

Akimiski Island, Nunavut, Canada: An Island in Dispute

by

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Author's Declaration

I hereby declare that I am the sole author of this thesis. This is a true copy of the thesis, including any required final revisions, as accepted by my examiners.

I understand that my thesis may be made electronically available to the public.

Abstract

On April 1, 1999, Akimiski Island, Northwest Territories, Canada, became part of the newly created Inuit-dominated territory of Nunavut, even though the Inuit never asserted Aboriginal title to this island. This is why the Omushkegowuk Cree of the western James Bay region of Ontario, Canada, assert Aboriginal title over this island. Essentially, the Government of Canada has reversed the onus of responsibility for proving Aboriginal title from the Inuit to the Cree. In this paper, we examined whether the Omushkegowuk Cree fulfill all the criteria of the common law test of Aboriginal title with respect to Akimiski Island, utilizing all available printed and online material. All criteria of the common law test of Aboriginal title were met; however, the written record only alludes to the Cree using Akimiski Island at the time of first contact and prior, Cree oral history was consulted to illuminate upon this matter. I documented and employed Cree oral history to establish that Cree traditional use and occupancy of Akimiski Island was “sufficient to be an established fact at the time of assertion of sovereignty by European nations” (INAC, 1993:5; INAC, 2008); thereby, fulfilling criterion 2 of the test for Aboriginal title. As the Cree have now met all criteria of the common law test for proof of Aboriginal title in Canada, with respect to Akimiski Island, a formal land claim should be considered by the Cree.

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Preface

Since time immemorial, indigenous people have inhabited North America; however, since first contact with the Europeans, their traditional lifestyles have been forever altered. To this day indigenous people struggle to maintain their sense of identity and their right to self-determination. Despite their constant struggle, they have begun to take a more active political role in determining their destiny.

This project contributes to ongoing efforts by First Nations to achieve self-governance and autonomy, as well, as literature surrounding lands claim processes and the development, and use of the Aboriginal title criteria. This thesis work applies these criteria in the context of the Akimiski Island land claim case, in the James Bay area of northern Ontario, also known as the Mushkegowuk territory. The thesis is structured as two manuscripts. The first utilizes evidence from literature and the second utilizes evidence from oral history to test the Mushkegowuk Cree's land claim for Akimiski Island.

Chapter 1: Akimiski Island, Nunavut, Canada: An Island in Dispute

Introduction

In 1870, Rupert's Land and the North-Western Territory became a part of the Dominion of Canada as the newly formed Northwest Territories. It should be noted that the islands of James Bay were included within the new territorial boundaries (Tsuji et al. 2009). These same James Bay islands became a part of Nunavut, Canada, on April 1, 1999, when the Inuit-dominated territory of Nunavut was created from the eastern region of the Northwest Territories (Nunavut Act S.C. 1993, c.28; Figure 1.1). It should be emphasized that there was no mention of the western James Bay islands in the Nunavut Land Claims Agreement Act (1993): in other words, the Inuit never asserted Aboriginal title to these islands (Tsuji et al. 2009). Nevertheless, a clause was written into the Nunavut Act S.C. 1993 (c. 28, Part 1, 3[b]) stating that Nunavut would include "the islands in Hudson Bay, James Bay and Ungava Bay that are not within Manitoba, Ontario or Quebec." As pointed out by Tsuji et al. (2009: 459), the inclusion of the "said islands in Nunavut appears to be based not on Aboriginal title, but on geographical location." While, the land-based boundaries of Nunavut have been disputed by the Manitoba and Saskatchewan Denesuline (the subject of a comprehensive land claim), the inclusion of the islands of the western James Bay region in Nunavut has been challenged by the Omushkegowuk Cree (also known as the western James Bay, west-coast, Swampy, Omushkego, and Hudson Bay Lowland Cree) of Ontario (Parliament of Canada, 1999). Indeed, Pritchard et al. (2010) have shown that there is no evidence that supports Inuit title to the islands of the western James Bay region. This is why the Omushkegowuk Cree claim Aboriginal title over the islands of the western James Bay region as shown in the following passage:

Attawapiskat [First Nation, an Omushkegowuk Cree community] can demonstrate continuous and current use of land, sea and sea islands for traditional purposes since long

before the first assertion of European or Crown sovereignty. In particular, Attawapiskat can demonstrate unbroken traditional use and occupancy of Akimiski Island [the largest island in the western James Bay area] and the other sea islands, along with use of the sea waters and sea ice. That is supported by archival records and by the testimony of our [Cree] elders. Indeed, the name Akimiski is a Cree word that means 'land across the water.' ...In summary, it is the position of Attawapiskat that it can establish aboriginal title...in accordance with the tests set down by the Supreme Court [of Canada] in the Delgamuukw decision...suffice it to say that the First Nations' position asserts that their Aboriginal title to Akimiski was not extinguished by the treaty or any other lawful means...(Nishnawbe Aski Nation, Grand Chief Charles Fox, as quoted in the Parliament of Canada, 1999: 24).

As has been noted by Senator (Government of Canada) Lorna Milne:

many of the complaints [boundary and Aboriginal title issues] were originally with the Nunavut Act itself. That is when they should properly have been addressed. Unfortunately, they were not addressed at that time. You [First Nations representatives] are quite right: the [Canadian] government did not do its job" (Parliament of Canada, 1999:33).

Essentially, the Government of Canada's inaction has reversed the onus of responsibility for proving Aboriginal title from the Inuit to the Cree. Thus, the Omushkegowuk Cree's claim must pass the test of Aboriginal title, as set down by Canadian law (*Delgamuukw v. British Columbia*, 1997; see Denhez, 1982, and Hurley, 2000, for reviews). The common law test of Aboriginal title requires that evidence be produced to satisfy the following conditions:

1. The Aboriginal group is, and was, an organized society.
2. The organized society has occupied the specific territory over which it asserts Aboriginal title since time immemorial. The traditional use and occupancy of the territory must have been sufficient to be an established fact at the time of assertion of sovereignty by European nations.
3. The occupation of the territory by the Aboriginal group was largely to the exclusion of other organized societies.
4. The Aboriginal group can demonstrate some continuing current use and occupancy of the land for traditional purposes.
5. The group's Aboriginal title and rights to resource use have not been dealt with by treaty.
6. Aboriginal title has not been eliminated by other lawful means. (INAC, 1993:5-6; INAC, 2008).

In this paper, I examine whether the Omushkegowuk Cree of the western James Bay region of northern Ontario, Canada, fulfill all the criteria of the common law test of Aboriginal title with respect to Akimiski Island, Nunavut, Canada.

METHODS

Study Area

Akimiski Island is located ~16 kms from the mouth of the Attawapiskat River in James Bay (NASA, 1994) and ~25 kms east of the Omushkegowuk Cree community of Attawapiskat First Nation (Figure 2.2). This island is approximately 336,700 hectares, being the largest island in James Bay (Environment Canada, 2008).

Literature Review

A comprehensive literature search was performed to gather printed and online material in relation to potential Cree use of Akimiski Island. Akimiski Island has also been referred to as Agamiski and Atimiski Island, and less commonly as Agumiski, Akamiski, Kamanski, Viner's Island, and Oubaskou. In 2002, academic databases and web sources were first searched - subsequent searches occurred in 2004, 2007, 2008, and 2011 - while, some web sources were last re-accessed in 2012, we report mainly on the 2007 and 2008 search results.

Academic Databases

The following databases were searched using the keywords agamiski, akimiski, and atimiski: the *Bibliography of Native North Americans* (all publication types, all document types); the *Canadian Environmental History Bibliography*; the *Canadian Research Index* (ProQuest: advanced search, interdisciplinary database, all dates); *Early Canadiana Online*; *Project Muse*

(all fields with text); *Social Sciences Abstracts* (Scholars Portal; earliest to 2007); *Social Sciences Full Text* (Wilson Web; any year, all document types, and all physical descriptions); the *First Nation Periodical Index* (full text); the *Humanities Abstract* (earliest to 2007); the *Humanities Full Text* (Wilson Web); the *North American Indian Biographical Database*; and *Oral History Online*. The *Arts and Humanities Citation Index* (as well as the *Social Sciences Citation Index* and *Science Citation Index*; Web of Science®) was scanned (all document types, all languages, 1900-2007) for the keyword agamiski, atimiski, and akimiski. *Dissertations and Theses* (ProQuest) were investigated (advanced search, interdisciplinary database, all dates) for the keyword agamiski, atimiski, and akimiski.

Early Encounters in North America was examined (full text) using a keyword (agamiski, atimiski, akimiski) or keywords (Viner's Island). Using keyword(s) agamiski, akimiski, atimiski, and Viner's Island, *Early English Books Online* (<http://ets.umdl.umich.edu>; full text, 1470-1700) and *Historical Abstracts* were scanned. Incorporating the keyword agamiski, agumiski, akamiski, akimiski, and atimiski, *ProQuest* and *Theses Canada Portal* (using "search the full text of electronic theses") were searched. The database *Ejournals* was also searched using the keywords agamiski, agumiski, akamiski, akimiski, and atimiski, and Cree, Indian, and First Nation in all combinations.

Google™ Search (www.google.ca). The Google™ search engine was used to scan the web for links that contained the keywords agamiski, agumiski, akamiski, akimiski, atimiski, and oubaskou, and Cree, Indian, and First Nation in all combinations. The "Translate this page" function was used for foreign language links/documents. Google™ search "results" pages were

saved electronically and/or printed - as pages of results sometimes changed between days (weeks, months, and years) – an accurate method of recording what sources had been examined was required.

Targeted Sources

A. Websites. The Centre for Rupert's Land Studies

(<http://www.uwinnipeg.ca/academic/ic/rupert/index.html>) archives material dealing with human history specific to the region of Canada once known as Rupert's Land (1670 to 1870). Rupert's Land was controlled by the Hudson's Bay Company (a British fur trading company) until Rupert's Land became a part of the Dominion of Canada in 1870 (Centre for Rupert's Land Study, 2007). Two links were relevant for the present investigation: *Our Voices* (a search in English was conducted after linking to *Stories* for agamiski, agumiski, akamiski, atimiski, kamanski, akimiski cree, and akimiski indian) and *Other Links*. The following databases identified in *Other Links* were searched using the keywords agamiski, agumuski, akamiski, akimiski, and atimiski: Archive Grid; The Canadian Oral History Association; Indian Affairs Annual Reports, 1864-1990; Archivianet; and Fur Trade Stories (the keyword Viner's was also searched in this database).

B. Miscellaneous. This category included books (e.g., Long, 1993; McDonald et al. 1997), gathering and harvesting studies in the western James Bay region (e.g., Jonkel et al. 1976; Thompson and Hutchison, 1989; Hughes et al. 1993), reports (e.g., Hudson's Bay Company Archives [HBCAa, 1919-1941; HBCAb, 1938-1940]; Honigmann, 1948; Fast and Berkes, 1994;

Anonymous, 2001; Indian and Northern Affairs Canada, 2007), memoirs (e.g., Vezina 1978), environmental impact assessment documents (e.g., Victor Project TEK Working Group 2004; AMEC, 2005; SNC-Lavalin Engineers & Constructors. 2005a, b), maps (Keir Consultants Inc. 1993a, b, c, d; Anonymous, 2007a, b, c), and letters (e.g., Hall, 2004; Natural Resources Canada, 2004; Schafer, 2004) that may not have been identified if only electronic databases were searched. It should be mentioned that one limitation to our search is that we did not consult church records (i.e., Roman Catholic and Anglican), as Father Vezina reports that in 1942, a fire in the rectory of the Roman Catholic Church destroyed a 600 page historical account of the Attawapiskat and Fort Albany communities compiled by Father Arthur Bilodeau.

When potentially relevant material was identified in more than one database, the material was described for only one of the databases. Results are presented in tabular format for academic databases and the Centre for Rupert's Land Studies website (including *Our Voices*, and *Other Links*, Table 1), and for Google™ (Table 2).

Secondary data were manually coded using deductive thematic analysis. Deductive coding used a template organizational approach based on the Canadian common law test of Aboriginal title previously described (Denzin and Lincoln, 2005).

RESULTS AND DISCUSSION

Criterion 1: *The Aboriginal group is, and was, an organized society.* (INAC, 1993:5-6; INAC, 2008).

It has long been recognized by the Canadian judicial system that the Ojishkegowuk Cree are and were an organized society, as clearly stated by Judge Bernstein of the Ontario District Court (*Regina v. Batisse* 1978: (383) 435):

Indians have been hunting and fishing in Northern Ontario from time immemorial. Since the earliest days of colonization their rights to occupy and use their ancient lands have been recognized, and hence all North American Governments have taken steps to reach agreements with the Indians to regulate those rights and control development in Indian lands.

Moreover, pre-European contact archeological sites have “confirmed that land use in northern Ontario extends back for several thousand years... [and] that land use and especially settlement patterns in the study area are not random...” (Woodland Heritage Services, 2004: vi). Further, the Lytwyn (2002) study of the Hudson Bay Lowland Cree utilizing the Hudson’s Bay Company archives illustrated an organized Cree society since first contact in the 1600s.

Criterion 2: *The organized society has occupied the specific territory over which it asserts Aboriginal title since time immemorial. The traditional use and occupancy of the territory must have been sufficient to be an established fact at the time of assertion of sovereignty by European nations.* (INAC, 1993:5-6; INAC, 2008).

It has generally been reported in the literature that the traditional territory of the Omushkego Cree included Akimiski Island:

[A]ncestors of today's Attawapiskat band occupied all the territory from the Kapiskau River in the south, to Hudson Bay (Cape Henrietta Maria) in the north, and from Akimiski Island in the east to Lake Mississa (150 miles inland) to the west. This has been contended by the present day chief and council [oral history], is supported by documentation in the archives of the HBC [Hudson's Bay Company], and was documented by Honigmann [1948] (Cummins, 1992: 72).

In *Voices from the Bay* (McDonald et al. 1997), a compilation of Inuit and Cree oral history collected during the time period 1992-1995 for 28 communities of the Hudson and James Bay regions, in reference to their map of the Hudson Bay Traditional Ecological Knowledge and management systems study area, the western James Bay Cree study area clearly encompasses Akimiski Island. Nonetheless, it is important to establish timelines of land use and occupancy.

1600s – 1800s

There is only one written account of the natural bounty of Akimiski Island for the 1600s (Crouse, undated; Quebec Government, 1889; Hackett 1999; Bird 2005). Specifically, Father Albanel

gives this description of Akimiski Island that he had heard from the northern Quebec Cree on his journey to the east coast of James Bay in 1671-1672:

Three days' journey into the depth of the [James] bay, toward the Northwest [northern Ontario], is a large river called by some Savages [east-coast Cree] Kichesipiou, and by others Mousousipiou, 'Moose river,' on which are many nations [west-coast Cree]; while on the left, as you advance, lies the well-known Island of Ouabaskou [Akimiski], forty leagues long by twenty wide, abounding in all kinds of animals...On the Island of Ouabaskouk, if the Savages [east-coast Cree] are to be believed, they are so numerous that in one place, where the birds shed their feathers at molting time, any Savages or deer coming to the spot are buried in feathers over their heads, and are often unable to extricate themselves. (Thwaites 1959: 203-205)

Although Father Albanel does not directly speak of Omushkego Cree land use and occupancy of Akimiski Island, it is implied. The only way that the abundance of wildlife and different cycles of the birds on the island would be known by the Omushkego Cree and passed orally to the east-coast Cree is if the Omushkego Cree used and/or occupied Akimiski Island, at least for part of the year. Indeed, Hudson's Bay Company records mention the harvesting of caribou in the summer and winter on Akimiski Island:

The HBC traders at Albany Fort tried on a number of occasions to open up a commercial trade with the Lowland Cree hunters on the island. The first record of such a venture was made on June 12, 1727, when Joseph Adams was sent from Albany Fort to explore Akimiski Island with a group of Homeguard Cree. Adams was impressed with the caribou resource on the island, and in 1733, he attempted to develop a summer caribou trade...In the summer of 1746, Joseph Isbister tried again to develop a caribou trade on the island...traded only 'ye quantity of two deers of fresh meat and five deers dried.' Isbister persisted...in the summer of 1747...the HBC men succeeded...'they brought a great quantity of venison from ye Indians on Viner's [Akimiski] Island.' (Lytwyn 2002: 153)

"Occasionally, the Albany Fort records noted that Lowland Cree hunted caribou on Akimiski Island in winter...on February 16, 1747, Joseph Isbister, Chief Factor at Albany Fort, reported that three Lowland Cree had been hunting on Akimiski Island, and they had killed more than thirty caribou but did not bring any to trade with the HBC...The next winter, George Spence, the next Chief Factor, observed that many Lowland Cree had camped on the island because there was 'plenty of Deer on that Island.' Nine hunters

came from Akimiski Island to Albany Fort and traded 108 caribou tongues and thirty-one rumps. (Lytwyn 2002: 106)

Cree oral history also addresses occupancy of Akimiski Island by the Cree during the 1600s and 1700s, as shown in the story *Strangers on Akimiski Island: Helping a Grounded Ship* (Bird 2005: 157-160)

When it happens then the first time [contact with Europeans], the Omushkego people...have heard these noises...the thunders of the fire stick...when they fought each other [English and the French engaged in battles from the 1680s to 1713] on the Bay...[a] time later that they so happen to find some of these European wayfarers that got stuck on the north side of Akimiski Island...So they looked at it from the distance, three or four families...these people couldn't move because the tide is not high enough...One day, they [Omushkegowak] decided to expose themselves to them...one man agreed to walk in the open towards those...white people...walk towards him and give him a sign that they are friendly...It was at that time that these First Nation people [saw] ...the steel axe, and a few other things...they managed to...[help] those people to release their boat from the shore...

The only land use and occupancy information with respect to Akimiski Island and the Cree in the 1800s was a map showing that Akimiksi Island was part of the traditional territory of the Omushkego Cree (Bishop 1994).

1900s

Cree land use and occupancy of Akimiski Island during the first two decades of the 1900s has been substantiated in the literature, as Skinner (1911/1912) comments on the Cree dialect spoken on "Agumiska" Island after his visit to the region. In addition, the Hudson's Bay Company established a fur trading post on Akimiski Island in 1919 (HBCAa 1919-1941; Cummins 1992); while, the Anglican Church first erected a church on Akimiski Island in 1919 (Honigmann 1948). Although the land use and occupancy of the Cree on Akimiski Island is not directly

commented upon, it follows that the Hudson's Bay Company and the Anglican Church would not have established their organizations on Akimiski Island if the Cree did not use and occupy the island.

In contrast to the paucity of information up to 1919, the 1920s are relatively well documented with respect to land use and occupancy of Akimiski Island by the Omushkego Cree, because of the existence of the Hudson's Bay Company's Attawapiskat Post Journals (HBCAa 1919-1941). For the 1920s, hunting and trapping by the Omushkego Cree on Akimiski Island is well documented (HBCAa 1919-1941):

Four Indians in a boat [illegible] left this a.m. for Agamiski to hunt game...(25 June 1920)

Alick Wesley and John Chakasim returned from Agamiski with the fur collected to date also 2 seals which will come in handy for dogs feed (5 Jan 1924)

Agamiski Weesks arrived – good hunts (26 Dec 1927)

John Sakaney and Xavier Ookema arrived from Agamiski with their furs. (24 Dec 1929)

There is also evidence that families lived on Akimiski Island during different seasons (HBCAa 1919-1941):

The hayboat which left for Agamiski yesterday for Indian families returned this evening (15 June 1927)

Thomas Weesk and John Sakaney and families left for Agamiski Island in afternoon where they will remain for the first part of the hunting seasons (14 Sept 1929)

Thos. Weesk visited the store and reported that there was a great scarcity of country food and that all families on the island are starving (14 Dec 1929).

In fact, the population had to be substantial enough for the Anglican Minister to visit his congregation (HBCAa 1919-1941):

Mr (Reverend) Northam left for Agamiski to visit the scattered members of his flock (22 Jan 1924)

Reverend Northam left for Agamiski this morning (28 Jan 1925)

Similarly, Cree use of Akimiski Island in the 1930s is well documented in the Post's journal (HBCAa 1919-1941):

First hunters arrived from Agamiski Island late tonight. John Nakogee, David Ookemoo, and Joseph Issapie. (30 Dec 1930)

The Weesks preparing to leave for Agamiski (12 Sept 1938)

We received an inquiry from the Game and Fisheries Dept. – Federal requesting specific information of what areas are used on Agamiski Island by the Indians in the Fall and what type of shooting there is. (5 Jan 1939)

Xavier Ookemow in from Agamiski with 2 otter and a red fox. Masin Weesk also in from Agamiski with 2 reds. (15 March 1939)

In addition, the establishment of a beaver sanctuary on Akimiski Island in 1935, when eight beavers were introduced by the Hudson's Bay Company and the Government of Canada, is well documented (Cummins 1992; Victor Project TEK Working Group 2004). The beaver sanctuary was established to repopulate Akimiski Island, so that the Cree could resume their trapping of the beaver after population numbers were sufficient to sustain the harvest (Honigmann 1948; Cummins 1992; Victor Project TEK Working Group 2004). The Cree "kept track of how the beaver multiplied for six weeks each year for about 10 years" (Victor Project TEK Working Group 2004: 38).

The Hudson's Bay Company journals (HBCAa 1919-1941) also documented Cree land use and occupancy for the years 1940-1941:

The final outcome of talk of Akimiski being converted to Sanctuary is to divide Island in half, the Indians to hunt the north and, and the south to be a Bird Sanctuary (17 Sept 1940)

Three red foxes in from Agamiski Island. Masin and Fred Weesk (16 Dec 1940)

Xavier Ookimowinew over from Agamiski with three red foxes (26 Feb 1941).

Meanwhile, the anthropologist Honigmann (1948) documented Cree land use and occupancy of Akimiski Island for the time period July 27, 1947, to June 6, 1948. As beaver trapping on Akimiski Island opened in 1946-1947, Honigmann (1948: 89) was in Attawapiskat during the second year of harvesting and noted:

on Akimiski Island the Company's beaver preserve has begun producing sufficient beaver for trapping. The quota set for these animals is more than the Akimiski trappers can fill by their own efforts. Hence in 1948 the [Hudson's Bay] Company manger detailed about fourteen additional men to take animals from the Akimiski lakes and streams...Hostility between the regular Akimiski trappers and the newly assigned men..."

Honigmann (1948) also reported that Cree families stayed on Akimiski Island for variable periods of time, and were able to procure large numbers of speckled trout from the creeks.

Further, the 1940s marked the last time caribou were seen on Akimiski Island (M. Kataquapit as cited by Magoun et al. 2004).

Harvesting on Akimiski Island has also been well documented for the 1950s (game birds - Hanson and Currie, 1957; fur bearers - Cummins, 1992), 1960s (fur bearers - Cummins 1992), 1970s (polar bears, Jonkel et al. 1976; Canada geese - Leafloor et al. 1998) and 1980s (fishing, trapping, and hunting, Thompson and Hutchinson, 1989; lynx - Victor Project TEK Working Group, 2004). As noted by Jonkel et al. (1976: 38), "the traditional hunting areas of...Indians

transgress jurisdictional boundaries, which the native people do not recognize...[for example]

Ontario Indians hunting on Akimiski Island (NWT) in James Bay.”

Criterion 3: *The occupation of the territory by the Aboriginal group was largely to the exclusion of other organized societies.* (INAC, 1993:5-6; INAC, 2008).

As noted by Pritchard et al. (2010), there is no written or online evidence that the Inuit ever occupied the western James Bay islands, except for Cree oral history:

They [Inuit] came from the [Hudson] Bay...the larger island we call Kamanski [Akimiski Island]...[Inuit] occupy that land a long time ago, and those people use to hunt seals, whales, and polo [sic] bears...fish...So there was a skirmish there was fight [between Inuit and Cree]...They didn't fight for the land to possess, no, it was the food (Bird 2002:7).

Further, the Cree Elder Bird (1999) recounts a story that he has heard only once where the Cree force the Inuit off of Akimiski Island using guns. If guns were used, the event would have been post-European contact; however, the Hudson's Bay Company Archives (HBCAa 1919-1941; HBCAb 1938-1940; Lytwyn 2002) diverge from the Bird (1999) story as there is no written record of Inuit making use of or inhabiting any of the western James Bay islands, or of a battle between Inuit and Cree over Akimiski Island.

Although there is no evidence that the Inuit ever used or lived on Akimiski Island post-European contact, the Government of Canada had considered relocating the Inuit to Akimiski Island in the early 1960s. As recounted by Cummins (1992: 274):

A memorandum from a V. M. Gran (Superintendent, James Bay Agency) to the Regional Supervisor, North Bay, dated July 5, 1962, states that 'Mr. Jock Fyffe of Northern Affairs...was attempting to get possession of [Akimiski] for relocation of Eskimo people'...Subsequent communications between the various administrators within the Departments of Citizenship and Immigration (housing at the time Indian Affairs) and other departments reconfirmed the legal right to maintain Akimiski Island as a fur sanctuary. A letter from K.J. Christie, Acting Chief, Resources Division of Northern

Affairs and National Resources dated 10 July, 1962, contained in duplicate a Land Reservations Form. This stated that 'The whole of Akimiski Island in James Bay, N.W.T. containing approximately 1143 square miles...have [sic] been reserved in the name of Indian Affairs Branch and are so noted in our records'.

Criterion 4: *The Aboriginal group can demonstrate some continuing current use and occupancy of the land for traditional purposes.* (INAC, 1993:5-6; INAC, 2008).

Continuing Cree land use and occupancy of Akimiski Island has been well documented for the 1990s. Smaller studies have reported that people from Attawapiskat go camping and hunting on Akimiski Island (Witt 1998; Hookimaw-Witt 1998). Larger endeavours, such as, the traditional land use study of Keir Consultants Inc. (1993a,b,c) have depicted extensive traditional land use on Akimiski Island by Omushkegowuk/Omushkego Cree for gathering activities (i.e., berry and medicinal plants, woodcutting) and community recreational activities; while camp sites (Keir Consultants Inc. 1993a,b,c), graves and spiritual sites, as well as hunting, fishing and trapping areas were also depicted on the maps of Akimiski Island (Keir Consultants Inc. 1993d). The most extensive land use study in the western James Bay region for the 1990s was the Technology Assessment in Subarctic Ontario project based at McMaster University, Ontario. This program resulted in many publications that clearly illustrated the continuing use of Akimiski Island for traditional pursuits with respect to the Omushkego Cree, especially goose hunting (Berkes et al. 1992; Hughes et al. 1993; Berkes et al. 1994; Berkes et al. 1995).

Similarly, continuing land use and occupancy of Akimiski Island has been reported in the new century. The *Victor Diamond Project, Traditional Ecological Knowledge Study* report (Victor Project TEK Working Group, 2004) that was edited for confidentiality (figures, pictures and some text were removed at the request of Attawapiskat First Nation) clearly demonstrates continuing use of Akimiski Island by the Attawapiskat Cree for gathering (e.g., berries) and harvesting (e.g., geese, ducks, and fish), and to a lesser extent, trapping. The *Victor Mine Power*

Supply Traditional Ecological Knowledge and Project Impacts Report (SNC-Lavalin Engineers & Constructors, 2005a) displays information collected during interviews conducted in Attawapiskat between September and December 2003 - on maps - illustrating the distribution of animals and harvesting areas on Akimiski Island for terrestrial mammals, waterfowl and upland game birds, fish, marine mammals, and plants, as well as the location of springs and gravesites. Harvesting of medicinal plants on Akimiski Island has also been reported (AMEC 2005). Continuing land use and occupancy of Akimiski Island is not in question for the Attawapiskat Cree, as Chief Hall (2004; unnumbered) of Attawapiskat First Nation even sent a letter to Paul Shafer of the Canadian Environmental Assessment Agency requesting “that the Federal Regulators make themselves available to participate in our traditional way of life, for knowledge and understanding, by joining us in our annual spring hunt on Akimiski Island in April.” Paul Shafer and Natural Resources Canada “respectfully” declined (Natural Resources Canada 2004; Schafer 2004). Lastly, traditional land use maps for other Omushkego Cree communities (Fort Albany First Nation and Kashechewan First Nation) also show traditional land use of Akimiski Island (Anonymous, 2007a, b, c).

Criterion 5: *The group's Aboriginal title and rights to resource use have not been dealt with by treaty.*

Criterion 6: *Aboriginal title has not been eliminated by other lawful means.* (INAC, 1993:5-6; INAC, 2008).

In 1905-1906, Indian groups inhabiting the land south of the Albany River in northern Ontario (Scott et al., 1905) entered into treaty with the Government of Canada (Treaty No. 9, 1905-1906). Specifically, Treaty No. 9 details the land relinquished by the Indians (or their representative) who signed the treaty:

the said Indians [Cree, Ojibwa and others] do hereby cede, release, surrender and yield up to the government of the Dominion of Canada, for His Majesty the King and His successors for ever [sic], all their rights titles and privileges whatsoever, to the lands included within the following limits, that is to say: That portion or tract of land lying and being in the province of Ontario, bounded on the south by the height of land and the northern boundaries of the territory ceded by the Robinson-Superior Treaty of 1850, and the Robinson-Huron Treaty of 1850, and bounded on the east and north by the boundaries of the said province of Ontario as defined by law, and on the west by a part of the eastern boundary of the territory ceded by the Northwest Angle Treaty No. 3; the said land containing an area of ninety thousand square miles, more or less. (Treaty No. 9, 1905-1906)

It should be noted that no reference to “islands” was made in Treaty No. 9. In contrast, in the Adhesions to Treaty No. 9 signed in 1929 and 1930, a reference to “islands” is made, but not marine islands:

[the said Indians residing north of the area included in Treaty No. 9] do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada for His Majesty the King and His Successors forever, all our rights, titles and privileges whatsoever in all that tract of land, and land covered by water in the Province of Ontario, comprising part of the District of Kenora (Patricia Portion) containing one hundred and twenty-eight thousand three hundred and twenty square miles, more or less, being bounded on the South by the Northerly limit of Treaty Number Nine; on the West by Easterly limits of Treaties Numbers Three and Five, and the boundary between the

Provinces of Ontario and Manitoba; on the North by the [salt] waters of Hudson Bay, and on the East by the [salt] waters of James Bay and including all [freshwater] islands, islets and rocks, waters and land covered by water within the said limits [Akimiski Island is not located in these limits]...(Treaty Number 9, 1905-1906).

The importance of the absence of marine islands from Treaty No. 9 and its adhesions has been recognized by the western James Bay Cree of northern Ontario, who contend that they have never relinquished claim to Akimiski Island (and other western James Bay islands) through treaty or any other means (Parliament of Canada, 1999). In our search, no written record that Cree title to Akimiski Island and other marine islands had ever been eliminated by other lawful means (i.e., other than treaty) was uncovered. As noted by Tsuji et al. (2009: 459):

When Rupert's Land and the North-Western Territory were acquired and amalgamated to form the Northwest Territories within the Dominion of Canada, the islands of Ungava Bay, Hudson Bay and James Bay were included within the new territorial boundaries....The inclusion of these islands in the Northwest Territories appears to have been not so much a conscious decision on the part of the Dominion of Canada to keep these islands as part of the Northwest Territories, but rather a result of partitioning only the mainland portion of the Northwest Territories to extend the boundaries of Quebec and Ontario. In other words, the islands of Hudson Bay, James Bay, and Ungava Bay were left as part of the Northwest Territories after the mainland was partitioned.

Lastly, the name Akimiski is Cree in origin and describes the geographical location of the island when viewed from the mainland, as 'the land across' the strait (Bird, 2005: 168).

CONCLUSIONS

Clearly, criteria 1, and 3-6 of the common law test of Aboriginal title with respect to Akimiski Island were fully met. Criterion 2 was partially met, but it must still be shown that “The traditional use and occupancy of the territory must have been sufficient to be an established fact at the time of assertion of sovereignty by European nations.” (INAC, 1993:5-6; INAC, 2008). Although the written record alludes to the Cree using Akimiski Island at the time of first contact and prior, Cree oral history must be consulted to illuminate upon this matter.

Appendices

Table 1.1. Search results for the academic databases (null and duplicate results are not presented)

Academic Database	Key Word(s)	Number of Identified References/Links	Relevant References/Links	URL or Author	Last Accessed Date
Thesis Canada Portal	akimiski	7	3	Hackett (2000) Witt (1998) Hookimaw-Witt (1999)	3/2/2008
ProQuest	akimiski	8	1	Leafloor et al. (1998)	1/18/2008
Web of Science	akimiski	19	3	Blaney and Kotanen (2001) Abraham et al. (1999)	2/18/2008
Centre for Rupert's Land Studies	akimiski	1	1	Bird (1999)	1/6/2012
	kamanski	1	1	Bird (2002)	1/6/2012

Table 1.2. Google search results (null and duplicate results are not presented)

Key Words	Number of Identified References/Links	Relevant References/Links	URL or Author	Last Accessed Date
akamiski	23	2	http://wawataynews.ca/node/11998 http://sudburyoutside.ca/index2.php?option=com_content&do_pdf=1&id=46	1/5/2012 2/18/2008
Akimiski and cree	195	10	www.academicjournals.org/ERR/PDF/pdf%202007/Sep/Witt.pdf www.nunatsiaq.com/archives/nunavut990528/nvt90514_11.html http://www.parl.gc.ca/36/1/parlbus/commbus/senate/com-e/legae/54eve.htm?Language=E&Parl=36&Ses=1&comm_id=11 http://www.ontla.on.ca/house-proceedings/transcripts/files_pdf/2005-05-05_pdfL141.pdf www.wcscanada.org/media/file/Rangifer_Magounetal_2005_jou_rnal.pdf	1/6/2012 1/6/2012 2/18/2008 1/6/2012 2/18/2008

			http://www.ourvoices.ca/filestore/pdf/0/1/0/7/0107.pdf files.jedmonds.net/MooseFactJour/2003/dapr03.pdf files.demons.net/MooseFactJour/2002/aaug02.pdf www.ainc-inac.gc.ca/ps/clm/pis7_e.pdf www.ceaa.gc.ca/010/0003/0060/f1-3_e.pdf	1/6/2012 1/6/2012 2/18/2008 2/18/2008 2/18/2008
Akimiski and Indian	266	8	Pubs.aina.ucalgary.ca/arctic/Arctic16-3-158.pdf www.arctic-caribou.com/news_feb99.html www.ceaa.gc.ca/010/0003/0060/report_e.pdf	1/6/2012 1/6/2012 2/18/2008
Oubasko u	5	2	Quebec Government (1889)	1/6/2012

			http://www.ebooksread.com/authors-eng/nellis-maynard-crouse/contributions-of-the-canadian-jesuits-to-the-geographical-knowledge-of-new-franc-uor/page-17-contributions-of-the-canadian-jesuits-to-the-geographical-knowledge-of-new-franc-uor.shtml	1/6/2012
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Figure 1.1. Canadian provincial and territorial boundaries as of 1997. This map is based on hc1999trty_e (INAC, 2007).

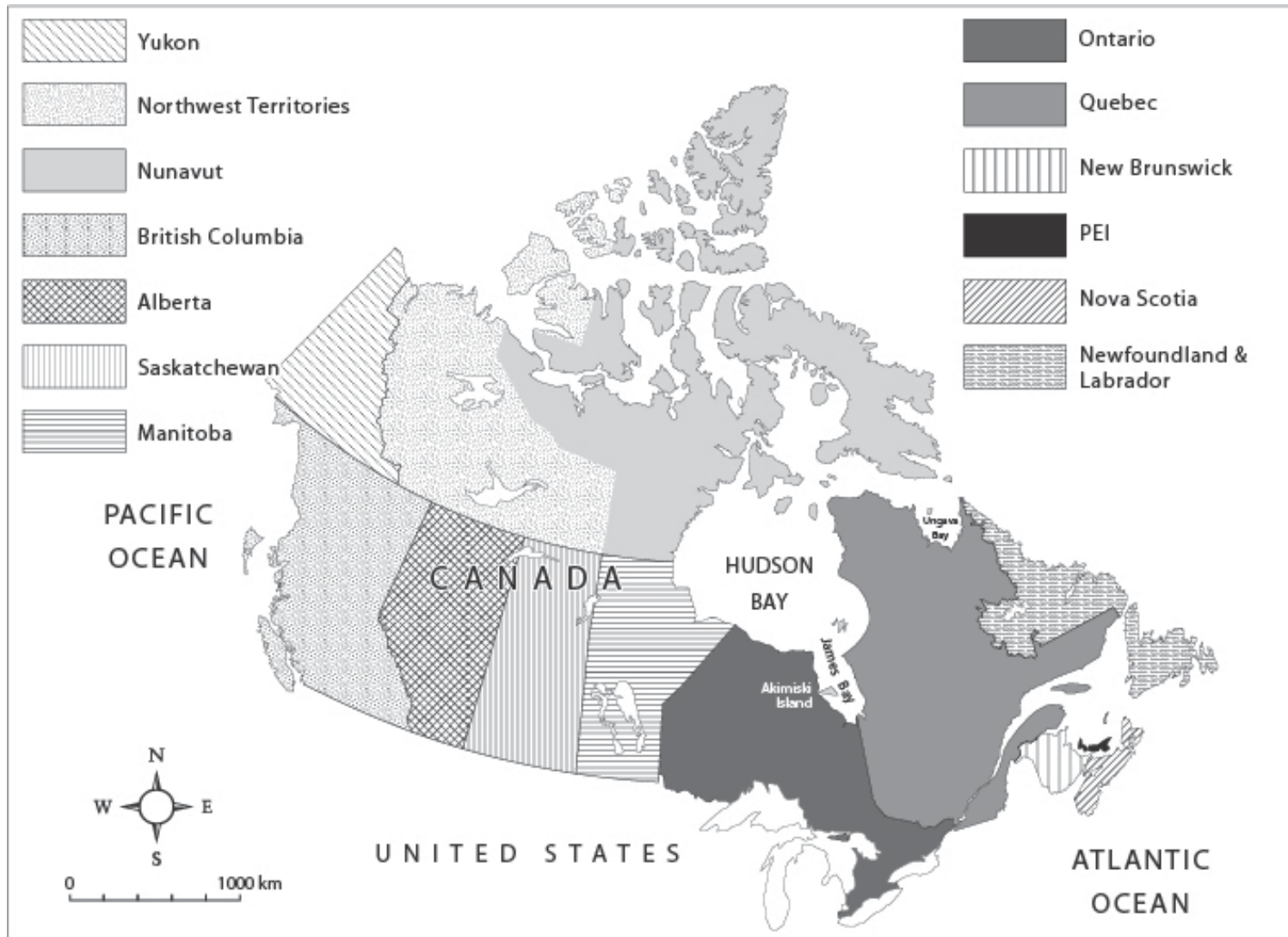
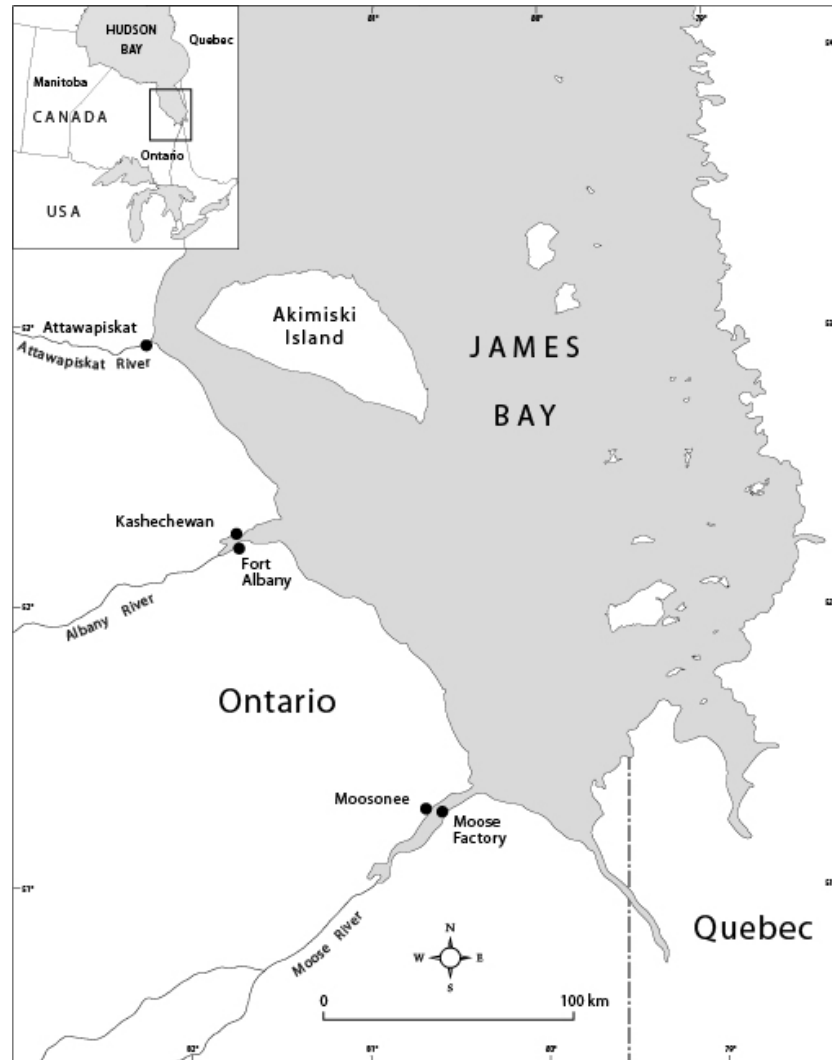


Figure 1.2. A map showing the proximity of Akimiski Island to the Omushkegowuk communities of Attawapiskat First Nation, Kashechewan First Nation, Fort Albany First Nation, and Moose Factory (home of Moose Cree First Nation).



Chapter 2: Akimiski Island, Nunavut, Canada: Using Oral History to Resolve Aboriginal Title

Introduction

In 1867 when the Dominion of Canada was formed, only the provinces of Ontario, Quebec, New Brunswick and Nova Scotia were included in the boundaries of the new country. At this time, the provinces of Quebec and Ontario were only a portion of their present size (Figure 2.1). What is now referred to as Canada, would be formed through acquisitions. Specifically, in 1870, Rupert's Land and the North-Western Territory (Figure 2.1-2) would be acquired by the Dominion of Canada through an Imperial (British) Order-in-Council; however, the Canadian government would have to compensate 'Indians', as it was recognized that Indians had claims to these lands (Rupert's Land and North-Western Territory – Enactment No. 3, 1870; Cauchon and Cockburn, 1867). Previously, the British Crown had recognized Indians rights to land in North America, through the Royal Proclamation of 1763. This document asserted that Indian lands had to be acquired through consent (i.e., ceded or purchased; The Royal Proclamation of 1763; Henry, 2006). From 1870 to 1999, the Northwest Territories (formerly known as Rupert's Land and the North-Western Territory) was partitioned into new provinces and territories; while, the boundaries of several of the existing provinces were extended (Figure 3; INAC, 2007). In keeping with Indian land rights in North America, treaties between the Government of Canada and Indian groups had to be signed (INAC, 2007).

Although Treaty No. 9 was signed in 1905-1906 (Scott et al., 1905) and the Adhesions to Treaty No. 9 in 1929-1930, by the western Hudson and James Bay Cree, there was no mention of the western James Bay marine islands (Treaty No. 9, 1905-1906; Figure 2.4) in Treaty No. 9 and its adhesions. The western James Bay Cree (or Oumshkego Cree) of northern Ontario have realized

the importance of the absence of marine islands from Treaty No. 9 and its adhesions, and they maintain that they have never relinquished their claim to Akimiski Island (and the other western James Bay islands) through treaty or any other means (Parliament of Canada, 1999).

Nonetheless, on April 1, 1999, “the islands in Hudson Bay, James Bay [which includes Akimiski Island] and Ungava Bay that [were] not within Manitoba, Ontario or Quebec” were included in the newly established, Inuit-dominated territory of Nunavut, Canada (Nunavut Act S.C. 1993, c.28, Part 1, 3(b)) even though the Inuit never asserted Aboriginal title to the western James Bay islands, including Akimiski Island (Nunavut Land Claims Agreement, 1993). As noted by Senator Lorna Milne of the Government of Canada:

many of the complaints [boundary and Aboriginal title issues] were originally with the Nunavut Act itself. That is when they should properly have been addressed. Unfortunately, they were not addressed at that time. You [First Nations representatives] are quite right: the [Canadian] government did not do its job” (Parliament of Canada, 1999:33).

Herein lies the problem, two Canadian Aboriginal groups lay claim to Akimiski Island.

Nonetheless, this dispute can be settled, as a test of Aboriginal title exists in Canada

(*Delgamuukw v. British Columbia*, 1997; Denhez, 1982, Hurley, 2000). The common law test for proof of Aboriginal title is as follows:

1. The Aboriginal group is, and was, an organized society.
2. The organized society has occupied the specific territory over which it asserts Aboriginal title since time immemorial. The traditional use and occupancy of the territory must have been sufficient to be an established fact at the time of assertion of sovereignty by European nations.
3. The occupation of the territory by the Aboriginal group was largely to the exclusion of other organized societies.
4. The Aboriginal group can demonstrate some continuing current use and occupancy of the land for traditional purposes.
5. The group's Aboriginal title and rights to resource use have not been dealt with by treaty.

6. Aboriginal title has not been eliminated by other lawful means (Indian and Northern Affairs Canada [INAC], 1993:5-6; INAC, 2008).

In a paper by Pritchard et al. (2010), no evidence (published or on-line) was found in the academic databases, grey literature, and Inuit oral history searched that supports Inuit title to Akimiski Island, specifically, with reference to the 2nd and 4th criteria of the test of Aboriginal title. In fact, the *Inuit Land Use and Occupancy Project* (Milton Freeman Research Limited, 1976a, b, c), a comprehensive record of Inuit land use in the Northwest Territories, Canada, did not refer to historical or present Inuit land use and/or occupation of Akimiski Island. This is the authoritative Inuit land use and occupancy record and was used as the basis for the Inuit land claim that resulted in the formation of the territory of Nunavut in Canada. Indeed, in the *Nunavut Land Claims Agreement (1993)*, beginning in *Article 3.1.1* of this document, it states that the “Nunavut Settlement Area shall be composed of ‘Area A’... and ‘Area B’, being the Belcher Islands, associated islands and adjacent marine areas in Hudson Bay, described in Part 3 [Area B: section 3.3.1; p. 17]”. Marcopeet, King George, Salliquit and Belcher Islands were all mentioned (p. 19-20), but Akimiski Island was not named. Further, in *Schedule 3-1, the Map of the Nunavut Settlement Area (section 3.4.1)* does not include Akimiski Island within Area B (the southernmost area of Nunavut; p. 21); however, a disclaimer appear that states “for general information purposes only” (p. 21). In *Schedule 9-1, Existing Conservation Areas (Section 9.1.1, Part 1; p. 83)*, migratory bird sanctuaries within the Nunavut Settlement Area were listed; eight bird sanctuaries were named, but the Akimiski Island Bird Sanctuary was not among them.

By contrast, in Chapter 1, I showed that all criteria of the common law test of Aboriginal title were met to support Cree title to Akimiski Island using published and on-line evidence retrieved

from the academic databases, grey literature and Cree oral history; however, the written record only alluded to the Cree using Akimiski Island prior to European contact. Thus, traditional use and occupancy of Akimiski Island could only be definitively ascertained for post-European contact, not pre-European contact. In other words, criterion 2 of the test for Aboriginal title was not fully met. In the present paper, Cree Elders share their oral history with respect to Akimiski Island, specific to the time period that corresponds to pre-European contact, to fully test criterion 2.

Methods

The western James Bay region of northern Ontario is known as the Mushkegowuk Territory, and is inhabited by Omushkego Cree who live in four coastal First Nations (Moose Factory, Fort Albany, Kashechewan and Attawapiskat) and one town, Moosonee (Figure 2.4). Place of residence is not static and movement of people between the communities is common. Akimiski Island is located ~16 kms from the mouth of the Attawapiskat River (NASA, 1994), ~25 kms east of Attawapiskat First Nation (Figure 2.4). Akimiski Island is the largest island in James Bay (~336,700 hectares; Environment Canada, 2008).

Purposive sampling was used in the present study; only Omushkego Cree Elders (≥ 60 years of age) were interviewed, unless other knowledgeable community members were identified by personnel of First Nations organizations. Oral historical data were collected from 2007 to 2008, using the semi-directed interview format, which is culturally appropriate (Tsuji et al. 2007). Individual semi-directed interviews (n=92; 71 males and 21 females) were conducted in person,

in either English or Cree, at a location agreed upon by the participant. Oral consent for the interview was given by all participants, and some interviews were recorded (separate oral consent was obtained for this activity). During the semi-directed interview, participants were asked to recall any information related to Akimiski Island, prior to the arrival of the Europeans (i.e., white man). It should be noted that “high” Cree (cf. conversational Cree that people of the Mushkegowuk Territory often employ) was used by some Elders in recounting their oral history; thus, members of our research team included people proficient in “high” Cree. In addition, interviews with some Elders required more than one session, for various reasons (e.g., participants became tired).

Oral history when digitally recorded was first transcribed, and all data were categorized and analyzed. Categories were created using inductive thematic analyses, whereby categories emerged from the raw data itself (Fereday and Muir-Cochrane, 2006). Data analysis was iterative.

Results and Discussion

Land use and occupancy pre-European contact, and first contact

It should be emphasized that the oral history I requested is limited, as one Elder suggested that her (interview identifier: gender and participant number, F4) Elders would know, and another stated “50 years ago, [you] would have got a lot more information” (M6). The oral history I did record describes Akimiski Island as being bountiful with respect to food:

Before the white man arrived, the island was rich in food, geese, ducks, fish, rabbits (F10);

Families used to live on Akimiski because food was good, geese, ducks, fish, before the white man (M14);

Pre white man. Yes [Cree] hunted there. There was beaver, caribou, rabbit (M17).

These accounts of the bountiful resources of Akimiski Island pre-European arrival is in accordance with the written record of the early post-contact years, as reported by Father Albanel in 1671-1672:

Three days' journey into the depth of the [James] bay, toward the Northwest [northern Ontario], is a large river called by some Savages [east-coast Cree] Kichesipiou, and by others Mousousipiou, 'Moose river,' on which are many nations [west-coast Cree]; while on the left, as you advance, lies the well-known Island of Ouabaskou [Akimiski], forty leagues long by twenty wide, abounding in all kinds of animals...On the Island of Ouabaskouk, if the Savages [east-coast Cree] are to be believed, they are so numerous that in one place, where the birds shed their feathers at molting time, any Savages or deer coming to the spot are buried in feathers over their heads, and are often unable to extricate themselves. (Thwaites 1959: 203-205)

Perhaps the abundance of resources on Akimiski Island at this time is the reason why several of the Elders describe Akimiski Island as being relatively, highly populated prior to the arrival of Europeans:

Heard from the Elders [his Elders] that hundreds of Cree lived on Akimiski before the white man. Huge birch bark canoes were used to go across to the island. Hundreds lived on the island, just for survival as there was a lot of fishing, hunting, trapping, and berries. People never got sick. (M6);

There is not much I could tell you about Akimiski Island before the white man had arrived here, all I could say that a lot of our people lived there. (M9);

Before the paleskin arrived, the island was full of Native families. Guns were never used as there was no steel. Bow and arrows was used to kill game, rabbits, geese, ducks. Fishing was plenty. Beaver was also killed in those days. [There was] berry picking in summer time. (M1).

One Elder was particularly knowledgeable:

This knowledge has been passed down through the generations. Cree had always used the island as it was plentiful with wild game, game birds, caribou, rabbits, loons. People lived all around the island....The Cree moved around the island as groups. They used caribou fences where they would herd caribou into a small opening where the hunters would be waiting to shoot [with bows and arrows] the caribou as they came through. [The caribou fence was] funnel shaped [with] pointed sticks pointing inward so the animals had to follow the fence. Mennikamee [is the] name of fence and place [campsite or hunting ground] on Akimiski. (M48)

It is interesting to note that Cree oral history and the post-European record converge on the caribou fence issue, as Lytwyn (2002: 84-85) writes that during “spring migration, caribou usually crossed frozen rivers, and the best method of hunting then was to build fences or hedges with snares set in them to trap the animals....did not require European technology, which suggests that caribou could be harvested easily during both spring and fall in the period before European contact.” Adding further, Lytwyn (2002: 153) notes that, “In the vicinity of Albany Fort [Fort Albany], the caribou hunt was focused on Akimiski Island. The HBC [Hudson’s Bay

Company] traders at Albany Fort tried on a number of occasions to open up a commercial trade with the lowland Cree hunters on the island...[in the year] 1727". It should be mentioned that the Lytwyn's (2002: xiv) study of the Hudson Bay Lowland Cree (which included the western James Bay Cree) "delves into every corner of the Hudson's Bay Company archives, from account books to miscellaneous files."

Oral history also describes the first contact of Cree living on Akimiski Island with Europeans.

Ship was beached on the north side of the island. The ship stayed awhile because they came on high tide. The white men made a v-ditch in the beach to let the water come in. Four Cree came to investigate and one white man was left on guard, who was [a] cook. The others were making a ditch. [The] white man fired the gun into the air to warn his shipmates; Cree thought that they were shot at. (M48)

Evidently, Akimiski Island was occupied and used extensively by the Cree prior to European contact according to oral history. In addition, the HBC written record confirms the bountifulness of Akimiski Island with respect to caribou soon after first contact (Lytwyn, 2002), which is in agreement with Cree oral history of pre-contact.

Post-glacial isostatic adjustment

Cree oral history also addresses the evolution of Akimiski Island:

No island, just a sandbar. (M28)

Skeleton of a whale when island just starting to form, [the island was made of] gravel [back then]. South side of the island, one of the old stories, named south side story, Whale Point. (M35)

It should be emphasized that Cree oral history highlights that the shorelines of the western James Bay region have been continuously evolving due to post-glacial isostatic adjustment. Indeed, the earth has gone through ice age cycles and at the so-called last glacial maximum, the ancient Laurentide ice sheet covered Canada and the northeastern U.S. (Tsuji et al. 2009). Simplistically speaking, when the Laurentide ice sheet receded, the unloading associated with the melting of the ice sheet, initiated an adjustment or rebound of the crust in the James Bay region that is locally evident as land emergence (or sea-level fall) (Mitrovica et al., 2000). Adding further, Martini and Glooschenko (1983: 244) state that “Akimiski Island was totally submerged 7500 years ago by the early-postglacial Tyrell sea [the forerunner of Hudson Bay and James Bay, Dean, 1994], but it has emerged relatively early....emersion may have been initiated approximately 3500-4000 yrs ago”. Taking into account - that Native peoples’ “.history in the area [James Bay region] goes back a minimum of 6,000 years and perhaps several thousand years earlier to the days of the glacial lakes.” (Woodland Heritage Services, 2009: 9) – the ancestors of the Cree would have been in the area to witness the emergence of Akimiski Island with this information becoming part of their oral history.

The evolution of Akimiski Island is of primary importance to the objective of the present paper, as evident from the following oral history:

Inuit at Akimiski Island first, but not know what year. Legend tells about how Akimiski Island started as a sand bar and Inuit would come to hunt seals. Once there were trees, there were no more seals and the Inuit stopped coming. Cree also battled with the Inuit and drove them off. The Inuit never came back. (M25)

Alright, it's about Agamiski, what my dad told me, two months ago [before he passed away]. Before white man came...first there were Eskimos there he said, there were small trees, just a sand bar, then Eskimos got there because they were there because there was

lots of seals. They like them seals, them Eskimos. That's what my dad said, and then after lots of years I guess there were trees, big ones. It's about a seven, eight miles long now that I know. When there were trees there were no more seals. The Eskimos and Cree fought, the Eskimos left and went home. (M71)

In *Voices from the Bay* (McDonald et al. 1997) - a compilation of Inuit and Cree cultural knowledge for the Hudson and James Bay regions, where 28 communities participated including the western Hudson Bay Cree community of Peawanuck, and the western James Bay Cree communities of Attawapiskat, Kashechewan, Fort Albany and Moose Factory, as well as the most southerly Inuit community in Hudson Bay, Sanikiluaq – similar stories were recorded, although not specific to Akimiski Island and not specific to seals:

Rocks are exposed on sandy beaches and shallow areas are now shoals. Shoals are forming new islands near Arviat, York Factory, Peawanuck, Lake River, Moose Factory, Wemindj, and in the Belcher Islands....Emerging shorelines are very obvious in James Bay and along the southwestern coast of Hudson Bay where shoals have risen above sea level....Large rocks and sandbars are now visible, and as an island in southwestern Hudson Bay slowly merges with the shorelines fewer walrus are visiting it....A decline in local walrus numbers observed by James Bay and southwestern Hudson Bay Cree is associated with changing shorelines and habitat alteration. Walrus used to inhabit Cape Hope Island, but the depressions they made in the ground are now overgrown with willow. Lots of walrus also inhabited an island in the Winisk area until it began merging with the coastal shoreline in the early 1980s. Now they return only to visit, in groups of two or three. (McDonald et al. 1997: 37-42)

According to Cree oral history, it appears that Inuit used Akimiski Island to hunt seals when the island was first emerging. However, the Inuit later abandoned the island because the number of seals at the island decreased due to the evolution of the island habitat and/or the Cree forced them off the island.

Published Cree Oral History

Similar to the Cree oral history documented in the present study, Pritchard et al. (2010) report that published Cree oral history indicated that in the past the Inuit did use islands in the western James Bay region, including Akimiski Island, but the period of time was ambiguous:

Atwaywuk [the term], it is suppose to apply to the Inuit people. They came from the Bay, because the Ennui [Cree] people used to occupy the land on the West coast of James Bay[.] On the West Coast of Hudson Bay, a place at the junction they call Great Whale River, that's up north and that's occupied by the Inuit people on the shores, and one of the islands on the Belcher Islands in that small islands within James Bay, and the larger island we call Kamanski [sic; Akimiski]. They [Inuit] occupy that land a long time ago, and those people use to hunt seals, whales and polo [sic] bears. So, when they were a long time the Muskego [Cree] also hunt the seals, and that's what the Inuit people hoped for they didn't want the Muskego people to kill off the food, because the Muskego had plenty other kinds inland...The Inuit people that packed [sic, attacked] the Muskego after the European came they killed off some people". (Bird, 2002: 7)

The Cree historian, Bird (1999: 15-16), also recounts a story that he has heard only once:

One time in the James Bay area, because the Inuit people used the in land [sic] which we call, 'akaneskii' [Akimiski] in James Bay and also those small islands. So they used to attack a small group of families and then the whole tribe began to aware of that and they were very annoyed and they said... 'let us kill off if we can.' And it happens after the European came, because the Omushkegowak [Cree] and also the Inuit did have a gun, not everybody. So when the west coast of James bay people, in a place called Ekwan and Attawapiskat and Kashachewan, they came together and they said, 'lets go attack the Inuit people in the Akimiski Island.' Akimiski Island, Inuit people used to live on the southeast end of the Akimiski Island and some of them to the north end...Omushkegowak...gathered the best 100 warriors...So they said sail right into the end of the southeast coast of the Akimiski Island where the Inuit were camping. So they went there and they killed them off, they wanted to kill them off, all of them...chase off into the waters these people, women and children and all and they killed them...Omushkegowak people failed to eliminate totally because of this shaman power [Inuit turned into seals when they entered the water]...there is another story that says from within the west coast of James Bay...after they [Cree] clear off the Inuit people [from Akimiski Island], they scare them off into far up north, Inuit people did not stop harassing the Omushkegowak people of the south west coast of Hudson Bay and the west coast of James Bay. They [Cree] usually attack the Inuit people from the Cape Henrietta

Maria, where the ice always stuck during the month of June and July and part of August, before it's melt."

As Pritchard et al. (2010) note, the Bird (1999) story diverges from the Hudson's Bay Company Archives, as no mention of Inuit occupation of Akimiski Island or a skirmish between Inuit and Cree over Akimiski Island, post-European contact, appears in the written record of the Hudson's Bay Company Archives (Lytwyn, 2002; HBCAa, 1919 – 1941; HBCAb, 1938 – 1940).

However, this time discrepancy has been resolved using Cree oral history collected in the present study. Most Elders spoke in general terms of a Cree-Inuit conflict over the Government of Canada's plan, in the 1950s, to relocate Inuit to Akimiski Island, with the Inuit's ultimately rejecting the relocation plan, because the environment (tree line) was not to their liking (F16, M42, M58, M60, M69). However, one Elder was detailed in his account:

HBC [Hudson's Bay Company] wanted Inuit on Akimiski [Island]. Something to do with the beaver, so that the Inuit could bring beaver and replenish the beaver as a harvest on the island....Indian people in Attawapiskat heard that this was going to happen. [The Cree] had guns and would defend their land and kill the Inuit if they came. [Canadian] Indian Affairs heard and gave support to the Cree. HBC did go through with their plan (M48).

There is convergence in the written record on this point, as Cummins (1992; 274) relates how an Inuit population was being considered for relocation to Akimiski Island, but in the end the Inuit were not relocated:

A memorandum from V. M. Gran (Superintendent, James Bay Agency) to the Regional Supervisor, North Bay, dated July 5, 1962, states that 'Mr. Jock Fyffe of Northern Affairs...was attempting to get possession of [Akimiski] for relocation of Eskimo people'. The point of his (Mr. Gran's) letter was to inform the Regional Supervisor that the necessary action was being taken to insure "that [Akimiski would be] retained for Indian trapping' (THRC 44/20-4 Gran to Regional Supervisor, North Bay, July 5, 1962).

Conclusion

Clearly, Cree traditional use and occupancy of Akimiski Island was “sufficient to be an established fact at the time of assertion of sovereignty by European nations” (INAC, 1993:5; INAC, 2008); thus, fully meeting criterion 2 of the test for Aboriginal title. Indeed, western science substantiated Cree oral history of the evolution of Akimiski Island. As the Cree have met all the criteria of the common law test for proof of Aboriginal title with respect to Akimiski Island; while, the Inuit have not, the Cree should consider working toward submission of a formal land claim for Akimiski Island. Lastly, the word Akamaski [Akimiski] is derived from Cree words - Aka (across) and Aski (land) – that is, “saying that there is land across here” (M48).

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Appendices:

Figure 2.1. Canada in 1867 as modified from Tsuji et al. (2009).

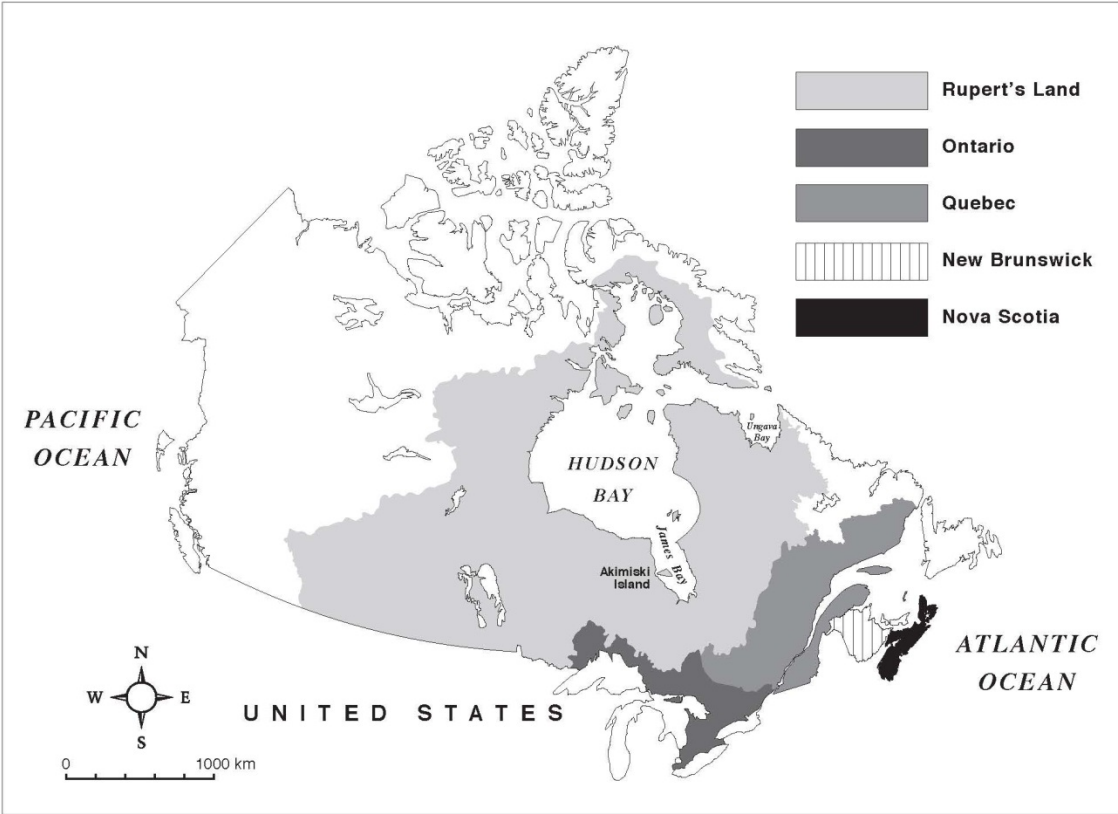


Figure 2.2. Canada in 1870 as modified from Tsuji et al. (2009).

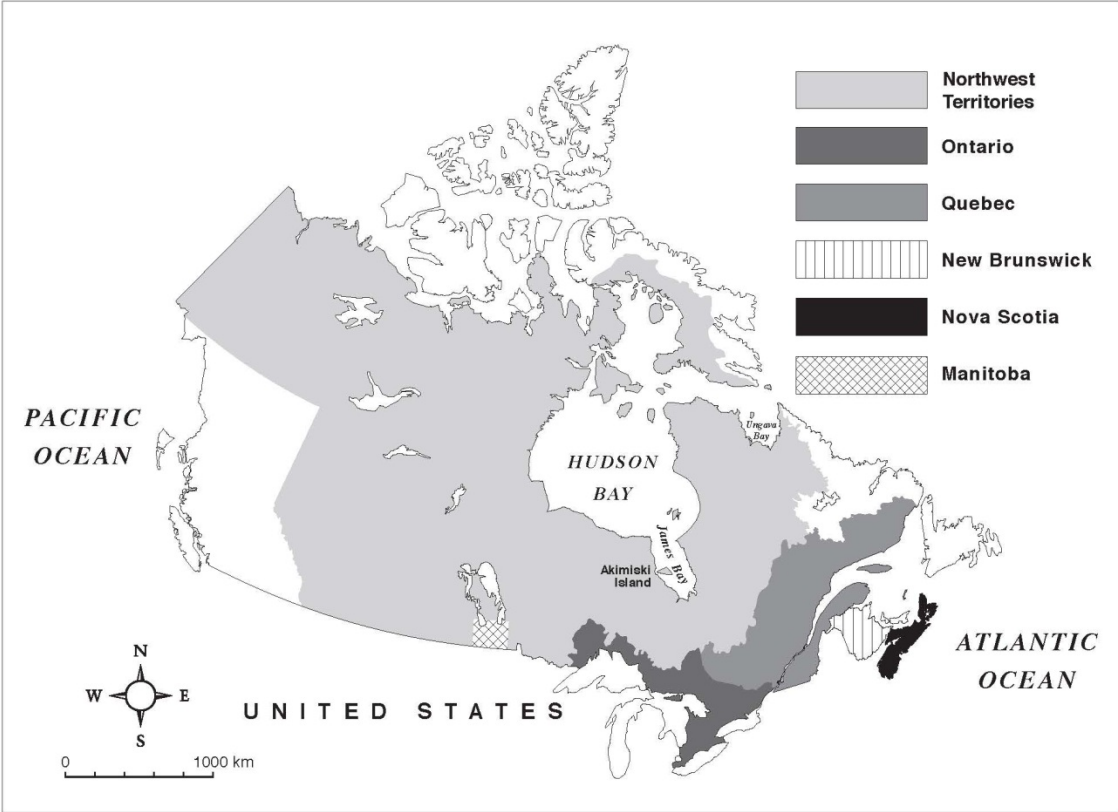


Figure 2.3. Canada in 1997 as modified from Pritchard et al. (2010)

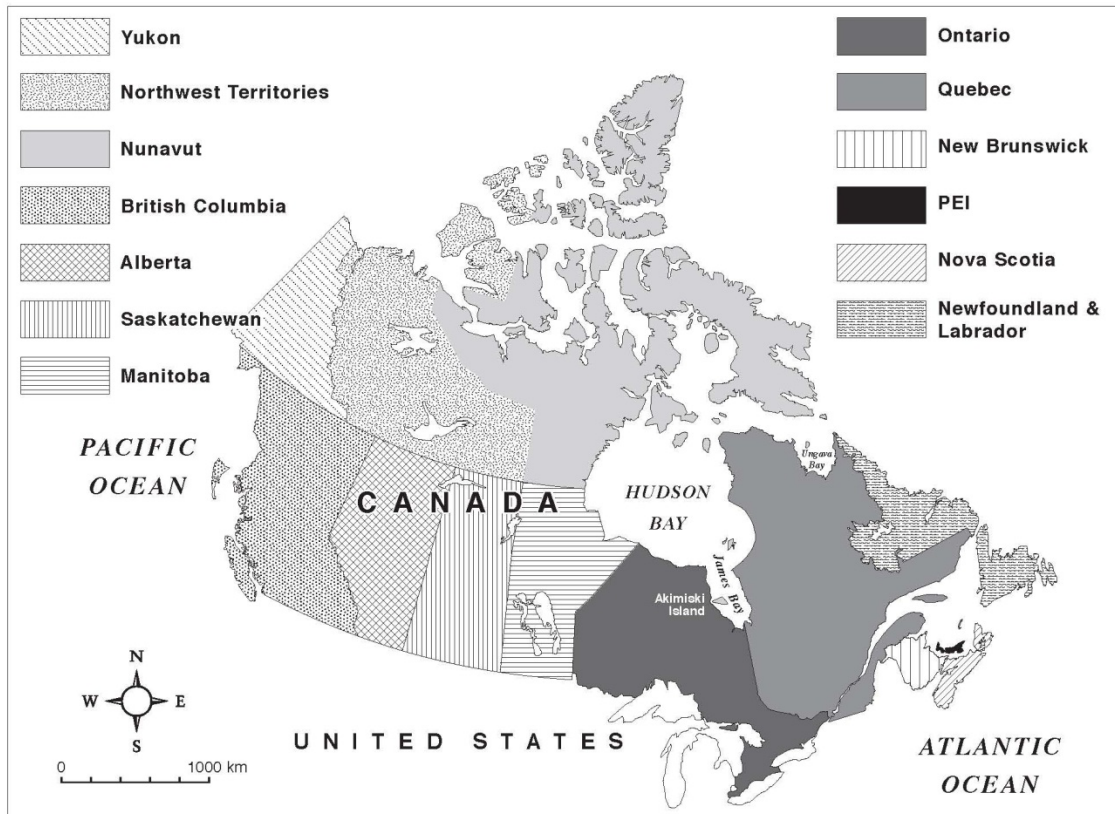


Figure 2.4. A map showing Akimiski Island in relation to the western James Bay First Nations of Moose Factory, Fort Albany, Kashechewan, and Attawapiskat, as modified from Tsuji et al. (2009)

