



October 22, 2012

Elizabeth Young  
Canada Newfoundland Offshore Petroleum Board  
5th Floor, TD Place, 140 Water Street,  
St. John's, NL A1C 6H6

Dear Ms. Young:

Re: Western NL Strategic Environmental

Assessment

First let us say, that the CNLOPB's SEA process for Western Newfoundland has thus far, created discouragement due to its lack of public transparency, consistency and accountability. Some Nova Scotians, who live on the Gulf of St. Lawrence, had to travel three and one half hours each way to attend a drop in session in Sydney, Nova Scotia, which is not even located in the Gulf of St. Lawrence.

This is one of many criticisms our Coalition has over this ‘public process’. Other complaints include but are not limited to:

- 1) the lack of opportunity for citizens to voice their concerns on the public record at the open house sessions;
- 2) no chairs to even sit down
- 3) the arbitrary selection of particular groups invited for private meetings. (It is ironic that Save Our Seas and Shores Coalition who represents over fifty groups in five provinces and the Gulf Nova Scotia Herring Federation, who represents over 400 licensed herring fishermen, and who helped generate this updated SEA process over the past two years, were not even invited to these private meetings).

On this basis, we do not consider this process to be democratic or legitimate. We do not feel that our highly sensitive Gulf environment is legitimately protected by your Board. In our opinion, the CNLOPB as a regulator, has broken the public trust and failed in its mandate regarding this SEA process.

This SEA being conducted is in stark contrast to a letter we received from Environment Minister Peter Kent on Sept 26, 2011 which states:

**“Many of the concerns that have been raised in comments received relate to the broader policy issue as to whether there should be oil and gas activities in the Gulf of St. Lawrence and to the potential environmental effects at the regional level of such activities. To address these concerns, I have concluded that the Board needs to update its strategic environmental assessment for the Western Newfoundland and Labrador Offshore area, by conducting thorough public consultation to address the concerns highlighted to date and by better examining the broader environmental effects of oil and gas activities in this area.”**

Because this SEA process has not engaged in ‘thorough public consultation’; nor has it properly examined the broader environmental effects of oil and gas activities in the Gulf of St. Lawrence, we will now attempt to address these broader environmental impacts of oil and gas activities in this area:

To offer a historical context for this submission, you should be aware that Save Our Seas and Shores Coalition was formed over a decade ago, when the Canada Nova Scotia Offshore Petroleum Board irresponsibly issued shoreline leases on both sides of Cape Breton Island and the Cape Breton Highlands National Park.

These types of shoreline leases were similar to the leases now attached to the entire shoreline of stunning, beautiful western Newfoundland and Gros Morne National Park.

We have great concern regarding Old Harry, an oil lease issued by the CNLOPB to Corridor Resources, a junior oil company that has never drilled offshore before. Old Harry is a deepwater exploratory well lease, similar to BP's Macondo well, which created the worst oil spill disaster in US history in the Gulf of Mexico.

Old Harry is located in the Laurentian Channel, which is the main artery in and out of the Gulf of St. Lawrence for over 2,000 marine species that spawn, nurse and migrate year around. The Laurentian Channel is also home to the largest concentration of Krill in the North Atlantic which is a vital component of the food chain for these species.

This highly sensitive marine area is home for herring, lobster, snow crab, mackerel, tuna, ground fish, seals, whales and dolphins, to name a few. Gaspereau, bass, sea trout and salmon etc migrate through our Gulf to and from rivers that flow from NS, NB, PEI, NL and QC. Fragile Atlantic salmon, Atlantic cod and Atlantic wolffish, fin whale, and humpback whale are listed of special concern. Right whale, piping plover, leatherback turtle, harlequin duck and blue whale are endangered.

To put this situation into context, we'd like to give you a brief background of our inshore fishery in the Gulf of St. Lawrence.

Multi-species inshore fishers hold more than one license. This is a licensing conservation measure enabling fishermen to ease up on a stock under pressure. In other words, if the ground fish stock is down, which it has been since the collapse in '93, to ease pressure on the stock in decline, efforts are directed at other fisheries, be it mackerel, herring, lobster, rock crab and so forth.

After the government of Canada announced the 200 mile limit in the early '80's, in their elation of finally claiming Canadian waters, the Department of Fisheries and Oceans(DFO) subsidized the expansion of mid and offshore corporate specialist ground fish fleets. Within the first couple of years after this fleet expansion, inshore multi species fishers who hold ground fish licenses could see there was too much pressure on ground fish stocks and that they were falling into decline. In the mid '80's, inshore fishers warned the federal government that ground fish stocks

were going down and could not handle the pressure of the corporate fleet expansion that DFO had subsidized. But warnings fell on deaf ears.

Instead, as we all know, ground fish stocks were fished to the point of collapse, displacing 36,000 workers, the single largest layoff in Canadian history; clear evidence of what happens when precaution and respect are not extended to marine life and the supporting ecosystem. One would hope that our governments and regulators might have learned a lesson from this preventable tragedy. But it seems not.

In spite of the approximate \$400 million dollars spent by the Canadian government since the ground fish collapse to downsize the mid and offshore fleets in order to create a fishery that could sustain itself, it seems that certain elected officials who can't grow beyond their industrialized mentality, are all too willing to place in jeopardy the Canadian tax payers (\$400,000,000), four hundred million dollar investment in our future, to create a sustainable fishery.

When the ground fishery collapsed, it was difficult to listen to media reports that blamed 'too many fishermen, too few fish'. The truth of the matter was that the ground fishery collapsed because of 'too few fishermen catching too many fish'. The distribution of ground fish quota in the Gulf of St. Lawrence at the time of the collapse was: approx. 10% of fishers had 90% of the quota and 90% of fishers, i.e. the small multi-species inshore boats, had approx. 10% of the quota.

### **Precautionary Principle:**

We mention this because it is important to note that Gulf of St. Lawrence inshore fishers not only suffered economically, they suffered the humiliation of being blamed for a collapse they did not create. Since the ground fish moratorium, inshore fishers have sacrificed quietly. For two decades now, they have been managed by DFO within a precautionary principle - closed fisheries, test fisheries, limited quotas and microscopic scrutiny over mesh sizes, gear types, what they are allowed to fish, where they are allowed to fish, when they are allowed to fish and how they are allowed to fish. In good faith, inshore fishers have worked steadily with DFO under this precautionary approach to attempt to bring back stocks in the Gulf of St. Lawrence.

Gulf of St. Lawrence inshore fishers have a history of being leaders in conservation and, we might add, receive little respect for it. We practice what DFO preaches. Fishing practices for every single species are scrutinized

relentlessly to make sure conservation comes first. Fishers pay for the dockside monitoring and observer coverage of stocks to make sure conservation comes first.

We have done all this out of respect for God-given living renewable resources and because everyone knows that if we protect our fish, we will continue to have a long term multi-species inshore fishery sustaining hundreds of coastal communities and tens of thousands of jobs in the Gulf of St. Lawrence. ***Unless, of course, it is destroyed by others.***

So how do you think fishermen feel after all these years of working with DFO to preserve healthy stocks and rebuild ground fish stocks, only to find out petroleum permits have been approved in vital spawning, nursery and migratory areas?

How do you think Canadians feel when we find out that when it comes to the petrochemical industry, DFO and EC's legislated mandates to protect marine habitat and our environment have been deferred by the signing of Memorandums of Understanding with unelected provincial Offshore Petroleum Boards who are trying to cut up on paper a single body of water into five separate bodies of water? The problem here is, water moves and fish swim through provincial boundaries.

In our opinion, the CNLOPB, a so called independent provincial regulator, is in a conflict of interest by its very structure, as both promoter of development and protector of marine habitat that allows petroleum companies to monitor their own safety and environmental requirements. **How did the protection of marine habitat get placed in the hands of the petroleum industry?** After the Gulf of Mexico disaster, the American government created a separate agency for environmental protection. Will Canada wait until we have a similar disaster before correcting this profound discrepancy?

The regulatory processes for approval of seismic blasting are so slack in this country, they are basically a green light for the petroleum industry regardless of the lack of knowledge of species and the ecosystem.

Where was the public consultation that allowed the Canada Offshore Petroleum Resources Accord Act to take precedence over Canada's Fisheries Act, Oceans Act and Environment Act?

Where are the consultations about the threat of oily waters and shores to the Gulf of St. Lawrence's global food supply, coastal property values, our water frontage,

river frontage and estuaries, our sports fisheries, ecotourism, culture and pristine way of life?

Why are our Gulf sea beds allowed to be leased out to the oil industry by our government prior to public consultation about the potential of such development to radically and irrevocably alter our livelihoods, way of life and culture as Gulf residents?

According to the Minister of Fisheries and Oceans, our east coast fishery exports three billion dollars a year. Does anyone honestly believe that renewable marine resources and their supporting ecosystems that generate \$3 billion dollars annually would need no sensitive areas to be identified and placed out of bounds to petroleum development? The Gulf of St. Lawrence alone, exports (\$1,500,000,000.) 1.5 billion dollars in fish annually.

**Who gave publicly funded bureaucracies the right to compromise their legislated mandates to protect precious marine ecosystems? Without adequate study and public consultation of the impacts of seismic blasting, exploratory drilling and gas flaring on vital species, our governments are betraying the public interest to accommodate the petroleum industry at the taxpayer's expense.**

For over forty years, scientists have called for a moratorium on offshore development in the Gulf of St. Lawrence. In 1973, Dr. Loutfi, of McGill University, assisted by a multi-disciplinary team, prepared a study for Environment Canada. According to Dr. Loutfi, "the Gulf of St. Lawrence is far too valuable to place in harm's way. He called for a ban on petrochemical development in the Gulf describing it as "biologically the most productive Canadian marine region" and stated that large scale pollution in any part of the Gulf would result in the eventual contamination of these important areas because our Gulf is a semi-enclosed inland sea with counter clockwise currents that only empties into the Atlantic once a year.

### **Current Science and Knowledge Gaps in Gulf of St. Lawrence:**

According to DFO scientists, in their DFO Maritime Provinces Regional Habitat Status Report(2001) on the potential impact of oil and gas development in our Gulf, "Since the early '90's an increased proportion of the biomass of many

important groundfish species occurs in the Gulf...average groundfish densities in the GSL are among the highest in Atlantic Canada. The GSL is the main migration pathway between over-wintering grounds outside the Gulf and feeding grounds in the southern Gulf of St. Lawrence for many important commercial fish stocks like herring, mackerel and tuna. Cod, plaice, white hake, witch flounder etc. are all being strictly managed under the precautionary approach.

**In fact, over one million ton of mature marine fish funnel through the Gulf each spring and fall”.**

**Based on this knowledge, common sense dictates that the only hope ground fish stocks have of recovering is if our governments and regulators apply the same precaution to the petroleum industry as they have with inshore fishers for the past 20 years, to protect threatened stocks.**

Within the context of this SEA and the risks of offshore development, we have to ask, if ground fish stocks are not vulnerable and threatened, why was our ground fishery placed under moratorium almost 20 years ago?

DFO scientists state “that there are general knowledge gaps that impact our ability to adequately describe marine ecosystems and thereby make comprehensive assessments of impacts of human activities.”

Let’s go through some of the facts that are known and put them in context of this proposed development:

1) Our Gulf waters are virtually land-locked and covered in ice every winter. The limited back and forth tidal action of the Gulf coupled with high winds, makes it more vulnerable to accidents than the Scotian Shelf or Grand Banks. According to DFO scientists, “any impacts from oil and gas exploration activities will be amplified due to the small, shallow, semi-enclosed nature of the environment and the high biomass and diversity year round.”

2) There are 4,700 licensed herring Captains in our Gulf with a total allowable catch of 100,000 metric ton. We are very concerned about the future of this fishery if Old Harry proceeds. Twenty years since the Exxon Valdez disaster, there is still

no herring fishery where this oil spill happened in Alaska. We don't understand how our government could even consider risking renewable living species and thousands of jobs. **Adult herring spawn and feed in the spring and fall throughout the GSL. It is known that juvenile herring over winter in coastal areas of the GSL and Sydney Bite region near Old Harry. However, little is known about their life requirements outside the commercial fishing season. In fall, the larval period lasts about 4-5 months while spring herring spawn are at extremely fragile levels. For this reason alone, this exploration should not proceed.**

3)The strongest component of the recovering American plaice groundfish stock is in the GSL. According to DFO scientists, survey catch rates of American plaice in the southern Gulf of St. Lawrence are the highest in the Atlantic Zone. **As this stock has been under the precautionary approach for 20 years, for this reason, this exploration and drilling should not proceed.**

4) According to DFO scientists, white hake started moving to the east GSL as the population declined in the early nineties. **Hake migrates into the Gulf in May and June and out in November and December. Spawning occurs between June and September. The distribution of eggs and larvae are unknown. Because this stock is so fragile, this exploration should not proceed.**

5) **Mackerel migrate into the GSL between late May and early July. According to DFO scientists, the GSL is the main spawning area for the northern stock component of mackerel in the western Atlantic.** For this reason, this exploration should not proceed.

6) **The Gulf of St. Lawrence has the largest lobster production in the world.** But there is a lack of scientific documentation on the spawning of many gulf stocks, their juveniles and the food chains for these species. According to DFO scientists,

**“There are no fishery independent surveys for species such as lobster, rock crab and sea scallops. This means that little or no information is available on distributions and movements outside of the commercial fishing period. The production of lobster larvae in the SGSL is among the highest of any region sampled in North America and ... information is lacking on lobster... larval distribution and settlement.”**



Since the production of lobster larvae in the SGSL is among the highest of any region sampled in North America and... information is lacking on lobster... larval distribution and settlement” and lobster movements are unknown outside the commercial season and not enough is scientifically known about the impact of sound or drilling on lobster, doesn't this sound like an enormous risk to take? For this reason alone, this exploration should not proceed.

In fact, DFO scientists state that **every month of the year molting, spawning, egg hatching, larvae, feeding, migration, juveniles, adults, and planktonic stages are happening**. In other words, there is no safe time for exploration and drilling to take place. Period.

Yet in spite of these sensitivities, in October 2010, the CNLOPB allowed seismic to proceed in the Laurentian Channel while endangered blue whale and cod were migrating through the seismic areas, in violation of domestic and international law. This is just one example of what can happen when unqualified provincial boards in conflicts of interest are given the mandate to protect our environment.

**While every single move inshore fishers make is scrutinized relentlessly before fishing communities are allowed near ancestral fishing grounds, where is the same microscopic scrutiny of the potential impacts of petroleum exploration and drilling on every single commercial species and their food chains in the Gulf of St. Lawrence?**

Petroleum companies don't like to talk about juveniles. They acknowledge that seismic kills larvae and eggs; and they admit adults get scared and swim away; but cite studies that say they'll come back afterwards.

But the reality is, there have been no long term studies done on seismic blasting and exploratory drilling anywhere in the world.

In the past 50 years, given the excessive petroleum exploration that has taken place all over the world, (that oil companies assure us is absolutely harmless to fish and proof of long term coexistence), doesn't it seem strange that there have been virtually no long term study done on the effects of seismic and petroleum exploration, proving the oil companies position?

Given the enormous, some would say, obscene wealth of the petroleum industry, you would think they would feel a responsibility to do some long term studies of their impact on our renewable resources. The fact they haven't after all these years,

raises doubt they ever will. WITHOUT SUCH KNOWLEDGE, IT IS IMPOSSIBLE TO UNDERSTAND WHAT REALLY HAPPENS TO FISH, OR TO INVESTIGATE WAYS TO MITIGATE.

### **Mitigation:**

Offshore regulators, the offshore petroleum industry and their industry based consultants say they will mitigate risks. But mitigation can only occur if enough science on each species exists to determine how to mitigate. According to DFO scientists, “there are knowledge gaps that impact our ability to adequately describe our marine ecosystems. With few exceptions, our knowledge of early life stages of marine organisms are poor. Little is known about the habitat requirements of all life stages.”

**How can the CNLOPB approve this exploration under the pretense that petroleum companies will effectively mitigate when they don't have enough knowledge of marine species to determine what needs to be mitigated?**

You cannot mitigate the unknown. This is why the precautionary principle was implemented at the United Nations Convention on Biodiversity in 1992 and why it has been subsequently implemented into Canada's Oceans Act - for situations such as this.

**The precautionary principle clearly states that where there is scientific uncertainty and the threat of harm, a precautionary approach must be applied. The precautionary principle also states that the burden of proof must be shifted away from those advocating protection toward those proposing an action that may be harmful.**

There is an absence of conclusive proof that short and long term effects of seismic blasting and exploratory drilling will be harmless to adult and juvenile fish and their food chains. Therefore, it is ill advised and irresponsible for the CNLOPB, their industry based consultants, oil companies and our governments to come before the Canadian people and tell us, that they can mitigate unknown risk. It is impossible to establish this beyond any reasonable doubt because of the lack of science and knowledge gaps and because of insufficient baseline data on the normal movement patterns and behavior of fish in and around Old Harry, Western Newfoundland and throughout the Gulf of St. Lawrence.

**Yet, the reality of this situation is that DFO has applied a precautionary approach of fisheries management in the Gulf of St. Lawrence for over two decades so vulnerable species can recover. But for the precautionary principle to work effectively, precaution must also apply to the petroleum industry.**

**It is time that the CNLOPB and the government of Canada acknowledge that conservation measures don't start and stop with regulation of the fishery. For this reason alone, this exploration cannot proceed.**

Let's talk about co-existence. In the Gulf of St. Lawrence, we have been co-existing with industrial development for a long time. The Gulf NS Herring Federation, the Gulf NS Fleet Planning Board, Northumberland Fishermen's Assn, New Brunswick, PEI and QC fishermen have consistently fought industrial threats to our ecosystems - pulp mill effluent, pesticides, pollution from the St. Lawrence river, rock quarries, the Tar Ponds, the Irving Whale are but a few examples. The reason our inshore fishery is as healthy as it is, is not a coincidence. For over thirty years, inshore fishers, First Nations and Canadian citizens have fought to protect our marine ecosystems.

From all these battles we have learned that we have more co-existence with polluting industries in the Gulf of St. Lawrence than we want. Our stocks and ecosystems cannot handle any more degradation.

**The question remains, why have Gulf of St. Lawrence fishers sacrificed to conserve and rebuild vulnerable fish stocks if the petroleum industry is allowed to come in and take over our sea beds?** The Georges Bank Review Panel determined that petroleum exploration and development is not worth the risk to corporate fishing grounds 100 miles offshore.

So how can it be worth the risk in the midst of renewable fishery and tourism industries that tens of thousands depend on, along the most beautiful, pristine coastlines in the world in an inland sea considered one of the most precious ecosystems on this earth?

How is this possible in a civilized, democratic nation in the twenty first century where our human and historic rights are supposed be protected?

**Conclusion:**

A decade ago, Deborah Walsh of the Canadian Association of Petroleum Producers(CAPP) testified at our Cape Breton Oil and Gas Public Review that the petroleum industry wants sensitive areas identified and placed out of bounds. Well, actions speak louder than words so let's get on with it.

A moratorium on offshore oil and gas development in the Gulf of St. Lawrence would be a good start. Even with a moratorium in the Gulf of St. Lawrence and Georges Bank, Canada will still have over 80% of its East coast waters open to offshore development.

**Is it too much to ask, that less than 20% of East Coast waters be protected for historic coastal communities and the renewable global food supply they generate in five Canadian provinces? Shouldn't a responsible regulator consider this a reasonable request?**

The Fisheries Resource Conservation Council, in its year 2000 recommendations to the Fisheries Minister, asked for a halt on all petroleum exploration and development in the Gulf of St. Lawrence until proper study has taken place to determine the impacts on fish stocks.

A decade ago, Canada's Standing Committee on Fisheries and Oceans stated in their report on Canada's Oceans Act(October 2001) that "it may be prudent to consider placing this region under an oil and gas moratorium similar to that on the Georges Bank region". The Committee believes that, in the long term, no great harm would result from a moratorium as any oil and gas reserves are only likely to increase in value".

DFO scientists say this is a biologically diverse area where sensitive life stages of marine organisms are present year around.

Because our Gulf is six times smaller than the Gulf of Mexico, the BP Macdonald oil spill disaster could have affected our entire Gulf. Let's not forget, while the offshore oil industry knows how to get oil out of the bottom of our oceans, time and again, they have proven they don't know how to prevent, stop or clean up oil spills, before it is too late.

Remember Tony Hayward on tv two years ago telling the world that BP's efforts to stop the monster spill in the Gulf of Mexico were 'ONE HUGE EXPERIMENT?'

We do not want our Gulf to become an offshore oil and gas experiment, risking the coastlines of half of the provinces in Canada.

**May we remind you that government and ‘regulators’ most vital role is to protect the public interest and common resources of the people, such as our air, water and food, like renewable Gulf fish that have sustained us for centuries.**

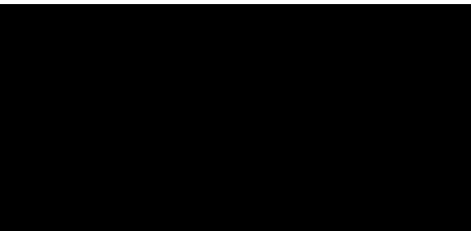
If governments would stop promoting industry at the expense of the vital resources we need as humans to inhabit this earth, our children’s future might be brighter.

As things stand now, the Gulf NS Herring Federation, Save Our Seas and Shores Coalition, Coalition de St. Laurent, the David Suzuki Foundation, the Mi’gmawei Mawiomí Secretariat, the Assembly of First Nations QC and Labrador and the Assembly of First Nations nationally and the CSN (Confederation des syndicats nationaux), one of Quebec’s largest trade unions with over 300,000 members, are among dozens of groups calling for a moratorium in the Gulf of St. Lawrence, not only for ourselves, but for future generations.

We hope the CNLOPB will uphold its legislated environmental responsibility to protect the Gulf of St. Lawrence’s highly sensitive marine waters from offshore oil and gas development.

Respectfully submitted,

Mary J. Gorman  
Save Our Seas and Shores Coalition



Greg Egilsson  
President  
Gulf NS Herring Federation



cc: Prime Minister Stephen Harper

The Hon. Peter Kent, Minister of the Environment  
The Hon. Keith Ashfield, Minister of Fisheries and Oceans  
The Hon. Joe Oliver, Minister of Natural Resources  
The Hon. Peter MacKay, Minister of National Defence  
Thomas Mulcair, MP, Leader of the Official Opposition  
Bob Rae, MP, Leader of the Liberal Party of Canada  
Elizabeth May, MP, Leader of the Green Party of Canada  
Premier Pauline Marois  
Premier Darrell Dexter  
Premier David Alward  
Premier Kathy Dunderdale  
Premier Robert Ghiz