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FAX

To: Canada- Newfoundland / Labrador Fax: 1-709-778-1473
Offshore Petroleum Board
From: CHIEF JESSE J SIMON Date: March 28/2011
CC: Pages: 6

MAR.28.2011 12:48PM BIG COVE PSY ED NO.042
RE: DRAFT SCOPING DOCUMENT EXPLORATION DRILLING PROJECT-EL1105

Urgent For Review Please Comment Please Reply Please Recycle

FROM THE CO-CHAIR OF THE
ASSEMBLY OF FIRST NATIONS CHIEFS IN N.B.
RE: OLD HARRY PROJECT.

This fax is directly for the person intended only.



THE ASSEMBLY OF FIRST NATIONS' CHIEFS IN NEW BRUNSWICK INC.

March 28, 2011

**Public Comments – Old Harry Project
Canada-Newfoundland and Labrador Offshore Petroleum Board
5th Floor, TD Place
140 Water St.
St. John's, NL A1C 6H6**

**By fax and email:
Fax: (709) 778-1473
Information@cnlopb.nl.ca**

Dear Sir/Madam:

**Re: Comment on Canadian Environmental Assessment Act
Draft Scoping Document Exploration Drilling Project – EL 1105**

I am writing to offer comments on the above-referenced project on behalf of the Assembly of First Nations' Chiefs in New Brunswick Inc.

The Assembly of First Nations' Chiefs in New Brunswick Inc. is a not-for-profit representative organisation that is the entity designated by the Chiefs to protect and advance the inherent, international, Aboriginal and Treaty rights of the Mi'gmaq and Wolastoqiyik Peoples.

You should be aware that this project falls within the traditional territory of First Nations with communities and Reserves in the province of NB. This territory includes the waters off the west coast of Newfoundland where the proposed project is to take place.

The project has not considered the Constitutional and Treaty Rights of the First Nations Mi'gmaq and Wolastoqiyik. Our review of the available information leads us to conclude that the risks associated with the proposal omits consideration of traditional and modern aboriginal non-commercial fisheries, including our Treaty right to harvest ocean resources for a moderate livelihood, and our uses of the marine environment within the influence of the proposal.

THE ASSEMBLY OF FIRST NATIONS' CHIEFS IN NEW BRUNSWICK INC.
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We call on the Canada - Newfoundland Labrador Offshore Petroleum Board to immediately cease its review of this proposal. No consultation and accommodation of our Peoples has taken place, despite the Crown's overarching constitutional and legal duty.

We also call on the Minister of the Environment to launch a Panel Review to fully consider the environmental risks and policy issues of concern to First Nations prior to any further consideration of this proposal or any other proposal for hydrocarbon exploration in the Gulf of St. Lawrence.

There are two overarching considerations for our call for a Panel Review:

1. The C-NLOPB methodology fails to direct the proponent to deal explicitly and completely with issues of greatest concern to First Nations, including First Nations non-commercial fisheries and uses of the marine environment, some of which are traditional dating from time immemorial and some of which are modern adaptations to current circumstances.
2. The C-NLOPB has stepped away from CEAA procedures and places the onus on itself to prepare the "Screening report". Intervening parties will be making their concerns known on potential significant effects to the same agency that will have already formed a judgment on what those effects will be.

We are aware that the project proposal falls beyond territorial waters considered by the Crown to be associated with the Province of New Brunswick, being north of a line informally agreed in 2003 to separate provincial interests of New Brunswick and Newfoundland and Labrador. However that agreement did not take into consideration our rights nor did it meet the Crown's duties to our Peoples.

First Nations of New Brunswick consider this project proposal as a direct threat to our interests because current systems in the Esquiman Channel and the Gulf of St. Lawrence, as well as the normal migratory behaviour of several important marine species, imply that any environmental impacts associated with the proposed project would inevitably have an effect on the First Nations in New Brunswick.

The 2005 Strategic Environmental Assessment of the C-NLOPB that is intended to guide the proponent through this project specific EA raises the following additional concerns:

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1. There is insufficient opportunity for "outside interests" to fully participate in the process because:
 - a. There is no intervener funding to assist such interests in so doing; and
 - b. Timelines do not provide adequate opportunity for our input into the process and for the proponent to make revisions as result of that input.
2. We believe that the C-NLOPB SEA process is side-stepping the original intent of the 1999 Government of Canada Directive for a "systematic and comprehensive process of evaluating the environmental effects of a policy, plan or program, and its alternatives". It appears that the C-NLOPB approach:
 - a. Fails to assess the longer term effects and associated risks with this project. It does not examine all phases of a proposed activity from inception to eventual abandonment. A truly "strategic" SEA would have provided this information.
 - b. Isolates exploratory activities from the generally more hazardous and longer term development and abandonment phases of future projects that could be eventually found to be economically viable; and
 - c. Breaks down the approval process in phases, with each phase requiring considerable expenditure, thereby creating pressure for approval of further development with potentially greater environmental risks.
3. The C-NLOPB area of jurisdiction does not contain all of the Gulf waters that could potentially be affected by the activities of an exploratory seismic and drilling project, let alone a full blown hydrocarbon development. The C-NLOPB SEA document does not shed light on how this deficiency is to be addressed by proponents.
4. The SEA lacks ecosystem-based analysis that considers cumulative effects. The proposed Valued Ecosystem Component (VEC) assessment process examines impacts on a species by species or habitat-by-habitat basis. It fails to adequately identifying potential issues associated with much broader scale biophysical processes, such as nutrient circulation through the ecosystem.

The Assembly of First Nations' Chiefs in New Brunswick also has the following concerns with the draft scoping document prepared by Corridor Resources Ltd., and released by the C-NLOPB on February 25, 2011. We offer the following two recommendations:

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1. Corridor RI states that on February 21, 2011 they submitted a project description to the C-NLOPB. A copy of the project description is required to better inform ourselves and to present our concerns in a more refined and precise form.
2. The proponent refers to a SEA prepared by LGL Ltd in 2005. This document should be thoroughly reviewed for accuracy and relevancy:
 - a. Literally dozens of new scientific documents have been published on the biota and physical environment of the Gulf of St. Lawrence. None have been referenced;
 - b. Potential impacts on the biota must be assessed in the context of a highly dynamic large marine ecosystem; and
 - c. Water movements must be assessed to consider the impact on the entire Gulf of pollutants released at the project site.

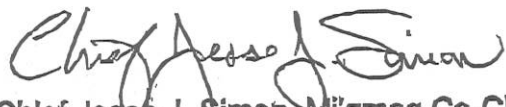
By copy of this letter we are asking Hon. David Alward, Premier of New Brunswick and Minister responsible for the Aboriginal Affairs Secretariat, to seek a suspension to the Old Harry application.

We are also asking that the Prime Minister of Canada, the federal Ministers of Indian Affairs and Northern Development, and Fisheries and Oceans to respect our Constitutional and Treaty Rights and intervene on our behalf.

Specifically, we are asking that the Minister of the Environment order a full Panel Review of offshore hydrocarbon development in the Gulf of St. Lawrence prior to any further consideration of exploration.

Failing that, we are asking for reasonable financial resources, and reasonable time, to better inform ourselves of the Corridor Resources application for exploration at the Old Harry lease site and demand that the responsible Crown authorities engage in meaningful consultation with us in order to accommodate our rights and interests.

Sincerely,



Chief Jesse J. Simon, Mi'gmaq Co-Chair
Assembly of First Nations' Chiefs in New Brunswick Inc.

c.c. Prime Minister Rt. Hon Steven Harper
Hon. John Duncan, Minister DIAND
Hon. Gail Shea, Minister DFO

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Hon. Peter Kent, Minister Environment
Hon. David Alward, Premier and Minister Responsible for the Aboriginal
Affairs Secretariat
John G. Paul, Atlantic Policy Congress
Bruce Wildsmith, KMK
Stuart Gilby, Burchells LLP
Gulf Area 12 Snow Crab Advisory Committee

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