



MINUTES OF THE 147th MEETING
OF THE JAMES BAY ADVISORY COMMITTEE
ON THE ENVIRONMENT

(Adopted)

- DATE:** December 7, 2006
- PLACE:** JBACE Secretariat, Montréal
- PRESENT:** Glen Cooper, CRA
Guy Demers, Québec, Vice-Chairperson
Annie Déziel, Canada (by phone)
Ginette Lajoie, CRA
Joanne Laberge, Québec
Maryse Lemire, Canada
Claude Saint-Charles, Canada, Chairperson
Marc Jetten, Executive Secretary
- ABSENT:** Danielle Baillargeon, ex-officio member, HFTCC
George L. Diamond, CRA
Pierre Moses, Québec
Dion Romeo Saganash, CRA
- OBSERVER:** Jean-Luc Blais, Indian and Northern Affairs Canada
- GUESTS:** Yvan Vigneault, Consultant

Determination of quorum, call to order and adoption of agenda

The Chairperson welcomed the members and noted the lack of quorum (7 members). In contacting the absent members, the Committee learned that a member for Québec had resigned. A member for Québec will contact the provincial administrator to see if it would be possible to inform the JBACE secretariat of such events in a timely manner. A member for Canada joined the meeting by conference call to achieve quorum.

On motion by Ginette Lajoie, seconded by Joanne Laberge, the following agenda was adopted:

1. **Presentation by Yvan Vigneault on the review of schedules 1 and 2 of Section 22**
2. **Adoption of the minutes of the 146th meeting (September 19, 2006)**
3. **File update**
 - a. Working group on integrated management of residual materials
 - b. JBACE proposal for the development of a land use planning approach
 - c. Comments regarding the proposed amendment of the *Forest Act*
 - d. Update on Martin Pelletier's preparation of directions concerning the review of general forest management plans
 - e. Planned forum on sustainable development in James Bay
 - f. 12 recommendations on the assessment and review procedure applicable to Category I lands
4. **Discussion of JBACE directions with regard to the MRNF's regional governance framework**
5. **Employee pension plan**
6. **Other business**
 - Public hearings procedure for the Albanel-Témiscamie-Otish park project
7. **Next meeting**

1. Presentation by Yvan Vigneault on the review of schedules 1 and 2 of Section 22

Yvan Vigneault received a mandate from the JBACE to formulate recommendations for the review of developments automatically subject to and exempt from impact assessment and review (schedules 1 and 2 of Section 22). The purpose of his presentation was to get the members' comments on the format of the analysis forms prepared for each project category. Each form contains a description of projects submitted to the assessment and review procedure between 1991 and 2005, the proponents, the regulations applicable to the territory and in other regions, and a recommendation as to whether or not the type of project concerned should be on the inclusion list (Schedule 1), the exclusion list (Schedule 2) or be considered a "grey-zone" project, i.e. all projects not in either Schedule 1 or 2.

Mr. Vigneault began by placing emphasis on grey-zone projects with a view to entering some of them in either Schedule 1 or 2 in order to streamline the assessment process and ensure greater transparency. Of the 27 types of grey-zone projects identified, 23 could be placed in either Schedule 1 or 2.

Mr. Vigneault mentioned application of a local by-law on the protection of the environment to several project types. However, a member for the CRA pointed out that the by-law does not contain inclusion and exclusion lists. Rather, it is a mechanism for granting construction permits and authorization to operate small projects on Category I lands, or the equivalent of the certificate of authorization issued pursuant to section 22 of the *Environment Quality Act* (EQA). However, the proponent must still demonstrate in the permit application that the project will not have a significant impact on the environment.

Hog farming projects

In reference to the analysis form on hog farming, a member for Québec said that no projects of this type have undergone environmental assessment in southern Québec. A threshold value, expressed in number of animals, was established and no project has exceeded that number.

According to a member for Canada, establishing a threshold value can be an arbitrary process: additional criteria are applied in some cases to ensure more comprehensive project assessment. Another member for Canada feels that this comes down to maintaining hog farms in the grey zone, the idea being to submit only large factory farms to impact assessment. A CRA member does not think that many new hog farming projects will be submitted given the current economic context.

Mineral exploration

The various phases of mineral exploration projects will have to be clearly identified in order to determine the trigger for impact assessment. In the Yukon, environmental impact assessment is required for projects that extract more than a set tonnage of material. According to the consultant, these projects could be exempted from impact assessment insofar as they are subject to Québec regulatory frameworks. Otherwise, they continue to fall into the grey zone.

Trench landfills, snowmobile trails and soil decontamination

As regards trench landfills, a member for the CRA underlined the existence of regulatory measures pertaining to the water table and cover. No projects to expand

a trench landfill have been submitted by the Cree communities, which means that expansion projects could remain in the grey zone.

As concerns snowmobile trails, a CRA member considers that they are not an issue in the Territory given the existing regulatory framework and low traffic volume. Another CRA member said that a trail currently runs between the Cree communities of Oujé-Bougoumou and Mistissini and that data on the trail's use are apparently available at the Ministère des Transports regional office.

A CRA member feels that soil decontamination projects could be exempted from impact assessment if the regulatory framework meets the needs. Another option would be to fix an exemption threshold expressed as the volume of soil to be treated.

Application of federal legislation

A member for Canada thinks that the applicability of federal legislation must be clearly established if it is to be used as a point of reference. For example, the *Canadian Environmental Assessment Act* (CEAA) does not apply to project proponents, but rather to the federal authorities concerned. Due to this particularity of the CEAA, environmental assessment is not as direct and automatic a process as under other laws of general application. It is important to take this aspect into account when attempting to draw comparisons. In addition, the type of project involved must be on the inclusion list. Furthermore, application of the *Fisheries Act* is not automatic; it is determined by Fisheries and Oceans Canada after reviewing the project.

The consultant will have to provide environmental and social arguments for each project category to justify the application of frameworks existing in other regions, whether it be southern Québec, a region of Canada or at the federal level.

Mr. Vigneault will revise his analysis forms based on the members' comments and then send them to the secretariat. The members promised to submit their comments no later than January 16, 2007.

2. Adoption of the minutes of the 146th meeting (September 19, 2006)

On motion by Guy Demers, seconded by Maryse Lemire, the minutes of the 146th meeting were adopted as amended.

3. File update

a. Working group on integrated management of residual materials

The working group held its first meeting the day before. Representatives from the JBACE, the MDDEP's residual materials branch and regional office, Recyc-Québec, the Cree Regional Authority (CRA), James Bay Municipality (JBM) and the Société d'énergie de la Baie James (SEBJ) discussed the Cree and Jamesian communities' recycling and recovery options. Subject to verification of the Cree communities' legal status, the communities may be eligible for the regime of financial compensation to municipalities to recycle waste. The regime pays up to 40% of municipalities' recycling costs through fees levied on businesses.

A CRA member said that the working group had also discussed solutions in the event that recycling is not worthwhile because of high hauling costs. By general agreement, the JBACE, CRA, JBM and SEBJ representatives stressed the need to defer application of the provision of the *Regulation respecting the landfilling and incineration of residual materials* (RLIRM) prohibiting burning. They agreed that, in the short term, burning is the most effective means of reducing the volume of residual materials in trench landfills. Moreover, they invited the MDDEP representatives to consider the overall impacts, including greenhouse gases produced during the transportation of residual materials, instead of considering only the effects of burning on air quality.

The members of the working group agreed to supply the data they have on the amount of residual materials produced by Cree and Jamesian communities and camps established for hydroelectric projects. Recyc-Québec will provide data on the market value of recyclables and hauling costs. The Administrative Committee recommended contracting a resource person to support the working group by compiling these data to provide a statistical portrait of residual material management in the Territory. The recommendation was approved.

A CRA member asked about the federal government's directions regarding residual materials management. She wondered whether the Government of Canada would be providing funding to support integrated management of residual materials in Cree communities.

b. JBACE proposal for the development of a land use planning approach

The Standing Liaison Committee established pursuant to the ANRQC has not replied to the JBACE's letter regarding the need to develop a land use planning approach

for the James Bay Territory. Given the lack of a land use plan governing the numerous initiatives carried out in the Territory, the JBACE recommended that the Liaison Committee form a multipartite working group to establish guidelines for developing a land use plan that reflects the guiding principles of Section 22 of the JBNQA.

According to a CRA member, the JBACE's letter leads to confusion as to the organization responsible for forming the working group. The JBACE will therefore invite the Liaison Committee to take the initiative as part of its mandate to settle disputes arising from application of the ANRQC and JBNQA. To that end, the JBACE will suggest a meeting with the Associate Secretary General of the Secrétariat aux affaires autochtones, who is a member of the Liaison Committee.

c. Comments regarding the proposed amendment of the *Forest Act*

The JBACE's comments on the proposed amendments to the *Forest Act* were sent to the Associate Deputy Minister of Forêt Québec on November 21, 2006. The wording of the comments was revised slightly to account for the tabling of Bill 49. Broadly, the bill does not provide for the exemption from authorization of projects to build a wood processing plant. However, it does contain provisions to ensure that an annual volume of 350 000 m³ of timber is made available to Cree enterprises, as stipulated in the ANRQC.

To allow the members to compare the various comments made in relation to the amendments proposed by the MRNF, the secretariat will prepare a summary table of the comments submitted by the JBACE, the Cree-Québec Forestry Board and the Grand Council of the Crees.

d. Update on Martin Pelletier's preparation of directions concerning the review of general forest management plans

The secretary told the members that Martin Pelletier, the consultant hired to devise directions for the review of forest management plans 2008-2013, is behind schedule. Mr. Pelletier is currently waiting for the MRNF to file documents relating to this mandate, including allowable annual cut calculations, the directives respecting wildlife habitats and the strategy for mixed stands. The CQFB plans on submitting its review grid for forest management plans this coming January. It will be important to take the grid into account if the JBACE wishes to prevent a duplication of functions.

e. Planned forum on sustainable development in James Bay

The JBACE wants to organize a forum on sustainable development sometime in 2008. However, the secretariat learned that another organization is planning a

similar event in the North around the same time. The secretary will try to find out if the forum planned by the JBACE would be compatible with the other event being organized. According to a CRA member, coordinating the forum with an event already being planned could be logistically advantageous.

A Québec member will talk to an MDDEP member of the interdepartmental sustainable development committee to determine the Québec government's interest in the JBACE's planned forum. A CRA member encouraged the JBACE to write to the Grand Chief to obtain the support of the Grand Council of the Crees (GCC).

f. 12 recommendations on the assessment and review procedure applicable to Category I lands

One of the local environment administrators contacted the secretary to ask if there would be any follow-up to the presentation given by Ginette Lajoie in August 2006 on the JBACE's recommendations regarding the impact assessment and review procedure for Category I lands. The recommendations deal with such things as environmental management of projects, strengthening of local environment authority and community-consultation mechanisms.

The JBACE is acting on the recommendation relating to the review of the inclusion and exclusion lists, but the role of each partner in the implementation of the other recommendations needs to be defined. The secretariat will prepare a table presenting each recommendation, its implementation status and the responsible parties.

A CRA member suggested that the JBACE present the recommendations at the next regular meeting of the GCC's Council-Board, which is composed of elected representatives from each community. The members agreed with the suggestion. The meeting could be held in a Cree community in February 2007.

4. Discussion of JBACE directions with regard to the MRNF's regional governance framework

The JBACE will write to the MRNF's associate deputy minister of regional operations to thank him for his presentation on the regional governance framework last September. At his invitation, the JBACE will transmit comments to round out those sent to the deputy minister of MRNF regarding the proposed regional forestry commission of the regional conference of elected representatives of James Bay (CREBJ).

The JBACE will underscore the issue of numerous land use planning initiatives that are not consistent between themselves and do not conform to the JBNQA and ANRQC. The bodies established pursuant to the MRNF's regional governance framework are not likely to correct this situation because, at the moment, the Cree people are not involved in the initiative.

The James Bay region needs a genuine framework that defines resource protection and development conditions while ensuring full participation by the Cree people, in keeping with the guiding principles of Section 22.

5. Employee pension plan

The Administrative Committee is studying a number of options regarding an employee pension plan. It plans to meet in January to determine the most advantageous plan for both the employer and employees, after which it will make a recommendation in time for the JBACE's next meeting. The JBACE will send a proposal to the Hunting, Fishing and Trapping Coordinating Committee in respect of the shared secretariat officer.

6. Other business

- **Public hearings procedure for the Albanel-Témiscamie-Otish (ATO) park project**

The Bureau d'audiences publiques sur l'environnement (BAPE) posted the public hearings report for the proposed ATO park on its web site. The hearings were conducted under the *Parks Act*. The posted information implies that the BAPE received a mandate to hold the public hearings on this project.

According to a CRA member, the mandate to hold public hearings should have been given to one of the Section 22 bodies, because the BAPE has no jurisdiction over the JBNQA territory. A member for Canada pointed out that the hearings were held under the *Parks Act*, which is different from the environmental assessment procedure. A member for Québec reminded the members that the amendments proposed to the *Parks Act* in spring 2006 were intended for the very purpose of preventing a double consultation process under the *Parks Act* and Section 22. However, the government never followed through on the proposal.

The JBACE will write to the Minister of Sustainable Development, Environment and Parks to ask him to clarify the BAPE's role in the public hearings on the ATO park project. In future, the JBACE hopes to be consulted by the Minister in similar situations. The letter will also remind the Minister of the amendments proposed by the MDDEP in spring 2006 as well as the resulting brief submitted by the JBACE.

7. Next meeting

Subject to a possible meeting with the GCC in the Territory, the JBACE will hold its next meeting on February 22, 2007, in Québec City.



**Marc Jetten
Executive Secretary
February 22, 2007**