



NUNATSIAVUT
kavamanga Government

Nunaligninikmik amma Nunamiutanik
Ujaganik Imaniklu
Lands and Natural Resources

December 13, 2017

C-NLOPB
Suite 101, TD Place
140 Water Street
St. John's, NL
A1C 6H6

Dear Mr. Hicks,

Please find below the Nunatsiavut Government's response to the Multiklient Invest AS Newfoundland and Labrador Offshore Seismic Program, 2017 to 2026 Environmental Assessment Report Addendum dated Nov. 29, 2017.

We find the responses to our comments to be unsatisfactory and inconsistent with the recent discussions with the C-NLOPB regarding environmental assessment (EA) practice. Please find below our specific discussion points. For reference, please find attached a copy of the letter sent by C-NLOPB Chair and CEO Scott Tessier to Nunatsiavut Government's Minister of Lands and Natural Resources Darryl Shiwak on November 7, 2017 which status the Board's willingness to address issues related to cumulative effects, monitoring plans and limiting the temporal/spatial scope of projects.

Sincerely,



Claude Sheppard
Director of Non- Renewable Resources

cc. Carl McLean, Deputy Minister of Lands and Natural Resources, Nunatsiavut Government

Cumulative Effects

MKI's response to the issue of cumulative effects acknowledges the difficulty of this practice, but does not suggest any action, such as reducing the scope of its project to be able to more clearly assess an impact or clearly defining the scenarios which are being assessed. In your letter regarding the C-NLOPB's environmental assessment practices, there is mention that the temporal scope of seismic EAs should be shortened and that the spatial scope should be limited. It also mentions a careful consideration of the cumulative effects assessment practices in EAs. We suggest that this careful consideration start with projects yet to be approved, such as this project.

Our specific comments on the cumulative effects assessment remain unanswered, specifically with regard to the scenario used for the assessment. They are reiterated here:

"This environmental assessment does not clearly state the proponent's scenario with which they are assessing their own cumulative effects of a 10-year program. The proponent states that the maximum possible combinations within each year are 2D and 2D or 2D and 3D and 4D; therefore the maximum combination should be used each year for 10 years to assess cumulative effects. The proponent is applying for a 10-year project; the environmental assessment should be able to properly assess cumulative effects over that time span by assessing the certain and probable projects over that time period – otherwise each project should reduce the scope to an assessable timeframe; likely resulting in each seismic project being treated as an annual or bi-annual project with separate environmental assessments."

Monitoring Plans

MKI's response to the request for detailed monitoring plans that clearly outline how the data will be used to improve mitigation over the 10-year project. This is a good example of the issue raised in our June 20, 2017 letter to the C-NLOPB regarding vague answers to our requests for basic EA requirements. MKI's response does not detail how the data collected will be used, why it is being collected, and how it will be incorporated into an iterative monitoring program for a 10-year project. It states that "opportunities for the adoption of best practices over the 10-year project...exist." However, without a clear monitoring objective and program it would be difficult to incorporate basic observation data into improved monitoring practices. Hence, there is a need to create a detailed, rigorous monitoring program for the project.

As a regulator, we expect the C-NLOPB to ensure that such long projects have a clear monitoring objective that can be worked into both this project as well as an overall assessment for the Labrador Shelf Strategic Environmental Assessment. Larger decisions such as shortening project timelines need to be scientifically-based, and data on cumulative effects needs to be provided by proponents to reach sound conclusions. The assessment and rigor of monitoring plans need to be a part of an independent review of EA practice within the C-NLOPB. As MKI stated in their response, Willstead et al., 2017 states that *"There is, therefore, a clear need to support coordinated and multidisciplinary development of CEA to advance our knowledge of how cumulative effects from multiple activities incrementally change the*

environment, and how effects can be managed and mitigated to enable sustainable use of the seas.”

The C-NLOPB needs to take on this coordination, incorporate it into the Strategic Environmental Assessment, and ensure that all projects in the Newfoundland and Labrador Offshore are feeding into it through well-established monitoring programs. For example, MKI’s response to the issue of sound exposure criteria could be verified by modelling the offshore area for sound attenuation – a task that should be completed through a strategic environmental assessment, or through the input of multiple proponents feeding data into a strategic environmental assessment through robust monitoring and mitigation programs.



November 7, 2017

Darryl Shiwak
Minister of Lands and Natural Resources
Nunatsiavut Government
25 Ikajuktauvik Road, P.O. Box 70
Nain, NL AOP 1L0

Dear Minister Shiwak:

I am writing to follow up on your June 20, 2017 letter regarding Environmental Assessment (EA) practices of the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB). I was pleased to meet with you to discuss these matters on June 15 in Happy Valley-Goose Bay, as well as to participate in a second meeting of Nunatsiavut Government and C-NLOPB representatives on October 5, which was also attended by teleconference by officials from the federal and provincial Natural Resources departments. These discussions have been invaluable in fostering an improved working relationship between our respective organizations. I am pleased to provide this update on matters of mutual interest.

On August 22, 2017, the C-NLOPB provided notice to potential bidders that the current, Labrador South Call for Bids (NL16-CFB03) will not close on November 8, 2017. Rather, it will be delayed until a minimum of 120 days after the completion of the Labrador Shelf Offshore Area Strategic Environmental Assessment (SEA) Update. During the above-noted October 5 meeting, participants identified a workable path forward wherein the close of that Call for Bids could be achievable in 2019, with the exact timing to be determined.

In the meantime the C-NLOPB, like other parties, will carefully monitor and engage as appropriate in Canada's work to meet international commitments regarding Marine Conservation Targets. The C-NLOPB will continue to do our part to protect ecologically sensitive areas throughout the Canada-Newfoundland and Labrador Offshore Area as we design and implement our scheduled land tenure processes, and issue approvals and authorizations for petroleum-related activities.

I am proud of the C-NLOPB's commitment to incorporate traditional knowledge in the SEA update. We intend to integrate traditional knowledge throughout the SEA update report, and to use it to inform our conclusions. The SEA update will in turn help inform the C-NLOPB's decisions about how future petroleum-related activities can be conducted offshore Labrador in a safe and environmentally responsible way. At the same time, it is important to keep in mind that the SEA update will not supersede any legal or conservation requirements that may emerge following its publication.

The Working Group for the SEA update has drafted a Scoping Document that was finalized following a period of public comment. Officials from our respective organizations have also worked collaboratively on the Request for Proposals to conduct the SEA Update, which will be issued in the next few days.



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I would also like to address some of the comments in your letter with respect to the C-NLOPB's project-specific EA processes. It is worth noting that prior to coming into force of the *Canadian Environmental Assessment Act 2012* (CEAA 2012), C-NLOPB conducted numerous CEAA-compliant screenings of proposed activities, and our staff has received CEAA training, including in the area of cumulative effects assessment. The C-NLOPB employs considerable technical input from federal and provincial departments and agencies in our EA activities.

In the case of seismic surveys for example, scientific advice from Fisheries and Oceans Canada (DFO) is particularly important. The C-NLOPB has adopted DFO's *Statement of Canadian Practice (SOCP) with respect to the Mitigation of Seismic Sound in the Marine Environment* into its assessment and authorization process, quoting it verbatim in its *Geophysical, Geological, Environmental and Geotechnical Program Guidelines*.

We are aware that potential effects of seismic programs continue to attract attention, and sometimes controversy, on an international basis. Our staff have participated in the efforts of the Environmental Studies Research Fund (ESRF) in recent years to fund multi-million dollar research programs in our offshore to help address some of these issues, including a soon-to-be-completed field research program into seismic and snow crab, and the current ESRF call for proposals to investigate potential effects of seismic upon plankton and on fish behaviour.

I appreciated our discussion of the Nunatsiavut Government's concerns regarding the qualifications of Marine Mammal Observers (MMOs). The C-NLOPB will engage with DFO before the next field season to work on addressing this issue.

Information provided in SEAs can support project-specific EAs and help to avoid unnecessary duplication. New information that becomes available following publication of an SEA must be provided in new EAs. When a proposed project spans multiple years, proponents must, in each subsequent year that activity is planned, provide an EA update that outlines the proposed activities for that year; confirm that they fall within the scope of the previously assessed program; confirm that the EA predictions remain valid; and provide information regarding the adaptive management of requirements of the *Species at Risk Act* into program activities. Relevant new information that has become available following publication of the EA must also be provided. To date, EA Updates have been provided to reviewers of the EA for information rather than formal review, but the C-NLOPB will revisit this practice.

Before carrying out any work or activity respecting petroleum-related operations, an Operator must, on an annual basis, obtain both an Operating Licence and an Authorization, as specified by sections 137 and 138 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*. Board staff from multiple departments collaborate in rigorously reviewing industry applications for approvals and authorizations of petroleum-related activities. Operators must ensure that the statutory and regulatory requirements pertaining to the work or activity are satisfied.

In the case of EAs, a determination must be made regarding the likelihood of significant adverse environmental effects prior to an activity authorization being issued, and the results of the EA are incorporated into the authorization decision making process. An EA, which starts with an EA report and continues with EA updates, must be conducted to support our Environmental Affairs Department's review of applications for authorization.

We have considered the concerns raised by the Nunatsiavut Government with respect to the temporal and spatial scope of our project-specific EAs. The temporal scope of our EAs has typically been aligned with exploration licence terms, which have a nine year maximum. The temporal scope of future Labrador seismic EAs will be shortened to become more aligned with Period I of an exploration licence, and the spatial scope of those EAs will be limited to the Labrador Shelf area.

We agree that proponents should review best practices and evaluate how they can improve mitigation with a view to incorporating new techniques into their programs. The C-NLOPB explicitly reflects this expectation in scoping documents for EAs. For projects proposed in the Labrador Shelf offshore, the C-NLOPB asks proponents to report by the end of January of the year following a project on the project's progress and its potential environmental effects. Any changes required to mitigation measures for future projects can then be identified and included in subsequent programs.

Finally, we will carefully consider the concerns raised by the Nunatsiavut Government with respect to cumulative effects and will work towards improving how they are addressed in EAs.

The C-NLOPB remains committed to continuous improvement, collaborative dialogue and a close working relationship with the Nunatsiavut Government. On behalf of the Board, I thank you for your ongoing interest and leadership in these matters of mutual interest and I look forward to continuing in this regard in the months and years ahead. Please do not hesitate to contact me at 709-778-1456 should you wish to further discuss these or related matters. In the meantime, I look forward to working closely with your Deputy Minister and the federal and provincial governments to ensure our constructive, collective efforts continue.

Yours truly



Scott Tessier
Chair and Chief Executive Officer

- c. The Honourable James Carr, P.C., M.P.
The Honourable Siobhan Coady, MHA