



MINUTES OF THE 193rd MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

(ADOPTED)

- DATE:** June 9 and 10, 2015
- PLACE:** Room 1551, Aboriginal Affairs and Northern Development Canada offices
25 rue Eddy, Gatineau
- PRESENT:** François Boulanger, Canada
Pascale Labbé, Québec (by phone)
Ginette Lajoie, Cree Nation Government (CNG)
Jean-Pierre Laniel, Québec
Chantal Otter Tétreault, CNG, Vice-Chairperson
Jean Picard, Canada
Melissa Saganash, CNG, Chairperson
Monique Lucie Sauriol, Canada

Marc Jetten, Executive Secretary
Graeme Morin, Environmental Analyst
- ABSENT:** Line Choinière, Canada
Manon Cyr, Québec
Guy Héту, Québec
John Paul Murdoch, CNG
Rodney Mark, ex-officio member, Hunting, Fishing and Trapping Coordinating
Committee (HFTCC)
- GUESTS:**
- For item 4:** Ron Hallman, Federal Administrator of the procedure under Section 22 of the James
Bay and Northern Québec Agreement,
President of the Canadian Environmental Assessment Agency
Heather Smith, Vice-President, Operations,
Canadian Environmental Assessment Agency
- For item 8:** Étienne Gilbert, Senior Analyst, Consultation and Accommodation Unit,
Aboriginal Affairs and Northern Development Canada (AANDC)
- OBSERVERS:** Natalie Neville, Director, Treaty Management East, Implementation Branch,
AANDC (for Item 4)
Mila Milankovic, intern, AANDC

1. ADOPTION OF THE AGENDA

On motion by Chantal Otter Tétreault, seconded by Jean-Pierre Laniel, the agenda was adopted as amended.

2. ADOPTION OF THE MINUTES OF THE 192ND MEETING (APRIL 7, 2015)

On motion by Ginette Lajoie, seconded by Jean-Pierre Laniel, the minutes of the 192nd meeting (April 7, 2015) were adopted as amended.

3. PRIORITIES FOR 2015-2017

a. *Reflection on strategic environmental assessment*

The JBACE invited three experts in strategic environmental assessment (SEA) to initiate the reflection process during a workshop to be held in Montréal on July 8, 2015. The members suggested commencing the workshop in the morning to have sufficient time to discuss the relevance of SEA for northern development.

b. *Study of cumulative effects*

The JBACE, working with an expert in cumulative effects, wants to develop an approach tailored to the James Bay Territory. The priorities subcommittee will hold a conference call with the prospective researcher to discuss the terms of the collaboration.

A member suggested working with the Institut nordique du Québec and the Canadian Environmental Assessment Agency (the Agency) as needed.

c. *Approach for reviewing forest development plans*

The members are of the view that the JBACE needs to think about the approach it's going to take in reviewing integrated forest development plans once the Québec government and the Crees have reached an agreement on harmonization of Québec's new forest regime and the adapted forestry regime under the Agreement Concerning a New Relationship Between Québec and the Crees (ANRQC). They suggested bringing together forestry experts at a workshop to identify possible avenues the JBACE could take. A member pointed out that the mandate of the Cree-Québec Forestry Board and its possible revision must also be taken into account.

4. MEETING WITH RON HALLMAN, FEDERAL ADMINISTRATOR, AND HEATHER SMITH, VICE-PRESIDENT, OPERATIONS, CANADIAN ENVIRONMENTAL ASSESSMENT AGENCY

The Chairperson explained the JBACE's mandate and, in particular, its role as advisory body to the governments concerning the implementation of the environmental and social protection regime under Section 22 of the James Bay and Northern Québec Agreement (JBNQA). She stressed the importance of meeting with government representatives, especially the administrators of the Section 22 assessment and review procedure.

a. *JBACE priorities for 2015-2017*

A member presented the JBACE's priorities for the next two years. To begin with, the Committee wants to examine the advisability of promoting strategic environmental assessment (SEA) of northern development. In

2010, the JBACE released a scoping document for SEA of the transportation sector in the James Bay Territory, but got no feedback from the Québec government.

As regards cumulative effects, the JBACE wants to examine how they are taken into account in directives and impact statements for projects subject to the Section 22 procedure, and compare these practices with those of other Canadian jurisdictions that involve Aboriginal communities.

The member also raised the question of access to data from impact and monitoring studies for major projects in the Territory. Currently, these data are not public. However, there is a serious lack of background data for the James Bay Territory. According to the same member, the Agency has been a forerunner with its online Canadian Environmental Assessment Registry of projects and related information. The Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques (MDDELCC) plans to create its own online registry of projects subject to the provincial procedure under Section 22 of the JBNQA. Once these data have been released, the challenge will be to organize them so as to be helpful to project promoters, researchers and communities within the Territory.

Lastly, the JBACE intends to revisit its approach to reviewing forest development plans to take into account the new terms under the Agreement on Governance in the Eeyou Istchee James Bay Territory. The Committee would like to determine what approach would add value to the work done by the bodies established by the Agreement Concerning a New Relationship Between Québec and the Crees (ANRQC).

b. *Modernization of the Section 22 impact assessment and review procedure*

The JBACE analyst presented the work on public participation. In 2008, the Committee reported on the shortcomings in the public participation process. It set up a subcommittee composed of JBACE members, representatives of the signatory parties, and researchers. The JBACE submitted a recommendation report in May 2015, including a recommendation to improve transparency and access to information in order to foster public participation. The Committee also recommended developing a strategy for raising public awareness about the assessment and review process. Establishing a participant funding program to facilitate and support public participation in the Section 22 procedure would be an asset.

For major projects, the JBACE recommended making the directives for impact statements available to the public and holding consultations at this stage. Mr. Hallman wanted to know about the current publication restrictions. A member explained that the process is complicated, in particular because statutory requirements must be met before information can be disseminated. Mr. Hallman asked if the issue of addressing fixed timelines was considered. The analyst replied that the issue was not investigated given the need to maintain a degree of flexibility when planning project assessments and reviews, as well as any attendant public participation activities.

In 2008, the JBACE submitted a report containing recommendations for the review of schedules 1 and 2 of Section 22, i.e. the lists of development projects automatically subject to and exempt from impact assessment. The recommendations drew on the principle of transparency and the existing framework. However, the JBACE had to defer its examination of mineral exploration projects: more time was needed owing to the complexity of these projects. In 2012, a subcommittee relaunched the work by examining the added value gained by subjecting or exempting exploration projects to/from impact assessment. The subcommittee formulated draft recommendations and submitted them to the evaluating and review bodies at a workshop it held. In its final report, the JBACE did not recommend automatically subjecting any mineral exploration projects to impact assessment. The existing regulatory framework allows for the exemption of most projects, based on the type and exemption threshold.

Heather Smith said that the Agency's policy working group is currently studying the JBACE reports. According to Mr. Hallman, the Agency is still interested in learning more about shared processes such as the JBNQA

procedure. The Agency is also working to improve transparency, among other ways by holding a consultation on the authorization conditions for projects subject to the process under the *Canadian Environment Assessment Act* (CEAA). Ms. Smith thinks it is important to give the public access to data to facilitate participation and research. To that end, the Agency has digitized reports dating as far back as the 1970s to facilitate public access.

Ms. Smith and Mr. Hallman both agree that a centralized, all-inclusive registry is an important tool for disseminating information. This kind of registry can also be a means for public commentary in some cases. They also agreed on the need to create and maintain links between public databases and registries.

However, increased public dissemination of information demands careful consideration of *what* information can be disseminated, in what *form*, and under whose *stewardship*. For that purpose, the Agency intends to initiate discussions with potential repositories that could manage the data they have and are in the process of digitizing.

c. *Presentation by the Canadian Environmental Assessment Agency on implementation of the Canadian Environmental Assessment Act (CEAA), as amended in 2012*

The various intergovernmental coordination mechanisms provided for in the CEAA were outlined. For example, projects that undergo a joint environmental assessment or a provincial process can substitute for the federal process. A provincial environmental assessment can substitute for the federal process provided it meets the requirements of the CEAA. Mr. Hallman cited the example of the memorandum of understanding signed with British Columbia, which facilitated negotiations for granting substitution of the B.C. environment assessment process for the federal process.

Heather Smith explained that the regulation setting out the information proponents must include in a project description is very clear. The clarity and precision of the project description facilitate consultations and make it easier to decide whether a project should undergo environment assessment.

With regard to public participation, Ms. Smith mentioned that holding public consultations during the screening process and preparation of directives helps the Agency by “refocusing” the subsequent environmental assessment on issues of primary concern to the public. Ms. Smith explained that the Agency employs various strategies, including the Web, local media and community centres, to disseminate project-related information. The Agency is making an effort to meet the needs of the communities concerned. For example, a film was made in an Inuit community to raise the community’s awareness about the environmental assessment process. However, Ms. Smith explained that an assessment process tailored to one community might not be suitable for another community. It’s a matter of opening the “black box” of government decisions and demonstrating transparency.

According to Mr. Hallman, when the Agency decided to hold consultations on authorization conditions, it was realized to what extent the publics’ comments could enhance the environmental assessment process. Mr. Hallman specified that the Agency can adjust the process through regulatory amendments only, as no review of the CEAA is planned in the short term.

The JBACE Chairperson thanked Ms. Smith and Mr. Hallman and stressed the JBACE’s interest in the substitution mechanism provided for in the CEAA, in particular substitution of the federal process by the Section 22 assessment and review procedure.

5. ADMINISTRATION

a. *Adoption of financial statements for fiscal 2014-2015*

On motion by François Boulanger, seconded by Jean-Pierre Laniel, the 2014-2015 Financial Statements were adopted as presented.

b. *Adoption of Annual Report 2014-2015*

The members suggested a number of changes to the annual report for fiscal 2014-2015. On motion by Ginette Lajoie, seconded by Pascale Labbé, Annual Report 2014-2015 was adopted pending verifications.

c. *Review of the Administrative Committee's mandate*

Members of the Administrative Committee (AC) outlined their reasons for proposing a review of the AC's mandate. The aim is to better reflect the workload involved. The secretary pointed out that, at the very least, the AC's mandate needs to be updated, as it dates to 2002.

In light of the AC's new composition, the members asked the AC to postpone the review of its mandate until later this year.

d. *JBACE funding for fiscal 2015-2016*

Members informed the JBACE that the federal and Québec governments are in discussions about the amount of funding to be granted to the JBACE for fiscal 2015-2016.

6. APPROVAL OF THE GUIDANCE DOCUMENT FOR PROPONENTS IN THE SELF-ASSESSMENT PROCESS UNDER THE FISHERIES ACT

The analyst reminded the members that, in August, the JBACE sent its recommendation regarding an information exchange program in the context of the self-assessment process proponents must carry out under the *Fisheries Act*. Fisheries and Oceans Canada acknowledged receipt of the recommendation and proposed changes to reflect the context in which the *Fisheries Act* is applied. The subcommittee has prepared a guidance document for proponents of projects near water explaining the ways and means of the information exchange program.

On motion by Chantal Otter Tétreault, seconded by François Boulanger, the guidance document was approved as amended.

7. FILE UPDATE

a. *Secondary objectives of the priorities for 2015-2017*

- i. Strengthen the capacity of the evaluating and review committees

The JBACE will write to the Section 22 evaluating and review committees to present its objectives regarding resources and conditions for ensuring public participation.

ii. Collaboration with research centres

The JBACE secretary attended the Information and Discussion Forum organized by the Institut nordique du Québec. The members wondered what kind of relationship the JBACE could forge with the INQ and research centres. For example, researchers might be interested in the literature review of Cree environmental and social concerns, published by the JBACE in 2014. A member pointed out that the JBACE first has to validate the results of the literature review with Cree bodies.

A member said that since the Cree Nation Government has a seat on the board of directors of the INQ, the Crees can express their research priorities and concerns there. Once the Institute has initiated its activities, the JBACE will want to talk to it about its priorities for 2015-2017.

iii. Information on mineral exploration activities

In follow-up to the Committee's report on mineral exploration, the JBACE analyst is preparing user-friendly fact sheets presenting the different types of exploration.

iv. EIJBRG, CNG and land use planning

The JBACE plans to invite representatives of the Eeyou Istchee James Bay Regional Government and Cree Nation Government to its next meeting in the Territory to discuss the JBACE's mandate within the context of the Agreement on Governance.

v. Reflection on the collaboration between the BAPE and JBACE commissions on uranium industry issues

The members agreed that the resource person for the JBACE commission should also participate in the post-mortem: the BAPE commission is to hold a meeting in July and the JBACE hopes to hold a workshop to discuss the lessons learned with a view to future collaboration with BAPE or other bodies.

b. *Reform of the authorization system under the Environment Quality Act (EQA)*

In follow-up to the advance consultation held in April, the Minister of Sustainable Development, the Environment and the Fight Against Climate Change is supposed to table a Green Paper on the proposed reforms to the authorization system under the EQA. The JBACE hopes to examine the proposals for avoiding duplication, in particular between Section 22 of the JBNQA and Chapter I of the EQA, and integrating strategic environmental assessment.

8. PRESENTATION BY ÉTIENNE GILBERT, OF AANDC, ON THE ABORIGINAL AND TREATY RIGHTS INFORMATION SYSTEM

Étienne Gilbert explained that the Aboriginal and Treaty Rights Information System (ATRIS) was originally created to assist federal departments in determining and fulfilling their consultation obligations with Aboriginal communities. Federal officials eventually decided to open the Web-based, geographic information system to other governments, project proponents and the public. ATRIS displays information on comprehensive and specific Aboriginal claims in Canada as well as Aboriginal and treaty rights.

As ATRIS includes information from a range of sources, including provincial governments, it is an evolving system and is updated as new information becomes available. AANDC invites users to share their feedback. For example, the ATRIS team corrected information regarding the James Bay Territory after presenting the system to JBACE staff and a Committee member the first time, on May 6, 2015. In reply to a suggestion to create a separate registry for the Crees, Mr. Gilbert said the connections between the information and limits of the system make it impossible to isolate information related to the JBNQA. A member suggested adding trapline boundaries, including traplines outside the JBNQA territory. Mr. Gilbert said he would contact the Cree Nation Government to obtain the relevant information.

Mr. Gilbert said that ATRIS will be improved as new information becomes available. For example, AANDC does not yet have access to information stemming from the ANRQC. A member told him that the Cree-Naskapi land registry is the most comprehensive land rights database to date for these two nations. A member mentioned the online webinars that provide training on how to use ATRIS.

9. MÉRN DISCUSSION PANELS ON SOCIAL ACCEPTABILITY

In early May, the Ministère de l'Énergie et des Ressources naturelles (MÉRN) announced that it would be holding discussion panels on social acceptability of public land and resource development projects, in five cities across Québec. The JBACE wrote to the Minister recommending that a discussion panel be held in the James Bay Territory given the degree of resource extraction and community interest. Although MÉRN said that discussion panels could be held in other regions as well, there has been no response to the JBACE's request as yet.

The secretary will contact the Kativik Environmental Advisory Committee to see if it plans on making a similar request.

10. OTHER BUSINESS

- a.** *Draft Regulation respecting the sustainable development of forests in the domain of the State*

The Ministère des Forêts, de la Faune et des Parcs (MFFP) deferred the entry into force of the regulation until April 2016 due, in particular, to concerns regarding the lack of an agreement between Québec and the Crees on harmonization of the new provincial forest regime and the adapted regime under the ANRQC.

- b.** *MFFP response to the JBACE's position on integrated forest development plans*

The JBACE wrote to the Minister of Forests, Wildlife and Parks in March 2015 saying that it would not review integrated forest development plans (IFDPs) until an agreement had been reached between Québec and the Crees on the forest management regime under the Agreement on Governance in the Eeyou Istchee James Bay Territory. The MFFP's associate deputy minister of regional operations replied that the JBACE's decision not to comment on IFDPs was duly noted, but did not acknowledge that this was a temporary decision. The JBACE will write to the MFFP again to get more information.

- c.** *Characterization study of the Cape Jones (Pointe Louis XIV) contaminated site*

A member explained that, the week before, the MDDELCC had issued a call for tenders for a characterization study of the Cape Jones site. The work is to be carried out this coming August and will include archaeological digs. The Crees will be kept abreast of developments, particularly in Chisasibi. Since the site is located on land set aside for the proposed "Lac Burton-Rivière Roggan-Pointe Louis XIV" protected area, authorization must be obtained from the Service des aires protégées (MDDELCC) before any work can begin.

d. *Press review*

The members would like the secretary to modify his weekly press reviews so that they contribute to the “legislative watch,” i.e. that he identify government measures that could be examined by the JBACE.

e. *Website*

The members discussed how the new website could increase the visibility of the JBACE. A Twitter feed will be added to the site.

The secretary will notify the members, prior to meetings, once all of the documents have been posted in the “Members only” section of the website.

f. *JBNQA online*

A member said that she had checked and it is prohibited to post a version of the JBNQA obtained through a Publications du Québec subscription online. However, organizations may digitize their own copy and post it on their website.

g. *40th anniversary of the signing of the James Bay and Northern Québec Agreement*

The members will check with their respective bodies to see if any activities are planned to underline the 40th anniversary of the signing of the JBNQA.

h. *Retirement of Nicole Gougeon of the Hunting, Fishing and Trapping Coordinating Committee (HFTCC)*

Given the close ties between the JBACE and HFTCC, the members approved a motion to acknowledge the work done by Nicole Gougeon during her tenure as secretary-treasurer of the HFTCC for over 20 years. The members want to wish her a happy retirement.

11. NEXT MEETING

The JBACE will hold its next meeting on September 22 and 23, 2015, in Oujé-Bougoumou (September 21 will be a travel day).

The members accepted OURANOS’s offer to give a presentation on the climate change program and the research project on the incorporation of climate change and health determinants into environmental assessments and the authorization process.

The members also hope to meet with representatives of the Eeyou Istchee James Bay Regional Government and the Cree Nation Government to get their views on the implementation of the Agreement on Governance.



Marc Jetten
Executive Secretary
October 15, 2015