



NATIONAL ASSEMBLY OF QUÉBEC

SECOND SESSION

FORTY-SECOND LEGISLATURE

Bill 990

**An Act to confer rights on the
St. Lawrence River**

Introduction

**Introduced by
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EXPLANATORY NOTES

The purpose of this bill is to strengthen protection of the St. Lawrence River. To that end, the bill creates a special legal status for the St. Lawrence River by conferring on it several rights, including the rights to protection, to conservation and to restoration.

The bill establishes a council of guardians under the name “Conseil des gardiens du Fleuve”, whose mandate is to protect the interests of the River. The Council is composed of seven members called “guardians of the River”, including two from Indigenous nations, who are, among other things, responsible for representing the River before the courts.

Under the bill, any person may request that the interests of the River be protected. To that end, the Council must set up a procedure for receiving and processing complaints relating to potential infringements on the rights of the River.

The bill establishes civil proceedings enabling the guardians of the River to demand reparation for any damage sustained by the River, through such measures as restoration and payment of financial compensation.

The Council is also required to send an annual report of its activities to the President of the National Assembly setting out, among other things, the number of complaints received and proceedings brought by the guardians of the River as well as the key findings or recommendations pertaining to the promotion, protection and respect of the rights and interests of the River.

It is further provided that the Minister of the Environment and the Fight Against Climate Change shall establish an expert committee to assist the guardians of the River in their mandate. The expert committee is composed of persons having experience in or a marked interest for the fields related to water, traditional Indigenous knowledge, environmental law or traditional community knowledge.

Lastly, the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments is amended to provide for the participation of the guardians of the River in matters pertaining to the St. Lawrence River.

LEGISLATION AMENDED BY THIS BILL:

- Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2);
- Natural Heritage Conservation Act (chapter C-61.01);
- Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001).

Bill 990

AN ACT TO CONFER RIGHTS ON THE ST. LAWRENCE RIVER

AS an increasing number of States are recognizing rights for natural entities;

AS Québec intends to meet its international obligations as regards the protection of the environment, the protection of biodiversity and the fight against climate change;

AS the Charter of human rights and freedoms provides that every person has a right to live in a healthful environment in which biodiversity is preserved;

AS watercourses, as sources of life and living environments, must be preserved;

AS the St. Lawrence River is of fundamental importance for Québec society;

AS it is expedient to confer a special legal status on the St. Lawrence River;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

RIGHTS OF THE ST. LAWRENCE RIVER

DIVISION I

APPLICATION AND INTERPRETATION

1. The object of this Act is to confer rights on the St. Lawrence River.

For the purposes of this Act, “the River” means the St. Lawrence River, including the St. Lawrence Estuary and the Gulf of St. Lawrence, as well as all its tributaries and its watershed.

2. The River has the full enjoyment of the rights to protection, to conservation and to restoration. In that respect, it is, in particular, the holder of the following rights:

- (1) the right to exist and to flow;
- (2) the right to respect for its vital cycles;
- (3) the right to maintain its natural biodiversity;

- (4) the right to maintain its integrity;
- (5) the right to fulfill its essential functions within its ecosystem;
- (6) the right to feed and be fed by aquifers and tributaries;
- (7) the right to be free from all contamination; and
- (8) the right to regenerate.

The Government may, by regulation, determine the terms and conditions relating to the application of these rights and the cases in which the rights do not apply.

3. The River is not the holder of a patrimony. No legal proceedings may be brought against it.

4. The rights provided for in this Act are to be exercised in keeping with Indigenous rights and international commitments applicable to Québec and taking into account the legislative and regulatory provisions relating to the protection of the environment, land use development and the conservation and development of wildlife.

DIVISION II

PRINCIPLES

5. Every decision pertaining to the River must be made only in the interest of the River and in accordance with the no-degradation principle.

“No-degradation principle” means the principle by which long-term respect of the ecological balance is sought, which involves, in particular, controlling the individual and cumulative impacts of human activities.

6. Every dispute pertaining to the River may be settled only in the interest of the River and in accordance with the *in dubio pro aqua* principle.

“*In dubio pro aqua*” means the principle by which, in case of uncertainty, disputes concerning water, nature and ecosystems should be resolved, and the applicable laws interpreted, in a way most likely to protect and conserve watercourses and related ecosystems.

CHAPTER II

CONSEIL DES GARDIENS DU FLEUVE AND GUARDIANS OF THE RIVER

DIVISION I

ESTABLISHMENT AND ORGANIZATION

7. A council of guardians is established for the River under the name “Conseil des gardiens du Fleuve” (the “Council”).

The Council is composed of seven members, called “guardians of the River”, including the Minister of the Environment and the Fight Against Climate Change, who acts as chair.

The Government appoints the six other members for a term of up to five years, taking into account their knowledge, expertise and independence. The members other than the chair are appointed as follows:

(1) one member, after consultation with three non-profit organizations whose primary mission is to ensure the protection of the environment;

(2) two members, after consultation with the representatives of the eleven Indigenous nations of Québec;

(3) two members, after consultation with the Fédération québécoise des municipalités locales et régionales and the Union des municipalités du Québec; and

(4) one member from the university sector in a field related to water, after consultation with that sector.

These appointments must be made so as to achieve the most equitable representation possible of the men and women of the regions of Québec and must reflect the demographic composition of the population of Québec.

8. The Council may make any by-law concerning its internal management.

9. The Government determines the remuneration, employee benefits and other conditions of employment of the guardians of the River, except those of the Minister of the Environment and the Fight Against Climate Change.

The members of the Council’s personnel are appointed in accordance with the Public Service Act (chapter F-3.1.1).

10. The guardians of the River must exercise their functions in the interest of the River, with honesty and impartiality and to the best of their ability.

DIVISION II

RESPONSIBILITIES AND POWERS

11. The mandate of the Council is to protect the interests of the River. To that end, it assumes the following responsibilities:

(1) defending and promoting the rights of the River giving consideration to the right of present and future generations to a healthful environment and the right of other living species to life and well-being;

(2) providing its opinion on any project or issue that may affect the rights of the River;

(3) raising citizens' awareness of the rights of the River by, among other things, developing a program to raise young people's awareness of the importance of protecting the River;

(4) submitting recommendations to the Government to ensure balance between the regeneration of the River and the satisfaction of essential human needs with respect to water and energy;

(5) participating in restoration and conservation programs for the wildlife that is dependent on the River;

(6) proposing measures to guarantee safe access to the River and its tributaries for recreational tourism activities; and

(7) monitoring the activities taking place on the River.

12. The Council receives and processes complaints relating to potential infringements on the rights of the River in accordance with the procedure it establishes.

The procedure must provide that any person may request that the rights of the River be protected.

13. In the exercise of its rights, the River is represented before the courts by the guardians of the River.

The guardians of the River are duty-bound to act in the name of the River.

14. No legal proceedings may be brought against the guardians of the River for acts performed in good faith in the exercise of their functions.

DIVISION III

REPORT OF THE GUARDIANS OF THE RIVER

15. Not later than 30 June each year, the Council must send an annual report of its activities for the preceding fiscal year to the President of the National Assembly. The report must set out

(1) the number of complaints received and the time frame in which they were processed;

(2) the number of legal actions brought by the guardians of the River in the name of the River and a status report on their progress;

(3) the key findings or recommendations pertaining to the promotion, protection and respect of the rights and interests of the River; and

(4) any other element determined by the Minister.

The President tables the report in the National Assembly within 10 days of receiving it or, if the Assembly is not sitting, within 10 days of resumption.

CHAPTER III

EXPERT COMMITTEE

16. To assist the guardians of the River in their mandate, the Minister establishes an expert committee. The functions of the committee are to conduct research projects and share knowledge to support the work toward protecting and developing the River. The committee's mandate also includes answering any question submitted by the Minister or by the Council.

The committee is made up of persons appointed by the Minister who have expertise, experience or a marked interest in the fields related to water, traditional Indigenous knowledge, environmental law or traditional community knowledge.

The expert committee's operating rules are established by regulation of the Minister.

CHAPTER IV

PENALTIES AND REPARATION

17. If damage to the River, including an alteration in its physical, chemical or biological properties, ecological functions or quantitative status, is caused by a person or through a person's fault or illegal act, the guardians of the River

may institute proceedings against that person, in the name of the River, with a view to obtaining one or more of the following, in the following order of priority:

- (1) restoration of the River to its original state or a state similar to its original state;
- (2) reparation through compensatory measures; and
- (3) reparation by payment of compensation in a lump sum or otherwise.

For the purposes of this section, “original state” means the state of the River and of its ecological functions as it would have existed had the damage not occurred. That original state is determined on the basis of the best available information.

If the damage to the River was caused through the fault or illegal act of two or more persons, those persons are solidarily liable.

CHAPTER V

AMENDING PROVISIONS

ACT TO AFFIRM THE COLLECTIVE NATURE OF WATER RESOURCES AND TO PROMOTE BETTER GOVERNANCE OF WATER AND ASSOCIATED ENVIRONMENTS

18. Section 8 of the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments (chapter C-6.2) is amended by inserting “except the St. Lawrence River as defined in the Act to confer rights on the St. Lawrence River (*insert the year and chapter number of this Act*),” after “water resources,” in the first paragraph.

19. Section 13 of the Act is amended by inserting “and the provisions of the Act to confer rights on the St. Lawrence River (*insert the year and chapter number of this Act*)” at the end of the second paragraph.

20. Section 13.3 of the Act is amended by adding the following sentence at the end of the second paragraph: “In the case of an integrated management plan for all or part of the St. Lawrence, regional advisory panels must consult the Conseil des gardiens du Fleuve, established under the Act to confer rights on the St. Lawrence River (*insert the year and chapter number of this Act*), and request its approval before sending the plan to the Minister.”

21. Section 13.6 of the Act is amended by adding the following sentence at the end of the third paragraph: “In the case of an integrated management plan for the St. Lawrence, any amendment must also be approved by the Conseil des gardiens du Fleuve, established under the Act to confer rights on the St. Lawrence River (*insert the year and chapter number of this Act*).”

NATURAL HERITAGE CONSERVATION ACT

22. Section 14 of the Natural Heritage Conservation Act (chapter C-61.01) is amended

(1) by striking out “, in particular to consider the elements contained in a water master plan or an integrated management plan for the St. Lawrence developed under the Act to affirm the collective nature of water resources and to promote better governance of water and associated environments” in paragraph 4;

(2) by inserting the following paragraph after paragraph 4:

“(4.1) the Conseil des gardiens du Fleuve, established under the Act to confer rights on the St. Lawrence River (*insert the year and chapter number of this Act*), in cases involving the St. Lawrence River or any of its direct tributaries;”.

23. Section 18 of the Act is amended by inserting “and in accordance with the Act to confer rights on the St. Lawrence River (*insert the year and chapter number of this Act*)” at the end of the second paragraph.

ACT RESPECTING THE MINISTÈRE DU DÉVELOPPEMENT DURABLE, DE L'ENVIRONNEMENT ET DES PARCS

24. Section 15.4.38 of the Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs (chapter M-30.001) is amended by inserting “and the Act to confer rights on the St. Lawrence River (*insert the year and chapter number of this Act*)” at the end of subparagraph 8 of the second paragraph.

CHAPTER VI

FINAL PROVISIONS

25. This Act applies to the Government, government departments, and bodies that are mandataries of the State.

26. The Minister of the Environment and the Fight Against Climate Change is responsible for the administration of this Act.

27. This Act comes into force on (*insert the date of assent to this Act*).

