

February 21, 2020

Mr. Garth Bangay
Co-Chair, Regional Assessment Committee
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St. Johns, NL, 6M1

Mr. Wes Foote
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Dear Regional Assessment Committee Co-Chairs,

Thank you for this opportunity to provide feedback on the Regional Assessment Committee's Draft Report, released on January 23, 2020. The Committee has clearly taken this process very seriously and we appreciate the multiple opportunities to participate in consultation sessions leading up to the release of this report.

As a crown corporation we are leading the development of the province's resources, we are committed to following sound, responsible environmental practices and being positive stewards of our resources. We are supportive of regulatory processes that inspire public confidence and ensure high standards for environment, health and safety while increasing global competitiveness through elimination of duplication and incorporation of international best practices. We also believe firmly in the provisions of the Atlantic Accord and as such it is critically important these provisions not be compromised as a result of any changes to the assessment process.

Since the Atlantic Accord was signed between the Federal and Provincial Governments some 30 years ago, Newfoundland and Labrador has attracted billions of dollars in offshore bids for exploration licenses. That bidding is the ultimate expression of an investing company's confidence in the geologic potential of a region and how efficient and economic it is to create value from that resource. However, it is through the work of Nalcor Energy – Oil and Gas and its strategic investments in offshore exploration survey programs that resulted in over 60% of the total bids (\$4 billion) being achieved throughout the last five years. This is a significant accomplishment for our province considering the tough commercial environment that has seen exploration investment significantly fall globally during the same timeframe. That said, this investment capital is mobile, therefore any uncertainty in the regulatory process puts that foreign direct invest at significant risk.

In order to maintain, and in some cases enhance our global competitiveness, we support the concept of Regional Assessment and its potential to serve as an effective process for exemption to the federal impact assessment process. To ensure the overall effectiveness of the process is met, a clear pathway for how exploration wells will become exempt from the impact assessment process will also be required.

In our view, many of the Committee's recommendations are sound and set the stage for continued environmental sustainability, however we have attached specific commentary on three recommendations – #8,17 and 19.

In our experience, many of the companies that propose resource developments in Canada also have investment opportunities in foreign countries and must evaluate their Canadian projects against other global investment options. In order to ensure ongoing attraction of foreign direct investment, Canada needs a fair, dependable and transparent regulatory process.

We look forward to continuing to work with the Committee and others to build confidence and certainty in the environmental assessment process in such a way that avoids duplication and allows our globally significant offshore oil and gas resource potential to be realized for the long term benefit of all Canadians.

Sincerely,
<Original signed by>

Jim Keating

Executive Vice President – Offshore Development

cc.

The Honourable Jonathan Wilkinson, Minister of Environment and Climate Change

The Honourable Siobhan Coady, Minister of Natural Resources

The Honourable Seamus O'Regan, Minister of Natural Resources

Yvonne Jones, MP, Labrador

Gudie Hutchings, MP, Long Range Mountains

Scott Simms, MP, Coast of Bays—Central—Notre Dame

Ken McDonald, MP, Avalon

Churence Rogers, MP, Bonavista—Burin—Trinity

Jack Harris, MP, St. John's East

Comments on the Regional Assessment Committee on the Draft Regional Assessment Report

Recommendation 8:

Section 4.6.2 “**Identifying and Implementing Additional or Enhanced Requirements**” starts by stating that the “*Committee is not recommending that any portions of the Study Area be excluded from exploratory drilling activities at this time*” but then states that the “*Committee has, however, identified and considered a number of areas that have been defined through previous scientific processes as being of particular importance and potential sensitivity, and for which it feels that a precautionary approach is particularly warranted. In some cases, these identified “special areas” have restrictions in place for other types of human activities within them (such as bottom-contact fisheries) but offshore oil and gas activities are currently permitted.*”

One such area that has been analyzed and resulted in further recommendations being made is the Marine Refuge area.

Recommendation #8 reads as follows:

For any future exploratory drilling activities in the Study Area that are proposed to occur within a currently defined Marine Refuge (Fisheries and Oceans Canada, DFO) or a Northwest Atlantic Fisheries Organization (Northwest Atlantic Fisheries Organization, NAFO) Fisheries Closure Area, any exemption from the federal IA process be contingent on the operator demonstrating that any risks to intended biodiversity / conservation outcomes of that area will be avoided or mitigated.

Specifically, it is recommended that the operator be required to outline, in its project notification to the Impact Assessment Agency of Canada (IAAC) (see Section 8.1.2 below), its plans (to be developed in consultation with DFO) to address any effects of these activities on the various environmental characteristics and sensitivities present within the special area(s). In the case of a Marine Refuge, it is recommended that the operator be required to provide evidence in that submission that the Minister of DFO is satisfied that that risks to intended biodiversity outcomes are avoided or mitigated as per existing DFO policy, and that this determination by DFO be made on clearly defined criteria which should be clearly referenced in the above (Section 4.6.2, p 115).

The Biodiversity Protection Provisions (s.43.3 of the Fisheries Act) <https://www.dfo-mpo.gc.ca/acts-lois/rules-reglements/rule-reglement28-eng.htm> state “*Proposed amendments to the Fisheries Act would provide the Minister with authority to make regulations to establish long term spatial restrictions to fishing activities under the Fisheries Act, specifically for the purpose of conserving and protecting*

marine biodiversity. This would address stakeholder concerns that variation orders and licence conditions are not in their view, long-term enough in nature to meet the standard for "other measures".

The section on Marine Refuge with the Department of Fisheries and oceans website <http://dfo-mpo.gc.ca/oceans/oeabcm-amcepz/refuges/index-eng.html> also states "Fisheries management measures in Canadian waters that qualify as other effective area-based conservation measures are listed below. These measures help protect important species and their habitats, including unique and significant aggregations of corals and sponges."

Based on the statements contained within the websites listed above, Marine Refuges, and more specifically risks to intended biodiversity, are already being dealt with by the Minister of Fisheries and Oceans and the Fisheries Act. Therefore introducing this recommendation will create unnecessary duplication with no added environmental protection; however it will impact investor certainty in the process. For that reason we ask this recommendation not be adopted.

Recommendation 17 and 19

An area of concern during the process of creating the Regional Assessment and its GIS application is how the report/study would be updated moving forward, when would the updates occur and at what interval of the regulatory approval and authorization.

17) It is recommended that a "Regional Assessment Oversight Committee" be established to provide an on-going and consistent oversight and advisory function for the use and future updating of this Regional Assessment. This Committee should report to senior representatives of each of the Parties that were signatories to the Regional Assessment Agreement, and be supported by IAAC staff, and will provide advice on and help guide (Section 4.6.4, p 117):

- a) The annual review and updating of the Regional Assessment, and the consideration and incorporation of these updates in the review and updating of the associated Ministerial regulation (as required);
- b) Tracking and reporting annually on the progress of the implementation of the Regional Assessment recommendations;
- c) The maintenance and further development of the GIS decision-support tool, including its associated datasets and analytical functionality; and
- d) Reviewing, evaluating and providing advice on the IAAC's overall Regional Assessment procedures and policies, as informed by the experiences of and any associated lessons learned from this

assessment, as well as the manner and effectiveness with which these assessments are being used to inform decision-making.

19) In the course of completing its work, the Committee has become aware of a number of on-going or planned studies or scientific reviews that should be incorporated into future updates of the Regional Assessment immediately upon their completion (see earlier list in Section 3.5) (Section 3.5.1, p 89).

We believe integrating relevant studies and related information as it becomes available is a beneficial exercise, however a clear path through the regulatory framework needs to be a priority throughout the process. For this reason we recommend a five year period for updates to the regulations and information used as the basis for authorizations, this timeframe will provide required certainty to investors.