

***Courtesy translation – In case of discrepancy, the French version shall prevail***

Quebec City, March 24, 2016

Christyne Tremblay  
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of the James Bay and Northern Quebec Agreement  
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**SUBJECT: Proposed construction of forest roads “H, Section west” and “I”  
by Matériaux Blanchet Inc.  
Recommendation of the Review Committee  
Ref. No: 3214-05-075**

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Madam Deputy Minister,

On behalf of the members of the Review Committee, it is my pleasure to send you our recommendations, and the report on which they are based, regarding the construction of forest access roads “H, Section west” and “I”.

Following the public hearings held January 19, 2016 and having carefully reviewed the project, it seems to us that in its current form, it is not acceptable. Therefore we recommend a truncated form of the project. Given the context of ongoing discussions in other forums, the COMEX has opted for a cautious choice. Thus we recommend that with respect to forest road “I”, trapline W05C be left intact for the time being; regarding the “H, Section West” road, we recommend limiting construction at the northern edge of the planned cutting area for the 2013-2018 period. In both cases, this alternative plan leaves intact the territory known as Mishigamish, which the Cree community of Waswanipi hopes to see designated a protected area.

In addition, it appears to us that the issue of the protection of woodland caribou remains of prime importance and in the perspective of safeguarding and re-establishing the species, and given its habitat, we had a duty to take a more global perspective.

On March 16 of this year, you sent me a letter in which you announced that the Government of Quebec intended to announce “soon” a safeguarding plan for the woodland caribou. This commitment was in line with previous commitments made by the Government when the Agreement to resolve the Baril-Moses dispute was signed. At the time of this writing, this plan has not yet been released. Nothing is known of its contents. Given this, I have taken it upon myself to recommend that you do not proceed with issuing a certificate of authorization associated with our recommendations as long as this plan has not been made public.

Thanking you in advance for your attention to this matter.

Yours truly,

*Original signed in French*

**André Boisclair**

Chairman

Environmental and Social Impact Review Committee – COMEX

p.j.

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**ENVIRONMENTAL AND SOCIAL IMPACT  
REVIEW COMMITTEE  
(COMEX)**

**Environmental and Social Impact Assessment Report  
on the Proposed Construction of Forest Roads “H, Section west” and “I”  
by Matériaux Blanchet**

**March 2016**

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## INTRODUCTION

Chapter II of the *Environment Quality Act* (EQA) makes special environmental assessment provisions for the territories of James Bay and Nunavik, consistent with the provisions of the James Bay and Northern Québec Agreement (JBNQA) and the Northeastern Québec Agreement (NEQA).

They set out the general terms of the environmental and social impact assessment and review procedure applicable south of the 55th parallel and establish the Environmental and Social Impact Review Committee (COMEX). The latter is composed of Québec government and Cree representatives and is responsible for reviewing development projects in the James Bay territory south of the 55th parallel. After receiving an impact statement, COMEX assesses and reviews the project with support from experts from the Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques (MDDELCC), the Québec government and the Cree Nation Government. COMEX may also hold public consultations in communities liable to be affected, both adversely and positively, by the project under review. After completing its review, COMEX makes recommendations to the responsible Administrator under the JBNQA. Within the meaning of the JBNQA, the Administrator is the person responsible for making the decision on whether or not to authorize a development project. For projects under Québec jurisdiction, the Administrator is the Deputy Minister of Sustainable Development, the Environment and the Fight Against Climate Change. For projects on Category I lands, the Regional Environment Administrator decides whether to authorize a project or not.

### 1. FOREST ACCESS ROADS “H, SECTION WEST” AND “I”

Major forest access roads are automatically subject to the environmental and social impact assessment and review procedure under Section 22 of the JBNQA and Chapter II of the EQA. Accordingly, on July 1, 2009, Matériaux Blanchet inc., acting on behalf of four other forest companies, gave written notice to the Provincial Administrator of the planned construction of forest access roads “H, Section west” and “I” in the sector of km 105 of the James Bay highway. Following consultation of the Evaluating Committee (COMEV), directives setting out the content and scope of the required impact statement were sent to Matériaux Blanchet inc. on October 6, 2009. COMEX received the impact statement for the project on April 7, 2010, followed by an addendum on June 2, 2010.

During the project review process, the Provincial Administrator of Section 22 of the JBNQA instructed COMEX on September 30, 2011 to suspend its review, as well as the review of other major forest access roads, among other reasons because there was no habitat recovery strategy in place for woodland caribou, a species designated as “vulnerable” under the *Act respecting*

*threatened or vulnerable species* since 2005. The Administrator reiterated the instruction in a letter dated May 16, 2014.

It was not until after the Agreement to Resolve the Baril-Moses Forestry Dispute was signed on July 13, 2015 that the Section 22 Administrator notified COMEX that it could resume the review of the projects to build forest roads “H, Section west” and “I”. Since the documents provided by the proponent were no longer up-to-date, COMEX requested additional information from the proponent, which it received on December 3, 2015. COMEX held a public hearing on the project on January 19, 2016, in Waswanipi.

### **1.1 General project description**

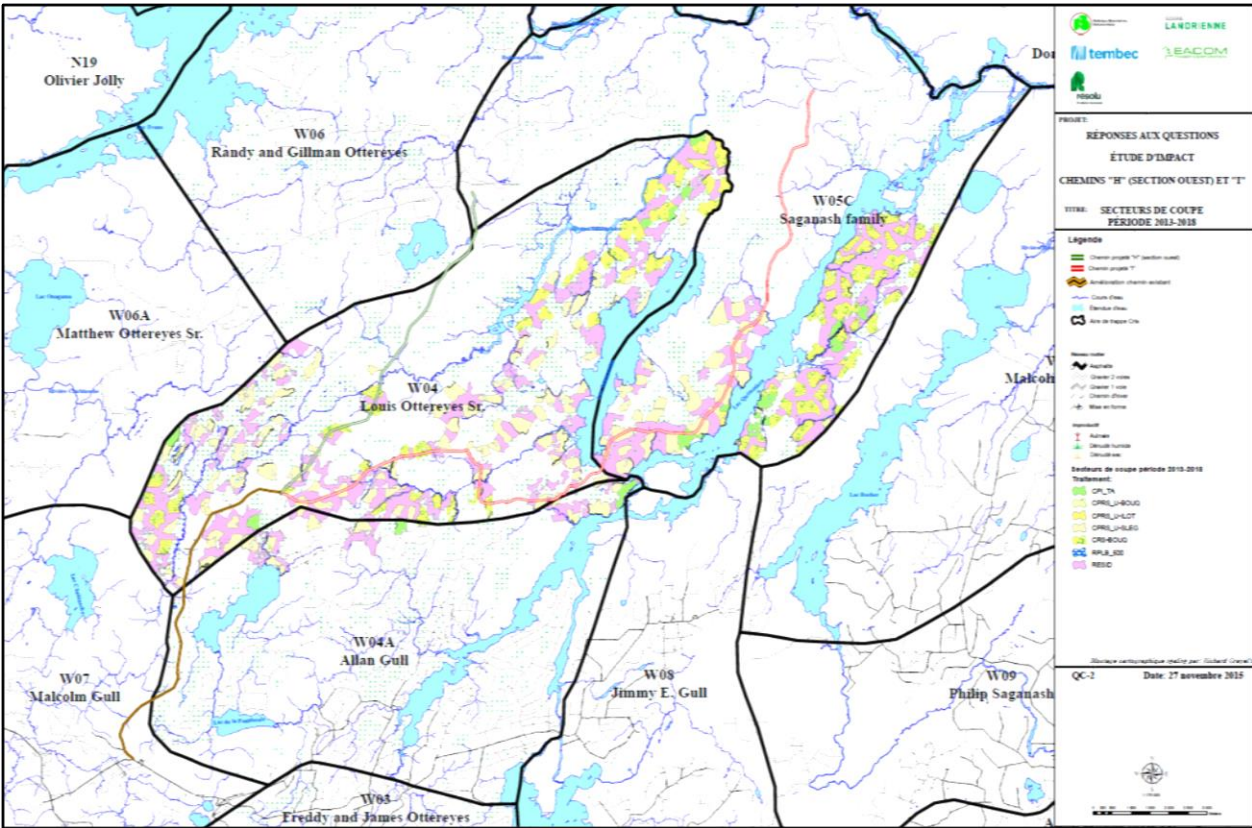
Forest planning in Development Unit (DU) 086-65 for the period 2013-2018 provides for harvesting areas (Figure 1) where holders of a timber supply guarantee (TSG) may harvest timber during that period. To fulfil their obligations, the TSG holders in DU 086-65 (Matériaux Blanchet inc., Eacom Timber, Resolute Forest Products, Tembec La Sarre and Scierie Landrienne) plan to build two major forest roads with a combined length of approximately 95 km in the sector of km 105 of the James Bay highway (Route 109) and Lake Quénonisca (Figure 1). The other TSG holders designated Matériaux Blanchet inc. to represent them in the impact assessment and review process.

The main axis, major access road “I,” roughly 73 km long, begins near km 5 of forest road N-823 (also called chemin km 105), passes to the south of Lake Salamandre, along the west side of Lake Quénonisca and goes to the south shore of Broadback River, about 3 km to the east of the Salamandre River’s mouth. The first 21 km of this major access road borrow a network of secondary access roads that will require upgrading, while the north section of road, that is, the remaining 52 km in length, has to be built. Major access road “H, Section west,” 22 km long, starts from about km 21 on major access road “I” and runs toward, but not as far as, the Broadback River. The entire road must be built.

Both of the proposed forest roads are class-3 roads with the following technical characteristics:

- width of roadway: 6 m;
- width including shaping: 8 m;
- width of cleared right-of-way: 30 m;
- surface course material: gravel;
- design speed: 70 km/h.





**FIGURE 1: PROJECT LOCATION**

A total of 260 000 m<sup>3</sup> of granular material will be needed for the road construction. Potential borrow pits have been located, but no surveys have been conducted to characterize the quality and quantity of available material in the pits.

Construction of these roads will require the installation of 15 culverts: 11 on road “I” and 4 on road “H, Section west.” In addition, a lightweight bridge will have to be built on the Salamandre River.

Both of these major forest roads would be located on Category III lands and touch five traplines of the community of Waswanipi: traplines W04, W04A, W05C and W07, in the case of road “I,” and traplines W04, W05C and W06, in the case of road “H, Section west.”

## 1.2 Governing framework for forestry in the territory

Section 22 of the JBNQA charted the course with regard to forestry in the James Bay territory by making forestry operations in general forest management plans subject to the environmental and social impact assessment and review procedure. Major access roads built for extraction of

forest products are automatically subject to the procedure. Furthermore, the JBNQA assumes that forest management activities are consistent with the guaranteed right to harvest.

The 2002 Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec (*Paix des Braves* agreement) includes an entire chapter devoted to forestry in the territory of application. The agreement stipulates that Québec's forestry regime will apply in the Territory in a manner that allows:

- adaptations to better take into account the Cree traditional way of life;
- greater integration of concerns relating to sustainable development;
- participation, in the form of consultation, by the James Bay Crees in the various forestry operations planning and management processes.

The adapted forestry regime established by the agreement provides for, among other things, the delimitation of new management units based on traplines, the identification of sites of interest to the Cree in each trapline, maintenance of a minimum forest cover in each trapline and measures relating to the development of a road access network. To implement these provisions, two levels of intervention were provided for: the Cree-Québec Forestry Board and the Joint Working Groups (JWGs).

In 2009, the Crees and the Québec government reached an out-of-court settlement on, in particular, forest access roads. Under the settlement agreement, nine major access roads were declared subject to the environmental and social impact assessment and review procedure. It was further to that agreement that the project to build forest roads "H, Section west" and "I" were submitted to the Provincial Administrator. COMEX is also reviewing the forest road L-209 and forest road "E, Section west" projects. The other forest road projects were abandoned.

Concurrently with the *Paix des Braves* agreement, Minister Gilles Baril and Grand Chief Ted Moses signed a document setting out the standards of forest management in the territory defined in the agreement ("Baril-Moses Modalities"). To settle a dispute that arose between the Crees and Québec regarding the implementation of those modalities, the Québec government and the Cree Nation Government signed an agreement on July 13, 2015 with the objective of harmonizing forestry operations in the territory with the hunting, fishing and trapping activities of the Cree people through the implementation and enforcement of the Baril-Moses Modalities. Among other things, the settlement agreement provides that:

- Québec shall formally designate and establish as a protected area and biodiversity reserve the Broadback River Protected Area, 9 134.81 km<sup>2</sup> in size;
- Québec affirms its commitment to the recovery of woodland caribou habitat;
- the Crees shall not oppose the environmental authorization of the forest access roads referred to in the 2009 out-of-court settlement agreement;
- nothing shall affect or restrict the independence of the environmental assessment committees, Cree individuals and other Cree entities with regard to the environmental assessment of the access roads;

- working groups shall be established with a view to proposing, as soon as possible, consensus measures on forest management standards;
- consultations shall be held with the Cree Nations of Ouje-Bougoumou and Mistissini;
- discussions shall be entered into as soon as possible with a view to concluding, not later than December 1, 2015, an agreement respecting the harmonization of the Adapted Forestry Regime and the *Sustainable Forest Development Act*;
- Québec affirms its commitment to the recovery of woodland caribou habitat;
- the Québec government confirms its intention to have meaningful discussions with the Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government and Waswanipi regarding options for protective measures in this area.

Lastly, it is important to point out that, since October 2013, the Ministère des Forêts, de la Faune et des Parc (MFFP) has developed and implemented a precautionary approach in the territory covered by the agreement until such time as Québec adopts a woodland caribou recovery strategy.

## 2. PUBLIC CONSULTATION

Based on the latest information received from the proponent in December 2015, COMEX held a public consultation in Waswanipi on January 19, 2016 to hear the opinions, advice and concerns of the communities affected by the planned construction of forest roads “H, Section west” and “I”. Following the hearing, the public had until February 24, 2016 to submit briefs. This section reports on those consultations and provides a succinct overview of the key points raised by theme. Note that the audio recordings of the public hearing as well as the briefs submitted during the consultation are available on the COMEX website ([www.comexqc.ca](http://www.comexqc.ca)).

The public hearing was held from 2:00 p.m. to 11:30 p.m., at the Waswanipi community centre. Over 100 people from the community attended the hearing, 18 of whom took the mic to voice their concerns about the project. Nine briefs and four letters were submitted. COMEX also received more than 9000 letters opposing the forest road projects “H, Section west” and “I” through the *Save the Broadback* website set up by Greenpeace in cooperation with the community of Waswanipi.

(<https://act.greenpeace.org/ea-action/action?ea.campaign.id=1847&ea.campaign.id=46589>)

The majority of submissions (16/22) made during the public hearing (Table 1) came from the community of Waswanipi; the rest were from environmental groups, the Native party on the Hunting, Fishing and Trapping Coordinating Committee (HFTCC) and Tyler Rudolph, consulting biologist. Note that the HFTCC was established pursuant to Section 24 of the JBNQA. As for the 9000 letters opposing the planned forest roads, there is no way of knowing who sent them or where they were from. Only the email address was available.

## **2.1 Acceptability of the project**

Of the 22 people who took the mic at the public hearing, 21, including Chief Marcel Happyjack, elected representative of the community of Waswanipi, were against forest road projects “H, Section west” and “I”.

The most common comment made against the project was the cumulative impact of forestry on Waswanipi traplines. According to opponents of the project, 59 of the 62 traplines in the community of Waswanipi have been affected by forestry operations to date. Traplines are already crisscrossed by a forest road network totalling over 30 000 km. The opponents estimate that 90% of the total area of traplines has been affected by logging or fragmented by roads. These activities impact the natural environment and, consequently, the quality of the Cree subsistence harvest through traditional hunting, fishing and trapping activities. Knowledge of the land, which is passed down from one generation to the next, is also threatened due to alterations in the landscape as a result of logging. Markers are destroyed, which can cause people to get lost. Lastly, many of today’s youth have never seen untouched forests. The traplines they use have always been affected by forestry, truck traffic and uniform standards created by logging.

Opponents of the project fear that construction of forest roads “H, Section west” and “I” will lead to logging of intact forest on either side of Broadback River, within the only three (3) traplines not yet touched by forestry activity, and the south bank of the river, which provides suitable habitat for woodland caribou.

**Table 1: List of submissions in the context of the public hearing**

<b>Name</b>		<b>Oral submission</b>	<b>Written submission</b>
<b>General public</b>	Marcel Happyjack, Waswanipi Band Council	X	X
	Miles Smart, HFTCC	X	X
<b>Environmental groups</b>	Nicolas Mainville, Greenpeace	X	X
	Mélissa Filion, Canopy		X
	Anthony Swift, Natural Resources Defense Council		X
	Alain Branchaud, Société pour la nature et les parcs		
<b>Individuals</b>	Robert Kitchen, Waswanipi	X	
	George Neeposh, Waswanipi	X	
	Melany Neeposh, Waswanipi	X	
	Jacob Saganash, Waswanipi	X	
	Rodney Otter, Waswanipi	X	
	Don Saganash, Waswanipi	X	
	Steven Blacksmith, Waswanipi	X	
	Stanley Saganash, Waswanipi	X	
	Romeo Saganash, Waswanipi	X	
	Allan Saganash, Waswanipi	X	
	Bianca Albert, Waswanipi	X	
	Mandy Gull, Waswanipi	X	
	Matthew Ottereyes, Sr., Waswanipi	X	
	Tyler Rudolph, Montréal	X	X
	Paul Dixon, Waswanipi	X	X
John Kitchen, Waswanipi		X	

## 2.2 Vulnerability of woodland caribou

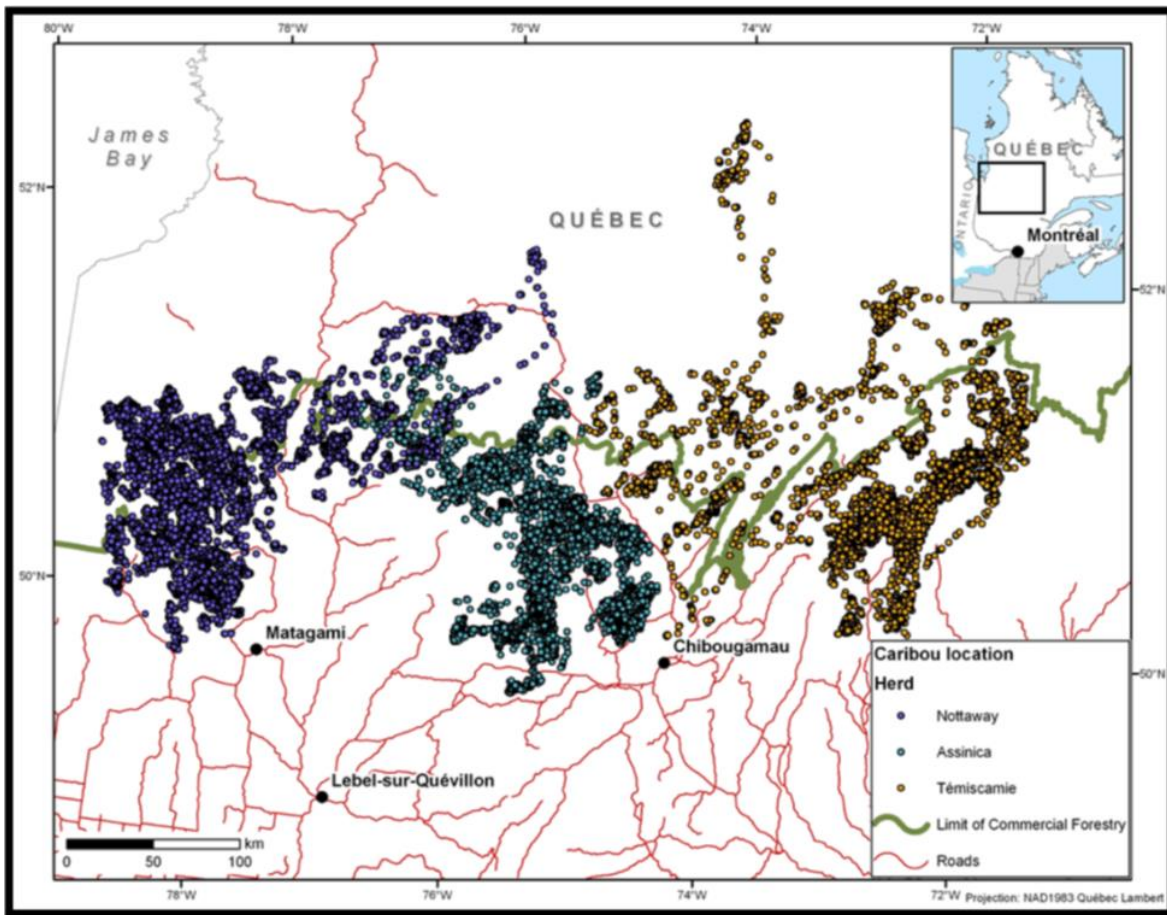
An emblem species of the boreal forest, the woodland caribou has been designated as vulnerable in Québec since 2005. Several participants at the public hearings stressed the impacts of habitat fragmentation from forestry and road construction on woodland caribou. Logging and forest roads open up the territory, leaving caribou particularly vulnerable to predation and human disturbance.

Considering the existing disturbances, construction of forest roads “H, section west” and “I” and the associated timber harvesting will create an even greater threat to the species. In fact, according to Tyler Rudolph’s written submission, all three woodland caribou herds in the James Bay territory (Figure 2) are considered “not self-sustaining” and current amounts of range disturbance exceed what is theoretically required to ensure population persistence. Mr. Rudolph also pointed out that the 35% habitat disturbance threshold set by Environment Canada must not be misconstrued as a management objective; in actual fact, it is a maximum disturbance threshold vital to population persistence. Populations are expected to decline exponentially beyond the 35% precautionary threshold. Thus, even minor increases in total range disturbance substantially diminish the prospect of species recovery.

Furthermore, Mr. Rudolph mentioned the importance of the Broadback forest for providing quality habitat for woodland caribou. The Broadback forest lies within the area of overlap of the Assinica and Nottaway caribou population ranges. According to the results of an analysis Mr. Rudolph conducted for the Cree Nation Government, the Broadback forest is the centrepiece of a dispersal corridor facilitating movement between the Assinica and Nottaway caribou herds. Again according to Mr. Rudolph, construction of forest roads “H, section west” and “I” would not impact all of the Broadback forest, nor would it impact the area most frequented by the woodland caribou; however, it would compromise the resilience of the critical habitat network to natural disturbances (fire, insects, etc.) by reducing the size of the Broadback forest. The project would thereby jeopardize the forest’s functionality as a connectivity hub. Considering the risk of mutual genetic isolation and diminished population resilience, this is an important factor in the long-term persistence of the caribou populations.

Woodland caribou is one of the wildlife species traditionally harvested by the Crees. According to information provided by the Native party on the HFTCC, the Crees have voluntarily reduced their harvest level for woodland caribou to help in the species’ recovery. The Native party also stressed the principle of conservation under the JBNQA, as defined in paragraph 24.1.5: “the pursuit of the optimum natural productivity of all living resources and the protection of the ecological systems of the Territory so as to protect endangered species and to ensure primarily the continuance of the traditional pursuits of the Native people, and secondarily the satisfaction of the needs of non-Native people for sport hunting and fishing.” Because it would further diminish the chances of woodland caribou recovery, construction of forest roads “H, section

west” and “I” conflicts with the principle of conservation and, as a result, would affect the right to harvest guaranteed to the Cree people under the JBNQA.



**Figure 2:** Location map of the three boreal forest caribou herds in Northern Québec. The dots correspond to the GPS coordinates transmitted every seven hours by radio collars fitted to 45 caribou between March 2004 and March 2007 (taken from Rudolph et al., 2012).

Several participants from environmental groups as well as the community of Waswanipi agreed that forest road projects “H, section west” and “I” should not be authorized until a proper recovery strategy for woodland caribou habitat in Québec has been adopted and implemented by the Québec government.

### 2.3 Protected area

The issue of protected areas was raised by various participants, mainly in relation to the two matters previously discussed. First, the Council of the Cree First Nation of Waswanipi expressed its dissatisfaction with the protected area defined in the agreement signed on July 13, 2015 to resolve the Baril-Moses dispute. Chief Marcel Happyjack called for the protection of Waswanipi

Mishigamish in order to preserve areas of intact boreal forest in the Broadback River Valley for the benefit of future generations. For the same reason, he called for protection of the last three traplines untouched by forestry (north of the Broadback River).

In addition to being against the construction of forest roads “H, section west” and “I,” Greenpeace called for the creation of a vast protected area in the Broadback forest to preserve the last remaining intact boreal forest, support the requests made by the community of Waswanipi, and secure the recovery of woodland caribou. According to Greenpeace, creating a vast protected area (over 10 000 km<sup>2</sup>) would contribute substantially to the species’ recovery by guaranteeing quality habitat in the event of natural disturbances such as wildfires.

#### **2.4 Fight against climate change**

Another argument against forest roads “H, section west” and “I” made by both Greenpeace and the Council of the Cree First Nation of Waswanipi was related to climate change. Not that the roads as such would further contribute to climate change, but rather that the logging associated with the roads’ construction would destroy a resource that can store tonnes of the CO<sub>2</sub>. Conversely, the boreal forest is a crucial carbon storehouse and logging can result in the release of millions of tonnes of carbon into the atmosphere.

Greenpeace and the Council of the Cree First Nation of Waswanipi feel that the roads’ construction and the resulting logging make no sense in light of the commitments made by the Québec government during the Paris climate change conference in December 2015.

#### **2.5 Consultation of tallymen**

Another issue raised during the hearings was consultation of tallymen at the forest planning stage, an obligation introduced by the *Paix des Braves* agreement. Although the consultation procedure is appreciated, some participants said that it reduces consultation to a discussion of issues specific to tallymen, rather than issues that are important to the community as a whole. For example, tallymen were consulted only on the construction of the roads: the long-term effects of forestry operations, as well as other potential land uses, such as mineral exploration, hunting and fishing by non-Natives, or the issuance of vacation leases were not addressed.

#### **2.6 Economic benefits**

The proponent estimates that the project will help maintain 382 jobs and generate \$5 686 600 in revenue per year for the State. In its written submission, Canopy (an environmental organization that works to protect the world’s forests, species and climate) argued that comparing economic and conservation considerations is a questionable approach, and so is giving economic



considerations more importance than others. It does not provide a complete picture of issues and has no place in today's world. Even so, Canopy acknowledged that balancing scientific recommendations aimed at conservation and economic, social and cultural needs has its challenges.

Only one participant submitted a brief in favour of the project, mentioning that the roads would have a positive impact on the community and help re-start operations at the Nabakatuk sawmill.

### **3. MAJOR ISSUES RELATED TO THE PROJECTS**

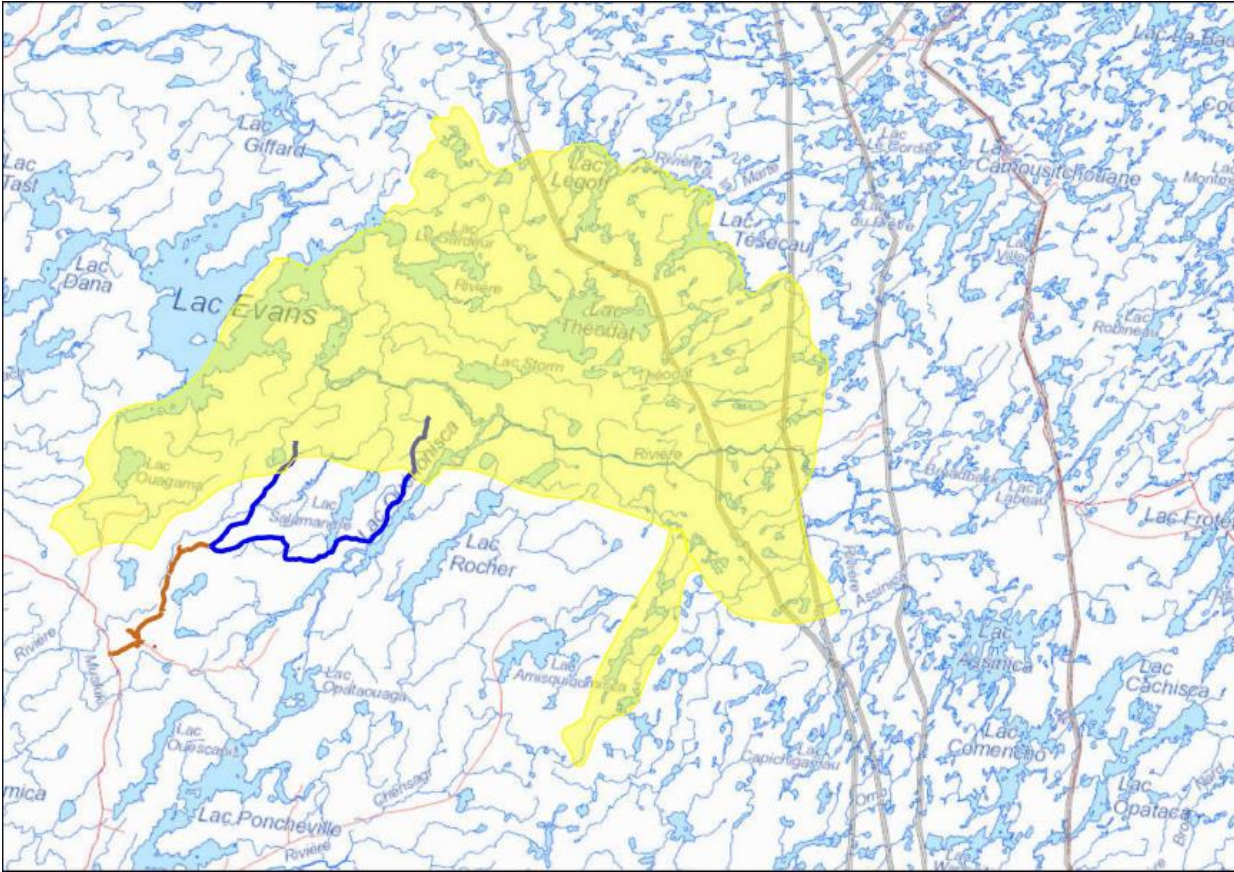
In COMEX's view, review of the project to build forest roads "H, section west" and "I" raised three major issues. First, the cumulative impacts of the roads' construction on traplines of the community of Waswanipi. Currently, 90% of the area covered by these traplines has been affected by forestry operations and is crisscrossed by roads. Authorizing forest roads "H, section west" and "I" will not be an end in itself, but rather the beginning of future expansion of forestry as well as land use through the construction of vacation camps and mining activity, thereby contributing to even greater development on Waswanipi traplines.

The second issue is the potential impact of the roads and resulting forestry activities on the conservation and recovery of woodland caribou. Forest roads "H, section west" and "I" lie within the territory covered by the woodland caribou recovery plan (Woodland Caribou Recovery Task Force, Québec, 2013 b). As the proponent had barely addressed this issue in its impact statement of 2010, it provided a more detailed status report in December 2015, in response to questions from COMEX, which was produced using the results of telemetry monitoring by the MFFP and recent scientific literature.

The third issue relates to the fact that roads "H, section west" and "I" are major forest access roads and their construction is part of the overall development of the territory as well as of the process of creating protected areas in the territory. Although one such protected area was provided for in the agreement to settle the Baril-Moses dispute, the Cree Nation of Waswanipi expressed its displeasure after the agreement was signed and then again during the public hearings. During the public hearing held by COMEX, Chief Marcel Happyjack stated that the Cree First Nation of Waswanipi is not opposed to either the Baril-Moses agreement or forestry; it just wants the community's three remaining traplines north of the Broadback River that have not yet been affected by forestry to remain intact. That is why the Waswanipi Cree Nation delineated the proposed protected area of Waswanipi Mishigamish (Figure 3). The purpose of the protected

area is not only to contribute to woodland caribou recovery, but especially to preserve the traditional way of life of the Cree people.

**Figure 3:** Location of Waswanipi Mishigamish and planned forest roads “H, section west” and “I”



**4. ANALYSIS**

Before making its recommendations to the Provincial Administrator, COMEX drew on the documents submitted by the proponent (impact statement, addenda, answers to questions and comments), the submissions and comments made during the public hearing held on January 19, 2016, and the briefs submitted following the hearing. In relation to the specific issue of woodland caribou, COMEX also consulted documentation from the Woodland Caribou Recovery Task Force and from the panel of experts mandated by the Ministère des Ressources naturelles et de la Faune and the Grand Council of the Crees to assess the status of woodland caribou in the James Bay region.

COMEX’s review must also take into account the context in which the project will be carried out, giving consideration to past agreements signed between the Crees and the Québec government.

Under those agreements, each party is bound by obligations and mechanisms designed to ensure harmonious development of the territory and resolve disputes.

In light of the comments received following the public hearing, we are forced to acknowledge that the type of concerns raised are beyond the scope of the review COMEX is required to do of the forest roads “H, Section west” and “I” construction project, in addition to falling outside its purview in terms of application of the environmental and social impact assessment and review procedure of Section 22 of the JBNQA.

#### **4.1 Acceptability of the planned roads**

COMEX concludes from the views expressed during the public consultation that the local population does not support the construction of forest roads “H, Section west” and “I,” even if the Cree Nation Government does not oppose the project’s environmental authorization. The chief of the Cree First Nation of Waswanipi clearly indicated his desire to see forested areas in the Broadback River Valley remain intact in order to preserve and protect the traditional way of life of the Cree people and ensure the survival of woodland caribou. Some participants wondered why the project would be authorized before the government has adopted a recovery strategy for woodland caribou habitat.

It is important to point out, however, that the Council of the Cree First Nation of Waswanipi indicated in its brief that it is not opposed to either the forest industry or sustainable resource development. A participant also said that tallymen who would be directly affected by forest roads “H, Section west” and “I” are in favour of the project because the roads provide easier access to the territory and the tallymen have not noticed any adverse effects on their hunting activities, that is, they have seen no decline in quality.

Only one participant from the local population was in favour of the forests roads’ construction, saying that it would help restart operations at the Nabakatuk sawmill and, thereby, provide jobs. In addition, according to the consultations conducted by the project proponent, the majority of tallymen directly affected by the roads are in favour of their construction. They say the roads will facilitate travel on their traplines.

#### **4.2 Quality of the information provided by the proponent**

Even though the purpose of building forest roads “H, Section west” and “I” is to provide access to assigned harvesting areas, the proponent does not address logging in the cumulative impact assessment. Even if forestry operations are included in the developments automatically subject to the environment and social impact assessment procedure, this is not something COMEX can ignore, especially since the proponent itself mentions the economic impacts of forestry development in its justification for the project, but not those derived from road’s construction.

Moreover, the participants from Waswanipi were clear during the public hearing: they talked about how forestry activities alter traplines, both in terms of landscape quality and harvest quality.

As pointed out by a few participants at the public hearing, COMEX finds that the information provided by the proponent in its description of the natural environment is incomplete, especially the characterization of the watercourses the roads cross, borrow pits needed for the road construction and vegetation on the proposed layout. There is also insufficient information regarding the archaeological potential in the study area. Although the proponent mentioned its plan of action for documenting the characteristics of the natural environment as construction of the roads advances, the fact remains that it is difficult at this point in time for COMEX to assess all of the project's impacts. Furthermore, COMEX understands that this is a normal way of proceeding when building forest roads that are not subject to the environmental and social impact assessment and review procedure. However, in northern regions, environmental characterization requirements are the same for all proponents and all types of road projects. This information is normally sent to COMEX at the same time as the impact statement. Therefore, COMEX finds that the proponent's action plan for environmental characterization upstream of the construction work is a worthwhile tool, but it must be overseen by COMEX.

### **4.3 Consultation process**

The environmental and social impact assessment and review procedure is just one planning mechanism for forest road networks. The *Paix des Braves* agreement established a consultation mechanism aimed at community participation not only in forest road planning, but also in forestry operations planning on traplines in Eeyou Istchee. These mechanisms were established to ensure the Québec forest regime allows for adaptations to respect the Cree traditional way of life and integration of concerns relating to sustainable development. Obviously, the forest development plans presented in the context of these consultations are not submitted to environmental assessment given that forest development is automatically subject to environmental and social impact assessment and review.

The views expressed during the public hearing revealed deficiencies in the consultation of tallymen, particularly the very limited scope of issues addressed. While the consultations carried out by the Joint Working Groups (JWGs) established by the *Paix des Braves* agreement directly target the principal land users, it appears that the outcome of the consultation is not known or shared by everyone in the community. In addition, because the consultation process is carried out in stages, tallymen are not always able to see the overall impact of proposals and the implications over the long term. The consultations deal solely with forestry and do not take into account the cumulative impacts of the proposed road network, in particular the effects of opening up the territory and increased land use by Aboriginal and non-Aboriginal people, but also by the mining industry for exploration activities.

Forest companies do not systematically consider the requests made by tallymen during consultations. Whereas the purpose of consultation is to adapt the forest regime to the Cree traditional way of life, in actual fact, apart from identified sites of interest (1%<sup>1</sup> and 25%<sup>2</sup> of the total area of a trapline), few accommodations are made in productive forest areas. Moreover, forest companies are apparently less inclined to accommodate or implement mitigation measures in the case of species that are not designated as protected, even species of special interest to the Crees.

Consequently, COMEX finds that the consultation mechanisms established pursuant to the *Paix des Braves* agreement still have a purpose, but the issues addressed during JWG meetings need to be broadened so that tallymen can get an overall picture of the situation. Furthermore, an intermediate consultation mechanism between the JWGs and the Cree-Québec Forestry Board needs to be set up, particularly at the community level. This would make it easier to gauge the effect of proposals on the community and provide an overall picture of proposals, particularly as regards the planned forest road construction.

Indeed, the environmental assessment of forest roads is not the time to discuss the terms and conditions of forestry activities and biodiversity conservation; instead it should be carried out after forest planning has been agreed upon following the institutional consultations provided for in the agreements.

#### **4.4 Impacts of the project on the woodland caribou and its recovery**

In 2011, Environment Canada correlated the chances of a caribou population being self-sustaining to habitat disturbance. At a habitat disturbance level of approximately 40%, the probability of self-sustainability is 0.5 (threshold between self-sustainability and extinction of a herd). In short, the lower the percentage of disturbance, the greater the probability a population will be self-sustaining. To ensure maintenance and recovery of woodland caribou herds, the recovery task force set a self-sustainability probability target of 0.6, which corresponds to a habitat disturbance rate of 35% (Woodland Caribou Recovery Task Force, 2013 a).

COMEX understands that if habitat disturbance exceeds that threshold in a unit of analysis, it does not necessarily mean there can be no more development in that unit, but rather that conservation and restoration measures should be put in place to prevent further habitat loss.

The information provided by the proponent reveals a current level of disturbance of woodland caribou habitat in the area delineated by MFFP experts<sup>3</sup> of 42%. The disturbance level for the

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<sup>1</sup> Site of special interest to the Crees, identified by the tallyman.

<sup>2</sup> Site presenting special wildlife interest, identified by the tallyman.

<sup>3</sup> The unit of analysis is 10 801.2 km<sup>2</sup> and encompasses the study area used by the proponent to assess the impacts of its road project.

unit of analysis would rise to 45.9% taking into account the new roads, harvesting areas and borrow pits. Note that the proponent calculated the disturbance rate using the total surface area of potential borrow pits and only a portion of the pits will be used. As Mr. Rudolph mentioned in his brief, there is reason to believe that the projected disturbance level is underestimated because it applies to the period 2013-2018. Indeed, since logging stemming from forest road projects “H, Section west” and “I” could continue for up to 15 years at least, the cumulative impact will be greater.

In its response to Question 13, in the document sent to COMEX in December 2015, the proponent says that the method used to calculate the disturbance rate “is a restrictive one, which leads to a scenario probably worse than what reality actually is.” Note, however, that the method applies a 500-m buffer zone on both sides of disturbances, whereas the impact zone of forest roads has been shown to be over 4.5 km. St-Laurent et al. (2014) thus consider the method used by Environment Canada (2011) to be very conservative, at least compared to the results of research studies conducted in Québec. The method also applies a 50-year projection period to temporary disturbances such as timber harvesting. In addition, the proponent mentions that a winter road may appear regenerated on an aerial photograph after just 20 or 30 years. This lapse of time could be underestimated when one considers that the preferred habitat of woodland caribou is mature or overmature forest and that the species tends to occur more in forests over 90 years old than in 50-70-year-old forests (Woodland Caribou Recovery Task Force, 2013 a).

Data from telemetry monitoring tend to show that, currently, caribou movement is concentrated north of Broadback River. Collared caribou have also been located in the study area for the roads and there is a winter yard just 3 km from the northern limit for road “H, Section west.” Moreover, the maps illustrating probability of occurrence show a higher probability of caribou occurrence in the area where the roads would be built. Considering the behavioural effects of the roads’ construction and use, the probability of occurrence would subsequently decrease, not only on the road directly, but also in the buffer zone on both sides of the roads.

The guidelines for woodland caribou habitat enhancement (Woodland Caribou Recovery Task Force, 2013 a) inform the decision to authorize the construction of forest roads “H, Section west” and “I” or not. According to the information furnished by the proponent, the habitat disturbance rate following the roads’ construction and timber harvesting would be 45.9%. That would be the rate without restoration or conservation measures. The guidelines for woodland caribou habitat enhancement recommend implementing measures to restore and conserve residual forested areas in units of analysis where the projected disturbance rate is between 35% and 50%. The goal of the restoration and conservation measures is to reduce the disturbance rate over the medium and long terms. While the presence of large protected areas in the northern part of the unit of analysis is a positive point that could help achieve that goal, additional efforts will be needed to avoid raising the current level of disturbance. Restoration measures should therefore be encouraged in order to help lower the level of habitat disturbance, but this is a long-term strategy given the time it takes for forests to regenerate and the fact that there will always be pressure from predators. The proponent proposes that winter and secondary roads be closed once

silvicultural work has been completed. St-Laurent et al. (2014) also suggest prohibiting construction work during the woodland caribou's calving season.

In reading the information received from the proponent and the documents from the Woodland Caribou Recovery Task Force, COMEX noted that James Bay woodland caribou herds are endangered and the species' habitat is at an advanced stage of degradation. Efforts have been made to protect the woodland caribou's habitat and contribute to the species' recovery, in particular application of the precautionary approach adopted by the MFFP since 2013 and the creation of protected areas. However, an important element is still missing if the species is to recover, and that is a Québec government recovery strategy for woodland caribou habitat. As mentioned by Rudolph et al. (2012) and again by Tyler Rudolph in his brief, efforts to curb caribou population decline will not be effective if road development continues unabated in undisturbed parts of the woodland caribou's distribution range. For all intents and purposes, considering the current level of disturbance, COMEX thinks that the goal of a habitat recovery strategy should be to prevent net habitat loss and that priority should be given to closing and restoring secondary roads no longer in use. In addition, since the salutary effects of restoration initiatives would be felt over the long term, other measures should be taken, in particular to ensure connectivity between critical habitats and banning development activities within those habitats.

Although the proponent made reference to this type of measure, the fact remains that forest companies cannot implement it without the MFFP's approval, because once the roads are built, they will be considered public roads. It would therefore be up to the Québec government to ensure zero net habitat loss in the region and promote road closure and restoration. Obviously, this is a sizeable challenge considering the use for built roads for non-forestry purposes. Therefore, with a view to woodland caribou recovery and new-road planning, it is recommended that the roads to be closed and restored should be identified at the outset and, in addition, the number of land use rights issued for these areas should be limited in order to reduce road use.

Lastly, the government authorities concerned need to make the necessary efforts to continue monitoring the woodland caribou population and determine the effectiveness of the species recovery measures put in place. For COMEX, this means that the forest companies concerned will participate in this monitoring effort in one way or another.

#### **4.5 Implementation of the project in the context of the agreement to resolve the Baril-Moses forestry dispute**

The Québec government and the Crees of Québec undertook in the Baril-Moses agreement and Schedule C thereto to make accommodations for the Waswanipi Cree Nation; however, the latter clearly stated during the public hearing that it is not fully satisfied with the agreement. The agreement identifies three major issues that are interrelated:

- creation of protected areas;
- woodland caribou recovery;

- forest roads subject to the environmental and social impact assessment and review procedure.

Forestry was a major issue raised by the Council of the Cree First Nation of Waswanipi during the public hearing: over the last few decades, almost every trapline has been affected by forestry activity. Of the community's 62 traplines, 59 have been affected by forestry activity. All told, 90% of forestland in the territory has been affected by logging and the over 30 000 km of forest roads.

COMEX understands that the northern expansion of forestry activity and the fact that only three of the community's traplines remain untouched by forestry prompted the Council of the Cree First Nation of Waswanipi to call for an enlargement of the protected area provided for in the Baril-Moses agreement. The proposed Waswanipi Mishigamish protected area is an initiative of Waswanipi aimed at protecting these three traplines from forestry operations and forest access roads that might run through them.

In the community's view, the creation of a large protected area in the region would help protect and preserve the Cree traditional way of life by preserving a very important territory. In their opinion, this large protected area would also contribute to woodland caribou recovery. In 2002, the *Paix des Braves* agreement paved the way for the territory's conservation by providing that part of the Assinica Wildlife Sanctuary would be turned into a Québec national park. In February 2010, the Council of the Cree First Nation of Waswanipi sent a message when it adopted a resolution calling for the protection of Lake Evans, the Broadback River Valley and Waswanipi Mishigamish. In 2011, the Assinica national park reserve was registered as a protected area, thereby prohibiting forestry, mining and energy production activities from being carried out within the reserve. The Assinica national park reserve protects part of the Broadback River. Lastly, the agreement signed on July 13, 2015 to resolve the Baril-Moses forestry dispute provides for the designation of a tract of land north of the Broadback River and in the area of Lake Evans as a protected area. These initiatives currently protect a total area of 9 134.81 km<sup>2</sup> from any and all industrial activity. However, it is important to note that 2 891 km<sup>2</sup> of this protected area was already withdrawn from forestry activity because it is located above the northern limit of commercial forestry.

While the protected area provided for under the Agreement to Resolve the Baril-Moses Forestry Dispute only partially meets the Waswanipi Cree First Nation's expectations, because it does not cover all that was called for in 2010 and a significant portion of the territory has been affected by forest fires, the signatory parties nevertheless undertook, in Schedule C, to have meaningful discussions regarding options for protective measures in this area, particularly areas north of the Broadback River that are currently unprotected and harbour the three traplines that remain untouched by forestry. The proposed enlargement of the protected area was endorsed by other bodies and organizations at the public hearing.

While COMEX understands the reasons given by participants calling for an enlargement of the protected area provided for in the Agreement to Resolve the Baril-Moses Forestry Dispute, it has no say, at least not at the moment, on the boundaries of the protected area. However, COMEX deems that it would be unwise to recommend that construction of forest roads "H, Section west"



and “I” within Waswanipi Mishigamish be authorized given the discussions under way. Furthermore, based on the comments received during the public hearing, COMEX would not recommend construction of a road that crosses the Broadback River. That being said, the proponent did mention during the public hearing that crossing the Broadback River was not part of its plan.

## **CONCLUSION**

The consultations held by COMEX in Waswanipi on January 19, 2016 and the briefs received reveal strong opposition to the construction of forest roads “H, Section west” and “I.” There is a clear lack of social acceptability, largely because of the concerns about the roads’ cumulative impacts on Waswanipi Cree traplines and the conservation of woodland caribou habitat. Opposition to the project is not related solely the roads themselves, but rather, and especially, what the roads will be used for, namely, forestry development. As forestry development is exempt from environmental and social impact assessment and review, COMEX finds itself in a delicate position.

However, means and tools for improving the situation are provided for in both the *Paix des Braves* agreement and the Agreement to Resolve the Baril-Moses Forestry Dispute; the problem is the time it is taking to develop and implement them, which is contributing to the lack of confidence in the signatory parties’ genuine will to take action. COMEX gets the impression from the briefs submitted that the Waswanipi Cree Nation’s and environmental groups’ opposition to the proposed forest roads is also a lever for forcing the authorities to step up discussions on the adapted forestry regime for the territory, confirm the surface area of the Broadback River protected area and adopt a recovery strategy for woodland caribou habitat.

The lack of a recovery strategy for woodland caribou habitat and the gaps in the impact statement relating to characterization of the natural environment demand that COMEX significantly limit the scope of the project as submitted by the proponent and impose conditions to fill those gaps. Thus, based on the delimitation of timber harvesting areas in the southern part of the area of the road projects, COMEX recommends limiting the authorized length of forest road “H, Section west” to 9 km, i.e. 13 km less than originally proposed, and the length of forest road “I” to 44 km (including the 21-km section to be upgraded), i.e. 29 km less than originally proposed. COMEX is thereby enabling discussions with Waswanipi on the Mishigamish protected area to continue in accordance with the related agreements. This approach will allow COMEX and the Administrator to ensure that the impacts are known and that proper mitigation measures are implemented throughout the period of the project



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## RECOMMENDATION AND CONDITIONS

After reviewing the documents submitted by the proponent, and taking into account the public consultations held, and in accordance with Section 22 of the James Bay and Northern Québec Agreement and Chapter II of the *Environment Quality Act*:

**COMEX recommends that  
Matériaux Blanchet inc.' project to build forest access roads "H, Section west" and "I" be  
authorized in keeping with the recommendations made in this report and under certain  
conditions.**

This recommendation is for the project as described in the environmental and social impact assessment statement and related documents. Any change or addition to the authorized project must be submitted to COMEX.

This recommendation is conditional upon compliance with the conditions listed herein and is valid insofar as the main construction work related to the project begins within three (3) years following the date of authorization of the project by the Provincial Administrator. Furthermore, the present recommendation and the conditions listed below apply to Matériaux Blanchet inc. as well as to all other holders of timber supply guarantees who use the roads for their forestry operations.

**Condition 1 :** The proponent shall terminate the road layout of "H section west" at the northern boundary of the cutting areas adjacent to the roads planned for 2013-2018. This point corresponds to the site 3 watercourse crossing identified on map B-0936 of the impact study. With regard to the "I" forest road, the layout shall terminate at its junction with the southern boundary of the W05C trapline. Any project to extend roads "H section west" and "I" must be authorized by the Administrator.

**Condition 2 :** With the objective of contributing to the recovery of woodland caribou, construction work on roads "H section west" and "I" and the transport of lumber on these roads shall be prohibited during the calving period, i.e., from May 20 to June 10.

**Condition 3 :** In partnership with the Ministère des Forêts, de la Faune et des Parcs, the proponent shall contribute to monitoring woodland caribou, especially the Nottaway and Assinica herds. To this end, the proponent shall submit to COMEX, for information purposes, the means agreed upon with the Ministère des Forêts, de la Faune et des Parcs for its contribution to monitoring the species.

**Condition 4 :** The proponent shall submit a characterization program of the natural environment to the Administrator for approval prior to the start of work. The characterization program shall include all watercourses crossed by the roads and all sites operated for granular material. Special attention shall be given to the characterization methods used and the staff responsible for performing the characterization. The program shall also make mention of the way in which the traditional knowledge of the territory's users is taken into account.

**Condition 5 :** The proponent shall submit the characterization reports for each watercourse crossing and each borrow pit to the Administrator for approval. The work associated with these

water crossings and the operation of the borrow pits can only begin after approval by the Administrator. Among other things, these reports shall present, the exact location of the watercourse crossings and areas used for granular material.

**Condition 6 :** In the event that characterization work reveals the presence of endangered or vulnerable wildlife species in the limited study area, the proponent shall submit to the Administrator, for approval, the measures it will implement to ensure their protection.

**Condition 7 :** “H section west” and “I” forest roads must be located at a distance of more than 700 meters from bald eagles’ nests.

**Condition 8 :** The proponent shall submit an archeological potential study to the Administrator, for approval, within three months following the project’s authorization. This study shall be based on a cartographic analysis of environmental, cultural and historical factors, as well as on interviews with the territory’s elders and users.

**Condition 9 :** The proponent shall establish a monitoring committee with the Waswanipi community, including the tallymen, in order to share information on the work’s progress, anticipated impacts, mitigation measures implemented and results obtained concerning the monitoring of woodland caribou. The proponent shall submit the minutes of this committee to COMEX for information purposes.

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