

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

October 17, 2012

Dear Ms. Young,

I write to provide comments on the Strategic Environmental Assessment (SEA) process for the Western Newfoundland and Labrador (NL) Offshore Area. These comments stem from my research which is focused on environmental policy and politics surrounding oil and gas developments in Canada, particularly NL, Alberta, and Saskatchewan. I also have a personal connection and commitment to NL and to the western region specifically: I was born in Corner Brook and until recently I taught at Grenfell Campus, Memorial University, for several years.

In this letter, I focus on problems with the SEA public consultations as well as the important gaps in public information that must be addressed to make an informed, cautious decision on oil and gas development in this region.

I base many of my comments on the Board's stated aims of the SEA as noted in its February 21, 2012, "Strategic Environmental Assessment Update Western Newfoundland and Labrador Offshore Area Scoping Document":

Strategic environmental assessment is defined as "the *systematic* and *comprehensive* process of evaluating the environmental effects of a policy plan or program, and its alternatives" (Government of Canada Cabinet Directive, 1999). SEA incorporates a *broad-based* approach to environmental assessment (EA) that examines the environmental effects which may be associated with a plan, program or policy proposal and that allows for the incorporation of environmental considerations *at the earliest stages of program planning* (p. 3, emphasis added).

Further, the Board indicated in this scoping document that public consultations were integral to the SEA process, particularly in identifying valued ecosystem components (p. 6). In the final section, the Board committed to widespread consultation and stated, "people will be encouraged to discuss issues and concerns that are relevant to the SEA Update Area and SEA Update objectives" (p. 12).

### **Flawed Public Consultation**

The Board did not meet its standards for public consultation, nor did it meet widely accepted

standards for public consultations, for several reasons.

First, the public was provided with too short a timeframe to adequately prepare for the meetings. The Board's timing of meetings runs counter to its stated aim of working with the public to identify valued ecosystem components and encouraging discussion and the sharing of public concerns.

The notice of consultations was posted on September 21 for meetings that started on the 30. This is inappropriate given the complexity of the issue and extent of documentation to review. I also note that concerned people in other provinces in the Gulf of St. Lawrence were given much more notice than Newfoundlanders and Labradorians—at least nine additional days as consultations in other provinces began on October 9.

Further, the format of the public meetings (“open houses”), did not meet widely accepted standards for effective, authentic, meaningful public consultation. There is a rich body of literature on environmental assessments (EAs), SEAs, and the critical role of public consultations within them. See, for example, Hanna's 2009 *Environmental Impact Assessment: Practice and Participation* and Gibson et al.'s 2005 *Sustainability Assessment: Criteria and Processes*. This work emphasizes the need for transparency (plenty of information shared from government bodies and proponents to potentially impacted people), for regulatory bodies to listen to the concerns and aspirations of potentially impacted people, and for governments to ensure decisions are meaningfully informed by public comments (as opposed to treating consultations as merely procedural requirements that do not impact final decisions).

The recent SEA public consultations fell far short of these basic standards and this has frustrated local people and raised suspicion about the process. Many concerned citizens in Newfoundland have written to me to express great disappointment that there was no public presentation from the CNLOPB on the SEA process or on the potential risks and benefits of oil development in the western offshore region. They were frustrated that they were not given the chance at the meetings to stand up and “go on record” to publicly and formally express concerns and ask questions. They felt their questions had not been adequately answered or noted at the information stations. Many people also indicated to me that the SEA process felt like a “done deal” rather than a genuine process for deciding, as engaged communities, on the future uses of this ecosystem—they felt that oil development was going to happen regardless of the input they provided.

This impression is understandable given the contrast between the Board's recent regulatory activities in the western offshore and its stated aim (as noted above) to use the SEA to permit the “incorporation of environmental considerations *at the earliest stages of program planning*” (emphasis added). Given the purpose of the SEA, the public expected the assessment would be completed prior to new groundwork being laid for oil development. Yet while the SEA was ongoing, the Board continued advancing oil development in this region, for example, by issuing a call for new nominations in late August in the western Newfoundland offshore area. This runs counter to the spirit of the SEA.

I note that on October 5 the CNLOPB announced adjustments to the public consultations in response

to stakeholder criticisms. While correcting the process is laudable, the new process will not apply to the areas where consultation has already occurred, meaning Newfoundlanders and Labradorians will have had only the flawed process. This is justifiably perceived as unfair.

Given these serious problems with the public process to date, I recommend the Board reconsider its SEA process using the available knowledge on standards for fair and effective public consultation. I then recommend the Board redo the consultations based on these standards, starting from the initial Newfoundland meeting sites. Unless corrected and restarted, the process lacks public credibility and legitimacy.

### **Gaps in Knowledge Impeding Systematic and Comprehensive Evaluation**

Beyond the important SEA public consultation concerns, there are also critical gaps in public information that need to be addressed in the forthcoming draft SEA Update Report. Thoughtful evaluation of, and eventually decision-making on, oil and gas development in this region is not possible without this public information. I outline several key gaps below.

1) The Board must provide the public with a very clear, science-based analysis of the impact oil and gas development could have on other major sectors in this region, most notably fishing and tourism, with reference to relevant comparable cases.

For example, the Department of Fisheries and Oceans (DFO) has noted that the recent blowout in the Gulf of Mexico—which resulted in enormous financial and employment losses in the fisheries and tourism industries—is a case of relevance to assessing the viability of oil development in western Newfoundland. In its review of oil spill modeling provided in the Old Harry exploratory drilling EA, DFO criticized Corridor Resources’ submission for ignoring lessons learned from that recent oil industry accident:

Notably, the document did not take the expertise gained from the oil spill in the Gulf of Mexico into consideration for the Gulf of St. Lawrence which shares a good deal of similarities. [...] In short, the nature of the crude and the physical setting of both areas, a semi-enclosed sea, make it appropriate to use the expertise gained in the Gulf of Mexico to project the potential risks in the Gulf of St. Lawrence. As such, *it is recommended to project the potential risks in the Gulf of St. Lawrence using the results of the oil spill in the Gulf of Mexico* (emphasis added, DFO Review – Corridor Resources Inc. Environmental Assessment of the Old Harry Prospect Exploration Drilling Program, [www.cnlopb.nl.ca/pdfs/corridorresinc/dfocomments.pdf](http://www.cnlopb.nl.ca/pdfs/corridorresinc/dfocomments.pdf)).

To be honest with and fair to citizens who would have to deal with the repercussions of a decision to commence oil development in offshore western Newfoundland, the CNLOPB must provide realistic scenarios, based on relevant cases, of the impact of both routine discharges and accidents.

2) The Board also needs to be transparent about the arrangements for compensation for economic loss as well as negative health and community impacts resulting from both routine operations and accidents associated with offshore oil and gas.

Clear answers are needed to the following questions. Would there be a cap on corporate liability? And if so, how would communities be compensated for costs beyond that ceiling? Further, what would be the timeframe for this compensation? Protracted legal battles, sometimes lasting decades, have ensued before compensation was awarded to communities after major oil accidents in other jurisdictions. Coastal communities in the Gulf of St. Lawrence need to be aware of the financial and legal circumstances they would face in similar circumstances.

3) The Board needs to ensure the quality and reliability of scientific knowledge gathered in this SEA process on the impacts of oil and gas exploration (including seismic), routine operations, and accidents.

Public concerns about relying on industry-funded research are legitimate. One recent example of the difference between corporate and government science is the important discrepancy in oil spill trajectory modeling conducted by consultants contracted by Corridor Resources as part of the EA on the Old Harry Prospect Exploration Well proposal and the findings of Environment Canada scientists. The proponent's scientists estimated a limited duration and coverage of oil slicks and indicated that oil spills would not reach land. Yet in reviewing this work, Environment Canada scientists found these predictions to be inaccurate underestimations and instead noted that "under most environmental and spill conditions" oil is "persistent for many days and will, in fact, frequently hit Newfoundland, Cape Breton and possibly the Magdalen Islands" (Environment Canada's Comments on the Old Harry EA Report (Oil Spill Modeling), p. 9).

How will the Board assure the public that similar underestimations and errors will not be repeated in the assessment of impacts and mitigation measures required by the SEA Scoping Document? What safeguards are in place to ensure the scientific analysis in the draft and final SEA Update will be sound?

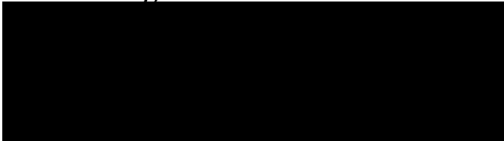
4) Finally, more clarity is needed on how the outcome of this SEA process will impact future assessments of developments off western Newfoundland given recent dramatic changes to the *Canadian Environmental Assessment Act*.

Should oil and gas development be deemed appropriate in the Gulf, will all future seismic and exploratory work and production proposals be exempt from EAs? And, therefore, is this the last opportunity for citizens in the Gulf of St. Lawrence to be consulted and to participate in future decisions on oil and gas development? Local communities need to be properly informed about the future assessment intentions of the Board given the Government of Canada's withdrawal from assessment.

Global and historical case studies on the impacts of oil and gas development have shown that oil development off western Newfoundland would pose serious risks to the environment, human health, and long-term socio-economic viability of communities around the Gulf of St. Lawrence. Only a handful of jurisdictions have been able to manage the risks of oil effectively. Norway is a common example but NL is not Norway. Norway developed its industry through far more transparent public debate than we have seen in NL, with stronger and more independent regulatory bodies, with stringent environmental laws and regulations, with greater emergency response capacity, with a far more distributive state with more extensive public support systems, and with careful fiscal protections to save, share, and productively reinvest oil revenue for long-term sustainability. Yet even Norway still struggles with the difficult environmental, social, and economic implications of oil development. Successfully managing the impacts of oil development requires many policy safeguards that have not yet been developed in Canada or in NL. We are not yet prepared to cope with the numerous risks of an oil industry in the Gulf of St. Lawrence.

Given this, rather than emphasize oil and gas development, the SEA could instead serve as an opportunity to have a much broader, forward-thinking debate on creating long term socio-economic stability through developing a new energy economy—one that promotes sustainable, renewable energy to support environmentally viable economic sectors and communities. The path of deepening oil dependence is no longer viable given its multiple local risks and global climate change implications. Rather than focus on oil, the SEA should instead prompt a more productive, future-oriented public discussion on sustainable development alternatives.

Sincerely,



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cc. Mr. Bonnell and AMEC SEA Study Team