

Barriere Lake Trilateral Agreement, Quebec

The traditional territory of the Algonquin of Barriere Lake in Quebec has long been subject to encroachment by industrial and recreational interests. Earlier this century, hydroelectric development had adverse effects on wildlife resources and their habitat. Although the province of Quebec established a hunting reserve in 1928 — the Grand Lac Victoria Reserve, for the exclusive use of First Nations people — the construction of a highway through the area increased recreational hunting pressure. As a result, a significant portion of the reserve was turned over to non-Aboriginal use. The reserve became a park, and recreational and tourist use further increased. However, logging operations in the area have been the major source of conflict, exacerbated by the provincial forestry management and land use planning regime, which has made little attempt to address the ecological impact of resource extraction activities.³⁷

In the late 1980s, when the province began to lock surrounding lands into 25-year timber supply and forest management agreements (CAAF) with logging companies, the Algonquin decided to challenge the province by seeking a court injunction as an immediate step to alleviate continuing pressure on their traditional land base and to force the federal and provincial governments into negotiations.

The Barriere Lake Trilateral Agreement, between the Algonquin of Barriere Lake, the province of Quebec and the government of Canada, was signed on 22 August 1991. The agreement covers a 10,000 square kilometre territory within La Verendrye Park, in which the Algonquin pursue traditional activities. In a strategic move by the community, the agreement was not based on recognition of Algonquin title or rights to the land and resources within the region. What the Barriere Lake Algonquin sought, rather, was to alleviate immediate resource extraction pressures and force the Quebec and federal governments into “negotiations aimed at a trilateral agreement on integrated resource management which would take Algonquin land use into account”.³⁸ The Algonquin succeeded in reaching an agreement built on the concept of “sustainable development” as proposed in the Brundtland report (the report of the World Commission on Environment and Development).

The objective of the agreement is to reconcile the forestry operations of the various companies operating in the area with the environmental concerns and traditional ways of life of the Algonquins of Barriere Lake whose home it is.³⁹

The trilateral agreement did not establish a board to oversee management activities in the region. Instead, it established a four-year phased process to prepare a draft integrated management plan for renewable resources (defined as forests and wildlife) involving the following activities:

- the design and implementation of interim protection measures for the duration of the agreement;
- the analysis and evaluation of existing data and information and compilation of new inventories and information on renewable resource use, potential impact and interaction of activities related to their exploitation, and development within the perimeter of the territory;
- the initiation of an education process for this comprehensive process;
- the preparation of an integrated management plan for renewable resources based on the above work; and
- the formulation of recommendations for implementing the management plan.⁴⁰

The agreement created two entities, one at the political level (the special representatives) and the other at the field level (the task force). With respect to the former, each party appointed a special representative to oversee the process; ensure continuous communication among the parties and between technical staff and government officials; develop the work plan and financial requirements for the task force; and take primary responsibility for drafting the plan and recommendations. Moreover, the representatives were to be guaranteed sufficient authority to make decisions and to apply the provisions of the agreement.⁴¹

The task force acts as the technical arm and is made up of eight members selected by the three signatories (three members each for the Algonquin

and Quebec and two for the federal government). Included in its responsibilities is the identification of sensitive zones and the development of recommendations to provide protection to these zones from resource extraction.

An office was established to co-ordinate the project. Financing is shared equally by the parties, with the government of Canada reimbursing the Algonquin for all of their expenses. The issue of funding quickly became problematic and remained so for two years, as neither the provincial nor the federal government set aside a specific budget to execute the agreement.⁴² Financial problems threatened work at both the management and field level as research and identification of sensitive zones were delayed. A more critical problem for implementation was the province's insistence that the process occur in accord with the primacy of its jurisdiction. As the Barriere Lake special representative, Clifford Lincoln (himself a former Quebec minister of the environment), explained during our hearings:

Quebec views its laws, regulations and jurisdictions as sacrosanct, and the agreement subordinate and insignificant in comparison. Quebec would like to delay any changes until the completion of the integrated resource management plan, at which stage its laws and regulations can be altered if necessary.

In the meantime, it has signed forestry agreements, known as CAAFs, over the agreement territory, and issues under these unrestricted forestry permits, thus giving forestry companies similar rights to those they would enjoy outside the territory as if the Trilateral Agreement did not exist.⁴³

Effective interim protection thus became impossible, and a hostile climate developed among the Algonquin, loggers and government over the continuation of timber harvesting. The matter was referred to a mediator, Justice Réjean Paul, whose recommendations included the transfer of power to the special representatives, the transfer of control of the technical work from the Quebec ministries, and the protection of sensitive zones within the existing timber agreement. In spite of the mediator's report, Quebec unilaterally suspended the agreement and the process nearly collapsed.

During the spring of 1993 the Algonquin carried out an effective public

relations campaign, applied pressure at senior political levels, and intensified efforts to build a relationship with the forestry industry. These efforts resulted in a dramatic turnaround: the provincial government consented to give Quebec's special representative full decision-making authority and to establish a special interim management regime for the territory. Cabinet conferred temporary authority on the special representative to suspend and amend regulations under the *Forest Act* and CAAF within the area. This authority has enabled the representative to work directly with the logging companies to assist them in changing their practices to meet interim requirements. The special representative also received full control of the budget, and the provincial government committed \$600,000 for the 1993-1994 fiscal year (to be matched by the federal government).⁴⁴ Quebec's special representative is now accountable to the secretariat for Aboriginal affairs, under the purview of the minister of energy and natural resources.

In 1994 work focused on preparing an integrated resource management plan for the area. Recommendations for its implementation were to be developed during the first quarter of 1995. Although the agreement was to expire on 25 May 1995, it has been renewed until December 1996. After that date, the Algonquin will again deal directly with ministerial agencies, and much will depend on Quebec's willingness to participate in some form of co-management. It is doubtful, however, given the gains made thus far, that the Barriere Lake Algonquin will relinquish their influence in any future resource management process.

A research study prepared for RCAP attributes difficulties to the province's refusal to transfer the required authority from line ministries to the special representative during the first two years of the agreement.⁴⁵ With the transfer of power, clear lines of authority and communication were established, and representatives on the technical and political bodies began to work collaboratively toward the same objectives. Credit is also due to the efforts of senior forest industry officials and the Algonquins for building a more co-operative working relationship and accommodating each other's needs.

Interim Measures Agreement between British Columbia and the First Nations of Clayoquot Sound

34 Notzke, *Aboriginal Peoples and Natural Resources in Canada* (cited in note 31).

35 *Gwaii Haanas Agreement* (cited in note 33), p. 6.

36 Wendaban Stewardship Authority, presentation to the Standing Committee on Aboriginal Affairs and Northern Development, 6 December 1994.

37 Claudia Notzke, "The Barriere Lake Trilateral Agreement", research study prepared for RCAP (1993).

38 Notzke, "The Barriere Lake Trilateral Agreement".

39 M. Clifford Lincoln, Algonquins of Barriere Lake, RCAP transcripts, Maniwaki, Quebec, 2 December 1992.

40 *Trilateral Agreement between the Algonquins of Barriere Lake, the Gouvernement du Québec and the Government of Canada*, 22 August 1991, p. 2.

41 *Trilateral Agreement*, p. 3.

42 Notzke, "The Barriere Lake Trilateral Agreement" (cited in note 37).

43 Lincoln, RCAP transcripts (cited in note 39).

44 Notzke, "The Barriere Lake Trilateral Agreement" (cited in note 37).

45 Notzke, "The Barriere Lake Trilateral Agreement".

46 Montour, "Natural Resource Management" (cited in note 13).

47 British Columbia, *The Report of the British Columbia Claims Task Force* (Vancouver: Ministry of Aboriginal Affairs, 1991). The report recommended that interim measures be negotiated with First Nations as a means of protecting Aboriginal interests in lands and resources pending completion