

TRADITIONAL EEYOU HUNTING LAW

Frequently Asked Questions (FAQ)

July 2010

Questions about the process followed to develop the Traditional Eeyou Hunting Law

“The Traditional Eeyou Hunting Law – Where Did it Come From?”

- **What is the Traditional Eeyou Hunting Law?**

It is the **written** version of **some** of the traditional/customary rules and guidelines regarding the management of Eeyou hunting territories. It shows the “Eeyou way” of doing things on the land as reflected in the Eeyou name “Eeyou Indoh-hoh Weeshou-Wehwun”.

It is a **record** of what Eeyou regard as some of the most important existing customs, values and practices to follow and respect.

- **Why was the Traditional Eeyou Hunting Law developed?**

The Elders raised concerns that Eeyou faced serious **new challenges** in maintaining their traditional practices and in providing sustainable stewardship of their lands and resources. Knowledge of Eeyou law and traditional practices is disappearing and **serious conflicts** were arising amongst Eeyou over access to lands and resources and responsibility for lands and resources.

It was felt that a **written version** of the **customary law** would help all Eeyou, young and old, hunters or not, to know and understand the customary rules and practices.

- **How was the Traditional Eeyou Hunting Law developed?**

It was developed by the Cree Trappers’ Association working with a number of Elders and active trappers to provide a description of traditional Eeyou law and practice and with lawyers to find appropriate language in which to describe them in writing.

Eeyou terminology was chosen to name the most important concepts in the document. This terminology was discussed and approved throughout a series of meetings.

The process also involved a long series of consultations in each Eeyou community with Elders, trappers and community members to make sure the description of traditional Eeyou law was accurate. The provisions dealing with a Registry system and a mechanism for dispute resolution were also approved.

The final product received the specific approval of the Eeyou Elders and was also approved by the Board of Directors and the members of the Cree Trappers’ Association.

- **How will the Traditional Eeyou Hunting Law come into effect?**

The traditional Eeyou Hunting Law is being adopted by the Eeyou of Eeyou Istchee as an exercise of the **inherent right of self-government**.

The document, except for the Registry system and dispute resolution mechanism, reflects **existing customary law**. Therefore it does not need to be adopted as law, it is already is the law.

However, by resolution CTA has recognized that the document reflects existing law and is asking the Eeyou communities and CRA/GCCEI to do the same.

For the parts that are new (such as the registry of hunting territories and the dispute resolution process) these provisions have to be approved formally by each community. It is suggested that communities adopt one resolution at their general assembly to:

- a) recognize the document as a written version of custom law;
- b) approve the new provisions.

- **Why is this being called a “law”?**

According to Elders the word “law” best reflects the importance of the customary practices which are called “*Eeyou Indoh-hoh Weeshou-Wehwun*”.

It has also been chosen as way of indicating to non-Eeyou, in terms they will understand, the importance and place traditional hunting law has in Eeyou society.

Questions about content of Traditional Eeyou Hunting Law – Customary Law

“The Traditional Eeyou Hunting Law – Know Your Rights and Responsibilities”

- **What does Traditional Eeyou Hunting Law deal with?**

Traditional Eeyou Law contains the rules on :

- a) the sharing of the Indoh-hoh Istchee (hunting territories);
- b) the management of these hunting territories by the Kaanoowapmaakin (hunting leaders or tallymen); and
- c) the harvesting activities of Eeyou hunters within these hunting territories.

Conservation is at the heart of the Traditional Eeyou Hunting Law: it aims to ensure that lands and resources are available to present and future generations.

- **Who does the law apply to? Where does the law apply?**

The Traditional Eeyou Hunting Law being the custom law of Eeyou, applies everywhere in Eeyou Istchee, to all Eeyou and to all Eeyou harvesting activities.

Non-Eeyou invited by Kaanoowapmaakin (tallymen) to hunt are expected to respect the values, guiding principles and rules set out in the law. Non-Eeyou also have to respect other legislation applicable to them.

- **What are the ‘Guiding Values’?**

The Guiding Values which are set out in the law are the fundamental, traditionally-recognized values which must guide the exercise of rights and responsibilities of Eeyou under the law and which, in particular, must guide all Kaanoowapmaakin in the exercise of their authority and all Eeyou in the exercise of their right to harvest.

- **What is the role of the Kaanoowapmaakin?**

The Kaanoowapmaakin (tallyman) has the **responsibility** to manage the wildlife and resources of the hunting territory to:

- a) ensure their conservation;
- b) ensure the just sharing of the wealth of the land by members of his hunting group, their families, the community and other Eeyou.

To meet that responsibilities, the Kaanoowapmaakin has the **authority** to:

- a) monitor access to and use of the hunting territory;
- b) manage the wildlife resources in a number of ways (such as setting open seasons and determining where hunting may take place);
- c) provide guidance to Eeyou in their harvesting activities; and
- d) educate the youth regarding Eeyou customs, practices and values and share his knowledge.

- **What is the role of Eeyou hunters?**

Eeyou have the right to harvest in Eeyou Istchee but in doing so have to **respect** the Guiding Values and the rules set out in the Traditional Eeyou Hunting Law.

Eeyou hunters have the responsibility to **respect** the land and the animals, **respect** the authority of the Kaanoowapmaakin, **share** meat and other wildlife resources and generally **avoid conduct unworthy of an Eeyou hunter**.

Respect includes contacting the Kaanoowapmaakin before using his territory and the resources on it. In some cases permission is necessary. However, the Kaanoowapmaakin may not require payment for granting permission and may not withhold permission to any Eeyou person in need to hunt for subsistence. Other rules about when Eeyou may or may not be refused permission are set out in the law.

- **What are the rules regarding the transfer of hunting territories?**

The general rule is that the **Kaanoowapmaakin chooses** his successor.

If he or she dies or is incapacitated before he or she is able to do so, the **immediate family** decides to whom to transfer the hunting territory. Priority goes to family members.

However, if a replacement is not named within two years the law sets out a new rule that the CTA may appoint a **temporary replacement** from **among the family members** until a permanent successor is chosen by the family. The rule was added as a result of the consultation, to avoid that a territory be left without “a manager” for too long.

- **Who enforces the Traditional Eeyou Hunting Law?**

As it is traditionally, the enforcement of harvesting rules is the responsibility of the **Kaanoowapmaakin**, who will normally first issue warnings and provide guidance before imposing any sanction for non-respect of the rules. More generally, the existing traditional

Eeyou law continues to apply to enforcement. Where it is the Kaanoowapmaakin who fails to respect the law, it would be enforced by bringing complaints to the **dispute resolution process**.

The Elders and community members consulted about the law generally rejected the idea of a more rigorous approach to enforcement. The assumption is that if Eeyou better know and understand Eeyou customary law there will be greater respect for it without the need for rigorous enforcement.

- **Can the Traditional Eeyou Hunting Law be changed?**

The Traditional Eeyou Hunting Law recognizes that Eeyou law is not static but is an evolving body of custom that **adapts to changing circumstances**. The oral law continues to exist and the written law must be interpreted in light of the oral law as it evolves over time.

There is an undertaking that the written law will be **reviewed at least every five years** to determine if and what changes could be required.

- **What about the differences between the Eeyou communities?**

The Traditional Eeyou Hunting Law reproduces the rules generally applicable and acceptable to all Eeyou.

However, it is also stated that different rules and practices may apply in each community and that they may be different between inland and coastal Eeyou.

It is intended that in the future, Eeyou communities could elaborate on the present document to detail their “way of doing things”.

Questions about new provisions in Traditional Eeyou Hunting Law – Not customary law

“What’s New in the Traditional Eeyou Hunting Law?”

- **What is new in the Traditional Eeyou Hunting Law? What is not customary law?**

Provisions have been included to provide for :

- a) the establishment of a **register** of Indoh-hoh Istchee and their Kaanoowapmaakin; and
- b) processes for **resolving disputes** over hunting territories.

- **What is the Register of Indoh-hoh Istchee?**

A system for the registration of the hunting territories is being set up to help avoid a number of potential disputes in relation to hunting territories.

The Register of Indoh-hoh Istchee will provide a detailed record of the recognized boundaries and identify who is the appointed Kaanoowapmaakin. The Register will be held at the head office of the CTA, with copies in each community, and will consist of maps of the hunting territories (accessible through the GeoPortal system), lists of the names of each Kaanoowapmaakin and records of any decisions made changing the boundaries or the Kaanoowapmaakin.

To start the process, a preliminary register will be prepared by CTA but its contents including the **boundaries will have to be confirmed** and approved by each community.

Any issue relating to boundaries or to the identity of the Kaanoowapmaakin not resolved will be identified in the system and referred to a dispute resolution process. The CTA will have a role in identifying and trying to help resolve any issues of over-lapping territories between communities.

Once approved and recognized, the record can be referred to in case of disagreement over hunting territories, their transfer, the boundaries or the identification of the Kaanoowapmaakin.

- **What is the Dispute Resolution Process?**

A mechanism has been included for resolving disputes that arise with respect to boundaries of hunting territories, their transfer or about who is the recognized Kaanoowapmaakin.

The process reflects the traditional Eeyou approach: building a **consensus** based on mutual respect. In that mechanism there is an important role for the Elders in counselling those affected and providing support, guidance and mediation to the parties to a dispute.

One of the important aspects is that each stage has a timeframe. Through consultation it was felt that to be successful a dispute resolution had to be flexible, adapt to circumstances and be limited in time. Otherwise disputes would continue over long periods of time without ever being resolved.

The process has three stages:

- I. The **Kaanoowapmakin and any other person involved** in the dispute discuss the issues and attempt to resolve the dispute through consensus, if they wish with the assistance of Elders, other Kaanowapmakinch or the CTA;
- II. If that does not work, in the second stage **the Eeyou First Nation concerned appoints a representative** to work with the parties to design a process to resolve the dispute; the Eeyou First Nation does not decide on the issue;
- III. Finally, any dispute still unresolved is referred to the regional **CTA to determine a process** to resolve the dispute which may include a mediator. The CTA has a role to play as a facilitator but never as a decision-maker.