

ABORIGINAL COMMUNITY CONSULTATION POLICY SPECIFIC TO THE MINING SECTOR



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INTRODUCTION

The government of Québec (hereinafter “Québec”) is committed to sustainably developing mineral resources. The Mining Act, for its part, ensures mineral development respects the environment and promotes development of the mineral resources associated with Québec communities and integrated into their environment.

Aboriginal communities have clearly manifested their interest in actively participating in mining development and in benefitting from the economic spinoffs of mining activities.¹ They would like to ensure that mining projects are carried out in a manner that respects their rights and interests. This is why Québec pays special attention to the Aboriginal aspect of mining activities to promote the participation of First Nations in mine development. The Mining Act dedicates a chapter to this end, which includes the following sections:

2.1 *This Act must be construed in a manner consistent with the obligation to consult Native communities. The Government shall consult Native communities separately if the circumstances so warrant.*

2.2 *Taking into account the rights and interests of Native communities is an integral part of reconciling mining activities with other possible uses of the territory.*

2.3 *The Minister draws up, makes public and keeps up to date a Native community consultation policy specific to the mining sector.*

These provisions aim to meet the expectations expressed by Aboriginal communities with regard to the challenges that are unique to developing mineral resources, as well as the challenges present in the mining industry, which has expressed the desire to clarify applicable consultation processes to understand their role with regard to Aboriginal communities and to promote the social acceptability of mining projects. It is with this in mind that the Aboriginal Communities Consultation Policy Specific to the Mining Sector (hereafter the “Policy”) has been developed.

The Policy is consistent with the respect of Québec’s obligations regarding Aboriginal consultation.

¹ Mining activities include the exploration, appraisal, development, and rehabilitation phases of a mining project for any mineral substance in the domain of the State (mines, quarries and sandpits).

Constitutional duty incumbent upon Québec

The duty to consult, and also in some cases, to accommodate,² aims not only to conciliate Aboriginal interests with those of the society in general, but also to protect Canadian Aboriginal and Treaty rights as recognized under section 35 of the Constitution Act, 1982.

The courts³ insist that governments respect the Honour of the Crown doctrine at the root of their duty to consult and accommodate.

This Policy also reflects Québec’s desire to be open and transparent with Aboriginal communities in the development of mineral resources.

Beyond the constitutional duty to consult

This Policy emphasizes the proponent’s role and the importance of exchanging information through good faith and mutual respect, and of developing and maintaining harmonious relations between the various parties, so that each party can benefit from the maximum positive spinoffs and minimum negative impacts associated with mining activities.

- » This approach is based mainly on non-coercive measures, which aim to strengthen relations between Aboriginal communities and mining developers operating in Québec.
- » The effectiveness of this approach lies in the willingness of all parties to respect the spirit behind it and work together.

This Policy sets out the guidelines for consulting Aboriginal communities about exploration and mining activities.

² For readability purposes, wording referring to “the duty to consult and accommodate” will not specify «if applicable» each time. The Supreme Court of Canada recognized that circumstances do not always include a duty to accommodate (Haida Nation v. British Columbia [Minister of Forests], 3 S.C.R. 511).

³ Please refer to the rulings Haida Nation v. British Columbia (Minister of Forests), 3 S.C.R. 511, Rio Tinto Alcan v. Carrier Sekani Tribal Council, [2010] 2 S.C.R. 650, and Beckman v. Little Salmon/Carmacks First Nation, [2010] 3 S.C.R. 103.

OBJECTIVE

The purpose of this Policy is to:

- » Promote better consideration of the concerns expressed by Aboriginal communities with regard to mining activities;
- » Specify guidelines specific to the mining sector as part of the Aboriginal communities consultation process, in order to guide the parties concerned⁴ on the actions to be taken at each stage of a mining project;
- » Promote better coordination of government action in consultations specific to the mining sector;
- » Strengthen relations and promote dialogue between Québec, Aboriginal communities and proponents in the development of mineral resources.

SCOPE OF APPLICATION

This Policy is intended for ministries involved in the supervision of mining activities.⁵ Aboriginal communities⁶ whose rights and interests are likely to be affected by mining exploration and development as well as to the mining proponents involved (Appendix 1).

This Policy applies to all mining activities carried out during the mineral development process (Appendix 2). The carrying out of some of these activities requires the issuance by Québec of rights, permits and authorizations under the Mining Act. Various Québec laws may also require the issuance of other related rights, permits and authorizations.

Although the Policy applies to the entire territory of Québec, it does not replace the Treaties concluded between Québec, the Government of Canada, and Aboriginal communities (in particular the James Bay and Northern Québec Agreement and the Northeastern Québec Agreement). In cases where terms and conditions for Aboriginal consultation or participation in mineral resource development are provided for in a Treaty, such terms and conditions take precedence. If there is any inconsistency between the Policy and the Treaty, or if the Treaty's terms and conditions are broader in scope, the latter shall prevail.

When appropriate, it is also possible for the Government to conclude agreements with one or more Aboriginal communities, in order to agree on the terms and conditions applicable to consultation and accommodation requirements. Where such terms and conditions are specifically provided for in an agreement, they should be given priority. Similarly, if the Policy is inconsistent with the provisions of the agreement or if the agreement covers a broader scope, the agreement shall prevail.

The Policy does not in any way define, recognize or deny Aboriginal or Treaty rights.

⁴ Parties include Québec, Aboriginal communities affected by the mining project and proponents.

⁵ These ministries include more specifically the Ministère de l'Énergie et des Ressources naturelles (MERN), the Ministère de l'Environnement et de la Lutte contre les changements climatiques (MELCC), and the Ministère des Forêts, de la Faune et des Parcs (MFFP).

⁶ The National Assembly of Québec recognized eleven Aboriginal Nations on the territory of Québec with the resolutions of March 20, 1985 and May 30, 1989. These Nations are divided into some 55 communities in the territory. See: http://www.autochtones.gouv.qc.ca/nations/cartes_communautes_en.htm.

PRINCIPLES

The following principles serve as guideposts for Québec when consulting with Aboriginal communities:

TRANSPARENCY

Make all relevant and available information relating to applications for rights, permits or authorizations required in connection with mining projects available to the Aboriginal communities concerned as early as possible in the decision-making process and throughout the consultation and accommodation process, while respecting the applicable legal framework.⁷

RESPECT

Demonstrate respect for Aboriginal cultures, the distinctive values that characterize them, and the habits and customs specific to members from each community of the eleven Aboriginal Nations of Québec.

FLEXIBILITY

Adapt to the specific realities of each Aboriginal community consulted, particularly in terms of information sharing and timelines, while taking into account the requirements of government management.

COOPERATION

Promote a climate of good communication, sound relations and constructive collaboration between Québec, Aboriginal communities, and proponents during the mineral development process.

INNOVATION

In implementing the Policy, draw inspiration from innovative consultation practices, explore new effective and dynamic communication mechanisms, seek new solutions to address community concerns, and improve ways of doing things.

⁷ The transmission of information is governed, in part, by the Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information, and by section 215 of the Mining Act.

ROLES AND RESPONSIBILITIES

Québec

- » In accordance with applicable case law, the duty to consult and accommodate Aboriginal communities with regard to mining activity is incumbent upon Québec.
- » Québec conducts and ensures the proper conduct of the consultation processes provided for in the Policy (Appendix 3).
- » Québec consults Aboriginal communities separately, when circumstances so require,⁸ when a mining activity requiring the issuance of a right, permit or authorization is likely to have an adverse effect on their established or claimed Aboriginal or Treaty rights.⁹
- » It is up to Québec to assess the credibility of the rights claims of Aboriginal communities.
- » Consultations are conducted in accordance with the terms and conditions set out in Québec's Policy on Aboriginal consultation and accommodation¹⁰ and this Policy.
- » Québec remains available to answer the various questions of Aboriginal communities or mining proponents and to discuss their concerns (Appendix 4).
- » Québec provides useful information to proponents, according to their needs, to guide them in their role with respect to Aboriginal communities in an effort to improve social acceptability.
- » Québec also ensures that Aboriginal communities have the necessary information to express their concerns about the proposed measure on their established or asserted Aboriginal or Treaty rights.

⁸ To simplify the text, wording will refer to "separate consultations" without specifying "when circumstances so require" each time. Please see the ruling *Beckman v. Little Salmon/Carmacks First Nation*, [2010] 3 S.C.R. 103.

⁹ Based on case law, Québec believes that a right assertion must be subject to a credibility assessment. This note will not appear each time the term "right claim" or "right assertion" is used in this document, even if it applies to each of these occurrences.

¹⁰ Interim Guide for Consulting the Aboriginal Communities (SAA, 2008). Updated in 2008, this document sets out the guidelines to help ministries fulfill, in their respective areas of activity, their duty to consult and accommodate Aboriginal people. See: https://www.autochtones.gouv.qc.ca/publications_documentation/publications/guide_inter_2008_en.pdf.

Aboriginal communities

Aboriginal communities are expected to collaborate and participate in the consultation processes initiated by Québec. This collaboration is also desired with respect to the communication and information initiatives undertaken by mining proponents.

Aboriginal communities are encouraged to express their concerns with precision and clarity about the potential adverse impact of the proposed mining activity on their established or claimed Aboriginal or Treaty rights.

They are encouraged, where appropriate, to propose accommodation measures aimed at eliminating or reducing the potential adverse effects of the proposed mining activity on their rights and to try to find solutions that are satisfactory to the parties concerned.

In addition, Aboriginal communities are invited to take advantage of the support offered by Québec¹¹ to familiarize themselves with the use of Québec's mining title management system (hereinafter referred to as "GESTIM") and thus monitor mining rights and activities, in an efficient and autonomous manner, on the portions of the territory identified by the community concerned¹² (Appendix 5).

Aboriginal communities are called upon to contact Québec to express their questions or concerns about mining projects (Appendix 4). They may also contact the mining proponent and share their concerns and comments regarding their mining projects. Where possible, mitigation measures could be voluntarily implemented by the mining proponent to this effect.

Mining proponents¹³

Although mining proponents are not subject to the obligation to consult and accommodate Aboriginal communities, they may be required to cooperate at certain stages of the process, where their presence is useful for the proper conduct of the consultation, including explaining certain more technical aspects of a mining project. However, the responsibility for consultation and accommodation is incumbent upon Québec.

Beyond the consultations held by Québec

In order to develop and maintain harmonious relationships with Aboriginal communities, mining proponents are encouraged to interact with them about their project throughout the mining project's development process (Appendix 2).

- » Mining proponents are strongly encouraged to approach Aboriginal communities as early as possible in the mining development process, so that they can identify the concerns and expectations of the affected Aboriginal communities early on and take them into account, where appropriate, in their project development.
- » They should commit to establishing and maintaining harmonious relationships with Aboriginal communities, and even strengthening these ties throughout the different phases of their mining projects.
- » Mining proponents should base their communication on the transparent exchange of information to foster mutual cooperation.
- » Discussions could focus on the various aspects of the mining project, including exploration and development planning, timelines, activity logistics, locations, project progress monitoring, business opportunities for the community concerned, activity impacts and possible mitigation measures.
- » Mining proponents are invited to familiarize themselves with the general Aboriginal context in Québec and the realities and particularities of the Aboriginal communities concerned. If necessary, they can contact Québec to obtain information on the communities concerned and their roles and responsibilities with respect to them (Appendix 4).

11 This service is offered by MERN through the following site: <https://gestim.mines.gouv.qc.ca>.

12 The term «Aboriginal community» is used in this document to simplify the text. Notwithstanding the use of this expression, Québec may, depending on the circumstances, communicate with more than one Aboriginal community or with an Aboriginal Nation represented by a duly mandated organization, all as part of the same consultation.

13 In general, see the Information for Developers and General Information Regarding Relations with Aboriginal Communities in Natural Resource Development Projects. This document provides general information and some practical advice for proponents wishing to establish relationships with Québec's Aboriginal communities in the context of mining projects, available at the following link: https://www.autochtones.gouv.qc.ca/publications_documentation/publications/2015-02-document-intention-promoteurs-en.pdf.

- » The proponent's approaches and those of Québec are often complementary, particularly with regard to taking into account the concerns of Aboriginal communities regarding the mining project. It is, therefore, highly desirable that the mining proponents inform Québec of the steps they are taking with the Aboriginal communities concerned and the mitigation measures selected, in order to facilitate, if necessary, the consultation conducted by Québec.
- » Although there is currently no legal obligation in Québec for a proponent to enter into an Impact and Benefit Agreement (hereinafter, "IBA") or any other type of agreement (Appendix 6) with an Aboriginal community in connection with a mining project, Québec supports the conclusion of these types of agreements¹⁴ where appropriate.

CONSULTATION PROCESS GUIDELINES

General

In addition to complying with the terms and conditions set out in Québec's Policy on Aboriginal consultation and accommodation, consultation processes for exploration and mining activities with First Nations must be implemented in accordance with the principles described in this Policy as well as the following consultation process guidelines:

- » The exchange of information between the parties¹⁵ begins as early as possible in the exploration phase of a mining project, and continues in a dynamic and continuous manner throughout the various stages of mineral development.
- » The ministries involved in mining activity supervision coordinate, to the extent possible, to ensure that applications for the rights, permits or authorizations required to carry out a mining activity are processed within the same consultation process. Thus, where appropriate, consultation can be conducted in concert.
- » Québec provides reasonable time to allow Aboriginal communities to express their concerns, while taking into account the imperatives related to managing the affairs of the State. These deadlines may vary depending on various factors, including the nature of the right, permit or authorization. If the community expresses difficulties in meeting the deadline, Québec could, if possible, agree with the community on an extension.
- » The accommodation measures adopted may be subject to certain requirements when the rights, permits and authorizations to be issued confer such discretion to Québec or when they may otherwise be implemented.
- » Consultation may have the effect of changing the scope of the mining project or mitigating its impacts following the implementation of accommodation measures by Québec or by the proponent. It could even lead, in exceptional circumstances, to the voluntary abandonment of the mining project by a proponent or, in certain cases, where the law so provides, to Québec's refusal to issue certain rights, permits or authorizations.

¹⁴ Québec's Mineral Strategy states: «The Government of Québec encourages mining companies and Aboriginal communities concerned by the development of a mining site to establish a dialogue with a view to possible negotiation of such agreements.» The document is available at the following link: https://mern.gouv.qc.ca/english/publications/mines/strategy/mineral_strategy.pdf.

¹⁵ These include Québec, the Aboriginal communities affected by the mining project and the proponent.

Specific

Mineral exploration activities

Given the large amount of information made available in real time, Québec invites Aboriginal communities to monitor mining activity in their area of interest through GESTIM, which provides tools to facilitate this monitoring (Appendix 5).

There is a wide range of possible exploration activities (Appendix 7). Related activities may require the issuance of rights, permits or authorizations under various Québec laws (Appendix 8).

The following sections describe the guidelines applicable to mineral claims and exploration activities, as well as other exploration activities that require, in addition, the issuance of rights, permits or authorizations in accordance with Québec law.

a) Claims and the exploration activities that may result from them

Québec makes available the information relating to claims¹⁶ that are registered and that have been the subject of a notice of designation on a map for all of Québec.

Québec offers, at the request of Aboriginal communities, training sessions on the use of GESTIM.

At the request of a community, Québec may also transmit electronic data files extracted from the «Register of Real and Immovable Mining Rights in Québec» in the territory of interest defined by the community.

Following the map designation of the claim, proponents are invited to contact Québec to be informed of the Aboriginal communities that may be concerned by the land in question.

Québec recommends that proponents inform concerned Aboriginal communities of obtaining the claim within 60 days of its registration.

In addition, proponents are invited to keep concerned Aboriginal communities informed of the exploration work they intend to carry out at least 30 days before work begins.

During the execution of its exploration work, the proponent is also invited to maintain a dialogue with Québec, which may offer support in the steps taken with the Aboriginal communities concerned.

Proponents are expected to respond to questions that may be raised by Aboriginal communities regarding their exploration activities and to take into consideration, where appropriate, their concerns about the proposed work.

The communication process chosen by proponents, if any, should aim to establish a cooperative relationship and promote the reconciliation of their interests with those of Aboriginal Nations and of Québec.

The scope of the project, the nature of the right, permit or authorization required to carry out their activities and the specific characteristics of the Aboriginal communities concerned should be considered in the approach advocated.

In the context of their exchanges with a community, proponents may consider various concerns expressed, particularly in relation to project location, timing or duration. For example, proponents could see to eliminating or minimizing the potential impacts of its activity on a gathering place or on the hunting, fishing, trapping or gathering activities of the Aboriginal community members concerned.

Once the mining project is at a more advanced stage of exploration, proponents may sign a memorandum of understanding (MOU) with the Aboriginal communities concerned in order to encourage their participation in the project's development. The MOU may vary depending on the scope and progress of the project (Appendix 6).

b) Exploration activities requiring the issuance of other rights, permits or authorizations by Québec

Québec consults the Aboriginal community concerned before issuing the other rights, permits or authorizations required for mineral exploration activities arising from a claim and their related activities, where they are likely to have an adverse impact on the community's established or claimed Aboriginal or Treaty rights.

Québec transmits to the Aboriginal community concerned the relevant and available information regarding the right, permit or authorization requested.

As the case may be, Québec may invite proponents to provide additional information on the proposed mining activity to the Aboriginal community concerned.

¹⁶ Section 64 of the Mining Act gives the holder of a claim an exclusive right to explore for mineral substances on the parcel of land subject to the claim.

This additional information may include, more specifically:

- » the nature of the proposed exploration activity
- » its location
- » the claims concerned
- » the target area
- » the desired mineral substance
- » the work period
- » the identification of the proponent or claim holder
- » their rights and obligations, if any.

Development projects not subject to the Environmental Impact Assessment and Review Procedure in southern Québec

Québec consults the Aboriginal community concerned before issuing rights, permits or authorizations for any mining project that is not subject to the Environmental Impact Assessment and Review Procedure (hereinafter referred to as “EIARP”) provided for in the Environment Quality Act and that is likely to have an adverse effect on its Aboriginal or Treaty rights, established or claimed.

These projects may include, in particular:

- » the establishment of a site for the development of surface mineral substances, such as a sand pit, quarry or peat bog
- » the establishment of a metal ore mine with a maximum extraction capacity of less than 2,000 metric tons per day
- » the establishment of any other mine with a maximum extraction capacity of less than 500 metric tons per day, with the exception of rare earths and uranium.

The consultation takes into account the general guidelines set out and is implemented as follows:

Québec transmits, by written notice to the Aboriginal community concerned, the most relevant, complete and available information possible on the mining project.

As the case may be, Québec may invite proponents to provide additional information on the proposed mining activity to the Aboriginal community concerned.

Depending on the nature of the project, this information may include:

- » identification of the proponent
- » the mineral substance to be mined and the expected extraction volume
- » the location of the various components of the project, the area of land required and the volume targeted
- » the planning of the work, the period for its execution and its duration
- » the infrastructure and facilities required, including their main characteristics and the various related works (road construction, deforestation, etc.)
- » the location of the final effluent or effluents
- » the rehabilitation and restoration plan, in the case of a mining lease
- » the rights and obligations of the potential holder of the rights, permits or authorizations, if any.

Beyond the applicable guidelines, proponents are encouraged to continue or even intensify their efforts with communities. Depending on the circumstances, their actions could lead to an IBA or other agreement (Appendix 6).

Notwithstanding the consultations held pursuant to Québec’s obligation, Aboriginal communities and their members may participate in the public consultation open to the entire population.

Public consultation

For projects requiring public consultations, the Mining Act stipulates that proponents have the obligation to notify the Aboriginal communities consulted by Québec.

If the Aboriginal community concerned participates in the public consultation, the proponent shall transcribe in its public consultation report the information concerning its participation and the concerns that the community has raised.

In addition, following the issuance of a mining lease, the proponent is required, under the Mining Act, to set up a monitoring committee to encourage the involvement of the local community throughout the project.

Monitoring committee

The monitoring committee must be composed, where applicable, of at least one representative of an Aboriginal community consulted by Québec with respect to the project.¹⁷

This committee remains in place until the work provided for in the rehabilitation and restoration plan is completed.

These obligations do not release Québec from its duty to consult and accommodate.

Development projects subject to the Environmental Impact Assessment and Review Procedure (EIARP)

Québec¹⁸ consults the Aboriginal community concerned for any mining project subject to the EIARP that is likely to have an adverse impact on its established or claimed Aboriginal or Treaty rights.

These projects include:

- » the establishment of a uranium or rare earth mine
- » the establishment of a mine with a maximum daily extraction capacity of 2,000 metric tons or more of any other metal ore
- » the establishment of any other mine with a maximum daily ore extraction capacity of 500 metric tons or more
- » any other project that Québec, on the recommendation of the Minister of the MELCC, has decided to subject to the EIARP.

At the end of the EIARP, these projects may be subject to an authorization issued by Québec. Other rights, permits or related authorizations required to carry out these projects may also be granted. They may include the establishment of the infrastructure necessary for the proposed operating activity, road construction, deforestation or other activities.

The consultation process is harmonized at the EIARP stages (Appendix 9) and aims at a comprehensive approach that takes into account all the rights, permits and authorizations required to carry out the project.

Beyond the applicable guidelines, proponents are encouraged to continue or even intensify their efforts with the communities. Depending on the circumstances, their actions could lead to an IBA or other agreement (Appendix 6).

Following the issuance of a mining lease, proponents also have an obligation, under the Mining Act, to set up a monitoring committee.

¹⁷ Depending on the circumstances, the monitoring committee could be composed of more than one Aboriginal community consulted by Québec regarding a mining project.

¹⁸ In this context, the consultation is coordinated by the Ministère de l'Environnement et de la Lutte contre les changements climatiques (MELCC).

Updates

The Mining Act provides for updates of the present Policy.

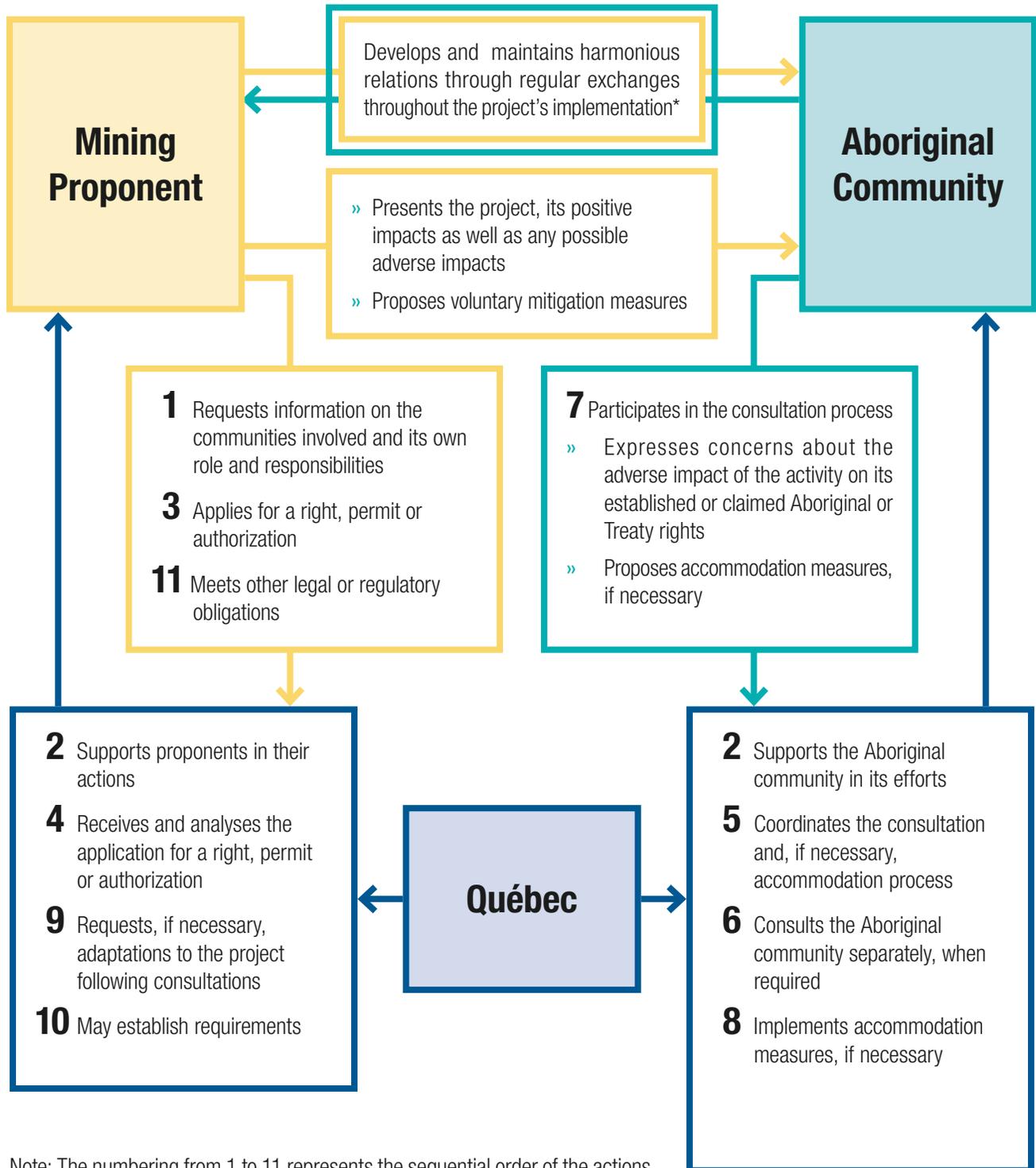
These updates may be appropriate following legislative amendments, changes in case law, the introduction by Québec of specific policies on related subjects or following improvements in consultation practices based on experience gained.

The Minister of Energy and Natural Resources is responsible for these Policy updates.

Possible amendments to the Policy will be subject to consultation with Aboriginal communities when required.

APPENDIX 1

Relationship Diagram

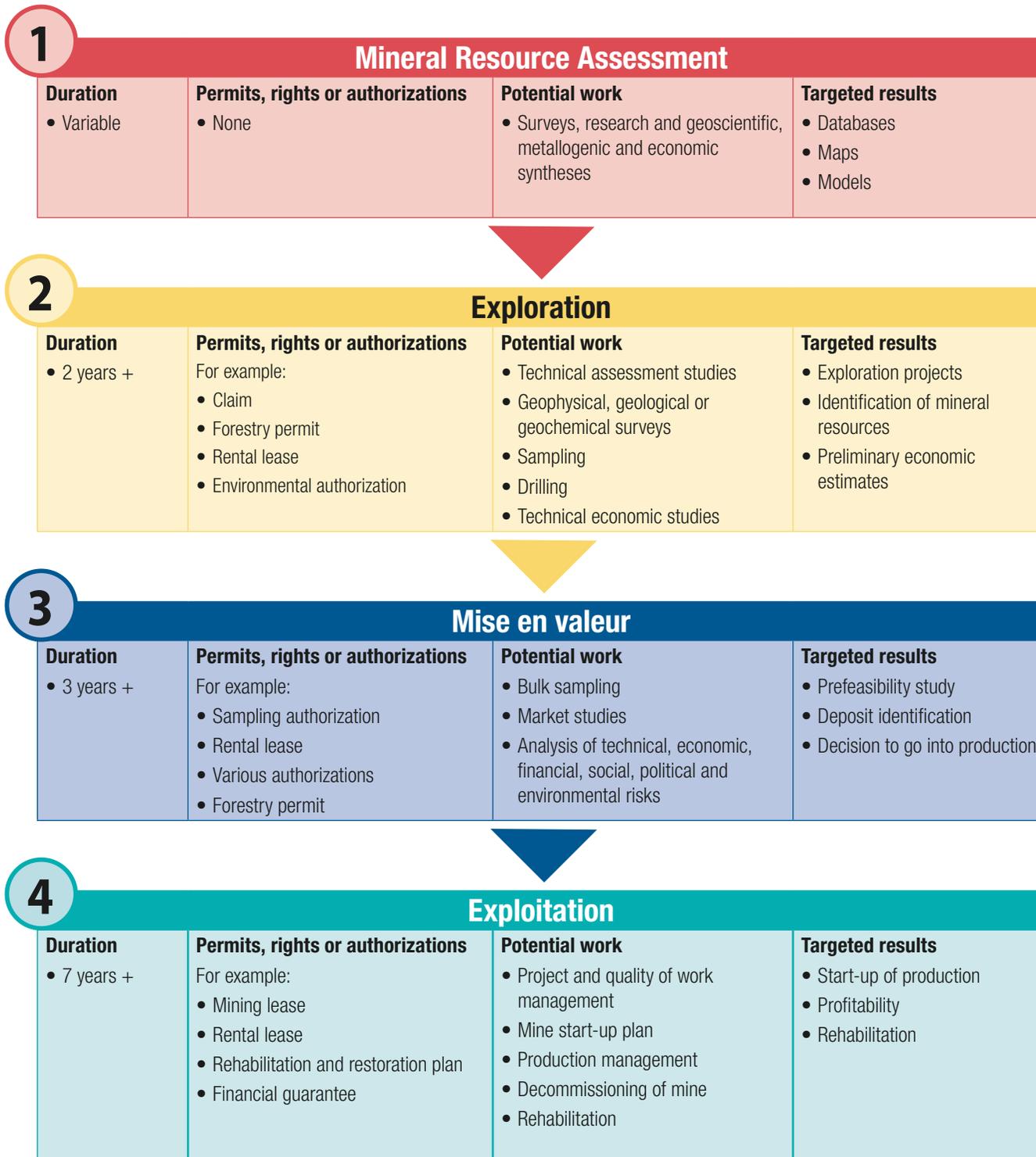


Note: The numbering from 1 to 11 represents the sequential order of the actions undertaken by the parties concerned.

*These actions are part of a relational continuum between the proponent and the Aboriginal community throughout the mineral development process.

APPENDIX 2

Mineral Development Mining Process¹⁹



¹⁹ <https://mern.gouv.qc.ca/english/publications/mines/mineral-development-process.pdf>.

APPENDIX 3

Consultation and Information Process*

Mining activities/rights	Québec	Proponent
Obtaining a claim	Makes claim information available on GESTIM Provides GESTIM training sessions	Is invited to inform the community within 60 days of obtaining their claim
Geological surveys Geochemical surveys Geophysical surveys Line cutting Mining surveys	Makes information on annual work reports and work declarations available on GESTIM Consults, where appropriate, the Aboriginal community concerned prior to the issuance of related rights, permits or authorizations**	Is invited to: <ul style="list-style-type: none"> inform the Aboriginal community of the exploration work they intend to carry out at least 30 days before work begins answer questions from the community if applicable, consider concerns regarding the proposed work, discuss solutions that could lead to voluntary mitigation or accommodation measures and inform Québec accordingly inform the community of the progress of the work throughout the mining development process
Bulk sampling: + 50 t	Consults the Aboriginal community concerned prior to the issuance of the bulk sampling authorization and, where applicable, other related rights, permits or authorizations**	
Underground work <ul style="list-style-type: none"> Any excavation involving: Removal of loose deposits $\geq 1,000 \text{ m}^3$ Stripping of rock or moving loose deposits over an area $\geq 10,000 \text{ m}^2$ Bulk sampling $\geq 500 \text{ t}$ 	Consults the Aboriginal community concerned before issuing related rights, permits or authorizations** Makes public the rehabilitation and restoration plan	
The establishment of: <ul style="list-style-type: none"> a metal mine with a production capacity of $\geq 2000 \text{ t per day}$ a uranium or rare earth mine any other mine with a production capacity of $\geq 500 \text{ t per day}$ 	Applies the Environmental Impact Assessment and Review Procedure (EIARP) and, in this context, consults the Aboriginal community concerned before any government decision is rendered <i>Consultation for rights, permits and authorizations is coordinated by the Ministère de l'Environnement et de la Lutte contre les changements climatiques</i>	<ul style="list-style-type: none"> Is invited to respond to questions raised by the community concerned and, where appropriate, to take into consideration its concerns regarding the proposed work Following the obtaining of the lease, sets up a monitoring committee composed of at least one representative of each of the Aboriginal communities consulted by Québec, if applicable
The opening and operation of a mine not subject to the EIARP	Consults the Aboriginal community concerned prior to the issuance of rights, permits or authorizations <i>Consultation coordinated by MERN</i>	<ul style="list-style-type: none"> Informs the concerned Aboriginal community of the public consultation, if any Establishes a monitoring committee composed of at least one representative from each of the Aboriginal communities consulted by Québec, if applicable
The development of surface mineral substances	Consults the Aboriginal community concerned prior to the issuance of rights, permits or authorizations <i>Consultation coordinated by MERN</i>	Informs the Aboriginal community concerned of the public consultation, if any

* Processes may vary depending on the mechanisms provided for in the agreements signed between Québec and Aboriginal Nations or communities.

**Rights, licences and authorizations may be needed to pursue mining activities under Québec laws.

APPENDIX 4

Ministries Involved

Aboriginal communities and proponents are invited, as the case may be, to contact the following government authorities, who will establish links between them and coordinate their actions.

SECRÉTARIAT AUX AFFAIRES AUTOCHTONES (SAA)

Direction des négociations et de la consultation Secrétariat aux affaires autochtones

Ministère du Conseil exécutif
905, avenue Honoré-Mercier, 2nd floor
Québec (Québec) G1R 5M6
Telephone: 418 643-3166

Here are some of the services offered by SAA:

- » general information about the Aboriginal people of Québec
- » information on government directions with regard to consultations and claims
- » support to proponents in their dealings with Aboriginal communities
- » financial support to facilitate the participation of Aboriginal communities in consultations initiated by Québec, under the conditions set out in the applicable programs.

MINISTÈRE DE L'ÉNERGIE ET DES RESSOURCES NATURELLES (MERN)

Direction du développement et du contrôle de l'activité minière (DDCAM)

Ministère de l'Énergie et des Ressources naturelles
5700, 4^e Avenue Ouest, Office C-320
Québec (Québec) G1H 6R1
Telephone: 418 627-6292
services.mines@mern.gouv.qc.ca

The following are among the services offered by DDCAM:

- » information about the Policy
- » access to reports of exploration work carried out on the territory through GESTIM

- » access to annual reports of exploration work carried out on the claim
- » access to the Register of Real and Immovable Mining Rights in Québec (GESTIM)
- » training sessions on the use of GESTIM
- » information sessions on the legal and regulatory framework for mining activity.

Direction des affaires autochtones (DAA)

Ministère de l'Énergie et des Ressources naturelles
5700, 4^e Avenue Ouest, Office C-422
Québec (Québec) G1H 6R1
Telephone: 418 627-6254

The services offered by DAA include:

- » information to Aboriginal communities regarding any consultation that MERN conducts with them
- » support to proponents in their relations with Aboriginal communities for mineral exploration and development projects not subject to the EIARP.

Direction du réseau régional (DRR)

Ministère de l'Énergie et des Ressources naturelles
5700, 4^e Avenue Ouest, Office E-323
Québec (Québec) G1H 6R1
Telephone: 418 627-6367

The DRR offers the following services, among others:

- » support for proponents as well as local and Aboriginal communities in the implementation of projects
- » coordination, as required, of interdepartmental action in the regions with respect to the issuance of rights, permits and related authorizations (in terms of issuance sequence)
- » consultation of Aboriginal communities by the regional network, in collaboration with the mining sector and the DAA for projects not subject to the EIARP but requiring the issuance of an exclusive surface mineral lease (BEX) or a non-exclusive surface mineral lease (BNE)
- » coordination of public feedback, with the support of the required experts and in collaboration with other ministries involved in the supervision of the mining project.

**MINISTÈRE DE L'ENVIRONNEMENT ET DE
LA LUTTE CONTRE LES CHANGEMENTS
CLIMATIQUES (MELCC)**

**Direction de l'évaluation environnementale des projets
nordiques et miniers (DEEPM)**

and

Pôle d'expertise en consultation autochtone (PECA)

Ministère de l'Environnement et de la Lutte contre les
changements climatiques
675, boulevard René-Lévesque Est, 6th floor
Québec (Québec) G1R 5V7
Telephone: 418 521-3933

Some of the services offered by DEEPM and PECA:

- » information to Aboriginal communities about any consultations that MELCC conducts with them
- » information regarding the EIARP applicable to Southern Québec
- » support to proponents in their relations with Aboriginal communities for development projects subject to the EIARP.

**Regional Offices – Direction de l'analyse et de l'expertise
régionale, Ministère de l'Environnement et de la Lutte
contre les changements climatiques**

[http://www.mdelcc.gouv.qc.ca/ministere/rejoindr/adr_reg.
htm](http://www.mdelcc.gouv.qc.ca/ministere/rejoindr/adr_reg.htm)

These bodies offer the following services:

- » information to Aboriginal communities regarding any consultations that regional offices conduct with them
- » support for the coordination, as required, of interdepartmental action in the regions regarding the issuance of rights, permits and related authorizations
- » information on the ministerial authorization procedure.

**MINISTÈRE DES FORÊTS, DE LA FAUNE ET
DES PARCS (MFFP)**

MFFP Regional Offices

<https://mffp.gouv.qc.ca/le-ministere/reseau-regional/>

Direction des relations avec les nations autochtones

Ministère des forêts, de la Faune et des Parcs
5700, 4^e Avenue Ouest, Office A-203
Québec (Québec) G1H 6R1
Telephone: 418 266-8180

Examples of services offered by DRNA:

- » information to Aboriginal communities regarding any consultation that MFFP conducts with them
- » information concerning permits or authorizations issued by the MFFP in connection with mining activities.

APPENDIX 5

«Gestion des Titres Miniers» (GESTIM) System²⁰

In Québec, the management of mining titles is computerized and easily accessible via the Internet through the GESTIM Web application. This system provides instant access to updated data from the Register of Real and Immovable Mining Rights in Québec. It facilitates real-time monitoring and management of mining titles.

Its interactive map allows you to, among other features:

- » consult all active, requested and historical mining titles
- » view and download registry data by creating customized descriptive searches selecting desired parameters, such as areas of interest
- » view the 1:50,000 scale mining title maps and download them free of charge in PDF or other digital file format
- » visualize the lands covered by the following agreements with Aboriginal communities:
 - Agreement on Governance in the Eeyou Istchee James Bay Territory
 - Agreement on Consultation and Accommodation between the Abitibiwinni First Nation and Québec
 - Agreement In-Principle of General Nature between the First Nations of Mamuitun and Nutashkuan, Québec and the Government of Canada.

A user guide²¹ explaining the functionalities of the map is available in French and English on GESTIM's FTP site.

Given the large amount of information made available in real time through GESTIM, Aboriginal communities are encouraged to monitor mining activity in their areas of interest. They are invited to consult information on registered claims and claims demands for all of Québec. This information includes, but is not limited to, the following:

- » the name of the claim holder and contact information
- » reports on the work carried out annually²²
- » the lands covered by a claim request.

MERN offers training sessions on the use of GESTIM to Aboriginal communities who so wish. This training includes tools that facilitate the monitoring of mining activities in their areas of interest, according to their specific needs.

²⁰ <https://gestim.mines.gouv.qc.ca>.

²¹ ftp://ftp.mrnf.gouv.qc.ca/Public/Gestim/guides_anglais/11-Map%20Consultation%20GESTIM%20Geoportal.pdf.

²² Under section 71.1 of the Mining Act.

APPENDIX 6

Types of Agreements Between Mining Proponents and Concerned Aboriginal Communities

The approach proponents use when dealing with Aboriginal communities during mineral development processes should remain proactive throughout and even intensify as exploration work progresses. In some cases, their approach could include agreements. Although not required by law, these agreements provide an excellent opportunity for the parties to establish positive relationships with each other. The conclusion of various types of agreements makes it possible to guarantee benefits to several Aboriginal communities and to provide mining proponents with greater predictability in the development of their projects.

The type of agreement concluded varies depending on the scope and progress of the project. These agreements, which may be referred to by various names, may include provisions related to the exchange of information, environmental protection, training and employment, and socio-economic development measures. These agreements are private in nature and can take various forms, the most common of which are described below:

Letter of intent

The letter of intent is generally the first type of agreement entered into by the parties. It indicates that a mining proponent is willing to enter into further agreements if a profitable deposit is discovered.

Exploration agreement, collaboration agreement or memorandum of understanding

These agreements define the principles of collaboration that will be beneficial to the Aboriginal community and the mining proponent during the exploration phase.

Impact and benefit agreements or participation agreements

These agreements are concluded between an Aboriginal community and a mining proponent. The parties indicate what they have agreed and their respective obligations in various areas, including: employment opportunities, workforce training, community business opportunities and financing arrangements. These agreements vary depending on the nature of the projects, the communities involved and the issues they raise. They are generally negotiated for mining projects during the appraisal stage.

APPENDIX 7

Mining ExpLoration Work

Mining exploration can be defined as all activities and work carried out to discover and characterize a deposit of exploitable minerals (base metals, industrial minerals, metals and precious stones, building stones, etc.).

In Québec, the claim is the only exploration mining title that can be issued to search for minerals in the domain of the State. It is a real and immovable right.

If there is no written authorization, the claim does not entitle the holder to work on private lands, Category I lands or on Indian reserve lands.

Generally speaking, less than one in five claims are subject to field exploration work.

Mineral exploration is the second of four stages in the mineral development process. It follows the assessment of mineral resources and precedes the appraisal and the final stages, i.e. the development of the mine complex.²³ It includes various phases that occur chronologically and begins with exploration planning: the study and selection of metals and minerals of interest, review and synthesis of geological and metallogenic information available on various regions, etc.

The following phase includes determining regional and local anomalies, i.e. rapid variations in physical, geophysical and chemical quantities from normal.²⁴ This involves identifying the most promising exploration targets through a variety of means, such as remote sensing, airborne geophysics and aerial photography.

Further mineral exploration work may then be carried out, as needed:

- » ground geological, geophysical or geochemical²⁵ surveys
- » research and examination of rock outcrops (rocky areas that emerge from the ground)
- » trenching, stripping and drilling work
- » sampling and various sample analyses
- » technical and economic pre-feasibility studies for the project
- » survey work on the perimeter of the land
- » work to secure, rehabilitate and restore the site, if required.

²³ Detailed information on the various stages of mine development is available at the following address: <https://mern.gouv.qc.ca/english/publications/mines/mineral-development-process.pdf>.

²⁴ Mohamed O. Bouna-Aly (2000) - Dictionnaire du génie et des sciences de la Terre, Beauchemin.

²⁵ A survey is the act of collecting the data necessary to establish a map.

APPENDIX 8

Rights, Permits or Authorizations That may be Required to Carry out Mining Activities Under the Laws of Québec

Certain exploration activities arising from a claim as well as certain mining activities arising from a mining lease or a surface mineral lease require the issuance by Québec of rights, permits or authorizations for the pursuit of these activities, including:

- » an authorization to extract for bulk sampling (section 69 of the Mining Act)
- » an environmental authorization (section 22 of the Environment Quality Act)
- » certain rights under the Crown Lands Act; for example, a lease for the development of a road, a power transmission line or a camp, and an authorization for provisional occupation
- » an authorization for the location of a processing plant or tailings facility (sections 240 and 241 of the Mining Act)
- » a forestry permit for mining activities (section 73 of the Sustainable Forest Development Act)
- » an authorization for activities in wildlife habitat (section 128.7 of the Act Respecting the Conservation and Development of Wildlife).

APPENDIX 9

Consultation Process²⁶ Applicable to Development Projects Subject²⁷ to the Environmental Impact Assessment and Review Procedure in Southern Québec

MELCC, in collaboration with relevant ministries, consults with concerned Aboriginal communities through a harmonized process within EIARP. This process includes the following actions:

1) Project notice and ministerial directive

- » MELCC informs the Aboriginal community concerned that a proponent has filed a project notice with the Environmental Assessment Registry and the ministerial directive produced for the environmental impact assessment applicable to the project. The ministry then invites the community to send its comments on the project as well as the concerns that the impact study should address.
- » MELCC takes note of the issues raised by the Aboriginal community and ensures that they are forwarded to the proponent.
- » MELCC informs the proponent of the consultation process initiated with the Aboriginal community concerned.
- » The proponent is invited to contact the Aboriginal community to encourage the consideration of its concerns while preparing the impact statement.

2) Analysis of impact study admissibility

- » MELCC informs the Aboriginal community concerned of the filing of the impact statement and its subsequent additions by the proponent in the Environmental Assessment Registry.
- » MELCC provides a reasonable time for the community to provide comments on the impact statement and to express how the proposed project is likely to adversely affect its established or claimed Aboriginal or Treaty rights. The community may also propose any accommodation measures it deems appropriate.
- » Exchanges can take place between MELCC and the community to promote a better understanding of the

proposed project and to facilitate the consideration of its concerns.

- » Where there are exchanges between the proponent and the Aboriginal community concerned and these exchanges are relevant for the purposes of the consultation, both parties are invited to inform MELCC of the content of these exchanges and of any measures that may have been proposed by the proponent to address the community's concerns.

3) Public information period and mandate given to the BAPE

- » When MELCC consults the Aboriginal community concerned, it provides the information related to the admissibility of the impact statement, the holding of the public information period and, if applicable, the mandate given to the Bureau d'audiences publiques sur l'environnement (BAPE) to hold a public hearing, a targeted consultation or mediation. The Aboriginal community is encouraged to participate in BAPE's work.

4) Environmental analysis of the project

- » At the beginning of the environmental analysis, MELCC provides a reasonable time for the community to inquire about any concerns regarding the project that the Aboriginal community may not have previously communicated.
- » MELCC contacts or requests a meeting with the Aboriginal community concerned to better understand and address the concerns it has expressed. Discussions can also take place on accommodation measures, if necessary.
- » The main concerns expressed by the Aboriginal community with respect to the project, the manner in which they were considered and, if applicable, the accommodation measures adopted are presented in the file submitted to the Minister of MELCC, in preparation for his recommendation to the government for decision.

5) Decision

- » MELCC will inform the consulted Aboriginal community in writing of the project decision. On this occasion, MELCC also informs the community that the government authorization decree and the environmental analysis report are available in the Environmental Assessment Registry.
- » The accommodation measures adopted, if any, may be subject to requirements set out in the decree or otherwise implemented.

²⁶ For further details on the consultation process described in this appendix, please contact MELCC through the contact information found in Appendix 4 of this Policy.

²⁷ Part II of Schedule 1 of the Regulation respecting the environmental impact assessment and review of certain projects (chapter Q-2, r. 23.1).

GLOSSARY

Claim

A real and immovable right that allows the holder to exclusively explore the land (public or private) in search of mineral substances. This is the only exploration mining right that can be issued for the search of minerals in the domain of the State. It has a two-year validity period. It is renewable as long as its holder meets the conditions and obligations set out in the Mining Act. Claims are obtained by map designation.

BNE (non-exclusive lease for the mining of surface mineral substances)

Lease issued for construction purposes for naturally occurring unconsolidated deposits, including sand, gravel and common clay. It is non-transferable. It becomes valid on the date of entry in the Register of Real and Immoveable Mining Rights and ends on the 31st of March of the following year. It is renewable, at most ten times, for one-year periods. Several BNEs may be granted for the same land.

BEX (exclusive lease for the mining of surface minerals)

A lease issued for the extraction or development of certain surface mineral substances, including stone and peat, for industrial, construction and commercial export purposes. This lease gives its holder an exclusive right of exploitation that confers on them the environmental responsibility of the site. The initial duration of a BEX may not exceed ten years for mineral substances other than peat and fifteen years for peat exploitation. It may be renewed up to twice, for periods of five years or fifteen years in the case of peat mining. The area of land subject to a BEX must not exceed 100 hectares. However, for peat exploitation, this area may reach 300 hectares.

BM (mining lease)

A lease that gives the holder the right to develop mineral substances other than surface mineral substances. In the event of the discovery of a mineable deposit, only the claim holder may apply for a mining lease. The area of land covered by a BM must not exceed 100 hectares, except where circumstances warrant. The initial term of the lease is 20 years and is renewable up to three times for ten-year periods. After the third renewal, the Minister of Energy and Natural Resources may extend the lease for additional five-year periods. The leaseholder must begin mining within four years of issuance.

CM (mining concession)

Mining title prior to 1966; now the “mining lease”.

SMS (surface mineral substances)

Peat; sand, including silica sand; gravel; limestone; calcite; dolomite; common clay and clay rocks used for the manufacture of clay products; all types of rocks used as cut stone, crushed stone, silica ore or for the manufacture of cement; any other mineral substance found in its natural state in the form of a movable deposit, with the exception of topsoil, and inert mining residues, when these substances and residues are used for construction purposes, for the manufacture of building materials or for land development.

Bulk sampling

Extraction of mineral substances in quantities greater than 50 metric tons to establish the characteristics of the ore. An authorization is required under the Mining Act.

Rehabilitation and restoration plan

A document to be submitted for approval by a mining company describing all rehabilitation and restoration work planned upon the cessation of mining activities. In addition to the work, this plan must also include a detailed assessment of the anticipated costs for carrying out the work. The plan must provide for the rehabilitation of all areas affected during the mining operation and must be approved before the mining lease (BM) is granted.

Geochemical survey

Representation of the chemical composition of sediments or rock, carried out following the analysis of samples collected in the field.

Geological survey

Conventional graphical representation of the spatial distribution of the different phenomena resulting from geology.

Geophysical survey

Representation of the geological structure of a given site, carried out following indirect measurements (gravity, magnetism, seismicity) of certain physical properties of the subsoil.

Mine

Infrastructure to extract ore from subsoil.

Mineral development process

A process describing the four main stages of a mining project: mineral resource assessment, exploration, appraisal and development of the mining complex. The final step is divided into three sub-steps: development, mining operation and mine site rehabilitation (Appendix 2).

Exploration project

A mining project that has reached the exploration stage in the mineral development process. This step includes searching for a potentially exploitable and profitable deposit, without any certainty of success. It ends either with the publication of a preliminary economic assessment or the abandonment of the project.

Deposit appraisal project

Project that has reached the appraisal stage of the mineral development process. This step begins with the publication of the first preliminary economic assessment and ends when the necessary rights, permits, authorizations and financing for construction and operation are obtained.

Development project

A mining project that has reached the development stage in the mineral development process. This stage extends from the beginning of construction until the mine's production reaches at least 60% of the mining project's nominal production capacity for 90 days. It includes the development of the mine site, operation and running-in of the facilities.

Mining site

Area containing all infrastructure related to a mining operation (mine, processing plant, power supply, tailings facility, service buildings, etc.).

