

INUIT OWNED LANDS; MINING AND ROYALTY REGIMES

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Introduction

- The NLCA provided for the transfer of title to Inuit of approximately 18% of the total land area of Nunavut – Inuit Owned Lands or “IOL”
 - ▣ This is the main topic of our presentation
- The NLCA also provided for certain Inuit rights on Crown land
 - ▣ we will also briefly discuss those rights relevant to mining and petroleum



Implementation

- Matters relating to title to IOL (Article 19), entry and access to IOL (Article 21), Inuit Impact and Benefit Agreements with respect to IOL (Article 26) and consultation with respect to development on Crown lands (Article 27) are expressed only in the NLCA and are not stated in any other acts or regulations.



Surface and Subsurface IOL

Article 19. Title to Inuit Owned Lands



- Two types of title:
- S. 19.2.1(a) - “fee simple including the mines and minerals that may be found to exist within, upon or under such lands”
- 19.2.1(b) “fee simple saving and excepting the mines and minerals that may be found to exist within, upon or under such lands, together with the right to work the same, but including the right to all specified substances.”
- Under Article 40, there are also lands jointly owned by the Inuit of Nunavut and the Inuit of Northern Quebec – we will not discuss those today



“Subsurface IOL” – title

- 19.2.1(a) - NTI calls these “Subsurface IOL” — surface and subsurface rights – 150 parcels – about 10% of IOL (2% of Nunavut)
- NTI holds title to minerals on behalf of all Inuit of Nunavut; RIAs own the land
- Subsurface IOL parcels were mainly selected for their mining potential but those on SW Ellesmere Is. and Graham Is. have petroleum potential
- RIAs hold title to “specified substances” (e.g. carving stone and aggregate)

“Surface IOL”

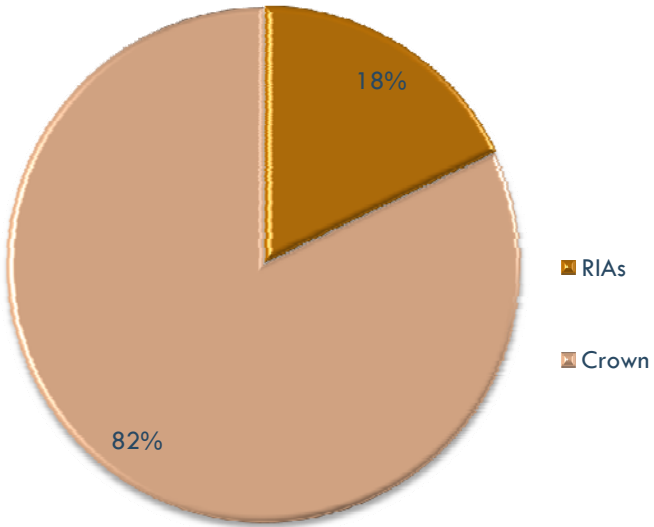


- 19.2.1(b) - NTI refers to these as “Surface IOL” — Inuit hold surface rights only; 944 parcels
- Surface IOL parcels were selected for a variety of purposes
- The land is owned by the Regional Inuit Associations (RIAs)
- Mineral rights are owned by the Crown and administered by INAC under the NTNMR.

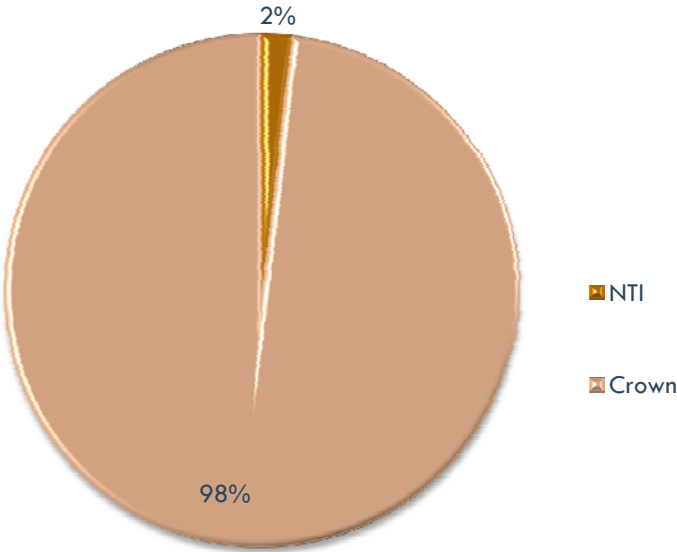
Land and Mineral Title



Land Title



Mineral Title





Specified Substances

- “specified substances” means construction stone, sand and gravel, limestone, marble, gypsum, shale, clay, volcanic ash, earth, soil, diatomaceous earth, ochre, marl, peat and carving stone”
- RIAs hold title to specified substances on all IOL
- S. 19.2.3 – a third party holding mineral rights has the right to use or work specified substances provided the use is strictly incidental to the working of the mineral right
- Otherwise, the party must have a Quarrying Right

Management of IOL



- As required by NTI bylaws, NTI and the RIAs manage IOL in accordance with *Rules and Procedures for the Management of Inuit Owned Lands*
- These can be amended on recommendation of the Land Policy Advisory Committee (LPAC) and approval of the NTI Board of Directors
- Management is guided by policies:
 - ▣ Mining policy
 - ▣ Water policy
 - ▣ Reclamation policy
 - ▣ Uranium policy

RIAs as DIOs



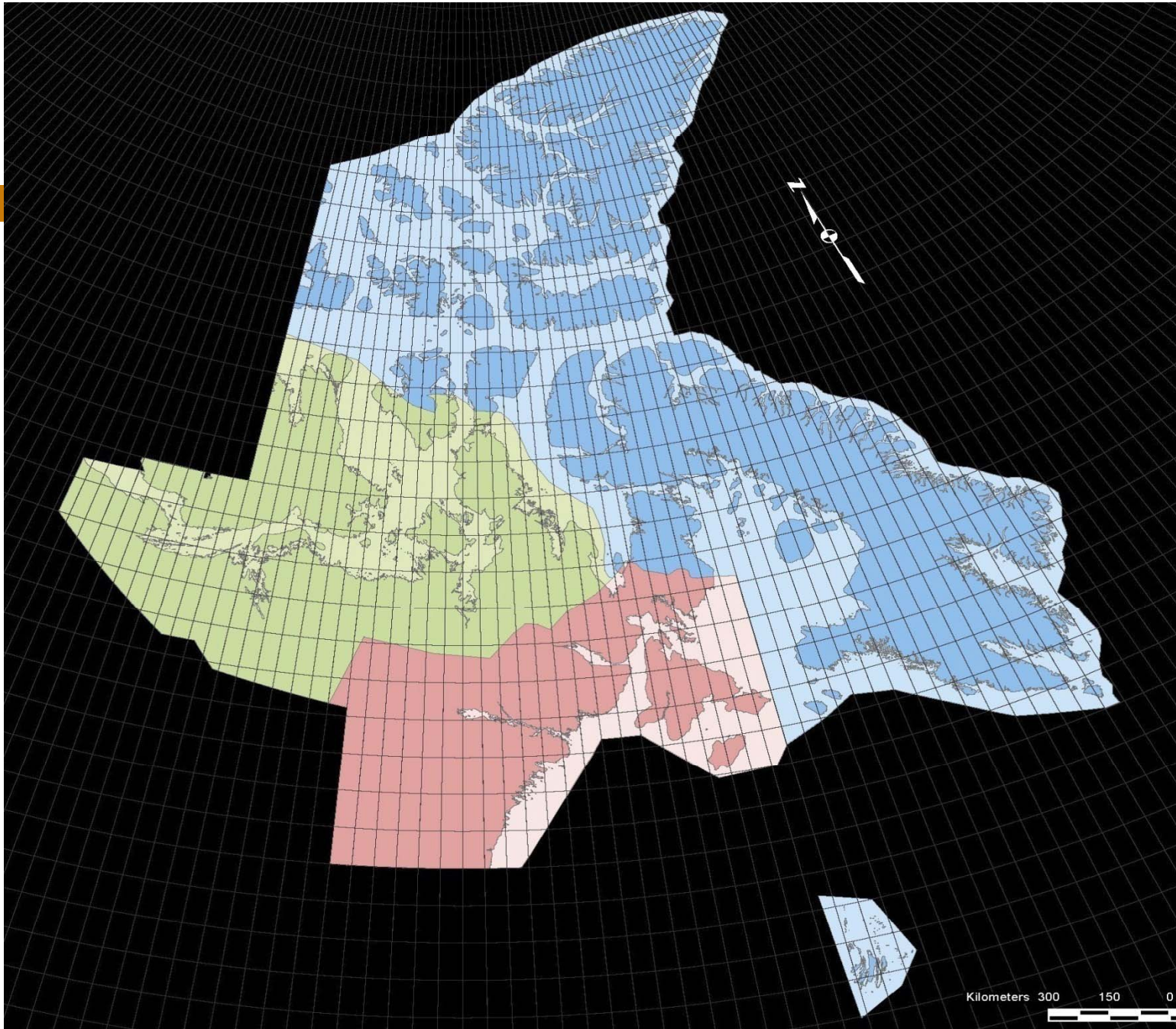
□ RIAs hold many NLCA designations related to lands

- Articles 8 and 9 - Parks and Conservation Areas
- Article 11 - Land Use Planning
- Article 12 - Development Impact
- Article 13 - Water Management
- Article 20 - Inuit Water Rights
- Article 21 - Entry and Access
- Article 26 - Inuit Impact and Benefit Agreements

Regions and the RIAs



- The following map shows the areas where each RIA owns IOL and has certain other responsibilities under the NLCA
- The boundaries merely serve to divide the IOL of each region
- These are similar to the administrative regions defined by government, however they are not exactly the same



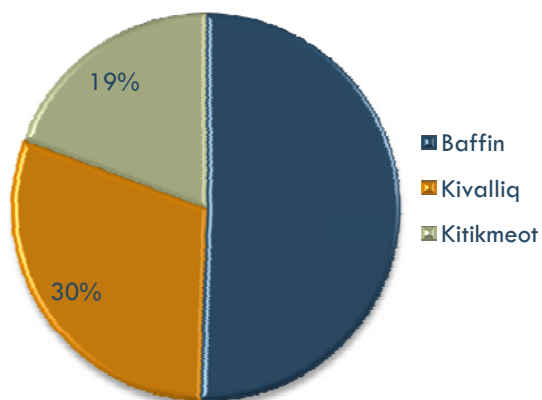
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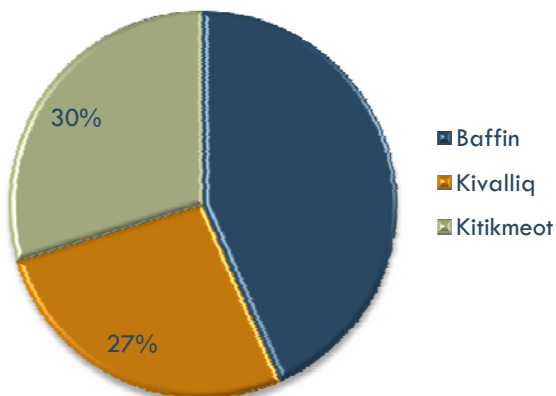
Regional Population and IOL

- QIA has 51% of the population, **43%** of IOL, **36%** of SSIOL
- KIVIA has 30% of the population, **27%** of IOL, **34%** of SSIOL
- KITIA has 19% of the population, **30%** of IOL, **30%** of SSIOL

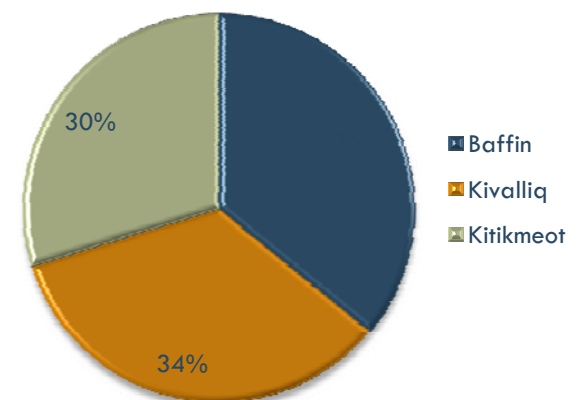
Population Percentage

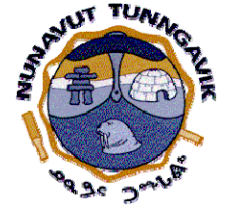


Total IOL Percentage



Subsurface IOL Percentage





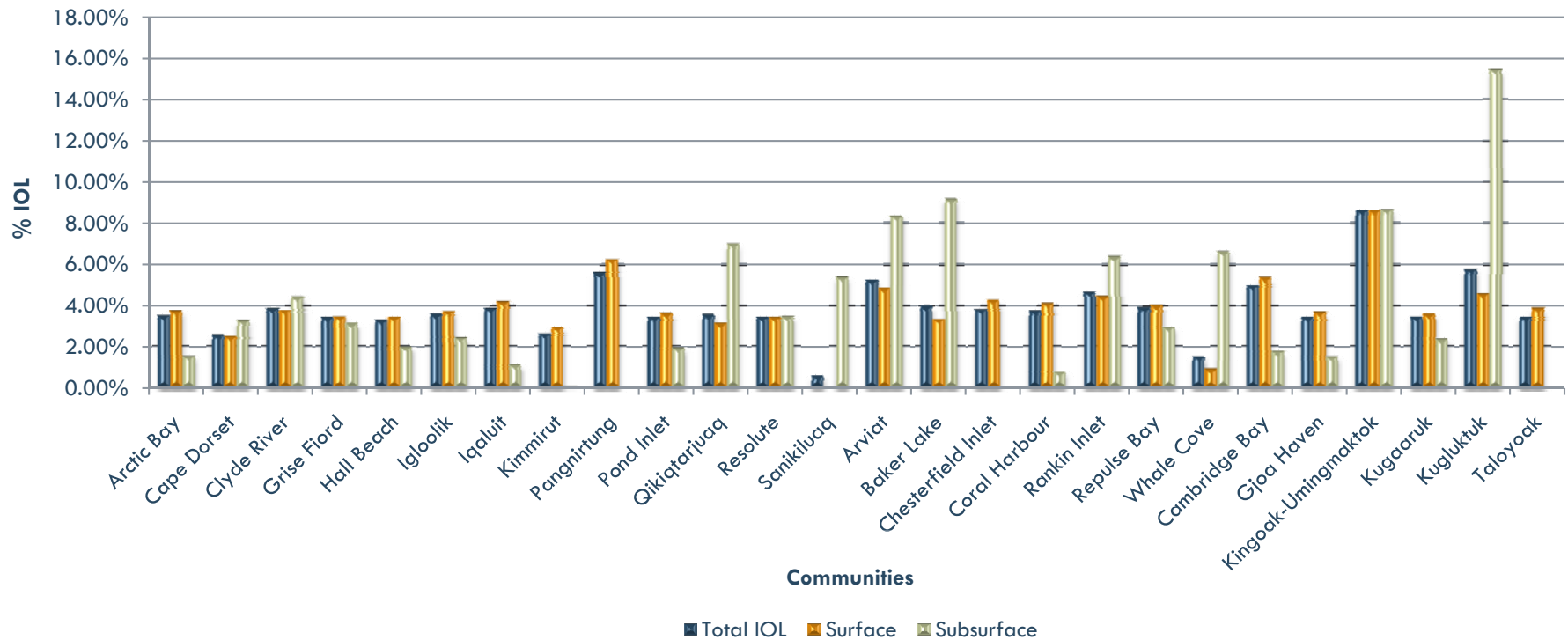
IOL and Communities

Kugluktuk,
Kingoak,
Umingmaktuk,
Whale Cove,
Rankin Inlet,

Baker Lake,
Arviat,
Sanikilluaq,
Qikiqtarjuaq
Clyde River

Taloyoak,
Gjoa Haven,
Cambridge Bay,
Coral Harbour,
Chesterfield Inlet,

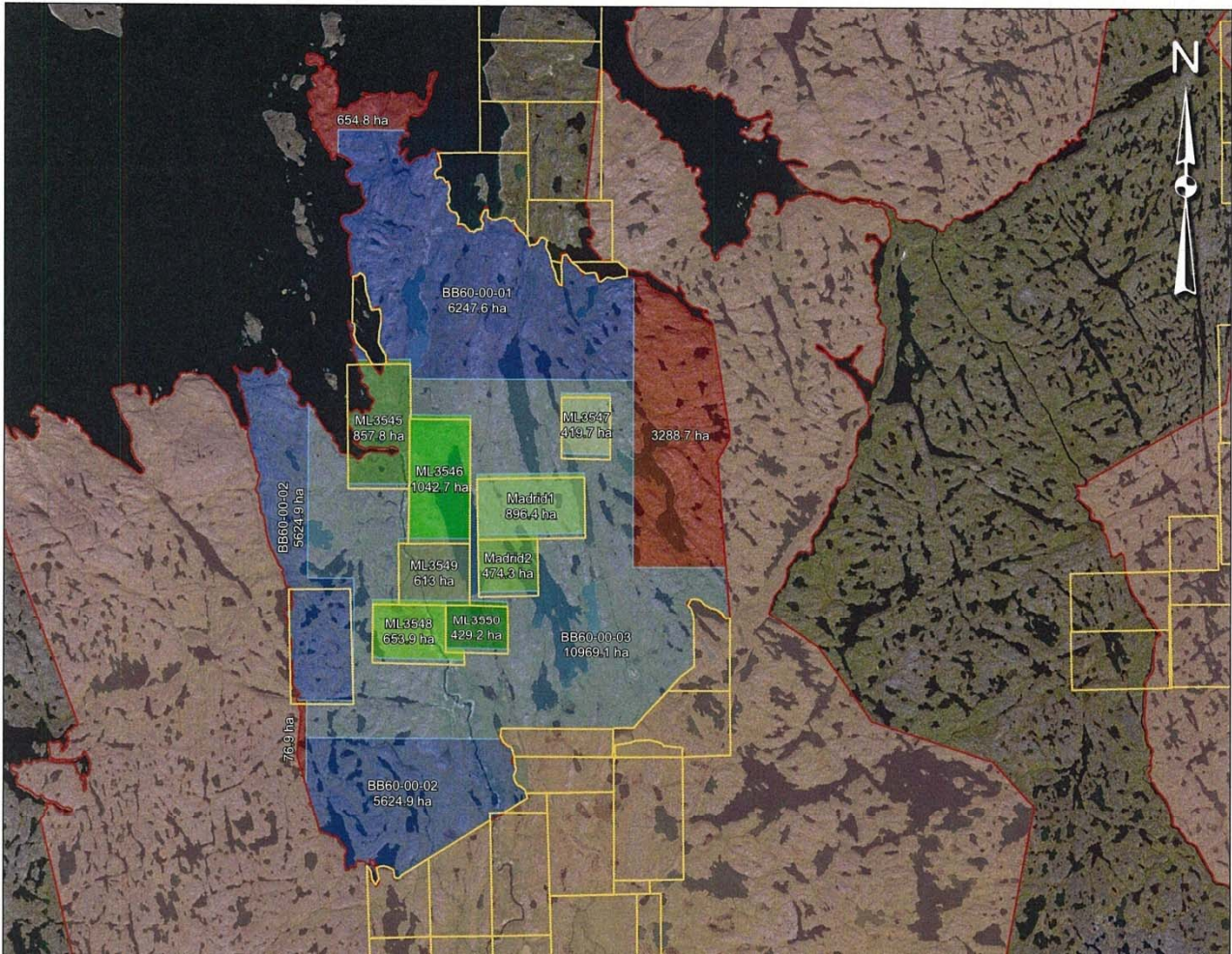
Pangnirtung,
Kimmirut,
Iqaluit,
Arctic Bay





Grandfathered Leases

Exploration Agreements in BB-57 and BB-60 with Mineral Tenures



Legend

- Inuit Owned Lands Surface Rights
- Inuit Owned Lands Subsurface Rights
- Current Agreements
- Proposed Agreements
- Grandfathered Agreements
- NWT Mineral Tenures

Cumulative Areas
 IOL with no agreements: 15,093.8 ha
 Current Agreements: 56,464.8 ha
 Grandfathered Leases: 7,989.2 ha
 Proposed Agreements: 7,716.3 ha

Other Lands or Rights

Crown land. land and minerals are owned by the Crown and administered by INAC in Iqaluit.

- Mineral rights are administered under the Northwest Territories and Nunavut Mining Regulations (NTNMR) and surface rights are administered under the Territorial Land Use Regulations (TLUR), both of which fall under the *Territorial Lands Act* (TLA)

“Grandfathered” rights on Subsurface IOL. These areas are subject to mineral rights that were in place before the NLCA came into effect.

- Although NTI owns the minerals, the rights are administered by INAC under the NTNMR.

Summary of Ownership and Administration of Land



	SURFACE		MINERALS		% of Land
	Ownership	Administration	Ownership	Administration	
Crown land	Crown	INAC	Crown	INAC	~82
Surface IOL	RIA	RIA	Crown	INAC	~16
Subsurface IOL	RIA	RIA	NTI	NTI	~2
Grandfathered	RIA	RIA	NTI	INAC	<1



Surface Rights on IOL



Article 21 – Access to IOL

- The requirements for access to IOL flow from provisions set out in the NLCA. Section 21.2.1 specifies the main requirement for access to IOL: **“Except where otherwise provided in the [NLCA] persons other than Inuit may not enter, cross or remain on Inuit Owned Lands without the consent of the DIO.”**
- For almost all matters relating to access to IOL, the RIA that holds title to the land is the DIO.
- Exceptions for need to get a Surface Right
 - ▣ Public right of access
 - ▣ To Exercise a mineral right



Article 21 – Other Provisions

- Grants certain public and Government rights of access to IOL
- Part 6 gives Government the right to gravel and other construction materials
- Part 7 deals with the rights of the holder of an interest in minerals on IOL to explore for or produce minerals
 - ▣ 21.7.2,3 – mineral rights continue (“grandfathered”) unless DIO and holder agree otherwise; DIO receives \$
- Part 8 provides for the Nunavut Surface Rights Tribunal (NSRT) to resolve issues relating to access



Process of Acquiring Access

- In order to gain access to any IOL parcel for any reason, a person must contact the RIA
- The RIAs administer access through the issuance of Land Use Licences, Commercial Leases, Quarry Rights, and other types of authorization, each of which is referred to as a “Surface Right”
- For most Rights, it takes about 6 weeks (about the same as for Crown land)
- Community committees (CLARCs or CBCs) advise on all Rights except Class 1 Land Use Licence



Surface Rights

- **Land Use Licence – 3 classes**
 - Type depends on the impact of the land use
- **Residential and Recreational Leases**
- **Commercial Lease – 3 classes**
 - Grants exclusive right of occupancy to limited area
 - Class 3 is required for a major project like a mine
 - Term of 5 – 40 years; rent review every 5 years
- **Right-of-Way**
 - Commercial transportation; pipeline; electricity transmission
- **Quarrying Rights for Specified Substances**
 - Inuit may extract up to 50 cu. m/yr for non-commercial use
 - (Inuit also have rights to carving stone on Crown land)



Terms of Surface Rights

- Plans and reports
 - ▣ Required before and after land use operation
- Inspections
 - ▣ Holder pays
- Carving stone and archaeological sites
 - ▣ Cease work and report to RIA
 - ▣ (also requirements under territorial act and regs)
- Socio-economic terms may be applied, but for advanced projects these are put in IIBAs



IIBAs

Article 26 – Inuit Impact and Benefit Agreement



- IIBAs are required for any Major Development Project on Inuit Owned Lands
- Section 26.2.1 says that, with some exceptions, “no Major Development Project may commence until an IIBA is finalized in accordance with this Article.”
- Agreement between the proponent and the RIA, which may include its Development Corporation in the negotiations

Major Development Project

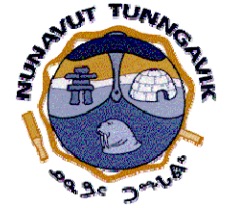


- Means any Crown corporation or private sector project that
 - (a) is a water power generation or water exploitation project..., or
 - (b) is a project involving **development or exploitation**, but not exploration, of **resources wholly or partly under Inuit Owned lands**,
 - and either entails, within the NSA during any five-year period, more than **200 person-years of employment**, or entails **capital costs in excess of \$35 million...in constant 1986 dollars...**
- Schedule 26-1 lists the matters for consideration

Schedule 26-1



1. Inuit **training** at all levels.
2. Inuit **preferential hiring**.
4. **Scholarships**.
6. **Business opportunities** for Inuit including:
 - (a) provision of seed capital;
 - (b) provision of expert advice;
 - (c) notification of business opportunities;
 - (d) preferential contracting practices.
13. Particularly important **Inuit environmental concerns** and **disruption of wildlife**, including wildlife disruption compensation schemes.
21. **Any other matters** that the Parties consider to be relevant to the needs of the project and Inuit.



Subsurface Rights on IOL

Overview of Subsurface Rights



- A Subsurface Right is the right to explore for and produce minerals or petroleum
- On Surface IOL
 - ▣ INAC administers all mineral rights under the Northwest Territories and Nunavut Mining Regulations and petroleum rights under the Canada Petroleum Resources Act
- On Subsurface IOL
 - ▣ NTI owns minerals/petroleum and administers all rights under its own systems except for grandfathered rights
 - ▣ Grandfathered mineral rights – administered by INAC under the NTNMR



Exploration Agreements

Terms have evolved:

- 1993: Modelled somewhat on government systems:
 - requirement to stake the ground
 - Terms the same for all “Concession Agreements”
- 1999: Changed to more of a private landowner system:
 - Staking replaced by map selection
 - NTI has more opportunity to reject application
- 2003: Incorporates terms similar to company option agreements:
 - Negotiation of business terms
 - The right to acquire an operating interest or 2nd royalty



Exploration Agreements

BASIC TENURE TERMS

- Term of 1 year renewable up to 20 years
- Annual fee and work requirement
- Each agreement area limited to 10,000 hectares
- Excess work can be carried forward up to 5 years
- Can apply for Production Lease upon proof that a Resource exists

NEW BUSINESS TERMS

- Signing Bonus – cash or shares
- Milestone payments for discoveries, etc.
- Advance royalty payments

NTI Mineral Agreements



- 80 Mineral Exploration Agreements
- 15 companies
- 20% of Subsurface IOL



Production Lease

- Initial term of 10 years renewable for two terms of 5 years on proof of progress toward production
- Term renewed for 21 years at start of production
- Annual rental but no work requirement
- “IOL Royalty” paid on production: Commonly 12% of net profit, with an annual minimum of 3% of gross revenue for most recent agreements
- Since 2003, includes right to participate in mining joint venture or opt for a second royalty; may also apply to adjacent Crown land held by Lessee
- No Production Leases have been entered into, but negotiations are taking place for two gold projects



Crown Land

Inuit Rights on Crown Land



- Article 25 – Nunavut Trust receives a share of the Crown royalty
- Article 27 – consultation on development on Crown land

Article 25 - Resource Royalty Sharing



- Provides for the payment of a share of all “resource royalty” received by Government: 50% of the first \$2 million and 5% of all remaining royalty
- Applies to Crown Lands
- Paid to Nunavut Trust; but NTI is the DIO
- Requires Government (INAC) to consult with the DIO (NTI) on any proposal to alter by legislation the resource royalty and on any proposed changes to the fiscal regime which will change the resource royalty regime

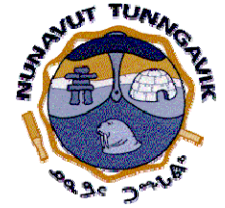
Article 27 – Resource Development



- Deals with development on Crown lands
- Part 1 deals with petroleum – defined in the NLCA as oil and (natural) gas
- Part 2 deals with minerals

Mineral Development – Crown Land

- S. 27.2.1 requires the proponent to consult the DIO prior to development or production of “resources other than petroleum” with respect to the matters listed in Schedule 27-1.
- S. 27.2.2 states that the purpose of the consultation required is to provide information to the DIO and to provide an “opportunity for discussion among Inuit”.
- NTI is currently the DIO
- No opportunities to do this yet



Mineral Resources – Advanced Projects

Advanced Projects



Stage	Kitikmeot	Kivalliq	Qikiqtani
Operating (suspended)	Jericho (C) Lupin (C)		
Construction		Meadowbank (IOL)	
Permitted	Hope Bay - Doris (IOL)		
Applied	High Lake (IOL, C) Hackett River (IOL)	Kiggavik (IOL, C)	Mary River (IOL)
Deposit	Hope Bay – Madrid (IOL) and Boston (C) Izok (C) Ulu (IOL) George Lake (IOL) Goose Lake (IOL)	Ferguson Lake (C) Meliadine (IOL, C)	
Closed	Robert's Bay	North Rankin Cullaton/Shear Lake	Nanisivik Polaris

Oil and Gas Potential

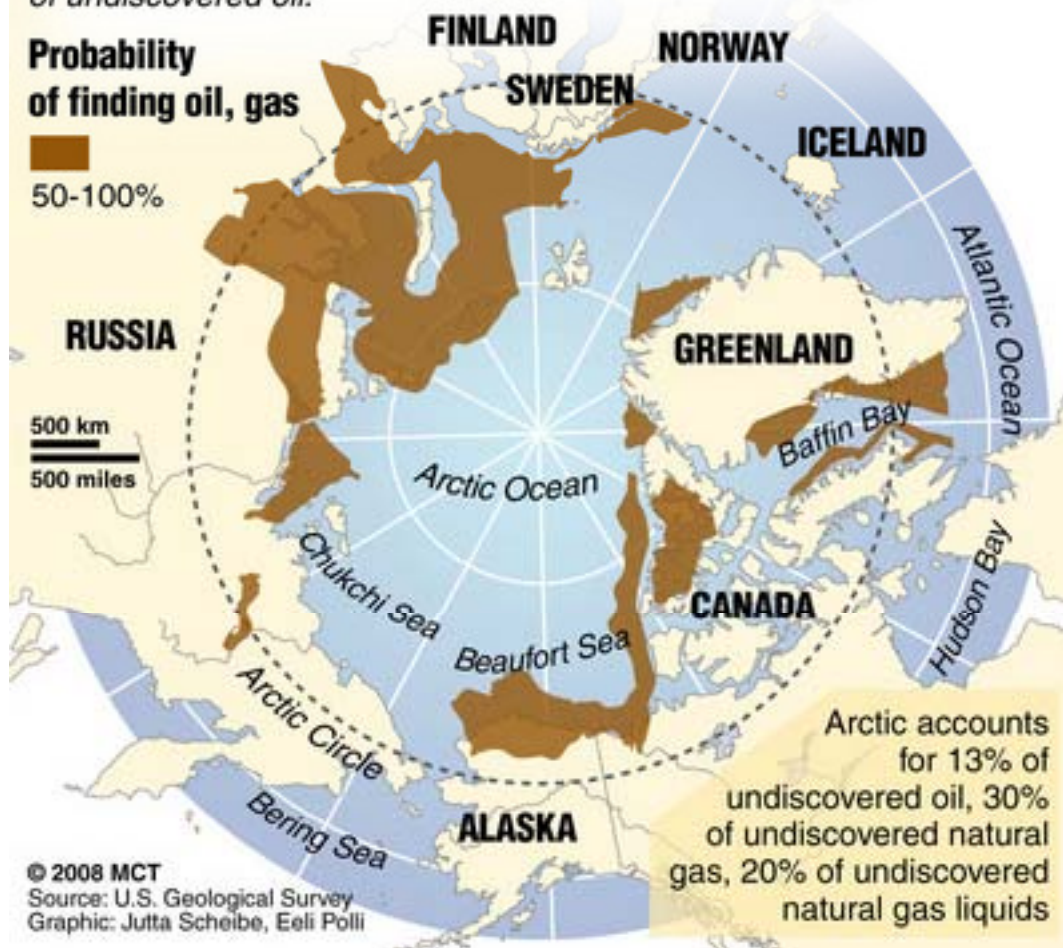
Oil and gas in the Arctic

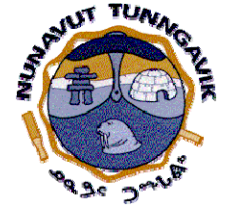
Area north of the Arctic Circle has an estimated 90 billion barrels of undiscovered oil.

Probability of finding oil, gas

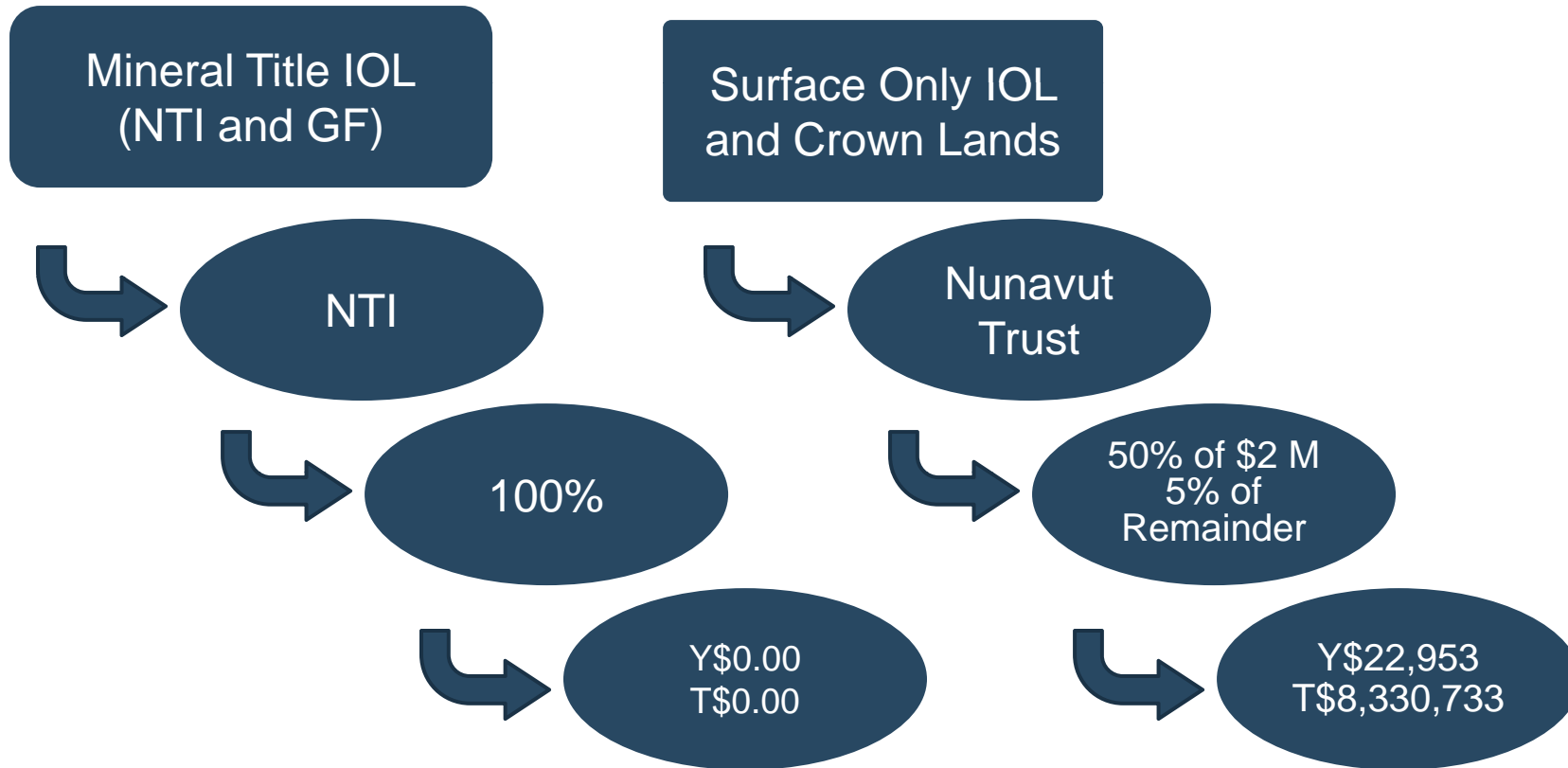


50-100%





Inuit Royalty Sources





Oil and Gas Development



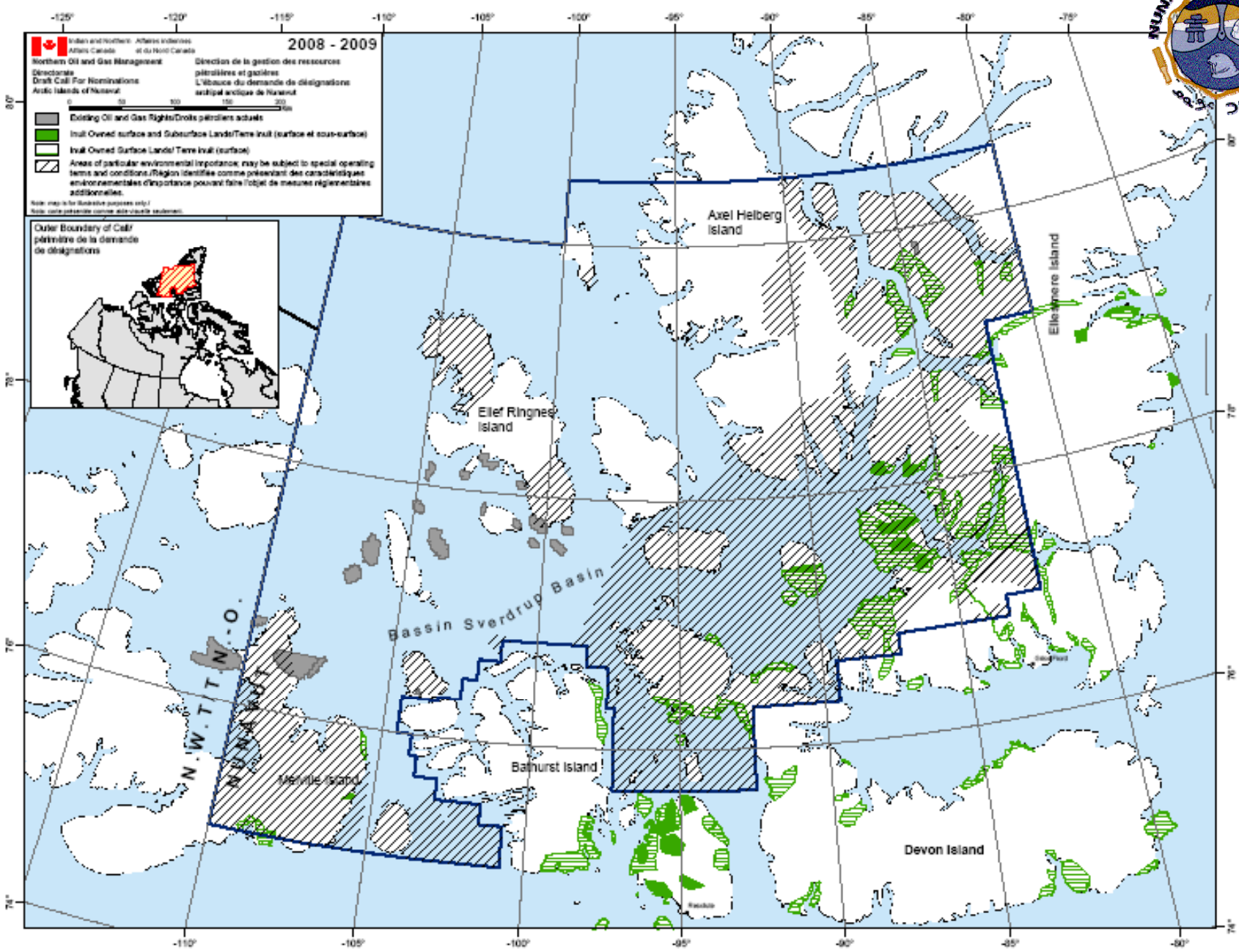
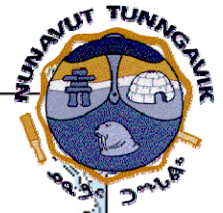
27.1.1 – Opening of Lands

“Prior to opening any lands in the Nunavut Settlement Area for petroleum exploration, Government shall notify the DIO and provide an opportunity for it to present and to discuss its views with Government regarding the terms and conditions to be attached to such rights.”



27.1.1 – Call for Nominations

- INAC's Oil and Gas Branch administers tenure for oil and gas on all lands where Crown owns the minerals and petroleum
- Call for Nominations is the first stage in process of granting exploration rights
- There has been a Call for Nominations for an area covering the Sverdrup Basin every year since 2000





27.1.2 - Exercise of Rights

“Prior to the initial exercise of rights in respect of exploration, development or production of petroleum on Crown lands in the Nunavut Settlement Area, and in order to prepare a benefits plan for the approval of the appropriate regulatory authority, the proponent shall consult the DIO, and Government shall consult the DIO, in respect to those matters listed in Schedule 27-1.”

- Schedule 27-1 is a “light” version of 26-1
- As no rights have been issued, this has not yet been implemented.

Oil and Gas Projects



- Nothing happening at present
- Several discoveries held under Significant Discovery Licences
- A natural gas project under discussion on Melville Island may have some facilities situated on Surface IOL
- If so, RIAs may receive payments under an IIBA
- Nunavut Trust would receive royalties under Article 25 for this project
- NTI may receive benefits under Article 27



Thank You