



SPEAKING NOTES FOR

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IMPORTANCE OF THE FORESTRY SECTOR FOR THE CREE NATION

WORKING TOGETHER FOR A SUSTAINABLE FORESTRY SECTOR

**CREE NATION ABITIBI-TÉMISCAMINGUE ECONOMIC ALLIANCE /
CREE-QUÉBEC FORESTRY BOARD**

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I. INTRODUCTION

1. Ladies and gentlemen, Wachiya, bonjour, good day. I wish to thank the Secretariat of the Cree Nation Abitibi-Témiscamingue Economic Alliance and the Cree-Québec Forestry Board for the opportunity to share with you the **Cree perspective on forestry** and on **how we can work together for a sustainable forestry sector** in the Eeyou Istchee James Bay region.
2. In exploring this theme, I will speak of the Cree and our special relationship with the land, the forest and the animals of our homeland of Eeyou Istchee. I will touch on some of the **major milestones** in recent Cree history, including the *James Bay and Northern Québec Agreement* of 1975, the forestry disputes of the 1990's, the *Paix des Braves* of 2002 and its *Adapted Forestry Regime*, the recent *Agreement on Governance*, current developments and the way forward. To begin, a word about the Cree and our homeland of Eeyou Istchee.

II. THE CREE, THE LAND AND THE FOREST

3. It is sometimes difficult for people to appreciate **how profoundly we Cree are attached to the land and forest**. The Cree have inhabited Eeyou Istchee for thousands of years – it is our homeland, and we have no other. For the Cree, the **lands and waters** of Eeyou Istchee, the trees and plants, the animals and fish, all these are **sacred**. They are at the core of our way of life, our culture, our spiritual system. They nourish us in every way, physically, culturally and spiritually.
4. So you will understand the **Cree concern to protect the forest**. For if the forest is at risk, so are the animals, and, with them, the Cree way of life. In our culture, we are the **stewards of the land**, the forest and the animals, and we have a **special responsibility** to protect them for future generations. This special relationship of the Cree with the land and animals of Eeyou Istchee explains why we have always fought so hard to protect them. The events related to the James Bay Project provide a good example of this.

III. *JAMES BAY AND NORTHERN QUÉBEC AGREEMENT*

5. In 1970, the Government of Québec announced the **James Bay Hydroelectric Project**. This massive project would radically affect Eeyou Istchee and the traditional way of life of the Cree. Yet, at the time, **Québec did not consult us** or seek our consent for this development. We were forced to take **legal proceedings** to defend our rights, our environment and our way of life. Thus began a marathon court case that led, in November 1973, to a decision of the Superior Court of Québec granting us a temporary **injunction to halt the James Bay Project**.
6. The injunction brought Québec and Canada to the negotiating table. Over the next two years, intense **negotiations** took place, culminating in the signature on November 11, 1975 of the *James Bay and Northern Québec Agreement*, the **first modern treaty in Canada**. In 1982, the James Bay Agreement received **constitutional protection** as a treaty under sections 35 and 52 of the *Constitution Act, 1982*.
7. The James Bay Agreement is a **complex document**, containing some 30 chapters that address such varied subjects as a **Cree land regime, local and regional government, health and education, justice and police**, an innovative **income security program** to support Cree traditional activities and more besides.
8. For today's purposes, **two chapters** merit particular attention. **Chapter 22** establishes a **Cree environmental and social protection regime**, including the **first environmental assessment and review process in Canada**. This regime aims to **protect the hunting, fishing and trapping rights** of the Cree, to **minimize the impacts** of development on the Cree, and to **protect the wildlife resources** and ecological systems in the Territory.
9. **Chapter 24** establishes the **Hunting, Fishing and Trapping Regime**. It recognizes the **right of the Aboriginal people to harvest wildlife**. It establishes the principle of **priority of Native harvesting**. It recognizes the system of Cree

traditional family territories, or “traplines”, as well as the responsibility of Cree “**tallymen**” for the supervision of harvesting activities on traplines.

10. At the time of the James Bay Agreement, much of Eeyou Istchee had not been subjected to forestry operations. The Agreement contemplated the **reconciliation of forestry operations with Cree rights** and interests regarding the land and natural resources, the continuation of the hunting territory system, the protection of the forestry resources and the participation of the Cree in the economic development of the forestry resources.

IV. FORESTRY DISPUTES IN 1980’S AND 1990’S

11. For some time after its signature, the **promise** of the *James Bay Agreement* was **not fulfilled**. The 1980’s and 1990’s were a difficult time in many ways. **Disputes** arose between the Cree, Governments and industry. Some disputes occurred because the Cree considered that the Governments were not living up to the promises they made in the treaty. The **forestry sector** also gave rise to **disputes**, and it is worth recalling why.
12. After the *James Bay Agreement* was signed, **timber cutting increased sharply** in Eeyou Istchee, and its forests became treated as “commercial forests”. From about 24,000 sq. km. in 1974, the amount of land allocated to forestry companies exceeded 54,000 sq. km. by December 1994, an increase of 125% in 20 years. Further, as of 1996, some 9,400 sq. km. of the land allocated had been clear-cut, despite the objections of the Cree.
13. The *Forest Act* of 1986 **unilaterally changed the nature and scope of forestry management plans**. Under the CAAF system introduced by this law, the forestry companies became responsible for the preparation of 25-year, 5-year and annual forestry management plans. The **Cree were not consulted** regarding this new management system or the management plans that resulted from it.

14. A major problem during the 1980's and 1990's was that **forestry plans** were devised and implemented **without taking into account** the fundamental **Cree land tenure system** based on traditional Cree family territories or "Cree traplines".
15. The forestry operations carried on in Eeyou Istchee during this period **seriously disrupted** the **wildlife habitats** of Eeyou Istchee and the **hunting, fishing and trapping activities** of the Cree. Logging rates exceeded the growth rate of the forest, and logging roads, camps and heavy equipment had severe environmental and social impacts on the Cree.
16. In particular, **clear-cutting or excessive logging** in certain hunting territories **destroyed much productive wildlife habitat**, including moose winter habitat. Rivers and lakes were contaminated or affected by run-off and sedimentation, with negative impacts for human consumption and for the fish, waterfowl and fur-bearing animals on which the Cree depend.
17. This was far from the vision of the *James Bay Agreement* of forestry activities being carried out in harmony with Cree hunting, fishing and trapping and with the Cree land tenure system. On the contrary, the **forestry operations of the time made it impossible for the Cree to carry on their traditional harvesting activities** guaranteed by the *James Bay Agreement*. And all these forestry operations were carried out without any environmental and social impact assessment, contrary to the provisions of Section 22 of the JBNQA and the *Environment Quality Act*. The result was, in effect, the expropriation of Cree rights without compensation.
18. **Repeated communications** by the Crees with Government and industry about these violations and demanding redress **produced no significant relief**. In the 1980's and 1990's, therefore, the **Cree were forced to take legal proceedings** to halt the violations and protect the environment, the wildlife habitat and their way

of life. A number of legal proceedings were filed against Québec and some forestry companies, including the *Mario Lord* and the *Coon Come* proceedings.

19. This history explains, in part, the **sensitivity of the forestry sector** for the Cree. That doesn't mean that the Cree oppose forestry in all forms and in all places. But it does mean that the Cree must be **vigilant** in ensuring that forestry practices respect Cree rights, the environment, the wildlife and Cree hunting, fishing and trapping. It means that a **real partnership** is needed in the forestry sector between the Cree, government and the forestry industry. This partnership approach has worked well in the energy and mining sectors. The same approach should work just as well in forestry.

V. ***PAIX DES BRAVES***

20. By the late 1990's, so many legal proceedings, including those related to forestry, were before the courts that it became difficult to keep track. Something had to change. In 2001, **former Grand Chief Ted Moses and former Premier Bernard Landry** agreed that it was time to set aside the old conflicts. It was time to "reset" the relationship. And so, they determined to create a **new relationship**, a new partnership, through a "New Relationship Agreement". This Agreement was signed on February 7, 2002. It has come to be known as the ***Paix des Braves***.
21. The *Paix des Braves* marked a **turning point in relations** between the Cree and the Government of Québec. It began a second chapter in this relationship that started with the *James Bay Agreement*. It opened the way to a **new partnership** between the Cree and Québec in the **development of the resource wealth** of Eeyou Istchee.
22. At the same time, the *Paix des Braves* seeks to **balance resource development and conservation**. As forestry was one of the key issues to be resolved by the *Paix des Braves*, it makes special provision for the **harmonization of forestry**

activities with the **Cree traditional way of life**. After years Chapter 3 establishes the “**Adapted Forestry Regime**” with the goal of improved conciliation of forestry activities with Cree hunting, fishing and trapping activities.

23. A **key element** of the Adapted Forestry Regime is its recognition that the **forestry management system** in Eeyou Istchee must be based on the **Cree traditional land tenure system, or “trapline” system**. The Adapted Forestry Regime emphasizes the **Cree trapline system as the territorial management unit in forestry**, thus **ensuring that individual traplines** are not overharvested. For their part, **forestry management units** are themselves based on **grouping of traplines**. The recognition of the Cree traditional land tenure system is as the basis of forestry management in Eeyou Istchee is an achievement of fundamental importance, and one that must be protected.
24. **The Adapted Forestry Regime** also provides for, among other things, **special management standards**, including **mosaic cutting and minimum forest cover**, in areas of special interest to the Cree in order to maintain or improve the habitat of important wildlife species, such as moose, caribou, beaver and fish. It provides for the protection of **residual forest cover** in Cree traplines that have already been logged, the protection of **forests adjacent to watercourses and lakes** and the regulation of the road access network. It creates the Cree-Québec Forestry Board as well as Joint Working Groups at the community level.
25. Chapter 3 of the Paix des Braves also provides for **economic development** measures for the Cree in the forestry sector. It provides for an **annual timber volume** for Cree enterprises, including Nabakatuk Forest Products. Québec also undertook to encourage forestry companies to provide **jobs and contracts** to the Cree.
26. It should be noted that the **Cree traditional family territories**, or “traplines”, extend beyond the territory covered by the Adapted Forestry Regime of the *Paix*

des Braves. In order to ensure consistency in the forestry regime applicable to these traplines, former Grand Chief Dr. Ted Moses and former Minister Gilles Baril signed, on the same day as the *Paix des Braves* was signed, an agreement to apply a similar forestry regime on Cree family territories east of the “Height of Land”. This agreement has come to be called the “**Baril-Moses Agreement**”.

27. The *Paix des Braves* was and remains a **tremendous achievement**. It has made possible a **new partnership between the Cree and Québec** that has benefited all Quebecers. It has promoted new **forms of collaboration** between the Cree and industry in **responsible resource development**. The decade since the *Paix des Braves* has seen major new energy and mining developments in Eeyou Istchee. The Cree have entered into **collaboration agreements** with Hydro-Québec and with mining companies regarding **energy and mining projects** in Eeyou Istchee.

VI. *AGREEMENT ON GOVERNANCE IN EYYOU ISTCHEE JAMES BAY*

28. A **third chapter** in the relationship between the Cree and Québec began on July 24, 2012, when I signed with former Premier Charest the *Agreement on Governance in the Eeyou Istchee James Bay Territory*. The **Governance Agreement** builds the *James Bay Agreement* and the *Paix des Braves* to establish a **partnership between the Cree, Québec and our neighbours, the Jamésians, in the governance of the Territory**.
29. The Governance Agreement culminates a **special Nation-to-Nation negotiation process** to resolve governance issues in the Territory. This process was needed to **end the exclusion of the Cree** in the governance of the Territory. The **Governance Agreement** translates the principles of inclusiveness and partnership in governance into **practical mechanisms**. For the first time, it ensures that the Cree will be **real partners** in the governance and development of our homeland.

30. The Governance Agreement has **two main components**. First, it provides for the creation of a **new public Regional Government on “Category III lands”**, which form 80% of the Territory. This Regional Government is **composed of representatives of the Cree and the Jamésiens** in equal numbers. It exercises **powers of municipal management, economic development and land and resource planning**. It came into operation on **January 1, 2014, replacing the former Municipalité de Baie-James**.
31. The **second main element** of the Governance Agreement provides for **greater Cree autonomy on “Category II lands”**. These are the lands over which the Cree have exclusive rights of hunting, fishing and trapping under the *James Bay Agreement*. The Governance Agreement provides that the Cree Nation Government may exercise **powers over Category II lands** under Québec laws regarding municipal management, land and natural resource use planning and management and regional development.
32. With regard to **land and natural resource planning**, the Cree Nation Government will establish an **Eeyou Planning Commission**. This Commission will, in consultation with the Cree communities, prepare a **Regional Land and Resource Use Plan** for Category II lands. This Plan will identify **orientations and priorities** for land and resource use on Category II lands. Further, the Cree Nation Government will work with the Government of Québec in developing Québec’s **Public Land Use Plan** for Category II lands.
33. With regard to **land and resource management**, the Governance Agreement provides that the Cree Nation Government may exercise **land and forestry management powers** on Category II lands, subject to negotiation of **specific Nation-to-Nation agreements** with Québec. The management powers will be those defined in **current and future Québec programs**, or as agreed between Crees and Québec from time to time.

34. The Governance Agreement also provides for the **harmonization of the Adapted Forestry Regime** and Bill 57, the *Sustainable Forest Development Act*, as well as a new Cree-Québec **collaborative forestry management regime** on Category II lands in the territory of the Adapted Forestry Regime. This new management regime will develop **integrated forestry management plans** with the objectives of taking account of Cree interests and concerns, determining local objectives for sustainable forestry development and defining measures for the harmonization of uses.
35. Some may ask if the new Governance Agreement affects **third parties**, especially **resource companies** working in the Territory. The answer is that **existing third party interests**, such as permits, leases, **mining claims** and **timber supply and forest management agreements shall be maintained** in accordance with the applicable laws and the *James Bay Agreement*.
36. The **implementation** of the Governance Agreement is **progressing well**. In June 2013, the National Assembly adopted **Bill 42**, the *Act establishing the Eeyou Istchee James Bay Regional Government and introducing certain legislative amendments concerning the Cree Nation Government*. Bill 42 implements various provisions of the Governance Agreement, and it took effect on January 1, 2014.
37. The formal inauguration of the **Eeyou Istchee James Bay Regional Government** took place in Waskaganish on January 21, 2014. Since then, the Council of the Regional Council has met on a monthly basis. The Cree and Jamésien representatives are learning to work together, in practical ways, to solve real problems for real people.
38. A **new partnership in governance** is being forged. We know that this task will not always be easy. We must bridge differences in language, culture and history. But we have made a good start, and the experience to date has been very positive. In this regard, I wish to **salute the leadership shown by Madame Manon Cyr**,

the Mayor of Chibougamau and the first Chairperson of the Council of the Regional Government.

VII. FORESTRY – ACHIEVEMENTS AND CHALLENGES

39. Turning now more specifically to forestry, much has been achieved since the *Paix des Braves*. The **Adapted Forestry Regime** has been applied, and, while the record is not perfect, this **Regime has clearly helped to reconcile forestry operations with Cree hunting, fishing and trapping**. Within its territory of application, the Adapted Forestry Regime has largely succeeded in turning the page on the issues that led to the forestry disputes of the 1980's and 1990's.
40. This shows that “**Where there is a will, there is a way**”. Twenty and thirty years ago, the forestry disputes that opposed the Cree, industry and government appeared intractable. Yet, in the space of a few months, the Cree and Québec succeeded in creating an **innovative forestry regime** that satisfied the needs of the environment, the Cree traditional economy and the commercial forestry sector. As far as I know, this is the only forestry regime of its type in Québec and perhaps in Canada.
41. For a number of years after the *Paix des Braves*, **Québec applied the Baril-Moses Agreement** on the affected Cree family territories east of the Height of Land, facilitating the reconciliation of forestry operations with Cree hunting, fishing and trapping there.
42. At the same time, there have been **challenges**. **One disappointment** is that the promise of the *Paix des Braves* of **jobs and contracts** for the Cree in forestry has not met with the same success as in the energy and mining sectors. There are a number of reasons for this, and the **Cree are ready to work with Government and industry** to devise solutions for jobs and contracts that respect Cree rights and are sensitive to the environment.

43. In recent years, **other challenges** have emerged. The *Sustainable Forest Development Act (Bill 57)* institutes a **new system of forestry management** that does not reflect the Adapted Forestry Regime of the **Paix des Braves**. The Cree-Québec Governance Agreement therefore calls for **negotiations** between the Cree and Québec to **harmonize the Adapted Forestry Regime and the Sustainable Forest Development Act**, as well as to establish a **collaborative forestry management regime** on Category II lands. Discussions have taken place and are quite advanced, but a **final push** is needed to conclude the necessary agreements. This is a question of **political will**, and I **invite the responsible authorities** at the Government of Québec to **work with the Cree** to bring this matter to a **speedy conclusion**.
44. I mentioned a moment ago that Québec applied the **Baril-Moses Agreement** for a number of years after the *Paix des Braves*. For reasons that are still unclear, Québec **stopped applying this Agreement** in 2010 or 2011. Instead, Québec unilaterally began applying a so-called **“ecosystemic” forestry management approach**, without meaningful Cree consultation and without taking into account the Cree trapline system.
45. The so-called “ecosystemic” approach now applied in this area makes the **same error** as in the 1980’s and 1990’s by **disregarding the traditional Cree land tenure, or trapline, system**. However, forestry management cannot be truly “ecosystemic” if it ignores the Cree trapline system.
46. The result of Québec unilateral decision has been **significant overharvesting** and, in some cases, **clear-cutting** on the affected Cree family territories which overlap with the Baril-Moses territory. This has **destroyed wildlife habitat** and made it **impossible** for the Cree to carry on their traditional **hunting, fishing and trapping activities** in the affected areas.

47. Ironically, the result has been to **return the affected areas to the unacceptable state of affairs existing under the 1986 *Forest Act*** that gave rise to the forestry litigation of the 1980's and 1990's. It was this situation that the Adapted Forestry Regime and the Baril-Moses Agreement sought, with significant success, to resolve. It is **extremely unfortunate** that these **achievements, so hard won, are now being undone** by ill-considered forestry management practices that disregard Cree rights and the Cree way of life.
48. Let me be clear, the Cree do of course **want to protect caribou**, one of the stated goals of the ecosystemic approach. But this goal can be achieved with **due respect for the Cree trapline system**, which also protects other types of big and small game, including moose and marten. The Cree have good ideas to contribute in designing a true ecosystemic forestry system. Unfortunately, the responsible authorities have not engaged with the Cree in this regard. The result has been to cut the residual forest left after mosaic cutting. This hardly promotes true ecosystemic forestry.
49. Despite protracted discussions with Québec, **no resolution has yet been found**. We have therefore had no option but to take **legal proceedings** to protect Cree rights. We view this situation as **very regrettable**, and contrary to the generally positive relationship that exists between the Cree and Québec.
50. We are convinced that **solutions exist**. But for the solutions to be agreed, Québec and the Cree must talk. We **invite Québec to talk with us to resolve this matter** without further delay.

VIII. THE WAY FORWARD

51. We all know that the forestry industry is facing **serious challenges**. Some of these challenges are **structural** – they have nothing to do with the Cree, although the Cree are suffering the negative impacts. The **underlying problem** is one of

overcapacity in the forestry sector, leading to **overharvesting** of the timber resources. The **solution**, prescribed in the Coulombe Report of 2004, is clear: **consolidation and reduction of capacity** in the forestry sector. To date, little has been achieved to implement this solution.

52. We know that **capacity reduction** is not an “easy sell” politically. But the time has come when we must all recognize that there is no alternative. **Business as usual is not an option**. As I said at the beginning of my remarks, Eeyou Istchee is our homeland, we have no other. The Cree will do what it takes both to protect the land, the forest, the wildlife and our way of life and to ensure meaningful Cree participation in the forestry economy.
53. These goals represent a delicate balance, to be sure. But we are confident that these goals can be achieved if we work together. And so, we invite Québec and industry to join us in continuing the journey started in 2002 with the Paix des Braves and the Baril-Moses Agreement towards the **sustainability of forestry activities** in Eeyou Istchee and their harmonization with the Cree way of life.
54. One element of the solution is the **Broadback Watershed Conservation Plan**, which we announced in 2013. This plan complements existing proposals for protected areas in the Broadback Basin. It proposes **two levels of protection**. The **first level**, or core protection, will consist of **park and protected area designations** which afford full protection from industrial development. The watershed plan around these core protection areas will serve as **special management buffer zones**. This is the **second level** of protection. These zones will seek to establish a balanced interaction between people and nature to maintain and restore the natural integrity of the landscape. In these zones, industrial activities would be permitted within a broadly considered management strategy.
55. Implementation of the Broadback Watershed Conservation Plan would do much to assure the Cree that Government and industry are serious about working with us to

protect areas of key importance for the Cree, the wildlife (including woodland caribou) and the traditional Cree way of life.

56. Another element of the solution will be to take concrete measures to **encourage Cree participation in the forestry economy**, by promoting employment, contracts and other opportunities for the Cree, including ensuring an adequate wood supply for Cree enterprises.
57. Again, it will be important to **address forestry issues promptly as they arise**. The Cree have proved our capacity to face up to difficult challenges and to solve problems. But we cannot do this alone – we must talk with Québec and industry.

IX. CONCLUSION

58. Ladies and gentlemen, this short overview shows that the forestry sector has seen **highs and lows** in Eeyou Istchee. After a difficult period in the 1980's and 1990's, the *Paix des Braves* and the **Adapted Forestry Regime** did much to reconcile forestry practices with traditional Cree activities in Eeyou Istchee. They showed that **sustainable forestry operations are indeed possible** in Eeyou Istchee.
59. **Some challenges remain**, specifically, in creating **jobs and contracts** for the Cree, in ensuring **wood supply** for Cree enterprises and in resolving the **Baril-Moses matter**. But none of these challenges are insurmountable. The *Paix des Braves* and the *Governance Agreement* show that, **if we are determined to work together to find solutions, we will succeed**. And so, looking forward, we are confident that we will, working with Québec, the Jamésiens and industry, ensure the **sustainability of the forestry sector** in the Eeyou Istchee James Bay territory for the benefit, not just of the Cree, but of the entire region and of Québec as a whole.

Meegwetch.