



# REGIONAL ASSESSMENT OF OFFSHORE OIL AND GAS EXPLORATORY DRILLING EAST OF NEWFOUNDLAND AND LABRADOR

Comments on the Draft Regional Assessment Report

Prepared by  
Miawpukek First Nation  
and  
Shared Value Solutions

February 21, 2020



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# 1.0 Introduction

In April 2019, the federal Minister of the Environment and Climate Change Canada (ECCC) announced the appointment of a five-member Committee (the Committee) to conduct a *Regional Assessment (RA) of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador*. The federal Ministers of ECCC and Natural Resources Canada (NRCan), and the provincial Ministers of Natural Resources and Intergovernmental and Indigenous Affairs signed an Agreement to Conduct a Regional Assessment (the Agreement), which outlined the Terms of Reference (ToR) mandating the Committee. The Committee was directed to undertake an open, transparent, and fully participative process to facilitate a more efficient assessment process for offshore oil and gas exploratory drilling in the defined Study Area, while ensuring that the highest level of stakeholder consultation and environmental protection are applied and maintained. In doing so, the Committee was supported by a Task Team (TT) and a Technical Advisory Group (TAG). The TT consisted of provincial and federal government employees representing the four parties to the Agreement, and was co-chaired by the IAAC and C-NLOPB. The TT supported the planning, development, and completion of the RA. The TAG comprised of representatives from relevant government departments and agencies (e.g. Fisheries and Oceans Canada, Transport Canada, etc.), Indigenous groups, industry and stakeholder groups, and other interested parties with information or expertise relevant to the RA. The final deliverable of the committee is the draft RA report, which was made available in January 2020.

MFN has reviewed the draft RA report with support from our environmental advisors, Shared Value Solutions (SVS). Comments on this document and the RA process in general are provided in this report.

The rights, values, and interests of MFN are the focus of these comments. They build on previous submissions completed by MFN highlighting the concerns of our community, including (but not limited to) commercial and Aboriginal fisheries, species at risk (SAR), Atlantic salmon, the marine environment, socioeconomics, and community well-being. This report summarizes the position of MFN regarding the draft RA and outlines, on behalf of our community, recommendations and requested accommodations.

## 1.1 Overview of Regional Assessment Report

Over the course of developing the RA report, the Committee engaged 41 Indigenous groups, including Miawpukek First Nation (MFN). Engagement with Indigenous communities and incorporation of Indigenous Knowledge (IK) in the RA was completed in three phases. Phase 1 (Initial Engagement/Introduction to the RA) included a series of introductory meetings and information sessions with Indigenous groups. In completing Phase 1, the Committee was able to introduce the RA to communities and begin to build an understanding of issues and concerns expressed by Indigenous communities. Phase 2 (TAG Sessions and IK Workshops) allowed Indigenous groups the opportunity to participate in all TAG sessions held in September 2019, as well as a series of workshops, held from September to November 2019, focussed on engaging with Indigenous Peoples on how to best incorporate IK in the RA and recommendations of the Committee. MFN was able to attend and provide

input at four of these meetings. Phase 3 (Review of RA Findings and Draft Recommendations) consisted of a series of meetings to review and discuss draft recommendations of the Committee. This was also used as an opportunity to confirm that the recommendations made by the Committee adequately addressed questions and concerns raised by Indigenous groups throughout the engagement process.

### 1.1.1 GIS Decision-Support Tool

In completing the RA, the Committee was tasked with compiling, organizing, and presenting knowledge and information gathered during the engagement and development process. It was decided that an online geographic information system (GIS) tool would be the most effective way to accomplish this. The GIS Decision-Support Tool (<https://nloffshorestudy.iciinnovations.com/mapviewer/>) includes a series of modules discussing exploratory drilling and associated activities, potential accident events, the socioeconomic, physical and biological environments, potential impacts to the various components of these environments, and the future of offshore exploratory drilling in the Study Area. Also included in the GIS Decision-Support Tool are many datasets that can be mapped, analyzed, and summarized using the interactive system.

### 1.1.2 Committee Recommendations

The draft RA includes a comprehensive assessment of the effects of offshore exploratory drilling and associated activities based on the best available knowledge and data, from which the Committee has made a series of recommendations. These recommendations are aimed at identifying and implementing standard environmental protection measures for future exploratory drilling projects, identification of key outstanding issues of concern and knowledge gaps, addressing the need for follow-up monitoring and reporting requirements, and identifying future studies and analysis required to fill identified knowledge gaps. In total, the Committee made 40 recommendations in the RA. The intent is that these recommendations be incorporated within the planned exemption regulation as specific requirements for offshore exploratory drilling Projects in the Study Area seeking exemption from the federal IA process.

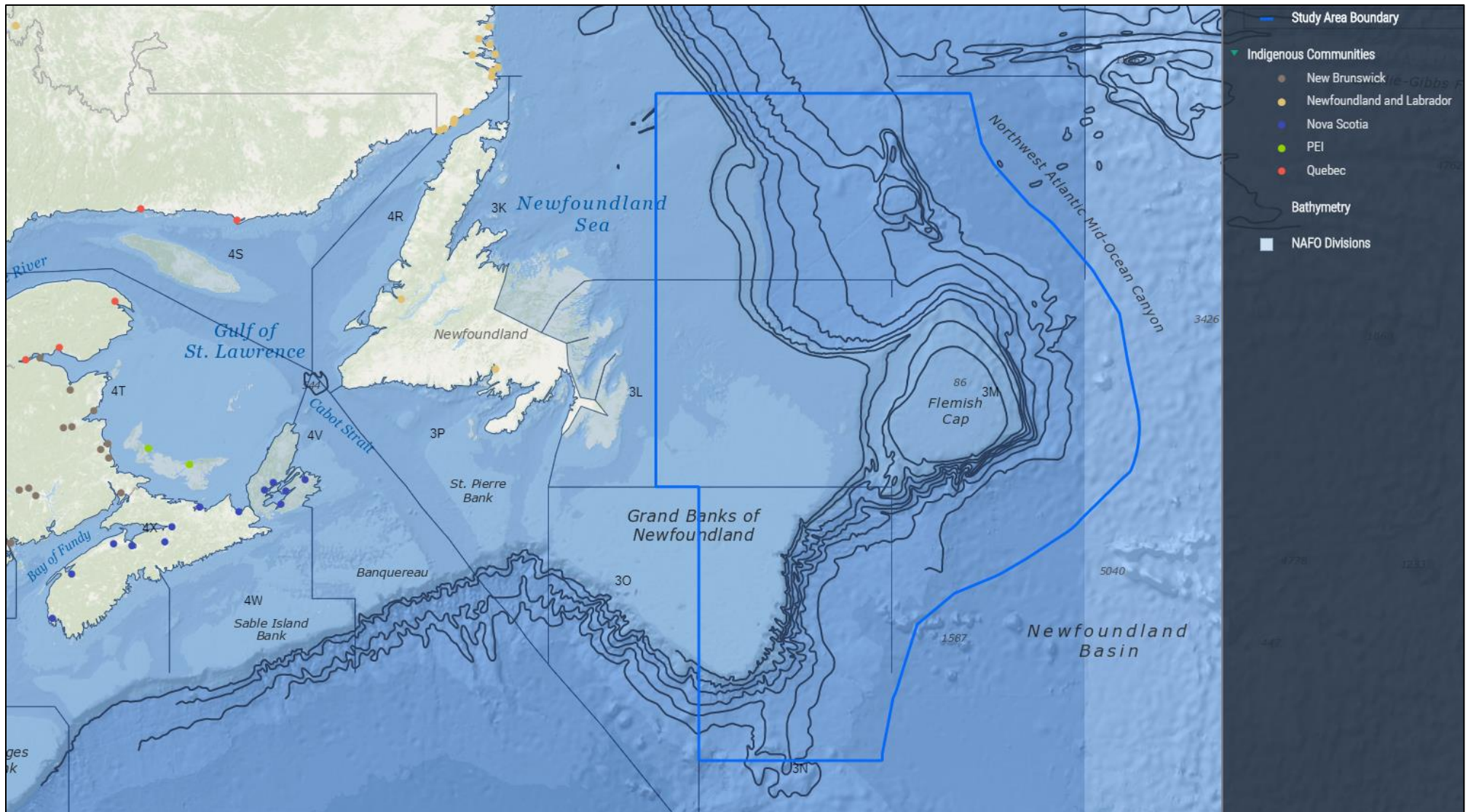


Figure 1. An overview of the Study Area assessed for the Regional Assessment (<https://nloffshorestudy.iciinnovations.com/mapviewer/>).



## 2.0 Miawpukek First Nation

Miawpukek Mi'kamawey Mawi'omi (also known as Miawpukek First Nation) is located on the south shore of Newfoundland along the Conne River at the confluence of the Bay D'Espoir. The community became a permanent settlement in the 1820s but was used long before that as one of the many semi-permanent seasonal camping grounds of the Mi'kmaq on the south shore of Newfoundland. Oral Tradition states that the community reserve lands were established in 1870. This reserve was given the name Samiajj Miawpukek Indian Reserve, which translates to "too small" reserve because the land is considered much too small to carry out traditional activities including hunting for caribou. This name was reportedly chosen partly in frustration and partly out of a sense of humour by the people of MFN.

The total on-reserve population of MFN was recorded as 956 in 2016 (Stats Canada, 2016). In 1987, the community of MFN was established as a reserve, and since that time has changed from an isolated community with almost 90% unemployment to a vibrant community with nearly 100% full or part-time employment.

## 2.1 Historic Overview

Covering a vast area, the Mi'kmaq territory of Mi'kmaki stretches from the Gaspé Peninsula in Quebec, through New Brunswick to northern Maine, across Nova Scotia, Prince Edward Island and the Island of Newfoundland, which is known as Ktaqamkuk. The Mi'kmaq of Newfoundland have a shared ancestry with Mi'kmaq from across Mi'kmaki. Their relationship with the land and the surrounding waters stretches back over at least 10,000 years.

The earliest use of Ktaqamkuk by the Mi'kmaq is something that is still debated by Western scholars. It is known that Mi'kmaq hunters and fisherman would stay seasonally on the island as early as the 1600s, although it is likely that this occurred much earlier (Pastore, 1998). French and English historical records suggest that the Mi'kmaq didn't establish permanent residences on Ktaqamkuk until the 1760s (Bartels and Janzen, 1990). However, the idea of permanent residence is rooted in the colonialist ideas and perceptions of the time. It does not account for the Mi'kmaq way of life, which at that time was seasonal and revolved around frequent travel throughout traditional territories to access resources. This would have included travel between Unamaki (Cape Breton) and Taqamkik for hundreds of years before the land became known as Canada. Thus, it is argued by many scholars that the island of Ktaqamkuk is part of the Traditional Territory of the Mi'kmaq.

The people of MFN assert that the entire Island of Ktaqamkuk is included in their Traditional Territory. Oral History passed down through generations holds that the ancestors of MFN have lived and travelled Ktaqamkuk since time immemorial. The Mi'kmaq hunted, fished, and travelled back and forth along the coasts year-round. Mi'kmaq from the mainland travelled back and forth between Unamaki and Ktaqamkuk, thus maintaining constant connections between the island and the mainland. This occurred as recently as the 1760s when Chief Jeannot Pequidalouet led a group of Mi'kmaq across the Cabot Straight to avoid hostility and mistreatment at the hands of the British (Martijn, 1989). It should be

noted that the Mi'kmaq have a long history as explorers, and similar trips likely occurred frequently before this time but were not documented by European colonizers. This history is best summarized by Frank Speck (1922) who completed ethnographic surveys on Newfoundland in the summer of 1914:

*Throughout Newfoundland the [Mi'kmaq] Indians refer to their predecessors as Sa'qawedjkik 'the ancients,' speaking of them as though they were the first inhabitants of the island [...]. The Sa'qawedjkik families are said to have become completely merged with the later [Mi'kmaq] comers from Cape Breton and Labrador. (Speck, 1922, p. 123)*

The Mi'kmaq of Ktaqamkuk/Newfoundland have continued to live, hunt, fish, trap and guide on the island over centuries. During the later part of the 18th century through the 19th century, Mi'kmaq guides helped European explorers to visit and map the areas that were already being used by the Mi'kmaq. In 1822, William Cormack, the first European credited with crossing the island, was guided by Sylvester Joe, a Mi'kmaq traveller. During their journey, the two encountered several First Nations people in areas that were thought, by Europeans, to be uninhabited (Pastore, 1998). Ironically, to earn a wage and support themselves, the Mi'kmaq would go on to work on major projects, such as the railroad, that ultimately facilitated the expansion of European colonizers who would fight for control over the natural resources upon which the Mi'kmaq traditional livelihood depended.

Where Newfoundland was not part of Confederation until 1949, the Mi'kmaq of Miawpukek were not included under the Indian Act of 1876. In many ways, this may have been beneficial because they were not subject to the harmful actions exerted by the federal government through this Act. However, by being outside of the Indian Act, they were also not afforded the same Aboriginal Rights granted to Indigenous Peoples across Canada. This lack of protection, combined with political, economic, and religious pressure, led to the continuous erosion of traditional practices and ways of life.

In 1984, after years of fighting for recognition, the federal government granted status to the people of Miawpukek under the Indian Act. This was followed three years later by the allocation of a 500-hectare reserve in Conne River, named by Council as the Samiajij Miawpukek Indian Reserve. The larger Traditional Territory, known as Mimaju'nnulkwe'kati, covers an area greater than 17,000km<sup>2</sup> and has never been surrendered or ceded. This area has been used by the members and ancestors of Miawpukek First Nation since time immemorial. Despite repeated land claims and court battles, this area has never been formally recognized. However, the right has never been extinguished and the people of Miawpukek continue the struggle for recognition to this day.

From their earliest time on Ktaqamkuk, the ancestors of MFN relied on hunting and trapping for sustenance. Their diet and preferred location changed with the seasons. Spring and summer were spent mostly along the coasts, while the Mi'kmaq returned inland, along the rivers and lakes, during fall and winter.

The caribou played a special role for the Mi'kmaq of Ktaqamkuk/Newfoundland, due to their size and abundance. They provided nutritious food but also hide for clothing and construction. However, the expansion of European colonists throughout the eighteenth and nineteenth centuries pushed the

Mi'kmaq further and further away from caribou herds, making it more difficult to rely on them for sustenance. Subsequently, large-scale caribou hunting resulted in catastrophic declines of the island population. This pressure nearly caused the extinction of the herd when it decreased from an estimated 40,000 individuals in 1900 to approximately 2,000 in the 1930s (Bergerud, 1969). Adapting to the changing circumstances, the Mi'kmaq of Ktaqamkuk/Newfoundland were forced to shift their diets. While fish was always an important part of the Mi'kmaq diet, reduced access to caribou caused fish, particularly Atlantic salmon, to become much more important.

## 2.2 Rights and Interests

The Crown has a duty to consult and accommodate First Nations pursuant to section 35 of the *Constitution Act, 1982*. This is a legal requirement that has been repeatedly upheld by the Supreme Court of Canada. Moreover, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which has been adopted by Canada, requires that states cooperate in good faith with Indigenous Peoples so that they obtain free, prior and informed consent. According to UNDRIP Section (2) and (3) of Article 32:

*2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.*

*3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.*

There are potential environmental, cultural, and socioeconomic risks associated with all phases of drilling and exploration that could impact MFN's rights and interests. Offshore drilling projects in Jean D'Arc Basin, Flemish Pass, Flemish Cap, Orphan Basin, Orphan Knoll, and other areas have the potential to cause direct and indirect impacts from all phases. Should the drilling programs determine the presence of significant quantities of petroleum hydrocarbons and result in the development of industrial extraction, there will be additional direct and indirect impacts on MFN's rights and interests.

MFN relies on hunting, fishing, and trapping for commercial, recreational, and social and ceremonial purposes. Species that are targeted include salmon, mackerel, cod, herring, redfish, brook trout, rainbow trout, eels, capelin, smelt, tuna, whelk, scallop, snow crab, lobster, and surf clam. MFN possesses several commercial licenses for fishing in NAFO fishing zones 3P, 3KL, and 3LN. The community utilizes a Food, Social and Ceremonial licence to target species off the south shore in Zone 3P. Commercial fishing by MFN in zones 3KL and 3LN overlap with the Study Area. Impacts to any of the species listed above, whether direct or indirect, represent potential effects on the Aboriginal Rights of MFN. MFN fisheries (offshore, inshore, and land-based), traditional activities, and culture could be at risk from any potential spills, leaks, blowouts, or other releases of petroleum, cuttings, lubricant, or



other products from the proposed drilling, or the cumulative effects of such. MFN's rights to navigable waters may also be impacted from increased traffic in the region, as well as in and around St. John's Harbour. These potential risks to the natural environment, navigation, and the community of MFN underscore the need for meaningful and ongoing consultation throughout the IA process, as well as the need for mitigation and accommodation measures to address these potential impacts to MFN rights and interests.

### 3.0 Comments on the Regional Assessment and Committee Recommendations

**Comment 1:** It is noted that, throughout the RA, there has been very little discussion regarding the potential need for a capping stack situated in or nearby Atlantic Canada. MFN believes that, in keeping with the proactive nature of the RA, the need for a capping stack in Atlantic Canada must be considered. The lag time between a potential uncontrolled well blowout and the deployment of a capping stack (such as was required during the Deepwater Horizon oil spill) is concerning to MFN. It is understood that the nature of the formation will dictate the rate and volume of hydrocarbons escaping from the reservoir (i.e., the Deepwater Horizon was responsible for releasing an estimated 2.45 million (389,518,873 L) to 3.19 million barrels (507,168,471 L) of petroleum from the Macondo well over an 83-day period, with an estimated peak of 60,000 barrels (9,539,238 L) per day (US Government, 2011)). However, under circumstances such as an uncontrolled well blowout, where large quantities of hydrocarbons are rapidly being released into the marine environment, time is of the essence. If the Government of Newfoundland and Labrador is committed to achieving *Advance 2030: A Plan for Growth in the Newfoundland and Labrador Oil and Gas Industry*, which could see 100 new exploration wells drilled and the production of 650,000 barrels per day (bpd) in some basins (Government of Newfoundland and Labrador, 2018), then this concern needs to be addressed.

**Recommendation 1:** MFN asserts that it is critical to have a capping stack, along with the appropriate capacity for equipment modification and rapid staging and deployment, situated in Newfoundland or Atlantic Canada to mitigate the risks associated with an uncontained blowout. This is important on a project-level basis but also to account for the cumulative risks of all current and future exploratory and production oil and gas projects. The Committee should recommend that the need for, and economic feasibility of, having a capping stack located in Atlantic Canada be determined. This may result in the formation of a consortium, similar to the Marine Well Containment Company (MWCC) whose purpose is to provide state-of-the-art well containment services and technology to operators in the United States Gulf of Mexico (US GoM). Similar industry-led consortia exist in other geographies where offshore oil and gas drilling is commonplace, such as the Helix Well Containment Group who also serves the US GoM, and the Emergency Preparedness Offshore Liaison Group (EPOL) in the United Kingdom (UK). This industry-led consortium may also be involved in the continual research and development of Best Available and Safest Technology (BAST). Whether this effort is funded by a consortium of all offshore oil and gas proponents in the Study Area, and/or the Crown, is of no consequence to MFN: someone must

fund and ensure this critical risk mitigation measure is in place to protect MFN's rights and to reduce the inequitable burden of risk MFN bears in relation to the exercise of our rights.

**Recommendation 1a:** MFN requests that the IAAC undertake (or make a recommendation to the C-NLOPB to undertake) an evaluation and provide a discussion regarding the potential for having capping stack technology located in Atlantic Canada. As part of this evaluation, IAAC must research and describe potential technologies, locations and modes of ownership for a capping stack. Moreover, it should also include an assessment of how a capping stack may reduce lag times for containing any blowouts that may occur. To-date all such assessments have been completed by Proponents and it is absolutely necessary that the Crown conduct its own independent evaluation of the need for this technology. This is a critical gap of the Regional Study that must be addressed.

**Comment 2:** One of the key underlying principles with which the Committee planned and conducted its Indigenous engagement activities was the "inclusion and appropriate use of Indigenous Knowledge (IK)." While the Indigenous Knowledge Workshops held by the Committee throughout the development phase of the RA did allow for communities to voice their concerns and the concept of two-eyed seeing to be explored and incorporated into the RA, they did not allow for the thorough collection of Indigenous Knowledge from the communities involved, including MFN. While it is acknowledged that the short timeline over which the RA was developed would not have allowed for a community-led Indigenous Knowledge study (a flaw in the scoping of the Study, which was communicated to the Agency by MFN), this information is vital for informing the RA. The collection of this knowledge takes planning, time, coordination, and resources. IK is a living body of knowledge that is passed down through generations. Individuals grow in their knowledge throughout their entire lives by listening, observing and doing. IK is also often rooted in the natural world and can be very specific and detailed when it comes to places and landscapes. This knowledge is incredibly valuable for informing design, mitigations, monitoring, impact assessment and accommodation. It is being omitted to the detriment of the RA process. Considering the RA is an "evergreen" document, this knowledge must be included in a future iteration, prior to the development of any exemption regulations for offshore oil and gas exploratory drilling.

**Recommendation 2:** IK is difficult to collect and must be done with care and to appropriate standards. In addition, sensitive information cannot be provided to proponents without ensuring that the proper protocols and protections for MFN, and any participating community members' intellectual property (IP) and confidentiality, are in place. MFN requires that sufficient resources for the collection of IK be provided. This should be completed in accordance with MFN's engagement protocol, which has been provided to the Committee. In addition, MFN has shared its *Guidebook for the Collection of Aboriginal Traditional Knowledge* with the proponent. This detailed guide provides information on the steps and methodology necessary for a successful Indigenous Ecological Knowledge (IEK) study (also referred to as Indigenous Knowledge – IK). Without this highly important baseline information (both in terms of the RA process and the process to determine potential impacts to MFN's S. 35 and other communal rights), the RA must be considered incomplete.

For the RA process to be completed such that the Honour of the Crown and its other obligations are met, the current offshore oil and gas proponents and/or IAAC must provide resources to MFN for

internal coordination, the collection of IK, and reporting. It would then be the responsibility of the Crown to ensure that this IK is then meaningfully considered and incorporated into the RA process and the Crown consultation process.

**Comment 3:** The current approach being taken by proponents for the involvement and capacity support of Indigenous communities in IAs for offshore exploration and development projects is seriously deficient. MFN is being inundated with requests for meetings, input, and document reviews. This includes requests for participation during the IA process, post approval, and during exploration (e.g., EIS documents, communication plans, spill reports, etc.). With very limited staff capacity, MFN is significantly challenged to participate effectively in the process. This situation is worsening as more projects are being proposed or moving forward in the exploration process, into Significant Discovery Licenses or Production Licenses. The current situation does not in any way represent meaningful consultation by the Crown—which ultimately bears the duty to consult—or proponents, in discharging procedural aspects of this.

The complex nature and longevity of these exploratory drilling projects warrant more meaningful consultation and involvement of the affected Indigenous communities throughout the entire life cycle of a project. Moreover, proponents should coordinate this involvement to mitigate the cumulative effects of the oil and gas industry on the health and socioeconomic conditions of Indigenous communities. Due to the complexity and number of projects and documents that must be reviewed, adequate capacity funding/support is required to enable the following: a) effective understanding and evaluation of technical and regulatory documentation; b) community-based decision making about MFN's response to offshore projects; and c) planning and preparation to enable MFN's involvement and participation in the regulatory process and the potential socioeconomic opportunities MFN may wish to pursue associated with the projects.

**Recommendation 3:** While the Oversight Committee that is recommended in the RA may address some of the concerns that our community has in regards to the consultation approach being taken by offshore oil and gas proponents, we do not believe it will be able to fully address the impacts to Indigenous Rights and interests that these projects may have. MFN suggest that the Oversight Committee be supported by an Indigenous Environmental Advisory Committee (IEAC). The mandate of the IEAC should be guided by a Terms of Reference codeveloped by Indigenous Nations, the Impact Assessment Agency of Canada, and the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB). The IEAC may be responsible for:

- Identifying common priorities (economic development opportunities, environmental research initiatives, knowledge gaps, mitigation measures, etc.) between Indigenous communities and provide a framework for exploring these;
- Providing informed advice to the IAAC, C-NLOPB, and the industry on addressing concerns and impacts to Indigenous Rights and interests;

- Overseeing the continued collection and incorporation of Indigenous Knowledge through community-led Indigenous Knowledge studies. This information may be reviewed on an annual basis and the RA updated as necessary;
- Reviewing and providing input on all monitoring programs, response plans, etc., including, but not limited to, the Fisheries Communication Plan, Spill Response Plan, Spill Impact Mitigation Assessment, seabed investigation survey results, and results from the various follow-up monitoring programs;
- Ensuring regional consultation and engagement with community leadership, Elders, and Indigenous monitors from impacted communities;
- Enabling Indigenous Nations to participate in the oversight of offshore oil and gas exploratory drilling projects. The IEAC may enable and support Indigenous Monitors to work alongside Environmental Monitors (EMs), Marine Mammal Observers (MMOs), etc., during environmental effects monitoring and follow-up programs. This Indigenous Monitoring Program will help to build capacity within the C-NLOPB, IAAC, and industry to better understand and incorporate Indigenous Knowledge into the monitoring of offshore oil and gas infrastructure. It will also facilitate the sharing of capacity between the various environmental experts involved in the industry and Indigenous communities; and,
- Review and provide comments on the results from environmental effects monitoring and follow-up programs and provide input on adaptive management approaches.

**Comment 4:** The RA does not specifically identify work opportunities for Indigenous Peoples who can provide valuable experience and knowledge in many roles/positions in the assessment and mitigation process. It is important that Indigenous communities be considered.

**Recommendation 4:** The IAAC should make a recommendation for the C-NLOPB to highlight and quantify opportunities for Indigenous Peoples in the oil and gas industry (in general) and provide a plan for integration and implementation. One example is the training and hiring of Indigenous Peoples to work as marine mammal observers on drill rigs and/or supply vessels, and as environmental monitors, to ensure that critical mitigation/avoidance measures are implemented during travel and on site, especially when in Special Areas/Areas Of Importance. Another is to provide Indigenous communities with the preferred opportunity to bid on contracts for work required to support offshore oil and gas projects.

**Comment 5:** Given the potential number of wells to be drilled, including future work, within a very large aquatic environment that contains many sensitive features and functions, including SAR and culturally important/critical resources that may be impacted by the program, it is vital that a multi-jurisdictional, multi-layered and transparent review, engagement, and assessment process is in place to efficiently and effectively identify proposed works in sensitive waters/habitat (and those that are not). This process decreases redundancy and streamlines proposed projects that are routine in nature and are of low risk of causing adverse impacts to the environment, fish, and wildlife. Such a process is in place in other

large-scale industries to focus on work/locations where significant impacts have a higher likelihood of occurring and identifies where agency reviews and approvals are required, including consultation requirements with affected Indigenous communities.

**Recommendation 5a:** As part of this RA, the IAAC should make a recommendation for the C-NLOPB to consider the creation of a formal *Fisheries Act/Impact Assessment Act* Review Process Protocol Document to be in place (and formally approved by all responsible authorities and impacted Indigenous communities via Memorandums of Understanding (MOUs) during annual planning of offshore activity and before commencement of exploration drilling. The purpose is to shift the focus from each and every potential location to instead target moderate- to high-risk locations based on the most up-to-date mapping and technical information. Key to this is the inclusion/expansion of the GIS Decision-Support Tool and the incorporation of all known and relevant data layers/shape files and special areas that are defined as important, sensitive or protected or other means. Important information to include would be Indigenous fish harvesting areas, marine refuge areas, Ecologically and Biologically Sensitive Areas (EBSAs), Sensitive Benthic Areas (SiBAs), Vulnerable Marine Ecosystems (VMEs), and Fisheries Closure Areas among others. Such a step-by-step protocol would involve regulators and Indigenous communities at key points throughout the decision-making and planning process, and, at a minimum, include the following:

- Provision of an initial (screening level) Preliminary Impact Assessment by mapping the Study Area and the proposed drill location(s) in relation to known special areas (i.e., identify locations with potential concerns or increased sensitivities (screened in) versus those that are routine and do not occur in or near sensitive areas (screened-out));
- Inclusion of conservative environmental Areas of Interest (AOI) polygons to cover off sensitive or confidential information (e.g., SAR sightings, Indigenous values, commercial fisheries datasets) that would trigger additional consultation and review of works with regulators and Indigenous communities;
- Risk assessment of negative effects based on location of work and mitigation measures expected (e.g., locations outside of special areas/AOIs using standard mitigation measures could be low risk and not require further assessment versus moderate-/high-risk works proposed in locations within mapped special areas/AOIs and would trigger a Detailed Impact Assessment);
- Provision of a Detailed Impact Assessment for those specific locations that occur within a special area and/or mapping AOI (e.g., Pathways of Effects analysis, prescription of specific biological and/or operational mitigation measures, additional data/information gathering to fill gaps, if any, and duty to consult/engage with regulators and Indigenous communities);
- A comprehensive list of mitigation/avoidance measures to be implemented depending on where and when the proposed work will occur (e.g., standard measures for relatively innocuous/unconstrained locations and specific lists tailored to the special area/AOI(s))



where work will occur (e.g., species-specific timing restrictions, reductions in operational effects like lighting and noise, provision of marine mammal observers, pre-surveys of the seabed to avoid sensitive invertebrates, ramping up and down before and after seismic profiling);

- Creation of a flow chart that clearly outlines key actions that must be taken, triggers, roles and responsibilities, review/comment periods to aid in planning/mobilization scheduling, and notification/approval requirements;
- Provision of sufficient review and comment periods to allow time for both responsible authorities and Indigenous groups to respond, engage, and provide input to moderate-high-risk notifications (e.g., at least two months). Low-risk notifications would be circulated for information but not subject to a mandatory review period; and
- Commitment to annual updating of the protocol and associated data/information layers to ensure that future works and decisions are made with the most recent and relevant information available (e.g., Indigenous Knowledge Studies, Fisheries and Oceans Canada (DFO) marine mammal distribution modelling, results of ongoing fisheries population/stock assessments).

**Recommendation 5b:** The IAAC should make a recommendation for the C-NLOPB to include a formal *Marine Mammal and Sea Turtle Sighting Protocol* to follow in the event of an opportunistic sighting during drilling activities, supply vessel transit, and helicopter transit. The protocol must be developed in consultation with DFO and local Indigenous communities, including MFN, and should include roles and responsibilities in the event of an opportunistic sighting or encounter and standardized documentation and reporting requirements. This information should be submitted to C-NLOPB, DFO, and Indigenous communities on an annual basis. This protocol would be in addition to reporting requirements for geophysical surveys and vessel strikes.

**Comment 6:** Conditions of Approval for offshore oil and gas exploratory drilling often require that the proponent develop and submit follow-up monitoring programs to the C-NLOPB prior to their implementation. However, proponents are not required to develop and submit these programs to Indigenous communities for review and input. Furthermore, proponents are also not required to consult with Indigenous communities when developing and implementing adaptive management measures. This approach does not ensure that follow-up monitoring programs sufficiently address MFN's concerns regarding proposed projects.

**Recommendation 6:** The results of these programs must be shared for review and input. MFN could then work with proponents to determine an appropriate, mutually agreed-upon adaptive management approach, if required.

**Comment 7:** Often, proponents will assess the transportation of excess synthetic-based muds to an approved onshore facility as an alternative means to the project and dismiss the idea because, while

technically feasible, increased transportation costs, operational delays, health and safety considerations, and lack of a treatment facility in Newfoundland make it a non-preferred option. Therefore, discharge to the water column is identified as the preferred option for management of drilling wastes generated from projects. MFN prefers that excess synthetic-based muds be transported to an approved onshore disposal facility, as this minimizes impacts to fish and fish habitat.

**Recommendation 7:** At the time of writing, there were four operating oil and gas production projects, one proposed production project, and ten proposed exploration programs off eastern Newfoundland. *Advance 2030* could see the oil and gas industry in Newfoundland expand to include up to 100 new exploration wells and the production of up to 650,000 bpd in some basins. Due to the scope of proposed offshore oil and gas activities, including the existing offshore drilling production and proposed exploration, proponents must consider undertaking an economic feasibility study to determine the possibility of an approved treatment facility in Newfoundland. All cuttings from existing and proposed drilling could be directed to this facility for treatment and disposal, reducing the loading of contaminants to the environment and creating local employment opportunities.

**Comment 8:** The southern Newfoundland population of Atlantic salmon is considered threatened by the Committee on the Status of Endangered Species in Canada. MFN has witnessed the continual and alarming decline of this species due to aquaculture, overfishing, forestry, and at-sea mortality. Returns of adult salmon to the Conne River reached an estimated 398 individuals in 2019, a drop from approximately 454, 712, and 1,230 during the years of 2018, 2017, and 2016 respectively (Department of Fisheries and Oceans [DFO], 2019; pers. comm. Brian Dempson, DFO). This is down from an average of 2,432 during the period of 1992–2016 and highs of 10,000 reached during the 1980s (Dempson, O’Connell, & Schwarz, 2004).

The continued exploration in offshore Newfoundland will potentially exert direct and cumulative effects on Atlantic salmon due to seismic impacts, changes to water quality, major accidents and malfunctions. These effects may cause stress to migrating salmon; thereby inducing behavioural changes, reducing feeding efficiency and, in limited circumstances, causing direct mortality. Atlantic salmon migrate through the Study Area on their way to feeding grounds, and again on their return journey to Conne River and other rivers on the south shore of Newfoundland. Additional impacts may result in the extirpation of salmon from rivers in MFN’s Traditional Territory, where salmon have been present since time immemorial. Any negative effects to Atlantic salmon from offshore oil and gas exploratory drilling would represent a direct impact on the rights and interests of MFN.

**Recommendation 8a:** Due to the value of Atlantic salmon to the MFN community, the continual decline in numbers of returning adults, and the potential effects of these projects, it is necessary that proponents apply the precautionary principle to mitigate potential harm, especially given the already extremely fragile state of the stock. Moreover, any serious harm to fisheries must be offset through an Authorization under the Fisheries Act. This may be achieved, in part, through the funding of an MFN-led feasibility study for evaluating potential recovery strategies of Atlantic salmon in southern Newfoundland. This research would benefit the local restoration priorities for Atlantic salmon. According to the Fisheries Productivity Investment Policy: Proponent Guide to Offsetting (DFO, 2013),

providing funding for this type of research can be considered a Complimentary Measure. The results of this feasibility study would be used to inform recovery actions taken by MFN, the province of Newfoundland and Labrador, and DFO.

**Recommendation 8b:** Based on the outcome of the feasibility study described above (Recommendation 7a), MFN will identify preferred recovery strategies for Atlantic salmon on the south shore of Newfoundland.

**Recommendation 8c:** Baseline data on the migration and behaviour of Atlantic salmon while at sea is insufficient to adequately assess the effects of offshore oil and gas exploratory drilling. To better evaluate the potential effects of these projects on Atlantic salmon migrating through and near the Study Area, proponents should provide funding for tracking studies of Atlantic salmon (e.g., using satellite pop-up tags) to be completed before any exploration activities take place. These studies would improve knowledge of salmon movements during the post-smolt and adult stages of their life cycle. Once baseline data has been collected, it will be necessary for follow-up monitoring to occur during and after the exploration projects.

Rather than initiating new projects, proponents should provide funding to support ongoing research projects or programs. This would allow the research protocol for any study to be designed by established organizations and integrated with existing research. Organizations involved in the tracking of marine fishes include MFN, the Atlantic Salmon Federation, the Ocean Tracking Network, and DFO. These organizations are already engaged in projects aimed at understanding the movements of Atlantic salmon while at sea. In addition to supporting these studies, funding for capacity building and training of MFN community members should be provided.

**Comment 9:** The use of a “ramp-up” phase or “soft-start” procedure is a standard mitigation for vertical seismic profiling (VSP) to increase initial avoidance behaviors in marine biota. While this measure has been shown to be somewhat effective in increasing avoidance of marine mammals (Moors-Murphy & Theriault, 2017), little to no research has been conducted to evaluate its effectiveness in increasing avoidance by fish. Understanding if “ramp up” procedures are effective in increasing initial avoidance of fish is important in determining if additional measures are required to mitigate the impact of VSP on fish.

**Recommendation 9:** Sonar technologies are providing new and innovative ways to address research questions in fisheries science (Lucchetti, Notti, Sala, & Virgili, 2018). One such suitable use for this technology is for fish school detection and counting (Lucchetti, Notti, Sala, & Virgili, 2018; Grothues, Newhall, Lynch, Vogel, & Gawarkiewicz, 2017). This technology could be applied in the oil and gas industry to determine the effectiveness of “ramp up” phases in increasing fish avoidance of VSP. Oil and gas proponents, in consultation with Indigenous communities including MFN, as well as DFO, and C-NLOPB, should explore the possibility of using side-scan sonar to determine the effectiveness of “ramp up” in increasing the initial avoidance of fish and determine its suitability as a measure for mitigating the impacts of VSP on fish. Based on the results of these studies, the need for additional mitigation measures can be determined.

**Comment 10:** The Committee has identified actual or perceived reductions in the quality of fisheries resources as a potential effect of an unplanned event, such as an oil spill. This is a reasonable perception, as tainting could occur if fish were exposed to hydrocarbons and absorb oil-derived substances into their tissues. This could have serious detrimental effects on MFN, as our community is reliant on fish for sustenance and our commercial fishers rely on the ability to market a safe and healthy product. MFN's FSC licence includes migratory species such as mackerel, herring, Atlantic cod, American eel, smelt and capelin, some of which occur in high relative densities in the Study Area, particularly along the Grand Banks.

**Recommendation 10a:** MFN requests that proponents be required to undertake baseline surveys for establishing background hydrocarbon (i.e., polycyclic aromatic hydrocarbons (PAHs) and total petroleum hydrocarbons (TPHs)) and heavy metal body burden in benthic organisms (e.g. snow crab, and lobster), fish, and other commercially harvested species to evaluate the risk of consumption to our community and other consumers. In the event of a large or uncontrolled spill, this will provide baseline data to which increases in hydrocarbon and heavy metal body burden can be compared and may help to minimize negative perceptions in relation to the quality of fish and other commercially harvested species.

**Recommendation 10b:** The cumulative effects of small-batch spills and unreportable spills are not fully considered in the RA. Polycyclic aromatic hydrocarbons (PAHs) are highly insoluble in water and, as a result, are often deposited to sediments (Collier, Meador, & Johnson, 2002). This sediment repository can act as a pathway of exposure for many organisms, including benthic invertebrates and fish, either directly through contact or indirectly through consumption of contaminated prey (Collier, Meador, & Johnson, 2002). One potential factor contributing to at-sea mortality of Atlantic salmon is exposure to endocrine disruptors (Duffy, Iwanowicz, & McCormick, 2014). PAHs are endocrine disruptors and have been shown to reduce fecundity (reproductive potential) in female fish (Collier, et al., 2014). To address this concern, offshore oil and gas proponents should be required to sample PAHs and TPHs in sediment and biota (paired observations of chemical concentration) and use these values to estimate biota sediment accumulation factor (BSAF).

**Comment 11:** The deposition of drill cuttings on the seafloor may cause health effects and/or smothering of marine invertebrates, corals, sponges, and benthic fishes. This deposition of deleterious substances is an activity that results in serious harm to fish and fish habitat under the *Fisheries Act*. If these activities occurred in freshwater habitat, then a Fish Habitat Offsetting Plan would be required. It is unclear why this is not required for offshore oil and gas exploratory drilling.

**Recommendation 11:** MFN believes that the deposition of drill cuttings on the seafloor represents a clear case of *harmful alteration, disruption or destruction* (HADD) under the *Fisheries Act*. These impacts must be offset through an Authorization from DFO and the creation of a Fish Habitat Offsetting Plan. The proponents must prepare these plans and share them with MFN for review and comment. Moreover, DFO should provide rationale for why these plans have not been required for previous projects.

**Comment 12:** Multiple helicopter transits per week are required to support each offshore oil and gas exploratory drilling project. This represents a significant source of frequently reoccurring sound, the effects of which may be detrimental to marine mammals and sea turtles. The volume of helicopter traffic in the Study Area will only increase as the offshore oil and gas sector expands in Atlantic Canada. A review and discussion on progress in the study of aircraft noise effects on marine mammals found that in each of the studies reviewed, cetaceans reacted to aircraft noise to some extent, most often by diving (Luksenberg & Parsons, 2009). Precautionary measures should be taken to mitigate the effects of *all* noise sources resulting from project activities.

**Recommendation 12:** As a precautionary measure, MFN requests that a visual watch be established 30-minutes prior to scheduled helicopter takeoff from the MODU. If a sea turtle or marine mammal is observed within the 500-metre safety zone, helicopter takeoff from the MODU should be restricted until the sea turtle or marine mammal has moved outside of the safety zone.

**Comment 13:** Often, the use of passive acoustic monitoring (PAM) or an equivalent technology is only required when the full extent of the 500-metre (m) safety zone is not visible (e.g., during poor visibility). Even in good visibility, marine mammal presence may be missed due to observer error. To ensure that detection surveys for marine mammals and sea turtles are as effective as possible, best available technologies should be used for marine mammal and sea turtle detection.

**Recommendation 13:** MFN requests that PAM or an equivalent technology (e.g., infrared imaging) be used for all detection surveys, regardless of the extent of visibility. The use of these technologies will allow for the detection of marine mammals missed by observers and for the extension of marine mammal observation into nighttime hours or during poor visibility.

**Comment 14:** As a minimum requirement, offshore oil and gas proponents are required to immediately shut down air source arrays if a SAR marine mammal or sea turtle is observed within a 500 m radius of the platform. In reviewing recent EAs, it has been noted that the DFO often supports a higher standard for mitigating the effects of VSP on marine mammals or sea turtles, which requires the immediate shutdown of the air source array if any species of marine mammal or sea turtle is observed within a 500 m radius of the platform, regardless of whether or not it is designated as a SAR.

**Recommendation 14:** MFN believes that the RA must be proactive in nature and make recommendations that are likely to become the industry standard in the future. MFN believes that offshore oil and gas proponents should, at minimum, be required to immediately shutdown the air source array if any species of marine mammal or sea turtle is observed within a 500 m radius of the platform.

**Comment 15:** Marine and migratory birds, including several bird species at risk (Leach's storm-petrel, ivory gull, red-necked phalarope, Ross's gull, etc.), have been identified as occurring in the Study Area and may interact with offshore exploratory drilling projects. It is well understood that migratory birds are attracted to light emissions, especially during migration and in poor weather conditions where visibility is low (Marquenie, Wagner, Stephenson, & Lucas, 2014; Day, Rose, Prichard, & Streever, 2015), often resulting in injury and mortality through strandings, collisions, increased predation, or other



vessel-based threats (AMEC Environment and Infrastructure, 2014). The threat to Leach's storm-petrel is particularly concerning considering the population has already declined by 40–50% and that the project is located within their core foraging area. The proponent has acknowledged that there is uncertainty with respect to attraction distances to flaring and lighting. To mitigate the potential impacts of offshore lighting on seabirds, the proponent should implement a precautionary approach based on best practices.

**Recommendation 15:** MFN requests that the proponents be required to complete an assessment of lighting equipment on offshore installations to determine what lighting is essential for safety purposes and if the potential exists to reduce external light emissions. This may be partially assessed by taking photographs in the dark from outside the installation to detect significant sources of light emissions (OSPAR Commission, 2015). Lighting levels on the installation should be reduced to the minimum required for safe operations, where possible. This could be achieved by using strobe lights at night, with the minimum intensity and minimum number of flashes per minute allowable by Transport Canada (AMEC Environment and Infrastructure, 2014).

To further mitigate the effects of light emissions (e.g., water curtains), proponents should be required to align lighting to minimize outward emissions (i.e., minimize lighting facing out and up from the platform) and implement the use of light shields to reduce upward radiation of light emissions (AMEC Environment and Infrastructure, 2014). The proponent should also consider the use of manual or automatic switches that allow for platform lights to be shut off during unmanned periods, aside from those lights required to comply with regulations on aviation and shipping navigation.

It is acknowledged that spectral modified lighting is often deemed to be a non-preferred option during the IA process as it has not yet proven to be economically or technically feasible. This technology has shown promising results in helping to reduce shorebird attraction to offshore oil platform lighting. Studies conducted in the North Sea found that the use of modified spectral lighting on offshore platforms can reduce the disturbance of birds by 50–90% (Marquenie, Donners, Hanneke, Steckel, & de Wit, 2008; Marquenie, Wagner, Stephenson, & Lucas, 2014). Understandably, this technology is still in its infancy and has yet to be widely implemented in the offshore oil industry. To address the current limitations of spectral modified lighting, offshore oil and gas proponents should be required to devote funds to the research and development (R & D) of this technology to help expedite its use in the offshore oil and gas industry.

**Comment 16:** One of the key information sources used to describe the presence, distribution, and abundance of marine and migratory birds in the Study Area was ECCC's *Seabirds at Sea Atlas*. The data used to develop the *Seabirds at Sea Atlas* has been collected by the Canadian Wildlife Service (CWS) through the Eastern Canada Seabirds at Sea (ECSAS) program. The Committee noted that some gaps existed in the ECSAS dataset, which have not been addressed through the Committee's recommendations.

**Recommendation 16:** Data gaps in the spatial and temporal distribution of marine and migratory birds must be addressed to fully understand when and where these species are most at risk from offshore

exploratory drilling activities. Proponents should be required to develop a program, in consultation with Indigenous communities (including MFN), ECCC, and CWS, to address spatial-temporal gaps in marine and migratory bird datasets. This is particularly important for areas and times of year that have been identified as being data deficient, including NAFO Divisions 30 and 3N throughout the year, in 3L from September to November, and in the Flemish Cap area from September to February.

## 4.0 Conclusion

MFN currently sees few, if any, meaningful benefits arising from offshore projects for our community, and we do not wish to bear the associated risks. These risks have been described by MFN on several occasions and highlighted by the spill, and lack of clean up, of 250,000 litres of oil from the SeaRose project. Despite these significant concerns, we have indicated our willingness and openness to engage and understand these projects, make our concerns known, and work with proponents to address these concerns. However, efforts required of MFN to get to a place of understanding for these large, complex projects is beyond the capacity of our community. Therefore, as we have described on several occasions, our community requires adequate resources to support our staff capacity, advice from independent experts, expenses (e.g., travel), and the gathering of Indigenous Ecological Knowledge and traditional land use information from Elders and fishers.

MFN has repeatedly and clearly stated the needs of our community for consultation on these projects to industry proponents and the Crown. These have been rejected repeatedly. MFN has been frustrated and disappointed with the unwillingness of IAAC, and offshore exploration proponents, to provide the resources required by our community to engage on the proposed projects. We acknowledge that more recently, there have been positive developments with proponents who have agreed to provide some capacity funding to support MFN's engagement and overall understanding of projects. This limited funding may help support MFN's participation but is not commensurate with the scale and risk of the projects.

### Legal Requirements for Meaningful Consultation

It is clear to MFN that a high level for the duty to consult and accommodate is triggered by the projects. The legal obligation for the duty is upheld by the Supreme Court of Canada and is a requirement of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which has been adopted by Canada. The requirements of UNDRIP are that states cooperate in good faith with Indigenous Peoples to obtain free, prior and informed consent (FPIC), from Article 32 Sections (2) and (3):

*2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.*

*3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.*

Moreover, Sections 7 (1) (c) and 7(1)(d) of the *Impact Assessment Act 2019 (IAA 2019)* requires that:

**7 (1)** *Subject to subsection (3), the proponent of a designated project must not do any act or thing in connection with the carrying out of the designated project, in whole or in part, if that act or thing may cause any of the following effects:*

**(c)** *with respect to the Indigenous peoples of Canada, an impact — occurring in Canada and resulting from any change to the environment — on*

**(i)** *physical and cultural heritage,*

**(ii)** *the current use of lands and resources for traditional purposes, or*

**(iii)** *any structure, site or thing that is of historical, archaeological, paleontological or architectural significance;*

**(d)** *any change occurring in Canada to the health, social or economic conditions of the Indigenous peoples of Canada;*

The requirements of *IAA 2019* sections 7(1)(c) and 7(1)(d) are directly applicable to MFN for these Projects. There are potential serious environmental, cultural, and socioeconomic risks from all phases of offshore exploratory drilling that could negatively impact our community including MFN's health and socioeconomic conditions, current use of lands and resources for traditional purposes, and rights and interests. The proposed offshore exploration projects overlap with the Traditional Territory of MFN where our ancestors have fished, hunted, gathered, and lived on since time immemorial. MFN members currently use and rely upon the coastal and offshore areas, where these projects are being proposed, for subsistence, commercial, and recreational fisheries, as well as ceremony, jobs and community well-being.

Our traditional activities and cultural practices could be at risk due to the potential negative effects of marine shipping, drilling, seismic blasting, noise, habitat loss, spills/leaks/releases and other environmental impacts of the project. These may directly affect:

- Migratory fish (e.g., salmon and eels) that travel through the study area and into the rivers in our Traditional Territory. These species hold tremendous cultural value and we have spent hundreds of years stewarding them to ensure they prosper. Now, due to a range of known and unknown causes, these species are in decline. Atlantic salmon, in particular, are experiencing a dramatic drop off with adult returns to the Conne River dramatically reduced over time (DFO, 2019). The cumulative effects of this project may contribute further to this decline, a risk that is unacceptable to MFN.

- MFN's communal commercial fisheries. Our community holds commercial and communal licences for a variety of species including tuna, crab, herring, mackerel, cod, haddock, swordfish, scallop, capelin, seal, sea cucumber, whelk, and surf clam. We are constantly expanding these fisheries (in terms of volume and species fished), which support Miawpukek fishers, their families, and the community.
- Food, social and ceremonial fisheries off southern Newfoundland for species including lobster, snow crab, scallop, brook trout, mackerel, capelin, cod, eel, surf clam, and redfish.
- Health and socioeconomic conditions of fishers, their families and community members who rely on the benefits (e.g., childcare, school programs) that our communal fisheries support. Impacts to fisheries will likely translate into lost jobs and lost income. This would harm the overall well-being of fishers and their families.

MFN members have a deep respect for the land and waters of Mi'kma'ki that could be directly impacted by this industry. These risks to the natural environment and the community of MFN emphasize the need for meaningful and ongoing consultation throughout the RA process and the need for recommendations from the Committee to address these potential impacts to MFN rights and interests.

### **Formal Request for Meaningful Consultation with Miawpukek First Nation**

Given the potential impacts to our Aboriginal and asserted Rights, we expected that the offshore oil and gas industry would engage MFN early and often by providing information relevant to the projects in a timely manner and capacity funding to support engagement activities. Canadian civil courts and the Government of Canada's own guidance to civil servants and those delegated the duty to consult underline the need for these aspects of consultation for it to be considered meaningful. This has not occurred. Communication of information and engagement support from the Crown and Proponents have been lacking during this process. MFN's capacity to properly review and engage adequately with the current process is limited. The large burden and amount of attention required by these projects has created stress and tension with the current situation and leaves the community leadership with serious doubt over the ability of the Crown to fulfil their legal requirements.

To date, the participant funding provided by IAAC has been used to develop initial comments, engage in communication with IAAC and the proponents, participate in meetings and workshops, review relevant documentation and a diversity of other activities. However, the limited funding is not sufficient for MFN to adequately understand the project, engage with community members, evaluate technical/environmental concerns and provide meaningful input. We strongly desire the ability to meaningfully participate but are limited by a lack of capacity funding.

We believe it is to our mutual benefit for the Crown/proponents to develop a meaningful relationship, and related agreements, to engage with MFN in this process. This would include a commitment to developing an Indigenous Environmental Advisory Committee and providing capacity and funding

support to MFN to be meaningfully engaged. We feel these are reasonable requests and yet they have been repeatedly rejected by the proponents and the Crown.

### Path Forward for Miawpukek First Nation

The members of MFN have not asked for these offshore developments. If they go forward, we will be forced to bear the risks and suffer any negative consequences and environmental effects. The poor planning and lack of consideration of our knowledge, rights and interests will only exacerbate the effects of the projects on our community. We continue to voice our concerns that the duty to consult has not been met, implementation of UNDRIP is not occurring, and that the requirements of *IAA 2019* are not satisfied. Ultimately this means that the Crown and the proponents are far from satisfying their obligations for consultation and engagement with MFN. This is not in line with the legal requirements for consultation nor is it in the spirit of Truth and Reconciliation.

Going forward, MFN will evaluate all the steps within our power to protect our community and the environment from the potential harm associated with these projects. For the sake of open and honest communication, we have provided a brief description of steps that are being considered.

1. MFN will issue a public statement regarding our perspectives on the offshore projects and the inadequate consultation that has occurred. This will include an appeal to the Prime Minister, Minister of the Environment and Climate Change, the people of Canada, and our fellow Indigenous communities, indicating that the Crown is failing to fulfill their duty to consult on these projects.
2. MFN will reach out to other Indigenous communities across Canada to support us in our cause, as we believe the approach being taken by the Crown and proponent runs counter to reconciliation and thus affects all Indigenous Peoples.
3. MFN will notify representatives of other sovereign states and Indigenous Peoples outside of Canada (e.g., the Indigenous Peoples of Greenland, Iceland, Ireland, and other European Union member states) who may be impacted by the development of oil and gas in offshore Newfoundland to encourage them to provide letters of comment and request participation in the EA processes for the offshore projects.

If the proponents and the Crown are willing to engage with MFN in a meaningful and respectful manner, demonstrated by accommodating the recommendations made within this report, providing reasonable support for consultation and ongoing participation and commit to a resolution process which offers us certainty that our rights and interests will be respected and accommodated, then we are willing to come back to the table and engage in open and honest discussion. However, if this does not occur, the community of MFN will be forced to conclude that the projects pose too great a risk to our fisheries, our brother salmon, our environment, and our way of life.



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