

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

130th Meeting of the James Bay Advisory Committee on the Environment (JBACE)

The 130th meeting of the JBACE will be held on **Wednesday and Thursday, January 15 & 16, 2003, from 9:30 to 5:00¹**. The meeting will take place in the JBACE/HFTCC boardroom, in Montreal.

Proposed agenda:

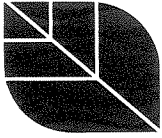
1. Call to order and adoption of the agenda
2. Approval of Minutes of the 129th Meeting
3. Update on files
4. JBACE Work Plan*
5. Proposal for 2001-2002 Annual Report
6. Presentation from Denis Vandal on wildlife management plan linked to the regional development plan (PRDTP) for Northern Quebec
7. Eastmain First Nation By-Law on Drinking Water*
8. Draft Natural Heritage Conservation Act (Bill 129)
9. Response to Federal Review Panel on the review procedure of Section 22
10. Partnership proposal from Nionatta/Wataban promoters*
11. Administrative agreement with MENV
12. Other Business
13. Date and location of next meeting

**Documents respecting this item were included in an earlier mail delivery. Please advise the secretariat if you'd like to have copies.*

Marc Jetten
Executive secretary
December 20, 2002

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¹ A proxy form can be faxed, if necessary, to members who won't attend.



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MINUTES OF THE 130th MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

(ADOPTED)

- DATES:** January 15 and 16, 2003
- PLACE:** JBACE/HFTCC meeting room, Montréal
- PRESENT:** Jean Comtois, Canada
Claude Langlois, Canada, Chairperson
Jacques Robert, Canada
Élise Racine, Canada
Carole Garceau, Québec, Vice-Chairperson
Pierre Moses, Québec
Denis Vandal, Québec (January 15 only)
Glen Cooper, CRA
Alan Penn, CRA, Advisor
Marc Jetten, Executive Secretary
- ABSENT:** Marian Fournier, Québec
Sam Etapp, CRA
Willie Iserhoff, CRA

** Follow-up items are indicated in italics.*

1. **Call to order and adoption of agenda**

The Chairperson welcomed the members. Alan Penn was authorized to take part in the meeting. The following changes were made to the agenda:

Item 6 was postponed to a future meeting.

The following items were added:

- 12- Mining contamination in the Chibougamau area
- 13- Letter to Environment Canada, MENV and the Grand Council of the Crees
- 14- Letter concerning modifications to forest management plans
- 15- Agreement concerning assessment of the Eastmain 1-A/Rupert Project
- 16- Information on meetings with two local environment administrators
- 17- SNC Technologies proposal for artillery test site

The agenda was adopted with the above changes.

2. **Adoption of minutes of the 129th meeting**

The minutes were adopted with the requested changes.

3. **Update on files**

Item 7: Residual materials management and recycling

Representations should be made to MENV and Recyc-Québec so that a similar report to the one dealing with Nunavik is prepared for the James Bay region.

Item 9: Composition of the coordination table studying access to the Territory

The Secrétariat aux affaires autochtones will be contacted to find out who will be invited to sit on the coordination table. If the JBACE is not represented, the issue of rough shelter leases and the impact on access to wildlife must be closely monitored.

Item 11: McKenzie Bay vanadium mining project, Doré Lake

Since the project will be subject to federal regulations, it will be submitted to environmental assessment under the Canadian Environmental Assessment Act. We do not know what other procedure will be applied: Section 22 or the procedure for southern Québec?

4. **Action plan**

The members for Québec and Canada met to formulate their respective comments on the draft action plan submitted by the executive secretary in September 2002. The CRA members told the Committee, in a letter signed by Paul Gull (Deputy-Grand Chief of the Grand Council of the Crees and Vice-Chairman of the CRA) that it would be premature to adopt a multi-year action plan before knowing if and how the role of the JBACE will be affected by the Cree-Québec Agreement.

Under the circumstances, the Committee agreed to put off devising and adopting an action plan and asked Jean Comtois and Pierre Moses to simply present the salient points of the federal and Québec parties' views for the Committee's information. The Cree representatives will verbally inform the Deputy-Grand Chief of Canada and Québec's respective views and of the Committee's intentions with regard to the timeline for the action plan's adoption.

5. **2001-2002 Annual Report**

JBACE Resolution 2003-01-15-01 regarding the 2001-2002 Annual Report

- Considering that section 147 of the Environment Quality Act requires the JBACE to submit a report of its activities for the fiscal year to the Québec Minister of the Environment;
- Considering that the Administrative Committee has finished working on the 2001-2002 Annual Report and submitted its report to the JBACE;
- Considering that the comments of the JBACE members have been incorporated into the annual report;
- Considering that the report of the activities of the Evaluating Committee has been integrated into the JBACE Annual Report;

It is unanimously resolved to adopt the 2001-2002 Annual Report with the agreed upon changes.

The Chairperson will contact Romeo Saganash, the chairperson for 2001-2002, to ask him to add his "Chairperson's Message."

7. **Eastmain drinking water by-law**

This item was on the agenda of the JBACE's November 20, 2002 meeting, but was postponed due to a lack of time. Since then, the Eastmain Band Council has adopted the "By-Law Respecting the Quality of Drinking Water." However, the JBACE is still responsible for monitoring the by-law's application.

Alan Penn reminded the members that the Eastmain Band Council and the CRA had drafted the by-law in response to the Drinking Water Regulation passed by Québec in 2001. Under the Cree-Naskapi (of Quebec) Act, Cree bands may make by-laws relating to water supplies. Unlike the provincial regulation, Eastmain's by-law allows for use of the Colilert method for on-site water testing, sparing the community the need to ship water samples to an accredited laboratory in southern Québec.

The by-law was jointly drafted by Simon Théberge, of the Ministère de l'Environnement (MENV), and the Centre d'expertise en analyse de l'eau du Québec (CEAEQ), both of whom approved the use of Colilert. Eastmain's by-law is also consistent with the spirit and standards of the Québec regulation, both in terms of drinking water quality and training of treatment plant employees. MENV commented favourably on Eastmain's by-law while suggesting that certain technical aspects be improved.

Eastmain's by-law makes the local environment administrator (LEA) responsible for implementing and enforcing the by-law. When the LEA is absent, this responsibility falls to the director of operations. A member for the CRA proposed that the Eastmain Band Council submit progress reports to facilitate monitoring of the by-law's application.

JBACE Resolution 2003-01-15-02 regarding the creation of a subcommittee to study Eastmain's By-Law Respecting the Quality of Drinking Water

- Considering that the JBACE is mandated to advise the governments, including local governments, on the adoption of laws and regulations;
- Considering that the Eastmain Band Council and the Cree Regional Authority submitted Eastmain's By-Law Respecting the Quality of Drinking Water to the JBACE for its consultation and comment;
- Considering that the JBACE must study the said by-law thoroughly before commenting on it;

It is unanimously resolved to create a subcommittee to study Eastmain's By-Law Respecting the Quality of Drinking Water. The subcommittee will be composed of Carole Garceau, member for Québec, Claude Langlois, member for Canada, and the JBACE executive secretary. Alan Penn, member for the CRA, will participate in the subcommittee as a resource person.

Given federal responsibility for Category 1A lands, a member for Canada feels that we need to determine the governments' respective responsibilities in the area of drinking water so as to avoid confusion in the event of contamination. He agreed to obtain the necessary information from the federal government.

8. Natural Heritage Conservation Act (Bill 129)

Bill 129 was passed on December 20, 2002, and came into force the same day. The JBACE should nevertheless monitor the law's application, given that this legislation is the main implementation tool for Québec's protected areas strategy.

The Natural Heritage Conservation Act is administered by the Ministère de l'Environnement (MENV) and in no way affects the Parks Act, which is administered by the Société de la Faune et des Parcs (FAPAQ). For MENV, Bill 129 is a springboard for the creation of new protected areas and attaining the objective of 8% of the territory of Québec under protected status by 2005.

To the extent that the creation of a protected area can modify the forest management plan and reduce the allowable cut for a given area, the CRA is concerned about the impact on the forestry provisions of the Cree-Québec Agreement, particularly the granting of cutting rights to Cree enterprises.

Considering the goal of Québec's strategy for protected areas, we will likely see an increase in projects to create protected areas in the coming years. The Mistassini-Albanel-Témiscamie-Otish park project, for one, is relatively far along. Also, well-documented studies have been conducted in the Muskuchii territory, whose protection is provided for in the Cree-Québec Agreement: *the JBACE wants to invite one of the authors to present the results to the JBACE*. Other park projects are also under study and are the subject of consultations with local communities.

JBACE Resolution 2003-01-15-03 regarding the creation of a subcommittee to study the implementation of the strategy for protected areas

- Considering that several protected areas or parks in the James Bay Territory are under study and that their creation requires the adoption of a regulation;
- Considering that park proposals are automatically subject to impact assessment and review under Section 22 of the JBNQA;
- Considering that part of the JBACE's mandate is to examine regulations affecting the Territory and ensure that they are consistent with the JBNQA;

It is unanimously resolved to create a subcommittee to monitor implementation of the Québec government's strategy for protected areas. The subcommittee will be composed of Jean Comtois (Canada), Denis Vandal (Québec (to be confirmed)), Willie Iserhoff (CRA) and the JBACE executive secretary.

9. **COFEX-South response to the review of Section 22**

In a letter dated November 13, 2002, the chair of the federal Review Panel (COFEX) informed the JBACE of some difficulties encountered in reviewing local infrastructure projects. By the time local projects have been submitted to the Review Panel, work has sometimes already begun on the project or funding has already been committed, thereby undermining the Review Panel's recommendations.

The JBACE needs to examine the local infrastructure planning process. The time constraints involved in funding programs leave little time to review projects. Moreover, preparing an impact statement that satisfies the requirements of the different review committees would seem, in some cases, to be extremely difficult for local proponents.

The degree of preparation done by COFEX for its project reviews was questioned. Where necessary, the Review Panel sometimes calls on third parties for expert advice or assistance: could it do so more often? Another difficulty is the degree of responsibility entrusted to local environment administrators (LEA): it is equivalent to that of a government minister, but as an employee of the Band Council, the LEA does not necessarily have the independence required to make decisions regarding a project.

The issue of COMEX and COFEX's respective powers was once again raised, citing the Wemindji incinerator project: according to a member for Québec, this project should have been reviewed by COMEX, as waste management is a provincial jurisdiction. Instead, it was reviewed by COFEX.

Due to the numerous questions raised by COFEX's letter, *it was suggested that the executive secretary consult people who could provide the JBACE with more information. The secretary will report back to the Committee at the next meeting.*

10. **Partnership request from the proponents of the Nionatta/Wataban project**

In a letter dated October 29, 2002, Diane Boily, coordinator of the Nionatta/Wataban project, invited the JBACE to become a partner. Since the project targets Aboriginal communities associated with the forest, Ms. Boily thought that the JBACE could facilitate contact with the forestry coordinators of the Cree communities.

Resolution 2003-01-15-04 regarding JBACE partnership in the Nionatta/Wataban project

- Considering that the JBACE's future role in forest issues must still be determined;
- Considering that research on Aboriginal traditional ecological knowledge raises questions as to ownership of that knowledge;
- Considering that the proponents of the Nionatta/Wataban project can contact the forestry coordinators directly;

It is unanimously resolved that the JBACE will not be a partner in the Nionatta/Wataban project. The executive secretary will draft a negative reply to the letter received from the project proponents.

11. Administrative agreement with MENV

Since MENV has not yet sent the JBACE the version of the administrative agreement agreed upon at the Administrative Committee meeting on September 6, 2002, this item was not discussed. Robert Joly, head of MENV's industrial and northern projects branch (Service des projets industriels et en milieu nordique), said that the new version would be sent to the Committee in January 2003.

12. Mining contamination in the Chibougamau area

In October 2002, MENV published a study on metal, PCB, dioxin and furan concentrations in fish and sediment from four northern lakes, including Aux Dorés and Chibougamau lakes. The study is not clear on the source of the high metal concentrations in sediment near tailings sites. The limited number of samples collected may not have made it possible to conclusively identify the contamination sources.

McMaster's and Laval universities are apparently getting ready to study the health effects on people who eat fish from the contaminated lakes, in particular the Crees of Oujé-Bougoumou. When the study report is completed, a CRA/MENV joint committee will be able to assess the health risks for people harvesting fish from these lakes. In the meantime, it is too early to talk about decontamination or clean-up, but a number of questions remain. For example, why isn't the Ministère des Ressources naturelles (MRN), which is responsible for mining, involved? Are the diseases and anomalies observed in fish caused by a bacterial infection? If so, what measures need to be taken to control infection?

13. **Letter to Environment Canada, MENV and the Grand Council of the Crees**

At the September 12, 2002 meeting, it was agreed that the Committee would write to Environment Canada (EC) to draw its attention to the fact that the Committee had not been consulted on the Metal Mining Effluent Regulations (MMER).

The Chairperson drafted a general letter to Environment Canada (EC), MENV and the Grand Council of the Crees (GCC) concerning the role of the JBACE and the need to consult the Committee on proposed laws and regulations in the initial formulation stages. The Committee was unable to reach a consensus on the draft letter and stayed with its initial resolution of September 12.

JBACE Resolution 2003-01-15-05 regarding the letter to Environment Canada concerning the Metal Mining Effluent Regulations

- Considering that, under paragraph 22.3.24 of the JBNQA, the JBACE is the consultative body for responsible governments concerning the formulation of laws and regulations relating to the environmental and social protection regime;
- Considering that Environment Canada neglected to consult the JBACE before adopting the Metal Mining Effluent Regulations;
- Considering that the JBACE Chairperson, Claude Langlois, withdrew himself from the process;

It is resolved by majority vote that the JBACE will write to the federal Environment Minister to inform him that the Committee was never consulted on the Metal Mining Effluent Regulations. The letter will be signed by the Vice-Chairperson of the JBACE.

14. **Letter concerning modifications to forest management plans (FMP)**

Alan Penn drafted a letter to the GCC and Forêt Québec concerning the study of modifications to FMPs. The letter informs them that the JBACE no longer intends to comment on these modifications, as it is not in a position to determine their relevance in light of the forestry provisions of the Cree-Québec Agreement. The JBACE also reiterates its willingness to monitor implementation of the agreement's forestry component.

The members approved the principle of the letter. *The executive secretary will contact Marian Fournier to prepare the final draft of the letter.*

15. Agreement concerning assessment of the Eastmain 1-A/Rupert Project

It seems that the Canadian Environmental Assessment Agency (CEAA), MENV and the CRA are in the process of signing (if they have not already done so) an agreement on environmental assessment of the Eastmain 1-A/Rupert Project. The purpose of the agreement is to harmonize the assessment procedures provided for in the Canadian Environmental Assessment Act and Section 22 of the JBNQA. *The JBACE will submit any comments on the agreement once the text has been released.*

16. Information on meetings with two local environment administrators

The executive secretary briefed the members on his meetings with the local environment administrators (LEA) for Oujé-Bougoumou and Mistissini. The executive secretary informed the LEAs of the JBACE's mandate and the issues under review. The LEAs informed the secretary of what their respective communities deemed pressing environmental concerns. The executive secretary considered the outcome of these meetings to be positive, as they gave the Committee and the LEAs a chance to exchange information. A member for Québec congratulated the executive secretary on his initiative.

17. SNC Technologies proposal for artillery test site


A member for Canada informed the Committee that SNC Technologies was at Waswanipi's general meeting to present a proposal to build an artillery test site near Dixon Lake, south of Chapais. The members agreed that the project could have environmental and social impacts and should be submitted to impact assessment. The executive secretary will check to find out what the procedure is in this case and report back to the Committee.

18. Next meeting

Today's meeting was originally to have been held in Waskaganish, but the band council asked that it be postponed to allow time to properly examine the items on the proposed agenda. *To properly prepare for the meeting, a CRA-appointed member recommended that the executive secretary first travel to Waskaganish to meet with the LEA.*

In a letter dated December 19, 2002, the LEA proposed that the JBACE hold its meeting during the first week of March 2003. The members agreed on March 5, 6

and 7, 2003. *The executive secretary will check to see that these dates suit the Chief of Waskaganish and the LEA.*


Marc Jettin
Executive Secretary
July 7, 2003