

**WESTERN NEWFOUNDLAND AND LABRADOR OFFSHORE AREA
Strategic Environmental Assessment (SEA) Update**

Draft report

**Brief submitted to the
Canada-Newfoundland and Labrador
Offshore Petroleum Board**



By

**Agence Mamu Innu Kaikusseht
283-A Des Montagnais Boulevard
Sept-Îles, Quebec G4R 5R1**

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ORGANIZATION OVERVIEW

Agence Mamu Innu Kaikusseht (AMIK) is a non-profit Aboriginal organization based in Sept-Îles, Quebec, on the North Shore of the St. Lawrence River. Founded in 2006 as part of Fisheries and Oceans Canada's Aboriginal Aquatic Resource and Oceans Management (AAROM) program, AMIK represents approximately 11,000 people living in seven Innu communities along the St. Lawrence: Ekuanitshit, Essipit, Innu TakuaiKAN Uashat mak Mani-Utenam, Nutashkuan, Pakua Shipu, Pessamit and Unamen Shipu. AMIK's key areas of activity are marine fisheries and marine environment conservation. AMIK represents its members within these areas of activity.

AMIK's primary mission is to take on a liaison, communication, consultative, advisory and information role with its members. The key objective of AMIK's activities is to support, promote and defend the interests of Innu communities. Therefore, AMIK acts as a centralized resource, while respecting the autonomy of its members. To this end, the recommendations and feedback in this brief can in no way be used to replace those of band councils or the Innu communities themselves. In addition, they cannot be considered an adequate consultation of the member communities or in any way restrict the exercise of their rights.



Map showing the location of the seven AMIK member communities
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INTERNATION COOPERATION

This document has been analyzed and prepared in cooperation with the Gespe'gewaq Mi'gmaq Resource Council (GMRC) and the Mi'kmaq Maliseet Aboriginal Fisheries Management Association (MMAFMA), two non-profit Aboriginal organizations created within the framework of the AAROM program. The GMRC represents the Mi'kmaq communities of Listuguj, Quebec, and Pabineau and Eel River Bar, New Brunswick. The MMAFMA represents Quebec's Mi'kmaq First Nations communities of Gesgapegiag and Gespeg, as well as the Maliseet First Nation of Viger.

AMIK, the MMAFMA and the GMRC worked together on this file to highlight the major concerns shared by their member communities. Oil and gas exploration and development in the Gulf of St. Lawrence could have a cross-border impact that would affect the traditional and commercial activities of all our nations. Our cooperation in this file is a testament to the seriousness of this potential impact and the importance of the Gulf to the preservation of our communities' culture and way of life.

FEEDBACK

The following sections address various aspects of the consultation and the draft report. The page numbers cited in parentheses refer to the draft report on the SEA update, as published on the Web site of the Canada-Newfoundland and Labrador Offshore Petroleum Board (the Board).

CONSULTATION PROCESS

AMIK would first like to congratulate the Board for taking the initiative to include consultations with other bordering provinces in its process, thereby highlighting the cross-border nature of the Gulf of St. Lawrence waters and the impact related to the oil and gas activities that could be developed there. However, AMIK would like to emphasize that this consultation had some major deficiencies, particularly with regard to Aboriginal communities.

For example, the consultation report, presented in Appendix A of the AMEC report, states that a letter was sent to Innu community band councils on September 26, 2012. The first consultation session on the North Shore was held in Lourdes-de-Blanc-Sablon on October 4, 2012. Such short notice of the consultations certainly did not facilitate the participation of Innu communities, a number of which are remote or isolated and without road access. In addition, no telephone or e-mail follow-up seems to have been carried out with Innu communities to ensure their participation, although they have separate rights from other Canadian citizens and are not mere stakeholders. Ekuanitshit was the only community met with, on its request. AMIK would also like to emphasize that it was not notified that this consultation would be held, although the Board was made aware of it by a representative of Fisheries and Oceans Canada (p. 390).

AMIK also notes that no advertisements or announcements were placed in Aboriginal newspapers or through various Aboriginal radio stations, which each community does have and which are media of choice to share information.

With regard to the session held in Havre-St-Pierre on October 25, 2012, which AMIK attended, it is important to note that the staff present to represent AMEC and the Board primarily spoke only English. Only one of these individuals, Jacques Partner, also spoke French, but not well enough to grasp the nuances of the questions he was asked. Finally, no Innu interpreter was available on site.

In our opinion, it would have been essential for the Board to travel to Innu communities in order to hold true consultations, all the more so because these communities are among those that are likely to be the most affected by the activities that may be carried out in the study area, owing to the nature of their traditional activities. The Supreme Court of Canada recognized this obligation to consult with First Nations in *Haïda, Taku River* and *Mikisew Cree First Nation*.

IMPORTANCE OF FISHING AND MIGRATORY BIRD HUNTING TO THE COMMUNITIES

The SEA report does not properly take into consideration the communities' subsistence and commercial fishing activities; this is a deficiency owing to the lack of consultation with the communities, among other things.

Innu communities have many commercial fishing licenses in or near the study area. Species that can be fished in the study area include (Fisheries and Oceans Canada areas are indicated in parentheses):

- ... snow crab (area 12B)
- ... northern shrimp (area 9)
- ... herring (area 15)
- ... American lobster (area 17B)
- ... mackerel (areas 13, 14 and 15)
- ... groundfish (areas 4RST)

In addition, a number of commercial fishing licenses give access to waters bordering the study area. Species that can be fished there include:

- ... whelk (area 8)
- ... snow crab (area 15)
- ... American lobster (areas 15 and 16)
- ... Arctic surfclam (areas 4B and 4C)
- ... mackerel (areas area 16)
- ... Icelandic scallop (areas 15 and 18D)
- ... grey and harp seals

Members of the communities also fish for herring, American lobster, Icelandic scallop and various groundfish in the study area for food. The table in Appendix 1 presents an overview of the fishing activities of member communities. In terms of migratory birds, a number of species hunted by the communities pass through the study area: scoters (black, brown and surf), common eider, long-tailed duck, etc.

Commercial fishing provides valuable direct and indirect employment for hundreds of Innu community members. In addition, fishing revenues represent considerable financial gain for Innu communities, to the extent that most licenses are held by communities and not individuals. Subsistence fishing is a traditional activity that is essential to preserving the Innu way of life, in terms of both food and culture. Hunting and fishing provide income and food for many people in the communities, in addition to enabling the continuity of cultural activities and the preservation of traditional Aboriginal knowledge.

It should be noted that Innu community members hunt and fish year-round. Therefore, there is no time of year that could be deemed non-sensitive. In addition, the report explains that the Gulf is a region characterized by a profile of fishing activities that are complex in space and in time, and that it is hard to generalize in terms of what times or places should be avoided (p. 471). In light of this finding, it is difficult to picture how offshore oil and gas development could be compatible with the Aboriginal communities' hunting and fishing activities.

Moreover, again in terms of economics, community activities involving the Gulf of St. Lawrence are not limited to fishing. The communities have also developed related activities: processing plants, retail fish markets, food services and distribution networks for exporting marine products. Some communities have also developed marine observation activities, such as whale watching cruises, and use them as an awareness-raising tool. All of these activities are central to the economic development of the Innu communities and provide essential jobs, both in the communities and with their partners. Therefore, the negative effects of oil and gas exploration and development would be felt not only in terms of fishing activities, but also across the entire value chain.

IMPACT OF A SPILL

A spill would be difficult to contain in a semi-enclosed, very active environment such as the Gulf of St. Lawrence, especially since its weather conditions are often adverse (waves, fog, ice, etc.) (pp. 121-140, 429). In addition, Canada's Commissioner of Sustainable Development assessed that the capacity of most Canadian provinces to take action in the event of a spill was too limited to respond to a catastrophe. Moreover, Canadian legislation limits the financial responsibility of businesses in the event of spills, meaning that communities could lose access to resources without real compensation.

The report also shows that over half of the major spills occurred in industrialized countries, some of which have much stricter standards than Canada (Table 3.4). It reveals that practices have not really improved over time and that spills are still due to human error, which, even if the best practices were to be implemented, could not be prevented (p. 63). In addition, the report emphasizes that there is still a long way to go in terms of demonstrating the effectiveness of applying mitigation measures (pp. 429-430).

In contrast to the facilities on the East Shore of Newfoundland or in the North Sea, the facilities in the Gulf would be installed in a semi-enclosed environment, which, for all intents and purposes, would be isolated from the North Atlantic. This increases the risk of a spill—a catastrophe that could endanger the Gulf's ecosystems and the hunting and fishing activities that rely on them.

Fishing and migratory bird hunting are essential activities for Aboriginal communities, for both cultural and socio-economic reasons. The risks associated with offshore oil and gas exploration and development are incompatible with these activities, which are recognized as rights under the Canadian constitution. Moreover, the exercise of these rights relies on the productivity of the various habitats and species and, therefore, the quality of the marine and aquatic environments.

BIOLOGICAL IMPORTANCE OF THE GULF

Fisheries and Oceans Canada has identified most of the study area as an Ecologically and Biologically Significant Area (EBSA), owing to the presence of many endangered species, refuges for capelin and almost all of the northern Gulf herring population, spawning areas for cod and rockfish, and many species of migratory birds (pp. 143-145, 204-205, 220-223, 231). Most of these species are hunted or fished by Aboriginal communities for commercial, food and/or ritual purposes.

The entire area and all seasons are important to the species (p. 427), so we have had to remove some sectoral information presented in the AMEC report, as we do not have access to a synthesis map. Therefore, there is no time of year or area in which the impact of the exploration or development activities would be low enough to be compatible with the conservation of the species and their habitat.

LACK OF KNOWLEDGE AND COMPLEXITY OF THE ENVIRONMENT

The report also stresses the lack of knowledge regarding large portions of the Gulf, including benthic areas and portions of the coastline. Even less is known about a number of migratory species, including Atlantic salmon, zooplankton, wolffish and the young stages of a number of species fished by the communities (pp. 146, 191-192, 429-430). The report also explains that the Gulf is a region characterized by a profile of fishing activities that are complex in space and in time, and that it is hard to generalize in terms of what times or places should be avoided (p. 471).

On this topic, AMIK would like to emphasize the importance of Atlantic salmon to Aboriginal communities. This emblematic species has been intimately linked to Innu culture and traditions for thousands of years. Not only does salmon provide all coastal communities with jobs and food, but it is also a strong part of their identity. To the extent that a portion of the salmon fished by the communities may transit through the study area, the communities are particularly concerned about the potential impact of the proposed activities involving this species.

CUMULATIVE IMPACT

The report states that the Gulf is already a hub of intense activity: marine traffic, fishing, tourism, etc. Issues related to these activities include underwater noise, overfishing, habitat destruction, changes in the food chain, reduced dissolved oxygen and chemical and light pollution. These activities have reduced the Gulf's buffering capacity with regard to stressors (p. 428). In other words, the Gulf's ecosystem is already very affected by the activities taking place there, as well as by climate change. It is hard to predict what kind of devastating impact adding oil and gas activities to this semi-enclosed environment could have.

RECOMMENDATIONS

GIVEN the key findings of the preliminary report on the Western Newfoundland Offshore Area Strategic Environmental Assessment:

- ... Biological importance and sensitivity of the Gulf's ecosystems
- ... Extreme importance of fishing and tourism to Aboriginal communities
- ... Deficiencies in terms of biological knowledge and the impact of oil and gas activities
- ... Uncertainties about the effectiveness of the proposed mitigation measures
- ... Real and tremendous impact of any spills on ecosystems and the way of life of coastal populations
- ... Very low social acceptability in all five provinces bordering the Gulf

GIVEN the low capacity to take action in the Gulf in the event of a spill, as shown in the latest report by Canada's Commissioner of the Environment and Sustainable Development;

GIVEN the limited liability of companies in the Gulf, which is still set at \$30 million, making it unlikely that Aboriginal communities will be compensated in the event of a spill;

GIVEN the major negative impact that could affect the exercise of the rights of Aboriginal communities;

GIVEN that the consultations on which the draft update report is based did not really take into consideration the issues and rights of Aboriginal communities;

Agence Mamu Innu Kaikusseht recommends that the Canada-Newfoundland and Labrador Offshore Petroleum Board:

- ... Discontinue the issuance of new exploration permits in the Newfoundland offshore area without holding real consultations with Aboriginal communities and obtaining their approval;
- ... Withdraw the invitation to tender sent out on May 16, 2013, for four parcels of lands in the Newfoundland offshore area, as the communities were not adequately consulted and as they did not issue favourable opinions on the matter;
- ... Not authorize projects currently under way in the Gulf, whether by Corridor Resources (Old Harry) or Shoal Point Energy (west coast of Newfoundland), without consulting with Aboriginal communities to their satisfaction and without those communities issuing favourable opinions on those projects, for example, through agreements ensuring the protection of their rights.

**APPENDIX I SUMMARY OF FISHING ACTIVITIES OF INNU
COMMUNITIES ON THE NORTH SHORE**

Table 1 Overview of fishing activities of Innu communities

Community/Organization	Commercial fishing	Areas	Subsistence fishing
Agence Mamu Innu Kaikusseht	Common whelk	13	-
	Snow crab	16	-
	Herring	16A	-
	Groundfish	4RST	-
	Baitfish	16	-
Ekuanitshit and Pakua Shipi (Shipek fisheries)	Common whelk	4-5-6	Halibut
	Sea cucumber	16	Atlantic cod
	Snow crab	16	Atlantic salmon
	Herring	15	-
	Lobster	15-16	-
	Scallop	16E-16F-18A	-
	Baitfish	15	-
Essipit	Snow crab	17	Common whelk
	Sea urchin	9.1	Capelin
	Groundfish	4RST	Herring
	Baitfish	6	Ocean pout
	-	-	Atlantic cod
	-	-	Soft-shell clam
	-	-	Harp seals
	-	-	Atlantic salmon
Innu Takuaikan Uashat mak Mani-Utenam	Whelk	4	Common whelk
	Rock crab	16B	Sculpin sp.
	Snow crab	16	Atlantic halibut
	Northern shrimp	9-10-12	Greenland halibut
	Herring	15-16B	Herring

Community/Organization	Commercial fishing	Areas	Subsistence fishing
	Lobster	17B-18D	Lobster
	Arctic surfclam	2-3A-3B-4A	Lumpfish
	Mackerel	13-14-15-16	Mackerel
	Scallop	16G	Atlantic cod
	Groundfish (cod)	4RST	Blue mussel
	Groundfish (halibut)	4RST	Soft-shell clam
	Baitfish	15	Seal sp.
	-	-	Flounder sp.
	-	-	Atlantic salmon
Nutashkuan	Snow crab	15-16	Capelin
	Herring	15	Atlantic salmon
	Lobster	18H	-
	Arctic surfclam	4B	-
	Mackerel	13-14-15-16	-
	Scallop	16G	-
	Grey and harp seals	5-35	-
	Baitfish	15	-
	Groundfish	4RST	-
Pessamit	Common whelk	1	Soft-shell clam
	Snow crab	17	Atlantic salmon
	Herring	16A	-
	Arctic surfclam	1B	-
	Mackerel	16	-
	Soft-shell clam		-
	Sea urchin	9.1	-
	Baitfish	15	-
	Groundfish	4RST	-

Community/Organization	Commercial fishing	Areas	Subsistence fishing
Unamen Shipu	Common whelk	8	Capelin
	Snow crab	12B	Smelt
	Herring	15	Herring
	Lobster	16-17B	Lobster
	Arctic surfclam	4B-4C	Atlantic cod
	Scallop	15-18D	Soft-shell clam
	Baitfish	15	Landlocked salmon
	-	-	Scallop
	-	-	Atlantic salmon