

AGREEMENT TO RESOLVE
THE BARIL-MOSES FORESTRY DISPUTE
BETWEEN
THE CREE NATION OF EEYOU ISTCHEE
AND
THE GOUVERNEMENT DU QUÉBEC

TABLE OF CONTENTS

PREAMBLE 3

I. OBJECTIVES 4

II. GENERAL PROVISIONS..... 4

III. FORESTRY..... 4

A. BARIL – MOSES IMPLEMENTATION 4

B. JOINT FORESTRY WORKING GROUP 5

C. ADAPTED FORESTRY REGIME 6

IV. CONSERVATION AND ENVIRONMENT 7

A. BROADBACK RIVER PROTECTED AREA 7

B. WOODLAND CARIBOU 7

C. FORESTRY ACCESS ROADS 8

V. FUNDING..... 8

A. CREE TRADITIONAL ACTIVITIES ENHANCEMENT 8

B. COLLABORATIVE FORESTRY REGIME..... 8

VI. LEGAL PROCEEDINGS 9

VII. FSC CERTIFICATION 9

VIII. INNU OF MASHTEUIATSH..... 9

IX. FINAL PROVISIONS 9

SCHEDULE A..... 12

SCHEDULE B..... 14

SCHEDULE C..... 16

**AGREEMENT TO RESOLVE THE
BARIL-MOSES FORESTRY DISPUTE**

BETWEEN: The **GOUVERNEMENT DU QUÉBEC**, represented by le premier ministre, Mr. Philippe Couillard, le ministre des Forêts, de la Faune et des Parcs, Mr. Laurent Lessard, le ministre du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques, Mr. David Heurtel, le ministre responsable des Affaires autochtones, Mr. Geoffrey Kelley et le ministre responsable des Affaires intergouvernementales canadiennes et de la Francophonie canadienne, Mr. Jean-Marc Fournier,

(hereinafter, “**Québec**”)

AND: The **CREE NATION OF EYYOU ISTCHEE**, acting through the Grand Council of the Crees (Eeyou Istchee) and the Cree Nation Government, represented by Dr. Matthew Coon Come, Grand Chief and Chairman, and Mr. Rodney Mark, Deputy Grand Chief and Vice-Chairman,

(hereinafter, the “**Cree**”)

(Québec and the Cree hereinafter called together the “**Parties**” and separately a “**Party**”)

PREAMBLE

WHEREAS a dispute has arisen between the Cree and Québec (“**Dispute**”) regarding the implementation of the modalities set out in the document signed by Minister Gilles Baril and Grand Chief Ted Moses on February 7, 2002, concurrently with the *Agreement concerning a New Relationship* between le Gouvernement du Québec and the Crees of Québec (“**Paix des Braves**”), and amended on February 23, 2005 (“**Baril-Moses Modalities**”), respecting standards for forestry operations on the territory defined therein (“**Territory**”);

WHEREAS, more specifically, the Cree consider that certain forestry operations have been carried out in the Territory in breach of the Baril-Moses Modalities and that it is necessary to ensure compliance with the Baril-Moses Modalities in order to secure the harmonization of forestry operations with Cree hunting, fishing and trapping activities in the Territory;

WHEREAS certain Cree parties have instituted legal proceedings against Québec and certain forestry companies in respect of the Dispute in *Chief Richard Shecapio et al. v. Attorney General of Québec et al.* (S.C.M. 500-17-080315-131) (“**Legal Proceedings**”);

WHEREAS Québec, represented by the Attorney General, has contested these Legal Proceedings;

WHEREAS, however, by exchange of letters dated January 28, 2015 between Grand Chief Dr. Matthew Coon Come and the Premier ministre Philippe Couillard, the Parties agreed on a mediation process with Me Lucien Bouchard in order to promote the resolution of the Dispute and of certain related issues (“**Mediation**”);

WHEREAS the Parties have met in the context of the Mediation to consider the means to resolve the Dispute and related issues;

WHEREAS the Parties wish to enter into this Agreement (“**Agreement**”) to resolve the Dispute and certain related matters and to put an end to the Legal Proceedings, without prejudice to the legal positions taken by the Cree and Québec;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

I. OBJECTIVES

1. This Agreement has the following objectives:
 - (a) the harmonization of forestry operations in the Territory with the hunting, fishing and trapping activities of the different Aboriginal users of the Territory, through the implementation and enforcement of the Baril-Moses Modalities;
 - (b) facilitating the harmonization of the Adapted Forestry Regime set out in Chapter 3 and Schedule C of the Paix des Braves and referred to in Section 30A of the *James Bay and Northern Québec Agreement* (“**JBNQA**”) (“**Adapted Forestry Regime**”) and the *Sustainable Forest Development Act*, CQLR, chapter A-18.1;
 - (c) encouraging cooperation between the Cree and the Innu of Mashteuiatsh (“**Innu**”);
 - (d) the withdrawal of the Legal Proceedings;
 - (e) the settlement of the Dispute.

II. GENERAL PROVISIONS

2. The provisions of the JBNQA and the Paix des Braves shall continue to apply in the absence of express indications to the contrary in this Agreement. The Baril-Moses Modalities shall continue to apply, subject to the provisions of this Agreement.
3. For greater certainty, nothing contained in this Agreement shall prejudice, detrimentally affect or restrict the rights of the Parties as set out in the JBNQA, the *Paix des Braves* (including, more specifically, Chapter 3 thereof), the Baril-Moses Modalities, the *Agreement on Governance in the Eeyou Istchee James Bay Territory* between the Crees of Eeyou Istchee and the Gouvernement du Québec signed on July 24, 2012 (“**Governance Agreement**”) and any agreements between the Parties related to any of these agreements.
4. Nothing in this Agreement shall:
 - (a) adversely affect the rights, claims or interests, whatever they may be, invoked by any other First Nation, including the Innu, the Attikameks and the Algonquins; or
 - (b) constitute a recognition by the Parties of such rights, claims or interests.

III. FORESTRY

A. BARIL – MOSES IMPLEMENTATION

5. Québec undertakes to implement fully the Baril-Moses Modalities throughout the Territory for the period from the signature of this Agreement until June 30, 2020. After this period, the modalities of the forestry operations conducted in the Territory and the applicability of the Baril-Moses Modalities shall be subject to the recommendations of the Working Group provided for in sections 6 to 11, subject to section 12.

B. JOINT FORESTRY WORKING GROUP

6. The Parties shall establish, forthwith upon the signature of this Agreement, a joint Cree – Innu – Québec Forestry Working Group (“**Working Group**”) with a view to proposing, as soon as possible, consensus measures on forestry management standards in the Territory.
7. The Working Group shall comprise not more than three representatives of each of the Cree, the Innu and Québec. These representatives may be assisted at meetings of the Working Group by such advisors as they deem appropriate. Each party shall be responsible for its own costs in relation to the Working Group.
8. The measures contemplated in section 6 may relate to, among other things, enhancements, improvements and, where appropriate, adjustments to the forestry standards and regime set out in the Baril-Moses Modalities, taking into account the experience gained since 2002.
9. The measures mentioned in section 6 may take into account or include, as the case may be, among other things, the following:
 - (a) areas of special interest to the Cree or the Innu;
 - (b) maintenance of forest cover in each parcel of land;
 - (c) protection of wildlife habitat, including for endangered and threatened species;
 - (d) rate of annual cutting in each parcel of land;
 - (e) area of cut blocks;
 - (f) protection of forests adjacent to watercourses and lakes;
 - (g) development of road access network;
 - (h) other economic, environmental and social factors;
 - (i) other measures.
10. In carrying out the work mentioned in sections 6 to 9, the Working Group may, in particular, propose:
 - (a) forestry methods that take into account the needs of users of the Territory, including the Cree Nations of Mistissini and Oujé-Bougoumou and the Innu, in terms of hunting, fishing, and trapping with a view to ensuring the compatibility of such uses with forestry methods and forestry certification;
 - (b) a process ensuring the evolution of management methods applicable to the Territory while taking into account the needs of the users and communities as well as new knowledge in the field of sustainable forestry management.
11. In carrying out the work mentioned in sections 6 to 10, the Working Group shall consult the Cree Nations of Mistissini and Oujé-Bougoumou and the Innu with respect to their hunting, fishing, and trapping activities and their perspective on the protection of wildlife habitat.
12. Unless the Cree, Innu and Québec agree earlier on measures to adjust or replace the Baril-Moses Modalities, Québec shall, acting in concert with the Cree and the Innu, take into account the recommendations of the Working Group as well as other relevant environmental, economic and social factors prior to implementing forestry management standards in the Territory after July 1, 2020. These measures could, subject to agreement

between Québec, the Cree and the Innu, differ from those provided for in the Baril-Moses Modalities.

13. If the agreement mentioned in section 12 is not concluded by June 30, 2019, then the matter of the forestry management standards to be applied in the Territory shall be referred to an expert technical panel composed of three independent persons with recognized expertise in forestry management or wildlife habitat management (“**Panel**”). The members of the Panel shall be different from the members of the Working Group. Québec, the Cree and the Innu shall each designate one member of the Panel and shall assume one-third of the costs of the Panel.
14. The three Panel members shall jointly appoint an independent resource person (“**Independent Resource Person**”) with the relevant expertise who shall attend the deliberations of the Panel but shall not, subject to section 16, participate in the findings of the Panel. The costs associated with the Independent Resource Person shall be borne equally by the Cree, the Innu and Québec. In the event that the Panel members do not agree within 30 days of their appointment on the appointment of the Independent Resource Person, the matter shall be referred to the Chief Justice of the Court of Appeal of Québec who shall, within 30 days of the referral, appoint the Independent Resource Person.
15. The Panel shall not address the claims, interests or rights asserted by the Cree or the Innu, but shall restrict its deliberations to measures to harmonize forestry management and operations with the hunting, fishing and trapping activities of the Cree and the Innu in the Territory, taking into account their use of the Territory (“**Harmonization Measures**”). The Panel shall receive representations from interested stakeholders and it may be assisted by such advisors as it deems appropriate. The Panel shall work and shall develop its findings by consensus. The Panel shall submit its consensus report to Québec, the Cree and the Innu by December 31, 2019. Québec shall implement the findings of the Panel in the Territory.
16. If the Panel members do not reach consensus findings on the Harmonization Measures by December 31, 2019, the matter shall be referred to the Independent Resource Person who shall make a finding on the Harmonization Measures, and shall submit his findings to Québec by January 31, 2020. Québec shall apply these Harmonization Measures in the Territory for an initial period of five years commencing on July 1, 2020.
17. Québec, the Cree and the Innu shall, not later than January 1, 2024, review the Harmonization Measures mentioned in section 16 and consider their application for the period after July 1, 2025. If Québec, the Cree and the Innu agree on Harmonization Measure for this period, Québec shall apply them. Failing such agreement by June 30, 2024, the provisions of sections 13 to 16 shall apply, *mutatis mutandis*.

C. ADAPTED FORESTRY REGIME

18. The Cree and Québec shall as soon as possible undertake and pursue discussions diligently and in good faith with a view to concluding, not later than December 1, 2015, an agreement respecting the harmonization of the Adapted Forestry Regime and the *Sustainable Forest Development Act* (“**Harmonization Agreement**”).
19. Pending the conclusion of the Harmonization Agreement, the *Regulation respecting the sustainable development of forests in the domain of the State and to amend the Regulation respecting wildlife habitats and the Regulation respecting the application of the Environment Quality Act*, a draft of which was published in the *Gazette officielle du Québec* on December 30, 2014 shall not affect the Adapted Forestry Regime and the

provisions of this regulation that are incompatible with the Adapted Forestry Regime shall not apply.

20. As an interim measure pending the conclusion of the Harmonization Agreement, the ministre des Forêts, de la Faune et des Parcs shall, pursuant to section 40 of the *Sustainable Forest Development Act*, impose in the territory covered by the Adapted Forestry Regime forest development standards developed jointly with the technical experts of the Cree, in compliance with the Adapted Forestry Regime and different from those set out in the draft Regulation.

IV. CONSERVATION AND ENVIRONMENT

A. BROADBACK RIVER PROTECTED AREA

21. Québec shall, acting diligently, formally designate and establish as a protected area and biodiversity reserve the Broadback River Protected Area, of an area of 9,134.81 (nine thousand one hundred thirty-four and eighty-one hundredths) square kilometers within the JBNQA Territory, as shown on the map appended as **Schedule A**.
22. It is understood that Hydro-Québec shall continue to have full access to its existing equipment, including transmission lines and regulating infrastructures, inside the boundaries of the Broadback River Protected Area, for purposes of operation and maintenance, the whole in accordance with applicable laws and agreements.
23. Pending the formal designation of the Broadback River Protected Area referred to in section 21 as a protected area, Québec shall prohibit all forestry, mining, earthwork and construction work, and other industrial activities in this area.
24. After the expiry of the mining claims or permits in the areas subject to mining claims north of the Broadback River and south of Lac Théodat and Lac Le Gardeur shown on the map appended as **Schedule A**, Québec shall, within a reasonable time, evaluate the possibility of modifying the status of the land on which they are located, taking into account the various relevant factors, in particular, those related to environment, wildlife habitat and economic considerations, as well as the orientations of Québec and the submissions of the Cree Nation Government with respect to the designation of new protected areas and biodiversity reserves.
25. The Parties hereby establish a joint task force (“**Task Force**”) with a view to identifying within the JBNQA Territory other areas of special ecological, environmental or cultural importance for the Cree, including woodland caribou calving areas, corridors between woodland caribou habitats, and the areas mentioned in section 24, with a view to identifying additional protected areas in the JBNQA Territory within the context of Québec’s orientations on protected areas, including the Plan Nord.

B. WOODLAND CARIBOU

26. Québec affirms its commitment to the recovery of woodland caribou habitat in Québec. In consequence, Québec shall, acting diligently, work with interested stakeholders and experts, including the Cree and the Innu, on a plan to implement as soon as possible measures for the recovery of woodland caribou habitat, taking into account the pertinent scientific and multi-stakeholder reports and other relevant factors.
27. Québec has developed a precautionary approach for the interim protection of woodland caribou habitat pending the implementation of the caribou habitat recovery plan. Québec

shall continue to work with interested stakeholders and experts, including the Cree and the Innu, in this regard.

C. FORESTRY ACCESS ROADS

- 28. Certain forestry access roads mentioned in the 2010 out of court settlement agreement respecting the legal proceedings *Grand Council of the Crees (Eeyou Istchee) et al. v. Attorney General of Québec et al.* (S.C.M. 500-17-046444-082) (“**Access Roads**”) have been submitted to the relevant committees for environmental assessment under Section 22 of the JBNQA.
- 29. Certain of the Access Roads are situated near the proposed Broadback River Protected Area shown on the map appended in **Schedule A** and are shown on the map appended as **Schedule B**.
- 30. The Grand Council of the Crees (Eeyou Istchee) and the Cree Nation Government shall not oppose the environmental authorization of the Access Roads outside the proposed Broadback River Protected Area, provided that Québec does not proceed or allow third parties to proceed with the authorization, construction or operation of any forestry access roads inside the proposed Broadback River Protected Area shown on the map appended in **Schedule A**.
- 31. For greater certainty, nothing in section 30 shall affect or restrict the independence of the environmental assessment committees, Cree individuals and other Cree entities with regard to the environmental assessment of the Access Roads.

V. FUNDING

A. CREE TRADITIONAL ACTIVITIES ENHANCEMENT

- 32. Québec and the Cree Nation Government shall each make contributions under sections 7.1 and 7.2 respectively of the *Agreement regarding Cree Traditional Activities Enhancement* concluded on July 11, 2013 (“**Enhancement Agreement**”) in the amounts and for the fiscal years set out in the following table, and the term of the Enhancement Agreement shall be extended until March 31, 2021:

2016-2017	2017-2018	2018-2019	2019-2020	2020-2021
\$572,436	\$572,436	\$1,428,895	\$1,457,474	\$1,486,623

- 33. The Parties shall work together to develop guidelines concerning eligible uses and activity reports in respect of the funding provided for under the Enhancement Agreement.
- 34. The Parties shall, not later than April 1, 2020, undertake and pursue negotiations diligently and in good faith to conclude a successor agreement to the Enhancement Agreement, taking into account the average funding level provided for in the four fiscal years 2017-2018 to 2020-2021.

B. COLLABORATIVE FORESTRY REGIME

- 35. Québec shall make the annual contributions set out in the following table in order to support the costs of the implementation of the Collaborative Forestry Management Regime set out in sections 66 and 67 of the Governance Agreement, these amounts being the financial support contemplated in those sections:

2016-2017	2017-2018	2018-2019	2019-2020	2020-2021
\$0	\$0	\$2,392,447	\$2,392,447	\$2,392,447

36. The Parties shall, not later than April 1, 2020, undertake and pursue negotiations diligently and in good faith to conclude a successor agreement regarding the funding arrangements to support the costs of the implementation of the Collaborative Forestry Management Regime set out in section 68 of the Governance Agreement for the five-year period commencing on April 1, 2021 and ending on March 31, 2026, taking into account the level of responsibility to be exercised by the Cree Nation Government during such period and the average funding level provided for in the four fiscal years 2017-2018 to 2020-2021.
37. The Parties shall, not later than April 1, 2025, undertake and pursue negotiations diligently and in good faith to conclude a successor agreement regarding the funding arrangements to support the costs of the implementation of the Collaborative Forestry Management Regime set out in section 69 of the Governance Agreement for the ten-year period commencing on April 1, 2026 and ending on March 31, 2036, taking into account the level of responsibility to be exercised by the Cree Nation Government during such period and the average funding level provided for in the four fiscal years 2022-2023 to 2025-2026.

VI. LEGAL PROCEEDINGS

38. The Legal Proceedings (S.C.M. 500-17-080315-131) shall be discontinued by the Cree parties thereto without costs within ten days of the signature of this Agreement, and Québec undertakes to accept such discontinuance, without costs.
39. The Cree parties to the Legal Proceedings shall offer a discontinuance without costs to the Defendants other than Québec in the Legal Proceedings. The Legal Proceedings shall be discontinued without costs to the Cree parties and to any such Defendant in the Legal Proceedings accepting such a discontinuance without costs. Québec shall facilitate the proposed discontinuance without costs.

VII. FSC CERTIFICATION

40. The Cree undertake to notify, immediately after the conclusion of this Agreement, FSC International and its related accreditation bodies concerning forest certification that the Cree complaint regarding allegations of non-compliance by Québec with the Baril-Moses Modalities has been withdrawn and that the Dispute has been resolved through the conclusion of this Agreement. A copy of this communication shall be sent to Québec without delay.

VIII. INNU OF MASHTEUIATSH

41. The Innu may notify in writing the Parties, not later than June 30, 2018, of their wish to participate in the processes described in sections 1(c), 6 to 17 and 26 and 27. Any reference to the Innu in such sections shall have effect, if applicable, only as of and from the date of receipt of such notification. Pending such notification, any reference to the Innu in such sections shall be deemed severed from this Agreement and these sections shall be interpreted and applied with the adjustments required by such severance.

IX. FINAL PROVISIONS

42. The preamble and the schedules form integral parts of this Agreement.
43. This Agreement shall come into force on the date of its signature by the Parties.

44. This Agreement is neither a treaty nor a land claim agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982* (Schedule B to the *Canada Act 1982* (UK), 1982, ch. 11).

IN WITNESS WHEREOF, THE PARTIES HAVE SIGNED AT QUÉBEC CITY ON THIS ____ DAY OF JULY 2015:

For Québec:

For the Cree:

Philippe Couillard
Premier ministre

Dr. Matthew Coon Come
Grand Chief, Grand Council of the Crees
(Eeyou Istchee)
Chairman, Cree Nation Government

Geoffrey Kelley
Ministre responsable des Affaires
autochtones

Rodney Mark
Deputy Grand Chief, Grand Council of the
Crees (Eeyou Istchee)
Vice-Chairman, Cree Nation Government

Laurent Lessard
Ministre des Forêts, de la Faune et des
Parcs

Richard Shecapio (Witness)
Chief, Cree Nation of Mistissini

David Heurtel
Ministre du Développement durable, de
l'Environnement et de la Lutte contre les
changements climatiques

Reggie Neeposh (Witness)
Chief, Ouje-Bougoumou Cree Nation

Jean-Marc Fournier
Ministre responsable des Affaires
intergouvernementales canadiennes et de
la Francophonie canadienne

SCHEDULE A

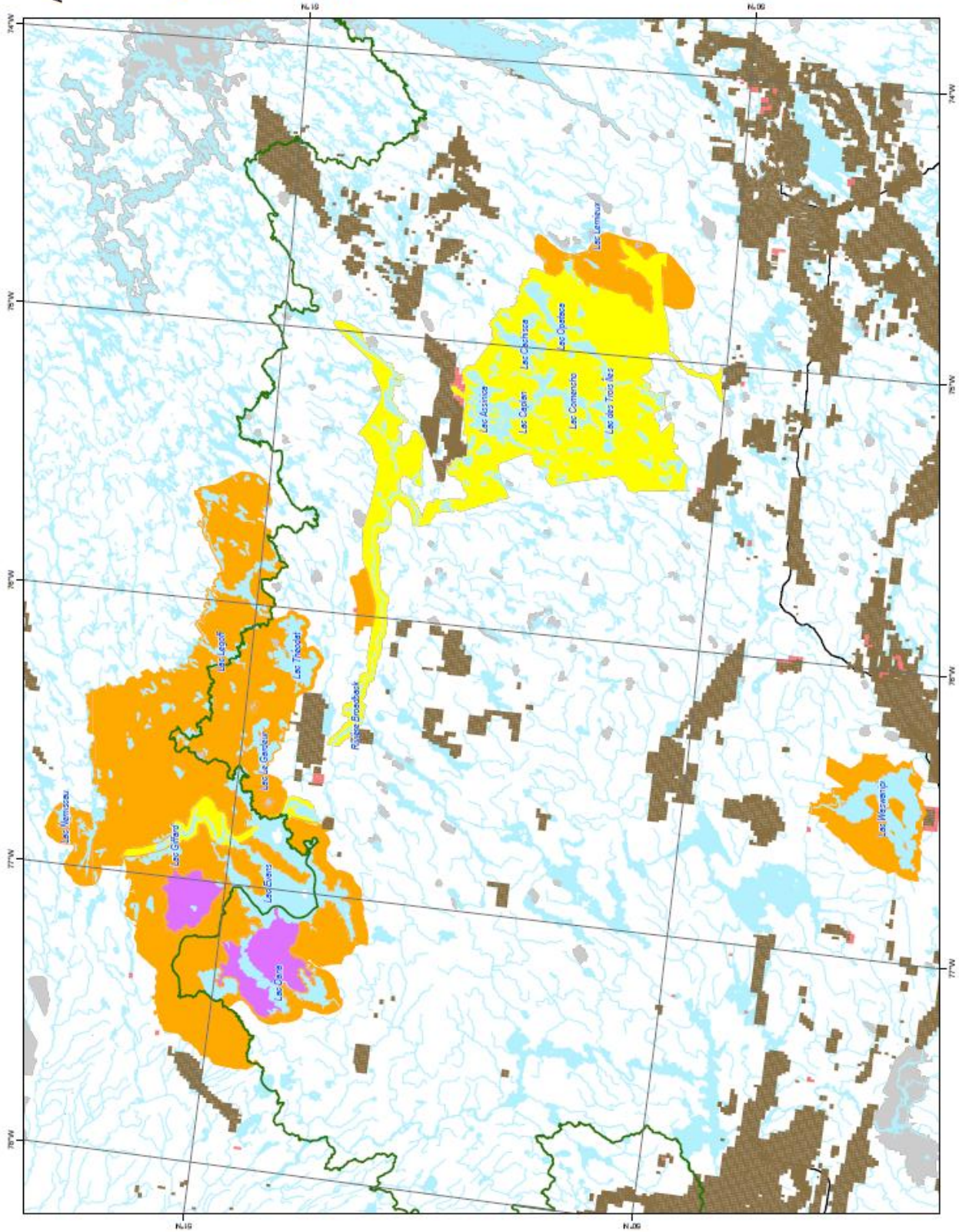
MAP OF BROADBACK RIVER PROTECTED AREA

SCHEDULE A

AGREEMENT TO RESOLVE THE BARIL-MOSES FORESTRY DISPUTE BETWEEN THE EYEU ISTCHEE CREE NATION AND THE GOVERNMENT OF QUEBEC

PROTECTED AREAS COMPONENT

- New protected areas (5,436.26 km²)**
- Extensive existing protected areas in the zone**
- parc national Assinica reserve (3,193 km²)**
- Proposed biodiversity reserves (505.53 km²)**
- Other protected areas listed in the register**
- Northern commercial forest boundary**
- Active mining claim**
- Requested mining claim**



Mandat
 (Sched. A) 1000 (Mars 1982) (MNU 102)
 SCHED. A
 L'ACTUEL CADASTRE CADASTRAL DU QUÉBEC

Source
 Ministère de l'Énergie et des Ressources naturelles
 2008

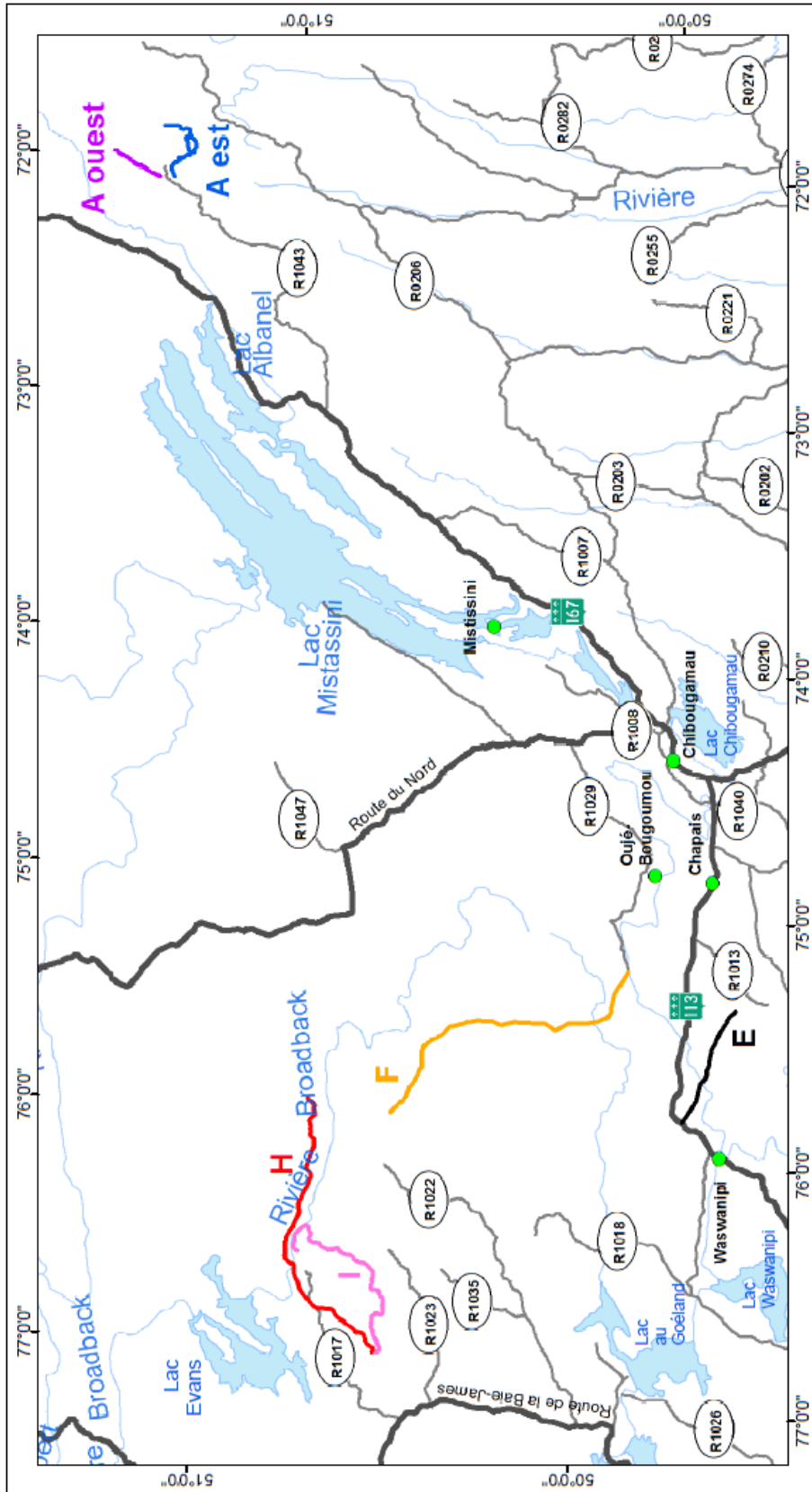
Produit par
 Direction générale du registre et de la conservation
 Ministère de l'Énergie et des Ressources naturelles
 © Gouvernement du Québec, 2^e édition 2015

Nord-du-Québec region
 Développement durable,
 Environnement et Lutte
 contre les changements
 climatiques
 Québec

SCHEDULE B

MAP – FORESTRY ACCESS ROADS

Access roads subject to impact assessment and review procedures under Section 22 of the JBNQA



- Necessary subject access roads**
- A East
 - A West
 - E
 - H
 - I
 - F

- Miscellaneous**
- Main road
 - Forest road

Cartographic projection
Lambert conical projection

Source
Le portrait général du Québec à l'échelle 1/2 000 000, MRN, 2002

0 50 km 1/1 700 000

Production
Ministère des Forêts, de la Faune et des Parcs
Direction de la gestion des forêts Nord-du-Québec

Note : this document has no legal value
© Gouvernement du Québec, all rights reserved, 2015

SCHEDULE C

JOINT LETTER

PREMIER MINISTRE PHILIPPE COUILLARD

GRAND CHIEF DR. MATTHEW COON COME

July 13, 2015

Dr. Matthew Coon Come
Grand Chief
GRAND COUNCIL OF THE CREES (EYYOU ISTCHEE)/
CREE NATION GOVERNMENT
2 Lakeshore Road
Nemaska, Québec J0Y 3B0

Subject: *Agreement to Resolve the Baril-Moses Forestry Dispute –
Cree First Nation of Waswanipi*

Dear Grand Chief Coon Come,

In connection with the above Agreement, signed today between the Cree Nation and the gouvernement du Québec, you have brought to my attention certain concerns expressed by the Cree First Nation of Waswanipi regarding the proposed Broadback River Protected Area, more specifically with regard to Waswanipi's desire for protection in the area north of the Broadback River, east of Lac Evans and south of Lac Le Gardeur.

This is to confirm the intention of the Government of Québec to have meaningful discussions with the Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government and Waswanipi regarding options for protective measures in this area in accordance with sections 21 and 23 to 27 of the above Agreement.

Yours sincerely,

Philippe Couillard
Premier ministre

Dr. Matthew Coon Come
Grand Chief, Grand Council of the Crees
(Eeyou Istchee)
Chairman, Cree Nation Government