

Modern Treaty Agreements: Applied Scenarios

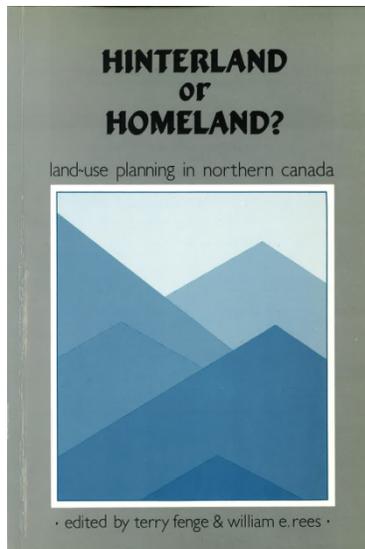
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I have been involved in land claims since the 1980s, when I helped to draft the Northern Yukon provisions of the Inuvialuit agreement. Moved to Ottawa a few years later, and worked with the Canadian Arctic Resources Committee during its heyday. This was followed by 7-8 years as Research Director and one of the negotiators for the Tunngavik Federation of Nunavut, the Inuit organization that negotiated the Nunavut Land Claim Agreement. For the last 10 years or so I have been working with NTI on a part time basis on the negotiations that Alistair briefly described for what will become the last of the Inuit agreements, involving acquisition of land rights in Northern Manitoba.

At the core of these agreements is land. Historically, for settler societies, land was the basis of wealth and wealth creation. The vast majority of land claims agreements include sections about land management and land use planning.

- Why do modern treaties invest so much political capital in regional land use planning and environmental assessment?
 - During the 1920s to mid 1940s the Government of Canada created conservation reserves across the North. This was a mechanism to protect land and wildlife, and promote the wildlife harvesting economy of indigenous peoples. These were abandoned in 1948-1966, when the Government of Canada began to realize the economic potential of the North for mining and other resource extraction.
 - A response to identification of 70 to 80 “sites of ecological importance” by the International Biological Programme in the early 1970s.
 - A response to weaknesses of federal legislation re land and natural resource management put in place in the 1970s.
 - A response by Aboriginal people to the perception that they were unlikely to be allowed to own their land. In the absence of ownership, they sought **control** over land and natural resources owned by the Crown.
 - An attempt to inject concepts of “carrying capacity” and “ecological sensitivity” into decision-making.
 - The 1971 establishment of the Department of the Environment, which came into conflict with DIAND in the North.
 - To broaden decision-making concerns in line with 1973 policy on balancing development with environmental conservation.
 - To respond to planned large-scale hydrocarbon development for the Beaufort Sea, Mackenzie Valley and High Arctic Islands.

Note: for more information about this topic, the book *Hinterland or Homeland? Land use planning in northern Canada*, edited by Terry Fenge & William E. Rees, covers these issues.



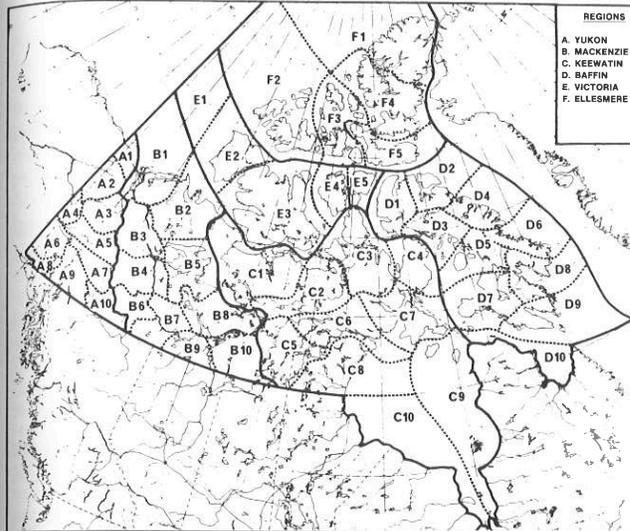
Above: the book *Hinterland or Homeland?*

- 1970s and early 1980s: A number of Aboriginal groups had done their land use and occupancy work, to document their land use and occupancy to enable them to decide in conjunction with the federal government, the geography of land use settlement areas. Negotiations are beginning. And the following pieces of legislation are created:
 - a. Northern Inland Waters Act and regulations
 - b. Territorial Lands Act and regulations
 - c. Arctic Waters Pollution Prevention Act
- These pieces of legislation put in place a regulatory system which purported to be a management system, but there was not attempt to plan the use of land and natural resources. This system was purely reactive to suggestions/demands/applications by industry to use lands and natural resources. The Inuit and others, in land claim negotiations, responded against the narrowness of this regulatory system.
- Mid to late 1970s and early 1980s: Hydrocarbon exploration continuing and development thought to be imminent in the Beaufort Sea, Mackenzie Valley and High Arctic Islands.
 - 1975: An attempt at land use planning in the Mackenzie delta collapsed as a result of no local support. Was viewed by local people as purely an attempt by the federal government to serve and accommodate the demands of industry.
 - 1977: The Berger Report recommends land use management to reflect and support the harvesting economy, and negotiation and settlement of Aboriginal land claims.
 - 1978: Inuvialuit Agreement-in-Principle proposes a land use planning commission for the Western Arctic. This becomes a final agreement in 1984.
 - Northern Minerals Advisory Committee proposes planning to provide "legal certainty" for development. With industry is on board, it was much easier for the Government of Canada to say they will negotiate.
 - 1979: A proposal to drill wells in Lancaster Sound results in a regional planning "green paper" process. An attempt to adopt planning values into a specific area.
 - 1980: Inuit propose an "official plan" for the proposed territory of Nunavut. The previous year ITC tabled a paper titled "Political Development in Nunavut" which covered land use and land planning issues.
 - 1980: Council for Yukon Indians (CYI) and DIAND sign an agreement to begin land use planning in Yukon.
- January 1980: DIAND Deputy Minister Paul Tellier supports the concept of planning for land use management. This new focus on planning was in conjunction with and a response to the assumption of imminent major hydroelectric, infrastructure, hydrocarbon and other development in the North, which it was assumed would generate a great deal of revenue.
- DIAND then generated a Cabinet discussion paper. This paper was not shared with any Aboriginal groups. CARC liberated a copy of the paper and went to the CBC, and that generated much publicity around the question: "For whose benefit are we managing land and resources in Northern Canada? Is it for the benefit of an export economy, or for the benefit of the people who live there?"
- July 30, 1981: DIAND Minister John Munro released the Northern Land Use Planning Policy to severe criticism by northerners and refusal by many to engage

- DIAND new Director General attempts to consult with northerners. October, 1982, 162 page implementation strategy attracted much negative commentary. Land use planning outside the ambit of land claims negotiations and agreements, and outside the ambit of devolution. Interpreted as a means of grandfathering DIAND's control of the North into the distant future.

Northern Land Use Planning Regions and Units:

Fig. 3 Northern Land-Use Planning Regions and Units



A. Yukon	B. Mackenzie	C. Keewatin
A1 Herschel	B1 Beaufort-Mackenzie	C1 Coppermine
A2 Old Crow	B2 Paulatuk	C2 Queen Maud
A3 Peel	B3 Fort Good Hope	C3 Boothia
A4 Dawson	B4 Wrigley	C4 Melville
A5 Stewart	B5 Great Bear	C5 Thelon
A6 Klane Lake	B6 Nahanni	C6 Baker Lake
A7 Pelly	B7 Fort Liard	C7 Southampton
A8 Haines Junction	B8 Yellowknife	C8 McConnell River
A9 Whitehorse	B9 Pine Point	C9 Belcher
A10 Watson Lake	B10 Snowdrift	C10 Akimiki
D. Baffin	E. Victoria	F. Ellesmere
D1 Arctic Bay	E1 Polar Pack	F1 Alert
D2 Pond Inlet	E2 Banks	F2 Parry
D3 Longstaff	E3 Cambridge Bay	F3 Narsisuk
D4 Clyde	E4 Wales	F4 Grise Fiord
D5 Fosse	E5 Somerset	F5 Devon
D6 Broughton		
D7 Kuukijuk		
D8 Pangnirtung		
D9 Frobisher		
D10 Ungava		

Source: DIAND, *Land Use Planning in Northern Canada, draft* (Ottawa: Minister of Indian Affairs and Northern Development, 14 October 1982), p. 52.

- This is a map from the implementation strategy. It reveals the Ottawa perspective of what the North looked like and how it should be treated in terms of land planning. It is organized on the basis of geological and geographical factors, and makes no social or cultural sense, yet it served as the geographical model of planning that in 1982 DIAND wanted to use in the North. No recognition of Nunavut as an Inuit homeland.
- Negotiations with territorial government and to a lesser extent, Aboriginal peoples, began in late 1982 (DIAND realizes it must negotiate to move from reactive to a planning approach for land and natural resources).
 - March 1983: DIAND/GNWT sign agreement
 - July 1983: Inuit, Métis and Dene create a joint position, sign an agreement with DIAND
 - September 1983: YTG and DIAND sign agreement
 - PMO objected to the agreements, characterizing them as constitutional change. They were not approved by the PMO until May 1984, on condition territorial government to sign letters affirming PMO view
 - February 1985: DIAND Minister Crombie supports implementation

- May 1985: Treasury Board approves funding
 - Staff hiring began and implementation started
- 1990: Report of the Auditor General of Canada reveals that DIAND had spent more than \$20 million on land use planning over nine years but there were no plans. Recommendation: get the plans finished and approved. The actual political response:
 - Abandonment by the Government of Canada of land use planning pursuant to the 1981 Northern Land Use Planning Policy
 - Land use planning is then put in place through northern land claims agreements

The conclusion one has to draw from this story is that one can't do northern development and planning without the full support of the people who live there.