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Comité consultatif de l'environnement Kativik
Kativik Environmental Advisory Committee

May 26, 2023

Nathalie Camden
Associate Deputy Minister, Mining Sector
Ministère des Ressources naturelles et des Forêts
5700 4th Avenue West, Suite D-327
Québec, QC
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SUBJECT: The KEAC's feedback on the consultation for the harmonious development of mining activity

Madame Camden,

The Kativik Environmental Advisory Committee (KEAC) was created in 1975 under Section 23 of the James Bay and Northern Quebec Agreement (JBNQA). It is an advisory body to the responsible governments regarding environmental and social protection in Nunavik. It is the preferred and official intermediary of the governments of Canada and Québec as well as the Kativik Regional Government (KRG) and the Northern Villages.

The KEAC would like to take advantage of this consultation to recall that, in accordance with the JBNQA, specific rules apply to mineral exploration and mining operations in Nunavik, and that the JBNQA is guaranteed and protected under Section 35 of the Constitution Act, 1982. The current *Mining Act* also extends this recognition by stipulating: *This Act applies subject to the Act respecting the Land Regime in the James Bay and New Québec Territories (chapter R-13.1), the Act approving the Agreement concerning James Bay and Northern Québec (chapter C-67) and the Act approving the Northeastern Québec Agreement (chapter C-67.1)*"

General Feedback

On April 14, 2023, the KEAC attended a virtual meeting, hosted by the Ministry of Natural Resources and Forestry (MRNF), along with 40 other participants from First Nations communities and Inuit organizations to discuss the topic of harmonious development of mining activity. Following an introduction by the MRNF, the meeting allotted four 20-minute sessions in order to answer several general questions regarding mining activities. It is the KEAC's opinion that this discussion format and narrow timeframe did not allow adequate opportunity for participants to fully respond to questions nor digest the answers of others, and created a challenge to identify an accurate representation of issues and concerns from attendees.

Furthermore, the objective of this consultation has remained vague. It was understood that discussions with stakeholders would figure into further action by the MRNF such as the development of policies and/or regulations but without a definitive objective it is difficult to provide precise feedback and therefore it remains

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broad in nature. The KEAC also understands that further consultations will be required as this ministerial exercise of gathering constructive and innovative proposals to promote the harmonious development of mining activity moves forward. As such, the KEAC has replied to the provided questions but wish to highlight that these are preliminary considerations given the short deadline.

Consultation Questions

THEME 1: Harmonization of activities in the territory

1. *Is negotiating agreements that allow for the exclusion and opening of certain parts of the territory to mining activities a good way to protect certain areas?*

In Nunavik, the notion of harmonisation of activities should have a particular emphasis on limiting the nuisance generated by the industrial activities, in particular on rightful land users such as the Inuit, Naskapi and Cree in Nunavik as well as the flora and fauna. As such, the emphasis should be placed on both the industry and the state to strengthen communicating channels with local communities and their representatives, notably regarding the distinct nature of the mining activities in Nunavik, including exploration. No matter the level of exploration activity, land tenure and the rights of Inuit, Naskapi and Cree, as well as the network of protected areas, must always be respected. Ultimately, economic imperatives must not dominate environmental and social imperatives.

Proposed protected areas, which are important for Inuit and Naskapi, have already been identified by the KRG in cooperation with the Québec government. In terms of negotiating agreements that allow for the exclusion or limitations of mining activities to promote protected areas, the KEAC consider it relevant to define these terms and the type of agreement referred in collaboration with the KRG who is responsible for the planning and operation of national parks and protected areas in Nunavik, pursuant to an agreement with the Québec government.

2. *What measures should be put in place to promote social acceptability of projects?*

The KEAC has recently published a research paper on the consideration given to social impacts under the impact assessment processes applicable in Nunavik, available on its website. The study looked at eight projects that were subject to environmental assessment in Nunavik, reviewed the literature concerning best practices in social impact studies and questioned resource persons involved in the four environmental and social impact assessment processes. The study highlighted a number of issues with how social impacts are considered, all of which could have an impact on the social accessibility of projects. The poor quality and the lack of information on the biophysical and human environment in Nunavik limits the quality of the analysis and hinders the transparency of the projects. The absence of a theoretical framework and of a standardized methodology to assess social impacts create confusion and lowers the quality and relevance of follow-up reports, which in turn may lower the trust of the population towards these processes. These issues must be considered when planning for stakeholder information and consultation sessions.

In terms of social acceptability, information is key. There cannot be true social acceptability unless people truly understand the project itself, but also the processes, the timeline, the biophysical and social impacts how they can be involved. It is necessary to strike the right balance between allowing stakeholders to be consulted from the onset of a project, and ensuring that community mobilization is not time consuming nor creates undue anxiety. The specific goal of the information and consultation sessions must be clearly defined.

Finally, during our discussion with the MRNF and other regional representatives on November 30, 2022, regarding the proposed authorization for impact-causing exploration activities, it was understood that authorized exploration activities would be trackable using the GESTIM platform currently in place. It should be noted that this online tool is quite complicated to use, and currently not available in either English or Inuktitut. The KEAC recommend that these language barriers be considered and that training and capacity-building activities be undertaken in the region so that everyone can understand how to use this platform and thus obtain a more accurate picture of exploration activities close to their communities. If possible, a simpler version of the webpage should be made available to the public and with region-specific data. Additionally, GESTIM could help identify actual and proposed protected areas as well as category I, II and III boundaries.

THEME 2: Claims and exploration activities

3. What is your opinion on the current process for granting mining claims?

During the April 14, 2023 meeting, many participants voiced the importance of developing or improving communication channels specific to the application and granting of mining titles. The KEAC considers this an important aspect for increasing the role of Nunavik communities in the supervision, analysis, recommendations, and authorization of mining claims. The more the communities are aware and consulted, the more improved the relationships between them and the exploration companies who seek to exploit natural resources.

The also KEAC reiterates the importance of harmonizing the regulations and authorization processes that currently cover mineral exploration and exploitation activities with the rules in force in Nunavik. Presently, proponents of projects undertaken in the Kativik territory must obtain a certificate of conformity from KRG for all development projects, including mineral exploration. Through this process, Landholding Corporations near the project site, and the Naskapi Nation of Kawawachikamach, are consulted if required.

It should be noted that obtaining a certificate of conformity from KRG is an informative process. As such, the KRG is currently drafting a first ever planning by-law for the Kativik territory, in collaboration with the Makivvik, the Cree Nation Government, the Naskapi Nation of Kawawachikamach and the Nunavik Landholding Corporations Association. The by-law's objective is to ensure better land use management (ie. construction, infrastructure, storage of materials, etc.) by outfitting, recreation and mining exploration activities, among others. Through this new by-law, a consultative process with the concerned stakeholders would be put in place to remedy the current lack of consultation in the mining sector. A link between the upcoming KRG's urban planning by-law and regulations that require authorizations for mineral exploration activities is essential to avoid increasing administrative burden on project proponents. Multiple consultations for a same project must be avoided at all cost, since it creates confusion and uncertainty for stakeholders.

THEME 3: Acceptability for Indigenous communities

4. *What measures can be proposed to go further in protecting the environment (from exploration to mine reclamation/closure)?*

The unmonitored exploitation of mineral resources in the past have resulted in hundreds of abandoned sites in Nunavik. The KEAC acknowledge that recent adjustments to various laws and regulations governing exploration activities have curbed environmental liabilities and that the mining industry have been a key contributor to the restoration of the historical sites in collaboration with the KRG and other regional partners. However, inconsistent monitoring of industrial activities in Nunavik remains a concern. Furthermore, abandoned materials and equipment from exploration projects found throughout the region contributes to a degree of distrust regarding the presence of these activities by community members. The KEAC recommends restrictive standards and conditions as well as site restoration guarantees be a condition of a project's authorization and that monitoring mechanisms be implemented from the start to the end of the activity.

Acceptability among indigenous communities also depends on these communities being able to communicate their environmental and social priorities to both government and industry representatives during established information and consultation sessions, including their participation in the review of closure and restoration plans.

Finally, the KEAC reiterates the comments it made in February 2020 regarding Québec's reflection on the development of critical and strategic minerals. In its letter, the committee underlined that the Environmental Quality Act, Article 95.10, states "the Administration's programs determined by government regulation, including the strategies, plans and other forms of guidelines the Administration develops, must be the subject of a strategic environmental assessment..." As such, the KEAC maintains its belief that it would be appropriate to carry out a strategic environmental assessment (SEA) during the initial phase of reflection on the development of critical and strategic minerals and the overall increase of mineral exploration activities. This would allow environmental and social considerations to be incorporated at the very beginning of the process and thus evaluate the alternatives in order to achieve the desired objectives while minimizing any negative effects. SEA can also serve to enable informed decision-making with regard to major government guidelines, and to consider participation of the public in the context of consultation and issues relating in particular to the environment and sustainable development.

5. *Québec has a subsoil rich in minerals for the future of the energy transition and the decarbonization of the economy. In your opinion, under what conditions should Québec allow their development?*

When considering the exploitation of these minerals, the Ministry must ensure that it remains transparent in all its decisions and that it informs the communities and bodies responsible for assessing development projects in the region. In addition, whatever the type of mining activity, the land tenure and rights of the Inuit, Naskapi and Cree, as well as the network of protected areas, must always be respected.

The KEAC suggest the MRNF also consider the potential contribution of the mining sector to energy transition and decarbonization of the economy in Nunavik, integration and interactions with regional climate change

adaptation strategies and waste management initiatives in Nunavik through collaborative impact benefit agreements with communities.

THEME 4: Benefits and impacts of mining activities

6. *Are there other impacts of mining activities on Indigenous communities? How could these impacts be reduced?*
7. *What actions do you think should be taken following the closure of a mine environmentally, socially and economically?*
8. *Are Indigenous communities benefiting from the results of mining activities? Why?*

When considering the benefits of mineral activities, the KEAC support the regional organizations and communities' campaigning for agreements that allow for provisions with greater focus on skills development, capacity building and inclusion for local businesses. With well-adapted collaborations and agreements, Nunavik communities are well positioned to take advantage and benefit from direct and indirect business and employment opportunities that stem from exploration, mine construction, operation, and remediation phases of a mining project. Long-term economic benefits that a producing mine can bring to local economies, must be considered, including direct and indirect jobs, business opportunities and capital-intensive activities and new economic infrastructure, including improvements or installation of transportation, communication, power networks, and housing.

According to GESTIM, in 2023 there were more than 36,000 active mining claims in Nunavik. Although most of these claims do not lead to mining projects, the effects of exploration activities can be major and must not be neglected by the government. The historical and current interest in the mineral potential of Nunavik has placed pressure on regional communities and environments while multiplying the extent, magnitude and profile of cumulative impacts. Although there have been some benefits to this industrial presence, these impacts have resulted in changes to environmental, social and economic values caused by the combined effect of past, present and potential future human activities and natural processes. Additionally, the KEAC recommend that cumulative impacts be considered as part of the MRNF reflection regarding harmonious mineral activities as well as during the issuance of authorizations. Furthermore, authorized activities and exploration projects should not be fragmented in order to avoid cumulative effects of low-impact activities.

Conclusion

The KEAC are of the opinion that harmonious mineral activities include enhanced transparency, accountability, participation, and benefits for Nunavik communities that include both local and sustainable development.

Key issues to consider include the need for integrated land use planning for the territory, the training and capacity building of community members, acknowledging and integrating cultural values within

community/company relationships, consistent and appropriate consultations, generating future sustained income, local procurement and enforceability of agreements for land protection or the use of resources.

The KEAC continue to monitor this file with great interest and asks to be invited to any further consultations and to be kept informed of any new developments concerning this important issue.

Best Regards,



Raymond Mickpegak
Chairperson, KEAC

cc. Véronique Gilbert, Assistant Director of Lands and Environment, Kativik Regional Government