



MINUTES OF THE 200th MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

(ADOPTED)

- DATE:** February 7 and 8, 2017
- PLACE:** Conference room at the Waastooskuun Inn, Chisasibi
- PRESENT:** Manon Cyr, Québec
Annie Déziel, Canada
Pascale Labbé, Québec, Chairperson
Ginette Lajoie, Cree Nation Government (CNG)
Chantal Otter Tétreault, CNG
Jean Picard, Canada, Vice-Chairperson
Melissa Saganash, CNG
Jean-Yves Savaria, Canada
Mélanie Veilleux-Nolin, Québec

Marc Jetten, Executive Secretary
Graeme Morin, Environmental Analyst
- ABSENT:** Andy Baribeau, CNG
François Provost, Québec
Yvon Boilard, ex-officio member, Hunting, Fishing and Trapping Coordinating Committee (HFTCC)
- GUESTS:**
- For Item 2:** Robert Kanatewat, signatory to the James Bay and Northern Québec Agreement (JBNQA)
- For Item 3:** George Lameboy, Cree Research Centre in Chisasibi (CRCC)
Chelsea Thiessen, CRCC
Pahren Tangye, CRCC
- For Item 4 (by phone):** Lorie Cummings, Head, Regulatory Development and Analysis, Environment and Climate Change Canada (ECCC)
Sylvie Richard, Manager, Environmental Effects Monitoring, Forest Products and Fisheries Act, ECCC
Albert Thibodeau, Engineer, Environmental Protection Branch, ECCC
- For Item 5:** Johanne Lacasse, Director General, Eeyou Istchee James Bay Regional Government
John Paul Murdoch, Corporate Secretary, Cree Nation Government

1. ADOPTION OF THE AGENDA

On motion by Annie Déziel, seconded by Chantal Otter Tétreault, the agenda was adopted as amended.

2. ADDRESS BY ROBERT KANATEWAT ON THE CONTEXT OF THE SIGNING AND IMPLEMENTATION OF THE JAMES BAY AND NORTHERN QUÉBEC AGREEMENT

Mr. Kanatewat explained the context of the signing and implementation of the JBNQA in 1975 (see Appendix 1 for a summary).

3. PRESENTATION ON THE CREE RESEARCH CENTRE IN CHISASIBI

George Lameboy and Chelsea Thiessen explained the objectives of the research centre currently being created (see Appendix 2 for a summary).

4. PRESENTATION ON THE PROPOSED AMENDMENTS TO THE METAL MINING EFFLUENT REGULATIONS

Lorie Cummings of Environment and Climate Change Canada explained the proposed amendments to the *Metal Mining Effluent Regulations* (see Appendix 3 for a summary).

5. PRESENTATION ON LAND USE PLANNING BY THE EYYOU ISTCHEE JAMES BAY GOVERNMENT

Johanne Lacasse, Director General of the Eeyou Istchee James Bay Regional Government (EIJBRG), explained the land use planning process as well as a request made to the JBACE by the EIJBRG (see Appendix 4 for a summary).

6. ADOPTION OF THE MINUTES OF THE 199TH MEETING (DECEMBER 1, 2016)

The members proposed several changes to the draft minutes of the December 1, 2016 meeting. The secretary will incorporate the changes and send the revised version to the members for adoption by email.

7. PRIORITIES FOR 2015-2017

- a. *Strategic environmental assessment and Bill 102 modernizing the authorization scheme under the Environment Quality Act*

The JBACE submitted its brief on Bill 102 to the National Assembly Committee on Transportation and the Environment (CTE) in November 2016. Since the end of the hearings, the CTE members have been going over each section of the bill, making amendments as needed. It is not yet known whether the CTE will follow the JBACE's recommendations regarding strategic environmental assessment of strategies, policies, plans and programs as well as changes to the authorization scheme. A member asked about the recourses available to the JBACE if its recommendations are not followed.

- b. *Cumulative effects assessment*

The subcommittee will go over the reports recently received from the Canadian Council of Ministers of the Environment concerning cumulative effects assessment (CEA) practices in Canada. The reports

should guide the next stage, which consists in identifying, with an expert's help, a regional CEA model.

8. FEDERAL CONSULTATIONS

a. *Review of federal environmental assessment processes*

The brief adopted by the JBACE was sent to the Expert Panel reviewing federal environmental assessment processes on February 6, 2017. The brief provides an overview of the unique context of environmental assessment in the Eeyou Istchee James Bay Territory. Moreover, the JBACE stresses the need to improve coordination between the *Canadian Environmental Assessment Act* procedure and the assessment and review procedure under Section 22 of the James Bay and Northern Québec Agreement. At the Expert Panel's request, the deadline for submitting its report to the Minister of Environment and Climate Change was extended to give it time to review all of the submissions.

b. *Review of the Fisheries Act and the Navigation Protection Act*

The comments submitted by the JBACE for the review of these two statutes address the importance of strengthening protection of fisheries and navigation in relation to the exercise of Cree wildlife harvesting rights guaranteed under the JBNQA. As regards the *Fisheries Act*, the JBACE recommended that, among other things, an information exchange program for project proponents and the Crees be made mandatory to enhance self-assessment of projects not subject to either authorization or review under the Act.

9. ADMINISTRATION

a. *Draft resolution respecting the secretariat officer's work week*

The executive secretary explained the reasons for increasing the number of hours worked by the secretariat officer. On motion by Jean Picard, seconded by Melissa Saganash, Resolution 2017-02-08-01 raising the secretariat officer's work week to 21 hours was passed as amended.

b. *Terms of payment of JBACE's annual funding*

The members discussed the JBACE's options should Indigenous and Northern Affairs Canada propose an arrangement to pay its share of the funding directly to the Committee. The members agreed that it is up to the signatory parties to the JBNQA to establish the funding arrangements. That said, the governments of Canada, Québec and the Cree Nation are responsible for making sure that the JBACE receives its funding in a timely manner so that it can fulfill its mandate under the JBNQA.

c. *Moving of the secretariat*

The JBACE and Hunting, Fishing and Trapping Coordinating Committee secretariats will move to their new location at 1080, Côte du Beaver Hall, Montréal, in July 2017. The new office space has a meeting room.

10. ISSUES FOR CONSIDERATION DURING THE REVIEW OF TACTICAL PLANS FOR INTEGRATED FOREST DEVELOPMENT (PAFITs)

The members revised the document defining the two issues (parameters) that will guide the JBACE's review of PAFITs, which are supposed to be submitted in the spring. The members want to clarify the importance of taking the cumulative effects of projects, especially forest roads, into account during forest planning. However, PAFITs, which are strategic in nature, do not cover the construction of forest roads for the planned development activities. Road construction is covered by operational plans for integrated forest management (PAFIOs).

The issues document will stipulate the information needed by the JBACE to assess the cumulative effects of forest roads. The analyst will send the revised version of the document to the members shortly so that it can be approved and sent to the Ministère des Forêts, de la Faune et des Parcs.

11. CALL FOR PROPOSALS FOR THE IMPLEMENTATION OF WOODLAND CARIBOU PROTECTION MEASURES

The JBACE subcommittee on woodland caribou submitted the revised call for proposals for a synthesis of knowledge on the status of woodland caribou in Eeyou Istchee James Bay and recommendations regarding protection measures. The successful researcher will also be responsible for comparing his/her recommended measures against the proposed government actions. In addition, the researcher will identify solutions to ensure the recovery of woodland caribou. The report should inform the JBACE's recommendations to the Québec government regarding its recovery strategy for the long-term survival of woodland caribou.

12. FILE UPDATE

a. *Draft proponent's guide to the Section 22 procedure and public participation*

The JBACE working group composed of members of the evaluating and review committees held its first meeting on February 2. The group's discussions will enable the analyst to submit an outline for writing the guide, which would implement one of the recommendations in the JBACE's public participation report (2015).

b. *Updated portrait of climate change in Eeyou Istchee James Bay*

The JBACE wants to update the 2008 portrait of climate change impacts. The new report would also provide an overview of adaptation initiatives implemented in the Territory. A member and the secretariat intend to approach the OURANOS consortium about involving a researcher in the project. The project could be funded by Environment and Climate Change Canada.

c. *Ministère de l'Énergie et des Ressources naturelles (MERN) guides on public consultations and monitoring committees*

In September 2016, MERN published two guides intended for proponents of mining projects: one on public consultations and one on the organization of monitoring committees. Although the guides cover projects with a production capacity of less than 2000 metric tons per day in southern Québec,

boxes mention that a different procedure applies to projects on land covered by the JBNQA. As the chairperson of the Review Committee (COMEX) mentioned in a letter to the JBACE, the wording of the *Guide for Public Consultations Conducted by the Promoters of Certain Mining Projects* could lead proponents to believe that they are not required to take any steps in respect of northern communities affected by their projects. The JBACE will write to MERN recommending that the guide be amended to stress the importance of public consultation best practices in both southern Québec and the territory covered by the JBNQA. The guide could also contain a link to the COMEX document setting out its expectations with regard to public consultations by proponents.

13. OTHER BUSINESS

a. *MERN guidelines in the area of social acceptability*

After conducting workshops in 2015 and releasing a Green Paper in 2016, MERN published its guidelines on social acceptability in January 2017. The secretary remarked that the recommendations made by the JBACE during the April 2016 consultations on the Green Paper don't appear to have been followed. The secretary will prepare a comparative table of the MERN guidelines and the JBACE's recommendations. If necessary, the JBACE will write to the Minister of Energy and Natural Resources to find out why the Committee's recommendations were not followed.

b. *International Association for Impact Assessment (IAIA) conference*

Under the Indigenous Peoples theme of the IAIA conference from April 4-7, 2017, a member mentioned an initiative of the Cree Nation of Waskaganish to invite Indigenous conference participants from around the world on a free visit of the Smokey Hill traditional fishing site on Rupert River.

14. NEXT MEETING

The JBACE will hold its next meeting on April 26, 2017 at the Maurice Lamontagne Institute in Mont-Joli.



Marc Jetten
Executive Secretary
April 27, 2017

APPENDIX 1: ADDRESS BY ROBERT KANATEWAT ON THE CONTEXT OF THE SIGNING AND IMPLEMENTATION OF THE JAMES BAY AND NORTHERN QUÉBEC AGREEMENT

Mr. Kanatewat gave the background to the negotiations leading to the signing of the JBNQA in 1975. After obtaining an injunction to halt construction of the La Grande hydroelectric complex, the Crees were able to sit down with federal and Québec government representatives to negotiate an agreement. The Cree negotiators submitted an 11-point proposal that still constitutes the underpinnings of the JBNQA. The points deal with, among other things, the land regime, way of life and language of the Cree people.

Implementation of the JBNQA proved to be complex. Apparently, the parties were relying on each other to implement the provisions. The Crees eventually put pressure on the parties, notably by way of the courts, to implement the JBNQA. That led to the signing of new agreements, including the 2002 Agreement Concerning a New Relationship between le Gouvernement du Québec and the Crees of Québec (*Paix des Braves*).

Implementing the JBNQA also entailed transferring governance of their communities as well as their educational and health institutions to the Crees themselves. Non-Aboriginal people had to be convinced to hold positions temporarily while training Crees so that they could develop the skills needed to take over. Robert Kanatewat was always convinced that the Crees had the ability to take their place and hold the highest positions within their organizations.

With regard to the environment, Mr. Kanatewat believes that nature takes care of itself. Some species are more abundant than before, while others are in decline. According to Mr. Kanatewat, it's nature's way of controlling the level of wildlife harvesting. The purpose of the environmental and social protection regime (Section 22 of the JBNQA) is to provide stewardship and preserve the land for future generations.

Mr. Kanatewat was chief of the Cree Nation of Chisasibi when the JBNQA was signed. As chief, he decided to move the community from the island of Fort George to the present site because of the risk of erosion and flooding following commissioning of the generating stations. Several families were against relocation, but it was important to have a vision for the community 40 years down the road. It would have been impossible to settle the current community of over 4000 inhabitants on the small island on the La Grande River.

In reply to a question about the Section 22 (JBNQA) committees, Mr. Kanatewat stressed how important it is for the committees to compromise and work together. The same holds true for the Crees and non-Aboriginal people. The Crees have no intention of leaving their land and they can't send non-Aboriginal people back to where they came from, so it is important to find ways to live together.

APPENDIX 2: PRESENTATION ON THE CREE RESEARCH CENTRE IN CHISASIBI

Chelsea Thiessen explained that the aim of the Cree research centre is to build environmental research capacity at the local level. To that end, the centre hopes to integrate Cree traditional knowledge with scientific knowledge held outside the community. The ultimate goal is to train young Crees, with the help of scientists, so that they can contribute to an understanding of environmental problems and ensure environmental monitoring.

George Lameboy believes that linking traditional and scientific knowledge will provide a better understanding of complex phenomena such as the decline in eelgrass beds on the coast of James Bay. As a rule, researchers come to the community, collect data and then leave. Mr. Lameboy thinks that researchers could instead help Cree communities develop their own scientific expertise.

Mr. Lameboy explained that the decline in eelgrass beds coincided with the commissioning of hydroelectric generating stations in the early 1980s. The flow of the La Grande River increased after the commissioning, disrupting the balance between fresh water and salt water in the intertidal zone of the bay that provides feeding grounds for Canada geese. The eelgrass decline has had a significant impact on Cree hunting. Twenty-five (25) family units are affected by a decrease in Canada geese and other wildfowl harvesting on their hunting ground alone. The research centre would like to set up an eelgrass restoration program, but first it needs to better understand the causes of the decline, including the possible impact of climate change.

In reply to a question from a member, Mr. Lameboy explained that the research centre is also interested in such issues as the decline in the brook trout (speckled char) population in Kapsaoui River north of Chisasibi. The spawning period used to last several months, but now lasts just two weeks, so the Crees are considering suspending the traditional fishery to give the population a chance to recover. As for whitefish, another prized species among the Crees, some people have noticed a change in the taste, to the point that it is barely edible. These are issues for which traditional knowledge, based on on-the-ground observations over time, could be enhanced by gaining scientific expertise. Drawing on, among other things, known scientific studies on the area, baseline conditions (terms of reference) first need to be established.

According to Chelsea Thiessen, it is also a matter of providing role models for young Crees who have an interest in science. By developing their scientific skills, they can contribute to a better understanding of the environmental problems affecting their community and identify solutions. According to a member, these kinds of initiatives, such as the citizen science movement, address a need to master the tools for gaining a better understanding of one's environment.

APPENDIX 3: PRESENTATION ON THE PROPOSED AMENDMENTS TO THE METAL MINING EFFLUENT REGULATIONS

ECCC Participants

Lorie Cummings, Unit Head, Regulatory Development and Analysis, Mining and Processing Division
Sylvie Richard, Manager, Environmental Effects Monitoring, Forest Products and Fisheries Act
Albert Thibodeau, Project Engineer, Mining and Processing Division

Content

- The Metal Mining Effluent Regulations (MMER), under the Fisheries Act, allow metal mines to deposit effluent into the environment under certain conditions, and impose monitoring and other requirements on affected mines.
- The MMER entered into force in 2002, and in 2012 a 10-year review was started to examine the regulations. The Cree Nation Government participated in the 10-year review.
- The result of the 10-year review was a series of proposed amendments to the MMER, which are likely to be published in May 2017.
- The proposed amendments include increasing the stringency of limits of certain deleterious substances in metal mine effluent, begin regulating diamond mines as mines under the MMER, improving the efficiency and efficacy of the Environmental Effects Monitoring requirements, and making some administrative changes.
- ECCC is reaching out to communities surrounding diamond mines to advise them of the proposed changes and the upcoming public comment period for the proposed amendments to the MMER.
- ECCC has reached out to the Cree Nation of Mistissini and has been in contact with Alan Penn of the Cree Nation Government.

Discussion

- Participants recommended ECCC contact Aurora Hernandez at the Cree Nation Government for contact [ECCC has been in contact with Aurora following the JBACE meeting]
- Participants recommended ECCC contact the Kativik Environmental Advisory Committee and make a presentation to them similar to this one. [ECCC has contacted the KEAC and is scheduled to make a presentation at their March 16 meeting]

Questions and Answers

Q1: Is there any consideration being made towards harmonization between proposed MMER requirements and Quebec requirements, such as directive 019.

A1: In principle, ECCC does its best to harmonize with existing provincial and territorial requirements, where it can.

Q2: Will coal or other types of mines be regulated by the MMER under the proposed amendments?

A2: Diamond mines are the only types of mines being newly proposed for regulation by the MMER. ECCC will shortly be issuing a framework document for a separate regulatory framework for coal mining effluent.

Q3: For diamond mines, would both surface (open pit) mines and underground mines be included in the MMER?

A3: Yes, both surface and underground mines would be regulated under the proposed amendments to the MMER.

**APPENDIX 4: PRESENTATION ON THE LAND USE PLANNING PROCESS BY JOHANNE LACASSE
OF THE EYYOU ISTCHEE JAMES BAY REGIONAL GOVERNMENT**

Johanne Lacasse explained the land use planning initiatives the Eeyou Istchee James Bay Regional Government (EIJBRG) is involved in. At the outset, she said that the EIJBRG would like the JBACE's opinion on how the initiatives need to be adapted to the Territory.

Ms. Lacasse explained that, pursuant to the 2012 Agreement on Governance in the Eeyou Istchee James Bay Territory, the EIJBRG exercises all the powers of a regional county municipality and regional conference of elected officers in respect of land use planning for Category III lands.¹ For that purpose, the EIJBRG set up a natural resources committee (NRC) composed of an equal number of Cree and Jamésien representatives.

The EIJBRG is first and foremost a participant in the preparation of the public land use plan (PATP) under the responsibility of the Québec government. The PATP establishes the government's main policy directions in the planning of public land use and facilitates coherent action by government departments in the Territory. Moreover, the EIJBRG drafts the regional plan for integrated land and resource development (PRDIRT), which defines a coordinated regional vision in priority areas of development and protection in each sector of activity. The PRDIRT covers forest, mining, recreational tourism and protected areas development.

In the area of forest development, the EIJBRG is also responsible for setting up a local integrated land and resource management panel (TLGIRT) for each development unit. The panels ensure that the interests and concerns of the persons and bodies affected by planned forest development are taken into account. Based on those concerns, the panel defines objectives and targets to be taken into consideration by the Ministère des Forêts, de la Faune et des Parcs when drawing up tactical and operational plans for integrated forest management. Several forest management units were grouped to facilitate availability of panel participants; there are 9 panels for 19 management units in Eeyou Istchee.

Land use planning poses a resource challenge for the EIJBRG. Currently, the EIJBRG is still waiting to receive funding from the Québec government to prepare the PRDIRT. The funding would allow it to hire professional land use planners to oversee preparation of the PRDIRT.

The NRC's work is at a standstill due to conflicting interpretations of the scope of PATPs and PRDIRTs. Johanne Lacasse told the JBACE that, in its role as advisory body to the governments, it could enlighten the EIJBRG about adapting PATPs and PRDIRTs to the Eeyou Istchee James Bay Territory.

The EIJBRG is available to answer any questions the JBACE may have regarding the mandate. Given the time frames for preparing the PATP and the PRDIRT, the JBACE should make its recommendation by the end of March 2017. The members formed a subcommittee, which will work with the analyst to draft a preliminary opinion.

¹ Public land on which Native people have the exclusive right to harvest certain wildlife species pursuant to the James Bay and Northern Québec Agreement.