

**File No: 56006-020-003**

**January 28, 2022**

**Electromagnetic Geoservices Canada Inc. (EMGS) Controlled Source Electromagnetic (CSEM) Survey –  
Project Description and Draft Scoping Document Review Comments from Reviewers**

**Department of National Defence**

- It is noted that “advance communication with DFO and Department of National Defence during survey planning will limit potential for conflict with research vessel cruises or military activities.” Please identify a point of contact for communications with Maritime Forces Atlantic (MARLANT) Safety and Environment, Department of National Defence.
- MARLANT Safety and Environment will review the environmental assessment, and provide information regarding potential ordnance and shipwrecks in the vicinity of the project license.
- Please ensure the appropriate Notice to Mariners is issued for all underwater activities and any significant surface ventures, such as use of flares, buoys, and unconventional night lighting; and
- Please ensure the appropriate Notice to Airmen is issued for all activities that could affect air safety, such as use of balloons, Unmanned Aerial Vehicles (UAVs) or tethered airborne devices.

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

### **Applicable Legislation**

#### **Fisheries Act**

The proponent should be aware of the general applicability of Section 36(3) of the *Fisheries Act* (<http://laws-lois.justice.gc.ca/eng/acts/F-14/FullText.html>) which states: “no person shall deposit or permit the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substances or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water”.

Environmental protection and mitigation measures should reflect the need to comply with Section 36(3) of the *Fisheries Act*. For example, measures should be taken to prevent substances such as lubricating fluids, fuels, etc. from being deposited into water frequented by fish, and drainage from construction and operational drainage must not be harmful to fish.

#### **Migratory Birds Convention Act**

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 harm 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.

#### **Canadian Environmental Protection Act**

The proponent should also be aware of the potential applicability of the *Canadian Environmental Protection Act* (CEPA) (<https://laws-lois.justice.gc.ca/eng/acts/C-15.31/>). The *Canadian Environmental Protection Act* enables protection of the environment, and human life and health, through the

establishment of environmental quality objectives, guidelines and codes of practice, and the regulation of toxic substances, emissions and discharges from federal facilities, international air pollution, and disposal at sea.

### **Wildlife and Wildlife Habitat**

Environment and Climate Change Canada's Canadian Wildlife Service (ECCC-CWS) has reviewed Electromagnetic Geoservices Canada Inc.'s Controlled Source Electromagnetic Survey (CSEM) 2022, and offers the following comments.

Please note that the following documents have been attached to this email for inclusion with the outgoing response:

- a) ECCC-CWS Guidance for developing systematic stranded bird survey protocols for vessels and platforms
- b) Appendix 1 – Stranded Bird Encounter Datasheet
- c) Appendix 2 – Infographic and Reference Card – What to do when you find a stranded bird?
- d) Appendix 3 – Seabird Identification Photo Card
- e) Procedures for handling and documenting stranded birds encountered on infrastructure offshore Atlantic Canada.

### **Document 2 – Project Description (“EMGS\_2022\_CSEM\_PD”)**

#### Section 3.0 – Quality, Health, Safety, Security, and Environmental Management (pages 7-8)

1. Quote (page 7) “The SMMO will be on board to conduct routine checks for stranded birds and Canadian Wildlife Service (CWS) bird handling and release procedures (e.g. Environment and Climate Change Canada 2016) will be implemented if stranded birds are encountered on the vessel.”

ECCC-CWS notes that the location of the project (both Orphan Basin Regional Area and South Bank Regional Area) are located relative to known foraging habitats of Leach's Storm-petrel (COSEWIC-assessed as Threatened in November 2020), particularly from important breeding colonies at Gull and Baccalieu Island. The project has the potential for increased interactions with Leach's Storm-petrel and other migratory birds, particularly with respect to attraction to artificial lighting and potential strandings on vessels and project infrastructure (per Gjerdrum et al. 2021, storm-petrels are the most commonly stranded species in NL (93%) based on reports from 1998-2018). The location and proposed timing of activities overlap with peak storm-petrel stranding period (mid-September to mid-November) when young Leach's Storm-petrel fledge and make their first flight offshore.

The prompt location of stranded birds through daily, systematic searches of vessel(s) increases the potential of reducing harm and/or mortality of stranded birds. Gjerdrum et al. 2021 states per reports, 98% of stranded storm-petrels found alive were successfully released back to the ocean.

ECCC-CWS requests that the proponent develop and implement vessel-specific systematic search protocols for stranded birds that will be undertaken by trained, experienced observers, as per the recommendations outlined in the final report of the *Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador*. Additionally, ECCC-CWS notes that new guidance has been developed regarding the development and implementation of systematic stranded bird protocols. Guidance has been attached to the outgoing response for the proponent's consideration.

2. Given the high potential for migratory bird strandings, particularly Leach's Storm-petrel in mid-September to mid-November, ECCC-CWS recommends that the proponent consider including stranded seabird awareness training for all members on the vessel, to ensure that individuals are adequately informed of potential impacts to migratory birds. ECCC-CWS is able to provide awareness materials for the proponent's consideration, if desired.

#### Section 5.0 – Environmental Setting (pages 9-10)

1. Quote (page 9) "The coasts of the eastern and northeastern NL are home to several million seabirds that forage off eastern NL during and following nesting season"; Quote (page 10) "Black-legged kittiwake, northern fulmar, storm-petrel, auks, large gulls, and shearwater were identified in the South Bank Regional Area (LGL 2010).

ECCC-CWS requests that the proponent include additional information in Section 5.0 related to the potential increased interaction with Leach's Storm-petrel, for both areas (Orphan Basin and South Bank) (see information provided above).

While information on Leach's Storm-petrel is included in the Eastern SEA Update and Regional Assessment GIS Tool, ECCC-CWS notes that it is important to clearly emphasize that Leach's Storm-petrel may be impacted by the project, in particular due to the location of the project and the timing of activities.

#### **EFFECTS OF THE ENVIRONMENT ON THE PROJECT**

Seismic operations will be somewhat sensitive to environmental conditions (e.g., wind, waves, ice). The environmental review should include considerations on how such conditions acting on the project could have consequences for the environment (e.g., increased risk of spills and impacts on valued ecosystem components). Marine weather information can be found on the Meteorological Service of Canada website at [weather.gc.ca/mainmenu/marine\\_menu\\_e.html](http://weather.gc.ca/mainmenu/marine_menu_e.html). Additional information on regional climatology can be found at [climate.weather.gc.ca/index\\_e.html](http://climate.weather.gc.ca/index_e.html) or by contacting ECCC directly (1-833-794-3556; [climatatlantique-climateatlantic@ec.gc.ca](mailto:climatatlantique-climateatlantic@ec.gc.ca)). Also, ice information can be found on the Canadian Ice Service website at [www.canada.ca/en/environment-climate-change/services/ice-forecasts-observations/latest-conditions.html](http://www.canada.ca/en/environment-climate-change/services/ice-forecasts-observations/latest-conditions.html).

### ***EFFECTS OF ACCIDENTS AND MALFUNCTIONS***

The mandatory assessment of environmental effects that result from accidents and malfunctions should include a consideration of potential spill events. The assessment should be guided by the need to ensure compliance with the general prohibitions against the deposit of a deleterious substance into waters frequented by fish (Section 36, *Fisheries Act*) and against the deposit of oil, oil wastes or any other substance harmful to migratory birds in any waters or any area frequented by migratory birds (Section 35, *Migratory Birds Regulations*). In addition, it should be focused on potential worst-case scenarios (e.g., concentrations of marine birds, presence of wildlife at risk). Based on this analysis, the environmental review should describe the precautions that will be taken and the contingency measures that will be implemented to avoid or reduce the identified impacts.

Proponents are encouraged to prepare contingency plans that reflect a consideration of potential accidents and malfunctions and that take into account site-specific conditions and sensitivities. The Canadian Standards Association (CSA) publication, *Emergency Preparedness and Response, CAN/CSA-Z731-03<sup>1</sup>*, is a useful reference for this.

All spills or leaks of petroleum or other hazardous materials, including those from machinery, fuel tanks or streamers, should be promptly contained, cleaned-up and reported to the 24-hour environmental emergencies reporting system (St. John's 709-772-2083; other areas 1-800-563-9089).

### **Fisheries and Oceans Canada**

Fisheries and Oceans Canada (DFO) has completed a review of the project description and draft scoping document for the above referenced electromagnetic survey. Please note that Fisheries and Oceans Canada is in possession of expert knowledge and advice pertaining to the following Sections of the C-NLOPB Draft Scoping Document:

- 5.2.4 Marine Fish and Shellfish
- 5.2.5 Marine Mammals
- 5.2.6 Sea Turtles
- 5.2.7 Species at Risk (SAR)
- 5.2.8 "Sensitive" Areas

Additionally, Fisheries and Oceans Canada (DFO) offers the following comment with respect to the C-NLOPB Draft Scoping Document for your consideration:

- A detailed description of the project and components should be included within the EA Report, and include the number of receiver anchors to be placed on the seafloor at each Project/Study Area, a diagram of the anchor grid pattern, and mitigations to avoid impacts to corals/sponges, specifically within the Northeast Newfoundland Slope.