

ANNUAL REPORT


2002 - 2003


**JAMES BAY ADVISORY COMMITTEE
ON THE ENVIRONMENT**

GAWESHOUWAITEGO ASGEE WESHOUWEHUN

French, English or Cree copies of this report are available from the JBACE secretariat at the following address:

James Bay Advisory Committee
on the Environment
383, rue Saint-Jacques, bureau C-220
Niveau mezzanine
Montréal (Québec) H2Y 1N9

 (514) 286-4400

 (514) 284-0039

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February 25, 2004

The Hon. Thomas Mulcair
Minister of the Environment
Édifice Marie-Guyart
675, boulevard René-Lévesque est, B.P. 01
Québec (Québec) G1R 5V7

Dear Sir:

I am honoured to present the activity report of the James Bay Advisory Committee on the Environment for the year ended March 31, 2002.

Respectfully submitted,

CLAUDE LANGLOIS
Chairperson

February 25, 2004

The Hon. David Anderson
Minister of the Environment
Les Terrasses de la Chaudière
10, rue Wellington, 28^e étage
Gatineau (Québec) K1A 0H3

Dear Sir:

I am honoured to present the activity report of the James Bay Advisory Committee on the Environment for the year ended March 31, 2002.

Respectfully submitted,

CLAUDE LANGLOIS
Chairperson

February 25, 2004

Mr. Ted Moses
Grand Chief
Grand Council of the Crees (Eeyou Istchee)
277, rue Duke
Montréal (Québec) H3C 2M2

Dear Sir:

I am honoured to present the activity report of the James Bay Advisory Committee on the Environment for the year ended March 31, 2002.

Respectfully submitted,

CLAUDE LANGLOIS
Chairperson

CHAIRPERSON'S MESSAGE

For years, the members and chairs of the James Bay Advisory Committee on the Environment (JBACE) decried the lack of funding received from the governments. However, since 2001-2002, the governments of Québec and Canada have substantially increased the annual budget allocated to the Committee, notably enabling it to set up an independent secretariat outside the offices of the Ministère de l'Environnement du Québec. During 2002-2003, the JBACE consolidated the operational structure of its new secretariat in downtown Montréal, where it has shared offices with the Hunting, Fishing and Trapping Coordinating Committee since October 2001. In addition, the JBACE signed a new administrative agreement with the Ministère de l'Environnement du Québec guaranteeing a minimum level of funding for the coming years.

The stabilizing of its funding and the signing of the Peace of the Braves agreement in February 2002, which settled most of the legal disputes on forestry, allowed the Committee to hope that it could get back down to work and examine the environmental issues affecting the James Bay Territory in greater depth. Instead, the Peace of the Braves led the Committee to question its role in the various issues covered by this new agreement between the Québec government and the Crees of Québec. More specifically, the creation of the Cree-Québec committees on forestry seriously undermines the forest management mandate entrusted to the JBACE by the James Bay and Northern Québec Agreement (JBNQA). For example, what kind of role can the Committee play in the future in order to fulfil its mandate as a consultative body to the responsible governments, especially so as to ensure that the new committees function and allow for meaningful participation in the decision-making process?

During the six regular meetings held in 2002-2003, the Committee discussed various other issues deemed a priority, notably Bill C-19 amending the Canadian Environmental Assessment Act, Québec's protected areas strategy, regulations respecting the quality of drinking water, the EM-1 hydroelectric and EM-1A/Rupert diversion projects, and a number of proposed laws and regulations. Unfortunately, with the members unable to reach a consensus, the discussions on these issues too often resulted in an impasse and very few opinions or official recommendations were made to the responsible governments or authorities.

This situation forced the Committee to cancel its planned participation in the hearings on Bill C-19 held by the House of Commons Standing Committee on Environment and Sustainable Development. As well, the JBACE has still not defined the terms of its involvement in the EM-1 hydroelectric and EM-1A/Rupert diversion projects—which will probably be the most important environmental and social issue in the Territory for the next ten years—even though construction of EM-1 is in full swing and public consultations on the draft directives for the EM-1A/Rupert diversion project have already

been held in the Cree communities. Moreover, the JBACE members have far too little contact with the Territory and its inhabitants, which deprives them of first-hand information on local and regional environmental concerns. The Committee did not hold one meeting in the Territory or in a Cree community between fall 1999 and fall 2003.

In order to implement an action strategy before projects are carried out and to fully play its role as a consultative body to responsible governments concerning management of the environmental and social protection regime in the Territory, a draft strategic plan for the Committee was tabled in September 2002. Despite the urgency of adopting such a plan, we are forced to admit that too little progress was made in this direction in 2002-2003. The numerous changes in the Committee membership during the year are no doubt partly to blame. The Committee must step up its efforts to adopt a strategic plan as soon as possible and give itself the means to examine the environmental issues affecting the Territory more thoroughly, support the other committees established by the JBNQA and, thereby, carry out the mandate of consultative body and preferential forum entrusted to it by the Agreement signatories in a meaningful manner.

CLAUDE LANGLOIS

Chairperson

September 24, 2003

**JAMES BAY ADVISORY COMMITTEE
ON THE ENVIRONMENT**

GAWESHOUWAITEGO ASGEE WESHOUWEHUN

COMMITTEE MANDATE

The James Bay Advisory Committee on the Environment (JBACE) was created in 1978 pursuant to the James Bay and Northern Québec Agreement (JBNQA). As an advisory body to the responsible governments, the JBACE is mandated to review and oversee the administration and management of the environmental and social protection regime established by Section 22 of the JBNQA.

The JBACE should be consulted by all levels of government on any proposed legislation relating to the environmental and social protection regime applicable to the James Bay territory (the "Territory"). In studying laws or regulations affecting the Territory, the JBACE may recommend changes to bring them in line with the provisions of Section 22 of the JBNQA, which set out the special status and involvement of the Cree people in the application of the regime. The governments implement the JBACE's recommendations where appropriate.¹

The JBACE is responsible for the administrative supervision of the Evaluating Committee (COMEV). The Evaluating Committee studies development projects and, depending on whether or not they will have a significant impact, recommends that they be either subject to or exempt from the impact assessment and review procedure provided for in the environmental and social protection regime. As needed, COMEV prepares guidelines for the environmental impact statements to be prepared by project proponents. The goal is to ensure that development projects in the Territory have a minimum impact on the environment.

The JBACE also provides the Cree Regional Authority and local governments with the technical and scientific information that it obtains from the governments. It generally informs the governments, government corporations operating in the Territory and the committees established by the JBNQA of its decisions and recommendations. Every year, the JBACE submits a report of its activities to the Québec Minister of the Environment for tabling in the National Assembly.

¹ JBNQA, paragraphs 22.3.24, 22.3.25 and 22.3.26.

JBACE ACTIVITIES IN 2002-2003

The James Bay Advisory Committee on the Environment (JBACE) is composed of representatives of three governments: Québec, Canada and the Cree Regional Authority (CRA), each of which appoints four members. The tripartite nature of the JBACE is reflected in its rotating chairpersonship. In 2002-2003, the chairperson was appointed by the Government of Canada.²

Implementation of the "Agreement Concerning a New Relationship between the Gouvernement du Québec and the Crees of Québec"³ (referred to as the "Cree-Québec Agreement"), influenced the JBACE's activities in 2002-2003 considerably: the agreement covers issues as diverse as forestry, access to the Territory, hydroelectric development and drinking water.

1. Forestry Component of the Cree-Québec Agreement

The forestry component of the Cree-Québec Agreement provides for two implementation mechanisms: the Cree-Québec Forestry Board and joint working groups. These new bodies are mandated to, among other things, study, review and ensure the follow-up of forest management plans, functions that overlap the JBACE's mandate under the JBNQA. Thus, to facilitate implementation of the agreement, the JBACE informed Forêt Québec that

² For information on the composition and the appointment of the chairperson and vice-chairperson of the JBACE, see JBNQA, paragraphs 22.3.2 and 22.3.5.

³ The agreement, signed on February 7, 2002, is posted on the Web site of the Secrétariat aux affaires autochtones.

amendments to forest management plans that flow from the adapted forestry regime for the Territory need no longer be submitted to the Committee for consideration and comment. However, where necessary, the JBACE would like to continue reviewing forestry laws and regulations affecting the James Bay region.

The Committee hopes that the two parties responsible for implementation of the forestry component, namely, the forestry division of the Ministère des Ressources naturelles (MRN) and the Grand Council of the Crees (GCC), will keep the JBACE informed of the process. However, the JBACE reserves the right to involve itself and to comment on forest management plans should the special consultation mechanisms for the Crees provided for in the Cree-Québec Agreement prove insufficient or inadequate.

In response to this information need, Jean-François Gravel, native affairs coordinator for the forestry division of the MRN, and Sam Etapp, forestry coordinator for the Grand Council of the Crees, were present at the JBACE meeting on June 25, 2002, to explain the agreement's forestry provisions and their current application.

While the JBACE agrees to amending the terms for studying forest management plans, it insists on the fact that its obligations under the JBNQA have not changed.

2. Consultation on the Delimitation of Forest Management Units

In May 2002, the forestry division of the Ministère des Ressources naturelles du

Québec (MRN) sent the JBACE a proposal concerning the delimitation of forest management units (FMU). The new units, which replace the former "common areas," aim to facilitate management and harvesting of the forest resource. A joint working group (Cree-Québec) proposed 15 FMUs for the territory covered by the Cree-Québec Agreement.

The JBACE submitted its comments on the MRN's proposal in August 2002, expressing its satisfaction with the fact that the FMUs respected the boundaries of Cree family hunting grounds (traplines), as stipulated in the agreement. The JBACE also endorses the principle of a northern limit for commercial timber allocations in order to preserve ecosystems that are slow to regenerate. However, in the light of new data on forest dynamics, the JBACE recommended that the northern limit be periodically reviewed.



James Bay region. The land division of the Ministère des Ressources naturelles (MRN) has apparently approved over a thousand rough shelter leases in the James Bay region.

In July 2002, in response to the expressed concerns, Louise Ouellet, associate deputy minister of the MRN's land division, assured the committees that the PRDTP for Northern Québec

would not divide the region between several administrative offices: coordination mechanisms would ensure a holistic view of the region, making it easier to study crucial issues such as the allocation of rough shelter leases. Ms. Ouellet mandated Normand Laprise, regional director of the land division for the Saguenay—Lac-Saint-Jean and Northern Québec regions, to consult interested organizations before preparing the PRDTP. The consultation is to be held in fall 2003.

3. Consultations on the *Plan régional de développement des terres publiques*

In March 2002, the JBACE participated in the consultations on the policy for allocating rough shelter leases. Rough shelters are huts without running water or electricity that are generally built for hunting or fishing purposes. The consultation report will serve to prepare the regional public land development plan (*Plan régional de développement des terres publiques-PRDTP*) for the Nord-du-Québec (Northern Québec) administrative region, including the

4. Coordination Table Studying Access to the Territory

The Cree-Québec Agreement provides for the holding of a coordination table with the Crees and Québec government representatives to identify and circumscribe issues concerning access to the Territory. In light of its recent action relating to the MRN's policy for allocating rough shelter leases, in May 2002 the JBACE asked to participate in the coordination table.

Participants in the coordination table did not involve the Advisory Committee in the first phase of their work to report to

the standing liaison committee established by the Cree-Québec Agreement. Should the liaison committee extend the table's mandate so that it can act on its report, the JBACE may be invited to participate.

5. Québec Strategy on Protected Areas

In December 2002, the Québec government passed Bill 129, the Natural Heritage Conservation Act, which provides for the designation of protected areas. Three months later, the Minister of the Environment announced that five areas in the James Bay region were being set aside for that purpose: the areas will be under protected status until such time as they are granted permanent status as protected areas. During the transitional period, MENV must hold consultations on the conservation plans for these areas.

Apart from an information meeting with members of the protected areas subcommittee in February 2003, the JBACE was not consulted on Bill 129, nor on the working conservation plans for the proposed protected areas. Given that a regulation must be adopted to give force to the conservation plans, the JBACE expects to receive the draft regulations for consideration and comment. Moreover, proposals for parks and protected areas are automatically subject to impact assessment and review under Section 22 of the JBNQA.

6. Follow-up of Hydroelectric Projects

Given that the Eastmain 1 hydroelectric project was exempted from the Section 22 impact assessment and review procedure, the JBACE stressed the importance of environmental follow-up: in August 2002, it wrote to the Minister of the Environment suggesting that the MENV regional office for Abitibi-Témiscamingue and Northern Québec be involved in the follow-up studies to ensure their quality. The Committee recommended that the Québec government provide the regional office with sufficient human resources to study the numerous amendments to the authorization certificates issued for the Eastmain 1 project initially submitted over ten years ago.

In November 2002, representatives of the Société d'énergie de la Baie James (SEBJ⁴) presented the Eastmain 1 and Eastmain 1-A/Rupert projects to the JBACE. They described in detail the planned environmental monitoring and follow-up measures during construction and commissioning of the Eastmain 1 power plant.

7. By-law Respecting the Quality of Drinking Water

Under the Cree-Naskapi (of Québec) Act, Cree bands may make by-laws respecting health, hygiene and services relating to water.⁵ In December 2002, the Council of the Eastmain Cree First Nation availed itself of this provision by

⁴ Hydro-Québec mandated the SEBJ to conduct studies on the Eastmain 1 and Eastmain 1-A/Rupert projects.

⁵ Cree-Naskapi (of Québec) Act, 1984, paragraphs (c) and (i) of subsection 45(1).

adopting its own by-law in respect of drinking water quality.

The Eastmain by-law was submitted to the JBACE for comment. The Advisory Committee created a subcommittee to study the by-law in January 2003. The by-law was studied in the light of the general issue of drinking water supplies in the Cree communities: other issues, such as the local authorities' access to technical support and the advisability of other Cree First Nations' adopting a similar by-law were also examined.

8. Management of the Secretariat

The JBACE mandated its Administrative Committee to oversee and support the secretariat. The Administrative Committee met with MENV officials to discuss an administrative agreement setting forth the terms of financing for the secretariat. Given its obligations under the JBNQA and the Environment Quality Act, the JBACE requested that a ceiling be set on its financial contribution to the expenses of the Evaluating Committee and review committees. It also asked that the agreement provide that any budgetary surpluses be carried over to the following fiscal year. The MENV officials agreed to these requests and the administrative agreement is currently in force.

On the Administrative Committee's recommendation, the JBACE adopted a human resources management policy setting out the employment conditions of its two staff members: executive secretary Marc Jetten and secretariat officer Louise Bélanger⁶. The hiring of a

third person to study specific environmental issues will be discussed following the JBACE's adoption of a strategic plan.

Conclusion

The operation of an advisory committee depends largely on the initiatives of the legislators that guide the committee's agenda and timetable. Performing the work associated with the JBACE in addition to their other duties within their respective organizations is not obvious for the members. Moreover, this report testifies to the diversity of environmental issues dealt with by the JBACE (forestry policies, drinking water quality, residual materials management, etc.), and it is sometimes difficult to unite all of the members around such diverse issues.

That is why the JBACE intends to adopt a strategic plan in the coming year to ensure its action is more effective by improving government consultation mechanisms and defining priority issues. That way, the JBACE can target its initiatives towards the defined priorities and better control its agenda. Thus, it has been 25 years that implementation and enhancement of the environmental and social protection regime established by the JBNQA have been at the centre of the JBACE's concerns. Today, the members hope to give the Advisory Committee the means to play its intended role of advisory body to the responsible governments.

⁶ Ms. Bélanger divides her time between the JBACE and the Hunting, Fishing and Trapping Coordinating Committee.

APPENDIX 1
JBACE COMPOSITION

Members appointed by the Cree Regional Authority (CRA):

Glen Cooper, Cree Construction and Development Corporation (CCDC)

Sam Etapp, Forestry Coordinator, CRA

Willie Iserhoff, Traditional Pursuits, CRA

Members appointed by Canada:

Jean Comtois, Environment Canada (as of October 2002)

Louise Labrie, Indian and Northern Affairs Canada (until January 2003)

Claude Langlois (Chairperson), Environment Canada

Élise Racine, Indian and Northern Affairs Canada (as of January 2003)

Jacques Robert, Canadian Forest Service

Harm Sloterdijk, Environment Canada (until October 2002)

Members appointed by Québec:

Marian Fournier, Ministère des Ressources naturelles (forestry division)

Carole Garceau (Vice-Chairperson), Ministère de l'Éducation

Pierre Moses, James Bay Municipality

Denis Vandal, Société de la faune et des parcs du Québec (FAPAQ)

Ex-officio member appointed by the Hunting, Fishing and Trapping Coordinating Committee:

Jean Comtois, Environment Canada

APPENDIX 2

JBACE SUBCOMMITTEE MEMBERS

In 2002-2003, the JBACE was supported by a standing subcommittee, the Administrative Committee and various subcommittees mandated to study specific issues. The executive secretary participates in all subcommittees.

Administrative Committee

Carole Garceau, Vice-Chairperson (Québec)
Claude Langlois, Chairperson (Canada)
Alan Penn (CRA)

Protected areas subcommittee

Jean Comtois (Canada)
Alan Penn (CRA)
Denis Vandal (Québec)

Subcommittee studying the Eastmain by-law respecting the quality of drinking water

Carole Garceau (Québec)
Claude Langlois (Canada)
Alan Penn (CRA)

APPENDIX 3
JBACE MEETINGS

The JBACE is required to meet at least four times a year. The presence of seven members, including at least one member from each party, constitutes quorum.⁷

126th meeting	April 19, 2002 (conference call);
127th meeting	June 25, 2002 (JBACE secretariat, Montréal);
128th meeting	September 12, 2002 (JBACE secretariat, Montréal);
129th meeting	November 20, 2002 (Ministère de l'Environnement, Québec);
130th meeting	January 15-16, 2003 (JBACE secretariat, Montréal).

⁷ JBNQA, paragraphs 22.3.8, 22.3.9 and 22.3.16.

APPENDIX 4
JBACE FINANCIAL STATEMENTS

[TRANSLATION]

JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

**FINANCIAL STATEMENTS AND
REVIEW ENGAGEMENT REPORT**

AS AT MARCH 31, 2003

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Statement of Accumulated Surplus	4
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Supplementary Information Operating Expenditures	SCHEDULE A

REVIEW ENGAGEMENT REPORT

To the members of the
JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

We have reviewed the balance sheet of the JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT as at March 31, 2003, and the statements of financial activities and accumulated surplus for the year then ended. Our review was made in accordance with Canadian generally accepted standards for review engagements and accordingly consisted primarily of enquiry, analytical procedures and discussion related to information supplied to us by the Committee.

A review does not constitute an audit and, consequently, we do not express an audit opinion on these financial statements.

Based on our review, nothing has come to our attention that causes us to believe that these financial statements are not, in all material respects, in accordance with Canadian generally accepted accounting principles.

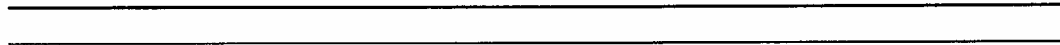
(Original signed)

RUEL GIROUX DORION
Chartered Accountants

Victoriaville,
September 12, 2003

JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

**BALANCE SHEET
AS AT MARCH 31, 2003
(Unaudited)**



ASSETS

CURRENT ASSETS

Cash	\$29 933
Receivables (Note 4)	<u>3 926</u>
	33 859

INVESTMENTS (Note 5) 326 760

FIXED ASSETS (Note 6) 11 107

\$371 726



LIABILITIES

CURRENT LIABILITIES

Accounts payable and accruals (Note 7) \$91 214

COMMITTEE'S EQUITY

Accumulated surplus 280 512

\$371 726



DIRECTOR'S SIGNATURE

(Original signed)

_____, Director

JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

**STATEMENT OF FINANCIAL ACTIVITIES
FOR THE YEAR ENDED MARCH 31, 2003
(Unaudited)**

INCOME	
Subsidy	\$251 000
OPERATING EXPENDITURES (SCHEDULE A)	<u>186 512</u>
SURPLUS	<u>64 488</u>
OTHER FINANCIAL ACTIVITIES	
Interest income	1
Other income	<u>9 285</u>
	<u>9 286</u>
SURPLUS FOR THE YEAR	<u><u>\$73 774</u></u>

JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

STATEMENT OF ACCUMULATED SURPLUS
FOR THE YEAR ENDED MARCH 31, 2003
(Unaudited)

	NON ALLOCATED	ALLOCATED TO THE FORESTRY FUND	TOTAL
ACCUMULATED SURPLUS, BEGINNING OF YEAR	\$99 550	\$107 188	\$206 738
SURPLUS FOR THE YEAR	<u>73 774</u>	<u>-</u>	<u>73 774</u>
ACCUMULATED SURPLUS, END OF YEAR	<u>\$173 324</u>	<u>\$107 188</u>	<u>\$280 512</u>

JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

**NOTES TO FINANCIAL STATEMENTS
AS AT MARCH 31, 2003
(Unaudited)**

1. GOVERNING STATUTES AND NATURE OF OPERATIONS

The James Bay Advisory Committee on the Environment was established by Section 22 of the James Bay and Northern Québec Agreement (JBNQA) and Chapter II of the Environment Quality Act (R.S.Q., c. Q-2) for the primary purpose of reviewing and overseeing the administration and management of the environmental and social protection regime established by and in accordance with Section 22 of the JBNQA.

2. ACCOUNTING POLICIES

Investments

Investments are recorded at cost.

Fixed Assets

Fixed assets are recorded at cost and depreciated over their estimated useful life according to the following methods and rates:

Furniture and equipment	Diminishing balance	20%
Computer equipment	Diminishing balance	30%

3. STATEMENT OF CASH FLOW

A statement of cash flow is not presented, as it would not provide any new, useful information to facilitate the understanding of the changes in cash position during the fiscal year.

4. RECEIVABLES

Taxes	\$3 926
-------	---------

5. INVESTMENTS

Term deposit, 1.8%, maturing in September 2003	\$50 000
National Bank Fund	<u>276 760</u>
	\$326 760

JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

NOTES TO THE FINANCIAL STATEMENTS

AS AT MARCH 31, 2003

(Unaudited)

6. FIXED ASSETS

	<u>Cost</u>	<u>Accumulated depreciation</u>	<u>Net</u>
Furniture and equipment	\$6 917	\$2 076	\$4 841
Computer equipment	<u>7 764</u>	<u>1 498</u>	<u>6 266</u>
	\$14 681	\$3 574	\$11 107
	<u>=====</u>	<u>=====</u>	<u>=====</u>

7. ACCOUNTS PAYABLE AND ACCRUALS

Suppliers	\$525
Owed to the Ministère de l'Environnement	85 721
Owed to the HFTCC	<u>4 968</u>
	\$91 214
	<u>=====</u>

[TRANSLATION]

SCHEDULE A

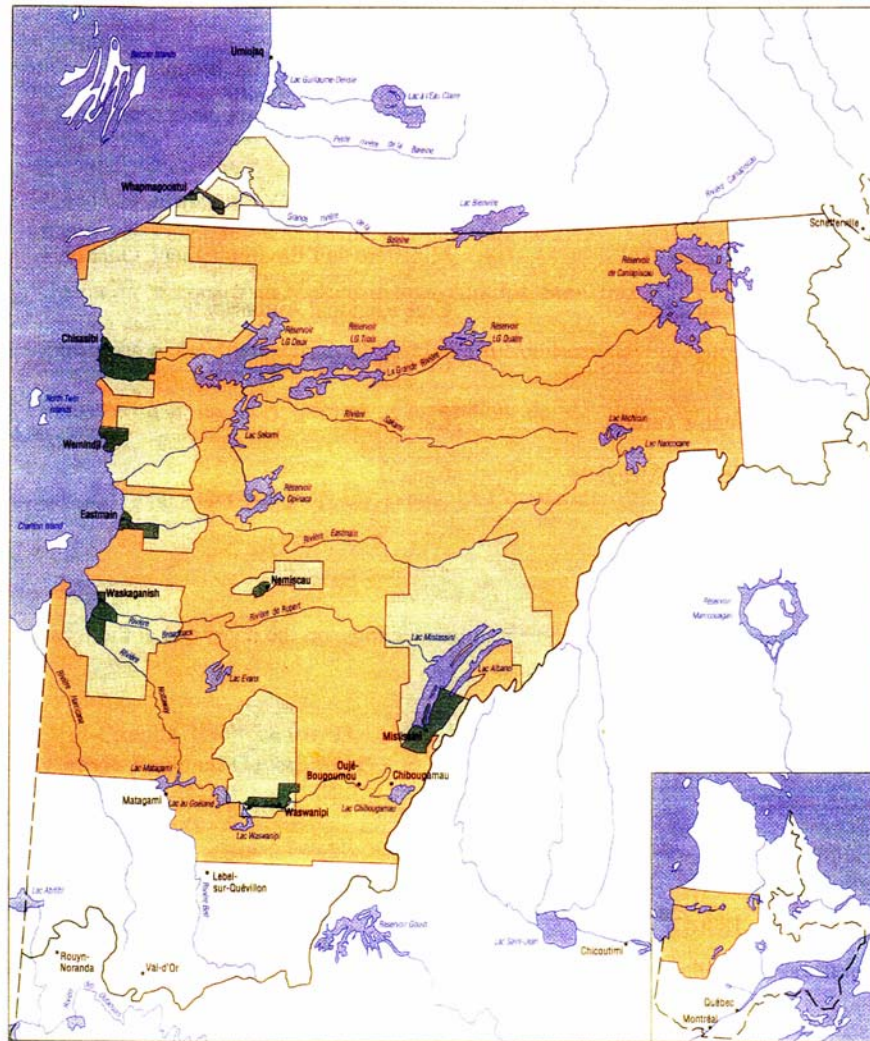
JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

**NOTES TO FINANCIAL STATEMENTS
AS AT MARCH 31, 2003
(Unaudited)**

	<u>JBACE</u>	<u>COMEV</u>	<u>TOTAL</u>
OPERATING EXPENDITURES			
Salaries, wages, benefits	\$79 829	\$31 162	\$110 991
Telecommunications	4 156	71	4 227
Rent (office space)	17 005	5 582	22 587
Travel expenses	8 484	138	8 622
Translation	13 583	723	14 306
Photocopying	3 976	133	4 109
Messenger services, postage	1 658	20	1 678
Office supplies, furniture and computer equipment	3 261	-	3 261
Expert opinions, meeting expenses	1 579	-	1 579
Moving expenses of executive secretary	4 736	-	4 736
Taxes, licences, permits	1 929	-	1 929
Insurance	543	-	543
Dues, fees, memberships, conferences	552	-	552
Training	1 074	-	1 074
Interest, bank charges	138	-	138
Amortization	<u>3 574</u>	<u>-</u>	<u>3 574</u>
	\$146 077	\$37 829	\$183 906
Administrative expenses			<u>2 606</u>
			<u>\$186 512</u>

APPENDIX 5

TERRITORY COVERED BY SECTION 22 OF THE JBNQA



Map of the territory covered by the JBACE'S mandate

- Territory covered by the regime
- Cree Category I land
- Cree Category II land
- Boundaries of the JBNQA Territory
- Québec Border

Cree Category I and II land is included in the territory covered by the regime.
 The Crees do not recognize the southern limit of the regime territory as defined on this map.

Rédigé par le Service de la cartographie
 Ministère de l'Énergie et des Ressources
 Pour le Comité consultatif pour l'environnement de la Saguenay
 © Québec 1992, tous droits réservés.

APPENDIX 6

COMPOSITION AND MEETINGS OF THE EVALUATING COMMITTEE

At fiscal year-end 2002-2003, the Evaluating Committee was composed of the following members:

Daniel Berrouard	Ministère de l'Environnement, Québec
Mireille Paul	Ministère de l'Environnement, Québec
Brian Craik	Cree Regional Authority
Philip Awashish	Cree Regional Authority
Éric Giroux	Government of Canada
Marie-France Therrien	Government of Canada

During 2002-2003, the Evaluating Committee held 10 meetings, on the dates and at the places indicated below:

<u>Meeting</u>	<u>Place</u>	<u>Date</u>
185th	Montréal	2002-04-26
186th	Conference call	2002-09-09
187th	Québec	2002-10-18
188th	Québec	2002-12-18
189th	Montréal	2003-01-14
190th	Montréal	2003-01-28
191st	Québec	2003-02-10
192nd	Montréal	2003-02-18
193rd	Québec	2003-03-06
194th	Québec	2003-03-24 to 28

APPENDIX 7

SUMMARY OF PROJECTS REVIEWED BY THE EVALUATING COMMITTEE

1. Operation of a sand pit, Gamache township, Ministère des Ressources naturelles
2. Kiskimaastakin Camps outfitting operation, increase in accommodation capacity
3. Incinerator project, Wemindji Cree First Nation
4. Project to stabilize Rupert River shoreline in Waskaganish, Waskaganish Cree First Nation
5. Pourvoirie Mirage, increase in accommodation capacity
6. Pourvoirie Donat Asselin, increase in accommodation capacity
7. Installation of a radar system at the Chisasibi airport, NAV Canada
8. Exploration of the Fenelon "A" property, International Taurus Resources Inc. and Fairstar Explorations Inc.
9. Clearwater project, James Bay – Mechanical stripping of outcroppings, Eastmain Resources Inc.
10. Maintenance and change in operation of Weir 9 on Opinaca River, Hydro-Québec
11. Establishment of an in-trench disposal site at EM-1, Société d'énergie de la Baie James (SEBJ)
12. Control of stinging insects, Eastmain-1, Nemiscau camp, Société d'énergie de la Baie James (SEBJ)
13. Eastmain-1-A and Rupert diversion project, Société d'énergie de la Baie James (SEBJ)

1. Operation of a sand pit, Gamache township, Ministère des Ressources naturelles

This "grey area" project involved the operation of a 3-hectare sand pit in a decommissioned borrow pit. Ressources Meston inc. used the borrow material to fill mines. At the end of the 10-year project, which is scheduled to run until July 2010, the proponent is to restore the sand pit.

After reviewing the project information, the Evaluating Committee (COMEV) recommended to the provincial administrator that the project be exempted from environmental and social impact assessment and review. In its recommendation, the Committee stressed the importance for the proponent to inform the tallyman concerned of the reopening of the sand pit, operations and the transportation of borrow material. The Committee also stressed that the proponent and the company working with it should consider hiring Cree workers for the duration of the project.

2. Kiskimaastakin Camps outfitting operation, increase in accommodation capacity

This project consisted in increasing the accommodation capacity of the Kiskimaastakin Camps outfitting operation from 29 to 100 clients (increase of 71) by transforming an existing camp that was originally designed to accommodate 120 persons. Given that the Hunting, Fishing and Trapping Coordinating Committee (HFTCC) approved the project and that all of the camp facilities were governed by existing regulations, in May 2002 COMEV recommended that the project

be exempted from impact assessment and review. COMEV took for granted that the outfitter would dispose of solid waste in accordance with regulations and that, when it shuts down, the whole camp would be decommissioned in accordance with the usual rules and regulations.

3. Incinerator project, Wemindji Cree First Nation

This project involved the installation of an incinerator capable of burning three tonnes of household waste per day, including solid waste, tires, used oil and some construction waste. The incinerator would be located approximately 1 km west of the community of Wemindji and ash would be buried at the waste disposal site located at km 11 on the road running between Wemindji and the Matagami-Radisson road.

The document submitted by the proponent covered several aspects of the project, but provided no information on the anticipated environmental and social impacts or the planned mitigation measures to ensure the project goes according to plan and is safe. In light of this fact and in accordance with paragraph 22.5.4 of the *James Bay and Northern Québec Agreement* (JBNQA), on May 14, 2002, COMEV submitted its recommendations to the provincial administrator regarding the scope of the environmental and social impact statement to be prepared by the project proponent.

4. **Project to stabilize Rupert River shoreline in Waskaganish, Waskaganish Cree First Nation**

COMEV was informed of this project, which falls into the "grey area," in April 2002. The project consisted in stabilizing with riprap a 625-m-long section of the left bank of the Rupert River, at its convergence with Rupert Bay. After studying the preliminary information and obtaining clarifications on the type and extent of the work involved, the anticipated environmental impacts, the expected benefits of the project and the planned mitigation measures for ensuring the work is carried out safely, COMEV recommended to the local environment administrator that the project be exempted from environmental and social impact assessment and review, in accordance with paragraph 22.5.5 of the JBNQA and section 157 of the *Environment Quality Act* (EQA).

5. **Pourvoirie Mirage, increase in accommodation capacity**

This project involved two sites: the inn currently operated at the outfitter's main camp on the Transtaïga Highway, whose capacity the proponent wanted to increase by 44, from 68 to 112 persons, and a new main camp, which would be built on Roz Lake, 120 km north of the main camp, and have an accommodation capacity of 20 persons. The total increase for the two sites would be 64 persons.

Given that the existing facilities on the first site could accommodate the planned increase in capacity and that the impacts from the second site would be localized, not significant and

governed by existing regulations, the Committee recommended that the project be exempted from the environmental and social impact assessment and review procedure. This recommendation took into account the fact that the Hunting, Fishing and Trapping Coordinating Committee had approved the project. Furthermore, COMEV took for granted that the outfitter would take the necessary measures to comply with the *Regulation respecting solid waste* and that, at the end of the operating phase, all facilities would be decommissioned in accordance with the usual rules and regulations.

6. **Pourvoirie Donat Asselin, increase in accommodation capacity**

Like the two outfitting projects previously discussed, Pourvoirie Donat Asselin is located near the Transtaïga Highway. This project consisted in increasing the current accommodation capacity by 40 persons, from 120 to 160. In keeping with the recommendations made for the two previous projects, COMEV agreed to recommend that the project be exempted from impact assessment and review considering that the increase in accommodation capacity would be at an outfitting site that had already been authorized and whose facilities could accommodate the increase, that these facilities were subject to existing regulations, and that the Hunting, Fishing and Trapping Coordinating Committee was in favour of the project. In its recommendation, COMEV stressed the need for the proponent to comply with the regulations regarding waste disposal and decommissioning of facilities.

7. Installation of a radar system at the Chisasibi airport, NAV Canada

This project to set up a RADAR system at the Chisasibi airport entailed the construction of a 150-m access road from an existing road and the installation of power and telephone lines connected to existing lines along the main road. This development covered an area of 10 000 m² and the attendant facilities, 2 000 m². The extra land would be used as a buffer zone to protect against forest fires.

After studying the project information, and considering the consultations held by the proponent with the residents of Chisasibi and the limited impacts arising from the project, COMEV recommended that it be exempted from impact assessment and review.

8. Exploration of the Fenelon "A" property, International Taurus Resources Inc. and Fairstar Explorations Inc.

The proponent submitted two projects for the Fenelon "A" project in 2002. Located in the township of Fenelon, near the southern limit of the JBNQA Territory, these projects were a continuation of the exploration work carried out in 2001 by the same proponent, which COMEV recommended be exempted from impact assessment and review.

The first project, which was part of a feasibility study and was located south of the exploration work conducted in 2001, consisted in extracting 125 000 m³ of overburden in a 7 500-m² area for the purpose of mapping and

sampling the deposit. The site was to be restored if the deposit proved not to be commercially viable. COMEV recommended that the project be exempted from impact assessment and review, while stressing the importance for the proponent to inform the tallyman concerned of the planned work and to hire Cree workers for certain aspects of the project. The Committee also sensitized the administrator to the fact that the Fenelon "A" property is located in the same watershed as Muskuchii Hills, a natural heritage and spiritual site of considerable value to the Crees that must be taken into account in any future mining plan.

The second project entailed bulk sampling of 300 000 to 400 000 tonnes of rock, of which 20 000 to 40 000 tonnes was destined for assays and milling. The waste rock pile would cover 4 hectares and the ore storage site would be expanded by 0.56 hectares. Like the previous project, this work was part of a feasibility study and the site was to be restored if the deposit proved not to be commercially viable. In accordance with section 157 of the EQA and sub-paragraph 22.5.13 a) of the JBNQA, COMEV recommended that the project be exempted from impact assessment and review. In addition to making the same recommendation regarding the need to inform the tallyman concerned and hire Cree workers, the Committee reminded the administrator of the establishment of the Mineral Exploration Board by the Peace of the Brave. In its recommendation, COMEV also referred to Directive 019 (Mining) of the Ministère de l'Environnement and the proponent's undertaking to take all corrective measures necessary to offset acid mine drainage from its operations.

The Committee further stressed to the administrator that, considering the extent of the work that will have been carried out and the volume of material extracted by the end of this third exploration campaign, any future application from the proponent for this same area would automatically be subject to the environmental and social impact assessment and review procedure.

9. Clearwater project, James Bay – Mechanical stripping of outcroppings, Eastmain Resources Inc.

This mining exploration project was a continuation of two similar projects submitted by SOQUEM inc. that COMEV had recommended be exempted from impact assessment and review in July 2000 and February 2001. This third project, submitted by SOQUEM's partner Eastmain Resources Inc., consisted in a series of 17 strippings (2 m wide x 1 m deep) followed by site rehabilitation. The Committee recommended that the project be exempted from impact assessment and review, while stressing the importance for the proponent to inform the tallymen concerned and to consider hiring Cree workers for certain aspects of the project.



10. Maintenance and change in operation of Weir 9 on Opinaca River, Hydro-Québec

This Hydro-Québec project aimed to carry out maintenance work on Weir 9

so as to once again make it operational and safe (consolidation of crest wall of main inlet and sill of low-water inlet, solidification of gabion structure and closure of safety valves of drainpipes). The proponent also wanted to repair an 11-km-long access road leading to the weir site. The original weir design included drain cocks to dewater this upstream area every six to ten years to ensure maximum expansion of the most productive muskrat and wildfowl habitat. An attestation of exemption had been issued for the project in November 1983; however, the control structure initially approved was not operated in accordance with the authorization conditions: the safety valves were left two-thirds open since 1986, contributing to the weir's degradation from ice jamming in the spring.

After studying the application, COMEV recommended that the project be exempted from impact assessment and review, while stressing the importance for the proponent to

comply with the applicable laws and regulations and to contact the local tallyman to determine whether the wildlife objectives of the structure were being met. At the same time, the Committee stressed that this recommendation did not mean that the proponent should abandon the idea of installing a weir allowing for periodical drawdown.

11. Establishment of an in-trench disposal site at EM-1, Société d'énergie de la Baie James (SEBJ)

The SEBJ applied for authorization to establish and operate an in-trench disposal site that would receive household waste from the Eastmain-1 camp over a six-year period (2003-2009). After studying the project information, COMEV recommended that the project be submitted to the environmental and social impact assessment and review procedure. As the documents received from the proponent were comprehensive enough to be considered an impact statement, the project could be submitted directly to the Review Committee. The SEBJ was asked to explain why expansion of the dry materials disposal site in Nemaska was not considered as an alternative to this project. COMEV also recommended that the proponent consider installing a fence to keep out bears, as suggested by the tallyman (Ernie Moses).

12. Control of stinging insects, Eastmain-1, Nemiscau camp, Société d'énergie de la Baie James (SEBJ)

This project involved biological control of stinging insects around the perimeter of the Nemiscau camp in the James Bay region. The main goal of the project, slated for summer 2003, was to improve the quality of life of people living in the camp by spraying a biological larvicide in a 9-km radius to prevent the proliferation of black flies, and a maximum radius of 2 km to protect against mosquitoes. Satisfied with the information submitted by the proponent and considering that attestations of exemption had been issued for similar

projects previously carried out in the James Bay region, COMEV recommended that the project be exempted from impact assessment and review. In its recommendation, the Committee informed the administrator that it wanted to receive a copy of the project report and that the proponent must give the tallyman concerned advance notice of the spraying schedule.

13. Eastmain-1-A and Rupert diversion project, Société d'énergie de la Baie James (SEBJ)

COMEV received the preliminary information for this project in mid-December 2002. The project includes the following components:

- partial diversion of the Rupert River (maximum of 800 m³/s) into the Eastmain River ("Rupert diversion");
- construction of a power plant (maximum capacity of 770 MW) on the Eastmain-1 reservoir ("Eastmain-1-A powerhouse");
- the addition of structures at the Sarcelle facility, at the outlet of the Opinaca reservoir;
- construction of 4 dams, 51 dikes, 2 tailbays flooding an area of 395 km², 12 000 m of diversion channels or tunnels and 2 access roads.

In accordance with section 158 of the *Environment Quality Act* (EQA), the provincial administrator, Madeleine Paulin, asked the Evaluating Committee to make a recommendation regarding the scope of the environmental and

social impact statement to be prepared by the proponent. The administrator also informed COMEV that an administrative agreement would soon be signed with the Canadian Environmental Assessment Agency (the Agency) and the Cree Regional Authority concerning the environmental assessments of this project. The aim of the agreement was to coordinate the assessment procedures applicable to the project so as to minimize duplication. Among other things, the agreement provided for the following:

- assessment and review of the project:
 - by the Review Committee (COMEX) established pursuant to paragraph 22.6.1 of the JBNQA and section 151 of the *Environment Quality Act* (EQA); and
 - by a review panel established pursuant to section 33 of the *Canadian Environmental Assessment Act* (CEAA);
- that the directives shall be prepared and recommended by the Evaluating Committee. The Committee will work with the Canadian Environmental Assessment Agency to ensure that the directives meet the requirements of the CEAA;
- the establishment of a coordination committee to follow the assessment and review processes, facilitate the coordination of these processes and ensure that information requests from the public are addressed via a public information office;

- participation of the public through consultations on the issues to be addressed in the directives and public hearings on the impacts and issues raised by the impact statement. Public participation is to be facilitated by a participant funding program;
- a shared-cost agreement between MENV and the Agency;
- a schedule for the assessment and review processes.

Draft directives were prepared in early 2003 and the Evaluating Committee began fine-tuning them at the end of March. The COMEV secretariat took care of all of the logistics and needs in relation to the public consultations scheduled for late May and early June 2003.

APPENDIX 8

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

Québec laws

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

Act to amend the Environment Quality Act and other legislative provisions with regard to land protection and rehabilitation (Bill 72, 2002, chapter 11);

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

Act respecting the land regime in the James Bay and New Québec territories (R.S.Q., c. R-13.1);

The Cree Villages and the Naskapi Village Act (c. V-5.1);

Act to amend the Forest Act and other legislative provisions (Bill 136, 2001, c. 6);

Natural Heritage Conservation Act (Bill 129, 2002);

Act to ensure the implementation of the Agreement Respecting a New Relationship Between le Gouvernement du Québec and the Crees of Québec (R.S.Q., c. M-35.1.2)

Federal laws

Cree and Naskapi (of Québec) Act: An Act respecting certain provisions of the James Bay and Northern Quebec Agreement and the Northeastern Quebec Agreement relating principally to Cree and Naskapi local government and to the land regime governing Category 1A and Category 1A-N land (1984, c. 18);

Canadian Environmental Protection Act: An Act respecting pollution prevention and the protection of the environment and human health in order to contribute to sustainable development (1999, c. 33)

Canadian Environmental Assessment Act: An Act to implement the federal environmental assessment process (1992, c. 37)

Québec regulations and other measures

Regulation respecting certain bodies for the protection of the environment and social milieu of the territory of James Bay and Northern Quebec [O.C. 433-79, 14 February 1979, Environment Quality Act (1972, c. 49, s. 124 and 240 a and b)];

Regulation respecting the environmental and social impact assessment and review procedure applicable to the territory of James Bay and Northern Québec [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)];

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

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