



Proposed Esker- Mistaouac biodiversity reserve

Conservation plan



Modified
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1. Protection status and toponym

The legal status of the reserve described below is that of proposed biodiversity reserve under the Natural Heritage Conservation Act (R.S.Q., c. C-61.01).

The provisional name is "Réserve de biodiversité projetée de l'Esker-Mistaouac". The official toponym will be determined at the time of assignment of permanent protection status to the land.

2. Plan and description

2.1. Geographic location, boundaries and dimensions

The boundaries and location of the proposed Esker-Mistaouac biodiversity reserve are shown on the map attached as a Schedule.

The proposed Esker-Mistaouac biodiversity reserve is located in the Nord-du-Québec administrative region, between 49°06' and 49°31' north latitude and 78°31' and 78°59' west longitude. It is situated some 22 km to the west of Village de Joutel and 35 km to the east of Village de Villebois. It covers an area of 456.3 km² and lies within the territory of Municipalité de Baie-James which is outside the regional county municipality.

Several forest road segments still in use have been excluded from the boundaries of the proposed biodiversity reserve over a width of 40 metres. A forest camp along the esker road and eight sand and gravel extraction sites have also been excluded. Those sites are: SMS 32E07-17, SMS 32E07-05, SMS 32E07-04, SMS 32E07-03, SMS 32E07-02, SMS 32E07-01, SMS 32E02-06 and SMS 32E02-09.

2.2. Ecological overview

The proposed Esker-Mistaouac biodiversity reserve is in the Abitibi and James Bay Lowlands natural province. It covers two natural regions, namely the Abitibi Plain natural region in the Turgeon Lake Plain physiographic unit and the Turgeon Lake Plain natural region in the Wawagosic River Plain physiographic unit.

The proposed biodiversity reserve is a glacio-lacustrine plain crossed by a large esker. The eastern portion of the proposed biodiversity reserve on either side of the esker consists of clay loam glacio-lacustrine deposits. The northwestern portion of the proposed biodiversity reserve is characterized by a significant presence of ombrotrophic and minerotrophic bogs dotted by clay silt of glacio-lacustrine origin. The esker, the product of a fluvio-glacial phenomenon, is one of the largest in western Québec and is the main point of interest in the proposed biodiversity reserve. The esker has a total length of 120 km with portions located in the municipalities of Berry and Saint-Mathieu to the south. The portion within the proposed biodiversity reserve is some 48 km long. The southern portion of the proposed biodiversity reserve has some glacio-lacustrine deposits along the esker. The southeastern portion is represented by Mont Plamondon reaching an elevation of 552 m with rock outcrops washed by glacial lake waters, and

some glacial till deposits. The sector has been bare of vegetation ever since. The elevation of the flat plain varies little, between 270 m and the peak of Mont Plamondon, with an average elevation of some 284 m.

The area around Mont Plamondon is of great ecological and geomorphological interest. The raised beaches on the slopes of Mont Plamondon represent one of the best developed and more complete sequences of glacial lake beach ridges in Eastern Canada. The Mont Plamondon beaches cover a vertical section of more than 100 m and include several levels clearly showing the gradual decrease of the water levels of the glacial Barlow-Ojibway lake when it receded. This site, unique with its beaches arranged in tiers on several levels, is a complete record of the last phase of Ojibway lake, maybe the last 500 to 1,000 years of its existence.

Some 50% of the proposed biodiversity reserve is covered by forests because of the large proportion of unwooded bogs and the Mistaouac and Wawagosic lakes. The portions under plant cover are mostly softwood. Black spruce (*Picea mariana*) is widely present in the proposed biodiversity reserve (55%). Some white birch stands (*Betula papyrifera*) and poplar stands (*Populus* sp.) are present around Mistaouac lake and in the southern portion near Mont Plamondon. Jack pine (*Pinus banksiana*, 8% of the forest cover) grows mostly in the southern portion of the proposed biodiversity reserve, particularly in the sandy deposits, including the esker, in addition to being present to the east of Mistaouac lake. Mont Plamondon is covered by white birch. Mixed stands make up some 5% of the forest cover of the proposed biodiversity reserve. Most of the forest cover (65%) is composed of young forests resulting from recent logging operations that are located on Mesic sites and 34% of the forest cover is 90 years old or older.

A heronry is located on the western shore of Mistaouac lake.

The proposed biodiversity reserve adjoins three watersheds, the Wawagosic river, the Mistaouac river, a subbasin of the Wawagosic river, and the Plamondon river.

2.3. Occupation and land uses

There are five leases for vacation resort purposes, mostly on the shores of the Wawagosic river, and sixteen rough shelter leases. Two public interest rights for forest conservation and protection (SOPFEU radiocommunications tower) including one on the summit of Mont Plamondon where a few related buildings have been built. There is a trapping camp on the eastern shore of Wawagosic lake.

The proposed biodiversity reserve is entirely within the Abitibi beaver reserve and the fur-bearing animal management unit 06 and hunting area 16. The "Club de chasse et pêche Mistawac" outfitting operation with exclusive rights is located almost entirely within the proposed biodiversity reserve.

The land in the proposed biodiversity reserve is classified as Category III land under the James Bay and Northern Québec Agreement signed in 1975 and the Act respecting the land regime in the James Bay and New Québec territories (R.S.Q., c. R-13.1).

A little developed network of forest roads is located in the northeastern and the southern portions of the proposed biodiversity reserve. Some unpaved roads suitable for vehicles run through the proposed biodiversity reserve, particularly along the esker.

A snowmobile trail crosses the proposed biodiversity reserve in an east-west direction to the south of Wawagosic lake.

3. Activities framework

§1. — Introduction

Activities carried on within the proposed reserve are governed mainly by the provisions of the Natural Heritage Conservation Act.

This Division prohibits activities in addition to those prohibited under the Act and provides the framework for the various activities permitted so as to better protect the natural environment in keeping with the conservation principles and other management objectives established for the proposed reserves. Accordingly, certain activities require the prior authorization of the Minister and compliance with the conditions determined by the Minister.

As provided in the Natural Heritage Conservation Act, the main activities prohibited in an area to which status as a proposed biodiversity or aquatic reserve has been assigned are

- mining, and gas or petroleum development;
- forest management within the meaning of section 3 of the Forest Act (R.S.Q., c. F-4.1); and
- the development of hydraulic resources and any production of energy on a commercial or industrial basis.

The measures in the Natural Heritage Conservation Act and in this conservation plan apply subject to the provisions of the agreements under the Act approving the Agreement concerning James Bay and Northern Québec (R.S.Q., c. C-67) and the Act approving the Northeastern Québec Agreement (R.S.Q., c. C-67.1).

§2. — Prohibitions, prior authorizations and other conditions governing activities in the proposed reserve

§2.1. Protection of resources and the natural environment

3.1. Subject to the prohibition in the second paragraph, no person may establish in the proposed reserve any specimens or individuals of a native or non-native species of fauna, including by stocking, unless the person has been authorized by the Minister and complies with the conditions the Minister determines.

No person may stock a watercourse or body of water for aquaculture, commercial fishing or any other commercial purpose.

No person may establish in the proposed reserve a non-native species of flora, unless the person has been authorized by the Minister and complies with the conditions the Minister determines.

Before issuing an authorization under this section, the Minister is to take into consideration, in addition to the characteristics and the number of species involved, the risk of biodiversity imbalance, the importance of conserving the various ecosystems, the needs of the species in the ecosystems, the needs of rehabilitating degraded environments or habitats within the proposed reserve, and the interest in reintroducing certain species that have disappeared.

3.2. No person may use fertilizer or fertilizing material in the proposed reserve. Compost for domestic purposes is permitted if used at least 20 metres from a watercourse or body of water measured from the high-water mark.

The high-water mark means the high-water mark defined in the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains, adopted by Order in Council 468-2005 dated 18 May 2005.

3.3. No person may, unless the person has been authorized by the Minister and carries on the activity in compliance with the conditions the Minister determines,

- (1) intervene in a wetland area, including a marsh, swamp or bog;
- (2) modify the reserve's natural drainage or water regime, including by creating or developing watercourses or bodies of water;
- (3) dig, fill, obstruct or divert a watercourse or body of water;
- (4) install or erect any structure, infrastructure or new works in or on the bed, banks, shores or floodplain of a watercourse or body of water, although no authorization is required for minor works such as a wharf, platform or boathouse erected for private purposes and free of charge under section 2 of the Regulation respecting the water property in the domain of the State made by Order in Council 81-2003 dated 29 January 2003;
- (5) carry on any activity other than those referred to in the preceding subparagraphs that is likely to degrade the bed, banks or shores of a body of water or watercourse or directly and substantially affect the quality of the biochemical characteristics of aquatic or riparian environments or wetland areas in the proposed reserve, including by discharging or dumping waste or pollutants into those areas;
- (6) carry out soil development work, including any burial, earthwork, removal or displacement of surface materials or vegetation cover, for any purpose including recreational and tourism purposes such as trail development;
- (7) install or erect any structure, infrastructure or new works;

- (8) reconstruct or demolish an existing structure, infrastructure or works,
- (9) carry on an activity that is likely to severely degrade the soil or a geological formation or damage the vegetation cover, such as stripping, the digging of trenches or excavation work, although no authorization is required for the removal of soapstone by beneficiaries within the meaning of section 1 of the Act respecting the land regime in the James Bay and New Québec territories (R.S.Q., c. R-13.1);
- (10) use a pesticide, although no authorization is required for the use of personal insect repellent;
- (11) carry on educational or research-related activities if the activities are likely to significantly damage or disturb the natural environment, in particular because of the nature or size of the samples taken or the invasive character of the method or process used; or
- (12) hold a sports event, tournament, rally or similar event if more than 15 persons are likely to participate in the activity and have access to the proposed reserve at the same time; no authorization may be issued by the Minister if the activity involves motor vehicle traffic, unless it has been shown to the Minister that it is impossible to organize the activity elsewhere or that bypassing the proposed reserve is highly unfeasible.

The conditions determined by the Minister for the authorization may pertain to the location of the authorized activity, the methods used, the areas that may be cleared or deforested, the types of material that may be used including on-site materials, and the presence of ancillary works or facilities. The conditions may also include a requirement to ensure periodic follow-up or to report to the Minister, in particular as regards the results obtained from the research to which subparagraph 11 of the first paragraph refers.

3.4. Despite subparagraphs 6, 7, 8 and 9 of the first paragraph of section 3.3, no authorization is required to carry out work referred to in subparagraph 1 of this section when the requirements of subparagraph 2 are met.

- (1) The work involves
 - (a) work to maintain, repair or upgrade an existing structure, infrastructure or works such as a camp, cottage, road or trail, including ancillary facilities such as lookouts or stairs;
 - (b) the construction or erection of
 - i. an appurtenance or ancillary facility of a trapping camp, rough shelter, shelter or cottage such as a shed, well, water intake or sanitary facilities; or
 - ii. a trapping camp, rough shelter, shelter or cottage if such a building was permitted under the right to use or occupy the land but had not been constructed or installed on the effective date of the status as a proposed reserve; or

(c) the demolition or reconstruction of a trapping camp, rough shelter, shelter or cottage, including an appurtenance or ancillary facility such as a shed, well, water intake or sanitary facilities.

(2) The work is carried out in compliance with the following requirements:

(a) the work involves a structure, infrastructure or works permitted within the proposed reserve;

(b) the work is carried out within the area of land or right-of-way subject to the right to use or occupy the land in the proposed reserve, whether the right results from a lease, servitude or other form of title, permit or authorization;

(c) the nature of the work or elements erected by the work will not operate to increase the area of land that may remain deforested beyond the limits permitted under the provisions applicable to the sale, lease and granting of immovable rights under the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1) and, if applicable, the limits allowed under an authorization for the structure, works or infrastructure; and

(d) the work is carried out in compliance with the conditions of a permit or authorization issued for the work or in connection with the structure, infrastructure or works involved, and in accordance with the laws and regulations that apply.

For the purposes of this section, repair and upgrading work includes work to replace or erect works or facilities to comply with the requirements of an environmental regulation.

3.5. No person may bury, abandon or dispose of waste, snow or other residual materials elsewhere than in waste disposal containers, facilities or sites determined by the Minister or in another place with the authorization of the Minister and in compliance with the conditions the Minister determines.

Despite the first paragraph, an outfitting operation does not require an authorization to use a disposal facility or site in compliance with the Environment Quality Act and its regulations if the outfitting operation was already using the facility or site on the effective date of the protection status as a proposed reserve.

§2.2. Rules of conduct for users

3.6. Every person staying, carrying on an activity or travelling in the proposed reserve is required to maintain the premises in a satisfactory state and before leaving, return the premises to their natural state to the extent possible.

3.7. Every person who makes a campfire must

(1) first clear an area around the fire site sufficient to prevent the fire from spreading by removing all branches, scrub, dry leaves and other combustible material;

(2) ensure that the fire is at all times under the immediate supervision of a person on the premises;
and

(3) ensure that the fire is completely extinguished before leaving the premises.

3.8. In the proposed reserve, no person may

(1) cause any excessive noise;

(2) behave in a manner that unduly disturbs other persons or interferes with their enjoyment of the proposed reserve; or

(3) harass wildlife.

For the purposes of subparagraphs 1 and 2 of the first paragraph, behaviour that significantly disturbs other persons and constitutes unusual or abnormal conditions for the carrying on of an activity or for the permitted use of property, a device or an instrument within the proposed reserve is considered excessive or undue.

3.9. No person may enter, carry on an activity or travel in a vehicle in a given sector of the proposed reserve if the signage erected by the Minister restricts access, traffic or certain activities in order to protect the public from a danger or to avoid placing the fauna, flora or other components of the natural environment at risk, unless the person has been authorized by the Minister and complies with the conditions the Minister determines.

3.10. No person may destroy, remove, move or damage any poster, sign, notice or other types of signage posted by the Minister within the proposed reserve.

§2.3. Activities requiring an authorization

3.11. No person may occupy or use the same site in the proposed reserve for a period of more than 90 days in the same year, unless the person has been authorized by the Minister and complies with the conditions the Minister determines.

(1) For the purposes of the first paragraph,

(a) the occupation or use of a site includes

i. staying or settling in the proposed reserve, including for vacation purposes;

ii. installing a camp or shelter in the proposed reserve; and

iii. installing, burying or leaving property in the proposed reserve, including equipment, any device or a vehicle;

(b) "same site" means any other site within a radius of 1 kilometre from the site.

(2) Despite the first paragraph, no authorization is required if a person,

(a) on the effective date of the protection status as a proposed reserve, was a party to a lease or had already obtained another form of right or authorization allowing the person to legally occupy the land under the Act respecting the lands in the domain of the State or, if applicable, the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1), and whose right to occupy the land is renewed or extended on the same conditions, subject to possible changes in fees;

(b) in accordance with the applicable provisions of law, has entitlement under a sublease, an assignment of a lease or a transfer of a right or authorization referred to in paragraph a, and whose right to occupy the land is renewed or extended on the same conditions, subject to possible changes in fees; or

(c) elects to acquire land the person legally occupies on the effective date of the protection status as a proposed reserve, pursuant to the Act respecting the lands in the domain of the State.

3.12. (1) No person may carry on forest management activities to meet domestic needs or for the purpose of maintaining biodiversity, unless the person has been authorized by the Minister and carries on the activities in compliance with the conditions the Minister determines.

The conditions determined by the Minister for the authorization may pertain, among other things, to species of trees or shrubs, the size of the stems that may be cut, the quantities authorized and the places where the activities may be carried on.

(2) Despite subsection 1, the authorization of the Minister is not required if a person staying or residing in the proposed reserve collects wood to make a campfire.

An authorization is also not required if a person collects firewood to meet domestic needs in the following cases and on the following conditions:

(a) the wood is collected to supply a trapping camp or a rough shelter permitted within the proposed reserve if

i. the wood is collected by a person in compliance with the conditions set out in the permit for the harvest of firewood for domestic purposes issued by the Minister of Natural Resources and Wildlife under the Forest Act;

ii. the quantity of wood collected does not exceed 7 apparent cubic metres per year;

(b) in all other cases if

i. the wood is collected within a sector designated by the Minister of Natural Resources and Wildlife as a sector for which a permit for the harvest of firewood for domestic purposes under the Forest Act may be issued, and for which, on the effective date of the protection status as a proposed reserve, a designation as such had already been made by the Minister;

ii. the wood is collected by a person who, on the effective date of the protection status as a proposed reserve or in any of the three preceding years, held a permit for the harvest of firewood for domestic purposes allowing the person to harvest firewood within the proposed reserve;

iii. the wood is collected by a person in compliance with the conditions set out in the permit for the harvest of firewood for domestic purposes issued by the Minister of Natural Resources and Wildlife under the Forest Act.

(3) Despite subsection 1, an authorization to carry on a forest management activity is not required if a person authorized by lease to occupy land within the proposed reserve in accordance with this conservation plan carries on the forest management activity for the purpose of

(a) clearing the permitted areas, maintaining them or creating visual openings, or any other similar removal work permitted under the provisions governing the sale, lease and granting of immovable rights under the Act respecting the lands in the domain of the State, including work for access roads, stairs and other trails permitted under those provisions; or

(b) clearing the necessary area for the installation, connection, maintenance, repair, reconstruction or upgrading of facilities, lines or mains for water, sewer, electric power or telecommunications services.

If the work referred to in paragraph *b* of subsection 3 is carried on for or under the responsibility of an enterprise providing any of those services, the work requires the prior authorization of the Minister, other than in the case of the exemptions in sections 3.13 and 3.15.

(4) Despite subsection 1, an authorization to carry on a forest management activity to maintain a sugar bush and harvest maple products for domestic needs is not required if

(a) the activity is carried on by a person who, on the effective date of the protection status as a proposed reserve or in any of the three preceding years, held a sugar bush management permit issued by the Minister of Natural Resources and Wildlife under the Forest Act allowing the person to carry on within the proposed reserve the activities associated with operating a sugar bush;

(b) the activity is carried on within a zone for which the permit obtained allowed the carrying on of sugar bush operations on the effective date of the protection status as a proposed reserve or in any of the three preceding years; or

(c) the activity is carried on by a person in compliance with the conditions set out in the sugar bush management permit issued by the Minister of Natural Resources and Wildlife under the Forest Act.

§ 2.4. *Authorization exemptions*

3.13. Despite the preceding provisions, an authorization is not required for an activity or other form of intervention within the proposed reserve if urgent action is necessary to prevent harm to the health or safety of persons, or to repair or prevent damage caused by a real or apprehended disaster. The person

concerned must, however, immediately inform the Minister of the activity or intervention that has taken place.

3.14. The members of a Native community who, for food, ritual or social purposes, carry on an intervention or an activity within the proposed reserve are exempted from obtaining an authorization.

For greater certainty, the provisions of this conservation plan also apply subject to the authorization exemptions and other provisions in the Act respecting hunting and fishing rights in the James Bay and New Québec territories (R.S.Q., c. D-13.1).

3.15. Despite the preceding provisions, the following activities and interventions involving the transmission, distribution or production of electricity carried out by Hydro-Québec (Société) or by any other person for Hydro-Québec do not require the prior authorization of the Minister under this conservation plan:

(1) any activity or intervention required within the proposed reserve to complete a project for which express authorization had previously been given by the Government and the Minister, or only by the Minister, in accordance with the Environment Quality Act (R.S.Q., c. Q-2), if the activity or intervention is carried out in compliance with the authorizations issued;

(2) any activity or intervention necessary for the preparation and presentation of a pre-project report for a project requiring an authorization under the Environment Quality Act;

(3) any activity or intervention relating to a project requiring the prior authorization of the Minister under the Environment Quality Act if the activity or intervention is in response to a request for a clarification or for additional information made by the Minister to the Société, and the activity or intervention is carried out in conformity with the request; and

(4) any activity or intervention by the Société, if the conditions for the carrying out of the activity or intervention have been determined in an agreement between the Minister and the Société and the activity or intervention is carried out in compliance with those conditions.

The Société is to keep the Minister informed of the various activities or interventions referred to in this section it proposes to carry out before the work is begun in the reserve.

For the purposes of this section, the activities and interventions of the Société include but are not restricted to pre-project studies, analysis work or field research, work required to study and ascertain the impact of electric power transmission and distribution line corridors and rights-of-way, geological or geophysical surveys and survey lines, and the opening and maintenance of roads required for the purpose of access, construction or equipment movement incidental to the work.

§2.5. General provisions

3.16. Every person who applies to the Minister for an individual authorization or an authorization for a group or a number of persons must provide all information or documents requested by the Minister for the examination of the application.

3.17. The Minister's authorization, which is general or for a group, may be communicated for the benefit of the persons concerned by any appropriate means including a posted notice or appropriate signage at the reception centre or any other location within the proposed reserve that is readily accessible to the public. The Minister may also provide a copy to any person concerned.

§3. *Activities governed by other statutes*

Certain activities likely to be carried on within the proposed reserve are also governed by other legislative and regulatory provisions, including provisions that require the issue of a permit or authorization or the payment of fees. Certain activities may also be prohibited or limited by other Acts or regulations that are applicable within the proposed reserve.

A special legal framework may govern permitted activities within the proposed reserves in connection with the following matters:

- Environmental protection: measures set out in particular in the Environment Quality Act (R.S.Q., c. Q-2) and its regulations;
- Removal of species of flora designated as threatened or vulnerable: measures set out in the Act respecting threatened or vulnerable species (R.S.Q., c. E-12.01) prohibiting the removal of such species;
- Development and conservation of wildlife resources: measures set out in particular in the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1), including the provisions pertaining to outfitting operations and beaver reserves and the measures contained in applicable federal legislation, in particular the fishery regulations; in Northern regions: special measures set out in the Act respecting hunting and fishing rights in the James Bay and New Québec territories (R.S.Q., c. D-13.1);
- Archaeological research: measures set out in particular in the Cultural Property Act (R.S.Q., c. B-4);
- Access and land rights related to the domain of the State: measures set out in particular in the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1) and in the Watercourses Act (R.S.Q., c. R-13) and, in Northern regions, in the Act respecting the land regime in the James Bay and New Québec territories (R.S.Q., c. R-13.1);
- Operation of vehicles: measures set out in particular in the Act respecting the lands in the domain of the State (R.S.Q., c. T-8.1) and in the regulation respecting motor vehicle traffic in certain fragile environments made under the Environment Quality Act;

- Construction and development standards: regulatory measures adopted by regional and local municipal authorities under the Acts applicable to them.

4. Responsibilities of the Minister of Sustainable Development, Environment and Parks

The Minister of Sustainable Development, Environment and Parks is responsible for conservation and management of the proposed Esker-Mistaouac biodiversity reserve and is therefore responsible for supervising and monitoring the activities allowed in the reserve. The Minister in the management of the reserve works collaboratively with other government representatives having specific responsibilities in or adjacent to the reserve, such as the Minister of Natural Resources and Wildlife. In the exercise of their powers and functions, the Ministers will take into consideration the protection sought for these natural environments and the protection status that has been granted.

Schedule

Map of the proposed Esker-Mistaouac biodiversity reserve



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