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kavamanga Government

Nunaligninikmik amma Nunamiutanic
Ujaganik Imaniklu
Lands and Natural Resources

December 11th, 2020

Regional Assessment Follow-up Unit
Impact Assessment Agency of Canada
160 Elgin Street, 22nd Floor
Ottawa, ON K1A 0H3

RE: Public comment period on the draft Terms of Reference for the Regional Assessment

We appreciate the opportunity to participate in the implementation and consultations in relation to the Regional Assessment (RA) follow-up Program. This letter is in response to the call for review and comments of the draft Terms of Reference for the Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador - Follow-up Program, sent on October 26, 2020.

The Regional Assessment was an ambitious endeavor that left a lot of responsibilities and challenges for this Program, and significant collaboration between rights holders and stakeholders will be the key to its success.

However, some elements of the RA follow-up program, in our view, are concerning. Important recommendations from the Regional Assessment Report regarding what was then called the Oversight Committee seem to have been disregarded. Most importantly, Indigenous groups representation, in these draft Terms of Reference, is absent from the steering committee. The split between an advisory committee, and a steering committee without Indigenous representation is problematic and in contradiction with our understanding of the RA recommendations. Indigenous perspectives should be included in the steering committee itself rather than only relegated to an advisory committee. Including Indigenous perspectives at the decision-making level is necessary to fulfill the objectives of the follow-up program that are demonstrated in the RA report and the Ministerial Response. It is notably crucial to ensure real sustainable involvement of Indigenous groups in the process and to truly implement a “Two-eyed Seeing” approach.

Another significant recommendation that was not implemented was that the committee be established before the finalization of the Ministerial Regulations. It is too late in that case, but we are still hopeful that the second part of that recommendation - that the committee be established before the regulations are used - will be respected, and that comments submitted during these consultations on the follow-up program will be included and lead to meaningful changes when required. It is, however, worrisome that the call for applications to the advisory committee, including roles and composition, was published while the consultations on the subject are still ongoing.

The fact that the proposed Terms of Reference do not suggest a pre-determined composition for the advisory committee, leaving it to the selection process, is also a concern. The balance between Indigenous and non-Indigenous perspectives on that committee are crucial to its capacity to fulfil its objectives, as defined in the RA report and the Ministerial Response. Attribution of the seats on the advisory committee to different groups or categories of rights holders and stakeholders (Indigenous groups, academia, industry, etc.) should be pre-

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determined and subject to consultations. The advisory committee should be well-balanced and must have dedicated seats for Indigenous groups.

Finally, the draft Terms of Reference do not clearly identify mechanisms for the Follow-up Program to accomplish some of its objectives. At least three of the roles defined in the Terms of reference will require significant in-house research and data analysis capacity, to analyze project-specific data, critically review reports and research, implement or commission necessary studies, etc. This is particularly true for the objectives to Monitor and evaluate the status of commitments from the Ministerial Response, to Evaluate the implementation of the conditions in Schedule 2 of the Ministerial Regulation and to regularly review past, on-going and planned activities for cumulative effects. These capacity requirements should be more clearly acknowledged in the roles of the committees, their compositions, and their resources. This should be more clearly acknowledged in the roles of the committees, their compositions, and their resources.

We are look forward to hearing back regarding these comments and expect continued engagement regarding the development of the RA Follow-up Program and its Terms of Reference. It is our expectation that our suggestions and comments to date will ensure Indigenous inclusion and appropriate representation from the beginning in order to avoid mistrust and frustration. Collaboration amongst all groups is vital in ensuring the RA functions in a manner that is comprehensive and rigorous.

Sincerely,

<original signed by>

Rodd Laing
Director of Environment

<original signed by>

Claude Sheppard
Director of Non-Renewable Resources