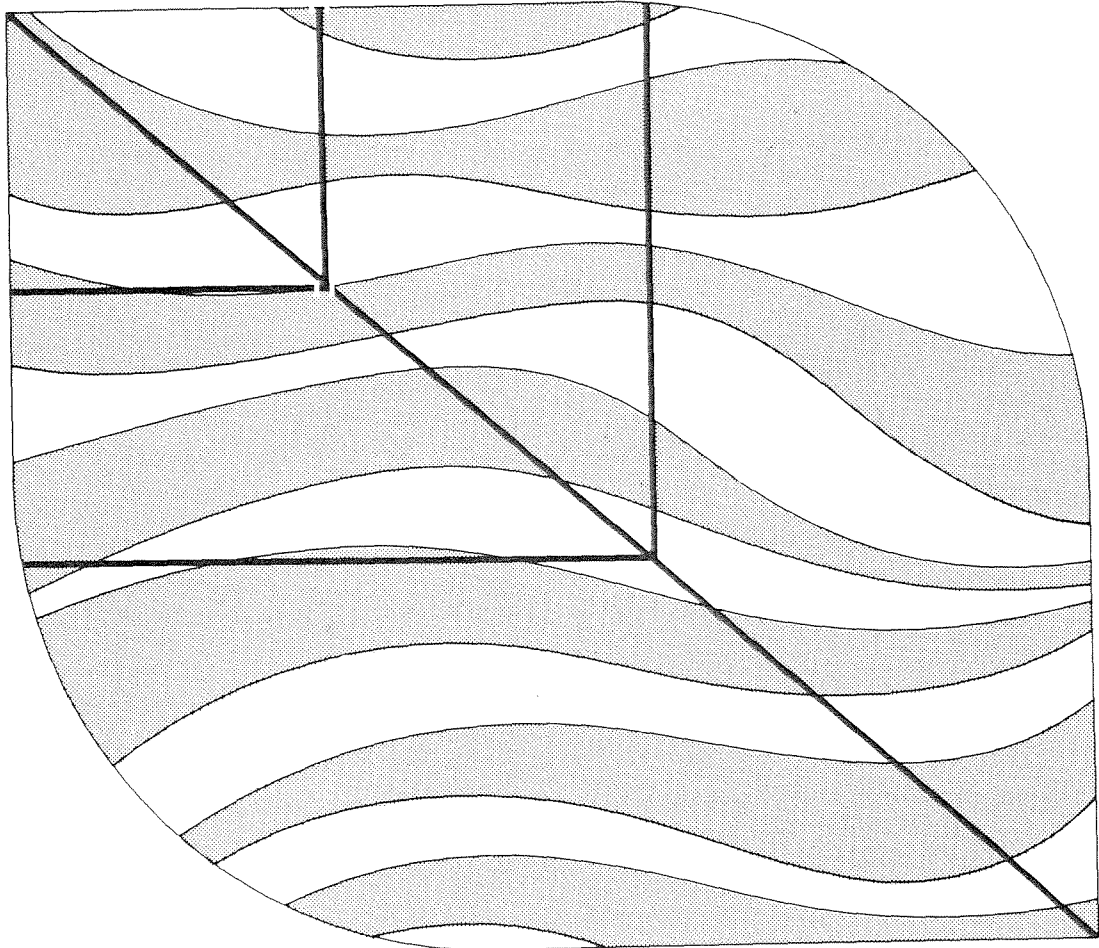

the James Bay
and Northern
Québec Agreement



**The James Bay
Advisory Committee
on the Environment**

Annual Report 1991-1992

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ANNUAL REPORT

1991-1992

JAMES BAY ADVISORY COMMITTEE
ON THE ENVIRONMENT

GAWESHOUWAITEGO ASGEE WESHOUWEHUN

Additional copies of this report are available
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July 1, 1992

The Honourable Pierre Paradis, Minister
Ministère de l'Environnement du Québec
3900 de Marly, 6th floor
Sainte-Foy, Quebec
G1X 4E4

Dear Sir,

I have the honour of presenting the report of activities of the James Bay Advisory Committee on the Environment for the year ending March 31, 1992.

Respectfully submitted,

ROBERT DAIGNEAULT
Chairman

July 1, 1992

The Honourable Jean J. Charest, Minister
Department of the Environment
Terrasses de la Chaudière, 28th floor
10 Wellington Street, North Tower
Hull, Quebec
K1A 0H3

Dear Sir,

I have the honour of presenting the report of activities of the James Bay Advisory Committee on the Environment for the year ending March 31, 1992.

Respectfully submitted,

ROBERT DAIGNEAULT
Chairman

July 1, 1992

Matthew Coon Come
Grand Chief
Grand Council of the Crees of Quebec
Nemaska, Quebec
JOY 3B0

Dear Sir,

I have the honour of presenting the report of activities of the James Bay Advisory Committee on the Environment for the year ending March 31, 1992.

Respectfully submitted,

ROBERT DAIGNEAULT
Chairman

CHAIRMAN'S MESSAGE

In my introduction of the Annual Report for 1989-1990, I commented favourably on the independence demonstrated by the members. That independence arose in large measure from the fact that they were not employees of the organizations that appoint them.

While the independence and integrity of the members were in no way compromised in 1991-1992, the disadvantage of their not being more closely associated with the organizations that appoint them began to emerge. The ability of the Committee to fulfil its mandate depends significantly on its receiving at the earliest possible moment complete information from the parties as to their intentions, policies, and positions. Similarly, the Committee's effectiveness is seriously impeded if the members do not have rapid, direct, and influential contact with the most senior levels of the organizations that appoint them.

Experience in 1991-1992 in such files as the environmental impact assessments of the Great Whale project and of the "twelfth" transmission lines suggests that the members appointed by Canada and Quebec do not have access to senior persons within those governments, and that they are unable to ensure that the recommendations of the Committee are considered seriously and expeditiously. That is not, of course, a reflection on the ability or devotion of the members themselves.

The review of Québec's five-year management plans also revealed the structural inability of the Committee to address successfully issues requiring sustained effort and technical analysis. Most of the members, but particularly those appointed by the Government of Québec, who are not remunerated, genuinely cannot devote the 40 or 50 days per year that are required of an active member. The preceding difficulty could be diminished if the Committee had the personnel required to undertake analyses and to formulate recommendations and positions for review by the Committee. The unwillingness of the Government of Québec to grant to the Committee a realistic budget precludes that option.

The Committee and its staff worked seriously and diligently in 1991-1992, and the surface appearance was one of success. In my opinion, however, that appearance masks serious structural and operational difficulties. The willingness of the governments of Québec and Canada to resolve those difficulties will give a clear message as to their commitment to ensure the successful fulfilment of the Committee's mandate in the years to come.

PAUL F. WILKINSON
Chairman, 1991-1992

**THE JAMES BAY ADVISORY COMMITTEE
ON THE ENVIRONMENT**

GAWESHOUWAITEGO ASGEE WESHOUWEHUN

MANDATE OF THE JBACE

The James Bay Advisory Committee on the Environment (JBACE) is a body established under Section 22 of the James Bay and Northern Quebec Agreement (the "Agreement"). It is governed by the Environment Quality Act (R.S.Q., c. Q-2) and the Northern Quebec Native Claims Settlement Act (S.C. 1976-1979 c. 32).

The JBACE is the preferential and official forum for the Quebec and Canadian governments as well as for the Cree Regional Authority, the Cree village corporations, native bands, the Regional Zone Council and municipalities concerning their involvement in the formulation of laws and regulations relating to the environment and social protection regime of the James Bay territory (the territory). The territory in question refers to that area of Quebec which is located south of the 55th parallel of latitude, excluding the area in the vicinity of Schefferville south of the 55th parallel of latitude, and west of the 69th meridian of longitude, including the Category I and II lands of the Crees of Whapmagoostui, and with the southern boundary coinciding with the southern limits of the Cree traplines as defined under the Act respecting hunting and fishing rights in the James Bay and New Quebec territories (c. D-13.1). A map delimiting the territory is included at page 18 of the present report.

The Committee is also mandated to oversee the administration and management of the environmental and social protection regime established under Section 22 of the Agreement and Chapter II of the Environment Quality Act (the EQA). Among other things, this entails formulating recommendations on:

- the adoption of laws, regulations, and other appropriate measures related to the environmental and social protection regime;
- environmental and social laws and regulations existing from time to time relating to the effects of development as well as existing land use regulations and procedures which might directly affect the rights of Native people established by and in accordance with Sections 22 and 24 of the JBNQA;
- the environmental and social impact assessment and review mechanisms and procedures for the territory.

The Committee shall be consulted by the Quebec and Canadian governments, the Cree Regional Authority and Cree village corporations on major issues respecting the implementation of the environmental and social protection regime applicable to the territory in question, as well as on land use measures.

It also comments on general and five-year forest management plans for public forests located in the James Bay Territory before such plans are approved by the Minister of Forests.

In addition, when so requested, the Committee provides the Cree village corporations and native bands with information, technical and scientific data, advice or technical assistance that it occasionally obtains from the federal or provincial government or a government agency.

Finally, the Committee provides administrative services to the Evaluating Committee, which was also created under Section 22 of the Agreement.

All decisions and recommendations formulated by the Committee are conveyed to either the Quebec or Canadian governments, the Cree Regional Authority, the Cree village corporations, the bands, the Regional Zone Council or the municipalities for their consultation, consideration and comments.

COMPOSITION OF THE JBACE

The James Bay Advisory Committee on the Environment is a three-party body composed of thirteen members, four of which are appointed by the Cree Regional Authority, four by Canada and four by Quebec. The thirteenth member of the Committee, an ex officio member, is the Chairman of the Hunting, Fishing and Trapping Coordinating Committee, except if the said member is appointed from the members appointed by the Inuit party, in which case, the Second Vice-Chairman of the Coordinating Committee is the member ex officio.

Each year, Quebec, Canada and the Cree Regional Authority take turns appointing a Chairman and Vice-Chairman. In 1991-1992, the Committee Chairman, Paul F. Wilkinson, was appointed by the Cree Regional Authority.

In 1991-1992, the JBACE was composed of the following members (the party appointing each member is indicated in parentheses):

- Mr. Paul Wilkinson, *Chairman*
Paul F. Wilkinson and Associates Inc.
(Cree Regional Authority)
- Mr. James Bobbish
Cree School Board of Chisasibi
(Cree Regional Authority)
- Mr. Willie Iserhoff
Director, Environment and Land Management
(Cree Regional Authority)
- Mr. Alan Penn
Scientific Advisor
(Cree Regional Authority)
- Mr. Robert Daigneault
Lawyer, Lapointe Rosenstein
(Government of Quebec)
- Mr. Gilles Frisque
Director, Centre multirégional de recherche
en foresterie
Université du Québec
(Government of Quebec)

- Mrs. Marie Lessard
Vice-Dean, Faculté de l'aménagement
Université de Montréal
(Government of Quebec)
- Mr. Alain Soucy
Director General, Institut national de la
recherche scientifique
(Government of Quebec)
- Mr. Jean-Guy Charest
Manager, Statutory Obligations and Environment
Indian and Northern Affairs
(Government of Canada)
- Mr. Louis-Edmond Hamelin
Geographer and professor emeritus
Université Laval
(Government of Canada)
- Mr. Pierre Marchand
Scientific Advisor, Fisheries and Oceans Canada
(Government of Canada)
- Mr. Hubert Marcotte
President, Terrane Ressources et Environnement inc.
(Government of Canada)
- Mr. Romeo Diom Saganash
Member ex officio, Hunting, Fishing and
Trapping Coordinating Committee

MEETINGS

The Committee was very active in 1991-1992 as a result of both the complex nature of several issues on the agenda (e.g. Great Whale) and the members' will to fulfil the mandates of the Committee.

The Committee held eight regular meetings between April 1, 1991 and March 31, 1992, on the dates and at the locations mentioned below:

- 63rd meeting: May 15, 1991, Grand Council of the Crees office, Montreal
- 64th meeting: July 9, 1991, Indian and Northern Affairs Canada, Quebec City
- 65th meeting: July 30, 1991, Grand Council of the Crees office, Montreal
- 66th meeting: August 28, 1991, Université de Montréal, Montreal
- 67th meeting: September 10, 1991, Hôtel des Gouverneurs, Place Dupuis, Montreal
- 68th meeting: October 22, 1991, Grand Council of the Crees office, Montreal
- 69th meeting: December 10, 1991, Indian and Northern Affairs Canada, Quebec City
- 70th meeting: March 30, 1992, Grand Council of the Crees office, Montreal

In addition to these regular meetings, several ad hoc-subcommittee meetings were held during 1991-1992.

The Executive Sub-Committee, composed of Paul Wilkinson, Willie Iserhoff, Robert Daigneault and Hubert Marcotte, also met on several occasions during the year.

JBACE ACTIVITIES FOR 1991-1992

Five-year forest management plans

The Committee continued its study of the five-year forest management plans for the James Bay region.

Section 144 of the Environment Quality Act stipulates that "the Minister of Energy and Resources shall transmit to the Advisory Committee, for consideration and comment, before approving them, the management and development plans for public forests situated in the territory contemplated in Section 133. The Advisory Committee must transmit its comments, if any, within ninety days." Given the importance of James Bay forests for the Crees and their traditional way of life, the Committee made this particular issue a priority. Furthermore, the forest management plans are, in theory, one of the only means currently available for studying the environmental and social impacts of forestry operations, given that all logging conducted under plans provided for under the Forest Act (c. F-4.1) is not subject to the environmental and social impact assessment and review procedure.

On February 27, 1991, the Committee submitted its recommendations on the first two years of the forest management plans for administrative region 08 to the Minister for Forests of Quebec. The Committee identified four major problems associated with implementing the Forest Act in the James Bay Territory. They are: (1) the incompatibility between the five-year forest management plans and the guiding principles governing the establishment of general management plans as defined under the JBNQA, (2) the difficulties involved in enforcing the Environment Quality Act given the road network required for forestry operations, (3) the fact that the proposed land-use plans for the James Bay Territory were drawn up after the Timber Supply and Forest Management Agreements (TSFMAs) were already negotiated and signed, rather than before as should have been the case, and (4) the lack of a regulatory framework defining environmental standards adapted to the James Bay Territory. In addition to these four main items, the Committee submitted a number of more technical recommendations to the Minister for Forests.

After submitting the above recommendations, the Committee immediately set about studying the documents pertaining to the last three years of the five-year forest management plans for administrative region 08 (second phase) and the first phase of the management plans for region 02. These plans were received by the Committee between December 12, 1990 and February 25, 1991.

On July 29, 1991, the Committee sent to the Minister for Forests its comments and recommendations on this second series of plans. Among other things, the Committee noted that the management plans do not meet its needs in terms of overseeing the environmental and social protection regime, and are even less adequate in terms of meeting the needs of those who use the territory, that is, the James Bay Crees, who depend on the forest for their subsistence. In fact, the plans provide very little information, making their evaluation with respect to the following aspects difficult: conservation and improving conditions of wildlife species and their habitats, the Crees' traditional use of the territory, and sustainable development. In addition, the Committee believes that, in the context of the James Bay territory, the classification system used for the TSFMA's is unsuitable for formulating management plans, and is even less so in terms of making multi-purpose use of the forest. In this context, the Committee wonders to what extent TSFMA's respect the principle of sustained yield of all resources found in the forest.

After studying the logging quotas, the Committee also noted an imbalance in the estimates of logging activities in the northern and southern sectors of region 08. In theory, this strategy of rapidly harvesting stocks in the north, which is where Cree hunting grounds are located, results in a sustained yield for the region as a whole, but in practice, does so to the detriment of the Crees. Furthermore, the Committee questions the legitimacy of the hypothesis that the deficit in the northern sector in terms of sustainable yield is offset by an equivalent increase in intensive forest management (reforestation, for example) in the south.

The Committee regrets the fact that no real effort has been made by the forestry companies to indicate on maps Cree trapline limits and the location of the various encampments on maps. In the Committee's opinion, these issues are of major importance.

In following-up on these general comments, the Committee issued nineteen (19) recommendations, of which the most important ones are:

- (1) That the Ministère des Forêts (MFO) not adopt the five-year forest management plans in their present form and that the potential yield be recalculated in the short term using the SYLVA model and taking traplines and additional protection measures adapted to the Cree territory into account. Other simulation models should be used if the SYLVA model cannot be adapted to the situation at hand.
- (2) That the spatial distribution of logging and its rate of progress be reviewed based on native trapline and regional needs.

- (3) That a joint project involving the Cree Regional Authority (CRA) and the MFO and/or another government body be formulated as soon as possible so as to submit an integrated forest resource management model that is adapted to the needs of both the Territory and the Crees (on the basis of an ecological unit that incorporates the territorial unit represented by the trapline). A project of this kind implies, in particular, the updating of cartographic records and other data pertaining to the ecology of the Territory and its use by the Crees.

The research project in question should be financed by the Government of Quebec and the JBACE would act as an advisory committee to these organizations.

- (4) That the cooperation of the Ministère du Loisir, de la Chasse et de la Pêche (MLCP) be obtained so that all parties may benefit from the research project on integrated resource management currently being conducted by the MLCP in conjunction with the MFO and the Ministère de l'Environnement du Québec (MENVIQ). The joint CRA-MFO project could be tied into the MLCP's research since the latter project as it stands fails to integrate either the natives' use of the territory or the black spruce northern ecosystem, a situation which could compromise any future application of the model produced for the James Bay territory.
- (5) That, after discussing the terms of reference, the MFO submit to the JBACE a detailed report on road construction plans for the next 5 to 25 years. Roads always pose a serious problem when it comes to environmental impact assessment and review.
- (6) That the JBACE be kept abreast of the progress of the MFO's ecological mapping project for the province as a whole and, more specifically, as it pertains to the territory. The JBACE invites the MFO to step up its ecological survey, data processing and ecological zone mapping for the James Bay territory, and to incorporate the concerns expressed by the Crees.
- (7) That a pilot project aimed at mapping wildlife habitats in the area affected by commercial harvesting be planned and be made a part of the CRA-MFO research project.
- (8) That a mechanism allowing for consultation with the Cree communities concerned and their regional organizations be officially established in order to ensure that Cree concerns are incorporated into general and five-year management plans.

- (9) That a five-year follow-up report highlighting which of the initial objectives of the five-year plans have actually been accomplished in the field be submitted to the JBACE. This report is an important step which must be taken before continuing with an analysis of the second series of five-year management plans.
- (10) That the implications of the NBR project with respect to the five-year plan and the regional harvesting strategy be researched as quickly as possible and the results forwarded to the JBACE.

In order to discuss the five-year forest management plan situation and the two series of recommendations submitted by the Committee, the Minister for Forests asked his Assistant Deputy Minister of Operations to meet with the JBACE as soon as he has finished studying the recommendations.

Environmental impact assessment of the Great Whale hydroelectric development project

1991-1992 witnessed several major developments in connection with the environmental assessment of the Great Whale hydroelectric development project.

Several impact assessment procedures apply to the Great Whale project under the James Bay and Northern Quebec Agreement and government legislation and guidelines. In previous years, the Committee recommended to the federal and Quebec ministers involved that the various assessment procedures affecting the Great Whale project be standardized and applied together as part of an overall project review. The Committee further outlined, however, that the principle and terms under which the procedures are harmonized be approved by all parties concerned. These recommendations are outlined in the 1989-1990 and 1990-1991 annual reports.

Despite the Committee's recommendations, as of April 1, 1991 under a Canada-Quebec agreement, the environmental assessment of the Great Whale project was separated into a review of the hydroelectric complex itself and a review of the access and accommodation infrastructures. As a result, the Committee met with the president of Federal Environmental Assessment and Review Office (FEARO) on April 12, 1991 to discuss the federal government's plans regarding the project assessment and review. On May 15, the Committee met with representatives from Fisheries and Oceans Canada for an update on the DFO's initial assessment of the project.

Following the initial assessment, the federal Minister of the Environment, Jean Charest, announced on July 10, 1991 that a federal commission responsible for conducting a public review of the environmental and social impact of the project as a whole was being created in accordance with the federal environmental impact assessment and review procedure (FEARP) and the Canada-Quebec agreement.

The Committee reacted to this announcement on August 9 by sending the Minister an opinion regarding the role of the federal government in the environmental assessment of the Great Whale project. The Committee reiterated its conviction that the Canada-Cree assessment and review procedures under Section 22 are valid and must be applied to this project. The Committee again recommended that Ottawa enforce the Canada-Cree regime immediately as it applies to areas of federal jurisdiction in the territory, pointing out that the proposed federal review procedure would in this case be valid, at least for the areas of federal jurisdiction over which Quebec has no say. The Committee further upheld another recommendation issued earlier to the effect that the various environmental assessment and review procedures applicable to the Great Whale project must be harmonized. Moreover, the Committee voiced comments of a more technical nature pertaining to the minimum requirements to be met should a federal assessment of the project ever be conducted.

Following an invitation to do so, the Committee further proposed five candidates for nomination to the federal commission, all of whom have a profound understanding of the Crees' social milieu.

On September 10, 1991, Judge Paul Rouleau of the Federal Court of Appeal ordered the Federal Administrator to comply with Sections 22 and 23 of the JBNQA as concerns the Great Whale project.

On October 24 the federal and Quebec ministers of the Environment, Jean Charest and Pierre Paradis, announced that they would be implementing the various environmental impact assessment procedures for the Great Whale project simultaneously and forwarding the preliminary information pertaining to the project to the committees and commissions responsible for formulating impact study guidelines the next day. Finally, an out-of-court settlement in the case of Chief Robbie Dick et al. versus Pierre Paradis et al. was reached with respect to an overall project assessment.

At the time, the Committee was studying the position of the Grand Council of the Crees made public September 12, 1991 and setting forth twelve minimum requirements for proceeding with an assessment of the Great Whale project.

Finally, a memorandum of agreement (the "agreement") on the environmental assessment of the Great Whale project was signed on January 23, 1992 by the federal and Quebec governments, the Cree Regional Authority, the Makivik Corporation, the Kativik Regional Government and the Grand Council of the Crees. The agreement's

provisions were endorsed by the committees and commissions responsible for the project's environmental assessment. Among other things, the agreement provides for the implementation of the various environmental impact assessment and review procedures in accordance with Sections 22 and 23 of the JBNQA, Chapter II of the EQA and the FEARP. It further makes provision for the said committees and commissions to coordinate and harmonize their activities and support needs while remaining independent bodies.

In late March 1992, the agreement was partially in force and those provisions which had not yet been implemented were about to take effect. The committees and commissions responsible for assessing the project were holding public hearings on the content of the impact study guidelines to be submitted to the proponent. At its March 30, 1992 meeting, the JBACE indicated that it was satisfied with the signing of such an agreement.

In addition, in accordance with its mandate of overseeing the environmental and social protection regime, the Committee studied the question of quorum for meetings of the Review Committee (COMEX). This question was raised during the review of the proposed roads and airports for the proposed Great Whale Complex. In order to obtain more information on this question, the JBACE met with the chairman of COMEX, Gaston Moisan on September 10, 1991.

After having studied this question, the Committee recommended that the COMEX adopt an internal rule without delay regarding the quorum required for meetings. The Committee cited paragraph 24.4.8 of the JBNQA, which sets out the quorum required for meetings of the Hunting, Fishing and Trapping Coordinating Committee. The Committee also recommended that a possible amendment to sub-section 22.6 of the JBNQA be considered in the same light as the amendment to paragraph 24.4.8, as part of a more global review aimed at improving and updating Section 22 of the JBNQA.

The environmental impact assessment of the proposed
twelfth 735-kV transmission line

On August 2, 1991, the Committee received a letter from the legal representatives of the Grand Council of the Crees and the Cree Regional Authority indicating that the project designated by Hydro-Québec as the proposed 12th transmission line is not compatible with the reference made thereto in Section 8, but rather is a result of changes to the transmission system made after the components of the La Grande complex were defined in 1975. The twelfth line of Hydro-Québec's power transmission system corresponds, according to Hydro-Québec, to the line referred to as "a sixth line" in Schedule 1 of Section 8 of the JBNQA. According to the reference made to it in the JBNQA, this line roughly follows the eastern corridor from the Lemoyne substation. According to their reading of the reference made thereto in the JBNQA, the 12th transmission line should start from the Lemoyne substation, whereas it rather starts at the Chissibi substation under its actual design. The representatives in question therefore requested that the Committee assume its duties and roles as defined in Section 22 of the JBNQA to ensure that the federal and provincial environmental impact assessment and review procedures are correctly applied.

From that point on, the Committee studied the issue attentively. It invited the parties affected by this issue to a meeting to state whether or not they felt the proposed 12th transmission line corresponds to the line referred to in Section 8, and the reasons justifying their opinion. The Committee met with the legal advisor of the Crees, and the Director of environmental assessments for the MENVIQ. As project proponent and signatory of the JBNQA, Hydro-Québec was also invited to state its position. It gave it in writing, judging that this was not the right time to participate in a meeting of this kind.

Following the meetings with the MENVIQ, the Grand Council of the Cree and CRA representatives, the Committee submitted an opinion to the Quebec Minister of the Environment on November 14, 1991. While the Committee acknowledged its difficulty in determining whether the proposed line differed considerably from the one described in the JBNQA, it did issue the following three recommendations:

- (1) that the GCCQ, the CRA and the MENVIQ get together to identify and acknowledge the main environmental and social problems resulting from the 12th transmission line which have as yet not been given the desired attention in past, present or future studies;

- (2) that the abovementioned parties agree on the terms and conditions for conducting the necessary studies and that they identify the steps Hydro-Quebec might have to take based on study conclusions;
- (3) that the abovementioned parties report to the Advisory Committee before January 1 on the progress of discussions pertaining to this issue.

The Committee also expressed the wish that the parties involved would approve the recommendations and call off the legal proceedings instituted to solve the environmental assessment problems so as to focus on protecting the natural environment of the territory and the individuals and communities living in and deriving their subsistence from it, while recognizing the right of people who act legitimately to develop it.

In a letter to the Committee dated December 19, 1991, Pierre Paradis reiterated his Department's position to the effect that the twelfth line corresponds to the sixth line of the James Bay power transmission system described in Section 8 of the JBNQA. As regards the Committee's recommendations, Mr. Paradis indicated that if the Crees obtained new information concerning the environmental and social impact of the twelfth line, they should pass it on to him and it will be taken into consideration when MENVIQ's authority is exercised.

Bill C-13: Canadian Environmental Assessment Act

As part of its reform of the federal environmental impact assessment and review procedure announced by the federal Minister of the Environment in June 1990, the special House of Commons legislative committee studied Bill C-13 (formerly Bill C-78) over the past year and the results of the consultation held in fall 1990. This bill defines a process for planning and implementing a federal environmental impact assessment procedure and will eventually replace the procedure established under the "Environmental assessment and review process guidelines order" (P.C. 1984-2132, June 21, 1984). The Canadian Environmental Assessment Act was adopted after the third reading in the House of Commons on March 19, 1992.

Bill C-13 is of great interest to the JBACE given the latter's experience in the area of environmental and social impact assessment and because this piece of legislation will, in some cases, apply to the James Bay territory. On November 20, 1990, the Committee tabled a brief during the public hearings held by the special committee studying the bill.

In November 1991, the Federal Environmental Assessment and Review Office (FEARO) began consultations on two draft regulations that would be the basis of Bill C-13, the "Comprehensive Study List" and the "List of Statutory and Regulatory Provisions" initiating the environmental assessment process. On February 18, 1991, the Committee submitted an opinion regarding the two draft regulations to the FEARO. The Committee focused its attention on those provisions which pertained to the James Bay Territory.

With respect to the Comprehensive Study List, the Committee pointed out the difficulty involved in amending the lists of projects automatically subject to or exempt from the assessment process once they have been adopted, and recommended that the adoption of such lists be accompanied by a clearly identifiable institutional mechanism and legislative provisions aimed at subjecting it to periodical review. Moreover, the use of such lists could distort the results of an impact assessment of megaprojects if the various components of such a project are assessed separately and these components are identified on a list of projects automatically subject to assessment. The Committee therefore recommended that the regulation be amended so as to avoid a problem of this type.

Other recommendations of a more technical nature regarding criteria for water management, ore and ore processing and hazardous waste rounded out the Committee's comments with respect to the Comprehensive Study List.

As regards the List of Statutory and Regulatory Provisions initiating the environmental assessment process, the Committee, despite its limited knowledge of the statutes and their attendant jurisprudence, underlined the importance of ensuring that the Environmental Assessment Act contains all the provisions necessary for the Government of Canada to take action where necessary, be it under the Fishery Act or the Migratory Bird Convention Act. The Committee also strongly encouraged FEARO to consult the James Bay Crees as to why the Cree-Naskapi (of Quebec) Act is not on the list of federal acts and regulations initiating the environmental assessment process since, in some cases, this statute replaces the Indian Act.

Language policy under Section 22 of the James Bay and Northern Quebec Agreement

The Committee continued studying the prevailing language problem with regard to the environmental protection regime established under the James Bay and Northern Quebec Agreement. The documents provided by the proponents as part of the environmental assessment process for Northern

Quebec are usually in French, which seriously limits the Crees' participation in the process. Considering that it is the Committee's duty to try and resolve the problem, it intends to make recommendations to the Provincial Administrator of Section 22 of the JBNQA and to the Conseil de la langue française.

The Committee acknowledges that there are two different aspects to the problem: one is to ensure that the various committees set up under Section 22 of the JBNQA function effectively, and the other is to ensure that the entire environmental assessment regime established under Section 22 functions effectively by providing the Cree population with the necessary information and analysis in a suitable and comprehensible form. The Advisory Committee's position on this issue is that the Cree members of the various committees and the Cree population in general should receive all information they might reasonably need in a language they can understand, that is, in either Cree or English. However, the Committee is well aware that at this point in time it is not realistic to ask that all documents be made available in Cree and English. It is for this reason that the Committee intends to submit a proposal to the Conseil de la langue française. However, the Committee has decided to first get the Grand Council of the Crees' comments on this proposal before deciding whether to send it to the Conseil.

The basis of the Committee's proposal is to have detailed but not complete versions of the documents translated into English as quickly as possible and made available to the interested parties by the proponents. The English translations should be clear, should present the essential components of the project and should be informative enough to allow the reader to form a fair opinion allowing for an enlightened decision. There is little reason to believe that short documents of this kind would not allow the Cree members to enjoy quality participation in the various committee debates. The Committee hopes that Hydro-Quebec will agree to its proposal to systematically produce detailed summaries in enough time to be useful, even if by law it is not obliged to do so.

If this proposal is acceptable to the Crees and other interested groups, the Committee plans on conveying it to the appropriate authorities so as to resolve the language problem arising from the application of the environmental assessment regime established under Section 22 of the JBNQA.

Other files studied

The Committee discussed and/or issued an opinion on a number of other matters during the past year, including:

- Participation at consultations on Hydro-Quebec's 1993-1995 development plan;
- Endorsement of the creation of a model forest in the James Bay Territory by Forestry Canada in conjunction with the James Bay Crees;
- Recommendation in favour of remunerating Quebec-appointed members of the JBACE in order to ensure their full participation in Committee activities;
- Tabling of a brief by a member of the JBACE at the public hearings on the forest protection strategy;
- Study of planned amendments to the Act respecting threatened or vulnerable species;
- Study of the Quebec government's proposed native policy and representation at a workshop held at Val d'Or on November 13-15, 1991;
- Study and recommendation with a view to amending schedules I and II of Section 22 of the JBNQA in accordance with the agreement in principle reached as part of a plan to commercialize game;
- Study of Bill 412 on the creation of the Office de protection de l'environnement du Québec;
- Study of and comment on the Quebec Mining Association's environmental report.

In addition to the above activities, as part of its mandate to oversee the administration and management of the environmental protection regime, the Committee closely followed the application of the impact assessment and review procedure to such projects as Nottaway-Broadback-Rupert (NBR), the Route du Nord and Eastmain 1. The Committee approached MENVIQ in a number of cases to gather information on the development of the environmental assessment of these projects.

SECRETARIAT

The Committee's secretariat is located in the offices of the Ministère de l'Environnement du Québec in Sainte-Foy. Under an administrative agreement with MENVIQ, the latter makes a number of human and material resources available to the Committee.

Geographer Herve Chatagnier is the Committee's secretary. Members of the secretariat also include a technical advisor, biologist Eric Chaine, and a secretary, Johanne Gilbert. These three people divide their time between the JBACE, the Evaluating Committee and the Review Committee. It should be pointed out that under the JBNQA and the Environment Quality Act, the Advisory Committee provides the Evaluating Committee with the necessary secretarial services. The secretariat maintains a record of all decisions made by the Committee as well as any related information. These records are available for public consultation.

FUNDING

All Committee members are remunerated where necessary and any expenses incurred for attending meetings are reimbursed by the party which appointed the member. The budget for the secretariat is allocated by Quebec, which is allowed to claim half this amount from the Government of Canada under paragraph 22.3.19 of the James Bay and Northern Quebec Agreement and paragraph 2 of section 174 of the Environment Quality Act.

Expenditures of the secretariat for the fiscal year ended March 31, 1992 are shown in Table I. These expenditures also cover expenses incurred by the Evaluating Committee in compliance with section 150 of the Environment Quality Act.

TABLE 1: Secretariat of the James Bay Advisory
Committee on the Environment

Summary of expenditures for 1991-1992

- Salaries (wages and fringe benefits) for secretariat staff	87 316,80 \$
- Travel expenses	9 383,48 \$
- Translation	9 171,98 \$
- Office space	9 608,01 \$
- Telephone	4 301,07 \$
- Printing and photocopying	688,55 \$
- Miscellaneous	987,96 \$

TOTAL : 121 457,85 \$

A P P E N D I X 1

LEGAL PROVISIONS ON ENVIRONMENTAL
AND SOCIAL PROTECTION IN THE
JAMES BAY TERRITORY

Environment Quality Act (R.S.Q., c. Q-2), sections 131 to 167, 205 to 214 and schedules A and B;

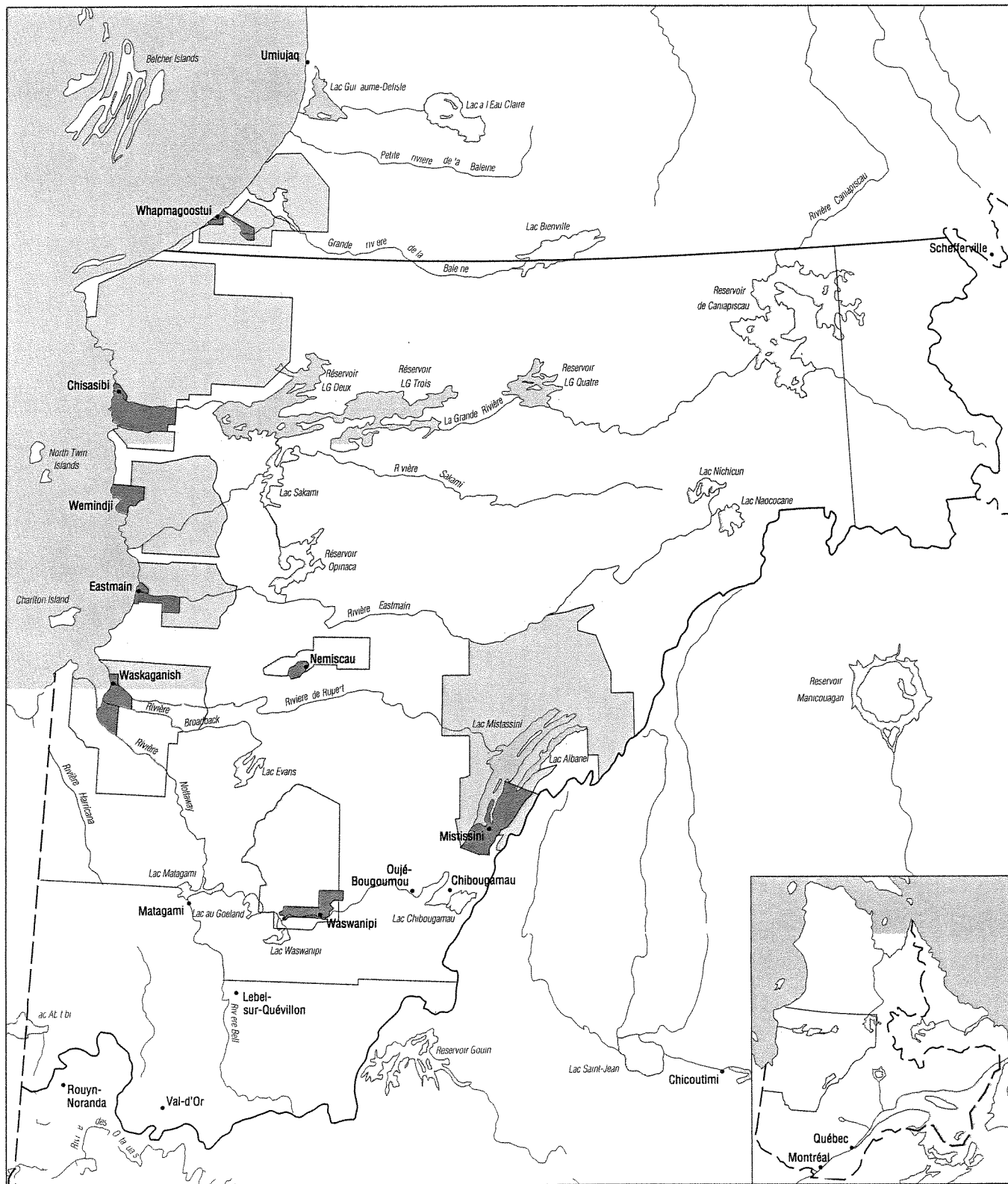
Bodies for the protection of the environment of James Bay and Northern Quebec (O.C. 433-79, February 14, 1979); Environment Quality Act (1972, c.49. s. 124 and 240 a and b);

Assessment of effects on the environment in the territory of James Bay and Northern Quebec region (O.C. 3452-79); Environment Quality Act (R.S.Q., c. Q-2);






Rules of internal management of the James Bay Advisory Committee on the Environment (c. Q-2, r. 21); Environment Quality Act (R.S.Q., c. Q-2, s. 140);

Northern Quebec Native Claims Settlement Act (S.C. 1976-1979, c. 32).

Environmental Assessment and Review Process Guidelines Order (P.C. 1984-2132, 21 June, 1984).



Carte d'application du régime de protection de l'environnement

-  Territoire d'application du régime
-  Terre de la catégorie I crie
-  Terre de la catégorie II crie
-  Limite du territoire de la Convention de la Baie-James et du Nord québécois
-  Frontière du Québec

Les terres de la catégorie I et II crie sont incluses dans le territoire d'application du régime.

La limite sud du territoire d'application du régime, tel que définie sur la carte, n'est pas reconnue par les crie.