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***Transfer Of Provincial-type Functions To
The GnwT***

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THE DEVOLUTION OF RESOURCE
MANAGEMENT FUNCTIONS TO
THE GOVERNMENT OF THE
NORTHWEST TERRITORIES

January, 1987

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EXECUTIVE SUMMARY

A review of resource management functions of a "provincial" nature remaining under the control and management of the Federal Government reveals five management functions suitable for devolution (excluding oil and gas management) and one function suitable for delegation. The review concludes that these six functions could be transferred in seven parcels between 1988 and 1991 as follows:

Inland Fishery Management	Transfer Date	April 1, 1988
Inland Waters Management	Transfer Date	April 1, 1989
Offshore Waters Management	Transfer Date	April 1, 1990
Minerals Management	Transfer Date	April 1, 1990
Environmental Management	Transfer Date	April 1, 1990
Land Management	Transfer Date	April 1, 1991
Regional Planning	Transfer Date	April 1, 1991

The report recommends the following:

1. Notice of interest to transfer be given to the Federal Government immediately and be accompanied by a request to freeze A Base funding.
2. Two new departments of the Territorial Government should be formed to accept the new management functions. A Department of Energy Mines and Resources should manage matters relating to minerals, oil and gas and other energy. A Department of Natural Resources should manage land and water matters including environmental management.
3. Timetables which require changes to Federal legislation should allow two years for such changes.
4. The transfer process should follow a schedule similar to that in Table 1.

TABLE 1

SUMMARY OF PROPOSED TIMETABLES FOR TRANSFER

TASK	MANAGEMENT FUNCTION	LAND	INLAND WATERS	OFFSHORE WATERS	MINERALS	INLAND FISHERY
1.	Notice of Interest Given	Feb 87	Feb 87	Feb 87	Feb 87	Feb 87 ✓
2.	Establish Federal and Territorial Working Groups	Mar 87	Mar 87	Mar 87	Mar 87	Mar 87
3.	Negotiations Toward Memorandum of Understanding Complete	Apr 90	Jan 88	<u>Apr 88</u>	Dec 87	Jun 87
4.	Ministers Sign Memorandum of Understanding	May 90	Feb 88	May 88	Feb 88	Sep 87/
5.	Cabinet and Executive Council Approve Memorandum of Understanding	Jun 90	Mar 88	Sep 88	Mar 88	Ott 87
6.	Joint Implementation Group Formed	Jul 90	Mar 88	Ott 88	Mar 88	Ott 87
7.	Draft Legislation Completed	Jan 91"	Sep 88	Sep 89	Sep 89	N/A
8.	Territorial Legislation Passed	N/A	Ott 88	Ott 89	Ott 89	N/A
9.	Federal Legislation Passed	Mar 91	Jan 89	Feb 90	Feb 90	N/A)
10.	Treasury Board and Financial Management Board Approvals Received	Mar 91	Feb 89	Feb 89	Feb 90	Jan 88
11.	Transfer Implemented	Apr 91	Apr 89	Apr 90	Apr 90	Apr 88

The Environmental Management Function would be transferred in 1990 at the same time as the Minerals and Offshore Water Management Functions are transferred.

The Regional Planning Function would be transferred in 1991 with the Lands Management Function.

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1.0 INTRODUCTION

1.1 Objective

The devolution of forestry management to the Government of the Northwest Territories represents the first stage of the process of transferring resource management responsibilities to the Territorial Government. There remains some six additional resource management functions to be devolved. These are as follows:

Land Management
Water Management
Minerals Management
Oil and Gas Management
Environmental Management
Regional Planning

A seventh function, Inland Fishery Management, is performed by some provincial governments under arrangements with the federal Department of Fisheries and Oceans. Although, under the British North America Act the fish remain the property of the federal government, the management responsibility could be delegated to the Government of the Northwest Territories.

It is the purpose of this report to recommend procedures and timing for the transfer of six of these seven resource management functions to the Government of the Northwest Territories and to identify issues which may arise during the transfer. The oil and gas management function is not considered in this report as it is the subject of a separate review.

1.2 Assumptions

In this report it is assumed that the Territorial Government is seeking control over both the administrative and policy elements of the functions being transferred but is not at this time seeking absolute ownership of the resources under their control. It is assumed that ownership will come through the evolution of the Northwest Territories to a province (or provinces) within Canada. At this time ownership can be transferred from the Federal "Crown" to the Provincial "Crown".

This report does not address the physical transfer process, ie: the identification of personnel, dollars and capital assets that are to be transferred and the integration of these assets into the Territorial system. Both governments have had experience in this process over the Past few Years and it is assumed that standard procedures have been

developed for this process. In the timetables which follow a minimum of one year has been set aside for this process.

For the administrative convenience of both governments, it is assumed that transfers will take place on April 1st of a particular year, the beginning of both government's fiscal year.

The Federal Minister of Indian Affairs and Northern Development has clearly stated that the devolution of any resource function to the Territorial Government prior to the settlement of land claims ~~must be preceded by the agreement of the Native associations which might be affected~~, the Dene Nation, the Metis Association of the Northwest Territories and the Tungavik Federation of Nunavut. The responsibility for obtaining this agreement rests with the Government of the Northwest Territories. It is assumed that the Territorial Government ~~has~~ obtained these agreements before the Memorandum of Understanding for each transfer has been signed by both governments.

It is proposed that each function (except water management and perhaps, environmental management) be transferred or devolved in its entirety at the time of transfer. The difficulties in dividing assets to properly reflect partial functions (ie: land protection as distinct from land disposition), makes this the preferred method of approach. In the case of water management, the complications of offshore jurisdiction of legislation precludes as simple a transfer for offshore water management as is anticipated for inland water management.

It is recognized that division of the Northwest Territories is possible during the time frame of devolution. This could effect the form of legislation necessary and the allocation of resources, but should not effect the principles of devolution.

1.3 Transfer Process

For the five resource management functions to be devolved, the process of devolution will consist of the following steps.

- (a) Formal notification to the Federal Government of the Territorial Government's wish to receive the management function.
- (b) Discussions between the two governments as to the means of devolution and the drafting of a Memorandum of Understanding which will describe these means and any conditions to the transfer.

- (c) Ratification of both governments of the Memorandum of Understanding.
- (d) Preparation for transfer (asset identification, draft legislation, etc.).
- (e) Pass legislation (where applicable).
- (f) Transfer personnel and financial resources.
- (g) Implement legislation.

A similar process can also be followed in the delegation of administrative responsibilities for Inland Fishery Management .

In view of current and proposed federal government austerities, it is recommended that the Government of the Northwest Territories move swiftly to serve notice of the government's desire to receive all five management functions and to have the functions' A Base resources frozen at current (1986-87) budget levels, except for government-wide cost of living yearly adjustments, until the transfer process is completed.

The period of negotiations leading to the Memorandum of Understanding will vary depending on the complexity of the management function and Native concerns as will the period leading up to the actual transfer. If the transfer involves changes to federal legislation, a minimum of two years should be expected.

It is proposed that the Government of the Northwest Territories appoint, for each function proposed to be transferred, a working group to include a leader, an expert on the subject of the transfer, legal counsel and others as desired. It will be the task of this working group to consider Territorial Government policy options and resource requirements, and to negotiate the Memorandum of Understanding.

At the time the Memorandum of Understanding is approved, a joint federal-territorial implementation group should be formed. It will be the task of this working group to implement the Memorandum of Understanding by developing the necessary legislation and arranging for the transfer of resources.

If discussions on more than one transfer are to proceed simultaneously, it will be necessary to assign a full time lawyer and a legal draftsman to the work of the Devolution Office.

1.4 Schedule of Transfers

Because resources available to plan, negotiate and implement transfers are limited, some scheduling of transfers will be necessary. In addition, each function differs in terms of complexity, political sensitivity and linkages with other internal and external functions. Some functions are well established, have provincial models from which experience can be gained, and have little need for new policy or program development. Others are relatively new with a number of significant policies yet to be determined or formulated. All of these factors will influence the determination of the most appropriate transfer schedule.

Some policy mandated functions, such as environmental management and regional planning are entirely dependent upon other resource management functions and should be transferred with them.

In consideration of all these factors, the following schedule appears most appropriate.

<u>PRINCIPAL FUNCTION</u>	<u>PROPOSED TRANSFER DATE</u>	<u>RELATED FUNCT 10N</u>
1. Inland Fishery	1988	
2. Inland Water Management	1989	
3. Minerals Management	1990	Terrestrial Environmental Management ✓
4. Offshore Water Management	1990	Offshore Environmental Management
5. Land Management	1991	Regional Planning

2.0 LAND MANAGEMENT FUNCTION

2.1 Transfer Package

The land management function is based on the responsibility of regulating the use and disposition of Crown Lands within the Northwest Territories. Programs and services within this management function are found within three broad elements: policy, land disposition and land protection (land use). Appendix "A" describes the various programs and services of this function.

The function's assets include most of the remaining personnel assets at the District level of the Northern Affairs Program for the Northwest Territories. These officials accept applications for land disposition and use, inspect sites and ensure compliance with environmental terms and conditions. While it is possible to divide their duties between the land disposition and land protection elements on paper, it would be extremely difficult to divide the personnel resources appropriately between the two functions in most district offices. It is recommended therefore that the major elements of the function be transferred at one time.

One program within this function, the Land Titles Registry, is now performed by the Territorial Government on behalf of the Federal Government. Transfer of this program could proceed separately from the rest of the function if deemed desirable by both sides.

2.2 Instruments of Transfer

Two options exist for the transfer of this function to the Government of the Northwest Territories.

The first option involves the transfer of large blocks of land to the Commissioner under the present legislation. The Commissioner can then sell, lease and make regulations governing that land with the approval of the Legislative Assembly. This option is simple to implement and is the desired option.

The second option would involve the repeal of the Territorial Lands Act and amendments to the Northwest Territories Act to expand the legislative powers of the Commissioner-in-Council. This second option would take longer to achieve.

The Federal Land Titles Act can be repealed and replaced by a Territorial Act at any time at the wish of both parties.

2.3 Pre-Transfer Issues

2.3.1 Timing

The control of land is seen by all parties as a major issue during current land claims negotiations. Block land transfers to the Commissioner often have been suspended for long periods of time awaiting progress at the claims table. While the transfer process itself is straightforward, only requiring a federal Order-in-Council, the political conditions for major land transfers to the Commissioner in the near term will probably not be present. Therefore it is recommended that notice of interest be served on the Federal Government now but the timetable for transfer be lengthened to allow time to settle claims.

2.3.2 GNWT Organization

Land matters within the GNWT are now handled by officials of the Department of Municipal and Community Affairs. When the lands outside of the communities are transferred, it may be inappropriate for this department to remain the Territorial Governments' land manager. The Department of Renewable Resources could assume this responsibility but this would concern resource developers. It is proposed that a new department, the Department of Natural Resources, be created to be the Territorial landlord and manage land and water for the government.

,2.3.3 Residual Federal Lands

Lands which the Federal Government would wish to retain for its Departments and Agencies would have to be negotiated and identified to be excluded from the transfer.

2.4 Timetable

The following timetable is proposed as appropriate to guide the transfer of the land management function to the Territorial Government.

February 1987	-	Notice of interest transmitted to Federal Government
March 1987	-	Federal and Territorial Working Groups established
January 1988	-	Territorial Land Title Act passed
April 1988	-	Territorial Land Titles Act promulgated
		Federal Land Titles Act revoked

December 1989	Land claims negotiations completed
April 1990	Memorandum of Understanding prepared
May 1990	Ministers sign Memorandum of Understanding
July 1990	Cabinet and Executive Council approve Memorandum of Understanding
January 1991	Orders-in-Council for land transfer prepared
March 1991	Orders-in-Council passed Treasury Board and Financial Management Board approval transfer package
April 1991	Implement transfer

NOTE: If land claims negotiations are completed by December 1988, this process could be advanced by one" year.

3.0 WATER MANAGEMENT FUNCTION

3.1 Transfer Package

3.1.1 Introduction

The "provincial type" water management function as it relates to the Northwest Territories must be divided into two major components; the management of inland waters and the management of offshore waters. These two components differ considerably in terms of management focus, scientific demands and emphasis, and most importantly in terms of political and policy complexity.

½ 3.1.2 Inland Waters

The inland waters component consists of the management of fresh water resources (lakes, rivers, streams) within a geographic land mass that can be defined by the well-understood boundaries of the Northwest Territories. Models for the management of inland waters can be found in each of the provincial jurisdictions, and provincial experience can be applied to the management of the function within the Northwest Territories.

The focus of inland waters management is the conservation of water and the preservation of water quality. Programs in hydrology, pollution control and water quality standards support the major thrust of the management process which is the regulation and licensing of water use. The policies and programs are well established, and are well understood.

3.1.3 Offshore Waters

The management of offshore waters relate to those maritime areas found within the territorial limits of Canada .

Although generally speaking the Constitution provides that the maritime areas off the coast of Canada fall within federal jurisdiction, in some cases offshore areas surrounded by, or embraced by, provinces may be regarded as "provincial seas" and fall within the provincial jurisdiction. In addition, in some cases the federal government, by agreement, has allowed for the extension of provincial jurisdiction into federal jurisdiction beyond the high tide mark of the provincial shoreline.

Within the Northwest Territories the boundaries of the "provincial sea" that would exist in the Arctic Islands Archipelago will be defined by the federal government in the Canadian Laws Offshore Application Act. Within the "provincial sea" defined unilaterally by this Act the laws of the Northwest Territories will apply.

There is currently no agreement which would enable the Northwest Territories to extend its jurisdiction into offshore areas that would remain within federal jurisdiction such as the Beaufort Sea.

Many of offshore areas are subject to international attention (eg: the Northwest Passage) and the federal government is moving carefully to enforce Canadian control.

Because only a few provinces have offshore areas which would encompass a "provincial sea", and because even within these provinces the recognition of this jurisdiction has been comparatively recent, there are few provincial models to examine in terms of the management of this function, and there is little provincial experience from which to borrow.

The management focus for offshore water management is the prevention, detection and clean-up of pollution.

3. 1.4 Conclusion

Because of the greater complexities surrounding the transfer of the offshore water management function, consideration should be given to the separation of the offshore water management and inshore water management components for the purposes of transfer.

3.2 Instruments of Transfer

3.2.1 Inland Waters

Full management control of inland waters could be achieved only through an amendment to the Northwest Territories Act assigning this function to the Government of the Northwest Territories. Concurrent with the amendment to the Northwest Territories Act would be the repeal of the Northern Inland Waters Act and its replacement by Territorial legislation and regulations"

3.2.2 Offshore Waters

Management control of offshore waters would require an amendment to the Northwest Territories Act to include

this function within the areas of jurisdiction provided to the Government of the Northwest Territories, and promulgation of the Canadian Laws Offshore Application Act currently before parliament. As mentioned previously, this latter Act would define the boundaries of the offshore maritime area that would fall under the jurisdiction of the Northwest Territories, when that jurisdiction is broadened to include offshore water management through an amendment to the Northwest Territories Act.

If the boundaries of the "provincial sea", provided for within the Canadian Laws Offshore Application Act currently before parliament, were judged by the Government of the Northwest Territories to be inadequate, an amendment to that Act would be necessary in order to revise the boundary.

An extension of Territorial jurisdiction (including offshore water management following an amendment to the Northwest Territories Act) to offshore areas not included within a "provincial sea" would require a formal agreement and possibly an amendment to the Canadian Laws Offshore Application Act.

Concurrent with amendments to the Northwest Territories Act and Canadian Laws Offshore Application Act, it may be necessary to amend the Arctic Waters Pollution Prevention Act to exclude those offshore areas falling under Territorial jurisdiction, and replacing that Act with Territorial legislation and regulations.

3.3 Pre-Transfer Issues

3.3.1 General

3.3.1.1 Transfer Package

A decision must be made whether to proceed with a transfer of the water management function in its entirety, or to separate the inland and offshore components so that negotiations and implementation arrangements for each component can proceed separately. Because the transfer of the inland water management component would appear to be much less complex, technically and politically, transfer agreements and implementation arrangements for this component could likely proceed more quickly.

Implementation of an agreement to transfer the offshore water management function could be complicated if an

amendment to the Arctic Waters Pollution Prevention Act were necessary. Parliamentary debate on an amendment to this particular Act could well go into matters well beyond water management, such as arctic sovereignty, Native sea claims, etc.

3.3.1.2 Resource Distribution

Depending upon the decision on the transfer package to be negotiated, it might be necessary to determine and negotiate the financial and personnel resources appropriately allocated to the inland water management and offshore water management components.

3.3.1.3 GNWT Organization

It will be necessary to determine the organizational placement of the water management function within the Territorial administration following the transfer.

Given the strong linkages between this function and non-renewable resource development (mining and water use, offshore oil and gas, and pollution prevention), it might not be appropriate to place this function within the Department of Renewable Resources. It is proposed that this function be placed in a new department, Department of Natural Resources, which department would also include responsibility for land and environmental protection and assessment functions.

3.3.1.4 Consultation

Consideration should be given to the degree of consultation that would be involved in the development of Territorial legislation and regulations, the agencies and organizations that might be involved, and the process that would be followed.

3.3.2 Inland Water Management

3.3.2.1 Legislation

A number of issues would need to be examined within the context of Territorial legislation and regulations needed to manage the inland water management function. These include:

whether regulation and licensing will continue to be carried out by a Water Board, or internally; the responsibilities, powers, and composition of Water Boards;

whether there would be more than one Water Board (east, west, regional, etc).

3.3.3 Offshore Water Management

3.3.3.1 Area of Jurisdiction

The definition of the jurisdictional boundaries provided within the Canadian Laws Offshore Application Act should be reviewed to ensure that they conform to the precedents established for the definition of "provincial seas".

Consideration should be given, through an examination of precedents established within other jurisdictions, as to whether the Territorial Government would wish to have its jurisdiction for offshore water management extended to offshore areas not considered to be "provincial seas". A review should be undertaken to determine whether this could be achieved through an agreement with the Federal Government, or whether legislation would be required to implement that agreement.

3.3.3.2 Legislation

It will be necessary to determine whether legislative amendments to the Arctic Waters Pollution Prevention Act would be necessary to exclude from that Act the areas of Territorial jurisdiction.

3.3.3.3 Co-ordination

Consideration would need to be given to establishing some mechanism for the co-ordination of federal and territorial offshore water management processes.

3.4 Timetable

The following timetables might be expected to govern the transfer of the inland and offshore water management function.

3.4.1 Inland Water Management

February 1987	-	Notice of interest to Federal Government
March 1987	-	Establish Federal and Territorial working groups
January 1988	-	Negotiations towards Memorandum of

- February 1988 - Understanding completed (policy, legislation, resources)
- February 1988 - Ministerial approval of Memorandum of Understanding
- March 1988 - Cabinet and Executive Council approval of draft Memorandum of Understanding
- March 1988 - Joint implementation working group formed
- September 1988 - Draft legislation completed
- October 1988 - Territorial legislation passed
- January 1989 - Federal legislation passed
- February 1989 - Treasury Board and Financial Management Board approve transfer package
- April 1, 1989 - Transfer of financial resources
- April 1, 1989 - Effective date Federal legislation
- April 1, 1989 - Effective date Territorial legislation

3 .4.2 Offshore Water Management

- February 1987 - Notice of interest to Federal Government
- March 1987 - Establish Federal and Territorial working groups
- April 1988 - Negotiations towards Memorandum of Understanding completed (policy, area of jurisdiction, legislation, resources)
- May 1988 - Ministerial approval of Memorandum of Understanding
- September 1988 - Cabinet and Executive Council approval of Memorandum of Understanding
- October 1988 - Joint implementation working group formed
- February 1989 - Treasury Board and Financial [Management Board approval of transfer package
- September 1989 - Draft legislation completed
- October 1989 - Territorial legislation passed
- February 1990 - Federal legislation passed
- April 1, 1990 - Transfer of financial resources
- April 1, 1990 - Effective date of Territorial legislation
- April 1, 1990 - Effective date of Federal legislation

4.0 MINERALS MANAGEMENT FUNCTION

4.1 Transfer Package

The mineral management function includes those programs designed to promote orderly development of the mining industry within the Northwest Territories. The major elements of this function are:

Policy
Management
Research

The programs and services of this function are described in Appendix "A".

While it is possible to separate the research element of this function from the management and policy responsibilities, if it were to be retained by the Federal Government there is a good possibility that the research capacity that now exists would be absorbed into the Geological Survey of Canada and may be difficult to identify at a later time. Therefore it is recommended that the entire function be transferred as one.

4.2 Instruments of Transfer

The minerals management function is presently controlled by regulations issued under Section 8 of the Territorial Lands Act.

Recently the Federal Government has announced its intention to prepare a Northwest Territories Mining Act (DIAND Communique, Dec. 5/86). It would therefore appear to be most appropriate to move with the Federal Government to prepare a territorial act to be implemented when Section 8 of the Territorial Lands Act is revoked. This would be accompanied by a change to Section 13 of the Northwest Territories Act.

It is possible to transfer administrative control to the Territorial Government without the use of legislation if by Order-in-Council the Canada Mining Regulations were modified to appoint the Commissioner as "Chief" and the DIAND Minister appoints other territorial officials as "Supervising Mining Recorder", "Mining Recorder", "Deputy Mining Recorder", "Claims Inspector", and "Engineer of Mines". This approach is not recommended as the Legislative Assembly would have no direct control over mineral policy. This partial transfer of authorities would concern the mining industry (see 4.3.3 below).

4.3 Pre-Transfer Issues

4.3.1 GNWT Organization

At this time the Territorial Government has a small mineral policy section as part of the Energy Mines and Resources Secretariat. It is proposed that, if the mineral management function is sought and obtained, that a new Department of Energy Mines and Resources be created to include the minerals management function and any petroleum management function delegated to the GNWT. The mineral management function could become a division within the Department of Economic Development and Tourism but the mining industry would prefer its own separate department as is the case in many of the existing provincial governments. The high profile of the mineral industry in the Northwest Territories probably warrants that it have its own Minister (or at least share its minister with petroleum) in the Executive Council.

4.3.2 Revenue Sharing

One of the key elements in securing federal, Native and industry approval for the transfer of the mineral resource function will be the successful negotiation of an agreement on the sharing of mineral royalties between the federal and territorial governments. Until the ownership of minerals is transferred to the territorial government, the federal government will expect to receive some gain for their ownership, some of which most probably will flow through to the Native groups as a result of land claims negotiation. Industry on the other hand will want the managers of the resource to receive revenue in the form of royalties to encourage the managers to support the industry. The division of the revenue generated from the mineral industry must be decided prior to the completion of the Memorandum of Understanding for this function.

4.3.3 Industry Support

Industry representatives have indicated their willingness to support devolution provided that there is no diminution in the quantity and quality of service, that the Territorial Government has fiscal responsibility (ie: receive benefits from mining and loses benefits if mining opportunities are lost), and that the transfer do nothing to increase the overall regulatory burden on the industry. Any Memorandum of Understanding should clearly reflect these concerns. The NWT mining industry has strong feelings that mining

in the Territories is not adequately represented by the Minister of Indian Affairs and Northern Development. This Minister rarely attends Mines Ministers' Conferences and has many other interests to represent in the Federal Cabinet in addition to his responsibilities as NWT Minister of Mines. The industry therefore would be pleased if there is a Minister of Mines appointed to the Executive Council whose duties allow him/her time to adequately represent the NWT industry in political caucuses across the country.

4 .3.4 Amendments to Canada Mining Regulations

DIAND is presently processing a number of changes to the Canada Mining Regulations. These changes have been negotiated by the industry and should be allowed to proceed.

4 .3.5 Administrative Matters

The Mining Recorder is in the process of computerizing the claim recording system. Some effort should be made to make certain the computer system devised is compatible with Territorial Government computer hardware.

The Federal Governments' Northern Mineral Policy is to be implemented over the next several years. Implementation should proceed with the support of both governments and with a full understanding of the implications of devolution.

Geoscience Research in DIAND is inadequately funded for such a large land mass. There is agreement on this matter but no source of funds except possibly the new Economic Development Agreement (EDA). Expanded funding for this research remains a concern after the EDA is completed.

The current minerals management function in Yellowknife requires up to three person years support from the drafting section of DIAND and was responsible for the establishment of the DIAND scientific library. Support to maintain drafting and library services should form part of any transfer.

4.4 Post-Transfer Issues

Mechanisms to bring industry and government together for semi-annual or annual reviews of mineral policy should be maintained or expanded.

4.5 Timetable

It is proposed that the following transfer timetable be considered:

February 1987	Notice of interest given to Federal Government
March 1987	Federal and Territorial Working Groups established
December 1987	Draft Memorandum of Understanding completed
February 1988	Ministers sign Memorandum of Understanding
March 1988	Cabinet and Executive Council approve Memorandum of Understanding
	Joint implementation group formed
September 1989	Draft legislation completed
October 1989	Territorial legislation passed
February 1990	Federal legislation passed
	Treasury Board and Financial Management Board approve transfer package
April 1990	Transfer implemented

5.0 ENVIRONMENTAL MANAGEMENT FUNCTION

The environmental management function derives its purpose and powers from the provincial resource management functions to which it is inextricably linked. Projects and activities arising through those resource management functions create the requirement for environmental assessment, and the regulatory programs within the management of those functions provide the ability to impose the controls that an environmental assessment might indicate are necessary.

5.1 Transfer Package

Because of the relatively small size of this function, and the important linkages between its individual programs, the transfer package should not be based upon a separation of the individual programs which comprise the function.

The linkages between the function and the resource management functions, however, do establish the basis for determining two transfer packages which would be related to organization.

The terrestrial organizational element of the environmental management function should be transferred along with the terrestrial oil and gas and mineral management functions, whichever occurs first. For the purpose of this report, because the oil and gas function is not being considered, it will be linked to the minerals management function.

The offshore organizational element of the environmental management function should be transferred along with the offshore oil and gas management function or with the offshore water management function, whichever occurs first. For the purpose of this report, it will be linked with the offshore water management function.

5.2 Instruments of Transfer

Because the mandate for this environmental management function derives from policy rather than legislation or regulation, no change to legislation or regulation will be necessary to effect the transfer. The transfer can be effected by a Memorandum of Understanding establishing the personnel and financial resources to be transferred.

5.3 Pre-Transfer Issues

5.3.1 Mandate for Function

A decision will have to be taken with regard to the mandate that will govern the management of the environ-

mental assessment function within the Government of the Northwest Territories. The two options are:

legislation (and regulations);
policy instrument.

5.3.2 GNWT Organization

Because the function arises from a need to assess the environmental implications of resource management projects or activities, it would not be appropriate to place this function within resource management departments or agencies that are developmental in nature. An option that might be appropriate would be to include this function with land and water management, in a separate department, the Department of Natural Resources.

5.3.3 Resource Determination

Because all of the resources found within this function are not located within either its terrestrial or offshore organizational elements (some are allocated to research, monitoring and information) negotiation will be necessary to determine the appropriate resources to be attached to each of these two organizational elements if they are transferred separately.

5.4 Post-Transfer Issues

5.4.1 Integration of Environmental Management Programs

Because environmental assessment, research and monitoring programs are lodged within the environmental management function, and environmental regulation (and to some extent research) programs are lodged in the resource management functions consideration should be given to some mechanism for integrating their activities.

5.4.2 Co-ordination with Other Environmental Assessment Processes

Environmental assessment processes other than that carried out by the Northwest Territories will apply to some projects within the Northwest Territories. In particular, the Environmental Review Board established under the Canada/Inuvialuit Land Claims Agreement could apply within the Inuvialuit settlement region. The federal Environmental Assessment and Review Process (EARP) will also apply to some projects. Arrangements will have to be developed to co-ordinate assessment

activities, and in some cases to provide for joint assessments.

5.5 Time Table

Offshore Environment Element -	Same as offshore water management function
Terrestrial Environment Element	Same as minerals management function

6.0 REGIONAL PLANNING FUNCTION

6.1 Transfer Package

The regional planning function (traditionally called land use planning) has policy and operational elements and is described in Appendix "A". At this time, policy responsibilities are shared between the Federal and Territorial governments and the four Native organizations. Operational planning is done by the NWT Land Use Planning Commission and regional planning commissions appointed by the Ministers and including representatives of the appropriate Native organizations.

The federal government currently funds the regional planning activities of the territorial government and the Native organizations as well as that of the Commissions.

The transfer package would only include control of these funds. Responsibilities for the appointment of Commissions and policy would continue to remain with the federal government as the federal government would be required to assist in the implementation of regional planning, ie: transport implications, and as owners of the land, would wish to maintain some input into the planning process. The federal minister responsible could change but some federal minister would wish to retain a place in the process and the planning exercise would lose if there were no federal participation.

6.2 Instrument of Transfer

It is recommended that the instrument of transfer be a Memorandum of Understanding between territorial and federal ministers transferring the allotted dollars from the DIAND A Base to the Territorial Governments' A Base. The Memorandum of Understanding would identify these funds as reserved for land use planning purposes and would guarantee funding to Native groups previously funded, as prescribed by the Basis of Agreement of July 1983. If the Government of the Northwest Territories wishes to appoint the chairman of the NWT Land Use Commission, this could be done by modifying the Basis of Agreement with the consent of all parties who originally signed the Agreement.

6.3 Pre-Transfer Issues

6.3.1 GNWT Organization

Responsibility for control of the Regional Planning function would remain in the Department of Renewable Resources (or its successor) as the Basis of Agreement

names that Minister as responsible for the territorial government input into regional planning.

6.3.2 Timing

Because of the ease of accomplishing this transfer, a number of options for the timing of this transfer exists from April 1, 1987 onward. An early transfer is not recommended. This process has just commenced and it is not clear whether it will be successfully implemented in the NWT. Modifications to the process may be required and additional person years and resources may be necessary. An evaluation of the function has just been completed (November 1986) and a second evaluation is recommended for 1989. The Government of the Northwest Territories will probably not be able to assume management control of the land resources of the NWT before April 1, 1991 and so it will remain a federal responsibility to implement the first land use plans. The optimum date for the transfer of this function is that date on which the land resources function is transferred, April 1, 1991.

6.4 Timetable

The timetable for transfer should reflect that for the transfer of the Land Management Function.

7.0 INLAND FISHERY MANAGEMENT FUNCTION

The inland fishery management function will remain within Federal jurisdiction and control. Some responsibilities within the function may be delegated to the Government of the Northwest Territories following a precedent established in a number of provinces.

7.1 Transfer Package

The responsibilities that could be delegated to the Government of the Northwest Territories would consist of all activities relating to the inland fishery, with the exception of anadromous fish habitat and stock management. Also excluded would be the responsibility for fish inspections relating to the marketing of fresh water fish.

Although the function to be delegated consists of several programs, for the purpose of negotiating a delegation agreement the function should be treated in its entirety. The integration of these programs and program personnel, and the relatively small size of the function to be delegated, suggests that there would be no advantage to phasing the delegation program, and considerable disadvantage.

7.2 Instrument of Transfer

Because no transfer of the function is being contemplated, and no change in ultimate responsibility, jurisdiction or legislative mandate, amendments to the Fisheries Act would not be required.

The delegation would be governed by a Memorandum of Understanding between the Minister of Fisheries in the Government of Canada and the Commissioner of the Northwest Territories (and his Ministers).

7.3 Pre-Transfer Issues

7.3.1 Resource Determination

Because all of the current personnel resources involved in this function do other tasks as well as inland fishery management, negotiation will be necessary to determine the number of person years and the amount and nature of financial resources to be made available.

7.3.2 Resource Transfer (Mechanism)

It is not clear what type of mechanism will be used to transfer personnel and financial resources to the

Government of the Northwest Territories. This will likely be a major subject of negotiation.

It would be in the interest of the Government of the Northwest Territories to press for a direct transfer of resources from the "A" Base of the Department of Fisheries and Oceans, rather than a contribution agreement. This would provide a great deal more flexibility in its allocation, and reduce the administrative burden that inevitably results from contribution agreements.

7.3.3 GNWT Organization

A decision will have to be made with regard to the placement of this function within the current organization of the Government of the Northwest Territories. It seems clear that the appropriate location for this function would be in the Department of Renewable Resources.

7.3.4 Technical Support

A considerable degree of on-going scientific and technical support is provided to this function from within the Department of Fisheries and Oceans. These resources would not be part of any transfer arrangement.

Some arrangement will have to be made to secure on-going technical and scientific support and advice.

7.3.5 Reporting Arrangements

Because the function will be delegated through a formal instrument of delegation, some consideration will have to be made with regard to on-going reporting requirements.

7.3.6 Memorandum of Understanding - Department of the Environment

Negotiations will have to include discussions on whether the current arrangement, in which the Federal Department of the Environment is delegated responsibilities under the Fisheries Act to control the deposit of deleterious substances in waters used by fish, is continued. The Territorial Government may wish to carry out this responsibility directly.

7.4 Timetable

February 1987	Territorial Government interest in transfer confirmed
March 1987	Federal and Territorial working groups formed
June 1987	Draft Memorandum of Understanding completed
September 1987	Ministerial approval of Memorandum of Understanding'
October 1987	Cabinet and Executive Council approval of Memorandum of Understanding
January 1988	Joint implementation group formed
April 1, 1988	Treasury Board approval
	Transfer of resources
	Formal delegation of function becomes effective

APPENDIX "A"

DESCRIPTION OF PRESENT RESOURCE MANAGEMENT FUNCTIONS

1.0 INTRODUCTION

On the pages which follow the six functions considered in the main body of the report, Land Management, Water Management, Minerals Management, Environmental Management, Regional Planning and Inland Fishery Management are defined and their mandate described. The programs and services and the organization of the function within the federal government is given and the function's clients are identified.

2.0 LAND MANAGEMENT FUNCTION

2.1 Introduction

The land management function is based on the responsibility of regulating the use and disposition of Crown Lands within the Northwest Territories. Programs and services within this management function are found within three broad elements:

- policy and administration
- land disposition
- land use (protection)

2.2 Mandate

The mandate for the land management function derives from three Acts, and related regulations.

1. Territorial Lands Act

- Territorial Lands Regulations
- Territorial Land Use Regulations
- Territorial Quarrying Regulations

2. Public Lands Grants Act

- Public Lands Leasing and Licensing Regulations

3. Land Titles Act

- Territorial Land Titles Office Regulations

2.3 Policy and Operational Tools

The field staff is guided by the Northern Renewable Resource Lands Manual. This manual contains the operational policies of the land management function.

2.4 Programs and Services

Land management responsibilities and activities can be divided into a number of specific programs or services as follows:

<u>Program</u>	<u>Activities</u>
1. Policy	- policy analysis and formation review and development of legislation and regulations technical support of land claim negotiations
2. Administration	- preparation of orders-in-council for land transactions collection of revenues maintenance of records
3. Title Registry (done by GNWT on behalf of Federal Government)	- legal record of land ownership - registration of interest in land
4. Land Disposition	- land survey mapping transfer of lands (Territorial governments, other government departments, land claim settle- ments) withdrawals of land sale or lease of lands administration of Territorial Lands Regulations
5. Land Protection	consultation on land use permits administration of land use regulations and permitting research on environmental impacts relating to land
6. Inspection and Enforcement	compliance with terms of land dispositions compliance with terms and conditions of land use permits
7. Sand and Gravel Management	administration of quarrying regulations negotiation of permits - inspection inventory of resources
8. Sea Bed [Management	- dredging permits and conditions - harbours artificial islands

2.5 Functional Organization

The responsibilities for these services is distributed as follows:

<u>Headquarters</u>	<u>Region</u>	<u>District</u>
Policy Administration	Policy Administration Title Registry (GNWT) Land Disposition Land Protection Sand & Gravel Management Sea Bed Management	Administration Inspection & Enforcement Land Disposition Land Protection

2.6 Person Years

	<u>Direction and Administrative Support</u>	<u>Operations</u>
HEADQUARTERS (See Note 1)	2	8
REGION	2	14
DISTRICT (See Note 2)		
Yellowknife (includes High Arctic)	4	5
Fort Smith	3	5
Fort Simpson	2	4
Inuvik	3	6
Keewatin	2	1
Baffin	2	1
TOTAL	20	44

Notes

¹ Includes responsibility for Yukon and NWT. One additional person year has been made available from the Northern Oil and Gas Action Program.

² Person years shown for Direction and Administrative Support at the District level also support water management function administered by District Office.

2.7 Clients Served

The policy and administration programs serve internal clients.

Other programs serve a wide range of clients including the general public, resource industry, other government departments and agencies and other levels of government.

2.8 Linkages

Important linkages occur between the land disposition, title registry and inspection programs within the function, and between those programs and the activities of record maintenance and revenue collection.

Important linkages also exist between the land protection (land use) and inspection programs, and with the sand and gravel and sea bed management programs.

Interdepartmental and inter-governmental co-ordination is significant in terms of both land disposition and land protection programs. Co-ordination takes place extensively through informal, ongoing, working relationships and more formally through two committees established at the regional level, the Land Use Advisory Committee (Land Protection) and the Federal/Territorial Lands Advisory Committee (Land Disposition).

The land use permitting policy, utilized within the land protection program, requires mandatory consultation with a variety of government and non-government agencies and organizations.

3.0 WATER MANAGEMENT FUNCTION

3.1 Introduction

The water management function involves the permitting of water use within the Northwest Territories for the purposes of protecting water quality and regulating water use, and the preservation of ocean water quality in and around the Arctic Archipelago. The main elements of the function are:

- policy
- inland waters management
- Arctic waters management

3.2 Mandate

The legislative mandate for this function comes from the following acts and regulations:

1. Dominion Water Power Act and Regulations (describes general federal interests in water and allows for federal involvement in trans-boundary streams and lakes and in major river diversions)
2. Northern Inland Waters Act and Regulations, (prescribes procedures for licencing and management of fresh water resources of the two territories)
3. Arctic Waters Pollution Prevention Act and Regulations

3.3 Policy and Operational Tools

Operations of the water management function are aided by the following documents:

Renewable Resources Inspections Manual (DIAND, 1986)

NWT Region Spill Plan (DIAND, 1986)

Working Agreement on Government Response to Oil Spills in the Northwest Territories (DIAND, COGLA, DOE, MOT, GNWT)

Licencing of water use in the NWT is the responsibility of the quasi-judicial Northwest Territories Water Board, an independent Board of nine members, three appointed from the federal civil service, three appointed on the recommendation of the Commissioner-in-Council and three appointed at the discretion of the Minister of Indian Affairs and Northern Development.

3.4 Programs and Services

The water management function can be divided into eight programs with duties as generally described below:

<u>Program</u>	<u>Activities</u>
1. Policy	reviews legislation and recommends revisions as appropriate - develops policy for northern waters management - negotiates trans-boundary issues with other jurisdictions
2. Regulation - Arctic Waters (N.B. This Program is not normally a provincial responsibility)	- prepares terms and conditions relative to arctic waters pollution prevention for insertion in drilling and production authorities inspection of operations
3. Regulation - Inland Waters	operation of the NWT Water Board support of the NWT Water Board - inspection to ensure compliance with licenses
4. Hydrology	- devise hydrology network for NWT administers hydrological agreement with Water Survey of Canada to establish network analyze results from network conduct flood damage control program
5. Water Quality	maintain water quality data system - determine water quality and develop standards
6. Pollution Control	- devise appropriate pollution prevention practices and standards monitor pollution - prepare and action oil spill pollution prevention programs operate NWT oil spill response line

- 7. Water Laboratory - analyze samples of water for pollution, water quality, research
- 8. Administration - provide financial support to NWT Water Board and regional staff
maintain records
revenue collection

3.5 Functional Organization

The programs and services are divided between operating sections as follows:

<u>HEADQUARTERS</u>	<u>REGION</u>	<u>DISTRICTS</u>
Policy	Regulation - Inland waters	Inspection of on-shore and offshore licenses
Hydrology	Regulation - Arctic waters	
Administration	Hydrology	
	Water Quality	
	Pollution Control	
	Water Laboratory	
	Administration	

3.6 Person Years

The staff levels assigned to this function in the 1986-87 fiscal year are as follows:

Headquarters	3	(shared with Yukon)
Regional Office	19	
District Offices	3	
NWT Water Board	3	

In the regional office one additional person year has been allocated under the Northern Oil and Gas Action Plan (NOGAP) and four positions are program-funded.

In the districts two additional positions are program-funded.

There are water resources officer positions in the Yellowknife, Inuvik, Fort Smith, Fort Simpson and Baffin districts. As yet no position has been assigned to the Keewatin District.

3.7 Clients Served

The inland waters element of the function serves NWT communities whose water use and sewage management must be

licenced by the Water Board, major industrial water users (mines, refineries and utilities) exploration programs requiring water for drilling and sampling and the general NWT public through water quality surveys and water management studies.

The Arctic waters element of the function serves the petroleum industry through the licencing and inspection of drilling platforms and production facilities operating within the zones covered by the Arctic Waters Pollution Prevention Act.

3.8 Linkages

Two technical committees advise the administrators of the water program.

The Technical Advisory Committee to the NWT Water Board include members from the Environmental Protection Service, the Department of Fisheries and Oceans, the GNWT Department of Renewable Resources, the GNWT Department of Municipal and Community Affairs, the Department of Health and Welfare, the Ministry of Transport, the Inland Water Directorate, the mining industry, the NWT Association of Municipalities, and, as appropriate, representatives of communities or native organizations, and other federal and territorial agencies.

The Arctic Waters Advisory Committee with membership similar to the Technical Committee advises the Arctic Waters Supervisor and the Canada Oil and Gas Lands Administration of the terms and conditions relating to water pollution and water quality for offshore petroleum operations.

A third committee, the Environmental Advisory Committee to the NWT Water Board chaired by the GNWT Department of Renewable Resources, recommends to the Board good water management practices (water quality and pollution standards, etc.)

Water management staff serve on other intra- and inter-departmental committees relating to environmental protection and resource management issues.

4.0 MINERALS MANAGEMENT FUNCTION

4.1 Introduction

The mineral management function includes those programs designed to promote orderly development of the mining industry within the Northwest Territories. The major elements of this function are:

policy
management
research

4.2 Mandate

The legislative mandate for the minerals management function are regulations under the Territorial Lands Act, specifically:

Canada Mining Regulations

Territorial Coal Regulations

Territorial Dredging Regulations

Minerals are defined in the Canada Mining Regulation as "precious and base metals and other naturally occurring substances that can be mined but does not include coal, petroleum and related hydrocarbons, native sulphur, construction stone, carving stone, limestone soapstone, marble, gypsum, shale, clay, sand, gravel, volcanic ash, earth, soil and diatomaceous earth, ochre, marl or peat or other substances regulated by other regulations made pursuant to the Public Lands Grant Act or the Territorial Lands Act".

4.3 Programs and Services

There are three main programs provided by this function:

<u>Program</u>	<u>Activities</u>
1. Policy	- development of new policy initiatives - review, amend and prepare legislation and regulations as required assess economic feasibility of proposed development

<u>Program</u>	<u>Activities</u>
1. Policy - Con't	- assess socioeconomic effects of development support mining advisory bodies advise industry in economic and socioeconomic factors affecting industry
2. Minerals Administration	issue Prospectors Licenses record claims group claims transfer claims lease claims approve surveys grant assessment credits collect and verify royalties maintain accurate claim maps issue Prospecting Permits monitor and enforce regulations issue hardrock drilling authorities adjudicate claim disputes provide mineral export authorizations
3. Research	- geological, geophysical and geochemical mapping, analysis and synthesis evaluation of mineral potential - publication of maps and reports maintain assessment records core library, mineral deposits inventory, statistical database and exploration archives assist in the identification of soapstone deposits

4.4 Functional Organization

The program and services are administered as follows:

Headquarters

Policy
Royalty Collection
Resources evaluation

Region

Policy
Minerals administration (except royalty collection)
Research

4.5 Person Years

The person years assigned to the function total 32.5, 11 in Headquarters responsible for Yukon and NWT policy and operation and 21.5 in Yellowknife. The drafting unit in Yellowknife of 4 person years assigned to administration devotes 75% of its effort to support the Minerals Management Group.

4.6 Clients Served

The minerals management function mainly serves the mineral industry (mines, exploration companies, prospectors) and governments. On occasion the function is involved with tourists and members of the general public.

4.7 Linkages

The minerals management function has strong ties with other mineral management groups within governments and with the mineral industry through a series of committees and task forces which include:

- Intergovernmental Mining Group
- National Geological Surveys Committee
- Committee of Provincial Chief Geologists
- NWT Mineral Exploration Liaison Committee
- Geoscience Forum Committee
- International Liaison Group on Gold Mining
- Mineral Development Sub-Agreement Planning Group
- NWT Liaison Committee on Surveys and Mapping
- National Geoscan Database Committee
- Mine Abandonment Committee

The staff of the mineral management function sit on appropriate environmental review committees as required.

5.0 ENVIRONMENTAL MANAGEMENT FUNCTION

5.1 Introduction

The environmental management function within the Department of Indian Affairs and Northern Development is provincial in nature because it is applied, for the most part, against the Northern resource management functions of the Department that are themselves provincial in nature.

5.2 Mandate

There is no legislative mandate for this function. Its mandate derives from two policies.

a policy mandate from the Minister in relation to Ministerial responsibilities for resource management. Environmental assessment and management is regarded as an essential element of responsible resource management .

a policy mandate from the Cabinet requiring Federal Departments and Agencies to carry out environmental evaluations with regard to their activities, or falling within their regulatory jurisdiction. This policy mandate establishes by order-in-council the Environmental Assessment and Review Process (EARP). Within that process environmental evaluations must be conducted leading to a decision as to whether a proposed activity must be referred to a public review.

5.3 Programs and Services

The activities within this management function can be divided into six specific and distinct programs or services:

<u>Program</u>	<u>Activities</u>
1. Assessment and Evaluation	- EARP evaluations internal environmental evaluations referrals to public reviews co-ordination of Departmental input in formal environmental assessments or public reviews technical advice and support to EARP or other public reviews

<u>Program</u>	<u>Activities</u>
2. Policy	environmental planning - development of environmental standards development of policy and procedures
3. Research	study design monitor studies - give grants co-ordinate research - sponsor research
4. Monitoring	monitor effectiveness/efficiency of terms and conditions of approved projects evaluate project implementation
5. Information	maintain reference and documentation centre
6. Technical Support	- technical and scientific advice and support for input into environmental evaluations, assessments and reviews to: Department other Departments other Governments native groups industry special interest groups - procedural advice to Department

5.4 Functional Organization

The responsibilities for these programs and services are distributed as follows:

Headquarters

Assessment and evaluation
Policy
Research
Monitoring
Information
Technical Support

Region

Assessment and evaluation
Monitoring
Information
Technical Support

5.5 Person Years

Environmental management is a headquarters function. There are no field staff at the District level dedicated to this function.

Headquarters

Direction and Administrative Support	3
Environmental Assessment (Terrestrial)	9
Offshore Environment (Marine)	5
Environmental Studies	3

Region

Direction and Administrative Support	2
Environmental Management Operations	4

TOTAL 26

5.6 Clients Served

The technical support, research and information programs serve clients within the Department, other governments and government departments, and the public.

Environmental evaluation and assessment, monitoring and policy programs serve clients within the Department, principally those involved in resource management and economic development.

5.7 Linkages

Internal linkages occur with mining, oil and gas, forestry management functions within the Department, primarily in terms of environmental evaluation and assessment.

Linkages with the water management function within the Department, and with environmental functions within other government departments and agencies are important from the stand point of the co-ordination of technical and scientific input into evaluations, assessments and public reviews, establishment of standards, research, monitoring and policy evaluation and formation. Linkages of this nature also exist with Territorial Governments.

Major linkages are:

Federal

Department of Fisheries and Oceans
Department of the Environment
Department of Energy, Mines & Resources
Canada Oil and Gas Lands Administration
Federal Environmental Assessment and Review Office

Territorial (NWT)

Department of Renewable Resources

Other

Environmental Screening Committee - Inuvialuit
Environmental Review Board - Inuvialuit

Co-ordination occurs through several major committees:

Headquarters

Interdepartmental Environmental Review Committee

Region

Regional Environmental Screening Committee

Other

External committees in which the environmental management function is represented are:

Canada/Denmark Cooperative Agreement Committee (Davis Strait)
Canada/USSR Agreement Joint Committee
Interprovincial Pipeline - Norman Wells Environmental Monitoring Committee

6.0 REGIONAL PLANNING FUNCTION

6.1 Introduction

Regional planning (often called land use planning) is defined as a systematic process of decision-making relating to the conservation, development, management and use of land and resources, including inland waters and the offshore.

The function has two elements, policy and planning

The policy responsibilities are shared with the Government of the Northwest Territories and the four native organizations: the Dene Nation, the Metis Association of the Northwest Territories, the Committee for Original Peoples' Entitlement (COPE) and the Tungavik Federation of Nunavut. The planning element is the responsibility of the NWT Land Use Planning Commission.

6.2 Mandate

There is no specific legislative mandate for this function. The Federal Cabinet announced their approval of this policy initiative in July 1981. The function is currently operated according to the Basis of Agreement of July 1983 entered into between the Federal Government, the GNWT and the native associations.

6.3 Organization

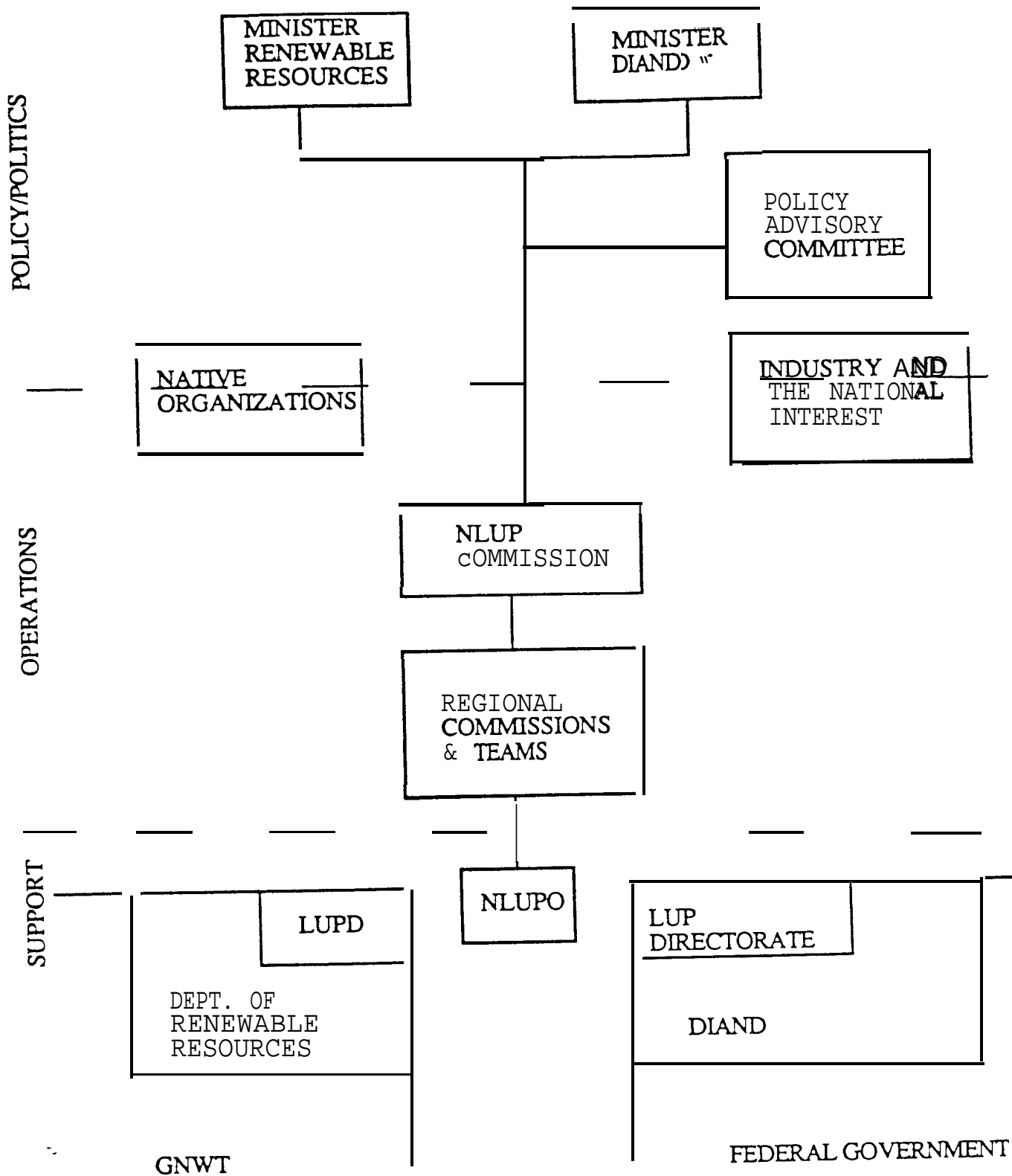
The policy element is administered by the Policy Advisory Committee (PAC) co-chaired by the Regional Director General of DIAND and the Deputy Minister of Renewable Resources, GNWT and having on it representatives of the native organizations as well as other government departments.

The planning element is the responsibility of the NWT Land Use Planning Commission, an eight person body appointed by the Minister of DIAND and the GNWT Minister of Renewable Resources from nominations received from the native groups and from nominations from the federal and territorial governments. The Commission's staff, the Land Use Planning Office (LUPO), are supplied by the Federal Government. The Commission oversees the planning work done by regional commissions.

Figure 1 shows the relationships of the various actors in this function.

FIGURE 1

NLUP PROGRAM STRUCTURE



6.4 Policy and Operational Tools

The NWT Land Use Planning Commission is governed by Terms of Reference approved by the Ministers.

Each Regional Planning Commission is guided by terms of reference and an "Areas of Concern" document prepared by the Policy Advisory Committee for transmission through the Ministers to the Regional Commission.

6.5 Programs and Services

The regional planning function is done through five separate programs as follows:

<u>Program</u>	<u>Activities</u>
1. Policy (Policy Advisory Committee)	- development of terms of reference for planning commission - prior ization of planning regions - development of policy documents to aid commissions review draft plans advise the ministers
2. Co-ordination (NWT Commission)	establish regional planning commissions - promote consistency - provide link between all parties and the Minister resolve boundary problems manage the Land Use Planning Office - monitor the implementation and the effectiveness of the plans
3. Planning (Regional Commission)	- preparation of draft regional plans through consultation with communities, industries, governments and other interested parties communicate plans to all parties
4. Administration (Land Use Planning Office)	- support the commissions and the planning partners as required

Program

Activities

5. Research (Land Use Planning Office) - devise new techniques for presenting planning options
collection of data for commissions
aids in the preparation of plans

6.6 Person Years

The regional planning function has 11 person years assigned to it in the Northwest Territories and 5 person years shared between the NWT and the Yukon assigned to Ottawa.

6.7 Clients Served

The planning process is designed to serve all parties active in the NWT from individual citizens to the largest units of government and industry with special attention to aboriginal peoples and their land interests as they define them.

6.8 Linkages

The regional planning process has been designed to provide strong linkages between the NWT Land Use Planning Commission and both governments and native groups. The regional commissions are encouraged through their terms of reference to develop equally strong linkages between themselves and the communities of their planning region and outside interests acting within their planning region.

7.0 INLAND FISHERY MANAGEMENT FUNCTION

7.1 Introduction

This management function is unlike others within the report in that it is a Federal government function under the Constitution and will remain so. The function, therefore, will not be devolved to the Territorial government but delegated. This follows a precedent already established in some provinces.

It is also clear from discussions with Department of Fisheries and Oceans senior officials in Ottawa that the responsibility for the inland fishery management function will not be delegated in its entirety. Elements within the function relating to anadromous fish habitat and stocks would remain with the Department of Fisheries and Oceans as in most coastal provinces. The responsibility for fish inspections, relating to the commercial marketing of fresh water fish stocks, would also remain Federal.

7.2 Mandate

The basic mandate for this function derives from the Fisheries Act, in particular:

Section 33 dealing with the deposit of deleterious substances within fish habitat. This relates to the program of habitat protection within the function.

Section 31, which mandates a control of works and activities that might have an effect upon fish and/or fish habitat. The powers necessary to enforce within the mandate provided by this section are found within Section 33.

In addition, a number of regulations under the Fisheries Act expand upon the mandate and powers of the Minister. These are:

- NWT Fisheries Regulations (habitat and stock)
- Phosphorus Concentration Control Regulations
- Petroleum Refinery Liquid Effluent Regulations
- Pulp and Paper Effluent Regulations
- Chloral, Alkali, Mercury Regulations

These latter four regulations relate to the protection of habitat by controlling the deposit of deleterious sub-

stances. They establish national standards for the deposit of deleterious substances within waters used by fish.

7.3 Policy and Operational Tools

Under the NWT Fisheries Regulations a number of schedules provide detailed rules for fish catch, quotas, allocation, etc., and controls on activities that might affect habitat but are not provided for in specific regulations (exploratives, waste materials, etc.)

A Memorandum of Understanding between the Department of Fisheries and Oceans and the Environmental Protection Service of the Department of the Environment, mandates the Environmental Protection Service to control the deposit of deleterious substances which may effect fish or fish habitat.

The policy for fish habitat management is outlined in a policy document "Policy for the Management of Habitat", October 1986.

7.4 Programs and Services

<u>Program</u>	<u>Activities</u>
1. Habitat Protection	- baseline research standards regulation - monitoring enforcement
2. Habitat Restoration and Development	- baseline research other research - planning - program implementation
3. Fish Stock Management	research - quotas catch limits allocations - monitoring enforcement - fisheries development economic analysis
4. Scientific Research	- habitat - fish stocks

5. Scientific and Technical Advice and Support
- participation in regulatory bodies
 - conduct environmental assessment
 - respond to general inquiries

7.5 Functional Organization

<u>Headquarters</u>	<u>Region (Winnipeg)</u>	<u>Areas</u>
Policy Research Scientific & Technical Advice & Support Planning	Policy Co-ordination Operational Planning Habitat Restoration and Protection Fish Stock [Management Research Scientific & Technical Advice and Support	Habitat Restoration & Protection Fish Stock Management Data Collection Restoration Program Implementation

NOTE: The area offices are currently at Hay River, Yellowknife, Inuvik, Iqaluit and Rankin Inlet.

7.6 Person Years

It is not possible to be specific with regard to the person years assigned to this function, particularly with the exclusion of anadromous species. A large number of individuals may be involved within the management of this function for a portion of their time. The nature and degree of their involvement can vary considerably.

Department of Fisheries and Oceans officials estimate the aggregated number of person years engaged in this function to be about 10.

7.7 Clients Served

Within the habitat protection program clients served directly are primarily regulatory agencies engaged in environmental management and protection, the fishing industry and indirectly renewable and non-renewable resource managers and industries.

The fish stock management program services:

- Sports fishermen
- commercial fishermen
- domestic consumers
- aboriginal users of the resource

Scientific and technical advice and support, and research programs, serve a clientele that includes:

- regulatory agencies
- environment assessment and review agencies
- resource managers
- resource industries
- conservation agencies and organizations
- environmental management and planning agencies
- special interest groups
- aboriginal organizations
- sports and commercial fishermen and companies

7.8 Linkages

An important linkage exists with the Environmental Protection Service of the Department of Environment which administers the habitat protection programs under the Fisheries Act through a Memorandum of Understanding.

A linkage exists with the Government of the Northwest Territories which issues and collects revenues from the sale of sports fishing licenses.

A linkage exists with regulatory > management and environmental evaluation agencies and bodies engaged in activities that relate to some element of fish habitat. These include:

Department of Indian Affairs
and Northern Development

NWT Water Board
land management
water management
oil and gas
mining

Department of the Environment

forestry
Parks Canada
Environmental
Protection
Services
Federal Environmental
and
Assessment
Office (FEARO)

Canada Oil and Gas Lands
Administration (COGLA)

oil and gas
management

Fresh Fish Marketing Board

marketing

Other important linkages are:

Department of Economic
Development & Tourism (GNWT)

Renewable
Resource Use
Policy
Sports fishing
lodges
Economic Develop-
ment Agreement
Special ARDA

Department of Renewable
Resources (GNWT)

Economic Develop
ment Agreement
Special ARDA
Reciprocal
agreement on
enforcement
- Renewable
Resource Manage-
ment Board

With regard to membership upon committees, the Department of Fisheries and Oceans is represented upon all interdepart-
mental and intergovernmental **committees** relating to environ-
mental management, evaluation or screening. In addition,
the following committees are important in terms of fish
stock management.

Great Slave Lake Advisory **Committee**

Great Bear Lake Management **Committee**

The Department chairs, and contributes funding to the Joint
Fisheries Management **Committee** established under the
Canada/Inuvialuit Settlement Agreement.