

ANNUAL REPORT

1995 - 1996

**JAMES BAY ADVISORY COMMITTEE
ON THE ENVIRONMENT**

GAWESHOUWAITEGO ASGEE WESHOUWEHUN

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Legal deposit
Bibliothèque nationale du Québec
National Library of Canada
ISBN 2-550-31607-X
ISSN 0714-7821
97-2699A-04

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December 16, 1996

The Honourable David Cliche
Minister of the Environment and Wildlife
Édifice Marie-Guyart, 30^e étage
675, boul. René-Lévesque Est
Québec (Québec) G1R 5V7

Dear Sir,

It is my honour to present the activity report of the James Bay Advisory Committee on the Environment for the year ended March 31, 1996.

Respectfully submitted,

WILLIE ISERHOFF
Chairman

December 16, 1996

The Honourable Sergio Marchi
Minister of the Environment
Environment Canada
Les Terrasses de la Chaudière
10, rue Wellington, 28^e étage
Hull (Québec) K1A 0H3

Dear Sir,

It is my honour to present the activity report of the James Bay Advisory
Committee on the Environment for the year ended March 31, 1996.

Respectfully submitted,

WILLIE ISERHOFF
Chairman

December 16, 1996

Mr. Matthew Coon Come
Grand Chief
Grand Council of the Crees of Québec
2 Lakeshore Road
Nemaska (Québec) J0Y 3B0

Dear Sir,

It is my honour to present the activity report of the James Bay Advisory Committee on the Environment for the year ended March 31, 1996.

Respectfully submitted,

WILLIE ISERHOFF
Chairman

CHAIRMAN'S MESSAGE

As JBACE Chairman for fiscal year 1995-1996, I was privileged to witness the Committee's renewed determination to assume its mandated position as the advisory body to the responsible governments. This tri-partite body created by the James Bay and Northern Québec Agreement is the preferential and official forum for government involvement in the formulation of laws and regulations related to the environmental and social protection regime in the James Bay and Northern Québec territory.

The Committee has been plagued for many years by shrinking budgets, and growing federal and provincial government complacency in respecting the provisions of the James Bay and Northern Québec Agreement and in submitting federal and provincial legislation and regulations to this Committee. This led various parties' members to be inactive in the past, as positions adopted by the Committee were never acknowledged by the governments.

1995-1996 saw a significant change in Committee membership, with several parties appointing new members. This changed the perspective on many of the issues which have faced the Committee for several years. To this end, it was decided to hold more meetings in the Cree communities, and to use these occasions to become better acquainted with the day-to-day problems facing these communities. Meetings with trappers in Oujé-Bougoumou raised Committee members' awareness of the Crees' growing frustration at the speed which forestry activities are rendering their traplines infertile and inhospitable. I even had the opportunity of Chairing a meeting in my own community of Nemaska.

Due to the cutbacks imposed on the Committee by both the federal and provincial governments, it was decided to focus Committee activity on issues of primary importance to the Cree communities, namely forestry development. In addition, the Committee was mandated by the provincial Minister of the Environment and Wildlife to review certain components of the environmental regime described in Section 22. However, progress has been slow due to restricted finances.

The Committee made numerous attempts to have provincial government technical staff assist the members on the various files undertaken for review, all to no avail. However, technical limitations were temporarily overcome by the generosity of the Cree Regional Authority, which loaned the services of their Forest Engineer to compile information to assist the Committee in properly evaluating the five-year forest management plans, and subsequent modifications to them. It is hoped that this measure will be mirrored by both the provincial and federal governments, in allowing staff members to provide technical assistance and support for Committee activities.

I hope the momentum created under my Chairmanship continues into the next fiscal year, and I wish to thank the members of the Committee who endured more meetings and a greater workload to demonstrate that our resolve could result in useful opinions issued to the governments in order to protect the environment in the James Bay Territory.

WILLIE ISERHOFF
Chairman

**JAMES BAY ADVISORY COMMITTEE
ON THE ENVIRONMENT**

GAWESHOUWAITEGO ASGEE WESHOUWEHUN

MANDATE

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

The Committee is the preferential and official forum for the Québec and Canadian governments as well as for the Cree Regional Authority, Cree village corporations, Native Bands, the Regional Zone Council and regional municipalities for formulating laws and regulations relating to the physical and social environment of the territory covered by the James Bay and Northern Québec Agreement (referred to as the "Territory"). This Territory refers to that area of Québec located south of the 55th parallel, excluding the area near Schefferville south of the 55th parallel, and west of the 69th meridian, including the Category I and II lands of the Whapmagoostui Crees, and whose southern boundary coincides with the southern limits of the Cree traplines as defined in the Act respecting hunting and fishing rights in the James Bay and New Québec territories (R.S.Q., c. D-13.1). Appendix 2 of this report contains a map showing the above territorial boundaries.

The JBACE is also mandated to oversee the administration and management of the environmental and social protection regime established by and in accordance with Section 22 of the JBNQA and Chapter II of the Environment Quality Act (EQA). Among other things, this entails making recommendations on:

- the adoption of legislation, regulations, and other appropriate measures related to the environmental and social protection regime;

- existing environmental and social laws and regulations relating to the effects of development, as well as existing land use regulations and procedures which may directly

affect the rights of Native people established by and in accordance with sections 22 and 24 of the JBNQA;

- environmental and social impact assessment and review mechanisms and procedures applicable to the Territory.

The Québec and Canadian governments, the Cree Regional Authority and Cree village corporations consult the JBACE on major issues involving the implementation of the environmental and social protection regime applicable to the Territory, and on land use measures.

As stipulated in the Environment Quality Act, the JBACE also comments on general and five-year forest management plans for public forests in the Territory, before such plans are approved by the Minister of Forests.

Further, upon request, the JBACE provides Cree village corporations and Bands with technical and scientific information, and advice or technical assistance which it periodically obtains from the federal or provincial government or a government agency.

Finally, the JBACE supervises the administration of the Evaluating Committee, also established by Section 22 of the JBNQA.

All decisions and recommendations formulated by the JBACE are forwarded to either the Québec or federal government, the Cree Regional Authority, the Cree village corporations, the Bands, the Regional Zone Council or the municipalities for their consultation, consideration and appropriate action, where applicable.

COMPOSITION

The James Bay Advisory Committee on the Environment (JBACE) is a tripartite body composed of thirteen members, four of which are appointed by the Cree Regional Authority, four by Canada and four by Québec. The thirteenth member, the Chairman of the Hunting, Fishing and Trapping Coordinating Committee (HFTCC), is a member ex officio of the JBACE, except when this individual is appointed from the members appointed by the Inuit party, in which case the Second Vice-Chairman of the HFTCC is a member ex officio of the JBACE.

Each year, Québec, Canada and the Cree Regional Authority alternate in appointing a chairman and vice-chairman of the JBACE. In 1994-1995, the Committee Chairperson, Diane Morneau, was appointed by Canada.

On March 31, 1996, the JBACE was composed of the following members (the party appointing each member is indicated in parentheses):

Yves Désilets
Indian and Northern Affairs Canada
(Canada)

Diane Morneau
Attorney, PhD in environmental law
President, Cabinet d'affaires Morneau
(Canada)

Pierre Paulhus
Consultant, Fisheries and Oceans Canada
(Canada)

Susanne Hilton
Consultant
(Cree Regional Authority)

Willie Iserhoff, *Chairman*
Director, Environment and Land Management
(Cree Regional Authority)

Ginette Lajoie, *Vice-Chairman*
(Cree Regional Authority)

Diom Roméo Saganash
Consultant
(Cree Regional Authority)

Robert Daigneault,
Director, Environmental Law Department
Attorney, Lapointe Rosenstein
(Québec)

Gilles Frisque
Director, Centre multirégional de recherche en
foresterie
Université du Québec
(Québec)

Jacques Lefebvre
Director General, Centre écologique du Lac-Saint-
Jean
(Québec)

The ex officio member for the Hunting, Fishing and Trapping Coordinating Committee was Kenny Blacksmith (Grand Council of the Crees of Québec).

The JBACE would like to thank the following member, who resigned during the year, for his valuable contribution.

Louis Archambault
President
Groupe-Conseil Entraco Inc.
(Québec)

MEETINGS

The JBACE held five regular meetings between April 1, 1995 and March 31, 1996, on the dates and at the locations indicated below:

87th meeting: April 25, 1995, Ministère de l'Environnement et de la Faune du Québec, 3900 rue de Marly, Sainte-Foy (Québec).

88th meeting: July 4-6, 1995, Oujé-Bougoumou Band Council hall.

89th meeting: October 4, 1995, Cree Regional Authority (1 Place Ville-Marie, suite 3438, Montréal).

90th meeting: December 4-5, 1995, Nemaska Band Council office.

91st meeting: March 20-21, 1996, Hôtel du Jardin, 1400, boul. du Jardin, St-Félicien.

In addition to these regular meetings, the JBACE held various conference calls to discuss specific issues. The following ad hoc subcommittees also met several times and conducted activities during the year: subcommittee on energy, subcommittee on forestry, subcommittee studying the draft JBACE-MEF administrative agreement, subcommittee on the generic hearings on waste management.

JBACE ACTIVITIES IN 1995-1996

1. FORESTRY DEVELOPMENT IN THE JAMES BAY TERRITORY

1.1 Study of general and five-year forest management plans

Under paragraph 22.3.34 of Section 22 of the James Bay and Northern Québec Agreement, the responsible department must forward forest management plans to the JBACE for its consideration and comments before approving them. The Committee has 90 days to make its comments known to the department. Since the signing of the JBNQA in 1975, Québec has made substantial amendments to its Forest Act and attendant regulations, particularly as regards the preparation of management plans. This responsibility now falls to the forestry companies, with the content of the plans determined by government regulation. These major changes were all made without involving or consulting the JBACE. Moreover, for technical, administrative and political reasons, the Committee was not operational from May 1987 to December 1989, i.e. when the new act first came into force.

Section 144 of the Environment Quality Act (EQA) stipulates that: "The Minister of Forests shall transmit to the Advisory Committee, for consideration and comment, before approving them, the general and five-year forest management plans for the forest in the public domain situated in the territory contemplated in section 133. The Advisory Committee must transmit its comments, if any, within 90 days." Given the key role the forest plays in the James Bay Crees' traditional way of life, the JBACE attaches tremendous importance to this mandate.

In accordance with Schedule 2 of Section 22 of the JBNQA, forestry development is exempt from environmental impact assessment when included in government-approved management plans,

provided they have been forwarded to the JBACE for consideration and comment as stipulated in paragraph 22.3.34. This provision was apparently intended to be a crucial and significant step in the analysis of management plans by enabling the JBACE to assess the environmental and social impacts of proposed forestry operations. The plans were to provide sufficient information to permit this assessment.

In addition, the changes made to the forest regime in 1987 and their interpretation by MEF and the MRN have led these departments to exempt virtually all forestry operations in the Territory from environmental impact assessment. This situation creates an even greater need for the JBACE to receive all relevant information enabling it to study the plans properly.

Several basic issues have gone unaddressed since the first five-year plans were submitted under the new Forest Act in 1989-1990. One of them is the type of information provided on maps included in the plans and the need to compile or group this information by trapline. The plans provide only a minimum mapping of proposed logging areas and main forest roads, with this information being conveyed on numerous topographical or planimetric sheets of varying quality.

Given the number of changes submitted, the short timeframe allotted for studying them, and the limited human and financial resources available to it, the JBACE is unfortunately unable to study the plans thoroughly. This has been true for years now. On November 21, 1995, the JBACE wrote to the Minister of Natural Resources, François Gendron, to inform him of the problems preventing the JBACE from studying the general and five-year forest management plans and changes thereto as intended under legislation. The JBACE asked the Minister for the necessary resources to allow it to fulfil its mandate as provided for under the JBNQA.

1.2 Regulation respecting standards of forest management for forests in the public domain (RNI)

The draft regulation was forwarded to the JBACE by the Deputy Minister of Natural Resources, Michel Clair, as it was being published in the *Gazette officielle*, intimating that the JBACE had no choice but to submit to the normal 45-day review period. However, given both its mandate and its role, the Committee clearly feels it should have been consulted before pre-publication. By proceeding unilaterally, the MRN broke with one of the basic principles of the JBNQA, i.e. "a special status and involvement for the Cree people over and above that provided for in procedures involving the general public" (par. 22.2.2 c). Furthermore, the Hunting, Fishing and Trapping Coordinating Committee should have been consulted under Section 24 of the JBNQA. The JBACE was once again forced to limit itself to a cursory examination of the draft regulation, without receiving any information or documentation from the MRN or MEF on either the reasons for the proposed changes or their consequences.

The Committee nevertheless made its recommendations on June 8, 1995, stipulating that they were based on the recognized need for a forest regime specifically adapted to the James Bay Territory. In the JBACE's opinion, the problems related to forest management could not be solved by a simple revision of the RNI. Furthermore, it was felt that the government could not sanction the draft regulation as tabled and that the regulation needed to be examined in light of the Forest Act and attendant regulations.

The following recommendations were made:

- exempt the James Bay Territory from the scope of the draft regulation and immediately begin devising a forest regime adapted to the conditions and needs of the Territory;

- postpone sanctioning the draft regulation until a forest regime (including appropriate rules) adapted to the conditions and needs of the James Bay Territory has been devised and adopted;
- develop land use plans in consultation with the Crees;
- assess the impact of forestry operations on the Crees' territorial organization, which is based on recognized traplines;
- examine the following elements based on trapline exposure: allowable annual cut, size of logged areas, geographical distribution of logged areas and limits;
- review habitat protection needs for the following species: moose, marten, spruce grouse, beaver and forest-dwelling birds;
- review design criteria for watercourse crossings.

The MRN rejected the JBACE's recommendations on the pretext that the existence of a land use plan has no bearing on the Minister's authority to issue a forest management permit and, consequently, forest management activities can be carried out in accordance with the RNI without such a plan.

The JBACE does not agree with this interpretation. In fact, it feels that the position taken by the MRN flies in the face of section 25 of the Forest Act, which stipulates that forest management activities must be compatible with the Act respecting the lands in the public domain. The JBACE intends to keep a close watch on the RNI's application in the Territory over the coming year.

1.3 Meeting with the Deputy Minister of the Environment and residents of Oujé-Bougoumou

The 88th regular meeting of the JBACE was held in the Cree community of Oujé-Bougoumou. Jean Pronovost, then Deputy Minister of Environment and Wildlife, accompanied the Committee during the three days of meetings and field trips. His presence

was greatly appreciated by the members. Several issues of importance to the JBACE were addressed with the deputy minister, including the Committee's mandate and the chronic lack of resources enabling it to fulfil that mandate. Obviously the focus was on logging and the review of Section 22. Another important issue discussed during the meeting was the lack of effective communication with the MRN, and the MRN's failure to understand and address the JBACE's needs. Given that the MRN is responsible for forest sites, the Committee invited the Minister, Guy Chevrette, to attend one of its meetings to discuss these issues directly. At March 31, 1996, the Minister had not yet responded to the Committee's invitation.

In preparation for the field trip, the Committee hired a consultant, who compiled a collection of photographs of the area. Several timber supply areas were visited, enabling the Committee to observe specific problems related to logging and regeneration.

During the field trip, which lasted a day, the members were able to see how forestry operations are conducted in this area.

The highlight of the 88th meeting was without question the meeting with a group of 25 Cree trappers and the Local Environment Administrator, Joseph Shecapio-Blacksmith. They expressed numerous concerns related to the effects of logging on their traplines, in particular:

- the trappers did not believe that there is any real will on behalf of the government to correct the negative situation affecting the James Bay Crees;
- logging is jeopardizing trapline viability;
- there is no more game because of deforestation;
- environmental degradation has worsened with each generation;
- revegetation techniques are inadequate because the tree species planted are not conducive to

wildlife. Trees are often planted so densely that game cannot circulate;

- there are so many forest roads now that non-Native hunters are coming in and harvesting a substantial portion of game to the detriment of Cree hunters.

This meeting clearly brought to light the need for the JBACE to be in direct contact with the communities and their constituent groups, including trappers. Consultation is a "tool" or "means" that had never been used by the Committee before. The meeting was particularly productive for the representatives of Canada and Québec who, because of their duties, never have the opportunity to engage in face-to-face discussion with the Cree communities or their representatives. The members shared the general sentiment that it was their duty to respond to the concerns voiced in Oujé-Bougoumou by pressuring the governments to improve the situation of the Cree communities.

The members were very interested in the views expressed by the participants and deemed it their duty and their mandate to apply the necessary pressure to get the governments to improve the Crees' situation. The JBACE hopes to foster greater communication with the Cree communities by holding more meetings in the Territory.

1.4 Forestry Subcommittee

JBACE members agreed on the need to create a subcommittee to examine the impact of logging on traditional Cree activities, including the Crees' territorial organization, as proposed in a document prepared by a JBACE member in July 1993. This document served as the guideline for the subcommittee's creation. It should be pointed out that this is not the first time the JBACE has set up a subcommittee to study problems related to logging.

The Forestry Subcommittee held three meetings during the year, beginning in August. Apart from the JBACE representatives, members include a forest engineer from the Cree Regional Authority and forest engineers and administrators from the MRN. The

subcommittee began by defining the needs and the action to be taken to achieve the aims of the JBACE. Although the JBACE had not yet been able to meet with the Minister of Natural Resources, the participation of members of his staff, particularly a regional director on the subcommittee, was perceived as opening the way to addressing the JBACE's needs.

The subcommittee's activities began with a series of presentations by the MRN on its forest management strategy for the Territory and the preparation of management plans. This allowed all subcommittee members to have the same understanding of the basic rules governing the Forest Act's application. The other general activity involved an exchange of information and data to be used to establish a map of timber supply areas in the Territory (showing areas logged between 1989-1994 and those scheduled for logging between 1995 and 2000). A preliminary map was developed during 1995-1996 using the CRA's geographic information system. As well, the MRN discussed the progress of its own work in compiling and synthesizing information on logging in the Waswanipi area. In particular, the MRN has produced a small-scale map showing the effect of deforestation on traplines. During meetings, discussions alternated between strategy and operations. The JBACE intends to focus on strategy.

To give logging issues their due importance, the JBACE formed the Forestry Subcommittee to examine the impact of logging on the Territory and recommend measures for ensuring that forestry development is compatible with environmental protection and traditional Cree pursuits.

The subcommittee formed a working group composed of representatives from the Ministère des Ressources naturelles (MRN), in particular two regional directors and the coordinator of native affairs. During 1995-1996, the subcommittee met three times:

- Cree Regional Authority, August 1995;
- Cree Regional Authority, October 1995;
- St-Félicien, March 1996.

The first two meetings were used to set up the working group, define courses of action and initiate the process of collaboration between the MRN and the subcommittee.

The subcommittee will continue its activities in the coming year.

2. QUÉBEC'S ENERGY OBJECTIVES

Energy development in Québec is concentrated in the James Bay Territory due to the many streams and rivers that can be harnessed there.

However, the installation of large hydroelectric complexes spawns significant environmental and social change, particularly for the Cree communities living in the Territory.

The JBACE participated in the public energy debate by forming a subcommittee on energy, attending the public hearings in Québec City and Montréal, and submitting a brief.

The Chairman presented the brief at the hearings in Québec City on September 21, 1995.

After introducing the JBACE as the preferential and official forum for advising responsible governments on activities likely to affect the environmental and social milieu in the James Bay Territory, the Chairman stressed the following points:

- the JBACE has been interested in the energy debate for years. It has submitted comments on Hydro-Québec's development plans since the public utility initiated the process.
- the aim of the brief is to underscore the JBACE's mandate under the JBNQA and to remind the

Québec government that any energy policy formulated in the wake of the present consultations must be submitted to the JBACE for consultation and comment.

- the JBNQA, particularly Section 22, provides for "a special status and involvement of the Cree people over and above that provided for in procedures involving the general public".
- it is the JBACE's opinion that all hydroelectric projects in the James Bay Territory must undergo environmental impact assessment under Section 22 of the JBNQA. However, this is not always the case; the La Grande complex, for example, was exempted from the procedure.

During the question period, the JBACE members present at the hearing noted that the members of the inquiry commission had very little or no knowledge of either the JBACE or its role.

3. SOLID WASTE MANAGEMENT IN THE TERRITORY

3.1 Proposed sanitary landfill site in Chapais

The Municipality of Chapais submitted a project to establish a sanitary landfill site on an abandoned mine site near the municipality, in the James Bay Territory.

For the landfill to be viable, waste would have to be diverted from other regions, since the local population is not big enough to generate the 100 000 metric tons of waste/year allowed for under the project.

The Evaluating Committee (COMEV) recommended that the project undergo environmental assessment in keeping with Schedule 1 of the JBNQA, after which the Review Committee (COMEX) recommended that it not be authorized at all, given that there was no justification for it.

As the body responsible for overseeing the administration and management of the environmental and social protection regime, the JBACE deems it unacceptable that the James Bay Territory be used as a dumping ground for waste from other Québec regions and agrees with COMEX that the project is not justified. Therefore, on December 4, 1995, the JBACE adopted the following resolution:

RESOLUTION 95-12-04-01

IT IS HEREBY RESOLVED THAT

- an immediate moratorium will be placed on the importing of solid waste into the James Bay territory;
- this moratorium will remain in effect until the special hearings on waste management are over and until the JBACE has examined the issue of integrated solid waste management;
- the JBACE will participate in the hearings to ensure that the rights and interests of the Crees are taken into consideration, as provided for in the JBNQA;
- the JBACE will develop its own solid waste management policy for the James Bay territory based on the results of the public hearings;
- the JBACE will participate in all phases of the hearings process, from the establishment of the mandate and the guidelines to be submitted to the "body" in charge of the hearing, to the writing of the report and recommendations.

3.2 Generic hearings on waste management in Québec

On November 30, 1995, the Minister of the Environment and Wildlife mandated the Bureau d'audiences publiques sur l'environnement (BAPE) to conduct an inquiry and public hearings into waste management in Québec.

In adopting Resolution 95-12-04-01, the JBACE demonstrated its intention to participate in the generic hearings.

On March 21, 1996, the JBACE met with the BAPE representatives to discuss the role of the Committee and the Cree communities in said hearings.

The members unanimously agreed to the following:

RESOLUTION 96-03-21-01

Whereas the BAPE has been mandated to hold an inquiry and public hearing on waste management in Québec, especially as concerns the following:

- . waste recovery and source reduction means;
- . the roles and responsibilities of all partners;
- . the economic and institutional tools allowing these roles and responsibilities to be assumed;
- . the democratic, administrative and political mechanisms for regional management;
- . waste disposal methods.

Whereas the Bureau d'audiences publiques sur l'environnement has agreed to study waste management problems in northern areas;

Whereas the BAPE has expressed its intent to consult residents of northern areas;

Whereas the Cree territory is governed by the environmental protection regime established under Section 22 of the James Bay and Northern Québec Agreement;

Whereas the BAPE's mandate will likely result in amendments to waste management legislation;

Whereas this regime provides for special status and involvement for the Cree people;

Whereas the JBACE is mandated to supervise the enforcement of this regime;

IT IS HEREBY RESOLVED THAT:

- the JBACE is in favour of the BAPE carrying out consultations with residents of the Territory;
- this consultation shall be consistent with the guiding principles of the regime, i.e. by ensuring special status and involvement for the Cree people;
- the JBACE shall host the consultation and accompany the BAPE as it performs its duties on the territory, on the understanding that the consultation itself shall remain under the exclusive authority and discretion of the BAPE commissioners;
- an advisory subcommittee formed of Yves Désilets, Susanne Hilton and Jacques Lefebvre shall provide the BAPE with advice and information on the form of consultation best suited to the rights and interests of the Cree people for each phase in the process.

The main steps in the consultation process as agreed to by the Committee and BAPE representatives are as follows:

- early April, meet with local environment administrators;
- May 3, meeting on waste management in Montréal;
- workshop on waste management, in Chisasibi;
- September 3, 1996, hearing in Oujé Bougoumou.

The JBACE intends to participate actively in the hearings process and to make the necessary

representations to see that the Crees' rights are respected as intended under the JBNQA.

4. CONVENTION ON BIOLOGICAL DIVERSITY

The Deputy Minister of the Environment and Wildlife asked the JBACE for an opinion on the government's proposed strategy for implementing the United Nations Convention on Biological Diversity in Québec.

The JBACE submitted a brief to MEF, hoping it would be taken into account by the Québec government.

In its brief, the JBACE expressed the opinion that the concept of biological diversity could be defined more clearly and in greater depth, and that greater consideration could be given to the practical aspects involved in applying the strategy to Québec's biophysical environment.

The JBACE feels that too much of the strategy is devoted to describing the natural resources supporting Québec's economy. Greater consideration should have been given to the relevance of these descriptions and the issues of major importance for Québec.

The JBACE further feels that the authors should have addressed the management and use of forest resources and land use planning more adequately.

In general, the references to the James Bay and Northern Québec Agreement and Native peoples are of no meaning. The strategy offers very little advice for the institutions created under the JBNQA, including the JBACE, which is not even mentioned.

Given the extent of hydroelectric development in Québec, with the numerous reservoirs and river diversions, the JBACE was astonished to see no discussion of the environmental impact of these megaprojects.

With respect to mining, the JBACE does not believe that the regulations and policies in effect are adequate to deal with the contamination of aquatic ecosystem reliably and safely.

The policy was submitted for government approval in winter 1996.

5. CANADIAN ENDANGERED SPECIES PROTECTION ACT

The federal environment minister invited the JBACE to comment on the proposed Endangered Species Protection Act.

To help it draft its opinion, the JBACE solicited the services of Dr. Fikret Berkes, Professor and Director of the Natural Resources Institute of the University of Manitoba. A wildlife specialist, Dr. Berkes is extremely familiar with the North.

On the whole, the Act and its intent are consistent with the mandate of the JBACE. The Committee therefore supports the proposed legislation, with the following provisos:

- the federal law should be complementary to Québec law and to the provisions of the JBNQA;
- the role of existing joint committees and the JBACE must be recognized explicitly under the Act, since these committees have a role to play in the development of criteria, the listing process and recovery plans;
- the Act must go beyond merely "consulting" Native people, and incorporate Native perspectives and traditional ecological knowledge into the development of criteria, the listing process and recovery plans;
- the Act should have stronger provisions for prevention and include a list of endangered species identified based on traditional Native knowledge. These species should be the object of special protective measures;

- the Act must have provisions for subspecies and geographically distinct populations. The James Bay and Northern Québec region harbours a geographically distinct land-locked population of freshwater (harbour) seal which is considered rare. Other species likely to be designated as endangered or threatened according to MEF's wildlife services include: bald eagle, golden eagle, harlequin duck, peregrine falcon, pygmy shrew, wolverine and least weasel. In addition, there are at least 12 plant species in the James Bay Territory that require special protection, even though many of these species may be found elsewhere in the circumpolar region;

- the Act must have provisions for subspecies and geographically distinct populations which are shared with other jurisdictions. The Act applies to "federal lands and marine areas where wildlife management is the responsibility of the federal government". James Bay and Northern Québec species shared with other jurisdictions include, for example, brant geese which migrate across international borders, and beluga, polar bear and walrus which are shared with hunters from the Northwest Territories. Many of these species are of value to the Native economy. Some of them, such as the eastern Hudson Bay populations of beluga whales, may be considered "Québec species likely to be designated as endangered or vulnerable" by MEF;

- legislation must take an ecosystem approach to conserve species and their environments as a whole. Habitats are vulnerable to development projects and to the long-range transport of pollutants such as PCBs.

The JBACE is waiting to see if Ottawa will act on these recommendations.

6. OTHER ISSUES DEALT WITH

During the year, the JBACE also discussed or issued an opinion on the following matters.

6.1 Administrative agreement with MEF

On February 19, 1985, the JBACE and MEF signed an administrative agreement on the utilization of resources allocated to the Advisory Committee.

To update and renew this agreement, MEF submitted an administrative proposal to the JBACE, which the latter rejected. The Committee's hands are tied under the current administrative framework, a situation deemed incompatible with the Committee's mandate.

The JBACE therefore created a subcommittee to draft a new administrative agreement that will give the Committee greater autonomy. The JBACE intends to submit its proposed agreement to MEF in the coming fiscal year.

6.2 Soil decontamination in the Territory

There are apparently approximately 90 different contaminated sites in the James Bay Territory, 15 of which are located on Category 1 lands. Hydrocarbons are the primary source of contamination.

To get a better idea of the situation regarding contaminated soil in the Territory, the JBACE asked MEF to loan it the services of one of its staff members to produce a status report.

The JBACE intends to take a clear position on MEF's use of decontamination criteria and make recommendations in this regard.

This issue is of even greater importance now that MEF is preparing to announce its new policy on soil protection and contaminated site rehabilitation. The JBACE will be following this matter closely during the coming year.

6.3 Tour of Centre écologique du Lac St-Jean inc. and Centre de formation et de recherche en environnement du moyen nord inc. (CFRE)

During one of its regular meetings, the JBACE had the opportunity of travelling to St-Félicien and touring the fish hatcheries of the Centre écologique du Lac St-Jean inc., which specializes in farming and marketing landlocked salmon. The members learned more about the pilot project, which consists in enhancing the value of this species, and envisaged the possibility of one day establishing similar hatcheries in the James Bay Territory.

The JBACE also met for the first time with representatives from the Centre de formation et de recherche en environnement du moyen nord inc. (CFRE). The Committee was able to get a good idea of the CFRE's work in matters of forest planning and management, mapping, and the use of related software. Specific aspects of the Centre's work were explained to the members.

7. HUMAN AND FINANCIAL RESOURCES AND JBACE OPERATIONS

7.1 Operating difficulties

In fiscal 1994-1995, the JBACE took numerous steps to obtain the human and financial resources needed to fulfil its mandate as defined in the JBNQA.

In April 1995, the Federal Administrator, Michel Dorais, informed the JBACE that the operating budget for the JBACE, COMEV and the KEAC had been set at \$95 000 for the current year as well as 1996-1997. Financial resources have therefore not increased. When Québec's contribution is added, this represents a budget of \$127 426.26 for the JBACE (and COMEV, for which the JBACE assumes secretarial services). The amount actually available to the JBACE is \$17 155.00.

The Québec government agreed to make human resources available to the JBACE on an ad hoc basis to provide it with technical assistance.

7.2 Financing of the secretariat

The JBACE secretariat is located in the offices of the Ministère de l'Environnement et de la Faune du Québec. Under an administrative agreement with the MEF, the latter makes human and material resources available to the JBACE.

Denis Bernatchez was JBACE secretary for 1995-1996. The secretary of the Evaluating Committee (COMEV) was Hervé Chatagnier, who was also secretary of the Review Committee (COMEX). Secretarial duties were performed by Diane Dussault, who divided her time between the JBACE, COMEV and COMEX.

It is important to note that under the JBNQA and the EQA, the JBACE provides the Evaluating Committee with the necessary secretarial services. The secretariat maintains a record of all JBACE decisions and a data bank on any related information. These records are available for public consultation.

7.3 Funding

All JBACE members except for those appointed by Québec are remunerated where necessary and any expenses incurred for attending meetings are reimbursed by the party which appointed the member. The fact that only the Québec representatives are not remunerated for their services creates an inequality which, in the JBACE's opinion, impedes Committee operations.

The budget for the secretariat is allocated by Québec, which is allowed to claim half this amount from the Government of Canada under paragraph 22.3.19 of the James Bay and Northern Québec Agreement and paragraph 2 of section 174 of the Environment Quality Act. In 1987, the terms governing secretariat financing were established under an agreement between the Canadian and Québec governments. Since that agreement has

expired, the two governments began negotiations in 1992 to reach a new administrative agreement. These negotiations are ongoing.

Expenditures related to the secretariat for the fiscal year ended March 31, 1996 are shown in Table I. They also cover expenses incurred by the Evaluating Committee under section 150 of the Environment Quality Act.

TABLE 1: STATEMENT OF JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT AND EVALUATING COMMITTEE EXPENDITURES FOR THE FISCAL YEAR ENDED MARCH 31, 1996

| | |
|--|----------------------------|
| - Salaries (wages and fringe benefits) for secretariat staff | \$87 161.38 |
| - Travelling expenses | \$5 510.68 |
| - Translation | \$5 873.40 |
| - Office space | \$9 909.05 |
| - Telecommunications | \$2 727.70 |
| - Printing and photocopying | \$3 409.92 |
| - Expertise | \$4 165.65 |
| - Data processing equipment | \$1 192.76 |
| - Miscellaneous | <u>\$1 407.80</u> |
| SUBTOTAL: | <u>\$121 358.34</u> |
| - Administrative expenses (5%) | \$6 067.92 |
| TOTAL: | <u>\$127 426.26</u> |

APPENDIX 1

LEGISLATIVE PROVISIONS GOVERNING ENVIRONMENTAL AND SOCIAL PROTECTION IN THE JAMES BAY REGION

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

Regulation respecting 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);

Regulation respecting assessment of effects on the environment in the territory of James Bay and Northern Quebec (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);

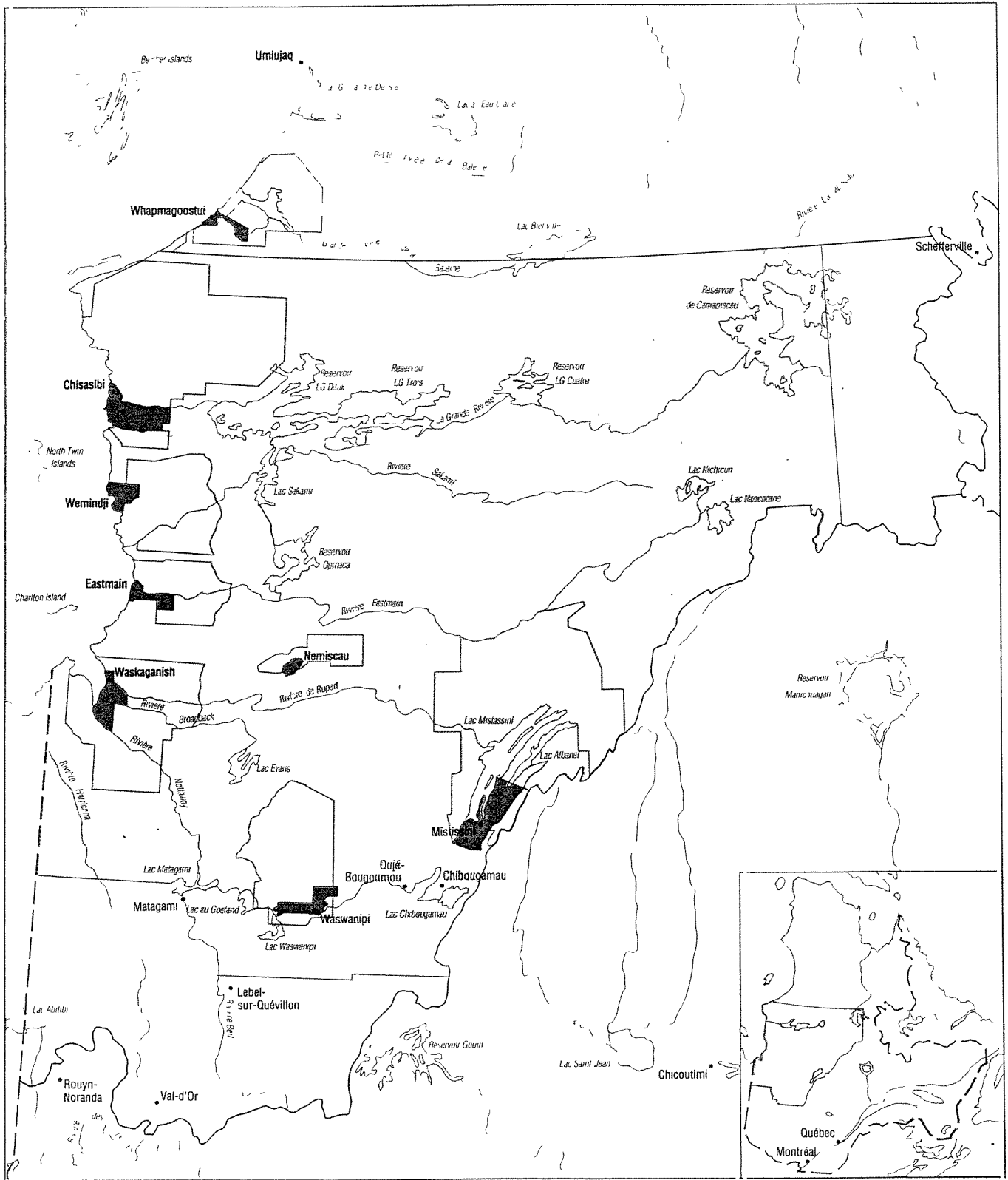
Northern Quebec Native Claims Settlement Act (S.C. 1976-1979, c. 32).

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






APPENDIX 2

MAP INDICATING THE TERRITORY COVERED BY THE REGIME

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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 cris.