



Cree participation in the JBNQA impact assessment procedure

The Crees have an intimate relationship with the land and continue to practice traditional hunting, fishing, trapping, and gathering activities. Some still live primarily off the land, and almost all partake in traditional wildlife harvesting activities at some times of the year. Some activities, such as the 'Goose Break' (in the spring to early summer) and the moose hunting season in the fall, are centuries-old traditionally important hunting periods. The link that the Cree have with the land is a foundation of their society, culture, spirituality and traditional way of life. The Cree well-being and traditional knowledge derive from maintaining this link with the land. They maintain a rich oral history and the majority speak the Cree language. The Cree thus have unique perspectives, intimate knowledge, and detailed insights of the land and its resources. Proponents should be prepared to seek these out and to respect them when seeking to advance development projects.

Signed in 1975, the James Bay and Northern Quebec Agreement (JBNQA) was the first modern treaty in Canada. The JBNQA establishes a comprehensive framework governing land use, environmental protection, and Indigenous rights throughout the Eeyou Istchee James Bay Territory. Among its key provisions are:

- A land regime based on three distinct categories of land (Section 5);
- A unique environmental and social protection regime guided by nine foundational principles, including an environmental and social impact assessment and review process and a special role for Cree participation in its implementation (Section 22);
- A distinct hunting, fishing, and trapping regime that recognizes Cree harvesting rights, reserves certain wildlife species exclusively for Cree use, and formally acknowledges the Cree system of family-based hunting territories, commonly known as traplines (Section 24).

Section 22 of the JBNQA establishes the environmental and social protection regime for the Eeyou Istchee James Bay Territory. This regime is the first environmental assessment process in North America to formally recognize and ensure the participation of Indigenous Peoples in environmental decision-making. The regime, based on a series of guiding principles, is specifically designed to protect Cree hunting, fishing, and trapping rights, which are inseparable from the health of the land, waters, and ecosystems on which these activities depend.

The JBNQA recognized as early as 1975 that protecting Cree culture requires consideration of both environmental and social factors, as incorporated in Section 22. Furthermore, through consultation and representative mechanisms, Section 22 provides the Cree with a level of participation that extends beyond that afforded to the general public.

The figure below is the poster presented at the International Association for Impact Assessment (IAIA) conference (see Figure 1) which illustrates the assessment and review process in which the Cree are directly involved.

CREE PARTICIPATION IN THE JBNQA IMPACT ASSESSMENT PROCEDURE

The James Bay and Northern Quebec Agreement was signed in 1975. It was the first modern treaty. It guarantees a special participation status for the Crees in the decision-making process.

PROJECT PROPOSAL

Proponents in the Territory should contact the appropriate local and regional administrations as an initial step when planning their projects.

For more information on the procedure:



SCHEDULE 1
(list of included project types)
Review by COMEX / COFEX-S
(2 Cree appointed members)

GREY AREA
Assessment by COMEV
(2 Cree appointed members)

SCHEDULE 2
(list of exempted project types)
No review required

STEP 1: Proponent submits Preliminary Information to Administrator. COMEV prepares the Directive that is then communicated to proponent by Administrator.

STEP 1: Proponent submits Preliminary Information to Administrator
STEP 2: Administrator transmits Preliminary Information to COMEV

STEP 2: Proponent prepares EIS per the Directive and submits it to the Administrator
Proponents must engage with the public prior to the review of the EIS and show how these engagement activities helped in the development of the final design of the project, how well the public was made aware of the project, and of how public input was taken into account.

STEP 3: COMEV assesses project and transmits its recommendation to Administrator: No review / Review (recommendations on Directive for review)

STEP 4: Administrator makes a decision, notifies the proponent and transmits the Directive for the review, if needed
On category I land, the decisions are taken by the Cree Regional Administrator
Directive issued by the COMEV contains the requirement of consultation with communities, group and individuals

STEP 3: Administrator transmits EIS to COMEX or COFEX-South

STEP 4: Review body examines EIS and transmits recommendation to Administrator
Formal public participation through information and consultation sessions

STEP 5: Administrator makes a decision and notifies proponent

Review required

Review not required (no impact assessment)

Authorization not issued

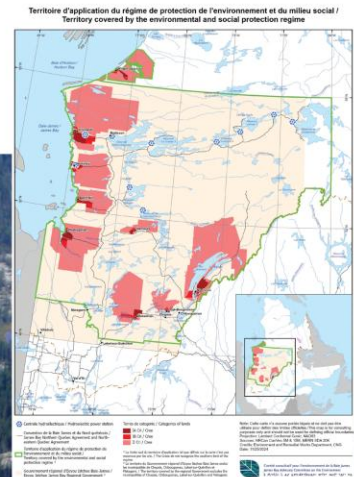
Authorization issued
Conditions that proponents must respect are usually included in the authorization.

Proponents must generally maintain collaborative monitoring and information-sharing, often through required post-review committees. Even when not mandatory, continued community engagement is best practice.

IMPORTANT TIPS AND BEST-PRACTICES:

- Early engagement
- Public engagement and participation plans
- Sensitivity to Cree culture
- Awareness of the land regime and traplines system
- Continued communication throughout the project life cycle

Administrator: Designated official; provincial, federal, or Cree depending on the jurisdiction of the project
EIS: Environmental and social impact statement
COMEX: Review Committee – provincial /Cree jurisdiction
COFEX-S: Federal Review Panel – federal jurisdiction
COMEV: Evaluating Committee (tripartite)



Comité consultatif pour l'environnement de la Baie James
James Bay Advisory Committee on the Environment
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Figure 1: Poster presented by the JBACE at the IAIA26 conference.

As seen on the poster, Cree participation in the evaluation and review process takes place at two levels: as part of the committees, and through consultations. First, the Administrator¹ of the regime for projects located on category I land² is Cree. During the evaluation process to determine whether a project needs to be reviewed, the evaluating committee (COMEV), a tripartite committee composed of two members appointed by each party (Cree, provincial, federal), is mobilized. In the event of a review, the review committee (COMEX or COFEX-S), a bipartite committee composed of two Cree

¹ Designated official who decides if the project has to undergo an impact assessment, who communicates the directives, and if an impact assessment has been submitted, if the project may be carried out. His decisions are based on recommendations from the committees

² Lands allocated to the Cree communities amounting to an area of ~5500 km². These lands are reserved for the exclusive use of the Cree communities and are managed by their local administrations with the support of the Cree Nation Government.

appointed members and three from the other party (provincial or federal, depending on the jurisdiction of the project), is mobilized. The process also includes dispositions regarding public participation, and the project proponent must organize public information and consultation sessions.

Section 22 also established the James Bay Advisory Committee on the Environment (JBACE), a tripartite body responsible for overseeing the environmental and social protection regime. As the preferred forum for issues related to environmental and social protection in the Territory, the JBACE analyzes issues that may affect the environment or local communities, advises the governments on the development of policies, legislation, and regulations, and facilitates dialogue among stakeholders. The Committee is composed of representatives appointed in equal numbers by the three parties – Cree, federal and provincial.

Beyond formal Cree participation requirements under the Section 22 procedure, the JBACE identified best practices for effective public participation³ and building trust through openness, transparency, flexibility, and reciprocity.

The guide identifies four fundamental principles:

- Openness: proactively seeking public views and establishing direct relationships with communities.
- Transparency: providing timely, accurate, and understandable information about the project and its impacts.
- Flexibility: being prepared to adapt project design, schedules, mitigation measures, and engagement approaches based on feedback.
- Reciprocity: demonstrating how community input is used and provide feedback to participants

To ensure meaningful and accessible participation, it is important to provide information in clear and appropriate languages (including Cree where relevant), use maps, visuals, and other communication tools, as well as allow sufficient time for communities to review information and formulate responses. It is best to offer multiple participation methods, such as public meetings, interviews, discussion forums, surveys, social media, telephone consultations, and written submissions. Adapting engagement methods to community preferences and schedules is also a best practice put forward by the JBACE.

It is also important to respect local and Cree knowledge by ensuring its confidentiality and putting it on an equal footing to scientific knowledge. For example, project proponents should establish clear protocols for handling confidential information, protect sensitive knowledge shared by participants, and explain how traditional and local knowledge has influenced project planning and decision-making. Considering Cree cultural practices, seasonal activities, and land-use patterns is also crucial when planning engagement. For instance, proponents should avoid holding consultations during the Goose Break as many community members will be out on the land.

³ See the guide titled Best-Practice Guidance for Project Proponents: Project-related public participation and engagement in the James Bay Territory published in 2019, available on the JBACE website at: <https://cceb-jbace.ca/wp-content/uploads/documents-en/jbace-bp-pp-guide-2019-11x17-1.pdf>

Now more than ever, the public wants to be kept informed about issues that may affect them, and they want the opportunity to voice their concerns and opinions so that they can help to minimize the negative impacts of projects and maximize the positive effects and outcomes. We hope that this short communication will inspire other jurisdictions to implement formal and informal practices to ensure the meaningful participation of local communities.

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Participation crie dans la procédure d'examen des impacts de la CBJNQ

Les Cris entretiennent un lien étroit avec la terre et continuent de pratiquer la chasse, la pêche, le piégeage et la cueillette traditionnels. Certains vivent encore principalement de ce que leur offre la terre et presque tous participent à des activités traditionnelles d'exploitation de la faune à certaines périodes de l'année. La « chasse à l'oie » et la saison de chasse à l'orignal, par exemple, constituent des périodes de chasse traditionnellement importantes depuis des siècles. Le lien qui unit les Cris au territoire est un fondement essentiel de leur société, leur culture, leur spiritualité et leur mode de vie traditionnel. Ils tirent leur bien-être du maintien de ce lien avec leur territoire, qui constitue fondement du savoir traditionnel. Ils conservent une riche histoire orale et la majorité d'entre eux parlent la langue crie. Ils possèdent ainsi des perspectives uniques, une connaissance intime et une compréhension approfondie du territoire et de ses ressources.

Signée en 1975, la Convention de la Baie-James et du Nord-Québec (CBJNQ) a été le premier traité moderne au Canada. La CBJNQ établit un cadre global régissant l'aménagement du territoire, la protection de l'environnement et les droits des peuples autochtones sur l'ensemble du territoire d'Eeyou Istchee Baie-James. Parmi ses principales dispositions figurent :

- Un régime foncier fondé sur trois catégories distinctes de terres (chapitre 5);
- Un régime unique de protection de l'environnement et du milieu social fondé sur neuf principes directeurs, comprenant notamment un processus d'évaluation et d'examen des impacts environnementaux et sociaux, ainsi qu'un rôle particulier accordé aux Cris dans sa mise en œuvre (chapitre 22);
- Un régime spécifique en matière de chasse, de pêche et de piégeage qui reconnaît les droits de récolte des Cris, réserve certaines espèces sauvages à leur usage exclusif et reconnaît officiellement le système cri de territoires de chasse familiaux, communément appelé « aires de trappe » (chapitre 24).

Le chapitre 22 de la CBJNQ établit le régime de protection de l'environnement et du milieu social sur le territoire. Ce régime est le premier processus d'évaluation environnementale en Amérique du Nord à reconnaître officiellement et à garantir la participation des peuples autochtones à la prise de décision en matière d'environnement. Ce régime, fondé sur une série de principes directeurs, est spécifiquement conçu pour protéger les droits de chasse, de pêche et de piégeage des Cris, qui sont indissociables de la santé des terres, des eaux et des écosystèmes dont dépendent ces activités.

La CBJNQ a reconnu dès 1975 que la protection de la culture crie exigeait de prendre en compte à la fois des facteurs environnementaux et sociaux. Le chapitre 22 intègre donc des considérations

sociales parallèlement à la protection de l'environnement et accorde aux Cris un niveau de participation qui va au-delà de celui accordé au grand public, notamment par le biais de consultations et de mécanismes de représentation.

Comme le démontre l'affiche présentée à IAIA (voir figure 1), la participation des Cris au processus d'évaluation et d'examen s'effectue d'une part au sein des comités, et d'autre part, par le biais de consultations. L'administrateur⁴ du régime pour les projets situés sur des terres de catégorie I⁵ est nommé par les Cris. Au cours du processus d'évaluation, le comité d'évaluation (COMEV), un comité tripartite composé de deux membres désignés par chaque partie (crie, provinciale, fédérale), est mobilisé. Si un projet doit faire l'objet d'un examen, le comité d'examen (COMEX ou COFEX-S), un comité bipartite composé de deux membres désignés par les Cris et de trois membres issus de l'autre partie (provinciale ou fédérale, selon la juridiction du projet), est mobilisé. Le processus comprend également des dispositions relatives à la participation du public, le promoteur du projet devant organiser des séances d'information et de consultation publiques.

Le chapitre 22 a également institué le Comité consultatif pour l'environnement de la Baie James (CCEBJ), un comité tripartite chargé de surveiller le régime de protection de l'environnement et du milieu social. En tant qu'organisme privilégiée pour les questions liées à la protection environnementale et sociale sur le territoire, le CCEBJ analyse les enjeux susceptibles d'avoir une incidence sur l'environnement ou les communautés locales, conseille les gouvernements sur l'élaboration des politiques, des lois et des règlements, et facilite le dialogue entre les parties prenantes. Le Comité est composé de représentants nommés en nombre égal par les trois parties.

⁴ Responsable désigné chargé de déterminer si le projet doit faire l'objet d'une étude d'impact, de communiquer les directives et, si une étude d'impact a été présentée, de décider si le projet peut être réalisé. Ses décisions s'appuient sur les recommandations des comités.

⁵ Terres attribuées aux communautés crie et couvrant une superficie d'environ 5500 km². Ces terres sont réservées à l'usage exclusif des communautés crie et sont gérées par leurs administrations locales avec l'appui du Gouvernement de la Nation Crie (GNC).