

## Native Land Claims and the Future of Archaeology in the Northwest Territories, Canada

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The settlement of comprehensive land claims is ushering in major changes in the management of land and resources in the Northwest Territories, including heritage resources. This chapter summarizes the progress that has been made in completing land claims, anticipates the impact that the claims will have on the way archaeological research is conducted, and discusses how the Government of the Northwest Territories (GNWT) is responding to these changes. Suggestions for dealing with the current social and political setting in the design and implementation of archaeological projects are also presented.

### OUTLINE OF NATIVE LAND CLAIMS IN THE NORTHWEST TERRITORIES

In the early 1970s, the Government of Canada established a comprehensive claims policy to guide negotiations with Native groups in settling Aboriginal interests in lands that they traditionally occupied. Although the Northwest Territories has its own legislative assembly and its own bureaucracy to administer most of the business of government, the Government of Canada has the sole responsibility for settling Aboriginal land claims in the Northwest Territories.

The Indigenous peoples of the Northwest Territories are the Inuit, the Dene, the Cree, and the Métis. The Inuit include the Inuvialuit of the Beaufort Sea and Amundson Gulf areas of the western Arctic, who, in 1984, were the first Aboriginal group in the Northwest Territories to settle a land claim with the Government of Canada (see Figure 1). In May, 1993, the Inuit of the eastern Arctic, an area commonly referred to as "Nunavut" signed a final agreement on a land claim. This agreement provides for, among other things, the creation of a new territory in 1999. In April of 1990, the Dene Nation, representing the five regional Dene groups—the Gwich'in, Slavey, Dogrib, Chipewyan, and the Sahtu Dene, along with the Métis Association of the NWT (now the Métis Nation)—reached a tentative agreement with the Government of Canada respecting their land claim. Later that year, the Dene National Assembly and the Annual Assembly of the Métis Association of the NWT rejected the agreement, largely because of a clause that extinguished all other Aboriginal rights. The Gwich'in opposed that decision, and, with the approval of the federal government, negotiated an independent claim based on the main elements of the Dene-Métis agreement. This was signed in 1992. The Sahtu Dene soon followed, completing negotiations in 1993.

Specific or comprehensive claim negotiations are underway in other Dene regions of the Northwest Territories. The Dogrib Treaty 11 Council has begun comprehensive land claim negotiations and it is expected that an agreement will be reached in the near future. Treaty land entitlement negotiations are underway with Treaty 8 communities in the southeastern NWT, and the federal government has announced that it will enter land claim negotiations with the Métis Nation of the Northwest Territories. The Deh Cho Tribal Council has recently called for the creation of a Dene sovereign territory for the Slavey of the southwestern area of the Mackenzie Valley.

### **NWT and Yukon Land Claim Settlement Regions**

1. Nunavut Settlement Region
2. Inuvialuit Settlement Region
3. Gwich'in Settlement Area
4. Sahtu Settlement Area

Dene and Metis  
Claim Areas of  
South Mackenzie

5. Deh Cho
6. North Slave
7. South Slave
8. Council for  
Yukon Indians  
Claim Area



Figure 1. Northwest Territories and Yukon Land Claim Settlement Regions.

#### **WHAT IS THE IMPACT OF LAND CLAIMS ON ARCHAEOLOGY IN THE NORTHWEST TERRITORIES?**

The Inuvialuit Final Agreement is silent on the matter of archaeology, although the land use regulations administered by the Inuvialuit Land Administration require that archaeologists obtain land use permits in order to gain access to Inuvialuit private lands. Applications for land use permits are reviewed by the six community corporations, which may deny a land use permit if proposed research interferes with Inuvialuit activities, or there are insufficient benefits to Inuvialuit. The two systems must mesh to ensure that local concerns are addressed before an archaeologists' permit is issued.

The Nunavut Final Agreement deals with archaeology in greater detail. It recognizes that Inuit have a unique relationship with archaeological evidence of occupancy of their lands, and this is expressed in terms of special rights and responsibilities. The agreement establishes the Inuit Heritage Trust, which is responsible for "supporting, encouraging and facilitating the conservation, maintenance, restoration, and display of archaeological sites and specimens in the Nunavut Settlement Area." Of great importance to archaeological resource management is an agreement that the Trust and government jointly own all archaeological specimens that are found within Nunavut. The Trust reviews all applications for archaeologists' permits to ensure that adequate efforts have been made to secure Inuit participation and benefits, and to ensure that sites of Inuit religious or spiritual significance are not disturbed. The Nunavut Final Agreement also assigns the Trust the responsibility for determining the disposition of artifacts recovered from Inuit lands, and establishes a preference for Inuit on contracts for archaeological work issued by government.

The Gwich'in and Sahtu agreements are modelled after the Dene-Métis claim. These claims recognize that the heritage resources of each settlement area are of spiritual, cultural, religious, and educational significance. The Gwich'in and Sahtu claims establish the right of each group to be actively involved in the conservation and management of heritage research, which shall take into account their cultural values. For example, the Gwich'in Tribal Council shall be consulted on the formulation of government policy; given the opportunity to be represented on boards, agencies, or committees established by government to manage heritage resources in their area; and invited to participate in review of land use permit applications. The recently established Gwich'in Social and Cultural Institute will exercise some of the responsibilities for heritage matters identified in their land claim (see Kritsch and Andre, Ch. 8).

The Sahtu agreement is somewhat more detailed. For example, the Sahtu Tribal Council "shall have the responsibility for managing Sahtu historic sites and burials sites that are on Sahtu lands, unless otherwise agreed," and that "no archaeologist permits in respect of heritage resources on Sahtu lands shall be issued without the consent of the Sahtu Tribal Council." A joint Sahtu-government working group has been established to make recommendations for the protection and management of a number of culturally significant heritage sites in the region.

In general, the archaeological provisions of final agreements call for increased consultation with Native groups, the establishment of boards and agencies to deal with management of heritage resources, repatriation of artifacts, curation of artifacts in trust, and further dissemination of information about archaeological resources in claims areas.

## OUR RESPONSE

Since 1982, the Territorial Archaeology Program, housed at the Prince of Wales Northern Heritage Centre (PWNHC), has been responsible for cultural resource management on Commissioner's Lands (equivalent to provincial crown lands, but making up less than 1% of the land mass of the Northwest Territories), as well as on Federal Crown Lands, on behalf of Indian and Northern Affairs Canada, the legal land manager. The Archaeology Program manages the NWT Archaeologist Permit system, undertakes land-use reviews and assessments on behalf of the territorial and federal governments, and assists with the curation of archaeological collections at the PWNHC. Research, public education, and advising communities and cultural organizations on heritage matters are also prominent responsibilities of the program.

With the successful completion of several land claims in the Northwest Territories, the Archaeology Program has had to evolve to meet these new challenges. These changes include the development of new legislation, a heritage management plan to bridge the different perspectives presented in the various claim agreements, modifications to the permit-issuing system, and the adoption of a collaborative approach to most of our own research. Each of these responses is outlined below.

### New Heritage Legislation

Heritage resources in the Northwest Territories are protected through two separate legislative instruments. The *Northwest Territories Act* (and pursuant regulations) governs archaeological research and heritage resource protection on federal public lands. The *Historical Resources Act* pertains only to Commissioner's Land. The acts and regulations are seriously outdated and do not provide adequate protection for, or definition of, heritage resources. Moreover, both acts were developed without the consultation of Native communities or heritage agencies. Provisions pertaining to heritage resources recently passed as part of land claims settlement legislation have also altered the existing management regime and have highlighted the inadequacies of the current legislation. Recognizing these deficiencies, the Government of the Northwest Territories has begun to develop new legislation governing heritage resource management on Commissioner's Land. It is hoped that, through consultation with federal heritage agencies, parallel changes to the Archaeological Sites Regulations will complement the new territorial legislation.

Essentially, there are two critical differences between the existing and proposed legislation. The latter will recognize and protect Aboriginal burials and found human remains as heritage resources. Through an oversight, graves located outside the boundaries of communities were not adequately protected through the existing heritage legislation or through the *Vital Statistics Act*, which governs cemeteries. This has long been a concern of both government and Native communities. Second, it is anticipated that the new legislation will permit the minister responsible for heritage resources to designate official repositories for northern collections. Presently there are only two: the PWNHC and the Canadian Museum of Civilization. The proposed act will also strengthen the enforcement aspects of heritage resource protection by providing for stiffer penalties. It creates a mechanism for designating significant heritage properties, including sites that are considered to have sacred or important cultural significance without material evidence of human presence. The proposed act also foresees the establishment of a heritage resource fund for the preservation, management and interpretation of heritage resources.

Over the past two years, the GNWT (1993, 1994) has consulted widely on the proposal for new heritage legislation. While there is strong support for the initiative from most quarters, the impending division of the Northwest Territories, Aboriginal self-government initiatives, and ongoing discussions on devolution of a broad range of Federal responsibilities, create an uncertain political climate for change to the legislative regime.

#### **A Revised Management Plan**

As an interim measure, until a more comprehensive legislated framework is in place, the PWNHC has begun to develop a management plan that will identify new responsibilities flowing from each of the land claim agreements, establish areas of joint responsibility with claimant groups, initiate communication and consultation procedures, and identify technical and operational requirements needed to meet new responsibilities. The philosophy of the plan is to provide for a management regime that bridges the differing approaches to heritage resource management proffered by the various land claims acts. This will require further changes when Nunavut becomes a separate territory in 1999 and assumes responsibility for heritage resource management within its borders.

In preparation for this, the Archaeology Program at the PWNHC will solicit the views of Native communities and organizations regarding the direction the management plan should take. A discussion paper (GNWT 1996) has been prepared that describes the present management structure and regime in the Northwest Territories and identifies areas for change. Consultation with Native organizations is presently underway.

#### **An Evolving Permit System**

Permits for archaeological work in the Northwest Territories have been issued since 1949. The early permits were issued in what has been described as a "refreshingly informal" manner. It was in 1971, with the transfer of authority for the permit system to the Commissioner of the Northwest Territories that applications were reviewed by a joint federal-territorial committee, a form of peer review. Over the last twenty-five years, a growing body of stakeholders in government, local communities, and land claim groups have reviewed permit applications. Until recently, this review was coordinated from Ottawa; we have now taken the necessary steps to assume the coordinating role in the NWT.

A permit system is necessary to obligate archaeologists to assume responsibilities in the conservation and management of the artifacts they unearth through their field research. What is more important, local community and land claim groups wish to have a voice in, and some measure of control over, how the research on their lands is conducted. This can be exercised through the permit system. As many readers will appreciate from personal experience, this process of consultation can be lengthy and complicated. We issue about twenty-five permits each year, mostly for work in the Arctic regions of the Northwest Territories.

An important development that may be the precursor of other similar initiatives was the establishment of the Inuit Heritage Trust, which had its inaugural meeting in Gjoa Haven in 1994.

The four Trust members review applications for archaeological work in the Nunavut Settlement Area, which will become the new territory of Nunavut in 1999. The Trust decides on the disposition of artifacts collected from Inuit lands, and reinforces awareness of the importance of the Nunavut archaeological record and its interpretation. Further, the Trust can request that a permit holder visit the community nearest the research area to discuss his or her work, and to give the residents an opportunity to examine the artifacts collected. These conditions will have implications for archaeologists at all stages of any research project, and will do much to encourage continued interest in archaeological research.

Presently we are also developing a tiered permit system. Under this system, archaeological research that requires no invasive excavation or disturbance to surface deposits would be eligible for a different type of permit, one requiring less bureaucratic involvement. Archaeological investigations involving excavation of any type will require the usual permit. A tiered system would also permit trained personnel in the communities to hold permits for certain kinds of investigations (such as site inventory research), and to assist with impact management and monitoring.

### **Collaborative Research**

Recent debate regarding scientific research in the Northwest Territories has centred on the way in which research is conducted. Native organizations, communities, and claimant groups have clearly stated that control of research must rest with local institutions, and that Native people must be directly involved in its execution (for examples, see Yellowknives Dene First Nation 1995; Kritsch and Andre, Ch. 8). In response to this, most of the research conducted by archaeologists at the PWNHC now employs a collaborative or partnership approach (see Andrews and Zoe, Ch. 10; Arnold and Hanks 1991; Hanks and Pokotylo 1989; Hart 1994).

There are many approaches to collaborative research. These may range from meeting with the community before and after fieldwork to discuss research design and results, to more intensive efforts as undertaken through traditional knowledge research (cf. Ryan and Robinson 1990). Collaborative research is not new, however, and has been undertaken by a number of researchers in northern Canada (see Greer, Ch. 9).

### **DISCUSSION**

The consequence of these recent changes in the control and administration of cultural resource management in the NWT is that archaeologists must consult directly with Native groups before undertaking fieldwork. Additional financial resources and time commitments may be required to meet the level of consultation expected by communities. Funding agencies will have to be made aware of these new requirements.

For archaeologists choosing to document traditional knowledge as part of their research, further time and financial resources must be budgeted. Interpreter's wages, elder's fees, and transcription can be costly. The greatest amount of time comes not from documenting elders' knowledge, but from the time involved in transcribing and editing interview tapes and verifying the information with follow-up interviews (Hart 1995). There are other challenges for archaeologists undertaking traditional knowledge research. For example, an archaeologist's agenda may not be viewed as important within the community, particularly during times of resource harvesting or local crisis. This requires the archaeologist to be flexible in terms of work plan and attitude.

A traditional knowledge component to archaeological research can offer many benefits to both the researcher and the community (see Denton; Ch. 7; Hanna, Ch. 5; Kritsch and Andre, Ch. 8). For the researcher, documenting aspects of traditional life can provide useful information on land use and settlement patterns to allow the archaeologist a broader perspective of relating sites to a cultural landscape (Greer, Ch. 9). Information on aspects of technology is useful for interpreting the manufacture and function of artifacts and for providing a better picture of the role those artifacts play in daily life (Hart 1994). This research can also provide information on areas of culture that are difficult to access through archaeological remains including spiritual practices, social

customs, and language (Andrews and Zoe, Ch. 10).

For the community, there can be many benefits to having a traditional knowledge research project take place. We share the concern expressed in many communities that elders are dying without their knowledge having been transmitted to the next generation. Archaeologists can play a vital role in documenting this information, particularly if local people have been involved in project design, and a clear understanding exists from the outset that information will be returned to the community. Copies of interview transcripts and the final report can be provided to the local education boards for use in developing school curricula on traditional life. Each elder should be provided with a copy of his or her own interview tape as a record of their life history. Copies of interview tapes should also be submitted to the Northwest Territories Archives for long-term preservation and public access. Many elders are delighted to have their tapes sent to the archives as they know information will be preserved for their descendants. One of the most important benefits is that local people are directly involved in the recording of their own history. All of these obvious benefits to the community help to promote archaeological research and help to bridge the gap that can sometimes exist between researchers and local people.

## CONCLUSIONS

In February of 1994 at Igloolik, elders and youth delegates from Inuit communities across northern Canada met to discuss archaeological research on Inuit lands (see Webster and Bennett, Ch. 18). The delegates presented over twenty resolutions concerning archaeological research and heritage resource management. Noteworthy among the resolutions are several that call for increased local participation in all levels and aspects of heritage research. The resolutions also call for increased Inuit control of cultural resource management, a higher profile for archaeology in northern educational institutions, increased protection of archaeological sites, and local hiring preferences. Other resolutions seek acceptance of Inuit cultural values regarding the interpretation of archaeological sites, the direct involvement of elders in research, and the translation of reports into Inuktitut. Resolutions dealing with the disturbance of graves, repatriation of skeletal remains, and removal of artifacts from the Northwest Territories underscore our comments about the GNWT's proposed heritage legislation.

The implication for practicing archaeology in the future involves accepting the political reality of working on private land or on crown land within the boundaries of settlement areas. This will require a closer working relationship with communities and may involve changes to the way research projects are designed and executed. As communities, Native cultural organizations, and claims organizations participate more directly in heritage resource management in the Northwest Territories, archaeologists wishing to pursue research will need to be more attentive to local concerns. This may involve a re-examination of the need for any particular research project from the community's perspective. A collaborative approach permits community and archaeological research agendas to be combined.

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