



MINUTES OF THE 158th MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

(Adopted)

DATE: April 1, 2009

PLACE: Indian and Northern Affairs Canada, 15th floor, 25, rue Eddy, Gatineau

PRESENT: Josée Brazeau, Québec
Glen Cooper, CRA
Ashley Iserhoff, CRA, Chairman
Ginette Lajoie, CRA, Vice-Chairwoman
Maryse Lemire, Canada,
Denise Morasse, Canada
Chantal Otter Tétreault, CRA

Marc Jetten, Executive Secretary
Claude Péloquin, Environmental Analyst

ABSENT: Annie Déziel, Canada
Joanne Laberge, Québec
Pierre Moses, Québec

GUESTS: Stéphane Bernard, Groupe Conseil Nutshimit
François Richard, Groupe Conseil Nutshimit

OBSERVER: Jean Picard, Environment Canada

Call to order and adoption of the agenda

The Chairman welcomed the members, especially Denise Morasse, who's attending her first JBACE meeting, and then proposed proceeding with the adoption of the agenda.

On motion by Josée Brazeau, seconded by Ginette Lajoie, the following agenda was adopted:

1. Adoption of the minutes of 157th meeting (January 15, 2009)

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2. File update
 - a. Follow-up on the dike failure at the old Opemiska mine and portrait of contaminated mine sites in the territory
 - b. Anticipated consultation on the Northern Plan
 - c. Comments on the analyst's report on mineral exploration
 - d. Life-cycle assessment of residual materials management scenarios
 - e. JBACE vacancies
 - f. Government grant to the JBACE
 - g. Updating of the Strategic Plan
 3. Meeting with Damon Rourke, managing director, Implementation Planning and Negotiations and James Bay Implementation Office, Indian and Northern Affairs Canada (INAC)
 4. Adoption of 2009-2010 budget proposal
 5. Resolution authorizing the executive secretary to sign the proposed amendment to the SITQ lease for 2010-2014
 6. Secretariat officer's salary review for 2009-2010
 7. Adoption of the opinion on the revised general forest management plans (GFMP)
 8. Proposed collaboration on the Cree Trappers' Association's climate change research project
 9. Presentation by François Richard and Stéphane Bernard on Nutshimit's analysis of the revised general forest management plans
 10. Other business
 - a. Draft map showing planned forest roads in the revised GFMPs
 - b. Summer internship
 - c. Proposed review of two federal statutes
 - d. Opportunity to collaborate with the Cree Board of Health and Social Services
 - e. Copy and archiving of electronic documents relating to the environmental assessment of the Eastmain 1-A/Rupert project

1. ADOPTION OF THE MINUTES OF THE 157TH MEETING (JANUARY 15, 2009)

On motion by Ginette Lajoie, seconded by Glen Cooper, the minutes of the 157th meeting of the JBACE were adopted as amended.

2. FILE UPDATE

a. Follow-up on the dike failure at the old Opemiska mine and portrait of contaminated mine sites in the territory

The JBACE wrote to the associate deputy minister of mining to ask for a copy of the follow-up reports on the Opemiska dike failure as well information on the contaminated mine site registry. The JBACE pointed out that it's a separate body from the Cree Regional Authority (CRA) and, therefore, it cannot be assumed that documentation sent to the CRA is automatically forwarded to the JBACE. No reply has been received yet.

b. Anticipated consultation on the Northern Plan

The JBACE wrote to the Premier of Québec to express its concern about the lack of consultation on the Northern Plan, even though related projects have been announced, including the planned Otish Mountains road. The JBACE suggested conducting a strategic environmental assessment to better evaluate the plan's impacts. As agreed during the January 15 meeting with members of the Kativik Environmental Advisory Committee (KEAC), the latter sent a similar letter to the Premier. Neither committee has received a reply yet.

A member for the CRA said that the Québec government has apparently appointed Elizabeth MacKay as deputy secretary to the associate secretary general of the Secrétariat aux affaires autochtones. Considering that Ms. MacKay was appointed to initiate consultations on the Northern Plan, the members agreed to write to her to invite her to meet with the JBACE.

c. Comments on the analyst's report on mineral exploration

The members of the working group are still studying the report prepared by the JBACE analyst on the impacts of mineral exploration in the territory. One of the aims of the study is to determine to what extent mineral exploration projects should be subject to the Section 22 impact assessment and review procedure.

d. Life-cycle assessment of residual materials management scenarios

The CIRAIG consultants were informed of the JBACE's decision to not study the option of burning in landfills. That way, CIRAIG can concentrate on assessing landfilling and incineration, with or without recycling.

The consultants asked for a meeting to assess the social impacts of the proposed management scenarios. A CRA member proposed that the consultants meet with the JBACE working group on integrated residual materials management.

e. JBACE vacancies

The JBACE is still waiting on the appointment of Jean Picard. A member for Canada feels that the federal appointment procedure needs to be reviewed so that it takes less time between a person's appointment by the regional office and the official appointment by a department.

A Québec member said that the government is preparing a decree to fill the vacant seat for the Québec party.

f. Government grant to the JBACE

During a telephone conference call held last October between the JBACE's Administrative Committee and representatives of the Canadian Environmental Assessment Agency (the Agency) and Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP), the Agency and MDDEP representatives undertook to provide the JBACE with adequate funding. So far, a second instalment of \$91 000 toward the annual funding for 2008-2009 has been announced, but the JBACE has not seen the money yet.

According to a CRA member, the JBACE must take the matter up again with the Agency and MDDEP to demand that it receive enough funding to enable it to continue its work this year as well as in future. To that end, talks must be held between the parties to revise the maximum funding for the JBACE provided for in the Canada-Québec funding agreement (\$251 000). Given that the CRA contributes half of Québec's share in accordance with the Agreement Concerning a New Relationship Between Québec and the Crees, the CRA expects to take part in the discussions.

The JBACE Chairman will contact the deputy minister of MDDEP and the president of the Agency to discuss the matter.

For information purposes, the executive secretary will send the members the table showing the gradual reduction in the JBACE's accumulated surplus.

g. Updating of the Strategic Plan

A CRA member presented a draft strategic plan covering the Northern Plan, mining development, forestry development, the impact assessment and review procedure, and climate change. The member thinks the strategic plan should also cover the examination of policies, laws and regulations proposed by governments. Moreover, the member is worried by the fact that several pieces of legislation are currently under review and the JBACE has not been consulted.

According to a CRA member, the JBACE would benefit from holding meetings with the people in charge of consultations on proposed legislative and regulatory amendments, as it would help the Committee promote its mandate and create a network of contacts within government departments.

3. MEETING WITH DAMON ROURKE, MANAGING DIRECTOR, IMPLEMENTATION PLANNING AND NEGOTIATIONS AND JAMES BAY IMPLEMENTATION OFFICE, INDIAN AND NORTHERN AFFAIRS CANADA (INAC)

Mr. Rourke welcomed the JBACE members to the INAC's Implementation Branch and explained the two functions of the James Bay Implementation Office, which reports to this branch: 1) the Office ensures implementation of agreements between the Government of Canada and the Crees, and 2) it participates in negotiations on contentious issues.

A member for the CRA asked how issues of common interest to the JBACE and James Bay Implementation Office could be dovetailed; for example, the JBACE's recommendations regarding the review of schedules 1 and 2 of Section 22, i.e. the lists of development projects subject to and exempt from the environmental and social impact assessment and review procedure. According to Mr. Rourke, the Standing Liaison Committee established pursuant to the Agreement Concerning a New Relationship between the Government of Canada and the Crees is currently reviewing the JBACE's recommendations. Denise Morasse said that a resource person for negotiations had also been appointed to take part in this work.

4. ADOPTION OF 2009-2010 BUDGET PROPOSAL

The executive secretary presented the budget proposal for 2009-2010. A CRA member explained that, for several years now, the secretariat's expenditures have exceeded the amount of funding it receives. The funding bodies had temporarily paid less of the annual grant so as to enable the JBACE to lower its budget surplus. Since the Committee has used a substantial portion of its surplus, steps are being

taken to ensure that the JBACE has the necessary financial resources to fulfil its mandate in 2009-2010 and the years thereafter.

JBACE Resolution 2009-04-01-01 regarding the budget proposal for fiscal year 2009-2010:

- WHEREAS the executive secretary made the verifications requested at the JBACE meeting on January 15, 2009;
- WHEREAS the budget proposal was submitted to the JBACE's Administrative Committee, which recommended its adoption;
- WHEREAS the JBACE must approve the projected expenditures for each budgetary item for the fiscal year commencing April 1;

On motion by Maryse Lemire, seconded by Ginette Lajoie:

It is hereby unanimously resolved to adopt the budget proposal for fiscal year 2009-2010.

5. RESOLUTION AUTHORIZING THE EXECUTIVE SECRETARY TO SIGN THE PROPOSED AMENDMENT TO THE SITQ LEASE FOR 2010-2014

The executive secretary presented the 4-year lease renewal proposed by the SITQ for 2010-2014. The lease includes a basic rent per square foot plus additional rent for the lessor's operating expenses. At the members' request, the secretary will check the calculation of the additional rent to make sure the amount meshes with the budget forecasts.

JBACE Resolution 2009-04-01-02 authorizing the executive secretary to sign the proposed amendment to the lease for the secretariat offices:

- WHEREAS the Hunting, Fishing and Trapping Coordinating Committee (HFTCC) and JBACE have shared offices and services since February 2002 and this arrangement has proven to be advantageous;

- **WHEREAS SITQ NATIONAL INC., lessor of the current offices, submitted a proposal to the HFTCC and JBACE for renewing the lease for the period 2010-2014;**
- **WHEREAS the executive secretary will check the calculation of the rents for the proposed lease period;**

On motion by Glen Cooper, seconded by Maryse Lemire:

It is hereby unanimously resolved that the JBACE's executive secretary be authorized to sign, jointly with the HFTCC, the proposed amendment to the SITQ NATIONAL INC.'s lease for the current secretariat offices as well as any documents giving effect thereto.

6. SECRETARIAT OFFICER'S SALARY REVIEW FOR 2009-2010

The secretary-treasurer of the HFTCC and the executive secretary of the JBACE conducted a performance review for the shared-time secretariat officer. Based on the results, the two secretaries agreed to make a joint recommendation regarding the salary review for the secretariat officer.

JBACE Resolution 2009-04-01-03 regarding the salary review of the secretariat officer:

- **WHEREAS the performance of Louise Bélanger in 2008-2009 is deemed entirely satisfactory;**
- **WHEREAS the secretariat officer works on a shared-time basis for the Hunting, Fishing and Trapping Coordinating Committee and the JBACE;**

On motion by Chantal Otter Tétreault, seconded by Denise Morasse:

It is hereby unanimously resolved to set the annual salary of Louise Bélanger at the tenth band of the pay scale for the position of Secretariat Officer for the 2009-2010 fiscal year.*

***The JBACE contributes 50% of the remuneration for the position of Secretariat Officer.**

7. ADOPTION OF THE OPINION ON THE REVISED GENERAL FOREST MANAGEMENT PLANS (GFMP)

Shortly after the Ministère des Ressources naturelles et de la Faune (MRNF) approved the GFMPs for 2008-2013, the agreement holders, i.e. forest companies, had to revise their plans to comply with the new allowable cut calculations submitted by the Chief Forester. In accordance with its mandate, the JBACE studied the revised plans for the purposes of making a recommendation to the Minister of Natural Resources and Wildlife.

The JBACE analyst explained that Groupe Conseil Nutshimit, whose services were retained by the JBACE to study the plans, had to deal with a number of constraints. First, the MRNF transmitted the revised GFMPs on a piecemeal basis such that the deadline for submitting comments differed for each plan. The JBACE informed the MRNF that it intended to conduct an overall assessment of the revised GFMPs, so the draft opinion is based on the 12 plans submitted by the MRNF (three revised GFMPs have not yet been submitted to the JBACE secretariat).

Lastly, the MRNF failed to send its complete compliance analyses with the revised GFMPs, which is problematic in that the version of the plans reviewed by the JBACE may eventually be deemed non-compliant by the MRNF and thus be amended, which would have an impact on the legitimacy of the JBACE's analysis.

The JBACE's draft opinion contains 15 recommendations relating to the process for Cree participation in the development of GFMPs, protection of wildlife habitats of special importance to the Crees, and the Crees' economic, social and environmental considerations. In light of the analysis, the JBACE is recommending that the Minister not approve 3 of the 12 revised GFMPs until the process of Cree participation has been completed. Moreover, the draft opinion stresses the JBACE's concern about expanding the forest road network in light of the reduction on allowable annual cuts.

On the matter of forest roads, a member for the CRA tabled a news release from the Grand Council of the Crees (GCC) expressing its concerns regarding the protection of woodland caribou herds in the James Bay territory. According to the GCC, the MRNF needs to implement a woodland caribou management plan before approving the revised GFMPs and construction of new forest roads that might result in greater disturbance to the species' habitat. The member reminded the Committee that the woodland caribou has been designated a "vulnerable species" since 2005.

In addition to forest roads, the revised GFMPs contain 24 bridge projects and a large number of sandpit projects to supply material for road construction. The

JBACE members agreed that these road, bridge and sandpit projects should be submitted to the Section 22 impact assessment and review procedure because they are not on the exemption list (Schedule 2).

A member for the CRA feels that the opinion should refer to all Cree users of the territory and not just tallymen. The members agreed that this is an important point that could be made in the background section of the opinion.

JBACE Resolution 2009-04-01-04 regarding the JBACE's opinion on the revised general forest management plans (GFMP) for 2008-2013:

- WHEREAS one of the JBACE's functions is to study and comment on forest management plans in accordance with paragraph 22.3.34 of the JBNQA;
- WHEREAS the JBACE thoroughly studied the 12 revised GFMPs submitted to it by the MRNF between November 5, 2008, and February 5, 2009;
- WHEREAS the draft opinion is in keeping with the guiding principles of the environmental and social protection regime established by the JBNQA;

On motion by Maryse Lemire, seconded by Chantal Otter Tétreault:

It is hereby unanimously resolved to adopt the draft opinion on the revised general forest management plans for 2008-2013 and submit it to the Québec Minister of Natural Resources and Wildlife.

8. PROPOSED COLLABORATION ON THE CREE TRAPPERS' ASSOCIATION'S CLIMATE CHANGE RESEARCH PROJECT

The JBACE analyst explained the climate change research project that the Cree Trappers' Association (CTA) wishes to conduct in partnership with the JBACE. The project would study observed climate change impacts in the James Bay territory as well as adaptation measures. Workshops involving Cree users of the territory would be held in a few targeted communities to collect crucial data. The CTA must apply for funding soon, under a program of Indian and Northern Affairs Canada.

According to a CRA member, the CTA project is very much along the same lines as the JBACE's objectives for Phase 2 of its work on climate change, Phase 1 having consisted in producing the state-of-knowledge report. The member pointed out that the CTA has a base in each of the Cree communities and is thus an ideal partner for an on-the-ground project. Also, this research project could draw on the methodology used a few years ago for the project on migratory birds carried out by the Cree Regional Authority, CTA and Environment Canada.

A member for the CRA asked if this project is similar to the work done in Inuit territory. The JBACE analyst explained that most of the work on climate change deals with the Arctic and so it is possible to draw inspiration from this work without overlooking the uniqueness of the James Bay region.

Resolution 2009-04-01-05 regarding JBACE participation as a partner in the Cree Trappers' Association's research project on climate change impacts and adaptation:

- WHEREAS the JBACE's state-of-knowledge report on climate change in the James Bay territory completed the first phase of the Committee's work on this issue;
- WHEREAS the JBACE wishes to undertake the second phase of this work, which will focus more on the knowledge held by Cree users of the territory;
- WHEREAS the research project submitted by the Cree Trappers' Association is consistent with the JBACE's Phase 2 objectives;

On motion by Glen Cooper, seconded by Josée Brazeau:

It is hereby unanimously resolved that the JBACE partner in the Cree Trappers' Association's research project on climate change impacts and adaptation.

The JBACE analyst will inform the members of the reply to the funding application and the rest of the work.

9. PRESENTATION BY FRANÇOIS RICHARD AND STÉPHANE BERNARD ON NUTSHIMIT'S ANALYSIS OF THE REVISED GENERAL FOREST MANAGEMENT PLANS (GFMP)

The JBACE retained the services of Groupe Conseil Nutshimit to help it study the GFMPs and interview forest sector stakeholders in the James Bay territory. Among other things, the JBACE asked Nutshimit to produce synthesis maps showing the planned forest management activities contained in the revised GFMPs. For easier comparison, the exact same criteria used to study GFMPs in 2007-2008 were used to study the revised GFMPs. These criteria were inspired by the guiding principles of the environmental and social protection regime and deal mainly with the process for Cree participation.

François Richard began by explaining the constraints faced by Nutshimit in this mandate, particularly the fact that it did not receive the MRNF's compliance analyses or the reports of the joint working groups – in fact, the MRNF still has not sent the reports for 2008 – and the fact that 3 of the 15 revised GFMPs were not submitted and therefore could not be studied. Furthermore, MRNF officials refused to be interviewed, arguing that they work at the Cree trapline level whereas the JBACE's analysis covered the entire James Bay territory.

Among Nutshimit's general observations, Mr. Richard said that the GFMPs included very few changes, mostly just adjustments to comply with the new allowable cut calculations. He underlined that, based on the JBACE criteria, none of the plans were worse than when approved in April 2008. Few changes were made to the plans in terms of issues relating to the Crees, which means that the deficiencies identified in 2007 still exist. However, a notable improvement is the fact that the forest planning aid maps produced jointly by the CRA, the Cree-Québec Forestry Board (CQFB) and trappers are widely used.

During the interviews with representatives of timber supply and forest management agreement (TSFMA) holders, Mr. Bernard noticed their poor understanding of the JBACE's role in the review of GFMPs, which makes it hard for them to incorporate the JBACE criteria into their forest planning. A number of TSFMA representatives said that they prepared their plans to satisfy MRNF forestry-related requirements first and foremost and did not have enough time to incorporate the Crees' environmental and social considerations. Mr. Richard therefore suggested that the MRNF and JBACE conduct joint awareness activities. A number of TSFMA holders said they were interested in this and, as follow-up, expect to be informed of the JBACE's recommendations regarding the revised GFMPs.

During the interviews with Cree members of the joint working groups, several individuals voiced their concerns about the forest roads provided for in the revised GFMPs, saying that the roads could open up new traplines to sport hunting and fishing and thereby lead to land-use conflicts.

The executive secretary asked if companies trying to obtain forest certification meet the JBACE's assessment criteria better than those that aren't. According to François Richard, companies seeking forest certification submit a more detailed participation report because of the importance given to consulting Aboriginal communities during the certification process.

10. OTHER BUSINESS

a. Draft map showing planned forest roads in the revised GFMPs

A CRA member feels that, given the concerns about the planned forest roads, it would be worthwhile producing a map and tables illustrating the extension of the forest road network provided for in the revised GFMPs. The members agreed to give Groupe Conseil Nutshimit a contract for this work. The JBACE analyst will check to see if databases are available to prepare such a map.

b. Summer internship

The executive secretary suggested that this summer's internship could consist in creating an on-line registry of development projects submitted to the Section 22 impact assessment and review procedure so that stakeholders and the public have easier access to information on projects and their status. The intern could draw inspiration from existing registries, such as that of the Mackenzie Valley Environmental Review Board.

The analyst said that the MDDEP's Website contains a list of projects carried out in agreement territory south of the 55th parallel (James Bay), although it is not always up to date and does not contain complete information pertaining to projects.

In a federal member's opinion, such a project should be aimed at providing easier access to information, which doesn't necessarily include the creation of a cartographic registry. A CRA member wondered whether it is up to the JBACE to create such a registry. She feels maybe it is more up to the appointed federal, provincial and Cree regional administrators for Section 22. Instead, she suggested that the intern produce a portrait of mine sites in the territory.

The members agreed to take a few weeks to make other proposals for this summer's internship.

c. Proposed review of two federal statutes

A member for the CRA learned that the federal government is reviewing its *Fisheries Act* and *Species at Risk Act*. She wondered whether the JBACE would be participating in the consultations.

A member for Canada said that the review of the *Fisheries Act* has only just started and that the JBACE will be able to participate in the consultations if need be. And Jean Picard said that a steering committee has been formed to start reviewing the *Species at Risk Act*. He will keep the JBACE abreast of developments in this regard.

d. Opportunity to collaborate with the Cree Board of Health and Social Services

A consultant from the Environmental Health Department of the Cree Board of Health and Social Services of James Bay (CBHSSJB) met with the JBACE's executive secretary and analyst to discuss possible collaboration between the two bodies. According to the consultant, the CBHSSJB is interested in health issues relating to mining, the Northern Plan and climate change. The secretary and analyst explained the JBACE's mandate and the work it carried out on these issues. They also explained that the Evaluating Committee, provincial Review Committee and federal Review Panel are the bodies responsible for environmental and social impact assessment and review of projects.

A CRA member said that the CRA met with people from the CBHSSJB to explain the JBNQA environmental and social impact assessment and review procedure. The member feels that it would be worthwhile meeting with the Board again.

e. Copying and archiving of electronic documents relating to the environmental assessment of the Eastmain 1-A/Rupert project

The executive secretary explained the steps taken to obtain a copy of the electronic documents on the environmental assessment of the Eastmain 1-A/Rupert project. When the Public Information Office created for the project closed, the Office's consultant put all of the project-related documents onto a DVD and CD for the JBACE. However, searching for specific documents on the DVD and CD is hard.

The secretary therefore asked the JBACE's Webmaster to reproduce the pages of the Canadian Environmental Assessment Agency's Website concerning the Eastmain 1-A/Rupert project. However, this required access to FTP information on the

Agency's Website, which the Webmaster didn't have. For the time being, the secretary will have copies made of the PDF documents available on the Agency and Hydro-Québec Websites.



Marc Jetten

Executive Secretary

June 29, 2009