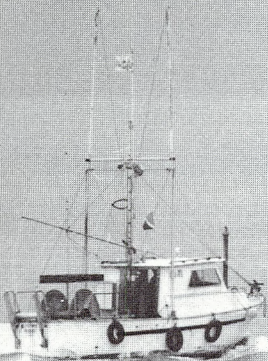


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Special Issue

Lax Kw'alaams and Dome Petroleum – how one B.C. Indian band dealt with resource development on its doorstep



PORT SIMPSON — Last October 14, the Lax Kw'alaams Indian Band concluded an agreement with Dome Petroleum Limited — an agreement that will bring the band several million dollars worth of benefits if the proposed Grassy Point liquefied natural gas (LNG) plant goes ahead. Dome has proposed to build the plant, at a cost of about \$1.7 billion, three kilometres from the band's home reserve at Port Simpson.

The Dome proposal was the dominant political issue here for almost two years prior to the agreement. James Bryant, chief councillor over the two years, says the agreement is nothing short of "history making for my people of Lax Kw'alaams."

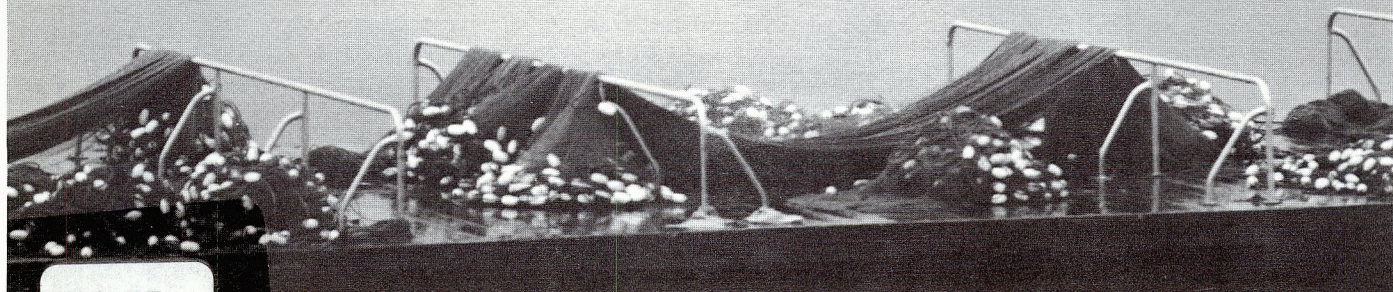
In the words of his deputy, Albert White, who chaired the band's negotiating com-

mittee, the agreement "made something of a community that had never been heard of."

Only time and the fortunes of Dome will tell if the agreement brings the expected benefits. Nevertheless, it seems clear that, if success is measured by the extent to which people decide their futures, the agreement is an important achievement for the band.

This issue, written by Lax Kw'alaams Assistant Band Manager Bill Ostenstad, is dedicated to the band and its precedent-setting agreement.

The art of negotiating is a delicate one and the people of Lax Kw'alaams demonstrated a skill that can be used by other bands which find themselves in similar situations. This is their story . . .



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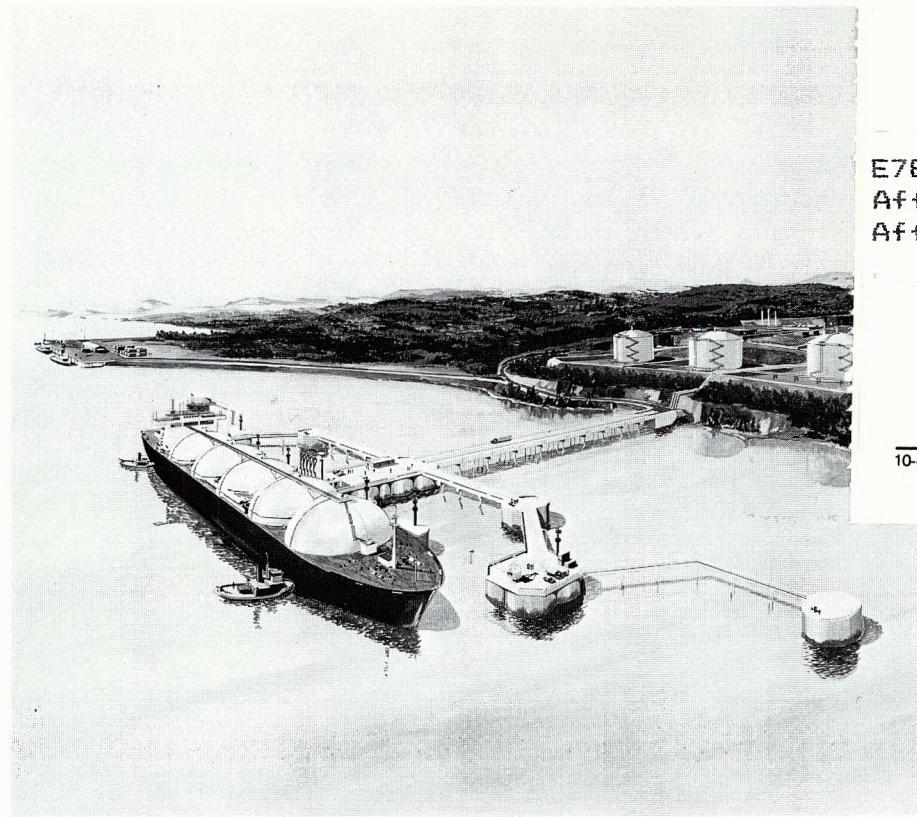
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*Artist's conception of the proposed Western LNG Project, showing plant and ship-
ping terminal: part of an effort by the
Japanese to develop long-term sources
of energy in politically-stable parts of the
world.*

The Western LNG Project — managed by Dome, financed by the Japanese

Although best known for its exploratory drilling operation in the Beaufort Sea, Dome Petroleum is also Canada's largest producer of natural gas liquids. With financing from five Japanese utility companies, Dome's role is that of manager of the Western Liquefied Natural Gas (LNG) Project.

Once the project is in operation, 160 billion cubic feet of natural gas a year will be transported by pipeline from gas fields in Alberta and B.C. to the plant at Grassy Point.

At Grassy Point, the natural gas will be chilled to a temperature of -162°C (-260°F) so that it will change from a vapour to a liquid. When the gas is in liquid form, it occupies 600 times less space than when it is a vapour and can be economically transported by ship.

About every six days, one of five specially-built ships will tie up next to the plant and take on a cargo of LNG. Each of the ships will be about 290 metres (950 feet) long, more than 26 times the length of an average Port Simpson fish boat.

The ships will carry the LNG to terminals in Japan operated by five gas and

electric companies — Chubu Electric Power Company, Kyushu Electric Power Company, Chugoku Electric Power Company, Osaka Gas Company and Toho Gas Company.

At the Japanese terminals, the gas will be turned from a liquid back to a vapour and be distributed to a market of about 50 million people.

Long-term energy sources needed

The Western LNG Project is part of an effort by the Japanese to develop long-term sources of energy in politically-stable parts of the world. Dome's partners are Union Oil Company of Canada and NIC Resources, a subsidiary of Nissho Iwai Corporation. Nissho is one of the nine general trading companies that together control about 50 percent of Japan's foreign trade.

The partners hold a 20-year contract to sell LNG to the five Japanese companies. It will be the first time Canadian natural gas has been sold to a country other than the United States.

While Dome and its partners are to operate the plant and adjacent storage



Location of project facilities for Western LNG: once in operation, 160 billion cubic feet of natural gas a year will be transported by pipeline from gas fields in Alberta and B.C.

and shipping facilities, Westcoast Transmission Company will operate the 877 kilometres of pipeline between Port Simpson and the Alberta border. The five LNG ships will be operated by a loan arranged by the Japanese companies.

Today, the Western LNG Project is still in the regulatory process as gas supplies are put into place. The sales contract between Dome and Nissho Iwai calls for shipments to begin in 1987 and, according to Dome, that commitment will be fulfilled on schedule. ■



A close-up aerial view of Port Simpson, showing Rose Island to the left. The island is a former burial ground and its name comes from Lax Kw'alaams — "the place of wild roses".

The studies — Dome agrees to funding

The result of the first meeting between the committee and Dome was that the company agreed to a number of band proposals, including agreeing in principle to fund socio-economic and environmental-impact assessments, a risk analysis and a community development plan.

The meeting was a turnaround for the band since, at previous meetings, the company had dominated the discussions. To avoid that, the committee prepared an agenda and a position paper that highlighted a number of the band's concerns.

The committee told Dome that the band neither supported nor opposed the project and that no position would be taken until independent studies were completed with results reported to the membership.

In addition, Dome was told that further discussions were contingent on the company providing the funds necessary for the studies. The committee also asked for funding to hire a liaison officer for gathering information. And, the committee wanted access to all project-related research being done by Dome.

The company had little difficulty agree-

ing to the last two proposals. Their research was being filed with the National Energy Board (NEB) and would be available to the public in any event. They also welcomed the request for a liaison officer since they had been funding similar positions in Inuit communities as part of a program to improve local understanding of their Beaufort Sea operations.

As a result of the work of two planning students on loan from INA, decisions had been made about what types of studies would be required. These included examining intertidal resources, water supply systems and herring and salmon spawning areas, to see where conflict with development would affect significant community needs.

Committee in a strong position

The committee felt it was in a strong position to negotiate for the studies it wanted. Dome had been considering the possibility of building the gas pipeline, a hydro-electric transmission line and a road across Tsimpsean I.R. no. 2. Although the federal government can take reserve land for public purposes without band consent, it is a matter of policy that band council approval is required first.

So, without that consent, it would be costly if Dome was forced to go around the reserve.

As well, the committee saw that the band's support or opposition could significantly affect Dome's chances of getting all the necessary government approvals for the project. It was expected that the NEB would convene public hearings to examine the socio-economic impacts of the project before deciding whether to issue Dome a certificate to operate the plant. Similar hearings would likely be held if Dome's applications for provincial certificates were referred to the B.C. Utilities Commission.

As representatives of the only community that is situated close to the proposed site of the plant, the council would be in a good position to make a case before government agencies.

With an agreement in principle, the committee still lacked the resources needed to effectively deal with the LNG issue. The band administration was organized for delivering federal programs to the community rather than for assisting band representatives in responding to major economic developments in the area.

Assistance from INA

INA was able to provide assistance at this time, thanks to a two-year program known as the Resource Development Impacts Program. In B.C. the program spent \$1.8 million and Port Simpson was among 42 projects addressed through the funding.

The department also provided technical assistance so that the band used INA, not as an administering body, but as planning consultants and advisers. This marked a departure in the usual way of doing things, allowing the band to take

ployment at the plant as the major benefits.

Now, Dome proposed to negotiate a number of other important benefits, including protection of the fisheries, development of business opportunities, band ownership of the Grassy Point site, regulation of the construction camp and funding for the band to respond to community and environmental impacts.

In return, the company wanted: a utility corridor through reserve land; a commitment that the band would not use the aboriginal claim as grounds for opposing the project; band support at the public hearings and during the project's construction and operation.

After the membership meeting, band representatives attended the Ottawa hearings and told the NEB that the band neither supported nor opposed the Dome proposal, but that negotiations toward a comprehensive agreement were underway.

Several months later, while negotiations were still in progress, the NEB conditionally approved the issuing of an export licence to Dome. Although the company required a number of other government approvals, including a facilities licence from the NEB, the export licence was an important milestone.

Negotiations with Dome lasted for more than 14 months. The band's position was taken to the negotiating table by a lawyer hired by the council. While direction based on membership concerns was given by the committee, the actual conduct of negotiations was left to the professional. In fact, there were few occasions during the 14 months that the committee met directly with Dome.

Expenses covered by Dome

To cover negotiating expenses, the council entered into a funding agreement with Dome in November, 1982. Dome agreed to reimburse the band for its legal, travel and administrative costs. The agreement also allowed the council to hire independent economists to assist the committee in the talks.

Although it soon became clear that negotiating an agreement would be technically complex, there were few disagreements between band negotiators and Dome over matters of principle.

After the first few months, being generally satisfied with the progress that was being made in negotiations, the council made a public statement supporting the LNG project.

Then, in June, 1983, a draft agreement was presented at a band membership meeting, an agreement which covered all of the issues raised the year before as well as some new ones.

The outcome was that the membership authorized the council to sign an agreement with Dome providing that the following conditions would be met: that the band receive sufficient funding to deal with community impacts resulting from the project; that the council hire an independent expert to verify that the band would receive its fair share of revenue from the plant, as offered by Dome; and that the council ensure a better description of capital projects that Dome was proposing to build in the village.

The last few months of negotiations involved the entire council so that the committee became part of a larger working group.

A sense of urgency

During the final weeks, there was a sense of urgency about the negotiations. NEB hearings to consider Dome's application for a facilities licence were soon to get underway. Those hearings would be the band's last opportunity to take a position on the project. And, if Dome was issued a facilities licence, the project would almost certainly go ahead.

The council met for a final review of the draft agreement on Oct. 14, 1983. Satisfied that it met the conditions laid out by the band membership, the agreement was signed by both parties.

The following week, NEB hearings to review Dome's application for a facilities licence were convened in Vancouver, with later hearings scheduled in Prince Rupert and Ottawa. The Dome-Lax Kw'alaams agreement was quickly filed with the Board and, at the Prince Rupert hearings, band representatives confirmed their support for the Western LNG Project.

If an agreement had not been reached, the band would have had no alternative but to oppose the project at the hearings.

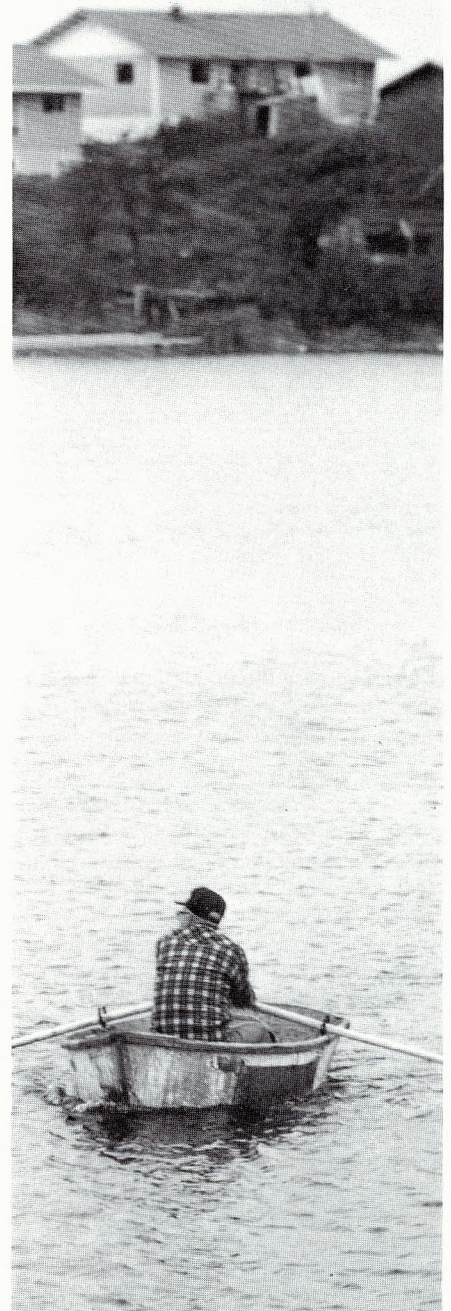




Photo courtesy MacFarlane, Morris, Peacock Ltd.

Oct. 14, 1983, the signing of the formal agreement between Dome Petroleum Ltd. and the Lax Kw'alaams Indian Band: (l-r) James Bryant, then chief councillor of the band; Dr. A.H. Younger, Dome's natural gas liquids vice-president; Albert White, deputy chief councillor of Lax Kw'alaams: two groups moving ahead with a common purpose.

Positive attitudes made the agreement possible

Positive attitudes were credited for reaching an agreement that both sides said they liked.

"We have nothing but respect and admiration for the professional way in which the band conducted its negotiations," said Jerry van der Linden, project manager for Dome's Western LNG Project. "Once the band membership had given the council the mandate to negotiate, I saw this as nothing more than two groups moving ahead with a common purpose. They were never inflexible. I never had the feeling that it wouldn't be done."

Funding

Under the agreement, the band will receive a minimum of \$500,000 (1983 dollars) a year from Dome when the plant is in operation. This minimum payment will be adjusted annually in accordance with the inflation rate. If an eight-per-cent inflation rate is assumed over the 20 years that the plant is expected to be in operation, the minimum payments will total \$24 million.

The band will also receive one-half of one per cent of the plant's revenues from

sales of LNG with the amount to vary according to changes in gas prices. If the projections of revenues that Dome has filed with the NEB hold true, including the minimum payments, the band will receive \$39.1 million over the life of the project.

During the three years that the plant will be under construction, the band will receive \$275,000 (1983) a year. This funding will also be adjusted according to the inflation rate. A further \$400,000 (1983) will come from Dome for the band to carry out planning and feasibility studies.

Up to \$50,000 of the funding for studies can be used each year at the discretion of the band for other purposes.

Capital projects

While the plant is under construction, Dome will carry out a number of capital projects within the reserve, having a value of up to \$3.5 million (1983). The band will decide what projects will be carried out. Projects may include construction of a marine haul-out, a cultural centre, a medical infirmary, or a housing sub-division, improvements to the recreation centre or village roads.



Planning studies are now being carried out on the proposed projects.

A tugboat company

The Western LNG Project will require four tugs and two mooring launches to assist LNG carriers when they are in Port Simpson harbour. A company will be set up to operate the tugs and mooring launches, with the band and Dome each holding half of the shares. Dome will pay the company enough to cover both its capital and operating costs.

The agreement gives the band the option of buying out Dome's share once it has proper management in place.

Employment and training

The agreement obliges Dome to take all reasonable steps to maximize the employment of band members during the construction and operation of the project. As far as the law permits, Dome and its contractors will preferentially hire qualified band members.

Dome's target will be to employ 26 band members by the time the plant starts operating. Throughout the life of the project, the band and Dome will periodically revise the employment target.

To encourage young people to take specialized training to work in the plant, Dome will offer scholarships for Port Simpson students to attend the B.C. Institute of Technology.

Fisheries

The agreement also calls on Dome to take all steps possible to protect the fisheries.

When the plant, the road and other utilities are under construction, Dome will clear and improve any nearby salmon streams, that is, at the request of the band and with the approval of Fisheries and Oceans Canada.

When the project is in operation, Dome will schedule the arrival and departure of

LNG carriers to minimize interference with openings of commercial and native food fishing.

As well, Dome will carry out ongoing studies of the band's commercial and native food fisheries to determine whether there are any changes in the catch as a result of the project. If the catch declines, Dome will have to compensate the band for the loss, unless it can be demonstrated that the decline was caused by something other than the project.

If fishing gear belonging to individual band members is damaged, Dome will compensate them for their loss.

The aboriginal claim

With respect to the Lax Kw'alaams aboriginal claim, the band agreed it will not use its claim as grounds for opposing the project.

The road to Prince Rupert

The band has also agreed to allow Dome the right of way to build a road connecting Port Simpson to Prince Rupert. It will also consent to rights of way for a gas pipeline and a hydro-electric transmission line.

Where it crosses the reserve, the road will be open only to the band and to Dome.

Natural gas for Port Simpson

The band will benefit from the pipeline in that Dome will ensure it has enough capacity for a utility company or co-operative to supply natural gas to heat homes and public buildings in Port Simpson.

The construction camp

At the peak of LNG plant construction, more than 1,000 workers will be living at a camp near Grassy Point. The band and Dome will establish policies to minimize disruption of the community by construction workers. These policies could include

a ban on alcohol and firearms in the camp, and restrictions on sport fishing.

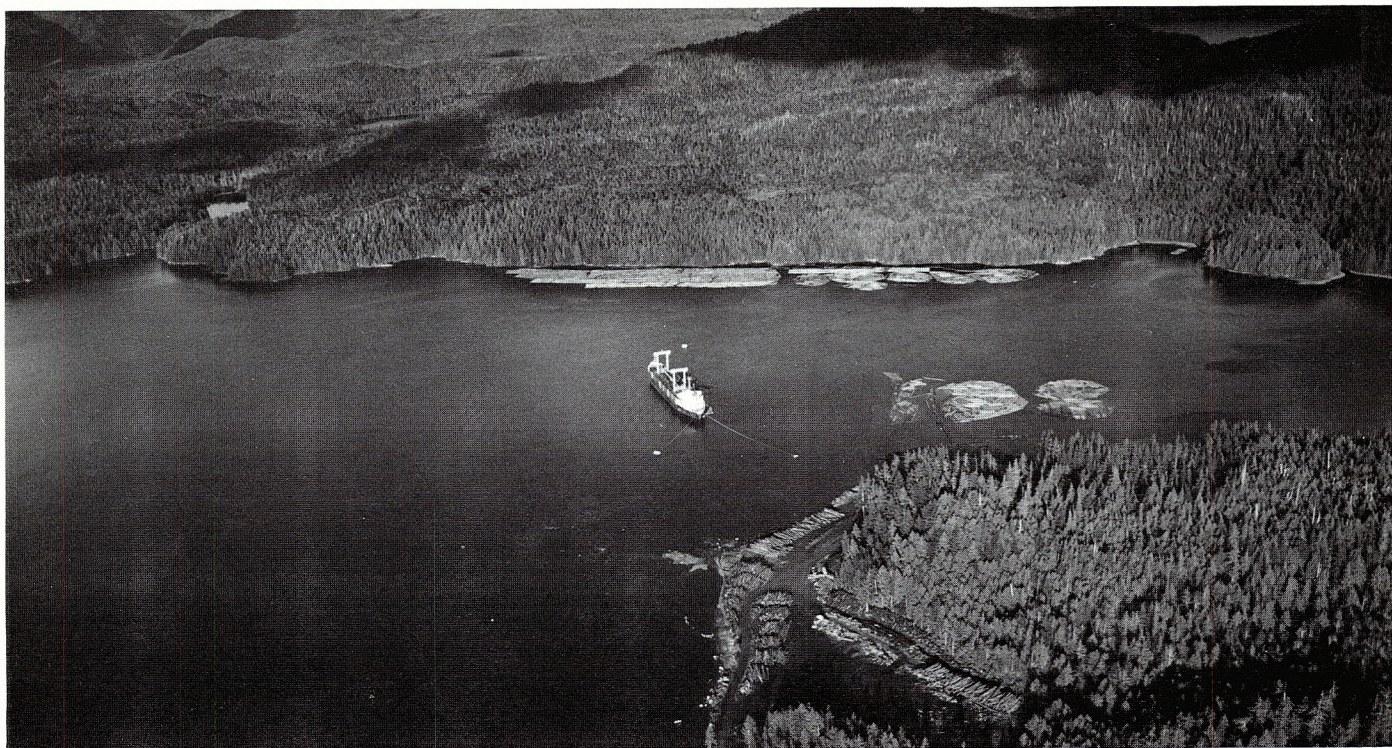
Monitoring committee

Making sure that both sides live up to the Oct. 14 bargain, the band and Dome will each appoint one person to a liaison/monitoring committee. The committee will meet on a regular basis to review the project and to deal with any problems that arise. If a problem is unable to be resolved at the level, it will be referred to arbitration.

The Oct. 14 agreement was seen as an appropriate middle ground for two groups coming from opposite perspectives.

If an agreement had not been possible and the band had opposed the Western LNG Project, Dome would have been less likely to get all of the necessary government approvals since potential social and economic impacts of major projects on local communities are an important concern of regulatory agencies such as the NEB. Well-argued local opposition could be sufficient grounds for such an agency to turn down a proposed development.

Meanwhile, if the band had not entered into negotiations with Dome, the possibility existed that the project would be approved regardless of the band's opposition. Under those circumstances, the band might have had to live with the project without all the benefits gained through negotiations. ■



Resource developments in B.C.: transportation infrastructure and tidewater development are what affect native people, not the resource extraction itself.

Other resource developments in B.C.

Resource developments continue to have an impact on Indian communities in B.C.

According to Ada Tuck, Socio-Economic Impact Consultant for the B.C. Region, most projects being planned by private and crown corporations would be located in the northern and interior parts of the province.

"Although the major areas affected will be provincial crown land, Indian communities whose land claims overlap areas of resource development will be greatly affected.

"Alcan's Kemano Completion project, for example, will involve several groups — the Gitksan-Wet'suwet'en Tribal Council, the Carrier-Sekani Tribal Council and the Haisla Nation."

Tuck says activity in the mining, energy and industrial sectors will continue at a steady pace. The province presents an ideal environment with resources — oil, gas and minerals — and the transportation infrastructure and tidewater terminals to move those resources both inter-provincially and internationally.

With most projects, the transportation infrastructure and tidewater development

are what affect native people, not the resource extraction itself.

Communities affected by more than one project

"Large-scale developments also have a cumulative impact on Indian people," says Tuck. "In a number of cases, the same communities are affected by more than one project. For example, the Gitksan-Wet'suwet'en and the Carrier-Sekani are affected by the Kemano completion Project, by Westcoast Transmission's proposed pipeline for the LNG project, and by the transportation infrastructure associated with Northeast Coal."

Direct funding from INA's two-year Resource Development Impacts Program ended in March, 1983, after \$1.8 million had been used to address 42 projects of varying length.

The program's thrust was to help communities by providing financial and technical resources. In 1983-84, the Region has continued to monitor resource development activities and to consult with bands and tribal councils which have been involved in various stages of the regulatory process.

Some examples of continuing priorities include: Alcan's Kemano completion which, at a cost of \$2.5 billion, could affect 13 Indian communities; CNR's twin-tracking, at a cost of \$2 billion affects 23 Indian communities; Shell and Petro Canada's offshore oil and gas, at a cost of \$200 million could affect 32 Indian communities.

With improved economic conditions, a number of other energy and mineral developments could come on stream. Examples are Quinsam Coal on Vancouver Island, the Vancouver Island gas pipeline (extending from the Williams Lake area to Vancouver Island), Mount Klappan Coal in Northwestern B.C., and Consolidated Cinola on the Queen Charlotte Islands. ■

Bill Ostenstad is the Assistant Manager of the Lax Kw'alaams Indian Band and has worked for the band for five years. He has a Masters degree in anthropology from the University of Manitoba and, besides participating in negotiations with Dome, he was an adviser to the special committee on resource development.