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## Chapter 1 GETTING STARTED

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The objective of this Guide is to offer an inclusive overview of the regulatory framework facing the mineral prospector or developer seeking to work in the Inuvialuit Settlement Region. It is intended as a starting point. For any particular project, the mineral operator will have to refer to the appropriate legislation and authorities for detailed requirements.

The Guide is organized to emphasize three important features of the requirements for doing work in the Inuvialuit Settlement Region (ISR).

***The Inuvialuit Final Agreement takes precedence in the Inuvialuit Settlement Region.***

The IFA and its institutions are described in Chapters 2, 3, and 4.

***Regulatory requirements for mineral work vary depending on LOCATION and on SCOPE of the activity.***

Chapters 5, 6, 7, 9, 10 and 11 distinguish the various types of land within the ISR and the differences in requirements resulting from location. Chapter 9 deals specifically with federal Crown lands, and shows the escalation of requirements as the scope of the activity increases.

***Laws of General Application continue to apply throughout the ISR.***

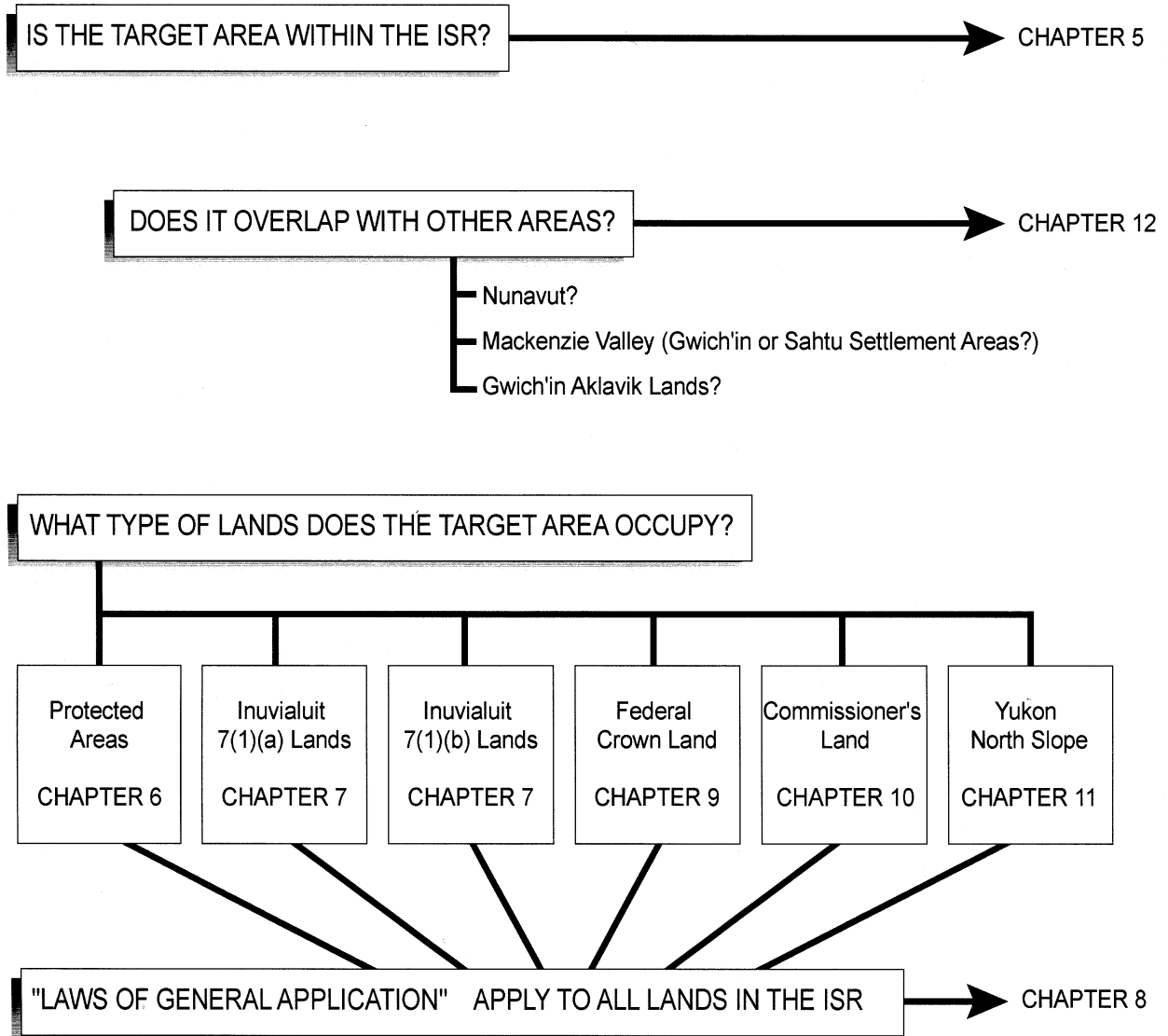
The principal laws affecting mineral operators are described in Chapter 8.

The rapid evolution of regulation and of practice can quickly render such a document out of date. In an effort to extend its shelf-life, Chapters 12 and 13 describe some current issues and developments that may affect requirements in the next few years. Chapter 14 concludes with the case for a “Best Practices” approach that emphasizes the importance of effective consultation in meeting the requirements for doing work in the ISR.

Figure 1 illustrates the organization of the Guide and Chapter references for different types of land in the ISR. Maps outlining the different types of land are attached in Appendix A.

This structure (and the overlap of authorities across the ISR) leads unfortunately to some repetition from one chapter to another, however mineral operators consulted in the course of developing the Guide expressed a preference for completeness even at a cost of repetition.

**FIGURE 1  
LOCATION OF THE MINERAL TARGET AREA:  
CHAPTER REFERENCES**



Refer to Maps in Appendix A for approximate locations of different types of lands.

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## 1.1 The Inuvialuit Settlement Region (ISR)

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The Inuvialuit Settlement Region (ISR) extends along the Arctic coast from the Alaska border on the west to the boundary with the new territory of Nunavut on the east. The ISR is bounded on the south by the Gwich'in and Sahtu Settlement Areas of the Mackenzie Valley and extends to the north across the Beaufort Sea to include Banks Island, parts of Victoria Island and the western Queen Elizabeth Islands. (Map 1 on Page 8).

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## 1.2 The Inuvialuit Final Agreement (IFA)

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The first thing a mineral operator needs to know about the ISR is that land claim settlement legislation takes precedence here. The Inuvialuit of the Western Arctic were the first aboriginal people in the Northwest Territories to conclude a comprehensive land claim settlement with the Government of Canada.

The Inuvialuit Final Agreement (IFA) was signed by all parties on June 5, 1984. It applies throughout the ISR and prevails on all matters that it covers. The main features of the IFA are summarized in Chapter 2 of this Guide. For mineral activities, the most important features of the IFA are:

- ***Ownership and control by the Inuvialuit of selected lands within the ISR.***  
The processes for obtaining approvals on Inuvialuit-owned lands differ from those on Crown-owned lands in the ISR;
- ***A guaranteed role for the Inuvialuit in environmental screening and review of development proposals in the ISR that are likely to cause a negative environmental impact.*** Such proposals undergo close scrutiny for potential negative impacts on wildlife, habitat and the environment, and face stringent requirements for prevention and mitigation of impacts;
- ***Assured opportunities for Inuvialuit to participate in economic activity in the ISR;***
- ***A high priority for protection of wildlife, habitat and environment, and requirement for compensation for any damage caused.***

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## 1.3 Implementation of the Inuvialuit Final Agreement (IFA)

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Since the IFA was signed in 1984, both Inuvialuit and developers have gained experience in making the new arrangements work. The institutions envisaged by the IFA are now established and administrative procedures have been worked out in the course of dealing with a number of project proposals. This experience has created a capacity in the Inuvialuit land claim institutions for processing applications efficiently.

Inuvialuit require high standards from developers. Inuvialuit place great value upon the IFA and expect developers to respect IFA institutions and processes. They also demand openness and thorough efforts at consultation not just with the major institutions but with the communities directly. By taking care to accommodate these concerns from the start, a developer can build a good working relationship that will serve as a sound foundation for future activities.

Wherever a mineral prospector or developer wants to work in the Inuvialuit Settlement Region (ISR), you must

deal with one or more Inuvialuit institutions in the course of obtaining authorization to proceed. These institutions are described in Chapter 3 of this Guide.

With the exception of the Inuvialuit Land Administration (ILA), the Inuvialuit institutions set up pursuant to the IFA do not have final decision-making authority in relation to mineral activities. These institutions however provide advice to the authorities that make the decisions, and that advice is taken into account in decision-making. Decisions on authorization of land use and issuance of mineral rights are made either by government on Crown lands or by the Inuvialuit Land Administration (ILA) on lands for which Inuvialuit hold title.

These distinctions between Inuvialuit-owned land and other types of land are significant because they determine which authorizations are required and what process has to be followed in order to obtain permission to proceed.

The most important considerations are **LOCATION** and **SCOPE** of the mineral activities being planned.

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## 1.4 LOCATION: Where will you be working?

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### Is the target area within the Inuvialuit Settlement Region (ISR)?

If so, the Inuvialuit Final Agreement applies. Note that the ISR spans both land and water, and extends into the islands of the High Arctic. Refer to Map 1 and Chapter 5 of this Guide.

### Does it overlap the boundary with another jurisdiction?

Nunavut? The Gwich'in Settlement Area? The Sahtu Settlement Area? If so, or if the effects from your activities may be felt on an adjoining area, then there will be additional requirements to obtain approvals. Refer to Map 1 and Chapter 12.

### What type(s) of land within the ISR does the target area occupy?

Each type of land has different ownership of surface and sub-surface rights. Consequently, the developer has to deal with different regimes on each in order to obtain mineral rights and approvals for land use approvals. Refer to Map 1 and the maps in Appendix A for the outlines of these areas, and to Table 1.0 and Figure 1 for the authorities that apply to each.

- # ***Inuvialuit-owned lands, S. 7.(1)(a)?***
- # ***Inuvialuit-owned lands, S.7(1)(b)?***
- # ***Federal Crown lands in the Northwest Territories?***
- # ***Commissioner's lands in the Northwest Territories?***
- # ***Federal Crown lands on the Yukon North Slope?***

## **Is the target area near one or more communities?**

Inuvik, Aklavik, Tuktoyaktuk, Sachs Harbour, Holman and Paulatuk are the six communities of the Inuvialuit Settlement Region. Which community is closest to your target area and are there any others that could be affected?

No matter what type of land is involved, the authorization process will go faster and more successfully if you contact the Community Corporation and the Hunters and Trappers Committee of the affected community(ies) to advise them that you want to work in the area, and to check for any concerns that should be addressed when planning or conducting the activity.

## **Is the target area in or near an environmentally sensitive area?**

Where is the target in relation to the environmentally sensitive areas marked on the Environmental Sensitivity Map and the Community Conservation Plan for the nearest community(ies)? The Inuvialuit recommend early consultation with the local Hunters and Trappers Committee to check out any environmentally sensitive locations. Refer to Chapter 6 of this Guide.

## **Where is the target area in relation to any Protected Areas?**

The Inuvialuit Settlement Region has the highest proportion of land under formal protection of any jurisdiction in Canada. In some of these Protected Areas, industrial activities such as mineral exploration and development are banned. In others, activities may be permitted but only after close scrutiny by the authorities and under stringent conditions.

There are also some areas within the ISR with informal protection. These areas are identified by either government or Inuvialuit agencies as areas of particular sensitivity for which special precautions should be taken. Refer to Chapter 6 of this Guide.

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## 1.5 SCOPE: What activities are you planning?

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The mineral activities planned for the target area will determine the scope of the impact of the project, and so will influence what approvals are required. Generally the more intrusive the activities, the more requirements and the more intensely the project will be examined. Scope of work also determines how much consultation is necessary to meet regulatory requirements.

The mineral exploration and development process can be divided into stages of activity, although in reality, the stages may not progress in this order or may overlap:

- # ***Regional Survey Exploration***
- # ***Primary Mineral Exploration***
- # ***Mineral Rights Acquisition***
- # ***Advanced Mineral Exploration***
- # ***Mineral Development and Production***
- # ***Mine or Site Closure***

Chapter 9 describes the requirements for each stage of activity undertaken on Federal Crown lands. The requirements are not distinguished by stage, but are described generally for Inuvialuit-owned lands in Chapter 7 and Commissioner's Lands in Chapter 10

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## 1.6 Laws of General Application

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**LOCATION** and **SCOPE** determine what laws and procedures apply to the acquisition of mineral rights, to authorizations for land use, and also determine whether the IFA Environmental Impact Screening and Review Process applies. Table 1.0 shows the different authorities for each type of land.

It is important to keep in mind that, apart from the exceptions established by the IFA, "Laws of General Application" continue to apply throughout the ISR. This means that no matter where you work in the Region, legislation such as the Northwest Territories Waters Act, the Canadian Environmental Assessment Act, and all other federal and territorial laws continue to apply.

These requirements are discussed further in Chapter 8 of this Guide.

**TABLE 1.0**

**MINERAL ACTIVITIES IN THE INUVIALUIT SETTLEMENT REGION (ISR)**

**AUTHORITIES FOR APPROVALS TO WORK ON DIFFERENT TYPES OF LAND**

TYPE OF LAND	LOCATION	MINERAL RIGHTS DISPOSITION	LAND USE AUTHORIZATIONS	WATER AUTHORIZATIONS	OTHER LAWS
Inuvialuit Owned Section 7(1)(a)(i)	Near communities	Inuvialuit Land Administration (ILA)	Inuvialuit Land Administration If referred, EISC for screening	NWT Water Board and DIAND	Govt of Canada Govt of NWT
Inuvialuit Owned Section 7(1)(a)(ii)	Block of land on Cape Bathurst	Inuvialuit Land Administration (ILA)	Inuvialuit Land Administration If referred, EISC for screening	NWT Water Board and DIAND	Govt of Canada Govt of NWT
Inuvialuit Owned Section 7(1)(b)	Near communities	DIAND (Department of Indian Affairs and Northern Development)	Inuvialuit Land Administration If referred, EISC for screening	NWT Water Board and DIAND	Govt of Canada Govt of NWT
Inuvialuit Owned Section 7(2)	Beds of water bodies within Inuvialuit-owned lands	DIAND on beds within 7(1)(b) lands ILA on beds within 7(1)a lands	Inuvialuit Land Administration If referred, EISC for screening	NWT Water Board and DIAND	Govt of Canada Govt of NWT
Federal Crown Lands	Throughout Inuvialuit Settlement Region	DIAND	DIAND issues authorizations EISC conducts environmental screening	NWT Water Board and DIAND	Govt of Canada Govt of NWT
Commissioner's Lands	On blocks in or near municipal boundaries	DIAND	Municipal and Community Affairs (MACA(NWT))	NWT Water Board and DIAND	Govt of Canada Govt of NWT
Yukon North Slope	Northern Yukon, east of Babbage River	<b>Mineral rights are not currently available for disposition.</b>	"Special Conservation Regime" DIAND and EISC	Yukon Water Board and DIAND	Govt of Canada Govt of NWT

DIAND

Department of Indian Affairs and Northern Development, Government of Canada

ILA

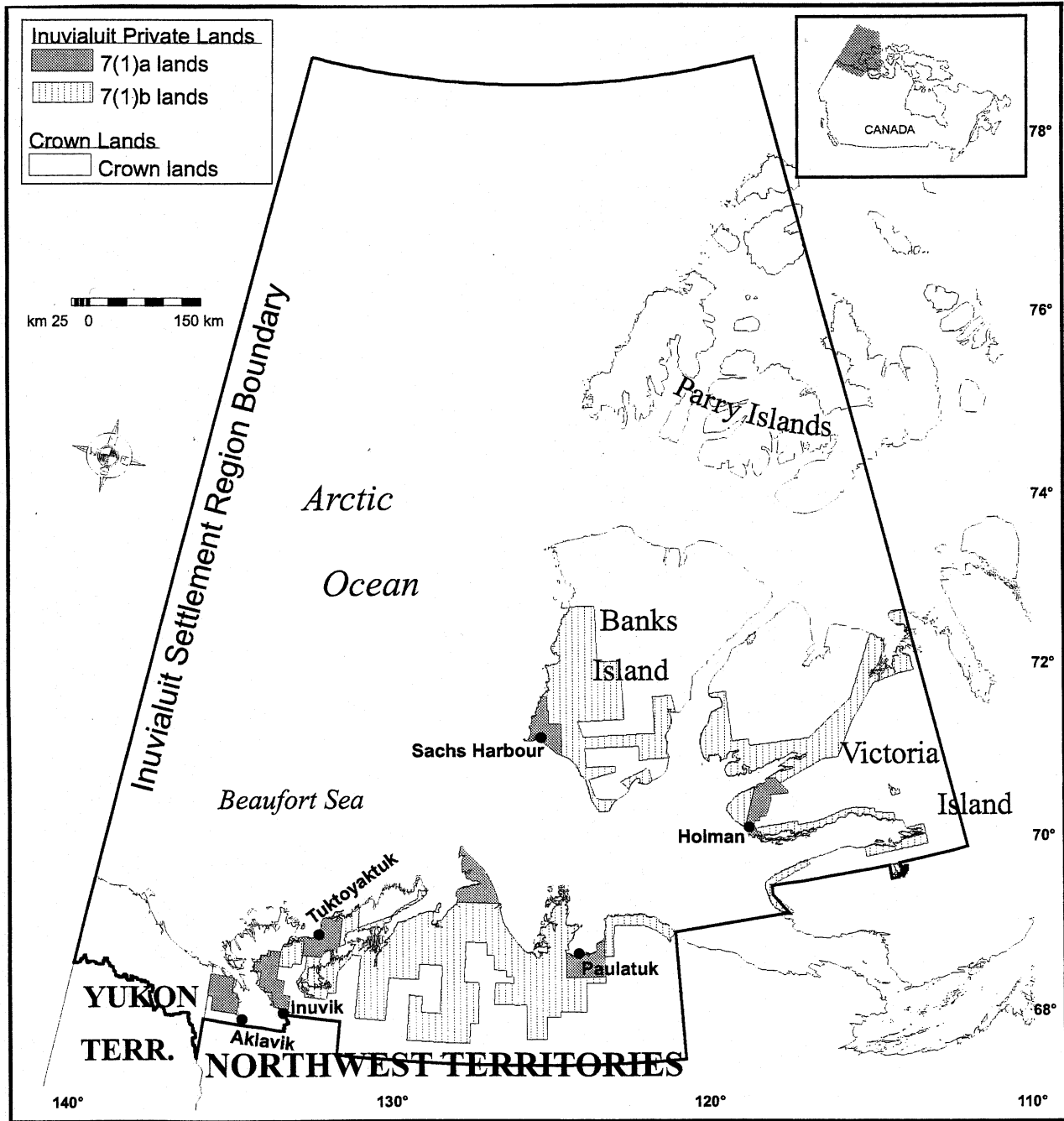
Inuvialuit Land Administration, division of Inuvialuit Regional Corporation

EISC

Environmental Impact Screening Committee, co-management body created pursuant to Inuvialuit Final Agreement. Projects may be referred from the EISC to the Environmental Impact Review Board, or other reviewing agency, for further environmental impact assessment

MAP 1

INUVIALUIT SETTLEMENT REGION  
INUVIALUIT-OWNED LANDS AND CROWN LANDS



Produced by: Joint Secretariat - GIS



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## Chapter 2 THE INUVIALUIT FINAL AGREEMENT (IFA)

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The Inuvialuit Final Agreement (IFA) was signed by all parties on June 5, 1984. It is a land claim agreement under section 35(3) of the Constitution Act 1982. The IFA applies throughout the Inuvialuit Settlement Region (ISR) and takes precedence on all matters that it covers. To the extent of any inconsistency between the IFA and any other federal, territorial or municipal law, the IFA prevails to the extent of the inconsistency (IFA section 3(3)).

The legislation implementing the Agreement is the Western Arctic (Inuvialuit) Claims Settlement Act, Bill C-49, 1983-1984.

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### 2.1 Goals (IFA Section 1)

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The basic goals of the IFA are three:

- 1(a) To preserve Inuvialuit cultural identity and values within a changing northern society;
- 1(b) To enable Inuvialuit to be equal and meaningful participants in the northern and national economy and society; and
- 1(c) To protect and preserve the Arctic wildlife, environment and biological productivity.

Essentially, the IFA provides to Inuvialuit a range of rights, benefits and compensation in return for the surrender of their interest in certain lands in the Canadian Arctic coast and offshore, without in any way limiting the rights of the Inuvialuit as Canadian citizens.

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### 2.2 *Beneficiary and Inuvialuit Corporations (Sections 5 and 6)*

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The beneficiaries of the IFA are approximately 5,000 Inuvialuit, most of whom live in the ISR in the six settlements of Sachs Harbour, Holman, Paulatuk, Tuktoyaktuk, Inuvik and Aklavik in the Northwest Territories.

The responsibility for receiving and managing the Inuvialuit settlement compensation and benefits resides in a group of corporations owned and controlled by Inuvialuit. Six non-profit Inuvialuit Community Corporations are controlled by the beneficiaries of the community that each represents, and together these community corporations comprise the Inuvialuit Regional Corporation (IRC).

The Inuvialuit Regional Corporation (IRC) is responsible for managing and administering Inuvialuit-owned lands, which it does through the Inuvialuit Land Administration (ILA).

These institutions are described in more detail in Chapter 3 of this Guide.

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## 2.3 Relevance of the IFA to Mineral Prospectors and Developers

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The main provisions of the IFA deal with the ownership of land, protection of wildlife and habitat and the role for Inuvialuit in environmental management and decisions related to development. The purpose of this Chapter is to outline the provisions relevant to mineral explorers and developers.

Readers familiar with other northern land claim settlements will find that arrangements obtained by the Inuvialuit differ from those in Nunavut or the Mackenzie Valley. Inuvialuit chose to negotiate for extensive control over certain lands, and over the rest, an advisory role for co-management institutions in which Inuvialuit had guaranteed participation. As a result, the institutions of the IFA are not institutions of public government as they are defined in Nunavut and the Mackenzie Valley. Mineral development proposals undergo different processes in the ISR from those that apply in other parts of the NWT and Nunavut.

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## 2.4 Inuvialuit-Owned Lands (IFA Section 7)

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The IFA creates the Inuvialuit Settlement Region (ISR), encompassing the western Arctic coast from the Alaskan border to the Amundsen Gulf, and extending into the Beaufort Sea to include Banks Island, part of Victoria Island and part of the Western Queen Elizabeth Islands. (Map 1)

The IFA transfers land title for 91,000 sq km from the Government of Canada (Crown) to the Inuvialuit, representing 21% of the area that Inuvialuit traditionally used and occupied. Title is vested in the Inuvialuit Land Corporation, which is wholly owned by the IRC. While the lands for which title was transferred can be leased, they can only be sold to other Inuvialuit or to the Government of Canada.

The Inuvialuit Land Corporation holds title to the following lands:

- # **Section 7(1)(a)(i) lands**, in fee simple absolute including all minerals (whether solid, liquid or gaseous) and granular materials. These lands total 11,000 sq km (4,200 sq mi), in blocks of 1800 sq km (700 sq mi) near each of the six communities.
- # **Section 7(1)(a)(ii) lands**, held in a single block of 2,000 sq km (800 sq mi) in Cape Bathurst.
- # **Section 7(1)(b) lands**, in fee simple absolute, excluding oil, gas, related hydrocarbons, coal, native sulphur, and minerals, but including granular materials. These lands amount to 78,000 sq km (30,000 sq mi).
- # **Section 7(2) lands** comprise the beds of all lakes, rivers and other water bodies found within Inuvialuit-owned (7(1)(a) or 7(1)(b)) lands. Surface title is held by the Inuvialuit in fee simple absolute: sub-surface rights are held by Inuvialuit for water bodies on 7(1)(a) lands and by the federal Crown for water bodies on 7(1)(b) lands.

Title to these lands is subject to easements and rights-of-way listed in the IFA.

Blocks of 7(1)(a) and 7(1)(b) lands are generally close to the communities, having been selected from areas that the Inuvialuit considered important for harvesting, traditional use or economic development. These lands are outlined on Maps 1 to 9 in Appendix A.

Anyone considering mineral work in the ISR should check their proposed location in relation to these blocks of land. Regulation of all land use activities and of access across these lands is under the control of the Inuvialuit Land Administration (ILA). Procedures here differ from those on Crown lands. These lands and the processes that apply are described further in Chapters 5 and 7 of this Guide.

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## **2.5 Crown-Owned Lands**

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The Government of Canada retains ownership of the balance of the land in the ISR. In total, the Crown holds title to 80% of the land in the ISR: this proportion is lowest on the mainland, increasing to 100% in the Western Queen Elizabeth Islands. (Requirements on Crown Lands are described in Chapter 9 of this Guide) In addition the Government of the Northwest Territories administers a small quantum of Commissioner's Lands. (Chapter 10 of this Guide)

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## **2.6 Access To and Across Inuvialuit Lands (IFA Section 7)**

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Inuvialuit-owned lands are subject to existing alienations granted to other parties in outstanding leases, easements and rights of way. As well, the Government of Canada reserves a right of access on Inuvialuit lands to a 30.5 metre (100 ft) wide strip around the seacoast and shorelines of navigable waters for travel, recreation and emergency purposes. This right of access however does not permit the user to engage in any development activity.

All rights of access to and across Inuvialuit lands are subject to conditions that there be:

- # No significant damage to the lands,
- # No abuse or extension of the right,
- # No mischief committed on the lands, and
- # No significant interference with Inuvialuit use and enjoyment of the lands.

Subject to these conditions, members of the public may cross Inuvialuit lands without prior notice to exercise a right on adjacent Crown lands.

Commercial interests have to comply with more stringent requirements. Mineral rights holders must give prior notice to the Inuvialuit Land Administration (ILA) of their intent to travel across Inuvialuit-owned lands. If the access is for more than preliminary or investigative activities ("of a casual nature") then temporary or permanent rights-of-way need to be negotiated with the ILA before access can occur. These negotiations will address a suitable route or location of access and compensation for damages.

The ILA guarantees access on and across Inuvialuit owned lands for exploration, development and production activities by holders of rights and interests issued by Canada on Inuvialuit 7(1)(b) lands. But first, a developer must pay fair compensation to the Inuvialuit for the access right itself, any damage to Inuvialuit lands, and any lessening of value of Inuvialuit interests in their lands.

Before exercising a right of access, a developer is required to conclude a Participation Agreement with the ILA, unless this requirement is waived by the ILA.

Once access is granted, the ILA assumes no responsibility for damages suffered by the developer and the developer is responsible for damages to the land. Developers who do not comply with access provisions can be denied future access by the ILA.

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## **2.7 Wildlife Compensation (IFA Section 13)**

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The IFA requires that Inuvialuit be compensated for wildlife harvest loss resulting from development in the ISR. Developers whose activities cause such loss are liable for compensation payable to the Inuvialuit for actual harvest loss, and for the cost of mitigative and remedial measures required to address future wildlife harvest loss. This liability may be shared with other developers found guilty of such damage, but the liability is absolute.

The IFA requires that any proposed development that is likely to cause a negative environmental impact shall be screened: if the result of screening is a determination that a proposed development could have a significant negative impact on present or future wildlife harvesting, then the development will be referred for environmental impact assessment and review. If there is a possibility that damage to wildlife or its habitat may occur, the reviewing agency must recommend terms and conditions relating to mitigative and remedial measures necessary to minimize the impact, and must provide an estimate of the potential liability of the developer based on a worst case scenario. The proponent will be required to demonstrate financial responsibility and may be required to post security with the authorizing agency or the Inuvialuit before receiving permission to proceed.

In the event of a claim for harvest loss, Inuvialuit claimants must within three years of the loss inform in writing the developer alleged to have caused the damage. The onus is on the claimant to demonstrate the loss. Types of compensation that may be claimed include the cost of relocation, replacement of equipment, and material loss of harvest.

If the claimant and the developer cannot come to an agreement on terms for wildlife compensation, the matter can be referred to arbitration under section 18 of the IFA or to the civil courts.

Section 13 of the IFA applies to all lands in the ISR except 7(1)(a) lands. On 7(1)(a) lands, the ILA applies a parallel set of requirements. Mineral operators need to pay close attention to the wildlife compensation provisions, because (as has been the experience with past resource project proposals) the potential liability to a project can be very large. Details on the procedures to address these matters should be discussed with the authority responsible for the lands under consideration.

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## **2.8 Water Management (IFA Section 7)**

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Under the IFA, the Government of Canada continues to own all waters, and so retains the right to manage and control water for the whole of the ISR, including Inuvialuit-owned lands, for purposes of wildlife management, navigation and flood control and protection of the quality of community water supplies. Water use is managed under the [Northwest Territories Waters Act](#) and applications for water use licences are reviewed by the NWT Water Board. Consideration is now being given to the establishment of a successor board to the NWT Water Board.

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## **2.9 Sand and Gravel (IFA Section 7)**

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Sand and gravel deposits are managed under a system of use priorities which sets first the needs for community and private use. In order to obtain sand and gravel from Inuvialuit-owned lands, a developer must first obtain a licence or concession from the ILA. A licence or concession may stipulate payment of a royalty, and various cost recovery fees. Where a prospective purchaser of sand and gravel cannot come to terms with the ILA, the matter can be referred to arbitration under section 18.

The IFA permits Inuvialuit and the Government of Canada to identify zones where removal of sand and gravel is prohibited for all or part of a year. Specifically, the IFA dedicates the Ya Ya Lakes eskers to sand and gravel development.

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## 2.10 Participation Agreements (IFA Section 10)

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Before exercising a guaranteed right of access, or for access to Inuvialuit-owned lands in order to exercise interests directly on those lands, the rights-holder must negotiate a Participation Agreement with the ILA. These agreements may include provisions for covering costs of permitting and inspection, costs associated with wildlife compensation, habitat restoration, impact mitigation, employment and socio-economic considerations (such as service and supply contracts, education and training, and equity participation). This is discussed further in Chapter 7 of this Guide.

If the rights-holder and the ILA are unable to conclude a Participation Agreement, the matter can be referred for arbitration under section 18 of the IFA.

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## 2.11 Arbitration Process (IFA Section 18)

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When developers are unable to negotiate a satisfactory arrangement with the ILA over the terms of Participation Agreements, wildlife compensation, habitat restoration and impact mitigation, or for sand and gravel contracts, the matter can be referred to arbitration. The Arbitration Board provided for in the IFA also has authority to resolve other matters, such as land use disputes and conflicting subsurface resource claims. Awards made by the Arbitration Board are subject to review by the Federal Court of Appeal.

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## 2.12 Laws of General Application (IFA Section 7)

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Laws of general application apply to all lands in the ISR.

On Inuvialuit-owned lands, the Inuvialuit enjoy all the rights of private property owners under laws of general application. The main difference on Inuvialuit-owned lands is the authority of the ILA to administer surface land use, and in the case of 7(1)(a) lands, to administer subsurface rights.

The ILA has the authority to set terms and conditions for environment and safety that equal or exceed laws of general application. This authority applies to the disposal of rights for minerals, oil and gas, and sand and gravel on Inuvialuit-owned lands.

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## 2.13 Environmental Impact Screening and Review Process

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Section 11 of the IFA establishes a formal Environmental Impact Screening and Review Process to examine proposed developments that are subject to screening. The IFA requires that unless the provisions of section 11 have been complied with, government shall not issue any licence or approval that would allow any proposed development to proceed.

For a proposed development that is subject to the process, or in respect of which a screening has been requested by the Inuvialuit, the first step is **screening** of the proposed development by the Environmental Impact Screening Committee (EISC). If the EISC finds that the proposal could have a significant negative impact, the project can be referred for further **review**, by the Environmental Impact Review Board (EIRB) or by another review authority.

Not all proposed developments in the ISR are subject to the IFA Environmental Impact Screening and Review Process: some very low impact activities on Crown lands may be exempt, and developments on Inuvialuit-owned lands may be, but are not necessarily, subject to screening. This is also discussed in Chapter 4 of this Guide.

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## **2.14 Economic Provisions (IFA Section 16)**

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The equal participation of Inuvialuit in the northern economy and society is one of the fundamental goals of the IFA. Several measures in the IFA are intended to advance this goal. The following are relevant to mineral development:

- # The federal government agrees that for any application for exploration, development or production rights on Crown lands and on 7(1)(b) lands, general government guidelines on socio-economic matters, including employment, training and business opportunities will be applied to favour the Inuvialuit.
- # Developers who want access across or to Inuvialuit-owned lands, or who want Mineral Concessions on 7(1)(a) lands, are required to negotiate Participation (or Access) Agreements that cover a range of socio-economic benefits.
- # Developers may also negotiate a Cooperation Agreement with the Inuvialuit Land Administration, toward an agreed framework for negotiating Participation Agreements for a range of possible future activities. The ILA may voluntarily conclude Cooperation Agreements with respect to the objectives in section 16(11) of the IFA.
- # The Inuvialuit have a right to be awarded publicly tendered government contracts to develop resources on Crown lands, if they submit the best proposal. (IFA section 16(10).
- # The Inuvialuit Development Corporation may hold up to 10 prospecting permits and 25 mining claims at any time.
- # Under the Territorial Coal Regulations, Canada agrees to issue to Inuvialuit, free of charge, local-use coal permits to explore, to develop, and to mine coal in the ISR for community use and regional industrial use by the Inuvialuit Development Corporation.

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## **2.15 Land Use Planning (IFA Section 7)**

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Section 7 of the IFA provides for Land Use Planning. The Mackenzie Delta-Beaufort Delta Land Use Plan was completed in 1991, however this has largely been superceded by planning and consultation processes under the aegis of the Inuvialuit Renewable Resources Conservation and Management Plan (1988). Under this initiative, the Wildlife Management Advisory Council (NWT) works with each of the communities to develop and update Community Conservation Plans, which set out areas of environmental sensitivity or cultural value for each community. These Community Conservation Plans are important tools for developers interested in an area, and provide a good foundation for consultation. (Refer also to Chapter 6, s. 6.2.1.)

The Department of Indian Affairs and Northern Development (DIAND) compiles information from Community Conservation Plans on an Environmental Sensitivity Map, which is attached to all Prospector's Licences. This Map is attached as Map 3 in Appendix A.

The Inuvialuit Final Agreement (IFA) provides for the establishment of three sets of institutions:

- # **Co-management institutions**, that include representation from both the Inuvialuit and the federal and territorial governments. Administration and technical support for these institutions is provided by the Joint Secretariat, which is a useful first point of contact;
- # **Inuvialuit institutions**, that represent the interests of beneficiaries and that manage Inuvialuit settlement lands and funds; and
- # **Community level organizations**, namely Community Corporations and Hunters and Trappers Committees.

Contacts and addresses for each of these organizations are listed in the Directory in Appendix D.

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### **3.1 Co-Management Institutions**

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An environmental co-management system has been developed to meet the goals of the IFA. Inuvialuit and the governments of Canada, Northwest Territories and Yukon share management responsibilities for the ISR. Five joint Inuvialuit-government boards and committees exercise co-operative management of wildlife, habitat and the environment. These joint institutions are:

- # **Wildlife Management Advisory Council (Northwest Territories)** (WMAC (NWT))
- # **Wildlife Management Advisory Council (North Slope)** (WMAC (North Slope))
- # **Fisheries Joint Management Committee** (FJMC)
- # **Environmental Impact Screening Committee** (EISC)
- # **Environmental Impact Review Board** (EIRB)

An organization chart of resource management under the IFA is included in Appendix B to this Guide.

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#### **3.1.1 Institutions for Co-Management of Wildlife**

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##### **Wildlife Management Advisory Council (NWT)**

WMAC (NWT) has jurisdiction over the portion of the ISR in the Northwest Territories (including adjacent nearshore and offshore waters). This Council has seven permanent members representing Canada (one member), the Government of NWT (two members) and Inuvialuit (three members). The Chairman is appointed by the Government of NWT with the consent of Inuvialuit and Canada.

The WMAC (NWT) performs the following functions:

- # Advises federal and territorial government Ministers on wildlife legislation, policy and management in the Western Arctic;
- # Maintains the Inuvialuit Renewable Resource Conservation and Management Plan (1988) which outlines goals and principles for conservation in the Western Arctic;
- # Assists communities to develop Community Conservation Plans;
- # Participates (through membership) in research on grizzly bears, caribou, wolves and other wildlife;

- # Advises wildlife management boards, land use commissions, and institutions of the IFA Environmental Screening and Review Process on wildlife issues relating to the Western Arctic;
- # Determines and recommends Inuvialuit harvesting quotas for caribou (and other migratory animals in the IFA) inside or outside the Western Arctic Region; and
- # Requests (if appropriate) the participation of Hunters and Trappers Committees when the Council manages the subsistence harvest.

### ***Wildlife Management Advisory Council (North Slope)***

The jurisdiction of the WMAC (North Slope) is the Yukon portion of the ISR, although some of its powers may extend into the NWT. The four person membership represents the Inuvialuit and the governments of Canada and the Yukon. This Council is responsible for advising federal and territorial government ministers on all Yukon North Slope wildlife and habitat issues.

The IFA establishes for the Yukon North Slope a “Special Conservation Regime”, the purpose of which is to conserve wildlife, habitat and traditional use, however final arrangements have not yet been ratified. As well, two parks have been established in the Yukon North Slope area: the Ivvavik National Park and Herschel Island Territorial Park. The remaining area, extending from the Babbage River on the west to the Yukon-NWT border, will be subject to the “Special Conservation Regime”, however at this time, these lands are not available for mineral disposition, pursuant to a Withdrawal and Prohibition Order dated 1985. (Chapter 11 of this Guide.)

The WMAC (North Slope):

- # Participates in management of the two parks;
- # Has prepared a Conservation and Management Plan for the North Slope;
- # Supports and participates in wildlife and habitat research;
- # Advises Ministers on wildlife policy and management;
- # Works with Inuvialuit to promote the wise use of resources and sound environmental management.

### ***Fisheries Joint Management Committee (FJMC)***

This Committee has a Chair and four members: two representing the Inuvialuit and two appointed by the federal Minister of Fisheries and Oceans.

The FJMC assists the Inuvialuit and the Government of Canada to manage ISR fisheries and:

- # Advises the Minister of Fisheries and Oceans on fisheries issues;
- # Collects harvest information and recommends subsistence quotas for fish and harvesting quotas for marine mammals;
- # Holds public meetings in each community to exchange information and concerns about the fisheries;
- # Sponsors research, assessment and monitoring projects which use the knowledge and efforts of resource users and scientists;
- # Manages a public registration system for fishing on Inuvialuit lands, and for entry on Inuvialuit 7(1)(b) lands for fishing;
- # Restricts the public right of access to Inuvialuit 7(1)(b) lands for fishing (where required for conservation purposes, or to prevent interference with Inuvialuit activities or use of land).



***Environmental Impact Screening Committee (EISC)***

This Committee has a Chair and six permanent members; three appointed by Canada, representing each of the governments of Canada, Yukon and Northwest Territories, and three by the Inuvialuit. A Chair is appointed by the federal government with the consent of the Inuvialuit.

For each screening a Panel comprising the Chair and four of the permanent members is set up. There is provision in the IFA for adding a Panel member from adjacent claims areas that may be negatively affected, provided that like representation is available to the Inuvialuit for screening processes in those adjacent areas.

After reviewing the evidence, the EISC makes a determination on whether there is potential for significant negative impact. The EISC then advises the regulatory authority on whether in its view the project may proceed, or should be subject to further review, or has such deficiencies that a new Project Description is required.

The Screening Process is described in Chapter 4.

***Environmental Impact Review Board (EIRB)***

The EIRB has six permanent members; three appointed by Canada, representing each of the governments of Canada, Yukon and Northwest Territories, and three by the Inuvialuit. A Chair is appointed by the federal government with the consent of the Inuvialuit.

The EIRB reviews all projects referred to it by the EISC.

For a review, a Panel, consisting of two Inuvialuit, two government-appointed members and the Chair, is selected from the Board membership. The territorial nominee comes from the territory in which the development would occur. In parallel with the provision for the EISC, there is provision for adding a Panel member from adjacent claims areas that may be negatively affected, provided that like representation is available to the Inuvialuit for review processes in the adjacent areas.

After reviewing the evidence, the Review Panel recommends to the regulatory authority whether or not the development should proceed and if so on what terms and conditions. It can also recommend further review. The Review Panel must also estimate the potential liability of the developer, determined on a worst case scenario, for the development. The Review Process is described further in Chapter 4.

For a project that is referred to the EIRB, no decision or approval can be issued that would allow the project to proceed until the EIRB has issued its recommendations.

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## **3.2 Inuvialuit Institutions**

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### **3.2.1 *Inuvialuit Regional Corporation (IRC)***

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The Inuvialuit Regional Corporation (IRC) was established with the overall responsibility of managing the affairs of the ISR to achieve the objectives in the IFA. Within its mandate, the IRC receives the Inuvialuit lands and financial compensation for transfer to the various subsidiary corporate entities.

The IRC and its subsidiaries are directly controlled by Inuvialuit beneficiaries through a democratic process. Each of the six communities with the ISR has a community corporation with elected directors. The Chairs of the community corporations form the IRC Board of Directors. The Chair/CEO of IRC is elected by the directors of the six community corporations.

IRC wholly owns the Inuvialuit Development Corporation, the Inuvialuit Land Corporation, the Inuvialuit Investment Corporation, the Inuvialuit Mining Corporation and the Inuvialuit Petroleum Corporation. This group of corporations is known as the Inuvialuit Corporate Group. An organization chart of the Inuvialuit Corporate Group is included in Appendix B.

The IRC or ILA may recommend referral of development proposals for Inuvialuit-owned lands to the Environmental Impact Screening Committee (EISC).

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### **3.2.2 *Inuvialuit Land Administration (ILA)***

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The Inuvialuit Lands Administration (ILA) is a division of the IRC. It is based in Tuktoyaktuk and is responsible for administering and managing lands received under the IFA. The ILA:

- # Receives and approves applications for access and use of Inuvialuit-owned lands;
- # Ensures Inuvialuit receive business, employment and training benefits from activities on their lands;
- # Monitors land use operations to ensure the protection of the land and environment.

Developers wishing to work on or to travel across Inuvialuit-owned lands must apply to the ILA for authorization. The ILA processes applications for rights, such as land use permits, permanent and temporary rights-of-way, commercial leases, reconnaissance permits and mineral and coal concessions.

The ILA, with participation from other Inuvialuit organizations, also negotiates with developers the terms of Participation, Access and Cooperation Agreements.

These authorizations and processes are described further in Chapter 7 of this Guide.

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### **3.2.3 Inuvialuit Game Council (IGC)**

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The Inuvialuit Game Council (IGC) is an incorporated society which represents the collective Inuvialuit interest in wildlife. IGC has a Chair and at least one representative from each Hunters and Trappers Committee.

The IGC's responsibilities are to:

- # Appoint Inuvialuit members for:
  - ▶ All joint Inuvialuit/government bodies with interests in wildlife,
  - ▶ Any Canadian delegation that deals with international wildlife matters,
  - ▶ Any group whose purpose is to investigate any aspect of wildlife.
- # Advise government through WMAC on
  - ▶ Policy and administration of wildlife conservation,
  - ▶ Existing and proposed legislation for wildlife,
  - ▶ Any proposed Canadian position on international wildlife matters.
- # Assign community hunting areas;
- # Allocate Inuvialuit quotas among communities;
- # Assist the WMAC on request.

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## **3.3 Community Institutions**

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### **3.3.1 Community Corporations (CC)**

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Each of the six communities has a Community Corporation. Each Community Corporation has input into any development activity that is approved by the ILA on the block of Inuvialuit 7(1)(a) lands near the community.

- # ***Aklavik Community Corporation***
- # ***Inuvik Community Corporation***
- # ***Tuktoyaktuk Community Corporation***
- # ***Sachs Harbour Community Corporation***
- # ***Paulatuk Community Corporation***
- # ***Holman Community Corporation***

Applications for permits for work on Inuvialuit-owned lands are circulated to the appropriate Community Corporation for comment regarding potential impacts and business opportunities. Community Corporations can request through the IRC that a project on Inuvialuit-owned lands be referred to the EISC for Screening.

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### **3.3.2 Community Hunters and Trappers Committees (HTC)**

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Each of the six communities has a Hunters and Trappers Committee (HTC).

- # ***Aklavik Hunters and Trappers Committee***
- # ***Inuvik Hunters and Trappers Committee***
- # ***Tuktoyaktuk Hunters and Trappers Committee***
- # ***Sachs Harbour Hunters and Trappers Committee***
- # ***Paulatuk Hunters and Trappers Committee***
- # ***Olokhaktomiut (Holman) Hunters and Trappers Committee.***

The role of the HTC is to:

- # Advise the Inuvialuit Game Council on local wildlife matters;
- # Make bylaws regarding the exercise of certain Inuvialuit preferential harvest rights under the IFA;
- # Sub-allocate quotas; and
- # Are consulted by the EISC before a screening determination is made.

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### **3.3.3 Holman Community Conservation Committee**

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The community of Holman has established a Conservation Committee to deal with matters relating to land use. This committee includes representatives from the Community Corporation, the Hunters and Trappers Committee and the Hamlet. It provides a valuable point of contact for mineral operators wishing to work in the vicinity of Holman.

Contact: Secretary, Community Conservation Committee, Holman

#### **References:**

Inuvialuit Final Agreement, June 5, 1984

Western Arctic (Inuvialuit) Claim Settlement Act, Bill C-49, 1983-84

"Co-Management in the Western Arctic and North Slope", Pamphlet prepared by the Joint Secretariat  
The Directory in Appendix D provides contact numbers for each of the institutions listed in this Chapter.

The authorities for the IFA Environmental Impact Screening and Review Process and its application to projects on Crown Land are the Environmental Impact Screening Committee and the Environmental Impact Review Board, and their respective guidelines and procedures.

Contact: Secretary, Environmental Impact Screening Committee  
Reference: EISC Operating Guidelines and Procedures  
Contact: Secretary, Environmental Impact Review Board  
Reference: Operating Procedures

For projects on Inuvialuit-owned lands, the authority is the Inuvialuit Land Administration (ILA)..

Contact: Administrator, Inuvialuit Land Administration  
Reference: ILA Rules and Procedures

This Chapter offers general background on the requirements. For specific information, refer to the contacts in the Inuvialuit institutions.

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## **4.1 Application of the Process: To Which Projects?**

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The IFA mandates that “no licence or approval shall be issued that would have the effect of permitting any proposed development to proceed unless the provisions of the Environmental Impact Screening and Review Process have been complied with” (IFA s. 11(31)).

So before government regulators can approve or developers start any development in the onshore or offshore, the requirements of Chapter 11 of the IFA must be met. This does not mean that all developments must go through screening and review, but it does mean that those that are subject to screening or in respect of which screening is requested by the Inuvialuit must go through the process as defined before the development can be authorized.

The IFA Environmental Impact Screening and Review Process consists of two stages:

- # **Screening**, which is mandatory for development proposals that meet the criteria listed below; and
- # **Review**, which may or may not be required depending on the conclusions of the Screening Process

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### **4.1.1 Developments that Require Screening**

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Development has a highly specific meaning in the IFA. In relation to commercial mineral activity, “**development**” is defined as **any** commercial or industrial undertaking or venture, including support and transportation facilities relating to the extraction of non-renewable resources from the Beaufort Sea, other than commercial wildlife harvesting.

A “**developer**” is defined as a person, the government or any other legal entity owning, operating or causing to be operated any development in whole or in part in the Inuvialuit Settlement Region, and includes any co-contractant of such owner or operator. (Definitions Section, IFA)

Section 11 of the IFA stipulates that the following will be subject to environmental impact screening:

- (1)(a) Developments of consequence to the Inuvialuit Settlement Region that are likely to cause a negative environmental impact (IFA section 13(7));
- (1)(b) Developments in the Yukon North Slope (however this area is not currently open to mineral activities;
- (1)(c) Developments in the ISR, in respect of which Inuvialuit request environmental screening;
- (1)(d) Developments in areas where the traditional harvest of the Gwich'in or Sahtu Dene may be adversely affected: this would be on request, and subject to agreement with Inuvialuit.

When a regulatory agency informs the EISC that an application for a licence or permit has been made, the EISC will advise the developer of the requirements for screening. The EISC will also advise developers when a request for screening has been made under section 11(1)(c) or (d). However it is ultimately the developer's responsibility to submit a project description to the EISC for any proposed development subject to the IFA Environmental Impact Screening and Review Process. Under section 11(31), no licence or approval shall be issued that would have the effect of permitting any proposed development to proceed unless the provisions of section 11 have been complied with.

Examples of activities subject to screening are scientific research and camps, granting of water rights, industrial waste disposal, energy, mineral and aggregate exploration and extraction and commercial transportation developments

Section 11(2) of the IFA distinguishes between onshore and offshore developments for the purposes of screening and review. However by letter dated April 10, 1987 the Inuvialuit Game Council gave DIAND formal notice that under s. 11(1)(c) all developments in the offshore on Crown lands within the ISR are to be submitted for screening.

The requirements for screening of proposed developments are different on Inuvialuit-owned lands from those on Crown lands. A proposed development on Inuvialuit-owned lands **may** be, but is not necessarily, referred for screening or review.

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#### **4.1.2 Exemption from Screening**

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According to the EISC Operating Guidelines and Procedures, it is the basic premise of the Screening Committee that **all** proposed developments on Crown lands in the ISR, both onshore and offshore, are likely to have **some** negative effect on the environment and are potentially subject to screening. However not all activities are likely to have a **significant** negative impact. The EISC has determined that certain classes of activities may be exempt from screening, and these are listed in Appendix C of the EISC Operating Guidelines and Procedures.

To determine whether a proposed activity **on Crown land** may be exempt, developers are advised to consult the EISC.

Contact: Secretary, Environmental Impact Screening Committee  
Reference: Exemptions from Screening on Crown Lands

The situation is different for developments on **Inuvialuit-owned lands**. On these lands, the ILA issues the permits for land use. To determine whether a proposed development on Inuvialuit 7(1)(a) or 7(1)(b) lands may be exempt, the proponent should contact the ILA Administrator. Proposed developments may be referred for

screening, for instance if there are concerns about negative environmental impacts, but not all developments are referred.

Contact: ILA, Administrator  
Reference: Exemptions from Screening on Inuvialuit Owned Lands

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## **4.2 IFA Environmental Impact Screening Process**

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A development that is subject to the IFA Environmental Screening and Review Process goes first to the Environmental Impact Screening Committee (EISC). No government permits or approvals for activity on Crown lands can be issued until the EISC has completed its determination. Most applications are dealt with fully by the EISC without having to go to the Environmental Impact Review Board (EIRB) for further assessment.

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### **4.2.1 Scheduling the Screening Process**

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Developers should first contact the Secretary of the EISC to discuss the Screening Process and to obtain the current version of the EISC Operating Guidelines and Procedures. The key requirements of the developer are consultation and preparation of a detailed Project Description. Because both these requirements can take considerable time, it is recommended that contact with the EISC be made well in advance of the time the permit is required.

The Secretary can also advise on the procedures for scheduling the EISC's consideration of the application. Developers should be aware that the EISC is not a full-time standing body. Only the Secretary is available for day-to-day business. Meetings are held about every six weeks, normally in Inuvik. A tentative meeting schedule is available from the Secretary. The date and location of a meeting is confirmed at the previous meeting. Procedures require that the proponent prepare the Project Description and deliver it to the Committee at least 30 days before the next meeting. Screening usually occurs in 50 days or less after the submission is received.

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### **4.2.2 Consultation Requirements**

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When preparing the Project Description, the developer is urged to consult thoroughly with each of the Inuvialuit organizations and the co-management bodies set up pursuant to the IFA.

Addresses and contact numbers for each of the agencies mentioned below are listed in Appendix D.

#### ***Community Consultation***

The first line of consultation should be with the Hunters and Trappers Committee (HTC) whose members may be affected by the proposal. The EISC regards the HTC as a key element of the co-management system, and the focal point for consultation. An account of this consultation is required as part of the Project Description.

If an HTC is not consulted before the Project Description is prepared, it may request a delay to allow time to

examine the Project Description before screening begins. Generally the EISC will not screen project descriptions until community consultation is complete and the results are available to the EISC.

An important consideration when planning community consultation is that the availability of members of the HTC varies with the demands of hunting and fishing seasons. It is very difficult for instance to plan meetings between May and August, when hunting priorities draw HTC members out on the land.

In addition to consultation with the HTC, proponents are expected to consult with the umbrella Inuvialuit co-management organizations, in particular the Fisheries Joint Management Committee (FJMC) and the Wildlife Management Advisory Council (NWT and/or North Slope).

### **Government Consultation**

The developer is required to provide to the EISC a list of all government approvals required. To prepare this list, to obtain other relevant information, and to anticipate requirements for project planning, the proponent will have to contact the relevant federal and territorial government departments and agencies.

Chapters 5 to 9 list regulatory requirements that apply to different stages of activity on various types of land, and note contacts in the agencies.

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### **4.2.3            *The Project Description***

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Screening of a proposal proceeds through the following sequence: submission of the Project Description, processing, screening, decision, notification and, if necessary, referral to the review stage.

It is the responsibility of the proponent to prepare the Project Description that starts the process, and this can be a substantial undertaking. The purpose of the Project Description is to provide the EISC with sufficient information on the proposed development to permit the EISC to make an adequate preliminary assessment of the project and its environmental impact.

The requirements for content and format of the Project Description are set out in the EISC Operating Guidelines and Procedures. The Project Description must include summaries of consultation with regulatory agencies and with communities, an overview of the proposal, an environmental overview of the area, an environmental impact assessment, as well as proposed mitigation, contingency plans and reclamation plans.

It is important not to under-estimate the time required to prepare the Project Description. The time and effort committed to ensuring a complete and sound Project Description can do much to expedite the authorization process.

The EISC would prefer to consider proposals that cover as many of the components of mineral exploration and/or development as possible. The problem with mineral exploration is that it typically proceeds in fits and starts, with a high risk that the results of initial work will not justify proceeding to the next phase. The requirement is that the proponent provide as complete a picture as possible of the proposed development for which approvals are being sought. If the development is modified, the developer is required to submit a new Project Description identifying the proposed amendments.



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## 4.2.4 Screening Determination

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After receiving the Project Description, the Secretary of the EISC will put the item on the agenda for a future meeting of the EISC, and/or may request supplementary information. Project Descriptions are discussed by the EISC as a whole, following which a screening panel is formed. Each Screening Panel consists of the Chair and four EISC members; two appointees of Canada and two appointees of the Inuvialuit.

The Screening Panel will base its deliberations on the Project Description, but will also draw on other sources of information and comment, including the Hunters and Trappers Committees, Community Conservation Plans, Wildlife Management Plans, the Inuvialuit Harvest Study, the co-management bodies, government agencies, the public and communities.

After completing these deliberations, the Screening Panel will issue its determination, advising the government authority that, in its view:

- # The development has no significant negative impact and may proceed without further Review; **or**
- # The development could have significant negative impact and will be subject to further Review under the IFA; **or**
- # The proposal has deficiencies that warrant an end to consideration unless and until another project description is submitted.

In the first instance, the matter goes to the government regulatory authority for a decision. It should be noted that the mandate of the EISC is advisory: the final decision of the regulator (for example on the terms and conditions attached to a Land Use Permit or other authorization) may or may not precisely reflect the EISC's comments, but typically the EISC advice is taken very seriously.

In the second instance, the proposal is sent on either to the EIRB, or to another government review authority (such as the NWT Water Board or the Canadian Environmental Assessment Agency). The large majority of developments are fully dealt with by the EISC and do not go on to further review.

In the third instance, the proponent can alter the proposal and prepare a new Project Proposal or may choose to withdraw completely.

A flow chart for the EISC process is provided in Appendix B.

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## 4.3 IFA Environmental Impact Review Process

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The Review Process described in section 11 of the IFA is the purview of the Environmental Impact Review Board (EIRB). A flow chart for the EIRB process is provided in Appendix B to this Guide.

The EIRB has a structure balanced equally between the parties to the IFA. It is neither a government nor an Inuvialuit organization, but must remain independent and non-partisan. Appointees to the Board are expected to participate as experienced, independent citizens, not as representatives of jurisdiction or viewpoint. Three members are appointed by the Inuvialuit Game Council (IGC), and three by the Government of Canada, one of whom is nominated by the federal government, and one each by the governments of Yukon and NWT. A Chair is appointed by Canada with the consent of the Inuvialuit.

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### **4.3.1            *Review Procedures***

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The EIRB is required to conduct a public review for each project referred to it by the EISC. In each case, the review is conducted by a Panel of four selected from the permanent members of the EIRB, plus the Chair. There is provision for adding a Panel member from adjacent claims areas that may be negatively affected, provided that like representation is available to the Inuvialuit for review processes in the adjacent areas.

Based on the public review, the Review Panel recommends whether a proposed development should proceed, and if so under what terms and conditions. Terms and conditions will include mitigative measures and remediation, and wildlife compensation. The Review Panel provides an estimate of the potential liability of the developer, determined on a worst case scenario. The Review Panel may also recommend that further review is required.

In the case of mineral development on Crown lands, the recommendations of the EIRB go to the Minister of Indian Affairs and Northern Development (DIAND). In the case of mineral developments on 7(1)(a) or 7(1)(b) lands that have been referred to the Review Board, the recommendations go to the Inuvialuit Land Administration.

For a project that is referred to the EIRB, no decision or approval can be issued to allow the project to proceed until the EIRB has issued its recommendations. Then, the regulatory authority must consider the decision of the Review Panel. If the authority is unwilling, or unable to accept any recommendations of the Review Board or wishes to modify any of the recommendations it shall give reasons in writing, but must do so within 30 days stating why it has not accepted the recommendations.

Special duties of the EIRB are:

- # If there is a possibility that damage to wildlife or habitat may occur, to recommend terms and conditions relating to mitigative and remedial measures to minimize impact on wildlife harvesting;
- # To set environmental standards in the Husky Lakes and Cape Bathurst areas;
- # To take into account specific criteria in consideration of any development proposals for the Yukon North Slope.

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### **4.3.2            *Process for the Proponent***

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Once a project has been referred, the EIRB secretary will forward a copy of the Operating Procedures to the proponent, and staff will meet with the proponent to explain the requirements. The proponent is required to submit to the EIRB an Environmental Impact Statement (EIS), which then becomes the basis for the review. The requirements for the EIS are set out in the Operating Procedures s.10. These requirements have been amended recently to match those of the Canadian Environmental Assessment Act (CEAA) more closely.

Within thirty days of receiving the EIS, the EIRB will meet and will decide (among other matters) what procedure should be followed for the review. There are three options: the Small-Scale Development Procedures (SSD), the Standard Public Review Procedures (SPR), or a variation of either of these.

The experience to date is for reviews to take from two to four months. This is much faster than reviews under the Canadian Environmental Assessment Act: the Review Board benefits from being a standing board, with procedures well-established, and with preliminary work already prepared by the EISC.

Review cases have been few in number, reflecting generally low levels of activity in the ISR the past few years. Few cases that have been screened actually go to the Review stage. Of some 400 cases screened, fifteen

have been referred, and of these three progressed to the Review stage.

Each case is screened and decided on its own merits, however it is likely that a proposal for mineral development would go to review by the EIRB. Whether a proposal for advanced exploration or bulk sampling would be referred would depend on the details of the project.

Contact: Secretary, Environmental Impact Review Board, Inuvik  
Reference: Operating Procedures, October 30, 1997

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### **4.3.3 Relationship to Federal Environmental Assessment**

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The IFA Environmental Impact Screening and Review Process does not relieve the federal government from its obligations to ensure that a development meets the requirements of the Canadian Environmental Assessment Act. In a Memorandum of Understanding recently concluded, the Minister of the Environment has agreed in principle that a review by the EIRB may be permitted to substitute for a review under the Canadian Environmental Assessment Act, but that such substitution will only be considered on a case-by-case basis. (This is discussed further in Chapter 12 Section 5.)

Contact: Secretary, Environmental Impact Review Board, Inuvik  
Reference: Memorandum of Understanding, Substitution under CEAA

#### **References:**

Environmental Impact Screening Committee, Operating Guidelines and Procedures, February 1999  
Environmental Impact Review Board, Operating Procedures, October 30, 1997  
Inuvialuit Land Administration, Rules and Procedures, 1986  
Inuvialuit Final Agreement, 1984  
Refer to Appendix B of this Guide for flow charts, and to Appendix D for contact numbers and addresses .

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## Chapter 5 DOING MINERAL WORK IN THE ISR

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In Canada, the authority to pass laws and regulation in relation to lands and resources is held by the Crown, specifically by the federal government and, south of 60, by provincial governments. An important difference between the provinces and the northern territories is that in the North the federal Crown owns and controls most of the lands and resources, and retains authority over mineral rights and activities.

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### 5.1 Legislation on Mineral Rights and Land Use

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For mineral explorers and developers planning to work in the Inuvialuit Settlement Region (ISR), the prime determinant of the mineral and land use legislation you must deal with is ***the type of land on which you plan to work***. As outlined in Table 5.0 and Figure 2, there are different authorities and different legislation and processes for each type of land.

The Inuvialuit Final Agreement (IFA) of 1984 settled land ownership in the ISR and defined a role for the Inuvialuit in governance, especially in environmental management, in the ISR. Specifically, the IFA transferred ownership of selected lands from the federal Crown to Inuvialuit. As a result, Inuvialuit own the surface and subsurface rights to 13,000 sq km and the surface rights (including rights to granular resources) to 78,000 sq km. The total area of the ISR is 450,000 sq km. The remaining land in the ISR (about 80%) remains federal Crown land (by far the largest proportion) or Commissioner's land.

The term "Inuvialuit land" can be confusing. Strictly speaking, the term just applies to the lands for which title was transferred to Inuvialuit under specific sections of the IFA, i.e. under section 7(1)(a) for both surface and subsurface rights, or under section 7(1)(b) for the surface rights alone. Sometimes, these are called "7(1)(a)" or "7(1)(b)" lands, or "Inuvialuit-owned lands". The problem is that reference is often made to "Inuvialuit land", meaning all the land in the ISR, regardless of ownership.

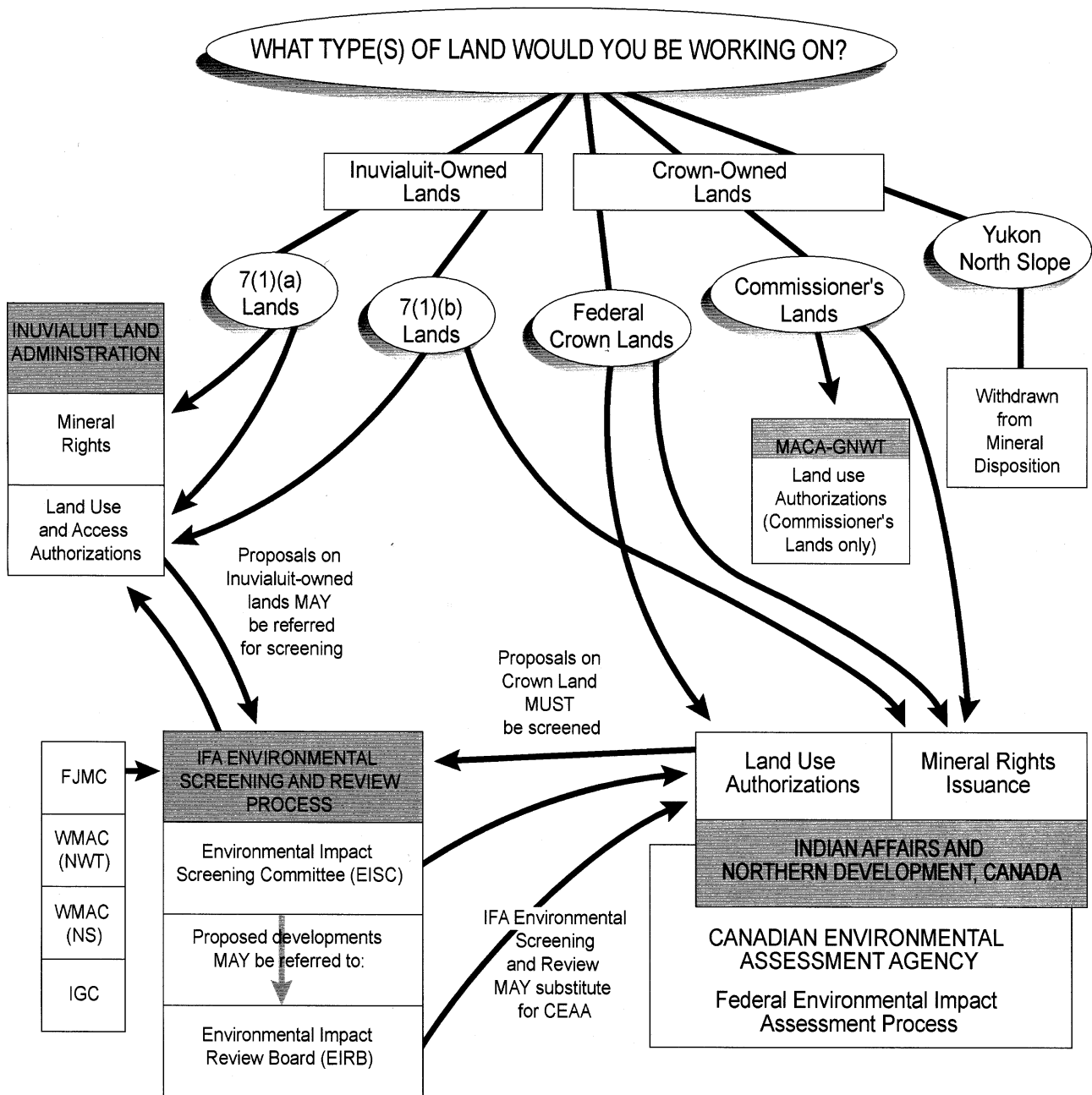
The distinction is important because the ILA is the authority over land use decisions on the 7(1)(a) and 7(1)(b) lands, and also issues the mineral rights on 7(1)(a) lands. Elsewhere in the ISR, you must apply to the federal Crown for mineral rights, and either to the federal Crown for land use permits on federal land or to the Government of the Northwest Territories for land use permits on Commissioner's lands.

This Guide uses the term ***Inuvialuit-owned lands*** to refer to lands for which the Inuvialuit hold the surface rights (Section 7(1)(b) lands), and those lands for which Inuvialuit hold surface and sub-surface rights (Section 7(1)(a) lands).

The following sections describe each type of land in the ISR. The boundaries of these land areas are outlined on Maps in Appendix A, however for precise locations contact the Mining Recorder's Office in Yellowknife, where Claim Sheets, Surface Maps and Withdrawal Maps can be consulted.

Contact: Mining Recorder's Office, DIAND, Yellowknife  
Reference: Claim Sheets, Surface Maps and Withdrawal Maps

**FIGURE 2  
AUTHORITIES FOR LAND USE  
AND MINERAL RIGHTS IN THE ISR**



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## 5.2 Inuvialuit-Owned Lands

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### 5.2.1 *Inuvialuit 7(1)(a) Lands*

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So-called after section 7(1)(a) of the IFA. Here, the Inuvialuit hold fee simple absolute title to the surface of the lands and subsurface title to all mines and minerals (**including** all minerals whether solid, liquid, gaseous and all granular materials).

For these lands, the Inuvialuit are in effect private landowners. The lands are not federal lands and any federal jurisdiction over the lands derives from the IFA.

These lands amount to 13,000 sq km in blocks of 1,800 sq km near each of the six communities (under s. 7(1)(a)(i)) and a single block of 2,000 sq km on Cape Bathurst (under s. 7.(1)(a)(ii)). These areas are outlined on Maps 1 to 9 in Appendix A.

Two blocks of 7(1)(a) lands have unique status. A block on Cape Bathurst is designated as a Special Development Area, and is subject to environmental protection criteria established by the Environmental Impact Review Board (EIRB). One other block of 7(1)(a) land occupied by pingos just to the west of Tuktoyaktuk was identified in the IFA as a site for “Landmark Status”. The ILA has recently re-commenced discussions of a protected area status for this site.

On 7(1)(a) lands, the Inuvialuit have extensive powers including the disposition and administration of mineral resources. Here, it is the Inuvialuit Land Administration (ILA) that issues rights to explore for and develop mineral resources, and issues permits to use the land surface. Refer to Chapter 7 of this Guide.

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### 5.2.2 *Inuvialuit 7(1)(b) Lands*

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Here, the Inuvialuit hold fee simple title in the lands, excluding mines and minerals, (i.e. **excluding** oil, gas, other hydrocarbons, coal, sulphur and minerals) but including granular materials. The federal government holds subsurface title to mines and minerals (but not granular materials) and retains jurisdiction over them subject to the IFA. The quantum is approximately 78,000 sq km.

The definition of minerals is the same for 7(1)(b) lands as for Crown Lands: excluded from the definition are construction stone, carving stone, limestone, soapstone, marble, gypsum, shale, clay, sand, gravel, volcanic ash, earth, soil and diatomaceous earth, ochre, marl and peat. ([Canada Mining Regulations](#), IFA Annex M).

Certain 7(1)(b) lands have unique status. The Husky Lakes area south of Tuktoyaktuk is a “Special Development Area”: proposed developments for this area must meet environmental protection criteria set by the Environmental Impact Review Board (EIRB). The IFA identified two other areas, Nelson Head and DeSalis Bay for landmark designation, however there are no plans to pursue these.

Over these lands, the ILA has extensive powers over surface rights and land use, as set out in the ILA Rules and Procedures. Applications for land use licences and permits, rights-of-way, quarry licences and concessions must be made to the ILA. Mineral development cannot proceed without an appropriate permit for access to or across Inuvialuit-owned lands issued by the ILA.

For mineral rights, application must be made to the Department of Indian and Northern Affairs (DIAND). Here, the [Territorial Lands Act](#) and the [Canada Mining Regulations](#) apply.

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### **5.2.3 Inuvialuit 7(2) Lands: Beds of Water Bodies**

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The Inuvialuit also hold fee simple absolute title to the beds of all lakes, rivers and other water bodies found within Inuvialuit-owned lands. The mineral rights for the sub-surface are held either by the Crown where the water body is within 7(1)(b) lands or by the Inuvialuit where the water body is within 7(1)(a) lands.

The federal Crown owns the water itself, and manages it under the [Northwest Territories Waters Act](#). Applications to use water or to dispose of waste in water must go to the NWT Water Board for water licences: whether a licence will actually be required will depend on whether the use exceeds the thresholds set for water licences.

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## **5.3 Federal Crown Land**

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In the northern territories the Government of Canada (federal Crown) owns and controls most of the lands and resources, and retains authority over mineral rights and activities. Federal Crown lands make up about 80% of lands within the ISR. As a result of withdrawals for Inuvialuit-owned lands combined with withdrawals for national parks, the areas of Crown lands available for mineral rights disposition or activity are much more limited on the mainland ISR than in the islands. Consequently, the proportion of Crown land is lowest on the mainland, increasing northward to 100% on the Western Queen Elizabeth Islands.

On Crown lands, the [Territorial Lands Act](#) is the governing legislation both for mineral and surface rights. The IFA however assures Inuvialuit a role in the screening and review of applications for development. The federal government cannot issue permits or authorizations on Crown land until the development has been screened by the Environmental Impact Screening Committee (EISC). So, while federal statutes remain the authority for mineral activities on Crown lands - in that it is government that makes the final decision to issue permits and authorizations - the Inuvialuit co-management institutions undertake environmental screening and review, and their advice is taken into account in the government's final decisions.

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## **5.4 Land within Protected Areas**

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Large tracts of land within the ISR have been accorded protected area status, both as part of the IFA and in the intervening years. The Inuvialuit Game Council (IGC) estimates that 29% of the ISR has some form of protected status, under a range of territorial and federal instruments.

In addition, many areas may not have formally protected status, but have been flagged either by the Inuvialuit or by government agencies. So, for instance, "Key Habitat Sites for Birds" may not have regulatory force, but when a proposal is being screened, the advice of the Canadian Wildlife Service will weigh heavily in the final decision on permitting.

Areas under both formal and informal protection are listed in Chapter 6, and shown on Map 2, Appendix A.

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## 5.5 Commissioner's Lands

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The Government of the NWT does not own or control lands or resources. The only exception is Commissioner's Land. On these blocks, generally situated within or near municipal boundaries of the six communities, administration and control of surface rights has been transferred by Order-in-Council to the Government of the NWT. These lands are limited in area, making up less than 1% of the NWT.

The issuance of land use permits on Commissioner's Land is governed by the Commissioner's Lands Act and Regulations, which are administered by the Department of Municipal and Community Affairs (MACA). The issuance of mineral rights on these lands is administered by the federal Crown, through DIAND.

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## 5.6 "Below-Threshold" Mineral Activities

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Mineral prospectors need to be aware of a past dispute between the federal government and the Inuvialuit over the screening of low-impact mineral activities, such as the staking of mineral claims.

By 1994, the Inuvialuit had become concerned over the impacts of some activities related to staking and exploration conducted on Crown land. These activities were conducted in the course of staking and locating claims under Prospecting Permits issued by DIAND. Technically these activities did not reach the thresholds set in the Territorial Lands Act and Territorial Land Use Regulations for a Class B Land Use Permit, and so would not be subject to screening and review.

Part of the issue for the Inuvialuit is the definition of development. The IFA defines a development as "any commercial or industrial undertaking or venture". The Inuvialuit take the view that this should include staking. DIAND on the other hand holds that the Inuvialuit do not have the right to regulate the acquisition of mineral claims on Crown lands, because neither the Prospector's Licence nor the Prospecting Permit has the effect of permitting a specific activity.

In early 1995, the dispute reached such a point that the EISC decided to postpone further screening of Land User Permit Applications for mineral activity, on the basis that to do otherwise would contribute to a contravention of the IFA. Mineral exploration activity in the ISR came to a halt.

In November 1995, a Mineral Prospecting Agreement was achieved between the Inuvialuit and DIAND, after consultation with the mineral industry. This Agreement applies only to those activities below the threshold which, under the Land Use Regulations, would trigger the need to obtain a Land Use Permit. The EISC was given the responsibility of conducting an annual review of the Environmental Sensitivity Map (produced by DIAND) and of mineral activities occurring in the ISR. DIAND has undertaken to consult annually with the Inuvialuit, but there are also requirements for prospectors. These requirements are set out in "Attachment B" which is appended to any Prospector's Licence or Prospecting Permit.

"Attachment B" puts an onus on the holder of a Permit or Licence to consult with the Hunters and Trappers Committee and with DIAND on the environmental concerns in the target area and to accommodate these concerns in the conduct of work. As well, the rights-holder is advised to follow Economic Benefit Guidelines that are attached to every Prospecting Permit or Prospector's Licence. Included in "Attachment B" is the Environmental Sensitivity Map for the ISR, outlining the areas of environmental sensitivity that have been identified in Community Conservation Plans. (This is discussed further in Chapter 9 Section 5.)



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## 5.7 Laws of General Application

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The IFA stipulates that laws of general application continue to apply throughout the ISR. So whether you are dealing with the ILA on Inuvialuit-owned lands or with DIAND on Crown lands for mineral rights and land use, there are many other federal and territorial requirements with which you must comply.

One of the first of these encountered in the course of mineral activities is the requirement for a Water Licence under the Northwest Territories Waters Act. This Act governs the use of water throughout the ISR, including Inuvialuit-owned lands. The mineral operator must also adhere to other laws and regulations, from corporate registration to health and safety to environmental protection.

This situation is reflected on Table 5.0, which shows the applicable laws for each legislative topic. These requirements are discussed further in Chapter 8.

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## 5.8 Environmental Laws and Regulation

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The parallel roles of the federal and territorial governments, the role for the Inuvialuit pursuant to the IFA, and the passage of later legislation result in a complicated set of requirements for the mineral operator.

This is especially the case with regulations to do with environmental protection. Management of the environment is complicated, both between the federal and territorial governments and in relation to the Inuvialuit processes. For example, powers have been devolved to the GNWT for wildlife and forests, but the federal government retains control of land and water. There can be also be overlap between laws, so a company may for instance be subject both to the Canadian Environmental Protection Act and the Environmental Protection Act (NWT). The passage of umbrella legislation after the Inuvialuit claim was settled also complicates the system, notably with the introduction in 1995 of the Canadian Environmental Assessment Act (CEAA), which sets out requirements for yet another screening and review process.

The regulators and the Inuvialuit organizations are aware of the complexity of the system and want to work with developers to ensure the requirements are as clear as possible, to cut down duplication and to find practical solutions. Work is underway for instance on how to coordinate CEAA requirements with the Environmental Impact Review Board (EIRB).

Acknowledging that environmental regulation is complex and often demanding, it is important to appreciate two points:

- # First, the system is demanding for an important reason. Inuvialuit place the highest priority on protecting the land, the wildlife and the environment. This priority is reflected in every aspect of the IFA and of wildlife management in the ISR. Inuvialuit demand that resource developers pay close attention to the environmental impacts of their work, that developers understand the area in which they will be working, the nature of the impacts and that every effort be made to plan and conduct operations to mitigate such impacts.
- # Secondly, a resource developer needs to take into account this complexity and the sensitivity of environmental concerns when making application to the system. By starting early, raising issues early, consulting with the local communities and Inuvialuit organizations, the developer has a better chance of settling questions of overlap before they become an impediment. Early engagement in consultation and problem-solving, even when the issues raised by a low-impact exploration project may seem slight to a developer, can do much to avoid conflict over environmental matters at later stages, if exploration proves successful and the project moves ahead.

**TABLE 5.0**

**LEGISLATION BY TOPIC FOR DIFFERENT TYPES OF LAND**

**1. Mineral Rights Acquisition, Land Use and Environmental Screening**

TOPIC	Inuvialuit-Owned Lands s. 7(1)(a) Lands	Inuvialuit-Owned Lands s. 7(1)(b) Lands	Federal Crown Land	Commissioner's Land
Mineral Rights Acquisition	Inuvialuit Lands Administration (ILA): Rules & Procedures	<u>Territorial Lands Act</u> <u>Canada Mining Regs</u> <u>Territorial Coal Regs</u> <u>Territorial Dredging Regs</u> <u>Territorial Quarrying Regs</u>	<u>Territorial Lands Act</u> <u>Canada Mining Regs</u> <u>Territorial Coal Regs</u> <u>Territorial Dredging Regs</u> <u>Territorial Quarrying Regs</u>	<u>Territorial Lands Act</u> <u>Canada Mining Regs</u> <u>Territorial Coal Regs</u> <u>Territorial Dredging Regs</u> <u>Territorial Quarrying Regs</u>
Land Use Authorizations	ILA: Rules & Procedures	ILA: Rules & Procedures	<u>Territorial Lands Act</u> <u>Territorial Land Use Regs</u> <u>Territorial Lands Regs</u>	<u>Commissioner's Lands Act</u> <u>Area Development Act (NWT)</u>
Environmental Screening	ILA: Rules & Procedures EISC/EIRB upon referral  <u>Canadian Environmental Assessment Act</u> and various regulations	ILA: Rules & Procedures EISC/EIRB upon referral  <u>Canadian Environmental Assessment Act</u> and various regulations	IFA Environmental Screening and Review Process (EISC/EIRB)  <u>Canadian Environmental Assessment Act</u> and various regulations	Screening by MACA under <u>Commissioner's Lands Act</u>  <u>Canadian Environmental Assessment Act</u> and various regulations

**2. Water Use, Waste Disposal and Environmental Protection**

TOPIC	ALL LANDS IN INUVIALUIT SETTLEMENT REGION	
Water Use	<u>NWT Waters Act</u> and <u>NWT Waters Regulations</u>	
Waste Disposal into Water and Environmental Protection	<u>NWT Waters Act</u> and <u>NWT Waters Regulations</u> <u>Canadian Environmental Protection Act</u> <u>Environmental Protection Act (NWT)</u> <u>Metal Mining Liquid and Effluent Regulations</u> <u>Transportation of Dangerous Goods Act</u> <u>Spill Contingency Planning and Reporting Regulations</u> <u>Fisheries Act</u> and <u>Regulations</u>	<u>Arctic Waters Pollution Prevention Act</u> <u>Pollutant Substances Regulations</u> <u>Pesticides Act (NWT)</u> <u>Canada Wildlife Act (NWT)</u> <u>Wildlife Act (NWT)</u> <u>Polar Bear Defense Kill Regulations</u> <u>Environmental Rights Act (NWT)</u> <u>Forest Protection Act (NWT)</u> <u>Fire Prevention Act (NWT)</u> <u>Forestry Act</u> and <u>Timber Regulations</u>
Protected Areas	<u>Territorial Lands Act</u> <u>Withdrawal from Disposal Orders</u> <u>National Parks Act</u> <u>Canada Wildlife Act</u>	<u>Migratory Birds Convention Act</u> <u>Migratory Birds Sanctuary Regulations</u> <u>Territorial Parks Act</u> and <u>Regulations</u> <u>Critical Wildlife Areas Regulations</u>
Archaeological Site Protection	<u>Historical Resources Act</u> <u>Territorial Lands Act</u>	<u>Northwest Territories Act</u> , <u>Archaeological Sites Regulations</u>

### 3. Corporate Matters, Health and Safety, Construction and Operations

TOPIC	ALL LANDS IN INUVIALUIT SETTLEMENT REGION	
Corporate	<u>Business Corporations Act (NWT)</u> <u>Workers Compensation Act (NWT)</u>	<u>Payroll Tax Act (NWT)</u> <u>Securities Act (NWT)</u>
Health and Safety	<u>Mine Health and Safety Act (NWT)</u> <u>Safety Act (NWT)</u> <u>WHMIS Regulations</u> <u>Fatal Accidents Act (NWT)</u> <u>Coroner's Act (NWT)</u> <u>Emergency Medical Aid Act (NWT)</u>	<u>Public Health Act (NWT)</u> <u>Camp Sanitation Regulations</u> <u>Noise Control Regulations</u> <u>Workers Compensation Act (NWT)</u> <u>Atomic Energy Control Act</u>
Construction and Operations	<u>Explosives Act</u> <u>Explosives Use Act (NWT)</u> <u>Boilers and Pressure Vessels Act (NWT)</u> <u>Fire Prevention Act (NWT)</u>	<u>Gas Protection Act (NWT)</u> <u>Propane Cylinder Storage Regulations</u> <u>Navigable Waters Protection Act</u> <u>Electrical Protection Act (NWT)</u>
Labour	<u>Fair Practices Act (NWT)</u> <u>Canada Labour Standards Act</u> <u>Labour Standards Act (NWT)</u> <u>Engineering, Geological and Geophysical Professions Act (NWT)</u>	<u>Apprentices and Tradesmen Act</u> <u>Annual Vacations Regulations (NWT)</u> <u>Wages Regulations (NWT)</u> <u>Mechanics Lien Act and Form Regulations (NWT)</u> <u>Miners Lien Act and Form Regulations (NWT)</u>
Transportation	<u>Aeronautics Act</u> <u>Canada Shipping Act</u> <u>Motor Vehicles Act (NWT) and regulations</u> <u>Transportation Act</u>	<u>Bridges Act</u> <u>Public Harbours and Port Facilities Act</u> <u>Government Property Traffic Act</u> <u>Airport Traffic Regulations</u>

### 4. Other Legislation Applying to Work on ISR Lands

TOPIC	ALL LANDS IN INUVIALUIT SETTLEMENT REGION
Land Claim Settlement	<u>Western Arctic (Inuvialuit) Claim Settlement Act</u> <u>Nunavut Act</u> <u>Nunavut Land Claim Agreement Act</u> <u>Gwich'in Land Claim Settlement Act</u> <u>Sahtu Dene and Metis Land Claim Settlement Act</u>
Other	<u>Precious Metals Marking Regulations</u> <u>Resources and Technical Surveys Act</u>

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## Chapter 6      PROTECTED AREAS IN THE ISR

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The first priority for Inuvialuit, and their prime motivation for seeking a land claim settlement in the first place, is concern for wildlife and environment. Inuvialuit have relied on the wildlife and natural resources of the western Arctic for generations and are very concerned that the long-term health and integrity of these resources be preserved for future generations.

The Inuvialuit sense of stewardship for the land and wildlife is demonstrated throughout the Inuvialuit Final Agreement and in the requirement for developments in the ISR to undergo close examination by co-management bodies on which Inuvialuit have a guaranteed role.

In a practical sense, all the lands in the ISR are protected, not only by Crown legislation and regulation, but by the provisions of the IFA, for instance for IFA Environmental Impact Screening and Review. For certain areas of acute environmental sensitivity, the Inuvialuit, working with the Crown, have taken protection further and assigned special status and in some cases legislated protected status. In aggregate, the areas set aside are extensive: some 29% of the ISR has some form of legal protection status under which mineral activity would either be completely prohibited, or only allowed under very stringent conditions.

The purpose of this section is to point out these protected areas and to explain their implications for mineral prospectors and developers. Protected areas in the ISR are listed on Tables 6.0 and 6.1 at the end of this Chapter, and shown on Maps 2 and 3 in Appendix A.

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### 6.1      Formalized Protected Area Status

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The areas set aside for formal protection under federal and territorial law are listed on Table 6.0 along with the location and restrictions on mineral activities. The areas are marked on Map 2 in Appendix A.

At present, there are no National Wildlife Areas and no Marine Wildlife Areas in the ISR.

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#### 6.1.1      *National Parks: Highest Level of Conservation Protection*

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In the areas with the highest level of protection, National Parks, mineral and other activities are prohibited.

Three large areas have been designated and/or legislated for National Parks:

- #      ***Ivvavik National Park***, on the Yukon North Slope,
- #      ***Aulavik National Park***, on Banks Island, and
- #      ***Tuktut Nogait National Park***, on the eastern margin of the Inuvialuit Settlement Region.

These parks are intended to provide ecoregional representation and include some of the calving grounds for the various caribou herds that summer in the ISR. Aulavik National Park also encompasses a Migratory Bird Sanctuary on Banks Island.

When planning for a National Park, or for the period between designation and passing the necessary amendments to the National Park, the Governor-in-Council can issue a Withdrawal Order, which withdraws

the sub-surface rights to the area from disposal. There are currently Withdrawal Orders in effect for each of these areas. The Withdrawal Order for Ivvavik National Park extends beyond the eastern boundary of the Park to include the section of the ISR east of the Babbage River as far as the NWT border.

For further information on National Parks and on National Historic Sites:

Contact: Northern Parks Advisor, Parks Canada, Yellowknife  
Reference: [National Parks Act](#)

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### **6.1.2** *Migratory Bird Sanctuaries*

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The ISR is a very important area for migratory birds, with extensive lowlands and wetlands favoured by geese and other waterfowl for staging and nesting.

There are five Migratory Bird Sanctuaries in the ISR, listed on Table 6.0. These Sanctuaries protect migratory bird-life and habitat, and impose restrictions on the timing and nature of activities undertaken. Mineral activities are not prohibited within a Migratory Bird Sanctuary, but activity will only be permitted if it is low impact and undertaken under limited conditions.

A mineral explorer can apply for a Sanctuary Permit for permission to undertake land use activities. Such application would be screened first by the EISC and could go on to the EIRB. The Canadian Wildlife Service takes the results of these determinations into consideration when deciding on whether to issue a Sanctuary Permit and, if so, under what operating conditions. Each application for a Sanctuary Permit is examined on its own merit, depending on the type of activity, seasonal timing, and potential for damage to birds and their habitat.

Mineral prospectors should be aware of a risk here: even if initial activities are approved, there are no guarantees that further work will be permitted. For example, even though a mineral operator may receive a Sanctuary Permit for a geophysical survey with limited footprint at the right time of year, he may not be issued a second Sanctuary Permit to do more intensive work to follow up any finds. Work that would anticipate development activities that are seen as being incompatible with the values protected by the Sanctuary would not be allowed.

Prospectors should also be aware that regulations under the [Migratory Birds Convention Act](#) are under review. This may lead to changes in the types of permits required for access and land use within designated Migratory Bird Sanctuaries. For further information on Migratory Bird Sanctuaries:

Contact: Chief, Northern Conservation Division, Canadian Wildlife Service  
Reference: [Migratory Bird Convention Act](#)  
[Migratory Bird Sanctuary Regulations](#)

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### **6.1.3** *Territorial Parks and Sites*

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One Yukon Territorial Park was established on Herschel Island as a result of the IFA. The level of protection for this Park is intended to be no less than for National Parks, that is, a prohibition on all industrial activities.

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## 6.1.4 *Protection under the Inuvialuit Final Agreement*

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The IFA identifies several areas for an extra level of protection.

- # The Yukon North Slope east of Babbage River falls under a “**Special Conservation Regime**”, the purpose of which is the conservation of wildlife, habitat and traditional use (IFA section 12(2)). For the present, an Order-in-Council Withdrawal Order (320,321, dated 1985) prohibits the disposition of mineral rights, so mineral activities are effectively prohibited. Section 12 of the IFA allows that carefully controlled development could be countenanced in the future, however no change in the withdrawal order will be considered until a “Special Conservation Regime” is developed and put into effect.
- # Blocks of land in Cape Bathurst and Husky Lakes were designated in the IFA as “**Special Development Areas**”. The IFA does not prohibit mineral activities on these lands in perpetuity, but proposed developments must satisfy environmental standards that will be established by the Environmental Impact Review Board.
- # The IFA identified three areas for “**Landmark Status**”: “Pingo Canadian Landmark” on 7(1)(a) lands just to the west of Tuktoyaktuk; and Nelson Head and DeSalis Bay on 7(1)(b) lands. Federal landmark legislation has lapsed in the years since the IFA was concluded. Discussions continue toward national park status for the Pingo site at Tuktoyaktuk, but neither Nelson Head nor DeSalis Bay will be pursued.

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## 6.1.5 *Protection for Archaeological Sites*

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Sites of cultural and archaeological significance are formally protected under both federal and territorial legislation. While many sites have already been identified, it is always possible that a mineral operator may come across artifacts or burial grounds in the course of activities. It is incumbent on the operator to report any findings and to avoid disturbing these sites.

For further information on archaeological sites in the ISR:

Contact: Senior Archaeologist, Prince of Wales Northern Heritage Centre  
Reference: [Historical Resources Act \(NWT\)](#)  
[Northwest Territories Act, Archaeological Sites Regulations](#)  
[Territorial Lands Act, Territorial Land Use Regulations s. 16\(a\) and \(b\)](#)

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## 6.2 *Informal Protection*

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In addition to areas with legislated protection, many sites have been identified both by the Inuvialuit and by government agencies as deserving of special care. These areas are “flagged” so that when an application for a permit or authorization is made, the agencies will check for such areas and may recommend stricter operating conditions. These areas are summarized on Table 6.1 at the end of this Chapter.

If a proponent is aware of these areas in advance, he will be better able to design his proposal to anticipate such concerns and so avoid contention and delays.

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## **6.2.1            *Community Conservation Plans***

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Each of the six communities of the ISR has completed a Community Conservation Plan which outlines the issues and areas of environmental value or sensitivity for the people of the area. Community Conservation Plans identify vulnerable or critical habitat and harvesting areas and recommend varying degrees of protection for them. This is the first level of protection that a community can assign to an area.

The Community Conservation Plans complement the Inuvialuit Renewable Resources Conservation and Management Plan (1988), developed by the Wildlife Management Advisory Council (NWT) and the Fisheries Joint Management Committee. Community Conservation Plans are considered to be “dynamic” and subject to change from time to time, to take into account changes in the environment and wildlife and people’s concerns. The intent is to undertake comprehensive updates of these Plans every four years. They are available in published form from the Joint Secretariat, and are a good basis for consultation between the mineral operator and the community.

Contact:            Wildlife Management Advisory Council (NWT)  
                          Hunters and Trappers Committee for local community  
Reference:           Community Conservation Plans

Drawing on these Community Conservation Plans, DIAND has prepared an Environmental Sensitivity Map for the ISR. By agreement reached with the Inuvialuit in 1995, the Mining Recorder’s Office (DIAND) attaches the Environmental Sensitivity Map to each Prospector’s Licence issued, and holders are advised to consult first with communities before going out on the land. Early consultation can help to prevent concern and misunderstandings that could be difficult to overcome should the exploration prove successful and the community’s goodwill be needed to win approval for later stages of activity. The 1998 version of the Environmental Sensitivity Map is included as Map 3 in Appendix A.

Contact:            Mining Recorder’s Office, DIAND  
Reference:           1995 Mineral Prospecting Agreement

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## **6.2.2            *Key Habitat Sites for Birds***

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In addition to the five existing Migratory Bird Sanctuaries (6.1.2 above), the Canadian Wildlife Service has identified a list of Key Habitat Sites for bird-life. Although parts of these areas have been granted formal protection, some parts do not have a legislated status. Nevertheless, these sites represent special bird habitat and merit special care. The current list for the ISR is included on Table 6.1, however new areas are identified from time to time.

When applications are made to DIAND for Prospecting Permits or Land Use Permits, the department circulates them to other agencies, including the Canadian Wildlife Service, for comment.

For the most up-to-date list of Key Habitat Sites, and further information on restrictions and prudent measures that operators can take:

Contact:            Habitat Biologist, Western Arctic Region  
                          Northern Conservation Division, Canadian Wildlife Service  
Reference:           Key Migratory Bird Terrestrial Habitat Sites in the NWT  
                          Occasional Paper No. 71

The Canadian Wildlife Service can also advise on whether there are any species identified as endangered, threatened or vulnerable, and provide advice on ways to avoid and protect these species. Should legislation to protect species that are endangered or at risk be passed through federal Parliament, more stringent arrangements for protection of these species may take effect.

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### **6.2.3                    *Critical Habitat Areas for Fish***

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The federal Department of Fisheries and Oceans (DFO) and the Fisheries Joint Management Committee (FJMC) are in the process of developing Fish Management Plans as part of co-management planning for fisheries. These plans will identify some areas as Critical Habitat Areas for different species. These areas could be directly affected by applications for placer mining or dredging, but also indirectly by project discharges upstream of the habitat.

Again, when applications for permits are circulated to government agencies or to Inuvialuit co-management bodies, these areas will be flagged for some kind of protection under terms and conditions attached to the permit, or if the risk is too great, could be the reason for rejecting the application. It is important for an applicant to consult first with the HTC in the area, with the FJMC, and with DFO to ensure that plans take these areas into account.

Contact:            Area Habitat Biologist, Western Arctic Region  
                          Department of Fisheries and Oceans (DFO)  
Reference:           Fish Management Plans

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### **6.2.4                    *Beaufort Sea Beluga Management Plan***

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FJMC and IGC have also developed a Management Plan for Beluga, which sets out guidelines to assist government, the EISC and EIRB and the ILA in their evaluation of development proposals (including mining projects and port development) which may affect beluga whales, their habitat or harvesting.

The plan distinguishes four beluga management zones. Zone 1a includes 1800 sq km of shallow waters at the mouth of the Mackenzie River; Zone 1b includes areas where beluga are harvested by residents of Paulatuk and other eastern ISR communities; Zone 2 is a broad travel corridor extending from Cape Bathurst to Kay Point, Yukon; Zone 3 is all the remaining marine waters in the ISR, and Zone 4 covers the Beaufort Sea outside of Canadian waters. Zone 1 has the highest priority for protection: the guidelines require that no mining activities be permitted from break-up until August 15 in the zone, that developments located outside of Zone 1 should be evaluated for potential effects on water and ice, and that no port development be allowed.

Contact:            Fisheries Joint Management Committee (FJMC)  
Reference:           Beaufort Sea Beluga Management Plan  
  
Contact:            Area Habitat Biologist, Western Arctic Region, DFO  
                          Fisheries Act and Marine Mammal Protection Regulations



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## 6.3 Protected Area Planning: NWT Protected Areas Strategy

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Representatives of IGC and IRC participated in the NWT Protected Areas Strategy initiative of 1996 to 1998. The Protected Areas Strategy (PAS) is intended to set the framework, goals and guidelines for establishment of protected areas in the NWT, with implementation left to each region.

Among the “Guiding Principles” set out in the PAS, several are relevant to the mineral industry. The PAS gives precedence to land claim agreements; it recognizes the mineral tenure system; it calls for full stakeholder participation in planning; and it calls for the assessment of non-renewable resources as part of the evaluation of proposed protected areas. The PAS recommends that while proposals for new protected areas are being evaluated, the area of concern should be protected from mineral activities, and for areas designated for the highest levels of protection, recommends that all industrial activities be prohibited.

As a next step, the PAS now requires that government agencies work with regionally-based management bodies to develop Protected Area System Plans, due for completion within two years. IRC has advised that formal legislated protection is complete in the ISR and no Protected Area System Plan is required.

Nevertheless, it is important for mineral operators interested in an area of the ISR to keep abreast of protected area planning. While the PAS recommends that both ecological and mineral resource values be taken into account in decision-making on Protected Areas, the fact is that in relatively unexplored areas such as the ISR there is inadequate mineral resource data for such an integrated evaluation. Inuvialuit organizations involved in protected area planning need to be informed of the mineral prospectivity of their lands so that they can make the best decisions on the trade-offs involved in formal designations of protected areas in the mineral target areas. Developers planning community consultation should ask about protected area planning initiatives in their area of interest and be open with the community about the mineral prospectivity of the area.

Another initiative under the Protected Areas Strategy may have implications for mineral operators with a long-term interest in access to land in the ISR and throughout Nunavut and the NWT. DIAND has committed under the strategy to develop guidelines for the use of interim protection. As well, DIAND will be working on guidelines for compensation to third party interests facing expropriation or other negative impacts resulting from the creation or modification of a protected area.

Contacts: Director, Mineral Resources, DIAND, Yellowknife  
Inuvialuit Regional Corporation (IRC) and Inuvialuit Game Council (IGC)  
Reference: NWT Protected Areas Strategy

### References:

Maps 2 and 3 in Appendix A  
Community Conservation Plans for each of six Inuvialuit communities  
Fish Management Plans, FJMC and Department of Fisheries and Oceans  
Beaufort Sea Beluga Management Plan  
Key Migratory Bird Terrestrial Habitat Sites in the NWT, Occasional Paper No. 71, Canadian Wildlife Service  
NWT Protected Areas Strategy (PAS): Protecting Special Natural Areas in the NWT  
NWT Protected Areas Strategy (PAS): Protected Areas Toolkit

**TABLE 6.0**

**PROTECTED AREAS IN THE INUVIALUIT SETTLEMENT REGION**

**FORMALLY LEGISLATED PROTECTION**

AREA DESIGNATED	PROTECTED STATUS	AREA AND LOCATION	RESTRICTIONS ON MINERAL ACTIVITIES
Aulavik National Park, NWT	National Park <u>National Parks Act</u> and Guiding Principles and Operating Policies	12,500 sq km Northern Banks Island	Prohibited
Tuktut Nogait National Park	National Park <u>National Parks Act</u> and Guiding Principles and Operating Policies	16,340 sq km East of Darnley Bay	Prohibited
Ivvavik National Park (Yukon)	National Park <u>National Parks Act</u> and Guiding Principles and Operating Policies	West of Babbage River on the Yukon North Slope	Prohibited
Anderson River Delta Bird Sanctuary	Migratory Bird Sanctuary <u>Migratory Birds Convention Act</u> <u>-Migratory Birds Sanctuary Regulations</u> <u>-Migratory Birds Regulations</u>	1083 sq km Southern shore of Liverpool Bay	Sanctuary Permit required for land use activities (case by case)
Cape Parry Bird Sanctuary	Migratory Bird Sanctuary <u>Migratory Birds Convention Act</u> <u>-Migratory Birds Sanctuary Regulations</u> <u>-Migratory Birds Regulations</u>	3 sq km Tip of Cape Bathurst near Baillie Islands	Sanctuary Permit required for land use activities (case by case)
Banks Island No. 1 Bird Sanctuary	Migratory Bird Sanctuary <u>Migratory Birds Convention Act</u> <u>-Migratory Birds Sanctuary Regulations</u> <u>-Migratory Birds Regulations</u>	20,518 sq km Western shore of Banks Island	Sanctuary Permit required for land use activities (case by case)
Banks Island No. 2	Migratory Bird Sanctuary <u>Migratory Birds Convention Act</u> <u>-Migratory Birds Sanctuary Regulations</u> <u>-Migratory Birds Regulations</u>	142 sq km Northeastern shore of Banks Island, Thompson River Valley	Wholly contained within Aulavik National Park, mineral activities prohibited.

AREA DESIGNATED	PROTECTED STATUS	AREA AND LOCATION	RESTRICTIONS ON MINERAL ACTIVITIES
Kendall Island	Migratory Bird Sanctuary <u>Migratory Birds Convention Act</u> <u>-Migratory Birds Sanctuary Regulations</u> <u>-Migratory Birds Regulations</u>	606 sq km Kendall Island	Sanctuary Permit required for land use activities (case by case)
Herschel Island Territorial Park	<u>Territorial Parks Act (Yukon)</u> <u>Inuvialuit Final Agreement</u>	Herschel Island	Prohibited
Pingo Park	Inuvialuit Final Agreement National Parks status pending.	16.4 sq km on 7(1)(a) lands to west of Tuktoyaktuk community site.	Prohibited.
Husky Lakes	Inuvialuit Final Agreement, Section 8 Special Development Area: developer must prove that the activity meets criteria that will be set by the EIRB, and must account for his standard of performance.	Block of 7(1)(b) Inuvialuit-owned lands south of Tuktoyaktuk Reference: Map 4, Appendix A	Not prohibited, but approval subject to higher environmental standards
Cape Bathurst	Inuvialuit Final Agreement Special development area: developer must prove that the activity meets criteria that will be set by the EIRB, and must account for his standard of performance.	Block of 7(1)(a) land on Cape Bathurst Reference: Map 4, Appendix A	Not prohibited, but approval subject to higher environmental standards. Any new subsurface development subject to consent of Canada.
Yukon North Slope, east of Babbage River	Inuvialuit Final Agreement, Section 12 Special Conservation Regime Withdrawal and Prohibition Order prevents disposition of mineral rights for this area, and prohibits entry for staking or prospecting..	Section of the ISR to the east of Babbage River extending to the NWT-Yukon border Reference: Map 11, Appendix A	Prohibited.
All Archaeological Sites	<u>Northwest Territories Act</u> <u>NWT Archaeological Sites Regulations</u> <u>Territorial Lands Act</u>	Across the region. Contact Prince of Wales Northern Heritage Centre for information.	Sites are protected from disturbance. Sites found in the course of activities must be reported and protected.

These areas are marked on Map 2 in Appendix A.

**TABLE 6.1**

**PROTECTED AREAS IN THE INUVIALUIT SETTLEMENT REGION**

**INFORMAL TYPES OF PROTECTION: Not legislated, but taken into account in screening and issuance of authorizations.**

DESIGNATION	STATUS	AREA AND LOCATION	RESTRICTIONS ON MINERAL ACTIVITIES
Areas noted in Community Conservation Plans	These land-use maps identify key areas for harvesting and habitat. Are taken into account when development proposals are considered by DIAND, by ILA, and by EISC/EIRB.	For each community. For the ISR as a whole. Reference: Community Conservation Plans Reference: Map 3, Appendix A	Activities in these areas may be approved, but strict terms and conditions may be imposed to avoid damage.
Key Habitat Sites for Birds	Listed by Canadian Wildlife Service. Some are partly or wholly covered by other, formal protection. Taken into account by DIAND, by ILA and the EISC /EIRB when making decisions.	Seven in the ISR: Mackenzie River Delta, Kugaliik-Liverpool Bay, Anderson River, Harrowby Bay-Lower Horton, Cape Parry, Egg River, Prince Patrick Island. Reference: Map 2, Appendix A	Activities in these areas may be approved, but will require strict terms and conditions to avoid damage.
Critical Habitat Areas for Fish	Listed under Fish Management Plans. They are taken into account by DIAND, by ILA and the EISC/EIRB when making decisions.	Fish Management Plans are in process of being developed by the Fisheries Joint Management Committee and the Dept. Fisheries and Oceans.	Activities in these areas may be approved, but will require strict terms and conditions to avoid damage.
Beaufort Sea Beluga Management Plan (1998)	Guidelines to be taken into account by DIAND, ILA and EISC when development proposals are evaluated.  Identifies four zones of significance for beluga concentration, calving and harvesting.	Zone 1a includes 1800 sq km at mouth of the Mackenzie River. Zone 1b includes areas where beluga are harvested by Paulatuk, and other eastern ISR communities. Zone 2 encompasses a major travel corridor, extending from Baillie Islands in the east to Kay Point in Yukon. Zone 3 is the remaining marine area within the ISR.	Zone 1 is to be considered a Protected Area. No mining activities should be permitted in this Zone during open water. Development proposals outside Zone 1 should be evaluated for effects on water or ice quantity or quality.  Industrial activities in Zone 2 and 3 may be permitted if do not adversely affect conservation, protection, or harvesting of beluga.
Caribou Calving Areas	Priority for the Inuvialuit, and the GNWT. They are taken into account by DIAND and the EISC when making decisions.	Large areas of the Western Arctic Coast are used for calving in May-June. Discussions are underway on "Caribou Protection Measures" for the entire region, including the calving grounds.	Activities in these areas may be approved, but will require strict terms and conditions to avoid damage.

EISC Environmental Impact Screening Committee  
 DIAND Department of Indian Affairs and Northern Development, Government of Canada

ILA Inuvialuit Land Administration  
 GNWT Government of the Northwest Territories

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**7.1 Dealing With The Inuvialuit Land Administration**

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The Inuvialuit Final Agreement (IFA) transferred title to certain blocks of land to the Inuvialuit. For some of these blocks, **Section 7(1)(a) lands**, both surface and subsurface rights were transferred from the Crown to the Inuvialuit. For other blocks, **Section 7(1)(b) lands**, title only to the surface rights and to granular resources were transferred. These lands are outlined on Maps 1 to 9 in Appendix A.

Title to these lands is held by the Inuvialuit Land Corporation, a wholly owned subsidiary of the Inuvialuit Regional Corporation (IRC). The lands are managed and administered by the Inuvialuit Land Administration (ILA), a division of IRC. The ILA is governed by a Commission of three members appointed by the IRC.

The authorizations that a mineral operator needs to cross or to work on Inuvialuit-owned lands are issued by the ILA, pursuant to its Rules and Procedures. These Rules and Procedures govern the terms of access to and across Inuvialuit-owned lands, the issuance of rights on these lands as permitted by the IFA, and conditions for any activities on Inuvialuit-owned lands. The Rules and Procedures are currently being revised from the original version dated April 1986.

This section describes authorizations issued by the ILA and general requirements that must be met. For specific and current information contact the ILA directly.

Contact: Administrator, Inuvialuit Land Administration, Tuktoyaktuk  
Reference: ILA Rules and Procedures

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**7.2 ILA Authorizations Required To Do Mineral Work**

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When the current ILA Rules and Procedures were written in 1986, resource activity in the ISR focused on oil and gas. As a result, there are few specific provisions for minerals and coal. Nevertheless, mineral activity can be accommodated within the existing permit structure, and the current Rules and Procedures apply.

The ILA Rules and Procedures set out the permits required on Inuvialuit-owned land to use or to have access on or across the surface of 7(1)(a) and 7(1)(b) lands, terms and conditions for such work, the fees payable, and the processes to obtain these authorizations. The Rules also govern the issuance of rights to explore for and develop sub-surface resources, but on 7(1)(a) lands only. On all other lands in the ISR, the sub-surface rights are held by the Government of Canada, and must be applied for at the Mineral Recorder's Office in Yellowknife.

Matters beyond the scope of the ILA Rules and Procedures are subject to **"Laws of General Application"** as they would normally apply to private lands. These laws are described in Chapter 8 of this Guide. This

means that the same federal and territorial laws apply to Inuvialuit-owned lands, with just this exception: the Territorial Lands Act and the Territorial Land Use Regulations do not apply to Inuvialuit-owned lands, both 7(1)(a) and 7(1)(b). The Canada Mining Regulations do not apply to 7(1)(a) lands, but do apply to 7(1)(b) lands. Claim staking on 7(1)(b) land may require a permit or license from the ILA.

The mineral operator needs to be aware of the ILA requirements for **ACCESS** and for **RIGHTS AND AUTHORIZATIONS** to do activities on Inuvialuit-owned lands.

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## 7.3 Commercial Access

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For access to or across Inuvialuit-owned lands for the purposes of mineral exploration or development, there are requirements for prior notice and for authorization from the ILA. The requirements imposed for allowing access for a commercial activity depend on the scope and intent of the access.

Table 7.0 below summarizes the requirements for commercial access. In every case, access is permitted subject to the requirement that there be:

- # No significant damage to the lands;
- # No abuse or extension of the right;
- # No mischief committed on the lands; and
- # No significant interference with Inuvialuit use and enjoyment of the lands.

If damage to the land does occur, the user is fully responsible, and the Inuvialuit are not liable for any damages suffered by the user. Users who fail to comply with provisions attached to the permits for access can be removed from the land.

**TABLE 7.0**

**REQUIREMENTS FOR COMMERCIAL ACCESS TO INUVIALUIT-OWNED LANDS**

PURPOSE OF THE ACCESS	REQUIREMENT
<p><b>ACCESS ACROSS:</b> Access of a commercial nature required to reach non-Inuvialuit lands to exercise rights of a casual nature relating to investigative and preliminary work.</p>	<p>Must give prior notice to the ILA. Administrator can issue a Land Use Licence</p>
<p><b>ACCESS ACROSS:</b> Access of a commercial nature required to reach non-Inuvialuit lands to exercise rights, and the access is significant but temporary. Example of significant access would be the construction of winter road, camps, use of any explosives.</p>	<p>Must give prior notice to the ILA. Administrator can issue a Temporary Right of Way. Requires negotiation of an Access Agreement on location and compensation for damages. Refer to Table 7.1.</p>
<p><b>ACCESS ACROSS:</b> Access of a commercial nature required to reach non-Inuvialuit lands to exercise rights for more than a temporary period.</p>	<p>Must give prior notice to the ILA. Administrator can issue a Permanent Right of Way Requires negotiation of a Participation Agreement with the ILA. Refer to Table 7.1.</p>
<p><b>ACCESS TO OR ACROSS:</b> Access of a commercial nature on or across Inuvialuit lands required by a holder of a valid right issued by Canada on Inuvialuit-owned lands, e.g. on 7(1)(b) lands, or pre-existing rights on 7(1)(a) lands.</p>	<p>Such access is guaranteed, but is subject to the negotiation of a Participation Agreement. Refer to Table 7.1</p>
<p><b>ACCESS TO:</b> Access to Inuvialuit 7(1)(a) lands to exercise mineral rights issued by the ILA.</p>	<p>Requires appropriate Right issued by the Administrator. These Rights require the negotiation of a Participation Agreement.</p>

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## 7.4 Rights and Authorities for Commercial Mineral Activities

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In order to explore for minerals on Inuvialuit 7(1)(a) lands, the prospector can apply to the ILA to obtain:

- # A **Reconnaissance Permit**, and
- # **Land Use Permits** to authorize the activities involved, and
- # If necessary, a **Right-of-Way**, either Temporary or Permanent.

Alternatively, the prospector can apply for a **Mineral Concession** or a **Coal Concession**, which provides the exclusive right both to explore and to extract sub-surface resources. Holders of Concessions are guaranteed access to the Concession Lands, provided they obtain Land Use Permits, Leases or Rights of way required for the purpose. The holder of a Concession may also be granted the necessary Quarry Licences. (These rights and authorities are summarized on Table 7.1 at the end of this Chapter.)

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## 7.5 Terms and Conditions of Permits and Rights

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Conditions for rights are similar to those on authorizations issued by the Crown, allowing for example for inspection of the site by the ILA. An applicant for a right must demonstrate that he is qualified to carry out the obligations attached to the right. Although the Rules and Procedures set out the terms of issuance, the ILA can issue rights that supercede the Rules, provided the terms are consistent with the IFA. The ILA may also negotiate provisions with applicants under separate Agreements, as described in Section 7.7 below and Table 7.2.

Obligations are attached to all rights. These are:

- # To provide information and reports, including progress reports, reports on results, contingency plans, plans for use, and actual land use;
- # To pay fees as prescribed and to pay fair compensation for access;
- # To compensate Inuvialuit for damage or diminution of value of lands, or for accidents;
- # To provide Inuvialuit employment;
- # To provide opportunities for Inuvialuit businesses;
- # To cover the costs of surveying related to the establishment of the right;
- # To submit a security deposit;
- # To fulfil work obligations related to the right.

Other terms and conditions may be attached in relation to operations, for instance:

- # **Terms related to operations:** stipulating location, timing, methods to be used, water management, handling of toxic material, excavations and deposition of material, placement of fuel caches, clearing of lines and trails, campsites, sewage and waste disposal, emergency measures, plans for reclamation, and terms for control of the activity by the local Community Corporation on 7(1)(a) lands.
- # **Terms related to protection of wildlife:** including habitat protection, wildlife avoidance, and provision for compensation for damages to wildlife.
- # **Terms related to protection of special places and archaeological sites:** to avoid known or suspected archaeological sites or burial grounds, and in the case of discovery of a site, a requirement to suspend operations and to notify the ILA. Artifacts found are the property of the Inuvialuit.
- # **Socio-economic terms:** setting out requirements for education and training programs for the Inuvialuit, and possibly for equity participation by Inuvialuit in the project.



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## **7.6 Wildlife Compensation**

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The IFA requires that the Inuvialuit be protected from wildlife harvest loss resulting from any development in the ISR. For rights issued on 7(1)(a) lands, this goal is achieved by ensuring that all projects are reviewed carefully for impacts on wildlife and by setting terms for compensation for any damage caused.

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### **7.6.1 *Review of Applications Affecting Wildlife***

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According to the IFA, every proposed development on 7(1)(a) lands that could have a significant negative impact on wildlife habitat will be authorized only “after attention to all environmental concerns and subject to reasonable mitigative and remedial provisions being imposed. However, authorization to proceed shall not be unreasonably withheld.” (ILA Rules and Procedures 1986.)

Every proposed development on 7(1)(a) lands, shall be screened by the local Hunters and Trappers Committee (HTC) to determine if the project could have significant negative impact on present or future wildlife harvesting. If the HTC determines that there could be a significant negative impact from the project, it can recommend referral of the proposal to the EISC for screening under the IFA Environmental Screening and Review Process.

If the ILA agrees that closer examination is warranted, it will refer the matter to the EISC. The determinations of screening and, if undertaken, review will be provided to the ILA as the issuing authority. The review agency is required to recommend terms and conditions for mitigation in order to minimize any negative impact on wildlife harvesting. The review agency must also provide an estimate of the potential liability of the developer, determined on a worst case scenario.

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### **7.6.2 *Liability for Damage***

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A rights-holder is obliged to prevent damage to wildlife and habitat and to avoid disruption of Inuvialuit harvesting. If damage occurs, the developer is required to restore wildlife and its habitat as far as is practicable. A rights-holder is also required to compensate Inuvialuit hunters, trappers and fishermen for actual wildlife harvest loss, whether commercial or subsistence. Damage to equipment is also compensable.

“Actual wildlife harvest loss” means provable loss or diminution of wildlife harvesting or damage to property used in harvesting. An Inuvialuk claiming damages must make a claim in writing within three years and must prove the case on a balance of probabilities.

Where it is established that wildlife harvest loss was caused by development, the liability of the developer is absolute, and the developer may be either singly liable or liable jointly with other developers. If the Inuvialuit claimant and the developer cannot come to agreement, the case can be referred to a mediator or to the Arbitration Board.

A Wildlife Compensation Fund has been established to receive wildlife compensation fees that are paid in relation to access or mineral rights. The ILA can withdraw monies from this Fund to pay damage awards, to pay for mitigation and restoration, or to pay for reasonable costs of studies.

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## 7.7 Agreements Negotiated with the ILA

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These are agreements negotiated and concluded between the developer and the ILA to address the variable terms and conditions under which significant access (i.e. more than temporary access) will be granted to or across the Inuvialuit lands. (These Agreements are summarized on Table 7.2 at the end of this Chapter.)

- # A **Participation Agreement** is required for access to Inuvialuit Lands to reach valid subsurface interests issued by the Crown on 7(1)(b) lands. The Participation Agreement applies to specific activities, or phases of activity, as set out in the terms.
- # For all other access to or across Inuvialuit Lands, an **Access Agreement** must be negotiated. As a condition of an Access Agreement, a Participation Agreement must be negotiated too.

Participation or Access Agreements may include a wide range of provisions:

- # Arrangements to cover costs of permitting and inspection and costs associated with wildlife compensation, habitat restoration and impact mitigation;
- # Socio-economic terms, including business opportunities (for instance, service and supply contracts for Inuvialuit firms) and education and training for Inuvialuit;
- # Possibly, equity participation by Inuvialuit in the project.

The rights-holder or applicant may also voluntarily negotiate a **Cooperation Agreement** with the ILA. A Cooperation Agreement sets out a general understanding and basic commitments as a framework for negotiating Participation Agreements for particular phases of activity.

A further form of Agreement is a **Concession Agreement**. These are negotiated in relation to mineral or coal concessions issued by the ILA, although the Concession Agreement can cover other, non-7(1)(a) lands in its terms. Concession Agreements deal with financial and royalty matters and are generally negotiated before any permits are issued.

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## 7.8 Application Procedures

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The application process is set out in the ILA Rules and Procedures and you should refer to these and contact the ILA for specifics. Applications must be accompanied by an application fee and a security deposit and must provide a Preliminary Plan for land use and occupancy. A complete application submitted to the ILA before the 22<sup>nd</sup> of the month will be considered at the subsequent meeting (usually the next month).

The time required to obtain an authorization varies depending on a range of factors. Some rights, such as Land Use Licences and Reconnaissance Permits, can be dealt with more quickly than can others, such as Commercial Leases. The process can also be expedited if terms related to Inuvialuit benefits have been negotiated prior to the application. If, however, the ILA finds that the application is incomplete, or that more information is needed, or that the proposal should undergo environmental screening, the process can take longer while these matters are dealt with.

**TABLE 7.1**  
**RIGHTS AND AUTHORIZATIONS ISSUED BY THE INUVIALUIT LAND ADMINISTRATION**  
**ON INUVIALUIT-OWNED LANDS - SECTION 7(1)(a) AND 7(1)(b)**

RIGHT OR AUTHORIZATION	PURPOSE	MAXIMUM AREA MAXIMUM DURATION	OTHER REQUIREMENTS
Land Use Licence	<p>Right to carry out operations of a non-commercial nature for a limited period. Includes access for scientific investigation, research or surveying. Generally not available for commercial mineral activities, but sometimes are issued for very low impact access.</p> <p>May be required for staking of claims.</p> <p>Inuvialuit guides may apply for and obtain a Land Use Licence on behalf of any person who will enter upon or cross Inuvialuit Lands under the guidance of that Inuvialuk.</p> <p>If for just surveying and site investigation, or if Inuvialuit Guide employed, Land Use Licences can be issued by the Short Procedure, within 24 hrs. Otherwise within 10 days.</p>	<p>Up to 1 ha. For up to 1 year.</p>	<p>Obligations to provide employment and business opportunities to Inuvialuit are waived for Land Use Licences</p>
Land Use Permit: Class A, B, C	<p>Right to do commercial activities requiring the occupancy of a specific area or the non-exclusive use of Inuvialuit-owned Lands for a limited time.</p> <p>Thresholds for A,B, and C permits are based on use of explosives, vehicle weight, use of drilling machinery, duration of campsite, fuel storage, trails.</p>	<p>Up to 10 ha. For up to 2 years. Renewable for 1 year. Right to use (as distinct from occupy) up to 10 sq km.</p>	<p>Land rents payable</p> <p>Participation Agreement must be negotiated.</p>
Reconnaissance Permit	<p>The non-exclusive right to explore for surface materials on any Inuvialuit-owned lands, and for coal and minerals on 7(1)(a)lands.</p> <p>Activities need a Land Use Permit, Commercial Lease or Rights-of-Way. Any construction or drilling requires a Land Use Permit.</p> <p>Not required for holder of a Concession or Quarry Concession in the area of the Concession</p>	<p>Up to 10,000 sq km. For up to 2 years</p> <p>Can be assigned</p>	<p>Land rents payable</p> <p>Minimum work requirements are set.</p> <p>Access Agreement must be negotiated. Cooperation Agreement optional</p>

RIGHT OR AUTHORIZATION	PURPOSE	MAXIMUM AREA MAXIMUM DURATION	OTHER REQUIREMENTS
Commercial Lease: Class 1, 2, 3.	<p>Exclusive right of permanent occupancy of a limited area to carry out operations of commercial nature indicated in the Right.</p> <p>Needed for operations for more than 3 years, where involves extraction, separation, processing, transportation or shipment of coal or minerals.</p> <p>A Commercial Lease Class 1 must be ratified by Community Corporation on 7(1)(a) lands, or by Inuvialuit Regional Corporation on 7(1)(b) lands.</p> <p>Note: Any Inuvialuk has the right to harvest wildlife on any Lease over 0.2 ha, unless otherwise agreed.</p>	Up to 60 ha. For up to 30 years	<p>Participation Agreement required</p> <p>Application must include a Surface Development Plan</p> <p>Land Rents are payable. Security Deposit required, according to Schedule or as recommended by EIRB</p>
Concession	<p>Exclusive right to explore for and to extract coal or minerals from a specific area on 7(1)(a) lands.</p> <p>Before a Mineral or Coal Concession can be applied for, the area must be staked according to Section 19(18) rules of measurements, markings, posting of notice etc.</p> <p>Must first be ratified by Community Corporation on 7(1)(a) lands or by IRC on 7(1)(b) lands.</p> <p>Any construction or drilling requires a Land Use Permit.</p>	<p>For a Block. Up to 30 years.</p> <p>Can be assigned</p>	<p>Minimum work requirements</p> <p>Access Agreement required. Cooperation Agreement optional</p> <p>Must be negotiated with ILA.</p> <p>Security deposit, according to Schedule or as recommended by EIRB.</p>
Quarry Licence	<p>The non-exclusive right to extract surface materials from a specific location on Inuvialuit-owned Lands. For a specified volume from a specified site.</p> <p>Activities require Land Use Permit.</p> <p>Must first be ratified by Community Corporation on 7(1)(a) lands or by IRC on 7(1)(b) lands.</p>	<p>Up to 10 ha. For up to 1 year.</p> <p>Can be assigned</p>	<p>Royalties for first 1000 cubic metres payable at time of application</p> <p>Minimum work requirements</p>
Quarry Concession	<p>The exclusive right to explore for, develop and extract surface materials from a specified area on Inuvialuit-owned lands for a prescribed period.</p> <p>Before Quarry Concession can be applied for, the land must first be staked according to Rules and Procedures.</p>	<p>Up to 10 ha. For up to 10 years.</p> <p>Can be assigned</p>	<p>Minimum work requirements</p> <p>Royalties payable</p> <p>Access Agreement required. Cooperation Agreement optional Must be negotiated with ILA.</p>

RIGHT OR AUTHORIZATION	PURPOSE	MAXIMUM AREA MAXIMUM DURATION	OTHER REQUIREMENTS
Temporary Right-of-Way	<p>Right to non-exclusive use of strip of Inuvialuit-owned lands for a limited period for commercial transportation of people or goods, petroleum or water by pipeline, or power by an electrical transmission.</p> <p>Construction or maintenance activities require a Land Use Permit unless this TRW is required for access to an operation for which a Land Use Permit has already been granted.</p>	<p>For up to 2 years. Not renewable</p> <p>Can be assigned.</p>	<p>Land rents payable</p> <p>Are requirements in relation to winter road and harvesting if traffic is heavy</p> <p>Participation Agreement is required.</p>
Permanent Right-of-Way	<p>For the non-exclusive use of a strip of Inuvialuit-owned lands for a long period for commercial transportation of people or goods, petroleum or water by pipeline, or power by an electrical transmission.</p> <p>Construction or maintenance activities require a Land Use Permit.</p> <p>Application must include a Surface Development Plan.</p> <p>Must first be ratified by Community Corporation on 7(1)(a) lands or by IRC</p>	<p>For up to 30 years.</p> <p>Can be assigned</p>	<p>Land rents payable</p> <p>Participation Agreement required</p> <p>Security deposit required according to Schedule or as recommended by EIRB.</p>

All rights on 7(1)(a) lands are subject to the terms for Wildlife Compensation.

All rights are subject to fees, either by schedule, by calculation according to set formula, or as negotiated in an Agreement. Refer to current Rules for details.

**TABLE 7.2**

**AGREEMENTS NEGOTIATED WITH THE ILA**

AGREEMENT	REQUIRED FOR	PROVISIONS
<p><b>PARTICIPATION AGREEMENT</b></p>	<p>Required for: Commercial Leases: 1,2,3, Land Use Permit: A,B,C, Right of Way. Not required for a Land Use Licence, Reconnaissance Permit, Concession, Quarry Licence or Quarry Concession, Public Lease or Grazing Permit.</p> <p>The owner of a valid right or interest issued by Canada on Inuvialuit-owned lands shall be guaranteed access. Before exercising the access right, a developer must conclude a PARTICIPATION AGREEMENT, unless otherwise agreed by the ILA.</p> <p>A PARTICIPATION AGREEMENT sets out rights and obligations of parties, including terms and conditions under which the ILA shall grant right(s) and under which the party shall have access on and across Inuvialuit Lands. Each right under the PARTICIPATION AGREEMENT shall directly relate to and be necessary for the activities to be carried out under the valid right or interest issued by Canada.</p>	<p>Shall identify with respect to each Right terms and conditions (S.10(3)) for:</p> <ul style="list-style-type: none"> <li>▶ Costs for ILA inspections</li> <li>▶ Wildlife compensation, restoration and mitigation;</li> <li>▶ Employment, service and supply contracts;</li> <li>▶ Education and training; and</li> <li>▶ Equity participation or other types of participatory benefit.</li> </ul>
<p><b>ACCESS AGREEMENT</b></p>	<p>For access on and across Inuvialuit-owned lands to exercise rights issued by ILA other than a right issued pursuant to a Participation Agreement. Needed for Reconnaissance Permit, Concession, Quarry Licence or Quarry Concession. Also required for access across Inuvialuit-owned lands to exercise rights issued by Canada on Crown lands.</p> <p>Except, where holder has concluded a COOPERATION AGREEMENT relating to a Quarry Licence, Land Use Permit, or a Temporary Right-of-Way, terms of ACCESS AGREEMENT shall be limited to supply of local goods and services.</p>	<p>Subject to payment of fair compensation for access and land rents.</p> <p>Identifies with respect to each right of access:</p> <ul style="list-style-type: none"> <li>▶ Employment service and supply contracts;</li> <li>▶ Education and training; and</li> <li>▶ Equity participation</li> <li>▶ Wildlife compensation, restoration and mitigation.</li> </ul>
<p><b>COOPERATION AGREEMENT</b></p>	<p>Optional, for any rights issued by the ILA. The ILA and any rights-holders on Inuvialuit lands may enter into a COOPERATION AGREEMENT. Serves as an "enabling agreement". Signed by the Chair of IRC.</p> <p>Where a COOPERATION AGREEMENT has been concluded, the Administrator shall take the provisions into account in the procedures for issuance of rights.</p>	<p>May deal with time-frame and procedures for concluding various Participation Agreements, and employment education, training and business opportunities for Inuvialuit, and such other matters as agreed.</p>
<p><b>CONCESSION AGREEMENT</b></p>	<p>For larger projects that are wholly or partially on Inuvialuit-owned 7(1)(a) lands. A CONCESSION AGREEMENT gives a developer an exclusive right to explore for Inuvialuit-owned sub-surface resources, and sets out the royalty and revenue-sharing framework.</p> <p>Applies to specific area for a specified term. The lands covered by the CONCESSION AGREEMENT may include other non-7(1)(a) lands.</p>	<p>Terms can include:</p> <ul style="list-style-type: none"> <li>▶ Security of tenure</li> <li>▶ Royalties on production</li> <li>▶ Work requirements</li> <li>▶ Bonus and Rental payments</li> <li>▶ Participation or back-in rights</li> <li>▶ Surrender obligations</li> </ul>