



**MINUTES OF THE 133rd MEETING  
OF THE JAMES BAY ADVISORY COMMITTEE  
ON THE ENVIRONMENT**

**(ADOPTED)**

**DATE:** September 30, 2003

**PLACE:** Conference room of the Waswanipi Youth Center

**PRESENT:** Jean Comtois, Canada  
Glen Cooper, CRA  
George L. Diamond, CRA  
Marian Fournier, Québec  
Carole Garceau, Québec  
Ginette Lajoie, CRA, Vice-Chairperson  
Pierre Moses, Québec  
Diom Romeo Saganash, CRA, Chairperson  
Denis Vandal, Québec

Marc Jetten, Executive Secretary

**ABSENT:** Élise Racine, Canada  
Claude Langlois, Canada  
Simeon Pash, ex-officio member  
Jacques Robert, Canada

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**Call to order and adoption of agenda**

The members adopted the following agenda:

1. Adoption of minutes of the 132nd meeting
2. Update on files
3. Enforceability of drinking water regulations/by-laws
4. Granting of rough shelter leases
5. Consultation on the new approach to public land use planning
6. Meeting with Waswanipi Chief Robert Kitchen
7. Reply to COFEX letter concerning the review of local projects
8. Supoena power of COMEV, COMEX and COFEX-South
9. JBACE action plan
10. Quorum for JBACE meetings
11. Application of the Metal Mining Effluent Regulations and Guidelines
12. Landslide in the La Grande River
13. JBACE Web site
14. Next meeting

**1. Adoption of minutes of the 132nd meeting (July 3, 2003)**

Carole Garceau moved that the minutes of the JBACE's 132nd meeting be adopted with the requested changes. Seconded by Marian Fournier. Motion passed unanimously.

**2. Update on files**

**a. Studies on the environmental and human health impacts of mining activities in the Chibougamau area**

Given the two study reports on the impacts of mining activities in the Chibougamau area on the environment and the health of Oujé-Bougoumou Crees, respectively, the members agreed to invite the authors to present their conclusions to the JBACE.

**b. Protected areas strategy**

The Québec government is proposing to establish five protected areas in the James Bay region. The JBACE will write to MENV's habitat heritage branch (Direction du patrimoine écologique) to remind it of the impact assessment procedure for park projects and similar land uses under the James Bay and Northern Québec Agreement (JBNQA).

**c. Recycling**

The members would like to meet with Recyc-Québec representatives to discuss recycling solutions for the James Bay region, particularly for used tires and hazardous materials.

**d. Québec Water Policy**

The Québec government finances the activities of 23 watershed committees, none of which are in the James Bay region. To ascertain the relevance of setting up such committees for the region, the JBACE asked the secretary to find out what the mandate of existing committees in Québec is and how the committees operate.

**e. 2002-2003 Annual Report**

Once the secretary has received the comments of the working group studying the draft annual report for 2002-2003, which should be within the next few weeks, a conference call will be held to agree on the final version to be submitted to the JBACE.

**3. Enforceability of drinking water regulations/by-laws**

The subcommittee studying Eastmain's drinking water by-law is grappling with legal questions. Cree communities are entitled to quality drinking water, and the by-laws adopted to ensure such quality must be legally sound. The JBACE will seek the opinion of an independent lawyer as to the enforceability of local by-laws, Québec's Regulation respecting the quality of drinking water and other drinking water standards on Category IA and IB lands in the James Bay region.

The JBACE members will ask their respective appointing parties for their position on the matter. Based on the opinions obtained, the JBACE will recommend, if necessary, the adoption of a similar by-law for each Cree First Nation in James Bay.

**4. Granting of rough shelter leases**

In the past year, the Ministère des Ressources naturelles, de la Faune et des Parcs (MRNFP) received some 60 applications for rough shelter leases from Jamesians. It seems that not one reply has been given yet. A member for Québec wanted to know the reason for the standstill in the granting process, pointing out that the provision of the Cree-Québec agreement pertaining to vacation leases is not intended to slow down the granting process, but rather to involve the Crees in said process until a public land development plan (*Plan régional de développement des terres publiques - PRDTP*) is adopted for the Northern Québec region.

A member for the CRA explained that representatives of the CRA and MRNFP are in the process of defining the criteria for granting leases in order to correct the situation existing

prior to 2002, namely, when many leases were granted on Cree traplines without the families concerned being consulted. Moreover, Cree trappers have reported instances of rough shelters being built illegally, i.e. without a lease from the MRNFP. A member for Québec said that the MRNFP has already torn down illegal shelters after warning the owners and could continue to do so, if necessary.

The JBACE will inform the coordination table established to circumscribe issues concerning access to the Territory of the concerns expressed by Cree trappers and Jamesians applying for leases. As well, the JBACE will ask for a copy of the coordination table's report to the Standing Liaison Committee established by the Cree-Québec Agreement to see how these issues have been addressed.

## **5. Consultation on the new approach to public land use planning**

The JBACE received a copy of the consultation document “A New Approach to Public Land Use Planning” from the Associate Deputy Minister for public land. The MRNFP proposes a new process for developing land use plans for the majority of Québec's administrative regions, including Northern Québec. Under the Act respecting the lands in the domain of the State, the government must consult the CRA before adopting a land use plan for the James Bay region. In addition, the Forest Act stipulates that forest management plans must comply with the land use plan for the region. This provision does not affect the James Bay region, however, because there is no land use plan for the region.

It was pointed out that the land use plan is developed after the regional public land development plan (PRDTP) has been adopted, when it should be the other way around. Since the PRDTP will establish priorities in the granting of land rights, the “government intentions” to be set forth in the next land use plan could be determined in advance.

### **JBACE Resolution 2003-09-30-01 regarding the creation of a subcommittee to study the new approach to public land use planning:**

- WHEREAS paragraph 22.3.28 of the JBNQA stipulates that the JBACE “shall be consulted from time to time on major issues respecting (...) land use measures and may advise responsible concerned governments (...);”
- WHEREAS the Associate Deputy Minister for public land (MRNFP) submitted the consultation document on the new approach to public land use planning to the JBACE for comment;
- WHEREAS said document must be studied thoroughly before submitting comments;

**It is unanimously resolved to create a subcommittee to study the new public land use planning process and draft a brief on the matter. Moved by Marian Fournier. Seconded by Ginette Lajoie.**

Ginette Lajoie (CRA) and Pierre Moses (Québec) agreed to sit on the subcommittee. The secretary will ask Jacques Robert (Canada) if he is available to be part of the subcommittee as well.

#### **6. Meeting with Waswanipi Chief Robert Kitchen**

Chief Kitchen welcomed the JBACE members and invited the Committee to hold other meetings in Waswanipi so it can witness the construction of such promising projects as the inn and Vocational Center. He would also like a future meeting to include a site visit to determine the significance of the impacts of development projects. According to Chief Kitchen, the members of the community are worried about the impacts of forestry and mining on the quality of drinking water, among other things.

As concerns vacation leases (rough shelters and cottages), Chief Kitchen told the Committee that there are over 500 on traplines belonging to Waswanipi Cree families and around 100 of them are illegal. During a general assembly, the community requested a moratorium on the issuance of vacation leases. The Minister of Natural Resources was informed of the situation and has proposed conciliation mechanisms. The Chief wonders whether such mechanisms would work in a context where the population growth among Cree communities is putting increasing pressure on wildlife.

According to Chief Kitchen, implementation of the forestry component of the Cree-Québec Agreement is not obvious. He said it is easier to agree on issues with the government than with forestry enterprises, for whom parts of the adapted forestry regime are problematic. Are the sites of interest identified by Cree trappers, which are protected from forest management activities, large enough in size? In the Chief's opinion, 1% of each trapline is not enough. He is therefore in favour of maintaining the northern limit of the commercial forest in order to protect fragile northern ecosystems.

Since the signing of the Cree-Québec Agreement, forestry enterprises have submitted so many amendments to their forest management plans that proper consultation of the interested parties on each amendment is becoming difficult. In addition, the economic benefits of forestry are not meeting all of the Waswanipi Crees' expectations: the Nabakatuk sawmill, which is managed locally, is not generating any profits and the partnerships established with non-Aboriginal enterprises often give the Crees very little control. While ecotourism is a promising sector, such projects must be balanced with the traditional land uses of Cree trappers.

Chief Kitchen thinks these issues should be of interest to the JBACE, but wonders how the Committee could mesh its actions with those of the bodies established by the Cree-Québec

Agreement. The Chairperson said the JBACE would like to meet with representatives of those bodies to discuss the matter.

7. **Reply to COFEX letter concerning the review of local projects**

The JBACE members must define the mandate of an environmental assessment working group, which the chair of the federal Review Panel (COFEX) will be invited to join. While the members agreed that it would be worth reviewing the Section 22 procedure, they acknowledged that it is a big job and requires the approval of the JBNQA signatories. For the time being, the working group will study the impact assessment and review of local projects, including schedules 1 and 2 of Section 22.

**JBACE Resolution 2003-09-30-02 regarding the creation of a working group to study impact assessment and review of local projects:**

- WHEREAS paragraph 22.3.25 of the JBNQA stipulates that the JBACE “shall, with adequate justification, recommend to responsible governments legislation, regulations and other appropriate measures related to the environmental and social protection regime (...)”;
- WHEREAS paragraphs 22.5.1 and 22.5.2 of the JBNQA stipulate that the lists of developments in schedules 1 and 2 “shall be reviewed by the parties every five years”;
- WHEREAS the chair of COFEX has invited the JBACE to examine factors that tend to restrict the scope of impact assessment and review of local projects;

**It is unanimously resolved to create a subcommittee to study the impact assessment and review procedure as applied to local projects. Moved by Ginette Lajoie. Seconded by Denis Vandal.**

The JBACE will invite the COFEX chair to sit on the subcommittee, along with Ginette Lajoie (CRA). The secretary will ask Claude Langlois if he would like to represent Canada. The Québec members will let the secretary know soon who their representative will be.

8. **Subpoena power of COMEV, COMEX and COFEX-South**

The power of the Evaluating Committee (COMEV) to oblige a project proponent to supply documents or data was raised during the public consultations on the draft directives for the Eastmain 1-A and Rupert diversion project in May and June 2003. This question is crucial in that if COMEV does not have such power, it cannot fully assess a project’s impacts. The same holds true for the Review Committee (COMEX) and the Review Panel (COFEX).

Since a satisfactory answer to this question has not been found yet, the JBACE decided to write to the federal and provincial administrators of the environmental and social protection regime to get their positions on the matter.

9. **JBACE action plan**

Unlike the members for Canada and Québec, the CRA representatives have not finished putting together their comments on the draft action plan prepared by the secretary in September 2002. As soon as their comments have been received, the action plan subcommittee can meet to study the plan and propose its adoption by the JBACE.

10. **Quorum for JBACE meetings**

As the proposed amendment failed to receive unanimous consent, the quorum of Committee meetings will remain as stipulated in paragraphs 22.3.8 and 22.3.9 of the JBNQA.

The wording “physically present” in the English version of the JBNQA could cause problems where meetings are held by way of conference call. A member stated that this matter was resolved, in the context of a similar case, through flexible interpretation of statutes: at the time the statutes were written, the authors could not have foreseen the technological advances in the area of telecommunications. Consequently, we can consider that such innovations permit participation that is equivalent to physical presence.

11. **Application of the Metal Mining Effluent Regulations and Guidelines**

The members would like to invite someone from Environment Canada to the next Committee meeting to give a progress report on application of the Metal Mining Effluent Regulations and Guidelines.

12. **Landslide in the La Grande River**

In late July 2003, employees of the Chisasibi water treatment plant detected anomalies in the water of the La Grande River. It wasn't until afterwards that the community learned of a landslide upstream of the plant and was advised not to drink water from the river.

The members wonder why Chisasibi public health officials and Urgence-Environnement (MENV) were informed of the situation late in the game. The secretary will contact the director of MENV's Northern Québec regional office to find out the environmental emergency response protocol and communications plan, if any exist.

The members also raised questions as to the application of Hydro-Québec's contingency plan and ways of dealing with contaminated water in northern communities.

**13. JBACE Web site**

The members want to set up a Web site for the JBACE. The secretary will meet with a tenderer to determine the site's content and form.

**14. Next meeting**

The next meeting will be held on Thursday, December 11, 2003, at the JBACE secretariat office in Montréal.



Marc Jetten  
Executive Secretary  
December 12, 2003