

**The Process of Building Consensus in Power Development :
A Methodology for the Involvement of Indigenous Peoples in Decision Making**

**Paper #17 submitted to the
International Symposium on Electricity, Health and the Environment –
Comparative Assessment in Support of Decision Making**

**Session 1 :
"Key Issues in the Decision Making Process"**

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Vienna, Austria, October 17, 1995

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ABSTRACT

This paper is intended as a contribution to the advancement of methodologies for comparative assessment; it outlines the procedure for participation and decision making developed by the Inuit of Nunavik, Canada, with respect to the Grande-Baleine hydroelectric project.

The key issue of indigenous involvement in decision making processes related to energy production is dealt here by examining the methodology developed in relation with a hydroelectric project. While this type of project has its own specific issues related to the use of the land, the social, environmental and economic impacts, it remains that the methodology developed could be adapted to any energy production project

Beginning with the World Bank definition of "consultation", this paper will show that the Inuit attempted to apply this concept to the situation and even enlarge its scope. To achieve this we will first describe the Inuit and their region; second, summarize the Grande-Baleine environmental assessment process as well as the negotiation process with the proponent; and third, delineate the decision making flow leading to a final consensus.

This paper is intended as a contribution to the advancement of methodologies for comparative assessment; it outlines the procedure for participation and decision making developed by Northern Quebec (Canada) Inuit with respect to the Grande-Baleine hydroelectric project. Firstly, we will summarize the Grande-Baleine environmental assessment process, as it evolved as a result of agreements between the two levels of jurisdiction (federal/provincial) and the indigenous groups involved, the Cree Indians and the Inuit. Secondly, we will endeavour, through the analysis of the Inuit involvement in this process, to delineate the decision making flow leading to a final consensus about the Grande-Baleine project. Finally, we will conclude with a preliminary assessment of the methodology developed.

Let it be said from the outset that environmental assessment, on the one hand, and decision making among the Inuit, on the other hand, are two interrelated and complementary aspects which can be hardly dissociated. In order to fully understand both, however, we need to consider each separately, always keeping in mind interactions and feedback effects. Also, one must not forget that the Quebec government has final authority as regards implementing the Grande-Baleine project –or putting it on hold, as will be seen. The project, once launched, saw the Inuit participate to the environmental process, including project justification and design as well as its social and environmental impacts.

This involvement with the environmental process is part and parcel of what is usually termed "public consultation". In a participatory democracy, the consulting of the populations most affected by a development project is now common practice. Since the term "consultation" can be defined in many ways, we chose the definition used by the World Bank, as it emphasizes the influence people can exercise over decision making. This definition reads as follows:

"A process by which people – especially disadvantaged people – can exercise influence over policy formulation, design alternatives, investment choices, management, and monitoring of development intervention in their communities."
(Bhatnagar and Williams 1992:2)¹

We have attempted to apply this definition to the situation and even to enlarge its scope. Indeed, the Inuit not only were involved with the public decision making process through the

environmental assessment procedures – which were open to all – but were also able to negotiate with Hydro-Québec a separate agreement encompassing every aspects of the project, including project justification and description, social and environmental impacts, mitigative measures, environmental follow-up, and financial compensation.

Before getting to the heart of the matter, it is appropriate to outline some background information about the Inuit and the Grande-Baleine project, from 1971 onwards.

1. The Inuit

Lying north of the 55th parallel, Nunavik (Map 1) — the Arctic region of Quebec — is inhabited by an almost exclusively Inuit population of some 7 000. The Inuit live in 14 communities with populations ranging between 120 and 1 500.

With a land area in excess of 320 000 square kilometers, Nunavik is an immense territory where no roads exist, communities being linked between each other and Southern Quebec only through one regional airline. Starting in the 1950s, the sedentarization process wrought deep changes within the Inuit society, driving a transition from a subsistence economy centered on hunting, fishing and trapping to a mixed economy with wage-earning playing an increasingly widening role. New, foreign values were superimposed on nature-oriented traditional values.

The Inuit now must face up to tremendous challenges, with few alternatives. Given such a context of rapid, externally-driven change, the implementation of a hydroelectric megaproject raises fundamental questions and widely-shared concerns.

2. Historical background

a) The James Bay project

In 1971 the Quebec government decided to proceed with the James Bay hydroelectric project (Table 1). At the time there was neither public consultation nor environmental assessment, let alone negotiations. The population learned through the media that a megaproject was soon to be launched. The Indians of Quebec Association in November 1972 lodged a protest with the provincial

government, claiming aboriginal title to the land. The Cree Indians and the Inuit, the two indigenous groups directly affected, filed an injunction request, asking the Court that all work be stopped pending settlement of their land claims. In 1973 such a court order was obtained, to be overturned by the provincial Court of Appeals one week later.

Although they lost the judicial battle, indigenous groups won a political victory, for the Quebec government agreed to undertake the negotiations which eventually lead to the signing, in 1975, of a land claims settlement – the *James Bay and Northern Quebec Agreement* (JBNQA).

The JBNQA was a treaty within the terms of the Constitution of Canada, establishing an economic, political and legal framework for James Bay and Nunavik territories. Under the Agreement, the Crees and the Inuit were given financial compensation; moreover, far-reaching rights were recognized to them and a variety of political and economic structures were set up, all of which were to be managed by and on the behalf of indigenous peoples.

Among the rights recognized, the Agreement provided for an assessment process of environmental and social impacts in the event of any development project on the covered territories. It also made provisions enabling the Inuit, the Crees and Hydro-Québec to conclude agreements pertaining to mitigative measures in relation to future development projects.

Finally, the JBNQA created Makivik Corporation, responsible for promoting and protecting the rights and interests of its sole members and beneficiaries, the Inuit of Nunavik.

b) The Grande-Baleine project

As a follow-up to James Bay, Hydro-Québec undertook the 3,000 megawatt Grande-Baleine hydroelectric project. Here we must consider two separate periods, 1976-82 and 1988-94.

In 1976 Hydro-Québec set up a Task Force responsible for circulating information to the Crees and Inuit of Kuujjuarapik. This Task Force having little efficiency, the Grand Council of the Crees (of Quebec) recommended three years later that the Utility create a coordinating table for the purpose of reviewing all hydro-electric development projects with potential impacts on the Cree

population. The Inuit followed suit in 1980, with respect to all future projects north of the 55th parallel.

The Grande-Baleine project was of course part of the agenda. Discussions touched upon access strategies, road corridors, options for port facilities, airport locations, and mitigative measures.

In 1982 the Grande-Baleine project was postponed to a later date. Research work, consultations and discussions were stopped, committees and coordinating tables thereby losing all purpose.

Hydro-Québec revived the Grande-Baleine initiative in 1988. From that date onwards, events quickened – and we now come to the heart of the matter: first, the environmental assessment structures set up by governments and the role given to the Inuit therein; second, the negotiation process and; third, the decision making flow among the Inuit.

3. Environmental Assessment Structures

From the outset, Hydro-Québec submitted a tight schedule and proposed that the project be split up with a view to fast-tracking the environmental assessment process: road and infrastructure work would be assessed first, so that Hydro-Québec could go ahead with road construction while proceeding with the second-phase assessment of dams and dykes.

This proposal raised much controversy, and this is when the Crees and the Inuit became involved in the decision-making process with respect to environmental assessment.

The Crees took legal action before the provincial Supreme Court, seeking to nullify the project splitting-up for purposes of environmental assessment. Makivik Corporation followed suit, becoming party to the proceedings. The dispute was soon settled out of court with the announcement that Hydro-Québec would not after all split up the project. The question as to how the project as a whole would be assessed remained unclear.

The project was to be reviewed by five separate evaluating committees, a red tape monster that would have to be brought to heel. So the parties – the Crees and Inuit, Hydro-Québec and the two levels of jurisdiction – signed in January 1992 a Memorandum of Understanding, which main provisions included the following:

1. The five committees would coordinate their actions so as to undertake a single environmental assessment process;
2. Their make-up would be better balanced and their members reduced from 27 (including 17 government representatives) to 21, including 10 representatives from the indigenous groups;
3. A 2 M \$ fund would be put at the stakeholders' disposal by the two governments, with the Inuit share amounting to 666 666 \$;
4. Hydro-Québec was agreeing to add 1,5 M \$ for the Inuit and to jointly create a technical information exchange group with respect to project justification, with members from Hydro-Québec, the Inuit and the Crees.

The first task of the review committees was to draft guidelines for Hydro-Québec to follow in its environmental impact study (EIS). Between January and March 1992, these committees held public hearings on the contents of the guidelines in the Inuit and Cree communities affected, as well as in Montreal, affording each stakeholder an opportunity to submit representations.

In every community, concerns, misgivings, and fears were voiced by an impressive turnout. In March, Makivik Corporation submitted 87 recommendations about the contents of the guidelines. In April the review committees released Draft Guidelines, to which Makivik responded with comments two months later. Final Guidelines were issued to the proponent in September 1992.

Almost a full year later, on August 31, 1993, Hydro-Québec filed its *Feasibility Study*, including the EIS, with a summary in both Inuktitut and Cree to follow in February 1994 and an audiovisual presentation two months later. Finally, during an additional round of public consultations regarding the Report on the EIS conformity, Makivik submitted its own *Report on Conformity Analysis* in July 1994. Afterwards the review committees released their *Joint Report on*

the Conformity and Quality on the Environmental Impact Statement for the Proposed Great Whale River Hydroelectric Project, in November.

4. Negotiations

Parallel to the environmental assesment process, the Inuit and Hydro-Québec in 1990 initiated a negotiation process.

Although relating to the same matters, this negotiation process altogether created a different dynamics: it provided a direct access to higher authorities at Hydro-Québec; it opened an alternate channel for directly identifying with the proponent the effective scope of project impacts and potential impact mitigation or minimization; it allowed the Inuit to determine whether Hydro-Québec was ready to share the benefits flowing from the project, in a fair and equitable manner, with the Inuit from the communities most impacted by the project and the Nunavik population as a whole. By entering into negotiations in a formal setting, both parties eschewed confrontational tactics, facilitating the exchange of data and views about project design and scheduling, social and environmental impacts, mitigative measures and financial compensation.

The negotiation process allowed the Inuit to scrutinize Hydro-Québec's plans and recommend changes. For instance, the preferred scenarios of Hydro-Québec included diverting a major river (Map 2) but this scenario was abandoned, mostly in the face of Inuit opposition as expressed during frank and open talks. Finally, in April 1994, both parties signed an *Agreement-in-Principle* in which they undertook to negotiate and agree upon the terms of a Final Agreement regarding employment, training, mitigative measures, financial compensations and other related issues.

For the purposes of this paper, the above considerations adequately outline the Inuit involvement and interaction with the parallel environmental assessment and negotiation processes. Now we must turn to the specific methodology implemented among the Inuit, as seen from an inside perspective, that enabled such involvement and interaction.

5. Decision making among the Inuit

Prior to the whole processes of environmental assessment and negotiations being put in place, Hydro-Québec and the Inuit had already agreed, early in 1989, to create a working group including four Inuit representatives for the purposes of circulating information among and acquiring feedback from the Inuit population. As to the Inuit party, they perceived this working group as affording an opportunity to update their knowledge and ensure that the people be properly informed.

When negotiations formally began between Hydro-Québec and the Inuit in 1990, this working group was made part of the team designated for dealing with the proponent and participating in the environmental assessment process in consultation with the people from the affected communities and the Nunavik population in general. As can be seen in Table 2, this team was made up of Makivik representatives, members from the three affected communities, lawyers and consultants.

In conjunction with the other members of the team the 6 Inuit representatives and 12 delegates, formed into three task groups - one for each community - undertook to : firstly, make presentations at public hearings held in the communities; secondly, respond to the consultation document Hydro-Québec distributed in each community; thirdly, submit the EIS to the appropriate level of scrutiny required in the context of the environmental and negotiation processes.

Also, as mentioned earlier, Makivik tabled a 200-page report analyzing the EIS for conformity against the Guidelines. Preparing this document required contributions by some twenty experts and the involvement of the 18 Inuit representatives and delegates from the three task groups; comments and recommendations from technical consultants were incorporated to the input from the Inuit task groups. The resulting draft report was reviewed several times and the final document was tabled with the evaluating committees.

As consultations and discussions were taken place, representatives from the Inuit communities were apprising people of the developments and recording any feedback, primarily through community radio stations, soon becoming the medium of choice for reaching the members of the community. As a matter of fact, all Inuit were listening in at certain times during the day and thus

were able to phone in their comments directly on the air. Through this procedure the community representatives were able to bring back to the team the public consensus as it was built.

This interflow of ideas was not limited to the three communities most affected, since Makivik Corporation kept the general Nunavik population abreast of ongoing negotiations and progress made in the environmental assessment process. Finally, in February 1994 at a meeting held in Montreal, more than 70 representatives from all Nunavik communities ratified the previously alluded-to Kuujjuarapik Agreement-in-Principle resulting from months of negotiations.

Thus a consensus was built, stemming from an iterative process; affected communities, as well as the general Nunavik population, were an integral part of the decision making process.

Conclusion

Within the parallel contexts of direct negotiations and concurrent environmental assessment proceedings the Grande-Baleine project was reviewed, discussed, analyzed, and changed. In drafting the Guidelines, the review committees bore in mind the values and concerns voiced by the people most affected.

The Inuit participation to both of these decision-making processes was based on an interactive dialogue between Makivik Corporation and community members. Evolving as things went along and snags were hit, the methodology used was built up through an ongoing interaction between Makivik and the communities.

Step by step a consensus emerged, as each and every project component was scrutinized. The Agreement-in-Principle was not signed until after a time-consuming discussion process involving representatives from every part of Nunavik had taken place.

The principles embodied in the World Bank policy² on public consultation and participation were more than strictly adhered to, as the Inuit not only were involved with the environmental assessment process but also were able to enter into negotiations with the project proponent.

The methodology developed has not been subjected to scientific analysis nor validated. Nevertheless, expected results were achieved in terms of consultation and participation. Moreover, community members gained a measure of confidence and control over the events which they would not have felt otherwise, a clear feeling they were active players – not merely passive spectators.

Yet, some concerns remain unaddressed. Although the Premier of Quebec last November postponed Grande-Baleine indefinitely, the mobilization the project gave rise to within the communities of Nunavik will not soon be forgotten. One can hardly expect that these communities would emerge unscathed from the experience they went through, without any social impact. They are trying right now to identify and explain the disquiet they deeply feel. On these grounds, a request has been made for Hydro-Québec to undertake research into the social impacts from the project that never was.

References:

1. BHATNAGAR, B. and A.C. WILLIAMS (Eds), Participatory Development and the World Bank. Potential Direction for Change. World Bank Discussion Papers, no. 183. The World Bank, Washington, D.C. *In* Vincent, S. 1994. La consultation des populations. Définitions et questions méthodologiques. Dossier-synthèse n° 10:32. Bureau de soutien de l'examen public du projet Grande-Baleine (1992).
2. The World Bank. Environmental Assessment Sourcebook. Vol. 1. Policies, Procedures, and Cross-Sectoral Issues. Environment Department. Chapter 7. World Bank Policy on Community Involvement and the Role of Non-governmental Organizations in Environmental Assessment (1992).

Map 1 - Nunavik and the James Bay Territory

Table 1 - Timeline of Events

Map 2 - Project Location

Table 2 - Makivik's Team