



## **MINUTES OF THE 176th MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT**

**(ADOPTED)**

- DATES:** September 26 and 27, 2012
- PLACE:** Conference room at the office of the Council of the Cree Nation of Mistissini, Isaac-Shecapio Sr. Administration Building, Mistissini
- PRESENT:** Jean-François Coulombe, Québec  
Annie Déziel, Canada  
Guy Héту, Québec, Chairman  
Ashley Iserhoff, Cree Regional Authority (CRA)  
Ginette Lajoie, CRA  
Maryse Lemire, Canada  
Chantal Otter Tétreault, CRA  
Jean Picard, Canada, Vice-Chairman  
Norman Wapachee, CRA  
  
Marc Jetten, Executive Secretary  
Graeme Morin, Environmental Analyst
- ABSENT:** Denyse Gouin, Québec  
Eddy Jenniss, Canada  
Réal Lavigne, Québec  
Denis Vandal, ex officio member, HFTCC

**GUESTS (for Item 4):**

Richard Lefebvre and David Baril, Chief Forester's Office

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

On motion by Jean-François Coulombe, seconded by Chantal Otter Tétreault, the meeting agenda was adopted as amended.

### **2. ADOPTION OF THE MINUTES OF THE 174th AND 175th MEETINGS (May 15-16 and May 24, 2012)**

On motion by Maryse Lemire, seconded by Ginette Lajoie, the minutes of the 174th meeting of the JBACE were adopted as amended.

On motion by Jean Picard, seconded by Ashley Iserhoff, the minutes of the 175th meeting of the JBACE were adopted as amended.

### **3. ADMINISTRATION**

#### ***a. Funding for 2012-2013***

The JBACE received confirmation that its funding for fiscal 2012-2013 is being increased by \$80 000. To facilitate its budget planning for subsequent years, the Committee will check if the funding increase is recurring.

In addition, the JBACE will suggest that the funding bodies examine ways to make quicker payment of the first funding instalment: the first instalment wasn't received until halfway through the current year. One solution might be for each party to pay its share of the funding directly to the JBACE (currently, the Ministère du Développement durable, de l'Environnement, de la Faune et des Parcs (MDDEFP) pays the full amount of the funding to the JBACE and is reimbursed by the other parties for their respective share).

#### ***b. Adoption of amendments to the employment conditions of the shared secretariat officer***

The members agreed to adopt resolutions regarding amendments to the Policy on Human Resources Management and the memorandum of understanding with the Hunting, Fishing and Trapping Coordinating Committee concerning the functioning of the committees' respective secretariats.

#### **JBACE Resolution 2012-09-26-01 amending the JBACE's Policy on Human Resources Management:**

- WHEREAS the JBACE and the Hunting, Fishing and Trapping Coordinating Committee (HFTCC) agreed to hire a secretariat officer in 2001 whose time is shared between the two committees;
- WHEREAS the secretary-treasurer of the HFTCC and the executive secretary of the JBACE jointly oversee the shared secretariat officer;
- WHEREAS the JBACE's and HFTCC's respective human resource policies differ in several regards and their application to the secretariat officer position needs to be harmonized;
- WHEREAS management of the shared secretariat officer's working conditions needs to be simplified;
- WHEREAS the Administrative Committee studied the proposed amendments and recommended their adoption.

*On motion by Ashley Iserhoff, seconded by Jean-François Coulombe:*

**It is unanimously resolved to amend the JBACE's Policy on Human Resources Management so that it no longer applies to the secretariat officer whose time is shared between the JBACE and the HFTCC, except for the provisions pertaining to the position itself.**

**JBACE Resolution 2012-09-26-02 amending the Memorandum of Understanding between the JBACE and the Hunting, Fishing and Trapping Coordinating Committee (HFTCC) concerning the functioning of their secretariats:**

- WHEREAS the JBACE and the Hunting, Fishing and Trapping Coordinating Committee (HFTCC) entered into a Memorandum of Understanding concerning the sharing of office space and equipment and the hiring of a secretariat officer in 2001 whose time is shared between the two committees;
- WHEREAS the JBACE's and HFTCC's respective human resource policies currently apply to the secretariat officer position and whereas management of the shared secretariat officer's working conditions needs to be simplified;
- WHEREAS pursuant to the Memorandum of Understanding, the HFTCC is deemed to be the employer of the secretariat officer for the purposes of making out paycheques and remitting source deductions and employer contributions to the federal and provincial governments;
- WHEREAS the secretary-treasurer of the HFTCC and the executive secretary of the JBACE will continue to jointly oversee the shared secretariat officer;
- WHEREAS the JBACE's Administrative Committee studied the proposed amendments and recommended their approval;
- WHEREAS the HFTCC's Administrative Committee approved the proposed amendments.

*On motion by Ashley Iserhoff, seconded by Jean-François Coulombe:*

**IT IS UNANIMOUSLY RESOLVED:**

**To amend the Memorandum of Understanding between the JBACE and the HFTCC by introducing a provision stipulating that the secretariat officer's working conditions are governed by the HFTCC's policy on human resources management; and**

**To authorize the chairman of the JBACE to sign the amended version of the Memorandum of Understanding between the JBACE and the HFTCC.**

**4. PRESENTATION BY RICHARD LEFEBVRE AND DAVID BARIL FROM THE CHIEF FORESTER'S OFFICE ON ALLOWABLE CUT CALCULATIONS**

Richard Lefebvre said that the position of Chief Forester was established in 2005 in response to public distrust of how Québec's forests are managed. The Chief Forester is responsible for ensuring that forestry operations are sustainable by determining the maximum volume of timber that may be harvested, in perpetuity, in each forest management unit based on scientific data. Allowable cuts must therefore guarantee a maximum supply of timber in perpetuity (software is used to calculate allowable cuts over a 150-year period).

The Chief Forester determines allowable cuts for the James Bay Territory taking into account the provisions of the Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec (ANRQC), including the requirement to leave standing at least 50% of the productive area with stands over seven meters in height in areas presenting wildlife interest (which cover 25% of the productive forest area of each Cree trapline). Allowable cuts must also take into account the objectives of the Sustainable Forest Management Strategy, which means maintaining old-growth forests and limiting the surface area under regeneration. In accordance with the long-term objectives set by the Ministère des Ressources naturelles (MRN), old-growth forests should cover up to 55% of each forest management unit.

As regards protected areas, where forestry operations are prohibited, Mr. Lefebvre stressed that only those protected areas defined by the government and areas that all the interested parties agree should be protected can be taken into consideration when calculating allowable cuts. If a new protected area is defined, the Chief Forester must recalculate the allowable cuts. Critical habitat for woodland caribou is taken into account if the MRN regional office so requests and defines the boundaries. The Chief Forester considers forest fires and insect infestations when determining allowable cuts.

The Chief Forester expects to release the allowable cuts for the 2013-2018 integrated forest management plans (IFMP) in summer 2013, following an external review. Given that there will be one year of transition before implementing the new forest regime established by the *Sustainable Forest Development Act*, the new allowable cut calculations will apply to IFMPs as of April 1, 2014. The Chief Forester reports on the results of the Sustainable Forest Management Strategy every five years; his report is subject to an audit prior to publication. At the Minister's request, the allowable cuts can be changed before the five-year term is up.

## **5. FILE UPDATE**

### ***a. New government in Québec***

The JBACE will write to the new ministers of Sustainable Development, Environment, Wildlife and Parks and Natural Resources to present the work under way in relation to protected areas, mineral exploration and strategic environmental assessment.

### ***b. Cree-Québec Task Force for Woodland Caribou***

The analyst explained that the two parties (Québec and the Crees) must determine the task force's mandate for the second phase of its work. The purpose of this phase is to act on the researchers' recommendations regarding woodland caribou. The members pointed out that the JBACE was concerned about access to data on critical habitat for woodland caribou during environmental assessments of planned forest roads. The Review Committee (COMEX) was invited to the presentation of the researchers' final report.

Furthermore, the JBACE recommended that the cumulative impact of development on caribou habitat be taken into account. The members agreed that the analyst should continue participating in the task force provided that its work touches on environmental assessment and consideration of cumulative impacts.

### ***c. Summary of the workshop on woodland caribou (Sept. 11-13, 2012)***

The analyst summarized the discussions held at the workshop on woodland caribou, which he attended. In the JBACE's opinion, the decline in migratory caribou herds could serve as an example of issues that need to be considered during strategic environmental assessment of northern development.

***d. Cree position on uranium exploration***

A CRA member informed the JBACE of the position adopted during the Grand Council of the Crees' Annual General Assembly. The Crees are calling for a permanent moratorium on uranium mining in Eeyou Istchee (James Bay Territory) because they are worried about the impact of uranium on their land, water, wildlife and traditional way of life.

The federal administrator approved the Matoush uranium exploration project, but a decision is still pending from the provincial administrator and the Canadian Nuclear Safety Commission.

***e. Subcommittee on mineral exploration in relation to the assessment and review procedure***

The analyst expects to submit his draft report to the subcommittee sometime soon. Either a workshop or interviews will be held with the Section 22 evaluating and review bodies when the work is far enough along.

***f. Impact monitoring of the Opemiska tailings dike failure***

The JBACE wrote to the federal Minister of the Environment asking him to ensure that the monitoring study on the impacts of the tailings dike failure on fish habitat is reviewed promptly. Once the study findings have been validated by Environment Canada, the Ministère des Ressources naturelles can release the report and present the findings to the community of Waswanipi.

***g. 2013-2020 Climate Change Action Plan and Adaptation Strategy***

The secretary said that the comments submitted by the JBACE were given little consideration in the final version of the Québec government's Climate Change Action Plan and Adaptation Strategy. The secretary will contact the Bureau des changements climatiques of the MDDEFP to find out why.

***h. Implementation of recommendations on the review of the projects listed in schedules 1 and 2 of Section 22***

The members will ask their respective parties for an update on the discussions on the review of schedules 1 and 2. The JBACE made its recommendations back in 2008. Having completed their internal reviews, the parties now have to discuss the process for revising the schedules.

**6. ADOPTION OF THE PROGRESS REPORT ON THE PUBLIC CONSULTATION PROCESS**

The analyst presented the progress report on the work carried out with regard to the public participation procedure. On motion by Annie Déziel, seconded by Jean-François Coulombe, the progress report was unanimously adopted. The report will be sent to the provincial administrator and copied to the federal administrator and the chairman of the Cree Regional Authority.

In the cover letter, the JBACE's will express its views on the appropriateness of charging for authorization of projects in the Section 22 territory.

## **7. COMPOSITION OF THE SUBCOMMITTEE ON PUBLIC PARTICIPATION**

Each of the JBACE's constituent parties will appoint one member only to the subcommittee so as to facilitate its work and decision making. The subcommittee will consult public participation experts as needed. The subcommittee will develop a work plan to determine procedures and timelines for writing a report containing recommendations to the parties.

## **8. DISCUSSION ON THE MEANING OF "RESPONSIBLE GOVERNMENTS" IN THE JBACE'S RECOMMENDATIONS (JBNQA; PARA. 22.3.25 AND 22.3.26)**

The question was raised as to whether the JBACE can make recommendations to the new Eeyou Istchee James Bay Regional Government established pursuant to the agreement on regional governance. Several members are of the opinion that only the governments of Canada and Québec and the Cree Regional Authority are "responsible governments" within the meaning of paragraphs 22.3.25 and 22.3.26 of the JBNQA.

The members agreed that the JBACE may communicate comments to any authority in the James Bay Territory where deemed necessary, even if they aren't considered recommendations under paragraphs 22.3.25 and 22.3.26.

## **9. PRESENTATION BY ANNIE DÉZIEL ON THE 2012 CANADIAN ENVIRONMENTAL ASSESSMENT ACT**

Annie Déziel presented the 2012 *Canadian Environmental Assessment Act (CEAA)*, which replaced the former Act in July. The 2012 CEAA applies to project proponents rather than to the responsible federal authorities. In addition, "screening" is a 45-day process at the end of which it is decided if an environmental assessment of the designated project is required (under the former Act, screening was one of the available assessment options).

Ms. Déziel explained that only projects identified in a list set out in a regulation require an environmental assessment under the CEAA. As a result of this change, the Government of Canada has cancelled most of the screening processes initiated before July 2012. For example, federal environmental assessments of forest road projects in the James Bay Territory have been halted because forest roads are subject to screening. A member for Canada said it is important to remember that forest roads continue to be subject to other federal statutes and regulations, such as the *Fisheries Act*, even if a federal environmental assessment is not required.

Under the 2012 CEAA, standard environmental assessments must be completed within a year, not including the time it takes for the proponent to conduct studies and submit the required information. Review panel assessments are allowed to take up to two years, however. Only the Minister of the Environment and Governor in Council (Federal Cabinet) have the authority to extend an environmental assessment beyond the timeline fixed by the CEAA.

As regards public participation, individuals have a say during the screening process, the environmental assessment as such or the drafting of the final report. Interested parties will continue to benefit from a funding program to facilitate their participation in environmental assessments.

Annie Déziel pointed out that the new Act does not change the Crown's duty to consult and accommodate Aboriginal people where there may be an infringement of Aboriginal or treaty rights. Insofar as possible, the Canadian Environmental Assessment Agency will enshrine this obligation in the environmental impact assessment process.

The new CEAA allows for the substitution of an equivalent assessment process followed by a provincial government for the CEAA process. In reply to a question about substitution of the Section 22 assessment and

review procedure for the CEAA process, Ms. Déziel referred to a letter received from Canada's Minister of the Environment saying that he could approve substitution within the territory covered by the JBNQA if he is assured that the Section 22 procedure satisfies all of the CEAA requirements.

The 2012 CEAA empowers the Minister to appoint a committee to conduct regional assessments. It could be a joint committee with another authority. Where applicable, the conclusions of the regional assessment would be taken into account in the screening and environmental assessment of a project.

## **10. JBACE'S STRATEGIC DIRECTIONS FOR THE PERIOD 2013-2018**

The JBACE is forming a subcommittee tasked with defining criteria and drafting strategic directions for the Committee. The subcommittee will make recommendations to the JBACE for updating the Strategic Plan.

## **11. ADOPTION OF THE RESOLUTION REGARDING RENEWAL OF THE ANALYST'S CONTRACT**

On motion by Chantal Otter Tétreault, seconded by Maryse Lemire, the members adopted Resolution 2012-09-27-01 regarding renewal of the analyst's employment contract for another two years.

## **12. NEXT MEETING**

The JBACE will hold its next meeting on November 21, 2012, in Montréal.



Marc Jetten  
Executive Secretary  
February 4, 2013