

**THE NORTHERN
QUEBEC AGREEMENTS
GOVERNMENT OF
CANADA INVOLVEMENT**

B.C. • BIBLIOTHÈQUE
UNIVERSITÉ DE SHEPPARD



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of Canada

Gouvernement
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INTRODUCTION

The James Bay and Northern Quebec Agreement and the Northeastern Quebec Agreement have brought about major changes in the administration of Northern Quebec. Local and regional governments have been established and a new sharing of responsibilities has been defined between these administrations, the government of Quebec and the government of Canada.

There are now two ways in which the federal government is involved in the territory covered by the Northern Agreements: firstly, it provides services and administers programmes available throughout Canada, such as postal service, unemployment insurance, etc; secondly, it participates directly in specific regimes established under the Agreements.

This document sets out the responsibilities and participation of three federal departments involved in these regimes, the Departments of Indian and Northern Affairs, Environment, and Fisheries and Oceans.

HISTORY OF FEDERAL GOVERNMENT INVOLVEMENT IN NORTHERN QUEBEC

The British North America Act (Section 91.24) gave the central government legislative authority respecting the Indians and lands reserved for their use. To this effect the federal government adopted, in 1874, the Indian Act defining its rights and duties with respect to the Indians. The Department of Indian and Northern Affairs has the responsibility for the Administration of this Act.

Furthermore, in 1939, the Superior Court of Canada recognized that the Inuit might be included in the definition of "Indian" and that the federal government therefore had special responsibilities toward them. To this end, the Department of Indian and Northern Affairs has implemented various programs for the Inuit population of Canada.

For several decades, the federal government has therefore provided the Indian and Inuit communities of Northern Quebec with services at first limited, but which were extended from the '50s to a large range of fields including health care, social services, education, economic development, water and electricity supply, housing, road maintenance, etc.

PARTICIPATION IN NEGOTIATIONS AND SIGNING OF AGREEMENTS

Federal government participation in negotiating original rights for the native peoples of northern Quebec is based on several historic events and on various laws.

After the English conquest, the land situated between Quebec limited to the St. Lawrence Valley and Rupert's Land was defined by the Royal Proclamation of 1763 as being Indian territory. Rupert's Land was then ceded to Canada by the Rupert Land Acts 1868-70 which stipulated that Canada must negotiate Indian title surrender. In 1898, without the obligation being fulfilled, Rupert's Land was transferred to the Province of Quebec. The 1912 Quebec Boundaries Extension Act, required that the Province negotiate the surrender of aboriginal rights on this land, and that Canada ratify these agreements.

When the Government of Quebec announced the James Bay hydro-electric development project on April 30, 1971, the surrender of the aboriginal rights had not been negotiated. Invoking these rights, the Crees obtained a interlocutory injunction in the Malouf judgment of November 1973.

Although, the judgment was reversed a few days later, the parties went to the negotiating table in order to settle the question of aboriginal rights in the James Bay and Northern Quebec Territory. The federal and provincial governments, the James Bay Crees, the Northern Quebec Inuit and the promoters (James Bay Development Corporation, James Bay Energy Corporation and the Quebec Hydro-Electric Commission (Hydro-Quebec)) reached an agreement in principle in November 1974 which was to lead to the signing of the James Bay and Northern Quebec Agreement on November 11, 1975.

The Naskapis were subsequently associated with this process and on January 31, 1978 signed the Northeastern Quebec Agreement, a complement to the James Bay and Northern Quebec Agreement. Five other complementary agreements have been signed from 1978 to 1980.

THE AGREEMENTS

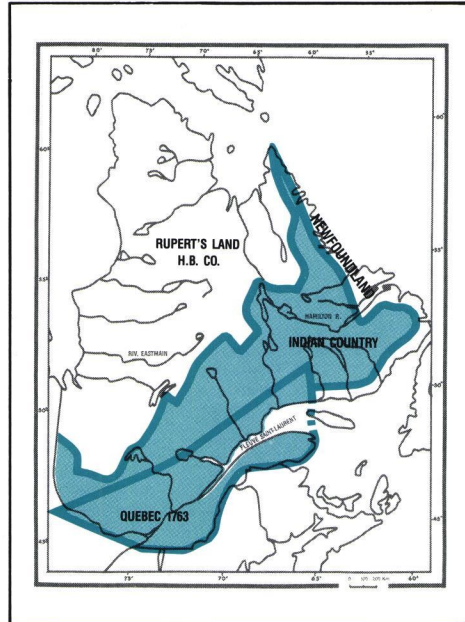
By virtue of the Agreements, the Inuit, the Crees and the Naskapis surrendered non-defined aboriginal rights on the Northern Quebec Territory for specific rights and benefits. Besides monetary compensations, the Agreements have, in effect, defined the rights of the native peoples living in the Territory and established the framework for future relations between natives and non-natives, between local, regional, provincial and federal governments.

In general, the provisions of the Agreements defined the jurisdiction of Quebec over this territory. However, specific mechanisms have been provided for the participation of native peoples in the decision - making process regarding the management and the development of the Territory. Agencies similar to those serving the rest of the Province, but controlled by the native peoples themselves, were established to directly deliver services such as education and health care to the population.

Moreover, specific powers were delegated to local governments. In accordance with the Agreement, the Inuit communities were incorporated as municipalities under Quebec law. In 1984, the Government of Canada adopted the *Cree-Naskapi (of Quebec) Act* which provides the local governments with powers to manage and regulate the lands set aside for their use, and to administer local affairs in other respects.

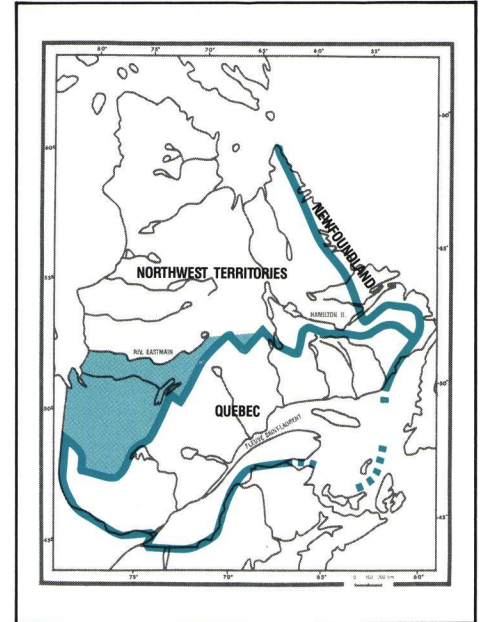
**TERRITORIAL
APPROPRIATION**

1763



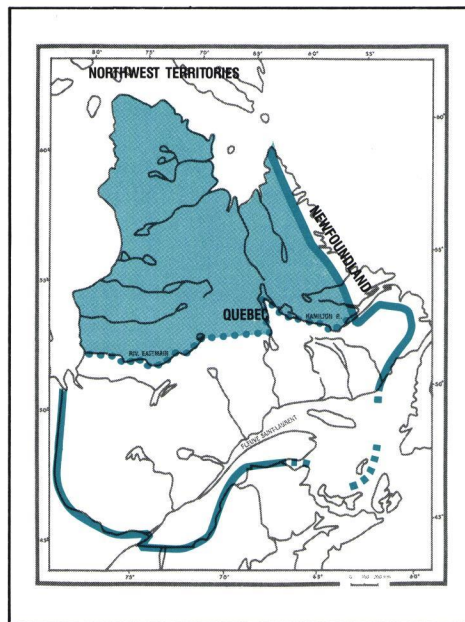
INDIAN RIGHTS GUARANTEED BY SEC. 40 OF THE CAPITULATION AND BY THE ROYAL PROCLAMATION OF QUÉBEC, 1763.

1868-1870



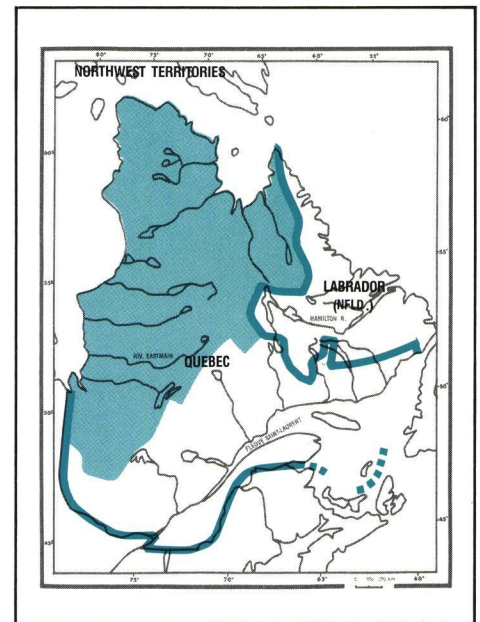
INDIAN RIGHTS GUARANTEED BY THE RUPERT ACT OF 1868-70.

1912



QUEBEC BOUNDARIES EXTENSION ACT, 1912.
..... LIMITS IN 1898.

1975-1978



ABORIGINAL RIGHTS IN THE JAMES BAY AND NORTHERN QUEBEC TERRITORY AND NORTHERN QUEBEC AGREEMENT SIGNING OF THE JBNQA, 1975 AND THE NEQA, 1978.

FIGURE 1

SOURCES: Commission d'étude sur l'intégrité du territoire du Québec. Dossier cartographique, Le Québec septentrional, 1985

**THE FEDERAL
GOVERNMENT ROLE
AFTER THE
AGREEMENTS**

Federal government involvement in the Territory has been modified appreciably since 1975. Instead of dispensing services, its role in many areas now consists of subsidizing the costs of the services for which it was previously responsible, but which are now provided by the local governments. The federal government participates in several regimes set up by the Agreements concerning the management of the Territory and its resources. The Departments of Indian and Northern Affairs, Environment and Fisheries and Oceans are primarily involved in these regimes.

**FEDERAL DEPARTMENTS
INVOLVED IN THE
IMPLEMENTATION OF
NORTHERN QUEBEC
AGREEMENTS**

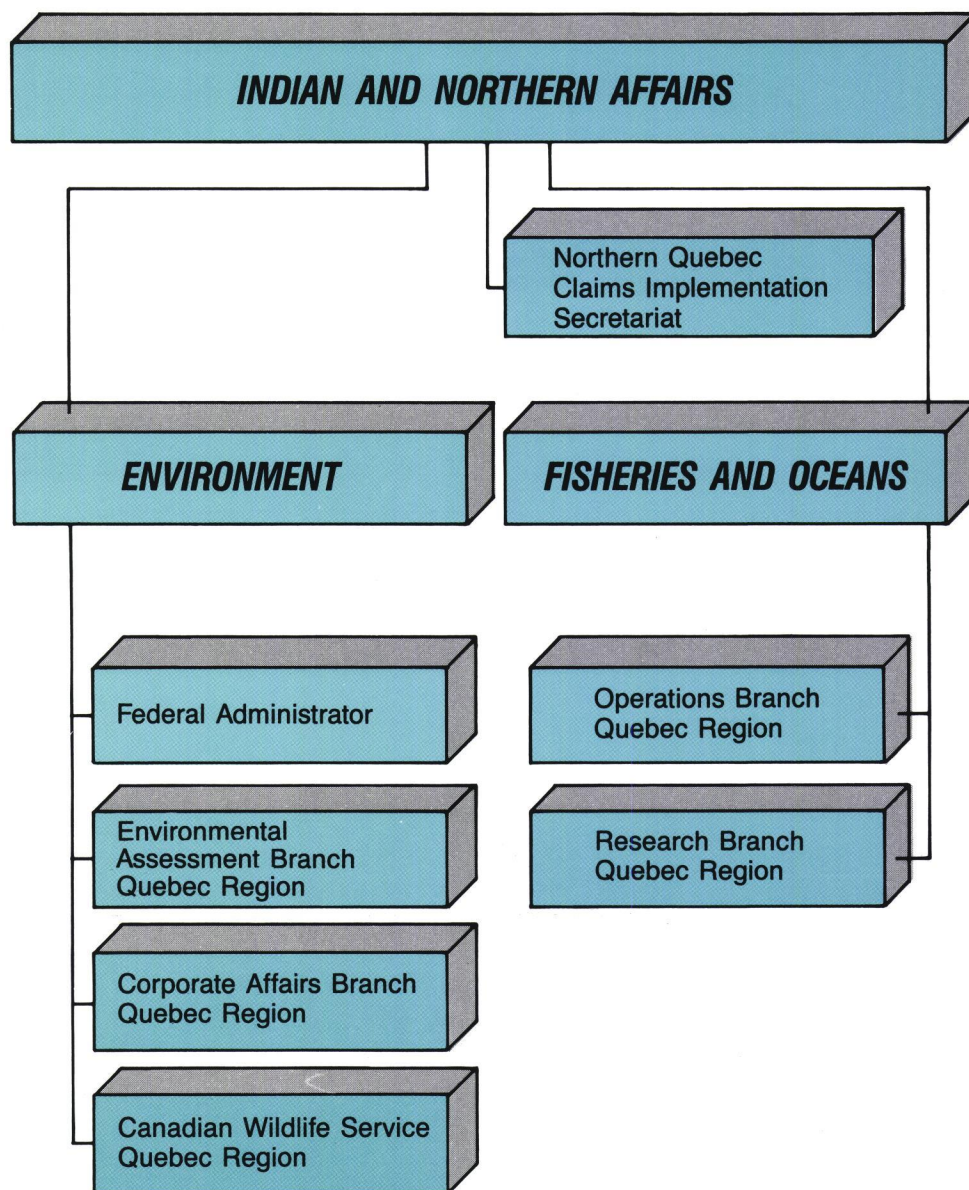


FIGURE 2

INDIAN AND NORTHERN AFFAIRS

The overall federal responsibility for coordinating the implementation of the Agreements by all federal government departments rests with the Department of Indian and Northern Affairs. On this account, it maintains liaison with the various federal departments involved. In February 1984, a Northern Quebec Claims Implementation Secretariat was established within the Department to ensure that the duties of the Government of Canada under the Agreements are carried out. The Secretariat provides and coordinates services to the native people from the Department of Indian Affairs and ensures that other services are delivered by other federal government departments, as provided for in the Agreements.

In 1981, the Department of Indian and Northern Affairs transferred most of its responsibilities in Inuit territory to the Province and to the communities themselves. However, in order to accelerate the up-grading of the services provided to the Inuit the Department granted Quebec important sums for school construction, housing renovation and construction, and continues to grant a fixed amount to Quebec annually to support the activities over which Quebec has assumed control. Additionally, the Department continues to finance 25 per cent of the costs of Inuit education and directly supports socio-economic initiatives and projects sponsored by the Inuit.

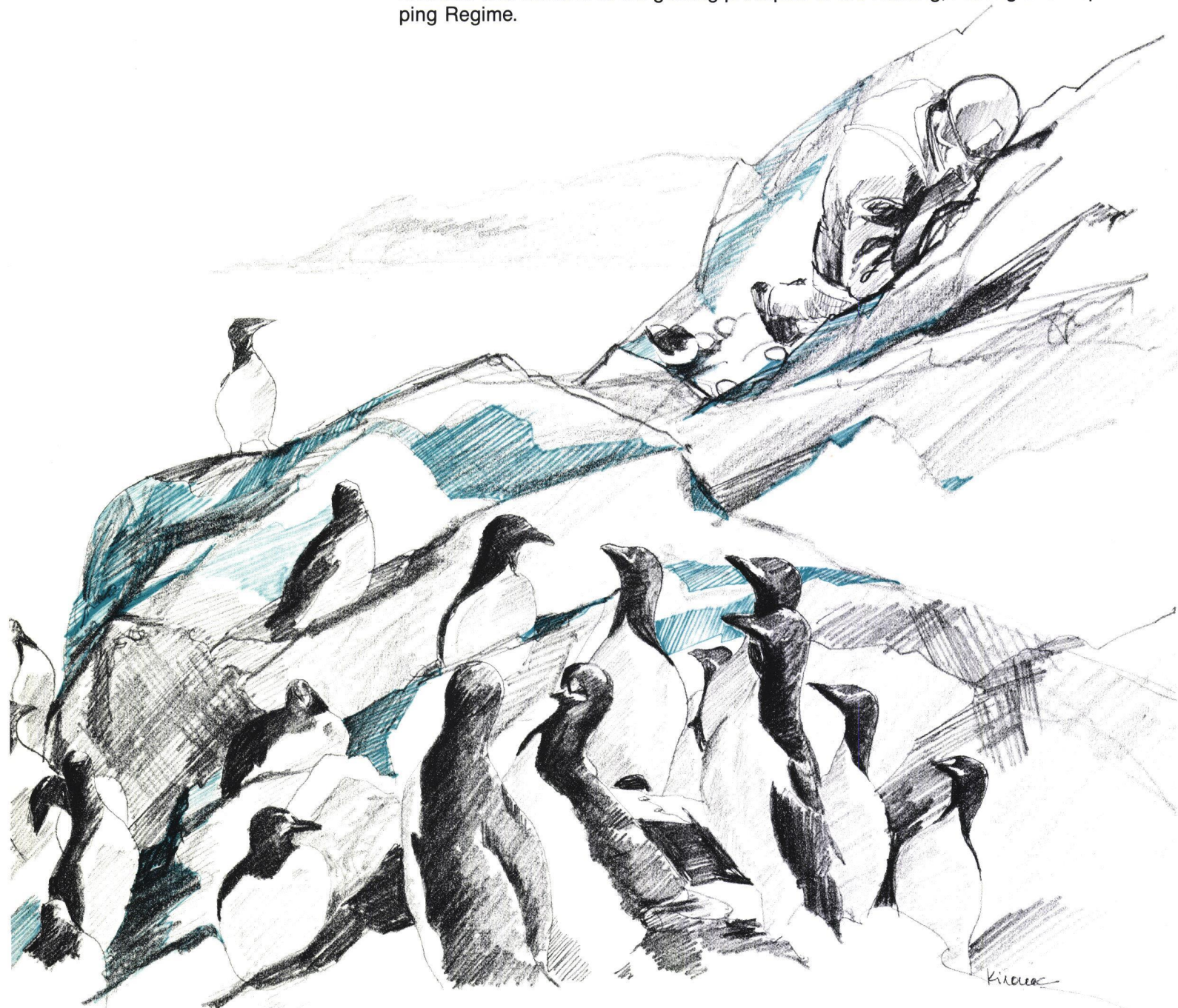
The Department has special obligations to the Crees and Naskapis, under the *Cree-Naskapi (of Quebec) Act*. It incurs major expenditures for the development of Cree and Naskapi bands by financing housing and infrastructure construction, municipal services and local and regional administration. IAND pays 75 per cent of the education costs and maintains all other national programs applicable to the Indian population of Canada. The regional office of Indian Affairs is being phased out of the administration of programs to the Crees and Naskapis as the bands assume responsibility for these programs under grant funding arrangements.



ENVIRONMENT

The mandate of Environment Canada is to co-ordinate the efforts of the federal government for the protection and conservation of the quality of the environment and to ensure the enhancement of Canada's natural and historical resources. The Canadian Wildlife Service, an agency of the Department administers the Migratory Birds Convention Act, protects related to rare or endangered species, and carries out scientific studies on wildlife management.

This department is responsible for the implementation of sections 22 and 23 of the James Bay and Northern Quebec Agreement and is directly involved in the Hunting, Fishing and Trapping Regime (section 24 of the Agreement). The department is also responsible for coordinating general policies for northern environment and ensuring compliance with the Agreements, fostering wildlife management methods that conform to the guiding principles of the Hunting, Fishing and Trapping Regime.

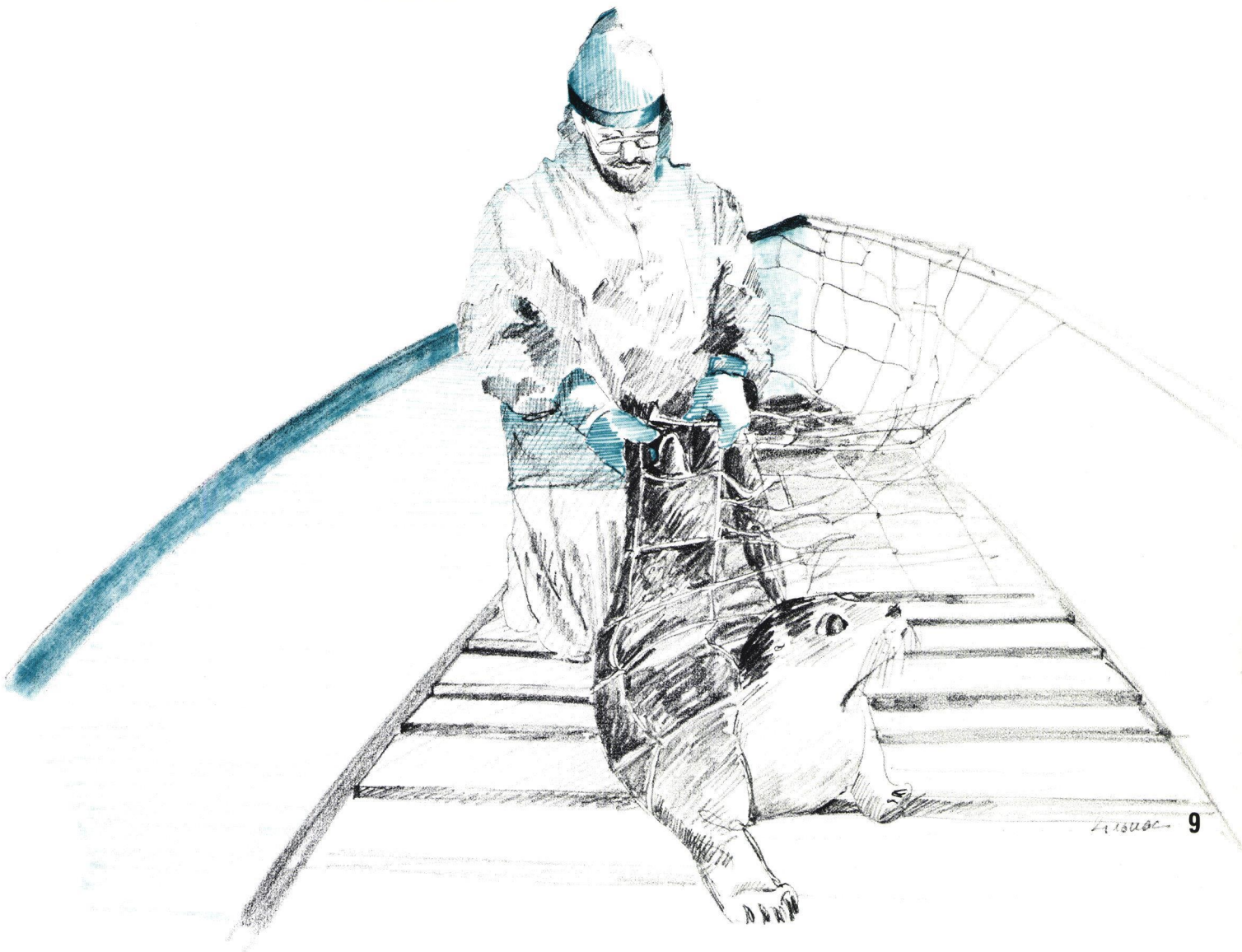


FISHERIES AND OCEANS

The Department of Fisheries and Oceans has responsibility for managing a vast range of programs connected with the aquatic environment and its halieutic resources.

In Quebec, its activities are related to management of maritime fisheries and inspection of fishery products for exportation. It is also responsible for research, in order to ascertain the renewable resources available and to ensure that they are properly developed and utilized. The Department is also responsible for carrying out oceanographic research. Further, it carries out hydrographic surveys and draws up nautical charts of navigable waters, both coastal and inland, and studies the environmental impact of activities related to the marine environment and its resources.

This Department is involved in the implementation of the Hunting, Fishing and Trapping Regime of the Agreement in accordance with its responsibilities for the management of marine mammals and anadromous and catadromous fish in the coastal water of this territory. The Department also contributes to the development of northern fisheries with various programs designed to support local and regional initiatives.



OTHER DEPARTMENTS OF THE FEDERAL GOVERNMENT

The Northern Quebec Agreements include obligations relating to the work of other agencies and departments of the federal government as well, principally Canada Mortgage and Housing Corporation, Regional Industrial Expansion, Employment and Immigration, and Transport Canada.



THE REGIMES

The Agreements and related federal and provincial legislation have put in place specific regimes pertaining to the management of northern territory and resources and also pertaining to their development.

LAND REGIME

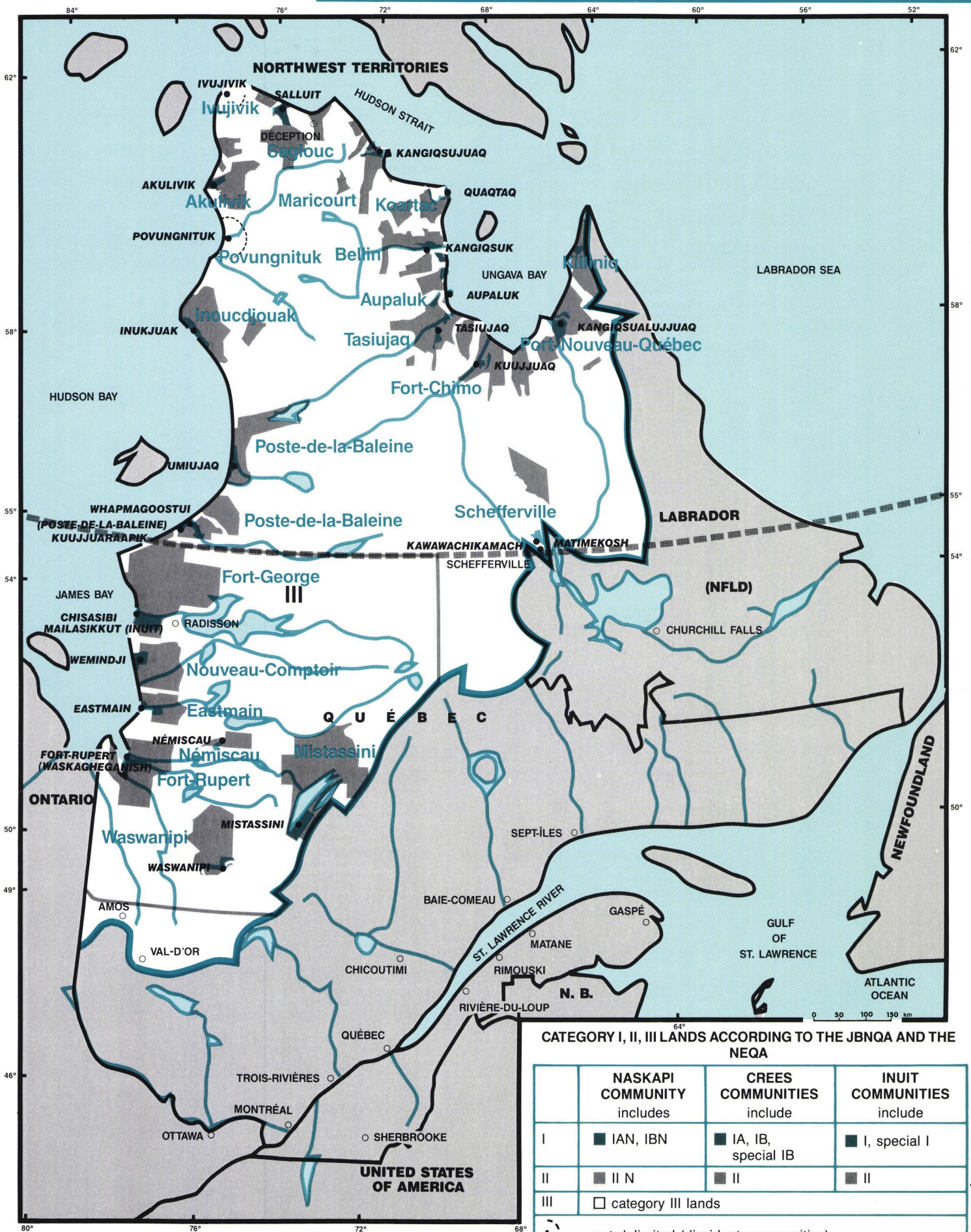
Sections 4, 5, 6 and 7 of the James Bay and Northern Quebec Agreement and section 5 of the Northeastern Quebec Agreement, divide the territory between various jurisdictions through the Category I, II and III lands.

Category I lands are set aside for the exclusive use and benefit of the native peoples. They include the native communities and cover approximately 1.5 per cent of the Territory. Cree and Naskapi Category I lands are subdivided into Category IA lands where the *Cree-Naskapi (of Quebec) Act* applies and Category IB lands managed by Cree village corporations set up by provincial legislation. As required by the *Cree-Naskapi (of Quebec) Act*, the Department of Indian and Northern Affairs has created a registry office within its Quebec regional office in order to record all rights and interests on Category IA lands and buildings. All Inuit Category I lands are under Quebec jurisdiction.

Category II lands constitute about 15 per cent of all the territory and lie adjacent to Category I lands. The native peoples have exclusive hunting, fishing and trapping rights on these lands. These lands belong to the Crown, but regional governments share in their management for purposes of the Hunting, Fishing and Trapping Regime.

Category III lands are a special category of Quebec public lands. Native peoples have the right to hunt and fish in them and they have exclusive rights for the harvesting of certain species and for the trapping of fur-bearing animals. Citizens of Quebec may hunt and fish on these lands subject to the regulations adopted in accordance with the provisions of the Agreement for this purpose.

The Government of Quebec, the James Bay Energy Corporation, Hydro-Quebec and the James Bay Development Corporation and any other duly authorized persons have a specific right to develop resources in Category III lands as in the lands in the other categories. Depending on the project proposed and its location, impact assessment and review will be submitted to the federal or provincial process or both.



LANDS REGIME

- the JBNQA and the NEQA territory limit
- James Bay municipality limit
- 55 th parallel limit (inuit administration to the north)

FIGURE 3

- CHISASIBI** ● native locality
- QUÉBEC** ○ non-native locality
- Fort-George** category land toponymie

Source: La répartition des terres selon la Convention de la Baie-James et du Nord québécois et la Convention du Nord-Est québécois, Ministère de l'Énergie et des Ressources, Service de la Cartographie, Québec, 1980, carte 1: 2 000 000.

**HUNTING,
FISHING AND
TRAPPING REGIME**

The Hunting, Fishing and Trapping Regime established by the Agreements determines the native rights to wildlife exploitation in the Territory. It provides for a Coordinating Committee whose role is to administer, review and regulate the Hunting, Fishing and Trapping Regime, to set the native guaranteed levels of harvesting and to advise the governments on matters pertaining to wildlife management. This committee is composed of representatives of the federal and provincial governments and of the three native groups concerned.

This regime is governed by the following principle of conservation:

"...the pursuit of the optimum natural productivity of all living resources and the protection of the ecological systems of the Territory so as to protect endangered species and to ensure primarily the continuance of the traditional pursuits of the Native people, and secondarily the satisfaction of the needs of non-Native people for sport hunting and fishing."

(Section 24.1.5)

Under this Regime, the federal government is responsible for the proper management of the resources under its jurisdiction: marine mammals, anadromous and catadromous fish and migratory birds. It has the authority to approve and control the implementation of guaranteed levels of harvesting negotiated through the Coordinating Committee for the above mentioned resources. The three federal departments are represented on the Coordinating Committee.

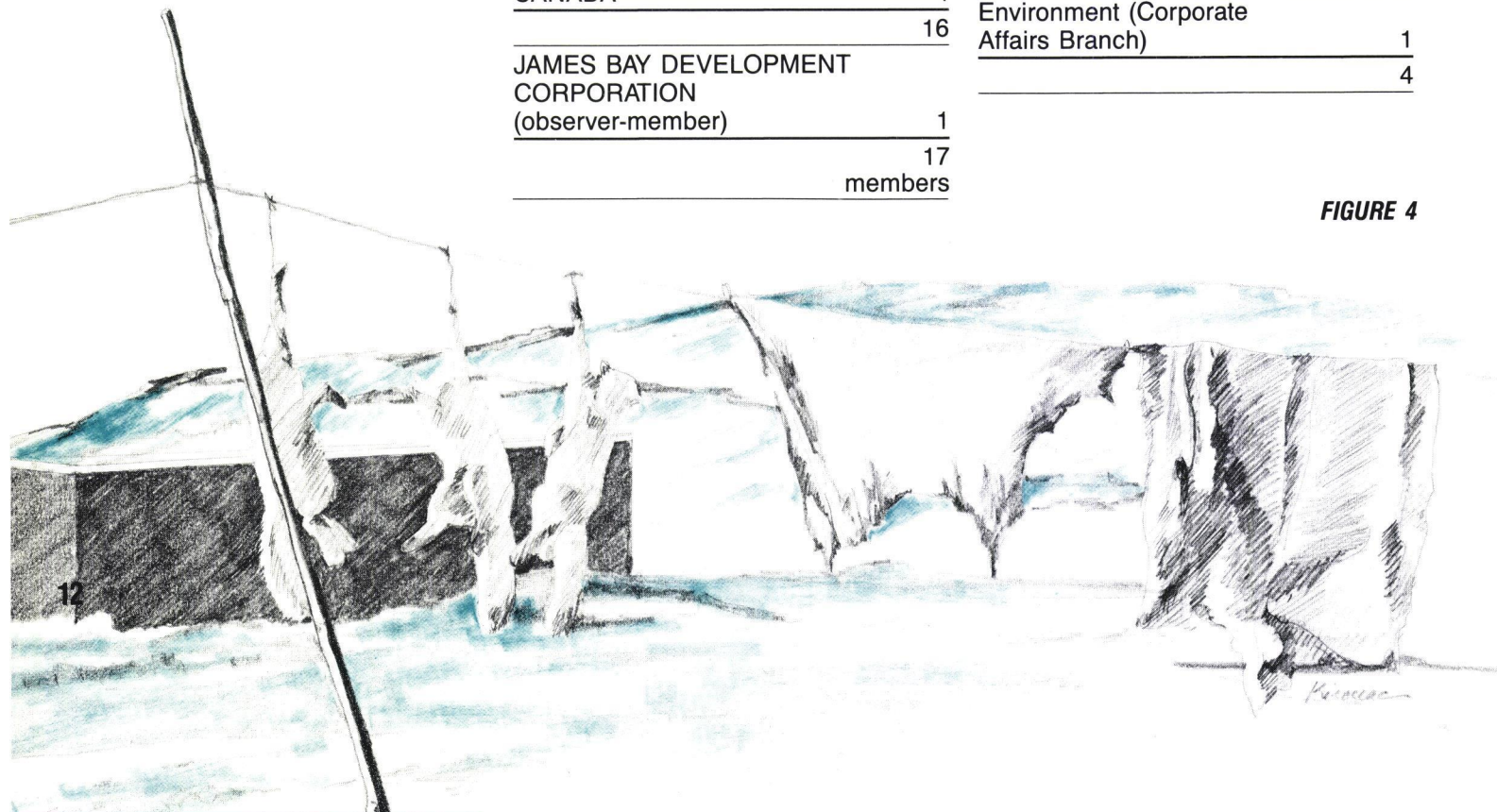
**HUNTING, FISHING
AND TRAPPING
CO-ORDINATING
COMMITTEE**

CREES (Cree Regional Authority)	3
INUIT (Makivik Corporation)	3
NASKAPIS (Naskapi Development Corporation)	2
QUEBEC	4
CANADA	4
	16
JAMES BAY DEVELOPMENT CORPORATION (observer-member)	1
	17
	members

COMPOSITION OF THE FEDERAL DELEGATION

Indian Affairs and Northern Development	1
Fisheries and Oceans	1
Environment (Canadian Wildlife Service)	1
Environment (Corporate Affairs Branch)	1
	4

FIGURE 4



ENVIRONMENTAL

AND SOCIAL

PROTECTION REGIME

The regime provides a mechanism to adopt or modify laws and regulations concerning the environment, the social milieu and land use in order to reduce undesirable development impacts and to protect the ecosystem of the Territory.

The Agreement also provides for two advisory committees on the environment, one for the area below and another for the area north of the 55th parallel. The role of these committees is to review and oversee the administration of the Environmental and Social Protection Regime and to advise governments with respect to laws and regulations. Further, they advise the Quebec Department of Energy and Resources on projects related to public forest management in the Territory. They also provide local authorities, upon request, with technical and scientific information, advice, and technical assistance obtained from the appropriate government agencies.

Each committee includes members appointed by the Government of Canada, the Government of Quebec and the native organizations. For the most part, civil servants from the three federal departments have been representatives on the Committees.

The regime also provides for environmental and social impact assessment procedures for development projects in the Territory. For projects under federal jurisdiction Environment Canada administers the federal evaluation and review procedures according to sections 22 and 23 of the Agreement. The Minister of Environment Canada, or any other person appointed by the Governor General in Council, is responsible for the application of the procedures and authorizes projects under its jurisdiction. A Cree local administrator has the authority for projects located on Cree Category IA lands and has access to the full range of expertise available in Environment Canada.

The procedure for environmental assessment is different south and north of the 55 parallel. In the first case, there is a tripartite Evaluating Committee responsible for recommending to the competent administrator the extent, orientation and content of the impact study to be required from the proponent. The Review Panel studies and analyses the impact report and recommends to the administrator either acceptance, refusal or modifications of the project.

For the north, the provincial and federal mechanisms are entirely dissociated. The federal Screening Committee and the Review Panel are bipartite (federal government and native people) and their mandates are equivalent to those of the Evaluating and Review Panel in effect in the southern part of the territory.

**ADVISORY
COMMITTEES**

South of the 55th parallel (Section 22)

James Bay Advisory Committee on the Environment	
Quebec	4
Canada	4
Cree Regional Authority	4
Chairman of Hunting, Fishing and Trapping Coordinating Committee	1
13 members	

North of the 55th parallel (Section 23)

Kativik Environmental Advisory Committee	
Quebec	3
Canada	3
Kativik Regional Government	3
9 members	

COMPOSITION OF THE FEDERAL DELEGATION

Indian and Northern Affairs	1
Fisheries and Oceans	1
Environment	1
Person appointed from outside the public service	1
4	

Indian and Northern Affairs	1
Fisheries and Oceans	1
Environment	1
3	

FIGURE 5

**EVALUATING
AND REVIEW
COMMITTEES**

South of the 55th parallel (Section 22)

Evaluating Committee		Review Panel	
Quebec	2	Canada	3
Canada	2	Cree Regional Authority	2
Cree Regional Authority	2	5 members	
6 members			

North of the 55th parallel (Section 23)

Screening Committee (Federal)		Review Panel	
Canada	2	Canada	3
Kativik Regional Government	2	Kativik Regional Government	2
4 members		5 members	

NOTE Federal representatives on these Committees and Panels are from the Environmental Assessment Branch, Environment Canada, Quebec Region.

FIGURE 6



**ECONOMIC
DEVELOPMENT
REGIME**

The regime provides for tripartite committees to be established to coordinate federal and provincial support to the Crees, Inuit, and Naskapi socioeconomic development. The Agreements set out specific objectives that are both one-time and ongoing in nature, including the establishment of native organizations with mandates in such areas as renewable resources, arts and crafts.



ADDRESSES OF RESOURCE AGENCIES

ENVIRONMENT CANADA

Corporate Affairs Branch
1141, route de l'Église, 6th Floor
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G1V 4H5

Tel.: (418) 648-5166

Information and Public Relations Office
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P.O. Box 10100
Ste-Foy Postal Station
Sainte-Foy (Quebec)
G1V 4H5

Tel.: (418) 648-7204

INDIAN AND NORTHERN AFFAIRS CANADA

Northern Quebec Claims Implementation Secretariat
Corporate Policy Branch
Les Terrasses de la Chaudière
Hull (Quebec)
K1A 0H4

Tel.: (819) 997-0459

Land Registry System, Crees and Naskapis
Indian and Inuit Affairs
320, rue St-Joseph Est
P.O. Box 3725
St. Roch Postal Station
Quebec (Quebec)
G1K 7Y2

Tel.: (418) 648-7806

FISHERIES AND OCEANS

Operations Branch
Champlain Harbour Station
901, Cap Diamant
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Quebec (Quebec)
G1K 7Y7

Tel.: (418) 648-2562

Communications Service
Champlain Harbour Station
901, Cap Diamant
P.O. Box 15500
Quebec (Quebec)
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Tel.: (418) 648-4442

**THE NORTHERN QUEBEC AGREEMENTS
GOVERNMENT OF CANADA INVOLVEMENT**

Additional information

**ENVIRONMENT
CANADA**

Canadian Wildlife Service
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Environmental Assessment Branch
1141, route de l'Eglise
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Tel.: (418) 648-7592

Federal Administrator
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