



MINUTES OF THE 162nd MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

(Adopted)

DATE: February 24, 2010

PLACE: Salle Innsbruck, Hôtel Alpin, Rouyn-Noranda

PRESENT: Serge Alain, Québec
Josée Brazeau, Québec
Glen Cooper, Cree Regional Authority (CRA)
Annie Déziel, Canada
Ginette Lajoie, CRA, Vice-Chairperson
Maryse Lemire, Canada
Chantal Otter Tétreault, CRA
Jean Picard, Canada
James Yantha, Canada

Geneviève Dionne, Environmental Analyst
Marc Jetten, Executive Secretary

ABSENT: Ashley Iserhoff, CRA, Chairman
Willie Iserhoff, ex-officio member, HFTCC
Pierre Moses, Québec

GUESTS: Denis Blais, Bureau de coordination du Nord-du-Québec,
Transports Québec

Call to order and adoption of the agenda

The Vice-Chairperson welcomed the members and especially the new member for Canada, James Yantha, a negotiator for the James Bay Implementation Office (Indian and Northern Affairs Canada).

On motion by Annie Déziel, seconded by Chantal Otter Tétreault, the agenda was adopted as amended.

1. ADOPTION OF THE MINUTES OF THE 161ST MEETING (DECEMBER 15, 2009)

On motion by Jean Picard, seconded by Serge Alain, the minutes of the 161st meeting of the JBACE were adopted as amended.

2. ITEMS CONCERNING ADMINISTRATION OF THE JBACE

a. Follow-up on the JBACE's budget requests

The JBACE secretary will follow up with the individuals to whom the budget requests were sent in early February. As it stands, given the government budget restrictions, the JBACE isn't likely to receive a funding increase in fiscal 2010-2011. But it needs more funding in order to create a permanent analyst position, and the analyst plays an important role in studying environmental and social issues.

The Canadian Environmental Assessment Agency and the Cree Regional Authority will see if it's possible to pay their share of funding directly to the JBACE in order to avoid the delays in payment by the Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP).

b. Pay revision of JBACE secretariat officer (effective April 1, 2010)

The JBACE's Administrative Committee presented the draft resolution regarding the pay increase for the secretariat officer effective April 1, 2010. The JBACE approved the resolution. Because the secretariat officer shares her time between the Hunting, Fishing and Trapping Coordinating Committee (HFTCC) and the JBACE, the recommended increase is subject to approval by the HFTCC.

Considering the JBACE's tight budgetary position, the members are not comfortable with an automatic pay scale adjustment for the secretariat officer to two classification scales in the Québec civil service. The JBACE instructed its Administrative Committee to formulate a proposal for submission to the HFTCC to the effect that pay scale adjustments must be explicitly approved by each committee before being applied. If need be, the HFTCC's and JBACE's administrative committees could meet to discuss the proposal.

c. Resolution authorizing the chairperson appointed by Canada to sign cheques and other banking documents on behalf of the JBACE starting on April 1, 2010

The rotating chairmanship of the JBACE goes to the Government of Canada in 2010-2011. The members for Canada have appointed Maryse Lemire to the position. The JBACE will be receiving a notice of appointment from a federal government official sometime soon.

JBACE Resolution 2010-02-24-02 authorizing Maryse Lemire to sign cheques and other banking documents on behalf of the JBACE:

- **WHEREAS** it is the Government of Canada's turn to appoint the Chairperson of the JBACE for fiscal year 2010-2011, in accordance with paragraph 22.3.5 of the James Bay and Northern Québec Agreement;
- **WHEREAS** the federal members of the JBACE appointed Maryse Lemire to serve as Chairperson for 2010-2011;
- **WHEREAS** the JBACE will receive an official notice of appointment of Maryse Lemire to serve as Chairperson from the Government of Canada;
- **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 Josée Brazeau, seconded by Glen Cooper:

It is unanimously resolved to authorize Maryse Lemire to sign cheques and other banking documents on behalf of the JBACE starting April 1, 2010.*

***Subject to Ms. Lemire's official appointment by the Government of Canada.**

3. FILE UPDATE

a. Consultation on Bill 79, An Act to amend the Mining Act

The JBACE will write to the National Assembly parliamentary committee studying Bill 79 to request permission to present a brief during the public hearings. The members also agreed that the Committee should make representations to the deputy minister of natural resources and wildlife ('MRNF') to see that the JBACE is consulted prior to the formulation of bills. The secretary will revise the draft letter to the said deputy minister to draw his attention to the paragraphs of the JBNQA setting forth the JBACE's role during the formulation of laws and regulations.

The JBACE analyst has started drafting the brief, which will focus on the need for an adequate framework for mineral exploration in the James Bay region, including the creation of a public project registry. In the JBACE's opinion, follow-up studies conducted during mining and site remediation operations should also be made public.

The JBACE is also of the opinion that the public consultation provisions of Bill 79 should at least be equivalent to the requirements under the JBNQA as well as the court rulings on consultation of Aboriginal communities. Furthermore, the consultations provided for in Bill 79 must take account of agreements entered into between mining companies and Aboriginal communities. During consultations relating to projects in the James Bay region, special attention must be given to tallymen.

b. Framework document for strategic environmental assessment of the Northern Plan and meeting with the associate deputy minister responsible for the Northern Plan (MRNF)

A JBACE delegation will meet with Christian Dubois, associate deputy minister responsible for the Northern Plan (MRNF), on March 10. The meeting will provide the JBACE with an opportunity to propose strategic environmental assessment of the transportation component of the Northern Plan. The members present at the March 10 meeting will also impress upon Mr. Dubois that the JBACE should be involved in the work given its oversight role in respect of the environmental and social protection regime.

c. Impact of forest roads on woodland caribou

For follow-up purposes, the secretary will phone the recipients of the letter calling for regional assessment of forest road impacts on woodland caribou habitat.

d. Research project on climate change impacts and adaptation in James Bay

The research coordinated by the Cree Trappers' Association is proceeding according to schedule. However, organizing the data collected during the workshops held in three communities and the interviews with trappers is proving to be a challenge.

e. Contaminated site at Cape Jones (Pointe Louis XIV)

The secretary will revise the draft letter to draw attention to the concerns about contaminants occurring on the site as well as the safety hazards associated with the presence of metal structures and tanks.

f. Life-cycle assessment of residual materials management scenarios

The secretary sent the latest version of CIRAIG's report to the members of the working group on integrated residual materials management. The CIRAIG consultants revised the report to account for the fact that no fuel was used to burn waste in James Bay landfill sites. However, this amendment doesn't change the report's finding that burning in landfills isn't a sustainable solution from an environmental and human health perspective.

g. Coordination of review processes for the Matoush uranium exploration project

The Provincial Review Committee (COMEX) and Federal Review Panel (COFEX-South) agreed to jointly conduct public consultations on the impact statement for the Matoush project. In October 2009, the JBACE invited the parties to Section 22 to prevail themselves of the right to combine the two review bodies (par. 22.6.7) for the purposes of the Matoush project or, if not, at least coordinate their consultations.

h. Recommendations regarding public consultation guidelines for the Section 22 impact assessment and review procedure

Representatives of MDDEP's environmental assessment branch (Direction des évaluations environnementales) have agreed to sit on the JBACE working group on public consultations under the Section 22 procedure. Members of the evaluating and review committees with significant experience with the Section 22 procedure will sit on the working group in a personal capacity, along with two experts in public participation. The working group will be holding its first meeting on March 23.

i. Follow-up studies to the Opemiska tailings dike failure

The JBACE wrote to the federal environment minister and the associate deputy minister responsible for MRNF's wildlife division regarding the fact that no follow-up studies on fish habitat in the impact zone of the Opemiska tailings dike failure have been conducted. The regional director of Environment Canada's Enforcement Branch replied that she was working with the MRNF and that the JBACE would be informed of developments. Not long after, the JBACE received a reply from the associate deputy minister responsible for the wildlife division saying that the MRNF gave priority to infrastructure safety and water quality monitoring. Studies of fish habitat quality are planned for this spring.

j. Planned seminar on the 35-year history of implementation of Section 22 of the JBNQA

The JBACE analyst brought the members up to speed on the subcommittee's work. The theme of the seminar would be knowledge transfer, as several key players in the Section 22 regime are getting ready to retire. The research and knowledge network DIALOG will help organize the seminar. The subcommittee would like to invite around 150 people with a view to transmitting knowledge to the younger generation. However, the members said that 150 was an ambitious target and that 40 or so people would be enough. The primary goal is to hold a seminar on the successes and failures of the environmental assessment procedure and, subsidiarily, to transfer knowledge. The subcommittee will determine the type of seminar to be held and how it will be funded.

k. Vacant Québec seat

The Québec government is apparently preparing a decree to fill the vacant Québec seat on the JBACE.

4. PRESENTATION BY DENIS BLAIS ON THE TRANSPORTATION STRATEGY FOR NORTHERN QUÉBEC AND THE OTISH MOUNTAIN ROAD PROJECT

Transportation strategy for Northern Québec

Denis Blais, director of the Bureau de coordination du Nord-du-Québec (Transports Québec), explained that development of a transportation plan for the Nord-du-Québec region was initiated in 1998. A regional steering committee composed of

officials from the federal and Québec government departments concerned was formed to ensure an integrated transportation plan. Advisory committees representing the Cree, Inuit and Jamesian populations were also formed to ensure the interests of each group were taken into account. In 2005, Transports Québec released a portrait of existing infrastructure and the outcome of consultations on the transportation plan.

The transportation plan was supposed to be unveiled in 2008, but was put off after the Northern Plan was announced. Since then, the coordination office (Bureau de coordination) has been working on a transportation strategy that apparently will support the objectives of the Northern Plan. Like the Northern Plan, the transportation strategy would be implemented over a period of 25 years. The strategy should be approved by the Minister of Transport in the near future.

The aim of the transportation strategy is to achieve or strengthen five strategic goals:

- Make transportation safe
- Reduce costs to households
- Support the regional and provincial economies
- Provide users with a comparable level of mobility to that existing in other northern regions
- Maximize economic benefits and sustainable solutions

The strategy should be implemented in keeping with such principles as adapting transportation systems to regional realities; working in concert with regional players is crucial in this regard. Moreover, the strategy favours preservation and maintenance of existing infrastructure over construction of new infrastructure. The development of new projects would be tied to risk sharing, i.e. funding would depend on public-private partnerships. In other words, private partners will have to guarantee a minimum of funding in order for the project to go ahead. Moreover, Transports Québec wants to reduce uncertainty by stepping up research and knowledge sharing.

The strategy also takes into account factors that put particular pressure on the transportation system in the Nord-du-Québec region, such as sharp growth in the Cree and Inuit populations. Furthermore, the agreements entered into with First Nations since 2002 have stimulated economic development. Lastly, adaptations in response to climate change impacts are required to ensure sustainability of infrastructures, particularly airstrips in Nunavik.

Questions and comments regarding the transportation strategy

Members voiced their concerns about the environmental and social impacts of accelerated development in the territory under the Northern Plan.

Denis Blais said that the impact assessment and review processes will be respected during implementation of the Northern Plan; in fact, in his opinion, the bodies involved in the Northern Plan give a lot of room to First Nations and environmental groups.

Mr. Blais pointed out that there are not a lot of transportation options for James Bay due to the regional context. For example, railway services to the Otish Mountains are impossible because of the steep grades. Also, even if a specific road corridor is less than ideal, it might be chosen because it's the only possible road access.

Mr. Blais went on to say that the James Bay territory is special because of its vast network of forest roads (11 000 km compared with 1500 km for the public road network). Although forest roads are privately owned, they're usually open to public use and the public generally asks that they not be decommissioned when the forest company stops using them. In the JBACE's opinion, this can adversely affect the Crees where a road provides access to their traplines for sport hunting and fishing.

According to Mr. Blais, expanding the road network will obviously open up the territory. However, he pointed out that several Cree communities experienced economic growth when they became accessible by road and thus less isolated. In his opinion, the cooperative mechanisms in place as well as long-term planning will make it possible to open up the territory while protecting the environment and communities. Mr. Blais also said that transportation projects will go hand in hand with initiatives to acquire greater knowledge about the North.

While the JBACE members acknowledge that the cooperative mechanisms seem to include all partners, they think that consulting communities one by one may create specific challenges in integrating the different concerns expressed.

Otish Mountain road project

In 2006, the James Bay Joint Action Mining Committee ('Table jamésienne de concertation minière') proposed building a road into the Otish Mountains area to serve four mining projects. A steering committee was formed and a prefeasibility study was conducted in 2008. The proposed road would be 260 km long and cost \$260 million.

The Nord-du-Québec coordination office is involved in this project to prevent duplication of temporary road projects. If the government were not involved, every

mining company could propose its own road. The government envisages a permanent, multiservice road to serve mining, wind energy and tourism development.

The impact statement for this project is expected to be submitted in September 2010. According to Mr. Blais, significant consultations were held with the Cree community of Mistissini and the trappers concerned; in fact, the road corridor was modified based on the trappers' comments. The concerns regarding access to traplines for sport hunting could be addressed by installing a gate to control road access.

In terms of funding, the government has committed to covering 50% of project costs. However, the mining companies aren't in a position to provide the remaining 50%. Mr. Blais is considering a "hybrid" approach based on the user-pay principle. Also, building the road in sections, 50 km every 5 years, would spread costs over a longer period.

Questions and comments regarding the Otish Mountain road project

A question was asked about the intended road corridor running through the proposed Albnel-Témiscamie-Otish park. Since the road might eventually serve a uranium mine, ore hauling could make the park less appealing to tourists. Denis Blais explained that this corridor was selected in order to accommodate Cree families living in the area.

According to the members, the Otish Mountains road project is a good example of why a strategic environmental assessment of development projects under the Northern Plan is so important. Even though the road project is subject to environmental assessment, the assessment procedure will not give due consideration to more strategic issues such as a balance between the various user groups, assessment of the road's cumulative impacts and how compatible the planned road is with current or future uses of the areas concerned. Also, the assessment procedure contains no mechanism for assessing the regional impacts of the road and related projects (mining, wind energy, sport hunting and park).

5. ADOPTION OF THE DRAFT BRIEF ON QUÉBEC'S NEW RESIDUAL MATERIALS MANAGEMENT POLICY

The JBACE's brief endorses the objectives of the Québec residual materials management policy for 2010-2015, but proposes changes to facilitate the policy's application in the North. The proposed changes include the creation of two special funds: one dedicated to the acquisition of knowledge on management of residual

materials and the other, to the construction of new infrastructure or upgrading of existing infrastructure.

In the JBACE's opinion, James Bay Cree communities should be eligible for the compensation plan for municipal curbside recycling services, considering the high cost of hauling recyclables. The JBACE is also of the opinion that eco-centres should be set up in the Cree communities to stockpile recyclables and products referred to in the *Regulation respecting the recovery and reclamation of products by enterprises*.

The members unanimously agreed to send this version of the brief to the Minister of Sustainable Development, Environment and Parks.

6. FORMATION OF A SUBCOMMITTEE ON PROTECTED AREAS

Following the information session given by the MDDEP on December 15, 2009, the JBACE decided to form a subcommittee to comment on the proposed directions, placing emphasis on the importance of the sociocultural aspect of protected areas proposed by Cree communities. For example, the JBACE will reiterate its endorsement of the proposed Waswanipi Lake aquatic reserve: one of the islands in the lake harbours a former trading post.

When studying park projects, the subcommittee must ensure that they are suitable in the James Bay context, that there is adequate consultation of Cree regional bodies and that the required information is available to identify areas of special interest to the Crees. The subcommittee must also examine joint management models applicable to the James Bay territory..

7. PRESENTATION BY JAMES YANTHA (INAC) ON THE EYYOU MARINE REGION AGREEMENT

Due to a lack of time, Mr. Yantha's presentation was postponed to the JBACE's next meeting. In the meantime, Mr. Yantha recommended that the members read the information posted on the Grand Council of the Crees (Eeyou Istchee) Website.

8. ESTIMATES FOR THE PREPARATION OF A LEGAL OPINION ON THE AMENDMENT OF SCHEDULES 1 AND 2 OF SECTION 22

The law firm Daigneault Avocats submitted an estimate for a legal opinion on the procedure for amending schedules 1 and 2 of Section 22. Since the parties still haven't initiated talks on the recommendations made by the JBACE in 2008, the members deem it too soon to request a legal opinion. In addition, the JBACE

doesn't want to get into a lot of spending before receiving a response to its budget requests.

9. NEXT MEETING

The next JBACE meeting will be held on April 21 and 22, 2010, in Montréal.



Marc Jetten
Executive Secretary
April 26, 2010