

**Government  
Resource Revenue  
Sharing with  
Aboriginal  
Communities  
in Canada:  
A Jurisdictional  
Review**



**2014**



**PROSPECTORS &  
DEVELOPERS  
ASSOCIATION  
OF CANADA**

**Prospectors & Developers Association of Canada**

The PDAC exists to promote a responsible, vibrant and sustainable Canadian mineral exploration and development sector. The PDAC encourages leading practices in technical, environmental, safety and social performance in Canada and internationally.

The PDAC Aboriginal Affairs Program supports the development of positive relationships between Aboriginal communities and mineral exploration and mining companies, as well as increased participation by Aboriginal people in the mineral industry.

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This report contains contributions from the following individuals and organizations:  
Jonathan Fowler, Michael Fox, Sandra Gogal, Nadim Kara, Stratos Inc., Lesley Williams  
and Chuck Willms.

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# Introduction



Mineral development in Canada can offer opportunities for Aboriginal people to become involved in the sector and benefit from projects in and around Aboriginal communities. The industry has increasingly contributed to the socio-economic development of a number of Aboriginal communities. These socio-economic opportunities have typically involved training, education, business development, community development, contract and employment opportunities and financial considerations. The increase in opportunity for Aboriginal communities to benefit from mineral development reflects the evolution of Aboriginal rights jurisprudence, public policy changes, strengthened capacity to participate in project development, and industry's willingness to enter into company-community agreements.

While industry is willing to enter into arrangements that involve providing benefits to Aboriginal communities, government resource revenue sharing (GRRS) between the Crown and Aboriginal communities presents a key opportunity to enhance participation by and economic opportunities for Aboriginal people.

The focus of this research is government resource revenue sharing, which is just one of the ways in which Aboriginal communities may receive revenues from resource development in their traditional territories. This report does not examine other revenue-related opportunities that exist. A variety of work has been or is being developed by different groups on other available resource benefits, as well as the potential for other means of securing resource-related revenues. This report focuses solely on the issue of government revenues derived from mineral development and the sharing of these revenues with Aboriginal people.

For the purposes of this research, GRRS is viewed as any formal agreement between a national or sub-national government and an Aboriginal community the sharing of government (public) revenues generated from natural resource extraction or use. Revenues that governments may receive from exploration or mining differ across jurisdictions and may include royalties, mineral taxes and rents (e.g. for land use).

GRRS has become increasingly prevalent in public discourse around mineral development in Canada. It is often described as a means of ensuring that Aboriginal communities benefit from projects within their traditional territories beyond those opportunities presented from working with companies and by directly participating in the sector.

In settled and unsettled areas across Canada, Aboriginal groups have advocated for a share of the revenues derived from mineral development on their traditional territories. With the modern settlement of land claims in certain jurisdictions, government resource revenue sharing has been included in such agreements (i.e. "modern treaties"). In some areas, governments have chosen not to adopt government resource revenue sharing mechanisms – instead, they have deferred to industry and Aboriginal groups to determine how economic benefits from development would be realized through mechanisms such as company-community agreements. Industry can view the situation as a "double tax," given that companies pay fees, taxes and royalties to federal, provincial and territorial governments, as well as contribute funds to Aboriginal communities through commercial arrangements.

The PDAC is supportive of GRRS between the Crown and Aboriginal communities. Such Crown-community arrangements can generate economic benefits for communities, in addition to the industry practice of developing private arrangements with impacted communities, and encourage participation in the mineral sector. Further, GRRS mechanisms across the country can help create certainty for projects, contribute to community support of projects and lessen the expectation that industry should shoulder the full burden of sharing profits, which are often key components of any company-community agreement. The PDAC is supportive of government policies and mechanisms that seek to share public revenues, to the extent that they do not result in changes to tax regulations that would increase costs for companies.

The PDAC initiated this research project in order to provide and summarize publically available information from the various provincial and territorial jurisdictions on GRRS with Aboriginal communities, specific to the mineral sector. As outlined in the PDAC's 2007 Government Resource Revenue Sharing with Aboriginal Peoples position statement (Appendix A),<sup>1</sup> this knowledge and understanding will help inform the PDAC and its membership in their work with Canadian governments and Aboriginal communities, particularly in terms of advocacy efforts and future research initiatives in regards to GRRS.

This research project uses publicly available information to identify Canadian jurisdictions that have or do not have mineral sector-specific GRRS arrangements with Aboriginal groups. Information was drawn primarily from government sources, Aboriginal organization websites and academic/think tank reports. Some of the questions used to guide the research include:

- What is the status of Aboriginal land claims, treaties and self-government agreements in the jurisdiction?
- Does the jurisdiction have a GRRS policy/model?
- What is the current GRRS model/formula?

*Revenues that Aboriginal groups may receive from development on lands where they have subsurface rights and mineral ownership are not considered to be government resource revenue sharing. GRRS arrangements are considered to be the sharing of government (public) revenues generated from natural resource extraction or use.*

The first section of the report offers a jurisdictional scan of the existing GRRS models in Canada, as well as a brief overview of those provinces that have not developed a GRRS policy or signed agreements with Aboriginal communities. The report then briefly characterizes some of the key elements within government resource revenue sharing agreements.

## Characterizing GRRS Arrangements

Within Canada, GRRS with Aboriginal groups varies across jurisdictions. Several jurisdictions actively apply mineral sector-specific GRRS models, while others have not developed policies or specific provisions for entering into such agreements. The table below summarizes the status of GRRS in Canadian jurisdictions, along with a short description.

<sup>1</sup> Prospectors & Developers Association of Canada. (2007). Government Resource Revenue Sharing with Aboriginal Peoples. Retrieved September 8, 2014, from <http://www.pdac.ca/pdf-viewer?doc=/docs/default-source/aboriginal-affairs-docs/pdac-position-government-resource-revenue-sharing-eng.pdf>

**Table 1 Status of mineral-specific GRRS arrangements with Aboriginal people in Canadian jurisdictions**

Jurisdiction	GRRS policy/model
Yukon	<b>Yes</b> GRRS is applied through signed land claims (Final Agreements, guided by the Umbrella Final Agreement). A revised arrangement is being discussed between the government and Yukon First Nations. <sup>2</sup>
Northwest Territories	<b>Yes</b> GRRS is applied through three signed land claims and an interim resource development agreement between the Government of Canada and Aboriginal communities. An additional GRRS arrangement between the Government of the Northwest Territories, the Inuvialuit Regional Corporation, the Gwich'in Tribal Council, the Sahtu Secretariat Inc., the Tlicho Government and the Northwest Territory Métis Nation was signed in conjunction with devolution.
Nunavut	<b>Yes</b> GRRS is applied under the Nunavut Land Claims Agreement (NLCA) and through the Resource Revenue Policy under the Nunavut Tunngavik Incorporated (NTI), a body established in 1993 to ensure implementation of the NLCA for the Inuit of Nunavut.
British Columbia	<b>Yes</b> A non-treaty GRRS agreement mechanism exists for mining, as well as the forestry, clean energy and oil and gas sectors.
Quebec	<b>Yes</b> GRRS is applied through an agreement between the province and the Crees of Quebec.
Newfoundland and Labrador	<b>Yes</b> GRRS is applied through land claim agreements and applies to resource development within defined areas.
Alberta	No The province has not instituted a GRRS model.
Saskatchewan	No The province has not instituted a GRRS model. Some Aboriginal groups are calling for GRRS, <sup>3,4</sup> but the provincial government has indicated that it will not undertake GRRS. <sup>5</sup>
Manitoba	No The province has not instituted a GRRS model.
Ontario	No The province has not instituted a GRRS model. In 2008, the provincial government announced the implementation of resource benefits sharing, but has not developed a framework. Ontario appears to be examining options on a case-by-case basis for GRRS in the Ring of Fire mineral development area. <sup>6</sup>
New Brunswick	No The province has not instituted a GRRS model. A current tripartite discussion process regarding Aboriginal rights and self-government includes GRRS, and the province is proposing to develop an oil and natural gas royalty regime.
Prince Edward Island	No The province has not instituted a GRRS model.
Nova Scotia	No The province has not instituted a GRRS model. It is not evident if GRRS is part of the "Made-in-Nova Scotia Process" underway to address Aboriginal rights.

2 Carl, S., & Liard, M. (2013, March 26). First Nations spurn government's ultimatum. *Whitehorse Daily Star*. Retrieved September 8, 2014, from <http://whitehorsestar.com/News/first-nations-spurn-governments-ultimatum>

3 Federation of Saskatchewan Indian Nations. (n.d.). Treaty Right to Resources. Retrieved September 8, 2014, from <http://www.fsin.com/index.php/treaty-right-to-resources.html>

4 McCarthy, S. (2013, January 16). First nations' growing voice pressures resource sector. *The Globe and Mail*. Retrieved September 8, 2014, from <http://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/first-nations-growing-voice-powers-resource-sector/article7447701/>

5 Wall, B. and the Saskatchewan Party. (2011, October 14). Wall Rejects Lingenfelter's Special Deal for First Nations Resource Revenue Sharing. Retrieved September 8, 2014, from <http://saskparty.com/index.php?pageid=NewsItem&newsid=202>

6 Government of Ontario. (2014, March 26). *Ontario, First Nations to Work Together on Ring of Fire* [Press Release]. Retrieved from [http://news.ontario.ca/mndmf/en/2014/03/ontario-first-nations-to-work-together-on-ring-of-fire.html?utm\\_source=ondemand&utm\\_medium=email&utm\\_campaign=m](http://news.ontario.ca/mndmf/en/2014/03/ontario-first-nations-to-work-together-on-ring-of-fire.html?utm_source=ondemand&utm_medium=email&utm_campaign=m)

Currently, within Canada, the following six jurisdictions have formal, documented GRRS arrangements with Aboriginal communities, whereby the Crown shares public revenues accrued from mineral development: British Columbia, the Yukon, the Northwest Territories, Nunavut, Quebec and Newfoundland and Labrador. The remaining jurisdictions did not have formalized mineral industry-specific GRRS arrangements with Aboriginal communities, at the time this report was written (April 2014). In reviewing jurisdictions with GRRS arrangements in place, there are some key elements that characterize them.

### **Nature of GRRS Arrangements**

Generally, there are two types of GRRS arrangements in Canada: 1) project-specific arrangements; and 2) integrated GRRS arrangements, included within a formal agreement (land claim or broad agreement) between a government and one or more Aboriginal communities.

Project-specific GRRS arrangements are sector-based agreements that are negotiated on a case-by-case basis at the project level, between the government and the impacted Aboriginal community (i.e. communities in which project activities take place on traditional territory and have a social, economic and/or environmental impact).

British Columbia's GRRS approach is applied on a project-by-project basis and shares direct provincial mineral tax revenues. The province has established sector-based GRRS agreements for mining, forestry, oil and gas, as well as clean energy. Unlike other GRRS mechanisms in Canada, the British Columbia model is a negotiated process, and the arrangements vary among signatories.<sup>7</sup> This approach emerged from commitments made in the Transformative Change Accord, the New Relationship and subsequent policy decisions to develop land and resource agreements "to enhance economic opportunities, support social development, and in some cases, support the negotiation of treaties with First Nations."<sup>8</sup> Currently, this case-by-case approach to resource revenue sharing is unique to British Columbia and the Memorandum of Agreement with the Labrador Innu that provides benefits to the communities specifically from the Voisey's Bay project.

Integrated GRRS arrangements<sup>9</sup> are developed within the context of land claim agreements, and are found in the Yukon, the Northwest Territories, Nunavut, Quebec and Newfoundland and Labrador. Settled land claims are negotiated between the federal, provincial or territorial government and Aboriginal communities and are designed to settle outstanding land use and ownership questions in areas without historical treaties. These agreements seek to establish clarity around rights, land and resource ownership and management, governance, and social development. Within land claim agreements, GRRS includes revenues that are shared with Aboriginal groups, on lands where subsurface rights are owned by the Crown. These revenues are distinct from revenues that Aboriginal groups receive as a result of their established ownership of subsurface rights, as outlined in a land claim. In contrast to the sector- or project-specific approach, GRRS provisions embedded within land claims are not negotiated at the start of each new project, as they include pre-negotiated formulas and tend to cover a broader range of resources within the area defined by the land claim agreement.

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7 Government of British Columbia. (n.d.). *Modules for ECDA Toolkit Communications*. Presentation. Retrieved September 8, 2014, from <http://www.ceaa.gc.ca/050/documents/42646/42646E.pdf>

8 Government of British Columbia. (n.d.). *First Nations Negotiations - Consulting with First Nations*. Retrieved September 8, 2014, from <http://www2.gov.bc.ca/gov/topic.page?id=81CB3D169ECC4F1787D629B3E4B6FC99>

9 Also referred to as "modern treaties" or "comprehensive land claims agreements," these arrangements arise where Aboriginal land rights have not been dealt with by past treaties or through other legal means (Aboriginal Affairs and Northern Development Canada. [2010, September 15]. *Land Claims*. Retrieved September 8, 2014, from <http://www.aadnc-aandc.gc.ca/eng/1100100030285/1100100030289>). The GRRS arrangement with the Cree of Quebec is not within the land claim. However, the subsequent agreement containing revenue sharing provisions, *La paix des braves*, is not a "project-by-project" GRRS mechanism, but an overarching agreement on resource management and beneficence within the Cree territory (Oblin, G. [2007]. *The Paix des Braves Agreement of 2002: An Analysis of Cree Responses* [Doctoral thesis]. Concordia University. Retrieved September 8, 2014, from <http://spectrum.library.concordia.ca/975819/1/NR31116.pdf>).



The table below provides a summary of regional land claim agreements within Canada that include GRRS provisions.

**Table 2 Summary of modern treaties that address GRRS in Canada**

Jurisdiction	Land claims that include GRRS provisions
Yukon (11)	Champagne and Aishihik First Nations Final Agreement Teslin Tlingit Council Final Agreement First Nation of Nacho Nyak Dun Final Agreement Vuntut Gwitchin First Nation Final Agreement Little Salmon/Carmacks First Nation Final Agreement Selkirk First Nation Final Agreement Tr'ondëk Hwëch'in Final Agreement Ta'an Kwäch'än Council Final Agreement Kluane First Nation Final Agreement Kwanlin Dün First Nation Final Agreement Carcross/Tagish First Nation Final Agreement
Northwest Territories (4)	Inuvialuit Final Agreement Gwich'in Comprehensive Land Claim Agreement Sahtu Dene and Métis Comprehensive Land Claim Agreement Tlicho Land Claims and Self-Government Agreement
Nunavut (1)	Nunavut Land Claims Agreement
Newfoundland and Labrador (1)	Labrador Inuit Land Claims Agreement

### Sources of Revenue

Resource revenues included in GRRS arrangements in Canada are direct revenues generated by governments from royalties, mining taxes and/or fees (i.e. leases and licenses).<sup>10</sup> Therefore, the revenues to be shared with Aboriginal communities are limited to the amounts that governments collect directly from resource companies.

From a broader perspective, the revenues that governments actually collect from resource activities extend beyond the direct sources noted above. They may include corporate taxes and personal income taxes. The sharing of these revenues is not addressed in any GRRS arrangement in Canada.

### Formula Types and Revenues

All jurisdictions with GRRS arrangements based in land claim agreements have specific formulas for determining payment amounts to Aboriginal communities. British Columbia's model is negotiated on a case-by-case basis.

The most common type of formula used is a **layered percentages formula**, which includes a base percentage of the first resource revenues collected, up to a specified ceiling, and a second, lower percentage of any additional resource revenues collected by governments, exceeding that amount.

10 Cornish, C. (2006). Mapping the Road Ahead: Finding Common Ground On Resource Revenue Sharing. PDAC.

For example, the formula for GRRS with the Sahtu in the Northwest Territories uses a layered formula, as follows:

- a) 7.5% of the first \$2 million of resource revenues collected; and
- b) 1.5% of any additional resource revenues collected.

The base percentage within reviewed mineral sector-specific GRRS arrangements ranges from 7.5% of the first \$2 million (i.e. in the Sahtu and Gwich'in Comprehensive Land Claim Agreements in the Northwest Territories) up to 50% of the first \$2 million (i.e. in Newfoundland and Labrador and the Yukon).

The second-tier percentage ranges from 1.5% of additional revenues (i.e. in the Sahtu and Gwich'in Comprehensive Land Claim Agreements in the Northwest Territories) up to 10% of additional revenues (i.e. in the Yukon Umbrella Final Agreement, which is referenced in all Final Agreements with Yukon First Nations). The layered formula often applies to lands that remain in federal hands, within Aboriginal settlement areas. In cases where subsurface ownership is transferred directly to the community, a larger portion of resource revenues goes directly to the community.

The formula in the *Paix des braves* of Quebec is unique. It is based on a **pre-determined amount**, negotiated through the agreement. A stipulated annual payment will be made to the Cree by the province of Quebec, until March 31, 2052. The annual payment from Quebec is the greater of \$70 million or an indexed amount based on an inflation formula.

Another GRRS formula is **negotiated, fixed percentages** of resource revenues collected by the government. This approach is used in British Columbia for its sector-based GRRS arrangements and varies from project to project. Negotiated, fixed percentages of resource revenues are also included in the Labrador Inuit Land Claims Agreement, where the Nunatsiavut government is entitled to receive 25% of revenues from subsurface resources in Labrador Inuit Lands and 5% of revenues from the Voisey's Bay project. A fixed percentage of resource revenue sharing by the Government of the Northwest Territories has also been negotiated with Aboriginal communities, in conjunction with devolution.

## Jurisdictional Review



This section presents the results of a review conducted to identify the presence or absence of mineral sector-specific GRRS arrangements between governments and Aboriginal communities throughout all Canadian jurisdictions. A description of the specific geographical context (e.g. status of land claims, mineral rights ownership and political situation) is also provided.

## Jurisdictions with GRRS Arrangements

The following provides detailed information about mineral sector-specific GRRS arrangements for the Canadian jurisdictions that have a GRRS policy or model, as well as some contextual information, including land regimes and Aboriginal rights.

### Yukon

In 2003, the Yukon government became the first territorial government in Canada to take over land and resource management responsibilities through devolution from the Government of Canada. As per the Yukon Northern Affairs Program Devolution Transfer Agreement (DTA), signed in 2001, many government responsibilities were devolved to the Yukon government, including public lands and resource management over water, forestry and mineral resources.

Today, the territorial government is the owner of mineral resources, with the exception of Category A Settlement Land, where Yukon First Nations with settled land claims have complete ownership of surface and subsurface resources, including minerals, as per the Final Agreements. These Final Agreements are modern treaties negotiated under the Umbrella Final Agreement (UFA) and represent an exchange of undefined Aboriginal rights for defined treaty rights.<sup>11</sup> The UFA (1993) is a policy document signed between the Government of Canada, the Government of Yukon and Yukon First Nations as represented by the Council of Yukon First Nations. The UFA is a non-legally binding framework to guide Yukon First Nations and the Yukon government in their negotiations to conclude individual land claim agreements (i.e. Yukon First Nation Final Agreements). Eleven of fourteen First Nations in the Yukon have negotiated Final Agreements, including:

- Champagne and Aishihik First Nations Final Agreement
- Teslin Tlingit Council Final Agreement
- First Nation of Nacho Nyak Dun Final Agreement
- Vuntut Gwitchin First Nation Final Agreement
- Little Salmon/Carmacks First Nation Final Agreement
- Selkirk First Nation Final Agreement
- Tr'ondëk Hwëch'in Final Agreement
- Ta'an Kwäch'än Council Final Agreement
- Kluane First Nation Final Agreement
- Kwanlin Dün First Nation Final Agreement
- Carcross/Tagish First Nation Final Agreement

Three First Nations (i.e. Liard First Nation, Ross River Dena Council and White River First Nation) have not settled land claims.

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<sup>11</sup> Government of Yukon, Executive Council Office. (2008, April 30). The Umbrella Final Agreement, First Nation Final Agreements and Treaty Rights. Retrieved September 8, 2014, from <http://www.eco.gov.yk.ca/landclaims/about.html>

The UFA defines the types of land that Yukon First Nations will own and manage. They include:

**Category A Settlement Land** – The Yukon First Nation has complete ownership of the *surface and subsurface*. As a result, the Yukon First Nation has the right to use the surface of the land and what is below the surface, such as minerals, oil and gas.

**Category B Settlement Land** – The Yukon First Nation holds title to the surface of the land, but not to the subsurface. The government retains title to mines and minerals.

**Fee Simple Settlement Land** – Settlement land owned under the same form of fee simple title as is commonly held by individuals who own land. Individual lots in subdivisions, for example, will normally be held in fee simple title.

**Non-Settlement Land** – All land other than those categories of land described above. The Aboriginal title will be released on Non-Settlement Land.<sup>12</sup>

Under the Final Agreements, the Yukon government continues to administer mineral claims on settlement land through the “encumbering rights provisions” (i.e. new licence, permit or other right with respect to petroleum or mines and minerals); that is, permitting, licensing and the collection of royalties continue to be done through the Yukon government.

#### **GRRS Arrangements and Royalties**

The UFA and individual Final Agreements address royalties and GRRS arrangements, and the UFA provides a common template that is applied by each of the Yukon First Nations with a land claim agreement. A Yukon First Nation receives “royalties” either: a) by directly taxing resource developers on Category A Settlement Land; or b) as part of the Crown Royalty Sharing Agreement defined within the UFA and that came into being under devolution. While both forms of revenues are defined as “royalties,” the Crown Royalty Sharing Agreement is the GRRS regime for Yukon First Nations, organized through the land claim agreements.

The two types of “royalties” are defined as:<sup>13</sup>

“Crown Royalty” means the money the Government collects from the resource development industry, where Government owns the resource. A royalty is a type of tax on a company or individual who is taking a resource. The amount of money which an individual or company has to pay to Government as a royalty depends upon the amount of the resource which is produced in any given year and upon the royalty rates prescribed in Government’s legislation.

A “Yukon First Nation Royalty” is the amount of money a Yukon First Nation receives directly for the extraction or development of a natural resource on Category A Settlement Land.<sup>14</sup>

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12 Government of Yukon, Office of the Government Leader, & Council of Yukon First Nations. (1997). *Understanding the Yukon Umbrella Final Agreement: A Land Claim Settlement Information Package*. Whitehorse, Yukon, p. 11. Retrieved September 8, 2014, from [http://www.eco.gov.yk.ca/pdf/Understanding\\_the\\_Yukon\\_UFA.pdf](http://www.eco.gov.yk.ca/pdf/Understanding_the_Yukon_UFA.pdf)

13 Government of Yukon, Office of the Government Leader, & Council of Yukon First Nations. (1997). *Understanding the Yukon Umbrella Final Agreement: A Land Claim Settlement Information Package*. Whitehorse, Yukon, p. 66. Retrieved September 8, 2014, from [http://www.eco.gov.yk.ca/pdf/Understanding\\_the\\_Yukon\\_UFA.pdf](http://www.eco.gov.yk.ca/pdf/Understanding_the_Yukon_UFA.pdf)

14 These royalties are distinct from a GRRS regime, as the First Nations own the subsurface rights on Category A lands.

The 11 Yukon First Nations with Final Agreements may collect royalties directly from resource developers on Category A Settlement Lands for which they are the sole owners of surface and subsurface mines or minerals. This is not considered to be government resource revenue sharing.

In the case of lands for which the Government of Yukon is the owner of the subsurface, Yukon First Nations may receive 50% of the first \$2 million of any amount by which Yukon government royalties exceed Yukon First Nation royalties collected on their Category A Settlement Land, and 10% of any additional amount by which Crown royalties exceed Yukon First Nation royalties that year.

These amounts are prorated among Yukon First Nations on the same basis as financial compensation paid pursuant to Chapter 19 - Financial Compensation; that is, Crown royalties paid to Yukon First Nations are divided amongst them in the same way that compensation money is shared among Yukon First Nations under the UFA.<sup>15</sup>

### **Recent Developments**

Recent changes to resource revenue sharing agreements between the Canadian and Yukon governments have ignited renewed interest in GRRS with First Nations in the Yukon.

The Canada-Yukon Oil and Gas Accord, signed in 1993, and the Yukon Northern Affairs Program Devolution Transfer Agreement (DTA), signed in 2001, were amended in August 2012 to increase the amount of resource revenue generated in the Yukon that would remain within the territory.<sup>16</sup> These two agreements transferred responsibility for the management of Yukon lands and natural resources from the Government of Canada to the Government of Yukon. Responsibilities include the collection of revenues derived from oil and gas resources (under the Oil and Gas Accord) and from lands, water, forestry and mineral resources (under the DTA). Both agreements feature resource revenue sharing arrangements between the two governments, under which the Yukon retains a share of the resource revenues it collects.

Amendments were made to both of these agreements in August 2012 to update resource revenue sharing between the Government of Canada and the Government of Yukon, including:

- Incorporating the two existing revenue streams (i.e. oil and gas revenues; mineral, forest land and water revenues) into one; incorporating of all revenue sharing arrangements into the DTA.
- Raising the Yukon's revenue cap from \$3 million for minerals, forestry, water and land revenue and \$3 million for oil and gas revenue to \$6 million for all natural resource revenue.
- Giving the Yukon the option, when it so chooses, to change to an arrangement where it would keep 50% of resource revenues (i.e. a 50-50 royalty split with the federal government). This would result in treatment similar to that of the Northwest Territories Intergovernmental Resource Revenue Sharing Agreement. The Yukon government will consider this when revenues grow and move above the \$6 million cap.
- In addition, a clause in the DTA that defines land revenues will be amended in order to mirror the treatment of these revenues for provinces under Equalization.

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<sup>15</sup> Government of Yukon, Office of the Government Leader, & Council of Yukon First Nations. (1997). *Understanding the Yukon Umbrella Final Agreement: A Land Claim Settlement Information Package*. Whitehorse, Yukon, p. 67. Retrieved September 8, 2014, from [http://www.eco.gov.yk.ca/pdf/Understanding\\_the\\_Yukon\\_UFA.pdf](http://www.eco.gov.yk.ca/pdf/Understanding_the_Yukon_UFA.pdf)

<sup>16</sup> Government of Yukon. (2012, August 27). Get the facts on resource revenue arrangements. Retrieved September 8, 2014, from [http://www.gov.yk.ca/news/get-the-facts\\_dta.html](http://www.gov.yk.ca/news/get-the-facts_dta.html)

Despite amendments to increase the overall resource revenue sharing benefits to the Yukon, the GRRS arrangements described in the UFA applicable to the 11 signatory Yukon First Nations remained the same. To address this concern, the Yukon premier proposed a new arrangement for Yukon First Nations with Final Agreements related to GRRS, in the fall of 2012.<sup>17,18</sup> The premier proposed an additional share of resource royalties over and above any responsibility already outlined in the UFA to share resource royalties with First Nations.<sup>19</sup> One media story referenced “an additional 12 per cent share of resource royalty revenue [will be shared with First Nations] once the Yukon [begins] to generate sufficient revenue to warrant transitioning to a 50-50 split with Canada.”<sup>20</sup>

In response to the proposed revised GRRS arrangement, First Nations have advocated for access to 25% of the total resource royalties and for non-agreement holders (the three Yukon First Nations without Final Agreements) to be party to these revenues.<sup>21</sup> This percentage is similar to what is proposed under the new Northwest Territories Intergovernmental Resource Revenue Sharing Agreement, drafted in 2013, for devolution negotiations in the Northwest Territories.<sup>22</sup>

### Northwest Territories

In the Northwest Territories (NWT), land and resource ownership, management and control is complex, as it is both multi-jurisdictional and in a continuous process of transition. The key forms of land ownership are:

- Crown lands, including:
  - > Government of Canada or Federal Crown Lands;
  - > Government of the Northwest Territories lands or “Commissioner’s Lands”;
- Privately owned lands;
- Aboriginal-owned lands.

At the present time, the federal government owns large tracts of land within the NWT, including subsurface mineral rights under those lands, with the exception of those rights transferred by the federal government through settled land claims. Companies wishing to access land and subsurface mineral resources on federal lands must obtain permission from the federal government and must adhere to the relevant acts and regulations, just as they would contact and negotiate access to privately owned lands with a private land owner.<sup>23</sup>

Additionally, several Aboriginal groups have rights for ownership of lands and resources in defined areas in the territory. The Inuvialuit, Sahtu, Gwich'in and Tlicho now manage significant areas of land in the NWT, with a combination of surface and subsurface rights, as a result of finalizing comprehensive land claim and self-government agreements.<sup>24</sup>

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17 Government of Yukon, Cabinet Communications. (2011, August 29). *Yukon welcomes PM's commitment to improve resource revenue sharing agreement* [Press release]. Retrieved September 8, 2014, from <http://www.gov.yk.ca/news/11-132.html>

18 Ronson, J. (2012, October 31). Territory, First Nations strike new royalty deal. *Yukon News*. Retrieved September 8, 2014, from <http://www.yukon-news.com/news/territory-first-nations-strike-new-royalty-deal>

19 Yukon Liberal Party. (2013, March 27). Question re: First Nations/government relations. Retrieved September 8, 2014, from [http://www.yltp.ca/question\\_re\\_first\\_nations\\_government\\_relations\\_march\\_27\\_2013](http://www.yltp.ca/question_re_first_nations_government_relations_march_27_2013)

20 Carl, S., & Liard, M. (2013, March 26). First Nations spurn government's ultimatum. *Whitehorse Daily Star*. Retrieved September 8, 2014, from <http://whitehorsestar.com/News/first-nations-spurn-governments-ultimatum>

21 Stasyszyn, R. (2012, August 31). No new royalty deal for First Nations. *Yukon News*. Retrieved September 8, 2014, from <http://www.yukon-news.com/news/no-new-royalty-deal-for-first-nations>

22 Carl, S., & Liard, M. (2013, March 26). First Nations spurn government's ultimatum. *Whitehorse Daily Star*. Retrieved September 8, 2014, from <http://whitehorsestar.com/News/first-nations-spurn-governments-ultimatum>

23 Aboriginal Affairs and Northern Development Canada. (2014, April 1). Land Management and Ownership. Retrieved September 8, 2014, from <http://www.aadnc-aandc.gc.ca/eng/1100100027624/1100100027625>

24 NWT Board Forum. (n.d.). Land ownership. Retrieved September 8, 2014, from <http://www.nwtboardforum.com/process/overview/land-ownership/>

Currently, in the NWT, there are four comprehensive land claim agreements in place and numerous land claim, self-government and trans-boundary agreements either being negotiated or in exploratory talks. GRRS is addressed, to some degree, in three of the settled land claims.

The Inuvialuit Final Agreement, settled by the Inuit people of the NWT, came into effect on July 25, 1984 and was the first comprehensive land claim agreement settled in the NWT. This is a trans-boundary agreement encompassing the northern area of the NWT and the North Slope, in the Yukon Territory.<sup>25</sup>

On April 22, 1992, the Gwich'in Tribal Council, the Government of the Northwest Territories, and the Government of Canada signed the Gwich'in Comprehensive Land Claim Agreement and the accompanying Implementation Plan. The Agreement took effect on December 22, 1992.<sup>26</sup>

In July 1993, the Sahtu Dene and Métis voted to approve the Sahtu Dene and Métis Comprehensive Land Claim Agreement. After being approved by the Government of Canada and the Government of the Northwest Territories, the Agreement was signed on September 6, 1993 in Tulita and came into effect on June 23, 1994.<sup>27</sup>

The Tlicho Land Claims and Self-government Agreement, which came into effect on February 15, 2005, was the first combined land claim and self-government agreement in the NWT.

The NWT Devolution Agreement saw responsibility for public land, water and resource management in the NWT transferred from the Government of Canada to the Government of the Northwest Territories, on April 1, 2014. This transfer of responsibilities has been ongoing for many years. Since 1967, the Government of the Northwest Territories has acquired (through transfer payments) more provincial-like responsibilities for things such as education, health care, social services, highways, forestry management and airport administration in a number of separate devolution processes. Devolution of the responsibility for land and resource administration and management is the final phase in this process.

Over the past 30 years, the NWT has been looking to acquire responsibility over public land, water and resource management, signing a draft Northern Accord in the 1980s and initiating the first Northwest Territories Intergovernmental Forum in May 2000. As part of this forum, the federal, territorial and Aboriginal leaders identified the transfer or “devolution” of land and resource management as a priority. All parties agreed that transferring these responsibilities from the Government of Canada to the Government of the Northwest Territories would promote the self-sufficiency and prosperity of the NWT and reduce reliance on federal funding.

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25 Inuvialuit Regional Corporation. (1987). *The Western Arctic Claim, As Amended* (Rep.). Retrieved September 8, 2014, from [http://www.inuvialuitland.com/resources/Inuvialuit\\_Final\\_Agreement.pdf](http://www.inuvialuitland.com/resources/Inuvialuit_Final_Agreement.pdf)

26 Aboriginal Affairs and Northern Development Canada (formerly Indian and Northern Affairs Canada), & Gwich'in Tribal Council. (1992). *Comprehensive Land Claim Agreement between Her Majesty the Queen in Right of Canada and The Gwich'in as Represented by the Gwich'in Tribal Council* (Canada, Aboriginal Affairs and Northern Development Canada [formerly Indian and Northern Affairs Canada]). Ottawa, Ontario. Retrieved September 8, 2014, from <http://publications.gc.ca/collections/Collection/R32-121-1992E.pdf>

27 Aboriginal Affairs and Northern Development Canada (formerly Indian and Northern Affairs Canada), & The Sahtu Tribal Council. (n.d.). *Comprehensive Land Claim Agreement between Her Majesty the Queen in Right of Canada and The Dene of Colville Lake, Déline, Fort Good Hope and Fort Norman and the Métis of Fort Good Hope, Fort Norman and Norman Wells in the Sahtu Region of the Mackenzie Valley as Represented by the Sahtu Tribal Council* (Canada, Aboriginal Affairs and Northern Development Canada [formerly Indian and Northern Affairs Canada]). Ottawa, Ontario. Retrieved September 8, 2014, from [https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/sahmet\\_1100100031148\\_eng.pdf](https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/sahmet_1100100031148_eng.pdf)



Devolution negotiations concluded in March 2013. In June 2013, the Northwest Territories Lands and Resources Devolution Agreement (NWT LRDA) was signed by the Government of Canada, the Government of the Northwest Territories and Aboriginal Parties to the Agreement, which are identified as: the Inuvialuit Regional Corporation, the Northwest Territory Métis Nation, the Sahtu Secretariat Inc., the Gwich'in Tribal Council, and the Tlicho Government.<sup>28</sup> The NWT LRDA also includes provisions for GRRS.

### **GRRS Arrangements**

In the Northwest Territories, GRRS is addressed in land claim agreements, an Interim Resource Development Agreement and the NWT Devolution Agreement. The GRRS arrangements in the NWT primarily address mining and oil and gas development.

#### *Land Claim Agreements*

Currently, GRRS is applied between the Government of Canada and the following Aboriginal groups within the NWT: the Gwich'in, Sahtu, Tlicho and the Deh Cho First Nations. The Gwich'in, Sahtu and Tlicho comprehensive land claim agreements provide each group with a share of the resource revenues collected on public land (i.e. Federal Crown Lands) throughout the Mackenzie Valley.

These agreements were signed in 1992, 1993 and 2003, respectively. The earlier Inuvialuit Final Agreement (Western Arctic comprehensive land claim), which, upon signing in 1984, became the first agreement of its kind, north of the 60th parallel,<sup>29</sup> does not include any provisions for resource revenue sharing.<sup>30</sup> The Deh Cho First Nations Interim Resource Development Agreement, similar to the three more recent land claim agreements, provides the Deh Cho First Nations with a share of resource royalties received by the Government of Canada from development within the Mackenzie Valley.

The sources of revenue included in the GRRS sections of the individual land claim and self-government agreements vary according to the parties involved and the scope of the agreement. As described by the Government of the Northwest Territories' Devolution website, the "Inuvialuit, Gwich'in, Sahtu and Tlicho governments have modern treaties that provide title to large tracts of settlement lands. Title to these settlement lands generally includes surface ownership with subsurface ownership in some areas."<sup>31</sup> In addition, three of these agreements also include provisions that provide a portion of the resource revenues collected on public land throughout the Mackenzie Valley.

The following are the GRRS formulas developed under existing land claim and self-government agreements between the three above-mentioned Aboriginal groups and the Government of Canada. The Devolution Agreement, effective in 2014, does not alter the terms of these existing agreements.<sup>32</sup>

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28 Aboriginal Affairs and Northern Development Canada. (2014, March 27). Short history of NWT Devolution. Retrieved September 10, 2014, from <http://www.aadnc-aandc.gc.ca/eng/1395946093734/1395947469150>

29 Auditor General of Canada. (2007). Chapter 3—Inuvialuit Final Agreement. In *October 2007 Report*. Retrieved September 8, 2014, from [http://www.oag-bvg.gc.ca/internet/english/parl\\_oag\\_200710\\_03\\_e\\_23827.html](http://www.oag-bvg.gc.ca/internet/english/parl_oag_200710_03_e_23827.html)

30 Inuvialuit Regional Corporation. (1987). *The Western Arctic Claim, As Amended* (Rep.). Retrieved September 8, 2014, from [http://www.inuvialuitland.com/resources/Inuvialuit\\_Final\\_Agreement.pdf](http://www.inuvialuitland.com/resources/Inuvialuit_Final_Agreement.pdf)

31 Government of the Northwest Territories. (2013, October 1). Resource Revenue Sharing Provisions in Existing Land Claim and Self-Government Agreements. Retrieved September 8, 2014, from <http://devolution.gov.nt.ca/resource-management/resource-revenue/existing-resource-revenue-sharing-agreements>

32 Government of the Northwest Territories. (2014, February 21). FAQ: Resource Revenue Sharing after Devolution. Retrieved September 8, 2014, from <http://devolution.gov.nt.ca/about-devolution/faq/frequently-asked-questions-about-resource-revenue-sharing>

From public land within the Mackenzie Valley, the Gwich'in and Sahtu are each entitled to receive annually from the Government of Canada:

- a) 7.5% of the first \$2 million of resource revenues collected; and
- b) 1.5% of any additional resource revenues collected.

From public land within the Mackenzie Valley, the Tlicho are entitled to receive annually from the Government of Canada:

- a) 10.429% of the first \$2 million of resource revenues collected, or \$208,580; and
- b) 2.086% of any additional resource revenues collected.

The Deh Cho First Nations Interim Resource Development Agreement also provides the Deh Cho with a share of resource revenues collected by the Government of Canada on public land within the McKenzie Valley. The Deh Cho First Nations may access up to 50% of the following amount annually:

- a) 12.25% of the first \$2 million of resource revenues received, or \$245,000; and
- b) 2.45% of any additional resource revenues received.<sup>33</sup>

### *Devolution*

As a result of the NWT Lands and Resources Devolution Agreement that came into effect on April 1, 2014, the Government of the Northwest Territories (GNWT) and the Government of Canada will share the resource revenues received from companies operating on public land (i.e. Federal Crown Land) in the NWT, rather than all resource revenue going directly to the Government of Canada. This includes revenue from subsurface mineral resources. This sharing does not apply to the revenue received by the GNWT for oil and gas in the Beaufort Sea or other northern offshore areas. Specifically, this means "the GNWT will keep 50% of the revenues collected from resource development on public land, up to a maximum amount,"<sup>34</sup> and the federal government will deduct its share from its transfer payments to the GNWT. The maximum benefit amount "is determined based on a percentage of the GNWT's Gross Expenditure Base (GEB), a part of the federal transfer payment that represents GNWT's annual budgetary needs."<sup>35,36</sup>

Devolution also includes a GRRS arrangement between the GNWT and Aboriginal groups. Aboriginal signatories to the Northwest Territories Intergovernmental Resource Revenue Sharing Agreement include the Inuvialuit Regional Corporation, the Northwest Territory Métis Nation, Sahtu Secretariat Inc., the Gwich'in Tribal Council and the Tlicho Government. In May 2014, the Acho Dene Koe First Nation and Fort Liard Métis, the Denínu Kue First Nation and the Salt River First Nation also became signatories to the Agreement.<sup>37</sup>

33 Government of the Northwest Territories. (2013, October 1). Resource Revenue Sharing Provisions in Existing Land Claim and Self-Government Agreements. Retrieved September 8, 2014, from <http://devolution.gov.nt.ca/resource-management/resource-revenue/existing-resource-revenue-sharing-agreements>

34 Government of the Northwest Territories. (2014, February 21). FAQ: Resource Revenue Sharing after Devolution. Retrieved September 8, 2014, from <http://devolution.gov.nt.ca/about-devolution/faq/frequently-asked-questions-about-resource-revenue-sharing>

35 Government of the Northwest Territories. (2014, February 21). FAQ: Resource Revenue Sharing after Devolution. Retrieved September 8, 2014, from <http://devolution.gov.nt.ca/about-devolution/faq/frequently-asked-questions-about-resource-revenue-sharing>

36 Government of Canada, Government of the Northwest Territories, Inuvialuit Regional Corporation, Northwest Territory Métis Nation, Sahtu Secretariat Incorporated, Gwich'in Tribal Council, & Tlicho Government. (2013). Chapter 10 – Net Fiscal Benefit. *Northwest Territories Lands and Resources Devolution Agreement* (Canada, Aboriginal Affairs and Northern Development Canada). Retrieved September 8, 2014, from [https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-NTH/STAGING/texte-text/nwt\\_1385670345276\\_eng.pdf](https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-NTH/STAGING/texte-text/nwt_1385670345276_eng.pdf)

37 Government of Canada. (2014, May 26). *Statement of Congratulations by the Honourable Bernard Valcourt on the Addition of Three Communities to the Northwest Territories Lands and Resources Devolution Agreement* [Press release]. Retrieved September 8, 2014, from <http://news.gc.ca/web/article-en.do?nid=851329>

Signatories are entitled to a share of up to 25% of resource revenues<sup>38</sup> collected by the GNWT from resource development on public land. This share will be calculated by multiplying 3.57 by the number of parties to the Devolution Agreement.<sup>39</sup>

The resource revenues Aboriginal governments are paid by the GNWT will be in addition to the GRRS arrangements already formalized within existing land claims with the Government of Canada.

Payments will be quarterly installments.

### Nunavut

In Nunavut, mineral resource ownership lies with either the federal government (the Crown) or with the Inuit, in accordance with the settled land claim. The Nunavut Land Claims Agreement (NLCA), signed in 1993, led to the creation of Nunavut in 1999 and made the Inuit of Nunavut Canada's largest landowners. The NLCA gave the Inuit title to 356,000 km<sup>2</sup> or about 18% of the area of Nunavut, known as Inuit-owned land (IOL). This includes 944 parcels of IOL where the Inuit hold surface title only ("surface IOL") and 144 parcels where Inuit hold title to both the surface and subsurface ("subsurface IOL").<sup>40</sup> Therefore, the Inuit hold subsurface rights within the IOL totalling 36,257 km<sup>2</sup> (2% of the territory's landmass), including rights to minerals and oil and gas. The federal government retains the mineral rights to non-IOL and surface IOL where the Inuit do not hold subsurface rights.<sup>41</sup>

The locations of IOL (subsurface) were selected by the Inuit during the land claim negotiations, to include areas of natural resource potential.<sup>42</sup> As a result, many significant mineral deposits in Nunavut are located under IOL, where the Inuit own the subsurface rights and collect full royalties from development on their lands. These areas include the following mineral projects: Mary River, Roche Bay, Meadowbank, Meliadine, Hope Bay, Hackett River, Back River, High Lake and others. Today, most active minerals leases are located in these areas.

Nunavut Tunngavik Incorporated (NTI) was established in 1993 to ensure implementation of the NLCA and is the legal representative of the Inuit in Nunavut. NTI continues to play a central role in Nunavut by coordinating and managing Inuit responsibilities set out in the NLCA and ensuring that the federal and territorial governments fulfill their obligations. In Nunavut, there are three Regional Inuit Associations (RIAs) – the Kivalliq Inuit Association, the Kitikmeot Inuit Association and the Qikiqtani Inuit Association (for the Baffin Region). Part of their role involves working with NTI in implementing the land claim and managing Inuit-owned land.

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38 Government of Canada, Government of the Northwest Territories, Inuvialuit Regional Corporation, Northwest Territory Métis Nation, Sahtu Secretariat Incorporated, Gwich'in Tribal Council, & Tlicho Government. (2013). *Northwest Territories Lands and Resources Devolution Agreement* (Canada, Aboriginal Affairs and Northern Development Canada), p. 13. Retrieved September 8, 2014, from [https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-NTH/STAGING/texte-text/nwt\\_1385670345276\\_eng.pdf](https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-NTH/STAGING/texte-text/nwt_1385670345276_eng.pdf)

39 Government of the Northwest Territories, Inuvialuit Regional Corporation, Gwich'in Tribal Council, Sahtu Secretariat Incorporated, & Northwest Territory Métis Nation. (2007, May 9). *Resource Revenue Sharing Agreement-in-Principle* (Canada). Retrieved September 8, 2014, from <http://devolution.gov.nt.ca/wp-content/uploads/2012/04/AIP-Resource-Revenue-Sharing.pdf>

40 Johnson, W. (2000, November 13). *Administration of "Subsurface" Inuit Owned Lands*. Speech presented at Nunavut Mining Symposium in Nunavut, Rankin Inlet. Retrieved September 8, 2014, from [http://www.polar.net.ca/ntilands/pdfdoc/iol\\_admin.pdf](http://www.polar.net.ca/ntilands/pdfdoc/iol_admin.pdf)

41 Aboriginal Affairs and Northern Development Canada (formerly Indian and Northern Affairs Canada), & Nunavut Tunngavik Inc. (2009). *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada as Amended* (Canada, Aboriginal Affairs and Northern Development Canada [formerly Indian and Northern Affairs Canada]). Ottawa, Ontario. Retrieved September 8, 2014, from [http://www.tunngavik.com/documents/publications/LAND\\_CLAIMS\\_AGREEMENT\\_NUNAVUT.pdf](http://www.tunngavik.com/documents/publications/LAND_CLAIMS_AGREEMENT_NUNAVUT.pdf)

42 Aboriginal Affairs and Northern Development Canada. (2006). Chapter 9 – Comprehensive Claim Agreements. *Canada's Relationship with Inuit: A History of Policy and Program Development* (Canada, Aboriginal Affairs and Northern Development Canada). Retrieved September 8, 2014, from <https://www.aadnc-aandc.gc.ca/eng/1100100016900/1100100016908#chp9>

While Inuit receive royalties for development activities on Inuit owned lands (IOL subsurface)<sup>43</sup>, a GRRS arrangement also exists. A portion of resource royalty received by the federal government from resource development activities on non-IOL and on surface-IOL within Nunavut is paid to the Inuit, according to Article 25 Resource Royalty Sharing, defined in the NLCA.<sup>44</sup> NTI's Resource Revenue Sharing Policy sets policy direction on how funds are managed.<sup>45</sup>

### **GRRS Arrangements**

The provision for GRRS in the NLCA was developed through the land claim agreement process for the NLCA and has been actively applied since 1993. The sectors addressed within these GRRS arrangement are mining and oil and gas.

The Inuit are entitled to "Resource Royalty Sharing" as outlined in Article 25 of the NLCA, which states that the Inuit will get a share of all royalties collected by the government from resources produced from Crown lands and the subsurface of all but 36,257 km<sup>2</sup> of Inuit lands (subsurface IOL). This applies to the mainland and the offshore area around Baffin Island, known as the Outer Land Fast Ice Zone.

"Royalties" are any share of revenues paid to the Government of Canada by those organizations that produce minerals, oil or gas on lands where the Crown owns the subsurface rights. The Government of Canada pays the shared amount to the Nunavut Trust (a trust that holds and invests the compensation funds received from the Government of Canada, as part of the NLCA).

Under the NLCA, a portion of royalty payments made to the Nunavut Trust are managed by NTI. With respect to the royalties that Canada receives (where it owns mineral rights), the Inuit have the right to be paid an annual amount equal to:

- a) 50% of the first \$2 million of resource royalty received by the government in that year; and
- b) 5% of any additional resource royalty received by the government in that year (NLCA, 1993).<sup>46</sup>

The Government of Nunavut is in the process of devolution, which is a transfer of responsibility from the federal government to a provincial or territorial government. Canada has transferred some powers to the Government of Nunavut, and devolution would see further transfer of authority to Nunavut. A Lands and Resource Management Devolution Negotiation Protocol<sup>47</sup> was signed in 2008 by the Government of Canada, the Government of Nunavut and NTI to guide future negotiations toward a devolution agreement in Nunavut. It is expected that the resource revenues NTI receives under the NLCA will not be adversely affected by devolution, including any authority to negotiate new royalty schemes.<sup>48</sup>

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43 Eetoolook, J. (2000, November 13). *Mining and the Nunavut Land Claims Agreement*. Speech presented at Nunavut Mining Symposium in Nunavut, Rankin Inlet. Retrieved September 8, 2014, from [http://www.tunnngavik.com/wp-content/uploads/2011/03/mining\\_and\\_nlca.pdf](http://www.tunnngavik.com/wp-content/uploads/2011/03/mining_and_nlca.pdf); Aboriginal Affairs and Northern Development Canada (formerly Indian and Northern Affairs Canada), & Nunavut Tunngavik Inc. (2009). Article 19. *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada as Amended* (Canada, Aboriginal Affairs and Northern Development Canada [formerly Indian and Northern Affairs Canada]). Ottawa, Ontario. Retrieved September 8, 2014, from [http://www.tunnngavik.com/documents/publications/LAND\\_CLAIMS\\_AGREEMENT\\_NUNAVUT.pdf](http://www.tunnngavik.com/documents/publications/LAND_CLAIMS_AGREEMENT_NUNAVUT.pdf)

44 Aboriginal Affairs and Northern Development Canada (formerly Indian and Northern Affairs Canada), & Nunavut Tunngavik Inc. (2009). Article 25. *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada as Amended* (Canada, Aboriginal Affairs and Northern Development Canada [formerly Indian and Northern Affairs Canada]). Ottawa, Ontario. Retrieved September 8, 2014, from [http://www.tunnngavik.com/documents/publications/LAND\\_CLAIMS\\_AGREEMENT\\_NUNAVUT.pdf](http://www.tunnngavik.com/documents/publications/LAND_CLAIMS_AGREEMENT_NUNAVUT.pdf)

45 Nunavut Tunngavik Inc. (2011). *Resource Revenue Policy*. Retrieved September 8, 2014, from <http://www.tunnngavik.com/files/2013/01/Resource-Revenue-Policy-Eng.pdf>

46 Aboriginal Affairs and Northern Development Canada (formerly Indian and Northern Affairs Canada), & Nunavut Tunngavik Inc. (2009). Article 25. *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada as Amended* (Canada, Aboriginal Affairs and Northern Development Canada [formerly Indian and Northern Affairs Canada]). Ottawa, Ontario. Retrieved September 8, 2014, from [http://www.tunnngavik.com/documents/publications/LAND\\_CLAIMS\\_AGREEMENT\\_NUNAVUT.pdf](http://www.tunnngavik.com/documents/publications/LAND_CLAIMS_AGREEMENT_NUNAVUT.pdf)

47 Government of Canada, Government of Nunavut, & Nunavut Tunngavik Incorporated. (2008). *Lands and Resources Devolution Negotiation Protocol*. Retrieved September 8, 2014, from [http://www.gov.nu.ca/sites/default/files/files/Devolution%20Protocol\\_eng.pdf](http://www.gov.nu.ca/sites/default/files/files/Devolution%20Protocol_eng.pdf)

48 Mayer, P. (2007). *Mayer Report on Nunavut Devolution* (Rep.). Retrieved September 8, 2014, from Aboriginal Affairs and Northern Development Canada website: [http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-NTH/STAGING/texte-text/dev\\_mr\\_1357230369296\\_eng.pdf#49](http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-NTH/STAGING/texte-text/dev_mr_1357230369296_eng.pdf#49)

## British Columbia

Mineral resources are owned by the provinces in Canada, including British Columbia, with the exception of those regions in which Aboriginal people have entered into land claim agreements providing them with mineral rights.

With respect to mineral resources under provincial authority, the provincial government collects resource revenues in the form of payments (e.g. royalties, taxes, fees, etc.) from project proponents for the development and production of mineral and other natural resources. British Columbia is addressing its approach to sharing the resource revenues it collects from industry with First Nation communities on a sector-by-sector and case-by-case basis. It should be noted that while some of the broader provincial policy drivers described below refer to Aboriginal communities, current GRRS arrangements in British Columbia are only with First Nations.

In the early 1990s, conflicting land use interests among various government agencies, industry players, First Nations and the public posed challenges for the development of the province's resource economy.<sup>49</sup> In 2005, the province, the federal government and the Leadership Council Representing the First Nations of British Columbia signed the Transformative Change Accord, which included reference to the New Relationship, a vision document aimed at outlining goals, an action plan towards reconciliation and an improved government to government relationship.<sup>50</sup>

The New Relationship, signed in 2005 by the province and British Columbia First Nations, is a vision statement for improved government-to-government relations with First Nations. The New Relationship commits to the development of processes and the creation of new institutions and structures to achieve mutually acceptable arrangements for sharing benefits, including sharing government resource revenue with First Nation communities, as a means to resolve disputes over land title, to create certainty on the land, to make First Nations partners in resource development and to enhance economic opportunities and support social development for First Nation community members.<sup>51</sup>

The Transformative Change Accord, also signed in 2005 by the First Nations Summit, BC Assembly of First Nations, Union of BC Indian Chiefs and the province, seeks ways to address the socio-economic gap between Aboriginal and non-Aboriginal citizens in British Columbia. The parties to the Accord committed to considering the implementation of revenue sharing arrangements between the province and Aboriginal communities.<sup>52</sup>

In addition to these policy initiatives, the province also established commitments related to revenue sharing within *Canada Starts Here: The B.C. Jobs Plan*, published in 2011. The plan includes commitments for signing 10 new non-treaty agreements with First Nations by 2015, with the intention of improving employment opportunities for First Nations, improving economic certainty and bringing benefits to First Nation communities more quickly.<sup>53</sup>

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49 Kehler, C. (2007). *The Province of BC's New Relationship with First Nations: A Review of the Implications of Shared Decision-making for Strategic Crown Land Use Planning* (Master's thesis). University of Victoria. Retrieved September 8, 2014, from [https://dspace.library.uvic.ca/bitstream/handle/1828/1495/kehler\\_caoimhe.pdf?sequence=1](https://dspace.library.uvic.ca/bitstream/handle/1828/1495/kehler_caoimhe.pdf?sequence=1)

50 Government of British Columbia. (n.d.). First Nations Negotiations - Consulting with First Nations. Retrieved September 8, 2014, from <http://www2.gov.bc.ca/gov/topic.page?id=81CB3D169ECC4F1787D629B3E4B6FC99>

51 Government of British Columbia. (n.d.). First Nations Negotiations - Consulting with First Nations. Retrieved September 8, 2014, from <http://www2.gov.bc.ca/gov/topic.page?id=81CB3D169ECC4F1787D629B3E4B6FC99>

52 Government of British Columbia. (n.d.). First Nations Negotiations - Consulting with First Nations. Retrieved September 8, 2014, from <http://www2.gov.bc.ca/gov/topic.page?id=81CB3D169ECC4F1787D629B3E4B6FC99>

53 Government of British Columbia, Ministry of Aboriginal Relations and Reconciliation. (2013, April 15). *First Nations partnerships surpass Jobs Plan goals* [Press release]. Retrieved September 8, 2014, from [http://www2.news.gov.bc.ca/news\\_releases\\_2009-2013/2013arr0026-000843.htm](http://www2.news.gov.bc.ca/news_releases_2009-2013/2013arr0026-000843.htm)

## **GRRS Arrangements**

### *Non-Treaty*

British Columbia has four non-treaty sector-based agreement mechanisms for GRRS that are applied in mining, forestry, clean energy and oil and gas. Each agreement is negotiated on a case-by-case basis and has its own unique sharing formula. They include:

- Economic Community Development Agreements;
- Forest Consultation and Revenue Sharing Agreements;
- First Nations Clean Energy Business Fund Revenue-sharing Agreements;
- Oil and Gas Economic Benefits Agreements.

Economic Community Development Agreements (ECDAs) are used specifically for the sharing of taxes derived from new mines or major mine expansions. The province began using these agreements in 2011 as a means to “create certainty on the land and to partner with First Nations in resource development.”<sup>54</sup>

The only source of revenue included in ECDAs is the direct Mineral Tax Revenue. Mineral Tax Revenue is the Incremental Mineral Tax Revenue or the Net Mineral Tax Revenue attributable to the project and is defined as the total amount of tax, penalty and interest paid by the operators of the project under the Mineral Tax Act, minus any refunds and/or interest the province has paid back to the operators.<sup>55</sup> This amount is based on incremental production by the project. Incremental production for new mines means mining and production of all ore within the area of the project.

Each agreement includes a section on calculation of project payments, and percentages are negotiated on a case-by-case basis between the government and individual First Nations that are party to the ECDA. Percentages range from 12.5% (Nak’azdli First Nation for the Mount Milligan Mine) to 37.5% (Ktunaxa Nation for the Elk Valley Coal Mine and Stk’emlupsemc of the Secwepemc Nation for the New Afton Mine). Since Mineral Tax Act revenues may fluctuate, for example, as a result of changes to the tax regime, ECDAs clearly state that parties acknowledge that payments may also vary over time. The province is responsible for notifying First Nations of any significant changes to the tax regime and negotiating changes to the resource revenue sharing formulas, if necessary.<sup>56</sup>

The term of the ECDA will continue for as long as payments payable by the proponent to the province for the particular project are applicable under current legislation, unless the ECDA is extended by mutual agreement or terminated under conditions outlined in the agreement.

Each ECDA document defines the purpose of the agreement, outlines the provincial payments and explains the requirements of the province and of the First Nation as part of the agreement. Payment delivery is subject to compliance with various requirements by the First Nation, including, but not limited to:

- Establishing and maintaining a separate account to receive payments;
- Preparing a statement of community priorities that identifies goals and specific outcomes the community intends to fund over the next 3 years;
- Submitting an annual status report of priorities achieved;

54 Government of British Columbia. (2013, March 25). FACTSHEET: Non-treaty agreements with First Nations. Retrieved September 8, 2014, from <https://www.newsroom.gov.bc.ca/ministries/aboriginal-relations-and-reconciliation/factsheets/factsheet-non-treaty-agreements-with-first-nations.html>

55 Government of British Columbia. (2009, April). *Mineral Tax Handbook* (Ministry of Finance). Retrieved September 8, 2014, from [http://www.sbr.gov.bc.ca/business/natural\\_resources/Mineral\\_Tax/MinTax\\_Handbook.pdf](http://www.sbr.gov.bc.ca/business/natural_resources/Mineral_Tax/MinTax_Handbook.pdf)

56 Government of British Columbia. (n.d.). First Nations Negotiations - Consulting with First Nations. Retrieved September 8, 2014, from <http://www2.gov.bc.ca/gov/topic.page?id=81CB3D169ECC4F1787D629B3E4B6FC99>

- Preparing and submitting an annual report;
- Maintaining fiscal records of payment spending; and
- Completing an audit, if requested by the province.

The ECDA also includes procedures for dispute resolution, as well as consultation and accommodation processes.

The table below summarizes the formulas included with the current ECDAs in place in the province.

**Table 3 Summary of negotiated payment amounts in signed ECDAs<sup>57</sup>**

Signed ECDAs	Date Signed	Mine	Payment
Williams Lake Indian Band	March 2013	Mount Polley Mine	18.5% Incremental Mineral Tax Revenue. Payments will not be made under this agreement until the next fiscal year.
Soda Creek Indian Band	March 2013	Mount Polley Mine	16.5% Incremental Mineral Tax Revenue. Payments will not be made under this agreement until the next fiscal year.
Lower and Upper Similkameen Indian Band	March 2013	Copper Mountain Mine	35% Incremental Mineral Tax Revenue. Payments will not be made under this agreement until the next fiscal year.
Ktunaxa Nation	January 2013	Elk Valley Coal Mine	37.5% of the first \$23 million of Incremental Mineral Tax Revenue for the Mine Fiscal Year, and 5% of any Incremental Mineral Tax Revenue for the Mine Fiscal Year exceeding \$23 million. Payments will not be made under this agreement until the next fiscal year.
Nak'azdli First Nation	June 2012	Mount Milligan Mine	12.5% of the difference between a) the total amount of tax, penalty and interest paid by the proponent; and b) the total amount of tax and penalty refunded to the proponent and interest paid to the proponent. Payments estimated to be approximately \$24 million, over the life of the mine. <sup>58</sup>
McLeod Lake Indian Band	August 2010	Mount Milligan Mine	15% of the difference between a) the total amount of tax, penalty and interest paid by the proponent; and b) the total amount of tax and penalty refunded to the proponent and interest paid to the proponent. No information on payments found in online public information sources.
Stk'emlupsemc of the Secwepemc Nation	August 2010	New Afton Mine	37.5% of the difference between a) the total amount of tax, penalty and interest paid by the proponent; and b) the total amount of tax and penalty refunded to the proponent and interest paid to the proponent. Payments are estimated to be \$30 million, over the life of the mine. <sup>59</sup>

<sup>57</sup> Government of British Columbia. (n.d.). First Nations Negotiations - Consulting with First Nations. Retrieved September 8, 2014, from <http://www2.gov.bc.ca/gov/topic.page?id=81CB3D169ECC4F1787D629B3E4B6FC99>

<sup>58</sup> Government of British Columbia. (2012, June 12). *Economic Development Agreement signed with Nak'azdli First Nation* [Press release]. Retrieved September 8, 2014, from <http://www.newsroom.gov.bc.ca/2012/06/economic-development-agreement-signed-with-nakazdli.html>

<sup>59</sup> Prince George Citizen. (2010, August 25). Dig in: Province inks mining deal with First Nation, *First Nations in British Columbia*. First Nations in British Columbia. Retrieved September 8, 2014, from <http://old.fnbc.info/node/3415>

Some First Nations continue to advocate for adjustments to existing GRRS agreements, citing disagreement with what they consider to be a fixed, “take it or leave it” position on revenue sharing agreements between the government and First Nations for existing mines (i.e. expansions).<sup>60</sup> In June 2013, the British Columbia Assembly of First Nations called on the provincial government to change its current policy on mineral resource revenue sharing, from only a portion of resource revenues to a policy that shares the full amount of mining revenue tax.<sup>61</sup>

#### *Modern Treaty*

GRRS has also been addressed in the comprehensive land claim settlement (i.e. modern treaty) negotiated between the province and the Maa-nulth First Nations in 2006. The Final Agreement provides the First Nations with a portion of resource revenues that the government collects from traditional territories for 25 years.<sup>62</sup> The estimated annual total that is shared with the communities is \$1.2 million, and the cost is shared between the provincial and federal governments.<sup>63</sup>

#### **Quebec**

In Quebec the James Bay and Northern Quebec Agreement (JBNQA) and the Northeastern Quebec Agreement (NEQA), were Canada's first modern comprehensive land claim agreements with Aboriginal peoples. The Agreements addressed Aboriginal rights, resource ownership and land use, and they paved the way for a more recent agreement that introduced a GRRS arrangement between the Government of Quebec and the Cree of Quebec.

The JBNQA was signed in 1975 by the Government of Canada, the Government of Quebec, the Grand Council of the Crees, the Northern Quebec Inuit Association, the Quebec Hydro-Electric Commission (Hydro-Québec), the James Bay Development Corporation and the James Bay Energy Corporation. In 1978, the NEQA was signed by the above parties (except the Government of Canada) and the Naskapi (representing the Innu of northern Quebec), establishing for the Naskapi (Innu) similar rights to those acquired by the Cree and the Inuit under the JBNQA.<sup>64</sup> Collectively, the two agreements cover a surface area of more than one million square kilometres (approximately two-thirds of the land area in Quebec),<sup>65</sup> including all the land between James Bay in the west and the Labrador border to the east, from the northern coast of the mainland south to the towns of Fermont in the east and Val d'Or in the west.

The JBNQA and the NEQA achieved several objectives. Firstly, they settled Aboriginal land claims in northern Quebec. Secondly, they established an amount to be paid to the Cree, Inuit and Naskapi (Innu) by the Governments of Canada and Quebec, as well as the James Bay Energy Corporation, as compensation for impacts on traditional lands. Additionally, the agreements defined Aboriginal rights and established regimes and norms for future relations between Aboriginal and non-Aboriginal people in the region.

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60 British Columbia Assembly of First Nations. (2013, June). *BC Government Incremental Ore Revenue Sharing Policy, Resolution 3(n)/2013*. Retrieved September 8, 2014, from <http://www.bcafn.ca/files/documents/BCAFNRResolution03n-2013-BCGovernmentIncrementalOreRevenueSharingPolicy.pdf>

61 British Columbia Assembly of First Nations. (2013, June). *BC Government Incremental Ore Revenue Sharing Policy, Resolution 3(n)/2013*. Retrieved September 8, 2014, from <http://www.bcafn.ca/files/documents/BCAFNRResolution03n-2013-BCGovernmentIncrementalOreRevenueSharingPolicy.pdf>

62 The First Nations of Maa-Nulth Treaty Society. (n.d.). *Resource Revenue Sharing in the Maa-Nulth Final Agreement*. Presentation. Retrieved September 8, 2014, from [http://www.maanulth.ca/downloads/presentation\\_resource\\_revenue\\_sharing.pdf](http://www.maanulth.ca/downloads/presentation_resource_revenue_sharing.pdf)

63 Simeone, T. (2014, February 26). *Resource Revenue-Sharing Arrangements with Aboriginal People*. Retrieved September 8, 2014, from <http://www.parl.gc.ca/Content/LOP/ResearchPublications/2014-10-e.htm>

64 Public Works and Government Services Canada. (2010, September 15). *James Bay and Northern Quebec Agreement and The Northeastern Quebec Agreement 1998-1999 Annual Report - 1999-2000 Annual Report* (Canada, Aboriginal Affairs and Northern Development Canada). Retrieved September 8, 2014, from <http://www.aadnc-aandc.gc.ca/eng/1100100030848/1100100030850>

65 Aboriginal Affairs and Northern Development Canada. (2014, January 29). *James Bay and Northern Quebec Agreement*. Retrieved September 8, 2014, from <http://www.ceaa-acee.gc.ca/default.asp?lang=en&n=258F8153-1>



Finally, they clearly delineated the roles and responsibilities of the various local, regional, provincial and federal governments with respect to protection of Aboriginal rights in northern Quebec.

The JBNQA and the NEQA established land categories and the jurisdiction attached to each land category. Under the JBNQA and NEQA, the region was divided into Category I, II and III lands.<sup>66</sup> In particular, the JBNQA stipulates that the provincial government retains ownership of mineral and subsurface rights for all three categories of land with the exception of soapstone (steatite) and similar minerals used for traditional arts and crafts.

In February 2002, representatives of the Government of Quebec and the Grand Council of the Crees signed an agreement that supplemented the commitments articulated in the JBNQA. The 2002 agreement is formally titled "Agreement Respecting a New Relationship between the Cree Nation and the Government of Quebec" and is known colloquially as *La paix des braves*.

In Quebec, *La paix des braves* is the only agreement that includes GRRS. This GRRS arrangement integrates resource valuation into the funding model. Specifically, *La paix des braves* commits the Government of Quebec to make annual payments that are indexed according to the value of hydroelectric, forestry and mining production within the Cree territory.

#### **GRRS Arrangements**

*La paix des braves* specifies a GRRS arrangement; it is not mineral industry-specific, but addresses resource development, within the designated region, in the hydroelectric, mining and forestry sectors.

In addition to the base amount provided to the Cree, *La paix des braves* stipulates that the amount of the annual payments is indexed such that the Cree receive a portion of all the royalties and taxes collected annually by the Government of Quebec from all mining, forestry and hydroelectric development taking place within the James Bay and Northern Quebec territory.

The payments are calculated annually and disbursed quarterly, on the first business day of the month, in April, July, October and January of that financial year (April 1 to March 31), via direct electronic banking transfer to an account designed for this purpose and administered by the Recipient of Funding on behalf of the Cree.

*La paix des braves* stipulates the annual payment from the Government of Quebec for the first three financial years of the agreement to be:

- a) for the 2002-2003 financial year: \$23 million;
- b) for the 2003-2004 financial year: \$46 million;
- c) for the 2004-2005 financial year: \$70 million.

The source of this payment is the total revenue collected by the Government of Quebec from all hydroelectric, forestry and mineral production, rather than the revenue generated by any one project.

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<sup>66</sup> Aboriginal Affairs and Northern Development Canada. (2014, January 29). James Bay and Northern Quebec Agreement. Retrieved September 8, 2014, from <http://www.ceaa-acee.gc.ca/default.asp?lang=en&n=258F8153-1>

For each subsequent financial year between April 1, 2005 and March 31, 2052, the annual payment from Quebec shall be the greater of the two following amounts:

- a) \$70 million; or
- b) an amount determined by indexing the \$70 million base amount in accordance with a formula that reflects the evolution since the 2005-2006 financial year of the value of hydroelectric production, mineral development production and forestry harvest production in the territory.

For the purposes of determining the amount of the payment, *La paix des braves* stipulates that the definition of "Territory" is that used in section 22.1.6 of the JBNQA, which reads:

"Territory" shall mean the area in Québec south of the 55th parallel of latitude, (excluding the area in the vicinity of Schefferville south of the 55th parallel of latitude), and west of the 69th meridian of longitude, and including the Categories I and II lands of the Crees of Great Whale, and with the southern boundary coinciding with the southern limits of the Cree traplines as defined in Section 24.<sup>67</sup>

For the purposes of calculating the indexed value from 2005 to 2052, the value of mineral development production is defined as the sum, for all mining operations in the region of the agreement, of the total value of mineral development extraction shipments in a calendar year, as reported to the Government of Quebec regarding mining royalties. In this way, the royalties received by the Government of Quebec from mining operations in the region are shared with the Cree Nations.

In the 2008-2009 financial year (the most recent year for which financial statements are available on the Grand Council of the Crees website), the amount of the annual payment received by the James Bay Cree from the Government of Quebec was \$73,242,623.<sup>68</sup> Per the payment formula described above, the amount in excess of the guaranteed \$70 million (i.e. the additional \$3,242,623 received that year) reflects increased resource production (including mining, forestry and hydroelectric) within the Cree Territory in the 2008-2009 financial year, relative to the 2005-2006 base year.

### **Newfoundland and Labrador**

In Newfoundland and Labrador, mineral tenure lies with the Crown. Unlike some of the Canadian provinces that signed historic treaties, no land-related treaties were signed with Aboriginal people in Newfoundland and Labrador until 2005, when the Labrador Inuit Land Claims Agreement (LILCA) was signed by the Labrador Inuit (represented by the Labrador Inuit Association), the Government of Canada and the Government of Newfoundland and Labrador. In general, the LILCA defines land ownership, resource sharing and the terms of self-government within the Labrador Inuit Settlement Area, where Inuit own 15,800 km<sup>2</sup> of land – referred to as Labrador Inuit Lands –, with a 25% ownership interest in subsurface resources.<sup>69</sup> The Settlement Area includes Labrador Inuit Lands and the five Inuit communities of Nain, Hopedale, Makkovik, Postville and Rigolet.

67 Grand Council of the Crees. (n.d.). *The James Bay and Northern Quebec Agreement*. Retrieved September 8, 2014, from <http://www.gcc.ca/pdf/LEG000000006.pdf>

68 Grand Council of the Crees. (2010). *Annual Report 2008-2009* (Rep.). Retrieved September 8, 2014, from <http://www.gcc.ca/pdf/GCC000000015.pdf>

69 Government of Newfoundland and Labrador. (2004, December 6). Premier announces ratification of Labrador Inuit Land Claims Agreement Act [Press release]. Retrieved September 10, 2014, from <http://www.releases.gov.nl.ca/releases/2004/laa/1206n02.htm>

The Innu Nation (Labrador) is engaged in ongoing negotiations with the Government of Canada and the province regarding a land claim and self-government agreement based on a framework agreement signed by the Innu Nation, Canada and Newfoundland and Labrador on March 29, 1996. An agreement-in-principle was signed on November 18, 2011,<sup>70</sup> and negotiations are underway to reach a final agreement.

The Labrador Inuit, represented by the Nunatsiavut government, are the only Aboriginal peoples within Newfoundland and Labrador who currently have a mineral sector-specific GRRS arrangement, which is tied to the LILCA. The Labrador Innu also have an agreement that provides a percentage of provincial subsurface royalties. Specifically, the agreement is related to the Voisey's Bay development, but it is anticipated that, once finalized, the Innu's land claim agreement will incorporate a broader GRRS arrangement.

### ***GRRS Arrangements***

The provincial government shares revenues it collects from proponents' resource development activities with both the Labrador Inuit and Labrador Innu. Two separate mechanisms are in place in Labrador for the application of GRRS; one is outlined in the LILCA, concerning development on settlement lands and Voisey's Bay, and the other is in the Memorandum of Agreement concerning the Voisey's Bay project between the Labrador Innu and the provincial government.

#### *Labrador Inuit Land Claims Agreement*

The Labrador Inuit receive royalties from revenues the province generates from resource development (GRRS) through the LILCA comprehensive land claim. The LILCA has served as the mechanism for the Labrador Inuit to ensure they receive a share of provincial royalties from subsurface mineral development, as well as oil and gas and hydroelectric development.

The LILCA includes GRRS agreements in Chapter 7, "Economic Development," specific to the sharing of provincial resource revenues as well as government revenues specifically generated by Voisey's Bay. The LILCA defines land ownership, resource sharing and the terms of self-government within the Labrador Inuit Settlement Area.

The GRRS arrangements within the LILCA outline different criteria for the sharing of resource revenues by the provincial government, depending upon whether or not development takes place within Labrador Inuit Lands, Labrador Inuit Settlement Lands or in relation to the Voisey's Bay mine, as follows:

**Labrador Inuit Lands:** Labrador Inuit own 15,800 km<sup>2</sup> of land within the Settlement Area and have the exclusive right to carving stone, ownership of 3,950 km<sup>2</sup> of quarry materials and a 25% ownership interest in subsurface resources. The Nunatsiavut government is entitled to receive 25% of provincial government revenues from subsurface resources in Labrador Inuit Lands.

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<sup>70</sup> Government of Canada, Government of Newfoundland and Labrador, & The Labrador Innu. (2011, November 18). *Labrador Innu Land Claims Agreement-in-Principle* (Canada). Retrieved September 8, 2014, from <http://www.aadnc-aandc.gc.ca/eng/1331657507074/1331657630719>

**Labrador Inuit Settlement Lands:** Labrador Inuit have co-management rights in the remaining area of land and ocean in the Settlement Area. The Nunatsiavut Government is entitled to receive an amount equal to:

- a) 50% of the first \$2 million of revenue in a fiscal year; and
- b) 5% of any revenue in a fiscal year that is in excess of the \$2 million of revenue from subsurface resources in the Labrador Inuit Settlement Area outside Labrador Inuit Lands. This excludes revenue from the Voisey's Bay project.<sup>71</sup>

**Voisey's Bay Area:** The Nunatsiavut government will receive 5% of provincial revenues from subsurface resources in the Voisey's Bay area.<sup>72</sup>

The LILCA defines resource revenues as any royalty tax that is received by the province under the Mining and Mineral Rights Tax Act, the Petroleum and Natural Gas Act, the Quarry Materials Act or the Mineral Act. The LILCA further defines royalty tax as follows:

- A subsurface resource (e.g. minerals) tax, royalty, rent, fee, excluding a fee levied for administrative purposes, or other payment in the nature of a royalty; and
- Any other amount that is payable for a right to explore for or exploit a subsurface resource or a right of entry or use relating to a right to explore for or exploit a subsurface resource.

With respect to GRRS, the LILCA includes specific requirements for the province to set up a surface resource revenue committee to manage the GRRS relationship with the Nunatsiavut government.

*Memorandum of Agreement Concerning the Voisey's Bay Project*

On July 22, 2002, the province of Newfoundland and Labrador and the Innu of Labrador signed a Memorandum of Agreement (MOA) related to the Voisey's Bay development. Pending a final land claims agreement, the MOA aimed to address the impacts of the project on traditional lands, culture environment and socio-economic conditions of the Innu and ensure that the Innu received benefits from the project.

According to the MOA, "the Innu Government is entitled to receive, and the province shall pay to the Innu Government an amount equal to 5% of any Revenue received by the province from the Voisey's Bay Project. These amounts shall be transferred to the Innu Government on a quarterly basis."<sup>73</sup>

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71 The Inuit of Labrador, Her Majesty the Queen in Right of Newfoundland and Labrador, & Her Majesty the Queen in Right of Canada. (2005). Chapter 7, *Labrador Inuit Land Claims Agreement* (Canada, Aboriginal Affairs and Northern Development Canada), p. 101. Retrieved September 9, 2014, from [http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/al\\_ldc\\_ccl\\_fagr\\_labi\\_labi\\_1307037470583\\_eng.pdf](http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/al_ldc_ccl_fagr_labi_labi_1307037470583_eng.pdf)

72 The Inuit of Labrador, Her Majesty the Queen in Right of Newfoundland and Labrador, & Her Majesty the Queen in Right of Canada. (2005). Chapter 7, *Labrador Inuit Land Claims Agreement* (Canada, Aboriginal Affairs and Northern Development Canada), p. 102. Retrieved September 9, 2014, from [http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/al\\_ldc\\_ccl\\_fagr\\_labi\\_labi\\_1307037470583\\_eng.pdf](http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/al_ldc_ccl_fagr_labi_labi_1307037470583_eng.pdf)

73 Her Majesty the Queen in Right of Newfoundland and Labrador, & The Innu of Labrador. (2002). *Memorandum of Agreement Concerning the Voisey's Bay Project* (Government of Newfoundland and Labrador). Retrieved September 9, 2014, from [http://www.laa.gov.nl.ca/laa/land\\_claims/MemorandumAgreement.pdf](http://www.laa.gov.nl.ca/laa/land_claims/MemorandumAgreement.pdf)

The Agreement defines the revenue to be shared as:

- (a) any Tax that is received by the Province under the Mining and Mineral Rights Tax Act, the Petroleum and Natural Gas Act, the Quarry Materials Act or the Mineral Act;
- (b) any Tax that is received by the Province under any provincial legislation to replace or amend the Mining and Mineral Rights Tax Act, the Petroleum and Natural Gas Act, the Quarry Materials Act or the Mineral Act or to levy a new or additional Tax in respect of Subsurface Resources in the province;
- (c) any amount that is received by the Province under a Tax collection, Tax rental, revenue sharing or other similar arrangement with Canada or any other jurisdiction in respect of a Tax in respect of Subsurface Resources in the province; and
- (d) any interest or penalty that is received by the Province.<sup>74</sup>

The Agreement also sets out provisions for considerations such as land use in the area and consultation regarding project-related activities.

The Labrador Innu are also seeking to establish a GRRS mechanism within their future comprehensive land claim agreement, beyond the Voisey's Bay agreement.

## Jurisdictions without GRRS Arrangements

### Alberta

The province of Alberta is the owner of mineral resources. There are nearly 220,000 Aboriginal peoples living within the province of Alberta.<sup>75</sup> Three historic treaties cover the entire province, including Treaty 6 (1876), Treaty 7 (1877) and Treaty 8 (1899). The province has also settled 12 treaty land entitlements (TLE) with First Nations, since 1986.<sup>76,77</sup> These agreements have resulted in additions to reserve lands through cash payments or land transfers.

Alberta is not only the province with the largest population of Métis (96,865), but also the only province in Canada with a recognized Métis land base entrenched in provincial statute – the Métis Settlements.<sup>78</sup> Approximately 8,000 people live on the 8 Métis Settlements in Alberta, which cover a land base of 512,121 hectares. This land base was established through the Alberta-Métis Settlements Accord (1989).<sup>79</sup>

### Status of GRRS

Aboriginal groups are requesting that the province share a portion of its resource revenues, and while the Alberta government released a new consultation policy for First Nations in August 2013,<sup>80</sup> it does not make mention of GRRS. In fact, it appears that the Alberta government is reluctant to pursue resource revenue sharing with Aboriginal groups, publicly stating that Aboriginal people will benefit in the same way as all Albertans.<sup>81</sup>

74 Her Majesty the Queen in Right of Newfoundland and Labrador, & The Innu of Labrador. (2002). *Memorandum of Agreement Concerning the Voisey's Bay Project* (Government of Newfoundland and Labrador). Retrieved September 9, 2014, from [http://www.laa.gov.nl.ca/laa/land\\_claims/MemorandumAgreement.pdf](http://www.laa.gov.nl.ca/laa/land_claims/MemorandumAgreement.pdf)

75 Statistics Canada. (2011). Table 2: Number and distribution of the population reporting an Aboriginal identity and percentage of Aboriginal people in the population, Canada, provinces and territories, 2011. *National Household Survey* (Canada, Statistics Canada). Ottawa, Ontario. Retrieved September 9, 2014, from <http://www12.statcan.gc.ca/nhs-enm/2011/as-sa/99-011-x/2011001/tbl/tbl02-eng.cfm>

76 This is a point of contention for the Lubicon Lake First Nation, who have been disputing this for the past 40 years (see Lubicon Lake Nation. (2014). Governance. Retrieved September 9, 2014, from <http://www.lubiconlakenation.ca/index.php/governance/traditional-lubicon-lake-nation-governance>).

77 Government of Alberta. (n.d.). Alberta Aboriginal Relations: Land Claims. Retrieved September 10, 2014, from <http://www.aboriginal.alberta.ca/Land-Claims.cfm>

78 Statistics Canada. (2011). Aboriginal Peoples in Canada: First Nations People, Métis and Inuit. *National Household Survey* (Canada, Statistics Canada). Ottawa, Ontario. Retrieved September 9, 2014, from <http://www12.statcan.gc.ca/nhs-enm/2011/as-sa/99-011-x/99-011-x2011001-eng.cfm>

79 Government of Alberta. (n.d.). Alberta Aboriginal Relations: Métis Settlements. Retrieved September 10, 2014, from <http://www.aboriginal.alberta.ca/Metis-Settlements.cfm>

80 Government of Alberta. (2013). Aboriginal Relations: Aboriginal Consultation Office Update. Retrieved September 9, 2014, from <http://www.aboriginal.alberta.ca/1.cfm>

81 Sweetgrass, S. N. (2013). No to resource revenue sharing, says Alberta government. *Aboriginal Multi-Media Society*. Retrieved September 9, 2014, from <http://www.ammsa.com/publications/alberta-sweetgrass/no-resource-revenue-sharing-says-alberta-government>

## Saskatchewan

Numbered treaties cover all of Saskatchewan. In 1930, the Federal Crown transferred resource ownership to the provinces of Manitoba, Saskatchewan and Alberta via the Natural Resource Transfer Act, 1930 (NRTA). The NRTA placed the Prairie Provinces on the same footing as other provinces in terms of ownership of public lands and resources, with the exception of reserve lands, which remain under federal jurisdiction. The Federation of Saskatchewan Indian Nations (FSIN) maintains that the NRTA fails to address the rights of Aboriginal peoples, as laid out within treaties.<sup>82</sup>

The Saskatchewan government has formally acknowledged that 33 First Nations in the province did not receive the land allocated to them in the Treaties and has negotiated treaty land entitlement framework agreements with them and the federal government. Per the terms of these agreements, the 33 First Nations have collectively received \$595 million to purchase up to 922,683 hectares of land to add to their reserves.<sup>83</sup>

Self-government negotiations for Saskatchewan First Nations are informed by the Framework for Governance of Treaty First Nations, signed in 2000 by the federal and provincial governments and the Federation of Saskatchewan Indian Nations (FSIN). The Framework stipulates that any new governance agreement would supplement, rather than replace, existing treaties. In 2003, draft bilateral and trilateral agreements-in-principle were created, but no self-government agreements have been finalized.<sup>84</sup>

Métis peoples in Saskatchewan, represented by the Métis Nation – Saskatchewan (MN-S), are also advocating for self-government, leveraging litigation channels and strategic partnerships with government. In 1993, the MN-S and the province signed a bilateral process to which the federal government was eventually annexed, creating a tripartite partnership to deal specifically with Métis issues. The following year, the MN-S filed a land claim for the northwestern corner of Saskatchewan. The claim has yet to be resolved, but is expected to involve negotiations with both the federal and provincial government.<sup>85</sup>

In 2001, Saskatchewan and the MN-S signed the Métis Act, which recognized the Métis contributions to the formation of Canada and strengthened the relationship between the two parties.<sup>86</sup> In 2003, the MN-S, the Government of Canada, and the Government of Saskatchewan signed a tripartite Memorandum of Understanding (MOU) intended to establish cooperative consideration of several issues, including Métis self-governance.<sup>87</sup>

## Status of GRRS

Some Saskatchewan First Nation groups are driving the push for GRRS, requesting the right to approve any and all resource projects on traditional territories and the opportunity to benefit from the revenues of such projects.<sup>88</sup>

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82 Federation of Saskatchewan Indian Nations. (n.d.). Treaty Right to Resources. Retrieved September 8, 2014, from <http://www.fsin.com/index.php/treaty-right-to-resources.html>

83 Federation of Saskatchewan Indian Nations. (n.d.). Treaty Right to Resources. Retrieved September 8, 2014, from <http://www.fsin.com/index.php/treaty-right-to-resources.html>

84 Hurley, M. C. (2009). *Aboriginal Self-Government* (Canada, Parliament of Canada, Social Affairs Division). Retrieved September 9, 2014, from <http://www.parl.gc.ca/content/lop/researchpublications/prb0923-e.htm#a14>

85 Préfontaine, D. R. (n.d.). Métis Nation - Saskatchewan. In *The Encyclopedia of Saskatchewan*. Retrieved September 10, 2014, from [http://esask.uregina.ca/entry/metis\\_nation-saskatchewan.html](http://esask.uregina.ca/entry/metis_nation-saskatchewan.html)

86 Préfontaine, D. R. (n.d.). Métis Nation - Saskatchewan. In *The Encyclopedia of Saskatchewan*. Retrieved September 10, 2014, from [http://esask.uregina.ca/entry/metis\\_nation-saskatchewan.html](http://esask.uregina.ca/entry/metis_nation-saskatchewan.html)

87 Hurley, M. C. (2009). *Aboriginal Self-Government* (Canada, Parliament of Canada, Social Affairs Division). Retrieved September 9, 2014, from <http://www.parl.gc.ca/content/lop/researchpublications/prb0923-e.htm#a14>

88 Federation of Saskatchewan Indian Nations. (n.d.). Treaty Right to Resources. Retrieved September 8, 2014, from <http://www.fsin.com/index.php/treaty-right-to-resources.html>

The current Saskatchewan premier, Brad Wall, has maintained that “there will be no special deals for any group regardless of that group in terms of natural resource revenue sharing.”<sup>89</sup> He remarked that Aboriginal peoples in Canada benefit from the allocation of that revenue in roads, schools and hospitals, just as non-Aboriginal people do, and asserted the province’s ownership of lands and resources.

During the last provincial election, in October 2011, the Saskatchewan NDP party publicly committed to GRRS, but by the following month, they had rescinded that pledge, saying that voters were against the idea.<sup>90</sup>

In 2013, the FSIN renewed their call for GRRS, taking direct aim at the province’s existing revenue-sharing agreement with municipalities and arguing that there is a double-standard when the province deals with First Nations.<sup>91</sup>

### **Manitoba**

In 1930, the Federal Crown transferred resource ownership to the provinces of Manitoba, Saskatchewan and Alberta in the Natural Resource Transfer Act, 1930 (NRTA) via the Constitution Act, granting the provinces ownership of public lands and resources.<sup>92</sup>

Treaties cover the entire province of Manitoba, including Treaty 5 (1875 and 1908), Treaty 2 (1871), Treaty 1, (1871); and smaller portions of Treaty 3 (1873), Treaty 4 (1874) and Treaty 9 (1929-30). In addition, of the 63 First Nations in Manitoba, 29 have treaty land entitlement settlement agreements.<sup>93</sup>

As of September 2013, there is one self-government agreement in place between the Government of Manitoba and the Sioux Valley Dakota Nation.<sup>94</sup> This removes the First Nation from under the Indian Act and provides greater control in areas such as land management.

### **Status of GRRS**

In Manitoba, there is no province-wide model for GRRS.

The province of Manitoba and East Side First Nations entered into the Wabanong Nakaygum Okimawin Council of Chiefs Accord in 2007, through the East Side Planning Initiative, which is a broad area planning process with the First Nations and Métis peoples residing on the East Side of Lake Winnipeg. The Accord includes an agreement to work on “benefit sharing” regarding resource removal from traditional lands (i.e. specific to hydro, forestry and mining). No specifics have yet been published about the GRRS arrangements they plan to employ. While the initiative is ongoing, GRRS has not been pursued any further, to date.<sup>95</sup>

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89 McCarthy, S. (2013, January 16). First nations’ growing voice pressures resource sector. *The Globe and Mail*. Retrieved September 8, 2014, from <http://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/first-nations-growing-voice-powers-resource-sector/article7447701/>

90 CBC News. (2011, November 28). NDP drops First Nations revenue-sharing pledge [Online posting]. Retrieved September 9, 2014, from <http://www.cbc.ca/news/canada/saskatchewan/ndp-drops-first-nations-revenue-sharing-pledge-1.982805>

91 Joehnc, M. [MBC Radio] (2013, March 20). Saskatchewan Party Pours Cold Water On Resource Revenue Sharing With First Nations [Online posting]. Retrieved September 9, 2014, from <http://www.mbcradio.com/index.php/mbc-news/12228-sask-party-pours-cold-water-on-resource-revenue-sharing-with-first-nations>

92 A point that is disputed by some Aboriginal peoples throughout Canada.

93 Aboriginal Affairs and Northern Development Canada. (2014, April 30). Treaty Land Entitlement. Retrieved September 9, 2014, from <http://www.aadnc-aandc.gc.ca/eng/1100100034822/1100100034823>

94 Wawatay News Online. (2013, September 4). Manitoba nation signs historic self-government agreement [Online posting]. Retrieved September 9, 2014, from [http://www.wawataynews.ca/archive/all/2013/9/4/manitoba-nation-signs-historic-self-government-agreement\\_24969](http://www.wawataynews.ca/archive/all/2013/9/4/manitoba-nation-signs-historic-self-government-agreement_24969)

95 Manitoba Wildlands. (2014, May 31). East Side Planning Initiative (ESPI). Retrieved September 9, 2014, from [http://manitobawildlands.org/lup\\_espi.htm](http://manitobawildlands.org/lup_espi.htm); Chenette, J., & Payette, D. W. (2000, October 1). *Duty to Defend: The Importance of Properly Presenting Facts* (Publication). Retrieved September 9, 2014, from McCarthy Tétrault website: [http://www.mccarthy.ca/article\\_detail.aspx?id=457](http://www.mccarthy.ca/article_detail.aspx?id=457)

First Nations chiefs within northern Manitoba called for renewed discussions on benefit sharing, in June 2013. In November 2013, the creation of a Mining Advisory Council was announced. The Council includes representatives from First Nations, industry and the province.<sup>96</sup> It will provide the province with advice and recommendations on issues such as capacity, business development and environmental stewardship and will also look at resource revenue and benefit sharing with First Nation communities.

## Ontario

Mineral ownership rests with the province of Ontario. Currently, the province is negotiating 47 specific and comprehensive land claims, as well as researching and assessing 5 and implementing 10 treaty land entitlement agreements.

### *Status of GRRS*

At the present time, there are no GRRS agreements in place within Ontario. In 2004, a private member's bill called the First Nations Resource Revenue Sharing Act (Bill 97)<sup>97</sup> was introduced into Ontario legislature, where it was carried and referred to committee for study, but was stalled. In addition, resource benefits sharing was mentioned as a priority in an announcement by the premier, in 2008, along with the new Mining Act and Far North Act. This was reaffirmed in 2009 with an announcement of \$30 million for the initiative, which would include socio-economic benefits, as well as economic, employment and training opportunities.<sup>98</sup>

The Chiefs of Ontario signed a resolution in 2010, declaring the negotiation of a regional GRRS arrangement with the current government as a leading priority of the Ontario Regional Chief and the Political Confederacy.<sup>99</sup> However, discussions with the province broke down in 2011, due to concerns that the proposed approach was inconsistent with the existing treaty relationships.

There have been some initial negotiations on GRRS planning in the Ring of Fire, located in northern Ontario.<sup>100</sup> In 2012, the Minister of Northern Development and Mines updated a Memorandum of Co-operation (MOC) with Webequie First Nation<sup>101</sup> to discuss providing Webequie with "social, community and economic development supports and resource revenue sharing associated with mine developments in the Ring of Fire."

Additionally, in July 2013, the Ontario government appointed the Honourable Frank Iacobucci as the lead negotiator for Ontario to participate in discussions with the Matawam member First Nations related to proposed development in the Ring of Fire. Consideration was given to resource revenue sharing, along with environmental monitoring, infrastructure and economic supports.<sup>102</sup> In March 2014, the parties signed a framework agreement to guide negotiations on these issues.

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96 Government of Manitoba. (2013, November 8). *New Mining Advisory Council to Ensure First Nations Benefit from Resource Development* [Press release]. Retrieved September 9, 2014, from <http://news.gov.mb.ca/news/index.html?item=19495>

97 Standing Committee on Finance and Economic Affairs. (2004). *Bill 97, First Nations Resource Revenue Sharing Act, 2004*. Retrieved September 9, 2014, from [http://www.ontla.on.ca/web/committee-proceedings/committee\\_transcripts\\_details.do?locale=en&BillID=96&ParlCommID=7421&Date=2004-09-21&Business=Bill+97%2C+First+Nations+Resource+Revenue+Sharing+Act%2C+2004&DocumentID=20342](http://www.ontla.on.ca/web/committee-proceedings/committee_transcripts_details.do?locale=en&BillID=96&ParlCommID=7421&Date=2004-09-21&Business=Bill+97%2C+First+Nations+Resource+Revenue+Sharing+Act%2C+2004&DocumentID=20342)

98 Government of Ontario. (2009, April 27). *McGuinty Government Reaffirms Commitment To Resource Benefits Sharing With Aboriginal Communities* [Press release]. Retrieved September 9, 2014, from <http://news.ontario.ca/maa/en/2009/04/partnering-for-future-economic-growth.html>

99 Chiefs of Ontario. (2010, November). *Resource Benefits/Revenue Sharing, Resolution 10/11*. Retrieved September 9, 2014, from <http://www.chiefs-of-ontario.org/sites/default/files/files/10-11%20Resource%20Benefits-Revenue%20Sharing.pdf>

100 Government of Ontario, Ministry of Northern Development and Mines. (2-13, May 3). FAQ. Retrieved September 9, 2014, from <http://www.mndm.gov.on.ca/en/faq>

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102 Government of Ontario. (2014, March 26). *Ontario, First Nations to Work Together on Ring of Fire* [Press Release]. Retrieved from [http://news.ontario.ca/mndmf/en/2014/03/ontario-first-nations-to-work-together-on-ring-of-fire.html?utm\\_source=ondemand&utm\\_medium=email&utm\\_campaign=m](http://news.ontario.ca/mndmf/en/2014/03/ontario-first-nations-to-work-together-on-ring-of-fire.html?utm_source=ondemand&utm_medium=email&utm_campaign=m)



## **New Brunswick**

Minerals in New Brunswick are owned and managed by the Crown. In the province, there are 15 First Nation communities, with 6 Maliseet (or Wolastoqiyik) communities along the Saint John River and 9 Mi'kmaq communities along the eastern and northern coasts.<sup>103</sup> The Mi'kmaq and the Maliseet were signatories to the Peace and Friendship Treaties that were negotiated with the British Crown throughout the Maritimes. Such treaties were centered on building good relations and trading alliances at a time when the British and French were in conflict.

The Peace and Friendship Treaties did not include the surrender of Mi'kmaq or Maliseet rights to the land and resources.<sup>104</sup> Court decisions have affirmed Aboriginal and treaty rights and the Mi'kmaq and Maliseet of New Brunswick, the province of New Brunswick and Canada are involved in exploratory discussions. These discussions are currently focused on setting up a tripartite process that would address issues of mutual concern, including Aboriginal and treaty rights and self-government, as well as resource revenue sharing.<sup>105,106</sup>

### **Status of GRRS**

No province-wide framework exists for mineral-specific GRRS in New Brunswick. The proposed Oil and Natural Gas Blueprint outlines the province's plan to establish an oil and natural gas royalty regime. However, there is no GRRS arrangement proposed within the Blueprint.<sup>107</sup>

## **Prince Edward Island**

There are two First Nation communities in PEI – the Abegweit First Nation and the Lennox Island First Nation, which are represented by the Mi'kmaq Confederacy of PEI. There are no settled land claims, treaties or self-government agreements within this jurisdiction.<sup>108</sup>

No GRRS mechanism exists.

## **Nova Scotia**

The Crown owns mineral rights in Nova Scotia. The Mi'kmaq are the predominant Aboriginal group within the province. Nova Scotia has 13 Mi'kmaq First Nations, with community populations ranging from 240 in the Annapolis Valley First Nation to 3,988 in the Eskasoni First Nation. In total, there are 13,518 registered First Nations people in Nova Scotia and of these, 4,752 live off-reserve.<sup>109</sup>

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103 Government of New Brunswick. (n.d.). Aboriginal Affairs (Secretariat): Executive Council Office. Retrieved September 9, 2014, from [http://www2.gnb.ca/content/gnb/en/departments/aboriginal\\_affairs/contacts/dept\\_renderer.153.201476.8943.html#mandates](http://www2.gnb.ca/content/gnb/en/departments/aboriginal_affairs/contacts/dept_renderer.153.201476.8943.html#mandates)

104 Aboriginal Affairs and Northern Development Canada. (2010, September 15). Questions and Answers. Retrieved September 9, 2014, from <https://www.aadnc-aandc.gc.ca/eng/1100100028650/1100100028651>

105 Aboriginal Affairs and Northern Development Canada. (2013, July 3). Fact Sheet - Progress Report on Aboriginal and Treaty Rights Negotiations in the Maritimes and the Gaspésie. Retrieved September 9, 2014, from <https://www.aadnc-aandc.gc.ca/eng/1100100028644/1100100028645>

106 New Brunswick Aboriginal Peoples Council. (n.d.). What are Aboriginal Rights? Retrieved September 9, 2014, from <http://nbapc.org/resources/qampa/>

107 Government of New Brunswick. (2013). *The New Brunswick Oil and Natural Gas Blueprint* (Canada). Fredericton, New Brunswick. Retrieved September 9, 2014, from <http://www2.gnb.ca/content/dam/gnb/Departments/en/pdf/Publications/9281%20ONG%20English%20Final%20web.pdf>

108 Mi'kmaq Confederacy of Prince Edward Island. (n.d.). News/Media Releases. Retrieved September 9, 2014, from <http://www.mcpei.ca/>

109 Government of Nova Scotia, Office of Aboriginal Affairs. (n.d.). Aboriginal People in NS. Retrieved September 9, 2014, from <http://novascotia.ca/abor/aboriginal-people/>

The Mi'kmaq of Nova Scotia were signatories to the Peace and Friendship Treaties, which did not include provisions for the surrender of rights to lands and resources.<sup>110</sup> Negotiations are ongoing between the Mi'kmaq and the federal and provincial governments in a "Made-in-Nova Scotia Process," which aims to reach agreements to govern relationships among Canada, the Mi'kmaq and Nova Scotia, over issues of land, resources and governance. First steps have been taken with the establishment of the Umbrella Agreement (2001) and the Framework Agreements, which set out the political structure and negotiating process, respectively.<sup>111</sup> It is not known whether a GRRS mechanism is part of these negotiations.

### ***Status of GRRS***

There is no publicly available information disclosing the existence, negotiation or discussion of GRRS in Nova Scotia or evidence that this is part of the "Made-in-Nova Scotia Process."

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110 Aboriginal Affairs and Northern Development Canada. (2010, September 15). Questions and Answers. Retrieved September 9, 2014, from <https://www.aadnc-aandc.gc.ca/eng/1100100028650/1100100028651>

111 Government of Nova Scotia, Office of Aboriginal Affairs. (n.d.). Frequently Asked Questions. Retrieved September 9, 2014, from <http://novascotia.ca/abor/resources/#framework>



## Conclusion



Canada's mineral industry has the potential to provide socio-economic benefits to Aboriginal communities. There are many examples across the country where Aboriginal communities have realized opportunities for direct financial benefit, business development, training and community development. Government resource revenue sharing agreements between the Crown and Aboriginal communities are another mechanism by which Aboriginal people can receive benefits from the development of mineral resources on traditional territories.

The models of Crown revenue sharing agreements are outlined in this report, in the form of a jurisdictional scan. Key elements that characterize these agreements are presented with some of the associated challenges and benefits. Currently, there are six jurisdictions in Canada where GRRS agreements have been reached. There is no standard model for GRRS, and it is applied differently throughout the jurisdictions with GRRS agreements. However, the sources of the revenues that are shared in each agreement are limited to direct resource revenues that the governments receive from royalties, taxes or fees. The agreement in Quebec is the only one in which revenues to be shared are not calculated as a percentage, but as predetermined payments. Almost all instances of GRRS with Aboriginal communities are in areas where treaties with the Crown were never signed. British Columbia's policy mechanism for GRRS is through the signing of Economic Community Development Agreements, whereas the other existing arrangements in Canada have been reached in conjunction with comprehensive land claims negotiations/agreements.

This research was undertaken with the goal of contributing to ongoing discussion regarding GRRS, as well as to help guide advocacy for such arrangements, in jurisdictions where they do not yet exist. It is the PDAC's continued view that government resource revenue sharing can contribute to positive relationships among all parties, a favourable investment climate, the development of sustainable communities and the enhancement of the competitiveness of Canada's mineral industry.

## Resource List

Presented by jurisdiction, the following resources formed the basis of this research:

### General

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## Appendix A – PDAC GRRS Position Statement

### Government Resource Revenue Sharing with Aboriginal Peoples

#### **Background**

Canadian exploration and mining companies conduct their work in the vicinity of Aboriginal communities. Statistics Canada has revealed that there are 1,200 Aboriginal communities located within 200 km of producing mines and 2,100 exploration properties across Canada.

Mineral exploration and mining companies need skilled workers to conduct their business. Remote Aboriginal communities represent an untapped potential source of human resources. In particular, the industry can provide skills development and advanced education opportunities for Aboriginal youth.

#### **Benefits**

PDAC believes that greater participation by Aboriginal peoples in the mineral industry in Canada will promote greater understanding and co-operation between Aboriginal communities and mineral exploration and mining companies.

The PDAC believes that if governments shared a portion of revenues, derived from natural resource extraction, with Aboriginal peoples, these revenues would:

- provide economic benefits to Aboriginal communities;
- form a basis for Aboriginal communities to build towards economic self-sufficiency;
- facilitate direct participation in the mineral industry by Aboriginal Peoples; and,
- encourage exploration on Aboriginal traditional lands.

PDAC recognizes that there are various forms of partnerships, memoranda of understanding, impact and benefit agreements, and resource revenue sharing arrangements involving Aboriginal peoples, the mineral industry and governments in Canada. These agreements contribute towards positive community relations, a favourable investment climate and development of sustainable communities. Government resource revenue sharing can advance these objectives and improve the competitiveness of Canada's mineral industry.

#### **Approach**

PDAC will advocate for resource revenue sharing by government with Aboriginal peoples related to mineral development projects on Aboriginal traditional lands across Canada.

PDAC will work with government, Aboriginal and industry organizations on research initiatives to analyze existing resource revenue sharing formulas and to develop models that can be implemented in jurisdictions where resource revenue arrangements are not already in place.

**PHOTO CREDITS**

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PROSPECTORS &  
DEVELOPERS  
ASSOCIATION  
OF CANADA

PROSPECTORS & DEVELOPERS  
ASSOCIATION OF CANADA  
135 KING STREET EAST  
TORONTO, ONTARIO  
M5C 1G6

PHONE 416.362.1969

INFO@PDAC.CA  
WWW.PDAC.CA  
WWW.TWITTER.COM/THE\_PDAC  
WWW.FACEBOOK.COM/THEPDAC