



Comité consultatif pour l'environnement de la Baie James  
James Bay Advisory Committee on the Environment  
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## **James Bay Advisory Committee on the Environment:**

### **RECOMMENDATIONS CONCERNING THE IMPLEMENTATION OF THE QUÉBEC GOVERNMENT'S COMMITMENT TO SET ASIDE 50% OF PLAN NORD LANDS FOR ENVIRONMENTAL PROTECTION AND OTHER NON-INDUSTRIAL DEVELOPMENTS**

November 7<sup>th</sup> 2011

## **Introduction**

The James Bay and Northern Quebec Agreement (hereafter „JBNQA’ or „the Agreement’), signed in 1975, is a treaty protected by Section 35 of the Constitution Act of 1982. Pursuant to the signing of the JBNQA, the James Bay Advisory Committee on the Environment (hereafter, „JBACE’ or „the Committee’) was established to “...*review and oversee the administration and management of the environmental and social protection regime established by and in accordance with [Section 22]*” (Par. 22.3.1). It is composed of representatives of three governments – the government of Canada, the government of Québec and the Cree Regional Authority. The Committee’s mandate is to:

- ▶ Advise these governments concerning the adoption of policies, laws and regulations or measures having environmental or social consequences on the James Bay Territory (Par. 22.3.24), including land use regulations and procedures which may affect the Cree wildlife harvesting rights as defined in Section 24 of the JBNQA (Par. 22.3.26);
- ▶ Be consulted by these governments regarding issues related to the implementation of the environmental and social protection regime and land use measures on the territory (Par. 22.3.28);
- ▶ Examine and make pertinent recommendations regarding the environmental and social protection regime for the Territory (Par. 22.3.27).

Please refer to [Appendix I](#) for a map of the Territory.

This brief offers recommendations regarding the Government of Québec’s commitment to set aside 50% of Plan Nord territory for environmental protection, conservation of biodiversity, promoting natural heritage and non-industrial development activities.<sup>1</sup> It also highlights a current priority issue, the Woodland Caribou situation, and offers several suggestions in this regard.

Since the signing of the Agreement in 1975, the James Bay Territory has been subject to considerable biophysical and social change. The Territory’s appreciable resources, both natural and social, are now the object of increasing industrial development pressure. The significance and scale of the current exercise cannot be overstated.

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<sup>1</sup>This brief is based on information related in the consultation document entitled „[\*Working Paper – A commitment by the Government of Québec to set aside 50% of Plan Nord territory for environmental protection, safeguarding biodiversity, promoting our natural heritage as well as for various types of development that do not rely on industrial activities\*](#)’ (hereafter „Working Paper’), and in an information session provided by the MDDEP for the JBACE on October 12<sup>th</sup> 2011.

**A. The general process and nature of setting aside areas meant for non-industrial activities, environmental protection and conservation**

One of the commitments is to set aside 5% of Plan Nord lands as „Natural Capital Land Reserves’ or „reserved lands’ before 2020, in addition to 12% for protected areas by 2015. Unlike the creation of protected area, the process and nature of setting aside areas for non-industrial activities, environmental protection and conservation of biodiversity, are still unknown and will be defined in a framework law and implementation strategy to be prepared following this consultation period. We agree that industrial development and economic growth are a priority for all, but underline that much must be done in order to protect areas that will be set aside for non-industrial activities, environmental protection and conservation of biodiversity. This work must be initiated quickly and the work schedule shortened, from that described in the document.

The final objective of 50% of the land protected will not be attained until 2035. If we consider forestry as an industrial activity, already more than 26% of the territory is thus already subject to industrial activities.<sup>2</sup> This percentage will rise in view of the development expected in the region. In light of accelerating industrial development pressures in the James Bay Territory, there is an immediate need to develop a clear picture of critical conservation areas as soon as possible so that areas open to industrial activities may be selected in consequence.

In order to avoid a situation where the importance of conservation is discounted and the „reserved lands’ represent simply the remnant, less economically-valuable lands, priority must be placed on the planning and identification of these lands. Ecological plans, and a preliminary map of the priority areas to be set aside, must be delineated without delay (e.g. 2 years). Although we recommend that these works be accelerated, we recognize the complexity of the endeavour and hold that the planning process must remain flexible to changing conditions, knowledge and experience. Once lands have been set aside or reserved, we also stress the need to remain flexible in light of the same.<sup>3</sup> However, this flexibility must be exerted within a well-defined framework which still needs to be defined.

We insist, however, that the most important or sensitive areas in terms of conservation and biodiversity, be set aside as soon as possible and, ideally, within the protected area network via the commitment to establish 12% of territory as protected areas by 2015.

Four fundamental concepts must also be more clearly integrated in the process of setting aside lands, and in the mapping or ecological planning of priority areas to be so set aside or reserved. The following concepts are pivotal considerations, if „reserved lands’ are to have true conservation value:

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<sup>2</sup> 26% represents the sum of the areas subject to mineral exploration permits (5.8%), energy production (2.3%), and forest management and wood harvesting (18%) – per the Working Paper, page 18. This seems conservative.

<sup>3</sup> Per Principle #8 of the Working Paper.

## 1. Size<sup>4</sup>

„Reserved lands’ must be of adequate size to meet the intended conservation objectives. Small „reserved lands,’ representing only pinpricks throughout Plan Nord lands, will not assure a high degree of environmental protection or conservation. The size of „reserved lands’ must also afford adequate attention to lands immediately adjacent to areas affected by industrial activities. Given that such lands will be affected and will be less valuable from an ecological perspective, adequate „buffer zones’ are requisite and must be considered when delimiting „reserved lands.’

## 2. Representativeness

„Representativeness’ is indeed Theme #1 of Québec’s strategic guidelines for protected areas,<sup>5</sup> and is a constant for all conservation or environmental protection initiatives. „Reserved lands’ must be more ecologically-valuable and must represent those critically-important areas in terms of biodiversity, species composition, ecosystem goods and services, or that are absolutely required or intensively used by a vulnerable species such as Woodland Caribou. When such lands must be used for industrial activities, similar representative lands must then be identified and included in the „reserved lands.’

Ensuring that the most ecologically-representative and valuable lands are safeguarded or „reserved’ is essential. „Reserved lands’ must thus consist of the most important lands for conservation purposes, equal to or more ecologically-valuable than the lands open to industrial activities and developments.

## 3. Interconnectivity

Maintaining the „interconnectivity’ of wildlife habitats and ranges is a central concept for conservation. It is indeed highlighted in Theme #2 of Québec’s strategic guidelines for protected areas,<sup>6</sup> and it is referenced throughout the federal government’s recent recovery strategy for the Woodland Caribou.<sup>7</sup> „Reserved lands’ cannot be randomly and discretely scattered over Plan Nord lands. These must be interconnected and afford opportunities for species migration and interaction.

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<sup>4</sup> The importance of suitably large areas, that match the conservation requirements of a given target, was reiterated by an MDDEP expert’s presentation to the JBACE concerning Québec’s strategic guidelines for the creation of protected areas, on June 2<sup>nd</sup> 2011.

<sup>5</sup> See page 4, „Strategic Guidelines for Québec Protected Areas – We Take Growth Seriously!’ Online at: [www.mddep.gouv.qc.ca/biodiversite/aires\\_protegees/orientations-strateg2011-15-en.pdf](http://www.mddep.gouv.qc.ca/biodiversite/aires_protegees/orientations-strateg2011-15-en.pdf). Last accessed on September 20<sup>th</sup> 2011.

<sup>6</sup> *Ibid.*, page 5.

<sup>7</sup> Environment Canada, 2011. „Recovery Strategy for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal Population, in Canada.’ Online at: [www.sararegistry.gc.ca/virtual\\_sara/files/plans/rs\\_boreal\\_caribou\\_revised\\_0811\\_eng.pdf](http://www.sararegistry.gc.ca/virtual_sara/files/plans/rs_boreal_caribou_revised_0811_eng.pdf). Last accessed on September 20<sup>th</sup> 2011.

#### **4. Cultural significance**

Owing to the Cree people's long-standing occupancy of the land, certain sites need to be protected from industrial activities as much for their social and cultural value as for their ecological attributes. The criteria for selecting „reserved lands' in the James Bay Territory must include sites of cultural importance.

We recommend that these four concepts be reflected in the process of setting aside lands, and included in the preliminary studies alluded to earlier.

##### ***Note #1 concerning the Woodland Caribou***

The JBACE is particularly concerned with the Woodland Caribou populations extant on Plan Nord lands, and in the James Bay Territory. The species has been listed as „threatened' under the federal *Species at Risk Act* (S.C. 2002, c. 29) since 2003, and as „vulnerable' under Québec's *Act respecting Threatened or Vulnerable Species* (R.S.Q. c. E-12.01) since 2005.

Ecological knowledge acquisition work and ecological planning should begin as soon as possible. The initial map of the priority areas to be set aside from industrial activities in the short term, as mentioned in this section, should focus on the critical habitats required by this culturally-important and vulnerable keystone species.

The commitment to set aside 5% of the Plan Nord lands for non-industrial activities and conservation by 2020 should also focus on the protection of this species.

#### **B. Calculation of the areal percentages of Plan Nord lands reserved for industrial or non-industrial activities**

The methods used to calculate the percentages of the lands occupied by these activities are very important. Various land area percentages and potential „variables' to be included in the calculations have been discussed, but little information regarding their quantification or the criteria for their inclusion have been provided. For example:

##### **1. Energy sector**

The Working Paper states that “[a]pproximately 2.3% of the territory of the Plan Nord is given over to the production of energy,”<sup>8</sup> and that these calculations “...could include transmission lines, transformer stations and production equipment including power plants, dams, dikes, wind farms and underwater generators” as well as “flooding and operation of a hydroelectric reservoir.”<sup>9</sup>

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<sup>8</sup> Working Paper, page 18.

<sup>9</sup> *Ibid.*, page 47.

We stress that some of these activities have very large „impacted zones,’ which must be accounted for and included in the calculations. The operation of a hydro-electric reservoir, for instance, will have an impact on the entire hydraulic regime downstream and possibly on the totality or at least part of the catchment area. Transmission lines offer another example of infrastructures which create impacts that extend far beyond the site of hydroelectric production, and that also serve to fragment the territory. The cumulative effects of large reservoirs and long linear infrastructures with other projects and activities on the territory will be much greater than the simple addition of the direct impacts of each project taken in isolation. The scope, inclusion criteria, and calculation methods are crucially important elements and should be accessible for consultation.

## **2. Mining sector**

The Working Paper mentions that “...*mining operations cover a little more than 400 km<sup>2</sup> (about 0.03% of the total area of the territory).*”<sup>10</sup> It then suggests that activities that require the issuance of titles,<sup>11</sup> authorizations under Québec’s Environmental Quality Act (EQA) and its related regulations, or authorizations under other regulations, directives or memoranda, would be deemed industrial. Finally, “*Geoscientific knowledge acquisition (Géologie Québec) and mining exploration deemed knowledge acquisition activity, as well as activities whose level of intensity has no significant impact on biodiversity, would not be considered as industrial activities.*”<sup>12</sup>

We concur with the intention of including only activities that have a significant impact on biodiversity in the calculations. However, the notion of „significant impact on biodiversity’ remains unclear. Definitions and thresholds are required to evaluate the significance of the impacts relating to mineral exploration, as is further clarification regarding other activities that affect biodiversity.<sup>13</sup>

Moreover, the „impacted zones’ of mining activities must also be clearly defined and the inclusion of all related infrastructures, and the „impacted zones’ that these create in and of themselves, must be plainly outlined.

We affirm, however, that to include only the site-specific „footprints’ or „impacted zones’ of physical constructions in the areal percentages of lands subject to industrial activities may prove overly reductive. More attention must be afforded to lands that are immediately adjacent to areas affected by industrial activities. „Buffer zones’ must be considered. These must be included in the overall calculation methods, in the definitions and thresholds of „impacted zones,’ and in the process of setting aside lands.

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<sup>10</sup> *Ibid.*, page 18

<sup>11</sup> In reference to mining leases, concessions, special operations leases, surface mineral operating leases, etc.

<sup>12</sup> Working Paper, page 47.

<sup>13</sup> Here, mining exploration activities are mentioned as an example and as an aspect requiring clarification. Indeed, the impacts of certain mining exploration activities are major concern for the JBACE given the current mining „boom’ in Québec. However, the lack of clarity surrounding the notion of „significant impact on biodiversity’ applies to many other industrial activities and sectors, and must be adequately addressed in the envisaged framework law and implementation strategy.

We hold that all calculation methods must be clarified in the subsequent framework law and implementation strategy. The „variables,’ including „buffer zones,’ to be included in the calculation methods should be listed and defined. These methods must include adequate clarifications, definitions, and thresholds for:

- ▶ „Impacted zones;’
- ▶ „Significant impacts,’ or „Impact significance;’
- ▶ „Significant impacts on biodiversity;’ and,
- ▶ „Mining exploration activities that have a significant impact on biodiversity.’

### **C. Omission of cumulative impacts**

The cumulative impacts of development projects can result in the significant degradation of biotic and abiotic natural resources, habitats, ecosystem goods and services. We hold that the cumulative impacts of industrial activities affecting the James Bay Territory must be accounted for, given:

1. That it is the people, fauna, and flora of the Territory who bear the burden of the accumulated manifestation of all of these impacts which ultimately shape both the social and natural environments.
2. The need to account for the cumulative impacts of industrial development in the context of the other provisions of the Plan Nord that are designed to stimulate multi-sectorial development.
3. The current reality of a development ‘boom’ already occurring in the James Bay Territory, particularly in the mining sector.
4. The inability to assess cumulative impacts on a project-by-project basis, and the urgent need to develop a „global’ or integrated perspective in order to adequately mitigate for these impacts.

Accordingly, inclusions in the subsequent framework law and implementation strategy must be made to adequately include cumulative impacts in:

- ▶ The calculations of „impacted zones;’
- ▶ The definition of „significant impacts;’ and,
- ▶ The general process and nature of setting aside lands.

Here, the Committee has - and continues - to recommend that the Plan Nord be the object of a strategic environmental assessment (SEA). This is, in our view and a view shared by many countries and international organizations, the best approach to adequately consider cumulative impacts influencing such a vast territory.

***Note #2 concerning the Woodland Caribou***

Woodland Caribou populations are affected by road network construction and operation. However, the incremental cumulative impacts of road networks, including the resulting fragmentation of the territory, on the vulnerable Woodland Caribou populations in Plan Nord lands remain unknown.

Other linear infrastructures, such as the construction of transmission lines, produce similar impacts on Woodland Caribou populations, induce fragmentation of the territory, and impart added cumulative impacts as well.

This reality offers a clear case for the regional evaluation of cumulative impacts. Individual road and project-specific impact assessments simply cannot account for the cumulative impacts on this vulnerable species. It is thus imperative that the cumulative impacts on Woodland Caribou populations be assessed.

**D. Definitions of the terms ‘industrial activities’ and ‘non-industrial activities’**

The definitions of these terms are critically important. We understand that these terms remain unclear, and that two potential veins of interpretation are currently being entertained:<sup>14</sup>

1. „Industrial activities’ are presented as those activities that would not be permitted in protected areas, as defined in the classification system of the International Union for Conservation of Nature (IUCN),<sup>15</sup> and requiring authorizations, permits or licences under the EQA; and,
2. For forest management activities in particular, those activities which fall “...*within the purview of the Forest Act and the Sustainable Forest Development Act [and] that cause significant ecosystem and biodiversity losses.*”

We recognize that activities directly relating to energy production, certain mining activities requiring the issuance of titles, infrastructural developments such as ports or roads, and certain forestry activities would constitute examples of industrial activities. These are in accordance with the IUCN’s guidelines which also mention that intensive agriculture, livestock grazing and „extractive industries’ such as mining, hydroelectric plants, and oil and gas production are

<sup>14</sup> Working Paper, pages 46-47.

<sup>15</sup> See the IUCN’s „*Guidelines for Applying Protected Area Management Categories.*’ Online at: [www.iucn.org/dbtw-wpd/edocs/PAPS-016.pdf](http://www.iucn.org/dbtw-wpd/edocs/PAPS-016.pdf). Last accessed on September 20<sup>th</sup> 2011.



generally not permitted in protect areas. However, the IUCN does not provide any distinct definition for industrial activities *per se*. A clear set of definitions, tailored to the Plan Nord territory, must be developed from scratch.

We suggest, however, that limiting the potential scope of the definitions to two veins of interpretation, with the trigger being the need for authorizations under the EQA for example, may prove challenging. A narrow scope may limit environmental performance by omitting certain activities – particularly in terms of forest management activities which are subject to other legal and regulatory obligations and have, as yet, undefined degrees of ‘impact significance’ on biodiversity.

It is thus imperative that these terms be clearly defined and made accessible for consultation.

Accordingly, all activities deemed ‘industrial’ and ‘non-industrial,’ should be clearly listed in the subsequent framework law and implementation strategy. These activities should also be adequately defined in terms of their ‘impact significance,’ in order to provide a solid logical foundation from which to monitor and evaluate effectiveness over time.<sup>16</sup>

**The JBACE must point out that it is, unfortunately, not in a position to offer greater precision regarding an actual list of development activities to be deemed ‘industrial’ or a means to calculate the land areas affected by such activities, at this time. We remain, however, available and willing to assist the pertinent departments or working group(s) in this regard.**

## **E. Clarity regarding protection of the boreal forest**

We understand that 12% of the boreal forest cover in Plan Nord territory will be designated as protected areas by 2015. The JBACE feels that this commitment is very positive.

However, the designation of additional protected areas north of the commercial treeline may not provide adequate environmental protection and conservation of biodiversity. Moreover, to designate areas north of the commercial treeline as protected areas would raise concerns regarding [representativeness](#).

As such, the additional protected areas to be created within the boreal forest cover of Plan Nord lands should be selected in a way that maximizes the representativeness of habitats, ecosystems, species composition, and goods and services, from both north and south of the commercial treeline.

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<sup>16</sup> Although this refers to the proposed review events planned for 2020 and 2030, these lists may prove useful when considering the re-designation of ‘reserved lands,’ based on changing realities and available information per Principle #8 of the Working Paper.

***Note #3 concerning the Woodland Caribou***

Woodland Caribou populations inhabit the boreal forest and prefer areas of mature undisturbed conifer stands with well-developed lichen cover (arboreal or terrestrial) throughout the year.

Given that the range distribution for this species is not fully understood, that they tend to select different habitats within their range at different times of the year, and that they generally avoid areas with sparse conifer cover, precaution must be exercised when creating additional protected areas north or south of the commercial treeline. Simply put, all protected areas designed to safeguard Woodland Caribou must coincide with the critical habitats and lands required by this species.

**F. Energy needs, residual waste management and climate change**

Given the expected increase in industrial development in the territory of the Plan Nord, we find it necessary to bring these issues to the forefront. We hold that site-specific energy needs and residual waste management requirements for industrial activities or developments, as well as the confounding effects of a changing climate, must be clearly considered in the framework law and implementation strategy.

Site-specific energy production installations and residual waste treatment plants should be included in the calculations and definitions of industrial activities. As such, they too may be accounted for when determining the overall impact of a given industrial activity and when assessing performance over the course of the two review events scheduled for 2020 and 2030.

We further affirm that the effects of climate change will serve to confound the issues related to environmental protection, conservation and ecological planning, over time. We recommend that the two review events must account for changing conditions in light of this phenomenon, and that the law and strategy remain flexible in this regard.

**G. The context of the JBNQA**

The JBACE appreciates that the framework law and implementation strategy will account for existing strategies, decision-making processes, planning and protection tools, land management mechanisms, legal frameworks and agreements. We stress, however, that the framework law and implementation strategy must also account for any and all revisions and modifications of these existing strategies, laws and agreements, planning processes, etc., as may be the case over time.

We also feel it necessary to reiterate four pivotal contextual points unique to the James Bay Territory:

## **1. The special status of the Crees**

The environmental and social protection regime applicable to the James Bay Territory is outlined in Section 22 of the JBNQA. This regime, per Par. 22.2.2 of the JBNQA, provides for:

- a) *“A procedure whereby environmental and social laws and regulations and land use regulations may from time to time be adopted if necessary to minimize the negative impact of development in or affecting the Territory upon the Native people and the wildlife resources of the Territory;*
- b) *An environmental and social impact assessment and review procedure established to minimize the environmental and social impact of development when negative on the native people and the wildlife resources of the Territory;*
- c) *A special status and involvement of the Cree people over and above that provided for in procedures involving the general public through consultation or representative mechanisms wherever such is necessary to protect or give effect to the rights and guarantees in favour of the Native people established by and in accordance with the Agreement.*
- d) *The protection of the rights and guarantees of the Cree people established by and in accordance with Section 24;*
- e) *The protection of the Cree people, their economies and the wildlife resources upon which they depend;*
- f) *The right to develop in the Territory.”*

Given that the proposed commitments will have an immediate effect on the Territory’s land use, and must respect the JBNQA, we insist that the Cree be afforded adequate involvement in the planning and development of all facets of the commitments in lands subject to the JBNQA – particularly in relation to the process of setting aside lands. Cree involvement must not be restricted only to consultation, as it must include Cree representation on the pertinent planning bodies as well.

## **2. Cree governance**

The governance structure applicable to the James Bay Territory is currently a work in progress. The signing of the *‘Framework agreement between the Crees of Eeyou Istchee and the gouvernement du Québec on governance in the Eeyou Istchee James Bay Territory,’* on May 17<sup>th</sup> 2011, allows for a one year period to sign a final agreement which will crystallize the future governance structure.

The final agreement will consolidate the regional governance of the Territory and will outline the future structures and responsibilities of the various administrative and planning bodies responsible for Category I, II and III lands:

- ▶ The revamped *„Regional county municipality;’*
- ▶ The envisaged Cree government on category IB lands;
- ▶ The envisaged *„Cree Nation Government’* for Category II lands;
- ▶ The envisaged *„Eeyou Istchee James Bay Regional Government’* for Category III lands;
- ▶ The revamped *„Regional Conference of Elected Officials;’* and,
- ▶ The revamped *„Regional Natural Resource and Land Commission.’*

The framework law and implementation strategy must account for the evolving nature of the governance, and related planning bodies, in the Territory. The framework law and strategy must also adequately consider the various land use and natural resource plans that will be created by these bodies, following the signing of the final agreement.

### **3. Cree wildlife harvesting rights under Section 24<sup>17</sup>**

Here, we affirm from the outset that this exercise involves environmental and social issues which fall under Section 22 of the JBNQA, as well as wildlife management and conservation issues per Section 24 thereof. This exercise thus offers an opportunity to reinforce the practical implications of environmental and social impact assessment, protected area concepts, and land and resource planning, for wildlife management conservation.

Wildlife harvesting activities are an essential component of Cree culture, tradition, and subsistence. It is important to highlight these rights and guarantees, given their fundamental importance for the Cree, their direct link to biodiversity, conservation, and environmental quality.

Please refer to [Appendix II](#) for a table of these rights and guarantees.

As mentioned in Point #1, the environmental and social protection regime outlined in Section 22 of the JBNQA is designed to encompass the wildlife harvesting rights and guarantees of the Cree people as established in Section 24 of the JBNQA. Given that the current initiative must respect the JBNQA, we must insist that these rights and guarantees be clearly recognized in:

- ▶ The future framework law and implementation strategy;
- ▶ The definition of *„non-industrial activities,’* insofar as Cree harvesting rights and guarantees are a clear example of non-industrial land and resource use;

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<sup>17</sup> Harvesting includes hunting, fishing and trapping activities (Par. 24.1.13). For the purposes of the current brief, we focus on *„Cree rights and guarantees’* but recognize that Section 24 applies to all Native beneficiaries to the JBNQA, and defined as such per the provisions of Schedule IV from Section 24 of the Agreement (modified pursuant to Complementary Agreement N° 1).

- The areas designated for non-industrial activities, conservation and environmental protection.

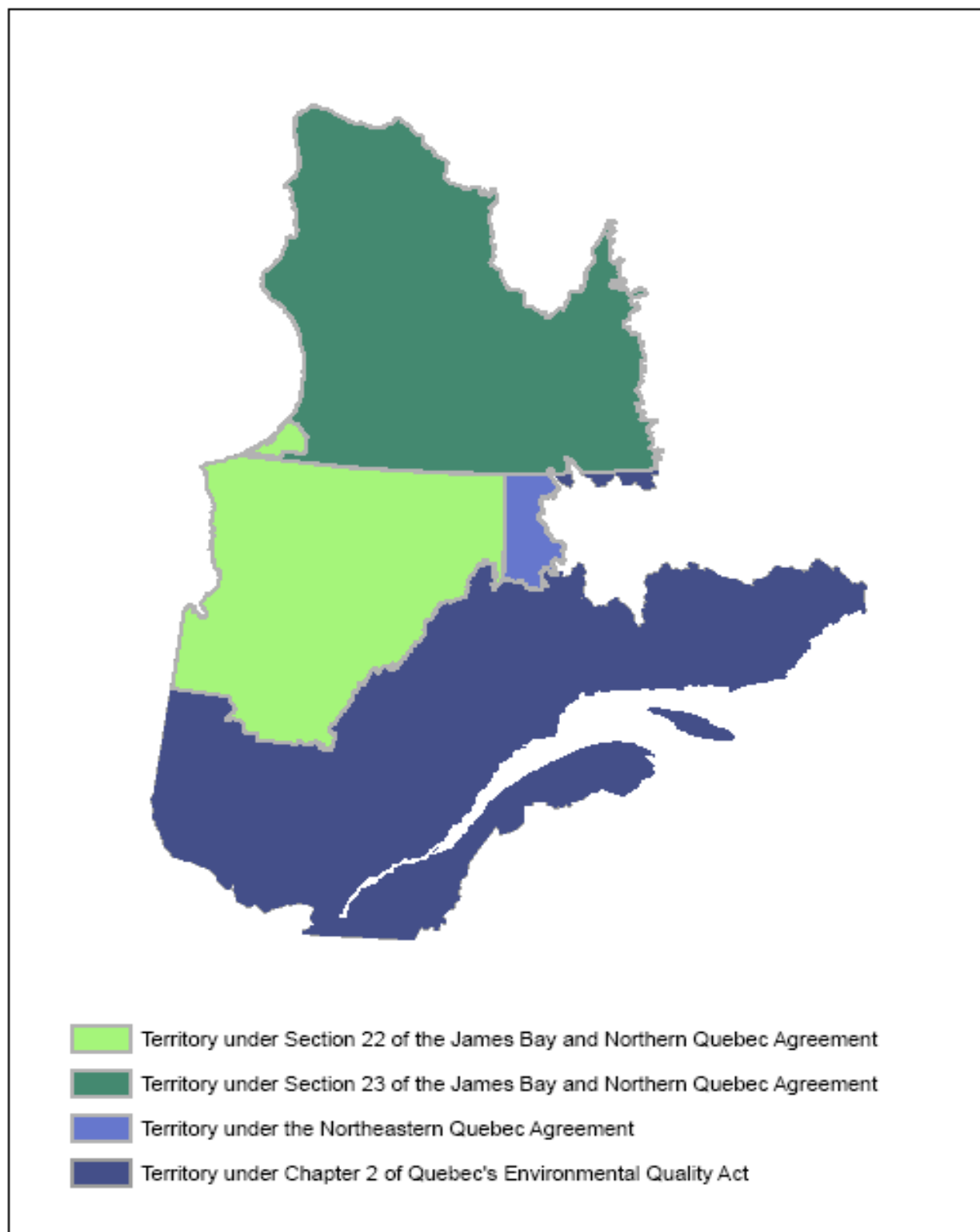
Finally, due the accelerating pace of industrial development in the James Bay Territory and the need to employ outside personnel to maintain this pace, issues relating to increased harvesting pressures by non-beneficiaries to the Agreement must also be addressed. An influx of outside workers may promote an increase of hunting and fishing pressures near an industrial work site, and thus represent an indirect impact of the industrial activity taking place. Here, the Committee suggests that the impact of non-beneficiary harvesting pressures, when related to a given industrial activity or project, should be monitored in partnership with Cree stakeholders. We hold that the [Weh-Sees Indohoun Corporation](#), a joint Cree-Hydro-Québec organisation mandated to oversee and monitor the harvesting activities of those working on the Eastmain-1A/Sarcelle/Rupert project, offers a current example of such a partnership.

#### **4. Guiding principles of the JBNQA**

The environmental and social protection regime applicable to the James Bay Territory, as outlined in Section 22, is subject to a unique set of nine guiding principles. Please refer to [Appendix III](#) for the list of these principles.

The Committee insists that these guiding principles be considered and respected in the future framework law, implementation strategy, and planning initiatives applicable to the James Bay Territory.

## *Appendix I – Map of the Territory*



## **Appendix II – Cree harvesting rights and guarantees<sup>18</sup> per Section 24<sup>19</sup>**

<b>Cree Rights &amp; Guarantees</b>	<b>Section 24 Paragraph(s)</b>
The sole and exclusive right to harvest (hunt, fish and trap any species of wild fauna).	24.3.1, 24.3.3 & 24.3.19
Right to harvest at all times of the year without prior administrative authorization, and in all of the Territory, with a minimum of control or regulations applied to them.	24.3, 24.3.10, 24.3.18 & 24.4.30
Crees' harvesting activities are subject to the Principle of Conservation (they may not harvest species requiring complete protection to ensure their continued existence or that of a population).	24.2.1; 24.3.2
Crees' harvesting activities are subject to limitations to ensure public safety (no harvesting within non-Native settlements; possible restrictions on harvesting methods and equipment).	24.3.5, 24.4.7, 24.3.9, 24.3.12, 24.3.14
Right to personal and community use and to the exchange and sale of harvests between Cree communities and between members of a Cree community or communities.	24.3.11a & 24.3.11c
Right to possess and transport the products of harvesting activity.	24.3.15
Right to commerce and trade in all harvest-related by-products.	24.3.16
The exclusive right to trap in the Territory, including the right to trap for commercial purposes.	24.3.19
Exclusive right to establish and operate, within Cat. I & II lands, commercial fisheries related to the species reserved to the Crees	24.3.26
Exclusive right to hunt for commercial purposes in designated areas where Crees have harvesting rights the species listed in Schedule 7 of Complementary Agreement # 12.	24.3A
Exclusive right to keep in captivity or practice the husbandry of the species listed in Schedule 8 of Complementary Agreement # 12	24.3A
Priority of Cree harvesting – whereby, in the event of scarcity or rarity of harvestable species, priority must be afforded to Cree harvesters in light of non-Native interests (e.g. sport hunting and fishing).	24.6.2 & 24.6.3
Certain species of mammals, fish and birds are reserved for the exclusive use of the Crees.	24.7.1 & Schedule 2 of Section 24

<sup>18</sup> For the purposes of the current brief, the JBACE mentions „Cree Rights & Guarantees’ but recognizes that Section 24 applies to all eligible Native beneficiaries to the JBNQA, and defined as such per the provisions of Schedule IV from Section 24 of the JBNQA (modified pursuant to Complementary Agreement N° 1).

<sup>19</sup> These harvesting rights and guarantees are directly linked to environmental and social protection regime outlined in the JBNQA per Section 22.

<b>Cree Rights &amp; Guarantees</b>	<b>Section 24 Paragraph(s)</b>
The Crees have the exclusive right to hunt and fish within Category I & II lands within the Cree area of interest.	24.8.2
Control is exercised over the number of non-Natives permitted to hunt and fish in Category III lands and over the places therein and times where they may hunt and fish with a view to giving effect to the principle of conservation and the rights and guarantees in favour of the Cree s established by and in accordance with the harvesting regime.	24.8.6
Outfitting, being considered as a principal means of controlling non-Native hunting and fishing activity above the 50 <sup>th</sup> parallel, and the Crees have a right of first refusal to operate as outfitters in Category III lands for a period of 30 years.	24.8.7 & 24.9.3



### **Appendix III – Guiding principles of the environmental and social protection regime per Section 22 of the JBNQA**

The environmental and social protection regime applicable to the James Bay Territory, as outlined in Section 22, is subject to a unique set of nine guiding principles. Per paragraph 22.2.4 of the JBNQA:

*“The responsible governments and the agencies created in virtue of this Section shall within the limits of their respective jurisdictions or functions as the case may be give due consideration to the following guiding principles:*

- a) “The protection of the hunting, fishing and trapping rights of Native people in the Territory, and their other rights on Category I lands, with respect to developmental activity affecting the Territory;*
- b) The environmental and social protection regime with respect to minimizing the impacts on Native people by developmental activity affecting the Territory;*
- c) The protection of Native people, societies, communities, economies, with respect to developmental activity affecting the Territory;*
- d) The protection of wildlife resources, physical and biotic environment, and ecological systems in the Territory with respect to developmental activity affecting the Territory;*
- e) The rights and guarantees of the Native people within Category II established by and in accordance with Section 24 until such land is developed;*
- f) The involvement of the Cree people in the application of this regime;*
- g) The rights and interests of non-Native people, whatever they may be;*
- h) The right to develop by persons acting lawfully in the Territory;*
- i) The minimizing of the negative environmental and social impacts of development on Native people and on Native communities by reasonable means with special reference to those measures proposed or recommended by the impact assessment and review procedure.”*