

Submission to the Canada – NL Offshore Petroleum Board concerning the proposed scope of the SEA update, Western NL Offshore Area

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Introduction

I am a marine ecologist and was for several years an active participant in the federal government's RAC subcommittee charged with intersectoral discussions and collaboration toward development of a coherent and effective SEA process for the Canadian Offshore Petroleum Sector. That committee has not ever been convened by the Harper government, but was and still is very much needed in order to bring SEA in Canada up to a consistently effective, international standard.

A number of gaps and flaws are apparent in the current policy and regulatory framework for petroleum exploration and development in the Gulf of St Lawrence, namely: 1) the absence of a publicly agreed-upon energy strategy for Atlantic Canada within which strategic and integrated management of natural resources can occur; 2) the lack of an inclusive process governing industrial developments in bodies of water that are multi-jurisdictional; 3) the lack of opportunities for public engagement in advance of the call for expressions of interest in petroleum exploration; 4) the limited opportunities for the concerned public to be informed of, and engage in, the decision-making process; and 5) the apparent lack of application of the precautionary approach to petroleum development in poorly understood marine ecosystems (Gagnon & Novaczek, in press). Many of these issues could be resolved through adoption of internationally appropriate standards for Strategic Environmental Assessment.

Partidario and Clark (2000) noted that SEA is "... a systematic, on-going process for evaluations, at the earliest possible stage of publicly accountable decision-making, of the environmental quality, and consequences, of alternative visions and development intentions incorporated in policy, planning, or program initiatives, ensuring full integration of relevant biophysical, social and political considerations." Noble (2000) defined SEA as "the proactive assessment of alternatives to proposed or existing PPPs, in the context of a broader vision, set of goals, or objectives to assess the likely outcomes of various means to select the best alternative(s) to reach desired ends." In effect, "A good quality SEA process informs planners, decision makers and affected public on the sustainability of strategic decisions, facilitates the search for the best alternative, and ensures a democratic decision-making process. This enhances the credibility of decisions and leads to more cost- and time-effective EA at the project level." (WWF 2005)

The International Association for Impact Assessment (IAIA) sets out performance criteria for SEA. By IAIA standards, a good-quality SEA is:

- *integrated* to ensure assessment of all strategic decisions relevant to sustainability including biophysical, social and economic aspects;
- *sustainability-led*, facilitating identification of development options and alternative proposals that are more sustainable;
- *focused* on key issues of sustainable development;
- *accountable* in terms of being professional, rigorous, fair, impartial and balanced, with independent verification and written justification that explains how sustainability issues were taken into account;
- *participative*, informing and involving affected public and governments throughout the process, explicitly addressing their concerns and providing access to relevant information; and finally,
- *iterative*, ensuring that results are shared early enough to influence project decision-making and future planning, and providing sufficiently detailed information to be useful.

It is useful to hold up the 2005/07 SEA and the draft scoping document for the proposed SEA Update in the light of the IAIA standards.

We must also consider Canada's obligations under the Oceans Act, in particular our international and domestic laws and policies in support of the Precautionary Principle, and our moral obligation to control carbon emissions, in light of the scientific proof that Canada and the world have entered into a period of human-induced climatic changes that are predicted to be - indeed have already become - extremely costly and destructive.

Scoping Document Part 1.0: Introduction

The most compelling reason for updating the SEA is missing from this section, that is, the opportunity to learn from the experience of the BP Horizon blowout and subsequent and ongoing social, human health, ecological and economic damages. Other cogent rationales that ought to be included are evaluation of any changes in exploration and drilling technologies since 2007; documentation of all changes to the regulatory system in Canada since the previous SEA; changes in the capacity for relevant agencies such as DFO and Environment Canada to perform essential primary research required to support decision-making; changes in our understanding of the health of the receiving ecosystem (Gulf of St Lawrence); and advances in our understanding of the pace and potential impacts of climate change related to the processing and consumption of petroleum products. These last two are especially relevant for the process of identifying and assessing the relative value of sustainable alternatives to the exploration for petroleum in the Gulf, for meeting public policy objectives.

Part 2.0 Background

Note that the 1999 Cabinet Directive for SEA has been acknowledged to be inadequate and outdated. It would be best for the CNLOPB, as the lead agency, to proactively adopt the IAIA standard, which is in the spirit of the Directive but much more explicit and useful as a guide to competent SEA.

As described here, the proposed SEA is hardly much more than a project specific EA. To be strategic it does need to identify and evaluate ALTERNATIVES to petroleum development in the Gulf, in light of the larger context which includes climate change and the ongoing ecological changes, diminishment of oxygen and accumulation of persistent pollutants in marine mammals resident in the Gulf, among others. (see for example DFO 2010 report on the state of Canadian oceans).

Part 3.0 Objectives

The list of objectives requires the addition of several points, i.e.

- Update on the policy and regulatory environment,
- Update on the capacity of (funding to) relevant departments capable of providing scientific advice,
- Account of all accidental releases of toxic substances reported by Canada's offshore petroleum industry, at least over the past decade,
- Lessons learned from major spills world-wide (including but not restricted to the BP Horizon), including lessons concerning impacts of human error, technological failures and climate changes (e.g. increased storm activity etc)
- Update on the status of alternatives (including energy reduction/conservation) for meeting Canada's energy requirements.,

Assessment of cumulative impacts MUST NOT be restricted to offshore petroleum development activities in the Gulf but consider in a holistic way the health of the ecosystem, activities of other sectors, and the system's capacity to absorb further insults.

Also, the decision should not be expressed as being between issuing exploration rights in whole or in part. The SEA may also advise whether or not exploration should proceed at all.

A *Strategic* EA ought to be conducted at a level where, with participation of affected public and governments, an evidence-based decision can be made as to whether the Gulf ought to be opened for exploration that could lead to offshore drilling, or provided the protection of a partial or complete moratorium. Such a decision ought to be made with all data on the table concerning sustainable alternatives and the relative vulnerability of this ecosystem in comparison with others from which petroleum products could be extracted. The overarching reality is that in global terms, the petroleum industry has identified reserves well in excess of what is safe and rational to pursue. Current science suggests that we can only burn perhaps 20% of the oil that is known to be extractable from the earth; to go further would pitch the planet into extreme climate change. The Precautionary Principle, which is part of Canada's Oceans Act, dictates that our strategic decisions take into consideration such overarching realities that are supported by legitimate science.

Part 4.0

For the CNLOPB to have offered up additional offshore Gulf areas for bids and then accept those bids while at the same time responding to what they recognize as an unprecedented degree of public concern over Old Harry suggests that our system is extremely broken, and the CNLOPB incapable of protecting the public interest.

Part 5.0

How can it be said that the SEA *may include* consideration of VECs in adjacent areas. This is the ocean. Fish swim. Water moves. Of course the panel must consider the entire Gulf. This should be an explicit requirement governing the SEA.

A blowout is possible even with an exploratory well. This hazard, as well as chronic low-level impacts of daily emissions from the platform, must be included in the SEA.

Finally, any SEA worth putting on paper needs to go beyond the particular activities of exploration (which would be an appropriate limit of a project specific EA, provided a proper and up to date SEA was in place). An SEA must consider the wider implications of what the proponents hope exploration will lead to – exploitation. Where else can this crucial public discussion take place in the current Canadian system? Why would one allow corporations to invest in exploration without providing them some assurance of return on investment, i.e. the definite prospect that, all things considered, they might be able to develop operational wells, and definite guidance as to what areas are out of bounds for exploration and development? An SEA, to be strategic and effective, must consider the long range impacts AND alternatives from the perspective of energy policy, sustainability and the public good. The scope for this SEA, as defined, is woefully inadequate. It serves only the interests of the petroleum industry, and does not even do that particularly well. The legacy of similar “SEA”s in the past is that, although vulnerable areas of the Gulf have finally been recognized and mapped, *none have been placed out of bounds for petroleum development*. Again, this is evidence of a very broken system that fails to meet any minimum standard for long range, effective protection of the environment and the public good.

5.1

The administrative boundaries bear no relation to the underlying ecological systems and, being contested by both provinces and the federal government, hardly qualify as rational boundaries even for administrative purposes. This SEA ought to be an intergovernmental consideration of the entire Gulf.

5.2

Missing elements include beaches, viewsapes (not only from land but also from pleasure boats and cruise ships), regional food security and of course climate; historical overviews of the industry’s environmental and safety records inside and beyond Canadian waters;

alternative energy solutions to meet the public policy objective of sustainable energy; a discussion of the data and information gaps evident from the previous commission (1992) dealing with potential drilling in the southern Gulf (Parcel 1, Nova Scotia) and whether any of these gaps have been filled; and cumulative impacts of all relevant sectors (Gulf-wide), including pollutant loading into the Gulf from land-based sources.

5.2.1

Include projected future changes in climatic conditions especially storm frequency and intensity, rising surface water temperatures, mega icebergs from collapsing polar ice fields (note 10 km ice island off Newfoundland in 2011)...

5.2.2

Note that our knowledge of what constitutes a sensitive area is in its infancy and the boundaries of currently mapped sensitive areas are at best, ballpark approximations. Note that it was clear from the Parcel 1 debate in NS that commercially and ecologically important larval and juvenile organisms in the water column, and/or seasonally migrating fishes and marine mammals are present in the water column in every month of the year. There is in fact no good or entirely safe temporal window for potentially polluting industrial activity in the Gulf. This must be acknowledged so that an honest and information-based discussion of acceptable risk can proceed.

With respect to human use, issues of land based tourism, coastal property values and quality of life must be considered because impacts of any accident inside the Gulf may be felt directly or indirectly (through economic impacts of public perceptions of taint etc) in any/all coastal communities of the 5 provinces bordering the Gulf.

5.2.3

As noted above, a truly *strategic* SEA must consider more than project-specific interactions, including impacts of potential future development, extraction and burning of petroleum products; sustainable alternatives; and a discussion of which if any of Canada's untapped petroleum reserves should be pursued at this point in time.

As noted above, non-petroleum activities need to include land based sources of marine pollution and the related ongoing oxygen depletion of inshore waters (because of the slow flushing and circulation patterns); atmospheric depositions; climate changes and the related physical and ecological changes.

5.2.4

Add to the list: implications of loss of winter sea ice, unusually warm summer water temperatures, icebergs from polar ice fields etc.

5.3

Ought to explicitly include the possibility that an SEA may result in a decision to place sensitive areas or the entire Gulf under moratorium for offshore petroleum development.

After all, the Gulf has been acknowledge by DFO (2001) to be more vulnerable than Georges Bank, which is already under moratorium.

5.4

The timing, scope and process for public consultation should be explicit, and subject to public review and adjustment as required, to ensure a transparent, credible and effective process. Criteria for what input will be deemed “appropriate” for inclusion in the final document should also be explicit, and subject to public review and adjustment as necessary.

Additional notes

There is no note of the constitutional duty to consult aboriginal peoples in this document. That must be rectified.