SECTION 22 OF THE JAMES BAY NORTHERN QUÉBEC AGREEMENT (JBNQA)
TABLE OF CONTENTS

I. JBNQA and Legal Framework
II. Content of an ESIA
III. The ESIA Process and Key Actors
IV. Cree participation in ESIA
JAMES BAY AND NORTHERN QUÉBECK AGREEMENT (JBNQA)

An agreement signed by:

Grand Council of the Crees of Québec
Northern Québec Inuit Association
Government of Quebec
Government of Canada
Hydro-Québec & SEBJ

Signed on November 11, 1975, the JBNQA was ratified by the Cree and Inuit through referenda held in Cree and Inuit communities.
JBNQA – SECTION 22
ENVIRONMENT AND FUTURE DEVELOPMENT BELOW THE 55TH PARALLEL

- **Section 22** establishes the environmental and social protection regime for Cree people, societies, communities and economies with respect to developmental activity on the Territory.

  *Quebec’s Environmental Quality Act, chapter II, also embeds the JBNQA provisions*

- **Section 22** protects Cree hunting, fishing and trapping rights established in Section 24 (s.22.2.2d).
The major provisions of Section 22 establish:

1. A procedure whereby environmental and social laws and regulations and land use regulations may be adopted to minimize the negative impact of development in or affecting the Territory upon the Native people and the wildlife resources of the Territory (s. 22.2.2a);

2. An environmental and social impact assessment and review procedure (s.22.2.2b);

3. A special status and involvement for the Cree over and above those provided for the general public wherever necessary to protect the rights and guarantees of the Native people in other procedures (above and beyond that provided for the general public through consultation or representative mechanisms) (s.22.2.2c);

4. The right to develop the territory (s.22.2.2f).
Territory covered by the environmental and social protection regime: Category I, II & III land.
JAMES BAY AND NORTHERN QUÉBEC AGREEMENT (JBNQA – SECTION 22, SCHEDULES 1 & 2)

PROJECTS AUTOMATICALLY SUBJECT TO THE ASSESSMENT AND REVIEW PROCEDURE

Projects in Gray area

PROJECTS AUTOMATICALLY EXCLUDED FROM THE ASSESSMENT AND REVIEW
II – CONTENTS OF AN ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA)
Definition: Environmental and Social Impact Assessment Process

“... A process consisting of studies by which development [projects] are subject to varying degrees of identification, description, and evaluation in order to determine the beneficial and adverse effect of such developments on the environment and the people.”

- JBNQA
Objectives of an Environmental and Social Impact Assessment

- Identify, assess and document the impacts produced by a development project.
- Ensure that environmental and social considerations form an integral part of the proponent's planning and decision-making process.

II – CONTENTS OF AN ESIA
Current projects subject to ESIA process in Eeyou Istchee

For detailed list: http://comexqc.ca/projets/
1. **PROJECT DESCRIPTION**  
(context, justification, alternatives, variants)

2. **DESCRIPTION of ENVIRONMENT**  
(baseline data on social, physical, biological & environment)

3. **IMPACT ASSESSMENT**

4. **MITIGATION AND REMEDIAL MEASURES**
III – THE ESIA PROCESS & KEY ACTORS
THE 5 STEPS OF THE ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT PROCESS
JBNQA, Section 22

STEP 1: Project Notice
- The proponent sends a Project Notice (preliminary information) to the Administrator

STEP 2: Guidelines
- The Administrator sends Guidelines to the proponent, according to the Evaluating Committee (COMEV*) recommendations

STEP 3: ESIA Underway
- The proponent prepares an Environmental and Social Impact Assessment (ESIA) study and sends it to the Administrator

STEP 4: Review
- The Administrator forwards the ESIA study to the Review Committee (COMEX* and/or COFEX-S*), who verify the conformity of the ESIA with the guidelines, analyze the ESIA, and make a recommendation to the Administrator on whether the project should proceed or not

STEP 5: Decision
- The Administrator makes a decision according to the Review Committee recommendation (with terms and conditions)

Authorized or
Unauthorized
THE 5 STEPS OF THE ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT PROCESS
JBNQA, Section 22

STEP 1: Project Notice
The proponent sends a Project Notice (preliminary information) to the Administrator.

STEP 2: Guidelines
The Administrator sends Guidelines to the proponent, according to the Evaluating Committee (COMEV*) recommendations.

STEP 3: ESIA Underway
The proponent prepares an Environmental and Social Impact Assessment (ESIA) study and sends it to the Administrator.

STEP 4: Review
The Administrator forwards the ESIA study to the Review Committee (COMEX* and/or COFEX-S*), who verify the conformity of the ESIA with the guidelines, analyze the ESIA, and make a recommendation to the Administrator on whether the project should proceed or not.

STEP 5: Decision
The Administrator makes a decision according to the Review Committee recommendation (with terms and conditions).

Authorized or
Unauthorized
THE 5 STEPS OF THE ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT PROCESS
JRNQA, Section 22

STEP 1: Project Notice
- The proponent* sends a Project Notice (preliminary information) to the Administrator*

STEP 2: Guidelines
- The Administrator sends Guidelines to the proponent, according to the Evaluating Committee (COMEV*) recommendations

STEP 3: ESIA Underway
- The proponent prepares an Environmental and Social Impact Assessment (ESIA) study and sends it to the Administrator

STEP 4: Review
- The Administrator forwards the ESIA study to the Review Committee (COMEX* and/or COFEX-S*), who verify the conformity of the ESIA with the guidelines, analyze the ESIA, and make a recommendation to the Administrator on whether the project should proceed or not

STEP 5: Decision
- The Administrator makes a decision according to the Review Committee recommendation (with terms and conditions)

Authorized or
Unauthorized
THE 5 STEPS OF THE ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT PROCESS
JBNQA, Section 22

STEP 1: Project Notice
- The proponent* sends a Project Notice (preliminary information) to the Administrator*

STEP 2: Guidelines
- The Administrator sends Guidelines to the proponent, according to the Evaluating Committee (COMEV*) recommendations

STEP 3: ESIA Underway
- The proponent prepares an Environmental and Social Impact Assessment (ESIA) study and sends it to the Administrator

STEP 4: Review
- The Administrator forwards the ESIA study to the Review Committee (COMEX* and/or COFEX-S*), who verify the conformity of the ESIA with the guidelines, analyze the ESIA, and make a recommendation to the Administrator on whether the project should proceed or not

STEP 5: Decision
- The Administrator makes a decision according to the Review Committee recommendation (with terms and conditions)

Authorized
or
Unauthorized
THE 5 STEPS OF THE ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT PROCESS
JBNQA, Section 22

STEP 1: Project Notice
- The proponent* sends a Project Notice (preliminary information) to the Administrator*

STEP 2: Guidelines
- The Administrator sends Guidelines to the proponent, according to the Evaluating Committee (COMEV*) recommendations

STEP 3: ESIA Underway
- The proponent prepares an Environmental and Social Impact Assessment (ESIA) study and sends it to the Administrator

STEP 4: Review
- The Administrator forwards the ESIA study to the Review Committee (COMEX* and/or COFEX-S*), who verify the conformity of the ESIA with the guidelines, analyze the ESIA, and make a recommendation to the Administrator on whether the project should proceed or not

STEP 5: Decision
- The Administrator makes a decision according to the Review Committee recommendation (with terms and conditions)
WHO ARE THE KEY ACTORS IN THE PROCESS?
PROJECT PROPONENT

The proponent is the person or enterprise who proposed the project and wants to see it succeed.

Public or Private

- Governments (Cree, Provincial or Federal)
- Hydro-Quebec | SEBJ
- Mining, wind power or other industry-based enterprise

ROLE
Step 1 – Produce project notice
Step 3 – Produce the ESIA
EVALUATING COMMITTEE (COMEV)

A tripartite committee made up of:
2 representatives appointed by the Cree Nation Government
2 representatives appointed by the Québec government
2 representatives appointed by the Canada federal government

ROLE
Step 2 – Review project notice to prepare project guidelines
  - Recommend the application of an ESIA to grey zone projects to Administrator

Consultation role – Can organize consultations within the community
A bipartite committee made up of:
2 representatives appointed by the Cree Nation Government
3 representatives appointed by the provincial government
(Committee Chair)

**ROLE**
Step 4 – Review the proponent ESIA and recommend project authorization or not to Administrator
Consultation role – Can organize consultations within the community
A bipartite committee made up of:
2 representatives appointed by the Cree Nation Government
3 representatives appointed by the federal government (Committee Chair)

**ROLE**
Step 4 – Review the proponent ESIA and recommend project authorization or not to Administrator
**Consultation role** – Can organize consultations within the community
PROJECT ADMINISTRATOR

The administrator is the person required to make a final decision on the assessment and review of development projects.

ROLE
Step 1 – Receive project notice
Step 2 – Final decision on guideline content
  - Decide application of ESIA to a grey zone project
Step 3 & 4 – Receive ESIA and transmit to Review Committee
Step 5 – Make final decision on project authorization
III – THE ESIA PROCESS & KEY ACTORS

ADMINISTRATORS: WHO ARE THEY?

When the project is located on **CATEGORY I LAND**:
- Cree Regional Administrator of the Environment

When the project is of **PROVINCIAL** jurisdiction:
- Deputy Minister of Sustainable Development, Environment, Wildlife and Parks

When the project is of **FEDERAL** jurisdiction:
- President of the Canadian Environmental Assessment Agency (CEAA)
ADMINISTRATORS AND REVIEW PANELS & COMMITTEES

- Provincial
- Federal
- Cree
- COMEV
- COMEX
- COFEX-South

Administrators

Committees & Review panels
IV – CREE PARTICIPATION IN ESIA
Section 22 of JBNQA provides for the:

“special status and involvement for the Cree people over and above that provided for in procedures involving the general public through consultation or representative mechanisms wherever such is necessary to protect or give effect to the rights and guarantees in favour of the Native people…”
PARTICIPATION IN THE ESIA PROCESS MEANS...

The involvement of individuals or groups that are positively or negatively affected or interested in a proposed project.

The opportunities for participation vary throughout the ESIA process.
Thank you! Meegwetch!