



Comité consultatif pour l'environnement de la Baie James
James Bay Advisory Committee on the Environment

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MINUTES OF THE 138th MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

(Adopted)

- DATE:** November 30, 2004
- PLACE:** JBACE secretariat, Montréal
- PRESENT:** François Boulanger, Canada, Vice-Chairperson
Glen Cooper, CRA
George L. Diamond, CRA
Marian Fournier, Québec
Ginette Lajoie, CRA
Claude Langlois, Canada
Chantal Leblanc-Bélanger, Canada
Pierre Moses, Québec
Gilles H. Tremblay, Canada
Denis Vandal, Québec
- Marc Jetten, Executive Secretary
- ABSENT:** Carole Garceau, Québec
Gilles Harvey, ex-officio member
Diom Romeo Saganash, CRA, Chairperson
- GUESTS:** Romain Rosant, intern
Cameron McLean, Advisor, CRA

Call to order and adoption of agenda

In the Chairperson's absence, the meeting was presided by CRA representative Ginette Lajoie. Chantal Leblanc-Bélanger moved that the following agenda be adopted. Marian Fournier seconded the motion:

1. Adoption of minutes of the 137th meeting
2. File update
3. Follow-up to meeting with Environment Minister and Sustainable Development Plan
4. Proposed strategic plan
5. 1:30 pm: Presentation on sustainable residual materials management, Romain Rosant, JBACE intern
6. 2:15 pm: Presentation on used tire recovery, Cameron McLean (CRA)
7. Other business
 - a. Review of *Metal Mining Effluent Regulations*
 - b. Resolution authorizing the Chairperson to sign cheques
 - c. Additions to Web site
8. Next meeting

1. Adoption of minutes of the 137th meeting (September 2, 2004)

Pierre Moses moved that the minutes of the 137th meeting be adopted with the requested changes. George Diamond seconded the motion. Motion passed unanimously.

2. File update

a. Appointment of officers and members

The federal administrator appointed François Boulanger as vice-chairperson of the JBACE for 2004-2005. Québec Environment Minister Thomas Mulcair recommended the appointment of Guy Demers (from MENV) as chairperson: Cabinet is expected to approve the recommendation.

The members for Canada explained the procedure for appointing federal representatives to JBNQA committees. Representatives of the

government departments and agencies concerned agreed to improve coordination of their respective appointments to better satisfy the committees' needs. Discussions on the issue continue.

b. Study of impact assessment and review of projects on Category I lands

Christiane Roy of Option Environnement has begun interviewing stakeholders, in particular members of operating committees, local environment administrators (LEA) and representatives of project proponents and financial contributors. Ms. Roy's schedule may be pushed back a little.

A member for Canada invited the subcommittee to look into the work being done by the Kativik Environmental Advisory Committee (KEAC) to review the Section 23 impact assessment and review procedure. The secretary had a chance to discuss this review with his KEAC counterpart on a few occasions. A CRA representative pointed out that the Section 22 and 23 procedures differ in several respects and this factor must be taken into account in future collaborations between the two committees.

c. Harmonization with Cree-Québec Forestry Board (CQFB)

The secretary prepared a comparative table of the JBACE's normal activities between 1994 to 1999 and the CQFB's mandate: the table shows a gap that could eventually be filled by the JBACE.

A member for Québec feels that we need to review the various actions taken by the JBACE in forestry matters before going any further. In the member's opinion, the JBACE has not fulfilled its role in studying the environmental consequences of forest management plans. On the other hand, the adapted forestry regime established by the Peace of the Brave agreement (2002) more effectively meets the Crees' and Québec's needs, as it provides for oversight mechanisms for relations between users. The members need to consider the relevance of continuing our involvement in forestry matters in light of the available resources.

A member for Canada feels that it is up to the JBACE to ensure that the environmental and social impacts of development projects are examined: forestry is one area of development and must receive the Committee's attention, but no more attention than other types of development. The

JBACE must act at the policy and legislative level, not at the ground level.

According to a CRA-appointed member, the JBACE cannot shirk its obligation under paragraph 22.3.34 of the JBNQA to study forest management plans, as it is the only body mandated to examine the environmental and social impacts of development in an integrated manner.

The members agreed that discussions with the CQFB must continue in order to prevent duplication of work.

d. Draft directives on wildlife habitats

In accordance with sections 59 and 60 of Schedule C of the Peace of the Brave, a CQFB subcommittee has begun preparing draft directives for the protection and development of wildlife habitat. These directives will be incorporated into the Cree section of general forest management plans. The members feel that if the MRNFP holds consultations on the directives, the JBACE should participate.

e. Subpoena authority of operating committees

Last year, the JBACE wrote to the federal and provincial administrators asking for their opinion on whether or not the Evaluating Committee (COMEV), Review Committee (COMEX) and federal Review Panel (COFEX) have the authority to subpoena individuals or force a proponent to provide information at public hearings held during the impact assessment and review process.

A member for Québec wondered whether this question arose from an actual case; according to a CRA representative, a number of participants had raised the question during the public consultations on the draft directives for the Eastmain 1-A/Rupert diversion impact statement.

An opinion from the legal services branch of MENV is expected soon. At the moment, it appears that neither the committees nor the administrators have subpoena authority. However, because they are involved in recommending whether or not a project should be authorized, both these stakeholders wield considerable moral

authority: no proponent would want to conceal relevant information if it meant compromising project authorization.

f. Drinking water commission

The secretary called Waswanipi Cree Chief Robert Kitchen to find out more about his proposal to establish a regional drinking water commission. Modelled on the Water Quality Commission established in Waswanipi in 2002, the regional commission would oversee water quality in the Cree communities and Cree hunting camps, which involve Category 1, 2 and 3 lands. Because this means considering the impact of all land users, the secretary wondered whether it would be worthwhile creating a watershed committee.

A CRA-appointed member said that drinking water quality in hunting camps was already a major issue during the BAPE/JBACE hearings (NIBI Commission) on water management back in 1999. A member for Québec does not feel that a watershed committee for Northern Québec is necessary: these committees tend to be created in regions that have to coordinate a large number of industrial and agricultural operations. The member instead favoured a local solution at the hunting camp level. The secretary will document this issue further.

As regards drinking water quality in communities, the members for Québec feel it is up to the JBACE to monitor the situation with a view to the application of local by-laws that satisfy the requirements of the Québec *Regulation respecting the quality of drinking water*. In the opinion of the CRA representatives, the Québec regulation does not apply to Cree Category IA lands.

A member for the CRA said that her organization is currently preparing a model by-law for all Cree communities; the JBACE will be informed as soon as the by-law is ready.

g. Graph of JBACE consultation

The secretary presented a graph showing the number of times the JBACE was consulted by MENV, MRNFP, Hydro-Québec/SEBJ, Environment Canada and the Canadian Environmental Assessment Agency between 2000 and 2004. The graph also shows the JBACE's participation rate in these consultations. The members found the data

interesting, but would like to know the number of times the JBACE was consulted in relation to the total number of laws, regulations and policies proposed by the above departments and organizations. Moreover, the JBACE is sometimes consulted on proposals that have nothing to do with its mandate: such consultations should not be included in the graph.

3. Follow-up to meeting with Environment Minister and Sustainable Development Plan

According to the executive assistant to the Minister, Mr. Mulcair reaffirmed his willingness to meet with the JBACE and the Grand Chief of the Crees in the James Bay Territory in February 2005: it would be an opportunity for the Minister to present the Sustainable Development Plan (SDP) to the Cree communities. Ideally, the location of the meeting should be chosen so as to facilitate participation by representatives from several communities. It should not be held in any of the communities concerned by the Eastmain 1-A/Rupert diversion project, given that the Review Committee will be holding public hearings on the project at the same time.

The ways and means of the meeting still have to be decided. Will the Minister be presenting the SDP alongside the JBACE members? A member of the Cree party feels that this would give the false impression that the JBACE was involved in the Plan's preparation. Activities, such as workshops, must be planned ahead of time to enable meaningful participation by the Crees.

The members would like the JBACE to take initiative by proposing a meeting formula to the Minister and Grand Chief. The secretary will ensure the necessary coordination. For their part, the members will read the draft bill (Sustainable Development Act) tabled by the Minister on November 25, 2004, and submit their comments in preparation for the meeting in February 2005.

4. Proposed strategic plan

With the help of a table presenting the issues of consensus and matters that need to be clarified, the members drafted an orientation document that will be used to prepare the strategic plan.

A subcommittee composed of Ginette Lajoie (representing the CRA), Pierre Moses (representing Québec) and a representative of the federal party (not yet appointed) will monitor implementation of the strategic plan and prepare the annual action plans. The three-year strategic plan will be updated twice a year.

The strategic plan will include a foreword explaining the JBACE's mandate pursuant to Section 22 of the JBNQA and stressing the importance of informing the James Bay communities, Cree or otherwise, of the Committee's activities.

Impact assessment and review procedure

The members agreed to examine and, if necessary, revise the environmental and social impact assessment and review procedure. The parties to the JBNQA will be informed of the process undertaken by the JBACE, more specifically as it pertains to issues concerning them. The JBACE also hopes to prepare a recommendation to update the list of projects that have been submitted to and exempted from impact assessment.

The current consultation process for directives and project reviews will be examined. After identifying the process's strengths and weaknesses, the JBACE will propose a standard consultation process adapted to the Cree and Jamesian communities. Better use must be made of Aboriginal traditional knowledge in the impact assessment and review of projects. Past work on the type, use and intellectual property of Aboriginal traditional knowledge will be considered.

The JBACE also intends to examine project follow-up, i.e. after the project is completed. The role of environmental and social impact assessment, the work of follow-up committees, and agreements between project proponents and Cree or Jamesian communities will be examined.

Given that harmonization of the environmental assessment processes has become a priority for the governments, the JBACE hopes to examine the relevance of signing a harmonization agreement for all projects affecting the James Bay Territory. To that end, special attention will be given to the results of the coordination agreement signed for the

environmental assessments of the Eastmain 1-A/Rupert diversion project.

Sustainable development of the Territory

The JBACE favours better integration of land use planning processes for the James Bay Territory and better dissemination of related information. Furthermore, the Committee supports integration of environmental and social considerations at each stage of the planning process, notably through strategic environmental assessment (SEA). This analytical framework applies to the creation and management of parks or protected areas, as well as to Québec's energy policy.

Residual materials management

The James Bay Territory needs a regulatory framework that fosters sustainable management of residual materials. The JBACE will encourage the implementation of recycling, recovery and re-use programs.

Forestry

The JBACE wants to continue working to define its mandate in matters of forestry. Collaboration with the bodies established by the Peace of the Brave will be encouraged while fulfilling the Committee's obligations under the JBNQA.

JBACE Resolution 2004-11-30-01 regarding adoption of a draft strategic plan:

- WHEREAS the CRA members proposed a strategic plan to the JBACE
- WHEREAS the members for Canada and Québec submitted comments on said proposal
- WHEREAS the JBACE members reached consensus on the content of the strategic plan

On motion by Claude Langlois, seconded by Pierre Moses:

It is unanimously resolved to adopt the consensus on the content of the strategic plan, as reached by the members.

5. Presentation on sustainable residual materials management, Romain Rosant, JBACE intern

During his work placement in summer 2004, Romain Rosant produced two directories: one of recyclers serving the James Bay region and one of educational Web sites on sustainable residual materials management. Mr. Rosant is here to propose courses of action to follow-up on the creation of these tools.

In Mr. Rosant's opinion, managing residual materials requires strengthening local capacities, particularly by supporting local environment administrators (LEA) and training skilled workers. In addition to this support, educational workshops would foster participation in proposed recycling programs: schools and community organizations could contribute. In terms of the schedule, Mr. Rosant feels that winter would be a good time to prepare projects so they can be implemented in summer 2005.

A CRA-appointed member stressed the role of the Cree Board of Health and Social Services in residual materials management. Owing to the links between sustainable management and health, the Board already works in partnership with the LEAs. Moreover, the member feels that responsible management of residual materials should be taught in schools.

According to another CRA member, the sharing of responsibilities within Cree First Nations requires greater coordination: whereas the LEA is responsible for authorizing and inspecting in-trench disposal sites, the sites are managed by the public works department. Furthermore, while the importance of environmental education is a given, funding for these programs is not.

6. Presentation on used tire recovery, Cameron McLean (CRA)

Cameron McLean, waste management consultant for the CRA, talked about used tire recovery initiatives in the Cree communities. He pointed out that, during a meeting between LEAs and people from Recyc-Québec last February, the Recyc-Québec representatives asked for data on the quantities and condition of and access to stockpiled tires. The CRA and JBACE supplied the requested data; as well, a number of studies provide

a clear picture of the types and quantities of residual materials generated by the Cree communities.

The tire recovery operation conducted in October and November 2004 proved to be extremely difficult. First off, the LEAs had zero information on the degree of access and cleanliness required to recover tires. Second, the company hired by Recyc-Québec was not very familiar with the James Bay region: hauling and loading times were not respected, requiring local authorities to make themselves extremely available during the moose and goose hunting period. In addition, the employee responsible for collecting the tires spoke only French and had trouble making himself understood. A blizzard and an accident involving a moose made matters worse.

In its report to Recyc-Québec, the company claims that used tire recovery was completed, to the extent that stockpiles could be accessed, in five of the eight Cree communities concerned. However, according to the follow-up conducted by Cameron McLean, tire recovery was completed only in the village of Oujé-Bougoumou: large stockpiles remain in the other communities, apparently because the load carrying capacity of trucks had been reached.

The JBACE members consider that knowledge of the James Bay Territory should be a criterion for Recyc-Québec in awarding the tire recovery contract. For example, Cameron McLean said that a Val-d'Or company salvaged automobile hulks from Waswanipi and Mistissini, for free. There were no problems, mainly because the employees were familiar with the Territory and had no trouble communicating with the local authorities.

A member for Québec encouraged the JBACE to promote the development of an integrated residual materials management plan for the region. Funding was set aside to study the feasibility of such plans: we just have to see if a budget was earmarked for the James Bay region.

According to a CRA representative, regional collaboration in residual materials management is a major challenge because each Cree community receives funding for this responsibility, in accordance with the jurisdiction conferred by the *Cree-Naskapi (of Québec) Act*. However, due to the limited life of in-trench disposal sites and the constraints related to opening new sites, alternative solutions must be sought.

According to Cameron McLean, the local authorities are willing to collaborate on used tire recovery and take part in other recycling initiatives.

7. Other business

a. Review of *Metal Mining Effluent Regulations*

The CRA's Alan Penn participated in the Environment Canada workshops for the review of the *Metal Mining Effluent Regulations (MMER)*. At the behest of a CRA member, Mr. Penn sent an advisory regarding the JBACE's possible involvement in the MMER review process. Although no amendments have been formulated as yet, it seems that the proposed review is focusing on technical aspects of the regulations: basically, the government wants to align the MMER with provincial standards. In particular, the review is aimed at clarifying the scope of environmental effects monitoring (EEM) studies.

According to Mr. Penn, since the MMER have been in force only since 2002, their results are not clear yet. He nevertheless recommends that the JBACE, through a subcommittee, periodically review the application of the MMER and EEM studies. Environment Canada plans on conducting a more general review of the MMER in 2006.

A member for the CRA thinks that the JBACE could recommend a formula for harmonizing the MMER and Québec's Mining Directive 019.

b. Resolution authorizing the Chairperson to sign cheques

JBACE Resolution 2004-11-30-02 authorizing Guy Demers to sign cheques and other banking documents on behalf of the JBACE

- WHEREAS the Québec Minister of the Environment recommended the appointment of Guy Demers as Chairperson of the JBACE for

fiscal year 2004-2005, in accordance with paragraph 22.3.5 of the James Bay and Northern Québec Agreement

- WHEREAS any financial commitment on the part of the JBACE must be signed by the Chairperson and the Executive Secretary of the JBACE pursuant to section 16 of the Rules of Internal Management of the James Bay Advisory Committee on the Environment

On motion by Denis Vandal, seconded by Gilles Tremblay:

It is unanimously resolved to authorize Guy Demers, subject to Québec Cabinet approval of his appointment, to sign cheques and other banking documents on behalf of the JBACE.

c. Additions to Web site

The secretary prepared a history of the JBACE, a file update and a quiz to add to the JBACE Web site. The files will be e-mailed to the members, who are to submit their comments by mid-January 2005.

8. Next meeting

The next meeting will be held on January 25, 2005, at the JBACE secretariat office in Montréal.

Marc Jetten
Executive Secretary
January 26, 2005