

Université de Montréal

**Environmental Mediation in Solid Waste Management
An Institutional Analysis**

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Ph.D. en aménagement

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ABSTRACT

The use of collaborative (participatory or consensus-based) decision-making approaches in environmental planning and management is becoming more essential not only because of the complex nature of environmental problems caused by the uncertainty and value differences surrounding them, but also because of strong grassroots movements that are initiating local democracy and citizenship rights as new values, as well as because of institutional restructuring going on in the provision of public services. All of these call for public participation.

Environmental public participation is considered an essential element in achieving sustainable development, i.e., the new order of living. Progress towards sustainable development is proposed to be measured by progress in restructuring the institutional context to adapt ecological and democratic decision-making processes. Collaborative (consensus-based or participatory) approaches (including environmental mediation) are presented as effective tools for effective public participation. Success of collaborative approaches is suggested to be measured by their contribution to the transformation of an institutional context towards a structure, which facilitates and accommodates democratic decision-making processes. The quality of the collaborative decision-making process in terms of its legitimacy and fairness is crucial for a democratic structure. Such a process needs to be linked to the institutional context that it is supposed to transform. The quality of the process as an accessible and empowering one, however, is limited by the institutional context itself.

This thesis is an assessment of the quality of the environmental mediation process for sanitary landfill projects in relation to the institutional context in which it is set up, i.e., in Québec's environmental assessment and review procedure (PÉEIE). This assessment is based on legitimacy and fairness, two criteria that dominate in the relevant literature. The assessment is carried out at several levels. The first-level analysis consists of an institutional analysis of the public hearing and environmental mediation processes as they are set up in PÉEIE. This is based on a comparative analysis that aims to discover the underlying similarities and differences between two processes. This analysis also establishes the basis for our second level of analysis, in which we explore links between the institutional context and the process. For this, a comprehensive analysis of legal provisions is undertaken, as well as a historical analysis of the events surrounding the practice of these two processes. The second level of analysis has two dimensions. The first dimension consists of an analysis of the environmental mediation process for eight sanitary landfill projects in terms of its appropriateness and legitimacy in relation to the institutional context. This analysis is based on an analysis of accessibility of the process, i.e., its inclusiveness as well as its representativeness and accountability. The second dimension consists of an assessment of the fairness of the process, which is based on the analysis of the distribution of roles, responsibilities, and resources among the participants, as well as the perceptions of the participants of the fairness of the process.

We find that the legitimacy and fairness of the environmental mediation process is limited because of the institutional context in which it is set up. In this structure, there is no conflict assessment phase in which issues and stakeholders can be identified, and the appropriateness of the mediation process can be determined in collaboration with all relevant stakeholders. In addition, the mediation process is only open to participation of those groups who submit a public hearing request within the formal time limits. It also allows deliberation and negotiation only on the issues raised by the groups with formal status. Representation of environmental interests and general public is problematic as well. Secondly, there is inequity between groups

in terms of access to information, negotiation capacity, and skills. There is no training and financial support program for disputant groups to acquire the necessary skills and knowledge. Furthermore, the lack of a question period (which would serve as a learning process for the disputant groups) emphasizes the inequity between groups with direct access to technical and legal expertise and those with no access to these resources. Above and beyond all of this, institutional fragmentation prevents environmental mediation from becoming an effective collaborative decision-making process. We see this in many areas, all related to institutional context: the distribution of rights and responsibilities among different branches of government apparatus, the lack of powers of the BAPE Commissions, and the lack of coordination between different phases of public consultation and communication activities.

The study finds that despite all these drawbacks, mainly caused by the institutional context, the environmental mediation process has great potential in becoming an effective platform for public participation: one that is empowering. We propose several areas of intervention to be addressed in order to enhance the quality of the environmental mediation process, i.e., in its legitimacy and fairness. Among these there are: (a) adapting a conflict assessment phase in the process, in which the appropriateness of environmental mediation is determined, and issues and stakeholders are both identified; (b) integrating better means for notification and information of the public of the project and the process alike, and means for financial support and training for the stakeholders; and (c) combining public hearing and environmental mediation processes to create a process that is accessible, provides better access to technical and legal expertise, and is results oriented.

Key Words: Environmental Impact Assessment, Solid Waste Management, Public Participation, Environmental Mediation, Institutional Context, Process, Québec

RÉSUMÉ

L'usage des approches collaboratifs (ou participatifs) de prise de décision dans la planification et la gestion environnementale devient de plus en plus important non seulement à cause de la complexité des problèmes environnementaux créés par l'incertitude et la différence des valeurs autour du sujet, mais aussi à cause de(s) forts mouvements originaux qui amènent la démocratie locale et les droits de citoyenneté comme nouvelles valeurs ainsi qu'à la restructuration des institutions publiques. Tout cela nécessite la participation du public.

La participation publique environnementale est considérée comme un élément essentiel pour atteindre un développement durable tel que le nouveau style de vie. Nous suggérons que le progrès dans le développement durable soit mesuré par celui de la restructuration du contexte institutionnel afin d'adapter les processus de prise de décision écologiques et démocratiques. Les approches de collaboration, basées sur le consensus ou participatives, incluant la médiation environnementale, sont présentées comme des outils efficaces pour une participation publique efficace. Nous suggérons que le succès des approches collaboratives soit mesuré par leur contribution à la transformation du contexte institutionnel vers une structure qui facilite et accommode les processus de prise de décision démocratiques. La qualité du processus de prise de décision collaboratif en fonction de sa légitimité et sa justesse est critique dans la structure démocratique. Un tel processus doit être relié au contexte institutionnel qu'il est censé transformer. Par contre, la qualité du processus comme un processus accessible et puissant est limitée par le contexte institutionnel.

Cette dissertation fait l'évaluation de la qualité du processus de médiation pour les projets de lieux d'enfouissement sanitaire en relation avec le contexte institutionnel, c'est-à-dire le PÉEIE (Procédure d'évaluation et d'examen des impacts sur l'environnement), au Québec. Cette évaluation est basée sur deux critères qui dominent la littérature pertinente, notamment la légitimité et la justice. Elle est conduite à deux niveaux : L'analyse au premier niveau comprend une analyse institutionnelle d'audience publique et de médiation environnementale tel qu'établi par le PÉEIE. Elle est basée sur une analyse comparative dont l'objectif est de découvrir les similarités et les différences entre les deux processus. Cette analyse établit également la base pour notre analyse au deuxième niveau où nous explorons les liens entre le contexte institutionnel et le processus. Pour ce faire, nous entreprenons une analyse exhaustive des provisions légales et de l'historique des incidents environnant ces deux processus. Le deuxième niveau d'analyse a deux dimensions : la première consiste à analyser le processus de médiation environnementale pour huit projets de lieux d'enfouissement sanitaire en ce qui concerne leur pertinence et légitimité par rapport au contexte institutionnel. Cette analyse est basée sur une évaluation d'accessibilité du processus. La deuxième dimension consiste à analyser la justesse du processus qui est basée sur une évaluation de distribution des rôles, des responsabilités et des ressources entre les participants et la perception des participants par rapport à la justesse du processus.

Nous constatons que la légitimité et la justesse du processus sont limitées au contexte institutionnel dans lequel elles sont établies. Il n'y a pas de phase d'évaluation de conflit pendant laquelle les problèmes et leurs détenteurs peuvent être identifiés et la pertinence du processus de médiation peut être décidée. Le contexte institutionnel est seulement ouvert à la participation des groupes qui peuvent déposer une requête d'audience publique dans les délais prescrits. La représentation des intérêts environnementaux et du public en général demeure problématique. Aussi, il s'agit d'une inégalité entre les groupes par rapport à leur accès

à l'information, à leur capacité de négociation et à leurs habilités. Il n'existe pas de programme de formation ou de support financier pour les groupes leur permettant d'acquérir l'information et les habilités nécessaires. En plus, l'inexistence d'une période de question qui servirait à l'apprentissage augmente l'inégalité entre les groupes qui ont un accès direct à une expertise légale et technique et les groupes qui n'ont pas accès à ces ressources. Au-delà de tout ceci, la fragmentation institutionnelle empêche la médiation environnementale de devenir un processus efficace de prise de décision. On peut constater ceci dans plusieurs domaines reliés au contexte institutionnel : la distribution des droits et des responsabilités entre les différentes branches du gouvernement, le manque de pouvoir des Commissions de BAPE et le manque de coordination entre les différentes phases de consultation publique et leurs activités de communication.

L'étude démontre que, malgré tous les inconvénients causés par le contexte institutionnel, le processus de médiation environnementale a un grand potentiel pour devenir une plateforme pour la participation du public. Nous proposons plusieurs points d'intervention à être adressés pour améliorer la qualité du processus de médiation environnementale, donc sa légitimité et sa justesse. Parmi ces points, on peut compter a) l'adaptation d'une phase d'évaluation de conflit dans le processus par laquelle la pertinence de la médiation environnementale serait décidée et les problèmes et leurs détenteurs seraient déterminés, b) l'intégration des meilleurs moyens pour aviser et informer le public des projets et des processus similaires et des moyens de support financier et de la formation pour le public, c) la combinaison de l'audience publique et du processus de la médiation environnementale pour créer un processus qui est accessible, qui fournit de l'expertise technique et légale et qui est même temps orienté sur les résultats.

Mots clés : Évaluation d'impacts environnementaux, Gestion des déchets solides, Participation publique, Médiation environnementale, Contexte institutionnel, Processus, Québec

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ACRONYMS AND ABBREVIATIONS

3R-V	Recycle, reuse, recovery and treatment
Action Re-Buts	La coalition montréalaise pour une gestion écologique et économique des déchets
ADR	Alternative dispute resolution
AQÉI	Association Québécoise pour l'évaluation des impacts
BAPE	Bureau d'audiences publiques sur l'environnement
BCRTEE	British Columbia Round Table on the Environment and the Economy
BFI	Browning-Ferris Industries
BFI-UTL	Browning-Ferris Industries – Usine Triage de Lachenaie
CAC	Citizens' advisory committees
CBA	Cost-benefit analysis
CEAA	Canadian Environmental Assessment Agency
CIGDCC	<i>Le comité intermunicipal de gestion des déchets du comté de Champlain</i>
CORE	Commission on Resources and Environment
CPSEG	<i>Comité de protection de la santé et de l'environnement de Gaspé, Inc.</i>
CPTAQ	Commission for the Protection of Agricultural Land (<i>Commission de protection du territoire agricole</i>)
CQDE	<i>Centre de recherche et d'information en droit de l'environnement</i>
CNW	Canada NewsWire
DEE	Department of Environmental Assessment (<i>Direction des Évaluations Environnementales</i>)
DMS	<i>Dépôt de matériaux secs</i>
EIA	Environmental impact assessment
EIS	Environmental impact statement
EPA	Environmental Protection Agency (USA)
FCQGED	<i>Front commun Québécois sur la gestion écologique des déchets</i>
GIS	Geographical information systems
RGEQ	Réseau des groupes écologiques au Québec
IRM	Integrated resource management approach
ISKM	Integrated systems of knowledge management
LES	Sanitary landfill sites (<i>Lieux d'enfouissement sanitaire</i>)
MCDM	Multi-criteria decision making
MEF	Ministry of the Environment and Fauna
MENV	Ministry of the Environment
MRC	Regional County Municipalities (<i>Municipalités régionales de comtés</i>)

NEPP	Netherlands' national environmental policy
NIMBY	Not in My Backyard syndrome
NRTEE	National Round Table on the Environment and the Economy
PÉEIE	Environmental assessment and review procedure (<i>Procédure d'évaluation et d'examen des impacts sur l'environnement</i>)
RIGDIM	La Régie intermunicipale de gestion des déchets de l'île de Montréal
RRQ	Réseau des Ressourceries du Québec
SEA	Strategic environmental assessment
STOP	Society to Stop Pollution
UNCED	United Nations Conference on Environment and Development- Rio Conference
UNCHS	United Nations Centre for Human Settlements
UTL	<i>Usine Triage de Lachenaie</i>
WCED	World Conference on Environment and Development

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Dedicated to **EKIN**,
my son, who is
the best teacher I have ever had:
he is empowering, he is inspirational.
He is EKO.

CHAPTER I

1. INTRODUCTION

1.1. Definition of the Study

There are substantial calls for institutional change in order to incorporate environmental considerations into natural resource allocation and economic development decisions (Margerum, 1997; Manring, 1993). It is argued that this change is required for several reasons. First, existing institutional structures have not been designed to achieve a sustainable future but rather for economic development and prosperity based on the exploitation of natural resources (Allen, 2000). Second, experience has taught us that the nature of environmental problems is complex, due to the interdependency and integrity of ecosystems, and uncertainty and disputes over values and objectives (Cardinall and Day, 1998; Smith, 1993). Because of this complexity, dealing with environmental problems requires the involvement of many actors – including public and private organizations, as well as community groups – who have different ways of analyzing, understanding, and explaining problems, and who act and react in different ways according to the particular issue at hand (Margerum and Born, 1995; Manring, 1993).

Out of the growing awareness that our institutional structures need to be redesigned to help us deal with the complexity and uncertainty associated with environmental problems, and also to achieve the goal of sustainable development has emerged a new approach – the integrated resource management approach (IRM), a form of collaborative practice (Margerum, 1997; Selin and Chavez, 1995). In IRM, the role of conflict is presented as an inevitable phenomenon because of how environmental problems are interrelated – spanning many sectors, jurisdictions, and boundaries, and involving large numbers of decision makers and several different levels of governments.¹ It is this situation, in turn, that requires the analysis of interactions and linkages, to establish a well-integrated political power system that will succeed in resolving conflicts. This new approach has introduced the concept of re-configuring governance, by creating new

¹ Manring (1993: 324) explains that in this picture, “none of the decision-makers have sole jurisdiction or encompassing authority, and therefore, management activities must not be limited by political, social, organisational, or even natural boundaries.”

institutional mechanisms as a prerequisite for establishing a system that integrates natural, human, and political systems (Manring, 1993; Caldwell, 1994).

IRM suggests that in order to establish these required configurations and mechanisms, governments have to change their role from “command and control” towards a more co-operative, value-added, support-based role, based on broad-based partnerships that encourage collaboration, co-operation, and adaptability in management actions (Cardinall and Day, 1998; Selin and Chavez, 1995), and that best fit a particular situation and location (Margerum and Born, 1995). Incorporating these characteristics into existing management structures will not be easy, but the transformation may be inevitable, as there are other factors pressuring governments to embrace a more co-operative and support-based role (Bryson and Crosby, 1992). These factors include public sector financial crises, intensification of concerns about efficiency in the provision of public goods and services,² and a growing awareness that government organizations themselves are special interest groups rather than neutral agencies, as different governmental agencies represent different interests and assume different responsibilities (Osborne and Gaebler, 1992). In addition, there has been a shift from *managerial* to *pluralist* and *popular* perspectives, in which civil society, grassroots movements, and civic engagement become dominant concepts, and information becomes democratic (Cohen and Arato, 1997).

In this new order, greater community involvement in determining environmental needs and defining appropriate measures to meet those needs has become critical (Margerum and Born, 1995; Caldwell, 1994). This has emerged out of the IRM perspective, which suggests the concept of planning and management at a scale that is ecologically appropriate rather than administratively convenient (Margerum and Born, 1995). In IRM, there is an emphasis on the concept of place, and on area-specific planning and management, based on the premise that locations are, in many ways, unique in terms of the problems, solutions, and the needs of local communities (Caldwell, 1994). In Agenda 21, the action report of the Rio Conference (UNCED, 1992), an opening up of the environmental arena to popular involvement is one of the measures recommended to support this new environmental understanding – communities

² This is reflected in decentralization and local economic development strategies as well as in private sector involvement. In turn, various forms of partnerships that move towards more co-operative environmental management practices have been created between business, local citizens, and government (Osborne and Gaebler, 1992).

themselves have to get involved in identifying their own environmental problems and setting targets for addressing them. Since 1992, because of this emphasis on place and community, local knowledge has become critical; the way it is accumulated and integrated into the formal decision-making processes calls, once again, for emphasis on participatory approaches.

New challenges have been identified particularly as how to introduce appropriate participatory or collaborative processes and techniques, and most importantly, how to keep them adaptable, in order to ensure their use in appropriate situations (Bryson and Crosby, 1992). These are the prerequisites for success in building the institutional capacity to incorporate collaborative processes³ that include the participation of appropriate actors, the development of mutually agreed-upon decision-making processes, and legitimacy (comprising political support, public participation, and funding) (Margerum and Born, 1995).

Alternative dispute resolution (ADR) is another new form of participatory practice. Introduced in the mid 1970s in the United States, it comprises techniques of mediation and negotiation (Jacobs and RuBino, 1989), and has been widely used as an alternative approach for the resolution of conflicts over land and environmental resources – such as hazardous waste siting and pollution conflicts – and intergovernmental conflicts (Carpenter and Kennedy, 1988; Bacow and Wheeler, 1984; Bingham, 1986). During the 1980s, interest in the practice of mediation broadened, particularly as a strong tool to deal with the “Not in My Back Yard” (NIMBY) syndrome. NIMBY is known as an outlet for local stakeholders or individuals, who perhaps do not feel represented by the institutional system or the neighbourhood association, to express stress, discomfort, social tensions, or the real or feared impacts of changes to the living environment.⁴ From the beginning, mediation has been used in the USA as a less costly and

³ There are examples of initiatives all over the world that are considered as collaborative efforts: The Netherlands' National Environmental Policy Plan (NEPP), which established negotiated covenants with different sectors of industry and its product, and the Green Plan, that constitutes something of a mix of styles. It is a work of polemic and an evaluation of schemes in progress and good practice. There is also New Zealand's Resource Management Act, which seeks “maximum environmental benefit with a minimum of regulation” and Canada's remedial action plans in the Great Lakes Basin. These plans or strategies are defined as comprehensive, integrated, and large-scale initiatives – three characteristics that are based on the basics of ecosystem (integrated) approach and are key to solving environmental problems, whether on the local, regional, or national level (see Margerum, 1997).

⁴ S  n  cal (2002) explains that the term NIMBY refers to residents' actions to protect an area near their homes or to limit undesirable uses there. Cases of NIMBY often arise in conflicts over land use. NIMBY cases can also be a way of reacting to the inadequate availability of public services. NIMBY is one of the few options for expressing the experiences and opinions of the immediate and nearby residents and

speedier alternative to litigation (Bingham, 1986), and is considered an effective problem-solving tool for regulating compromise through compensation and mitigation – providing win-win solutions for all (Susskind and Ozawa, 1983).

There are many mediation process models, but they all follow the same general structure (Moore, 1996; Susskind and Cruickshank, 1987). This structure, “although well established, must be flexible enough to respond to changing needs and circumstances as the mediation progresses” (Moore, 1996: 32). In the early years, the 1980s, mediation was a non-adversarial approach that focused on consensus building, joint problem solving, and bargaining, in a voluntary process in which all parties were free to terminate the mediation at any time (Carpenter and Kennedy, 1988). An impartial third party was used, to facilitate discussion at face-to-face meetings between the parties (Susskind and Cruickshank, 1987; Bingham, 1986).

In the early years, the challenge in mediation was to reduce conflict escalation by creating a set of conditions conducive to realizing positive outcomes (Bacow and Wheeler, 1984). One of the ways it sought to do this was via assessing distributional consequences – who was going to win and who was going to lose. From this perspective, ADR assumes that people who will feel the negative impacts of a project may drop their opposition if there is some appropriate compensation (Susskind and Cruickshank, 1987). In many environmental controversies, however, it is not obvious who will lose and who will gain; in fact, uncertainty about the physical, ecological, and local economic impacts, an uncertainty that may prevent accurate prediction of the outcomes of a project, is central to many environmental disputes (Cardinall and Day, 1998). Despite these obstacles, during the 1980s, ADR techniques were used to achieve quality, cost-effective agreements (Bingham, 1986; Crowfoot, Wondolleck and Manring, 1996).

highlighting impacts that have been underestimated or even dismissed. The resulting conflict upsets the tacit rules of the institutional stakeholders and the mediations between social and economic partners. Because of its impact on democratic processes and the media coverage it receives, the NIMBY syndrome has modified the urban planning and development process, and has influenced dealings between local stakeholders and government authorities. These situations can lead to the creation of a new forum for residents and institutional stakeholders to discuss the distribution of community-level services and facilities as well as the local effects of human activities. For a comprehensive discussion of the NIMBY syndrome, see Dear (1992) and Portney (1991).

By the late 1980s, and continuing during the 1990s, criticism of ADR techniques in the field of environmental decision making began to grow, particularly the technique of environmental mediation (Modavi, 1996; Amy, 1987). It was considered biased, used to favour corporate interests and support the de-mobilizing and de-politicizing of conflicts on behalf of state interests as well (Modavi, 1996; Salazar and Alper, 1996). Environmental mediation had gained a bad reputation, especially among environmentalists, as a mechanism for the state to cope with its dual, contradictory role – providing public goods and services, and promoting capital accumulation and expansion (Amy, 1987).

Along with these criticisms and parallel to transformations in the field of public participation in general, mediation had shifted by the late 1990s toward the practice of participation, through which more democratic and integrated decision-making processes could take place (Burgess and Burgess, 1997; Smith, 1993). In addition to being a cost-efficient tool that could provide quality decisions in a short amount of time, mediation was now seen as a technique that could empower citizens, enable public discourse, expand public participation, and enhance citizen capacities (Lukermann, 1997). Such techniques were advertised as tools that could eliminate the limits and drawbacks of representative democracy, in addition to facilitating innovative solutions through processes of consensus-building among all committed interest groups (Susskind and McKearnan, 1994).

The more recent view is that conflict resolution may not only be a useful tool for settling disputes, but it also may be a vehicle – a necessary vehicle – for changing the practices and institutional culture of governing bodies, agencies, public officials, citizenry, and communities (Lukermann, 1997). However there are also concerns that power imbalances between stakeholders, including the asymmetrical distribution of negotiation skills and resources, allow more powerful stakeholders to dominate the process, achieving what they want without having to engage in collaboration (Burgess and Burgess, 1997; Innes and Booher, 1999a). There are also concerns that these processes can be very demanding on citizens and environmental groups (Modavi, 1996). Such power imbalances and accountability issues hamper collaborative, democratic, and integrated decision-making processes (Innes, 1999; Innes and Booher, 1999b). Evaluating collaborative processes in terms of their contribution to more democratic and integrated decision making thus becomes critical.

Several studies (Sipe, 1998; Sipe and Stiffler, 1995; Bingham, 1986) assess the performance of environmental mediation, but all from the perspective of successful outcomes – i.e., the percentage of cases that ended with an agreement.⁵ However, there is currently a growing interest in evaluating process rather than outcome- i.e., assessing the contribution of a collaborative process towards the establishment of a more democratic and integrated decision-making practice. The premise is that “successful outcomes can only be produced in fair, equitable and legitimate processes” (Susskind and McKernan, 1994; Innes and Booher, 1999a).

With the release of the Brundtland Report in 1987 (WCED, 1989), environmental issues resurfaced in Canada, gaining momentum in the new context of sustainable development (Dorcey, 1991). The National Round Table on the Environment and the Economy (NRTEE) was established by the federal government to make recommendations on Canada’s response to the new imperatives for sustainable development (McAllister, 1998). NRTEE introduced provincial round tables as one of the new generation of citizen involvement techniques that are based on a multi-stakeholder and consensus approach (Pasquero, 1991), and has recommended that co-management should be a central element of sustainability strategies (Cormick, Dale, Emond, Sigurdson, and Stuart, 1996). Co-management is considered a type of partnership, and a means for implementing community-based management utilizing multi-stakeholder processes and consensus principles (Dorcey and McDaniels, 1999).⁶ In the same period, negotiation-based approaches to citizen involvement, including mediation, were introduced into Canadian environmental governance,⁷ in order to avoid the delays, uncertainty and costs associated with governmental administrative processes (Dorcey and Reik, 1987).

⁵ Sipe and Stiffler (1995) tried to determine the effectiveness of mediation in terms of settlement rates and, i.e., whether or not the case was settled and how long it took to settle, as well as the quality of settlement. Sipe (1998) has designed an empirical study to understand level of success in terms of settlement quality, cost and timing.

⁶ As an outcome of this initiative, provincial and local round tables have also been established. British Columbia’s experience with the round table as a mechanism for including the public in resource and land-use planning is very interesting. See BCRTTEE (1991a and 1991b), Doering (1993), CORE (1994), BCRTTEE, CORE, FBMP and NRTEE, (1994), and McAllister (1998) for details.

⁷ At the federal level, the Canadian Environmental Assessment Agency (CEAA) has incorporated environmental mediation into the federal environmental assessment procedure; a participatory approach was first used in the MacKenzie Pipeline project in Yellowknife. At the provincial level, the B.C. Round Table on Environment and Economy has prepared a land use plan. See CORE (1992) and BCRTTEE (1994a; 1994b) for more information.

Since the mid-1980s, in Québec, environmental mediation has been used by the Bureau d'audience publique sur l'environnement (BAPE), the public consultation bureau of the provincial government, as part of the environmental assessment and review procedure (PÉEIE).⁸ It was basically defined as a mechanism, along with public hearings, to inform the public and give the public opportunity to express its opinions on a specific project (BAPE, 1994; Gariépy, 1991). Environmental mediation was regulated in 1992 under the Rules Regulating the Conduct of Environmental Mediation.⁹ Since the mid 1980s, BAPE has conducted about 40 environmental mediation studies. In 1993, all sanitary landfill projects (LES – *lieux d'enfouissement sanitaire*) became subject to an environmental impact assessment (EIA). This has opened the way for public participation in decision-making processes, by requiring all projects, which are related to the establishment or enlargement of sanitary landfill sites, to be subject to a public hearing within the Environmental Impact Assessment and Review Procedure (PÉEIE). Between 1992 and 2002, environmental mediation was conducted in 26 projects, 10 of which had to do with transportation; eight were sanitary landfill site projects (see Table 1.1). Environmental mediation has not been used in any sanitary landfill site projects since 1999.

⁸ Procédure d'évaluation et d'examen des impacts sur l'environnement (PÉEIE) (Q-2, r.9).

⁹ Bureau d'audiences publiques sur l'environnement – Règles de procédure relative au déroulement des médiations en environnement.

Table 1.1

Environmental Mediation Cases Conducted by the Bureau d'audiences publiques sur l'environnement, 1992-2002

Year	Transport	Wastewater Treatment (Water Quality)	Energy	Solid Waste Management
1990-1991	Projet de traversée du ruisseau Dumville à Escuminac			
1991-1992	Projet de ré-aménagement de la route 170 entre Jonquière et Saint Bruno		Projet de co-génération à l'usine Kruger de Trois Rivières	
	Projet de ré-aménagement de la route 117 de McWatters au contournement de Rouyn-Noranda			
1992-1993	Projet de prolongement de l'autoroute 55 de St-Célestine à l'autoroute 20	Projet d'assainissement des eaux Pointe Fisher Ouest, ville de Lac-Brome		
1993-1994	Projet de prolongement de l'autoroute 30 entre les autoroutes 10 et 15.	Projet Petite-Fourche, barrage du Lac d'Amours, Aqueduc St-Maurice		
	Projet de ré-aménagement de la route 112-116 à St-Hubert	Projet de rehaussement du niveau de réservoir d'eau potable de l'aqueduc régional de Beauport et Charlesbourg (Lac des Roches)		
	Autoroute 55: doublement de la chaussée entre Bromptonville et l'intersection avec le chemin de la rivière			
1994-1995	Projet de prolongement de la côte du Passage à Levis et réaménagement des accès à l'autoroute Jean Lesage		Projet de construction du poste de distribution d'énergie Roussillon et d'une ligne de dérivation biterne à la Prairie	Projet d'agrandissement du lieu d'enfouissement sanitaire de Lachenaie
				Projet d'agrandissement du lieu d'enfouissement sanitaire Demix a Montréal-Est

(table continues)

Table 1.1 (continued)

Year	Transport	Wastewater Treatment (Water Quality)	Energy	Solid Waste Management
1995-1996	Projet de construction de bretelles d'accès à l'autoroute 15 a Saint-Jérôme Projet de station ferroviaire Autoroute 640 à Deux Montagnes Projet de réaménagement de la route 337 à Mascouche et Terrebonne Projet d'amélioration de la route 132 à Pointe-au-Père			Projet de modification du lieu d'enfouissement sanitaire de Champlain
1996-1997				Projet d'agrandissement du lieu d'enfouissement sanitaire de Cowansville Projet d'agrandissement d'un lieu d'enfouissement sanitaire et d'établissement d'un dépôt de matériaux secs a Saint-Alban, dans le comté de Portneuf Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Rosaire Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Côme-Linière Aménagement d'un nouveau lieu d'enfouissement sanitaire à Gaspé (secteur Wakeham)
1997-1998				
1998-1999	Réaménagement de la route 138, section des courbes du lac des Îles, à Godbout			
1999-2000			Optimisation de la production électrique de la centrale hydroélectrique SM-1	
TOTAL	10	3	3	8

Note. Sources: BAPE (1994) and BAPE's web page at www.bape.gouv.qc.ca

1.2. Problem Statement

The problem statement of this study is based on an examination of the concept of public participation and environmental mediation in environmental decision making, with a particular focus on the environmental impact assessments of solid waste management practices, including sanitary landfill site projects.

1.2.1. Sustainable Development, Notion of Environmental Conflict, and Public Participation

The concept of sustainability refers to what people may do to satisfy their needs and improve their lives without lessening the earth's capacity to support them and their descendants (WCED, 1989). This strategy emphasizes the interdependency of conservation and development. It has a holistic approach and takes full – and simultaneous – account of economic, social, and ecological requirements (Smith, 1993). Different from previous views to environmental protection that followed a react-and-cure approach to pollution and resource depletion problems, sustainability is a proactive view that encourages anticipate-and-prevent policies for environmental threats.

The traditional view of sustainability is defined from the perspective of human needs and limitations, wherein the natural environment is marginalized and human needs are prioritized (Turner, 1993). Within this mainstream economic paradigm, natural resources are considered infinite – sustainable development is achieved by challenging our technological limitations, not by limiting the exploitation of natural resources (Smith, 1993; Turner, 1993). The other view of sustainability reflects a more precautionary approach; questioning the value of human technology, it says that to be able to engage in sustainable practices, contemporary societies need a fundamental societal change (Margerum and Born, 1995; Jacobs, 1993). It includes both socio-economic and biophysical systems in its definitions of sustainability, and puts a strong emphasis on the notion of equity. This amounts to a shift in the environmental agenda – from conventional approaches, which employ narrow economic and productivity criteria to measure the success of sustainable environmental practices, to a holistic approach, which evaluates the health of relevant systems in terms of ecology, ethics, and equity (Titi and Singh, 1995; Jacobs, 1993). By stressing equity and ethics we can consider and incorporate socio-economic realities – issues beyond material needs – into the trade-offs involved in natural resource management

decision making (Dahlberg, 1991; Allen, 2000). This is necessary for measuring the success of sustainable environmental practices in terms of environmental justice and democracy.

Dorcey (1991) defines five ethical elements of sustainable development congruent with the concept of equitable sustainable development:

- maintain ecological integrity and diversity
- meet basic human needs
- keep options open for future generations
- reduce injustice
- increase self-determination

These principles support a decentralized, time- and place-specific approach to sustainability. According to Pretty (1995), a decentralized sustainability must clarify what is being sustained, for how long, for whose benefit, at whose cost, over what area, and measured by what criteria. These arguments are the basis for those who also argue for increased participation (Buchy and Race, 2001; Palerm, 2000; Allen, 2000). Thus, the emerging notions and principles of sustainability have important implications for collaborative natural resource management and participatory decision-making because they underline the rationale for increased participation.

The decentralized, time- and place-specific approach to sustainability emphasizes the need for accumulating and integrating new forms of information and knowledge into our decision-making mechanisms. The Rio Conference (UNCED, 1992) opened new pathways for public participation in intergovernmental communications, allowing for increased communication and co-operation between governmental and non-governmental organizations. Rio provided clear roles and responsibilities for all sections of society, with the understanding that real change is most likely to come with the involvement of ordinary people, i.e., citizens. Agenda 21, the action plan that emerged from the Rio Conference, represents a statement of willingness to strive for a form of development that recognizes the linkages between economic growth, social equity, and protection of the environment. It defines information, integration, and participation as key building blocks to help countries achieve sustainable development – because everyone is a user and provider of information (UNCED, 1992). Agenda 21 also expressed the need to change, from old sector-centred ways of doing business, to new approaches that involve cross-

sectorial co-ordination and integration of environmental concerns into the development process.

Efforts to integrate a broader range of values into management and planning create the need for more information, and for the ability (and techniques) to cope with the diverse values and uncertainties associated with environmental issues (Cardinall and Day, 1998). This kind of flexibility, which allows for coping with diverse values and uncertainty, thus becomes an essential attribute and component of competent environmental planning and management, especially when decisions may affect many parties and cross many jurisdictional boundaries. The capacity of existing institutions to keep up with this challenge is hampered by their reliance on technical measures that do not capture environmental values – that is, by an inability to cope with multiple and sometimes conflicting value judgements (Aguilera-Klink and Sanchez-Garcia, 2002). Institutional level transformation is considered necessary to create the capacity for this challenge. Geographic Information Systems (GIS) supported, multi-criteria decision-making (MCDM) tools are one such innovation in this direction.¹⁰ Another is based on giving more decision-making power to citizens, stakeholders, and communities. Alternative dispute resolution (ADR) techniques are recommended for this.

1.2.2. Key Notions of Public Participation in Environmental Decision Making

In the traditional approach to public participation, power differences inspired different typologies of participation, usually presented, as below (see Table 1.2), on a continuum of participation based on the level of power assigned to the public to represent public values in decision-making processes (Parenteau, 1989). This typology, defining a continuum between manipulation and citizen control, was used as the basic tool in evaluating the level of public participation from the day it was released by Arnstein (1969) until the early 1990s.

¹⁰ See Allen (2000) for the use of different techniques, including GIS, for creating an interactive tool that facilitates the accumulation and use of local knowledge – namely, integrated systems of knowledge management (ISKM) – in the field of resource management.

Table 1.2

Levels of Public Participation

<div> <div>←</div> Representative Democracy </div>			<div> Direct Democracy <div>→</div> </div>	
Information	Persuasion	Consultation	Co-operation	Control
The decision is made and the public is informed.	The decision is made and efforts are made to convince the public.	The problem is submitted, opinions are collected, and the decision is made.	The limits are defined; the decision is shared, and made together with the public.	The decision is made by the public, which assumes the role of public responsibility.

Note. Source: Parenteau (1989).

In this typology, *information* and *persuasion* are defined as non-participatory approaches. At the *consultation* level, participants are informed of a problem and invited to comment on these problems or issues, without any implication that these comments will be included in the final decision. *Co-operation*, on the other hand, suggests a high level of involvement, which may result in a higher level of influence upon decisions. *Citizen control* is the level where citizens hold full decision-making power. This is considered the level in which direct democracy is achieved (Parenteau, 1989; Dorcey and Reik, 1987).

Since the 1990s, there has been a shift from level-based classification to an objective- or rationale-based classification of participatory approaches. For example, Kornov and Thissen (2000) summarize three different forms of participation based on the objectives of participation (see Table 1.3.).

Table 1.3

Objective-Based Classification of Participation

Form of participation	Objective
Expert participation	Knowledge provision and integration
Stakeholder participation	Knowledge enrichment and building of a support base
Public participation	Enhancing the democratic nature of the process

Note. Adapted from Kornov and Thissen (2000).

Kofinas and Griggs (1996) use motivation and intended outcomes to classify different forms of participation (see Table 1.4).

Table 1.4

Intended Outcomes of Collaboration

INTENDED OUTCOME			
		<i>Information Exchange</i>	<i>Joint Agreements</i>
MOTIVATION	<i>Shared vision</i>	Search conferences	Public-private partnerships & joint ventures
		Community gatherings	Formal co-management agreements
	<i>Resolving conflict</i>	Policy dialogues	Regulatory negotiations
		Public meetings	Site-specific dispute resolution

Note. Source: Kofinas & Griggs (1996).

In this new era, the most widely used and recommended classification is one that is based on an examination of the meaning of participation and the purpose it will serve (Halvorsen, 2001). If it is going to serve as a tool for a specific end, participation is *instrumental*, but if it is going to

be used as a mechanism for social change it is *transformative* (Buchy and Race, 2001). Efficiency and functionality are the rationales behind instrumental participation; democracy and capacity building through social learning are rationales of transformative participation.

Instrumental participation is expected to deliver efficiency without any drawbacks (Dukes, 1993). It assumes that when we take the views of community into account, the resulting policy or project will better reflect the needs and expectations of the community and better fit into the community's social and economic realities. It is seen as creating a sense of ownership over the project or policy among the community members, making them more tolerant about the costs of the project, or encouraging them to implement it (Buchy and Race, 2001).

On the other hand, transformative participation aims at facilitating involvement of the relevant public in a democratic way, by concentrating on capacity building through social learning (Buchy and Race, 2001). Characteristics of participatory democracy – ethics, fairness, and equity – provide a system of checks and balances against the limitations of a purely representative system (Dukes, 1993). Unlike the traditional approach, transformative participation believes that simply involving more people does not guarantee better results. Instead, capacity needs to be built. Capacity building is not merely about transferring power from one group to another (Maser, 1996; Dukes, 1993). Rather, it considers empowerment as the task of challenging existing power structures, and highlights other sources of power – including leadership, knowledge, and information. Both leadership and knowledge are defined as direct issues of governance (Halvorsen, 2001; Buchy and Race, 2001). For the proponents of transformative participation, the capacity of the public to participate is determined by the type of leadership initiating the process, whether social, political or professional, and by the level and source of knowledge owned. People with the right information can manipulate or control the process (Buchy and Race, 2001; Innes and Booher, 1999b).

Nowadays, there is increasing interest in transformative participation, involving direct and active participation of citizens in making decisions about issues that have a direct or indirect effect on their lives (Buchy and Race, 2001).¹¹ The social and systemic changes required can

¹¹ Buchy and Race (2001) explain that this is the general justification behind the new generation of participatory efforts: the belief in the need for creating empowered societies that can decide on their own futures.

only be achieved through getting citizens involved directly in decision-making and dealing with public policy problems. These are platforms for empowering citizens; engaging them in a learning process – a process in which they will develop necessary skills, competence, and capacity to influence decisions and help to make effective, integrated decisions (Innes, 1999; Buchy and Race, 2001). Public participation itself is considered a learning experience, within which participants learn to become informed, interested, and involved citizens, and develop critical awareness (Innes and Booher, 1999a; Maser, 1996).

Transformative participation concentrates on relationship building and communication between involved groups or stakeholders as the force behind creation of the trust that will lead to changes in attitude, understanding, and perhaps towards a government structure that will accommodate public participation (Innes and Booher, 1999; Bryson and Crosby, 1992). The question of how successful collaborative processes are, in achieving these objectives, is a critical area for research. We need to explore how much of this transformation (toward more integrated and democratic decision-making processes) has been accomplished.

1.2.3. Instrumental versus Transformative Approaches to Environmental Conflict Resolution

Parallel to developments in the field of public participation in general, the conflict resolution field is going through a similar shift. Today, environmental conflict resolution presents two approaches: *instrumental* and *facilitative*. The instrumental approach focuses on problem-solving, while the facilitative approach seeks to transform environmental governance. It does this by promoting the idea of environmental justice – first, through empowering communities and citizens as the agents of sustainable development, and second, through enabling public discourse by expanding public participation and enhancing citizen capacities through active learning (Maser, 1996; Wondolleck and Yaffee, 1994; Dukes, 1993).

In the problem-solving approach, conflict management is designed to make conflict more productive and less costly, by reducing the expansion and escalation of conflicts and by creating a set of conditions more conducive to realizing positive outcomes (Duffy, Roseland, and Gunton, 1996). Success is measured by whether a consensus outcome was reached in a limited time with a rational cost (Susskind and Cruickshank, 1987; Bingham, 1986; Buckle and

Thomas-Buckle, 1986; Talbot, 1983). This interpretation of success emphasizes the capacity for finding solutions and for generating mutually acceptable settlements.

A more process-oriented or transformative approach, introduced in the early 1990s (Maser, 1996; Dukes, 1993), did not limit conflict resolution to settling disputes. Expected outcomes of a successful process began to be seen to improve relationships between the parties, build negotiation skills, offer insights into new options, and, particularly, empower participants (Dukes, 1993). Gaining a better understanding of other perspectives and avoiding outcome-oriented criteria were suggested as advantages of the transformation approach, as they help “parties recognize and exploit opportunities for moral growth inherently presented by conflict” (Dukes, 1993: 47).

Conflict management is seen, in this approach, as a procedure to expand the participants’ perceptions, knowledge, and ability to address the intricate social and scientific issues of environmental disputes. By creating a shared economical, ecological, and social vision, it is part of a process that moves participants beyond the particular and immediate conflict toward sustained community participation in decision making (Maser, 1996).

The transformative model may help to create a more democratic domain, which in turn would facilitate fundamental changes in governing practices and the institutional culture of agencies, public officials, citizenry, and communities (Innes, 1999; Healey, 1997b; Kelly and Alper, 1995). This task is considered essential, in that institutional structures are identified as the main source of the social conflicts when it comes to environmental management (Healey, 1999; Williams and Matheny, 1995). In the field of environmental planning and management, for example, it is widely observed that conflict is created by mismatched administrative and ecological boundaries, overlapping laws and regulations, and a world view that favours a utilitarian approach to resource use (Margerum and Born, 1995).

The transformative approach to conflict resolution can provide opportunities to learn, and create shared values and preferences – for example, the values and preferences of sustainable development (Innes, 1998; Kofinas and Griggs, 1996). This is about evolving and improving collective understanding of complex environmental problems by learning and dialogue (Cardinall and Day, 1998).

Institutional restructuring is a call for a structure that will not only incorporate the values of a more democratic society, but also the values of sustainable development (Allen, 2000). Within this framework, the so-called objective expertise favoured in the instrumental rationality perspective is described as ineffective in delivering the decisions and actions for sustainable development (Healey, 1996).

Smith (1993: 34) refers to institutional structure as “the context in which conflicts are addressed” and defines the challenge as “the transformation of the context into a context which provides the incentives for people to come to the negotiation table and helps improve communication between parties through direct, one-to-one interaction.” Co-operative vision needs to be developed – people need to be encouraged to leave behind their adversarial positions and build partnerships on mutual respect and trust. For this, the context needs to be changed into one in which joint problem solving is rewarded (Kofinas and Griggs, 1996; Susskind and Cruickshank, 1987). But the very possibility of developing trust and respect arises out conditions created in the context – in this case, within existing institutional setting, which, as we have seen, serve largely to constrain these very possibilities.

Outcomes are not the only measure of success. The transformative line of argument supports the idea that institutional structures affect the process of any participatory decision-making model, and that the quality of the process itself is a measure of success (Innes 1999; Innes and Booher, 1999b). Thus, new criteria for evaluating success or effectiveness have been set, using the participatory approach. A “good process” will help to link people by eliminating power imbalances, transforming perceptions and values about the conflict and the individual positions within it, and empowering people to invent alternatives for action together. This is called “the task of building relational capacity”; success is measured by the degree that the relational context has been changed (Innes and Booher, 1999b: 127). In this approach, the process itself becomes an adaptive and self-organizing learning system; a force to respond to or deal with conditions of change, complexity, and uncertainty (Kelly and Alper, 1995).

The question of how to evaluate the process and what evaluation criteria to use has attracted a great deal of interest among researchers (Innes and Booher, 1999a; Mascarenhas, 1999; Duffy et al., 1996; Kelly and Alper, 1995). All these studies propose legitimacy as the first criterion to

be used in assessing the effectiveness of collaborative (or participatory) decision-making processes. In the ADR literature as well, legitimacy appears as the critical criterion for the effectiveness of these techniques (Laws, 1996; Susskind and Cruickshank, 1987). The emphasis of ADR is described as “interest representation”, defined as a function of the stakeholders involved, their goals and objectives, and the approaches and resources they use to represent themselves (Laws, 1996). The degree and the quality of representation becomes a critical factor, because in order for the process to be considered legitimate, it is vital that the participants are truly representative of all stakeholders and not just those actively participating in the mediation (Susskind and Cruickshank, 1987). The question of how parties are represented, by whom, how effectively, and how consistently has to be answered for a good assessment (Ryder and Taylor, 1998). For Ramirez (2000: 12), this question amounts to an analysis of context-related issues, because it is the context that defines “who has the power, legitimacy or resources to convene others, who has the power to choose the criteria for inclusion or exclusion of stakeholders, and who has the authority to define the reason or theme around which stakeholders are identified or stakeholder analysis takes place.”

Research studies of process-oriented approaches to the evaluation of ADR techniques in the field of environmental planning and management have identified many controversies in the use of ADR as a tool for the empowerment of citizen groups (Modavi, 1996; Duffy et al., 1996). ADR techniques have been considered difficult for such groups, as they can be very demanding on time, skills, and resources. Maximizing individual or group interests – a common emphasis of environmental mediation – has been challenged by the difficulties surrounding the proper representation of environmental interests. Identification of the representatives can be problematic, and the capacity of the groups to represent environmental interests can be insufficient (Modavi, 1996; Amy, 1987). Also, the lack of relevant substantive expertise and process skills among citizen groups, as compared to government and business/industry groups, can disadvantage these groups to the point that the situation can deteriorate (Sirianni and Friedland, 2000).

Legitimacy – including inclusiveness, representation and accountability – is the measure of the accessibility of the process. But access to the process, alone, does not ensure that groups are going to be successful in influencing decisions. The process also has to be fair. The transformative approach requires measuring the success of a public participation process not

only in terms of its accessibility but also in terms of the empowerment of the groups within it (Kelly and Alper, 1995). This is connected to the other dimension that measures the success of the public participation: “whether the stakeholder groups own the necessary attributes for being able to represent themselves; if they have power, legitimacy and urgency” (Ramirez, 2000: 13).

This second dimension of success introduced fairness as the other critical criterion in the analysis of the quality of a participatory decision-making process (Mascarenhas, 1999; Laws, 1996). An analysis of the availability and introduction of opportunities and resources, such as training and funding programs that would allow citizen groups or representatives to enhance their negotiation power and skills, to facilitate the expression of their legitimate interests, to keep them in touch with their constituencies, and to defray the costs of participation, has become critical in assessing the effectiveness of participation of citizen groups (Kelly and Alper, 1995). The availability of these means is encouraged or discouraged by the context of decision-making process – in other words, the progress towards an effective public participation process is the degree to which the context is providing (or has been transformed to provide) citizen groups and representatives with these opportunities and resources (Mascarenhas, 1999).

Fairness is assessed as the capacity of groups to represent themselves in an equal and fair manner; which they can do if the context is fairly providing the necessary tools and resources to build the groups’ capacity. Only a fair process can help to build understanding and trust in the decision-making process and amongst participants. To be fair, a public participation process has to ensure that all participants understand how and why a decision is reached (Kelly and Alper, 1995; Duffy et al., 1996). This entails maintaining a balance of power amongst stakeholders, so that each individual has the ability to influence the others. As well, there must be an inclusive and balanced representation of interests within the process. This balance is important for the building of confidence amongst stakeholders for effective negotiations. Finally, fair participation requires equal access to resources. Also, the extension of the principle of fairness to the greater public is an essential component of any public involvement process. It requires the progress and details of the negotiation efforts to be made available to the general public because “the negotiation table is a microcosm of the broader community and in order for that to continue to be representative of the broader interests, there needs to be communication with the broader community” (Kelly and Alper, 1995: 9).

Fairness is considered as important as legitimacy for the quality of a participatory process, because only a fair process can produce good and enduring outcomes (Todd, 2001; Duffy et al., 1999; Susskind and Cruickshank, 1987). Susskind and Cruickshank (1987) have defined the pre-conditions of such a process as:

- all stakeholders are given a chance to get involved
- participation offers come at a timely juncture
- all parties are given access to information and technical resources
- all parties are able to express their views effectively and consistently; they have the necessary skills and resources
- all parties would use such a process again

The perceptions of the participants about the way the process has been managed, and the way their concerns have been taken into account, are considered as the main issues in assessing fairness (Susskind and Cruickshank, 1987; Moore, 1998). According to Susskind and Cruickshank (1987: 92), “what counts most in evaluating the fairness of a negotiated outcome is the perceptions of the participants.” This requires first, a shift in the role played by the mediator: from the role of expert, to the role of empowering the citizen groups (Burgess and Burgess, 1997). According to the research study conducted by Burgess and Burgess (1997: 14) “this shift is not only about supporting citizen groups in expression of their interests, but also encouraging all participating parties to accommodate each other’s concerns rather than dominating the process and to contribute at different levels towards the creation of a co-operative vision which will help parties to develop confidence and trust in the process.”

The criteria for assessing the fairness of the process include the representatives’ perceptions of their access to the decision-making process and their empowerment within it. This is about whether “those with the authority to make a decision and those who will be affected by that decision are empowered jointly to seek an outcome” (Kelly and Alper, 1995: 14). Fairness may also be contingent upon the role participants play in the design and management of consensus-building process (Susskind and McKearnan, 1994). This includes being able to participate in setting the agenda and the ground rules of the process, including rules about communication and interaction patterns, as well as recommending modifications to the agenda and to the ground rules. Only under these conditions may the negotiation tables become platforms to

reframe a conflict and redefine the goals and objectives towards shared goals and objectives (Burgess and Burgess, 1997). According to Burgess and Burgess (1997: 16), “by involving people in the design of process, the adversarial nature of confrontations can be transformed into interactions that will facilitate the process of building a co-operative vision: a process which is very different than one which is designed and used by groups to achieve the goals set beforehand individually.”

Relating fairness to the dynamics of designing the process arises from a context-sensitive perspective, focusing on the distribution of the power inside the process. Political economists argue that “the context of political systems, i.e., the form of power distribution, has effects on the practice of environmental mediation and mediation could be no fairer than the larger political context in which it takes place” (Modavi, 1996: 87). Crowfoot and Wondolleck (1990), on the other hand, argue that participating in ADR processes can provide citizen groups with the opportunity to acquire the practical and analytical tools they need to participate in collaborative problem-solving processes in their own interest. Based on the social constructionist perspective, which informs the civic environmentalism approach, this view identifies social learning through direct participation as the engine of changing the context of decision-making. In this perspective, “in order to be constructive, a conflict management approach must foster ongoing learning and civic dialogue, which can be achieved when public participation methods are reconstructed to better ensure high quality discourse as well as to expand the boundaries of participation, the form of deliberations and the form of participation of public” (Wondolleck and Yaffee, 2000: 127).

The quality of deliberations and communication patterns is also considered to be sensitive to the institutional setting. Laws (1996: 342) also explains that “the translation of the technical dialects or views of experts into common language and the invention of ways to enable non-experts to express non-technical observations and insights are possible when the participants have incentives to prioritize things together that will help them to test and change their understandings of the problem, the meanings they attach to the issues and their stakes during the process and the presence of these incentives depends on whether the participants develop trust and respect for each other and each others’ point of view during the process.”

This means that another measure of success is whether the process has transformed the groups' understandings and positions of what is the problem and what their and others' positions are. Changing the negotiation attitudes of stakeholders depends on changing their perceptions of the institutional context because the decision-making behaviour of stakeholders is based on their analysis of opportunities and costs in that context (Laws, 1996). The attitudes and behaviour of groups also depends on whether the process is encouraging interdependency and interconnectedness among actors as well as empowering them; about whether the participants can co-exist after the negotiations are over (Wondolleck and Yaffee, 2000).

1.2.4. Public Participation in Environmental Impact Assessment

During the 1990s, integration and participation became favoured means of increasing the effectiveness of environmental assessments and social and economic appraisals in decision making, so that sustainable development could be promoted (Allen, 2000). Partidario and Eggenberger (2000) explain that the emergence of systematic planning approaches in the 1960s provided a new way of analyzing problems that turned integration into an absolutely indispensable ingredient in physical and economic planning, and tools such as overlays, matrices, and expert-knowledge-based systems became critical mechanisms for integration. Today, public participation and institutional coordination are considered as the key doors towards success concerning integration, and it is argued that in order to improve the integration capacity we need new approaches and techniques for planning and decision making (Wondolleck and Yaffee, 2000).

The Canadian Environmental Assessment Agency (CEAA) determined that in practice, one of the ways to integrate consensus building and conflict resolution techniques into the formal decision-making process is by incorporating them into environmental impact assessment (EIA) studies (Sadler, 1996). If it is used effectively, EIA itself is considered as a tool to achieve sustainable development. Sadler, for example, explains that "the EIA process, as a primary instrument for development planning and decision-making, can serve as a crucial action-forcing mechanism for sustainable development" (1999: 31).

The EIA process is defined as a structured, logical approach to fact finding, gaining and analysis of public input, and testing of information and organization of findings, to assist decision-making. It is divided into three major stages (Sadler, 1996) (and see Table 1.5):

1. Preliminary assessment involves classification of proposals in accordance with the level and type of assessment warranted. Screening and scoping procedures are used for this purpose.
2. Detailed assessment involves application of a multi-disciplinary scientific approach to gather and analyze information and views, and preparation of an environmental impact statement or report as an input to decision-making.
3. Follow-up involves provisions to follow up on any potential environmental significance of the proposal, and provides a framework for implementing measures specified in EIA appraisals, with revisions made on the basis of compliance and effects monitoring.

Table 1.5

Main Stages of an EIA Process – Generic Steps and Activities

Stage I: Preliminary Assessment	Stage II: Detailed Assessment	Stage III: Follow-up
<i>Screening</i> to establish whether EIA required and the likely extent of process application	<i>Impact analysis</i> to identify, predict, and evaluate the potential significance of risks, effects and consequences	<i>Surveillance</i> to ensure terms and conditions are being followed (during project construction)
<i>Scoping</i> to identify the key issues and impacts that need to be addressed and prepare terms of reference for EIA	<i>Mitigation</i> to specify measures to prevent, minimise, and offset or other compensate for environmental loss and damage	<i>Monitoring</i> to check actions are in compliance with terms and conditions, and impacts are within the ranges predicted

(table continues)

Table 1.5. (continued)

Stage I: Preliminary Assessment	Stage II: Detailed Assessment	Stage III: Follow-up
	<i>Reporting</i> to document the results of EIA, including recommended terms and conditions	<i>Management</i> to address unforeseen effects or unanticipated impacts of the decisions made
	<i>EIS Review</i> to ensure the report meets the terms of reference and the standards of good practice	<i>Audit/evaluation</i> to document results, learn from experience, and improve EIA and project planning (by reviewing practice and performance to provide feedback for process improvement)
	<i>Decision making</i> to approve (or not) a proposal and establish the terms and conditions	

Note. Source: Sadler (1996: 19).

In the 1990s, EIA started to move away from taking an “impacts only” focus relatively late in the project cycle and toward the approaches that are broadly based, multi-stage decision-making processes, including cumulative impact assessment and strategic environmental assessment (SEA) (Sadler, 1996). (See Figure 1.1.)

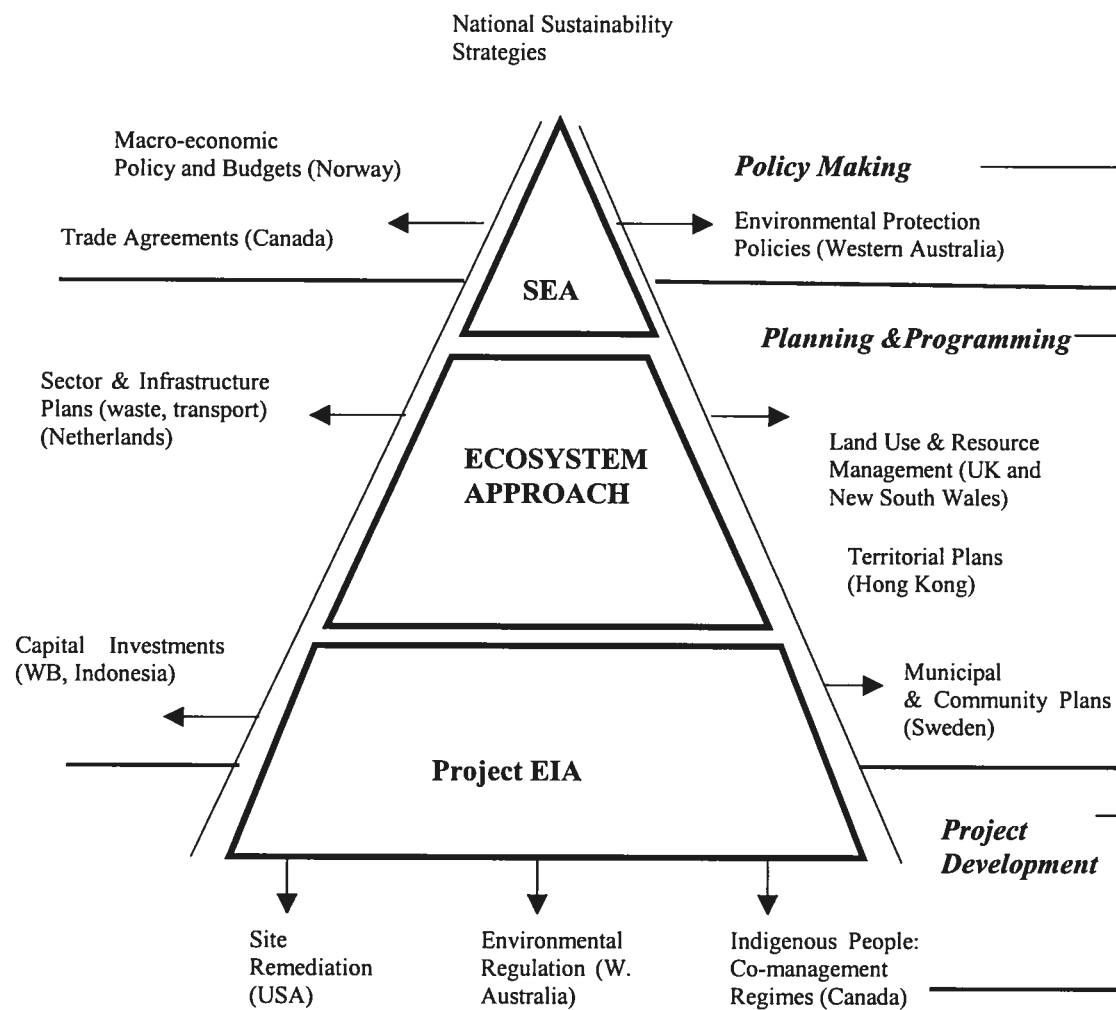


Figure 1.1. Integration of EIA with other instruments and processes. (Source: Sadler, 1996: 29)

Strategic environmental assessment (SEA) builds a strategic-level process upon the well-established platform of the environmental impact assessment (EIA) at the project level (Sadler, 1996), i.e., it is applied to projects for the evaluation of strategies. SEA provisions and processes encompass an EIA-based approach that is scaled up to plans and programs that fix the location in which a project is going to be implemented. The so-called ecosystem approach, incorporating cumulative effects assessments, occupies a middle ground, linking EIA and SEA. SEAs are acknowledged as a promising avenue for incorporating environmental considerations into the highest levels of decision making (policies, plans, and programs) and an area for meaningful public participation (Sadler, 1996).

Public participation has been increasingly acknowledged as an essential characteristic of the EIA process (Palerm, 2000; Petts, 1999). In the early 1990s, public participation was considered a tool that could first, enable socio-cultural impacts to be integrated into an EIA, and secondly, increase the effectiveness of an EIA by increasing its problem-solving capacity (Sadler, 1996) and its capacity to improve the quality of decisions (Shepherd and Bowler, 1997). According to Sadler (1996), providing the appropriate opportunities for public involvement has been an effective strategy for dealing with the challenges faced in day-to-day practice of EIA. These challenges include dealing with: (a) uncertainty about side effects and consequences of proposed action; (b) any conflict of interests and values over the distribution of projects costs and benefits; and (c) any fragmented policy mandates and institutional roles, and responsibilities for managing these. In early periods, alternative or environmental dispute resolution techniques were recommended as useful for these purposes in three different phases of EIA (Dorcey and Reik, 1987): scoping, evaluating environmental impacts, and reviewing EIAs or similar reports. It was recommended mainly because the public hearings as consultation mechanisms were “helping reveal conflict but were not able to help resolve them and the conflict resolution tools could contribute to a better integration of public participation in environmental decision-making” (Sadler, 1996: 27).

In the same period, public hearing processes were also under attack because of their objective (Sadler, 1993) of helping planners obtain information about public concerns via educating the public about the proposed project through an exchange of information (Shepherd and Bowler, 1997). In this platform, the public was expected to contribute a more subjective evaluation while experts would provide scientific and technical information (Carlisle and Chechile, 1991).

However, EIAs have started to lose credibility, due to controversy over the neutrality of this scientific information and the appropriateness of rationalistic modes of planning (Saarikoski, 2000). These developments have accelerated the incorporation of public participation in EIAs as this is crucial for enabling the consideration of affected interests and local and anecdotal knowledge (Palerm, 2000; Saarikoski, 2000; Petts, 1999). This has also brought a shift in understanding the role of public participation in EIA, that “collaborative EIA can serve as a learning and civic discovery process” (Saarikoski, 2000: 512).

EIA is now defined as a collective process where different actors, including affected citizens, interest groups, authorities, and experts, can deliberate and exchange their views on the proposed development (Petts, 1999).¹²

However, it is also acknowledged that to integrate lay citizens into a process that is technical in nature and that is traditionally dominated by scientists and professionals, is not an easy task. It requires processes that can combine technical expertise and rational decision-making with public values and preferences (Petts, 1999; Carlisle and Chechile, 1991). Designing efficient mechanisms to promote an adequate and appropriate level of public involvement in decision making is challenging, and the issues of which members of the public to include, how, when, to what extent, and most importantly, with what purpose remain problematic (Petts, 1999: 145).

In the EIA literature, the potential both for learning and finding mutually acceptable solutions by the use of ADR techniques are defined as the potentials that depend on legitimacy, fairness, competence, and on institutional structures (Saarikoski, 2000; Petts, 1999; Webler et al., 1995).

According to Saarikoski (2000), the legitimacy of public participation in EIAs is not only about whether different perspectives are included, but also about whether these perspectives are considered and heard; it is not only about understanding to what extent the different voices were included in an EIA process, but determining what influence they had on the final decision. Saarikoski (2000: 515) explains that “the good deliberation is about not only including different voices but also hearing what these voices have to say. The deliberative process must give all

¹² This understanding is based on critical theory which defines social change as a process of co-ordinated learning with cognitive and normative dimensions (Forester, 1989).

participants an equal opportunity to put forward issues, raise questions, criticize and defend arguments, and give and require justification.”

Issues or practices that can undermine a process’ legitimacy include the exclusion of certain groups; omission of certain concerns from the agenda; presentation of arguments as self-evident truths that cannot be questioned; and the use of authority, derived from expertise and resources, to defend cases, dominate the discussion, and silence those who have less substantive authority (Saarikoski, 2000). In order to make sure that these do not happen, it is necessary to provide citizen groups with skills and resources to improve their capacity to represent their interests properly, keep in touch with their constituencies, build negotiation skills, and produce new information.

In the EIA literature, as in the ADR literature, representativeness emerges as one of the main components of legitimacy. It refers to the amount of involvement and representation of values, interests, and concerns (Mascarenhas, 1999). A representative process is defined as the one that includes all relevant actors without excluding any relevant group. It is suggested that the relevancy of groups must be identified according to the interests and concerns they represent or advocate (Mascarenhas, 1999).

The degree or quality of legitimacy has also been associated with participants’ perceptions of the collaborative quality of the process, as well as with their own satisfaction with the process (Halvorsen, 2001). A process is not considered credible if it involves a perceived loss of integrity, if it increases vulnerability or gives participants the sense that they are being co-opted, or if there is a lack of trust in the sincerity of other participating groups (Halvorsen, 2001; Buchy and Race, 2001). An indicator of a good level of legitimacy would be participants’ perceptions that governments were being accountable – if they were taking responsibility to provide a good decision-making process that included good public participation mechanisms (Saarikoski, 2000).

The inclusion of local knowledge and participation of all parties in the process design are presented as other indicators of the fairness of a participatory process (Mascarenhas, 1999). A fair process depends on whether time and logistics are appropriate, and on whether control over the process and the outcome is equally distributed. A fair process is also expected to empower

parties to argue better for their case in the future (Saarikoski, 2000). It has to provide groups assistance in articulating their interests, presenting their experience-based concerns, expressing their ideas, and asking questions about all issues including technical ones. Fairness also concentrates on power differences among participants in terms of availability of resources and negotiation experience as well as the capacity of groups to lead the process. Competency is about facilitating the use of the best available information by all parties (Webler et al., 1995).

A process in which all interests and concerns are adequately represented and heard is also considered a fair process. Therefore, since the challenge is to integrate lay citizens into a process that is technical in nature, and to use technical scientific knowledge and experienced-based local knowledge together, the assessment of a process' fairness- in terms of its ability (or capacity) to permit people to participate, initiate dialogue, and challenge and defend claims,- has attracted a good deal of attention (Webler et al., 1995). These are issues that have been investigated in detail in the field of environmental assessment (Palerm, 2000; Shepherd and Bowler, 1997; Webler et al., 1995).

1.2.5. Participatory (Collaborative) Approaches to Solid Waste Management

Neither regulatory (command and control) nor market (economic) approaches to facility siting in developed countries has succeeded in delivering effective waste management (Petts, 1995). Regulatory environmental legislation, which sets absolute standards for a "clean" environment, regardless of the costs of compliance, embodies a notion of the environment as an absolute good. It is administered by a combination of centralized regulation and litigation. The economic model, on the other hand, views the environment as a good like all other goods, and pollution is a right that can be exchanged in the market (Foster, 1997). (For example, a forest is composed of trees, with each tree having a market value as timber.) The objective of policy making, then, is to determine how much the public is willing to pay for various levels of environmental protection. In what is known as the preferred policy model, economists run analyses to determine where the benefits of protection exceed their costs. They then impose taxes or other market-correcting mechanisms to bring environmental outcomes up to a given level with as little political interference as possible (Livingstone, 1987).

The regulatory model involves a seemingly absolute act of legislation, followed by political negotiation between regulators, environmental groups, and the courts; while the economic model pictures economist-kings handing down cost-benefit analyses to a waiting world. The first model sees the political process as being about nothing but power, while the second model is technocratic and avoids the political process totally (Livingstone, 1987).

Renn and Webler (1992) explain that the world view behind both these approaches assumes a human dominance over nature, which is valued in an instrumental sense for what can be made of it. Humans are introduced as primarily self-interested wealth maximizers, indefinite economic growth is possible, and environmental degradation and risk are necessary by-products of economic product that can be controlled via market forces and corrected through scientific and technological advances. Good environmental policy is defined in terms of making the most efficient use of available resources; cost-benefit analysis is the commonly used standard of measurement.

Both of these approaches are considered unsuccessful and inefficient in dealing with solid waste management issues, because the idea of effective waste management has always clashed with the strong reaction of local communities to host waste management facilities “in their own back yards” (Andrew, 2001). The “Not in My Back Yard” (NIMBY) response to waste facilities is considered as a failure to involve the public earlier in fundamental discussions of needs and alternatives (Petts, 1995). The form of public participation based on consultation has not provided satisfactory results, and as a result, broader and more effective public involvement programs are becoming a priority (Andrew, 2001).

A participatory approach (and not consultation) is required to deal with the NIMBY problem. NIMBY is understood differently by different groups with different positions. For example, Wolsink (1994) finds that industry and politicians explain NIMBY as something based on self-interest and irrational fears, created by fundamental misunderstandings due to lack of expertise or knowledge, and they are therefore reluctant to change procedures and decision-making practices. Renn and Webler (1992), on the other hand, explain that local communities are concerned about the long-term effects of risks, inequitable siting, and lack of personal control, whereas professionals focus on the task of minimizing the probability of adverse environmental effects. Renn and Webler (1992) also find that NIMBY attitudes can range from site-specific

opposition, to fundamental concerns about the technologies used, to resistance created by flawed proposals. When we look at the research in the field, we observe that in most cases public participation is basically designed to identify tactics to overcome opposition, which shows that public participation was a goal in itself, rather than a means. For example, public participation has been used to transfer information to local populations, to help them put risks in perspective, to provide guidance on communication, and to compensate people for the inconvenience of a site in their community (Wiedemann and Femers, 1993; Petts, 1995).

Increasingly, the limited potential of the rational comprehensive model, which dictates market solution to problems, has been recognized. Lang (1990: 7) explains that the “rational comprehensive model based on technical rationality and scientific method unsuited to complex situations such as waste management in which conflicts are often about values and where a multiplicity of perspectives must be respected.” He considers the NIMBY syndrome to be an outcome of this model, which defines a waste crisis as a technical/capacity crisis. As a solution, Lang (1990) introduces the concept of equity, which involves distributive justice and procedural fairness. A fair and legitimate, participatory, decision-making process, which will serve objectives beyond reducing or eliminating NIMBY, may be the answer to integrated waste management (Petts, 1994; Burkant, 1994).

1.3. Objectives of the Study

The aim of this study is to assess the environmental mediation process in Québec as a participatory process that helps create opportunities to facilitate an effective or high-quality public participation in the EIA system. The study will provide a clear understanding of what mediation is expected to accomplish and in what manner; as well as whether it is used appropriately, whether it is a legitimate and fair process, and whether there are transformations in the system towards a more legitimate (inclusive and representative) and fair mediation (decision-making) process for sanitary landfill projects in the EIA system.

The practice of EIA for sanitary landfill projects has been chosen as the meta-case for this thesis study, because the participation of public in EIA for waste management is especially difficult. This is because there is opposition to the siting of waste treatment and disposal facilities, stemming from the reluctance of host communities to accept potentially higher risks in order to solve the wider problem of waste disposal. This well-known reaction, known as the

NIMBY syndrome, is based on the general perception that waste treatment and disposal plants pose unacceptable risks to humans and the wider environment. Despite this difficulty, public participation in the environmental assessment of waste management projects is essential, because in addition to the potential environmental impacts on air, water, land, and public health, there are other impacts, relating to noise, vibration, visual intrusion, traffic volume, and movement as well as socio-economic impacts that directly affect the local people. In addition, both the regulatory and the economic approaches have been proved to be ineffective in resolving conflicts in this field.

Assessing the capacity of environmental mediation to facilitate effective public participation is critical because, generally, environmental mediation has been a top-down initiative, a strategy by government authorities to facilitate public participation. There have been many criticisms about the real intentions of government authorities in doing this. One of the main criticisms is that the government's intention is to keep the decision-making authority as their responsibility and right as long as possible; this, of course, leads to delays in the development of a shared decision-making culture. Future levels and quality of legitimacy and fairness are, therefore, related to the willingness of government authorities to transform their institutional structures to enable the development of a shared decision-making culture.

Assessing the performance of environmental mediation for sanitary landfill projects within the EIA system, in terms of its effectiveness in facilitating effective public participation, will also help provide better understanding and improve EIA practices in Québec. The contribution of this new knowledge is going to be manifold, because existing research studies that concentrate on the practice of public participation (in the form of environmental mediation) in EIA in Québec are limited both in number and scope.

1.4. Structure of the Thesis

The thesis is divided into seven chapters. This introductory chapter presents the problem statement as well as the objectives of the study. Chapter Two provides the theoretical and conceptual framework. We use environmental and institutional movements, collaborative theory of planning, as well as alternative dispute resolution and public participation in the environmental impact assessment literature to provide the analytical framework for assessing the performance of environmental mediation for sanitary landfill projects within the EIA

system in Québec in terms of its success in facilitating effective public participation. The analytical framework includes institutional context analysis as well as process analysis in terms of legitimacy and fairness and in relation to the institutional context. Chapter Three details the methodology of the study including research strategy, data file and data collection and analysis methods. Chapter Four presents a comparative institutional context analysis for environmental mediation and public hearing processes as they are administered in the Québec's environmental assessment and review procedure. Chapters Five and Six present the analysis of process in terms of legitimacy and fairness in relation to the institutional context. Chapter Seven concludes the thesis with a summary of the findings of this research study and offers reflections and recommendations for improving the capacity of environmental mediation as an effective public participation process.

CHAPTER II

2. THEORETICAL AND CONCEPTUAL FRAMEWORK

The theoretical and conceptual framework of this study is provided by new environmentalism and new institutionalism, as well as the communicative theory of planning and the concepts of evaluation of collaborative planning and alternative dispute resolution.

By the early 1990s it was generally agreed, across many disciplines, that the solution to complex problems such as environmental conflicts required taking multiple perspectives into account (Margerum and Born, 1995; Bryson and Crosby, 1992). This consensus accompanied an ongoing shift from a mechanistic/technocratic perspective to that of social constructionism (Sanderson, 1998; Pasquero, 1991). Sanderson (1998: 327) describes this as a shift from “a technical conception of decision-making as a process driven by professionals or experts, informed by objective knowledge, underpinned by the assumption of value consensus and producing the basis for agreement about resource priorities and rationing decisions in a context dominated by professional and bureaucratic interests.” Social constructionism rejects the positivist conception of objectivity and the claim for the unique authority of quantified, factual knowledge derived through the scientific method and monopolized by professional experts, and recognizes instead the construction of alternative realities by different stakeholders in terms of different forms of knowledge (Sanderson, 1998; Healey, 1997b; Innes, 1995). From this perspective, reality is something a society constructs through an interpretative process in which both subjective and objective ways of knowing are combined (Innes, 1992).

From this perspective, a participatory approach and methodological pluralism emerge as two requirements for a new model of decision making (Sanderson, 1998; Innes, 1996). In a participatory approach, the constructions of all relevant stakeholder groups are identified and brought into consideration. This produces a broader perspective, one that includes various value judgments in definition of desired outcomes (e.g., quality of life, or acceptable levels of inequality in outcome). Through processes of negotiation and dialogue, differences (or conflicts) are resolved and shared meanings are constructed to enable common definition of these as consensus-based outcomes. Methodological pluralism applies a range of approaches to

inquiry, both quantitative and qualitative, to support processes of negotiation and dialogue (Sanderson, 1998).

Social constructionism defines institutions as products of human interaction, that is, linked patterns of social interaction (Bolan, 1991). It also defines conflict as a socially constructed phenomenon in which patterns of behaviour, customs, and beliefs that people acquire as members of society shape the way they perceive the settings in which they operate (Cardinall and Day, 1998). Lipschutz (1996) explains value systems of individuals, groups, or organizations and their resources including property rights, are what anchor their social and professional identities and create differing cultural, political, and knowledge claims that can lead to conflict. From this perspective, eliminating conflict implies renegotiating and reconstructing rules, norms, and patterns of resource use, which, in turn, involves redefining individual and collective identities. This is defined as a constructive process of social learning and social change, helping communities to develop a shared vision for a better future (Sinclair and Diduck, 2001; Cardinall and Day, 1998). This is also the basis of the concept of collaborative decision-making.

The social constructionist perspective helped introduce the concept of collaborative decision making, defined as a process for the constructive management of differences in which multi-stakeholder conflict can be resolved and shared vision can be advanced (Gray, 1989). It has been advanced as “a process through which parties who see different aspects of a problem can constructively explore their differences and search for solutions that go beyond their own limited vision of what is possible” (Gray and Wood, 1991: 28). Collaboration, it is argued, enhances our comprehension of decision-making processes aimed at resolving policy conflicts, in that it moves beyond the classical economic assumptions of human interaction, adopting instead a broader perspective that provides the beginnings of a model of decision-making that is not only proactive but also co-operative (Duffy, Roseland, and Gunton, 1996; Pasquero, 1991).

However, there are serious obstacles to implementing collaborative decision making in the field of environmental policy and management (Gray and Wood, 1991; Logsdon, 1991). A major

obstacle is the neo-classical (or welfare) economics¹³ that dominates the field of environmental policy and management (Logsdon, 1991; Samuels, 1988). It does not leave very much room for collaboration in social problem solving, as it treats environmental deterioration as if “it was primarily – if not entirely – the result of market failures” and suggests that solutions to these problems be found by using economic tools, even though such tools have proved inefficient in incorporating environmental values (Livingstone, 1987: 254).

Despite these serious obstacles, collaborative practices have been increasingly introduced and used all over the world.¹⁴ At the same time, the so-called orthodox (i.e., neo-classical or welfare) approach to economy has been challenged by three emerging perspectives: the new environmentalism movement, the communicative theory of planning, and new institutionalism. These perspectives reject the reductionism of the neo-classical approach as a manipulation of nature (Pasquero, 1991; Healey, 1997b); all are based on social constructionism and social theory transformation ideologies, which teach that profound transformation in our societies’ values and practices is required for us to permanently solve environmental problems (Eder, 1996; Herrick, 1995).

2.1. New Environmentalism

The environmental movement has its roots in the conservation movement.¹⁵ The conservationist movement emerged at the end of 19th century as a romantic-transcendental conservation ethic, advocating uses of nature for other than economic gain. It promoted the protection of wilderness. Based on the idea of the “right to protect”, the main concerns of the conservation movement are the protection and conservation of forests, waters, and endangered species (Taylor, 1995). The early conservation movement was largely anthropocentric¹⁶ in character

¹³ See Healey (1997b) for a critical analysis of the implications of neo-classical economics in the field of local environmental planning.

¹⁴ See Bentrup (2001) and Bellamy and Johnson (2000) for the experience of professionals in Australia and New Zealand with collaborative decision-making models.

¹⁵ Pepper (1987 and 1996) presents historical evolution of environmental movement in western world. For the evolution of environmental movement in Québec see Vaillancourt and Perron (1998), Bergeron (1993) and Vaillancourt (1985).

¹⁶ In explaining human/nature relations there are two perspectives: Anthropocentrism is the environmental perspective that is based on the principle of a human-centred world, where humans are assigned a superior status in their relationship with nature: the natural environment exists to serve the needs of human beings. Eco-centrism, which was introduced by the sustainable development perspective, is the environmental concept that recognizes the interdependence and interconnection between humans and non-humans; environment has its own intrinsic value. Anthropocentrism is considered the main

and chiefly concerned itself with the efficient use of resources, particularly renewable resources (Dunn and Kinney, 1996). The allies of the conservation movement, viewing the natural world as a collection of resources for human use, directed their attention to the goal of wise management based on scientific practices that would provide the efficient use of these resources in order to maximize long-term yields (Pepper, 1987). The conservation movement identified itself as a “back to nature movement” (Roussopoulos, 1993). Basically dominant during the 1960s, it is considered the first phase of environmentalism (Eder, 1996; Pepper, 1996).

A different level of awareness on environmental problems began to emerge in the early 1960s. Widespread public concern with pollution arose, along with a sense of the extent to which human beings were inextricably a part of nature.¹⁷ This view brought a new way to look at the human/nature relationship: our lives depend on our understanding of and respect for nature and its processes, and environmental problems are the results of human beings’ development efforts (Pepper, 1987). This was followed by the integration of a modern concept of ecology that introduced the concepts of interconnectedness and interaction in explaining environmental issues. This is the rise of environmental movement that is known as the second phase of environmentalism. Environmentalism is defined as one of two major social movements that may be the biggest legacies of the 20th century; the human rights movement is the other (UNCHS, 2001). The environmental movement is defined as “a belief system and political project that seeks to protect the quality and continuity of life through the conservation, preservation, or protection of the natural environment and its inhabitants” (Pepper, 1996). From the early 1970s until 1990, the environmental movement expanded its conservationist viewpoint to include environmentalism; it is now divided into three factions: conservationists, reformist environmentalists, and radical environmentalists (or deep ecologists) (Pepper, 1996).

The transition from the conservationist movement to the environmental movement began with a renewed emphasis on pollution and resource depletion; thus, it broadened the conservationist

source of environmental problems and the main obstacle for sustainable development, which is defined as development that meets the needs of the present without compromising the ability of future generations to meet their own needs (WCED, 1989).

¹⁷ This new awareness that was expanded among large groups of populations in the USA was initiated by the publication of Rachel Carson’s book *Silent Spring*, in which Carson reviewed U.S pesticide policy and gave scientific respectability to the concerns of ordinary people.

movement's emphasis on forest, water, and soil resources to include the whole resource base of industrial society (Dunn and Kinney, 1996). In this enlarged focus, environmentalism was concerned with resource scarcity and aimed to sensitize man to the need to treat nature as a partner if civilization was to continue (Taylor, 1995). Self-sufficiency, population control, and basic human needs became the new focus of environmentalists (Paehlke, 1995).

Reformist environmentalism and radical environmentalism, which co-existed and evolved parallel to each other in the environmental movement, have different assumptions in defining and formulating the solutions to the environmental crisis. They differ from each other in their definition of both the relationship of society towards the environment, and that of the individual towards nature. In general, reformist environmentalists criticize today's society, especially the technology and the modes of production it uses, as responsible for the environmental crisis we are currently facing (Taylor, 1995). In their definition, the problem is created by the culture of consumption that brings the domination of nature by society in the form of over-exploitation of resources and the creation of pollution – i.e., the way relations between nature and society, and nature and the individual, are organized. In this formulation, which is based on an individualist stance, power relations are not considered as a dimension to be corrected in shaping the relations between society and nature, and between the individual and nature (Pepper, 1996). Instead, the recommended solution is the use of alternative (including green) technologies to eradicate pollution problems and reduce exploitation of resources (Taylor, 1995). Radical environmentalists (or deep ecologists), on the other hand, are interested in promoting the science of ecology and its principles in order to develop a society that is fair, just, and egalitarian; one that has a relationship of harmony with nature (Low and Gleeson, 1998; Naess, 1993). They are opposed to a ruling-class technocracy, i.e., a system in which the governing class and technocrats have the monopoly over power because they have technical (or scientific) knowledge, which enables them to define the public interest and manage the society accordingly (Zimmerman, 1994).

In contrast to the individualist stance of reformist environmentalists, radical environmentalists or deep ecologists propose a global vision for the definition of environmental problems and the type of intervention necessary to resolve these problems (Naess, 1991). According to this global vision, the anti-democratic, technocratic imposition of social choice is the main source of socio-cultural problems, and equity and equality between social classes, genders,

generations, and different countries are the main issues that require transformation into new cultural patterns (Zimmerman, 1994). They criticize the neo-classical approach to economy, in which growth is perceived as an ultimate goal. Rather than criticizing individuals and individual behaviour patterns, they criticize the way societies are constructed, and recommend cultural and structural changes that will enable redistribution of roles and responsibilities among public, private, and community sectors as the ultimate goal in achieving social change (Low and Gleeson, 1998; Naess, 1991).

2.1.1. Environmental Pragmatism

Even though these two concepts – reformist and radical environmentalism (or deep ecology) – were always considered as polar, this dual structure in the environmental movement reflects the impression that there is no consensus on problem definition, alternative solutions, and, most importantly, on environmental values in the environmental movement. When one chooses to look at assigning values to nature, the lack of consensus on environmental values appears immediately. O’Riordan (1989) explains that within the environmental movement itself, there is continuous evolution in definition of environmental values, and thus on world views. In the 1970s, the environmental movement was focused on an ideologically inclusive quality-of-life agenda; by the mid 1980s ideological differences among major factions of the movement surfaced as a focus on human health and well-being become more prominent. Hayward (1998) explains that in the 1990s, we observed the rise of sustainable development – a strategy with a holistic approach that emphasizes the interdependency of conservation and development that recommends taking full and simultaneous account of economic, social, and ecological requirements. With the globalization of environmental impacts such as global warming, ozone depletion, desertification, and acid rain, sustainability is welcomed as global thinking. In addition to abatement policies for pollution, global sustainability has the objective to offer situations in which economy and ecology do not conflict with each other, and equitable development options are provided for present and future generations. Parallel to and simultaneous with the global thinking of sustainability thinking goes a local interpretation, promoted by smaller grassroots groups, who have organized to take direct action against specific environmental ills and injustices, and by public interest research groups who focus and encourage citizen involvement, i.e., local democracy, in local environmental issues (Turner, 1993). Solid waste management is one such local issue. All over the world, community-based groups have been formed to push for the cleanup of hazardous waste sites; social justice groups

have been organized at grassroots levels around the issue of environmental justice for people who have had to bear disproportionately the negative and harmful impacts of hazardous waste facility siting, industrial pollutants, and other environmental threats to their health.

In the scientific world view, the diversity of environmental values in the environmental movement has been interpreted as a weakness, and has led to the presentation of environment and environmental protection as contested concepts, because more than one problem definition and many alternative solutions have been presented (Rowlands, 2000). This lack of consensus on environmental values appeared as well as an underlying cause of conflicts in the field of environmental policy and management. The rhetoric of the environmental movement was weakened by this multiplicity, and those who were arguing something other than economic values, when it came to the environment, were unable to make their point (Williams and Matheny, 1995). Conflicts amongst numerous competing value systems with respect to the environment tended to be perceived as controversies of fact, because social norms and practices discourage policy makers from distinguishing underlying values or actively choosing among competing values (Lafferty and Meadowcroft, 1996). This has brought along the need to change these social norms and practices as a requirement for the new order.

This second phase, in which environmentalism became a major social movement, was, however, criticized for its reactivity, which was seen as preventing it from providing alternatives for the existing institutional, social, and cultural structures it held responsible for creating environmental problems (Pepper, 1996).

At the end of 20th century, environmental pragmatism¹⁸ arose as the new ideology, ethic, and paradigm of environmentalism (Light and Katz, 1996). It is considered the third phase of environmentalism (Eder, 1996). Pragmatism considers pluralism, indeterminacy, change, and primacy of relations as qualities that can only be grasped by active experience with the world, and presents pluralism and pragmatic ethics as the emerging values of a successful environmental movement (Light and Katz, 1996). This new ideology stresses that “human beings as well as other organisms are embedded in a particular environment, so that knowledge and value are the result of transactions or interactions with the environment/world” (Parker,

¹⁸ Other terms such as *new* or *modern environmentalism* and *post environmentalism* are also used to identify this new form of environmental movement ideology.

1996: 79–80). The human capacities of thinking and knowing are also considered to be constructed in transactions between human beings and the environment that surrounds them (Jamison, 2001). In other words, “knowing the world” is considered as a mutual transaction between the organism and its surroundings.¹⁹ Eder (1996: 128) explains that “in this transaction, a situation is reconstructed so as to make more sense, to create meaning. The process of reconstruction transforms both the knowing subject (human) and the known object (nature).”

Environmental pragmatism is critical of the notion of nature as distinct from human activity and experience, and offers a radical correction of modernity by focusing on science as a creative human activity based on the premise that “human beings are consciously organizing lived experience and it is from this conscious organisation that value emerges. In the relational context of pragmatic thought, humans or organisms are relational entities within the natural world” (Rosenthal and Buholz, 1996).²⁰

With this formulation, pragmatists reject the concept of nature as “a raw experience, with immediate value” (Rosenthal and Buholz, 1996). Instead, it presents nature as a “constructed cultural artefact that connects the experiences of nature into a coherent verified whole and makes them valuable as guides to future human experiences” (Hickman, 1998: 117). With their view of integrated values and moral pluralism, pragmatists suggest that environmental values are co-evolving with new social practices regarding the human relationship to the natural world. This process of social deconstruction, in turn, enables the creation and evolution of new environmental values and new relationships with the natural world (Parker, 1996). It illustrates the diversity of underlying philosophies in the environmental movement.²¹ From this

¹⁹ Environmental pragmatism is characterized as a constructive philosophical approach, which recognises and understands the characteristics and activities of any organism always in light of the organism’s relations to its environments (Smith, 2001).

²⁰ This argument is also used to dissolve the “problematic” dualism of contemporary environmental philosophy: anthropocentrism/biocentrism, individualism/holism and intrinsic/instrumental values. From a pragmatic perspective, the controversy over anthropocentrism, for example, is meaningless because it is impossible to draw a line between human well-being and the well-being of the environment in which it is situated.

²¹ Environmental pragmatism speaks of multiplicity of values, compatibility of different theories and a multi-scalar relationship of individual, community and global scales and presents itself as an ideology that is characterised by co-operation and negotiation instead of confrontation or competition. It proposes environmental ethics as a method of conflict resolution and introduces “action” as the first priority even before philosophical shaping or the endless refining of dogma (Light and Katz, 1996).

perspective, diversity or multiplicity is recognized as a necessary dimension for a healthy environmental movement that will help transform traditional structures (Eder, 1996). Environmental pragmatists²² also recommend seeing the existing structure as part of the solution to our problem, rather than the problem itself, and suggest that transformation in the levels of the existing structure can facilitate the transformation of processes of interactions and relationships among human beings and their environment (Hickman, 1998).

This third phase of environmentalism is based on the idea of a collective will to provide collective goods (such as the natural environment) and recommends transforming the existing structure into a new structure that will guarantee not only the fair distribution of these goods, but also everybody's fair contribution to their production (Pepper, 1996; Eder, 1996).

According to Eder (1996: 162), this form of environmentalism is a "test of the capacity of modern societies to develop institutions that are capable of providing rules of fairness in the provision of collective goods and the challenge for environmentalism is to reproduce and transform the culture of modern societies which dictates domination of nature." New environmentalism is also considered a turning point in the cultural evolution of modernity – in its substitution of individualism as the basic cultural model for modernization; it provides a new orientation, one which is based on interaction and relation-building processes (Eder, 1996: 163).

During first-phase environmentalism, known as conservatism, environmental problems were characterized by the incompatibility of ecology and economy. In the second phase (between the 1970s and the early 1990s), regulatory approaches dominated environmental action and discourse (Pepper, 1996). The third phase of environmentalism (current at the time of writing) includes the normalization of environmental concerns and their integration with established patterns of ideological thought. It is argued that this evolution has constituted a continuous learning process (Smith, 2001). In the early phases, environmentalism was based on systematically generated knowledge based on scientific evidence; that is, it was a process of scientific construction. The last phase of environmentalism has brought the recognition of

²² The foundations of this ideology or thought can be found in Dewey (1927), who is considered the father of pragmatism.

perceptions and values forward as important agents in constructing this knowledge (Jamison, 2001; Eder, 1996).

In this third phase, the challenge for the environmental movement is to survive the marketplace and neo-liberal economics. According to Eder (1996), the environmental movement's chances of survival in the market economy are associated with its capacity to transform itself into a well-organized public interest movement, so that environmentalist groups can become part of a system of ecological communication that makes environmental problems a currency in a public debate that changes the institutional infrastructure of modern society (Eder, 1996).

New environmentalists reject the dichotomy in environmental movement – conservatives/environmentalists or radicals/reformists – and argue that these are falsely defined categories of environmental combatants (Scarlett, 1997). Green (2003) argues that environmental pressure groups have helped identify risks to human and ecosystem health, but the complexity of environmental problems requires that these groups re-position themselves as public interest groups in order to promote sustainability. This is also required because the environment is only one value among many that society seeks to satisfy. Environmentalists have to develop skills to help them use the existing economic order and its tools to produce the resources that people can use to protect the environment. New environmentalists also believe that “good solutions to environmental problems can not be found only in government and self-proclaimed environmental group wisdom, but in private stewardship endeavours of individuals and corporations, in environmental entrepreneurialism, and in regular citizens responding to economic incentives” (Green, 2003: 8). The question is whether these two processes – reinventing environmental groups as well-organized public-interest groups, and changing the institutional infrastructure – will lead to more democracy (Shaiko, 1999; Eder, 1996); how fair and democratic can the process be, and how successful can environmental groups be in representing environmental interests and transforming existing structure in a context shaped by the rules of market economy?

In this new phase, analysis of the logic and dynamics of public discourse becomes essential, as public discourse is the arena in which environmental concerns are tested for their power and legitimacy (Jamison, 2001, Shaiko, 1999). Public discourse is key to understanding the transformation of environmentalism into an ecological discourse that is open to the whole of

society; discourse analysis emerges as the ultimate method to understand this transformation (Eder, 1996).

2.1.2. Civic Environmentalism

Parallel to the emergence of environmental pragmatism was the emergence of a new approach – civic environmentalism (or community-based environmentalism), which accommodates and facilitates the concept of collaborative planning (Wondolleck and Yaffee, 2000; Maser, 1996; Williams and Matheny, 1995). The main features of this approach are adaptive management, bounded conflict, and social learning.²³ It also relies on transactive models of planning and decision-making,²⁴ which centre on dialogue, co-operation, and mutual learning (Healey, 1997b).

The approach recommends a process of “custom designing answers to complex environmental problems in a specific location” (Lipschutz, 1996: 129). This site-specific or place-based approach relies on the identification of the relevant public, i.e., the community, and on the use of relevant knowledge that is grounded in the specific context of a site, i.e., “local knowledge” (Dewitt, 1994). By these premises, this approach tries to create a framework or an environment in which collaborative planning can be used as a mechanism to develop social capital (trust and relationship building) and local knowledge, to enable resilient decisions to be made, and to bring about change and transformation (Innes, 1995).

It also presents the concept of stakeholder identification as a critical aspect of collaborative efforts and introduces the use of term *community* to define those who have to participate in a collaborative process (Wondolleck and Yaffee, 2000). This community, as it is defined by civic environmentalism, has two meanings or includes two groups. First, a spatially based community, namely, all those in a place who share a concern and/or are affected by what happens there; and second, a stake-based community, all those who, directly or indirectly, have an interest in or care about what the people in the first community are doing in a place (Dewitt, 1994).²⁵ Creating a sense of place and an idea of location are understood as the requirements of

²³ In Lee (1993), these features are defined as the features of civic science.

²⁴ In Friedmann (1987), knowledge is defined as the main source of power that can produce meaningful action.

²⁵ Using a similar approach, Lipschutz (1996) classified three types of communities who must be involved in ecosystem-based resource management: (1) communities of place, which are tied to physical

establishing a shared vision or common goal and objective because “to be able to create a shared vision, people need to be clear about who they are and they have to belong to some place in a cultural sense” (Dewitt, 1994: 47). In this framework, stakeholder identification process becomes a task of creating a sense of “local community” (Wondolleck and Yaffee, 2000).

The participation of “local community” is a prerequisite to the success of any collaborative effort, because their participation is expected to provide the foundation for the development of social capital and local knowledge (Lipschutz, 1996). By participating, these communities become able to make their own decisions while developing personally and spiritually; this happens through a mutual learning process in which community members learn about themselves and others, as well as issues, and this, in turn, helps transform their value systems (Hancock and Gibson, 1996; Maser, 1996).

According to Dewitt (1994), civic environmentalism puts democracy back at the centre of environmental policy making, by recommending a process in which citizens and representatives deliberate to achieve greater enlightenment about what their interests are. This is the main feature that differentiates it from other two models of environmental policy, namely, the regulatory model (which assumes those interests are irrelevant) and the economists’ model (which assumes that interests are fixed) (Williams and Matheny, 1995). This new understanding of local democracy is about giving local populations the responsibility to identify their representatives, and encouraging them to develop capacities and knowledge of their own, such as deliberation skills and local knowledge (Hancock and Gibson, 1996). Local knowledge is knowledge attached to specific aspects of nature, and produced by a local community that is itself attached to that nature. The assumption is that it will therefore serve the representation of environmental interests better (Maser, 1996).

Civic environmentalism allies view the practice of environmental management as a socially constructed process in which meaning systems and resource regimes are produced, a process of

space through geography; (2) communities of identity, which are tied to each other through social characteristics that may transcend place; and (3) communities of interest, whose commonalities lie in the benefits they receive from a resource or in costs imposed on it. The participation of all three communities is a prerequisite to the success of any collaborative effort.

reconstruction that depends on renegotiating and reconstructing rules, norms, and resource use patterns (Dewitt, 1994). It is argued that rules, norms, and patterns define individual and collective identities, and reconstructing them means reconstructing individual and collective identities (Lipschutz, 1996). Processes of reconstruction are strongly influenced by interactions within and between the sectors of a network of associations and groups including government agencies and constitute a social learning system that becomes a force that influences public and private actions, and that can change the dominant mode and character of social and political problem solving (Wondolleck and Yaffee, 2000; Lipschutz, 1996). This same force can transform the operationalization of citizenship rights in democracies, so that the main concerns of democratic citizenship can be renewed. How rights and responsibilities are extended to various categories of citizens and other residents can be examined, and new dimensions of citizenship can be introduced, including identity and civic virtue²⁶ (Smith and Blanc, 1997; Flader, 1997). From a civic environmentalism perspective, challenging existing institutions is required to facilitate the restructuring processes that will help citizen empowerment, and the establishment of different types of interaction patterns. The empowerment of individuals can only be possible within appropriate institutional structures; citizenship is something constituted in transactional relations between social actors; and these relations take place in systems of governance (Smith and Blanc, 1997; Mason, 1999). Existing structures that dictate the delegation of authority to experts, or that rely on competing pressure groups, are considered the main factor distancing governments from people and standing in the way of perfecting democracy and citizenship (Lipschutz, 1996). Transformation of existing structures into those that will facilitate enhancement of local democracy becomes the main objective and yardstick to measure progress towards achieving a better way of life.

2.2. Communicative Theory of Planning

The rational comprehensive planning model that dominated the planning field for a long time is based on neo-classical (or welfare) economic theory. This model exemplifies the harmony or consensus approach,²⁷ which emphasizes the persistence of shared values and norms as the

²⁶ Here, identity refers to the extent to which people identify with particular group, community, or state; civic virtue refers to the extent to which people play an active and responsible role within a group or community.

²⁷ Sager (1994) explains the tendency to divide social theories into two contrasting groups on the basis of their descriptions of social processes. Consensus theories include those social theories that emphasize the

fundamental characteristic of societies (Sager, 1994). This model is also based upon the presumption of rational behaviour, the concept of the economic man, and the use of scientific method to derive optimum (correct) solutions; it prescribes decision-making processes for systematic planning (Mitchell, 1989). The focus of rational planning is on the need for intervention by the state in markets and social processes. The central question is: what is the appropriate form of social guidance (Friedmann, 1987)? Faludi (1984: 68) explains that “rational-comprehensive planners desire a government to be an organization with centralized decision making and common purpose which mirror the common (or public) interest of the community.” In this model, planning is the capacity to define and implement the public interest²⁸ and is guided by an instrumental rationality ideology as the way to build this capacity (Sager, 1994). Public interest is considered something that can be discovered by neutral scientific experts and can be served by neutral administrators²⁹ in the most efficient manner (Smith, 1993). The assumption is that by using the principles of technology and social science, planning can lay out alternative courses of action, and that the planner, using his/her professional expertise and scientific objectivity, does what is best for an undifferentiated public (Innes, 1995; Healey, 1992; Boyer, 1983). This model suggests that analytical methods used by the value-neutral researcher are capable of producing research that will yield the optimal solution and point towards the best decision (Forester, 1997). Scientific expertise is also seen as a tool to overcome the inadequacies of democratic decision-making and to substitute democratic participation (Smith, 1993; Carlisle and Chechile, 1991).

The rational comprehensive model promotes education as a necessity to achieve “consensus” – i.e., the “ultimate scientific truth” (Sager, 1994). The focus is on the individual analyst – that is, the researcher who is expected to arrive at factual and value-neutral answers to questions by using analytical techniques.³⁰ In addition to the dominant role of the analyst, in this model there

ultimate consensus in societies on social values and norms and conflict theories emphasize the dominance of some groups over others.

²⁸ Economic efficiency is defined as the ultimate public interest and it is seen as a substitute for democratic methods of decision-making (Mitchell, 1989; Smith, 1993; Healey, 1994).

²⁹ This model suggests that analytical methods used by the value-neutral researcher will yield the best (optimal) solution, i.e., the methods are capable of producing research that will point towards the best decision (Forester, 1997).

³⁰ In Carlisle and Chechile (1991) it is explained that individual analysts either use quantitative analysis to try to determine from past experience what caused to environmental problem and what consequences earlier decisions have had, or they use sophisticated analytic methods, such as simulation models or probabilistic risk assessment to anticipate the likelihood of events that will have serious impacts in future

is always an optimal decision to be made or solution to be discovered, and this decision or solution always serves the general public interest (Healey, 1996, 1992; Brindley, Rydin, and Stoker, 1989). The main task is defined as discovering and presenting information – objective knowledge for the benefit of the final decision maker in a perfect knowledge situation (Innes, 1998; Sager, 1994; Carlisle and Chechile, 1991).

In the rationalist model, conflict is usually presented as a negative phenomenon; because, by causing delays, extra work, and inefficiency, “rational” decisions become difficult to implement (Sager, 1994). In addition, because of the model’s assumption of the perfect knowledge situation, conflict in fact is considered rare. It can only happen when scientific analysis fails to reduce reaction to a project – but failure of scientific analysis itself is seen as rare. When it does happen, technical expertise is called in to calculate a level of compensation that will neutralize opposition and provide an acceptable solution (Sager, 1994; Healey, 1993; Forester, 1992). Behind this thinking is a definition of conflict in which opposition emerges when costs and benefits of a project are not distributed equally. However, there are studies which show that conflicts arise not only because of distributional consequences of a project, but because differing or conflicting individual assessments of probabilities, outcomes, and risks exist (Susskind and Cruickshank, 1987; Bingham, 1986). The position of the rationalist model on conflict is also criticized because of the inability of technical expertise to address or to reconcile questions of value, such as to protect, develop, and define the quality of life (Cardinall and Day, 1998; Margerum, 1997). Furthermore, because of its assumptions that environmental decisions can only be made (and must be made) by experts because the public does not have the skills, capacity, and knowledge, the rational comprehensive model is criticized for being anti-democratic (Sandercock, 1998; Day, 1997).

In the rationalist model, consultation is the main mode of public participation. The idea behind the use of consultation is to enable the public to understand why the experts are right, that is, to educate the public so they will support the conclusions reached by experts through their rational analysis (Innes, 1996; Carlisle and Chechile, 1991; Boyer, 1983). In a consultation process, experts try to communicate to the general public what the risks are in a given project,

on individuals or groups. Such risk assessments are improved to weigh the risk against the cost of eliminating those risks. If the costs of eliminating (or reducing) risk exceed the anticipated benefits of elimination then the decision is not to eliminate the risk.

and to educate them about these risks – that is, to change their perceptions of the risks – because it is assumed that overestimation of risks is the main factor in causing negative public reaction to the project (Carlisle and Chechile, 1991).

2.2.1. Instrumental versus Communicative Rationality

Increasingly, during the 1990s, arguments against the rational comprehensive model began to be voiced (Kornov and Thissen, 2000; Innes, 1996; Smith, 1993; Forester, 1992; Healey, 1992). The basis of the criticism was the model's "overly scientific and therefore overly simplistic view of human nature", as well as its theoretical underpinnings of objectivism and instrumental rationality (Dryzek, 1993: 213).³¹ These were seen as responsible for the failure to take into account the role of values and value judgments, defined as "an inescapable part of decision-making" (Dryzek, 1991). In addition, instrumental rationality was inefficient due to the complex nature of environmental issues, in which environmental planning practice was dominated by uncertainties (Cardinall and Day, 1998; Margerum, 1997). The rational comprehensive model has also been criticized for its assumption of rationality, whereby an "economic" decision-maker maximizes profit by systematic research for the best solution to a problem; it has been realized that economic efficiency is not always relevant, especially when competing non-economic values are at stake (Sandercock, 1998). Furthermore, the notion of public interest (defined as increased consumption and production for the sake of economic efficiency) has been criticized, because of negative side effects such as environmental degradation and threat to human health (Healey, 1996). The assumption of rational comprehensive planning, that such side effects can be corrected within the market using economic measures, has also been proved to be wrong; environmental externalities can not be internalized by economic evaluation (Foster, 1997). There is growing awareness that as long as environmental decision making lies solely within the domain of expert analysts, conflicts with the general public are inevitable and the chances to resolve conflicts in a rational comprehensive approach are slim (Cardinall and Day, 1998; Selin and Chavez, 1995).

More and more, planners themselves acknowledge that decision makers usually operate in conditions of imperfect knowledge and uncertainty; finding one correct (or optimum) solution

³¹ Dryzek (1993: 213–217) defines objectivism as "a single and universally applicable set of rules for the unambiguous establishment of causal relationships" and instrumental rationality as a process of "determining the best means to a given end".

is defined as an illusionary goal, at least in most environmental situations (Ward, 2001; Tonn, English, and Travis, 2000). In addition, it is argued that scientific expertise cannot be a totally independent and neutral guide to decision making, because experts are not neutral themselves (Cardinall and Day, 1998; Carlisle and Chechile, 1991). In order to be able to consider facts and values together, i.e., in order to include value judgments in the equation, a new approach to analysis is required. The answer, within the planning literature, to this is to replace the rational comprehensive model that has dominated for so long with the communicative model of planning,³² which rejects instrumental rationality and instead emphasizes communicative rationality (Dryzek, 1993, 1991; Sager, 1994). The communicative model rejects instrumental rationality because of “its inability to deal with the complexity, uncertainty, instability, uniqueness, and value conflicts that exist in human behaviour” (Rein and Schön, 1993: 150), and defends “participatory and discursive democracy and open communication and unrestricted participation” (Dryzek, 1993: 229).

2.2.2. Alternative Conception of Power

In communicative planning theory, planning practice comprises practical communicative action that involves posing problems, listening, constructing arguments, organizing attention, and fostering dialogue (Sager, 1994). According to Forester (1989), every organizational interaction or practical communication not only produces but also strengthens or weakens the specific social working relations of those who interact. As structures of communicative relations, organizations both produce instrumental results and reproduce social and political relations of knowledge (who knows what), create consent (who accepts whose authority and who resists), build trust (who has established networks of co-operative contacts), and introduce the ways we formulate the problems (who considers which issues and neglects which others). This is how social relations of power are built up and reproduced; it forms the background against which any particular exercise of power must be understood (Forester, 1989).

In the communicative model, planners' key activities are defined as focusing and shaping attention, talking and listening. This is an interactive, communicative activity: a more

³² Forester (1989), Innes (1992, 1995), and Healey (1994, 1996) present the communicative theory of planning, which defines planning as the study of communicative activity. Forester (1992) presents this new model as the theory of critical planning which is inspired by Habermas' theory of communicative action and Nussbaum's theory of contextual knowledge.

qualitative and interpretative mode of inquiry into what is unique and contextual,³³ and a political rather than a technical exercise that demonstrates the political nature of a planning activity. It is an activity in which relations of power are always involved and in which systematic inequalities influence outcomes; definition of such inequalities as imbalances of information and lack of representation then becomes a main task (Innes, 1998).

The communicative model proposes a new method of knowing, one that challenges the positivist epistemology. It is composed of three elements: (a) self-reflection, designed to identify one's own rationalization and denial; (b) emancipatory knowledge, arising out of discourse and dialectic; and (c) praxis, formed through action in the world, experience, and practical know-how (Innes, 1998; Sager, 1994). Interpreting planning as a communicative activity also introduces language and the way it is used by people involved in planning, as well as discourse and representation, as the crucial foci for planners (Throgmorton, 1991). In this model, planning is defined as a process of managing argument, discourse, and debate in such a way as to reveal hidden values as well as to understand and appreciate what is being communicated overtly (Forester, 1989). In the course of communicative planning, frames (context), discourses (content), and reflection (interaction between frame and discourse that can bring or prevent change from happening) become central (Throgmorton, 1991, 1993).

According to Rein and Schön (1993), establishing an atmosphere of co-operative inquiry is essential for effective planning; frame-reflective discourse is the practice that can facilitate the development of such an atmosphere.³⁴ This suggestion is based on Schön's view of the reflective practitioner. In the dominant epistemology of practice (using the models of technical rationality and instrumental problem solving), the differences between problem solving and problem setting are denied; but before a problem can be solved, it has to be defined. Rein and

³³ Forester (1989) explains that planners are not simply technicians who operate objectively, cataloguing conditions, analyzing alternatives, and recommending and implementing solutions. They are political actors who perceive and formulate problems and then intervene to avoid or resolve them, systematically using language to manage debate and to present arguments for a future they have envisioned. Planning, in this view, is the process of managing argumentation, discourse and debate. It involves a series of sequential decisions that are inevitably and thoroughly political, informed by technical understanding, and guided by vision, values and vocabulary. To understand planning, these processes of anticipating implementation and managing arguments must be better understood.

³⁴ This suggestion is based on Schön's (1983) view of the reflective practitioner.

Schön (1993: 278) explain that problem setting³⁵ (or framing) is a process in which we interactively name the things to which we will attend, and frame the context in which we will attend to them. To be able to do this, planners have to be prepared to “reflect in action . . . [because] the way the problem to be solved, the policies to be adopted, the descriptions of reality, is socially constructed through the media, institutions, public debate and the reflective planner participates in conservation and dialogue to help construct the problem to be solved” (Rein and Schon, 1993).

In the communicative model, frames refer to stable patterns of experiencing and perceiving events in the world. We use and apply frames in order to structure social reality, thus reducing the continuous system of events to a limited number of significant events (Gamson, 1992). Frames are constructed and reconstructed as the discourse (or content) changes (Throgmorton, 1991). Frames and discourse are, therefore, complementary phenomena. Thus, in the communicative model there are two critical actions: first, understanding the process of framing and second, analyzing discourse (or content) (Rein and Schön, 1993; Forester, 1992). Understanding the framing is critical: “questions of fact cannot be separated from questions of value because people construct problems in situations through frames in which facts, values and theories, and interests are integrated and frames are perspectives that individuals construct to make sense of and act on amorphous, ill-defined and problematic situations” (Rein and Schön, 1993: 146). Analysis of content (discourse) – with an emphasis on agent (who), act (what), scene (where), agency (how), and purpose (why) – is essential to reveal the way people think about and interpret the world and events within it, facilitating both understanding and decision making (Kaplan, 1993). In this context, the test of good planning becomes less what you know, than how well you understand the planning problem and communicate this understanding to the different audiences (Throgmorton, 1993).

However, planners’ capacity to influence the process of change, or to manage arguments and debates, depends on their knowledge of the conditions and relations, i.e., the context or frame that makes up the conflict or dispute, or create the specific situation (Innes, 1999; Healey, 1996; Long, 1992). The conditions are defined by communicative planning allies as the

³⁵ According to Schön (1983) the task of definition of problem setting is, in fact, to convert a problematic situation to a problem, i.e., to make sense of an uncertain situation that initially makes no sense by defining the process by which the decision is made, the ends to be achieved, and the relevant appropriate means to achieve these ends.

resources controlled by the different stakeholders and the environmental constraints (including time) that no one controls (Healey, 1999; Innes, 1995). The relations, on the other hand, refer to the different social, economic, and political relationships among the stakeholders, and the relative authority or power of these relations in defining and implementing the decision-making process (Healey, 1999; Innes, 1995). Shaping the decision-making process (or the power relations inside a process) is only possible by changing, identifying, and using these conditions and relations, which are actually the main elements of a frame (or context); conflict thus becomes a force to facilitate change (Healey, 1999; Forester, 1997). This is a turning point in the interpretation of conflict. In the communicative model, different from the rationalist model, the nature of conflict as a destructive phenomenon is rejected and a constructive character³⁶ is attached to it instead.

The concepts of communicative planning theory – frame, discourse, and reflexivity – have been widely welcomed as strong alternatives to the rationalist model and its concept of instrumental rationality. However, there are issues that have created criticism and doubt about its strengths as an alternative model. First, it is argued, the communicative view is unable to integrate power issues (Beauregard, 1990). For example, the issue of what and whom should planners listen to, a critical political question, is described as problematic. Forester (1989) argues that this can only be answered in the particulars of a situation, i.e., the context of the case. Some argue that the concept of *context* is not well defined, and that power relations are totally ignored by communicative planning theorists. Beauregard (1990), for example, acknowledges the contribution of communicative planning theorists: they brought to our attention the sensitivity of the context in which planners practice and the content of what they say. However, he also points out that even though communicative planning theorists emphasize the political understanding of context within which planners function as central to their portrayal of organizations and institutions, they fail in defining this context because they do not clarify the implications of progressive practice and content, and ignore power relations. He also argues that the “definition of context is critical because the issue of context is tied to the issue of content (what planners communicate) and if context sets the parameters of communicative action and if critical planning practice is meant to oppose the erosion of democracy and

³⁶ See, for example, Six (1991), Burgess and Burgess (1997) and Beauchamp (1997) for constructive interpretation of the nature of conflict.

propagation of ideology, then planners must not stop at opening up channels of communication. Resisting the context itself becomes a necessity” (Beauregard, 1990: 318).

In fact in communicative planning, power is seen to be embedded in knowledge, and understanding the relations between power and knowledge is critical because it is the “power that distorts communication thus impairing knowledge” (Innes, 1998; Innes, 1995, Healey, 1992; Forester, 1989), and the structuring and control of knowledge become real issues of power (Sager, 1994; Healey, 1992). In this context, learning from local knowledge, a community empowerment practice where planners work with and from the perspective of disempowered (local communities) rather than from the perspective of state-directed or expert-centred planning practices, becomes the only way planners will be enabled to achieve the full form of [knowledge ↔ power ↔ action] (Healey, 1999; Forester, 1997; Sager, 1994).³⁷

In the field of urban environmental planning, the issue of defining the elements of context remains an active research area. The following section, in which we visit the concepts of new institutionalism and alternative dispute resolution, will help identify these elements.

2.3. New Institutionalism

The emphasis of the dominant decision-making approach, which is based on neo-classical economics, is to maximize individual well-being.³⁸ In this approach, the main task is to develop law-like statements about human and social endeavours that allow government officials to forecast and manage not only the economy but also human relations, and to use the tools of a monetary valuation of environment such as cost-benefit analysis (CBA) in the design and selection of environmental policies and decisions (Foster, 1997). However, the behavioural assumptions of this approach have been disputed by institutional economics, based on the fact that these assumptions, i.e., have led to a failure to incorporate values into policy- and decision-making processes; value-free CBA of projects has become very contested (Söderbaum, 1987). New institutionalists criticize the neo-classical economics-based decision-making approach for its emphasis on the legitimacy of expert advice and the quality of its decisions (Samuels, 1988). The criticism is based on the incapacity of the neo-classical approach to use objective expertise

³⁷ This relation breaks down into [knowledge → power] in advocacy planning and it is simplified to [knowledge → action] in transactive planning (Sandercock, 1998; Sager, 1994).

³⁸ Livingstone (1987) explains that basic premise of this view is that “individual actors are all that matter and only interest is to maximize individual well-being”.

to deal with non-scientific concepts such as individual moral commitment and values, principles, moral commitments, and emotions (Walter and Sudweeks, 1996). New institutional economists challenge the conception of a social world constituted of rational individuals, acting autonomously in the light of objective scientific knowledge and pursuing their own preferences in order to obtain material satisfaction, and promote instead the conception of individual identity as socially constructed in an environment where preferences are learned (DiMaggio and Powell, 1991). In this formulation, the notion of public good is something created in a process in which values and preferences are learned through democratic deliberations, rather than something discovered. That is why democratic deliberation has to become the basic method, and opportunities or platforms have to be created to facilitate learning through which ethical values and preferences are shaped (Bolan, 1991). Accommodating values is defined as critical to the future of policy analysis or decision making, both for its legitimacy and quality (Walter and Sudweeks, 1996; DiMaggio and Powell, 1991).

The new institutionalists recognize society as a pluralist entity in which diversity and differences are main characteristics (DiMaggio and Powell, 1991). Along with this recognition, the principles of conflict resolution and consensus building are introduced as tools that can provide the potential for a collaborative discussion of shared concerns about what has to happen and what changes must occur in a local environment (Aguilera-Klink and Sanchez-Garcia, 2002; Kofinas and Griggs, 1996). The new institutionalist view suggests that through these discussions, people can learn about potential impacts and possible or alternative ways of valuing and addressing them, and in the end, build a mutual understanding and create the social and intellectual capital to deal with subsequent issues (Aguilera-Klink and Sanchez-Garcia, 2002; Tonn et al., 2000; Innes, 1997). Creating social and intellectual capital is also defined as a process of creating the institutional capacity to collaborate and coordinate, and creating the institutional coherence through which shared problems can be collectively addressed (Healey, 1997b; Innes, 1996). Creating or building institutional capacity is a process of institutional change that comes about through a process of learning how to collaborate in order to create a better, more constructive, understanding and awareness of conflicts and how to resolve them (Healey, 1999; Colignon, 1997). Institutional change, in turn, serves to help build structures that can be adjusted to accommodate the new mix of social goals that are created in these collaborative processes (Healey, 1997b; Kofinas and Griggs, 1996). However, social change is not an easy task because to facilitate constructive dialogue and learning, roles and power

relations have to be redefined. New structures must be built, re-distributing power and resources, allowing easier access to them (Colignon, 1997; DiMaggio and Powell, 1992; Ostrom, 1990).

In order to achieve participatory institutional change, new institutionalists recommend and urge a shift in the understanding of nature, i.e., in the ways of seeing and knowing the world as well as the ways of acting in it.³⁹ They suggest re-emphasizing the analysis of social relations and social context, as they assert that understanding and acting in the world are constituted in social relations with others and are embedded in particular social contexts (Aguilera-Klink and Sanchez-Garcia, 2002; Healey, 1997a). They argue, first, that it is through the particular geographies and histories of these contexts that attitudes and values are framed, and it is in these relational contexts that frames of reference and systems of meaning are evolved and action is articulated. Secondly, they argue, the diversity and difference that causes conflicts in local environmental debates are not about individual interests, but about differences in systems of meaning, i.e., the way daily lives are constructed and transformed (Healey, 1999; Innes, 1996; Long, 1992).⁴⁰ These relational contexts (or networks) are described as “overlapping centres of accumulation of local knowledge” (Healey, 1997b: 53). Local knowledge is specific to particular social networks and is acquired through social interchange and experience (Hajer, 1995; Innes, 1995).

Power is acknowledged as a force that frames the work of social construction by imposing structural imperatives on social relations.⁴¹ Social construction is framed by forces that are “present in and actively constituted through the social relations of daily life. . . . The forces that structure our lives are actively made by us, in our systems of meaning because by making choices we maintain, modify or transform the structuring forces” (Healey, 1997b: 67–68). From this perspective, individuals are shaped by their own social situation but they also shape

³⁹ This represents a shift from materialist to a phenomenological understanding of the nature of being and the nature of knowing, which brought in the re-emphasis on “the social situatedness of knowledge and action” and “the cultural frames of reference” through which action is articulated” (Eder, 1996).

⁴⁰ In this formulation, environmental conflicts are realized as confrontations between people in different cultural communities that are linked through the media and process of education. Conflicts emerge when groups that belong to different networks with specific cultural conceptions and ways of seeing and understanding the world confront each other.

⁴¹ Healey (1997b) explains that, as opposed to other dominant views such as Marxism and feminism, new institutionalists use the concept of “significance of structure”, borrowed from Anthony Giddens’s (1984) theory of structuration to define these forces internal rather than external forces.

it, in continual interactive processes with others. These relational resources of shared understanding and mutual trust create intellectual and social capital, which helps them deal with their shared problems (Healey, 1997b; Innes, 1996). Social construction or transformation is undertaken in a territory framed by structural forces and power relations; re-structuring and transforming power relations is a continuous process in which these relations are re-negotiated and re-framed towards social change (Healey, 1999). Collaborative planning is grounded in the theory of such relation-building processes (Kofinas and Griggs, 1996; Flynn and Gunton, 1996).

In the new institutionalist view, conflict is an inevitable dimension or a routine part of the experience, due to diversity and plurality in interest and values (Healey, 1997b; Innes, 1996; Daniels and Walker, 1996).⁴² There are at least three reasons for this. First, there are diverse interests in land, property, and quality of places (Aguilera-Klink and Sanchez-Garcia, 2002); second, there is diversity in the ways of living everyday life and valuing local environmental qualities; and third, people confront each other from different relational positions (Healey, 1997a; Hajer, 1995). According to Healey (1999, 1994), we have to transform urban planning systems through consensus-based urban planning practices that can provide a framework for dealing with such encounters. Such a framework would enable connections to be made between networks (or relational contexts) that co-exist in a locality, providing an arena within which people from different networks could come together to define and manage local environmental change – that is, to resolve conflicts (Hajer, 1995). The new institutionalists argue that this task is about dealing with conflicts between cultural communities with distinctive systems of meaning and ways of valuing and acting. It requires the collaboration and involvement of all relevant groups – not only individuals with different interests and stakes, but also people operating in different relational cultures, who have different ways of doing, seeing, and knowing, who construct the issue in conflict in different ways, and who have different ways of conducting discussion about issues and different ways of organizing (Colignon, 1997; Ostrom, 1990). An environmental conflict may not just be about a specific problem, but also about conceptions of what the problem is, and what organizational forms and/or collaborative effort will be required to build understanding across culturally different relational networks to address matters of common concern. It is therefore also about the ways in which issues are discussed,

⁴² Institutionalists embrace the concept of social conflict as a driving force for change – something positive that initiates institutional transformations and social change.

as much as to the substantive issues in question (Healey, 1997a). Based on this realization, new institutionalists acknowledge that behind environmental conflicts there are power relations that privilege not just some people over others, but some ways of discussing and some forms of organizing over others, and conflict resolution efforts will require attention on distributional issues of who gets to participate in discussion, and when and how (Healey, 1997b; Colignon, 1997).

The premise of new institutionalism is that institutional change and transformation of existing decision making cultures are essential and critical for the use of collaborative approaches, because current governance cultures include institutional constraints against collaboration (Bryson and Crosby, 1992; DiMaggio and Powell, 1991). Centralization and fragmented government structures, i.e., lack of coordination among some tiers of government and functional departments, are given as the main factors that directly limit collaborative potential, especially at the local level (Colignon, 1997; Ostrom, 1990). In cases where centralization or fragmentation exists, resolution of conflicts is considered very difficult, because local environmental conflicts are multi-faceted, drawing in stakeholders across sectors and levels of governments and divides across private, public (state) and community (voluntary) organizations (Innes, 1996, Healey, 1997a; Healey, 1994).

New forms and process of governance, through which stakeholders can come together to work out what to do and how to act, are required to address collective concerns.⁴³ These new forms or structures have to enable intercultural communication, allowing sense to be made of a multiplicity of claims arising out of different relational contexts and brought in by each actual and potential participant in the public arena (Innes, 1996; Daniels and Walker, 1996). They have to be able to pay attention to different discourses because of the powerful role that knowledge, arguments, and ideas play. There will be problems because discourses that dominate the public arena can lead to cultural domination rather than intercultural communication (McKinley, Potter, and Wetherell, 1993). The new institutionalists assume that the power of dominant discourses can be challenged at the level of dialogue, through the power

⁴³ The challenge is to transform the existing "formal" arenas of decision-making which are dominated by "particular way of thinking and ways of organizing towards the arenas in which stakeholders are listened and heard and new ideas are developed" (Bryson and Crosby, 1992: 221). In other words, the challenge is to redesign institutions, which are initially the part of the problem because they are not designed to support collaborative practices.

of knowledgeable, reflective discourse, and good arguments – through the transformations that occur as people learn to understand and respect each other across their differences and conflicts, and as we learn to build a consensus that respects differences (Healey, 1999; Innes, 1998).⁴⁴ In environmental conflicts, this requires the use of deliberative techniques such as mediation.⁴⁵

The new institutionalists argue that transformation is required, to eliminate exclusionary relational contexts that provide privileged access to resources, and to reshape some discourses that dominate over others. This can be achieved by increasing communication, by opening up relational links, and by challenging exclusionary webs that reinforce inequality (Healey, 1999; Innes, 1996). Conflict resolution through collaborative processes is presented as a tool for the transformation of these relations. Transformative work includes changing the ways of thinking, the manners in which governance authority are exercised, and the ways in which material resources are allocated. Healey (1999, 1996) argues that urban environmental planning can use deliberative governance efforts that can help to maintain or transform public discourses about the qualities of places, to shape the building of relations and discourses, i.e., building up what she calls the institutional capacity of a place.

In the practice of collaborative planning, there are two critical issues that can become power issues: identification and inclusion of stakeholders, and the capacity of these stakeholders to participate effectively.⁴⁶

New institutionalism emphasizes the use of the term *stakeholder* as very important not only as an alternative to *actor* but as a way of describing all those affected by a problem or an event (Aguilera-Klink and Sanchez-Garcia, 2002). This definition also includes those who are not active but those who have a stake even though it may be undeclared. Interests of non-humans

⁴⁴ By referring to the theory of communicative action, the new institutionalists argue that through the work of discussion itself, new ways of organizing and new networks (or relational webs) may be established (Healey, 1997b).

⁴⁵ By referring to the theory of communicative action, the new institutionalists argue that through the work of discussion itself, new ways of organizing and new networks (or relational webs) may be established (Healey, 1997b).

⁴⁶ The required attributes for the design of governance processes for enabling pluralistic participation in collaborative planning processes are defined by Healey (1997a) as the recognition and inclusion of range and variety of stakeholders concerned with changes, the recognition and support of informal structure, provision of opportunities for informal intervention and for local initiatives and accountability.

and the stakes that future generations might have are included in this definition. The identification of the stakeholders, then, becomes the task of identifying not only those with an obvious stake but also those stakeholders who directly linked with the specific community (Healey, 1997b). There are democratic reasons for a broad approach for identifying and involving stakeholders, such as procedural equity (fairness in rules for participation) and citizen empowerment (considered crucial for sustainable development) (Beierle and Cayford, 2002). It also has other advantages, such as generating and exchanging relevant information (and more of it), creating interdependency and solidarity among those involved (Innes, 1998).

The issues of *voice* and *communication* are critical and especially problematic when it comes to including environmental factors and the interests of future generations (Laws, 1996). It is held that deliberative approaches favour those who already have a voice, those who already have formal or informal access to decision-making processes, and those with resources. The question is whether the professionals acting as advocates, in order to put the point of view of those who may be put off by formal settings and/or processes, or who may lack the necessary skills and resources to participate directly, can change the fact that participation emerges mostly from organized groups, and that resources constrain the extent of involvement and lead to the absence of some stakeholder groups (Beierle and Cayford, 2002). The new institutionalist view suggests a form of advocacy that would help to translate the signals from nature into discursive realms and transform the decision-making arenas in a way that their construction would encourage access for all stakeholders (Healey, 1997a). This is about distributive equity.

Understanding the way people from different cultural communities (which have different languages and systems of valuing) encounter each other, and the way their preferences are formed, becomes critical in assessing the performance of deliberative techniques. Healey (1997b) argues that this requires institutional analysis, i.e., analysis of formal institutions (rules, regulations, and laws) and organizational structures, as well as analysis of informal structures (social and organizational cultures including routines, practices, informal networks, and social worlds) by which deliberative techniques are shaped. A complete institutional analysis helps in understanding the character of the political or decision making process and the nature of regime in which it takes place (Healey, 1996; Glasbergen, 1994). Understanding of the existing context, however, is necessary because change or social invention is encouraged or discouraged by external and internal forces (powers) that shape the context (Herrick, 1995; Healey, 1996).

In other words, abstract structures contain the power to define our access to opportunity, material resources, and rights of access; thus, power becomes our context. Power differences are defined as the inequalities generated by differences in the richness of the relational webs that people have access to (Healey, 1997b).

There are four criteria recommended for analyzing existing or already established practices, to discern whether they have been transformed towards desirable institutional forms that will foster pluralist participation and collaboration (Healey, 1997b). The four criteria are rights (of access, of challenge to the exercise of power); resources (time, space, knowledge, skills, relationships, social capacities); policy principles or criteria that encourage critical thinking; and distribution of competencies. In this framework, parameters for assessing the institutional design have become:

- the nature and distribution of rights and duties
- the control and distribution of resources
- the specification of criteria for redeeming challenges
- the distribution of competencies

In the public administration literature, there are similar parameters, including actors; interests (or objectives); roles and responsibilities; resources; and perceptions and attitudes. Klijn (1996) defines the decision-making (or policy-making) process as an interaction within a network of various actors who are mutually dependent on each other, each with their own strategies, perceptions, and interests. Policies (or decisions) are formulated as a result of this complex interaction process. Structuring and managing multi-actor settings or networks requires eliminating bottlenecks within the process. The distribution of roles, responsibilities, and resources among the actors determines the quality of the interactions between them. The rules, which are used to manage these processes, are other factors that affect interaction patterns. The interests and perceptions of the actors regulate the individual strategies they use to influence the other actors to achieve their individual goals and objectives. These strategies, in turn, define the interactions or network of relations among the actors (see Table 2.1).

Table 2.1

Parameters of Institutional Analysis in Public Administration Literature

Actors	There are different groups of actors involved from all sectors, including public, quasi-public, and private organizations.
Objectives (interests)	Actors are connected to each other or distinguished from each other in the structure of objectives and distribution of rights and other means to reach their goals and objectives. The superiority of the collaborative approach is to help actors to develop common goals or objectives and to share resources or means (i.e. powers) that will help them to achieve their objectives together (Kofinas and Griggs, 1996). This is a process in which various conflicting goals are linked to each other to reach satisfactory outcomes for all, or at least many of the actors involved (Klijn, 1996).
Resources	The power and position of the actors depend mainly on two things: the resources they possess and the importance of these resources in the decision-making process. These resources can be statutes, legitimacy, knowledge, information, financial resources, or expertise.
Rules regulating distribution of roles and responsibilities	Rules, both formal and informal, define distribution of rights and responsibilities as well as roles among actors. Rules affect perceptions as well as strategies of actors and shape the context (power relations) as well as content (discourse).
Perceptions and strategies	Perceptions are described as definitions or images of reality on the basis of which actors evaluate their own actions and those of other actors. The position of actors is determined by chosen strategies that are affected by perceptions, way of interactions with other actors, and resources that can be mobilized within a process.

Note. Sources: Klijn, 1996; Devas and Rakodi, 1993.

Devas and Rakodi (1993) argue that the characteristics of a decision-making process are defined by the actors involved, i.e., the responsibilities they assume and the resources they possess, as well as the interaction patterns among themselves. Interaction patterns are affected by rules, either formal or informal, as well as the perceptions of the actors. Legal provisions, formal rules, and perceptions become critical dimensions to analyze in understanding the quality of a decision-making process because, it is suggested, a proper measurement of social change is possible by measuring the change in rules and perceptions (Klijn, 1996). A change in rules indicates institutional change, while a change in perceptions represents change at the individual level, a critical step towards societal change. The direction of change is extremely

important and any analysis of the change should concentrate on understanding this direction (Devas and Rakodi, 1993; Klijn, 1996). In order to influence or change institutional structure these four factors – actors, resources, rules, and perceptions – have to be influenced in order to be transformed. In public management literature, the process of influencing and transforming these four factors or elements is defined as a process of network restructuring (Klijn, 1996). In conflict resolution and urban planning literatures, the same process is defined as a framing or reframing process (Burgess and Burgess, 1997; Healey, 1997b; Rein and Schön, 1993).

2.4. Environmental Conflict Management

Environmental conflict resolution emerged in the mid-1970s as an alternative approach for: (a) the resolution of conflicts over land and environmental resources, and (b) the formulation and implementation of land use and environmental planning policy (Jacobs and RuBino, 1989).⁴⁷ Until the 1980s it was accepted as an approach to environmental problems that both asserted the failure of traditional methods of problem solving (Talbot, 1983). However, during the 1980s the interest in environmental conflict resolution, especially mediation and negotiation, grew to encompass a broader range of planning concerns (Stitt, 1995).⁴⁸ Since the early 1990s mediation and negotiation have increasingly found their way into many facets of the practice of public planning. This increasingly placed planners in the role of facilitating mediation, or even opening discussions on the responsibility of the planner in the mediation process – was it in the disputants' interest, or in the broader public interest (Jacobs and RuBino, 1989)?

2.4.1. Process Mechanics of an Alternative Dispute Resolution Method: Environmental Mediation

Mediation, the core method of alternative dispute resolution (ADR), is defined as “a form of facilitated negotiation in which a third party is used to assist disputants in reaching on agreement by creating an environment to allow parties to arrive at a solution that they could not reach themselves” (Bacow and Wheeler, 1984: 54) (See Figure 2.1). Environmental mediation is widely applied on the project level. In a mediation process there are three main parties who

⁴⁷ Environmental conflict resolution is based on the alternative dispute resolution (ADR) approach, which has been applied successfully in other areas including international relations, labour relations and family relations since the 1980s. ADR techniques include mediation, negotiation, policy dialogues, arbitration, conciliation, fact finding, and facilitation.

⁴⁸ Before the 1980s, interest in mediation and negotiation was seen as having application to four areas: international relations, labour relations, family relations, and environmental conflicts and policy.

participate directly: mediator, disputants and proponents of a project (Susskind and Cruickshank, 1987). The mediator is an impartial party who has not any independent authority and does not render a decision; all decision-making power regarding the way the dispute will be resolved remains with the parties (Moore, 1996; Susskind, 1993). The mediator is responsible for setting the procedure that will be applied during the course of the mediation. The procedure followed by mediators differs from mediator to mediator. Basically, mediators help disputing parties to explore and develop possible points of consensus without any authority to order either party to agree to resolution of the dispute between them (Goldfarb, 2001; Moore, 1996; Susskind and Ozawa, 1983).

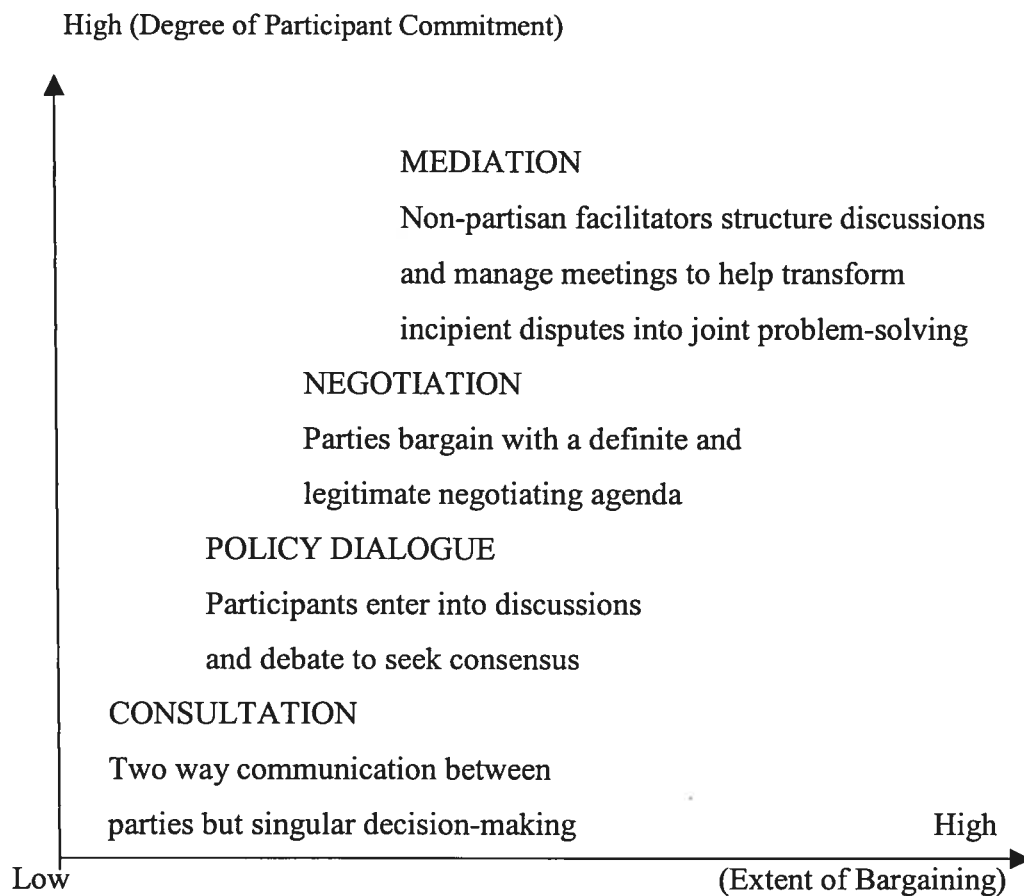


Figure 2.1. Approaches to environmental decision dispute resolution. (Source: Smith, 1993.)

A typical mediation process begins with a brief explanation of the process mechanism to both parties, i.e., disputants and proponents of a project; the process can occur both in general

sessions (with all present) and in side sessions in which the mediator will meet separately with each party. During the preliminary or general session, the mediator may seek to understand and define the dispute, and to clarify its extent and nature. In side sessions, the mediator and the parties explore possible options for settlement. If a settlement is possible, the mediator assists the parties, either in a joint session or in separate sessions, in the formulation of their settlement. Upon signing the settlement agreement, the mediation is brought to a successful conclusion that is binding on all parties (Moore, 1996; Carpenter and Kennedy, 1988).

A conflict resolution process (including environmental mediation) for public issues is designed in three parts (Susskind and Cruickshank, 1987; Carpenter and Kennedy, 1988): pre-negotiation, when conditions are set for collaborative problem solving among the stakeholders; negotiation, when the stakeholders work together to create, choose, and document solutions; and post-negotiation, when solutions reached by the stakeholders are considered and adopted by public authorities, implemented, evaluated and, if necessary re-negotiated. A summary of these phases is given below. (See Table 2.2, Table 2.3, and Figure 2.2.)

Table 2.2
The Three Phases of the Mediation Process

Pre-negotiation Phase	Negotiation Phase	Implementation or Post-negotiation phase
Getting started (often with/by an impartial person)	Inventing options for mutual gain	Linking informal agreements to formal decision making
Representation (including all stakeholders appropriately represented)	Packaging agreements (prioritizing solutions and pairing them with agenda items)	Monitoring (implementation)
Drafting protocols (on ground rules and agenda)	Producing a written agreement (especially a common document for stakeholder ratification)	Creating a context for re-negotiation
Joint fact finding	Binding the parties to their commitments	
	Ratification	

With this form, conflict resolution processes can provide a good model for adaptive management. Susskind and Cruickshank (1987) argue that the process should not end at the signing of an agreement, i.e., at the end of the negotiation phase. The post-negotiation phase is critical because it is the phase in which the agreement is implemented. Used properly and effectively, the post-negotiation phase can serve as a platform or feedback loop, to correct wrong assumptions from the negotiation phase and to integrate new information obtained during implementation into the decision-making process. Such a mechanism is an essential characteristic of an adaptive model to management. The post-negotiation phase is also the phase in which broader public participation is achieved.

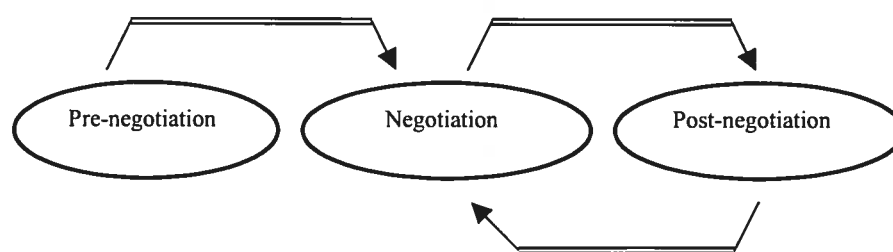


Figure 2.2. Phases of a conflict resolution (mediation) process

Table 2.3

Process Mechanics of a Mediation Process

Phase One	Pre-negotiation
Initiation	Someone must initiate the process of dispute resolution. If no stakeholder is willing, a trusted outsider (or “convener”) might be able to do this.
Assessment	For a successful dispute resolution, conditions must be appropriate: <ul style="list-style-type: none"> • Can the key players be identified? • Can they be educated about the process? • Are they willing and able to collaborate with the other parties? • Can legitimate spokespersons be found for stakeholder groups? • Do reasonable deadlines exist? • Which issues are negotiable? • Do sufficient resources exist to support the effort?

(table continues)

Table 2.3. (continued)

Phase One	Pre-negotiation
Ground rules and agenda	The parties must agree on ground rules for communicating, decision making, and organizing the process. They must agree on objectives for the process and an agenda of issues to be discussed.
Organization	Logistics for meetings must be set, including mutually agreed upon times and places. People have to be contacted and encouraged to attend. Minutes have to be kept, and information has to be distributed before and after meetings.
Joint fact-finding	The parties must agree on what technical background information is pertinent to the dispute, on what is known and not known about the technical issues, and on the methods for generating answers to relevant technical questions.
Phase Two	Negotiation
Interests	Rather than asserting positions – what they want as a solution – stakeholders seeking a resolution to a dispute should discuss their interests – the reasons, needs, concerns, and motivations underlying their positions. Satisfaction of one another's interests should be the common goal of the parties' dispute resolution efforts.
Options	In order to resolve their dispute, stakeholders must create alternative ways for satisfying the interests identified during the previous step. At this step the parties must agree that they will not judge ideas or be held to any of the options suggested. Creativity, not commitment, is to be encouraged.
Evaluation	After the parties have finished creating options, they should discuss and determine together which ideas are preferable for satisfying the interests. To do this, they might develop joint criteria for ranking the ideas, make trades across different issues, and/or combine different options to form "packages" of agreement.
Written agreement	The parties should document areas of agreement to ensure a common understanding of their accord, and so that the terms can be remembered and communicated unambiguously.
Commitments	Every party must be assured that the others will carry out their part of the agreement. Parties must discuss and agree upon methods for making such assurances tangible.

Table 2.3. (continued)

Phase Three	Post-negotiation
Ratification	The parties must get support for the agreement from organizations that have a role to play in carrying out the accord. These organizations should have been identified at the outset of the process and involved either directly or through adequate representation in the previous steps. Each organization will follow its own internal procedures as it reviews and adopts the settlement.
Public decision making	The accord must be considered and acted upon by the relevant agencies and boards if government bodies are to play a role in the solution. The parties must decide how to present their agreement to public decision makers. Decision makers should have been involved, or at least kept well informed, all through the process.
Phase Three	Post-negotiation
Implementation	Communication and collaboration among the parties should continue as the agreement is carried out. The parties must determine how they will keep track of the success of their solution. They should have a plan for affirming outcomes, resolving problems, renegotiating terms, and celebrating successes.

Note. Sources: Moore, 1996; Susskind and Cruickshank, 1987

2.4.2. Objectives of Consensus-Based Conflict Resolution Approaches

There are two basic conflict resolution approaches: instrumental (or problem-solving) and transformative. The problem-solving approach is basically grounded in game theory⁴⁹ and decision analysis⁵⁰ and emphasizes facilitating the finding of solutions that generate mutually acceptable settlements, almost always for the benefit of all involved parties (Bacow and Wheeler, 1984). Conflict management is defined as an act to make conflict more productive and less costly by reducing the expansion and escalation of conflicts, and by creating a set of

⁴⁹ This approach, which is enlightened by Game Theory, proposes a process that favours positive-sum games against zero-sum games or win-win solutions against win-lose solutions in which everybody is better off. See Bacow and Wheeler (1984).

⁵⁰ See Raiffa (1982) and Fisher and Ury (1991) for the principles of decision analysis based approach to conflict resolution. In this approach the emphasis is on identifying obstacles and incentives for dispute resolution on individual level.

conditions more conducive to realizing positive outcomes (Buchy and Race, 2001; Dorcey and McDaniels, 1999). The focus in this approach is to discover effective measures to reduce the time the negotiation process takes, and to achieve less costly agreements that will increase the mutual gains for all parties involved (Zeiss and Lefsrud, 1995). In the problem-solving approach, success is measured by whether a consensus outcome was reached in a limited time with a rational cost (Bingham, 1986; Susskind and Cruickshank, 1987). From 1980s until the mid-1990s, this kind of settlement-oriented approach was the dominant form of practice.

This approach is very much criticized for its narrowness in scope, rigid focus on quantifiable outcomes, and the increasing attempt to eliminate risk that can eliminate the act of creative intervention (Wondolleck and Yaffee, 2000). In addition, it is under attack because of its anthropocentric view, which seeks mutual gains for all the parties involved, but fails to consider future generations and other environmental interests. It encourages full-scale development and promises win-win solutions, but this approach does not consider long-term cumulative effects (Smith, 1993). There are even critics who do not consider the mediation process, the core method of ADR, a real communicative or interactive decision-making process at all because of the power imbalances between parties (Salazar and Alper, 1996). However, based on their experience accumulated during the 1990s on the application of mediation process in land use planning and regulation of environmental conflicts, researchers such as Susskind and his associates argue that environmental mediation is a tool with the potential to correct the imbalances between different groups so as to produce an egalitarian process that can nurture mutual gains (Susskind et al., 1999; Susskind and McKearnan, 1994; Susskind and Cruickshank, 1987).

Alternative arguments about taking a more process-oriented or transformative approach to consensus-based practice were introduced in the early 1990s. The objectives in a transformative approach are to improve the relationship among the parties, to learn and teach about negotiation, provide insights into new options, and particularly to empower participants (Dukes, 1993). The focus is on *change* and *process* in order to move participants towards sustained community participation by creating a shared sustainable future vision (Maser, 1996). The instrumental approach defines conflict as destructive, whereas in the transformative view

conflict is defined as a positive and constructive phenomenon,⁵¹ and conflict management is an activity that serves as a constructive social process because it helps parties to expand their perceptions and knowledge to be able to address complex environmental disputes (Innes, 1999). Maser (1996: 81) defines conflict as “harm to the well-being and identity of the community”, and argues that the main concern of a collaborative or consensus-based process has to be “to guide local communities to deal with environmental conflicts in ways that preserve ecosystem function and economic viability and strengthen the social ties that bind to ensure that community endures”. Maser (1996: 89–90) also describes conflict resolution as “a facilitation process for moving communities toward a vision of environmental/social sustainability that will address the concerns such as ecosystem function, economic viability and social strength towards the construction of collective environmental goals”. This approach is also associated with a larger ongoing movement to create a more democratic, participatory domain towards a new model of governance that incorporates values of a democratic society (Kelly and Alper, 1995). The transformative approach⁵² is positioned as an opportunity for enhancing democratic participation and as an alternative model of governance (Girard, 1999; Dukes, 1993).

The transformative approach emphasizes the importance of three factors: (a) communication, (b) personalities and behavioural traits, and (c) information and knowledge (Dukes, 1993; Maser, 1996). According to Dukes (1993), communication is important for explaining this new world view, i.e., sustainable development that includes describing ecological principles and ecological systems with their interconnectedness, interdependencies, and interactions. Maser (1996) argues for keeping personalities and behavioural traits of participants in mind as an essential aspect in providing an equal access to the flow of information and knowledge, with a strong communication base if the objective is to create the culture of collaboration in which the shared vision will be shaped. In addition, the sense of place and idea of location are defined as the requirements of establishing a shared vision – i.e., establishing common goals and

⁵¹ See Deutsch (1984), Bercovitch (1984) for different interpretations of conflict. Campbell (1996) provides an analysis of the nature of conflict based on the concepts of sustainable development thought.

⁵² The transformative approach is based on social representations theory and the neo-institutionalism movement, and provides a form of analysis that deals with the specific social aspects of activity. It is founded on a discourse analytic approach, in which discourse analysis develops a social approach to the phenomenon of representation. By emphasizing the way in which groups and communities make joint sense of their world, the social representation theorists highlight the importance of the effects of social phenomena on individual activities. See McKinley et al. (1993).

objectives.⁵³ Lack of social cohesion between groups that do not share a place and culture is considered as a main source of conflict and main obstacle to consensus-building (Dorcey and McDaniels, 1999; Girard, 1999). In this formulation, there is a special attention on the concept of community, i.e., the individuals and groups who share the same place, culture, and identity within this community. Maser (1996: 135) argues that a relevant public or community is composed of members including “everybody who thinks that this is his problem too, everybody who has memories, who knows, who is inspired by the issue at stake”. Dukes (1993: 48) explains that the “mission of a collaborative process is to attend to both, the political community which is oriented to acting on a set of problems, and the wider community of stakeholders”.

Relying on the power of information and following an approach that engenders new ideas that incorporate notions of synergy, interconnectedness, and ecological integrity, are given as the superiorities of transformative approach (Dukes, 1993). These characteristics of the transformative approach facilitate re-framing the information so as to create shared knowledge,⁵⁴ and restructuring the thinking, perceptions, and attitudes of participants. Local knowledge, rather than scientific expertise, is recommended as a starting point for an inquiry in a platform in which knowing means making sense of issues. Only socially constructed knowledge can facilitate mutual understanding and guide practical action.⁵⁵ This model is seen as having the potential to bring together different symbolic meanings and values, as well as

⁵³ Lipschutz (1996) explained that to be able to create a shared vision, people need to be clear about who they are, and to belong to some place in a cultural sense. Creating a sense of local community is about enhancing local culture over time, strengthening local economy and self-sufficiency, and increasing self-determination of the community's future path.

⁵⁴ The task of creating shared knowledge in consensual group process involves informal, exploratory discussion designed to assure that stakeholders learn about each other's unarticulated interests and perspectives, and can result in both individual and group learning, and can change attitudes and commitments as well as behaviours (Innes, 1992; 1998a)

⁵⁵ According to Innes (1992) consensus-based processes imply learning and attitude change through communication that enable groups including experts, citizens, and officials to go through a process of mutual learning in order to create a shared conception of the intent of development, and to agree on specific ways to implement it. The assumption is that consensus-based processes as social processes can turn information into meaningful knowledge into action, i.e., they can contribute to the creation of common or shared knowledge, shared meaning and purpose, and balanced power while eliminating uncertainties. Innes (1996) also explains that social learning is grounded in a different view of knowledge; this knowledge is different than the knowledge developed by positivist approach that relies on experts using formal analyses and objective research methods to provide information for decision makers. It is meaningful knowledge that makes a difference; one that can help predict the effect of a decision in specific contexts and communities, and one that works in practice and is local.

multiple environmental and different political views, to define collective environmental goals or public interests in a social learning process (Williams and Matheny, 1995; Hajer, 1995). It is argued that issues such as property rights, land use control, or quality of life are linked to the values and meanings that belong to different groups or individuals, and the nature of social relation patterns, which are shaped in and by local culture, play a deterministic role in acknowledging the existence of a pluralistic set of values and interests in different groups (Healey, 1999; Innes, 1998).

Working with a pluralistic set of values and interests requires providing groups with the opportunity to build new relational patterns other than the confrontational or adversarial ones that dominate the practice of conflict resolution today. In the framework of a consensus-based communicative model, conflict management is introduced as a tool to manage consensual relational patterns, and is thus seen as a process of social construction (Susskind and McKearnan, 1994). However, its potential can be restricted by social, economic, and historical contexts as well as power structures (Laws, 1996). These dynamics can affect the process of incorporating the key stakeholders, providing them with equal voice, equal access to essential information, and preventing a single voice from dominating deliberations in the process (Innes, 1992). In order to prevent power imbalances, it is also recommended to include experts to help bridge the gap between technical and local knowledge, and to provide training and professional facilitation because most members are unaccustomed to such rules of interaction and many have been in adversarial relationships with one another. It is also expected that consensus-based decision-making processes have to be designed as adaptive processes to facilitate learning; to eliminate uncertainties and to create a shared meaning and purpose for innovation (Healey, 1999; Daniels and Walker, 1996).

2.4.3. Evaluating the Success of Environmental Mediation

There is a consensus that the success of collaborative efforts depends on a series of conditions. During the 1980s, the conditions that affect success were identified as the nature of the conflict (Susskind and Cruickshank, 1987; Bingham, 1986),⁵⁶ the number of participants (Smith, 1993;

⁵⁶ In Susskind and Cruickshank (1987) consensual approaches to dispute resolution such as mediation have been presented as more appropriate when the focus was on the distribution of tangible gains and losses, i.e., distributional disputes. Disputes on constitutional rights or moral value conflicts were not considered as appropriate to deal with mediation.

Bacow and Wheeler, 1984),⁵⁷ the willingness of parties to negotiate (Buckle and Thomas-Buckle, 1986; Bacow and Wheeler, 1984),⁵⁸ as well as institutional structures that include the power and the influence of the actors involved, their individual bargaining skills, and opportunities for co-operation and accommodation (Dorcey, 1986). Jacobs and RuBino (1989), on the other hand, observe that to be successful the mediation process requires a neutral mediator, a well-defined dispute, the pressure to make a decision, a relative balance of power among those bargaining, and the willingness to compromise. Also, participants have to have the authority to make and accept offers on behalf of the groups they represent.

In the 1990s, evaluation theories and methods based on the science of evaluation were dropped, and collaborative problem solving and dispute resolution principles (such as inclusion, cultural sensitivity, shared definitions, and empowerment of the end user) began to be used as the basis of evaluation studies instead (Campbell and Floyd, 1996; Flynn and Gunton, 1996). This was considered necessary to capture unique values offered by collaborative approaches (Patton, 1990; Guba and Lincoln, 1989). The conditions or criteria of success identified during the 1990s were different than those identified during the 1980s. Campbell and Floyd (1996) propose that evaluation studies have to be conducted to determine if: (a) consensual solutions lead to better environmental outcomes than other solutions, (b) environmental mediation indeed results in greater participant satisfaction, and (c) if it is really cost-effective. Flynn and Gunton (1996), on the other hand, recommend evaluating the application and usefulness of ADR on the basis of three objectives: (a) to improve the quality of natural resource management decisions, (b) to reduce conflict, and (c) to increase stakeholder involvement in natural resource management.

Sipe and Stiffler (1995) have formulated a three-level evaluation framework – outcomes, process, and the effectiveness of the mediator in managing the process and facilitating communication (see Table 2.4). Another group of studies concentrates on the evaluation of

⁵⁷ Bacow and Wheeler (1984) define the number of participant groups as an important factor that could affect the success of a mediation process because large number of participants would make the process unmanageable. Smith (1993) also argues that mediation can be effective when there are a small number of interested parties, and when the environmental issues are limited in scope and number because only then can it be sensitive to local concerns and less costly in terms of time and resources.

⁵⁸ Bacow and Wheeler (1984) define several incentives and disincentives to mediation that could affect the way groups think about mediation and being part of such a process.

skills and objectivity of the mediator because success or failure of a collaborative effort depends, above all, on the skills and abilities of the mediator (Goldfarb, 2001).

Table 2.4

Assessment of the Success of Environmental Mediation

<p>How mediation impacts the process:</p> <ul style="list-style-type: none"> • definition of issues • clarification of parties' viewpoints, interests, and positions • identification of options and alternative solutions • communication among parties • ability to reach general understanding • ability to reach specific agreement 	<p>How mediation impacted settlement, if one was made; quality of settlement:</p> <ul style="list-style-type: none"> • was it practical and workable? • was it just and fair to participating parties as well as non-participating parties? • was it stable and durable? • was it wise – did it represent the greatest good for the greatest number? • was it efficient in terms of time and money?
<p>Effectiveness of mediator in facilitating communication:</p> <ul style="list-style-type: none"> • facilitating group discussion • assisting parties in exploring their interests, generating options, and reaching and ratifying agreements 	<p>Effectiveness of mediator in managing the process:</p> <ul style="list-style-type: none"> • explaining what mediation is and how it works • setting up the pre-mediation meeting • evaluating the potential for using mediation • arranging for the selection of the mediator • assisting in contractual issues related to mediation • arranging for time and place for the mediation

Note. Adapted from Sipe and Stiffler, 1995.

In consensus-building literature, assessing the success of collaborative (or participatory) decision-making efforts has two components: process criteria and outcomes criteria. Process criteria address the components of a process that increase the likelihood of the parties coming to a successful resolution in a fair and equitable manner, while outcome criteria are used to assess process results (outcomes) or substantive decisions (quality of the decisions) (Wilson, Roseland, and Day, 1996).

Efforts to evaluate participatory processes have concentrated for some time on the assessment of outcomes. However, since the early 1990s, there is a growing interest in assessing the process as well. Some argue that process should be emphasized not only because good processes produce good outcomes, but also because the appropriateness of a participatory strategy depends more on the way that the technique of participation is implemented (Innes and Booher, 1999a, 1999b). This has initiated assessments of the mediation process in a context-based or context-bound analysis, because the success of environmental mediation has been determined by the context, i.e., the way it was set up in a specific institutional context (Campbell and Floyd, 1996), and because problem solving and decision making always take place in a context that includes all the constraints that define the current situation, the rules we have to follow, the resources we are constrained by, and groups or parties we have to deal with (Carlisle and Chechile, 1991). Decision making is always relative to the problem's context, so there is thus a link between the context and the process. According to Innes (1999), this is a shift from the analysis of process/outcome dynamics towards the analysis of context/process dynamics, which includes an analysis of following factors:

- opportunities and resources (such as procedural tools, knowledge, training, financial resources, or professional expertise) that exist for the expression of legitimate personal interests
- opportunities that exist to influence the process of participation (such as the distribution of roles and responsibilities, resources defining communication patterns, knowledge exchange, or agenda setting)
- success of the process in creating a platform in which mutual trust and continuous interaction among interest groups could exist, enabling a continuous interaction even after end of the process

The dynamic signalling this shift is the change from an instrumental to a transformative approach in ADR. Traditionally, mediation has been defined as a tool serving instrumental participation; that is, it led to quicker, cheaper, and better quality settlements than litigation or hearings. The expected contributions of mediation were: (a) decreasing the transaction cost of eliminating a conflict while increasing the quality of decisions; (b) maximizing mutual gain (the win-win solution) and establishing long-term relationships and trust; (c) securing individual interests and advancing the public good; and, (d) gathering relevant data jointly, to

develop a shared base of knowledge of the issue at hand (Campbell and Floyd, 1996). In the 1990s came a new understanding that deliberative approaches, including mediation, were tools for transforming environmental governance by empowering communities as the agents of sustainable development (Wondolleck and Yaffee, 2000, Maser, 1996; Wondolleck and Yaffee, 1994; Dukes, 1993).⁵⁹ However, a warning is in order: ADR processes can be very demanding for citizen groups, especially on their time and resources, and groups may also lack relevant substantive expertise and process skills compared to the participants from industry and government (Sirianni and Friedland, 2000).

The main assumption behind the transformative approach is that, by participating in these processes, people with less power can gain power by learning to exercise negotiation skills that will help re-frame a conflict, and by re-defining goals and objectives as shared goals and objectives (Dukes, 1993; Maser, 1996). The assessment of process is a critical step, because the way process is created shapes the platform that enables people's empowerment. To do this – i.e., to enable people's empowerment- changes are required in the way the process is designed, to rearrange the distribution of roles, responsibilities, and resources among parties, and to re-define the role played by the mediator as well as his or her qualities and responsibilities (Goldfarb, 2001). The mediator's role has to be re-directed, from a neutral position towards a position requiring the mediator to be responsible to disputants, to a broader public interest, and to environmental interests. The responsibility of the mediator to disputants becomes more to enable less powerful parties (even at the expense of losing the mediator's neutral position), and to replace the expert-opinion role with one of empowerment – one that includes enabling people to learn (Wondolleck and Yaffee, 1994).

Susskind and Cruickshank (1987) have suggested fairness, efficiency, wisdom, and stability as characteristics of good negotiated settlements. Todd (2001), based on Susskind and Cruickshank's study, categorizes fairness and efficiency as the process, and wisdom and stability as the outcome criteria. In early studies a fair process was defined as a process that

⁵⁹ Innovations in the public participation field are affecting environmental mediation and environmental conflict resolution practice in general. Civic Environmentalism perspective itself promotes the idea of environmental justice by empowering citizens and enabling public discourse by expanding public participation, and by enhancing citizen capacities through active learning. It is also described as a perspective that can provide citizen groups with the practical and analytical tools to manage collaborative problem-solving processes in their own interest, and to enhance their power resources.

allows each participant an equal chance to obtain every desired objective (Susskind and Cruickshank, 1987). In more recent studies, the definition of fairness has been broadened to include the capacity of groups to represent themselves effectively and consistently in a collaborative process where there is equality between groups in terms of negotiation capacity and skill, power to shape the process, and access to resources (Moore, 1998; Innes, 1999; Wondolleck and Yaffee, 2000). The perception of the participants themselves of their own positions inside the process is acknowledged as the main factor in assessing the fairness of a process (Susskind and Cruickshank, 1987; Moore, 1998; Wondolleck and Yaffee, 2000). Fairness can be affected by the attitudes and skills of the people who manage the process, i.e., whether they were responsive to the concerns of participants and to the concerns of all those who would be affected by the final decision. This requires managers to provide a process that is open to modifications by the participants i.e., allows the rules of game to be changed by the participants themselves, or with their consent. This creates an environment in which parties are willing to accommodate each other's special needs and concerns (Susskind and Cruickshank, 1987; Todd, 2001).

At all times, fairness of process is considered the most deterministic in assessing the success of collaborative processes, because it is assumed that only a fair process can produce practical and implementable outcomes. People will commit to a decision if they think that the process has been fair (Innes, 1999, 1998; Susskind and Cruickshank, 1987). The pre-conditions to fairness are identified as:

- all stakeholders were given a chance to get involved
- participation offer came at a timely juncture
- all parties were given access to information and technical resources
- all parties were able to express their views effectively and consistently – they had the necessary skills and resources
- all parties would use such a process again

Fairness is difficult to achieve if some measures are not taken. Yaffee and Wondolleck (1994, 2000) argue that training programs for citizen representatives are required in order to both empower community and citizen groups, and to enhance their negotiation power. In addition, allowing the representatives to keep in touch with their constituencies, defraying their costs of

participation, and providing them with technical assistance would be required. Also, parties have to be encouraged or guided to develop strong coalitions with other concerned citizens, since coalitions enable citizen groups to define areas of common interest, so that a coherent voice can be developed (Moore, 1998).

Environmental conflict resolution practices including mediation have emerged out of pluralist assumptions that support the institutional structure with tools facilitating proper interest representation. Interest representation is seen as a function of the stakeholders involved, their goals and objectives, and the approaches used to make representation within decision making (Innes, 1999; Susskind and Cruickshank, 1987). The question of who the stakeholders are and how to identify them is controversial and has been continuously investigated, along with fairness. Legitimacy, which includes issues of identification and inclusion of groups, representativeness, and accountability, is an area of great concern (Mascarenhas, 1999; Laws, 1996; Susskind and Cruickshank, 1987).

Ryder and Taylor (1998) include representativeness, along with other criteria, as the most critical element to successful negotiations; other criteria include the need to negotiate, power, technical clarity, commitment to implement, and urgency. For defining the degree of representation, they argue, it is necessary to understand if all parties were recognized and included in the process as legitimate participants before the final decision was made. In defining the degree of representation, they consider the participants' level of satisfaction as important as the negotiators' claims. They also argue that rather than asking whether all parties were represented, the main question has to be the issue of how parties are represented, by whom, how effectively, and how consistently (Ryder and Taylor, 1998). Smith (1993) considers exclusion or omission of stakeholders from the negotiation forum as the basic reason for the failure of negotiations.

The literature review also shows that the general tendency is to accept three basic interest groups as key players: public officials, citizens, and business interests. For Susskind and Cruickshank (1987), public officials are elected or appointed people who have duties of standard setting, resource allocation, and public policy formulation. The category of citizens includes consumers, public interest groups, and advocacy organizations. Lay citizens, community groups, environmental groups, and NGOs are all considered within the same

interest group. Business interests are profit-motivated groups who seek to maximize their return on investments.

In another study, Susskind (1993) defines four types of stakeholders who may participate: those with claims to legal protection, those with political clout, those with power to block negotiated agreements, and those with moral claims to public sympathy. For Carpenter (1999), the following individuals and groups must be included for the success of a consensus-building effort: those who are responsible for final decisions, those who are affected by the decisions, those who have relevant information and expertise, and those who have the power to block the decision. Ramirez (2000) recommends a two-level analysis. On the one hand, he proposes a set of questions to identify stakeholders: who has the power, legitimacy, or resources to convene others; who has the power to choose the criteria for including or excluding stakeholders; and who has the authority to define the reason or theme around which stakeholders are identified or stakeholder analysis takes place. The other dimension of this analysis is to see whether the stakeholder groups possess the necessary attributes to be able to represent themselves, namely power, legitimacy, and urgency. In more recent studies, based on the transformative approach, identifying the relevant public requires the development of a set of criteria for inclusion and exclusion (Innes, 1999).

In the environmental impact assessment (EIA) literature, criteria for good public decision making (for example, fairness and competence) and criteria for social learning are two main evaluative criteria. Weblar, Kastenholz, and Renn (1995) summarize the reasons for incorporating public participation in EIA as:

- the competence of final decision is higher when local knowledge is included and when expert knowledge is publicly examined
- the legitimacy of the final outcome is higher when potentially affected parties can state their own case before their peers and have equal chances to influence the outcome – i.e., the process is fair
- public participation is proper conduct for democratic governments in public decision making activities

In EIA literature the notion of learning is a criterion that has become very important for deliberative processes, because stakeholder interaction is accepted as a factor enabling greater accumulation of information and understanding, thus increasing both intellectual and social capital (Chess 2000; Webler et al., 1995).⁶⁰ Learning is also considered as a factor that enables new ideas and perceptions to be developed, and allows for complex issues to be considered by stakeholders from differing value systems.⁶¹

According to Saarikoski (2000), collaborative EIA can serve as a civic discovery process, where people can act together and find new solutions. However, the potential for learning and for finding mutually acceptable solutions depends on the legitimacy and institutional setting of the process – to what extent different perspectives were considered (and not only included) in the process and how EIA was connected to political decision-making processes (Shepherd and Bowler, 1997).

Most of the theories and models suggest the evaluation of the process in terms of its legitimacy, fairness, and competence, as well as in terms of social learning. Fairness is about understanding the ability of the process to permit people to participate in the interaction, initiate dialogue, and challenge and defend claims (Webler et al., 1995). Competency is about facilitating the use of the best available information (Webler et al., 1995). Legitimacy is about understanding to what extent different voices were included and heard in the EIA process, and what influence they had on the final decisions (Saarikoski, 2000).

A legitimate and fair or balanced process is one in which interests are adequately represented, concerns are expressed and heard, time and logistics are appropriate, and control over the outcome is equally distributed; where parties gain enough knowledge and confidence to participate in discussions, are able to use their own terminology and can understand each others' terminology, and can understand the report produced at the end (Innes, 1999; Innes and

⁶⁰ Intellectual capital is defined as knowledge resources, i.e., the store of ideas and shared knowledge that develop in time as participants engage in debates. Social capital refers to the extent of relational resources that exist among the participants, such as trust available to be shared and developed (Healey, 1999).

⁶¹ In practical terms, the process of learning can help in alleviating some problems that arise when proposals are presented as a *fait accompli*, or when communities are not engaged early enough (Wondolleck and Yaffee, 2000).

Booher, 1999a, 1999b). The process is expected to empower parties to argue better for themselves in the future; to help them change the way they frame the issues; to provide help to articulate and express their interests, and present experience-based concerns; and, to ask questions about all issues including technical ones (Laws, 1996). Practices that might undermine the legitimacy of a process include excluding certain voices and perspectives, omitting certain items from the agenda; presenting certain arguments as self-evident truths that can not be questioned; and, using authority derived from expertise and resources to defend a case, dominate the discussion and silence those who have less substantive knowledge (Healey, 1999; Innes and Booher, 1999b).

Assessment of fairness requires an assessment of power differences among participants in terms of availability of resources and negotiation experience (Webler et al., 1995). It also requires the capacity of groups to lead the process. The negotiation interests of the parties – i.e., their strategies and positions – also need to be addressed (Moore, 1998). The main dimension of legitimacy, representation, is assessed in terms of its effectiveness and consistency (Mascarenhas, 1999). A representative process is the one that does not exclude any group and includes all the relevant groups. Such groups must be identified according to their interests and the concerns they represent or advocate, as well as their geographical location (Mascarenhas, 1999; Laws, 1996).

Inclusion of local knowledge is given as another indicator of the level of representativeness (Mascarenhas, 1999). Other indicators include: appropriate roles for the public and for experts within the process, the form of participation, the structure of the decision-making process, any parallel processes, and participants' perceptions about the accountability of government – if it is taking responsibility to provide a good decision-making process and public participation mechanism (Saarikoski, 2000).

In both ADR and EIA research, the decision-making context, the nature of conflict, and the willingness of parties to participate are considered critical for collaborative processes to be appropriate and successful. In ADR literature *context* is defined as the institutional structure in which collaborative decision-making process takes place (Smith, 1993). For Dorsey (1987), the institutional structures, the power and influence of the actors involved, their individual negotiation skills, and their opportunities for co-operation and accommodation are critical to

success. The design of the process and its integration into formal decision-making processes with respect to such issues as legitimacy, accountability, and representation are considered critical.

For Smith (1993), the effectiveness of mediation for resolving environmental disputes also depends on the context (institutional structure) in which conflicts are addressed. In practice, existing structures and conventional means for conflict resolution are limited; the challenge is to create a context in which joint problem solving is rewarded. Incentives for people to come to the negotiation table and incentives to improve communication between parties are all provided by the context. Negotiations are not only affected by the way interest groups are identified, but also by the current state of decision-making in the public sector and the role of citizens in the decision-making process, as well as by the way public is informed and involved (Smith, 1993; Dorsey and Reik, 1987.) Political economists such as Modavi (1996: 24) argue that “mediation could be no fairer than the larger political context in which it takes place”.

In recent consensus-based decision-making ADR literature, the nature of the context helps determine whether a co-operative vision of mediation can be developed; for this, non-adversarial qualities such as trust and mutual respect are necessary (Innes and Booher, 1999a). A quality agreement is only possible within such a co-operative environment, where parties feel that power imbalances are eliminated, and where they agree that unilateral action (or any alternative action) will not serve their objectives better (Healey, 1999; Susskind and Cruickshank, 1987). In most recent consensus-based decision-making literature, *context* is described as the framework shaped by social, economic, historical, and cultural dimensions (Innes and Booher, 1999a, 1999b; Innes, 1999). This framework is also described as the force shaping the characteristics of conflict. Table 2.5 presents a summary of the criteria in the literature for assessing collaborative and consensus-based approaches to decision-making.

Hypothesis I

Environmental mediation has been set up in the environmental assessment and review procedure (PÉEIE) for sanitary landfill site projects in Québec in such a way as to underestimate legitimacy and fairness. This is caused by the institutional structure in which environmental mediation is administered. This also prevents it from becoming a truly democratic decision-making process and hampers its capacity to transform the institutional structure itself into a form that would facilitate democratic decision-making processes.

In Québec, environmental mediation has been introduced as an alternative tool to avoid the public hearing process whenever possible in order to avoid the drawbacks of that process (such as the polarization of ideas), and to facilitate a faster, less expensive decision-making process with clearer results. It is incorporated into the PÉEIE at the very end of the process, after the EIA study (environmental impact statement, or EIS) has been completed by the proponent and approved by the Ministry of the Environment. These contextual characteristics have led to the creation of a reactive and adversarial process, preventing it from becoming truly collaborative. Environmental mediation has become known as the model that allows the participation of a limited number of stakeholders to negotiate or deliberate on a limited number of issues, in a limited time. It is a ministerial prerogative i.e., there is no conflict assessment phase in the procedure, and no way to identify the relevant stakeholders and issues – no means of determining the feasibility and appropriateness of an environmental mediation in which all stakeholders might collaborate.

Because of late involvement of the public, the environmental mediation process is adversarial in nature. Identifying stakeholders and interests has to start early in an EIA process in order to help create a constructive environment in which conflicts are resolved effectively. When it is time to resolve conflicts, the groups or individuals have to be in position – they must already have been informed about the technical issues, become familiar with the other points of view, and established mutual trust and respect. A considerable amount of time may have to be devoted to constructive, direct confrontation among the groups. This is the only way to initiate and support transformation in the direction of sustainable development. Early identification and notification also helps increase stakeholder interest in participating. In order to ensure legitimacy, all relevant groups and individuals must be included in an active way. Furthermore, individuals representing others must be in touch regularly with their constituencies. Also,

Table 2.5

Criteria for Assessing Collaborative (or Participative) and Consensus-based Approaches to Decision Making

Public Participation Literature (general)	ADR & Consensus-Building Literature	Public Participation in EIA Literature	Consensus-Building in Solid Waste Management Literature
Instrumental participation: • efficiency and effectiveness	Context: • institutional context • context of the problem	Competence • local knowledge • publicly examined expert knowledge	Effective empowerment of public through proactive involvement
Transformative participation: • interest representation • social learning (relational and knowledge resources)	Process evaluation: • inclusiveness, accountability, legitimacy, fairness, openness	Fairness	Fair decision
	Outcome evaluation: • tangible outcomes – quality agreements • intangible outcomes – social and intellectual capital	Social learning	Active support for decision making

2.5. Hypotheses

To assess the performance of ADR techniques, including environmental mediation, as collaborative or participatory decision-making tools that enable effective public participation, one must analyze the performance of these tools in terms of their contribution to the effective involvement of relevant groups. This requires analyzing the quality and degree of legitimacy and the fairness of participatory process in relation to the context, because the institutional setting or decision-making structure in which the public participation process takes place predetermines its degree and quality of legitimacy and fairness.

The success of ADR techniques – including environmental mediation – as collaborative decision-making tools is contingent upon having all relevant stakeholder groups represented. The process has to be inclusive, representative, and accountable. Formal procedures must be in place for identifying and notifying relevant interests, for helping to organize any relevant informal interest groups, and for adding new stakeholder interests that may emerge during the process. Early identification, notification, and involvement of stakeholders help create an environment in which adversarial positions are left behind in favour of a platform that enables the development of the co-operative vision essential for the effective resolution of conflicts. The process must be accountable: stakeholder representatives have to be accountable to their respective organizations or constituencies, and the process also needs to be accountable to the general public.

Legitimacy alone is not sufficient for an effective process. The process has also to be fair. Disparities in knowledge, skills, and resources among stakeholder groups are inevitable. Most of the time, these disparities work in favour of proponents – usually, industry or business – who have superior resources and create an unfair or unbalanced process. Eliminating or mitigating inequities is necessary for the achievement of a fair process. One way of doing this is to enable individuals and groups to express their views effectively and consistently; and to make and challenge claims, through providing training in relevant skills such as negotiation and technical analysis. They also need to be provided with equal access to information and professional expertise, and with the financial resources to cover the cost of participation. Another way of mitigating inequity is to change the distribution of roles and responsibilities of participants – including the mediator, the proponent, and the disputant. Roles and responsibilities must be distributed equally among the groups with respect to: the ground rules of the process; the design of the process; setting the agenda, time, and location; identifying the issues; sources of information to be used; and, selection of the interaction and communication patterns.

Obviously, context helps determine whether a legitimate and fair process can be achieved. Whether and how individuals, groups, and the general public have access to a process as well as to resources (including information) that enable them to participate effectively and consistently have been determined by the way the participatory model has been institutionalized. The same applies to the powers they share inside the process. Based on these premises we have formulated our hypotheses as below:

participation works most effectively when interests are defined properly and when each of these interests is satisfied with a level of participation that suits their objectives.

Hypothesis II

Access to the process alone, however, will not ensure that a group will be successful in influencing decisions. The process has to also be fair. A fair process is possible between groups who have equal power, resources, and knowledge. The fairness of a process is also influenced by the institutional context (or structure).

In Québec, the environmental mediation process in EIA for solid waste landfill projects is not a fair process, because it works for the benefit of the proponents of the projects. In Québec's public hearing processes, the experts share scientific details with the individual participants. This can be applied in environmental mediation process as well, but on a very limited basis. The information and consultation meeting alone, without a question period, is not sufficient to enable individuals and citizens' groups to understand and learn about the file. In addition, these groups do not have access to any training program or financial support. Thus, they lack the capacity to negotiate effectively and consistently, and to raise relevant issues properly; this diminishes their chances to influence the decision-making process and helps proponents avoid a detailed inquiry about scientific issues. This has also been encouraged by the time frame of the mediation process.

2.6. Research Questions

We formulated our research questions at two levels: conceptual and empirical. At the conceptual level, we wanted to explore the relationship between context, process, and content. The questions were formulated as follows:

1. Is the environmental mediation process a legitimate and fair process?
2. How does the institutional context affect the legitimacy and fairness of the environmental mediation process?
3. How effective is the environmental mediation process in transforming the institutional context in which it is set up into a structure that facilitates more democratic decision-making processes?

In order to support our conceptual questions we formulated our empirical questions as follows:

1. When and why do we use environmental mediation in EIA?
 - 1.a. Are there clear guidelines about using it for the sanitary landfill site projects?
 - 1.b. Who has the power to select environmental mediation as the appropriate approach, and what are the criteria of appropriateness?
 - 1.c. Is there any reference to the characteristics of cases in the selection and design of the mediation process?
2. Is the environmental mediation process an accessible, legitimate process?
 - 2.a. Who has power to determine criteria for inclusion and exclusion of participants?
 - 2.b. What are the incentives and disincentives to participate?
 - 2.c. How and when are the participants identified, notified, and involved?
 - 2.d. To what extent are the values, interests, and concerns of the process representative of environmental interests or representative of the interests of the general public?
3. Is the environmental mediation process fair?
 - 3.a. How are the roles and responsibilities distributed among the stakeholders inside the process?
 - 3.b. What resources are available to enable the effective participation of individuals and groups?
 - 3.c. Do individuals and groups feel empowered by the process, i.e., are they able to represent themselves and influence the final decision?
4. Are there any transformations in the EIA procedure to improve process legitimacy and process fairness in time?

2.7. Methodology

The use of both qualitative and quantitative techniques is required to prove the hypotheses of this study.

In the first part of the research study, we explore the foundations of environmental mediation process in the Québec's EIA procedure. This historical analysis details the incorporation of environmental mediation into the EIA in general and for sanitary landfill projects in particular. As well, the objectives and functioning of environmental mediation processes in the EIA are compared to the objectives and functioning of the public hearing processes. We used the

content analysis technique on reports and other documents (such as web pages), as well as other studies done on the same subject. Interviews with resource persons helped to complete this analysis.

Keeping in mind two of the meta-criteria for the assessment of the quality of public participation in the EIA, namely the legitimacy and the fairness of the process, we analyzed the legal provisions and opportunities for public participation in the EIA. This institutional analysis provided details about the groups with legitimate power such as the form of power distribution or the distribution of rights and responsibilities, the identification of stakeholders and issues, and the designing of the environmental process. We analyzed established procedures in terms of the participation opportunities they provide, their capacity to enable the proper identification and inclusion of the relevant groups into the process, and the criteria for appropriateness of the participation model, i.e., environmental mediation. This included an analysis of the accessibility to the process. Secondly, legal provisions, including laws, regulations, and rules, were analyzed in term of the means they provide for helping parties, specifically individuals and citizen or environmentalist groups, develop or build the necessary attributes or capacity for effective participation. In order to elaborate and understand the issue of capacity building, we looked at the training opportunities and the financial and human resources that are made available to these groups. This included an analysis of access to resources, including information. The analysis was done on a comparative basis and in a historical perspective, since the focus of the study is on understanding the changes in these provisions and opportunities that took place between 1993 and 2002.

The first phase of the research was to analyze the environmental mediation process within its institutional context. This analysis helped provide understanding about whether effective public participation was encouraged or discouraged, and whether any change or transformation towards a democratic decision-making process had been facilitated over time within the PÉEIE framework in Québec. For this purpose, we compared public hearing and environmental mediation processes for sanitary landfill sites in terms of actors involved, objectives or rationales, distribution of roles and responsibilities as well as resources available to actors. This context-based, institutional, analysis helped set the base for the analysis of the environmental mediation process in terms of its legitimacy and fairness.

For this phase of the research, the main sources of data were legal documents regulating public participation in EIA procedure and in the solid waste management field as well as research done in the area. These documents were analyzed by content and discourse analysis techniques. In addition, we conducted semi-structured interviews with resource persons.

In the second phase of the research study, we conducted a comparative case study analysis in order to explore the nature of environmental mediation process in relation to the context and to discern whether the context was affecting or shaping the process. To do this, we compared eight individual environmental mediation cases in terms of:

- location or geographical span, and scale of the project (i.e., proposed capacity increase and justification of project)
- nature of issues underlined by the disputant groups
- reasons for refusal of mediation process
- actors (or stakeholders involved) and their interests
- notification and information of the public of the process and of the project as the analysis of inclusiveness
- representation of interests
- representation and inclusion of environmental and general public interest

For this part of the research study, the main sources of information were the summary reports (*compte rendu*) of the information and public consultation meetings and the mediation reports (*rapports d'enquête et de la médiation*) prepared by the BAPE Commissions at the end of each environmental mediation process. In addition, we used data derived from the questionnaire survey and semi-structured interviews conducted with all three groups of participants: mediators, proponents, and disputants.

At the second phase of process analysis, we concentrated on the analysis of the fairness of the environmental mediation process. We applied another case study analysis using four out of the eight environmental mediation cases for sanitary landfill sites, to explore distribution of roles and responsibilities among three groups of participants – mediator, proponent and disputant. We focused particularly on the roles and responsibilities that the citizen and environmentalist groups, as disputant groups, assumed in designing and managing the process, and the rights

they exercised in arranging communications and deliberations, including setting the agenda, defining the ground rules, deciding on time and logistics. We also looked at interaction patterns and the sources of information that had to be used for designing and managing the process. Then we looked at the power to select the appropriate approach and the power to identify stakeholders (powers of inclusion and exclusion), the power to negotiate (capacity and skills), and the power to influence the final decision.

The perceptions, attitudes and strategies of the participants were the data used. The main objective of this phase of the research was to explore the transformations in the representatives' perceptions of their access to the decision-making process and their empowerment within it. This contributed to an understanding of the groups' perceptions of the appropriateness and feasibility of environmental mediation, and of their own position as well as the power and position of other groups, such as the mediator and the proponents. The semi-structured interviews and a complementary questionnaire survey were used together as the sources of data for this part of the research.

After this, we directed our attention to the second measure of fairness, that is, access to resources – including the information, training, financial, and human resources available to individuals and citizens' and environmentalist groups to enable them to participate effectively. We explored what would enable them to express their interests, to make and challenge any claims including the scientific ones, and to represent and keep in touch with their constituencies. In order to assess access to information we compared the environmental mediation and public hearing processes in one specific case, Cowansville, where both processes had been used. To make our comparison, we looked at the time and the content of interventions in both mediation and hearing processes. The environmental mediation and the public hearing report for the Cowansville case, as well as transcripts of the minutes of meetings, were reviewed using the content analysis technique.

In all phases, we specifically concentrated our efforts on finding out whether anything new had been created or introduced into the legal provisions and into the procedure for facilitating a legitimate, fair, effective and high quality public participation process, in the period between 1993 and 2002. In the analysis of the transformations of the perceptions for the same period,

we also kept the same objective in mind, namely, to understand if the participants had changed their perceptions of the process as being legitimate (or accessible) and fair (empowering).

CHAPTER III

3. METHODOLOGY

In the pragmatic view of environmentalism, evaluating environmental public participation requires the evaluation of actual progress, in specific terms (Chess, 2000). Evaluating environmental public participation is “a way to mark progress towards the goals of environmental quality, i.e., ecological integrity and other goals related to environmental governance, e.g., democracy through institutional change” (Chess, 2000: 283). In this study our objective is to assess the performance of environmental mediation as a democratic decision-making tool for encouraging effective public participation. Our hypotheses are that legitimacy and fairness in the environmental mediation process, as it is adopted in the environmental assessment and review procedure (PÉEIE) in Québec, are at issue, and that this is caused by the context, i.e., the institutional structure that has shaped the practice of environmental mediation.

The methodology adopted to demonstrate the research hypotheses of this study is comprised of four sections. In the first section, we present the research strategy chosen and explain why it is appropriate. In this section, we also establish the rationale for adopting a multi-level comparative case study analysis and define the criteria for selection of cases. The second section presents the dimensions of analysis. In the third and forth sections, we present the data file, and the data collection and analysis methods respectively.

3.1. Research Strategy

In this study, the main mode of research is a case study analysis, supported by different data collection techniques including document review, semi-structured interviews, and questionnaire survey. We employed several techniques to analyze the data, including historical analysis, content analysis, discourse analysis, and chronology of events.

The objective of case study analysis is to illuminate a decision or set of decisions – why they were taken, how they were implemented, and with what results (Miles and Huberman, 1994; Neumann, 1994; Yin, 1989). As a research strategy, it is uniquely appropriate to our research question. According to Neumann (1994), case study analysis suits perfectly when the study object is a decision, a process, or a strategy.

The case study is also the preferred strategy in evaluation research (Patton, 1997, 1990). The literature review shows that the case study is the main strategy used for evaluating environmental mediation or collaborative techniques in general (Susskind and Thomas-Larmer, 1999; Sipe, 1998; Sipe and Stiffler, 1995; Bingham, 1986; Talbot, 1983).

3.1.1. Comparative Case Study Analysis

Case study analysis helps explore an object in its real-life context (Yin, 1989). This is important in the analysis of environmental mediation as a participatory approach. In this study, in order to demonstrate our hypotheses, we designed four levels of comparative case study analysis in order to help analyze the process of environmental mediation cases in relation to the context. First, we compared environmental mediation and public hearing procedures in order to establish the context of public participation in the PÉEIE. Next, we compared eight individual environmental mediation cases – all sanitary landfill projects – in order to understand the process' appropriateness, legitimacy, and fairness in relation to the context of public participation in the PÉEIE. Thirdly, in order to enhance our understanding of fairness in the environmental process, we compared four individual environmental mediation cases in terms of distribution of roles and responsibilities among the participants, and fourthly, we compared the environmental mediation and public hearing processes in one specific case. By this we aimed to enhance our understanding of the fairness of process in terms of access to information as a resource.

3.1.1.a. Selection of Cases

A comparative analysis of environmental mediation and public hearing processes illustrated the similarities and differences between these two processes with reference to the way they were institutionalized in the PÉEIE in Québec.

In the comparative analysis of the eight individual environmental mediation cases, our objective was to explore the appropriateness of the technique and the legitimacy and fairness of the process. This was to provide us with a critical understanding of the current practice of environmental mediation in the PÉEIE for sanitary landfill projects in Québec in terms of the effects of the institutional context on the process and on the content, and vice versa. Table 3.1 presents these eight cases:

Table 3.1

Individual Sanitary Landfill Cases

BAPE Report Number	Report Date	Project
83	September 1, 1994	Projet d'agrandissement du lieu d'enfouissement sanitaire de la compagnie Usine de Triage Lachenaie, Inc.
88	March 10, 1995	Projet d'agrandissement du lieu d'enfouissement sanitaire à la carrière Demix par la Communauté Urbaine de Montréal
98	September 1, 1995	Projet de modification du lieu d'enfouissement sanitaire de Champlain
103	May 9, 1996	Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville
110	April 3, 1997	Lieux publics d'élimination des déchets à Saint-Alban
112	May 8, 1997	Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Rosaire
132	March 16, 1999	Aménagement d'un nouveau lieu d'enfouissement sanitaire à Gaspé (secteur Wakeham)
133	February 25, 1999	Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Côme-Linière

Table 3.2 presents details of eight individual cases in terms of participants and results obtained at the end of the mediation processes.

Table 3.2

Assessing Fairness in Selected Individual Cases – Distribution of Powers

Project/Year	Disputants	Mediator	Developer	Result
1994 Lachenaie	Local & provincial environmentalist groups	Johanne Gélinas	Private firm • BFI Usine Triage Lachenaie Inc.)	No mediation – public hearing held instead
1995 Demix	Regional and provincial environmentalist groups	Claudette Journault	Communauté Urbaine de Montréal	No mediation – public hearing held instead
1995 Champlain	Individual(s)	Johanne Gélinas	Régie Intermunicipal	No agreement at end of mediation – public hearing requests ruled “frivolous”
1996 Cowansville	Individual citizens	Gisèle Pagé	Régie Intermunicipale	No agreement at end of mediation – public hearing held
1997 Saint-Alban	Local environmentalist group	Réal L’Heureux	Régie Intermunicipal	Agreement at end of mediation
1997 Saint-Rosaire	Individual(s)	Camille Genest	Private firm • Services Sanitaire Gaudreau)	No agreement at end of mediation – public hearing requests ruled “frivolous”
1999 Gaspé	Individual, local, & provincial environmentalist groups	Gisèle Pagé	Ville de Gaspé	Agreement at end of mediation
1999 Saint-Côme-Linière	Citizen committee and provincial environmentalist group	Camille Genest	Régie Intermunicipal	Agreement at end of mediation

In order to assess the fairness of the environmental mediation process in terms of the distribution of roles, responsibilities, and resources we compared four individual cases – Lachenaie, Champlain, Saint-Rosaire and Saint-Côme-Linière – in terms of distribution of roles and responsibilities in process design and management, setting agenda, ground rules and logistics, as well as access to resources. As an important measure of fairness we also analyzed the perceptions of disputants on powers of access (inclusion and exclusion), powers to negotiate (capacity and skills) and powers to influence the final decision. For the internal validity of this phase of the comparative case study analysis, we chose four cases managed by the same mediators – the first two by Johanne Gélinais, the other two by Camille Genest. These cases were also similar in terms of the proponents and scale of the projects – Lachenaie and Saint-Rosaire were regional, while Champlain and Saint-Côme-Linière were local projects. The proponents of first two projects were private companies, one international and one local, while the proponents of other two were intermunicipal agencies (Regiés Intermunicipal). The comparative analysis of first and last cases (Lachenaie in 1994 and Saint-Côme-Linière in 1999) explores the transformations in the process design in time.

Table 3.3

*Assessing Fairness in Selected Individual Cases –
Distribution of Roles, Responsibilities and Resources*

Project/Year	Stakeholders	Mediator	Developer	Result
1994 Lachenaie	Local & provincial environmentalist groups	Johanne Gélinais	Private firm • BFI Usine Triage Lachenaie Inc.)	No mediation – public hearing held instead
1995 Champlain	Individual(s)	Johanne Gélinais	Regié Intermunicipal	No agreement at end of mediation – public hearing requests ruled “frivolous”

(table continues)

Table 3.3. (continued)

1997 Saint-Rosaire	Individual(s)	Camille Genest	Private firm • Services Sanitaire Gaudreau)	No agreement at end of mediation – public hearing requests ruled “frivolous”
1999 Saint-Côme-Linière	Citizen committee and provincial environmentalist group	Camille Genest	Régié Intermunicipal	Agreement at end of mediation

In the last phase of comparative case study analysis, we compared environmental mediation and public hearing processes in one specific case – Cowansville – to enhance our analysis of legitimacy (or access to process) and fairness (or access to resources). As an indicator of fairness, we focused particularly on access to information in the form of technical expertise.

3.2. Dimensions of Analysis

In Chapter Two, we discussed various theories and concepts: alternative dispute resolution, consensus-based collaborative decision making, and evaluation of environmental public participation including public participation in environmental impact assessments. At the end of this discussion, which was based on a literature review, we found that analyzing a process in terms of its fairness and legitimacy – i.e., its openness, inclusiveness, representation, and accountability – is crucial. The review also revealed that the assessment of the performance of an environmental mediation process, just like any other participatory process, has to be context-bound because problem solving and decision-making take place in the context of problems, including all the constraints that define the current situation. Decision making is always relative to context, and the context of environmental mediation is the institutional structure in which it is administered.

We then formulated our own framework, in which we assessed the performance of one of the participatory techniques applied to sanitary landfill site projects in Québec – namely, environmental mediation. This framework required, first, an analysis of context (i.e., institutional structure) in relation to its effects on the process and on the content (discourse); and, second, an assessment of legitimacy and fairness in the process itself as indicators of its

quality in facilitating effective public participation. Then we looked at the transformations in legal provisions and perceptions of individuals, in an effort to explore transformations in the context as facilitated by the power of the content (or discourse) of the deliberations.

Our hypotheses suggest that the effectiveness of the environmental mediation process in Québec's environmental assessment and review procedure is limited, due to problems of legitimacy and fairness, which in turn are related to the institutional structure administering environmental mediation. In order to test our hypotheses, we first analyzed the context of environmental mediation in EIA for sanitary landfill projects, i.e., its foundation in EIA procedure and the conditions under which it was incorporated into the procedure. Secondly, we compared the public hearing and the environmental mediation processes in terms of the way they had been institutionalized in the procedure. This required an analysis of the objectives and rationales of the two processes, as well as their process dynamics and distribution of roles, responsibilities, and resources among the actors involved. For this, we looked at the legal provisions that regulate these factors and transformations in these provisions.

To analyze the legitimacy of the process, we looked at its inclusiveness, interest representation, and accountability. To analyze its fairness, we explored the distribution of roles and responsibilities in its design and management, and in setting the agenda, the ground rules (rules of communication), and logistics. We also explored resources that were available to citizen and environmental groups to help them participate and negotiate effectively and consistently, and to influence final decisions within the mediation process.

We also analyzed participants' perceptions about their own powers to negotiate, to influence final decisions, as well as powers of inclusion and exclusion and access to resources, including information, training, and financial and human resources.

The analysis of the transformations in participant perceptions included their understanding of:

- the position and negotiation interests of other groups
- their own position, capacity and negotiation interests/objectives and willingness to participate
- government's support for the process

- accessibility to the process
- their satisfaction with the process

Participants' satisfaction levels were analyzed by examining the following issues:

- The process enabled the articulation of individual interests and the representation of the views and experience-based concerns as well as the inclusion of experience-based knowledge.
- The time frame and logistics were appropriate.
- It was a balanced process, because:
 - it provided the individuals and groups with enough (substantive) knowledge and information to participate in discussions, initiate dialogue, put forward issues, raise questions on all subjects including scientific issues, criticize and defend arguments, give and require justification, make and challenge the claims
 - it provided individuals and groups with resources including technical, legal, and negotiation expertise to increase the negotiation potential as well as the financial and human resources (in the form of professional expertise and administrative staff) to undertake research studies and to produce information to support their position
 - it provided individuals and groups with the power to influence the final decision
 - it did not permit some groups to prevent certain issues from being included in the agenda, to limit the scope of the process, or to use the authority derived from expertise and resources to dominate the discussions
 - it provided all individuals and groups with equal rights to set the agenda and ground rules, to define the logistics, and designate the sources and kinds of information and expertise to be used

Transformations were analyzed based also on objective (or normative) criteria, including transformations in legal provisions, such as laws, rules, and regulations, related to the conduct of environmental mediation, to see whether they had been modified to encourage changes in:

- the objectives and rationale of the environmental mediation process, to reposition it and redefine its expected contributions

- the appropriateness criteria and the process of selecting environmental mediation and determining its feasibility
- the process of stakeholder identification and the criteria for inclusion and exclusion
- the boundaries of participation, i.e., to expand the form of participation and access to the participation process including changing the way roles, rights, and responsibilities have been distributed in the EIA procedure and inside the environmental mediation process to:
 - provide the groups with appropriate means to build negotiation capacity and to enable their effective and consistent participation
 - help the representatives establish communication networks with their constituencies
 - keep the general public informed

Table 3.4 presents a summary of these dimensions of analysis.

Table 3.4

Dimensions of Analysis

Context	<ol style="list-style-type: none"> 1. Foundations of environmental mediation (conditions under which it was incorporated in the EIA procedure in Québec) 2. Legal provisions for public participation in EIA: Comparative institutional analysis of public hearing and environmental mediation processes (objectives, mechanics, actors, distribution of roles and responsibilities, resources) 3. Transformations in legal provisions
Process	<ol style="list-style-type: none"> 1. Appropriateness of environmental mediation and selection process: <ul style="list-style-type: none"> • Characteristics of the cases • Willingness of the parties to participate • Nature of the issues 2. Legitimacy (access to the process) <ul style="list-style-type: none"> • Inclusiveness: notification and information of the public of the process and of the project • Representation: identification of stakeholders and selection of representatives • Accountability: representation of general public and environmental interests 3. Fairness <ul style="list-style-type: none"> • Distribution of roles/responsibilities in designing/managing process • Participants' perceptions re their powers of inclusion/exclusion & of negotiating/influencing final decision • Access to resources including information, training, and financial resources
Transformation	<ol style="list-style-type: none"> 1. Transformations in legal provisions regulating public participation in environmental assessment and review procedure (PÉEIE) 2. Transformations in legal provisions and perceptions regarding selection of environmental mediation as the appropriate mode of public participation 3. Legitimacy of the process 4. Fairness of the process

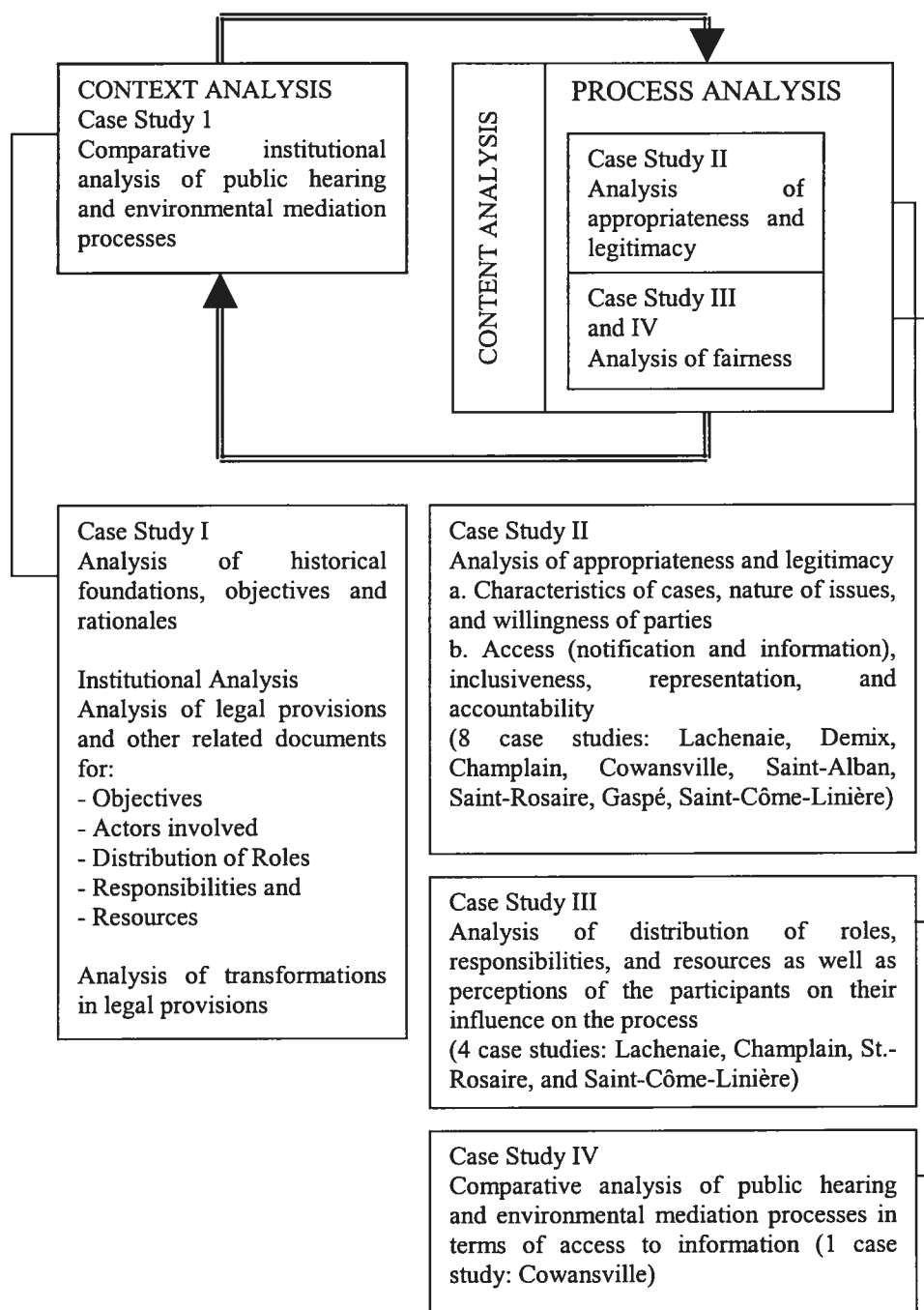


Figure 3.1. Structure of multi-layer case study analysis

3.3. Data File

Many researchers are concerned that neither qualitative nor quantitative research, in isolation from the other, will provide an accurate and complete understanding of human beings and their social environment (Marshall and Rossman, 1996; Creswell, 1994). In the evaluation literature (Patton, 1990; Todd, 2001), methodological pluralism (or triangulation) is considered an essential characteristic for the integrity of research, i.e., for objective evaluation, as it represents a way to integrate these two research approaches (Breitmayer, Ayers, and Knafl, 1993).

Triangulation is a “combination of multi-methods in a study of the same object or event to depict more accurately the phenomenon being investigated” (Cowman, 1993: 788). It uses a combination of qualitative and quantitative research techniques to help generate different types of data from different sources that will be used to test the same set of hypotheses (Denzin and Lincoln, 1994). There are different types of triangulation: triangulation by sources, which requires the collection of data from different sources; and triangulation by method, which requires the use of different data collection strategies. Multiple sources and perspectives are used in order to reduce the chance of systematic bias, and to increase trustworthiness (Laws, Steward, Letts, Pollock, Bosch, and Westmorland, 1998).

In the evaluation literature, in order to achieve methodological pluralism, in assessing success or performance the use of theory-based and user-based criteria together is recommended (Patton, 1997). Normative criteria are derived from theories and models that provide lenses for understanding a specific issue. A set of normative or theory-based criteria can also be derived through a process of building on other research (Patton, 1997, 1990; Chess, 2000). User-based criteria, on the other hand, are constructed by the groups involved themselves through their own reflection on the situations in which they were participants (Todd, 2001). Methodological pluralism brings objectivity (integrity) into an evaluation effort in these ways:

- helps achieve sensitivity to differences in the goals, objectives, or interests in participants’ perceptions
- facilitates comparisons between cases and sectors, e.g., environmental sectors such as water, energy, transportation, or solid waste:

- as well as between public participation forums, e.g., public hearings, environmental mediations, or citizen forums
- identifies differences between theoretical criteria and user-based criteria (Patton, 1997; Chess, 2000; Todd, 2001).

In order to test our hypotheses and to achieve methodological pluralism, we used different sources of information to accumulate knowledge on the same dimensions, to provide added abilities to explore the context and the process, and to ensure the quality of research (Cresswell, 1994). Evidence for this study came from three main sources: documents, interviews and a questionnaire survey. We collected data from legal provisions, internal reports, case reports, and other research done in the same field. Table 3.5 summarizes the dimensions and sources of data used to analyze each dimension defined above.

Table 3.5
*Data File*⁶²

	Document Review	Semi-structured Interview	Questionnaire Survey
Foundations of environmental mediation (conditions under which it was incorporated into PÉEIE procedure)	<ul style="list-style-type: none"> • Internal BAPE reports • Other research done in the same field 	Resource person interviews: <ul style="list-style-type: none"> • André Beauchamp • Louise Roy • Claudette Journault 	
Comparative analysis of public hearing and environmental mediation processes in solid waste management	<ul style="list-style-type: none"> • Legal documents (related laws and regulations) • Other research done in the same field 	Resource person interviews: <ul style="list-style-type: none"> • André Beauchamp • Louise Roy • Claudette Journault 	

(table continues)

⁶² The list of documents consulted for institutional analysis, the interviewee list, the questionnaire survey, and the results of the questionnaire survey are presented in Appendices A and B.

Table 3.5. (continued)

	Document Review	Semi-structured Interview	Questionnaire Survey
Analysis of Process: Appropriateness of environmental mediation <ul style="list-style-type: none"> • characteristics of these cases • willingness of the parties to participate in mediation process • nature of the issues 	<ul style="list-style-type: none"> • BAPE inquiry and environmental mediation reports for 8 individual cases 	Interviews with three groups of participants: <ul style="list-style-type: none"> • Mediators • Proponents • Disputants 	<ul style="list-style-type: none"> • Mediators • Proponents • Disputants
Analysis of Process: Legitimacy <ul style="list-style-type: none"> • inclusiveness • representation • accountability 	<ul style="list-style-type: none"> • Summary reports of the information and public consultation processes for eight individual cases 	Interviews with three groups of participants: <ul style="list-style-type: none"> • Mediators • Proponents • Disputants 	<ul style="list-style-type: none"> • Mediators • Proponents • Disputants
Analysis of process: Fairness <ul style="list-style-type: none"> • Perceptions of participants on power balance • Distribution of roles and responsibilities in designing and managing the process • Access to resources (information) • Perceptions 	<ul style="list-style-type: none"> • BAPE inquiry and environmental mediation reports for four individual cases • Minutes of meetings 	Interviews with three groups of participants: <ul style="list-style-type: none"> • Mediators • Proponents • Disputants 	<ul style="list-style-type: none"> • Mediators • Proponents • Disputants
Analysis of transformations: <ul style="list-style-type: none"> • Legal provisions 	<ul style="list-style-type: none"> • Gazette Officielle 	<ul style="list-style-type: none"> • Interviews with mediators 	

In order to put into historical perspective the incorporation of the environmental mediation process into the PÉEIE in Québec, we used internal BAPE reports and reports of the research done by other researchers. We enhanced this analysis by *resource person* or *key informant* (Laws et al., 1998) interviews. Individuals chosen as resource persons or key informants had initiated the use of environmental mediation in the BAPE procedure; had experience in the

practice of environmental mediation and other similar techniques not only for the BAPE but also for other groups including municipalities; and had worked at highest ranks of the BAPE.

In order to conduct a comparative institutional analysis of public hearings and environmental mediation processes, we used legal provisions in the fields of environmental management and solid waste management, as well as other documents such as directives on the preparation of environmental impact studies for sanitary landfill projects, government policy on solid waste management, and interviews. (For details, see the following section.) This analysis helped establish an understanding of the context, i.e., the institutional structure.

Analysis of case studies was essential to explore the relations between context and process, as well as between context and content. We designed and realized three different levels of case study analysis to examine the process.

First, the comparative analysis of the eight individual cases related to appropriateness. The main source of data for this analysis was inquiry and the environmental mediation reports prepared by the BAPE. After legal provisions, these reports were the second most important set of documents that we reviewed. They present general information about a project, including its characteristics, location, and justification, and information about the environmental mediation process itself, including participant information, issues at stake, process mechanisms and dynamics, and results obtained at the end of mediation process. They also include letters written by disputants to request a public hearing process and letters to withdraw or reiterate their request for a hearing process. To analyze the interests of the parties, the issues at stake, and the parties' willingness to participate, we used the reports and the interviews as sources of data.

Secondly, we analyzed legitimacy. In addition to the BAPE reports for the eight individual cases, we used summary reports (*compte rendu*) of the information and public consultation process that was conducted before the environmental mediation process for each case, as a requirement of the related regulation.

The third level of analysis was fairness. In order to do this, we looked at the distribution of roles and responsibilities within the process as well as the distribution of resources among the

participants. We used written documents (collected data) and we conducted interviews (constructed data) to understand how process mechanics worked in reality, how these processes were managed, and what perceptions different participant groups had about the fairness of the process. As another solid indicator of fairness, we looked at the contribution of technical and legal experts in terms information provision or access to information in the environmental mediation and public hearing processes. The individual case study was Cowansville, and for that we used minutes of meetings as the main source of data.

In order to combine qualitative data with quantitative data, we prepared and conducted a questionnaire survey – another source of constructed data but more systematic and more easily comparable in character.

3.4. Data Collection and Analysis Methods

Our data collection methods included document review – the study of documentary accounts of events, minutes of meetings, and so forth; interviews, which included face-to-face conversations; and the questionnaire survey (see section 3.2). The collected and constructed data was analyzed by three basic techniques: historical analysis (including chronological arrangements of events), content analysis, and discourse analysis.

Historical analysis is described as the process of systematically examining past events, in an attempt to recapture the nuances, personalities, and ideas (or other factors) that influenced these events (Neumann, 1994). For this study we used historical analysis to develop a better perspective of current events in the field of environmental mediation, i.e., to record the changes in the process as well as to understand the dynamics that encouraged or discouraged these changes. We used information contained in internal BAPE reports, other documents from the same field, and oral histories, developed by interviewing individuals who have knowledge of the environmental mediation process. We also used chronology of events, a specific form of historical analysis, to analyze changes in the environmental mediation process: changes in time; changes in process designed for different cases with different characteristics, and changes in mediators' selection of a process design. Chronological arrangement of events is a form of historical analysis that is based on analysis of sequential events on the same subject (Miles and Huberman, 1994). The main source of information was BAPE's inquiry and the environmental mediation reports for selected environmental mediation cases.

Content analysis included studying and reviewing the texts and documents at a more specific level, classifying and grouping like themes together (Denzin and Lincoln, 1994). Conclusions inferred from the material were used to analyze legal documents, reports, minutes of meetings, and letters. In the discourse analysis, we did a systematic study of stories commonly found in interviews in order to analyze the perceptions of the disputants (Cowman, 1993).

Discourse analysis can mean very different things ranging from philosophy to conversational analysis (Eder, 1996). However, the most commonly used description of this term is twofold; it is the analysis of meaning in texts and also of the discursive strategies of actors. The duality of discourse analysis allows researchers to relate textual representations of social reality to the social processes generating them (McKinley, Potter, and Wetherell, 1993). This is called reflexivity. In this study, document review of legal texts, reports and articles presenting results of research projects conducted on the same issue, and case study reports were used to contribute to a discourse analysis of texts. Semi-structured interviews were conducted to apply discourse analysis to perceptions, attitudes, and strategies of actors.

3.4.1. Document Review

Document review is the study of documentary accounts of events. Documentary information also refers to a secondary data, which can take many forms such as administrative or legal documents including laws, regulations, and decrees; formal studies and census reports; other research done in the same field; and ephemera such as newspaper clippings, articles appearing in the mass media, and diaries (Denzin and Lincoln, 1994).

Documents prove valuable in completing information obtained from the primary data of the interviews (Yin, 1989). They are also useful when it is difficult to gather primary data or when the documented events covered a long time span and/or many settings (Neumann, 1994).

The list of the documents reviewed in our context analysis is presented in Appendix A. Some documents, notably the summary reports (*compte rendu*) for the Lachenaie and Demix public consultation and information periods, were missing and could not be used in this study.

3.4.2. Semi-structured Interviews

Semi-structured interviews were conducted with resource persons and with selected interviewees from all three groups of participants, i.e., mediators, proponents, and disputants.

Resource person interviews were conducted to gain a historical perspective on the incorporation of environmental mediation into EIA by the BAPE, and to elaborate on the similarities and differences between environmental mediation and public hearing processes as two alternative modes for facilitating public participation in EIA procedure for sanitary landfill projects. Interviews were conducted with André Beauchamp, Louise Roy, and Claudette Journault (see Appendix B for interview questions). Data collected in these interviews was used to complete document review in supporting a comprehensive comparative analysis of the two processes, and resulted in a comprehensive understanding of three critical issues in the practice of public participation in EIA procedure in Québec.

Mediator, disputant, and proponent interviews were designed separately (See Appendix B). The interviews were conducted either in person or by phone, and they took from 45 to 90 minutes. All interviews were taped.

For the analysis of appropriateness and legitimacy of environmental mediation process in relation to its context, a detailed data collection for case studies was essential in providing the context. Todd (2001) describes this as a “thick description of cases” that involves a purposive sampling. Purposive sampling refers to selection on the basis of personal judgment about which people or documents will be most representative or productive (Neumann, 1994; Patton, 1990). Purposeful sampling, in contrast to probabilistic sampling, is “selecting information-rich cases for study in depth” (Patton, 1990: 169) when one wants to understand something about those cases without needing or desiring to generalize to all such cases. Appendix B presents the interviewee list.

Our experience with interviews showed that the position of interviewees was an effective factor in shaping their response to the questions. Some of the mediators considered themselves as owners of the process. They had deep confidence in the system in general and had difficulty looking critically at the experience. In one case, the mediator’s strong belief in the existing

system sometimes did not allow for a critical analysis. On the other hand, others were openly critical.

The limited number of cases they participated in made it difficult for interviewees from all three groups to give clear-cut statements. Mediators in particular believed the mediation process needed to be given more of a chance – they believed that the knowledge accumulated from carrying out environmental mediations was limited and a more solid knowledge base needed to be built up. The mediators were more comfortable with talking about the specifics of participation through public hearings in the PÉEIE; however, their view on internal process remained general because, after all, it was their own personal choice of process management.

Environmental groups organized at the provincial level were the most effective at looking from different perspectives. They were also very knowledgeable of the issues. It was interesting to observe how different representatives had different personal opinions about the representation of the groups in a mediation process. It was difficult to judge if this was a change in perceptions of the representatives about the process itself, or if their personal stand on the issue of participation affected the position of the organization directly in participating in a mediation process. Interviewees representing proponents, especially the representatives of private firms were among most skeptical and uncomfortable about talking. One of them could not be contacted because he did not return any telephone calls. Those who answered our questions were very careful about the statements they made. They mostly chose to express their ideas off the record. They categorized their statements as the company's or the Régie's view.

It was also very difficult to conduct our analysis of the changes in perceptions of disputants including individuals, citizens' groups, and members of environmental groups, because we could not find anyone who participated in early and late cases. Individuals and citizens' groups as well as local environmental groups were involved when the case affected them directly. There was no case that went through a second mediation process. In addition, between 1993 and 2002, representatives of provincial environmental groups changed very often, which meant that there was no member of such a group who participated in early and late cases.

3.4.3. Questionnaire Survey

Interview data is essential for an in-depth analysis of cases because it provides the context. However, it has to be supplemented by a questionnaire survey in order, first, to achieve methodological pluralism and second, for “corroborating the data and interpreting oral responses” (Todd, 2001: 105). Anecdotal data obtained through interviews must be avoided, because this type of data is essential to provide the context but it does not provide the base for a comparative analysis of the cases (Marshall and Rossman, 1996). Different from the semi-structured interviews, the questionnaire survey provided an opportunity to present questions in exactly the same words to each respondent, which enabled us to compare answers, both within the case and across different cases.

As with our interview questions, the design of the questionnaire survey was based on our analysis of theoretical and conceptual frameworks. The criteria for assessing the performance of consensus-based participatory processes was formulated as categories, subcategories, and indicators in the form of statements and presented to the mediators, proponents, and disputants in the format below. This is a format in which indicators are listed as statements with a Likert-scale ranging from *strongly agree* to *strongly disagree* (Todd, 2001). The purpose of using this format was to allow respondents to express their level of agreement with each statement (see Appendix B for the full questionnaire survey). All three groups were asked to respond to three categories. The questionnaire survey was handed to the participants either in person or by mail. Five out of five mediators filled in and returned our questionnaire; however, the return rate was low among disputants and proponents.

Table 3.6

Structure of Questionnaire Survey

Category	Subcategory	Indicator Statement	Strongly agree (2)	Agree (1)	Neutral or Un-decided (0)	Dis-agree (-1)	Strongly disagree (-2)	Not Applicable (NA)
1. Appropriateness	1.a. Characteristics of cases							
	1.b. Willingness of parties							
	1.c. Nature of issues							

(table continues)

Table 3.6. (continued)

Category	Subcategory	Indicator Statement	Strongly agree (2)	Agree (1)	Neutral or Undecided (0)	Dis-agree (-1)	Strongly disagree (-2)	Not Applicable (NA)
2. Legitimacy	2.a. Inclusiveness 2.b. Representation 2.c. Accountability							
3. Fairness	3.a. Distribution of roles and responsibilities 3.b. Distribution of resources							

As with the semi-structured interview questions, we also observed in the questionnaire survey that the opinions of the respondents were very much influenced by their current position. Those who were actively involved with the BAPE and those who were not working for the BAPE any more or not involved in any public consultation process responded differently.

3.4.4. Participant Observation

Participant observation within an environmental mediation process would help provide further understanding of internal process dynamics, i.e., the distribution of roles and responsibilities in designing and managing the process. However, within the lifespan of this research study, BAPE had not received any environmental mediation mandate in the field of sanitary landfill projects. Our only opportunity was the observation of the participations in a workshop organized by Front Commun Québécois sur la Gestion Écologique des Déchets (FCQGED) and Centre de recherche et d'information en droit de l'environnement (CQDE) as an information session for getting prepared for the general public hearing on the project of "Le projet de règlement sur la gestion des déchets solides". In this experience, the way different grassroots groups worked together was observed, together with their general perceptions about the government's position on issues concerning the democratic and ecological management of solid waste.

CHAPTER IV

4. CONTEXT ANALYSIS

In this chapter we analyze the institutional context in which environmental mediation is administered in Québec's environmental assessment and review procedure (PÉEIE). We first explore the incorporation of environmental mediation into the PÉEIE; then we compare environmental mediation with the public hearing process, as two alternative mechanisms enabling public participation in the PÉEIE. The two are compared in terms of process mechanisms, stakeholders, objectives and rationales of the process, distribution of roles and responsibilities among the actors, and the resources available to disputant groups (individuals, environmental or citizen groups, or municipalities) to facilitate their effective and consistent participation. Through this analysis we establish the framework to explore the link between the context and the process – i.e., to understand the effects of the context on the quality of the environmental mediation process in the PÉEIE in terms of its appropriateness, its legitimacy (accessibility, representation and accountability), and its fairness. We also explore the role played by the process in transforming the context, legal provisions in particular, into a context that can facilitate a quality public participation. Our main sources of data are the related laws, regulations, and policies; existing research; and resource person interviews. The data is analyzed using historical and content analysis techniques.

4.1. Foundations of Environmental Mediation in Québec's Environmental Assessment Procedure

Following the federal government's efforts to incorporate environmental impact assessments (EIA) into public decision-making mechanisms, the Québec provincial government introduced the concept of EIA with the adoption of the Environmental Quality Act, in 1978.⁶³ This Act established, first, "the procedure relating to the evaluation and examination of environmental impacts"⁶⁴ under the responsibility of the Ministry of Environment and Fauna (MEF),⁶⁵ and second, the Bureau d'audiences publiques sur l'environnement (BAPE), a permanent, independent organization responsible for the incorporation of public participation into the

⁶³ *Loi sur la qualité de l'environnement* (1978, c.64; LRQ c.Q-2).

⁶⁴ *Le procédure d'évaluation et d'examen des impacts sur l'environnement* (PÉEIE) (Q-2, r.9).

⁶⁵ In 1997, the Ministry was renamed the Ministry of the Environment.

PÉEIE process. Under the Act, BAPE apparently has the responsibility to inform and consult the public on the characteristics of a project and its possible impacts on quality of life, in order to guide the government in making decisions that support sustainable development. An internal BAPE document defines the responsibilities of BAPE as follows:

BAPE a pour mission d'informer et de consulter la population sur des questions relatives à l'environnement, d'enquêter, de tenir des audiences publiques et de faire rapport au ministre de l'Environnement et de la Faune du Québec. (BAPE, 1997a: 11)

Starting in the early 1980s, BAPE applied questionnaire survey and public hearing techniques to accomplish this mission (BAPE, 1992). According to a comparative study conducted by Doyle and Sadler, (1996), BAPE has a strong record of public participation that is recognized internationally. In the same study the reasons for this reputation are described as below:

The Québec legislation sets out clearly defined timelines for hearings which is the key ingredient of an efficient hearing process. For the proponents of projects this is a critical aspect because it not only brings certainty and structure to the EIA process, but also it avoids delays and costs and facilitates the implementation of approved projects. These are actually factors that bring process efficiency, i.e., the ingredient for maintaining the overall credibility of EIA. (Doyle and Sadler, 1996: 62)

As a superior alternative to lobbying, public participation, in the form of hearings, was welcomed by all groups in Québec. A transparent and open process, the public hearing was considered the better tool for allowing citizen and interest groups to directly influence decisions concerning the environment (Gauthier, 1998).

Despite the recognition of its strengths, the public hearing process conducted by BAPE was also criticized for its weaknesses. BAPE itself was one of the first to criticize the process. An internal study (BAPE, 1986) concluded that the hearing process was leading to the polarization of opinions between participating groups. This conclusion led to the initiation of other internal studies by BAPE in order to explore the conditions under which the negotiation and mediation techniques could be incorporated successfully into the EIA process.⁶⁶ In another internal study,

⁶⁶ The very first initiative of BAPE to explore the potential of environmental mediation for the management of environmental disputes goes back to 1984, when it created a working group to work on defining the possible role of BAPE and the conditions required for the use of environmental mediation. It

conducted in 1988, BAPE introduced environmental mediation as a qualified, less conflictual, technique compared to the public hearing process (BAPE, 1994). According to this study environmental mediation would have several contributions: it would help improve projects while respecting all expectations and constraints of the parties, saving time, and reducing the cost of public participation; it would be as effective as a hearing in identifying and clarifying the issues: it would also enable BAPE Commissionaires and analysts to explore the conditions and possible areas of agreement between the proponents and the disputants of the projects when there was request for a hearing.

In addition to these studies, BAPE organized three other consultation meetings, in 1993 and 1994, on “Le projet de Loi 61 modifiant la Loi sur la qualité de l’environnement”, which is not in force, and in 1995, on the orientation proposals for improving the practice of public participation. The 1995 study was a product of a colloquium organized by BAPE for the organization to consider the development of environmental mediation within the framework of PÉEIE. The issues raised within the framework of this colloquium were:

1. How can the private character of environmental mediation be integrated in a hearing process, i.e., a process with a public character? As a closed process, can environmental mediation hamper the transparency of the process and the access of the public to information?
2. How can respect for the rights of parties who do not participate, but who are directly affected or concerned by the impacts of the project, be ensured? What roles should ministries and other concerned organizations, experts, and resource persons play? How can the representativeness and the legitimacy of parties be assured?
3. How can equity between the parties in terms of access to information, expertise, and resources be ensured?

also organized four round tables with the participation of 25 representatives from the relevant sectors. However, the participants’ reaction was a negative one based on the following: “les expériences relatives à la négociation et à la médiation pour régler les conflits environnementaux étaient fort peu nombreuses au Québec” and “il existait une assez grande confusion quant au rôle des acteurs participant à un conflit et à son règlement et la négociation n’apparaissait pas être le formule à privilégier dans le cas de grands projets à incidences sur les politiques gouvernementales.” (BAPE, 1994: 8) Consequently, these first attempts did not yield any product.

4. What status should the consensus agreement reached at the end of a mediation process have? How can the implementation and follow-up of the agreement be ensured? (BAPE, 1995a)

Two other studies (basically, consultations) were undertaken, by different independent bodies at different times, to identify and analyze the weaknesses of the public hearing process, and recommend solutions to overcome them. These are the Lacoste Report and the Report of “la Commission Parlementaire de l’aménagement et des équipements de l’Assemblée Nationale” (Gauthier, 1998). The report of Lacoste Committee was made public in 1988 while the report of Parliamentary Commission was made public in 1992. Both of the studies presented findings that linked the weaknesses of the hearing process with the way it had been institutionalized. For example, both studies found that failing to provide a comparative evaluation of alternative projects and introducing a public hearing process very late, at the end of the process, were factors creating a reactive position on the part of citizens and the general public. The Lacoste Report recommended using mediation at each and every phase of environmental assessment procedure, not just at the end of the process (Gauthier, 1998).

In a different study, Gariépy (1991) argued that the public hearing process was a reactive model, which took the form of conflictual public debates in which intervening parties questioned the justification of projects. This form, according to him, served as a project validation mechanism, and as a study to determine the level of social acceptability of the project; it definitely did not serve as a mechanism to integrate social impacts of the project. The conflictual nature of the process was also interpreted as a factor preventing the hearing process from becoming a tool for environmental management (Gauthier, 1998).

Gauthier (1998) explains that recommendations made to overcome these weaknesses were to hold generic public hearings for the environmental assessment of policy and programs; to establish mechanisms to incorporate scoping into the EIA procedure; and to incorporate environmental mediation into the EIA process.

Our historical analysis of the incorporation of environmental mediation into the PÉEIE shows that in the beginning, environmental mediation was not initiated or even mentioned implicitly, because of the very negative perceptions of groups, especially environmentalist groups, about

the use of mediation in the settlement of environmental issues (Roy, 1998). Such reactions were related to the ideological foundations of the environmental movement, which said that environmental quality could not be negotiated, and also to the popularity and image concerns of the environmentalist groups. These groups gained membership support largely because of their unconditionally reactive position towards industry and business. To be seen sitting around the same table and negotiating environmental issues with industry and business would harm this image and their popular support (Seguin, 1997, 1994).

Originally, in 1988, BAPE had recommended that a combination of questionnaire survey and mediation be used for all questions related to environmental quality (BAPE, 1994). However, they had to back down from this recommendation because of public opposition to the idea that replacing the hearing process with a mediation process would produce better results. There were different reactions from different stakeholders, but, generally, there was an informal but strong and united front against the idea (Beauchamp, 1999). In 1991, in order to assure the public that it was not going to replace the hearing process, BAPE proposed a case-based pre-hearing phase as an assessment mechanism (BAPE, 1992). Along with the disputant parties, they would decide whether holding a hearing process was definitely required in order to manage the environmental impacts of a specific case, or whether environmental mediation was more appropriate for the case and the issues at stake (BAPE, 1994). However, this proposition has not become a reality.

Gariépy (1989) explains that this opposition to change was related to the position of BAPE as the organization responsible for public consultation, and also to the way it conducted hearings, which had generated great satisfaction among the general public and the environmental movement in Québec (Beauchamp, 1999). BAPE had adopted an open and informal approach, through which the public could obtain information about a project, inquire about its characteristics and impacts, and express its own views and concerns (Gariépy, 1989; Beauchamp, 1999). BAPE had its own advisors and experts, and it also worked with independent experts. In addition, by distancing itself from government apparatus, including the Department of Environmental Assessments (DEE), the section of the Ministry of Environment responsible for environmental assessment studies, BAPE had earned a good reputation and high credibility (Gariépy, 1989). This however, did not help BAPE with the government apparatus; some Ministers felt they were losing control over the process. This led to governmental

initiatives to “redefine” the role and responsibilities of BAPE (Gariépy, 1989). The real objective, however, was to restrict them. Government authorities tried to justify this move as a measure necessary to reduce the cost of hearing processes, but this led to strong opposition amongst the environmental movement and the public in general. They considered any attempt to alter the nature of the process, which had been adopted by BAPE, as an attempt to restrict citizens’ rights, to have access to information and to express their own views. Opposition to altering the process has at times been so strong that it has prevented BAPE itself from making necessary modifications to improve the performance of the process (Beauchamp, 1999).

Until 1991, conflict resolution techniques were used by BAPE without any formal guide or internal policy. This was made possible by the power provided by the article 6.3 of the Environmental Quality Act. In this early period BAPE indirectly used conflict resolution techniques such as fact finding, conciliation, arbitration, negotiation, and mediation in about twenty cases (BAPE, 1994). Environmental mediation began to be institutionalized as a formal process in the environmental assessment procedure in the early 1990s (BAPE, 1995a). This process was facilitated by a 1990 study conducted by a consultant firm, which proposed that:

Afin de réduire la polarisation des prises de décision le BAPE pourrait servir de médiateur entre les promoteurs et les adversaires d’un projet et devrait plutôt travailler dans le but de régler des conflits en diversifiant ses outils d’analyse et de consultation. La médiation environnementale est une technique de résolution des conflits qui a l’avantage de prêter à moins d’antagonismes que l’audience. La plupart des intervenants en parlent positivement, les citoyens y voyons un moyen de négociation, les promoteurs la considérant comme une façon d’atténuer les tensions et de favoriser l’acceptation sociale de leurs projets. (BAPE, 1994: 14)

In 1992, a prototype model for the performance of environmental mediation was developed (BAPE, 1992). In it, environmental mediation was defined, and its objectives and the conditions, which would enable a consensus agreement, were laid out. This definition of environmental mediation was given as:

La médiation environnementale consiste en un processus où une tierce partie, indépendante et impartiale, qui n’a pas le pouvoir et la mission d’imposer une décision, aide les parties, généralement un promoteur et des requérants d’audience, à résoudre leurs différends sur des point précis. L’objectif de la médiation en environnement est donc d’amener les parties à conclure une entente. (BAPE, 1992: 2)

A BAPE Commission used the formal environmental mediation procedure for the first time in 1993⁶⁷. In an article published in *Envirotech*, BAPE, in a way, presented the environmental mediation explicitly to the larger public. In this article, a member of BAPE has defined the environmental mediation as “un outil de dialogue pour améliorer l’acceptabilité sociale des projets et favoriser le maintien de la qualité de l’environnement” (Renaud, 1993: 23). Between 1991 and 2002, BAPE completed 35 environmental mediation mandates.⁶⁸

4.2. Environmental Assessment and Review Procedure in Québec

In this section we focus our attention on understanding the rationales behind the use of the EIA procedure in the solid waste management field. This analysis will help to link the theoretical foundations of the environmental mediation to the way it is administered in the EIA procedure.

4.2.1. Rationales and Objectives for Public Participation in Solid Waste Management EIA Processes

In the literature, especially in studies that consider public participation in the EIA to be challenging and difficult, it is suggested that the objectives of public participation have to be described for each different stage of the process (Palerm, 2000; Petts, 1999). These objectives are seen to reflect different interests and involvement at different stages of the process, and can have benefits for that particular stage or more generically for the whole process, especially when building trust over the effectiveness of long-term management is a concern (Petts, 1999). Describing objectives in this way may also serve to guarantee the early identification and inclusion of relevant groups who are critical for building the consensus needed for the effective resolution of conflicts (Innes, 1999). Table 4.1 is a summary of the possible contributions of public participation in each specific stage of an EIA process.

⁶⁷ BAPE, (1993), Rapport d’enquête et de la médiation – «Le projet d’Autoroute 55, doublement de la chaussée entre Bromptonville et l’intersection avec le chemin de la rivière », BAPE, Montréal.

⁶⁸ A list of the mediation projects conducted by BAPE in this period can be viewed at www.bape.gouv.qc.ca/sections/rapports.

Table 4.1

The Roles and Objectives of Public Participation at Different Stages of the EIA Process

Stage of EIA	Roles and Objectives of Public Participation
Project design and site selection	<ul style="list-style-type: none"> • Elicit values relevant to site selection and multi-criteria analysis based on physical, social, and economic priorities • Early identification of key stakeholder groups
Screening	<ul style="list-style-type: none"> • Public review of relevance of authority's decision about need for an EIA • Alert potential stakeholders to possibility of development • Identify potential stakeholders in the decision
Scoping	<ul style="list-style-type: none"> • Identify potential stakeholders and interests in the decision • Learn about other people's interests and values • Inform relevant stakeholders about the project proposal • Identify potential significant impacts that must be addressed and agree on impacts that can be excluded • Identify potential mitigation measures likely to be required • Commence process of establishing credibility and trust in the public domain
Baseline survey	<ul style="list-style-type: none"> • Obtain local information about existing databases and surveys of environmental conditions, and check robustness and relevance of information collected
Impact prediction and evaluation	<ul style="list-style-type: none"> • Review alternatives and mitigation measures being considered to ensure no viable alternative is omitted • Develop stakeholder understanding and technical capability • Elicit values for impact evaluation • Identify project-specific criteria for evaluation
Reporting	<ul style="list-style-type: none"> • Comment on draft report to ensure completeness and relevance • Inform all relevant parties and individuals of proposal

(table continues)

Table 4.1. (continued)

Stage of EIA	Roles and Objectives of Public Participation
Review	<ul style="list-style-type: none"> • Provide for critical technical review of the statement by parties not involved in its preparation • Provide for the right of public challenge of assumptions, methods, conclusions • Make proponent accountable for decisions • Identify errors and/or omissions in the assessment • Solicit public views as input to the decision
Decision	<ul style="list-style-type: none"> • Final resolution of conflicts • Solicit feedback on final decision • Optimize opportunities to enhance confidence in decision • Optimize a decision that is technically, economically, and socially feasible and politically acceptable
Monitoring	<ul style="list-style-type: none"> • Optimize trust and credibility in regulators and operators • Identify potential impacts

• *Note.* Source: Petts (1999).

In practice, environmental mediation is used for different objectives. For example, in Ontario environmental assessment procedures, mediation is used as a tool to decide which alternatives have to be assessed.⁶⁹ In the case of New Bedford Harbor Superfund Forum, in Massachusetts, USA, the parties were engaged in a mediation process to choose the method for the first phase of the harbour site cleanup. Together, the parties learned about available technological options for the cleanup, and negotiated the best option (Finney and Polk, 1995). In another case, negotiation methods were used for developing compensation packages for communities hosting the waste facilities (Zeiss and Lefsrud, 1995).

In Québec, the EIA study was introduced in article 31.1 of the Environmental Quality Act as an obligation for obtaining governmental authorization for certain projects. The main objectives of an environmental assessment study are defined as:

⁶⁹ See the Draft Guideline on the Use of Mediation in Ontario's Environmental Assessment Process, December 15, 2000, Environmental Assessment and Approvals Branch, Ministry of Environment at www.walkerlandfilllea.info/docs/guidemediation.pdf.

Identifier les perturbations que subirait le milieu naturel et les conséquences sur la qualité de vie des populations concernées, à la suite de l'implantation d'un projet; proposer des mesures pour atténuer ces changements, de façon à favoriser une prise de décision éclairée quant à l'autorisation de l'action proposée. (BAPE, 1997a: 12)

In the Act, public participation is identified as one of the sub-objectives of the EIA procedure; it enables the public to be informed of a project, its characteristics, and the potential impacts: "Informer le public des caractéristiques du projet, des changements qui surviendront et des conséquences prévisibles sur la qualité de vie" (BAPE, 1997a: 12).

The projects subject to an environmental assessment are identified and classified by the Act itself⁷⁰ and, in some specific cases, by the MENV (Corriveau and Foucault, 1990). Since June 18, 1993, all sanitary landfill site projects (*lieux d'enfouissement sanitaire*, or LES) have become subject to an automatic environmental impact assessment study in Québec.

The "Directive pour la réalisation d'une étude d'impact sur l'environnement d'un projet de lieu d'enfouissement sanitaire" (Direction des Evaluations Environnementales, 1998) was prepared and is regularly updated by the Direction des Evaluations Environnementales (DEE) to guide proponents in the preparation of an impact study for sanitary landfill projects. This document encourages the proponents to conduct public consultations at the beginning of the procedure, in order to benefit from the input of citizens and organizations. They are encouraged to have communication plans and to start consultation activities before (or along with) the submission of the project notice, in order to integrate all concerned parties and organizations including public and para-public organizations. However, these activities are not required by law; they are left to the proponent's discretion:

Il est utile d'amorcer la consultation le plus tôt possible dans le processus de planification des projets pour que les opinions des parties intéressées puissent exercer une réelle influence sur les questions à étudier, les choix et la prise de décision. Plus la consultation intervient tôt dans le processus qui mène à une décision, plus grande est l'influence des citoyens sur l'ensemble du projet et nécessairement, plus le projet risque d'être acceptable socialement. (DEE, 1998)

⁷⁰ Section II Articles 2 of the Regulation Respecting Environmental Assessment and Review Procedure (Q-2, r.9).

The directive defines guidelines of the environmental impact study that will be conducted by proponents, including the nature, scope, and content of environmental impact study that has to be prepared for each specific LES project (DEE, 1998).

The directive was also designed to propose that proponents integrate sustainable development objectives. In order to do this, the directive suggests that projects have to take into account the relations and interactions between different components of ecosystems, and the satisfaction of the needs of populations. In order to encourage sustainable development, the directive also encourages project proponents to voluntarily adopt their own environmental policy, i.e., develop responsible management programs and concrete, measurable objectives for environmental protection, or else to develop alternative means to integrate environmental concerns into their daily management and operations. For all these to be achieved, the directive recommends that proponents consult with the public at the beginning and during the early stages of the procedure (DEE, 1998).

In the same document, impact analysis is defined as a tool for development planning and for land use and resource management that requires examination of environmental issues at each phase of a project's development and implementation process. It is also defined as a tool that takes into consideration the opinions, reactions, and principal concerns of individuals, groups, and organizations. These are expressed in the following statement:

Une étude d'impact doit rendre compte de la façon dont les diverses parties concernées ont été associées dans le processus de planification du projet et prise en compte des résultats obtenue dans les processus de consultation et négociation. (DEE, 1998: 11)

The figure below presents the phases of Québec's environmental assessment and review procedure (PÉEIE). It shows that for certain phases – including the directive, impact analysis, decision and follow-up/control – public participation is not required. Public participation is incorporated in the third phase, with the objective to inform the public of the project and its possible impacts, and to further discuss mitigation and compensation measures with the public, in order to increase the project's social acceptability.

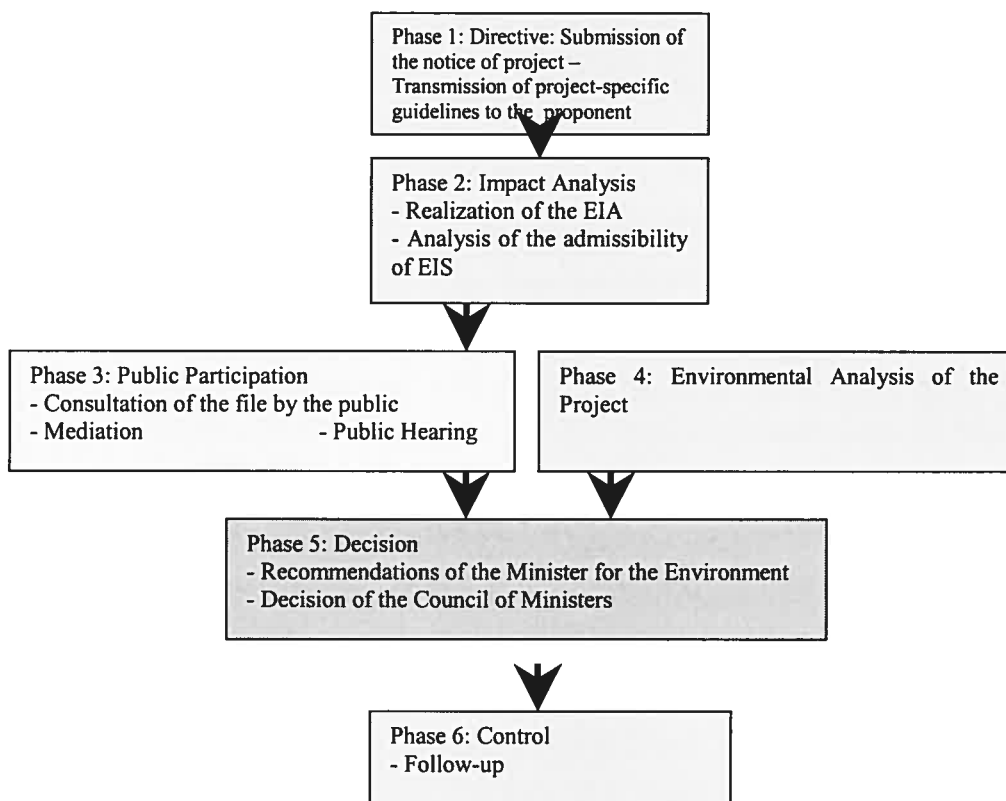


Figure 4.1. Phases of an environmental assessment procedure under LRQ, Q.2, article 31.1, of the Environmental Quality Act. Phase 1, 2, 4, and 6: responsibility of the Ministry of the Environment Phase 3: responsibility of the BAPE. Phase 5: responsibility of the Cabinet (the Council of Ministers). (Adapted from www.bape.gouv.qc.ca, 2003.)

Consulting with the public only in the third phase is considered insufficient and too late, largely because the public is then confined to a reactive position in which the probability of reversing the decision of the proponent is limited (Gariépy, 1989). Often, in the formal procedure, decisions are made prior to and independently of the results of hearings, so that the public is involved in evaluating implementation measures for a project but not in evaluating its goals and alternatives. In this form, Gariépy (1989) argues that the EIA fulfills only a validation function; it is serving simply as a tool to increase the accountability of the government. Governments take what Gariépy (1989) calls “a cautious and defensive approach” towards public involvement, which has led them to take actions restricting the scope of EIA studies. For example, the analysis of conformity to EIA guidelines was simplified into the analysis of admissibility of the project (*étude de recevabilité*), which provides a relatively weaker process for the enforcement of the EIA guidelines and the restriction of the role of public by eliminating the possibility for the public to scrutinize informal negotiations between the proponents and the government. In order to make the EIA process more accessible to the public and to improve the efficiency of EIA procedure generally, BAPE recommended involving the public in the elaboration of the guidelines for an EIA study, i.e., the preparation of the directive (BAPE, 1995b). However, at the time of writing, there has not been any change in that direction. In addition, scoping and screening, as well as evaluation of alternatives, phases in which public participation and the use of alternative dispute resolution techniques can result in most valuable outcomes (see Dorcey and Reik, 1987), are missing in Québec’s environmental assessment and review procedure (PÉEIE).

4.2.2. Actors and Responsibilities

The following section constitutes the analysis of actors involved, as well as the distribution of roles and responsibilities among them in solid waste management and in the environmental assessment and review procedure for sanitary landfill site projects.

4.2.2.a. Project Proponent

Under the DEE directive, the proponents of a project must, first of all, submit their project to an EIA study: it must be realized according to the guidelines defined in the directive. Secondly, to start the procedure for obtaining an authorization certificate from the Government, they must

prepare a Project Notice (*avis du projet*) describing the general nature of the project, and submit the notice to the Ministry⁷¹

4.2.2.a.i. Municipalities, MRCs, Urban Communities and Intermunicipal Agencies

In Québec, there are several laws establishing control mechanisms, jurisdictions, and regulatory powers for environmental protection in general. The regulatory powers of urban municipalities for solid waste management are defined by four different laws.⁷² The regulatory powers of urban municipalities are defined in the *Loi sur les cités et villes*, while the powers of rural municipalities are defined in the *Code Municipal*. The *Loi sur l'aménagement et l'urbanisme* regulates the powers of regional county municipalities (*municipalités régionales de comté*, or MRCs) in solid waste management.

The basic responsibilities of the MRCs and urban communities are land use planning (*la planification et l'aménagement du territoire*) and management. They do not have the responsibility for site selection and location of infrastructure such as landfill sites and recycling facilities. However, municipalities are directly responsible for adopting a detailed regulation relating to the collection and disposal of domestic waste, including: financing these activities by applying a fixed tax; establishing a selective collection system to support recycling; establishing and operating centres for the recovery and conditioning of recyclable waste; operating waste disposal systems; and, concluding agreements with other municipalities for a shared management of waste.

Until the year 2000, municipalities did not have any power over issues of the transfer of waste from other municipalities, regions, or countries into the landfill sites located within their administrative boundaries. Likewise, they had no power over the management of private landfill sites owned and operated by private firms, or on determining the quantity, nature, and origin of the waste disposed in private landfill sites located within their boundaries but owned and operated by private firms. They could neither inspect these sites, nor have access to information concerning their management or the nature and quantity of the material disposed

⁷¹ A standard mandatory form, *Avis du Projet/Project Notice*, has to be used by each proponent. This form can be viewed at www.menv.gouv.qc.ca/programmes/eval_env/foravis.htm

⁷² The *Loi sur les cités et villes* (LRQ, c-19), the *Code municipal du Québec* (LRQ., c-27.1), the *Loi sur l'aménagement et l'urbanisme* (LRQ c.A-19.1) and the *Loi sur la qualité de l'environnement* (LRQ, c. Q-1).

there. With the introduction of the Action Plan – Policy in 1998 (*Politique québécoise sur la gestion des matières résiduelles 1998-2008*) (Québec, 1998) and the *Loi 90* (Québec, 1999) in 2000, municipalities now have the right to limit or refuse the disposal or incineration of waste imported from other regions.

Table 4.2 is a summary of the responsibilities of MRCs and municipalities.

Table 4.2

Responsibilities of Local and Regional Governments

Local and Regional Governments (Municipalities)	
Regional County Municipalities (MRCs)	<ul style="list-style-type: none"> • Prepare and manage development plans (<i>les schémas d'aménagement</i>), and integrate the waste disposal and treatment facilities in these plans
Municipalities	<ul style="list-style-type: none"> • Responsible for zoning (urban, municipal, agriculture) • Define the site or location for waste elimination and treatment facilities in respect to quality of life of local citizens or community • Choose, install and manage the waste collection, transportation and treatment equipment for different sources of waste including households, industry and institutions in their territory • Pay for the services of collection, transportation, treatment, and disposal for the waste produced in their own territory • Set and collect taxes for provision of these services in their territories

Note. Sources: FCQGED et RRQ (2000); Cotnoir (1999); Painchaud (1997); Cotnoir et al. (1994); Duplessis et Héту (1994).

Municipalities and/or MRCs can come together to establish an intermunicipal agency (*régie intermunicipal*) to manage the sanitary landfill sites within their territories. Any intermunicipal agreement has to be authorized by each municipality that is a partner to the agreement, and approved by the Ministry of Municipal Affairs.⁷³ In order to arrange solid waste management services, one of the municipalities taking part in an intermunicipal agreement can assume all the responsibility, or else an intermunicipal agency can be established, to assume the

⁷³ Under article 576 of the Municipal Code.

responsibility on behalf of all municipalities,⁷⁴ subject to the approval of the Minister of Municipal Affairs, who has the right and responsibility to approve or refuse the establishment of such an agency after consulting with the appropriate urban communities, county corporations, and/or MRCs.

Table 4.3

Responsibilities of Intermunicipal Agencies

Intermunicipal agency (<i>régie intermunicipale</i>)	<ul style="list-style-type: none"> • Represent member municipalities • Follow up and control the operation of sanitary landfill site in accordance with objectives set by municipalities • Carry out the recovery of recyclable materials • Manage selective waste collection programs • Institute or establish campaigns to increase public awareness about selective solid waste collection and recycling
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Note. Sources: FCQGED et RRQ (2000); Cotnoir (1999); Painchaud, 1997; Cotnoir et al, 1994; Duplessis et Hétu, 1994; CCE, 1990).

In the first option, the municipalities delegate their rights (except the rights to increase taxes and make regulations) to one municipality to implement the agreement, including conducting a project on the territory of other municipalities that are party to this agreement. If municipalities cannot agree on the specifics of the application/implementation of a joint project or agreement that they signed, they reserve the right to ask to the Minister of Municipal Affairs to assign a conciliator to help find points that they can agree on. If this does not solve the problem, the Commission of Québec Municipalities can be asked to get involved. For this to happen, the application of one of the municipalities is enough. After looking at the interests and analyzing the report prepared by the conciliator for the Ministry of Municipal Affairs, the Commission makes a decision on behalf of the municipalities. The decision has to be fair and has to benefit all parties. The role of the Municipal Commission is to resolve any disagreement that may persist after the conciliation. All municipalities are obliged to accept the decision made by the Commission as well as all its conditions.

Like all local municipalities, MRCs can also be part of intermunicipal agreements, under the *Loi sur les cités et villes* (Québec, 1999) and the *Code Municipale* (Québec, 1996). An MRC

⁷⁴ The establishment of such an agency is under article 579 of the Civil Code.

has the power to operate a waste management system within the territory of any municipality within its own boundaries,⁷⁵ and also in any municipality outside its boundaries, if an agreement to that effect has been signed by the MRC and that municipality. If a municipality prefers to assume the responsibility of solid waste removal or disposal process on its own, it must withdraw from the intermunicipal agreement signed by the MRC and the municipalities. An intermunicipal agreement has to include a detailed project description, its duration, and a financial plan including details of total contributions that have to be made by each municipality. The project also has to be in conformity with the *schéma d'aménagement* prepared by each MRC for its territory.⁷⁶

In addition to the *Loi 90*, the *Loi sur l'aménagement et l'urbanisme* has been updated and redefined to give municipalities the power of prohibiting some land uses, obliging them to specify which land uses are permitted and which are prohibited for each construction zone.⁷⁷ The decision relative to the permission or banning of certain uses in a given zone has to take into account the proposed uses in other zones and in other municipalities. It also has to consider certain laws, which are concerned with particular land uses, such as the *Loi sur la protection du territoire agricole* and the *Loi sur la qualité de l'environnement*.

4.2.2.a.ii. Private Firms

The majority of the sanitary landfill sites in Québec are owned and managed by municipal or para-municipal organizations; however, the majority of the domestic waste (77 percent) is collected and disposed of by private firms. There are a total of 64 sanitary landfill sites in Québec, 56 of which are on public property. The remaining 8 are run by private firms. Eighty-

⁷⁵ Under article 189 of the *Loi sur l'aménagement et l'urbanisme*.

⁷⁶ The *Loi sur l'aménagement et l'urbanisme* makes provision for the creation of MRCs which are charged with the elaboration, adoption, and implementation of the development plans (*schémas d'aménagement*) for their territory. The *schéma* is a global planning reference for all the municipalities together, having the objective of providing a normative framework for the content of municipal regulations on urban development. It presents big land allocations and has to identify sites with historical, cultural, aesthetic, and ecological characteristics. In addition, it must identify the zones with particular characteristics such as erosion or flooding. Each local municipality located within the boundaries of an MRC has to adopt an urban development plan in conformity with the objectives of the *schéma d'aménagement* prepared by the MRC. This plan has to be implemented in conformity with MRC regulations on zoning, construction, and housing development. The regulation activities of local municipalities are thus subject to the supervision of MRCs.

⁷⁷ Under article 113, *Loi sur l'aménagement et l'urbanisme*.

eight percent of the population uses the services of private firms.⁷⁸ The sites run by private firms are large in size and operation capacity in accordance with the profit-maximization drive of private firms.

4.2.2.b. Ministry of the Environment and *Direction des évaluations environnementale*

In the field of solid waste management, the basic role of the provincial government is planning and control through the Ministry of the Environment (MENV). Every ten years, the Ministry prepares a policy to set objectives related to solid waste management.⁷⁹ MENV is responsible for elaborating and enforcing the laws, regulations, and policies relative to solid waste management. After a project proponent obtains a conformity certificate relative to municipal zoning, agricultural zoning, and *schémas d'aménagement* (development plans), he or she has to apply to MENV for a conformity certificate and permit for the establishment, modification, and operation of a sanitary landfill site.

In addition, MENV initiates public consultation processes; it makes impact analysis studies public, and is responsible for mandating BAPE to hold hearings or mediation processes.

The Ministry established Recyc-Québec, which is responsible for working on enforcing the policy objectives and promoting the 3R-V (recycle, reuse, recovery and treatment) techniques.

Five other provincial ministries have responsibilities in this area. These are: the Ministries of Health and Social Services, Industry and Trade, Natural Resources, Municipal Affairs, and Transportation. In addition, two administrative tribunals also have responsibilities: the Commission for Protection of Agricultural Land, and the Municipal Commission of Québec. The federal government has responsibilities for the interprovincial and international transportation and commercialization of waste. The responsibilities of these organizations as well as other government organizations are summarized in Table 4.4.

⁷⁸ See www.menv.gouv.qc.ca/matieres/mat_res/fiches/fiche-elimination.htm for details.

⁷⁹ *Politique de gestion intégrée des déchets solides: Plan d'action 1989–1998* and *Politique québécoise sur la gestion des matières résiduelles 1998–2008* are the policies prepared by the Ministry.

Table 4.4

*Distribution of Roles and Responsibilities
Among Federal and Provincial Government Authorities*

<u>FEDERAL GOVERNMENT</u>	<ul style="list-style-type: none"> • Manages issues relative to transportation (export-import) and commercialization (sell-buy/trade) of waste between provinces and countries
<u>PROVINCIAL GOVERNMENT (QUÉBEC)</u>	
Ministry of the Environment	<ul style="list-style-type: none"> • Responsible for protection of quality of the environment and preparation of the totality of regulations relative to waste management including establishing legislative, statutory and normative framework for waste management, i.e., preparing laws, regulations and policies and proposing adoption of these by the provincial government • Gives permits and/or certificates to confirm modification, establishment or operation of waste treatment facilities (including sanitary landfill sites) with municipal and agricultural zoning prepared by local municipalities and with development plans (i.e., schémas d'aménagement) which are prepared by Regional County Municipalities (MRCs) • Enforces the application and respect of related laws, regulations and policies • Determines the objectives relative to solid waste management including preparation of policies for each 10 years • Realizes and broadens the public consultation procedure in the field of solid waste management and environmental protection in general
Recyc-Québec	<ul style="list-style-type: none"> • Realizes certain orientations of the "Politique Québécoise de la gestion de déchet" to provide, develop and favour reduction of waste at source, its reuse, recuperation and recycling
Ministry of Health and Social Services	<ul style="list-style-type: none"> • Follow-up on the health aspects of measures taken in the field of solid waste management and management of dangerous waste
Ministry of Industry and Commerce	<ul style="list-style-type: none"> • Supports the development of environment industry and emergence of treatment recycle techniques

(table continues)

Table 4.4. (continued)

PROVINCIALGOVERNMENT (QUÉBEC)

Ministry of Natural Resources	<ul style="list-style-type: none"> • Develops technologies to convert certain types of waste to energy
Ministry of Municipal Affairs	<ul style="list-style-type: none"> • Manages laws, regulations and norms relative to local municipalities and MRCs • Manages the intermunicipal agreements
Ministry of Transport	<ul style="list-style-type: none"> • Manages the regulation on the transportation of dangerous waste

ADMINISTRATIVETRIBUNALS

Commission for the Protection of Agricultural Land (Commission de protection du territoire agricole – CPTAQ)	<ul style="list-style-type: none"> • Assures the protection of agricultural land • Authorizes or non-authorizes de-zoning of agricultural land to land uses other land agriculture • Authorizes the installation of waste elimination and treatment equipment on classified land
Commission of Québec Municipalities (Commission Municipal du Québec)	<ul style="list-style-type: none"> • Settles disputes between municipalities that arise from the application of the Environmental Quality Act between municipalities

Note. Sources: FCQGED et RRQ (2000); Cotnoir (1999); Painchaud, 1997; Cotnoir et al, 1994; Duplessis et Héту, 1994; CCE, 1990).

This analysis shows that three tiers of government have responsibilities and roles to play in the field of solid waste management. In this multi-level institutional structure, there are overlapping areas of responsibility as well as some areas that are not covered at all. For example, the Ministry has been deeply criticized for being unable to effect measures for follow-up and surveillance of its activities. The voluntary approach used by the Ministry is considered not only ineffective in enforcing policies, but also a factor creating lack of leadership in adoption of its policies, legal measures, economic incentives, and research and education initiatives (BAPE, 1997b).

The Québec provincial government is responsible for planning and control through the MENV. The Environmental Quality Act assigns the Minister of the Environment as the responsible authority for the application of the EIA procedure,⁸⁰ which is then coordinated by the Department of Environmental Assessment (*Direction des évaluations environnementales* – DEE). After a notice of project has been filed by the proponent, the DEE elaborates project-specific guidelines (called the *directive*), sometimes in collaboration with the project proponent. Thus, according to Gariépy (1989), such firms may have privileged access to the process before any formal consultation and participation phase starts, particularly in the development of EIA guidelines. Groups that have this type of privileged access to decision makers exert their influence outside and upstream of public consultation (Gariépy, 1989: 401).

Other public organizations are also consulted in the preparation of the directive, including the Ministries for Culture and Communications, Health and Social Services, Responsible for Regions, Municipal Affairs as well as various departments of the Ministry for the Environment.

The DEE is responsible for including public input, findings, and observations of the BAPE Commission in the environmental analysis study, which is obtained at the end of a public hearing or environmental mediation process and presented in a report, before it is submitted to the Council of Ministers by the Minister of the Environment. However, there is no guarantee that this information will be incorporated in the final version of the impact analysis, or even that the Minister will transfer these findings to the Council of the Ministers

4.2.2.c. BAPE

The Bureau d'audiences publiques sur l'environnement (BAPE) is responsible for facilitating public consultation in the PÉEIE. BAPE's role is to inquire into any question relating to the quality of the environment submitted to it by MENV and to report back on its findings. Typically, BAPE reviews major projects that are subject to provincial PÉEIE legislation. Depending on the nature and scope of the issues, BAPE will be instructed to use one of three options: hold a fact-finding inquiry, alone; carry out a combined inquiry and mediation; or undertake public hearings. As defined by the article 6.3 of the Act, an environmental mediation mandate is a ministerial prerogative; i.e., the mandate of mediation can be given to BAPE by the Minister of the environment. BAPE has no direct role in the decision related to choice of

⁸⁰ Under section II, article 2 of the Environmental Quality Act (LRQ, c. Q-2).

environmental mediation or public hearing. After this, the president of BAPE appoints a mediator (*commissaire*), someone who is either a permanent member of BAPE or someone from outside. A Commission, which is composed of the mediator and information agent, analyst, and commission secretary,⁸¹ is established to take over the responsibility to realize the mediation or public hearing process. The public consultation style used by BAPE is defined as inquisitorial, because the BAPE Commissions are entitled to the powers of *commission d'enquête* and the Commissions are non-decisional (Gariépy, 1991).

⁸¹ These are permanent members of BAPE.

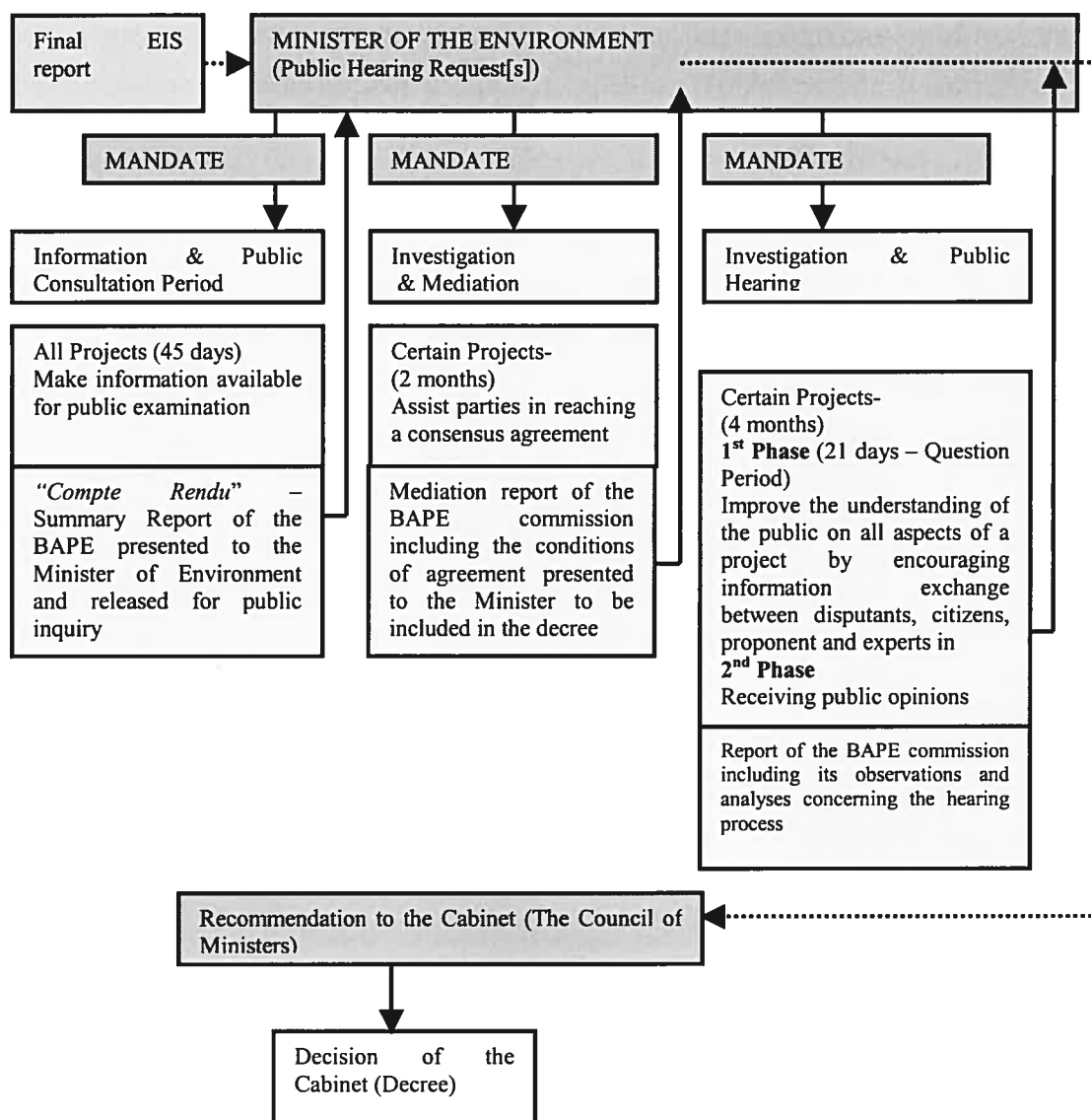


Figure 4.2. BAPE's areas of responsibility. Adapted from BAPE's web page: www.bape.gouv.qc.ca, 2003.

4.2.2.d. Council of Ministers

The final decision is always made by the Council of Ministers. The Council may authorize the project as it is recommended by the Minister of the Environment or it may ask for modifications to be made.

4.2.2.e. Disputants: Individuals, Groups, and Municipalities

Public hearings are held either when requested by a member of the public, or through a direct mandate from the Minister. The request of a member of the public, a group, an organization, or a municipal authority is valid when it is not considered “frivolous” by the Minister of the Environment. In other words, the Minister has the power to accept or refuse the requests of the members of the public for holding a hearing process on a specific project.

Table 4.5

Distribution of Roles and Responsibilities in Six Different Phases of an Environmental Assessment and Review Procedure

Actor	Responsibility
<u>DIRECTIVE AND IMPACT ANALYSIS</u>	
Project Proponent	<ul style="list-style-type: none"> • Verify subjection of the project to an EIA study with the DEE.⁸² • Prepare project notice (<i>avis du projet</i>) describing general nature of project; submit notice to the Ministry⁸³ to start procedure of obtaining authorization certificate from the Government. • Get EIA study prepared according to the directives (guidelines) provided by DEE.⁸⁴ • Make corrections to the study as required by the DEE; submit the study to the Ministry of the Environment.

(table continues)

⁸² Since June 1993, with the introduction of the *Loi sur l'établissement et l'agrandissement de certain lieux d'élimination de déchet* (LQ, 1993, c.44), all sanitary landfill projects are subject to a EIA study.

⁸³ There is a standard form, *Avis du Projet/Project Notice* that has to be used by each proponent. This form can be viewed at www.menv.gouv.qc.ca/programmes/eval_env/foravis.htm.

⁸⁴ In most cases a private firm is hired by the proponent to prepare the study. Some proponents have their own teams to prepare the study. The “Guide for the preparation of environmental impact assessment”, prepared by the Ministry of Environment, is the basic reference for the impact assessment studies. This document is available at the Department of Environmental Assessment (Direction des Évaluations Environnementales) of the Ministry as well as on the web site of the Ministry, www.menv.gouv.qc.ca/elimination/LES.

Table 4.5. (continued)

Actor	Responsibility
DEE	<ul style="list-style-type: none"> • Elaborate project-specific guidelines and send them as directive to project proponent indicating requirements – nature, scope and extent – of the environmental impact statement (EIS) that he/she must prepare.⁸⁵ • Conduct analysis of admissibility (<i>recevabilité d'étude</i>) of the EIS submitted by the proponent to evaluate its quality; order modifications necessary to improve its quality, following the orders of the Minister of the Environment.
<u>PUBLIC PARTICIPATION</u>	
MENV	<ul style="list-style-type: none"> • Ask for supporting documents, studies or research prior to the admissibility of the EIS. • After receiving the EIS: <ul style="list-style-type: none"> - make it public - indicate to the proponent of the project that he or she initiate the public information and consultation phase⁸⁶ • Inform Regional County Municipalities (MRCs) and local municipalities within whose limits the proponent of the project intends to carry out the project about the application for certificate of authorization. • Mandate BAPE to order public hearing or environmental mediation, after analyzing public hearing requests.
Project proponent	<ul style="list-style-type: none"> • Publish a notice in daily and weekly newspapers circulating in the region where the project is going to be carried out, as well as in daily newspapers in Montréal and Québec City, within 15 days of receiving the Minister's instructions⁸⁷ concerning the public information and consultation phase. • Publish second notice in a weekly newspaper circulating in the same region within 21 days following the publication of the first notice.⁸⁸ • Submit copy of published notices to the Minister within 15 days of publication. • Submit summary of EIS to each local municipality within whose limits the project is going to be carried out when the notices are published. • Participate in information session to present the project and represent its interests in the hearing or the mediation process.

(table continues)

⁸⁵ An environmental impact statement (EIS) is prepared according to section 31.2 of the Environmental Quality Act.

⁸⁶ Regulation respecting environmental impact assessment and review procedure, *Le procédure d'évaluation et d'examen des impacts sur l'environnement* (PÉEIE), (Q-2, r.9).

⁸⁷ The instructions referred to in the first paragraph of section 31.3 of the Environmental Quality Act.

⁸⁸ The specifications of the notices are described by the Regulation respecting environmental impact assessment and review, *Le procédure d'évaluation et d'examen des impacts sur l'environnement* (PÉEIE), (Q-2, r.9) Schedule B.

Table 4.5. (continued)

BAPE	<ul style="list-style-type: none"> • Issue press release announcing the public consultation and information period and location of consultation centres as soon as the Minister makes the EIS public. • Establish and open consultation centres in Québec City, Montréal, and any other locality where the project is likely to be implemented, to enable public to consult the file⁸⁹ for 45 days. • Hold public information meeting. • Publish notice in daily and weekly newspapers circulating in the region where the project is likely to be carried out and in daily newspapers in Québec City and Montréal to announce that a public hearing (or environmental mediation) process has been ordered by the Minister of the environment. • Hold the public hearing; prepare a report on observations and findings about the public's approach to the project, to be submitted to the Minister within four months. • Hold the environmental mediation; prepare a report on observations and findings of the Commission, in case of failure, or submit the concluded agreement among the groups to the Minister within two months, in case of success.
Individuals, groups and/or municipalities	<ul style="list-style-type: none"> • Make request in writing to the Minister for public hearing or environmental mediation on the project, stating reasons for the request and interest in the area affected by the project⁹⁰ in 45 days starting from the date the Minister of the environment made the EIS public and BAPE announced the consultation centres. • Participate and represent their interests in the public hearing or the environmental mediation process.
<u>ENVIRONMENTAL ANALYSIS</u>	
DEE	<ul style="list-style-type: none"> • Debate the substance of the project, such as the impacts the project would generate, by integrating (a) comments received from various Ministries or other organizations; (b) issues raised during the hearing or mediation process and presented in the BAPE report. • Submit the environmental analysis to the MENV.

(table continues)

⁸⁹ The content of the file is also described in the Regulation respecting environmental impact assessment and review, *Le procédure d'évaluation et d'examen des impacts sur l'environnement* (PÉEIE), (Q-2, r.9).

⁹⁰ See Appendix C for BAPE guidelines for a public hearing request or application.

Table 4.5. (continued)

Actor	Responsibility
<u>DECISION</u>	
The Minister of the Environment	<ul style="list-style-type: none"> • Submit environmental analysis report and provide recommendations to the Council of Ministers.
The Council of Ministers	<ul style="list-style-type: none"> • Make final decision.
<u>FOLLOW-UP</u>	
Comité de Vigilance/Comité de Suivi ⁹¹	<ul style="list-style-type: none"> • Observe and overview the operation and assess the conformity of the proponent's actions with the final decision.

4.2.3. Resources for Facilitating Participation of Individuals and Groups

In this section we look at the resources available to the disputants including individuals, citizen groups, environmental groups, and municipalities to facilitate effective and consistent public participation in the PÉEIE.

4.2.3.a. Financial Resources and Participant Funding

In the federal EIA procedure, the Canadian Environmental Assessment Agency (CEAA) encourages public participation and administers a participant funding program that supports individuals and non-profit organizations interested in participating in environmental assessments, including both hearing and mediation processes. It does this in order to ensure an open, balanced process, to strengthen the quality and credibility of environmental assessments, and to integrate local and traditional knowledge about a project's physical site that can help to identify and address potential environmental effects at an early stage of the environmental assessment process. Funding granted to these groups covers expenses such as travel costs and fees for experts. The funding program's eligibility criteria are: (a) to be directly interested in the project, i.e., to be living or owning property in the project area; (b) to be able to provide community knowledge or Aboriginal traditional knowledge relevant to the environmental

⁹¹ It is not mandatory by law to establish such a committee; however, it is recommended in the *politique Québécoise pour la gestion de déchets solides*.

assessment; and (c) to be able and intend to provide expert information relevant to the anticipated environmental effects of the project.⁹²

In the legal EIA procedure in Québec, there are no financial means available to individual or environmentalist groups to support their participation. In general, then, finance is a big problem for these groups to tackle:

Le financement constitue un problème chronique pour les groupes environnementaux et communautaire. Ils ne bénéficient généralement pas d'un financement annuel fixe. (BAPE, 1997b: 16)

4.2.3.b. Training

The Canadian Environmental Assessment Agency (CEAA) also develops and delivers training to assist the federal government and others in meeting their obligations under the Canadian Environmental Assessment Act (1997, c. 7). Agency training for ensuring that environmental assessments are done correctly focuses on mastering new knowledge, best practices, and skills to improve understanding and application of the Act. Customized courses, information sessions, and events are also organized to help the environmental assessment community with specific learning needs.

There is no formal training program provided by BAPE or MENV on subjects related to the public hearing or mediation processes.

4.2.3.c. Professional Expertise and Administrative Staff

We looked at two provincial-level environmentalist groups, STOP and FCQGED, that had participated actively in hearing and mediation process in the last 15 years. We found that their staffs were largely composed of volunteers, who had become experienced on the job. They had very limited office supplies. They shared their offices with other community or environmental groups. FCQGED had changed its office for four times in last ten years. For STOP, the main source of finances was donations from members. STOP had not received any financial support from the provincial government in last 20 years. FCQGED financed its operations through the project's contracts, some of which were for the provincial government.

⁹² See www.ceaa.gc.ca/011/index_e.htm

4.2.3.d. Information

When the Minister of the Environment receives an environmental impact statement (EIS) prepared by the project proponent and revised by the experts of the Ministry, and when he or she decides to make this report public, he or she mandates BAPE to make necessary arrangements. BAPE issues a press release (*communiqué*) to announce the start of the information and public consultation phase.⁹³ In this press release, the project is described and the public is informed of the location of consultation centres that have been opened by BAPE in the region where the project is going to be implemented. In addition, BAPE establishes consultation centres in Québec City and in Montréal. The document file, which has to be made available for public consultation at these centres, is defined by law⁹⁴ and must include the environmental impact statement; any documents submitted by the proponent to support his application for a certificate of authorization; any information provided or any study or research carried out at the request of the Minister to clarify the issues concerning the project; the notice of project submitted by the proponent, the instructions given by the Minister with respect to nature, scope and extent of the EIA statement to be prepared, i.e., the directive; and, any study or commentary made by the Ministry for the Environment with regard to the application for a certificate of authorization.

If BAPE is going to hold an information meeting, it has to issue another press release to inform the public of the meeting and its logistics, i.e., the time and location. All interested individuals, groups, organizations, and municipal administrations are free to participate. In such a meeting, the project proponent makes a short presentation, a member of the MENV explains the environmental impact assessment and the review procedure, and a BAPE member who chairs the meeting also explains the consultation process. A question period follows these presentations.

The information and public consultation phase has to be completed within 45 days, during which groups or individuals have to submit their application or request for a public hearing or

⁹³ See Appendix C for examples of press releases issued by BAPE for sanitary landfill site projects.

⁹⁴ *Regulation respecting environmental impact assessment and review* (Q-2, r.9, articles 12a, 12b, 12c, 12d, 12e and 12f).

mediation process.⁹⁵ At the end of these 45 days, BAPE prepares a summary report (*compte rendu*) about the information meeting⁹⁶ and presents it to the MENV. Based on this report as well as his personal judgement or his discussions with the experts of the DEE, the Minister of the Environment then decides to mandate a public hearing or a mediation process to the BAPE.

4.3. Differences and Similarities between Public Hearing and Environmental Mediation Processes

4.3.1. Objectives

According to Gariépy (1989: 152), the role attributed to public participation by BAPE was very ambitious:

Public hearings aimed not only at informing the public about the project and at providing the decision-maker with an appraisal of the reaction of the public, but also at defining the social feasibility of projects because only the interested can define their priorities and measure the acceptability of the project according to their value system.

As it is prescribed in the PÉEIE, a public hearing is a process to provide the public with information and an opportunity to express their opinions regarding a project. Any individual, group, municipality, or organization is authorized by law to request a public review of a project by applying directly to the Minister of the Environment himself. Applications have to be based on rationales such as the need for additional information, the need to hear expert opinions on specific issues related to the project, and the need to express concerns or voice an opinion.

The expected contributions of mediation procedures, on the other hand, are defined as follows (BAPE, 1994):

- to clarify contentious questions and search for possible solutions to conflicting issues
- to identify issues and verify possibilities of conciliation among the conflicting points of view
- to verify possibilities for inclusion of the opponents' points of view into the project

⁹⁵In the guideline for preparation of a public hearing application, it is stated that the individual or groups may indicate in the application their willingness to engage in mediation; see Appendix C or go to www.bape.gouv.qc.ca/rapport.

⁹⁶ See Appendix C for examples of summary reports (*compte rendu*) for information and public consultation periods.

4.3.2. Process Mechanics and Distribution of Roles and Responsibilities

4.3.2.a. Public Hearing

A public hearing comprises two phases. All citizens can assist in both phases. In the first, the public and the BAPE Commission can gather information on the project. The responsibility of the Commission is to define the stakes and identify the panel of experts who are best qualified to answer questions from the public. During this phase the proponent and the independent experts provide information about the project and explain data in response to questions both from the public and from the BAPE Commissioners (see Figure 4.3).

The second phase provides individuals, groups, organizations, and municipalities with the opportunity to express their opinions. Their briefs and oral presentations are considered fundamental to the consultation process, as they help develop and clarify the arguments. BAPE has developed guidelines for writing a brief to be presented at a public hearing (see Appendix C). These briefs are publicly released and available for consultation in reading rooms and on the BAPE web site. Those who submit a brief may choose whether to present it or not at the hearing. Those who do not submit a brief have the right to express their opinions orally at the hearing. Anyone who wishes to present a brief or an orally expressed opinion at the hearing is asked to inform the Commission secretariat of their intention two weeks before the second phase of the public hearing process begins. Briefs remain confidential until they are presented at the hearing. Briefs that are not presented are publicly released at the end of the second phase of the hearing. Once briefs are publicly released, copies are available for consultation in BAPE reading rooms and on the BAPE web site.

At the end of these two phases, and within four months from receiving its mandate, the BAPE Commission is responsible for submitting a report of its findings and recommendations to the Minister of the Environment. In principle, this report is integrated into the environmental analysis report by DEE experts and is used by the Minister himself to make recommendations about the project to the Council of Ministers. However, the final decision about the project is made by the Council of Ministers. There is no legal requirement guaranteeing that either public input obtained during the hearing process or the BAPE recommendations will be considered in making the final decision.

4.3.2.b. Environmental Mediation

Under the PÉEIE, the Minister of the Environment may also mandate BAPE to conduct an environmental mediation instead of a hearing process. Since 1993, mediation has been formally institutionalized in the procedure.

After BAPE receives the mediation mandate, the president of BAPE is responsible for establishing a commission and assigning a mediator (*commissaire*). The mediator is responsible for choosing the mediation approach⁹⁷ and preparing the schedule for the process. For this, the secretary of BAPE communicates with the parties individually to help set up the time and place of the meetings. Then, the mediator meets each party individually and conducts private interviews. This is the first phase of a mediation process. It is known either as the preliminary meeting, pre-mediation phase, or information session (BAPE, 1994).

The pre-mediation or information phase starts with identifying the parties. According to the regulation, the mediator has right to include any group or individual who he or she thinks can contribute to understanding and resolving the conflict.⁹⁸ However, there is no other specific stakeholder identification guideline. Identified parties are those who submitted a formal request, in writing, that a hearing be held. In practice, parties who do not submit a formal request can participate in the mediation process, if the other parties give their consent, but only as observers, without any authority to accept or refuse an agreement. This is different from a public hearing, in which everybody is invited to participate and express any opinion on any issue related to the file. In this phase, the mediator also communicates basic information about BAPE, its objectives, the mediation procedure, and explains the co-operative culture of BAPE and the responsibilities of the parties, including the Commission and the mediator himself (BAPE, 1995a).

The preliminary session helps the Commission to further define the issues at stake, the parties' interests, their differences, and also their attitude towards negotiation and bargaining techniques. These findings help him or her to decide whether mediation can contribute to

⁹⁷ BAPE (1994) describes two mediation approaches that can be used by the mediators: normative and accommodating.

⁹⁸ Bureau d'audiences publiques sur l'environnement – *Règles de procédure relative au déroulement des médiations en environnement*.

achieving a solution. If the mediator decides that it can, the BAPE Commission asks parties to provide their consent in participating in environmental mediation in writing. By giving their consent, the parties approve the issues that will be negotiated during the mediation phase. During the mediation phase, parties can negotiate those issues that were identified and approved by each party during the preliminary session only (Journault, 2002). In other words, new issues can not be added during the mediation process. When the consent letters are received, the mediation process can start. At the end of pre-mediation phase the parties are invited to define their position, to search for the facts, and find the elements or points that can be negotiated. At this phase, the basic task of the Commission or mediation team is to draft an action plan, and discuss the plan with the parties to help them reach an agreement (BAPE, 1994). Where parties do not give their consent, or if the mediator decides that mediation cannot lead to a solution, the mediation commission informs the president of the BAPE who informs the Minister. It is then up to the Minister of the Environment to decide to hold a hearing process instead, or none at all. In the case of a partial consent, i.e., when only some but not all parties give consent, the mediation may take place with the participation of those who gave their consent (BAPE, 1994).

During the mediation phase, the mediator facilitates the dialogue between parties, who confront each other in face-to-face meetings for the first time. All deliberations and exchanges between parties are recorded and made public once the mediation process is completed. The mediator does not have the right to make any decision for or on behalf of the parties. His job is to ensure that parties have everything necessary to arrive at an agreement that is adaptable, acceptable, and respects environmental quality norms, follows laws and regulations, and has a social vision (BAPE, 1995a). This solution must help improve the social acceptability of the project and help maintain environmental quality.

If an agreement is reached, the mediator has to obtain the proponent's commitment to make agreed-upon changes to the project. In addition, each party has to send a letter to the Minister showing their consent to mediated agreement, and formally withdraw their request for a hearing. If an agreement could not be reached, all the participants have to send a signed letter to the Minister, repeating their request for a public hearing process.⁹⁹ If this is the case, the

⁹⁹ *Regulation respecting environmental impact assessment and review* (PÉEIE Q-2, r.9)

mediator is responsible for explaining the situation to the Minister. This is done through the production of a report. He or she has to define the issues that were not negotiable and the reasons that prevented the groups from reaching a consensus agreement. In both cases the mediator and the team (i.e., the BAPE Commission) is responsible for preparing a report including the findings of the commissions as well as its observations and recommendations. The Council of Ministers then makes the final decision, based on recommendations provided by the Minister of the environment and the report submitted by the BAPE Commission. The Commission has to submit its report within 60 days of receiving its mandate, which is another difference between the hearing and the environmental mediation processes. Where the parties reach an agreement, and if the Council accepts the solution, that solution becomes a governmental decree – something as powerful as law. This is an important difference from the public hearing process. The Council has responsibility to integrate the agreement reached by the parties partial or in full into the final decree. When the project is accepted by the Council of Ministers, a certificate of authorization is issued to the proponent by the Minister of the Environment.

Table 4.6

Phases of a BAPE Mediation Process

<u>Pre-mediation Phase</u>		<u>Mediation Phase</u>	<u>Post-mediation Phase</u>
Information	Questionnaire and Consent		
Explain the functioning of BAPE and the mediation commission.	Search for the facts.	Search for solutions.	Submit the mediator's report to the Minister of the Environment with his/her analysis and observations.
Describe the terms of reference and the procedure.	Verify if the available data is sufficient for understanding the file.	Formulate hypothesis and suggestions.	
Present the process; steps of the process.	Identify the questions in conflict and the issues at stake.	Create options.	
Explain cooperative culture of BAPE.	Find out why it is a conflict.	Promote dialogue for negotiations and for sector-based decision making.	
Explain the responsibilities of the parties during the process.	Ensure that process will not proceed in case the justification of the project is the main cause of conflict.	Identify the possible areas of agreement.	
Inform the parties about the moral obligations of the mediator on protecting the rights of the environment.	Establish the sources of supplementary information.	Clarify and propose a global agreement.	

(table continues)

Table 4.6. (continued)

<u>Pre-mediation Phase</u>		<u>Mediation Phase</u>	<u>Post-mediation Phase</u>
Information	Questionnaire and Consent		
Inform the parties that BAPE is subject to (or liable to) the law on the access to information and protection of personal information.	Obtain the consent of parties to continue with mediation.	Verify the social and environmental acceptability and the appropriateness of the proposed solutions as well as its conformity with the laws and the regulations.	
		Obtain the commitment of the proponent of the project to the proposed solution.	
		Obtain the withdrawal of public hearing requests of the disputants.	

Note. Sources: BAPE (1994); André, Delisle, and Revéret (1999).

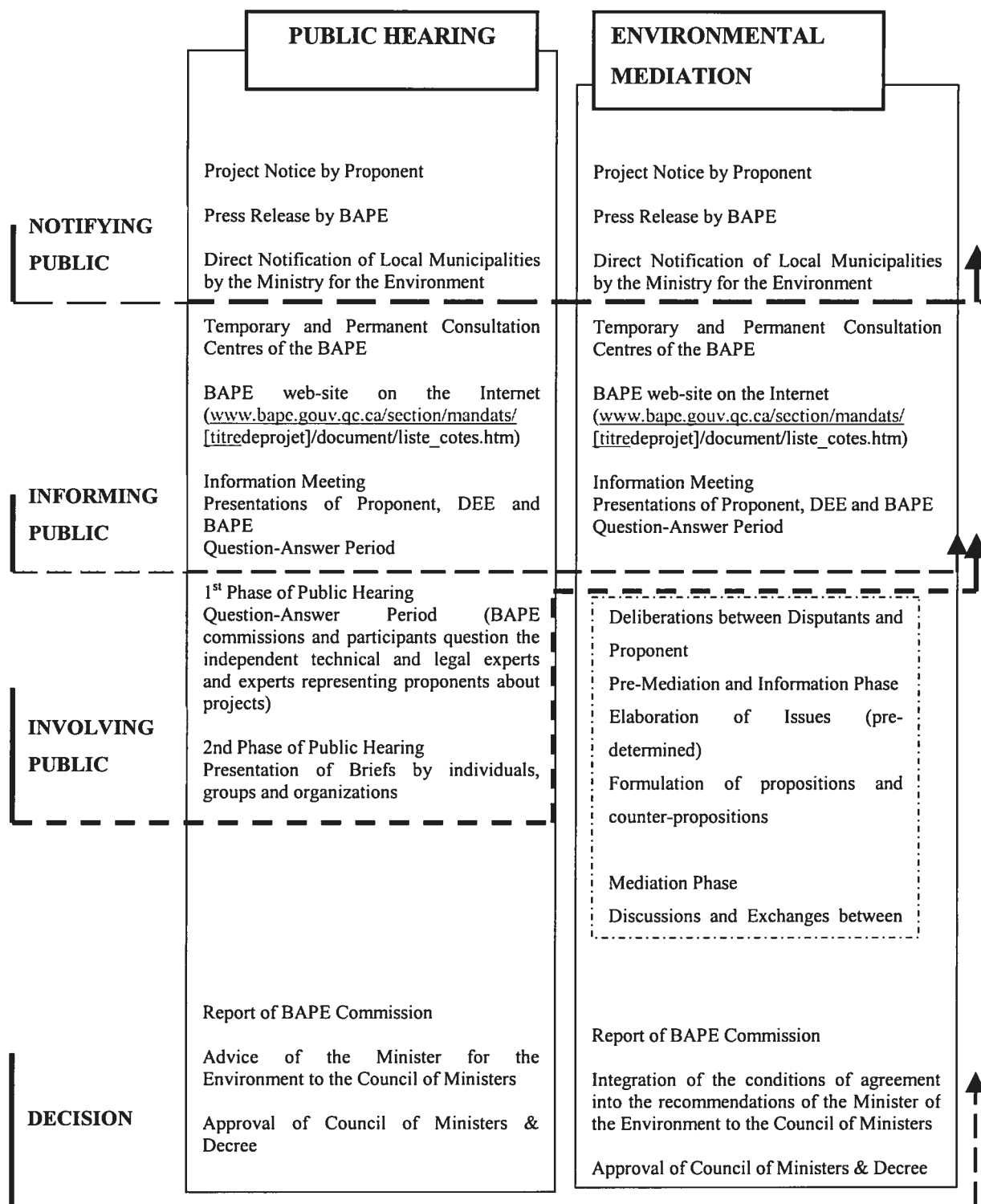


Figure 4.3. Comparative analysis of public hearing and environmental mediation processes.

4.3.3. Criteria for and Powers in Selecting between the Public Hearing and the Environmental Mediation Processes

The document review that we conducted on the internal reports prepared by BAPE, on the practice of environmental mediation, shows that without exception, each of these studies tried to address the issue of defining the appropriate conditions for the use of environmental mediation (BAPE, 1994; 1992). At the time of writing, neither the regulation nor the rules of procedure relating to the conduct of environmental mediation identifies specific criteria to be used either for choosing mediation over the public hearing process, or for defining the appropriateness of environmental mediation. The only reference provided is in these internal studies. Table 4.7, below, summarizes the suggested conditions in these internal studies.

In Québec's environmental assessment and review procedure, the decision to use an environmental mediation process instead of a hearing process is not based on an independent inquiry with objective criteria. It is a ministerial prerogative. The Minister does not need to consult with anybody, either inside or outside the expert circles of the Ministry, although he or she is not prohibited from doing so.

Table 4.7

Recommended Appropriateness Conditions or Criteria

BAPE Report	Recommended Conditions
1984	<ul style="list-style-type: none"> • Issues at stake are limited in scope • Parties are willing to participate in negotiations • Parties agree in public character of mediation process and choice of mediator • Number of participants is limited
1986	<ul style="list-style-type: none"> • Issues at stake can be clearly defined • Possibility of compromise exists • All parties can be identified and willing to participate in regulation of conflict

(table continues)

Table 4.7. (continued)

BAPE Report	Recommended Conditions
1988	<ul style="list-style-type: none"> • Issues at stake are restricted (limited) in scope and nature • Issues at stake are well defined • Number of parties is limited and they are all willing to participate • Compromise between parties is possible (there are negotiable issues at stake)

Note. Source: Adapted from BAPE (1994).

In an internal report prepared in 1991, based on the findings of *la Commission de l'aménagement et des équipements relativement à la procédure d'évaluation et d'examen des impacts environnementaux*, BAPE recommended using mediation as a tool for a preliminary or pre-hearing investigation within the framework of a hearing process (Gauthier, 1998; BAPE, 1995a). At the same time, it also proposed investigating the potential of mediation as an independent, autonomous tool to be used in the management of conflicts as an alternative to a public hearing.

BAPE a défini la médiation, dans le cadre d'une demande d'audience. Elle consisterait, pour un commissaire, à explorer, à a titre de partie neutre, les terrains d'entente possible entre le ou les requérants et le promoteur. Ce même document, dans le premier volet, propose des règles de procédure relative à la médiation au BAPE et la médiation y est présentée comme un outil autonome de gestion des conflits. (BAPE, 1994: 15)

In another 1991 document, the president of BAPE announced a process in which the appropriateness of environmental mediation could be decided by a preliminary study jointly conducted by BAPE and the disputants (BAPE, 1994). However, at the time of writing, this had not come to pass as a part of environmental mediation procedure.

In another document, produced in 1992, BAPE determined, as the main condition for the use of mediation, that the disputant groups would not oppose the justification of project. This is an important characteristic of environmental mediation, separating it from a hearing process. It has been suggested that:

Le recours à la médiation n'est possible que s'il y a accord du ou des requérants sur la justification du projet et sa réalisation éventuelle. (BAPE, 1992: 3)

There are arguments for the criterion that the disputants should not question the purpose of project; these arguments are based on the concern that:

You can not start a mediation process with people who are against to the project because by definition they do not want to look at the mitigation measures because they think that the project is bad and they are ready to do everything to make sure that project will never be occurring. (Gélinas, 2002)

However, there are also arguments against this, as it may be a criterion for constraining the opposition of disputant groups (Gauthier, 1998).

The other main condition apparently used by the Minister of the environment in choosing environmental mediation is the number of disputants. The Minister has mandated the use of the mediation process where the number of the disputants is limited. Interviews conducted for the purposes of this study have revealed a consensus among different groups that, between 1993 and 2002, environmental mediation has been used to avoid a hearing process; and it was selected when the number of disputants was limited to three or four.

Difficulties in defining and explicitly presenting criteria for the selection of environmental mediation as the appropriate model are actually related to the controversy, mentioned above, surrounding environmental mediation as a substitute or replacement for a public hearing process, or as a complementary tool to a hearing process within the environmental assessment procedure (Gauthier, 1998). This controversy has led to a weak introduction of the environmental mediation process, a weak and unclear position on it in Québec's environmental assessment and review procedure, as well as the bad (and perhaps undeserved) reputation of being undemocratic, serving to limit or discourage the participation of social actors and control the opposition of the disputants.

The purpose of a public hearing is to give people the opportunity to express their views on a project and also to propose mitigation measures. On the other hand, the purpose of mediation is to resolve conflicts. Even though they are different from each other, environmental mediation is

used as an alternative to public hearing – in fact, environmental mediation has often been used to avoid the more costly and time-consuming public hearing process.

The literature recommends that assessing the appropriateness of environmental mediation be based on an independent inquiry, to be conducted by an independent third party with the collaboration of all relevant stakeholders (Carpenter, 1999). Based on a comparative case study analysis, Carpenter (1999) identified the nature of the issues, the parties' willingness to negotiate, and procedural feasibility as determining factors for the appropriateness of such a consensus-based approach.

In the Québec's environmental assessment and review procedure, environmental mediation is a mandated process. It is the Minister himself who decides if a mediation process will be conducted and when it will start. However, parties are free to choose to participate or not, and those who give consent to a mediation process maintain their request for a hearing; however, the decision whether to mandate BAPE to hold a hearing process, after an unsuccessful mediation process, is a decision that can only be made by the Minister of the Environment. This is the reason why this structure gives people the impression that they are being deprived of their rights to a hearing process, and why mediation is not always used properly.

4.3.4. Access to the Process

Susskind and Thomas-Larmer (1999) explain that assessments have been undertaken before mediating a dispute since the early 1970s in the USA. In the 1980s, experts suggested that neutral parties conduct assessments, and by the late 1990s conflict assessment had become a common practice in various types of consensus-building and conflict resolution processes. The assessment process – described either as conflict assessment, conflict analysis, or stakeholder analysis – helps identify relevant stakeholders, maps their substantive interests, and identifies areas of agreement and disagreement. It also allows the assessor to explore parties' incentives and willingness to negotiate. Susskind and Thomas-Larmer (1999: 104) describe this information as “crucial to deciding whether a consensus-building process should proceed and, if it does, how it should be structured.” The conflict assessment process is also described as a platform for the assessors to educate the stakeholders about the process in order to help them make an informed decision about whether or not to participate, and a platform for the stakeholders to build relationships and know each other at early stages of the process.

Conducting a conflict assessment is crucial to making sure that all key stakeholders are included and that all relevant issues are identified (Susskind and Thomas-Larmer, 1999; Innes and Booher, 1999a). This is critical for the credibility of a process. It also reveals whether consensus building, or conflict resolution is the appropriate approach.

In Québec, environmental mediation has been defined as a public process because the law requires that the public be informed. The start and end dates have to be made public via press releases, and documents and transcriptions of exchanges within a mediation process also have to be publicly issued.¹⁰⁰ However, the general public has no direct access to mediation sessions. These sessions are held in private, between the formal stakeholders (disputants and proponents), with the underlying philosophy that the expectation of privacy and confidentiality within the process would increase its efficiency; but to provide transparency, the exchanges are recorded and made public later (BAPE, 1994).

In order to find a balance between efficiency and transparency, and for a co-operative vision to be created, BAPE developed a process in which the parties have the right to choose which transcriptions and documents are to be made public, and when they would be made public – during the process or at the end. In cases where parties do not have any preference about this, the mediator can decide (BAPE, 1994). Another proposed characteristic of Québec's environmental mediation process is that it has to satisfy the needs and expectations of both proponent and disputant. In other words, the solution has to be beneficial to both sides: it has to be a win-win solution. This is considered important for the equity of the groups.

It is argued that this co-operative philosophy would allow parties who are interested in dialogue and consensus to arrive at an agreement, while keeping them responsible for committing to implementing the agreement (BAPE, 1994). It would improve the social acceptability of projects and help maintain environmental quality at the same time (BAPE, 1995a). The philosophy behind this is that when relevant parties are included, they will drop their objections to a project and contribute to implementing the decision, since they themselves are part of the solution. This is about finding creative and innovative solutions, with minimum financial or

¹⁰⁰ *Regulation respecting environmental assessment and review procedure (Le procédure d'évaluation et d'examen des impacts sur l'environnement, or PÉEIE) (Q-2, r.9)*

environmental cost to the parties, and helping parties to build and maintain positive relations with each other.

As mentioned above, the pre-mediation process, which can be considered as the conflict assessment phase of the environmental mediation process as it is administered in Québec, does not serve to identify all the relevant stakeholders and issues. Mediators convene the proponents and parties who have submitted a formal public hearing application,¹⁰¹ and may also convene other parties whose participation they think is essential. These parties do not exercise the same rights as the formal stakeholders, such as the right to accept or reject solutions reached at the end of the process.

In short, in terms of the democratic nature of the process, in comparison to the public hearing process, there are two problematic areas: one, mediation is a process taking place behind closed doors, and two, it is only accessible to disputants, i.e., individuals, groups, organizations, or municipal administrations who came forward with a written public hearing request within the time limits set by the law.

4.3.5. Access to Resources

In this section we concentrate our efforts on the availability and distribution of resources among parties. Availability and distribution of resources can become a power issue with radical effects on the quality of public participation and the equal representation of the parties and interests.

4.3.5.a. Access to Information

Sadler (1996) has argued that in Québec's environmental assessment and review procedure the 60-day timeline for an environmental assessment process provides an incentive-focused negotiation, avoiding a protracted process:

The Québec experience confirms that mediation is a cost-effective approach to certain kinds of project assessment, reducing time and costs of the process while allowing the parties involved devising a solution that will be acceptable to the community, and politically acceptable to the Minister. (Sadler, 1996: 167)

¹⁰¹ BAPE *Règles de procédure relatives au déroulement des médiations en environnement*. The rules of the procedure related to the conduct of environmental mediation are articles 10, 11, and 12.

However, this limited time frame also leads to restrictions, both in terms of access to the process and access to information.

First, the question-and-answer period of the hearing process, which enables both the BAPE Commission and the public to understand technical issues and learn about the details of the project, is not available in a mediation process.

The question-and-answer period takes place during the first phase of a hearing process. During this critical phase, *commissaires* investigate and question the proponent, form an opinion, and help shape public opinion (Gariépy, 1989). In a way, the public has confidence that the *commissaires* will ask the right questions on their behalf. Expert knowledge provided by BAPE-appointed experts serves to bridge the resource and knowledge gap between the disputants and the proponent. By grasping the technical and scientific issues – through having access to this independent expertise – members of the public can transform knowledge into social choices.

The BAPE model is considered superior in that it helps people master technical and scientific knowledge (Gariépy, 1989; Doyle and Sadler, 1996), and creates a learning process especially for lay citizens. That is why the BAPE hearings generated great satisfaction among the general public and the environmental movement in Québec (Gariépy, 1989; Beauchamp, 1999).

Secondly, face-to-face exchanges between the parties have to be completed in a maximum of two working days. Because of this, the opportunity for the independent experts, assigned by the BAPE Commission, to enlighten the groups about technical or scientific issues is very limited.

Since 1999, BAPE has been able to diversify the way it disseminates information (BAPE, 1999), largely because of the new Internet technology. Press releases about the information and public consultation periods as well as about the public hearing and mediation processes are presented on the BAPE web site (www.bape.gouv.qc.ca). All documents submitted by the proponent of a project, all transcriptions, laws and regulations, and all Commission reports (including summary report (*compte rendu*), guidelines for preparation of a brief (*memoire*), and guidelines for preparation of a public hearing request) are available on the web site. Since

2000, all hearing and mediation reports have also been available on this site. In addition, the site provides the opportunity to communicate with the Commission directly, via e-mail.

Within the framework of the procedure, during the third or public participation phase, the MENV transfers the impact analysis (EIS), and all other documents presented by the proponent in support of its demand for authorization certificate, to the BAPE, as required by article 12 of the Regulation relating to the environmental assessment and review procedure. However, the Environmental Quality Act gives the Minister the right to withdraw any information or data concerning industrial or technical processes from a public consultation (DEE, 1998). This can happen upon a written request of the proponent. This means that the proponent can ask the Minister to keep some information confidential, i.e., to not provide information to the public:

Le ministre peut soustraire à une consultation publique des renseignements ou données concernant des procédés industriels et prolonger, dans le cas d'un projet particulier, la période minimale de temps prévue par règlement gouvernement pendant laquelle on peut demander au ministre la tenue d'une audience. (Environmental Quality Act, article 31.8)

The proponent has to submit 30 hard copies and two electronic copies of the environmental impact statement (EIS). For easier access, the electronic file has to be divided into chapters and sections. The proponent has to submit a summary of the report including its essential elements and the conclusions of the impact study,¹⁰² as well as other complementary documents. The summary is considered an easier way for the public to study the file. It includes a general plan of the project, a schema illustrating the potential impacts, and the proposed mitigation measures. It has to include all modifications done to the impact study following the questions and comments of the Ministry on the admissibility of the study. Electronic copies of the EIS and the summary are both available on the BAPE web site.

4.4. Transformations in Legal Provisions

The *Politique de la gestion intégrée des déchets solides (1989–1998)* (MEF, 1989) was introduced in 1989 by the Ministry of the Environment and Fauna in order to establish principles and objectives for an integrated solid waste management. This policy was the first attempt of the provincial government to regulate solid waste management in a sustainable

¹⁰² Under article 4 of the *Regulation respecting environmental assessment and review procedure*.

direction in Québec. It defines clear objectives, such as to reduce the quantity of domestic solid waste disposed into landfill sites by 50 percent in 2000, to improve the conditions of these sites by good management, and to assure that the waste elimination means used are adequate and have no effect on humans and on the environment. In establishing and introducing the 3R principles – reduce, reuse and recycle – the policy opened discussion on alternative means of treatment and disposal.

In order to achieve its objectives, the policy requires the collaboration (*concertation*) of all related groups (MEF, 1989). However, it does not provide strategies for encouraging such collaboration. The following statements show the degree of importance attached to collaboration in the policy, and the lack of measures to achieve it:

La gestion intégrée de déchets domestiques relève d'une politique gouvernementale où chacun des ministères et organismes concernés coordonne ses activités et ses programmes en fonction des objectifs retenus. La gestion intégrée de déchets solides engage tous les intervenants et les rend responsable de leurs actions lors de la production de biens, de la mise en marché de produits, de la collecte et du transport des déchets, de leur valorisation et de leur élimination. (MEF, 1989: 7)

La participation de l'ensemble de la population à la gestion intégrée des déchets aura un effet sensible sur la réduction des déchets sauvages. (MEF, 1989: 8)

La politique vise à permettre à l'ensemble des intervenants de manifester volontairement leur engagement à l'intérieur des programmes d'intervention retenus. (MEF, 1989: 9).

The policy document also lacks specific measures for distributing specific responsibilities among participating groups. It lacks financial details as well – for example, it does not propose a detailed budget for the realization of the proposed actions. The following statement shows that the policy shuns not only any financial responsibility for waste management, but also the establishment of any clear guidelines for financing it. Adopting a polluter-pays principle, the government leaves everything to the initiative of the responsible industries, whoever they are:

Le gouvernement ne doit pas assumer la facture de la gestion de déchets. Le principe polluer-payeur constitue l'instrument privilégié pour assurer le respect de l'environnement, pour garantir la sécurité de la population et

pour générer les fonds requis pour réaliser les interventions nécessaires.
(MEF, 1989: 7)

Enforcement measures are also missing in the policy. Citizens are deemed responsible for taking all necessary measures to achieve the policy's objectives, but without leadership. The Ministry itself does not assume any financial responsibility, only a catalyzing role and temporary support for all efforts to transform actual practice towards a rational as well as environmentally sound practice.

Adopting a polluter-pays principle, the policy provided no financial resources for citizens' groups. The only thing it did provide to community groups was the continuation of the PARFAIR financial assistance program:

Le programme de subvention PARFAIR continuera à apporter son aide aux organismes communautaire pour la réalisation de leurs activités de sensibilisation et d'éducation. (MEF, 1989: 9)

In 1996, a generic hearing was held by BAPE on the solid waste management issue. It was considered an outcome of the continuous pressures of the ecologists' groups on the government (RGEQ, 2000). The BAPE Commission looked for answers to questions including measures for decreasing the quantity of waste at the source and disposing of and reusing the waste; the distribution of roles and responsibilities; the economic and institutional measures required for fulfilling these responsibilities; and democratic, administrative, and political mechanisms for a regional management of solid waste (BAPE, 1997b). The Commission released a final report, "Déchets d'hier, ressources de demain." In this study, there are 69 recommendations presented as the necessary actions to be taken or the changes to be made in order to incorporate an integrated approach.

Le plan d'action Québécois sur la gestion des matières résiduelles (1998–2008) (MENV, 1998), first adopted in 1998, was developed by the Ministry of the Environment (MENV) under the guidance of BAPE recommendations, which were developed at the end of a generic public hearing on solid waste management in Québec in 1996 (BAPE, 1997b). This second policy, which has become the official policy of Québec government on solid waste management issues, set objectives of reducing the quantity of solid waste by 65 percent by the year 2008, and taking (or providing the means for taking) the necessary measures to ensure the

safety of people and the environment during the disposal of waste. Most importantly, the new policy required the MRCs and urban communities to prepare their own solid waste management plans in accordance with the provincial objective of reducing waste by 65 percent by the year 2003.¹⁰³ Financial assistance was also made available, to enable them to prepare of these plans.

The policy also required public participation in the preparation of these plans,¹⁰⁴ but it has been criticized for failing to provide details about how municipalities should do this. The policy also fails to provide guidelines on the how to identify representatives who will represent different interest groups in the preparation of the management plans (FCQGED, 1998).

The second policy document also requires that when the MENV authorize a new sanitary landfill site by decree, it has to ask proponents to establish a *comité de vigilance* at their own cost, to include members from the local population or community as well as environmental groups. Project proponents are accountable for providing all information related to the operation of the site to this committee. The main responsibility of the committee is to follow up and monitor the operation of the site.

In force since December, 1999, the *Loi modifiant la Loi sur la qualité de l'environnement et d'autres disposition législatives concernant la gestion des matières résiduelles – Loi 90* (Québec, 1999) is considered an outcome of a very long process of consultations and reflections on the consultations (RGEQ, 2000). These included the generic consultation held by BAPE in 1996 and the *plan d'action* developed in accordance with the findings of the generic public hearing. Article 53.13 of *Loi 90* identifies some guidelines for public consultation mechanisms that can be used by the MRCs. It requires the municipalities to consult the local citizens not only for the process of preparation of the management plans at the beginning of the process, but also during the implementation of the plans. Articles 53.13, 53.14, and 53.15 describe the consultation process, including the formation of a commission that would be representative of all relevant groups.

¹⁰³ *Action 1: Elaboration obligatoire de plans de gestion des matières résiduelles par les municipalités régionales de comté, les communautés urbaines ou leur regroupements.*

¹⁰⁴ *Action 3: Mise en place, par les autorités municipales, de mécanismes de consultation de la population sur l'élaboration et le suivi des plans de gestion des matières résiduelles.*

With *Loi 90*, MRCs and urban communities are also empowered to have access to information about the type of waste that will be disposed in and transferred into their territory, and they are entitled to limit or refuse waste exported from other regions.¹⁰⁵ However, there are some restrictions on these rights. Sites that existed before the management plan was in force are excluded, as is waste produced by pulp and paper industry, and enterprises that use their own installations to dispose of their own waste are likewise excluded. If they so desire, MRCs and urban communities are free to continue to receive the waste imported from other regions.

There have been modifications to the environmental assessment and review procedure. Half of them, nine out of eighteen, are related to the modification of the list of projects that are subject to the environmental assessment and review process. There are also modifications about notifying and informing the public and local municipalities of a project and the time limits for completion of a study. Table 4.8 is a summary of these modifications. This analysis shows that there is no specific modification in the way the procedure is administered.¹⁰⁶

¹⁰⁵ *Politique Québécoise sur la gestion des matières résiduelles Action 2: Attribution aux municipalités régionales de comté et aux communautés urbaines d'un droit de regard sur la provenance des déchets éliminés sur leur territoire.* (This article has also been approved by article 53.25 of the *Loi 90*.)

¹⁰⁶ *Tableau des modifications et index sommaire: Les modifications sur le Règlement d'évaluation et d'examen d'impacts environnementaux*, Editeur Officiel du Québec, 1 novembre 2001.

Table 4.8

Modification in Regulation Relating to Environmental Assessment and Review Procedure

"Gazette officiel" Date/Page	Modified Articles of the Regulation	Modification
93-11-03/ F: 7766 & A: 5996	a.2	Modification on "the list of projects subject to an environmental assessment and review procedure"
96-02-07/ F: 1231 A: 1046	a.2	Modification on "the list of projects subject to an environmental assessment and review procedure"
	Sect. IV.1 – a.16.1	Addition of a new article on maximum time available for realizing an environmental impact assessment study applicable to certain projects with industrial character
	a.19	Modification on the time available for bringing the provisions of para. g sect. 2 of the Environmental Quality Act into force
97-10-29/ F: 6681 A: 5199	a.2	Modification on the "list of projects subject to an environmental assessment and review procedure"
97-12-10/ F: 7510 A: 5804	a.2	Modification on "the list of projects subject to an environmental assessment and review procedure"
99-08-11 F: 3529 A: 2427	a.2	Modification on "the list of projects subject to an environmental assessment and review procedure"
00-09-13/ F: 5807 A: 4509	a.2	Modification on "the list of projects subject to an environmental assessment and review procedure"
	Appendix C	Modification on the acceptable (or maximum) levels of substances causing air and water pollution

(table continues)

Table 4.8. (continued)

"Gazette officiel" Date/Page	Modified Articles of the Regulation	Modification
01-05-09/ F: 2905	a.2	Modification on "the list of projects subject to an environmental assessment and review procedure"
01-09-12 F:6237 A:4921	a.6	Modification on the time lapse between two public notices which have to be published by proponents
	a.8	Modification to bring more details on the dimensions of a public notice
	a 10.1 and a 11	Modification to add a sub article to the article regulating the information provision (a. 10: Informing local municipalities) Instructing BAPE to publish a public notice informing the municipalities of a public consultation and information process
	a 15	Modification of the dimensions of a public notice that will be published by BAPE
	Appendix B	Modification of the model of public notice (the content of a public notice)
02-01-09/ F: 253 A: 246	a.2	Modification on "the list of projects subject to an environmental assessment and review procedure"
02-02-27 F: 1699 A: 1449	a.2	Modification on "the list of projects subject to an environmental assessment and review procedure"

In 1999, a change was made to the Code of Ethics and Professional Conduct of the Members of BAPE. There has been no change made to the Rules Regulating Conduct of Environmental Mediation since its introduction in 1992. In 2002, some changes were made to the rules of procedure relating to the conduct of public hearings (RRQ, 1981, c.Q-2, r.19).

CHAPTER V

5. PROCESS ANALYSIS: APPROPRIATENESS AND LEGITIMACY

In order to explore the effects of the institutional context on the process and vice versa, we conducted a comparative case study analysis. The application of environmental mediation to sanitary landfill site projects was chosen as the meta-case for this purpose.

In June 18, 1993, all sanitary landfill site projects in Québec (*lieux d'enfouissement sanitaire*, or LES) became subject to an automatic environmental impact assessment study.¹⁰⁷ Between 1993 and 2002, eight sanitary landfill projects underwent environmental mediation (see Table 5.1.) We compared these eight cases to see whether there was any relationship between their characteristics – geographical span, scale/capacity increase of the project, justification of the project, willingness of stakeholders, nature of the issues – and the selection of mediation as the appropriate approach to public participation. These details on the appropriateness criteria and selection process enabled us to strengthen our hypothesis about the links between the institutional context and the process – namely, that the legitimacy of the environmental mediation process is limited because of the constraints created by its institutional context; and that this in turn prevents it from becoming a democratic decision-making process.

In order to analyze the legitimacy of the process, we investigated its inclusiveness, representation, and accountability. This provided information for an analysis of the accessibility of the process in relation to its institutional context. In order to support our hypothesis on accessibility, we conducted a stakeholder analysis of the eight cases, using content and discourse analysis techniques, to identify the participating actors and their objectives. We looked at the dynamics of notification, information, and identification of stakeholders and issues. We then explored the representation of environmental interests and the measures taken to encourage the relations between the representatives and the constituencies, as well as the relations with the general public.

¹⁰⁷ As required by a change in the law on the establishment and extension of sanitary landfill sites, *La loi sur l'établissement et agrandissement de lieux d'enfouissement sanitaires* (LQ 1993, c.44).

5.1. Criteria and Powers for Determining Appropriateness of Environmental Mediation

The literature strongly argues that appropriateness is a critical factor in the effective use of any consensus-building approach. The basic criteria for appropriateness include the characteristics of the cases, the willingness of stakeholders to participate, and the nature of the issues at stake, i.e., conflicts (Susskind and Thomas-Larmer, 1999).

5.1.1. Characteristics of the Cases

The analysis of the characteristics of cases includes not only the physical characteristics of the projects but also their historical backgrounds and socio-political dimensions.

Table 5.1 lists sanitary landfill projects that went through BAPE's environmental mediation process between 1993 and 1999 in Québec. All of them, except Gaspé, were landfill site expansion projects.

In an expansion project, either a site's capacity is increased or else its lifetime before reaching full capacity is expanded. Proponents prefer to expand existing landfill sites rather than to establish new ones for several reasons: they can benefit from existing infrastructure, a client base is already established, and they can avoid the costs of closure and post-closure. Most importantly, they can avoid changing agricultural zoning, which is quite a long and difficult process.¹⁰⁸ When it comes to proposing the establishment of a new sanitary landfill site, MRCs (*municipalités régionale de compte*) are also discouraged by the requirements of EIA procedure.¹⁰⁹

¹⁰⁸ See the *compte rendu* prepared by the BAPE for Cowansville and Saint-Alban sanitary landfill site expansion projects.

¹⁰⁹ See the *compte rendu* prepared by the BAPE for the Gaspé sanitary landfill site establishment project.

Table 5.1

Environmental Mediation Cases for Sanitary Landfill Site Projects

BAPE Report	Date of the report	Project	Result of the mediation process
#83	September 1, 1994	Projet d'agrandissement du lieu d'enfouissement sanitaire de la compagnie Usine de triage Lachenaie, Inc.	No mediation process – public hearing held instead
#88	March 10, 1995	Projet d'agrandissement du lieu d'enfouissement sanitaire à la carrière Demix par la Communauté Urbaine de Montréal.	No mediation process – public hearing held instead
#98	September 1, 1995	Projet de modification du lieu d'enfouissement sanitaire de Champlain.	No agreement at end of mediation process – public hearing requests ruled “frivolous”
#103	May 9, 1996	Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville.	No agreement at end of mediation process – public hearing held
#110	April 3, 1997	Projet d'agrandissement du lieu d'enfouissement sanitaire et d'aménagement d'un lieu d'enfouissement de débris de construction et de démolition à Saint-Alban.	Agreement at end of mediation process
#112	May 8, 1997	Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Rosaire.	No agreement at end of mediation process – public hearing requests ruled “frivolous”
#132	March 16, 1999	Aménagement d'un nouveau lieu d'enfouissement sanitaire à Gaspé (secteur Wakeham).	Agreement at end of mediation process
#133	February 25, 1999	Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Côme-Linière.	Agreement at end of mediation process

As is clear from Table 5.1, environmental mediation is applied to sanitary landfill site projects at the rate of one or two per year. At the time of writing, the case of Saint-Côme-Linière was the last environmental mediation of a sanitary landfill site project; it was held in 1999. Since then, no sanitary landfill site project has been subjected to environmental mediation. In the meantime, a total of 29 sanitary landfill site projects went through a public hearing process between 1993 and 2003; of these, 8 took place between 2000 and 2003.¹¹⁰

These eight projects were different in terms of geographical span and scale (see Table 5.2). The cases of Lachenaie, Cowansville, Saint-Alban, and Saint-Rosaire were regional projects, while Dëmìx, Champlain, and Saint-Côme-Linière were sub-regional or local projects. Gaspé was also a local project, but with special characteristics- the region is a tourism attraction.

The cases demonstrate a relationship between a proposed capacity increase and opposition to or justification of it (see Table 5.2). Proposed high capacity increases and the addition of new client groups, such as municipalities, as a reason for justifying the increases, were often interpreted as showing the proponent's intention of bringing in waste from outside regions or even from other countries. Proponents were considered to be maximizing their profits, at the expense of risks to the health of local populations and deterioration of local environmental quality. Environmentalist groups strongly opposed regional projects that were designed to serve populations beyond the local or surrounding area.

Lachenaie, Cowansville, and Saint-Rosaire were cases in which the main issue was the transportation of waste from other regions for what disputants considered to be motives of profit maximization. The closure date of the *Carrière Miron*, the sanitary landfill site receiving waste from the Greater Montréal Area, was fast approaching. Lachenaie appeared to be the perfect site for the disposal of solid waste produced within the boundaries of Greater Montréal and Laval. The proposed capacity increase was five times the existing capacity (see Table 5.2). This created strong opposition among environmentalist groups, who were opposed in principle not only to traditional methods of solid waste management,¹¹¹ but also to the transportation or transfer of waste from other regions. At the end of the pre-mediation process, after meeting

¹¹⁰ See the list of the sanitary landfill site public hearing and mediation cases at www.bape.gouv.qc.ca/sections/rapports/theme/gestionmatieres.htm

¹¹¹ The traditional model is known as *pêle-mêle*. It does not include 3R-V (recycle, reuse, recovery and treatment) techniques.

with the disputants, who were all environmentalist groups, the BAPE Commission concluded that mediation was inappropriate for the case.

In the case of Cowansville, the disputant groups were not satisfied with the explanations of the proponent concerning the proposed capacity increase. During the course of the mediation, they discovered that some of the municipalities, presented as clients, were actually engaging in agreements with other intermunicipal agencies. This created the impression among the disputants that the proponent was actually considering transfer of waste from the USA but that it was reluctant to announce this openly.

The transferral of waste from other regions and countries was the main issue in three cases (Lachenaie, Cowansville, and Saint-Rosaire). Neither municipalities nor MRCs had any direct rights to exercise on this issue until 2000, *Loi 90* was passed.

Identification of member municipalities, i.e., the population that would be served by the proposed project, was another issue raised in relation to capacity increase. Again, this is a context-related issue, for any agreement between municipalities, to establish an intermunicipal agency to deal with solid waste management issues, has to be approved by the Ministry for Municipal Affairs. This means that the Ministry can exercise control over which municipalities can become members of which intermunicipal agency – or, thereby, clients in the agency's portfolio. The Ministry for Municipal Affairs is consulted on the admissibility of a project, but there is no coordinated effort between two ministries in the evaluation of sanitary landfill site projects with a global perspective.

Table 5.2

Geographical Span, Proposed Capacity Increase and Justification of Sanitary Landfill Projects

Case	Geographic area to be served	Proposed capacity increase and lifetime of project	Justification of Project
Lachenaie	Two Urban Communities – Montréal Urban Community and Laval Urban community.	From 0.8 tons/year to 4.0 tons/year; it had been .095 till 1992.	Increase capacity in order to provide service to new clientele: the Greater Montréal Metropolitan Area (Carrière Miron was supposed to be closed).
	Five MRCs – L'Assomption, des Moulins, Ste-Thérèse de Blainville, Deux Montagnes, Montcalm.		Increase capacity in order to be able to continue to provide service to the existing clientele.
Demix	Montréal Urban Community.	To add 860,000 m ³ to the existing capacity, which was around the same amount.	Need for capacity increase due to the first cell reaching its full capacity. Increase capacity in order to continue to provide service to the existing clientele.
Champlain	Twelve municipalities – St-Severin, St-Stanislas, St-Prosper, Ste-Anne-de-la-Pérade, St-Narcisse, Ste-Geneviève-de-Batiscan, St-Luc, Batiscan, St-Maurice, Champlain, Ste-Marthe, Cap-de-la-Madeleine.	From 22 to 33 hectares; an increase of 11 hectares.	Increase capacity in order to continue to provide service to the same clientele. Increase capacity in order to accumulate financial resources for implementation and operation of post-closure activities. Correct ground and surface water pollution problems while expanding the landfill site.

(table continues)

Table 5.2. (continued)

Case	Geographic area to be served	Proposed capacity increase & lifetime of project	Justification of project
Cowansville	<p>MRC Brome-Missisquoi and its municipalities</p> <ul style="list-style-type: none"> • Bedford, Cowansville, Dunham, Farnham <p>Seven other municipalities and entrepreneurs.</p>	<p>From 15 to 42.5 hectares (only 27 hectares was proposed for sanitary disposal); an increase from 2 100,000 m³ to 3 800,000 m³.</p>	<p>Establish another intermunicipal agency in order to gain more autonomy on decisions related to solid waste management, including buying land for expanding the Cowansville site.</p> <p>Include new members in order to keep annual capacity at 50,000 m³, minimum for a feasible operation.</p>
St-Alban	Two MRCs, comprising 16 municipalities.	<p>From 200,000 tons to 400,000 tons for LES.</p> <p>25,000 tons for DMS.</p>	<p>Increase capacity in order to continue to provide the same service to the existing clientele.</p> <p>Build a site for the disposal of dry material such as construction debris (<i>dépôt de matériaux secs</i>, DMS).</p>
St-Rosaire	<p>4 MRCs – Becancour, L’Erable, Lotbinière, Arthabaska</p> <p>There were 70 municipalities within the boundaries of these four MRCs.</p>	<p>Number of municipalities served would increase from 31 to 70.</p>	<p>Increase capacity in order to continue to provide service to the existing clientele.</p> <p>Increase capacity and the client portfolio to enable the proponent to stay competitive in the market.</p>

(table continues)

Table 5.2. (continued)

Case	Geographic area to be served	Proposed capacity increase & lifetime of project	Justification of project
Gaspé-Wakeham	One Municipality – Ville de Gaspé	New site 15,825 tons/year 912,260 m ³ , for minimum 30 years.	Increase capacity in order to continue to provide service to the existing clientele.
Saint-Côme-Linière	Two MRCs – Beauce-Sartigan, Robert-Cliché	From 750,000 m ³ to 2,284,000 m ³ , for 50 years.	Increase capacity in order to continue to provide service to the same clientele.

In the case of Saint-Rosaire, the proponent was concerned about his company's competitiveness in the market, due to the prices being offered by other private companies (especially multinationals) as well as those being offered by intermunicipal agencies. In order to keep its price low, the proponent had to increase the proposed volume of waste that would be accepted at the site. For this purpose, new municipalities had to be recruited as new clients. However, the 39 municipalities presented as new clients were already using other landfill sites, and were already served by other proponents. In addition, the proposed capacity increase of 70,000 tons/year was far beyond the volume that the whole region could produce. These factors created the impression among local population that the site was going to accept waste from other places, including the USA.

In the case of Champlain, the capacity increase was proposed in order to raise funds for the closure of the site and post-closure activities, as well as to correct existing water pollution problems. However, the proponent kept certain financial information and calculations confidential, and refused to consider other options (including the transfer of waste to other LESs in the neighbouring areas), causing at least one of the disputants to lack confidence in the proposal.

Conflict in Saint-Alban centred on the concerns of local citizens, that Saint-Alban had become a regional garbage can. Saint-Alban, a small town with a small population, had received waste

from the surrounding region for 25 years and for the citizens of Saint-Alban it was time to stop this trend.

5.1.2. Willingness of Parties to Participate

Historical backgrounds and social and economic factors, important for understanding the dynamics of the cases, also affect the attitudes of the stakeholders towards each other and their willingness to participate in a consensus-building effort (Innes and Booher, 1999a; Susskind and Thomas-Larmer, 1999).

In Québec, a decision whether to choose mediation as the appropriate technique depends on two things: first, the Minister of the Environment has to mandate BAPE to hold a mediation process and second, the parties must be willing to pursue a mediation process. If the Minister mandates it, and if the parties are so willing, the BAPE Commission has to conduct a mediation without any reference to the nature of the issues, i.e., whether the issues at stake are negotiable or not.

The willingness of environmentalist groups depends on the nature of issues. For example, in case of Lachenaie, the main issue at stake was transportation of waste between regions. During the 1990s, proponents often imported waste from other regions and countries. Environmentalist groups were strongly opposed to this trend. Importation was decreasing the lifespan of the sites, which were reaching their full capacity before the projected time. Environmentalists saw this as a threat, as they considered the sanitary landfill sites as assets that they did not want to lose. To combat this trend, they began to raise the issue of the need for a regional approach to solid waste management, which would keep each region responsible for the management of its own waste, as well as the need for a provincial policy that would introduce an integrated approach taking into account the relations between regions. They attempted to pressure the government into holding a generic hearing on the solid waste management issue as a whole.

For some time, environmentalist groups had participated in almost every public hearing and mediation case possible, out of their conviction that it was a right they, as members of the general public, must exercise. In this way, they felt they could increase the pressure on government. In the cases of Lachenaie and Demix, disputants refused to participate in an environmental mediation. They did not want to get involved in discussions about specific

issues – what they wanted was a generic hearing, in which the very concept and principles of an integrated waste management approach would be discussed. Thus, as a pressure tactic, they used these two cases as platforms to reiterate their demand for a generic hearing process. Public hearing request letters that were sent to the Minister included expressions similar to this one:

Nous vous demandons d'agir rapidement dans ce dossier [le dossier d'une audience sur l'ensemble de la gestion des déchets solides au Québec] et arrêter l'étude des dossiers de tous les projets utilisant des déchets ou des résidus de toutes provenances, tant et aussi longtemps qu'un réel débat n'aura pas eu lieu et qu'une réelle politique ne voit le jour.¹¹²

The reason behind the refusal of mediation was not related to their perceptions about environmental mediation. They did not consider mediation inferior to a public hearing process. They simply did not think that it was appropriate for the cases, due to the issues at stake. They wanted to debate the principles, and mediation was not the appropriate platform for that. In addition, they were not satisfied with the existing structure, which allowed involvement only at the project level; negotiation, for example, was permitted only for mitigation measures or modalities of implementation for minimization of possible impacts. They wanted negotiation to have started at an earlier stage, e.g., during the preparation of regional plans. They also wanted to be involved in the preparation of the directive for impact study, as well as in negotiating the selection of alternative technologies to be studied before negotiating the mitigation of impacts on a specific site or group.¹¹³

In shaping the willingness of the parties to participate, the literature explains that not only the context of the case, but also the context of the procedure, is effective (Innes, 1999; Susskind and Thomas-Larmer, 1999). If the stakeholders believe that another strategy will serve their interests better, if they do not trust each other or the process, and if they lack familiarity with the consensus-building approach, they may then refuse to participate.

The guideline on preparing an official request for a public hearing states that parties can express, in their request or application letter, whether they would agree to participate in

¹¹² BAPE (1995) *Rapport d'enquête et de la médiation: Projet de Demix - Appendix 3: Les lettres des requérants (la lettre de FCQGED)*.

¹¹³ Personal interviews with Liliane Cotnoir (FCQGED), Michel Séguin (Action Re-But) and Don Wedge (STOP).

environmental mediation. However, groups are not provided with any explanation related to selection criteria used to decide whether mediation or hearing will be chosen.

In two of the eight cases, Saint-Alban and Cowansville, disputants consented to participating in mediation. In the Saint-Alban mediation, the disputant, *La coalition environnementale de Portneuf*, was involved in a parallel public hearing process, underway at the same time, for another project by a private firm proposing the establishment of a *dépôt des matériaux secs* – DMS. This disputant party expressed its consent to mediation as follows:

Il importe de souligner, que, parallèlement à la présente demande d'audience publique, la coalition demeure ouverte à toute médiation dans la mesure où nous aurons la conviction qu'elle pourra servir à apporter des éléments de réponse valable et concrète aux préoccupations de la population concernant ce projet d'agrandissement.¹¹⁴

In the case of Cowansville, four individual disputants came together to prepare one common public hearing request and also expressed their consent to mediation in their request letter as follows:

Les soussignés requièrent une audience publique sur la projet d'agrandissement du LES de la Régie. Toutefois, nous comprendrons très bien que vous puissiez privilégier la médiation.¹¹⁵

The mediation process in Saint-Alban case ended with an agreement, whereas in Cowansville a public hearing process had to be held after the mediation, as two of the four disputants were not satisfied with the proponent's explanations of some of the issues, including capacity increase. This illustrates that perceptions of parties about the mediation process are not the only factor affecting the willingness of parties to participate in mediation. The perceptions of disputants about the project itself, for example the motivations of proponents and the disputants' perceptions of the proponent's performance in operation of the site, play a more critical role in defining the attitudes of these groups during the course of the mediation process.

¹¹⁴ BAPE (1997), *Rapport d'enquête et de médiation: Le projet de lieux publics d'élimination des déchets à Saint-Alban, Appendix A: Lettres de demandes d'audience publique*

¹¹⁵ BAPE (1996), *Rapport d'enquête et de médiation: Le projet de d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville.*

The proponent of Saint-Rosaire had a bad reputation due to the way he had operated another landfill site, the LES of Saint-Christophe d'Arthabaska. He had had personal confrontations and disputes with local residents living around that LES. The disputant in the Saint-Rosaire case, one of the individuals who had personal issues with the proponent, was interested in stopping the project at any cost. He accepted the option of mediation because mediation was the only option offered to him. In reality, he was trying to make the proponent's job difficult by prolonging and delaying the authorization process. He refused to confront him personally around the negotiation table, he did not accept any proposal, and he reiterated his request for a hearing.

In the two of the eight cases, Lachenaie and Demix, disputants refused to participate in a mediation process, by not giving their consent to mediation and reiterating their request for a public hearing during the pre-mediation phase. They were granted the hearing. In two other cases, Champlain and Saint-Rosaire, a hearing was not granted when disputants reiterated their request for hearing at the end of an unsuccessful mediation process. This points to another issue in relation to the willingness of parties: parties feel obliged to participate in a mediation process, because they do not know whether a public hearing is going to be granted to them if they refuse to participate in mediation. As this decision is a ministerial prerogative, the Minister can declare such demands frivolous. Neither is there any guarantee that disputants will be granted a hearing at the end of an unsuccessful mediation process.

The mediation processes in Gaspé and Saint-Côme-Linière ended up with an agreement. According to the mediators, the openness of the parties to each other's position, the level of trust that existed or was built during the mediation, the urgency of the issue, and participants' trust in the process were main factors that enabled success.

In Champlain, the mediation commission's lack of power on some issues, such as compensation, put the mediation process in a weak position as far as the disputants were concerned, and so they withdrew from the mediation before an agreement could be reached. One of these disputants decided to take the case to an administrative tribunal with more powers to regulate compensation issues.

When we looked at the reasons why disputants refused mediation, we discovered that the majority of them were context-related (see Table 5.3). The groups questioned the nature and capacity of the mediation process to deal with the issues at hand, and involve those who must be involved and informed. We saw that this was related to the late involvement of public in the process. We also found out that alternative decision-making bodies such as tribunals were perceived as more powerful. Another dimension of the effect of the context on the process was related to the availability of human and financial resources to the individuals and the environmental groups: there was no financial support or training available to the disputants.

Table 5.3

*Reason for Failure or Refusal of Mediation*¹¹⁶

Case	Reason for the refusal of the mediation process or failure of the process to produce an agreement (as expressed by disputants in their mediation refusal letters)
Lachenaie	<ul style="list-style-type: none"> • Scale of project required wider participation of people from the region; mediation would not allow a large public debate with participation of a greater number of participants; limited access of public and municipal representatives to mediation process • Mediation not an appropriate tool for grasping all the dynamics of the issues • Mediation requires parties to give their approval to the project; but in this case justification of the project was the main issue • Large number of disputants • Lack of transparency of local politicians and lack of leadership of Ministry of the Environment and the Québec government • Power difference between a multinational company as the proponent (with powers to dictate solid waste management policy in Québec) and environmentalist groups with very limited resources

(table continues)

¹¹⁶ BAPE mediation reports # 83, 88, 98, 103, 110, 112, 132, 133.

Table 5.3. (continued)

Case	Reason for the refusal of the mediation process or failure of the process to produce an agreement (as expressed by disputants in their mediation refusal letters)
Demix	<ul style="list-style-type: none"> • Ministry of the Environment's announcement of public consultation process for Lachenaie at the same time as Demix created pressure on environmentalist groups in terms of human and financial resources • The case-by-case approach of the Ministry of the Environment; environmentalist groups wanted MENV to adopt an integrated decision-making approach • The solid waste management generic public hearing, organized to discuss elements of such an integrated approach in Québec, was in progress
Champlain	<ul style="list-style-type: none"> • Insufficient power of the BAPE Commission and mediator to make decisions about monetary compensation • More powerful alternative bodies such as tribunals • Data not made public, even after the first and the second round of mediation meetings
Cowansville	<ul style="list-style-type: none"> • Management of the control of entry and origin of the waste disposed at the site • Protection of the public character of the agency (possibility of transferring the management of the site to a private proponent) • The use of the Saint-Joseph route (especially by heavy trucks) as the access route to the site • Quantity of waste to be disposed; dimensions of the site and lifetime of the expansion; justification of the recruitment of new member municipalities
St-Alban	<ul style="list-style-type: none"> • Agreement
St-Rosaire	<ul style="list-style-type: none"> • Total capacity of the site; importation of waste for profit • Population to be served; some MRCs had projects for their own LES; lack of trust in the proponent's projections for the project • Cost of disposal • Private ownership/operation of the site; lack of trust based on bad reputation of proponent
Gaspé-Wakeham	<ul style="list-style-type: none"> • Agreement
St-Côme-Linière	<ul style="list-style-type: none"> • Agreement

5.1.3. Nature of the Issues

Table 5.4 shows that the majority of the issues raised by the disputants were contextual; that is, conflicts were caused by the institutional context in which the mediation process was set up.

Table 5.4

*Issues at Stake or Points of Opposition*¹¹⁷

Case	Nature of the Issue: Contextual	Nature of the Issue: Substantive
Lachenaie	<ul style="list-style-type: none"> • Transfer of waste from Montréal and Laval to Lachenaie sanitary landfill site – proposed lifetime, capacity, volume • Use of <i>pêle-mêle</i> as mode of treatment – lack of enforcement of 3R-V techniques (recycle, recover, reuse and treatment), producing possible negative impacts on environment, health, quality of life • Lifetime and delay in closure of the Carrière Miron • Ongoing public consultation process on the project of integrated solid waste management in the territory of Montréal municipality (RIGDIM project) • Need for wider public debate or generic hearing on a comprehensive regional/provincial approach to the issue of management of solid waste in Québec • • Lack of transparency; fundamental data was not being made public 	<ul style="list-style-type: none"> • Environmental impacts due to truck traffic, water, and methane gas

(table continues)

¹¹⁷ These are issues defined by the disputants in their formal letters to the Minister of the Environment which have served as the public hearing request (application) and they are transferred from the BAPE mediation reports # 83, 88, 98, 103, 110, 112, 132, 133.

Table 5.4. (continued)

Case	Nature of the Issue: Contextual	Nature of the Issue: Substantive
Demix	<ul style="list-style-type: none"> • Nature and origin of waste to be disposed • Selected site assessment modes and techniques • Lack of assessment of alternative sites and alternative methods to sanitary landfill sites (3R-V) • Management of site • Lifespan of the site 	<ul style="list-style-type: none"> • The technique of treatment of mud (sludge) and ashes produced by the purification station • The impacts of the projects on human health
Champlain	<ul style="list-style-type: none"> • Lack of transparency in information exchange – financial and budgetary data not made public • Profit-maximization drive of proponent • Lack of emphasis on analysis of alternative sites • Selected mode of site assessment – insufficient quantity and type of data used to decide site selection and project development 	<ul style="list-style-type: none"> • Environmental impacts and deterioration of quality of life • Contamination of agricultural soil • Loss of revenue and need for monetary compensation
Cowansville	<ul style="list-style-type: none"> • Representativeness and mandate of the consultation committee proposed by the proponent • Area and population to be served by the landfill site; importation of waste from municipalities outside MRC boundaries • Scope of the project • Control of the waste disposed on the site – nature, origin, quantity 	<ul style="list-style-type: none"> • Impacts of heavy traffic along the <i>rang</i> St-Joseph – deterioration of road conditions • Establishment of trust fund for post-closure activities • Possible environmental security measures to be taken during operation of the site
St-Alban	<ul style="list-style-type: none"> • Source and origin of waste • Opposition to privatization of site and management • Need for formation of a citizens' committee (<i>comité de surveillance</i>) for monitoring site management • Proposed site capacity and lifetime • Management of triage centre 	

(table continues)

Table 5.4. (continued)

Case	Nature of the Issue: Contextual	Nature of the Issue: Substantive
St-Rosaire	<ul style="list-style-type: none"> • Justification of the project • Quantity, source and origin of waste to be disposed; waste importation from outside regions • Proposed site capacity, volume, and lifetime 	
Gaspé - Wakeham	<ul style="list-style-type: none"> • Need for a regional approach to solid waste management due to particular geography of Gaspésie region • Conformity to the action plan to be developed by the MRC in determining site capacity, volume, and lifetime 	<ul style="list-style-type: none"> • Impacts on terrestrial and aquatic fauna and habitat • Environmental impacts due to contamination, noise, smell, aerial transfer of bacteria and viruses • Pollution of surface and underground water • Possible loss of integrity and value of private property
St-Côme-Linière	<ul style="list-style-type: none"> • Site selection criteria – disadvantages of location for the town of St-Côme-Linière • Conformity of extension project with the regulations • Conformity with waste reduction targets of the <i>Politique Québécoise de la gestion des déchets 1998–2008</i> • Access to information during site operation (after the agreement signed) 	<ul style="list-style-type: none"> • Environmental impacts – water pollution, deterioration of quality of life • Monetary compensation to provide services to local citizens

The three major groups of issues were related to the distribution of rights and responsibilities in the transportation of waste: (a) municipalities did not have any jurisdiction over the transfer of waste between regions or countries; (b) there was a lack of long-range, comprehensive planning for sustainable solid waste management; and (c) local municipalities were recruited as the members of an intermunicipal agency regulated by the Ministry of the Municipal Affairs. These issues appeared under the general headings of justification of the capacity of the proposed extension and justification of the project.

Other issues were access to information concerning the operation of site after the implementation of the project (or agreement), and the roles and responsibilities of citizens' committees (or *comité de vigilance*) in monitoring and follow-up of the operation.

Our analysis shows that mediation processes, which end with an agreement, were those in which substantive issues appeared as conflicts (see Tables 5.1 and 5.4).

Also, BAPE experience has shown that mediation is not a good option where general issues or principles are at stake, or where the justification of the project is itself the main issue. When the issues are narrow in scope or where there are very specific questions to be answered – such as choosing between different modes of operation, alternative technologies, or elaboration of measures to minimize the potential impacts – then mediation can play a very constructive role. It may also not be an option where disputant groups comprise large numbers of people, because it is not possible to satisfy large number of people.¹¹⁸ At the time of writing, there were discussions around developing a model of public hearing (*une audience adaptée au forme de médiation*), which comprised some mediation practices, to avoid such current public hearing difficulties as the requirement for getting the consent of very large populations.

5.2. Process Legitimacy

Process legitimacy is measured in terms of the process' accessibility: its inclusiveness, representativeness, and accountability.

In the effort to assess the mediation process in the case of New Bedford Harbor Superfund Forum in Massachusetts, Finney and Polk (1995: 525) emphasized the frustrations of the initiators of the process about the legitimacy of the process:

For the process to be considered legitimate, and also to ensure effective communication with the entire community and not just those actively participating in the mediation, it was vital that participants be deemed truly representative of the stakeholders and they had to be in a position where they could be held responsible for representing the points of view of their groups. It was also necessary to find a fine balance between being inclusive

¹¹⁸ Personal interview with Claudette Journault.

in inviting participants to the mediation and establishing a large group something infeasible in mediation processes.

In order to overcome this difficulty, in the New Bedford case, the American Environmental Protection Agency (EPA) first encouraged the visible parties to establish a fair and objective screening mechanism, to identify the stakeholder groups and to select those who would represent these groups in the mediation process. These groups were then asked to choose the mediator themselves, from between two candidates. At that point, the selected representatives came together at a preliminary gathering to discuss and decide the ground rules, such as rules to ensure regular attendance and define the way the minutes of meetings were to be handled, and the roles and responsibilities of the representatives inside the process. These were measures taken to address the concerns of some groups about the domination of the process by government agencies (Finney and Polk, 1995). Representatives of the citizen and environmentalist groups were also provided with a financial grant to hire a technical consultant to help them understand the technical issues. The consultant was chosen from a list of experts provided by the mediator and hired by these groups themselves without the involvement of any government representative.

The mediator and his team videotaped the proceedings and broadcasted them on a local cable channel. This, according to Finney and Polk (1995: 527):

Has shaped the forum and become a critical component for the success of the process. The recommendations were accepted and ratified by the larger community. The forum became a public process not mediation behind closed doors. It gave the process credibility and also prevented new opposition from becoming a possibility.

According to the findings of the same assessment, broadcasting the proceedings of the meetings enabled interested parties to share their ideas with their representatives, and allowed greater community exposure to and understanding of the issues of the case. It also helped to make parties at the table more accountable for what they said and to stay responsive to the groups they represented (Finney and Polk, 1995).

5.2.1. Actor Profiles and Interests

A synopsis of the participants who were involved in the eight environmental mediation cases involving sanitary landfill site projects is presented at Appendix D (See Tables D.5.1 through

D.5.8). There are four main categories of participants: government (including BAPE), proponents, disputants, and experts (including observers and auditors).

5.2.1.a. BAPE Commission Mediator

Five mediators were involved as presidents of the BAPE Commissions. Three mediators managed two cases each. The cases of Lachenaie and Champlain were managed by Johanne Gélinais; Cowansville and Gaspé by Gisele Pagé; Saint-Rosaire and Saint-Côme-Linière by Camille Genest; Demix by Claudette Journault; and Saint-Alban by Réal L'Heureux. At the time of writing, Journault was still a member of BAPE, as vice-president, and L'Heureux, one of the former presidents of BAPE, was now retired. Gélinais and Pagé were no longer working for BAPE. However, Genest was still a permanent member of BAPE.

5.2.1.b. Project Proponent

Our comparative analysis of eight cases showed the following types of proponents: four intermunicipal agencies, two private firms, one municipality and one urban community. Table 5.5 is a synopsis of the proponents in eight sanitary landfill site projects.

Table 5.5.

*Proponent Profiles*¹¹⁹

Case	Proponent
Lachenaie	• Multinational private company – Usine Triage de Lachenaie (UTL), a branch of BFI Browing-Ferris Industries
Demix	• Montréal Urban Community
Champlain	• Intermunicipal Committee – Le Comité intermunicipal de gestion des déchets du comté de Champlain (CIGDCC)
Cowansville	• Intermunicipal Agency – La Régie intermunicipale d'élimination de déchets solides de Brome-Missisquoi
St-Alban	• Intermunicipal Agency – La Régie intermunicipale de gestion des déchets du secteur Ouest de Portneuf

(table continues)

¹¹⁹ BAPE *Rapport d'enquête et médiation* nos.: 83, 88, 98, 103, 110, 112, 132, 133.

Table 5.5. (continued)

Case	Proponent
St-Rosaire	• Local private company– Service Gaudreau, Inc.
Gaspé (Wakeham)	• Municipality – Ville de Gaspé
Saint-Côme- Linière	• Intermunicipal agency – La Régie intermunicipale du comté de Beauce-Sud

Two of the eight proponents were private firms: one a multinational (BFI-UTL) and one local (Service Gaudreau, Inc.). Four of the proponents were intermunicipal agencies: *Le Comité intermunicipal de gestion des déchets du comté de Champlain* (CIGDCC); *La Régie Intermunicipale d'élimination de déchets solides de Brome-Missisquoi*; *La Régie Intermunicipale de gestion des déchets du secteur Ouest de Portneuf*; and *La Régie Intermunicipale du comté de Beauce-Sud*. The other two proponents were *Ville de Gaspé* and *Communauté Urbaine de Montréal*.

Our analysis of interests showed that the drive for profit maximization was dominant amongst the private firms. The intermunicipal agencies (*Régies*) were considered more interested in providing continuity of service for their client communities at minimum financial and environmental costs. Private firms saw the mediation and hearing processes as platforms to help them promote their projects to the public and improve the quality of these projects by using public input.

5.2.1.c. Disputant Groups

Our comparative analysis showed provincial and local environmentalist groups among the disputants, as well as individual citizens. Table 5.6 presents the profile of the disputants in our eight individual cases. In one case, Saint-Côme-Linière, members of the local community came together to establish a citizens' committee.

Table 5.6.

*Disputant Profiles*¹²⁰

Case	Disputants
Lachenaie	<ul style="list-style-type: none"> • Four provincial environmentalist groups • Two regional environmentalist groups • One local environmentalist group
Demix	<ul style="list-style-type: none"> • One provincial environmentalist group • One regional environmentalist group
Champlain	<ul style="list-style-type: none"> • Two local citizens (individuals)
Cowansville	<ul style="list-style-type: none"> • Four local citizens (individuals)
St-Alban	<ul style="list-style-type: none"> • One local environmentalist group
St-Rosaire	<ul style="list-style-type: none"> • One local citizen (individual)
Gaspé – Wakeham	<ul style="list-style-type: none"> • One provincial environmentalist group • One local environmentalist group • One local citizen
Saint-Côme-Linière	<ul style="list-style-type: none"> • One provincial environmentalist group • One citizen committee (15 local citizens as members)

The environmentalist groups were interested in verifying the conformity of the projects with specific criteria, including ecological and democratic principles, and related policy, as well as laws and regulations.¹²¹ They believed it was their responsibility to participate, in order to represent environmental interests, promote ecological and democratic principles of integrated solid waste management, to set an example for the public, and to help create a learning environment for the public.¹²² They were interested in improving the practice of the procedure itself by changing the way things were done.¹²³

¹²⁰ BAPE *Rapport d'enquête et médiation* #s: 83, 88, 98, 103, 110, 112, 132, 133.

¹²¹ Personal interview with Karel Ménard.

¹²² Personal interview with Don Wedge.

¹²³ Personal interview with Liliane Cotnoir.

The main interest of individuals was protection of property values, as well as the natural value and quality of the local environment. Ecological principles such as sustainability and biodiversity were not as high on their priority list.

Local environmentalist groups were interested in protecting local environmental values (e.g., flora and fauna habitat), eliminating health risks associated with water and soil pollution, and protecting the quality of life in general. These groups were very capable of raising relevant issues and formulating effective arguments that served to represent environmental interests very well.

5.2.2. Inclusiveness

In this part of the study we explore access to the process in terms of its inclusiveness, through analyzing processes for notifying and informing the general public and the stakeholders about the projects and the processes associated with them.

5.2.2.a. Notifying and Informing Public of the Process

Palerm (2000) argues that accessibility to the process starts with notification of the stakeholders. In the procedure used by BAPE, both stakeholders and the general public are notified of a project in two ways: notices are published in local, regional, and provincial newspapers by the project proponent, and BAPE issues press releases. The municipality of the host community is informed directly by the Minister of the Environment.

In the previous chapter, our analysis of context revealed that, in the procedure in Québec, there is no mechanism in place to notify stakeholders directly. Stakeholders are identified as those who apply within 45 days of the information and consultation period with an official document, letter, or fax followed by a letter, according to the guidelines of the Ministry for the Environment. Only these individuals and groups have the right to make decisions, accept, refuse or make offers during the mediation process. Those who have not sent such a letter are not entitled to any of these rights. The process does allow for the participation of those who have not requested a public hearing in writing, or who are interested only indirectly, but groups and individuals in this position do not have the same rights as disputants. One of the mediators explained that: “at the end of the day the deal is between disputants and the proponent. This ‘guest’ has no say on the deal. If he does not like it ... too bad.”

In Cowansville, one individual was too late in submitting his request letter, and could therefore not participate as a disputant. In the same case, some property owners come forward to object to a list of people and groups that had been prepared by the proponent, identifying those who would be influenced by the impacts of the project.

The closed character of the process causes serious concerns. In particular, it is accessible only to formal disputants, those individuals or groups that come forward with a written request within the time limits set by the law. Two mediators expressed concern on this issue, one of them as follows:

Only question I had sometimes was related to the fact that the process was really happening behind closed doors, even though it was a public process, and we might be missing some impacts which were not necessarily related to disputants – the ones that we were negotiating. We might have other impacts but with a process like that some people may be losing something because of the project but never having a chance to be part of the process. Mediation is only for the disputants.

In addition to issuing press releases, BAPE assigns an information agent and an analyst to each project. The agent and the analyst are responsible for managing the information meeting, in particular for explaining the consultation procedure and answering participants' questions. They also prepare a summary report (*compte rendu*) that gives details of the meeting. (See Appendix C for examples of summary reports.) The *compte rendu* is sent to the Minister of the Environment, at the end of the public consultation and information period. It is made public on the BAPE web site of for one week. Information agents and analysts are also responsible for answering requests for information about the project, and keeping those who inquired informed about any developments.

BAPE uses Canada NewsWire (CNW)¹²⁴ services to send press releases to the regional media and to a mailing list including individuals, groups, and municipalities who might be interested in a specific project.¹²⁵ Cowansville represented the first time this service was used to notify the local population and media, and to invite them to consult the documents.

¹²⁴ The company used to be known as "Telbec".

¹²⁵ CNW services are used by all Québec provincial government agencies. BAPE has been using the service since about 1994.

BAPE press releases announce the start and end dates of the information and public consultation period, as well as the time and logistics of the information meeting, and the location of consultation centres where documents relating to the project are accessible to the public. (See Appendix C for examples of press releases.) This is an effective way to notify and inform the stakeholders, but not very effective when it comes to the general public, because of the limited number of individuals, groups and organizations that receive the press releases. The effectiveness of the notices published by the proponents in the regional and the provincial media is also extremely low. In addition, disputants report that the number of the people who learn about the process through notices published in the newspapers is also very limited, because newspapers are generally not well subscribed.

Radio and television are also used for informing the public via local initiatives; they are not used directly by BAPE or by the proponents. Table 5.7 presents a summary of notification and information activities for our eight cases. The use of a variety of communication tools besides newspapers, including radio and television, is becoming a common practice in Québec. There is no regulation enforcing this practice, but more and more, radio and TV are considered effective communication tools at the local level. Experts with long-time experience in the public consultation field also recommend the use of visual media as an effective tool to get the public involved. As a useful measure for increasing effective public consultation, Luc Ouimet (2003), for example, recommended the use of the National Assembly TV channel (or of university TV channels) to the members of Association québécoise pour l'évaluation des impacts (AQÉI), during the organization's 12th annual conference in Québec City.

Table 5.7

Notification and Information Activities

Case	# of press releases (Media= Québec+ Regional)	# of press releases (Groups, Municipalities & Individuals)	# of participants in information meeting	# of signatures on "consultation registry" ¹²⁶	Media Coverage Local TV channels, Radio Stations, Newspapers & Information Inquiry	# of hearing requests
Lachenaie	N/A	N/A	29 participants (including the representatives of the proponent, two mayors)	N/A	N/A	Six
Demix	N/A	N/A	Seven participants (one citizens' group & six environmentalist groups)	N/A	N/A	Two
Champlain	None	None	17 participants (13 citizens)	"Plusieurs personnes ont consulté le dossier ... aucune personne n'a signé le registre."	<i>Le Nouvellist</i> , May 17, 1995, published the observations of a journalist about the information meeting in a news format.	Two
Cowansville	None	300	30 participants (12 citizens)	"Le dossier n'a été consulté qu'une seule fois."	<ul style="list-style-type: none"> <i>L'Avenir, Le Guide & La Voix de l'Est</i> covered the project. A local TV videotaped the information meeting and broadcasted it in the following day The local radio station, CHEF-AM, broadcasted an interview about the morning session of the meeting. 	One (four disputants together)

(table continues)

Case	# of press releases (Media=	# of press releases (Groups, Municipalities &	# of participants in information meeting	# of signatures on "consultation registry"	Media Coverage Local TV channels, Radio Stations, Newspapers &	# of hearing requests
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Table 5.7.
(continued)

¹²⁶ Based on the information provided by the BAPE in the *Compte rendu de la période d'information et consultation publique* for eight environmental mediation sanitary landfill projects: Lachenaie, Demix, Champlain, Cowansville, Saint-Alban, Saint Rosaire, Gaspé, and Saint-Côme-Linière.

Québec+ Regional)		Individuals)	Information Inquiry			
St-Alban	None	None	20 (including 4 citizens, the proponent and his consultants, and 12 mayors and members of the Régie)	"le dossier a été consulté à quelques reprises."	None	One
St-Rosaire	None	None	20 participants (including one journalist from print media and two journalists from the local community TV in Victoriaville	"Le dossier a été consulté aux bibliothèques de Victoriaville et Saint-Rosaire."	<ul style="list-style-type: none">Regional newspaper <i>La Nouvelle Victoriaville et Bois-Francis</i> informed its readers of the start of the information period on Sept. 1, and published a summary of the meeting on Sept. 22, 1996. Another regional newspaper, <i>L'Union</i>, gave its editorial to the project, Sept. 12.The information meeting was discussed on the radio station CBF-AM.	One
Gaspé Wakeham	One + CNW (in the region through Canadian News Wire)	53	19 participants (including three from Gaspé Municipality and one journalist)	"Une inscription a été notée à la Bibliothèque d'Alma-Bourget-Costisella."	Radio Gaspésie broadcasted two interviews with two consultants of the private firm which conducted the EIA study and a short summary of the information meeting,	Three

(table continues)

Table 5.7. (continued)

Case	# of press releases (Media= Québec+ Regional)	# of press releases (Groups, Municipalities & Individuals)	# of participants in information meeting	# of signatures on "consultation registry"	Media Coverage Local TV channels, Radio Stations, Newspapers & Information Inquiry	# of hearing requests
Saint-Côme-Linière	190+17	66	100 participants (including three journalists from written media, one journalist from local TV)	Three (one with a comment)	<ul style="list-style-type: none"> Several articles published by local newspapers (journalists from L'impact, L'Eclaireur-progrès and La Une du Matin were present at the information meeting) The information meeting was recorded by local TV, to be broadcast in the following days A telephone interview with the local radio station CKRB-AM about the consultation procedure was given by the BAPE information officer (Aug. 28, 1998) An information inquiry of a journalist from "Journal Constructo" was answered by BAPE (information concerning the project was sent by fax) 	Two (one citizens' committee composed of 15 local residents)

Cowansville was the first case where the information meeting was covered not only by the regional newspapers (including *L'Avenir*, *Le Guide*, and *La Voix de l'Est*) but also by a regional radio station (CHEP-AM of Granby), and by a community television channel (Cowansville Community TV). The TV channel broadcast the morning session of the information meeting, while an interview was given to the radio station.¹²⁷ This was the second most crowded information session among the eight cases and was the only case for which a public hearing process was held after an unsuccessful mediation process. In some of the early cases, such as Champlain, we did not see any regional media coverage at all. However, where provincial groups were involved, the interest of media was greater, because of a combination of challenging issues and the ability of provincial groups to attract media attention. The information meeting at Saint-Côme-Linière attracted the largest number of participants of any of the information meetings we examined. In that case, the proponent had conducted active public communications in the early stages of the process, and a citizens' committee had been established to represent the interests of the local community in the mediation process.

5.2.2.b. Informing the Public of the Project

Our analysis shows that, at times, proponents send their experts to the area to collect the information necessary to determine the issues that will raise concern among local populations.¹²⁸ Among the eight cases we studied, the proponent of Lachenaie (a private firm) and the proponent of Saint-Côme-Linière (an intermunicipal agency) did so. Such communication activities are the beginning of attempts to explain the project and reasons behind its justification to the public. The local populations do not necessarily receive a full presentation of the project at that time – because changes might be made, based upon the findings of the communication studies, for one reason; but, at the same time the proponents also have no obligation to do so. They prefer to present the project as a whole, within the formal information meeting, after they complete the EIA in accordance with the changes required by the DEE and after the Ministry of the Environment approves the admissibility of project. This governmental approval, in a way, thus provides the project with a special security.

¹²⁷ BAPE (1996), *Compte Rendu de la période d'information et consultation publique sur le projet d'agrandissement de LES Cowansville*.

¹²⁸ This is one of the recommendations of the *Directive pour la réalisation d'une étude d'impact sur l'environnement d'un projet de lieu d'enfouissement sanitaire* (DEE, 1998).

In our study, we found that proponents used various early communication activities. Some organized community meetings, some distributed questionnaire surveys, and others hired local people with a good reputation, such as schoolteachers, to “explain” the project to the local population.

BAPE is the main body responsible for informing the public both of the process and the project. In addition to permanent consultation centres located at l’Université de Québec a Montréal (UQAM) and at l’Université de Laval in Québec City, BAPE designates temporary consultation centres in the area where the project is likely going to be implemented, most often the local library or town hall. There, the project file is available for consultation. As we mentioned above, not many people consult the file at these consultation centres (see Table 5.7).

The project file is also available through the Internet, on BAPE’s web site. This has provided better access to files, especially for environmentalist groups. In the past, such groups were referred to project proponents for the copies of impact studies. However, as BAPE itself has acknowledged, “there is a large population out there which does not have Internet access which leaves the BAPE web site useful only for a limited population.”¹²⁹

During the public consultation and information period BAPE organizes an information meeting as well. The location of the information meeting is determined by BAPE. Usually, such meetings take place in the town hall or other venue (such as a hotel) that can accommodate large meetings. Obviously, the location affects the number of people who participate. For example, the information meeting for Saint-Alban was held at Cap-Santé. This, according to the responsible information agents of the BAPE, prevented the local population from participating in large numbers.¹³⁰

During an information meeting, which is open to everybody, proponents present their projects to the local population. These presentations, which are around 30 to 45 minutes long, are supported with visual material such as overheads or computer software programs such as Power Point. Posters may be displayed on the walls of the meeting venue, subject to the BAPE approval – BAPE has to ensure that these materials will help to explain the project but will not

¹²⁹ Personal interview with Claudette Journault.

¹³⁰ The *compte rendu* for the case of Saint-Alban (See Appendix C).

promote the proponent.¹³¹ This is the only opportunity for citizens to ask questions about the project directly to the proponent, if the case undergoes an environmental mediation process.

5.2.3. Representation: Identification of Stakeholders and Selection of Representatives

The selection of representatives is a critical issue because of the role they play, the rights they exercise within a mediation process, and the responsibilities they have towards the individuals or groups they represent (Innes and Booher, 1999a; Susskind and Thomas-Larmer, 1999).

Petts (1999, 2001) argues that being representative of interests is more important than representing interests, and in deliberative processes a considerable effort should be made to select individuals who might be representative of a wide range of interests in the community, rather than people who represent specific groups. Community (or citizens') advisory committees (CAC) and citizens' juries are two forms of public participation. CAC participants are chosen from interest positions that the decision-maker considers relevant. Citizens' juries are usually randomly selected through a quota system, which aims to make them a microcosm of their communities.

One of the individual disputants in Champlain hired a lawyer to represent himself. The second individual disputant of the case represented himself. In Saint-Rosaire, the individual disputant was represented by another individual, as the disputant did not want to come face to face with the proponent. This representative got help from a person who was a member of the *Conseil Régional de l'Environnement*. The Commission accepted his participation in the capacity of auditor. Individual disputants consider legal representation effective, because, in order to be heard, they believe that they need the skills of a lawyer as well as the language of the law. However, it is not always possible for individual participants to pay for the services of a lawyer. For example, more than one farmer was affected by the expansion of the Champlain sanitary landfill site, but some had to choose not to participate because of the high cost of hiring a lawyer. In the end, they participated as observers.

¹³¹ Personal interview with Claudette Journault.

Some mediators are against involving lawyers, preferring parties to represent themselves. They believe that the process of communication between disputant and lawyer can serve as a delay mechanism. They also believe that some lawyers might have a personal interest in prolonging the process.

Appointment of representatives, as well as the delegation of decision-making powers to them, is an issue taken very seriously by mediators. In the case of government ministries, private or public organizations, and groups, the representatives or spokespersons have to be officially delegated. They must have the power to make decisions and sign agreements on behalf of the bodies they represent. Official letters are required from individual disputants as well.

Saint-Côme-Linière was the only case in which a citizens' committee was involved as a disputant. The committee was established as an initiative of individuals who owned properties around the sanitary landfill site. They were accompanied by other citizens who had active roles in the community. These individuals were, according to the mediator, capable of debating, arguing, negotiating, and analyzing. The municipality provided moral support, as well as space for meetings and office tools such as fax and photocopy machines.

Local and provincial environmental groups are often represented in a mediation process by their director or project officer (*chargé de projet*). Our analysis of the organizational structure of provincial environmentalist groups showed that, for the most part, these individuals worked alone, with no direction from their Board of Directors, except for the unwritten rule that they had to follow the principles and mandates of the organization and they had to report at the end of each activity period. During the course of a mediation session, representatives of environmentalist groups are permitted to contact their board members, to consult with them on specific issues, but in practice this does not happen very often, if at all.¹³²

According to some of the mediators, the duty of mediator as the representative of absent parties and environmental interests cannot be executed properly, because it contradicts the neutral position mediators are supposed to assume during a mediation process, and because of time limitations. However, mediators and members of a BAPE Commission, including the

¹³² Personal interview with Karel Ménard (FCQGED).

information agent and analyst, can assist citizens' groups to participate effectively in a mediation process. For example, in Saint-Côme-Linière, the BAPE Commission spent some time in preparatory meetings with the citizens' committee, helping the committee to use professional expertise for such things as formulating the issues at stake.¹³³

5.2.4. Accountability

5.2.4.a. Representation of the General Public

As discussed above, public notices and press releases are used to officially inform the general public of a public consultation process. Notices are published in local and provincial newspapers, and TV and radio also provide ways of keeping the public informed.

The general public is invited to an information meeting, the only platform where anyone may question experts and proponents about the process, procedure, and project. After the information and consultation period is over, the mediation process is closed to the general public. They may still, as discussed above, read the project file and other documents produced during the mediation process at the consultation centres set up by BAPE. Our analysis shows that disputants who participate personally in mediation meetings are discouraged from making public announcements to the members of media during the deliberations, because it is believed that this can make the management of the process a difficult task and prevent the maintenance of a "serene climate" during the deliberations.¹³⁴

Mediators can issue press releases and public notices in order to maintain the public character and transparency of the mediation process. Releasing the minutes of meetings is also considered an effective way of increasing accountability. In addition, the BAPE mediation report is considered a tool for serving to enhance accountability in the mediation process, because everybody can obtain a copy of the report as soon as it is released.¹³⁵ The timing of the release of minutes is subject to the approval of participating groups –i.e., proponents and disputants. Minutes may be released after each meeting or at end of the mediation process at the same time as the submission of the report by the BAPE Commission. The mediators often

¹³³ Personal interview with Camille Genest.

¹³⁴ Personal interview with Camille Genest and Minutes of Meetings for *Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville*.

¹³⁵ Personal interview with Claudette Journault.

advise the release of minutes at the end of the process. There is no possibility of the general public being able to make any changes in the report after its release.

We also observed that BAPE Commissions are not always aware of the public communication activities conducted by the proponent at the beginning of the EIA process. As a result, findings of these early communication activities cannot be incorporated into a mediation process. There is also no direct reference to the findings of information meetings, because mediation is restricted to the issues raised by formal disputants (in their formal public hearing request letters) that are accepted for negotiation by the proponents during the pre-mediation phase.

5.2.4.b. Representation of Environmental Interests

During the mediation process, it is possible that some groups and interests, including environmental interests, will not be represented. Mediators have the duty to represent the interests of those who were not present in the mediation process, and ensuring the social vision of the project. When participants select from among options developed during the mediation process, mediators must help parties to understand the environmental consequences of each option. They see to it that the groups' proposals are in conformity with all related laws and regulations. This is not a role that can be played effectively.¹³⁶ Involvement of local environmental groups is not as wide as wished. In two environmental mediation cases, no environmentalist group, local or provincial, was involved.

5.3. Transformations in Legal Provisions and Stakeholder Perceptions Relating to Process Legitimacy

Groups are critical of each other's motives for participating. For example, some mediators argued that environmentalist groups, in general, participate to attract media attention, or at certain times they participate merely in order to be heard even though they might not have anything against the specific project.

For some time, environmentalist groups used to submit a hearing request for each and every case, out of their belief that this was a right that the public had to exercise. At the time of

¹³⁶ Personal interview with Camille Genest.

writing, they were changing tactics, choosing to participate more selectively and working on the enhancement of their public outreach and public information activities.

We observed that environmentalist groups were cynical about the motives of proponents in engaging in environmental mediation processes. For example, they explained that, in the beginning, proponents were in favour of mediation, because fewer disputants participated at that time. This reduced the amount of time and money required by the process. Over time, according to the representative of one environmentalist group, they began to support the participation of large numbers of local individuals, because lay citizens' participation was an effective way to avoid questions about technical and scientific issues; citizens were seen as more interested in issues such as noise and dust. There was a common dissatisfaction among the disputants about the role played by government. They felt there was lack of leadership in the field especially in encouraging effective involvement of local communities. The disputant groups supported the use of radio and TV as information and notification means, since these were seen as being more effective in reaching people.

The disputants did not express any concern about the legitimacy of the process. They believed that everybody who had to get involved was there, and capable of representing their interests properly. However, some mediators expressed concern about legitimacy, as well as about the capacities and resources available to disputants to represent themselves properly. Despite the fact that some mediators had doubts about the legitimacy and democratic nature of mediation process, they did not think that a stakeholder identification process would be appropriate because some groups could be favoured against others. Some of the disputants shared the same concern, based on past experience or on anecdotes heard from others about the awarding of financial grants, or about invitations to occasions such as seminars and conferences as the representatives of the environmental sector. They believed that in order to be invited to a meeting, or to be granted financial support, you had to be a "nice environmentalist."

CHAPTER VI

6. PROCESS ANALYSIS: FAIRNESS

In this chapter, we will direct our attention to the issue of fairness, which is related to our second hypothesis, which suggests that the environmental mediation process as it is set up in the Québec's environmental assessment and review procedure (PÉEIE) for sanitary landfill site projects is limited because of the institutional context in which it is set up.

In order to explore the measures taken to eliminate power differences among the groups, we will compare the inside process dynamics of four individual cases – Lachenaie, Champlain, Saint-Rosaire and Saint-Côme-Linière – in order to understand the way the parties shared responsibilities. To do this, we analyze the distribution of roles and responsibilities among them in terms of process design, agenda setting, setting and modifying ground rules, and defining logistics. Then, we look at the distribution of resources as indicators or sources of the power to include and exclude participants, negotiate, and influence the final decision. We pay particular attention to process mechanics and the perceptions of the participants, especially disputants, about the resources, roles, and responsibilities. Documents such as BAPE reports and minutes of meetings also help us derive our conclusions about the fairness of process.

In order to deepen this analysis of fairness, we compare public hearing and environmental mediation processes in one specific case, Cowansville, the only case (at the time of writing) where both mediation and public hearing processes have been used. We focus on the way these two processes serve to facilitate the access of disputants, especially individuals and environmental and community groups, to technical and legal expertise, i.e., information. We compare the processes in terms of the times and nature of the interventions of independent experts (the so-called resource persons). We consider the contribution of professional experts, at least within the limits of this study, as a measure of fairness.

Finally, to complete our analysis of fairness, we compare the cases in terms of availability and sources of financial and human resources as well as training to help disputants participate effectively and consistently during the processes of mediation.

6.1. *Distribution of Stakeholder Roles and Responsibilities*

In this section we look at the dynamics of process design and management, with a special focus on the perception of the participants (especially disputants) on the distribution of roles and responsibilities, and their position compared to other groups' position in the process.

6.1.1. Powers in Designing and Managing the Process

In the PÉEIE, the mediator is described as a neutral party, whose job is to ensure all parties move towards an agreement. The mediator must treat parties equally (BAPE, 1994) and maintain the transparency of the process as a means of protecting its public character. According to one of the mediators:

A good mediator is the one who has respect for people and trust in people because a mediator is not there to tell people what they have to do. A mediator uses common sense and judgement and calls for expertise when it is required to help people to find a way to improve their quality of life.¹³⁷

After they receive the mandate for mediation or public hearing, mediators consider themselves in charge, in total control of the process. For them, this is a prerequisite for BAPE credibility, as the institution responsible for organizing public participation activities, and for the credibility of process itself.¹³⁸ The only limit they see on their powers is that they do not enforce agreements: “Le pouvoir que je n’ai pas, c’est de ni imposer au promoteur, ni imposer aux requérants une décision.”¹³⁹

Nevertheless, problems arise. Mediators have the powers of a *commission d’enquête*, which means they can assign witnesses and regulate the submission of documents in order to clarify technical and legal issues, and can make determinations on issues raised by either group as problematic. However, some members of the Bureau do not find that the *commission d’enquête* powers are appropriate for the management of collaborative processes. This dissatisfaction was expressed by one of the mediators: “Les pouvoirs de la *commission d’enquête* ce n’est pas le

¹³⁷ Personal interview with Johanne Gélinas.

¹³⁸ Personal interviews with Johanne Gélinas and Camille Genest.

¹³⁹ *Minutes of Meeting – Projet d’agrandissement d’un lieu d’enfouissement sanitaire sur le territoire de la municipalité de Cowansville* – preliminary (information) meeting between the BAPE Commission led by the mediator Gisèle Pagé and the Proponent, i.e., La Régie Intermunicipale d’élimination de déchets solides de Brome-Missisquoi - vol. 2; p. 40.

genre de pouvoir qu'on aime à exercer et habituellement, on fait appel à la bonne collaboration des gens."¹⁴⁰

Other Commissions hold more power. In Champlain, for example, one of the disputants quit the process because the BAPE Commission and the mediator did not have power to regulate compensation issues. He wanted to take the issue to Commission for the Protection of Agricultural Land (*Commission de protection du territoire agricole*, or *CPTAQ*) because that Commission had the power to regulate compensation issues and many other powers that the BAPE Commission did not have. This was not a problem for some mediators, who did not consider compensation as the main responsibility of a BAPE Commission, although they did acknowledge that the limited powers of BAPE Commissions can become a problem in managing collaborative processes. Others expressed the wish for more time – for more careful examination of the issues, and for enough time to allow groups to learn about each other's position, the issues at stake, and the options for solutions.

When asked to describe their role, the majority of the mediators defined a dual role: administrative judge and environmental expert. As administrative judge, mediators create the space for a voluntary process based on mutual trust, in which all participants work together to find a solution. As environmental expert, mediators help proponents and disputants understand the issues related to environmental feasibility or lack of feasibility of proposals.¹⁴¹ In addition, they represent environmental interests in the absence of the representatives of these interests. None of the groups, including mediators, disputants and proponents, seemed to considering the nature of this dual role as contradictory. There was a general agreement that mediators had to protect the public character and neutrality of the process, while at the same time helping some groups understand the process, formulate their issues properly, and negotiate them effectively. At the time of writing, this latter role of mediators was becoming more and more important. When parties were supported by the mediator and other members of the BAPE Commission, they were more effective during the mediation process, and this was seen as an important factor

¹⁴⁰ *Minutes of Meeting – Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville* – preliminary (information) meeting between the BAPE Commission led by the mediator Gisèle Pagé and the Proponent, i.e., La Régie Intermunicipale d'élimination de déchets solides de Brome-Missisquoi - vol. 2; p. 38.

¹⁴¹ Personal interview with Johanne Gélinas.

in ending the process with agreement.¹⁴² The consensus among many seemed to be that any practice that would help them learn more was a good practice.

6.1.1.a. Process Design

The cases of Lachenaie and Champlain were managed by the same mediator. These two cases were very different from each other, in that there were different types of management and different types of waste involved. Lachenaie was a large sanitary landfill site owned by a private company that may not have had a good record. The waste came from Montréal and Laval. On the other hand, Champlain was owned by the MRC (regional county municipality, or *municipalité régionale de comté*) and the waste was local, i.e., it originated from the surrounding area. In Lachenaie, the mediation process stopped at the end of the preliminary meetings between the mediator and the disputant groups, and between the mediator and the proponent. The mediator of the case believed that:

The mediation mandate was a wrong decision for Lachenaie. There was a political spin where strong lawyers were involved and asked to the Minister to try mediation even if they did not know what mediation really was. It is possible that they were trying to influence the process and disputants. At the first meeting I decided that conditions were not there to move ahead with mediation.¹⁴³

According to the mediator: “Champlain was a perfect case for mediation, a case with few disputants who were not against the project: it was a good try that did not work.”¹⁴⁴ (It did not work for reasons discussed previously – see Chapter Five, Criteria and Powers in Determining Appropriateness of Environmental Mediation.) She explained her approach as follows:

I myself find it easier first to meet one-on-one with the disputants and then one-on-one with the proponent. After meeting with the disputants I identify the issues. To make sure that I understand the issues properly, I ask specific questions and then I go to the proponent with these issues and ask him if he wants to negotiate. If the answer of the proponent of the project is “no” then the disputants are informed and mediation process ends. If the answer is “yes” then all parties come together in a joint meeting to discuss the issues which were put on the table.¹⁴⁵

¹⁴² Personal interview with Camille Genest.

¹⁴³ Personal interview with Johanne Gélinas.

¹⁴⁴ Personal interview with Johanne Gélinas.

¹⁴⁵ Personal interview with Camille Genest and BAPE (1999), *Rapport d'enquête et de la médiation – Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Côme-Linière*, BAPE Report # 133.

The chronology of events for Lachenaie and Champlain cases is presented in Appendix D (See Table D.6.1 and Table D.6.2).

The analysis of the chronology of events shows that despite the differences in characteristics of the project, including different disputant profiles and differences in the issues at stake, the same process mechanism was applied to both cases.

The mediator at Saint-Rosaire and Saint-Côme-Linière described the cases as different from each other in terms of the number and the nature of the issues, and the position of the parties, both towards each other and towards the mediation process.

In Saint-Rosaire there was only one disputant, a local citizen. This disputant raised a limited number of issues, but they were more targeted compared to Saint-Côme-Linière. The proponent and the disputant were very distant in their positions and the disputes were not easily reconcilable, due to personal conflict between them. This positioning, according to the mediator, was detrimental to the process and the outcome of the mediation. According to the mediator

Une vieille histoire de mauvais voisinage entre le requérant et le promoteur, soit un conflit personnel, était sous-jacente au litige sans que le médiateur n'ait pu faire déclarer ouvertement cette situation.¹⁴⁶

The proponent in Saint-Rosaire was a private company. The president of the company described the basic interests of the company as profit maximization and being recognized as a model sanitary landfill enterprise. The disputant's stated main interests were to reduce the cost of the project and the duration of exploitation of this site. However, the main interest of the disputant, according to the mediator, was in fact to stop the project (or at least to delay its realization) out of the animosity he felt for the proponent.

In Saint-Côme-Linière, there were a number of issues to be resolved. However, from the beginning, the parties, the proponent, and the citizens' committee were very open to each other's position. According to the mediator, this situation created an environment that favoured

¹⁴⁶ Personal interview with Camille Genest.

the resolution of conflicts in a positive manner. The mediator believed that this environment and the positive positions of the parties grew out of the fact that the groups knew each other very well. The president of the Régie (the proponent) and the president of the citizens' committee (one of the disputants) were brothers.¹⁴⁷ The proponent, a well-known public organization, was interested in providing service to the client municipalities at the minimum cost. The citizens' committee, comprising 15 citizens from Saint-Côme-Linière, were trying to protect the local environment and the community's quality of life from possible negative impacts. The proposed capacity increase was going to extend the lifetime of the site for 50 more years. This increase was proposed to serve the municipalities of two MRCs, so that the scale of the conflict was sub-regional. The import or export of the waste from other regions was not an issue.

The mediator of the Saint-Rosaire and Saint-Côme-Linière cases describes the process design he applied to two cases as follows:¹⁴⁸

A. The mediator first concentrated on two issues:

- He searched the reasons for position taking.
- He analyzed and negotiated the proposals, and the counter-proposals of the parties.

B. He looked at the points of convergence and divergence between the parties' interests and concerns:

- He re-framed the proposals of the parties to make them understandable by all parties.
- He defined concerns and tried to find solutions.
- The real interests of the parties were projected into the future.
- In collaboration with all parties, possible consequences (or impacts) of the proposals on environmental, social, economic, and technical plans were assessed.

C. Options for solution were tested.

- Options for different solutions were formulated, and the acceptability of these solutions and their conformity with environmental plans, laws, and regulations, as well as the norms,

¹⁴⁷ Some concerns were raised about the possible negative effects of this on the position of the committee and the level of critical stand it could take during and after the mediation process.

¹⁴⁸ BAPE (1999), *Rapport d'enquête et de la médiation – Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Côme-Linière*, BAPE Report # 133.

directives, and policies of MENV, were verified with the help of the resource persons (i.e., MENV experts).

- Standard norms and objective criteria were presented to the parties to guarantee a fair and equitable agreement.

D. Agreement was signed.

- Demands for a public hearing were withdrawn.
- Agreement became a decree after the authorization of the government.

The chronology of events for Saint-Rosaire and Saint-Côme-Linière cases is presented in Appendix D (See Tabel D.6.3 and Table D.6.4).

The analysis of chronology of events again shows that the same mediator used the same process design for both cases, despite underlying differences between them.

6.1.1.b. Setting the Agenda, Ground Rules, and Logistics

The agenda is prepared and proposed to the parties by the mediator. Mediators are very sensitive about this issue – a well-designed process can yield positive outcomes. Participants can modify the agenda, as long as the mediator approves the requested modifications. Mediators try to be very flexible when it comes to personal and professional constraints as well. This mediator repeated the following phrase several times in almost every session: “Mon agenda va être le vôtre. Mais je vais m’ajuster à vous. Je vais respecter vos exigences professionnelles et vos contraintes personnelles.”¹⁴⁹

In addition to preparing the agenda, the mediator also proposes ground rules. These rules are used to manage the process and arrange the communication between parties, as well as with the media during the negotiations. In defining these rules, mediators pay special attention to respecting the related rules and regulations, which is important for the formality of the process. They also refer to what other mediators have done on similar projects. One of the critical

¹⁴⁹ *Minutes of Meetings – Projet d’agrandissement d’un lieu d’enfouissement sanitaire sur le territoire de la municipalité de Cowansville – Preliminary Meeting between the BAPE Commission led by the mediator Gisèle Pagé and the Proponent (la Régie intermunicipale d’élimination de déchets solides de Brome-Missisquoi)*, Vol. 1; p.26, Vol. 1; p.131, Vol. 2; p. 47.

factors for mediators is time limitation. They try to convince parties to a form of process management and communication that enables a quick process, which would be optimal for a limited time period (such as two months) to complete a mediation process. However, they also try to be flexible, to enable participants to express themselves and exchange ideas. We observed the efforts of the mediators to establish a structure that would enable a flexible process, which could be completed within the time limits in the minutes of meetings:

C'est ça que vous avez aussi décidé, comment vous voulez, si on en arrive à progresser en médiation, quelle est la forme que vous jugez la plus optimale pour fonctionner.¹⁵⁰

Je vous ai fait des propositions. Vous pouvez me revenir avec des propositions, une fois que j'aurai votre consentement. On pourrait ce soir regarder ensemble votre requête et s'il y a des commentaires additionnels que vous pouvez me faire, de façon verbale – des fois on n'écrit pas tout ce qu'on a à dire dans une requête- si vous avez de priorités déjà à m'identifier.¹⁵¹

The mediator lays out the process mechanics, i.e., the way the mediation process will be conducted, and how communication patterns will be defined. He/she can make changes to accommodate the difficulties of parties, so as to make it possible for them to participate. For example, when one of the disputants could not participate in the first joint meeting of the Saint-Côme-Linière mediation process, the mediator met him in person in a separate meeting. (He was present at all other joint meetings.)

Within the process, mediator has the role of moderator. He/she arranges who will speak, when, and for how long. He/she tries to ensure that everyone has a chance to speak and has equal time to express himself/herself.

The location and time of the mediation process are defined and made public by BAPE communication experts in close contact with the mediator of the case. Disputants and

¹⁵⁰ *Minutes of Meetings – Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville* – preliminary meeting between the BAPE Commission, led by the mediator Gisèle Pagé, and the disputants, vol. 1; p. 80.

¹⁵¹ *Minutes of Meetings – Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville* – preliminary meeting between the BAPE Commission, led by the mediator Gisèle Pagé, and the disputants, vol. 1; p. 116.

proponents are both consulted about this. The duration of the process is defined by regulation. Mediators (*commissaires*) must submit their report about the possibility of conducting a mediation process to the president of BAPE within one month. At the end of one month, the mediator must have the parties' consent to participate in a mediation process. If the parties refuse, the process comes to an end. If they agree, then the mediator has another month for the process itself. In some cases this period can be extended, by a maximum of two weeks, upon the request of mediator and with the permission of Minister of the Environment.

In our analysis, disputant groups did not have major concerns about the way the BAPE Commissions managed the process. They considered BAPE *commissaires* as very skillful in the job they were doing and very respectful of everybody's concerns and limitations. It was widely expressed that this was one of the major factors in making their experience worthwhile and encouraging the groups to get more involved in similar activities. Some disputants expressed a desire to see a style that would allow for more informal exchanges between parties, rather than the more formal style based on giving an equal chance to speak to everyone.

Our analysis shows that the major concerns of the disputants are regarding the way public participation was set up and incorporated within the PÉEIE. In the analysis of the chronology of events we found out that there are four essential phases of a mediation process:

Phase 1: Process starts, with submission of Project Approval Request (*le demande l'autorisation du projet*) by the proponent, continues with the preparation of environmental impact assessment (EIA) by the proponent in interaction with the DEE, and ends with the issue of the notice of the admissibility (*recevabilité d'étude*) of impact study by the DEE. Proponent and DEE are involved actively.

Phase 2: The Minister of the Environment makes the EIA public. The public consultation and information period is organized by BAPE in collaboration with the DEE and the proponent.

Phase 3: BAPE submits summary report (*compte rendu*) and the Minister of the Environment decides between either a public hearing or an environmental mediation as the appropriate technique to be used for public consultation, and mandates the BAPE to conduct this process.

Phase 4: Mediation phase. Divided into three sub-phases: preliminary meetings, to identify issues and receive the parties' consent (two weeks); conduct of negotiations between disputants and proponent (one month); and writing of the report by the BAPE Commission (or mediator) (two weeks).¹⁵²

Phase 5: Submission of report. Agreement is sent the Minister, who takes it to Council of Ministers for final decision. When parties do not give their consent to a mediation process than the Minister is informed of this situation and the reasons behind it, in the BAPE's report.

Table 6.1 presents time spent for each of these phases.

Table 6.1

Time Frame of Mediation Processes

Case	Phase 1	Phase 2*	Phase 3 †	Phase 4
Lachenaie	6 months	45 days	7 days	45 days
Champlain	22 months	45 days	10 days	30 days
Saint-Rosaie	16 months	45 days	16 days	32 days
Saint-Côme-Linière	30 months	45 days	13 days	60 days

Note. *45 days as required by the regulation. †Minimum five days as determined in the regulation.

Disputant groups commonly express dissatisfaction with the unbalanced structure of the process, in terms of the time devoted to public participation in the totality of the process. Our analysis supports this. Table 6.1 shows the time spent on each phase of the project authorization process in the PÉEIE; the preparation and approval of an impact study can take between 6 to 30 months. Formal public participation activities are limited to a maximum of three and a half months (45 days for public consultation and information plus two months for the environmental mediation process) (including information and public consultation period as well as mediation period). In addition, public participation comes at the end of the process, at

¹⁵² A mediation process starts in two weeks at the most after a mediator is assigned to the project. In these two weeks the BAPE communication officers arrange the logistics of the process by consulting all the groups involved including mediator, proponent, and disputant(s).

least in the formal process. At the beginning of the process, proponents can conduct other public outreach activities. We do not have clear evidence about how these activities or findings of these activities are integrated into the project's impact study.

6.2. Access to Resources

6.2.1. Access to Information in Environmental Mediation Processes

Information is one of the critical resources in both the public hearing and environmental mediation processes. Mediators consider facilitating the provision and exchange of information as their main responsibility in a mediation process. An information agent and an analyst sit on the BAPE Commission. During the preliminary sessions (pre-mediation phase), their job is to help parties interpret technical knowledge and formulate issues that concern them when requested. During the course of negotiations, they help parties to formulate arguments to support their positions. When disputants have questions on the specifics of the project the mediator invites the proponent to provide information on these specifics. When the answers of the proponent are not satisfactory, or when there are issues or questions that the proponent does not have the answers for, then the mediator can invite experts (resource persons) to answer the disputants' questions, questions from the BAPE Commission itself, as well as any questions the proponent might have. Parties from both sides are informed about the right of access to technical expertise during the preliminary sessions of the process. In Cowansville, for example, the mediator told both parties about this right as follows:

Si vous avez besoin, par exemple, d'une expertise pointue pour formuler une de vos questions ou pour vérifier un point technique, le sous-ministère de l'environnement m'a aussi désigné une personne-ressource auprès du ministère de l'environnement. On pourrait adresser des questions, recevoir les réponses et tout ceci dans un cheminement pour vous aider à avancer. Cette offre-la va être faite aussi de façon semblable au promoteur.¹⁵³

Si vous avez besoin d'une expertise plus pointue, j'ai un certain cadre financier qui me permet de vous apporter une expertise. Je n'ai pas un budget illimité, mais j'ai un pouvoir de rapprocher les parties, donc de répondre à des questions. S'il y a des éléments de questionnement qu'il vous manque, alors je peux faire venir un spécialiste pour répondre à vos

¹⁵³ *Minutes of Meetings – Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville* – preliminary meeting between the BAPE Commission, led by the mediator Gisèle Pagé, and the disputants, vol. 1; p. 80.

questions. On peut [commissaire et analystes de la Commission du BAPE] vous suggérer des libellés, des façon de faire.¹⁵⁴

Access to technical expertise is highly valued by disputants and considered a mark of the superiority of Québec's public hearing processes. In a public hearing process, technical expertise is provided during the question period(s). However, in an environmental mediation process, there are conditions for the availability of expertise – time limitations, nature of the question, and the availability of expertise on the proponent team's and in governmental apparatus. In Cowansville, when the disputants reiterated their written demand for expertise during the preliminary meeting, the mediator told them that they had the right to ask for expertise on a specific issue. However, they were also reminded that this was possible only when the proponent was not able to answer the questions, or when the expertise required was available within the BAPE or the Ministry for the Environment. The mediator also expressed her concerns about the challenge to complete mediation process within the pre-determined time limits:

Si le promoteur en arrive et dit: ces expertises-là je ne suis pas capable de vous les donner, moi, je peux regarder quelles sont les expertises que je peux aller chercher. C'est sûr que je ne peux pas donner un an à un professeur d'université pour faire une étude. Mais sur une expertise très ponctuelle, on peut voir si au MEF ils ont l'expertise. Je peux regarder au BAPE si j'ai des gens pour le faire ou je peux donner un contrat. Mon budget n'est pas illimité. J'ai une certaine latitude au niveau des expertises externes de la Commission. Ça c'est des points qu'on pourrait regarder ensemble pour vous aider à structurer ça, bien la définir, de façon à poser la question au promoteur pour qu'il ait le maximum de chances à répondre à ça.¹⁵⁵

In the Cowansville environmental mediation process, the disputants reiterated their demand for technical expertise several times. Access to technical expertise was very important to them, for two reasons: first, the disputants did not have direct access to expertise that would help them understand technical issues or specifics of the project, and second, they wanted the information

¹⁵⁴ *Minutes of Meetings – Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville* – preliminary meeting between the BAPE Commission, led by the mediator Gisèle Pagé, and the proponent (*la Régie Intermunicipale d'élimination de déchets solides de Brome-Missisquoi*), vol. 2; p.40.

¹⁵⁵ *Minutes of Meetings – Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville* – preliminary meeting between the BAPE Commission, led by the mediator Gisèle Pagé, and the disputants, vol. 1; p.115.

provided by the proponent to be examined publicly. They were interested in knowing both the sources and quality of the data the proponent provided, and how the government verified that data.

The direct communication between experts and individuals or groups, found during the question period of the public hearing process, is missing in the environmental mediation process. However, access to technical expertise is especially important for the disputants; a representative of an environmentalist groups explained that:

I can not know everything. Hydrogeological issues especially are too complex. In the mediation process, there is not enough time to invite independent experts who can help us understand these issues.

In the environmental mediation process, time limitations limit or even prevent interventions from technical experts. Proponents prefer environmental mediation over a public hearing process for this reason – it has to be completed within two months, making it two months shorter than a hearing process. Environmental mediation is also preferable for proponents because they think that major corrections are demanded by the Department of Environmental Assessment (*Direction des Evaluations Environnementale*, or *DEE*), and that these corrections can take months (if not years) to be made. At the end of a long admissibility process, proponents are impatient to start implementing their project as soon as possible.

One of the main concerns of some interviewees was that community groups and individuals did not have the knowledge of substantive issues and lacked technical expertise. A couple of interviewees suggested that proponents used this to their advantage:

The time citizens used to talk about the seagulls and noise from traffic over and over again worked in favour of the proponent. The clock works for the proponent because a mediation process takes only maximum two days. In two days you can not ask about very specific technical issues or ask for the intervention of experts. There is not time for that. When more and more participants talk about seagulls there is less and less time left for important technical specifics of the project.

In relation to access to information as a resource, there are also the concerns about the nature of the information and the way it is presented. Individuals and groups have access to the

environmental impact statement (EIS) and other documents at the consultation centres. (See Chapter Five for a detailed discussion of this theme.) However, our analysis of the summary reports (*compte rendu*) for each of the eight individual cases shows that the number of people who consulted the documents at the consultation centres has always been limited (see Table 5.7). At the consultation centres, there is a registry to be signed by those who consult the file. These signatures are limited to one or two. This may not paint an accurate picture about the frequency with which citizens or groups consult these documents, because signing the registry is not mandatory; however, anecdotal evidence (observations of consultation centre employees) also indicates that this number is not very high.

In addition, some of the disputants explained to us that it was very difficult to understand these reports, due to their technical nature. This means that the way information and data is presented does not allow individuals and citizens' committees, in particular, to absorb the details of a project. Environmentalist groups also expressed concerns about this difficulty:

If we want the public to feel interested in larger numbers we have to make sure that they can digest the information that has been provided. In that sense, what counts most is the way information is provided and what kind of information is provided. The technical reports are for experts, not for ordinary citizens.

Since 1999, information regarding the cases, including the EIS and all other documents submitted by the proponent to support its project authorization request, are available on the web page of the BAPE (www.bape.gouv.qc.ca). This was a measure to facilitate better access to the file, but creates another form of inequity between those who have access to Internet and those who do not.

Our comparative analysis of the environmental mediation and public hearing processes at Cowansville shows that no legal or technical expert intervened directly to answer any question or make any explanation on the issues at stake during the environmental mediation process.

Table 6.2 and Table 6.3 present a synopsis of participants in both processes.

Table 6.2

Chronology of Events and Synopsis of Participants at Cowansville Environmental Mediation Process

Date/Location	Activity/Personnel
First Meeting February 15, 1996 at 19:00 Auberge des Carrefours	Preliminary meeting with four individual disputants The BAPE Commission <ul style="list-style-type: none"> • Gisèle Pagé (commissaire/mediator) • Pierre Dugas (analyst) • Carmen Ouimet (information agent) The disputants <ul style="list-style-type: none"> • Raymond Boily (represented by Raymond Bernard) • Robert Bernard (represented by Normand Bernard) • Douglas Hendersen • Emond Perreault
Second Meeting February 16, 1996 at 10:00 Auberge des Carrefours	Preliminary meeting with the proponent The BAPE Commission <ul style="list-style-type: none"> • Gisèle Pagé (commissaire/mediator) The proponent (la Régie) <ul style="list-style-type: none"> • André Lasnier (director of the Régie) • Jean Lalande (president of the Régie) • Réal Plourde (administrator) • Marcel Bécharde (administrator) • Normand Hébert (vice-president of the Régie) • Stephen Davidson (engineer and consultant) • Caroline Lasnier (secretary-treasurer)
Third Meeting March 28, 1996 at 19:00 Auberge des Carrefours	Conjoint meetings with the disputants and the proponent The BAPE Commission <ul style="list-style-type: none"> • Gisèle Pagé (commissaire/mediator) • Pierre Dugas (analyst) • Carmen Ouimet (information agent)
Fourth Meeting March 29, 1996 at 16:00 Auberge des Carrefours	The disputants <ul style="list-style-type: none"> • Raymond Bernard • Normand Bernard • Douglas Hendersen • Emond Perreault
Fifth Meeting April 03, 1996 at 19:00 Auberge des Carrefours	The proponent <ul style="list-style-type: none"> • André Lasnier • Jean Lalande • Réal Plourde • Marcel Bécharde • Normand Hébert • Stephen Davidson • Caroline Lasnier
Sixth Meeting April 11, 1996 at 19:00 Auberge des Carrefours	
Seventh Meeting April 19, 1996 at 16:00 Auberge des Carrefours	
Eighth Meeting April 25, 1996 at 19:00 Auberge des Carrefours	The guest individual (present at eighth meeting only) <ul style="list-style-type: none"> • Michel Turgeon

No resource person participated in any of the eight mediation meetings. On the other hand, three experts from the Ministry of Environment attended the question period of the public hearing session, as well as one expert from the MRC and one expert from the Ministry of Transport. In addition, three technical experts and one legal expert were present on behalf of the proponent to answer questions (see Table 6.3). (Also present during the question period were BAPE Commission members, proponent representatives, disputants, and members of general public.)

Table 6.3

Experts Participating in Question Period at Cowansville Public Hearing Process

Public Hearing – Question Period	
Date/Time	Resource Persons
May 12, 1997 at 19h00	<ul style="list-style-type: none"> • Michel Simard: Ministère de l'Environnement Direction des Evaluations Environnementales • Colin Bilodeau: Ministère de l'Environnement, Service de la gestion des résidus solides • Guy Coulombe: Ministère de l'Environnement, Bureau Régional de Bromont • Michel Beauchesne: MRC Brome-Missisquoi
May 13, 1997 at 19h00	<ul style="list-style-type: none"> • Michel Simard: Ministère de l'Environnement Directions des Evaluations Environnementales (DEE) • Colin Bilodeau: Ministère de l'Environnement, Service de la gestion des résidus solides • Guy Coulombe: Ministère de l'Environnement, Bureau Régional de Bromont • Michel Beauchesne: MRC Brome-Missisquoi • Claire Gagnon: Minister de Transport
	Experts Representing the Proponent (la Régie)
May 13, 1997 at 19h00	<ul style="list-style-type: none"> • Stephen Davidson: engineer and consultant; coordinator of the team responsible for the preparation of the impact assessment study • Gilles Trahan: legal advisor • Guy Péloquin: engineer (air pollution) • André Forget: hydrogeology (water pollution)

Questions and interventions were of a legal, administrative, and technical nature. The duration and the content of the interventions of the experts in the question period, which took place over two sessions on May 12 and May 13, 1997, are presented at Appendix D (See Table D.6.5 and Table D.6.6).

During the May 12 question period, seven questions were directed to the experts by the president of the BAPE Commission either on behalf of the Commission or on behalf of disputants or participating citizens.¹⁵⁶ The issues raised by these questions were:

- Regulatory and legal aspects concerning project authorization
- Responsibilities of the MEF regarding follow-up and control of the operation of a site, as well as its rights to intervene in case of irregularities
- Position of the provincial government on import-export of the waste between MRCs, regions, or countries
- Lifespan and status of the authorization certificate granted by the provincial government in case the management of site changes due to change in ownership
- Developments regarding the preparation of the Waste Management Plan by the MRC Brome-Missisquoi and interaction with other MRCs in preparation of this plan
- Process of and rationales for recruiting municipalities to be members; i.e., client of the intermunicipal agency (the proponent)
- Rationale for proposed capacity increase; i.e., justification of the project
- Responsibilities of the proponent regarding the security measures have to be taken for closure and post-closure phases

During the May 13 question period, the technical experts covered the following topics:

- Conformity of project with related laws and regulations
- Appropriateness of the method chosen by the proponent to cover the disposal site
- Process and rationales of recruiting municipalities to be member; i.e., client of the intermunicipal agency (the proponent)
- Roles and responsibilities of the MEF in preparation of environmental impact assessment for the projects of this kind
- Feasibility of the measures and budget proposed by the proponent to improve and maintain the conditions of the route (*rang* Saint-Joseph) that would be used by truck to carry waste into the site

¹⁵⁶ In a public hearing process, parties do not confront each other directly but only indirectly, through the president of the session. In an environmental mediation process, the communication patterns are recommended by the mediator. Some mediators use the same method as the public hearing, favouring indirect confrontation between parties. Others allow a less formal process and allow direct confrontation.

- Powers of the Ministry of Transport concerning the maintenance of a local road within the jurisdiction of a local municipality

The duration and the content of the interventions of the experts who answered the questions on behalf of the proponent are presented at Appendix D (See Table D.6.7 and Table D.6.8). Issues covered were:

- Justification of the proposed capacity increase and lifetime
- Responsibilities of the proponent concerning the inspection of the conditions of the site and employees' health
- Possible impacts of the decision of seven municipalities to withdraw from the intermunicipal agreement; i.e., to quit as the clients of the proponent on proposed capacity increase
- Regional completion and profitability issues
- 3R-V (recycle, recover, reuse, and treatment) policy and means proposed by the proponent
- Intentions of the proponent about selling the site to private proponents
- Responsibilities of the proponent concerning air, water, and noise pollution and the means it proposed to deal with these problems
- Feasibility of the method used to define the boundaries of the area that would be influenced by the project and would have to be included in impact assessment study
- Quantity of waste disposed and cost of disposal

The question period of the public hearing processes is considered a very effective forum of transferring information and knowledge to disputants, especially individuals and citizen committees who do not have relevant information on specific technical issues. In addition to hearing answers to their own questions, they learn from the questions asked by the BAPE Commission and by the members of environmentalist groups. Elimination of the question period from the environmental mediation process is a factor with very negative effects on the perceptions of the disputants about the credibility of the process. It also affects negatively their willingness to participate.

6.2.2. Training

For efficient and consistent participation of community groups (including citizens' committees) and individuals, training programs are needed not only to help them formulate the issues and enable them to represent themselves adequately, but also to encourage a process in which all issues, social as well as technical, are elaborated properly.

The preliminary meeting is considered an effective platform for training by both mediators and disputants. In it, the BAPE analysts and information agent assist parties – primarily disputants – to formulate and present their proposals and counter-proposals. This amounts to offering professional expertise to the disputant groups. It is provided in each case. The Saint-Côme-Linière Citizens' Committee used this professional help effectively, which, according to the mediator of the case, led to a long pre-mediation phase that was beneficial for a constructive mediation process and successful outcome.¹⁵⁷

Organizations such as the *Front commun québécoise pour une gestion écologique des déchets* (FCQGED) also assist the local groups or municipalities in the analysis of a project. They explain legal and technical issues. In addition to helping citizens' committees formulate their issues, national groups sometimes intervene to represent them directly.

According to mediators, participants also make good use of the reference documents that are available at the location where the mediation process is held.

6.2.3. Financial Resources

In none of the eight cases was financial support available for the use of disputant groups. This was considered another source of inequity between environmentalist groups and proponents. Séguin (1999: 156-157) explains that

Les promoteurs ont accès aux fonds publics qui ont été dépensés afin de réaliser les études d'impact et payer les consultants, les avocats, les experts. Mais les citoyens et les groupes communautaires et environnementaux doivent maîtriser un dossier, poser des questions, examiner les alternatives possibles et rédiger un mémoire sans aucune ressource pour le faire.

¹⁵⁷ Personal interview with mediator Camille Genest.

Limited (or lacking) financial resources were always a critical issue in these cases, especially for the environmentalist groups. In first two cases, Lachenaie and Demix, and in the last case, Saint-Côme-Linière, finances helped to determine whether disputant groups could participate at all:

Nous ne pourrions intervenir activement et efficacement à cause de l'absence d'un financement adéquat pour participer à une médiation environnementale. De plus, nous participons présentement aux audiences publiques sur l'agrandissement du site d'enfouissement de Lachenaie. Le chevauchement de ces deux processus de consultation est inadmissible.¹⁵⁸

En ce qui concerne ce projet, il est très peu probable que nous pourrions intervenir activement et efficacement, à cause de l'essoufflement de nos groupes membres mais aussi sans un financement adéquat pour participer à des audiences publiques. Le choix de dates pour effectuer ce processus de médiation n'était pas judicieux étant donné la tenue des audiences publiques de Lachenaie.¹⁵⁹

Le 10 novembre 1998, un de requérant, le FCQGED a informé le commissaire-médiateur qu'il ne pourrait participer au processus de médiation. Celui-ci explique sa décision par le manque de ressources de son organisme. Toutefois, ce dernier est revenu sur sa décision, pour se joindre au processus le 8 décembre 1998.¹⁶⁰

The general cost of a process is paid by the BAPE; however, for all involved stakeholders there are significant costs above and beyond those general costs. In the studies we conducted, there were parties who could not participate because of lack of the resources. In Champlain, for example, more than one farmer was directly affected by the project, but they chose not to participate because the cost of hiring a lawyer was too high. The representatives of groups, such as FCQGED, have to deal with the issue of financial constraints in covering the cost of travel and accommodation in every case, over and over again.

¹⁵⁸ BAPE (1995), *Rapport d'enquête et de la médiation - Projet d'agrandissement du lieu d'enfouissement sanitaire à la carrière Demix par la Communauté Urbaine de Montréal, Appendix C: Lettres des requérants* (Action Re-But's letter to the Minister reiterating their demand for public hearing, i.e., the reasons for their refusal to participate in mediation process), BAPE Report # 88.

¹⁵⁹ BAPE (1995), *Rapport d'enquête et de la médiation - Projet d'agrandissement du lieu d'enfouissement sanitaire à la carrière Demix par la Communauté Urbaine de Montréal, Appendix C: Lettres des requérants* (FCQGED's letter to the Minister to reiterate their request for a public hearing process, i.e., the reasons for their refusal to participate in mediation process), BAPE Report # 88.

¹⁶⁰ BAPE (1999), *Rapport d'enquête et de la médiation - Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Côme-Linière*, BAPE Report # 133.

According to disputants, whether individuals or groups, funding is needed to facilitate an effective participation. Travel and accommodation costs have to be covered, and the costs of missed work as well. For environmentalist groups, funding is also required for research.

Funding was made available for participants in the case of the *Table de collaboration pour une gestion de déchets intégrée sur l'île de Montréal*,¹⁶¹ initiated by the Montréal Urban Community and the *Régie intermunicipal de gestion des déchets de l'île de Montréal* (RIGDIM). The objective of this initiative was to elaborate an integrated solid waste management plan and strategy for the island of Montréal,¹⁶² using the 3R formulation (*recycler, réduire, réutiliser*) as an ecological alternative to solid waste management. According to one of the representatives of an environmentalist group who took part in that case (as well as in one of the environmental mediation cases on sanitary landfill sites):

The amount of money was very limited – however, it helped us conduct quality research and generate new information on sustainable solid waste management issues, which was used not only for that specific consultation process but also for many other projects and processes.¹⁶³

6.3. Participant Perceptions on Empowerment

The quality of a public participation process, in terms of fairness, is measured by the degree it empowers the participants especially individuals and citizens' and environmentalist groups. Participants' perceptions are considered one of the solid indicators of empowerment. In this section we present our findings on the perceptions of participants on the powers they were able to wield within the mediation process: the powers of inclusion and exclusion, of negotiation, and of influencing the final decision.

6.3.1. Power of Inclusion and Exclusion

Under the PÉEIE, environmental mediation does not include a conflict assessment phase in which stakeholders and issues are identified. Those who submit a formal public hearing request are given formal status to participate. The mediator has the authority to also include people who do not have official disputant status, but who are interested in or influenced by the project. In practice, if the mediator is in favour of including someone, he or she consults with the

¹⁶¹ It is also known as the *Table de collaboration de 3R: recycler, réduire, réutiliser*.

¹⁶² For the details of this initiative see Turcotte (1997).

¹⁶³ Personal interview with Liliane Cotnoir.

formal disputants about it. For example, the mediator in Cowansville wanted to include Michel Turgeon. She believed that Mr. Turgeon had very legitimate issues at stake and that his hearing request had been refused for bureaucratic reasons,¹⁶⁴ and, furthermore, that excluding someone would damage the public character of the process. She had to obtain the consent of the formal diputants to include Mr. Turgeon in the process. After explaining the rationale for his request and the informal status that he would hold during the negotiations – that he would have the right to express his opinions, but no right to make any decisions on the issues or the final agreement – the formal disputants gave their consent to his inclusion. The mediator included Mr. Turgeon, with assurances to the formal disputants that priority would be given to the issues raised by them, and the issues raised by Mr. Turgeon would be discussed if and only any time left. Mr. Turgeon participated in the last conjoint meeting (see Table 6.2). However, even though he participated in this last meeting, this individual considered this arrangement unsatisfactory.

Cowansville was the only case where a public hearing process was conducted after a partially successful mediation process. The major factor in this was the fact that in addition to Michel Turgeon, there were other individuals – in large numbers – who were feeling excluded from the “list of influenced individuals and groups” due to a mis-measurement.¹⁶⁵ The influenced individuals and groups were those who had property within a certain distance of the sanitary landfill site determined by the *Règlement sur la gestion de matériel solides*.

Access to the process or inclusiveness of the process was not as big a concern for proponents as it was for disputants. After all, they were participating with formal status. However, Mr. Turgeon expressed his frustration about the problems he encountered while trying to get included. Within the limits of this study, it was not possible to determine in each individual case whether there were groups or individuals who were excluded and what played the deciding role in their exclusion.

¹⁶⁴ *Minutes of Meetings – Projet d’agrandissement d’un lieu d’enfouissement sanitaire sur le territoire de la municipalité de Cowansville* – preliminary meeting between the BAPE Commission, led by the mediator Gisèle Pagé, and the disputants vol. 1; p. 37.

¹⁶⁵ *Minutes of Meetings – Projet d’agrandissement d’un lieu d’enfouissement sanitaire sur le territoire de la municipalité de Cowansville* – preliminary meeting between the BAPE Commission, led by the mediator Gisèle Pagé, and the disputants, vol. 3; p.24

6.3.2. Power to Negotiate: Capacity and Skills

Individual disputants tend to hire lawyers to represent them. Proponents have legal advisers on their teams, as well as technical experts and consultants. Environmentalist groups are represented by individuals who do not necessarily have a legal background. However, there is a legal adviser on the board of directors of each environmentalist.

According to one mediator, BAPE seeks to produce equity between participants by providing expertise to the individuals and groups, because: “Les moyens sont égaux et sont mis à la disposition égale des deux parties.”¹⁶⁶

Environmentalist groups strongly disagree with this statement. They believe that the environmental mediation process almost always favours the proponent because of the way it is set up.

Other mediators agree that the powers between the two groups are not at all equal: “Il y a souvent inégalité entre un promoteur entouré d’experts et un comité local composé de simples citoyens sans possibilité de s’engager des experts. C’est David contre Goliath!”¹⁶⁷ A member of an environmentalist group agreed, finding the participation of legal and technical advisers in the team representing proponent as “intimidating . . . very intimidating.”¹⁶⁸

6.3.3. Power to Influence the Final Decision

As opposed to the public hearing process, in an environmental mediation process where parties reach an agreement, the Minister of the Environment is responsible for making sure that the conditions of agreement are included in the final decree. Thus mediation is superior in terms of giving power to groups to influence the decision:

Dans le rapport de Bureau concernant la médiation, il y a un caractère qui n’est pas présent dans l’audience. Le rapport de médiation fait état d’ententes qui sont prises entre les parties. Quand il y a entente, le Ministre

¹⁶⁶ *Minutes of Meetings – Projet d’agrandissement d’un lieu d’enfouissement sanitaire sur le territoire de la municipalité de Cowansville* – preliminary meeting between the BAPE Commission, led by the mediator Gisèle Pagé, and proponent, *la Régie Intermunicipale d’élimination de déchets solides de Brome-Missisquoi*, vol. 2; p.41

¹⁶⁷ Personal interview with Camille Genest.

¹⁶⁸ Personal interview with Karel Ménard.

reçoit le rapport du Bureau et s'assure que le décret gouvernemental tienne compte des ententes prises dans le cadre de la médiation. C'est une sécurité que l'audience ne confère pas aux parties présentes dans cette forme de consultation publique, parce-qu'au niveau de l'audience publique, les sujets sont plus vastes, les intervenants sont plus nombreux et on parle de tout, et le Bureau a un pouvoir de recommandation au ministre de certains aspects. Le ministre est totalement loisible de prendre en totalité les recommandations du Bureau, en partie ou en nullité. Donc, un des aspects intéressants de la médiation est l'aspect de consigner les ententes par écrit, qui se traduira très certainement dans le décret gouvernemental.¹⁶⁹

The environmentalist groups especially expressed their satisfaction with the fact that at the end of environmental mediation process their inputs become law, in the form of a decree.

6.4. Transformations in Legal Provisions and Perceptions Regarding Fairness

It was difficult to analyze any change in the perception of the disputant groups over time, since there were not enough cases. The maximum number of cases one disputant participated in was two, Gaspé and Saint-Côme-Linière, and both of these environmental mediation processes were conducted one after another – in fact, almost at the same time. We observed that disputant groups had a relatively low opinion about environmental mediation at first, as they understood environmental mediation to be a mechanism for determining compensation. They were critical of this. They did not believe that environmental values were negotiable. In addition, they had concerns about the appropriateness of mediation for the cases it had been mandated for. In their opinion, the issues themselves, and also the capacity of the stakeholders, should determine whether an environmental mediation process was mandated. In time, their concerns about environmental mediation as a means to determine compensation disappeared. They were more aware and knowledgeable about the potentials as well as limitations of the process. However, they still expressed concerns about the criteria (or lack of criteria) in selection of environmental mediation.

Our research shows that participants definitely felt empowered by the mediation process not only because they could directly influence the final decision, but also because they could

¹⁶⁹ *Minutes of Meetings – Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville* – preliminary meeting between the BAPE Commission, led by the mediator Gisèle Pagé, and the proponent, *la Régie Intercommunale d'élimination de déchets solides de Brome-Missisquoi*, vol. 2; p. 38.

communicate directly, one-on-one, with the mediator and other parties.¹⁷⁰ However, in terms of capacities, skills, and financial means they considered mediation an unfair process. Funding was urgently needed for facilitating individual and group participation. They thought it was a prerequisite for effective participation of the public in the mediation process. Funding research and providing the means necessary for properly assessing information provided by the proponent and government agencies is not a priority; but it is a wish expressed by disputants. In fact all groups, including proponents, thought positively about participant funding. They found it common sense that obtaining the maximum benefit from such a process is only possible by supporting the participation of eligible groups. This was also considered the only way to supply disputants with powers equal to those of proponents.

Both disputants and proponents said they were satisfied with the job done by BAPE. However, disputants believed that the existing administrative structure and regulatory framework favoured proponents over environmental interests. They did not approve the position taken by the government in this area. They believed government was trying to stay behind closed doors and was not demonstrating proper leadership. They considered the environmental evaluation to be a process controlled by proponents, creating an adversarial process characterized by lack of trust and enhanced by lack of communication due to the late involvement of disputants.

Our analysis shows that for the period between 1993 and 2002, there were no transformations in legal provisions that would provide financial support, training, or any other means to increase the capacity of the public to participate and negotiate effectively in a fair process.

¹⁷⁰ Personal interview with Karel Ménard.

CHAPTER VII

7. DISCUSSION AND CONCLUSION

In order for EIA to become (or to remain) a viable tool in the transition to sustainable development, and a tool for social change towards a sustainable future, it has to adopt an adaptive approach, one that emphasizes dialogue, communication, understanding, and mutual learning. In order to achieve this, public hearings and environmental mediations have to be transformed from analytical processes to interpretive, adaptive assessment processes.

The literature suggests that assessing the success of participatory approaches is based on either their contribution to institutional restructuring, or their transformation into a structure that facilitates ecological and democratic decision making. Two main indicators of this success are the process' legitimacy and fairness. Legitimacy is a measure of the process' appropriateness, accessibility, representativeness, and accountability. Fairness is a measure of the equality between participants (power shared by them) in terms of process design, negotiation capacity and skills, and influence on the final decision. It is measured by the distribution of roles, responsibilities, and access to resources, especially to information.

Our hypotheses suggest that institutional structure is the main problem in achieving effectiveness in participatory approaches. We attempted to discover whether the environmental mediation process in Québec's environmental assessment and review procedure (PÉEIE), as it is applied to sanitary landfill site projects, is legitimate and fair, and what role institutional structure is playing in affecting legitimacy and fairness. We also sought answers to the question of whether the process itself, and the discourse in it, is facilitating transformation into a more legitimate and fair environmental mediation process in the PÉEIE.

7.1. Effects of the Institutional Context on the Process

Our analysis demonstrated that there are three levels of problems associated with the institutional structure. First, the institutional structure may create problems because it does not provide an integrated decision-making model for solid waste management. In the field of siting and modifying sanitary landfill sites (or solid waste management, in general), roles and responsibilities are distributed among a wide range of actors, including the Ministry of the

Environment, the Ministry of Transportation, and the Ministry of Municipal Affairs. When it comes to the transportation of solid waste between regions and countries, and approval of agreements between municipalities and MRCs in establishment of intermunicipal agencies (*Régies*), such a fragmented institutional structure creates problems in the distribution of roles and responsibilities. Within it, adapting an integrated solid waste management approach is very difficult.

These issues directly dominate the content, i.e., the discourse of mediation processes. Our analysis shows that the majority of the issues raised by disputants during the eight environmental mediation cases for expansion of sanitary landfill sites are related to the institutional context. In Lachenaie, the issues were ideological. They had to do with transferring waste between regions and countries, as well as the inefficient case-by-case approach to solid waste management in Québec in general. In Champlain, the disputants were seeking for compensation; but the BAPE Commission was not entitled to regulate or make decisions on compensation. Saint-Rosaire was mostly known as a case where personal issues were at stake. In Cowansville, too many individuals were excluded from the “list of influenced people”. Another issue was which member municipalities were going to be served by the project. Since there was another *Régie* that was recruiting the same municipalities as members, the local population was sceptical about the intentions of the *Régie* in their own case. All these are actually context-related issues. Such issues have to be negotiated at the upper levels of plan and policy, rather than on the project level. This means that environmental mediation has great potential at the plan and policy levels. For example, we think that the MRCs and municipalities, as required by Loi 90, could use environmental mediation in preparing solid waste management master plans, and negotiations between *Régies* or MRCs could help them in developing regional and integrated master plans.

This requires us to direct our attention to the need for using collaborative approaches at policy and plan levels, as much as at project levels. It also brings us to the second level of problems, which are related to the way environmental mediation is administered inside the Québec’s environmental assessment and review procedure (PÉEIE).

In Québec’s PÉEIE procedure public participation comes at the end of the process, i.e., it is conducted after the EIA completed by proponents and approved as admissible by the Minister

of the Environment. This means that the institutional structure does not allow for the inclusion of the public at the beginning of the EIA process and prevents the issues raised by public to be included in the EIA guidelines (*directive*), which prevents these questions from being considered and answered by the same experts who answered the questions raised by the Ministry for the Environment and other ministries.

First, this requires attention to the rationale or objectives of using environmental mediation in the PÉEIE in general. Healey (1999) groups the rationales for consensus building into three main categories:

- Normative and ethical: people have the democratic right to be involved in decisions that affect them.
- Instrumental: building support for decisions, overcoming known differences over what a decision should be, and bringing in more expertise and knowledge (in particular, bringing in lay knowledge to complement expert knowledge).
- Political and social: designing and developing consensus building as an arena for working through and overcoming ideological and political differences and building social capital, on the assumption that the process itself develops relations of trust and new linkages between participants.

In Québec, public participation is considered a tool to enhance the social acceptability of a project, for example to identify socially satisfactory mitigation and compensation measures. This helps serve normative and ethical rationales. However, we observed that the objectives of environmental mediation in the PÉEIE, as they are applied to sanitary landfill sites, were not designed to bring about change or build social capital. They seem to be designed more for diminishing time spent on public participation and for avoiding public hearings. Creating a platform for mutual learning, one that will help develop the culture of collaborative decision making and building social capital, is not considered a priority. Furthermore, the existing institutional structure itself appears as the main obstacle for facilitating changes in institutional and social rationales.

Secondly, attention needs to be paid to the perceptions of participations of the character of the environmental mediation process. In Chapter Six, for example, our analysis shows that

disputants showed an interest in learning about the way assessments were conducted, the technique and data used, as well as roles and responsibilities of the Ministry of the Environment. We also found that some disputant groups feel obliged to participate in an environmental mediation process when they would prefer a public hearing, because there is no guarantee that a hearing process will be granted if they refuse to participate in mediation. Other disputants participate because they believe it is their democratic right to do so. Yet others get involved because they feel it is their only alternative if they wish to reiterate a hearing request – despite the fact that there is no guarantee any hearing is going to be mandated. The proponents participate because the law requires it. These are not really voluntary participations. These findings show that there is lack of trust among disputants about the objectives of the process and about the intentions of government and proponents in involving in an environmental mediation process. This creates an environmental mediation process that is still adversarial in nature.

The adversarial nature of environmental mediation is a result not only of the institutional context in which it is incorporated into the PÉEIE, creating the common perception that it is employed to avoid the use of public hearing, but also a result of the way it is administered. Environmental mediation is a ministerial prerogative. There is no conflict assessment phase within the environmental mediation process, in which all the relevant issues and stakeholders could be identified, and where the appropriateness of environmental mediation could be determined with the participation of all relevant stakeholders.

We discovered that there is no set of systematic criteria used in determining whether an environmental mediation is appropriate. Our research shows, however, that in the decision over whether to select environmental mediation, there is a need to focus on the stakeholders as well as on the issues. We discovered that the nature of the issues and the participation of relevant actors determine the success of mediation processes.

Our analysis shows that an examination of the nature of issues at stake, the characteristics of cases, and the willingness of the parties to participate are critical in assessing the appropriateness of mediation. However, the Minister of the Environment's decision whether to conduct an environmental mediation is based solely on the number of participants. We found

that, as a rule, no reference is made to the characteristics of the cases, the nature of the issues, or the stakeholders and their interests (see Chapter Five.)

These are all obstacles preventing environmental mediation from serving as a platform that might adapt a collaborative decision-making culture, and build social and institutional capital. This brings us to the third level of problems, which is related to the quality of the environmental mediation process itself, in terms of legitimacy and fairness.

7.1.1. Legitimacy of the Environmental Mediation Process

If every person were given the automatic right to be involved, the process would soon become unreachable and unmanageable. Therefore, for the legitimacy of the process, relevant stakeholders need to be selected, either by being identified or invited to participate. However, problems of inclusion/exclusion – of people or of issues – may arise in any stakeholder selection process, as can power issues and manipulation strategies.

In Québec, by law, any group that submits a hearing request within 45 days of the public consultation and information period is eligible to participate in an environmental mediation. During the pre-mediation phase, parties identify the issues to be negotiated. These are the only issues that parties can negotiate during the mediation phase. An environmental mediation process is only open to those with formal status, and only on issues identified during the pre-mediation phase. Stakeholders are fixed as of the end of public consultation and information period, and issues are fixed as of the end of the pre-mediation phase. The regulation respecting the environmental assessment and review procedure, as well as the rules for conducting an environmental mediation process require that mediators can include new participants, as well as the issues if they deem necessary for the case. However, in practice this is problematic, as participants who become involved after the process has started do not have the power to accept or reject a decision made by the formal stakeholders. In essence, they only have observer status and their inclusion requires the consent of all other participants.

Notification and information activities for hearing and mediation processes are very limited. Only one or two weeks's notice of the process is given in the press – and our study shows that public outreach of newspapers is limited. Local radio and television do a better job of informing the public. BAPE has made some improvements in its procedure to contact possible

stakeholders directly. Sending out press releases has also served to increase the number of participants at the information sessions.

The closed character of the process means that accountability in the process is also limited. In a public hearing, the BAPE Commission receives representations from the project proponent, several government departments, and the general public. A mediation process, in contrast, is closed to the general public after the public consultation and information period. The BAPE Commission is responsible for informing the general public of the progress of the mediation process; however, this stays on a very general level, in order to prevent possible interventions of media or others in the mediation process. In addition, informing general public is only possible with the consent of the stakeholders. Since the institutional structure does not require either the findings of early communication activities of the proponent or the findings of the BAPE Commission arising out of the information session to be formally integrated into the process, the interests or concerns of general public may not be heard. The BAPE Commission may not even be aware of the proponent's public communication activities.

The BAPE report is considered a good tool for enhancing process accountability, in that anyone can obtain a copy of it- but only when the Minister gives his/her permission for it to be made public. He or she has the right to decide whether the report is going to be made public, and when. Even active participants in the process can have access to the report only after it is officially made public by the Minister.

In the absence of environmental groups as stakeholders, representation of environmental interests is problematic as well. In two cases there were no disputant groups representing environmental interests (see Chapter Five). By law, mediators are responsible for representing missing interests, including environmental interests, but some mediators do not think that this works effectively, due to time restrictions and nature of the process.

There is no mechanism to guide the formation of citizens' committees that would be representative of all sections of the general population in the community.

Furthermore, the identification of relevant stakeholders is critical, as the active participation of local environmentalist groups, organized community groups, and provincial groups appears to be a factor in the success of mediation processes (see Table 7.1).

Table 7.1

Disputant Profiles and Results of Mediation Process

First Group of Cases • Environmentalist groups (provincial)	Second Group of Cases • Individual citizens	Third Group of Cases • Citizens' committees, local environmental groups, and provincial environmentalist groups
Lachenaie (1994) • No mediation – hearing process) • Earliest disputants had doubts about appropriateness of mediation process to deal with issues e.g., import-export of waste • Provincial groups had mandate of preparing platform for generic hearing process on integrated regional management of waste in Québec	Champlain (1995) • No agreement – no hearing • Public hearing demands were declared frivolous • Government approved the project as-is	Saint-Alban (1997) • Agreement at end of mediation process
Demix (1995) • No mediation – hearing process)	Cowansville (1996) • Partial agreement – hearing) • Exclusion of individuals from the influenced properties and from the mediation process allowed Minister to mandate hearing process after the mediation	Gaspé (1999) • Agreement at end of mediation process

(table continues)

Table 7.1. (continued)

First Group of Cases	Second Group of Cases	Third Group of Cases
<ul style="list-style-type: none"> • Environmentalist groups (provincial) 	<ul style="list-style-type: none"> • Individual citizens 	<ul style="list-style-type: none"> • Citizens' committees, local environmental groups, and provincial environmentalist groups
	Saint-Rosaire (1997) <ul style="list-style-type: none"> • Partial agreement – no hearing • Conflict was more personal than anything else 	Saint-Côme-Linière (1999) <ul style="list-style-type: none"> • Agreement at end of mediation process

7.1.2. Fairness of the Environmental Mediation Process

Disputants feel empowered by environmental mediation in that they can influence the final decision directly. However, resources need to be provided for helping disputants – whether individuals, groups, or municipalities – to build their negotiation capacity and skills. Participant funding is critical.

The cost of an environmental mediation process is borne by BAPE; however, stakeholders must bear the significant costs of legal and research assistance. Some can not participate because of the lack of these resources. Funding is also needed for participants, particularly environmental groups, to conduct independent research.

For the efficient and consistent participation of community groups, citizens' committees and individuals, training programs are also needed to help them formulate the issues and enable them to represent themselves adequately. In turn, this will encourage a process in which all issues, social and technical, are elaborated properly- a process that is fair and balanced.

Access to information is another critical issue in creating a fair and balanced process. In our analysis, the way information regarding cases is made available to the public is not efficient. Information regarding the cases, such as the EIS report and documents submitted by the proponent, are available on the Internet. However, access to the internet may be limited. A

more serious problem is found at the BAPE consultations centres. The number of people from the local community consulting the case file is very low. This raises the concern that technical reports in the file may be difficult for lay citizens to understand, so that they may not be able to understand the issues properly. It is obvious that if we want more of the public to be interested, we have to make sure that they can digest the information provided to them. The way information is provided is as important as the kind of information that is provided. Assistance in the form of professional expertise must be supplied in the institutional structure, in order to equip and assist individuals and groups in understanding technical information and to assist them in developing negotiation capacity and skills.

Citizen committees and individuals particularly need help in formulating their points of view and presenting them effectively, so that relevant issues can be included in the negotiations. Such participants also need to develop negotiation skills before entering into discussions with proponents. In some cases, our analysis shows, the BAPE Commission provides assistance with these issues during the pre-mediation phase. This proves to be a great help in arriving at an agreement at the end of the process. It is obvious that process effectiveness depends on participants' capacities. Technical teams support proponents. It stands to reason that provision of expertise to individuals and citizens' groups would increase the effectiveness and fairness of the process. This is also very important for diminishing – if not eliminating totally – the inequity between proponents who work with expert teams to prepare EIA and disputants.

The question period, noted as an indicator of the superiority of Québec's public hearing model, does not take place in an environmental mediation process. Questioning of experts and access to technical expertise is also constrained, due to the process' limited time frame. These two factors diminish or eliminate the chances groups have to use these platforms to acquire knowledge about the project's substantive issues or environmental issues, or to practise local democracy in general. This exclusion of the question period and the minimum – if not complete lack of – intervention by experts turn out to be weaknesses of the mediation process in terms of its fairness. Because they prevent a detailed inquiry into technical issues, they work in favour of project proponents.

7.2. Transformation of the Institutional Context

There are several positive sides of environmental mediation as it is administered in the PÉEIE. For example, it is perceived as empowering, in enabling disputants to have a say in the final decision. It provides a platform to raise and debate context-related issues. However, it is not very effective in informing transformations for effective public participation because it is not a legitimate and fair process. There are problems associated with its accessibility and accountability. There is also a lack of resources to enable individuals, citizens' groups, environmentalist groups, and municipalities to develop negotiation capacities and skills to facilitate their effective participation in a balanced or fair process.

The basic premise in the communicative theory of planning is that the institutional context affects the content (or discourse); discourse, in turn, facilitates the restructuring of this context towards an institutional structure that enables effective public participation. Our analysis of the institutional context of the environmental mediation process for sanitary landfill site projects, however, shows that for the ecological discourse (or other discourses representing other interest groups such as property owners including farmers) to become as powerful as the dominant discourse, interventions that inform transformations in the environmental assessment and review procedure are needed. These interventions are needed to help inform transformations in the institutional structure, including transformations in the rationales for which public participation is used in the procedure in Québec, as well as the process mechanics in which public participation is incorporated.

Below, we propose some required transformations in the form of recommendations.

7.3. Recommendations

In order to enhance the capacity of EIA as a tool in achieving sustainable development, the objectives of public participation in EIA and the role environmental mediation can play have to be redefined. Environmental mediation has to serve as a mechanism in which local knowledge is retrieved and local democracy is practised.

We need to define the implicit objectives of public participation and declare these explicitly. In addition, we have to redefine the position of environmental mediation itself. To be known as

merely a time-effective alternative to public hearings is a negative image that limits the potential of environmental mediation from becoming an effective public participation tool.

If environmental mediation is going to serve as a tool to incorporate social impacts and individual values for a democratic process, then we have to make sure that relevant stakeholders are identified and well informed of the project, and that they have the capacity and skills to formulate their concerns properly.

The pre-mediation phase needs to be redesigned, or a conflict assessment phase needs to be created, in which issues are identified, relevant actors are identified, and the appropriateness of mediation is determined collaboratively with all stakeholders. One effective way would be to convene a working group that includes representatives of interest groups and members of the public. This group could be audited by a neutral party to ensure that only relevant stakeholders participate.

Integrating the findings of both the early communication activities organized and conducted by the proponent, and those of the information session organized and conducted by BAPE, into the environmental mediation process would increase the inclusiveness and accountability of the process. Information from these sources can help take social impacts and community concerns into account, and as such could be used to enhance process accountability. The information session must also be designed to integrate information obtained during any informal community meetings that may have been held.

Presenting the BAPE Commission's report to local populations at a community meeting before it is sent to the Minister would be effective in increasing the accountability of the process.

In order to provide effective representation of environmental interests, local environmentalist groups have to be encouraged and supported by training and financial resources. Provincial environmentalist groups need to be supported to provide expertise and other services to local groups and the public in general.

Guidelines need to be created to ensure that citizens' committees comprise equal representation of all local populations. The capacities of alternative participatory models, in particular the

Citizen Advisory Committees and the Citizens' Juries, in terms of their contribution to inclusiveness and representation of a process, need to be explored.

Public notification and information activities need to be officially supported by such means as radio and television. This would serve to increase not only the inclusiveness, but also the accountability of the process.

The question period component of hearings is effective in informing the public. Environmental mediation is effective at incorporating public opinion in government decisions. These two positive aspects can be used together to achieve a better public participation model. Combining public hearing and environmental mediation processes would create a process that is accessible, one that provides better access to information – i.e., technical and legal expertise – and one that is empowering and results oriented.

7.4. Further Research

Mediation is a process that can help parties in all phases of the lifetime of a sanitary landfill site, from revisiting objectives and expectations, to creating a consensus on its adaptive management, to building the necessary relationship and trust enabling parties to work together from the site's implementation to its closure and post-closure.

In this study we covered pre-mediation and mediation phases of the environmental mediation process for sanitary landfill site projects in Québec. Further research is needed on the post-mediation phase, to explore how the proponent and the citizens' committee (if one is established) work together to implement the agreement, as well as to re-negotiate any issues as they appear. This would provide clues about the formation and structure of an effective citizens' committee. It also would provide crucial information on the contributions of environmental mediation as an adaptive management model.

In order to more fully understand the links between context and process, we need to repeat the same research in another sector, such as transportation, and/or repeat the same research in another jurisdiction (province or country).

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Appendix A

Documents Used for Institutional Analysis

a. Related Laws and Regulations

b. Web Sites

c. BAPE Reports

d. Other Research and Publications in the Same Field

Documents Used for Comparative Case Study Analysis

a. BAPE Inquiry and Environmental Mediation Reports (Rapport d'enquête et médiation)

b. Summary Reports of Information and Public Consultation Meetings (Compte Rendu de la période d'information et consultation publique)

c. Minutes of Meetings

d. Web Sites

Documents Used for Institutional Analysis

The following documents have been reviewed for collecting relevant data.

a. Related Laws and Regulations

- Loi sur les cités et villes
- Code Municipal du Québec
- Loi sur l'aménagement et l'urbanisme
- Loi sur la Qualité de l'environnement (LRQ, c. Q-1) [Environmental Quality Act]
- Règlement sur l'évaluation et l'examen des impacts sur l'environnement (Q-2, r.9) [Regulation Respecting Environmental Assessment and Review (R.R.Q., c. Q-2, r.9)]
- Règles de procédure relatives au déroulement des audience publiques (Q-2, r.19) [Rules of Procedure relating to the conduct of public hearings (R.R.Q., 1981, c. Q-2, r.19)]
- BAPE Règles de procédure relative au déroulement de la médiation en environnement [Rules of Procedure relating to the conduct of environmental mediation]
- Loi sur la Commission d'enquête (LRQ, c. C-37) [Act Respecting Public Inquiry Commissions]
- Code d'éthique et déontologie des membres du BAPE [Code of Ethics and Professional Conduct of the members of the BAPE]
- Les modifications sur la Loi sur la Qualité de l'environnement, sur le Règlement d'évaluation et d'examen des impacts environnementaux (REEIE)- Tableau des modifications et index sommaire, Editeur Officiel du Québec, 1 novembre 2001

- Loi modifiant la Loi sur la qualité de l'environnement et d'autres dispositions législative concernant la gestion des matières résiduelles (Loi no 90)
- Règlement sur les déchets solides (c.Q-2, r.3.2)
- Loi sur l'établissement et l'agrandissement de certains lieux d'élimination de déchets
- Politique de gestion intégrée des déchets solides: Plan d'action 1989-1998
- Politique québécoise sur la gestion des matières résiduelles 1998-2008
- Direction des Evaluations Environnementales (DEE) (1998) Directive pour la réalisation d'une étude d'impact sur l'environnement d'un projet de lieu d'enfouissement sanitaire- Min. de l'environnement, Gouv. du Québec.
- DEE (1998) Recevabilité d'étude d'impact: Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Côme-Linière (ref #: 6212-03-80)

b. Web Sites

- Ministry of Environment – www.menv.gouv.qc.ca/ évaluation environnementale & matériel résiduels
- Bureau d'audience public sur l'environnement – www.bape.gouv.qc.ca/

c. BAPE Reports

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d. Other Research and Publications in the Same Field

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- FCQGED et RRQ (2000) *L'arrimage municipalités et ressourceries dans la cadre des plan de gestion de déchets solides*,
- Fédération Québécoise des Municipalités (1999) *Commentaires sur la Loi modifiant la Loi sur la qualité de l'environnement et d'autres disposition législatives concernant la gestion des matières résiduelles (Loi 90)*
- (RGEQ) (2000) *Critique de la Loi 90 par le Réseau québécoise des groupes écologistes – Département de l'évaluation de la performance environnementale*.
- *Canadian Handbook on Health Impact Assessment, Draft Report*, vol. 2 *Decision-Making in Environmental Health Impact Assessment*

Documents Used for Comparative Case Study Analysis

a. BAPE Inquiry and Environmental Mediation Reports (Rapport d'enquête et médiation)

BAPE (1994) Rapport d'enquête et médiation: Projet d'agrandissement du lieu d'enfouissement sanitaire de la compagnie Usine de triage Lachenaie inc., no 83, Québec.

BAPE (1995) Rapport d'enquête et médiation: Projet d'agrandissement du lieu d'enfouissement sanitaire à la carrière Demix par la Communauté Urbaine de Montréal, no. 88, Québec.

BAPE (1995) Rapport d'enquête et médiation: Projet de modification du lieu d'enfouissement sanitaire de Champlain, no. 98

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BAPE (1997) Rapport d'enquête et médiation: Lieux publics d'élimination des déchets à Saint-Alban, no 110, Québec.

BAPE (1997) Rapport d'enquête et médiation: Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Rosaire, no 112, Québec.

BAPE (1999) Rapport d'enquête et médiation: Aménagement d'un nouveau lieu d'enfouissement sanitaire à Gaspé (secteur Wakeham), no 132, Québec.

BAPE (1999) Rapport d'enquête et médiation: Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Côme-Linière, no 133, Québec.

b. Summary Reports of Information and Public Consultation Meetings (Compte Rendu de la période d'information et consultation publique)

- BAPE (1994) Compte Rendu de la période d'information et consultation publique: Projet d'agrandissement du lieu d'enfouissement sanitaire de la compagnie Usine de triage Lachenaie inc.
- BAPE (1994) Compte Rendu de la période d'information et consultation publique: Projet d'agrandissement du lieu d'enfouissement sanitaire à la carrière Demix par la Communauté Urbaine de Montréal
- BAPE (1995) Compte Rendu de la période d'information et consultation publique: Projet de modification du lieu d'enfouissement sanitaire de Champlain (ref #: 6212-03-40)
- BAPE (1995) Compte Rendu de la période d'information et consultation publique: Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville (ref #: 6212-03-35)
- BAPE (1996) Compte Rendu de la période d'information et consultation publique: Lieux publics d'élimination des déchets à Saint-Alban (ref #: 6212-03-C2)
- BAPE (1996) Compte Rendu de la période d'information et consultation publique: projet d'agrandissement du LES de Saint-Rosaire, Comté d'Arthabaska (ref #: 6212-03-B5)
- BAPE (1998) Compte Rendu de la période d'information et consultation publique: Aménagement d'un nouveau lieu d'enfouissement sanitaire à Gaspé (secteur Wakeham) (ref #: 6212-03-47)
- BAPE (1998) Compte Rendu de la période d'information et consultation publique: Projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Côme-Linière (ref #: 6212-03-80)

c. Minutes of Meetings

- Transcriptions of Minutes of the Environmental Mediation Meetings of the « Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville » 8 volumes

- Transcriptions of Minutes of the Public Hearing Meetings of the « Projet d'agrandissement d'un lieu d'enfouissement sanitaire sur le territoire de la municipalité de Cowansville » 3 volumes

d. Web Sites

- Front Commun Québécois sur la Gestion Ecologique de Déchets (FCQGED) – www.cam.org/~fqcged

- Compagnie Usine de Triage Lachenaie inc.

Appendix B

Semi-structured Interviews and Interviewee List

Dimensions of Analysis

Interviewee List

Resource-Person (Key-Informant) Interview

Mediator Interview

Disputant Interview

Proponent Interview

Questionnaire Survey

Questionnaire Survey Results

In addition to document review, we used semi-structured interviews and a questionnaire survey as data collection techniques. Semi-structured interviews helped us to understand issues properly and achieve the methodological pluralism required for the integrity (or objectivity) of evaluation. The table below is a detailed summary of the dimensions of analysis we used, described within the framework of this thesis study. Next are presented the list of interviewees and the semi-structured interview questions.

Dimensions of Analysis

INSTITUTIONAL CONTEXT

- | | |
|------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Foundations and Forms of public participation in the EIA procedure | - How is public participation facilitated in the EIA procedure? |
| Incorporation of Environmental Mediation | - What are the dynamics behind the process of incorporating environmental mediation into the EIA procedure? Under which conditions has environmental mediation been incorporated into the EIA procedure |
| Differences and similarities between two forms of public participation | -
- How do public hearing and environmental mediation differ from each other?
- Objective and rationale for public participation
- Actors and Interests
- Distribution of Roles and Responsibilities
- Resources |

PROCESS APPROPRIATENESS

How is the decision for using environmental mediation on a specific made? What are the dynamics of selection process?
Who has the authority to decide which method is going to be used?
Based on which criteria? Who does set the criteria?
How do the characteristics of the cases, nature of issues and willingness of parties to participate play a role in this decision?

INCLUSIVENESS

- How is the public notified and informed of the process and of the project?
 - What incentives and disincentives do exist for the parties to participate in an environmental mediation process?
 - Is it an open process and to whom?
 - What is the reason or theme around which stakeholders are identified?
 - Who have the authority to define the reason or theme around which stakeholders are identified?
 - Who does have the power, legitimacy or resources to convene others and to choose the criteria for inclusion and exclusion of stakeholders?
-

REPRESENTATION

- Who are the stakeholders?
- How are they identified?
- Which interests are represented and by whom?

ACCOUNTABILITY

- Is there full access to information about the process and the project, and transparency in information exchange?
- Is there a set of criteria for regulating the relations between representatives and the constituencies?
- Are there rules to ensure representation of all parties (especially environmental interests and future generations)?
- How is the general public informed of the negotiations?

FAIRNESS

- How are the powers distributed among three groups (mediator, proponent and disputant) in agenda setting, process design and setting ground rules and logistics
- Do they have access to all kind of information at any time they need it?
- Do the disputants have capacity and skills to negotiate consistently and efficiently?
- Are there means and resources (financial and training etc..) available to help develop capacity and skills?
- Do they feel empowered by the process?, i.e., do they have powers
 - to shape final decision
 - to include or exclude groups
 - to negotiate effectively

TRANSFORMATIONS**Legal Provisions**

- Are there any modifications in related laws and regulations to
- expand the boundaries of participation, i.e., to change the way it is administered in the EIA procedure
 - change objectives and rational of environmental mediation process to reposition it and to redefine its expected contributions (or its mandate)
 - change the process of selecting the appropriate participatory approach for cases
 - reintroduce a more legitimate and fair process by redefining rules on identification of stakeholders, selection and nomination of representative, redistribution of roles and responsibilities in designing a transparent and flexible process and providing necessary resources including information, training and financial resources

Perceptions

- What are the perceptions of the stakeholders of their relative position as well as other parties' position in terms of equal representation, capacity and skills and influence on the final decision?
- What are the perceptions of the groups of the capacity of environmental mediation process to deal with issues at stake and become an open, transparent and flexible process?

Interviewee List

Case		Participants	Interviewee
Lachenaie	BAPE	Commissaire/mediator	Johanne Gélinas
		Ms. Johanne Gélinas	
	Ps	Usine de triage Lachenaie inc. (BFI)	Jean-Marc Viau
		Mr. Yves Normandin	
		Mr. Daniel Boisvert	
		Mr. Jean-Marc Viau	
	Ds	Syndicat canadien de la fonction publique	Mr. Michel Séguin
		Comité de l'environnement	Mr. Liliane Cotnoir
		Mr. Richard Imbeault	Mr. Don Wedge
		Comité Pro-Regie	
Demix		Mr. Jacques Cordeau	
		Action Re-Buts	
		Mr. Michel Seguin	
		Ms. Gabrielle Pelletier	
		FCQGED	
		Ms. Lynne Lagacé	
		Ms. Liliane Cotnoir	
		STOP	
		Mr. Don Wedge	
		Operation Protection de l'Avenir	
Champlain		Ms. Manon Dufour	
		Environnement Tracy	
		Ms. Sylvie Côté	
	BAPE	Commissaire/mediator	Ms. Johanne Gélinas
		Ms. Claudette Journault	
	Ps	Communauté Urbaine de Montréal	
		Gilles Bégin	
		Danielle Barbeau	
		Jocelyn Boulay	
	Ds	FCQGED	
Champlain		Jean-Pierre Barette	
		Liliane Cotnoir	
		Action Re-Buts	
		Michel Séguin	
		Gabrielle Pelletier	
	BAPE	Commissaire/mediator	Ms. Johanne Gélinas
		Ms. Johanne Gélinas	
	Ps	La Régie Intermunicipale de gestion des déchets du comte de Champlain	Mr. René Laganière
		Mr. René Laganière (mayor)	
		Mr. Pierre Belleavance (ing. du projet)	
Champlain		Mr. André Forget (hydrogeologue)	
		Mr. Jean Houde (sec-trésorier)	
	Ds	Citizens	Mr. Donat Langevin
		Mr. Donat Langevin	Ms. Nicole Bergeron
		(represented by Ms. Nicole Bergeron)	Mr. Jean Roy
		Jean Roy	

Case		Participants	Interviewee
Cowansville	BAPE	Commissaire/mediator Gisèle Pagé	Gisèle Pagé
	Ps	La Régie Intermunicipale d'élimination de déchets solides de Brome-Missisquoi Jean Lalande (président) Marcel Bechard (adm.) Normand Hébert (adm.) Réal Plourde (adm.) Mario Sirois (as the representative of Réal Plourde)	Jean Lalande
	Ds	Cowansville citizens Raymond Boily Normand Bernard Robert Bénard (representing Bernard and Boily) Douglas Hendersen Edmond Perrault	Douglas Hendersen Michel Turgeon
Saint-Alban		Michel Turgeon (with special status)	
	BAPE	Commissaire/mediator Real L'Heureux	
	Ps	La Régie Intermunicipale de gestion des déchets du secteur Ouest de Portneuf Deny Lépine Roger Gendron Richard Perron Hélène Lavallé Raymond Légaré Clovis Perron André C. Veillette	
	Ds	Coalition Environnementale de Portneuf Jacques François Blouin Bertrand Frenette Louis Marcotte	Jacques François Blouin
Saint-Rosaire	BAPE	Commissaire/mediator Camille Genest	Camille Genest
	Ps	Service Sanitaires Gaudreau inc. Mr. Daniel Gaudreau (pres.) Mr. Albert Audet (eng.) Ms. Phyllis Leclerc (consultant)	Daniel Gaudreau
	Ds	Citizen Mr. Rolland Messier (represented by Huguette Pépin Lussier)	Rolland Messier Huguette Pépin Lussier

Case	Participants		Interviewee
Gaspé (Sector Wakeham)	BAPE	Commissaire/mediator Gisèle Pagé	
	Ps	Ville de Gaspé Rodrigue Joncas (maire) Henri Bernier André Fortin (expert) Robert Lamontagne	
	Ds	FCQGDE Karel Ménard CPSEG (Comité de protection de la santé et de l'environnement de Gaspé inc.) Margaret Gernier (pres.) Individual Deirdre Dirnock (property owner estate of R. Leigh Dimock)	
Saint-Côme-Linière	BAPE	Commissaire/mediator Camille Genest	Camille Genest
	Ps	La Régie Intermunicipale du comté de Beauce-Sud Roger Turcotte (porte-parole) Mr. Michel Bernard (pres.) Mr. Lionel Bisson (vice-pres.) Ms. Marie-Helen Côte (ing. GSI Environnement) Mr. Martin Lacombe (ing. Groupe GLD) Mr. Luc Poulin (adm.) Mr. Julien Roy (vice pres.)	Roger Turcotte Michel Bernard
	Ds	FCQGDE Karel Ménard Comité de Citoyen de Saint-Côme-Linière Mr. Jean-Marc Demers Mr. Gilles Bégin Mr. Jean Bernard Mr. Mario Bergeron Mr. Patrick Bougie Mr. David Dulac Mr. Herman Dulac Mr. Gabriel Giguère Mr. Paul Jacques Mr. Jean-Marc Lacasse Ms. Rosaline Lacasse Mr. Clermont Paquet (maire) Mr. Gilles Pedneault Mr. Serge Poirier Mr. Maurice Poulin Mr. Juilen Roy Mr. Jules Vachon Ms. Lévis Veilleux Mr. René Veilleux	Karel Ménard Jean Bernard Clermont Paquet

Note. Ps: Proponents Ds: Disputants

Resource-Person (Key-Informant) Interview

1. Could you please describe the PÉEIE and public participation in PÉEIE in general?
2. What is the role of the BAPE in this process?
3. What were the conditions under which environmental mediation has been introduced and incorporated into the process?
4. What activities were conducted prior to its incorporation?
5. What are the similarities and differences between public hearing and environmental mediation?
6. What are the strengths and weaknesses of two processes?
7. How different are mandates or objectives of each process?

Mediator Interview

Appropriateness

1. What is the difference between environmental mediation and public hearing?
2. Why do you think that this (and other cases you were involved as mediator) was selected for mediation? What criteria have been used in selection? Is this an appropriate criteria set?
3. Who has the authority or power to define the criteria and make the selection? Which criteria and selection process would you appropriate?
4. What are the similarities and differences between two cases that you were involved as mediator?
5. Which were the factors you looked for to make the decision to pursue (or not to pursue) a mediation process?

Legitimacy

6. Could you please describe the case(s) and the process you used for the case?
7. What was the mandate or purpose of the process?
8. Who were the stakeholders and interests? Did these groups have legitimate positions?
9. Was there a mechanism in place to identify stakeholders and choose representatives?
10. What were the main factors encouraging (or discouraging) public participation in general?
11. What means were available to encourage these individuals or/and groups to participate?

12. Do you think that all parties were given equal chance to be involved and offer to participate has come at a timely juncture?
13. Do you think that each and every interest including environmental interests was represented effectively and consistently?
14. How did you do arrange media relations and relations with general public?
15. How flexible and transparent was the process?

Fairness

16. What were your responsibilities as the mediator?
17. Identification of the parties and issues
18. Setting the ground rules and logistics
19. Designing the process
20. Setting the agenda
21. Identifying and inviting experts
22. Choosing the relevant data and information
23. Questioning the data and evidence provided by proponent and experts
24. What were the rights and responsibilities of each group inside the mediation process?
25. What resources they were entitled to? Who were providing these resources?
26. Do you think that all parties were given equal access to information and other resources?
27. Do you think that all parties were equally able to express their views, raise questions, defend their interests, being in touch with their constituencies and negotiate effectively? Were they equal in terms of negotiation capacity, knowledge and resources?
28. What were the perceptions of groups of the mediation process and what were they expecting to achieve at the end of it?
29. What was the main factor that helped achieve (or blocked) a consensus agreement at the end of the process?
30. What would you do differently if you were given another environmental mediation mandate?

Disputant Interview

Appropriateness

1. Why did you request a hearing process? What were the issues?
2. Why do you think this case was chosen for a mediation process?
3. What were your personal motivations in participating in the mediation process?
4. How did your participation serve your objectives?

Legitimacy

5. How did you hear about the project and consultation process?
6. How and why did you get involved in the process?
7. What did you do to learn about the project? How?
8. Did you participate in BAPE's information meeting? How would you describe this process?
9. Have you participated in any other information activity about the project? Who did organize those activities?
10. What are the factors that encouraged you to participate?
11. Could you please describe the mediation process?
12. Did you represent yourself or other individuals or groups?
13. What was your interest?
14. Did you have contact with any groups outside the process during the negotiations? Why?
15. Who were the other groups and whom or what interests were they representing?
16. Have you thought that there were missing groups or groups who had not any legitimate base for being there?

Fairness: Roles/Responsibilities, Resources, Perceptions (Capacity/Skills/Powers)

17. What were your and other participants' responsibilities during the negotiations?
18. Were you consulted on issues such as logistics, timing, agenda, rules of information exchange, sources of information etc?
19. What role did you play and other parties (mediator and proponent) were expected to play during the process?

20. How would you describe your position inside the process?
21. How would you describe your interaction with the members of other two groups, i.e., the BAPE Commission and proponent inside the process?
22. How would you describe other two parties' roles and performances?
23. How would you describe mediator's success in terms of flexibility and transparency?
24. Did you feel empowered by the process? How?
25. What were the types and sources of support (including financial resources, professional expertise and information) you had access to during the process?
26. Did you get reimbursed for your expenses, i.e., the costs of mediation?
27. Were these resources sufficient for your effective involvement in negotiations?
28. Did you get any training? If yes
29. Training was provided by whom?
30. What was the content of training you got? What issues were covered?
31. How satisfactory was it? Was it responsive to your needs?
32. How did you get prepared for the mediation process (negotiations)?
33. Did you get involved in any other mediation case after this one or did you get involved in similar activities for the same project after this process has ended? If yes please describe these activities.
34. Have you kept working with other parties on this specific case after the mediation process ended?
35. Do you think that your participation was effective and came in timely juncture?
36. At the end of the process did you change your idea about the effects you could have on the process?
37. Do you believe that by participating you made a difference in the result, i.e., you had effects on the outcome?
38. What would you change about the process?
39. Would you like to be part of another environmental mediation process?

Proponent Interview

Appropriateness

1. Could you please describe the process of preparation of an EIA for a project starting from your application for an authorization certificate?
2. What are the objectives and rationales behind a hearing or a mediation process, which is conducted by the BAPE in general? What are the differences between two? Which one is more preferable?
3. Have you organized any other activity yourself to inform the public about the project or to obtain their inputs?
4. What are the contributions of the public participation activities to the project and to the EIA study?
5. Why do you think that this case selected for mediation? Was it the right approach for the case?
6. What different role could a hearing process play?
7. Why did you accept (or refuse) to get involved in mediation process? What was the motivation and objectives? Did you achieve your objective at the end of the process?

Legitimacy

8. Could you please describe the process?
9. How did you get prepared for the mediation process?
10. Who did represent your interests at the mediation process?
11. Who were the disputants and what were their interests?
12. Do you think that they had justifiable and legitimate positions?
13. What issues did they raise and were these legitimate issues?

Fairness

14. Do you think that the disputants had the capacity and skills to represent themselves and negotiate effectively?
15. Do you think that they contributed to the improvement of the project and in what ways?
16. What do you think of the mediator's role?
17. How would you describe your interaction with the members of other two groups, i.e., the BAPE Commission and disputants inside the process?
18. Is there anything that you would change about the process?

Questionnaire Survey

Category	Indicator (statement)	Strongly agree	Agree	Neutral or Undecided	Disagree	Strongly disagree	Not Applicable
Appropriateness	1.a. Different than public hearings, mediation processes help settle disputes in a shorter time with cost-effective way without leading to polarization among groups.						
	1.b. The selection of environmental mediation is an open process based on the pre-defined technical criteria.						
	1.c. The most important factor in selection of the mediation process is issues at stake and stakeholder profile.						
	1.d. The most important factor in selection of the mediation process is number of disputants and the willingness of parties to participate.						
	1.e. Environmental Mediation is an adversarial processes in which proponent of the project face the disputants directly.						
	1.f. It is an adversarial process in which disputants criticize the project and seek for compensation.						
	1.g. It is a consensual process in which parties worked to find win-win solutions to the problems.						
	1.h. Environmental Mediation is open only to the participation of those who have real stakes on the case.						
	1.i. Objectives of a mediation process are identified by the parties together.						
	1.j. Mediator consults the parties and then sets the objectives of the process himself/herself.						
	1.k. Objectives of the process are set by the law and regulations and defined in the mandate given to BAPE by the Minister of the environment.						
	1.l. The main objective(s) of mediation process is/are to increase the social acceptability of the project by compensation and mitigation measures						
	1.m. The main objective(s) of mediation process is/are to obtain local knowledge to address social impacts of the project						
	1.n. The main objective(s) of mediation process is/are to enable participation of public for democratic reasons						

Comments:

Category	Subcategory	Indicator (statement)	Strongly agree	Agree	Neutral or Undecided	Disagree	Strongly disagree	Not Applicable
Process	Inclusiveness Representation Accountability	2.a. Mediation process is redesigned each time according to the characteristics of the case.						
		2.b. Process is designed according to the issues at stake, profile of participants and characteristics of the case.						
		2.c. All stakeholders were given a chance to be involved, i.e., all potentially affected parties were represented in the process.						
		2.d. The participants (especially disputants) were able to represent their interests effectively and consistently.						
		2.e. All issues related to case were covered and discussed during the process.						
		2.f. The environmental interests were represented effectively.						
		2.g. Representatives were identified after a fair process and they had very good contact with their constituencies.						
		2.h. Representatives had power to accept and make offers on behalf of their constituencies.						
		2.i. General public was aware of the process at every step of it.						
		2.j. Environmental mediation process is a democratic process which enables equal access and equal representation of all the stakeholders.						
		2.k. Government supported the disputants by training to facilitate an effective participation.						
		2.l. Government supported the disputants financially for an effective public participation.						
		2.m. The disputants had good relationships with their constituencies and there were means available to them to keep good contact.						
		2.n. Groups had the necessary means (knowledge and resources) to present their cases, i.e., interests properly, effectively, consistently.						

Comments:

Category	Subcategory	Indicator (Statement)	Strongly agree	Agree	Neutral or Undecided	Disagree	Strongly disagree	Not Applicable
Process	Fairness	3.a. Disputants play active role in designing the process and management of the process						
		3.b. Disputants play active selection of communication patterns, techniques and material						
		3.c. Disputants play active role in selection of place and time for the meetings (i.e. logistics)						
		3.d. Disputants play active role in definition of deadlines						
		3.e. Disputants play active role in identification of the issues						
		3.f. Rules have been modified during the process according to the direction given by the participants.						
		3.g. All parties were given equal access to information and resources.						
		3.h. All parties were able to express their views effectively they had equal access to professional expertise, owned skills to present their cases by using necessary tools (visual material, etc.) and raise questions.						
		3.i. The process allowed each disputant an equal chance to obtain every objective he/she wants.						
		3.j. Mediator's position is a neutral position. S/he cannot help disputants or proponents during the deliberations.						
		3.k. Powers of the mediator or commissionaire is limited. S/he cannot recommend the inclusion of parties other than those who recommended a public hearing process even though the dynamics of the case require it.						

Comments:

QUESTIONNAIRE SURVEY RESULTS

Category	Question	Respondents				
		AA101	BB102	CC103	DD104	EE105
Appropriateness	1.a.	2	2	2	1	2
	1.b.	2	2	1	1	0
	1.c.	2	-1	1	1	1
	1.d.	1	2	1	1	2
	1.e.	2	NA	1	1	0
	1.f.	-1	2	1	1	0
	1.g.	-1	-1	2	-1	2
	1.h.	-1	1	1	1	-1
	1.i.	-1	0	-1	-1	-1
	1.j.	2	2	2	1	2
	1.k.	2	-1	1	1	2
	1.l.	-1	2	1	1	2
	1.m.	-1	-1	1	1	-2
	1.n.	-1	-1	0	-1	0
Legitimacy	2.a.	1	2	-1	1	1
	2.b.	1	1	-1	1	2
	2.c.	-1	-2	2	1	2
	2.d.	1	1	1	1	2
	2.e.	-1	0	1	1	0
	2.f.	-1	2	1	-1	2
	2.g.	2	1	1	1	2
	2.h.	-1	0	1	1	2
	2.i.	1	2	1	1	0
	2.j.	-1	1	0	1	2
	2.k.	-1	-1	1	-1	-1
	2.l.	-1	2	-1	-2	-1
	2.m.	-1	0	1	0	2
	2.n.	-1	-1	-1	-1	0
Fairness	3.a.	-1	-1	1	-1	1
	3.b.	-1	1	1	1	1
	3.c.	-1	1	1	1	1
	3.d.	-2	-2	-1	-1	0
	3.e.	2	2	1	2	1
	3.f.	1	1	-1	-1	-2
	3.g.	1	2	1	1	2
	3.h.	1	1	1	-1	2
	3.i.	1	2	1	0	2
	3.j.	1	2	1	1	0
	3.k.	1	0	1	-1	-2

Appendix C

Guidelines for Preparation of a Public Hearing Request

Examples of BAPE Press Releases

Examples of Summary Reports for Public Consultation and Information Meetings (*Compte Rendu de la Période d'information et de consultation publiques*)



Guidelines for Preparation of a Public Hearing Request



Public Hearing Application

This document explains the procedure for filing a public hearing request with the Minister of the Environment.

What is a public hearing request?

A public hearing is a process prescribed in the environmental impact assessment and review procedure to provide the public with information and an opportunity to express their opinions regarding a project. Public hearing applications must be filed during the 45-day public information and consultation period. Any individual, group, municipality or organization is authorized to request a public review of a project by applying to the Minister of the Environment for the holding of a public hearing. For instance, an application may be filed when an individual considers that additional information is necessary in order to render a decision on a project, to express their concerns or voice an opinion.

What should an application contain?

First and foremost, to avoid any misunderstanding on the nature of the document, it is important to stress the fact that it is strictly an application for a public hearing.

Firstly, the letter must contain the rationale for the application, that is the reasons for the individual(s)' request to hold a public hearing. Secondly, the interest of the individual, group or municipality in the community affected by the project should be clearly stated in the application. Individuals may also indicate in the application their willingness to engage in mediation.

If he finds the request for a hearing to be founded, the Minister will instruct BAPE to hold a public hearing and to provide him with a report of its findings and analysis. The Minister may also

mandate BAPE to conduct an inquiry and mediation, without affecting the applicant's right to obtain a public hearing.

If the Minister entrusts the mandate to BAPE, the rationale for the hearing request as well as its interest to the affected community will allow BAPE commissions to draw as accurate a picture as possible of the stakes involved in the project and identify the panel of experts who are best qualified to answer questions from the public.

How to file an application

Hearing requests must be submitted in writing to the Minister of the Environment no later than the final day of the public information and consultation period.

The Minister's address is:

Cabinet du ministre
Ministère de l'Environnement
Édifice Marie-Guyart
675, boul. René-Lévesque Est, 30^e étage
Québec (Québec) G1R 5V7
Telephone: (418) 521-3911
Fax: (418) 643-4143

In order to facilitate information being sent by BAPE to the persons concerned, individuals should include their full name, mailing address and telephone number in their public hearing application. Joint applications may also contain the full names, mailing addresses and telephone numbers of all signatories to the application.

Examples of BAPE Press Releases

Communiqué

BUREAU D'AUDIENCES PUBLIQUES SUR L'ENVIRONNEMENT - PROJET D'AMENAGEMENT D'UN NOUVEAU LIEU D'ENFOUISSEMENT SANITAIRE A GASPE - C'EST LE TEMPS DE S'INFORMER

QUÉBEC, le 20 mai /CNW/ - Le Bureau d'audiences publiques sur l'environnement (BAPE) rend accessible à la population, à la demande du ministre de l'Environnement et de la Faune, monsieur Paul Bégin, l'étude d'impact concernant le projet d'aménagement d'un nouveau lieu d'enfouissement sanitaire à Gaspé.

LA CONSULTATION PUBLIQUE

A compter d'aujourd'hui, et ce pour une période de 45 jours, soit du 20 mai 1998 au 4 juillet 1998, l'étude d'impact décrivant le projet et ses répercussions sur l'environnement peut être consultée aux bureaux du BAPE à Québec et à Montréal. L'ensemble du dossier est également disponible aux endroits suivants:

BIBLIOTHEQUE ALMA-BOURGET-COSTISELLA, 6 A, de la Marina, Gaspé.
UNIVERSITE DU QUÉBEC A MONTRÉAL, Bibliothèque centrale, Pavillon Hubert-Aquin, 1255, rue St-Denis, local A.M. 100.

LA RENCONTRE D'INFORMATION ET LA DEMANDE D'AUDIENCE PUBLIQUE

Des personnes représentant le BAPE animeront une séance d'information publique, avec la participation d'une personne-ressource du promoteur ainsi que du ministère de l'Environnement et de la Faune. Cette séance se tiendra aux salles Emilia et Percy-Lequesne de l'Auberge Quality Inn, 178, de la Reine à Gaspé, le 10 juin 1998 à 19 h 30.

Les personnes participant à la séance pourront alors s'informer à loisir sur toute question concernant le projet ou la procédure. Toute personne,

groupe ou municipalité peut émettre ses commentaires ou faire une demande d'audience publique pendant la période d'information et de consultation publiques. Cette demande doit être présentée, par écrit, au plus tard le 4 juillet 1998, au ministre de l'Environnement et de la Faune, monsieur Paul Bégin, 675, boul. René-Lévesque Est, 30e étage, Québec, G1R 5V7. Le requérant doit y indiquer les motifs de sa demande et son intérêt par rapport au milieu touché.

LE PROJET

La Ville de Gaspé projette aménager un lieu d'enfouissement sanitaire dans le secteur Wakeham sur le territoire de la Ville de Gaspé. Les lots visés par le projet, localisés près de la route 198 à environ 13 km à l'ouest du centre-ville de Gaspé, sont les lots 36, 37 et 38 du Rang 1 du cadastre de la Ville de Gaspé. La première phase du projet touche les lots 36 et 37 et permettrait l'exploitation du site sur environ 30 ans. L'aire d'enfouissement de la première phase couvre une superficie totale d'environ 18 hectares dont 9 sont réservés pour l'enfouissement des déchets solides. Eventuellement, le lot 38 permettrait, lors de la deuxième phase, de doubler la superficie disponible à l'enfouissement. Le coût évalué pour la première phase du projet est d'environ 4 millions de dollars. Le coût total du projet, échelonné sur une période de 30 ans, est approximativement de 18 millions de dollars. En raison de la présence du socle rocheux et de la nappe phréatique à faible profondeur, le promoteur a retenu le concept de l'enfouissement sanitaire en surélévation. Ainsi, lorsque l'enfouissement sanitaire sera complété, le site atteindra une élévation maximale d'environ 16,5 mètres par rapport au terrain naturel.

LES IMPACTS ET LES MESURES D'ATTENUATION

Selon le promoteur, le projet n'aurait pas d'impacts significatifs majeurs sur la santé publique. Il soutient que la conception du projet, les nouvelles technologies mises en place, les mécanismes de surveillance et la gestion rigoureuse du site feront en sorte que le nouveau site sera beaucoup plus sécuritaire pour la santé publique que ne l'était le lieu actuel. Plus

de 25 mesures d'atténuation auraient été prescrites. Elles concernent la circulation des véhicules et des camions, la gestion des contaminants, le bruit, les odeurs, la collecte et le traitement du lixiviat, le contrôle des eaux de surface, le reboisement, l'archéologie, la protection des cours d'eau, la gestion du lieu d'enfouissement sanitaire, la santé et l'aspect visuel du site.

Pour obtenir davantage d'information sur le dossier, le public est invité à communiquer avec Mme Marielle Jean, au 643-7447, ou sans frais, au 1 800 463-4732 ou au 625, rue Saint-Amable, 2e étage, Québec, G1R 2G5.

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Communiqué

BUREAU D'AUDIENCES PUBLIQUES SUR L'ENVIRONNEMENT - PROJET D'AMÉNAGEMENT D'UN NOUVEAU LIEU D'ENFOUISSEMENT SANITAIRE À GASPÉ

Ouverture d'un nouveau centre de consultation

QUÉBEC, le 25 nov. /CNW/ - Le 19 novembre dernier, le Bureau d'audiences publiques sur l'environnement (BAPE) a reçu du ministre de l'Environnement et de la Faune (MEF), monsieur Paul Bégin, le mandat de procéder à une médiation en environnement dans le cadre du Projet d'aménagement d'un nouveau lieu d'enfouissement sanitaire à Gaspé par la ville de Gaspé.

Afin de répondre aux besoins de la population, le BAPE a ouvert un nouveau centre de consultation à Gaspé, dont voici les coordonnées:

CEGEP de la Gaspésie et des Îles, Bibliothèque, 96, rue Jacques-Cartier, Gaspé.

Rappelons que le dossier, dont l'étude d'impact, peut être consulté dans ce nouveau centre de consultation, dans les bureaux du BAPE à Montréal et à Québec ainsi qu'aux endroits suivants:

Bibliothèque Alma-Bourget-Costisella, 6A, de la Marina, Gaspé

Université du Québec à Montréal, Bibliothèque centrale, Pavillon
Hubert-Aquin, 1255, rue Saint-Denis, local A.M.100.

Pour obtenir davantage d'information sur le dossier, le public est invité
à communiquer avec Marielle Jean, agente d'information au 643-7447, ou sans
frais, au 1 800 463-4732 ou au 625, rue Saint-Amable, 2e étage, Québec,
G1R 2G5 ou par courrier électronique à communication@bape.gouv.qc.ca.

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Communiqué

PROJET D'AMÉNAGEMENT D'UN NOUVEAU LIEU D'ENFOUISSEMENT SANITAIRE À GASPÉ LE BAPE ENTREPREND UNE MÉDIATION EN ENVIRONNEMENT

QUÉBEC, le 19 nov. /CNW/ - Le Bureau d'audiences publiques sur
l'environnement (BAPE) a reçu du ministre de l'Environnement et de la Faune,
monsieur Paul Bégin, le mandat de procéder à une médiation en environnement
dans le cadre du Projet d'aménagement d'un nouveau lieu d'enfouissement
sanitaire à Gaspé par la Ville de Gaspé. Ce mandat, qui débute aujourd'hui,
est sous la responsabilité de madame Gisèle Pagé, membre du BAPE.

LA MÉDIATION EN ENVIRONNEMENT

La médiation en environnement est une démarche souple de règlement de
différends tentant d'amener les parties au dialogue et au consensus. Dans le
cas où il n'y a pas d'entente, les requérants conservent leur droit à une
audience publique. A la fin de son mandat, le BAPE remet son rapport au
ministre de l'Environnement et de la Faune qui le rend public.

LA DOCUMENTATION DISPONIBLE

Le dossier, dont l'Etude d'impact, peut être consulté aux bureaux du BAPE
à Montréal et à Québec, ainsi qu'aux endroits suivants:

Bibliothèque Alma-Bourget-Costisella, 6 A, de la Marina, Gaspé.

Université du Québec à Montréal, Bibliothèque centrale, Pavillon

Hubert-Aquin, 1255, rue St-Denis, local A.M. 100.

LE PROJET

La Ville de Gaspé projette aménager un lieu d'enfouissement sanitaire dans le secteur Wakeham sur le territoire de la Ville de Gaspé. Les lots visés par le projet, localisés près de la route 198 à environ 13 km à l'ouest du centre-ville de Gaspé, sont les lots 36, 37 et 38 du Rang 1 du cadastre de la Ville de Gaspé. La première phase du projet touche les lots 36 et 37 et permettrait l'exploitation du site sur environ 30 ans. L'aire d'enfouissement de la première phase couvre une superficie totale d'environ 18 hectares dont 9 sont réservés pour l'enfouissement des déchets solides. Eventuellement, le lot 38 permettrait, lors de la deuxième phase, de doubler la superficie disponible à l'enfouissement. Le coût évalué pour la première phase du projet est d'environ 4 millions de dollars. Le coût total du projet, échelonné sur une période de 30 ans, est approximativement de 18 millions de dollars. En raison de la présence du socle rocheux et de la nappe phréatique à faible profondeur, le promoteur a retenu le concept de l'enfouissement sanitaire en surélévation. Ainsi, lorsque l'enfouissement sanitaire sera complété, le site atteindra une élévation maximale d'environ 16,5 mètres par rapport au terrain naturel.

LES IMPACTS ET LES MESURES D'ATTENUATION

Le promoteur a déposé une étude d'impact contenant plus de 25 mesures d'atténuation. Elles concernent la circulation des véhicules et des camions, la gestion des contaminants, le bruit, les odeurs, la collecte et le traitement du lixiviat, le contrôle des eaux de surface, le reboisement, l'archéologie, la protection des cours d'eau, la gestion du lieu d'enfouissement sanitaire, la santé et l'aspect visuel du site. Pour obtenir davantage d'information sur le dossier, le public est invité à communiquer avec Mme Marielle Jean, agente d'information au (418) 643-7447,

ou sans frais, au 1 800 463-4732 ou encore par la poste au 625, rue Saint-Amable, 2e étage, Québec, G1R 2G5, ou par courrier électronique à communication@bape.gouv.qc.ca.

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Communiqué

BUREAU D'AUDIENCES PUBLIQUES SUR L'ENVIRONNEMENT - PROJET D'AMENAGEMENT D'UN NOUVEAU LIEU D'ENFOUISSEMENT SANITAIRE A GASPE - COMPLEMENT D'INFORMATION

QUÉBEC, le 19 juin /CNW/ - Le Bureau d'audiences publiques sur l'environnement (BAPE) rend public un nouveau document produit par le promoteur. Ce document décrit la procédure technique utilisée pour estimer le volume d'eau à gérer lors de la fonte des neiges.

Ce document joint l'ensemble des documents constituant le dossier. Ils sont disponibles jusqu'au 4 juillet 1998, date limite pour présenter une demande d'audience publique au ministre de l'Environnement et de la Faune, aux endroits suivants:

Bibliothèque Alma-Bourget-Costisella, 6 A de la Marina, Gaspé

Université du Québec à Montréal, Bibliothèque centrale, Pavillon des publications gouvernementales

Bureaux du BAPE à Québec et à Montréal

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Communiqué

BUREAU D'AUDIENCES PUBLIQUES SUR L'ENVIRONNEMENT - PROJET D'AGRANDISSEMENT D'UN LIEU D'ENFOUISSEMENT SANITAIRE PAR LA REGIE INTERMUNICIPALE DU COMTE DE BEAUCE-SUD A SAINT-COME-LINIERE - LA POPULATION EST INVITEE A S'INFORMER

QUÉBEC, le 3 août /CNW/ - Le Bureau d'audiences publiques sur l'environnement (BAPE) rend accessible à la population, à la demande du ministre de l'Environnement et de la Faune, monsieur Paul Bégin, l'étude d'impact concernant le «Projet d'agrandissement d'un lieu d'enfouissement sanitaire par la Régie intermunicipale du comté de Beauce-Sud à Saint-Côme-Linière''.

LA CONSULTATION PUBLIQUE

A compter d'aujourd'hui, et ce pour une période de 45 jours, soit du 3 août au 17 septembre 1998, l'étude d'impact décrivant le projet et ses répercussions sur l'environnement, de même que tous les autres documents relatifs au projet, sont disponibles aux endroits suivants:

Hôtel de Ville de Saint-Côme-Linière, 1375, 18e Rue
Bibliothèque municipale de Saint-Georges, Centre culturel
Marie-Fitzbach, 250, 18e Rue
Université du Québec à Montréal, Bibliothèque centrale, Pavillon
Hubert-Aquin, 1255, rue St-Denis, local A.M. 100
Bureaux du BAPE à Québec et à Montréal.

LA SEANCE D'INFORMATION ET LA DEMANDE D'AUDIENCE PUBLIQUE

Des représentants du BAPE animeront une séance d'information publique, le mercredi 19 août 1998 à compter de 19 h 30, à la Salle Optimiste, 19e Rue, à Saint-Côme Linière, avec la participation des représentants du promoteur et du ministère de l'Environnement et de la Faune.

Les personnes participant à cette rencontre pourront s'informer sur toute question relative au projet ou à la procédure. Toute personne, groupe ou municipalité peut faire part de ses préoccupations ou faire une demande d'audience publique relativement à ce projet, pendant cette période d'information et de consultation publiques, au plus tard le 17 septembre 1998. Cette demande doit être présentée, par écrit, au ministre de l'Environnement et de la Faune, monsieur Paul Bégin, au 675, boul. René-Lévesque Est, 30e

étage, Québec, G1R 5V7. Les motifs de la demande doivent être indiqués, ainsi que l'intérêt par rapport au milieu touché par le projet.

LE PROJET

La Régie intermunicipale du comté de Beauce-Sud envisage, après un peu plus de vingt ans d'exploitation, l'agrandissement du lieu d'enfouissement sanitaire (LES) situé sur le rang St-Joseph à Saint-Côme-Linière. En 1996, le ministère de l'Environnement et de la Faune (MEF) estimait que 750 000 mètres cubes de déchets auraient été enfouis à ce jour au LES de Saint-Côme-Linière, la superficie d'enfouissement autorisée étant d'environ 179 220 mètres carrés. Dans l'Étude d'impact, il est fait mention qu'il n'existe aucun autre LES, ni dépôt de matériaux secs (DMS) sur le territoire de la Régie.

Le projet prévoit l'aménagement de deux zones d'enfouissement, la première sur les lots 35 et 36, d'une durée de vie de 40 ans et la deuxième sur les lots 31 et 32, d'une durée de vie de 10 ans. Le projet prévoit, entre autres, assurer l'étanchéité du site, le captage et le traitement du lixiviat, le captage et le traitement des biogaz, le suivi environnemental des eaux de surface, le recouvrement final étanche, une zone tampon de 50 mètres au pourtour du site, la création d'un fonds de gestion et d'un suivi postfermeture.

LES IMPACTS ET LES MESURES D'ATTENUATION

Selon le promoteur, les principaux impacts associés à la réalisation de ce projet sont liés, essentiellement, au souci du maintien d'une eau potable de qualité, à la qualité de l'eau dans le ruisseau Patrick (en bordure du site) et à des problèmes de circulation routière lesquels ont des répercussions sur la qualité de vie des résidents du secteur. L'Étude d'impact souligne qu'une série de mesures ont été incluses au projet pour permettre d'intégrer les préoccupations des résidents, la première étant l'encouragement à la création d'un comité de citoyens. D'autres mesures éventuelles prévoient la réfection des voies de circulation vers le LES, le pavage de la route Rodrigue, la réalisation d'un écran forestier aux limites de propriétés bordant les chemins publics, pour ne nommer que celles-ci. Des mesures de

sécurité environnementales sont également prévues à toutes les étapes de ce projet, soit entre autres, la construction de cellules d'enfouissement à double niveau d'imperméabilisation, un système de traitement du lixiviat plus performant, un programme de suivi des eaux souterraines, des eaux de surface et de la qualité de l'atmosphère.

Les personnes intéressées à obtenir plus d'information sur le dossier peuvent communiquer avec Mme Thérèse Daigle, au (418) 643-7447, ou sans frais, au 1 800 463-4732 ou par courrier électronique à communication@bape.gouv.qc.ca.

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Communiqué

BUREAU D'AUDIENCES PUBLIQUES SUR L'ENVIRONNEMENT - PROJET D'AGRANDISSEMENT DU LIEU D'ENFOUISSEMENT SANITAIRE DE SAINT-CÔME-LINIÈRE PAR LA RÉGIE INTERMUNICIPALE DU COMTE DE BEAUCE-SUD - LE BAPE ENTREPREND UNE MÉDIATION EN ENVIRONNEMENT

QUÉBEC, le 17 nov. /CNW/ - Le Bureau d'audiences publiques sur l'environnement (BAPE) a reçu du ministre de l'Environnement et de la Faune, monsieur Paul Bégin, le mandat de procéder à une médiation en environnement dans le cadre du Projet d'agrandissement du lieu d'enfouissement sanitaire de Saint-Côme-Linière par la Régie intermunicipale du comté de Beauce-Sud. Ce mandat, qui débute aujourd'hui, est sous la responsabilité de monsieur Camille Genest, membre du BAPE.

LA DOCUMENTATION DISPONIBLE

Le dossier, dont l'Etude d'impact, peut être consulté aux bureaux du BAPE à Québec et à Montréal, ainsi qu'aux endroits suivants:

Hôtel de Ville de Saint-Côme-Linière, 1375 18e Rue.

Bibliothèque municipale de Saint-Georges, Centre culturel
Marie Fitzbach, 250, 18e Rue.

Université du Québec à Montréal, Bibliothèque centrale,
Pavillon Hubert-Aquin, 1255, rue Saint-Denis, local A.M.-100.

LE PROJET

La Régie intermunicipale du comté de Beauce-Sud envisage, après un peu plus de vingt ans d'exploitation, l'agrandissement du lieu d'enfouissement sanitaire (LES) situé sur le rang Saint-Joseph à Saint-Côme-Linière. En 1996, le ministère de l'Environnement et de la Faune (MEF) estimait que 750 000 mètres cubes de déchets auraient été enfouis à ce jour au LES de Saint-Côme-Linière, la superficie d'enfouissement autorisée étant d'environ 179 220 mètres carrés. Dans l'Etude d'impact, il est fait mention qu'il n'existe aucun autre LES, ni dépôt de matériaux secs (DMS) sur le territoire de la Régie.

Le projet prévoit l'aménagement de deux zones d'enfouissement, la première sur les lots 35 et 36, d'une durée de vie de 40 ans et la deuxième sur les lots 31 et 32, d'une durée de vie de 10 ans. Ces nouvelles zones couvriraient une superficie totale de l'ordre de 296 000 mètres carrés. Le projet prévoit également assurer l'étanchéité du site, le captage et le traitement du lixiviat, le captage et le traitement des biogaz, le suivi environnemental des eaux de surface, le recouvrement final étanche, une zone tampon de 50 mètres au pourtour du site, la création d'un fonds de gestion et d'un suivi postfermeture.

LES IMPACTS ET LES MESURES D'ATTENUATION

Selon le promoteur, les principaux impacts associés à la réalisation de ce projet sont liés essentiellement au maintien d'une eau potable de qualité, à la qualité de l'eau dans le ruisseau Patrick (en bordure du site) et à des problèmes de circulation routière, lesquels ont des répercussions sur la qualité de vie des résidents de ce secteur. L'Etude d'impact indique qu'une

série de mesures ont été incluses au projet visant à intégrer les préoccupations des résidants, tels: l'encouragement à la création d'un comité de citoyens, la réfection des voies de circulation vers le LES, le pavage de la route Rodrigue, la réalisation d'un écran forestier aux limites de propriétés bordant les chemins publics. Des mesures de sécurité environnementales sont également prévues à toutes les étapes de ce projet soit, entre autres, la construction de cellules d'enfouissement à double niveau d'imperméabilisation, un système de traitement du lixiviat, un programme de suivi des eaux souterraines, des eaux de surface et de la qualité de l'atmosphère.

LA MEDIATION EN ENVIRONNEMENT

La médiation en environnement est une démarche souple de règlement de différends tentant d'amener les parties au dialogue et au consensus. Dans le cas où il n'y a pas d'entente, les requérants conservent leur droit à une audience publique. A la fin de son mandat, le BAPE remet son rapport au ministre de l'Environnement et de la Faune. Après avoir pris connaissance des conclusions du rapport, il appartient au ministre de le rendre public et de décider des suites à y apporter.

Les personnes intéressées à obtenir plus d'information peuvent communiquer avec Thérèse Daigle, au (418) 643-7447 ou, sans frais, au 1 800 463-4732 ou au 625, rue Saint-Amable, 2e étage, Québec, G1R 2G5 ou par courrier électronique à communication@bape.gouv.qc.ca.

Examples of Summary Reports for Public Consultation and Information Meetings (*Compte Rendu de la Période d'information et de consultation publiques*)

COMPTE RENDU DE LA PÉRIODE D'INFORMATION ET DE CONSULTATION PUBLIQUES

Demande de certificat de conformité pour
la modification du lieu d'enfouissement
sanitaire de Champlain
(référence: INF 6212-03-40)

Le ministre de l'Environnement et de la Faune, monsieur Jacques Brassard, dans une lettre datée du 31 mars 1995, demandait au Bureau d'audiences publiques sur l'environnement (BAPE) de préparer pour consultation publique le dossier concernant «la demande de certificat de conformité pour la modification du lieu d'enfouissement sanitaire (LES) de Champlain». Conformément au *Règlement sur l'évaluation et l'examen des impacts sur l'environnement*, le BAPE a mis à la disposition du public l'ensemble des documents durant 45 jours, soit du 20 avril au 4 juin 1995.

Les activités de communication

La revue de presse

Tout au long des 45 jours, une revue de presse a été réalisée. Des médias de la région ont annoncé le début de la période d'information et de consultation publique.

La séance d'information

Une agente d'information et un analyste ont animé la séance d'information qui s'est tenue le 16 mai au Centre du Tricentenaire à Champlain. Au total, 17 personnes ont répondu à l'invitation dont l'initiateur du projet, représenté par le maire de la municipalité de Champlain, et un représentant de chacune des deux firmes de consultants ayant rédigé l'étude d'impact pour le Comité intermunicipal de gestion des déchets du comté de Champlain. À la demande des représentants du BAPE, ces personnes ont donné des précisions sur des éléments spécifiques de la problématique du projet et ont répondu à des interrogations des citoyens sur des sujets non développés dans l'étude d'impact. Les représentants des deux firmes de consultants se sont prêtés à d'autres questions des citoyens à la fin de la séance d'information, documentation à l'appui. Un journaliste a également assisté à la séance d'information et rédigé une nouvelle, parue dans le quotidien *Le Nouvelliste* le 17 mai.

Les préoccupations des citoyens

Les appels reçus

À la suite de la publication des avis publics et de la diffusion du communiqué de presse sur la période d'information, quatre personnes nous ont contactés pour recevoir de plus amples informations. Trois représentants d'organismes désiraient recevoir une copie complète de l'étude d'impact, telle que déposée dans les lieux de consultation. Ils ont été référés au promoteur et au consultant principal. Une avocate nous a fait part de son désaccord à soumettre ce dossier à la période d'information et de consultation publique. *Devant son insistance, nous l'avons référée au cabinet du ministre de l'Environnement et de la Faune.*

La séance d'information

L'exposé de la procédure des évaluations environnementales et du résumé de l'étude d'impact a suscité des questions et des commentaires lors de la séance d'information.

La principale question soulevée fut l'absence, dans l'étude d'impact, de la problématique agricole. En effet, les agriculteurs présents disent subir depuis plusieurs années des impacts dûs à la présence du lieu d'enfouissement sanitaire. La nappe phréatique serait contaminée par le LES et les goélands se retrouvent de plus en plus fréquemment et en grand nombre sur leurs terres mangeant semences et vers de terre. Les agriculteurs se posent également des questions sur l'impact des fientes des goélands sur les terres et les cours d'eau en plus de la présence des papiers qui entravent les travaux agricoles.

Une préoccupation soulevée par plusieurs personnes, concernait la possibilité de réaliser le projet, tout en s'assurant d'obtenir des dédommagements pour les préjudices encourus étant donné l'état actuel de la situation. La tenue d'audience publique retardant le projet semblait constituer un problème.

Une autre interrogation concernait le fonctionnement des pompes pour l'alimentation du système de filtration des eaux durant la période hivernale, le système de pompage actuel ne fonctionne pas durant cette période. À ce sujet, l'étude d'impact est explicite, le système de filtration des eaux de lixiviation devrait fonctionner douze mois par année. Les arrêts du système de pompage créerait en ce moment des problèmes de débordement et d'écoulement des lixiviats, dans les cours d'eau agricoles.

La présence de déchets sur la route Sainte-Marie, par le passage des véhicules de particuliers se rendant au lieu d'enfouissement, a suscité des interrogations. Plusieurs personnes présentes se demandaient si des mesures d'atténuation avaient été prévues à cette fin et leur efficacité.

Enfin une personne considère ce lieu d'enfouissement sanitaire comme une source continue de problèmes. Aussi, elle suggère la prise en charge de la gestion du LES par un comité de citoyens. La question de l'efficacité de la tranchée boueuse à retenir les lixiviats et les possibilités de fissure furent également soulevées par le public présent.

Les registres de consultation

Bien que plusieurs personnes ont consulté les études mises à la disposition du public dans les centres de consultation, aucune personne n'a signé le registre.

Pierre Dugas ing.f.
Analyste





COMPTE RENDU DE LA PÉRIODE D'INFO ET DE CONSULTATION PUBLIQUE

Cowansville

INF 6212-03-35

*Projet d'agrandissement
d'un lieu d'enfouissement sanitaire
sur le territoire de la municipalité
de Cowansville
(référence : 6212-03-35)*

La période d'information et de consultation publiques concernant le projet d'agrandissement d'un lieu d'enfouissement sanitaire (L.E.S.) sur le territoire de la municipalité de Cowansville a pris fin le 4 novembre dernier. Conformément au mandat qui lui a été confié le 7 septembre 1995, et en vertu des articles 11 et 12 du *Règlement sur l'évaluation et l'examen des impacts sur l'environnement*, le Bureau d'audiences publiques sur l'environnement (BAPE) a mis à la disposition du public pendant 45 jours, soit du 20 septembre au 4 novembre 1995, le dossier complet concernant la demande d'un certificat d'autorisation relative à ce projet.

LES ACTIVITÉS DE COMMUNICATION

Le promoteur, la Régie intermunicipale d'élimination des déchets solides de Brôme-Missisquoi, a publié, les 18 et 19 septembre 1995, un avis public dans deux quotidiens, soit *Le Journal de Québec* et *Le Journal de Montréal* de même que dans un hebdomadaire régional, *Le Guide*, les 16 et 23 septembre 1995.

Le 20 septembre 1995, le BAPE a émis un communiqué auprès d'une trentaine de médias écrits et électroniques, tant régionaux que nationaux. Ce communiqué annonçait le début de la période d'information et de consultation publiques, les grandes lignes du projet, ses impacts sur l'environnement ainsi que les coordonnées des centres de consultation. Un suivi auprès des médias régionaux a permis d'expliquer la mission, le rôle et le fonctionnement du BAPE. De plus, près de 300 personnes, groupes ou municipalités ont reçu le communiqué.

L'ensemble du dossier comprenant l'avis de projet, la directive ministérielle, l'étude d'impact, son résumé et l'avis de recevabilité a été mis à la disposition du public dans cinq centres temporaires de consultation, soit à Cowansville, Granby, Bedford, Marieville et Saint-Jean-sur-Richelieu, en plus des bureaux du BAPE à Québec et à Montréal et ceux de l'Université Laval à Québec et de l'Université du Québec à Montréal.

Une revue de presse a été réalisée tout au long de la période d'information et de consultation publiques. Les hebdomadaires régionaux *L'Avenir*, *Le Guide* et *La Voix de l'Est* ont couvert le projet d'agrandissement du L.E.S.. De plus, la télévision communautaire de Cowansville a filmé la séance d'information. Une courte entrevue a été accordée le matin de la séance d'information à la station de radio CHEF-AM de Granby. Les quotidiens nationaux n'ont pas fait écho de l'événement.

LA SÉANCE D'INFORMATION

L'analyste et l'agent d'information ont tenu une séance d'information, le 19 octobre 1995, à 19 h, au Centre sociocommunautaire de Cowansville. Cette rencontre avait pour but d'exposer à la population les grandes lignes du projet d'agrandissement du L.E.S. et de lui faire connaître ses droits dans le cadre de la procédure d'évaluation et d'examen des impacts sur l'environnement.

La séance d'information a attiré une trentaine de personnes, dont une dizaine de citoyens directement concernés par le projet.

Lors de la séance d'information et à la demande express des citoyens, le promoteur a pris l'engagement de déposer de nouveaux documents touchant la reconstruction du rang Saint-Joseph, le fonds de réserve destiné au suivi environnemental de même qu'à la surveillance du site et finalement, concernant l'utilisation du L.E.S. par des municipalités non-membres de la Régie intermunicipale.

LES PRÉOCCUPATIONS DES CITOYENS

Lors de la séance d'information, les questions et les préoccupations soulevées par les participants ont porté sur les sujets suivants :

- Pourquoi le promoteur choisit-il de demander au gouvernement un agrandissement d'une si grande envergure ?
- Le promoteur a-t-il l'intention de vendre son site à l'entreprise privée dès l'émission du certificat d'autorisation par le ministère de l'Environnement et de la Faune ?

- Sur quelle hauteur le promoteur entend-il enfouir ses déchets ?
- Pourquoi le promoteur n'a-t-il pas pensé au recyclage avant d'entreprendre des démarches visant à agrandir son site ?
- Quelle garantie le promoteur peut-il fournir nous assurant que son site ne sera jamais vendu à des intérêts privés ?
- Les États voisins américains auront-ils la possibilité de venir enfouir des déchets solides à Cowansville ?
- Le prix à la tonne aura-t-il tendance à augmenter, compte tenu qu'il y aura moins de déchets à enfouir si le plan de réduction proposé par le promoteur fonctionne ?
- Comment le promoteur entend-il contrôler les odeurs sur le site ?
- Le promoteur peut-il garantir la reconstruction du rang Saint-Joseph afin de le rendre carrossable au printemps, malgré les nombreux passages de camions ?
- Les travaux touchant l'ensemble du site, seront-ils entrepris lors de l'émission du certificat d'autorisation ? Si oui, n'y a-t-il pas danger que ces travaux soient faits inutilement, compte tenu de l'évolution des technologies prévue d'ici 30 ans, période correspondant à la vie utile du site agrandi ?
- Pourquoi le promoteur n'a-t-il pas cherché une solution visant la valorisation des biogaz ?
- Comment le promoteur entend-il vérifier la qualité des déchets acheminés au L.E.S., surtout, lorsqu'ils proviennent de municipalités qui ne sont pas membres de la Régie intermunicipale ?
- Le promoteur a-t-il créé un fonds de réserve afin d'assurer le suivi environnemental et la surveillance du site après la fermeture ? Ces sommes pourraient-elles être dépensées à des fins autres que celle pour laquelle elles ont été réservées ?
- Le promoteur peut-il s'engager à ne desservir que les villes actuellement desservies par le site ?
- Les bassins aérés sont-ils recouverts d'un toit ? Y a-t-il une possibilité que ces bassins débordent et contaminent ainsi le réseau hydrographique ?

LES REGISTRES DE CONSULTATION

Selon nos renseignements et les inscriptions consignées dans les registres, le dossier n'a été consulté qu'une seule fois.

Andrée D. Labrecque
Analyste

Roc Généreux
Agent d'information

COMPTE-RENDU PÉRIODE D'INFORMATION ET DE CONSULTATION PUBLIQUES

Agrandissement du lieu d'enfouissement sanitaire et
d'aménagement d'un lieu d'enfouissement de débris de
construction et de démolition à Saint-Alban

22 août au 6 octobre 1996
(6212-03-C2)

La période d'information et de consultation publiques concernant le projet d'agrandissement du lieu d'enfouissement sanitaire et d'aménagement d'un lieu d'enfouissement de débris de construction et de démolition à Saint-Alban a pris fin le 6 octobre dernier. Conformément au mandat qui lui a été confié le 20 juin, et en vertu des articles 11 et 12 du *Règlement sur l'évaluation et l'examen des impacts sur l'environnement*, le Bureau d'audiences publiques sur l'environnement (BAPE) a mis à la disposition du public pendant 45 jours, soit du 22 août au 6 octobre 1996, le dossier complet concernant la demande d'un certificat d'autorisation relative à ce projet.

LES ACTIVITÉS DE COMMUNICATION

La Régie intermunicipale de gestion des déchets du secteur ouest de Portneuf a publié à deux reprises des avis publics dans deux quotidiens, soit *Le Journal de Montréal* et *le Journal de Québec* (17 et 18 août 1996) de même que dans un hebdomadaire régional, *Le Courrier de Portneuf* (18 et 25 août 1996).

Le 22 août 1996, le BAPE a émis un communiqué annonçant le début de la période d'information et de consultation publiques, la date, l'heure et le lieu de la séance d'information, les grandes lignes du projet et ses impacts sur l'environnement ainsi que les coordonnées des centres de consultation.

L'ensemble du dossier comprenant, entre autres, l'avis de projet, la directive ministérielle, l'étude d'impact, son résumé et l'avis de recevabilité a été mis à la disposition du public dans les bibliothèques de Saint-Raymond et de Saint-Ubalde de même qu'à l'Hôtel de ville de Deschambeault et dans les bureaux du BAPE à Québec et Montréal.

Une revue de presse a été réalisée tout au long de la période d'information et de consultation publiques. Ni les hebdomadaires régionaux, ni les quotidiens

nationaux n'ont fait écho de la période d'information et de consultation publiques et de la séance d'information.

L'analyste et l'agent d'information du BAPE n'ont reçu aucune demande d'information sur le projet présenté.

LA SÉANCE D'INFORMATION

L'analyste et l'agent d'information ont tenu une séance d'information le mercredi 11 septembre 1996, à 19 h, à la salle du conseil de la MRC de Portneuf. Cette rencontre avait pour but d'exposer à la population les grandes lignes du projet et de lui faire connaître ses droits dans le cadre de la procédure d'évaluation et d'examen des impacts sur l'environnement.

La séance d'information a attiré seulement quatre citoyens. Le promoteur et son consultant étaient également présents. Une dizaine de maires, membres de la Régie intermunicipale, assistaient aussi à la séance. Le fait que cette dernière ait eu lieu à Cap-Santé, chef-lieu de la MRC, plutôt qu'à Saint-Alban explique probablement, le faible taux de participation de la population.

LES PRÉOCCUPATIONS DES CITOYENS

La diversité des questions soulevées lors de la séance d'information témoigne des nombreuses préoccupations des citoyens de la région devant l'agrandissement de ce lieu d'enfouissement sanitaire.

Pour bien comprendre la situation qui prévaut dans cette région, il faut savoir que le site d'enfouissement de Saint-Alban reçoit les déchets des municipalités environnantes depuis bientôt 25 ans. Ce L.E.S. a même fait l'objet d'un enjeu électoral, il y a quelques années. En effet, une multinationale spécialisée dans la gestion des déchets avait envisagé d'acquérir le site.

Malgré la propriété publique du site et les sommes importantes injectées par la Régie intermunicipale dans les travaux de restauration, la possibilité que le site passe aux mains d'une importante compagnie de gestion de déchets demeure, et demeurera toujours, une inquiétude pour la population.

Depuis 1970, la municipalité de Saint-Alban reçoit les déchets de la région. Selon un citoyen, les autres municipalités, membres de la Régie, devraient prendre leurs responsabilités et trouver un autre site. Pour le promoteur cependant, la propriété des terrains limitrophes au site existant de même que

leur dézonage agricole et la présence des équipements sur le site de Saint-Alban, justifient l'agrandissement plutôt que la recherche d'un nouveau site.

Selon un autre citoyen, certaines municipalités pourraient être intéressées à éliminer leurs déchets dans le L.E.S. de Saint-Alban sans être membres de la Régie intermunicipale. En effet, le nombre de L.E.S. dans la région demeure petit et les implications de la procédure d'évaluation et d'examen des impacts sur l'environnement ralentit les ardeurs de certaines MRC. On s'inquiète alors de voir Saint-Alban devenir, à court terme, le lieu de décharge des déchets de la région. Les représentants du BAPE ont alors informé le citoyen que le propriétaire d'un L.E.S., qu'il soit privé ou public, a la possibilité de refuser l'arrivée de déchets dans son site, information confirmée par la suite par le propriétaire du site. Les membres de la Régie intermunicipale sont donc les utilisateurs exclusifs de leur site.

La diminution de la durée de vie utile du L.E.S. de Saint-Alban inquiète aussi beaucoup de citoyens. Pour certains, la Régie est beaucoup trop modeste en ce qui concerne ses objectifs de récupération (11%), comparativement au taux de récupération de 50 % prévu à la Politique de gestion intégrée des déchets solides du Gouvernement.

Finalement, il est suggéré à la Régie de prévoir des zones de récupération pour des réfrigérateurs, des lessiveuses et des réservoirs d'huile à l'entrée du site afin de favoriser le recyclage.

LES REGISTRES DE CONSULTATION

Selon nos renseignements, le dossier a été consulté à quelques reprises à l'Hôtel de ville de Deschambault.

Daniel Germain, ing.
Analyste

Roc Généreux
Agent d'information

16 octobre 1996

**COMPTE-RENDU
PÉRIODE D'INFORMATION ET DE CONSULTATION PUBLIQUES**

6212-03-B5

**Projet d'agrandissement du L.E.S. de Saint-Rosaire, Comté d'Arthabaska
26 août au 10 octobre 1996
(6212-03-B5)**

La période d'information et de consultation publiques concernant le projet d'agrandissement du L.E.S. de Saint-Rosaire, comté d'Arthabaska, initié par le promoteur, Services Sanitaires Gaudreau, a pris fin le 10 octobre 1996. Conformément au mandat qui lui a été confié le 19 août 1996, et en vertu des articles 11 et 12 du *Règlement sur l'évaluation et l'examen des impacts sur l'environnement*, le Bureau d'audiences publiques sur l'environnement (BAPE) a mis à la disposition du public pendant 45 jours, soit du 26 août au 10 octobre 1996, le dossier complet concernant la demande d'autorisation relative à ce projet.

LES ACTIVITÉS DE COMMUNICATION

Le promoteur a publié un avis public les 30 août et 4 septembre 1996 dans le quotidien *Le Journal de Québec* et dans le quotidien *le Journal de Montréal*, les 28 août et 4 septembre 1996. L'avis public fut également publié auprès de *La Tribune* les 28 août et 4 septembre 1996 ainsi que dans *La Nouvelle Victoriaville* et *Bois-Francs* les 1^{er} et 8 septembre 1996.

Le 26 août 1996, le BAPE a émis un communiqué de presse annonçant le début de la période d'information et de consultation publiques, la date, l'heure et le lieu de la séance d'information, les grandes lignes du projet et ses impacts sur l'environnement ainsi que les coordonnées des centres de consultation.

L'ensemble du dossier, comprenant l'avis de projet, la directive ministérielle, l'étude d'impact, son résumé, les questions et commentaires du MEF, les avis des ministères et l'avis de recevabilité, a été mis à la disposition du public dans les bibliothèques municipales de Saint-Rosaire et de Victoriaville, dans les hôtels de ville de Saint-Rosaire et de Daveluyville, dans les bureaux du BAPE à Québec et à Montréal de même que dans les centres de consultation de l'Université Laval à Québec et de l'Université du Québec à Montréal.

Une revue de presse a été réalisée tout au long de la période d'information et de consultation publiques. *La Nouvelle Victoriaville* et *Bois-Francs*, du 1^{er} septembre 1996, annonçait le début de la période d'information et la tenue d'une séance d'information le 19 septembre 1996 à Saint-Rosaire ainsi que les renseignements contenus dans le communiqué émis par le BAPE. Dans son édition du 22 septembre

1996, le même hebdomadaire donnait un compte rendu de la période d'information ainsi que les questions et les craintes soulevées par le public. Le 12 septembre, le poste de radio CBF-AM (SRC), lors de son émission CBF Bonjour, a traité du projet très succinctement en mentionnant surtout la hauteur du site projeté, soit 25 mètres. L'hebdomadaire L'Union du 25 septembre 1996 fait son éditorial sur le projet d'agrandissement du L.E.S. de Saint-Rosaire en mentionnant d'une part, la grandeur du site projeté et d'autre part, le laxisme de la société en ce qui a trait à la gestion des déchets.

LA SÉANCE D'INFORMATION

Une technicienne en information et un analyste ont animé une séance d'information le 19 septembre 1996 à 19 h, à la salle du conseil municipal de Saint-Rosaire. Cette rencontre avait pour but d'exposer à la population les grandes lignes du projet et de lui faire connaître ses droits dans le cadre de la procédure d'évaluation et d'examen des impacts sur l'environnement. Une vingtaine de personnes étaient présentes dont une journaliste de la presse écrite locale et deux journalistes de la télévision communautaire de Victoriaville qui ont filmé la séance. Le promoteur était accompagné de ses consultants lors de la rencontre.

LES PRÉOCCUPATIONS DES CITOYENS

Les commentaires et les préoccupations exprimés lors de la séance publique ont principalement porté sur la hauteur de l'aire d'enfouissement du LES de Saint-Rosaire, le contenu du certificat d'autorisation qui sera émis par le gouvernement, les prix de revient, le volume annuel de déchets à enfouir et la provenance de ceux-ci.

Description du projet

Le LES de Saint-Rosaire est situé dans la partie nord du lot 25 du rang III dans la municipalité de Saint-Rosaire et il couvre une superficie de 44 hectares. Le promoteur, Services Sanitaires Gaudreau inc., dessert présentement une population de près de 70 000 habitants, laquelle est répartie dans 31 municipalités. Le nombre de municipalités à desservir pourrait grimper à près de 70 municipalités, si l'agrandissement du site actuel est autorisé. De plus, le promoteur prévoit enfouir quelque 26 000 tonnes métriques de résidus de verre et de plastique provenant de l'usine de Cascades à Kingsay Falls. Le site projeté pourrait accueillir environ 5 945 000 mètres cubes de matières résiduelles sur une période de 50 ans.

La hauteur du site

Les participants à la séance d'information croient que la hauteur prévue du site, soit 28 mètres, semble exagérée. Le site actuel d'exploitation a une hauteur de 12 mètres.

Le contenu du certificat d'autorisation

Certaines personnes sont persuadées que si le certificat d'autorisation est émis en fonction de la capacité totale du site, le promoteur pourrait remplir son site sur une période relativement courte (environ 10 ans) et qu'il pourrait également accepter des matières résiduelles en provenance d'autres MRC.

Le tonnage annuel d'enfouissement mentionné dans l'étude d'impact tient compte de contrats futurs entre le promoteur et la compagnie Cascades inc. ainsi que les 40 autres municipalités provenant de différentes MRC. Si le promoteur n'obtient pas tous ces contrats (en particulier celui des papiers Cascades inc.), le tonnage annuel deviendra moindre et le promoteur serait alors tenté d'aller récupérer son manque à gagner ailleurs. Est-il possible de modifier par la suite le certificat d'autorisation afin de diminuer le tonnage annuel? Le certificat d'autorisation provenant du MEF est-il émis en tenant compte du tonnage annuel ou en fonction de la capacité totale d'enfouissement?

Les prix de revient

Les coûts de construction et d'exploitation du site sont estimés à 31,02 \$ la tonne. Si le promoteur n'obtient pas tous ses contrats, plusieurs citoyens s'interrogent sur la possibilité de voir le prix de revient fluctuer à la hausse. De plus, un seul lieu d'enfouissement sanitaire existe dans le voisinage immédiat du site de Saint-Rosaire. Le promoteur a donc un contrôle sur les prix et il pourrait les augmenter sans avertissement. Est-il dans l'obligation de respecter le coût de revient mentionné dans l'étude d'impact?

Le volume annuel des matières résiduelles à enfouir

Les citoyens désirent connaître le responsable de la vérification du volume annuel de matières résiduelles et quelles sont les mesures de contrôle mises à leur disposition pour s'assurer que le promoteur respecte le tonnage mentionné dans son certificat d'autorisation.

Par ailleurs, le promoteur possède déjà une compagnie spécialisée dans le tri des matières récupérables et dans la décontamination du verre. Si l'on considère l'objectif du gouvernement de recycler 50 % des matières résiduelles, le promoteur estime avoir dépassé cet objectif. Alors ne devrait-on pas tenir compte de ces faits et reviser à la baisse le volume annuel des matières résiduelles à enfouir?

La provenance des matières résiduelles

Ce sujet, soulevé par de nombreux citoyens, inquiète la population avoisinante du LES de Saint-Rosaire. Aucune garantie n'est donnée par le promoteur quant à la provenance des matières résiduelles. Selon le promoteur, il y aura un premier examen visuel des matières résiduelles lorsque les

camions arriveront à la barrière et un second examen lorsque les camions déchargeront leurs résidus. Mais, comment contrôler les matières dangereuses qui pourraient être acheminées au site par des gens peu soucieux de l'environnement?

La santé et l'environnement

Il ne faut pas minimiser le fait que l'on a prévu deux membranes d'étanchéité, c'est parce que la première peut percer et si la première perce, la seconde pourrait aussi percer... Alors que fait-on? on place trois, quatre, cinq membranes. Tels sont les commentaires d'un citoyen. Pour celui-ci, il y a toujours un danger potentiel de contamination de la nappe phréatique, donc un danger pour la santé et pour l'environnement.

LES RÉGISTRES DE CONSULTATION

Selon nos renseignements et les inscriptions notées aux registres des centres de consultation temporaires, le dossier a été consulté aux bibliothèques de Victoriaville et de Saint-Rosaire.

Daniel Germain, ing.
Analyste

Marjolaine Veillette
Technicienne en information



**Projet d'aménagement d'un nouveau lieu
d'enfouissement sanitaire à Gaspé**

Dossier : 6212-03-47

**Période d'information et de consultation publiques
du 20 mai au 4 juillet 1998**

Compte rendu du Bureau d'audiences publiques sur l'environnement

La période d'information et de consultation publiques concernant le projet d'aménagement d'un nouveau lieu d'enfouissement sanitaire à Gaspé a pris fin le 4 juillet 1998. Conformément au mandat qui lui a été confié le 7 mai 1998, et en vertu des articles 11 et 12 du *Règlement sur l'évaluation et l'examen des impacts sur l'environnement*, le Bureau d'audiences publiques sur l'environnement (BAPE) a mis à la disposition du public pendant 45 jours, soit du 20 mai au 4 juillet 1998, le dossier complet de la demande du certificat d'autorisation relative au projet.

Le projet

La Ville de Gaspé projette aménager un lieu d'enfouissement sanitaire dans le secteur Wakeham sur le territoire de la Ville de Gaspé. Les lots visés par le projet, localisés près de la route 198 à environ 13 km à l'ouest du centre-ville de Gaspé, sont les lots 36, 37 et 38 du Rang 1 du cadastre de la Ville de Gaspé. La première phase du projet touche les lots 36 et 37 et permettrait l'exploitation du site sur environ 30 ans. L'aire d'enfouissement de la première phase couvre une superficie totale d'environ 18 hectares dont 9 sont réservés pour l'enfouissement des déchets solides. Éventuellement, le lot 38 permettrait, lors de la deuxième phase, de doubler la superficie disponible à l'enfouissement. Le coût pour la première phase du projet est évalué à environ 4 millions de dollars. Le coût total du projet, échelonné sur une période de 30 ans, est approximativement de 18 millions de dollars.

En raison de la présence du socle rocheux et de la nappe phréatique à faible profondeur, le promoteur a retenu le concept de l'enfouissement sanitaire en surélévation. Ainsi, lorsque l'enfouissement sanitaire sera complété, le site atteindra une élévation maximale d'environ 16,5 mètres par rapport au terrain naturel.

Les impacts et les mesures d'atténuation

Selon le promoteur, le projet n'aurait pas d'impacts significatifs majeurs sur la santé publique. Il soutient que la conception du projet, les nouvelles technologies mises en place, les mécanismes de surveillance et la gestion rigoureuse du site feront en sorte que le nouveau site sera beaucoup plus sécuritaire pour la santé publique que ne l'était le lieu actuel. Plus de 25 mesures d'atténuation auraient été prescrites. Elles concernent la circulation des véhicules et des camions, la gestion des contaminants, le bruit, les odeurs, la collecte et le traitement du lixiviat, le contrôle des eaux de surface, le reboisement, l'archéologie, la protection des cours d'eau, la gestion du lieu d'enfouissement sanitaire, la santé et l'aspect visuel du site.

Les activités de communication

La publication des avis publics par le promoteur

Dates	Quotidiens	Hebdos régionaux
25 mai et 8 juin 1998	Le Devoir	
25 mai et 8 juin 1998	Le Soleil	
24 mai et 7 juin 1998		Le Pharillon
31 mai 1998		Le Pharillon pour erratum du 24 mai
31 mai et 7 juin 1998		Le SPEC (anglophone)

Les entrevues avec les médias

Seul M. Jean Bernier, de Dessau Consultant, a été sollicité pour faire une entrevue avec le journaliste de Radio-Gaspésie, présent à la séance d'information publique du 10 juin 1998. Une entrevue téléphonique avait déjà été réalisée avec M^{me} Louise Bourdages, le 22 mai 1998, par le même journaliste.

La revue de presse

Une revue de presse a été réalisée tout au long de la période d'information et de consultation publiques. Elle est constituée essentiellement de nouvelles diffusées dans les médias électroniques, lesquels annoncent la tenue de la période d'information et de consultation publiques et le dépôt d'un nouveau document dans les centres de consultation. Une nouvelle radiodiffusée fait suite à la séance d'information publique et en fait un bref résumé.

Les inscriptions au registre de consultation

Endroits	Nombre d'inscriptions	Nombre de commentaires
Bibliothèque Alma-Bourget-Costisella	1	0
Université du Québec à Montréal	0	0
Bureaux du BAPE à Québec et à Montréal	0	0

Les préoccupations des citoyens

Les deux propriétaires des lots 36 et 37 visés par le projet de la Ville de Gaspé ont été mis au courant du projet que tout récemment, ces lots faisant l'objet d'une procédure successorale. L'un des héritiers, demeurant à Montréal, a été dans l'impossibilité d'assister à la séance d'information compte tenu qu'il a été informé à la dernière minute. Des contacts téléphoniques ont été établis avec cette personne pour l'informer du projet et connaître ses principales préoccupations. Ces dernières ont été portées à la connaissance du promoteur par un représentant du BAPE pendant la période de questions de la séance publique d'information.

Les sujets abordés lors de la séance d'information par l'ensemble des intervenants ont donc porté sur :

- les parties des lots touchés par le projet et la valeur marchande des parties résiduelles ;
- le fossé d'interception des eaux de ruissellement et la présence de deux ruisseaux qui ne figurent pas sur les plans de l'étude d'impact ;
- le choix du site et la proximité de la rivière York ;
- la surélévation du site ;
- l'intégration au paysage de la ressource ;
- le bien-fondé du projet tel que présenté ?

Les parties des lots touchés par le projet et la valeur marchande des parties résiduelles

Les lots 36, 37 et 38 visés par le projet s'étendent de part et d'autre de la route 198, la frontière sud étant délimitée par le lit de la rivière York. Selon le promoteur, seules les parties des lots 36, 37 et 38 sises au nord de la route 198 ont été retenues pour le projet de L.E.S. Le promoteur n'envisage aucun agrandissement futur sur les parties résiduelles des lots situés au sud de la route 198, en raison de la proximité de la rivière York. Toutefois, à la demande d'un propriétaire, le promoteur reconnaît qu'il ne possède aucune donnée sur les répercussions de l'aménagement du L.E.S. en regard à la valeur marchande des parties résiduelles situées au sud de la route 198 qui resteront le bien des propriétaires actuels. Pour ces propriétaires, l'établissement du L.E.S. aura pour effet de diminuer la valeur marchande des parties résiduelles.

Le fossé d'interception des eaux de ruissellement et la présence de deux ruisseaux qui ne figurent pas sur les plans de l'étude d'impact

Selon un résidant de Gaspé, le L.E.S. envisagé serait localisé à flanc de montagne. Pour ceux qui connaissent bien la région et plus particulièrement le secteur, un volume important d'eau de ruissellement dévale les pentes au printemps formant deux ruisseaux qui n'apparaissent pas sur les cartes et sur les plans de l'étude d'impact. Selon ce résidant, le fossé amont proposé par le promoteur n'aura pas la capacité de retenir les eaux de ruissellement car précise-t-il : « l'étude sur le terrain a été effectuée par le promoteur à la fin de l'été et au début de l'automne et personne n'est jamais venu voir l'état de la situation au printemps. Dans le passé, des débordements ont déjà eu lieu jusqu'à la rivière York et ce n'est pas ce petit fossé qui retiendra toute cette eau, laquelle sera alors contaminée par les matières enfouies. J'aimerais bien savoir quelles données ont été utilisées pour déterminer les caractéristiques de ce fossé ? »

Le promoteur n'a pas été en mesure de répondre immédiatement au résidant. Cependant, il s'est engagé à y répondre par écrit très rapidement. La réponse du promoteur a été déposée au MEF, puis au BAPE. Par la suite, elle a été versée au dossier et le public en a été informé par voie de communiqué de presse, le 19 juin 1998, soit deux semaines avant la fin de la période d'information et de consultation publiques (référence document déposé PR-8).

Le choix du site et la proximité de la rivière York

À la question : «Pourquoi ce site plutôt qu'un autre ?», le promoteur a précisé que dans un premier temps la Ville de Gaspé avait envisagé d'agrandir le site actuel de Pointe de Navarre mais que cette solution comportait certaines limites. Dans un deuxième temps, la Ville de Gaspé a donc choisi de s'orienter plutôt vers la recherche d'un nouveau site acceptable tant du point de vue environnemental qu'économique. Une étude a permis de localiser sept sites potentiels, lesquels ont été comparés entre eux à partir d'un certain nombre de critères de même valeur.

Pour un résidant de Gaspé, il n'aurait pas fallu donner la même valeur aux différents critères, car selon lui, la proximité d'une rivière à saumon de réputation internationale n'a certes pas la même valeur que l'accroissement de la circulation, l'odeur, le bruit, etc.

La surélévation du site

Étant donné qu'il a été fait mention par le promoteur d'une surélévation potentielle des cellules d'enfouissement de l'ordre de 19 mètres, un résidant a cru bon préciser qu'une telle surélévation serait observable de très loin. Selon le promoteur, le futur L.E.S. sera dissimulé par un écran de végétation naturelle qui sera préservé lors des travaux. Les cellules ne pourront être perçues de la route 198 sauf l'hiver pour les toutes premières années en raison de la jeunesse des peuplements.

L'intégration au paysage de la ressourcerie

Parmi les aménagements connexes, le promoteur mentionné la possibilité d'installer une ressourcerie pour éviter les dépôts sauvages. À la question d'un résidant, le promoteur a précisé que cette ressourcerie, bien que située éventuellement à l'entrée du L.E.S., s'intégrerait parfaitement au paysage, tout en n'étant pas visible de la route 198 en raison de la configuration du chemin d'accès.

Le bien-fondé du projet tel que présenté ?

Cette interrogation devait découler d'un échange entre le président du Conseil régional de l'environnement de la Gaspésie et des Îles-de-la-Madeleine (CREGIM), M. Jean-Noël Sergerie et un représentant de la Ville de Gaspé.

M. Sergerie a rappelé que son organisme était intervenu en 1996, lors de la consultation publique sur la gestion des matières résiduelles, pour affirmer que la réduction de 50 % de ces matières d'ici l'an 2000 implique une ferme volonté des décideurs et un partenariat entre tous les intervenants. De plus, dans le contexte gaspésien, là où la densité de population était faible, des regroupements de municipalités devenaient essentiels si l'on voulait se doter d'infrastructures convenables et réduire les coûts d'opération. En somme, il fallait penser globalement en agissant localement. Or, pour le CREGIM, le projet tel que présenté visait essentiellement à répondre à un besoin local.

Le représentant de la municipalité devait quant à lui préciser que les dirigeants de la Ville de Gaspé avaient entrepris des démarches auprès des MRC d'Avignon, de Bonaventure, de Pabok et de la Côte-de-Gaspé dans le but de localiser un L.E.S. commun à l'ensemble du territoire. Cependant, cette réalisation interrégionale risquait de prendre encore quelques années alors que la Ville de Gaspé devait répondre à un besoin urgent, puisque son lieu d'enfouissement actuel avait atteint sa pleine capacité.


M. Sergerie devait profiter aussi de cette occasion pour demander aux représentants du MEF et du BAPE de rappeler aux décideurs que les MRC, les municipalités et les divers partenaires du milieu étaient encore en attente d'une réglementation qui tiendrait compte du consensus établi lors de la très large consultation publique de 1996, car selon eux, la bonne volonté du milieu n'est pas suffisante pour atteindre l'objectif de 50 % de réduction des matières résiduelles d'ici l'an 2000.

Le constat du BAPE

La nécessité d'un L.E.S. dans la région de Gaspé ne semble pas contestée. Cependant, le CREGIM souhaiterait que le projet fasse l'objet d'une entente intermunicipale visant principalement à se doter d'infrastructures convenables et à réduire les coûts d'opération. Le président du CREGIM a fait référence à la consultation sur la gestion des matières résiduelles au Québec et à l'incohérence entre les volontés qui en découlent et la réalité des divers projets de gestion des déchets au Québec. Actuellement selon eux, l'objectif de réduire à 50 % la production de déchets d'ici l'an 2000 au Québec est utopique.

Les préoccupations des citoyens et principalement des propriétaires de lots est d'un autre ordre. Outre l'aspect visuel du site et de l'éventuelle ressource, les propriétaires de lots s'inquiètent principalement de la valeur marchande des parties de terrain résiduelles et de la rivière à saumon. Cette dernière revêt une importance particulière pour la région. Selon eux, l'étude d'impact est incomplète et ne tient pas compte du facteur déterminant que constitue la localisation du site à flanc de montagne. Le risque de contamination de la rivière York par le ruissellement des eaux dévalant les pentes au printemps et s'infiltrant dans la masse de déchets constitue une menace pour le saumon de la rivière York et de ce fait, pour l'économie régionale.

Québec, le 10 juillet 1998



Marielle Jean
Agente d'information, chargée de dossier
En collaboration avec Didier Le Hénaff

Les communiqués de presse émis par le BAPE

Dates	Nombre d'envois		Diffusion sur internet
	<i>Médias</i>	<i>Groupes, municipalités ou citoyens</i>	
20 mai 1998	1 + CNW	53	Site gouvernemental et site du BAPE
19 juin 1998	1 + CNW	53	Site gouvernemental et site du BAPE

La liste des centres de consultation

Nom des centres	Adresses
Bibliothèque Alma-Bourget-Costisella	6A, rue de la Marina, Gaspé
Université du Québec à Montréal	Pavillon Hubert-Aquin, Section des publications gouvernementales, 1255, rue Saint-Denis, local A.M. 100, Montréal
Bureau du BAPE - Québec	625, rue Saint-Amable, 2 ^e étage Québec
Bureau du BAPE - Montréal	5199-A, rue Sherbrooke Est, bureau 3860, Montréal

La séance d'information

Date	10 juin 1998 à 19 h 30
Animateurs	Marielle Jean et Didier Le Hénaff, agents d'information au BAPE
Personnes-ressources	M. Jean Mbaraga, chargé de projet au MEF M. Jean Bernier, Dessau Consultant M ^{me} Sylvie Trépanier, Dessau Consultant
Assistance	19 personnes dont 3 de la Ville de Gaspé et 1 journaliste



**Projet d'agrandissement d'un lieu d'enfouissement
sanitaire par la Régie intermunicipale du comté de
Beauce-Sud à Saint-Côme-Linière**

Dossier : 6212-03-80

**Période d'information et de consultation publiques
du 3 août au 17 septembre 1998**

Compte rendu du Bureau d'audiences publiques sur l'environnement

La période d'information et de consultation publiques concernant le projet d'agrandissement d'un lieu d'enfouissement sanitaire par la Régie intermunicipale du comté de Beauce-Sud à Saint-Côme-Linière, a pris fin le 17 septembre 1998. Conformément au mandat qui lui a été confié le 17 juillet 1998, et en vertu des articles 11 et 12 du *Règlement sur l'évaluation et l'examen des impacts sur l'environnement*, le Bureau d'audiences publiques sur l'environnement (BAPE) a mis à la disposition du public pendant 45 jours, soit du 3 août au 17 septembre 1998, le dossier complet de la demande du certificat d'autorisation relative au projet.

Le projet

La Régie intermunicipale du comté de Beauce-Sud envisage, après un peu plus de vingt ans d'exploitation, l'agrandissement du lieu d'enfouissement sanitaire (LES) situé sur le rang Saint-Joseph à Saint-Côme-Linière. En 1996, le ministère de l'Environnement et de la Faune (MEF) estimait que 750 000 mètres cubes de déchets auraient été enfouis à ce jour au LES de Saint-Côme-Linière, la superficie d'enfouissement autorisée étant d'environ 179 220 mètres carrés. Dans l'Étude d'impact, il est fait mention qu'il existe aucun autre LES, ni dépôt de matériaux secs (DMS) sur le territoire de la Régie.

Le projet prévoit l'aménagement de deux zones d'enfouissement, la première sur les lots 35 et 36, d'une durée de vie de 40 ans et la deuxième sur les lots 31 et 32, d'une durée de vie de 10 ans. Le projet prévoit également assurer l'étanchéité du site, le captage et le traitement du lixiviat, le captage et le traitement des biogaz, le suivi environnemental des eaux de surface, le recouvrement final étanche, une zone tampon de 50 mètres au pourtour du site, la création d'un fonds de gestion et d'un suivi postfermeture.

Les impacts et les mesures d'atténuation

Selon le promoteur, les principaux impacts associés à la réalisation de ce projet sont liés, essentiellement, au maintien d'une eau potable de qualité, à la qualité de l'eau dans le ruisseau Patrick (en bordure du site) et à des problèmes de circulation routière, lesquels ont des répercussions sur la qualité de vie des résidents de ce secteur. L'Étude d'impact indique qu'une série de mesures ont été incluses au projet visant à intégrer les préoccupations des résidents, tels: l'encouragement à la création d'un comité de citoyens, la réfection des voies de circulation vers le LES, le pavage de la route Rodrigue, la réalisation d'un écran forestier aux limites de propriétés bordant les chemins publics. Des mesures de sécurité environnementales sont également prévues à toutes les étapes de ce projet soit, entre autres, la construction de cellules d'enfouissement à double niveau d'imperméabilisation, un système de traitement du lixiviat, un programme de suivi des eaux souterraines, des eaux de surface et de la qualité de l'atmosphère.

Les activités de communication

La publication des avis publics par le promoteur

Dates	Quotidiens	Hebdos régionaux
3 et 7 août 1998	Le Soleil	
3 et 7 août 1998	Le Devoir	
1 ^{er} et 8 août 1998		L'impact
31 juillet et 7 août 1998		L'Éclaireur

Les communiqués de presse émis par le BAPE

Date de diffusion	Nombre d'envois		Diffusion sur internet
	<i>Médias</i>	<i>Groupes, municipalités ou citoyens</i>	
3 août 1998	Code 1 = 190 + Hebdos régionaux. Code 22 = 17	66 + 3 représentants du promoteur + 5 représentants du MEF	Sites du BAPE du Gouvernement du Québec et de CNW

La liste des centres de consultation

Nom des centres	Adresses
Hôtel de Ville de Saint-Côme-Linière	1375, 18 ^e Rue, Saint-Côme-Linière
Bibliothèque municipale de Saint-Georges	Centre culturel Marie-Fitzbach 250, 18 ^e Rue, Saint-Georges de Beauce
Université du Québec à Montréal	Bibliothèque centrale, Pavillon Hubert-Aquin 1255, rue Saint-Denis, Montréal
Bureaux du BAPE	Québec et Montréal

La séance d'information

Date	Mercredi, 19 août 1998 à 19 h 30
Animatrice	Thérèse Daigle
Personnes-ressources	Marie-Josée Lizotte, chargée de projet, MEF Suzanne Lévesque, représentante de la Direction régionale, MEF Michel Bernard, Président de la Régie intermunicipale du comté de Beauce-Sud (Promoteur) Roger Turcotte, secrétaire-trésorier, également de la Régie Marie-Hélène Côté, consultante, Firme GSI Environnement Martin Lacombe, consultant, Groupe GLD Experts Conseils
Assistance	Près d'une centaine de personnes Quatre journalistes présents, dont trois de la presse écrite et un de la télévision-communautaire locale.

Les relations de presse

- Des trois journalistes présents à la rencontre (L'impact, L'Éclaireur-Progress, La Une du Matin), aucune entrevue n'a été réalisée. L'agente d'information a cependant transmis des informations relatives au projet. Des articles de presse ont paru par la suite dans les hebdomadaires régionaux.
- La séance d'information a été enregistrée en entier par la télévision communautaire pour diffusion les jours suivants.
- Une entrevue téléphonique a été réalisée, le 21 août 1998, avec une journaliste radiophonique de Saint-Georges de Beauce (CKRB-AM) concernant le déroulement de la séance et, plus particulièrement, sur la procédure du BAPE.
- Un journaliste de Journal Constructo a également communiqué avec l'agente d'information pour que lui soit acheminée, par télécopieur, de l'information sur le projet.

La revue de presse

Une revue de presse a été réalisée tout au long de la période d'information et de consultation publiques. Elle est constituée des avis publics de l'initiateur annonçant le projet, de quatre articles de presse écrite où l'on informe les citoyens de l'agrandissement du site de Saint-Côme, de l'inquiétude de la population, des impacts du futur site et de la réclamation advenant de dédommagements. Enfin, il a été mentionné dans deux médias électroniques de la radio locale, que l'Étude d'impact était disponible aux citoyens et que le BAPE tiendrait une séance d'information.

Les inscriptions au registre de consultation

Endroits	Nombre d'inscriptions	Nombre de commentaires
Hôtel de Ville de Saint-Côme-Linière	2	1
Bibliothèque municipale de Saint-Georges	1	0
UQAM BAPE Montréal et Québec	0	0

Les préoccupations des citoyens

Les citoyens concernés par le projet ont fait part de leurs préoccupations et ont posé des questions qui peuvent être regroupées sous les thèmes suivants :

- Le choix du site à Saint-Côme-Linière
- Les impacts environnementaux concernant la qualité des eaux et la qualité de vie
- Les impacts économiques

Le choix du site à Saint-Côme-Linière

Lors de la séance d'information, le promoteur a demandé aux citoyens de ne pas condamner le projet avant d'en connaître tous les aspects. Il a mentionné qu'il avait tenu deux consultations publiques, une en décembre 1996 et l'autre en juin 1997. La première avait pour but de présenter le projet et connaître les préoccupations des citoyens. La deuxième visait la présentation des mesures de mitigation. Lors de ces rencontres, il a mentionné qu'un questionnaire a été soumis et que tous les participants, sans exception, ont répondu de façon négative à la première question, à savoir : Voulez-vous le site?

À la séance d'information du BAPE, une première question posée par un citoyen fut : Pourquoi un site à Saint-Côme? Celui-ci a manifesté son inquiétude devant les impacts engendrés par ce projet et a rappelé la proximité du site et des résidences. Le promoteur a répondu que la Régie avait étudié plusieurs variantes et qu'elle en était venue à la conclusion que le site, localisé à Saint-Côme, était plus adéquat compte tenu que le terrain est situé dans un milieu relativement isolé, que les infrastructures sont déjà en place, et que conséquemment, cette solution est plus économique pour la population.

Des citoyens se sont également questionnés sur les possibilités d'incinération, ce à quoi le promoteur a répondu que cette solution ne s'avérait pas intéressante, car il était impossible d'utiliser les incinérateurs existants, en l'occurrence ceux de Québec et de Lévis, ceux-ci étant déjà utilisés à pleine capacité.

Les impacts environnementaux concernant la qualité des eaux et la qualité de vie

Les risques de contamination des eaux souterraines et de surface furent abordés par plusieurs citoyens. Tout comme le président du Comité de citoyens, ils se sont dits inquiets et ont interrogé le promoteur sur les risques de contamination des eaux du ruisseau Patrick. Certains se sont dits préoccupés sur l'aggravation des risques de contamination du ruisseau, advenant la réalisation du projet d'agrandissement du LES. Une intervenante du domaine de la santé a également fait part de ses inquiétudes à ce sujet. Tous estiment que le ruisseau Patrick a déjà été contaminé par l'exploitation du LES existant. Ils ont d'ailleurs demandé qu'il soit dépollué et que le MEF en assure le suivi. Des citoyens se sont interrogés sur la présence de coliformes fécaux sur la base de données recueillies par le MEF. Le promoteur estime à ce sujet que la contamination de ce cours d'eau provenait probablement des activités du secteur agricole avoisinant.

Un citoyen a sérieusement remis en cause le système de traitement du lixiviat actuel qui présentait des risques de contamination de la nappe phréatique, ce à quoi le promoteur a reconnu avoir eu des problèmes à cet égard. Il a mentionné que le lixiviat, tout comme les drains de captage, se situe à plus de quatre mètres de profondeur et que plusieurs piézomètres sont localisés à plus de deux mètres alors que d'autres se retrouvent dans le roc. Il a ajouté que, lors du traitement, les solides étaient asséchés et enfouis tandis que les étangs étaient vidangés tous les vingt ans. Cette information n'a pas semblé rassurer le citoyen. Un autre citoyen a mentionné que le promoteur proposait des solutions simples uniquement dans le but de se conformer aux normes. Un autre s'est également dit inquiet quant à la composition du sol. Sur ce, le promoteur a précisé que le sol était composé de grès et que la vitesse d'écoulement avait été mesurée en conséquence. Enfin, les représentants du promoteur ont précisé que le site faisait l'objet d'un suivi et qu'il ne devrait y avoir aucun problème relié à l'odeur et à la contamination de l'eau. Les citoyens ont alors exigé du promoteur des garanties supplémentaires, ainsi qu'un suivi rigoureux en revendiquant une implication supplémentaire du Comité de citoyens.

Des citoyens demeurant à proximité du site ont mentionné qu'ils subissaient une détérioration de leur qualité de vie et plus encore une atteinte à leur santé. Ils sont alimentés en eau potable par des puits et la majorité d'entre eux pensent qu'il y a des risques de contamination de l'eau par des matières toxiques. Ils disent également redouter une aggravation de la situation actuelle avec le projet d'agrandissement du site.

D'autres inquiétudes de même nature ont été manifestées en regard du ruisseau Bernard, compte tenu de l'inclinaison de celui-ci. À ce sujet, le promoteur a indiqué que l'écoulement des eaux souterraines se faisait dans une autre direction.

Un citoyen, dont la résidence est située à 650 mètres, est venu dire au promoteur qu'il craignait que les nuisances actuelles, comme le bruit, les odeurs et la visite des goélands n'augmentent davantage. Le promoteur a précisé que le nouveau projet ne devrait apporter aucune incidence additionnelle.

Parmi les principaux éléments retenus dans le cadre de ce projet, la Régie a informé les citoyens qu'elle prévoit comme mesures d'atténuation pour les milieux sonore et visuel, la réfection de la route Rodrigue et une partie du rang Saint-Joseph, ce qui enlèverait une partie de la poussière soulevée par les camions à ordures. Elle prévoit également la création d'un écran visuel forestier aux limites des propriétés.

Les impacts économiques

Les résidents de Saint-Côme-Linière se sont montrés très préoccupés par les activités du site d'enfouissement car, ont-ils mentionné, elles entraînent une dévaluation foncière et immobilière de leur propriété. Un citoyen croit que son terrain n'a plus aucune valeur et se demande «qui voudrait acheter un terrain à côté d'un site d'enfouissement?» Les citoyens, particulièrement ceux du Rang Saint-Joseph, de la Route Rodrigue et certains de la Route Kennedy, demandent qu'une compensation leur soit versée, ainsi qu'à la municipalité de Saint-Côme-Linière, parce qu'ils subiraient des préjudices économiques.

Un autre citoyen a précisé que les 20 municipalités situées sur les territoires de la MRC Beauce-Sartigan et la MRC Les Etchemins, qui font usage du site, devraient être sensibilisées au fait qu'ils devraient être mis à contribution pour indemniser les résidents qui en subissent les inconvénients. Concernant un mode de compensation éventuel, dont l'Étude d'impact ne fait aucune référence, la représentante du MEF a expliqué que des compensations sont prévues pour certains projets au Québec.

Des citoyens se sont dits inquiets de l'impact économique sur des projets futurs. Un citoyen se proposait d'y établir une ferme biologique, un autre d'y construire une résidence d'été. Le promoteur a répondu que des normes municipales sont en vigueur, entre autres, les règlements de zonage, ce qui n'empêche pas de nouvelles constructions. La représentante du MEF a précisé que des normes s'appliquent également lors de l'implantation d'un nouveau site s'il est à plus de 200 mètres de toutes habitations.

Enfin, des citoyens ont demandé que les emplois liés à l'implantation éventuelle de ce nouveau site soient d'abord offerts aux gens de Saint-Côme-Linière et ensuite à la Régie. Sur ce, le promoteur a répondu être assujéti à la Loi des cités et villes et, de ce fait, il était tenu d'aller en soumission et de ne pas contrevenir à la Charte des droits et libertés de la personne.

Information additionnelle

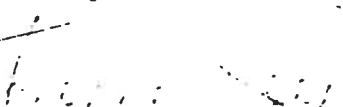
Le 17 septembre 1998, le Conseil régional de l'environnement Chaudière-Appalaches (CRECA) a fait parvenir au BAPE une copie d'un avis qu'il avait acheminé, le 16 septembre, au président de la Régie intermunicipale du comté de Beauce-Sud relativement au Projet d'agrandissement du lieu d'enfouissement sanitaire de Saint-Côme-Linière. Cet avis précise la préoccupation du CRECA quant à la gestion qui devra être faite de ce site.

Le 21 septembre 1998, la Régie Intermunicipale du comté de Beauce-Sud a également fait parvenir au BAPE copie des principaux éléments qui ont été discutés lors d'une nouvelle rencontre, tenue le 9 septembre dernier, avec des représentants du comité de citoyens qui sont le plus directement touchés par le projet.

Constat du BAPE

La plupart des citoyens rejettent le projet pour préserver leur qualité de vie et protéger leur santé.

Québec, le 23 septembre 1998


Thérèse Daigle
Agente d'information, chargée de dossier
En collaboration avec Marielle Jean

Appendix D

Participant Profiles for Environmental Mediation Cases (Lachenaie, Demix, Champlain, Cowansville, Saint-Alban, Saint-Rosaire, Gaspé, Saint-Côme-Linière)

Chronology of Events for Selected Environmental Mediation Cases (Lachenaie, Champlain, Saint-Rosaire, Saint-Côme-Linière)

Interventions of Resource Persons and Experts Representing the Proponent during the Question Periods of Public Hearing - Cowansville

Participant Profiles for Environmental Mediation Cases (Lachenaie, Demix, Champlain, Cowansville, Saint-Alban, Saint-Rosaire, Gaspé, Saint-Côme-Linière)

Table D.5.1

Participant Profile: Environmental Mediation Case of Lachenaie

Actors			
Government	Proponent	Disputants (Individuals/Groups)	Others
Minister of the Environment • Pierre Paradis BAPE Mediator/Commissaire • Johanne Gélinas	Usine de triage Lachenaie, Inc. (BFI) • Yves Normandin • Daniel Boisvert • Jean-Marc Viau	Syndicat canadien de la fonction publique Comité de l'environnement • Richard Imbeault Comité Pro-Régie • Jacques Cordeau Action Re-Buts • Michel Seguin • Gabrielle Pelletier FCQGED • Lynne Lagace • Liliane Cotnoir STOP • Don Wedge Opération Protection de l'Avenir • Manon Dufour Environnement Tracy • Sylvie Côté	

Table D.5.2

Participant Profile: Environmental Mediation Case of Demix

Actors			
Government	Proponent	Disputants (Individuals/Groups)	Others
Minister of the Environment • Jacques Brassard BAPE Mediator/Commissaire • Claudette Journault	Communauté Urbaine de Montréal • Gilles Bégin • Danielle Barbeau • Jocelyn Boulay	Action Re-Buts • Michel Séguin • Gabrielle Pelletier FCQGED • Jean-Pierre Barette • Liliane Cotnoir	Resource Persons MEF • Jacques Alain • Gilles Plantes

Table D.5.3

Participant Profile: Environmental Mediation Case of Champlain

Actors			
Government	Proponent	Disputants (Individuals/Groups)	Others
Minister of the Environment • Jacques Brassard BAPE Commissaire/mediator • Johanne Gélinas	La Régie Intermunicipale de gestion des déchets du comté de Champlain • René Laganier, mayor • Pierre Belleavance, project engineer • André Forget, hydrogeologist • Jean Houde, sec.-treasurer	Citizens • Donat Langevin, represented by Nicole Bergeron • Jean Roy	

Table D.5.4

Participant Profile: Environmental Mediation Case of Cowansville

Actors			
Government	Proponent	Disputants (Individuals/Groups)	Others
Minister of the environment • Jacques Brassard • David Cliche BAPE Mediator/Commissaire • Gisèle Pagé Legal advisor • Jean-Claude Ballaire	Régie Intermunicipale d'élimination de déchets solides de Brome-Missisquoi Administration • Jean Lalande, président • Marcel Bechard • Normand Hebert • Réal Plourde • Mario Sirois, representing Réal Plourde Technical team • André Lasnier, director • Caroline Lasnier, sec-treasurer • Stephen Davidson, consultant • Pierre Morency, consultant • Gilles Trahan, legal advisor	Citizens • Raymond Boily • Normand Bernard • Robert Benard, for Bernard and Boily • Douglas Hendersen • Edmond Perrault • Michel Turgeon, with a special statute	Resource Persons MEF/DEE en milieu terrestre • Michel Simard, project officer Direction régionale de la Montérégie • Guy Coulombe, engineer Direction des politiques du secteur municipal • Colin Bilodeau, hydrogeologist Direction de la promotion du développement durable • Pierre Fournier, economist

Table D.5.5

Participant Profile: Environmental Mediation Case of Saint-Alban

Actors			
Government	Proponent	Disputants (Individuals/Groups)	Others
Minister of the Environment • David Cliche BAPE Mediator/Commissaire • Réal L'Heureux	La Régie Intermunicipale de gestion des déchets du secteur Ouest de Portneuf • Deny Lepine • Roger Gendron • Richard Perron • Hélène Lavalée • Raymond Légare • Clovis Perron • André C. Veillette	Coalition Environnementale de Portneuf • Jacques Francois Blouin • Bertrand Frenette • Louis Marcotte	Resource Persons MEF • Richard Cloutier • Jocelyn Gingras

Table D.5.6

Participant Profile: Environmental Mediation Case of Saint-Rosaire

Actors			
Government	Proponent	Disputants (Individuals/Groups)	Others
Minister of the environment • David Cliche BAPE Mediator/Commissaire • Camille Genest Legal advisor • Jean-Claude Ballaire	Services Sanitaires Gaudreau, Inc. • Daniel Gaudreau, president • Albert Audet, engineer • Phyllis Lecler, consultant	Citizen • Rolland Messier, represented by Huguette Pépin Lussier	Auditeur for disputant • Jean-Yves Guimont, president, Conseil régional de l'environnement de Mauricie-Bois- Francs Resource Persons MEF • Serge Grenier Direction Régionale de Mauricie-Bois-Francs • Robert Thibault

Table D.5.7

Participant Profile: Environmental Mediation Case of Gaspé

Actors			
Government	Proponent	Disputants (Individuals/Groups)	Others
Minister of the Environment • Paul Bégin BAPE Mediator/Commissaire • Gisèle Pagé	Ville de Gaspé • Rodrigue Joncas, mayor • Henri Bernier • André Fortin, expert • Robert Lamontagne	FCQGDE • Karel Ménard CPSEG (Comité de protection de la santé et de l'environnement de Gaspé, Inc.) • Margaret Gernier Property Owner • Deirdre Dimock	Resource persons MENV • Jean Mbaraga • Eric Côté • Michel Picard

Table D.5.8

Participant Profile: Environmental Mediation Case of Saint-Côme-Linière

Actors			
Government	Proponent	Disputants (Individuals/Groups)	Others
Minister of the Environment • Paul Bégin BAPE Mediator/Commissaire • Camille Genest	La Régie Intermunicipale du comté de Beauce-Sud • Roger Turcotte, spokesperson • Michel Bernard, president • Lionel Bisson, vice- president • Marie-Hélène Côte, engineer, GSI Environnement • Martin Lacombe, engineer, Groupe GLD • Luc Poulin, adm. • Julien Roy, vice- president	FCQGED Karel Ménard Comité de Citoyen de Saint-Côme-Linière • Jean-Marc Demers • Gilles Bégin • Jean Bernard • Mario Bergeron • Patrick Bougie • David Dulac • Herman Dulac • Gabriel Giguère • Paul Jacques • Jean-Marc Lacasse • Rosaline Lacasse • Clermont Paquet, mayor • Gilles Pedneault • Serge Poirier • Maurice Poulin • Juilen Roy • Jules Vachon • Louis Veilleux • René Veilleux	Resource Persons MENV • Marie-Josée Lizotte, project officer • Suzanne Levesque, engineer • Michel Picard, hydrogeologist

Chronology of Events for Selected Environmental Mediation Cases (Lachenaie, Champlain, Saint-Rosaire, Saint-Côme-Linière)

Table D.6.1

Chronology of Events: Lachenaie

24 nov. 1993	Emission de la directive ministérielle concernant le projet
Déc. 1993	Dépôt de l'étude d'impact du projet
Mars 1994	Questions et commentaires de la Direction des projets en milieu terrestre du MEF à la suite du dépôt de l'étude d'impact.
11 avril 1994	Avis de la Direction des projets en milieu terrestre du MEF sur la recevabilité de l'étude d'impact.
15 avril 1994	Lettre du MEF confiant au BAPE un mandat pour la période de consultation publique commençant le 26 avril 1994.
20 avril 1994	Communiqué du BAPE annonçant la période d'information et l'ouverture de huit centres de consultation, dont quatre centres locaux: bibliothèques municipales de Lachenaie, de Laval et des Deux-Montagnes et à l'hôtel de ville de Saint-Alexis.
26 avril 1994	Début de la période d'information de 45 jours sur le projet d'agrandissement du lieu d'enfouissement sanitaire de Lachenaie
28 avril 1994	Lettre de demande d'audience publique adressée par le Syndicat de la fonction publique, section locale 301, au ministre de l'Environnement
8 mai 1994	Lettre de demande d'audience publique adressée par Action Re-But au ministre de l'Environnement et Faune
18 mai 1994	Séance d'information tenue par le BAPE sur le projet.
27 mai 1994	Lettre de demande d'audience publique adressée par Opération Protection de l'Avenir au ministre de l'Environnement et Faune
2 juin 1994	Lettre de demande d'audience publique adressée par STOP au ministre de l'Environnement et Faune
6 juin 1994	Lettre de demande d'audience publique adressée par FCQGED au ministre de l'Environnement et de la Faune

(table continues)

Table D.6.1.(continued)

9 juin 1994	Lettre de demande d'audience publique adressée par Environnement Tracy au ministre de l'Environnement et de la Faune
10 juin 1994	Fin de la période d'information sur le projet.
17 juin 1994	Lettre du ministre de l'Environnement et faune confiant au BAPE un mandat d'enquête et de médiation environnementale sur le projet débutant le 7 juillet 1994.
27 juin 1994	Lettre du président du BAPE mandatant Mme Johanne Gélinas à titre de responsable de l'enquête et de la médiation environnementale sur le projet
14 juillet 1994	Rencontre préliminaire de la commission du BAPE avec le promoteur. Rencontre préliminaire de la commission du BAPE avec les requérants.
15 juillet 1994	Lettre de refus de participer à une médiation adressée au ministre de l'Environnement et de la Faune par Opération Protection de l'Avenir.
18 juillet 1994	Demande de modification du certificat de conformité du promoteur au ministre de l'Environnement et de la Faune afin de préciser les élévations finales de déchets sur parties de lots 82, 83, 90, 93 et 94 (autorisation d'enfouir des « déchets sous le chapeau »).
20 juillet 1994	Rencontre de la commission avec les représentants du ministère de l'Environnement et de la Faune, de la Direction régionale Montréal Lanaudière. Visite du lieu d'enfouissement sanitaire de Lachenaie par la commission.
21 juillet 1994	Lettre de refus de participer à une médiation adressée à la commission par le FCQGED.
22 juillet 1994	Lettres de refus de participer à une médiation adressée au ministre de l'Environnement et de la Faune par Action Re-But et STOP. Lettre de refus de participer à une médiation adressée à la commission par le Comité de l'environnement de la section locale 301 du Syndicat canadien de la fonction publique. Lettre du promoteur adressée à la commission confirmant son intention de participer à la médiation sous réserves.
25 juillet 1994	Lettre de refus de participer à une médiation adressée à la commission par le Comité Pro-Régie de la section locale 301 du Syndicat canadien de la fonction publique. Lettre de la commission adressée au promoteur demandant des informations sur les demandes de certificat reliées au site.
27 juillet 1994	Réponse du promoteur à la demande d'information qui lui avait adressée la commission avec les copies de certificats demandés.
28 juillet 1994	Deuxième rencontre de la commission avec les requérants pour les informer de sa décision concernant la tenue ou non d'une médiation.
29 juillet 1994	Deuxième rencontre de la commission avec le promoteur pour l'informer de sa décision concernant la tenue ou non d'une médiation.
1 sep. 1994	Dépôt du rapport d'enquête et de la médiation par la commission.

Table D.6.2

Chronology of Events: Champlain

7 juin 1993	Demande pour le projet d'agrandissement du lieu d'enfouissement sanitaire de Champlain
14 juin 1993	Loi sur l'établissement et l'agrandissement de certains lieux d'élimination de déchets.
26 novembre 1993	Emission de la directive finale.
28 février 1994	Dépôt de la version provisoire de l'étude d'impact sur l'environnement
20 mai 1994	Questions et commentaires du MEF adressée au Comité Intermunicipale de gestion des déchets du comté de Champlain.
5 décembre 1994	Commentaire du MEF sur la recevabilité de la version finale de l'étude d'impact.
16 mars 1995	Dépôt de la version finale corrigée de l'étude d'impact.
Mars 1995	Avis de la Direction des projets en milieu terrestre du MEF sur la recevabilité de l'étude d'impact.
31 mars 1995	Lettre du MEF confiant au BAPE un mandat pour la période d'information et de la consultation publique commençant le 20 avril 1995.
20 avril 1995	Communiqué du BAPE annonçant la période de l'information et de consultation publiques de 45 jours et l'ouverture de centres de consultation.
4 mai 1995	Lettre de demande d'audience publique de Me Nicole Bergeron, avocat représentant un citoyen de Champlain, au ministre de l'Environnement et de la Faune.
16 mai 1995	Séance d'information tenue par le BAPE sur le projet avec la participation de 17 personnes
4 juin 1995	Fin de la période d'information sur le projet.
5 juin 1995	Lettre de demande d'audience publique de M. Jean Roy au ministre de l'Environnement et de la Faune.
13 juin 1995	Transmission par le BAPE du compte rendu de la période d'information et de consultation publique au Ministre.
12 juillet 1995	Lettre du ministre de l'Environnement et faune confiant au BAPE un mandat d'enquête et de médiation environnementale sur le projet d'agrandissement du lieu d'enfouissement sanitaire de Champlain.
18 juillet 1995	Lettre de la présidente par intérim du BAPE mandatant Mme Johanne Gélinas à titre de responsable de l'enquête et de la médiation environnementale sur le projet.
1 août 1995	Début du mandat d'enquête et de médiation. Communiqué du BAPE annonçant la tenue de l'enquête et de médiation
3 août 1995	Première rencontre de la commission avec les requérants, M. Jean Roy et M. Donat Langevin représenté par Me Nicole Bergeron.
4 août 1995	Première rencontre de la commission avec les représentants du Comité Intermunicipale de gestion de déchet du comté du Champlain.
14 août 1995	Rencontre conjointe de la commission avec les représentants du Comité Intermunicipale de gestion de déchet du comté du Champlain et les requérants. Fin de la médiation.
29 août 1995	Dépôt du rapport d'enquête et de la médiation par la commission.

Table D.6.3

Chronology of Events: Saint-Rosaire

18 avril 1995	Demande d'avis du MENV pour le projet d'agrandissement du lieu d'enfouissement sanitaire à Saint-Rosaire
31 octobre 1995	Emission de la directive
22 avril 1996	Dépôt du rapport principal de l'étude d'impact.
5 juillet 1996	Réponses aux commentaires du MENV sur l'étude d'impact.
23 juillet 1996	Dépôt des avis des ministères Dépôt de l'avis de recevabilité de l'étude d'impact
19 août 1996	Réception, par le BAPE, de la lettre de mandat du ministre de l'Environnement et de la faune pour la période d'information et de consultation publique commençant le 26 août 1996.
26 août 1996	Emission de communiqué annonçant le début de la période d'information et de consultation publique de 45 jours et l'ouverture des centres de consultation.
9 octobre 1996	Réception de la lettre de demande d'audience publique de M. Rolland Messier.
10 octobre 1996	Fin de la période d'information.
5 novembre 1996	Transmission, par le BAPE, du compte rendu de la période d'information au Ministre.
26 février 1997	Réception de la lettre du ministre de l'Environnement et Faune confiant au BAPE de tenir une enquête et médiation environnementale à compter du 10 mars 1997.
27 février 1997	Lettre du président du BAPE mandatant M. Camille Genest comme médiateur.
10 mars 1997	Début du mandat d'enquête et de médiation. Emission du communiqué du BAPE annonçant la tenue de l'enquête et de médiation.
17 mars 1997	Première rencontre conjointe de la commission avec les parties.
18 mars 1997	Acceptation de la première proposition du requérant par le promoteur.
26 et 27 mars 1997	Deuxième et troisième rencontres
3 et 4 avril 1997	Quatrième et cinquième rencontres
11 avril 1997	Dépôt hors rencontre, d'une proposition par la représentant du requérant.
12 avril 1997	Fin de la médiation.
6 mai 1997	Dépôt du rapport d'enquête et de médiation par la commission.

Table D.6.4

Chronology of Events: Case of Saint-Côme-Linière

1 Décembre 1995	Réception de l'avis de projet
21 Décembre 1995	Dépôt d'une demande pour lever l'interdiction d'agrandir le LES faite en vertu des dispositions de la Loi portant interdiction d'établir ou d'agrandir certains lieux d'élimination de déchets
14 Août 1996	Adoption du décret levant l'interdiction (Décret 1002-96)
13 Novembre 1996	Directive ministérielle
7 Juillet 1997	Réception de l'étude d'impact
10 Juillet 1997	Début de la consultation interministérielle sur la recevabilité de l'étude d'impact
13 Décembre 1997	La DEE achemine des questions et commentaires à la Régie intermunicipale du comté de Beauce-Sud (la Régie)
3 Mars 1998	Réception d'un rapport complémentaire contenant les renseignements (questions et commentaires) supplémentaires demandés
4 Mars 1998	Début de la consultation interministérielle sur la recevabilité du rapport complémentaire
7 Mars 1998	La DEE achemine une deuxième série de questions et commentaires à la Régie
11 mai 1998	Réception d'un rapport complémentaire contenant les renseignements (2 ^e série de questions et commentaires) supplémentaires demandés
13 Mai 1998	Début de la consultation interministérielle sur la recevabilité du deuxième document complémentaire
30 juin 1998	Avis sur la recevabilité de l'étude d'impacts
17 Juillet 1998	Réception, par le BAPE, de la lettre de mandat du ministre de l'Environnement et de la faune pour la période d'information et de consultation publique commençant le 3 août 1998
31 Juillet 1998	Publication de l'avis public par le promoteur dans l'hebdo régionale L'éclaireur
1 Août 1998	Publication de l'avis public par le promoteur dans l'hebdo régionale L'impact
3 Août 1998	Emission de communiqué par le BAPE annonçant le début de la période d'information et de consultation publique de 45 jours et l'ouverture des centres de consultation
	Publication de l'avis public par le promoteur dans les quotidiens Le Soleil et Le Devoir
	Début de la période d'information et consultation publique
7 Août 1998	Publication de l'avis public par le promoteur dans les quotidiens Le Soleil et Le Devoir et dans l'hebdo régionale L'éclaireur (deuxième avis)

(table continues)

Table D.6.4.(continued)

8 Août 1998	Publication de l'avis public par le promoteur dans l'hebdo régionale L'impact (deuxième avis)
19 Août 1998	Séance d'information
11 septembre 1998	Réception de la lettre de demande d'audience publique du FCQGED
17 septembre 1998	Réception de la lettre de demande d'audience publique du Comité de citoyen de Saint-Côme-Linière
	Fin de la période d'information et consultation publique
30 Octobre 1998	Réception de la lettre du ministre de l'Environnement et Faune confiant au BAPE de tenir une enquête et si les conditions la permettent une médiation
	Lettre du président du BAPE mandatant M. Camille Genest comme médiateur
17 Novembre 1998	Première rencontre entre la commission du BAPE et le Comité de citoyens (un des requérants)
19 Novembre 1998	Première rencontre entre la commission du BAPE et le promoteur (la Régie)
19 Novembre 1998	Visite public du site
25 Novembre 1998	Première rencontre conjointe entre le promoteur et un des requérants (le Comité de citoyens)
2 Décembre 1998	Deuxième rencontre conjointe entre le promoteur et un des requérants (le Comité de citoyens)
8 Décembre 1998	Rencontre entre le médiateur et le porte-parole de FCQGED (le deuxième requérant)
9 Décembre 1998	Troisième rencontre conjointe entre le promoteur et le Comité de citoyens (un des requérants)
13 Janvier 1999	Quatrième rencontre conjointe entre le promoteur et deux requérants (Comité de citoyen et FCQGED)
20 Janvier 1999	Cinquième rencontre conjointe entre le promoteur et deux requérants (Comité de citoyens et FCQGED)
17 Février 1999	Sixième rencontre conjointe entre le promoteur et deux requérants (Comité de citoyens et FCQGED)
	Signature d'entente entre le promoteur et les requérants
	Reçu des lettres des requérants qui retirent leurs demandes d'audience
	Reçu de lettre du promoteur conformant son accord avec les conditions d'entente
	Fin de la médiation
25 Février 1999	Dépôt de rapport d'enquête et de la médiation de la Commission du BAPE

Interventions of Resource Persons and Experts Representing the Proponent during the Question Periods of Public Hearing - Cowansville

Table D.6.5 - *Cowansville Public Hearing Process*

Question Period 12 May, 1997 – Interventions of Resource Persons

Question	Answer
By the President	By Michel Simard
1 Est-ce que vous pouvez faire un bref topo sur les aspects réglementaires et légaux qui entourent l'autorisation?	Vol. 1, Lines 824-933 (pp. 20-23)
2 By the President on behalf of Douglas Hendersen (a disputant) Est que le MENV a été appelé à intervenir au LES dû à des anomalies, pour quelle raison, quel genre d'anomalies?	By Guy Coulombe Vol. 1, Lines 1610-1744 (pp. 39-42)
3 By the President on behalf of Douglas Hendersen (a disputant) Qu'est-ce que ce qui arrive au délai de l'avis d'infraction? . . . Qu'est ce qui se passe ou qui devrait se passer?	By Guy Coulombe Vol. 1, Lines 1786-1903 (pp. 43-46)
4 By the President on behalf of Normand Bernard (a disputant - citizen)	By Michel Beauchesne
Si Bedford et les autres sept municipalités quittent la MRC, qu'est ce que ça peut avoir comme impacts?	Vol. 1, Lines 2026-2136 (pp. 50-51)
Est-ce que vous savez ce qui se passe un peu dans les MRC avoisinantes?	Vol. 1, Lines 2181-2200 (p. 53)
Où en est la MRC dans l'élaboration de son plan de gestion?	Vol. 1, Lines 2265-2368 (pp. 55-57)
5 By the President on behalf of Normand Bernard (a disputant - citizen) Est-ce que le Ministère de l'environnement considère que l'augmentation de la population au Québec va compenser les diminutions de besoins d'enfouissement?	By Michel Simard Vol. 1, Lines 2414-2493 (pp. 58-60)
6 By the President on behalf of Michel Turgeon (a participant) Est-ce qu'un exploitant d'un lieu d'enfouissement à obligation de clôturer son site ou d'assurer la sécurité d'une façon particulière?	By Colin Bilodeau Lines 3901-3994 (pp. 94-96)
7 By the President on behalf of Raymond Boily (a disputant - citizen) Si le site était vendu, est-ce que l'autorisation devient assimilable à un établissement ou à un agrandissement au sens de la Loi sur l'établissement et l'agrandissement de certains lieux, la Loi de 93?	To be answered at the next session

Table D.6.6

*Cowansville Public Hearing Process**Question Period 13 May, 1997 – Intervention of Resource Persons*

Question	Answer
1 By the President on behalf of Raymond Boily (a disputant-citizen) Si le site était vendu, est-ce que l'autorisation devient assimilable à un établissement ou à un agrandissement au sens de la Loi sur l'établissement et l'agrandissement de certains lieux, la Loi de 93?	By Michel Simard Vol. 2, Lines 280-390 (pp.7-10)
2 By the President on behalf of Dominique Desmet (a citizen) Est-ce qu'il pourrait y avoir des politiques fermes de la part du gouvernement qui empêcheraient l'import-export d'un territoire à l'autre, d'une MRC de l'autre ou d'un région à l'autre?	By Michel Simard Vol. 2, Lines 1451-1537 (pp. 45-47)
3 By the President on behalf of Pierre Loisselle (Director General - Dunham Municipality) Comment se compare le projet de la Régie avec d'autres LES existant au Québec, au niveau du tonnage annuel à être enfouis? Quel tonnage on peut parler de mégasite? Est-ce que le projet de la Régie est considéré comme une mégasite?	By Michel Simard Colin Bilodeau Vol. 2, Lines 1604-1714 (pp. 49-53)
4 By the President on behalf of Claude Tetrault (a citizen) Est-ce qu'on peut indiquer ou éclairer la différence entre le projet et la future réglementation; projet de réglementation articles 16, 17, 18 sur la distance de géomembrane du niveau de la nappe phréatique?	By Colin Bilodeau Vol. 2, Lines 2374-2534 (pp. 74-80)
5 By the President on behalf of Claude Tetrault (a citizen) On parle d'utiliser de la terre végétale pour le recouvrement journalier. Est-ce que la terre végétale est un matériel acceptable pour le recouvrement journalier? Est-ce que la conductivité hydrologique de ce matériel est acceptable? Est-ce que c'est une mesure acceptable et est-ce qu'il y a des exemples de LES qui ont utilisé cette technique d'établissement de membrane au Québec?	By Colin Bilodeau Vol. 2, Lines 2771-3272 (pp. 87-103)
6 By the President on behalf of Francine Bernard (a citizen) Est-ce que les municipalités limitrophes vont choisir Cowansville ou Durham? Est-ce qu'il y a d'autres projets dans la région de Haut Yamaska? Quelle est la position du MEF devant autres projets?	By Michel Simard & Colin Bilodeau Vol. 2, Lines 3575-3683 (pp. 113-116)
7 By the President on behalf of Dominique Desmet (a citizen) Est-ce que l'état de rang Saint-Joseph va améliorer après les opérations prévues sur ce rang par la Régie? Est-ce que le budget permettrait une amélioration?	By Claire Gagnon Vol. 2., Lines 3700-3972 (pp.117-126)

Table D.6.6 (continued)

Question	Answer
8 By the President on behalf of Dominique Desmet (a citizen) Avec quel règlement exactement on évalue les projets qui sont soumis au Ministère de l'environnement?	By Colin Bilodeau & Michel Simard Vol. 2., Lines 4015-4108 (pp.127-130)
9 By the president on behalf of Douglas Henderson (a disputant) Est-ce qu'un montant d'argent de 1 million \$ est suffisant pour construire une route de 8 Km long?	By Claire Gagnon Vol. 2., Lines 4120-4165 (pp.131-132)
10 By the president on behalf of Douglas Henderson (a disputant) Est-ce que le Ministère de la Transport a juridiction pour contrôler les changements sur un chemin municipal comme le Rang Saint-Joseph?	By Claire Gagnon Vol. 2., Lines 4228-4290 (pp.134-136)
11 By the President on behalf of Norman Bernard (a disputant) Combien ça coûte construire de 1 Km de route selon les normes du Ministère de Transport?	By Claire Gagnon Vol. 2., Lines 4405-4463 (pp.140-142)
12 By the President on behalf of Norman Bernard (a disputant) Est-ce que le Ministre fait ses études lui-même ou s'il prenait les études du promoteur et du quelle manière le Ministre (ou le Ministère) vérifie la vérité des ces données la?	By Colin Bilodeau & Michel Simard Vol. 2., Lines 4670-4785 (pp.148-152)

Table D.6.7

Cowansville Public Hearing Process

Question Period, 7:00 p.m., 12 May, 1997 – Interventions of Experts Representing the Proponent

Question	Answer
Presentation of the project on behalf of the proponent	by Stephen Davidson Vol. 1, Lines 560-820 (pp. 14-20)
1 By the President of the BAPE Commission Pourriez vous nous éclairer sur les figures de la volume de déchet proposé a été enfouis et le durée de vie du site? Pourquoi les figures que vous présentées aujourd'hui sont différent des figures déposées pendant la période d'information et consultation?	Stephen Davidson Vol. 1, Lines 975-1046 (pp.24-25)

(table continues)

Table D.6.7. (continued)

Question	Answer
2 By the President on behalf of Douglas Hendersen (disputant and a property owner along the "rang Saint Joseph" Donnez-vous les renseignements sur la historique du site et vos projections sur la durée de vie du site?	Stephen Davidson André Lasnier Vol. 1, Lines 1095-1565 (pp. 27-38)
3 By the BAPE Commission member Est-ce qu'en plus, de la côte du promoteur, vous en faites des inspections de façon régulière et sécuritaire?	Stephen Davidson Vol. 1, Lines 1905-1957 (pp. 46-47)
4 By the President on behalf of Normand Bernard (disputant) Combien est-ce qu'il y a eu de tonnes d'enfouis trios dernier années (1994, 1995, et 1996)?	Stephen Davidson Vol. 1, Lines 2019-2071 (pp. 49-50)
5 By the President on behalf of Normand Bernard (disputant) Est-ce que le départ de la ville de Bedford et les autres sept municipalités pourrait avoir comme impact sur la dure de vie du site et sur la rentabilité du site? Est-ce que les municipalités de la MRC Haut Richelieu sont un client potentiel de la Régie?	Stephen Davidson Vol. 1, Lines 2139-2178 (p. 50) Vol. 1, Lines 2204-2258 (pp. 53-54)
6 By the President on behalf of Normand Bernard (disputant) Comment est-ce que vous pouvez concilier votre intérêt d'enfouir un volume X annuellement (l'objectif de rentabilité) avec des objectives de réduction de tonnage et de prioriser les 3R-V au lieu d'élimination?	Stephen Davidson Jean Laland Vol. 1, Lines 2372-2597 (pp.57-63) & Lines 2642-2983 (pp. 64-72)
7 By the President on behalf of Normand Bernard (disputant) Comment est-ce que vous vous voyez par rapport à vos compétiteurs, lieux de Sainte-Cecile-de-Milton et Canton Magog?	Jean Laland Vol. 1, Lines 2601-2639 (pp. 63-64)
8 By the President on behalf of Normand Bernard (disputant) Quels sont les résultats qui ont été obtenus jusqu'à maintenant dans les efforts de réduction?	Stephen Davidson Vol. 1, Lines 2999-3237(pp. 72-78)
9 By the President on behalf of Michel Turgeon (resident of Cowansville, property owner) Pourquoi la Régie a acheté le terrain de la Ville et ma propriété n'a été pas achetée?	André Lasnier Stephen Davidson Gilles Trahan Vol. 1, Lines 3406-3596 (pp. 82-86)

(table continues)

Table D.6.7. (continued)

Question	Answer
10 By the President on behalf of Michel Turgeon (resident of Cowansville, property owner) Qu'est ce que l'air et puis mon puits, qu'est- ce qu'il adviendrait de mon puits s'il était contamine?	Stephen Davidson Guy Péroquin André Forget Vol. 1, Lines 3604-3877 (pp. 87-93)
11 By the President on behalf of Raymond Boily (disputant) Si et comment Bedford pourrait se retirer de l'entente créant la Régie? Quelle est la raison pour se retirer?	Gilles Trahan Jean Laland Marcel Béchar (the Mayor of Bedford) Vol. 1, Lines 4098-4345 (pp.98-104)
12 By the President on behalf of Raymond Boily (disputant) Est-ce que le promoteur pourrait élaborer son annonce que le site demeurerait public, c'est a dire, ne passerait pas en des mains privées?	Gilles Trahan Vol. 1, Lines 4353-4553 (pp 104-109)

Table D.6.8

Cowansville Public Hearing Process

Question Period, 7:00 p.m., 13 May, 1997 – Interventions of Experts Representing the Proponent

Question	Answer
1 By the President on behalf of Raymond Boily (a disputant) Est-ce que la Régie à l'intention de être toujours maintenir son caractère public?	Jean Lalande Vol. 2. Lines 400-513 (pp. 11-14)
2 By the President on behalf of Francois Gadbois (a citizen) Est-ce-qu'il y a possibilité de contamination de l'air environnement de Cowansville? Est-ce que le promoteur a réalise une étude sur ce sujet la?	Guy Péroquin & Stephen Davidson Vol. 2. Lines 515-845 (pp. 14-25)
3 By the President on behalf of Francois Gadbois (a citizen) C'est quoi les moyens concrets du 3-RV que le promoteur pense prendre, sachant que ces moyens la peuvent réduire leur tonnage?	Stephen Davidson Vol. 2. Lines 860-924 (pp. 25-27)

(table continues)

Table D.6.8. (continued)

Question	Answer
4 By the President on behalf of Douglas Hendersen (a disputant) Quelles sont les municipalités susceptibles de se joindre à la Régie Brome-Missisquoi?	Stephen Davidson & André Lesnier Vol. 2. Lines 937-1140 (pp.28 -34)
5 By the President on behalf of Douglas Hendersen (a disputant) Quels seraient les avantages compétitifs de la Régie sur la Marche de l'enfouissement par rapport à ses compétiteurs soit Saint-Cecile de Milton et Canton Magog?	Stephen Davidson & André Lesnier Vol. 2. Lines 1147-1292 (pp. 35-39)
6 By the President on behalf of Dominique Desmet (a citizen) Est-ce qu'il y aurait moyen de savoir de combien le coût de l'enfouissement pourrait augmenter?	Stephen Davidson Vol. 2. Lines 1345-1430 (pp. 41-44)
7 By the President on behalf of Pierre Loiselle (Director General - Dunham Municipality) Est-ce qu'il y a une suivi médical particulier qui a été effectué chez les employés du LES?	André Lesnier Vol. 2. Lines 1735-1785 (pp. 54-55)
By the President on behalf of Normand Bernard (disputant) Est-ce que l'étude d'impact a été modifiée? Pourquoi le Domaine des cinq-acres a été ignoré dans l'étude d'impact? Quel serait le niveau d'impacts appréhende?	Guy Péloquin & Stephen Davidson Vol. 2. Lines 1806-2365 (pp. 56-74)
By the President on behalf of Claude Tetrault (a citizen) Est-ce que la membrane qui est prévue par le promoteur a été utilisée dans autres projets au Québec? Quelles sont les mesures de contrôle et qualité applicables à la construction de cette type de membrane?	André Forget Vol. 2. Lines 3045-3150 (pp. 96-99)
By the President on behalf of Francine Bernard (a citizen) Quel est le nombre de facteurs émises par l'année par la Régie?	André Lesnier & Gilles Trahan Vol. 2. Lines 3000-3451 (pp. 104-109)
By the President on behalf of Francine Bernard (a citizen) Est-ce qu'on a mesure le bruit qu'un camion fait quand il revient avec un 'Container'?"	Guy Péloquin Vol. 2. Lines 3462-3493 (pp. 109-110)