



MINUTES OF THE 171st MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

(Adopted)

DATE: November 29, 2011

PLACE: Cree Regional Authority offices, Montréal

PRESENT: Annie Déziel, Canada
Denyse Gouin, Québec
Ashley Iserhoff, Cree Regional Authority (CRA), Chairman
(by telephone for items 2, 3, 4 and 5)
Eddy Jenniss, Canada
Jean Picard, Canada
Chantal Otter Tétreault, CRA
Isaac Voyageur, CRA, Vice-Chairman
Marc Jetten, Executive Secretary
Graeme Morin, Environmental Analyst

ABSENT: Guy Héту, Québec
Réal Lavigne, Québec
Maryse Lemire, Canada
Norman Wapachee, CRA

GUESTS:

For Item 1d:

Aurora Hernandez, Mining Engineer, CRA

For Item 6:

Cédric Paitre, Aboriginal Advisor, Canadian Wildlife Service, Environment Canada

For Item 8:

Elisabeth Simard, Advisor, Residual Materials Management, Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP)

1. **FILE UPDATE**

a. Plan Nord territory set aside for non-industrial purposes (50%)

The JBACE submitted its brief to the MDDEP on November 10. It will also send a copy to the Minister of Natural Resources and Wildlife (and minister responsible for the Plan Nord), along with a letter reiterating the JBACE's proposal to conduct a strategic environmental assessment of the Plan Nord.

b. Protected areas proposed by Cree communities

A member explained that the MDDEP and CRA are collaborating to create new protected areas and study Cree proposals in this regard. The areas selected should be designated as protected by 2015.

c. Brief on Bill 14 amending the Mining Act

The JBACE sent its brief on November 17, even though the parliamentary committee had already begun considering the bill in detail.

d. Draft letter on impact monitoring of the Opemiska tailings dike failure

In light of the clarifications provided by Aurora Hernandez of the CRA, the secretary will rework the draft letter to the Associate Deputy Minister for Mines (Ministère des Ressources naturelles et de la Faune – MRNF), stressing the positive aspects of the communication established between the MRNF and CRA. However, the JBACE will also encourage the MRNF to involve the community of Waswanipi in the monitoring and restoration process as soon as possible.

e. Draft 2013-2020 Climate Change Action Plan

In follow-up to the presentation on October 13, 2011, the JBACE sent its comments to the Minister of Sustainable Development, Environment and Parks on November 23.

f. Cree Trappers' Association's ice monitoring pilot project

Some of the project funding will come from OURANOS. The Cree Trappers' Association also plans on applying for funding under an Aboriginal Affairs and Northern Development Canada program.

g. Confidentiality agreement regarding access to woodland caribou data

The members agreed to allow the analyst to sign the confidentiality agreement proposed by the MRNF following minor amendments. Henceforth, the analyst will have access to the woodland caribou data held by the MRNF. A member said that the special task force on woodland caribou is scheduled to meet soon. The JBACE analyst will attend the meeting.

h. Local forest projects

The members made a few changes to the draft comments on the proposed directions for local forests. The final version of the comments will be sent to the Associate Deputy Minister for Forests (MRNF).

i. Québec-Cree framework agreement on regional governance

The executive director of the Grand Council of the Crees indicated that the JBACE would be consulted, if appropriate, on matters relating to the environmental and social protection regime during the negotiation process for the final agreement on regional governance.

j. Submission to the House of Commons Standing Committee on Environment and Sustainable Development regarding the review of the Canadian Environmental Assessment Act

A member and the analyst presented the JBACE's brief to the Standing Committee on November 17, 2011. The analyst will submit a written summary of the exchanges as well as a verbatim of a question regarding the Crown's obligation to consult First Nations. The members will then decide whether or not the JBACE should reply to the Standing Committee in writing.

k. Work on the Section 22 public consultation procedure

The analyst and Kelly LeBlanc of the CRA will work together to review the progress report. The members took note of who will be replacing the people who stepped down from the Sub-Committee on Public Consultation.

2. ADOPTION OF THE AGENDA¹

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

3. ADOPTION OF THE MINUTES OF THE 170TH MEETING (OCTOBER 12 AND 13, 2011)

On motion by Denyse Gouin, seconded by Annie Déziel, the minutes of the 170th meeting of the JBACE were adopted as amended.

4. PROPOSAL FOR STRATEGIC ENVIRONMENTAL ASSESSMENT OF THE PLAN NORD: SUBMISSION BY MICHEL CROWLEY (ENAP)

If the minister responsible for the Plan Nord agrees to meet with the JBACE, the members will consider preparing an explanatory document on strategic environmental assessment (SEA). There is no need to study Michel Crowley's submission at this time.

If the Québec government adopts Bill 27, the JBACE will submit its SEA proposal to the Société du Plan Nord.

5. ADOPTION OF THE BUDGET PROPOSAL FOR THE FISCAL YEAR BEGINNING APRIL 1, 2011

On motion by Jean Picard, seconded by Denyse Gouin, the budget proposal for the 2012-2013 fiscal year was adopted as amended.

The members asked the secretary to see if it would be possible to rent less expensive office space for the years thereafter. This proposal will be put to the Hunting, Fishing and Trapping Coordinating Committee, which shares the JBACE's current offices.

¹ With Ashley Iserhoff having joined the meeting by phone, there was quorum for items 2 through 5.

6. PRESENTATION BY CÉDRIC PAITRE (ENVIRONMENT CANADA) ON THE RECOVERY STRATEGY FOR WOODLAND CARIBOU, BOREAL POPULATION

Cédric Paitre said that the boreal population of woodland caribou is vulnerable to high predation rates because of its low birth rate and habitat disturbances. The main cause of habitat loss is apparently industrial development (forestry, mining, oil, etc.).

The Woodland Caribou has been listed as threatened under the *Species at Risk Act* since 2003. Environment Canada sets 65% undisturbed habitat in a range as the threshold which provides a measurable probability (60%) for a local population to be self-sustaining. Mr. Paitre went on to say that it can take 50 to 100 years for a woodland caribou population to recover once conservation measures have been implemented.

The national recovery strategy presents the range of the 32 000 boreal caribou across Canada, as well as the size and status of the 57 local populations. The strategy also defines the survival or recovery objectives for the various populations. There are approximately 9 000 boreal caribou in Québec, although the strategy does not say how many of those caribou are found in the four James Bay herds. According to several comments made during consultations with Québec's First Nations, the MRNF holds some of the most recent data. Mr. Paitre said that those data would enable a more accurate portrait of the state of Québec's boreal caribou populations.

Mr. Paitre stressed that Environment Canada has built strong relations with the First Nations, particularly through consultations and projects on traditional ecological knowledge of boreal caribou. This knowledge was used to inform the drafting of the national recovery strategy.

Questions and comments

In reply to a question, Cédric Paitre said that Environment Canada does not have access to data on boreal caribou hunting, but reminded the members that hunting of boreal caribou is permitted for subsistence purposes only. Nor does Environment Canada have information on the percentage of James Bay caribou herds located below the northern limit of commercial timber harvesting. This information would give an idea as to whether or not boreal caribou are vulnerable to forest road development.

A JBACE member was surprised that MRNF-approved general forest management plans contain no measures to protect boreal caribou. Mr. Paitre said that the national recovery strategy sets a baseline upon which the provinces can build with their own recovery plans. Moreover, the provincial governments will be responsible for implementing the national recovery strategy through action plans, the first of which should be ready in 2013.

The JBACE's analyst remarked that if you compare the figures in the national recovery strategy and the December 2010 census, the total boreal caribou population has declined

significantly. Mr. Paitre explained that Environment Canada works with the available data, primarily those provided by the provincial governments.

7. DRAFT COMMENTS ON THE RECOVERY STRATEGY FOR WOODLAND CARIBOU, BOREAL POPULATION

The analyst will draft comments for the members to look at. The JBACE expects to submit its comments to the federal environment minister by February 2012. The comments, which will also be sent to the MRNF, will stress the importance of coordinating federal and provincial government action. The JBACE also wants to highlight the potential of connectivity between the four James Bay caribou herds for aiding in population recovery. Given that it will take 50 years before the results of recovery measures are seen, the JBACE will encourage the federal government to act swiftly.

8. PRESENTATION BY ELISABETH SIMARD (MDDEP) ON THE RESIDUAL MATERIALS MANAGEMENT POLICY'S APPLICATION IN THE JAMES BAY TERRITORY

Elisabeth Simard explained that the Québec government adopted the policy in March 2011. The main goal of the policy is to make end waste, i.e. waste that cannot be recovered for reuse or further processing, the only residual material sent for disposal, in keeping with the 4R-D principle.² The policy applies to household, industrial, commercial, institutional and construction, renovation and demolition waste, as well as to municipal and industrial sludge. It does not apply to hazardous materials generated by industry or to mine tailings or logging residues.

The policy is intended to be perpetual and is thus accompanied by an initial action plan that identifies intermediate goals for the period 2011-2015, one of which is to reduce the quantity of residual materials sent for disposal each year to 700 kg per capita by fostering source reduction and increasing the recovery rate of recyclable material and organic and construction waste. The disposal of paper and cardboard will be banned starting in 2013, the disposal of wood starting in 2014 and the disposal of putrescible organic material starting in 2020.

The policy applies to the entire territory of Québec. The 2011-2015 Action Plan earmarks \$1 million for implementing the policy in northern regions. The government hopes to work in partnership with these regions to increase its knowledge of residual materials management in northern environments.

Ms. Simard said that the 2011-2015 Action Plan also covers programs administered by Recyc-Québec and the *Regulation respecting the recovery and reclamation of products by enterprises*. Under the Regulation, enterprises must develop and implement systems in northern communities to recover the targeted products they market there³ at least once a year.

² Source reduction, reuse, recycling, reclamation, disposal.

³ The Regulation covers electronic products, batteries, paint and paint containers, used oil, antifreeze, their containers and filters, and mercury lamps (fluorescent tubes and fluocompact lamps).

Questions and comments

A JBACE member asked why northern communities, including Cree communities, are not eligible for some Recyc-Québec programs. As regards the *Regulation respecting the recovery and reclamation of products by enterprises*, Cree communities will be covered by the programs that are developed and implemented by businesses. The latter are required to set up free drop-off centres in northern areas that are easy to access by residents.

Ms. Simard explained that Cree First Nations are not eligible for certain Recyc-Québec programs because they're not considered municipalities within the meaning of the Québec legislation as they're located on Category 1A lands, which fall under federal jurisdiction. The compensation system for curbside collection services applies to municipal bodies only. Members wondered if the new regional bodies established by the framework agreement on regional governance would be eligible for Recyc-Québec programs.

Ms. Simard said that certain groups in Cree communities are eligible for Recyc-Québec funding programs, including the *Économie sociale et mobilisation des collectivités* program, depending on the terms and conditions of the programs.

As regards development projects under the Plan Nord, Ms. Simard explained that a depollution attestation issued by the MDDEP is required for major industrial projects, including new mining projects. The attestation stipulates the conditions for operation of the industrial establishment concerned, which may include requirements for managing residual materials generated by the project. According to the members, a strategic approach should be adopted by considering residual materials management at the territory level rather than the project level. A member added that this would be easier if a land use plan existed; currently there isn't one for the James Bay region.

A member for the Cree Regional Authority raised the matter of the large number of abandoned dumps in the James Bay territory, most of which belong to old mineral exploration camps. The CRA is currently considering options for cleaning up these sites.

9. FOLLOW-UP TO THE RECOMMENDATIONS ON THE REVIEW OF SCHEDULES 1 AND 2 (2008)

An MDDEP official will inquire about the progress in studying the JBACE's recommendations regarding schedules 1 and 2. In the person's opinion, it would be advisable to implement the recommendations before the Plan Nord is implemented so that many projects that fall into the "grey zone," i.e. that are not listed in either schedule, can be exempted from impact assessment. Such projects are currently submitted to the Evaluating Committee (COMEV).

A Government of Canada official should be replying to the JBACE soon, and it should be a favourable reply. The secretary will prepare a draft letter inviting the parties to act on the JBACE's recommendations.

For its part, the JBACE will begin studying mineral exploration projects, which currently fall into the grey zone. The members entrusted this mandate to the sub-committee studying Bill 14. The sub-committee will work with the analyst and, if necessary, resource people designated by the parties.

10. ADMINISTRATION

a. JBACE's budget requests

The funding bodies apparently agree to increase their share of the JBACE's funding. Discussions are under way to determine how the increase can be applied as of April 1, 2012.

The members agreed to provide the funding bodies with the projected expenditures for the next five years.

b. Proposed amendments to the Policy on Human Resources Management

The Administrative Committee is currently reviewing the Policy on Human Resources Management. A section on the ethical rules governing JBACE employees would be added, and the provisions governing parental, maternity and paternity leave would be the same as in the *Act respecting labour standards*.

c. Teleworking for the executive secretary

The Administrative Committee authorized the executive secretary to work from home one day a week, remotely accessing his workstation back in the office.

11. OTHER BUSINESS

a. Assessment of the funding program for the JBACE

Annie Déziel of the Canadian Environmental Assessment Agency informed the members of the Treasury Board requirements for Government of Canada funding programs. An external reviewer will be contacting some JBACE members and employees to determine whether the objectives of the funding program are being met or not.

b. Addition of people to the copy list for correspondence sent to JBACE members

To make the handling of JBACE files easier for them, Guy Héту and Isaac Voyageur asked that all correspondence (e-mails, etc.) sent to them by the secretariat be copied to Solaire Prince (MRNF) and Robin Campbell (CRA), respectively. The members agreed.

c. Roundtable on the Plan Nord

The JBACE has been invited to participate in a roundtable under the theme "Le Plan Nord: un projet éthique?" (Is the Plan Nord an ethical project?) that is being held on December 8, 2011 at the Université de Montréal. Since none of the members are available on that date, they asked the analyst to attend and report back to them on the discussions.

12. NEXT MEETING

The JBACE will hold its next meeting on February 29, 2012, in Montréal.

A handwritten signature in black ink, appearing to read "Marc Jetten". The signature is fluid and cursive, with a large loop at the end.

Marc Jetten
Executive Secretary
March 13, 2012