

September 19, 2019

TO: East Coast Environmental Law Association, the Sierra Club Canada Foundation, the Ecology Action Centre, and WWF-Canada

RE: Regional Assessment of Offshore Exploratory Drilling East of Newfoundland

Thank you again for your on-going participation in the Regional Assessment. As indicated in the interim email response provided on September 11, 2019, we are writing to provide the Committee's responses to the various questions and issues identified in your letter of July 25, 2019 and follow-up email of September 9, 2019.

These responses are provided below, and are generally organized according to the various topics and themes you have raised.

1) How the short timeline will allow for wholesome and productive assessment of the entire study area and all of the activities

The Agreement to conduct the Regional Assessment between the Governments of Canada and Newfoundland and Labrador indicates that the Committee will submit its Report to the Ministers by Fall 2019. Since its appointment in the Spring of 2019, the Committee has continued to work diligently towards our objective of producing and delivering a high quality, comprehensive and robust assessment in as timely a manner as possible.

While the current timeline is acknowledged to be a challenging aspect of our mandate, we do feel that we have made good progress to date, and we continue to advance our work in as expeditious a manner as possible. The Committee is very much committed to ensuring a comprehensive and robust product and a fully participative process that is in keeping with the requirements and spirit of the Regional Assessment Agreement and our Terms of Reference.

If you have specific concerns and views about the timelines for the Regional Assessment or any other aspect of the Committee's mandate as specified in the Regional Assessment Agreement, we would encourage you to raise and discuss this directly with the various government departments that are signatories to same.

2) How the final report will be used to limit further assessments of exploratory oil and gas activities in future project-specific environmental assessments

Once the Committee submits its report to the Ministers, we understand that the Impact Assessment Agency of Canada will make it available to the public, and the federal Minister of the Environment will eventually decide how its results will be used to help inform future project decisions for exploratory drilling offshore East of Newfoundland and Labrador. We also understand that the federal Minister may make regulations that would exempt future offshore exploratory drilling projects from federal impact assessment requirements if they are proposed within the area where the Regional Assessment was carried out and meet the conditions for exemption established by the Minister in those regulations. This approach has been reflected and described in documentation recently prepared and released by the Impact Assessment Agency of Canada, including its "*Discussion Paper on the Proposed Project List*" (Section 4.3).

Although it is our understanding that the Regional Assessment – and specifically, the recommendations that the Committee develops and provides in its report - will help to inform the development of such a Regulation, our mandate does not extend to these eventual regulatory decisions and actions by the Minister. We would

therefore suggest that any questions or concerns that you may have about the eventual use of the Regional Assessment by government - including any planned exemption of future exploratory drilling projects from federal impact assessment requirements - be directed to the Agency, who are best placed to provide additional clarity on this.

3) The extent to which the Regional Assessment will allow for a comprehensive assessment of cumulative effects, including seismic testing

As specified in the Regional Assessment Agreement, a key focus is on assessing and considering the overall cumulative effects of past, on-going and future exploratory drilling activities in the Study Area, as well as those that may result from the effects of exploratory drilling in combination with other types of human activities, including seismic surveys, marine shipping, and fishing activity, as well as other relevant natural and anthropogenic stressors and sources of environmental change in this marine ecosystem.

The Committee is mindful of the fact that cumulative effects are inherently challenging to assess and difficult to manage, particularly through individual project-specific impact assessments and decision-making. Regional Assessments are, however, often considered to offer a more comprehensive and proactive approach to assessing and seeking to manage the cumulative effects of multiple, independent activities in a region by facilitating and informing better planning and decision-making approaches. This was discussed in some detail at a September 13, 2019 Technical Advisory Group (TAG) session, which representatives of several of your organizations attended.

The Committee is confident that the Regional Assessment (including its associated recommendations) will make important contributions to the assessment and management of cumulative effects in this sector and region, and this will represent a significant improvement over the current approach of attempting to do so through project-specific impact assessment reviews alone.

4) The ability of the GIS system to fully meet the requirements of the Committee under its Terms of Reference

As indicated previously, including at the GIS TAG session on September 11, 2019, the Committee is very interested in the development of a GIS system as a key part of the Regional Assessment deliverable to the Ministers, and we are actively engaged in the planning and development of such a system focused on inclusiveness and transparency. The Committee sees this approach, and the eventual GIS product, as being key to our objective of presenting information and analysis in an effective and efficient way for all participants and eventual users. Indeed, an important and recurring finding of the Committee's engagement work to date has been widespread interest in, and support for, the GIS concept and approach.

While the overall planning and design of the Regional Assessment continues to evolve through on-going discussions by the Committee, the current intent is that it will include a Report which provides a description of the Committee's activities, findings and recommendations, with a series of separate but supporting technical modules or appendices which will contain both textual and geo-spatial information housed within the GIS. The Regional Assessment will seek to identify and make use of all existing, relevant and accessible datasets, as well as identify any key data gaps.

5) Whether efforts have been made thus far to engage with the international community and our international partners

The Committee recognizes that the size and geographic extent of the study area means that there is a strong international dimension to, and interest in, the Regional Assessment, with international parties being involved

in the study and management of key environmental components as well as undertaking commercial fishing activity in parts of the study area. International organizations such as NAFO are therefore also an important source of information that is relevant to the Regional Assessment.

The Committee and its supporting Task Team have been actively involved in a process of identifying, requesting and reviewing available information and datasets that originate from and are held by the international community. This includes an on-going review of the relevant literature. We have also engaged with NAFO, through the appropriate procedures and forums, to request access to and permission to use available geospatial data on international commercial fishing activity in the Study Area. The Committee is pleased to report that we have been successful in obtaining those data, and are currently processing it for presentation and use in the Regional Assessment. This is, to our knowledge, the first instance where such international fisheries data have been made available for use in an environmental assessment in the Newfoundland and Labrador offshore area. These efforts by the Committee to engage with, and seek information from, the international community are on-going and will continue, and if you have any suggestions for such sources of information we would be very interested in hearing about these.

In terms of other engagement with international organizations, the Committee has undertaken an extensive advertising campaign for the Regional Assessment and we have posted information and open calls for participation in various forums, including on the Regional Assessment Registry site. We also anticipate that once the draft Regional Assessment Report is released by the Committee for public review and input, relevant international organizations will provide input through that process as well.

6) Whether there is a process in place to provide for fair and effective record keeping + The Registry system for the Regional Assessment

Since the commencement of the Regional Assessment earlier in 2019, the Committee has established and implemented procedures to ensure complete and accurate records of all meetings with Indigenous and stakeholder groups undertaken as part of our engagement program. At the recent TAG sessions, for example, there were at least two (2) dedicated note takers at each session, each of which were professional staff members that are directly involved in the Regional Assessment and familiar with its subject matter. Notes from these sessions are currently being prepared, and will be distributed in draft form to all participants for review and comment, after which they will be finalized and posted to the Registry site for the Regional Assessment.

You have also made specific reference to the May 28, 2019 meeting between the Committee and various Nova Scotia based organizations, which included attendance by groups that were signatories to your letter. To reiterate some of the background to that meeting, this introductory session was arranged for that day to take advantage of the presence of one of the Committee co-chairs and the Task Team co-chair in Halifax, with other Committee and Task Team members participating by teleconference. At the meeting venue (the Agency offices in Halifax) we had arranged for a teleconference system to be used, which included a number of additional, external microphones to help ensure that everyone could participate effectively, as well as a dedicated note taker that was situated with the other Committee members in St. John's. Unfortunately, and for technical reasons outside our control, the external telecom microphones supplied for the meeting did not function properly, which admittedly did create some challenges. The decision was made to proceed rather than end or postpone the meeting, however, and at no time did any of the participants suggest that the meeting not continue. Therefore, we did our best by moving the telecom unit around the boardroom as people were speaking. As was the case for all such engagement meetings, the notes that were taken during that session were developed and distributed in draft form to all participants for review and comment / validation prior to being finalized and provided for your records. We did not receive any comments on the meeting notes from most of the participating groups, and those that did respond did not indicate any significant exclusions or errors, nor other concerns with the content or completeness of these.

In your letter, you have also raised concerns about the period of time in which you were asked to review these draft meeting notes and provide comments. We would again note that, prior to your July 25, 2019 letter, we did not receive any input from either organization raising concerns with this timeframe nor otherwise commenting on the content of the notes. If any such concerns had been communicated to us, we would certainly have extended this review period as required to accommodate you, and would have happily received and incorporated your input within a timeframe that worked for you. May we therefore suggest that in the future you let us know if you have any such concerns or requests, so that we can discuss and address these and attempt to accommodate.

Finally, in terms of the Registry for the Regional Assessment and its planned content, please note that all written input received by the Committee from stakeholder and Indigenous organizations that is relevant to planning and completion of the Regional Assessment, and which is used to develop the Regional Assessment report, is being posted to the Registry, subject to the Canadian Impact Assessment Registry Terms of Use and Submission Policy (<https://iaac-aeic.gc.ca/050/evaluations/introduction?culture=en-CA#innovation>) and the Agency's privacy policies as outlined in its Privacy Notice (<https://iaac-aeic.gc.ca/050/evaluations/Protection?culture=en-CA>). With the recent re-tooling of the online Registry website, we are in the process of posting some of the written input received previously, as well as some meeting notes, and anticipate that this will be completed soon. For your information, the new Registry system and website now allow users to post their comments through an online commenting tool, as well as allowing users to read the comments submitted by others.

7) The level of independence of the Committee's chairs

The Regional Assessment Committee is an independent committee that was appointed by the Minister of the Environment, in consultation with the other Ministers that are signatories to the Regional Assessment Agreement. Any questions or concerns that you may have around the selection and appointment of the Committee members, including the co-chairs, should therefore be directed to government.

We will say, however, that Committee is committed to undertaking its work, pursuant to our mandate and terms of reference, in a manner that is in keeping with the highest levels of professionalism and independence, and these principles have guided all aspects of the Committee's activities to date.

8) Contracting Processes for the Regional Assessment

The Regional Assessment Committee has, through the Task Team, secured contractor support on a number of items. This includes, most significantly, in the planning and design of the GIS tool for which we are being supported by ICI Innovations, as discussed at the recent TAG session. The contract awarded to ICI in early September for this work was undertaken through a competitive bid process by the Agency which involved multiple bidders and was in accordance with relevant federal government contracting policies and requirements (<https://www.canada.ca/en/treasury-board-secretariat/services/policy-notice/contracting-policy-notice-2019-2-amendments-government-contracts-regulations.html>).

Similarly, we have a contract in place with Stantec / Wood to provide GIS and data management support to assist in the formatting of the various and diverse geospatial datasets that we are receiving from numerous sources, in order to allow for these to be incorporated into the GIS. This contract was likewise implemented through a competitive bid process under the Government of Canada ProServices supply arrangement (<https://www.tpsgc-pwgsc.gc.ca/app-acq/sp-ps/index-eng.html>). Finally, we also have a series of small contracts in place with various contractors to assist the Task Team and Committee in the identification, compilation and/or summation of information and data related to the Regional Assessment, particularly for a

number of complex and highly technical aspects of the existing environment, as well as in compiling summaries of the various emissions modelling studies that have been completed for previous exploration drilling projects offshore Newfoundland and Labrador and the associated literature. Again, each of these contracts were awarded in accordance with relevant federal government contracting requirements.

While these technical pieces are being completed in support of the Regional Assessment, it should be noted, however, that the Committee and Task Team continue to lead the writing of the Regional Assessment itself, and in particular, the analysis of potential effects and required mitigation and follow-up. Moreover, we are the sole authors of the overall findings and recommendations that will be the primary outcomes of the Regional Assessment.

We hope and trust that the above responses satisfactorily address your questions and concerns, and we look forward to discussing the Regional Assessment with you in the future and to your active and on-going participation in it.

Sincerely yours;

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