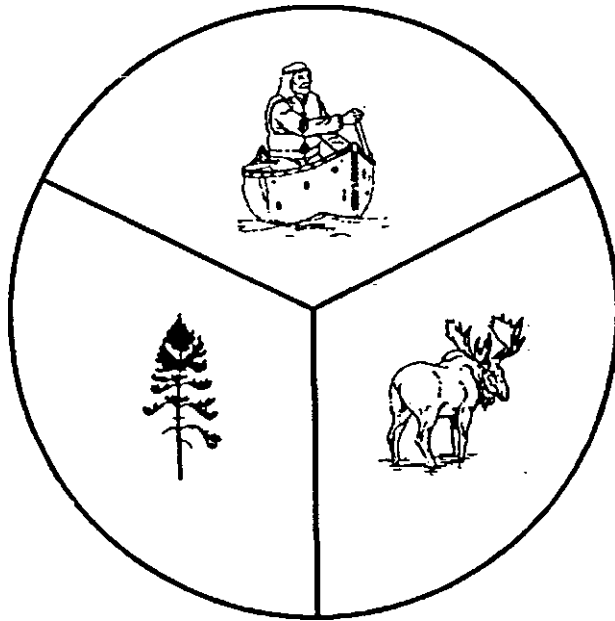


# The Barriere Lake Trilateral Agreement



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PREFACE

The case study of the Barriere Lake Trilateral Agreement was commissioned by the Royal Commission on Aboriginal Peoples, and was conducted from mid-August to mid-November, 1993.

For this study I relied heavily on 15 volumes of extensive documentation provided by the Algonquins of Barriere Lake. These materials cover the time period from 1987 to 1992 and can be detailed as follows: one volume of draft agreements, two volumes with records of meetings, correspondence and press statements prior to the Agreement, one volume with legislation, CAAFs and resolutions, one with research reports, two with correspondence, one volume of Task Force meeting minutes and two of Special Representatives meeting minutes, one with action plans/reports, one volume on the mediation process, and three volumes documenting funding and administration. These materials are quoted and referenced in the text as appropriate, but are not further detailed in the reference section. Furthermore, I spent a week in Ontario/Quebec, conducting interviews in Le Domaine, Rapid Lake, Hull and Ottawa.

I would like to thank Russell Diabo, his family and the Algonquins of Barriere Lake for their hospitality during my visit in Barriere Lake country. Special thanks are extended to Chief Jean-Maurice Matchewan, Michel Thusky and Hector Jerome, for giving me a first-hand impression of their traditional lands and invaluable insights in the Algonquin pursuit of sustainable development. Many thanks are extended to Russell Diabo, political advisor to the Algonquins and Task Force member, for long hours spent answering my many questions, and to Clifford Lincoln, Special Representative of the Algonquins, who generously shared his experience and helped in many ways to make my visit a success.

I much appreciate the insights and information provided by Dr. Andre Lafond, Special Representative of Quebec, who greatly helped my understanding of Quebec's perspective and of recent developments in the Agreement's implementation. Thanks are due to Gilberte Lavoie, Special Representative of the federal government since 1992, who presented me with a federal perspective on the trilateral process, and to W.G. Goodfellow, Vice President of Canadian Pacific Forest Products Ltd. in Gatineau, who provided me with valuable insights on the forest industry's position.

Furthermore, David Nahwegahbow, legal counsel and Acting Special Representative for the Algonquins, Peter Higgelke, Task Force member, Scot Nicols, Bruce Byford and Terry Tobias all gave generously of their time and experience. A big thank you to you all.

EXECUTIVE SUMMARY

The 1980s and 1990s have been witnessing a redefinition of the relationship between aboriginal and non-aboriginal Canadians, and as part of it, a restructuring of power and responsibility with regard to natural resources. Co-management, joint management or joint stewardship regimes have been the most tangible result of these changed parameters. These innovative management regimes integrate local and state management systems, allocate control of resources among competing interests and facilitate the merging of knowledge. They have been established in all parts of Canada under different circumstances and for different purposes.

The Barriere Lake Trilateral Agreement of northern Quebec is more than just another variation on this increasingly familiar theme. It constitutes a category of its own and is unmatched (at least in the provinces) in its vision as well as in the problems its proponents have had to overcome. This Agreement was designed to address a situation, where a small aboriginal community, the Algonquins of Barriere Lake in La Verendrye Park, pursuing an essentially land-based way of life, saw themselves confronted with aggressive resource exploitation in their traditional use area, in the form of logging, recreational hunting, and hydroelectric development. This situation is embedded in a political framework of non-recognition of treaty and aboriginal rights, centralized decision-making with regard to land and resource use planning, and a strong emphasis on extractive resource utilization.

The Barriere Lake Trilateral Agreement was signed on August 22, 1991, by the Algonquins of Barriere Lake, the government of Quebec, and the government of Canada. It owes its existence exclusively to the initiative of the Algonquins. Their rationale for pursuing it was not an assertion of their aboriginal rights, but rather the realization of integrated resource management which would take the needs of their subsistence economy into account. As integral part

of the Agreement, the Algonquins propose a model of "sustainable development", patterned after concepts of the 1987 Brundtland Report by the World Commission on Environment and Development. This report advocates an approach to development, where economic growth "must be based on policies that sustain and expand the environmental resource base." (World Commission on Environment and Development 1987:1) The report also acknowledges that aboriginal peoples have a singular role to play in this process.

The Barriere Lake Trilateral Agreement is not a co-management agreement in the sense that it immediately effects the establishment of co-management institutions and co-management procedures, concerned with the joint management of a particular species or area. Rather it is designed to lay the groundwork for the cooperative development of an integrated resource management plan for a region comprising 1 million hectares, the major portion of the traditional use area of the Algonquins of Barriere Lake. Several major tasks are involved:

- design and implementation of interim protection measures for the duration of the Agreement;
- analysis and evaluation of existing data and information, and compilation of new inventories and information on renewable resource use, potential, impacts and interaction of activities related to their exploitation and development within the perimeter of the Agreement territory;
- based on the above, the preparation of a draft integrated management plan for renewable resources (by December 1994); and
- the formulation of recommendations for the carrying out of the draft integrated resource management plan.

For almost two years of the Agreement's implementation, the Algonquins and their team struggled against overwhelming odds to make the trilateral process work. While the problems were

numerous, most of them stemmed from the basic question, just what kind of management regime would prevail in the territory during the implementation of the Agreement. Quebec viewed its resource management regime as sacrosanct, with no room for compromise. While the provincial government acknowledged that the Agreement was "a process for change", it nevertheless insisted that the Agreement be implemented within the rigid confines of existing laws and regulations. This insistence created a crisis from the very beginning, resulted in overt non-compliance on the part of Quebec with the terms of the Agreement, made effective protection of the territory's resources impossible, and created a hostile climate between the Algonquins, industry and government. After futile mediation efforts on the part of Quebec Superior Court Judge Rejean Paul, and unilateral suspension of the Agreement by Quebec in February 1993, the trilateral process seemed on the brink of collapse.

Spring 1993, however, featured a surprising turn of events. A combination of factors, including an effective Algonquin public relations campaign, top level political communication, intensified contacts between the Algonquins and industry, and the prospect of rather unpalatable alternatives, prompted the provincial government to consent to the Algonquins' requests. Virtually overnight, a special interim management regime was established for the Agreement territory, belatedly creating a setting in which the Barriere Lake Trilateral Agreement can be successfully implemented.

Taking stock after over two years, we can conclude that the Agreement has accomplished much, notwithstanding its extremely unpromising beginnings. An impressive amount of work was completed even under the initial unfavourable conditions, and much progress has been made in 1993. An effective interim management regime for the Agreement territory is being implemented which allows the Algonquins protection of their resources and a share in resource-related rights and responsibilities. They also seem to be succeeding

in creating a climate and certain groundrules for the joint management of renewable resources in the future.

Throughout 1994, the Algonquins and Quebec will have to focus much of their effort on the preparation of an integrated resource management plan for the Agreement territory. Afterwards, during the implementation phase of this joint plan, much will depend on whether Quebec will eventually be prepared to participate in something akin to co-management of natural resources.

Eventually, the Barriere Lake Trilateral Agreement will be judged in the light of its long-term accomplishments. Prior to 1995, nobody will know whether its goal of integrated resource management and sustainable development will be realized. What we can judge today, however, is its approach to joint resource management, and its vision. Not infrequently, co-management regimes are embarked upon without the funds, database, collective political will and foresight necessary to make a regime work. This is particularly the case for some initiatives that take place outside the claims process, and are motivated by a crisis or government policy. In contrast, the Trilateral Agreement provides for the time, the funding, and the organizational infrastructure to create a database, a plan and a "mindset" among all participants, to make a future partnership in resource management work.

And in this age of environmental crisis there can be no disputing the validity of a vision of environmental management, which reflects respect for all elements of nature and for all its human stakeholders.



THE BARRIERE LAKE TRILATERAL AGREEMENT1. Introduction

The 1980s and 1990s have been witnessing a redefinition of the relationship between native and non-native Canadians, and as part of it, a restructuring of power and responsibility with regard to natural resources. This restructuring has been acted out in many different arenas and on many different fronts: at negotiating tables and in the political arena, in the courts and out on the land.

As a catalyst for these developments the last two decades have also witnessed a gradual transformation in the ideas of social justice and environmental consciousness on the part of mainstream society and concurrently an increased degree of politicization of aboriginal people.

There were several key events and developments which set things in motion. The entrenchment of aboriginal and treaty rights in the Canadian Constitution Act of 1982 by means of section 35 has focused increased attention on contents and substance of these rights, particularly as they pertain to renewable resources. The 1980s and early 1990s also witnessed the negotiation of Agreements-in-Principle, Umbrella Final Agreements and Final Agreements with aboriginal people in Yukon and the Northwest Territories. Northern comprehensive claims settlements invariably feature access to and control over natural resources as one of their principal elements.

In 1990 the Supreme Court of Canada ruling on **Sparrow (R. v. Sparrow** [1990] 3 C.N.L.R. 162) sent shockwaves not only through British Columbia but through the entire nation, and federal and provincial government departments -- particularly those concerned with resource management -- are still grappling with the

implications of this ruling. Also in 1990, after a century of denial, the government of British Columbia decided to acknowledge the validity of comprehensive claims in that province, a step which is already transforming the resource management regime of the region. In the summer of 1990, aboriginal people all over Canada turned out in force on the land, the rivers and the sea with the message that, should they fail to attain their goal of increased control over their land and their resources in the courts and through negotiation, they would proceed to assert their rights. And finally, control over land and resources is also considered integral part of First Nations' inherent right to self-government as brought into the discussion of constitutional reform in the 1990s.

In regard to aboriginal people's thrust towards a right to resources -- no matter whether we are concerned with treaty rights, aboriginal rights or rights evolving from comprehensive claims settlements -- it is important to realize that native groups do not just want access to and a fair share of the resources in question, but that they strive for participation in the management of these resources, and that they want to share in the power to make decisions about the fate of the land and the resources it supports. Native people are also interested in an opportunity to contribute their traditional knowledge to the resource management regimes they help to set up. In short, they want to be partners in resource management. The arrangement which has been used to pursue this goal, has become known under several names, such as co-management, joint management or joint stewardship.

The province of Quebec has had its share of resource-related controversies involving aboriginal people. Many of Quebec's First Nations experience severe resource-related pressure and competition, and they do not enjoy any recognized aboriginal or treaty rights. Not surprisingly, in their aspirations and

expectations, aboriginal people in Quebec have been caught up in "the wind of change" that is sweeping the rest of Canada. The government of Quebec, on the other hand, has been reluctant to acknowledge new parameters when dealing with aboriginal issues, as illustrated by its hesitation to consider possible implications of the **Sparrow** ruling. On a broader scale, too, new ideas pertaining to social justice and environmental consciousness do not easily prevail in a socio-political scene which appears to be dominated almost exclusively by the sovereignty issue. Quebec does not consider itself to be involved in a co-management initiative as partner to the Barriere Lake Trilateral Agreement. But since the Agreement is aimed at cooperation in resource management, the concept of joint management of renewable resources shall be explored in some more detail.

## 2. Co-Management of Renewable Resources: Concept and Overview

There is no widely accepted definition of co-management. The term broadly refers to various levels of integration of local and state level management systems. In their treatise on co-management Berkes, George and Preston (1991a:12) use the term to describe "the sharing of power and responsibility between government and local resource users." In order to come to grips with the concept, we have to focus our attention on two areas: the characteristics of the two different resource management systems, that are to be combined or integrated, and the nature or level of this mutual integration.

A model, or system of wildlife<sup>1</sup> management consists of at least the following elements: an information base and a paradigm, or set of mental constructs, that organizes and interprets it into useful knowledge; a set of practitioners with a distinctive worldview or culture

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<sup>1</sup> The literature quoted in this section mostly refers to wildlife management. The essential points made, however, are applicable to the renewable resources context in general.

that includes both this paradigm and certain normative values; a system of rules, norms, and customs that are intended to govern the behaviour of all who partake of wildlife and its benefits; and an overall structure of values and goals of the society as a whole.

(Usher 1986:70)

Usher (1986), Feit (1988) and Berkes, George and Preston (1991a/b) provide us with insightful descriptions of the two resource management systems.

State management derives its legitimacy from the authority of the law of a nation state, usually from the constitutional powers exercised by legislatures or executives (Feit 1988:75).

The state system rests on a common property concept in which the state assumes exclusive responsibility and capability for managing a resource equally accessible to all citizens. The state manages for certain levels of abundance on a technical basis, and then allocates shares of this abundance to users on an economic and political basis. The system of knowledge is based on a scientific accumulation, organization, and interpretation of data, and management problems are resolved on a technical, a historical framework. This system of management is bureaucratic, which is to say, hierarchically organized and vertically compartmentalized. Managers become distinct from harvesters, authority becomes centralized and flows from the top down. The environment is reduced to conceptually discrete components which are managed separately. All these separate management units take on a life of their own, management objectives diverge and become focused on specialized objectives: maximizing fur production, trophy production or recreational expenditures. Not least, the management of fish and wildlife resources becomes separated from the management of the lands and waters that sustain them.

(Usher 1986:71)

Indigenous, local level management systems are based on self-regulation (Berkes, George and Preston 1991a:12), and their legitimacy and authority is derived at the local level from community-based systems of knowledge, values and social conventions.

The indigenous system rests on communal property arrangements, in which the local harvesting group is

responsible for management by consensus. Management and harvesting are conceptually and practically inseparable. Knowledge comes from the experience of every aspect of harvesting itself -- travelling, searching, hunting, skinning, butchering, and eating. It is accumulated by every individual, and shared intimately and constantly within the household, the family, or whatever is the social unit of production. It is also shared and exchanged within the larger society, and handed down in the form of stories from one generation to the next. In sum, these observations, like those of the state system's, become coded and organized by a paradigm or a set of paradigms that provide a comprehensive interpretation of them. The knowledge, so produced becomes the cultural heritage of these societies, just as what we call science is part of ours.

...the indigenous system of management is a core feature of all northern Native cultures, and is therefore intimately linked with their values, ethics, and cosmology, which are generally based on an integrated, non-compartmentalized view of the environment.  
(Usher 1986:71)

Usher emphasizes that he describes two ideal types, real examples of which are not necessarily as far apart as those models would suggest (Usher 1986:72). The fact remains, however, that the two systems are based on and operate within two profoundly different social realities, the protagonists of which have held each others' resource management systems in anything but high regard and commonly have failed to acknowledge the other as having any legitimacy. One of the fundamental challenges of co-management has been the recognition of the strength and potential contributions of each of the two systems of knowledge (Berkes, George and Preston 1991a:12).

The reason why there is no single appropriate definition of co-management is the fact that there is a continuum of co-management arrangements, ranging from those for example, that merely feature local participation in government research, to those in which local communities retain all the management power and responsibility. Berkes, George and Preston (1991a:12) suggest the use of a modified

version of Arnstein's (1969) "ladder of citizen participation" to depict levels of co-management as rungs of a ladder, that proceed through various stages of token power-sharing to an increasing amount of real power sharing. The seven rungs or stages may be characterized as follows (Berkes, George and Preston 1991b:7-9, 36).

1. Information constitutes the lowest level at which the management process is opened to users -- essentially one-way communication, often in technical jargon whereby information is supplied to user groups on rules and regulations, schedules and changes.

2. Consultation involves an explicit attempt to obtain the views of users. Although there is face-to-face contact, "Resource users may be heard but not heeded, and perhaps not even understood." (Berkes, George and Preston 1991b:7)

3. At the cooperation stage there is more than just talk. Local environmental knowledge is actively sought, and the use of native research assistants falls into this stage. Significantly, though, the research being carried out follows the government agenda, and local users are involved at a low level as assistants or guides.

4. The communication stage marks the start of an actual information exchange. Local concerns begin to enter research agendas and resource management decisions. While community concerns are responded to, the government agency retains all power to decision-making.

5. The establishment of advisory committees marks the stage at which partnership in decision-making starts. There is an agreement to share power and responsibility for resource management through joint boards or committees. Such joint bodies often come about as the result of land claims negotiations or in an attempt to cope with a resource management impasse. While there is a search for common objectives, such initiatives are often ad hoc and sectoral. These committees have advisory powers only; they do not make decisions.

6. Management boards represent a higher rung if they have more than merely advisory function. At this stage local users are actively involved in policy-making and in decision-making. Board decisions are usually binding.

7. At the last stage, joint decision-making is institutionalized, and there is a partnership of equals. Two alternatives present themselves: community control and partnership. Where resources are manageable locally (f.e. beaver), most or all management power is delegated to the community. In the case of resources that cannot be managed at the local level (e.g. caribou or Canada geese), resource users participate in decision-making as equal partners. This highest rung of the co-management ladder is characterized by the principle: "as much local-level management as possible; only so much government regulation as necessary." (Berkes, George and Preston 1991b:note 9)

While these seven stages are a useful means of illustration, not all of them are easily distinguishable in practice. Stages four, five and six in particular are by no means clearly and separately observable in co-management regimes across Canada.

One of the most important vehicles for the establishment of co-management regimes is the settlement of comprehensive aboriginal claims. Claims settlement usually involves exclusive and/or preferential harvesting rights for aboriginal people on Crown lands within their claimed territory and involvement of aboriginal people in the management of resources. The latter is accomplished by co-management schemes that allocate control of resources among competing interests and facilitate the merging of knowledge. The 1984 Inuvialuit (Western Arctic) Final Agreement, for example, engendered a complex co-management regime, encompassing all aspects of renewable resource management, environmental impact assessment and review, and the management and establishment of new national parks.

Until recently, co-management regimes that were not part of a comprehensive claim settlement most commonly were initiated by government in response to a perceived or real resource crisis. Significant examples are the Beverly-Kaminuriak Barren Ground Caribou Management Agreement, the Waterhen Moose Management Agreement in Manitoba, and initiatives on Baffin Island to protect depleted polar bear and beluga whale stocks. In such cases governments lack any real control over aboriginal harvesting activities, and aboriginal peoples may or may not, of their own accord, become party to joint management agreements, which may limit their harvesting as a group. Such "emergency responses" are usually species-specific.

In the 1990s aboriginal people, too, have initiated co-management negotiations as "emergency-measures". These initiatives are undertaken by aboriginal groups in an attempt to use co-management regimes for conflict resolution and as a means to protect treaty and aboriginal rights. A well-known example is the Teme-Augama Stewardship Agreement in northern Ontario; other negotiations are taking place between First Nations (Waterhen, Pine Creek and others) and the provincial government in Manitoba. Co-management, as envisaged by these initiatives, is area-specific and comprehensive in nature, embracing all renewable resources.

Some co-management regimes may be viewed as a direct result of the Supreme Court of Canada's ruling on **Sparrow**. This ruling not only prompted the government of British Columbia to enter into treaty negotiations with its First Nations, but sent shockwaves through the entire country. The Joint Stewardship policy embarked upon by British Columbia's NDP government in the early 1990s has resulted in a wide variety of agreements with First Nations, which are not contingent on a particular resource or event, but were prompted by a fundamental rethinking of rights and political



relationships<sup>2</sup>. These initiatives have been largely confined to British Columbia, but there are indications that a similar process of "rethinking relationships" is taking place in some of the other provinces and within the federal government.

Co-management has most recently been envisaged for the cooperative environmental management of industrial resource-extraction areas, a process that may be described as "strategic co-management" (Peter Douglas Elias, personal communication, December 07, 1992). Strategic co-management constitutes a form of environmental and social impact management, applicable for example to the situation of the Kaska Dena community of Fort Ware in northern British Columbia (Elias and Weinstein 1992, Volume 1:32) or the Ross River Dena community in Yukon (Martin Weinstein, personal communication, December 11, 1992). This application is a step in the long-overdue process of empowerment of aboriginal peoples, whose legitimate interests as stakeholders in the environment are given recognition by the establishment of joint management regimes.

Not surprisingly, depending on their nature and on the severity of the tests they were subjected to, co-management regimes have met with mixed success. The integration and mutual accommodation of such dissimilar entities as the indigenous and state systems of resource management in any form of co-management is extremely complicated and potentially frustrating. Language and conceptual barriers increase communication problems. No matter how, why, and under what circumstances it is negotiated, for aboriginal groups co-management is a way to share power with the government. But power, sovereignty, and jurisdiction are exactly what governments have been unwilling to relinquish. Co-management institutions, such as committees and boards, almost invariably have advisory functions only, and the responsible ministers retain the power to

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<sup>2</sup> For more details on this issue see Notzke 1994.

make the final decision. The commonly perceived need for an innovative management approach was and is the lowest common denominator of all co-management experiments.

Canada boasts a wide spectrum of co-management regimes which were established in all parts of the country under different circumstances and for different purposes. The following pages will endeavour to show that within this wide field of joint resource management the Barriere Lake Trilateral Agreement constitutes a category of its own, unmatched so far (at least in the south) in the scope envisaged and the problems overcome.

### 3. Barriere Lake: Setting and Anatomy of a Crisis

The 10,000 square kilometres covered by the Trilateral Agreement constitute the major portion of the traditional land use area of the Algonquins of Barriere Lake in Quebec. The Mitchikanibikonginik or People of the Stone Weir are part of the Algonquin Nation (10 communities) which claims as its traditional territory all the land and water within the Ottawa watershed, straddling the Ontario/Quebec border and including Parliament Hill.

#### 3.1 The Natural Environment

The homeland of the Barriere Lake Algonquins is situated within the Missinaibi-Cabonga Forest Section of the Boreal Forest Region and the Algonquin-Pontiac Section of the Great Lakes-St. Lawrence Forest Region (Canada Land Inventory -- Capability for Forestry). Boreal forest species encountered in the region include black spruce (*Picea mariana* (Mill.) B.S.P.), white spruce (*Picea glauca* (Moench) Voss), balsam fir (*Abies balsamea* (L.) Mill.), paper birch (*Betula papyrifera* Marsh.), trembling aspen (*Populus tremuloides* Michx.), balsam poplar (*Populus balsamifera* L.), tamarack (*Larix laricina* (du Roi) K.Koch), eastern white cedar (*Thuja occidentalis*

L.) and jack pine (*Pinus banksiana* Lamb.). The influence of the Great Lakes-St. Lawrence Forest Region manifests itself in the southern and eastern sections of the area. These parts are dominated by northern hardwood species such as hard maple (*Acer saccharum* Marsh.), red maple (*Acer rubrum* L.), yellow birch (*Betula alleghaniensis* Britton), red oak (*Quercus rubra* L.), black ash (*Fraxinus nigra* Marsh.) and conifers including white pine (*Pinus strobus* L.) and red pine (*Pinus resinosa* Aut.).

The area serves as habitat for abundant wildlife, important species being moose, bear, wolf, marten, lynx, beaver and numerous bird (geese, ducks, ptarmigan etc.) and fish (walleye, pike, trout, sturgeon) species.

### 3.2 The Algonquins of Barriere Lake

The Mitchikanibikonginik have occupied their territory since time immemorial. This is acknowledged even by the science of the newcomers: an archaeological study commissioned by the Quebec government dates their presence back about 6,000 or 7,000 years (Matchewan 1989:141). The Barriere Lake Algonquins look back on more than three centuries of direct or indirect contact with Europeans. During this time period they suffered ravages of disease and famine induced by outside hunting pressure on their game animals, along with other unavoidable changes to their culture and economy. Nevertheless they succeeded in forever devising new adaptive strategies and never relinquishing their hold on their ancestral territory nor abandoning their land-based way of life.

Today the Algonquins of Barriere Lake comprise a population of approximately 450 people who pursue a largely land-based existence. The majority have residences on the Rapid Lake Indian Reserve which was established by a provincial Order-in-Council in 1961 and covers an area of 24 hectares on the shores of the Cabonga Reservoir. Many Algonquins spend part of their time in separate settlements in

the bush such as Barriere Lake, and most have cabins spread throughout their traditional territory.

The Algonquins of Barriere Lake constitute a rare example of a group of people in Canada, who lived exclusively off the land until very recently. Even though their reserve was established in 1961, people did not start moving into the concentrated settlement before the late 1970s. Even then they continued their land-based existence for another decade. Throughout the 1970s and early 1980s people received minimum government assistance in the form of basic commodities while pursuing their timeless existence in the bush. In 1983 the Algonquins were approached by the federal government and pressured into entering the welfare system, even though the community and band council -- anticipating social problems -- tried to resist this measure. Within a decade, government pressure to abandon their land-based existence and dispersed settlement, resource depletion, and increased reliance on store-bought items resulted in severe health problems and social pathologies (Michel Thusky, August 31 and September 02, 1993, personal communication).

Today there still is very little wage employment in the community of Rapid Lake, and there are no community businesses. At the same time Rapid Lake is characterized by a young and rapidly growing population. Recent changes notwithstanding, almost every family continues to rely extensively on hunting, fishing and trapping for subsistence (Matchewan 1989:154). In fact, a strong traditional land-based economy and people's commitment to its continued viability probably constitute the most outstanding characteristics of the Algonquins of Barriere Lake<sup>3</sup>.

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<sup>3</sup> Unfortunately, at this time no detailed socio-economic data for the community are available.

### 3.3 The Provincial Resource Management Regime<sup>4</sup>

The institutional and managerial framework governing land use in the traditional lands of the Algonquins of Barriere Lake is characterized by fragmentation, imbalance and a total lack of participation in land and resource management by the only year-round community and long-term users of the region, the Algonquins of Barriere Lake. Past and present land and resource uses involve no consideration of their interests, activities and experience. In order to better understand this status quo we have to acquaint ourselves with the evolution of land use divisions and management structures, and with the current management regime as it pertains to specific resources and as it impacts the Algonquins of Barriere Lake.

#### 3.3.1 Land Use Designations

The first land use designation in Algonquin territory came into effect in 1928, when an Order-in-Council established the Grand Lac Victoria (GLV) Reserve as an Indian game reserve of approximately 16,317 square kilometres, which covered much of the land used by the Barriere Lake Algonquins. This step marked the Algonquins' introduction to the concept of land ownership (Michel Thusky, September 02, 1993, personal communication). The Order-in-Council acknowledged that aboriginal people had been the exclusive occupiers of the land. The Reserve's purpose was to address conflicts and severe game shortages caused by the infringement of non-native hunters on these lands.

In 1948, as part of a province-wide response to the near extermination of beaver populations, the Grand Lac Victoria Reserve

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<sup>4</sup> Section 3.3 is mostly based on a Research Report prepared by Rebecca Aird for the Algonquins of Barriere Lake; undated, likely 1989.

became a Beaver Reserve. Subsequent regulations confirm ongoing recognition of exclusive Indian trapping rights in the area. In 1952 the Grand Lac Victoria Reserve was enlarged by 3,950 square kilometres. This may constitute a delayed response to the loss of traplines through flooding from the Cabonga and Dozois Reservoirs. About 70 per cent of the Beaver Reserve now falls within the boundaries of the La Verendrye Wildlife Reserve.

Following the construction of the Mont Laurier-Senneterre (MLS) highway through the middle of the Grand Lac Victoria Reserve in 1939, a corridor 16 kilometres wide on either side of the highway was set aside as the MLS Highway Fish and Game Reserve "to protect the game and fish against abuses, so that this region may permanently answer to the requirements of the tourist trade." In the late 1940s the MLS Reserve was withdrawn from the GLV Reserve, removing any "special privileges" for Indians on this land. After further boundary and administrative changes, in 1950 the MLS Reserve was renamed La Verendrye Park. Recreational and tourist use was promoted through the establishment of campgrounds, canoe routes, circuit trails etc. The park boundaries were considerably enlarged in 1953. In 1959 the private O'Connell Lodge was added to La Verendrye, and in 1964 the Chochochouane River Moose Sanctuary (created in 1943) was incorporated into the Park.

In 1977 Quebec's provincial parks legislation created a new definition of "park" which was too restrictive to accommodate the various kinds of exploitation occurring in La Verendrye. As a result, the area was reclassified in 1979 as a wildlife reserve under the Wildlife Conservation Act.

It appears that at least part of the rationale for the GLV Reserve was to address poaching problems, and thereby protect aboriginal interests. The same is true for the Beaver Reserve. On the other hand, the *raison d'être* for the MLS Reserve was to protect the interest of tourists and recreational hunters and

fishers; and the regime governing this reserve was extended to a larger area. Obviously, there were contradictions which have come into sharper focus with the expansion of hunting opportunities for non-natives.

A recent proposal by the provincial government to privatize large parts of Quebec's wildlife reserves included the intent to reduce the La Verendrye Reserve from 13,610 to 8,163 square kilometres. While this proposal was squarely rejected by the public, the pressure persists and other routes to semi-privatization have been pursued.

Further land use designations on a smaller scale are registered traplines, zones d'exploitation controlees (ZECs) and outfitter leases. The Quebec government introduced the registered trapline system in 1945, dividing land into territories and requiring trappers to purchase licences for their territories and to renew them on an annual basis. There have never been registered traplines within the Beaver Reserve. However, the system was implemented in the surrounding area in 1946, and it persists in the southeast corner of the Wildlife Reserve as well as on other lands traditionally used by Barriere Lake harvesters.

The zone d'exploitation controlee (ZEC) system was created in 1978 under the Wildlife Conservation and Development Act. This measure abolished exclusive hunting and fishing rights of private clubs on public lands and provided for the establishment of wildlife management organization (associations de chasse et peche) which were to involve citizens in managing lands for the development, harvesting and conservation of wildlife. Lands targeted for this management tool were supposedly areas supporting vulnerable animal populations. ZEC-status is granted by Order-in-Council, and the wildlife management organizations are established through a memorandum of agreement with the Minister of MLCP (Ministere du Loisir, de la Chasse et de la Peche/Department of

Recreation, Fish and Game). There are currently two ZECs within the contemporary use area of Barriere Lake harvesters, three that overlap traditional lands in the southeast, and two adjoining the southern extension of the La Verendrye Wildlife Reserve. ZEC regulations make no mention of native rights, make no provision for Indian hunting or fishing, and never include aboriginal communities in the management of ZECs.

Outfitter establishments also fall under the jurisdiction of the Wildlife Conservation and Development Act. Section 98 of the Act describes them as "businesses or enterprises, which, in return for payment, provide lodging and services or equipment for the practice of hunting, fishing or trapping for recreational purposes." Some outfitters hold extensive leases granting them exclusive hunting and/or fishing and/or trapping rights to a given area, so that only they are entitled to provide these services. There are no exclusive outfitting leases within La Verendrye Wildlife Reserve, but outside the Reserve there are about a dozen outfitters with exclusive rights that fall within or border Barriere Lake's contemporary use lands. The area leased to these outfitters totals over 2,500 square kilometres. The land of six of them is contained wholly or partly within the boundaries of the Beaver Reserve.

In addition to the land use designations described above, there are three key sets of administrative boundaries which bear on land and resource use planning and management in the area.

Firstly, Quebec's ten administrative regions set the boundaries for the geographic areas of responsibility for the regional offices of the various Quebec government departments. The administrative regions of interest to the Algonquins of Barriere Lake are Outaouais and Abitibi-Temiscamingue. These regional offices are responsible for implementing the policies, programs and directives coming from headquarters. The boundary between the Outaouais



Region and the Abitibi-Temiscamingue Region bisects the La Verendrye Wildlife Reserve. Thus management responsibilities for various activities in and around the Wildlife Reserve are divided not only among several ministries (MLCP; Ministere de L'Energie et des Ressources/Department of Energy and Resources/MER; Ministere de L'Environnement du Quebec/Quebec Department of the Environment/MENVIQ), but also between the regional offices of each of these ministries, who invariably exercise their own brand of influence over planning and interpretation of ministerial directives.

Secondly, each administrative region is divided into two or more forest management units (UGs), each with its own "regisseur" responsible for the planning and management of forestry operations in the unit, such as allocating forestry resources (including research to determine sustainable yield), overseeing cutting plans, and ensuring appropriate silvicultural practices. The territory of the Algonquins of Barriere Lake is affected by four different forest management units. These units form the basis for the negotiation of the Timber Supply and Forest Management Agreements (Contrats d'Amenagement et d'Approvisionnement Forestriers/CAAFs).

Finally, the province is divided into over 100 regional county municipalities (Municipalite Regionale de Comte/MRC). The MRCs are divisions in which municipalities join together in planning and coordinating municipal-type zoning, infrastructure, and services on "unorganized" lands. The MRCs most relevant to Barriere Lake lands are La Vallee de la Gatineau (the largest MRC in Quebec) and La Vallee de L'Or. The MRCs of Temiscamingue and Pontiac touch on Barriere Lake's traditional lands only peripherally.

Much if not all of the landbase now used by the Algonquins of Barriere Lake lies within territory which Quebec classifies as unoccupied provincial Crown lands. Legally and administratively, by far the most important ministry for the allocation and control of land use on public lands is the Department of Energy and

Resources (Ministere de l'Energie et des Ressources/MER). This government department has sweeping authority to grant rights of use and delegate rights of management of public lands and resources (forests, minerals and energy) and to develop plans for land and resource use. In 1992 a division of MER was transformed into the Department of Forests (MFO).

In comparison, the mandate of other ministries is quite limited. The role of the Department of Recreation, Fish and Game (Ministere du Loisir, de la Chasse et de la Pêche/MLCP) is mostly confined to "promoting", "developing", "supervising", and "managing" hunting, fishing, trapping and related recreational activities and infrastructure. The department also administers parks and wildlife reserves. Beyond provincial park boundaries, however, it has very little land use control, and even its responsibility for recreational wildlife harvesting in wildlife reserves has been curtailed by the creation of a Crown corporation, Societe des Etablissements de Plein Air du Quebec (SEPAQ). Most critically, MLCP's legislative basis provides it with virtually no power for habitat protection.

The Quebec Department of the Environment (Ministere de l'Environnement du Quebec/MENVIQ) derives some power from Quebec's Environmental Quality Act, according to which the Minister is charged with developing and implementing an environmental protection policy, protecting the quality of the environment and promoting its rehabilitation. The Act includes an environmental rights clause, guaranteeing every person's right to a healthy environment and to the protection of the environment and its living species, to the extent provided for by the Act and its Regulations. The Act also addresses control of contaminants and outlines procedures for environmental impact assessment of activities identified in the Regulations.

Despite the complexity of land use designations and the number of players and interest groups involved, land and resource use in the homeland of the Algonquins of Barriere Lake is disproportionately dominated by one government department and a single land use category. The land use plan drafted by MER determines the predominant kind of resource utilization (e.g. forestry, recreation, wildlife conservation) to which the land will be dedicated. It takes into account existing land designations only in so far as they legislatively restrict the activities that can be carried out, or in some cases, as they coincide with the primary economic value which MER has identified for a given area. In other words, designations such as "wildlife reserve" or "zone d'exploitation controlee", since they refer only to wildlife management and do not legislatively restrict commercial resource extraction such as logging, are not reflected in MER's land use plans. Perceived attempts by the county municipalities to establish different (and often more restrictive) conservation categories on forestry lands have also been routinely rejected.

Virtually all of the land in and around La Verendrye Wildlife Reserve has been designated priority forest production, with only minimal restrictions on forestry activities. There has been virtually no recognition of the existence of the Wildlife Reserve or the ZECs. Not surprisingly, this has serious consequences for the Algonquins of Barriere Lake.

### 3.3.2 Forestry Activities and Impacts

The Algonquins have felt the impact of logging for over a century. By the 1940s logging roads had penetrated deeply into Algonquin territory, and forestry operations, resulting in habitat destruction and increased poaching, were probably the single most disruptive influence on native land use. In the late 1960s mechanical methods of harvesting began to replace hand logging, and clearcutting made its appearance.

The forest lands of the region coincide with the ecological transition zone from northern hardwood forest to boreal forest. Composition of forest management units (UGs), harvesting methods and tenure arrangements all reflect this ecological transition. Clearcut logging is the common harvesting technique in coniferous stands, whereas diameter limit cutting (which in practice often amounts to clearcutting) is employed in the hardwood and mixed wood stands. A brief look at the two forest management units most important to the Algonquins, shows that there are a greater number of sawmill-supplying forestry operators in UG 73 where 55 per cent of the total potential volume is hardwood, and CAAFs have been negotiated with over a dozen companies in this unit. UG 74, where the boreal forest of spruce and fir begins to predominate, is logged by only a few operators, who mostly supply pulpmills.

In the 1990s the forest industry continues to be of paramount importance in the region. The total volume allocated in Ugs 73 and 74 for the year ending March 31st, 1989, was about 993,000 cubic metres, well over 80 per cent of which was constituted by softwood destined for pulp and paper or lumber. Forestry operations in Ugs 73 and 74 supply wood to 24 plants within the region, and about eight outside these units. Estimates of employment in the manufacturing sector in the region of Abitibi-Temiscamingue in the mid-1980s put the proportion attributable to the forest industry at 80 per cent. In the Outaouais, 36 per cent of employment in the primary sector, and 63 per cent in the secondary sector, is derived from the forestry base.

Forestry activities on Quebec's public lands are governed by the Forest Act of 1987, which was designed to implement Quebec's new Forest Policy drafted in 1985 (Modalites d'Intervention en Milieu Forestier/Toward New Harmony in the Forest). This policy was intended to ameliorate a situation which was characterized by widespread "mining" of the forestry resource and an appalling neglect of silvicultural activities. While the new regime

emphasizes sustained yield management and pays lip-service to the protection of all functions and uses of the forest, in practice timber production considerations by far overshadow other values of the forest. Furthermore, although allowance was made for sports hunting and other recreational activities in the policy document, aboriginal interests were never even mentioned.

The new forestry regime consists of three components: (1) land use control and the planning context; (2) the forest management agreements; and (3) forest management standards governing required and permissible activities. All three of these components are dominated by MER. Clearly the most important tool of forest management is the Timber Supply and Forest Management Agreement (CAAF). CAAFs are 25 year agreements, with five year extensions every five years provided the holder conforms to his obligations. These Agreements are the result of closed-door negotiations between the Quebec government and the forestry companies. CAAFs entitle the holder to a specified annual volume of timber, allocated by species group.

The allowable cut of the management unit is determined on the basis of an established set of principles. The Agreement holder is responsible for the silvicultural practices necessary to maintain yields. He/she is not bound by the Act or CAAF to any specific type of treatment, but enjoys wide discretion in choosing silvicultural practices. The Minister of Forests is nominally empowered to revise allocated volumes every five years, but the Agreement-holder has the right to call for arbitration.

Compared to the previous regime, CAAFs promote a longer-term perspective on forest management which clearly constitutes progress. It cannot be emphasized enough, however, that sustainable yield and allowable cut calculations are only concerned with production of commercially harvestable species, as a result of which monoculture rather than integrated management is promoted.

Furthermore, aboriginal communities such as Barriere Lake, whose livelihood, culture and social fabric are integrally dependent on conditions in the forest, were never consulted on the Policy, the Act or the Regulations, nor were they involved in the negotiations of the CAAFs. Environmental organizations or fish and game clubs were also, apparently purposefully, excluded from "socio-economic intervenors'" information sessions.

Rebecca Aird (op.cit.:45) reports that there is evidence that the level of harvesting in some cases exceeds sustainability. Also, there is a disconcerting lack of flexibility in Quebec's system to reduce allowable cut in order to accommodate new land use designations. Firstly, sustainable yield calculations assume both the implementation and the success of proposed silvicultural activities, including MER's backlog replanting. Secondly, since the CAAFs completely cover public forest lands in the region, there is little opportunity for the Quebec government to provide replacement lands to CAAF holders to compensate for future decisions which could affect sustainable yield. This means that it is unlikely that there will be any increase in the minute proportion of land in the region where forestry activities are subject to restrictions that affect allowable cut. This rigidity also fails to take into account inevitable natural events such as forest fires or insect infestations, which will require adjustments to allowable cut in the five year revisions.

While these technical problems are serious enough, the overall management orientation of the Quebec forestry regime is even more problematic. Forestry regulations and standards are solely concerned with the regeneration of commercial species but make no mention whatsoever of habitat considerations in regeneration. Both the development orientation of MER and the absence or inadequacy of habitat inventories have effected minimal protection of wildlife values through current land use policies and planning. Even those areas designated by MER's Land Use Plan as Forest and Wildlife

Zones enjoy inadequate and narrowly defined protection measures. The declared purpose of Forest and Wildlife Zones is to produce wood while protecting biophysical characteristics important to white-tailed deer and waterfowl. Right away, therefore, the definition of wildlife is limited and directed at non-aboriginal wildlife priorities. Not only is a further grading system for areas within the Forest and Wildlife Zones with elevated deer and waterfowl potential not carried through in Quebec's new Forest Policy or in its Regulations, but as it stands, the only clearly defined special measure to be applied to a Forest and Wildlife Zone is a prohibition against clear-cutting. Since the Regulations distinguish strip-cutting and patch-cutting (clearcuts of up to 30 hectares) from clear-cutting proper, it appears that these variations on clearcut will be allowed.

In a similar vein, with regard to moose habitat, the Regulations set out some generic conditions for protecting four per cent of late winter habitat. In comparison, the Ontario guidelines stipulate that a minimum of 15 per cent of lands be left with mature conifer cover. Moreover, the Quebec Regulations provide for no protection of priority habitat, such as moose yards, feeding or calving areas. They also fail to provide for travel corridors between sites and special scheduling requirements (f.e. during calving season).

The new forest regime makes no attempt to address the ecological impacts of silvicultural activities. No consideration is given to potential impacts of monoculture resulting from plantations and seeding. An issue of particular concern to the Algonquins of Barriere Lake has been the spraying of plantations with Vision, a tradename for glyphosate. Glyphosate kills herbaceous and broad-leaved woody plants and substantially reduces browse for extended periods of time. Concentrations of dioxin in Vision pose further threats to the ecosystem and to human health.

These are only a few of the more obvious problems inherent in the new Forestry Policy when viewed from the perspective of integrated resource management. With a current framework of this nature and a legacy of far more destructive forestry practices, it is hardly surprising that the ecosystem and those who depend on it for alternative land uses have suffered and are still suffering severe impacts of this priority land use. One of the first ecosystem components to be affected by inconsiderate forestry practices, is water and by implication, fisheries. Impacts occur in a variety of ways:

- forest cover removal and soil compaction, leading to decreased soil infiltration and increased runoff;
- disturbance of shoreline vegetation, causing shade, temperature and nutrient loading changes, as well as decreased shoreline stability;
- accelerated erosion leading to turbidity, sedimentation, and increased nutrient loading;
- logging debris from felling, slashing, skidding, and yarding near water, which may block fish passage as well as stream flow;
- debris and nutrient loading from log driving, especially with unpeeled logs;
- increased nutrient leaching from the soil due to decreased forest uptake (leaching would be especially likely on sandy soil);
- forest spraying;
- increased pressures on fish populations due to increased access. (Aird n.d.:49)

An increased load of nutrients and organic matter increases plant growth and thus leads to eutrophication of water bodies, with other forms of life dying off as oxygen is depleted by the decomposing plants. Suspended sediments, too, have a variety of damaging effects on fish directly, their food sources, spawning beds and habitat in general. Coldwater species such as trout are particularly sensitive to changes in their habitat, but coolwater fish, including walleye, are vulnerable, too.

To make matters worse, knowledge of critical aquatic habitat in the region appears to be limited, and such habitat is not identified in MER's land use plan. The assumption that a 20 metre



green belt (in which some logging activity is allowed) is sufficient to protect fish habitat, is questionable. The Ontario forestry guidelines for the protection of fish habitat, for example, recognize the high variability of protection requirements of habitat depending on conditions and type, and where required, recommend green belts of up to 100 metres.

Wildlife, too, suffers a number of direct and indirect negative impacts of forestry activities: direct disturbance during forestry operations; habitat disturbance; monocultural regeneration; and increased access. Moose in particular suffer the impact through a reduction in winter habitat by clearcuts, and a reduction of browse by chemical spraying and manipulation of the natural succession of stands.

### 3.3.3 Fisheries and Wildlife-Related Activities and Impacts

The Algonquins of Barriere Lake look back on a long history of competition for wildlife with non-aboriginal people. Even though the Grand Lac Victoria Reserve (like other Indian game reserves created around the same time) was designated for exclusive Indian hunting and trapping in 1928, these rights were never adequately protected, and white trappers in particular caused acute shortages of game. The year 1936 witnessed the removal of exclusive Indian hunting rights in these game reserves, and big-game hunting was opened to non-Indians.

In 1948, when the GLV Reserve was turned into a Beaver Reserve, beaver hunting was initially prohibited therein, and in later years, quotas were set. Currently, in legal terms, aboriginal people have exclusive trapping rights in the reserve, which in practice, however, do not seem to be fully respected, since two outfitters within the boundaries of the Beaver Reserve have been granted trapping rights.

In the La Verendrye Wildlife Reserve the following recreational harvesting activities are allowed: moose hunting, recreational fishing, and waterfowl and small game hunting. Bear hunting is permitted in the southeast corner, which falls outside the Beaver Reserve. The controlled public moose hunt in La Verendrye was only opened in 1964, at which time the Algonquins were approached by the provincial government (MLCP) to participate in "moose management" by acting as hunting guides and aiding in the enforcement of regulations. This approach was supposedly instituted as a five year pilot project, and the requirement of Indian guides was integral part of the moose hunt (Michel Thusky, September 03, 1993, personal communication). In 1979, however, the requirement of Indian guides was dropped, a step which not only robbed the Algonquins of a source of employment and a measure of control, but which also considerably weakened La Verendrye's enforcement capacities.

Most of MLCP's activities in the La Verendrye Wildlife Reserve are aimed at facilitating and managing recreational uses, especially hunting and fishing. The major part of its budget goes toward maintaining roads, campsites and other recreational infrastructure, with very few funds left over for wildlife management and necessary research. The recent establishment of a Crown corporation, Societe des Etablissements de Plein Air du Quebec (SEPAQ), has aggravated rather than alleviated this condition. SEPAQ was created by statute in June 1985. Its mandate, in a nutshell, is to manage the recreational activities in wildlife reserves on at least a break-even basis. During the 1980s SEPAQ assumed increasing responsibility for recreational management in La Verendrye. Now it not only is responsible for a wide array of facilities at Le Domaine, Cabonga and Lac Granet, but also operates the moose hunt, the bear hunt, and the hunting of small game and waterfowl. Obviously, the mandate to make recreational harvesting pay for itself raises the threat that wildlife management principles will be compromised by the profitability

motive. There is very little if any consideration of non-consumptive tourism values. The relationship between SEPAQ and the La Verendrye and regional offices of MLCP appears to be ambivalent at best, with no system of "checks and balances" in place to control SEPAQ's activities and to establish a frame of reference for the delegation of responsibility to SEPAQ.

The Algonquins of Barriere Lake derive virtually no benefit from these revenue-generating activities. Seasonal employment as guides has become very rare since Quebec decided to remove the requirement for recreational moose hunters to use a guide. On the other hand, aboriginal hunters feel the brunt of the negative impact created by these incursions. Some Barriere Lake people have come to avoid outfitters and ZECs in their harvesting pursuits. Tense encounters between Algonquin harvesters and visiting moose hunters are not infrequent, as many visitors do not take kindly to "intruders" in "their" moose hunting zones.

Barriere Lake hunters have also felt the impact of a major decline in the moose population since the 1960s. Figures gathered by the Algonquins indicate, that in a typical year, 215 moose are taken on Algonquin lands by the public hunt, while the Algonquins take approximately 125. A decline in the success rate of recreational hunting groups in the La Verendrye Reserve, from 80 per cent in 1964 when the hunt was first allowed, to only 39 per cent in 1987 suggests overhunting and overall poor management. The latter is evidenced by the fact, that the number of groups allowed into the park to hunt moose, has actually increased (Matchewan 1989:157).

Furthermore, active moose hunting zones have been encroaching onto Barriere Lake's intensive use area, and in 1991 public moose hunting was even opened around Rapid Lake, after other hunting zones had been clearcut. In addition to facing severe competition from recreational hunters, Barriere Lake harvesters are also

subjected to what they consider illegal harassment by government game wardens who try to enforce provincial game laws on aboriginal subsistence harvesters.

### 3.4 The Conflict

The previous pages illustrating the provincial resource management regime in Quebec clearly show that the Algonquins of Barriere Lake are facing a crisis. This crisis has tangible as well as intangible aspects. As a community where literally every household relies on the land and its resources for a sizeable contribution to its sustenance, the Algonquins are faced with the very real problem of how to put food on the table, as their resource base is rapidly diminished. Because of its all-pervasive impact, forestry is viewed by far as the greatest threat to Barriere Lake's existence. Recreational hunting follows a close second. In recent years the public moose hunt in particular has encroached more and more on the Algonquins' intensive use areas, as the resource base for both recreational and subsistence hunting is being diminished by clear-cutting.

While forestry practices and hunting by outsiders feature most prominently as environmental threats to the Algonquins' existence, they are by no means the only detrimental forces the Barriere Lake people have to contend with. The operation of hydroelectric dams in the region -- in particular the Cabonga Dam and Barriere spillway -- and the resulting water level fluctuations, are an ongoing source of impact on both the resources and activities of their land-based economy. Fluctuating water levels in the reservoirs make winter travel difficult and often dangerous and cause shoreline instability, as directly experienced in the village of Rapid Lake. Fluctuations have also affected shoreline forage for moose and aquatic habitat for beaver as well as spawning activities of fish. Methyl mercury contamination, too, is an

everpresent danger associated with hydroelectric power generation, which calls for further investigation in Barriere Lake territory.

While these tangible threats to the Algonquins' livelihood are serious enough, they are only part of a larger picture. Michel Thusky feels that the degradation of the environment has far-reaching effects on the community's young people, who find it impossible to reconcile their real life experiences with the teachings of their Elders. While they are taught respect for all aspects of nature, they are faced on a daily basis with ravaged logging sites, abandoned and wasted animal carcasses, and slaughtered or orphaned young animals (Michel Thusky, August 31, 1993, personal communication). And this, in turn, is only one of the more poignant aspects of the overall phenomenon of a community losing control over its destiny.

The Algonquins of Barriere Lake have accommodated or warded off uninvited outside influences for centuries, and they have done so successfully although by no means easily. But they are running out of adaptive strategies. During the last three decades, the Algonquins have seen control over just about every aspect of their lives slipping away from them, more recently at an accelerating pace. While it would be simplistic to reduce this problem to one of resource management alone, there can be no denying the fact that their natural environment is at the very core of the Algonquins' socio-economic existence, and that, therefore, the degradation of this environment comes dangerously close to threatening their very existence as a people. By the late 1980s the Algonquins decided that it was time to take action.

4. The Long Road to the Agreement: Negotiating Sustainable Development

Until the 1980s the Barriere Lake Algonquins had employed mostly political means in their effort to draw attention to their situation, however without success. When in the late 1980s proceedings started to lock La Verendrye and surrounding lands into 25 year Timber Supply and Forest Management Agreements (CAAFs) with timber corporations, once again without any consideration of aboriginal interests, the Algonquins resorted to court challenges (in a futile attempt to win an injunction) and to civil disobedience. In contrast to similar native efforts on the west coast in the mid-1980s, the Algonquin call for an injunction was not based on a pending comprehensive claim. At the time the Algonquins did not intend their actions as an assertion of aboriginal rights, but rather as an attempt to alleviate immediate pressures on their subsistence economy (Matchewan 1989:164). For this purpose they focused their efforts on trying to force the Quebec government and the federal government into negotiations aimed at a trilateral agreement on integrated resource management, which would take Algonquin land use into account. While assuming a very moderate negotiating position, the Algonquins of Barriere Lake also made it clear that they would be no longer ignored.

The list [of competing resource pressures] goes on, but suffice it to say that we feel little will be left for our land-based activities with the continuation and escalation of these competing pressures. In recognition of this, the people of Barriere Lake are determined to act decisively. This is not political rhetoric. Our land-based economy continues to be of critical importance not only for our material well-being, but as the unique element which gives our community a focus and a future.

The community is not idly awaiting assistance to secure its future. The need to protect the landbase is one element of a larger strategy which addresses infrastructure, education, health, social conditions, the biophysical resource base, and economic development....

In relation to our landbase, a research process has begun to identify the types, extent and impacts of past alienations; the current and planned activities on the land; and the relevant land and resource use policy and planning frameworks which guide these activities. The ongoing consolidation of information from community members on their land use patterns, and on human-induced changes in wildlife populations and habitats, is helping to identify critical points of impact between our land uses and outside activities. Input from community members is also helping to identify aspirations and opportunities for future land-based economic opportunities.

....  
But Barriere Lake has neither the inclination nor the resources to deal with the many facets of land and resource protection and community development on a piece-meal basis. The community's history on the land is, of itself, sufficient argument for a central role in land use planning and management, even were it not supported by the fact of unsurrendered aboriginal title. Therefore, Barriere Lake is seeking definition and implementation of a trilateral process for land and resource use planning and management. The guiding context of this process will be a conservation strategy for sustainable development on our lands, built around acceptance of the primacy of the Algonquins' continued use of traditional resources. (Chief Jean-Maurice Matchewan in a letter to The Honourable Bernard Valcourt, September 19, 1988, pp. 2 and 3)

The Algonquins proposed a model of "sustainable development", patterned after concepts of the 1987 Brundtland Report by the World Commission on Environment and Development. This report advocates an approach to development, where economic growth "must be based on policies that sustain and expand the environmental resource base." (World Commission on Environment and Development 1987:1). Aboriginal peoples have a singular role to play in this process.

Tribal and indigenous people will need special attention as the forces of economic development disrupt their traditional life-styles -- life-styles that can offer modern societies many lessons in the management of resources in complex forest, mountain, and dryland ecosystems. Some are threatened by virtual extinction by insensitive development over which they have no control. Their traditional rights should be recognized and they should be given a decisive voice in formulating policies

about resource development in their areas. (World Commission on Environment and Development 1987:12)

As the Trilateral Agreement Field Team was to point out at a later date, the main constraints on sustainable natural resource management are economic, social and institutional rather than technical or silvicultural in nature. In the Field Team's view, sustainable integrated resource development can be achieved through the attainment of the following goals:

- (1) Rational development of natural resources which in this instance recognizes the habitat requirements of wildlife species and traditional/cultural use of flora and fauna by the Algonquins of Barriere Lake;
- (2) The minimization of threats to the environmental quality;
- (3) The maintenance or enhancement of the aesthetic, spiritual, and recreational amenities of the landbase;
- (4) Political commitment to build on the capacity to design, and implement, sustainable forestry practices;
- (5) Extensive research of ecological processes and ecosystems and the careful monitoring and evaluation of forestry practices adopted. (Field Team Report - Phase A. Bonin et al. 1992:1)

Since the Canadian government had enthusiastically endorsed the recommendations of the Brundtland Report, the Algonquins were hopeful that their concerns would be addressed at the federal and provincial levels. But they were wrong. Even though the federal as well as the provincial government signalled their willingness to participate in a trilateral process as early as October 1988, the road to the actual signing of an agreement in August 1991 was to be a long and tortuous one.

The first roadblock encountered by the Algonquins was the refusal on the part of the Quebec provincial government to agree to



an eight months moratorium on land and resource alienation in Barriere Lake territory, and to delaying the signing of CAAFs in the La Verendrye Wildlife Reserve. The Algonquins were aware that under Quebec's new Forest Act, once CAAFs are signed, MER's powers are limited when it comes to modifications of the existing land use designations within the forest management units, or to modifications of the CAAFs themselves when such changes will reduce cutting areas or volume of wood available to CAAF holders. As a result they felt strongly about the necessity to address Algonquin concerns before and not after the signing of these long-term agreements.

In May 1989 the Algonquins renewed their efforts to engage both governments in a trilateral process. Not only were they unsuccessful in this endeavour, but in August 1989 they were confronted with chemical spraying (glyphosate) of their harvesting areas. At this stage they felt compelled to resort to different tactics and set up blockades to keep MER workers out of their traditional lands. While the spraying program was cancelled for the year, meaningful communication between the Algonquins and provincial resource management agencies was still not forthcoming. When a further Algonquin request for consideration of a selective moratorium on activities in critical wildlife habitat and Algonquin harvesting areas went unanswered, blockades went up on several important logging roads, keeping logging companies out.

In September 1989 the Quebec Superior Court granted the affected logging companies a Provincial Injunction, prohibiting the Algonquins from interfering with the "trade and commerce" of the logging firms and the employment of workers for this purpose. A serious confrontation was avoided by two developments: Quebec's Minister of Native Affairs met with the Algonquins and committed his government to participation in a trilateral process for the development and implementation of a conservation strategy for the area. Secondly, the logging companies agreed to withdraw their

injunction and temporarily cease operations pending a meeting between the Algonquins of Barriere Lake and the Minister of Forests in late September 1989.

This meeting between the Algonquins and Minister of Forests Albert Cote in many ways foreshadowed years of tension and non-communication between the two parties. For the remainder of the year the Algonquins' efforts were focused on delaying the signing of the 25 year CAAFs (scheduled for January 2nd, 1990) and on having a clause inserted into the CAAFs which would ensure the accommodation of Barriere Lake's concerns. Agreement was eventually reached to postpone the signing of the CAAFs until April 1st, 1990. There was also support for the idea of inserting a clause into the CAAFs, the specific wording of which would have to be worked out through the trilateral process. The whole issue, however, of whether there really is sufficient flexibility within Quebec's forestry regime to implement recommendations safeguarding Algonquin interests, was to remain a vexing question not only throughout the negotiating process, but also during the implementation of the agreement. The Algonquin request for an interim selective moratorium in critical wildlife habitat and harvesting areas also remained an unresolved problem early in 1990.

The first months of 1990 were marked by setbacks and a deteriorating negotiating atmosphere. Not only did Quebec fail to follow through with funding commitments to the Algonquins for completion of a comprehensive proposal, but the Minister of Forests also reneged on the assurance given to the Algonquins that they were guaranteed full participation in developing the new CAAF clause. In February 1990 Albert Cote left little doubt that the CAAF clause was to be developed by his department unilaterally. Furthermore, the Algonquins were frustrated in their efforts to gain access to information contained in the CAAFs covering their territory.

The breakdown in communication lasted well into August 1990. By that time the CAAFs had been signed and registered, a unilateral clause had been inserted without disclosure to the Algonquins (and was to prove ineffectual in the future), and the Algonquins once again were blocking all access to their traditional lands. In April they had also undertaken a futile attempt to obtain an injunction against the issuance of CAAFs.

In August 1990, the Quebec government once again committed itself to participating in a trilateral agreement with the goal of preparing an integrated resource development plan for the region. They also agreed to the Algonquins' proposal to appoint a task force whose mandate would be to determine tentatively the sensitive zones that were to be protected within the territory. Thirdly, the Quebec government announced its intent to counter the Algonquins' draft proposal for the agreement with a draft of their own.

With regard to the wording of the agreement, there were several contentious issues right from the start. One concerned the extent of the territory to be covered by the agreement. Whereas the Algonquins were referring to the "current land use area of Barriere Lake" (meaning the area currently used by Barriere Lake for hunting, fishing, trapping and gathering), Quebec wanted to consider only those areas covered by Algonquin traplines, a much smaller area than that designated above. The final agreement features a compromise.

Furthermore, Quebec's revisions to the Algonquins' draft agreement deleted any reference to the Brundtland Report, thereby eliminating an element of crucial importance to the Algonquins. Instead, Quebec changed the thrust of the agreement from "conservation" to "exploitation" and "utilization" and replaced the concept of "sustainable development" with that of "sustained yield utilization".

Finally, Quebec makes a point of explicitly asserting its exclusive jurisdiction over the management of resources in the province. The Algonquins, on the other hand, preferred a more neutral wording in this respect, since, although they were not asserting their aboriginal rights/title or inherent right to self-government at that point in time, they were not prepared to prejudice future developments.

As the implementation stage was to demonstrate, the primacy of Quebec's jurisdiction proved to be the single most problematic factor in the whole process. In the meantime, however, another year was yet to pass before the final signing of the Trilateral Agreement.

One of the issues discussed during this period was how to address concerns of hydroelectric developments. It was eventually decided that reservoir management was to be dealt with by a separate bilateral agreement between the Algonquins and Hydro Quebec (still outstanding in November 1993), while there was a tacit understanding in the Trilateral Agreement that fisheries and aquatic habitat were part of "renewable resources" (specified as forests and wildlife). A definition of "renewable resources" as "forests, waters, fish and wildlife" was opposed by Quebec in March 1991, allegedly due to jurisdictional concerns in regard to the federal government.

In May 1991 an impasse was reached when Quebec refused any changes to its draft of the agreement, and the Algonquins felt that they could not compromise their position any further. In a press release they announced that negotiations had broken down.

We cannot sign this document because it is inadequate for two reasons:

- 1) It fails to recognize the importance of the traditional way of life of our community within our current land-use area; and
- 2) There is no mechanism for modifying the 25 year Forestry Management Agreements, which thereby

constrain our efforts to make any meaningful changes to land use practices in La Verendrye Wildlife Reserve.

We are not necessarily opposed to logging, but we will continue to oppose the application of the Quebec Forest Act in its present form over our current land use area.

We are also in possession of the forestry plans for this coming Summer, and we know that for the survival of our community's way of life we cannot allow these forestry operations to resume as provided for under these 25 year Agreements.

....

We will continue to seek a peaceful resolution of this issue. However, we will protect our community and our land from destruction through over-exploitation of the forest.

To reach an agreement with the Quebec government there must be a mechanism for modifying the 25 year Forestry Management Agreements while the proposed study is underway.

Furthermore, the Quebec government must agree that the results of the proposed study process will apply to the current land-use area of the Algonquins of Barriere Lake. (Press Statement, Algonquins of Barriere Lake, Ottawa, May 23, 1991)

When physical confrontation threatened again, this time over the planned clear-cutting of a prominent Elder's land, the parties returned to the negotiating table one last time. With the assistance of a mediator, Judge Rejean Paul, the final version of the Trilateral Agreement was hammered out and signed on August 22nd, 1991. This memorable event took place more than three years after negotiations started, and after three Quebec Ministers of Native Affairs, three federal Ministers of Indian Affairs, and sixteen drafts of the Agreement. On the Algonquin side the key players had remained the same.

## 5. The Agreement: Provisions and Ingredients

The Trilateral Agreement between the Algonquins of Barriere Lake, the government of Quebec and the government of Canada is unlike any other co-management or joint management agreement negotiated in Canada (see Appendix 1). It is limited in time, extending over less than four years, but it has an agenda that looks into the indefinite future, and a vision which is unmatched in its comprehensiveness by any other initiative in resource management in southern Canada.

As signatories to the Agreement the government of Quebec was represented by its Ministers for Native Affairs, Canadian Intergovernmental Affairs, Forests (then an MER division, now a separate ministry), and Recreation, Fish and Game (MLCP), and the federal government by its Minister of State for Indian Affairs and Northern Development. The Algonquins of Barriere Lake, represented by their Chief, and the province of Quebec are the main operational partners in the Agreement, whereas the federal government is primarily involved as a trustee for the Algonquins.

The Trilateral Agreement is not a co-management agreement in the sense that it effects the establishment of co-management institutions and co-management procedures, concerned with the joint management of a particular species or area. Rather it is designed to lay the groundwork for the cooperative development of an integrated resource management plan for a region comprising 1 million hectares, the major portion of the traditional use area of the Algonquins of Barriere Lake. For this purpose the Trilateral Agreement is to put in place interim protection measures to safeguard the environment until a new management regime is implemented; to develop a database for integrated resource management; to provide the necessary funding for this comprehensive process; to initiate an education process for all stakeholders; and

eventually to develop a draft integrated management plan for renewable resources along with recommendations for carrying it out.

The trilateral process created two "institutions" to implement the Agreement. At the political and directive level, each of the three signatories appointed a "Special Representative" who was guaranteed "sufficient authority to make decisions and to apply the provisions of the Agreement in accordance with the sharing of responsibilities provided for in section 6." Section 6 of the Trilateral Agreement outlines the following responsibilities for the Special Representatives.

- a) The special representatives appointed...by the three parties must:
  - 1) supervise the trilateral process and ensure that it functions efficiently;
  - 2) guarantee constant liaison and cooperation between them and the technical personnel, the political representatives and the senior officials;
  - 3) develop a practical process and a work plan to make the trilateral process work;
  - 4) identify the financial requirements for the smooth functioning of the trilateral process.
  
- b) The special representatives of Quebec and of the Algonquins of Barriere Lake must:
  - 1) identify the studies and inventories that are required to be made;
  - 2) identify requirements in expertise and professional services;
  - 3) develop detailed terms of reference for, and supervise the work of, the task force contemplated in section 5;
  - 4) formulate a draft integrated management plan and recommendations for the carrying out of the plan as required in section 2; and
  - 5) formulate recommendations to Quebec and to the Algonquins of Barriere Lake concerning the follow-up required on the report submitted by the task force contemplated in section 5.  
(Trilateral Agreement, p.3f)

The selection of the Special Representatives was a crucial step, particularly for Quebec and the Algonquins. The Algonquins appointed a former Quebec Environment Minister, whom they knew to

be an environmentalist, familiar with the Brundtland Report and with aboriginal issues, but who at the same time, enjoyed prominence in Quebec's political circles. The latter consideration was to prove of vital importance in the future. Quebec's Special Representative is a very senior forest ecologist of international renown, who, while having been instrumental in developing Quebec's forest management framework, also brings an ecological perspective to the concept of resource management. This, in theory at least, could go a long way in accommodating Algonquin concerns. The federal Special Representative was the Regional Director General for the Department of Indian Affairs.

The second creation of the trilateral process was a Task Force made up of members selected by the three signatories to the Agreement (3 members each for the Algonquins and Quebec, 2 for the federal government). The Algonquin-appointed members included an Algonquin (alternating between two individuals), an aboriginal (non-Algonquin) liaison, and a non-aboriginal forestry consultant. The primary responsibilities of this Task Force were

....to identify, within the perimeter of [a territory specified in the Agreement] measures to harmonize the conduct of forestry activities with the traditional activities of the Algonquins of Barriere Lake, as well as the sensitive zones which should be protected more especially in a provisional manner.

and

....[to] make a report by November 30, 1991, to the special representatives containing recommendations for the provisional protection (up to the end of the process) of the sensitive zones and the territory so as to minimize the impact of forestry activities on the traditional activities of the Algonquins of Barriere Lake. (Trilateral Agreement, p.3 and 4)

The Task Force's mandate essentially replaced the interim selective moratorium for critical wildlife habitat and Algonquin harvesting areas originally sought by the Algonquins. It is noted that the wording with regard to provisional protection measures is



disconcertingly vague, which is an indication of just how far Quebec was prepared to go, but which raises some concerns for the implementation of the Agreement. The work of the Task Force was to be supervised by the Special Representatives, who also developed and ratified its terms of reference.

The Task Force shall be guided by the following principles in carrying out its activities toward the fulfilment of the objectives herein:

- (1) The importance of a particular area/condition/zone/factor on the whole ecosystem.
- (2) The inter-relationships and interdependence among the elements of the system.
- (3) Recognition that humans are part of nature, not separate from it.
- (4) Recognition of the dynamic nature of the ecosystem (e.g. a moving picture rather than a still photograph).
- (5) The essential need to take into account within the evaluation, the concepts of carrying capacity, resiliency and sustainability, and thus the fact that there are limits to human activity.
- (6) The recognition that the environment not only encompasses natural, physical and economic elements, but also social and cultural ones.
- (7) The importance of traditional knowledge as well as scientific knowledge.
- (8) Recognition of the importance of living species other than humans, and of generations other than our own.
- (9) Recognition of the importance of diversity within the ecosystem and interests in maintaining and enhancing ecosystem diversity.

(Terms of Reference for a Task Force of the Special Representatives pursuant to Article 5 of the Trilateral Agreement between the Algonquins of Barriere Lake, Quebec and Canada, p.2, emphasis in original)

The Agreement provides for its implementation in three phases: Phase One involves the analysis of existing data, an inventory of renewable resources (forests and wildlife) within the territory of the Agreement, review of their current use and potential, and of the impact and combined effects of exploitation and development activities.

Phase Two features the preparation of a draft integrated renewable resource management plan for the study area, according to the principle of sustainable development. Phase Three involves the preparation of recommendations for implementing the plan drafted in Phase Two by Quebec and the Algonquins of Barriere Lake. These recommendations could involve changes to management, development and administration practices as well as modifications of contracts, regulations and laws with regard to the Agreement territory.

The Agreement also details the financial responsibilities of the signatories. Each party is responsible for its own representation costs. Common organizational costs are to be shared equally among the parties. Fees for consulting and professional services are shared equally between the Algonquins and the province of Quebec. At the request of the Algonquins of Barriere Lake, Canada has agreed to reimburse the Algonquins for all their expenses during the implementation of the Agreement.

A final important element of the Agreement is its emphasis that "Nothing in this Agreement or annexes prejudices the rights of each of the parties." and "Nothing in this Agreement or annexes is to be interpreted as creating, recognizing or denying rights under section 35 of the Constitution Act of 1982." (Trilateral Agreement, p.5 [Section 9]). The Trilateral Agreement is to terminate on May 26, 1995.

## 6. Learning to Work Together: The First Eighteen Months

### 6.1 August 1991 to February 1992: Embarking on Phase One of the Agreement

A Trilateral Agreement Office was set up in Hull soon after the signing of the Agreement to act as a coordinating centre for the project. The implementation of the Agreement was to take place at

three levels: the three Special Representatives constituted the political and directive level; the Task Force essentially formed a technical team; and finally, a Field Team assembled by the Task Force operated directly on the land. Not surprisingly, problems encountered at any one level immediately filtered through to the other levels. The problems which were to bedevil the implementation of the Trilateral Agreement for eighteen months, surfaced from the very beginning and essentially remained the same throughout this period.

The issue of funding the trilateral process remained problematic and cumbersome for almost two years. When the Trilateral Agreement was signed it was estimated by both Quebec and Canada that it would cost between \$ 3 and \$ 6 million to implement it.<sup>5</sup> Neither government set aside a specific budget for this purpose when they executed the Agreement. The money had to come from within existing budgets. A study of the correspondence and Special Representatives' meeting minutes for this period confronts the reader with a monotonous reiteration of funding problems: disagreement among the parties on budgeting details; inconsistency and reluctance on the part of Quebec to make available sufficient resources to carry out the provisions of the Trilateral Agreement; and extreme tardiness on the part of the federal government in reimbursing the Algonquins for their costs.

Financial problems alone initially made it impossible for the Special Representatives to fulfill two of their main tasks:

- 1) supervise the trilateral process and ensure that it functions efficiently;
- ....
- 2) identify the financial requirements for the smooth functioning of the trilateral process.

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<sup>5</sup> In Spring 1992, the ABL Special Representative prepared a "global plan" and estimate which provided for a cost of approximately \$ 5.5 million, and which has been acknowledged to be reasonable by both the Quebec and federal Special Representative.

(Trilateral Agreement, p.3 and 4, emphasis added)

For the Algonquins this situation resulted in severe cash flow problems and difficulties in paying for the technical expertise and native and non-native fieldwork they deemed necessary to fulfill their part of the Agreement. Financial problems constantly threatened to delay crucial research and other important activities, which was all the more critical since the time factor turned out to be a more significant problem than originally anticipated.

This leads us to the second problematic element of the trilateral process: the work of the Task Force. The first priority of the Task Force was to be the identification of sensitive zones and of measures to harmonize the conduct of forestry activities with the traditional pursuits of the Algonquins within a designated portion of the study area. By November 30, 1991, the Task Force was to submit a report to the Special Representatives with recommendations for the provisional protection of the sensitive zones as well as of the territory as a whole. Two weeks later, on December 15, the Special Representatives of Quebec and the Algonquins were to come up with recommendations on how to follow-up on the Task Force Report. Finally, the Agreement stipulates that both the Algonquins and the province of Quebec agree to seriously examine the recommendations of the Special Representatives and to negotiate an agreement on how to carry out the recommendations retained.

This outline of anticipated steps invites the assumption -- in conjunction with verbal assurances given by Quebec during the negotiation and mediation process -- that no cutting activities would be carried out prior to December 15, 1991, at the very least, in order to give the Task Force sufficient time to identify sensitive zones and protection measures, let alone, to agree on a

mode of implementation. This was not explicitly spelled out in the Agreement, however, and was to prove a serious miscalculation.

Even while under the impression that the cutting season was not to start until December, the Algonquins were extremely anxious to have the Task Force established and working. As a result, their Special Representative tabled draft Terms of Reference for the Task Force at the first meeting of the Special Representatives, an initiative that was met with delaying tactics on the part of Quebec. Nevertheless, the Terms of Reference for the Task Force were approved at the second meeting of the Special Representatives which cleared the way for the Task Force to start functioning in the second half of September, 1991. A vital element of the Task Force's Terms of Reference was the stipulation that "The Task Force shall....provide for maximum and continual community involvement with respect to all tasks." This included community consultations to determine the effects of current forest management practices on Algonquin land-based activities, community input into the identification of sensitive zones, and Algonquin participation in implementation monitoring and reporting with regard to both sensitive zones and measures to harmonize. Furthermore, one of the guiding principles of the Task Force was its consideration of traditional environmental knowledge side by side with scientific knowledge. For Quebec, the question of Algonquin monitors was to prove a particularly thorny issue.

The third contentious issue is closely related to the Task Force issue and permeates the entire trilateral process. In a nutshell, it is Quebec's assumption, that business should go on as usual, despite the Trilateral Agreement. The following exasperated exchange a mere month after the signing of the Trilateral Agreement is exemplary.

Andre Lafond (Special Representative of Quebec):  
....the essential objective, I remind everyone, is not to delay or to prevent forestry operations from taking place this year. That's clearly set out in the agreement and

I think it's a very important consideration of the sensitive zone process right now.....The sensitive zones and the correspondence....foresees (sic) that...while nonetheless respecting, that is very important, the preoccupations of the Algonquins, that we could proceed to forestry operations as foreseen and presented under the laws and regulations of Quebec. And that appears to me to be an absolutely essential element in the process....

Clifford Lincoln (Special Representative of the Algonquins of Barriere Lake):

....If we are to proceed with the forestry operations, just as if the agreement wasn't signed then we might as well not have an agreement.

(Verbatim Transcript of Special Representatives Meeting, September 23, 1991, p.17)

Severe disruption of the work of the Task Force and Quebec's insistence to proceed unilaterally, combined with a lack of empowerment of its Special Representative, created a crisis from the very beginning and resulted in serious disagreement among the Special Representatives as well as in a "split" of the Task Force.

The issue of Algonquin monitors at logging sites became a topic of Task Force and Special Representatives' discussion at the end of September when it became clear that logging operations within the territory were to begin by November 01. The Algonquins agreed not to disrupt these activities on the condition that they would be subject to prior sensitive zone identification and on-site Algonquin monitoring. The task of monitoring forestry activities and community participation in it was clearly part of the Task Force Terms of Reference, which had been ratified by all Special Representatives. Nevertheless, the idea was vehemently opposed by Quebec, its Task Force members and its Special Representative.

By November 1991, the Task Force had assembled its Field Team, consisting of three biologists and two foresters, who were joined by 12-16 community researchers. This composition reflected a

multi-disciplinary as well as a cross-cultural approach of their task. The team started its fieldwork in those areas targeted for logging in November. Having been delayed in its start-up by financial problems, the Task Force and its Field Team were further thrown off schedule by the necessity to concentrate their efforts on those sites that were to be cut in the immediate future.

Only three months into the Agreement, the Algonquins had experienced their share of frustration, as expressed by their Chief Jean-Maurice Matchewan in a letter to Quebec's Minister of Native Affairs, Christos Sirros.

In your remarks on the day we signed the Trilateral Agreement, you stated it would "foster the development and maintenance of effective on-going collaboration with the Algonquins of Barriere Lake." But, far from collaboration, we find ourselves presented with unilateral decisions by the Ministry of Forests. For the last several months, the work of the Task Force seems to be constantly under the shadow of potential logging. The Quebec representative, Mr. Andre Lafond, had previously stated that we need not concern ourselves with rumours of logging; that such a possibility would be a "nonsense". Yet, at our most recent meeting of Special Representatives, he stated that he is powerless to do anything to halt logging. There is, frankly, an air of uncertainty to the ongoing efforts to conduct field work, amass information, surveys and inventories, while a completely external decision is made to allow logging to begin prior to the completion of the Task Force work.

Under the circumstances, we feel that we would be well within our rights to oppose the logging as we have been forced to in the past. However, we have invested a great deal in the Trilateral Agreement. We believe it to be a ground-breaking effort to make the concept of "sustainable development" a reality. We do not want it to fail due to the introduction of logging before the field work is completed. Therefore, we are prepared to allow the planned logging to proceed, but only because of the assurances we received from you on November 13th.

You assured me, first, that the Trilateral Agreement supersedes everything else. Secondly, you said that the sensitive cutting zones, once identified, will be completely protected from harvesting operations. Thirdly, you assured that it will be possible to modify

the cutting prescriptions in other areas (not identified as sensitive) in order to harmonize those operations with traditional activities of the Algonquins of Barriere Lake.

These assurances were made in the presence of our Acting Special Representative, David Nahwegahbow, and your Special Representative, Andre Lafond, and were acknowledged and admitted by them both. I also expressed my total agreement with your assurances and understanding of the Trilateral Agreement. (Letter dated November 19, 1991, emphasis in original)

By now it had also become evident that an extension of the workplan and schedule of the Task Force was mandatory. This extension was in two phases:

Phase A: This phase is to deal with forestry operations and other matters within the scope of the terms of reference of the Task Force, for this year only. And the Task Force is expected to issue its report for this phase by the end of January 1992 [instead of November 30, 1991].

Phase B: This phase is expected to look at forestry operations and other matters for subsequent years. It is contemplated that this phase will take place after the completion of phase A; however, there is at this time no definite agreement by either the Task Force or the Special Representatives with respect to phase B. (Letter by David C. Nahwegahbow to Chief Jean-Maurice Matchewan, Honourable Christos Sirros and Honourable Monique Landry, dated December 13, 1991)

Obviously, this also meant, that the subsequent recommendation and negotiation process would not be fully observed but would be replaced by ad hoc proceedings.

The months of December 1991 and January 1992 were characterized by an extremely hostile and volatile climate, after Claude Berard's La Scierie Mont-Laurier Company commenced cutting operations on December 02. There were several indications that Berard was orchestrating a confrontation, as he called for Surete Quebec protection before there were any problems in the field. But those



problems, in the form of overt breaches of the Trilateral Agreement, were not long in coming.

The first incidents occurred early in December, when Claude Berard's forestry workers failed to respect sensitive zones in the Le Domaine cutting area and proceeded to cut trees therein. Furthermore, forestry roads were constructed without prior consultation and negotiation with community representatives and the Field Team. Even more serious infractions occurred during the holiday period under circumstances that to the Algonquins suggested bad faith. One sensitive zone was 50 per cent cut despite the fact that Berard had been informed that the area was not to be logged, and notwithstanding that the contractor had assured the Algonquins that no cutting would take place between Christmas and January 06. The Algonquins had several men on the ground to monitor cutting operations but had not deployed these teams over the holiday season, based on Berard's assurances to the community. When they returned, the cutting had taken place.

Not surprisingly, the latter incident in particular, severely shook the faith of the Algonquin community in the Agreement and in the concept of protected sensitive zones. It failed to produce a strong reaction on the part of responsible Quebec ministries, but convinced the Algonquin party more strongly than ever, just how important a community role in monitoring the process was. Nevertheless, the Quebec government steadfastly refused the Algonquins a role in monitoring and would not even go as far as granting them "observer status" (which would have been unacceptable to the Algonquins anyway). But just how deep the rift between the Algonquins and the province of Quebec really was, was further revealed when the Task Force Report was tabled at the end of January 1992.

The first significant statement of the Report after the introduction informs the Special Representatives "that the Task

Force process has not been a success." (Task Force Report -- Phase A, p.4). A look at the recommendations of the Task Force reveals the extent of the problem. There are half a dozen recommendations which represent a consensus of Task Force members. These were already tabled on November 30, the original deadline for the Task Force Report, when the Task Force submitted an incomplete and provisional report, and were accepted by the Special Representatives. These recommendations advocate the continuation of the sensitive zones and measures to harmonize process for the duration of the Agreement; timely consultation with the Algonquins on operating plans and modifications thereof; consideration of access restrictions for sport hunting in newly logged areas; field verification of forest inventory maps to ensure accuracy of timber volume information and for the collection of information relevant to wildlife; and a collaborative investigation of the use of chemicals in forest management. In addition to these joint recommendations -- none of which is very incisive -- further recommendations were made by each the Algonquin-appointed Task Force members and the Quebec Ministerial Task Force Representatives; these represent points on which no agreement was possible. Among the Algonquin recommendations two in particular stand out which touch on the core of the Trilateral Agreement:

- 1) We recommend that Judge Rejean Paul be asked to mediate the fundamental issue of which takes precedence -- the Trilateral Agreement or the laws of Quebec.
- 2) We recommend that all forestry operation be suspended until the above recommendation is resolved to the satisfaction of the Algonquins of Barriere Lake. (Task Force Report -- Phase A, p.16, emphasis in original)

In contrast, the recommendations of Quebec's representatives on the Task Force are statements of position or policy rather than recommendations. Of particular significance are the following:

- 1) The government of Quebec representatives recommend that for areas outside the sensitive zones be applied

the Regulations respecting standards of forest management for forests of public domain as well as the standards of the forest management manual. [In other words: business as usual outside the sensitive zones.]

- 2) In order to avoid communication and monitoring problems during forestry operations, the government of Quebec representatives recommend that it be reaffirmed that the supervision of operations is the sole responsibility of the Ministry of Forests. (Task Force Report -- Phase A, p.17)

Quebec's Task Force members basically disagree with the findings and recommendations of the Field Team whose Report was attached to the Task Force Report as an annex. The Task Force process had not been able to resolve the conflict arising from Quebec's position, that, Agreement or no Agreement, the provincial laws, regulations and jurisdiction are sacrosanct, with no room for compromise. Therefore, six months into the Agreement's implementation, an impasse had been reached.

On February 14, 1992, a resolution was made by the Algonquins of Barriere Lake and the three Special Representatives. Within three weeks two meetings would be held; one involving the appropriate Deputy Ministers of Canada and Quebec, the Special Representatives and other Algonquin representatives; to be followed by a trilateral meeting, involving the Chief of the Algonquins of Barriere Lake, the relevant Quebec and Canadian Ministers and the Special Representatives. If these meetings failed to resolve the contentious issues between the Algonquins and Quebec, recourse would be taken to non-binding mediation. In the meantime, current forestry operations at Le Domaine were to proceed, but no activities were to be started in new zones prior to satisfactory completion of the above process.

## 6.2 March 1992 to August 1992: Towards Mediation

Between March 05 and April 01, 1992, three meetings took place between Algonquin representatives, the Special Representatives, and provincial and federal Deputy Ministers and Ministers. Important outstanding issues were discussed such as Algonquin monitoring; sensitive zones and measures to harmonize; the timing of logging activities and unanticipated changes in volume; who controls the conduct of inventories and studies; the lack of authority of the Quebec Special Representative; and the question overshadowing all others: What is the force of the Trilateral Agreement?

Several suggestions were entered into the discussion, for example a proposal by Quebec that the Algonquins be employed by either MFO or MLCP or both to monitor sensitive zones under the Agreement; and an idea of Quebec's Special Representative to devise a Memorandum of Understanding on monitoring and measures to harmonize, which could be accommodated by Quebec's forestry regime but would have to be discussed with industry. In the end, nothing was resolved, largely due to, as Clifford Lincoln, Special Representative of the Algonquins, put it, "the refusal by the MLCP and MFO to accept that the Agreement has changed certain realities and certain elements in regard to their activities." (Letter to Andre Maltais, dated March 22, 1992, p.1). Clifford Lincoln was convinced that for the Trilateral Agreement to work, the territory in question must be put under a special management regime.

The outstanding issues were summarized in a report of the Special Representatives, which followed the Task Force Report.

3.2 In general, these outstanding issues can be summarized as arising from the difficulty of reconciling the views of the two operating Ministries of Quebec (MFO and MLCP) and that of the Algonquins of Barriere Lake as to control and responsibility for the technical work. The Quebec view is that this technical work is under their sole jurisdiction pursuant to the laws and regulations of Quebec whereas the Algonquins' of Barriere

Lake view is that the Trilateral Agreement requires a unified technical team coordinated by and responsible to the Special Representatives of Quebec and the Algonquins of Barriere Lake. Key elements affected by this conflicting view are the inventories and studies required to be made, the measures to harmonize the various uses in the area during the trilateral process, and the monitoring of sensitive areas throughout the duration of the Agreement.

3.3 The Special Representatives are aware that the unresolved issues put the future of the Trilateral Agreement in serious jeopardy.

(Report of the Special Representatives Pursuant to Sections 6(A) and 6(B) of the Trilateral Agreement. March 26, 1992, p.4f)

To resolve these contentious issues, the Special Representatives proposed that a Memorandum of Understanding be entered into which would address fundamental problems such as monitoring and measures to harmonize. Despite their frustration, the Algonquins signalled that they were "ready, willing and able to engage in those negotiations [as stipulated in Section 7 of the Trilateral Agreement]." (Chief Jean-Maurice Matchewan in a letter to Honourable Monique Landry and Honourable Christos Sirros, dated April 22, 1992, p.3).

Nevertheless, negotiations to follow through with this proposal, never took place. Instead, the Algonquins and their Special Representative agreed to Quebec's proposal of drawing up an "Action Plan" for purposes of consultation and discussion. The Quebec Ministers submitted their Action Plan to the Algonquins' Special Representative on May 05, 1992. The Algonquins responded with revisions on May 13, and Quebec followed up on these with a modified version of its Action Plan on May 22, 1992. This last-ditch attempt at resolving the impasse between the Algonquins and Quebec failed miserably.

Whereas the Algonquins' suggestions clearly exhibit a spirit of compromise on several counts, the same can hardly be said for Quebec's second version which supposedly took the Algonquins' input into account, but in reality tried to entrench the unilateral character of Quebec's decision-making. When, for example, the Algonquins requested in their document of May 13, that they be given access to information regarding past forestry activities in their territory, Quebec responded that this would only happen "when possible and appropriate" (Quebec's Plan of Action, dated May 22, 1992, p.2). Measures to harmonize were made subject to numerous restrictions:

....as long as their extent [sensitive zones] allows respect for Quebec's other contractual obligations.

....as long as the cost of [road] construction remains the same, or the restriction of forest development activities during a given period, provided that the overall operations schedule meets the demands of the paper mills, at the same costs. (ibid.:5)

At the same time, it was made clear that the second Quebec Action Plan was the final version and non-negotiable. As a result, on May 29, 1992, in compliance with the February 14 Resolution, the Special Representative of the Algonquins of Barriere Lake officially requested an immediate mediation process. The best person to conduct this mediation, all parties agreed, would be Justice Rejean Paul of the Quebec Superior Court, who had already been instrumental in concluding the original negotiation of the Trilateral Agreement in 1991.

Even though the mediation process should have automatically followed from the February 14 Resolution, agreed to by all three parties, another three months went by during which Quebec tried by all means to have its exclusive management power over natural resources unequivocally entrenched and explicitly confirmed as a pre-condition for its participation in the mediation process. A letter by Christos Sirros, Quebec Minister of Native Affairs, to

Chief Jean-Maurice Matchewan, clearly states the provincial position.

On June 10, I confirmed the Quebec government's position to you in the presence of my colleagues Albert Cote [MFO] and Gaston Blackburn [MLCP], to the effect that there is no question of shared jurisdiction and co-management of resources on the territory covered by the Trilateral Agreement which confers no authority or power on the Algonquins of Barriere Lake in this regard. The Agreement was chosen as the instrument to give satisfaction to all parties.

.... Quebec's participation in the mediation with Justice Rejean Paul, as you request in your letter, depends on the Algonquins of Barriere Lake agreeing to the principle concerning Quebec's jurisdiction over this territory and the management of renewable resources. If we want mediation to produce concrete results that will allow us to make progress on this file, it is also clear that Mr. Justice Paul will notably draw on the text of the Action Plan we submitted to you. (Letter dated June 22, 1992, p.1)

Unequivocal acceptance by the Algonquins of Quebec's sole jurisdiction over the territory and the management of renewable resources was even included as a condition in Quebec's Draft Mediation Mandate for Justice Rejean Paul. The Algonquins' reaction to these manoeuvres was moderate but to the point.

We take cognizance of your Government's position on the matter of jurisdiction and appreciate that this view is particularly strongly held by MFO and MLCP because they have management responsibilities for public lands under Quebec law and entrenched ways of administering their responsibilities. We respect this position. But we ask that you respect our view as well. It is not our position that the Trilateral Agreement is the source of our authority or jurisdiction. Our authority derives from the Creator who placed us upon our lands many hundreds of years ago, prior to the arrival of European settlement and the creation of Canada and Quebec. And our authority derives from the traditional knowledge of our elders which has been passed down from generation to generation and accumulated over hundreds of years of occupation of our land. It derives also from our sense of responsibility to the land and the forests and wildlife and our desire to maintain the integrity of

those things so that we may continue to benefit from them in our traditional pursuits.

We do not expect you or your Government to necessarily subscribe to our view, just as you should not expect us to necessarily subscribe to your view. But regardless of our different views, we can still have mutual respect.

....I am most surprised at your insistence that, as a pre-condition to Quebec's participation in mediation, the Algonquins of Barriere Lake must agree "to the principle concerning Quebec's jurisdiction over this territory and the management of renewable resources." The resolution of the Special Representatives imposes no such pre-condition. Moreover, there is no such pre-condition in the Trilateral Agreement which itself was signed in the spirit of compromise and without prejudice.

(Letter by Chief Jean-Maurice Matchewan to Christos Sirros, Minister of Native Affairs, dated July 02, 1992, p.2 and 3)

The letter goes on to express surprise at Quebec's demand of Algonquin renunciation of rights, since it appears to run counter to a 1985 Quebec National Assembly Resolution which urges the provincial government to pursue negotiations and, where possible, conclude agreements with First Nations, guaranteeing them the exercise of:

- (a) the right to self-government within Quebec;
- (b) the right to their own language, culture and traditions;
- (c) the right to own and control the land;
- (d) the right to hunt, fish, trap, harvest and participate in wildlife management;
- (e) the right to participate in, and benefit from, the economic development of Quebec. (ibid.:4)

The Algonquins feel strongly about their inherent right of self-government being part of the present constitutional framework, but it had never been their intent to address this issue within the context of mediation. For the purposes of mediation, they were, at best, on a without prejudice basis, agreeable to a sentence in the preamble that stated that "the Trilateral Agreement is intended to



address Quebec's existing laws." (Letter by Chief Jean-Maurice Matchewan to Christos Sirros, Minister of Native Affairs, dated July 14, 1992, p.2).

While these fundamental issues remained unresolved at the political level, implementation of the Agreement in the field had also become extremely problematic. By mid-summer 1992 no budget for the fiscal year of 1992/1993 had been approved or financial means made available. Nevertheless, in view of impending logging activities the Special Representatives and Task Force had felt compelled to go ahead with the identification of sensitive zones and measures to harmonize in Phase B of the Task Force workplan. Funding for these activities was drawn from the Band budget to the detriment of other community programs.

The situation became even more critical, when Claude Berard's loggers commenced cutting operations on August 03, 1992, a direct breach of the Special Representatives' resolution of February 14. This move immediately resulted in a (non-violent) confrontation with the Algonquins who instructed the workers to respect the Trilateral Agreement and suspend their logging activities.

Under the pressure of these events, a Mediation Mandate was finally issued to Justice Rejean Paul on August 07, 1992. The contentious clause in the preamble referring to the Algonquins' acknowledgement of Quebec's jurisdiction, had been revised to the effect that "mediation will cover strictly the technical points of contention under the Agreement, and that the mediation will address existing Quebec laws and regulations." Furthermore, the mandate stipulated:

1. That the period for mediation be limited to ten (10) working days from the beginning of the first meeting;
2. That the mediator clearly identify the points at issue between the two parties regarding the main items of the action plan submitted by Quebec on May 22, 1992;

3. That the mediator make proposals acceptable to the two parties with a view to the adoption of a single action plan for the period 1992-1993;
4. That at the conclusion of the ten-day mediation period, the mediator submit a report to the parties.

An official decree by the government of Quebec stipulated that the mediator's mandate was to last 30 days, beginning on August 13, 1992.

### 6.3 September 1992 to February 1993: Mediation and Consequences

The considerations in the Mediation Report by Justice Rejean Paul raise some points of crucial importance to the Algonquins of Barriere Lake. One focuses on the question whether the Trilateral Agreement can be viewed as a treaty in the light of the findings of the **Sioui** case (1990) 1 S.C.R. A definitive answer to this question would go a long way in clarifying the question of precedence in jurisdiction. In Justice Rejean Paul's opinion the Trilateral Agreement does indeed exhibit all the characteristics of a treaty. Logically, if the conclusion was to be to the effect that the Trilateral Agreement constitutes a treaty, Section 88 of the Indian Act (R.S.C. 1985, chap.I-5) fully applies, and if the law and regulations of a province are in conflict with the treaty, the latter has precedence. There is, however, in the Agreement, section 9 which states:

Nothing in this Agreement or annexes is to be interpreted as creating, recognizing or denying rights under section 35 of the Constitution Act of 1982.

Consequently Justice Rejean Paul feels unable to unequivocally conclude that the Trilateral Agreement is or is not a treaty.

But even if one comes to the conclusion that it is not a treaty, I sincerely believe that it is a solemn agreement, without a resolatory clause, which obliges the signatories to ensure the life of this agreement. And whether it is or is not a treaty, this solemn agreement must always be omnipresent when the CAAFs are granted by the Ministry of Forests to private entrepreneurs.

(Mediation Report by The Honourable Rejean F. Paul, September 14, 1992, p.5)

In this context the mediator expresses strong criticism of the "Special Provision" which is inserted into CAAFs granted in Barriere Lake Algonquin territory. The Algonquins had no input in its formulation by the Ministry of Forests, and in Justice Rejean Paul's opinion, it reflects neither the spirit nor the letter of the Trilateral Agreement. The section reads as follows:

Sections 2 to 4 [of the CAAF] apply until such time as the results are known of the tripartite (federal, provincial, Algonquins of Barriere Lake) scientific study bearing exclusively on the territory containing trap lines held by the Algonquins domiciled at Barriere Lake, located in that part of the Grand Lac Victoria Beaver Reserve contained within La Verendrye Wildlife Reserve. At the end of this period, the MINISTER determines the extent of the management unit and the lumber volume that can be attributed to the BENEFICIARY.

This study must be completed within a five (5) year delay from the coming into force of this contract.  
(Emphasis added)

Obviously, there is no mention of traplines or the Beaver Reserve in the Trilateral Agreement, but only of Study Areas A and B.

In his conclusions Justice Rejean Paul came down strongly on the side of the Algonquins and put forward the following recommendations:

1. Give full power to the Special Representatives and the money required funding (sic) to do so in order to work towards the realisation of the Agreement in the time frames set out.
2. The Special Representatives should, at the very earliest, and in an urgent fashion, examine the maps and documents submitted by the Algonquins relating to the sensitive zones to provide their opinion on the subject. This opinion should be taken into account by the Ministry of Forests, in order to protect what must be protected in the present contract granted to Scieries Mont-Laurier Inc.

3. Give precedence to the Agreement in the management of the territory set out in Annexes A and B of this Agreement.
4. The control and the responsibility of the technical work must be in the hands of the Special Representatives and not, in the hands of the Ministry of Forests or those of the Ministry of Fishing, Hunting and Leisure.
5. Provide for an efficient and rapid conflict resolution mechanism to avoid having to have recourse, as in the present case, when an impasse is reached, to a resource person who can only attempt to put out the fire.
6. The parties should, on a permanent basis, exchange information relevant to their common interests. For example, as soon as a study is completed, it should be forwarded to the Special Representatives. In the same manner, all ministerial decisions having legal effects on the territory in question, should be forwarded to the Special Representatives, who can advise the interested parties.

(Mediation Report by The Honourable Rejean F. Paul, September 14, 1992, p.9f, emphasis in original)

By the beginning of October, 1992, it became obvious, that despite the mediator's efforts, the implementation of the Agreement was beginning to fall apart. After the submission of his Mediation Report, Justice Rejean Paul put forward a package proposal, consisting of six points that addressed issues of immediate financial and practical concern. At the same time, Quebec's Special Representative presented a cutting plan which took into account the sensitive zones that had been identified by community researchers within the cutting area of Claude Berard's Scieries Mont-Laurier Inc. This Lafond Plan was part and parcel of Justice Paul's proposal. Both the Algonquins and Canada were agreeable to this package deal. Quebec, on the other hand was not, and Claude Berard signalled that he was not prepared to accept the Lafond cutting plan, and that he would commence forestry operations on October 01, 1992.

On October 01 a confrontation was narrowly avoided by Judge Paul's intervention, and logging temporarily suspended. A meeting between Algonquin representatives, government officials, and, for the first time, industry representatives, on October 05, 1992, did nothing to resolve the impasse. In late November 1992, the Algonquins issued a Declaration and Petition on behalf of Chief and Council and signed by community members, in which they unequivocally committed themselves to the principles of the Trilateral Agreement (see Appendix 2). In February 1993 the government of Quebec unilaterally suspended the Agreement.

## 7. Spring 1993: A New Beginning?

### 7.1 New Groundrules

On the eve of the spring cutting season in Barriere Lake country in May 1993 two things seemed imminent as well as unavoidable: the final dissolution of the Barriere Lake Trilateral Agreement and a major confrontation between the Algonquins and logging companies. With its unilateral suspension of the Trilateral Agreement in February, the provincial government had signalled that it was going to ignore the mediator's findings and recommendations, and instead resume cutting operations on a sustained yield basis according to the guidelines of the Forest Act. In the meantime, the Algonquins of Barriere Lake had continued their public relations campaign and restated on many occasions their commitment to sustainable development and integrated resource management in general and to the Trilateral Agreement in particular. But at the same time, they also let it be known that no logging would be allowed to take place in their territory unless according to the conditions set out in the Agreement.

In retrospect it is difficult to pinpoint what exactly it was that effected the apparently sudden turn-about which after almost

two years finally created a setting in which the Trilateral Agreement can be successfully implemented. The tense time period immediately preceding the opening of the spring cutting season featured a flurry of last minute communication. These crucial meetings took place at the highest level, in ministerial offices, as well as at a lower level, between the Algonquins and logging companies. Developments at both levels must be considered in conjunction with public opinion and the time factor, both of which worked for the Algonquins.

Two days prior to the start of the cutting season a meeting took place between the Algonquins' Special Representative, Premier Minister Bourassa's Chief-of-Staff, and several others. This initiative on the part of the Algonquins' Special Representative was a last-ditch effort to prevent an imminent confrontation in the forest which in all likelihood would have put an end to the Trilateral Agreement. Quebec maintained its hardline approach throughout the meeting which ended on a tense note. Surprisingly enough, a second meeting was called the following day, which took place in an entirely different atmosphere. The Algonquin party presented a proposal for conditions under which logging activities could be resumed: a centralization of authority on Quebec's part and delegation of power to the Quebec Special Representative, and the commitment of a centralized budget by Quebec to implement the Trilateral Agreement. This time Quebec consented to the Algonquins' conditions and virtually overnight, made provision for what the Algonquins had pressed for since the signing of the Agreement: a full mandate and decision-making power for Quebec's Special Representative, as stipulated by Section 4 of the Trilateral Agreement, and the establishment of a special management regime for the Agreement territory, created, as the Algonquins had always understood it, by the very existence of the Agreement (Clifford Lincoln, September 02, 1993, personal communication).

The Council of Ministers conferred temporary power on Quebec's Special Representative to suspend and amend Regulations under the Forest Act and the CAAFs within the Agreement territory, and also gave him full control over the budget. The provincial government committed \$ 600,000 for the 1993/1994 fiscal year, to be matched by the federal government. Quebec's Special Representative is now accountable to the Secretariat of Native Affairs which in turn reports directly to the Premier's Office. He still reports to MFO and MLCP on a regular basis but is no longer accountable to them or restricted by them in his decision-making power. These events have undoubtedly resulted in personal alienation of Quebec's Minister of Forests with as yet unknown consequences for industry and the Algonquins, but Quebec's Special Representative reports excellent cooperation from MFO technicians (Andre Lafond, September 03, 1993, personal communication).

While these top level decisions were undoubtedly the sine qua non for the new parameters for the Agreement's implementation, other changes had begun to take place at a lower level. It is fair to say that MFO's handling of the CAAFs in the Agreement territory had put the forest industry in an awkward position, even though it was bound to profit from it. Permit holders could justly plead legal entitlement to their cutting rights and ignorance of native concerns in general and the Trilateral Agreement in particular, and they customarily did both. The Quebec Forest Industries Association (QFIA) openly concedes that "For the forest industry, the native problem seems more or less unfathomable." (QFIA 1992:22)

The type of relationships that exist between the forest industry and native people varies enormously depending on the nation, the community, socio-economic and political structures, as well as individuals. In some cases, there seems to be harmony, which stems, without doubt from decades of "cohabitation". In other cases, there is a dialogue between the industry and native communities, but it is often muddled by mutual incomprehension. In such cases, the industry is confronted with decision-making structures that it cannot understand and with external

decisions that hinder the development of relationships with the groups involved.

In some cases, the forest industry finds itself, involuntarily, sandwiched between rights granted by the Quebec government and what is felt as undue pressures (summons, injunction requests, demonstrations, picketing, etc.) on the part of some native representatives or groups (QFIA 1992:8).

The Association professes to be particularly puzzled by the situation in the La Verendrye region.

A case in point is forest management in the La Verendrye Park. It bears mentioning here that there is more at stake than the attitude of native people and forest companies. The involvement of the Canadian and Quebec governments in this case seems to rest more on improvisation than on a thought-out plan that would allow for the sorting out of relationships between the Algonquins and the non-native population in this region (ibid.).

It is an established fact that the MFO sought to actively discourage communication between the forest industry and the Algonquins, always insisting on its mediator role, despite the efforts of the latter to address industry directly. The situation was further aggravated by the fact that the first major "industry player" the Algonquins encountered in the field was Claude Berard, who did his best to capture the media circus and who launched racist remarks and open insults of the Algonquins in public (CJRC Radio, *Le Journal du Midi*, August 11, 1992; *Le Droit*, Ottawa-Hull, September 02, 1992:7).

But the situation had changed in spring 1993. Wood prices were high, and several companies holding CAAFs in the territory, CP Forest Products and Gatineau Forest Products among them, were concerned about a smooth start of their cutting season. Realizing that confrontation with the local residents of the forest could prove utterly uneconomic, regardless of the jurisdictional situation, the logging companies chose to approach the Algonquin



leadership even before the political framework of the Agreement had begun to change.

As a result the working relationship between the Algonquins and the forest industry has changed dramatically in 1993, at the "top level" as well as out in the field. While numerous practical problems will take time to be ironed out, such as communication between the head offices in the south and forest operations in the field, information exchange between Algonquins and foresters, and above all, timely notification of the Algonquins of changes to the cutting plans, there have been remarkable gains. In summer 1993, for example, the Algonquins obtained a commitment in writing from CP Forest Products, holder of the largest CAAF in the territory, to discontinue herbicide spraying for the time being. At the logging sites, Algonquin monitors are carrying out their work without any undue tension or hostility. Not surprisingly, the Algonquins find some companies easier to work with than others. A large corporation like CP Forest Products subcontracts local companies as well as bringing in its own loggers. The latter are viewed by the Algonquins as better trained and more careful; CP in general is regarded as "more trustworthy" (Michel Thusky, August 31, 1993, personal communication). A visit of various logging sites reveals that such perceptions are well-founded: areas logged by CP and some local companies respectively, display striking differences in the degree of soil disturbance, waste, and resultant prospects for natural regeneration.

The Quebec Special Representative, too, emphasizes that personal contacts between the Algonquins and other representatives of the Trilateral Agreement on the one hand, and members of the forest industry on the other hand, have produced excellent results. Company representatives have clearly expressed their willingness to take Algonquin concerns into account, even at some economic costs. At the government level, as well, Andre Lafond feels, that the trilateral experience has been a profound learning process for the

Deputy Ministers, and that "mentalities are slowly changing."  
(Andre Lafond, September 03, 1993, personal communication).

## 7.2 Taking Stock: Accomplishments and Prospects

The Barriere Lake Trilateral Agreement was designed and negotiated to lay the groundwork for the cooperative development of an integrated renewable resource management plan for the major portion of the traditional use area of the Algonquins of Barriere Lake. Several major tasks are involved:

- design and implementation of interim protection measures for the duration of the Agreement in the form of sensitive zones and measures to harmonize;
- analysis and evaluation of existing data and information, and compilation of new inventories and information on renewable resource use, potential, impacts and interaction of activities related to their exploitation and development within the perimeter of the Agreement territory;
- based on the above, the preparation of a draft integrated management plan for renewable resources;
- the formulation of recommendations for the carrying out of the draft integrated resource management plan.

Throughout the better part of two years of the implementation of the Trilateral Agreement (August 1991-May 1993) an inordinate amount of time, energy and financial means were expended to create a setting in which effective interim protection of the territory's resources could be realized. For this to happen, it was necessary to define a new relationship between the two main operational partners of the Agreement, the Algonquins and Quebec, and to ascertain the strength of the Agreement. During much of this time, the Algonquin party was engaged in damage control and damage prevention, not only in a physical sense, "staying ahead of the bulldozers", but also in terms of keeping alive community support for the Agreement in the face of constant frustration. By and

large it appears that temporary setbacks caused cases of individual disillusionment with the Agreement among the Algonquins, but they never resulted in an overall community rejection of the process (Scot Nicols, September 02, 1993, personal communication).

During the first two years, when anticipated start-up problems were embedded in an overall confrontational climate, work in the field was extremely laborious. Michel Thusky reports that at first, logging companies generally refused to share information on volume and stand composition with the Algonquins, and that in any event, they were proceeding without inventories or with faulty ones. Logging companies use satellite images for planning purposes and frequently encounter different compositions than anticipated on the ground. As a result, cutting plans are changed and only discussed with the Algonquins at the last minute. Even under optimum conditions, the Algonquins often received cutting plans only ten days prior to cutting (Michel Thusky, August 31, 1993, personal communication).

Under such circumstances, a planned and coordinated approach to sensitive zone identification and measures to harmonize was impossible, let alone a coordination of this work with other activities that were to be part of the trilateral process. In 1991 when logging occurred mostly at higher elevations, the prime concern was the protection of moose habitat. During the winter of 1992 cutting areas advanced into spruce lowlands, and buffer zones around water bodies became the most contentious issue, proving extremely divisive (Bruce Byford, September 03, 1993, personal communication). Furthermore, as outlined above, a joint preparation of inventories and land use studies by the Algonquins and MFO was never realized during those first two years. There was duplication at every level, in cruising, planning and documentation. Obviously, such practice doubled the implementation costs, which in turn, could be used as political ammunition against the Agreement (Michel Thusky, *ibid.*)

The enforced preoccupation with protecting threatened resources from imminent logging, in conjunction with chronic funding problems during the first eighteen months, somewhat detracted from work covering areas not targeted for logging in the immediate future, and from the preparation of the integrated resource management plan. Nevertheless, much research was completed in 1992 by community researchers throughout the territory, identifying sites of cultural significance, and applying traditional environmental knowledge of community members to sensitive zone identification and the development of measures to harmonize. In 1993 working conditions have vastly improved, and progress is being made in all areas, although the problem of keeping pace with logging activities persists. A major moose study is planned for the winter of 1993/1994.

The previous pages have shown that most of the problems delaying the successful implementation of the Trilateral Agreement for almost two years, stemmed from the basic question, just what kind of management regime would prevail in the territory during the implementation of the Agreement. Christos Sirros, Minister of Native Affairs, expressed Quebec's view very clearly:

I pointed out that the agreement could not be seen as conferring any co-management rights to the Algonquins of Barriere Lake, that it could not supersede or change existing laws and regulations, and that as things stand now, Quebec has, alone, the responsibility for the management of the resources on the territory.

....I made a clear distinction between recognizing "where we are" (existing laws and regulations), agreeing on a process for change (the agreement and its recommendations), and a new situation in the future (implementation of recommendations). (Letter by Christos Sirros to Chief Jean-Maurice Matchewan, July 09, 1992)

By 1993 reality had caught up with this neat and tidy scheme, and it became clear that for the "process for change" to work there must be an intermediate stage between "where we are" and "a new situation in the future". In order to ensure that there will be

resources left for future innovative management, and in order to gradually acquaint two very different resource management systems with each other, a special management regime for the territory must be inserted between the status quo of Quebec's laws and regulations and a future scenario which more than likely (unless the initiative fails) will feature some form of co-management.

Co-management implies the mutual integration of local and state-level management systems, shared rights and responsibilities in resource management, and the merging of traditional and scientific knowledge. The Barriere Lake Trilateral Agreement is not a co-management agreement, but in pursuing the cooperative preparation of an integrated resource management plan and of recommendations for its implementation, it may certainly be viewed as an attempt to lay the groundwork for co-management of the territory. How has the Agreement performed in smoothing the way for a potential co-management regime?

To date there is no mutual integration of the Algonquin and provincial renewable resource management systems, but that was not the intent of this Agreement. Shared rights and responsibilities in resource management, on the other hand, and the merging of "two bodies of wisdom" (Waterhen and Pine Creek First Nations 1991), i.e. traditional environmental knowledge of the Algonquins and scientific knowledge, constitute very important elements of the Agreement, by design as well as of necessity.

The sharing of rights and responsibilities has been a slow and painful process, and it almost did not happen. But it is happening now. With the granting of a true mandate to its Special Representative Quebec has committed itself to the success of the Agreement, and as a result a true partnership is evolving at the Special Representatives level. Members of the technical team representing the Algonquins and Quebec are no longer working against but with each other, now that the lines of authority and

communication have finally been clarified. Out in the field, as well as at the corporate level, Algonquins and industry are facing each other with a new willingness to accommodate each other's needs. All parties involved have yet a long road to travel, but the changes have been so profound that the present trend is unlikely to reverse itself.

That this turn of events did occur, can be largely attributed to the Algonquins' perseverance and moderation, to the commitment and initiative of their Special Representative, and to the willingness of their other team members during the first eighteen months to keep working under very adverse and uncertain conditions. But in all fairness it must be acknowledged that Quebec, when given a final chance in spring 1993, did not walk away from the Agreement after all but was instrumental in setting up the current framework for implementing the Agreement. And things would be very different, if reason had not prevailed with industry, who realized that confrontation is costly and counterproductive, and that cooperation and conciliation is, in the end, the most economic option.

While the sharing of rights and responsibilities is the sine qua non of any true co-management effort, the mutual integration of traditional and scientific knowledge is also an increasingly important element in many co-management regimes across the country. The potential role of traditional knowledge is explicitly recognized by the Brundtland Report.

These communities [so-called indigenous or tribal peoples] are the repositories of vast accumulations of traditional knowledge and experience that links humanity with its ancient origins. Their disappearance is a loss for the larger society, which could learn a great deal from their traditional skills in sustainably managing very complex ecological systems. It is a terrible irony that as formal development reaches more deeply into rain forests, deserts, and other isolated environments, it tends to destroy the only cultures that have proved able to thrive in these environments.

The starting point for a just and humane policy for such groups is the recognition and protection of their traditional rights to land and the other resources that sustain their way of life -- rights they may define in terms that do not fit into standard legal systems. These groups' own institutions to regulate rights and obligations are crucial for maintaining the harmony with nature and the environmental awareness characteristic of the traditional way of life. Hence the recognition of traditional rights must go hand in hand with measures to protect the local institutions that enforce responsibility in resource use. And this recognition must also give local communities a decisive voice in the decisions about resource use in their area. (The World Commission on Environment and Development 1987:115f)

While the Trilateral Agreement makes a point of neither recognizing nor denying any rights, it sets the stage for a cross-cultural approach to problem-solving and management. The recognition of the importance of traditional Algonquin environmental knowledge and the recognition of the presence of social and cultural elements in the natural environment were among the principles defined in the Task Force's Terms of Reference. Sensitive zones are identified by Algonquin harvesters as well as by biologists, and protection is sought for culturally relevant sites.

In a Task Force Progress Report on Phase B of its work, research on measures to harmonize is described as follows:

The project is based on a series of site visitations with family groups of harvesters to selected forest areas with the objectives of:

1. Determining the effects of current forest management practices on the traditional activities of the Algonquins of Barriere Lake.
2. Review of current forest management practices in light of these effects.
3. Educate and inform the members of the Algonquin community with regards to Quebec Forestry Policy and the implemented silvicultural techniques/strategies.

4. Propose general forest management prescriptions which harmonize forestry operations and traditional Algonquin activities.

....  
The field work phase of the project is now complete. Approximately 95 community members participated in 33 site visitations.

(The Trilateral Agreement. Progress Report: Interim Technical Costs "Phase B". September 24, 1992, p.4 and 5)

With regard to potential sensitive zones, pertinent information is gathered for a wide variety of features: old settlement sites, burial sites, sacred sites, historic sites (i.e. battlegrounds), main travel routes, medicine sites, sugar bushes, specialty wood sites, tobacco sites, bear dens, eagle nests, moose yards, heronries, and spawning sites (ibid.:6). For collection of this information researchers mostly rely on individuals with a history of extensive use in a particular area. Almost 50 such candidates were interviewed in 1992.

There can be little doubt that Algonquin traditional environmental knowledge and perceptions are successfully integrated in sensitive zone and measures to harmonize recommendations, and that a large amount of research has been completed in this field, and is now being processed.

But to what degree has a true exchange of knowledge and mutual acceptance of the other side's system of knowledge taken hold? Two recommendations to the Special Representatives from the Quebec Ministerial Task Force Representatives (which were not shared by the Algonquins' Task Force members) illustrate some of the problems.

- 5) The government of Quebec representatives recommend that the Algonquin representatives make available the studies regarding their historical and cultural sites which were undertaken during the process of identification of the sensitive zones.



- 6) The government of Quebec representatives recommend that measures be taken to assist the Algonquins with registration and admission to educational establishments, recognized in Quebec, that offer Natural Resource Management Studies (forest, wildlife).

(Task Force Report -- Phase A. January 30, 1992, p.18)

Quebec's recommendation No.5 refers to the Algonquins' reluctance to indiscriminately disseminate the details of their cultural and environmental research findings which they regard as privileged information. This reluctance is totally in keeping with aboriginal people's concern about their traditional knowledge in general. While native people are usually more than willing to share information, the question of who may impart knowledge to whom is never taken lightly, and retaining control over their knowledge is always an important consideration.

Mary Simon, President of the Inuit Circumpolar Conference, gives us a good idea of just how many questions and challenges remain after the acknowledgement of the value of traditional knowledge.

What exactly is traditional knowledge?

How can it be made available outside of the oral tradition of indigenous peoples?

How can indigenous peoples be assured control of their knowledge?

and very importantly,

Is it itself a "sustainable" resource, or is it, like the environment around us, deteriorating under the assault from often overwhelming external social and cultural forces?

....  
It must also be fully accepted that this knowledge base is the intellectual property of indigenous peoples and not, as have their lands, a resource to be exploited. Non-indigenous institutions, agencies or governments

becoming involved in this process must come to it from a position based on support and respect, not appropriation.

....

....The mentality that underlies any initiative however, must not be driven by a simple desire to "salvage" a disappearing knowledge base. Rather it must be driven by an understanding why traditional knowledge is important in a modern context. (Simon 1991:1f)

Quebec's recommendation No.6 shows in all clarity, that with regard to knowledge in the field of resource management Quebec envisaged a one-directional flow of education: the Algonquins should familiarize themselves with government-sanctioned scientific resource management techniques. After discussion with the other parties, however, this recommendation was redrafted:

It is recommended that education and knowledge be transferred between the non-native and native communities. Measures should be taken to assist the Algonquins with registration and admission to educational establishments, recognized in Quebec, that offer Natural Resource Management Studies. Measures should be taken to sensitize forestry technicians and other natural resource government personnel to the customs and traditions of the Algonquins of Barriere Lake. The forestry and natural resource personnel should respect and be given an opportunity to learn from the traditional knowledge of the Algonquins of Barriere Lake.

Such two-directional flow of knowledge may be considered the hallmark of successful co-management. It is being realized in selected wildlife co-management regimes in the North, but is a difficult goal to achieve even under optimum conditions. In Quebec optimum conditions have been slow in coming, and preconceived ideas are deeply ingrained on both sides. To the Algonquins, who have come to view provincial forestry practices only under the aspect of wood extraction, the idea that cutting can actually create habitat, is a "hard sell", as Bruce Byford, forestry consultant for the Algonquins, puts it (Verbatim Transcript of Quebec Government Representatives and the ABL Meeting, October 05, 1992, p.68). On

the other side, in the worst case, company officials (or their lawyers) react with amused incredulity to "a religious site right on top of the highway" (!) (ibid.), and even Algonquin-appointed members of the Task Force concede that "some things are very hard to believe." (Peter Higgelke, September 03, 1993, personal communication).

The Quebec Special Representative, while fully committed to accommodating Algonquin interests as a matter of social justice, does not see any intrinsic value in the Algonquins' potential contribution to resource management. In his opinion the cooperative process will undoubtedly result in different forest management, but not in better forest management. He views the cooperative initiative as a matter of bringing a "new technical dimension" to the context of forest management in order to address aboriginal concerns (Andre Lafond, September 03, 1993, personal communication).

With regard to "mutual education" and sharing of knowledge, it must be borne in mind, that the Agreement is just over two years old and has only been functioning in a satisfactory manner for several months. What is important, is the fact that findings based on Algonquin knowledge and perception are integrated in the decision-making process. And furthermore, as Task Force member Peter Higgelke reports, while the mutual integration of forestry science and Algonquin knowledge does have its problems, "it is happening." (September 03, 1993, personal communication) Before it could even start happening, a basic pre-condition had to be fulfilled: an element of trust and mutual respect had to be created.

Taking stock after two years, we can conclude that the Agreement has accomplished much, notwithstanding its extremely unpromising beginnings. Due to numerous delays, some schedules and deadlines needed to be modified, but nevertheless, an impressive

amount of work has been completed in terms of data collection, analysis of existing information, literature searches, mapping etc. A major task being tackled at present is the processing of this information for computer files. An effective interim management regime for the Agreement territory is being implemented which allows the Algonquins protection of their resources, and in this respect, for the time being, a share in resource-related rights and responsibilities. Furthermore, mutual respect if not mutual integration of traditional and scientific knowledge is being realized, and findings based on traditional Algonquin knowledge and perception are considered in technical decision-making.

A question which comes naturally, is, whether with the wisdom of hindsight, the Algonquins could and would have negotiated the Agreement differently. The answer is almost certainly, "No". While the Algonquins would have preferred stronger language and more specific wording in some instances, the signed Agreement is a measure of how far Quebec was prepared to go.

### 7.3 Towards an Integrated Resource Management Plan

The lessons learnt by all parties to the Trilateral Agreement through its implementation will be crucial for the time after the Agreement. The Algonquins appear to be succeeding in creating a climate and certain groundrules for the joint management of renewable resources. In 1994 the Algonquins and Quebec will have to focus much of their effort on Phase Two of the Agreement, the preparation of an integrated resource management plan for the Agreement territory, which, according to a new schedule, must be completed by December 1994. Recommendations for its implementation are to be developed during the first quarter of 1995 (Phase Three of the Agreement).

According to Garry Merkel, a Tahltan Indian and registered forester, the key ingredients to implementing a successful integrated resource management regime are the following:

- \* a well developed shared land ethic that is understanding and respectful of all components of the land;
- \* a global or holistic view of the land and the resources which sees people as a minor, but equal component of the whole;
- \* minimal predetermined resource biases that cause one component of the land to be developed and managed at the expense of others;
- \* integration of land management and community development processes;
- \* an effective community participation process that fosters a strong sense of community ownership and involvement;
- \* assistance from experts (internal or external) who can effectively guide the community process, and who have proven experience to facilitate the overall process of developing and implementing an integrated resource management plan; and
- \* a strategically focused inventory that doesn't keep "secrets" for social and political reasons.  
(Merkel 1992:1)

Many of these elements are present in the process which is currently taking place in the Agreement territory, and some are also found in a draft table of contents of the Integrated Resource Management Plan which is being prepared. It is also apparent, however, just how drastic a departure from the status quo of provincial resource management practice will be required to implement successful integrated resource management, particularly when it comes to the issue of "minimal predetermined resource biases" or "integration of land management and community development processes".

The future of the Algonquins of Barriere Lake and their landbase hinges upon the successful implementation of the integrated resource management plan. While all parties involved are currently learning valuable lessons in cooperation, the environment in which the integrated resource management plan will have to be implemented, will be quite different from the one in which the Algonquins, industry and Quebec are operating at present. We have seen that, at long last, the Agreement has created a special interim management regime, which successfully acts as a buffer to the "assaults" of prevailing resource exploitation practices. Moreover, the cooperation which is happening right now, is a cooperation in resource use rather than in resource management, but it is a vital first step.

Once the Trilateral Agreement expires, the Algonquins will again have to deal directly with MFO and MLCP, and whereas the Agreement has -- out of necessity -- primarily addressed itself to forestry issues, numerous other players will be entering the game when integrated resource management is put into practice. There seems to be some willingness within the forest industry to discuss alternative management approaches, although the definition of basic parameters will undoubtedly cause some headaches...

The current sectorial approach to managing resources (wildlife, forest, water, recreation, etc.), which is undertaken in parallel to relationships with the native people, should be revised in order to integrate from the outset the development of objectives for resource management. The integrated management of resources may seem to be an excellent way of taking into account native concerns regarding the development of forests.  
(QFIA 1992:17)

...the members of the QFIA find that one must envisage the recognition of an original structure regarding the sharing of jurisdiction that would respect the aspirations of native communities. The QFIA cannot insist enough on the necessity that such formula respect the order that is rooted on the fundamental values of our civilization, whilst avoiding any negation of the right to be different. (QFIA 1992:27)

W.G. Goodfellow, Vice-President of Canadian Pacific Forest Products Ltd. in Gatineau, agrees that aboriginal people deserve more consideration in forestry development. He views recent developments in the Agreement's implementation in a positive light, and CP Forest Products is currently cooperating with the Algonquins in the development of a GIS (Geographical Information System) database. But Goodfellow also emphasizes, that his company feels the strain of having to accommodate MFO as well as the Trilateral Agreement, and that, as a whole, the Agreement is much more restrictive than, for example, CP's consultation process with the Attikamek-Montagnais Council (CAM). The major difference seems to be that the Attikamek-Montagnais are more prepared than the Algonquins of Barriere Lake to cooperate with the forest industry on the industry's terms; they are extensively engaged in silvicultural contract work. Goodfellow feels, that aboriginal people have to become "more involved, have to become part of the answer." The Algonquins would totally agree with this statement, but they want to become involved, want to become part of the solution on their own terms.

Much will depend on whether Quebec will eventually be prepared to participate in something akin to co-management of natural resources, regardless whether it will be called by that name or not. The Algonquins are unlikely to relinquish their voice in determining the fate of their land and its resources. Garry Merkel offers some interesting thoughts on the relationship between integrated resource management and joint management by aboriginal groups and the government.

Using the community to develop, implement and monitor the plan, requires substantial work to institute the organizational, technical and enforcement capacity in the community. For native communities, this process has most of the elements that will be required when entering into a joint management agreement or assuming the responsibilities flowing from a comprehensive land claims settlement. The advantage of building internal organizational and management ability before assuming these responsibilities, is that it will minimize social

conflict and accompanying resource abuse that will predictably happen.

Many native interests hold the position that entering into an integrated resource management process, especially under a joint management agreement with the government, will jeopardize, compromise or otherwise prejudice their outstanding aboriginal land claim. This position of fear has been proven groundless myth in countless cases, if the community is in control of the process from the beginning.

The community gains a strong sense of purpose, accomplishment and togetherness, and also builds its own organizational, technical and enforcement capacity to plan and manage lands. Rather than being weakened, the community gains tangible control and benefits which strengthens and empowers. Outside interests are also much more willing to negotiate serious long term land control with one who has the proven ability to care for the land and its resources for all people.  
(Merkel 1992:2)

The transition time between the expiry of the special management regime under the Trilateral Agreement and the implementation of an integrated renewable resource management plan will be a crucial phase. It can only be hoped that it will not be marred by a replay of the first two implementation years of the Barriere Lake Trilateral Agreement.

#### 8. Outlook: A Blueprint for Co-Operative Sustainable Development?

The Barriere Lake Trilateral Agreement constitutes a unique and innovative project in the field of resource management. David Nahwegahbow, legal counsel and Acting Special Representative for the Algonquins of Barriere Lake, lists some of the features, which in his view, make the Agreement unique:

- development of a database
- the education process
- the provision of funds
- binding decision-making power



- the overall comprehensiveness of the approach and the conservation strategy
  - the size of the Agreement area, 1 million hectares.
- (Personal communication, September 03, 1993)

Not infrequently, co-management regimes are embarked upon without the funds, database, collective political will and "vision", that are such vital ingredients to make a regime work. This is particularly the case for some initiatives that take place outside the claims process, and are motivated by a crisis or government policy. In contrast, the Trilateral Agreement provides for the time, the funding and the organizational infrastructure to create a database, a plan and a "mindset" among all participants, to make a future partnership in resource management work. Furthermore, the Agreement creates an interim management regime which freezes further deterioration of the resource base. The latter has proven to be an absolutely indispensable pre-condition for success of the endeavour, since it not only protects the resource base but keeps the political will of the aboriginal partners to the Agreement alive.

Is the Barriere Lake Trilateral Agreement a model for co-operative sustainable development, which can work in other parts of Canada (or the world)? The answer may be a tentative "Yes, but with qualifications".

The Algonquins and their Special Representative view the Agreement as a "trail-blazer in that it puts the doctrine of sustainable development into practice" and as a crucial pilot project applicable in other parts of Canada, as "a model of co-management and reconciliation...and of the practical realization of self-government" (Clifford Lincoln, ABL Submission to RCAP, Maniwaki, December 02, 1992).

Quebec's Special Representative on the other hand, feels that the project is too specific to happen again under different circumstances, but that rather, conclusions drawn from this process will be integrated in province-wide policies pertaining to forests and wildlife (Andre Lafond, September 03, 1993, personal communication).

The truth may lie somewhere in-between. It is true that many of the circumstances pertaining to the Trilateral Agreement are quite unique. This applies particularly to the "human dimension" which gave the Agreement life. The Algonquins of Barriere Lake are a relatively small and homogeneous community who are blessed with not only continuous (hereditary chief rather than Indian Act system) but strong leadership. Community dissension and discontinuous or indecisive leadership were never an issue, even in the face of overwhelming odds. Sadly enough, this condition does not lend itself to generalization. Furthermore, the Algonquins have been able to attract an unusual assortment of talented and committed team-members and allies of widely varying background, to serve as their Special Representative, legal counsel, political advisor, Task Force members and in other functions. All of them work well with several very resourceful and powerful individuals from the Algonquin community itself. Like the Algonquin leadership and key personnel, these people, too, all persisted throughout the ups and downs of the Agreement.

While these circumstances are unique and not necessarily replicable, it must be emphasized that the Barriere Lake Trilateral Agreement has many inherent characteristics that suggest its applicability under widely varying circumstances. Most importantly, it is a well thought-out and politically non-threatening approach to co-operative sustainable development. Nowadays, most governments recognize this avenue as politically correct and economically and environmentally feasible, as

illustrated by Manitoba's 1993 Action Plan for Northern Manitoba's Sustainable Economic Development.

Eventually the Agreement will be judged in the light of its long-term accomplishments. Prior to 1995 nobody will know whether its goal of cooperative sustainable development will be realized. Quebec and Canada have a unique opportunity here to deal fairly with an aboriginal community which has only come under the fatal spell of resource depletion, overall loss of control and accompanying social ills in relatively recent times. Maybe, for once, this vicious cycle can be broken in the same generation where it began.

The vision of the Barriere Lake Trilateral Agreement must be allowed to become real, not only for the environment's sake, but for humanity's sake.

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## APPENDIX 1

**TRILATERAL AGREEMENT**

THIS AGREEMENT IS MADE BETWEEN:

The Algonquins of Barriere Lake (having an administrative office at Rapid Lake reserve), represented by their duly authorized Chief, Mr. Jean-Maurice Matchewan;

AND

The Gouvernement du Québec, represented by Mr. Christos Sirros, Minister for Native Affairs, and Mr. Gil Rémillard, Minister for Canadian Intergovernmental Affairs, Mr. Albert Côté, Minister of Forests and Mr. Gaston Blackburn, Minister of Recreation, Hunting and Fishing (hereinafter referred to as "Québec");

AND

The Government of Canada, represented by Ms Monique Landry, Minister of State for Indian Affairs and Northern Development (hereinafter referred to as "Canada").

WHEREAS the Brundtland report put forward the notion of sustainable development;

WHEREAS Québec and the Algonquins of Barriere Lake wish to ensure, on the territory currently used by the latter and included in Annex 1 and in Annex 2, the rational management of renewable resources in view of making possible, with a concern for conservation, their versatile utilization, and the pursuit of the traditional activities by the Algonquins of Barriere Lake;

WHEREAS Québec and the Algonquins of Barriere Lake wish to engage in the preparation of a draft integrated management plan for renewable resources (forests and wildlife) within the framework of a pilot project, in view of making sustainable development possible in the above-mentioned territory;

WHEREAS the experience gained as a result of this pilot project can be applied to other territories in Quebec;

WHEREAS Québec has already expressed the desire to work with the Algonquins of Barriere Lake in the preparation of this management plan;

WHEREAS Québec has taken certain measures making it possible to carry out this management plan;

WHEREAS Canada, having a special fiduciary responsibility towards the Algonquins of Barriere Lake, wishes to support them in this undertaking;

WHEREAS the Algonquins of Barriere Lake and Hydro-Québec are examining the possibility of studying the impacts of the operation of the Baskatong, Cabonga and Dozois reservoirs;

THEREFORE THE PARTIES AGREE TO THE FOLLOWING:

1. The parties within their respective jurisdictions, agree to initiate a trilateral process in view of enabling Québec and the Algonquins of Barriere Lake to prepare a draft integrated management plan for renewable resources (forests and wildlife) with regard to the territory included in Annex 2 and to propose means to carry out the plan. The plan will be prepared with the objective of sustainable development.
2. Within the framework of the trilateral process, the following is to be carried out:

Phase one: the analysis of existing data and, when required for the completing of information, the inventory of renewable natural resources (forests and wildlife) within the perimeter of the territory included in Annex 2 of the present agreement, a study of their utilization, potential and the impacts and the interaction of activities related to their exploitation and development;

The works contemplated by phase one will be done in two stages:

- a) with respect to that part of the study area covered by vertical lines in Annex 2 of the present Agreement (study area A), the works will commence immediately; and
- b) with respect to that part of the study area covered by diagonal lines in Annex 2 of the present Agreement (study area B), the works will commence within one year from the date this agreement comes into force.

However, the parties agree that the Algonquins of Barriere Lake may propose the exchange of any part or parts of the territory within study area A for any part or parts of the territory of equal size within study area B.

Phase two: the preparation, with regard to the territory included in Annex 2, of a draft integrated management plan for renewable resources as defined in section 1, for the purpose of making their sustainable development possible.

The special representatives may, proceeding from the draft integrated management plan, put forward management principles that could apply on the territory viewed by Annex 1.

Phase three: the formulation of recommendations for the carrying out of the draft plan prepared by Québec and the Algonquins of Barriere Lake during phase two; these recommendations may aim at modifying, in the territory included in Annex 2, management and exploitation methods, administrative and contractual adjustments and amendments to regulations or laws.

The special representatives may, proceeding from the draft integrated management plan, put forward management principles that could apply on the territory viewed by Annex 1.

3. In the framework of the trilateral process, each party assumes its own representation costs.

Common costs of organization (offices, secretary, etc.) are shared in equal parts by the parties.

The costs of expertise and professional services are shared in equal parts by Québec and the Algonquins of Barriere Lake.

At the request of the Algonquins of Barriere Lake, Canada agrees to pay for all costs incurred by the Algonquins of Barriere Lake.

Québec and Canada agree to reimburse the Algonquins of Barriere Lake, up to an amount of 338,000 \$, costs related to the subject of the present Agreement incurred by them prior to the signing of this agreement. The Algonquins of Barriere Lake recognize having already received to that effect an amount of 55,000 \$ by Québec and an amount of 182,000 \$ by Canada. The reimbursement of the remaining amount, that is 101,000 \$, shall be made in equal shares by Québec and Canada within 30 days of the signing of this Agreement by all parties, on submission of invoices.

4. Each of the parties will appoint a special representative mandated to represent them within the framework of the trilateral process. The parties guarantee that their respective representatives will have sufficient authority to make decisions and to apply the provisions of the present Agreement in accordance with the sharing of responsibilities provided for in section 6. The parties agree to appoint their representatives within the three days following the signing of this agreement.

5. The special representatives of Québec and of the Algonquins of Barriere Lake will supervise the work of the task force appointed to identify, within the perimeter of the territory specified in article 2, measures to harmonize the conduct of forestry activities with the traditional activities of the Algonquins of Barriere Lake, as well as the sensitive zones which should be protected more especially in a provisional manner. The special representatives when deemed possible, obvious and necessary may extend outside of the latter one or some sensitive zones identified within the study area specified in article 2. This is the task force that was mentioned in the letter of August 27, 1990, addressed to Mr. Jean-Maurice Matchewan by Messrs. Albert Côté and John Ciaccia and it will include the members to be identified by the Algonquins of Barriere Lake.

The special representatives shall forthwith upon being appointed develop detailed terms of reference for the task force.

The task force will make a report by <sup>November 30</sup> ~~August 15~~, 1991 to the special representatives containing recommendations for the provisional protection (up to the end of the process) of the sensitive zones and the territory so as to minimize the impact of forestry activities on the traditional activities of the Algonquins of Barriere Lake.

*[Handwritten signature]*  
                      
                    

6. a) The special representatives appointed, pursuant to section 4, by the three parties must:

1) supervise the trilateral process and ensure that it functions efficiently;



- 2) guarantee constant liaison and cooperation between them and the technical personnel, the political representatives and the senior officials;
- 3) develop a practical process and a work plan to make the trilateral process work;
- 4) identify the financial requirements for the smooth functioning of the trilateral process.

b) The special representatives of Québec and of the Algonquins of Barriere Lake must:

- 1) identify the studies and inventories that are required to be made;
- 2) identify requirements in expertise and professional services;
- 3) develop detailed terms of reference for, and supervise the work of, the task force contemplated in section 5;
- 4) formulate a draft integrated management plan and recommendations for the carrying out of the plan as required in section 2; and
- 5) formulate recommendations to Québec and to the Algonquins of Barriere Lake concerning the follow-up required on the report submitted by the task force contemplated in section 5.

7. The decisions related to the works contemplated in section 6 a) of this Agreement are reached by consensus of the special representatives of the three parties.

The decisions related to the works contemplated in section 6 b) of this Agreement are reached by consensus of the special representatives of Québec and the Algonquins of Barriere Lake.

Both Québec and the Algonquins of Barriere Lake agree to examine seriously the recommendations contemplated in paragraphs 4 and 5 of section 6 b) that will be submitted to them by the special representatives and to negotiate an agreement on the carrying out of the recommendations retained.

8. The work calendar for the special representatives is as follows:

- at the latest on <sup>November 30</sup> ~~August 15~~, 1991:  
 submission of the report of the task force mentioned in section 5 regarding the provisional measures in the sensitive zones and the territory;
- at the latest on <sup>December 15</sup> ~~September 1st~~, 1991:  
 recommendations by the special representatives of Québec and the Algonquins of Barriere Lake regarding follow-up on the task force report;
- Spring of 1994:  
 tabling of a draft integrated management plan for renewable resources;

*[Handwritten signatures and initials]*  
 V. 2  
 J. Vallée  
 C.S.  
 J. St. Pierre  
 A. X. 2  
 C.S.

- Autumn of 1994:

recommendations by the special representatives of Québec and the Algonquins of Barriere Lake regarding the carrying out of the draft integrated management plan for renewable resources.

beginning of negotiations between Québec and Algonquins of Barriere Lake in view of an agreement on the carrying out of the recommendations retained.

9. Nothing in this Agreement or annexes prejudices the rights of each of the parties.

Nothing in this Agreement or annexes is to be interpreted as creating, recognising or denying rights under section 35 of the Constitution Act of 1982.

10. This Agreement is binding on the parties and shall be in force when signed by all the parties.

It will terminate on May 26, 1995.

ALGONQUINS OF BARRIERE LAKE

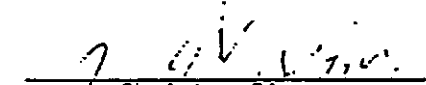
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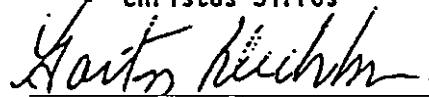
  
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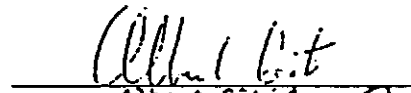
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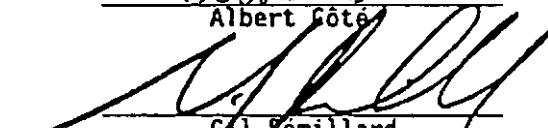
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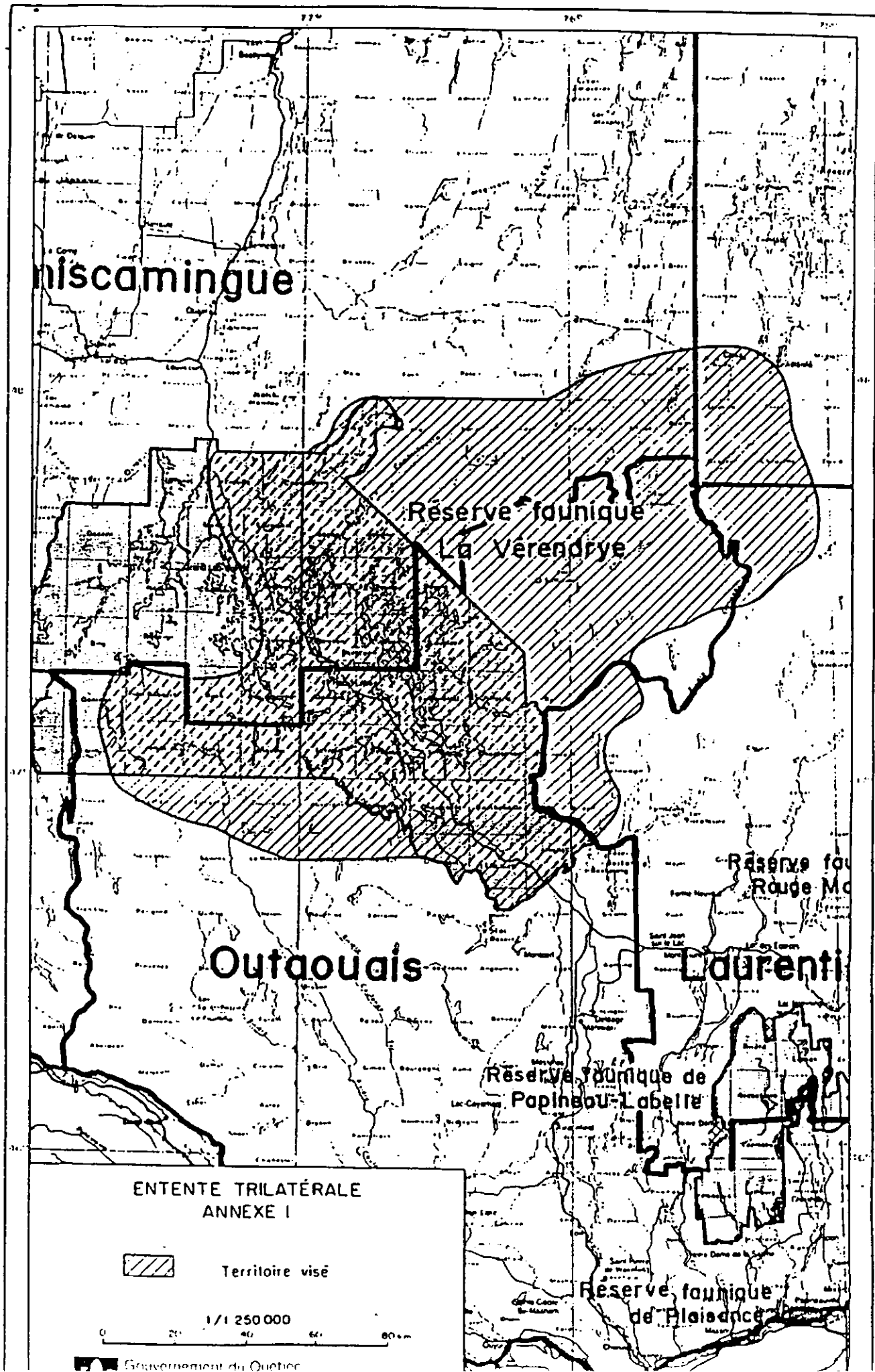
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Monique Landry

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Miscamingue

Réservé faunique  
La Vérendrye

Outaouais

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Réservé faunique de  
Papineau-Labelle

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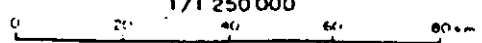
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ENTENTE TRILATÉRALE  
ANNEXE I

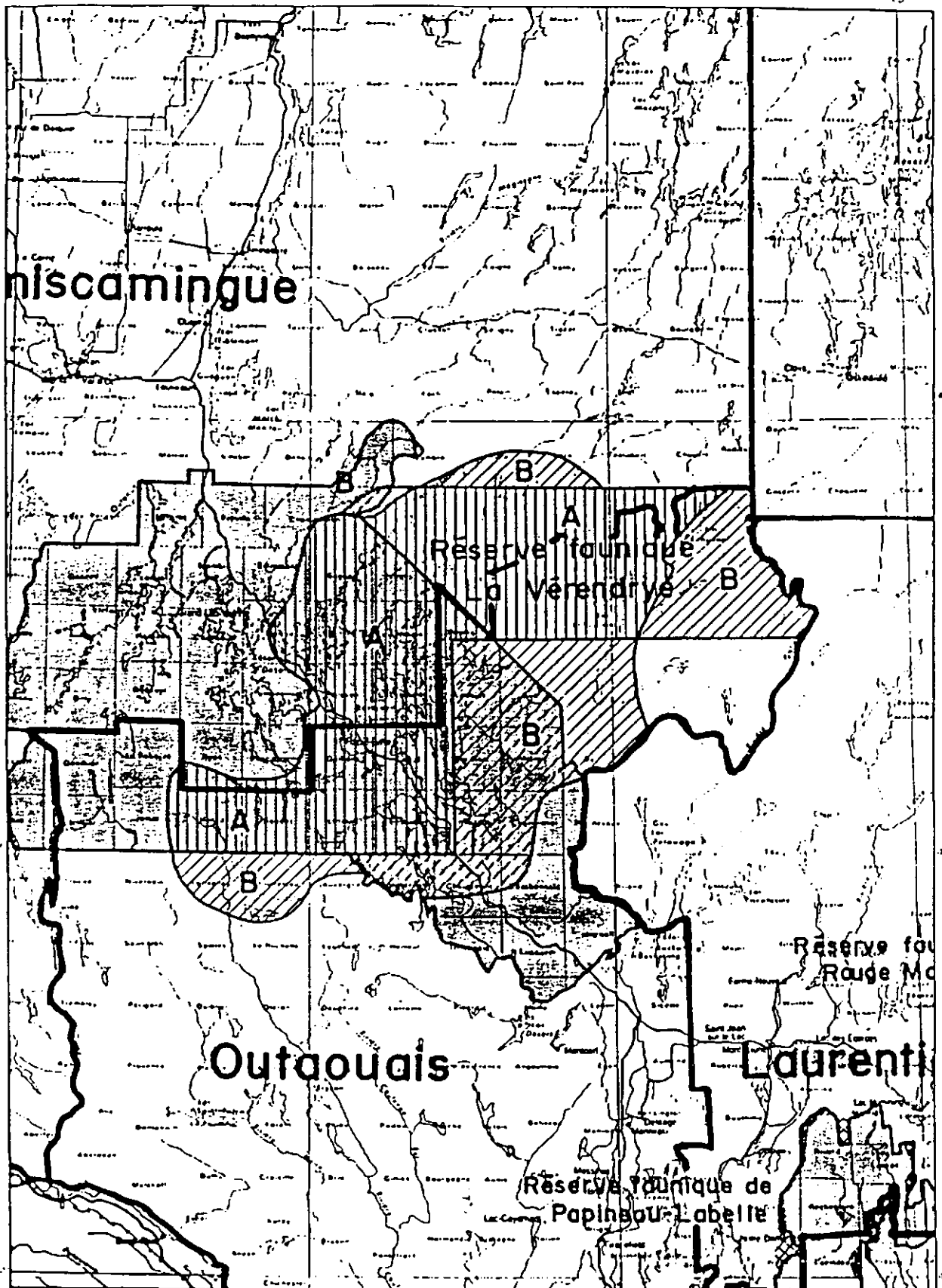


Territoire visé

1/1 250 000



Bas-Canadien



Outaouais

Laurentides

Réserve faunique de Popinac-Labelle

Réserve faunique de Fleisance

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ANNEXE 2

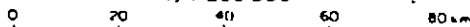


Région d'étude "A"



Région d'étude "B"

1/1 250 000





## **Algonquins of Barriere Lake**

RAPID LAKE INDIAN RESERVE, QUEBEC J0W 2C0

Tel: 0-(819) 824-1734

### **DECLARATION AND PETITION**

**SINCE TIME IMMEMORIAL**, we have used and occupied our lands for the pursuit of traditional activities, managing the lands and resources, as part of our way of life, on the basis of conservation and harmony with Mother Earth;

**IMPACTS** from flooding, logging and wildlife depletion, in the last 100 years have devastated the lands and resources and disrupted our traditional way of life;

**DETERMINED** to overcome these impacts; to maintain our traditional way of life and to improve the management of the lands and resources for the benefit of all, we encouraged the Governments of Canada and Quebec to cooperate in a partnership with us in developing a conservation strategy based on the principles of sustainable development as expressed in the Report of the U.N. Committee on Environment and Development (Brundtland Report);

**IN GOOD FAITH**, we signed the Trilateral Agreement with Canada and Quebec on August 22, 1991;

**AS EXPRESSED** in the Trilateral Agreement, its purpose is to ensure, on the territory currently used by us and included in Annex 1 and Annex 2 of the Agreement, the rational management of renewable resources in view of making possible, with a concern for conservation, their versatile utilization, and the pursuit of our traditional activities;

**IN A PARTNERSHIP** of the signatories, the Trilateral Agreement establishes a trilateral process involving studies and inventories (phase one); planning (phase two); and recommendations (phase three), which is to result in the production and implementation of an Integrated Resource Management Plan in 1994;

**IN THE INTERIM**, prior to the completion of the Integrated Resource Management Plan, so as to minimize the impact of forestry activities on our traditional activities, the Trilateral Agreement provides for the identification of measures to harmonize the conduct of forestry activities with our traditional activities, as well as sensitive zones which should be protected more especially in a provisional manner;

SINCE THE INCEPTION of the trilateral process, difficulties in the application of the Trilateral Agreement have occurred as a result of:

- the refusal by the Quebec Government, as represented by the Ministry of Forests, to implement the provisional measures, particularly measures to harmonize;
- the insistence by the Quebec Government that the Forest Act, regulations and forestry contracts (CAAF's) prevail over the Trilateral Agreement;
- the refusal by the Quebec Government, as represented by the Ministry of Forests, to grant sufficient authority to, and accept the decisions of, its Special Representative as required by the Agreement; and
- the withholding by the Governments of Canada and Quebec of sufficient financial resources to make the process work;

IN AN EFFORT to resolve the difficulties, Mr. Justice Rejean Paul, of the Quebec Superior Court, was appointed as Mediator, on August 12, 1992;

MR. JUSTICE PAUL WAS UNABLE TO RESOLVE the difficulties and issued a Report of his findings and recommendations, dated September 14, 1992;

THE MEDIATOR'S REPORT confirmed that as of September 1992 "the said funding tap (both federal and provincial) has been shut" and that the source of the difficulties in the application of the Trilateral Agreement arises from the integral non-respect of the Agreement;

THE MEDIATORS REPORT concluded that the Trilateral Agreement is a treaty or a solemn agreement that is binding upon the parties and takes precedence over Quebec's forestry laws and forestry contracts;

THE MEDIATOR'S REPORT further stated that "this project is of capital importance for the future harmonious development of the forest industry in La Verendrye Park, and elsewhere in Quebec. Dr. Lafond (Quebec's Special Representative) sees in it a marvellous test for the intelligent management of a forest";

FURTHER EFFORTS have been made by Mr. Justice Paul since the issuance of his Report, to resolve the difficulties in relation to an impending conflict over the logging operations of Mr. Claude Berard, which resulted in the development of a cutting plan by Quebec's Special Representative, Dr. Lafond ("Lafond Plan");

IN THE SPIRIT OF COMPROMISE, we accepted the Lafond Plan as part of a six point compromise proposal put forward by Mr. Justice Paul on September 25, 1992;

**REGRETTABLY**, Mr. Berard rejected the Lafond Plan and the Quebec Ministry of Forests has failed to honour the compromise put forward by Mr. Justice Paul by refusing to implement the Lafond Plan as intended and not remitting the financial resources indicated in the Judge's proposal;

**IN A FURTHER EFFORT** at resolution, Mr. Justice Paul proposed on October 8, 1992, a Quebec Summit to comprehensively address the difficulties of the trilateral process;

**IN THE SPIRIT OF COMPROMISE**, we accepted Mr. Justice Paul's proposal, but our understanding is that the proposal was not accepted by the Quebec Ministry of Forests;

**IN A PUBLIC STATEMENT**, reported on October 15, 1992, Quebec Native Affairs Minister, Christos Sirros, questioned our intentions and accused us of bad faith in our dealings with the Trilateral Agreement;

**IN ACTIONS WHICH HAVE THE POTENTIAL TO INCITE** the population of the Region against us, the Quebec Ministry of Forests has unfairly created an adversarial situation with the forestry companies and forestry workers at a time when the economy of the Region is being hard hit by the recession;

**CONSISTENTLY**, we have expressed the position that we are not opposed to development including forestry activities;

**DEMONSTRATING** our commitment to this position, we have allowed and facilitated, in previous years, the forestry operations of Mr. Berard and we demonstrated our commitment again this year by acceptance of the Lafond Plan;

**IN THE CIRCUMSTANCES**, so as to remove any doubt as to our intentions, it has become necessary for us to declare our position on the matter of the Trilateral Agreement;

**THEREFORE, WE DO HEREBY SOLEMNLY DECLARE AS FOLLOWS:**

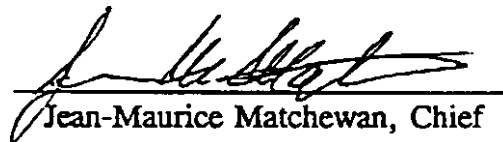
1. **WE REAFFIRM** our total and complete commitment to the Trilateral Agreement.
2. **WE ENDORSE FULLY** the Report of the Mediator, Honourable Rejean Paul, J.S.C.
3. **WE EXPRESS OUR UNDERSTANDING AND SUPPORT** of the economic needs of the people in the Abitibi-Outaouais Region, particularly those who are unemployed and in need of jobs, and encourage efforts to improve this situation, provided the efforts do not jeopardize our own subsistence economy and cause irreparable harm to the environment and our traditional way of life.

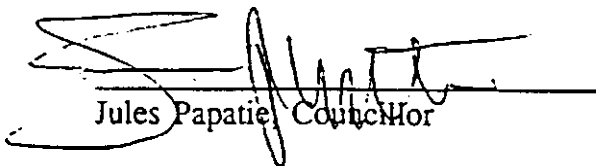
4. WE REAFFIRM OUR POSITION that we are not opposed to forestry activities provided they are carried out in accordance with the Trilateral Agreement in a manner consistent with the principles of conservation, sustainable development and the continued pursuit of our traditional activities.
5. WE REAFFIRM OUR FAITH in the ability to reconcile our economic needs and traditional way of life with the economic needs of the Region, particularly the need for jobs in the forest sector, through the process of reconciliation and harmonization established in the Trilateral Agreement.

**FURTHERMORE, WE DO HEREBY URGE AND PETITION THE GOVERNMENTS OF CANADA AND QUEBEC:**

1. TO ADOPT AND IMPLEMENT the Report of the Mediator.
2. TO ACT IN GOOD FAITH in the fulfillment of their obligations under the Trilateral Agreement.
3. TO PROMOTE RECONCILIATION between our interests and those of the non-Native people in seeking to address the economic problems of the Region.
4. TO ACCEPT the Trilateral Agreement as a partnership in the management of renewable resources of the territory.

DULY ADOPTED BY THE CHIEF AND COUNCIL this 26 day of November 1992.

  
Jean-Maurice Matchewan, Chief

  
Jules Papatie, Councillor

  
Jean Paul Ratt, Councillor

**RATIFIED AND CONFIRMED BY THE MEMBERS.**