A provincial policy on peat mining

A total development strategy for the New Brunswick peat resource sector

2001
Executive Summary

For more than fifty years, the peat mining industry has been a significant rural employer and a major contributor to the economy of the province. Today, 19 companies operating on 38 sites in northeastern and eastern New Brunswick employ a work force totaling 250 full time and 1000 seasonal workers. Jiffy Products (N.B.) Ltd., a manufacturer of peat products, employs an additional 100 people. In 2000, the Province shipped 13 million standard bales (450 000 tons) of peat on worldwide markets, principally in the United States and in Japan. The value of these shipments is estimated at $98 million.

Increased production levels also mean diminishing commercial peat reserves. Adding value to peat is the key to increasing the benefits from this non-renewable resource. Only 14% of the peat mined in New Brunswick is processed into growing mixes, peat pots and other higher end products. Allocation of Crown peatlands and financial assistance must first be directed to industry partners willing to participate with government in this total resource development strategy.

The need to protect natural resources and to ensure wise, sustainable use of the environment is greater today than perhaps at any point in our history. The Province supports a responsible approach to developing the peat resource sector through conservation and by ensuring that abandoned mine sites are reclaimed or fully restored to their natural peatland function.

Beginning in 1999, Government conducted an extensive review of all provincial policies regarding the peat industry sector and is now adopting measures to encourage and stimulate the development of secondary processing of the peat resources of the Province. The main changes resulting from this exercise are presented in Table 1.
A Provincial Policy on Peat Mining

The government is committed to the long-term management of its mineral resources and support for development of the mineral sector, in a manner that both increases and sustains the economic value to present and future generations, and ensures the protection of the environment (Mineral Resource Policy for New Brunswick, 1993).

1. Introduction

Peatlands cover about 2% or 140 000 ha of the total land mass of New Brunswick. About 70% of the commercial-grade deposits occur on Crown lands where their use is regulated by the Quarriable Substances Act. Currently, 80% of the peat extracted comes from Crown lands.

New Brunswick is the leading producer of peat in Canada and an important player on the international scene. The peat mining industry is a major contributor to the economy of eastern and northeastern New Brunswick. In 2000, the sector employed at peak 1,250 persons, 250 full time and 1,000 part time employees. The production of peat, including packaging, was valued at $98 million.

The successful development of this resource sector is directly related to the quality of the geoscientific resource inventory produced by the Department of Natural Resources and Energy and to the management policies developed over the years by the government.

There is a finite and limited supply of commercial grade peat in New Brunswick and careful management of the resource base is necessary to sustain the industry over the long term. In accordance with the government’s total development strategy objectives, the provincial policy on peat mining aims at achieving the optimum development of our peatland resources by promoting increased processing of peat in the Province and by addressing the issue of post-mining site restoration.

2. Historical background

In 1972, following a period of rapid expansion in the number of peat mining operations, the Province, through the Community Improvement Corporation and under the Federal Regional Economic Development agreements, undertook a series of detailed investigations of this industry sector. These studies were conducted in response to industry’s financial problems brought on by production overcapacity. The studies concluded that the royalty and land rental system had in a large part been responsible for the situation.

In 1975, a preliminary aerial photography inventory of provincial peatlands was completed by the Department of Natural Resources and Energy. Subsequently, the Department undertook a detailed field inventory of peatlands as an activity under the Canada - New Brunswick General Development Agreement. The investigation of the peat resources of New Brunswick was completed by Natural Resources and Energy in 1983.

In 1979, Government approved the Crown Peat Resources Management Policy. In 1987, Regulation 87-83, the Environmental Impact Assessment Regulation - Clean Environment Act, came into effect. Under the
Act, all peat-mining project proposals must be registered with the Minister of Environment and Local Government.

In 1987, at the request of the Cabinet Committee on Economic Policy and Programs, a review of the provincial policies with respect to the peat industry was undertaken. A revised Crown Peat Resource Management Policy was approved in 1988. Adoption of that new policy led to major changes to the Quarriable Substances Act, the legislative tool used to allocate rights to extract peat on Crown lands and on April 1st 1993, a completely revised Act came into force.

Of the current 33 peat leases in the Province, nine have been issued by Natural Resources and Energy since 1988. Prior to 1988, the process of issuing peat leases was not generally concerned with promoting a policy of value-added peat production and environmental impacts were not evaluated. Beginning in 1988, the peat lease process gradually became more structured. Internal consultations at Natural Resources and Energy became an important part of the preliminary evaluation of project proposals and mechanisms were developed to ensure a coordinated approach between the Department of Natural Resources and Energy and the Department of Environment and Local Government. More careful evaluation of the potential environmental impacts of peat mining required that applicants conduct field studies in support of their lease applications.

Beginning in 1999, Government conducted an extensive review of all provincial policies regarding the peat industry sector and is now adopting measures to encourage and stimulate the development of secondary processing of the peat resources of New Brunswick.

### 3. Objectives of the policy

The objectives of the provincial policy on peat mining are:

- To ensure total development of the resource so that it makes a maximum contribution to the long-term economic development objectives of the Province.
- To encourage and stimulate the development of secondary processing in the Province while sustaining the existing employment levels at current peat operations.
- To simplify administration of tenure and collection of revenues;
- To encourage production from freehold as well as from Crown lands; and
- To ensure that peat extraction is conducted in a manner that will not negatively impact future utilization or rehabilitation of the land.

The policy will be reviewed at the end of five years to ensure the objectives are met.

### 4. Allocation of rights to Crown peatlands

**Introduction**

The acquisition of rights to extract peat on Crown lands is subject to a bidding process administered by the Department of Natural Resources and Energy. Bids submitted by new entrants’ will only be considered if

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1. New entrants are defined as individuals or companies that were not extracting peat from Crown lands in New Brunswick before January 2001.
100% of the peat is used in value-added activities. Bids submitted by current producers to expand their existing production capacity will only be considered if 100% of that expansion is used in value-added activities. Bids submitted by current producers to replace land coming out of production will be considered on the condition that, in reference to the year 2000, the level of manufactured peat and peat-based products (e.g.: peat pots, peat mixes) is maintained or exceeded.

Crown peatlands of less than 40 ha in area may be excluded from the bidding process.

Except for companies or individuals holding a Peatland Exploration Licence or a Peatland Option, any companies or individuals interested in extracting peat from Crown lands may respond to a public call for proposals.

Any companies or individual may also, at any time, take the initiative to express its interest in commercial development of a specific peatland by completing a Quarry Application form available at any office of the Department of Natural Resources and Energy. Upon receiving such an application, the Minister of Natural Resources and Energy may decide to initiate a public call for proposals.

**Call for proposals**

When the Minister of Natural Resources and Energy decides to proceed with a call for proposals, a formal public announcement is made inviting any company or individual to submit a development proposal. Companies or individuals holding a Peat Exploration Licence or a Peatland Option are not eligible.

A four-member inter-departmental committee, consisting of two representatives from the Department of Natural Resources and Energy, one from the Department of Business New Brunswick and one from the Department of Environment and Local Government, evaluates the proposals. The committee is chaired by the Department of Natural Resources and Energy. Proposals are examined according to the following criteria:

- Background information and financial capability (20 points)
- Replacement of existing reserves (20 points)²
- Statement of markets (15 points)
- Economic considerations : value-added component and employment (15 points)
- Environmental considerations and site restoration (15 points)
- Development proposal (10 points)
- Resource information (5 points)

A proposal must meet a certain minimum number of points in the following categories:

- Background information and financial capability : 15 points
- Environmental considerations and site restoration : 10 points
- Economic considerations : 10 points
- An overall minimum score of 60 points out of a possible 100 total

With regards to new entrants and to expansion projects:

- New entrants are required to process in the Province 100% of the peat extracted into value-added peat.
- A proposal to expand current in-ProVINce production capacity must direct 100% of the proposed additional production to value-added peat.

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² Points given for replacement of abandoned production surfaces are calculated using the number of hectares abandoned and restored (or undergoing restoration) on peatland area leased from the Crown. The hectares abandoned and restored are expressed as a percentage of the peatland that is subject of a call for proposals. Points are attributed in proportion to that percentage.
After evaluating the proposals, the committee forwards its recommendations to the Minister of Natural Resources and Energy. The Minister of Natural Resources and Energy reserves the right to reject any or all proposals. Acceptance of a proposal automatically leads to the issuance of a Peatland Exploration Licence.

**Peatland Exploration Licence**
A Peatland Exploration Licence gives the holder exclusive rights to conduct field tests in the particular area of interest. Only one licence may be held at any one time by a company or an individual.

**Terms and conditions of the peatland exploration licence**
The term of a peatland exploration licence is of one-year duration with provision for a single, one-year renewal. The Minister may, where it is reasonable and upon the recommendation of an interdepartmental committee, reissue the licence once without a new call for proposals. At the end of each year, during the term of the licence, the applicant must submit evidence of $2.50 / ha exploration-related expenditures or submit payment in lieu. The licence authorizes the holder to evaluate a peatland area of not more than 800 ha. The application fee for a licence is $100.

All exploration survey data obtained during the term of the licence are submitted to Natural Resources and Energy on surrender of the licence. This information is kept in public files unless it is submitted by a licencee who is subsequently granted a Peat Lease, in which case, the data is kept confidential for five years from the date of issuance of the lease.

Where the term of a peatland exploration licence expires before a leasing arrangement has been concluded, the application process is terminated.

**The Peat Lease**
At any time during the term of a Peatland Exploration Licence, a licencee may apply for a peat lease. A peat lease may be granted to the holder of a valid Peatland Exploration Licence upon submitting the following:

- a summary of exploration work performed under the licence agreement with results and analyses and an up-to-date summary of exploration expenses;
- development, drainage and restoration plans;
- botanical survey, hydrological assessment and, if applicable, a fish habitat and population survey;
- evidence that the project has been accepted by the Department of the Environment and Local Government under the Environmental Impact Assessment (EIA) Regulation;
- a security deposit corresponding to the restoration effort required;
- a survey of the boundary of the proposed lease area by a registered New Brunswick land surveyor; and
- the rent set by regulation for the first year of the Peat Lease.

All plans must be approved by Natural Resources and Energy before a Peat Lease is issued. After granting the Peat Lease, any significant change to these plans requires the written approval of the Minister of Natural Resources and Energy. Only one Peat Lease may be issued on any given peatland.

**Terms and conditions of the Peat Lease**
A Peat Lease is issued for a term not exceeding ten years. The renewal of a Peat Lease is usually an administrative formality unless the lessee defaults on one or any conditions of the lease.
The base royalty rate is $0.10 per bale. A $0.04 royalty rebate is credited for each bale of peat processed in a value-added form. Royalties are due and payable semi-annually on or before the twentieth day of July and the twentieth day of January in each year. The base royalty is fixed for a five-year period at the end of which it is reviewed and adjustments made, if necessary, based on a fair assessment of the market conditions, inflation, and the objectives of the policy.

All Crown peat lessees are required to file a restoration plan with Natural Resources and Energy and provide the appropriate security over a period equivalent to the life expectancy of the operation. On abandonment of a lease in a satisfactory state, any remaining portion of the security deposit is returned to the former lessee. The amount of security required at any one time is calculated on the basis of the area actually disturbed by the mining operation (i.e. the area in production).

**The Option**

This type of agreement ceases to be used to manage Crown peatland resources. However, Option agreements issued before January 1st, 2000, will continue in full force and effect until their termination in accordance with the terms and conditions under which they were originally granted. By May 2004, all current options will have run their course.

### 5. Value-added

Value-added is part of government’s total resource development strategy and is to be looked upon as any process, activity or technology that will add a significant amount to the existing value of a primary product. Value-added activity does not necessarily increase overall employment in industrial operations. However, value-added components would normally, by their nature, require workers. Overall, resource industries should become more stable, more viable and less susceptible to commodity price fluctuations given increased further processing capabilities.

In New Brunswick, any future increase in the peat production capacity on Crown land shall be exclusively through value-added activities. This implies capping the production of ordinary peat at current level. For the purpose of implementing this policy, “current level” is defined as the commercial peat surface area under lease on January 2001.

With respect to the peat mining industry, the following definition of “value-added” will apply:

- Bagged and screened material consisting of 100% peat will only be considered *value-added* if the product is made in New Brunswick and sold for a plant f.o.b. price of twice the base price of an equivalent volume of ordinary peat.
- Manufactured peat and peat-based products (ex.: peat pots, pellets, granules, peat mixes, etc.) are considered *value-added* if the products are made in New Brunswick and sold for plant f.o.b. price of twice the base price of an equivalent volume of ordinary peat.
- The ordinary price of peat is calculated using the average peat production value of the most recent two years for which information is available for New Brunswick as published by Statistics Canada (Publication No. 26-202-XIB - Canada's mineral production). If such information from Statistics Canada is not available or is not reasonably current (i.e. data older than five years will not be considered), similar information may be substituted.
6. Financial assistance to the peat industry

No direct financial assistance is provided to any peat companies for the purpose of extracting peat. However, all companies remain eligible for general assistance such as market studies, technical and trade missions and value-added projects other than ordinary peat mixes. Financial assistance may be provided for exceptional projects.

Before considering granting financial assistance to a peat operator, the Department of Business New Brunswick will verify with the Department of the Environment and Local Government Department that the project has been registered under the EIA Regulation and that all appropriate permits have been obtained. It will also verify with the Department of Natural Resources and Energy that all royalties and rentals due to the Province have been paid. Funding approval or payments will be suspended if a company is found in default of its leasing agreement with any Government Department’s acts and regulations.

7. Feeder operations

Feeder operations are defined as small, family-type operations producing peat from small peatland surface areas. These operations typically sell bulk peat to major operators who process, bale and market the final product.

An application for a small-scale peat-only development on Crown peatlands may be given consideration under the following conditions:

- Where the objective is to produce unprocessed peat in bulk, a firm long-term (at least five years) contractual agreement must be established with at least one existing commercial operator that can guarantee a minimum price for the peat and a minimum annual volume purchase; the contractual agreement must be established with a firm that has a processing plant located in New Brunswick;
- Alternatively, an applicant may submit a plan to market the peat on his own if it is in a value-added form;
- The Department of Business New Brunswick must approve the business plan and be satisfied that the project is viable; and
- The development proposal must be subjected to the same evaluation criteria that apply to commercial operations, including the necessity to reclaim or restore the lands after cessation of extraction activities and the requirement to register the project under the Environmental Impact Assessment regulation.
- To be considered a small feeder site, the subject peatland must be less than 40 ha in surface area.
Table 1. Summary of policy initiatives

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<th>ITEM</th>
<th>EFFECT</th>
<th>IMPACT AND RATIONALE</th>
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<tr>
<td>ALLOCATION OF PEATLANDS THROUGH A BIDDING PROCESS</td>
<td>Peat resources located on Crown lands are allocated through a bidding process. The Minister of Natural Resources and Energy decides when to call for proposals and reserves the right to reject any or all proposals. Only one leasing arrangement may be concluded on any one Crown peatland. Holders of Peat Exploration Licence or Options cannot submit proposals.</td>
<td>The evaluation of requests on a “first come” basis is abandoned in favour of a bidding process. The bidding process introduces an element of competition for the resource that ensures the province obtains the maximum advantage from the resource. The method of evaluation is outlined in the policy and the process is administered through inter-departmental collaboration and coordination.</td>
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<td>VALUE-ADDED PEAT</td>
<td>Value-added peat is defined as a product containing peat that is made in the province and sold, on an equal volume basis, for at least twice the unit price of a standard bale of peat.</td>
<td>A basic definition is provided to quantitatively express the concept of value-added, as it applies to this policy and in accordance with government’s total resource development strategy.</td>
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<td>ROYALTY ON PEAT</td>
<td>As of July 1st, 2002, the royalty on peat produced from Crown Lands is set at $0.10 per standard bale of peat. A royalty rebate of $0.04 per bale is credited for peat processed in a value-added form at a site located in New Brunswick. The royalty is fixed for a five-year period.</td>
<td>An increased royalty acts as an incentive for peat companies to direct more production into value-added applications. The royalty rebate provides further incentive for companies holding peat leases from the Crown to diversify their production.</td>
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<td>RESTORATION</td>
<td>All lessees must file an abandonment plan with the Department of Natural Resources and Energy and be committed to site restoration or reclamation.</td>
<td>The issue of site abandonment is addressed in a planned way. Security deposit collected by the province must correspond to the effort actually required to restore land that is abandoned. Industry will be asked to work with government in defining the guidelines applicable to site abandonment.</td>
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<td>REPLACEMENT</td>
<td>Current lessees requiring land to compensate for abandonment of production surfaces will be given consideration through the bidding system.</td>
<td>To be consistent with a policy favoring value-added production as well as sustaining the existing employment base.</td>
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<td>EXPANSION</td>
<td>Any increase in the peat production capacity of a lessee through future leasing agreements must be directed exclusively (100%) to the production of value-added peat products.</td>
<td>An absolute ceiling, based on surface area, is placed on the volume of unprocessed peat produced in the Province. It is consistent with a policy favoring value-added production.</td>
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<td>NEW ENTRANTS</td>
<td>New entrants must process 100% of the peat extracted into value-added peat.</td>
<td>New entrants are defined as individuals or companies not connected with individuals or companies that are currently extracting peat from Crown lands. This measure is consistent with a policy favoring value-added production.</td>
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<td>FINANCIAL ASSISTANCE</td>
<td>No concessionary funding is provided to primary peat producers. Regular programs remain accessible. Assistance is withheld if taxes or royalties are not paid in full or if environmental concerns are not adequately addressed.</td>
<td>Concessionary funding assistance is limited to industry-wide issues. Regular programs remain available (e.g. market studies, technical and trade missions, innovative value-added projects).</td>
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<td>OPTION AGREEMENTS</td>
<td>Option agreements will not be used anymore to manage the resource. Agreements currently in place are allowed to run their course in accordance with their original terms and conditions.</td>
<td>In the past, rights were issued on a first come basis. This placed DNRE in a reaction mode. Options were used to manage the resource by reserving peatlands for companies who had specific resource needs but were not ready to enter into a leasing arrangement. The bidding system places DNRE in a proactive mode and options are not necessary anymore.</td>
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<td>FEEDER (SMALL) OPERATIONS</td>
<td>Projects undertaken on peatland sites of 40 ha or less are excluded from the value-added criteria.</td>
<td>The value-added criteria are generally not viable on small production sites. Because small feeder sites actually sustain existing processing plants no concessionary funding will be provided.</td>
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