



**MINUTES OF THE 144th MEETING
OF THE JAMES BAY ADVISORY COMMITTEE
ON THE ENVIRONMENT**

(Adopted)

DATE: April 5, 2006

PLACE: JBACE secretariat, Montréal

PRESENT: Glen Cooper, CRA
Guy Demers, Québec, Vice-Chairperson
Annie Déziel, Canada
Ginette Lajoie, CRA
Chantal Leblanc-Bélanger, Canada
Maryse Lemire, Canada
Pierre Moses, Québec
Diom Romeo Saganash, CRA
Claude Saint-Charles, Canada, Chairperson

Marc Jetten, Executive Secretary

ABSENT: Danielle Baillargeon, ex-officio member, HFTCC
George L. Diamond, CRA

GUESTS:

➤ Direction du patrimoine et du développement durable (MDDEP):

Françoise Saint-Martin
Jean Gagnon
Wendy Giroux
Johanne Laberge
Guy Paré

➤ Environmental Stewardship Branch (Environment Canada):

Jorge Escalante-Gafau
Isabelle Mayr
Lucie Olivier

➤ **Hunting, Fishing and Trapping Coordinating Committee (HFTCC):**

**Denise Geoffroy
Nicole Gougeon**

Call to order and adoption of agenda

Outgoing Chairperson Ginette Lajoie invited Claude Saint-Charles to chair the meeting and wished him well in his mandate as new chairperson. Mr. Saint-Charles thanked Ms. Lajoie for her dedicated involvement over the past year.

Chantal Leblanc-Bélanger moved that the following agenda be adopted. Pierre Moses seconded the motion.

1. Adoption of minutes of the 143rd meeting (January 25, 2006)
2. File update
 - a. JBACE recommendations regarding application of the impact assessment and review procedure to Category I lands
 - b. Wemindji recycling program
 - c. MRNF activities relating to the land use plan and the regional public land development plan (PRDTP)
 - i. Granting of vacation leases
 - ii. Illegal camps
 - iii. Reorganization of MRNF services in the Territory
 - d. Meeting with Cree-Québec Forestry Board on the review of forest management plans
 - e. COMEV handling of two projects within the boundaries of the Albanel-Témiscamie-Otish park (letter from Alain Hébert)
 - f. Preparation of summer internship 2006
3. Adoption of 2006-2007 budget proposal
4. Employee salary review for 2006-2007
 - a. Secretariat officer
 - b. Executive Secretary
5. Resolution authorizing the new chairperson to sign cheques and other banking documents on behalf of the JBACE
6. MDDEP proposal regarding eligibility of northern communities for recycling programs
7. Presentation by Wendy Giroux (MDDEP) on the proposed amendments to conservation plans, the *Natural Heritage Conservation Act* and the *Parks Act*
8. Presentation by Isabelle Mayr and Lucie Olivier (Environment Canada) on the proposed strategy and regulation respecting wastewater effluent management
9. Other business

- a. Harmonization of the *Parks Act* with Section 22
- b. Status of resigning members for Québec
- c. Mandate to examine committee operations
- d. Review of the lists of projects subject to and exempt from impact assessment (schedules 1 and 2)
- e. Decision regarding environmental assessment of the vanadium mining project

10. Next meeting

1. **Adoption of minutes of the 143rd meeting (January 25, 2006)**

On motion by Maryse Lemire, seconded by Guy Demers, the minutes of the 143rd meeting were adopted as amended.

2. **File update**

a. **JBACE recommendations regarding application of the impact assessment and review procedure to Category I lands**

A local environment administrator suggested that the JBACE delegate someone to present the 12 recommendations at the local environment administrators' next meeting. The members were in favour of the suggestion.

b. **Wemindji recycling program**

Invited by the local environment administrator, JBACE Chairperson Ginette Lajoie and Jean-François Vachon, an intern working on the recycling pilot project in Wemindji, attended a meeting on the impact study for the project to establish an in-trench disposal site in this community. They stressed the fact that the recycling program and the proposed disposal site are two vital components of an integrated waste management strategy.

c. **MRNF activities relating to the land use plan and the regional public land development plan (PRDTP)**

i. Granting of vacation leases

The Ministère des Ressources naturelles et de la Faune (MRNF) does not intend to start developing the public land use plan (PLUP) for the Nord-du-Québec region until 2008. As well, no progress has been made on the regional public land development plan (PRDTP) for the James Bay Territory because the Crees and Jamesians have been unable to agree on the consultation process. That is

why, in 2004, the MRNF adopted and has since updated the “Transitional Measures Applicable to Private Vacation Development.” These measures prohibit or restrict the granting of leases for certain categories of land, including Category II lands and proposed protected areas.

According to a member for Québec, the primary purpose of the transitional measures is to protect Cree rights. In the member’s opinion, the Crees have little interest in collaborating on the PRDTP because the transitional measures are sufficient. On the other hand, it has become virtually impossible for Jamesians to obtain rough shelter leases in the Territory, despite the low site density in certain areas. The member considers that the Cree and Jamesian representatives need to agree on areas where leases can be granted. According to a CRA member, that would be possible provided the Cree system of land ownership is recognized, in keeping with the JBNQA.

A member for the CRA pointed out that granting a larger number of leases will not necessarily improve the success rate of sport hunting. In fact, southern James Bay (Zone 17) moose populations are the target of a recovery plan. A member for Québec pointed out that the number of rough shelter leases is not the only factor influencing moose populations.

According to a CRA member, the lack of a master plan for the Territory has had a number of consequences, including problems in integrating the granting of leases with Aboriginal rights. The members agreed to contact the liaison committee established by the Agreement concerning a new relationship between Québec and the Crees (ANRQC) to suggest measures targeting the preparation of a master plan for the Territory that builds on the guiding principles of the environmental and social protection regime (Section 22). The plan would be prepared by a working group representing the three JBNQA signatories.

The JBACE would like to obtain a map and statistical portrait of private vacation leases by sector of the James Bay Territory. In the meantime, the Committee has access to the MRNF’s public land information and management system (SIGT), although the system does not identify the exact location of the two types of leases, namely, cottages and rough shelters.

ii. Illegal camps

A Québec member told the participants that the MRNF began tearing down illegal camps this winter. In his opinion, tallymen play an important role in reporting illegal camps to the Department. A CRA member feels that outfitters sometimes build temporary camps in order to test promising sites.

The current procedure followed by the MRNF consists in posting notices on illegal camps. The owner has seven months to obtain authorization, provided the camp is in an area where camps are allowed, failing which the camp is torn down. The latest field campaign should provide more complete data on illegal camps. However, the MRNF cannot provide an exhaustive portrait of the distribution of illegal camps in the Territory because this data is collected only when complaints are lodged.

iii. Reorganization of MRNF services in the Territory

The MRNF has begun reorganizing its services in Northern Québec. The first phase of the process, which is under way, involves making one regional office responsible for the entire JBNQA territory. At the moment, it is the Saguenay/Lac Saint-Jean regional office. As well, the MRNF wants to make it easier for the public and organizations to access services by creating a single window for all MRNF branches (Forests, Energy, Mines and Territory).

Normand Laprise, regional director for MRNF-Territoire, is willing to meet with the JBACE to present this new governance framework. The members said they would be interested in such a meeting and stipulated the conditions for a legitimate consultation. A letter to the Minister of Natural Resources and Wildlife will be drafted for this purpose.

d. Meeting with Cree-Québec Forestry Board (CQFB) on the review of forest management plans

A member for the CRA reminded everyone that the purpose of the meeting was to explore ways for the JBACE to fulfil its mandate relating to the review of general forest management plans (GFMP) while avoiding the duplication of activities with other organizations, namely the CQFB. The ANRQC gives the CQFB the resources needed to review the plans. The function of the JBACE could be to approve the conclusions of the Board's review of plans if they are consistent with the guiding principles of Section 22. However, the time frames available to the two bodies pose a problem in that the CQFB has 120 days from the date plans are filed to review the plans, whereas the JBACE has only 90 days. This does not give the JBACE enough time to examine the work carried out by the CQFB.

A member for the CRA suggested that we consider limiting the JBACE's review of general forest management plans to the guideline documents produced by the CQFB. This mandate could be entrusted to a forestry expert. A Québec member feels that certain reviews could be examined after the fact to make sure they comply with the guiding principles. Moreover, given that the adapted forestry regime under the ANRQC and Section 22 of the JBNQA do not apply to the same

territories, the secretary will verify whether this could result in plans being filed with the JBACE and not the CQFB.

A CRA member said that, in June, the Waswanipi Cree Model Forest will be publishing a report on forest management adapted to Cree practices. The report will in all likelihood contain enlightening data on the review of forest management plans.

e. COMEV handling of two projects within the boundaries of the Albanel-Témiscamie-Otish park (letter from Alain Hébert)

The secretary wrote to his counterpart at the Evaluating Committee (COMEV) to get more information on the handling of the two projects (forest road and mining road) mentioned in Mr. Hébert's letter. The COMEV members intend to address the matter during a meeting.

According to a CRA member, it is important that the JBACE follow up on Mr. Hébert's letter because it contains allegations about the functioning of the impact assessment and review procedure. The information provided by COMEV will be valuable in helping determine whether there are any bases for the allegations.

f. Preparation of summer internship 2006

The secretariat received 60 applications for the summer internship 2006, which will involve reviewing the lists of projects subject to and exempt from impact assessment. The Administrative Committee is to meet with the four candidates selected for an interview. The internship begins on May 1, 2006.

3. Adoption of 2006-2007 budget proposal

The secretary went over the budget proposal. The main change from the previous year is the intern's salary, which would now be included in the item "Regular salaries and wages." This means the intern would be treated as an employee rather than as a self-employed worker. A member for the CRA recommended that this change be re-assessed in one year's time in light of the costs incurred by the employer and employee. The amount of certain items has also been adjusted to reflect current expenditures.

A member for Québec wants to see the table showing the breakdown of JBACE surpluses. The secretary will provide the members with a copy as soon as possible. The surplus breakdown will be discussed when the Committee's financial statements are adopted.

JBACE Resolution 2006-04-05-01 regarding the 2006-2007 budget proposal:

- **WHEREAS the JBACE** must approve the forecast expenditures for each budgetary item for the following fiscal year;
- **WHEREAS the budget proposal was submitted to the Administrative Committee of the JBACE;**

On motion by Pierre Moses, seconded by Glen Cooper:

It is unanimously resolved to adopt the budget proposal for fiscal year 2006-2007.

4. Employee salary review for 2006-2007**a. Secretariat officer**

On the joint recommendation of the secretary-treasurer of the HFTCC and the executive secretary, the secretariat officer's salary is raised to the 7th level adopted for this position. This amount will be adjusted in keeping with any changes in the salary scales for similar positions within the Québec civil service.

b. Executive Secretary¹

The executive secretary will receive a salary increase of 1.6% plus indexation to the cost of living at a rate of 2% for a total increase of 3.6% for fiscal 2006-2007.

In October 2005, the Administrative Committee hired the firm AON to establish a salary scale for the executive secretary position based on the conditions offered for similar positions. In March 2006, the mandate was withdrawn because the results of the AON survey were not satisfactory.

The members agreed that in future years the executive secretary's salary will be adjusted to the cost of living and the executive secretary will also receive a performance bonus of between 0% and 4%. The Administrative Committee will clearly define the employer's expectations for that purpose.

¹ The secretary left the room during discussion of this item.

5. Resolution authorizing the new chairperson to sign cheques and other banking documents on behalf of the JBACE

JBACE Resolution 2006-04-05-02 authorizing Claude Saint-Charles to sign cheques and other banking documents on behalf of the JBACE

- **WHEREAS** the Government of Canada, pursuant to notification dated January 31, 2006, appointed Claude Saint-Charles as Chairperson of the JBACE for fiscal year 2006-2007, 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 Guy Demers, seconded by Ginette Lajoie:

It is unanimously resolved to authorize Claude Saint-Charles to sign cheques and other banking documents on behalf of the JBACE.

6. MDDEP proposal regarding eligibility of northern communities for recycling programs

Guy Demers presented the proposal on behalf of the MDDEP's environmental assessment branch (Direction de l'évaluation environnementale), which is responsible for projects in Northern Québec. Currently, communities in the territory contemplated by the JBNQA are not eligible for Recyc-Québec programs. The MDDEP proposes to set up a task force to examine how existing programs could be adapted to support specific recycling projects in the James Bay Territory. The task force will be composed of representatives of the JBACE, Recyc-Québec and the MDDEP.

Since the JBACE may appoint third parties to subcommittees, it was suggested that the CRA and the James Bay Municipality each appoint one person with expertise in residual materials management. However, a CRA member stressed that the JBACE must continue to be involved in this matter and needs to give the task force a clear mandate to make sure it is effective.

The executive secretary will attend each meeting, and a member from each party will attend at least the first meeting of the task force, scheduled for May 2006. The JBACE Chairperson will send a letter accepting the MDDEP proposal.

Guy Demers said that a similar proposal will be made to the Kativik Environmental Advisory Committee (KEAC). A separate task force will be set up for the territory of Nunavik, where sustainable management of residual materials poses different challenges owing to the lack of road access to communities and the challenges of disposing of hazardous waste.

7. Presentation by Wendy Giroux (MDDEP) on the proposed amendments to conservation plans, the *Natural Heritage Conservation Act* and the *Parks Act*

Ms. Giroux began by repeating the objectives of the Québec strategy on protected areas, which include preserving representative samples of biodiversity and maintaining viable ecosystems. The *Natural Heritage Conservation Act (NHCA)*, proclaimed in 2002, accelerated the establishment of protected areas by providing for three new designations, including biodiversity reserves and aquatic reserves.

The Act also provides for a consultation process as well as enables the public to propose areas for protection. The amendments would enable the Minister to waive consultation where public hearings are planned, notably in the context of the impact assessment and review processes provided for in the JBNQA.

◆ ACTIVITIES PERMITTED IN PROTECTED AREAS

Where land is set aside as a proposed protected area, a conservation plan must be prepared in conjunction with the regional and local partners. The plan must stipulate the activities permitted and prohibited within the protected area. To date, however, conservation plans merely repeat the activities provided for in the NHCA.

Given this situation, the MDDEP proposes to amend the legislation by way of a general regulation respecting prohibited activities and activities permitted solely with departmental authorization. Activities not provided for in the regulation would be permitted. On the other hand, the regulatory aspect would be eliminated from conservation plans, leaving only the administrative component, i.e. description of the territory and ecosystems and the conservation objectives.

◆ RECOGNITION OF EXISTING RIGHTS

Existing rights when land is designated as protected—for example, hunting, fishing or vacation development rights—would be maintained. Wendy Giroux said that Aboriginal rights recognized by the JBNQA would prevail over the NHCA.

To avoid overlapping, some work already authorized by the government would not require additional authorization from the MDDEP; for example, preliminary work and studies conducted by Hydro-Québec under the Environment Quality Act.

Lastly, the process of establishing a protected area would be faster because the protection status would become effective as soon as the related decree is adopted, instead of 60 days following publication of the notice in the *Gazette officielle du Québec*.

◆ PARKS ACT

As concerns the *Parks Act*, the MDDEP plans to create a new designation, “proposed park,” in order to strengthen protection of parks before final status is assigned—as is currently the case for biodiversity reserves and aquatic reserves. “Proposed park” status would be valid for 8 years. The MDDEP is currently working on three park projects in the James Bay Territory: Albanel-Témiscamie-Otish, Assinica (provided for in the ANRQC) and Burton-Roggan-Pointe Louis XIV.

◆ QUESTIONS AND COMMENTS

A member for the CRA wondered if making “proposed park” status valid for 8 years will create uncertainty for the proponent of the park project or proponents of related projects in the same territory. According to the MDDEP’s Jean Gagnon, it takes 6 to 7 years to conduct all of the studies, including environmental assessment, required for a northern park to be established.

Furthermore, a proposed park has the same protection as an established park, including prohibition on forestry, hydraulic and mining development. Johanne Laberge explained that mineral exploration is also prohibited in parks and all protected areas. Exceptionally, mining that does not involve stripping, excavation or deforestation may be authorized in certain biodiversity and aquatic reserves.

Although the MDDEP’s explanatory notes mention that the JBNQA prevails over the NHCA and the *Parks Act*, no legislative amendments are planned to this effect. Françoise Desmartins explained that the provisions of each section of the JBNQA are contained in a Québec law. For instance, a provision of the *Parks Act* stipulating that the *Act respecting hunting and fishing rights in the James Bay and New Québec territories* takes precedence may give the impression that the other sections of the JBNQA do not take precedence.

According to Ms. Desmartins, given that the *Act approving the Agreement concerning James Bay and Northern Québec* has constitutional application, a legislative provision recognizing that the JBNQA overrides other legislative provisions is not necessary. According to a CRA member, there is still a degree of

uncertainty on the public's part and it could be reduced by, for example, mentioning in the preamble of the laws concerned that the JBNQA prevails.

Mr. Gagnon was keen to underscore the excellent collaboration established with Aboriginal partners on the ground. For example, the Mistissini Crees, especially tallymen, participated fully in the preparation of the master plan for the proposed Albanel-Témiscamie-Otish park. The Crees will also be involved in the park's administration through a co-management formula. Furthermore, JBNQA beneficiaries are exempt from the requirement to hold authorization in order to enter a park. The MDDEP hopes to build the same level of partnership for the other protected areas in the Territory.

◆ **TIMETABLE**

Given that amendments to conservation plans are to be adopted in June 2006, the MDDEP would like to receive the JBACE's comments by then. The amended *Parks Act* should be adopted in fall 2006. The JBACE will form a subcommittee to study the proposed amendments.

8. Presentation by Isabelle Mayr and Lucie Olivier (Environment Canada) on the proposed strategy and regulation respecting wastewater effluent management

Ms. Mayr began her presentation by explaining that municipal wastewater is the largest source of pollution, by volume, discharged to surface water bodies in Canada. That is why the Canadian Council of Ministers of the Environment (CCME) has initiated the development of a Canada-wide strategy for the management of municipal wastewater effluent to set limits that do not pose an unacceptable risk to human health, ecosystems and fish.

The strategy would be supported by the adoption of a regulation, pursuant to the *Fisheries Act*, setting forth national effluent quality standards using such criteria as biological oxygen demand, suspended solids and residual chlorine. The plan is to implement the Canada-wide strategy as early as 2007.

Currently, the *Fisheries Act* prohibits the deposit of toxic substances into water frequented by fish and the *Canadian Environmental Protection Act (CEPA)* regulates a number of toxic substances. In addition, guidelines set out maximum ammonia levels and prevention plans are required for chlorine in wastewater effluent. These two regulatory tools apply to wastewater treatment facilities that release more than 5000 m³ effluent/day, although Environment Canada encourages small communities to comply as well.

According to a member for Québec, provincial regulations focus on the capacity of receiving waters rather than on effluent itself. Lucie Olivier said that the Canada-wide strategy should take receiving waters into account as well, for a number of parameters. A Québec member predicts that funding for upgrading wastewater treatment systems will be available once the federal infrastructure program has ended. This will make it easier for municipalities and communities to meet regulatory requirements.

In fall 2006, Environment Canada plans to conduct a broad consultation of Aboriginal communities on the CCME draft strategy and proposed regulations under the Fisheries Act. Aboriginal communities and organizations will be consulted separately from Québec's non-Aboriginal municipalities. Ms. Olivier said that she would be available to meet with the JBACE again at that time.

9. Other business

a. Harmonization of the *Parks Act* with Section 22

A Québec member will soon provide the Committee with a document on the proposed harmonization of the *Parks Act* with the Section 22 assessment and review process. This is one of the amendments proposed during the review of the Act.

b. Status of resigning members for Québec

A member for Québec said that steps have been taken to fill the Québec seats on the JBACE. According to a member for the CRA, a seat is deemed vacant as soon as a member makes his resignation known to the appointing party. A Québec member disagreed, saying that according to Québec government standards, a member retains his seat until replaced.

c. Mandate to examine committee operations

During the current session of the National Assembly, the Committee on Transportation and the Environment decided to examine the directions, activities and management of the Evaluating Committee (COMEV) and the Review Committee (COMEX). Since this mandate overlaps that of the JBACE, the Chairperson and secretary tried to obtain more information on the nature of the planned examination.

d. Review of the lists of projects subject to and exempt from impact assessment (schedules 1 and 2)

A CRA member tabled a copy of a letter from the executive director of the Grand Council of the Crees to the federal and provincial administrators. Mr. Namagoose feels that the JBACE is the designated body for reviewing the lists of projects and presenting the results to the three parties as soon as possible. According to a member for Canada, work relating to the review of the lists was also planned during the talks between Canada and the Crees to reach an agreement on self-government.

e. Decision regarding environmental assessment of the vanadium mining project

The Grand Council of the Crees (GCC) instituted legal proceedings to prevent application of the *Canadian Environmental Assessment Act (CEAA)* to the vanadium mining project in the territory contemplated by the James Bay and Northern Québec Agreement. The GCC wanted the project to be assessed by the federal process provided for in Section 22 owing to the anticipated impacts on fish habitat, a matter of federal jurisdiction.

In a decision handed down on March 30, 2006, the Superior Court ruled in favour of the GCC, declaring that the CEAA does not apply to the Agreement territory. However, the Court concluded that the Government of Canada is not required to trigger the federal review process under Section 22 because the nature of the project, i.e. natural resource extraction, is a matter of provincial jurisdiction. A CRA member said that the GCC will be appealing the second part of the decision.

10. Next meeting

The JBACE will hold its next meeting on June 28, 2006, in Québec City.



Marc Jetten
Executive Secretary
June 29, 2006