

Northern Regulatory Improvement Initiative



MVEIRB Presentation
January 2008



**Indian and Northern
Affairs Canada**

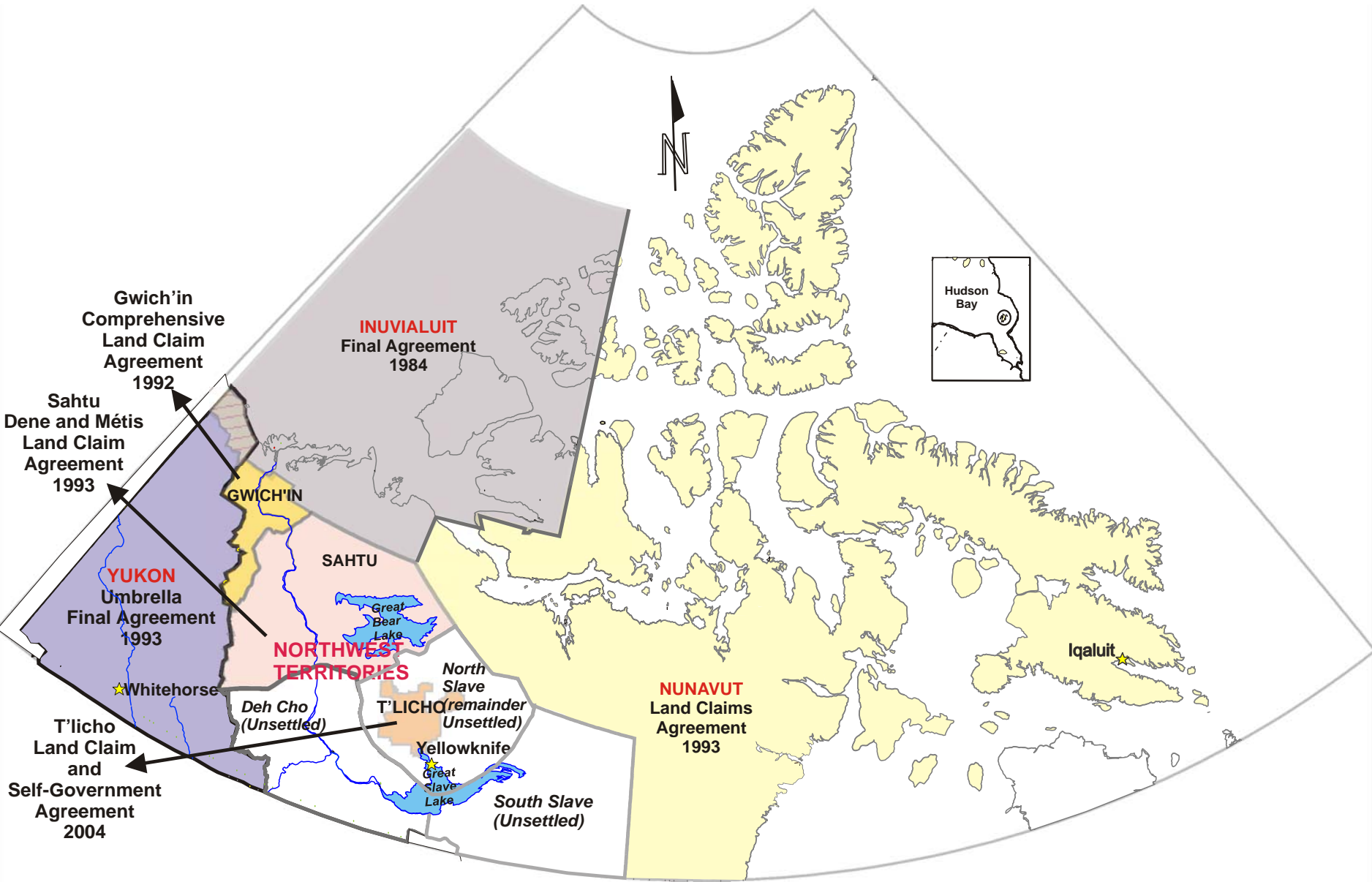
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Canada 

Purpose of the Presentation

- To provide an overview of the Northern Regulatory Improvement Initiative
- To provide an outline of the process which the Ministerial Representative Neil McCrank has undertaken

Settled and Unsettled Claims Areas in the North



Origins of the System

- The regulatory regimes across the North were developed in the context of settling land claims, to provide certainty and clarity of rights. The regimes came about in order to ensure Aboriginal participation in public and shared resource management, including development project approval, and environmental stewardship and protection.
- These systems are negotiated systems. They are also relatively new systems, that continue to change and evolve, as a result of:
 - The settlement of land claims and self-government agreements
 - Devolution discussions
 - Experience and capacity development

Origin of the Systems: Across the North

- In the Yukon the environmental assessment and land / water regulatory regime consists of:
 - Multiple settled regional land claim agreements, under an Umbrella Final Agreement
 - Devolution of land and resource management powers, programs, and responsibilities to the Government of Yukon
 - As a result there is clarity over roles and responsibilities for the system, as well as greater certainty over land ownership
- The regime in the NWT consists of :
 - Two systems: one in the Inuvialuit Settlement Region and one for the rest of the NWT (Mackenzie Valley)
 - Four settled regional land claim agreements: Inuvialuit, Gwich'in, Sahtu and Tlicho Settlement Regions
 - Three unsettled regional land claims: Dehcho, Akaitcho and Northwest Territory Metis Nation
- In Nunavut, the regime consists of:
 - A single settled regional land claim agreement
 - 85% of the territorial population are beneficiaries of the land claim agreement
 - There is greater operational certainty as well as certainty over land ownership
- In all three territories there are suites of federal acts and associated regulations related to resource management.



The contrast between northern development of 30 years ago and development today is striking...

Then...



Now...



But...

- Economic development centred on mines, with exploration and significant finds of oil and gas reserves. Economy dependent on government transfers.
- Environmental law and regulations rooted turn of the century practices and early days of environmental movement.
- INAC responsible for all land and water management.
- Limited benefits flowing to Aboriginal communities.
- Major infrastructure centred on roads (Yukon and some NWT).
- Abandoned mines and DEW Line sites create poor legacy and taint community views regarding development.
- Global demand for resources driving interest in Canadian North. Economy diversifying.
- EA and regulatory practices rooted in land claims settlements.
- INAC has multiple roles for Board development, NWT and NU land and water management, federal coordination and Aboriginal relationship building. Devolution in Yukon.
- Aboriginal participation in the benefits of resource development is a key consideration.
- Shift from urban to regional infrastructure proposals.
- Robust contaminated sites program in place.
- Access to resources, lack of infrastructure and unpredictable environmental reviews affecting investor confidence.
- Settled and unsettled land claims. Expanding Aboriginal role in project review.
- Ongoing devolution negotiations afford opportunity to refocus Canada's role in the North.
- New systems under strain from development pressures. Capacity strains evident. Mitigation measures difficult to verify and implement.
- Demands for mega infrastructure require multi-year commitment & funding.
- Past legacies still haunt unsettled areas.



Diagnostic: Criticisms of the System

- Since the establishment of co-management in the three territories, their political and economic environments have changed drastically and weaknesses are becoming more apparent, above all in the Northwest Territories.
- The regimes have been under increased scrutiny from a variety of sources.
- Recent criticisms have come from:
 - Government: Office of the Auditor General, Conference Board of Canada
 - Boards
 - Industry
 - First Nations, communities and residents



Diagnostic: Areas of Frustration

- Predictability, consistency & accountability not always evident
- Board capacity and funding at times limited
- Departmental fragmentation, when meeting responsibilities to the system
- Federal coordination not always sufficient or timely
- Unclear roles and responsibilities amongst stakeholders in the system
- Appointments a pressure point
- Policy and legislative gaps in the system



Analysis of the Change Agenda

Drivers of Change

OAG Report
Smart Regulation
Advisory
Committee
Industry
NWT Board Forum
Ministerial
Commitments

Issues

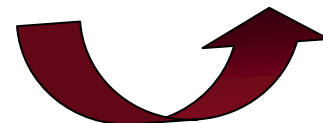
Predictability,
consistency &
accountability
Board capacity,
funding & training
Departmental
fragmentation
Federal coordination
Unclear roles &
responsibilities
Appointments
Policy & legislative
gaps

Main Themes

1) Capacity and
Stable Funding
2) Policy and
Management
Frameworks
3) Legislative
and Regulatory
Adjustments

Principles

Collaborative
and inclusive
Visible
Balanced
Coordinated
Incremental
Respect for each
parties' role



Approach to Date: Phase One

- A low key regulatory improvement project was initiated in November 2005. This project was initiated to address the 2005 Report of the Auditor General and has, to date, resulted in significant progress made:
 - Capacity and Stable Funding
 - Opportunities to consolidate policy, financial and operational support to Boards under review
 - Roles and responsibilities of Boards being discussed and progress made in many areas
 - Board capacity being addressed: training, best practices, orientation, and appointments
 - Policy and Management Frameworks
 - Board roles regarding consultation with Aboriginal groups being discussed
 - Targeted Legislative and Regulatory Amendments
 - Standards/guidelines for water in the Northwest Territories, for use by the boards, under development
 - Drafting of the *Nunavut Land Use Planning and Assessment Act* underway
 - Drafting of the *Nunavut Water Regulations* underway



Approach: Phase Two

- Building on achievements to date, a two-stream approach will address objectives for the second phase of the strategy:
- ***Operational Change:***
 - Focus on areas of federal responsibility to make concrete operational–level improvements to the existing regime in the short- to medium-term.
- ***Long-term Strategic Change:***
 - Engagement of key partners on some of the over-arching challenges that could require more fundamental changes to the regulatory regime over the longer term.
 - Strategic engagement and consultations to be undertaken by the Minister’s Special Representative for the Northern Regulatory Improvement Initiative



Ministerial Special Representative

- Neil McCrank announced as Ministerial Special Representative to report on Regulatory Improvements in the North
- ***Statement of Work:***
 - Board Capacity and stable funding
 - Policy and Management Frameworks
 - Legislative changes and additions
 - Major Projects Office for the North

Process Outlined by N. McCrank

Phase 1

- Introductions and briefings with Organizations in the Regions, where possible, and at targeted events such a Exploration Round-up (December to February)

Phase 2

- Engaged discussions in group setting (March)

Closure

- Report Finalization and Ministerial Briefing (spring 2008)

Who has been engaged?

- The Minister's Special Representative has had discussions with:
 - Environmental NGOs
 - Industry (mineral, oil and gas)
 - Various Boards (MVEIRB, MVLWB, IJC, and others)
 - INAC – HQ, NWT and Nunavut Regions
 - Natural Resources Canada
 - Governments of Nunavut and Northwest Territories
 - Aboriginal Organizations (Inuvialuit, NTI, Gwich'in)



Next Steps

- Continue to move forward on phase one system changes with stakeholders
- Support Ministerial Representative in his work
- Engage Ministerial Representative and other stakeholders in discussions