



MINUTES OF THE 166th MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

(Adopted)

DATE: December 2, 2010

PLACE: JBACE secretariat, Montréal

PRESENT: Serge Alain, Québec
Josée Brazeau, Québec, Vice-Chairperson
Denyse Gouin, Québec
Ashley Iserhoff, Cree Regional Authority (CRA)
Ginette Lajoie, (CRA)
Maryse Lemire, Canada, Chairperson
Chantal Otter Tétreault, CRA
Jean Picard, Canada
Norman Wapachee, CRA

Marc Jetten, Executive Secretary
Graeme Morin, Environmental Analyst

ABSENT: Annie Déziel, Canada
Louis Lesage, ex-officio member, HFTCC
Pierre Moses, Québec

Guests for Item 2:

Guy Hétu, Regional Director General, Nord-du-Québec, Ministère des
Ressources naturelles et de la Faune (MRNF)
Marie-Noël Breton, Director of Regional Affairs, Nord-du-Québec,
MRNF

Guest for Item 9 (by phone):

Stephen Virc, Manager, National Recovery Projects, Canadian Wildlife
Service

1. PRESENTATION BY JBACE ANALYST ON THE ADAPTED FORESTRY REGIME

The JBACE's environmental analyst, Graeme Morin, went over the major components of the adapted forestry regime of the Agreement Concerning a New Relationship Between Québec and the Crees (ANRQC). The aim of his presentation was to provide a background to the following presentation on the sustainable forest management strategy, one of the pillars of the adapted forestry regime.

The objectives of the adapted forestry regime (Chapter 3 of the ANRQC) are to protect the rights guaranteed to the Crees under the JBNQA and ensure Cree involvement in forest management. To facilitate its implementation, the regime includes harmonization and dispute resolution mechanisms.

The adapted forestry regime makes Cree traplines central to forest management. The new forest management units (FMUs) are composed of groupings of traplines so that a trapline doesn't overlap two FMUs. In addition, the impact of forest management on wildlife habitat and traplines is mitigated by the use of mosaic cutting. The regime also provides for a moratorium on forest management in traplines that have been disturbed over 40% of their surface area in the last 20 years, either naturally or by forest management activities.

The Cree-Québec Forestry Board is responsible for overseeing the implementation of the forestry regime. Joint working groups were created in each of the five communities affected by forest management activities to ensure enforcement of the provisions of the forestry regime in each trapline.

According to Mr. Morin, two major issues must be considered in light of the new forest regime established by the *Sustainable Forest Development Act*. One is alignment between the regional authorities entrusted with forest management powers and the bodies of the adapted forestry regime under the ANRQC. The other is compatibility between ecosystem-based approach to forest management under the Act and the existent management system of mosaic cutting under the ANRQC.

2. PRESENTATION BY MARIE-NOËL BRETON AND GUY HÉTU OF THE MRNF ON THE SUSTAINABLE FOREST MANAGEMENT STRATEGY AND REGULATION

The sustainable forest management strategy proposed by the Ministère des Ressources naturelles et de la Faune (MRNF) is a core element of the new forest regime established by the *Sustainable Forest Development Act*. Implementation of the regime begins in 2013. Interested organizations and persons have until January 28, 2011 to make their comments known.

Marie-Noël Breton explained that the aim of the strategy is to manage Québec's public forest in a sustainable manner, i.e. by maintaining the economic, social and environmental benefits derived therefrom. The challenge consists in using forest practices to ensure ecosystems are sustainable: by adopting an ecosystem-based approach to forest management, managed forests would increasingly resemble natural forests.

In addition, the interests, values and needs of Aboriginal nations must be considered in forest management decisions. According to Ms. Breton, another goal of the strategy is to bring decision-making closer to citizens, notably by creating integrated land and resource management panels (TGIRTs) in each region. Moreover, the regional conferences of elected officers (CRÉs) will hold consultations on the regional plans for integrated land and resource development (PRDIRTs). Integrated forest management plans must draw on the PRDIRTs, the work of TGIRTs, and the sustainable forest management strategy. However, Mr. Héту pointed out that the MRNF will remain responsible for consulting Aboriginal communities.

Application of the new strategy to the James Bay territory

Guy Héту stressed that the new forest regime and sustainable forest management strategy will be in line with the provisions of the adapted forestry regime of the Agreement Concerning a New Relationship Between Québec and the Crees (ANRQC). The MRNF will be initiating talks with the Cree Regional Authority concerning possible amendments to enable application of the new forest regime in the territory covered by the ANRQC. In the event of any inconsistency, the provisions of the ANRQC will prevail. In one JBACE member's opinion, the harvesting method of mosaic cutting used to protect the habitat of wildlife harvested by the Crees makes a difficult fit with ecosystem-based management that involves large cutting areas.

Guy Héту conceded that the MRNF has yet to compile all of the necessary data, particularly baseline data for the James Bay boreal forest, to implement ecosystem-based management. Anticipated studies in spring 2011 should make it possible to determine the historical percentage of mature and over-mature forests in the territory, among other things.

The JBACE members noted that the MRNF's consultation process will have ended long before these data are available. They questioned how the MRNF was going to account for and follow-up on comments and recommendations from the JBACE. Guy Héту said he was willing to meet with the JBACE again to give a more detailed

presentation. He has every intention of considering the JBACE's proposals for following up on its recommendations.

Future regulation on sustainable forest management

The same as with the strategy, the MRNF wants to start implementing the sustainable forest management regulation in 2013. The regulation would replace the current *Regulation respecting standards of forest management for forests in the domain of the State (RNI)*. The new regulation would introduce an objectives-based management approach, rather than management standards, although the RNI standards would be maintained and even strengthened in certain cases. The regulation would also make it easier for project proponents to comply with both provincial and federal standards, including those designed to protect watercourses and riparian habitats.

3. FOLLOW-UP ON THE PRESENTATION ON THE SUSTAINABLE FOREST MANAGEMENT STRATEGY

In the light of the MRNF's presentation, the JBACE members find that there are major gaps in the consultation process in terms of access to information and Cree involvement. The Crees would not be consulted until the end, after regional stakeholders have completed their work in the TGIRT or for the regional land and natural resource commission (CRRNT). Moreover, an ecosystem-based management approach could pose problems in the context of the Northern Plan, considering that half of the territory would be assigned special status, either as a protected area or an area withdrawn from industrial development.

The JBACE will have to insist on compliance with the provisions of the adapted forestry regime under the ANRQC until both parties have agreed to amend the agreement to facilitate implementation of the new forest regime in the James Bay territory.

The secretary will ensure the follow-up with Ms. Breton and Mr. Héту to obtain the essential data for implementing the strategy, including the reference state of the James Bay boreal forest.

4. ADOPTION OF THE AGENDA

On motion by Josée Brazeau, seconded by Ginette Lajoie, the meeting agenda was adopted as amended.

5. ADOPTION OF THE MINUTES OF THE 165TH MEETING (SEPT. 28-29, 2010)

On motion by Ginette Lajoie, seconded by Jean Picard, the minutes of the 165th meeting of the JBACE were adopted as amended.

6. ADMINISTRATION

a. Adoption of the 2011-2012 budget proposal

On motion by Serge Alain, seconded by Jean Picard, the 2011-2012 budget proposal was unanimously adopted.

b. JBACE funding and draft administrative agreement

The JBACE's Administrative Committee plans on meeting with representatives of the funding parties in January 2011 in preparation for the granting of funding to the JBACE. The purpose of the meeting is to determine the financial resources needed to enable the JBACE to fulfil its mandate.

The JBACE will write to the deputy minister of the Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP) inviting her to begin discussions to update the administrative agreement between the MDDEP and the JBACE.

c. Resignation of a Québec member

Serge Alain informed the JBACE of his decision to resign as a member for Québec. He will call on the persons responsible for appointing Québec members to fill his seat on the JBACE in a timely manner. The members thanked Serge for his involvement with the Committee and wished him every success in his future endeavours.

7. FILE UPDATE

a. Public consultation subcommittee

The subcommittee's meeting the previous day clarified the situation regarding the continued involvement of the experts from the MDDEP. A progress report must be submitted to the deputy minister of the MDDEP in order to define the objectives of the project, to describe the status of the work, and to provide tangible short to mid-

term recommendations. Among other things, the subcommittee is examining the consultation process underway for the Matoush uranium exploration project to develop solutions in light of the shortcomings in the Section 22 assessment and review procedure.

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

The secretary will contact the Association québécoise pour l'évaluation des impacts (AQÉI) to see if it would be interested in holding a joint workshop with the JBACE on the results of the Section 22 assessment and review procedure.

c. Planned meeting with the chairman of the Cree-Québec Forestry Board

The secretary will send the draft letter to the designated members for their comments.

d. MRNF inspection of mine sites posing a risk

According to someone at the MRNF, the inspection reports will be forwarded to the JBACE. The reports deal with 10 or so sites in the James Bay territory that were inspected in 2009 or 2010.

e. Cape Jones (Pointe Louis XIV) contaminated site

Someone from Environment Canada visited the site and found nothing that might trigger federal regulation. Environment Canada will communicate its findings to the CRA and MDDEP.

The JBACE would like to obtain a copy of the findings. The Committee maintains that a soil characterization study of the Cape Jones site is needed so that cleanup can begin.

8. INFORMATION REGARDING THE BILL ON THE AREA OF THE NORTHERN PLAN (50%) WITHDRAWN FROM INDUSTRIAL DEVELOPMENT

The MDDEP representatives submitted a consultation document to the Partners' Discussion Table on the area withdrawn from industrial development (50% of the area of the Northern Plan). The secretary asked for a copy of the document, but the person in charge said the MDDEP was preparing an official consultation document

for submission and that the JBACE would be consulted on it. The MDDEP also plans on tabling a bill in 2011 on the area of the Northern Plan withdrawn from industrial development.

The members deplored the fact that the JBACE was left out of the consultation phase, during which key issues such as the definition of "industrial development" were discussed. It was agreed at the meeting with the associate deputy minister responsible for the Northern Plan (MRNF) last March that all pertinent information would be sent to the JBACE.

9. PRESENTATION BY STEPHEN VIRIC OF THE CANADIAN WILDLIFE SERVICE ON THE WOODLAND CARIBOU RECOVERY STRATEGY

Mr. Viric reported on the progress in the woodland caribou recovery strategy. The 2008 survey put Québec's woodland caribou population at between 6 000 and 12 000 animals. Since there has been no specific survey of caribou in the James Bay territory, Mr. Viric can't give a population estimate for the territory.

Scientists observed a significant decline in woodland caribou populations at the turn of the century. In 2002, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) recommended that the woodland caribou (boreal population) be designated as threatened, which it was in 2003. In 2007, the Canadian Wildlife Service submitted a preliminary recovery strategy and then conducted studies on the species' critical habitat.

Stephen Viric explained that the Canadian Wildlife Service is currently holding consultations on various components of the draft woodland caribou recovery strategy, which it expects to release in summer 2011. In all likelihood, the strategy will be accompanied by a statement regarding the species' critical habitat. A JBACE member asked if critical habitat maps will be produced. Mr. Viric explained that the statement will consist of a biophysical description of critical habitat for woodland caribou in each region of Canada.

The government will develop a detailed action plan to implement the recovery strategy. In short, federal measures to protect woodland caribou might not be implemented before 2012 or 2013.

Studies show that large blocks of undisturbed conifer forest provide critical habitat for woodland caribou. The woodland caribou migrates long distances of up to 100 km, which explains the extent of its habitat. The decline in caribou numbers is apparently attributable to a combination of natural and human disturbances.

One of the biggest disturbances is caused by forest management. Disturbance tends to create clearings, which provide habitat conducive to moose or deer. However, these species attract a greater number of predators, making woodland

caribou more vulnerable to predation. Mr. Virc explained that the action plan will have to contain accommodation measures for species such as woodland caribou and moose.

While the JBACE is welcome to submit comments during development of the action plan, Stephen Virc encouraged the Committee to work closely with the Ministère des Ressources naturelles et de la Faune (MRNF) du Québec so that it can intervene well before the federal action plan. The JBACE members explained that it is unable to do so at the moment because the MRNF hasn't released its data on woodland caribou yet. This causes significant problems in that proponents cannot assess the impact of forest road projects on woodland caribou habitat because they don't know where herds are located.

10. ACCESS TO WOODLAND CARIBOU DATA

The JBACE will make a request under the *Act respecting Access to documents held by public bodies and the Protection of personal information* to obtain all documents containing data on the woodland caribou and its habitat in the James Bay territory.

11. JBACE DIRECTIONS FOR THE REVIEW OF THE *CANADIAN ENVIRONMENTAL ASSESSMENT ACT*

The members read the letter from the Grand Chief of the Crees requesting that the federal process under Section 22 of the JBNQA be officially written into the *Canadian Environmental Assessment Act* (CEAA) so as to harmonize the Section 22 and CEAA environmental assessment processes while complying with the recent Supreme Court decision regarding application of the CEAA to the JBNQA territory.

Given that the JBACE intends to present a brief during the parliamentary committee hearings on the review of the CEAA, a subcommittee was formed to draft a preliminary version of the brief.

12. OTHER BUSINESS

a. Follow-up study on the impact on fish habitat of the tailings dike failure at the Opemiska mine

The CRA's director of environmental management, Isaac Voyageur, wrote to the JBACE expressing concerns about the terms of reference for the follow-up study on

the impact on fish and fish habitat of the tailings dike failure at the old Opemiska mine in 2008.

The JBACE will invite the CRA's mining engineer to its next meeting to find out more about the findings of the CRA's preliminary studies and get a better grasp of the Cree's concerns regarding fish and fish habitat.

13. NEXT MEETING

The next JBACE meeting will be held on February 23, 2011, in Montréal.



Marc Jetten
Executive Secretary
March 29, 2011