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Comité consultatif de l'environnement Kativik
Kativik Environmental Advisory Committee

MINUTES OF THE 124TH MEETING

(APPROVED)

DATE: June 15 and 16, 2010

PLACE: Municipal office, Kuujjuaapik

PRESENT:

KRG appointees:

Michael Barrett
Adamie Kalingo

Government of Canada appointees:

Claude Abel, Chairperson
Gilles H. Tremblay

Québec government appointees:

Paule Halley
Sylvie Létourneau, Vice-Chairperson
Jean Couture

Executive Secretary:

Stéphanie Benoit

ABSENT:

James Yantha, Government of Canada appointee
Charlie Arngak, KRG appointee

1. Call to order and adoption of the agenda

The 124th meeting of the Kativik Environmental Advisory Committee (KEAC) began at 9:00 a.m. on June 15, 2010, in Kuujjuaraapik. The Chairperson invited the members to suggest changes to the agenda and it was adopted unanimously. The meeting took place in accordance with the agenda shown below.

1. Call to order and adoption of the agenda
2. Review of the minutes of the 122nd and 123rd meetings as well as the minutes of the conference calls on February 5 and May 4
3. Business arising from the 123rd meeting and correspondence
 - a) *Act to amend the Mining Act*
 - b) Drinking water quality
 - c) Deception Bay: port activities
 - d) Abandoned barrels at Kuujjuaraapik
 - e) Residual materials management plan
4. Budget, secretariat and members
 - a) Budget
 - b) Secretariat
 - c) Internal management
 - d) Annual report 2009–2010
5. *Plan Nord*
6. Federal Sustainable Development Strategy
7. Section 23 of the JBNQA
 - a) Supreme Court of Canada ruling: *Québec (Attorney-General) vs. Moses*
 - b) Public participation
 - c) Revision of schedules 1 and 2
 - d) Letter from the Canadian Environmental Assessment Agency
8. Residual materials management
 - a) Questionnaire
 - b) Revision of the three residual hazardous materials guides
9. Miscellaneous
 - a) Aboriginal community consultation
 - b) Website
 - c) Sustainable Development and Sovereignty in the Arctic
10. Date and place of the next meeting

2. Review of the minutes of the 122nd and 123rd meetings as well as the minutes of the conference calls on February 5 and May 4

After making a few minor corrections, the members adopted the minutes of the 122nd meeting as well as the minutes of the February 5 and May 4 conference

calls. The adoption of the minutes of the 123rd meeting was postponed until the next meeting.

3. Business arising from the 123rd meeting and correspondence

a) *Act to amend the Mining Act*

The KEAC provided comments on the proposed *Act to amend the Mining Act* in a letter to the Committee on Agriculture, Fisheries, Energy and Natural Resources. The comments, which were also transmitted to Serge Simard (Minister for Natural Resources and Wildlife), are divided into two components.

The first component refers to the position papers and recommendations produced to date by the KEAC and related to the consultation on the proposed *Act to amend the Mining Act* in terms of mineral exploration and mining activities in Nunavik.

The second component presents the KEAC's comments regarding proposed the Act. The main issues of concern for the KEAC are: the absence of any reference to the objective of sustainable development that should guide modifications to mining legislation; the priority given to mining activities over land use planning and areas to be protected; Inuit involvement; site rehabilitation activities; and adequate financial guarantees to fully cover rehabilitation costs.

Further to an invitation received from the Committee on Agriculture, Fisheries, Energy and Natural Resources to present the KEAC's observations, the members decided who would attend the presentation. The Executive Secretary was asked to post the letter to the Committee on the KEAC website under the headings "What's new" and "Publications/ Position papers".

b) Drinking water quality

The KEAC continues to be concerned about inadequate household water tank cleaning. The members therefore discussed possible follow-up to the study carried out by Benoit Barbeau (Associate Professor, Industrial Research Chair in Drinking Water Treatment and Distribution for the National Sciences and Engineering Research Council, *École Polytechnique de Montréal*). One member suggested that the information be forwarded to those responsible for water distribution, posted on the KEAC website and even included in a print publication. However, before disseminating the information contained in the study, the members agreed to implement a pilot project to validate the results of the laboratory testing and the study's findings. The members therefore discussed the possibility of developing a pilot project in a Nunavik community, covering topics such as sponsorship, costs and activity logistics. The members agreed to continue their discussion during a future telephone conference.

c) Deception Bay: port activities

The Executive Secretary informed the members that information was transmitted to the responsible authorities regarding possible contamination of the marine environment as a result of loading and unloading activities at the wharf at Deception Bay. A technician from the regional branch of the *ministère du Développement durable, de l'Environnement et des Parcs* (sustainable development, environment and parks, MDDEP) will carry out an inspection in June and should produce results regarding water pollution. The members discussed environmental monitoring procedures and asked that they receive a copy of the inspection report when it is released.

d) Abandoned barrels at Kuujjuaraapik

The members reviewed the final report prepared by the firm Dessau entitled *Caractérisation environnementale et scénarios de réhabilitation des dépôts de barils de bitume à Kuujjuaraapik* (environmental characterization and bitumen-barrel rehabilitation scenarios). The document presents, among other results, those for the assessment of the bitumen storage-site rehabilitation scenarios. As well, updated estimates of the different contaminated products reveals that large quantities of bitumen barrels (1,301), hardened bitumen (102.5 m^3), contaminated soil (656 m^3) and petroleum products (14,433 L) will need to be removed.

On this topic, the members were informed about the meeting organized in Kuujjuaraapik this spring that involved representatives of the MDDEP, the Kativik Regional Government (KRG) and the community. A KRG call-for-tenders regarding expertise and community participation in the site rehabilitation work to ensure local spinoffs were discussed.

The members discussed different rehabilitation scenarios, the handling of residual hazardous materials, appropriate containers, transportation methods, as well as a work timetable. Before a rehabilitation scenario is selected, the KEAC would like the KRG to consider the risks involved with handling residual hazardous materials and the greenhouse gases that will be produced when shipping the residual materials south.

e) Residual materials management plan

The members discussed the financial assistance to be paid by the MDDEP to the KRG for the preparation of a residual materials management plan for Nunavik. The members were informed that an agreement had been approved by the KRG and that the plan would possibly be prepared by a consulting firm. The members discussed the possible support role that could be played by the former residual materials management working group. The members agreed to continue monitoring developments regarding the residual materials management plan.

4. Budget, secretariat and members

a) Budget

The members reviewed the quarterly financial statements dated April 30, 2010, and requested several clarifications. To this end, they asked that the financial statements be adjusted to better reflect their needs. The Executive Secretary also informed the members that the annual financial statements are in the process of being prepared by an accountant and that the KEAC has still not received its government funding for 2010–2011.

b) Secretariat

The Executive Secretary will start a maternity leave in December. As her contract is due to expire on December 31, 2010, and the members are fully satisfied with her work, it was agreed to make her a permanent employee. In preparation for her leave period, the members then discussed the possibility of offering a temporary position to another person. It was agreed that the Executive Secretary would begin the process of collecting job applicants.

c) Internal management

The KEAC received letters concerning the official appointment of a new Chairperson and Vice-Chairperson for 2010–2011. The members congratulated Mr. Abel and Ms. Létourneau who have been appointed to these respective positions retroactively to April 1, 2010.

As well, it was suggested that the members should share information on KEAC files more often in order to improve reaction time to changing situations, which sometimes include very tight deadlines. Following discussion, it was decided to hold more frequent conference calls.

d) Annual report 2009–2010

The Executive Secretary informed the members that a draft version of the 2009–2010 KEAC annual report is being prepared. The members discussed a few proposed changes and questioned the relevancy of the financial statement information. They asked that certain verifications be made and that a draft version of the report be reviewed during a future conference call.

5. *Plan Nord*

On May 27, two KEAC members participated at an initial meeting of the *Plan Nord* working group on sustainable development. The working group is composed of representatives of the MDDEP, the *ministère des Ressources naturelles et de la Faune* (natural resources and wildlife), the KEAC, the James Bay Advisory Committee on the Environment and certain other *Plan Nord* sectoral working groups (mines, energy, transportation, etc.). The latter are responsible for the issue of sustainable development within their working groups.

The members who participated at the working group meeting provided a summary of the discussions and pointed out a few issues regarding the working group's mandate and methods. In particular, they stated at the working group meeting that the working group could not act as a project assessment body since environmental assessment procedures already exist in Québec (in the South and in the North) pursuant to the *Environment Quality Act*. These procedures ensure the in-depth review of major development projects and the assessment of their potential impacts on the biophysical environment (water, air, soil, plants, wildlife and species with special status, etc.) and the human environment (social, health, archaeology, heritage, access to the territory, etc.). Several working group participants, including the KEAC members, would have liked the working group to take a more macro approach by discussing the prioritization and integration of different types of development in order to create a comprehensive vision for the development of the territory.

Also at the working group meeting, government representatives indicated that a five-year *Plan Nord* action plan would be prepared and tabled in the fall of 2010. The plan will contain a common theme and sectoral actions.

Finally, the members discussed the KEAC's continued participation on the *Plan Nord* working group on sustainable development given that the working group's mandate is not clear, and its objective even less so. The members nonetheless decided that the KEAC should remain involved.

6. Federal Sustainable Development Strategy

The members reviewed the draft version of the Federal Sustainable Development Strategy that is subject to public consultations due to end on July 12. The members discussed the need to study and comment on the document. They examined the proposed Northern actions, including an increase in protected areas, strengthening of protection for threatened species and a wastewater study. The members suggested that more Nunavik-specific targets could be integrated into the document. They discussed improved consideration regarding the impacts of climate change on the North and its infrastructure, making reference to the document entitled *True North* (2009) prepared by the National Round Table on the Environment and the Economy. The members asked the Executive Secretary to transmit a summary letter to the concerned officials

7. Section 23 of the JBNQA

a) Supreme Court of Canada ruling: Québec (Attorney-General) vs. Moses

The Supreme Court of Canada rendered its ruling on May 14, 2010. The case involves the authorizations required prior to the operation of the Vanadium–Lac Doré Mining Inc. mine in Cree territory covered under Section 22 of the JBNQA. The ruling also has consequences in Nunavik and on Section 23 of the JBNQA. In this case, the Supreme Court of Canada's majority decision (five judges to four) concluded that, once a mining project has been approved in accordance with the JBNQA, the project proponent may not proceed without first obtaining all other necessary authorizations, including the authorization provided for in section 35(2) of the *Fisheries Act*, which involves the implementation of the *Canadian Environment Assessment Act* (CEAA), and without omitting the Crown's obligation to consult the Cree concerning factors that could threaten their rights under the JBNQA. Unfortunately, the Supreme Court of Canada's majority decision is counter to the position that has been held to date by the KEAC as well as Inuit and Aboriginal organizations, as was recognized in the opinion of the minority judges.

The majority opinion held that Cree rights under the JBNQA must be respected under the CEAA. In this respect, the majority opinion pointed out that, generally, the JBNQA procedures make available adequate data to the federal authority responsible for fisheries and that the CEAA permits the federal authority responsible to cooperate with other bodies to promote the standardization and harmonization of environmental assessment processes.

The members concluded that the JBNQA provides more protection for Cree and Inuit than the CEAA. The members discussed the consequences of the ruling with respect to Section 23 of the JBNQA. The members questioned whether or not the federal government would decide to carry out the complete reassessment of projects, entailing the implementation of another environmental assessment procedure separate from the JBNQA. The members fear difficulties for project proponents and Nunavik communities, as well as additional costs and delays generated by new environmental assessment procedures separate from the JBNQA.

b) Public participation

In May, the KEAC received an invitation from Jacques Dupont (Assistant Deputy Minister for Hydric Expertise, Analysis and Environmental Assessment, MDDEP) on behalf of Madeleine Paulin (Provincial Administrator for Section 23 of the JBNQA) to sit on a working group on public participation, transparency and access to information. In order to improve the process, the Québec government aims to create a round table composed of different organizations mandated to find concrete, short- and medium-term solutions (administrative adaptations). The members discussed the importance of a revision of the public participation and information process. Some members indicated their availability to participate.

c) Revision of schedules 1 and 2

The KEAC informed KRG Chairperson Maggie Emudluk and Makivik Corporation President Pita Aatami, by letter, about the review carried out by the KEAC to strengthen the environmental and social assessment and review procedure contained in Section 23 of the JBNQA and its schedules. The letter also explained the willingness of the Provincial Administrator, Madeleine Paulin, to undertake a revision of the schedules of Section 23 if it is desired by the Inuit party. The members were informed that the KRG and Makivik are consulting on the matter. The members asked the Executive Secretary to monitor developments.

d) Letter from the Canadian Environmental Assessment Agency

The members discussed a letter received from François Boulanger (Regional Director, Canadian Environmental Assessment Agency (CEAA)) concerning the minutes of the KEAC's 121st meeting. The Executive Secretary explained that a discussion with Benoît Théberge (Advisor, CEAA) had permitted clarification of a section of the letter.

The members also noted that the KEAC has still not received comments from the Federal Administrator for Section 23 of the JBNQA on its position paper concerning strengthening the environmental and social impact assessment and review procedure in Nunavik that was transmitted in the spring of 2009. In order to see the recommendations implemented, the members feel that support of the Federal Administrator is necessary.

8. Residual materials management

a) Questionnaire

The Executive Secretary explained that the questionnaire on residual materials management was transmitted to the KRG so that that organization could follow up with municipal representatives on the notions set out in the questionnaire. The feedback collected should foster discussion on residual materials management and, eventually, contribute to the preparation of the KRG residual materials management plan. In order to improve the sharing of information, the members asked that the questionnaire be translated into Inuktitut.

b) Revision of the three residual hazardous materials guides

The members studied the French and English versions of the three residual hazardous materials guides and proposed changes. It was decided to assign this task to a subcommittee. One member suggested that the guides be transmitted to the MDDEP's regional branch once the revision work is complete in order to obtain feedback from MDDEP specialists.

9. Miscellaneous

a) Aboriginal community consultation

The members were informed about Québec-government actions further to two Supreme Court of Canada rulings concerning the Haida and Taku River. The rulings provide that the federal and provincial governments must consult Aboriginal communities before taking any decision that could interfere with the rights of the Aboriginal communities. Following up on the rulings, in 2006 the Québec government produced the *Interim Guide for Consulting Aboriginal Communities* in order to set guidelines for its departments and agencies.

In Nunavik, the rulings have not produced any changes for the Québec government regarding the environment because Section 23 of the JBNQA has for 30 years contained mechanisms to ensure the consultation and participation of Inuit in related decisions.

The members discussed the federal government's interpretation of the rulings and their impact on the territory covered by the JBNQA. Finally, the members asked to be informed of different claims and rulings regarding environmental protection in Nunavik and Section 23 of the JBNQA.

b) Website

The Executive Secretary explained that the updating of the KEAC website was completed, including changes to facilitate use by the general public. For example, links to the organizations identified in the KEAC's five-year action plan now appear under the heading Links; the Comments and Contact Us pages were combined; and the tab headings were revised. The members asked that the "Topics of Interest" section be updated next.

The members were also informed that the memory available for the intranet, where documents can be stored, is very low. As soon as this memory is filled, the Executive Secretary will inform the members and a decision will need to be made to remove documents or increase the available memory.

c) Sustainable Development and Sovereignty in the Arctic

A member provided information on the international symposium entitled *Sustainable Development and Sovereignty in the Arctic: Which Challenge?* that was held at the *Université Laval* on May 17 and 18. The workshops organized at the symposium were explained and it was mentioned that an international journal had requested the minutes of the symposium in order to prepare a summary report.

10. Date and place of the next meeting

The KEAC's 125th meeting will take place on October 6 and 7, 2010 at Quebec City.

Stéphanie Benoit
Executive Secretary
November 12, 2010