



Comité consultatif pour l'environnement de la Baie James
James Bay Advisory Committee on the Environment
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MINING ACT (Bill 43)

**JBACE RECOMMENDATIONS
PRESENTED TO THE
COMMITTEE ON
AGRICULTURE,
FISHERIES, ENERGY AND
NATURAL RESOURCES**

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SCOPE OF THE JBACE'S RECOMMENDATIONS

The James Bay Advisory Committee on the Environment (JBACE) recognizes that some of its previous concerns relating to mineral development have been addressed since the last attempt to revise the Mining Act (Bill 14), either in Bill 43 or in conjunction with provisions of the [Agreement on Governance in the Eeyou Istchee James Bay Territory between the Crees of Eeyou Istchee and the Gouvernement du Québec](#).

The JBACE acknowledges measures proposed in Bill 43 to ensure transfers of information to stakeholders and to improve the oversight of mineral exploration activities. However, it believes that these efforts could go a step further or, in some cases, be implemented in a more efficient manner. The JBACE also takes this opportunity to outline its concerns and to offer recommendations regarding the reconciliation of different land and resources uses.

The JBACE's recommendations are intended to improve Bill 43 so as to provide better oversight of mineral development activities and to ensure their compatibility with the environmental and social protection regime of the James Bay and Northern Quebec Agreement (JBNQA).

INTRODUCTION

With the signing of the James Bay and Northern Quebec Agreement (JBNQA) in 1975, the signatory parties established a unique environmental and social protection regime, outlined in Section 22, as well a specific hunting, fishing and trapping regime per Section 24. The environmental and social protection regime of Section 22 is explicitly designed to ensure that the Cree may fully exercise the harvesting rights and guarantees provided for in accordance with the hunting, fishing and trapping regime of Section 24.

The James Bay Advisory Committee on the Environment ('JBACE' or 'Committee,' hereafter) has the mandate to review and oversee the administration and management of the environmental and social protection regime established by and in accordance with Section 22 of the JBNQA. The JBACE exercises its mandate as the preferential and official forum for responsible governments concerning the adoption of policies, laws, regulations or land use measures having an incidence on the environment and social setting of the James Bay Territory.¹

The current exercise of reviewing the Mining Act is particularly significant from a northern perspective. Since the signing of the JBNQA in 1975, the James Bay Territory has been subject to considerable biophysical and social changes. And now, more than ever, the Territory is the object of increasing mineral development interests in addition to other natural resource-based developments. Mineral exploration and exploitation projects have become very important elements influencing the Territory's environmental, social and economic landscapes.

In light of these realities, the JBACE offers its concerns on the subject as it is particularly relevant to the Committee's mandate which accounts for a specific and unique set of nine guiding principles enshrined in Section 22 of the JBNQA – namely:

- Minimizing the impacts of development on the Cree and on the Territory's wildlife and ecology;
- The involvement of the Cree; and,
- The right to develop.²

The JBACE believes that these guiding principles give a very useful means of rationalising mineral development activities in a socially-responsible and environmentally-respectful manner.

In this sense, the JBACE offers its recommendations in relation to the unique context of the James Bay Territory as well as certain other concerns relating to mineral resource development. The JBACE trusts that these principles, along with the specific recommendations and concerns in this brief, may be accounted for in this most recent initiative to revise the Mining Act.

¹ The JBACE operates with an equivalent mandate to that of the Kativik Environmental Advisory Committee (KEAC), but for the JBNQA area south of the 55th parallel. See [Appendix I](#) for a map of the James Bay Territory.

² Please refer to [Appendix II](#) for the definitive set of guiding principles to which we adhere.

1. NOTIFICATION, INFORMATION-EXCHANGE AND TRANSPARENCY

a) New notification and Information-exchange procedures

The recent landmark [Agreement on Governance in the Eeyou Istchee James Bay Territory between the Crees of Eeyou Istchee and the Gouvernement du Québec](#) outlines a new governance regime for the James Bay Territory. The new regime will have an influence on resource and land use planning and on the interactions between proponents, the new regional governments, Cree communities and institutions, and the Gouvernement du Québec:

- The Eeyou Istchee James Bay Regional Government and the Cree Nation Government may mandate the development of resource and land use plans which will outline areas that may be open to or excluded from mineral development in their respective jurisdictions.³
- The Gouvernement du Québec will notify the Cree Nation Government, the Cree Mineral Exploration Board, and the relevant Cree communities of new mining claims on Category II lands on a monthly basis through GESTIM. The Gouvernement du Québec will issue similar notifications to the Eeyou Istchee James Bay Regional Government for Category III lands.
- The Gouvernement du Québec will ensure that applicants for claims on Category II and III lands are informed via GESTIM of the relevant provisions of the JBNQA regarding such lands, and will invite proponents to communicate with the Cree Nation Government and the Regional Government, respectively.

From this perspective, and for projects in the Territory, the JBACE recommends that the application of the provisions proposed in Sections 74 and 81 of the Bill be coordinated in line with the new notification and information-exchange procedures outlined under the new governance regime.

The Committee also recommends, in particular, that Section 81 of the Bill be amended to ensure that the notification and transmission of yearly work plans for the exploration activities that are to occur on claims, be also transmitted to local municipalities and regional county municipalities – including the Cree Nation Government and the Regional Government – as a matter of course, and before the works commence.

Moreover, Section 81 of the Bill must be amended to include the transmission of all MRN permits, issued for the works outlined in these yearly work plans, to the attention of the said local municipalities and regional county municipalities as well. In so doing, the latter will be equipped with the knowledge of what works are planned by proponents, and what works are authorized to occur, for the coming year.

³ According to the procedures outlined in the Act respecting land use planning and development (RSQ c. A-19.1).

b) Public registries

The JBACE acknowledges that the Bill illustrates several tangible efforts to promote transparency and the degree of publicly-available information – in particular, a revised registry (GESTIM) per Section 13 and 14 of the Bill. The Committee also welcomes the Ministère du Développement durable, de l'Environnement, de la Faune et des Parcs' (MDDEFP) recent commitment to setup a public registry for developments subject to environmental assessments under the Environment Quality Act (RSQ c. Q-2) across the province.

Although these two registries will serve unique purposes and will be maintained by separate ministries, they may occasionally contain information on the same mineral development project. The Committee believes that it would be very helpful if links were setup between the two registries in such instances (e.g. hyperlinks or pop-up notes).

c) Transparency and public access to information

Public access to information is a key component in raising awareness about projects and in ensuring they occur in a socially-responsible manner.

Furthermore, in accordance with the guiding principles of JBNQA Section 22, the JBACE is committed to promote the involvement of the Cree in the application of the environmental and social protection regime. The Committee affirms that an important initial component of this involvement relates to the transparent exchange of information regarding the various developments that may affect Cree traplines, land users, and communities.⁴ Similarly, the Committee is of the opinion that all persons affected by mineral developments should have access to information regarding the projects affecting them.

Again, the JBACE applauds the advances proposed in the Bill that address this issue, but remains concerned about the registry alluded to in Bill 43, and in the current Mining Act (i.e. GESTIM).

The JBACE is of the opinion that this registry is rather difficult for the layman to access and does not contain sufficient information relating to exploration or exploitation projects. Indeed, public access to information via GESTIM remains limited to mining titles, leases and concessions, authorization certificates, and technical reports or press releases issued by the proponents.⁵

For the moment, the JBACE holds that GESTIM could be improved by providing additional information on the actual or proposed exploration or exploitation activities that are to occur in the field, given that they will invariably have an impact on Cree's traplines, for example.

Thus, the JBACE recommends that a comprehensive list of the specific mineral development activities, works and reports be included in GESTIM, including descriptive information on all

⁴ The ultimate goal being the active participation of the Cree in mineral resource development.

⁵ The JBACE is aware that, in addition to GESTIM, Québec mineral activities reports are published annually by the MRN. These reports, however, only describe works that have already begun and, in some instances, only works that have been completed.

aspects of a given project and throughout its life cycle. As mentioned, for projects listed in the MDDEFP registry, links should be maintained as required.

The JBACE also recommends that GESTIM should be tooled to accept and to make available any relevant reports or information on a given project that may already be available in English or in an Aboriginal language.

The JBACE agrees that certain information may remain out of the public domain, particularly those relating to financial aspects of the plans and reports listed in Section 171 of Bill 43.

Beyond this, the Committee welcomes the new provisions, per Section 163 of Bill 43, which enable the Minister to make public the following information in relation to every Mining Lease, Mining Concession and Surface Mineral Substance (SMS) Mining Lease:

- Quantities and values of ore extracted;
- Royalties paid;
- Approved Restoration and Rehabilitation Plans (RRPs) and amount of financial guarantees.

However, Section 163 must be amended to include information on exploration projects that may require the approval of a RRP, but may not necessarily require the obtention of a Mining Lease, Mining Concession and SMS Mining Lease.

The JBACE believes that the last point is an important issue. These exploration projects are more numerous than mining projects. And, they may be classified as ‘advanced exploration projects’ given that their scales or the activities being undertaken, are significant enough to warrant approved RRP. As such, the JBACE feels that the public should have access to their related RRP even if these projects have yet to cross the fine line from mineral ‘exploration’ to ‘mining’ or ‘exploitation,’ thus requiring a Mining Lease.

The Committee equally recommend that RRP be systematically included in the GESTIM registry, with links to the MDDEFP’s registry if necessary.

2. RECONCILING MINERAL DEVELOPMENT WITH OTHER LAND USES

Bill 43 makes several important advances regarding the Minister's discretion to cease work on claims, or to limit or refuse Mining Leases for public interests, in areas slated as protected areas, or to impose certain conditions to prevent land use conflicts.⁶ Section 198 of the Bill also exempts Native cemeteries from the possibility of expropriation. These elements succeed in addressing several of the issues that were brought to light in JBACE briefs presented during the previous attempts to revise the Mining Act. Despite these very positive advances, several issues and potential avenues for improvement remain.

a) Protected Areas, areas subject to conservation measures

The Bill does not outline how, and most importantly when, new claims may be refused and existent claims may be withdrawn when areas are being actively targeted as Protected Areas (as ecologically, culturally or traditionally-significant sites), or as areas that should be subject to plant or wildlife conservation plans or measures. Because this is still the case, three undesirable scenarios may still occur under the newly-proposed Act:

- i. Over the multiple years required to designate targeted areas as Protected Areas, or even to gain provisional protection as Proposed Biodiversity Reserves, proponents may still apply for claims and conduct activities thereon. These targeted areas may thus be degraded even before the Minister may exercise his or her discretion to close these areas from mineral development.⁷
- ii. Claims may remain active in areas that have been identified as high-value areas for plant and wildlife conservation. Thus, areas that have been slated as 'high-value areas' from a conservation perspective may be degraded even before they benefit from any formal conservation plan or measures. This may be crucial, for instance, for the protection of critical habitat for Woodland Caribou.⁸
- iii. Active claims and mines may occur immediately next to established Protected Areas, areas benefiting from provisional protection that will eventually be designated as Protected Areas, and areas that are subject to specific plant and wildlife conservation plans or measures. They may also occur in areas that have a high degree of 'connectivity' between Protected Areas, or areas slated for conservation measures. Projects operating in such areas can affect the ecological or 'connective' value of the lands subject to the protection or conservation measures.⁹

⁶ Namely the new provisions outlined in Sections 92, 93, 102, 131, 135, 139, 250, 251 and 252 of the Bill.

⁷ The MDDEFP and the Cree are currently negotiating the creation of several Protected Areas. However, new claims are still being obtained, and active claims are still operating, in the areas targeted by this dialogue, for instance.

⁸ As an example, we note that efforts are underway to conserve the Woodland Caribou herds in the Territory. For these purposes, certain high-value areas have already been identified in which forest management activities will be limited or halted. New and active claims will, however, continue in these areas.

⁹ The abandoned Coniagas mining site and the operating Lac Bachelor mine are in close proximity to the proposed Waswanipi Lake reserve, for example.

Thus, Section 250 of the Bill regarding the Minister's discretion to refuse, to cease, or to subject claims and other mining concessions to certain conditions should be amended to provide greater clarity in light of the 'mechanics' of the actual exercise of this discretion. The JBACE holds that added clarity regarding the application of the Minister's discretion would serve to increase transparency, and would greatly reduce any uncertainties that may persist for the inhabitants, communities, and proponents in the Territory.

The JBACE recommends that the text of Section 250 be amended so that the Minister may exercise his or her discretion for areas 'targeted' for the creation of Protected Areas, or for conservation measures, when confirmation that the planning regarding these 'targeted areas' has begun. Here, the Committee suggests that such 'confirmations' may be the written notices sent from the MDDEFP to the MRN to advise the latter that specific areas are slated to become Protected Areas. Currently these notices are designed to inform the MRN that it may discount these areas from forestry management activities. The Committee believes that a similar approach could be used to address claims.

The JBACE also recommends that Section 250 be amended to stipulate that the Minister may exercise his or her discretion to cease or to issue conditions for active claims and mines in areas immediately adjacent to Protected Areas and areas subject to plant and wildlife conservation.

b) 'Sites of interest' for the Crees

The Cree map out and delimit specific areas in the James Bay Territory as 'sites of special interest' and 'sites of wildlife interests' in accordance with adapted forestry regime of the *Paix des Braves*).¹⁰

The JBACE recommends that these specific areas should be immediately considered as areas falling under the Minister's discretion to issue special conditions on mineral development therein, per Section 250 of the Bill.

The Committee finds that this is a particularly important issue because the Territory does not yet benefit from any land and resource use plans in which such areas may be designated as 'mining incompatible territories' or 'conditionally mining compatible territories' within the meaning of Sections 251 and 252 of the Bill.

c) Cumulative effects

It is important to remember that mineral resource development interests are now largely concentrated in the northern portions of Québec. The inhabitants of these regions are thus immediately affected by the aggregate effects of mineral development. This aggregation is further

¹⁰ Chapter 3 of the *Paix des Braves*, also formally known as the *Agreement concerning a new relationship between the Gouvernement du Québec and the Crees of Québec*, outlines the provisions of the adapted forestry regime. In 2002, the provisions of the *Paix des Braves* were adopted as Complementary Agreements n° 13 and 14 to the JBNQA. The provisions relating to the adapted forestry regime were thus included in the JBNQA as Section 30A.

compounded when factoring for the other natural resource-based industries, and their related infrastructures, in these regions.

In light of the great interest in the mineral potential of the James Bay Territory, coupled with other industries, the JBACE is concerned of the cumulative effects of human development.

Mineral exploitation and exploration projects, particularly when these are characterized as ‘advanced,’ generally involve other developments in proximity to the site of the given work being done (i.e. road or airstrips, camps, fuel storage, etc.). The combined impacts of these activities may be significant. An increase in the overall number of mines and ‘advanced’ exploration projects within the Territory produces a similar aggregation of impacts at a regional scale – referred to as ‘cumulative effects.’ These cumulative effects are even further compounded when considering the other supporting developments that are involved in mineral development, and the other development activities occurring throughout the region.

Neither Bill 43, nor any of the previous attempts to revise the Mining Act, considers the regional cumulative effects of mineral development.

The JBACE holds that information-exchange is a key means by which provincial and regional decision-makers may obtain an overall or global portrait of the activities occurring simultaneously throughout their region of responsibility. As such, and once again, the Committee welcomes the advances proposed in Bill 43 regarding notification and information-exchange and public registries (see Point 1 above).

However, it would be particularly innovative for the Gouvernement du Québec to exercise its discretion and to set conditions, to cease, or to suspend mineral development projects or programs in order to attenuate such cumulative effects – whether it is to attenuate such impacts in areas where many development projects are already occurring, or to address areas that have already been heavily-affected by development.

The JBACE recommends that local and regional governments be afforded the discretion – through the auspices of a revised Mining Act – to list areas subject to significant cumulative effects as ‘mining incompatible territories’ or as ‘conditionally mining compatible territories,’ within the meaning of Sections 251 and 252 of the Bill. They may then delimit them as such in their land and resource use plans, which may be then approved at the Minister’s discretion.

d) Means to facilitate reconciliation of land and resources uses

As a rule, and in all matters relating to the reconciliation of land and resource uses, the JBACE believes that the Minister must retain the necessary discretion to strike a balance between the many different land and resource use interests, namely mining activities and the exercise of Aboriginal rights.

Moreover, the JBACE holds that an early dialogue among the various stakeholders is an important means to facilitate the striking of a balance between different development interests or perspectives on land and resource use. However, the Committee is mindful that the

reconciliation of various land and resource uses is a complex task which may be a source for some degree of disagreement. We feel that added clarity regarding these matters would be very beneficial.

The JBACE recommends that the Bill should include a clear delineation of the bodies that may play a role in resolving disagreements and in reconciling such different viewpoints (as is the case for the Standing Liaison Committee or the Joint Working Groups created under the *Paix des Braves*).

In the context of the Territory – where the Cree depend on the land for the exercise of their hunting, fishing, and trapping rights and may choose to partake in such activities while mineral development work crews are also on the land – such means may even be immediately beneficial from a safety standpoint.

3. SITE RESTORATION, REHABILITATION, AND CLEAN-UP

The Territory's mining legacy and experience with abandoned and neglected exploration and mining (or 'exploitation') sites has left an indelible mark on the collective memory of its inhabitants. Inhabitants express serious concerns regarding site clean-up, restoration and rehabilitation, monitoring and compliance, as well as the long term integrity of these sites and the habitats around them.

a) Commencement of rehabilitation and restoration works

Section 189 of the Bill allows for a 3-year period once '*mining activities cease*' for the commencement of rehabilitation and restoration works. However, the Bill does not offer clear definitions of the terms '*mine*,' '*mining activities*,' or the '*cessation of mining activities*.' From this perspective, the terms are open to interpretation and the actual implementation of the grace period and the obligated timetable for the commencement of restoration and rehabilitation works remain difficult to interpret.

Clear definitions for these three terms must be included in an amended Bill in order to consistently apply the grace period, or timetable, for the commencement of these works.

Moreover, the JBACE cannot overstate its opinion that restoration and rehabilitation works should begin as early as possible once '*mining activities cease*,' and preferably when workforces are still frequenting the mining sites.

b) Clean-up of early-stage exploration project sites

In terms of numbers, early-stage exploration projects far outstrip mining or exploitation projects in the Territory. The JBACE believes that past experiences with abandoned and improperly cleaned-up exploration sites cannot be repeated. Thus, for mineral development projects or activities not requiring an RRP, such as earlier-stage exploration projects, assurances that site clean-up obligations are actually fulfilled are critical.

The Committee notes that Section 164 of Bill continues to obligate claim holders to remove all of their property within 30 days of the abandonment of their claim.¹¹ The Committee continues to support this obligation, but stresses that greater emphasis must be placed on ensuring that it is actually fulfilled. The JBACE also holds that a notice that this obligation has been complied with should be related to the inhabitants of the areas affected by such projects as a matter of principle.

The JBACE thus recommends that Section 164 of the Bill be amended to include a provision whereby proponents must notify or report the completion of the removal of all of their property to the MRN upon abandonment of their claims, and that this information be included in GESTIM.

4. OTHER IMPORTANT CONSIDERATIONS

Bill 43 addresses many issues and provides for several very tangible advances. Beyond this important initiative, the JBACE remains particularly concerned of several issues relating to mineral resource development that are not specifically entertained in Bill 43, but must be accounted for in order to ensure that the advances made in the Bill are reinforced.

a) Best practices relating to cultural-awareness and public participation¹²

The Gouvernement du Québec, in collaboration with key stakeholders and Aboriginal governments, should prepare and disseminate a ‘best practice guide’ pertaining to the undertaking of mineral development projects, with specific treatments for projects that are to occur in northern regions. Although such a guide may be developed for the intention of project proponents, it would be greatly useful for others interested in the matter.

The Gouvernement du Québec should actively encourage proponents to engage in a dialogue with the communities and regional bodies from the outset of their projects, in order bolster their sensitivities to the different cultural perspectives and interests that exist. Proponent in-house cultural-awareness programs should also be encouraged in this regard.

b) Compliance with the obligation to clean-up exploration project sites

The JBACE believes that the MRN’s and the MDDEFP’s capacities to ensure compliance with this specific obligation, per Section 164 of the Bill, must be reinforced, as well as the other environmental obligations to which such projects must conform.

¹¹ Section 164 of the Bill largely retained the text of Section 216 of the current version of the Mining Act.

¹² The JBACE holds that the Cree Nation Mining Policy offers some information relating to the Cree perspective on mineral development and is a notable reference for the development of such a guide. See: www.gcc.ca/pdf/ENV00000014.pdf. Last accessed on July 30th 2013.

c) Regional impacts and cumulative effects

The Gouvernement du Québec should investigate and evaluate the regional impacts of mineral development, including cumulative effects.

d) Abandoned and contaminated sites

17 abandoned and contaminated mining sites and 213 abandoned exploration sites still exist on the James Bay Territory.¹³ The JBACE acknowledges the efforts made by the MRN and the MDDEFP in relation to several of these sites, but strongly support their continuance for the benefit of other land users. The JBACE also holds that greater efforts can be made during the restoration and rehabilitation of these sites to involve and inform the affected communities of the progress and nature of these works.¹⁴

e) Unforeseen accidents and releases of contaminants

Recent events confirm that even relatively new mining sites and their related accumulation and tailings confinement areas are not immune from unforeseen accidents or releases of tailings and other contaminants into the environment.

These very unfortunate events may still occur despite the standard risk assessments, emergency response plans, and even the increased financial guarantees that are to be required for all mining projects.

The JBACE holds that it may be particularly important to reinforce the capacities of the relevant ministries to prevent such accidents. If such exceptional accidents occur nonetheless, they should immediately be reported to the affected communities.

¹³ Of the 19 abandoned mining sites listed in the Nord-du-Québec Administrative Region, 17 are in the James Bay Territory, and 10 of these 17 have or are now the object of some form of restoration work. None of the 213 exploration sites mentioned are listed as having undergone some form of restoration work. See: www.mrn.gouv.qc.ca/mines/restauration/restauration-sites-miniers-abandonnes.jsp. Last accessed on July 24th 2013.

¹⁴ The JBACE believes that this is in line with the Section 22 guiding principles, as well as those outlined in the Cree Nation Mining Policy.

CONCLUSION

Bill 43 introduces several important improvements to the Mining Act. It also addresses several important concerns that the JBACE raised in recent years, namely regarding access to information and oversight of mineral exploration.

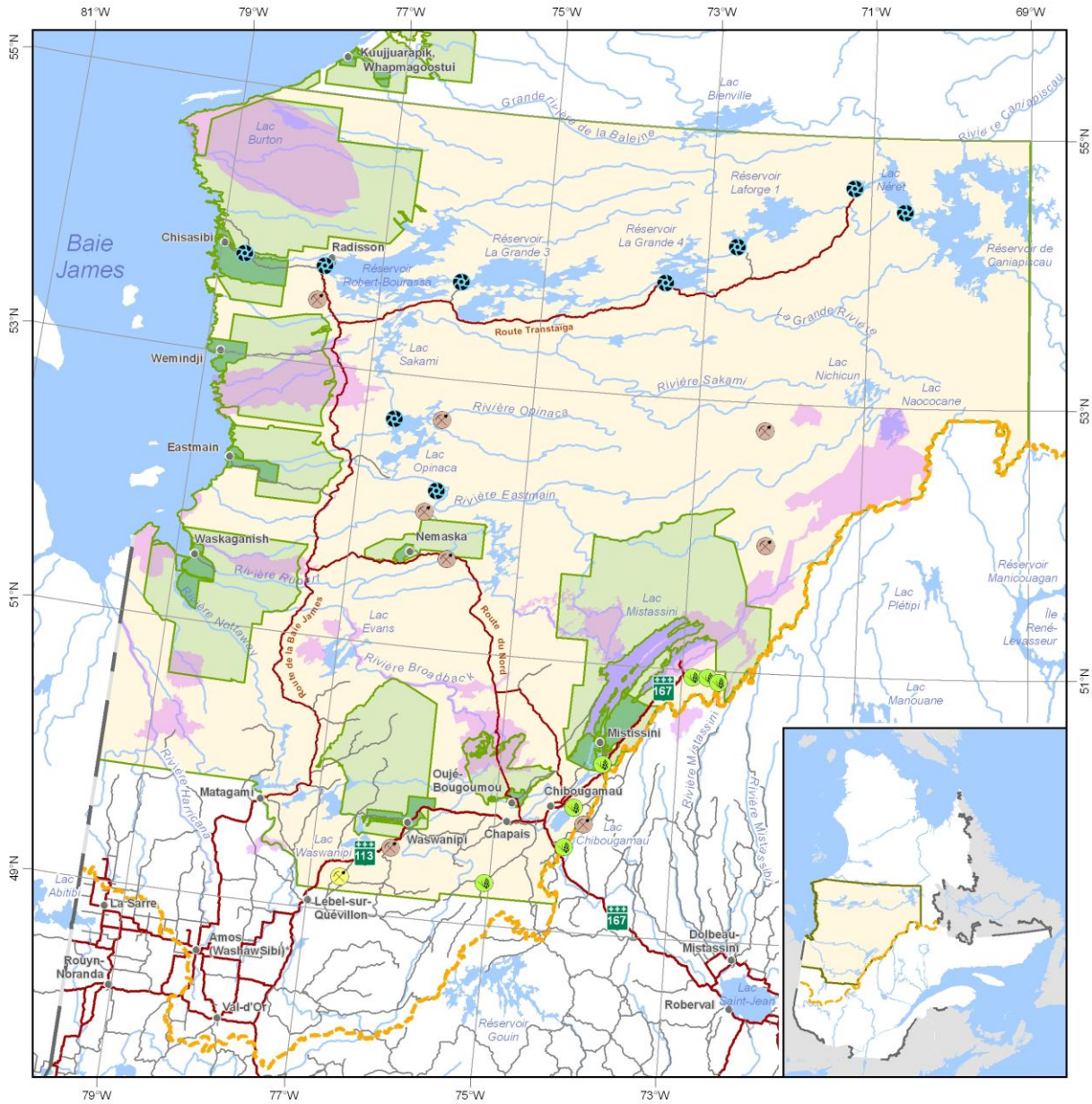
In the unique context of the Territory, where the Cree depend on the quality of the environment, rigorous oversight of the mineral development activities which are likely to significantly impact the Territory is essential. Similarly, the notification and exchange of information between the Cree and project proponents in matters relating to planning and oversight of mineral development activities are crucial elements for the protection of the environment and the pursuit of responsible resource development.

In this respect, the recommendations offered in this brief are aimed at further strengthening Bill 43 in order to more adequately frame mineral development activities, and to ensure their compatibility with the environmental and social protection regime of the JBNQA and the new governance regime in the James Bay Territory.

Finally, the other important considerations that the JBACE provides in this brief are intended to further reinforce the advances proposed in the Bill for all concerned stakeholders.

APPENDIX I MAP OF THE JAMES BAY TERRITORY

Territory covered by the environmental and social protection regime



- Limits**
- Territory covered by the regime ¹
 - Cree Category I lands
 - Cree Category II lands
 - Southern limit of JBNQA Territory
 - Border
- Infrastructures**
- Mine
 - Mine project
 - Hydroelectric power station

- Conservation areas**
- Exceptional forest ecosystem
 - Protected area
- ¹ The Crees do not recognize the southern limit of the regime as defined on this map
- * The Washaw Sibi Eeyou Association is temporarily based in Amos

Sources

Land division, mine site, MRNF-Québec, 2013
 Exceptional forest ecosystem, MRNF-Québec, 2013
 Protected area, MDDEP, 2013
 Hydroelectric infrastructures, CEHQ, 2013

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Scale : 1 : 4 500 000
 Map projection : Conique de Lambert, NAD83
 Produced by : Groupe Nippour, may 2013



APPENDIX II *GUIDING PRINCIPLES OF THE ENVIRONMENTAL AND SOCIAL PROTECTION REGIME PER SECTION 22 - JBNQA*

The environmental and social protection regime applicable to the James Bay Territory 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;

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.”