



WOLASTOQEY NATION IN NEW BRUNSWICK

WOLASTOQEY NATION CONSULTATION OFFICE
<contact information removed>

[DELIVERED VIA EMAIL]

Ref: WNNB [054-18]

October 11, 2018

Canadian Environmental Assessment Agency
Newfoundland and Labrador Satellite Office
10 Barbers Hill, Suite 301
St. Johns, NL
A1C 6M1

RE: Request for Comments on the Draft Agreement to Conduct a Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador ("**draft Agreement**")

The Wolastoqey Nation in New Brunswick ("**WNNB**") represents five of the six Wolastoqey communities in New Brunswick (Madawaska Maliseet, Tobique, Kingsclear, St. Mary's and Oromocto First Nations). WNNB provides technical advice to Wolastoqey leadership and their respective Resource Development Consultation Coordinators ("**RDCCs**") on resource development matters that relate to our Wolastoqey constitutionally protected rights. WNNB also acts to protect and promote traditional lands, ceremony, cultural practices and language.

Below are our comments on the draft Agreement.

Consideration of Indigenous Input

We appreciate that pursuant to section 5 of the draft Agreement, a public registry will be maintained (section 5.1). We also appreciate that the submissions of Indigenous groups will be included in the registry (section 5.3). However, while there is a requirement for the Report to take into account and reflect the views of all the Committee members (section 5.5), there does not appear to be any requirement to show how the submissions of Indigenous groups will be considered. Similarly, in Appendix A, section 2.2, the Committee is required, in its Report, to provide a description of Indigenous engagement activities, including a summary of any comments received. The Committee should be required to demonstrate how Indigenous input, including Indigenous knowledge, was considered and integrated in the Regional Assessment and Report.

Composition of Committee, Task Team and Technical Advisory Committee

The draft Agreement provides that the Committee, Task Team and Technical Advisory Committee are all to have members with knowledge or expertise relevant to the Regional Assessment. There should be a specific requirement that each of these groups have an Indigenous representative, someone with the requisite knowledge or expertise in both Indigenous and Treaty rights and Indigenous knowledge.

Preparation of Regional Assessment Design

Section 4.4 stipulates that the Task Team will prepare the Regional Assessment Design, including measures for Indigenous engagement. Indigenous groups should be engaged and included in the preparation of the Regional Assessment Design, particularly preparation of measures for Indigenous engagement.

Indigenous Knowledge

The consideration of “traditional knowledge” is positive. However, “traditional knowledge” is not defined, which creates uncertainty as to what will be considered to be “traditional knowledge”. The use of the term “traditional” as opposed to “Indigenous” also raises the concern that the “knowledge” being considered will be frozen in time, and that it could exclude the evolution of Indigenous knowledge that occurs over time in response to new circumstances and changes in the environment. “Traditional knowledge” should be changed to “Indigenous knowledge” throughout the draft Agreement.

Agreement should also be obtained from Indigenous groups regarding the collection, use, management, integration and protection of Indigenous knowledge. The existing protocols of Indigenous groups with respect to the collection, use, management and integration and protection of their Indigenous knowledge must be respected. Where an Indigenous knowledge study is required, it should be conducted by the Indigenous group and funded.

Appendix C: Factors to be considered in the Regional Assessment

The role of the regulator for Environmental Assessments (EA) is to evaluate the likely environmental effects of potential projects. They also define a minimum environmental standard that proponents need to adhere to. Defending the need for the project is the role of the proponent, as well to outline and argue that their mitigation measures are enough to limit environmental degradation to the defined minimum standard or beyond. It seems somehow backwards that the Regional Assessment would consider what mitigations are economically and technically feasible and consider the purpose and need for offshore drilling. Both are the primary considerations that a proponent must defend in any EA, and to feature them as molds in a Regional Assessment seems irresponsible. While streamlining the EA process is a feature of the Regional Assessment, maintaining environmental protections is also key. Considering either technical or economic feasibility should not be of concern to regulators (and hence the Regional Assessment) as environmental protection is their realm. A minimum environmental standard is what should be the concern, not whether a company can technically or economically achieve it. In a situation where a company cannot achieve a minimum standard, we have a situation where environmental considerations outweigh the need of a project. To maximize environmental protection, mitigations need to be scrutinized, and with cookie cutter mitigations, room for growth is limited. Under scrutiny and pressure (feasibility) is where technological advances are principally made, and to limit these would be antithetical to the EA intent.

Section 1(c) of Appendix C states that the Regional Assessment will include a consideration of the impact that exploratory drilling may have on any Indigenous group and any adverse impact that offshore exploratory drilling may have on section 35 rights. The Regional Assessment should also consider how to avoid adverse environmental effects and adverse impacts to section 35 rights.

The description of the environment as outlined in section 1(a) should also characterize the environment before any disturbance due to industrial development (i.e., consideration of pre-development baseline).

Appendix D: Proposed Regional Assessment Study Area

This draft Agreement has its origin in CEAA,2012, section 74(1), which provides for the establishment of a joint committee for a Regional Assessment. We would like to know whether there was any consideration of including an international body, such as the United Nations, since most the study area is outside of Canada's Exclusive Economic Zone (EEZ) as per the definition of jurisdiction under section 74(2)(h).

If you have any questions or require anything else, please do not hesitate to contact me.

Sincerely,
<Original signed by>

 Gillian Paul
Wolastoqey Nation in New Brunswick
Acting Consultation Director

Email to: ceaa.nloffshorestudy-etudeextracotieretnl.acee@canada.ca

CC: RDCC Russ Letica – Madawaska Maliseet First Nation
RDCC Jamie Gorman – Tobique First Nation
RDCC Natasha Sacobie – Kingsclear First Nation
RDCC Keyaira Gruben – Kingsclear First Nation
RDCC Timothy Plant – St. Mary's First Nation
RDCC Fred Sabattis Jr. – Oromocto First Nation
Acting Director of Consultation Gillian Paul – WNNB
Marine Scientist Gordon Grey - WNNB