



MINUTES OF THE 207th MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

- DATE:** June 12-13, 2018
- LOCATION:** Capissisit Lodge (Oujé-Bougoumou Cree Nation)
- PRESENT:** Jean-Yves Savaria, Canada, Chairman
Annie Déziel, Canada
Jean Picard, Canada
Chantal Otter Tétreault, Cree Nation Government (CNG), Vice-Chairperson
Melissa Saganash, CNG
Kelly LeBlanc, CNG
Marc Dunn, CNG
Maud Ablain, Québec
Mélanie Chabot, Québec
- Michèle Leduc-Lapierre, Executive Director
Graeme Morin, Analyst
- ABSENT:** Caroline Girard, Canada
Manon Cyr, Québec
François Provost, Québec
- GUEST:** Pamela Macleod, Mistissini Cree Nation (first day only)
Adario Masty, Local Environment Administrator, Oujé-Bougoumou Cree Nation (Point #2)
Norman Wapachee, Director, Dept. of Natural Resources, Oujé-Bougoumou Cree Nation (Point #2)

Day 1 – June 12th 2018

1. INTRODUCTION ET ADOPTION OF THE AGENDA

On motion by Chantal Otter Tétreault, seconded by Jean Picard, the agenda (see appendix 1) was adopted. Following the adoption of the agenda, a roundtable was done for participants to introduce themselves.

2. EXCHANGE WITH LOCAL REPRESENTATIVES (ADARIO MASTY AND NORMAN WAPACHEE)

The open exchange with Mr. Masty and Wapachee began with a brief overview of the evolution of the Oujé-Bougoumou Cree Nation's Department of Traditional Pursuits and Department of Natural Resources. The former was originally formed following the signing of the "Paix des Braves" in 2002. At that time, the Department of Traditional Pursuits was created to protect the community's land and Cree culture by ensuring the communication and integration of Cree concerns and mitigation measures in forest planning exercises through consultation with land users and Tallymen (e.g. consideration of elements such as the sites interest identified by the Cree and sites of wildlife interest for the Cree).

The community's Department of Natural Resources was more recently created. Forestry activities fall under its purview, but the department has also been tasked to ensure that other extractive industries such as mineral exploration and mining also consult with the Cree and account for Cree needs and concerns in their respective project planning exercises. Mr. Wapachee mentioned that in some case, this work amounts to sensitizing project proponents to certain elements that they may not necessarily be aware of. Junior exploration companies with less experience in the Territory, for example, may not be immediately aware of the sites of special interest identified by the Cree which the forestry companies are familiar with.

As such, the Department of Natural Resources (DNR) is involved in the planning of operations in the forest management units that affect the traplines around the community (and in the work of the Table de gestion intégrée des ressources et du territoire - TGIRT), is mandated to participate in land use planning initiatives, and also concerns itself with the planning of new mineral development near the community (exploration and mining), as well as the closure and remediation of mine sites. As a rule, the DNR seeks to ensure a balance between development and the protection of Cree rights and of the environment.

Both Mr. Wapachee and Mr. Masty confirmed that upstream consultation and collaboration between the Cree, project proponents and the governments are the foundations for planning out sound development projects that meet the needs of all parties. Communication and a true volition to work together are the 'fundamental avenues' through which community members and proponents can maximize benefits and minimize negative project impacts. Such communication is crucial throughout the lifespan of a project – including closure, restoration and remediation of sites.

At the community level, the presenters mentioned that several issues are priorities: restoration of the Principale Mine and Campbell Mine, planning of the Blackrock Mine, and the maintenance of water quality. They provided some information on the matter:

Principale Mine and Campbell Mine

The community was particularly concerned by the high level of heavy metals around the old mine sites. Concern for water quality was cited as a key concern. A steering committee was thus established by the DNR (with the assistance of the CNG) in order to develop a restoration plan and to ensure its implementation. This committee is ready to move forward in this regard, but the MERN has yet to reciprocate. The presenters thus highlight the need for a real willingness to work together in order to move forward with such files.

Blackrock Mine

The project has changed in recent years as a function of changing metal prices and less capital investment. The project is thus much smaller, but has a longer lifespan. These changes to the project have raised serious concerns regarding land use. The affected traplines will thus be affected by the project for twice as long and it is expected that several moose yards in the area will be heavily impacted. Here again, the presenters point to the need for additional communication and negotiation between the land users, community leadership and the proponent. Here, a follow-up committee was tasked with liaising between the proponent and the community.

In closing, the presenters answered several questions posed by the JBACE members:

- They confirmed that the issue of cumulative effects is of prime importance for the DNR. They noted that many different industries occur in the same area around the community and that non-native land users add another layer to the multiple uses of the land. In their opinion the true ‘functional impact’ of all of these activities must be evaluated in order to get a clear idea of the cumulative effects in the area.
- They stated that Cree community members have expressed their willingness to take on contracts that become available when development projects are established (e.g. cutting brush, site preparation works, camp services, etc.). In many cases, such contracts are awarded to large companies. It will be important that this situation is addressed and that mechanisms are required to allow for contracts between proponents and Cree service providers (either individuals or Cree-operated companies).
- They affirmed that community wishes the Assinica Cree Heritage Park project progresses.
- The DNR wants to setup a symposium on mineral exploration in order to foster a trusting relationship focused on collaboration between proponents, the community, and Cree land users. It is hoped that this symposium will sensitize proponents to the realities and concerns of the Oujé-Bougoumou Cree Nation (including its history of displacements) and that it will also be a forum from which a ‘consultation process’ may be established (unlike the forestry sector, currently, there is no formalized consultation process between exploration proponents and the community).

3. STRATEGIC PLAN

The Analyst presented the current draft of the Strategic Plan that is being updated according to the discussions held during subcommittee meetings, and per the workshop that was also held in Québec in April with the participation of most members. He described the four strategic areas of activities, expected results for each area and actions that will be undertaken to achieve the results. He confirmed that the actions listed in the working document are for the information of the members, and that they won’t appear in the final version of the Strategic Plan. Once the Strategic Plan is completed, an annual Action Plan will be developed. The members then discussed the content of the Strategic Plan as well as the possibility of aligning its years of application according to the 3-year funding cycle of the Ministère du Développement durable, de l’Environnement et de la Lutte contre les changements climatiques (MDDELCC). Potential actions for the implementation of the Strategic Action were also discussed. Once a satisfying draft is prepared by the subcommittee the Analyst will send it to all the JBACE members for their comments and adoption.

Actions:

- The Analyst will finish the modifications to the draft Strategic Plan;
- The Analyst will schedule a subcommittee meeting in the upcoming weeks.

4. GROUP INSURANCE POLICY

The Chairman confirmed that discussion occurred between the JBACE’s Administrative Committee and that of the HFTCC to talk about the cost of this program. It was decided that more information is necessary, particularly regarding the cost breakdown and dental coverage. The Analyst sent a new request to the insurance broker for a quote regarding the dental coverage and will forward this to the Chairman upon receipt.

5. ANNUAL REPORT

A draft has been prepared by the Executive Director. Although the June 30th deadline for submission of the document is not feasible given the current workload, efforts will be made to prepare the document as quickly as possible. The format used was the same than previous years in order to speed up its preparation, but it will be re-evaluated for next year.

Participants discussed a few possibilities to reduce the production cost and time. For example, it could be possible not to send hard copies not to everyone and send electronic copies instead. It could also be possible not to use a graphic designer and do the design ourselves. Translation was also discussed. Currently, the whole report is translated in Cree, which may not be necessary in the future if we decide to add a sufficiently detailed executive summary at the beginning of the report.

Decisions that were taken after discussion:

- Add an executive summary;
- Translate the chairperson's message, the introduction and the executive summary into Cree;
- Seek out cheaper proposals for graphic design;
- Instead of printing the same number of copies as was done in previous years, only send hardcopies to the small number of recipients that must receive printed copies; email the report to the other recipients and ask them to confirm if they would like a hard copy (number and in which language).

Actions:

- The Executive Director will add an executive summary and send the draft to members;
- The Executive Director will coordinate the production of the revised map;
- The previous Chairperson will send the Chairperson's message and a picture to the Executive Director;
- Members will send their comments to the Executive Director;
- The Secretariat will work with a graphic designer for the design of the report;
- The Secretariat will have the introduction and the summary translated in Cree.

6. DISCUSSION ON STEPS MADE REGARDING HUMAN RESOURCE.

This item is discussed in closed session between members. Members adopted resolution #2018-06-10-01 (see appendix 2) regarding the wage structure for employees of the Secretariat.

Day 2 – June 13th 2018

7. ADOPTION OF RESOLUTIONS REGARDING ADMINISTRATIVE FILES

Members adopted resolution #2018-06-11-01 (see appendix 3) authorizing the Executive Director to sign checks and other bank items, on a motion by Melissa Saganash and seconded by Jean Picard.

Members also adopted resolution #2018-03-31-01 (see appendix 4) authorizing the Secretariat Officer to close the bank account with the Banque Laurentienne by July 31st 2018, on a motion by Jean-Yves Savaria and seconded by Maud Ablain.

8. FOLLOW-UP ON FILES

a. Regulations for the implementation of the revised *Environment Quality Act (EQA)*

The Analyst summarized the actions undertaken by the JBACE recently regarding this file, namely the posting of two letters (October 2017 and April 2018). In sum, the JBACE has forwarded its comments and recommendations regarding the draft regulations on time. The Committee is now waiting for the publication of the last regulation which will cover strategic environmental assessment (SEA), and the Secretariat staff will go through the Gazette officielle du Québec on a daily basis to ensure that its publication is not overlooked.

The Analyst also described the evolution of the JBACE's reflections and concerns regarding SEAs, as well as the overall content of the Committee's most recent brief on the matter in relation to Bill 102 for the revision of the EQA (prepared in November 2016). He reiterated that the Cree party does not share the position of the JBACE – from that outlined in the JBACE's brief on Bill 102 – and that this matter must be discussed by the relevant subcommittee in order to develop a common position and message in time for the anticipated publication of the afore-mentioned draft regulation on SEA. A member mentioned that there has been an evolution regarding SEA since 2016, and recommended that the JBACE should commence work on this subject prior to the publication of the regulation. As such, it was suggested that the Secretariat contact the MDDELCC representative responsible for the regulation to invite him (or her) to provide a presentation to the members and to exchange with JBACE during the next meeting in September. The Québec-appointed members confirmed that they would facilitate the required correspondence for this invitation.

Actions:

- The Analyst will prepare a package summarizing our past work on this topic and share with members (format to be determined according to the volume of documents);
- The Secretariat will plan for a presentation on the draft regulation on SEA during the next meeting.

b. **Bill C-68 – An Act to amend the Fisheries Act and preparation concerning 1) drafting of a Designated Project List, and 2) Codes of Practice**

The Analyst summarized the status of the file. The JBACE's work regarding the bill is complete. But, the Committee is standing by given that there is no specific timeline for the drafting of the Designated Project List and Codes of Practice. The Chairman mentioned that both items will be published fairly quickly once the bill receives the royal assent (the coming months). The Designated Project List will outline the projects requiring permits (not authorizations) under a new permitting system. Additional clarifications will also be forthcoming. Regarding the Codes of Practice, they will likely be similar to the operational statements which were in effect before the 2012 revision of the Fisheries Act, but will be more regulatory in nature as opposed to a listing of encouraged best practices. Both the Designated Project List and Codes of Practice will be open for consultation and JBACE commentary. The Secretariat staff will go through the Gazette du Canada to ensure that their publication is not overlooked.

c. **Bill C-69 – An Act to enact the Impact Assessment Act and consultations concerning 1) revision of the Designated Project List, and 2) information requirements and time management regulations**

The Analyst summarized the status of the file. The JBACE's work regarding the bill is complete. The JBACE just recently commented on the proposed approach for the revision of the *Regulations Designating Physical Activities* (commonly referred to as the 'Designated Project List' or 'Project List'). The JBACE did not comment on information requirements and time management regulations. The amendments to the *Regulations Designating*

Physical Activities and to the information requirements and time management regulations will be open for commentary before they are published in the Canada Gazette. It will be important that the JBACE keep abreast of each comment period and intervene as required. It is expected that these exercises will begin in the coming months once Bill C-69 receives royal assent.

It will be important that the JBACE determine how the new *Impact Assessment Act* and its related regulations will the law will operate and be applied in regions such as the Territory; particularly, in the case of projects already subject to the Section 22 assessment and review procedure.

d. Review of tactical integrated forest management plans (PAFIT) for 2018-2023 and JBACE work regarding Woodland Caribou

A letter was sent recently to the MFFP in April to say that the JBACE would only review and comment on the upgraded new generation of PAFITs, that will be available end of 2018 or early 2019. Given that the deposition of these PAFITs is fast approaching, the Analyst confirms that this file requires attention. He reiterates that the Committee has already identified its parameters for the review, which have also been sent to the MFFP, but that a request for proposals that includes these parameters needs to be drafted in order to solicit quotes from firms to undertake the review.

Two subcommittees (the one forestry and the other on Woodland Caribou) will work jointly on this topic due to cross-cutting issues and concerns (e.g. the JBACE's parameters for its review of the PAFITs include considerations for the conservation of wildlife species – including Woodland Caribou and species of interest for the Cree – as well as continued access to these resources). Members of both subcommittees will be convened to a meeting in upcoming weeks.

In the case of Woodland Caribou, participants discussed the expert report that was commissioned by the JBACE and delivered last December. The Analyst also proposed that the JBACE may be approaching the limits of its mandate regarding the species and that it may be time for the JBACE to approach the HFTCC to take over the file given that committee's mandate. This issue will be discussed by the two subcommittees.

Members talked about the necessity to translate the expert's report (as well as all JBACE documents) and its distribution outside of the committee. The complete report will be translated. But, in the future, the Secretariat should include requests for detailed executive summaries for such technical reports, and then only translate this summary or parts thereof that are most relevant for the Crees.

Decisions:

- Send the expert's Woodland Caribou Report to the JBACE's primary translator;
- Keep the expert's report internal as a reference document, but allow parts to be published if necessary.

Actions:

- The Analyst will have the experts report translated into English;
- The Analyst will contact members of the forest and the caribou subcommittees shortly and schedule a meeting (ideally in person).

e. JBACE guide on public participation for proponents

The Analyst must now complete the modifications suggested by the subcommittee and outside collaborators and have the document translated. He will then send the document to the members for approval. Once adopted, it will become a document that the JBACE will use as a reference when consulted about similar issues. A distribution list was sent to members in February and it might be necessary to revise it.

Actions:

- The Analyst will complete revisions;
- The Analyst will have the document translated and send both drafts to members for adoption;
- Members will review the document and the distribution list.

f. Study on cumulative effects (best practices for regional assessments)

The Analyst confirmed that there is a lot of interest for this topic and that the Committee should capitalize on the momentum generated by the workshop and the publication of the JBACE's report on the matter in 2016. The new study has already been integrated in the new Strategic Plan 2018-2023 (work in progress) and that the current budget already includes funding for the study (report and workshop) to be undertaken by an expert. Members discussed the extent of the JBACE's work on the topic, emphasizing the fact that it should focus on practical improvements and recommendations. It should not be overly theoretical, but should seek to provide practitioners with tangible suggestions and avenues for the assessment and mitigation of cumulative effects that account for the unique contexts of the James Bay Territory.

Discussions included suggestions that the subcommittee should look into the possibility of designing a study that accounts for certain specific issues that may be unique to the Territory, or to sub-divide the Territory into specific eco-districts and then evaluate the possibility of undertaking cumulative effects assessments at the landscape-level of these eco-districts coupled with an investigation into the development of potential thresholds for these districts. The members also talked about the importance of land use planning, and of collaboration between stakeholders, from governments but also from other regional groups, in effective cumulative effects assessment. The subcommittee will need to thoroughly hash out the objectives and intended deliverables of this work in order to properly define the terms of reference for this study.

Action:

- The Analyst will convene a subcommittee meeting to discuss next steps.

g. Follow-up on Ouranos' climate change report (translation, dissemination of results, and drafting of plain-language deliverables)

The Analyst presented the status of the file. The translation of the report is well underway (only a few figures and tables remain to be translated). Both versions of the report will be sent to members and to ECCC once this is complete. In the next weeks, a subcommittee meeting will be scheduled in order to start talking about next steps and dissemination of the report; namely, on how to share the information with stakeholders, and on potential 'spin-off' deliverables (e.g. poster, fact sheets, and presentations).

COFEX-South and COMEX are interested in collaborating with the JBACE on how to account for climate changes in environmental assessments and reviews. The subcommittee will discuss the possibility of sharing the Ouranos report with the Section 22 evaluating and review bodies, as well as the possibility of such a collaboration.

A member provided insights on a project funded by ECCC with the involvement of the Cree Nation of Mistissini regarding adaptations to climate change in the community. This project may be of interest to the JBACE and the project report and an associated video the Secretariat staff for circulation to the members. A second project is on its way with the collaboration of the Cree nation of Waskaganish and that another one will take place in Whapmagoostui. The Cree Nation Government (CNG) is planning a regional forum on adaptations to climate change later this year, where participants from each community will be invited to discuss to help CNG in orienting its actions in this area. The JBACE will have more information when available.

Actions:

- The Secretariat will finalize the translation of the report;
- The Secretariat will schedule a subcommittee meeting to talk about next steps.

9. VARIA

a. Analyst's participation on the Steering Committee for the drafting of a regional climate portrait to support impact analysis and adaptation to climate change in the Eeyou Istchee James Bay Territory (MTMDET project)

The Analyst reiterated his role as an observer and information provider in this project. He said that he is waiting for the project manager to contact him. There has not been any movement in this file since March.

b. Draft *Regulation on compensation for adverse effects on wetlands and bodies of water* (deadline for comments is July 6th 2018)

The Analyst informed the members of the MDDELCC'S invitation to comment on the draft regulation. He confirmed that the said draft regulation will not apply to the James Bay Territory, given that it has been devised for southern Québec. However, given that the draft regulation's enabling statute applies province-wide, the issue of compensation may still be relevant to development projects in northern regions. The Analyst will thus prepare an information note and send it to members who will then make a decision regarding next steps.

Actions:

- The Analyst will analyze the regulation and send an information note to members;
- Members will decide if the JBACE will pursue the matter or not.

c. Invitation from the MERN to comment on a draft best-practice guide for proponents on public participation and monitoring committees (deadline for comments is June 29th 2018)

The Analyst explained that this was the most urgent file given its deadline. He confirms that the JBACE has already commented the guide last year and the main comment was that there was no discussion or information in it regarding the James Bay Territory. The new guide will replace the one that has been commented on last year and he will need to analyze it to see if last year's comments have been taken into consideration. Because of the short period of time left before the deadline, we draft a letter immediately and that the letter should reflect the fact that our previous comments have been considered or not. In so doing, the JBACE's comments can be generated quickly without the need for convening a new subcommittee.

Actions:

- The Analyst will review the guide and see if there are differences with the previous version that was already commented on;
- The Analyst will draft a letter adapted to the content of the guide.

d. Possibility of participating in the MFFP's consultation on drafting a *National Strategy on wood production* (deadline for comments is August 6th 2018)

The Analyst said that this was somewhat outside of our mandate and recommended not to comment. Other committees, like the Cree-Québec Forestry Board, would be more appropriate. The members agreed with this course of action.

Action:

- The Analyst will contact the MFFP to confirm that the JBACE will not comment on the strategy, and that other groups may be more appropriate than us.

e. Possibility of a presentation from ECCC-CWS on the listing of migratory caribou in the list of species at risk per the *Species at Risk Act*

It came to the Analyst's attention that Mark Mills, from ECCC-Canadian Wildlife Service (CWS), would be in a position to provide the JBACE with a presentation regarding the listing of migratory caribou on Appendix 1 of the *Species at Risk Act* as being 'endangered'. ECCC-CWS is holding a consultation on the need for such a listing which will entail changing the status of the species under the Act in order to increase its protection. This increased protection could involve certain prohibitions and restrictions on land users.

Historically, the JBACE has not been involved in issues related to migratory caribou. And, because the matter may be more relevant for the HTFCC than the JBACE, the members suggested that the Analyst provide an information-note on whether or not such a presentation would be worthwhile during the JBACE's next meeting.

Action:

- The Analyst will get a copy of the presentation and send an information note to members;
- Members will decide if they want a presentation or not.

f. Possibility of a presentation by ECCC on the Federal Contaminated Sites Action Plan

It came to the Analyst's attention that Benjamin Shaer, from ECCC, would be in a position to provide the JBACE with a presentation regarding the above-mentioned program. This federal program aims at assessing and remediating contaminated sites under federal control – including those that in the James Bay Territory.

Given that the clean-up of contaminated and abandoned project sites has been an important issue for the JBACE for many years, but that most of such sites in the Territory are not under federal control, the members suggested that the Analyst provide an information-note on whether or not such a presentation would be worthwhile during the JBACE's next meeting.

Actions:

- The Analyst will setup a list of contaminated sites on the Territory under federal responsibility;
- The Analyst will use the above list and a copy of the presentation on the program to produce an information note for the members;
- Members will decide if they want a presentation or not.

g. Possibility of creating an outreach subcommittee

The Executive Director asked members if they would be interested in creating a subcommittee that would prepare a communication strategy or if they would rather review the material as it is developed. Members decided that the Executive Director should prepare a communication plan that will be discussed by the Administrative Committee and that the preparation of specific outreach material will be reviewed when necessary.

Action:

- The Executive Director will prepare a communication plan and discuss it with the Administrative Committee.

10. NEXT MEETING

The members decided that the next meeting would be held in September in Québec, during the weeks of September 17th or 24th. A Doodle will be sent to identify the best dates.

Actions:

- The Executive Director will send a Doodle to see availabilities during the weeks of September 17th and 24th;
- The Executive Director will start looking at potential venues for the meeting in Québec

Michèle Leduc-Lapierre

Executive Director

Adopted on September 26th 2018 with modifications

Finalized on October 18th 2018