



Canadian Environmental
Assessment Agency

Agence canadienne
d'évaluation environnementale



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Draft Agreement concerning the environmental assessments of the Eastmain-1-A and Rupert diversion project

WHEREAS Hydro-Québec with its affiliate the Société d'énergie de la Baie James (collectively referred to as the "Proponents") propose to carry out the Eastmain-1-A and Rupert diversion project as described in the attached description submitted by the Proponents (the "Project");

WHEREAS on February 7, 2002, Québec and the Crees of Québec entered into an agreement concerning a New Relationship (the "New Relationship Agreement");

WHEREAS the Project is subject to the applicable environmental legislation and to the environmental and social protection regime stipulated in Section 22 of the James Bay and Northern Québec Agreement (the "JBNQA") according to the terms of that section;

WHEREAS the Government of Québec has authorized its representatives to sign this agreement (the "Agreement") (decree number 218-2003);

WHEREAS the Cree Regional Authority (the "CRA") has authorized by resolution its Director General to sign this Agreement;

WHEREAS the Project has been referred to the Minister of the Environment of Canada for the establishment of a review panel under the *Canadian Environmental Assessment Act* (S.C., 1992, c. 37) (the "CEAA") and whereas in such circumstances it is desirable that the environmental assessment of the Project be carried out under the CEAA in a manner that a) provides a special involvement for the Cree people, and b) will reduce duplication and facilitate and encourage cooperation with the impact assessment and review process under the JBNQA;

WHEREAS in accordance with subsection 65(2) of the CEAA, the Minister of the Environment of Canada has authorized the President of the Canadian Environmental Assessment Agency (the "Agency") to sign this Agreement;

WHEREAS the New Relationship Agreement provides that the parties to that agreement will endeavour to harmonize insofar as possible the assessment processes applicable to the Project in order to avoid duplication and to facilitate cooperation to ensure efficient and proper evaluations of this Project;

WHEREAS the parties disagree as to the scope of, or application (or non-application) of, the assessment and review processes applicable to the Project but have nevertheless agreed to practical means in order to resolve their differences without prejudice to their respective rights, claims, recourses and positions as further described in sections 18 to 20 hereof.

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PREAMBLE

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1. The preamble forms an integral part of this Agreement.

GLOBAL REVIEW

2. The Project shall be assessed and reviewed globally as a single project.

REVIEW AND ASSESSMENT PROCESSES

3. The assessment and review of the Project will include:
 - a. the preparation, by the Evaluating Committee established pursuant to Section 22 of the JBNQA (the "Evaluating Committee") of recommendations respecting the scope of the impact statement to be prepared by the Proponents;
 - b. the assessment and review of the Project by
 - i. the Environmental and Social Impact Review Committee (the "Review Committee") established pursuant to paragraph 22.6.1 of the JBNQA and section 151 of the *Environment Quality Act* (R.S.Q., c. Q-2) (the "EQA"), which committee shall prepare and submit a recommendation to the Provincial Administrator in accordance with the terms of the JBNQA and of the EQA; and
 - ii. a review panel (the "Review Panel") established pursuant to section 33 of the *Canadian Environmental Assessment Act* (S.C., 1992, c. 37) (the "CEAA"), which Review Panel shall prepare and submit a report to the Minister of the Environment of Canada and to the responsible authorities in accordance with section 34 of the CEAA;

these Committees and Panel being collectively designated the "Review and Assessment Bodies".

4. The assessment and review of the Project by all the Review and Assessment Bodies will include and fully take into account, as a minimum, all the elements provided by Section 22 of the JBNQA and by section II of Chapter II of the EQA, including the environmental and sociological impacts of the Project and the justification of the Project. The assessment and review of the Project by all the Review and Assessment Bodies will also include and fully take into account the elements to be considered pursuant to the CEAA.
5. The directives respecting the scope of the impact statement to be submitted by the Proponents shall be prepared and recommended by the Evaluating Committee. The Evaluating Committee will work with the Agency to ensure that these directives will meet the requirements of the CEAA. The directives will be submitted for approval to the Provincial Administrator and to the Minister of the Environment of Canada. Insofar as possible, there shall be the same directives for both assessments and reviews of the Project. In the event the Minister of the Environment of Canada cannot accept the recommendations of the Evaluating Committee or wishes to modify such recommendations, he shall, before deciding, consult with the Evaluating Committee so as to explain his position and discuss same before the directives are formally issued to the Proponents.

6. The Cree Regional Authority (the "CRA") will nominate members to the Review Panel, and the Review Panel shall comprise five (5) members appointed by the Minister of the Environment of Canada, including two (2) CRA nominees.

COORDINATION

7. The Review and Assessment Bodies shall each act as an independent body. However, when it is practical, every effort shall be made to avoid duplications and overlaps and to coordinate and harmonize the review and assessment processes, as well as to coordinate access to technical and other support required by the Review and Assessment Bodies.
8. The coordination and harmonization measures provided herein must be in accordance with the principles and provisions set out in the JBNQA, the EQA and the CEEA and must not in any way reduce the responsibilities and prerogatives of the Review and Assessment Bodies.
9. A coordination committee (the "Coordination Committee") comprising one (1) representative each from the Agency, the ministère de l'Environnement du Québec (the "MENV") and the CRA shall be established to follow the assessment and review processes, to facilitate the coordination of these processes, to assist and support when required the Chairpersons of the Review and Assessment Bodies in coordinating their activities, and to ensure that information requests from the public are addressed via a public information office capable of communicating in the French, English and Cree languages.
10. In accordance with the cost-sharing arrangements they shall determine, the MENV and the Agency will share the costs of the common services, of the common public information office, and of any other related joint organizational and technical support needs required for the coordination of the review and assessment processes, and will also provide the financial, material and human resources required to ensure that the Review and Assessment Bodies can carry out their functions adequately, notably in regard to translation and interpretation, organization and logistics of public meetings and hearings, documentation, information, and scientific and technical expertise.
11. The scientific and technical expertise which the Review and Assessment Bodies may require will be provided for the most part from the resources of the governments of Québec and Canada. If adequate scientific and technical expertise is not available from government resources, upon request from any of the Review and Assessment Bodies, non-governmental expertise may be retained in order to provide advice on specific subjects related to the review and assessment of the Project.

PARTICIPATION OF THE PUBLIC

12. The public will be given an opportunity to participate in the assessment and review processes concerning the Project in regard to:
 - a. consultations on the issues to be addressed in the directives respecting the scope of the impact statement to be prepared by the Proponents and the impact statement submitted by the Proponents;
 - b. public hearings on the impacts of the Project and on the issues raised by the impact statement submitted by the Proponents.

13. In conformity with the CEAA, a participant-funding program to facilitate the participation of the public in the assessment and review of the Project, including the participation of the public in the development of directives respecting the scope of the impact statement to be prepared by the Proponents, shall be made available by the Agency. The MENV shall also provide a participant-funding program in regard to the assessment and review of the Project, including the participation of the public in the development of directives respecting the scope of the impact statement to be prepared by the Proponents.
14. The participant funding made available by the MENV shall be allocated in consultation with the CRA, which shall designate a representative for such purposes. Requests from persons and groups living in the territory most directly impacted by the Project will be considered in priority. The participant funding made available by the Agency will be allocated in accordance with its participant funding program.

SCHEDULE

15. The schedule of the assessment and review processes concerning the Project will take into account various steps, including notably: the preparation of draft directives, public input into the development of directives, the issuance of directives, the preparation of the impact statement, the review of the quality of this impact statement including, if need be, additional information requests to the Proponents, the analysis of this impact statement, public hearings on the Project, and the drafting of reports and recommendations. In this regard, it is recognized and recommended that time limits stipulated in the JBNQA will be extended in order to generally conform to the following:
 - a. the time period for the review and assessment, from the submission of the information relative to the Project from the Provincial Administrator to the Evaluating Committee up to the submission of the final recommendations from the Review Committee to the Provincial Administrator regarding the Project, should not normally exceed 20 months (620 days). This overall time period does not include the time required for the Proponents to prepare the information required for the review and assessment and to prepare their impact statement;
 - b. the overall time between the submission of the information relative to the Project from the Provincial Administrator to the Evaluating Committee and the final recommendations of the Evaluating Committee to the Provincial Administrator on the directives respecting the scope of the impact statement to be prepared by the Proponents shall not normally exceed 150 days. Moreover, included in this period, the minimum time allocated for the public to review the draft directives shall be 60 days from the time such draft directives are made available to the public in both French and English;
 - c. participants shall be given a minimum of 90 days in order to provide written comments on the impact statement submitted by the Proponents from the time this statement has been made available to the public in both French and English;
 - d. public hearings focused on the impacts of the Project shall be held at least in the communities of Mistissini, Nemaska, Waskaganish, Wemindji, Eastmain, Chisasibi, as well as in Chibougamau and Montréal, and each of these hearings shall be preceded by a minimum of 45 days advance notice.

16. Taking into account the firm commitment of the parties to coordinate the assessment and review processes relating to the Project, and the desire of the parties to work together for the purpose of ensuring an efficient and proper assessment and review of the Project which takes into account their respective concerns, the schedule for the assessment and review set out in the Guideline issued in November 1997 by the Minister of the Environment of Canada and entitled "Procedures for an Assessment by a Review Panel" will be adapted in order to be synchronized with the steps and timelines set out in section 15 above.

DOCUMENTATION AND INFORMATION

17. Key documents and information concerning the assessment and review of the Project from the Proponents, or the Review and Assessment Bodies, and which are identified for these purposes by either one of these Bodies, shall be made publicly available in French and English. The draft and final directives respecting the impact statement to be prepared by the Proponents, as well as this statement itself, shall be made available to the public at the same time in French and English. Such documents, or summaries thereof, shall be made available in Cree where, in the opinion of any of the Review and Assessment Bodies, it is appropriate and practical to do so. It is recognized, however, that not all documents will be made available in the three languages.

WITHOUT PREJUDICE

18. This Agreement, as well as the assessment and review of the Project carried out by the Review and Assessment Bodies, are without prejudice to, without admission in regard to, and under reserve of the respective rights, claims, recourses and positions of the Parties, of the Proponents and of the beneficiaries of the JBNQA concerning the scope of, or application (or non-application) of, any assessment and review process to any other project, including assessment and review by the Environmental and Social Impact Review Panel provided for in Section 22 of the JBNQA.
19. This Agreement applies only to the Project and may not be raised as a precedent in the courts or elsewhere, nor referred to, in regard to any other project.
20. This Agreement does not affect any right, privilege or interest under the JBNQA, the CEEA, the EQA or the New Relationship Agreement and must not be interpreted as extinguishing, diminishing or affecting rights, privileges or interests there under or creating new rights there under.

THIS AGREEMENT IS DULY EXECUTED BY:

The President of the Canadian Environmental Assessment Agency

Sid Gershberg

Date

La sous-ministre du ministère de l'Environnement du Québec

Madeleine Paulin

Date

Le secrétaire général associé du Secrétariat aux affaires

intergouvernementales canadiennes

Gilbert Charland

Date

Le Secrétaire général associé du Secrétariat aux affaires autochtones du Québec

Rémy Girard

Date

The Director General of the Cree Regional Authority

Eddie Diamond

Date

Appendix - Project Description - Eastmain-1-A and Rupert Diversion

This project description is being submitted by the proponents with the sole purpose of providing the public with basic information with which to better understand the Agreement, and therefore does not constitute a final project description for environmental assessment purposes. It is understood that a number of elements remain to be confirmed and will have to include, among other things, the environmental and social mitigating measures already identified.

Hydro-Québec plans to divert a portion of the flow in the Rupert River from a point known as km 314 (i.e. 314 km upstream of where the Rupert River empties into Rupert Bay) into Eastmain 1 reservoir. It also plans to build a powerhouse (Eastmain-1-A) on the Eastmain River near the Eastmain-1 powerhouse already under construction, upstream of the existing Opinaca reservoir in the La Grande complex. These facilities (under construction and planned) are located in the James Bay region, north of the 45th parallel. Once turbinated at the Eastmain-1-A and Eastmain-1 powerhouses, the diverted waters of the Rupert River would be channelled north into Robert-Bourassa and La Grande 1 reservoirs through the existing Eastmain-Opinaca-La Grande diversion. The route chosen for the Rupert River diversion would limit the flooded areas in the newly created tailbay, since a series of dikes would channel the diverted waters to the east around Cramoisy Lake, then through Arques Lake, the Nemiscau River and the Caché Nord stream and finally, into Eastmain 1 reservoir near km 270 of the Eastmain River. Under the currently planned diversion scenario, neither Cramoisy Lake nor Lake Mesgouez would be flooded. The partial diversion of the Rupert River would include the following structures, which would be validated by the study.

- An inclined forebay (approximate area 254 km²) consisting of:
 - a dam on the Rupert River at km 314 (Rupert C-1 main dam) with a spillway that will also be used to release instream flows;
 - a 3,750 m canal in four reaches (canal S-73) in the Rupert-Lemare watershed divide to minimize the area to be flooded by the forebay;
 - a dam on the Lemare River (C-R-21A secondary dam) and an

instream flow release structure at a dike near the dam;

- approximately 27 containment dikes; and
- a control structure (design flow 800 m³/s) embedded in a 5,700 m transfer canal in six reaches in the Lemare-Nemiscau divide, or at the entrance of a tunnel approximately 3.6 km long (choice to be determined).
- An inclined tailbay (approximate area 141 km²) passing through Arques Lake and the Nemiscau River to channel the water into the Eastmain River. The tailbay would include the following structures, among others:
 - Two dams on the Nemiscau River (C-108 and C-76) and 3 instream flow release structures at dams C-108, C-76 and C-104
 - Approximately 24 containment dikes
 - A 1,000 m canal (canal 12) in 3 reaches
 - A 1,115 m canal (canal 4) in 2 reaches
 - A 250 m canal (canal 5)
 - A 150 m canal (canal C)

A total area of 395 km² would be flooded, including 165 km² already under water and 230 km² of land.

Volume for the diversion is estimated at 14.4 million m³ of fill and excavated material and 25,000 m³ of concrete.

The construction of the tailbay would involve relocating some of the existing power transmission lines. This would require dismantling 9 towers, reconstructing 9 towers and building 5 islands.

The partial diversion of the Rupert River would also call for the construction of temporary workcamps, permanent access roads from Albabel substation and from an existing secondary road, a temporary 69-kV transmission line from Albabel substation to the construction site, and a permanent transmission line to the spillway on the Rupert River and the control structure.

The partial diversion project would also involve the implementation of measures to remedy or mitigate ecological impacts. Such works could include the construction or correction of sills and/or weirs on the Rupert River.

However, the average annual flow will be maintained in the Lemare and Nemiscau rivers.

The Eastmain-1-A powerhouse would be situated between the Eastmain-1 powerhouse and the Eastmain-1 spillway, and would have an installed capacity of up to 770 MW. Although parallel to one another, the powerhouses would use separate intakes and tailrace channels. The Eastmain-1-A powerhouse would be integrated into the of 315-kV power transmission system via Eastmain-1.

A permanent access road would be built to run west to east between Muskeg substation and the Eastmain-1 and Eastmain-1-A powerhouses.

In order to factor in the increased inflows, the Sarcelle site would be modified, either to include the addition of a fourth gate to the existing control structure, or through the construction of a powerhouse with a capacity of some 130 MW, if the Crees choose to exercise this option, which is available to them. In the latter case, a 315-kV transmission line would link the Sarcelle powerhouse to the Eastmain generating substation via Muskeg substation.

Last Updated: 2003-10-07



Important Notices