

# LAY OF THE PIPE, LAW OF THE LAND

TEXT / IMAGES | LASSE RAU

In their September 1977 issue of *Pipeline & Gas*, the editors of the US-based industry journal amply illustrate the launch of a new 800-mile-long pipeline crossing the state of Alaska from north to south. <sup>(1)</sup> Between the imagery of a worker opening an oil valve, technicians handling pipeline elements, and engineers logging flow data, operating computer systems, and timing electrical signals, one photograph diverges from the subsequent ones. It portrays Howard Slack, vice president of US-American oil corporation Atlantic Richfield, in a checkered shirt, jacket, and safety helmet, resting his hand on the side of the pipeline, awaiting the movement of oil within the newly-inaugurated infrastructure.

The pipeline, named Trans-Alaska Pipeline, is the result of Atlantic Richfield’s discovery of a viable oil field in Prudhoe Bay on the Alaskan North Slope. The company’s striking of oil in 1968 had launched a four-year-long negotiation process for land and construction permits between associated firms, the Alaskan state government, US federal Congress, local Native activists, and environmental groups. Its right-of-way process did not only require to consolidate a viable and leasable path of land for the construction permit, but was also asked to clarify the legal structure of federal, state, and Native ownership of land in Alaska. Parceling and selling plots of land for oil exploration and pipeline construction thus became more than just a planning negotiation — it was an exercise in creating constituencies between market actors, government, and local inhabitants. With economic considerations becoming the common denominator of all actors involved, the process diverged from previous Native claims to land based on their historical and cultural

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<sup>(1)</sup> Dean Hale: “Arctic Energy Thaws As Alyeska Begins Operation”, in: *Pipeline & Gas Journal* (September 1977), p. 28–29.



uses. The novel land settlement claim centered on the construction of an economy through which an agreeable price tag for the leasing of public and Native-claimed land to private companies was sought. **(2)** As the Alaskan state lacked a complete survey and parceling of the territory, the introduction of parceled private land was a crucial step for the right-of-way proclamation of the pipeline and the correct valuation of petroleum land for drilling purposes. **(3)** But alongside these monetary negotiations, the U.S. Congress and overseeing bodies held discussions on the jurisdiction of land, its ramification on security, and oversight mechanisms. Through-out, federal and state policymakers distrusted individual opposition groups for their lack of cohesion in attitude, political stance, and methods. **(4)** These included native indigenous groups, such as the American Indian Movement suspected of trespassing where the pipeline crossed native land, labor unions retaliating for low wages, and environmental groups discouraged by bureaucratic barriers and the lack of direct action. **(5)**

**As Native activists made threats to “blow up” the privately-owned pipeline were the land not returned to Native hands, federal Congress expressed that “attacks on the pipeline are not an attack on the State of Alaska; they are attacks on the people of the United States.”** **(6)**

Lawmakers hence directly responded to inherent fears of sabotage. Beyond a shift in the scale of oversight from state or private to federal authority, the quoted statement clarified that all dissidents against the pipeline — whatever their intentions — could be tried as national terrorists instead of civilians acting against a private firm. While this distinction might seem redundant at first, it highlights the underlying need for planners to define their plans’ legal and spatial arena by determining responses to their negotiations as either lawful or criminal. By coupling legal discussions with monetary negotiations, the pipeline’s planners depicted any logistical disruption of trade flows not only as an economic threat but one related to national security. **(7)** Although most criticisms of the project had been formulated with regard to its environmental degradation, economic impact, and requirement to settle indigenous land claims for its passage, these could now be classified as either permissible or illegitimate responses. In addition to producing legal paths of objection preferred by planners that resulted in congressional hearings, this approach also defined the judiciary repercussions for activity including firing at the pipeline, sit-ins, trespassing, or protesting environmental effects. As such, private oil companies enforced pipeline security as part of a broader constituency of statehood and its ensuing legal culture. **(8)** Instead of negotiating with the dissipated group of native grass-root opposition, the land claims process favored groups of educated and urban Native elites who had previously participated in government programs. **(9)** The Alaska Federation of Natives, at the heart of these negotiations, was formed by the leaders of prominent Alaskan Native groups to contribute to the settlement, and functioned less as an activist organization and more like a lobbying firm. **(10)** To gain support from a growing leftist basis, the president of the Federation, Emil Notti, embodied a postcolonial tone in accord with many Native non-elites and warned that a failure of the land claim settlement would give Alaskan Natives no choice but to form an independent nation-state of their own, resembling the efforts of the “persecuted people” of Israel. **(11)** Simultaneously, however, the Federation adopted lobbying practices in Washington D.C. that benefited, and were praised by, the oil companies and unions seeking to stake pipeline construction offers. **(12)**



Trans-Alaska Pipeline

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- (2)** The resulting Alaska Native Claims Settlement Act allowed Alaskan Natives to form for-profit local and state-wide organizations that would own, lease, and profit from “native” land property.
- (3)** See George William Rogers (ed.): *Change in Alaska: People, Petroleum, and Politics*, Fairbanks, Alaska 1970.
- (4)** Mary Clay Berry: *The Alaska Pipeline: The Politics of Oil and Native Land Claims*, Bloomington, Ind. 1975, p. 35–52.
- (5)** The American Indian Movement had made headlines since its inception in 1968 for repeatedly occupying Native-claimed land in Alcatraz, Mount Rushmore, and Wounded Knee. “Investigative Information on the Activities of the American Indian Movement (AIM), formed in 1968 as a civil rights organization, but comprised of many militant Chapters with Extremist Beliefs”. United States: Federal Bureau of Investigation 1974 U.S. Declassified Documents Online.
- (6)** “Trans-Alaska Pipeline, Problems Posed by the Threat of Sabotage and the Impact on Internal Security”: Hearing before the United States Senate, Committee on the Judiciary, Subcommittee To Investigate The Administration Of The Internal Security Act And Other Internal Security Laws, 2nd Session, 94th Court 225 (1977). Testimony of Richard L. Burton, Commissioner, Department of Public Safety, The State of Alaska.
- (7)** Deborah Cowen: “A Geography of Logistics: Market Authority and the Security of Supply Chains”, in: *Annals of the Association of American Geographers* 100, no. 3 (2010), p. 600–620.
- (8)** These same rules still frame native objections to extractive projects such as the Keystone Pipeline. See, for example, the most famous example of what has been termed “eco-terrorism”: Andreas Malm: *How to Blow up a Pipeline: Learning to Fight in a World on Fire*, London 2021.
- (9)** Alexander M. Ervin: “Styles and Strategies of Leadership during the Alaskan Native Land Claims Movement: 1959–71”, in: *Anthropologica* 29, no. 1 (1987), p. 21–38.
- (10)** Berry 1975 (see note 4).
- (11)** “General Agreement Among Native Leaders with Emil Notti”, in: *Tundra Times*, 13.12.1970, p. 81–82.
- (12)** Ervin 1987 (see note 9).







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5 miles south of Willow Creek, Alaska, United States. January 15, 2022.



While many local activists feared the loss of their identity by becoming “co-developers” of projects they often objected to, the Alaska Federation of Natives leveraged indigenous land claims not in opposition to oil extraction, but as a tactical alliance with its proponents. (13)

Alaskan Natives participating in the land claims succeeded in circumventing what Indigenous scholar Eriel Deranger has called attention to as the “systemic oppression that has robbed us our ability to easily enter local, national, and international forums where policies and decisions are being made.” (14) The colonial practices of negotiation they participated in, however, replaced their local, grass-root resistance with government-sanctioned groups and arguments often in opposition to their beliefs. (15) While the land settlement provided monetary support and claim to large parcels of land by Native corporations, it also extinguished indigenous claims to the swaths of land requested by oil companies, state and federal bodies, and restricted access, hunting, and recreative use rights.

Let us take a step back. Infrastructures — economic models par excellence — require everyone to behave according to predetermined rules. (16) Logistical lags, natural disasters, labor strikes,

or pipe leaks either need to be defined as outside of the law, or be part of any risk-based calculus that demands insurance. (17) As we have seen, the infrastructural rules then function based on an internal logic of enterprise that protects its self-regulated mechanism of valuation. Rather than an outlier to other planning projects, then, the legal discourse around the Trans-Alaska Pipeline in the 1970s makes visible a gap in the otherwise smooth surface of law. It reveals the contractual infrastructures, made up of written reports, ledgers, and investment statuses, which lie beneath the spatial ones. (18)

Infrastructural texts are at the origins of these rules, in that they position motives as outside of culture and legality and construe its subjects. (19)

Through their planning and implementation, they beg the constant delimiting and limiting of what is “outside” their rule of law. As such, legal plans institute what postcolonial scholar Edward Said sees as the central project of cultural power: Defining the contours of “anarchy, disorder, irrationality, inferiority, bad taste, and immorality.” (20) Contextualizing Said’s argument within the paradigm of planning, crime is modeled as a category of negotiations pushed outside of the infrastructural system of law. In Alaska, and elsewhere, crime was constituted of acts that could not be accounted for in monetary terms and, instead, required to be judged in relation to a predetermined law.

Tracing this reading of planning to its full stop, infrastructure functions as a form of jurisdiction under the control of the planner. It implements a rule of law, particular financial mechanisms, and a state’s relationship to its subjects. This critique, then, echoes

Timothy Mitchell’s acute observation that “as an apparatus for the ordering and control of flows, an infrastructure tends to be fixed in place, a form of real estate even,” that acts as a monetary and legal assemblage of land, people, and power. (21)

What then, can we draw from such staged photography presented in the 1977 issue of *Pipeline & Gas* in light of the pipeline’s material history? Beyond being an apparent photographic enaction that seeks to humanize oil companies and their leadership, the photograph exceeds the initial depictions of electric tools, machines, and digital systems as the means through which flow is measured. It aligns the planner’s role — their regulatory practice of financing, engineering, and negotiating — with the built infrastructure on the ground. It posits large-scale state-supported projects like pipelines as spatial and cultural models that enforce to “be calculated at the level of the economy rather than the enterprise.” (22) Merging point of reference and means of measurement beneath the hand of the planner, the pipeline becomes the valuation system of its planning process. In it, infrastructure is depicted as a spatial form of jurisdiction under the control of the planner. A jurisdiction defining who, when, and how opposition can be expressed.

(13) Sarah Seeloo: “ITC Gets \$440.000 for Land Use Study”, in: *Inuit Monthly* 2, no. 5 (November 1973), p. 41.  
(14) Bioneers: „Eriel Deranger — Reclaiming Our Indigeneity and Our Place in Modern Society / Bioneers“, 2015, [www.youtube.com/watch?v=KI89FHqvrF0](http://www.youtube.com/watch?v=KI89FHqvrF0) (accessed 10.09.2022).  
(15) Ervin 1987, p. 36 (see note 9).  
(16) In his critique of applied anthropology in infrastructural contexts, Claude Lévi-Strauss explains that: “It would become possible to translate statistical models into mechanical ones and vice versa, thus bridging the gap still existing between population studies on the one hand and anthropological ones on the other, thereby laying a foundation for prediction and control.” Claude Lévi-Strauss: *Structural Anthropology*, New York City, N.Y. 1963, p. 299.  
(17) Ulrich Beck: *Risk Society: Towards a New Modernity*, London 1992.  
(18) I refer to a reading of text akin to Jacques Derrida, that takes writing as an act of power. Jacques Derrida: *Force de Loi: Le “Fondement Mystique de L’autorité”*, Paris 2005. Timothy Mitchell also provides a reading of infrastructures, their texts, and economic models as temporal contracts. Timothy Mitchell: “Infrastructures Work on Time”, in: *E-Flux Architecture* (January 2020), [www.e-flux.com/architecture/new-silk-roads/312596/infrastructures-work-on-time/](http://www.e-flux.com/architecture/new-silk-roads/312596/infrastructures-work-on-time/) (accessed 10.09.2022).  
(19) For a reading of the insurgent identity of infrastructure in Palestine, see Laleh Khalili: “The Roads to Power: The Infrastructure of Counterinsurgency”, in: *World Policy Journal* 34, no. 1 (2017), p. 93–99, doi.org/10.1215/07402775-3903604.  
(20) Said’s citation is a critique of Matthew Arnold’s and Michel Foucault’s understanding of culture in relation to the state. Edward W. Said: *The World, the Text, and the Critic*, Cambridge/Boston, Mass., 1983, p. 10.

(21) Mitchell 2020 (see note 18).  
(22) Timothy Mitchell: “Economentality: How the Future Entered Government”, in: *Critical Inquiry* 40, no. 4 (2014), p. 479–507, hic. 506, doi.org/10.1086/676417.