

la Convention
de la Baie-James
et du Nord québécois

Comité consultatif
pour l'environnement
de la Baie-James

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NOTICE OF MEETING

128th Meeting of the James Bay Advisory Committee on the Environment (JBACE)

The 127th meeting of the JBACE will be held on **Thursday, September 12, 2002**, in our Montreal office's conference room. The meeting will begin at **9:30 a.m.**¹

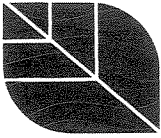
Proposed agenda:

1. **Call to order and adoption of the agenda**
2. **Approval of Minutes of the 125th Meeting (March 13), of Meeting 125-A on Bill C-19 (April 4), of the 126th Meeting (April 19) and of the 127th Meeting (June 25).** Except for the latter (enclosed), copies of these minutes were in the mail delivery on the June 25 meeting.
3. **Follow-up to previous meetings (see Follow-up Notice)**
4. **Presentation from Réjean Gagnon and France Brulé, of the Environment department of Hydro-Québec, on the Monitoring of the Eastmain 1 Project and a description of the Eastmain 1A/Rupert Project**
5. **Presentation from an Environment Canada representative on the Metal Mining Liquid Effluents Regulations (enclosed)**
6. **The disposal of Solid Wastes**
 - a) **In-trench disposal and the conformity with new Québec regulations**
 - b) **The incinerator project in Wemindji (negative recommendation from Federal Review Panel (COFEX))**
7. **Consultation on new federal regulations respecting the storage of petroleum products**
8. **Administrative Agreement between the JBACE and the MENV**
9. **Adoption of Financial Statement for 2001-2002**

10. **Adoption of Budget Forecasts for 2002-2003**
11. **Adoption of 2000-2001 and 2001-2002 Annual Reports**
12. **Other Business**
13. **Date and Location of Next Meeting**



Marc Jetten
Executive Secretary



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MINUTES OF THE 128TH MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

(APPROVED)

- DATE:** September 12, 2002
- PLACE:** JBACE meeting room in Montréal
- ATTENDING:** Claude Langlois, Canada, Chairperson
Louise Labrie, Canada
Jacques Robert, Canada
Denis Vandal, Québec
Pierre Moses, Québec
Willie Iserhoff, CRA
Alan Penn, CRA, consultant
Jean Comtois, ex-officio member, HFTCC
Marc Jetten, executive secretary
- ABSENT:** Carole Garceau, Québec, Vice-Chairperson
Marian Fournier, Québec
Harm Sloterdijk, Canada
Glen Cooper, CRA
Sam Etapp, CRA

** Follow-up components are in italics.*

1. **Opening of the meeting and approval of the agenda**

The chairperson welcomed all members. He informed them of a request made by a member of the CRA that Alan Penn be given the right to speak. As no objection was raised by any member, the chairperson granted the request.

The agenda was approved as amended.

2. **Approval of minutes**

The minutes of the 125th meeting (March 13) were approved as amended:

The minutes of meeting 125-A (April 4, 2002) were approved as amended:

The minutes of the 126th meeting (April 19, 2002) were approved as amended:

The minutes of the 127th meeting (June 25, 2002) were approved as amended:

According to Alan Penn, it is very difficult for people outside the JBACE to have access to the minutes of meetings in their present form. In his view, JBACE decisions, rather than its deliberations, should be included in the minutes. Members should ask themselves for whom these documents are destined.

A member from Canada pointed out that the current form of the minutes is the result of a special agreement among the various members who wished to include both the committee's deliberations and its decisions in the minutes. He suggested that members be given a distribution list of people who would receive a copy of the official minutes. Members could then add other recipients to the list. A member from Canada added that local environment administrators should also receive a copy of the official minutes.

The idea of publishing a quarterly, which could be part of the JBACE's future Web site, was suggested.

3. **Follow-up concerning initiatives resulting from recent meetings**

Item 6: Analysis of modifications to forest-management plans

The fact that the JBACE continues to receive modifications to plans is definitely a problem. The JBACE is not in a position to evaluate whether or not these changes result from the application of provisions concerning the adapted forestry regime of the Cree-Quebec Agreement. The purpose of last April's letter addressed to Mr. Girard and Mr. Saganash was to send the modifications directly to Cree-Quebec Agreement officials in charge of analysing these modifications. A member from the CRA pointed out that some joint working groups in the communities had not yet been formed. *The members agreed*

that Alan Penn was to consult Marian Fournier so that a procedure could be proposed in this regard before the next meeting.

Item 8: The Nionatta project involving the Aboriginal forest

Some members suggested that before any JBACE members or employees become involved in projects like the Nionatta, such projects should first of all be submitted to the Committee for approval. This process would make it possible to verify the credibility of project promoters and, secondly, to ensure that the project in question is consistent with the Committee's mandate.

A member from the CRA feels that office personnel should not send documents to community forestry coordinators without first notifying band councils. He suggested that documents should systematically be sent to chiefs so that the latter could inform elected officials. Furthermore, a member from Québec expressed the belief that the issue of intellectual property with respect to traditional ecological knowledge (TEK) should first of all be discussed by the Native people before project promoters themselves define the concept as part of a code of ethics.

Alan Penn emphasized the fact that the issue of JBACE involvement in Nionatta is rather delicate, among other reasons because of the uncertainty surrounding JBACE involvement in forest-related matters. Furthermore, the Cree people in charge of the forest are already overwhelmed by the implementation of the Cree-Quebec Agreement, and this might be perceived as the wrong moment to ask them to make any commitment to a research project. A member from Québec added that the JBACE should begin studying priority files, and that the Nionatta project is not a priority matter.

It was agreed that the executive secretary would no longer participate in meetings pertaining to the Nionatta project. A letter would be sent to project promoters indicating that the JBACE is not a partner in this project, and that in order for any such partnership to be formed, they must first of all send a written request to the committee. The secretary would forward documentation regarding the project, in English, to the chiefs of the Cree bands, with copies to be sent to those in charge of the forest.

4. The action plan and office staff

4.1 The JBACE action plan

The members agreed that the document presented by the executive secretary represented a good starting point. However, several members were of the opinion that before examining the files related to this action plan, it would be essential for the JBACE to identify its mandates and objectives. According to other members, the document at hand was more like a strategic plan and they noted that concrete measures and precise deadlines for each file had yet to be specified.

Everyone agreed that a communications strategy needed to be established. The creation of a Web site would be an important component of such a strategy.

Item 2, "Ties to be woven with Cree community leaders," raised questions. Although everyone agreed that the JBACE must raise its profile within the territory, some members did, however, mention that a communications strategy for the communities must be based on well-documented files. In short, the JBACE must not become involved on the Territory if it cannot contribute to discussions concerning the environmental issues that are crucial to the communities. The role of local environment administrators is unclear, and they cannot be used as facilitators providing access to the communities given that their status is not clearly specified in the James Bay Agreement.

According to a member from the CRA, the appendix dealing with planned expenditures should also contain a section concerning anticipated revenue. Alan Penn reminded everyone that the Québec government and the CRA had just signed an agreement which spelled out the JBACE budget for the next five years. The signatories of the agreement would undoubtedly not appreciate a request for additional funds for the implementation of the JBACE action plan. A member from Canada expressed the view that many components of the plan could be applied within the framework of the current budget.

A member from Québec suggested that, after approval, the action plan should be validated by the CRA and the MENV regional office for Northern Québec. The JBACE must make these authorities aware of its role in order to counter the tendency to reach bilateral agreements outside the framework of the James Bay Agreement.

The members made a commitment to analyse the action plan thoroughly, on an individual basis, and to forward their recommendations to the executive secretary. The latter would rework the document in time for the next JBACE meeting.

4.2 Hiring of an analyst

This item will be discussed once again as soon as a mandate, objectives and priority files have been established in the action plan.

4.3 Hiring of a Cree person to carry out data research

Alan Penn presented a document enumerating the tasks to be assigned to a Cree person who would apparently be available for a period of a few months to assist the JBACE office with research and data-organization work. These data would normally pertain to demographics and/or socio-economic activities in the Cree communities. The person in question is tri-lingual and trained in accounting. Alan Penn would provide supervision, in conjunction with the executive secretary.

A member from Canada expressed the belief that data research concerning Cree communities does not fall within the jurisdiction of the JBACE. Furthermore, the funds allocated for the temporary hiring of this Cree person could compromise the possible hiring of an analyst. On the other hand, Alan Penn contended that the social-impact study for development projects, a study requiring updated information concerning graduation and employment rates, falls within JBACE jurisdiction.

A member from Canada was convinced that the skills of the person being proposed must be assessed in light of the duties to be performed at the JBACE. If the individual in question is a trainee, could the JBACE contribute to the training process?

It was agreed that Alan Penn and the executive secretary would prepare a job description for the prospective candidate. Any hiring proposal would require JBACE approval.

5. Presentation by an Environment Canada representative concerning the Metal Mining Liquid Effluent Regulations (MMLER)

Michel Chevalier, who had been asked to make the presentation, was not available on this occasion. Thus Claude Langlois provided a summary of the above-mentioned regulations. The MMLER served to amend previous regulations by requiring mining companies to plan environmental impact studies concerning the effect of liquid effluents on receiving bodies of water. The new regulations, applied under the Fisheries Act, would normally affect four mining operations within the territory.

September 6, 2002, was the deadline for mines not complying with the new regulations to request transitional authorization. The regulations will be fully in force as of December 6, 2002. *The JBACE was not consulted before the MMLER were passed. Environment Canada will be reminded in writing of the consultative role played by the JBACE in the environmental area with respect to various levels of government.*

Alan Penn indicated that under the new regulations, mining companies must send their impact reports directly to the federal government. The Québec government, in accordance with its own guideline 019 (Directive 019) on mining effluents, no longer serves as an intermediary in this regard.

A member from Québec asked why the federal government adopted regulations when a Québec guideline already covers mining-sector activities. Claude Langlois explained that guideline 019 stipulates the maximum permissible toxicity level for effluents but does not cover studies with respect to receiving bodies of water. According to Alan Penn, it would be within the mandate of the JBACE to propose ways of harmonizing the federal regulations and the provincial guideline.

Within the next year, Michel Chevalier will be invited to provide a description of the MMLER, not in terms of their content but rather concerning how they are applied. Alan Penn suggested that regulations with respect to pulp and paper plants be presented on the same occasion.

6. The elimination of residual materials

a) Problems linked to trench disposal (new regulations)

In Alan Penn's view, draft regulations concerning the elimination of residual materials¹ could have major impacts on the waste-disposal practices of Cree communities. Stricter proposed norms for trench disposal, designed to protect the water table, would place many communities in a situation of infraction. Furthermore, there is very little access in Northern Québec to the type of expertise required in order to apply these norms. Alan Penn suggested that the JBACE revise the draft regulations in conjunction with a MENV representative.

In Alan Penn's view, if the JBACE wishes to intervene in the area, it should document the experiences of the communities in the area of waste management. In a general sense, the life expectancy of disposal sites on the territory is much too short, and choosing a new site location may prove delicate given the hesitations of the trappers concerned.

A member from Canada indicated that it was the responsibility of the JBACE at the very least to *follow up on the recommendations made in April 2000 during the consultation process concerning the draft regulations*. A member from Québec was of the opinion that an intervention in this area could be justified as part of administrative supervision of the environmental protection regime. If the regime has certain deficiencies, it is up to the JBACE to formulate recommendations designed to correct them. According to Alan Penn, subjecting all new waste-disposal sites to an environmental assessment, under Chapter 22 of the James Bay Agreement, is also problematic. The latter approach creates a cumbersome administrative process that, in some cases, incites local promoters to work around the environmental assessment procedure.

b) The Wemindji incinerator file

A member from Canada wished to discuss this case for it seemed to the member in question that the procedure stipulated in Chapter 22 of the environmental protection regime had not been respected. At first, the federal Department of Indian Affairs and Northern Development (INAC) funded this project which was designed to provide a landfill site for the community of Wemindji. The project was substantially modified given the planned construction of an incinerator.

¹ The text of the draft regulations has been removed from the MENV Web site. Apparently a new version, with a stronger legal basis, will be tabled for adoption at the end of autumn 2002.

The Evaluating Committee (COMEV) recommended that the project undergo an environmental assessment, indicating, among other observations, that the feasibility study was lacking in environmental impact data. The Federal Review Panel (COFEX) subsequently assessed the impact study: it recommended to Wemindji's local environment administrator that alternative scenarios be studied before the construction of an incinerator was undertaken. According to the COFEX, the cost assessment of the project was incomplete, and as such the construction and start up of an incinerator could seriously mortgage the future of Wemindji.

It seems that incineration, a procedure approved under the new Regulation respecting residual materials elimination, may create serious difficulties, in particular for small communities: certain products cannot be incinerated and ashes must be transported to a landfill site. In the case of Wemindji, less than half of the community's residual materials would be shipped to the incinerator, with the rest earmarked for a landfill site.

Several members expressed the view that the coordination of interventions by the various committees involved was less than totally satisfactory. The COFEX undertook to review the impact study in accordance with federal jurisdiction over Category 1A land affected by the project. The Provincial Review Committee (COMEX) was not involved in spite of provincial jurisdiction over residual materials management.

JBACE members expressed their intention to monitor developments with respect to this file. Generally speaking, *members wish to establish closer links with these committees in order to become informed, in a systematic manner, concerning recommendations made and follow-up measures undertaken as a result of them.*

7. Consultation concerning new federal regulations with respect to the storage of petroleum products

These new regulations concern the storage of petroleum products, among other places on Aboriginal lands under federal control. Environment Canada has undertaken consultations to this effect and would like to know how to address the issue with the Cree and with the JBACE.

A member from Québec indicated that provincial regulations concerning the storage of petroleum products are already on the books. In this member's opinion, the JBACE would have to prove its consistency by avoiding any sanctioning of regulatory overlap. Alan Penn mentioned that in the absence of federal regulations, provincial regulations apply to Category 1A lands. In his view, the JBACE should study measures to harmonize the two regulations.

The member from the HFTCC invited the JBACE to express its satisfaction for being consulted in due form by Environment Canada. It was suggested that this comment could be added to the letter mentioned in item 5.

8. Administrative agreement between the JBACE and the MENV

On September 6, members of the Administrative Committee met with Louis Germain and Robert Joly from the MENV in order to discuss the JBACE's proposed administrative agreement of April 2002. MENV representatives indicated from the outset that the JBACE proposal had met with their approval. They also indicated that the JBACE would receive guaranteed funding in the order of \$251,000 for each of the five upcoming years.

Two matters remained on the table: to define the link between the JBACE and the Evaluating Committee (COMEV) and to specify office costs if the COMEV continued to use MENV premises. The Administrative Committee has accepted to set aside \$30,000 from its budget for the COMEV office. MENV representatives gave the proposal their conditional approval. Furthermore, if expense claims for the Cree representatives on the Federal Review Panel (COFEX) and the Provincial Review Committee (COMEX) are presented to the JBACE office, they must be settled by the latter (up to \$12,000, i.e. the MENV estimate).

MENV representatives will reformulate the administrative agreement according to terms stipulated in conjunction with the Administrative Committee and will forward the document to the JBACE. The chairperson of the JBACE will then ask the COMEV chairperson for comments.

The meeting was adjourned at 3:45 p.m. due to the departure of one member and the ensuing loss of quorum.



Marc Jetten
Executive Secretary
November 22, 2002