

Chapter 5: Water Management and Inuit Water Rights

Part 5.1 Definitions

5.1.1 In this chapter:

"Compensation Agreement" means an agreement referred to in subsection 5.6.2(a).

Part 5.2 General

5.2.1 Subject to this chapter, the Minister has the authority and responsibility for the management of the Use of Water in the Labrador Inuit Settlement Area.

5.2.2 Except as provided in sections 5.2.3 and 5.2.4, no Person may use Water in the Labrador Inuit Settlement Area without obtaining a Water Use Permit from the Minister.

5.2.3 Inuit may use Water in the Labrador Inuit Settlement Area for personal, family or domestic purposes, including hygiene and sanitation, for purposes related to the Inuit Domestic Harvest and the Inuit Domestic Fishery and for purposes of transportation associated with Harvesting without obtaining a Water Use Permit from the Minister and without charge, but nothing in this section precludes charges for Water services by the Person providing those services.

5.2.4 Nothing in this chapter affects any right that a natural person may have to use Water for domestic purposes pursuant to Legislation.

5.2.5 The exercise of the rights referred to in sections 5.2.3, 5.2.4 and 5.3.2 is subject to:

- (a) the public right of navigation;
- (b) the temporary Use of Water for emergency purposes, including fire fighting; and
- (c) Water Use rights existing on the Effective Date under a valid grant, lease, licence or other instrument or under a statute.

5.2.6 Nothing in this chapter permits a Person to discharge Waste into Water without a Water Use Permit from the Minister.

5.2.7 Subject to section 5.2.8, rights to use water in the Labrador Inuit Settlement Area that exist on the Effective Date under a valid grant, lease, licence or other instrument or under a statute continue in accordance with the applicable grant, lease, licence or other instrument or under the statute, subject to Laws of General Application.

- 5.2.8 Any renewal, extension or amendment to a right referred to in section 5.2.7 that is required for purposes of an extension or modification to a Development in existence on the Effective Date shall be effected by the issuance of a Water Use Permit in accordance with this chapter.
- 5.2.9 Except for Water Uses referred to in sections 5.2.3 and 5.2.4, all applications for the Use of Water in the Labrador Inuit Settlement Area and all applications for renewals, extensions, or amendments of permitted Water Uses in the Labrador Inuit Settlement Area are subject to Environmental Assessment under chapter 11 prior to the issuance, renewal, extension or amendment of the Water Use Permit.
- 5.2.10 A decision of the Minister respecting a Water Use Permit in the Labrador Inuit Settlement Area must conform to the Land Use Plan.
- 5.2.11 Nothing in this chapter precludes the Nunatsiavut Government, an Inuit Community Government, an Inuk or an Inuit Business from selling Water in accordance with Laws of General Application after obtaining a Water Use Permit.
- 5.2.12 Notwithstanding any other provision of this chapter, Labrador Inuit Lands may not be flooded or used for the storage or diversion of Water by any Person without the consent of the Nunatsiavut Government.
- 5.2.13 Except as provided in sections 5.2.3, 5.2.14, 5.2.15, 5.3.2 and subsection 5.5.4(b) this chapter does not apply to a National Park, National Park Reserve, National Marine Conservation Area or National Marine Conservation Area Reserve.
- 5.2.14 Section 5.2.3 shall not be construed so as to entitle Inuit to remove Water from a National Park, National Park Reserve, National Marine Conservation Area, National Marine Conservation Area Reserve, Federal Wildlife Area or Migratory Bird Sanctuary except when the Water is carried by an Inuk for purposes of section 5.2.3 when travelling.
- 5.2.15 If a Water Use in a National Park, National Park Reserve, National Marine Conservation Area, National Marine Conservation Area Reserve, Federal Wildlife Area or Migratory Bird Sanctuary affects the Water rights of Inuit under section 5.3.2, Inuit shall be entitled to compensation in respect of the factors set out in section 5.6.5 or as set out in the relevant Park Impacts and Benefits Agreement or Protected Area Agreement.

Part 5.3 Inuit Water Rights

- 5.3.1 Subject to sections 5.2.4 and 5.2.7, a Person may not use Water that is on, in, under or flowing through Labrador Inuit Lands except in accordance with part 5.4.
- 5.3.2 Subject to this chapter, Inuit have the right to enjoy Water that is on, in, under, flowing through or adjacent to Labrador Inuit Lands substantially unaltered as to quantity, quality and rate of flow.

5.3.3 The right referred to in section 5.3.2 is vested in the Nunatsiavut Government for the use and benefit of Inuit.

Part 5.4 Administration of Water Uses in Labrador Inuit Lands

5.4.1 No Person, including the Nunatsiavut Government, may use Water that is on, in, under or flowing through Labrador Inuit Lands for any purpose other than one referred to in section 5.2.3 or 5.2.4 without a Water Use Permit issued by the Minister, but the Water Use Permit shall be issued without payment of application fees.

5.4.2 If the Nunatsiavut Government wishes to use Water that is on, in, under or flowing through Labrador Inuit Lands for a purpose other than one referred to in section 5.2.3 or 5.2.4 it shall submit an application to the Minister who shall approve the application and issue a Water Use Permit in accordance with this part.

5.4.3 If a Person other than the Nunatsiavut Government wishes to use Water that is on, in, under or flowing through Labrador Inuit Lands for a purpose other than one referred to in section 5.2.3 or 5.2.4, that Person shall, before submitting an application for a Water Use Permit to the Minister under section 5.4.6, submit the proposed application to the Nunatsiavut Government. For purposes of this part, the proposed application submitted to the Nunatsiavut Government is referred to as a “proposal”.

5.4.4 The Nunatsiavut Government may reject a proposal or approve a proposal with or without terms and conditions and shall inform the Minister of its decision.

5.4.5 The following are deemed to have been approved by the Nunatsiavut Government under section 5.4.4, notwithstanding section 5.4.3:

- (a) a Use of Water on, in, under or flowing through Labrador Inuit Lands in relation to Exploration that commenced prior to the Effective Date in accordance with an exploration plan approved under Provincial Legislation if the Person authorized to carry out the Exploration holds a valid grant, lease, licence or other instrument for the Use of Water;
- (b) a Use of Water on, in, under or flowing through Labrador Inuit Lands in relation to quarrying that commenced prior to the Effective Date in accordance with a quarry permit issued under Provincial Legislation if the Person authorized to carry out the quarrying holds a valid grant, lease, licence or other instrument for the Use of Water; or
- (c) a Use of Water on, in, under or flowing through Labrador Inuit Lands in relation to Exploration in Labrador Inuit Lands or quarrying in Labrador Inuit Lands outside Specified Materials Lands in accordance with a Work Plan that has been approved under section 4.11.15.

- 5.4.6 If a proposal is approved by the Nunatsiavut Government, the Person may then submit that proposal, as approved by the Nunatsiavut Government, as an application to the Minister, who shall, in accordance with this part, determine whether to issue a Water Use Permit.
- 5.4.7 The Minister shall not reject an application referred to in section 5.4.6 unless the Minister determines that the proposed Water Use will have adverse effects outside Labrador Inuit Lands for which compensation of a third party whose rights are detrimentally affected is not possible or would not be adequate.
- 5.4.8 Notwithstanding section 5.4.7, the Minister shall not refuse to issue a Water Use Permit for an application referred to in section 5.4.6 that is for community Water supply purposes.
- 5.4.9 Nothing in section 5.2.11, 5.4.7 or 5.4.8 affects the discretion of the Minister to prohibit, in accordance with Laws of General Application, the bulk removal of water from Newfoundland and Labrador.
- 5.4.10 Nothing in this chapter affects the discretion of the Minister to refuse to issue a Water Use Permit for reasons of public health.
- 5.4.11 Prior to rejecting an application for the Use of Water referred to in section 5.4.6, the Minister shall Consult the Nunatsiavut Government.
- 5.4.12 Prior to establishing terms and conditions with respect to an application for the Use of Water referred to in section 5.4.6 that are different from those established by the Nunatsiavut Government under section 5.4.4, the Minister shall Consult the Nunatsiavut Government with a view to reaching an agreement. If no agreement is reached, the Nunatsiavut Government may:
- (a) reject the issuance of the Water Use Permit, in which case it shall not be issued; or
 - (b) agree to the issuance of the Water Use Permit on the terms and conditions established by the Minister.
- 5.4.13 A Water Use Permit issued to the Nunatsiavut Government may be assigned by the Nunatsiavut Government to an Inuk or Inuit Business.
- 5.4.14 Notwithstanding that the definition of Water does not include Tidal Waters, if a power Development is proposed within the area set out in the Map Atlas (shown for illustrative purposes only in schedule 5-A) that substantially alters the quantity, quality or rate of flow of Tidal Waters adjacent to Labrador Inuit Lands within the area shown in schedule 5-A, the Development shall not be permitted to proceed until the Nunatsiavut Government and the Developer have concluded a Compensation Agreement and, for purposes of negotiations or an arbitration related to the Compensation Agreement, Inuit shall be entitled to claim for losses likely to result from the substantial alteration to the quantity, quality or rate of flow

of the Tidal Waters adjacent to Labrador Inuit Lands within the area shown in schedule 5-A.

Part 5.5 Administration of Water Uses in the Labrador Inuit Settlement Area Outside Labrador Inuit Lands

5.5.1 Before determining whether to issue a Water Use Permit in the Labrador Inuit Settlement Area outside Labrador Inuit Lands, or a Water Use Permit outside the Labrador Inuit Settlement Area that may affect Water or a Water Use in the Labrador Inuit Settlement Area, the Minister shall Consult the Nunatsiavut Government with respect to the application for the Water Use Permit and shall, in making the determination, take into account:

- (a) the impact of the proposed Water Use on Fish, Fish Habitat, Aquatic Plants, Wildlife, Plants and Habitat in the Labrador Inuit Settlement Area;
- (b) the impact of the proposed Water Use on Harvesting rights of Inuit under the Agreement;
- (c) the impact of the proposed Water Use on the quantity, quality or rate of flow of Water on, in, under, flowing through or adjacent to Labrador Inuit Lands;
- (d) measures to Mitigate any negative effects or impacts of the proposed Water Use;
- (e) existing water rights; and
- (f) any other matters that the Nunatsiavut Government and the Minister consider relevant.

5.5.2 Notwithstanding the definition of Consultation, if a time is established under a Law of General Application for purposes of the issuance of Water Use Permits outside the Labrador Inuit Settlement Area, Consultation with respect to the issuance of a Water Use Permit under section 5.5.1 shall be carried out within that time and the Nunatsiavut Government shall be given the full period of time available under the Law to complete the Consultation.

5.5.3 If the Minister, after Consulting the Nunatsiavut Government in accordance with section 5.5.1, determines that the Water Use may affect Inuit rights under the Agreement, the Minister shall not issue a Water Use Permit in the Labrador Inuit Settlement Area outside Labrador Inuit Lands, unless the Minister also determines that:

- (a) there is no alternative that could reasonably satisfy the requirements of the applicant; and

- (b) if there is no reasonable alternative, there are no reasonable measures whereby the applicant could avoid affecting Inuit rights under the Agreement.

5.5.4 If the proposed Water Use referred to in section 5.5.1 may substantially alter the quantity, quality or rate of flow of Water on, in, under, flowing through or adjacent to Labrador Inuit Lands, the Minister shall not issue the Water Use Permit unless the Minister has made the determinations referred to in section 5.5.3 and:

- (a) a Compensation Agreement is in effect; or
- (b) in circumstances where a Park Impacts and Benefits Agreement or Protected Area Agreement referred to in section 5.2.15 or an Inuit Impacts and Benefits Agreement is required, a Park Impacts and Benefits Agreement, Protected Area Agreement or Inuit Impacts and Benefits Agreement that includes provisions respecting the rights of Inuit to compensation under this part has been concluded.

5.5.5 The Minister shall, as soon as practicable, Consult the Nunatsiavut Government, the Torngat Joint Fisheries Board and the Torngat Wildlife and Plants Co-Management Board on matters set out in section 5.5.6 and any proposed changes to Legislation, policies or guidelines that may affect the Use of Water in the Labrador Inuit Settlement Area.

5.5.6 Except as provided in this chapter, nothing in part 5.4 restricts the Minister's power to:

- (a) use Water on, in, under, flowing through or adjacent to Labrador Inuit Lands for purposes related to research, protection and conservation of Water, aquatic life and aquatic habitat;
- (b) establish standards and measures for the protection of Water, including community Water supplies, on, in, under, flowing through or adjacent to Labrador Inuit Lands;
- (c) use or authorize the Use of Water on, in, under, flowing through or adjacent to Labrador Inuit Lands for purposes of fighting fires;
- (d) establish flood control measures, develop flood plain management strategies and designate flood risk zones with respect to Water on, in, under, flowing through or adjacent to Labrador Inuit Lands;
- (e) carry out or authorize hydrologic data collection and hydrologic research with respect to Water on, in, under, flowing through or adjacent to Labrador Inuit Lands; and
- (f) use or authorize the Use of Water on, in, under, flowing through or adjacent to Labrador Inuit Lands for any other similar purpose that is in the common

interest of Inuit and the other residents of the Labrador Inuit Settlement Area,

but nothing in this section permits a Use of Water with respect to Water on, in, under, flowing through or adjacent to Labrador Inuit Lands for purposes of a Development.

- 5.5.7 For greater certainty, the Nunatsiavut Government has no responsibility and incurs no liability with respect to any matter referred to in section 5.5.6 and nothing in section 5.5.6 derogates from Inuit rights under part 5.3.
- 5.5.8 If the Province decides to delegate responsibility for the management of Water or the issuance of Water Use Permits in the Labrador Inuit Settlement Area or the issuance of Water Use Permits that may affect Water in the Labrador Inuit Settlement Area to a board, body or authority, at least one member of the board, body or authority shall be appointed by the Nunatsiavut Government.
- 5.5.9 The Minister shall not unreasonably deny an application by any Person for the Use of Water in the Labrador Inuit Settlement Area for purposes of an Inuit Community or for purposes of a Development in Labrador Inuit Lands where Water for that purpose is not readily available in Labrador Inuit Lands.

Part 5.6 Compensation

- 5.6.1 The rights of Inuit under part 5.3 and section 5.4.14 entitle Inuit to compensation in accordance with this part.
- 5.6.2 No Water Use Permit shall be issued to a Developer in respect of a Development in the Labrador Inuit Settlement Area that may substantially alter the quantity, quality or rate of flow of Water on, in, under, flowing through or adjacent to Labrador Inuit Lands unless, after the Minister has made the determinations referred to in section 5.5.3:
- (a) the Developer has entered into a compensation agreement with the Nunatsiavut Government in accordance with this part or a compensation agreement has been established by an Arbitration Panel in accordance with section 5.6.3 and this part; or
 - (b) the Developer and the Nunatsiavut Government have agreed on compensation provisions regarding the matters referred to in section 5.6.5 in an Inuit Impacts and Benefits Agreement.
- 5.6.3 Unless an Inuit Impacts and Benefits Agreement has been reached, a Developer and the Nunatsiavut Government shall negotiate for the purpose of reaching a Compensation Agreement. If a Compensation Agreement has not been concluded by the Nunatsiavut Government and the Developer within 60 clear days from the commencement of the negotiations, the Nunatsiavut Government or the Developer may refer any unresolved issue relating to the content, terms or conditions of the

Compensation Agreement to arbitration under chapter 21 and the Arbitration Decision shall be made within 90 clear days from the date of the referral.

- 5.6.4 For purposes of section 5.6.3, the negotiations shall be deemed to have commenced seven clear days from the determinations by the Minister referred to in section 5.5.3.
- 5.6.5 If a Dispute over compensation is referred to arbitration under this chapter, chapter 7 or chapter 9, the Arbitration Panel, in determining the compensation to be awarded to Inuit under a Compensation Agreement, Inuit Impacts and Benefits Agreement or Protected Area Agreement referred to in section 5.2.15, shall take into account:
- (a) the anticipated adverse effects, including incremental and cumulative effects, of the change in quantity, quality or rate of flow of Water on, in, under, flowing through or adjacent to Labrador Inuit Lands that are likely to result from the proposed Water Use;
 - (b) the anticipated nuisance, inconvenience, disturbance or noise caused by the change in quantity, quality or rate of flow of Water on, in, under, flowing through or adjacent to Labrador Inuit Lands that is likely to result from the proposed Water Use;
 - (c) the anticipated adverse effects of the change in quantity, quality or rate of flow of Water upon pre-existing Water Uses by Inuit or in Labrador Inuit Lands that are likely to result from the proposed Water Use;
 - (d) the cultural attachment of Inuit to Labrador Inuit Lands, including Water, that would be adversely affected by the change in quantity, quality or rate of flow of Water;
 - (e) the decrease in value of Labrador Inuit Lands, including Water, that are likely to be affected by the change in quantity, quality or rate of flow of Water;
 - (f) the level of damage that is likely to result from the Water Use;
 - (g) interference with Inuit rights under the Agreement; and
 - (h) any other matter the Arbitration Panel may consider relevant for purposes of determining the compensation award.
- 5.6.6 An Arbitration Panel shall presume that a substantial change in the quantity, quality or rate of flow of Water on, in, under, through or adjacent to Labrador Inuit Lands entitles the Nunatsiavut Government to compensation.
- 5.6.7 Unless otherwise agreed by the Nunatsiavut Government and a Developer, a determination of compensation made by an Arbitration Panel under section 5.6.3 shall provide for periodic payments and periodic review of the payments for the

purpose of adjustments, having due regard to the nature and duration of the Water Use.

5.6.8 An Arbitration Panel may, if it receives a request for compensation in kind from the Nunatsiavut Government, award compensation under a Compensation Agreement, Inuit Impacts and Benefits Agreement or Protected Area Agreement referred to in section 5.2.15 in the form of compensation in kind or partly in the form of monetary compensation and partly in the form of compensation in kind.

5.6.9 Nothing in this part restricts any of the rights or remedies of Inuit in the event that a Person:

- (a) uses Water without a required Water Use Permit;
- (b) breaches the terms and conditions of a Water Use Permit so as to affect Inuit rights under section 5.3.2; or
- (c) breaches the terms or conditions of a Compensation Agreement.

59° 30' W

59° 00' W

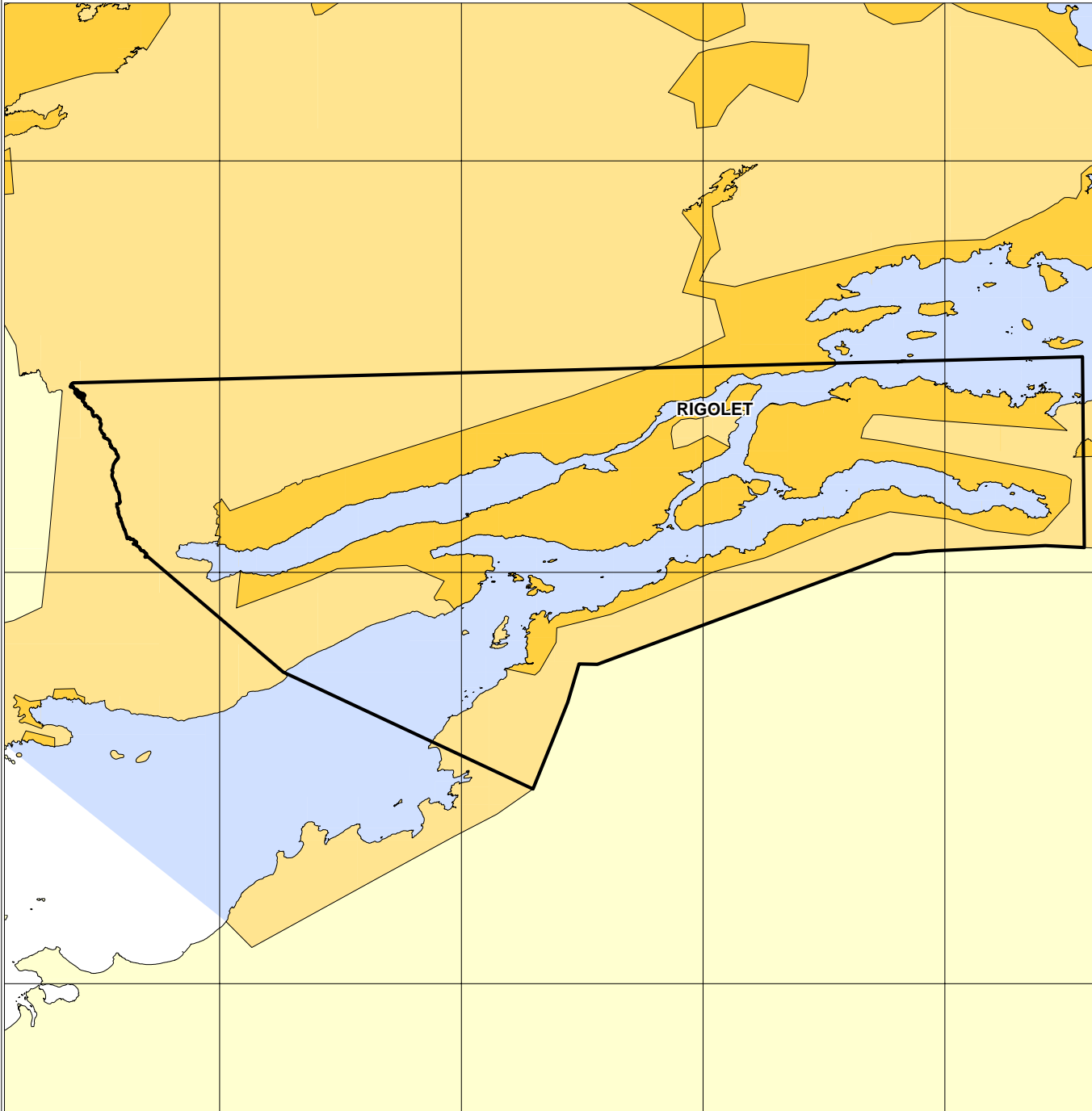
58° 30' W

58° 00' W

54° 30' N

54° 00' N

53° 30' N







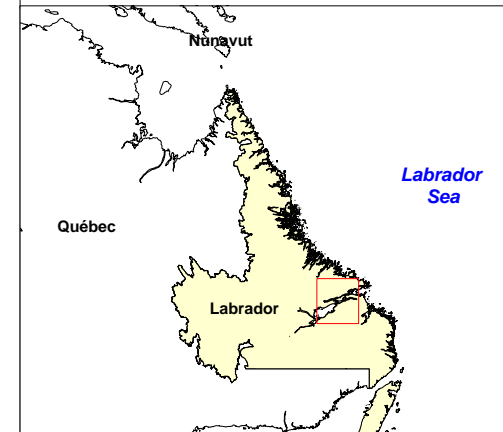
Labrador Inuit Land Claims Agreement

Schedule 5-A Area of Inuit rights under section 5.4.14

This is not an authoritative map of the area of Inuit rights under section 5.4.14 and has been prepared for illustrative purposes only. The authoritative maps of the area of Inuit rights under section 5.4.14 are contained in the Map Atlas.

legend

-  area of Inuit rights under section 5.4.14
-  Labrador Inuit Lands
-  Labrador Inuit Settlement Area (land and Waters)
-  Labrador Inuit Settlement Area (Zone)



0 15 30

kilometres

scale
1 : 825,000

