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YELLOWKNIFE 1993
Aboriginal Peoples in the Capital of the NWT

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A Study Report Prepared

By the Yellowknives Dene Band

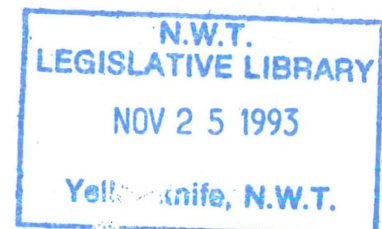
As an Urban Lands Case Study

For

The Royal Commission on Aboriginal Peoples

FINAL REPORT

SEPTEMBER 1993



YELLOWKNIFE URBAN LANDS CASE STUDY FINDINGS

The findings of this study, in brief, are all related to the lack of clarity regarding land and jurisdictional issues in and around Yellowknife.

The historical background of the Dene generally has been neglected in the local public record. Of particular relevance is the fact that it is largely unknown to the southern Canadians who come to Yellowknife to work as public servants and, in that capacity, make decisions that affect the lives of aboriginal peoples here. The aboriginal communities in Yellowknife are not recognised as such except by themselves; public administrations prefer to designate "communities" by physical locations rather than by groups of inter-related people. Certain historical incidents seem to have been suppressed from the public record, namely the deaths of Dene children on Latham Island from water contaminated with arsenic from Giant mine in 1949 to 1951, the improper expropriation of Dene and Métis residents from Old Town in 1959-1960, and the further contamination of Back and Yellowknife bays in the 1970s.

Land ownership continues to be unresolved through the failure to settle entitlement from Treaty 8 -- of which the Wuledeh (or Yellowknife River) Dene are clear signatories, despite administrative errors that place them under Treaty 11. An interim federal solution has been the creation of "Indian Affairs Branch lands" to designate the administrative responsibility for land -- but not for the people living on it. Administration for other land, which is based on EuroCanadian land tenure, is informal, since ownership and jurisdictional issues persist. Métis entitlement to land seems to be resisted by administrative officials. Planning for use by municipal and Territorial land administrators is founded on "urban" principles, even for land beyond built-up areas of Yellowknife. City and Territorial planners have competed for responsibility to plan for Ndilo; neither Dene nor Métis have responsibility to undertake planning of any kind for their peoples.

Jurisdictions also compete to plan economic development -- most of which is for government-subsidised construction projects and large-scale nonrenewable resource exploitation, with the expectation of trickle down effects. Only the City and the Métis Development Corporation give some recognition to small-scale development. Efforts to modernise the north as rapidly as possible have had the effect of perpetuating the dependency of aboriginal peoples on government programs. The aboriginal economy receives little support.

Governance is complicated legally, politically, and functionally. Aboriginal councils and the NWT government derive their jurisdiction from federal laws; the Band council and GNWT are administered by the Indian and Northern Affairs ministry. None of them has autonomy at present. The NWT administration has created several laws for local public councils, under which the City of Yellowknife has incorporated as a municipality. Aboriginal self-government is opposed for NWT aboriginal peoples, since constitutional status would grant them a jurisdiction higher than that of the NWT government.

Intergovernmental relations generally are not satisfactory to any party on any issue: all existing public administrative entities would prefer to sustain or improve their current responsibilities and none seems willing to give any up. Current "consultation" practices are inadequate to resolve even minor difficulties: flexible conflict resolution processes are badly needed to arbitrate among entrenched positions and to evaluate arbitrated decisions.

Both Dene and Métis are moving toward negotiations with federal authorities on land and other integral matters. Meanwhile, better approaches are required to meet the socio-cultural, economic, and political needs of aboriginal peoples in Yellowknife: those for whom the area has always been home and those more recently attracted to the NWT capital.

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Policy Recommendations

Regarding Aboriginal Jurisdiction

1 All non-aboriginal governments -- that is, federal provincial, and territorial governments -- should recognise the existing inherent right to aboriginal self-government for NWT aboriginal peoples.

2 NWT First Nations should be able to obtain funding and to negotiate self-government without being at the comprehensive claims negotiations table.

3 Land settlement agreements in the NWT should include a framework for aboriginal self-government instead of the negotiation of self-government within the framework of NWT public government.

4 First Nations should not have to settle land agreements by extinguishing their Treaty and aboriginal rights.

5 Aboriginal organisations and councils strongly recommend the establishment of fair processes for resolving conflicts between governments in the NWT to replace current "consultation" practices; processes for conflict resolution should be flexible, able to arbitrate decisions, and evaluate decisions at intervals to assess possible need for adjustment.

Regarding Land Management, Planning, & Use

1 The municipal and the Commissioner's Land boundaries for Yellowknife must be adjusted to remove aboriginal lands, including Ndilo and lands north of T'èqehda to the Ingraham Trail.

2 Aboriginal councils should be given responsibility for the development of land administration within NWT aboriginal settlement areas and communities that is more sensitive to the peoples' cultural and spiritual use of land, rather than having training focused on the land administration system considered suitable in southern Canada imposed on them.

3 The current focus for land-use planning by MACA should be transformed from urban to rural for tax-based and non-tax-based municipalities; all land-use planning should reflect the integration of people's socio-cultural, economic, and environmental issues, recognising that an aboriginal "community" comprises people and their land, not just a surveyed location. Aboriginal peoples need greater involvement in NWT industrial resource planning.

4 For areas dominated by aboriginal communities and settlement, land-use planning should be by the aboriginal jurisdiction, based on customary land use and management.

5 The administration of land-use permits should be changed so that local approval is registered, rather than the current system whereby approval is granted if no one objects; aboriginal communities require appropriate funding to administer land-use permits.

6 Alternate technologies ought to be investigated for waste management and service delivery to reduce dependence by NWT settlements on roads and physical infrastructure that limit the development of distinctive communities and the location of new settlements.

7 The Canadian Institute of Planners should add academic requirements and ethical guidelines to its professional requirements so that planners are prepared for greater cultural sensitivity, for better methods of citizen participation in planning processes, for greater recognition of the differences between urban and rural planning, and for more integrated local planning.

Regarding Socio-Cultural & Economic Conditions

1 A public enquiry should be held into arsenic contamination in the Yellowknife area and other environmental health impacts from mining that have affected aboriginal peoples, with special attention to the deaths of Dene children on the tip of Latham Island in 1951.

2 A community-based study should be conducted for a comprehensive history of the Yellowknives Dene Band, to be founded on the oral evidence of elders and on all existing archival documents pertaining to the people and their relations with non-Dene.

3 More affordable and more accessible housing is needed to accommodate aboriginal peoples staying in Yellowknife.

4 Better, more affordable, and more accessible day care with the participation of Dene and Métis elders is needed for aboriginal families in Yellowknife.

5 More funding and more non-government programs are needed for upgrading and for every kind of training; of especial importance are ways to encourage adults and high-school dropouts to regain faith in themselves and their ability to participate in wage-earning as well as culturally appropriate economic activities.

6 The aboriginal economy should get stronger support, including accommodations by public institutions (such as schools) to give Dene and Métis families the opportunity to pursue customary pursuits. Greater involvement of elders is needed in the education of children and in planning generally. Ideally, aboriginal communities should have their own schools where their children can learn their own and non-aboriginal practices and values.

7 NWT aboriginal communities need their own lending institutions for collective economic development initiatives within community-determined development.

8 Collaboration is needed between financial institutions in NWT and aboriginal peoples or their development corporations to develop alternate arrangements that do not rely on surveyed and titled land tenure to support business investment.

9 The NWT Official Languages Act should be fully implemented, especially by the Territorial administration and by the NWT Stanton Hospital. Greater emphasis needs to be placed on the use of non-government interpreters for translation services, and on the development of aboriginal languages (rather than strictly on documentation and preservation).

10 The recommendations made to the Commissioners in Yellowknife on 1992 DEC 08 by the Yellowknives Dene Band Chiefs should be implemented, especially those regarding land and the direct distribution to the Band of royalties and other revenues currently held "in trust" by Indian and Northern Affairs Canada, which determines use of those revenues.

1 Important Times for Yellowknives about Treaty

1899 A Treaty party representing Queen Victoria, on behalf of Canada, made Treaty 8 with Aboriginal peoples. The Treaty was written in Ottawa and people had no chance to change or negotiate the terms. A "Halfbreed" Commission gave out scrip (either land or a one-time payment) to Métis.

1900 A Treaty party and "Halfbreed" Commission comes to Denínu Kúe (Fort Resolution) to add Dene and Métis around Great Slave Lake to Treaty 8. Dene from the north shore of Great Slave Lake went by boat and were photographed arriving at Fort Resolution. The photo is on the cover of this package.

These Dene called themselves Wuledeh and the Treaty Commissioner called them the Yellowknife River people. Old Man Drygeese was chosen as spokesperson by the Wuledeh and he made Treaty for them as Chief.

The way Treaty 8 is remembered by Dene Elders who were present when the Treaty was made is not the way the government of Canada has written Treaty 8. But the Treaty Commissioner did report discussions with the Dene about Treaty 8.

1903 The Wuledeh and other Dene went to Fort Resolution to receive Treaty. They complain to the Indian Agent that Treaty promises that the Dene way of life could continue without interference were not being kept by the government.

1905 The provinces of Saskatchewan and Alberta were created from the NWT. The federal government appointed a Commissioner for the remaining land area of the NWT -- but this Commissioner was a federal employee and worked in Ottawa.

1911 The prairie provinces were extended north to 60°, the present boundary of the NWT. By these changes, Dene within Treaty 8 were split into different provincial and territorial jurisdictions.

1916 The Migratory Birds Convention Act was negotiated as an international law between the USA and Britain (on behalf of Canada). In Ottawa, an Advisory Wild Life Board was responsible for Canada's position.

Hunters, including Treaty people, were no longer allowed to shoot migratory

birds in the spring. Treaty 8 people complained to the Indian Agent at Treaty time in 1916, 1917, 1918, and 1919 about being fined during their traditional spring hunts.

1920 Led by Chief Joseph (Susie) Drygeese of the Wuledeh, the Treaty 8 Dene refused to take Treaty in 1920. Angry that the Indian Agent claimed the Dene had given their land to Canada through the Treaty, Chief Drygeese insisted that they make the Treaty again. He drew a map of the hunting grounds of the Wuledeh and had a new paper written to say what the Dene remembered as Treaty 8.

The paper said that the hunting grounds of the Wuledeh are Dene lands, for their sole use, where they can continue their own way of life without interference for as long as the sun shines, the rivers run, and the grass grows (that is: forever). Chief Drygeese had the Indian Agent, the rest of the Treaty Party, and the Dene Chiefs sign four copies of this paper: one for Chief Drygeese, one for the government in Ottawa, one for the Bishop, and one for the Hudson Bay trader. Officials in Ottawa claim that they did not get this map and paper.

Chief Joseph Drygeese of the Wuledeh met that winter with Montfwi from Rae to tell him what happened at Fort Resolution.

1921 A Treaty party travelled throughout Denendeh to make Treaty 11 with Dene, and to give one-time scrip payments to Métis who did not make Treaty. At Rae, Montfwi was chosen as Chief. Like Chief Drygeese, he refused to sign the Treaty paper brought by the Treaty Commissioner from Ottawa.

Montfwi drew a map of the same hunting grounds the Dogrib people shared with the Wuledeh, and had a paper written to say what the Dogrib understood Treaty to mean. Montfwi had his Elders, the Treaty party, the Bishop, and the trader sign copies of this paper, and then he signed the government's Treaty 11 paper.

Officials in Ottawa claim they have no copy of Montfwi's map and paper.

1922 Some Wuledeh went to Fort Rae to receive Treaty, thinking it was closer than Fort Resolution. Some Yellowknife Dene became listed as Treaty 11 instead of Treaty 8.

1923 An Advisory Wild Life Board in Ottawa created several Game Preserves for the sole use of Dene to hunt (but not trap).

One Game Preserve created north of Great Slave Lake was formed had boundaries that are the ones Dene Elders describe for the shared hunting grounds of the Yellowknives and the Dogrib. Officials in Ottawa called this Game Preserve the

"Yellowknife Game Preserve" -- which must have been called after the Dene of that name because the town did not yet exist.

It seems that officials in Ottawa did have the Chief Drygeese and Chief Montfwi maps at that time. The Game Preserve was removed in 1955 by the NWT Council, which was still in Ottawa at that time.

- 1928 One of the worst epidemics kills 10 to 15% of Dene in each region of Denendeh. Many families were deeply affected by their losses.

To try to stop diseases from spreading, buildings, clothing, and bedding were burned. It is thought that the papers and maps made by Chief Drygeese and Chief Montfwi that were kept by the Dene were burned at that time.

- 1937 Bishop Breynat, who had actively urged Dene to make Treaty 8 and Treaty 11, was upset about animals being overhunted by non-Dene and about hunting laws affecting the Dene.

The Bishop prepared papers that described the making of the Treaty, as it was understood by the Dene, and had the papers translated and signed by people who had been present at the making of the Treaty. These Treaty witnesses signed the papers in the presence of a Justice of Oaths.

- 1957 Indian Affairs officials met with Dene Chiefs in Fort Smith to ask them how they wanted Treaty 11 land to be settled. (No mention of Treaty 8, although the Treaty 8 Chiefs were there.)

Between 1957 and 1959, officials in Ottawa met many times to discuss ways to settle Treaty lands with the Dene.

- 1959 A Royal Commission came to Denendeh to discuss ways for Treaty 8 and Treaty 11 to be carried out. Two Dene Chiefs were members of the Nelson Commission.

The Nelson Commission reported that the Dene understanding of the treaties was different from the government's written version. The report recommended that the treaties be renegotiated and that Dene receive royalties from non-renewable resources removed from their lands to compensate Dene for not having benefits from the Treaties since they were made.

The recommendations were not carried out by the government. Instead, the Indian Agent and the RCMP started moving Dene off the land and into the settled communities.

1968 Dene volunteers with the Company of Young Canadians, working with southern anthropologists, began taping interviews with Dene Elders to record the way they remember the making of Treaty 8 and Treaty 11. This taping was continued in 1972 by the Indian Brotherhood of the Northwest Territories.

1972 Indian Affairs Minister, Jean Chrétien, announced that Treaty 8 and Treaty 11 will be carried out according to the government's written version. (In this announcement, the Dene in Yellowknife are listed as having signed Treaty 11, rather than Treaty 8.)

Dene in the Indian Brotherhood estimate that Dene "reserves" set aside by the government's Treaty versions would total 2600 square miles throughout Denendeh.

1973 Sixteen Dene Chiefs asked the NWT Land Titles department to register in their names on behalf of the Dene the 400 000 square miles of their ancestral homelands. When their request was refused, they went to court to have their caveat registered. (A "caveat" is an existing interest in land.)

This case is called "Re Paulette et al." It was heard by Mr Justice Morrow in the NWT Supreme Court. Judge Morrow travelled to Dene communities to hear the testimony of Elders about the making of Treaty 8 and Treaty 11. He decided that the Dene understanding of the treaties was not what the government had written in its version, and he supported the existence of aboriginal rights in Dene homelands. He said the Dene could register their caveat.

When the case was appealed to the Alberta Court of Appeal and to the Supreme Court of Canada, judges ruled that the NWT Land Titles law did not permit the registration of caveats and decided against the Dene. However, no judges in the higher courts disagreed with Mr Justice Morrow's decision about the Dene understanding of the treaties nor about their aboriginal rights.

As a result of Mr Justice Morrow's judgment, Indian Affairs officials decided to forget about carrying out the treaties, and instead steered the Dene into a comprehensive claims procedure. (A single Comprehensive Claim for Denendeh would have given the Dene and Métis 70 000 square miles in total.)

The Final Dene/Métis Agreement was not recommended for approval in 1990, and some Dene went into regional claims. The NWT Treaty 8 Dene decided to return to having the Treaty carried out.

The following maps show the hunting grounds of the Wuledeh and their ancestors.