

2024



JAMES BAY AND NORTHERN
QUÉBEC AGREEMENT TREATY
SIMULATION

THE GORDON FOUNDATION & CREE NATION YOUTH COUNCIL





[The Gordon Foundation](https://gordonfoundation.ca/)¹ has been running Treaty Simulations in collaboration with communities, organizations, high schools, universities, government and Treaty experts since 2019. The Treaty Simulation model provides a hands-on learning experience to help participants understand Modern Treaties in Canada. Watch the animated [Treaty Simulation Explainer](https://understandingtreaties.ca/experience/e01/)² video to see how it all comes together. The Gordon Foundation would like to thank Cree Nation Youth Council and the Cree Nation Government for their partnership on this event.

1 <https://gordonfoundation.ca/>

2 <https://understandingtreaties.ca/experience/e01/>

Notes on Terminology: Within this booklet many terms will be used. As a general rule, the terminology used during the time period or context being referenced will be used. For instance, the term “Aboriginal” is used in the context of legislation such as the section 35 of the *Constitution Act, 1982* while the term “Indian” is used in the context of section 91(24) of the *Constitution Act, 1867*.

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Logistics

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LOCATION & TIMING

The Treaty Simulation will take place at the Rogers Centre (formerly Shaw) at 55 Colonel By Drive, Ottawa, ON K1N 9J2.

From November 8-10, please arrive at 8:00AM for breakfast each morning, days will end around 5:00PM. Participants are asked to attend for the full event.

Please contact us immediately if you are unable to attend all or part of the event.

ACCESSIBILITY

We are committed to making the Treaty Simulation inclusive and accessible, and will do whatever we can to ensure the full participation of all attendees. Please contact us with questions or requests regarding access.

WHAT TO BRING

Traditional/Cultural clothing or whatever you already have that makes you feel comfortable and professional. You can bring a laptop or tablet to use during the event, but it is not required.

WHAT TO EXPECT

Your participation in the Treaty Simulation will be active. There will be both independent and group tasks/activities. You will be part of a team with other participants, and you will share research, writing, and public speaking tasks with your teammates.

Agenda

FRIDAY, NOVEMBER 8

8:00am Registration & Breakfast

Opening
Introductions & Event Overview
Treaty Simulation Scenario Overview

12:00pm Lunch

Advisor Panel
Building Knowledge with Advisors

5:00pm End of Day

SATURDAY, NOVEMBER 9

8:00am Breakfast

Jigsaw Activity
Team Prep

12:00pm Lunch

Team Prep
Negotiation Run-through

5:00pm End of Day

SUNDAY, NOVEMBER 10

8:00am Breakfast

Negotiation Meetings

12:00pm Lunch

Negotiation Meetings
Sharing Circle
Debrief & Closing

5:00pm End of Day

MONDAY, NOVEMBER 11

6:00pm JBNQA Gala



Participant Pledge

This pledge is your commitment to participating in the Gordon Foundation's Treaty Simulation.

A Treaty Simulation is a hands-on learning event for you to experience the realities of negotiating or implementing part of a Modern Treaty. As part of the simulation, we will use fictional examples of how real-life agreements are negotiated and implemented.

As a participant in the Treaty Simulation, we ask you to step outside the box and approach the exercise with imagination. The Gordon Foundation is committed to creating a safe space for participants to share new ideas, practice skills, and learn from one another.



TO THE BEST OF MY ABILITY, I COMMIT TO:

Being punctual and fully attending each day of the Treaty Simulation;

Participating in the simulation exercise in good faith and in the spirit of teamwork, community and relationship building;

Respecting the privacy of what others share in the discussions and engaging with empathy; and,

Contributing to a positive learning environment.

SIGNATURE: _____

NAME: _____ **DATE:** _____

Treaty Simulation Scenario

The following information is based on a fictitious example for the Treaty Simulation which is focused on the implementation of Modern Treaties. Although the implementation aspects are fictitious, the scenario is based on real-life agreements with peoples, nations, organizations and different levels of governments.

SCENARIO BACKGROUND

The **James Bay and Northern Québec Agreement (JBNQA)**³ (also known as the first modern treaty) was signed in 1975 and was developed to stop hydro-electric and other development threatening the Cree way of life. An expression of Cree self-determination, the JBNQA redefines the organization of the James Bay and Northern Québec territories between the Québécois state and the Cree and Inuit nations. It lays out the Cree Nation's rights about lands (different land categories, and land use, conservation and protection), as well as their rights in many other areas.

In recent years, Cree Tallymen observed low numbers of moose in the southern part of Eeyou Istchee. Their concerns were brought to the **Hunting, Fishing and Trapping Co-ordination Committee (HFTCC)** to investigate the issue further. Aerial surveys, conducted by Cree Nation Government, Government of Québec, and concerned First Nations Communities, confirmed a major decline in moose population in Zone 17. Specifically, the results indicated that moose populations were down 35% since 2009⁴.

Particularly troubling, were the ratios between female: male and female: calf. These ratios point towards **recruitment issues** (new moose being born + reaching old age) which has a negative impact on herd health. Results of the survey also determined that the population decline was unlikely to be natural and likely due to human involvement and development.

The terms of the JBNQA protect our rights in the event of a significant decline in a species harvested by the Crees. For this reason, the sport harvest for non-beneficiaries is automatically suspended until the species has recovered to a sustainable level. Additionally, the parties will come together to develop a new management system for Zone 17 to reduce threats to moose populations.

³ <https://www.cngov.ca/wp-content/uploads/2023/09/jbnqa-1.pdf>

⁴ <https://mffp.gouv.qc.ca/our-publications/aerial-survey-moose-hunting-zone-17-iwinter-2021/?lang=en>

TREATY SIMULATION TASK

Participants will be divided into four teams, with each team representing one of the **parties** (the groups participating in the negotiation): Cree Nation Government (**CNG**), Government of Québec (**QC**), Cree Tallymen, and Eeyou Istchee James Bay Regional Government (**EIBJ**).

Your team will receive a **mandate letter** (a set of instructions given to negotiators from the government/Nation they are representing) expressing your party's goals and objectives. With help from an experienced advisor, your team will write a **proposal** (a formal recommendation for negotiators to present at the negotiation table) outlining what your party wants to see in the Moose Conservation and Management System in Zone 17.

The four teams will meet at the negotiation table, where each team will present their **opening statement** (to introduce your party). Next, each team will present their party's proposal for the Plan. Teams will then negotiate until a consensus (a mutual agreement or compromise) is reached on a final Plan.

Your team's proposal for the Moose Conservation and Management System in Zone 17 should address:

- Moose Harvesting Guidelines
 - Permit System
 - Total Allowable Harvest
- Population/Habitat Protection
 - Research & Monitoring, Forestry, Mining or other Industrial development
- Management and Costs
 - Who will Manage conservation?
 - Costs



Overview of the Simulation Meeting

OPENING

- The hosting team opens the meeting.

INTRODUCTIONS

- The Chair asks each team to introduce themselves with an opening statement.

PROPOSAL PRESENTATIONS

- The Chair asks each team to present their proposals.
- Teams do not interrupt or ask questions during presentations.
- Use your proposal presentation from Step 3 when it is your team's turn to present.
- When your team is presenting, your note-taker(s) will copy your proposal into a Comparison Chart for all the teams to see.

FIRST CAUCUS

- The Chair calls a 10-minute caucus (a break for teams to meet privately).
- Teams should look for any common ground or disagreements between proposals and decide what clarifying questions they want to ask the other teams.
- During a caucus, teams leave the negotiation table to strategize privately. The first caucus takes place after the introductions and proposal presentations. Each team can then call one caucus at any time during the negotiations.

NEGOTIATIONS

- The Chair calls on each team to ask questions and receive responses.
- After each team has a turn, the Chair decides which area to negotiate first, and negotiations resume.
- During negotiations, note-takers from each team help record consensus (mutual agreement on a compromise) decisions in the Comparison Chart for all the teams to see.
- Teams can call a caucus during negotiations when they need to meet privately.

CLOSING

- The Chair asks teams to review the consensus notes documented by the note takers.
- If everyone agrees that the documented notes represent the consensus they negotiated, the Chair invites the hosting team to close the meeting.

Background Readings

WHAT IS A TREATY?

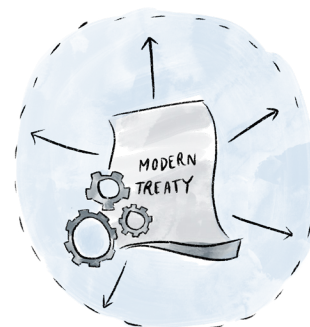
In 1763, King George III of Great Britain issued The Royal Proclamation⁵ confirming the original occupancy of Indigenous peoples and paving the way for land agreements between the British Crown (government) and Indigenous peoples. The proclamation established how the British would manage land in North America following the Seven Years War.⁶ It proclaimed that settlers could not live on the land until the Crown had signed treaties with the First Nations who occupied the territories.

There are also many examples of historic treaties; see the *Pre-1975 Treaties of Canada* map illustrating those signed before 1975.⁷ Although many treaties were signed more than a century ago, treaty commitments remain valid today. The treaties set out continuing treaty rights and benefits that First Nations entered into with the British government, and later Canada. Treaty rights are protected by section 35(1) of the *Constitution Act, 1982*.⁸ Ensuring the recognition of treaty rights is an on-going challenge that Indigenous peoples continue to face.

For this exercise we will be looking at Modern Treaties. In this context, the definition of a treaty is a legally binding agreement made between the Crown and Indigenous nations, governments, or organizations.

NUMBERED TREATIES

Numbered treaties were negotiated between 1871 to 1921. There were 11 numbered treaties that cover the territories from present-day Ontario to Alberta, as well as portions of the Northwest Territories (Treaty 8 and Treaty 11). These treaties were signed after Canada became a country and aimed at ensuring peace and prosperity for future generations. Numbered treaties were only signed with First Nations people, neither Inuit nor Métis people.⁹ See the Historical Treaties in Canada map illustrating the Pre-1975 Treaties of Canada.¹⁰



5 https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-PPLCOM/STAGING/texte-text/nahm_250_pt_1379596017260_eng.pdf

6 <https://www.thecanadianencyclopedia.ca/en/article/seven-years-war>

7 <https://www.rcaanc-cirnac.gc.ca/eng/1100100032297/1544716489360>

8 <https://www.thecanadianencyclopedia.ca/en/article/constitution-act-1982>

9 <https://www.rcaanc-cirnac.gc.ca/eng/1360948213124/1544620003549>

10 https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-TAG/STAGING/texte-text/htoc_1100100032308_eng.pdf

MODERN TREATIES

Known as Comprehensive Land Claims Agreements elsewhere in Canada, Modern Treaties are constitutionally protected agreements between Indigenous peoples, the federal government, and a provincial/territorial government that create a long-term relationship between the signing parties. First and foremost, Modern Treaties recognize and protect Indigenous rights and title to their land. Indigenous peoples have inherent rights that are affirmed in the Constitution. The Constitution did not create these inherent rights, but recognized and affirmed them. Indigenous peoples were and are inherently self-determining with or without Modern Treaties. Modern Treaties are tasked with reconciling, clarifying, and modifying these rights. See the Modern treaties and stand-alone self-government agreements map.¹¹

JAMES BAY AND NORTHERN QUÉBÉC AGREEMENT

The [James Bay and Northern Québec Agreement \(JBNQA\)](#)¹² was the first Modern Treaty. It was signed on November 11, 1975, by the Government of Québec, the Government of Canada, Hydro-Québec, the Grand Council of the Crees of Québec and the Northern Québec Inuit Association. The JBNQA created a new legal and constitutional framework for local self-governance, land management, other areas¹³ protection of the traditional Cree way of life and the relationship between the Québec and the Indigenous peoples of the James Bay and Northern Québec region.

The Agreement was signed within a very unique historical context—the ambition on the part of Québec to develop the James Bay hydroelectric potential and the determination on the part of the Crees and the Inuit to protect our lands and advocate for our rights. For nearly 50 years, our leaders have worked to ensure that no development can take place on our traditional lands without our engagement and involvement.

Most importantly, the Treaty (JBNQA) created the foundation upon which we have continued to build and grow for five decades. In 1975 our nation numbered 6,000 and today we are 20,000 strong in 11 communities. Our growth has been made possible by the vision, the determination and the strength of our leaders who have undertaken difficult struggles to ensure that our rights as Indigenous people and as Crees would be given full expression.

¹¹ <https://www.rcaanc-cirnac.gc.ca/eng/1605796533652/1605796625692#sec3>

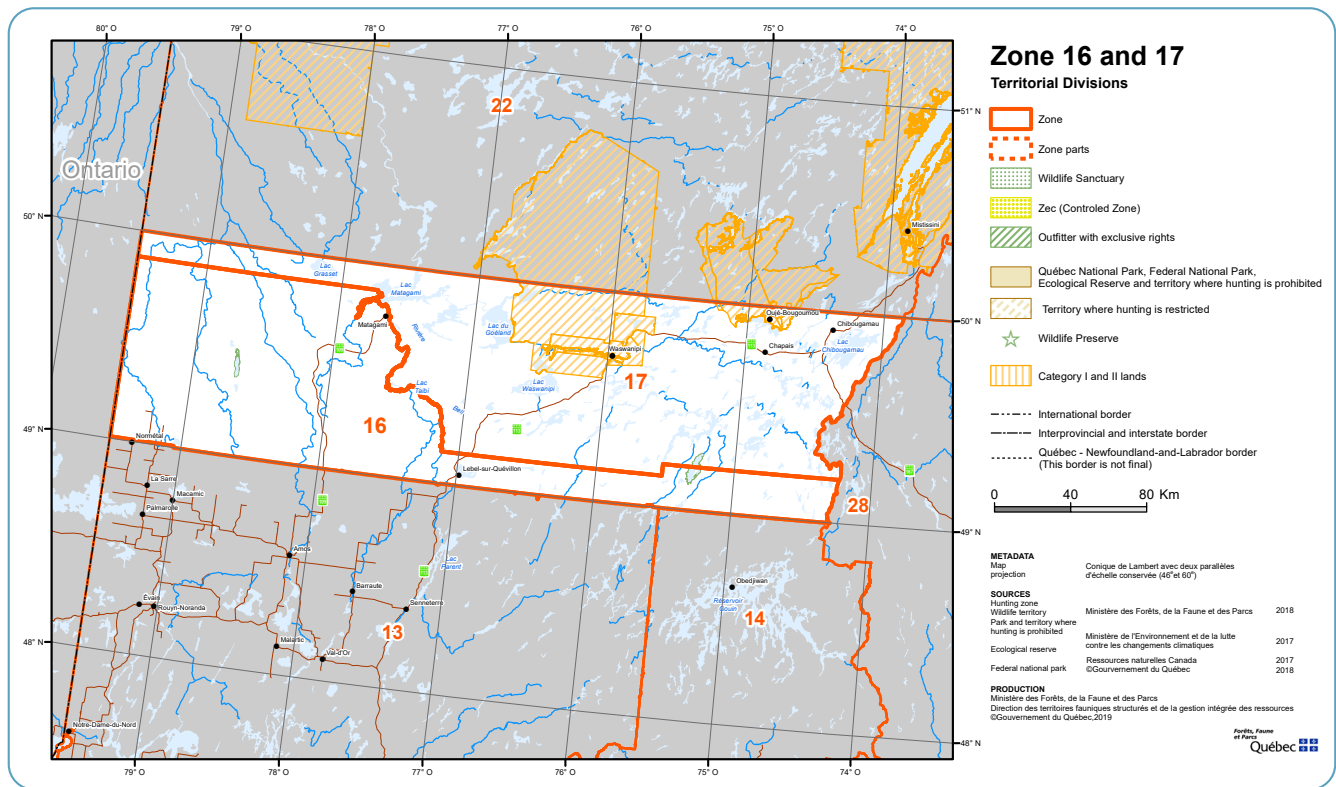
¹² <http://www.naskapi.ca/documents/documents/JBNQA.pdf>

¹³ For example, the JBNQA allows for a minimum family income program for the Cree who live on wildlife harvesting.



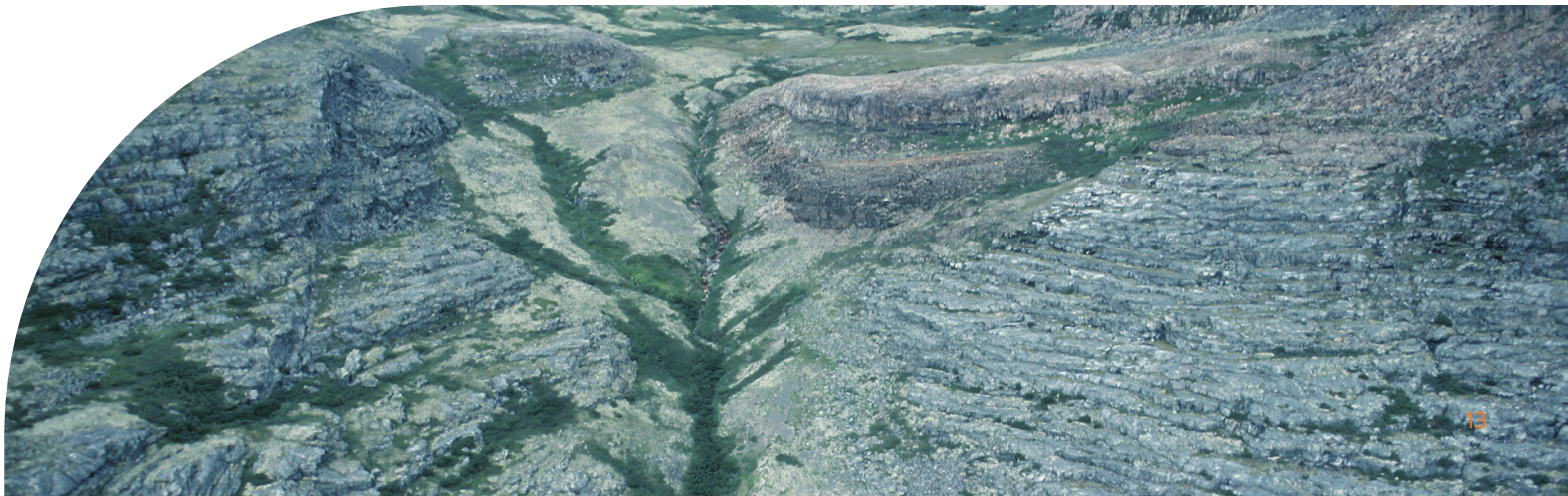
It was on that foundation that we have been able to conclude over 80 subsequent agreements¹⁴ including some very major agreements which have extended the scope of the self-governance of our communities and the territory. Among these major additional agreements are the “Paix des Braves” with Québec, New Relationship Agreements with Canada, additional governance agreements with Canada and Québec, and other significant initiatives such as the recent “Grande Alliance.”

These thoughtful agreements and our tenacity helped transform and modernize our communities. In combination, all these advances have brought us to a point in our historic evolution where we are able, more and more, to direct our own future and chart our own course, armed with our traditional knowledge, culture, language, values, and focused on the best interests of our people, our communities and our Nation.¹⁵



14 Main Agreements of the Cree Nation Government: <https://www.cngov.ca/governance-structure/legislation/agreements/#:~:text=The%20Cree%20Nation%20Government%20has,regional%20development%3B%20and%20municipal%20management>

15 MAP Source: https://cdn-contenu.quebec.ca/cdn-contenu/chasse/Documents/Anglais/CA_hunting-map-zone-16-17_MFFP.pdf



CATEGORY LANDS UNDER THE JBNQA¹⁶

Under the JBNQA, a land regime was created in the territory. It divides the territory into three categories of lands (I, II and III) and specifies the total land area in each: over 14,000 square kilometres of territory are category I lands, 150,000 square kilometres are category II lands and 1,000,000 square kilometres are category III lands. It also specifies the rights relating to each category.

- **Category I lands**, where the villages are located, are set aside exclusively for the Cree. Category I lands are subdivided into categories IA and IB: “A” for lands under the jurisdiction of Canada, and “B” for those under that of Québec. Category IA and IA-N lands (N standing for Naskapi lands) falling under federal jurisdiction are governed by local Aboriginal administrations, as defined in the Cree-Naskapi (of Québec) Act. Category IB and IB-N lands under Québec jurisdiction are governed by corporations composed exclusively of Aboriginals.
- **Category II lands**, usually located around the villages, come under provincial jurisdiction. However, the Aboriginal people participate in the management of hunting, fishing and trapping and the development of outfitting operations. They also have exclusive hunting, fishing and trapping rights on these lands.
- **Category III lands** are Québec public lands where Aboriginal and non-Aboriginal peoples may hunt and fish. However, Aboriginal people exercise certain rights on these lands under the agreements. They have exclusive rights to the harvesting of certain aquatic species and fur-bearing animals; they participate in the administration and development of the territory.

WILDLIFE MANAGEMENT BOARDS

The primary role of wildlife management boards is to integrate the interests of Indigenous land claim and self-government beneficiaries into wildlife and environmental management through co-management with federal and territorial/provincial governments. Members are usually appointed by the Indigenous land claim organization or government, and by the federal and territorial/provincial governments. Wildlife management boards use Traditional and local knowledge and scientific information to make recommendations to governments and/or organizations on management decisions affecting wildlife within the Land Claim Settlement Lands (lands created under Comprehensive Land Claims Process). Community consultation is an important part of their decision-making process.

A wildlife management boards powers/roles may include the following:

- Establishing policies and proposing regulations for the harvesting of wildlife by any person and for commercial activities relating to wildlife;
- Setting up a Total Allowable Harvest in their settlement area;
- Developing conservation education programs;
- Conducting studies/research (or hire others to do this); and,
- Other wildlife management matters.

¹⁶ https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/staging/texte-text/jb0507_1100100030831_eng.pdf

WILDLIFE MANAGEMENT UNDER THE JBNQA¹⁷

Thanks to JBNQA and the Northeastern Québec Agreement (NEQA), the Hunting, Fishing and Trapping Regime exists to recognize, protect and prioritize native harvesting rights on the territory. The regime applies to marine and land mammals, freshwater and anadromous fish, migratory birds, and grants the Cree, Inuit, and Naskapi beneficiaries the right to harvest any species of wildlife at anytime and anywhere in the territory to meet their subsistence needs. The beneficiaries also have the exclusive use of certain species like the beaver, bear, polar bear and sturgeon.

THE HUNTING, FISHING AND TRAPPING COORDINATING COMMITTEE

The Hunting, Fishing and Trapping Coordinating Committee (HFTCC) acts as an advisory body to the federal and provincial governments and local and regional Native authorities on all hunting, fishing, and trapping matters. The HFTCC has the responsibility to review, manage, and in certain cases, supervise and regulate the regimes. It also participates with the responsible minister of Canada or Québec in the management of wildlife species in the territory, either through decisional or consultative recommendations as called for in each case.

The responsible Québec or federal government is obliged to consult the HFTCC and strives to follow HFTCC advice. For certain species such as the moose, caribou and black bear, the HFTCC has the power to set harvest limits (or TAH as mentioned above) and make management decisions as well. The coordinating committee is composed of representatives from Inuit, Naskapi and Cree territory as well as provincial and federal representatives.

¹⁷ <https://www.kwanlindun.com/heritage-lands-and-resources/>



Advisor Panel Notes

Listen carefully for important information that is shared during the advisor panel. The information presented will be essential in understanding some of the challenges associated wildlife conservation and management as it relates to the negotiation and implementation of a Modern Treaty.

What does the James Bay and Northern Québec Agreement (JBNQA) say about wildlife conservation and harvesting management?

-
-
-

What role do the different parties play in monitoring and managing wildlife?

-
-
-

What are major challenges and concerns for moose and their habitats?

-
-
-

What measures could be taken to prevent further decline in moose populations?

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