



Réserve aquatique projetée du Lac-Waswanipi

Conservation plan

April 2018

1. Legal protection status and toponym

The protection status of the territory described below is that of proposed aquatic reserve, a status governed by the *Natural Heritage Conservation Act* (chapter C-61.01).

The permanent protection status to be granted is that of “aquatic reserve”, this status also being governed by the *Natural Heritage Conservation Act*.

The provisional toponym is “Réserve aquatique projetée du Lac-Waswanipi”. The official toponym will be determined when the territory is given permanent protection status.

2. Conservation objectives

Réserve aquatique projetée du Lac-Waswanipi was created primarily to protect and maintain biological diversity and the associated natural and cultural resources.

In ecological terms, the proposed reserve would protect natural environments that are characteristic of the Chibougamau Depression natural region, as well as Lac Waswanipi, which is part of the Rivière Nottaway watershed.

Culturally, the proposed reserve is the result of a proposal by the Cree community of Waswanipi, which wanted to conserve the integrity of Lac Waswanipi in order to maintain traditional Cree activities there. Also, Lac Waswanipi is part of the network of waterways used historically by this community, so the area has good archeological potential.

Recreotourism activities by people from the surrounding municipalities will also be maintained.

3. Plan and description

3.1. Geographical location, boundaries and dimensions

Réserve aquatique projetée du Lac-Waswanipi is located in the administrative region of Nord-du-Québec. Covering an area of 577.4 km², it lies about 35 km southwest of the Cree community of Waswanipi and 50 km northeast of the municipality of Lebel-sur-Quévillon, between 49° 27' and 49° 43' north latitude and between 76° 17' and 76° 42' west longitude.

The boundaries and location of the proposed reserve are shown on the map comprising Appendix 1.

3.2. Ecological portrait

Réserve aquatique projetée du Lac-Waswanipi is in the Mistassini Highlands natural province. More precisely, it will protect natural environments characteristic of the Chibougamau Depression natural region.

The waters of the proposed reserve are part of the Rivière Nottaway watershed.

The proposed reserve is in the Superior geological province. The geological foundation is mostly tonalitic rocks of intrusive origin, with smaller proportions of metamorphosed volcanic-sedimentary rocks (amphibolite, metabasalt and mafic gneiss) and sedimentary rocks.

The surface deposits present in the proposed reserve are primarily silty clay of glacio-lacustrine origin, although organic deposits and glacial deposits with no particular morphology are also abundant. In the centre of the territory and at the southern end of Lac Waswanipi, there are stretches of carbonate-rich clay attributable to the presence of small pockets of carbonate-rich sedimentary rocks of Paleozoic age that were carried southeast out of the James Bay basin by glacial activity. The elevation ranges from 258 m to 341 m.

The proposed aquatic reserve is subject to a subpolar climate, with the average annual temperature ranging from -1.1 to 0.8 °C. Total annual precipitation is on the order of 850 to 989 mm, while the growing season ranges from 144 to 163 days.

The plant cover of the proposed reserve, which is in the black spruce/moss bioclimatic domain, is characterized by the presence of conifer forests, dominated by black spruce, along with mixed forests. A few bogs and coniferous swamps are also present.

With regard to terrestrial and aquatic wildlife, the proposed reserve is probably home to abundant or representative species associated with the Mistassini Highlands natural province, including moose, American marten, beaver, lake trout and lake sturgeon. The following aquatic species can also be found in Lac Waswanipi: pickerel, whitefish, walleye and yellow perch.

3.3. Land occupation and uses

Under the James Bay and Northern Québec Agreement (JBNQA) and the *Act respecting the land regime in the James Bay and New Québec territories* (chapter R-13.1), the territory of the proposed reserve partly overlies, in the north, the Category II lands of the community of Waswanipi, and in the south, Category III lands. Category III lands are lands over which Aboriginals do not generally have exclusive rights, but where they may pursue their activities of hunting, fishing and trapping, without compensation rights for areas affected by development projects. The Category III lands on which the proposed reserve is located are under the responsibility of the Eeyou-Istchee James Bay Regional Government, which is governed by the *Cities and Towns Act* (chapter C-19), subject to special provisions of the *Act establishing the Eeyou Istchee James Bay Regional Government* (chapter G-1.04). Under the *Agreement on Governance in the Eeyou Istchee James Bay Territory*, the Cree Nation Government, a legal person established in the public interest by the *Act respecting the Cree Nation Government* (chapter G-1.031), may also exercise municipal and supramunicipal authority where the proposed reserve overlies Category II lands.

The *Agreement Concerning a New Relationship Between Le Gouvernement du Québec and the Crees of Québec*, known as “the Peace of the Braves”, concluded in February 2002, includes a provision, in section 4.18, that allows the communities concerned to revise the selection of Category I lands. The implementation of this commitment is under discussion by the Crees and the Québec government. The

reconfigurations being considered could affect the boundaries of certain sectors of the proposed reserve. Once the reconfiguration of Category I lands becomes official, the management of these lands will no longer be subject to the conservation plan, and will revert to the local Cree administrations concerned, in accordance with the *Act respecting the land regime in the James Bay and New Québec territories* (chapter R-13.1).

With regard to conservation, Réserve aquatique projetée du Lac-Waswanipi overlies a wildlife habitat protected under the *Act respecting the conservation and development of wildlife* (chapter C-61.1), namely the Lac Waswanipi heronry (No. 03-10-0073-2007).

The proposed reserve is in hunting zone 17. It is also in Abitibi beaver reserve, where the Cree community of Waswanipi enjoys specific rights pertaining to the hunting and trapping of fur-bearing animals, and in fur-bearing animal management unit 88. The proposed reserve also overlies three Cree trapping grounds within the meaning of the *Act respecting hunting and fishing rights in the James Bay and New Québec territories* (chapter D-13.1). The proposed protected area also overlies part of the operating territories of outfitters without exclusive rights that offer hunting and fishing activities. Seven land rights have also been granted, including four for temporary shelters and three for accommodation by an outfitter without exclusive rights. Note that an enclave in the southern part of the proposed reserve will serve to exclude the campground of the municipality of Baie-James, together with its boat launch and access road.

There are numerous forest roads on the terrestrial portion of the proposed aquatic reserve.

In cultural terms, note that the proposed reserve includes the Vieux-Poste site, where the original village of Waswanipi was located, which the community still uses as a gathering place. Two privately-owned lots on Île du Vieux-Poste are excluded from the proposed reserve. Also, the community of Waswanipi hosts an annual walleye fishing tournament, an important event that takes place on Lac Waswanipi and thus within the territory of the proposed reserve. Each year, the holding of this tournament will be authorized by the Minister of Sustainable Development, Environment and the Fight against Climate Change, so long as a positive recommendation is received based on the annual monitoring of walleye populations.

4. Activities framework

§1 – Introduction

The purpose of the proposed aquatic reserve is to protect natural environments and their components. Activities that may have a significant impact on ecosystems and biodiversity, particularly industrial activities, are prohibited therein. This type of protected area allows the pursuit of less damaging activities and occupancies, namely recreational, wildlife, ecotourism and educational activities and occupancies.

The proposed aquatic reserve must be considered to be a territory dedicated to the protection of the natural environment, nature discovery and recreation.

Activities carried on within the proposed aquatic reserve are governed mainly by the provisions of the Natural Heritage Conservation Act. The measures provided for in the Natural Heritage Conservation Act and by this plan apply subject to the provisions of the agreements referred to in the Act approving the Agreement concerning James Bay and Northern Québec (chapter C-67) and by the Act approving the Northeastern Québec Agreement (chapter C-67.1).

Under section 34 of the Natural Heritage Conservation Act (chapter C-61.01), the main activities prohibited in an area to which status as proposed aquatic reserve has been assigned are

- mining, and gas or petroleum development;
- forest development activities within the meaning of section 4 of the Sustainable Forest Development Act (chapter A-18.1);
- the development of hydraulic resources and any production of energy on a commercial or industrial basis.

Although fundamental for the protection of the territory and ecosystems therein, the prohibitions are insufficient to ensure the good management of the proposed aquatic reserve and the conservation of the natural environment. The Natural Heritage Conservation Act makes it possible to specify in the conservation plan the legal framework applicable in the territory of the proposed aquatic reserve.

The provisions in this section provide for prohibitions in addition to those already prescribed by law and regulate certain activities allowed to better ensure the protection of the natural environment, in conformity with the principles of conservation and other objectives of management of the proposed aquatic reserve. Thus certain activities are subject to the prior authorization from the Minister.

The measures contained in this section concern in particular the new interventions in the territory and do not generally call into question existing facilities or certain activities already under way in the territory, thereby preserving a number of existing uses. Lastly, the measures also contain, for certain activities, exemptions from the requirement to obtain an authorization.

Since the measures do not distinguish, among all the activities subject to an authorization, those that are considered to be compatible from those that are considered to be incompatible with the vocation of the aquatic reserve, the Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques (MDDELCC) has prepared an explanatory document indicating the compatibility or incompatibility of each type of activity with the biodiversity and aquatic reserves. The document may be consulted on the website of the MDDELCC at:

http://www.mddelcc.gouv.qc.ca/biodiversite/aires_protegees/regime-activites/regime-activite-reserve-bio-aqua.pdf.

§2 – Prohibitions, prior authorizations and other conditions governing certain activities in the proposed aquatic reserve

§2.1 – Protection of resources and the natural environment

4.1. Subject to the prohibition in the second paragraph, no person may establish in the proposed reserve any specimens or individuals of a native or non-native species of fauna, including by stocking, unless the person has been authorized by the Minister.

No person may stock a watercourse or body of water for aquaculture, commercial fishing or any other commercial purpose.

No person may establish in the proposed reserve a non-native species of flora, unless the person has been authorized by the Minister.

4.2. No person may use fertilizer or fertilizing material in the proposed reserve. Compost for domestic purposes is permitted if used at least 20 metres from a watercourse or body of water measured from the high-water mark.

The high-water mark means the high-water mark defined in the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains (chapter Q-2, r. 35).

4.3. No person may remove species of flora, small fruits or any other non-timber forest product by mechanical means.

4.4. No person may, unless the person has been authorized by the Minister,

(1) intervene in a wetland area, including a marsh, swamp or bog;

(2) modify the proposed reserve's natural drainage or water regime, including by creating or developing watercourses or bodies of water;

(3) dig, fill, obstruct or divert a watercourse or body of water;

(4) install or erect any structure, infrastructure or new works in or on the bed, banks, shores or floodplain of a watercourse or body of water, although no authorization is required for minor works such as a wharf, platform or boathouse erected for private purposes and free of charge under section 2 of the Regulation respecting the water property in the domain of the State (chapter R-13, r. 1);

(5) carry on any activity other than those referred to in paragraphs 1 to 4 that is likely to degrade the bed, banks or shores of a body of water or watercourse or directly and substantially affect the quality or biochemical characteristics of aquatic or riparian environments or wetland areas in the proposed reserve, including by discharging or dumping waste or pollutants into those areas;

(6) carry out soil development work or carry on an activity that is likely to degrade the soil or a geological formation or damage the vegetation cover, such as stripping, the digging of trenches or excavation work,

including any burial, earthwork, removal or displacement of surface materials or vegetation cover, for any purpose; no authorization is required for the removal of soapstone by a beneficiary within the meaning of section 1 of the Act respecting the land regime in the James Bay and New Québec territories (chapter R-13.1);

- (7) install or erect any structure, infrastructure or new works;
- (8) reconstruct or demolish a structure, infrastructure or works;
- (9) use a pesticide, although no authorization is required for the use of personal insect repellent;
- (10) carry on educational or research-related activities if the activities are likely to significantly damage or disturb the natural environment, in particular because of the nature or size of the samples taken or the invasive character of the method or process used; or
- (11) hold a sports event, tournament, rally or any other similar event where, as the case may be,
 - (a) fauna or flora species are sampled or likely to be sampled; or
 - (b) vehicles or craft are used.

4.5. Despite paragraphs 6, 7 and 8 of section 4.4, no authorization is required to carry out work referred to in subparagraph 1 of this section when the requirements of the second paragraph are met:

- (1) the maintenance, repair or upgrade of a structure, infrastructure or works such as a camp, cottage, road or trail, including ancillary facilities such as lookouts or stairs;
- (2) the construction or erection of
 - (a) an appurtenance or ancillary facility of a trapping camp, rough shelter, shelter or cottage such as a shed, well, water intake or sanitary facilities; or
 - (b) a trapping camp, rough shelter, shelter or cottage if such a building was permitted under the right to use or occupy the land but had not been constructed or installed on the effective date of the status as a proposed aquatic reserve;
- (3) the demolition or reconstruction of a trapping camp, rough shelter, shelter or cottage, including an appurtenance or ancillary facility such as a shed, well, water intake or sanitary facilities.

The work is carried out in compliance with the following requirements:

- (1) the work involves a structure, infrastructure or works permitted within the proposed reserve;
- (2) the work is carried out within the area of land or right of way subject to the right to use or occupy the land in the proposed reserve, whether the right results from a lease, servitude or other form of title, permit or authorization;

- (3) the nature of the work or elements erected by the work will not operate to increase the area of land that may remain deforested beyond the limits permitted under the provisions applicable to the sale, lease and granting of immovable rights under the Act respecting the lands in the domain of the State (chapter T-8.1) and, if applicable, the limits allowed under an authorization for the structure, works or infrastructure;
- (4) the work is carried out in compliance with the conditions of a permit or authorization issued for the work or in connection with the structure, infrastructure or works involved, and in accordance with the laws and regulations that apply; and
- (5) for roads in the forest, the work must not operate to alter or exceed the existing right of way, widen the roadway or convert the road to a higher class.

For the purposes of this section, repair and upgrading work includes work to replace or erect works or facilities to comply with the requirements of an environmental regulation.

4.6. No person may bury, incinerate, abandon or dispose of waste, snow or other residual materials elsewhere than in waste disposal containers, facilities or sites determined by the Minister. The materials may be buried, incinerated, abandoned or disposed of elsewhere with the authorization of the Minister.

Despite the first paragraph, no authorization is required for an outfitting operation for using a facility or disposal site, in accordance with the Environment Quality Act (chapter Q-2) and its regulations, where the outfitting operation was already using it on the effective date of the protection status as a proposed aquatic reserve.

§2.2 – Rules of conduct for users

4.7. No person may enter, carry on an activity or operate a vehicle in a given sector of the proposed reserve if the signage erected by the Minister restricts access, traffic or certain activities in order to protect the public from a danger or to avoid placing the fauna, flora or other components of the natural environment at risk, unless the person has been authorized by the Minister.

4.8. No person may destroy, remove, move or damage any poster, sign, notice or other types of signage posted by the Minister within the proposed reserve.

§2.3 – Activities requiring an authorization

4.9. No person may occupy or use the same site in the proposed reserve for a period of more than 90 days in the same year, unless the person has been authorized by the Minister.

For the purposes of the first paragraph,

- (1) the occupation or use of a site includes
 - (a) staying or settling in the proposed reserve, including for vacation purposes;
 - (b) installing a camp or shelter in the proposed reserve; and

(c) installing, burying or leaving property in the proposed reserve, including equipment, any device or a vehicle; and

(2) "same site" means any other site within a radius of 1 kilometre from the site.

Despite the first paragraph, no authorization is required if a person,

(1) on the effective date of the protection status as a proposed aquatic reserve, was a party to a lease or had already obtained another form of right or authorization allowing the person to legally occupy the land under the Act respecting the lands in the domain of the State, the Act approving the Agreement concerning James Bay and Northern Québec (chapter C-67) or, if applicable, the Act respecting the conservation and development of wildlife (chapter C-61.1), and whose right to occupy the land is renewed or extended on the same conditions, subject to possible changes in fees;

(2) in accordance with the law, has entitlement under a sublease, an assignment of a lease or a transfer of a right or authorization referred to in subparagraph 1, and whose right to occupy the land is renewed or extended on the same conditions, subject to possible changes in fees; or

(3) elects to acquire land the person legally occupies on the effective date of the protection status as a proposed aquatic reserve, pursuant to the Act respecting the lands in the domain of the State.

4.10. No person may carry on forest management activities to meet domestic needs or for the purpose of maintaining biodiversity, unless the person has been authorized by the Minister.

Despite the first paragraph, the authorization of the Minister is not required if a person staying or residing in the proposed reserve collects wood to make a campfire.

An authorization is also not required if a person collects firewood to meet domestic needs in the following cases and on the following conditions:

(1) the wood is collected to supply a trapping camp or a rough shelter permitted within the proposed reserve if

(a) the wood is collected by a person in compliance with the conditions set out in the permit for the harvest of firewood for domestic purposes issued by the Minister of Forests, Wildlife and Parks under the Sustainable Forest Development Act (chapter A-18.1);

(b) the quantity of wood collected does not exceed 7 apparent cubic metres per year;

(2) in all other cases if

(a) the wood is collected within a sector designated by the Minister of Forests, Wildlife and Parks as a sector for which a permit for the harvest of firewood for domestic purposes under the Sustainable Forest Development Act may be issued, and for which, on the effective date of the protection status as a proposed aquatic reserve, a designation as such had already been made by the Minister;

(b) the wood is collected by a person who, on the effective date of the protection status as a proposed aquatic reserve or in any of the 3 preceding years, held a permit for the harvest of firewood for domestic purposes allowing the person to harvest firewood within the proposed reserve;

(c) the wood is collected by a person in compliance with the conditions set out in the permit for the harvest of firewood for domestic purposes issued by the Minister of Forests, Wildlife and Parks under the Sustainable Forest Development Act.

Despite the first paragraph, an authorization to carry on a forest management activity is not required if a person authorized by lease to occupy land within the proposed reserve in accordance with this conservation plan carries on the forest management activity for the purpose of

(1) clearing, maintaining or creating visual openings, or any other similar removal work permitted under the provisions governing the sale, lease and granting of immovable rights under the Act respecting the lands in the domain of the State, including work for access roads, stairs and other trails permitted under those provisions; or

(2) clearing the necessary area for the installation, connection, maintenance, repair, reconstruction or upgrading of facilities, lines or mains for water, sewer, electric power or telecommunications services.

If the work referred to in subparagraph 2 of the fourth paragraph is carried on for or under the responsibility of an enterprise providing any of those services, the work requires the prior authorization of the Minister, other than in the case of the exemptions in sections 4.12 and 4.14.

4.11. No person may carry on commercial activities in the proposed aquatic reserve, unless the person has been authorized by the Minister.

Despite the first paragraph, no authorization is required

(1) if the activity does not imply sampling for fauna or flora resources or the use of a motor vehicle;

(2) to carry on commercial activities which, on the effective date of the protection status as a proposed aquatic reserve, was the subject of a right to use the land for such a purpose, whether the right results from a lease or other form of title, permit or authorization, within the limits of the right.

§2.4 – Authorization exemptions

4.12. Despite the preceding provisions, no authorization is required for an activity or other form of intervention within the proposed reserve if urgent action is necessary to prevent harm to the health or safety of persons, or to repair or prevent damage caused by a real or apprehended disaster. The person concerned must, however, immediately inform the Minister of the activity or intervention that has taken place.

4.13 The members of a Native community who, for food, ritual or social purposes, carry on an intervention or an activity within the proposed reserve are exempted from obtaining an authorization. Note that only Cree

Native persons, beneficiaries of the Agreement concerning James Bay and Northern Québec, are subject to such an exemption.

It is understood that the provisions of this plan are applicable subject to the authorization exemptions and other provisions provided for in the Act respecting hunting and fishing rights in the James Bay and New Québec territories (chapter D-13.1).

4.14 Despite the preceding provisions, the following activities and interventions carried out by Hydro-Québec (Société) or by any other person for Hydro-Québec do not require the prior authorization of the Minister under this conservation plan:

- (1) any activity or intervention required within the proposed reserve to complete a project for which express authorization had previously been given by the Government and the Minister, or only by the Minister, in accordance with the Environment Quality Act (chapter Q-2), if the activity or intervention is carried out in compliance with the authorizations issued;
- (2) any activity or intervention necessary for the preparation and presentation of a pre-project report for a project requiring an authorization under the Environment Quality Act;
- (3) any activity or intervention relating to a project requiring the prior authorization of the Minister under the Environment Quality Act if the activity or intervention is in response to a request for a clarification or for additional information made by the Minister to the Société, and the activity or intervention is carried out in conformity with the request.

The Société is to keep the Minister informed of the various activities or interventions referred to in this section it proposes to carry out before the work is begun in the proposed reserve.

For the purposes of this section, the activities and interventions of the Société include but are not restricted to pre-project studies, analysis work or field research, work required to study and ascertain the impact of electric power transmission and distribution line corridors and rights of way, geological or geophysical surveys and survey lines, and the opening and maintenance of roads required for the purposes of access, construction or traffic incidental to the work.

5. Activities governed by other laws

Certain activities that could potentially be practised in the proposed aquatic reserve are also governed by other applicable legislative and regulatory provisions, and some require a permit or authorization or the payment of certain fees. Certain activities could be prohibited or limited under other laws or regulations applicable on the territory of the proposed reserve.

Within the proposed aquatic reserve, a particular legal framework may govern permitted activities under the following categories:

- **Protection of the environment:** measures set out in particular by the *Environment Quality Act* (chapter Q-2) and its regulations;
- **Plant species designated as threatened or vulnerable:** measures prohibiting the harvesting of such species under the *Act respecting threatened or vulnerable species* (chapter E-12.01);
- **Exploitation and conservation of wildlife resources:** measures stipulated by the *Act respecting the conservation and development of wildlife* (chapter C-61.1) and its regulations, including provisions related to threatened or vulnerable wildlife species, outfitters and beaver reserves, and measures in the applicable federal laws and regulations, including the legislation and regulations on fisheries; and in northern regions, particular measures stipulated by the *Act respecting hunting and fishing rights in the James Bay and New Québec territories* (chapter D-13.1);
- **Archeological research and discoveries:** measures set out in particular by the *Cultural Heritage Act* (chapter P-9.002);
- **Access and property rights related to the domain of the State:** measures set out in particular by the *Act respecting the lands in the domain of the State* (chapter T-8.1) and the *Watercourses Act* (chapter R-13), and in northern regions, by the *Act respecting the land regime in the James Bay and New Québec territories* (chapter R-13.1);
- **Issuance and oversight of forest development permits** (harvesting of firewood for domestic purposes, wildlife development, recreational development); and **delivery of authorizations** (forest roads): measures stipulated by the *Sustainable Forest Development Act* (chapter A-18.1);
- **Travel:** measures stipulated by the *Act respecting the lands in the domain of the State* and by the regulations on motor vehicle travel in fragile environments, under the *Environment Quality Act*;
- **Construction and development standards:** regulatory measures adopted by local and regional municipal authorities in accordance with the applicable laws.

6. Responsibilities of the Minister of Sustainable Development, Environment and the Fight against Climate Change

The Minister of Sustainable Development, Environment and the Fight against Climate Change is responsible for the conservation and management of Réserve aquatique projetée du Lac-Waswanipi. Among other things, the Minister sees to the control and supervision of activities that take place there. In her management, the Minister enjoys the collaboration and participation of other government representatives that have specific responsibilities in or adjacent to the territory, including the Minister of Energy and Natural Resources and the Minister of Forests, Wildlife and Parks, and their delegates. In performing their functions they will take into account the protection desired for these natural environments and the protection status they are now granted.

Appendix 1

Map of Réserve aquatique projetée du Lac-Waswanipi

