

Power From the North: The Energized Trajectory of Indigenous Sovereignty Movements

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ABSTRACT

Background In the face of proposed energy megaprojects, First Nations and Inuit in Canada have organized locally, regionally, nationally, and internationally to articulate visions for their territories, which are anchored in self-determination, cultural resurgence, and harmonious relationships between human communities, non-human ones, and the land that sustains all beings.

Analysis This article explores such articulations in response to three specific proposed energy projects: the Mackenzie Valley pipeline, the Great Whale hydroelectric project, and present-day efforts to bring tar sand oil and liquid natural gas (LNG) to tidewater in Northern British Columbia.

Conclusions and implications Indigenous nations have worked creatively and consistently to inflect decision-making concerning both the energy infrastructure, and the forms of governance that support it.

Keywords Berger Inquiry; Great Whale; Northern Gateway; Indigenous Legal Orders; Hydroelectricity; James Bay Project

RÉSUMÉ

Contexte Face aux propositions de mégaprojets énergétiques, les Premières Nations et Inuits du Canada se sont organisés localement, régionalement, nationalement et internationalement pour articuler des visions de leurs territoires ancrées dans l'autodétermination, la résurgence culturelle et les relations harmonieuses entre les communautés humaines les non-humains et la terre qui soutient tous les êtres.

Analyse Inspiré par des recherches sur les ordres juridiques autochtones, cet article explore ces articulations en réponse à trois projets énergétiques précis: le projet d'oléoduc Mackenzie Valley des années 1970, le projet hydroélectrique Grande Baleine proposé pour le nord du Québec à la fin des années 1980; des efforts pour acheminer l'huile de sables bitumineux et le gaz naturel liquéfié (GNL) vers les côtes du nord de la Colombie-Britannique.

Conclusion et implications Les nations autochtones ont travaillé de manière créative et constante pour influencer les décisions concernant l'infrastructure énergétique et les formes de gouvernance qui la soutiennent.

Mots clés Enquête Berger; Grande Baleine; Northern Gateway; Ordres Juridiques Autochtones; Hydroélectricité, Projet de la Baie James

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Introduction

Large-scale energy projects, ranging from tar sands extraction in Northern Alberta, to extensive fracking in the Horn River basin in northeastern BC, to massive hydroelectric complexes in Northern Québec, Manitoba, and Labrador, have radically reshaped Canadian landscapes and ecosystems in the space of a few short decades. Where these projects take place with little or no consultation, extracting billions of dollars in resources while providing little benefit—and often a great many social and environmental ills—to local communities, they partake in a longer trajectory of dispossession of Indigenous lands and impoverishment of Indigenous families and cultures that has been ongoing in Canada since before Confederation. In the face of such projects, First Nations and Inuit have organized locally, regionally, nationally, and internationally, articulating visions for their territories anchored not in resource exploitation but in self-determination, cultural resurgence, and harmonious relationships between human communities, non-human ones, and the land that sustains all beings.

This article explores those articulations in response to three specific energy projects: the Mackenzie Valley pipeline proposal of the mid-1970s, the Great Whale hydroelectric project proposed for Northern Québec in the late 1980s, and present-day efforts to bring tar sand oil and liquid natural gas (LNG) to tidewater in Northern British Columbia. Spanning nearly fifty years, these examples help illustrate the multigenerational efforts of First Nations and Inuit, through savvy use of communicational and cultural systems, to define their communities and rights in opposition to the power projects of the Canadian and Quebecois states. In particular, it focuses on the ways that Indigenous communities have pushed the limits of communicational forms in order to exceed the narrow bounds of legal and bureaucratic processes (court cases, public hearings, etc.) to assert their legal orders within the public sphere.

The Mackenzie Valley Pipeline Inquiry

The 1974–1977 Mackenzie Valley Pipeline Inquiry (MVPI)¹ is an exceptional example of a government-initiated energy project assessment process that furthered Indigenous legal orders. It helped reset the trajectory of Northern Indigenous-Canadian state relations to the point that, over forty years later, the MVPI and its commemoration have become part of the deliberative, ceremonial, and storied practices of Northern communities. This section ends by discussing *Inquiry*, a travelling interactive exhibit featuring the voices and faces of MVPI participants. The ways the exhibit is used in Northern communities as a teachable moment illustrates how Indigenous legal orders are at work long before and long after any given energy project “flashpoint.” By returning to re-examine the MVPI in the present (through *Inquiry*), after cycling temporally, geographically, and across different realms of consideration and interaction, this section mirrors some of the deliberative processes that characterize how Indigenous legal orders operate and permeate more linear types of consideration.

The MVPI was struck in 1974 in order to make recommendations to the Canadian government about a proposed pipeline that would deliver gas 3,860 kilometres, “from Prudhoe Bay, Alaska, across the Northern Yukon, then south from the Mackenzie River delta to mid-continent” (Berger, 1988, p. 1). It emerged in a context in which Northern Inuit and First Nations were becoming increasingly organized and effective in demand-

ing greater accountability from government, and greater local control over lands and services. The infamous 1969 White Paper, in which the Trudeau government proposed assimilating Indigenous people and eliminating their unique status within Confederation, had galvanized Indigenous communities across Canada into collective organizing on a large scale (Department of Indian Affairs, 1969). This was especially true in the north. Kerry M. Abel (2005) details how, in the fall of 1969, sixteen Dene chiefs met in Fort Smith to form the Indian Brotherhood of the Northwest Territories (IBNWT), the precursor to the Dene Nation. Almost immediately, the IBNWT began advocating for systemic change. It challenged federal and territorial jurisdiction by encouraging Dene to boycott elections; it demanded that the education system be reformed to include more Dene teachers and Dene language;² and it actively pursued research and legal proceedings challenging the federal government interpretations of Treaty 8 and Treaty 11, arguing that the treaties were “agreements of friendship rather than land surrenders” and that “the printed text of the treaties differed from the oral versions to which they had consented” (Abel, 2005, p. 251).

Proactive moves on the part of the IBNWT, such as Chief Francois Paulette of Fort Smith filing a “caveat” temporarily halting further claims or land sales over a one million square kilometre area of Chipewyn traditional lands in 1973, made it clear that it would be politically untenable to not meaningfully consult with the Dene on massive development projects in their homeland. In January of 1974, Minister of Indian Affairs and Northern Development Jean Chrétien asked Justice Thomas Berger to lead the newly formed Mackenzie Valley Pipeline Inquiry. Berger’s litigation of the Calder case a year earlier had led the Trudeau government to shift its official position of not recognizing aboriginal title beyond the scope of its own treaty interpretations, and to begin negotiating the James Bay and Northern Québec Agreement discussed in the next section.

Heeding the advice offered at preliminary hearings in three regional centres (Yellowknife, Inuvik, and Whitehorse) in 1974, Justice Berger delayed the MVPI hearings for a year, secured funding for Indigenous organizations and environmental advocates to hire expert advisers to support their submissions, and agreed to take the hearings to every interested community along the proposed pipeline corridor. These and other key process suggestions originated with Indigenous leadership. Berger modified processes to respond to the ways Indigenous leaders wished to consult and be consulted, and thus evolving a hearings format that the lifeworlds of Indigenous communities could enter into. This set up the preconditions for Indigenous legal orders to emerge within the deliberative processes of the MVPI and, to a lesser degree, in the media that covered it.

On April 2, 1975, Berger opened the first community hearing of the Inquiry, at Moose Kerr School in Aklavik by stating:

I am here so that you can tell me what you think, and so that you can say what you want to say. I want you, the people who live here, who make the north your home, I want you to tell me what you would say to the Government of Canada if you could tell them what was in your minds. (Berger quoted in O’Malley, 1976, p. 14)

This request was very different from typical federal or territorial government requests for submissions to environmental assessment processes or hearings because it placed no strictures on what people discussed. Intervenors were able to speak for as long as they had something to say. Similarly, for the community hearings Berger did not restrict his gathering of evidence to the formal proceedings. He toured camps and settlements and observed community food gathering, witnessed dances and ceremonies, and visited sites of archaeological and spiritual importance. In order to maximize participation, community hearings were scheduled to avoid conflicting with significant activities on the land. On the second day of the first community hearing, Berger brought the inquiry to the home of a man too sick to come to the school gymnasium.

The idea that Justice Berger would make a pilgrimage to visit a community elder to request input on an important decision fits with Indigenous protocols in the region. This and Berger's other unorthodox approaches resonated with underlying tenets of Indigenous governance. John Borrows (2010) points out that many Indigenous societies "encourage very broad participation across their citizenry and may be regarded as being radically egalitarian" (p. 29). Inuvialuit, Gwich'in, and Dene traditions of community decision-making, rather than democratic, are deliberative and consensus-based; the underlying expectation is that every affected individual has input on crucial decisions and that all viewpoints will be taken into account.

As Borrows (2010) points out, "processes of persuasion, deliberation, counsel, and discussion" (p. 18) form an important aspect of Indigenous legal tradition, and were in active use by the communities of north Yukon and the MacKenzie valley, which participated in the Inquiry in unprecedented numbers. Community hearings took on a character that echoed the forms and methods of these community deliberative processes. For example, hearings would continue until everyone who wanted to had had the chance to speak, and often a large portion of the community did, with hearings continuing for twelve or fourteen hours, and people staying to listen to each other, rather than just making their own presentation and leaving. For example, in Old Crow, roughly 80 of 200 residents spoke, a remarkable number taking into account that the population included children, and that normally some families would be out on the land (Page, 1986).

Many presenters offered evidence through life stories and traditional stories. While commissioners at most kind of public hearings would balk at a presentation beginning, as Fred Widow's did, with "I am going to tell you my life history," as both Indigenous legal scholars and anthropologists argue,³ such narratives have multiple functions including to "teach, guide, and reinforce behaviour" and to create "a framework for thinking and relating" (Clifford, 2016, p. 768). Robert YELKÁTTE Clifford (2016) contends that such frameworks or cosmologies stress balance and harmony not only between people, "but also between the physical and metaphysical (people and the cosmos) and the physical and ecological (people and the land)" (p. 789).⁴

Indigenous communities used the space created by the Inquiry for community deliberation. Bringing forward evidence grounded in their cosmologies, including stories, ceremonial and traditional activities, and presence on the land (and thus co-presence of non-human agents/actors), Indigenous intervenors articulated the sacred, natural, deliberative, positivistic, and customary laws that guided perceptions and de-

cision-making at the community level.⁵ As the deliberations were broadcast and covered by community newspapers and newsletters from settlement to settlement to settlement, they created a robust conversation across communities and nations, effectively reinvigorating the exercise of Indigenous legal orders in the region.

Daily Indigenous and English-language coverage by the Canadian Broadcasting Corporation (CBC), which proved crucial in catalyzing both community and national dialogue about Northern development, came about largely because of Berger's personal determination. Since 1973, when the Inuit Tapirisat of Canada (ITC) asserted that all future CBC licenses should be refused for Inuit settlements unless the broadcasts would be 80 percent in Inuktitut, Inuit organizations had been vocal in challenging the CBC's lack of Northern language and Northern content programming. Just weeks before the Inquiry opened, Northwest Territories Indigenous leaders journeyed to Ottawa to intervene at the CBC's February 1974 network license renewal hearing, where they criticized the network's paltry Northern Indigenous language programming.⁶ However, it was only after Berger wrote to the federal government, using his personal clout to secure \$500,000 in special funding, that the CBC agreed to cover the MVPI in six native languages (Page, 1986). This single decision substantively increased weekly Indigenous language news programming in the north. Primetime radio broadcast one hour per day of the hearings, equally split between English and each aboriginal language. Following the national news, CBC television aired five minutes from the hearings in English followed by five in a different aboriginal language each day of the week (Berger, 2014). In addition to securing funding for multilingual daily CBC North broadcasts, Berger instructed his staff to contact a raft of radio, television, and newspapers both in the North and in southern Canada, and to encourage the presence of the National Film Board and of independent filmmaker Jesse Nishihata.⁷ The main CBC network as well as *The Globe and Mail* and *Edmonton Journal* assigned journalists to supplement the regular coverage of the MVPI provided by the Canadian Press wire service (Page, 1986).

Accessing and shaping the developing Northern telecommunications infrastructure was crucial to broader efforts by Northern Indigenous communities to evolve expressions of their sovereignty and rights and overcome ruptures caused by the imposition of colonial governments and policies. Indigenous governance persisted in the north through the day-to-day exchanges and activities of the people (including non-human persons) on the land. Amplifying these expressions through the airwaves—whether through reinforcing human/animal relationships by improving radio and satellite communication for hunters out on the land, or by circulating cultural events and stories over the radio—extended the reach and power of Indigenous knowledge and Indigenous protocols.⁸ Chiefly due to Berger's own initiative and resolve,⁹ the hearings became a conduit for Northern community testimony to reach Southern Canadians and speak back to popular mythologies of the North as a wilderness frontier and resource engine for the Canadian state.

The extensive media coverage of the Inquiry in both the North and Southern Canada marked the first time that Northern Indigenous voices, lifeworlds, and law had a substantive, regularly recurring presence in airwaves awash in Southern

Canadian and American produced news, sports, and entertainment. Aaron Mills (2016) argues that law grows out of its cultural context and that Indigenous law cannot be coherently understood, interpreted, and enforced without a profound understanding of Indigenous lifeworlds. The MVPI functioned as a hybridized space in which Indigenous lifeworlds and legal orders could enter into conversation with Canadian legal tradition, denaturalizing concepts such as property and liberty, and prompting broader conversations about Indigenous rights, settler responsibilities, and appropriate behaviour on the land. A generation of Indigenous leaders with Western educations shepherded this process. During the hearings, they coordinated official submissions that supported their claims with scientific and social scientific research and evidence. They gave testimonies that both articulated Indigenous demands and clarified Indigenous values and cosmologies, framing and rendering legible community testimony that was difficult to interpret cross-culturally.

Toward the end of the MVPI, Berger held hearings in major cities across Canada, from Vancouver to Halifax, sustaining the interest of southern media; his effectiveness in holding the interest of Canadians was so great that, upon its release, the first volume of the MVPI's final report landed on Canadian bestseller lists. It remains the bestselling Canadian government report of all time. This popularity lent support to Berger's key recommendations that rather than a pipeline, an 18 million hectare international conservation area be created in Alaska and Yukon to protect the calving grounds of the Porcupine caribou and no pipeline proceed through the Mackenzie Valley for ten years, while governments negotiated land claims settlements.

The impact of the MVPI has reverberated through Northern politics ever since. The MVPI process laid the groundwork for the modern Northern land claim and self-government treaties;¹⁰ it was the catalyst for Northern Indigenous people to seriously engage with state political processes in large numbers, in many cases developing skills as orators, organizers, strategists, and negotiators. The MVPI also linked individual Northern communities within a circuit of public dialogue through which the communities not only came to a consensus on pipeline proposals but also began to articulate their identities and aspirations as nations in relation to the Canadian state. Despite limitations and frustrations, Indigenous people succeeded in having key demands and priorities addressed. This empowered a generation of Indigenous leaders to believe that pursuing their rights and engaging with the Canadian state could result in real improvement. Finally, the MVPI shifted the tenor of Indigenous-Canadian relations; because the stories it told circulated widely through southern media, Canadians learned about and connected to the concerns of Indigenous Northerners. Rather than facing off against an abstracted Canadian state represented solely by its agents and their power, Indigenous Northerners began to build connections to and leverage with Canadians who could hold their government to account.

A measure of the lasting impact of the MVPI is the popularity of the interactive *Inquiry* exhibit, featuring the voices and faces of Mackenzie Valley Pipeline Inquiry participants. Its first iteration toured for five years beginning in 2010, visiting twenty-five communities in the Mackenzie Valley, several colleges and universities in Southern Canada, and the Smithsonian in Washington. As exhibit curator Drew Ann Wake de-

scribes of her experience of the very first *Inquiry* exhibit, attended by almost all 120 community members in Nahanni Butte:

I could see the lights coming from all parts of the village and there were all-terrain vehicles and people were driving the elders, who had been alive at the time of the inquiry. The elders all started to tell their stories of when they spoke to Judge Berger. So that's when we realized that this was going to be a huge success for the people in the communities. (quoted in Gray, 2014)

The *Inquiry* project has since branched out into supporting communities not only in recuperating lost audio and visual materials, but making videos and interactives sharing new information and conversations with elders from the MVPI era. *Inquiry* curators have partnered with educators from elementary school to university levels. In Dehcho, educators partnered with *Inquiry* to train local youth to interview their elders for the bilingual *River Journey* website, creating culturally appropriate curricular materials. This was but the first of several educational initiatives, including lesson plans and interactive websites, that have emerged from the *Inquiry* project.

Since 2014 a revised version of the exhibit, *Thunder in our Voices*, has continued to tour dozens of Canadian communities. Increasingly, it is been hosted in contexts that are explicitly linked to public debates about land-use planning in the 68,000 square kilometre Peel watershed, one of world's largest unroaded areas and a wintering ground of the Porcupine caribou herd, whose range the MVPI final report recommended protecting. In March of 2017, representatives of Peel case plaintiffs from the Vuntut Gwitchin First Nation, Tr'ondek Hwech'in First Nation, and the conservation community—in Ottawa for their Supreme Court hearing—joined their lawyer, and former head of the MVPI, Thomas Berger, QC, at a public panel in a Carleton University library space. That space simultaneously hosted *Thunder in our Voices*. Physically setting the Peel event in this context located the present-day legal battle, which tested the limits of a territorial government's responsibility to implement land-use plans developed through processes mandated under the Umbrella Final Agreement (UFA) signed by thirteen Yukon First Nations, within the larger legacy of the MVPI.¹¹ Telling the story of the MVPI, which was a significant milestone in the path to Dene, Gwich'in, and Inuvialuit cultural resurgence and self-determination, has itself become a governance practice, absorbed into the broader range of day-to-day activities through which Indigenous communities in the North steward their lands, exert their sovereignty, and plan for the future.

Great Whale

If the MVPI represents a positive benchmark for large-scale energy project proposals creating needed dialogue to advance Indigenous rights, the situation facing Québec Cree and Inuit just over a decade later speaks to an opposite, and far more prevalent, reality. As Matthew Coon Come (1994), at the time the Chief of the Grand Council of the Crees, explains of efforts to dialogue in the face of the proposed Great Whale project:

We weren't getting anywhere in trying to get a public debate here in Quebec. We didn't get anywhere trying to get an energy debate, even here in Canada. So we went abroad, because we went to the people who were buying the energy, to question and raise the debate on energy policy.

Following the election in 1986 of Québec Premier Robert Bourassa, Hydro-Québec proposed moving forward on Great Whale, the second of three phases of the massive James Bay Project. When previously elected in 1970, Bourassa had championed the first phase of the project as his signature legacy and the engine of economic development in Québec (Dupuis, 2008). Well into the 1990s, construction of this La Grande phase was still ongoing, creating one of the largest hydroelectric complexes in the world with eight reservoirs flooding an area approximately 40 percent of the size of Belgium (Martin, 2008), increasing the water surface area within the La Grande watershed from 14 to 20 percent. Cree and Inuit, who had not been consulted before construction began, initially fought La Grande. However, under duress after the Court of Appeal of Québec ruled that the public interest of the Québec population at large superseded “the interests ... of about two thousand of its [Indigenous] residents” (Malouf quoted in Martin, 2008, p. 205), they negotiated the James Bay Northern Quebec Agreement (JBNQA) allowing the dams.

By the late 1980s, Cree and Inuit communities were suffering numerous deleterious effects from the project, ranging from damage to the subsistence economy (from mercury poisoning, loss of traplines, and changed wildlife migrations caused by the flooding), to village relocation and social upheaval. While the governments of Québec and Canada were extracting billions of dollars of resources from Northern Québec, they failed to provide the economic and social development promised under the JBNQA. Not only did Indigenous people make up less than one percent of the regional Hydro-Québec permanent workforce (Craik, 2008), they suffered from a severe housing shortage and sanitation and sewage services so substandard that in 1979, five Cree children in two Cree communities died in a gastroenteritis outbreak. Due to these severe deficits in the provisions of community health and social services, Grand Chief Billy Diamond in 1981 estimated that the Cree had spent one-quarter of the compensation monies meant to have been allocated to Cree economic development on funding infrastructure projects that were the responsibility of other JBNQA signatories (Diamond, 1981).

Cree and Inuit communities opposed a second project phase that planned to divert four rivers, flood 865 square kilometres of land, and create four reservoirs feeding three massive power-generating stations. Yet within Québec, powerful discourses propagated by both the government and Hydro-Québec described Cree and Inuit homelands as a “rugged, frigid land ... well-nigh uninhabited and inaccessible” (Boyd, 1976) that had to be developed to fulfill the national aspirations of Québec. Drawing on a two-million-dollar-a-year advertising budget, spent largely within the province, Hydro-Québec mythologized the James Bay project as a means for Québec to “occupy its territory by mastering its waters, thus shaping its character and strengthening one of its key economic bases” (Boyd, 1992). In these depictions, hydroelectricity provided jobs, economic development, and scientific knowledge and management of the land base. Former Hydro-Québec CEO Richard A. Boyd (1992), for example, described that the James Bay project led to twenty years of environmental studies:

Biologists, limnologists, ecologists, geographers, anthropologists, wildlife technicians, etc. joined the study groups and construction teams ... I am

sure that current knowledge on these territories outstrips by far, in terms of both quantity and accuracy, the accumulated knowledge on all other regions in Quebec. There, on the James Bay territory, for the benefit of other potential users of the region—and I am thinking, first and foremost, of the Native peoples—there exists a wealth of knowledge of every sort on Northern life and the natural environment, an abundance entirely unparalleled on this latitude and continent. (p. 42)

At a 1994 Hydro-Québec symposium, while opposing Great Whale during the first public debate between Cree representatives and Hydro-Québec since the James Bay project was announced, Grand Chief Coon Come (1994) condemned scientific and managerial discourses of Hydro-Québec that minimized the impacts of mega-hydroelectric projects as “controlled, remediable, acceptable”:

Flooded land in their language becomes “terrestrial habitat converted into aquatic habitat.” Mercury contamination is reduced from the 80 to 100 year problem identified by independent researcher to a 20-year problem. Mercury contamination was spoken of in Amsterdam as “an opportunity to do food substitution.”

The “knowledge economy” of Hydro-Québec impoverished Indigenous people, eroding both knowledge and lifeways by flooding important cultural and harvesting sites and radically altering ecosystems. Economic benefits, as well as cultural pride at realizing such a large-scale feat of engineering, flowed to ordinary Quebeckers.

In 1991, the Société D’Énergie de la Baie James ran a series of ads in major Québec newspapers and magazines featuring “typical” Québécois families expressing hopes for jobs, cheap electricity, or clean energy source under the tagline “Ce que les Larose [or Gervais, Ducharme, etc.] attendent de Grande Baleine,” followed by the slogan “NOTRE PROPRE ENERGIE.” An article in the Société D’Énergie de la Baie James’ special advertising insert, in the *Montreal Gazette* of March 23, further teased out the narrative linking energy sovereignty and economic nationalism to the prosperity of everyday Quebeckers. It tells the story of Richard, a tinsmith from the village of St. Joseph-du-Lac, who finds good wages, pride, and a sense of community and accomplishment among his fellow workers building the La Grande 2A complex. Indeed, at the height of construction, over 17,000 construction and manual labourers, many from economically deprived rural regions of Québec, found work on La Grande (Boyd, 1992). Hydro-Québec in these years accounted for five percent of Québec’s GDP and 20 percent of all new investment in the province. Bolstered by the support of the Bourassa government, it maintained “a monolithic grip on public policy” (Wollock, 1993). Few expert scientists, engineers, and other professionals were willing to risk speaking publicly against Great Whale, especially with hundreds of high-level jobs for Quebec engineering firms and universities at stake.¹²

Hydro-Québec marginalized Cree and Inuit opposition by playing to racist stereotypes. The utility claimed that advances in healthcare, education, and social development were the results of the JBNQA and hence of hydroelectric development, while simultaneously suggesting that Inuit and Cree no longer followed their traditional ways and had grown soft and greedy:

I can recall the first discussions we had with the Cree chiefs, old people, traders, hunters, and shrewd individuals, at the early stages of the project, when we met with the Grand Council in the tent. The air was permeated with the odours of caribou, fish, and smoke. There were lengthy silences. The Cree just sat there, saying nothing ... Today, young Cree leaders seem to be more demanding, more insatiable, more like “spoiled children” than their fathers. (Boyd, 1992 p. 43)

Boyd, as CEO of Hydro-Québec at the time, knew well that JBNQA was actually negotiated largely in Montréal by Cree and Inuit leaders who were for the most part in their twenties, and that many of these same people—as opposed to their children—were leading opposition to Great Whale. However, his remarks played into prevailing stereotypes in which people who did not eschew modern lifestyles and technology could no longer lay claim to their culture and rights, and reinforced the prejudice that, supported by the largess of government, First Nations had a higher quality of life than other Quebecers. In a March 1994 survey conducted by *La Presse* and Radio-Québec, 75 percent of Québec Francophones stated that they believed federal grants to First Peoples should be reduced or eliminated, and 52 percent felt quality of life was better in First Nations communities than elsewhere in Quebec (Nation, 1994).

Cree leadership launched multiple court cases against Great Whale, focused on preventing construction before an environmental assessment took place, and on establishing appropriate terms for the assessment. Along with Inuit leadership, they also continued to press their case in international forums such as the United Nations and the International Water Tribunal. However, the strategy that contributed most to stopping Great Whale was a successful campaign to convince American utilities not to buy Hydro-Québec’s power. This campaign, catalyzed by the voyage of the *Odeyak*, was rooted in traditional values, Indigenous law, and the powerful appeal of Cree and Inuit stories of relationship to the land.

In 1990, Cree and Inuit from communities in the Great Whale watershed paddled the *Odeyak*, a twenty-foot canoe, from Ottawa to New York City, arriving on Earth Day. The *Odeyak* was launched at Victoria Island, an important ceremonial site for Algonquin people, and initially stopped in the Mohawk communities of Kanasatake and Kahnawake, which provided significant moral and practical support. Visiting these communities affected many paddlers profoundly, as they bore witness to the Mohawk struggle for cultural survival in a traditional territory completely overlain with non-native settlement and industry.¹³ At the same time, the generosity, solidarity, and welcome they experienced motivated the *Odeyak* voyagers (Posluns, 1993).

The majority of the *Odeyak*’s stops aimed to raise awareness among non-Indigenous communities in New England. Paddlers were met with a groundswell of enthusiasm:

the general absence of anything resembling planning and organization with which the trip began was overcome by the combination of the steady determination of the *Odeyak* travelers themselves and the comparable commitment of the host groups at each stage along the way ... supporters who came to describe themselves as “River people” developed devotion

to this issue born from years, and sometimes a lifetime, of viewing their own lives in relationship with the rivers' need for stewardship and healing. This devotion came from a personal identification with the world view expressed by the elders from Great Whale. In short, the sense of kinship between the *Odeyak* travelers and their hosts grew from a deep and long-standing connection. (Posluns, 1993, p. 128)

By telling their stories, and sharing meals and ceremonies with their hosts, *Odeyak* voyagers, in the manner of the Indigenous participants at the Mackenzie Valley Pipeline Inquiry, were able to powerfully convey something of their culture, worldview, and legal orders.

Major environmental groups including the National Audubon Society, the Natural Resources Defense Council, Greenpeace, and the Sierra Club, which published the *Ban the Dams* newsletter, provided resources, expertise, and publicity to the campaign. For example, conservation community actors contributed to full-page ads in the *New York Times*, lent legal expertise for battles about state environmental assessment legislation, and provided larger network support and structure to grassroots groups and coalitions. However, the turning of the tide against Hydro-Québec energy contracts came through state-by-state and community-by-community mobilizations led by grassroots volunteers, who were largely motivated through personal interactions with Cree and Inuit people and stories. Cree leadership often went down to America to speak and meet with elected officials, but usually at the request of their American allies whom the Cree trusted had the strategic knowledge and organizing power to most effectively plan local campaigns (Coon Come, 1992). Just two years after the *Odeyak* voyage, campaigners succeeded in getting the New York State Assembly to pass the Hoyt Bill, requiring New York to apply its own environmental assessment standards to energy purchased abroad. Several similar bills were proposed in other New England states.

More devastating to Hydro-Québec were efforts to cancel the utilities energy contracts and encourage divestment from Hydro-Québec bonds. The Student Environmental Action Coalition (SEAC) led divestment campaigns at several New England universities, including Dartmouth, Tufts, and the University of New Hampshire. More broadly, grassroots anti-James Bay project coalitions initiated public dialogues about the economic, social, and environmental costs of buying Hydro-Québec energy. Their economic modeling demonstrated that energy efficiency was a cheaper option than locking into contracts with Hydro-Québec, especially as an economic downturn and structural changes in the utility industry made previous demand and price forecasts unrealistically high. By 1994, when Québec Premier Jacques Parizeau announced the indefinite suspension of Great Whale, Hydro-Québec had secured only 332 MW of the 4,300 MW of new energy contracts it had forecast in 1991—a drop of 92 percent in just three years.

When New York Governor Mario Cuomo cancelled a multibillion dollar agreement to purchase Hydro-Québec power for the next twenty years, Québec Energy Minister Lise Bacon condemned the involvement of Québec environmentalists and Indigenous people, insinuating that they were not true Quebecers: “I blame them for discrediting Quebecers all over the world. Do you think a Quebecer can accept that? I don't think

so” (Bacon quoted in Posluns, 1993, p. 211). Yet if outwardly, through the mid-1990s, Québec’s government remained hostile to Indigenous claims,¹⁴ the cancelling of Great Whale marked a profound shift in Québec-Cree and Québec-Inuit relations. Cree and Inuit had demonstrated their power, sending a clear signal to both government and the business community that Québec’s economic development would not proceed on their territories without their consent. In 2002, the governments of Québec and Canada, along with the Grand Council of the Cree, signed the Paix des Braves Agreement. Described in the preamble as a nation-to-nation agreement, the fifty-year agreement increases the powers and jurisdiction of Cree governance substantively beyond what is provisioned in the JBNQA, and provides for Cree to share in the economic benefits of development, including through a promised \$3.5 billion in fees and royalties in exchange for resource exploitation (including new hydroelectric projects) on Cree territory.

For some Cree, the very foundations of such covenants are suspect. As Matthew Coon Come (1992) said of the JBQNA:

The Crees negotiated for rights to which we should have been entitled whether the James Bay project was built or not. Why should Indian people have to sign a land claim agreement to gain control over education of our children? (p. 165)

This concern was clearly voiced in the headline announcing the Paix des Braves Agreement in Principle in the Cree newspaper *The Nation*: “Saviours of Sellouts?” (Oblin, 2007). At the same time, as Grand Chief Coon Come (1994) has also described:

The JBNQA was an out of court settlement. We do not say that all our rights are within the agreement. We would never have signed an agreement that was going to encompass all our rights. We have international rights, we have basic fundamental human rights.

The signing of Paix des Braves speaks to the practical wisdom of this perspective; just as the Dene drew on their laws, oral history, and protocols of relationships in order to initiate modern treaty processes that redefined interpretations of Treaty 11, so too Cree and Inuit in Northern Québec got the best terms that they were able in 1975, knowing that they did not agree with all of the JBNQA’s constraints and that they needed to renegotiate the treaty relationship over time as they were able to consolidate power and gain leverage with their treaty partners.

While by no means a panacea for the problems colonialism has visited upon the Cree nation, Paix Des Braves nevertheless resulted in vast improvement in education, health, economic prosperity, and self-determination in the affected communities. In 2017, following several further years of negotiation with the federal government, Cree communities in Northern Québec approved both a Cree constitution and a Cree Nation Governance Agreement, which significantly increases the autonomy of nine communities to collect taxes and create their own laws. In signing the Sanarrutik Agreement in 2002, Québec Inuit have taken a similar stepwise approach toward achieving a greater degree of control over their traditional territories and eventual self-government across the region of Nunavik in the Northern third of the province.

Coastal First Nations and oil tanker traffic

As other works devote considerable attention to debates about oil sands extraction and pipeline construction in Western Canada, and as it is difficult to offer a “long view” on a current and rapidly changing situation, this section takes up a narrower focus. It concentrates on the long-term ways that West Coast First Nations have built power to oppose oil tanker traffic through bringing a “thick description” of Indigenous lands, cultures, and legal orders to bear in public and government dialogues about coastal management. To do so, First Nations have extended their cultural and communicative power through building long-term relationships and collaborations with civil society. Many of these relationships originated before and extend beyond joint efforts to challenge energy infrastructure projects.

As Patricia Audette-Longo (2017) notes in the case of the National Energy Board hearings on the Enbridge Northern Gateway pipeline proposal, governments have deliberately restricted the interveners and admissible evidence for recent pipeline review processes, excluding many key concerns of Indigenous legal orders and evacuating the potential of the processes to effectively address Indigenous concerns. While First Nations have pursued court cases to address these deficits, as most coastal First Nations do not have treaties,³⁵ and as proposed pipeline routes and particularly pipeline terminals impact millions of non-Indigenous people on lands largely governed by Canadian entities, coastal First Nations have worked in conjunction with civil society groups, and particularly the conservation community, to forward anti-pipeline stances.

In the late 1960s and early 1970s, energy issues, including Alaskan oil tanker traffic, were key rallying points for British Columbia’s nascent environmental movement. By 1971, the efforts of tens of thousands of people in dozens of local groups, largely coordinated through the Society for Pollution and Environmental Control (SPEC), succeeded in pressuring the Trudeau government to adopt a policy banning oil tanker transit through West Coast waters. This citizen’s movement had little Indigenous involvement; meaningful relationships between Indigenous communities and conservation groups began to form only during the 1980s “war in the woods” period, when government licensed and approved massive clear-cut logging operations were met with blockades and arrests. These mass actions became defining moments for both Indigenous nations and conservation groups.

Following the mass arrest of over 800 people in Clayoquot Sound, major conservation organizations realized they needed to move from valley-by-valley fights to a coordinated, proactive strategy to shift forestry and land-management regimes on an ecosystem scale. They entered into dialogue with coastal First Nations, setting in motion a decades-long process in which First Nations, whose negotiating power derives from their lands and rights being largely unceded, and conservation community actors, who gained leverage through an extremely successful markets campaign boycotting products made from old-growth BC forests, negotiated with industry and government. The resulting Great Bear Rainforest Agreement (GBRA) governs resource development within much of BC’s central and north coast.

As part of their efforts to support First Nation goals of economic self-determination, conservation groups took the lead in raising money for the \$120 million Coast

Opportunities Fund. This fund supports both First Nations led economic development and First Nations governance capacity with respect to resource management. At the same time, the conservation community provided funding, logistical, and administrative support for coastal First Nations initiatives to strengthen collective stewardship of their territories. For example, the David Suzuki Foundation was instrumental in incubating the Coastal First Nations Turning Point Initiative (now the Coastal First Nations Great Bear Initiative), while the Sierra Club of BC hosted a staff position that supported the Coastal Guardian Watchmen Network (which linked and provided training and support to individual Guardian Watchmen programs) until the network was able to branch out on its own. Conservation funders have also provided money and administrative support for coastal First Nations to bring the University of Victoria's Indigenous Law Research Unit into communities to lead workshop processes on the recovery and resurgence of Indigenous law.

While, as Lynne Davis (2011, 2009) describes, First Nation and conservation community relationships are not without frictions, such actions, as well as the day-to-day processes of working together and developing personal relationships, have created effective partnerships and alliances. These in turn have fostered further projects and relationships that extend both the practice of First Nations lifeways and legal orders, and cross-cultural understandings of them. Coastal First Nations are deeply involved in research projects affiliated with the Hakai Institute, which supports researchers from dozens of universities to do long-term ecological and social research at remote locations in coastal BC. The Pull Together campaign, initiated by the Sierra Club of BC through the Raven's Trust, has raised hundreds of thousands of dollars to support First Nations legal challenges to the Enbridge and Kinder Morgan pipeline projects. Earlier this year, the federal government announced \$25 million in funding to support creating a pan-Canadian network supporting Indigenous Guardian Watchmen programs.

By increasing their practical capacity to steward their territories, including through gathering Indigenous knowledge and detailed applied information about local ecosystems, Coastal First Nations have grown their presence and power in government planning processes, such as the recently completed Marine Planning Partnership for the North Pacific Coast (MaPP) plans, co-led by the BC government and seventeen Coastal First Nations. First Nations perspectives are gaining fuller expression not only in such plans but also in the wider culture of all stakeholders involved in such plans.¹⁶ At the same time, partners ranging from *Hakai* magazine to educational institutions (such as the University of Victoria law school Indigenous Law Research Unit or the Clam Gardens network) to conservation community actors and grassroots activists have further served to disseminate First Nations knowledge, culture, and perspectives on marine management to a broad swathe of civil society in British Columbia. As the fight against the Kinder Morgan pipeline moves out of the regulatory phase and into the courts, the street (through protests and blockades), and the ballot box (with the Green Party now holding the balance of power in the BC Legislature), Coastal First Nations' opposition to tanker traffic is bolstered by the presence of elements of First Nations legal orders across civil society, and by the increased awareness British Columbians have of the richness of the coastal marine environment, which could be jeopardized by an oil spill.

Conclusion

Even in the direst of situations, as in the 1970s when Cree and Inuit were effectively shut out not only of government decision-making but also a public sphere animated by the zeitgeist of “*Maitres chez nous*,” Indigenous nations have worked creatively and consistently to inflect decision-making concerning both the energy infrastructure, and the forms of governance that support it. Often it is a long and roundabout road; where governments shut down or shut out Indigenous viewpoints, Nations have gained influence indirectly, through impacting relationships with a government’s trading partners (as the Cree and Inuit have done by curtailing Hydro-Québec contracts in New England), or by building support among constituencies of voters who elect that government (as is the case with the recent British Columbia elections, where the Green Party, which explicitly opposes pipelines, holds the balance of power). As the Mackenzie Valley Pipeline Inquiry illustrated so clearly in the 1970s, what is at stake for Indigenous communities in reviewing pipeline right-of-ways, hydroelectric infrastructure, or oil tanker traffic, is not just the energy project but issues of governance, stewardship, community and ecosystem health, and cultural resurgence. Since that time, First Nations and Inuit in Canada have drawn on their legal orders to consistently and creatively challenge not only energy megaprojects but also the settler-colonial worldviews and governance arrangements behind them. Slowly but surely, these contestations have diminished the power of conventional energy grids, and the power relations they uphold, instead energizing trajectories of Indigenous sovereignty and nationhood.

Notes

1. The MVPI is referred to colloquially, especially in the North, as the Berger Inquiry, after Justice Thomas Berger.
2. While the focus here is on engagement with the territorial and federal government, the Dene resurgence had a strong local element, with the flourishing of a number of community level groups such as “school societies” that actively worked to grow Dene participation and control of their children’s education.
3. Borrows (2010), Mills (2016), and Cruikshank (1998) further explore the working of Indigenous stories as tools to “think with.”
4. Clifford (2016) illustrates these principles through discussing how a fuel spill could cause spiritual harm by rendering the cleansing waters of a river impure, impacting all the creatures in the watershed and upsetting the balance that members of his community help to maintain through conducting bathing ceremonies at particular places where important ancestors have been changed into features on the land that remind people of right ways to live.
5. Keith Basso (1996) explores this kind of cosmology in detail in the case of Apache people, who speak an Athapascan language group, as do Gwich’in and Dene people.
6. In the early to mid-1970s, shortwave CBC Northern service radio stations had the highest percentage of CBC Indigenous language programming, hovering between 15 and 20 percent (Mayes, 1972). The television service produced only ten minutes per week of local Northern content in any language (Roth, 2005).
7. The NFB film *Fort Good Hope* (1977) documented Inquiry hearings at Fort Good Hope, while Nishihata’s film *Inquiry* (1977) won a Canadian Film Award in 1977 for best documentary of over 60 minutes duration.

8. Inuvialuit filmmaker Dennis Allen's *CBQM* (2009), about the community radio station in Fort McPherson, makes these points eloquently.
9. Making the hearings into a huge public spectacle was a strategic move on Berger's part to ensure that the government did not do an end-run around his recommendations. As Page (1986) describes, from the outset of hearings there were doubts as to whether the government would wait for the Berger report to make a decision on the pipeline proposals.
10. See, for example, Abel (2005), Julia Christensen and Miriam Grant (2007), and the testimonials in the present day of Inquiry participants that are included in the *Inquiry* exhibit.
11. The MVPI provided the impetus for land claims and self-government negotiations. The very first signed agreement, the Inuvialuit Final Agreement, addressed stewardship of the Porcupine caribou herd, which winters in the Peel watershed. The agreement mandated the creation of the consensus-based Porcupine Caribou Management Board, which includes federal, territorial, and NWT and Yukon First Nation and Inuvialuit representatives. The herd is one of only two barren ground caribou herds not in decline (WWF-Canada, 2017).
12. Québécois youth bucked this trend; in 1992 Environment Jeunesse conducted a referendum in thirty-seven Québec CEGEPs and universities in which 75 percent of students favoured a moratorium on new energy megaprojects (Dunsky, 1994). For more information on Hydro's role in the Québec engineering economy, see Martha Langford and Chris Debresson (1992).
13. A few short weeks after the end of the Odeyak voyage, this struggle erupted into the Oka crisis. The crisis reverberated through Québec Cree and Inuit communities, and made the fight against Great Whale more difficult due to the inflamed climate of racism and hostility toward Indigenous people in Québec.
14. This lead-up to the 1995 Québec referendum on sovereignty was a particularly tricky time for Indigenous-state relations in Québec, as many Indigenous communities argued that they had an independent right to decide whether or not to secede from Canada, and a simple majority vote by Quebecers was insufficient to determine sovereignty issues in their traditional territories.
15. And thus traditional lands are not under their jurisdiction in defined ways within the Canadian legal system. Many Coastal First Nations are not seeking treaty arrangements that share jurisdiction with Canada. For example in greeting NEB Northern Gateway hearings in Old Masset, Haida Chief Allan Wilson positioned the Haida as hosts, explaining "No other nation can lay claim to Haida Gwaii."
16. A good example is the Canadian Coast Guard's decision in the fall of 2016 to co-host, along with the Heiltsuk government, a traditional feast in Bella Bella to acknowledge the pivotal role of Heiltsuk community members in the response to the Nathan E. Stewart shipwreck and fuel spill.

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