

New governance regime for the James Bay Territory (Eeyou Istchee) and the revised *Mining Act*

Several new circumstances and procedures will apply to or have an influence on mining and exploration projects in the James Bay Territory (Eeyou Istchee) in light of the new governance regime and the revised *Mining Act*. This bulletin outlines several of these new circumstances and procedures.

Governance regime

On June 12th 2013, Bill 42 - *An Act establishing the Eeyou Istchee James Bay Regional Government and introducing certain legislative amendments concerning the Cree Nation Government* was adopted. The bill ratified the [Agreement on Governance in the Eeyou Istchee James Bay Territory between the Crees of Eeyou Istchee and the Gouvernement du Québec](#) (the ‘Agreement’), which was signed in July 2012, and formally established a new governance regime for the James Bay Territory (Eeyou Istchee).

The following new circumstances and procedures now apply in light of the new governance regime set out in the Agreement:¹

1. The system of land categories outlined in the *James Bay Northern Québec Agreement* (JBNQA) is retained (Category I, II and III lands). However, the Cree Nation Government now assumes jurisdiction over Category II lands. And, the new Eeyou Istchee James Bay Regional Government – composed of Cree and Jamésien representatives in equal measure – will replace the Municipalité de Baie-James and will assume jurisdiction over Category III lands.
2. The Cree Nation Government and the Eeyou Istchee James Bay Regional Government will develop resource and land use plans outlining areas that may be open to or closed from development, including mineral exploration and mining. These plans will be approved by the Ministry of Energy and Natural Resources with the intention of avoiding conflicts with other land uses.
3. Québec will notify the Cree Nation Government, the Cree Mineral Exploration Board and the Cree communities of new mining claims on Category II lands on a monthly basis through the GESTIM system.² Québec will issue similar notifications to the Eeyou Istchee James Bay Regional Government for Category III lands.
4. Québec will ensure that proponents seeking mining claims on Category II and III lands are informed via GESTIM of the provisions of the JBNQA regarding such lands. Québec will also encourage the proponents to communicate directly with the Cree Nation Government and the Eeyou Istchee James Bay Regional Government, respectively.

¹ See Sections 48 to 51 and 184 to 186 of the Agreement.

² GESTIM is the online register of mining rights in Québec that is maintained by the Ministry of Energy and Natural Resources. The link to GESTIM is: https://gestim.mines.gouv.qc.ca/MRN_GestimP_Presentation/ODM02101_login.aspx.

Revised *Mining Act* (CQLR c.M-13.1)

On December 10th 2013, Québec sanctioned several changes to the *Mining Act* (the ‘Act’). The revised Act introduces several new elements and procedures:

1. The Act now formally recognizes that its application must occur in a manner that is consistent with the obligation to consult Native communities. To do so, the provincial government has confirmed that it will consult Native communities individually if need be, and that a Native community consultation policy specific to the mining sector will be developed. The Act now also confirms that in order to reconcile mining and exploration activities with other uses of the land, the rights and interests of Native communities must be considered.³
2. Mining and exploration proponents will eventually be obligated to issue yearly work activity reports to the Ministry of Energy and Natural Resources.⁴
3. Mining and exploration proponents who obtain claims in lands that have been set aside by the province for other purposes (e.g. outfitting camps, water bodies with potential for hydro-electric development) must notify the owner, lessee, or municipality of the obtention of their claims within 60 days. Proponents must also notify the municipality of the works that they intend to conduct in the territory of that municipality, at least 30 days before the work begins.⁵
4. All Restoration and Rehabilitation Plans for mining and exploration projects are public documents that may be used for public information and consultation purposes.⁶
5. The Minister of Energy and Natural Resources will allow (with conditions) or disallow mineral exploration in ‘mining-incompatible territories’ as outlined in the land and resource use plans that will be developed by municipalities, regional county municipalities, the Cree Nation Government, and the Eeyou Istchee James Bay Regional Government.⁷

These new circumstances and procedures change how mining and exploration project proponents will interact and communicate with the Ministry of Energy and Natural Resources, and the provincial, regional and local governments. They also provide new avenues for reconciling issues relating to land use (e.g. the siting and timing of activities), and for addressing concerns relating to mining and exploration site closures and restoration.

³ Sections 2.1 to 2.3 of the Act.

⁴ Section 71.1 of the Act – this section will come into force once the procedures that proponents will need to follow for issuing their work plans are set out in a regulation (expected in the summer of 2015).

⁵ Section 65 of the Act – this section will come into force once the notification procedures are developed by regulation (expected in the summer of 2015).

⁶ Sections 101 and 215 of the Act.

⁷ Section 304.1.1 of the Act – this section will come into force once the procedures and objectives that the jurisdictions must use when identifying ‘mining-incompatible territories’ in their resource and land use plans are fixed by a decree (expected in the summer of 2015).