

SECTION 11

Cree Governance on Category II Lands

11.1 Definitions

For the purposes of this Section, the following words and phrases shall mean:

11.1.1 “Governance Agreement”: the *Agreement on Governance in the Eeyou Istchee James Bay Territory* between the Crees of Eeyou Istchee and the gouvernement du Québec concluded on July 24, 2012.

compl. A. n° 24, s. 1

11.1.2 “Regional Government”: the Eeyou Istchee James Bay Regional Government contemplated in section 76 of the Governance Agreement.

compl. A. n° 24, s. 1

11.2 Cree Nation Government

11.2.1 The members of the public corporations incorporated under the names of the “Corporation of Great Whale River”, the “Corporation of Fort George”, the “Corporation of Rupert House”, the “Corporation of Paint Hills”, the “Corporation of Nemiscau”, the “Corporation of Eastmain”, the “Corporation of Waswanipi”, the “Corporation of Mistassini” and the “Corporation of Oujé-Bougoumou” (hereinafter referred to as the “community corporations”) as well as the corporations themselves, are already constituted collectively as a public corporation under Québec law under the name of the “Cree Regional Authority”, which shall continue to exist as the same legal person, henceforth designated under the name of “Eeyou Tapayatachesoo” in Cree, “Cree Nation Government” in English and “Gouvernement de la nation crie” in French.

compl. A. n° 24, s. 1

11.2.2 The Cree Nation Government is a legal person established in the public interest within the meaning of the *Civil Code of Québec* (S.Q. 1991, chapter 64); in addition to the general powers of such a legal person, it shall have such special powers as are assigned to it in this Section.

compl. A. n° 24, s. 1

11.2.3 The head office of the Cree Nation Government shall be within the boundaries of the Category I lands allocated for the James Bay Crees pursuant to the provisions of Section 4 of this Agreement.

compl. A. n° 24, s. 1

11.2.4 The powers of the Cree Nation Government shall be exercised by a council which shall consist of the chairman and the vice-chairman of the Cree Nation Government and of the chief councillor of each of the said community corporations as well as one other member from each of the said corporations.

compl. A. n° 24, s. 1

11.2.5 The Cree Nation Government shall have the following powers:

- a) to give a valid consent, on behalf of the James Bay Crees, where such consent is required pursuant to this Agreement;
- b) to appoint representatives of the Crees to all structures, bodies and entities established pursuant to this Agreement.

compl. A. n° 24, s. 1

11.2.6 In addition to the above powers, the Cree Nation Government may also be empowered to coordinate and administer all programs on Category I lands of the James Bay Crees if said coordination and administration are delegated to it by one or more of the Cree bands contemplated in Section 9 of this Agreement or by one of the said Cree community corporations.

compl. A. n° 24, s. 1

11.2.7 The Cree Nation Government shall be represented and its affairs shall be administered by the council contemplated in paragraph 11.2.4.

compl. A. n° 24, s. 1

11.2.8 The council of the Cree Nation Government may make by-laws in respect to subject matters falling within its jurisdiction.

compl. A. n° 24, s. 1

11.3 Jurisdictions, Functions and Powers

11.3.1 The Cree Nation Government may exercise jurisdictions, functions and powers, and shall, if applicable, assume the obligations related thereto, over Category II lands under Québec laws with respect to:

- a) municipal and regional management, management of natural resources and management of land, as provided for in this Section;
- b) any other matter that may be agreed from time to time by the Cree Nation Government and Québec.

compl. A. n° 24, s. 1

11.3.2 The Cree Nation Government shall not exercise jurisdictions, functions and powers on Category II lands located north of the 55th parallel, unless an agreement to this effect is reached between the Crees and Makivik Corporation or, as the case may be, the Kativik Regional Government and such agreement is approved by Québec.

compl. A. n° 24, s. 1

11.3.3 Subject to the provisions of this Agreement, the jurisdictions, functions and powers that are attributed to the Cree Nation Government on Category II lands shall be exercised without discrimination, including between the Crees and other citizens.

compl. A. n° 24, s. 1

A. Municipal Management

11.3.4 In the field of municipal management, the Cree Nation Government may exercise, with respect to Category II lands the jurisdictions, functions and powers attributed to a municipality pursuant to the *Cities and Towns Act* (chapter C-19) and the other laws applicable to such a municipality. It may also exercise the jurisdictions, functions and powers attributed as of July 24, 2012 to the Municipalité de Baie-James and the James Bay Regional Zone Council in respect of Category II lands pursuant to, as the case may be and without limitation, the *James Bay Region Development and Municipal Organization Act* (chapter D-8.2), Section 11B of this Agreement and the *Act respecting the James Bay Regional Zone Council* (chapter C59.1), in their form as of July 24, 2012.

compl. A. n° 24, s. 1

11.3.5 The Cree Nation Government may, by resolution, declare with respect to all or any part of Category II lands that it shall exercise any of the jurisdictions, powers and functions attributed from time

to time by the law to a regional county municipality (“MRC”) within the meaning of the *Act respecting Municipal territorial organization* (chapter O-9) or successor body pursuant to the laws of Québec.

In particular, the Cree Nation Government may exercise such jurisdictions, powers and functions with respect to the planning of land use and development in the territory, as provided for in the *Act respecting land use planning and development* (chapter A-19.1) or any successor legislation, including the development of a land use and development plan, a strategic vision for economic, social, cultural and environmental development and the other elements pertinent for the planning exercise provided for in such legislation. Such land use and development plan and strategic vision shall be consistent with the policies, principles and objectives to be determined by the Cree Nation Government in consultation with the Cree communities and with the concurrence of Québec.

In cases where adaptations are required regarding the exercise of the jurisdiction concerned to take into account the context of Category II lands and the institutional capacity of the Cree Nation Government, they shall be the object of a prior agreement between the Cree Nation Government and Québec.

compl. A. n° 24, s. 1

11.3.6 The same planning conditions and process as set forth in sections 28 to 43 of the Governance Agreement shall apply, with such modifications as the circumstances may require, to the regional land use and development plan prepared by the Cree Nation Government pursuant to the second sub-paragraph of paragraph 11.3.5 provided that such plan shall not be subject to consultations with the Regional Government.

compl. A. n° 24, s. 1

11.3.7 The Cree Nation Government may, in the same manner as provided for in paragraph 11.3.5, exercise the powers of an MRC with respect to the promotion of local development and entrepreneurial support within Category I lands and Category II lands and with respect to the residents thereof. To that end, the Cree Nation Government may, more particularly, formulate, in keeping with the policies, principles and objectives determined by the Cree Nation Government in consultation with the Cree communities, a strategy for the development of entrepreneurship, including social economy entrepreneurship.

compl. A. n° 24, s. 1

11.3.8 In the special context of Category II lands and the institutional capacity of the Crees, the Cree Nation Government may, at its option, exercise the powers mentioned in paragraph 11.3.7 or entrust them to another body that it may constitute under the name “Local Development Centre” (“CLD”) as contemplated in the *Act respecting the Ministère du Développement économique, de l’Innovation et de l’Exportation* (chapter M-30.01). It may also designate an existing body as a CLD.

The entity exercising such functions and powers may collaborate with another CLD in order to support entrepreneurs in carrying out projects on Category III lands, subject to the approval of such projects by the Regional Government.

compl. A. n° 24, s. 1

11.3.9 The Cree Nation Government may also assume itself or assign to the CLD a mandate stemming from a power conferred on it by law or from an agreement with Québec or one of its ministers or bodies.

compl. A. n° 24, s. 1

B. Regional Conference of Elected Officers (CRÉ-CNG)

11.3.10 The Cree Nation Government shall be deemed to act as a Regional Conference of Elected Officers (“CRÉ”), as provided for in Québec laws, for the Crees and with respect to Category I lands and Category II lands.

compl. A. n° 24, s. 1

11.3.11 The Cree Nation Government, in consultation with the Cree communities, may exercise all the powers and have all the responsibilities of a CRÉ and a regional land and natural resource commission (“CRRNT”), as provided for in Québec laws, including the *Act respecting the Ministère des Affaires municipales, des Régions et de l’Occupation du territoire* (chapter M-22.1).

In this regard, the Cree Nation Government may, in particular, prepare a regional land and resource use plan, which shall have at least the same scope as the regional plan for integrated land and resource development contemplated in the *Act respecting the Ministère des Affaires municipales, des Régions et de l’Occupation du territoire* or any other planning document of the same nature successor thereto.

compl. A. n° 24, s. 1

11.3.12 The Cree Nation Government shall exercise its jurisdictions, functions and powers taking into account the following:

- a) the policies, principles and objectives to be determined by the Cree Nation Government in consultation with the Cree communities and with the concurrence of Québec;
- b) the special vocation of Category II lands for the Crees under this Agreement; and
- c) the status of Category II lands as lands in the domain of the State, subject to the provisions of this Agreement, including Sections 5 and 24, concerning, in particular, public access to lands in the domain of the State and free circulation, having due regard to Cree harvesting rights and land use and occupation on Category II lands.

compl. A. n° 24, s. 1

C. Planning Process

11.3.13 The Cree Nation Government shall prepare the regional land and resource use plan for Category II lands mentioned in the second subparagraph of paragraph 11.3.11 in accordance with the process set forth in sections 28 to 43 of the Governance Agreement.

compl. A. n° 24, s. 1

D. Lands and Resources

Public Land Use Plan

11.3.14 With respect to Category II lands, the Cree Nation Government shall be invited to participate in the preparation of the proposed Public Land Use Plan (“PATP”) mentioned in Division III of Chapter II of the *Act respecting the lands in the domain of the State* (chapter T-8.1) or any other planning document of the same nature successor thereto, or any amendment or revision thereof, in accordance with the process set forth in sections 54 to 63 of the Governance Agreement.

compl. A. n° 24, s. 1

Management Powers

11.3.15 Subject to negotiation with the ministre des Ressources naturelles in order to determine the terms and conditions to be set forth in a specific nation-to-nation agreement to be concluded by the Cree Nation Government and Québec, the Cree Nation Government may assume and exercise, on all or such

parts of Category II lands as the Cree Nation Government may recommend, powers of land and forestry management:

- a) set forth in any program or policy of Québec in force from time to time, including those in force on July 24, 2012;
- b) attributable to an MRC or local municipality elsewhere in Québec from time to time under Québec laws and policies; and
- c) respecting such other matters as may be agreed by the Cree Nation Government and Québec from time to time.

This specific agreement may provide for, among other things, technical and financial support to the Cree Nation Government as well as adaptations to take into account the context of Category II lands and the institutional capacity of the Cree Nation Government.

compl. A. n° 24, s. 1

11.3.16 In the event that Québec undertakes to entrust to a Native band council, a municipality, a legal person or another body, other than a body or enterprise of the gouvernement du Québec as defined in the *Financial Administration Act* (chapter A-6.001), any resource management jurisdiction, function or power, other than those mentioned in paragraph 11.3.15, and provided for in any program, policy or statutory provision of Québec in force from time to time, including those in force on July 24, 2012, then the Cree Nation Government and Québec shall undertake negotiations with a view to the assumption and exercise by the Cree Nation Government of such jurisdictions, functions and powers on Category II lands in accordance with terms and conditions at least as favourable and a schedule at least as rapid as those granted to any such other entity, taking into account the adaptations necessary in the context of Category II lands.

These terms and conditions shall be set forth in a specific nation-to-nation agreement between the Cree Nation Government and Québec that may provide for, among other things, technical and financial support for the Cree Nation Government.

compl. A. n° 24, s. 1

E. Funding Arrangements

11.3.17 Québec shall fund the Cree Nation Government in accordance with five-year funding agreements. The Cree Nation Government and Québec shall negotiate and agree on five-year funding arrangements, taking into account, among other things:

- a) the evolution of the governance jurisdictions, functions and powers of the Cree Nation Government with respect to its operations on Category II lands;
- b) the needs and the revenue generating capacity of the Cree Nation Government with respect to its exercise of its governance jurisdictions, functions and powers on Category II lands;
- c) the remoteness and expanse of Category II lands;
- d) the level of funding provided in the immediately preceding five-year period;
- e) northern cost structures; and
- f) other related factors.

compl. A. n° 24, s. 1

11.4 Final Provisions

11.4.1 The provisions of this Section can only be amended with the consent of Québec and the Cree Native Party.

compl. A. n° 24, s. 1

11.4.2 The legislation enacted to give effect to the provisions of this Section may be amended from time to time by the National Assembly of Québec.”

compl. A. n° 24, s. 1