

The Hon. Jonathan Wilkinson
House of Commons
Ottawa, Ontario
Canada, K1A 0A6
Email: Jonathan.Wilkinson@parl.gc.ca

December 17, 2019 (VIA EMAIL)

Dear Minister Wilkinson,

RE: Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador

As the Minister responsible for the *Impact Assessment Act*, we recognize your authority regarding the Regional Assessment of Offshore Oil and Gas Exploratory Drilling East of Newfoundland and Labrador (RA). While the undersigned organizations, all of whom are active participants in the RA process, support impact assessment processes, we have significant concerns with the RA process to date. We have raised these concerns throughout the process, however, in our view, they have not been meaningfully addressed. As such, we are writing to you to reiterate what we see as fundamental problems with the RA process as it has unfolded.

Below we provide a series of recommendations that we hope you will closely consider as the final report is developed and regulations stemming from the RA are considered:

Recommendation 1: Clarify the mandate of the Regional Assessment with the Committee

Given the terms of reference (TOR) and the new *Impact Assessment Act* (IAA), the objective of the RA should be to conduct a comprehensive evaluation of potential risks and threats to valued components that will be impacted by exploratory drilling at the regional level. However, based on our experiences in various engagement sessions and on the draft recommendations released by the Committee on December 4th, little assessment has occurred. Instead, the focus appears to have been on gathering data sets into a user-friendly GIS platform. This is an important step and we appreciate that it is no small amount of work. However, data gathering, and mapping does not comprise a proper assessment, and the power of the GIS platform as a decision-support tool as it currently stands is limited. Since the Committee has stated that one possible outcome of the RA may be to preempt project-specific assessments for exploratory offshore oil and gas activities, and given that we are now approaching the end of the process, the lack of progress toward a fulsome assessment is a grave concern. We feel very strongly that this aspect of the mandate of the Committee needs to be clarified and reinforced.

Recommendation 2: Extend timelines to conduct a more rigorous Regional Assessment

Although engagement with stakeholders began in Spring of 2019, the TOR guiding the RA states that the Committee was to have work completed no later than Fall of 2019. While we recognize

that the RA timeline has been extended into early 2020, it is important to note that both strategic environmental assessments (SEAs) and site-specific environmental assessments (EAs) occur on timelines that exceed the length of this RA. Given the scope of the assessment, the transboundary nature of the Study Area and the potential to remove the need for project-specific assessments for exploratory drilling, and in order to facilitate an RA process that is meaningful and transparent, we ask you to extend the timelines to allow time for further consultation, public engagement, data collection and a science-based assessment of the potential impacts of exploratory drilling at the regional level. To date, stakeholders have not been provided adequate time to review materials in advance of meetings, nor to provide written feedback after the fact. This is not meaningful engagement. We feel it would be proper to allow the committee an additional full year to conduct its work.

Recommendation 3: Adhere to the Terms of Reference and Impact Assessment Act

As per the TOR for the Committee outlined in the Agreement to conduct the RA, the results of the RA are meant to meet or exceed the rigour and performance of the current EA and regulatory review process used for the approval of exploratory drilling. Nothing we have seen within the recommendations has attempted to assess the risk of impacts, let alone meet the performance of existing EA processes or SEAs. The TOR also mandates the Committee to **conduct an assessment of the effects of existing and anticipated** exploratory drilling in the Study Area, which is not reflected in the current recommendations. As per Appendix A of the Agreement, which began under the *Canadian Environmental Assessment Act, 2012*, and continues under the IAA, there are numerous factors that still remain to be addressed as per Section 22 of the IAA and others that need adequate consideration in the draft recommendations proposed by the Committee (see below).

Recommendation 4: Include recommendations related to Climate Change

The draft recommendations make no mention of climate change, nor the extent to which the effects of offshore exploratory drilling hinder or contribute to both the federal and provincial governments' ability to meet their commitments in respect of climate change. This is particularly problematic as the Agreement to conduct the RA **specifically mentions climate change as a factor that must be addressed**. The Government of Newfoundland and Labrador has announced initiatives to encourage a significant level of increased exploratory activity in the Study Area by 2030, which is reflected in the preamble of the Agreement. As such, we feel that it is unacceptable that there is no recommendation regarding greenhouse gas emissions (for example a "climate test") associated with exploratory drilling operations and the downstream impacts of oil and gas production. This is particularly egregious given the Government of Canada's renewed commitment to mitigating the impacts of climate change, and the commitment of Canada to achieve net-zero emissions by 2050 as outlined in the recent throne speech, and as outlined in the Ministerial Mandate Letter provided to you by Prime Minister Trudeau.¹

¹ <https://pm.gc.ca/en/mandate-letters/minister-environment-and-climate-change-mandate-letter>

Submissions made by many of the undersigned groups to the Committee during both engagement and Technical Advisory Group sessions have highlighted that exploratory drilling and the downstream implications of production drilling will impact provincial, national and international climate goals. The RA and the Committee must consider measures to ensure Canada meets its climate commitments as part of this process.

Recommendation 5: Conduct a Cumulative Effects Assessment

Cumulative effects (CE) assessments are often done poorly at the site-specific level, which is why it is so important that they are assessed at the regional level. The RA offers a real opportunity to effectively look at CE, including the impacts of large-scale seismic testing that precedes exploratory drilling. However, to date the Committee has declined to do a CE assessment because measuring cumulative impacts is “difficult.” We find this business-as-usual approach to be unacceptable in today’s environmental context, especially considering this is a requirement for proponents during project specific impact assessments. The Committee recommends that CE be managed through planning, and that the Canada-Newfoundland and Labrador Offshore Petroleum Board should be responsible for CE assessment during the land tenure process. ***It is inappropriate that the determination of CE be delegated to the industry regulator***, as it should be a public and transparent process based on science. We would also note that the current Call for Bids process has no mechanism for determining CE.

Recommendation 6: Make areas off limits to oil and gas development

No areas were identified where offshore oil and gas activities should be excluded, particularly in regions of known sensitivity that have been set aside for biodiversity protection and that Canada is counting towards international targets under the Convention on Biological Diversity. In particular, we are referring to marine refuges designated by Fisheries and Oceans Canada within Canadian waters and Northwest Atlantic Fisheries Organization coral and sponge closures and vulnerable marine ecosystem closures in international waters. To recommend that these areas be open to oil and gas exploration directly undermines the conservation objectives of these protected spaces. Furthermore, the fishing industry agreed to set these areas aside specifically to protect benthic habitats, and as such these areas should not be open to other damaging industrial activity. Failing to exclude these areas will make the path to 25 per cent by 2025 and 30 per cent protection by 2030 much more difficult. Additional consideration must also be given to areas where there is insufficient information available for decision making. At a minimum, in areas of known sensitivity and in areas with insufficient data available for decision making, site specific impact assessments must be required. Despite the mandate under the new IAA to follow the precautionary principle, and messaging from the Committee that this would be central to the RA process, ***the draft recommendations are wholly inconsistent with a precautionary approach.***

Conclusion

We the undersigned have a considerable interest in the completion of a robust RA that adequately assesses the impacts, including cumulative impacts of oil and gas exploratory drilling east of

Newfoundland and Labrador. We see this RA as precedent setting as it is the first RA to be conducted in Canada, and also due to the transboundary nature of the Study Area. We note that the international community is also interested in the RA outcome, especially in light of the ongoing negotiations for a new high seas treaty. We ask that you redirect the Committee to ensure that adequate time be taken to complete the RA, and meaningfully consider the views of stakeholders and Indigenous people. We want to ensure that this RA adequately determines the potential for impacts and upholds Canada's commitments to Indigenous people, the environment and law, in addition to providing clarity around future federal impact assessments for developers.

Sincerely,

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CC:

Hon. Seamus O'Regan, Minister of Natural Resources Canada
Hon. Bernadette Jordan, Minister of Fisheries, Oceans and the Canadian Coast Guard
Hon. Siobhan Coady, Minister of Natural Resources, NL
Hon. Dwight Ball, Minister for Intergovernmental and Indigenous Affairs, NL
The Regional Assessment Committee