

BHP Canada Exploration Drilling Project EL 1157 and 1158 Seabed Survey 2020-2025 –  
Environmental Assessment Report

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## **REVIEW COMMENTS**

### **Environment and Climate Change Canada (ECCC)**

Please note, the following two documents are attached for inclusion with these comments:

- Environment and Climate Change Canada’s Canadian Wildlife Service (2017). Birds and Oil – CWS Response Plan Guidance
- Environment and Climate Change Canada’s Canadian Wildlife Service. (2016). Procedures for handling and documenting stranded birds encountered on infrastructure offshore Atlantic Canada.

### **General Comments:**

#### Migratory Birds

Migratory birds, their eggs, nests, and young are protected under the *Migratory Birds Convention Act* (MBCA). Migratory birds protected by the MBCA generally include all seabirds (except cormorants and pelicans), all waterfowl, all shorebirds, and most landbirds (birds with principally terrestrial life cycles). The list of species protected by the MBCA can be found at <https://www.canada.ca/en/environment-climate-change/services/migratory-birds-legal-protection/convention-act.html>. Bird species not listed may be protected under other legislation.

Under Section 6 of the *Migratory Birds Regulations* (MBR), it is forbidden to disturb, destroy, or take a nest or egg of a migratory bird; or to be in possession of a live migratory bird, or its carcass, skin, nest or egg, except under authority of a permit. It is important to note that under the MBR, no permits can be issued for the incidental take of migratory birds caused by development projects or other economic activities.

Furthermore, Section 5.1 of the MBCA describes prohibitions related to depositing substances harmful to migratory birds:

“5.1 (1) No person or vessel shall deposit a substance that is harmful to migratory birds, or permit such a substance to be deposited, in waters or an area frequented by migratory birds or in a place from which the substance may enter such waters or such an area.

(2) No person or vessel shall deposit a substance or permit a substance to be deposited in any place if the substance, in combination with one or more substances, results in a substance – in waters or an area frequented by migratory birds or in a place from which it may enter such waters or such an area - that is harmful to migratory birds.”

It is the responsibility of the proponent to ensure that activities are managed so as to ensure compliance with the MBCA and associated regulations.

#### Accidental Events

The proponent must ensure that all precautions are taken by the contractors to prevent fuel leaks from equipment, and that a contingency plan in case of oil spills is prepared. Furthermore, the proponent should ensure that contractors are aware that under the MBR, “no person shall

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deposit or permit to be deposited oil, oil wastes or any substance harmful to migratory birds in any waters or any area frequented by migratory birds.” Biodegradable alternatives to petroleum-based chainsaw bar oil and hydraulic for heavy machinery are commonly available from major manufacturers. Such biodegradable fluids should be considered for use in place of petroleum products whenever possible, as a standard for best practices. Fueling and servicing of equipment should not take place within 30 meters of environmentally sensitive areas, including shorelines and seabird colonies.

Provisions for wildlife response activities should be identified in the Oil Spill Prevention and Response Plan to ensure that pollution incidents affecting Wildlife are effectively and consistently mitigated. The document “Birds and Oil – CWS Response Plan Guidance” is attached and is provided to offer guidance on the development of wildlife response activities.

The following information should be included in any Oil Spill Prevention and Response Plan and Wildlife Emergency Response Plan (WERP):

- Measures for containing and cleaning up spills (of various sizes).
- Equipment that would be available to contain spills.
- Specific measures for the management of large and small spills (e.g., breaking up sheens).
- Information on the wildlife potentially at risk in the area.
- Mitigation measures to deter migratory birds from coming into contact with the oil.
- Mitigation measures to be undertaken if migratory birds and/or sensitive habitat becomes contaminated with the oil.
- The type and extent of monitoring that would be conducted in relation to various spill events.

The proponent is recommended to consult with ECCC-CWS when developing Oil Spill Prevention and Response Plans, specifically when developing the WERP. ECCC-CWS is available to review WERPs prior to their implementation.

### Light Attraction and Migratory Birds

Attraction to lights at night or in poor visibility conditions during the day may result in collision with lit structures or their support structures, or with other migratory birds. Disoriented migratory birds are prone to circling light sources and may deplete their energy reserves and either die of exhaustion or be forced to land where they are at risk of depredation.

To reduce risk of incidental take of migratory birds related to human-induced light, ECCC-CWS recommends implementation of the following beneficial management practices:

- The minimum amount of pilot warning and obstruction avoidance lighting should be used on tall structures. Warning lights should flash, and should completely turn off between flashes.

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- The fewest number of site-illuminating lights possible should be used in the project area. Only strobe lights should be used at night, at the lowest intensity and smallest number of flashes per minute allowable by Transport Canada.
- Lighting for the safety of the employees should be shielded to shine down and only to where it is needed.
- LED lights should be used instead of other types of lights where possible. LED light fixtures are less prone to light trespass (i.e. are better at directing light where it needs to be, and do not bleed light into the surrounding area), and this property reduces the incidence of migratory bird attraction.

### Effects of the Project on Migratory Birds - Stranded Birds

Many migratory birds' foraging ranges (e.g. Leach's Storm-petrel) overlap directly with the Project Area and may be attracted to artificial lighting in the offshore environment. There is the potential for migratory birds to be attracted to and potentially be stranded on the survey vessels associated with the Project activities.

Should birds become stranded on the survey vessels, both during construction and operations phases, the proponent is recommended to adhere to *Procedures for handling and documenting stranded birds encountered on infrastructure offshore Atlantic Canada* (attached). Systematic deck searches for stranded birds undertaken by trained observers are more effective as mitigation than opportunistic searches. These systematic searches should occur at least daily (preferably at dawn) on installations and supply vessels, with search efforts documented and observations recorded (including notes of efforts when no birds are found). ECCC has expertise in this area and should be consulted in the development of systematic monitoring protocols that are specific to each installation, vessel, etc. If species at risk are found stranded on the vessels, the proponent should immediately contact ECCC-CWS for further instructions. The contact is Sabina Wilhelm (ECCC-CWS Marine Issues Biologist) at [sabina.wilhelm@ec.gc.ca](mailto:sabina.wilhelm@ec.gc.ca) or 709-764-1957.

A seabird handling permit will likely be required to implement the instructions in this reference document and the proponent must be advised that such a permit would have to be in place prior to the initiation of proposed activities. Please note that MBCA permit applications can be obtained from ECCC-CWS via email at [ec.scfatlpermis-cwsatlpermits.ec@canada.ca](mailto:ec.scfatlpermis-cwsatlpermits.ec@canada.ca).

### **Specific Comments:**

Section 5.4 Mitigation (pg. 47) – Quote “Routine systematic checks will be conducted daily on the survey vessels for stranded birds and handling of stranded birds will follow “Documenting Stranded Birds Encountered on Infrastructure Offshore Atlantic Canada” (ECCC 2016).”

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The proponent has not referenced the search protocols document correctly. The correct reference is *Procedures for handling and documenting stranded birds encountered on infrastructure offshore Atlantic Canada* (ECCC 2016), so ECCC requests that the proponent amend the statement to reference the document correctly.

### Section 6.2 Accidental Events (pg. 52)

The proponent should include a statement in this section to clarify that the timing and location of potential spills can affect the magnitude of the effect of accidental events on marine and migratory birds. This has already been included in the paragraph related to commercial fisheries, but ECCC requests that this also be included in the paragraph related to marine and migratory birds.

### Section 6.4 Cumulative Environmental Effects (pg. 53)

The discussion of cumulative effects must be shaped primarily by the valued ecosystem components under consideration. While an accounting of past, present and future projects and activities is a starting point in a cumulative effects assessment, the analysis must consider how impacts from the proposed project will combine with impacts from other projects and activities. In the context of marine birds, for example, the proponent must consider how the project will contribute to existing impacts (e.g., attraction, increase in predation, loss of foraging habitat) on birds from other activities (e.g., other oil and gas activities, fishing, shipping). ECCC requests that the proponent update the cumulative effects section to include additional information relating to VEC-specific cumulative effects.

Additionally, the proponent has not included the cumulative effect of artificial light as a part of their cumulative environmental effects assessment. ECCC requests that the proponent provide additional information regarding the potential cumulative effect of artificial lighting on the attraction of marine and migratory birds.

### Fisheries and Oceans Canada (DFO)

#### **General Comments:**

In the past for similar projects, the ROV survey and video data have been acquired under the supervision of an experienced marine biologist. Please advise as to whether this is the case for BHP's visual seabed survey.

The scientific name should be included along with the common name the first time a species is mentioned in the EA report.

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**Specific Comments:**

Section 2.4.1 Operation of a Survey Vessel (pg. 6): *The survey vessel has the potential to interact with the environment through the following pathways:* Interactions with marine mammals, e.g. collisions, should be listed here as well.

Section 4.1.3 Weather Conditions, Table 4.2 (pg. 11): Recommend removing Thunderstorms from table title as the table does not mention thunderstorms.

Section 4.2 Marine Fish and Shellfish, Table 4.4 (pg. 14): Recommend removing the footnote, “Taxonomic group: F – family”, if it is not used.

Section 4.2 Marine Fish and Shellfish, Table 4.5 (pg. 16): Recommend listing the common names and scientific names of species where possible.

Section 4.4 Marine Mammals and Sea Turtles, Table 4.7 (pg. 24-45): Recommend listing the common names and scientific names of species where possible.

Section 4.5 Species at Risk, Table 4.8 (pg. 30-31): If there are multiple designations for a species, the name of the population or sub-population should be included. Also, as noted above, both the common names and scientific names of species should be stated.

Section 5.4 Mitigation (pg. 46): Mitigation measures should indicate that an experience Marine Mammal and Seabird Observer (MMSO) will be onboard during the survey.

Section 5.4 Mitigation (pg. 46): In the past for similar projects, there has been a Fisheries Liaison Officer (FLO) onboard the survey vessel to mitigate potential interactions with fishing activities in the area. Please advise as to whether and FLO will be onboard for BHP’s visual seabed survey.

**Fish, Food & Allied Workers (FFAW)**

The FFAW requests the following clarifications to ensure there is an appropriate level of understanding of the dynamic nature of the fishery offshore:

**Section 4.7 Fisheries and Other Ocean Uses**

Greenland halibut, also known as turbot, is primarily fished using bottom trawls (pg. 40). The larger offshore boats, with more quota to fish, utilize mobile gear to catch fish. The inshore fishery however primarily uses fixed gear (i.e., gill nets) to harvest smaller allocated amounts of quota. As such, there are more fishing vessels on the water using fixed gear than the larger vessels trawling for the same species, depending on the fishing season. This is an important point that warrants discussion in the document when considering transit routes for the survey vessel (if it is during the fixed turbot fishing season).

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The shrimp fishery in Shrimp Fishing Area 7 (NAFO Division 3L) has been closed since 2015 (not 2017, page 40). While this area is not expected to open for shrimp fishing in 2020 the closure is not a permanent closure. The proponent should review the status of the closure annually.

While it is not expected that inshore fish harvesters will fish directly within EL1157 and EL1158 there may be some international fishing activity in the area, depending on the timing of the survey (page 43). Seismic and other exploration project vessels have encountered swordfish fishing, for example, in the general area over the years.

Further to this, there is still a potential for interaction between fishing and project activities (page 45, 51). While advance communication is beneficial to all parties it will not necessarily eliminate space conflicts during the survey. Respectful on-the-water dialogue will be vital to resolving space conflicts, should they arise.