

Miawpukek Mi'kamawey Mawi'omi
50 Miawpukek Drive
P.O. Box 10
Conne River, NL A0H 1J0



October 12, 2018

Luc S. Desroches
Senior Advisor, Indigenous Affairs, Atlantic Region
Canadian Environmental Assessment Agency / Government of Canada
luc.desroches@canada.ca
Tel : 506-878-1756

Canadian Environmental Assessment Agency
10 Barters Hill, Suite 301
St. Johns, NL A1C 6M1
E-mail: ceaa.nloffshorestudy-etudeextracotieretnl.acee@canada.ca

Dear Mr. Desroches,

Re: Draft Agreement for Regional Study

Please accept these comments on the *Draft Agreement to Conduct a Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador* submitted on behalf of Miawpukek First Nation (MFN). We have conducted this assessment based on our understanding of federal environmental assessment legislation and policy, good environmental impact assessment practice in Canada and elsewhere, and in consideration of Miawpukek's rights and interests and potential effects on Miawpukek as per section 5.1 (c) of the Canadian Environmental Assessment Act, 2012.

Our comments on the Draft Agreement are presented in Table 1 below. We expect that the recommendations below can be accommodated by making the appropriate changes to the final agreement. Where the Canadian Environmental Assessment Agency is unable to make the requested changes, MFN requests a detailed written explanation explain the rationale.

Wela'lin,

Ross Hinks,
Miawpukek First Nation

Miawpukek Mi'kamawey Mawi'omi
 50 Miawpukek Drive
 P.O. Box 10
 Conne River, NL A0H 1J0



Table 1: Issues and recommendations raised on behalf of Miawpukek First Nation in relation to the Canadian Environmental Assessment Agency's *Draft Agreement to Conduct a Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador*.

Comment #	Draft Agreement Reference	Issue	Recommendation
1	Sections 2 and 3	<p>There are no Mi'kmaq governing bodies represented on the Committee, despite the implications of offshore development for long-term risks and potential impacts which will be inequitably borne by Mi'kmaq communities especially Miawpukek. For a regional assessment of such an important set of developments, a nation-to-nation relationship must be established and implemented. This is entirely consistent with Canada's stated principles (http://www.justice.gc.ca/eng/csj-sjc/principles-principes.html) for its relationship with Indigenous peoples, and summarized as "the Government of Canada is committed to achieving reconciliation with Indigenous peoples through a renewed, nation-to-nation, government-to-government [emphasis added], and Inuit-Crown relationship based on recognition of rights, respect, co-operation, and partnership as the foundation for transformative change."</p>	<p>The Committee must include Mi'kmaq governing body representatives, preferably Miawpukek representatives.</p>
2	Section 4.4	<p>It is not clear in this section or elsewhere in the document that Miawpukek will be consulted on the Regional Assessment design. It is critical that Miawpukek be consulted on this stage of the process, similar to the manner in which they would be consulted on EIS Guidelines for a project-specific federal EA.</p>	<p>Identify clearly in this section or elsewhere in the Draft Agreement that Miawpukek will be engaged and consulted about the Regional Assessment design, and have its comments and requests meaningfully considered by</p>

Miawpukek Mi'kamawey Mawi'omi
 50 Miawpukek Drive
 P.O. Box 10
 Conne River, NL A0H 1J0



Comment #	Draft Agreement Reference	Issue	Recommendation
			the Regional Assessment Committee.
3	Section 4.17	The rights of Miawpukek are not listed as a factor in this section.	Revise wording to “The Committee will engage with Indigenous groups and any others that have knowledge relevant to the Regional Assessment or whose rights , interests and uses may be affected by exploratory drilling.”
4	5.9	It is not clear in this section whether the digital, spatially-based system for Regional Assessment contemplated therein will be made available for use by indigenous groups, including Miawpukek.	The Committee must be tasked with considering and making best efforts to make the Regional Assessment digital, spatially-based system available for use by Indigenous groups including Miawpukek during and after the Regional Assessment process. Such a system will be an important resource for Miawpukek’s environmental and marine resource stewardship, and for understanding the regional environment.
5	7	Miawpukek has not been consulted on its budget needs for participating in the process. It is imperative that Miawpukek is meaningfully funded to both 1) participate in the process and 2) undertake information and knowledge gathering that will allow it to provide meaningful evidence to the Regional Assessment to ensure potential impacts to its rights and interests are considered and to provide	The parties to the Draft Agreement need to ensure that Miawpukek’s needs for meaningful participation in the Regional Assessment are fully funded. This requires that the parties to the Draft Agreement, or the Committee, consult with Miawpukek about its needs in this respect.

Miawpukek Mi'kamawey Mawi'omi
 50 Miawpukek Drive
 P.O. Box 10
 Conne River, NL A0H 1J0



Comment #	Draft Agreement Reference	Issue	Recommendation
		<p>meaningful input on mitigation and accommodation measures. The current funding allocation of \$5,000 is woefully inadequate for Miawpukek to participate in terms of either of these activities. If some of these costs need to be recovered through industry via the C-NLOPB, so be it.</p>	
6	Appendix A, Section 2.3	<p>It is not clear in the Committee Terms of Reference that Miawpukek will be consulted as part of the Committee's work to develop advice on how "the results of the Regional Assessment can be used to inform and guide future environmental assessments and regulatory decisions related to proposed offshore exploratory drilling projects within the region. This should include identifying any standard conditions that may be appropriate."</p>	<p>Identify clearly in this section or elsewhere in the Draft Agreement that Miawpukek will be engaged and consulted about the Committee's advice with respect to Appendix A, section 2.3 and have its comments and requests meaningfully considered by the Regional Assessment Committee.</p>
7	Appendix C, Section 1	<p>Item (a) refers to "negative consequences" versus "adverse effects".</p>	<p>"Negative consequences" must be replaced with "adverse effects" in this section, in accordance with legislation and policy related to CEAA 2012.</p>
8	Appendix C, Section 1	<p>Items (b) and (e) refer to technical and economic feasibility, but it is not clear if economic feasibility is only considered in relation to specific/singular proponents and projects. Miawpukek requests that the Draft Agreement make it clear that joint economic feasibility of mitigation measures and alternative means across multiple projects/proponents be</p>	<p>The Draft Agreement should clarify in these sections and/or in the Interpretation section of the Draft Agreement that economic feasibility may also apply to, where appropriate, shared costs amongst multiple projects/proponents. This is particularly relevant for alternative means and mitigation measures related to</p>

Miawpukek Mi'kamawey Mawi'omi
 50 Miawpukek Drive
 P.O. Box 10
 Conne River, NL A0H 1J0



Comment #	Draft Agreement Reference	Issue	Recommendation
		considered as part of the Regional Assessment.	environmental emergency response.
9	Appendix C, Section 1	<p>Item (c) does not refer to section 5.1(c) of CEAA 2012, namely:</p> <p>“(c) with respect to aboriginal peoples, an effect occurring in Canada of any change that may be caused to the environment on</p> <p>(i) health and socio-economic conditions,</p> <p>(ii) physical and cultural heritage,</p> <p>(iii) the current use of lands and resources for traditional purposes, or</p> <p>(iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.”</p>	<p>For clarity, as it relates to effects on Miawpukek caused by changes to the environment, the Draft Agreement must also refer to section 5.1(c) of CEAA 2012 in this section.</p>
10	Appendix C, section 1	Item (j) does not include consideration of how Miawpukek and other indigenous peoples may be involved in Regional Assessment follow-up.	<p>Revise wording to “the requirements of the follow-up program in respect of offshore exploratory drilling, including opportunities for Indigenous peoples or governing bodies to lead or participate directly in follow-up activities.”</p>