

Resource Development & Land Claim Settlements in the Canadian Arctic:

Multilevel Governance, Subsidiarity and Streamlining

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The Canadian Arctic is seen as a resource-rich territory and attracts many developers however, at the institutional level, it is a very complex region. Arctic Canada is formally under the jurisdiction of the federal government, yet a devolution process initiated in the sixties has led to the creation of responsible territories in Yukon, the Northwest Territories and ultimately the Nunavut Territory in 1999. At first this devolution didn't include the management of natural resources, but recently the Yukon (2003) and the Northwest Territories (2014) have signed a natural resources devolution agreement with the federal government and Nunavut is negotiating a similar agreement. Furthermore, all of the Canadian Arctic territories have a significant indigenous population which has attained constitutional recognition through multiple court decisions, leading to the conclusion of land claims settlements. These agreements involve the creation of regional or local governments and various boards and organizations tasked with such responsibilities as making recommendations on natural resource management, and environmental and social assessments of resource development. In addition, all recent land claims settlements require developers to sign Impact and Benefit Agreements with local or regional Indigenous organizations.

This has led to complex governance arrangements that offer a good example of vertical and horizontal multilevel governance but that are often denounced by developers and some federal policy-makers as a balkanization of decision-making. This paper will map the formal and informal powers and the interaction of the different regulatory institutions from the local to the federal level. The authors will then analyse the federal effort to streamline environmental governance through the Action Plan to Improve Northern Regulatory Regimes and assess how it impacts the MLG scene in the Canadian Arctic.

The Canadian Arctic is resource-rich and has been attracting many developers. It is also a very complex region institutionally. Though officially under federal jurisdiction, a process of political devolution has since the 1970s brought responsible government to Yukon, to the Northwest Territories and, later, to Nunavut, a territory created in 1999. At first this devolution excluded management of natural resources, but recently Yukon (2003) and the Northwest Territories (2014) have signed devolution agreements to transfer control of natural resources from the federal government, and Nunavut is negotiating a similar agreement. In each case, devolution is a process of delegating federal powers to the respective territorial government and Indigenous government.

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All of the Canadian Arctic territories have a significant Indigenous population, whose rights have been constitutionally recognized through multiple court decisions that have led to the signing of land claim agreements. These agreements allow the creation of co-management boards, whose responsibilities include making recommendations or decisions on natural resource management and on environmental and social assessment of resource development (Berger et al. 2010), and since the recognition by the federal government in 1998 of the right to self-government, the creation of Aboriginal governments. In addition, all recent land claims settlements require developers to sign *Impact and Benefit Agreements* with local or regional Aboriginal organizations. Land claim agreements are constitutionally protected under section 35(1) of the 1982 Constitution Act, and therefore they cannot, contrary to the territorial devolution process, be unilaterally rescinded.

This paper focuses on the multilevel governance structure of the Canadian Arctic territories—Nunavut, the Northwest Territories, and Yukon—a structure established through devolution and the land claim and self-government agreements that have been signed with the first inhabitants of those regions: the Inuit and the First Nations. Both devolution and the self-government process are based on the principle of subsidiarity—a clear departure from the Canadian Constitution, which does not recognize subsidiarity below the provincial level. All the lower level of governments (region, city or municipality) have only delegated powers.

Devolution and the land claims and self-government process have together created a complex governance arrangement that some developers and the Conservative government have denounced as slowing down decision making on resource development (INAC 2008). This paper will map the formal and informal powers and the interaction of the different regulatory institutions from the local to the federal level. The authors will then analyse the federal effort to streamline environmental governance through the *Action Plan to Improve Northern Regulatory Regimes* and assess how it impacts the Multilevel Governance (MLG) scene in Arctic Canada.

Multilevel governance in the Canadian Arctic

Multilevel governance approaches have been first developed to understand the increasing complexity and dispersion of power among different levels of public institutions in the European Union. This dispersion of power can be observed both vertically, among sub-national units, through processes of decentralization and regionalization, and horizontally through increased participation by non-governmental and quasi-governmental actors in policy making (Marks & Hooghe 2004).

In Canada, MLG approaches have been used to describe the governance arrangements created by Aboriginal land claim settlements (Timpson 2003; Papillon 2007; Wilson 2008a; Wilson 2008b; Alcantara & Nelles 2013; Rodon 2014; Wilson et al. in press). For these authors, such arrangements create vertical power sharing by empowering sub-provincial units within the Canadian federal system in what is sometimes referred to as nested federalism (Wilson 2008a). In the case of Aboriginal land claim settlements in Canada, power is dispersed between public institutions and Indigenous institutions.

In fact, two parallel processes are at play, (1) territorial devolution and (2) Aboriginal land claims and self-government agreements. In Canada, the Northwest Territories initially encompassed all of Rupert's Land—the territories purchased from the Hudson's Bay Company—and were considered to be underdeveloped and underpopulated regions that could gain provincial status if

settled by enough European immigrants (Coates 1985). Until then, the federal government would directly administer these territories. The entire southern section of the Northwest Territories eventually gained provincial status (Manitoba in 1870, Saskatchewan and Alberta in 1905) but the Arctic regions remained too sparsely populated by Europeans to acquire provincial status. Political devolution started in the 1970s with the creation of the first representative governments in Yukon and the Northwest Territories. This devolution gave both territories powers similar to those of the provinces, with the exception of jurisdiction over land and resources, which remained in federal hands. Moreover, unlike the provinces, which have constitutionally protected powers, the territories have only delegated powers, are overseen by a federal commissioner who has to approve all territorial bills, and their legislation can be revoked by the Canadian Parliament within 45 days of enactment. It should be said that to date the Canadian parliament has never used these powers and that convention has established that the federal commissioner should accept all advice from the territorial assembly in territorial matters.

A parallel trend toward self-government has also been ongoing among Aboriginal people throughout Canada, although it has gone the farthest in Arctic Canada. This process stems from the recognition of Aboriginal rights by the Canadian Supreme Court. To honour these rights, the federal government has put into place a land claims policy (Canada 1987) and a self-government policy (INAC 1995) and has negotiated land claims and self-government agreements in Arctic Canada. These governments form a new level of government that is based on constitutionally protected treaties while not being part of the constitutional order (Rodon 2014), although, in the case of Nunavut, self-government was implemented through the creation of a third territorial government.

The land claims agreements create another level of governance through multiple co-management boards, which mostly have recommending power but have decision-making power in some cases. The resulting governance arrangements may be complex. In the Northwest Territories, for example, major land claims have already been settled with respect to four nations: the Inuvialuit in 1984, the Gwich'in in 1992, the Sahtu in 1993, and the Tlicho in 2005. Such arrangements created a number of boards that make recommendations on such things as natural resource management and environmental and social assessment of resource development—a clear example of a vertical multilevel governance framework with dispersion of power among local and regional Aboriginal institutions.

Resource development in Canada's territories

Land and resource management have remained under federal jurisdiction, but there is a clear trend toward devolution of these responsibilities to the territories. The first step was the Canada Yukon Oil and Gas Accord signed in 1999, which gave Yukon legislative control over oil and gas resources, including the collection of resource revenues. It was followed by a devolution transfer agreement in 2003, which provided for the transfer of responsibilities for land, water, forest, and mineral resources. A similar agreement has just been signed in the Northwest Territories and has led to an update of the Yukon resource-sharing agreement to bring it into line with the NWT one. At this time, the Nunavut government is negotiating a similar devolution agreement but the talks had been stalled for many years and restarted just last year. These agreements empower the territories to manage the land and resources, although they have to share the resource revenues with the federal government according to a formula that allows the territory to keep 50% of the revenues, the other

50% being deducted from Territorial Formula Financing. The amount of money to be transferred is capped in order to keep the territories from becoming too wealthy (Irlbacher & Mills 2007). Land claim agreements have also impacted land and resource management because they recognize Aboriginal property rights over 5 to 20% of the claimed territory. In the most recent agreements, subsurface rights have also been recognized, although for very small tracts of land.

Land and resource management has been affected the most by the co-management regime stemming from these agreements. These co-management regimes create boards that oversee wildlife, water, land, and resource management and impact assessment, and whose composition is usually 50% representatives of Aboriginal people and 50% representatives of the two levels of government (federal and territorial).

In Yukon, the Umbrella Final Agreement has created a framework for the negotiation of land claim agreements by each Yukon First Nation. To date, 11 Yukon First Nations have signed land claim agreements. Surface rights and the environmental assessment process are dealt with by the Council of Yukon First Nations, thus bringing management of these issues to the territorial level.

In the NWT, the recent land claims agreements (Gwich'in, Sahtu, and Tlicho) have put into place three land and water boards in the Mackenzie Valley. In addition, the Mackenzie Valley Land and Water Board (MVLWB), under the Mackenzie Valley Resource Management Act (MVRMA), coordinates management of these resources and covers those regions that are not yet under a land claim agreement.

The Inuvialuit Settlement Region, which is located in the NWT, encompasses the Mackenzie River delta as well as the Arctic Islands, and has quite a different management structure. The Inuvialuit Final Agreement was signed in 1984, at a time when there was no established model for land claim agreements. Although it makes no provision for a non-renewable resource management board, such a role is played by the Inuvialuit Game Council.

The Nunavut Land Claims Agreement (NLCA) encompasses all of Nunavut, but three co-management boards are responsible for land resources and make recommendations to the relevant minister: the Nunavut Planning Commission, the Nunavut Water Board, and the Nunavut Impact Review Board. A fourth body, the Nunavut Wildlife Management Board, is responsible for wildlife and is the only Nunavut board with decision-making powers.

The land claims agreements have thus created multiple poles of governance (Loukacheva 2007; White 2009; McArthur 2009; Rodon 2014) with competing legitimacy and, according to some, a risk of balkanization of decision making, especially in the NWT—where there are multiple land claim agreements, each with its own set of resource boards and approval processes for resource development.

The existing boards are, however, integral to the land claim and self-government agreements. In addition, land use planning and non-renewable resource management are central to the quest by Aboriginal nations to regain control over their lands (Berger et al. 2010). These boards provide them with direct input into land planning, management, and resource development, thus giving them decision-making power in some cases or at least strong recommending powers and providing indigenous parity representation.

The Mackenzie Valley pipeline: testing the land claim regulatory regime

The three Mackenzie Valley land claims agreements (Gwich'in, Sahtu, and Tlicho) established a regulatory process that was first tested by the proposed Mackenzie Gas Pipeline, a 1,196-km natural gas pipeline system along the Mackenzie Valley that would have run across the territory of most of the new land claim boards in the NWT. This project was a revival of an older project, the Mackenzie Valley Pipeline that had been abandoned in 1977 after the first extensive public inquiry in the NWT concluded that the project should not go ahead before settlement of Aboriginal land claims. When the project was revived in 2000, most of the NWT's Aboriginal land claims had been settled. There was thus a very different institutional and regulatory regime composed of Aboriginal governments and multiple treaty-based boards.

In preparation for the environmental review, the *Northern Pipeline Environmental Impact Assessment and Regulatory Chairs' Committee* was formed in November 2000 to develop the Cooperation Plan which would set the foundations for a coordinated approach of the regulatory process for the Mackenzie Gas Project. The committee was formed of representatives of the different resource boards in the NWT and of representatives of the federal and territorial governments.¹ The project proponent officially filed the pipeline project in June 2003.

After preliminary public hearings, the Mackenzie Valley Environmental Impact Review Board (MVEIRB) ordered an Environmental Impact Assessment (EIA) due to the many concerns aroused by the project. The National Energy Board (NEB), a federal board that has to approve all energy-related projects, also had to conduct a project review and organize public hearings. To avoid duplications, a Joint Review Panel (JRP) was formed. The MVEIRB selected three members (one from each of the three Mackenzie land claim boards) and the Minister of the Environment appointed four members, two of whom have to be appointed by the Inuvialuit Game Council, and one by the NEB. The JRP was mandated to evaluate possible project impacts on the environment and on the lives of the people in the area. The NEB review and the Joint Review Panel evaluation were conducted simultaneously; the Joint Review Panel's recommendations were necessary, however, for the NEB to make its decision.

During 2006-2007, the JRP held public hearings in 23 communities in the NWT and northwest Alberta. It heard directly from 558 presenters, as either individuals or as representatives of groups or organizations (Joint Review Panel for the Mackenzie Gas Project 2009). A clear divide appeared between those regions where a land claim had been signed and those that had no such agreement yet. In the first case the Aboriginal organizations supported the pipeline project, while in the second there was widespread opposition (Joint Review Panel for the Mackenzie Gas Project 2009; National Energy Board 2010). The NEB, for its part, held public hearings from 2006 to 2010 in 15 communities (NEB 2010).

In December 2009, the Joint Review Panel submitted its report and concluded "*that there are reasonable grounds for expecting that the Project would make a positive contribution to sustainability provided that the Panel's recommendations are fully implemented*" (Joint Review Panel for the Mackenzie Gas Project, 2009). In November 2010, the governments of Canada and the Northwest Territories responded to the JRP report and accepted 88 of the 115 recommendations. One month later, the NEB issued a decision to approve the project and, finally, on March 11, 2011, almost eight years after the project proponents had filed the pipeline project, the Mackenzie Gas Pipeline was granted federal cabinet approval. However, by that time it was no longer financially viable because the natural gas price

had dropped from \$15.38 per MMBtu in December 2005 to \$4.57 in 2011 due to increased American production of shale gas.

The Mackenzie Gas Project (MGP), thus, received approval through a lengthy and complicated process, which took over seven years from the time the project was officially tabled. The land claim and water boards did not, however, slow down the process conducted by the Joint Review Panel. In fact, most of the delays were due to the extensive public consultations taking place and to the need to review the project through two processes: a local one for the Mackenzie Valley and the NWT and a federal one through the National Energy Board. Finally, the MGP had support from all of the Aboriginal groups that had signed land claim agreements, and all of the groups that had not were opposed. Therefore, it could be said that the land claim agreements are, in fact, facilitating approval of development projects.

The federal solution: streamlining and recentralizing the regulatory process

In the NWT

During MGP public hearings, the federal government mandated a special rapporteur, Neil McCrank, to review the regulatory system in the North with an almost exclusive focus on the NWT. In March 2008, after consultations with many stakeholders, a two-day roundtable was held in Yellowknife to hear the opinions of other stakeholders, with 80 people being present (McCrank 2008). The McCrank Report recommended two options: transform the regional boards into administrative regulatory bodies that would no longer have quasi-judicial power or merge all the land and water boards into a single board, the Mackenzie Valley Land and Water Board (MVLWB). If that second option was to be chosen, the report further recommended that the federal government reach agreements with each party in order to make amendments to the land claim agreements before amending the MVRMA and that the MVLWB have final decision-making authority (rather than the Minister).

After this first round of consultations, in May 2010, the federal government launched a *Federal Action Plan to Improve Northern Regulatory Regimes*. The aims were twofold: ensure that development would not be impeded by “red tape” and bring the northern regulatory regimes into line with those of the rest of Canada. Aboriginal Affairs and Northern Development Canada (AANDC) appointed a chief federal negotiator with the mandate to negotiate the merging of the four NWT land and water boards into a single board. The federal government had thus clearly chosen the report’s second option (Terriplan Consultants 2010). However, consultations had to be held with the three Mackenzie Valley Aboriginal land claim organizations (Gwich’in, Sahtu, and Tlicho) because all of them opposed merger of their newly created land and water boards. In total, the AANDC Chief Negotiator “has held over 50 consultation meetings with Aboriginal groups and organizations, co-management boards and industry. In all, 24 Aboriginal groups were invited to participate in technical consultations and funds were made available to them to assist them in the consultation process” (AANDC 2014).

Following these consultations, the chief federal negotiator recommended to the Minister to merge the land and water boards into a single board. This recommendation was accepted by the Minister and put into draft legislation, but the negotiator had to request two more amendments because of the opposition of all of the Aboriginal groups in the Mackenzie Valley (Pollard 2014): First, the draft bill was amended to allow creation of regional MVLWB subcommittees, with each one having

at least three members and if possible a person from the region. These subcommittees would have decision-making authority, thus bringing decision making closer to the community, a clear effort to reintroduce subsidiarity into the recentralization process. The second amendment concerned appointment of the chair. In the first draft, the Minister would have appointed the chair without consultation. Because of widespread opposition from NWT Aboriginal groups, this provision was amended so that the Minister would appoint the chair but only after consultations with the MVLWB. The draft bill with the proposed amendments to the MVRMA was included in the Omnibus Bill C-15, which also included the Northwest Territories Devolution Act. It received royal assent on March 2014.

In spite of these last minute amendments, it should be noted that two recommendations from the McCrank report were not implemented: the approval of the land claims signatories was not sought before passing the law, amounting to a unilateral change of land claim agreements, and the final decision-making rests with the federal minister for most decisions. For the NWT First Nations, the elimination of the three land and water boards without their formal approval is seen as an unilateral violation of their land claim agreements, as expressed by the Grand Chiefs of the Tlicho Government:

Canada has returned to the old colonial way of thinking, that they know what is best for us. They are silencing our voice. That cannot be the way of the future. That is not the constitutional promise made in the Tlicho agreement. We demand better. We will stand up to this proposed law and challenge it if need be (Erasmus, E. Grand Chief, Tlicho Government, January 27th, 2014).

The Dehcho First Nations provide a similar perspective:

So we fail to see, from the perspective of the Dehcho First Nations, how Canada is fulfilling its obligations to maintain some parity, some equality, either at the table with the Dehcho First Nations in its negotiations or indeed for the Dehcho in its reconstituted super-board. Neither is being maintained. This is fundamentally disrespectful to the principles under which the Dehcho have entered these negotiations, and it's fundamentally at odds with the honour of the crown (Norwegian, H., Grand Chief, Dehcho First Nations, January 27th, 2014).

Another important concern of the NWT First Nations is that elimination of the regional boards will reduce participation by First Nations in decisions affecting their region and limit community involvement. For example, the Sahtu, the Tlicho, and the Gwich'in will no longer participate equally in decision making, and the single representative on a committee of 11 cannot engage and represent the communities as the regional board did (Standing Senate Committee on Energy, the Environment and Natural Resources 2014; Erasmus, E. 2014; CBC News 2013)

The Tlicho and Sahtu governments both decided to challenge the new legislation in court. First, the Tlicho Government, in July 2014, filed a lawsuit against Canada, claiming that the changes to the MVMRA are unconstitutional and in breach of the Tlicho Agreement. Second, the Sahtu Secretariat, in March 2015, in their lawsuit against Canada, argues that the elimination of regional land and water boards violates the terms of the land claims and dilutes the ability of Aboriginal governments to co-manage resource development in the territory (Wohlberg 2015). On February 27, 2015, the Supreme Court of the Northwest Territories granted the Tlicho Government injunctive relief, suspending the effect of s. 253(2) of the Northwest Territories Devolution Act. The federal government has however appealed the decision.

The NWT has been the territory the most impacted by the federal *Action Plan to Improve Northern Regulatory Regimes*. Despite many consultations, there has been unabated opposition from all of the Aboriginal groups concerned. This should be no surprise since the merging of the three land claim boards into a single “super board” has affected recently signed land claim agreements. The new “super board” will also be farther from the communities, and the influence of each Aboriginal group will be quite diminished.

In Yukon (Bill S-6)

The Yukon First Nations were also impacted by the action plan of the federal government. The Yukon Environmental and Socio-Economic Assessment Act (YESAA) was first drawn up in 2005, as a requirement under the Development Assessment chapter of the Yukon First Nations Umbrella Final Agreement (UFA). It was developed by the Council of Yukon First Nations, the Government of Canada, and the Government of Yukon, and it establishes the Yukon Environmental and Socio-Economic Assessment Board (YESAB) as an independent body responsible for environmental and socio-economic assessment. As part of the *Action Plan to Improve Northern Regulatory Regimes*, Bill S-6 amends the YESAA.

As in the NWT, there was widespread opposition to the change proposed by the federal government. Four aspects of the bill were of concern to Yukon First Nations: 1) section 34 empowers the federal government to give binding policy direction to the YESAB (similar to Bill C-15); 2) Canada can choose, under section 2, to delegate its powers to the Yukon Government; 3) sections 23 (2) and 16 impose maximum timelines—the YESAB has 15 months to make its recommendations and nine months to complete its evaluation of a project; if the YESAB needs more time it has to make a request to the federal minister; 4) finally, section 14 will allow for exemption of projects that come up for renewal—they can get approved without having any YESAB assessment. (Council of Yukon First Nations 2014). These changes are seen as a breach of agreements by the First Nations:

The four problematic and substantive amendments [...] give undue power to the federal and Yukon governments and upset the tripartite balance inherent in YESAA as currently written. In supporting these amendments, Canada and Yukon have put up roadblocks to meaningful collaboration, and these actions have strained intergovernmental relations to a degree rarely seen since the Final Agreements were signed (Joseph, R. 2015 [Chief Roberta Joseph of Tr’ondëk Hwëch’in First Nation]).

Unlike the NWT, Yukon already had a single impact review board, so in this case, the issue was to facilitate project approval by imposing tighter deadlines and tighter federal control over the process. The changes were thus not as drastic but nonetheless they give to the federal government a tighter control on the YESAB. The Yukon First Nations have threatened to take court action but at this time have not filed a lawsuit.

In Nunavut (Bills S-6 and C-47)

In Nunavut too, there was no need to merge boards since there is only one land claim agreement. The focus was entirely on shortening the approval timeline, and that goal was achieved with bills C-47 and S-6.

Bill C-47 was the first federal bill concerning Nunavut to be part of the *Action Plan to Improve Northern Regulatory Regimes*. It modified the Nunavut Planning and Project Assessment Act in 2013.

Bill S-6 amended the Nunavut Waters and Nunavut Surface Rights Tribunal Act. The bills, among other things, introduced timelines to speed up the review process. They did not cause many reactions. Bill S-6 had support from both the Nunavut Water Board (NWB) and the Nunavut Impact and Review Board (NIRB), since, for the Nunavut Water Board, “*The Nunavut portion of Bill S-6 does not affect the land use planning and project assessment aspects of the Nunavut regulatory system*” (NWB 2015).

The only concern raised has been about the timelines for the water licensing process. The Nunavut Water Board thinks that these provisions might not be “sufficiently flexible to account for the issues beyond the NWB’s control that can—and regularly do—affect the Board’s ability to process applications in compliance with the 9 month time limit proposed under s.55.2” (NWB 2015). The NIRB shares this concern (NIRB 2015). According to the NIRB and the NWB, consultation was adequate and their proposals were taken into consideration (NWB 2015; NIRB 2015). In fact, the only real concerns in Nunavut have been about whether funding will be adequate for the board to review a project in a timely manner. These boards are indeed federally funded, and there has been ongoing dispute with the federal government over their inadequate funding. Following the lawsuit from Nunavut Tunngavik Inc. (NTI), which was amongst other things blaming the underfunding of these boards, the federal government recently announced a substantial increase in funding for all Nunavut boards (Nunatsiaq News 2015).

The reform of the regulatory system in Nunavut has thus been much less controversial than in the NWT and Yukon : the process has had full support from NTI, the organization representing the Nunavut Inuit (Nunatsiaq News 2013), although the Nunavut amendments had no impacts on board powers, which are in fact limited to making recommendations to the Minister.

Conclusion

The effort to simplify the regulatory process in the North can be seen as a way to improve decision making, as claimed by the federal government, a view supported by the NWT, Yukon, and Nunavut governments as well. There is, however, a different way of interpreting this reform. As mentioned in the introduction, land claim agreements have been a means for Aboriginal people to regain control over their ancestral lands. In addition, the creation of local boards had been a clear illustration of the subsidiarity principle. The federal government, through its action plan, has unilaterally watered down this principle in the NWT by merging the land and water boards into a super board. Although Yukon has been less impacted, the YESAB has similarly seen its powers curtailed by Bill S-6. Only Nunavut has been spared, but, as mentioned earlier, none of the boards in charge of reviewing and regulating resource development have decision-making powers. These changes also show that the federal government feels it has to control the multilevel governance that has resulted from land claims, even at the cost of litigation. It will be interesting to see the outcome of the Tliche case, which will determine whether the federal government can unilaterally amend land claim agreements. The decision, if favourable to land claim organizations, could be a game changer and entrench the subsidiarity principle that the land claim and self-government process has established. If, however, the federal government wins the case, Aboriginal self-government will, like the devolution process, become more controlled, thus entrenching the federal government’s dominance in the MLG process.

The federal government's agenda is also open to question. In recent years, there has been a clear trend, at the federal level, toward trying to facilitate approval of development projects in Canada. For example, changes were made to the Fisheries Act to eliminate the need to consider fish habitats in development projects. This might seem like a trivial change but, in fact, Fisheries and Oceans Canada has often invoked protection of fish habitats to challenge development projects (Olszynski & Grigg 2015).

The same reasoning lies behind the effort to streamline decision-making processes in Yukon, the NWT, and Nunavut. Furthermore, the need to streamline has been used as an argument in the NWT even though, as seen earlier, the Mackenzie pipeline project failure can hardly be attributed to the impact review process. This argument is certainly not valid in the case of Yukon, where the impact review process was already managed by one board, the YESAB. Nor is it valid in the case of Nunavut, which has only one land claim agreement and one level of government.

Notes

1. The committee was made up of representatives of the Mackenzie Valley Land and Water Board, the Mackenzie Valley Environmental Impact Review Board, the Gwich'in Land and Water Board, the Sahtu Land and Water Board, the Canadian Environmental Assessment Agency, the National Energy Board, the Environmental Impact Review Board for the Inuvialuit Settlement Region, the Joint Secretariat for the Inuvialuit Settlement Region, the Environmental Impact Screening Committee for the Inuvialuit Settlement Region, the Inuvialuit Game Council, the Inuvialuit Land Administration, and Indian and Northern Affairs Canada. The Deh Cho First Nation, the Government of the Northwest Territories and the Government of Yukon were observers. The long list of organizations exemplifies the institutional complexity of the NWT but also show a will to cooperate.

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