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Comité consultatif de l'environnement Kativik
Kativik Environmental Advisory Committee

February 19, 2018

Isabelle Melançon
Minister
Ministère du Développement durable, de l'Environnement et
de la Lutte contre les changements climatiques
Édifice Marie-Guyart
675 René-Lévesque Blvd. East, 30th Floor
Quebec City QC
G1R 5V7

Subject: *Act respecting the Conservation of Wetlands and Bodies of Water (2017, c. 14)* and its application in Nunavik

Dear Madam:

Established pursuant to Section 23 of the *James Bay and Northern Québec Agreement (JBNQA)*, the Kativik Environmental Advisory Committee (KEAC) is a consultative body to responsible governments in matters relating to environmental and social protection in Nunavik. It is the preferential and official forum for the governments of Canada and Québec, as well as the Kativik Regional Government (KRG) and the 14 northern villages.

On December 5, 2017, a presentation was delivered at the 154th meeting of the KEAC by a representative of the Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques (sustainable development, the environment and the fight against climate change, MDDELCC) on the new *Act respecting the Conservation of Wetlands and Bodies of Water* adopted in June 2017. While the presentation provided answers to some KEAC questions regarding the application of the Act in Nunavik, other questions remained unanswered.

First, the KEAC understands and supports the objectives of the new Act which are to reform the legal framework applicable to wetlands and bodies of water in order to modernize the measures that ensure their conservation and maintain and enhance their ecological functions. Notwithstanding, the KEAC has noted that Nunavik water resources and wetlands have not fully benefitted from this modernization exercise, despite the fact that the region possesses unique and fragile aquatic ecosystems, an environment in which Inuit and Naskapi practise traditional subsistence hunting, fishing, trapping and gathering activities. The increasing number of development projects, including mining operations and road construction, are producing significant impacts on this environment. These projects must be implemented in compliance with Inuit and Naskapi rights regarding access to and use of the territory.

KEAC Secretariat
P.O. Box 930 Kuujuaq QC J0M 1C0
Tel.: 819-964-2961, ext. 2287
Fax: 819-964-0694
Email: bpatenaude@krg.ca



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Now more than ever, Nunavik is facing uncertainties related to climate change with impacts on many lakes, rivers, bays and estuaries that are vital to Inuit and Naskapi subsistence activities. Permafrost thawing is generating additional pressure on transportation infrastructure and networks, which may affect adjacent wetlands and bodies of water.

The MDDELCC presentation did not provide a clear explanation of why certain legislative provisions aimed at promoting projects with minimal impacts on wetlands and bodies of water were not applicable in Nunavik. Section 31 of the Act introduces sections 46.0.3 and 46.0.11 to the *Environment Quality Act* (EQA). The former stipulates the rules applicable to authorizations under section 22 of the EQA, which applies in Nunavik (section 213, EQA), and the latter stipulates that sections 46.0.4 and 46.0.6 of the EQA also apply under the impact assessment procedure for southern Québec. Because the northern procedure is not expressly mentioned in section 46.0.11, should it be understood that only the protection provisions under section 22 apply to projects carried out in Nunavik?

Moreover, the MDDELCC presentation did not provide answers to all questions regarding the application in Nunavik of the amendments to the *Act to Affirm the Collective Nature of Water Resources and Provide for Increased Water Resource Protection*. More specifically, the Act stipulates the mandates given to watershed bodies, regional advisory panels, regional county municipalities and local municipalities. The Act does not however clearly stipulate which bodies receive these mandates in Nunavik.

For example, section 7 of the Act (inserting section 13.2 into the *Act to Affirm the Collective Nature of Water Resources and Provide for Increased Water Resource Protection*) requires the Minister to establish the boundaries of hydrologic units. For Nunavik, the KEAC recommends to establish one or several units based on hydrologic and ecological criteria. Moreover, as the KRG is considered a local municipality (pursuant to section 11.1 of the *Act respecting Municipal Territorial Organization*), it is not obvious which Nunavik organization should be responsible for developing and implementing the “regional wetlands and bodies of water plan” and for ensuring the compatibility of its land use and development plan with this regional plan, since the *Act respecting Land Use Planning and Development* does not apply in Nunavik (section 266 of this Act). In this context, the KEAC would like to receive details regarding how these new provisions will be applied in Nunavik.

Other questions arise under section 9 of the Act (replacing sections 15.8 to 15.13 of the *Act to Affirm the Collective Nature of Water Resources and Provide for Increased Water Resource Protection*), which grants the Minister the power to develop and implement programs to promote the restoration and creation of wetlands and bodies of water. Although the new section 15.11 clearly stipulates that the “Minister may, by agreement, delegate management of all or part of a program developed under section 15.8 to [...] the Kativik Regional Government”, no resource envelope has been planned for such a program in Nunavik as the envelope “is to be established on the basis of the watersheds concerned by the sums received as compensation under the *Environment Quality Act*” (section 15.8 of the *Act to Affirm the Collective Nature of Water Resources and Provide for Increased Water Resource Protection*). This provision is not currently applicable in Nunavik (section 57 and Schedule 1 of the Act).



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Additionally, when considering which wetlands and bodies of water should be protected and designated in Nunavik according to their rarity or exceptional interest (section 17 of the Act replacing section 13 of the *Natural Heritage Conservation Act*), the KEAC recommends that the MDDELCC consult the KRG to identify areas of historic, aesthetic and ecological interest in the region.

While the KEAC agrees with the objective of improving the conservation of wetlands and bodies of water in Québec, it must also stress that meaningful innovations introduced with the adoption of the new Act do not seem to apply in Northern Québec and those that do apply are not in every case stated clearly. In principle, the concept of progress conveyed by the modernization of the legislative framework to improve protection for wetlands and bodies of water should apply throughout Québec and not omit the province's northern territories. The KEAC believes the wetlands and bodies of water in Nunavik must receive the same level of protection as those in other parts of Québec and that differences in levels of protection between the south and the north must be avoided.

In this context and in accordance with its mandate, the KEAC would like to obtain further information to improve its understanding of the impacts of the new Act in Nunavik, in particular "to minimize the negative impact of development in or affecting the Region" (paragraph 23.2.2, JBNQA).

Respectfully yours,

Michael Barrett
Chairperson

c.c. Jean-Pierre Laniel, Director, Biodiversity Expertise Branch, MDDELCC
Jennifer Munick, Chairperson, KRG