

INTERVIEW OF THE MONTH



PHILIPPE BOURKE
PRESIDENT
BUREAU D'AUDIENCES PUBLIQUES SUR L'ENVIRONNEMENT (BAPE)



Mr. Bourke has been BAPE President since November 2017. A biologist holding a Master's degree in Environmental Sciences from the Université du Québec à Trois-Rivières (UQTR), he headed the Regroupement national des conseils régionaux de l'environnement du Québec (National grouping of Québec regional environment councils - RNCREQ) for 20 years and was Vice-President, Development and Public Affairs of Réseau Environnement in 2017. He has chaired the Fonds d'action québécois pour le développement durable (Québec sustainable development action fund - FAQDD) and sat on the climate change advisory committee at the Agence de l'efficacité énergétique du Québec (Québec energy efficiency agency) and the Canadian Environmental Network.

Question 1: The Bureau d'audiences publiques sur l'environnement (BAPE) has existed for 42 years now. What are this government body's roles and responsibilities?

Answer 1: In creating the BAPE (Bureau for public hearings on the environment) in 1978, the Québec government was ahead of its time and it continues to be so by giving citizens the opportunity to be heard and to voice their concerns regarding major development projects.

The BAPE'S role is to give Quebeckers a chance to express themselves on far-reaching projects and environmental issues affecting their community or their quality of life and to enlighten government decision-making regarding these matters.

The BAPE investigates any matter related to environment quality submitted to it by the Minister of the Environment. At the Minister's request, the BAPE holds public hearings, targeted consultations or mediation sessions.



ST. LAWRENCE ECONOMIC DEVELOPMENT COUNCIL

This role gives rise to various responsibilities:

- Ensuring that citizens have access to all available, useful information on the projects being studied;
- Offering optimal, inclusive conditions for participation that allow everyone to follow the BAPE's work and contribute to it in a welcoming, respectful, serene atmosphere;
- Accompanying citizens step-by-step at all stages of the consultation;
- Ensuring the independence and impartiality of its work in order to offer a detached, neutral view;
- Producing rigorous, objective analyses based on the facts and on science, by taking a long-term view that transversally integrates ecological, social and economic issues.

In short, the BAPE gets the facts straight, informing and consulting the public and investigating in order to advise the authorities to carry out its mission.

Question 2: What type of project can the BAPE analyze?

Answer 2: The vast majority of the projects studied by the BAPE arise from section 31.1 of the Environment Quality Act (EQA) and, consequently, from the environmental impact assessed and review procedure. Schedule 1 of the *Regulation respecting the environmental*

impact assessment and review of certain projects (Q-2, r. 23.1; EIARP), which governs application of this procedure, lists the categories of projects subject to the procedure as well as the thresholds for applying it.

In Schedule 1, we find projects for dams and dikes, road infrastructures, oil pipelines and gas pipelines, power production, transmission lines and transformer stations, mines, industrial projects, livestock production, landfill sites, sites for the disposal of contaminated soils and hazardous materials, work in wetlands and bodies of water, and ports, wharves and port terminals.

Note that this type of mandate conferred on the BAPE does not include territories governed by agreements with the Crees, Naskapi and Inuit. Nor does the BAPE intervene in files that fall exclusively under federal government jurisdiction.

Otherwise, the BAPE can also be mandated to hold public consultations on protected areas under the Natural Heritage Conservation Act or the Parks Act.

Finally, as is currently the case for the commission on site status and end waste management, the Minister of the Environment can use his or her powers under section 6.3 of the EQA to entrust environment quality-related mandates to the BAPE in order to guide the development or review of public policies. The BAPE has been assigned other similar mandates in the past in areas like water management, hog production, shale gas, forest health, etc.



ST. LAWRENCE ECONOMIC DEVELOPMENT COUNCIL

Question 3: What are the steps leading to the BAPE's analysis of a file, from receiving the Minister's request to submitting its final report?

Answer 3: When a project's impact study has been completed and then considered admissible by the Minister, the Minister generally asks the BAPE to hold a 30-day public information period.

If, during this time, the Minister receives at least one request for a public hearing, targeted consultation or mediation session which the Minister considers not frivolous, the Minister asks the BAPE to recommend which if the three types of mandates should be conferred on it.

The Minister can override the public information period if the Minister feels that a public hearing mandate is probable.

When the BAPE President receives the mandate to hold a public hearing, targeted consultation or mediation session, he forms a commission and designates one or more commissioners, one of whom is named Commission Chair. The commissioners are joined by a team composed of analysts and employees from various sectors (coordination, communication, secretarial services, information technology, etc.).

The commission then takes the steps required prior to the public hearing (consultation strategy, work schedule, logistics and budget, preparatory meetings with the project proponent, resource persons and public, inquiry strategy, etc.).

The mandate generally begins on Day 1 of the first part of the public hearing in the host community. During this phase, the public and commission round out information on the project and highlight certain aspects.

The commission directs the questions to either the project proponent or to resource persons from government departments and bodies convened by the commission for this purpose. Several sessions may prove necessary, depending on the level of participation.

The second part of the hearing, which takes place at least 21 days after the end of the first part, is devoted exclusively to hearing briefs, verbal opinions and suggestions from individuals, municipalities, organizations and groups wishing to share their opinions with the commission. Once again, the number of sessions depends on the participation level.

When the public sessions are over, the commission begins the report drafting stage, which involves a rigorous process: the systematic analysis approach. This allows it to draw conclusions and formulate advice based on the elements submitted and on its research. The final weeks of the BAPE's mandate are devoted to editing and quality control (reading committee and linguistic revision).

The report is submitted to the Minister no more than 4 months after beginning the mandate. The Minister then has 15 days to make the report public.



ST. LAWRENCE ECONOMIC DEVELOPMENT COUNCIL

Question 4: Although the BAPE does not have the power to authorize or refuse a project, it has significant power to influence. In this context, what advice could you give promoters to properly prepare their project and its analysis where the BAPE is concerned?

Answer 4: The initial steps are at least as important as the final ones, if not more so. The best advice I can give is that the public must be involved in the process as soon as possible, ideally before the project is submitted to the Minister, if not while the impact study is being conducted. Transparency, active listening and openness are essential.

The impact study's thoroughness is also an important factor for success. Project proponents must take inspiration from best practices in the field and demand the highest standards of quality.

The project proponent's attitude in going before the BAPE is also very important. It is best to go willingly with a positive mindset marked by openness and trust.

The exercise should be seen as a wonderful opportunity to show one's knowledge of the host community, one's expertise and one's openness to improving the project to reduce its impact and make it more acceptable.

Finally, being well prepared for the public sessions is crucial. In this regard, proponents can count on advice from the commission at the preparatory meeting, the support of coordinating personnel during the mandate and various procedural

guides and tools available on the BAPE website. They can also consult similar files studied by the BAPE.