



## MINUTES OF THE 170th MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

*(ADOPTED)*

**DATE:** October 12 and 13, 2011

**PLACE:** Cree Regional Authority office, Montréal

**PRESENT:** Annie Déziel, Canada  
Denyse Gouin, Québec  
Guy Héту, Québec  
Ashley Iserhoff, Cree Regional Authority (CRA), Chairman  
Eddy Jenniss, Canada  
Chantal Otter Tétreault, CRA  
Isaac Voyageur, CRA, Vice-Chairman  
Norman Wapachee, CRA  
  
Marc Jetten, Executive Secretary  
Graeme Morin, Environmental Analyst

**ABSENT:** Réal Lavigne, Québec  
Maryse Lemire, Canada  
Jean Picard, Canada

**GUESTS:**

**For Item 3:**

Diane Jean, Deputy Minister, Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP)  
Léopold Gaudreau, Assistant Deputy Minister, Sustainable Development, MDDEP  
Jacques Dupont, Assistant Deputy Minister, Water Expertise, Analysis and Environmental Assessment, MDDEP  
Patrick Beauchesne, Director, Direction du Patrimoine écologique et des Parcs, MDDEP  
Sophie Hamel-Dufour, MDDEP  
Aude Tremblay, Ministère des Ressources naturelles et de la Faune (MRNF)  
Pierre Rhéaume, Secrétariat aux affaires autochtones (SAA)

**For Item 10:**

Michèle Fournier, Senior Advisor, Bureau des changements climatiques, MDDEP  
Alain Bourque, Director, Impacts and Adaptation, OURANOS

**For Item 11:**

Geneviève Brunet, Biologist, Direction du développement et de la coordination, MRNF  
Hugo Jacquemain, Forest Engineer, MRNF

**OBSERVERS:**

**For Item 3:**

Nicole Gougeon, Secretary-Treasurer, Hunting, Fishing and Trapping Coordinating Committee (HFTCC)

**For Item 11:**

Nadia Saganash, Wildlife Management Administrator, CRA

Wednesday, October 12, 2011

**1. ADOPTION OF THE AGENDA**

On motion by Annie Déziel, seconded by Denyse Gouin, the meeting agenda was adopted as amended.

**2. ADOPTION OF THE MINUTES OF THE 169TH MEETING (JUNE 1 AND 2, 2011)**

On motion by Chantal Otter Tétreault, seconded by Annie Déziel, the minutes of the 169th meeting of the JBACE were adopted as amended.

**3. MDDEP PRESENTATION ON THE PLAN NORD TERRITORY SET ASIDE FOR NON-INDUSTRIAL PURPOSES (50%)**

Patrick Beauchesne began the presentation by reminding the participants of the Québec government's pledge to designate 12% of the territory of Québec as protected areas by 2015. As 9.7% of the area covered by the Plan Nord is currently protected, this would represent another 27 590 km<sup>2</sup>. In addition to the 12% target, the government pledges to set aside 38% of the Plan Nord territory by 2035 for biodiversity conservation, environmental protection and non-industrial activities. These so-called "natural capital land reserves," combined with the protected areas, would represent 50% of the Plan Nord territory.

More specifically, the MDDEP pledges to complete a network of protected areas covering 12% of the continuous boreal forest both above and below the northern limit of the commercial forest. Among other objectives, the creation of new protected areas in the boreal forest would protect threatened or vulnerable species such as the Woodland Caribou.

In follow-up to the consultations on the Plan Nord territory set aside for non-industrial purposes, the government plans on tabling a bill by the end of 2011 and then unveiling an implementation strategy a year later. The government will conduct consultations at each of these stages.

Reports on the designation of natural capital land reserves will be produced in 2020 and 2030 for the purpose of establishing new conservation targets and, in exceptional circumstances, adjusting the boundaries of reserves. The government will also take into account such things as climate change and the discovery of large mineral deposits.

Léopold Gaudreau asked for the JBACE's opinion on the advisability of authorizing forest management activities in natural capital land reserves (38%). Despite the industrial focus of forest management, Mr. Beauchesne underlined that the new forest regime, which is to be implemented in 2013, is grounded in ecosystem-based management, i.e. practices that emulate natural disturbances and adhere to sustainable development principles.

Mr. Gaudreau also asked the JBACE for its thoughts on the type of mineral exploration that could be allowed in natural capital land reserves. He thinks that certain types of exploration have little environmental impact and could be permitted.

### ***Questions and comments***

A JBACE member asked how the MDDEP intends to calculate the surface areas subject to industrial development. Will it consider the immediate ecological footprint alone or impacts in the widest sense? For example, a hydroelectric development project can have an impact on an entire watershed. Another member suggested establishing buffer zones between areas designated for industrial activities and natural capital land reserves. Patrick Beauchesne replied that, for the time being, the government is considering solely the surface areas directly affected by industrial development.

Léopold Gaudreau assured the JBACE that natural capital land reserves will be genuinely devoted to environmental protection, although not as strictly protected as designated protected areas. A regulation will be passed for each reserve to define the permitted and prohibited activities, among other things.

According to Mr. Gaudreau, the government might adopt strategic directions to ensure that all decisions regarding natural capital land reserves respect the defined conservation and environmental protection objectives.

In reply to a question about the ways and means of consultation, Mr. Beauchesne said that the government will consult the Cree communities on specific protected area or natural capital land reserve proposals. As the current consultation on strategic directions is almost over, the government especially wants the opinion of the Grand Council of the Crees and the bodies established by the James Bay and Northern Québec Agreement (JBNQA). A JBACE member stressed the importance of consulting the Cree communities on initiatives such as the Plan Nord territory set aside for non-industrial purposes.

## **4. FILE FOLLOW-UP**

### ***a. Protected areas proposed by Cree communities***

Representatives of the MDDEP and the CRA met in mid-September to study the Chisesaakahiikan and Mishigamish protected area proposals submitted by the Cree First Nations of Nemaska and Waswanipi, respectively. They decided to form a multiparty technical committee to assess all protected area proposals submitted by Cree communities.

### ***b. Baseline data on pre-industrial forest conditions***

The secretariat received this data from the MRNF. The JBACE's analyst will study the data soon, in the light of implementation of the ecosystem-based management approach proposed in the sustainable forest management strategy.

### ***c. Request for funding to study forest management plans***

The JBACE sent its request to the new Minister of Natural Resources and Wildlife, Clément Gignac, on October 13, 2011.

**d. Cree involvement in the environmental and social impact assessment of the Matoush uranium exploration project and mining development in general**

*i. Letter sent to the administrators of the assessment and review procedure and the Canadian Nuclear Safety Commission (CNSC)*

The JBACE wrote to the administrators and the CNSC in June 2011 to stress the importance of giving the Crees accurate information on the Matoush project, adapted to their needs. The president of the CNSC replied that the Commission had studied the project in detail to ensure protection of human health and the environment. In the context of the authorization process, the CNSC asked the project proponent to develop a public information program.

The JBACE had not received a reply from either the provincial or the federal administrator.

*ii. Draft letter to mining associations*

Given that it is unusual for the JBACE to make representations to associations of development proponents, the members would like the letter to be more informative about the Section 22 provisions dealing with Cree involvement.

**e. Proposal for a strategic environmental assessment of the Plan Nord**

The JBACE would like to meet with the new Minister of Natural Resources and Wildlife (and Minister responsible for the Northern Plan) to reiterate its proposal for a strategic environmental assessment (SEA) of the Northern Plan ('Plan Nord'). A brief document explaining SEA will be prepared for that purpose. The secretary will determine whether or not an existing report written by a consultant hired by the JBACE could be updated and used.

**f. Brief on the Canadian Environmental Assessment Act (CEAA)**

The House of Commons Standing Committee on Environment and Sustainable Development has resumed its activities. The secretary sent it the brief adopted by the JBACE in June 2011 on the CEAA review. The JBACE will appoint someone to present the brief as soon as it has been invited to participate in the Standing Committee's hearings.

**g. Cree Trappers' Association project on climate change adaptation strategies: ice monitoring pilot project**

The JBACE sent OURANOS a letter in support of the pilot project. If the necessary project funding is received, the JBACE analyst will be involved in reviewing the reports and various documents relating to the project.

**h. Québec-Cree framework agreement on regional governance**

The JBACE wrote to the Premier of Québec and the Grand Chief of the Crees in July 2011 asking to be consulted, as stipulated in the JBNQA, on components of the agreement that could affect the Section 22 regime or land use.

***i. Application of the Residual Materials Management Policy in the James Bay Territory***

The members would like to know more about the terms and conditions regarding the policy's application in the James Bay Territory. The secretary will see if the MDDEP can give a presentation at the next JBACE meeting.

***j. Cape Jones (Pointe Louis XIV) contaminated site***

The MDDEP is studying the matter and plans on replying to the Minister of National Defence's letter. The Minister says it is up to the Québec government, as owner of the site, to initiate steps to conduct a characterization study and clean up the site.

***k. Sub-Committee on Public Consultation***

The analyst expects to begin reviewing the progress report and resume sub-committee activities soon.

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

Owing to more important matters, the JBACE will not be able to organize a seminar on the 35-year history of implementation of Section 22 of the JBNQA. The members are keeping an eye out for a wider-scope event into which an overview of Section 22's implementation could be incorporated.

**5. ADMINISTRATION**

***a. Draft code of ethics for members and employees***

Drafting of a code of ethics has been shelved due to the problems associated with its application. Some members argued that they already adhere to a code of ethics through the bodies they represent.

***b. Two vacant seats on the JBACE***

Aboriginal Affairs and Northern Development Canada has appointed Eddy Jenniss to fill the vacant seat among JBACE members for Canada. As for the Québec party, the MDDEP has initiated the process of filling the vacant seat left by Josée Brazeau, who resigned as a Québec member in July 2011.

***c. JBACE's budget requests***

The secretary contacted the representatives of the federal and Québec government funding bodies to find out their availability to discuss increasing the JBACE's annual funding. A meeting with the JBACE's Administrative Committee will be proposed before the end of 2011. A representative from the CRA, which also contributes funding, will also be invited.

***d. Preparation of the budget proposal for 2012-2013***

The members asked the secretary to prepare a budget proposal for fiscal 2012-2013, one that reflects all elements of the JBACE's mandate, rather than the current level of funding.

***e. Analyst performance evaluation and conditions of his contract renewal (2011-2012)***

The JBACE's Administrative Committee plans on evaluating the analyst's job performance during his first contract (Nov. 2010-Oct. 2011) soon.

In addition, the JBACE agrees to adjust the analyst's salary under the new contract based on the consumer price index. The members agreed to carry over unused vacation time to the new contract commencing in November 2011.

**Thursday, October 13, 2011**

**6. PRESENTATION BY THE ANALYST ON THE JBACE'S DRAFT COMMENTS ON THE PLAN NORD TERRITORY TO BE SET ASIDE FOR NON-INDUSTRIAL DEVELOPMENT PURPOSES (50%)**

The analyst explained the thrusts that should be central to the creation of protected areas. The first three – representivity, surface area and connectivity – are covered by the MDDEP strategic guidelines for protected areas. The Committee would add a fourth thrust, namely, the cultural value of sites for the Crees.

In its brief, the JBACE would recommend that the process of identifying areas to be withdrawn from industrial development be completed within the next two years. Otherwise, the MDDEP would be forced to create natural capital land reserves solely on lands that hold no interest for forest, mining or energy development.

Owing to the multi-sector developments provided for under the plan, the JBACE would recommend that the MDDEP consider the cumulative impacts of all these projects. In this regard, the JBACE will reiterate the recommendation it made to the Minister responsible for the Northern Plan in 2010 to conduct a strategic environmental assessment of the Plan Nord. The Committee will also stress the importance of respecting the Crees' hunting, fishing and trapping rights under the JBNQA.

Given the fast pace of development provided for under the Plan Nord, the JBACE thinks it is important that the definition of "industrial activities" take into account the energy and residual materials management needs of the numerous construction sites and work camps. The Committee will therefore express its interest in sitting on the working group charged with defining "industrial" and "non-industrial activities."

The members will submit their comments to the analyst within a week so that the subcommittee on protected areas and land use planning can finalize the draft brief with a view to its adoption.

**7. REVIEW OF MRNF DATA ON WOODLAND CARIBOU**

The JBACE has agreed to take part in the activities of the special task force on woodland caribou through its analyst. The task force is composed of representatives from the MRNF, the CRA and

the Cree-Québec Forestry Board, in addition to several researchers. The JBACE analyst will sign a confidentiality agreement with the MRNF to allow him access to woodland caribou data.

In light of these developments, the JBACE will withdraw its request to the Commission d'accès à l'information concerning the review the MRNF's decision to release only part of its data.

## **8. NATIONAL WOODLAND CARIBOU RECOVERY STRATEGY**

The JBACE analyst invited the members to comment on his explanatory note on the National Woodland Caribou Recovery Strategy. The members' comments will be incorporated into the JBACE's draft brief.

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

The secretary told the members that the National Assembly Committee on Agriculture, Fisheries, Energy and Natural Resources (CAPERN) will not be holding general hearings on Bill 14. It held special hearings in August 2011, but the JBACE was not invited. The secretary suggested that the JBACE send its brief to the MNAs on the CAPERN when the bill is being studied section by section.

The analyst outlined the draft brief submitted to the mining subcommittee. Some of the recommendations made in 2010 in response to Bill 79 are still valid, such as establishing a public registry on mining activities. Bill 14 is different, however, which is why the analyst has formulated several new recommendations, including extending the minister's discretionary power to refuse to issue permits or licences on sites of interest for the Crees (currently, this power applies to urbanized and vacation areas).

The mining subcommittee will review the brief and submit it to the members for adoption by the end of October.

## **10. PRESENTATION BY MICHÈLE FOURNIER (MDDEP) AND ALAIN BOURQUE (OURANOS) ON THE 2013-2020 CLIMATE CHANGE ACTION PLAN**

Michèle Fournier explained that the MDDEP is conducting a "targeted" consultation on the Climate Change Action Plan (CCAP) with the aim of evaluating acceptance of certain proposals and getting the consulted bodies' ideas. The government expects to hold public consultations on the plan in winter 2012.

### **➤ *Measures for reducing greenhouse gas emissions***

Ms. Fournier began by presenting the planned action to reduce greenhouse gas (GHG) emissions. The 2013-2020 CCAP sets a GHG emission reduction target of 20% below the 1990 level. By 2013, the government plans on developing a carbon market which would allow companies that exceed their GHG emissions limit to purchase credits from companies that are below their emissions limit. At the same time, support measures will encourage energy efficiency and facilitate the shift to less-carbon-intensive processes.

Under the proposed action plan, all firms operating in the North that emit over 25 000 tonnes of GHGs per year would be subject to the ceiling and emissions-trading scheme. This would be the case, for example, for new development projects under the Plan Nord. Moreover, Ms. Fournier

pointed out that the Plan Nord provides for the production of 200 000 MW of renewable energy, possibly through wind and marine turbines.

The CCAP will introduce more stringent building standards for Northern Québec, due to the harsher climate. Furthermore, the planned actions under the 2011-2015 Residual Materials Management Policy would reduce GHG emissions from this sector. Lastly, the Action Climat program, which currently applies only to municipalities, would be extended to Aboriginal communities.

The CCAP might also focus on measures to strengthen the role of forests as carbon sinks. Conservation, reforestation and best forest management practices would be used to increase carbon storage in forests. A goal of zero deforestation would offset any deforestation through human activity by planting an equivalent surface area with trees.

### ➤ ***Adaptation measures***

Alain Bourque of OURANOS explained the “adaptation” component of the action plan, i.e. measures designed to mitigate damage caused by climate change and, to a lesser degree, seize opportunities. Mr. Bourque pointed out that, in addition to medium and long-term changes, climate change leads to more flooding, shoreline erosion, forest fires and permafrost thawing, all of which will have an impact on human health, infrastructure, the economy and the environment.

A government adaptation strategy is in an advanced stage of preparation and courses of action under a future action plan are being discussed. Interested parties will be able to comment on the strategy and action plan during public consultations likely to be held in early 2012. These two tools could, for example, bring authorization and control processes in line with the environmental risks associated with climate change. For instance, the standards governing tailings facilities could be tightened to account for more frequent freeze-thaw cycles, heavy rains, etc.

### ➤ ***Word from the Chairman***

The JBACE Chairman thanked Ms. Fournier and Mr. Bourque for their presentation. He explained that climate change is a very important issue for the Crees owing to the impacts already observed in the Territory. He invited them to contact Cree organizations, including the Cree Trappers' Association, in this regard.

## **11. PRESENTATION BY GENEVIÈVE BRUNET AND HUGO JACOMAIN (MRNF) ON LOCAL FORESTS**

Geneviève Brunet explained that the establishment of local forests is one of the components of the new forest regime introduced by the Sustainable Forest Development Act. The same as for the new forest regime as a whole, discussions must be held between the two parties before local forests are established in the territory covered by the adapted forestry regime of the Agreement Concerning a New Relationship Between Québec and Crees (ANRQC).

According to Ms. Brunet, submitting local forest projects would allow local communities to manage an area of the surrounding public forest and some of its resources. Subject to an agreement with the MRNF, responsibility for the management of local forests may be entrusted to a regional county municipality (RCM), a local municipality or a Native band council. Holders of forest



management agreements (CtAF) or forest management contracts (CvAF) will be able to convert them into local forests.

The scope of the delegated powers can vary with each local forest and may include the harvesting and sale of timber, management of wildlife harvesting or granting of vacation leases. The municipality, RCM or community (the "management delegatee") must draw up a land and resource development plan for the area covered by the delegation agreement. It must also ensure the economic viability of the local forest.

The MRNF expects to establish between 10 and 15 local forests throughout Québec during the implementation period 2013-2018, in addition to those resulting from the conversion CtAF, CvAF and territory management agreements. This fall, the MRNF will consult the Cree communities on its local forest proposals.

### ***Questions and comments***

The JBACE analyst wondered if the communities will have time to put together local forest projects when talks on regional governance are already under way and a new forest regime is to be implemented in 2013. Hugo Jacqmain said that, if necessary, the consultation schedule could be adjusted for the James Bay Territory.

A member asked how conflicts over land use would be settled if, for example, a non-Aboriginal municipality is responsible for managing a forest in which the Crees hold hunting, fishing and trapping rights. According to Geneviève Brunet, the partners will have to address the matter before submitting a local forest project. Hugo Jacqmain believes the MRNF will study this issue for each proposal submitted.

## **12. FOLLOW-UP TO THE RECOMMENDATIONS REGARDING THE REVIEW OF SCHEDULES 1 AND 2: STUDY ON THE STATUS OF MINERAL EXPLORATION**

The JBACE wants to follow up with the parties to Section 22 (Canada, Québec and Crees) regarding its 2008 recommendations for the review of the lists of development projects automatically subject to and exempt from impact assessment (schedules 1 and 2 of Section 22). In addition, the members think that the JBACE should supplement its work on the schedule review with an opinion on making mineral exploration projects subject to assessment or not.

## **13. OTHER BUSINESS**

### ***a. Decree regarding the powers of the Minister of Natural Resources and Wildlife in relation to the JBNQA***

The secretary informed the members of a decree making the Minister of Natural Resources and Wildlife responsible for the application of the *Act approving the Agreement concerning James Bay and Northern Québec*.

### ***b. Proposed presentation at the workshop to be held by the First Nations of Quebec and Labrador Sustainable Development Institute (FNQLSDI)***

The FNQLSDI is holding a workshop under the theme "Environmental Assessments and the Territory" from November 22-24, 2011. The Institute invited the JBACE to give a

presentation on its proposal for an SEA of the Plan Nord. The members accepted the invitation and delegated a representative to give the presentation. The JBACE analyst will draft a working document.

***c. Project to compile JBACE documents (1978-2011)***

The secretary is in the process of identifying the documents that will complete the directory of documents compiled by the secretariat in 2004. The new directory 1978-2011, in CD format, will be ready soon.

***d. Letter from the Associate Deputy Minister of Mining (MRNF) regarding the JBACE's annual report for 2010-2011***

The Associate Deputy Minister of Mining (MRNF) wrote to the JBACE to provide clarifications regarding the section of the annual report for 2010-2011 dealing with mining, including monitoring of the impacts of the failure of the retaining dike at the Opemiska Mine. The secretary asked the CRA members if there have been any developments with regard to impact monitoring or communication with the community of Waswanipi. The JBACE will incorporate this information into its letter of reply.

**14. NEXT MEETING**

The JBACE will hold its next meeting on November 29, 2011, in Montréal.



Marc Jetten  
Executive Secretary  
December 1, 2011