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Stakes are high as miners and natives square off

Remote site's platinum riches touch off fight over land rights

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BIG TROUT LAKE, ONT. -- It may not look like much: a white canvas tent, a five-kilowatt diesel generator throbbing on the frozen muskeg and two miners puffing in the winter air. In fact, the setup was so small that the men and their equipment had fit into the belly of a Twin Otter plane that landed on a nearby frozen lake the day before.

But this tiny wilderness camp in a forgotten corner of Northern Ontario is the scene of a dispute that may have an impact across the country. The outcome may prove pivotal for the welfare of native communities in Northern Ontario and may set a precedent that could alter the way Canada manages its natural resources.

At stake is the notion dating back to the days of the Yukon gold rush and beyond -- the idea that anybody can stake a claim on Crown land, buy a licence and begin digging or drilling for valuable resources.

But while the miners who arrived at the site last week believe they have the right to dig, the Big Trout Lake band is arguing that aboriginals never signed away ownership of the land to the European settlers in early 20th century treaties.

Big Trout Lake, along with six other native communities in Northern Ontario, and several environmental organizations, has called for a moratorium on all mining and logging in the region until a proper land-use survey is done and a deal on resource sharing is agreed upon.

At stake is a huge amount of money. According to Platinex Inc., the Southern Ontario company that has staked and leased the remote drilling site, the Big Trout Lake claim alone could prove to be the largest deposit of platinum in North America.

The nub of the argument put forward by Big Trout Lake is that although the land is outside the reserve it is theirs, at least in part, by inheritance.

"They think they can ride roughshod over us like in the old days," said Chief Donny Morris of Big Trout Lake (the reserve has recently renamed itself the Kitchenuhmaykoosib Inninuwug First Nation).

"But this is our birthright, our God-given right. The community wants to be involved."

The seeds of the current conflict were sown eight years ago when Platinex was incorporated and began seeking rights from provincial authorities to drill near Big Trout Lake.

Platinex president and chief executive officer James Trusler said he tried many times to win the approval of the band for the drilling but was rebuffed. The Supreme Court of Canada has ruled in several cases that natives must be consulted in such situations.

"Some members of the band were happy with us, others were not. They just tried to get us off so they could get the land," Mr. Trusler said.

The company has spent \$600,000 on the claim and expects to spend \$1.5-million by the end of winter, he added.

The company has decided to push ahead without the title dispute being settled. But Big Trout members cite examples from Quebec, the Northwest Territories and Atlantic Canada in which courts have ruled that the native communities must be allowed to benefit from the resources of the land.

The band says that under the Treaty of Adhesion in 1929, when Big Trout Lake reached a deal with the Crown, it agreed to share the land with the settlers -- not forgo its rights to it.

The land staked by Platinex is also subject to a treaty land entitlement claim by the Big Trout Lake band.

This land redistribution process, which has been going on for years, stems from recognition by the federal government in the 1980s that it cheated the natives out of some of the land it promised them in treaties.

Based on experience, native groups fear that if mining and logging is allowed to go ahead willy-nilly, the environment will be ruined.

The last company to drill near Big Trout Lake, for example, dumped large boxes of core samples on the fragile muskeg when it packed up and left several years ago.

"About 20 years ago, mining exploration destroyed an important area for hunting and fishing sturgeon. We have no assurances that new exploration will not bring similar problems," Allan Beardy, an elder with the nearby Muskrat Dam First Nation, said in a letter signed by seven native groups, calling for a moratorium on mining exploration and forestry in Northern Ontario.

"First nations are not anti-development. They are anti-development that is destructive and doesn't benefit them," said Francis Thatcher, a Thunder Bay lawyer who represents many native communities.

"Northern Ontario is a generation behind in terms of the government response. The first nations were getting more respect in the 1980s."

Frank Beardy, a former chief of Muskrat Dam, explained the native opposition to such ventures as drilling, mining and logging. "There are millions of dollars out there and we live in islands of poverty. We're not against development. We just want a piece of the action. And we want some environmental protection," he said.

"We've been after revenue-sharing for countless numbers of years. Now we need to evict the intruders until the matter is resolved," Mr. Beardy said.

Environmental groups have also weighed in, criticizing Ontario Premier Dalton McGuinty for his failure to live up to promises he made while in opposition to institute comprehensive land-use planning.

The Wildlands League has called on the Premier to protect Ontario's huge boreal forest, which is home to woodland caribou, wolverine and many other species of wildlife at risk.

Last week, native leaders who had been watching the winter road for signs that Platinex might try to truck in a drilling team against their wishes were caught unawares when the company flew a team in.

By the time Big Trout Lake members reached the remote spot the next day -- a draining journey by truck and snowmobile in temperatures of -30 -- the first two-man Platinex construction team was in place.

David Sainnawap, 46, who works for the band, was one of the scouts. "I've always had a deep feeling that this is ours. They shouldn't just come and take something that doesn't belong to them," he said.

Platinex has refused to call off drilling operations and the band leadership has become increasingly frustrated.

The Ontario Provincial Police flew in an extra man, Inspector Darrell Smiley, to try to smooth over the differences, but he met with little success and left late last week.

Mr. Trusler said this week that his workers had been threatened but that he was planning to proceed regardless.

"We've informed police and government we've received threats but we're proceeding. I hope to start drilling soon," he said.

The tactics of both sides will be dictated by climate and geography as much as any legal considerations.

Band officials say that mounting a protest at the site in current frigid temperatures is not workable, but they may try to block the winter road to prevent a heavy drill from arriving.

Members of Big Trout Lake say that they eschew violence but are determined to resist the drilling.

"Our people have already given up a lot. We've already lost a lot," said John Cutfeet, who is in charge of environmental issues on the Big Trout reserve.

"The whole idea of the treaties was that we live in peaceful co-existence and share resources. That never happened."

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