



MINUTES OF THE 186TH MEETING OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT

(ADOPTED)

- DATE:** May 13, 2014
- FORMAT:** Conference call
- PRESENT:** Melissa Brousseau Saganash, Cree Nation Government (CNG)
Manon Cyr, Québec
Anne-Marie Gaudet, Canada
Ginette Lajoie, CNG
Jean-Pierre Laniel, Québec
John Paul Murdoch, CNG
Chantal Otter Tétreault, CNG
Monique Lucie Sauriol, Canada

Marc Jetten, Executive Secretary
Graeme Morin, Environmental Analyst
- ABSENT:** Line Choinière, Canada
Caroline Girard, ex officio member of the Hunting, Fishing and Trapping
Coordinating Committee (HFTCC)
Guy Héту, Québec
Marie-Josée Lizotte, Québec
Jean Picard, Canada, Chair

RESOLUTION APPROVING THE ADMINISTRATIVE PROTOCOL CONCERNING PUBLIC HEARINGS ON THE URANIUM INDUSTRY

As Chair of the JBACE Commission, John Paul Murdoch explained the substance of the negotiations with the BAPE Commission that led to the current version of the protocol. The JBACE commissioners believe that the protocol meets the objectives set by the JBACE, particularly in terms of consultation of communities, simultaneous translation and participation by the JBACE Commission in hearings outside the Territory. In addition, the JBACE Commission will contribute to the preparation of a joint report with the BAPE Commission after the consultations are carried out in the Territory. The JBACE will be free to comment on the report.

The commissioners said they intended to work closely with the JBACE, while respecting the provisions of the protocol concerning the confidential nature of some information.

JBACE Resolution No. 2014-05-13-01 approving the administrative protocol concerning public hearings on the uranium industry and authorizing John Paul Murdoch to sign it:

- WHEREAS the BAPE had to agree with the JBACE on the terms and conditions of its mandate to conduct an inquiry and hold public hearings in the Territory to ensure compliance with the provisions of Section 22 of the James Bay and Northern Québec Agreement, pursuant to the Agreement made between the Gouvernement du Québec and the Cree Nation Government in February 2014;
- WHEREAS the members of the Commission appointed by the JBACE and those of the BAPE Commission have negotiated in good faith to submit a protocol acceptable to both parties; and
- WHEREAS the protocol filed meets the expectations of the JBACE concerning special involvement by the Crees pursuant to subparagraph 22.2.2c of the JBNQA.

On a motion by Ginette Lajoie, seconded by Manon Cyr:

It was unanimously resolved to approve the protocol as amended (attached) and to authorize the Chair of the JBACE Commission, John Paul Murdoch, to sign it.

Mr. Murdoch will sign the French version of the protocol, after which the members of the commissions will agree on the English version.



Marc Jetten
Executive Secretary
June 5, 2014

**ADMINISTRATIVE PROTOCOL
FOR THE PUBLIC HEARINGS ON
URANIUM ISSUES IN QUÉBEC**

between

The COMMISSION OF THE BUREAU D'AUDIENCES PUBLIQUES SUR L'ENVIRONNEMENT, a body established by section 6.1 of the *Environment Quality Act*, CQLR, chapter Q-2 (BAPE), a commission formed for the purpose of inquiring into uranium issues in Québec in accordance with section 6.4 of the *Environment Quality Act* and section 2 of the *Rules of procedure relating to the conduct of public hearings* (CQLR, chapter Q-2, r. 45),

(hereinafter the "BAPE Commission")

and

The SPECIAL COMMISSION OF THE JAMES BAY ADVISORY COMMITTEE ON THE ENVIRONMENT, a body established by paragraph 22.3.1 of the James Bay and Northern Québec Agreement, a commission specifically formed for the purposes of the public hearings,

(hereinafter the "JBACE Commission")

PREAMBLE

WHEREAS the Minister of Sustainable Development, the Environment and the Fight Against Climate Change has entrusted the BAPE with a mandate to inquire into uranium issues in Québec in accordance with section 6.3 of the *Environment Quality Act* (EQA) (the "Mandate");

WHEREAS the Mandate includes the holding, by the BAPE Commission, of public hearings throughout the territory of Québec, including in the territory defined in paragraph 22.1.6 of the James Bay and Northern Québec Agreement (JBNQA) and Chapter II of the EQA (the "Territory");

WHEREAS the Québec government and the Cree Nation Government have entered into an agreement on a mandate to inquire into the uranium industry in Québec;

WHEREAS in his letter to the president, dated March 3, 2014, entrusting the Mandate to the BAPE, the Minister stated that he expects the James Bay Advisory Committee on the Environment (JBACE), established by the JBNQA, to be involved in the public consultation process undertaken by the BAPE in order to benefit from the JBACE's expertise and ensure that the rights guaranteed to the Crees under Section 22 of the JBNQA are not infringed;

WHEREAS the JBACE is the "preferential and official forum for responsible governments in the Territory concerning their involvement in the formulation of laws and regulations relating to the environmental and social protection regime" and as such oversees administration and management of the regime through the free exchange of respective views, concerns and information (JBNQA, paragraph 22.3.24);

WHEREAS the JBACE has formed a special commission (JBACE Commission) for the purposes of the public hearings on uranium issues in Québec contemplated by this Protocol;

WHEREAS the JBACE Commission and the BAPE Commission wish to pool their efforts with a view to holding a meaningful consultation with the peoples inhabiting the Territory, while ensuring a special involvement for the Cree people in keeping with the principles set out in the JBNQA;

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. general principles

1. The purpose of this Protocol is to set forth the administrative arrangements and procedures for the consultations to be conducted in or affecting the Territory in order to give effect to the guiding principles established in the JBNQA, without undermining the jurisdictional independence of the Parties.
2. The Parties shall act as independent and neutral bodies, in accordance with the EQA and the JBNQA, as the case may be.
3. Nothing in this Protocol shall be deemed to restrict the freedom of either Party to inquire into any other aspect of uranium development in the Territory, on the understanding that the aspects expressly provided for herein do not constitute a restrictive list.
4. Nothing in this Protocol shall be deemed to restrict the right of either Party to hear from any other stakeholder it deems appropriate, acting within the prerogatives conferred on it by law, on the understanding that the communities mentioned herein must be heard as part of the guiding principles established by the JBNQA.

II. phases of the public hearing process

5. The process of the public hearings to be held by the BAPE Commission throughout the territory of Québec, including in the Territory, will consist of three phases, namely:
 - a) Pre-consultation (May 20 to June 23, 2014): During this phase, the BAPE Commission will solicit the public's concerns and modify its inquiry strategy accordingly.
 - b) Questions and information (early fall 2014): During this phase, the BAPE Commission and participants will delve deeper into the issues addressed by the inquiry into the uranium industry, through thematic workshops to which experts and resource persons from government departments and organizations will be invited.
 - c) Submissions (end of fall 2014 – beginning of winter 2015): During this phase, the BAPE Commission will hear written and oral submissions.

A) PRE-CONSULTATION PHASE

The parties agree on the following arrangements and procedures for the public hearings to be held in the Territory by the BAPE Commission during the pre-consultation phase:

6. Sessions will be held in the following communities:
 - 6.1 Chisasibi, planned for June 3;
 - 6.2 Chibougamau, planned for June 4;
 - 6.3 Mistissini, planned for June 5;
 - 6.4 Whapmagoostui/Kuujuarapik, subject to logistical constraints.
7. All sessions will be held jointly by the BAPE Commission and the JBACE Commission.
8. Hearings will be co-chaired by the chair of the JBACE Commission and the chair of the BAPE Commission. The chair of the JBACE Commission will deliver the opening remarks at each session.

9. The public may also submit its concerns by email or by regular mail, no later than July 11 or a later date determined by the BAPE Commission.

B) QUESTIONS AND INFORMATION PHASE

Public thematic sessions held in the Territory

The Parties agree on the following arrangements and procedures for the public thematic sessions held by the BAPE Commission in the Territory:

10. Sessions will be held in the communities of Chisasibi, Chibougamau and Mistissini, according to the terms and conditions determined by the chair of the BAPE Commission and the chair of the JBACE Commission.
11. The JBACE Commission will work collaboratively with the BAPE Commission to choose the experts who will be invited to each session and the themes that will be addressed, taking into account the logistical constraints. The experts will be invited to submit a summary of their presentation, in both English and French.
12. All sessions will be held jointly by the BAPE Commission and the JBACE Commission.
13. Sessions will be co-chaired by the chair of the JBACE Commission and the chair of the BAPE Commission. The chair of the JBACE Commission will deliver the opening remarks at each session.

Public thematic sessions held outside the territories covered by the JBNQA, the NEQA and Chapter II of the EQA

The Parties agree on the following arrangements and procedures for the public thematic sessions held by the BAPE Commission outside the territories covered by the JBNQA, the NEQA and Chapter II of the EQA:

14. The JBACE Commission will provide the BAPE Commission with a list of experts it would like to see invited. The experts will be invited to submit a summary of their presentation, in both English and French.
15. The JBACE Commission will enjoy special participant status during every session. It may, at any time, communicate the questions it wants put to the guest resource persons and experts to the BAPE Commission.

Foreign missions

The Parties agree on the following arrangements and procedures for any foreign missions the BAPE Commission could go on:

16. The JBACE Commission will submit proposals to the BAPE Commission regarding missions it would like the BAPE Commission to go on, with the decision to go or not being up to the BAPE Commission.
17. The JBACE Commission may accompany the BAPE members on foreign missions.
18. The BAPE Commission will transmit the report of its missions to the JBACE Commission as soon as it is available.

C) SUBMISSIONS PHASE

The Parties agree on the following arrangements and procedures for the submissions phase of the public hearings to be held by the BAPE Commission:

19. The sessions held in the Territory will take place in the communities of Mistissini, Chibougamau and Chisasibi, according to the terms and conditions determined by the chair of the BAPE Commission and the chair of the JBACE Commission.

For the territories covered by the JBNQA, the NEQA and Chapter II of the EQA, a tripartite hearing will be held in Montréal, according to the terms and conditions determined by the chair of the BAPE Commission, the chair of the JBACE Commission and the chair of the KEAC Commission.

20. All sessions in the Territory will be held jointly by the BAPE Commission and the JBACE Commission. Written submissions will be made available to both commissions for that purpose.
21. Sessions held in the Territory will be co-chaired by the chair of the JBACE Commission and the chair of the BAPE Commission. The chair of the JBACE Commission will deliver the opening remarks at each session.
22. The tripartite hearing will be held jointly by the BAPE Commission, the JBACE Commission and the KEAC Commission. Written submissions will be made available to all three commissions for that purpose.
23. The tripartite hearing will be co-chaired by the chair of the JBACE Commission and the chair of the KEAC Commission, with the chair of the BAPE Commission. The chair of the JBACE Commission and the chair of the KEAC Commission will deliver the opening remarks.

III. GENERAL terms and conditions FOR THE JOINT PUBLIC HEARINGS HELD IN THE TERRITORY

A) CONDUCT OF THE HEARINGS

24. The BAPE Commission and the JBACE Commission will ensure that the public hearings take into account the traditional activities of the James Bay Crees and that no hearing conflicts with those activities.
25. The decision to hold hearings in Cree communities reflects the special involvement for the Cree people guaranteed under the JBNQA, on the understanding that any other person from the Territory may also participate.
26. All notices of the hearings will clearly indicate that the hearings are being held jointly by the BAPE Commission and the JBACE Commission.
27. The dates and locations of the hearings will be jointly decided by the chair of the JBACE Commission and the chair of the BAPE Commission, bearing in mind the special status and involvement for the Cree people in the environmental and social protection regime for the Territory stipulated in paragraph 22.2.2 of the JBNQA.
28. Hearings will be held in accordance with the *Rules of procedure relating to the conduct of public hearings*, subject to this Protocol. Any discrepancy between the *Rules of procedure* and this Protocol will be resolved by the chairs of the BAPE Commission and the JBACE Commission acting within their prerogatives.
29. The chair of the BAPE Commission and the chair of the JBACE Commission will modify the conduct of the hearing where necessary to facilitate participation by the Crees and grant them the special status guaranteed by the JBNQA, on the understanding that these measures must be clearly explained and justified to the participants.

30. The chair of the JBACE Commission will be at the disposal of the chair of the BAPE Commission to facilitate interactions with the local governments of each community concerning the logistics of the hearings.
31. The BAPE Commission, in cooperation with the JBACE Commission, will ensure that adequate simultaneous translation services in English, French and Cree are available during all hearings.
32. The BAPE Commission will ensure that all hearings, including the tripartite hearing, are available online.

B) DOCUMENTATION

33. The BAPE Commission and the JBACE Commission will provide each other with all relevant documentation they have in relation to the Mandate.
34. The chair of the BAPE Commission and the chair of the JBACE Commission will determine the documents to be translated. With the authors' approval, the BAPE Commission will have the documents translated in compliance with copyright laws. The cost of translation into English, French and Cree will be borne by the BAPE Commission.

C) REPORT ON THE PUBLIC HEARINGS HELD IN THE TERRITORY

35. The BAPE Commission and the JBACE Commission will agree on the work plan for this report as well as the documents to be shared.
36. The chairs of the BAPE Commission and the JBACE Commission will draft the report together and will both sign it, as the case may be. The joint report will be identified as such and be a separate part of the BAPE Commission's report required under section 6.3 of the EQA.
37. The joint report will clearly explain the context in which it was written such that the independence and neutrality of the Parties is demonstrated.
38. Drafting a joint report will in no way restrict the right of each Party to express its own findings and conclusions even if the other Party does not necessarily agree with them. In the latter case, the Parties' respective findings and conclusions will be clearly indicated as such in an addendum to the report, with said addendum being signed separately by the set deadline for the Mandate.
39. The BAPE Commission will have the BAPE-JBACE joint report, and a summary of the report required under section 6.3 of the EQA, translated into English and Cree at its expense.

IV. day-to-day Administration

40. The BAPE Commission and the JBACE Commission will appoint their respective chairs to represent them for the purposes of the administrative arrangements and procedures set out in this Protocol.
41. The JBACE Commission expressly undertakes to protect the confidentiality of written submissions, including the names of their authors, until they are released by the BAPE Commission, of the report referred to in Section III C) until it is released by the Minister, of all preliminary versions of said report, and of any information the commission chairs have requested remain confidential.
42. Travel and living expenses incurred by BAPE Commission and JBACE Commission members will be reimbursed according to the rules of each commission.

43. All public notices and press releases relating to this Protocol shall be jointly prepared.
44. All other administrative matters may also be validly resolved by a verbal or written agreement between the respective chairs of the BAPE Commission and the JBACE Commission, on whom the mandate and right to resolve such matters are hereby expressly and explicitly conferred.
45. Any matter relating to the substance of this Protocol will be submitted to the Parties.

IN WITNESS WHEREOF, the Parties have signed:

For the COMMISSION OF THE BUREAU
D'AUDIENCES PUBLIQUES SUR
L'ENVIRONNEMENT

For the JAMES BAY
ADVISORY COMMITTEE
ON THE ENVIRONMENT

Louis-Gilles Francoeur

Paul John Murdoch

At Québec, this 15th day of May 2014

At Wemindji, this 15th day of May 2014