



la Convention  
de la Baie-James  
et du Nord québécois

**Comité consultatif  
pour l'environnement  
de la Baie-James**

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Siège social:  
Baie-du-Poste  
Lac Mistassini, via Chibougamau, Québec  
G0W 1C0

Secrétariat et correspondance générale:  
Édifice Marly  
3900, rue de Marly, 4<sup>e</sup> étage,  
boîte 50  
Sainte-Foy (Québec)  
G1X 4E4  
(418) 643-8388 ou 7974

**MINUTES OF THE 85th MEETING  
OF THE JAMES BAY ADVISORY COMMITTEE  
ON THE ENVIRONMENT  
(ADOPTED)**

**DATE:** December 15, 1994

**LOCATION:** Ministère de l'Environnement et de la Faune  
3900, rue de Marly, 3e étage  
Salle 3.4.1.G.  
Sainte-Foy (Québec)

**PRESENT:** Diane Morneau, Canada, Chairperson  
Pierre Lauzon, Canada  
Pierre Paulhus, Canada  
Alan Penn, CRA  
Louis Archambault, Québec  
Robert Daigneault, Vice-Chairperson, Québec  
Gilles Frisque, Québec  
Hervé Chatagnier, Technical Advisor  
Denis Bernatchez, Secretary

**ABSENT:** Mimi Breton, HFTCC  
Philip Awashish, CRA  
Willie Iserhof, CRA  
Paul Wilkinson, CRA

**GUESTS:** Brian Craik, CRA  
Bernard Forestell, FBEEA  
Pierre Lefebvre, MEF



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1. **OPENING OF THE MEETING AND ADOPTION OF AGENDA**

The Chairperson declares the meeting open at 10:30 a.m. and the following agenda is adopted:

1. Opening of the meeting and adoption of the agenda;
2. Adoption of minutes of the 84th meeting;
3. Business ensuing from the last meeting;
4. Meeting with Administrators' representatives (preparation in the morning and meeting in the after-noon);
  - financial and administrative problematics of the Committee;
  - loan of a forest engineer for the mandate determined by the Committee;
  - forestry problematics;
5. Consultation on Québec government orientations regarding energy;
6. The policy of integrated enhancement adopted by Hydro-Quebec;
7. Revision of chapter 22 in the JBNQA
8. Great Whale hydro electric project;
9. Report on COMEV, COMEX, and COFEX-South;
10. Delivery of various documents;
11. 1993-1994 Annual Report;
12. Miscellaneous: letter from M. George Arsenault on development of parks on the Territory;
13. Date and place of the next meeting.

2. **ADOPTION OF THE MINUTES OF THE 84th MEETING**

The minutes of the 84th meeting are adopted following a few modifications.

3. **BUSINESS ENSUING FROM THE LAST MEETING**

As for the memo dated November 9, 1994, with respect to follow-up on the 84th meeting, Mr. Denis Bernatchez informs the members of various letters received at the secretariat since the last meeting as well as of those that have been sent to different addressees.

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4. MEETING WITH ADMINISTRATORS' REPRESENTATIVES

The secretariat has prepared brief texts on the problematics to be discussed during the meeting with the administrators' representatives. The subjects are: financial and administrative problematics of the Committee, loan of the services of a forestry engineer, application of impact assessment to forestry infrastructures. Mr. Hervé Chatagnier presents the first text and explains the main points.

On the whole, and independently of the party they represent, the members jointly and unanimously acknowledge the difficulties in making the Committee work and they agree that they do not wish, by their participation, to answer for inadequate progress by giving the impression that the Committee is functioning well and plays its part. Globally, the arguments expressed by the members are as follows:

- The mandate of the Committee, as defined in Chapter II of the Environment Quality Act and Chapter 22 of the Bay James and Northern Québec Agreement (JBNQA), is clear and the Committee should benefit from resources necessary to carry out its tasks. However, for several years, the Committee has not had the necessary resources to accomplish the tasks assigned to it by legislators.
- The Committee has already had limited room to maneuver to call upon external experts (as per Article 22.3.22 of the JBNQA). However, resources granted by governments are such that they cannot presently be used and the Committee's only support services (secretariat) do not allow the Committee to carry out its mandate related to the revision of five-year plans and general plans, to cite only one example. Environmental and social problematics have changed a lot since 1975, when the JBNQA was signed. There was no ministry of the environment, neither on the provincial nor federal level. Environmental demands are much greater now and it is imperative that the Committee monitors closely what is happening in the Territory. The present level of resources does not allow for such surveillance, neither to act as an advisor to the governments with respect to the ever-growing activities that take place on the Territory. With adequate resources, the Committee could have a very stimulating mandate that would allow to bring the three parties in question a little closer. Such is not the case and the Committee has a moral obligation to react to this situation.

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- In the case of forestry, the Committee has never been able to react within the prescribed periods to comment on general and five-year plans for forestry planning.

#### Meeting with Administrators' Representatives

The administrators had been invited to meet the members of the Committee. However, as the administrators were not available to attend the meeting, they had assigned representatives to do so. Thus, Mr. Bernard Forestell replaced Mr. Michel Dorais, the federal administrator, who had been asked to attend a meeting at the Parliament. Mr. Brian Craik replaced Mr. Matthew Coon-Come, Grand Chief of the Cree Regional Administration, as the latter had a previous engagement. Finally, Mr. Pierre Lefebvre replaced Mr. Jean Pronovost, deputy minister of the MEF.

The chairperson welcomes the representatives from the various parties and expresses her disappointment, on behalf of the Committee, of the absence of messrs. Dorais and Pronovost, in particular since the latter play a decisive role in granting resources for the Committee.

For the benefit of the administrators' representatives, Mr. Hervé Chatagnier explains the budgetary requests of the Committee as well as various letters that have been sent and to which the Committee has received no reply.

Mr. Lefebvre explains that the JBACE is subsidized in equal parts by the Federal and Québec governments and that Québec has written several letters on this subject to the federal administrator. The Federal government had planned a decrease in the Committee's budget for the next three years. The subject of the correspondence exchanged between the Federal and Québec governments is the principle of parity (as stipulated in the JBNQA) and of reduction of resources to face the difficult economic circumstances in which the government presently operates. Mr. Lefebvre thinks that an additional amount of \$21,000 should be granted by the Federal Government to balance the budget of the Committee and to allow it to maintain present resources at its secretariat. The deputy minister of the MEF has made several requests to discourage the Federal Government from reducing its part in the JBACE budget. However, the Federal Government maintains its budgetary position, so the Committee will suffer a budget cut and the services of a technical advisor.

Mr. Lefebvre presents a copy of the letter from the Honourable Minister Brassard, addressed to the chairperson of the JBACE, confirming the possibility of cutting by one half the

participation of Mr. Hervé Chatagnier to committee work for 1995-1996 and confirming the budget of \$127,600 for the current fiscal year (1994-1995). According to Mr. Lefebvre, Quebec's contribution to the JBACE has always been higher than the one from the Federal Government.

Until March 31, 1995, Mr. Lefebvre asserts that the MEF will maintain the resources even if the Federal Government cuts its subsidy. For 1995-96, Mr. Lefebvre cannot ascertain anything since the MEF has not yet received its budget. According to him, the position of technical advisor will indeed be reduced from 1/2 to 1/4 person/year as of April 1st, 1995.

Mr. Forestell then informs the members that the last agreement between the governments on subsidizing the JBACE dates back to 1987. He believes a new agreement should be negotiated. He also announces that, since April 1st, 1994, the FEARO is responsible for the Committee's budget, which till then had been controlled by Environment Canada. Since 1987, Federal funds had been set at \$95,000 to cover obligations under Chapters 22 and 23, namely subsidy of the JBACE/COMEV and the KEAC. Following budget cuts forecast for the coming three years, budgets should have been:

Amount	Year
\$85,000	1994-95
\$81,000	1995-96
\$76,000	1996-97

Following discussion between the concerned deputy ministers, the Federal Government has decided to maintain its subsidy at \$95,000. However, for the current year (1994-95), the Federal Government cannot pay any amount retroactively, since no funds have been set aside for this purpose.

Next, Mr. Brian Craik pointed out that the Committee has a very important role to play for the Crees. Referring to Article 22.3.1 of the JBNQA, Mr. Craik said that, since the Committee has been "established to review and oversee the administration and management of the environmental and social regime", the Committee has a role to play with respect to other committees, in overseeing the environmental regime and in the drafting of laws and regulations having an impact on the Territory. Mr. Craik also reads Article 22.3.22 of the Agreement that allows the Committee to call upon other persons for expert advice or assistance. The reason for not calling upon expert advice is that the Committee does not have sufficient funds. Mr. Craik asserts that it is up to the administrators to raise sufficient funds to allow the JBACE to critically oversee what happens on

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the Territory and to examine pertinent documents. No regulations have ever been made by the Committee, and he insists, that is because the government has forgotten about the Committee. The Committee does not function, cannot protect the Crees or enforce the JBNQA. Maybe the members should all resign, maybe that is what would for the best of all. He points out that the Committee does not play an active role, but reacts whenever it is able to do so. Mr. Craik concludes by emphasizing that the Committee, rather than the Quebec and Canadian governments, should provide expertise to the Crees. Annexes of the BJQNA should be reviewed every fifth year. This does not happen. Several problems related to forestry are not covered by the Committee.

Mr. Louis Archambault believes that, with the proposed budget, the Committee cannot cover its fixed expenses and cannot treat basic cases as required by the JBNQA. He notes that there is a problem between the Committee's resources and the obligations under the Agreement and wonders whether the Committee should be maintained if it is not able to carry out its mandate. The legal agreements of the JBNQA cannot be dependent on budgetary constraints. With the status quo, the Committee is not able to act. This is unfortunate and the minister should be informed thereof.

Mr. Robert Daigneault in turn points out that the Committee is advisory for all levels of government and the CRA. It is the National Assembly that, annually, votes on funds for the Committee and the provincial administrator can claim from the Government of Canada half the amounts indicated in that budget (Art. 139 of the E.Q.A.). It is therefore derogatory to the E.Q.A. and the Agreement that the Government of Canada determines the budget limits (as it presently does), whereas it is Quebec that has the prerogative. It is pointed out that, presently, it is finally up to the administrator of the plan to decide on the level of resources for the JBACE, namely the surveillance organization. Moreover, Quebec is the only party that does not pay its members for their participation in Committee meetings.

Mr. Gilles Frisque in turn points out that the members are well aware of governments' budgetary problems and this discussion should therefore not concern this meeting. The debate is basically that the Committee needs adequate resources to operate, as well as government support. With the proposed budget, the Committee cannot move forward and becomes, for all practical purposes, inoperative.

Mr. Lefebvre informs the members that the MEF will reinforce its actions in areas with important environmental problems. He

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believes that the Committee can develop new means to exercise its mandate and that the Committee should not take on tasks that are done elsewhere.

On this, the members retort that no other organization than the JBACE can carry out the mandate of the JBACE. For example, it is unrealistic to believe that the MRN can analyze forestry cases with the same concerns as the JBACE. In this context, the Committee's analysis does not duplicate the work of the MRN.

Mr. Lefebvre agrees that is difficult to work on a Committee that does not have the necessary resources.

Mr. Alan Penn says that the Quebec and Canada departments on the environment did not exist at the time of the negotiation and the signature of the Agreement and that environmental problematics have significantly progressed since then. There is no legislation corresponding to the Environmental Quality Act which deal with the implementation of the provisions of the JBNQA relating to the responsibilities of the Federal government. The guiding principles set out in text of Section 22 of the James Bay and Northern Quebec Agreement (JBNQA), apply to the signatory government and to the agencies which represent them. Environmental demands are greater now and the Committee has the same means as when the Agreement was signed. In practice, the Committee is rarely consulted by the various ministries working on the Territory. The Committee is isolated. Master principles should govern all organizations working in the North.

As Mr. Forestell must leave at 3 p.m., the chairperson asks him what he plans to do following the meeting. Mr. Forestell replies that he does not believe the Federal Government will increase its contribution to the Committee's operations. Neither can he see how federal organisms can lend personnel to the Committee to help it carry out its tasks.

#### Forestry Problematics

The second part of the meeting with the administrators' representatives concerns forestry problematics. Mr. Hervé Chagnier briefly presents the needs of the Committee in this respect and reports on the correspondence exchanged on the subject. Finally, he mentions the aspects raised by Mr. Gordon Blackned, Vice-Chief at Waskaganish, in his correspondence addressed to the Committee on September 8, 1994 and on which the Committee would like further explanations from the provincial administrator. In particular, these aspects are:

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- subsection of forestry infrastructure to impact assessment (camps, roads, etc), if identified in a PQAF or an PGAF;
  - whether a forest road could be exempt from such procedure if it were to be submitted in sections less than 25 kilometer long;
  - finally, to determine the type of forest road that is obligatory exempt and the type of road listed in the "gray zone" category.

Mr. Pierre Lefebvre informs the members that he has requested legal advice on forest roads and camps. According to his information, such infrastructures do not have to be submitted to the COMEV if they are already in the PQAF or PGAF.

Mr. Lefebvre informs the members of the establishment of a three-party committee composed by representatives from the Secrétariat aux affaires autochtones (SAA), the ministère des Ressources naturelles (MRN) and the ministère de l'Environnement et de la Faune du Québec (MEF). The deputy minister of the MEF has written to the SAA and MRN to request that forestry problematics be examined. This committee has held about six meetings to identify problematic situations related to forestry for the JBACE. During these meetings, three types of approaches have been developed to find solutions to forestry problematics:

- a political approach;
- a legal approach;
- a practical approach that, according to Mr. Lefebvre, should satisfy the Crees.

According to him, the approach that should be favoured is the one where the trapper speaks directly to the promoter. Mr. Lefebvre says he is willing to cooperate with the JBACE to present it with the analysis carried out by the above-mentioned forestry committee.

In this respect, the members argue that the approaches identified by this committee does in no manner modify the role of the JBACE regarding forestry problematics.

Mr. Brian Craik points out that by acting unilaterally, the three-party committee of which Mr. Lefebvre is a member, wants to sell a custom-made policy to the Native people on which the Native people will have no saying, which is unacceptable.

Mr. Robert Daigneault in turn mentions that this way of acting does not comply with the JBNQA. The JBACE should have been implied in this situation to comment on the proposals and to check whether these proposals correspond to Article 22.3.26 of the JBNQA that states; "The Committee shall examine environmental and social laws and regulations existing from time to time relating to the effects of development as well as existing land use regulations and procedures which might directly affect the rights of Native people..."

Mr. Gilles Frisque then points out that the CAAF that have been signed are, for all practical purposes, illegal since no prior land allotment plan had been adopted. Mr. Alan Penn adds that there is no MRC on the Territory and, consequently, it is important to count on the JBACE to examine this problematic. Let us point out here that, in Quebec, the municipalities are responsible for land planning.

Mr. Lefebvre proposes a meeting between the JBACE and the ministère des Terres et Forêts to reach an agreement on reference framework for five-year assessment plans. Moreover, he offers, until March 31, 1995, the services of a full-time professional to work on the forestry mandate of the JBACE. With respect to the written mandate on forestry problematics, Mr. Lefebvre thinks that a large part of historical information no longer exists since it has been archived or destroyed.

Mr. Gilles Frisque doubts that, in view of its importance, such information has been destroyed. Mr. Alan Penn emphasizes that it is fundamental to be familiar with the history of land planning if one is to understand the present problematics.

Mr. Lefebvre mentions that he will very soon be able to identify a contact to carry out the mandate of the JBACE. The members agree to accept Mr. Lefebvre's proposal and he will receive a letter confirming this.

With respect to the availability of Mr. Hervé Chatagnier as technical advisor to the Committee, Mr. Lefebvre points out that there will be no change until March 31, 1995. Mr. Lefebvre informs the members that the minister will write the Committee, at the beginning of the 1995-1996 fiscal year, to confirm the resources he will grant the Committee.

Mr. Brian Craik questions the validity of the Committee that does not carry out its mandate in a manner the Crees would approve of. According to him, the Committee does not function in such a way. The JBACE does not have the attention of the governments.

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The members unanimously agree to the necessity to write the minister of the Environnement et de la Faune to put pressure, at a political level, with respect to the insufficient human resources and funds available to the Committee. A draft letter will be prepared by the secretariat and sent to the members for their comments.

Finally, Mr. Pierre Lauzon announces to the members that he is leaving the Committee, since his mandate is terminated. He thanks all the members for their cooperation during the period he has been on the Committee.

**NOTE:** Items 5 to 12 on the agenda have not been discussed for lack of time and are postponed to the next meeting of the Committee.

**13. DATE AND PLACE OF THE NEXT MEETING**

The members have not agreed on the date and place of the next meeting.



**DENIS BERNATCHEZ**  
Secretary

95-02-24