

Changes to the Numbering of Regulations

Please be advised that the numbers of one or more of the regulations listed below have been changed since this document was originally published. Following the adoption of the *Act respecting the Compilation of Québec Laws and Regulations*, RSQ, c R-2.2.0.0.2, the ministère de la Justice began on January 1, 2010 to change the numbering of selected regulations, including those related to the *Environment Quality Act*, RSQ, c Q-2.

Please visit <http://www.mddep.gouv.qc.ca/publications/lois-reglem-en.htm> for more details about this change.



ENVIRONMENTAL
ASSESSMENT
OF NORTHERN
PROJECTS



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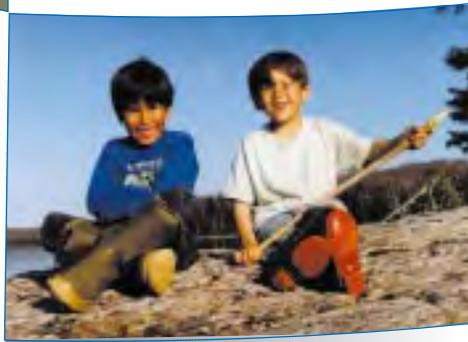
FOREWORD

In accordance with the James Bay and Northern Quebec Agreement and the Northeastern Quebec Agreement, which were signed by the Native peoples of the northern regions, Chapter II of the Environment Quality Act (EQA) contains specific provisions applicable to James Bay and Northern Quebec. The particular environmental assessment procedures for these northern regions stand apart due to, among other things, the active participation of the Cree, Inuit and Naskapi communities.

This brochure aims to explain the characteristics of these regimes as well as the bodies responsible for implementing the social and environmental impacts assessment and review process and the project subjected to or exempt from the procedure.



THE JAMES BAY AND NORTHERN QUÉBEC REGION



Geography of the region

The James Bay and Northern Québec region, a little more than 1 million km² in area, represent about two-thirds of Québec's total land mass. It is located between the 49th and 62nd parallels of northern latitude.

Native population

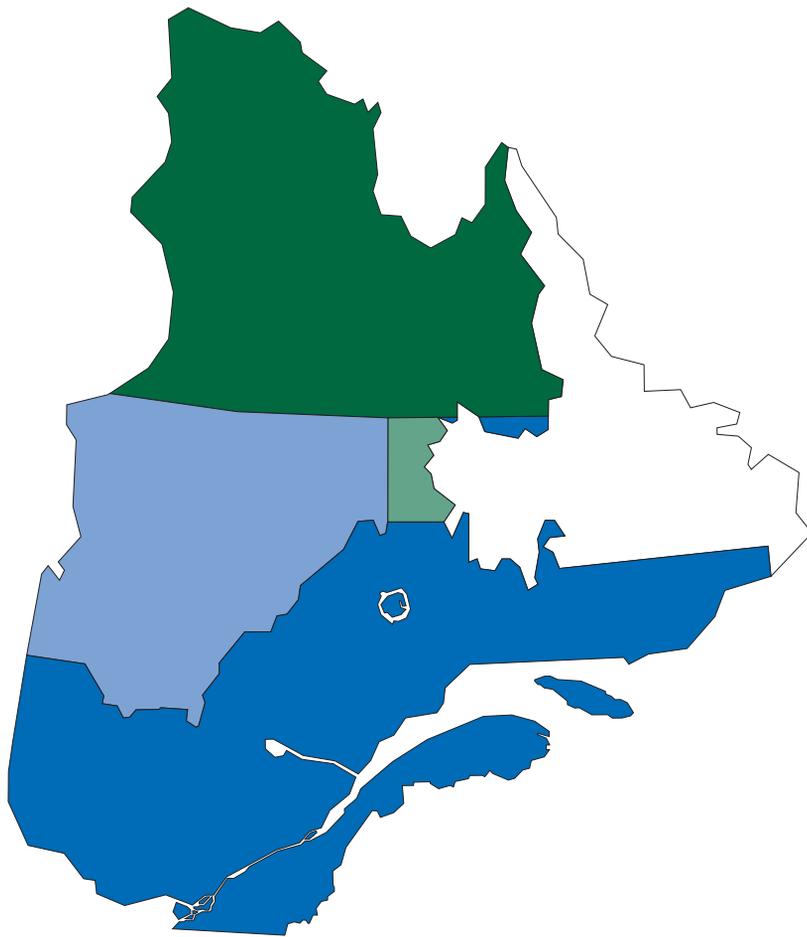
Human presence in these regions dates back about 4 000 years. The Cree, Inuit, and Naskapi practice, to a large degree, a traditional way of life based on hunting, fishing and trapping. Formerly nomadic, they now live in permanent villages.

The Crees, who numbered 7 000 in 1977, are nearly 13 500-strong in nine villages today. Over the same period, the Inuit population has risen to over 9 000 from 4 900 with 15 Inuit communities spread out along the coast. In addition, there are close to 800 Naskapi Indians living in Kawawachikamach, in the eastern part of the region.

Non-Native population

More than 20 000 non-Natives live in the region, concentrated mainly along the southern border. The economy of these communities is mainly based on natural resource development.

MAP OF TERRITORY DIVISION



-  Territory subject to the JBNQA (north of 55th parallel)
-  Territory subject to the JBNQA (south of 55th parallel)
-  Moinier region
-  Territory under chapter I of the Environment Quality Act



THE JAMES BAY AND NORTHERN QUEBEC AGREEMENT

A wide-ranging, progressive pact

The James Bay and Northern Quebec Agreement (JBNQA) is a social and economic pact signed by, on the one side, the Government of Québec, Hydro-Québec, the James Bay Energy Corporation and the James Bay Development Corporation and, on the other

side, by the Grand Council of the Crees of Quebec, representing James Bay Crees, and the Northern Quebec Inuit Association, representing Northern Quebec Inuit. The Government of Canada is also a signatory of the Agreement.

Signed on November 11, 1975, the JBNQA was ratified by the Cree and Inuit through referendums held in Native communities.

The JBNQA is based on two equally important founding principles.¹ The first is: "Québec needs to use the resources of its territory, all its territory, for the benefit of all its people." The other is: "We (the Government of Québec) must recognize the needs of the Native peoples, the Cree and the Inuit, who have a different culture and a different way of life from those of other peoples of Québec". The Agreement seeks to harmonize these two principles.



The Peace of the Braves and the Sanarrutik agreement

On February 7, 2002, Quebec and the Crees signed a fifty years political and economic agreement. This agreement, dubbed the *Peace of the Braves*, marks the beginning of a new era in Quebec and Cree relations, based on:

- a new partnership, aiming to ensure full development of the territory;
- autonomy and increased management by the Crees of their own economic and community development;
- respect of the principles of sustainable development and of the traditional way of living of the Crees.

On April 9, 2002, Quebec and the Inuit signed a partnership agreement on economic and community development in Nunavik. This twenty-five years agreement consolidates the harmonious relations between Quebec and the Nunavik Inuit. It is named *Sanarrutik*, which means "development tool" in Inuktitut. This partnership agreement is based on:

- the desire to develop Nunavik's potential while respecting the environment;
- a greater responsibility by the Inuit for their economic and community development.

¹ Extract from the Convention preface.

Environmental protection regimes

The land claims system imposed by the JBNQA satisfies the needs of the Native people and those of the rest of Quebecers. Category I lands are granted to each Cree and Inuit community for its exclusive use. Category II lands are buffer zones where Native people have the exclusive right to hunt, fish, trap and establish or operate outfitting facilities. Category III lands are public lands on which Native people can, while respecting the principles of conservation, carry on their traditional activities year-round, and on which they have exclusive rights to certain animal species. For these territories, the JBNQA established two particular environmental protection regimes for both sides of the 55th parallel.

After the signing of the JBNQA, the environmental protection regime north of the 55th parallel has been adapted to allow the Naskapis to participate in the environmental assessment of projects process. Specific measures are applicable to the “Moinier” region where the list of projects subject to the environmental assessment and review procedure corresponds to annex A of the Environmental Quality Act, while the information and consultation process is the same as in Southern Quebec.



Table 1

LANDS REGIME DEFINED BY THE JAMES BAY AND NORTHERN QUEBEC AGREEMENT	
Category I lands - 14 348 km ² (5 540 mi ²) - 1.3% of the territory	Lands surrounding villages that are set aside for the exclusive use and benefit of the Cree, Inuit or Naskapi
Category II lands - 159 880 km ² (61 730 mi ²) - 14.8% of the territory	Public lands with hunting, fishing and trapping rights exclusive to the Native people
Category III lands - 907 772 km ² (350 490 mi ²) - 83.9% of the territory	Public lands with rights to the Native people for hunting, fishing and trapping without a permit, without limit and at all times, subject to the conservation principle
TOTAL: 1 082 000 km² (417 760 mi²)	

TWO REGIMES; ONE CONCERN

Participation of Native people

The environmental protection regimes defined by the JBNQA, and included in Chapter II of the Environmental Quality Act, are aimed at ensuring special participation to the environmental assessment process by the Natives so that they can protect the rights and guarantees granted to them under the Agreement. This participation is assured through consultation and representation mechanisms, within which the Crees and Inuit have major roles (table 2).



Issues requiring special attention

The intention of the JBNQA is that the governments responsible and organizations created to function within the environmental protection regimes must pay particular attention to the following issues:

- the right to set up development projects in the region;
- Native participation in applying the environmental protection regime;
- protection of Native peoples, their societies, communities and economy;
- protection of Native hunting, fishing and trapping rights;
- reduction of undesirable repercussions from development;
- protection of regional wildlife and ecosystems;
- the rights and interests of non-Natives.

Environmental advisory committees

Under the JBNQA, two environmental advisory committees were created, one for the region south of the 55th parallel and the other for the region north of the 55th parallel. The James Bay Advisory Committee on the Environment (JBACE) and the Kativik Environmental Advisory Committee (KEAC) are the bodies composed of Native, provincial and federal representatives which act as the preferential and official forums concerning environmental protection matters. In addition, they supervise the application and administration of the environmental protection regimes contained in the Agreement.

Bodies responsible for environmental assessment

Two committees and one commission were created to evaluate and review development projects within the jurisdiction of Quebec:

- the Evaluating Committee (COMEV) is a tripartite Quebec/Canada/Cree agency responsible for assessing and drawing up guidelines for the impact study of projects located south of the 55th parallel;
- the Review Committee (COMEX) is a bipartite Quebec/Cree agency responsible for reviewing projects located south of the 55th parallel;
- the Kativik Environmental Quality Commission (KEQC), composed of Quebec and Inuit representatives, is responsible for assessing and reviewing projects located north of the 55th parallel.

For projects within federal jurisdiction, there are provisions for bipartite (Canada/Cree or Canada/Inuit) committees.

Administrator

According to the JBNQA, the Administrator is the person required to make a final decision on the assessment and review of development projects, basing that decision upon the recommendations of the committees and commissions. This person is either the Minister of the Environment of Quebec, if the project is provincial in nature, the chairman of the Federal Environmental Assessment Review Office, if the project is federal in nature, or the Administrator of the appropriate Cree Band Council, if the project is on Category I land.



Table 2

COMPOSITION AND ROLE OF COMMITTEES AND COMMISSION					
Members designated by:					
	Québec	Canada	Cree	Inuit	Role
JBACE*	4	4	4	-	Consultation and surveillance
KEAC	3	3	-	3	Consultation and surveillance
COMEV	2	2	2	-	Preliminary assessment and drawing up of guidelines
COMEX	3	-	2	-	Review
KEQC	5	-	-	4	Assessment and review

* The president of the Hunting, Fishing and Trapping Coordinating Committee is, in addition, automatically a member of this committee. The coordinating committee is an advisory agency (Native/provincial/federal) to the government of Quebec on matters of wildlife management in the territory.



A FIVE-STEP PROCESS

The same process



As mentioned above, the environmental assessment procedures established for northern projects vary according to whether the project is located south or north of the 55th parallel. The commission or committees also vary according to whether the project is provincial or federal in nature. Therefore, there are four distinct procedures possible. However, they all follow the same five-step process.

1. Proponent's preliminary information

The first step of the process is the proponent's preliminary information on his project. This step starts from the moment the proponent studies the possible options and the technical, environmental and social aspects of the project before choosing the best options for subsequent studies. The proponent must then send to the Administrator a notice of intent, along with preliminary information on the project. This information concerns in particular the objectives, nature and scope of the project, as well as the various sites being considered or the various possible development alternatives.



2. Assessment

The preliminary information is then sent to the committee responsible for defining the nature and extent of the impact study. This committee is either the COMEV, if the project is located south of the 55th parallel, or the KEQC, if the project is located north of the 55th parallel.

When a project is not automatically subject to nor exempt from the procedure (see lists p.13), the COMEV recommends to the Administrator or the KEQC decides whether or not the development project should be the object of an impact study.

When a project is subject to the procedure, the committee or commission formulates guidelines outlining the extent of the impact study to be prepared by the proponent. These guidelines are submitted to the Administrator, who transmits them to the proponent, with or without changes.

If the Administrator deems it necessary to change a COMEV recommendation, he must first consult the latter.

3. Impact study

During the third step, the proponent prepares the impact study in accordance with the Administrator's guidelines.

It should be pointed out that the Regulation respecting the environmental and social impact assessment and review procedure applicable to the territory of James Bay and Northern Québec (Q-2, r. 11) defines what elements must be included in an impact study.

Among them: a description of the project and of the biophysical and social environments affected; an assessment of the project's probable repercussions; a description of the project alternatives and a description and assessment of remedial measures.

4. Review

The proponent submits his impact study to the Administrator, who then sends it to the review committee, either the COMEX, if the project is located south of the 55th parallel, or the KEQC, if the project is located north of the 55th parallel.

The Native administrations and the public can make representations to the committee, which may also hold public hearings or any other type of consultation.

The COMEX recommends or the KEQC decides whether to reject or authorize the development project and, if so, under what conditions. It must then define the changes or additional measures that it considers appropriate.

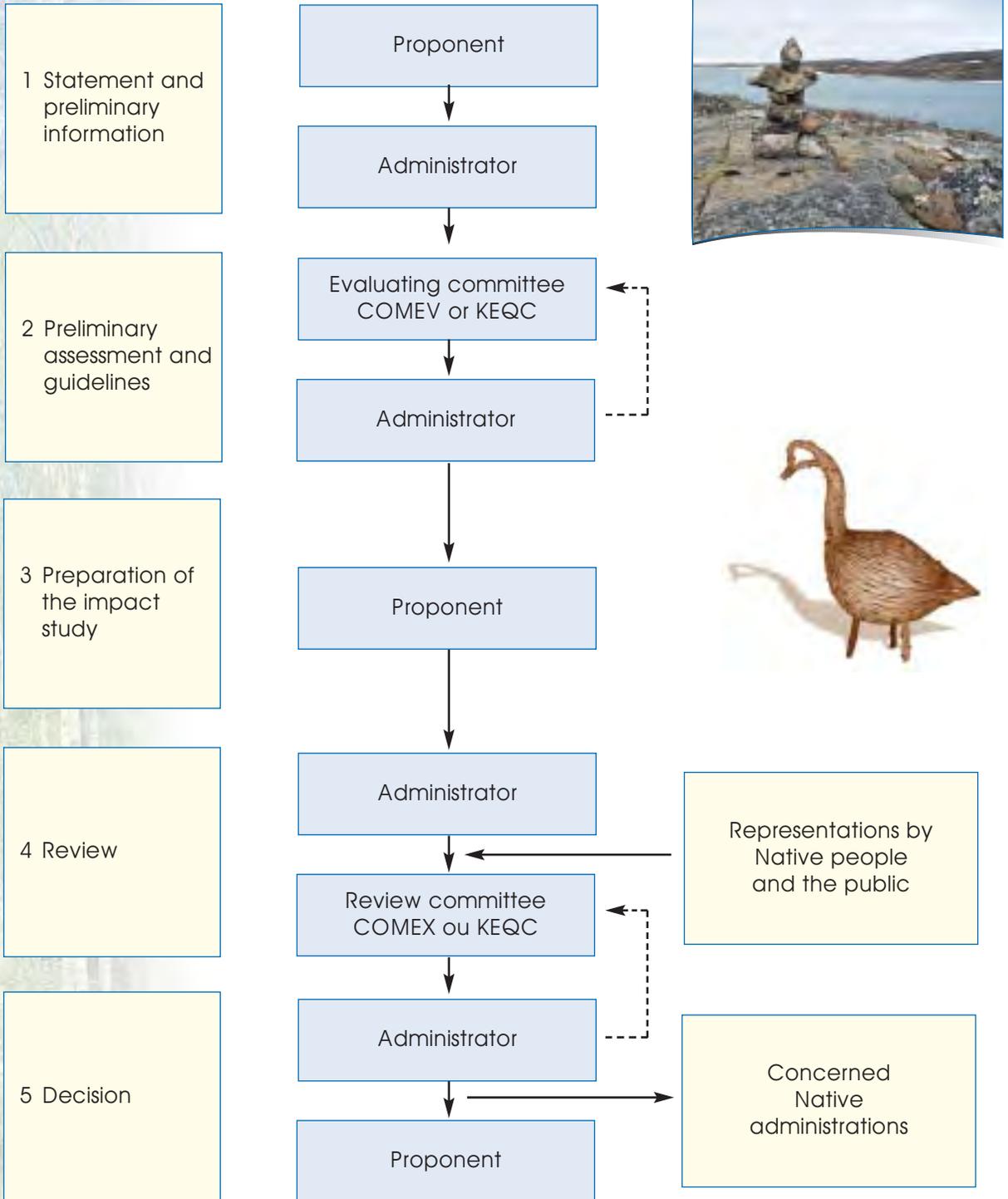
5. Decision

Taking into account the COMEX recommendation or the KEQC decision, the Administrator grants or refuses authorization for the project. If the Administrator cannot accept the committee's recommendation or commission's decision, he must consult the latter before making a final decision and informing the proponent. The Native administrations affected are also informed of the final decision. Moreover, sectoral authorizations (with regards to quarries and sand pits, water and sewer mains, camps, etc.) must be delivered pursuant to Chapter I of the Environmental Quality Act.

The Environment Quality Act establishes time limits, ranging from 30 to 90 days, for each step of the process. However, the administrator can extend any of these time limits, if the need arises.



A FIVE-STEP PROCESS



PROJECTS SUBJECT TO THE ASSESSMENT AND REVIEW PROCEDURE

Projects automatically subject and automatically exempt from the procedure

The Environment Quality Act and the JBNQA specify which development projects are automatically subject to the environmental and

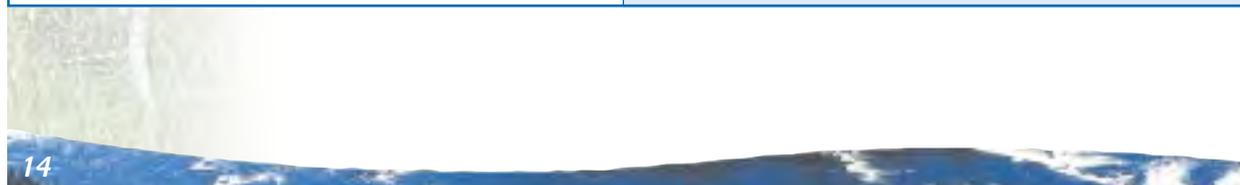
social impacts assessment and review procedure. They also specify which projects are automatically exempt from the procedure. These include projects with little impact or activities that can be assessed within another framework.

A complete list of these projects follows.

PROJECTS AUTOMATICALLY SUBJECT TO THE ASSESSMENT AND REVIEW PROCEDURE	PROJECTS AUTOMATICALLY EXEMPT FROM THE ASSESSMENT AND REVIEW PROCEDURE
All mining developments, including the additions to, alterations or modifications of existing mining developments.	All testing, preliminary investigation, research, experiments outside the plant, aerial or ground reconnaissance work and survey or technical survey works prior to any project.
All borrow, sand and gravel pits and quarries, with areas of or over 3 hectares.	All borrow pits for highway maintenance purposes.
All hydroelectric power plants and nuclear installations and their associated works.	
All storage and water supply reservoirs related to works intended to produce electricity.	
All electric power transmission lines of over 75 kV.	All control or transformer stations of a voltage of 75 kV or less, or electric power transmission lines of a voltage of 75 kV or less.
All operations or installations related to the extraction or processing of energy yielding materials.	
All fossil-fuel fired power generating plants with a calorific capacity of or above 3 000 kW.	All fossil-fuel fired power generating plants having a calorific capacity below 3 000 kW.
Any road or branch of such road of at least 25 km in length which is intended for forestry operations for a period of at least 15 years.	



PROJECTS AUTOMATICALLY SUBJECT TO THE ASSESSMENT AND REVIEW PROCEDURE	PROJECTS AUTOMATICALLY EXEMPT FROM THE ASSESSMENT AND REVIEW PROCEDURE
All wood, pulp and paper mills or other plants for the transformation or the treatment of forest products.	All forestry development included in plans provided for in the Forest Act (Chapter F-4.1) and respecting the terms and conditions of the Cree/Québec Agreement (February 2002).
All land use projects which affect more than 65 km ² .	All project carried out within the territorial limits of a community and which does not have an impact on the wildlife outside of such limits as well as the extraction and handling of soapstone, sand, gravel, copper and wood for personal or community use. All small wood cuttings for personal or community use.
All sanitary sewage systems including more than 1 km of piping and all waste water treatment plants designed to treat more than 200 kl of waste water per day.	All water and sewer mains, and all oil or gas mains of less than 30 cm in diameter with a maximum length of 8 km.
All systems for the collection and disposal of residual materials, except mine tailings and hazardous materials.	
All projects for the creation of parks or ecological reserves.	
All outfitting facilities designed to accommodate at one time 30 persons or more, including networks of outpost camps.	All temporary hunting, fishing and trapping camps and all outfitting facilities or camps for less than 30 persons.
The delimitation of the territory of any new community or municipality and any expansion of 20% or more of their total territory or their urbanized areas.	All school or educational establishments, rest areas, observation points, banks, fire stations or immovables intended for administrative, recreational, cultural, religious, sport and health purposes or for telecommunications. All other structures intended for dwellings, wholesale and retail trade, or intended for offices or garages, or intended for handicrafts or car parks.
All access roads to a locality or road network contemplated for a new development.	All municipal streets and sidewalks. All maintenance and operation of public and private roads. All repairs and maintenance on existing municipal works.
All port and harbour facilities, railroads, airports, pipelines or dredging operations for the improvement of navigation.	All hotels or motels of 20 beds or less and all service stations along highways.



Unforeseen cases

Projects not included in these lists must be submitted to the Administrator, who then decides whether or not they are subject to the process by taking into consideration the COMEV recommendation or KEQC decision.

Cases handled

Since the JBNQA was signed, some 500 projects have been submitted to the environmental assessment process. Among them: La Grande hydroelectric facilities (phase II); mining projects, in the northern part as well as in the southern part of the territory; roads, some intended to open up access to Cree communities; and various projects such as the establishment of parks, landfills and caribou hunting facilities.



Project control and follow-up

The Ministère de l'Environnement, through its Nord-du-Québec and Côte-Nord regional offices, exercises on-site surveillance of the conformity of projects to the authorization issued by the Minister of the Environment. This is in addition to the control that the proponents themselves must exercise.

For some major projects such as hydroelectric developments and mining projects, the Ministère can also determine that the proponent conduct an environmental follow-up on specific subjects with the aim of confirming or detecting certain impacts or better defining certain necessary mitigation measures.



Photographs

Cover

Eastmain river
Hydro-Québec
Child
Secrétariat aux affaires autochtones
Inuit mending a net
Avataq Cultural Institute,
Pauline Laurin

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Hydroelectric station
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Société minière Raglan du Québec Itée
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Stephen Hendrie
Landscape
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Sylvie Létourneau

If you require further information,
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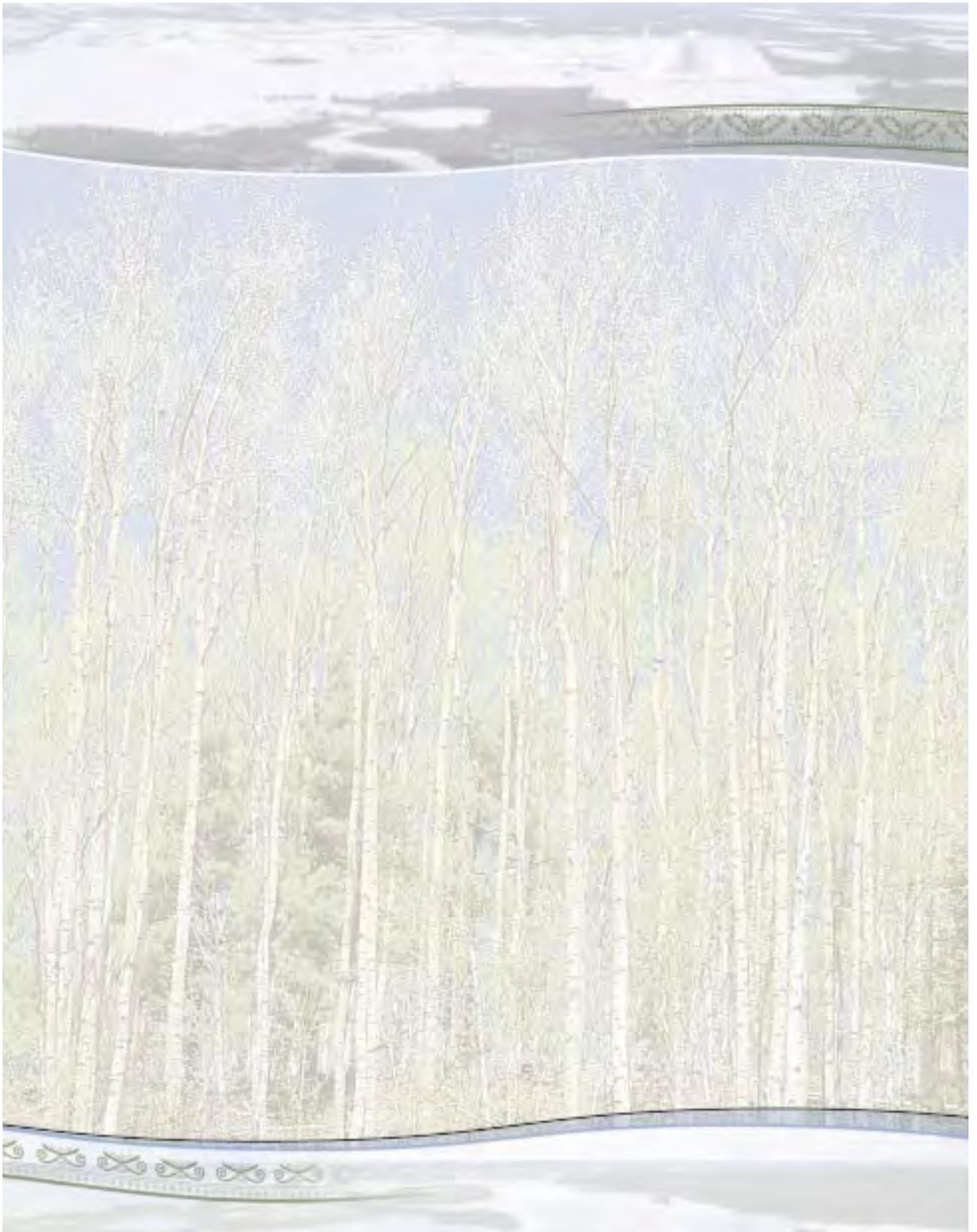
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