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Comité Consultatif de l'environnement Kativik  
Kativik Environmental Advisory Committee

## **Environmental and Social Impact Assessment and Review Procedure Guide**

**April 2008**

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## Acronyms

<b>CEAA</b>	Canadian Environmental Assessment Agency
<b>KRG</b>	Kativik Regional Government
<b>JBNQA</b>	<i>James Bay and Northern Quebec Agreement</i>
<b>KEAC</b>	Kativik Environmental Advisory Committee
<b>FRP</b>	Federal Review Panel
<b>KEQC</b>	Kativik Environmental Quality Commission
<b>CEAA</b>	<i>Canadian Environmental Assessment Act</i>
<b>EQA</b>	<i>Environment Quality Act</i>
<b>MDDEP</b>	Ministère du Développement durable, de l'Environnement et des Parcs

## 1.0 INTRODUCTION

The Kativik Environmental Advisory Committee (KEAC), whose members are appointed by the Kativik Regional Government (KRG) and by the Québec and Canadian governments, acts as the official intermediary between the responsible governments. It is charged with the task of overseeing the implementation of the Environmental and Social Protection Regime and making appropriate recommendations to the responsible governments.

The KEAC has undertaken to revise and modernize the environmental and social impact assessment and review procedure for development projects (the "procedure") set out in Section 23 of the *James Bay and Northern Quebec Agreement* (JBNQA). Specifically, the KEAC aims to:

- improve the procedure's efficiency;
- ensure its transparency;
- increase its predictability;
- modernize the procedure in terms of information and public participation.

With these objectives in mind, the KEAC has prepared this guide for development project proponents and the public alike. The guide includes a description of the current environmental and social impact assessment and review procedure, and also presents the KEAC's recommendations regarding public participation right from the start of the development project planning stage.

It should be pointed out that this guide does not apply to the Naskapi people, who have agreed with the governments on a special procedure which is different from the one described here.

### 1.1 James Bay and Northern Quebec Agreement

The JBNQA is an agreement which was signed in 1975 between the Nunavik Inuit, the James Bay Crees, the Canadian government, the Québec government, and three government corporations: Hydro-Québec, the James Bay Energy Corporation, and the James Bay Development Corporation. This agreement concerns a territory of over one million square kilometres located north of the 49th parallel, including Nunavik, which is north of the 55th parallel ([Appendix I](#)). The agreement observes two guiding principles of equal importance, namely the Québec government's need to plan resource use in the JBNQA territory, and the Aboriginal communities' need to ensure their survival and traditional way of life.

In particular, the JBNQA established a land regime; a hunting, fishing, and trapping regime; and an environmental protection regime.

The land regime defined three land categories. Category I lands were attributed for the exclusive use of Aboriginal people; they are located within and in the vicinity of areas

generally used and inhabited by Aboriginals ([Appendix II](#)). Category II lands include exclusive hunting, fishing, and trapping rights for Aboriginals, without however giving them a special right to occupy them. Lastly, Category III lands are provincial public lands which are subject to Québec laws and regulations governing such lands, but where Aboriginals may pursue their traditional activities year-round and also have exclusive rights to harvest certain animal species.

The James Bay and Northern Québec environmental protection regime is a special regime which is separate from other regimes for southern Québec and Canada. It aims at development which is in harmony with environmental protection. In particular, it provides for the participation of Aboriginal peoples in decision-making and the establishment of regulations which concern them and their way of life.

With the signing of the JBNQA, the governments of Canada and Québec committed themselves to taking the necessary steps to adopt laws and regulations to apply the agreement. For example, Québec adopted the *Environment Quality Act*, Chapter II of which covers the territory governed by the JBNQA, with Division II of that Chapter dealing specifically with Nunavik. The latter provisions reiterate those established by Section 23 of the JBNQA with regard to Québec's responsibilities and obligations.

After the JBNQA was signed, the regime for environmental protection north of the 55th parallel was adapted to allow Naskapi participation in the project environmental review procedure. Our guide does not apply to the Naskapi, however, because the special procedure they agreed upon with the provincial and federal governments differs from the procedure for Nunavik, which is described here.

## **1.2 Assessment and Review Procedure for Development Projects in Nunavik**

The development project assessment and review procedure is a component of the environmental and social protection regime operating in Nunavik, as established by Section 23 of the JBNQA. It applies to the part of Québec which is north of the 55th parallel. This regime provides for the following ([subparagraph 23.2.2 JBNQA](#)):

- a procedure for the adoption of laws and regulations to minimize the negative impact of development on the region's Aboriginal population and wildlife resources;
- a development project assessment and review procedure geared towards minimizing the negative impact of development on the region's Aboriginal population and wildlife resources;
- the establishment, wherever necessary, of special status for Aboriginals, ensuring involvement and participation which is over and above that normally provided for the general public, through consultation or representative mechanisms;
- the protection of established Aboriginal hunting, fishing, and trapping rights;
- the protection of Aboriginals, their economies, and the wildlife resources upon which they depend; and

- the right to develop in the region.

When reviewing developments affecting the region, the governments and agencies responsible for implementing the assessment and review procedure give due consideration to the following **guiding principles** (subparagraph 23.2.4 JBNQA):

- the protection of Aboriginals, their societies and communities, and their economies;
- environmental and social protection by reducing impacts on Aboriginals;
- the protection of Aboriginal hunting, fishing, and trapping rights;
- the protection of wildlife resources, the natural and biophysical environment, and ecosystems;
- the involvement of the region's Aboriginals and other inhabitants in the regime's implementation;
- the protection of the rights and interests of non-Aboriginals;
- the protection of the right to develop by persons acting lawfully and in accordance with the provisions of the JBNQA; and
- the reduction by reasonable means, proposed or recommended in conjunction with the impact assessment and review procedure, of negative environmental and social impacts on Aboriginals and Aboriginal communities.

### **1.3 Developments Subject to or Exempt from Impact Assessment**

According to Section 23 of the JBNQA and for the purpose of the implementation of the procedure, "development" or "development project" is defined as follows:

"a project consisting of any work, undertaking, structure, operation or industrial process which might affect the environment or people of the Region, exclusive of the operation and maintenance of such project after construction. However, the planned operation of such project shall form part of the considerations in the assessment and review procedures..."

This definition is broad and might include most of the work undertaken in Nunavik. Schedule 1 of Section 23 of the JBNQA ([Appendix VI](#)), however, lists the types of development projects automatically subject to the review procedure, while Schedule 2 of Section 23 lists those which are automatically exempt ([Appendix VII](#)). Developments not included in either of these schedules are considered to be "grey-zone" projects. These projects are reviewed by the responsible agency under the JBNQA, which may decide that they need to be subjected to the procedure.

## 1.4 Responsible Agencies

The environmental and social impact assessment and review procedure is the responsibility of multi-party committees, comprised of members appointed by the KRG and, as the case may be, by the Québec government or the Canadian government ([Appendix III](#)). Depending on the nature of the project, the provincial administrator or the federal administrator has decision-making powers under the procedure. The JBNQA defines an administrator as the person who is called upon to render a final decision with regard to development project assessment and review, based, among other things, on the recommendations or advice of multi-party committees.

In the case of development projects within provincial jurisdiction, the Kativik Environmental Quality Commission (KEQC) is responsible for the assessment and review of projects listed in Schedule I as well as grey-zone projects. The members of the KEQC are appointed by the KRG and the Québec government. Once it has analyzed a project, the KEQC sends its decision to the Québec administrator, namely the Deputy Minister of Sustainable Development, Environment and Parks (MDDEP). After accepting the KEQC's decision, the Québec administrator is responsible for applying it.

In the case of development projects within federal jurisdiction, the procedure is under the authority of the President of the Canadian Environmental Assessment Agency (CEAA), appointed as the federal administrator by the Canadian government. The federal procedure provides for the formation of a Screening Committee which is charged with the task of recommending to the administrator whether or not a grey-zone project should be subjected to assessment and review. If it is to be subjected to the procedure, as with projects that are automatically subject to it, the Federal Review Panel (FRP) proceeds to assess and review the project and then recommends to the administrator whether or not it should be authorized. The members of these two committees are appointed by the KRG and the Canadian government.

In Nunavik, all projects subject to environmental review are assessed by a committee before a decision is made by the federal or provincial administrator as to whether or not to authorize the development.

## 1.5 Other Environment Legislation

A project cannot begin until all of the required authorizations have been issued. Authorization obtained as a result of the assessment and review procedure does not in any way whatsoever replace the approvals, licenses, authorizations or permits which the proponent must obtain under other provincial or federal statutes before implementing the project.

Project proponents can get additional information regarding the other authorizations and permits required from the Direction régionale of the MDDEP (Tel: (819) 763-3333) and the Canadian Environmental Assessment Agency (Tel: (418) 649-6442 [http://www.ceaa-acee.gc.ca/010/index\\_f.htm](http://www.ceaa-acee.gc.ca/010/index_f.htm)).

## 2.0 SUMMARY OF MAIN STAGES OF THE PROCEDURE

The key stages of the environmental and social impact assessment and review procedure are summarized below. They are illustrated by a chart outlining the provincial procedure ([Appendix IV](#)) and a chart outlining the federal procedure ([Appendix V](#)).

### 2.1 Project Declaration and Preliminary Information (Project Notice)

First of all, the proponent checks to see if the project is subject to the assessment and review procedure by consulting Schedule 1 ([Appendix VI](#)) or, if the project is not there, Schedule 2 ([Appendix VII](#)). Projects that are not covered in either are referred to as grey-zone projects and may be subjected to the procedure, depending on what the KEQC or the federal Screening Committee decides.

In the case of projects which are automatically subject to the procedure (Schedule 1), the proponent prepares a document presenting the anticipated project. This document contains preliminary information ("project notice") which must at the very least cover the project's presentation, justification and scale, the different options being considered, and the natural and social environment affected by its siting. This document will enable the provincial or federal agency with jurisdiction to set the guidelines for the contents of the environmental and social impact assessment statement to be prepared by the proponent, referred to as the EIS (environmental impact statement) guidelines.

In the case of grey-zone projects, the preliminary information document must also contain the information in the previous paragraph. It must be complete and precise enough to enable the KEQC or the Screening Committee to determine if the project might have impacts on Aboriginal populations and the environment and whether or not it should be subjected to the assessment and review procedure.

In all cases, the proponent presents the preliminary information document to the provincial or federal administrator concerned, who will send it to the agency with jurisdiction.

### 2.2 EIS Guidelines

In the case of provincial-jurisdiction projects which are automatically subject to the procedure, the guidelines for the environmental and social impact assessment statement (or "impact study") to be written up by the proponent are set by the KEQC once it has reviewed the preliminary information ([subparagraph 23.3.17 JBNQA](#)). With projects within federal jurisdiction, it is the FRP that indicates the guidelines for the impact assessment statement to be prepared by the proponent ([subparagraph 23.4.16 JBNQA](#)).

In the case of grey-zone projects, the KEQC or the Screening Committee may, subsequent to its evaluation of the preliminary project information, issue a decision or recommendation with regard to subjecting the project to the assessment and review procedure. If it decides to subject the project to the procedure, the KEQC or the Screening Committee sends its decision or recommendation to the administrator concerned, who ultimately determines the guidelines for the contents of the environmental and social impact assessment statement to be prepared by the proponent.

(subparagraphs 23.3.17 and 23.4.9 JBNQA). With federal-jurisdiction projects, if it is decided that a project is to be submitted to the FRP, the latter can also issue special guidelines (subparagraph 23.4.16 JBNQA).

Under the JBNQA, the KEQC must render its decision on whether or not a grey-zone project is to be subjected to the procedure with 45 days of receiving the preliminary information document.

In all cases, it is the administrator who sends the proponent the final decision on whether or not a project is to be subjected to the procedure as well as the EIS guidelines, if applicable.

### **2.3 Preparation of Impact Statement (Impact Study)**

The proponent prepares the impact study for the project in keeping with the EIS guidelines issued by the administrator concerned. If necessary, the proponent may contact the Direction des évaluations environnementales of the MDDEP or the FRP for clarification of requirements covered in the EIS guidelines. Once completed, the proponent sends the impact study to the administrator concerned for the subsequent stages in the process.

### **2.4 Review and Public Consultations and Representations**

The administrator concerned sends the impact study to the KEQC or the FRP for review, comments, and a decision or recommendations. In most cases, these agencies request clarification or additional information before issuing their recommendations.

In conjunction with its review, the KEQC or the FRP may decide to hold public consultations in order to obtain the population's opinion of the project under study. Individuals – Aboriginals and non-Aboriginals alike – municipalities and other stakeholders may submit representations to the KEQC or the FRP at any time dealing with the nature and scale of the project, its environmental and social impacts, the possibility of being informed and consulted, etc. They can also ask the KEQC or the FRP to hold public consultations.

In practice, the proponent is encouraged, when developing the project and preparing the impact study, to consult the communities and groups concerned by the project. Further details on this aspect are given in [Part 4 of this guide](#).

### **2.5 Decision**

After reviewing the project completely, the KEQC decides or the FRP recommends whether or not the administrator should authorize the project and establishes any conditions for authorization. This decision or recommendation and the accompanying conditions are sent to the appropriate administrator. The administrator then sends the final decision to the proponent, who must comply with its terms and conditions.

The KEQC must hand down its decision with 90 days of the proponent's submission of an impact statement and information which are considered satisfactory.

For a better understanding of the procedure followed by the FRP, internal criteria, and general timelines, see Internal Operating Procedures ([Appendix VIII](#)).

### **3.0 ASSESSMENT AND REVIEW PROCEDURE DETAILS**

#### **3.1 Projects Subject to Provincial or Federal Procedure**

The proponent must check to see if the project falls within provincial or federal jurisdiction, in other words whether it is covered by the provincial or the federal JBNQA procedure. Provincial-jurisdiction projects are sent to the provincial administrator while federal-jurisdiction projects are sent to the federal administrator. This matter of jurisdiction is complex, however, and has given rise to different interpretations and decisions by the courts.

Basically, the courts have considered up until now that jurisdiction is determined by the project's nature and the distribution of jurisdictions set out in the Canadian Constitution.<sup>1</sup> For example, a mining project would come under provincial jurisdiction because natural resources are a provincial responsibility, even if the mining project could have an effect on fisheries, which are within federal jurisdiction. It is therefore the provincial administrator who is responsible.

In practice, most projects are subject to the provincial procedure. Some projects, however, are sent to the federal administrator as well, in which case both procedures are implemented and the proponent is obliged to prepare an impact study that meets the requirements of both review procedures.

Proponents can check with the Direction des évaluations environnementales of the MDDEP and the FRP Secretariat to see if their projects should be sent to the provincial or federal administrator.

#### **3.2 Contents of Preliminary Information Document (Project Notice)**

When preparing the document summarizing the project, the proponent must keep the targeted objective in mind. The contents of the document and the information it includes must allow the committee concerned to understand the project and its potential environmental and social effects. In the case of projects which are automatically subject to assessment and review, this information will be used to prepare the EIS guidelines setting the extent of the impact study to be done. With grey-zone projects, this document will be used to determine whether or not the project should be subjected to review and assessment. If the KEQC or the Screening Committee decides that it should be subjected to the procedure, the document will be used as a basis for preparing the EIS guidelines defining the parameters of the impact study to be completed.

The proponent's document must describe the project fully and include construction, operation, maintenance and related work, and their environmental and social impacts.

In particular, the preliminary information document must include:

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<sup>1</sup> *Eastmain Band v. Canada*, (1993) 1 F.C. 501 F.C.A. and *Moses v. Canada (Attorney General)* (2006) QCSC 1832.

- the proponent's identification;
- the name of the project and its location;
- a justification of the project explaining its purpose and objectives;
- a description of the project which is detailed enough to clearly bring out all project components that could lead to environmental and social impacts;
- the different technical and/or site options that were considered and the technical, economic, and environmental criteria applied to select the options decided on;
- a description of the key components of the natural and human environment affected by the project; and
- the planned project completion timetable.

It is also possible at this stage, although not mandatory, to include a detailed assessment of the project's environmental and social impacts with the preliminary information. The assessment could be based on existing information, without necessarily undertaking any special studies or surveys. The proponent is also encouraged to cover in this preliminary information document the impact prevention or mitigation measures planned on and describe any steps taken to consult the communities and other stakeholders involved.

In the case of grey-zone projects, in addition to the description of the project and the natural and social environment, it is essential to provide an assessment of anticipated impacts as well as any other information that could help the KEQC or the Screening Committee determine whether or not the project should be subjected to the impact assessment procedure.

The preliminary information document must be comprehensive and detailed enough to make it possible to decide whether or not to subject the project to the impact study procedure and, if it is decided that it should be, to prepare focused, complete EIS guidelines.

### **3.3 Grey-zone Projects, Criteria, and Decision to Subject Project**

For developments within provincial jurisdiction, every new grey-zone project submitted to the provincial administrator is referred to the KEQC, which decides whether or not it should be subjected to the procedure. If it decides that it should, the KEQC prepares EIS guidelines defining the scope of the impact study to be completed.

In the case of federal-jurisdiction projects, the federal administrator sends grey-zone projects to the Screening Committee, which decides whether or not they should be subjected to the procedure. If it decides that they should, it sets EIS guidelines for the impact study. With projects which are automatically subject to the procedure, it is the FRP that prepares the EIS guidelines.

When it examines a file to determine whether or not the project should be subjected to the procedure, the KEQC or the Screening Committee decides if it could have significant impacts on the region's environment or communities. To do this, it looks at the nature and scale of the project, its proposed site and the siting context. It decides if it will have significant environmental and social impacts based on the information submitted and experience acquired with similar projects in Nunavik or elsewhere.

The criteria used to determine whether or not a project is to be subjected to the procedure may include:

- the scale of the project;
- the project's potential environmental impacts;
- the project's potential impacts on Aboriginal communities;
- the regulatory framework, or other municipal, provincial or federal regulations or by-laws governing project activities;
- the environment's sensitivity and the presence of rare or threatened species;
- the project's acceptance by the Aboriginal communities concerned;
- the concerns of the population; and
- how innovative the project is.

It is in the proponent's interest to submit a preliminary information document (project notice) which is as comprehensive as possible and which could meet the needs of the KEQC or the FRP if a detailed study is not considered necessary.

With grey-zone projects, proponents, if they consider it justified, may apply for their project be exempted from the procedure. Although such requests are not expressly provided for by the JBNQA, this practice has increased over the years. In cases such as these, proponents must establish that their project will not have any negative environmental or social impacts and that it would not be useful to conduct a detailed review.

In the case of grey-zone projects within provincial jurisdiction, the decision to subject a project to review or not should be rendered within approximately 45 days (subparagraph 23.3.25).

Proponents can check the list of projects submitted to the KEQC since 2000, showing among other things which projects received an attestation of exemption ([www.mddep.gouv.qc.ca/evaluations/projet-nord.htm](http://www.mddep.gouv.qc.ca/evaluations/projet-nord.htm)). To find out about projects that were subjected to the federal procedure, proponents can contact the Canadian Environmental Assessment Agency ([http://www.acee-ceaa.gc.ca/001/index\\_f.htm](http://www.acee-ceaa.gc.ca/001/index_f.htm)).

### 3.4 EIS Guidelines

The EIS guidelines are prepared by the appropriate provincial or federal agency subsequent to the proponent's submission of the preliminary information document (project notice). According to the nature and scale of the project, the agency concerned may, in its guidelines, request additional information or a detailed environmental and social impact statement. In particular, additional information must compare project siting alternatives based on available data and reconnaissance studies. The detailed statement assesses, with the help of an in-depth study, the adopted project's environmental and social impacts. In practice, the scope of the statement requested is determined on a case-by-case basis in keeping with the project's scale and characteristics as well as the receiving environment and social context.

When it is preparing the EIS guidelines, the committee concerned takes into account the main objectives for impact statements set out in Section 23 Schedule 3 of the JBNQA, namely ensuring that:

- environmental and social considerations form an integral part of the proponent's planning and decision-making process;
- potential environmental and social impacts resulting from development are identified as systematically as possible;
- development project alternatives, including alternatives to individual aspects of large-scale projects, are evaluated with a view to minimizing, within reason, the project's impacts on Aboriginals and on wildlife resources and to maintaining the quality of the environment;
- remedial or preventive measures are incorporated into the proposed development so as to minimize, within reason, the anticipated negative impacts; and
- the impact assessment procedure contributes to a better understanding of interactions between Aboriginal peoples, the harvesting of wildlife resources and the region's economic development, and also promotes an understanding of ecological processes ....

Considering Section 23 Schedule 3 of the JBNQA and 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), the EIS guidelines generally call for the impact study to cover the following:

1. Project description, justification and objectives, location and options, regions and populations that could be affected by the project, facilities and activities involved in different construction phases, material/energy balance for the facilities involved, physical and human resources during the operating phase, and future phases of the development.
2. Description of the natural and social environment, the pre-project status of the different components and their interactions, scarcity, fragility, productivity, etc. The environmental aspects to be described include biophysical components

relating to soil, air, vegetation, wildlife, and water. The description of the social environment should include populations, land use, wildlife harvesting, income and employment, institutions, health and public safety, and social and cultural structures.

3. Description and comparative analysis of alternatives and technical options. The comparative analysis should be detailed enough to bring out the advantages and disadvantages of each option in environmental, technical, economic and social terms. This comparative analysis should place special emphasis on social factors.
4. Prediction and assessment of probable impacts; identification, assessment and summary of the project's environmental and social impacts. This should include short, medium and long-term impacts which are direct, indirect or cumulative; reversible or irreversible; and local, regional or national. The assessment should take into account the precision and reliability of the data used and the risks associated with the project.
5. Prediction and assessment of the physical and social environment's effects on the project, particularly climate change and its consequences.
6. Impact mitigation measures: prevention, remediation, compensation, etc., as well as an assessment of residual impacts. Measures for enhancing positive spin-off.
7. Impact monitoring program.

EIS guidelines should be issued within 90 days of the proponent's submission of the complete file (subparagraph 23.3.25).

An impact study for a project in the North should place a great deal of emphasis on social factors and Aboriginal economic development as well as environmental protection and conservation factors.

### **3.5 Preparation of Impact Study**

When they receive the EIS guidelines, proponents must prepare an impact study that complies with the requirements set out therein. They are responsible for obtaining precise, reliable data for their assessment. The effort and resources required to complete the impact study will depend on the guidelines received and the project's scale.

To ensure that their project is socially acceptable, it is in the proponents' interest to consult the communities affected during the project development phase. This will give them a better appreciation and understanding of community concerns and allow them to take these considerations into account in their assessment. What is more, traditional knowledge of the community, environment, and cultural sites is an excellent source of information that will enable them to clearly define the project's impacts. The consultation of Aboriginals can yield interesting suggestions, particularly in terms of local and regional development. [Part 4](#) of this guide provides detailed information on consultation.

Proponents are urged to work in cooperation with a specialized impact study consultant. Consultants are familiar with the procedure and requirements of the agencies concerned and, thanks to their experience, they can often fine-tune project presentations and reduce processing delays for files submitted to these agencies.

### **3.6 Project Review and Impact Study**

When a proponent submits an impact study to the appropriate administrator, it is then referred either to the KEQC or the FRP for review. The study is examined in order to determine whether or not the project can be authorized, taking its environmental and social impacts into consideration.

The study is reviewed in the spirit of the [guiding principles](#) of Section 23 of the JBNQA, namely the protection of Aboriginal communities, Aboriginal rights, and local resources; regional economic development; and the reduction of project environmental and social impacts. A number of factors are taken into consideration in conducting this review:

- the project's justification and purpose;
- the project's positive and negative impacts on both the natural and social environment;
- the project's positive and negative aspects;
- environmental impacts and the mitigation measures proposed, with special emphasis on rare, threatened or at-risk species, fragile habitat, and resources of interest to Aboriginal populations;
- the prevention measures incorporated in the project;
- risk management and prevention measures;
- options considered and their analysis;
- the regulatory framework for the proposed activities; and
- impact monitoring programs during construction and operation.

Once it has reviewed the study, the KEQC or the FRP may ask the proponent for clarification or additional information to complete that included in the study submitted. Some of the reasons for making such a request are as follows:

- the information provided is incomplete;
- the basic data used to assess impacts is not precise enough;
- there is some doubt regarding the extent of certain impacts; or
- some of the information requested in the EIS guidelines was not submitted.

The KEQC or the FRP may then produce a document containing questions and comments regarding the project to be sent to the proponent by the administrator. The proponent must respond to requests and answer questions in a new document in order to fill in the gaps in the impact study. A meeting between the proponent and the review agency concerned can allow them to exchange information and clear up questions; produce a better understanding of the project, and facilitate the procedure.

In addition to the study prepared by the proponent, the KEQC or the FRP can obtain information from experts of their choosing.

### **3.7 Public Consultations and Representations**

In conjunction with their review of the project, the KEQC or the FRP may decide to conduct public consultations. Consulting the public allows it to understand people's concerns about the project, verify that the proponent took these concerns into consideration in preparing the study, and ensure that the communities affected by the project find it acceptable.

Individuals, communities and other stakeholders can ask the KEQC or the FRP, or the Inuit members of these committees, for public hearings to be held. The public can also submit written or oral representations on projects under review. The KRG receives a copy of the documents produced by the proponent since the beginning of the assessment and review process.

The FRP has operating procedures for conducting public hearings, which are included in [Appendix VIII](#) of this guide (Internal Operating Procedures).

The matter of public participation is covered in detail in [Part 4](#) of this guide.

### **3.8 Decision**

When it considers that it has all of the relevant information it requires, the KEQC hands down its decision on whether or not to authorize the project ([subparagraph 23.3.21 JBNQA](#)) or the FRP issues its recommendation in this regard to the federal administrator ([subparagraph 23.4.23 JBNQA](#)). The final decision on the project is generally accompanied by a number of conditions which are an integral part of the authorization. These conditions are often designed to ensure that the project will be implemented in such a way as to minimize negative environmental and social impacts. The decision of the KEQC or the recommendation of the FRP and the appended conditions are sent to the appropriate administrator, who communicates them to the proponent and the KRG.

The list of projects submitted to the KEQC with the stages completed and decisions rendered may be consulted on the MDDEP Web-site ([www.mddep.gouv.qc.ca/evaluations/projet-nord.htm](http://www.mddep.gouv.qc.ca/evaluations/projet-nord.htm)). For all information about projects subjected to the federal procedure, contact the FRP Secretariat.

### 3.9 Subsequent Stages

After going through the procedure set out in Section 23 of the JBNQA and once their projects have been authorized under section 201 of the *Environment Quality Act* (EQA) or under federal statutes, proponents must obtain the other authorizations and permits required to implement their project. For example, in the case of most projects within provincial jurisdiction, authorization must be obtained under section 22 of the EQA.

Only those projects on the list of developments which are automatically exempt (Schedule 2 of the JBNQA) may be undertaken without going through the review and assessment procedure. The proponent must of course obtain all of the other permits, authorizations and licences required, and comply with any other legal obligations, before beginning work on the project.

## **4.0 PUBLIC PARTICIPATION: THE KEAC'S RECOMMENDATIONS**

To the extent that projects may have impacts on communities, whether they be at the social level or in terms of the harvesting of resources, the KEAC considers that proponents should voluntarily put together a public communications program right from the start of the project planning stage.

The KEQC and the FRP expect to see local and regional issues addressed in the proponent's file. A public communications program is an excellent way of ensuring this. Public communications strategies can be used to achieve a number of different objectives, which are outlined below.

### **4.1 Informing the Public and Communities**

Information is a one-way process, flowing from the proponent to the citizens. It includes information on the project submitted, answers to citizens' questions, and information on decisions made. The proponent's objectives are to inform and increase the awareness of the public with regard to the issues, impacts, and proposed mitigation measures.

### **4.2 Consulting and Giving People an Opportunity to Express Themselves**

Consultation is a two-way communication process that allows citizens to inform proponents. It is based on information provided by the project proponent beforehand about which citizens need to be informed.

For proponents, public consultations offer several advantages. Among other things, they allow them to:

- obtain access to an important source of information on the natural and social environment, and traditional knowledge in particular;
- learn of and understand community members' concerns and expectations with regard to the project; and
- obtain the community's support for the project.

Public consultation enables the proponent to meet two objectives, that of providing information and collecting the concerns and comments, in writing or in person, of the citizens, groups and communities affected, and that of discussing the population's concerns and comments.

### **4.3 Encouraging Parties to Participate in Decision-Making Process**

Participation is a partnership relationship between the proponent and citizens. Together, they engage in a decision-making process. This relationship assumes that citizens can suggest options or alternatives for the project and influence discussion, even though they cannot make the final decision.

Participation in decision-making makes it possible to involve a target group which can have an influence on the decisions to be made and to build ongoing partnerships with

special interest group, municipality and citizen representatives for the purpose of making joint decisions.

To sum up, the key types of consultation are:

1. Informing the public and increasing awareness of the issues, impacts, and proposed mitigation measures.
2. Providing information and collecting (in writing or in person) the concerns and comments of the communities affected.
3. Discussing people's concerns and comments.
4. Involving a target group which will have an influence on the decisions to be made.
5. Building ongoing partnerships with special interest group, municipality and citizen representatives for the purpose of making joint decisions.

To help proponents set up a consultation program which is effective, structured, and adapted to the project's scale, we recommend that they consult the Organisation for Economic Co-operation and Development publication entitled *Citizens as Partners: OECD Handbook on Information, Consultation and Public Participation in Policy-Making* ([www.oecd.org/dataoecd/24/15/2384248.pdf](http://www.oecd.org/dataoecd/24/15/2384248.pdf)).

Proponents should write up a detailed report on all consultations. The outcomes should be made public to ensure the procedure's credibility and transparency.

#### **4.4 Choosing a Communications Program**

For a specific project, the best type of communications program to adopt depends on several factors, which include:

- The project's scale: a large-scale project prompts more interest, questions and concerns than a smaller project;
- The project's location: a project sited within a community or its resource harvesting territory causes greater concern than a project located far from areas used for everyday or traditional activities;
- The project's area of influence and the extent of its impacts: the greater and more extensive the environmental and social impacts, the greater the concerns; and
- The project's local and regional economic spin-off: the greater the potential economic spin-off, the higher local and regional expectations.

The proponent must decide on the type of communications program to be used for the project. There are many tools adapted to the different levels of communication. The table below shows various methods that proponents might wish to use.

Communication Methods according to Type of Program Adopted

Communications Program	Suggested Methods
1. Providing information and increasing awareness	Notices or information in newspapers Radio shows Documentation on a Web-site or at municipal office Information campaigns (meetings) with target groups or organizations and/or municipal authorities Information booth
2. Providing information and collecting comments and concerns	Same as above, plus Correspondence E-mails Internet forums Call-in radio talk shows Interviews with individuals and groups Restricted discussion groups (for youth, women, the elderly, etc)
3. Discussing comments and concerns	Same as above, plus Public consultation meetings
4. Obtaining an influential group's recommendations	Restricted meetings Discussion meetings Public hearings
5. Making joint decisions	Same as above, plus Standing committees

It is important for the proponent to choose the right communications program in order to integrate the project into the community as easily as possible.

#### 4.5 Scope of Communications Program

Depending on the project's scale and impacts, the scope of the communications program is local, regional or national. With all projects, a notice describing the project briefly should be posted in the municipal offices concerned and on the appropriate Web-sites. Citizens and groups may, as need be, contact their municipality. Proponents' communications programs are mostly geared towards the following local and regional entities:

### The public:

Inuit communities, residents of Nunavik and neighbouring municipalities, and Québec residents.

### Local entities:

For Inuit community contact information, consult:

Village	Municipal Council	Landholding Corporation
Kangiqsualujuaq	819-337-5271	819-337-5449
Kuujuaq	819-964-2943	819-964-2870
Tasiujaq	819-633-9924	819-633-5335
Aupaluk	819-491-7070	819-491-7045
Kangirsuk	819-935-4388	819-935-4269
Quaqtaq	819-492-9935	819-492-9281
Kangiqsujuaq	819-338-3342	819-338-3368
Salluit	819-255-8953	819-255-8908
Ivujivik	819-922-9940	n/a
Akulivik	819-496-2200	819-496-2640
Puvirnituq	819-988-2825	n/a
Inukjuak	819-254-8845	819-255-8101
Umiujaq	819-331-7000	819-331-7831
Kuujuaaraapik	819-929-3360	819-964-3348

### Regional entities:

Kativik Regional Government	P.O. Box 9 Kuujuaq, Québec J0M 1C0 Tel: (819) 964-2961 or 1-877-964-2961, Fax: (819) 964-2956 <a href="mailto:info@krg.ca">info@krg.ca</a> <a href="http://www.krg.ca/fr/index.htm">http://www.krg.ca/fr/index.htm</a>
Makivik Corporation	P.O. Box 179 Kuujuaq, Québec J0M 1C0 Tel: (819) 964-2925 or 1-877-725-4825 <a href="mailto:info@makivik.org">info@makivik.org</a> <a href="http://www.makivik.org/fr/index.asp">http://www.makivik.org/fr/index.asp</a>
Katutjiniq – Kativik Regional Development Council	P.O. Box 239 Kuujuaq, Québec J0M 1C0 Tel: (819) 964-2035, Fax: (819) 964-2611 <a href="mailto:ayassa@krg.ca">ayassa@krg.ca</a> <a href="http://www.katutjiniq.ca">http://www.katutjiniq.ca</a>
Kativik School Board	9800 boul. Cavendish, bureau 400 Saint-Laurent, Québec H4M 2V9 Tel: (514) 482-8220, Fax: (514) 482-9278 <a href="http://www.kativik.qc.ca/html/aipai">http://www.kativik.qc.ca/html/aipai</a>
Régie régionale de la santé et des services sociaux du Nunavik	P.O. Box 900 Kuujuaq, Québec J0M 1C0 Tel: (819) 974-2222, Fax: (819) 974-2888 <a href="mailto:information_rsss17@ssss.gouv.qc.ca">information : _rsss17@ssss.gouv.qc.ca</a> ; <a href="http://www.rsss17.gouv.qc.ca">http://www.rsss17.gouv.qc.ca</a>

## 4.6 Links and Resources

1. Provincial Administrator of the JBNQA

Provincial Administrator of the JBNQA  
Deputy Minister of Sustainable Development, Environment and Parks  
Ministère du Développement durable, de l'Environnement et des Parcs  
Édifce Marie-Guyart  
675 boul. René-Lévesque Est, 30<sup>e</sup> étage, boîte 02  
Québec, Québec G1R 5V7  
Telephone: (418) 521-3933, Fax: (418) 646-0266  
Web-site: [www.mddep.gouv.qc.ca/evaluations/mil-nordique/index.htm](http://www.mddep.gouv.qc.ca/evaluations/mil-nordique/index.htm)

2. Federal Administrator of the JBNQA

Federal Administrator of the JBNQA  
Place Bell Canada, 160 Elgin Street, 22nd Floor  
Ottawa, Ontario K1A 0H3  
Telephone: (613) 948-2671, Fax: (613) 948-2208  
[info@acee-ceaa.gc.ca](mailto:info@acee-ceaa.gc.ca)

3. Kativik Environmental Quality Commission (KEQC)

Kativik Environmental Quality Commission (KEQC)  
Kuujuaq, P.O. Box 930  
Québec, Québec J0M 1C0  
Telephone: (819) 964-2961, Fax: (819) 964-2910

4. Federal Review Panel (FRP)

Federal Review Panel (FRP)  
1141 route de l'Église, 2e étage,  
Sainte-Foy, Québec G1V 4B8  
Telephone: (418) 649-6444, Fax: (418) 649-6443  
[ceaa.quebec@acee-ceaa.gc.ca](mailto:ceaa.quebec@acee-ceaa.gc.ca)

5. JBNQA Screening Committee, see FRP

6. Makivik Corporation

Makivik Corporation  
P.O. Box 179  
Kuujuaq, Québec J0M 1C0  
Telephone: (819) 964-2925 or 1-877-725-4825  
[info@makivik.org](mailto:info@makivik.org)  
<http://www.makivik.org/fr/index.asp>

7. Kativik Regional Government (KRG)

Kativik Regional Government

P.O. Box 9

Kuuujuaq, Québec J0M 1C0

Telephone: (819) 964-2961 or 1-877-964-2961, Fax: (819) 964-2956

[info@krq.ca](mailto:info@krq.ca)

<http://www.krq.ca/fr/index.htm>

8. Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP)

Direction des évaluations environnementales

Service des projets industriels et en milieu nordique

Édifice Marie-Guyart, 6e étage, boîte 83

675 boulevard René-Lévesque Est

Québec, Québec G1R 5V7

Telephone: (418) 521-3933, Fax: (418) 646-0266

<http://www.mddep.gouv.qc.ca/evaluations/mil-nordique/index.htm>

9. Projects submitted to the KEQC:

<http://www.mddep.gouv.qc.ca/evaluations/projet-nord.htm - nord>

10. *James Bay and Northern Quebec Agreement*, Section 23:

[http://www.ainc-inac.gc.ca/pr/agr/que/jbnq9\\_f.PDF](http://www.ainc-inac.gc.ca/pr/agr/que/jbnq9_f.PDF)

11. *Environment Quality Act*, Chapter II, Division III:

[http://www.mddep.gouv.qc.ca/publications/lois\\_reglem.htm](http://www.mddep.gouv.qc.ca/publications/lois_reglem.htm)

12. Canadian Environmental Assessment Act:

[http://www.acee-ceaa.gc.ca/013/index\\_f.htm](http://www.acee-ceaa.gc.ca/013/index_f.htm)

5.0 APPENDICES

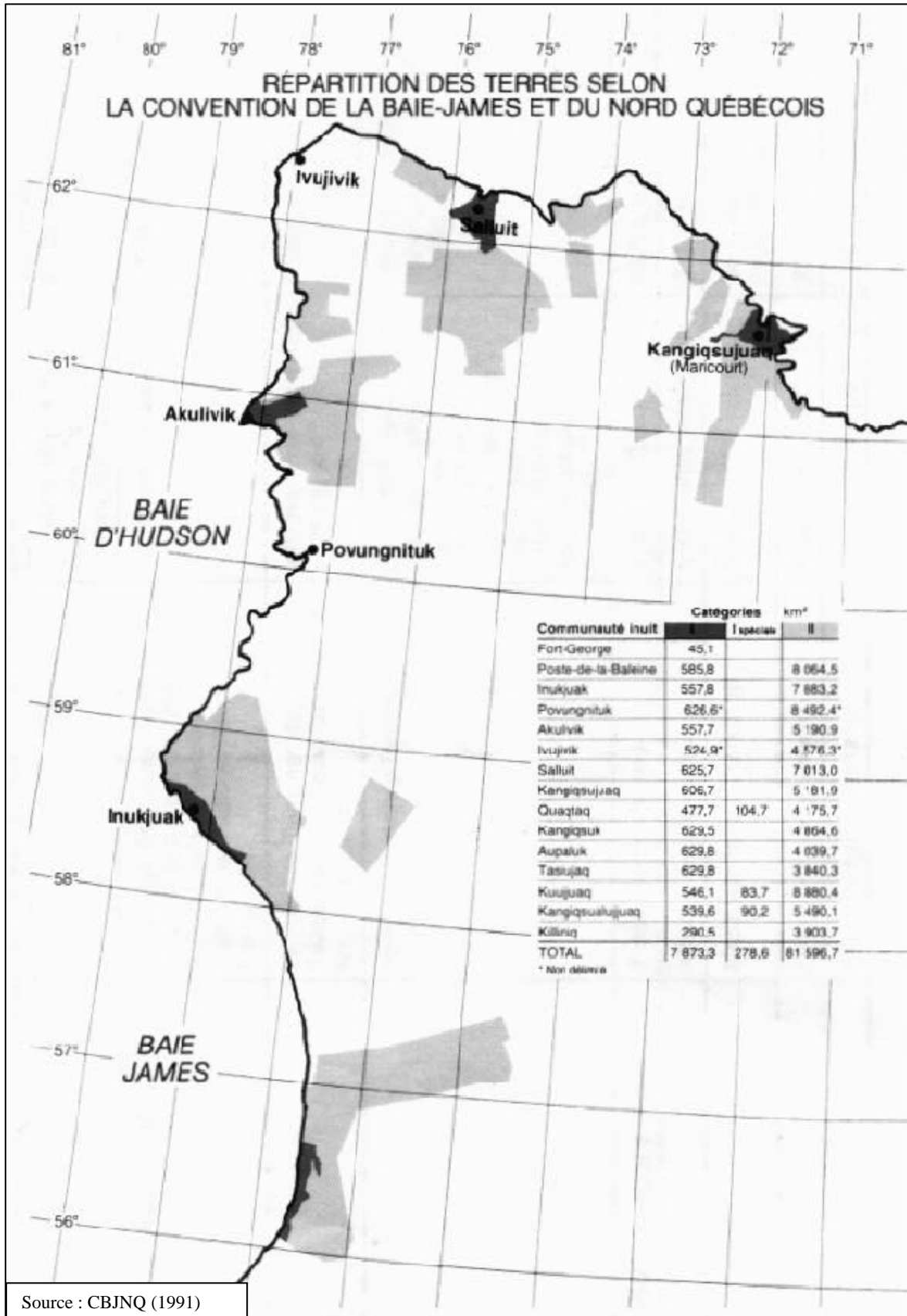
APPENDIX 1

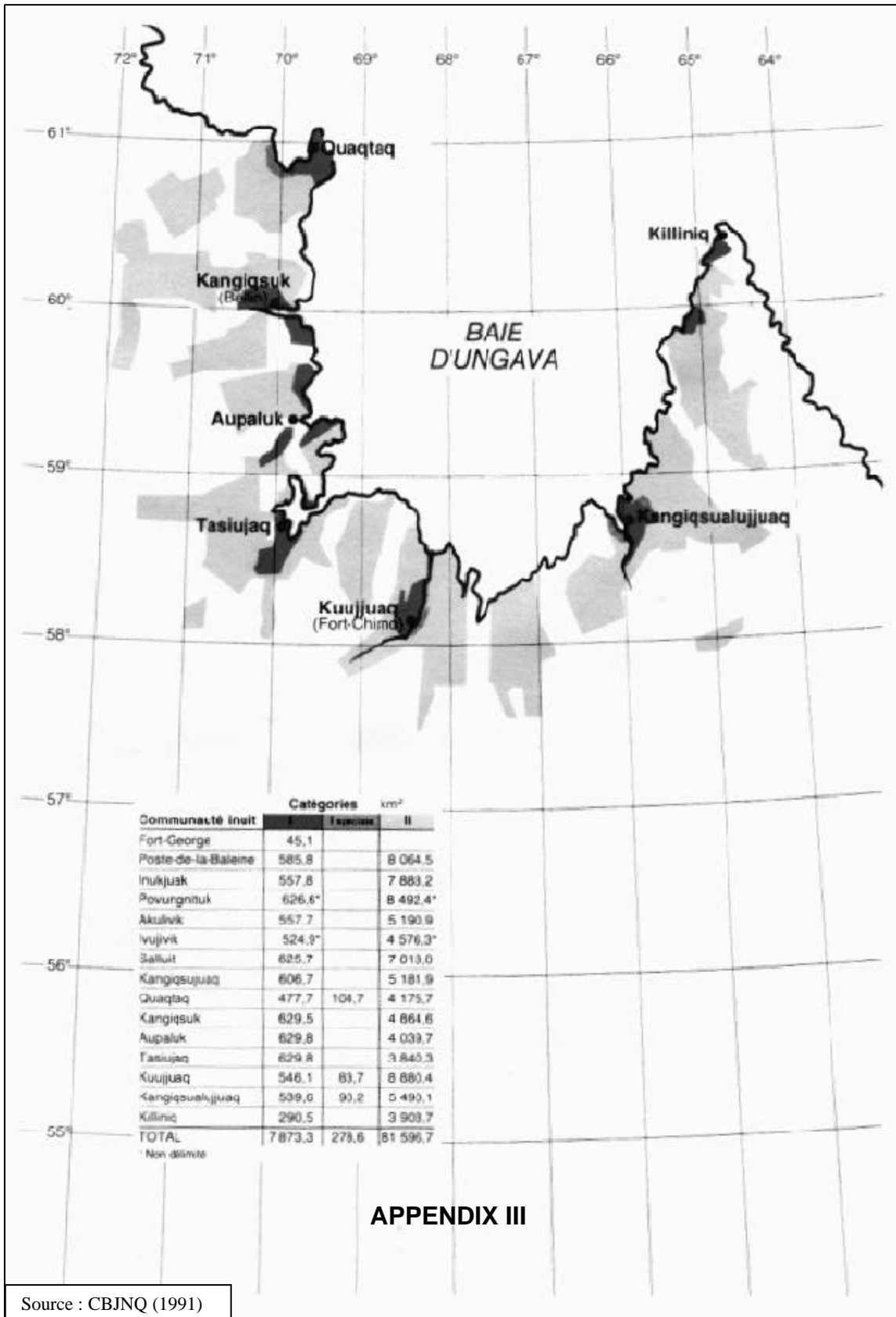


Source: Makivik Corporation

**Inuit Territory Governed by the JBNQA**

## APPENDIX II





**APPENDIX III**

Source : CBJNQ (1991)

## COMMITTEES (October 2007)

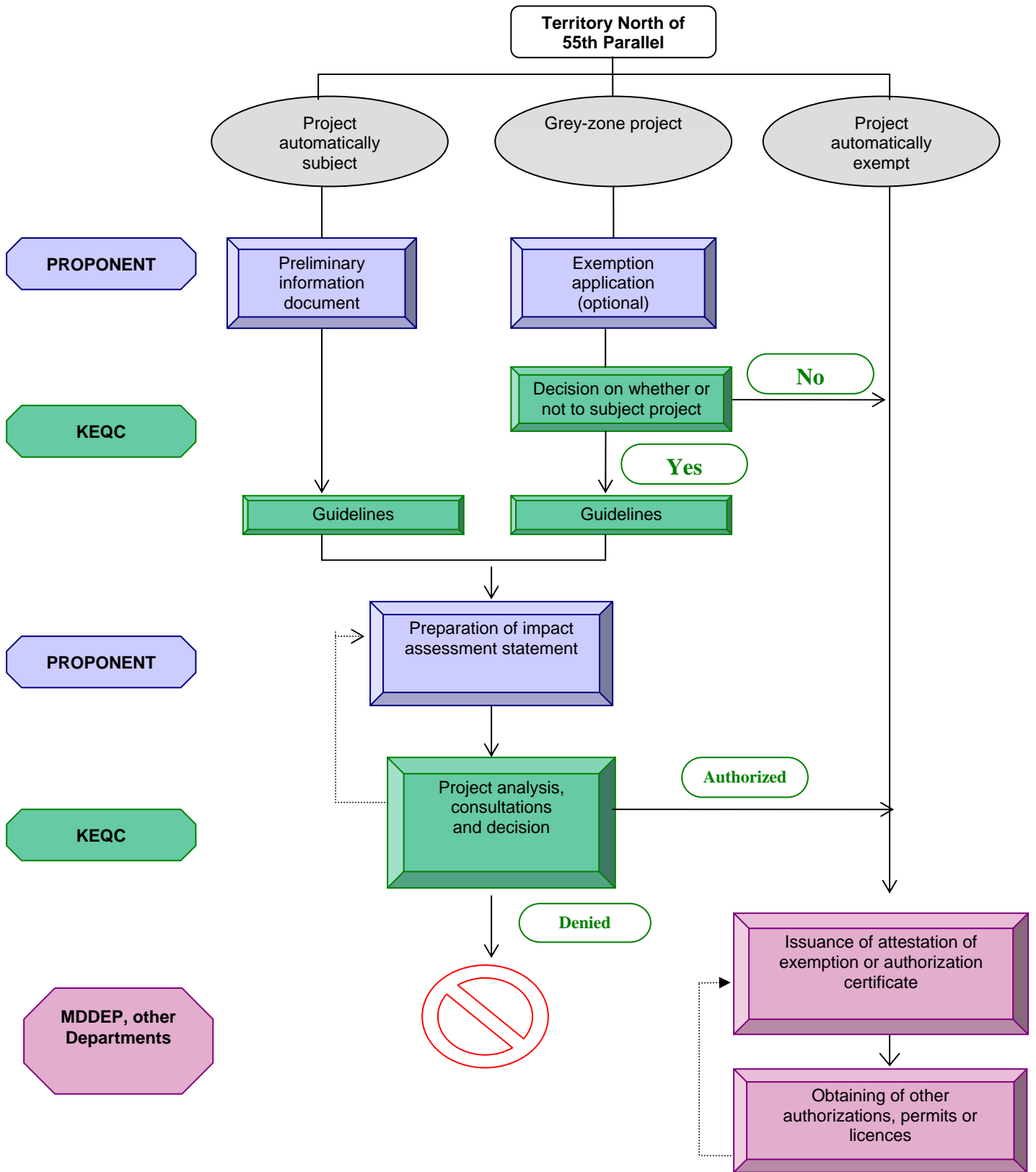
COMMITTEE	MEMBERS	APPOINTED BY	TELEPHONE
Kativik Environmental Quality Commission (KEQC) (Note 1)	Peter Jacobs, Chair	Canadian govt.	
	David Okpik,	KRG	
	<u>Putulik Papigatuk</u>	KRG	
	Joseph Annahatak	KRG	
	Eli Aullaluk	KRG	
	Daniel Berrouard	Québec govt.	
	Denis Bernatchez	Québec govt.	
	Mireille Paul	Québec govt.	
	Edith van de Walle	Québec govt.	
		Contact: Martin Tremblay	(418) 964-2961 Ext. 2322
Kativik Environmental Advisory Committee (KEAC) (Note 2)	Michael Barrett, Chairman	KRG	
	Eli Angiyou, Vice-Chairman	KRG	
	David Okpik	KRG	
	Paule Halley	Québec govt.	
	Jean Couture	Québec govt.	
	Sylvie Létourneau	Québec govt.	
	Claude Abel	Canadian govt.	
	Chantal Leblanc-Bélanger	Canadian govt.	
	Gilles H. Tremblay	Canadian govt.	
		Contact: Nancy Dea	(819) 964-2961 Ext. 2287
Federal Review Panel North (FRP-N) (Note 3)	Benoit Taillon, Chair	Canadian govt.	
	Caroline Larrivée	KRG	
	Luke Inukpuk	KRG	
	Yves Simpson	Canadian govt.	
	Michel Bouchard	Canadian govt.	
		Contact: Eric Giroux	(418) 694-6442

Note 1 The Chair of the KEQC is appointed by the Québec government and approved by the Kativik Regional Government.

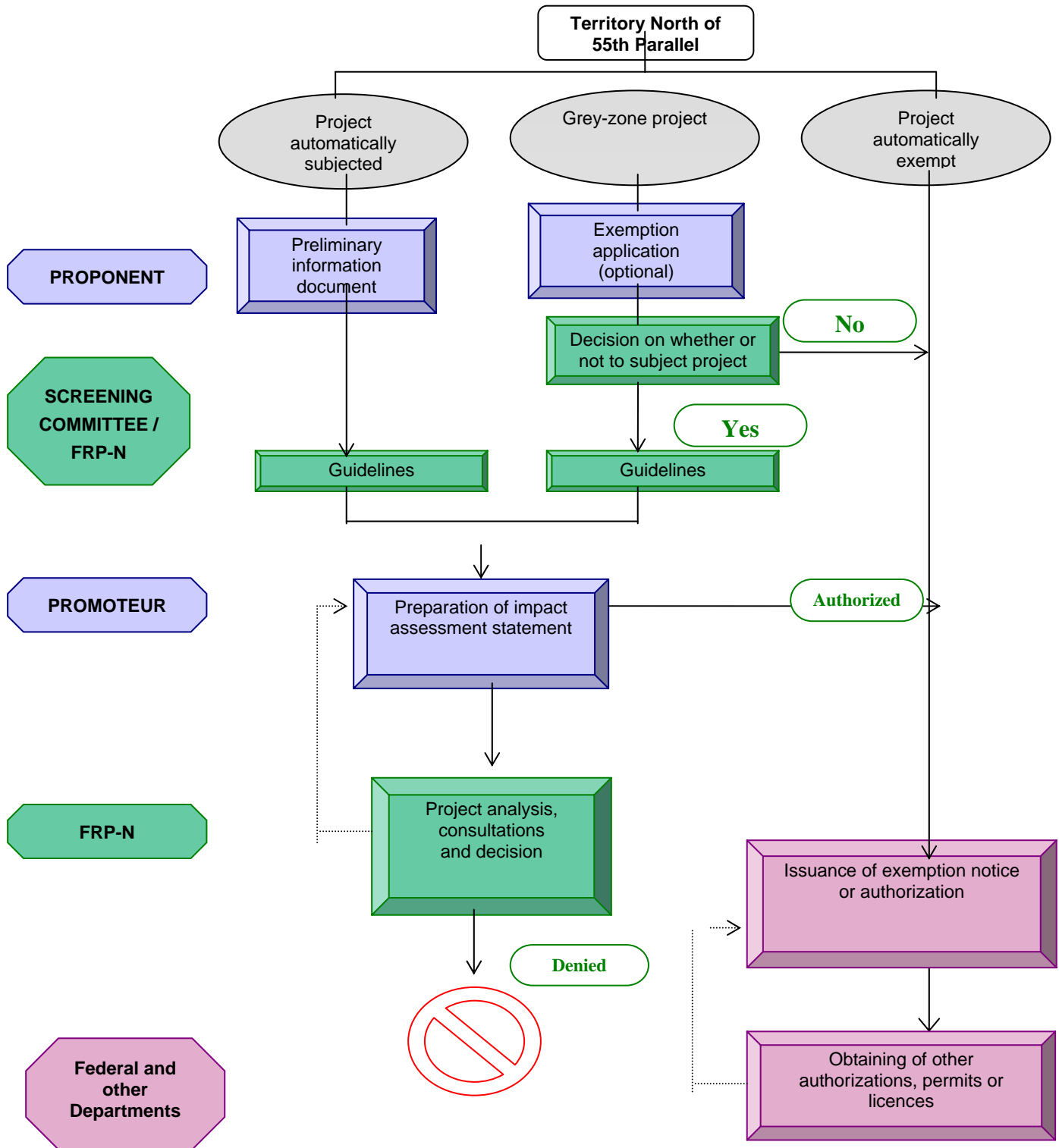
Note 2 The Chair and Vice-Chair of the KEAC change every year.

Note 3 The Chair of the Federal Review Panel is appointed by the Canadian government

# APPENDIX IV Provincial Flow Chart



## APPENDIX V Federal Flow Chart



## APPENDIX VI

### Types of Projects Which Are Automatically Subject to Assessment

## (Section 23 Schedule 1)

### Future Developments Automatically Subject to Environmental Impact Assessment

1. All mining developments. However, air and ground reconnaissance, survey, mapping and core sampling by drilling shall be permitted without the preparation of impact statements.

Any significant additions, alterations or modifications to existing mining developments.

2. Siting and operation of major sand and gravel pits and quarries.

3. Energy Production:

a) Hydro-electric power plants and nuclear installations and their associated works;

b) Storage and water supply reservoirs;

c) Transmission lines of 75 KV and over;

d) Extraction and processing of energy yielding materials;

e) Fossil-fuel fired power generating plants above three thousand (3,000) Kilowatts.

4. Forestry:

a) Major access roads built for extraction of forest products;

b) Wood, pulp and paper mills or other forestry plants;

c) In general, any significant change in land use substantially affecting more than 25 square miles.

5. Community and Municipal Services:

a) new significant sewage and waste water collection and disposal systems;

b) solid waste collection and disposal, including land fill and incineration; c) proposals for parks, wilderness areas, ecological reserves or other similar land classifications;

d) new outfitting facilities for more than thirty (30) persons, including networks of outpost camps;

e) new towns, communities or municipalities or significant expansion thereof;

6. Transportation:

a) access roads to and near communities;

b) port and harbour facilities;

c) airports;

d) railroads;

e) road infrastructure for new development;

f) pipelines;

g) dredging operations for navigation improvements.

## APPENDIX VII

### Types of Projects Which Are Automatically Exempt (Section 23 Schedule 2)

#### Future Developments Exempt from the Requirement for Impact Assessment

- a) Any development within the limits of communities not directly affecting the wildlife resources outside these limits;
- b) small hotels, motels, service stations and similar structures on provincial or lesser highways;
- c) structures intended for dwellings, wholesale and retail trade, garages, offices or handicrafts and car parks;
- d) fossil-fuel fired power generating systems below three thousand (3,000) kilowatts;
- e) the following immovables:  
teaching establishments, banks, fire stations, immovables intended for administrative, recreational, cultural, religious, sports and health purposes and immovables and equipment used for telecommunications;
- f) the construction, modification, restoration, relocation or putting to another purpose of control and transformer stations of seventy-five (75) kilovolts or under and transport and electric power transmission lines of a voltage of seventy-five (75) kilovolts or under;
- g) the construction and extension of a pipe main of less than thirty (30) centimetres in diameter to a maximum length of five (5) miles;
- h) preliminary investigation, research, survey and technical survey works prior to any project, work or structure;
- i) forestry development when included in governmental approved management plans, subject to the provisions of paragraph 23.5.34 of this Section;
- j) municipal streets and sidewalks built in accordance with municipal bylaws, and operation and maintenance of roads and highway structures;
- k) repairs and maintenance of municipal works;
- l) temporary hunting, trapping, harvesting camps; outfitting facilities for less than thirty (30) persons;
- m) the extraction and handling of soapstone, sand, gravel, copper, timber for personal and community use;
- n) small wood cuttings for personal and community use;
- o) borrow pits for highway maintenance purposes.

The foregoing shall not be construed as restricting the requirements for environmental impact assessment under the Federal impact assessment and review process for federal projects.

## APPENDIX VIII

Convention de la Baie James et du Nord québécois	James Bay and Northern Quebec Agreement
Comité fédéral d'examen des répercussions sur l'environnement et le milieu social	Federal Environmental and Social Impact Review Panel

### INTERNAL OPERATING PROCEDURES

#### Introduction

The purpose of the operating procedures is to guide FRP-North's internal work under the provisions of Section 23 of the *James Bay and Northern Quebec Agreement* (JBNQA) by promoting the principles of efficiency and transparency.

These procedures were established in common agreement with all present members and may be amended at any time with the consent of all members. These procedures are general in nature and are not restrictive.

The members agree to follow the procedures insofar as possible with the understanding that they can be amended in accordance with the projects submitted by the Federal Administrator.

#### **1. Assessment Process Implementation Timelines**

FRP-North cannot be bound by a maximum process implementation timeline as project complexity is highly variable and Section 23 of the JBNQA contains no procedural specifics for "small-" or "large-scale" projects. However, FRP-North will do its utmost to:

- Issue a directive to the proponent within 30 days of receiving a project notice from the Federal Administrator.
- Send any additional questions to the proponent within 60 days of receiving the impact statement, where applicable.
- Provide its recommendations to the Federal Administrator within 30 days of receiving all required information from the proponent.

#### **2. Criteria for Holding a Public Consultation**

FRP-North will consider the following criteria in deciding whether or not to hold a public consultation on the environmental and social effects of a project:

- Project type.
- Sensitivity of the potentially affected environment.
- Scope of expected impacts.
- Perceptible public interest and concerns in the project's impacts.
- Nature of the proponent's public consultation in the project's design phase.
- Previous consultation by another body.
- Proponent's experience in the environmental and social assessment process (e.g., past achievements, follow-up results).

If applicable, FRP-North will consider the following options for holding a public consultation:

- Hearings in the community.
- Formal meeting with municipal representatives.

- Informal meetings with certain key stakeholders (e.g. proponent, municipal council, targeted population groups).
- Interviews and question period on community radio stations (radio show).

To assist in its decision, FRP-North will discuss these options with the mayor of the municipality that is liable to be affected by the project.

### **3. Coordination with Other Instances**

FRP-North will do its utmost to collaborate with the other instances involved in the environmental assessment processes applicable on the territory. In particular:

- FRP-North will regularly keep the Kativik Environmental Advisory Committee (KEAC) informed of its activities.
- FRP-North will send its official documents (additional questions for the proponent, request to the community for public consultation and recommendations to the Federal Administrator, etc.) to the KEQC secretariat.
- In the assessment of projects of mixed jurisdiction as described in Section 23 of the JBNQA, the FRP-North will:
  - Offer to collaborate with the Kativik Environmental Quality Commission (KEQC).
  - Propose the establishment of a joint working group (6 persons) mandated to provide recommendations to both committees.
  - Propose that the chair of this joint working group be designated by the presidents of FRP-North and KEQC.
  - Propose that the committees hold joint public consultations via the joint working group.

### **4. Documentation**

A table summarizing all activities realized by the FRP-North will be produced for each project assessed under Section 23 of the JBNQA.

FRP-North will make all its relevant documents available to the public via an Internet site. The documents will include:

- Internal operating procedures.
- Directives issued by the Federal Administrator.
- Recommendations and reports (pending the decision of the Federal Administrator).
- Federal Administrator's decision to the proponent.

### **5. Meetings**

If possible, the FRP-North will meet at least once for each project submitted by the Federal Administrator. The location of the meetings is at the members' discretion.

If the members cannot meet in person in due time, the meeting may be held by conference call.

An agenda will be submitted to the members by the Executive Secretary before each meeting.