

Québec City, august 20, 2015

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Subject: Board review of Forest Management Plans and related concerns

Grand Chief Coon Come,
Minister Lessard,

One of the main responsibilities of the Cree-Quebec Forestry Board is to review forest management plans for the Adapted Forestry Regime (AFR) territory. In keeping with this mandate the Board has received all the Operational Integrated Forest Management Plans (PAFIOs) for 2015-16 and 14 Tactical Integrated Forest Management Plans (PAFITs) for the period of 2013-2018. With respect to the review of these plans, the members of the Cree-Quebec Forestry Board have unanimously come to the decision that it can no longer fulfill this important aspect of its mandate. It is for this reason that we are addressing this letter to both parties of the Agreement.


As you are aware, the parties have yet to reconcile the differences between the Sustainable Forest Development Act and the provisions of the AFR of chapter 3 of the Paix des Braves Agreement. In the absence of a harmonization agreement on these two forest regimes, the Board has attempted to fulfill its mandate with respect to the review of forest management plans in a climate of uncertainty. For the past two years the parties have operated under an "interim" process of implementation and the Board has adapted its review of forest management plans to reflect this change. These efforts have been supported by letters of advice to both parties on the interim forest management plans since 2013—particularly in our July 31, 2014 letter that highlighted unresolved management issues related to woodland caribou, mixed forest stands, riparian buffers, and the MFFP's access to Cree Tallymen forest planning support maps. For your convenience, an appendix detailing the nature of the Board's advice on the forest management plans and a summary of the Minister replies is included with this letter.

Despite the Board's past work it has become clear that there is little use in drawing attention to specific management issues in the plans when the implementation of the AFR itself and the achievement of its objectives have become uncertain. As we are in a third year of "interim" operations we have observed that those charged with the responsibility of implementing the AFR, namely the Joint Working Groups, their coordinators, and forestry planners, are no longer certain of how the regime is to function. This lack

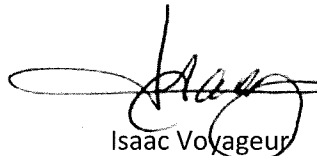
of clarity, which appears to increase each interim year, has resulted in miscommunication, delays, differing interpretations over which rules apply and when, and most importantly mistrust. By extension, those who are to benefit most from the AFR, the Cree land users, have begun to lose faith in the consultation/participation process by which the AFR is defined, particularly as they witness a process that appears to be ad hoc and in constant flux.

In light of these observations, the Cree-Quebec Forestry Board urges the parties to take the necessary steps to conclude an agreement allowing for the renewal of the AFR as soon as possible. We recognize that this advice has been provided on several previous occasions, but at this juncture we unanimously believe that if certainty and stability are not provided soon the credibility of the AFR and the ongoing support of its stakeholders are at serious risk; the likely result being mounting conflicts requiring conciliation and delay.

Please rest assured, Mr. Lessard and Mr. Coon Come of the Board's desire to make a positive contribution in the implementation of the AFR. It is in this spirit that we offer this advice. We are confident in our ability to fulfill our forest management plan review obligation once stability has returned to the AFR's consultation/participation process.



Gilbert Paillé
Chairman



Isaac Voyageur
Vice Chairman

c. c. Richard Savard, Deputy Minister, Ministère des Forêts, de la Faune et des Parcs
Abel Bosum, Cree-Québec Negotiator, Grand Council of the Crees (Eeyou Istchee)

Overview of the Cree-Québec Forestry Board forest plans review during the interim period

Context

Among its main responsibilities, the Cree-Québec Forestry Board (CQFB) is mandated by the parties to voice its proposals, concerns and comments regarding the forest plans—both strategic and operational. It is also mandated to review the forest plans, at the finalization stage, before they are approved.

The MFFP is preparing the launch of the consultation process for the new tactical plans (PAFIT) associated with the new Québec Forest Regime that came into effect on April 1, 2013. By late May 2015, 14 PAFITs covering the period 2013-2018 will be forwarded to the Board for review. The Board must agree on the approach and directions to guide its plan analysis.

In recent months, the MFFP has also sent the majority of the 2015-2016 PAFIOs for the Agreement territory to the Board for analysis. The content of these plans is similar to the content of the first two years of the transitional period (2013-2014 and 2014-2015); that is, they present a single operating year. No Joint Working Group (JWG) analysis report for the plans is available yet.¹ The parties have agreed that the Board will look at the systemic issues for these plans.

The MFFP is asking for Board advice, but this advice is not required for the plans to take effect.

Background and situation related to the territory's forest plans which have followed the coming into effect of the new Québec Forest Regime

On April 1, 2013, a new Québec Forest Regime came into effect in the territory. Since the parties have not completed their discussions on the harmonization measures for the forest regimes in effect in the territory, an interim process for developing and finalizing the operational forest plans (PAFIO) for 2013-2014 has been agreed upon and applied.

In July 2013, in the absence of a harmonized forest regime, the parties agreed on an interim agreement dealing specifically with the processes for developing and finalizing the integrated forest management plans - tactical (PAFIT) and integrated forest management plans - operational (PAFIO) (harmonized Appendix C-4).

Given the parties' agreements, Board advice was requested on the interim plans. The Board reviewed the 2013-2014 and 2014-2105 PAFIOs.

It also forwarded a first advice letter on the integrated forest management plans – tactical (PAFIT) for MU 084-62, whose territory has a special status under the new Agreement on Governance in the Eeyou Ischee James Bay Territory.

¹ The JWGs must consult the tallymen on the content of the plans that concern them and report to the Minister and the CQFB.

Appendix 2 presents a summary of the Board advice and the Minister's responses to the forest plans that have come into effect since April 1, 2013. When these plans were analyzed, specific issues were identified and recommendations were forwarded.

In June 2014, the MFFP's Direction générale du Nord-du-Québec informed the Cree Nation Government (CNG) that the PAFIT exercise was beginning and invited the Cree Nation to submit its concerns for Category II lands.

In September 2014, in keeping with the agreement signed in July 2013, the Cree Nation Government forwarded preliminary concerns to the MFFP. It pointed out that the agreement signed in July 2013 covered the 2014-2015 planning year and that the parties were supposed to agree on the agreement that would apply thereafter.

In fall 2014, the Cree party suspended its participation in the consultations on the 2015-2016 operational plans, while waiting for developments in its discussions with the Québec government on Adapted Forestry Regime harmonization.

In November 2014, the parties said that they agreed on an agreement in principle on Adapted Forestry Regime (AFR) harmonization measures. The suspension of the Crees' participation in the consultations on the 2015-2016 plans was lifted and the Joint Working Groups were invited to reinstate consultations of the tallymen.

The said agreement in principle has not, however, been signed as at May 2015.

Board review of the 2013-2018 PAFITs and 2015-2016 PAFIOs

Context

In January 2015, the Board's planning file leaders and the parties' representatives informed the Board of the collaborative regime agreed on by the parties for developing and finalizing the Agreement territory's PAFITs and PAFIOs.

PAFITs

In March 2015, the Board was informed that, as foreseen in the PAFIT finalization stage of the theoretical process, in mid-May 2015, the MFFP would send the Board 14 PAFITs for the territory governed by the Adapted Forestry Regime for its review. In order to be ready to carry out its PAFIT review mandate, a working group was mandated to analyze the file and propose an approach for analyzing the territory's tactical plans to the Board.

On April 8, 2015, a working meeting was held. Among other things, the exercise allowed an update on the process of developing the PAFITs and their theoretical content. The table of contents common to all of the integrated forest management plans - tactical (PAFIT) and the summary plan content are presented in Appendix.

The information shared and the discussions held highlight the fact that, since the parties have not officialized their Adapted Forestry Regime harmonization agreement, the new mechanisms for Cree participation in the forest plan development (PAFITs and PAFIOs) are not fully operational. Consequently, apart from a Cree section presenting statistics charts and maps linked to the AFR,

the PAFITs contain no content resulting from Cree participation in the process for developing this first generation of tactical plans. The PAFITs to be tabled will be based on provincial and regional objectives and issues defined primarily by the Government.

The April 8 meeting clearly showed how difficult it would be for the Board to succeed in carrying out its forest plan analysis mandate while the forest regime harmonization measures have not been agreed on by the parties and while the new framework for developing these plans has not been officialized and implemented.

PAFIOs

To date, the MFFP has forwarded 14 PAFIO to the Board for analysis. Many of these operational plans were sent to the Board before the consultations of the tallymen had been completed and while certain conflicts persisted.

As indicated above, since the Cree party suspended its participation in the consultation meetings in fall 2014, the PAFIOs tabled were consulted belatedly by the tallymen. The JWG analysis reports are in the process of being produced. The Cree party instructed its members not to sign the JWG reports before it had conducted certain verifications of these plans.

Since forestry operations had to continue in the territory, the MFFP set up a mechanism enabling it to enter into harvesting agreements with entrepreneurs by identifying the treatment areas for which no usage conflict had been identified.

Conclusion

For a third consecutive year, the Board is being asked to study tactical and operational plans (PAFITs and PAFIOs) which, for various reasons, reflect partially the new processes discussed by the parties. Preliminary observations and analyses show that it is taking time for the parties to officialize the AFR harmonisation measures, that the parties' discussions are at a standstill and that the fact that the Minister must ensure that forestry operations can continue in the territory has resulted in the implementation of planning and participation processes that may potentially undermine the credibility of the mechanisms implemented to ensure the AFR's implementation and monitoring.

Given this context, the interest of the Board's carrying out a more in-depth analysis of the plans has been called into question. It seems premature to determine a constructive analysis approach and criteria for reviewing the forest plans based on an agreement between the parties.

Since one of the Board's main mandates is to ensure Adapted Forestry Regime monitoring, two options are presented for the members' discussion:

1. That the Board send the parties its concerns on the deterioration observed in implementing mechanisms designed to ensure the Crees' participation in forest planning. That Board advice not target the plans' content but rather the process implemented to develop these new plans and maintaining the spirit of the Agreement. Elements for discussion for such draft advice are presented in Appendix.
2. That the Board forward advice indicating that, since the parties have not agreed on measures for harmonising the forestry regimes applicable on Agreement territory, the Board is unable to carry out its mandate of reviewing the new tactical forest plans tabled by the MFFP.

Appendix

Summary of Board advice and answers from the Minister concerning the Board's analysis of forest plans since the entry into force of the new Québec forest regime and the current transitional context in the Adapted Forestry Regime's territory of application

Advice on the 2013-2014 PAFIOs (April 2013)

- Plans are based on the transitional planning process for the interim year 2013-2014
- Planning process is in keeping with the objectives and spirit of the Agreement.
- Integration of the harmonization measures agreed to with the Crees.
- Transfer of the sectors that were previously harmonized but not harvested.
- Avoidance of the sectors targeted by roads subject to the environmental assessment procedure and the protected area projects
- Points out the quality of the review work done by the JGWs

Systemic issues raised

- Increase in the planned harvesting of hardwoods.
 - Relation with the scarcity and importance of hardwood stands and mixed stands as wildlife habitats.
 - Recommendation that a separate management approach is developed for mixed stands.
- Woodland caribou recovery.
 - Reiterates the importance of agreeing on a global woodland caribou recovery plan on which the parties have reached a consensus.
 - Notes that very little progress has been made and encourage the parties to act
- Recurrence of the riparian buffer strip protection issue.
 - Will monitor the solution that will be agreed upon by the parties and, if necessary, recommend avenues for improvement
- Crees' planning support maps
 - Considers the planning support maps a critical tool for better taking the Crees' concerns into account and encourages the parties to settle issues of confidentiality so that this tool can be available in the next phase of integrated forest management plans' development.

Advice on the 2014-2015 PAFIOs (July 2014)

PAFIOs are tabled under Chapter 3 of the Agreement and the July 12, 2013 interim agreement.

The Board notes that all of the elements highlighted in the 2013-2014 interim period plan review remain.

- Lack of measures agreed on jointly by the parties for the woodland caribou.

- Increased planning of hardwood stand harvesting.
- Certain sectors' inaccessibility due to the fact that the environmental impact assessments for various road projects have yet to be completed.
- Dissatisfaction with buffer strip management.
- Unavailability of the planning-support maps.

Raises the issue of the availability of some Joint Working Group analysis reports.

Notes potential developments and elements of solutions related to these issues.

- Application of a precautionary approach for woodland caribou, which has been implemented by the ministry but still being discussed by the Cree party.
- The parties' identification of a solution to the buffer strip issue in the context of negotiations for a new harmonization agreement, which is still under discussion.
- Parties' discussions on mechanisms to be implemented to enable ministry's forest planners to have access to the forest planning-support maps.

Concerned that

- the parties are taking so long to
 - agreeing on an overall plan targeting woodland caribou recovery
 - define a mixed stand strategy that pursues both wildlife and forest-related objectives.
 - review the governance of Joint Working Groups in order for them to produce their analysis reports in compliance with the discussions agreed by the parties.

Notes that the global agreement that the parties have yet to sign generates a context of ambiguity and confusion for the individuals and organizations involved in implementing the AFR and undermines gains made in recent years in developing collaborative relations between stakeholders.

Recommends that the parties

- finalize their discussions and officialize the harmonization measures agreed to with respect to the Adapted Forestry Regime.
- step up their efforts to deal with the issues identified that are not directly linked to the signing of the new Agreement (mixed stand strategy and accessibility of the planning support maps).

REVIEW OF THE PAFIT for FMU 084-62 (May 2014)

PAFIT tabled under Chapter 3 of the Agreement and the July 12, 2013 interim agreement.

Tabling of the IFMP-T falls into a transitional period resulting in a situation where all the mechanisms included in the interim agreement are not fully operational yet.

Since the AFR is still not harmonized with the new legislation, the Board is unable to determine its criteria to analyse forest plan within the new context.

Given all the temporary, transitional context in which the plan was prepared and tabled, the Board deems the IFMP-T for MU 084-62 to be in keeping with the spirit and provisions of the rules governing its preparation and approval. At this stage, it is difficult for the Board to issue a more detailed judgment on this plan.

The Board points out a specific situation about MU 084-62 which is located outside the territory governed by the new Agreement on Governance in the Eeyou Istchee James Bay territory.

Answers from the Minister on the Board's recommendations

July 2013 (response to the 2013-2014 PAFIOs): In the short term, MFFP and CRA will develop the new Mixed Stands Management Strategy.

MRN is designing a precautionary approach to promote woodland caribou recovery.

Expresses the will to increase discussions to ensure accessibility of planning-support maps.

October 2014 (response to the 2014-2015 PAFIOs): Recognizes that the global agreement regarding the harmonization of the adapted forestry regime should be concluded as soon as possible.

With respect to currently active issues, such as the woodland caribou, the development of mixed stands and riparian buffers, he assures that he wishes to continue talks and negotiations with the Cree Nation Government in order to better take it into account in its forest planning.

October 2014 (Response to PAFIT of FMU 084-62)

In conjunction with the representatives of the Cree party, will determine the relevance of dealing with the unique status of MU 084-62 during the next discussions on forest regimes harmonization.