



**Comments to the Western Newfoundland & Labrador Offshore  
Area Strategic Environmental Assessment (SEA) Update Report**

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Submitted to the Canada–Newfoundland and Labrador  
Offshore Petroleum Board (C-NLOPB)

**Gespe'gewaq Mi'gmaq Resource Council**

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## 1.0 Introduction

In response to the “Draft Western Newfoundland and Labrador Offshore Area Strategic Environmental Assessment Update Report” by the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB), the Gespe'gewaq Mi'gmaq Resource Council (GMRC), on behalf of its three (3) member communities, would like to express its concern on the exploration and exploitation of hydrocarbons in both the Western Newfoundland and Labrador (NL) Offshore Area and in the entire Gulf of St. Lawrence.

In collaboration with the agencies of Agence Mamu Innu Kaikusseht (AMIK) and the L'Association de gestion halieutique autochtone Mi'kmaq et Malécite (AGHAMM), this paper aims at highlighting the impacts and concerns of the Mi'gmaq represented by the GMRC.

## 2.0 Background

### 2.1 Gespe'gewaq Mi'gmaq Resource Council

The GMRC is a non-profit organization that works on behalf of the three Mi'gmaq communities of Listuguj (QC), Eel River Bar (NB), and Pabineau (NB) to promote sustainable natural resource and oceans management within the traditional territory of Gespe'gewa'gi, Mi'gma'gi; the seventh and largest district in the Mi'gmaq Nation.

The GMRC was founded in 2006 under funding provided by Fisheries and Oceans Canada's (DFO) Aboriginal Aquatic Resource and Oceans Management Program (AAROM), and is mandated to be the aquatic resource and oceans management body of their member communities. Our board of directors is made up of the three (3) Chiefs of each of the GMRC member communities.

For years, the GMRC has work closely with our community members and other related stakeholder groups to help the recovery of species important to the Mi'gmaq nation.

### **Atlantic Salmon**

The GMRC has work closely with the salmon in numerous monitoring, education, and restocking projects. The GMRC is currently involved in a seven (7) year restocking project on the Little River, NB. The GMRC also works tirelessly with our member communities in the collection and preservation of Mi'gmaq Ecological

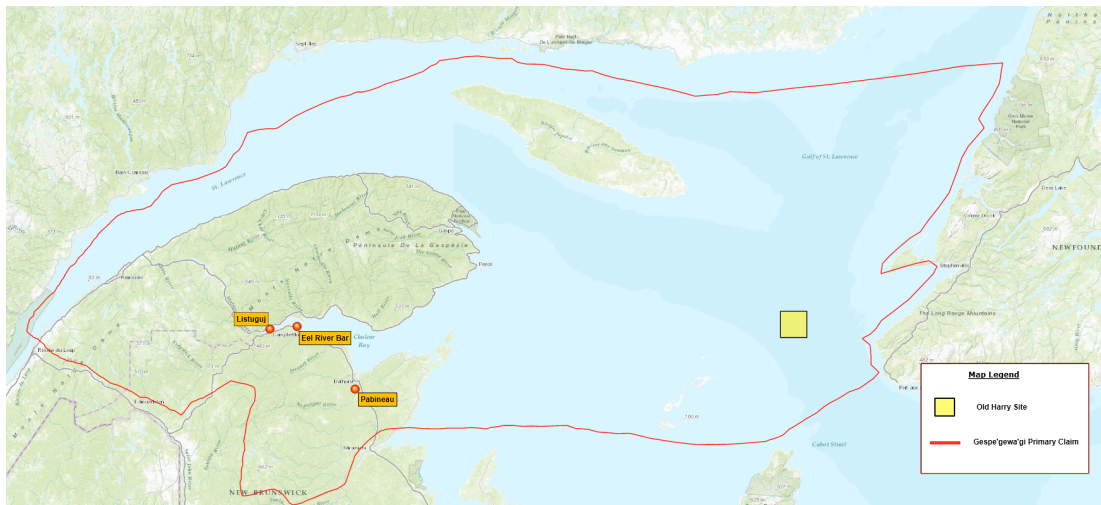
Knowledge (MEK) on the species. Additionally, the GMRC is a stakeholder at the Charlo Salmonid Enhancement Centre (CSEC), which has been stocking New Brunswick Rivers for over 70 years with Atlantic salmon and Brook trout.

### American Eel

The GMRC has monitored the migrations of juvenile eel since 2008 in various rivers in Gespe'gewa'gi. Our work aims at also determining the impacts of a local hydroelectric dam on the migrations of adult and juvenile eel. Our eel work also aims at educating our represented community members on the importance of the species, and collecting and preserving MEK.

### American Lobster

Since 2008, the GMRC has partnered with the Maritime Fisherman's Union (MFU) in seeding the Bay of Chaleur with juvenile lobster, in hopes that the stocks will recover. To date, a total of 80,000 lobsters have been seeded into the Bay of Chaleur.



**Figure 1: Claim Map of Gespe'gewa'gi with GMRC member communities and Old Harry Site**

### Disclaimer

Primary Claim area (Figure 1) described in this report and the above map, which the Mi'gmaq of the Mi'gmawei Mawiomi assert Aboriginal Title, based on the research completed as of June 2005, is to be without prejudice to the rights of the Mi'gmaq to assert further or other claims at any time. This map does not describe the various other areas over which the Mi'gmaq have Aboriginal and/or Treaty Rights.

### 3.0 Importance of the Gulf

The Department of Fisheries and Oceans describes the Gulf of St. Lawrence as having a distinct ecosystem, characterized by partial isolation from the North Atlantic Ocean, and high biological productivity and diversity. It is also a significant ecosystem to many Aboriginal people's culture and identity.

The 7<sup>th</sup> largest district to the Mi'gmaq nation, Gespe'gewa'gi, extends across the lands of northern and central New Brunswick, the Gaspé Peninsula, and parts of mainland Québec, as well as majority of the Gulf of St. Lawrence, including the Western Newfoundland and Labrador (NL) Offshore Area (Figure 1).

The Mi'gmaq of Gespe'gewa'gi, have relied on our territory resources, both on land and water, to sustain our Mi'gmaq way of life. The Gulf contains numerous aquatic species and shoreline plant species for food, social, ceremonial, and medicinal purposes. Additionally, the Gulf has provided culturally and economically to the Mi'gmaq nation.

The Mi'gmaq have a relationship with numerous fish species that have lasted for thousands of years. Today, the First Nation communities of Listuguj, Pabineau, and Eel River Bar, which comprise GMRC, assert that they have a right and responsibility to protect, promote, and encourage sustainable fisheries, not only for today but for future generations.

We are concerned by the fact that the boundaries of the Western NL Offshore Area were chosen based on historical activity in the area as well as with consideration of relevant administrative boundaries and not on an environmental basis.

#### 3.1 Biological Importance

The Gulf is the ecosystem for numerous species at different stages of their life. The GMRC has identified a few Gulf species, but certainly not all, that are significant to the Mi'gmaq.

##### **Atlantic Salmon**

The Atlantic salmon is an anadromous fish species that is found in the Gulf of St. Lawrence at different times throughout the year. The species can be found a vast number of rivers in Gespe'gewa'gi, and in Gulf of St. Lawrence estuary.

Since 2003, the Atlantic Salmon Federation (ASF) has been sonically tracking salmon smolts from Gulf of St Lawrence Rivers. The ASF also has been sonically tracking salmon kelts from Miramichi since 2008 and with Pop-up satellite archival tags (PSAT) since 2012. Their tracking research has shown that the Gulf of St Lawrence is the migration corridor for smolts as they travel towards Labrador Sea and Greenland. Smolts from all rivers school together in the Gulf and exit the Gulf via

the Strait of Belle Isle during July. In addition, kelt utilize both the Strait of Belle Isle and Cabot Strait as they travel to and from Labrador Sea and Greenland. Kelt also spend a great deal of time in the Gulf of St Lawrence, particularly between Anticosti Island and Northumberland Strait.

Currently, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) lists the Gaspé-Southern Gulf of St. Lawrence Atlantic salmon population as Special concern. Due to alien invasive and illegally introduced species, such as smallmouth bass, threat some freshwater habitats. Also, this species is reported to have poor marine survival due to changes in marine ecosystems, which are not completely understood.

### **American Eel**

The American Eel is a catadromous fish found in the Gulf of St. Lawrence and its connecting rivers at different times in its life. The larvae (leptocephali) of the eel are dispersed by surface currents of the Gulf Stream to western shores of the Atlantic Ocean. As the larvae reach the Gulf of St. Lawrence estuary, that have metamorphed into “glass eels”. Once they reach the freshwater rivers in Gespe’gewa’gi, they are known as elvers.

American Eel are listed as Threatened by COSEWIC. Climate change may be causing a deviation of the Gulf Stream system to the north, which could interfere with larval transport to coastal areas. Dams and other barriers result in habitat loss and fragmentation and contribute to the reduction of the species in freshwater systems.

### **Striped Bass**

Striped bass are another anadromous fish found in the Gulf. The Southern Gulf of St. Lawrence population has only one known freshwater spawning area, which is in the Miramichi River. Due to the significance of this one know spawning location to this population, this population has been designated as Special Concern by COSEWIC.

Due to DFO conservation measures, the Mi’gmaq from our three (3) member communities could not harvest the Southern Gulf of St. Lawrence population from 2000 to 2013. As of 2013, the harvesting of this stripped bass population has been re-introduced.

## **3.2 Food, Social, and Ceremonial Importance**

For time immemorial, the Mi’gmaq have sustained their way of life though the resources provided by the creator. The Mi’gmaq of Gespe’gewa’gi have relied on the Gulf of St. Lawrence to provide numerous aquatic species and shoreline plant species for food, social, ceremonial, and medicinal purposes. The food, social, and ceremonial fisheries of the Mi’gmaq of Gespe’gewa’gi are not limited to provincial boundaries, but are limited to the Primary Claim area (Figure 1), which includes the entire Gulf of St. Lawrence and any additional claims that may result in the future.

The Mi'gmaq know the Atlantic salmon as "Plamu", and this species as contributed to the Mi'gmaq for thousands of years. American Eel is known as "g'at" in the Mi'gmaq language. These species have significant physical, spiritual and traditional importance to the Mi'gmaq culture. Historically, these species, and many more, have been an important source of food, celebrations, and medicine as well as part of a number of Mi'gmaq legends.

Today, under the Supreme Court of Canada ruling in the Sparrow decision, Aboriginal people have the right to fish for food, social and ceremonial purposes. The Supreme Court found that where an Aboriginal group has a right to fish for food, social and ceremonial purposes, it takes priority, after conservation, over other uses of the resource. The Supreme Court also indicated the importance of consulting with Aboriginal groups when their fishing rights might be affected.

### 3.3 Commercial Fisheries

In addition to food, social, and ceremonial fisheries, the Mi'gmaq of Gespe'gewa'gi have used the resources from the land and waters to sustain their way of life, economically. The Mi'gmaq have long relied upon the resources from our territory, the fish, animals, plants, trees, and medicines, and have managed their resources in a sustainable manner under the laws of Netukulimk.

Netukulimk is the time-honored practice of the Mi'gmaq based on conservation. It is defined as the use of the natural bounty provided by the Creator for the self-support of the individual and the community without jeopardizing the integrity of the resources. The lands and waters have been and continue to be the lifeline for the Mi'gmaq.

However, the Mi'gmaq way of managing resources has been disrupted and changed with the arrival of Europeans to our land. For many years, our rights to our territory were denied until the Supreme Court of Canada's ruling in the *Marshall* decision, which affirms a treaty right of the Mi'gmaq to hunt, fish and gather in pursuit of a "moderate livelihood" arising out of Peace and Friendship Treaties of 1760 and 1761.

Today, as a result of the Marshall Decision, the Mi'gmaq of Gespe'gewa'gi actively participates in several commercial fisheries. Table 1 (below) lists of various commercial Fishery operations by the three (3) GMRC member communities. As the table shows, most of these fisheries occur in the waters, or waters connecting to the Gulf of St. Lawrence. Table 1 does not list all the commercial or food, social, and ceremonial valuable species, but highlights the larger commercial fisheries in the Gulf.

Hydrocarbon prospecting and extraction are threats to biodiversity that sustain our way of life, including our culture and spirituality, as well as they are recognized threats to coastal tourism and commercial fishing;

**Table 1: Commercial fishery operations by community**

Commercial Fisheries		
Community	Species	Fishing Area or Zone
Listuguj	Snow Crab	12 + 12B
	Lobster	21B
	Rock Crab	12Z
	Shrimp	Anticosti, Seven Islands Estuary
	Turbot	4RS
	Herring	Attached to Lobster License
	Mussels	Carleton Quebec
	Groundfish	-
	Cod	4RS
	Mackerel	Attached to Lobster License
	Halibut	4RS
Eel River Bar	Lobster	23
	Herring	16B
	Bait	23
	Rock Crab	23
	Smelts	G
	Snow Crab	12
	Tuna	Atlantic
	Shrimp	Group B
	Groundfish	-
Pabineau	Lobster	23
	Snow Crab	12

### 3.4 Human Health

The Mi'gmaq people are more susceptible to many more health problems than the average Canadian. When compared to the rest of Canada, the number of cases of diabetes, anemia, dental caries, obesity, and heart disease are greater in the Aboriginal population. This problem facing Aboriginal people has been directly linked to the change in their diet from traditional foods to Western foods.

For millennium, the Mi'gmaq have lived on a traditional diet, which consists of many foods obtained from natural sources such as berries, deer, moose, salmon, lobster, trout, etc. This diet is highly nutritious as it is high in omega-3-fatty acids and antioxidants, both highly beneficial to the body. But since European contact, this diet has dramatically changed to a more Western one. This western diet consists of many



processed foods that are high in saturated fats, trans fats, sugar, and sodium, which contribute to many health problems like obesity, high blood, pressure heart disease, diabetes, and cancer.

The Gulf of St. Lawrence is where the Mi'gmaq of Gespe'gewa'gi can access foods to support their traditional diet.

## 4.0 Conclusion and Comments

### 4.1 Mi'gmaq Consultation and Meetings

In review of the consultation section of the SEA update, namely, Section 2.4.3, titled *Aboriginal Engagement*, it states that the C-NLOPB engaged in correspondence with numerous Aboriginal communities throughout Newfoundland and Labrador, the Maritime Provinces, and Quebec.

It is noted that the three (3) Mi'gmaq communities that the GMRC represents (Listuguj, Eel River Bar, and Pabineau) were included on the recipient list for the September 26, 2012 SEA update mail-out. It is also noted that in Section 3.11.3 titled *Subsequent Meeting with the Mi'gmawei Mawiomis Secretariat (Nov 26 2012)*, the SEA Update Team Members met and engaged with the Listuguj Mi'gmaq First Nation Government (LMG) in the community of Gesgapegiag, Québec on November 26, 2012.

Although letters were sent to all three (3) communities, and the LMG participated in a consultation session, the GMRC was neither present nor invited in the SEA update consultation sessions. The GMRC believes that in order for the C-NLOPB to provide meaningful consultation to the Mi'gmaq communities of Listuguj, Eel River Bar, and Pabineau, the mandated aquatic resource and oceans management scientific/technical expertise body on behalf of these communities should be present. With that said, the GMRC also believes that each First Nation community's respective scientific/technical expertise body, should be accommodated and consulted on future SEA updates and future C-NLOPB projects that may impact the rights of the Mi'gmaq.

### 4.2 Aboriginal Rights

The SEA update highlights that each Aboriginal group has practices; traditions and customs that make them distinctive from one another. The update notes that Section 35 of the Canadian Constitution Act (1982) recognizes and affirms the existing Aboriginal and treaty rights of the Indian, Inuit, and Métis peoples of Canada. The

report does lack information regarding the significance and importance of the Gulf of St. Lawrence to the Mi'gmaq of Gespe'gewa'gi.

The SEA update also describes the commercial fishery activities in the gulf, but fails to mention the Supreme Court of Canada's (SCC) ruling in the *Marshall* decision, which affirms a treaty right of the Mi'gmaq to hunt, fish and gather in pursuit of a "moderate livelihood" arising out of Peace and Friendship Treaties of 1760 and 1761.

The Valued Environmental Components (VECs) considered in the SEA are Fish and Fish Habitat, Water Birds, Marine Mammals and Sea Turtles, Species at Risk, Protected and Sensitive Areas, and Marine Fisheries. While these are important in the decision making process, we believe that aboriginal title and rights, coastal communities, and tourism should have also been taken into consideration;

### 4.3 Impact of a Spill

The Gulf of St. Lawrence is semi-enclosed and very dynamic environment, isolated from the North Atlantic Ocean. Spills in this area can be very catastrophic. The SEA update Section 3.2.6.3 titled *Oil Spill Prevention and Response* lacks precise details on whether the planned oil spill response measures would work to mitigate the identified risks to Gulf species. It fails to provide information on how the species would be protected in the event of a catastrophic spill. The SEA update also fails to describe how, in the event of a spill, the Mi'gmaq way of life will be protected or compensated.

The efficiency of many proposed mitigation measures, standard or non-standard, has not been demonstrated. Data gaps can make environmental monitoring difficult and assessment of the level of impact mitigation impossible especially when no baseline information exist.

The harvesting species from the Gulf is essential activities for the Mi'gmaq of Gespe'gewa'gi communities culturally, socially and economically. These harvesting activities are recognized rights under the Canadian Constitution, and their protection outweighs and supersedes the risks associated with the exploration and exploitation of hydrocarbons in the offshore area.

The GMRC believes that by risks associated with the exploration and exploitation of hydrocarbons in the offshore area may impair our recovery work efforts in both species at risk and species commercially viable to our communities.

The Gulf's ecosystem is currently impacted by anthropogenic causes, and numerous Gulf species (Atlantic Salmon, American Eel, Stripped Bass, American lobster, etc.) stocks are in decline as a result. The impacts of a spill would devastate these species, and ultimately hinder their recovery.

The GMRC also believes that the risks associated with the exploration and exploitation of hydrocarbons in the offshore area will negatively impact the passing of oral history and Mi'gmaq Ecological Knowledge to younger generations.

Furthermore, the GMRC believes that risks associated with the exploration and exploitation of hydrocarbons in the offshore area can put the health of the Mi'gmaq in a greater risk, as they lose access to their significant traditional diet provided by the Gulf.

Coordination with the Quebec SEA process seems limited and make it difficult to assess cumulative environmental effects.

Numerous key data gaps have been identified in the SEA, without mentioning that some existing information are outdated. These gaps should be addressed prior to the decision of allowing oil and gas exploration to proceed. We believe that the general conclusion of the SEA "that petroleum exploration activity generally can proceed in the Western Newfoundland and Labrador Offshore Area with the application of standard mitigation measures currently applied to offshore exploratory activities elsewhere in the NL" is premature.