



PRELIMINARY COMMENTS
OF THE NORTHERN QUEBEC INUIT ASSOCIATION
ON
THE PROPOSED GREAT WHALE
HYDRO-ELECTRIC PROJECT
AND
ITS BROADER IMPLICATIONS

Submitted to:

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NORTHERN QUEBEC INUIT ASSOCIATION
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INTRODUCTION

On December 20, 1977, representatives of the Northern Quebec Inuit Association ("N.Q.I.A.") met with representatives of Hydro-Québec * to discuss the proposed Great Whale hydro-electric project. Those discussions revealed the far-reaching effects such a project would have upon the people of the region affected and upon the region itself. We have determined, furthermore, that such a project, even if confined to a defined region, has broader implications for the entire territory north of the 55th parallel. By these preliminary comments, we wish to draw your attention to our concerns at a time early enough to ensure that the proposed development, if it proceeds, will do so in a cautious and orderly fashion.

The proposed Great Whale hydro-electric project, if built, would be the first major development to take place in northern Québec above the 55th parallel since the signing of the James Bay and Northern Québec Agreement. An immediate concern, therefore, is that the proposed project conform to the letter and spirit of the provisions of that Agreement relating to environmental and social impact assessment. Those provisions are the result, at least in part, of the resolution of conflicts which arose out of a lack of environmental studies and consultation which characterized the planning of the James Bay hydro-electric project. We particularly want to avoid the experience of James Bay in the case of the proposed development at Great Whale.

* The Hydro-Québec representatives present were from Hydro-Québec's environment department as well as a representative from SOMER, the Montreal consulting firm engaged by Hydro-Québec to participate in the environmental and social impact studies respecting new modes of access to the Great Whale project.

Insofar as the Inuit constitute the majority of the population in the region north of the 55th parallel and, in particular, in the area of the proposed Great Whale project, we wish to fully establish a principle already recognized to some extent in the James Bay and Northern Québec Agreement, namely, the principle of meaningful native participation in decisions relating to northern development. This concept is neither novel nor unique and has been urged previously by others *.

More generally, we want the Government of Québec to ensure, by measures taken with respect to the Great Whale project, the establishment of adequate standards and practices for future northern development above the 55th parallel.

Finally, we are submitting these preliminary comments at this time to encourage greater cooperation and collaboration between the Government of Québec and the Inuit of northern Québec, both in evolving a balanced and orderly policy on northern development and in effecting sound developmental practices.

A. FORMULATION OF A BALANCED POLICY ON DEVELOPMENT IN NORTHERN QUEBEC ABOVE THE 55TH PARALLEL

At the December 20th meeting referred to above, Hydro-Québec indicated that it intended to formulate

* Meaningful participation has been repeatedly requested by native groups throughout Canada. See also "Le processus décisionnel dans la conception et la réalisation du développement nordique au Canada - La Baie James", préparé par Eric Gourdeau avec la collaboration de Pierre Dansereau, Louis-Edmond Hamelin et Guy Rocher, December, 1974 (Science Council of Canada), where the decision-making process in the James Bay hydro-electric project is generally criticized.

a global policy on northern development for the entire territory by January 1, 1978. In their view, such a policy would assist them in determining what would be suitable access routes to the Great Whale project. Their representatives stated that the development policy would reflect Hydro-Québec's assumption that the two major types of development in the territory would be hydro-electric power and mining.

We are opposed to the possibility that Hydro-Québec, with its obvious bias towards extensive hydro-electric development in the territory, should formulate, on behalf of the Government of Québec, a global development policy for the territory. While the formulation of such a policy may be useful for Hydro-Québec's own internal purposes, we believe that the Government of Québec would not be fulfilling its responsibilities in this critical area of planning if, in effect, this vital function was left to a Crown corporation whose main purpose is the development of hydro-electric resources in the territory. Hydro-Québec's own policy should not, by default, become the Government's blueprint for development in this territory. A government body, in conjunction with our regional bodies, would be a more appropriate and credible coordinator for formulating a global development policy. At this point in time, any studies in this regard should primarily be the responsibility of the Office de planification et développement du Québec ("OPDQ") and be carried out in collaboration with the Kativik Regional Development Council ("KRDC") established under the James Bay and Northern Québec Agreement. With respect to the KRDC, section 23.6.2 of the James Bay and Northern Québec Agreement provides:

"The Regional Council shall be involved with the Office de planification et développement du Québec ... and shall become the preferential consulting body of the latter, in matters related to public consultation and advice on development in the Region north of the 55th parallel."

Secondly, we are not certain whether Hydro-Québec's stated timetable for completion of such a global policy was seriously meant to be observed, but, in our view, an adequate global policy on northern development could not have been achieved by January 1, 1978 if proper consultation and participation by interested persons and groups, both within and outside the territory, was to take place. In this connection, Hydro-Québec's representatives indicated that different northern communities and groups would be consulted while they were formulating their policy. To date this has not taken place. N.Q.I.A., on behalf of the majority of the Inuit in northern Québec, must participate in any study proposing to lead to a global development policy for the territory. Furthermore, the funding necessary to ensure that such participation is meaningful must also be provided.

Thirdly, such studies must not be conducted from the perspective whereby northern development is seen solely in terms of large-scale resource exploitation whose long-term benefits are intended to accrue primarily to southern Québec. Northern developments which meet the local and regional needs of the territory and its inhabitants must also be foreseen and initiated with an equal sense of

commitment and priority. Such small-scale local developments, with lesser adverse impacts, will be desirable and necessary in the future to establish a more diversified and sustainable economy in northern Québec.

Fourthly, a proper role for regional and local bodies must be established so as to ensure their participation in developmental decisions affecting the territory. For example, we foresee the Kativik Regional Government, whose jurisdiction generally extends throughout the area above the 55th parallel, making an important contribution in shaping a developmental policy which will include the needs and priorities of its residents and the region.

Fifthly, a balanced policy on northern development must recognize the principle of multiple-use in the territory for the benefit of all Québécois, particularly the local residents in the territory. Hydro-electric development and mining are not necessarily the major or dominant uses or activities in the territory. Examples of local and regional uses of increasing significance in the territory include Inuit cooperatives, commercial fisheries, local businesses, harvesting, tourism and outfitting.

B. PROPER ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT OF
THE GREAT WHALE HYDRO-QUEBEC PROJECT

The James Bay and Northern Québec Agreement specifically provides in section 23 that any proposed

developments which may significantly affect the environment, including the people of the territory, will be assessed for their impact by the Environmental Quality Commission ("EQC").

The Hydro-Québec representatives indicated at the December 20th meeting that they are prepared to submit an impact statement concerning the Great Whale hydro-electric project to the EQC for impact assessment. To date, however, Hydro-Québec has not, to our knowledge, given formal indication that the proposed project will be submitted for impact assessment and review. Furthermore, the documents we have received from Hydro-Québec do not refer to or contemplate any external assessment or review process.

With respect to the necessity for such assessment and review, our position is as follows:

First, it should be noted that the EQC and the environmental and social impact assessment and review process established by section 23 of the James Bay and Northern Québec Agreement have not yet been incorporated into legislation. However, section 23.7.1 of the Agreement provides that the EQC is to be fully operative within four (4) months of the coming into force of the Agreement on October 31, 1977. Accordingly, such legislation should be passed and should be operative in time to evaluate the environmental and social impacts of the proposed Great Whale project.

Secondly, section 23.7.6 of the Agreement provides for the possibility of two impact review processes when a project is located in part in the region above the 55th

parallel and in part in another region where an impact review process is also required. In the case of the Great Whale project, it would appear that the impact assessment process provided for the Crees in section 22 of the James Bay and Northern Québec Agreement may also be applicable.

Thirdly, an adequate assessment of the impact of the Great Whale project must include both environmental and social aspects. Section 8.1.3 provides in part that the Great Whale complex, if built as described in section 8.1.3 (e), shall be "subject to the environmental regime only in respect of ecological impacts". However, this limitation must be read together with section 8.1.3 (f) which provides that the Great Whale project

"shall not eliminate the reasonable mitigating measures required to minimize effects of the project on hunting, fishing and trapping by the native people and there shall be remedial works for [this project]".

Therefore, the assessment of the project cannot be restricted to an assessment of ecological factors alone.

Furthermore, section 8.1.3 of the Agreement provides, in part, that "sociological factors or impacts shall not be grounds for the Crees and/or Inuit to oppose or prevent" the Great Whale hydro-electric project. This condition, which has always been reprehensible to the Inuit, does not preclude an action in damages for adverse social impacts suffered as a result of the project or release Hydro-Québec from liability for such damages. It is for this reason that

the potential social impacts arising from the Great Whale project must be adequately studied and assessed. Clearly, the spirit and the letter of the Agreement emphasizes the need to mitigate sociological impacts harmful to the Inuit caused by the development.

Fourthly, we understand that Hydro-Québec intended to determine what are the best modes of access (e.g. airport, seaport, road) for the Great Whale project by February 15, 1978. Furthermore, Hydro-Québec intends to evaluate and determine the access corridors and the site of least impact of such access routes by April 15, 1978. We find these actions disturbing for several reasons. As was readily admitted by the Hydro-Québec representatives * at the December 20th meeting, the time allotted for completion of these studies is grossly inadequate. From what we know of Hydro-Québec's terms of reference for these studies, it is doubtful that they will be sufficiently comprehensive so as to deal properly with all relevant Inuit interests.

In addition, such isolated and fragmented studies do not take into account any cumulative impacts arising from the development as a whole. Moreover, the potential impacts in general from new access routes in the northern territory which are to serve not only for the Great Whale project, but also for future access for other purposes and activities, may not be adequately considered in such studies.

If Hydro-Québec, as the proponent, undertakes inadequate studies - by imposing unrealistic deadlines

* The sole exception to this view was the representative from SOMER, the firm commissioned to do the studies, who felt that such studies could be adequately carried out within the allotted time.

and inappropriate terms of reference - any delays in the project which may later result can only be attributed to Hydro-Québec's own wilful actions.

C. ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT: AN INTEGRAL PART OF THE DECISION-MAKING PROCESS - NOT IN ITSELF A "DELAY"

As stated earlier, section 23 of the James Bay and Northern Québec Agreement provides for environmental and social impact assessment through the Environmental Quality Commission ("EQC"). Such assessment by the EQC is an integral and vital part of the decision-making process to determine whether a development will proceed, and, if so, on what conditions.

Section 8.1.3 of the Agreement, in referring to the Great Whale hydro-electric development, only recognizes the "possibility" of such a future development. The Agreement does not confer any prior approval upon the proposed development or release Hydro-Québec from submitting the proposed development to the assessment and review process.

However, at the December 20th meeting, the representative from Hydro-Québec's consulting firm, SOMER, stated that whether the Agreement had actually approved the Great Whale project was "only a question of semantics". Furthermore, it was stated that Hydro-Québec intends to begin construction of the Great Whale project by 1981 and any interim deadlines for completion of studies have been fixed with the 1981 construction date in mind. If inadequate time is allotted to carry out the necessary environmental and social studies, inadequate studies will inevitably result. We believe that it is precisely this attitude which leads to the

environmental and social impact assessment process being viewed as a "delay", rather than as an essential phase in the decision-making process.

Hydro-Québec's preliminary actions reflect its tendency to view the assessment process as merely a "delay". Section 23.3.15, however, clearly enshrines the importance of the impact assessment process by providing, in part, as follows:

"Whatever other types of approvals, licences, or permits that may be obtained in relation to a development subject to the assessment and review process, such development may not proceed until the conditions of [Section 23] pursuant to such process have been complied with.

If a development is subject to the assessment and review process then the process must be completed and a decision made as to whether or not and upon what terms the development should proceed before any government funds or loans are given save if the Minister responsible for such funds or loans decides otherwise."

D. COMPREHENSIVE STUDIES: THE NEED FOR COLLABORATION AND FOR ACCESSIBILITY TO INFORMATION AT THE EARLIEST POINT IN TIME

In order to avoid unnecessary delays to the project, technical, environmental and social baseline studies, as well as impact studies, must be devised from the outset in as thorough a fashion as possible.

It is therefore necessary for Hydro-Quebec and its consultants to collaborate with Inuit representatives in the initial planning stages. Terms of reference for the studies, if determined jointly, will help to ensure that the research carried out will be adequate and will take into account all rights and interests of the Inuit of northern Québec.

At the December 20th meeting, N.Q.I.A. indicated it wished to evaluate the terms of reference of any relevant studies to be initiated or commissioned by Hydro-Québec. To date, however, we have received outlines of proposed research only after the research has been initiated or completed and we have not participated in the determination of the terms of reference of such research.

Furthermore, N.Q.I.A. has been less than successful in obtaining certain basic information about the Great Whale project. Since April 1976, various representatives of Hydro-Québec have repeatedly promised that such studies would be made available. Recently, we have again requested from Hydro-Québec all relevant technical, environmental and social studies. We are also seeking a copy of all general and specific Hydro-Québec regulations pertaining to the Great Whale project.

In March 1978, Hydro-Québec representatives presented to N.Q.I.A. some preliminary studies, prepared by Les Entreprises Archéotec, Inc., a consulting firm retained by Hydro-Québec. The contents of these voluminous reports with respect to historical and contemporary native land use in the Great Whale area have not yet been evaluated by us.

We still, however, are facing significant problems in this area. First, when information has been provided by Hydro-Québec, it has often not been provided in timely fashion and N.Q.I.A. has received such information many months after it was first available or completed. Secondly, pertinent information which has been received has come in fragments and on an irregular basis. This makes it difficult to assess, in a comprehensive and systematic manner, the potential environmental and social impacts arising from the hydro-electric project. Thirdly, even if a proper system of information and consultation is established in the future, N.Q.I.A. could not meaningfully participate without adequate funding being made available. This question of funding is discussed more fully in Section F below.

E. ESTABLISHMENT OF A SCIENTIFIC RESEARCH POLICY FOR THE REGION ABOVE THE 55TH PARALLEL

The problems associated with the initial planning phases of the Great Whale project, particularly the research activities described in Section D above, are symptomatic of a larger issue which requires immediate attention, namely, how scientific research in northern Québec is going to be carried out and who is going to effect such research.

We would recommend that a scientific research policy be formulated for northern Québec in collaboration with N.Q.I.A. and other bodies with interests in the area. Implementation of the policy could be ensured, where necessary, by regulation.

Such a northern research policy should include the following principles:

- Native people should have a right to participate meaningfully in northern research programs in order to protect their rights and interests;

- Priorities should be established relating to the various types of northern research, and such priorities must give adequate recognition to local and regional needs, that is, "northern" objectives as well as those province-wide;

- In research affecting the rights and interests of native people, there must be adequate prior consultation in determining the terms of reference for such research;

- A non-partisan body should be created to monitor the scientific research policy, to recommend regulations, and to promote the objectivity and integrity of northern research programs;

- Northern research effected by federal and Québec Crown corporations and by private industry should be made available to the Québec government and the Kativik Regional Government, particularly when a Crown corporation or private industry is receiving some form of financial assistance from the government;

- In order to avoid duplication, and to ensure maximum benefit or use, any scientific northern reports pertaining to the region should be made known and available to interested persons, groups or governments;

- Northern reports should be filed in an accessible information storage and retrieval system;

- Programs for reciprocal information and exchange should be initiated so as to obtain Arctic or sub-Arctic information carried out in other parts of Canada or from other countries;

- Québec should strive to establish and conserve an "independent" quality in such research, wherever possible; for example, Québec universities engaged in research should not be excessively funded, or otherwise retained, by development corporations or industry, but should be given adequate funding from government sources;

- Where possible, research contracts, for specific projects subject to impact assessment, should be awarded to qualified persons who are mutually acceptable to the proponent and to those persons directly affected by the project; this principle could apply even if the proponent is funding and initiating the research;

- Programs to collect essential baseline data should be funded on a continuing basis; for example, to avoid the issue of delays, Hydro-Québec could indicate which rivers are most likely to be considered in the near future for hydro-electric development so as to allow independent studies through Québec universities to be initiated far enough in advance to collect the relevant data and information.

F. ADEQUATE FUNDING FOR NATIVE REPRESENTATIVES AND OTHER INTERESTED PERSONS

Although a variety of studies have been carried out in northern Québec, there is still a significant lack of baseline studies. This information is vital to the

decisions which will influence the future direction of northern development. The lack of baseline data is especially evident with respect to the values, priorities, and objectives of northern residents, particularly the Inuit.

In such a new and challenging milieu, the evolution of northern research and development policies and other northern policies must specifically provide for adequate native participation as well as other interest groups.

More specifically, in relation to the Great Whale project, the environmental and social impact assessment process must allow for adequate representations by interested native and non-native groups in Québec - for example, the Inuit of northern Québec whose rights and interests may be severely affected; environmental groups who seek to protect Québec's natural environment; and universities and other institutions involved in northern research who may wish to comment on some aspects of the project or its effects.

A conflict-of-interest situation is created when a proponent, such as Hydro-Québec, prepares the environmental impact studies, since the development corporation obviously wants its project to proceed. Hence, in order to protect Inuit rights and interests, the Inuit must be able to meaningfully participate at all stages of the assessment process.

In some instances, the Inuit will want, not only to evaluate the research studies prepared by Hydro-Québec and its consultants, but also to carry out their own research or to seek an independent opinion. This will likely be the

case for subject matters of great importance or consequence to the Inuit.

In the case of the Great Whale project, it is not unrealistic to assume that the costs to be incurred by the Inuit in order to adequately evaluate the proponent's studies, to effect their own studies, and to eventually make representations before the Environmental Quality Commission, would approach 1.5 to 2 million dollars. Such funding should be made available to duly authorized Inuit representatives as early as possible by the Quebec government.

We would recommend that the Québec government, as a matter of policy, exact such funding from the proponent, especially when the proponent is a Crown corporation such as Hydro-Québec*. The Inuit should not be expected to finance their own participation so as to protect their rights and interests which have been confirmed and secured through the James Bay and Northern Québec Agreement. If Inuit rights and interests are being affected by large-scale projects of Hydro-Québec or others, it is the latter who must compensate for the costs of the Inuit in preparing studies and participating in the impact assessment process.

* The principle of recovering from the proponent the costs incurred by a government agency or board in assessing, supervising or monitoring a specific project is to be found in federal legislation recently tabled before Parliament: Bill C-25, an Act to establish the northern pipe-line agency, First Reading, February 3, 1978, section 29. See also Bill C-20, The Canada Oil and Gas Act, First Reading, December 20, 1977, section 19, where an "Environmental Studies Revolving Fund" is to be established. The initial payments into, and the maintenance of, such Fund are to be made by holders of rights and interests under the Act.

(Although sections 29 and 19 of Bill C-25 and Bill C-20 respectively may prove to be useful provisions, N.Q.I.A. does not support many other provisions found in these Bills which, if passed in their present form, are likely to have an adverse or prejudicial effect on native rights and interests).

In the case of the Great Whale project, an additional 2 million dollars will not greatly affect Hydro-Québec's overall multi-billion dollar budget for the project. However, the imposition of a multi-million dollar cost on the Inuit to protect their rights and interests, secured in a native land claims settlement, would constitute an unreasonable and awesome financial burden on the Inuit. This financial burden would recur with every future large-scale development affecting Inuit interests.

Due to the incredible complexity and high costs associated with major development projects in the North, the necessary principle of funding native and other public interest groups must be clearly established. In the Berger Inquiry on the Mackenzie Gas Pipeline, the federal government made available to such participants over 2 million dollars in order to ensure a greater balance in the views and evidence presented before the Inquiry.

As stated earlier, the rights and interests of the Inuit of northern Québec have been accorded clear recognition in the James Bay and Northern Québec Agreement by the Québec government and Hydro-Québec, who have also made strong commitments to protect these rights and interests. In order to fulfill properly these commitments, the provision of adequate funding to the Inuit in such instances is both fundamental and essential.

RECOMMENDATIONS

1. The Great Whale hydro-electric project must be seen as a "test-case" as to whether the environmental and social impact assessment and review provisions of the James Bay and Northern Québec Agreement will be respected.

2. A balanced policy on development in northern Québec above the 55th parallel must be firmly established in collaboration with the Inuit and the local or regional bodies situated in the region.

3. Coordination of a study on a global northern development policy should be undertaken, at this time, by the Office de planification et développement du Québec (OPDQ) in collaboration with the Kativik Regional Development Council established under the James Bay and Northern Québec Agreement.

4. Local and regional bodies, such as the Kativik Regional Government, must have a proper role in participating in developmental decisions affecting the territory north of the 55th parallel.

5. The principle of multiple-use in the territory must be given adequate recognition and the territory must not be seen solely in terms of hydro-electric and mining developments.

6. Environmental and social impact assessment and review of the Great Whale project must be carried out in a proper and orderly fashion and not be unreasonably pressured by the self-imposed construction deadlines of Hydro-Québec. Adequate lead time must be provided to complete environmental, social and technical studies.

7. Environmental and social impact assessment must be accepted as an integral part of the decision-making process respecting developments and must not be viewed in itself as a "delay".

8. In order to achieve comprehensive studies, Hydro-Québec must collaborate with Inuit representatives and provide ready access to relevant information at the earliest point in time.

9. A scientific research policy for the entire region above the 55th parallel must be established in collaboration with Inuit representatives and other interested bodies of the region.

10. In such a northern research policy, the principle of independent and objective scientific research should be given firm recognition.

11. Programs to collect essential baseline data should be funded on a continuing basis.

12. Adequate funding of native representatives and other interested persons should be provided to allow for meaningful participation at all stages of the environmental and social impact assessment process for northern developments. For the Great Whale project, 2 million dollars may be required by the Inuit of Québec in order to participate in the environmental and social impact assessment and review of the Great Whale project. Such funding should be provided as soon as possible.

13. Proponents, such as Hydro-Québec, should bear the costs of funding native and other interested persons in the assessment process for the proponents' own projects.