Native Involvement in Environmental Impact Assessment: A Comparison of Institutional Approaches

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A. Grounds for Considering Native Involvement in Environmental Decision-making

The environmental movement of the 1960s was marked by the concern for environmental quality as a result of natural resource development and industrialization. This concern was coupled with a heightened desire for information about and opportunities for citizen involvement in decisions affecting the biophysical environment and their socio-economic effects. In response, public decision-makers extended bureaucratic processes to incorporate environmental concerns. The creation of environmental agencies, laws and policies in the early 1970s was a direct response to public demands for action to address environmental problems (Slater, 1987). The United States was the first country to establish legislation which addressed concerns for the environment through the passage of the National Environmental Policy Act (NEPA) in 1969. In Canada, the Department of Environment was created to promote explicitly the protection and enhancement of environmental quality. Shortly thereafter, the federal government established the Environmental Assessment and Review Process (EARP) by Cabinet directive, Australia followed suit, passing its Commonwealth Environmental Protection (Impact of Proposals) Act (EP(IOP)) in 1974. Likewise, provincial and state governments in all three countries have become involved in environmental impact assessment by developing either legislation or policy directives in conformance with environmental impact assessment goals.

In the northern* regions of these countries environmental issues has focused on the exploration for and development of non-renewable resources, particularly

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1 For the purposes of this essay, "northern" and "north" refers to the Northern Territory in Australia, Alaska in the United States and the Northwest Territories in Canada.

hard-rock minerals and hydrocarbons. In Canada and the United States, public attention has been given to the opportunities for and constraints of developing and transporting oil and gas, particularly from the offshore regions. Similarly, northern Australia has been the site for much debate over uranium mining. In all cases, native people[2] living in the hinterland regions have experienced social and cultural costs of resource exploitation due to their proximity to and continuing cultural, socio-economic attachment to the land base, especially through harvesting of renewable resources and maintenance of sacred sites.

With the rise of political activism on environmental issues was a resurgence in concern for native rights. Once considered as separate causes, native rights and environmental protection have converged over similar goals, particularly in northern regions. There are good reasons for considering both issues together. First, both members of the current environmental and native rights movements have sought to encourage sustainable development. This concept provides for economic development which will simultaneously support environmental protection to ensure on-going use of resources for future generations (World Commission on Environment and Development, 1987, p. 43; IUCN, 1980, s. 1.4). This understanding incorporates two components; ecological and socio-political. The socio-political element argues that new institutional structures are needed to support community enterprise and calls for grassroots participation in the development process. Advocates of sustainable development have supported northern, and primarily native, community efforts to undertake economic development which is simultaneously socially and ecologically sustainable (Jacobs, 1985a; 1985b; Pell and Wismer, 1987).

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[2] The term "native" will be used to refer to descendants of the aboriginal inhabitants of all three countries. The words "aboriginal", "indigenous" and "native" will be used interchangeably.

Second, there is a strong legal literature which suggests that native demands for recognition of native land title incorporates responses for environmental management (for further legal explanation see Berger, 1983; Boldt and Long, 1985; Canada, Department of Indian Affairs and Northern Development, 1985; Morse, 1985a). In general, the owner of resources has reserved the right to make decisions regarding environmental protection (Andrews, 1987, p. 24). Because European-styled forms of government have retained resource ownership in the northern territories, they have also retained responsibility for land allocation and resource management. Likewise, native claims to a right to influence decision-making on development processes and environmental protection arise from their original occupation of the land, their laws and institutions that governed the land and its uses (Stevens, 1987, p. 44).

The third reason for considering native rights and environmental protection together is ethical. The land base and its renewable resources have continued to have social and cultural significance for aboriginal people (see Berger, 1977; Berkes, 1981; Fox, 1976; 1977; Geisler, 1982; Usher, 1981). Government policies to promote resource development have tended to overlook indigenous governing structures and aspirations. As a result, legislation of general application and resource leasing to third parties have restricted native rights and threatened the continuation of traditional occupational pursuits. Recent recognition of aboriginal property and resource management interests addresses the long-standing grievances of native people. Resolution of native claims can potentially provide the opportunity to develop mechanisms which will incorporate the legitimate native concerns into the policy framework for resource management and environmental assessment.

Incorporation of environmental impact assessment procedures into native claims agreements is one of several options which might enable native people to have greater influence over developments occurring in their regions (Wright, 1986). It is important, however, to examine the appropriateness of the assessment processes to

native requirements for greater influence. Feit (1982) correctly points out that environmental assessment processes were not designed to meet the needs of native people. There are concerns that native people will only become involved in a token way, that there will be much overlap as new mechanisms are established and that the native population is ill-prepared to participate in a westernized forum such as environmental assessment. These concerns point to the potential shortcomings of such an approach. Therefore there is a need to examine other possible alternatives which may be used to incorporate native input into environmental decision-making.

Examination of native involvement in assessment processes in Alaska and Australia indicate that the Canadian government is the only government which has allowed for native involvement through modification of the assessment requirements. The other countries, however, have approached native environmental concerns in ways which are worthy of consideration. Comparisons will be made partly to demonstrate characteristic features of native involvement and partly to show that Canada has, in many respects, taken a different approach from other countries. The purpose of this paper, therefore, is to provide an overview of approaches to incorporating native interests in environmental assessment in order to elicit possible suggestions and ideas for consideration in Canada.

B. Method and Approach of Study

Case examples are selected from the experience of the United States (Alaska), Australia (Northern Territory) and Canada (Inuit of James Bay and the Inuvialuit of the Northwest Territories). The case examples selected provide a good basis for comparison. Each example is taken from a region which is home to a proportionally large population of native people who live in a northern hinterland. The hinterland region is considered an important source of natural resources for southern-based industrial

interests. The northern population is low and more widely dispersed compared to its southern counterpart. The indigenous people in each region have experienced significant changes to the cultural and social structures in the last century and particularly since World War II. With the exception of Alaska, the northern regions have not received full political powers of their provincial and state counterparts although devolution processes have been initiated in both Australia and Canada

The research for the background paper is based primarily *on* secondary source materials. The Canadian experience is well-known to the author, particularly the procedures established under the Inuvialuit Final Agreement. Here, primary information was gathered in 1986 through a series of in-depth interviews with key informants involved in implementation and secondary sources have also been used. Presentation of the Australian and American experience is based mainly on the academic literature and some informal interviews with scholars familiar with international experience in environmental assessment.

Emphasis has been placed on the legislative aspects of the resolution to native claims in order to provide some basis for comparison. This is a significant limitation. It is realized that legislative strength is a necessary but not a sufficient condition for policy implementation. However, without extensive primary research, it is not possible to examine other aspects of policy in great detail. Hansen (1972) points out with respect to differences in northern regions, the intensity of variation in the economic and social landscape is often as pronounced as the physical relief itself. Lack of primary research in the other countries may reduce comparability of results and thereby colour the analysis.

The approach taken has been selective, rather than comprehensive. Certain features of initiatives have been highlighted in light of their possible practicability and adaptability to the Canadian context. Thus there is no attempt to make

generalizations about the evolution of native claims policy or a history of native interests in environmental protection and assessment.

To achieve these objectives, this paper is broken down into three remaining parts. The first two sections discuss environmental impact assessment and native claims policy in each of the three countries respectively. The two topics are discussed to highlight the nature of native involvement in environmental decision-making. In light of the previous comparison, the final section examines possible opportunities for Canada where comprehensive claims are still under negotiation.

ENVIRONMENTAL IMPACT ASSESSMENT IN THE UNITED STATES, AUSTRALIA AND CANADA

A. Requirements for Environmental Assessment

This section is intended to provide a policy context for environmental assessment in the three countries under examination. The first part addresses three requirements for effective environmental impact assessment which are derived from the general literature on environmental impact assessment. These requirements are necessary, but certainly do not comprise a comprehensive set of sufficient conditions. They have been selected because they can influence the course of native involvement in environmental impact assessment and may determine, at least to some extent, the efficacy of co-ordinating environmental assessment and native goals. A more complete framework of the requirements for environmental impact assessment can be found in the writings of Beanlands and Duinker (1983), Burton, et al. (1983), Fenge and Smith (1986), Hunt et al., 198) and Whitney and Maclaren (1985). Three succeeding sub-sections examine environmental impact assessment processes in each country. A comparative summary will follow, highlighting the sources of commonality and divergence.

The first requirement is a strong legislative base for environmental assessment. This requirement has gained strong support from commentators on the process in Canada (see for example, Burton et al., 1983; Elder, 1985; Fenge and Smith, 1986; Rees, 1980), yet has been considered problematic for government interests which seek to maintain a flexible approach in evaluating environmental impacts of proposed developments. Government concerns are not unwarranted. There is some evidence to suggest that single interest groups may frustrate legitimate development interests, incurring costly and unfounded delays based on procedural technicalities (see Rosenbaum, 1985). Yet a legislative base provides an agency legitimate interests by which to establish a stake in policy or program initiatives. In addition, it may provide for a systematic set of procedures which can contribute to better establishment of environmental assessment in the early stages of program planning.

It is important to realize, however, that the mere existence of legislation will not indicate the actual performance of government in undertaking environmental assessment. The way in which a procedure is actually interpreted and then enforced are critical elements (Rees, 1985, p. 339). Nonetheless, legislated requirements have greater potential to strengthen the environmental impact assessment framework because they can form the basis for systematic means of project assessment and a greater role for the public in ensuring compliance with the intent and letter of procedural requirements.

Legislative requirements for environmental assessment should also include social as well as biophysical elements. Since the inception of environmental impact assessment, it has become increasingly clear that the social implications of development proposals are inextricably intertwined with the biophysical effects. Members of the public who participate in assessment are usually concerned about how a proposal will affect them or their community (Couch, Herity and Munn, 1983). For native people who rely on renewable resources for both economic and cultural

sustenance, any change in the biophysical environment has a direct link to their social viability. Thus, there is a strong argument that assessment must include both biophysical and social aspects of the development process.

Public involvement is also an important element of environmental assessment. Public involvement lends the process greater credibility by ensuring that interested members of the public are informed and opportunities are made available for constructive criticism of project proposals well before irreversible decisions are made. For the purposes of this report, mechanisms for public involvement will be described to illustrate the points where native intervention in the assessment process might occur.

The literature also suggests that there should be a clear link between environmental impact assessment and public decision-making. This link will be forged if environmental impact assessment begins early in project planning so that alternatives can be examined (Marshall et al., 1985). With respect to decision-making, the levels of ministerial discretion have a strong influence on the implementation of the process. This is important from a native perspective because it provides an indication of the entry points available to them and the other influences which will be brought to bear in the assessment process. If environmental assessment processes do not result in binding decisions, then additional avenues may be required if native people continue to press for certain environmental reforms. The environmental impact assessment processes of the three countries under study are examined with respect to each of these elements.

B. Institutional Approaches to Environmental Assessment

The United States

The American approach to environmental assessment has been to establish formal and legislated procedures which place legal requirements on both project proponents and government agencies. The primary piece of legislation, the National Environmental Policy Act (NEPA) came into force on January 1, 1970. It was passed to ensure that environmental concerns received adequate attention at all levels of government planning, decision-making and action in the country (Burton et al., 1983). In addition to these requirements, numerous states have enacted similar environmental impact assessment requirements in the last decade or more. These laws, such as California's Environmental Quality Act, generally require state and local agencies to prepare environmental documents similar to environmental impact statements before taking any actions that may significantly affect the environment.

The NEPA established the formal requirement that an 'environmental impact assessment' be made and that an 'environmental impact statement' be filed prior to the implementation of certain major development actions. Environmental assessments were required for 'major federal actions' and have since been extended by other acts such as the Clean Air Act and the Clean Water Act (Wolf, 1983).

The environmental impact assessment requirements extend to a wide variety of state, local and private as well as federal actions, and to policies, plans, and programmes as well as specific projects. A set of guidelines established in 1978 interprets the mandate of NEPA to cover new and continuing activities, regulated. or approved by federal agencies, as well as new or revised agency rules, regulations, plans, policies or procedures and legislative proposals. Implementation of environmental impact assessment requires that the proponent of a development project prepare and file of a

draft environmental impact statement followed by a final environmental impact statement. In 1978, scoping was introduced to determine the proper content of an environmental impact statement before it is prepared.

The NEPA did not explicitly set out social impacts for consideration in its requirements for environmental impact assessment. There is much evidence, however, to suggest that although NEPA is partial to biophysical concerns, social implications of resource development projects and policies were intended to be considered (Wolf, 1983). One policy objective of the Act was to "maintain conditions under which man and nature can exist in productive harmony and fulfil the social, economic and other requirements of present and future generations" (Chatzimikes, 1983, p. 240). Section 101 of NEPA includes social and economic imperatives to the concept of 'environment'. The Act includes a broad-sweeping term of environment which includes elements of a quality of life index such as economic development, education, public safety and welfare. These elements have been adopted in the methodology of environmental impact assessment to determine impact significance of a project (see Chatzimikes, 1983).

Public review of environmental impact statements occurs at two stages, following the preparation of a draft environmental impact statement and when the final environmental impact statement is filed with the Environmental Protection Agency (EPA) by the proponent (lead agency). The Council on Environmental Quality, EPA, federal expert agencies, state and local agencies as well as the general public all have the opportunity to take part in the assessment of development. Importantly, the requirement to ensure the completion of an environmental impact statement is legally enforceable. Judicial review is allowed at several steps in the environmental impact assessment process. Towards the conclusion of compliance with environmental impact assessment requirements, decisions on both the adequacy of the final environmental impact statement and the final decision itself, can be challenged in the courts. In addition, decisions on whether or not an environmental impact statement is required

for a proposed action can be challenged in the courts. Rosenbaum (1985, p. 268) points out that environmental groups have skilfully exploited many opportunities to use the federal courts to delay or frustrate agency decisions they opposed by challenging the adequacy of impact statements.

Rosenbaum (1985) also argues that the federal courts have been extremely instrumental in enforcing strict procedural compliance and reasonable adherence to the intent of the law in enforcing the requirement of the NEPA for 'environmental impact statements' in the federal bureaucracy. As a result, the process has been opened up to the public by increasing administrative disclosures by federal agencies and more detailed analysis of environmental considerations by the agencies involved. Because of its requirements for open procedures, Rosenbaum (1985, p. 48) credits the environmental impact statement process with serving as an early warning system to alert environmental groups to impending new issues, and by compelling federal agencies to give environmentalists and opportunity to influence decisions with environmental consequences.

Before any decisions are made, the final environmental impact statement, which includes the comments of all reviewers, is submitted to the EPA. The environmental impact statement document must include a discussion of actors in the initial planning stages as well as analysis of alternatives. The decision by the proponent on whether or not the criteria used to determine which development actions are subject to environmental impact assessment are met is closely scrutinized. The lead agency must make available a formal 'record of decision' which explains the decision, states any mitigating and monitoring measures to be taken, and identifies the environmentally preferable alternatives(s) when a decision is made. Thus, the environmental impact statement process is closely linked to decision-making since the proposed action cannot be commenced until all the steps in the process have been completed, and a decision has been reached.

The American model provides a systematic and open procedure for environmental assessment, a process which is enhanced by relatively liberal access to information guarantied by separate freedom of information legislation. Yet this model has been rightly criticized, however, because of the high monetary and temporal costs which can be incurred if the procedural requirements are challenged. The heavy reliance on the courts as a final arbiter is fraught with uncertainty and does not guarantee fairness of outcome. Reservations about such an approach likely guided the thinking of public servants who developed less legally stringent requirements for environmental impact assessment in Australia and Canada.

Australia (Federal Approach)

In contrast to the American experience, in Australia, governments, rather than the courts, have played a dominant role in determining environmental and resource allocation questions (Formby, 19%). The states, and since 1978, the Northern Territory, have principal constitutional responsibility for environmental management and protection. The Commonwealth (federal) government's powers over environmental matters are restricted to areas of specific Commonwealth constitutional responsibility. Nonetheless, there is precedent for Commonwealth involvement in state affairs, particularly where the interests of aboriginal peoples are involved.3 The Federal government established provisions for environmental assessment in the mid-1970s. Currently, all states have some form of environmental impact assessment

3 The Australian Constitution allows the Commonwealth government to make special laws concerning the people of any race based on which the Commonwealth proposed to protect archeological sites of special significance to Aborigines. In 1983, this power was invoked and upheld by Australian Courts when the Commonwealth government made laws to prevent the flooding of parts of the Tasmanian wilderness by a dam proposed by the Tasmanian Hydro-electric Commission and supported by the Tasmanian state government.

requirements, but, with the exception of New South Wales, these are weaker than the Commonwealth Act (Formby, 1987).

The Australian provisions at the federal level are contained in the 1974 Commonwealth Environmental Protection (Impact of Proposals) Act (EP(IOP) Act) and were supplemented by administrative procedures established in 1975. The Commonwealth environmental impact assessment process includes Commonwealth project development, activities requiring Commonwealth financial assistance and proposals requiring decisions by the Commonwealth government such as export approvals and foreign investment (Fowler, 1981).

The initial intent was that the Act would apply to policies as well as projects and that public inquiries would be regularly used (Formby, 1987). There is nothing in the provisions to prevent the broader use of environmental impact assessment by extending it to the assessment of policies and programs. In practice, application of the legislation has focused on major projects because that is where it is thought to have most value as a tool of analysis and a mechanism for exploring alternative ways of securing agreement on whether and how development should proceed (Wandesforde-smith, 1980).

The EP(IOP) Act had a clear mandate to cover social and cultural aspects of the environment, through legislation that defined environment as "all aspects of the surroundings of man whether affecting him as an individual or in his social groupings" (s.3). Yet the breadth of application has been limited and lacking in force (Formby, 1987). In practice, emphasis has been placed on the consideration of the bio-physical impacts. Wright (1986, p. 37) points out that the environmental impact assessment process was basically superimposed on strong existing land use planning systems, which had been closely modeled on British precedents and relied on zoning as one of the main mechanisms for controlling inappropriate land uses. The agencies responsible for environmental impact assessment have been environmental or

resource management agencies rather than social service or community agencies. In recent years, however, there have been more serious attempts to address social and cultural concerns (Wright, 1986).

As a means of public participation and environmental input into decision-making, environmental impact assessment in Australia has been only moderately successful (Formby, 1986). Although it established a legislative base for environmental assessment, the Australian government attempted to define the Act in such a way as to avoid frequent judicial intervention over definition or enforcement of its requirements (Burton, et al., 1983). For example, there is no requirement that projects should be environmentally sound, merely that the environmental consequences of proposed actions are fully considered (Formby, 1987). The 1974 legislation only requires the consideration of the environmental consequences of proposed actions, and thereby only provides a framework for obtaining and reviewing information. Hence there is no provision that provides the authority to withhold approval on environmental grounds (Burton, et al., 1983).

These restrictions limit the number of entry points for public intervenors in the assessment process. Mechanisms for public involvement remain in large part at the discretion of the lead Minister. Public participation usually focuses on public display or comment on a draft environmental impact statement, however, there are provisions for the minister to withhold the statement following representations by the proponent (Hollick, 1980).

Public inquiries are established at the discretion of the Minister. The administering minister may direct a public inquiry (s. 11.1) whether or not an environmental impact statement has been prepared. Between 1974 (introduction of the EP(IOP) Act) and 1985, 1800 environmentally significant proposals have been considered, 100 environmental impact statements were directed and two public inquiries held. Four inquiries were held just prior to the Act's commencement (Wright,

1986). One of the most influential inquiries, particularly from the perspective of aboriginal peoples in the Northern Territory, was the Ranger Uranium Environmental Inquiry. This inquiry was established in July 1975 in response to growing opposition to uranium mining and export. It examined the economic, social and physical environmental effects of policy options (see Fox, 1976; 1977).

Wright (1986) contends that, on the whole, public hearings have been far less influential in Australia in the public policy process than in Canada. The commissioners of inquiry are not subject to direction by the minister or government (s. 11.6). There are no requirements placed upon ministers or government to do anything concerning the findings of a public inquiry.

Rules on legal standing in Australia have generally prevented the public from ensuring enforcement of environmental impact assessment requirements through the courts in contrast to the American experience (Formby, 1986). Public involvement is further frustrated by the restrictions to access to information, despite a Commonwealth Freedom of Information Act established in 1982. Comments and recommendations made in the course of government inter-agency reviews are not made public for example, which makes it difficult to comment on the effectiveness of such review procedures (Burton, et al., 1983).

The decision-making procedures are highly discretionary and therefore it is difficult to evaluate the linkage between assessment and decision-making. Federal agencies are given an exclusive power to decide for themselves whether actions they propose are likely to be significant environmental impacts. and therefore to determine whether or not compliance with environmental impact assessment is necessary. There is a broad exemption provided, under which any department can request the Minister of the Environment to exempt an action or class of actions from any or all of the environmental impact assessment procedures. Unlike in the United States, these decisions cannot be challenged in the courts (Burton, et al., 1983).

The convention of secrecy concerning the internal operations of government **conceals** much of the basis for decisions made under the Act and Procedures: for example, how it is decided if an environmental impact statement is required. adequate and whether and under what conditions a proposal should proceed (Formby, 1987). An examination by Hollick (1980) of previous environmental impact statements suggests that it is comparatively rare for alternatives to be discussed in similar detail to the preferred option, except where they are relatively minor technical ones. The written Procedures indicate that only the minister responsible for any proposed action, not the minister administering the Act, can initiate the Procedures by nominating the proponent. At the conclusion of the environmental impact assessment process, the action minister need do nothing more than ensure that any final environmental impact statement and any suggestions or recommendations made by the administering minister are "taken into account" (s. 8). The decision on whether and in what form a proposal should proceed remains that of the action minister.

Northern Territory

In the Northern Territory, environmental impact assessment procedures are administered by environmental authorities which are distinct from the land-use planning organizations. The Environmental Assessment Act. 1932 came into effect in 1984. The Act provides for assessment of proposed actions which could reasonably be considered as having significant effect on the environment (Australian Environmental Council, 1984). It borrows considerably from its federal predecessor, implemented through detailed administrative procedures.

Like the federal legislation, the Environmental Assessment Act adopts a very broad definition of 'environment' which includes "all aspects of the surroundings of man including the physical, biological, economic, cultural and social aspects" (s.3). The

Act also provides for a wide interpretation of the types of proposals that may be assessed as well as provisions for exemptions from assessment.

The Minister for Conservation has discretion over the procedures and exemptions are provided. The Minister may require the proponent to prepare a Preliminary Environmental Report (PER), a brief statement of the development and its potential impacts. The PER is circulated for review by relevant government agencies. These reports are not formally released for public review although Wright (1986) states that they have on occasion been released to interest groups for comment. The minister then decides if further assessment is necessary, and if so, whether additional information to the PER, or a draft environmental impact statement (environmental impact statement) is required of the proponent. The completed draft environmental impact statement is placed on public review for a minimum period of 28 days. During this time the public is invited to submit written comments to the Minister for Conservation on the development proposal and its impacts. The proponent is required to review the draft environmental impact statement take into account all comments made, and release a final environmental impact statement. Finally, the Minister for Conservation makes recommendations to the Minister responsible for authorizing the development of the results of the assessment whether the proposal is environmentally sound and what actions should be taken to minimize impacts.

Canada (Federal Approach)

The Federal Government of Canada has taken a policy approach to environmental impact assessment, placing requirements for assessment in government directives rather than legislation. Like the Federal government, Manitoba and New Brunswick each have a process based on government policy directives. Provincial departments and agencies derive their authority to carry out environmental assessments from a variety of legal bases. The provinces of **Nova Scotia,** Newfoundland,

Saskatchewan, British Columbia, Alberta, Ontario and Quebec have provided legislation for environmental assessment or derive their authority from other provincial statutes. In 1978, Quebec passed explicit environmental assessment legislation in an amendment to the Environment Quality Act (for further explanation see Couch, 1985). Manitoba and New Brunswick have based their procedures on government directives.

The Federal Environmental Assessment Review Process (EARP) originated from a Cabinet directive of 1973, was revised in 1977 and again in 1984 (see Canada, Federal Environmental Assessment Review Office, 1987; 1979). The major objective of the Process has been to ensure that the environmental effects of Federal programs and projects are considered early in the planning stages so that decisions can be made to avoid or mitigate environmental impacts (Canada, Federal Environmental Assessment Review Office, 1979). In June 1984, a Guidelines Order issued under the authority of the Government Organization Act outlined a number of changes designed to clarify the procedures and to provide greater accountability among government participants. Importantly, however, the Order-In-Council may be revised at the will of Cabinet rather than With the agreement of the full Legislature. While some commentators have viewed this as a source of weakness (see Fenge and Smith, 1986; Rees, 1980), in practice, the Canadian model has not proved more difficult to enforce than the Australian one.

Since 1974, the EARP has become the most important means by which the Federal Government has evaluated large scale resource development proposals in terms of their environmental, social and technical impacts (Sewell and Foster, 1981). The process applies to all of Canada, however, its application has resulted in more public reviews in the North than in any single province. Of the twenty-three separate project proposals which required panel review, seven involved proposals in the Yukon and Northwest Territories.

Environmental assessment is intended to examine "the potential environmental effects of the proposal and the social effects directly related to those environmental

effects" (s. 4(1)(a) Government Organization Act, 1979). According to Fenge and Smith (1986), this definition is more limiting than the previous one, by grounding the Process in the biophysical environment and admitting social factors into the process only when they are an outgrowth of a project's environmental effects. Consideration of a proposal may include matters such as the general socio-economic effects of the proposal and the technology assessment of and need for the proposal only with the approval of the Ministers of the Environment and the initiating department (s. 4(2)). The previous practice of allowing socio-economic considerations in assessment, however, has set a strong precedent for further assessments.

The Process is divided into two major stages; initial assessment and review. The initial assessment does not usually consider public involvement. Only if the initial assessment recommends further review are the projects subject to a public review process under the direction of an independent panel. The panel receives Terms of Reference from the referring Minister, and in turn is responsible for issuing guidelines for the preparation of the environmental impact statement and obtaining public input to the review. Each panel undertakes a public information program and the federal assessment office encourages proponents to inform affected communities of the proposal's possible impacts. The environmental impact statement, prepared by the proponent, is made available for inspection as well as supporting documentation provided to the panel. The panel submits a written report to the Minister of the Environment and the Minister of the initiating department who make the report public. The initiating Minister, not the Minister of Environment, decides the extent to which recommendations will be adopted before a proposal is undertaken or abandoned.

The first step in an initial assessment is screening, whereby important decisions regarding the necessity for further evaluation and review is determined by the initiating department. As a result of screening the initiating department decides if a proposal will be subject to automatic exclusion from EARP, whether further study is

required before a decision is made, whether it will be referred for public review, or if its environmental effects are unacceptable requiring modification or rejection of the proposal (Duffy, 1986). Like the Australian procedures the assessment process in **Canada** embodies the principle of self-assessment. Government departments are expected to carry out their own initial assessment of **a** proposed activity, seeking technical expertise from other departments or the private sector as necessary (Robinson, 1982).

Like the **Australian** case, only a minute fraction of projects screened within initiating government departments become subject to public review. Of 1,000 projects which are screened, 100 are made subject to further study and, of these, only one may be referred to the formal review stage (Duffy, 1986). Decisions or recommendations made at the screening stage, therefore, have important implications for **the** outcome of project proposals. The public review phase is also conditioned by discretionary requirements. The panel **can** only recommend options for government and does not **make any** decisions.

As a result of the discretionary nature of the assessment process, the Canadian approach has been **characterized** by uneven application of procedures (see Canada, Federal Environmental Assessment Review Office, 1987; **Canadian Environmental** Assessment Review Council, **1985**; Holisko, 1980). At the screening stage, few departments have procedures which are strictly used to evaluate the significance of impact proposals. Like Australia, Canada has taken a more restrictive view to releasing information to the public, **although** the relatively recent Access **to** Information Act and the new system of publishing a list of initial assessment decisions marks some improvement (see FEARO, 1987).

Northern Canada

Agreements made with the native peoples of northern Quebec have established different frameworks for environmental assessment. A different system applies depending on whether a project is located in territories to which Cree, Inuit or Naskapi hold land title (Couch, 198)). Special procedures are established which provide for consultation with the native people through committees to which they appoint representatives. These committees advise the Deputy Minister of the Environment before a decision is made on a given project. The Inuit territory of Quebec is located north of the 55th parallel and it is these procedures which will be explained in the section on native participation in environmental assessment.

The procedures in the Northwest Territories (NWT) offer a small variation from the ones previously described (for fuller explanation see Barnett, et al., 1984; Canada, Department of Indian Affairs and Northern Development, 1984s; 1984b; 1981b). Presently, prime responsibility for environmental assessment, project review and development approval in the NWT lies with the Federal government because it is the land holder. Limited powers of self government relating to 'the environment' were given to the Government of the Northwest Territories through section 13 of the Northwest Territories Act, covering such functions as game preservation, agriculture, the issuing of scientific permits. Decision-making powers over non-renewable developments, including environmental impact assessment and land use planning, have remained the responsibility of the federal government although the territorial government has an advisory role in most environmental impact assessments (Whittington, 1985). The territorial government, working with the federal government, is represented on a number of interdisciplinary assessment groups which address all resource issues. In addition, the Government of the Northwest Territories has its own policies on resource development and other matters affecting land management (see Government of the Northwest Territories, 1983). All project proposals

in the Northwest Territories, however, are subject to Federal government approval under the Environmental Assessment and Review Process (Larson, 1986).

C. Comparative Summary of Institutional Approaches

Environmental impact assessment has become an important tool for evaluating impacts of development projects in all three countries. Its implementation has been limited by the nature of the political, economic, and institutional framework within which it operates. A summary of the elements discussed is provided in Table 1. Although both the United States and Australia have legislated requirements to undertake environmental impact assessment, each country has taken a different approach to its implementation. Although all countries stipulate that environmental impact assessment may apply to policies and programs, only the American assessment procedures have been enforced through public legal intervention. Both the Australian and Canadian models contain a high degree of ministerial and administrative discretion in the procedures and the lack of provisions for legal standing do not permit public recourse to the courts to enforce adherence to procedural requirements.

Where procedures cannot be legally enforced, departmental compliance has been slow and uneven (see Formby, 1987; Holisko, 1980). Formby (1987) states that many departments in Australia have not developed the skills needed to implement environmental impact assessment. In Canada, some departments have not established guidelines and regulatory agencies and Crown corporations and regulatory agencies are exempt. In the United States where compliance is set out in law, public intervention has placed great emphasis on legal challenges to ensure procedural compliance (Rosenbaum, 1985). Such challenges have proved costly, both in time and money, and have tended to focus on single issues. Yet where procedures are not legally enforceable (Canada and Australia), public involvement remains at the discretion of

TABLE 1: COMPARISON OF ENVIRONMENTAL IMPACT ASSESSMENT PROCESSES

	United States	Australia	Canada
Legislative base	National Environmental Policy Act, 1970 Guidelines, 1978 Formal requirement to file environmental impact statements (draft & final) for public review.	Commonwealth Environmental Protection (IOP) Act, 1974 & Procedures, 1975 Environmental Assessment Act 1982 (Northern Territory) Exemptions provided.	Policy approach established in Order-in-Council (1984) under Government Organization Act, 1979 Environment Quality Act, 1972 (Québec) Exemptions provided.
Scope of impacts considered	Social impacts not explicit in legislation, however, language of the Act is very broad. While grounded in biophysical aspects, social impacts have also been considered in assessments.	Clear mandate to cover social and cultural effects of development. In practice, emphasis has been on biophysical aspects, though social aspects increasingly considered.	Social effects directly related to biophysical environmental effects. Other social effects may be included with approval of Minister of Environment & initiating department. Practice has included social impact but not technology or project need.
Nature of public involvement	Legally enforceable. Occurs at completion of draft & final statements. Liberal access to information. Heavy use of courts to enforce requirements. Costly & time-consuming.	Subject to Ministerial discretion. Limited access to information. Focuses on public display & written comments on draft eis. EIS may be withheld. Public hearings not greatly influential.	Subject to Ministerial discretion (now under review). Limited access to information at screening stage. Public information about project and comments received on eis at review stage.
Relation of environmental impact assessment to decision-making	Close link to decision-making as environmental assessment must be completed before final decision is reached.	Difficult to establish link because of discretionary procedures & exempt ions. EIA requirements not enforceable.	EIA procedures unevenly applied. Requirements not enforceable. Process now under review to strengthen the linkage between assessment & decision-making.

the participating Ministers. In Canada and Australia, participation is often restricted to a formalized public review phase after a draft environmental impact assessment is submitted. Wright (1986) points out that in Australia, public hearings are not a normal part of the assessment process and they have on the whole been less influential in Canada. While public hearings were very important during the 1970s in Canada, they have fallen out of favour because of their costly and time-consuming nature and bften, inconclusive results. In all three countries, the public inquiry appeared to be the most important tool for participation in the 1970s. Both inquiries and court challenges have proved costly and there appears to be a trend toward less formal channels. The implementation of new mechanisms for negotiation of the trade-off between environmental and other societal values represents a move in this direction (see Bacow and Wheeler, 1984).

Burton et al. (1983) point out that environmental impact assessment systems are decision-shaping mechanisms which are not designed explicitly to protect the environment although citizen groups may try to use them as such. Accordingly, the processes bring together a wide variety of information about a proposed development and possible alternatives. Ultimately the decision rests on economic, sociological, political as well as environmental considerations. In reference to decision-making, commentators have suggested that environmental impact assessment must be integrated into the planning process to ensure that environmental values are considered in the early stages of project development (see Rees, 1980). The relationship between assessment and planning is still evolving but there are some attempts to integrate the two at an administrative level, both in the Northern Territory, Australia and the Northwest Territories, Canada.

The introduction of environmental impact assessment in Westernized countries created a complex set of institutional arrangements on an existing bureaucracy. Co-ordination between the assessment process and subsequent regulatory responsibilities

has been considered **problematic by both industry and government agencies (see** Dimensions Planning, 1986; Larson, 1986; **Nutter, 1986)**. There has been much concern expressed over the **increasing costs** and the delays associated with the complex procedures to be followed as applications for development move from the concept **to** the implementation stage (see Marshall et al., **1985)**.

The addition of new mechanisms which provide explicitly for **native** participation increases the potential for overlap with existing procedures. Thus it is important to examine alternatives **to** the creation new assessment processes with each claims agreement. The following section examines the approach taken by each country to resolve native claims and then explains the mechanisms established **to** involve **native** participants in environmental decision-making.

NATIVE INVOLVEMENT IN ENVIRONMENTAL DECISION-MAKING IN THE UNITED STATES, AUSTRALIA AND CANADA

A. Requirements for Native Involvement

The **nature** of land tenure and consequent economic development structures provide a context in which environmental decision-making occurs. **Therefore**, this section will examine the overall approach taken by the three countries to resolving concerns over aboriginal **rights**, followed by an explanation of the forums in which native people may become involved in environmental decision-making. Following from the **discussion** of native claims policy, the provisions for native involvement in environmental assessment will be examined. This discussion will briefly highlight three elements. First, it will determine what legislated rights might exist for native participation in environmental decision-making. Second, the discussion will address the nature of native involvement in environmental decisions and finally, **a**

comparative summary will outline the opportunities and shortcomings provided by each approach.

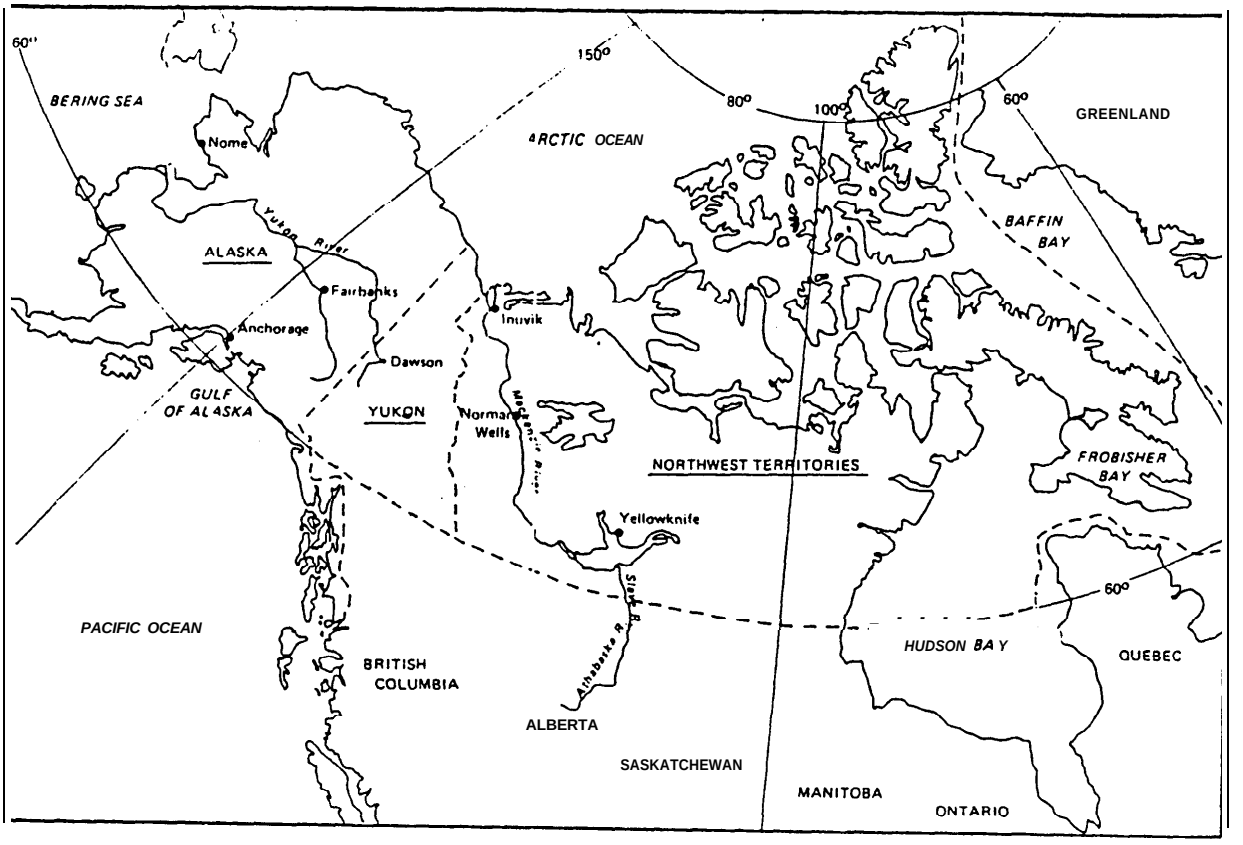
B. Nature of Native Claims

Alaska

The Alaska Native Claims Settlement Act (ANCSA) was passed in 1971. The Act was intended to grant Alaskan natives the ability to participate fully in American life, but on the same basis as other citizens rather than granting native Alaskans special status. The ANCSA extinguished all claim to aboriginal title in Alaska and provided compensation of $962.5 million and 40 million acres of land (see Figures 1 and 2). T&e Act was passed without giving recognition to models of tribal sovereignty.

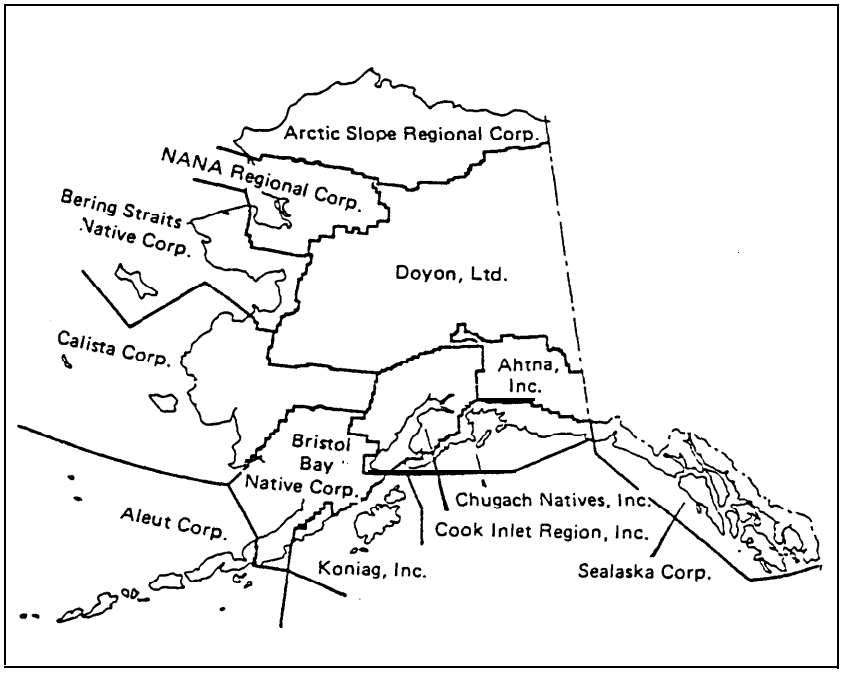
As a result, native rights in Alaska are now largely based on proprietary father than legislative rights. Under the Act, title to land and subsurface resources is vested in native corporations. Subsurface title to the 40 million acres was transferred to 12 regional corporations; surface title was transferred partly to regional and partly to village corporations. While native corporations were involved in land selection, they received title subject to valid existing rights to land and minerals. Sub-surface ownership. in theory. ought to give the native owners the opportunity to protect a renewable resource base, yet in practice this has proved problematic to native Alaskans. The contradiction between subsistence values and corporate motivation has been the subject of much discontent and debate (see Berger. 1985: Case. 1984). Native corporations have been under pressure to hire trained outsiders and aggressively implement resource development projects to generate cash flow and make profits (Gondolf and Wells. 1986). The pressure to undertake profit-making ventures has been

FIGURE 1: ALASKA



Source: Lane, 1987, p. xv

FIGURE 2: THE ALASKA REGIONAL NATIVE CORPORATIONS



Source: Anders and Anders, 1987, p. 135

difficult for some corporations to achieve and has not always reflected the desires of their native shareholders.

The American model *gave native* people a strong proprietary base from which to negotiate resource development contracts with mining and petroleum companies. According to Bankes (1983) most regional corporations have entered into resource agreements, however their provisions are largely *secretive.* Under s. 7(b) of ANCSA, a region that decides to follow a policy favouring the subsistence economy in any conflict between renewable and non-renewable resources will effectively be subsidized by other regions which decide to exploit their resources. This section has proved difficult to interpret and has given rise to a great deal of litigation (Bankes, 1983).

Thus the profit motive has demanded new forms of economic activity which has had social and cultural impacts which were not welcomed by many native shareholders Subsistence food remains an important part of the native Alaskan diet (Gondolf and Wells, 1986), and the subsistence lifestyle contributes to a sense of self-reliance and self-esteem that sustains many individuals amidst rapid technological change (see Berger, 1985). Yet ANCSA did not provide any special measures to protect subsistence values. Hunting and fishing rights were eliminated by ANCSA.

In 1980 Congress enacted separate legislation, the Alaska National Interest Lands Conservation Act (ANILCA), to protect subsistence uses. This statute provides a preference and other protections for subsistence uses of wild, renewable resources by "rural Alaska residents" on federal public lands within Alaska and also requires the state to establish the same range of protection on state and private lands in order to exercise state fish and game management authority on federal lands (Case, 1984). Thus similar to the ANCSA, this Act aims to integrate native Alaskans into the broader American society and fails to grant them preference based on their long-term occupancy or indigenous forms of government.

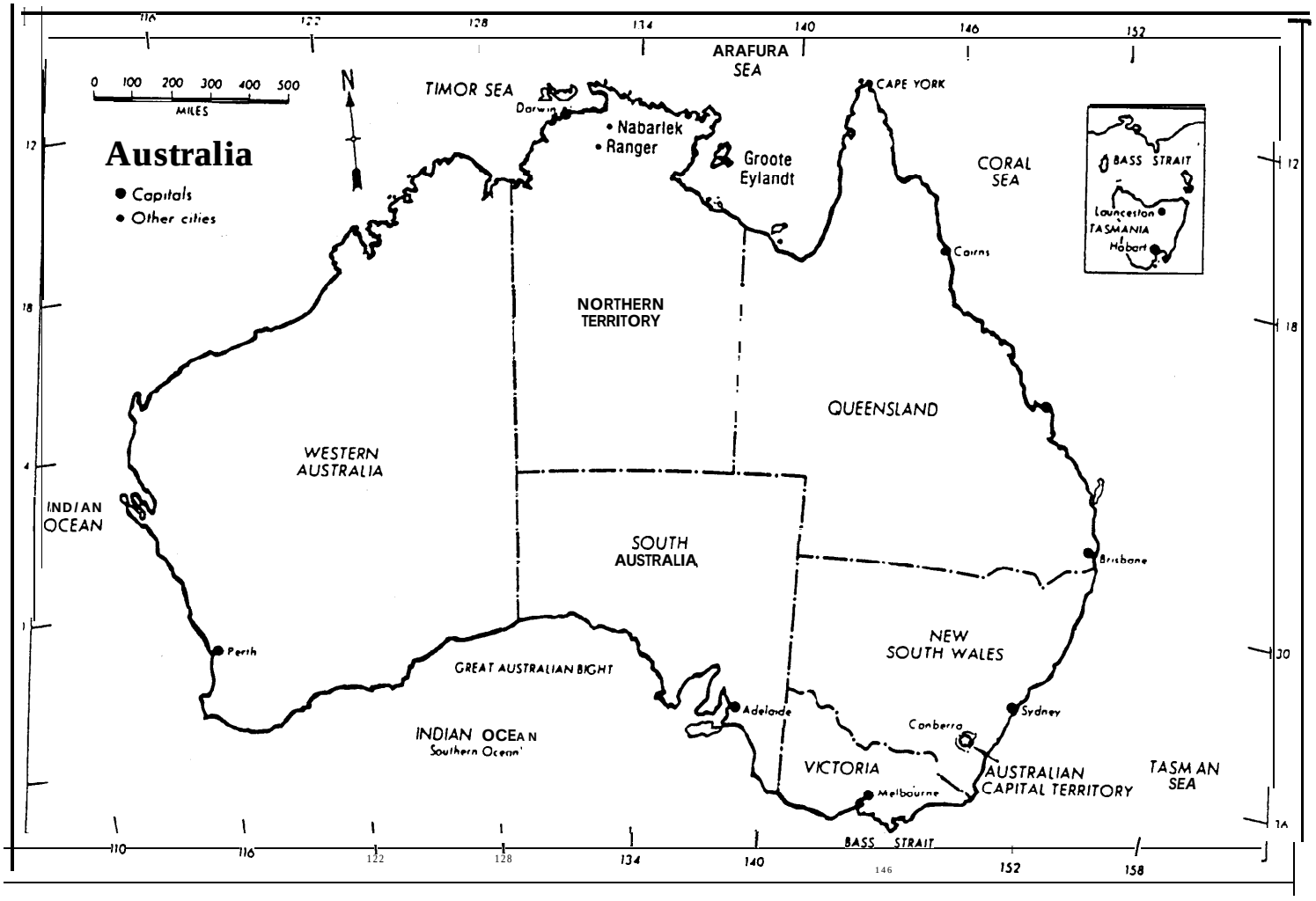
Australia

The Australian approach to land claims has been considered progressive in relation to the other countries under examination (see Hunt, 1983). During the 1970s, aboriginal land rights were placed high on the political agenda. As a result, the Aboriginal Council and Associations Act (ACAA) was passed in 1977, providing new institutions for the political, social and economic development of Aboriginal peoples at a federal level. In addition, the Aboriginal Land Rights (Northern Territory) Act (ALRA) of 1976 established a system for recognizing aboriginal land entitlement in Australia's Northern Territory (see Figure 3). The latter Act, though it is neither the first nor only piece of land rights legislation in Australia, it is the most significant. Unlike other legislation, the ALRA not only transfers substantial areas of land to Aboriginal people but also provides them with a basis for independent action by establishing statutory bodies that are independently financed. Considered together, these two pieces of legislation marked a watershed because they acknowledged that aboriginal rights are not just concerned with property rights - an acknowledgement which is absent from the Alaskan settlement (see Peterson and Langton, 1983).

A major feature of the legislation in the Northern Territory is that it does not extinguish rights based on Aboriginal title. The ALRA enabled the transfer of surface title to approximately 18.3% of the Northern Territory to Aboriginal Land Trusts (Hunt, 1978). As these lands were primarily former Aboriginal reserves, there was no drastic alteration in the legal status of northern territory lands. Ownership of title is by means of land trusts rather than the corporate model used by the United States, and to a revised extent, by Canada. Twenty Aboriginal Land Trusts hold title to reserve lands which are administered by three land councils in the Northern Territory.

Claims for vacant Crown lands traditionally used by the Aboriginals but not part of the reserves, can be lodged with the Aboriginal Land Commissioner. He will take

FIGURE 3: AUSTRALIA SHOWING NABARLEK AND RANGER LOCATIONS



Source: Bankes, 1983, p. 141

other interests into account and decide whether strong traditional links with the land have been proven before making a recommendation to the Minister for Aboriginal Affairs. Thus native rights to Crown lands may be pursued even if they were not initially claimed by the aboriginal people (Gardner and Nelson, 1981).

Canada

Canada's approach to native rights shows distinct differences from the previous models described. It shares elements with both the American and Australian models and gives explicit responsibilities to native people for environmental assessment in the claims Agreements established. While progress has been comparatively slow in recognizing and affirming aboriginal rights (see Morse, 1985a; 1985b), the approaches taken by Canada have some distinct advantages from their contemporary counterparts.

Three Agreements have been signed since the establishment of the original federal policy on comprehensive claims.[4] The James Bay and Northern Québec Agreement (JBNQA) was signed in November 1975 by the Inuit and Cree Indians of northern Quebec, the Québec government, the federal government, and several companies involved in the James Bay Hydro-electric Project (see Éditeur officiel du Quebec, 1976). It became law in November 1977. The Agreement treats the Inuit and Cree separately. The Northeastern Québec Agreement was completed in 1978.[5] In July of 1984, The Western Arctic (Inuvialuit) Claims Settlement Act, 1984 was proclaimed, giving final approval and validity to an agreement between the Minister of Indian

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[4] In 1973. the Federal Government issued a policy statement which recognized for the first time the validity of aboriginal rights. The Government expressed its willingness to negotiate terms and conditions of agreements with native peoples based on aboriginal title where these rights have not been alienated or superseded by law (comprehensive claims). The policy of comprehensive claims was reviewed in 1985 and new terms for negotiation have been under consideration (see **Canada,** Department of Indian Affairs and Northern Development. 1983: 1981a; 1978).

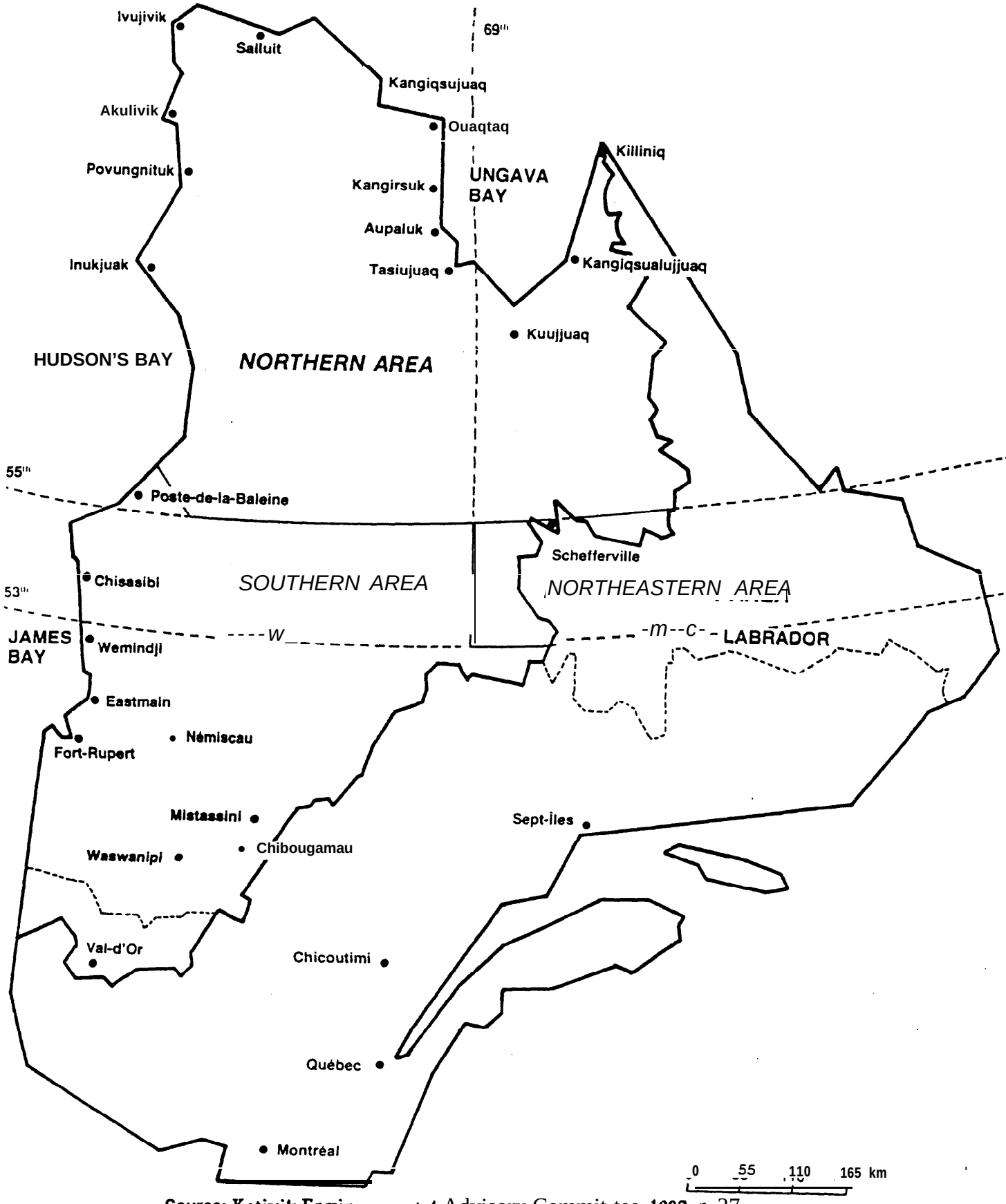
[5] The discussion of James Bay which follows includes only provisions for the Inuit of the James Bay region under the James Bay and Northern Quebec Agreement.

Affairs and Northern Development and the Inuvialuit of the Western Arctic (see Canada, Department of Indian Affairs and Northern Development, 1984c).

The federal policy under which the two agreements were signed required that the native beneficiaries would have to extinguish all claims, rights, title and interest in the land base and offshore regions in return for a more limited set of rights which apply to a portion of the lands which they have traditionally used and occupied. In each case, the native people were granted surface ownership to large tracts of land (Quebec Inuit 66,000 square kilometres; Western Arctic Inuvialuit 91,000 square kilometres) and subsurface ownership to a much smaller portion of land subject to existing alienations (Quebec Inuit 5,000 square kilometres: Western Arctic Inuvialuit 13,000) (see Figures 4 and 5). While ownership of offshore regions was not contemplated in either agreement, the sphere of native influence extends beyond the land base. For example, the Inuvialuit Settlement Region (Figure 5) which is set out in the agreement extends well into the offshore. The Inuvialuit retained the authority to undertake environmental screening and review of any proposals affecting waters within the boundaries of the Inuvialuit Settlement region.

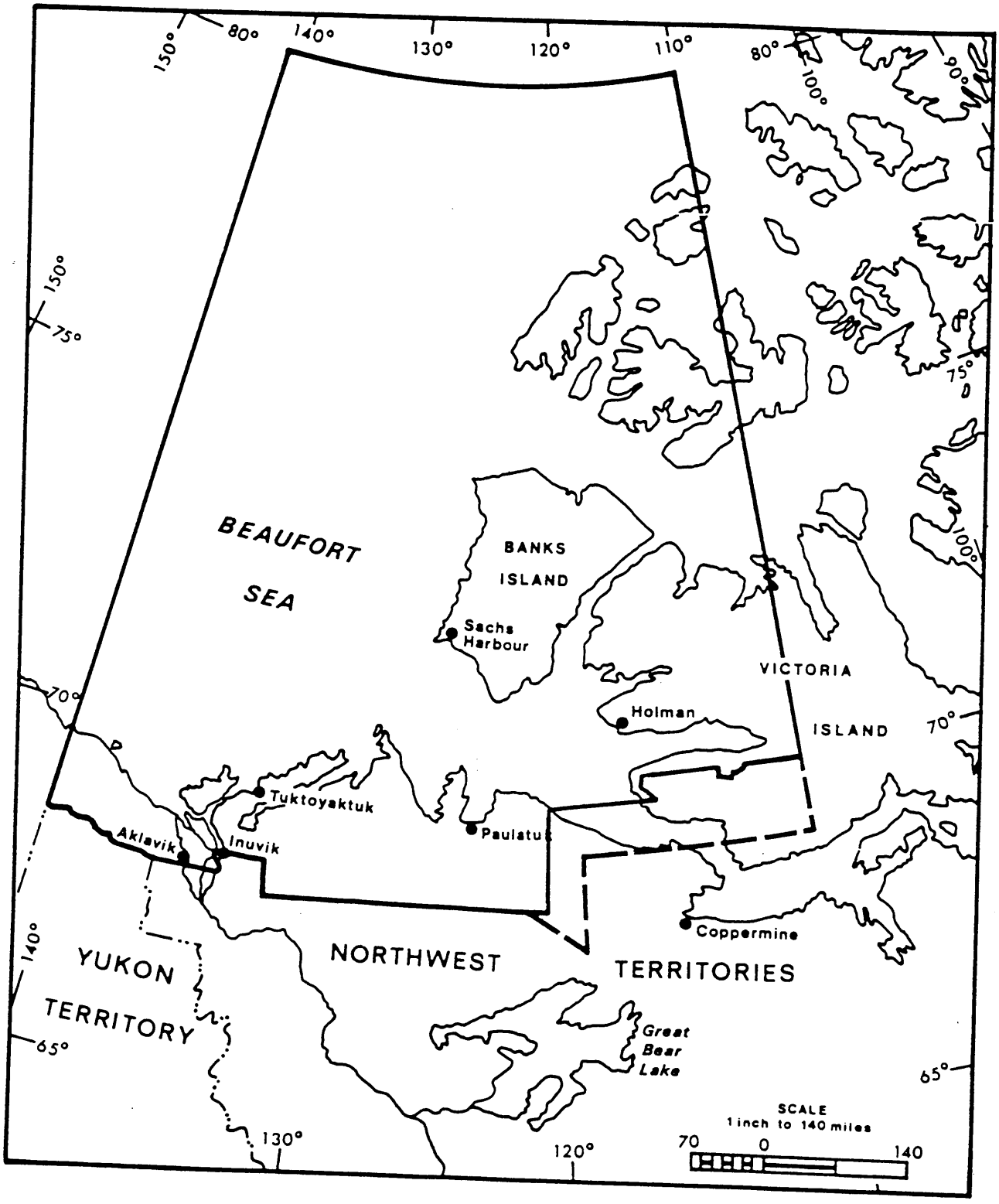
The approach of the Canadian government shares elements of the Australian and American models. Like the American settlement, aboriginal title was extinguished in each case and cash and land grants were provided to the native people. Corporate management structures were selected as the means to organize the terms of the settlement. Yet the corporations were not share-holding arrangements. In addition, numerous entry points were established in decision-making procedures to provide native people with opportunities to become involved in decisions which would affect their lives directly. The review of the comprehensive claims process undertaken in 1985 was critical of the 'cash for land' settlements (Canada, Department of Indian Affairs and Northern Development 198)). While the recommendations of this report

FIGURE 4: QUÉBEC SHOWING JAMES BAY NORTHERN AREA



Source: Kativik Environmental Advisory Commit-tee, 1982, p. 37

FIGURE 5: INUVIALUIT SETTLEMENT REGION



Source: Canada, Department of Indian Affairs and Northern Development, 1984, p. 38

are still being reviewed, there is a movement away from 'cash and land' settlements to agreements where native people will have a greater measure of self-government.

In each case, new institutions were created to manage resources within their designated regions. These institutions include several corporate structures, fish and game advisory councils, research advisory councils to co-ordinate research in wildlife and environmental matters as well as environmental screening panels and review boards. These structures are designed to provide northern native people with the means to protect their life-ways by providing for native participation in decision-making, in monitoring government policy and in implementing social and environmental protection regimes.

T&e 1970s marked an important decade in the recognition of native rights in all three countries. Each country passed legislation to outline the rights and responsibilities of native people and of the respective governments in protecting traditional values important to the Aboriginals (see Table 2). In all three cases, legislation &as come about from an attempt to resolve the potential conflict between native subsistence values and major resource development projects. The United States, the first of the three countries to pass legislation, provided strong proprietary rights for native organizations based on a corporate enterprise system. It attempted to bring native Alaskans into the mainstream of American society by providing preferential treatment for only a limited duration. In contrast, legislation in both Australia and Canada was passed which reflected the recognition of the continuing and particular importance of traditional activities and which created specific safeguards for to maintain them. In Canada, a modified corporate model was selected as the basis for holding land title and new mechanisms were created which provided indigenous people with access to various types of decision-making institutions. Only in Australia was clear aboriginal title maintained. The corporate model was rejected in favour of title

TABLE 3: COMPARISON OF NATIVE INVOLVEMENT IN ENVIRONMENTAL IMPACT ASSESSMENT

	United States	Australia	Canada
Legislative rights for native involvement	**No** direct rights	No direct rights	Claims agreements validated **by leg** is **lat** ion.
Nature of **nat ive involvement**	Limited largely to public inquiries **or committee** hearings. Limited advisory **role** in parks. **Can negotiate** environmental terms in resource agreements. North Slope Borough can set terms under ptovis **ions for local government.**	Land Councils review **eis's.** Land **Counci** Is have veto power **over** resource **developments &** can negotiate terms in resource agreements.	Amendments to existing assessment procedures to allow explicit native involvement in initial assessment **&** review through joint native-government committees. James Bay **Inuit** have some decision-making powers: Western Arctic **Inuvialuit** have an advisory **role**.
Relationship of native input to decision-making	**Strong relationship** with resource agreements where proprietary interests are at stake. Otherwise a limited advisory role as none is explicitly sanctioned by legislation,	Variable relationship depending on veto rights **&** negotiating parties. Strongest relationship where proprietary interests directly at stake **(e.g. Kakadu** National **Park).**	Strongest where proprietary or legislated interests are at stake. James Bay Agreement potentially has a stronger relationship, however, lnuvialuit committees have had **success thus far** in baving recommendations accepted.

holding by land trust. The effect of these differences for environmental assessment will be addressed in the following section.

C. Native Participation in Environmental Decision-making

Alaska

Direct native involvement in environmental decision-making is limited in Alaska. The ANCSA contains no general provisions concerning environmental protection although some environmental considerations were written into the Act. First, section 17 of ANCSA provided for the establishment of a Federal-State Land Use Planning Commission. According to Hunt (1978), the Commission has had a tremendous impact upon land planning and management despite the fact that it is only advisory. While such an agency need not be tied to any native land settlement. the Alaska Commission has been very active in the implementation of ANCSA.

Second. section 17 (d)(2) of the Act permits the Secretary of the Interior to withdraw up to eighty million acres of Alaskan land for dedication as national parks and wildlife refuges. Gardner and Nelson (1981) found that native Alaskans have contributed to parks planning. In the case of the Gates of the Arctic Park, native corporations have made land trades and agreements with the National Parks Service. The National Parks Service office in Anchorage has a native liaison officer for on-going co-ordination between Alaskan natives and Parks officials.

In addition to the advisory responsibilities previously described, the native people of the Arctic slope gained greater powers of involvement when they incorporated to form a native-controlled. non-tribal regional government called the North Slope Borough (see Figure 2). The Borough has some jurisdiction over land use controls and environmental protection through zoning ordinances and land use

permits. As a local government, it has also secured representation on federal-state-local planning/advisory groups for national petroleum reserve exploration, development and transportation.

Yet other regional corporations did not gain local government status. Outside the Borough, therefore, native participation is largely restricted to public inquiries and committee hearings. Native people are not involved directly in upper-level park management. Only where immediate tenure interests are at stake, can native people become more directly involved through provisions of resource agreements discussed earlier. Thus the role for native participation is strongest where they have secured land-tenure rights. The corporations have acted on behalf of their native constituents to strict acceptable resource agreements or to declare their preference for subsistence values. The corporations have also become active in land use planning issues. There is no legislated right to participate in environmental assessment, however. Therefore, native involvement has tended to be focused at hearings and meetings in an advisory capacity.

Australia

Australian Aboriginals were not granted any special responsibilities within the environmental assessment processes of the Northern Territory. Involvement by native people in the environmental impact assessment process, as with any other interest group or member of the public, has been characteristically restricted to the provision of comments by affected groups (usually through Aboriginal Land Councils in the case of Aboriginal individuals or groups) during review of the draft environmental impact statement. There are no special mechanisms for encouraging or facilitating Aboriginal review and understanding of environmental impact assessment documents. Despite these shortcomings, however, there has been an effort to include native concerns in environmental decision-making. For example, attempts have been made to

produce simplified environmental impact statement reports for aboriginal communities (see Wright, 1986). The Ranger Uranium Environmental Inquiry, headed by Justice Fox, gave much consideration 'to aboriginal interests. The Inquiry made recommendations to establish Kakadu National Park on native land in which aboriginals play a planning role. In addition, the Aboriginal peoples are active in other forms of environmental decision-making arising from their legislated rights.

The aboriginal land rights legislation of the Commonwealth Government established land councils in the Northern Territory with responsibilities for Aboriginal land. The land councils in the Northern Territory have the backing of legislation that also grants reserve land and allows for claims to traditional land providing it is in areas which are unalienated Crown land (Moore, 1983). Much of the pressure for mineral development is in the area of the Northern Land Council, particularly in the Alligator Rivers region (Carroll, 1983).

Although Aboriginals do not own the materials, they can usually veto prospecting on their land. The power of veto, however, is subject to certain exemptions of which the Ranger Uranium Project Area is one (Figures 6a and 6b). Aboriginal consent to development was not required for any project in this area; however, a negotiated agreement with the Northern Land Council over terms and conditions was necessary before development could proceed. In this case, the Northern Land Council did not negotiate with the proponent, but rather with the Commonwealth government.

The resultant agreement contained a number of provisions which were directed towards ensuring environmental quality of particular importance to the local inhabitants. First, all legal requirements to meet environmental standards were to be enforced. Second the Commonwealth government was obliged to provide for health monitoring programs. Third, the Commonwealth was required to protect any sacred sites not adequately protected by legislation at the request of the Northern Land Council. According to Bankes (1983), negotiation with the government rather than the

FIGURE 6A: THE RANGER URANIUM ENVIRONMENTAL INQUIRY REGION

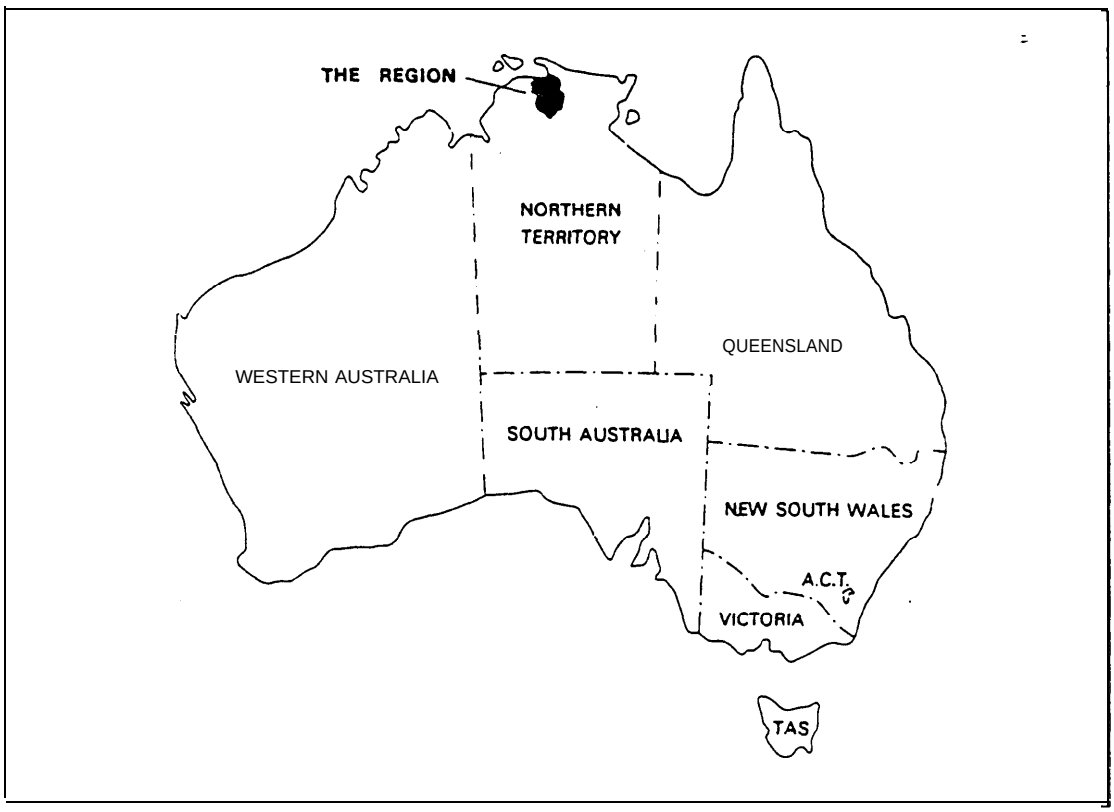
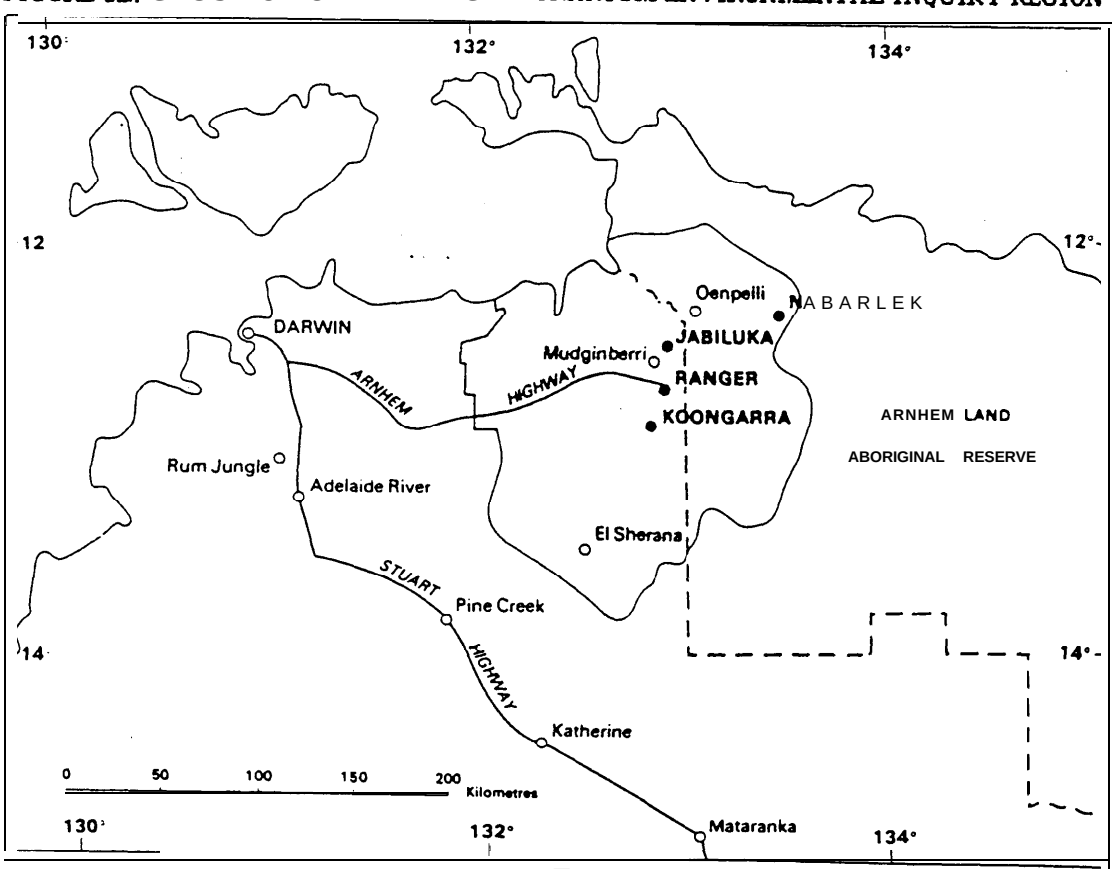


FIGURE 6B: CLOSE-UP OFTHERANGER URANIUM ENVIRONMENTAL INQUIRY REGION



Source (both maps): Fox, 1977, p. x

proponent was only moderately successful from the perspective of environmental protection. The wording of the Agreement was not clear and left the Northern Land Council without a role for inspecting and enforcing the environmental requirements.

In other cases, the land councils can negotiate directly with mining companies interested in conducting exploration activities on land which has tradition significance to its members regardless of the legal status of the land in auestion. The agreement between Queensland Mines Ltd. and the Northern Land Council concerning uranium mining at Nabarlek is one example. This agreement defied environmental protection obligations much more rigorously than those imposed by the Ranger Agreement. The mining method and any proposed changes require approval from the Northern Land Council. In addition, the Northern Land Council obtained inspection rights over the operation. Bankes (1983, p. 159) attributes the differences between the two agreements to the opportunity for the Land Council to negotiate directly with the proponent.

The Northern Territory Mining Act also requires that mining applicants advertise their intentions locally once the government department has selected the most suitable applicant. The application is then referred to the land councils which in turn must consult the traditional aboriginal owners and any other, Aborigines interested in the particular lands in question. By mid-1982, the Northern Land Council had been asked to process 54 such applications for exploration licences (Carroll, 1983).

This system, however, presents problems for native people. The land councils in the Northern Territory, which represent all traditional owners, are funded by mining royalties through an Aboriginal Benefit Trust Account and Department of Aboriginal Affairs loans which are repayable with future royalties. Thus the very existence of land councils depends on the development of interests which are likely to be contrary to the interest of many of the people that the land councils represent (see Vachon and Toyne. 1983).

Carroll (1983) states that it has been acknowledged that the Northern Land Council has not had adequate resources to effectively carry out its responsibilities. Legal action by two different groups of Aborigines who claimed inadequate consultation by the Northern Land Council concerning both the Nabarlek and Ranger agreements indicates something of the problem. Vachon and Toyne (1983) argue that political action rather than negotiated business arrangements will be more effective in establishing an overall strategy for land rights and environmental protection.

Langton (1983, p. 401) suggests that the practice of mining companies in meeting the requirements of environmental assessment has been lax to the detriment of aboriginal peoples. Aboriginal communities and groups are not always given the opportunity to reply to mining company impact statements and traditional Aboriginal activities or economic ventures tend to be overlooked. She recommends that better information in the form of an impact statement be available to aboriginal communities and land councils to obtain their consent before final approval of an exploration licence is granted by the Minister of Aboriginal Affairs. If consent to exploration and mining is not given by Aboriginal communities a judicial inquiry should be appointed to determine whether the exploration or mining activity is 'in the national interest'.

In parks, Aboriginals have guarantied their representation through legislation. Consultation with Aboriginals is required in for park agency management of :

> Land vested in an Aboriginal or Aboriginals, or in a body corporate that is wholly owned by Aboriginals: (b) land held upon trust for the benefit of Aboriginals; or (c) Any other land occupied by Aboriginals' (Territory Parks and Wildlife Conservation Ordinance of 1976 and National Parks and Wildlife Conservation Act of 1975, quoted in Gardner and Nelson, 1981).

Kakadu National Park is one park where aboriginal people are actively involved in planning for and managing the park.

Thus the Australian experience in environmental decision-making is uneven. The land councils offer a potential for a strong influence in the course of economic development although their funding arrangements place them in a potential conflict of interest. The Australian legislation for environmental assessment leaves much avenue for ministerial discretion and has not been modified to ensure native participation in the process. Thus Australian aboriginals are subject to difficulties in obtaining information and their involvement is limited to an advisory capacity, such as any other intervenors in the environmental assessment process.

Canada

In contrast to the previous approaches, northern native people in Canada negotiated specific terms of their involvement in environmental protection. Both the James Bay and Northern Québec Agreement (JBNQA) and the Inuvialuit Final Agreement (IFA) contain a number of measures which specifically address the traditional values of northern communities. These include a guarantied income security programme for people who live by hunting, fishing and trapping as a way of life (James Bay only) establishment of a series of permanent, consultative bodies to ensure native input on wildlife and environmental matters and a process of environmental assessment and review which is independent of the federal and/or provincial processes and legally binding.

Dealing specifically with environmental impact assessment, both agreements established a two-tiered set of procedures to assess and review the impacts on the physical and social environment of development projects located in or affecting the territory covered by the respective agreements. In the case of the James Bay Agreement, these provisions are set out in Chapter 23 and also formed the basis of an amendment to Quebec's Environment Quality Act. The Inuvialuit Final Agreement also establishes an environmental Impact Screening and Review Process which is outlined

in Section 11 of the agreement which is also enforced by legislation which validates the Agreement. Both these Agreements place a legal obligation upon all development proponents to comply with its provisions. The processes must be applied before any permits or licences may be granted by government. Thus, by placing environmental assessment within a legislative context, these Agreements strengthen the overall provisions for consideration of environmental and social impacts of development projects.

According to the Agreements, the Process applies to all levels of projects, regardless of whether they are national, federal, regional or local in scope. The procedures are to include both biophysical and social impacts. There is considerable uncertainty about whether the procedures are to include only physical projects or government policies as well (see Keeping, 1986, p. 30). Current practice indicates, however, that projects, rather than development policies or programmes will be the focus of attention.

There are two slightly different approaches to decision-making taken in each agreement. The powers of the Inuit bodies of the James Bay Agreement are fairly broad. For example, the joint government-Inuit Kativik Environmental Quality Commission (EQC), established in Section 23.3 of the Agreement is involved in both preparing directives for a development proponent and reviewing the impact statement in Inuit territory. At the review stage of an impact assessment statement, the Review Committee and the Kativik Environmental Quality Commission may receive representations. The representations come chiefly from native agencies such as regional governments, Cree village corporations and Inuit municipalities. However, there are no special legal provisions for this kind of representation when the directives for the preparation of the impact studies are issued. After reviewing the statement, the Commission is further empowered to "decide whether or not a development may be allowed to proceed by the Québec administrator and what

conditions, if any, shall accompany such approval or refusal" (s. 23.3.21). Under section 23.3 the Administrator (a government agent who changes with each project) can modify or change the EQC's decision, or decide otherwise, only with the prior approval of the Québec Minister. The Deputy Minister must send this decision to the proponent unless he substitutes his own decision after obtaining approval from the Minister.

Under Section 11 of the Inuvialuit Final Agreement, the environmental impact screening committee was created to assess whether a proposed development requires detailed environmental impact assessment and a second body, the environmental impact review board, was established to out any formal assessments deemed to be necessary by the Screening Committee. Both screening committee and review board are composed of equal numbers of (federal and territorial) Government and Inuvialuit participants. Once a submission is received, the screening committee is charged to expeditiously evaluate the proposal and make a written report to the governmental body competent to authorize the development. There is no provision in the Final Agreement to allow the screening committee turn down a project at the screening stage.

The screening committee may make recommendations for terms and conditions of a proposal but must refer a proposal to its own review board or to a government-sponsored public review if it believes that there will be significant negative environmental impacts arising from development. It is not clear whether provisions under the review board would incorporate all the characteristics of a government-sponsored review. The review board is then empowered to recommend abandonment of a project to the proponent Minister. While the Minister may modify the recommendation of the review board, any modifications must be explained in writing by the government authority within 30 days of the recommendation (Section 11. (29)). This written response must also be made public.

The provisions in Canada for native participation in environmental assessment are the most explicit. These modifications serve to arrest the former trend which confined screening procedures to the sponsoring government department and required only voluntary compliance with the principles of environmental assessment. These requirements strengthen the framework for environmental assessment by reducing the discretion for compliance and providing for more broadly based input at the regional level.

D. Comparative Summary of Institutional Approaches

The roles played by native peoples in environmental impact assessment processes vary widely (see Table 3). Their role appears to be strongest in Canada where the resolution of claims incorporated institutional changes to the environmental impact assessment framework. Legislation based on negotiated agreement has provided greatest opportunity for native involvement and influence in decision-making, Yet, where native inhabitants have maintained land tenure, they have secured legal rights to participate in project decisions and environmental planning. Mechanisms such as native corporations and aboriginal land councils ensure that native people maintain some influence over land use and input into the planning process.

In this respect, the Australian approach offers some positive suggestions for future settlements. The Australian Act provides for Aboriginal ownership to large tracts of land in a form that recognizes and is compatible with customary concepts,

TABLE 3: COMPARISON OF NATIVE INVOLVEMENT IN ENVIRONMENTAL IMPACT ASSESSMENT

	United States	**Australia**	**Canada**
Legislative rights for native involvement	**No direct rights**	**No direct** rights	Claims agreements validated by **legislation.**
Nature of native involvement	Limited largely to public inquiries or committee hearings. Limited advisory role in parks. Can negotiate environmental terms in resource agreements. North Slope Borough can set terms under provisions for local government.	Land Council Is review eis's. Land Council Is have veto power over resource developments & can negotiate terms in resource agreements.	Amendments to existing assessment procedures to allow explicit native involvement in initial assessment & review through joint native-government committees . James Bay Inuit have some decision-making powers; Western Arctic Inuvialuit have an advisory role.
Relationship of native input to decision-making	Strong relationship with resource agreements where proprietary interests are at stake. Otherwise a limited advisory role as none is explicitly sanctioned by legislation.	Variable relationship depending on veto rights & negotiating parties. Strongest relationship where proprietary interests directly at stake (e.g. Kakadu National Park).	Strongest where proprietary or legislated interests are at stake. James Bay Agreement potentially has a stronger relationship, however, Inuvialuit committees have had success thus far in having recommendations accepted.

without extinguishing aboriginal title.[6] This provision enables Aboriginal owners to exert some influence in relation to subsurface development. For example, Gardner and Nelson (1981) found that native involvement in park planning was most intense in Kakadu National Park in Australia where aboriginal ownership of the park has been maintained.

The Australian land councils and American native corporations have provided an avenue for influence over environmental decisions, however, these institutions are faced with the contradiction of being directly or indirectly financed through the development interests they seek to restrict/regulate. Only in Canada have bodies been independently established to undertake environmental assessment. In part. this has come about from greater political awareness of native groups in Canada. The Canadian natives have been adamant that their claims resolutions are coupled with the evolution toward self-government in the Yukon and Northwest Territories (Hunt, 1983). In part, this may also be due to the process of negotiation established by the federal government in 1973 in which these issues form the basis for agreement.

For all countries, new opportunities and/or institutions have been created to provide for some level of native involvement in environmental decision-making. They have been mainly constructed after southern-based models and are generally subject to review or exemption by senior levels of government. Native participation has been restricted by the lack of experience of native people in presenting their views through channels available to them and the prevailing "southern-based" attitude that native participants do not have the technical expertise to contribute in a meaningful way (see

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[6] On March 3, 1986 the federal government of Australia officially abandoned its preferred model of national land rights legislation and announced that in future land rights would proceed on the basis of state by state consultation. In Northern Territory the government was working to amend the Aboriginal Land Rights Act of 1976. The plans were to repeal mining sections to stop any vetos and lessen royalties: it would prohibit using pastoral land for communities and prevent Aborigines taking the government (federal or territory) to court if their rights are violated (see Gray, 1987). These proposals created a storm of protest and to date, have not been passed.

Reed, 1987). Some commentators have questioned the overall appropriateness of procedures which were initially established for environmental assessment and have been adapted to include native peoples in decision-making (see Feit, 1982; Wright, 1986). Given these circumstances, the potential for native people to strengthen their role in environmental decision-making must be realized through government recognition of their legitimate interests and abilities to undertake assessment and management positions. The opportunities for enhancing the role of native people in environmental decision-making are examined in the final section.

OPPORTUNITIES FOR NATIVE INVOLVEMENT INENVIRONMENTAL IMPACT ASSESSMENT

Feit (1983) correctly points out that native claims agreements are only one step in a process by which indigenous peoples can redefine their relations to dominant societies and thereby attempt to direct their own futures. Agreements are one set of tools in a process of changing objectives and opportunities. As such, agreements should provide for certain safeguards and simultaneously maintain flexibility in structures to ensure a continuing relationship between indigenous peoples and government with the resources for native peoples to actively pursue their own interests.

In this vein, it is possible to examine the approaches to environmental impact assessment and native claims previously discussed to determine what qualities would be useful in maintaining such a relationship. The American approach to environmental impact assessment is characterized by open access to information and a systematic approach which delineates a clear relationship between assessment and decision-making. Such an open approach will be important to native participants in environmental assessment so that they can have access to all relevant information regarding development at the earliest stage of project application.

In two of the countries examined, environmental assessment procedures are established in legislation. In the United States, where the legislation is stated in mandatory terminology and can be enforced by the courts, legislation has provided a strong basis for ensuring consideration of environmental values in project evaluation. The system in Australia, however, is markedly different. The legislation is set within a context of Ministerial discretion regarding its application and procedural requirements coupled with a high degree of government secrecy. Legislation, therefore, has not resulted in a stronger base for environmental considerations than in Canada.

In the case of native involvement in assessment, however, legislation is viewed as beneficial. In Canada, where native claims agreements are validated through legislation, aboriginal peoples are involved in environmental assessment to the greatest extent. The mandatory language of the agreements strengthens the environmental impact assessment framework and ensures a participatory role for the respective native organizations, exemptions under the James Bay agreement notwithstanding. In addition, the procedures in the James Bay agreement grant the reviewing committee decision-making powers. Such powers provide a strong basis for concerns of native participants to be addressed through the assessment process.

Although mandatory native involvement in environmental assessment is absent in Australia and the United States, their proprietary rights offer them some basis for participation in ensuring the consideration of environmental and social impacts associated resource development. The Australian experience has shown an improved ability of Aboriginal land councils to negotiate safeguards against negative biophysical and cultural impacts from mining and a strong influence in park planning. The power of the land councils to veto development of unproved mineral reserves is an important means by which to protect traditional land uses and to ensure native participation in the decision-making process.

The North Slope Borough of Alaska has also established a strong basis from which to regulate environmental impacts rising from oil and gas production and transportation. These options are not precluded in Canada either. In the Western Arctic, the Inuvialuit have introduced safeguards in the resource agreements negotiated with petroleum companies (see Inuvialuit Land Administration, 1986?). Yet, in the absence of an independent assessment process, native organizations which negotiate resource agreements can be subject to conflicts of interest. The land councils of Australia are funded by royalties from mining; the regional corporations of Alaska are designed to be profit inducing, not environmental watch-dogs. Thus an independent assessment process, such as those provided in the Canadian model, is considered an integral part of native involvement in environmental decision-making.

The support for direct native involvement in environmental assessment is sanctioned with three important qualifications. First, environmental assessment procedures which involve native organizations must make an explicit commitment to consider social, cultural and economic impacts as well as biophysical impacts of resource development. The linkages among these elements are strong and inseparable and must be considered together in any evaluation of project proposals.

Second, such a procedure is only as good as the commitment to make the process work. This commitment will be enforced if native people are granted credibility by government officials. This credibility will be evidenced by open access to information, adequate funding of joint native-government assessment bodies, training of native people, if necessary, to take on positions of authority and an articulated confidence by government and industry in the ability of native people to carry out these functions. This confidence will be demonstrated by serious consideration to and inclusion of recommendations and decisions made by the new assessment bodies.

Third, there is place to question in a general way the appropriateness of environmental assessment procedures as a forum for the expression of native rights.

Assessment procedures were not designed to meet native requirements per se and their whole-scale adoption in Canadian native claims agreements is a legitimate concern, particularly where the potential for overlap with other processes (native or government) is high. Distribution of economic and environmental costs and benefits among regions, actors and generations involve questions of continuing importance and demand flexible means of response. Thus assessment processes will be judged, at least in part, by the extent to which they contribute to improving the opportunities for native people to determine their own futures.

It is important to realize that native involvement in environmental assessment is only one means of ensuring recognition of aboriginal rights and responsibilities. In Canada, native claims agreements are part of a re-orientation towards regionalization of political power in the northern territories. Assessment procedures are combined with other institutions now in place or which will be created as new agreements are signed between aboriginal organizations and the federal government. Coupled with the devolution of powers to the territorial governments, native claims agreements overall represent part of a movement towards development of stronger regional institutions. The negotiating process will necessarily incorporate mechanisms for integration of government and native institutional arrangements as well as financial and logistical support. Preservation of environmental values must be undertaken within a policy framework which accounts for a plurality of interests from extractive activities to renewable resource harvesting, wilderness preservation to community development. Ultimately the nature of claims agreements and environmental assessment procedures therein will depend on the aims and policies of the parties involved. Recognition of the rights of native people to become direct participants in the decision-making process is a positive step towards ensuring their cultural, social and economic well-being.

REFERENCES

Anders, G. and Anders, K. (1987) 'Incompatible Goals in Unconventional Organizations: The Politics of Alaska Native Corporations' pp. 133-158 in Lane, T. (ed.) Developing America's Northern Frontier, Lanham, University Press of America.

Andrews, W.J. (1987) 'The Public Interest Perspective' pp. 20-25 in Tingley, D. (ed.) Environmental Protection and the Canadian Constitution, Edmonton, Environmental Law Centre.

Australian Environmental Council (1984) Guide to Legislation and Administrative Arrangements in Australia, Canberra, Australian Government.

Bacow, L.S. and Wheeler, M. (1984) Environmental Dispute Resolution, New York, Plenum.

Bankes, N. (1983) Resource-leasing Options and the Settlement of Aboriginal Claims. Ottawa: Canadian Arctic Resources Committee,

Barnett, D.M., Desjardins, D. and Friesen, R. (1984) 'Environmental Assessment and Review Process (EARP) in the Northern Affairs Program. Department of Indian Affairs and Northern Development: Information for Proponents'. (Draft). Ottawa: Indian and Northern Affairs Canada.

Beanlands, GE. and Duinker, P.N. (1983) An Ecological Framework for Environmental Impact Assessment in Canada. Halifax: Institute for Resource and Environmental Studes and Federal Environmental Assessment Review Office.

Berger, TR., (1985) Village Journey: The Report of the Alaska Native Review Commission. New York: Hill and Wang.

Berger, T.R. (1983) 'Native History, Native Claims and Self-determination' B.C. Studies, 56, 10-23.

Berger, TR.. (1977) Northern Frontier. Northern Homeland. 2 Vols. Ottawa: Supply and Services.

Berkes, F., (1981) "Fisheries of the James Bay Area and Northern Quebec: A Case Study in Resource Management" in Freeman, M.M.R., (ed.), Proceedinns: First International Symposium on Renewable Resources and the Economy of the North, Ottawa: Association of Canadian Universities for Northern Studies. 143-160.

Boldt, M. and J. A. Long (eds.) (1985) The Guest for Tustice: Aboriginal Peoples and Aboriginal Rights. Toronto: University of Toronto Press.

Burton, I. and Wilson, J. and Munn, R.E. (1983) 'Environmental Impact Assessment: National Approaches and International Needs' Environmental Monitoring and Assessment. 3. 133-150.

Canada, Department of Indian Affairs and Northern Development (1985) Living Treaties: Lasting Agreements. Report of the Task Force to Review Comprehensive Claims Policy. Ottawa. Department of Indian Affairs and Northern Development.

Canada, Department of Indian Affairs and Northern Development (1984a) 'Co-operative Environmental Assessment: A Northern Affairs Program Guide' (Draft). Ottawa, Northern Environmental Protection Branch.

Canada, Department of Indian Affairs and Northern Development (1984b) 'Environmental Impact Assessment: Guidelines for Environmental Screening' (Draft). Ottawa, Technical Services and Contract Branch.

Canada, Department of Indian Affairs and Northern Development (1984c) The Western Arctic Claim: The Inuvialuit Final Agreement. Ottawa, Department of Indian Affairs and Northern Development.

Canada, Department of Indian Affairs and Northern Development (1981a) In All Fairness: A Native Claims Policy, Comprehensive Claims. Ottawa, Supply and Services.

Canada, Department of Indian Affairs and Northern Development (1981b) Northern Natural Resource Development: Requirements, Procedures, and Legislation. Ottawa, Northern Affairs Program.

Canada, Department of Indian Affairs and Northern Development (1978) Native Claims. Policy, Processes and Perspectives. Ottawa. Supply and Services.

Canada, Federal Environmental Assessment Review Office (1987) Reforming Federal Environmental Assessment: A Discussion Paper, Ottawa, Supply and Services.

Canada, Federal Environmental Assessment Review Office (1979) Revised Guide to the Federal EARP. Ottawa, Supply and Services.

Canadian Environmental Assessment Research Council (1985) Social Impact Assessment: A Research Prospectus, Hull, Supply and Services.

Carroll, P. (1983) 'Uranium and Aboriginal Land Interests in the Alligator Rivers Region' pp. 33-357 in Peterson, N. and Langton, M. (eds.). Aborigines, Land and Land Rights, Canberra, Australian Institute of Aboriginal Studies.

Case, D.S. (1984) Alaska Natives and American Laws, Fairbanks, University of Alaska Press.

Chatzimikes, F. (1983) 'A Method for Evaluating Environmental Impacts from Land Development Projects' pp. 235-252 in PADC Environmental Impact Assessment and Planning Unit (eds.), Environmental Impact Asessment, Boston, Martinus Nijhoff.

Cooley, R.A., 1984. "Evolution of Alaska Land Policy" in Morehouse, T.A. (ed.), Alaskan Resources Development; Issues of the 1980s. Boulder, Colorado: Westview Press. 13-50.

Couch, W.J. (1985) Environmental Assessment in Canada: 1985 Summary of Current Practice, Ottawa, Canadian Council of Resource and Environment Ministers.

Couch, W.J.. Herity, JE. and Munn, R.E. (1983) 'Environmental Impact Assessment in Canada' pp. 41-59 in PADC Environmental Impact Assessment and Planning Unit (eds.), Environmental Impact Asessment, Boston, Martinus Nijhoff.

Dimensions Planning Ltd. (1986) 'An Assessment of the Impact of Regulatory Regimes on Oil and Gas Exploration on Land North of 60°' (Consultant's Report). Calgary.

Duffy, P. J.B. (ed.) (1986) Initial Assessment Guide Federal Environmental Assessment and Review Process, Ottawa, Federal Environmental Assessment and Review Office.

Éditeur officiel du Québec (1976) The James Bay and Northern Quebec Agreement, Quebec, Éditeur officiel du Québec.

Edwards, B. (1983) 'Pitjantjatjara Land Rights' pp. 294 -304 in Peterson, N. and Langton, M. (eds.), Aborigines, Land and Land Rights, Canberra, Australian Institute of Aboriginal Studies.

Elder, P.S. (1985) 'The Federal Environmental Assessment and Review Process Guidelines Order', Canadian Institute for Resources Law Bulletin, 13, 4-5.

Ervin A.M. (1981) 'Contrasts Between the Resolution of Native Land Claims in the United States and Canada Based on Observations of the Alaska native Land Claims Movement' The Canadian Journal of Native Studies. 1.123-139.

Feit, H.A. (1984) 'Conflict Areas in the Management of Renewable Resources in the Canadian North: Perspectives Based on Conflicts and Responses in the James Bay Region, Quebec' pp. 435-458 in Canadian Arctic Resources Committee, (eds.), National and Regional Interests in the North: Third National Workshop on People, Resources and the Environment North of 60°, Ottawa, Canadian Arctic Resources Committee.

Feit, H (1983) 'Negotiating Recognition of Aboriginal Rights: History, Strategies and Reactions to the James Bay and Northern Quebec Agreement' pp. 416-438 in Peterson, N. and Langton, M. (eds.), Aborigines, Land and Land Rights, Canberra, Australian Institute of Aboriginal Studies.

Feit, H (1982) 'Protecting Indignous Hunters: The Social environmental Protection Regime in James Bay and Northern Quebec Land Claims Agreement' pp. 290-321 in Geisfer, C.C. and Green, R. and Usner, D. and West, P.C. (eds.) Indian SIA: The Social Impact Assessment of Rapid Resource Development on Native Peoples, Michigan, University of Michigan, Natural Resources Sociology Research Lab.

Fenge, T. and Smith, G. (1986) 'Reforming the Federal Environmental Assessment and Reivew Process' Canadian Public Policy, 12, 596-605.

Formby, J. (1987) 'The Australian Government's Experience with Environmental Impact Assessment' Environmental Impact Assessment Review, 3. 207-226.

Formby, J. (1986) 'Environmental Policies in Australia - Climbing the Down Escalator' pp. 183-2221 in Park, C.C. (ed.), Environmental Policies: An International Review, London, Croom Helm.

Fowler, R. J. (1981) 'The Assessment Process as it Works within State or Provincial and Federal Governments: The Australian Experience' pp. 190-259 in Clark, S.D. (ed.), Environmental Assessment in Australia and Canada, Vancouver. Westwater Reserach Centre.

Fox, R.W. (1977) Ranger Uranium Environmental Inquiry: Second Report, Canberra, Commonwealth of Australia.

Fox, R.W. (1976) Ranger Uranium Environmental Inquiry: First Report, Canberra, Commonwealth of Australia.

Gardner, J.E. and Nelson, J.G. (1981) 'National Parks and Native Peoples in Northern Canada, Alaska, and Northern Australia' Environmental Conservation, 8, 207-215.

Geisler, C.C. and Green, R. and Unsner, D. and West, P. (1982) Indian SIA: The Social Impact Assessment of Rapid Resource Development on Native Peoples. Michigan Ann Arbor.

Government of the Northwest Territories. Energy and Resource Development Secretariat (1983) Resource Development Policy, Yellowknife, Government of the Northwest Territories.

Gondolf, E.W. and Wells, S.R. (1986) Empowered Native Community, Modified SIA: The Case of Hydaburg, Alaska' Environmental Impact Assessment Review, 6, 373-383.

Gray, A. (1987) IWGIA Yearbook 1986, International Work Group for Indigenous Affairs, Copenhagen, Denmark.

Hansen, J.C. (1972) 'Regional Disparities in Norway with Reference to Marginality' Transactions. Institute of British Geographers, 57, 15-29.

Holisko, G.H. (1980) 'The Environmental Assessment and Review Process: an Analysis of the Screening Phase' Unpublished M.A. Thesis, Vancouver, University of British Columbia, School of Community and Regional Planning.

Hollick, M. (1980) 'Environmental Impact Assessment in Australia: The Federal Experience' Environmental Impact Assessment Review, 1, 330-336.

Hunt, C. (1983) 'The Aboriginal Land rights (Northern Territory) Act 1976: an Outsider's Perspective' pp. 455-462 in Peterson. N. and Langton. M. (eds.), Aborigines, Land and Land Rights, Canberra, Australian Institute of Aboriginal Studies.

Hunt, CD. (1978) 'Approaches to Native Land Settlements and Implications for Northern Land Use and Resource Management Policies' pp. 5-41 in Keith, R. F. and Wright, J.B. (eds.), Northern Transitions: Second National Workshop on People, Resources, and the Environment North of 60º, Ottawa, Canadian Arctic Resources Committee.

Hunt. C. and Rounthwaite, H.I. and Saunders, J.O. (1985) 'Environmental Protection and Resource Development: Legislation, Policy and Institutions' pp. 11-46 in Sadler, B. (ed.), Environmental Protection and Resource Development: Convergence for Today, Banff, Alta., The Banff Centre for Continuing Education.

IUCN (International Union for tht Conservation of Nature and Natural Resources) (1980) World Conservation Strategy: Living Resource Conservation for Sustainable Development, Switzerland, IUCN.

Inuvialuit Land Administration (1986?) 'Rules and Procedures of the Inuvialuit Land Administration' (Draft), Tuktoyaktuk, Northwest Territories.

Jacobs, P. (1985) 'Achieving Sustainable Development' Landscape Planning. 12, 203-209.

Jacobs. P. (1985). 'A Sustainable Society Through Sustainable Development: Towards a Regional Development Strategy for Northern Québec' Landscape Planning. 12, 267-283.

Kativik Environmental Advisory Committee (1982) Environmental and Social Protection Regime North of the 55th Parallel, Kuujjuaq. Kativik Environmental Advisory Committee.

Keeping, J. (1986) 'An Interpretation of the Imapct of the Inuvialuit Final Agreement on Oil and Gas Activities North of the 60th Parallel' (Draft). Calgary, Canadian Institute of Resources Law.

Lane, T. (1987) 'Introduction' pp. xiii-xix in Lane, T. (ed.) Developing America's Northern Frontier, Lanham, University Press of America.

Langton, M. (1983) 'A National Strategy to Deal with Exploration and Mining on or near Aboriginal Land' pp. 385-402 in Peterson, N. and Langton, M. (eds.), Aborigines, Land and Land Rights, Canberra, Australian Institute of Aboriginal Studies.

Larson, R. (1986) 'Northern Land Use Planning and Environmental Impact Assessment' Unpublished policy paper, Yellowknife, Department of Renewable Resources.

Marshall, D. and Sadler, B. 'and Secter, J. and Wiebe, J. (1985) Environmental Management and Impact Assessment: Some Lessons and Guidance from Canadian and International Experience. Occasional Paper prepared for Workshop on Environmental Impact Assessment Procedures in Australia, Canada and New Zealand, Wellington, New Zealand, March 27-29, 1985, Ottawa, Federal Environmental Assessment Review Office.

Moore, B. (1983) 'The Victorian Aboriginal Land Council' pp. 241-249 in Peterson, N. and Langton, M. (eds.), Aborigines, Land and Land Rights, Canberra, Australian Institute of Aboriginal Studies.

Morse, B.W. (1985) (ed.), Aboriginal Peoples and the Law:* Indian, Metis and Inuit Rights in Canada. Ottawa, Carleton University Press,

Morse. B.W. (1985) 'The Resolution of Land Claims' pp. 617-683 in Morse, Bradford W., (ed.), Aboriginal Peoples and the Law: Indian, Metis and Inuit Rights in Canada. Ottawa: Carleton University Press.

Nutter, D. (1986) 'Aboriginal Land Claims in the NWT' Unpublished discussion paper, Yellowknife, NWT Chamber of Mines.

Pell, D. and Wismer, S. (1987) 'The Role and Limitations of Community-Based Economic Development in Canada's North' Alternatives, 14, 31-38.

Peterson, N. and Langton, M. (1983) 'Introduction' pp. 3-12 in Peterson. N. and Langton. M. (eds.), Aborigines, Land and Land Rights, Canberra, Australian Institute of Aboriginal Studies.

Reed, M.G. (1987) 'Environmental Assessment and Aboriginal Claims: Implementation of the Inuvialuit Final Agreement' Unpublished M.A. Thesis, Toronto, University of Toronto, Department of Geography.

Rees, WE. (1980) 'EARP at the Crossroads: Environmental Assessment in Canada Environmental Impact Assessment Reivew, 1, 355-377.

Rees, J. (1985) Natural Resources: Allocation. Economics and Policy, Methuen, London.

Robinson, R.M. (1982) Environmental Impact Assessment: Government Decision-making in Public, Occational Paper no. 10, Ottawa, Federal Environmental Assessment Review Office.

Rosenbaum, W.A. (1985) Environmental Politics and Policy, Washington, D.C., Congressional Quarterly.

Sewell, W.R.D. and Foster, H.D. (1981) &Assessment of Canadian Environmental Policies on Offshore Development, Ottawa, Environment Canada.

Slater, R.W. (1987) 'The Federal Perspective' pp. 7-13 in Tingley, D. (ed.) Environmental Protection and the Canadian Constitution, Edmonton, Environmental Law Centre.

Stevens, S.V. (1987) 'Indian Rights to Environmental Protection: A Constitutional Basis' pp. 44-47 in Tingley, D. (ed.) Environmental Protection and the Canadian Constitution, Edmonton, Environmental Law Centre.

Usher, P.J. (1981) 'Sustenance or Recreation?: The Future of Native Wildlife Harvesting in Northern Canada' in Freeman. M.M.R. (ed.), Proceedings: First International Symposium on Renewable Resources and the Economy of the North, Ottawa, Assocation of Canadian Universities for Northern Studies.

Vachon, D. and Toyne, P. (1983) 'Mining and the Challenge of Land Rights' pp. 307-326 in Peterson, N. and Langton, M. (eds.), Aborigines, Land and Land Rights, Canberra, Australian Institute of Aboriginal Studies.

Wandeforde-Smith, G. (1980) 'International Perspectives on Environmental Impact Assessment' Environmental Impact Assessment Review, 11, 53-64.

Whittington, M.S. (1985) 'Political and Constitutional Development in the N.W.T. and Yukon: The Issues and Interests' pp. 53-108 in Whittington, MS. (ed.), The North: A Report for the Royal Commission on the Economic Union and Development Prospects for Canada Toronto, University of Toronto Press.

Whitney, J.B.R. and V. W. Maclaren (eds.) (1985) Environmental Impact Assessment: The Canadian Experience, Toronto, University of Toronto Press.

Wolf, C.P. (1983) 'The U.S. Model of Environmental Impact Assessment pp. 21-40 in PADC Environmental Impact Assessment and Planning Unit (eds.), Environmental Impact Asessment, Boston, Martinus Nijhoff.

World Commission on Environment and Development (1987) Our Common Future, Oxford, Oxford University Press.

Wright, P. (1986) 'Environmental Impact Assessment and Native People: A Preliminary Review of Developments in Northern Canada and Northern Australia' Unpublished M.E.S. Thesis, Halifax, Dalhousie University.