1041 Wellington St, Unit 403
Halifax, NS B3H 4P5

February 21st, 2020

Impact Assessment Agency of Canada
10 Barters Hill, Suite 301
St. John's, NL, A1C 6M1
Email: ceaa.nloffshorestudy-etudeextracotieretnl.acee@canada.ca

Dear Regional Assessment Committee,

**RE: Public Comments on Draft Regional Assessment Report for Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador**

I thank the Committee and the Impact Assessment Agency of Canada for the opportunity to comment on the Draft Regional Assessment Report for the Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador (reference number 80156).

I am a Full Professor at Dalhousie University, Resource and Environmental Studies. For more than 25 years my research has focused on biodiversity conservation in terrestrial and marine realms. My expertise is in biodiversity conservation system design, based on representation of typical and unique ecosystems and habitat types, and species' habitat and genetic viability considerations.

I have served as a scientific reviewer for DFO's design strategies for the marine protected area (MPA) network for the Scotian Shelf Bioregion in the Canadian Maritimes (CSAM Working Papers 2016/18[1] and 2016/14[2]). I have co-authored a peer-reviewed journal paper[3] that points out serious deficiencies in DFO's approach to MPAs and other effective area-based conservation measures, such as marine refuges, in relation to Aichi Target 11, Strategic Plan for Biodiversity, under the Convention on Biodiversity. Another co-authored paper describes consensus guidelines for deciding what should 'count' as 'protected' in Canada's terrestrial and marine realms under Aichi Target 11[4].

I have reviewed the Draft Regional Assessment Report and recommendations of the Committee. It is apparent that the assessment of impacts is insufficient, lacks science-based assessment of cumulative and other impacts, and does not demonstrate a precautionary approach. The report does not recommend prohibiting exploratory drilling in sensitive protected areas and does not consider the

[1] CSAM Working Paper 2016/18: Design Strategies for the Scotian Shelf Bioregional Marine Protected Area Network (Marty King, Adrian Gerhartz Abraham, Tanya Koropatnick, Gary Pardy, Anna Serdynska, Elise Will, Heather Breeze, Alida Bundy, Elizabeth Edmondson, Karel Allard), Ecosystem Management Branch, Maritimes Region, Oceans and Coastal Management Division, Fisheries and Oceans Canada. November 2016

[2] CSAM Working Paper 2016/14: Design Strategies for the Maritimes Region Marine Protected Area Network. (Marty King, Adrian Gerhartz Abraham, Gary Pardy, Alida Bundy, Elizabeth Edmondson, Elise Will). Ecosystem Management Branch, Maritimes Region, Oceans and Coastal Management Division, Fisheries and Oceans Canada. DRAFT: June 2016.

[3] Lemieux, C.J., P.A. Gray, R. Devillers, P.A. Wright, P. Dearden, E.A. Halpenny, M. Groulx, T.J. Beechey, K. Beazley. 2019. How the Race to Achieve Aichi Target 11 Could Jeopardize the Effective Conservation of Biodiversity in Canada and Beyond. Marine Policy. 99: 312-323. doi.org/10.1016/j.marpol.2018.10.029

[4] MacKinnon, D., C.J. Lemieux, K. Beazley, S. Woodley, R. Helie, J. Perron, J. Elliott, C. Haas, J. Langlois, H. Lazaruk, T. Beechey, and P. Gray. 2015. Canada and Aichi Biodiversity Target 11: understanding 'other effective area-based conservation measures' in the context of the broader target. Biodiversity and Conservation. 24(14): 3559–3581. DOI 10.1007/s10531-015-1018-1

climate impacts of increased oil extraction and burning. As such, it does not provide sufficient basis to support a decision to create a regulation to exempt exploratory drilling projects from site-specific impact assessments. I urge the Minister of Environment and Climate Change to commit to further research before exempting exploration drilling projects from impact assessments and to designate areas where development should not take place in order to protect sensitive habitats and wildlife.

Although there are many comments I could and should make, I will limit my detailed comments to those specific to protected and sensitive areas due to my own time constraints. I note, however, that WWF-Canada's February 21st submission to this Public Process is excellent. It makes many crucial points that I would raise myself given more time. I have reviewed WWF-Canada's submission and I am fully supportive of their well substantiated points. I recommend that you consider them carefully.

I remind the Committee and the Minister that we are in the midst of twin climate and biological diversity (extinction) emergencies, wherein we are at or beyond planetary thresholds for being able to recover[5]. Biodiversity is critical to biosphere integrity, as an intrinsic biophysical process that regulates the stability of the Earth system. It represents a core planet boundary that currently exceeds the "safe operating space for humanity", at which the risk that human perturbations will destabilize the Earth system at a planetary scale is 'high', and therefore considered "beyond the zone of uncertainty"[6]. There will be no 'economy' without biodiversity.

As such, it is simultaneously important to limit oil and gas extraction and development, transition away from fossil-fuel-based energies and economies, and conserve and protect species and ecosystems. Not only do marine species and ecosystems comprise part of our ecological life-support system, but we have ethical obligations to not drive species to extinction, for their own sake and their intrinsic value as both products and processes of evolution, no different from us.

**Protected and Sensitive Areas**

While commitments under the Convention of Biological Diversity (CBD) for Canada to protect 10 per cent of its oceans by 2020 has been surpassed, in Canada it has been accomplished by 'counting' marine 'refuges'. The effectiveness of Canada's marine refuges has rightfully been questioned for long-term protection of biodiversity, given the level of industrial activities allowed within them[7]. The ability of existing MPAs and marine refuges to adequately function to protect biodiversity needs to

[5] IPBES. 2019. Global assessment report on biodiversity and ecosystem services of the Intergovernmental Science- Policy Platform on Biodiversity and Ecosystem Services. E. S. Brondizio, J. Settele, S. Díaz, and H. T. Ngo (editors). IPBES Secretariat, Bonn, Germany.https://www.ipbes.net/sites/default/files/downloads/spm_unedited_advance_for_posting_htn.pdf (accessed 7 July 2019)

IPCC. (2018). Summary for Policymakers. In: *Global warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty* [V. Masson-Delmotte, P. Zhai, H. O. Pörtner, D. Roberts, J. Skea, P. R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J. B. R. Matthews, Y. Chen, X. Zhou, M. I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, T. Waterfield (eds.)]. Geneva, Switzerland: World Meteorological Organization. Retrieved from https://www.ipcc.ch/site/assets/uploads/sites/2/2018/07/SR15_SPM_High_Res.pdf (accessed 29 November 2018)

[6] Steffen,W.; Richardson, K.; Rockström, J.; Cornell, S.E.; Fetzer, I.; Bennett, E.M.; Biggs, R.; Carpenter, S.R.; de Vries,W.; deWit, C.A.; et al. (2015). Planetary boundaries: Guiding human development on a changing planet. *Science*, 347(6223): 1259855. DOI: 10.1126/science.1259855

[7] Lemieux, C.J., P.A. Gray, R. Devillers, P.A. Wright, P. Dearden, E.A. Halpenny, M. Groulx, T.J. Beechey, K. Beazley. 2019. How the Race to Achieve Aichi Target 11 Could Jeopardize the Effective Conservation of Biodiversity in Canada and Beyond. Marine Policy. 99: 312-323. doi.org/10.1016/j.marpol.2018.10.029

be strengthened through effective governance and management, including limiting industrial activity within them. In addition to attention to this 'qualitative' target, new 'quantitative' targets are being negotiated. General consensus is that at least 30 per cent of oceans needs to be protected by 2030, and 50% by 2050, in order to help stem biodiversity loss. Prime Minister Trudeau has committed Canada to protecting 25 per cent of its ocean by 2025, and 30 per cent by 2030, in his mandate letter to the Honourable Bernadette Jordan, Minister of Fisheries, Oceans and the Canadian Coast Guard.[8]

The International Union for Conservation of Nature (IUCN), which creates guidance for protected area practitioners, states that management of marine protected areas and other effective-area based conservation measures (e.g. marine refuges in Canada) should not have environmentally-damaging industrial activities and infrastructure development occurring within them.[9] This includes oil and gas extraction, consistent with IUCN Recommendation 102 adopted at the 2016 World Conservation Congress, based on scientific evidence that this type of industrial activity and infrastructure development has adverse impacts on biodiversity and is never compatible with conservation.[10]

In 2019 the Minister of Fisheries, Oceans and the Canadian Coast Guard announced that all new federal marine protected areas would prohibit oil and gas activities in order to strengthen conservation.[11] While this minimum standard unfortunately does not currently apply to marine refuges, the Government of Canada has also said that if oil and gas leases are awarded within parts of marine refuges they will stop counting those parts towards international protected area targets. As an example, the Northeast Newfoundland Slope Marine Refuge represents nearly 1 per cent of what Canada reports as protected to the CBD.[12] Parts of this marine refuge, a site which fish harvesters voluntarily agreed to stop fishing in to protect important fish habitat, has had oil and gas leases awarded within it since its creation in 2017. That means that while the entire area remains off limits to fishermen, it is open for oil and gas development. This represents a serious ethical issue, both socially and ecologically.

Allowing oil and gas activities to occur within this and other sensitive and protected areas will make the path to 25 per cent protection by 2025 and 30 per cent by 2030 much more difficult. The sites currently protected will no longer be able to be counted towards international targets. I, along with many others, including scientists and organizations like WWF-Canada, fundamentally disagree with the Committee's recommendation to not exclude significant portions of the Study Area from exploratory drilling activities. These individuals and organizations have repeatedly requested that protected areas both within Canada's territorial waters and International waters within the Study Area be off limits to development, in line with national and international guidance for the protection of biodiversity.

While the Committee states that stakeholders have not provided a supporting scientific basis for the identification of areas that should be off limits to oil and gas exploration (pages 114-115), the fact that sites have been protected within the Study Area shows that the science exists supporting their

[8] https://pm.gc.ca/en/mandate-letters/2019/12/13/minister-fisheries-oceans-and-canadian-coast-guard-mandate-letter
[9] https://portals.iucn.org/library/sites/library/files/documents/PATRS-003-En.pdf
[10] https://portals.iucn.org/library/sites/library/files/resrecfiles/wcc_2016_rec_102_en.pdf
[11] https://www.canada.ca/en/fisheries-oceans/news/2019/04/backgrounder-new-standards-to-protect-canadas-oceans.html
[12] http://www.dfo-mpo.gc.ca/oceans/oeabcm-amcepz/refuges/northeastnewfoundlandslope-talusnordestdeterreneuve-eng.html

sensitivity. The Committee themselves note that previous scientific processes identified areas of particular sensitivity that warrant a precautionary approach (page 67, 114-115), and that "more needs to be done to ensure and demonstrate that sensitive areas are getting the protection they require" (page 189). The report also notes that "deep sea ecosystems include species that exhibit low metabolic rates, late maturity, low levels of recruitment, slow growth rates and long life spans, characteristics that make recovery from disturbances relatively slow" (page 40). Deep-sea corals and sponges are of particular interest and concern in the study area due to their important ecological role as complex habitat and particularly sensitivity to exploratory drilling. Both Fisheries and Oceans Canada and the Northwest Atlantic Fisheries Organization use science-based processes to identify areas for protection. These governing bodies would not curtail commercial fishing without due cause. At a minimum, (1) site specific impact assessments should be required in marine refuges in Canadian waters and NAFO's vulnerable marine ecosystem closures, along with enhanced mitigation and follow-up requirements, and (2) a full ban on oil and gas exploration and development activities within protected and sensitive areas should be implemented. Despite the mandate under the new Impact Assessment Agency to follow the precautionary principle, and messaging from the Committee that this would be central to the RA process, the draft recommendations are wholly inconsistent with a precautionary approach.

As the Committee is no doubt aware, a precautionary approach does not put the onus on stakeholders to 'prove' that an activity will harm valued ecosystem components. Rather, the burden of proof is on proponents to 'prove' that it will not cause harm. This burden of proof has not been, and is highly unlikely to ever be, achieved by proponents of oil and gas exploration and development. Further, a precautionary approach does not require that all information be available or certain in order to implement conservation and protection measures: a precautionary approach would avoid siting developments in sensitive and data poor areas. I urge the Committee to make recommendations consistent with the mandated precautionary approach. Extinction is forever.

**Conclusion**

This is the first Regional Assessment undertaken under the Impact Assessment Act, and as noted in the report, others will follow. This Regional Assessment process is insufficient. It and the Committee have not provided enough information to support the recommendations to create a regulation to exempt exploratory drilling projects from site specific impact assessments in the Study Region. The report clearly implies that more work needs to be done before more exploration drilling goes ahead in the Study Area. It does not provide adequate basis to support a decision to create a regulation to exempt exploratory drilling projects from site-specific impact assessments. I urge the Minister of Environment and Climate Change to commit to further research before exempting exploration drilling projects from impact assessments and to designate substantial areas where development should not take place in order to protect sensitive habitats and wildlife.

Respectfully,
<Original signed by>

Professor Karen Beazley