



## **MINUTES OF THE 152<sup>ND</sup> MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT**

*(Adopted)*

**DATE:** February 12, 2008

**PLACE:** Offices of the Grand Council of the Crees (Eeyou Istchee) / Cree Regional Authority, Montréal

**PRESENT:** Glen Cooper, CRA  
Annie Déziel, Canada  
Ashley Iserhoff, CRA, Chairperson  
Ginette Lajoie, CRA, Vice-Chairperson  
Joanne Laberge, Québec  
Maryse Lemire, Canada  
Chantal Otter Tétreault, CRA  
Sarah Szirtes, Canada

Marc Jetten, Executive Secretary

**ABSENT:** Guy Demers, Québec  
Pierre Moses, Québec

**GUEST (for point no. 6):** Claude Saint-Charles (by telephone)

### **Call to order and adoption of the agenda**

The Chair welcomed Sarah Szirtes, a new member appointed by the Government of Canada.

On a motion by Ginette Lajoie, seconded by Annie Déziel, the following agenda was adopted:

1. Adoption of the minutes of the 151<sup>st</sup> meeting (November 22, 2007)
2. Progress update
  - a. Analysis of environmental effects monitoring (EEM) studies of mines
  - b. Canada-wide strategy and regulation for wastewater effluent management

- c. JBACE letter regarding Robert Boyd Park
- d. Report on climate change in James Bay
- e. Vacancies on the JBACE
- f. Detailed report on the review of the general forest management plans
- g. Research project on Cree participation in environmental and social assessment
3. Review of the compensation of the Secretariat Officer for 2008-2009
4. CIRAIG proposal for a life-cycle analysis of residual materials management scenarios
5. Comments on the framework regulation on extended producer responsibility
6. Adoption of the recommendations on the revision of Schedules 1 and 2 of Section 22
7. Other business
  - a. Presentation on the Major Projects Management Office
  - b. Presentation on the new proposed protected areas in James Bay
8. Next meeting

**1. ADOPTION OF THE MINUTES OF THE 152<sup>ND</sup> MEETING (NOVEMBER 22, 2007)**

On a motion by Chantal Otter Tétreault, seconded by Joanne Laberge, the minutes of the 151<sup>st</sup> meeting of the JBACE were adopted as amended.

**2. PROGRESS UPDATE**

**a. Analysis of environmental effects monitoring (EEM) studies of mines**

Environment Canada has almost completed the analysis of the EEM studies submitted by each of the five mines operating in James Bay. The Department may be able to present the results of its analysis at the next meeting of the JBACE.

**b. Canada-wide strategy and regulation for wastewater effluent management**

Environment Canada held a workshop for the First Nations of Québec on its proposed strategy and regulation in November 2007. Several First Nations representatives expressed concerns about compliance with the proposed standards and the costs associated with meeting them.

The Grand Council of the Crees (GCC) presented a brief emphasizing, among other things, the need to collaborate with the Department of Indian and Northern Affairs Canada (INAC), which has financed the construction of wastewater treatment systems in the Cree communities. The GCC also stressed the importance of adopting applicable sanitation criteria, taking into account the equipment and expertise available in small communities. Finally, it was pointed out that local Cree administrations can adopt their own bylaw on wastewater management.

### **c. JBACE letter regarding Robert Boyd Park**

The Provincial Administrator responded to the JBACE's letter regarding the fact that Robert Boyd Park was not subject to the assessment and review procedure under Section 22. According to the Administrator, this commemorative site has no legal protection status and therefore is not considered a park. In addition, the developments associated with Robert Boyd Park do not seem to require that it be subject to the process. For greater certainty, the Administrator is submitting this matter to the attention of the Legal Affairs unit of the MDDEP.

According to a CRA member, it would be interesting if the MDDEP shared its legal opinion with the JBACE. She considers the Administrator's answer unsatisfactory with respect to the social impacts of the proposed Robert Boyd Park. A CRA member added that the Cree families affected by the project had not been consulted. In this regard, the provisions of the Agreement calling for special participation by the Crees were not respected.

Following the reasoning used by the Provincial Administrator, a CRA member believes that Robert Boyd Park should, at the very least, have been subject to assessment as a "grey-area" project; for projects that are included in neither Schedule 1 nor Schedule 2, the Evaluating Committee must prepare a recommendation on the relevance of an impact assessment.

The JBACE will write to the Administrator again to make these points and to propose that representatives of the Québec government be sent to the site of Robert Boyd Park so that they can gain a better understanding of the nature and scope of the impacts on the Crees' activities in this area.

### **d. Report on climate change in James Bay**

The English version of the report has been revised and will be sent to the Cree communities and the government bodies concerned.

A CRA member worked on the draft poster summarizing the conclusions of the report in order to make the Cree communities aware of climate change. According to a CRA member, the poster has to be more user-friendly and make greater use of Cree knowledge. Another CRA member pointed out that climate change is a very topical issue for the Crees because of drownings caused by weakening of the ice. He believes the relevance of the Crees' knowledge must not be minimized, since they live in the territory every day.

A CRA member reiterated that the report presents first a summary of the scientific knowledge available regarding climate change in the James Bay territory. In co-operation with other bodies, the next step will be to link this knowledge to the Crees' experience in the field. The draft poster can be published once a comparable poster has been designed to highlight the Crees' knowledge. For the time being, it will be a draft document.

Four members said they were interested in taking part in a subcommittee on this matter.

#### **e. Vacancies on the JBACE**

With respect to the Government of Canada, INAC has appointed Sarah Szirtes. Another vacant seat is still to be filled by Environment Canada.

As for the Government of Québec, no appointment has been made regarding a vacant seat and that of chairperson starting April 1, 2008. The JBACE Chairperson has contacted the office of the Premier and hopes it will follow up on this matter. According to a CRA member, it is important that the person appointed by Québec contribute to the constructive relationships developed on the JBACE in recent years.

A Québec member will check on the status of this matter with the Deputy Minister of Sustainable Development, Environment and Parks. The JBACE will reiterate its request to the Minister of the same Department regarding the need to ensure that Québec appoints members and that they take part in the JBACE.

#### **f. Detailed report on the review of the general forest management plans (GFMPs)**

The consultants retained by the JBACE have submitted their detailed report analyzing the GFMPs. The Forest Subcommittee has approved the report but suggests that clarifications be added regarding the method used to evaluate the plans. Since the detailed report reiterates the recommendations adopted by the JBACE in November 2007, it will not be necessary to submit it for approval.

#### **g. Research project on Cree participation in environmental and social assessment**

Kelly LeBlanc is completing her interviews with stakeholders involved in the environmental and social assessment process for the four selected projects. She plans to submit her research report in May 2008.

### **3. REVIEW OF THE COMPENSATION OF THE SECRETARIAT OFFICER FOR 2008-2009**

A member of the Administrative Committee presented the process used to review the compensation of the shared-time Secretariat Officer. This process includes the adjustment arising from the pay-equity conditions applied to this position in November 2007.

JBACE Resolution No. 2008-02-12-01 on the review of the compensation of the Secretariat Officer:

- WHEREAS the performance of Louise Bélanger is deemed generally satisfactory for 2007-2008;
- WHEREAS the Secretariat Officer works on a shared-time basis for the Hunting, Fishing and Trapping Coordinating Committee and the JBACE;

*On a motion by Maryse Lemire, seconded by Ginette Lajoie:*

It is unanimously resolved to set the annual salary of Louise Bélanger at the ninth band of the pay scale for the position of Secretariat Officer for the 2008-2009 fiscal year.\*

\*The JBACE contributes 50% of the compensation costs associated with the position of Secretariat Officer.

### **4. CIRAIG PROPOSAL FOR A LIFE-CYCLE ANALYSIS OF RESIDUAL MATERIALS MANAGEMENT SCENARIOS**

As a result of a meeting with the members of the Working Group on Integrated Residual Materials Management in James Bay, the representatives of the Centre interuniversitaire de recherche sur le cycle de vie des produits, procédés et services (CIRAIG) have revised their proposal for analysis of residual materials management scenarios for the James Bay communities. The new proposal is more focused and will permit a better comparison of the possible scenarios, including landfill and incineration. In the case of landfill, the options of burning and sorting at source will also be examined.

If the proposal is accepted, at a cost of \$89,250, the project will be financed mainly from the JBACE's accumulated surplus. Complementary funding sources will be studied, however, including government programs. With respect to travel expenses, the Société d'énergie de la Baie James (SEBJ) can provide free transportation and accommodation for the CIRAIG analyst during the field visit.

A Canada member said it would be necessary to establish the maximum amount for travel expenses associated with the project. Any overrun would require approval from the JBACE's Administrative Committee.

**JBACE Resolution No. 2008-02-12-02 on the proposal for a life-cycle analysis of residual materials management scenarios for James Bay**

WHEREAS the CIRAIG proposal submitted in January 2008 meets the expectations set at the meeting with the members of the JBACE Working Group on Integrated Residual Materials Management in James Bay;

WHEREAS the members of the working group commented favourably on the submitted proposal;

WHEREAS the Executive Secretary of the JBACE will agree with the CIRAIG coordinator on the maximum amount of reimbursable travel expenses;

*On a motion by Ginette Lajoie, seconded by Annie Déziel:*

**It is unanimously resolved to accept as modified the CIRAIG research proposal for a life-cycle analysis of residual materials management scenarios applicable to James Bay villages.**

**5. COMMENTS ON THE FRAMEWORK REGULATION ON EXTENDED PRODUCER RESPONSIBILITY**

The Secretary reminded the members that a JBACE delegation had taken part in the preconsultation on the framework regulation on extended producer responsibility. The regulation would make it possible to establish programs to recover used oil, paint, batteries and electronics throughout Québec. For distant regions, such as James Bay, the conditions for such recovery would be the subject of an agreement between regional officials and producers' representatives, however.

Draft comments have been submitted. A CRA member finds the comments relevant, but would like them to refer directly to representation of the Crees and participation by Cree entities, including the CRA. The objective is to avoid the scenario of the regional forestry commissions, which gave rise to a process that the Crees were largely excluded from. The Secretary will revise the draft comments accordingly.

## **6. ADOPTION OF THE RECOMMENDATIONS ON THE REVISION OF SCHEDULES 1 AND 2 OF SECTION 22**

Claude Saint-Charles joined the discussion because of his important contribution to the working group's revision of Schedule 1 (list of projects subject to assessment) and Schedule 2 (list of projects exempt from assessment). The working group's recommendations are given in the document "Schedule A – Summary of Recommended Changes": the table states the additions, deletions and clarifications recommended for Schedule 1, as well as the additions to Schedule 2.

A CRA member explained that one of the objectives of this exercise was to streamline the assessment and review process by reducing the number of grey-area projects, namely projects included in neither Schedule 1 nor Schedule 2. It is recommended that mining exploration projects remain in the grey area, however, pending completion of a sector study to determine which should be subject to an impact assessment.

As part of the same sector study, the working group proposes to examine soil-decontamination projects involving non-organic contaminants, since these projects involve mine tailings sites. The regulatory oversight of decontamination projects is adequate enough, however, for the working group to recommend that they be exempt from the process.

As for power transmission lines, a CRA member also pointed out the need for a more detailed study. For the time being, Schedule 1 specifies a threshold of 75 kV. But a recent project showed that a lower-voltage line can involve a right-of-way that is just as wide as that for a line with a voltage higher than 75 kV. For this type of project, the Secretary pointed out an error in the wording of Schedules 1 and 2; as a result, a line of exactly 75 kV could be both subject to assessment and exempt from it. The working group had already recommended that a similar error be corrected regarding the threshold applicable to thermal generating stations.

A CRA member asked why a threshold of 10 megawatts was recommended for wind farms. A member of the working group explained that this threshold was in effect for southern Québec. Wind farms with this capacity cover about one square kilometre.

The working group recommends that community services involving an environmental gain be exempt. This is the case for projects to supply and treat drinking water, as well as wastewater treatment projects.

A Québec member asked why the working group had not exempted projects involving protected areas (parks, biodiversity reserves, etc.). A CRA member explained that this avenue had been considered. Still, since no consultation process on a protected area in the James Bay territory has been completed, the working group took a prudent approach to ensure the Crees' full participation. Indeed, contrary to the regime in Section 22, the laws

giving effect to protected areas have no specific mechanism to ensure special participation by the Crees. If experience with consultations on the submitted projects proves favourable, the JBACE could, in a few years, recommend that projects involving protected areas be exempt.

The working group recommends that projects involving boat ramps for the exercise of the Crees' rights to harvest under Section 24 of the CBJNQ be exempt. Similarly, snowmobile and all-terrain vehicle (ATV) trails used for the same purposes would be included in Schedule 2. A Québec member believes that the environmental impacts of such projects are similar, regardless of their purpose. A CRA member generally agreed, but explained that there was an important difference in terms of social impacts. This proposal is intended to respond to comments made by Cree representatives who would like to know why certain projects meant to offset the impacts of hydroelectric projects must nevertheless be subject to the process under Section 22. In this regard, the JBACE has a mandate to ensure, as part of the regime under Section 22, the rights and guarantees recognized in the hunting, fishing and trapping regime (Section 24). This includes the right of Native peoples to harvest wildlife resources.

Projects involving boat ramps and snowmobile and ATV trails for recreational purposes, however, may give rise to conflicting uses. If they are kept in the grey area, it will be up to the Evaluating Committee to prepare a recommendation taking into account the impact on activities in the Cree family traplines.

**JBACE Resolution No. 2008-02-12-03 on the recommended changes to Schedules 1 and 2 of Section 22**

- WHEREAS the James Bay and Northern Québec Agreement provides for revision every five years of the lists of projects subject to and exempt from assessment (Schedules 1 and 2) in the light of technological changes and experience with the assessment and review process (paragraphs 22.5.1 and 22.5.2);
- WHEREAS the JBACE has a mandate to study the assessment and review mechanisms and processes and to make relevant recommendations;
- WHEREAS the representatives of the parties covered by Section 22 expressed their agreement that the JBACE make recommendations on the revision of Schedules 1 and 2;
- WHEREAS the JBACE has documented the relevant changes to Schedules 1 and 2, notably by means of a seminar and a consultant's report;
- WHEREAS the JBACE has held a workshop with the representatives of the parties as well as the members of the Evaluating Committee, the Provincial Review Committee and the Federal Review Panel, to check the proposed guidelines;



- WHEREAS the JBACE has set up a multipartite working group that will formulate the final version of the recommendations;
- WHEREAS the members of the working group have unanimously approved the recommendations;

*On a motion by Annie Déziel, seconded by Joanne Laberge:*

**It is unanimously resolved to adopt the recommendations on the revision of Schedules 1 and 2 as amended.**

The working group will see to the final revision of the report setting out the recommendations. It will be submitted to the Government of Canada, the Government of Québec and the Cree Regional Authority for approval.

## **7. OTHER BUSINESS**

### **a. Presentation on the Major Projects Management Office**

Maryse Lemire, of Fisheries and Oceans Canada, presented this initiative designed to improve the federal regulatory process applicable to major natural resources projects, including hydroelectric generating stations and mines. The Major Projects Management Office (MPMO), under the authority of the Minister of Natural Resources, will co-ordinate an administrative mechanism with the federal entities to improve the performance of the regulatory regime. The Canadian Environmental Assessment Agency (CEAA) will play a more important role, particularly with respect to integration of consultations with Native people during environmental assessments.

Through the MPMO, each major project will be the subject of an agreement between the departments concerned. The agreement will set out the responsibilities of each and will contain work plans, including those for environmental assessment, consultation of Natives and issuance of permits, authorizations and approvals. Since the draft agreement will be public, proponents and citizens will benefit from greater transparency. Moreover, the MPMO will provide the Cabinet with monthly, quarterly and annual reports on its activities through the interdepartmental committee of deputy ministers.

The MPMO should be operational in March 2008. Although it will apply across Canada, adjustments will be made to take into account agreements with provinces or First Nations, including the JBNQA.

**b. Presentation on the new proposed protected areas in James Bay**

Joanne Laberge, of the Protected Areas unit of the MDDEP, announced that protection status would soon be given to six new territories in James Bay. They are the proposed Lac-Dana, Nadowe, Tourbières-Boisées-du-Chiwakamu and Paakumshumwaau-Maatuskaau biodiversity reserves, as well as the proposed Waswanipi Lake aquatic reserve and the national park reserve of Lac-Burton-Rivière-Roggan-et-la-Pointe-Louis-XIV. These projects are in addition to the 10 territories that already have temporary protection status under the Natural Heritage Conservation Act.

As for the Paakumshumwaau-Maatuskaau biodiversity reserve proposed by the community of Wemindji, the MDDEP is continuing its discussions with the MRNF about a status of reserved for the State for the purposes of creation of a protected area. For its part, the community of Waswanipi has taken the initiative of proposing the territory of Waswanipi Lake as an aquatic reserve; the MDDEP is holding discussions with the Municipality of Baie-James (MBJ) owing to the presence of a campground and non-Native hunting and fishing activities.

The members said they supported the proposed Waswanipi Lake biodiversity reserve and wanted it to receive protected status without delay:

**JBACE Resolution No. 2008-02-12-04 on setting aside the territory of the proposed Waswanipi Lake aquatic reserve**

WHEREAS the JBACE supports the implementation, in the James Bay territory, of protected areas, provided that the provisions of Sections 22 and 24 of the JBNQA are respected, in particular the conditions for the Crees' participation and right to harvest;

WHEREAS the Cree Nation of Waswanipi supports the proposal to designate Waswanipi Lake as an aquatic reserve;

WHEREAS it is provided that the process of consultation of the Cree Nation of Waswanipi will take its course;

WHEREAS the Natural Heritage Conservation Act provides, when a territory is set aside, for consultation of the Hunting, Fishing and Trapping Coordinating Committee in accordance with the Act respecting hunting and fishing rights in the James Bay and New Québec territories (sec. 27);

WHEREAS the James Bay and Northern Québec Agreement provides for establishment of mechanisms ensuring special participation by the Crees to protect Native rights and guarantees;

*On a motion by Ginette Lajoie, seconded by Sarah Szirtes:*

**It is unanimously resolved to ask the Minister of Sustainable Development, Environment and Parks to set aside the territory of the Waswanipi Lake aquatic reserve without delay.**

The MDDEP intends to consult the Grand Council of the Crees, among others, about the proposed protected areas in the northern portion of the James Bay territory.

**8. NEXT MEETING**

The next meeting of the JBACE will take place in Mistissini on April 16 and 17, 2008.



**Marc Jetten**  
**Executive Secretary**  
**April 17, 2008**