

# Environmental Law in the James Bay Territory

Report for the James Bay Advisory  
Committee on the Environment

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*Indigenous peoples have **the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources**. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.*

*United Nations Declaration on the Rights  
of Indigenous Peoples\*, s. 29(1)*

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\* Doc. N.U. A/RES/61/295 (2007).

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## INTRODUCTION

On November 11, 1975, the governments of Québec and Canada, along with the Grand Council of the Crees and the Northern Québec Inuit, signed the *James Bay and Northern Québec Agreement ("JBNQA")*<sup>1</sup>. From a legal perspective, this agreement marked the resolution of a dispute initiated in November 1972 concerning hydroelectric development projects that did not respect certain guarantees regarding Indigenous rights outlined in the *Québec Boundaries Extension Act, 1912*<sup>2</sup>:

*"[...] the province of Québec will recognize the rights of the Indian inhabitants in the territory above described to the same extent, and will obtain surrenders of such rights in the same manner, as the Government of Canada has heretofore recognized such rights and has obtained surrender thereof [...]"*.<sup>3</sup>

However, the JBNQA goes far beyond its role as an extrajudicial settlement<sup>4</sup>. In addition to inspiring numerous Indigenous claims across the country for nearly fifty years, this agreement continues to shape the relationships between the Indigenous peoples within its jurisdiction and the Canadian and Québec governments. Through this agreement, the Eeyouch of Eeyou Istchee, more commonly known as the James Bay Crees, and the Inuit of Québec agreed, unlike in later treaties across Canada, to relinquish all claims, rights, titles, and interests-of any kind-in the lands and within the territory of James Bay and Northern Québec (Figure 1). In return, they received "[...] specific rights, sanctioned before the courts, touching upon the preservation and development of their culture and communities, while reserving themselves an important role in the projects involving the development of resources within the territory."<sup>5</sup>

With the repatriation of the **Canadian Constitution** in 1982, the contractual rights outlined in the JBNQA began to benefit from additional legal protection. From that point on, this agreement was no longer solely endorsed and implemented through the laws of the legislative bodies of Canada<sup>6</sup> and Québec<sup>7</sup>. The rights established by the JBNQA, whether related to the environment or other matters, have since 1982 been afforded **constitutional protection** explicitly recognized by the *Constitution Act, 1982*<sup>8</sup>. More specifically, as stated in Section 35

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<sup>1</sup> *James Bay and Northern Québec Agreement and Complementary Agreements*, Québec, Publications du Québec, 2014.

<sup>2</sup> 2 George V, c. 45.

<sup>3</sup> *Id.*, s. 2(c).

<sup>4</sup> JBNQA, s. 2.4.

<sup>5</sup> Éric GOURDEAU, "Synthèse de la Convention de la Baie-James et du Nord québécois", in Alain-G. GAGNON and Guy ROCHER (eds.), *Regard sur la Convention de la Baie-James et du Nord québécois*, Montréal, Québec Amérique, 2002, p. 25, at p. 25 [English version, at page 25]. See in particular JBNQA, s. 2.1; Christopher ALCANTARA, *Negotiating the Deal. Comprehensive Land Claims Agreements in Canada*, Toronto, University of Toronto Press, 2013, pp. 3 and 4.

<sup>6</sup> *James Bay and Northern Québec Native Claims Settlement Act*, S.C. 1976-77, c. 32.

<sup>7</sup> *An Act approving the Agreement concerning James Bay and Northern Québec*, CLRQ, c. C-67.

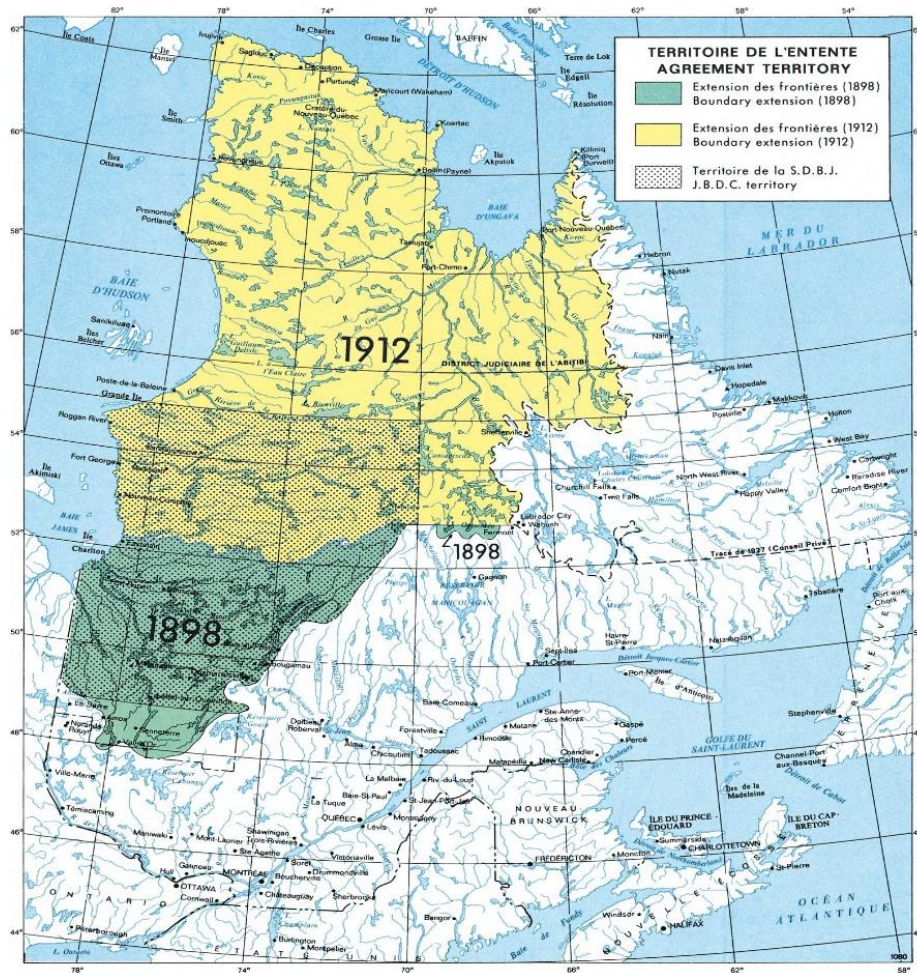
<sup>8</sup> *Constitution Act, 1982* [Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.)], s. 35(1).



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of the *Constitution Act, 1982*, "[t]he existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed."<sup>9</sup>

*Figure 1. James Bay and Northern Québec Territory*<sup>10</sup>



While this constitutional protection helps facilitate the often-challenging implementation of the JBNQA and its complementary agreements, its impact on **environmental governance** in the region is also significant. Environmental protection standards no longer rest solely with provincial or federal authorities. Instead, state environmental stewardship within the territory of the agreement must not only comply with the JBNQA but also avoid unjustly restricting Indigenous rights, whether ancestral or treaty-based<sup>11</sup>. In this way, "[...] the Agreement is equivalent to a Charter of Rights which takes precedence over laws and regulations and which

<sup>9</sup> *Id.*, s. 35(1).

<sup>10</sup> JBNQA, complementary documents, "Carte 1. Territoire de l'Entente" (partial reproduction).

<sup>11</sup> See *R. v. Sparrow*, [1990] 1 S.C.R. 1075; *Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44.

is interpreted by the courts. It is also a social contract, which provides a cultural, economic and social framework in the territory."<sup>12</sup>

The redefinition of environmental responsibilities in the territory covered by the JBNQA goes beyond setting minimal standards for specific issues, such as guarantees and procedures related to natural resource management. It also addresses the roles of entities tasked with responsibilities that may directly or indirectly impact the environment. Take, for example, the **James Bay Advisory Committee on the Environment**<sup>13</sup>, established under the JBNQA. This committee oversees and monitors the administration and management of the environmental and social protection regime outlined in Section 22 of the agreement<sup>14</sup>. It acts as both an advisor and an official liaison to the responsible governments<sup>15</sup>, with the authority to propose legislation, regulations, and other measures related to environmental and social protection<sup>16</sup>.

Over the decades since the JBNQA was signed, various agreements have significantly altered the **roles and responsibilities of public actors**, including Indigenous stakeholders, in the James Bay territory. Some of these agreements, as we will see, have reinforced the legal foundations-particularly from the perspective of the Canadian state-for the James Bay Cree communities to exercise their **right to self-government**. At the same time, the overlap between the JBNQA, these subsequent agreements, and the many laws enacted to implement them in Canadian and Québec jurisdictions has created a more complex legal framework. This has made it more challenging to determine the applicable laws governing environmental protection in the James Bay region and to clearly define the division of legal authority in this area.

This report thus aims to provide an **overview of environmental law** as it applies to the James Bay region, focusing first on the framework established by Section 22 of the JBNQA (**Section 1**) and then on subsequent agreements dealing with issues such as forest resource management, protected areas, and the delegation of environmental responsibilities to the Cree of Québec by the governments of Québec and Canada (**Section 2**). By highlighting the unique features of environmental law in this region, the report sets the stage for its **schedule**, which includes an overall portrait of key environmental laws and their regulations that may apply within the James Bay territory. The goal is to help the public better understand the socio-legal issues facing the region and, above all, to contribute to building a society centred on coexistence and sustainable development.

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<sup>12</sup> Armand COUTURE, "Les programmes de développement économique et social des chapitres 28, 29 et 30 de la Convention", in Alain-G. GAGNON and Guy ROCHER (eds.), *Regard sur la Convention de la Baie-James et du Nord québécois*, Montréal, Québec Amérique, 2002, p. 67, at p. 67 [English version, at p. 63].

<sup>13</sup> See JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT, "Soutenir et améliorer le régime de protection de l'environnement et du milieu social du territoire de la Baie James", 2023, online: <<https://www.cceb-jbace.ca/fr/>>.

<sup>14</sup> JBNQA, ss. 22.3.1 and 22.3.27.

<sup>15</sup> *Id.*, s. 22.3.24.

<sup>16</sup> *Id.*, s. 22.3.25.

## 1. PROTECTING THE ENVIRONMENT AND THE COMMUNITIES

As a cornerstone of sustainable development south of the 55th parallel and west of the 69th meridian, **Section 22 of the JBNQA** aims to protect the environment and guide future development in the James Bay region by establishing a regime for the protection of the environment and the Cree communities<sup>17</sup>. This **impact assessment and review regime** is comparable to other systems in place across Canada. However, it stands out due to the active role played by the Indigenous peoples of the region in ensuring that their concerns and issues are considered in decision-making, as well as the emphasis placed on protecting the social environment. Moreover, the application of the regime can be determined on a case-by-case basis for certain projects that are not explicitly included or excluded<sup>18</sup>:

*"Certain projects have to go through the assessment process whereas others are excluded de facto. [...] Projects falling in neither category have to be decided upon, case by case, by the organizations entrusted with this selection. Next, the processes have three stages. At the first stage, the appropriate committee issues a study outline to the project proponents. These instructions define the nature and especially the scope of the impact study to be carried out. The second stage is the review of the impact study. It comes under the responsibility of a commission created by the Agreement. This stage includes public hearings, notably in the communities affected by the project. At that point in time, additional study may be required from the project proponent. The third stage is the submission of the review commission's recommendations and the appropriate authority's decision to authorize or not authorize the project."*<sup>19</sup>

It should be noted that, according to Berrouard, these recommendations are, most of the time, fully respected, at least when the decisions taken within the framework of this regime fall within the jurisdiction of the Ministère de l'Environnement du Québec (MELCCFP – Ministère de l'Environnement, de la lutte contre les changements climatiques, de la Faune et des Parcs) as provincial administrator<sup>20</sup>. So, from a practical point of view, it doesn't seem that the interactions between the actors involved in the environmental and social protection regime

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<sup>17</sup> JBNQA, s. 22.2.1.

<sup>18</sup> Daniel BERROUARD, "Le régime de protection de l'environnement", in Alain-G. GAGNON and Guy ROCHER (eds.), *Regard sur la Convention de la Baie-James et du Nord québécois*, Montréal, Québec Amérique, 2002, p. 99, at p. 100; Catherine CHOQUETTE, Suzanne COMTOIS, Christophe KROLIK, Marie TANCHON and Éric GUAY, "Le rôle des acteurs dans la juridicisation de l'acceptabilité sociale des projets miniers au Québec", in Mélanie SAMSON and Monica POPESCU (eds.), *Mélanges en l'honneur de Pierre Issalys*, Cowansville, Éditions Yvon Blais, 2023 (in press).

<sup>19</sup> Benoît TAILLON, "Regards sur la gestion des questions environnementales dans le nord du Québec", in Alain-G. GAGNON and Guy ROCHER (eds.), *Regard sur la Convention de la Baie-James et du Nord québécois*, Montréal, Québec Amérique, 2002, p. 107, at p. 109 [English version, at p. 99].

<sup>20</sup> D. BERROUARD, *supra*, note 18, at p. 103.

south of the 55<sup>th</sup> parallel could explain the difficulties in applying it. Rather, in addition to the sometimes-questionable monitoring and management of the individual and cumulative effects of authorized projects<sup>21</sup> and the lack of rigour in the assessment of social impacts<sup>22</sup>, the **duplication** of environmental assessments likely to apply to the same project is regrettable, notably because of the resulting increased complexity, longer timeframes and higher costs, as well as the risk of tensions between the parties<sup>23</sup>. Although, as we will see, the main reason for this situation is the division of constitutional powers in environmental matters, it would be possible to envisage, as is already generally permitted under existing law<sup>24</sup>, the creation of **joint federal-provincial commissions** to promote integrated land management and ensure that all relevant interests (federal, provincial, aboriginal, etc.) are considered by decision makers on a single occasion<sup>25</sup>.

In any case, the JBNQA's environmental protection measures should not be reduced to this process of environmental and social impact assessment and review, since **various measures** are also provided to ensure the protection of the Crees, their economy and the wildlife resources on which they depend (hunting, fishing, trapping, etc.)<sup>26</sup>. These include a process for adapting laws and regulations to reduce the undesirable impacts of development, as well as various consultation or representation mechanisms ensuring special status or participation for the Crees<sup>27</sup>. The **James Bay Advisory Committee on the Environment** can play a key role in this process, given its legislative and regulatory advisory role<sup>28</sup>. In general, the James Bay Indigenous people's protection is achieved through a duty of due consideration to **guiding principles** imposed on the federal and Québec governments when exercising their respective jurisdictions and functions<sup>29</sup>. These principles include the protection of Indigenous people, their societies, communities and economies; the protection of their hunting, fishing and

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<sup>21</sup> B. TAILLON, *supra*, note 19, at p. 110.

<sup>22</sup> C. CHOQUETTE *et al.*, "Le rôle des acteurs dans la juridicisation de l'acceptabilité sociale des projets miniers au Québec", *supra*, note 18.

<sup>23</sup> B. TAILLON, *supra*, note 19, at pp. 109-110.

<sup>24</sup> See, for example, *Impact Assessment Act*, S.C. 2019, c. 28, s. 39. It should be noted that in October 2023, the Supreme Court of Canada recognized the invalidity of the main impact assessment regime of the latter Act (*Reference re Impact Assessment Act*, 2023 SCC 23). The nature of the legislative amendments envisaged by the Government of Canada in response to this opinion remains to be clarified, see IMPACT ASSESSMENT AGENCY OF CANADA, "Déclaration des ministres Guilbeault et Virani sur l'avis de la Cour suprême du Canada concernant la constitutionnalité de la *Loi sur l'évaluation d'impact*", October 13, 2023, online: <<https://www.canada.ca/fr/agence-evaluation-impact/nouvelles/2023/10/declaration-des-ministres-guilbeault-et-virani-sur-lavis-de-la-cour-supreme-du-canada-concernant-la-constitutionnalite-de-la-loi-sur-levaluation-di.html>>. However, there is still a need for greater collaboration between decision makers to mitigate the disadvantages arising from the fragmentation of environmental law in Canada.

<sup>25</sup> Karine PÉLOFFY, "Couper la poire canadienne en deux : analyse contextuelle du difficile passage fédéral de l'évaluation environnementale à l'évaluation d'impacts", in *Service de la formation continue, Barreau du Québec*, vol. 468, *Développements récents en droit de l'environnement (2019)*, Montréal, Éditions Yvon Blais, 2019, p. 81, at p. 126.

<sup>26</sup> JBNQA, s. 22.2.2.

<sup>27</sup> *Id.*, s. 22.2.2.

<sup>28</sup> *Id.*, ss. 22.3.25 and 22.3.26.

<sup>29</sup> *Id.*, s. 22.2.4.

trapping rights; the protection of wildlife resources and ecosystems; Cree participation; the rights and interests of non-Indigenous people; the right to legitimate development; and the reduction of undesirable environmental and social impacts on Indigenous people<sup>30</sup>.

Of course, the governmental powers and functions to which this duty of due consideration applies are not limited to those set out in the JBNQA, since most of the usual federal and Québec regulations continue to apply in the region. Indeed, while the JBNQA creates bodies and mechanisms that derogate from environmental law otherwise applicable in Québec,

Legal norms are organized in a hierarchy. In the James Bay and Northern Québec territory, the Canadian Constitution takes precedence. Following that are the norms established by the JBNQA and subsequent agreements specific to the region. Lastly, general regulations applicable in Québec, along with Indigenous laws where relevant, apply as long as they are not in conflict with the first two levels of law, which hold higher authority.

**federal and provincial laws of general application** concerning environmental and social protection apply, except where they are **inconsistent** with the provisions of the JBNQA<sup>31</sup>. In this respect, despite the protection afforded by the *Constitution Act, 1982*<sup>32</sup> to aboriginal rights and treaty rights<sup>33</sup>, Canadian constitutional law admits, in certain circumstances, **infringements of these rights** and therefore, potentially, the application of laws inconsistent with the JBNQA in the James Bay region. The **test** for determining whether such infringement is justified was developed by the

Supreme Court of Canada in *Sparrow* (1990)<sup>34</sup> and *Tsilhqot'in Nation* (2014)<sup>35</sup>. Briefly, for an infringement to be justified, the government must have discharged its procedural duty to consult and accommodate, its actions must pursue a compelling and substantial objective, and the government measure must be consistent with the Crown's fiduciary obligation to the Indigenous group<sup>36</sup>. Generally speaking, the exploitation of natural resources, whether renewable or not, the general economic development of the province and the protection of the environment and endangered species are, according to the Supreme Court of Canada, valid objectives that can, in principle, justify the infringement of a protected right<sup>37</sup>.

In practice, however, this constitutional consideration is of lesser importance, as the governments of Québec and Canada have and continue to **adapt their environmental and social laws and regulations** to comply with Section 22 of the JBNQA<sup>38</sup>. This approach to

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<sup>30</sup> *Id.*, s. 22.2.4.

<sup>31</sup> *Id.*, s. 22.2.3.

<sup>32</sup> *Supra*, note 8.

<sup>33</sup> *Id.*, s. 35(1).

<sup>34</sup> *R. v. Sparrow*, *supra*, note 11.

<sup>35</sup> *Tsilhqot'in Nation v. British Columbia*, *supra*, note 11.

<sup>36</sup> *Id.*, par. 77.

<sup>37</sup> *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010, par. 165.

<sup>38</sup> JBNQA, s. 22.2.3: "If necessary to give effect to the present Section [22] of the Agreement, Québec and Canada shall take the required measures to adopt suitable legislation and regulations for such purpose."

implementing the JBNQA has been adopted by Québec, as attested by the *Act approving the James Bay and Northern Québec Agreement (1976)*<sup>39</sup>: "[...] the legislative and administrative measures provided for in the Agreement shall be adopted in accordance with its terms."<sup>40</sup> For example, the *Environment Quality Act*<sup>41</sup>, one of Québec's main environmental laws, was amended in 1978 by the insertion of a second title applicable to the James Bay and Northern Québec region, which essentially reproduces the provisions of Section 22 of the JBNQA concerning the Government of Québec<sup>42</sup>. The same was true, for example, following the signing in 2002 of the *Agreement concerning a new Relationship between le Gouvernement du Québec and the Crees of Québec*<sup>43</sup> to, among other things, put an end to decades of disputes over the exploitation of natural resources by establishing a new nation-to-nation relationship between Québec and the Crees that help develop the mining, forestry and hydroelectric resources of James Bay, while promoting autonomy and development of the Crees and the Cree nation<sup>44</sup>. In order to comply with the provisions of this agreement, the former *Forest Act*<sup>45</sup>, now replaced by the *Sustainable Forest Development Act*<sup>46</sup>, had been amended by the insertion of provisions instituting a forestry regime specific to the James Bay territory that takes into account the Crees' traditional way of life, ensures their participation in the various forest activities operations planning and management processes, and integrates concerns to sustainable development to a greater extent<sup>47</sup>. Moreover, in accordance with the JBNQA<sup>48</sup>, in the event of conflict or inconsistency, the *Act approving the Agreement concerning James Bay and Northern Québec*<sup>49</sup> "[...] shall prevail over any other Act applicable to the territory described in the Agreement to the extent necessary to resolve the conflict or inconsistency."<sup>50</sup> Federal law is to the same effect<sup>51</sup>.

While these few examples illustrate the back and forth and potential tensions between respect for treaty rights and their formal integration into Québec and Canadian environmental law, they also highlight the **variety of environmental protection standards** in the James Bay

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<sup>39</sup> Supra, note 7.

<sup>40</sup> *Id.*, s. 2(2).

<sup>41</sup> CQLR, c. Q-2.

<sup>42</sup> *Act to again amend the Environment Quality Act*, S.Q. 1978, c. 94, ss. 4 et seq.; *Environment Quality Act*, supra, note 41, ss. 131 et seq.

<sup>43</sup> *Order in council respecting the publication of the Agreement concerning a new Relationship between le Gouvernement du Québec and the Crees of Québec*, CQLR, c. M-35.1.2, r. 1.

<sup>44</sup> *Id.*, s. 2.5.

<sup>45</sup> CQLR, c. F-41.

<sup>46</sup> CQLR, c. A-18.1.

<sup>47</sup> *Forest Act*, supra, note 45, ss. 95.6 et seq.; *Act to ensure the implementation of the Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec*, S.Q. 2002, c. 25, ss. 16 et seq.; *Order in council respecting the publication of the Agreement concerning a new Relationship between le Gouvernement du Québec and the Crees of Québec*, supra, note 43, s. 3.1.

<sup>48</sup> JBNQA, s. 2.5.

<sup>49</sup> Supra, note 7.

<sup>50</sup> *Id.*, s. 6.

<sup>51</sup> *James Bay and Northern Québec Native Claims Settlement Act*, supra, note 6, s. 8: "Where there is any inconsistency or conflict between this Act and the provisions of any other law applying to the Territory, this Act prevails to the extent of the inconsistency or conflict."

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territory. Indeed, while environmental and social protection law continues to apply in principle, the JBNQA and other subsequent agreements between the Crees and the governments of Québec and Canada frequently **modify the relevant environmental regimes** or create different requirements. It is with these elements in mind that the appended list of laws and regulations should be considered. In addition, several agreements have established the allocation of environmental **regulatory authority** to various Cree-constituted entities, with a range that varies mostly based on the territorial divisions of the James Bay territory. For some lands, this authority will be similar to that held by Québec municipalities. On other lands, allocations and rules of priority in the event of conflicts between regulations reflect the growing recognition of Cree community self-government.

## 2. ENVIRONMENTAL GOVERNANCE IN THE JAMES BAY REGION

The James Bay region is subject to federal and Québec environmental protection laws, as specified in the JBNQA, except in cases of inconsistency<sup>52</sup>. In a ruling issued in 2010 titled *Québec (Attorney General) v. Moses*<sup>53</sup>, the Supreme Court of Canada highlighted this aspect of the agreement, by determining that a mining project in the territory of the JBNQA that results in the harmful alteration, disruption or destruction of fish habitat is not exempt from authorization by the federal Minister of Fisheries under the exclusive federal jurisdiction over fisheries<sup>54</sup> and, more specifically, the *Fisheries Act*<sup>55</sup>. By doing so, the James Bay territory cannot be a "legal enclave" hindering the exercise of the **constitutional powers** of each level of government:

*"The federal laws, the provincial laws and the James Bay Treaty fit comfortably together, and each should be allowed to operate within its assigned field of jurisdiction."*<sup>56</sup>

This possibility of **overlaps** between federal laws, provincial laws, and the JBNQA frequently complicates the determination of which level of government is competent to regulate the various environmental aspects or potential impacts of a project. Indeed, unlike other **areas of jurisdiction** specifically assigned to the federal government (navigation, criminal law, etc.) or to the provinces (non-renewable natural resources, property and civil rights in the province, matters of a purely local or private nature in the province, etc.), the environment is not a subject expressly addressed by the *Constitution Act*, of 1867<sup>57</sup>, as this notion did not hold the same prominence in the 19<sup>th</sup> century as it does today.

In the absence of an express mention in the constitution, the legislative jurisdiction of the provinces and the federal government regarding the environment must be based, as stated by the Supreme Court of Canada in 1992, on a legislative power provided for by the Canadian constitution:

*"It must be recognized that the environment is not an independent matter of legislation under the Constitution Act, 1867 and that it is a constitutionally **abstruse matter** which does not comfortably fit within the existing division of powers without considerable overlap and uncertainty. [...] In my view the solution to this case can more readily be found by looking first at the catalogue of powers in the Constitution Act, 1867 and considering how they may be employed to meet or avoid environmental concerns. When viewed in this manner it will be seen that in exercising their respective legislative*

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<sup>52</sup> JBNQA, s. 22.2.3.

<sup>53</sup> 2010 SCC 17.

<sup>54</sup> *Constitution Act 1867*, 30 & 31 Vict. c. 3 (U.K.), s. 91(12).

<sup>55</sup> R.S.C. 1985, c. F-14, s. 35.

<sup>56</sup> *Québec (Attorney General) v. Moses*, supra, note 53, par. 13 and 53-55.

<sup>57</sup> *Constitution Act, 1867*, supra, note 54. See in particular *id.*, ss. 91, 92, 92A(1)b).



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*powers, both levels of government may affect the environment, either by acting or not acting.*"<sup>58</sup>

While this necessary connection to an area of legislative competence to justify provincial and federal responsibilities in environmental matters explains certain peculiarities of the JBNQA (federal administrator, provincial administrator, etc.), the *Constitution Act, 1867*<sup>59</sup> does not account for the significant **autonomy** of the James Bay Indigenous communities. This is mainly the result of the JBNQA and certain subsequent agreements with the governments of Québec and Canada.

In contrast to earlier treaties, such as the Peace and Friendship Treaties, which mainly focus on land use and the exercise of traditional or subsistence activities, the JBNQA, when signed in 1975, paved the way for a redefinition of the James Bay Indigenous communities as governmental entities recognized by state authorities:

*"The former treaties did not include any **governmental powers**. [...] Compared to this previous situation, the JBNQA took a great step forward. First of all, the powers of the Crees and the Inuit formed the object of negotiations and their content is often very detailed in the JBNQA. After this point, the Crees and the Inuit acquired powers which were much more widespread. They are truly associated with the management of the North in matters of health, education, police, justice, hunting, fishing or trapping. They also take part in processes such as that of the environmental evaluation."*<sup>60</sup>

Then, in the 2000s, various agreements were signed that modified the JBNQA and prompted the adoption of specific laws by Québec and the federal government to enhance the **self-government** of the James Bay Crees. These agreements include the following documents<sup>61</sup>:

- *Agreement Concerning a New Relationship Between the Government of Canada and the Cree of Eeyou Istchee*<sup>62</sup> (2008)

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<sup>58</sup> *Friends of the Oldman River Society v. Canada (Minister of Transport)*, [1992] 1 S.C.R. 3, 64 and 65.

<sup>59</sup> *Constitution Act, 1867*, supra, note 54.

<sup>60</sup> René MORIN, "La Convention de la Baie-James et du Nord québécois et le développement du droit autochtone", Alain-G. GAGNON and Guy ROCHER (eds.), *Regard sur la Convention de la Baie-James et du Nord québécois*, Montréal, Québec Amérique, 2002, p. 39, at p. 43 [English version, at pp. 42 and 43]. Also on the federal approach to Indigenous peoples' right to self-government, see GOVERNMENT OF CANADA, "L'approche du gouvernement du Canada concernant la mise en œuvre du droit inhérent des peuples autochtones à l'autonomie gouvernementale et la négociation de cette autonomie", 2010, online: <<https://www.rcaanc-cirnac.gc.ca/fra/1100100031843/1539869205136#const>>.

<sup>61</sup> For other agreements with the Crees, see

Québec - GOVERNMENT OF QUÉBEC, "Crees agreements", 2022, online: <<https://www.quebec.ca/en/government/departments-agencies/secretariat-premieres-nations-inuit/publications/list-of-agreements-reached-by-nation-and-by-community/crees-agreements>>.

Federal - GOVERNMENT OF CANADA, "Québec: Final Agreements and Related Implementation Matters", 2022, <<https://www.rcaanc-cirnac.gc.ca/eng/1100100030604/1542740089024>>.

<sup>62</sup> 2008, online: <<https://www.rcaanc-cirnac.gc.ca/eng/1100100031944/1539795886863>>.

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- *Framework Agreement Between the Crees of Eeyou Istchee and the Gouvernement du Québec on Governance in the Eeyou Istchee James Bay Territory*<sup>63</sup> (2011);
- *Agreement on governance in the Eeyou Istchee James Bay territory between the Crees of Eeyou Istchee and the gouvernement du Québec*<sup>64</sup> (2012); and
- *Agreement on Cree Nation Governance Between The Crees of Eeyou Istchee and the Government of Canada*<sup>65</sup> (2017).

In this respect, it is worth noting that, despite the growing acknowledgment of an inherent right of Indigenous self-government<sup>66</sup>, the implementation of this concept in domestic law often takes the form of **administrative delegation** from the provincial and federal governments, meaning the complete or partial transfer of a power by its holder for exercise by a third party<sup>67</sup>. As the Québec Court of Appeal reminds us, this is a delegation technique that allows one level of government "[...] to entrust the administration of certain of its activities to [another level of] government [...] or to entities created by them, provided that the delegation does not affect the division of legislative powers [...]"<sup>68</sup> (our translation). For example, municipalities in Québec possess only the regulatory powers delegated to them by the provincial government. Current constitutional law does not allow the delegation of legislative power in such a way as to authorize the delegated entity to make laws<sup>69</sup>. Such a situation would require **a formal amendment** to the Constitution of Canada under the terms of the *Constitution Act*, of 1982<sup>70</sup>.

The Crees of Eeyou Istchee can actively participate in the governance of their territory. Over the years, various agreements with the governments of Canada and Québec have granted them real decision-making powers, although these vary according to the category of land on which they live.

Despite the limitations of this delegation technique, particularly regarding the recognition of First Nations as governmental entities, it must be acknowledged that the Crees of Québec have normative competencies that enable them to be **essential players** particularly in environmental protection and natural resource management. However, the form of their contribution will vary depending on the **category of land** involved. The notion of spectrum is significant here, as the

<sup>63</sup> May 27, 2011, online: <[https://cdn-contenu.quebec.ca/cdn-contenu/adm/min/conseil-executif/publications-adm/srpn/administratives/ententes/Cris/en/2011-05-26\\_cris-accordCadre-en.pdf](https://cdn-contenu.quebec.ca/cdn-contenu/adm/min/conseil-executif/publications-adm/srpn/administratives/ententes/Cris/en/2011-05-26_cris-accordCadre-en.pdf)>

<sup>64</sup> July 24, 2012, online: <[https://cdn-contenu.quebec.ca/cdn-contenu/adm/min/conseil-executif/publications-adm/srpn/administratives/ententes/Cris/en/2012-07-24\\_cris-entente-en.pdf](https://cdn-contenu.quebec.ca/cdn-contenu/adm/min/conseil-executif/publications-adm/srpn/administratives/ententes/Cris/en/2012-07-24_cris-entente-en.pdf)>.

<sup>65</sup> July 18, 2017, online: <<https://www.rcaanc-cirnac.gc.ca/eng/1504798011685/1542989671051>>.

<sup>66</sup> See in particular R. MORIN, *supra* note 60, at p. 43.

<sup>67</sup> See Hubert REID, *Dictionnaire de droit québécois et canadien*, 5<sup>e</sup> éd. révisée, Montréal, Wilson & Lafleur, 2016 "Délégation", online: <<https://dictionnaireid.caij.qc.ca>> (JuriBristro<sup>MD</sup> eDICTIONARY).

<sup>68</sup> *Canada Post Corporation v. Quebec (Commission d'appel en matière de lésions professionnelles)*, [1999] R.J.Q. 957 (C.A.).

<sup>69</sup> *Fédération des producteurs de volailles du Québec v. Pelland*, 2005 SCC 20, par. 54.

<sup>70</sup> *Supra*, note 8, ss. 38 et seq.

governmental autonomy recognized by state authorities differs according to the category (IA, IB, II or III) of lands (Figure 2):

*"Besides, the Supreme Court of Canada has developed over the past few years a theory on Aboriginal rights, the scope of which is somewhat similar to the categories of lands as defined in the JBNQA. This is an Aboriginal rights theory that is structured around a framework called spectrum. At one end of the spectrum, we find the Aboriginal title that confers exclusive occupation of certain lands on the Aboriginal peoples that are beneficiaries therefrom. This is similar to the Category I lands defined in the JBNQA. At the other end of the spectrum, we find the ancestral rights that are associated with the distinctive culture of the Aboriginal group concerned, without any link with the territory. Finally, in the middle of the spectrum, we find ancestral rights that require territories in order to be exercised. This may precisely be the case of hunting, fishing rights, without for all that conferring on their beneficiaries rights of exclusive occupation of the territory. This is similar to the Categories II and III lands defined in the JBNQA."*<sup>71</sup>

From an environmental perspective, it is important to **coordinate the actions** of actors with responsibilities in the region to prevent individual jurisdictions and territorial divisions from causing **deleterious or unforeseen effects** on ecosystems, particularly when implementing public policies. The role of the **James Bay Advisory Committee on the Environment** in providing general advice can facilitate such coordination<sup>72</sup>. These considerations are all the more important as, according to Taillon, northern projects and initiatives tend, like in southern Québec, to be carried out in silos, with little awareness of their effects on the territory<sup>73</sup>.

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<sup>71</sup> R. MORIN, *supra*, note 60, at p. 44 [English version, at p. 44].

<sup>72</sup> *Agreement on Cree Nation Governance Between The Crees of Eeyou Istchee and the Government of Canada* (2017), *supra*, note 65, art. 22.3.24 et seq.

<sup>73</sup> B. TAILLON, *supra*, note 19, at p. 111.



Ideally, the desired coordination among actors should be based on a **shared vision for the future of the territory**, which, despite some notable progress, is still under construction:

"In the North, however, there is not yet any regional vision of land and resource use. What are the development priorities? What are the constituent parts of the heritage to be preserved or developed? How can one reconcile, within this land area, conflicts over use and generate development that everyone agrees on? These questions are not being answered and it is not through project impact studies that they will be. A more comprehensive philosophy of *land management* has to come forward [...]."<sup>75</sup>

We will now address the specific regime of the different categories of lands in the James Bay territory, namely Category IA (section 2.1), Category IB (section 2.2), Category II (section 2.3) and Category III (section 2.4).

## 2.1. The Category IA Lands Regime

Under Section 5 of the JBNQA, Category IA lands are for the exclusive use and benefit of the Cree bands. Québec has retained bare ownership<sup>76</sup> of these lands and, with some exceptions, ownership of mineral and subsurface rights<sup>77</sup>. The Québec government has transferred the administration, management, and control of these lands to the Canadian government<sup>78</sup>, which subsequently granted these powers to the Crees. Section 9 of the JBNQA recommended that the Parliament of Canada adopt a special law concerning **local administration** for the Crees of James Bay on the Category IA lands allocated to them<sup>79</sup>. While this special law had been, since 1984, the *Cree-Naskapi (of Québec) Act* (now the *Naskapi and Cree-Naskapi Commission Act* following the signing of the *Agreement on Cree Nation Governance Between The Crees of Eeyou Istchee and the Government of Canada*)<sup>80</sup>, the governance regime applicable to this category of land has been provided for, since 2018, by the *Cree Nation Eeyou Istchee Governance Agreement Act*<sup>81</sup>. The main effect of this latter law is to approve and

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<sup>75</sup> B. TAILLON, *supra*, note 20, at p. 111 [English version, at p. 101].

<sup>76</sup> The right of ownership can be divided into two elements, namely usufruct and bare ownership. The usufructuary has the right to use the property: he or she can enjoy it. The bare owner, on the other hand, can dispose of the property, notably by selling it. See OFFICE QUÉBÉCOIS DE LA LANGUE FRANÇAISE, *Grand dictionnaire terminologique*, "nue-propriété", online:<<https://vitrinelinguistique.oqlf.gouv.qc.ca/fiche-gdt/fiche/500827/nue-propriete>>.

<sup>77</sup> JBNQA, s. 5.1.2.

<sup>78</sup> *Id.*, s. 5.1.2.

<sup>79</sup> *Id.*, s. 9.0.1.

<sup>80</sup> S.C. 1984, c. 18.

<sup>81</sup> S.C. 2018, c. 4.

declare valid, in force and with the force of law the *Agreement on Cree Nation Governance Between The Crees of Eeyou Istchee and the Government of Canada*<sup>82</sup> from 2017.

In this regard, although a **Complementary Agreement** must be concluded to amend the JBNQA and, primarily, its Section 9, to ensure their consistency with the 2017 agreement<sup>83</sup>, which nevertheless provides that, upon its coming into force, the *Cree Nation of Eeyou Istchee Governance Agreement Act*<sup>84</sup> is deemed to be the special law referred to in Section 9 and "[...] in conjunction with this Agreement and the Cree Constitution, replace the *Cree-Naskapi (of Québec) Act* with respect to the Crees, Cree First Nations, Cree Nation Government and Category IA Land."<sup>85</sup> Regarding its objectives, the 2017 agreement with the Government of Canada primarily aims to **modernize the local and regional Cree governance regime** over Category IA lands, while seeking to promote greater autonomy and accountability from the Crees concerning this category of lands<sup>86</sup>.

Under its authority, Cree bands, previously established as local administrations under the *Cree-Naskapi (of Québec) Act*<sup>87</sup>, have become **Cree First Nations**<sup>88</sup>. These include the Cree Nation of Chisasibi, the Whapmagoostui First Nation and the Cree First Nation of Waswanipi. In addition to exercising the powers of a **local government** over the Category IA lands allocated to them, the Cree First Nations' **objectives** include:

- To use, manage, administer and regulate their Category IA lands and the natural resources found therein;
- To control the granting of rights and interests in their Category IA lands and natural resources, including the resources of their subsoil;
- To regulate the use of buildings;
- To promote the general welfare of their members; and
- To preserve and promote the culture, values and traditions of the Crees<sup>89</sup>.

For the purposes of good local government and to ensure the general welfare of their members, Cree First Nations may **enact laws** concerning their Category IA lands and the people living there<sup>90</sup>. These laws may concern, among other things, the regulation of buildings, health and hygiene, public order and safety, **environmental protection** (including natural resources),

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<sup>82</sup> Supra, note 65; *Cree Nation of Eeyou Istchee Governance Agreement Act*, supra, note 81, s. 3(1).

<sup>83</sup> *Agreement on Cree Nation Governance Between The Crees of Eeyou Istchee and the Government of Canada*, supra, note 65, preamble and s. 30.2.

<sup>84</sup> Supra, note 81.

<sup>85</sup> *Agreement on Cree Nation Governance Between The Crees of Eeyou Istchee and the Government of Canada*, supra, note 65, s. 2.12.

<sup>86</sup> *Id.* preamble and s. 2.1.

<sup>87</sup> Supra, note 80.

<sup>88</sup> *Agreement on Cree Nation Governance Between The Crees of Eeyou Istchee and the Government of Canada*, supra, note 65, s. 5.1.

<sup>89</sup> *Id.*, s. 5.6.

<sup>90</sup> *Id.*, s. 6.2(1).

pollution prevention, as well as the definition, control and prohibition of nuisances<sup>91</sup>. In addition, Cree First Nations may adopt laws on **land and resource use**, along with related **planning activities** (inventory, land use planning and resource management plans, use permits, etc.)<sup>92</sup>. Zoning laws<sup>93</sup> as well as laws on hunting, fishing and trapping, and **wildlife** protection<sup>94</sup> may also be adopted.

The 2017 agreement also specifies the regime applicable to the exploitation of certain renewable and non-renewable resources. For example, on Category IA lands allocated to them, Cree First Nations own the deposits of **soapstone** and other similar materials used for traditional Cree arts and crafts<sup>95</sup>. They also have, in principle, the exclusive right to the commercial exploitation of **forest resources** on these lands without being required to pay stumpage dues<sup>96</sup>. Furthermore, members of a Cree First Nation may use forest resources located on the Category IA lands of that Cree First Nation for personal or community purposes, subject to the laws of that Cree First Nation that may limit or prohibit such use<sup>97</sup>.

In addition to the local administration of the Cree First Nations, the **Cree Nation Government** has for mission, among other things, to act as **a regional government authority** on Category IA lands, to promote the welfare of the members of the Cree First Nations, and to preserve and promote their culture, values and traditions<sup>98</sup>. For these purposes, this authority may **enact laws** for the **protection of the environment**, including natural resources, and pollution prevention<sup>99</sup>. Nevertheless, these standards must be at least as stringent in their effects as those set forth by federal laws or provincial laws of general application<sup>100</sup>. In case of inconsistency between the provisions of the laws of the Cree Nation Government and those of a Cree First Nation, the former shall prevail unless the latter are more stringent in their effects<sup>101</sup>.

More generally, the 2017 agreement also provides various **rules of priority** (Figure 3). For example, the *Cree Nation of Eeyou Istchee Governance Agreement Act*<sup>102</sup> prevails over conflicting provisions of any other federal law, with the exception of the *James Bay and Northern Québec Native Claims Settlement Act*<sup>103</sup>. Also, provincial laws of general application do not apply to the extent that they are inconsistent with the Agreement or with a Cree law, or to the extent that these laws make provision for a matter that is provided for by this

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<sup>91</sup> *Id.*, s. 6.2(1).

<sup>92</sup> *Id.*, s. 6.3.

<sup>93</sup> *Id.*, s. 6.4.

<sup>94</sup> *Id.*, s. 6.5.

<sup>95</sup> *Id.*, s. 10.2.

<sup>96</sup> *Id.*, s. 10.3(1).

<sup>97</sup> *Id.*, s. 10.3(3).

<sup>98</sup> *Id.*, s. 7.1.

<sup>99</sup> *Id.*, s. 8.12.

<sup>100</sup> *Id.*, s. 8.13.

<sup>101</sup> *Id.*, s. 8.14.

<sup>102</sup> *Supra*, note 81.

<sup>103</sup> *Supra*, note 6; *Agreement on Cree Nation Governance Between The Crees of Eeyou Istchee and the Government of Canada*, *supra*, note 65, s. 4.2.

Agreement<sup>104</sup>. Finally, in all cases, federal laws prevail over Cree laws that have a double aspect, or incidental impacts, on any federal legislative jurisdiction for which a Cree First Nation or the Cree Nation Government does not have jurisdiction; or has jurisdiction but, in the event of conflict, the federal law prevails<sup>105</sup>. Similarly, federal laws pursuing **objectives of overriding national importance**, such as those concerning the peace, order and good government in Canada, or those directly related to criminal law and procedures in criminal matters, the protection of human rights and the protection of the health and safety of all Canadians, take precedence over inconsistent Cree laws<sup>106</sup>. It should be noted that the agreement also provides that the Cree Nation Government may assume any federal responsibilities agreed upon between the Cree Nation Government and the Government of Canada that are outlined in the JBNQA or in any other agreement or federal law, or that arose from any program of the Government of Canada<sup>107</sup>.

These rules of priority are essential to ensure the self-government of Cree communities on Category IA lands. Indeed, the laws adopted by the Cree First Nations and the Cree Nation Government are not, formally, laws, but rather **acts of a regulatory nature**. As such, their paramountcy in the event of inconsistency is paramount. As specified in the agreement itself, it does not alter the Constitution of Canada in any way, particularly its provisions on the division of powers<sup>108</sup>. Despite this fact, it remains that the Cree First Nations and the Cree Nation Government have **broad jurisdiction over environmental matters** within the limits of the Category IA lands allocated to them<sup>109</sup>: these entities can in fact, require the holding of licenses or permits, provide for the issuance of these documents and set the fees to be paid in this regard<sup>110</sup> or prohibit certain activities<sup>111</sup>. The main limitations to their regulatory power concern criminal law, intellectual property, official languages, aeronautics, navigation and shipping, as well as labour relations and working conditions<sup>112</sup>.

To conclude this overview of the administration of Category IA lands by the Crees of Québec, it is possible that they possess, subject to the limitations explained above, **a regulatory capacity superior** to that of the federal government in environmental matters. Indeed, on these lands, of which Québec retains only bare ownership<sup>113</sup>, the Cree First Nations have, in principle, the exclusive use and benefit of the Category IA lands allocated to them and the

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<sup>104</sup> *Agreement on Cree Nation Governance Between The Crees of Eeyou Istchee and the Government of Canada*, supra, note 65, s. 4.3.

<sup>105</sup> *Id.*, s. 4.4.

<sup>106</sup> *Id.*, s. 4.5.

<sup>107</sup> *Id.*, s. 7.2.

<sup>108</sup> *Id.*, s. 2.8.

<sup>109</sup> *Id.*, ss. 4.7 and 4.8.

<sup>110</sup> *Id.*, s. 4.26.

<sup>111</sup> *Id.*, s. 4.27.

<sup>112</sup> *Id.*, s. 4.24.

<sup>113</sup> *Id.*, s. 10.1(1).



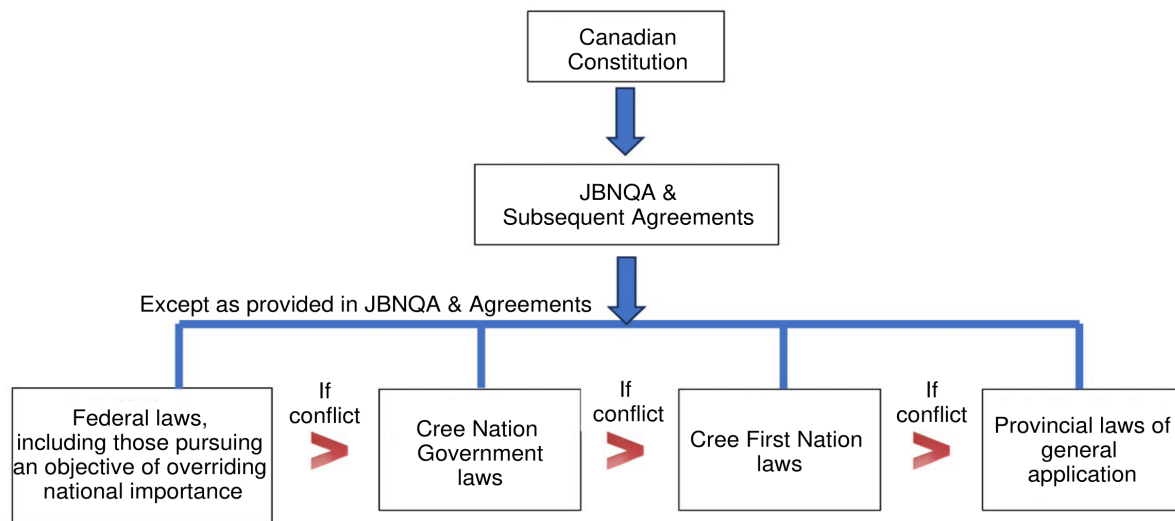
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natural resources located therein<sup>114</sup>. Their regulatory authority is therefore not limited only to the federal powers (fisheries, etc.) delegated to them, because:

*"[...] a Cree First Nation [...] may administer, manage, control, use and enjoy that land and the natural resources thereof for community, commercial, industrial, residential or other purposes, as if it were the owner thereof."*<sup>115</sup>

By virtue of the Category IA lands allocated to them and the broad powers delegated by the federal government, the Cree communities, as public entities, possess administrative powers that are not available to a private landowner, or to any single level of government with respect to their legislative powers<sup>116</sup>. Of course, this extended jurisdiction, attributable to the ability to act in lieu of a **public landowner**, is to be exercised in compliance with the JBNQA and other agreements concluded with government authorities. For example, Québec retains ownership of all mineral and subsurface rights on Category IA lands<sup>117</sup>.

*Figure 3. Priority Rules*



<sup>114</sup> *Id.*, s. 10.1(2).

<sup>115</sup> *Id.*, s. 10.1(2).

<sup>116</sup> See in particular Yenny VEGA CARDENAS and Nayive BIOFANNY VEGA, "L'eau douce, son exportation et le droit constitutionnel", (2010) 51-3-4 *Cahiers de droit* 771, 776-779, 784 and 785.

<sup>117</sup> *Agreement on Cree Nation Governance Between The Crees of Eeyou Istchee and the Government of Canada*, supra, note 65, s. 10.5(1).

## 2.2. The Category IB Lands Regime

Ownership of Category IB lands has been "unconditionally" vested in public or private Cree corporations. However, these lands can only be sold or ceded to the Québec government<sup>118</sup>. In principle, except for a general right of access to public buildings and lands used for public purposes (roads, harbours, etc.)<sup>119</sup>, non-Indigenous people are not permitted to reside on any Category I lands<sup>120</sup>. The governance regime on Category IB lands is primarily provided for by Section 10 of the JBNQA, as amended following the conclusion in 2012 of the *Agreement on governance in the Eeyou Istchee James Bay territory between the Crees of Eeyou Istchee and the gouvernement du Québec*<sup>121</sup>. The purpose of this agreement is to modernize the governance of James Bay lands for which the province has not transferred administration, management and control to the federal government in accordance with the provisions of the 1975 JBNQA, namely Category IB, II and III lands, while promoting the inclusion of the Crees<sup>122</sup>.

Like the role played by Cree First Nations regarding Category IA lands, the JBNQA stipulates that **municipal-type public corporations**<sup>123</sup>, established by Cree communities, have jurisdiction over their respective Category IB lands<sup>124</sup>. According to *The Cree Villages and the Naskapi Village Act*<sup>125</sup>, which is a Québec law from 1978 aimed at implementing the JBNQA, these corporations are municipalities with the status of **Cree villages**, whose municipal territory consists of the Category IB lands designated for them<sup>126</sup>. Examples of these entities include the Cree Village of Whapmagoostui and the Cree Village of Chisasibi. It is important to note that the governance of Category IA lands is not entirely separate from that of Category IB lands, since, in accordance with the JBNQA, the members of the council of a Cree village for Category IB lands are the same as those governing the Cree First Nation for Category IA lands:

*"[...] the members of the council of the public corporation having jurisdiction over Category IB area for that community shall be the same as the members of the council in office of the community corporation having jurisdiction over the Category IA area of that same community."*<sup>127</sup>

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<sup>118</sup> JBNQA, s. 5.1.3.

<sup>119</sup> *Id.*, s. 5.1.12.

<sup>120</sup> *Id.*, s. 5.1.11.

<sup>121</sup> *Supra*, note 64.

<sup>122</sup> *Id.* preamble.

<sup>123</sup> See JBNQA, ss. 10.0.7 and 10.0.17; *The Cree Villages and the Naskapi Village Act*, CQLR, c. V-5.1, ss. 22 et seq.

<sup>124</sup> JBNQA, s. 10.0.1.

<sup>125</sup> *Supra*, note 123.

<sup>126</sup> *Id.* ss. 2 et seq.

<sup>127</sup> JBNQA, s. 10.0.4. See also *The Cree Villages and the Naskapi Village Act*, *supra*, note 123, s. 14.

*The Cree Villages and the Naskapi Village Act*<sup>128</sup> is to the same effect and specifies that the chief and acting chief of the Cree band (and of the Cree First Nation) are respectively mayor and acting mayor of the municipality<sup>129</sup>.

These corporations with jurisdiction over Category IB lands may enact **by-laws** relating to the protection and quality of the physical and social **environment**, as well as the protection and use of **natural resources**<sup>130</sup>. However, unlike standards emanating from the Cree First Nations, by-laws adopted by the Cree villages regarding these matters can only come into force following their **approval** by the Government of Québec<sup>131</sup>. To grant its approval, the latter must be of the opinion that the by-laws establish protection and conservation standards more stringent than those prescribed by the laws and regulations otherwise applicable, and that they do not restrict any ongoing or planned development outside the territory of the municipality that complies with the relevant laws and regulations<sup>132</sup>. In this respect, while the Cree Nation Government's environmental protection laws for Category IA lands are also required to be at least equivalent in their effect that federal and provincial laws of general application<sup>133</sup>, prior judgment by a third party is not required for these standards to come into effect. The same applies to determine which provisions are more stringent in their effects in case of inconsistency between the provisions of Cree Nation Government laws and those of Cree First Nation laws<sup>134</sup>.

While the respective territories of the Cree villages do not necessarily coincide with those under the jurisdiction of the Cree Nation Government or the Regional Government of Eeyou Istchee Baie-James<sup>135</sup>, it is difficult not to interpret the Québec government's approval policy of by-laws on certain matters as a **belated recognition** by the latter of an inherent right of Indigenous self-governance under the *Constitution Act, 1982*<sup>136</sup>. In contrast, approval is not required by the Government of Canada, which has recognized such an inherent right of self-governance for Indigenous peoples since the 1990s<sup>137</sup>. A similar approval policy also applies to agreements between Cree villages and the Cree Nation Government. For example, Cree villages may, by by-laws, enter into agreements with the Cree Nation Government by which they delegate to the latter the establishment or administration of a municipal service, or the

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<sup>128</sup> Supra, note 123.

<sup>129</sup> *Id.* s. 14, par. 1 and 2.

<sup>130</sup> JBNQA, s. 10.0.11; *The Cree Villages and the Naskapi Village Act*, supra, note 123, s. 21.

<sup>131</sup> JBNQA, s. 10.0.11; *The Cree Villages and the Naskapi Village Act*, supra, note 123, s. 21.

<sup>132</sup> JBNQA, s. 10.0.11; *The Cree Villages and the Naskapi Village Act*, supra, note 123, s. 21.

<sup>133</sup> *Agreement on Cree Nation Governance Between The Crees of Eeyou Istchee and the Government of Canada*, supra, note 65, s. 8.13.

<sup>134</sup> *Id.*, s. 8.14.

<sup>135</sup> JBNQA, s. 10.0.2. Cf. *The Cree Villages and the Naskapi Village Act*, supra, note 123, s. 11.

<sup>136</sup> Supra, note 8, s. 35.

<sup>137</sup> Philip AWASHISH, "Reflections on Eeyou Governance in the James Bay and Northern Québec Agreement", in Alain-G. GAGNON and Guy ROCHER (eds.), *Regard sur la Convention de la Baie-James et du Nord québécois*, Montréal, Québec Amérique, 2002, p. 167, at p. 168. See also Lorraine LAND and Matt MCPHERSON, *Aboriginal Law Handbook*, 5<sup>e</sup> ed., Toronto, Thomson Reuters, 2018, pp. 184 et seq.

coordination of such a service with a service or program of another municipality or Cree band<sup>138</sup>. However, such by-laws must first be approved by the Minister of Municipal Affairs, Regions and Land Occupancy (now the Minister of Municipal Affairs and Housing)<sup>139</sup>.

### 2.3. The Category II Lands Regime

The James Bay Crees have an exclusive right to hunt, fish and trap on Category II lands<sup>140</sup>. Those lands are under provincial jurisdiction<sup>141</sup>. The Québec government may take possession of the lands for development purposes provided that they are replaced or, where the Indigenous people so desire and an agreement is reached to this effect, a compensation is granted<sup>142</sup>. Generally, individuals exercising a right compatible with Indigenous rights have access to Category II lands, and may reside there and construct buildings<sup>143</sup>. Certain restrictions do exist, however. For example, non-Indigenous people are generally not authorized to hunt, fish or trap on Category II lands without the consent of the Indigenous people<sup>144</sup>. In accordance with the *Agreement on governance in the Eeyou Istchee James Bay territory between the Crees of Eeyou Istchee and the gouvernement du Québec*<sup>145</sup> from 2012, as well as Section 11 of the JBNQA, the Cree Regional Authority, which is constituted by the Cree public corporations collectively, becomes the **Cree Nation Government**<sup>146</sup>. This public corporation is made up of the Crees from each of the Cree communities and villages<sup>147</sup>. This entity can give valid consent on behalf of the James Bay Crees when required by the JBNQA, and appoint Cree representatives to any organization, structure or entity created by the JBNQA<sup>148</sup>. One example is the representatives of the James Bay Crees on the Eeyou Istchee James Bay Regional Government<sup>149</sup>. Furthermore, the council of the Cree Nation Government may adopt **by-laws** in respect to subject matters falling within its jurisdiction<sup>150</sup>.

In addition to the possibility of administering and coordinating programs on Category I lands by delegation of the Cree First Nations or Cree community corporations<sup>151</sup>, the Cree Nation Government may, under the JBNQA, exercise jurisdiction, functions and powers on Category II lands south of the 55° parallel<sup>152</sup> in matters of municipal and regional management, natural

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<sup>138</sup> *The Cree Villages and the Naskapi Village Act*, supra, note 123, s. 20 par. 1.

<sup>139</sup> *Id.* s. 20 par. 1.

<sup>140</sup> JBNQA, s. 5.2.1.

<sup>141</sup> *Id.*, s. 5.2.1.

<sup>142</sup> *Id.*, s. 5.2.3.

<sup>143</sup> *Id.*, s. 5.2.6.

<sup>144</sup> *Id.*, s. 5.2.6.

<sup>145</sup> Supra, note 64.

<sup>146</sup> JBNQA, s. 11.2.1.

<sup>147</sup> *Act respecting the Cree Nation Government*, CQLR, c. G-1.031, s. 2-4.

<sup>148</sup> JBNQA, s. 11.2.5.

<sup>149</sup> *Act respecting the Cree Nation Government*, supra, note 147, s. 6 par. 1c).

<sup>150</sup> JBNQA, s. 11.2.8.

<sup>151</sup> *Id.*, s. 11.2.6.

<sup>152</sup> *Id.*, s. 11.3.2.

resource management and land management<sup>153</sup>. With respect to this category of lands, this entity may exercise the **powers of a local municipality** under the *Cities and Towns Act*<sup>154</sup> and those provided for by other laws applicable to such a municipality, upon resolution affirming its jurisdiction<sup>155</sup>, as well as the powers, existing as of July 24, 2012, of the Municipalité de Baie-James and the James Bay Regional Zone Council regarding Category II lands<sup>156</sup>. At the regional level, the Cree Nation Government may, by resolution, declare that it will exercise the **powers of a regional county municipality** over Category II lands<sup>157</sup>. Such declarations of jurisdiction may be subject to an agreement with the Government of Québec in order to provide for any adaptations required to reflect the specific character of the Cree Nation Government and the territory concerned<sup>158</sup>. This agreement may derogate from any legislative provision<sup>159</sup>. The Cree Nation Government may also exercise the jurisdictions, functions and powers related to land use and development planning set out in the *Act respecting land use planning and development*<sup>160</sup>, in particular by developing a **land use and development plan** or a **strategic vision for economic, social, cultural and environmental development**, that must align with the orientations, principles and objectives determined by the Cree Nation Government in consultation with the Cree communities and with the agreement of the Government of Québec<sup>161</sup>. Moreover, the Cree Nation Government may exercise the powers of a regional county municipality with respect to the promotion of local development and entrepreneurial support on Category I and II lands, and regarding the residents of these lands<sup>162</sup>. It is also possible for the Cree Nation Government to exercise jurisdiction, functions and powers over Category II lands with respect to any other matter by entering into agreements with the Québec government<sup>163</sup>. In all cases, it is important that, subject to the JBNQA, the powers of the Cree Nation Government over Category II lands be exercised **without discrimination**, including between the Crees and other citizens<sup>164</sup>.

The *Cree Nation Government Act*<sup>165</sup> specifies **other objects** of the Cree Nation Government in addition to the powers provided by the JBNQA for the benefit of the James Bay Crees, including:

- The fight against poverty, the general welfare of the James Bay Crees, the education and promotion of development and means of action for the Cree communities;

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<sup>153</sup> *Id.*, s. 11.3.1.

<sup>154</sup> CQLR, c. C-19.

<sup>155</sup> *Act respecting the Cree Nation Government*, supra, note 147, s. 6.1.

<sup>156</sup> JBNQA, s. 11.3.4.

<sup>157</sup> *Id.*, s. 11.3.5 par. 1.

<sup>158</sup> *Act respecting the Cree Nation Government*, supra, note 147, s. 6.3 par. 1.

<sup>159</sup> *Id.*, s. 6.3 par. 1.

<sup>160</sup> CQLR, c. A-19.1.

<sup>161</sup> JBNQA, s. 11.3.5 par. 2.

<sup>162</sup> *Id.*, s. 11.3.7.

<sup>163</sup> *Id.*, s. 11.3.1.

<sup>164</sup> *Id.*, s. 11.3.3.

<sup>165</sup> *Supra*, note 147.

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- Charitable works, education, scientific, artistic or literary culture, youth training and generally any initiative for the social well-being of the James Bay Crees;
- Recreational centres and public sports and recreational spaces;
- Working toward the solution of the problems of the James Bay Crees and, for such purposes, to deal with all governments, public authorities or individuals;
- Conducting research and providing technical, professional and other assistance to the James Bay Crees;
- Assisting the James Bay Crees in the exercise of their rights and in the defence of their interests;
- Fostering, promoting, protecting and assisting in the preservation of the way of life, the values and the traditions of the James Bay Crees; and
- Establishing and maintaining a regional police force<sup>166</sup>.

This entity also plays a crucial role in land and resource use planning for Category II lands. Indeed, the Cree Nation Government must, under the *Act respecting the Cree Nation Government*<sup>167</sup>, establish the **Eeyou Planning Commission**, which is the equivalent of the Regional Land and Natural Resources Commission<sup>168</sup>. The purpose of this commission is to develop a draft **regional land and resource use plan** for Category II lands in lieu of a regional plan for integrated land and resource development<sup>169</sup>, which primarily seeks to determine regional orientations, objectives and targets related to the conservation or enhancement of wildlife, forests and regional territory<sup>170</sup>. To this end, in addition to holding at least one public consultation meeting<sup>171</sup>, the Commission must consult the Cree Nation Government and the Cree communities, any other person it deems necessary, as well as the regional land and natural resource commission established by the Eeyou Istchee James Bay Regional Government to harmonize, as much as possible, the draft plan with that commission's regional plan<sup>172</sup>. The Commission then submits the draft plan to the council of the Cree Nation Government for acceptance or modification requests<sup>173</sup>. Once accepted, the council makes it public and forwards it to the Minister of Natural Resources for approval, along with the relevant documents relating to the process and the results of the consultations<sup>174</sup>. It should also be noted that the Cree Nation Government is invited to take part in the development of any proposed **land use plan** which pertains to Category II lands before being submitted for approval to the Government of Québec<sup>175</sup>. This plan, concerning lands in the domain of the State and prepared

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<sup>166</sup> *Id.*, s. 6 par. 1.

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*, s. 79.1.

<sup>169</sup> *Id.*, s. 79.2.

<sup>170</sup> *Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire*, CQLR, c. M-22.1, s. 21.17.2.

<sup>171</sup> *Act respecting the Cree Nation Government*, supra, note 147, s. 79.4.

<sup>172</sup> *Id.*, s. 79.3.

<sup>173</sup> *Id.*, s. 79.6.

<sup>174</sup> *Id.*, s. 79.7.

<sup>175</sup> *Id.*, s. 79.17.

by the Minister of Natural Resources and Wildlife, defines and indicates sites and territorial units in addition to determining their purposes concerning conservation and enhancement of resources and land use<sup>176</sup>.

#### 2.4. The Category III Lands Regime

Access to Category III lands is open to all citizens, in accordance with the Québec laws and regulations concerning public lands<sup>177</sup>. The Crees, along with the Jamesians, also have decision-making authority over this category of land, mainly through the **Regional Government of Eeyou Istchee Baie-James**. According to the *Act to establish the Regional Government of Eeyou Istchee Baie-James*<sup>178</sup> of 2013, the Regional Government of Eeyou Istchee Baie-James is a public entity whose territory consists, *roughly speaking*, of Category III lands or, in the words of the Act, "[...] the territory of Municipalité de Baie-James as it existed on 31 December 2013, with the exception of the Category II lands."<sup>179</sup> The **members of its council** are the chair of the Cree Nation Government, ten persons designated by the council of the Cree Nation Government from among its members, as well as eleven persons designated by the Minister of Municipal Affairs, Regions and Land Occupancy, from among the members of the councils of the enclosed municipalities (Chapais, Chibougamau, Lebel-sur-Quévillon and Matagami) and individuals, other than the Crees, residing within the Regional Government's territory<sup>180</sup>. From January 2013, and subsequently every 10 years, the Government of Québec and the Cree Nation Government reassess the composition of the Regional Government's council and the distribution of votes among its members to ensure that the representation on the council of the populations concerned is consistent with democratic principles and reflects the demographic realities of the Regional Government's territory<sup>181</sup>. As a **municipal body**, this entity is governed, subject to its incorporating act, by the *Cities and Towns Act*<sup>182</sup>. As such, it has the powers of a municipality governed by that Act and is subject to the Acts applicable to such a municipality while also possessing any other powers conferred upon it by law under any other title<sup>183</sup>. It should be noted that the Government of Québec may, by decree, render provisions of laws inapplicable to the Regional Government or to its territory<sup>184</sup>.

The Eeyou Istchee James Bay Regional Government also has **specific jurisdiction** at the municipal level. First, the Regional Government may declare, by resolution of **intraterritorial jurisdiction**, that it has jurisdiction on all or part of its territory, with respect to any field of jurisdiction assigned by an Act to a regional county municipality<sup>185</sup>. In this regard, it should be

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<sup>176</sup> *Act respecting the lands in the domain of the State*, CQLR, c. T-8.1, s. 21.

<sup>177</sup> JBNQA, s. 5.3.1.

<sup>178</sup> CQLR, c. G-1.04.

<sup>179</sup> *Id.*, s. 5.

<sup>180</sup> *Id.*, s. 6.

<sup>181</sup> *Id.*, s. 37.

<sup>182</sup> *Supra*, note 154.

<sup>183</sup> *Act establishing the Eeyou Istchee James Bay Regional Government*, *supra*, note 178, s. 4 par. 1.

<sup>184</sup> *Id.*, s. 4 par. 2.

<sup>185</sup> *Id.*, s. 20.

noted that where the Regional Government affirms its jurisdiction with respect to the **land use planning and development plan**, the Minister of Municipal Affairs, Regions and Land Occupancy has to establish, in collaboration with the Regional Government, specific government guidelines for the Regional Government's territory that take into account the specificity of the territory concerned and the issues related to the development of its resources from a sustainable development perspective<sup>186</sup>. The exercise of such intra-territorial jurisdiction by the Regional Government may be subject to an agreement with the Government of Québec, which may derogate from any legislative provision while providing for any required adaptations to consider the specificity of the Regional Government and the territory concerned<sup>187</sup>. According to its incorporating act, the Regional Government may also delimit parts of its territory to create localities governed by a local council consisting of elected officials<sup>188</sup>. The local council exercises, within the territory defined as a locality, all of the competencies delegated to it by the Regional Government, in compliance with regulatory conditions<sup>189</sup>. Secondly, the Regional Government may declare, by resolution of **extraterritorial jurisdiction**, that it has jurisdiction over all or part of any Category I land or over all or part of the territory of any of the enclaved municipalities regarding any field of jurisdiction belonging to a regional county municipality or a local municipality<sup>190</sup>. Such a declaration of jurisdiction can only be applicable if the Cree community or enclaved municipality concerned has requested it by a resolution adopted unanimously by all members of its council<sup>191</sup>.

Of course, since succeeding to the Municipalité de Baie-James in 2014<sup>192</sup>, the Eeyou Istchee James Bay Regional Government has become a key player in the future of the James Bay Category III lands but other entities also have responsibilities in the Nord-du-Québec region (enclaved municipalities, regional development agencies such as the James Bay Regional Administration<sup>193</sup>, federal or provincial ministries, etc.). They all contribute, through their actions and decisions, to the supervision and development of human activities on the James Bay territory. In such a context, it is important to ensure minimal cooperation between stakeholders, so that their actions align, as much as possible, with a common vision of the objectives and issues constituting this territory, as opposed to a **logic of sectoral action**.

Table 1 provides a brief summary of the governance arrangements for each land category in the James Bay territory.

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<sup>186</sup> *Id.*, s. 32.

<sup>187</sup> *Id.*, s. 23 par. 1.

<sup>188</sup> *Id.*, s. 26-28.

<sup>189</sup> *Id.*, s. 29.

<sup>190</sup> *Id.*, s. 24 par. 1.

<sup>191</sup> *Id.*, s. 24 par. 2.

<sup>192</sup> *Id.*, ss. 88 et seq.

<sup>193</sup> *Act respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire*, supra, note 170, s. 21.5.



*Table 1 . Summary of Governance Arrangements by Land Category*

	Uses	Ownership	Governance
<b>Cat. IA</b>	- For the exclusive use and benefit of <b>First Nations, Cree (Cree Bands)</b>	- <b>Cree First Nations:</b> usufruct  - <b>Provincial government:</b> bare ownership (ownership of land without usufruct)	- <b>Federal government:</b> administration, governance and control (prior to the 2017 agreement)  - <b>Local government:</b> Cree First Nations  - <b>Regional Government:</b> Cree Nation Government  - Power to adopt Indigenous environmental laws at least as stringent as those of the federal and Québec governments  - Priority rules apply according to agreements
<b>Cat. IB</b>	- General <b>public right of access</b> to public buildings and land used for public purposes (roads, harbours, etc.)	- <b>Cree Corporations:</b> full ownership (usufruct and bare ownership)  - <b>Provincial government:</b> second owner option (land can only be sold or ceded to the Québec government)	- <b>Cree villages</b> (municipal-type public corporations)  - Regulatory power in environmental matters  - Standards must be more stringent than those otherwise applicable  - Québec government approval required
<b>Cat. II</b>	- Exclusive hunting, fishing and trapping rights for the <b>Crees</b>  - The <b>general public</b> can exercise compatible rights, live there or erect buildings there.	- <b>Provincial government:</b> full ownership (usufruct and bare ownership) with compensation for the Crees	- <b>Cree Nation Government</b>  - Possibility of exercising powers usually exercised by a local municipality or regional county municipality
<b>Cat. III</b>	- Access under Québec's <b>public land</b> laws	- <b>Provincial state:</b> full ownership (usufruct and bare ownership)	- <b>Eeyou Istchee James Bay Regional Government</b>  - Possibility of exercising powers usually exercised by a local or regional county municipality

## CONCLUSION

If there is one observation that emerges from this portrait of the particularities of environmental law in the James Bay territory in relation to the JBNQA and certain subsequent agreements primarily recognizing an increasingly greater governmental autonomy for the Cree communities of Québec, it is the **complexity of the attributions** of each public actor in matters of environmental protection. Whether we are referring to the "abstruse matter"<sup>194</sup> that is the environment in the context of the division of legislative powers between the Parliament of Canada and the provincial legislatures, to the risks of fragmentation of the territory, to the rules of priority in the event of inconsistency between standards applicable in the region, or to the multiple actors (Cree First Nations, ministries, etc.) with decision or regulatory powers, we must be cautious in assuming that the federal and provincial laws typically applicable in the southern part of Québec will apply, as such, to all aspects of a project or activity in the James Bay territory.

Even if it is true that, as stated in Section 22 of the JBNQA, all applicable federal and provincial laws of general application respecting environmental and social protection shall apply in the territory to the extent that they are not inconsistent with the provisions of the JBNQA<sup>195</sup>, the **overall portrait of laws and regulations** presented in the schedule must be interpreted with the precautions required by the context in which their application is contemplated. Moreover, while the self-government of the Crees of Québec has significantly increased over the past two decades due to agreements with the governments of Québec and Canada, it is not unreasonable to expect a growing particularism of environmental standards in the James Bay territory. Nevertheless, as Awashish (2002) points out, it will be up to Indigenous people to determine the meaning and concrete realisation of their self-governance<sup>196</sup>.

In the meantime, as can be seen from the schedule, it is worth noting the number of modifications or adaptations in this normative corpus regarding Indigenous people in general, the James Bay territory and the Crees of Québec. While some of these, such as Title II of the *Environment Quality Act*<sup>197</sup>, directly arise from the requirements of the JBNQA, others stem from the recognition of Indigenous rights in Canada. This is exemplified by the consideration of Indigenous knowledge by the federal Minister of Transport to approve a work suspected of interfering with navigation under the *Canadian Navigable Waters Act*<sup>198</sup>. Of course, this recognition is only the beginning of an ongoing, long-term process of **reconciliation**<sup>199</sup>. In this respect, a political act, a decision or the amendment of a legislative provision is not enough<sup>200</sup>: it is a matter of reconciling "[...] "the pre-existence of aboriginal societies with the sovereignty

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<sup>194</sup> *Friends of the Oldman River Society v. Canada (Minister of Transport)*, supra, note 58, 64 and 65.

<sup>195</sup> JBNQA, s. 22.2.3.

<sup>196</sup> P. AWASHISH, supra note 137, at p. 176.

<sup>197</sup> Préc. note 41, ss. 131 et seq.

<sup>198</sup> R.S.C. 1985, c. N-22, s. 7(7)(f).

<sup>199</sup> See Thomas ISAAC, *Aboriginal Law*, 5<sup>e</sup> ed., Toronto, Thomson Reuters, 2016, pp. 5-7.

<sup>200</sup> *Id.*, p. 7.

of the Crown. Let us face it, we are all here to stay.”<sup>201</sup> In addition to requiring an ongoing partnership based on the “[...] mutual recognition of coexisting and self-governing peoples and nations of peoples and nations [...]”<sup>202</sup>, this partnership must, in environmental matters, be sensitive to the potentially divergent interests of the constituent actors of a territory and to their issues. Thus, within the framework of the JBNQA, there is no reason to oppose the desire to develop the James Bay territory to the promotion of Indigenous cultures and lifestyles, since such a duality would not be tantamount to “[...] clearly agree[ing] from the start on a **common vision** that would guide development of the territory.”<sup>203</sup>

In any case, the development of such a vision across the James Bay region is likely to require further exchanges and concessions between the Crees and the governments of Québec and Canada. Nevertheless, at the local level, the implementation of a **normative governance approach** based on “[...] a social partnership, involving the local community, public and private decision makers and the academic community, to establish a comprehensive and operational solution [...]”<sup>204</sup> (Our translation) to the socio-environmental problems faced by the Cree and Jamesian communities would likely allow for the co-construction of a sustainable community future. This is already being done in the Eastern Townships for the management of certain dams<sup>205</sup>. At the very least, establishing such forums to support discussions between citizens, experts and public and private actors is a promising step forward. As anthropologist Arcand put it in 1984 at a Kuujjuaq symposium on the environment, there can be no sustainable development without a mutual understanding of what this concept means for each of us:

*“[...] each group always thinks it knows what development should concretely entail for another group.”*<sup>206</sup>

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<sup>201</sup> *Delgamuukw v. British Columbia*, supra, note 37, par. 186, citing *R. v. Van der Peet*, [1996] 2 S.C.R. 507, par. 31.

<sup>202</sup> P. AWASHISH, supra, note 137, at pp. 177 and 178 [English version, at p. 163].

<sup>203</sup> D. BERROUARD, supra, note 18, at p. 101 [English version, at p. 93].

<sup>204</sup> See Catherine CHOQUETTE, Stéphane BERNATCHEZ, Mélanie TRUDEL, Robert LECONTE, Julia SANTOS SILVA, Catherine FRIZZLE and Ayoub HAMMOUDI, "L'adaptation de la gestion des barrages aux changements climatiques", (2021) 3 *Climatoscope* 95, 96.

<sup>205</sup> *Id.*, ss. 96 et seq.

<sup>206</sup> D. BERROUARD, supra, note 18, at p. 104 [English version, at p. 96].

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## Environmental Law in the James Bay Territory

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Hubert REID, *Dictionnaire de droit québécois et canadien*, revised 5<sup>th</sup> ed., Montréal, Wilson & Lafleur, 2016, online: <<https://dictionnaireid.caij.qc.ca>> (JuriBristro<sup>MD</sup> eDICTIONNAIRE)

**SCHEDULE**

**Overview of Federal and Provincial Legislation Applicable to the James Bay and Northern Quebec Agreement Territory**

The key federal and provincial environmental laws likely to apply to the James Bay Territory are summarized in the following table. A mention is also made when modifications or adaptations are explicitly created not only for Indigenous peoples in general, but also for the James Bay territory or the Crees of Québec.

Following the table, a brief description of each legislative text is provided to clarify its content, along with a list of the relevant regulations.

*Key Environmental Laws Likely to Apply to the James Bay Territory*

Jurisdiction	Themes	Laws	Explicit modifications or adaptations	
			Crees of Québec – James Bay	Indigenous peoples
FEDERAL	<b>1. Protected Areas and Land Use Planning</b>	<i>Agricultural and Rural Development Act (ARDA)</i>		
		<i>Canada National Marine Conservation Areas Act</i>		✓
		<i>Forestry Act</i>		
		<i>Parks Canada Agency Act</i>		✓
		<i>Canada National Parks Act</i>		✓
	<b>2. Crees of Québec and James Bay</b>	<i>Cree Nation of Eeyou Istchee Governance Agreement Act</i>	✓	
		<i>Eeyou Marine Region Land Claims Agreement Act</i>	✓	
		<i>Indian Act</i>		✓
		<i>James Bay and Northern Quebec Native Claims Settlement Act</i>	✓	✓
		<i>Naskapi and the Cree-Naskapi Commission Act</i>	✓	✓
	<i>Fertilizers Act</i>			

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<b>3. Contaminants, Fertilizers and Pesticides</b>	<i>Perfluorooctane Sulfonate Virtual Elimination Act</i>		
	<i>Pest Control Products Act</i>		
	<i>Pesticide Residue Compensation Act</i>		
<b>4. Wildlife and Flora</b>	<i>Canada Wildlife Act</i>		✓
	<i>Fisheries Act</i>		✓
	<i>Migratory Birds Convention Act, 1994</i>		✓
	<i>Plant Protection Act</i>		
	<i>Species at Risk Act</i>		✓
	<i>Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act</i>		
<b>5. Wetlands and Aquatic Environments</b>	<i>Canadian Navigable Waters Act</i>		✓
	<i>Canada Shipping Act, 2001</i>		✓
	<i>Canada Water Act</i>		
	<i>Dominion Water Power Act</i>		
	<i>Marine Liability Act</i>		
	<i>Oceans Act</i>		✓
<b>6. Environmental Protection and Sustainable Development</b>	<i>Canada Emission Reduction Incentives Agency Act</i>		
	<i>Canada Foundation for Sustainable Development Technology Act</i>		
	<i>Canadian Environmental Protection Act, 1999</i>		✓
	<i>Department of the Environment Act</i>		
	<i>Energy Administration Act</i>		

## Environmental Law in the James Bay Territory

		<i>Environmental Violations Administrative Monetary Penalties Act</i>		
		<i>Impact Assessment Act</i>		✓
		<i>Federal Sustainable Development Act</i>		✓
		<i>Manganese-based Fuel Additives Act</i>		
<b>7. Natural Resources, Fuel and Energy</b>		<i>Canada Oil and Gas Operations Act</i>		✓
		<i>Canada Petroleum Resources Act</i>		✓
		<i>Canadian Energy Regulator Act</i>	✓	✓
		<i>Department of Natural Resources Act</i>		
		<i>Energy Efficiency Act</i>		
		<i>Energy Supplies Emergency Act</i>		
		<i>First Nations Oil and Gas and Moneys Management Act</i>		✓
		<i>Motor Vehicle Fuel Consumption Standards Act</i>		
		<i>Nuclear Energy Act</i>		✓
		<i>Nuclear Fuel Waste Act</i>		✓
		<i>Oil Substitution and Conservation Act</i>		
		<i>Resources and Technical Surveys Act</i>		
<b>1. Protected Areas and Land Use Planning</b>		<i>Agricultural lands in the domain of the State, Act respecting</i>		✓
		<i>Cities and Towns Act</i>	✓	✓
		<i>Lands in the domain of the State, Act respecting the</i>	✓	✓
		<i>Land use planning and development, Act respecting</i>	✓	

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<b>PROVINCIAL</b>		<i>Ministère des Affaires municipales, des Régions et de l'Occupation du territoire, Act respecting the</i>	✓	✓	
		<i>Municipal Powers Act</i>	✓	✓	
		<i>Natural Heritage Conservation Act</i>	✓	✓	
		<i>Occupancy and vitality of territories, Act to ensure the</i>	✓	✓	
		<i>Parks Act</i>	✓	✓	
		<i>Preservation of agricultural land and agricultural activities Act respecting the</i>	✓		
		<i>Sustainable Forest Development Act</i>	✓	✓	
	<b>2. Crees of Québec and James Bay</b>		<i>Agreement concerning James Bay and Northern Quebec, Act approving the</i>	✓	
			<i>Cree, Inuit and Naskapi Native persons, Act respecting</i>	✓	✓
			<i>Cree Nation Government, Act respecting the</i>	✓	
			<i>Cree Villages and the Naskapi Village Act, The</i>	✓	✓
			<i>Eeyou Istchee James Bay Regional Government, Act establishing the</i>	✓	
			<i>Hunting and fishing rights in the James Bay and New Quebec territories, Act respecting</i>	✓	✓
			<i>Implementation of the Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec, Act to ensure the</i>	✓	
			<i>James Bay Native Development Corporation, Act respecting the</i>	✓	

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	<i>James Bay Eeyou Corporation, Act respecting the</i>	✓	
	<i>James Bay Region Development Act</i>	✓	✓
	<i>Land regime in the James Bay and New Quebec territories, Act respecting the</i>	✓	✓
	<i>Northeastern Quebec Agreement, Act approving the</i>	✓	✓
	<i>Société du Plan Nord, Act respecting the</i>	✓	✓
<b>3. Contaminants, Fertilizers and Pesticides</b>	<i>Pesticides Act</i>		
<b>4. Jus commune</b>	<i>Civil Code of Quebec</i>	✓	✓
<b>5. Wildlife and Flora</b>	<i>Conservation and development of wildlife, Act respecting the</i>	✓	✓
	<i>Threatened or vulnerable species, Act respecting</i>	✓	
	<i>Tree Protection Act</i>		
<b>6. Wetlands and Aquatic Environments</b>	<i>Artificial inducement of rain, Act respecting the</i>		
	<i>Collective nature of water resources and to promote better governance of water and associated environments, Act to affirm the</i>	✓	✓
	<i>Commercial aquaculture, Act respecting</i>		
	<i>Commercial fishing and commercial harvesting of aquatic plants, Act respecting</i>		
	<i>Dam Safety Act</i>		
	<i>Watercourses Act</i>		
<b>7. Environmental Protection and</b>	<i>Building Act</i>	✓	
	<i>Environment Quality Act</i>	✓	✓

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<b>Sustainable Development</b>	<i>Ministère du Développement durable, de l'Environnement et des Parcs, Act respecting the</i>		✓
	<i>Société québécoise de récupération et de recyclage, Act respecting the</i>		
	<i>Sustainable Development Act</i>		✓
<b>8. Natural Resources, Fuel and Energy</b>	<i>Ending exploration for petroleum and underground reservoirs and production of petroleum and brine, Act</i>		
	<i>Energy efficiency and energy conservation standards for certain products, Act respecting</i>		
	<i>Mining Act</i>	✓	✓
	<i>Ministère des Ressources naturelles et de la Faune, Act respecting the</i>	✓	✓
	<i>Number of zero-emission motor vehicles in Quebec in order to reduce greenhouse gas and other pollutant emissions, Act to increase the</i>		
	<i>Petroleum Resources Act</i>	✓	✓
	<i>[new title: Act respecting natural gas storage and natural gas and oil pipelines]</i>		
	<i>Régie de l'énergie, Act respecting the</i>		

## A. FEDERAL LAW AND REGULATIONS

### 1. Protected Areas and Land Use Planning

#### *Agricultural and Rural Development Act (ARDA) (R.S.C. 1985, c. A-3)*

**Purpose:** To provide for the rehabilitation and development of rural areas in Canada.

##### Explicit modifications or adaptations

Crees of Québec – James Bay

Indigenous peoples

*Order Designating the Minister of Industry, Science and Technology as Minister for Purposes of the Act (SI/90-33)*

#### *Canada National Marine Conservation Areas Act (S.C. 2002, c. 18)*

**Purpose:** To establish a system of marine conservation areas that are representative of the Atlantic, Arctic and Pacific Oceans and the Great Lakes and are of sufficient extent and such configuration as to maintain healthy marine ecosystems.

##### Explicit modifications or adaptations

Crees of Québec – James Bay

Indigenous peoples

✓

#### *Forestry Act (R.S.C. 1985, c. F-30)*

**Purpose:** To control forestry development and research.

##### Explicit modifications or adaptations

Crees of Québec – James Bay

Indigenous peoples

*Timber Regulations, 1993 (SOR/94-118)*

#### *Parks Canada Agency Act (S.C. 1998, c. 31)*

**Purpose:** To establish an Agency for the purpose of ensuring that national parks, national historic sites and related heritage areas are protected and enhanced.

##### Explicit modifications or adaptations

Crees of Québec – James Bay

Indigenous peoples

✓



**Canada National Parks Act (S.C. 2000, c. 32)**

**Purpose:** To establish and manage national parks dedicated to the people of Canada for their benefit, education and enjoyment.

Explicit modifications or adaptations		
Crees of Québec – James Bay	Indigenous peoples	✓

*Migratory Birds Regulations, 2022 (SOR/2022-105)*

*National Historic Parks General Regulations (SOR/82-263)*

*National Historic Parks Wildlife and Domestic Animals Regulations (SOR/81-613)*

*National Parks Building Regulations (C.R.C., c. 1114)*

*National Parks General Regulations (SOR/78-213)*

*National Parks Highway Traffic Regulations (C.R.C., c. 1126)*

*National Parks Signs Regulations (C.R.C., c. 1130)*

*National Parks Wildlife Regulations (SOR/81-401)*

*National Parks of Canada Aircraft Access Regulations (SOR/97-150)*

*National Parks of Canada Businesses Regulations (SOR/98-455)*

*National Parks of Canada Camping Regulations (SOR/80-127)*

*National Parks of Canada Domestic Animals Regulations (SOR/98-177)*

*National Parks of Canada Fire Protection Regulations (SOR/80-946)*

*National Parks of Canada Fishing Regulations (C.R.C., c. 1120)*

*National Parks of Canada Garbage Regulations (SOR/80-217)*

*National Parks of Canada Lease and Licence of Occupation Regulations (SOR/92-25)*

*National Parks of Canada Water and Sewer Regulations (C.R.C., c. 1134)*

**2. Crees of Québec and James Bay**

**Cree Nation of Eeyou Istchee Governance Agreement Act (S.C. 2018, c. 4, s. 1)**

**Purpose:** To give effect to the Agreement on Cree Nation Governance between the Crees of Eeyou Istchee and the Government of Canada (2017).

**Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples
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***Eeyou Marine Region Land Claims Agreement Act (S.C. 2011, c. 20)***

**Purpose:** To give effect to the Agreement between the Crees of Eeyou Istchee and Her Majesty the Queen in right of Canada concerning the Eeyou Marine Region (2010).

**Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples
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***Indian Act (R.S.C. 1985, c. I-5)***

**Purpose:** To regulate the registration of Indians and the operation of bands and reserves.

**Explicit modifications or adaptations**

Crees of Québec – James Bay		Indigenous peoples	✓
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*Calculation of Interest Regulations (SOR/87-631)*

*Disposal of Forfeited Goods and Chattels Regulations (C.R.C., c. 948)*

*Indian Band Council Borrowing Regulations (C.R.C., c. 949)*

*Indian Band Council Procedure Regulations (C.R.C., c. 950)*

*Indian Band Election Regulations (C.R.C., c. 952)*

*Indian Bands Revenue Moneys Regulations (C.R.C., c. 953)*

*Indian Estates Regulations (C.R.C., c. 954)*

*Indian Mining Regulations (C.R.C., c. 956)*

*Indian Referendum Regulations (C.R.C., c. 957)*

*Indian Reserve Traffic Regulations (C.R.C., c. 959)*

*Indian Reserve Waste Disposal Regulations (C.R.C., c. 960)*

*Indian Timber Harvesting Regulations (SOR/2002-109)*

*Indian Timber Regulations (C.R.C., c. 961)*

## Environmental Law in the James Bay Territory

*Property Assessment and Taxation (Railway Right-of-Way) Regulations (SOR/2001-493)*

### ***James Bay and Northern Quebec Native Claims Settlement Act (S.C. 1976-77, c. 32)***

**Purpose:** To approve and give effect to the JBNQA (1975).

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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### ***Naskapi and the Cree-Naskapi Commission Act (S.C. 1984, c. 18)***

**Purpose:** To provide for an orderly and efficient system of Naskapi local government and for the administration, management and control of Category IA-N land by the Naskapi band in accordance with the Northeastern Quebec Agreement (1978).

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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*Cree-Naskapi Band Elections Regulations (SOR/88-315)*

*Cree-Naskapi Land Registry Regulations (SOR/86-1070)*

*Cree-Naskapi Long-Term Borrowing Regulations 1986 (SOR/86-490)*

*Designating the City of Ottawa as the Place for the Head Office of the Cree-Naskapi Commission (SI/86-177)*

*Form of Deeds Relating to Certain Successions of Cree and Naskapi Beneficiaries Regulations (SOR/89-547)*

*Form of Instrument of Cession Regulations (SOR/85-1084)*

*Inuk of Fort George Observer Regulations (SOR/86-868)*

### **3. Contaminants, Fertilizers and Pesticides**

#### **Fertilizers Act (R.S.C. 1985, c. F-10)**

**Purpose:** To regulate the manufacture, sale, import and export of fertilizers and supplements.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay		Indigenous peoples	
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Environmental Law in the James Bay Territory

*Fertilizers Regulations* (C.R.C., c. 666)

***Perfluorooctane Sulfonate Virtual Elimination Act* (S.C. 2008, c. 13)**

**Purpose:** To add perfluorooctane sulfonate (PFOS) and its salts to the Virtual Elimination List compiled under the *Canadian Environmental Protection Act, 1999* (S.C. 1999, c. 33).

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Regulations Adding Perfluorooctane Sulfonate and Its Salts to the Virtual Elimination List* (SOR/2009-15)

***Pest Control Products Act* (S.C. 2002, c. 28)**

**Purpose:** To protect human health and safety as well as the environment by regulating products used for the control of pests.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*List of Pest Control Product Formulants and Contaminants of Health or Environmental Concern* (SI/2005-114)

*Pest Control Products Fees and Charges Regulations* (SOR/2017-9)

*Pest Control Products Incident Reporting Regulations* (SOR/2006-260)

*Pest Control Products Regulations* (SOR/2006-124)

*Pest Control Products Sales Information Reporting Regulations* (SOR/2006-261)

*Review Panel Regulations* (SOR/2008-22)

***Pesticide Residue Compensation Act* (R.S.C. 1985, c. P-10)**

**Purpose:** To provide compensation to farmers whose agricultural products are contaminated by pesticide residue.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Assessor's Rules of Procedure* (SOR/2003-293)

## Environmental Law in the James Bay Territory

*Pesticide Residue Compensation Regulations (C.R.C., c. 1254)*

### 4. Wildlife and Flora

**Canada Wildlife Act (R.S.C., 1985, c. W-9)**

**Purpose:** To conserve wildlife in Canada.

#### Explicit modifications or adaptations

Crees of Québec – James Bay	Indigenous peoples	✓
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*Designation of Regulatory Provisions for Purposes of Enforcement (Canada Wildlife Act) Regulations (SOR/2017-107)*

*Wildlife Area Regulations (C.R.C., c. 1609)*

**Fisheries Act (R.S.C. 1985, c. F-14)**

**Purpose:** To provide a framework for the proper management and control of fisheries; and the conservation and protection of fish and fish habitat, including by preventing pollution.

#### Explicit modifications or adaptations

Crees of Québec – James Bay	Indigenous peoples	✓
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*Aboriginal Communal Fishing Licences Regulations (SOR/93-332)*

*Aquaculture Activities Regulations (SOR/2015-177)*

*Aquatic Invasive Species Regulations (SOR/2015-121)*

*Authorizations Concerning Fish and Fish Habitat Protection Regulations (SOR/2019-286)*

*Ballast Water Regulations (SOR/2021-120)*

*Conditions for Making Regulations Under Subsection 36(5.2) of the Fisheries Act, Regulations Establishing (SOR/2014-91)*

*Deposit Out of the Normal Course of Events Notification Regulations (SOR/2011-91)*

*Fishery (General) Regulations (SOR/93-53)*

*Fish Toxicant Regulations (SOR/88-258)*

*Foreign Vessel Fishing Regulations (C.R.C., c. 815)*

## Environmental Law in the James Bay Territory

*Management of Contaminated Fisheries Regulations* (SOR/90-351)

*Marine Mammal Regulations* (SOR/93-56)

*Meat and Poultry Products Plant Liquid Effluent Regulations* (C.R.C., c. 818)

*Metal and Diamond Mining Effluent Regulations* (SOR/2002-222)

*Order Declaring that the Wastewater Systems Effluent Regulations Do Not Apply in Quebec* (SOR/2018-194)

*Order Designating the Minister of the Environment as the Minister Responsible for the Administration and Enforcement of Subsections 36(3) to (6) of the Fisheries Act* (SI/2014-21)

*Petroleum Refinery Liquid Effluent Regulations* (C.R.C., c. 828)

*Potato Processing Plant Liquid Effluent Regulations* (C.R.C., c. 829)

*Pulp and Paper Effluent Regulations* (SOR/92-269)

*Quebec Fishery Regulations, 1990* (SOR/90-214)

*Wastewater Systems Effluent Regulations* (SOR/2012-139)

### ***Migratory Birds Convention Act, 1994 (S.C. 1994, c. 22)***

**Purpose:** To implement the Convention for the protection of migratory birds in Canada and the United States (1916) in order to protect and conserve migratory birds and their nests.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay	Indigenous peoples	✓
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*Migratory Birds Regulations, 2022* (SOR/2022-105)

*Migratory Bird Sanctuary Regulations* (C.R.C., c. 1036)

*Designation of Regulatory Provisions for Purposes of Enforcement (Migratory Birds Convention Act, 1994) Regulations* (SOR/2017-108)

### ***Plant Protection Act (S.C. 1990, c. 22)***

**Purpose:** To protect plant life as well as the agricultural and forestry sectors of the Canadian economy by preventing the importation, exportation and spread of pests and by controlling or eradicating pests in Canada.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Asian Long-horned Beetle Compensation Regulations* (SOR/2004-113)

*Golden Nematode Order* (SOR/80-260)

*Plant Protection Regulations* (SOR/95-212)

*Plum Pox Virus Compensation Regulations, 2004* (SOR/2005-131)

*Potato Wart Compensation Regulations, 2003* (SOR/2004-211)

***Species at Risk Act (S.C. 2002, c. 29)***

**Purpose:** To prevent wildlife species from being extirpated or becoming extinct, provide for the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity and manage species of special concern to prevent them from becoming endangered or threatened.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

✓

*Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations* (SOR/2013-140)

***Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (S.C. 1992, c. 52)***

**Purpose:** To protect certain species of animals and plants by regulating international and interprovincial trade in animals and plants.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Wild Animal and Plant Trade Regulations* (SOR/96-263)

**5. Wetlands and Aquatic Environments**

***Canadian Navigable Waters Act (R.S.C. 1985, c. N-22)***

**Purpose:** To protect navigation in Canadian navigable waters.

**Explicit modifications or adaptations**

Crees of Québec – James Bay	Indigenous peoples	✓
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*Ferry Cable Regulations (SOR/86-1026)*

*Major Works Order (SOR/2019-320)*

*Minor Works Order (SOR/2021-170)*

*Navigable Waters Bridges Regulations (C.R.C., c. 1231)*

*Navigable Waters Works Regulations (C.R.C., c. 1232)*

**Canada Shipping Act, 2001 (S.C. 2001, c. 26)**

**Purpose:** To promote safety in marine transportation and a regulatory scheme that encourages viable, effective and economical marine transportation and commerce while protecting the marine environment from damage due to navigation and shipping activities.

**Explicit modifications or adaptations**

Crees of Québec – James Bay	Indigenous peoples	✓
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*Administrative Monetary Penalties and Notices (CSA 2001) Regulations (SOR/2008-97)*

*Arctic Shipping Safety and Pollution Prevention Regulations (SOR/2017-286)*

*Ballast Water Regulations (SOR/2021-120)*

*Board of Steamship Inspection Scale of Fees (C.R.C., c. 1405)*

*Cargo, Fumigation and Tackle Regulations (SOR/2007-128)*

*Collision Regulations (C.R.C., c. 1416)*

*Competency of Operators of Pleasure Craft Regulations (SOR/99-53)*

*Crew Accommodation Regulations (C.R.C., c. 1418)*

*Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations (SOR/2021-25)*

*Environmental Response Regulations (SOR/2019-252)*

*Excluding Certain Government Ships from the Application of the Canada Shipping Act, Regulations (SOR/2000-71)*



## Environmental Law in the James Bay Territory

*Fire and Boat Drills Regulations* (SOR/2010-83)  
*Fishing Vessel Safety Regulations* (C.R.C., c. 1486)  
*Home-Trade, Inland and Minor Waters Voyages Regulations* (C.R.C., c. 1430)  
*Hull Construction Regulations* (C.R.C., c. 1431)  
*Large Fishing Vessel Inspection Regulations* (C.R.C., c. 1435)  
*Life Saving Equipment Regulations* (C.R.C., c. 1436)  
*Load Line Regulations* (SOR/2007-99)  
*Long-Range Identification and Tracking of Vessels Regulations* (SOR/2010-227)  
*Marine Machinery Regulations* (SOR/90-264)  
*Marine Personnel Regulations* (SOR/2007-115)  
*Marine Safety Fees Regulations* (SOR/2021-59)  
*Navigation Safety Regulations, 2020* (SOR/2020-216)  
*Northern Canada Vessel Traffic Services Zone Regulations* (SOR/2010-127)  
*Private Buoy Regulations* (SOR/99-335)  
*Response Organizations Regulations* (SOR/95-405)  
*Safe Working Practices Regulations* (C.R.C., c. 1467)  
*Safety Management Regulations* (SOR/98-348)  
*Ship Radio Inspection Fees Regulations* (C.R.C., c. 1472)  
*Shipping Casualties Reporting Regulations* (SOR/85-514)  
*Ships' Elevator Regulations* (C.R.C., c. 1482)  
*Small Vessel Regulations* (SOR/2010-91)  
*Special-purpose Vessels Regulations* (SOR/2008-121)  
*Steering Appliances and Equipment Regulations* (SOR/83-810)  
*Tackle Regulations* (C.R.C., c. 1494)  
*Towboat Crew Accommodation Regulations* (C.R.C., c. 1498)  
*Vessel Certificates Regulations* (SOR/2007-31)  
*Vessel Clearance Regulations* (SOR/2007-125)

## Environmental Law in the James Bay Territory

*Vessel Detention Orders Review Regulations* (SOR/2007-127)

*Vessel Fire Safety Regulations* (SOR/2017-14)

*Vessel Operation Restriction Regulations* (SOR/2008-120)

*Vessel Pollution and Dangerous Chemicals Regulations* (SOR/2012-69)

*Vessel Registration and Tonnage Regulations* (SOR/2007-126)

*Vessels Registry Fees Tariff* (SOR/2002-172)

*Vessel Traffic Services Zones Regulations* (SOR/89-98)

### **Canada Water Act (R.S.C. 1985, c. C-11)**

**Purpose:** To provide for the management of the water resources of Canada, including research; and the planning and implementation of programs relating to the conservation, development and utilization of water resources.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

### **Dominion Water Power Act (R.S.C. 1985, c. W-4)**

**Purpose:** To regulate water-powers on public lands and other water-powers that are the property of Canada and have been or may be placed under the administration of the Minister of Indigenous Services.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Dominion Water Power Regulations* (C.R.C., c. 1603)

*Expropriation Fees Regulations* (SOR/2000-142)

### **Marine Liability Act (S.C. 2001, c. 6)**

**Purpose:** To define marine liability and validate certain by-laws and regulations.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

## Environmental Law in the James Bay Territory

*Compulsory Insurance for Ships Carrying Passengers, Regulations Respecting* (SOR/2018-245)

*Marine Liability and Information Return Regulations* (SOR/2016-307)

### **Oceans Act (S.C. 1996, c. 31)**

**Purpose:** To promote the integrated management of oceans and marine resources, notably by encouraging the development and implementation of a national strategy for the management of estuarine, coastal and marine ecosystems.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay	Indigenous peoples	✓
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*Certain Marine Carriers Remission Order, 2011* (SI/2011-66)

*Fishing Zones of Canada (Zones 1, 2 and 3) Order* (C.R.C., c. 1547)

*Fishing Zones of Canada (Zones 4 and 5) Order* (C.R.C., c. 1548)

*Fishing Zones of Canada (Zone 6) Order* (C.R.C., c. 1549)

*Territorial Sea Geographical Coordinates Order* (C.R.C., c. 1550)

*Territorial Sea Geographical Coordinates (Area 7) Order* (SOR/85-872)

## **6. Environmental Protection and Sustainable Development**

### **Canada Emission Reduction Incentives Agency Act (S.C. 2005, c. 30, s. 87)**

**Purpose:** To establish an agency whose object is to provide incentives for the reduction or removal of greenhouses gases through the acquisition, on behalf of the Government of Canada, of eligible credits.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay	Indigenous peoples
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### **Canada Foundation for Sustainable Development Technology Act (S.C. 2001, c. 23)**

**Purpose:** To establish a foundation to fund sustainable development technology,.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay	Indigenous peoples
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## Environmental Law in the James Bay Territory

*Order Designating the Minister of Industry as the Minister for the purposes of the Act (SI/2015-111)*

### **Canadian Environmental Protection Act, 1999 (S.C. 1999, c. 33)**

**Purpose:** Various sets of rules and standards aimed at preventing pollution and protecting the environment as well as human health in order to contribute to sustainable development.

Explicit modifications or adaptations		
Crees of Québec – James Bay	Indigenous peoples	✓

*2-Butoxyethanol Regulations (SOR/2006-347)*

*Asbestos Mines and Mills Release Regulations (SOR/90-341)*

*Benzene in Gasoline Regulations (SOR/97-493)*

*Carbon Dioxide Emissions from Natural Gas-fired Generation of Electricity, Regulations Limiting (SOR/2018-261)*

*Chromium Electroplating, Chromium Anodizing and Reverse Etching Regulations (SOR/2009-162)*

*Circumstances for Granting Waivers Pursuant to Section 147 of the Act, Regulations Prescribing (SOR/2010-138)*

*Clean Fuel Regulations (SOR/2022-140)*

*Concentration of Phosphorus in Certain Cleaning Products Regulations (SOR/89-501)*

*Contaminated Fuel Regulations (SOR/91-486)*

*Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations (SOR/2021-25)*

*Disposal at Sea Permit Application Regulations (SOR/2014-177)*

*Disposal at Sea Regulations (SOR/2001-275)*

*Environmental Emergency Regulations, 2019 (SOR/2019-51)*

*Export of Substances on the Export Control List Regulations (SOR/2013-88)*

*Federal Halocarbon Regulations, 2022 (SOR/2022-110)*

*Formaldehyde Emissions from Composite Wood Products Regulations [Not in force] (SOR/2021-148)*

*Fuels Information Regulations, No. 1 (C.R.C., c. 407)*

## Environmental Law in the James Bay Territory

*Gasoline Regulations* (SOR/90-247)

*Gasoline and Gasoline Blend Dispensing Flow Rate Regulations* (SOR/2000-43)

*Heavy-duty Vehicle and Engine Greenhouse Gas Emission Regulations* (SOR/2013-24)

*Marine Spark-Ignition Engine, Vessel and Off-road Recreational Vehicle Emission Regulations* (SOR/2011-10)

*Masked Name Regulations* (SOR/94-261)

*Microbeads in Toiletries Regulations* (SOR/2017-111)

*Multi-Sector Air Pollutants Regulations* (SOR/2016-151)

*New Substances Fees Regulations* (SOR/2002-374)

*New Substances Notification Regulations (Chemicals and Polymers)* (SOR/2005-247)

*New Substances Notification Regulations (Organisms)* (SOR/2005-248)

*Off-road Compression-Ignition (Mobile and Stationary) and Large Spark-Ignition Engine Emission Regulations* (SOR/2020-258)

*Off-Road Small Spark-Ignition Engine Emission Regulations* (SOR/2003-355)

*On-Road Vehicle and Engine Emission Regulations* (SOR/2003-2)

*Ozone-depleting Substances and Halocarbon Alternatives Regulations* (SOR/2016-137)

*Passenger Automobile and Light Truck Greenhouse Gas Emission Regulations* (SOR/2010-201)

*PCB Regulations* (SOR/2008-273)

*Persistence and Bioaccumulation Regulations* (SOR/2000-107)

*Products Containing Mercury Regulations* (SOR/2014-254)

*Prohibition of Asbestos and Products Containing Asbestos Regulations* (SOR/2018-196)

*Prohibition of Certain Toxic Substances Regulations, 2012* (SOR/2012-285)

*Pulp and Paper Mill Defoamer and Wood Chip Regulations* (SOR/92-268)

*Pulp and Paper Mill Effluent Chlorinated Dioxins and Furans Regulations* (SOR/92-267)

## Environmental Law in the James Bay Territory

*Reduction in the Release of Methane and Certain Volatile Organic Compounds (Upstream Oil and Gas Sector), Regulations Respecting (SOR/2018-66)*

*Reduction in the Release of Volatile Organic Compounds Regulations (Petroleum Sector) (SOR/2020-231)*

*Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations (SOR/2012-167)*

*Regulatory Provisions for Purposes of Enforcement (Canadian Environmental Protection Act, 1999), Regulations Designating (SOR/2012-134)*

*Release and Environmental Emergency Notification Regulations (SOR/2011-90)*

*Renewable Fuels Regulations (SOR/2010-189)*

*Rules of Procedure for Boards of Review (SOR/2003-28)*

*Secondary Lead Smelter Release Regulations (SOR/91-155)*

*Single-use Plastics Prohibition Regulations [Not in force] (SOR/2022-138)*

*Solvent Degreasing Regulations (SOR/2003-283)*

*Storage Tank Systems for Petroleum Products and Allied Petroleum Products Regulations (SOR/2008-197)*

*Sulphur in Diesel Fuel Regulations (SOR/2002-254)*

*Sulphur in Gasoline Regulations (SOR/99-236)*

*Tetrachloroethylene (Use in Dry Cleaning and Reporting Requirements) Regulations (SOR/2003-79)*

*Tributyltetradecylphosphonium Chloride Regulations (SOR/2000-66)*

*Virtual Elimination List (SOR/2006-298)*

*Volatile Organic Compound (VOC) Concentration Limits for Architectural Coatings Regulations (SOR/2009-264)*

*Volatile Organic Compound (VOC) Concentration Limits for Automotive Refinishing Products Regulations (SOR/2009-197)*

*Volatile Organic Compound Concentration Limits for Certain Products Regulations [Not in force] (SOR/2021-268)*

***Department of the Environment Act (R.S.C. 1985, c. E-10)***

**Purpose:** To establish the Department of the Environment and define the powers, duties and functions of the Minister of the Environment.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

***Energy Administration Act (R.S.C., 1985, c. E-6)***

**Purpose:** To provide for the administration and control of certain energy sources, in particular with regard to charges, compensation and pricing.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Energy Administration Act Sections 53 to 65 Non-application Order, 1986 (SOR/86-1049)*

***Environmental Violations Administrative Monetary Penalties Act (S.C. 2009, c. 14, s. 126)***

**Purpose:** To establish a system of administrative monetary penalties for the enforcement of various federal laws.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Canadian Greenhouse Gas Offset Credit System Regulations (SOR/2022-111)*

*Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations (SOR/2021-25)*

*Environmental Violations Administrative Monetary Penalties Regulations (SOR/2017-109)*

*Migratory Birds Regulations, 2022 (SOR/2022-105)*

*Output-Based Pricing System Regulations (SOR/2019-266)*

***Impact Assessment Act (S.C. 2019, c. 28, s. 1)***

**Purpose:** To establish the Impact Assessment Agency of Canada and an impact assessment process aimed, among others, at preventing significant adverse environmental effects.

\*The Supreme Court of Canada invalidated the Act's main impact assessment process in October 2023 (*Reference re Impact Assessment Act*, 2023 SCC 23).

Explicit modifications or adaptations		
Crees of Québec – James Bay	Indigenous peoples	✓

*Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations (SOR/2021-25)*

*Information and Management of Time Limits Regulations (SOR/2019-283)*

*Designated Classes of Projects Order (SOR/2019-323)*

*Physical Activities Regulations (SOR/2019-285)*

***Federal Sustainable Development Act (S.C. 2008, c. 33)***

**Purpose:** To provide the legal framework for developing and implementing a federal sustainable development strategy.

Explicit modifications or adaptations		
Crees of Québec – James Bay	Indigenous peoples	✓

***Manganese-based Fuel Additives Act (S.C. 1997, c. 11)***

**Purpose:** To regulate interprovincial trade in and the importation for commercial purposes of certain manganese-based substances.

Explicit modifications or adaptations		
Crees of Québec – James Bay	Indigenous peoples	

**7. Natural Resources, Fuel and Energy**

***Canada Oil and Gas Operations Act (R.S.C. 1985, c. O-7)***

**Purpose:** To promote the exploration for and exploitation of oil and gas in Canada.

Explicit modifications or adaptations		
Crees of Québec – James Bay	Indigenous peoples	✓



Environmental Law in the James Bay Territory

*Canada Oil and Gas Certificate of Fitness Regulations* (SOR/96-114)

*Canada Oil and Gas Diving Regulations* (SOR/88-600)

*Canada Oil and Gas Drilling and Production Regulations* (SOR/2009-315)

*Canada Oil and Gas Geophysical Operations Regulations* (SOR/96-117)

*Canada Oil and Gas Installations Regulations* (SOR/96-118)

*Canada Oil and Gas Operations Administrative Monetary Penalties Regulations* (SOR/2016-25)

*Canada Oil and Gas Operations Financial Requirements Regulations* (SOR/2016-26)

*Canada Oil and Gas Operations Regulations* (SOR/83-149)

*List of Spill-treating Agents (Canada Oil and Gas Operations Act), Regulations Establishing a* (SOR/2016-108)

*Navigation Safety Regulations, 2020* (SOR/2020-216)

*Oil and Gas Spills and Debris Liability Regulations* (SOR/87-331)

***Canada Petroleum Resources Act (R.S.C. 1985, c. 36 (2<sup>nd</sup> supp.))***

**Purpose:** To regulate interests in petroleum in relation to frontier lands.

**Explicit modifications or adaptations**

Crees of Québec – James Bay	Indigenous peoples	✓
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*Environmental Studies Research Fund Regions Regulations* (SOR/87-641)

*Frontier Lands Petroleum Royalty Regulations* (SOR/92-26)

*Frontier Lands Registration Regulations* (SOR/88-230)

***Canadian Energy Regulator Act (S.C. 2019, c. 28, s. 10)***

**Purpose:** To establish an independent energy regulatory body that is responsible for ensuring that pipeline, power line and offshore renewable energy projects within the Parliament of Canada’s jurisdiction are constructed, operated and abandoned in a safe and secure manner that protects people, property and the environment.

**Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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## Environmental Law in the James Bay Territory

*Circumstances for Excluding Periods from Time Limits Regulations (SOR/2019-348)*

*International and Interprovincial Power Line Damage Prevention Regulations – Obligations of Holders of Permits and Certificates (SOR/2020-49)*

*International and Interprovincial Power Line Damage Prevention Regulations — Authorizations (SOR/2019-347)*

*Order Designating the Minister of Natural Resources, a member of the Queen's Privy Council for Canada, as the Minister for the purposes of the two Acts (SI/2019-65)*

*Regulations Amending the Pipeline Financial Requirements Regulations (SOR/2021-134)*

### ***Department of Natural Resources Act (S.C. 1994, c. 41)***

**Purpose:** To establish the Department of Natural Resources and define the powers, duties and functions of the Minister of Natural Resources.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Report on the State of Canada's Forests Regulations (SOR/95-479)*

### ***Energy Efficiency Act (S.C. 1992, c. 36)***

**Purpose:** To provide a framework for the energy efficiency of energy-using products and the use of alternative energy sources.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Energy Efficiency Regulations, 2016 (SOR/2016-311)*

### ***Energy Supplies Emergency Act (R.S.C. 1985, c. E-9)***

**Purpose:** To provide a means to conserve the supplies of energy within Canada during periods of national emergency caused by shortages or market disturbances affecting the national security and welfare and the economic stability of Canada.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

***First Nations Oil and Gas and Moneys Management Act (S.C. 2005, c. 48)***

**Purpose:** To provide First Nations with the option of managing and regulating oil and gas exploration and exploitation; and of receiving moneys otherwise held for them by Canada.

Explicit modifications or adaptations		
Crees of Québec – James Bay	Indigenous peoples	✓

*First Nations Oil And Gas Environmental Assessment Regulations (SOR/2007-272)*

*First Nations Oil and Gas and Moneys Management Voting Regulations (SOR/2006-254)*

***Motor Vehicle Fuel Consumption Standards Act (R.S.C. 1985, c. M-9)***

**Purpose:** To regulate motor vehicle fuel consumption standards.

Explicit modifications or adaptations		
Crees of Québec – James Bay	Indigenous peoples	

***Nuclear Energy Act (R.S.C. 1985, c. A-16)***

**Purpose:** To control the development and utilization of nuclear energy.

Explicit modifications or adaptations		
Crees of Québec – James Bay	Indigenous peoples	✓

***Nuclear Fuel Waste Act (S.C. 2002, c. 23)***

**Purpose:** To provide a framework to enable the Governor in Council to make decisions on the management of nuclear fuel waste that is based on a comprehensive, integrated and economically sound approach for Canada.

Explicit modifications or adaptations		
Crees of Québec – James Bay	Indigenous peoples	✓

***Oil Substitution and Conservation Act (R.S.C. 1985, c. O-8)***

**Purpose:** To provide a framework on oil conservation and the substitution for oil of other energy sources.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

***Resources and Technical Surveys Act (R.S.C. 1985, c. R-7)***

**Purpose:** To provide a framework regarding surveys of natural resources and the geographical and geological features of any part of Canada by the federal government.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

## B. PROVINCIAL LAWS AND REGULATIONS

### 1. Protected Areas and Land Use Planning

#### *Agricultural lands in the domain of the State, Act respecting (CQLR, c. T-7.1)*

**Purpose:** To set out the rules applicable to agricultural lands in the domain of the State, whether ungranted or under concession.

#### Explicit modifications or adaptations

Crees of Québec – James Bay		Indigenous peoples	✓
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*Administration fees payable under the Act respecting agricultural lands in the domain of the State, Regulation respecting (CQLR, c. T-7.1, r. 5)*

*Alienation and leasing of agricultural lands in the domain of the State, Regulation respecting the (CQLR, c. T-7.1, r. 2)*

*Alienation of agricultural lands in the domain of the State to certain occupants, Regulation respecting the (CQLR, c. T-7.1, r. 1)*

*Public blueberry fields, Regulation respecting (CQLR, c. T-7.1, r. 3)*

*Signing of certain documents of the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation, Regulation respecting the (CQLR, c. M-14, r. 2)*

*Woodcutting on lands under the authority of the Minister of Agriculture, Fisheries and Food, Regulation respecting (CQLR, c. T-7.1, r. 4)*

#### *Cities and Towns Act (CQLR, c. C-19)*

**Purpose:** To provide a framework for the operation and powers of cities (as opposed to municipalities).

#### Explicit modifications or adaptations

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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*Applicable thresholds, ceilings and time periods when awarding certain municipal contracts, Regulation ordering the (RLRQ, c. C-19, r. 5)*

*Awarding of certain contracts required by a municipal body, school service centre or school board to implement, operate or use a broadband telecommunications network, Rules for the (CQLR, c. C-19, r. 1)*

## Environmental Law in the James Bay Territory

*Awarding of contracts for certain professional services, Regulation respecting the (CQLR, c. C-19, r. 2)*

*Construction contracts of municipal bodies, Regulation respecting (CQLR, c. C-19, r. 3)*

*Reimbursement of councillors' research and support expenses, Regulation respecting the (CQLR, c. T-11.001, r. 1)*

### ***Lands in the domain of the State, Act respecting the (CQLR, c. T-8.1)***

**Purpose:** To set out the rules applicable to the management and control of use of the lands in the domain of the State, and to the granting of land rights in them.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

✓

Indigenous peoples

✓

*Gratuitous transfer of land for public use, Regulation respecting (CQLR, c. T-8.1, r. 1)*

*Disposition of certain surplus or confiscated properties, Regulation respecting the (CQLR, c. T. 8.1, r. 2)*

*Fees for attestation, registration and research in the Register of the domain of the State, Regulation respecting (CQLR, c. T-8.1, r. 3)*

*Fees exigible for the transfer of land management, Regulation respecting (CQLR, c. T-8.1, r. 4)*

*Leasing of land in the domain of the State for the building, operation and maintenance by private producers of hydroelectric power plants having a capacity of 25 MW or less, Regulation respecting the (CQLR, c. T-8.1, r. 5)*

*Regularization of certain kinds of occupation of lands in the domain of the State, Regulation respecting the (CQLR, c. T-8.1, r. 6)*

*Sale, lease and granting of immovable rights on lands in the domain of the State, Regulation respecting the (CQLR, c. T-8.1, r. 7)*

### ***Land use planning and development, Act respecting (CQLR, c. A-19.1)***

**Purpose:** To establish a land use planning and development regime at the municipal level (land use and development plants, planning by-laws, etc.).

**Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples
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*Building permit information, Regulation respecting (CQLR, c. A-19.1, r. 1)*

*Public participation in matters of land use planning and development, Regulation respecting (CQLR, c. A-19.1, r. 0.1)*

**Ministère des Affaires municipales, des Régions et de l’Occupation du territoire, Act respecting the (CQLR, c. M-22.1)**

**Purpose:** To establish the Ministère des Affaires municipales, des Régions et de l’Occupation du territoire and define its powers, duties and functions.

**Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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*Signing of certain documents of the Ministère des Affaires municipales, des Régions et de l’Occupation du territoire, Regulation respecting the (CQLR, c. M-22.1, r. 3)*

**Municipal Powers Act (CQLR, c. C-47.1)**

**Purpose:** To grant powers enabling local municipalities and regional county municipalities—but not Northern, Cree or Naskapi villages—to respond to various changing municipal needs in the interest of their citizens.

**Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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*Eligibility for the tax credit provided for in the first paragraph of section 92.1 of the Municipal Powers Act, Regulation respecting (CQLR, c. C-47.1, r. 0.1)*

*Exclusion of watercourses or parts of watercourses from the jurisdiction of regional county municipalities, Order in Council respecting the (CQLR, c. C-47.1, r. 3)*

**Natural Heritage Conservation Act (CQLR, c. C-61.01)**

**Purpose:** To ensure the conservation of Quebec’s natural heritage and of the associated values (efficient management, involvement of citizens and Indigenous communities, etc.).

**Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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*Certain transitional measures of the Act to amend the Natural Heritage Conservation Act and other provisions, Regulation respecting (RLRQ, c. C-61.01, r. 0.1)*

**Occupancy and vitality of territories, Act to ensure the (CQLR, c. O-1.3)**

**Purpose:** To contribute to the occupancy and vitality of territories throughout Quebec by adapting the management framework within the Administration and by inviting elected municipal officers to promote the occupancy and vitality of territories in the performance of their duties.

**Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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**Parks Act (CQLR, c. P-9)**

**Purpose:** To provide a framework for the establishment and management of national parks, *i.e.* parks whose primary purpose is to ensure the conservation and permanent protection of areas representative of the natural regions of Quebec and of natural sites with outstanding features while providing the public with access to those areas or sites for educational or cross-country recreation purposes.

**Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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*Parks Regulation (CQLR, c. P-9, r. 25)*

**Preservation of agricultural land and agricultural activities Act respecting the (CQLR, c. P-41.1)**

**Purpose:** To secure a lasting territorial basis for the practice of agriculture and promote, in keeping with the concept of sustainable development, the preservation and development of agricultural activities and enterprises.

**Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples	
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## Environmental Law in the James Bay Territory

*Authorization for the alienation or use of a lot without the authorization of the Commission de protection du territoire agricole du Québec, Regulation respecting the (CQLR, c. P-41.1, r. 1.1)*

*Declarations required under the Act, the erection of rudimentary structures and advertising billboards, the enlargement of residential sites and the dismemberment of property for which no authorization is required, Regulation respecting the (CQLR, c. P-41.1, r. 2)*

*Fees of experts and investigators whose services the Commission de protection du territoire agricole du Québec considers expedient to retain, Regulation respecting (CQLR, c. P-41.1, r. 3)*

*Implementation of the Act to amend the Act respecting the preservation of agricultural land and agricultural activities and other legislative provisions, Regulation respecting the (CQLR, c. P-41.1, r. 4)*

*Odours caused by manure from agricultural activities, Guidelines respecting (CQLR, c. P-41.1, r. 5) Preservation of Agricultural Land and Agricultural Activities Regulation (CQLR, c. P-41.1, r. 1)*

*Tariff of duties, fees and costs made under the Act respecting the preservation of agricultural land and agricultural activities, Regulation respecting the (CQLR, c. P-41.1, r. 6)*

### ***Sustainable Forest Development Act (CQLR, c. A-18.1)***

**Purpose:** To establish a forest regime designed to implement sustainable forest development and ensure integrated and regionalized resource and land management based on clear, consistent objectives, measurable results and the accountability of managers and users of the forest.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

✓

Indigenous peoples

✓

*Certain transitional measures of the Act to amend the Natural Heritage Conservation Act and other provisions, Regulation respecting (CQLR, c. C-61.01, r. 0.1)*

*Changes in the destination of timber purchased by a holder of a timber supply guarantee pursuant to the guarantee, Regulation respecting (CQLR, c. A-18.1, r. 0.1)*

*Forest Protection Regulation (CQLR, c. A-18.1, r. 10.1)*

## Environmental Law in the James Bay Territory

*Forestry permits, Regulation respecting (CQLR, c. A-18.1, r. 8.1)*

*Method for assessing the annual royalty and the method and frequency for assessing the market value of standing timber purchased by guarantee holders pursuant to their timber supply guarantee, Regulation respecting the (CQLR, c. A-18.1, r. 6)*

*Reimbursement of property taxes of certified forest producers, Regulation respecting the (CQLR, c. A-18.1, r. 12.1)*

*Scaling of timber harvested in forests in the domain of the State, Regulation respecting the (CQLR, c. A-18.1, r. 5.1)*

*Sustainable development of forests in the domain of the State, Regulation respecting the (CQLR, c. A-18.1, r. 0.01)*

*Terms of payment of the annual royalty and timber purchased by guarantee holders pursuant to their timber supply guarantee, Regulation respecting the (CQLR, c. A-18.1, r. 6.1)*

### 2. Crees of Québec and James Bay

***Agreement concerning James Bay and Northern Quebec, Act approving the (CQLR, c. C-67)***

**Purpose:** To approve and give effect to the JBNQA (1975).

#### Explicit modifications or adaptations

Crees of Québec – James Bay

✓

Indigenous peoples

*Eligibility for the benefits of the Agreement concerning James Bay and Northern Quebec, Regulation respecting (CQLR, c. 67, r. 1)*

***Cree, Inuit and Naskapi Native persons, Act respecting (CQLR, c. A-33.1)***

**Purpose:** To define the rules applicable to the entitlement and registration of Cree, Inuit and Naskapi beneficiaries to enable them to invoke the rights, privileges and benefits recognized by law.

#### Explicit modifications or adaptations

Crees of Québec – James Bay

✓

Indigenous peoples

✓

***Cree Nation Government, Act respecting the (CQLR, c. G-1.031)***

## Environmental Law in the James Bay Territory

**Purpose:** To establish the Cree Nation Government and define its objects, powers and jurisdictions, particularly regarding municipal, local and regional management, natural resource management, and land management.

### Explicit modifications or adaptations

Crees of Québec – James Bay	✓	Indigenous peoples
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### *Cree Villages and the Naskapi Village Act, The (CQLR, c. V-5.1)*

**Purpose:** To establish the Cree villages and the Naskapi village, and define their powers, among other things, in environmental matters.

### Explicit modifications or adaptations

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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### *Eeyou Istchee James Bay Regional Government, Act establishing the (CQLR, c. G-1.04)*

**Purpose:** To establish the Eeyou Istchee James Bay Regional Government and define its jurisdictions by reference, among other things, to the powers of a municipality under the *Cities and Towns Act* (CQLR, c. C-19).

### Explicit modifications or adaptations

Crees of Québec – James Bay	✓	Indigenous peoples
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### *Hunting and fishing rights in the James Bay and New Quebec territories, Act respecting (CQLR, c. D-13.1)*

**Purpose:** To establish a hunting, fishing and trapping regime adjusted to three zones (northern zone – lying north of the 50<sup>th</sup> parallel, middle zone, and southern zone) in the James Bay and New Quebec territories.

### Explicit modifications or adaptations

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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*Applications for outfitting facilities in the James Bay and New Quebec territories, Administrative procedural rules respecting (CQLR, c. D-13.1, r. 1)*

## Environmental Law in the James Bay Territory

*Right of first refusal to establish and operate outfitting facilities in Category III lands, Regulation to renew the (CQLR, c. D-13.1, r. 0.1)*

***Implementation of the Agreement Concerning a New Relationship Between le Gouvernement du Quebec and the Crees of Quebec, Act to ensure the (CQLR, c. M-35.1.2)***

**Purpose:** To implement the Agreement Concerning a New Relationship Between le Gouvernement du Quebec and the Crees of Quebec (2002) and subsequent amendments to Quebec laws of general and specific application.

### Explicit modifications or adaptations

Crees of Québec – James Bay	✓	Indigenous peoples
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*Publication of the Agreement concerning a new Relationship between le Gouvernement du Quebec and the Crees of Quebec, Order in council respecting the (CQLR, c. M-35.1.2, r. 1)*

***James Bay Native Development Corporation, Act respecting the (CQLR, c. S-9.1)***

**Purpose:** To establish a corporation, whose objects are, among other things, to promote the development of the territory (fuel distribution, mining, forest exploitation, etc.) with a view to stimulating maximum economic opportunities for Crees and contributing to their general economic well-being.

### Explicit modifications or adaptations

Crees of Québec – James Bay	✓	Indigenous peoples
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***James Bay Eeyou Corporation, Act respecting the (CQLR, c. S-16.1)***

**Purpose:** To establish a corporation whose objects are, among other things, to mitigate the impact of Le Complexe La Grande (1975) in accordance with the La Grande Agreement (1986), improve the conditions of the members of the Cree communities, preserve the traditional way of life of the James Bay Crees, promote their culture, values and traditions, and improve the relationship between the Crees and Hydro-Québec.

### Explicit modifications or adaptations

Crees of Québec – James Bay	✓	Indigenous peoples
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***James Bay Region Development Act (CQLR, c. D-8.0.1)***

## Environmental Law in the James Bay Territory

**Purpose:** To establish the Société de développement de la Baie-James, whose mission is to promote economic development and the development and exploitation of natural resources, other than hydroelectric resources falling within Hydro-Québec's mandate, in the territory of the James Bay region with a view to sustainable development.

### Explicit modifications or adaptations

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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### *Land regime in the James Bay and New Quebec territories, Act respecting the (CQLR, c. R-13.1)*

**Purpose:** To implement the JBNQA (1975) and the Northeastern Quebec Agreement (1978) through the establishment of land regimes applicable in the territories south and north of the 55<sup>th</sup> parallel, as well as on certain lands in the Schefferville region.

### Explicit modifications or adaptations

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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### *Northeastern Quebec Agreement, Act approving the (CQLR, c. C-67.1)*

**Purpose:** To approve and give effect to the Northeastern Quebec Agreement (1978).

### Explicit modifications or adaptations

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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*Eligibility for the benefits of the Northeastern Quebec Agreement, Regulation respecting (CQLR, c. C-67.1, r. 1)*

### *Société du Plan Nord, Act respecting the (CQLR, c. S-16.011)*

**Purpose:** To establish a company whose mission is to contribute, in collaboration with the representatives of the regions and the aboriginal nations concerned as well as the private sector, to the integrated and coherent development of the area covered by the Northern Plan, in keeping with the principle of sustainable development and in accordance with the Government's policy directions relating to the Northern Plan.

### Explicit modifications or adaptations

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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*Signature de certains actes, documents et écrits de la Société du Plan Nord, Règlement sur la [English version not available] (RLRQ, c. S-16.011, r. 2)*

### 3. Contaminants, Fertilizers and Pesticides

#### ***Pesticides Act (CQLR, c. P-9.3)***

**Purpose:** To foster a decrease in and the rationalization of the use of pesticides so as to prevent or mitigate harmful effects on the health of humans and other living species, as well as damage to the environment or to property.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Permits and certificates for the sale and use of pesticides, Regulation respecting (CQLR, c. P-9.3, r. 2)*

*Pesticides Management Code (CQLR, c. P-9.3, r. 1)*

*Temporary implementation of the amendments made by chapter 7 of the Statutes of 2021 in connection with the management of flood risks, Regulation respecting the (CQLR, c. Q-2, r. 32.2)*

### 4. *Jus commune*

#### ***Civil Code of Quebec (CQLR, c. CCQ-1991)***

**Purpose:** Body of rules laying the down the *jus commune* in Quebec and governing the general principles of law, persons, relations between persons and property.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

✓

Indigenous peoples

✓

### 5. Wildlife and Flora

#### ***Conservation and development of wildlife, Act respecting the (CQLR, c. C-61.1)***

**Purpose:** Conservation of wildlife and its habitat, and their development in keeping with the principle of sustainable development and the recognition of every person's right to hunt, fish and trap.

**Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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*Animals in captivity, Regulation respecting (CQLR, c. C-61.1, r. 5.1)*

*Animals that must be declared, Regulation respecting (CQLR, c. C-61.1, r. 4)*

*Applications for financial assistance submitted to the Fondation de la faune du Québec, By-law respecting (CQLR, c. C-61.1, r. 15)*

*Aquaculture and the sale of fish, Regulation respecting (CQLR, c. C-61.1, r. 7)*

*Beaver reserves, Regulation respecting (CQLR, c. C-61.1, r. 28)*

*Classes of aquaculture licences, Regulation respecting the (CQLR, c. C-61.1, r. 9)*

*Content of an outfitter's licence, Regulation respecting the (CQLR, c. C-61.1, r. 33)*

*Delegation of certain powers of the Minister of Natural Resources and Wildlife, Ministerial Order respecting the (CQLR, c. C-61.1, r. 13)*

*Disposal of seized or confiscated property, Regulation respecting the (CQLR, c. C-61.1, r. 16)*

*Enforcement of legislative provisions by wildlife protection officers, Regulation respecting the (CQLR c. C-61.1, r. 6)*

*Establishment of wildlife sanctuaries, Ministerial Order concerning the (CQLR, c. C-61.1, r. 53.1)*

*Fees to be paid under section 106.6 of the Act respecting the conservation and development of wildlife, Regulation respecting the (CQLR, c. C-61.1, r. 17)*

*Fishing and hunting areas, Regulation respecting (CQLR, c. C-61.1, r. 34)*

*Fishing licences, Regulation respecting (CQLR, c. C-61.1, r. 20.2)*

*Fort-Rupert, Eastmain, Nouveau-Comptoir, Fort George, Mistassini, Waswanipi, Nemiscau and Great Whale River fish and game reserves, Regulation respecting the (CQLR, c. C-61.1, r. 29)*

*Hunting, Regulation respecting (CQLR, c. C-61.1, r. 12)*

*Hunting activities, Regulation respecting (CQLR, c. C-61.1, r. 1)*

*Hunting and fishing controlled zones, Regulation respecting (CQLR, c. C-61.1, r. 78)*

## Environmental Law in the James Bay Territory

*Licences to keep animals in captivity, Regulation respecting* (CQLR, c. C-61.1, r. 20.1.1)

*Outfitters, Regulation respecting* (CQLR, c. C-61.1, r. 24)

*Payment of indemnities to holders of hunting or trapping licences and the payment of third party damages, Regulation respecting the* (CQLR, c. C-61.1, r. 19)

*Possession and sale of an animal, Regulation respecting the* (CQLR, c. C-61.1, r. 23)

*Salmon fishing controlled zones, Regulation respecting* (CQLR, c. C-61.1, r. 79)

*Scale of fees and duties related to the development of wildlife, Regulation respecting the* (CQLR, c. C-61.1, r. 32)

*Tracking Dog Handler Pilot Project* (CQLR, c. C-61.1, r. 25.1)

*Trapping activities and the fur trade, Regulation respecting* (CQLR, c. C-61.1, r. 3)

*Trapping and the fur trade, Regulation respecting* (CQLR, c. C-61.1, r. 21)

*Wildfowl hunting controlled zones, Regulation respecting* (CQLR, c. C-61.1, r. 77)

*Wildlife habitats, Regulation respecting* (CQLR, c. C-61.1, r. 18)

*Wildlife sanctuaries, Regulation respecting* (CQLR, c. C-61.1, r. 53)

### ***Threatened or vulnerable species, Act respecting* (CQLR, c. E-12.01)**

**Purpose:** To protect and manage designated threatened or vulnerable species and their habitats.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

✓

Indigenous peoples

*Disposal of things seized, Regulation respecting the* (CQLR, c. E-12.01, r. 1)

*List of plant and wildlife species which are likely to be designated as threatened or vulnerable* (CQLR, c. E-12.01, r. 5)

*Threatened or vulnerable plant species and their habitats, Regulation respecting* (CQLR, c. E-12.01, r. 3)

*Threatened or vulnerable wildlife species and their habitats, Regulation respecting* (CQLR, c. E-12.01, r. 2)

### ***Tree Protection Act* (CQLR, c. P-37)**



**Purpose:** Actual and punitive damages for destroying or damaging a tree, sapling or shrub, or any underwood, anywhere other than in a forest under the management of the Minister of Natural Resources and Wildlife, without having obtained the consent of the owner of such tree or an authorization from the Minister of Sustainable Development, Environment and Parks.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

**6. Wetlands and Aquatic Environments**

*Artificial inducement of rain, Act respecting the (CQLR, c. P-43)*

**Purpose:** To provide a framework for the artificial inducement of rain.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Artificial inducement of rain, Regulation respecting the (CQLR, c. P-43, r.1)*

*Collective nature of water resources and to promote better governance of water and associated environments, Act to affirm the (CQLR, c. C-6.2)*

**Purpose:** To promote integrated management of water resources and the environments associated with them in keeping with the principle of sustainable development and considering the support capacity of the wetlands and bodies of water concerned and their watersheds.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

✓

Indigenous peoples

✓

*Water Withdrawal and Protection Regulation (CQLR, c. Q-2, r. 35.2)*

*Commercial aquaculture, Act respecting (CQLR, c. A-20.2)*

**Purpose:** To regulate the operation of fishing ponds for commercial purposes, aquaculture for commercial purposes and, in the waters in the domain of the State, aquaculture carried on for research or experimentation purposes.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Commercial Aquaculture Regulation (CQLR, c. A-20.1, r.1)*

**Commercial fishing and commercial harvesting of aquatic plants, Act respecting (CQLR, c. P-9.01)**

**Purpose:** To promote the development of commercial fisheries and the commerce of aquatic products caught or taken from tideless waters of the domain of the State as well as regulating the right to fish for commercial purposes in these waters and the commercial harvesting of aquatic plants.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

**Dam Safety Act (CQLR, c. S-3.1.01)**

**Purpose:** To increase the safety of the dams to which the Act applies and protect persons and property against the risks associated with the presence of dams.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Dam Safety Regulation (CQLR, c. S-3.1.01, r.1)*

**Watercourses Act (CQLR, c. R-13)**

**Purpose:** To regulate the granting of rights over the beds of waters forming part of the domain of the State, the use of its hydraulic domain, and the allocation of rights for exploiting hydraulic power.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Leasing of land in the domain of the State for the building, operation and maintenance by private producers of hydroelectric power plants having a capacity of 25 MW or less, Regulation respecting the (CQLR, c. T-8.1, r.5)*

*Water property in the domain of the State, Regulation respecting the (CQLR, c. R-13, r. 1)*

**7. Environmental Protection and Sustainable Development**

**Building Act (CQLR, c. B-1.1)**

**Purpose:** To ensure proper quality of the construction work of buildings, the safety of the public who have access to a building, and the vocational qualifications, integrity and solvency of contractors and owner-builders.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

✓

Indigenous peoples

*Agreement related to the mandate entrusted to the Corporation des maîtres électriciens du Québec in respect of the administration and application of the Building Act pertaining to the vocational qualification of its members and the financial guarantees required from them, Order in council respecting the (CQLR, c. B-1.1, r. 4)*

*Agreement related to the mandate entrusted to the Corporation des maîtres mécaniciens en tuyauterie du Québec in respect of the administration and application of the Building Act pertaining to the vocational qualification of its members and the financial guarantees required from them, Order in council (CQLR, c. B-1.1, r. 5)*

*Application of the Building Act, Regulation respecting the (CQLR, c. B-1.1, r. 1)*

*Construction Code (CQLR, c. B-1.1, r. 2)*

*Continuing education requirements for master electricians, Regulation respecting (CQLR, c. M-3, r. 3.1)*

*Continuing education requirements for master pipe-mechanics, Regulation respecting (CQLR, c. M-4, r. 3)*

*Guarantee plan for new residential buildings, Regulation respecting the (CQLR, c. B-1.1, r. 8)*

*Mandate entrusted to the Corporation des maîtres électriciens du Québec and to the Corporation des maîtres mécaniciens en tuyauterie du Québec, Regulation respecting the (CQLR, c. B-1.1, r. 7)*

*Pressure installations, Regulation respecting (CQLR, c. B-1.1, r. 6.1)*

*Professional qualification of contractors and owner-builders, Regulation respecting the (CQLR, c. B-1.1, r. 9)*

*Rules of practice of the Régie du bâtiment du Québec, Regulation respecting the (CQLR, c. B-1.1, r. 10)*

*Safety Code (CQLR, c. B-1.1, r. 3)*

## Environmental Law in the James Bay Territory

*Safety in public baths, Regulation respecting* (CQLR, c. B-1.1, r. 11)

*Signing of certain deeds, documents or writings of the Régie du bâtiment du Québec, Regulation respecting the* (CQLR, c. B-1.1, r. 13)

### ***Environment Quality Act* (CQLR, c. Q-2)**

**Purpose:** Various control regimes (ministerial and governmental authorizations, etc.) and standards aimed at protecting the environment and preserving the species that inhabit it.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

✓

Indigenous peoples

✓

*Activities in wetlands, bodies of water and sensitive areas, Regulation respecting* (CQLR, c. Q-2, r. 0.1)

*Agricultural Operations Regulation* (CQLR, c. Q-2, r. 26)

*Biomedical waste, Regulation respecting* (CQLR, c. Q-2, r. 12)

*Bureau d'audiences publiques sur l'environnement, Rules of procedure of the* (CQLR, c. Q-2, r. 45.1)

*Burial of contaminated soils Regulation respecting the* (CQLR, c. Q-2, r. 18)

*Cap-and-trade system for greenhouse gas emission allowances, Regulation respecting a* (CQLR, c. Q-2, r. 46.1)

*Certain bodies for the protection of the environment and social milieu of the territory of James Bay and Northern Quebec, Regulation respecting* (CQLR, c. Q-2, r. 34)

*Charges payable for the disposal of residual materials, Regulation respecting the* (CQLR, c. Q-2, r. 43)

*Charges payable for the use of water, Regulation respecting the* (CQLR, c. Q-2, r. 42.1)

*Clean Air Regulation* (CQLR, c. Q-2, r. 4.1)

*Compensation for adverse effects on wetlands and bodies of water, Regulation respecting* (CQLR, c. Q-2, r. 9.1)

*Compensation for municipal services provided to recover and reclaim residual materials, Regulation respecting* (CQLR, c. Q-2, r. 10)

*Contaminated soil storage and contaminated soil transfer stations, Regulation respecting* (CQLR, c. Q-2, r. 46)

## Environmental Law in the James Bay Territory

*Declaration of water withdrawals, Regulation respecting the (CQLR, c. Q-2, r. 14)*

*Design code of a storm water management system eligible for a declaration of compliance (CQLR, c. Q-2, r. 9.01)*

*Determination of annual caps on greenhouse gas emission units relating to the cap-and-trade system for greenhouse gas emission allowances for the 2021-2030 period (CQLR, c. Q-2, r. 15.3)*

*Development, implementation and financial support of a deposit-refund system for certain containers, Regulation respecting the (CQLR, c. Q-2, r. 16.1)*

*Environmental and social impact assessment and review procedure applicable to the territory of James Bay and Northern Quebec, Regulation respecting the (CQLR, c. Q-2, r. 25)*

*Environmental impact assessment and review of certain projects, Regulation respecting the (CQLR, c. Q-2, r. 23.1)*

*Environmental standards for heavy vehicles, Regulation respecting (CQLR, c. Q-2, r. 33)*

*Fees payable with respect to the environmental authorization scheme and other fees, Regulation respecting the (CQLR, c. Q-2, r. 28.02)*

*Financial guarantees payable for the operation of a residual organic materials reclamation facility, Regulation respecting (CQLR, c. Q-2, r. 28.1)*

*Framework for authorization of certain projects to transfer water out of the St. Lawrence River Basin, Regulation respecting the (CQLR, c. Q-2, r. 5.1)*

*Greenhouse gas emissions from motor vehicles, Regulation respecting (CQLR, c. Q-2, r. 17)*

*Halocarbons, Regulation respecting (CQLR, c. Q-2, r. 29)*

*Halocarbon destruction projects eligible for the issuance of offset credits, Regulation respecting (CQLR, c. Q-2, r. 35.4)*

*Hazardous materials, Regulation respecting (CQLR, c. Q-2, r. 32)*

*Hot mix asphalt plants, Regulation respecting (CQLR, c. Q-2, r. 48)*

*Land Protection and Rehabilitation Regulation (CQLR, c. Q-2, r. 37)*

*Landfill methane reclamation and destruction projects eligible for the issuance of offset credits, Regulation respecting (CQLR, c. Q-2, r. 35.5)*

## Environmental Law in the James Bay Territory

*Landfilling and incineration of residual materials, Regulation respecting the (CQLR, c. Q-2, r. 19)*

*Liquid effluents of petroleum refineries, Regulation respecting the (CQLR, c. Q-2, r. 16)*

*Mandatory reporting of certain emissions of contaminants into the atmosphere, Regulation respecting (CQLR, c. Q-2, r. 15)*

*Municipal wastewater treatment works, Regulation respecting (CQLR, c. Q-2, r. 34.1)*

*Oil-fired heating appliances, Regulation respecting (CQLR, c. Q-2, r. 1.1)*

*Operation of industrial establishments, Regulation respecting the (CQLR, c. Q-2, r. 26.1)*

*Private waterworks and sewer services, Regulation respecting (CQLR, c. Q-2, r. 4.01)*

*Procedure for selecting persons qualified for appointment as members of the Bureau d'audiences publiques sur l'environnement, Regulation respecting the (CQLR, c. Q-2, r. 35.3)*

*Prohibit the sale of certain dishwashing detergents, Regulation to (CQLR, c. Q-2, r. 30)*

*Protection of waters from pleasure craft discharges, Regulation respecting the (CQLR, c. Q-2, r. 36)*

*Pulp and paper mills, Regulation respecting (CQLR, c. Q-2, r. 27)*

*Quality of drinking water, Regulation respecting the (CQLR, c. Q-2, r. 40)*

*Quality of the atmosphere, Regulation respecting the (CQLR, c. Q-2, r. 38)*

*Quebec residual materials management policy (CQLR, c. Q-2, r. 35.1)*

*Reclamation of residual materials, Regulation respecting the (CQLR, c. Q-2, r. 49)*

*Recovery and reclamation of products by enterprises, Regulation respecting the (CQLR, c. Q-2, r. 40.1)*

*Regulatory scheme applying to activities on the basis of their environmental impact, Regulation respecting the (CQLR, c. Q-2, r. 17.1)*

*Reuse of water containers with a capacity exceeding 8 litres, Regulation respecting the (CQLR, c. Q-2, r. 44)*

*Sand pits and quarries, Regulation respecting (CQLR, c. Q-2, r. 7.1)*

Environmental Law in the James Bay Territory

*Sanitary conditions in industrial or other camps, Regulation respecting (CQLR, c. S-2.1, r. 5.1)*

*Snow, road salt and abrasives management Regulation (CQLR, c. Q-2, r. 28.2)*

*Solid waste, Regulation respecting (CQLR, c. Q-2, r. 13)*

*System of selective collection of certain residual materials, Regulation respecting a (CQLR, c. Q-2, r. 46.01)*

*Temporary implementation of the amendments made by chapter 7 of the Statutes of 2021 in connection with the management of flood risks, Regulation respecting the (CQLR, c. Q-2, r. 32.2)*

*Traceability of excavated contaminated soils, Regulation respecting the (CQLR, c. Q-2, r. 47.01)*

*Used tire storage, Regulation respecting (CQLR, c. Q-2, r. 20)*

*Waste water disposal systems for isolated dwellings, Regulation respecting (CQLR, c. Q-2, r. 22)*

*Water quality in swimming pools and other artificial pools, Regulation respecting (CQLR, c. Q-2, r. 39)*

*Water Withdrawal and Protection Regulation (CQLR, c. Q-2, r. 35.2)*

*Wood-burning appliances, Regulation respecting (CQLR, c. Q-2, r. 1)*

***Ministère du Développement durable, de l'Environnement et des Parcs, Act respecting the (CQLR, c. M-30.001)***

**Purpose:** To establish the Ministère du Développement durable, de l'Environnement et des Parcs and define its powers, duties and functions.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

✓

***Société québécoise de récupération et de recyclage, Act respecting the (CQLR, c. S-22.01)***

**Purpose:** To establish RECYC-QUEBEC, a legal person whose objects are to promote, develop and foster the reduction, re-use, recovery and recycling of containers, packaging, materials or products and their valorization with a view to conserving resources.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

***Sustainable Development Act (CQLR, c. D-8.1.1)***

**Purpose:** To establish a new management framework within the Administration to ensure that powers and responsibilities are exercised in the pursuit of sustainable development.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

✓

**8. Natural Resources, Fuel and Energy**

***Ending exploration for petroleum and underground reservoirs and production of petroleum and brine, Act (CQLR, c. R-1.01)***

**Purpose:** To put an end to exploration for petroleum and underground reservoirs and production of petroleum and brine.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Petroleum exploration, production and storage in a body of water, Regulation respecting (CQLR, c. S-34.1., r. 1)*

*Petroleum exploration, production and storage licences, and the pipeline construction or use authorization, Regulation respecting (CQLR, c. S-34.1, r. 3)*

*Petroleum exploration, production and storage on land, Regulation respecting (CQLR, c. S-34.1, r. 2)*

***Energy efficiency and energy conservation standards for certain products, Act respecting (CQLR, c. N-1.0.1)***

**Purpose:** To promote energy efficiency and energy conservation for certain products through energy efficiency standards, energy-saving measures, and labeling requirements.

**Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples



## Environmental Law in the James Bay Territory

*Energy efficiency and energy conservation standards for certain products, Regulation respecting* (CQLR, c. N-1.01, r. 1)

### **Mining Act (CQLR, c. M-13.1)**

**Purpose:** To promote the optimal use of mineral resources in a manner respectful of the environment in order to create as much wealth as possible for the people of Quebec.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay	✓	Indigenous peoples	✓
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*Délégation de l'exercice des pouvoirs attribués au ministre des Ressources naturelles et de la Faune par la Loi sur les mines, à l'exception de ceux relatifs au pétrole, au gaz naturel, à la saumure et aux réservoirs souterrains, Arrêté ministériel concernant la* [English version not available] (RLRQ, c. M-13.1, r. 0.1)

*Delegation of the exercise of powers relating to petroleum, natural gas, brine and underground reservoirs vested in the Minister of Natural Resources and Wildlife under the Mining Act, Regulation respecting the* (CQLR, c. M-13.1, r. 0.2)

\*Note: The functions and responsibilities of the Minister of Natural Resources and Wildlife with respect to energy, as provided for in the *Act respecting the Ministère des Ressources naturelles et de la Faune* (chapter M-25.2), are, in principle, assigned to the Minister of Economy, Innovation and Energy, except those related to energy transition, innovation, and efficiency. For more details, including on other relevant laws, see *Décret 1641-2022 du 20 octobre 2022 concernant le ministre et le ministère de l'Économie, de l'Innovation et de l'Énergie* [English version not available], (2022) 44 G.O. II, 6515.

*Mining Regulation* (CQLR, c. M-13.1, r. 2)

*Types of construction that the holder of a claim, a mining exploration licence or a licence to explore for surface mineral substances may erect or maintain on lands of the domain of the State without ministerial authorization, Ministerial Order respecting the* (CQLR, c. M-13.1, r. 3)

### **Ministère des Ressources naturelles et de la Faune, Act respecting the (CQLR, c. M-25.2)**

**Purpose:** To establish the Ministère des Ressources naturelles et de la Faune and define its powers, duties and functions.

Explicit modifications or adaptations			
Crees of Québec – James Bay	✓	Indigenous peoples	✓

*Signing of certain deeds, documents and writings of the Ministère des Ressources naturelles et de la Faune, Regulation respecting the (CQLR, c. M-25.2, r. 1)*

***Number of zero-emission motor vehicles in Quebec in order to reduce greenhouse gas and other pollutant emissions, Act to increase the (CQLR, c. A-33.02)***

**Purpose:** To reduce the quantity of greenhouse gases and other pollutants emitted into the atmosphere by motor vehicles travelling on Quebec roads.

Explicit modifications or adaptations	
Crees of Québec – James Bay	Indigenous peoples

*Application of the Act to increase the number of zero-emission motor vehicles in Quebec in order to reduce greenhouse gas and other pollutant emissions, Regulation respecting the (CQLR, c. A-33.02, r. 1)*

*Limit on the number of credits that may be used by a motor vehicle manufacturer and the confidentiality of some information, Regulation respecting the (CQLR, c. A-33.02, r. 2)*

***Petroleum Resources Act (CQLR, c. H-4.2)***

**Purpose:** To govern the development of petroleum resources on land and in bodies of water while ensuring the safety of persons and property, environmental protection and optimal recovery of the resource.

Explicit modifications or adaptations			
Crees of Québec – James Bay	✓	Indigenous peoples	✓

*\*Note: Since August 23, 2022, the title of this act has been changed to “Act respecting natural gas storage and natural gas and oil pipelines”, and its content has been amended (Act respecting natural gas storage and natural gas and oil pipelines, CQLR, c. S-34.1). See Act mainly to end petroleum exploration and production and the public financing of those activities, S.Q. 2022, c. 10, s. 11 et seq.; Décret 1313-2022 du 29 juin 2022 [English version not available], (2022) 27 G.O. II, 4059.*

## Environmental Law in the James Bay Territory

*Petroleum exploration, production and storage in a body of water, Regulation respecting* (CQLR, c. H-4.2, r. 1) [new alphanumeric designation: CQLR, c. S-34.1, r. 1]

*Petroleum exploration, production and storage licences, and the pipeline construction or use authorization, Regulation respecting* (CQRL, c. H-4.2, r. 3) [new alphanumeric designation: CQRL, c. S-34.1, r. 3]

*Petroleum exploration, production and storage on land, Regulation respecting* (CQLR, c. H-4.2, r. 2) [new alphanumeric designation: CQLR, c. S-34.1, r. 2]

### ***Régie de l'énergie, Act respecting the* (CQLR, c. R-6.01)**

**Purpose:** To establish a board whose function is to reconcile, in keeping with the principles of sustainable development and individual and collective equity, the public interest, consumer protection and the fair treatment of the electric power carrier and of distributors.

#### **Explicit modifications or adaptations**

Crees of Québec – James Bay

Indigenous peoples

*Annual contribution payable to the Minister of Sustainable Development, Environment and Parks under section 10.5 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs, Regulation respecting the* (CQLR, c. R-6.01, r. 5.1)

*Annual duty payable to the Régie de l'énergie, Regulation respecting the* (CQLR, c. R-6.01, r. 7)

*Conditions and cases where authorization is required from the Régie de l'énergie, Regulation respecting the* (CQLR, c. R-6.01, r. 2)

*Conditions under which and the cases in which a supply contract entered into by the electric power distributor must be approved by the Régie de l'énergie, Regulation respecting the* (CQLR, c. R-6.01, r. 1)

*Fees payable to the Régie de l'énergie, Regulation respecting the* (CQLR, c. R-6.01, r. 3)

*Maximum production capacity under a program to purchase electric power from small hydroelectric plants, Regulation respecting the* (CQLR, c. R-6.01, r. 0.1)

*Procedure of the Régie de l'énergie, Rules of* (CQLR, c. R-6.01, r. 4.1)

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*Procedure for the recruitment and selection of persons declared or recognized as apt for appointment as commissioners to the Régie de l'énergie and for the renewal of their term of office, Regulation respecting the (CQLR, c. R-6.01, r. 3.1)*

*Procedure governing mediation of the Régie de l'énergie, Rules of (CQLR, c. R-6.01, r. 4.2)*

*Quantity of gas from renewable sources to be delivered by a distributor, Regulation respecting the (CQLR, c. R-6.01, r. 4.3)*

*Tenor of a supply plan and the intervals at which it is to be submitted, Regulation respecting the (CQLR, c. R-6.01, r. 8)*