

ARRANGEMENTS FOR CO-MANAGEMENT OF FISHERIES
AND WILDLIFE BY NATIVE PEOPLE AND GOVERNMENT IN CANADA

By

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ABSTRACT

Conservation of Canada's fishery and wildlife resources is a major management problem and issue of the 1980's. Canada's native people, who continue to depend on these resources for income and income-in-kind, are seeking guarantees of access to resources and participation in management. In recent years, conflicts between game managers, non-native hunting and fishing associations and native people have emerged over resource rights and resource conservation.

This report describes new arrangements being developed in Canada which incorporate native users of fish and wildlife and their political representatives into the management process. Issues and problems particular to each setting, or the rationale for new arrangements are presented.

Formal and legislated Agreements are the tools utilized to create native-government co-management systems. Innovative management processes and structures are being developed. Seven Agreements and two proposed arrangements are presented in terms of native harvest rights; management structures including composition, functions, responsibilities and powers; and management processes. Where Agreements have been implemented, activities undertaken and/or problems in implementation are discussed.

The final chapter focusses on issues related to native people and resource management, and problems, benefits and management implications associated with co-management arrangements. Through time, these arrangements will require evaluation and modification to improve native-government relationships and the management process.

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CHAPTER 1 INTRODUCTION

1.1 The Issues

Canada's fishery and wildlife resources are under pressure. Industrial activities have reduced quality habitat and proposed development threatens biological productivity in northern regions. Consumptive use of resources is increasing and new transportation networks are improving accessibility. Conservation of fishery and wildlife resources is a major management problem and issue of the 1980's.

Canada's native peoples, particularly those situated in northern portions of the provinces and in the territories, remain highly dependent on fish and wildlife as a source of income and income-in-kind. Resources and harvesting activities are also of social and cultural significance.

Increased demands on wildlands and resources are creating conflicts. Native people are seeking greater guarantees concerning their use of wildlife and are demanding participation in and/or control over wildlife management decision-making. Participation in land use decisions which bear on their lifestyle and livelihood is also being sought.

In many parts of Canada, government regulators, native groups, and non-native fish and game associations have become involved in open conflict over the management of fishery and wildlife resources (Hunt 1979). Issues are complex and controversial. The fundamental issue which unites native people is securing their resource rights. Whether by treaty, proclamation, statute or aboriginal right, native people have had special and sometimes exclusive access to resources. As non-native access to resources has increased and a squeeze has been put on resources, native people have found in some situations that resource rights are not as secure as they

believed. Throughout Canada, native organizations through political negotiation with governments, are seeking to define their resource rights in land claims settlements, modernized treaty arrangements, and in Canada's Constitution. The recently proclaimed Constitution Act 1982, states that "the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed." Thus far, they remain undefined in the Constitution and it may take years to settle complex issues and define the rights of Canada's 1.4 million natives.

Strong opposition to preferential access by native peoples to resources has come from fish and game columnists, hunting associations and some professional biologists. There is a viewpoint which suggests that native hunting rights are not justifiable and that native people do not act responsibly towards wildlife. In northern Quebec, where land claims settlements have secured the Cree, Inuit and Naskapi exclusive and preferential access to resources, the public opposition has been serious enough for the Quebec Human Rights Commission to publish a lengthy report on the subject (reference is made to this report in Wilkinson 1981). The magnitude of native harvests also makes native peoples particularly vulnerable to racism. Minimizing conflicts between native and non-native users, and government requires interaction between the groups in the interests of conservation.

The most difficult problem may be to resolve differences between Natives and those non-Natives who use fish and wildlife resources themselves or are committed conservationists (Hunt 1979: 593).

In the interests of conservation, how should the native harvest be regulated? Those who oppose preferential access to resources by native people would suggest that harvest controls be imposed on native and non-native harvests alike. Some native groups are seeking local control over

management and regulation of the harvest. In situations where native rights have not been restricted by legislation, game managers feel their hands are tied insofar as they cannot regulate the native harvest. At the same time, where harvests can be restricted in the interests of conservation, there are difficulties enforcing regulations.

Conflicts between the scientific community and the native community are arising over management measures. The scientific community often ignores the knowledge users have about local resources. Native people often fail to see the sense in management strategies.

Managers and biologists have recently recognized the necessity of incorporating native users into the game management process (eg. Finney 1979; Simmons et al 1979; Thomas n.d.). Cooperation and consultation between the parties is necessary if management measures are to be successfully implemented in the interests of conservation.

From the game manager's viewpoint the most promising way to improve his management capabilities of species hunted by Native people is to incorporate the Native hunter into the game management process. This necessitates not only the enhancement of dialogue but also the assumption of some responsibility and authority for some management by Native people. The Native perspective is often that their needs and aspirations are not understood by government and they also seek increased dialogue and responsibility in game management (Finney 1979: 580-581).

Consultation and cooperation in formulating and implementing management measures necessary for resource conservation is becoming a reality in Canada. New legislative and institutional arrangements that serve to integrate native users and their political representatives into the management process are being developed. Formal and legislated Agreements are the tools being utilized to establish innovative management processes and structures. Native - government co-management approaches are being

developed and implemented in different settings in response to particularistic issues and problems. Issues common to these arrangements are resource use rights and resource conservation. Recognizing that management is an on-going process, evaluation of these arrangements will be required as experience is accumulated in implementation.

1.2 Purpose of the Research

The Grand Council Treaty No. 3, representing 25 Indian bands in northwestern Ontario requested a review of co-management arrangements in Canada. This report will serve this purpose. The intent is not to recommend appropriate management processes and/or structures for fisheries and wildlife management in their region.

In 1982, the Grand Council Treaty No. 3 along with the other five status Indian organizations in Ontario undertook negotiations with the federal and provincial governments to secure their rights to harvest fish. The objective was to develop mutually acceptable amendments to the Ontario Fishery Regulations passed under the Canada Fisheries Act which would be in accordance with the aboriginal and treaty rights of Indians to fish. A Draft Agreement, dealing with harvest rights, economic opportunities, native involvement in management and enforcement was signed in December, 1982 by all parties except the federal government. Arrangements for co-management of fisheries and wildlife have not yet been developed in the Treaty No. 3 region.

1.3 Research Objectives

The first objective is to present the context within which co-management arrangements are being developed. This provides the opportunity to convey particular issues or problems in specific settings, or the rationale for these new arrangements.

The second objective is to provide a descriptive review of these arrangements. Management processes and structures being developed are presented.

The third objective is to discuss issues related to native people and resource management, and problems, benefits and management implications associated with co-management arrangements. The intent is not to evaluate any one approach but rather to comment on the topic of co-management.

1.4 Methods

This study is based on information contained in pertinent published literature, legislation, unpublished reports and documents, and newsletters. Much of the required data were obtained through correspondence and telephone conversations with persons involved in each of the situations discussed in this report. Discussions with individuals focussed on the status of the arrangements and the concerns, problems or benefits as they perceived them. Conversations were useful for conveying the complexity of issues and the uncertainties and problems in realizing new native - government management arrangements.

The substantive focus of the research is on areas other than the Treaty No. 3 region. Conversations with individuals working on behalf of the Grand Council Treaty No. 3 drew attention to particular problems as well as resource management issues not confined to their region. The researcher attended the annual meeting of the Grand Council of Treaty No. 3 chiefs in October, 1982.

Co-management approaches selected for this report are those which are spelled out in formal and legislated Agreements, and Agreements-in-Principle. To the best of the researcher's knowledge, the Agreements

presented in this report are the only ones in Canada which provide for co-management of fisheries and wildlife. Other less formal arrangements may exist and native people do participate on advisory bodies (eg. Skeena River Advisory Committee in British Columbia), but these arrangements are not included in this report. In addition to the Agreements, two proposals for new arrangements are presented.

Co-management is an undefined concept. It does mean cooperation between native people and government. Joint management or a partnership relationship is the intent of new arrangements. How this relationship is realized varies within different contexts. Arrangements differ in scope and complexity. The report is organized such that the context within which new arrangements are being developed is presented followed by key aspects of the Agreements and proposals.

Key aspects that are presented are native harvest rights, and wildlife, fisheries and land management processes and structures. Where new management structures are developed or proposed, these are analyzed in terms of membership, functions, responsibilities, powers, and funding arrangements. Agreements that have been implemented are discussed in terms of specific activities undertaken and/or problems encountered.

In the final chapter, issues related to native people and resource management, and problems, benefits and management implications associated with co-management arrangements are discussed.

1.5 Summary

Controversial and complex issues surround native use of fishery and wildlife resources in Canada. Native people are seeking to secure and define harvest rights and to participate in management and decision-making. Managers and biologists are recognizing the need for improved dialogue

with native users and incorporation of users into the game management process. This report will describe recently developed and proposed arrangements in Canada which provide for joint management by native people and government.

CHAPTER 2
NATIVE CLAIMS NORTH OF 60°

2.1 Introduction

In 1973, the federal government introduced a policy of negotiating settlements with native groups in Canada where any aboriginal rights based on traditional use and occupancy had not been extinguished by treaty or superseded by law (Office of Native Claims 1978). Native claims made on this basis are referred to as comprehensive claims as opposed to specific claims which refer to grievances Indians have about fulfillment of treaty obligations or administration under the Indian Act.

Canadian law does not define what aboriginal rights or aboriginal title means. The political process of negotiation, rather than the cumbersome process of litigation which may produce unacceptable outcomes to either party, offers the opportunity for fair settlements. The intent of the claims policy is to exchange undefined aboriginal rights for concrete rights and benefits which will be guaranteed in settlement legislation. Rights and benefits can include lands, exclusive and preferential rights to wildlife, participation in wildlife and land management, monetary compensation, establishment of native controlled corporations, subsurface rights (DIAND 1981).

Final settlement, confirming rights and benefits in legislation means that negotiations on the same claim cannot be reopened in the future. However, the relationship between native people and government is dynamic and a settlement should be viewed in that context. As Feit (1980:168) states

A land claims agreement, however important it may be, should ...be seen as but one critical step in the process by which indigenous peoples can redefine their

relations to encapsulating societies, and thereby attempt to ensure their own futures. The settlement establishes structures and means for a continuing relationship between the indigenous peoples and the government and it provides the resources with which the indigenous peoples can actively pursue their own interests. An agreement does not answer or foresee all the problems. It is a tool in ongoing processes in which the agreement itself will have to be changed and modified.

In the Northwest Territories (N.W.T.) and Yukon Territory (Y.T.) comprehensive claims have been accepted on behalf of several native groups: Yukon Indians; the Inuvialuit in the western Arctic; Dene and Metis in the Mackenzie Valley; and Inuit in the central and eastern Arctic. Final settlements have not been reached with any of these groups.¹

Protection of land-based economies and protection of the environment are central concerns of the native groups. Final settlements will determine the disposition of large tracts of land and will create new wildlife and land management structures and processes.

2.2 Inuvialuit Land Rights Settlement

2.2.1 Background

The Inuvialuit Land Rights Settlement Agreement-in-Principle was signed on October 31, 1978 between the Committee for Original Peoples' Entitlement (COPE) and the Government of Canada. COPE represents 2500 Inuvialuit in the Western Arctic Region of the Northwest Territories. Except for the political Yukon/Northwest Territories boundary to the west, the Region is defined by the limits of use and occupancy of the Inuvialuit. The Inuvialuit continue to use the Yukon North Slope, coast and offshore.

¹To date, success in the settlement of comprehensive claims has been limited to the James Bay and Northern Quebec Agreement of 1975 and the supplementary Northeastern Quebec Agreement of 1978.

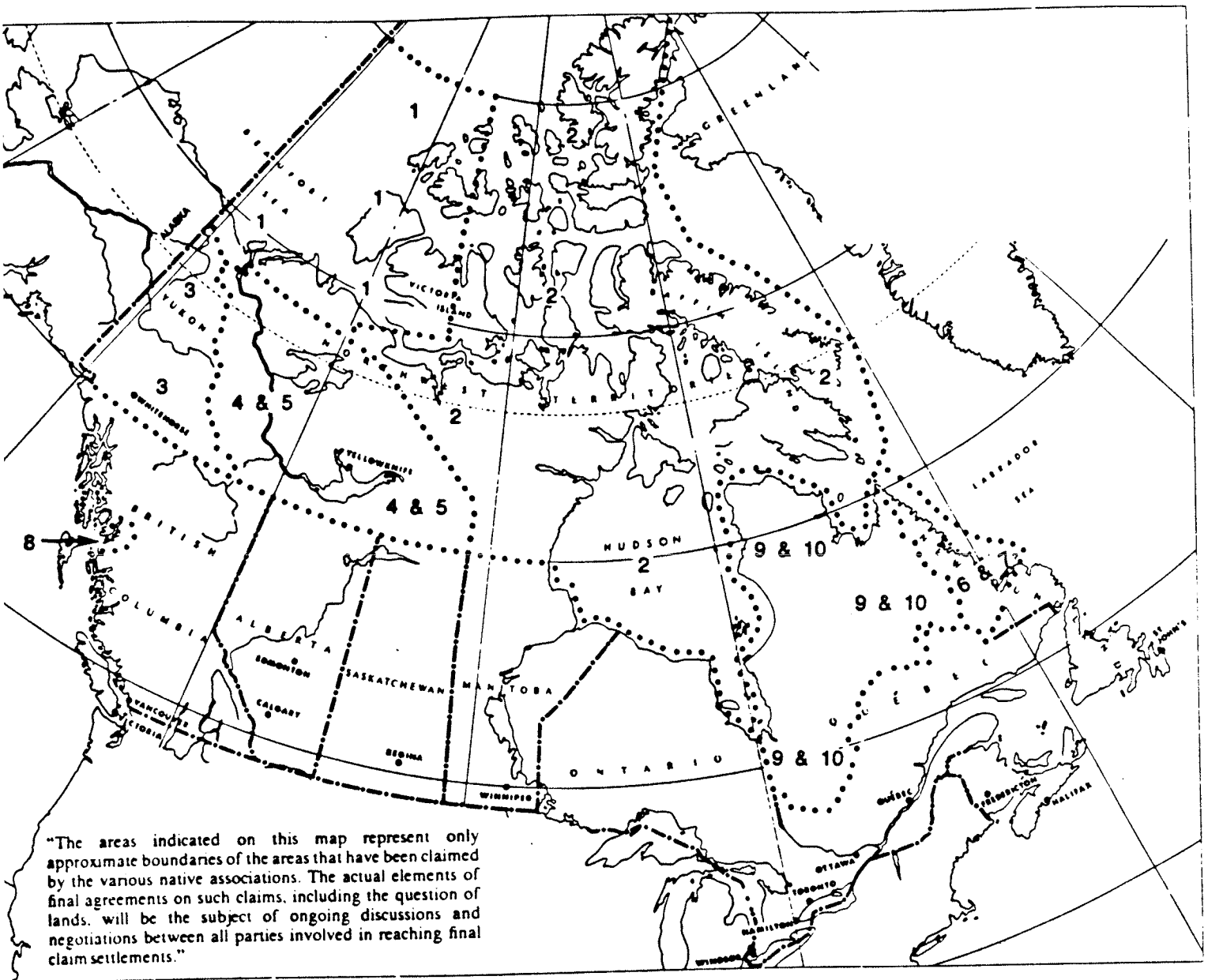


Figure 1 Native Claims in Canada

1. Committee for Original Peoples' Entitlement.
2. Tungavik Federation of Nunavut.
3. Council for Yukon Indians.
4. Dene Nation.
5. Metis Association of the N.W.T.
6. Labrador Inuit Association.
7. Naskapi Montagnais Innu Association
8. Nishga Tribal Council.
9. Grand Council of Crees (of Quebec).
10. Northern Quebec Inuit Association.

Source: Macleod 1979.

NOTE: Claims have been made by native organizations in British Columbia which are not indicated on this map.

Restructuring of government institutions in the N.W.T. is not dealt with in the Agreement. COPE had proposed the establishment of a new regional government, the Western Arctic Municipality (COPE 1977). Canada recognizes the need for greater decentralization in respect of decision-making and delivery of services. The type and structure of any new government institution and its relationship to the territorial and federal governments has not yet been determined.

2.2.2 Principles

The four basic goals of the Inuvialuit land rights settlement are:

1. To preserve Inuvialuit cultural identity and values within a changing northern society;
2. To enable Inuvialuit to be equal and meaningful participants in the northern and national economy and society;
3. To provide specific rights, benefits, and compensation to the Inuvialuit in exchange for any Inuvialuit land rights that now exist; and
4. To protect and preserve the Arctic wildlife, environment, and biological productivity (S. 1).

With respect to the protection and preservation of wildlife and the environment, further principles are outlined in Section 14(1). Conservation principles and practices will be applied. Conservation is defined as "the management of the wildlife populations and habitat to ensure the maintenance of the quality (which includes the principle of long term optimum productivity) of these resources and to ensure the efficient utilization of the available harvest" (S. 2). In order to achieve conservation, the relevant knowledge and experience of both the Inuvialuit and the scientific communities will be employed.

Integrated wildlife management and land management is necessary to ensure effective protection of ecosystems. The Final Agreement will ensure that critical wildlife habitat is protected. The Inuvialuit will be

effectively integrated into all structures, functions and decisions pertaining to wildlife management and land management in the Western Arctic Region.

2.2.3 Harvest Rights

Harvest rights are spelled out in Section 14(2). Inuvialuit will have the exclusive right² to harvest game on Inuvialuit lands. Traditionally they used and occupied an area of some 435,094 square kilometers (Hunt 1978). They are to retain surface ownership of 82,875 square kilometers as well as surface and subsurface ownership of 12,950 square kilometers (S. 7(1)(a) and (b)). Throughout the Western Arctic Region they will have exclusive rights to harvest furbearers including black and grizzly bears, polar bears and muskox and the preferential right³ to harvest other species of wildlife for subsistence.⁴ They also have the right to have priority over others for the harvest of marine mammals. This right includes a minimum guaranteed level of harvest based on present harvesting levels by Inuvialuit.

Harvest rights are subject to certain qualifications which protect rights of non-beneficiaries. Other native people will continue to have harvesting rights to species and areas traditionally used by them in the

²Exclusive right to harvest means the sole right to harvest the wildlife referred to in S. 14(2)(a)(i) to 14(2)(a)(iii) and to permit non-Inuvialuit to harvest any such wildlife (S. 2).

³The preferential right to harvest includes the right to be allocated, subject to conservation, quantities of wildlife sufficient to fulfill Inuvialuit requirements for subsistence use before there is any allocation for other purposes. This right is provided for by establishment of subsistence quotas (S. 2).

⁴Subsistence usage means the taking of wildlife and migratory birds by Inuvialuit for food and clothing and includes trade and barter among Inuvialuit. Trade, barter and sale to any person of the non-edible by-products is permitted. These uses are subject to international conventions and the Migratory Birds Convention Act (S. 2).

Western Arctic Region. Individuals who have trapped in the Region may continue to trap during their lifetime on Crown and Inuvialuit lands. Those persons who hold a general hunting license who can demonstrate that they have hunted caribou for their personal consumption on Inuvialuit lands will be guaranteed access to harvest caribou during their lifetime. This access is subject to the preferential right of the Inuvialuit to harvest for subsistence usage.

Access to the commercial harvest of wildlife for food will be provided for by means of a restricted entry system (S. 14(4)). Factors determining who will benefit from the system include residence, past harvest experience, knowledge of the resources, skills and social need. The restricted entry system will be given effect through government legislation which will provide for an appeal procedure. Provisions for other commercial activities such as outfitting will be determined in the Final Agreement. Subject to the laws of general application, the right to harvest will include present and traditional methods of harvesting.

2.2.4 Wildlife Management

2.2.4.1 Management Processes

Section 14(3) outlines management processes and establishes authority for determining harvest and subsistence quotas. Within their respective jurisdictions, government, including the governments of Canada, N.W.T., and the Yukon Territory, will determine the harvestable quotas for species based on principles of conservation. The exception is in regard to furbearers, polar bear, muskox and marine mammals where quotas will be jointly established by the Inuvialuit and government. Within these harvestable quotas, subsistence quotas will be jointly established by

Inuvialuit and the governments concerned for each species of subsistence value. Government reserves its power to regulate. Subsistence quotas will take into account food and clothing requirements of Inuvialuit, their use patterns, availability and accessibility of species, and recognition of international and national obligations with respect to migratory game birds and international obligations with respect to fish.

Inuvialuit will be compensated for loss of wildlife harvesting potential caused by development on lands in the Region after the signing of the Final Agreement. If Inuvialuit lands are expropriated, compensation for loss of land as well as loss of hunting, fishing and trapping will be provided. Canada will provide suitable alternative lands in place of expropriated ones. If such lands cannot be reasonably provided, the Inuvialuit will be given monetary compensation.

With respect to management of the Porcupine caribou herd which migrates into Alaska, the Government of Canada is committed to working out cooperative management agreements and arrangements with all jurisdictions. Native people who traditionally harvest caribou for subsistence uses will be involved in formulating agreements.

2.2.4.2 Management Structures

Certain management institutions which provide for Inuvialuit participation in wildlife management will be established (S. 14(6)). These structures include an Inuvialuit Game Council,⁵ local Hunters and Trappers

⁵The Inuvialuit Game Council has been in existence for some two years and is in the process of becoming incorporated. Two persons from each of the six communities in the Region plus a chairman comprise the membership. The Council is a party to the Banks Island Caribou and Muskox Management Agreement and is participating in management plans under the terms of the Agreement.

Committees,⁶ and a Natural Resources Research Board.⁷ The Game Council and the Hunters and Trappers Committees will comprise representatives of the Inuvialuit. Membership on the Natural Resources Board will include representatives appointed by the Inuvialuit and the appropriate governmental authorities. Initially, the roles of these bodies will be advisory except for certain delegated functions such as the sub-allocation of subsistence quotas.

The roles of these organizations to be determined in the Final Agreement will include:

- (1) provisions requiring mandatory consultation;
- (2) the right to make recommendations prior to the passing of new legislation; and
- (3) other powers such as the holding of public hearings in the Western Arctic Region on any matters affecting the usage of wildlife (S. 14(6)(b)).

The relationships between these organizations and the Land Use Planning Commission to be established in the Settlement Legislation has not been determined. "The objective is to ensure legislation, policies, programs and measures that protect wildlife harvesting potential and biological productivity in the Western Arctic Region" (S. 14(6)(f)).

⁶Hunters and Trappers Associations (HTA's) have been active in the communities of the Region as well as most northern communities for some time. They are the key local points of contact on resource issues that affect the area beyond the community limits (Monaghan 1980). In general, they comment on governmental programs, policies and legislation and in some cases, they allocate quotas for polar bear and muskox to their membership.

⁷The Natural Resources Research Board has not been established.

2.2.5 Land Management

A land use planning process is proposed for the Region through the establishment of certain structures (S. 11). The Land Use Planning Commission will comprise five members appointed by the Minister of the federal Department of Indian Affairs and Northern Development (DIAND). Nominations will be put forward by the Inuvialuit (2), the Federal Government (1), the Territorial Government (1), and the fifth to be appointed directly by the Minister.

The Commission will advise the Minister on all aspects of land management including the preparation of a land use plan with the objective of integrating renewable resource management. Assessment of development activities affecting the land base and evaluation of the effectiveness of legislation and administration affecting renewable resources will be undertaken by the Commission. It can hold public hearings to determine impacts of development projects. The Minister can also request the Commission to undertake resource projects such as resource inventory.

The Land Use Applications and Review Committee, a technical group representing Canada, the GNWT, the Inuvialuit and the Land Use Planning Commission will be established primarily to advise on terms and conditions for land use permits under the Territorial Land Use Regulations.

A National Wilderness Park of not less than 12,950 square kilometers is to be established in the northern Yukon for the purpose of wildlife protection and wilderness conservation (S. 12(1)). Native people from the Yukon and the N.W.T. (including Inuvialuit) will participate with the territorial and federal governments in joint planning of the Park.⁸

⁸ COPE has participated on a DIAND task force and a National Wilderness Park Steering Committee, the latter established under the Inuvialuit Land Rights Settlement Agreement in Principle (S. 12 (4)(a)).

2.3 Nunavut Land Claims

2.3.1 Background

The Tungavik Federation of Nunavut, an alliance of seven Inuit organizations representing 15,000 Inuit in the central and eastern Arctic regions of the N.W.T. is negotiating a land claims settlement with the federal government. A central feature of the Inuit's claim is the political division of the N.W.T. creating a new territory, Nunavut (Inuit Tapirisat of Canada 1979; 1980). Boundaries of Nunavut would reflect the extent of Inuit land use patterns as outlined in the Inuit Land Use and Occupancy Project (Freeman 1976) and would include most parts of the N.W.T. north and east of the treeline. Nunavut is a distinct geographic region and the homeland of a distinct people.

Division of the N.W.T. is not a new proposal. In 1963, the Conservatives and Liberals supported legislation in the House of Commons to divide the N.W.T., but it was not passed (Jull 1982). The N.W.T. is one-third of the total land area of Canada and is considered too large and diverse for effective administration from a single centre (Jull 1982). Inuit are seeking a political and administrative structure which will be more responsive to their needs, goals, and aspirations as the majority of the population of Nunavut.

The federal government's policy has been that the process of constitutional change must be distinguished from the negotiated settlement of a claim (DIAND 1981). However, the federal government recently announced (November 25, 1982) that there is agreement in principle to divide the N.W.T., but the settlement of land claims must come first (Nunavut Newsletter No. 6, 1982). The Inuit are prepared to settle land claims within two years.

Complex issues remain unresolved and to date, only one agreement-in-principle has been initialled. The Nunavut Wildlife Agreement-in-Principle was initialled by the federal and Inuit negotiators on October 27, 1981. Official endorsement by the federal government has not been made and it may attempt to renegotiate certain elements of the complex 77 page document. Provisions of the Agreement are subject to the approval of the federal and territorial governments and the Nunavut Claims Executive Committee. The document has been endorsed by the Executive Committee of the N.W.T. Legislative Assembly and the Nunavut Executive Committee.

2.3.2. Principles

The wildlife provisions of the Agreement-in-Principle recognize and reflect certain principles (S. 2.1). Inuit are traditional and current users of wildlife with legal harvesting rights of all species. A long-term, healthy, renewable resource economy is both viable and desirable. To provide optimum protection to this economy, there is a need for effective systems of wildlife management and land management. A system of wildlife management must complement Inuit harvesting rights and priorities and provide for an effective role for Inuit in all aspects of wildlife management. Principles of conservation⁹ will govern the wildlife management system and Inuit harvesting rights will be subject to them. A Nunavut Wildlife Management Board will be responsible for management and regulation but government retains ultimate responsibility.

⁹Such principles will:

- (a) ensure the maintenance of vital, healthy wildlife stocks and populations capable of sustaining Inuit harvesting needs
- (b) maintain the ecological relationships of harvested dependent and related populations of wildlife
- (c) ensure the restoration and revitalization of depleted stocks and populations of wildlife for the purpose of meeting Inuit harvesting needs
- (d) ensure the protection of critical wildlife habitat (Schedule 1).

2.3.3 Harvest Rights

Inuit will have the right to harvest¹⁰ all species of wildlife in Nunavut sufficient to meet their basic needs. A five year harvest study will determine the basic economic, social, and cultural needs of the beneficiaries. Harvest restrictions imposed for conservation purposes will only be placed on Inuit harvesting after other harvesting operations (e.g. commercial operations) have been curtailed.

Inuit will have the free and unrestricted right of access for the purpose of harvesting to most lands within Nunavut including parks, sanctuaries, and conservation areas (S. 4.2.1). The right of access is subject to federal and territorial laws of general application enacted for the purpose of public safety as well as restrictions established by the Nunavut Wildlife Management Board for conservation purposes (S. 4.2.2). Inuit will be able to harvest wildlife free from licenses and fees unless they are involved in commercial or sport operations.

Any wildlife lawfully harvested may be disposed of freely to any person. The right to dispose includes the right to sell, barter, exchange and give, either inside or outside Nunavut (S. 4.5.1). Types or methods of harvesting must not conflict with laws of general application regarding humane killing of wildlife, public safety, firearms control, or with methods imposed by the Board for conservation purposes (S. 4.7).

Inuit organizations will have the first priority to establish new economic ventures including sports and all other forms of commercial ventures (S. 3.13).

¹⁰Harvest means the reduction of wildlife into possession, and includes hunting, trapping, fishing (as defined by the Fisheries Act), netting, egging, picking, collecting, gathering, spearing, killing, capturing or taking by any means (S. 1.4).

Harvesting privileges and continued access to wildlife will be given to non-beneficiaries, particularly long-term residents of Nunavut. Certain species such as polar bear which are subject to restriction can only be harvested by Inuit. Persons holding a General Hunting Licence who currently harvest furbearers may continue to do so.

2.3.4 Nunavut Wildlife Management Board

2.3.4.1 Structure

The Nunavut Wildlife Management Board consisting of nine members is to be established (S. 2.2.1). Four designated Inuit organizations including three Regional Wildlife Organizations (RWOs), will appoint one member each to the Board. The federal government will be represented by two appointed members from the Canadian Wildlife Service and the Department of Fisheries and Oceans. These appointments are made by the Governor-in-Council on the advice of the responsible Ministers. On the advice of the Minister of DIAND and with the consent of the Commissioner-in-Council, the Governor-in-Council will appoint one member who is ordinarily a resident of Nunavut. One member is to be appointed by the Nunavut government. On the recommendation of the Board, a Chairman is to be appointed by the Governor-in-Council.

Each member will hold office for four years but may be removed for cause by the authority appointing him. Members will be paid fair and reasonable remuneration and will be entitled to travelling and living expenses incurred in performing Board functions. Funding for the Board will be provided jointly by the federal and territorial governments.

Meetings are to be held at least twice a year. All members except the Chairman will have one vote. The Chairman votes only in order to break a tie. Decisions of the Board are to be decided by a majority of votes cast.

2.3.4.2 Functions

"Recognizing that government retains ultimate responsibility for wildlife management, governments agree that the Board shall be the main instrument of wildlife management in Nunavut and the main regulator of access to wildlife..." (S. 2.3.1).

The Board will perform numerous functions which are concerned primarily with establishing harvest levels and allocating resources amongst different users. Procedures for allocation are fairly complicated and will require good harvest data and wildlife research programs.

A Nunavut Wildlife Harvest Study is to be conducted in the three Nunavut regions over a period of five years (S. 3.1). The Study, to be funded by the territorial and federal governments, will begin within two years of the signing of the wildlife provisions. Initially, a Steering Committee appointed by government and Inuit organizations will direct the research. When the Board is established it may take over the responsibilities.

The purpose of the Study is to furnish data, to establish current Inuit harvesting levels, and to assist the Board in establishing levels of Total Allowable Harvest (S. 3.1.6). Research, data collection, and field-work required to document the levels and patterns of Inuit use of wildlife resources will be undertaken by an Inuit organization under the direction of the Committee or Board.

The Board has the authority to establish, modify or remove levels of Total Allowable Harvest on harvesting in Nunavut. The Board will presume as a matter of fact that the beneficiaries need the Total Allowable Harvest of certain species.¹¹ Except where unpredicted growth of a wildlife population

¹¹ These species include: all bears, muskox, bowhead whales, all migratory birds and their eggs except migratory game birds during the fall season beginning September 1, and all raptors (S. 3.3.1).

dictates otherwise, the Board will not examine this presumption for the purpose of rebuttal until 20 years after the signing of the Final Agreement (S. 3.3.2).

Where a Total Allowable Harvest has been determined, the Basic Needs Level will be established which will constitute the first demand on the Total Allowable Harvest (S. 3.6.2). Where the Total Allowable Harvest is equal to or less than the Basic Needs Level, the beneficiaries will have the right to the entire Total Allowable Harvest.

The Board will periodically review the Basic Needs Level for each species to determine whether an additional allocation is required to meet increased consumption or use by beneficiaries, intersettlement trade, and marketing for consumption or use in Nunavut (S. 3.7.1). Certain considerations will be taken into account including such things as population growth, changing patterns of consumption, and nutritional and cultural importance of wildlife to beneficiaries. If the Board finds an adjustment is necessary, it will set an Adjusted Basic Needs level which may expand up to the entire Total Allowable Harvest but not fall below the Basic Needs Level in the same year.

From the portion remaining after the allocation of the Adjusted Basic Needs Level, the Board will allocate a portion to sustain the continuation of sports and other commercial operations authorized at an earlier time (3.8.1). The remainder, to be called the Surplus will be allocated for certain uses (S. 3.9). Resident non-beneficiaries will be allocated a portion to support economic ventures sponsored by Hunters and Trappers Organizations (HTOs) and Regional Wildlife Organizations (RWOs). Finally, the remainder of the Surplus will be allocated among commercial, commercial sports, recreational, or other uses. A limited entry system will govern the commercial use of resources.

The Board has the authority to establish, modify, or remove Non-Quota Limitations on harvesting in Nunavut (S. 3.16.1). This may include a limitation on season of harvest, sex of wildlife, size of wildlife, age of wildlife or method of harvest (S. 1.4).

Government recognizes that an effective system of management requires an efficient, co-ordinated research effort (S. 2.3.4). The Board will identify research requirements and recommend research proposals to government agencies. It will collect, classify, and disseminate wildlife statistics and maintain an open file system for all information. The research program will focus on consultation and co-operation with Nunavut residents and Inuit organizations. Training and employment of Inuit in wildlife research is one of the aims of the research program.

2.3.4.3 Responsibilities

The Board will play an active role and will have responsibilities with respect to the following:

- (a) The establishment and operation of sanctuaries and conservation areas;
- (b) identification of management zones and areas of high biological productivity;
- (c) the establishment and operation of projects and programs aimed at habitat classification, improvement and protection and at the protection and propagation of wildlife;
- (d) the imposition of charges for damages to wildlife habitats on public lands by commercial or industrial activities;
- (e) the promotion of wildlife education and information and training of Inuit for wildlife management;
- (f) the regulation of the importation of non-indigenous species into Nunavut;

(g) the classification of wildlife for management purposes (S. 2.3.2).

2.3.4.4 Powers

The Nunavut Wildlife Management Board will have power to make decisions which are forwarded to the appropriate Minister for final approval (S. 2.5.2). If the Minister accepts the decision, he will proceed to do the necessary things to implement it. Where the Minister disallows the decision, he must give reasons in writing within 30 days (S. 2.5.5). In light of the written reasons provided by the Minister, the Board will reconsider the decision and forward a final decision to the Minister. The Minister may accept, disallow, or vary the final decision.

A decision made in relation to matters coming within Section 3.3 (Presumptions as to Need), Section 3.7 (Adjusted Basic Needs Level), Section 3.13 (Priority Harvest by Inuit Organizations) can only be rejected by the Minister for three reasons:

1. It is not supported by or consistent with the evidence that was before the Board or available to it.
2. It conflicts with reasonable wildlife harvesting activities of Canadians in other parts of Canada including other claim settlement areas.
3. It conflicts with the terms of a Domestic Interjurisdictional Agreement or an International Agreement respecting wildlife (S. 2.5.6).

If the Minister does not accept the Board's final decision relating to these matters, the Minister will refer it to the Governor-in-Council or the Commissioner-in-Council, depending on the level of government having jurisdiction in respect of the final decision (S. 2.5.9). The decision may then be accepted, rejected, or varied.

2.3.5 Nunavut Inuit Organizations

Two types of organizations in addition to the Nunavut Wildlife Management Board will oversee the exercise of harvesting by beneficiaries. Hunters and Trappers Organizations (HTOs) will be established in each community. Regional Wildlife Organizations (RWOs) will be established in the regions of Kitikmeot, Keewatin, and Baffin. These organizations will play an important role in the allocation of resources and in regulating harvesting activities. Funding for the operation of these organizations will be provided for by the Board.

Membership in the HTOs will be open to all beneficiaries resident in a community. The Board of Directors of each RWO will be made up of representatives from each HTO in the region.

Powers and functions of the organizations will be similar with the difference that the HTOs operate at the local level while the RWOs operate at the regional level. These powers and functions, to be further defined, will include the following:

- (a) the regulation of harvesting practices and techniques among members (including use of Non-Quota Limitations);
- (b) allocation of quotas (regional by RWO, community by HTO) among members;
- (c) the assignment of a portion of quotas (to persons or body other than an HTO in the case of regional quotas; to non-members in the case of community quotas);
- (d) the management of harvesting among members (S. 4.1.3, S. 4.1.7).

Two or more HTOs may join together for the purpose of discharging their functions over any species of wildlife on a joint basis. RWOs may also do likewise. The organizations will develop and adopt by-laws in conformity with the wildlife provisions. Members will be subject to

certain RWO by-laws particularly with respect to allocation of regional quotas.

2.3.6 Land Management¹²

A new approach to planning and management of Nunavut lands and resources providing Inuit with a substantial role in planning, impact assessment and administration is proposed by the Inuit of Nunavut. Inuit are seeking a transfer of administration, but not control, from the federal government to new bodies. Agencies that would be created are the Nunavut Planning Review Board, the Nunavut Lands Authority, and the Nunavut Impact Review Board. These bodies would share authority for land use management among Inuit and the territorial and federal governments.

Three categories of land ownership and administration are proposed. Inuit lands would be owned and administered by Inuit through an appropriate organization. Municipal lands would be owned and administered by local governments on behalf of both Inuit and non-Inuit living in the communities. Remaining lands to be owned by the Crown would be under the control of the Nunavut Lands Authority. This body would control access to Crown lands for purposes of non-renewable resource exploration and extraction.

Agreement has not been reached on land and resource ownership, or on types of new structures for land use planning and management.

2.4 Yukon Indian Claims

2.4.1 Background

The Council for Yukon Indians (CYI) on behalf of approximately 8500 status and non-status Indians has negotiated and signed several

¹²Source: Nunavut Newsletter, No. 3 and No. 5, 1982.

Agreements-in-Principle¹³ with the federal and territorial governments. Many issues remain unresolved including the disposition of resource revenues and land rights. The Yukon Territorial Government (YTG) is seeking its own demands in negotiations with the federal government. The major demand is that the balance of Crown lands be transferred from the federal government to the territorial government after a settlement is reached with the Indians. Certain lands will be allocated to the Indians for their residential use, traditional pursuits, historic preservation, and economic development (Hunt 1978).

A one-government structure for the Yukon has been agreed to by the CYI and YTG. Earlier proposals by the CYI suggested a separate, parallel Indian government be established. At the local level, certain Indian government structures will be established which will provide for a significant degree of local self-determination.

With the YTG seeking concessions from the federal government with the view to achieving provincial status, an element of uncertainty surrounds the settlement of the Yukon Indian claims.

2.4.2 Wildlife, Fisheries and Land Management

A wildlife management regime is to be established in the Yukon which grants and protects certain harvesting rights for the Indian people, establishes an allocation system, provides meaningful participation for Indians and provides for effective management of wildlife. Yukon Indians

¹³This discussion is based on public information releases dealing with sub-agreements: Agreement With Respect To Indian Harvesting Rights and Management Of Wildlife Resources In The Yukon, December 12, 1980; Agreement-In-Principle With Respect To Land Use Planning And Environmental Assessment In Yukon, December 12, 1980; Fishing Agreement, December 8, 1980; Trapping Agreement, December 12, 1980.

have agreed to give up their unlimited hunting rights in exchange for a guaranteed percentage (50%) of the annual allowable harvest of moose and caribou. The Porcupine caribou herd is not included in this allocation. A separate agreement with users and governments from other jurisdictions will establish a management regime with allocation mechanisms.

Small game except species protected by law can be taken. Tags can be obtained for black and grizzly bears and goat by all residents of the Yukon. However, Indian bands or the Central Indian Authority can apply for extra tags for ceremonial or religious purposes. All hunters will be licensed by the YTG and issued tags based on information gathered from the previous years. Numbers and locations of kill will be included in license conditions.

The right to harvest wildlife includes the right of access on all unoccupied Crown land on which Yukon residents have public rights of access for purposes of harvesting wildlife. Subject to certain conditions, beneficiaries will have the exclusive right to harvest all wildlife on Indian lands. Local Indian people will have the preferential right to harvest for subsistence purposes in Kluane National Park and any new National Parks. Times and locations will be agreed to by Band Councils and Park authorities. In Territorial Parks, harvesting may continue where it does not interfere with Park use or management objectives.

Wildlife may be utilized for human food, clothing and exchange with other Indian people for fish and/or wildlife. Subject to laws of general application, Indians can sell the non-edible by-products of wildlife.

The Yukon Wildlife Management Board consisting of an equal number of representatives from the YTG and the Indian people will be established within one year after the Final Agreement is signed. The Board will be

responsible for establishing annual allowable harvests based on principles of conservation for moose, caribou and sheep for all areas of the Yukon. The Central Indian Authority and bands will be responsible for allocating the allowable harvests of moose and caribou among Indians. Trophy hunting of sheep can continue with the Board having responsibility for allocating opportunities to resident and non-resident hunters. Government of Yukon retains final responsibility for management of game. The Board will establish a secretariat to receive and distribute data, report the results of meetings and decisions of the Board and other functions. Costs of the Board and secretariat will be provided by the YTG.

Subject to specified preferences for Indian people within their quota with regard to hunting seasons, methods of harvest, and age and sex of animals, the laws regulating hunting will apply to Indians and non-Indians alike.

Trapping opportunities for Indians are to be improved while at the same time the trapping rights of qualified non-beneficiaries are to be protected. Seventy percent of the traplines (other than the game reserves and Inuvialuit lands) in the Yukon will be given to Indian people who will have the right of first refusal if an Indian wants to sell his trapline. In consultation with trappers, the YTG will manage the fur resources.

A fisheries management scheme is proposed which will protect fishing rights for Indians and will assign priorities among the different fisheries. The priority system for Pacific salmon will be the Indian food fishery, domestic fishery, sports fishery, commercial fishery. Quotas for Pacific salmon will be established each year according to the separate river systems.

The Indian food fishery is to be conducted on a license basis.

Harvest of Pacific salmon will be at certain specific and traditional sites which will be identified in the Final Agreement. Traditional methods may be utilized. A fisheries policy is to be established by the government providing for an advisory role for Indians on all fishery matters that affect them.

A land use planning and environmental assessment and review process for the Yukon will be established. Participation of Yukon Indians in this process is guaranteed to the extent that any board or commission established will have at least a 25% Indian membership. The CYI proposes that the Yukon Land Use Planning Commission be a formal structure with responsibilities of formulating a development strategy and establishing planning priorities in the Yukon (Council for Yukon Indians 1982). Substructures proposed are a Planning Secretariat, Policy Committee and Hearing Panels.

CHAPTER 3
OTHER AGREEMENTS

3.1 Banks Island Muskox and Caribou Management Agreement

3.1.1 The Management Context

This Agreement was signed March 23, 1981 between the Sachs Harbour Hunters and Trappers Association (HTA), the Inuvialuit Game Council (IGC),¹⁴ The Inuvialuit Development Corporation (IDC)¹⁵ and the Government of the Northwest Territories (GNWT). The purpose of the Agreement was to outline the co-operative arrangements among these organizations to implement a muskox and caribou management plan for Banks Island, N.W.T.

Banks Island, world-renowned for its white fox, also supports an important population of Peary caribou and 30 - 40 percent of the world's muskox (Latour 1981). Approximately 150 Inuvialuit from the island's only community, Sachs Harbour make their living from the island's wildlife.

Muskox have increased at an unusually high rate of 10 - 20 percent from a population of 3500 in 1971 to 18,000 - 20,000 in 1980 (Latour 1981). Residents of Sachs Harbour have an annual domestic quota of 150 animals. Sport hunting was introduced in 1979 and a total of 40 hunters were booked in the 1980-81 season.

¹⁴ The IGC was established under section 14(6)(a) of the Inuvialuit Land Rights Settlement Agreement in Principle 1978.

¹⁵ The IDC was established under section 6(1) of the Inuvialuit Land Rights Settlement Agreement in Principle 1978. It is one of several corporations which will receive and be responsible for the compensation and benefits of the Inuvialuit Land Rights Settlement. The IDC is to be a holding corporation which will also carry on businesses.

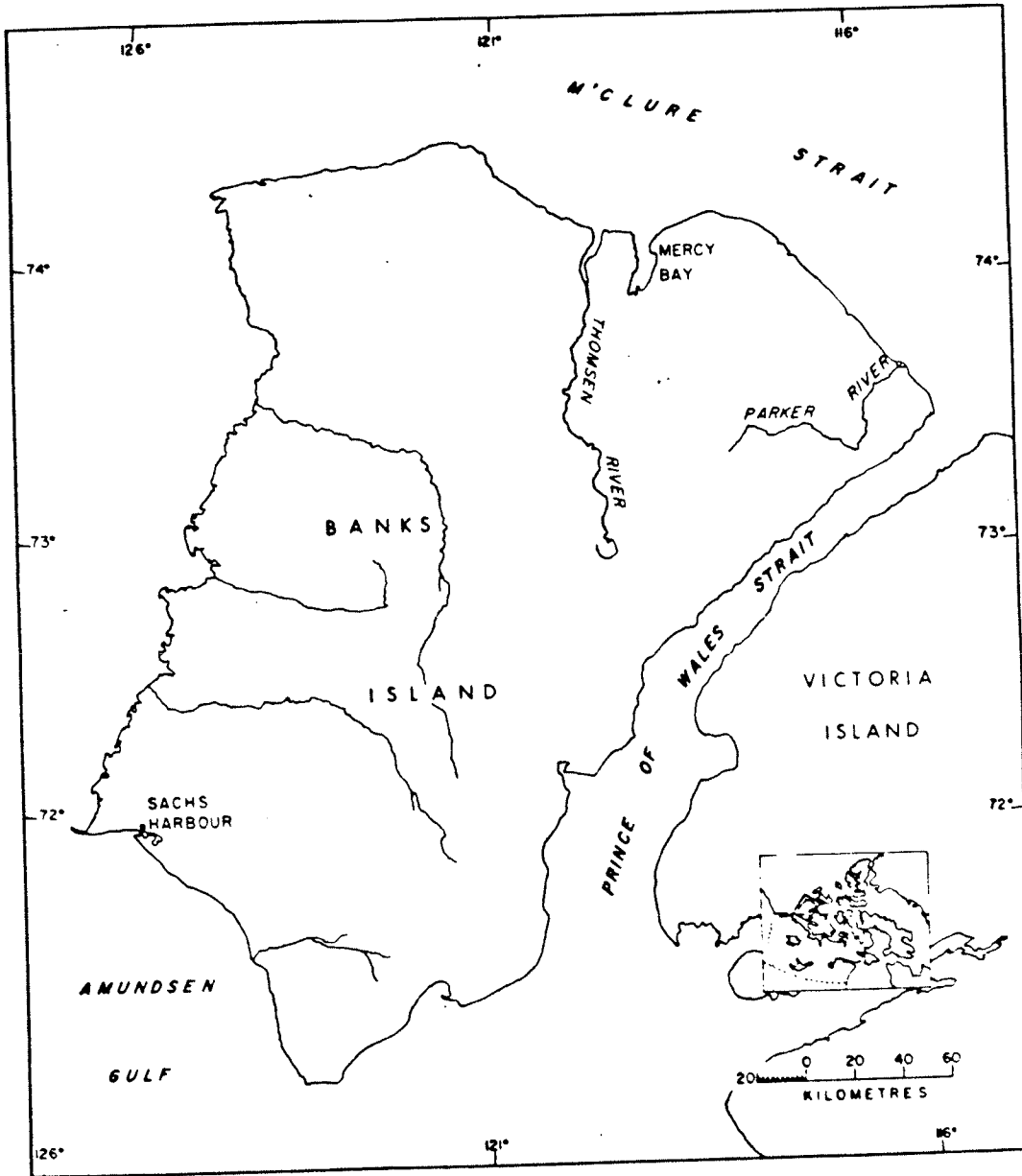


Figure 2. Banks Island, N.W.T.

Source: Vincent and Gunn 1981.

Peary caribou, the traditional meat source of the Bankslanders are estimated to number 9000. The domestic harvest is unrestricted for those possessing a General Hunting License. A commercial quota of 75 animals per year, established in 1972, was withdrawn in 1980. Domestic harvests averaged 195 caribou per year between 1962 and 1972 but are likely higher today due to the growth of Sachs Harbour and the exportation of animals to neighbouring communities (Latour 1981).

The rapid increase of muskox has caused concern among users who fear the number of muskox may exceed the grazing capacity of the island and may threaten the range of the caribou. Bankslanders predict from their historical experience that should the muskox continue to increase, the population of both caribou and muskox would crash (GNWT Wildlife Service April 1981).

In wildlife management terms, the problem is one of stabilizing or controlling a population which has an unacceptably high rate of increase (Caughley 1977). Manipulation of population dynamics will result in a desired solution. The GNWT Wildlife Service recognized that a definitive management response to this problem could not be made until adequate biological data were gathered and the population dynamics of both caribou and muskox were better understood. Interspecific relationships and the relationship between species to their respective ranges are not well understood. The Wildlife Service also recognized that a cooperative effort by concerned organizations was required to develop a comprehensive caribou and muskox management plan. Cooperative arrangements, management goals and objectives, and management processes were agreed to and are outlined in the Agreement.¹⁶

¹⁶The Agreement may be amended at any time with consent of the parties.

3.1.2 Principles

The parties to the Agreement recognize the Inuvialuit dependence on caribou and muskox for nutritional and other needs. There is a need to cooperate to achieve effective management to ensure the long-term well-being of the wildlife and the residents of Banks Island. While the GNWT has the legislative competence and obligation to implement a management plan, the IGC and the HTA have technical expertise to contribute to implement effective management. Finally, the parties recognize and wish to implement the principles of joint management and principles of economic development that are detailed in the Inuvialuit Land Rights Settlement Agreement in Principle 1978.

3.1.3 Goals and Objectives

The major goal is to develop and implement an integrated management plan with full participation of all parties in the planning, decision-making, and management of the resources. The Muskox and Caribou Management Plan will be annually attached as a schedule to the Agreement. Included in the plan will be details with respect to management objectives, research, commercial enterprises, regulatory and legislative requirements, and a budget.

The management objectives are to maintain viable populations of muskox and caribou, considering their biological requirements and the priorities and needs of Bankslanders and other northerners.

3.1.4 The Management Process

Long-term research is required to determine the optimum herd size for both species, the carrying capacity of Banks Island, the nature and extent of interspecific interactions, and the consequences of increased

muskox harvests. Short-term research is required to gather vital biological and management information before a long-term management strategy can be implemented. Biological research will be coordinated and analyzed by the GNWT Wildlife Service. Certain research responsibilities may be designated to the HTA and/or the IGC. All data and analyses will be made available to the parties and annual progress reports will be prepared for the public.

Optimum harvest levels based on the best available data and biological principles will be annually determined by all parties. Allocation of the harvest between guided hunts, commercial and subsistence uses is the responsibility of the Sachs Harbour Hunters and Trappers Association. The development of economic activities relating to muskox is the responsibility of the Inuvialuit Development Corporation in cooperation with the HTA. Under the direction of the IDC, the GNWT will assist in the development of economic ventures.

The GNWT agrees to enact regulations required by the parties to implement a management plan.

3.1.5 Coordination

The parties appoint a coordinator for a specific term. All necessary resources are provided by the GNWT to enable the coordinator to carry out his responsibilities. Such responsibilities include: coordination of all aspects of muskox and caribou management, evaluation of the implementation of any undertakings by the parties, to act as spokesman, and to convene meetings. Disagreement between parties will be resolved by the coordinator.

3.1.6 Implementation¹⁷

During 1981, the parties conducted a scientific sampling harvest to gather basic biological information about the muskox and their population. Personnel from the Western School of Veterinary Medicine from the University of Saskatchewan participated by examining the quality and health of the animals in the field and in their laboratories. This work contributed to biological information as well as assisted the efforts of the Inuvialuit in their experimental marketing of the meat from the animals.

In 1982, two projects were undertaken. The first project was the live capture of thirteen muskox calves which were successfully transported to the University of Saskatchewan. The Veterinary School will establish an experimental herd for the purpose of conducting long-term biological research to complement the data gathered from field research.

The second project was the experimental harvest of about 96 animals which yielded approximately 4,536 kilograms of top-quality meat. New procedures and techniques for selectively harvesting and processing the animals was part of the experimental harvest. It was established that the Inuvialuit could herd selected animals for considerable distances and hold them in a temporary corral for extended periods of time without causing stress to the animals. New techniques and equipment necessary for Federal meat inspection required for exporting were tested and proved successful. Testing proved that the quality of the meat exceeded standards set for domestic animals.

¹⁷Source: COPE 1982.

The IDC has conducted test marketing of muskox products in Inuvik and throughout the Territories. A craft industry with the by-products of muskox will be developed by the IDC.

3.2 Beverly-Kaminuriak Barren Ground Caribou Management Agreement

3.2.1 Introduction

The Beverly-Kaminuriak Barren Ground Caribou Management Agreement was signed June 3, 1982 after some twelve months of negotiations between governments and native organizations. It is an interjurisdictional agreement involving the governments of Canada, Manitoba, Saskatchewan and the Northwest Territories. Cooperation between government agencies and native organizations is recognized as essential for effective management and protection of the Beverly and Kaminuriak caribou herds. A joint user-government Caribou Management Board established under the Agreement provides a structure for a cooperative management approach.

3.2.2 The Caribou and Users

A rapid decline of the Kaminuriak herd's population has been well documented since 1955. The population has declined from about 149,000 in 1955 to 63,000 in 1967, 44,000 in 1977 and 39,000 in 1980 (Thomas n.d.). The historical winter range includes northern Manitoba and Saskatchewan, and the extreme southeastern corner of the Keewatin region of the N.W.T. Constriction of herd range has coincided with population declines. In recent years, the herd has seldom wintered in northern Manitoba and when it has, the numbers have been few. The herd has maintained its summer calving range in an 8000 km² area southeast of Baker Lake, N.W.T.

The Beverly herd's range extends from northern Saskatchewan and northern Manitoba into the Mackenzie and Keewatin districts of the N.W.T.

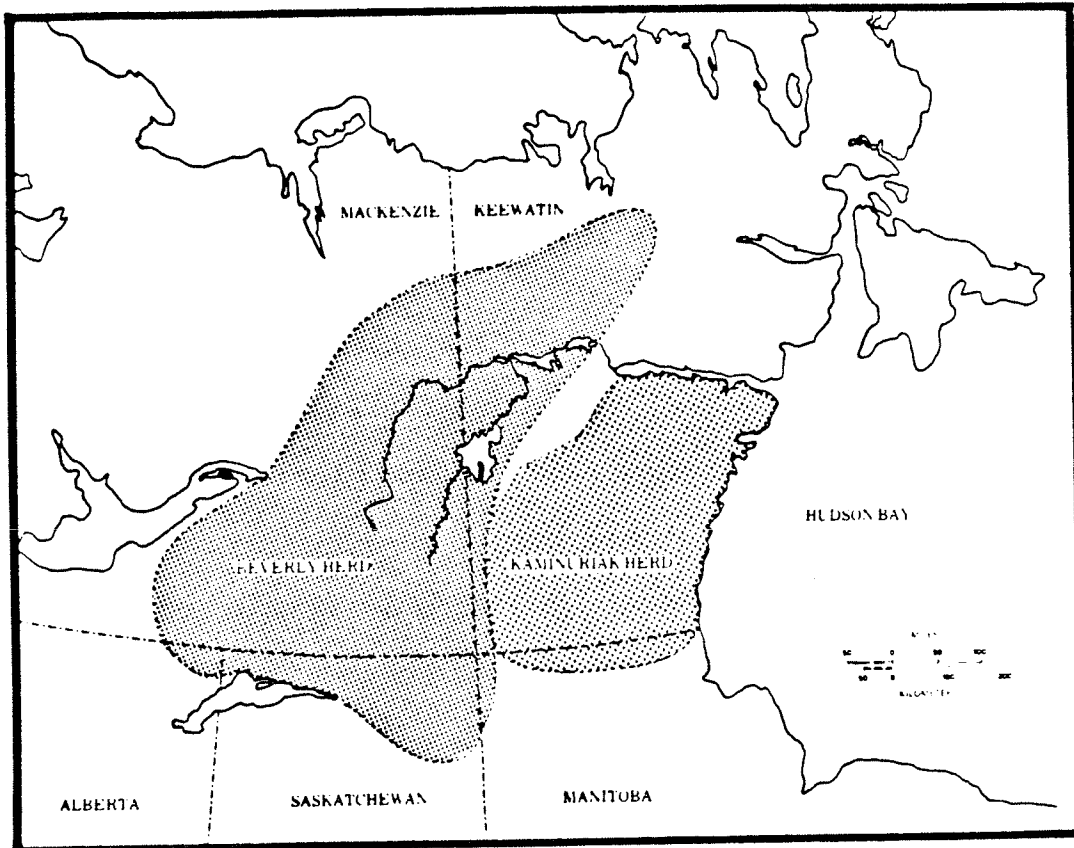


Figure 3. Range of the Kaminuriak and Beverly caribou herds in the 1970's.

Source: Simmons et al 1979.

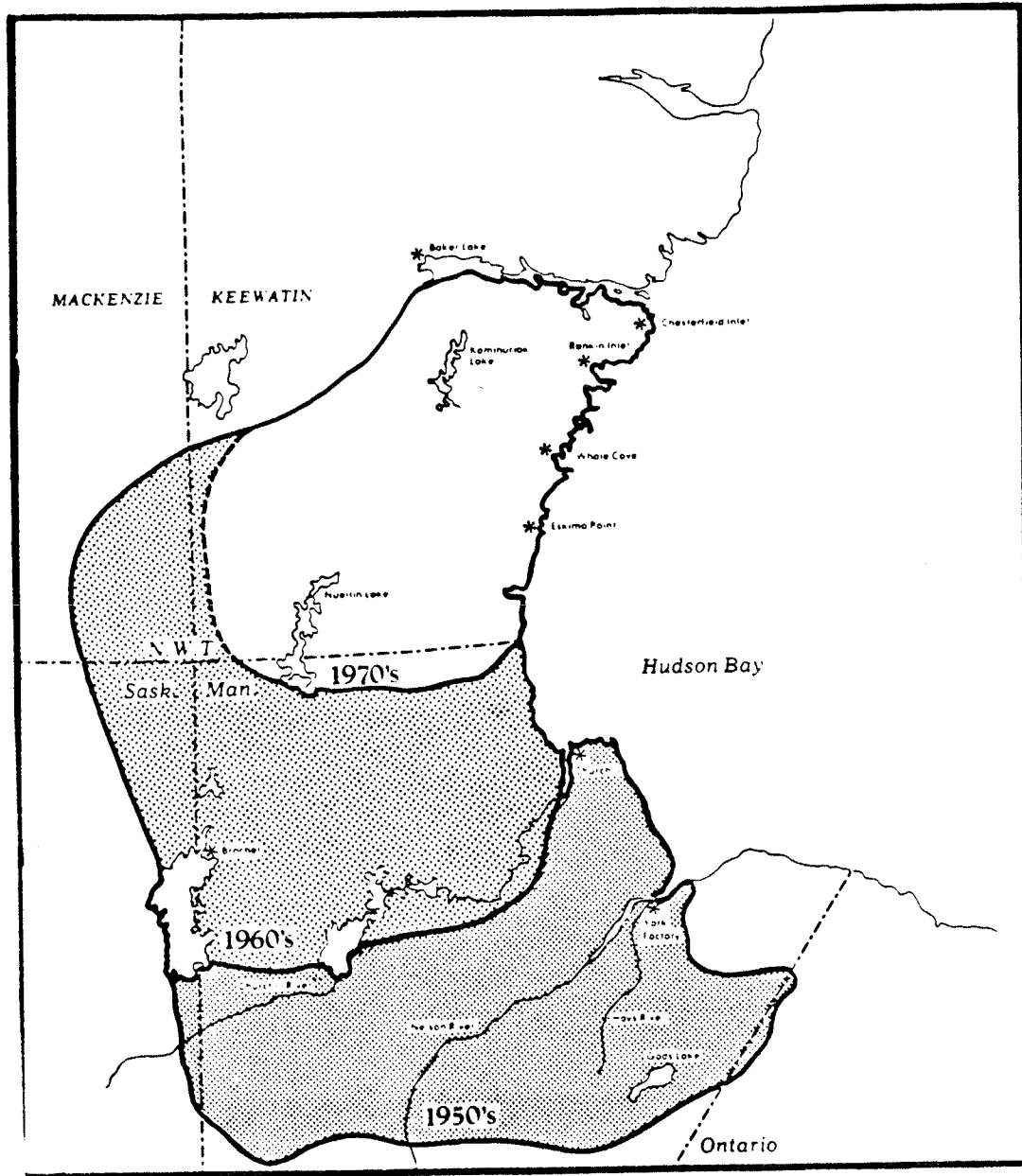


Figure 4. Range of the Kaminuriak herd in the 1950's, 1960's and 1970's.

Source: Simmons et al 1979.

A decline in population from 210,000 in 1971 to 94,000 in 1980 has been documented (Thomas n.d.). Shrinkage of its winter range has also occurred.

It became apparent to biologists in the 1970's, that herd losses annually exceeded recruitment, and in the absence of effective management, the herds would continue to decline (Payne and Goulden 1982). Over-hunting and perhaps wolves were identified by biologists as the predominant causes of contemporary caribou declines. Other factors including mineral exploration, forest fires, diseases and unfavourable climatic conditions create stressful conditions for caribou. The effect of these different factors on caribou is poorly understood and is a source of controversy among biologists, and between native people and biologists. Heavy hunting coinciding with unfavourable combinations of natural factors results in spectacular population declines (Thomas n.d.). Recovery is a slow process unless conditions are optimum.

The traditional caribou users are Inuit, Dene, Chippewyan, Metis and non-status Indians living in seventeen communities in the ranges of the Beverly and Kaminuriak herds. There is no legislation in Manitoba or Saskatchewan to limit caribou harvests by Indians. Harvest rights are protected by treaties and provisions of the Natural Resources Transfer Agreements, 1930, which transferred ownership of natural resources from the federal government to the three prairie provincial governments. The Agreements, incorporated into the British North America Act of 1930, provide Indians with the right to hunt for food at all seasons of the year on all unoccupied Crown land. In the N.W.T., under provisions of the Northwest Territories Act, native people have the right to hunt for food for themselves all species except those listed as in danger of

extinction. Those species are the only ones in which harvest restrictions can be imposed. Barren ground caribou were placed on the endangered list in 1960, but regulations with few exceptions were not enforced. In Saskatchewan, Metis and non-status Indians are issued a maximum of six caribou permits per family per year depending on need.

Recreational hunting is insignificant. Manitoba prohibits sport hunting and Saskatchewan allows resident sport hunters two caribou per year north of the 58° latitude. The N.W.T. quota was reduced in 1978 from five to two caribou per sport hunter.

Average annual harvest of the Kaminuriak herd from 1968-69 to 1977-78 was about 5000 (Thomas n.d.). The proportion of the population taken each year has risen as the herd has declined. Unusually high kills of the Beverly herd have been reported in recent years.

Until recently, little if any communication took place between caribou biologists and users. A major exception was an education program pioneered by the Manitoba government and the Canadian Wildlife Service in the 1950's. User-manager dialogue was created and chiefs and band councillors took active roles in management. For the most part, users have not participated in government management programs and have not been party to research results which are conveyed to the southern scientific community.

3.2.3 Management Issues and Responses

Interjurisdictional management of the herds involves five government agencies. The Manitoba and Saskatchewan governments have legislative responsibility for wildlife management. The N.W.T. government has jurisdiction over wildlife but not wildlife habitat which is the responsibility of DIAND. DIAND is also responsible for the native users.

Finally, the Canadian Wildlife Service under the federal Department of the Environment has an interest in the herds as they cross provincial boundaries. Management efforts by these agencies were uncoordinated and research and monitoring programs were inadequately designed and funded.

Jurisdictional problems have crippled concerted efforts and the methods of collecting kill statistics have been inconsistent and ineffective (Simmons et al 1979).

A response to interjurisdictional problems was the establishment in 1971 of the Caribou Management Group. The Group was formed for the purpose of coordinating research on, and management of, the Kaminuriak and Beverly herds. Membership included program managers or division heads from government departments responsible for caribou and caribou users. A technical committee was formed to advise the Group on the status of the herds.

The decline of the Kaminuriak herd and its projected decline due to overhunting spurred a management response by the Group in 1978. An information and education program designed for users of the Kaminuriak herd was launched by the Group. The purpose of this program was to inform users and their political representatives of recent research results and to solicit from them suggestions on how to properly manage the herd. The ideal result of this program would be voluntary curtailment of harvest (Simmons et al 1979).

Reasons why an information and education program was to be the major line of attack have been outlined (Simmons et al 1979:23).

1. If the reasons for the laws are not recognized or are poorly understood by native hunters, they will be difficult and expensive to enforce. Hunting restrictions championed by the hunters themselves are most effective.

2. The Canadian Wildlife Service and the governments of Manitoba and Saskatchewan have no legislation in place which they can employ to restrict hunting. They cannot complement season and quota restrictions imposed by the Northwest Territories. Inuit from the Keewatin would feel unfairly fettered in view of the freedom of Indian hunters to take Kaminuriak caribou south of 60°.

3. The support of legislators is essential, and of native political organizations desirable, before regulations on caribou hunting can be changed.

Meetings between representatives of user groups and biologists were initiated in 1978. The success of the first meeting, which allowed users to express their concerns and exchange information, led to the recognition that future meetings were essential if caribou were to be managed effectively. The need for a joint management board was established.

Ministerial recognition of the caribou crisis was required. In late 1978, Ministers were briefed and they met in December of 1980 to address the problem of declining numbers. Agreement was reached on a cooperative approach to caribou management. The Ministers expressed the need for a formal agreement providing for a joint user-manager Caribou Management Board. Extensive consultation took place with native organizations. Some users and organizations opposed government participation on the Board, suggesting it should be an all native management Board. Indian Affairs Minister John Munro was willing to fund "organized dialogue between caribou users and government" but was not willing to fund a board which did not recognize provincial and territorial responsibility to manage game (Caribou News Vol. 1, No. 4, 1981).

Agreement was reached on an interjurisdictional user-government board with representation including eight native members and five government members. The signing of the Agreement formally established the Beverly and Kaminuriak Caribou Management Board.

3.2.4 The Beverly and Kaminuriak Caribou Management Board

3.2.4.1 Structure

The Board is an advisory body to the responsible Ministers. Government representatives are senior officials appointed by the Ministers of the following departments:

- Indian Affairs and Northern Development, Government of Canada
- Environment Canada, Government of Canada
- Northern Saskatchewan, Government of Saskatchewan
- Natural Resources, Government of Manitoba
- Renewable Resources, Government of the Northwest Territories.

Native representatives from the N.W.T. are appointed by the Minister of Renewable Resources, GNWT upon the recommendation of native organizations. Membership includes:

- two residents from the communities in the southern Keewatin on the recommendation of the Keewatin Wildlife Federation
- one resident from the communities in the South Slave Region of the N.W.T. on the recommendation of the Dene Nation
- one resident from the communities in the South Slave Region of the N.W.T. on the recommendation of the Metis Association of the N.W.T.

Provincial native representatives include:

- two residents from communities of northern Saskatchewan appointed by the Minister of Northern Saskatchewan
- two residents from northern Manitoba appointed by the Minister of Natural Resources.

Membership is for three years. However, the parties have the right to terminate the appointment of their respective appointees at any time and reappoint Board members.

The Chairman and Vice-Chairman are elected from amongst the members of the Board by secret ballot. Each member has one vote and Board decisions require a majority voting in favour. Seven members constitute a quorum. Formal meetings are to be held twice a year or as often as the Chairman feels is necessary. The Board has the power to establish and dissolve standing committees as required to carry out Board functions as well as set the terms of reference for these committees.

Funding for the operation of the Board is provided by governments; two-fifths by the federal government and one-fifth from each of the other governments. Administrative costs, not exceeding \$75,000 in each year are subject to a majority approval by the parties.

Administrative costs include expenditures related to:

- (a) a secretariat;
- (b) the production of an annual report and its distribution;
- (c) a modest independent research review capability;
- (d) the production of a newsletter.

In addition to providing annual administrative costs, the respective governments are responsible for funding the expenses for salaries or honoraria and travel expenses including transportation, meals and accommodation for their members.

3.2.4.2 Objectives

One of the objectives of the Board is to coordinate the management of the Beverly and Kaminuriak herds in the interest of the traditional users while recognizing the interest of all Canadians in the survival of the resource. Of principal concern is restoration of the herds to a size and quality which will sustain the requirements of the traditional users.

Communication amongst users, between users and government parties, as well as between government parties is necessary to ensure coordinated caribou conservation and caribou habitat protection. An objective of the Board is to establish such communication.

A third objective of the Board is to establish a process of shared responsibility for the development of management programs between governments and users.

3.2.4.3 Responsibilities

As an advisory body to the governments, the Board has the responsibility to develop and make recommendations to governments and users for the conservation and management of the herds. Recommendations may include, but are not necessarily limited to:

- (a) limitations on the annual harvest and the allocation of that harvest amongst the N.W.T., Manitoba and Saskatchewan;
- (b) criteria for regulating the methods of harvest;
- (c) methods of traditional user participation to assist in management;
- (d) caribou research proposals;
- (e) recommended standardized data collection and presentation;
- (f) a herd management plan for both herds.

To facilitate the maintenance of productive habitat, the Board will monitor caribou habitat. The Board will discuss its responsibilities, findings and progress with users by holding public meetings in communities. After the development of a management plan, the Board will assess and report on the plan to governments and user groups.

Annual reports, to be submitted to the governments will include:

(a) a summary of Board activities, recommendations and responses by governments and users;

(b) a review of the state of the herds and their habitat;

(c) a summary of harvests by jurisdiction and community;

(d) a financial statement for the operation of the Board.

Translation of these reports into the languages of the traditional users will be arranged by the government parties.

4.2.5 Implementation¹⁸

In June, 1982 a survey of the calving grounds of the Beverly and Kaminuriak herds was carried out by the GNWT Wildlife Service. Preliminary survey results indicate large increases of both herds. The population estimate for the Kaminuriak herd has increased to between 105,000 and 158,000. The Beverly herd estimate is between 132,000 and 184,000. Biologists for the N.W.T., Saskatchewan, Manitoba and federal governments, the Metis Association of the N.W.T. and the Keewatin Wildlife Federation will conduct a technical review of the results. The surveys will be replicated in June, 1983 at which time these new population estimates may be confirmed. Reaction to herd increases by Board members has been subdued while they await the results of the technical review and the 1983 survey.

While the increase in the Beverly herd could be the result of natural growth, the increase in the Kaminuriak herd must be largely due to an influx of animals from other areas. Inuit from Baker Lake and other northern parts of the Keewatin have reported for several years that Kaminuriak caribou have been moving north of Chesterfield Inlet, into an

¹⁸Source: Caribou News Vol. 2, No's 1-5, 1982-83.

area not regarded by biologists to be part of their range. They may in fact have calved in this area making the previous surveys incomplete. There is also the possibility of mixing of the Kaminuriak herd with the Wager Bay herd which could account for the large increases. What these recent estimates suggest is that there are large gaps in the information biologists have on caribou behaviour. There is recognition that these gaps can be filled in by utilizing the body of knowledge hunters have about caribou behaviour together with scientific research.

Since the Board was established, two membership changes have been made. The federal department of Indian Affairs and Northern Development is represented by three people, each specializing in certain areas of the department's activities, but the department retains only one vote. The Board also agreed that the Keewatin Wildlife Federation and the Keewatin Inuit Association could be represented by three or more people, but the Keewatin Inuit would continue to have only two votes.

The Board has approved a resolution to seek extraordinary funds to determine the extent of interaction between the caribou herds north of Chesterfield Inlet and the Kaminuriak herd. Funding is being sought from the N.W.T. Wildlife Service for a survey north of Chesterfield Inlet.

An education program on caribou and caribou management for community schools has been approved by the Board and may be in place by September 1983. Support for this program has come from all governments involved and native people consulted in the communities. Material presented will include views of scientifically trained wildlife managers and users. Full consultation with local school authorities, education departments

and communities is taking place in the preparation of materials.

The Board has agreed that a film/video project carried out in the Keewatin in 1981 should be extended to communities in Manitoba, Saskatchewan and the South Slave Region of the N.W.T. The Kaminuriak Herd Film - Video Project used film and videotape to present differing views of persons concerned with the future of the herd. Funding for the project is being sought from external agencies.

There is considerable concern among Board members about areas of caribou range being lost due to forest fires. Most of the caribou range is outside the fire protection zones in Manitoba, Saskatchewan and the South Slave Region of the N.W.T. Board members will be collecting more scientific data to support a request for funding in the 1984-85 fiscal year for improved fire management.

Caribou protection measures which state what restrictions mining companies must work under during caribou calving and migrations are a concern of the Board. In place since 1977, the measures have been discussed and reviewed by representatives from DIAND, the Keewatin Wildlife Federation, the Caribou Management Board, hunting and trapping associations, hamlet councils, the N.W.T. Chamber of Mines and the N.W.T. Wildlife Service. DIAND, with responsibility for habitat protection and northern development, issues permits to mining companies stipulating restrictions on their activities. Representatives from mining companies have been pressing for a relaxation of the measures. Considerable opposition to their requests have come from many organizations, including the Caribou Management Board. The Board's view is that measures should not be changed without a thorough study by the Board.

A management plan to be implemented in 1983, is being prepared by the Board. Board meetings are scheduled to take place in certain communities in 1983.

3.3 Northern Flood Agreement

3.3.1 Background

The Northern Flood Agreement was signed December 16, 1977 between the Government of Manitoba, Government of Canada, Manitoba Hydro, and the Northern Flood Committee to provide a means of compensating Indian bands for damages caused by the Churchill River diversion and Lake Winnipeg regulation projects in northern Manitoba. The bands affected by the hydro projects are incorporated as the Northern Flood Committee which includes bands from Nelson House, Norway House, Cross Lake, Split Lake and York Factory.

Adverse effects on the land and lifestyles of the reserve residents have occurred and may occur in the future due to modification of the water regime. To provide compensation for such effects, an arbitrator has been appointed by the parties to adjudicate upon claims submitted by any person adversely affected.

The federal government, under the department of Indian Affairs and Northern Development is committed to playing an active role in providing resources and expertise to the communities to improve economic and social conditions. With responsibility for Indians and lands reserved for Indians, it is committed to ensuring that special rights of Indians are adequately protected.

3.3.2 Fisheries and Wildlife Management

Wildlife resources policy is set out in Article 15.1 - 15.3 of the Agreement. Reserve residents are granted first priority to all wildlife resources within their trapline zones as well as all lakes and rivers traditionally used by them as a source of food supply, income-in-kind and income. Such an area has been designated as the Resource Area.

Each community has a Resource Area which roughly corresponds to their Registered Trapline sections. Should the hydro project affect these areas or make them inaccessible, Manitoba has agreed to provide alternate Resource Areas to the extent that it is practical to do so. The maximum degree of self-sustenance in food supplies and maximum income and income-in-kind from wildlife resources is encouraged by the provincial government. Any person who does not have a present right at law to hunt, fish and trap in the Resource Areas will be prohibited from doing so unless a controlled season is permitted because of an overabundance of a species. Such a controlled season would have to be in the interest of the perpetuation of the species and could only be established following consultation with a body representing the interests of the residents affected.

A Wildlife Advisory and Planning Board has been established (December, 1979) for the purpose of protecting the wildlife resources in the Resource Areas. The Minister of Northern Affairs appoints members after considering recommendations by reserve residents. Two members from each of the five bands plus a chairman sit on the Board. In addition, interests of other northern residents are represented by one member each from the Manitoba Metis Federation, the Thompson Wildlife Association and the Norman Regional Development Corporation. Civil servants do not sit on the Board but are invited to attend meetings and act as advisors. Department of Natural Resources staff provide data, policy information and other support that Board members may require. Manitoba pays expenses of delegates to attend meetings, provides a meeting place and a secretary.

The Board can consider and recommend on all matters affecting wildlife (including fish) within the Resource Areas including the following (Article 15.5 - 15.5.5):

1. Monitoring the wildlife resources in the Resource Areas;

2. Advising as to the overabundance of any species;
3. Advising as to the maximum kill of any overabundant species;
4. Encouraging the annual harvest of wildlife resources to an extent and in a manner consistent with the perpetuation of adequate numbers of the species involved; and

5. Formulating and recommending the implementation of works and programs designed to protect and perpetuate the wildlife or to provide for continuation of wildlife harvesting.

The Board operates as an advisory body. It can formulate recommendations based on the expertise of the Board members who are hunters, trappers and fishermen and on the information made available to them by the Department of Natural Resources. The Minister retains the prerogative to decide against Board decisions.

The Board also operates as a planning body. It is encouraged to design and develop projects such as fur farming. Funds are available under such programs as Special ARDA for program development.

Comprehensive community development plans are to be prepared for each community with resources provided by the federal and provincial governments (Article 16). Plans will deal with providing improved social and economic conditions for all reserve residents and providing continued opportunities to participate in traditional activities. Once these plans have been prepared and adopted, they will have an effect on the Board's program planning.

A program designed to utilize community traplines in a more effective way is to be implemented in consultation with representatives from the communities. Traplines are recognized as contributing to the communities

a food supply and income supplement for elderly and infirm residents, the opportunity for younger residents to learn harvesting skills by elder residents, and an opportunity for recreational activities (Article 15.8).

Reserve residents are to be trained and hired by Manitoba as conservation officers, responsible for enforcing policies concerning wildlife management in the Resource Areas.

3.3.3 Implementation¹⁹

The Board has given considerable attention to the Registered Trapline Program, a trappers compensation program provided under the Northern Flood Agreement (Schedule D). The program provides income assistance, support payments and other benefits to all trappers whose trapping activities have been, or may be affected by the hydro projects. In 1981, a Trapline Review Committee was formed with members drawn from each Band, Manitoba Hydro, and the provincial department of Natural Resources to review the compensation program.

The Board has not undertaken project planning, but it has passed some resolutions and forwarded recommendations to the Minister of Natural Resources. Board members have been uncertain about the role the Board can and should play. Much discussion tends to focus on local community problems which could be addressed to the local Conservation Officer. All matters affecting wildlife in the Resource Areas are the Board's concern. It can consider and make recommendations to government on any matter that requires attention. It should advise and assist the Department

¹⁹ Source: Minutes of meetings of the Wildlife Advisory and Planning Board, December 1979 to August, 1982.

of Natural Resources in making decisions on old and new conservation programs. If resource depletion is occurring due to an influx of hunters and fishermen into the Resource Areas, the Board should set out the facts and recommend a course of action to the government.

A principal concern of the native Board members is that new tourist developers are moving into the Resource Areas. With new access roads being built in these areas, an influx of sport hunters and fishermen can be expected. If there is an adequate supply of wildlife for all users, outsiders do have the right to enter the Resource Areas for recreation purposes. At the same time, the reserve residents are encouraged to utilize the wildlife to a maximum degree for self-sustenance and income.

→ The Agreement does not stipulate whether the Board can participate in allocation decisions. It can recommend against outside developers establishing tourist operations. If the residents are encouraged to obtain maximum benefits from resources, they should have first choice in developing tourist facilities.

While it is taking time for this Board to function effectively, there is agreement among Board members and advisors that it can and should play an important role in resource management in the Resource Areas. Some of the current problems with the Board stem from the fact that Board members are unfamiliar with resource policies and are uncertain about the Board's mandate. In addition, the relationship between the Board and the Natural Resources Department is not clear. As this is the department which the Board would most often make recommendations to, the linkage of the Board to the Department should be defined.

CHAPTER 4
CO-MANAGEMENT PROPOSALS

4.1 Pacific Fisheries

4.1.1 Introduction

Serious and complicated problems are facing the Pacific fisheries of Canada. User conflicts, overfishing, eroding fisheries habitat, and overexpansion of the fishing fleets are problems that have been addressed in an inquiry headed by Commissioner Peter Pearse into Pacific fisheries policy (Pearse 1982). The Commission, appointed January 12, 1981, was charged with the task of finding ways to improve the conditions of Canada's Pacific fisheries. The terms of reference instructed Commissioner Pearse to investigate and to make recommendations regarding most of the major issues of governmental policy relating to these fisheries, excluding international arrangements.

Deficiencies in government policy have been identified as the major source of the problems afflicting the fisheries. These include uncertain policy objectives, weak and outdated legislation, bad organization, contradictory programs, and confusion (Pearse 1982).

The lack of cohesive, consistent, and forward-looking policies and programs with respect to fisheries management, enhancement, and environmental protection is the single most important criticism of the Department of Fisheries and Oceans' activities on the Pacific coast (Pearse 1982:3).

The Indian fishery, while placing relatively light demands on the fish resources, is a complicated and often contentious aspect of fisheries policy. Current Indian fisheries policy arrangements are in serious need of reform. In recent years, numerous conflicts between Department

of Fisheries and Oceans (DFO) officials and native fishermen have reached crisis proportion to the point of armed confrontations in some areas. Unless arrangements are improved, the relations between DFO and the Indian community can only worsen.

Many native organizations in B.C. made submissions to the Pearce Commission, outlining their concerns and proposing alternative solutions to the management problems. Commissioner Pearce has drawn on these submissions for clarification of the issues and problems as well as in the design of new proposals for policy changes in the Indian fisheries. While there may be criticisms of Pearce's recommendations, the process of the Royal Commission has been useful and the results of the study should form the basis of future discussions.

4.1.2 Indian Fisheries: Issues and Problems²⁰

The Indian fishery is commonly called the Indian food fishery, but this restrictive meaning of the term does not reflect the social and cultural significance of the fishery resources. The Gitksan-Carrier Tribal Council provide a broader definition of the Indian fishery as it relates to Gitksan and Carrier people.

The Indian fishery means:

1. The anadromous salmonids in Gitksan and Carrier territories.
2. The resident species (char, trout, whitefish, burbot).
3. The Gitksan and Carrier technology used when harvesting.
4. The Gitksan and Carrier laws that govern the Indian fishery.
5. The annual cycle of activities relating to the use of the resource (Gitksan-Carrier Tribal Council 1981).

²⁰This discussion is drawn from the following sources: Gitksan-Carrier Tribal Council 1981, 1982; Lane and Lane 1978; Pearce 1982.

Statistical data on the amount of fishing activity and on annual catches in the Indian fishery are very weak. Estimates suggest that about 25 thousand Indians, or almost half the status Indians in B.C. benefit directly from the food produced. A wide variety of species are used; salmon being the most important with the catch increasing significantly in recent years. Traditional equipment and methods of processing and preserving are still utilized. Fish resources are central to the feasts and ceremonies and some species are used as a source of oil, and for medicinal and cultural purposes.

The majority of Indians in B.C. claim a right to fish based on aboriginal use and occupancy of lands as they have never signed treaties nor settled land claims. Indians on Vancouver Island and in northeastern B.C. secured Indian fishing rights through treaties. However, court decisions have ruled that both treaty and non-treaty Indians are subject to the federal Fisheries Act and regulations made pursuant to it.

Regulations imposed in 1910 required Indians to obtain a permit to fish which stipulated areas, times, and gear to be used. The sale or trade of fish was prohibited several years earlier. Increasingly stringent regulations have been imposed on the Indian fishery, without consultation with the Indians. While permits confer certain privileges not available to non-Indians, the Indians view their access to fisheries to be a right and not a privilege. Access to fish resources is vulnerable to shifts in government policy, changes in Indian fishery regulations, and to catches by other users.

The Department of Fisheries and Oceans gives Indians first priority in the utilization of fish, subject to conservation. However, the Indian fishery in the river systems is usually the last in the sequence of demands on migrating salmon. For conservation purposes, to ensure

adequate spawners to replenish the stock, restrictions are imposed on the Indian fishery if they are required. Indian fishing is often constrained due to overharvest by the commercial and sport fishery. Giving priority to the Indian fishery does not give the Indians any measure of security in obtaining fish resources sufficient to meet their needs.

The fundamental issue for the Indians is that their access to fish resources is a right and not a privilege. Government policy of regulating the Indian fishery through the use of permits, and since 1977 through licences can increasingly be used to further restrict their fishing activities. There are practical problems with allocating the Indian fishery first priority if there are insufficient stocks for escapement and the Indian fishery. This policy which purports to recognize their fishing rights does not guarantee access to the fish resources. As Pearse (1982:176) states

The present policy governing the Indian fishery is not only unsatisfactory to many Indians, but gives rise to awkward management and enforcement problems for the Department.

As tighter restrictions have been imposed on the Indian fishery, increased enforcement by DFO officials has resulted. Some Indians have complied with the regulations, but others have refused, leading to prosecution and court battles. The sale of fish, an illegal activity under the regulations, has been a target for enforcement officers who have conducted undercover operations in their curtailment attempts. Indians claim harrassment by enforcement officers who destroy or confiscate gear or fish. Regulations, enforcement and harrassment have led to mistrust, resentment and inflamed relations between Indians and DFO.

4.1.3 Recommendations of the Pearse Commission²¹

Commissioner Pearse's recommendations are guided by his terms of reference which require him to ensure that they are "conducive to proper management and conservation, to an equitable division of the catch among sectors..." (Pearse 1982:268). In this context, he perceives several urgent requirements: to clarify and strengthen Indian fishing rights, to enable Indians to become involved in fisheries management, to provide opportunities for Indians to take better economic advantage of their rights to fish, and to improve the administrative and enforcement arrangements.

Without prejudice to any future settlement of native claims, the Indians' claim to fish should be acknowledged and should be explicit, binding and unequivocal. Defined quantities of fish should be allocated to the Indian fishery. This will secure their claim on the catch and will enable DFO to work towards escapement targets. Specific quantities should be allocated to each band based on recent levels of utilization as well as trends in populations and their economic opportunities. Quantity and kind of fish to be allocated will be determined through negotiations with the bands. These allocations will have priority over commercial and sport fisheries. Flexibility in the allocation policy is necessary to take account of diversity in the bands' involvement in fisheries and their satisfaction with current arrangements. Each band should be given the opportunity to choose whether its entitlement to fish will be allocated through Indian fishing permits or a new Indian fishing agreement. Regulations in the permits should be reviewed.

²¹Source: Pearse 1982.

Those bands who want the responsibility of participating in fisheries management and enhancement should enter into Indian Fishery Agreements with DFO. These agreements should carry terms of ten years with provisions for renewal one year before the term expires. They will specify the band's allocation and authorize the band to harvest according to an annual fishing plan determined jointly by the band and DFO. Enhancement plans, approved by DFO would authorize bands to participate in enhancement activities on or near their reserves and to augment their allocated catch by a portion of the enhanced stocks. Under these agreements, bands could sell their authorized catches under appropriate monitoring and marketing arrangements. On large river systems, collective planning could be undertaken by bands, tribal councils and other native organizations.

Band councils should take responsibility for administrative and supervisory functions associated with Indian fisheries. They should allocate fish amongst the members, issue individual permits where DFO issues a general permit to the band, supervise fishing activities, provide statistical and other information to DFO, and negotiate fishing plans under Indian Fishery Agreements. With specific allocations given to each band, the focus of enforcement should shift away from compliance with restrictions towards monitoring catches. Procedures for reporting catches should be jointly determined by DFO and band councils.

Band fishing by-laws²² could serve a useful role in managing and administering fishing activities on reserves. These by-laws would have to be compatible with the proposed agreements and permits.

Commissioner Pearse proposes the development of a new systematic consultative structure that would efficiently channel information, advice and criticism between DFO and the interested public. Public participation is becoming an increasingly important part of the governmental process. There are several reasons why effective consultative and advisory processes are especially important for the fisheries. Decisions made by policy makers, managers and administrators have a direct impact on the welfare of thousands of individuals and companies. Fisheries management is exceedingly complicated. This calls for mutual understanding of the problems of the regulators and the regulated, and for pooling of expertise. Fisheries are characterized by user conflict. Through effective consultation, friction can be moderated. Finally, the nature of the fisheries is such that government cannot manage the resource without cooperation in providing information, help in designing effective regulations, and willing compliance with the rules.

²²The Indian Act authorizes a Band council to make by-laws not inconsistent with the Act or any federal regulations for the purpose of "the preservation, protection and management of fur-bearing animals, fish and other game on the reserve" (S. 81(0)). These by-laws may be vetoed by the Minister of DIAND within 40 days after he is notified of them. If they are not disallowed within this period, they become effective. The legal status of these by-laws in relation to the federal Fisheries Act is not clear. A legal opinion of the federal Department of Justice supports the claim that the Indian Act and by-laws passed under it supercede the Fisheries Act and regulations (Pearse 1982).

In B.C., several bands utilize by-laws without regard to regulations under the Fisheries Act. DFO takes the position that in the interests of conservation, the Fisheries Act must be complied with in all cases. This dispute needs to be resolved (Pearse 1982).

At the centre of the new consultative structure would be a Pacific Fisheries Council which would provide general policy advice to the Minister of Fisheries and Oceans and would channel the advice of more specialized advisory committees. A special advisory committee should be appointed for each of the significant fisheries that have special regulatory policies, including the Indian fisheries. These committees should not concern themselves with the question of allocation among different user groups or with day-to-day in-season management. Rather, they should be concerned with policy, planning and results. The terms of reference would direct their attention to coastwide problems of managing the specific fisheries.

Members would be appointed by the Minister of Fisheries and Oceans. They would be reimbursed for expenses associated with committee activities. Each committee would choose its own chairman and establish its own working procedures. A DFO official with special competence in the relevant fishery would be appointed by the Director General of DFO. He would participate as a non-voting member to provide information and technical assistance. Annual reports would be submitted to the Pacific Fisheries Council which would append these reports to its own reports and submit them to the Minister.

Commissioner Pearse's proposals are designed to provide Indians secured access to fish resources through specific allocations; participation in resource management and development; and participation in regulating their fishing activities. His proposals are intended to provide an improved framework for recognizing Indians' fishing rights. The legal questions about their treaty and aboriginal rights to fish are not resolved. He does conclude that the Indian claim to some fish is legitimate and substantial, but modern policy towards Indian fisheries must take

account of other demands on the resources. Defined quantities of fish will secure their claim on the available catch and eliminate the current legal uncertainty. The legal questions will have to be dealt with through legal and political processes. Comprehensive claims on behalf of several native groups have been accepted for negotiation by the federal government.

4.2 The Porcupine Caribou Herd

4.2.1 The Management Context

The Porcupine caribou herd is currently stable, numbering approximately 110,000 animals. It is a major international resource as its range covers the northern Yukon, portions of the Northwest Territories and northeastern Alaska. During the 1970's a considerable effort was expended by many agencies documenting distribution and movements of the animals. In general, its range and component parts is well known, and its areas of major seasonal use, migration routes and chronology of movement are well known (Kelsall and Klein 1979). As is the case with all major caribou herds, there are large gaps in knowledge on caribou behaviour and the effects of specific stimuli on their behaviour.

After thirty years of research on caribou, we are unable to answer vital management-related questions about even one caribou herd (Allison 1978:225).

The herd is of interest to several native groups who hunt primarily during the spring and fall migrations. Hunters from the Alaskan villages of Arctic Village and Kaktovik, Old Crow in the northern Yukon, and Aklavik, Fort McPherson, Arctic Red River, Inuvik and Tuktoyaktuk in the Northwest Territories participate in subsistence harvests. Annual native harvest is estimated at 3000 - 5000 (Russell Le Blond 1979).

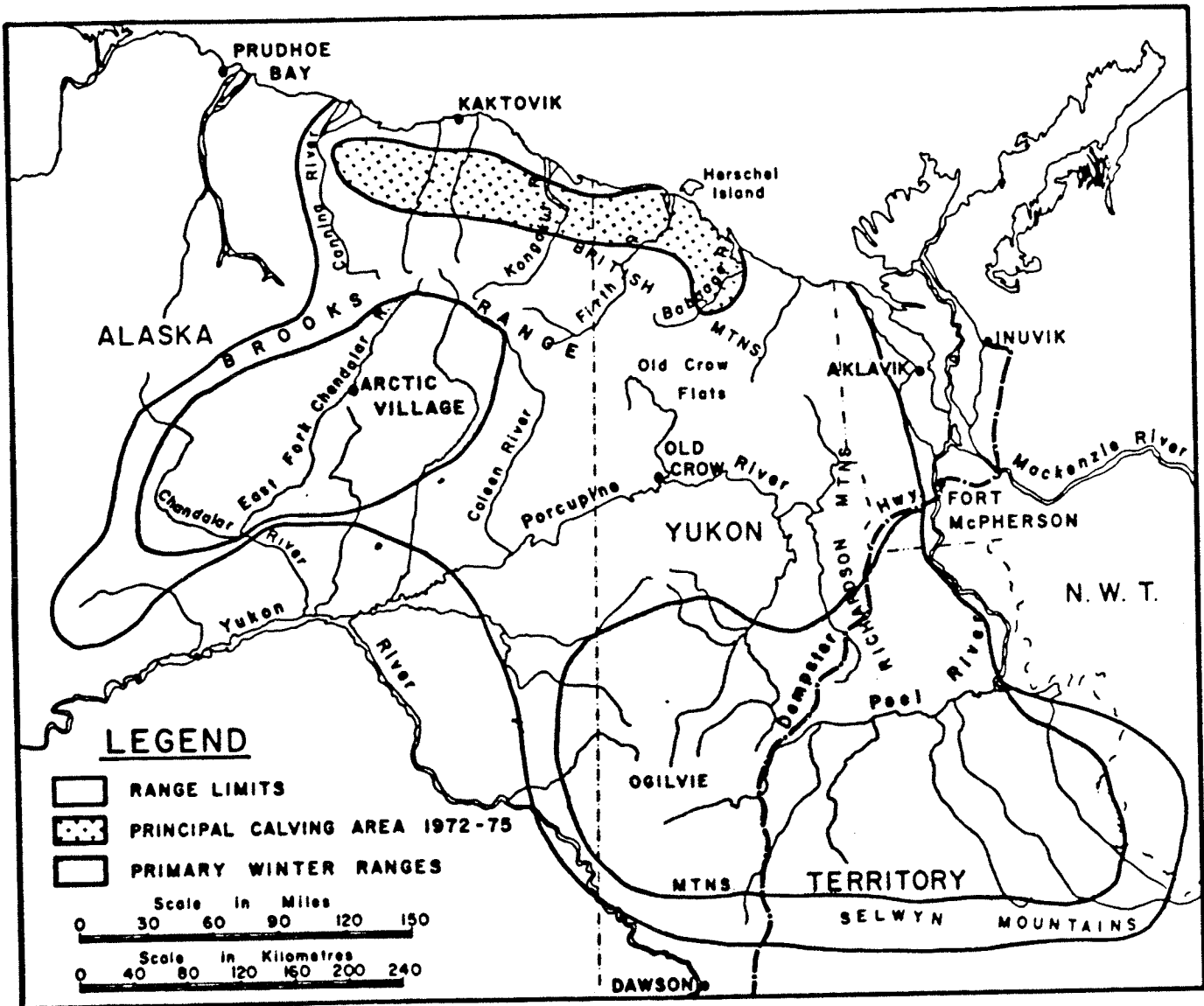


Figure 6. Range of the Porcupine caribou herd showing approximate limits since 1971, two areas of primary winter range used between 1971 and 1978 and primary calving area used between 1972 and 1975. Areas adjacent to that shown have been used for calving, and much of the total range has been used occasionally in winter.

Source: Kelsall and Klein 1979.

Native hunting is unrestricted in Canada, but in Alaska, regulations restrict hunters to five caribou each per year. Sport hunting is currently negligible and is regulated in all jurisdictions.

Management of the herd in the Canadian portion of the range is the responsibility of the two territorial governments under their respective territorial acts. As an international wildlife resource, the herd is of interest to the Canadian Wildlife Service and to the federal government. Jurisdiction over lands in the territories is federal and the Department of Indian Affairs and Northern Development is responsible for its administration. Native groups in the Yukon and N.W.T. have claimed land and resource rights throughout the Porcupine caribou range and are seeking full participation in the management of the herd.

In Alaska, the state has jurisdiction over wildlife. Much of the herd's range was in a 3.6 million hectare Arctic National Wildlife Range, established in 1960. The Alaska National Interest Lands Conservation Act (ANILCA) passed in 1980 doubled this area to 7.3 million hectares and officially designated it as the Arctic National Wildlife Reserve (Alaska Geographic Vol. 8, No. 4, 1981). The Reserve lands are under the jurisdiction of the federal government.

Since 1960, numerous proposals have been initiated to provide for a wildlife refuge in Canada adjoining the Alaskan reserve. It was not until the 1968 discovery of oil and natural gas at Prudhoe Bay, Alaska and subsequent explorations in the western Canadian Arctic that pressure was put on the Canadian government to protect the range of the Porcupine caribou herd. Arctic pipeline proposals and the subsequent Berger Inquiry brought to the public's attention the unique wilderness value of the northern Yukon. The North Slope in particular is recognized

as one of the most environmentally significant areas in Canada. It is the calving grounds for the Porcupine caribou herd and supports large concentrations of marine mammals, particularly seals and bowhead and white whales. The North Slope is also a traditional hunting area of the Inuvialuit, the Dene of the north Mackenzie valley, and the Indians of Old Crow. Mr. Justice T. Berger recommended that no pipeline be built through the North Slope as the environmental risks were too great. Furthermore, he recommended the withdrawal of lands north of the Porcupine River to be established as a wilderness park adjoining the Alaskan wildlife range (Berger 1977).

The Inuvialuit Land Rights Settlement Agreement-in-Principle (1978) between the federal government and COPE, provides for the establishment of a National Wilderness Park of not less than 12,950 square kilometers to include the entire Yukon coastline. In 1978, the federal government withdrew 38,850 square kilometers, the entire Yukon north of the Porcupine River, from disposition under the Territorial Lands Act. The lands were withdrawn pending a final settlement with COPE, following which a wilderness park would be created. Since 1978, considerable effort has gone into determining how these lands should be disposed, but no final decision has been reached. Conflict and debate on the withdrawal lands continues. The legal status of these lands will define the types of interests that can be accommodated.

Oil and gas exploration is permitted in the Alaskan Arctic National Wildlife Refuge. Exploration is subject to regulations designed to prevent significant adverse effects on the fish and wildlife, their habitats, or the environment. A final Environmental Impact Statement and preliminary final regulations have recently been prepared (U.S. Fish and Wildlife Service 1983).

4.2.2 Cooperative Management Proposals

Jurisdictional division of responsibilities for wildlife and for lands makes it difficult to coordinate wildlife management. Given that the Porcupine herd is international, a further difficulty arises in coordination. Land claims negotiations and the Yukon Territorial Government's intent on achieving provincial status complicate matters. There is general agreement amongst native organizations and government agencies that a cooperative management approach is required. Consensus on the institutional arrangements required to implement a cooperative management strategy has not been reached.

Canada and the United States propose to conclude an international Agreement to protect caribou with the emphasis on the Porcupine caribou herd. In Canada, native organizations want to enter into a domestic interjurisdictional Agreement with governments prior to finalizing a Canada-U.S. Agreement.

In July 1978, the Canadian Minister of Environment announced that his Department was opening discussion towards a caribou treaty with the United States Department of the Interior. In May 1979, representatives of the U.S. Fish and Wildlife Service, the state of Alaska, Alaska native groups, the Canadian Wildlife Service, Canadian native groups, the Department of Indian Affairs and Northern Development, and the territorial governments met to discuss a preliminary draft. The result was the May 14, 1979 draft Convention Between the United States of America and Canada for the Conservation of Migratory Caribou and Their Environment. The draft has no legal or official status but has served as a useful vehicle for ongoing discussions. Canada's most recent and official position on what should be included in an Agreement is spelled out in

a discussion paper (Department of External Affairs 30 April, 1980).

The following presentation is drawn from this discussion paper.

The Agreement would not include a definitive management plan. Rather, it would put in place a system to ensure that the vital interest of each country in the conservation of the caribou is protected. This would consist of a series of obligations accepted by each government to preserve caribou habitat, limit taking, manage the herd according to agreed principles, and engage in research and study, and an international Commission to assist each country to meet these obligations on a continuing basis. Each country would have the responsibility of managing its share of the range and the herd within its borders, according to its own legal and constitutional system, management criteria, and policy priorities.

The international Commission would consist of six members, three from each country. One Commissioner on each side would be drawn from, or acceptable to, each of the federal governments, the state or territorial governments, and the native peoples. The Commission would annually determine the size of the herd, recommend the maximum number of caribou which may be taken, and recommend the allocation of this take between parties. These recommendations to governments would be generally binding either by (a) defining them as binding or (b) by requiring either government to object within a specified time period explaining its reasons. It might make non-binding recommendations on times and places of taking if necessary for conservation purposes.

Each government would be responsible for allocation amongst its own user groups. Recommendations on the amount and allocation of the take would follow consultation with user groups and scientific experts, and public hearings.

Preservation of the herd requires habitat protection. The Commission could play a vital role in habitat protection, although its recommendations to governments would not be binding. It could identify sensitive habitat areas and recommend certain measures or stipulate conditions governing the use or modification of such areas. The Commission would, in general, monitor and comment on governments' adherence to the commitments they have made with respect to habitat preservation. With the power to hold public hearings, publish findings and make recommendations to governments, its role in habitat protection would not be a weak one. Its recommendations would carry great weight with governments as do other Canada/U.S. international commissions.

Special advisory committees would be established to provide the Commission with information and advice. A Scientific Advisory Committee would be an expert body drawn from all governments as well as other agencies and universities. It would advise the Commission on impacts of proposed development, on management programs, and on research necessary to improve knowledge on caribou and their habitat. In addition, it would advise on maximum allowable take.

A Subsistence Advisory Committee would be established to present the views of those with the most immediate interest in caribou. The Committee would have representatives from Indian and Inuit villages in both countries which depend on caribou for food and other domestic uses. It would advise the Commission on their needs and give user views on management.

Both Committees would meet regularly, but their primary purpose would be to represent the two distinct groups with a primary interest in caribou. The Commission would translate their views as well as information obtained from public hearings and discussions, into recommendations to governments.

Native claims settlements in Canada would have to be accommodated into the Agreement. Native people could be responsible in part for implementing Commission recommendations, depending on the wildlife and land management provisions of final settlements.

In the U.S., ratification of the Agreement requires Senate approval; in Canada it would, in practice, involve the passage of appropriate enabling legislation. Further agreements might be necessary in Canada between the federal and territorial governments and native people.

The groundwork for the international Agreement has been done. In Alaska, disagreement on federal and state jurisdictional responsibilities has hampered the negotiation process. The U.S. parties recently worked out an agreement for caribou management which also makes it easier for a treaty proposal to go before the U.S. Congress (Caribou News Vol. 2, No. 4, 1982). Discussions will re-open between Canada and the U.S.

In Canada, discussions have been ongoing for several years between native organizations and governments with the objective of concluding a domestic caribou Agreement. Equal and meaningful participation in the management of the herd and habitat for the Indian and Inuit people with responsible governments is a major objective of the native organizations (Weeks 1981). A management board will be established in Canada prior to establishing an international Commission (Caribou News Vol. 2, No. 4, 1982). The composition of the board will be similar to the Beverly-Kaminuriak Caribou Management Board. This board could serve to present a unified voice of the users to the international Commission and would also deal with community allocations in the territories (Caribou News Vol. 2, No. 4, 1982).

CHAPTER 5
JAMES BAY AND NORTHERN QUEBEC
AGREEMENT

5.1 Introduction

The James Bay and Northern Quebec Agreement, signed in 1975 by the Cree and Inuit of northern Quebec, the Governments of Canada and Quebec, and the James Bay hydro developers, was proclaimed in 1977. As the first modern aboriginal rights Agreement in Canada, it has been of interest to native groups seeking recognition of their aboriginal rights through comprehensive claims settlements or modernized treaty arrangements. The Agreement contains many innovative features for ensuring the maintenance and development of a subsistence economy. Feit (1980: 168) outlines some of the innovative provisions of the Agreement which will need close evaluation as experience in implementation is accumulated.

Among these are: a guaranteed income security program for people who live by hunting, fishing and trapping as a way of life; establishment of a series of permanent, preferential, exclusive and mandatory consultative bodies of government and Cree and Inuit experts to supervise and implement specific hunting, fishing, and trapping, and environmental provisions of the agreement; legally binding principles and operational rules to govern the exercise of governmental authority over wildlife and the environment; recognition of the Cree system of land use and control; a guaranteed allocation of wildlife to the indigenous peoples ...

The Agreement is of interest in this report principally for two reasons. First, governments recognized the Cree culturally defined structures and authorities in their system of land use and control; in effect mechanisms of self-regulation in harvesting wildlife. Because regulation of native harvest has been a source of conflict and controversy in recent years, it is useful to examine what is meant by self-regulation

by reviewing the Cree system that regulates the use of wildlife resources in James Bay. Secondly, the Agreement is of interest because problems in implementation have been identified.

This discussion will begin with a review of Cree traditional management and the role of self-regulation in management of living resources. The hunting, fishing and trapping regime established under the Agreement will be reviewed followed by a discussion on implementation problems.

5.2 Native Resource Management

The Cree Indians of James Bay have developed management techniques and practices which serve to regulate land and resource use. Berkes (1981) states a number of facets which native traditional management has or had. These include:

1. There is local control of the land and the creation of closed - access conditions.
2. There is a detailed body of knowledge of the local terrain and the animals which is held by individual family groups.
3. Animals are harvested according to needs.
4. There is vigilance against waste and wasteful practices.
5. There are conservationist practices which help maintain successful hunting for the future.

Any deviation from the mutually agreed upon rules is met by social pressure. The James Bay Cree hunting regime is perhaps better documented than other native groups (see for example Berkes 1977, 1982; Feit 1973), but as Usher (1982: 40) states "every native group has had a body of customary law governing the allocation and use of resources ...". Anthropological evidence shows that "many native social and religious practices served in outcome if not by conscious design, to conserve

essential resources" (Usher 1982: 40). Native people are not by nature conservationists. However, "good resource use practices develop over time among peoples who are dependent on a particular resource" (Berkes 1981: 173).

The James Bay and Northern Quebec Agreement recognizes the Cree system of hunting territories called traplines and of "owners" of territories called talleyman. The key institution that regulates the use of wildlife in James Bay is the trapline system. Government recognizes it as a registered beaver trapping area in which a native talleyman has harvesting rights. Cree talleyman is defined in the Agreement as "a Cree person recognized by a Cree community as responsible for the supervision of harvesting activity on a Cree trapline" (S.24.1.8). The Cree view the trapline as a traditional hunting - trapping territory (Berkes 1981). Family members of the talleyman or those who have been given permission by him are the only people who can trap beaver on a trapline. Other persons passing through the area can harvest animals, especially fish and small game, for their immediate food needs (Berkes 1981). Any violation of the rules are dealt with by social pressures and there are few conflicts as long as traplines are not easily accessible (Berkes 1981).

Beaver are not the only species hunted on a territorial basis. Moose are usually killed in well planned hunts executed by people with good knowledge of moose behaviour and local terrain and with access to a particular area. The talleyman, "in providing access to an area assures that moose are, in effect, hunted on a territorial basis" (Berkes 1981: 169).

On the coast from Eastmain to Fort George, goose hunting takes place within goose territories under the authority of a goose boss. The goose

boss, a senior hunter who belongs to a family that has traditional hunting rights in an area, controls access of other hunters to that area (Berkes 1982). His role is similar to that of a talleyman, but he is not officially recognized by the government. The goose territories are more fluid and flexible than beaver territories which are officially plotted on maps (Berkes 1982). The goose hunting system is enforced only by customary law with some of the practices incorporated into band by-laws.

In addition to the structures and authorities which regulate harvesting, the Cree have rituals to guard against misuse of resources as they show respect for the animals. A good hunter is one who harvests what he needs.

The Cree land tenure system is however under stress. Many factors both prior to and after the James Bay hydro-electric project have stressed the system. Population increase, urbanization, increased access through new road networks, northern industrial development, and a lack of respect for the traditional management system are factors putting pressure on the land use system.

Much of the area previously accessible only by bush plane was opened up by road access. The problem for the land tenure system was that these areas now became accessible to anyone (Berkes 1981). Some talleyman welcomed the road networks because it meant their lands could be reached by truck rather than by bush plane. But, privileged information was no longer required to gain access to an area and very quickly some resources became difficult to obtain and beaver were depleted along some roads. The Cree Trappers Association local (an organization made up of talleyman) responded to the problem with the position that hunting in non-traditional areas would be allowed, but the beaver rights of the talleyman must be

respected (Berkes 1981). This is an example of a redefinition of customary law - the system adapts to change.

The adaptations may not come about smoothly or rapidly; there may be considerable social disruption, which may contribute to poor conservation practices, during the period of adjustment (Berkes 1981: 172).

There are opposing views on the means of regulating native harvests. Many native spokesmen hold the view that all native harvesting should be under the control of the native community with no outside interference by governments. Opponents hold the view that external regulations must be imposed on native harvesting. The problem with the first approach is that where resources are of interest to several user groups, management must proceed with allocations. The second approach suggests that regulations are enforceable. In many parts of northern Canada where there are scattered hunting camps, it is nearly impossible to enforce hunting regulations.

Given that the application of a pure self-regulation approach, or a pure "regulation from the outside" approach for all wildlife groups is impossible or nearly so, a more flexible approach involving some combination of the two, by different animal groups, is therefore necessary. It may be the only reasonable alternative for all concerned with the long-term conservation of fish and wildlife (Berkes 1981: 176).

In the case of James Bay, only furbearers are currently managed completely by internal regulation. Except in the extreme southern portion of the territory covered by the Agreement, native people have the exclusive right to trap furbearers. Management of beaver through the use of territories is a good system despite some of the problems recently encountered. Other species of animals including moose, geese and some fish which can be legally harvested by non-natives in the majority of the territory, cannot be managed by self-regulation alone. Throughout Canada

where resources are of interest to other user groups and in cases where species cross jurisdictional boundaries and pose particular management problems, the management approach must proceed with allocations. But, as Berkes (1981: 176) states "within the area where native hunters operate, this need not contradict native practices and institutions as in the James Bay Cree goose hunt."

5.3 The Hunting, Fishing and Trapping Regime

Section 24 of the Agreement establishes a hunting, fishing and trapping regime for the territory covered by the Agreement. The territory has been divided into three categories. Category I lands (14,000 km²) are under the control of the native people and are for their exclusive use. Category II lands (150,000 km²) are areas where native people have the exclusive right to harvest, which right includes the right to permit non-natives to hunt and fish. The remaining area, Category III lands which constitute the bulk of the territory, is for the joint use by natives and non-natives. Within this area, native people can pursue their harvesting activities and certain species (including beaver, fox and white fish) have been reserved for their exclusive use.

Native subsistence use is given priority, but the interests of non-natives are also protected. Explicit allocation guidelines are contained in the Agreement. Native people are guaranteed levels of harvesting equal to present levels of harvesting of all species in the territory. These guaranteed levels of harvest are to be established through negotiations and will be based on a five year harvest study. This right to harvest will be subject to the principle of conservation.

'Conservation' means 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 (S.24.5.1).

If game populations permit greater kills than the guaranteed levels, the harvesting needs of both natives and non-natives will be taken into account and non-natives will always be allocated some. If game populations do not permit levels of harvest equal to the guaranteed levels, the native people will be allocated the entire permissible kill. They may allocate a portion to non-natives through recognized outfitting facilities. Within Categories I and II, natives have the exclusive right to establish outfitting facilities. For a period of 30 years from the date of the execution of the Agreement, natives have the right of first refusal to operate as outfitters in Category III. The native people may refuse a maximum of 7 out of 10 non-native proposals.

The use of outfitting facilities is the principal means of controlling non-native hunting and fishing activities in the territory north of the 50th parallel. Quebec will endeavor to require non-native hunters and fishermen to use the outfitting camps. To the extent possible, non-natives will be required to use native guides.

The Agreement also gives natives the right to establish and operate commercial fisheries within Categories I and II. Within Category III the natives have the exclusive right to establish and operate commercial fisheries related to the following species of fish: whitefish (non-anadromous), sturgeon, suckers, burbot, and hiodons (mooneye and goldeye). All applications for commercial fisheries permits within Categories I, II or III are to be submitted to the Coordinating Committee (discussed below).

The Committee assesses these applications on the basis of the possible impact of these proposed fisheries operations upon harvesting and recreational fishing. It then makes recommendation to the Minister. Within Categories I and II, the consent of the local native governments is required before commercial fisheries can be established.

A Hunting, Fishing and Trapping Coordinating Committee, an expert body made up of native and government members, was established to review, manage and in certain cases supervise and regulate the hunting, fishing and trapping regime (S.24.4). With the signing of the Northeastern Quebec Agreement in 1978, the Naskapi were incorporated into the Coordinating Committee. From the original thirteen members, the Committee was expanded to seventeen. Composition of the Committee includes:

- 3 Cree
- 3 Inuit
- 2 Naskapi
- 4 Quebec Government employees from the Ministry
of Recreation, Fish and Game
- 4 Federal Government employees from the Department
of Environment, Department of Indian Affairs and
Northern Development, Department of Fisheries and
Oceans
- 1 James Bay Development Corporation observer

Each member has one vote except for the James Bay Development Corporation member who has observer status. From the Committee membership, the Chairman and Vice Chairman are appointed on a one year rotational basis (government one year, native the next). Decisions are made by the majority of votes cast with the Chairman having the second and deciding vote in the case of a tie.

The Committee's powers are mainly consultative and supervisory. The decision-making power of the Committee is the right to establish, and bind the governments, subject to the principle of conservation, to the maximum number of moose and caribou taken in the territory and to the maximum number of black bear taken where non-native hunting of this species is allowed.

The Committee is the preferential and exclusive forum for natives and governments jointly to formulate regulations and to supervise the administration and management of the hunting, fishing and trapping regime. All regulations relating to the regime proposed by the governments must be submitted to the Committee for advice before enactment. Except for the decision-making powers discussed above, all proposed regulations, measures or decisions are subject to the approval of the responsible federal or provincial Minister.

A minimum of control or regulation is to be applied to the native people. When the Committee or responsible federal or provincial government decides that control of harvesting activities is necessary, they will first formulate guidelines and/or advisory programs with respect to the control of such activity. Government reserves the right to impose controls if these measures are not effective.

A predominant number of the persons charged with enforcing the hunting, fishing, and trapping regime will be native people trained as conservation officers by the federal and provincial governments. Cree talleyman in the area of Cree primary interest may be appointed auxiliary conservation officers.

Native local and regional governments can pass regulations concerning the conservation of wildlife on Categories I and II lands. Their jurisdiction

includes the allocation of quotas between natives and non-natives, licensing for quotas, and harvest methods. These by-laws must be submitted to the Coordinating Committee for its advice, and then to the responsible federal or provincial minister who has 90 days in which to disallow it.

5.4 Implementation

From the native perspective, a major problem affecting native harvesting activities is the erosion of the land area reserved for their exclusive wildlife use due to hydroelectric development. In negotiating the Agreement, the Cree recognized that Category II lands were not sufficient to maintain their subsistence economy, but rather than negotiating for marginal increases, they negotiated for a stronger regime in the remainder of the territory (Feit 1979). The guaranteed level of allocation of kills is the mechanism which should ensure that their needs are met and conflicts over competing use of wildlife resources are minimized. However, increased access by non-natives and a lack of enforcement of the regime throughout the territory have created conflicts and management problems where there is competition for the same resource. Over hunting and over fishing are potential problems if regulations are not enforced on the non-native sportsman. This is a problem in the case of brook trout where the Cree complain of local overexploitation by fly-in fishermen. There is little enforcement of regulations which are in fact more liberal in the James Bay territory than elsewhere in Quebec (Berkes 1981). Good brook trout areas are limited and the native fishermen have little incentive to restrain their harvesting because if they do not harvest the trout, someone else will (Berkes 1981).

The governments did train sixteen native conservation officers but have not provided funding for their employment (Riewe 1982). Without

adequate enforcement, the Agreement and the trapline system do not fully protect native legal rights.

A major problem in implementation is that a lack of data on population sizes and other biological parameters makes it difficult to establish the permissible levels of harvest for the various species (Berkes 1980). These data are necessary to give effect to two important provisions of the Agreement - a guaranteed level of native harvest and the principle of native priority use. If the permissible level allows for a greater kill than the guaranteed level, then non-natives are allocated a portion where they are legally entitled.

The presence of an allocation mechanism does not automatically assure that wildlife and fisheries management provisions of the Agreement would be implemented satisfactorily (Berkes 1980: 97).

Berkes (1980) discusses some of the problems in the allocation process. First, allocations should come after, not before, the establishment of a permissible level of kill. To establish the level of kill, population dynamics data are required. These data do not exist for any of the populations, except perhaps the Canada geese and the lesser snow geese. For some species, population estimates vary considerably. This uncertainty in population sizes coupled with the lack of an operational definition of conservation in the Agreement makes it difficult to establish if game populations permit the guaranteed levels of native harvest and some non-native harvest.

Other factors complicate the issue. Harvest data collected by native people, while quite good, appear as one figure for species which have been lumped together in the Agreement. More than one species of duck will appear as one harvest figure. Canada geese, represented by distinct stocks or races will have to be managed eventually by the stock. For

some species, such as moose, harvesting intensities and population levels vary within the territory. Moose may be susceptible to overhunting in areas where there is competition from non-native hunters. The Agreement does not stipulate whether the whole territory or smaller management units will be used to implement the guaranteed levels. Finally, for species which cross jurisdictional boundaries and are utilized by several user groups, there are no existing mechanisms for joint management. The George River caribou herd is an example.

Data on native harvests, based on questionnaire results often vary with government fur records for such species as beaver, foxes and polar bear. Native groups maintain that the number harvested can be larger than the number sold and therefore their research results should be used. Data on non-native harvests are fairly good for big game species, but since Quebec abolished fishing licenses, data on sport fish catches are weak or non-existent.

The Coordinating Committee has not been operating satisfactorily. Riewe (1982) has discussed problems and recent attempts by members to make the Committee function more effectively. The Committee lacks legislative powers and therefore can only operate successfully if there is goodwill between all parties. This goodwill has been eroded and often Quebec bypasses the Committee. Native figures on beaver harvests and population figures of the George River caribou herd have been disputed by the Quebec government. Native persons have also shown a lack of goodwill by not enforcing the conservation principle. Over-harvesting by younger Cree hunters of a vulnerable moose population has occurred.

The 17 member Committee is cumbersome and unwieldy. Frequent change in membership leads to wasted time as new members must become acquainted

with the Committee's mandate. Virtually no time is spent discussing biological issues. Instead much time is devoted to minor functions such as the issuance of an outfitter's license. The civil servants who sit are junior and they occasionally make decisions that their superiors will renege on.

The chairman is appointed on a one year rotating basis. Most of the native people and several of the civil servants have had little or no experience as a chairman. A one year term of office does not allow an inexperienced person sufficient time to acquire the necessary skills to perform the job satisfactorily. The chairman's second vote has been used by some chairmen as a weapon of retribution.

Committee expenses are exorbitant. As much as \$60,000/year is spent by the Naskapi and possibly two to three times as much is spent by the Cree and Inuit. Yet most members spend only a few days a year on Committee work and are not well prepared for meetings. There are no funds for Committee research and therefore there are no biological data.

Specialized working groups have been established in order that biological issues can be discussed and specific aspects of the regime can be dealt with. The following working groups have been established:

- Fisheries Working Group
- Big Game Working Group
- Waterfowl Working Group
- Outfitting Working Group
- Procedural Working Group

Each of the five parties is represented by one member in these groups. Members can participate in more than one working group. They are the most biologically knowledgeable members. With a small and knowledgeable

membership, these groups are more capable of making decisions.

Recently, an Executive Group consisting of one member from each of the working groups has been established by the Committee to speed up the decision-making process. These individuals prepare themselves for meetings by studying background information and thus are prepared to make meaningful decisions.

Despite the present ineffectiveness of the Coordinating Committee, natives and their advisors are dedicated to it. There is a strong feeling among them that the Quebec government desires to eliminate the Committee. Some of the Committee members feel that the Quebec senior civil servants realize that the Committee is now merely a nuisance, but in the future it could become a real threat. Natives and their advisors realize that the Committee in time could become the only tool to preserve native rights and for this reason they are committed to it.

CHAPTER 6
THE NATIVE COMMUNITY AND
GOVERNMENT: WORKING TOWARDS
COOPERATIVE MANAGEMENT

6.1 Principles

Innovative arrangements for joint management of fisheries and wildlife by native users and government are being established in Canada. Co-management approaches described in this report provide examples for future dealings between native people and government in parts of Canada where there is a substantial population of native people and where no working relationship exists between the two parties. Given the differences in the social, economic and cultural situations of various native groups in Canada as well as differences in the nature of resources and patterns of use, one cannot generalize about future native - government co-management arrangements that will be appropriate. But, certain principles are being established to guide the management process. These principles are:

1. Native harvest rights and priorities will be defined and guaranteed in law.
2. Principles of conservation will govern the management systems and native harvest rights will be subject to them.
3. Native users will be integrated into the management process.

Wildlife provisions of the comprehensive claims Agreements clearly recognize and reflect these principles. Those Agreements designed principally to coordinate agencies and organizations, and incorporate the users into the management process do not deal with the definition of resource rights. But, priority use of wildlife and fisheries is implicit or stated in less defined terms.

These principles provide a useful framework in which to discuss issues related to native people and resource management, and problems, benefits, and management implications associated with co-management arrangements.

6.2 Native Harvest Rights

Government recognition of native resource use rights precedes establishment of co-management systems. The hunting rights that native people have stem from their aboriginal occupancy of Canada. Aboriginal interest in land can only be alienated to the Crown and can only be extinguished by some clear action of the Crown. The Royal Proclamation of 1763 and the various numbered treaties did not grant aboriginal rights, but rather they recognized them. Where treaties have been signed, Indians terminated the right to occupy lands surrendered to the Crown, but they retained the right to use these lands for purposes of hunting and fishing. The unspecified bundle of aboriginal hunting and fishing rights was converted into specific guarantees. These included the right to hunt and fish on unoccupied Crown land. Where land cession treaties have not been signed, native people claim special harvest rights on the basis of aboriginal land title. The federal government does recognize the existence of aboriginal rights (although undefined) and has pursued its policy of settling land claims and guaranteeing in law special hunting and fishing rights. Certain pieces of legislation provide for priority use of resources or access to resources subject to restrictions in the interests of conservation (e.g. Northwest Territories Act).

Much judicial energy has been expended interpreting treaty provisions as well as provisions of the Natural Resources Transfer Agreements (affecting native people in the prairie provinces) and the Indian Act in relation to federal and provincial game laws. Despite assurances of access

to fisheries and wildlife contained in these documents, Canadian courts have held that federal laws (Migratory Birds Convention Act and the Fisheries Act) apply to Indians. These laws have also applied to non-treaty natives.

The provinces, having legislative jurisdiction over wildlife, cannot infringe rights guaranteed by treaty as long as resources are used for food and not commercial purposes. If hunting rights are not protected by treaty, native harvesting is subject to provincial game laws of general application.

Failure of government to recognize treaty and aboriginal rights to harvest in certain circumstances has created conflicts and abrasive relations between government and native people. Attempts to amend legislation to bring it in line with treaty and aboriginal rights have been made in recent years. Negotiations in Ontario to amend the Ontario Fishery Regulations is one example. A protocol to amend the Migratory Birds Convention was signed between Canada and the United States in 1979, although it has not been given the force of law in either country. The intent is to legalize the spring and summer waterfowl hunt by native people which is currently carried out and usually tolerated by authorities (Berkes 1982). The challenge is to work out allocations and regulations and the means of enforcing restrictions.

The current situation of recognized native harvest rights in Canada can be summarized. Certain treaty rights are upheld (and game laws do not apply). Aboriginal rights are recognized and harvest rights are defined in comprehensive claims Agreements. Proposals to amend legislation to bring it in line with treaty and aboriginal rights are in the works. Proposed policy changes to secure native people guaranteed access to fisheries (in British Columbia) have been made.

One can make moral arguments for priority native access to resources. In reference to the Indian situation and Pacific fisheries, Pearse (1982: 181) states

My investigations lead to the conclusion that the Indian claim to some fish is legitimate and substantial. This has always been acknowledged, though the legal foundation is weak. But apart from the law, Canadians have a moral responsibility to ensure that this important claim on fish resources is respected. It is inconceivable to me that those Indians who entered into treaties more than a century ago would understand, or could have anticipated, the subtleties of the parliamentary and judicial systems that could override their bargain with the government. And for the majority who never made such bargains to relinquish their claims to land and resources, the moral case is at least as strong.

Hunt (1979) states that native harvest rights must continue to be entrenched in law and suggests there are economic arguments that favour the idea of priority native use of fish and wildlife. Many native people continue to live in areas with little economic potential or characterized by a boom - bust economy.

There are certain advantages in establishing harvest priorities and defining native resource rights. Explicit guidelines for resource allocation can be established and native users (and other users) can be brought into the management process. The allocation of resources is a matter of high public policy which must make reference to legal, social and political considerations. In the case of the Pacific fisheries, priority use of resources by native people subject to conservation was not guaranteed native users because often there were insufficient escapements due to commercial or sport fishing.

Pearse (1982: 262) states

At the root of many problems is the absence of a clear policy framework and explicit objectives to guide administrators. This results from obsolete

legislation, ... vague guidelines for dealing with important problems such as the allocation of the catch among competing groups.

Allocations to the Indian fishery must be negotiated and guaranteed as a percentage of the overall catch or as defined quantities.

In the comprehensive claims Agreements, exclusive and preferential rights to harvest are defined and explicit guidelines for allocation are established. Regulation of access to resources is worked out such that natives are guaranteed certain percentages of allowable harvest, guaranteed basic needs through subsistence quotas, or guaranteed priority use up to current or adjusted levels of need if the permissible level of kill allows. In order to implement these guarantees, data on population sizes and population dynamics are required.

It was discussed in the James Bay Agreement that the presence of an allocation mechanism does not necessarily assure that provisions can be implemented satisfactorily at the outset. The problem relates to a lack of adequate population dynamics data for most species as well as inconsistent and unreliable data on population sizes. Berkes (1980) suggests that prospects are good for the application of such management ideas as basing caribou harvests on the previous year's number of calves or establishing waterfowl harvests by monitoring breeding success.

Both are examples of a process involving constant revisions of quotas based on monitoring results, a feedback control process (Berkes 1980: 100).

But, biological data alone are not necessarily sufficient to solve management problems. Management has a political side as well. Biological data were not sufficient in the Beverly and Kaminuriak caribou situation to solve the problem of declining numbers. Game managers had to deal with political processes.

Indeed, it is likely that the 1980's will see the rise of a new breed of fish and wildlife manager who can deal with socio-economic variables and political processes as well as with biological data. The need for such a paradigm change in environmental biology is obvious to many, and will probably become evident to many more who will be involved in resource management in parts of the North, as Native peoples with their very different priorities and values than those of southerners, come to be involved in management processes (Berkes 1980: 100).

6.3 Principles of Conservation

The term conservation is often used with a variety of meanings. It does have the specific meaning of wise use.

In its broad definition, it includes management measures, and means the collection and application of biological information for the purposes of increasing and maintaining the number of animals within species and populations at some optimum level with respect to their habitat. Used in this way, conservation refers to the entire scope of activities that constitute a modern scientific resource program, including but not limited to research, census, law enforcement, and habitat acquisition and improvement, and periodic or total protection as well as regulated taking (Holt and Talbot 1978: 21).

In the comprehensive claims Agreements, principles of conservation will govern the management systems and native harvest rights will be subject to them. All harvesting should be subject to conservation in the interest of protecting and perpetuating species. While this should not be rejected by native people who have an obvious interest in protecting the resource, conflicts between native harvesters and government regulators can arise over the need for harvest restrictions and the means of achieving conservation. In all comprehensive claims Agreements, government reserves power to regulate or in other words it can intervene if necessitated by conservation considerations. In certain circumstances, laws do not apply to treaty Indians and government must use advisory programs to encourage self-restraint should harvest reductions be required.

The Beverly and Kaminuriak caribou situation illustrates some of the problems and issues related to the application of the principle of conservation. Biologists maintained that hunters were overharvesting i.e. they were taking more caribou than the herds could withstand in order to maintain or increase their numbers. Yet, the unilateral imposition of harvest controls by the responsible governments, which is theoretically a solution to prevent further declines, was clearly not a viable option in this situation. Even though barren-ground caribou were placed on the endangered list thereby subjecting native hunters in the N.W.T. to restrictions in the interests of conservation, the harvest was not regulated. In general, major problems have prevented the legal restrictions on harvest of caribou in Canada from becoming effective. Thomas (n.d.: 11) states these problems.

1. They did not apply to Treaty Indians.
2. Enforcement was almost impossible.
3. There was no support for the laws amongst native peoples.
4. Subsistence hunting could not be curtailed if starvation might result.

The case of the Beverly and Kaminuriak herds is most illustrative of the need for cooperative action on the part of government agencies and native people for effective management and conservation of living resources. With the Caribou Management Board now in place, management measures can be jointly determined which can have the support of the harvesters.

It is within the Board's mandate to recommend to governments limitations on the annual harvest and the allocation of that harvest as well as criteria for regulating the methods of harvest. Until consensus is reached on the status of the herds, it is unlikely that any management measures that relate to human harvesting effort will be contemplated. This illustrates another aspect in applying the conservation principle -

determining the population of the herds and determining what constitutes overharvesting. Was the decline of the herds real or perceived?

The issue of declining numbers led to the formation of the Board. All parties, recognizing the need for coordination and cooperation, agreed to pursue the goal of restoring the herds to a size and quality which would sustain the requirements of the traditional users. When the 1982 survey results were in and large increases in the Kaminuriak herd were reported, questions were raised which cannot easily be answered. Did a group from the Kaminuriak herd move north and calve there? Is there mixing with other herds and if so to what extent? Were previous surveys incomplete? Have biologists been operating under incorrect assumptions regarding caribou behaviour? The need for better information on caribou behaviour is apparent. The need for quotas may for the moment have receded. Native peoples' involvement in the biological aspects of management as well as in the political aspects (eg. the Caribou Management Board) is a necessary part of the management process if disputes are to be resolved regarding biological data.

There are differences between native hunters and scientists about how to manage and conserve game which come about from their different kinds of knowledge.

The language of scientific management rarely makes sense to native hunters, while professionals are prone to dismiss native customs, beliefs and even observational data as unedified and unscientific. Census data are a case in point. Scientists use sophisticated observational and statistical techniques, while hunters reply 'You didn't look in the right place' (Usher 1982: 38).

Native perceptions together with scientific assessments need to be brought together and the knowledge that each side has must be mutually appreciated. Factual disputes about conservation may arise.

But conflicts between the Native and scientific perception of such issues must, to the extent possible, be resolved by mutual education and interchange, and not by the non-Native community's rigid insistence that it always knows what is best (Hunt 1979: 592).

Management measures to achieve conservation are contemplated in the co-management approaches discussed in the previous chapters. These include the use of quotas and non-quota restrictions. Presumably, where native - government Boards will be put in place or where users and government jointly determine the measures through a consultative process, the dialogue created will bring users views into the open and native and scientific perceptions can be brought together. If results are political haggling or a we - they stand off, the effort to achieve conservation will be futile and in the long run it may be the wildlife and fish populations who are the losers.

Basically, there are two approaches to the management of living resources. One is management by regulations established by external agencies based on scientific studies, or regulation from the outside (Berkes 1981). The other is self-regulation or leaving all management power and control at the local level. Discussions on caribou and Pacific fisheries support the fact that either of these approaches may be nearly impossible to apply. In the case of caribou management, problems in applying external regulations are very real, yet with several user groups, management left solely to the local level is not an option. In the case of Pacific fisheries, the management approach must proceed with allocations. But, in these cases and others where allocation may not be a problem, there may exist at the local level native institutions and practices which serve to conserve resources. Institutions, laws, practices or locally designed measures that serve to conserve resources and have the support of

the users should be considered viable. But, if a regional perspective is required, particularly if overall declines are occurring but are not apparent at the local level, users must be informed and respond at the local level.

Habitat protection is the critical component of a conservation strategy.

The maintenance of resource systems in desirable states is an essential part of scientific, ecologically sound management, and should be the primary goal of conservation policy (Holt and Talbot 1978: 7).

6.4 Native Participation in Fisheries and Wildlife Management

6.4.1 Agreements

This report has described several different approaches which bring the native users and their political representatives into the management process. Formal and legislated Agreements are the tools which are being utilized to integrate native people into the management process. Through these Agreements, a native - government working relationship can be established. Structures are being developed and aspects of the management process in which native people will participate as well as mechanisms for their involvement are clarified.

The Agreements and proposed Agreements differ in scope and complexity as well as in legal terms. Comprehensive claims Agreements, negotiated under a federal policy are far more encompassing and complex. In the future, similar Agreements should be reached with other native groups in parts of Canada (British Columbia, Labrador, N.W.T.) where treaties have not been signed. Judging from the progress that has been made thus far and the reticence of both sides to conclude the settlements, it may take

years for final Agreements to be reached. Even where claims will be settled, other more specialized management Agreements have been reached or are in the process of being negotiated. These formal Agreements which are establishing innovative and experimental approaches in wildlife management are likely setting the direction for future joint user - government arrangements in all parts of Canada.

Management Agreements, although they may contain motherhood statements, are useful for several reasons. They bind parties to commitments. Where several agencies or jurisdictions are responsible for the resource or users, there may be a reluctance to become locked into a fixed position. In reference to interjurisdictional Agreements, Payne and Goulden (1982: 5) state that the fact that they bind the signatory parties is a troublesome aspect, but these Agreements "are a long way ahead of whatever is second best which, in most cases, is the laissez-faire manage/negotiate-as-you-go system." These Agreements are difficult to achieve because governments and managers often cannot agree on what is required.

Moreover, interjurisdictional agreements necessitate that we know our respective roles and responsibilities and feel comfortable about committing these to paper through the vehicle of an interjurisdictional agreement (Payne and Goulden 1982: 5).

Interjurisdictional Agreements are of value because they formally acknowledge involvement of multiple management agencies, private interest groups and users. The Beverly and Kaminuriak Caribou Management Agreement, the first of its kind in Canada will be followed by a similar Agreement for the Porcupine caribou herd. Where there are jurisdictional management problems elsewhere in Canada, similar undertakings should be initiated. Payne and Goulden (1982: 10) discuss the Beverly and Kaminuriak caribou situation.

Incongruous as it may appear, an agreement is required partly because we do not agree. This agreement constitutes those matters on which we agree and it establishes a board to resolve the differences which we have and may continue to have for some time. The views of the users are wide and varied, exposing the necessity of their participation on the board.

Agreements are useful for coordinating organizations and agencies to undertake joint management planning. The situations where coordinated efforts are required are not limited and do not necessitate establishment of a board. The Banks Island situation in terms of management complexity is fairly simple, yet the Agreement serves to coordinate an agency responsible for wildlife management and native organizations guaranteed participation in management and decision-making as defined in the Inuvialuit Agreement-in-Principle. Recognizing the need for flexibility in management, where a management plan is required, Agreements should establish provisions for such plans to be worked out on an annual basis.

In general terms, Agreements are useful for the following reasons:

1. principles, goals and objectives can be agreed upon and stated;
2. management processes, structures and responsibilities can be outlined; and
3. funding arrangements necessary for carrying out functions, duties or responsibilities can be made explicit.

6.4.2 Boards, Committees and Other Organizations

If the Agreements and proposals are all implemented, numerous Boards and Committees with native representation will be established. There has been little experience accumulated thus far on the effectiveness of these structures, some of which have only recently been established. Given that government retains ultimate responsibility for fisheries and wildlife,

and that these bodies are consultative and advisory to respective governments, the key area of concern is how to make them effective. Clearly, the Boards and Committees will function in different capacities and their responsibilities and duties will vary. But, there are certain problems which afflict advisory bodies in general and may make participation on them a frustrating experience.

Advisory bodies may lack direction and clear terms of reference. Members may be unclear of the mandate and their responsibilities. Orderly procedures for discussion and channelling of advice may be non-existent. Members may be uninformed and ill-prepared to participate in meaningful discussion. If informed discussion does take place and recommendations are formulated, there is the problem that the advice is not taken seriously by the Minister or body to which it advises. Participation on Boards or Committees can then be an exercise in futility.

Experience from James Bay and northern Manitoba suggest that these problems prevail in the operation of the Committee and Board established in each situation. At the same time, one could argue that it takes time for these bodies to become effective and therefore as members become more familiar with their task, these bodies will in future become effective. This holds true only if advice is sound and is given serious consideration by those empowered to implement recommendations.

Two types of structures are being developed. One type is composed of native users (and in the Northern Flood Agreement, of representatives from other user groups). The other type is composed of government officials and native users. Both of these types of structures if charged with advising government on policy, regulation, or other management matters should have clear written terms of reference. These bodies should also

prepare reports on their findings, activities and recommendations. These reports should be prepared for government and the users who are being represented. If reports are an inappropriate medium to convey information to native users, then public meetings should be held.

Reports provide the essential medium of accountability for a group's effort and conclusions, and help to focus discussion at meetings. Reports are also needed to communicate conclusions and advice. Without this communication, the effort provides little more than therapy for those involved (Pearse 1982: 221).

Advisory bodies are not a new phenomenon in resource management, but they are increasing in numbers.

This phenomenon is undoubtedly due in part to the natural evolution of the democratic system and reactions against authoritarian government, and in part to the growing complexity of governmental regulation, which create a need for outside advice, specialized knowledge and cooperation (Pearse 1982: 219).

A recent development in resource management is the creation of joint management Boards and Committees comprised of native users and government officials. In Canada, only two bodies of this type exist which have the responsibility of recommending to governments harvest quotas, allocation, and other management measures.

Problems in the operation of the Hunting, Fishing and Trapping Coordinating Committee established under the James Bay and Northern Quebec Agreement were discussed in Chapter 5.4. Aspects of its organizational structure and operating procedures impede its effectiveness. The number of members on the Committee makes it cumbersome and unwieldy. The establishment of specialized working groups should improve the decision-making process. Junior civil servants sit on the Committee. Occasionally they make naive comments or decisions that their superiors will renege on

(Riewe 1982). The one year term of office for the Chairman does not provide sufficient time for an individual to acquire skills necessary to perform satisfactorily. In the case of the Beverly and Kaminuriak Caribou Management Board, its organizational structure and operating procedures should ideally make it an effective Board. The Board has a small membership; its civil servants are senior officials; and the Chairman holds office for three years.

If a Board's membership has senior civil servants, it should be more effective in decision-making. Other factors will ideally give a Board "teeth". These are:

1. The power of a Board to bind governments to the annual allowable harvest which it has determined.
2. The power of a Board to make decisions subject to a disallowance clause in which government can object in writing within a specified period of time.
3. The power of a Board to hold public hearings.

From both the native and government perspective, joint management Boards are useful mechanisms for resolving differences and cooperating in determining appropriate and effective management measures. From the native perspective, joint management Boards offer the opportunity to participate in the regulatory decision-making process.

The option to establishing these types of structures is to jointly determine quotas and non-quota restrictions through negotiation. If quotas are not contemplated, but restrictions are required for conservation purposes, consultative mechanisms between government and native organizations should be established.

Several different native organizations will oversee harvesting activities. Hunters and Trappers Organizations, Band Councils, Regional Native Governments and Regional Wildlife Organizations will assume management responsibilities at the local or regional level. Principle responsibilities are to allocate quotas to the local or regional membership and to regulate and supervise harvesting activities. Most notable about these organizations is that their responsibilities are not taken on in a vacuum. The organizations are part of the larger management system and are linked to the state authority.

Through the use of by-laws, there is the opportunity for local level decision-making in terms of regulating the harvest. Locally designed measures such as the James Bay goose hunting system can be incorporated into by-laws. At least one native organization in Canada, the Gitksan-Carrier Tribal Council, has undertaken a "Codification of Tribal Law", funded by the Law Foundation of British Columbia. The Gitksan-Carrier Tribal Council is seeking to assume complete management responsibility for fisheries within their territory, to be managed through traditional structures (Gitksan-Carrier Tribal Council 1981, 1982).

The issue of control over management and decision-making at the local level has not been resolved for some native organizations. Constitutional discussions related to the concept of self-government will deal with issues of control over resources, management and decision-making at the local level.

6.4.3 Research

Native people have participated in and contributed significantly to several major research projects in northern Canada: land-use research in Labrador, Quebec, the Northwest Territories, and the Yukon; studies of

harvesting by Crees and Inuit in Quebec; and studies of eider ducks and beluga whales in Quebec and the Northwest Territories.

The studies ... illustrate not only the ability of Native peoples to participate in major research projects, but also the value of the information that individual Indians and Inuit have acquired as hunters (Wilkinson 1981: 78).

Native people will be participating in other research projects in northern Canada as provided for in specific Agreements. The Keewatin Wildlife Federation has recently begun a two year harvest study. Hunters in all the Keewatin communities of the N.W.T. record the numbers of caribou, other animals, birds and fish and report the results monthly to a fieldworker (Caribou News Vol. 2, No. 6, 1983).

Harvest data are often non-existent or unreliable. Accurate statistical information is necessary to know what effect harvesters are having on any particular wildlife stock. But, as Usher (1981: 66) states

It is widely recognized that reliable reporting can only occur in a climate of mutual trust between managers and harvesters.

In the James Bay and northern Quebec region, where native people have participated in harvest research studies and sit on the Hunting, Fishing and Trapping Coordinating Committee, a climate of mutual trust has not been developed. Wilkinson (1981: 76), acting as an advisor to the Naskapi on the Committee, has noted three major attitudes on the part of the native representatives:

. . . a dissatisfaction with their involvement in research and the application of its results; a mistrust of providing information to scientists, lest the information provided should be used to formulate or implement policies that go against what the Native peoples believe to be their best interests or those of the resources involved; and a lack of confidence in some of the techniques used by biologists.

These observations suggest that there needs to be increased and improved native participation in research, not only in fieldwork but also in research planning, analysis, publication and application of research results. If there is to be mutual appreciation of the knowledge scientists and native people have to offer, there must be exchange of information.

At a recent international symposium "Renewable Resources and the Economy of the North", Roots (1981: 255) sums up a topic on which little headway was reached.

We did not do at all well in building workable bridges between the traditional knowledge of resources and the knowledge that comes from scientific study of resources. We all know, and many even admitted, that each area of knowledge has much to teach the other. But here, as elsewhere, we tended to fall into black-or-white positions which only good manners kept from becoming confrontation. The lack of mutual appreciation and understanding in this area can only mean a loss for the North.

Scientists often tend to reject or underestimate the value of traditional knowledge. On the other hand, native persons have sometimes insisted on the accuracy of their data merely because they are Indians or Inuit (Wilkinson 1981).

Scientists and Native persons alike must accept that their information and techniques be evaluated wherever it is possible (Wilkinson 1981: 78).

In addition to the need for harvest data, there is a need for short-term and long-term research programs. Basic biological data on population numbers, composition and distribution are seriously deficient particularly in northern regions. Understanding of interspecific relationships and effects of stimuli on fish and wildlife is poorly developed. Management decisions are made using best available data. Clearly, management decision-making requires much improved raw and interpreted data.

6.5 Concluding Comments

Efforts are underway in Canada to incorporate native people into the game management process. Management regimes are being established which complement native harvest rights and provide for an effective role for native people in fisheries and wildlife management.

Through time, as experience is accumulated in implementing arrangements and management plans, evaluation will be required. Success of management processes requires feedback to determine the effectiveness of management. Arrangements being developed are responses to changing conditions and inadequacies in management processes. Similarly, these new arrangements must adapt and evolve as deficiencies become apparent and conditions change.

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