



la Convention
de la Baie-James
et du Nord québécois

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

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**MINUTES OF THE 113TH MEETING
OF THE JAMES BAY ADVISORY COMMITTEE
ON THE ENVIRONMENT
(ADOPTED)**

DATE: November 9, 1999

LOCATION: Environment Canada
105 McGill
Montréal, Québec

PRESENT: Yves Désilets, Canada
Carole Garceau, Québec
Susanne Hilton, CRA
Willie Iserhoff, CRA
Ginette Lajoie, CRA, Vice-Chairperson
Claude Langlois, Canada,
Pierre Moses, Québec
Jacques Robert, Canada
Diom Romeo Saganash, CRA, Chairperson

Denis Bernatchez, Secretary

ABSENT: Jacques Lefebvre, Québec
Harm Sloterdijk, Canada



1. **CALL TO ORDER AND ADOPTION OF THE AGENDA**

The Chairperson welcomed the members and called the 113th meeting of the JBACE to order.

The following agenda was adopted:

1. Call to order and adoption of the agenda
2. Legal proceedings instituted by the Crees in relation to forestry operations
3. Criteria and indicators workshop report
4. New forest system
5. General forest management plan received (CA 086-20)
6. Formal demand received by the JBACE
7. Varia
8. Date and location of next meeting

2. **LEGAL PROCEEDINGS INSTITUTED BY THE CREES IN RELATION TO FORESTRY OPERATIONS**

At the 112th meeting of the JBACE, certain members had suggested that Romeo Saganash give a presentation on the legal proceedings instituted by the Crees in relation to forestry operations. Mr. Saganash told the JBACE Secretary that he did not intend to give such a presentation and asked that Johanne or Robert Mainville be invited to provide this information. Robert Mainville, Attorney of the law office O'Reilly Mainville & Associés, had graciously agreed to meet with JBACE members.

The JBACE members appointed by the Québec and Canadian governments did not think it was a good idea to meet with the attorney for the Cree party and asked that the meeting be cancelled. The members refuse to give a legal flavour to the JBACE's activities, particularly since the JBACE itself has received a formal demand from the Cree party regarding the forest management plans. The members agreed that the presentation could be given by any JBACE Cree party representative. Certain members appointed by Québec and Canada asked that the matter be discussed between JBACE members, without the presence of the parties' attorneys. If the JBACE needed an attorney, that individual would have to be independent and the JBACE does not currently have the financial resources to pay for legal services. The JBACE needs objective information on forestry and several members felt that this information could not be provided by a lawyer. The members therefore decided to cancel the presentation that was to be given by Robert Mainville, Attorney.

During this debate, the members noted the language problem arising from the fact that certain members can express themselves only in French or English. This hinders

discussion and significantly limits the full participation of all members in JBACE discussions. Some members felt that one of the most effective solutions would be to use the services of an interpreter. While the members are aware of the substantial costs involved, this is the best option and the only one that is truly viable. They felt that asking a member to translate a summary of what has been said and whisper into another's ear is unacceptable. The members agreed to write to the federal and provincial administrators to ask that this problem be solved as soon as possible. It was also suggested that a clear policy be developed by the Language-Issue Committee (translation of documents, letters, etc.) so as to avoid lengthy debates on the subject.

3. **CRITERIA AND INDICATORS WORKSHOP REPORT**

Given the importance of the forestry file, the JBACE Chairperson asked the Secretary to draw up a summary of the main pieces of correspondence related to the forestry since 1994. Each member received a copy of this summary.

Ginette Lajoie had prepared a personal nine-page document for the members giving her thoughts on the workshop held in September 1999 in Val d'Or and proposing aims. She presented it to the members, who were able to make comments and ask questions. The document analyzes the outcome of the workshop and asks a series of questions as to whether or not the forestry file should be discussed within the Committee. The document states that the report prepared by Jamal Kazi is incomplete and not very clear. The author feels that it should not be sent to the MRN in its present state, since it would raise more questions than it would answer. Mr. Kazi prepared workshop proceedings, as stipulated in the agreement. The Committee must now carry out its own analysis of the workshop outcome and prepare a study paper that extracts the elements that are relevant for continuing to implement the "criteria and indicators" approach. This is the document that should be forwarded to the government.

The members noted that while the outcome of the workshop was modest, there was an outcome and the JBACE must use it. Clearly, the workshop did not achieve its main goal – the participation of the forest product industry - and we will have to readjust accordingly. Some members felt that if the outcome of the workshop is not forwarded to the MRN, the JBACE stands to lose its credibility. The members were unanimous in agreeing that the MRN should be sent a document; however, it will be not be Jamal Kazi's report. A brief summary of the indicators chosen should be prepared, along with the corresponding criteria, goals and objectives. This letter will be sent to the Minister of Natural Resources. The members asked that the draft letter be submitted for their comments.

4. **NEW FOREST SYSTEM**

The Secretary informed the members that, subsequent to a telephone call to Pierre Cornellier, he had learned that the Minister of Natural Resources intended to table draft forest legislation in December 1999, that a parliamentary commission on the subject would be held in spring 2000, and that the JBACE would be invited to appear before this commission. The members felt that the JBACE should send a letter to the Minister of Natural Resources to discuss the progress made on the new forest system being developed and to find out what has happened to the proposals formulated in the JBACE's brief of January 1999.

Several members felt that the JBACE should deliberate on the new forest system to be put in place in order to prepare for the parliamentary commission. If need be, the JBACE will have to get additional resources. The JBACE's role consists in advising governments and it must fulfil this role. Several members felt that those persons able to advise the government on forestry issues were already on the JBACE. Another member felt that, where the review of the forest system was concerned, we should not be too optimistic about the changes that would ensue. To be effective, the JBACE will have to take a practical approach, identifying the changes in the new draft forest legislation and stressing what it wishes to see amended.

The Chairperson would like the JBACE to write a brief on the new forest system to be implemented once the new draft forest legislation is tabled. This brief would reiterate the JBACE's past positions on the forestry issue as well as those contained in our January 1999 brief on the forest system review. This brief recommended that a separate forest system be created for the territory governed by the JBNQA. Carole Garceau and Jacques Robert could work on this brief.

5. **GENERAL FOREST MANAGEMENT PLAN RECEIVED (CA 086-20)**

On October 22, 1999, the JBACE received general forest management plan 1999-2024 for common area 086-20 (DOMTAR). To date, the JBACE has taken no administrative action regarding this management plan since the JBACE has not yet taken a position on processing such plans notably because it is still waiting to receive the financial resources promised by the MRN. In this regard, the Secretary informed the members that, in a letter dated November 4, 1999, the Minister of Natural Resources had confirmed his intention to disburse a \$100 000 subsidy to enable the JBACE to comment on the forest management plans submitted to it. The Minister also announced that the MRN could produce a synthesis map, which would be updated as five-year forest management plans are received.

The fundamental question, raised by representatives of the Cree party, is whether the JBACE should comment on the general forest management plans it has begun to

receive, given the formal demand sent the JBACE by the attorneys of the Cree party. Several members indicated that they did not intend to make the JBACE a forum for legal debate and that they are determined to comment on the forest management plans submitted since this is the JBACE's mandate.

Discussion continued on the extent to which members represent the party that has appointed them. Opinions were divided. Some members felt that they represent the party that has appointed them while others tend to feel that they sit on the JBACE as citizens able to express their own opinions based on their expertise and personal experience. JBACE debates are based on participants' good will and the notion of compromise. Consequently, it would not do for each party to involve its attorneys in committee discussions, since the situation would become intolerable and sterile. Many members feel that the JBACE must comment on the general forest management plans once a resource person is hired. If the court decides that the rules of the game should be changed and that the plans should undergo environmental assessment, the JBACE will bow to this decision and act according to the new rules defined by the court. In the meantime, the JBACE must comment on the general forest management plans.

6. **FORMAL DEMAND RECEIVED BY THE JBACE**

On November 4, 1999, a formal demand issued by the law firm O'Reilly Mainville et Associés was served the JBACE, demanding that it return the general forest management plan received from the provincial administrator so that the environmental assessment procedure would apply to it. It also indicated that the JBACE was not in a position to submit its comments either to the MRN or the government until an environmental impact assessment had been carried out, in keeping with the JBNQA.

The representatives of Québec and Canada had a very negative reaction to this formal demand, stating that the Cree attorneys are dictating the position the JBACE should take, despite the fact that the case is before the courts. Several members felt that the JBACE should ignore this notice and not respond to it since the justice has not yet ruled on the issue. In the interim, the rules remain unchanged and the JBACE must fulfil its duties to the best of its ability. The JBACE must comment on the management plans; our deliberations might lead us to recommend that they undergo environmental assessment. Currently, it is not up to the JBACE to refer the general forest management plans to the Evaluating Committee. The members agreed that the context is difficult but that the JBACE's regular activities with regard to the forest management plans must continue uninterrupted.

Debate continued on the JBACE's power to discuss legal matters related to its mandate. Representatives of the Cree party felt that we cannot comment on the

general forest management plans since we have received a formal demand asking us not to comment on them but to forward them to the Evaluating Committee, given that the JBACE do not have the tools and resources required to do so. A member appointed by the Cree party believes that the JBACE should ask for a legal opinion to clarify the JBACE's role in this matter. A member appointed by Québec and member appointed Canada feel that the JBACE should invest its money elsewhere than in legal opinions, given its resources. A member appointed by the Cree party prefers a legal opinion to clarify the matter to letting forestry companies do as they please in the James Bay territory. In his view, the JBACE's role includes legal interpretation of the clauses of the JBNQA.

Chairperson Romeo Saganash and Willie Iserhoff left the meeting at 3:00 p.m. when discussion on the scope of the environmental regime and the role and mandate of the JBACE had reached an impasse.

Since there was still a quorum, the meeting continued. A member appointed by the Cree party asked that the two members who had just left be brought back to the table. Personally, she felt that it is important to have the theoretical debate about whether the forest management plans should undergo environmental assessment since the Committee must oversee the regime and the environmental assessment procedure. The other members stated that they were prepared to discuss the matter but in the current context in which the JBACE comments on the general forest management plans and not in the context of the formal demand. The management plans should be analyzed using criteria and indicators selected and based on the guidelines set forth in the JBNQA.

If the goal is to have a theoretical debate on this issue, the best forum to do so would, no doubt, be the review of the forest system where the JBACE should discuss the key points that should be included in the forest management plans to have them comply with the guiding principles of the JBNQA and the criteria and indicators identified. The JBACE has also made plans to meet with the Minister to discuss the new forest system. This would be an ideal opportunity to discuss these issues.

The meeting ended without the other points having been discussed.



DENIS BERNATCHEZ
Secretary

00-02-15