

Spirit and Intent: Bruce Gillis

BG: There are lots of people who work for the claim one way or another. They can't interpret the claim. The claim is hard to interpret. I've had people tell me that. It's an obstacle for them.

MR: Do you know how the Inuit land and occupancy study was done and conducted?

BG: One of the volumes of Inuit land and occupancy study lays out the methodology. It was beautifully laid out. It was by hunter interview and maps. They would on average interview a minimum of 80 hunters per community. There was a huge bias in terms of gender, so that it was mainly male hunters interviewed. It was all done with maps, giving the interviewee time and space to map out from his head, onto the map, where and what he hunted, by drawing routes. It looked like spokes coming out from a hub of wheel. It radiated out, depending on what they hunted. The maps were seasonal maps. They hunted different wildlife in different seasons. The maps show this very well. Then the maps would be over laid on top of each other.

MR: Since Inuit moved into communities, permanent settlements, the last 50 years is very different than where Inuit hunted before they settled. How does the change in land use over time affect property rights? Historical hunting areas probably looked very different than now.

BG: You'll notice the Inuit use and occupancy study has different periods, including pre-1960s, post 1970s. They actually broke it down to different times. Use and occupancy study before settlement would have shown very different patterns.

MR: How and why was subsurface reduced down to 18 per cent?

BG: That was based on very arbitrary negotiations, an agreement with the government that the Inuit would receive a grand total of 14,000 square miles of subsurface. We hit a wall with the feds with any more than that. We went through a process at a community level, negotiating at the community with government as to how much land the Inuit would receive. It was more a numbers thing than anything. We tried to make arguments on initial map work. Government knew that Inuit would illustrate land use and occupancy almost everywhere but the High Arctic. They knew they could be faced with Inuit putting quantum down on the table of 50-70 per cent. At the local level, we got prepared for negotiations and some of the opening positions were 100 per cent. The feds weren't willing to negotiate by starting with a 100 and working down. It was the Inuit who agreed to come down from 40, 50, 60 per cent down to 16, 17, 18 per cent of surface per region. There was something about the Yukon precedent and that situation, but it wasn't our strong point. It was the real hard part of the process. We had an intermediary step, the Nunavut Atlas, which was a project of the Tungavik Federation of Nunavut (TFN). It was part of the Freeman study. Communities were illustrating intensity of use, prioritizing which lands were used in the near past. It has three levels of intensity and wildlife use and third party interest overlay. We used those maps in getting ready to negotiate. They understood that they would have to select the most important land at some point. The feds weren't willing to go into an open-ended negotiation on which lands Inuit owned. They realized they would have to nail down quantum, in how much they would own first. And then, in the second phase, negotiate down to the actual quantum. If there was going to be a land claim agreement, there was going to have to be an agreement on quantum, title, and where it was because the feds were looking for certainty,

and that's the only reason why they were involved in this claim settlement. That is the only thing they got out of it and were after. They wanted to lift the fog over the title over Nunavut. That was their objective, to get Aboriginals to cede their title.

MR: Why weren't the municipalities open for selection? Was that Inuit choice? Didn't they see value for it, or was it completely off the table and not for their consideration?

BG: It was predominantly their choice. It was fine with government. The claim said they could. In 11 communities they did. In a few of those communities, especially Rankin Inlet, there were major complications because of local politics and personalities. I concluded that's why there are so many communities with no Inuit owned land selected within it, it must have something to do with the Rankin experience. When Inuit did go after municipal lands, there was major tension. The smallest pieces of land were creating the greatest degree of problems. We finally worked through it, but I extrapolated that tension and the problems that existed in Rankin in selecting land may be why some Inuit decided not to select land in their community. They weren't willing to confront some personalities, or some of the potential conflicts that might arise. As the lands coordinator, I was adamant that Inuit should be selecting land in every community and getting community coordinators to ensure that they got their communities to select land for economic development purposes. It was pretty clear in the claim that you could do that. The overall objective of Inuit owned lands selection was to assist in supporting self-sufficiency for Inuit through time. To have municipal land was an obvious one for economic development potential within the community. It wasn't because coordinators didn't try. It was because Inuit, for one reason or another, determined no, they weren't going to do that. I didn't get a lot of feedback from the regional coordinators in terms of why there was no municipal land selection in Clyde River for example. They said they don't want to do it. But it really was, at the end of the day, Inuit choice. I say that because Inuit were free to draw up lands within and outside pretty all of much of Nunavut. We pretty much had a free reign of where they wanted their lands. The feds didn't hold them to some sort of evidence of use and occupancy study or anything else or say that they can't select here because you didn't use this area much. That never came up. The feds were convinced that this was Inuit owned land and the Inuit used it all over, except where it was exempt, in the High Arctic because of the lack of use and occupancy up there, mainly because there was no wildlife up there. That is basically it.

MR: Had Inuit in any one community chosen to select 100 per cent of the land within the municipality, like in Clyde River, was that was an option or possibility?

BG: No, only in theory. They wouldn't be able to. It wasn't stated, but it was pretty much understood that if you weren't going to get 100 per cent in Nunavut or anywhere near, you weren't going to get 100 per cent of the land in the municipality. I think the government would say we'll be looking for a reasonable selection in the community. But I don't remember the feds having any problem with the selection in the community unless the proponent or individual or organization or the company in the community did have a problem with it. We tabled in Pangnirtung positions of land underneath the Anglican Church and the RCMP station and the Hudson Bay store. We selected land that was still owned by HBC. Those issues are still outstanding. That land selection is still not resolved because of the problems that arose in trying to do it. It wasn't the feds who were wary of saying that you shouldn't be selecting there because you are selecting underneath the RCMP building, is there somewhere else you could select that

doesn't have a building on top of it. In other communities, selections were lots or proposals where they may put buildings or housing or that sort of thing and it was at the edge of town or in the middle of town, it was a vacant lot with no lease or something, then the feds said fine. The frustrating thing is that so many communities didn't want to do it.

MR: It is perplexing, especially in such a short period of time with the creation of Nunavut and the territorial government, in the regional centers and capital, land has become very scarce and extremely expensive. A lot in Iqaluit if you are lucky is \$25,000, up to \$200,000, before you put one pylon or two by four, which makes it very difficult, if not impossible, for some Inuit to purchase a lot to build a house in their own community. It's a big barrier.

BG: Yes and it isn't going to get any easier. In selecting lands I was continuously frustrated and was told when you work with Inuit, you don't get a lot of explanations, but you get a facial expression that tells you to stop pushing on this, stop pushing on that, you don't get a lot of explanation, but I certainly got vibes and impression, utterances at time, general statements, that in this community they weren't going to select lands. An opportunity was lost. That opportunity is gone. You can't go back and you can't get land out of the municipalities now. All I can conclude is that there was local politics and they weren't going to go there and create tension. At a deeper, more psychological level, in the selection process, there was reluctance by Inuit at times to select certain land because they were concerned about the person who had the lease there. You realized you needed to inform people doing land selection so they understand they have a right to select land.

MR: You allude to it by community politics, the possibility of individual ownership versus collective ownership, how one person wanting the land under the house they live in really restricts the use and enjoyment over other community members. It doesn't sound like there was an awful lot of dialogue or discussion before going to the communities to help inform and explain to them their options. It sounds like you did try with the regional coordinators, but there is so much that is unsaid.

BG: It wasn't anywhere near perfect. We had preparation workshops with the regional coordinators to the extent that they got into detailed discussions in mapping the communities. You'd have to talk to them about why there was not more municipal land selection. I know we prepared them to ensure that it was clear to the people who were working with the community, the rights and the process in terms of selections and what restrictions there were in the process, which weren't that many. You should talk to the regional coordinators, like Tongola Sandy, Malachi Arreak, Stanley, Joe Allen, there's a few others.

MR: A few people have said that municipal lands weren't on the table, even though they were told otherwise by land selection committee.

BG: Because we had 25 Inuit on one side of the table and six government people, there was good solidarity in terms of negotiation. You'd have yes you can, no you can't and back and forth. The Inuit side, we had lawyers there, chief negotiators, and a few others from TFN, and we'd say yes, you can, and we won most of those arguments as I remember. But my memory doesn't serve me great detail.

That was quite a while ago now. I don't remember municipal selection being removed or the federal government saying no to it.

MR: Once Inuit decide to develop Inuit owned lands by granting a lease or developing the land, it becomes taxable, which is different than lands set aside by Canada for Indians. I don't know whether there were discussions on whether to make Inuit owned lands tax exempt.

BG: Yes, there were, but we had to make a case that these were not going to be reserve lands for the purpose of the *Indian Act* because Inuit in no way wanted to go that way. These were going to be more constitutionally protected. Inuit owned lands under constitutional status under the claim. We got it that way and we couldn't turn around and say that improvements on Inuit owned land couldn't be taxable. You could only get that if lands were under reserve under the *Indian Act*. There was a tax expert/lawyer, Arthur Drake, one of the foremost tax lawyers in Canada, at the time. He couldn't get anywhere. We couldn't make any in-roads. The government just said no. Inuit owned lands will be taxable, just like any other privately owned land in Canada.

MR: What conceptual difference do you understand between reserve land and Inuit owned land?

BG: We didn't go after land for reserve land under the *Indian Act*. Inuit didn't want to go anywhere near that. We brought in people to talk about Aboriginal title. We had Thomas Berger come in and talk about the situation in Alaska and Yukon Indians. Aboriginal title is very unclear title and you aren't sure what you've got, in terms of what it means. You aren't very sure of what your ownership is and government isn't either. Right or wrong, the Board agreed to drop Aboriginal title and go with English common law title. Mostly because it was clearer in terms of what you got with mines and minerals, and specified substances, and in terms of what your rights are as private land owners but we were able to define Inuit owned land in a more clear way.

MR: Wonderful. I think I have a better understanding around Inuit owned lands. It's really fascinating to hear from different people, the answers you get from the same question.

BG: Absolutely.

MR: It makes implementing the land claim much more challenging.

BG: And fascinating too.

MR: The loss of history in such a short period of time is one of the most startling things...knowing what the claim means. The complexity and comprehension of the claim is getting shelved.

BG: What is not understood by people who weren't involved, and the questions I get, why not this, why that. You can't be an historian and be in a practical mode at the same time. We were constantly working under deadlines, which is different than implementation, which doesn't have any target dates or deadlines. If there are, a lot of them are missed in terms of the claim, but that is what a lot of people don't understand. If you aren't involved in negotiations and haven't been, you should be

appreciative and respectful that you don't know what compromises had to be made in order to get what you did get. It's a lot easier to say what you didn't get. Agreements are made with compromise. We could be fighting for some of these things still today. We saw Preston Manning coming over the hill. He and his Reform Party were coming to Ottawa and we knew if we were going to get an agreement anywhere in the near future, we sure as hell weren't going to get it with Preston Manning and his people. Politically there was a decision that we better get this thing while Mulroney is in power. Context and timing has a lot to do with that bigger political picture and how you get an agreement. I wouldn't want to be trying to get a claim settled under Harper, for example. But that is all part of the political backdrop of the time. My point is that there are always these pressures. We didn't have time to think of land management. The land was transferred overnight. We had to put it in place overnight to receive all the lands. That's also part of the reality of the process. There is never enough time and space and understanding. You've got to get it done. There is a window that opens, you go through it or you don't. The Dene decided not to.

MR: Sometimes the window closes. Some Aboriginal groups have tried to negotiate a land claim for several hundred years.

BG: You win some, you lose some.