



MINUTES OF THE 159th MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

(Adopted)

- DATE:** June 23, 2009
- PLACE:** Cree Regional Authority offices, 277 Duke St., Montréal
- PRESENT:** Serge Alain, Québec
Josée Brazeau, Québec
Glen Cooper, Cree Regional Authority (CRA)
Annie Déziel, Canada
Ashley Iserhoff, CRA, Chairman
Willie Iserhoff, ex-officio member, HFTCC
Joanne Laberge, Québec
Maryse Lemire, Canada
Jean Picard, Canada
- Marc Jetten, Executive Secretary
Claude Péroquin, Environmental Analyst
- ABSENT:** Ginette Lajoie, CRA, Vice-Chairwoman
Denise Morasse, Canada
Chantal Otter Tétreault, CRA
Pierre Moses, Québec
- GUESTS:** Michel Crowley, École nationale d'administration publique (ÉNAP)
Marie Paumier, ÉNAP
- OBSERVER:** Cheryl Récollet, intern, CRA

Call to order and adoption of the agenda

The Chairman welcomed new JBACE members Serge Alain, Willie Iserhoff and Jean Picard, who briefly introduced themselves.

The Chairman suggested proceeding with the adoption of the agenda.

On motion by Annie Déziel, seconded by Joanne Laberge, the following agenda was adopted:

1. Presentation by Michel Crowley on strategic environmental assessment of and issues associated with the Northern Plan
2. Workshop on the principal issues associated with the Northern Plan
3. Adoption of the minutes of the 158th meeting (April 1, 2009)
4. Adoption of the financial statements for fiscal year 2008-2009
5. File update
 - a. Field visit to the old Opemiska mine and area affected by the dike failure (June 11)
 - b. Requested consultation on the Northern Plan
 - c. JBACE opinion on the revised general forest management plans
 - d. Land use planning initiatives
 - e. Progress of work on protected areas in James Bay
 - f. Life-cycle assessment of residual materials management scenarios
 - g. Research project with the Cree Trappers' Association on climate change impacts
 - h. Amount of JBACE subsidy
6. Resignation and replacement of the JBACE's analyst
7. Discussion of the impact of the court decision regarding environmental assessment of the vanadium mine
8. Draft comments on the proposed amendments to the *Regulation respecting the landfilling and incineration of residual materials*
9. Updating of the JBACE's strategic directions
10. Review of the sick leave provisions of the Policy on Human Resources Management
11. Other business
 - a. Proposal regarding translation of Kelly LeBlanc's thesis on Cree participation in environmental and social impact assessment
 - b. Tabling of a bill to establish the *Forest Occupancy Act*

- c. Comparison of JBACE and Cree-Québec Forestry Board opinions regarding the revised general forest management plans
12. Next meeting

1. PRESENTATION BY MICHEL CROWLEY ON STRATEGIC ENVIRONMENTAL ASSESSMENT OF AND ISSUES ASSOCIATED WITH THE NORTHERN PLAN

Michel Crowley began by presenting the aspects of the Northern Plan that are already known, saying that the Québec government has not yet officially tabled the final plan. As it stands, the plan focuses on energy, mining and recreational tourism development; moreover, it provides for expansion of the network of protected areas to cover 12% of the territory north of the 49th parallel.

The Northern Plan would therefore affect over 70% of the territory of Québec and have significant impacts on a number of northern communities. The impact assessment and review procedure established by the JBNQA would apply to each development project, but not address the broader issues arising from the Northern Plan's implementation. According to Mr. Crowley, this is where strategic environmental assessment (SEA) can be a valuable decision support tool, because it incorporates environmental issues, in the general sense of the term (land use, climate change, etc.), into the planning process. SEA can thus be useful in rounding out environmental assessment of a project.

Mr. Crowley explained that SEA is conducted on policy, plan and program (PPP) proposals by governments, i.e. before development projects are submitted. Ideally, SEA incorporates economic, social and environmental considerations into the review of PPPs. Although SEA is a formal process carried out systematically, Mr. Crowley stressed that it must be adapted to the government proposal under study and the various players involved. For example, SEA can be carried out at a sectoral or regional scale and include (or not) assessment of cumulative impacts.

Several jurisdictions, including the European Union and the Government of Canada, have chosen to adopt an SEA approach, to varying degrees of success. More recently, the Québec government adopted SEA for oil and gas exploration projects in the Gulf of St. Lawrence and the estuary. According to Michel Crowley, certain mandates entrusted to the Bureau d'audiences publiques sur l'environnement (BAPE), such as residual materials and water management, have a strategic component. Similarly, Mr. Crowley said there's a strategic aspect to the JBACE's role as an advisor to governments regarding the environmental and social protection regime and land use.

Michel Crowley explained the stages in the strategic environmental assessment process. The first stage is preliminary screening, which consists in verifying the

presence of the SEA triggers. The second step in SEA is scoping, which involves defining issues and putting them into context and determining the priority of issues based on their significance (tiering). The JBACE offered to work with the Québec government during the scoping stage to identify issues arising from the Northern Plan. Since little information is available as yet, issues would be identified based on available data and the expectations expressed by various players.

The main step in SEA is environmental assessment as such, which includes comparing options and, for each option, defining measures for mitigating negative impacts and increasing positive impacts. The other steps pertain to the review, adoption, implementation and follow-up of PPPs.

Mr. Crowley stressed the participatory nature of SEA. In the case of the Northern Plan, the process entails participation by both residents of the territory and players from outside the territory. The strategic environmental assessment must, in particular, determine which groups would benefit from the plan's implementation and which groups would be adversely affected.

2. WORKSHOP ON THE PRINCIPAL ISSUES ASSOCIATED WITH THE NORTHERN PLAN

Since the details of the Northern Plan have not been released yet, Michel Crowley proposed focusing on defining the problem, understanding the initiative and its alternatives, the decision-making process and identifying issues. In the latter regard, Mr. Crowley invited the JBACE members to tell him which issues they think should be taken into consideration.

A member for the CRA said that respect for the Cree traditional way of life is a major issue in the territory. Even though the JBNQA established a hunting, fishing and trapping regime, the Crees have spent years fighting to ensure that their right to harvest wildlife, guaranteed by the regime, is respected. In the past few years, the Québec government has granted James Bay Municipality (JBM) regulatory powers in the territory; however, sometimes application of those powers clashes with the exercise of the Crees' right to harvest.

The Crees are currently negotiating the establishment of a regional government pursuant to agreements entered into with Québec and Canada. According to the same CRA member, if nothing is done to limit JBM's powers, the James Bay territory could simultaneously be governed by two governments.

The member understands the opening up of US markets to the import of green energy and the attendant opportunity to create jobs for Cree workers, but he reminded everyone that large-scale hydroelectric, mining and forestry projects primarily impact Aboriginal communities. He mentioned, for example, the

community of Chisasibi, which was hit hard by the construction and operations of the La Grande hydroelectric complex: specific health problems are still affecting the community. In his opinion, health problems have been made worse by the population's feeling of loss with respect to activities they used to carry out in the territory.

According to the member, the Crees are also seeking economic development and job creation. For that matter, many Cree entrepreneurs have developed productive partnerships with non-Aboriginal entrepreneurs. However, the same member insisted that development projects be carried out in compliance with the JBNQA assessment and review procedure, which is designed to take the Crees' rights, interests and concerns into consideration. The Crees expect development projects to create jobs for them and provide the necessary training.

A member for Québec explained that communities are less affected by the development of recreational tourism, i.e. outfitting operations and protected areas, but that such development is not an action priority in the Northern Plan; rather, the plan focuses more on energy production and mining development. In the member's opinion, it is important not to exceed the capacity of communities to accommodate this type of development without suffering negative social impacts. In this regard, Michel Crowley feels that the influx of workers from outside the territory could end up marginalizing the Cree population.

A member for Canada asked what steps the JBACE could take next. Could it use the consultations promised by the Québec minister responsible for Aboriginal affairs to propose a scoping of issues for the SEA process? The member feels this is crucial to understanding the impacts of the Northern Plan and, where possible, should be carried out before the final plan is tabled.

According to Michel Crowley, the Northern Plan clearly satisfies the criteria for triggering a strategic environmental assessment. And the fact that no official document has been tabled yet is all the more reason for an SEA, because, otherwise, the JBACE would be faced with a final plan and an SEA would be much more limited in scope.

3. ADOPTION OF THE MINUTES OF THE 158TH MEETING (APRIL 1, 2009)

On motion by Maryse Lemire, seconded by Josée Brazeau, the minutes of the 158th meeting of the JBACE were adopted as amended.

4. ADOPTION OF THE FINANCIAL STATEMENTS FOR FISCAL YEAR 2008-2009

The executive secretary tabled the draft financial statements for fiscal year 2008-2009, as prepared by the accounting firm Ruel, Giroux, c.a.

JBACE Resolution 2009-06-23-01 regarding the financial statements for 2008-2009:

- **WHEREAS** the JBACE must adopt the financial statements for fiscal year 2008-2009;
- **WHEREAS** the accounting firm Ruel, Giroux, c.a. duly reviewed the JBACE's financial statements;

On motion by Annie Déziel, seconded by Joanne Laberge:

It is hereby unanimously resolved to adopt the financial statements for 2008-2009.

5. FILE UPDATE

a. Field visit to the old Opemiska mine and area affected by the dike failure (June 11)

The JBACE's analyst reported on the tour of the Opemiska tailings site (former Springer mine) by a delegation of JBACE members. Marc Houde of the MRNF led the tour and the JBACE members were joined by environment officials from the Cree Regional Authority and Cree Nation of Waswanipi as well as the mayor of Chapais. The group also toured several water sampling sites in the area affected by the dike failure, notably Slam Creek and the Obatogamau River.

The analyst reminded everyone that the dike failure at the Springer mine happened exactly one year ago, on June 23, 2008. The impoundment, which at the time contained around one million cubic metres of water and between 50 000 and 60 000 m³ of fine sediment, emptied into Slam Creek.

According to the analyst, the site visit enabled the JBACE delegation to better understand the dike failure and its impacts, as well as the response measures taken by the MRNF. However, questions remain about the MRNF's monitoring and follow-up activities for this site. For example, the JBACE doesn't know what the MRNF's remediation objectives are.

The visit also enabled the delegation to see that wastewater from the Ville de Chapais is released into Slam Creek and then the Springer tailings pond. Could this wastewater effluent affect water quality in the area? A member for Québec will verify the available information in this regard.

Lastly, the JBACE doesn't know what measures the MRNF took to prevent spills from other abandoned mine sites in the James Bay territory. If a tailings pond was in danger of failing, would the MRNF be in a position to inform the population concerned in a timely manner?

A CRA member said that Cree families with traplines near Opemiska have observed a degradation in water quality over the past year. The member regretted the fact that the families concerned didn't receive more information on the impacts of the dike failure on water, fish and shoreline wildlife. According to the member, Cree trappers are willing to share their views on how to improve current restoration work.

The members agreed that the secretary would contact the MRNF for information on monitoring, follow-up and restoration work being carried out in respect of the Springer tailings pond and the area affected by the spill. For its part, the JBACE will write to the associate deputy minister of mines to find out what measures have been implemented to prevent similar incidents from occurring at other mine sites as well as the measures taken to consult Cree families living nearby.

b. Requested consultation on the Northern Plan

The members agreed to write to the minister responsible for Aboriginal affairs again to propose scoping of issues in preparation for a strategic environmental assessment of the Northern Plan. Before doing so, though, the members will read Michel Crowley's report on today's workshop.

c. JBACE opinion on the revised general forest management plans

The JBACE sent the Minister of Natural Resources and Wildlife its opinion on the revised GFMPs in early April. The minister responded by saying that he would give special attention to the three GFMPs whose approval the JBACE recommended be deferred, in particular because of the deficiencies regarding Cree participation.

The opinion will be sent to everyone who granted interviews to the JBACE consultant during the review of the revised GFMPs, i.e. the representatives of mandataries (forest companies) and the joint working groups for the five Cree communities affected by forestry operations.

d. Land use planning initiatives

The secretary explained two land use planning initiatives currently being prepared for the James Bay territory. First, the MRNF regional office initiated work on the public land use plan (PLUP), which defines the government's main directions for land use in the territory and thereby governs all other land use planning initiatives. Marco Trudel of the MRNF regional office offered to give the JBACE a presentation on the PLUP-related work. The members having agreed to this, the secretary will make the necessary arrangements.

Second, the regional natural resource and land commission (CRRNT), whose members are appointed by the James Bay regional conference of elected officers (CRÉBJ), is in the process of preparing the regional plan for integrated natural resource and land development (PRDIRT), which determines the directions for developing Northern Québec and the priority uses of natural resources for each sector.

Given that there are no Aboriginal representatives on the CRRNT, the JBACE is concerned about the fact that this body is mandated to develop a plan that would determine the use of resources in the James Bay territory. The JBACE will share its concerns with the Minister of Natural Resources and Wildlife, reminding her that land use planning initiatives must comply with principles of the environmental and social protection regime, particularly the principle concerning special involvement for the Cree people.

e. Progress of work on protected areas in James Bay

Serge Alain of the parks division of the Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP) gave a progress report on three park projects in James Bay. The MDDEP is preparing the impact statement for the Albanel-Témiscamie-Otish park and expects to submit it at the end of the year. The impact statement will be reviewed under the Section 22 procedure of the JBNQA. A proposal for the park's establishment could be submitted to the government in winter 2010.

As regards the proposed Assinica Cree Heritage Park, talks are underway with a view to defining the park boundaries. The MDDEP has to negotiate with the MRNF, especially because of the impact the park will have on the allowable annual cut. It also has to negotiate with the Crees of Oujé-Bougoumou, who will be making a counterproposal soon. In short, establishment of this park is a complex process that involves numerous time limitations.

Third, the MDDEP has set aside the territory of Pointe Louis-XIV, Rivière Roggan and Lac Burton as a proposed park. A meeting may be held with the Crees of Chisasibi in fall 2009.

The secretary shared the information obtained from the MDDEP in relation to biodiversity and aquatic reserves. The impact statement for the nine reserves established in 2003 and 2004 must be submitted soon and the MDDEP has started working on the impact statement for the recently announced Lac-Dana and Tourbière-Boisées-du-Chiwakamu biodiversity reserves.

In February 2008, the JBACE recommended to the Minister of Sustainable Development, Environment and Parks that the proposed Waswanipi Lake aquatic reserve be created. This project was initially put forward by the Cree Nation of Waswanipi. The MDDEP apparently took steps to establish the reserve, but the project was blocked by the MRNF owing to fears that it would affect the allowable annual cut.

A member for the CRA explained the cultural importance of Waswanipi Lake and its islands, which are home to the old trading post and other important sites. In the member's opinion, the 20-m-wide wooded strip that forest companies are required to leave on the shores of watercourses is not sufficient to protect Waswanipi Lake and its habitats.

The work to establish the Assinica Cree Heritage Park is apparently blocking creation of the other protected areas in the sector. A Québec member feels that temporary protection status could be assigned to the territory of Waswanipi Lake until a decision is made regarding the Assinica park. According to another member for Québec, the Waswanipi Lake aquatic reserve would have little impact on the allowable annual cut because half of the surface area of the reserve would be water.

f. Life-cycle assessment of residual materials management scenarios

The consultants from the Interuniversity Research Centre for the Life Cycle of Products, Processes and Services (CIRAIG) met with the working group on integrated residual materials management on May 7 to give a progress report. Also, the participants discussed the ways and means of the social impact assessment that will be an integral part of the life-cycle assessment. Telephone surveys and possible meetings with focus groups are planned to collect data on the social impacts of the various scenarios under study (landfilling, incineration and recycling).

g. Research project with the Cree Trappers' Association (CTA) on climate change impacts

The JBACE analyst told the Committee that Indian and Northern Affairs Canada (INAC) had approved the CTA's funding application that the JBACE collaborated on. The CTA has decided to hold the workshops on climate change impacts and adaptation measures in the Cree communities of Whapmagoostui, Waskaganish and Mistissini. The JBACE will remain involved in the advisory committee for the project, the results of which are expected in March 2010.

h. Amount of JBACE subsidy

An official from the MDDEP informed the JBACE that it would be receiving the second instalment of its subsidy for fiscal 2008-2009 within a few weeks. The subsidy for 2009-2010, i.e. \$251 000, would be paid in a single instalment. The same official said that the MDDEP was willing to discuss the amount to be paid to the JBACE as of April 1, 2010, with the other funding bodies, i.e. the Canadian Environmental Assessment Agency and the Cree Regional Authority.

6. RESIGNATION AND REPLACEMENT OF THE JBACE'S ANALYST

The JBACE analyst announced his resignation, effective July 1, 2009. The JBACE will hold a competition to fill the position in September 2009, for a period of one year. If the Committee has the necessary funding, a competition will be held to fill a permanent analyst position in fall 2010.

The Committee will strike an evaluation committee, composed of one member from each party, to study the applications and interview candidates.

The members congratulated Claude Pélouin for the good work he's done in the last year and wished him every success in his future projects.

11. OTHER BUSINESS

a. Proposal regarding translation of Kelly LeBlanc's thesis on Cree participation in environmental and social impact assessment

The JBACE's Administrative Committee wants to sound out the Cree members to determine their interest in having Kelly LeBlanc's thesis, which is about 100 pages long, translated into English. The latter suggested starting by translating a summary of the thesis.

12. NEXT MEETING

A CRA member suggested holding the next meeting in Waswanipi, as it would enable the Committee to visit the Waswanipi Lake heritage site. The members were in favour of the idea.

The JBACE will thus hold its next meeting in Waswanipi, on Wednesday, September 30, 2009. The members will visit the heritage site the day before.

Adjournment

Due to a lack of time, items 7, 8, 9, 10, 11b and 11c will be discussed at the next meeting.



Marc Jetten

Executive Secretary

October 14, 2009