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**Note importante: ce document est une traduction de courtoisie et n'a aucune valeur légale. La résolution française originale constitue la version officielle de cette résolution.**

## **RESOLUTION 025-21**

### **PROVINCE OF QUEBEC MINGANIE REGIONAL COUNTY MUNICIPALITY**

Extract from the minutes of the ordinary council meeting of the Minganie RCM held by videoconference on February 16, 2021, at 3 p.m.

#### **PRESENT BY VIDEOCONFERENCE:**

Mr. Luc Noël:	prefect;
Ms. Charlotte Cormier:	advisor, deputy mayor of Havre-Saint-Pierre;
Ms. Marie-Claude Vigneault:	advisor, mayor of Natashquan;
Mr. Léonard Labrie:	advisor, mayor of Aguanish;
Mr. Martin Côté:	advisor, mayor of Baie-Johan-Beetz;
Mr. John Pineault:	advisor, mayor of L'Île-d'Anticosti;
Mr. Jacques Bernier:	advisor, mayor of Rivière-au-Tonnerre;
Ms. Josée Brunet:	advisor, mayor of Rivière-Saint-Jean;
Mr. Martin Beaudin:	advisor, mayor of Longue-Pointe-de-Mingan.

Forming a quorum under the chairship of Mr. Luc Noël.

#### **ALSO PRESENT:**

Ms. Nathalie de Grandpré:	executive director and secretary-treasurer;
Ms. Fanie Boudreau:	deputy executive director and assistant secretary-treasurer;
Mr. Philip Pineault Jomphe:	director of the Economic Development Department.

**Resolution No.  
025-21**

**Recognition of the legal personhood and rights of the  
Magpie River– Mutehekau Shipu**

## Part 1: The Magpie River – Mutehekau Shipu

Whereas the Magpie River, also known as the Mutehekau Shipu River (an Innu term which translates to: “the river where the water passes between square rocky cliffs” or “the river with steep banks and pointed rocks”), approximately 290 km in length and with a watershed covering an area of 7650 km<sup>2</sup>, constitutes a river of importance to the Côte-Nord, Quebec and Canada;

Whereas, given the size of its watershed, the Magpie–Mutehekau Shipu River (hereinafter referred to as “Magpie River”) is one of the most important rivers in the territory of the Minganie RCM;

Whereas more than 85% of the Magpie River is located on the territory of the Minganie RCM, more precisely on the territory of the municipality of Rivière-Saint-Jean and on the unorganized territories of Lac-Jérôme;

Whereas the Magpie River is located in the Nitassinan, the ancestral territory of the Innu people of the community of Ekuanitshit;

Whereas the Magpie River has exceptional potential for whitewater expeditions and is internationally renowned as a natural gem and as an adventure tourism and ecotourism destination, having been ranked among the top ten rivers in the world for whitewater and rafting activities, as well as among the top ten rivers in North America for canoeing;

Whereas unlike many internationally renowned rivers with similar characteristics, the Magpie River does not currently benefit from any protected status except for a tiny section of a few kilometres in length near Lake Magpie, as well as the lake itself;

Whereas the Magpie River is home to a wide range of flora and fauna, including the Atlantic salmon whose status is of “special concern,” the brook trout and the American eel whose status is “threatened”;

Whereas the Magpie River is particularly threatened by hydroelectric development;

Whereas the aforementioned threat could affect various species of flora and fauna, and would thus affect the culture, health and way of life of residents of Minganie and its future generations;

Whereas the Bureau d’Audiences Publiques sur l’Environnement (BAPE) has declared that the Magpie River is of “*very great interest, from an ecological, landscape and tourism perspective*” and has repeatedly recommended the legal protection of the Magpie River;

Whereas the Magpie River is the subject of several resolutions and official proposals aimed at its protection and enhancement;

## Part 2: The link between the Magpie River and the Minganie RCM

Whereas the Minganie RCM considers that the Magpie river is of fundamental importance for environmental, social and economic well-being;

Whereas tourism is one of the main economic activities of Minganie, and the RCM wishes to ensure the perennality and sustainability of this economic sector;

Whereas the Magpie River has a recognized potential for whitewater activities, and these activities may constitute an important economic driver;

Whereas adventure tourism is a growing sector;

Whereas hunting, fishing, walking in the forest, picking wild berries and snowshoeing or cross-country skiing are important activities on the territory of the Minganie RCM;

### Part 3: The worldwide movement for the recognition of rivers as entities subject to rights

Whereas the recognition of the rights of Nature, in conjunction with the legal tools currently in place, promote the protection of ecosystems by endowing them with legal personhood;

Whereas a paradigm shift must take place in order to conceive of Nature as a legal subject to be respected and preserved for future generations and to the benefit of other species;

Whereas the recognition of the rights of Nature within a context of legal pluralism favours the recognition of Indigenous legal traditions, because the legal norms enshrined by these traditions are based on a symbiotic relationship to the territory;

Whereas waterways are essential to all life by supporting a rich diversity of species and ecosystems, supplying wetlands and other aquatic habitats with water, providing vital nutrients to coastal estuaries and oceans, transporting sediment to deltas and fulfilling other essential ecological functions;

Whereas the Quebec state has already recognized in the Civil Code of Quebec the biocentrist approach under which animals are no longer considered to be objects but living beings, endowed with sensibilities and biological imperatives;

Whereas humans have caused widespread physical changes in rivers through dams and other infrastructures, including the construction of over 57,000 large dams (> 15 m) worldwide that affect more than two-thirds of all rivers, as well as nearly 17 million reservoirs, resulting in the fragmentation of habitats, reduction of biodiversity, the endangerment of fish populations, the exacerbation of climate change and the retention of sediments and nutrients that are essential for the health of downstream ecosystems;

Whereas the degradation and exploitation of waterways are not only environmental issues, but also rights issues for Indigenous peoples and other local communities, because the destruction of rivers threatens the very existence and way of life of those who depend on river systems for their well-being;

Whereas cities (e.g., Mexico City, Santa Monica, Crestone and San Francisco), states (e.g., Victoria, Australia, and Colima, Mexico), countries (e.g., Ecuador, Bolivia and New Zealand) and other jurisdictions around the world have recognized the legal status and rights of Nature;

Whereas Indigenous communities around the world (including the White Earth Nation of Chippewa, the Yurok Tribe, the Passamaquoddy Tribe, the Nez Percé Tribe and the Menominee Tribe) have taken steps to ensure that both humans and ecosystems enjoy fundamental environmental rights;

Whereas many International Tribunals (e.g., the Inter-American Court of Human Rights) and constitutional courts (e.g., Colombia, Ecuador, India and Bangladesh) have recognized legal personhood in Nature;

Whereas the Minganie RCM deems it urgent to take decisive measures to protect collective rights and the rights of future generations by transforming the structures and systems that are at the root of climate change and environmental degradation, in order to ensure a healthy and ecologically balanced environment for the survival of the communities of Minganie;

Whereas the Minganie RCM wishes to ensure a respectful relationship with Nature and emphasizes the cultural values associated with it;

Whereas the Minganie RCM recognizes that in order to protect the Magpie River, its ecosystem, its species and its residents, it must ensure the protection of the Magpie River by granting it legal personhood and rights;

#### Part 4: The legal foundations

Whereas the Minganie RCM has jurisdiction over the Magpie River under the *Municipal Powers Act*;

Whereas the Minganie RCM has the authority to regulate on any matter of a regional nature that is not otherwise governed under the *Municipal Powers Act*;

Whereas the Minganie RCM may constitute an organization intended for the protection of the environment or entrust this responsibility to a non-profit corporation or legal person under the *Municipal Powers Act*;

Whereas the Minganie RCM is responsible for implementing regional planning and development policies under the *Act respecting Land Use Planning and Development*;

Whereas the *Quebec Charter of Human Rights* provides that everyone has the right to live in a healthy environment that respects biodiversity;

Whereas the *Environment Quality Act* provides that “[e]very person has a right to a healthy environment and to its protection, and to the protection of the living species inhabiting it”;

Whereas the *Sustainable Development Act* provides that “[h]uman activities must be respectful of the support capacity of ecosystems and ensure the perenniality of ecosystems”;

Whereas the *Act to Affirm the Collective Nature of Water Resources and to Promote Better Governance of Water and Associated Environment* recognizes “impairment of [...] physical, chemical or biological properties, ecological functions or quantitative status” of a water resource as constituting damage;

Whereas the *Natural Heritage Conservation Act* aims to “facilitate the establishment of a network of protected areas representative of biodiversity by introducing conservation measures for natural environments that complete existing measures,” and that the inclusion of the Magpie River in the protected areas register provided for in this law would strengthen recognition of the rights of the river by safeguarding its diversity and its vital components for present and future generations;

Whereas Canadian jurisprudence grants an important role to municipal governments in environmental matters;

Whereas the Minganie RCM and the Innu Council of Ekuanitshit have reached a mutual agreement regarding the urgency of declaring the Magpie River a legal subject, in order to better protect it as a living environment;

Consequently, it is moved by Mr. John Pineault, seconded by Mrs. Marie-Claude Vigneault and unanimously resolved that the Minganie RCM, by mutual agreement with the Innu Council of Ekuanitshit and by virtue of their powers recognized by national law concerning the protection of waterways and the environment, decides as follows:

- That for the benefit of the residents of the Minganie RCM and future generations, as well as for the development of cultural and economic activities in line with its values and aspirations, the Minganie RCM recognizes the legal personhood of the Magpie River;
- That the Minganie RCM declares that as a legal person, the Magpie River and its watershed have the following fundamental rights:
  - the right to live, to exist and to flow;
  - the right to respect for its natural cycles;
  - the right to evolve naturally, to be preserved and protected;
  - the right to maintain its natural biodiversity;
  - the right to maintain its integrity;
  - the right to perform essential functions within its ecosystem;
  - the right to be free from pollution;
  - the right to regeneration and restoration;
  - the right to take legal action;
- That as a living entity possessing fundamental rights, the Magpie River will be represented by Guardians appointed by the Minganie RCM and by the Innu First Nation of Ekuanitshit, with the duty to act on behalf of the rights and interests of the river and ensure the protection of its fundamental rights;
- That the Guardians appointed on both sides will be empowered to take legal action on behalf of the Magpie River, to claim compensation for damage suffered by the river and to receive compensation for the benefit of the river;
- That the best interests of the Magpie River, as determined by its Guardians, must be taken into account by governments and private entities in all actions or decisions that affect it;
- That the River Guardians will perform their duties in collaboration with the Planning and Development Department of the Minganie RCM, as well as with the Innu Council of Ekuanitshit;
- That the Planning and Development Department of the Minganie RCM will ensure the participation of youth and elders from the RCM as part of its Guardians Program related to this project;
- That the responsibilities and functions of the Guardians will be aimed at protecting the river's rights and will include, in particular relating to:
  - research;
  - inventories, surveying and surveillance;
  - the application and compilation of Innu traditional knowledge;
  - conservation planning;
  - awareness and education;

- species protection, management and recovery;
  - reduction of threats to species and their habitat;
  - habitat remediation;
  - habitat management to conserve and enhance ecosystem services;
  - monitoring and participating in development projects that may affect the river;
  - welcoming visitors to traditional territories;
  - participation in any consultation concerning the authorization of projects that may affect the rights of the river, so as to assert the best interests of the latter, as well as its rights;
  - maintenance of cultural sites;
  - management of government (or other) funding, as well as management of funds recovered in the event of harm to the Magpie River – on a fiduciary basis;
- That the Minganie RCM strongly urges all governments to provide prompt and adequate funding to ensure the enjoyment and implementation of the fundamental rights of the Magpie River;
  - That the Minganie RCM explores the possibility of concluding a co-management agreement with other levels of government, recognizing the intrinsic rights of the Magpie River and guaranteeing joint supervision of the ecosystem;
  - That the aforementioned intergovernmental co-management agreement will aim to establish an “Indigenous Protected and Conserved Area” around the Magpie River, reflecting Innu laws and traditions, and ensuring that the Innu of Ekuanitshit can maintain their relationship with their ancestral lands;
  - That the River Guardians will monitor the protection of the rights of the Magpie River and ensure permanent stewardship of the aforementioned Indigenous Protected and Conserved Area, in collaboration with the Planning and Development Department of the Minganie RCM and the Innu Council of Ekuanitshit.

**Extract certified true, subject to approval, in Havre-Saint-Pierre on February 17, 2021.**

**Fanie Boudreau,  
Deputy Director**