

# ***Gwichya Gwich'in Googwandak: The History and Stories of the Gwichya Gwich'in as Told by the Elders of Tsiigehtchic***

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## **CHAPTER 17 - THE TRAIL TO TOWN**

The great fur trade gatherings gradually came to an end after 1947, when the Hudson's Bay steamer travelled down Nagwichoonjik for the last time. Slavey and Eskimo families began to visit the Flats less often. It was not much later that fur prices began to drop. They never recovered and it became more difficult for the families to survive on the land and support themselves by trapping. Over the years, more families began to move into town.

A federal day school opened in the community in the same year, 1947. Many parents had to face a difficult problem: Should they take their children back to the bush with them and instruct them in the traditional way of life? Or should they send them to school to prepare them for the great changes that the Gwichya Gwich'in surely must face? The parents had to confront the same difficult decision that their grandparents had to make when they sent their young children to the mission school in Fort Providence. However, the parents also had to consider the additional problem that it seemed to become increasingly difficult to support the traditional way of life while the fur trade was in decline. While in the end an increasing number of parents decided to send their children to school, there were some parents who kept their children back to instruct them in the traditional way of life first. These children began to visit school several years later, when they were already older. As the new school was a day school, not a boarding school, many parents had to stay in the community to look after their children.

The school attempted to prepare the children for the changes that began to affect the traditional way of life, but the parents were concerned about the fact that there was no place in the class room for the traditional culture and the Gwich'in language. English was the language of instruction in the school, and it was often difficult for the students to remain connected to their own language. Bush skills and the way of making a living on the land were not taught either. The school's existence put great pressure on the traditional culture.

However, it was in just these schools that some students acquired the skills and knowledge which enabled them to enter the political conflicts and struggles that the Aboriginal peoples increasingly had to face after the 1960s. It became clear that even half a century after the signing of Treaty 11, the Aboriginal people were denied the recognition of their treaty and inherent rights. Led by young political leaders who had received some of their training in the schools, the Aboriginal peoples of the Mackenzie Valley and Delta began to organize in order to safeguard the recognition of their rights.

These political struggles were the most important development to affect the Gwichya Gwich'in since the signing of Treaty 11. In the end, they led to the signing of a land claims agreement between the Gwich'in Tribal Council, and the governments of Canada and the Northwest Territories. Treaty 11 played an important role in these developments, and the story of the land claims agreement is not complete without the story of Treaty 11. This story begins in 1920, at a place some considerable distance upstream from the Flats.

### **Oil at Norman Wells**

In 1920, a company working on behalf of Imperial Oil drilled the first successful oil well in the NWT. This was at Norman Wells, a short journey upstream from Fort Good Hope on Nagwichoonjik. This discovery turned the Canadian government's attention to a region of the country that it had more or less ignored up to that time. The government feared that the oil discovery might cause a boom and a rush into an area of the country over which it had not assumed formal control. No treaties had been signed with the Aboriginal peoples of the Mackenzie Valley and Delta; the Aboriginal people had not surrendered their inherent rights as First Nations within Canada. It seemed unclear what formal authority the government had over the area. The government set out to sign a treaty with the Aboriginal peoples of the Mackenzie Valley and Delta, almost immediately. This was Treaty 11, the last of the 'numbered' treaties. A Treaty Commission was established under the leadership of Commissioner Henry Conroy. They set out on their journey down Nagwichoonjik in the summer of 1921.

### **The signing of Treaty 11**

Commissioner Conroy, his advisors, and Bishop Breynat, who was also a member of the Treaty Commission, reached Arctic Red River at 1.00 p.m. on July 26, 1921. There were 171 Gwichya Gwich'in present at the Flats that day. Conroy placed before them a document whose contents they were not familiar with, and whose purpose was unclear to them. The one and only time that there was any opportunity to study the terms of Treaty 11 was the afternoon of July 26, 1921. It was Commissioner Conroy's intention to leave the Flats that same day, and to take away a signed copy of Treaty 11. Perhaps the Commissioner did not believe that more time than the afternoon of July 26 would be required to conclude the treaty. He had been instructed by the Canadian government not to negotiate any of the terms that were offered in Treaty 11. Conroy brought a treaty document, but what he offered was "an ultimatum which was beyond negotiation."

The Gwichya Gwich'in present at the Flats did not understand why the government asked them to sign the treaty; neither did they know why Commissioner Conroy offered to pay them money. Pascal Baptiste, who was present at the Flats that day, remembers: "It was said that money would be given to the Indians. To us, it was strange that money would be given to us free, and we kind of didn't like the idea."

Many of the questions that the people at the Flats asked the Commissioner that afternoon, probably remained unanswered. That the Gwichya Gwich'in decided to sign the

treaty in the end, was to a considerable extent due to the influence of Father Lécuyer and of Bishop Breynat. “Through the bishops, it was done,” Pascal Baptiste says.

### **Chiefs of the Gwichya Gwich'in**

The Gwichya Gwich'in accepted Bishop Breynat's advice and decided to sign Treaty 11. Carrying out the instructions he had received from the government, Commissioner Conroy requested that the families present at the Flats pick a person who would represent all Gwichya Gwich'in, and who would sign Treaty 11 on their behalf. “Before the money was given out, we had to have a Chief,” Pascal Baptiste remembers. “So Paul Niditchie was chosen for Chief and his assistant was Fabien Coyen.” This was the first time that the families chose a Chief to represent all of the Gwichya Gwich'in when dealing with outside groups.

It was determined that, upon signing the treaty, Chiefs would be paid \$32 treaty money, ‘headmen’ were to receive \$22, everybody else received \$12.00. In all, one Chief, one headman, and 169 others were paid at Arctic Red River in 1921. In addition, Chief Paul Niditchie received a copy of Treaty 11, and a medal commemorating the signing ceremony. Treaty 11 was signed late in the afternoon of July 26, 1921, mere hours after Commissioner Conroy's arrival at the Flats. In later years, the Chief would be paid \$22, ‘headmen’ \$15, and everybody else \$5.

### **The terms of Treaty 11**

Before the Canadian government could assume formal authority over the area, the Gwichya Gwich'in's title and shared ownership rights to the land, would need to be extinguished. This is what Treaty 11 was designed to achieve. It is clear that this consequence of signing the treaty was never explained to the Gwichya Gwich'in, neither on July 26, 1921, nor at any time thereafter. And even if it had been explained and stated clearly, this goal of Treaty 11 would have remained incomprehensible and unacceptable to the Gwichya Gwich'in: It was impossible for the families living the traditional way of life on the land, to relinquish their shared rights to the land. Since the land did not belong to any one person in particular, no single person had the authority to sign the rights to the land over to the government. And neither was it possible to name and designate a person—such as a Chief—to sign a treaty containing a clause that relinquished the rights to the land. Asking the Gwichya Gwich'in the impossible, that is, to relinquish their inherent rights, would have been the same as asking them to negotiate away their traditional way of life altogether.

The Gwichya Gwich'in never accepted the government's interpretation of Treaty 11. Rather, they saw Treaty 11 as a friendship treaty, assuring both sides that they could live in peaceful cooperation while respecting the other side's way of life. The Gwichya Gwich'in had not objected to the presence of white trappers on their land, but had freely shared the land and its resources. Surely, the government would act just as generously in return, and protect the traditional way of life. The Gwichya Gwich'in thought that Treaty 11 made sure that the traditional way of life would be protected—in the words of Treaty 11, that the

Gwichya Gwich'in would “have the right to pursue their usual vocations of hunting, trapping and fishing.” It is this understanding of the meaning of Treaty 11 that is expressed by Chief Paul Niditchie’s signature.

Chief Niditchie and Fabien Coyen signed the treaty document on the afternoon of July 26, 1921, but it soon became apparent to the Gwichya Gwich'in that the government failed to live up to its promises. The traditional way of life was not protected, and the government did not meet its obligations in areas such as education, among others. For about fifty years, the only event to remind the Gwichya Gwich'in that the government was paying any attention to Treaty 11 at all, was Treaty Day, the annual meeting where Chiefs, councillors and everybody else received their annual payment. As unimportant as this annual event may have appeared to the government, Treaty Day was a big day for the Gwichya Gwich'in. It served to express that they respected Treaty 11, and that they intended to keep their side of the bargain.

The government, so it seemed, had more or less forgotten to meet its obligations—until 1973, that is, when some of the Aboriginal leaders in the Mackenzie Valley and Delta decided that it was time for a strong reminder.

### **The Chiefs: ‘Caveat!’**

By 1973, the oil companies were in the middle of large-scale exploration in the Mackenzie Delta. Rumours abounded that plans were under consideration to construct a pipeline from the coast of the Beaufort Sea down to Alberta, right through the lands of the Gwichya Gwich'in and the other Aboriginal peoples in the Mackenzie Valley. Some of the Chiefs of the Dene attempted to stop construction of the pipeline, because the negative consequences of such a project on wildlife, the environment and the traditional culture were unknown. The Aboriginal peoples of the Northwest Territories understood that they would have to establish political organizations to make their voices heard. In 1970, the Dene of the southern NWT founded the Indian Brotherhood of the NWT,<sup>102</sup> and the people of the Mackenzie Delta established COPE, the Committee for Original Peoples’ Entitlement. COPE’s initial membership included Inuit, Gwich’in and Métis of the region. When the Inuit from Coppermine and farther east subsequently joined Inuit Tapiriit Kanatami (Canada’s national Inuit organization), the Gwich’in joined the Indian Brotherhood of the Northwest Territories; the Métis founded the Métis Association (now the Métis Nation) in 1972. In the Gwich'in area, the Mackenzie Delta Tribal Council (later the Gwich'in Tribal Council) was established in 1983 to represent local Gwich'in and Métis.

In 1973, sixteen Chiefs of the Aboriginal peoples of the Mackenzie Valley and Delta Region filed a caveat with the Supreme Court of the NWT. A caveat is a legal statement used to declare that one has a pre-existing claim to a piece of property. The declaration (caveat) is made in order “to prevent another from purchasing or holding title to that property until legal ownership has been determined.” The caveat filed by the Chiefs declared that their Aboriginal rights to the land had not been extinguished. Therefore, the Chiefs stated, no development of any kind would proceed on the lands defined in Treaties 8 and 11, without their permission.

After examining the history of Treaty 11, Justice Morrow of the NWT Supreme Court agreed with the position taken by the Chiefs. According to Justice Morrow, the history of Treaty 11 showed that the inherent Aboriginal rights of the Dene had never been extinguished. Although his decision was later overturned by a higher court, the federal government realized that the question of Aboriginal rights in the Mackenzie Valley and Delta remained as unresolved as ever.

## **The Dene Nation**

In 1975, the Indian Brotherhood published the Dene Declaration. The Declaration stated that, as a Nation, the Dene had special status under the Canadian constitution, as well as inherent rights to the land and to self-determination. The Indian Brotherhood was renamed, Dene Nation, a political organization uniting the Aboriginal peoples of the Mackenzie Valley in their political struggles. The Slavey, the Dogrib, the Chipewyan, the Sahtu Dene, and the Gwich'in joined the Dene Nation. For a time, the Dene Nation also represented the interests of the Métis of the NWT.

In 1976, the Dene Nation presented a land claim to the government for negotiation. Since the question of land ownership in the Northwest Territories was still unresolved, the federal government accepted the offer to negotiate with the Dene and Métis. The government suggested that a comprehensive land claim settlement agreement should be negotiated. In attempting to negotiate a comprehensive rather than a specific land claims agreement, the federal government acknowledged the shortcomings of Treaty 11. The federal government will negotiate comprehensive land claims only in areas where Aboriginal rights to the land have not been extinguished—which is precisely what Treaty 11 claimed to have achieved.

## **The Dene / Métis Agreement In Principle**

In 1988, the federal government and the Dene / Métis Secretariat finally arrived at an Agreement in Principle on the claim. A final agreement was initialled in April 1990, but at the last minute, another obstacle to a successful completion arose. Dene Nation leaders from the southern regions of the NWT took exception to the 'extinguishment' clause which was part of the agreement. They argued that Aboriginal rights could not be extinguished, because they were inherent rights. At the annual assembly of the Dene Nation in June 1990 a motion was passed requesting a renegotiation of the agreement.

## **The Dene Nation splits up**

It was at this point that the Gwich'in delegates walked out from the assembly. They argued that the extinguishment clause was not really a serious obstacle. Nobody had as yet defined precisely what an 'inherent' right was. And in any case, while it was true that the Agreement in Principle contained a general statement extinguishing the inherent Aboriginal rights of the Dene, it safeguarded them in another way through the detailed description of legal rights that the Dene would win through the Agreement in Principle. The

Dene Nation leaders from the southern NWT refused to accept this interpretation of the Agreement in Principle.

The Dene Nation split up. The Gwich'in leaders returned home, and requested the negotiation of their own regional land claim. The federal government accepted the request, and an agreement was initialled by June 1991. The agreement was taken to the communities where 94% of the people supported it. The agreement which was signed in Fort McPherson on April 22, 1992, was largely modelled on the Dene / Métis Agreement in Principle.

### **The Land Claims Agreement**

Broadly speaking, the Land Claims Agreement includes provisions in the economic, the cultural and the political areas:

- \* a self-government framework agreement;
- \* the Gwich'in will receive a percentage share of resource royalties paid to the federal government from the NWT;
- \* establishment of a number of co-management boards. As a partnership between the Gwich'in and the government, these boards allow the Gwich'in to cooperate with government institutions in the management of their lands, wildlife and natural resources;
- \* formal transfer of ownership of land ('fee simple') to more than 32,000 square kilometers. Ownership of traditional lands in Yukon Territory is defined in a trans-boundary agreement.
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The land claim document also outlines a framework agreement on self-government. Negotiations defining the scope and extent of institutions of self-government have been going on for several years.

The Gwich'in Tribal Council (GTC) is the organization responsible for implementing the agreement. The Council attempts to balance the cultural, economic and political elements of the Agreement so that one will not override the others. A number of organizations have been set up that are responsible for making the goals of the Agreement a reality: The Gwich'in Land and Resources department manages the use of Gwich'in lands; the Gwich'in Development Corporation invests in businesses on behalf of the Council; it also provides training, employment and business opportunities for land claims beneficiaries. The Gwich'in Social and Cultural Institute carries out cultural, heritage and language research, and provides educational programming in these areas. Following the GTC's mission statement: Gwich'in land, culture and economy for a better future, all these organizations work to strengthen Gwich'in culture and society. a cash payment of \$140 million, paid out over fifteen years;

## **For the future**

What will the future hold? The Agreement is a victory which the Gwich'in have won through hard and persistent work. As a tool, the Agreement holds great promise for the future, but everyone knows that much work will be required to realize the goals laid out in it. To build a strong Gwich'in culture, "it will take dedicated people who are well educated in both Gwich'in and western ways of life, who care about the land, their people and their culture, and who recognize that what is done today will affect the future of generations to come." The Land Claims Agreement provides the tools that will enable the Gwich'in to strengthen the traditional culture and move it forward into the future. By assuming stewardship of the land, they will at the same time connect the traditional culture back to their ancestors' history—the history of the many families who have made a living on the land, and who have followed the trails, since the earliest days of the land.

The terms of Treaty 11		
Government obligations		
a "present" of \$32 in cash	once at signing of Treaty	chiefs
a "present" of \$22 in cash	once at signing of Treaty	headmen
a "present" of \$12 in cash	once at signing of Treaty	"every other Indian"
silver medal, flag, copy of Treaty 11	once at signing of Treaty	chiefs
equipment for hunting, fishing, and trapping to the value of \$50	once only, on or after signing of Treaty	each family
payment of \$22 in cash	once a year	chiefs
payment of \$15 in cash	once a year	headmen
payment of \$5 in cash	once a year	"every other Indian"
"a suitable suit of clothing"	once every three years	chiefs, headmen
ten axes, five hand saws, five augers, one grindstone, files, whetstones	once only, if and when a band decides to move to a reserve	chiefs, on behalf of whole band (tribe)
twine, nets for fishing, ammunition to the value of \$3	once a year	"every Indian" who continues to hunt, trap and fish
pay salaries for teachers	ongoing	
"His Majesty the King hereby agrees with the said Indians that they shall have the right to pursue their usual vocations of hunting, trapping and fishing throughout the tract [of land] surrendered..."		
Gwichya Gwich'in obligations		
"... to cede, release, surrender, and yield up to the Government of the Dominion of Canada, for His Majesty the King and His Successors forever, all their rights, titles and privileges whatsoever to the lands..."		all Gwich'in in the NWT
"... to name certain Chiefs and Headmen [councillors], who should be authorized on their behalf to conduct such negotiations and sign any treaty ..."		all Gwichya Gwich'in