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Réunion du CCEBJ n° 135

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Comité consultatif pour l'environnement de la Baie James  
James Bay Advisory Committee on the Environment

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## MINUTES OF THE 135th MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

**(ADOPTED)**

**DATE:** February 25, 2004

**PLACE:** Loews Le Concorde hotel, Québec City

**PRESENT:** Michel Blondin, Canada  
Jean Comtois, Canada  
George L. Diamond, CRA  
Marian Fournier, Québec  
Carole Garceau, Québec  
Ginette Lajoie, CRA, Vice-Chairperson  
Claude Langlois, Canada  
Pierre Moses, Québec (by phone)  
Diom Romeo Saganash, CRA, Chairperson  
Denis Vandal, Québec

Marc Jetten, Executive Secretary

**ABSENT:** Glen Cooper, CRA  
Simeon Pash, ex-officio member

### **Call to order and adoption of agenda**

Jean Comtois moved that the Committee adopt the following agenda. Denis Vandal seconded the motion.

1. Adoption of minutes of the 134th meeting
2. File update
3. Employee performance evaluation and salary review
4. Adoption of 2002-2003 Annual Report (including financial statements)
5. Adoption of 2004-2005 budget proposal
6. Adoption of proposed strategic plan 2004-2006
7. Banking signing authority for the chairperson for 2004-2005
8. Annual report planning
9. JBACE Web site
10. Other business
11. Next meeting

**1. Adoption of minutes of the 134th meeting (December 11, 2003)**

Marian Fournier moved that the minutes of the 134th meeting be adopted with the requested changes. Claude Langlois seconded the motion. The motion passed unanimously.

**2. File update**

**a. New approach to public land use planning (PLUP)**

The secretary will get a progress report from the MRNFP on this issue and the timetable for adoption of the PLUP.

**b. Tire recycling**

The local environment administrators (LEA) met with Société Recyc-Québec representatives to discuss the possibility of setting up a tire recycling program in the James Bay Territory. The Société wants to know the number and condition of used tires buried in the communities' in-trench disposal sites. A member for Canada asked if this information could be obtained without having to visit the disposal sites: Recyc-Québec already knows the number of vehicles registered in each of the Cree communities.

A member for Canada considers residual materials management to be of the highest importance given its impact on public health in the Cree communities. He hopes to submit proposals to the Committee at its next meeting.

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**c. Forest protection and development objectives (FPDO)**

The subcommittee studying the forest protection and development objectives (FPDO) proposed by the MRNFP did not meet. The deadline for submitting comments was January 15, 2004. The secretary thinks it might be possible to ask the MRNFP for copies of the comments submitted by the joint working groups established for the five Cree communities covered by the Cree-Québec Agreement. The JBACE will study the comments to examine the MRNFP's planned response.

A Québec member thinks that the JBACE should go further than just monitoring the joint working groups' activities. The subcommittee members will determine whether or not it is still relevant to comment on the proposed FPDOs. Romeo Saganash will be joining the subcommittee, representing the CRA. A Québec member pointed out that FPDOs are adopted every five years.

**d. Public land leases**

The Chairperson asked the members to read the report of the coordination table studying access to the Territory as well as the summary of the Standing Liaison Committee's report, ready for discussion at the next meeting.

**e. Protected areas**

The members will read the Evaluating Committee (COMEV) directive for the project to create five protected areas in the James Bay Territory. For greater efficiency, the JBACE members would like to improve coordination with the committees established in relation to the environmental and social protection regime. The directives adopted by these committees are public information and, as needed, should be sent to the JBACE swiftly.

**f. Impact assessment and review of local projects**

The chair of COFEX accepted the JBACE's invitation to sit on the subcommittee. He proposed that the COFEX executive secretary also take part. The Québec members would like someone from the Québec government, in addition to the designated member, to be part of the subcommittee.

The members agreed that the subcommittee would be more effective if it were limited to one member per party, plus the COFEX chair. When the time comes, the subcommittee could meet with COMEV, COMEX (provincial review committee) or COFEX (federal review committee) to obtain an expert opinion on specific issues. The subcommittee will be studying how local projects are funded, the decision-making process for decisions by the local administrator, and the relevance of submitting certain types of local projects to impact assessment and review.

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**g. Coordination with the Cree-Québec Forestry Board**

The Chairperson met with his counterpart from the Cree-Québec Forestry Board, Jean-Pierre Gauthier, who wants to agree on a protocol for studying forest management plans in order to avoid duplication while respecting the JBACE's obligations under the JBNQA. The MRNFP could be party to the protocol. A Québec member wondered whether the joint working groups established in the Cree communities shouldn't be party to such an agreement, given that studying the plans is more their responsibility than that of the Cree-Québec Forestry Board.

The members endorsed the principle of an agreement on the studying of forest management plans. The Chairperson will continue his representations to the Cree-Québec Forestry Board with a view to hammering out a memorandum of understanding.

**h. Studies on mine effluent and contaminants**

The members asked to obtain a copy of the final report of the Dewailly and Nieboer study on exposure to contaminants in Oujé-Bougoumou. They also requested a presentation on Environment Canada's environmental follow-up studies at the next meeting.

**i. Regulatory power with respect to drinking water**

The members concurred with the first conclusion of Robert Daigneault's legal opinion, namely, that the *Cree-Naskapi (of Quebec) Act* empowers the Cree First Nations to regulate matters of drinking water on Category IA land.

Not all of the members agreed with the second conclusion, however, i.e. that the Québec *Regulation respecting the quality of drinking water* applies by default on Category 1A lands. A Québec member endorsed this conclusion, saying that it avoids the feared legal void for Cree communities in the area of drinking water quality. On the other hand, the CRA and federal members find this conclusion questionable, maintaining that it would enable provincial intrusion into federal jurisdiction, i.e. JBNQA Category 1A lands. A member for Canada suggested that the parties consult their respective legal experts and report back to the Committee. He also suggested that the national drinking water strategy be presented at the next meeting.

A CRA member feels that, with a view to local empowerment, the JBACE should encourage the other Cree communities to adopt a similar by-law to that of Eastmain. A Québec member disagreed, saying that if, in fact, the Québec regulation applies by default, then the JBACE should not favour any option.

It was agreed that the JBACE would write to the Cree communities to inform them of the conclusions of Mr. Daigneault's legal opinion regarding their power to

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regulate drinking water quality on Category 1A lands. At the same time, the Committee will remind them that local drinking water by-laws adopted by First Nations are required to meet the most stringent quality standards.

### **3. Employee performance evaluation and salary review**

The members endorsed the Administrative Committee's recommendation to raise the salary of the JBACE/ HFTCC secretariat officer to the fifth salary level for this position (\$32 640) for 2004-2005. The Administrative Committee also recommended that the officer's performance evaluation specify any aspects that need to be improved in 2004-2005.

The members discussed the executive secretary's performance evaluation.<sup>1</sup> They approved the requested salary for 2004-2005, i.e. \$47 000.

### **4. Adoption of 2002-2003 Annual Report (including financial statements)**

The 2002-2003 Annual Report, including the financial statements, was adopted with the requested changes. A CRA member pointed out the importance of translating JBACE documents into Cree syllabic, the written language understood by the majority of Crees living in the Territory. A Québec member suggested determining which documents the JBACE should make available in syllabic: the members agreed that the annual report was one of them.

### **5. Adoption of 2004-2005 budget proposal**

The Administrative Committee tabled its budget proposal for 2004-2005. A member for Canada wondered whether the JBACE should pay benefits at a rate of 17% of gross salary/wages for salaried or wage positions given that it does not have a pension plan. The secretary will check.

A member of the federal party wondered why the JBACE budget is not indexed. The Administrative Committee is currently preparing an indexation proposal for submission to MENV. A CRA member suggested increasing the amount allocated to translation to take into account the translation of documents into Cree. The secretary thinks that the proposed amount will cover those costs. The budget was adopted unanimously.

### **6. Adoption of proposed strategic plan 2004-2006**

A CRA member presented the strategic plan proposal tabled at the December 11, 2003 meeting. The proposal gives priority to four issues: updating of the Section 22 environmental assessment procedure; land use planning; establishment of protected areas; and integrated residual materials management. The first issue, updating the environmental impact assessment and review procedure, takes up most of the

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<sup>1</sup> The executive secretary left the room while this item was being discussed.

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proposal, as it covers Aboriginal ecological knowledge, strategic environmental assessment and harmonization of assessment procedures.

A member for Québec asked why the proposed strategic plan does not deal with drinking water management. According to a CRA member, this matter will be less of a priority once the water treatment facilities have been upgraded (soon) and an employee certification program has been set up. A member for Canada added that the JBACE can monitor the issue, but most likely will not need to intervene.

Stressing the JBACE's role of overseeing the administration and management of the environmental and social protection regime, a member for Canada is of the opinion that neither the development of a land use plan nor the creation of protected areas requires sustained monitoring and action by the JBACE. On the other hand, he is in favour of the JBACE's being actively involved in residual materials management in the Territory, including the setting up of recycling programs. The member would like the JBACE to rigorously monitor the strategic and cumulative impacts of hydroelectric and mining projects.

The Québec party pointed out that the Committee began the process of adopting a strategic plan a year ago; the Québec and federal members submitted their comments on the action plan proposed by the executive secretary. We are now obliged to devote sufficient time to study the new proposal submitted by the CRA members. Does their proposal take into account the time required to comment on draft laws, regulations, policies or plans such as the forest protection and development objectives? Does it propose measures for increasing the JBACE's visibility?

It was agreed to form a subcommittee to incorporate the comments relating to the action plan submitted last year into the new strategic plan proposed by the CRA. The subcommittee will focus its attention on updating the Section 22 procedure, residual materials management, legislative proposals, and JBACE visibility.

## **7. Banking signing authority for the chairperson for 2004-2005**

Since the Québec government has not yet appointed someone to assume chairmanship of the JBACE as of April 1, 2004, this item was postponed until the next meeting. The Government of Canada has not yet appointed a vice-chairperson.

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**8. Annual report planning**

The members unanimously approved the JBACE annual report planning process and timetable proposed by the Administrative Committee.

**9. JBACE Web site**

The members agreed to translate the texts for the Web site into Cree syllabic.

**10. Other business**

The secretary will try and obtain information on the proposed federal regulation respecting nuclear waste management and the recent amendments to the authorization certificates issued for the Eastmain 1 project.

**11. Next meeting**

The next meeting will be held on April 7, 2004, at the JBACE secretariat office in Montréal.



Marc Jetten  
Executive Secretary  
April 8, 2004