



## **MINUTES OF THE 169th MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT**

*(Adopted)*

- DATE:** June 1 and 2, 2011
- PLACE:** Council of the Cree Nation of Oujé-Bougoumou
- PRESENT:** Josée Brazeau, Québec (for Item 17 only, by phone)  
Annie Déziel, Canada  
Denyse Gouin, Québec  
Guy Héту, Québec (June 1 only)  
Ashley Iserhoff, Cree Regional Authority (CRA), Chairman  
Réal Lavigne, Québec  
Maryse Lemire, Canada  
Chantal Otter Tétreault, CRA  
Jean Picard, Canada  
Isaac Voyageur, CRA, Vice-Chairman  
Norman Wapachee, CRA
- Marc Jetten, Executive Secretary  
Graeme Morin, Environmental Analyst
- GUESTS:** Sonia Légaré, Direction de l'expertise Faune-Forêt-Énergie-Mines-  
Territoire du Nord-du-Québec, MRNF (June 1 only)  
François Brassard, Direction du patrimoine écologique et des parcs,  
MDDEP (for Item 17, by videophone)

**Wednesday, June 1, 2011**

### **1. ADOPTION OF THE AGENDA**

On motion by Maryse Lemire, seconded by Chantal Otter Tétreault, the meeting agenda was adopted as amended.

## **2. PRESENTATION OF THE JBACE'S MANDATE**

For the benefit of the new JBACE members, the analyst explained the Committee's mandate with regard to examining policies, laws and regulations as well as overseeing the administration of the impact assessment and review procedure.

## **3. CLARIFICATION REGARDING THE STATUS OF JBACE MEMBERS WITH RESPECT TO THEIR DUTIES**

The Administrative Committee will draft a code of ethics defining situations that place members or employees in possible conflict of interest. It will submit the text at the next meeting.

## **4. ADOPTION OF THE MINUTES OF THE 168TH MEETING (TELECONFERENCE ON APRIL 14, 2011)**

On motion by Norman Wapachee, seconded by Denyse Gouin, the minutes of the 168th meeting of the JBACE were adopted as prepared.

## **5. PRESENTATION BY THE JBACE ANALYST ON CURRENT FILES**

### ***a. Public consultation procedure***

The analyst is drafting a report on the results of public participation in the hearings on the Matoush uranium exploration project, a comparative analysis of consultation procedures in other northern jurisdictions, and case studies of First Nations participation. It should be possible to update the research reports and prepare an outline of the final report at the sub-committee's next meeting.

### ***b. Cree Trappers' Association project on climate change impacts***

Mr. Morin discussed the Internet portal launched at the end of the project. The Cree Trappers' Association (CTA) plans on proceeding with the second phase of the project, which focuses on monitoring ice conditions in the territory to make sure the ice is safe to travel on. If the requested funding is received for the project, the JBACE will decide whether or not it will participate in the second phase.

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

The sub-committee has determined most of the content of the seminar. The analyst will work on the organizational part, for which a partner needs to be found.

**6. MEETING WITH GUY HÉTU AND SONIA LÉGARÉ OF THE NORTHERN QUÉBEC REGIONAL OFFICE**

***a. Forest road impacts on woodland caribou***

The Ministère des Ressources naturelles et de la Faune (MRNF) met with representatives of the Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP) as well as with the Review Committee (COMEX) to discuss the impact of forest roads on woodland caribou habitat. The MRNF provided explanations regarding its opinion on the impact of two planned forest roads. It's clear that no timber harvesting permits (forestry permits) will be granted in the areas of the planned forest roads until the MDDEP has issued certificates of authorization.

Mr. Héту stressed that the project proponents consulted the Cree tallymen concerned by the two road projects and took their requests into consideration. According to the CRA members, the entire community of Oujé-Bougoumou should be consulted on both forest road projects.

The JBACE members reiterated their concerns about the cumulative impacts of forest roads on woodland caribou habitat. It's impossible to take the cumulative impacts of these roads into account when environmental assessments are conducted on a project-by-project basis. The JBACE had called for a regional environmental effects assessment in order to take different types of impacts on woodland caribou habitat into account.

***b. Work of the MRNF-CRA special task force on woodland caribou***

Because the two parties disagree on the mandate of the special task force, not much work has been accomplished. The MRNF wants the task force's mandate to be limited to the impact of forest roads, whereas the Cree party wants to address the global issue of woodland caribou conservation. Moreover, in the Cree party's opinion, the task force members do not have enough access to woodland caribou experts.

### ***c. Follow-up on the sustainable forest management strategy***

Sonia Légaré stressed that the ecosystem-based approach underpinning the new sustainable forest management strategy is intended to bring managed forests closer to natural forests. The JBACE had underlined the importance of comparing managed forests relative to the reference state of the natural forest (baseline data). Ms. Légaré said that the MRNF has released a number of data on the state of James Bay forests prior to industrial development.

To achieve ecosystem-based management, the percentage of old forest must be increased and the surface area of regeneration reduced. Ideally, no more than 20% of the surface area of a forest management unit should be affected by major disturbances (timber harvesting, fire, etc.) or have little old-forest cover. In addition, the number of large forest clusters must be increased. According to Ms. Légaré, successive reductions in the annual allowable cut since 2008 will facilitate the transition to ecosystem-based management in James Bay.

## **7. REVIEW OF FOREST MANAGEMENT PLANS**

The JBACE will make a new request for funding to review forest management plans and amendments thereto. This aspect of the JBACE's mandate did not change with the signing of the Agreement Concerning a New Relationship Between Québec and the Crees (ANRQC). The Committee will emphasize the importance of obtaining the opinion of forestry experts and using special software in reviewing forest management plans given that they are highly technical documents. Without financial resources, the JBACE secretariat does not have access to the expertise or software needed to fulfil this mandate.

The Committee will also emphasize the special nature of its review and its criteria based on the guiding principles of the environmental and social protection regime. In this regard, the JBACE's review complements the work carried out under the adapted forestry regime of the ANRQC.

## **8. FOLLOW-UP ON THE LAUNCH OF THE 'PLAN NORD' (NORTHERN PLAN)**

The Québec government officially launched its Plan Nord on May 9, 2011 by creating the Société du Plan Nord. The government reiterated its pledge to respect the James Bay and Northern Québec Agreement (JBNQA). For now, however, it is not following the JBACE's suggestion to conduct a strategic environmental assessment (SEA). Several bodies, including the Grand Council of the Crees (GCC), are in favour of an SEA of the Plan Nord. In the JBACE's opinion, this part of the planning process must be carried out before the Plan Nord is implemented if it is to be valid.

The government has not released its consultation paper on the Plan Nord territory (50%) to be set aside for conservation and non-industrial development purposes.

## **9. BILL 14 , AN ACT RESPECTING THE DEVELOPMENT OF MINERAL RESOURCES IN KEEPING WITH THE PRINCIPLES OF SUSTAINABLE DEVELOPMENT**

The JBACE is creating a sub-committee to help the analyst draft a brief on Bill 14. The sub-committee will take into account the brief submitted last year on Bill 79 amending the *Mining Act* as well as the analyst's work on mineral exploration and contaminated mine sites.

## **10. GRAND COUNCIL OF THE CREES' AND CREE NATION OF MISTISSINI'S CALL FOR A MORATORIUM ON URANIUM EXPLORATION**

The Cree Nation of Mistissini and the GCC called on the Québec government to impose a moratorium on uranium exploration on Mistissini traditional territory. The JBACE will write to the administrators of the impact assessment and review process as well as to the Canadian Nuclear Safety Commission to stress the importance of special involvement for the Crees, as provided for in the JBNQA. Also, the Committee will insist on the need to take a precautionary approach to impact assessment given that this is the first project of its kind in Québec.

The JBACE will write a separate letter to the MRNF and mining associations to make them aware of the JBNQA provisions dealing with, among other things, the establishment of consultation mechanisms ensuring special involvement for the Cree people over and above that provided for in procedures involving the general public. The JBACE will encourage the proponents of mining projects to consult the Crees upstream of the impact assessment and review procedure, i.e. as early as possible in project planning.

## **11. ADMINISTRATION**

### ***a. Executive Secretary salary review***

At its April 14 meeting, the JBACE decided to adjust the executive secretary's salary for the 2011-2012 fiscal year based on the consumer price index (CPI). The CPI increase was 3.3% as at March 31, 2011.

***b. Renewal of analyst's contract***

**JBACE Resolution No. 2011-06-01-01 renewing the analyst's contract for another year:**

- WHEREAS the analyst plays an important role in supporting the JBACE members in their work on files requiring in-depth study;
- WHEREAS the JBACE must postpone creating a permanent position due to a lack of financial resources and, consequently, must hire its analyst on a contract basis;
- WHEREAS the analyst's current contract expires on November 4, 2011;
- WHEREAS the JBACE's Administrative Committee will evaluate the analyst's performance during the period covered by his current contract with a view to continuous improvement;

*On motion by Jean Picard, seconded by Annie Déziel:*

**It is unanimously resolved to renew the JBACE analyst's contract for another year, i.e. until November 2012.**

## **12. ADOPTION OF THE JBACE'S FINANCIAL STATEMENTS FOR 2010-2011**

**JBACE Resolution No. 2011-06-01-02 concerning the financial statements 2010-2011:**

- WHEREAS the JBACE is required to adopt financial statements for the 2010-2011 fiscal year;
- WHEREAS the accounting firm Ruel, Giroux, c.a., duly completed a "Notice to Readers" for the JBACE's financial statements;
- WHEREAS the Administrative Committee examined the financial statements and recommends their adoption by the JBACE;

*On motion by Maryse Lemire, seconded by Denyse Gouin:*

**It is unanimously resolved to adopt the financial statements for the 2010-2011 fiscal year as prepared.**

**Thursday, June 2, 2011**

## **13. MISHIGAMISH PROTECTED AREA PROPOSAL BY THE CREE FIRST NATION OF WASWANIPI**

The JBACE members endorse the protected area proposal made by the Cree First Nation of Waswanipi. However, considering the recent setting aside of land for the Assinica park project and the Chisesaakahiikan protected area recently proposed by the Cree Nation of Nemaska, the members invite the Québec government, the Cree Regional Authority (CRA) and the Cree First Nations to work together.

**JBACE Resolution No. 2011-06-02-01 concerning the setting aside of the Mishigamish territory (area of Lake Evans and Broadback River corridor) as a protected area:**

- WHEREAS the James Bay and Northern Québec Agreement provides that the JBACE act as a consultative body to governments regarding measures affecting the social and environmental protection regime as well as land use (para. 22.3.24 and 22.3.28);

- WHEREAS the JBACE supports implementation, in the James Bay territory, of protected areas, subject, however, to compliance with the provisions of Sections 22 and 24 of the James Bay and Northern Québec Agreement, in particular with respect to terms and conditions pertaining to Cree participation and rights to harvest;
- WHEREAS the Cree First Nation of Waswanipi has submitted a proposal to set aside the territory known as “Mishigamish” as a protected area, by way of Resolution 2010/2011 – No: 148 passed by the Council and the associated map;
- WHEREAS the JBACE called on the Ministère du Développement durable, de l’Environnement et des Parcs to give preference to protected areas proposed by the Cree communities;<sup>1</sup>
- WHEREAS the JBACE has stressed that the cultural value of sites must be taken into consideration on the same basis as their ecological value, and whereas the territory in question is of significant cultural value to the Crees of Waswanipi;<sup>2</sup>
- WHEREAS the creation of a protected area in the Mishigamish territory would promote protection of woodland caribou habitats, given that the species is designated “vulnerable” under Québec’s *Act respecting threatened or vulnerable species* and “threatened” under Canada’s *Species at Risk Act*;
- WHEREAS the JBACE’s endorsement of the Mishigamish protected area proposal is without prejudice to the other protected area proposals made by the Cree communities.

On motion by Denyse Gouin, seconded by Annie Déziel:

**It is unanimously resolved to ask the Minister of Sustainable Development, Environment and Parks to set aside without delay the “Mishigamish” territory (area of Lake Evans and Broadback River corridor) as a protected area, as delimited in Resolution 2010/2011 – No: 148 of the Cree First Nation of Waswanipi; the setting aside of this territory would take place pursuant to section 27 of the *Natural Heritage Conservation Act*.**

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<sup>1</sup> Letter from Maryse Lemire, Chairperson of the JBACE, to Line Beauchamp, Minister of Sustainable Development, Environment and Parks, May 7, 2010.

<sup>2</sup> Idem.



#### **14. ADOPTION OF THE ANNUAL ACTIVITIES REPORT FOR 2010-2011**

On motion by Chantal Otter Tétrault, seconded by Denyse Gouin, the annual activities report for the 2010-2011 fiscal year was adopted as amended.

#### **15. ADOPTION OF THE BRIEF ON THE REVIEW OF THE *CANADIAN ENVIRONMENTAL ASSESSMENT ACT (CEAA)***

The members wanted to make a few changes to the draft brief before adopting it. The final version will be sent to the members by email for their approval.

#### **16. PROGRESS REPORT ON THE WORK OF THE SUB-COMMITTEE ON PUBLIC CONSULTATION UNDER SECTION 22**

The members would like the progress report to give greater consideration to the consultation procedure for southern Québec, the work carried out by the sub-committee and the work left to be done. The analyst will incorporate these comments into the progress report before sending it to the deputy minister of the MDDEP.

In its final report on improving the public consultation procedure, the JBACE intends to include short-term recommendations as well as recommendations to be implemented over the longer term (e.g. amendment of the JBNQA).

#### **17. PRESENTATION BY FRANÇOIS BRASSARD (MDDEP) ON THE DIRECTIONS FOR THE CREATION OF NEW PROTECTED AREAS**

Mr. Brassard explained the government's objective of protecting 12% of the area of Québec by 2015. This objective applies to each of Québec's four major natural areas, including the territory covered by the Plan Nord. With the total protected area (including parks) currently standing at 8.35% of Québec, it means that another 64 000 km<sup>2</sup> will be assigned protected status by 2015.

The MDDEP intends to create a new, 10 000 km<sup>2</sup> protected area in the boreal forest zone in order to protect, in particular, mature forests that provide habitat for vulnerable species such as the woodland caribou.

The MDDEP will launch a vast, 11-stage consultation process in order to give due consideration to all 800 protected area proposals for Québec. The consultation process is aimed at sharing information on the weaknesses in under-protected areas and identifying solutions for protecting them in collaboration with territorial partners. The MDDEP also

wants to consider the socioeconomic impacts of protected areas, in particular on existing rights and access to resources.

As regards the difference between a park and a biodiversity reserve, Mr. Brassard explained that both are strictly protected areas.<sup>3</sup> However, parks usually come with a development plan including infrastructure (roads, campgrounds, etc.). Management of biodiversity reserves, on the other hand, costs a lot less.

Sport hunting and existing vacation leases are maintained in biodiversity reserves, but not in parks. Sport fishing is permitted in both cases. Mr. Brassard specified that Native hunting, fishing and trapping rights are recognized in both parks and biodiversity reserves in the James Bay territory.

In reply to a question regarding harmonization of the 12% protected areas objective with the banning of industrial development in 50% of the Plan Nord, Mr. Brassard said that protected areas in the North will definitely be included in the 50% objective of the Plan Nord. However, the MDDEP has not yet determined how the areas set aside for non-industrial activities, i.e. 38% of the Plan Nord territory, will be set up. The MDDEP will hold consultations specifically on this issue.

## **18. PREPARATION OF THE MEETING WITH THE MINISTER OF SUSTAINABLE DEVELOPMENT, ENVIRONMENT AND PARKS**

The Minister of Sustainable Development, Environment and Parks will meet with the JBACE on June 17, 2011. As far as the Committee is concerned, the meeting will provide an opportunity to explain its mandate and remind the Minister of the governments' obligation to consult the JBACE on measures that could affect the environmental and social protection regime. The members also hope to discuss current issues such as the Plan Nord, the framework agreement on regional governance, modernization of the regime and JBACE funding.

## **19. OTHER BUSINESS**

### ***a. Québec-Cree framework agreement on regional governance***

Ashley Iserhoff, Deputy Grand Chief of the GCC, outlined the framework agreement on regional governance signed between the Québec government and the GCC. The purpose of the agreement is to resolve a dispute with respect to the regional governance powers of the Municipalité de Baie-James, a body that comprises no Cree

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<sup>3</sup> Based on International Union for the Conservation of Nature (IUCN) criteria.

representation. The agreement confers greater power over Category II lands on the Crees and establishes a regional government comprising representation of the Crees and the Jamesians and having jurisdiction over Category III lands. Negotiations will be held with a view to signing a final agreement within the next year.

***b. Press review***

The members assessed the impact of the daily press review on the executive secretary's workload. Considering that the press review is helpful in keeping the members up to date on news in the James Bay region, the secretary will continue conducting daily press reviews provided it does not affect his main tasks and duties.

***c. Projects subject to the Canadian Environmental Assessment Act***

Annie Déziel of the Canadian Environmental Assessment Agency (the Agency) told the members about three major projects in James Bay that are subject to environmental assessment under the *Canadian Environmental Assessment Act* (CEAA), namely the project to extend Route 167 Nord and the Black Rock and Renard mining projects.

To ensure Cree involvement, the Agency and the CRA agreed that the CRA would appoint representatives to sit on the CEAA review panels for each of the above projects. In addition, the panels are making efforts to coordinate their consultations with those held by the provincial Review Committee (COMEX) established by Section 22 of the JBNQA. To avoid negotiating a specific agreement for each project, the CEAA and CRA are currently discussing the possibility of a comprehensive agreement that would apply to the entire James Bay territory.

**20. NEXT MEETING**

The next JBACE meeting will be held on October 12 and 13, 2011, in Montréal.



Marc Jetten  
Executive Secretary  
November 3, 2011