vision of Soviet development. This unified approach aimed to raise all peoples and cultures to an improved standard of living as a "single Soviet people" (*edinyi sovetskii narod*). Identities and cultures within this mega-group were engineered by the all-embracing Soviet State.

In this unified development model of the Soviet Union, coexistence of oil and gas extraction with herding, hunting and fishing was envisaged. Indigenous economies were seen as an industry to partly supply the needs of incoming labourers in mineral resource extraction. Vitebsky (2005) has called the Russian northern tundra a giant open-air meat factory with herders as industrial workers.

The legacy of this Soviet model of coexistence has had considerable influence on the post-Soviet transition in relations between the state, the extractive industry and the indigenous population. Reindeer herders and fishermen in the Soviet Union became accustomed to having cooperative relations and trade with oil or gas workers on deposits. During the difficult transition period of perestroika, in particular, tundra people benefited from the relatively stable supply that extractive companies could deliver.

Despite some positive aspects of coexistence for northern minorities, Soviet industrial development also caused tremendous damage to indigenous livelihoods. A lack of ecological consciousness in the Soviet Union and careless degradation and pollution of reindeer pastures, hunting and fishing grounds still affects the current regime of local land use. For example, in the Khanty-Mansiisk Okrug, many communities were displaced from their original territories due to oil development, which caused immense environmental damage. In the immediate aftermath of the So-

viet Union, in particular, environmental damage increased rapidly, as necessary preventive measures or repairs to facilities were delayed or not undertaken.

Oil spills could be better prevented if pipelines were more meticulously monitored and repaired when necessary. In 1999 the length of pipeline that needed replacement was estimated to be more than 45,000 km. In the 21st century, companies and the state have undertaken significant improvements, and this number has decreased to 3,257 km of pipelines needing replacement (KMAO 2005:76f). Another pressing problem is the flaring of waste gas that comes to the surface during oil extraction. In 2002, 6,133,840,000 cubic metres were flared (KMAO 2005: 79). Recently, companies increasingly try to make use of this gas, the flaring of which changes the climatic regime of the local environment considerably.

At present, reindeer herders and hunters mainly report problems with former waste deposits in the tundra, which were not removed after the Soviet Union. Controlled oil spills that are stored in particular basins next to drilling holes cause problems if the company does not clean them up after drilling. Since oil does not freeze even in cold winters, reindeer easily fall into these basins and cannot be rescued.

Land rights and indigenous empowerment after the Soviet Union

Indigenous peoples of the North in Russia have become politically very active over the last fifteen years, establishing their own associations and becoming political actors in the international human rights arena. Indigenous empowerment is closely related to oil and gas extraction, as the need to stand up for their rights became pressing in those regions where extraction had led to displacement and damages in the Soviet past. In the KMAO, the "Spasenie Yugry" Association was the first of its kind in Russia, soon to be followed by "Yamal Potomkam!" in the YNAO (1989). Today both organizations are active parts of RAIPON, the Russian Association of Indigenous Peoples of the North. In the NAO the Yasavey Association has gained an important political status with the right to propose regional legislation. Yasavey is also actively involved in international projects, in partnership with Western NGOs such as IWGIA.

Reindeer herder Yuri Vella checks an oil spill close to his reindeer pasture. Reindeer got lost regularly, when oil spills were not cleaned up and industrial activity not fenced. The situation has improved since the late 1990s. Nizhnevartovskii raion, Khanti-Mansiisk AO. Photo: Florian Stammier



Land rights are at the centre of concern. Unlike in the Alaskan or Canadian North, all land in the Russian North is owned by the state, and indigenous land rights as such exist only to a rather limited extent. However, since 1999, as a result of indigenous activism and the involvement of Russian anthropologists, three federal laws concerning indigenous minorities have been passed. One guarantees the rights of indigenous minorities, the second one stipulates the establishment and tasks of indigenous community enterprises (*obshchiny*), and the third deals with "territories of traditional nature use" (*territorii traditsionnogo prirodopol'zovania*). These laws theoretically provide the basis for the continuation of indigenous economic activity in the North, protected from industrial development. However, the practical implementation on the ground of these laws is far from satisfactory, as regional and municipal administrations have to issue legal acts to stipulate the details implementing these federal laws.

For now, the KMAO has the most advanced indigenous land rights legislation. Before 2001, 477 "clan grounds" (*rodovye ugod'ia*) were registered in the okrug. The adoption of the new federal land code in 2001 put a halt to further applications. Presently, these "clan grounds" are registered as territories of traditional nature use. Approximately 4,000 indigenous residents currently live and work on these clan

grounds, on an area of close to 14 million hectares (almost a third of the okrug territory). The 477 household heads or community chairmen have the right to use this land according to their traditions, and pass it on to the next generation. The extractive industry has licences on 6,700 square km within clan territories (KMAO 2005:63), for which compensation and social investments are to be paid. The KMAO association of indigenous peoples "*spasenie yugry*" has worked out a standard template for a contract between the oil company and the holder of the indigenous land title. These contracts are regularly renewed and stipulate mainly compensation and company assistance directly to the household involved in indigenous economy in the taiga.

While other representatives call the KMAO case an exemplar to learn from (Peskov 2003), such a model with land titles to individuals or extended families is much more difficult to implement in tundra regions with highly mobile reindeer pastoralism. There, land plots cannot be fenced off, and access to different pastures is essential for maintaining the flexibility of reindeer herders, as this is how they adapt to a highly variable northern environment and climate. For example, reindeer nomads on the Yamal Peninsula move more than 1,000 km per year with their households and herds. Restricting their access to pastures by assigning individual land rights would destroy their



Herders carry freshly slaughtered reindeer meat into a gas workers' camp for bartering, Yamal Peninsula. Photo: Bruce C. Forbes

nomadic lifestyle based on extensive and flexible land use. These examples, and the North American experience, show that approaches to land rights have been and have to remain highly diverse, considering the particularities of the respective administrative order and the history of the state, along with the specific regional features of indigenous land use.

Coexistence between the indigenous economy and the extractive industry in the 21st century

Based on the Soviet legacy and the recent history of indigenous empowerment, relations between industry and local communities are still very diverse within Russia, and even among the three focal regions of this article.

Three important factors influence relations between these actors: the role of the State, the presence of multinational oil companies, and the level of indigenous empowerment within the respective region. Analysed together, these three factors mostly deter-

mine the potential for collective agency on either side when it comes to consultation and the active negotiation of mutual coexistence (Stammler & Wilson 2006).

The **KMAO**, with its long history of oil extraction, has had much political stability since the Soviet Union, with the same governor for more than 10 years. This continuity has led to a strong regional administration that exerts control over the entire economic and social sphere of the okrug. The regional administration cooperates closely with the oil industry to organise interrelations and regulate resource use in a top-down manner. Partnerships with the oil industry have developed over decades, with mainly Russian companies active in the extraction. Surgutneftegaz, Yukos and its successors, and TNK-BP and Lukoil are the biggest companies in the KMAO. All of them began their activity with the KMAO. International involvement became only significant after the merger in 2003 of TNK and BP. International standards, legislation and practices of dialogue, consultation and impact assessment have to date had little influence in this region.

Most villages in the Nenets AO were established as centres for Soviet reindeer herding, here Nel'min Nos. Photo: Florian Stammler



Relations between the indigenous people's association *spasenie Yugry* and the regional administration are also very close. The association is financed by the government and its representatives work closely together in the regional parliament on indigenous peoples and resource use legislation. This has led to the current situation with land titles and standardised procedures of consultation and compensation mentioned above.

Relations in the YNAO are organised in a similar way. 90% of the gas is extracted by Gazprom, factually a state-owned company. Sibneft is the biggest oil company, which is also under tight state control. International companies have been trying to become more active in the region for years. Most successful in an economic sense has been the partnership between Gazprom and German gas companies Eon Ruhrgas and BASF. Less successful were Shell's attempts to get a foot in the door in the development of the giant zapolyarnoe gas deposit in north-east Yamal, which only reached agreements of intent. Similarly, the links between the indigenous Association *Yamal Potomkam!* and the regional administration are quite close. The speaker of the YNAO parliament, Sergei Kharutchi, is also one of the founding figures of the indigenous movement. He is currently president of RAIPON.

In both the KMAO and the YNAO, indigenous peoples' associations could therefore be called GONGOs (government-organised non-governmental organisations), rather than NGOs. Such a situation leads in both cases to standardisation of the relations between the state and the land users, leaving little space for individual or collective agency from below. However, strong partnerships with powerful administrations have better potential for efficient implementation of those legislations and agreements that they manage to develop.

In the NAO, the situation has been different. The regional government has had a rather weak position since perestroika, and a wider diversity of actors can be found in resource use. The NAO was one of the regions to have the first joint ventures, and companies from the US, France and Finland have been active in Timan-Pechora oil development for many years. Most prominently, Conoco Phillips and Total Fina Elf are involved in the oil development there. The largest company active in oil extraction in the NAO is Naryanmarneftegaz, which recently became a joint venture between Lukoil and Conoco Philips.

International relations have also played a significant role in NAO regional indigenous empowerment. The young leadership of Yasavey association makes use of contacts with international organisations such

as EBRD and NGOs such as IWGIA. They are active in fundraising and proud to be not entirely dependent on their regional administration. This has also influenced the way in which they approach relations with the extractive industry. They demand compliance with World Bank and EBRD environmental and indigenous peoples' policies, they expect real consultation and dialogue, and they help to develop collective agency from the bottom to influence relations with the industry.

Yasavey has tried to organise real dialogue between different land users by organising round table discussions among all stakeholders. The idea is for actors to meet in a friendly atmosphere to talk without immediate binding implications, thus establishing good conditions for more formal dialogue. Similar round table discussions have also taken place in Vladivostok and the KMAO but, in the NAO, they have best met the challenge of dealing with specific problems of individual oil projects, particularly in the absence of clear federal and regional legislation. Yasavey joined forces with the NAO Association of Geologists to establish a joint working group to organise the round table discussions. The principles by which they organised the dialogue sound very familiar to Western ears: transparency, neutrality, objectiveness, consideration of national and international experience, and monitoring of project performance (Peskov 2003). Transparency is a particularly crucial characteristic for relationships of trust and yet is still too often completely lacking in the Russian northern context. The working group and the round tables became important instruments for conflict resolution.

Such a "down to earth" approach does not require elaborate legislation or written agreements to function, and therefore can react flexibly to changing situations and the needs of the parties involved. This round table model could be replicated in other regions where the legal basis is not sufficient and the regional state is weak, as was the case in the NAO for most of the post-Soviet period. However, the precondition for effective functioning is, in addition to the will of the stakeholders, the presence of an organisational team that is perceived to be neutral enough to give a voice to all opinions. In the NAO, this condition was met through the alliance of the indigenous people's association with the oil workers of the Association of Geologists, but these efforts have unfortunately come to an end and the Association of Geologists is not active as a partner any more. Western companies, though invited, were reluctant to take part, arguing that their own guidelines and corporate policies sufficiently regulate dialogue. A major shortcoming for a more efficient use of this means of conflict resolution

and dialogue building was also the lack of interest on the part of the NAO administration to join the meetings. This is why any agreements made during round table discussions were extremely difficult to channel into regional legislation or implement okrug-wide. The participation of the administration in the meetings would also have urged officials to answer questions of transparency in distributing the funds paid by the oil companies as compensation and social investments. With the absence of the administration in these meetings, these questions remained unanswered.

In comparison to the YNAO and KMAO, the political situation in the NAO has been generally less stable in recent years, as the region has been headed by three different governors since 2004, whereas in West Siberia both governors have been heading their regions for more than a decade.

Conclusions

In general, although socio-economic and political issues have been emphasised in this article, the ecological impacts of petroleum development are not to be underestimated. It is to be hoped that the serious mistakes made in KMAO during the Soviet period and its immediate aftermath will not be repeated in NAO and YNAO, where production is still in its infancy in relative terms. The record of social and environmental degradation during the exploration and early infrastructure development has been worryingly similar and laws pertaining to mitigation that have been on the books for decades continue to be ignored. Still, there is ample room for practices to improve. One of the main issues is meaningful consultation during the planning of new developments. It is clearly in the best interests of the Russian state, and its respective enterprises and joint ventures, to foster genuine coexistence rather than simply paying lip service. It makes for far better public relations to have herders actively on the land in the 21st century than it does to have them migrating to towns in droves because the future on the tundra seems untenable. For a typical herding family, the outlook depends on a variety of local conditions. Even neighboring sovkhozy and brigades can face starkly differing prospects depending on the whims of planners with whom they have little or no direct contact. From an indigenous perspective, perhaps the most satisfying thing is to have sizeable numbers of the younger generation choosing a life in the tundra because they feel it is a viable life for them. The extreme pride in large, cohesive migratory fami-

lies is palpable and serves as a source of cultural revival in other sectors of the population, both in towns and within the tundra. □

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OIL PIPELINE DEVELOPMENT AND INDIGENOUS RIGHTS IN EASTERN SIBERIA

Gail Fondahl and Anna Sirina

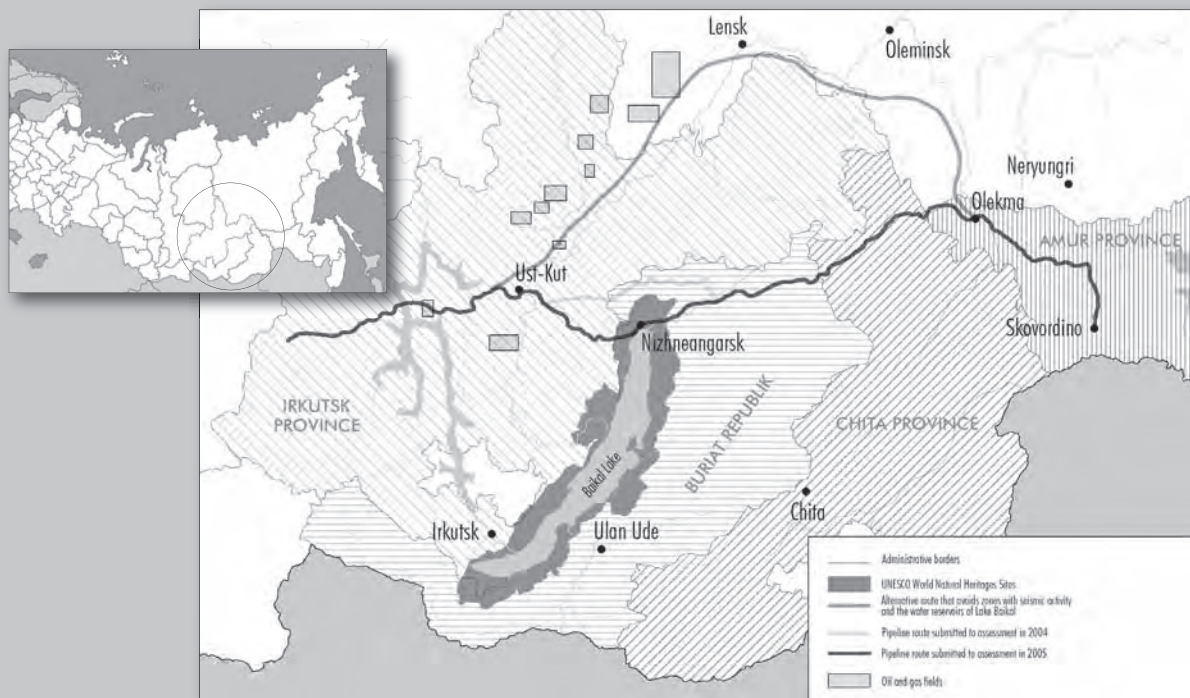
Transportation of crude oil. Baikal-Amur railroad. Photo: Anna Sirina

Indigenous peoples in the Russian North have achieved significant gains in terms of territorial rights to their traditional homelands over the past fifteen years of post-Soviet reforms, at least on paper. At the same time, an intensified articulation with world markets, the pressures of a marketizing economy and the increased access of Russian fields to foreign investors have encouraged the development of existing hydrocarbon reserves, and the exploration of new ones. Much of the late twentieth century hydrocarbon development in Russia took place on native lands – the western Siberian oil fields on Khanty and Mansi traditional territory, the northwestern gas fields on Nenets homelands. More recently, exploitation of the Sakhalin Island's oil reserves has challenged the territorial rights of the Nivkhi, Evenki and Uilta. Indigenous peoples have received some benefits from such development but, generally, the costs outweigh these.

While oil and gas extraction has removed significant territories from indigenous use, the transport of hydrocarbons across indigenous lands also impacts on indigenous activities. Pipelines dissect reindeer pastures, affect the movement of wild game and can hinder access of humans to hunting and herding

grounds. Pipeline failures and leaks, an all too common occurrence in Russia, cause pollution to land and water sources, and thus affect traditional indigenous land- (and water-) based activities such as hunting, gathering and reindeer herding. Pipeline construction brings influxes of outsiders into the area, which has both benefits and disadvantages. Apart from the environmental degradation problems posed by leaks, the construction phase may affect animal habitat and culturally important sites. Once in place, the pipeline may disrupt migration paths of terrestrial animals, including domesticated reindeer and wild game.

One major new project is the Eastern Siberia-Pacific Ocean (ESPO; in Russian VSTO) oil pipeline, stretching close to 5000 km across Eastern Siberia.¹ The pipeline's original routing caused significant environmental concerns and, eventually, Russia's President Putin rejected part of the route, requiring a new course to be chosen. Any route will transect indigenous lands. Indigenous concerns regarding the pipeline have certainly focused on the environmental dangers of oil spills from this pipeline but also comprise other issues. Whether these issues will be addressed with the new routing remains to be seen.



The Eastern Siberian-Pacific Ocean Pipeline

The ESPO pipeline will provide a means to bring oil from oil fields in eastern Siberia (Irkutsk Province, Sakha Republic) to a terminus on the Pacific Ocean, for shipping to markets throughout Asia. As these oil fields have not yet been developed, a more immediate goal is to provide a means of transporting western Siberian oil to eastern markets. The ESPO pipeline's capacity is a projected 80 million tonnes per year. The successful contractor for the pipeline, Transneft, is a joint stock oil transportation company based in Omsk. Estimates for the pipeline's costs range upwards from \$11 billion dollars.

Transneft initially surveyed a route that ran from Ust-Kut in Irkutsk Province, across the northern regions of the Buriat Republic and Chita Province, to Skovorodino in Amur Province, and then east to the Pacific Ocean. The pipeline would pass just north of Lake Baikal, an aspect that caused considerable concern among many groups, most notably environmentalist and indigenous organizations. Lake Baikal received recognition as a UNESCO World Heritage site in 1996 due to its unique ecology and numerous endemic species. Concerns about the pipeline were in

part based on the high seismicity of the area (the area experiences earthquakes exceeding 6 on the Richter scale at a frequency of less than every decade, and ones surpassing 7 on the Richter scale on an average of every two dozen years). Moreover, the area is highly mountainous, and underlain by discontinuous permafrost, posing extreme difficulties to the construction and maintenance of any kind of linear feature. In the 1970s, the Baikal-Amur Mainline Railway (BAM) was built through this area; it has posed constant challenges in terms of upkeep. Those concerned cited apprehension over the heightened possibility of an oil spill due to the complexities of the terrain, and the problem of rapidly responding to a leak. Many rivers drain into the north end of Lake Baikal; it was planned that the pipeline would be laid under these rivers. It was feared that disruptions to the surface layers occurring during construction would cause water to form above the ice crusts in the winter, making access to the pipelines all the more difficult in the case of an accident.

Transneft's original routing of the pipeline ran approximately 12 km north of the lake. After an environmental impact assessment of this route failed, a second route some 80 km from the lake (though still within its watershed) was surveyed. This route re-

ceived approval from the Russian government, which issued a decree on 31 December 2004 permitting construction to commence. However, Transneft then decided this more northerly route would incur too high construction costs, and began to look at a third route, which paralleled the BAM railway and passed less than a kilometer from the lake at one point. Surveying of this route in 2005 caused consternation among both environmentalists and indigenous peoples. Transneft held public community meetings in the summer of 2005, allegedly to listen to concerns, to ensure that local people had a chance to participate in the project planning (as required by Russian law) and to answer questions.²

An environmental commission working under Russia's Federal Technical Inspectorate (*Rostekhnadzor*) de-

creed Transneft's third route unacceptable in January 2006 (46 of 52 members voted against accepting the environmental impact assessment). However, at the company's request, Rostekhnadzor then extended the period of assessment for a month, increased the size of the commission substantially (from 52 to 86), and then divided the commission into three groups. Each group considered a separate section of the pipeline: west of Lake Baikal, along/north of the lake, and east of Lake Baikal. While all of the second group's experts found the environmental impact assessment (EIA) conducted along their stretch of the pipeline flawed and inadequate, the other groups accepted the EIA for their stretches. *Voilà!* Two-thirds of the commission had now supported Transneft's route.



However, while such machinations of “democratic” decision-making processes transpired, environmentalists continued to vociferously voice their concerns to both national and international audiences. In February and March of 2006, many meetings were held in Irkutsk Province and Buriat Republic. Irkutsk Province’s Legislative Assembly and its governor, and the equivalent body in Buriatia (the People’s Assembly), appealed to Russia’s President and other high-level federal officials, expressing their extreme concern about the construction to the north of Lake Baikal. In a surprise move in April 2006, President Putin ordered that the pipeline must be rerouted to protect Lake Baikal. In a further surprise, Transneft’s CEO Semyon Vainshtok then declared that the

pipeline would be rerouted some 400 km north of Lake Baikal, ten times farther than Putin had declared was a necessary minimum for the project to be acceptable. A new route is now being surveyed; it will pass north of Buriat Republic’s territory, cutting rather through the southern counties of Sakha Republic on its course between Irkutsk and Amur provinces. Meanwhile, construction has commenced on the western section of the pipeline.

Indigenous concerns regarding the pipeline

All of the pipeline’s projected routes have run mostly through Evenki homelands. The Evenki are Russia’s most widely distributed indigenous group: their homelands stretch from west of the Yenisei River in central Siberia to the Pacific Ocean and on to Sakhalin Island, and from the edge of the Arctic tundra to the Chinese border (and into Manchuria). Traditionally hunters and gatherers, they depended on the extensive harvesting of subsistence resources, and furs for trade, from lands that supported a sparse population. Many groups kept small herds of reindeer for transport and milking purposes, though in some regions these herds had been much reduced or fully decimated by the end of the Soviet period. By the late twentieth century, many Evenki had turned to other professions, including teachers, cultural workers, janitors, farm-hands, and child-care workers. Unskilled work predominated, especially among men, while a small percentage of Evenki joined the ranks of the “white collar” professionals. Unemployment faced many as state systems of support collapsed in the wake of the Soviet Union’s demise, and life expectancy, low during the late Soviet period, decreased further with the onset of state neglect and a dismantling of social services during the early post-Soviet period. Some Evenki, faced with few other options, returned to a subsistence way of life in the 1990s.

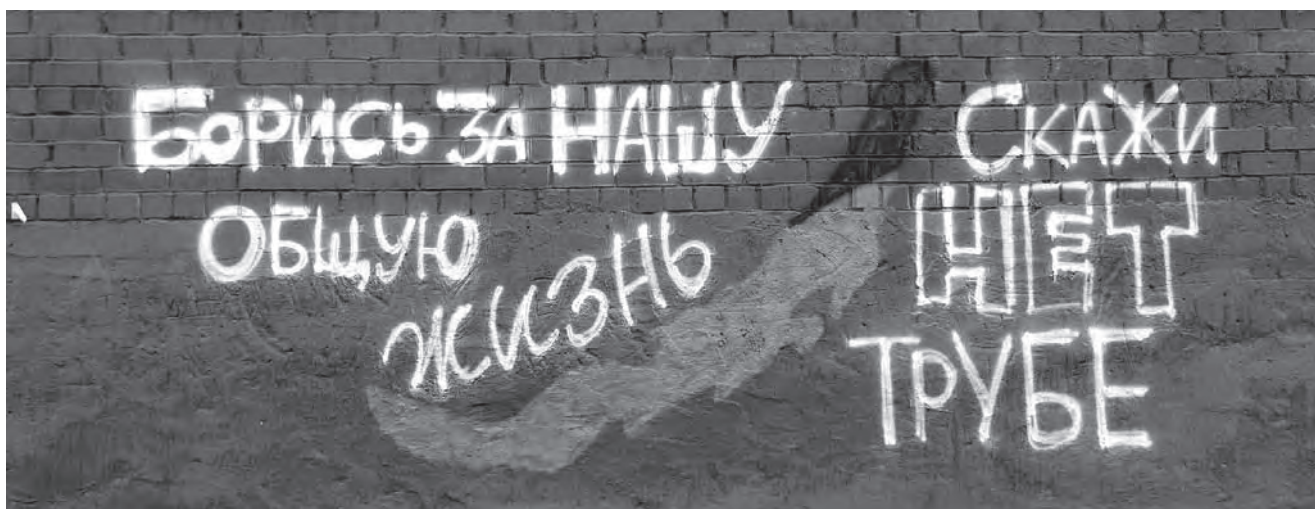
In the summer of 2005, we were able to interview Evenki in villages along the then proposed route to identify concerns about the pipeline. Most prevalent were concerns about environmental pollution due to a pipeline accident in the future, and its effect on the land, water, wild animals and fish.

*If they build the ... pipeline, everything will die. This pipeline will break and everything will go into Baikal... We Tungus will then die. (Male, 50s)*³

Compensation isn’t needed, what is needed is clean nature. (Female, 80s)

The Evenki family Lekarev. Photo: Anna Sirina





"Fight for our common life - say no to the pipeline". Photo: Anna Sirina

The main thing is, the shore of the (Kholodnaia) River, the river itself needs protection. Trout live in it, we have clean water here, and in the case of an accident, everything would go into the Kholodnaia (River). Let them develop oil and gas, but not here among us. (Female, 70s)

While Evenki were very concerned with the environmental dangers a pipeline rupture would pose to their homelands and subsistence activities, they also expressed apprehension regarding other issues, which were of less or no concern to the environmentalists. These included increased competition with pipeline workers for local subsistence resources such as game, fish and wild food plants; increased forest fires due to construction activities as well as carelessness of outsiders; the desecration of sacred places and other places important to the Evenki for cultural purposes; disturbance of reindeer migration routes; decreased access to land-based resources due to a pipeline cutting through the territory. These concerns in part stemmed from the Baikal Evenki's experience with the BAM railroad, constructed through their homelands some 30 years earlier. Construction workers had competed for game and fish, caused much burning (some purposefully) and desecrated sites, mostly unknowingly.

BAM appeared everywhere, and then everything was done for... so much forest burned – When the BAM went through, they ..burnt the forest specially. They needed to clear it as fast as possible... They poured fuel on it and burnt it. And winter, if you go along the road,

everything was obscured by smoke. On our road they were cutting timber in 1978, and then they began to burn it. Thus people couldn't take it – but burn it – if you please... How many animals there used to be, and now... (Male, 50s)

Moreover, some Evenki also wondered how compensation payments would be distributed, who would benefit, and what the distribution of employment benefits would be (Transneft officials promised that the project would create many new jobs, and that some individuals would receive free training; this was a very attractive scenario given the very high unemployment rates in native Siberian villages). They also questioned what impact a pipeline would have on the future establishment of Territories of Traditional Nature Use in their region (see below).

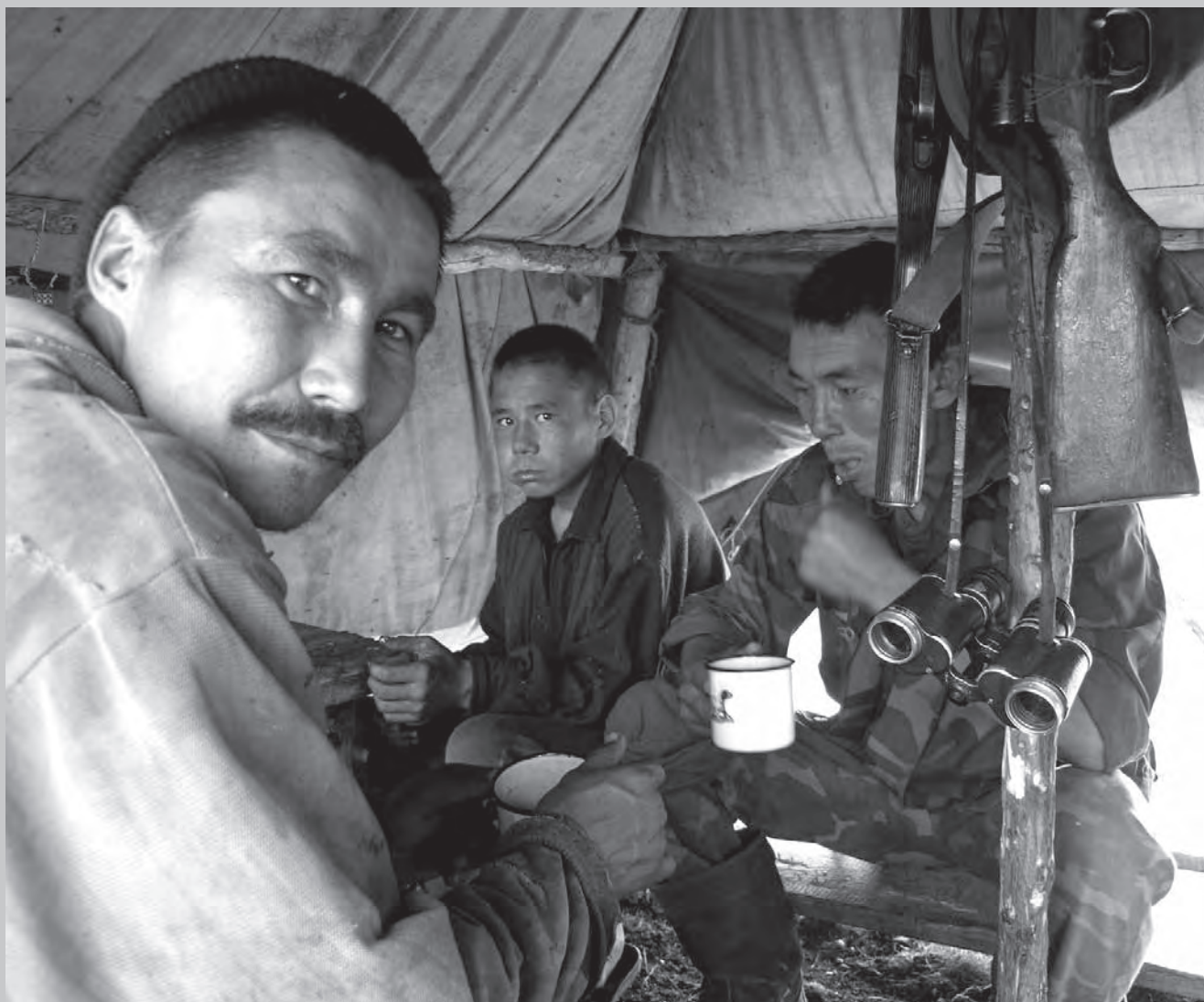
The array of concerns was thus much broader than just environmental, though these are the ones most commonly reported in the popular media. While the relocation of the pipeline route has addressed the most several environmental problems, lesser environmental concerns persist; moreover, the rerouting fails to address many of the other concerns indigenous people expressed over the building of a pipeline through their homelands. It is likely that the Evenki of southern Sakha Republic will have many of the same concerns about increased competition for subsistence resources, disruption of sacred and culturally important sites, and so forth.



Lake Baikal. Photo: Anna Sirina



The Baikal-Amur main railroad near the village Nizhneangarsk. Photo: Anna Sirina



Evenki reindeer herders from the Uluki enterprise. Photo: Anna Sirina

Indigenous peoples and territorial rights in the Russian North

As noted above, many indigenous families have become more dependent on livelihoods based, at least partially, on subsistence activities since the collapse of the Soviet Union. The return to hunting and herding was encouraged not only by the cessation of other employment opportunities but also by laws that allowed indigenous collectives (families and groups of families, called *obshchinas*) to petition for land allotments on which they received usufruct rights to hunting and pasturing. Such allotments comprised tens to hundreds of thousands of hectares, depending on the planned activities of the *obshchina*. The *obshchina* did not receive ownership of the land but rather use rights to its biological resources for hunting and herding, and some exclusionary rights in that such land, once transferred to an *obshchina*, could not be easily alienated for other purposes. The land was initially granted in perpetuity and without payment.

The new route of the ESPO pipeline is slated to run through the Lensk, Olekminsk and Neryungri counties (*raiony* in Russian) of Sakha Republic (Yakutia). Sakha Republic was especially advanced in its legislation regarding indigenous land rights and its implementation of this legislation. A republican law regulating the allocation of land to indigenous *obshchinas* dates back to 1992, whereas a federal law on *obshchinas* was not adopted until 2000. In terms of implementation, by 1999 12 *obshchinas* had been formed in Olekminsk County, and 30 in Neryungri County (none had been created in Lensk County). These comprised 5% and 48% of the total territories of Olekminsk and Neryungri counties, respectively. While the exact route of the pipeline has not yet been chosen, it will very likely transect some *obshchina* holdings in these counties. Sakha Republic's law on *obshchinas* stipulates that land can be removed from the *obshchina* in instances of "state need" but other equivalent lands must be provided to the *obshchina*. The federal law on *obshchinas* is strangely silent on land allocation in general.

Russian federal law also allows for the creation of "Territories of Traditional Nature Use", larger areas identified as traditionally used by indigenous peoples, and set aside from future industrial development. *Obshchinas* can be located within the bounds of such Territories. However, the law governing the creation of these Territories is general and declarative in nature, depending, it appears, on regional laws and by-laws to spell out the specific rules for

these territories' formation and governance. While during our conversations with Evenki in northern Buriat Republic, the issue of the need to create such was repeatedly broached, neither the Buriat Evenki nor indeed indigenous groups throughout the Russian North have had much success in implementing this 2001 federal law. No such Territories of Traditional Nature Use exist in southern Sakha Republic, or anywhere along the pipeline's proposed route.

In terms of sacred sites and other sites of cultural importance, laws on the legal status of indigenous peoples, both at the federal and Sakha Republic level, protect indigenous peoples' rights to observe their religious traditions and to fulfill religious rituals, as long as these do not contravene other laws. Sakha law on indigenous legal status (1997) also notes that indigenous peoples may maintain and develop "cult places". Sacred sites are thus protected, if obliquely. However, the practical protection of such sites is complicated by a lack of outside knowledge of them.

The main encumbrance to the pipeline in terms of indigenous territorial rights will most likely be the existence of *obshchina* lands. How Transneft will deal with *obshchinas* remains to be seen. The second proposed variant, which ran some 80 km north of Lake Baikal, transected one such allotment:

They tried to go through our allotment. They began to bring machinery... No one warned us that they would be coming to our territory... They came last year in helicopters. Who's going to ask us? Our folks went on snowmobiles, and helped them, transported them.
(Male, 50s).

This speaker went on to question whether there would have been any compensation if the route had been chosen, and whether compensation should have been paid for the survey transects that were cut through the land allotment.

The existence of *obshchinas* and similar land allocations (such as the "clan lands" [*rodovye ugod'ia*] allocated in Khanty-Mansi District in the western Siberian oil region), does not seem to have significantly stemmed the development of industrial projects. Evenki in northern Baikal talked of the need for compensation payments that would reach them (rather than just enriching the coffers of local or regional administration budgets); some also mentioned the need to quickly create Territories of Traditional Nature Use in order to use these as the wider focus for collective compensation payments to indigenous peoples.

Modifications to federal land law, in the guise of a revised Legal Codex on Land in 2001, threw the provisions of previous laws allowing such indigenous rights to land into question, as these revisions prohibited transfers of land in perpetuity and free-of-charge. Currently Russia's legal provisions for indigenous land tenure contradict more general land law. It is unclear how these inconsistencies will be worked out in practical cases.

Indigenous rights to participate in the planning of development projects

Indigenous people have expressed their concern about their territorial rights being compromised and even undermined by the construction of the ESPO pipeline. They have also complained about their inability to express their views, to have a real voice in this project. Many are not categorically opposed to the project but rather want to ensure that ecological safeguards are in place, and that they benefit from the construction of such a project through their homelands, whether through compensation payments or through employment opportunities. They do protest a scenario that potentially brings losses and hardships, in terms of the removal of territory for a pipeline corridor, ecological disruption, increased competition (even if temporary) with non-local populations for game and wild foods – if it does not also bring substantial benefits that actually reach them and not only the officials that represent the counties or villages in which they live. And they protest a scenario in which their interests and concerns are ignored.

Russian law on indigenous rights provides indigenous peoples with the right to “participate in the carrying out of ecological and “ethnological” impact assessment in the elaboration of federal and regional governmental programs of natural resource development and environmental protection” that affect their homelands (Federal Law 82-F3, 1999, §8.6). Law further stipulates indigenous peoples' rights to participate in the “realization of control over the observation of federal laws and laws of the subjects of the Russian Federation regarding the protection of the environment under industrial use of land and resources, construction and reconstruction of economic and other objects in places of traditional habitation and economic activities of numerically small peoples. These clauses, which insist on the opportunity of aboriginal peoples to participate in the evaluation of development projects such as the ESPO pipeline,

find resonance with international law: both the generic stipulations that give humans rights to be involved in processes affecting their own fate (e.g. the Universal Declaration on Human Rights [1948], and the more specific conventions regarding indigenous rights that require indigenous participation be ensured in “matters of concern to them” (e.g. the Vienna Declaration, 1993). International Labour Organization Convention 169 expressly requires that indigenous peoples “shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly” and that governments “shall ensure that, whenever appropriate, studies are carried out, in cooperation with the peoples concerned, to assess the social, spiritual, cultural and environmental impact on them of the planned development activities. The results of these studies shall be considered as fundamental criteria for the implementation of these activities.” (ILO 169, 1989, §7). While the Russian Federation has yet to ratify ILO 169, its constitution guarantees the rights of its indigenous northerners “in accordance with the generally accepted principles and norms of international law”.

During the period when a route was being considered through the northern Buriat Republic, Transneft showed very little attention to guaranteeing the rights of indigenous peoples to participate in the evaluation of the pipeline. Evenki were unsure of the route under consideration, both in terms of the northern variant versus that running close to Lake Baikal, and in terms of the specific pathway. Knowledge seemed to come mainly from casual conversations with the surveyors they encountered in the bush. One rumour abounded that the route might disturb a community graveyard and require its relocation. Information was forthcoming neither from local government officials nor from Transneft. A July 2005 front page newspaper article in the regional paper asked “Is the Oil Pipeline to Follow a Different Route?” (*Severobaikalskie vesti*, 27/07/05), and suggested that the route currently under consideration, “150 km north” of Lake Baikal had been rejected, and that a route closer to Lake Baikal should be chosen. This article, in a major newspaper, seemed deceitful at least in that surveying had begun several months prior to the article, and Transneft had already begun to hold meetings to discuss the route close to Lake Baikal. Yet the re-routing was posed as a question, not fact.

During the summer of 2005, Transneft did begin to hold public meetings in the communities of the

northern Buriat Republic. We were able to attend one of these, on 13 July, in the village of Kholodnaia (adult population of 243, unemployment rate estimated at between 60-80%). The event was announced to the villagers by a piece of paper taped to the Administration building the day before it was scheduled. Held in the local club, it commenced with a short introduction by Transneft officials about the pipeline, which mostly underscored the fact that the project would create 40 construction jobs in the region (total population 41,000), for which free training would be provided. They then opened the floor for discussion. However, questions from the crowd were repeatedly dismissed as not "concrete": it seemed that the officials were only willing to field questions of a technical engineering nature.

Bizarrely, Transneft posted maps of the second variant of the pipeline route (approximately 80 km from Lake Baikal) while discussing the third route. The officials invited the meeting's participants to view the Environmental Impact Assessment report (12 volumes of a mostly technical nature), which was available to the public in Nizhneangarsk, a village about 8 km away, on the edge of Lake Baikal. They also noted that those interested in asking further questions could come to the main city of the region, Severobaikalsk, to the main office. Evenki complained that this invitation itself was disingenuous:

How are we to get there? To get to Severobaikalsk you need 90 rubles. There and back. And for 90 rubles, how many loaves of bread can you buy? Ten loaves. You either buy the bread or go there. (Male, 40s)

The fare to Nizhneangarsk was 30 rubles. Evenki incomes, including social assistance, often fail to reach even 2000 rubles.

At times, the officials' rhetoric at the community meeting disintegrated into what we would characterize as disrespectful, and suggesting a simplistic view of indigenous cultures, values and lifeways. Two examples suffice:

Transneft official: *You don't want to live in the forest. You want to come home and turn the television on.*

Transneft official: *You, where do you work at present? How do you feed yourself?*

Evenki villager: *We are without work, right to the last one of us.*

Transneft official: *Well, that is what we are talking about. Does it give you pleasure at the moment to be unemployed?*

Transneft officials, at least at the meeting we observed, seemed disinterested in listening to Evenki concerns, did not appear to record any of them, and failed to respond in more than a dismissive fashion to most of the matters raised by community members. The meeting hardly seemed to fit the spirit of laws protecting indigenous rights to participate in the evaluation of development project plans in a meaningful manner.

The new route – an opportunity to attend to indigenous rights?

Indigenous peoples in the Russian Federation have made progress in having their territorial rights and their rights to participate in the planning of development projects recognized in the legal code of the country. Regional laws in some areas provide even greater protection of rights. However, the laws are often very general, and require the formulation of by-laws to guide implementation. Moreover, the political will to implement such laws seems lacking. The court system has not developed enough over the past 15 years of the post-Soviet period to provide an adequate medium for achieving implementation.

Meanwhile, increased pressures for Russia to compete in the global market are ratcheting up the demand for the development and export of hydrocarbons – one of its major sources of wealth. Where indigenous rights to lands, either officially recognized or meriting recognition under the new legal codes, encumber such developments, these rights may be ignored. Where involving indigenous peoples in the process of planning slows operations down, they may be left out. It is fair to say that a lack of respect for indigenous peoples, their rights and their ways of life, is fairly ingrained in Russia. Transneft's dismissive attitude is distressing but probably more the norm than the exception.

Indigenous peoples themselves have limited capacity to respond to challenges to their substantive and procedural rights, to land and participation respectively. While Russia's indigenous peoples are

characterized by relatively high levels of education and literacy, economic, logistical and cultural barriers still impede their ability to protest the disregarding of their rights. Trips to regional centers to lodge complaints are expensive and of questionable efficacy. Bureaucratic obstacles challenge any efforts to insist that their rights are realized. The language, discourses, schedules and rituals of the courts and the administrative offices can inhibit their ability to effectively act.

However, the relocation of the pipeline provides an opportunity to Transneft that could facilitate future projects on indigenous lands. Transneft has had to respond to environmental concerns. It has positioned itself as a company competitive with those in the West in terms of its accident record and thus its environmental safety record. This being the case, the fact that the pipeline has been moved 400 km from Lake Baikal does not necessarily indicate ecological concerns on the part of the company. This route, as one possible variant, was evidently one among a number of potential predetermined paths. Its advantages consist of lesser seismic threat and greater proximity to future oil reserves. Scientists from the Irkutsk branch of the Russian Academy of Sciences had more than once recommended this route. Yet Transneft may try to capitalize on this move as indicative of such sensitivities. What cannot be avoided by the new route is that it will still confront the interests of indigenous hunters, fishers and reindeer herders, mainly Evenki and Sakha.

Transneft could thus now choose to respond to indigenous demands to participate in the planning stages of the new route. It could hold community hearings, listen to concerns, find ways of addressing these concerns (indigenous peoples realize that compromises are part of negotiations), help sort out issues of who will receive the compensation payments it will have to pay, and in doing so improve its international reputation. It could do this all for a relatively small financial cost. It could re-position itself as a company with a strong record of indigenous rights. Unfortunately, in Russia at the current time, the incentives to do so are modest. □

Notes

- 1 We are using the vernacular understanding of "Siberia" here as that part of the Russian Federation that lies east of the Ural Mountains (rather than the technical definition which divides this same area into 'Western Siberia', 'Eastern Siberia' and the 'Far East').

- 2 We state "allegedly" as we were able to attend one such meeting on 13 July 2005 (village of Kholodnaia, Buriat Republic); the Transneft officials conducting that meeting seemed to have limited interest in considering or recording community concerns, and appeared ready only to answer questions of a technical engineering nature.
- 3 Quotes are taken from Evenki individuals interviewed in the village of Kholodnaia, near the north end of Lake Baikal; gender and general age are given (giving an exact age could compromise the anonymity of the speaker). "Tungus" was the pre-Soviet term for Evenki, and is still sometimes used in conversation.

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EVENKS OF CHITINSKAYA PROVINCE¹

Olga Povoroznyuk



Feeding reindeer with salt. Photo: Olga Povoroznyuk



Northern taiga landscape. Photo: Olga Povoroznyuk

SOCIETY AND ECONOMY (STILL) IN TRANSITION



While the overall socio-economic situation in the Russian Federation does show changes, the living conditions and economic and social welfare of indigenous peoples in the Russian North continue to suffer the consequences of crisis. Having been inadequately prepared for the reforms that occurred during *perestroika*, indigenous economies continue to experience difficulties in dealing with market conditions. New sorts of enterprises, organized along principles of private ownership and profit sharing, are now replacing the former state and cooperative farms and new laws protecting such enterprises and indigenous peoples' land use territories are being worked out and yet, in practice, the proper enforcement of this legislation is being challenged by different administrative and socio-political factors. The potential harm of growing industrialization, with its most dynamic oil and gas industry, can also inflict damage on indigenous economies and land. All these severe social and economic problems suggest a need for stronger government regulations and national support to indigenous peoples.

The situation of the Evenk people living in northern Chitinskaya Province, Eastern Siberia, one of Russia's most economically unstable regions, is a clear illustration of this.²

Enterprises involving indigenous population

The dissolution of the Soviet Union and consequent sovkhos reform, which took place in the late 1990s and early 2000s, produced an effect that has been described as "crypto-entrepreneurship".³ This effect revealed itself in the establishment of a spectrum of enterprises which were declared new and market-oriented but which, in fact, continued to function within the framework of remaining sovkhos structures. During this process, a number of new types of economic enterprise with national, municipal, stockholder, collective and private forms of ownership sprang up across the Russian North, including Chitinskaya Province.

Summer pastures. Photo: Olga Povoroznyuk



Economic consortia, involving indigenous population and representing small mobile groups of relatives and friends, are predominantly registered as *rodovye obshchiny*.⁴ According to the Law on "General Principles of Organization of Obschinas..." the *obschina* was intended to become a self-governing body that would revitalize cultural values and support the rights of indigenous peoples through the development of "traditional" activities. However, in practice, the functions of *obschinas* have been reduced to those of an economic enterprise, pursuing non-commercial subsistence activities.

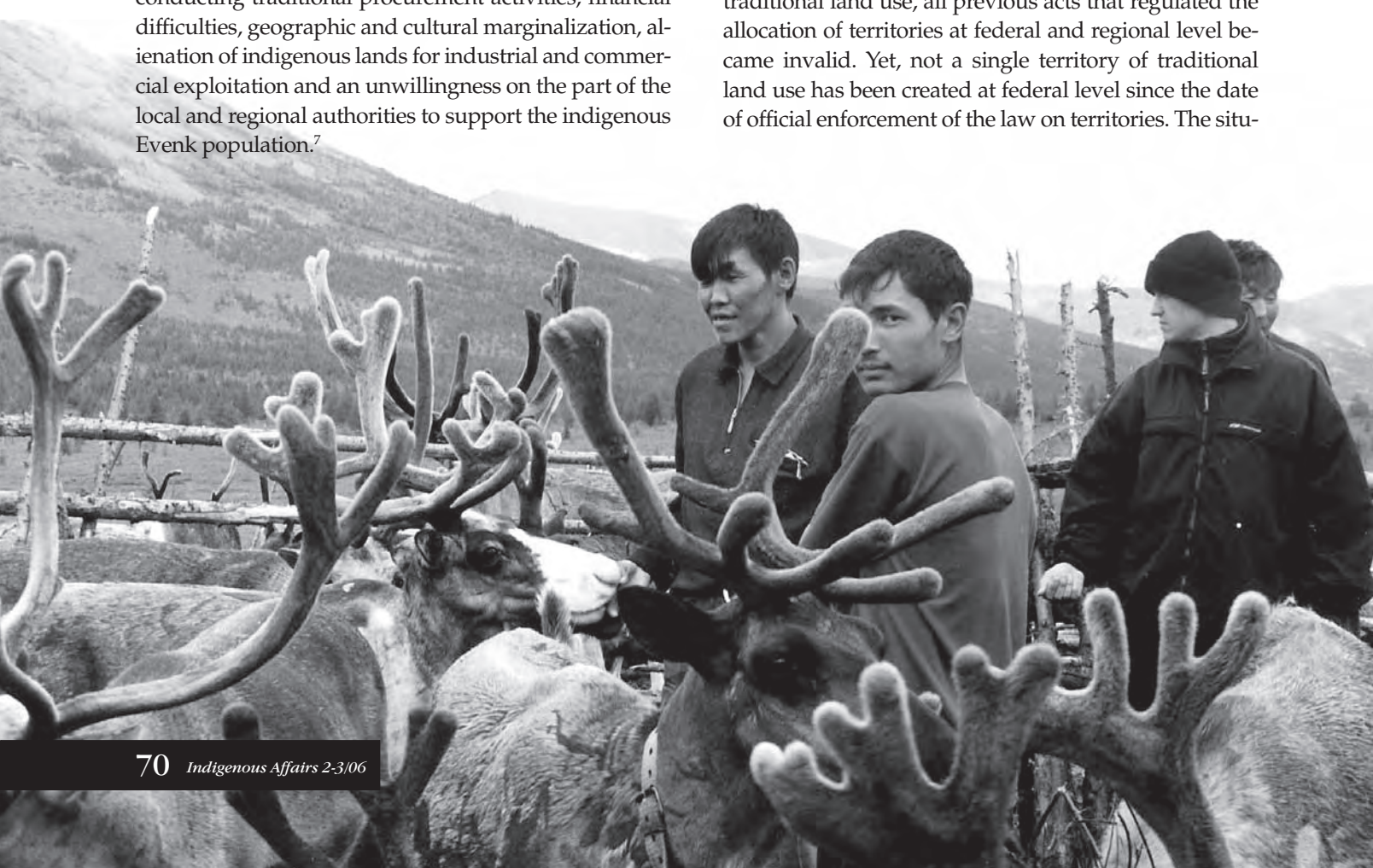
In 2005 there were four reindeer herding and two hunting *obschinas*, as well as one commercial hunting enterprise organized by Evenks and operating in northern Chitinskaya Province.⁵ In the case of *obschinas*, the issue of the territories of traditional land use remains unresolved and, at least one land claim, initiated by Evenk *obschina* "Gevan", has not been properly settled.⁶ Instead, the lands in question have been partially appropriated by other non-indigenous entrepreneurs whose commercial operations rarely serve the interests of indigenous peoples.

Aside from the challenges connected with the enforcement of legislation, a number of other problems continue to stall the allocation of lands and economic development of *obschinas* and enterprises involving indigenous population in Chitinskaya Province. Among them are the loss of knowledge and skills necessary for conducting traditional procurement activities, financial difficulties, geographic and cultural marginalization, alienation of indigenous lands for industrial and commercial exploitation and an unwillingness on the part of the local and regional authorities to support the indigenous Evenk population.⁷

"Traditional" land use in the present day context

In Russia, the concept of "traditional land use" by indigenous peoples has been under negotiation since the late 1980s, the period when public interest in land use issues was rising in connection with the commercial exploitation, predominantly oil and gas exploration, of the northern regions. The attribute "traditional" has itself become very much politicized and can only be used as a conventional term, especially given the view that the land use practices of indigenous peoples have been changing dramatically, especially over the period from around the beginning of the 20th century to the present day. Yet this political discourse, rooted in the strong indigenous rights movement of the 1990s, yielded to produce the Federal Law "On Territories of Traditional Land Use..." in 2001.

Along with such "ethnic" laws as "On the Guarantees of the Rights..." (1999), "On the General Principles of Organization of Obschinas..." (2000) and others,⁸ this law entitled the indigenous peoples of Russia to priority status in exploiting the territories associated with traditional procurement, in contrast to other, especially commercial activities. According to this legislation, *obschinas*⁹ of indigenous peoples of the North should have become the main users of traditional land use territories. Naturally, with the implementation of the new legislation on traditional land use, all previous acts that regulated the allocation of territories at federal and regional level became invalid. Yet, not a single territory of traditional land use has been created at federal level since the date of official enforcement of the law on territories. The situ-



ation is even more complicated at regional level, as illustrated by the example of Chitinskaya Province.

The following reasons can be given to explain why the legislation on traditional land use of indigenous peoples of Russia is not working. First, as many researchers agree, the Law "On Territories of Traditional Land Use..." provides only a framework for developing region-specific legislative acts and does not allow the indigenous peoples to freely exploit the traditional land use areas as it stands. Second, the same law, providing for the free use of the land, contradicts the recently amended Land Code of the Russian Federation, which prescribes ownership and leasing rights. Consequently, such a situation at federal level causes confusion and an unwillingness to work out locally-specific mechanisms to enforce this law or to respond to any grass-roots initiatives on behalf of regional/provincial administrations.¹⁰ This leads to the third reason, namely, the lack of mechanisms and practical experience with which to implement the federal law on traditional land use territories.

In Chitinskaya Province, following the President's decree¹¹ adopted by the head of the provincial administration in 1994, territories of traditional land use have been allocated in three northern districts, with an area totaling 4,145,600 hectares.¹² At that time, however, the collapse of indigenous economic units as the main land users led to a situation whereby these territories were reassigned to other users or withdrawn from the traditional land use territories completely.¹³

The passing of the federal law on traditional land use territories did not have any significant positive impact on the situation. To this day, Chitinskaya Province has not standardized the process for allocating territories designated for traditional use, in spite of many newly appeared indigenous enterprises. Consequently, not one of the stakeholders, be they local authorities, *obschinas* or oil companies, has experience in settling the resulting land claims according to the existing legislation. Various negotiations continue to take place between indigenous and non-indigenous land users with regard to the status of lands and places that have spiritual, cultural and economic significance for the local Evenk people. Frequently, the local and regional authorities lease or auction off land registered as traditional land use territory and intended for use by the indigenous population to non-indigenous users, generally those involved in commercial activities or industrial exploitation. The local indigenous population is thus sidelined by economic development and commercial interests in the land and, eventually, excluded from the process of natural resource management in general.

Evenki reindeer herders with the herd. Photo: Olga Povoroznyuk

Indigenous economies in the era of oil and gas

A number of commercial industries, such as oil and gas, timber and mining, are being developed in Eastern Siberia. In the northern districts of Chitinskaya Province, where Evenks live, mining of non-ferrous and precious metals, coal, and fuel for the chemical and agricultural industries is predominant. In the province, twenty large copper deposits, placer, nickel, titanium and coal resources are found, which is creating a conflict between traditional Evenk economies and the mining industry. The mining plants in operation are already affecting the natural environment and subsistence opportunities for the indigenous peoples. Mining exploration, which neither considers indigenous interests nor creates additional job opportunities, poses a threat to traditional land use. The concerns of the indigenous Evenk population who live and subsist on the lands absorbed by commercial activities are rarely considered within the agendas of such projects.¹⁴

The largest project being developed in the region is the construction of a pipeline system called "Eastern Siberia - Pacific Ocean". 2,297 kilometers of pipeline will stretch predominantly over territories traditionally used by indigenous communities. According to existing legislation on ecological assessment, the Transneft company implementing the pipeline construction project is required to evaluate the environmental impact of the system and develop strategies for carrying out emergency responses. Although the project has already been approved at federal level, ecologists are expressing concerns that the mountainous landscapes, which make up between fifty to eighty percent of the pipeline route, pose multiple natural dangers in terms of flooding, avalanches, erosion, and especially earthquakes.¹⁵

During 2005, public hearings were organized in practically every province/region of the Russian Federation where pipeline construction is planned. Indigenous community representatives were invited to participate in the hearings. At one such meeting in Kalarskiy District of Chitinskaya Province, which took place on August 15, 2005, according to the media the majority of attendees voiced their support for the project, despite Evenk concerns regarding environmental degradation and damage to their reindeer pastures.¹⁶ A similar situation occurred in the districts of neighboring Irkutskaya Province where the pipeline is planned. On the whole, the formality of the public hearings and indigenous participation, as well as the unhampered positive coverage of the pipeline project by most regional and national media sources, does not leave much possibility of adequately evaluating the social and economic impacts that this development will have on the indigenous populations.

It is, therefore, evident that industrial pursuits not subjected to sufficient planning represent potential threats to the fragile ecosystems and livelihoods of the indigenous peoples living in the developing regions. Certainly, the level of destructive impact brought on by industrial activities is not as great in Chitinskaya Province as in the regions of Western Siberia. However, a monitoring system, strict enforcement of the required ecological impact assessment, and mechanisms to include indigenous interests in development planning should be introduced as soon as possible.

Recent socio-economic trends

The current socio-economic predicament of the Evenk population in Eastern Siberia is reflected in such indicators as employment, income, standards of living and the overall welfare of the people. Social protection and assistance to the indigenous peoples was reduced significantly during the years of perestroika and continues to pose an obstacle. In fact, the socio-economic health of the indigenous peoples is on the whole several times lower than that among other northern populations, while the issues of endemic unemployment and low living standards give little hope for the future, creating a sense of despair, marginalization, and problems of alcohol abuse.

Unemployment remains one of the most pressing socio-economic issues among the indigenous peoples. The majority of Evenks who are officially employed work within public service, i.e. schools and daycares, local administrations, local clubs, healthcare units and libraries. Unemployment levels among rural Evenk of the northern Chitinskaya Province in 2003 exceeded sixty percent. Part of the unemployed population is engaged in subsistence agriculture and traditional activities. For example, some Evenks in Chitinskaya Province continue hunting and herding reindeer without registering their economic activities, while others leading sedentary life in villages raise cattle and cultivate crops on their own plots of land. Some hunters and herders who have lost the desire to live and the motivation to adapt to modern conditions have taken refuge in alcohol. These people support themselves either through loans or state subsidies.¹⁷ Additional job opportunities, particularly for young men, are facilitated by *obschinas* and other indigenous enterprises emerging in northern Chitinskaya Province. As a rule, young men are eager to work in these settings as hunters or reindeer herders.

The social and economic shock experienced everywhere in Russia during the 1990s continues to negatively affect the living standards of indigenous peoples in Eastern Siberia. Consequently, psychological dissatis-

faction with changes and current conditions continues to prevail among the indigenous populations in this region. Indicators of living standards are lower among the indigenous population as compared to average indices in the region and in Russia as a whole. The main sources of income for the indigenous population today are: pensions/small salaries, small-scale agriculture, "firewood subsidies", direct annual assistance to low income families, etc.¹⁸ Receiving only small amounts in cash, most families spend the bulk of it on food and clothing. In the majority of cases, the income of indigenous families does not cover the minimum living wage, which leads to poverty, social problems and an erosion of fundamental values and self-esteem.

Industrial exploitation of the territory and rich natural resources has not brought any direct economic help to the Evenk population of Chitinskaya Province thus far. Neither has it improved employment opportunities for the local, especially indigenous, population. The promises to provide jobs to Evenks made by executives of the gas pipeline construction project, not backed up by any facts or figures, can only be seen as a part of the company's and government's PR strategy.

The role of government regulation

Rejection of the paternalistic politics when dealing with the indigenous numerically small peoples, abolition of the majority of social guarantees and a near total lack of government support during the years of economic crisis have brought a number of negative changes in the lives of indigenous peoples. This, in turn, has given rise to a nostalgia for the long-gone Soviet times, an urge to re-establish the system that was once in place to support the traditional activities: a centralized market, government subsidies for production and technological needs, and the vertical structure of governance and control.¹⁹ The social and economic support for indigenous numerically small peoples that exists today in the form of federal and regional support programs²⁰ functions mainly as a source of minor subsidies and free services.

Thus, for example, the Federal Program "Economic and Social Development of the Indigenous Numerically Small Peoples of the North through 2011" was put in place in 2001. A similar regional program was developed on the basis of this federal one, for implementation in Chitinskaya Province over the years 2004-2008.²¹ Another federal program called "Children of the North" is aimed at improving the health, education and socialization, sports and cultural activities, and establishment of social organization for the children of the indigenous numerically small peoples of the North.

Although all these programs do provide some help to indigenous populations, their proper implementation is often challenged by unclearly stated beneficiaries, ideological shifts in policymaking, delayed and uneven distribution of financing or a total absence of funding. In some cases, additional support for the indigenous peoples may be funded through the local and regional budgets via various socio-economic support programs.²² However, in Eastern Siberia, heavily dependent on the federal center, the funds intended to support the indigenous numerically small peoples are absorbed by the regional budgets. The recent trend is for many programs of support to indigenous population to rely rather on provincial/regional than federal budgets, and they therefore receive no funding at all, which is often the case in poor regions like Chitinskaya Province. As a result, the regional budgets are not able to cover the reconstruction of vital socio-economic structures, while the indigenous populations suffer from inadequate living conditions and a lack of attention from local authorities. Even if these support programs are properly funded, their originally designed budget is predominantly aimed at “traditional” and conservation activities and almost never takes into account recent trends and problems connected with growing industrialization and resource exploitation.

Conclusion

We can thus see that the traditional economies and procurement underlying the subsistence base of the indigenous peoples in Eastern Siberia, remain in a position of socio-economic crisis, suffering from the lack of government support and the abrupt and poorly planned transition to a market economy. In some areas, the post-Soviet economic reforms have left the indigenous peoples even more isolated from the rest of the world than they were at the time of collectivization. Today, the distance from distribution points, the inadequate production infrastructure characteristic of most of the Russian North, outdated technical resources, and a lack of processing facilities are forcing us to raise doubts as to the survival of the traditional production modes under the conditions of a market economy. Even the very existence of certain traditional activities such as reindeer herding is threatened by these critical circumstances. At the same time, the ecological, legal and economic problems connected to the coexistence of traditional production modes and industrial development—which is expanding steadily while damaging the natural environment—have become especially acute. The so-called “transition” from traditional production to market economy has brought about new amalgamated and diversified forms



of property and enterprise that, in one way or another, are connected to traditional Evenk activities.

Among the obstacles standing in the way of the socio-economic development of indigenous peoples' enterprises are: improper enforcement of laws on allocation of traditional land use territories, and impoverishment caused by the absence of local markets and competitive prices for the products of hunting and reindeer herding. High unemployment and poor living conditions aggravate the problems of the indigenous peoples. Solving these problems does not seem possible without government intervention. We are not proposing a return to the former paternalistic types of support that have already served to foster a feeling of dependence among the indigenous numerically small peoples of the North. Instead, under the current circumstances, a reconsideration of the existing concepts and policies would be more effective, based on the notion of the "traditionality" of indigenous economies in addressing the present day demands, coupled with the establishment of budgetary systems which would facilitate the adaptation of indigenous economies to marketization and industrialization. This point of view favors the kind of national policy that would provide opportunities to pursue both traditional and non-traditional ways of life, protect the northern territories from invasion of dishonest entrepreneurs and investors, improve employment and living conditions of indigenous population of the North and balance the interests of indigenous peoples, on the one hand, and industrial development, on the other, in a way that would eventually permit the participation of these peoples in decision-making and resource management. □

Notes

(The article with a full bibliography can be found on IWGIA's website: www.iwgia.org)

- 1 Here and below we use English equivalents of Russian administrative territorial units: province (*oblast*), region (*kray*), district (*rayon*)
- 2 Evenks' involvement in rural economies continues to decrease: the conditions of reindeer husbandry are dire, while the procurement of fur and fish is diminishing. Such production modes as horticulture and various forms of animal husbandry, once underlying the basis of collective farming, are now part of individual household economies found throughout the rural regions of the North.
- 3 Konstantinov, 2002: Soviet and Post-Soviet Reindeer-Herding Collectives: Transitional Slogans in Murmansk Region. In: *People and the Land. Pathways to Reform in Post-Soviet Siberia*. Seattle: University of Washington Press. P. 172
- 4 *Rodovaya obschina* (Russ.) can be literally translated as "clan community".
- 5 Data provided by the Administration of Chitinskaya Province, March 2005.
- 6 Author's Field Records, 2002-2004
- 7 Fondahl, 1998: Gaining Ground? Evenkis, Land, and Reform in Southeastern Siberia. Boston: Allyn and Bacon. pp. 98-99

- 8 See the Constitution of the Russian Federation (pp. 9, 69, 72), Forest Code of the Russian Federation (1997, pp. 107, 124), Land Code of the Russian Federation (2001, pp. 7, 31, 95, 97), Federal Laws "On Land Recompense" (1991, pp. 12, 13), On the Addendums and Modifications to the Russian Federation Law "On Subsoil Resources..." (1995, pp. 2, 4, 42), "On Wildlife" (1995), "On the Principles of Government Regulation of the Socio-Economical Development in the North" (1996), "On the General Principles of Local Self-Government in the Russian Federation" (2003, p. 8), etc.
- 9 *Obschina* (Russ.) can be literally translated as "community" but, in practice, means a type of non-commercial enterprise of indigenous peoples.
- 10 According to Russian legislation and vertical top-down administration system, territories of traditional land use which may be allotted on a local level should first be approved by the federal authorities.
- 11 Decree "On Urgent Matters Regarding Protection of Places of Livelihood of the Indigenous Numerically Small Peoples of the North" dating April 22, 1992 ("O neotlozhnykh merakh po zaschite mest prozhivaniya i khozyaystvennoy deyatel'nosti malochislennykh narodov Severa").
- 12 Data provided by the Committee on Economics of Chitinskaya Province, 2000
- 13 Author's Field Records, 2002, 2003
- 14 Author's field records, 1998.
- 15 REGNUM Information Agency
- 16 *Severnaia Pravda* 33 (5954): 3; RAIPON Data
- 17 Author's Field Records, 2002-2004
- 18 Author's Field Records, 2002
- 19 Konstantinov, Y., 2002: Soviet and Post-Soviet Reindeer-Herding Collectives: Transitional Slogans in Murmansk Region. In *People and the Land. Pathways to Reform in Post-Soviet Siberia*. Seattle: University of Washington Press. P. 175
- 20 See for example, the Federal Law "On the Guarantees of Rights..." (1999), "On the General Organizational Principles of Clan-based Communities" (2001), "On the Fundamentals of Governmental Regulation of the Social and Economic Development in the North" (1996), "On Non-Profit Organizations" (1995), Federal Support Program [Federalnaia Tselevaia Programma (FTsP)] "Economic and Social Development of the Indigenous Numerically Small Peoples of the North through 2011" (2001), "Children of the North" (1997), Decree of the Russian Federation Government "On the Critical Predicament of the Economy and Culture of the Numerically Small Indigenous Peoples of the North, Siberia, and the Far East of the Russian Federation" (1995), "On Urgent Matters in Overcoming the Crises in the Social and Economic Spheres of the Russian Federation" (1998), etc.; "Legal Handbook..." 2003.
- 21 Data provided by the Chita Oblast Administration, 2005.
- 22 For example, during 2002-2003, the most noteworthy was the support provided for the traditional economic activities, particularly for reindeer herding in the Chukotskiy, Yamalo-Nenetskiy and Khanty-Mansiyskiy Autonomous Districts (Jernsletten and Klovov 2002-2003:43).

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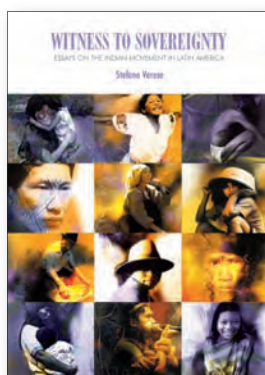
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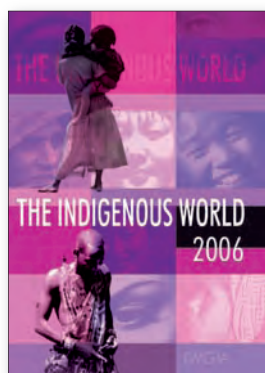
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