Mi'gmawe'l Tplu'taqnn Incorporated

November 23, 2020

VIAEMAIL: iaac.westflemish-flamandoust.aeic@canada.ca

Canadian Environmental Assessment Agency
200 – 1801 Hollis Street
Halifax NS B3J 3N4

Dear Sir/Madam,

Re: Technical Review & Assessment of the Draft Environmental Assessment and Potential Conditions for Chevron Canada's West Flemish Pass Exploration Drilling Project.

On behalf of Mi'gmawe'l Tplu'taqnn, we are responding to the Draft Environmental Assessment Report for the above projects, dated September 2020.

Mi'gmawe'l Tplu'taqnn's primary concern remains how the project impacts migratory species that are of great cultural significance to the Mi'gmaq, including salmon, swordfish, Bluefin tuna, Atlantic right whales, and migratory birds.

Please find enclosed a report from Shared Value Solutions that we are submitting on behalf of Mi'gmawe'l Tplu'taqnn Incorporated. Based on the report, we highlight the following recommendations in particular:

1) The Agency and/or the Proponents should engage MTI and Anqotum Fisheries Resource Centre in designing and conducting a focused Atlantic Salmon research project that seeks to fill data gaps related to Atlantic Salmon use and existence in the Project Area. This should happen before any project approvals and will require dedicated proponent funding.

2) Establish a forum and process where Mi'gmawe'l Tplu'taqnn can meet with Chevron whereby issues and follow-up program decision making regarding the Project can be brought forward, discussed, and addressed throughout the life of the Project.

3) The Proponents and the Crown must engage in direct, meaningful consultation with all Mi'gmaq First Nations of New Brunswick to ensure that its legitimate concerns are understood and reflected in the Environmental Assessment Report.

4) Involvement of Mi'gmawe'l Tplu'taqnn communities in environmental, socio-economic and cultural monitoring, and emergency preparedness planning.

All of which is respectfully submitted.

Yours in Peace and Friendship,

<Original signed by>

Marcy Cloud
Impact Assessment Coordinator
Mi'gmawe'l Tplu'taqnn Inc.

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SHARED VALUE
SOLUTIONS

CHEVRON CANADA WEST FLEMISH PASS EXPLORATION DRILLING PROGRAM: REVIEW OF IAAC'S ENVIRONMENTAL ASSESSMENT REPORT

Prepared for: Mi'gmawe'l Tplu'taqnn Incorporated

November 6, 2020

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PROSPERITY.
STEWARDSHIP.
JURISDICTION.

Mi'gmawe'l Tplu'taqnn Incorporated

Chief George Ginnish
Chief Rebecca Knockwood
40 Micmac Rd
Eel Ground New Brunswick

c/o Marcy Cloud, Impact Assessment Coordinator & Jeremy Johnson, Environmental Assessment Technician

November 6, 2020

Dear Chief George Ginnish and Chief Rebecca Knockwood:

It is our pleasure to provide you with the technical review of the Impact Assessment Agency of Canada's (IAAC; the Agency) Environmental Assessment Report and Draft Potential Conditions for the Chevron Canada West Flemish Pass Exploration Drilling Project. This review was completed by Allie Mayberry, MA, BSc; Levi Snook, BSc; Meaghan Langille, BSc; and Rachel Speiran, MA with senior review provided by Alison Fraser, MSc of Shared Value Solutions. We look forward to continuing to serve you in consultation and lands and resources protection matters. Please do not hesitate to get in touch with us if you have any questions or concerns with the enclosed report.

With best regards,

<Original signed by>

Rachel Speiran, MA

Senior Consultant and Regulatory and Negotiations Practice Area Lead, Shared Value Solutions Ltd.

CONTENTS

1.0 REVIEW OBJECTIVES

Shared Value Solutions Ltd. (SVS) provides this independent high-level peer review and strategic assessment of the Impact Assessment Agency of Canada's (IAAC; the Agency) Environmental Assessment Report and Draft Potential Conditions for the Chevron Canada West Flemish Pass Exploration Drilling Project (the Project), on behalf of Mi'gmawe'l Tplu'taqnn Incorporated (MTI).

MTI is a not-for-profit organization created by the Mi'gmaq First Nations of New Brunswick to promote and support the recognition, affirmation, exercise, and implementation of their members' Aboriginal and Treaty Rights and Title.

SVS consultants with expertise in marine water resources, aquatic ecology, migratory birds, fisheries biology, socio-economics, and community development conducted the review.

This report is not intended to be a comprehensive review of the Agency's EA report for the Project, rather this report identifies concerns, potential impacts, additional protection measures, and provides comments on the draft potential conditions related to seven key issues of concern that were identified by MTI in communications with SVS. These seven key issues are in relation to the rights, key values, and interests of MTI member communities and include:

1. Atlantic salmon
2. Atlantic bluefin tuna
3. Migratory birds
4. North Atlantic right whale
5. Cumulative effects
6. MTI Indigenous Knowledge and Land Use (IKLU) and Socio-economic impacts on commercial Swordfish fisheries and Atlantic Salmon
7. Accidents and malfunctions

2.0 PROJECT DESCRIPTION AND REGULATORY PROCESS

2.1 WEST FLEMISH PASS EXPLORATION DRILLING PROGRAM

Chevron Canada Ltd. (Chevron) is proposing to undertake an exploration drilling program on Exploration Licence (EL) 1138 in the Flemish Pass Area of the Grand Banks Region, located offshore of Newfoundland and Labrador (NL) and approximately 375 km east of St. John's, NL.

The drilling, testing, and abandonment of offshore exploratory wells in the first drilling program for an area set out in one or more ELs issued in accordance with the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act is a designated project under the *Canadian Environmental Assessment Act, 2012* (CEAA, 2012). The EIS was prepared to address the information requirements pursuant to CEAA 2012 and its regulations, as well as the requirements under the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act* (the Accord Acts). It is also intended to assist other regulatory agencies, Indigenous groups, and the public to determine their interest and participation in the EA process.

Chevron Canada Ltd. submitted its project description for the West Flemish Pass Exploration Drilling Program (the West Flemish Pass EIS) in October 2018. Following the release of this description, CEAA determined that an environmental assessment under CEAA 2012 was required and officially commenced on December 20, 2018. Chevron subsequently filed its Environmental Impact Statement (EIS) and EIS Summary with the Agency. The public comment period for the EIS and Summary was launched on February 17, 2020 for a period of 30 days.

The scope, as identified in the EIS, includes the mobilization and operation of drilling installations, drilling activities, supporting ancillary activities to drilling programs, and well decommissioning or suspension. The components and activities are summarized in Section 2.3 of the EIS. It is unlikely to have drilling installations completing exploration drilling in the same area, but there may be efficiency by having a "top hole" installation completing riserless operations while a second installation performs reservoir drilling with blowout preventer (BOP) installed on another well. Operations with two dynamic positioning drilling installations requires a minimum spacing of 500 metres. Therefore, simultaneous operations in the Project Area could occur on the EL, but it is unlikely that the wells would be close enough to each other to have overlapping impacts. (Chevron Canada Ltd., 2020)

2.1.1 PROJECT LOCATION

EL 1138 (the Project) is located approximately 375 km east of St. John's, NL in the West Flemish Pass Area of the Grand Banks Region (Figure 1). The Project covers an area of approximately 2,747 square kilometres (km^2). The EL is located beyond the boundaries of Canada's EEZ (200 nm limit), near a NAFO Vulnerable Marine Ecosystem (VME) closure (Sackville Spur 6), which was established in

January 2010 to protect corals and sponges from bottom-contact fishing gear. This closure area does not include any prohibitions applicable to oil and gas exploration activities. The Project Area is in a region where multiple fishers harvest for commercial purposes; commercial fishing activity has historically been high in certain areas of the EL. The nearest community is Flatrock (approximately 370 km), on the Avalon Peninsula (Chevron Canada Ltd., 2020; IAAC, 2020).

The nearest residences to the Project would be the SeaRose floating, production, storage, and offloading (FPSO) vessel at Husky's White Rose oil development field, approximately 130 km from EL 1138. Water depths in the EL range from approximately 400 m to 2,200 m.

A Project Area has been proposed that encompasses the EL with an approximate 10 km buffer (Chevron Canada Ltd., 2020).

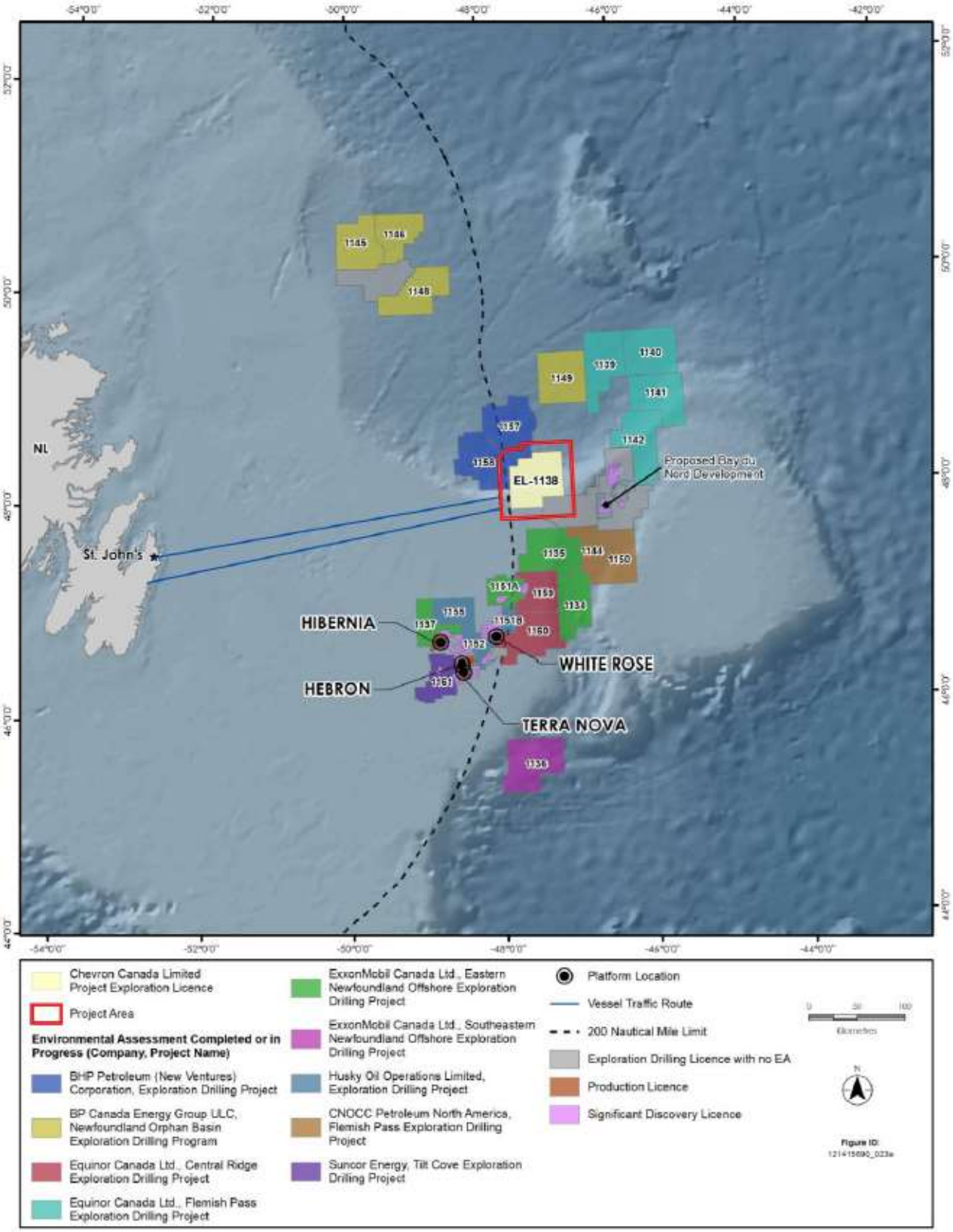

Figure 1. Location of Project Area (In the red square) (Chevron Canada Ltd., 2020)

2.2 REGULATORY PROCESS

The Project will require a number of approvals and authorizations under applicable regulatory processes, as summarized in the following sections.

2.2.1 THE ACCORD ACT

As outlined on the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB) website (C-NLOPB, n.d.), their role, under the Accord Acts, is to regulate oil and gas exploration and development in the Canada-NL Offshore Area, oversee compliance with regulatory requirements for worker safety, environmental protection and safety, conservation of the resource, land tenure, and Canada-NL benefits. These processes are administered under various legislation, regulations, guidelines, and memoranda of understanding.

Exploration drilling programs require an Operations Authorization (OA), issued by C-NLOPB. Prior to the issuance of an OA, the following information must be submitted by the Operator for approval by C-NLOPB:

- An EA Report
- A Canada-NL Plan
- A Safety Plan
- An Environmental Protection Plan (including a waste management plan)
- Emergency Response and Spill Contingency Plans
- Regulatory Financial Responsibility Requirements
- Appropriate certificates of fitness for the proposed equipment

For each well in the drilling program, a separate Approval to Drill a Well (ADW) is required (Chevron Canada Ltd., 2020).

2.2.2 LAND TENURE AND LICENSING

The Canada-NL Offshore Area, as defined in the Accord Acts, includes those lands within Canada's 200 nautical mile (NM) Exclusive Economic Zone (EEZ) or to the edge of the continental margin, whichever is greater. EL 1138 is located beyond Canada's EEZ on the outer continental shelf. Other activities, such as vessel traffic, will take place within the 200 NM EEZ. In addition, CEAA 2012 defines federal lands as including:

"(i) the internal waters of Canada, in any area of the sea not within a province, (ii) the territorial sea of Canada, in any area of the sea not within a province, (iii) the exclusive economic zone of Canada, and (iv) the continental shelf of *Canada*."

Therefore, pursuant to CEAA 2012, exploration drilling on EL 1138 will be carried out on federal lands

2.2.3 ENVIRONMENTAL ASSESSMENT UNDER CEAA 2012

Schedule I of the Regulations Designating Physical Activities designates "*the drilling, testing and abandonment of offshore exploratory wells in the first drilling program in an area set out in one or more exploration licences issued in accordance with the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act or the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*" as a designated project under CEAA 2012.

2.2.4 OTHER POTENTIAL REGULATORY AND POLICY REQUIREMENTS AND INTERESTS

Federal and provincial government departments and agencies, which may have regulatory responsibilities, information, and advice regarding exploration drilling activities in the Project Area pursuant to their associated legislation and mandates include the following:

- Fisheries and Oceans Canada (DFO)
- Environment and Climate Change Canada (ECCC)
- Transport Canada
- Department of National Defence (DND)
- NL Department of Municipal Affairs and Environment
- NL Department of Fisheries and Land Resources
- NL Department of Natural Resources Legislation, and regulations thereunder that may be relevant and subsequently require regulatory approvals include the following:
    - Accord Acts and its associated Regulations and Guidelines
    - *Fisheries Act*
    - *Canadian Environmental Protection Act*
    - *Oceans Act*
    - *Canadian Navigable Waters Act*
    - *Canada Shipping Act, 2001*
    - *Migratory Birds Convention Act*
    - *Species at Risk Act (SARA)*

- *NL Endangered Species Act (NL ESA)*

(Chevron Canada Ltd., 2020)

3.0 MI'GMAQ RIGHTS AND INTERESTS RELATIVE TO PROJECT INTERACTIONS

For this review, Mi'gmawe'l Tplu'taqnn Incorporated represents the rights and interests of eight of its nine member communities: Amlamgog (Fort Folly) First Nation, Natoaganeg (Eel Ground) First Nation, Oinpegitjoig (Pabineau) First Nation, Esgenoôpetitj (Burnt Church) First Nation, Tjipõgtõtjg (Buctouche) First Nation, L'nui Menikuk (Indian Island) First Nation, Ugpi'ganjig (Eel River Bar) First Nation and Metepenagiag Mi'kmaq Nation.

The Mi'gmaq are the Indigenous people (known to ourselves as L'Nu'g) whose traditional territory, known as Mi'gmaq'i, encompasses the lands and waters of what is currently known as Nova Scotia, Prince Edward Island, New Brunswick, southern and western Newfoundland, the Gaspe area of Quebec, Anticosti Island, the Magdalen Islands, and sections of the Northeastern United States (D. Simon, personal communication, December 14, 2018).

The Mi'gmaq have occupied, relied on, used, and been stewards of the lands and waters in Mi'gmaq'i since time immemorial. The Peace and Friendship Treaties have been renewed many times with the Crown and are in the process of being implemented through a Mi'gmaq /New Brunswick/Canada Framework Agreement (Government of New Brunswick, 2011).

The Mi'gmaq have established Aboriginal and Treaty Rights to, amongst others, hunt, fish and gather from the lands and waters of their territory for food, social and ceremonial purposes, as well as to trade and to earn a moderate livelihood all of which have been upheld by the Supreme Court of Canada.

3.1 MI'GMAWE'L TPLU'TAQNN'S VISION FOR SUSTAINABLE DEVELOPMENT OF NATURAL RESOURCES

Natural Resources are an integral part of the Lands and Waters of the Mi'gmaq. The Vision for Sustainable Development of Natural Resources states:

> *"Those Resources belong to Mother Earth. We may use them, but we are also their custodians. Natural Resources are not simply here for the taking, rather they must be managed carefully so as to provide benefits today while guaranteeing the rights and needs of generations yet to come. This requires truly sustainable development."*

There are four pillars to sustainable development:

- Environmental Sustainability

- Social Sustainability
- Cultural Sustainability
- Economic Sustainability

Each pillar supports the others. They must be kept in balance. The Mi'gmaq are committed to the cultural, spiritual, and social importance and protection of lands, waters and natural resources. Natural resource development must:

- Understand that lands, waters and natural resources are integral to the wellbeing of humanity and are not simply commodities to be exploited;
- Seriously take into account the short and long term ecological costs of natural resource extraction and see those costs as potentially debilitating debts;
- Honour the precautionary principle (in that lack of scientific certainty must not impede conservation efforts and must not enable irresponsible development);
- Guarantee that the benefits of natural resource development are shared equitably with those most in need;
- Protect the environment;
- Ensure biological diversity;
- Maintain ecological balance;
- Commit to the rehabilitation of habitat and species that have been damaged by current and past natural resource extraction practices; and
- Place the needs of future generations on at least an equal footing with the needs of our time.

This Vision, and the rights described above, were the primary guides to undertaking this review considering Mi'gmag's rights and interests. Also considered, in a more generic sense, are the primary effects of importance to the federal EA process that overlap with the MTI's rights and interests (as per Section 5(1)(c) of CEAA, 2012) are as follows:

Section 5. (1)(c)- *"with respect to aboriginal peoples, an effect occurring in Canada of any change that may be caused to the environment on:*

(i) health and socio-economic conditions;

(ii) physical and cultural heritage;

(iii) the current use of lands and resources for traditional purposes; or

(iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance."

The proposed activities within the geographic location of the Project's development area have the potential to impact Mi'gmag's rights to the lands and waters, especially in the Atlantic Ocean shorelines, which are used by some Mi'gmaq for land and water use and socio-economic purposes.

3.2 SUMMARY OF MI'GMAWE'L TPLU'TAQNN MEMBER COMMUNITIES' INDIGENOUS KNOWLEDGE, LAND USE AND OCCUPANCY IN THE PROJECT STUDY AREA

Section 4.2.2 of the EIS Guidelines states the following pertaining to the inclusion of Indigenous Knowledge in the environmental assessment (EA):

> *Sub-section 19(3) of CEAA 2012 states that "the environmental assessment of a designated project may take into account community knowledge and Aboriginal traditional knowledge". For the purposes of these guidelines, community knowledge and Aboriginal traditional knowledge refers to knowledge acquired and accumulated by a local community or an Indigenous group.*
>
> *The proponent will incorporate into the EIS the community knowledge and Aboriginal traditional knowledge to which it has access or that is acquired through public participation and engagement with Indigenous groups, in keeping with appropriate ethical standards and obligations of confidentiality. The proponent will engage in a respectful dialogue with Indigenous groups about the collection and*
>
> *use of Indigenous knowledge and enter into agreements where necessary regarding the use of information during and after the EA. The proponent should collaborate with Indigenous groups to ensure, where possible, that the Indigenous knowledge is incorporated into the EIS in a way that appropriate for the Indigenous group. The proponent will integrate Aboriginal traditional knowledge into all aspects of its assessment including both methodology (e.g. establishing spatial and temporal boundaries, defining significance criteria) and analysis (e.g. baseline characterization, effects prediction, development of mitigation measures). Agreement should be obtained from Indigenous groups regarding the use, management and protection of their existing traditional knowledge information during and after the EA.*

Despite the above requirements identified in the EIS guidelines, Chevron has not explicitly or directly integrated Mi'gmaq Indigenous Knowledge or Socio-Cultural-Economic Baseline Information, from MTI and MTI member communities, into their respective project's environmental assessment process to date. As such, the Crown's duty to consult, via integration of adequate and meaningful engagement, consultation, and accommodation with the Mi'gmaq in New Brunswick, has not been met.

4.0 REVIEW FINDINGS

The results of SVS's review of the Agency's Environmental Assessment Report and Draft Potential Conditions for the West Flemish Pass Exploration Drilling Project are presented below, with a focus on key issues and concerns related to the potential impacts on the marine environment, marine mammals, cumulative effects, accidents and malfunctions, Mi'gmaq Indigenous Knowledge, socio-economics, and community well-being as they relate to the rights, values and interests of MTI.

4.1 CUMULATIVE EFFECTS

4.1.1 EVALUATION & RECOMMENDATIONS

The following section describes issues identified by MTI in our scoped review of cumulative effects information provided within the Agency's EA Report and Draft Potential Conditions and provides comments and recommendations to resolve the issues.

Comment 1: AS MTI has previously commented on, it is unclear how the Regional Assessment Area (RAA) depicted in Chevron's EIS is spatially reflected in Chevron's predictions, characterization of residual effects, its mitigations pertaining to Indigenous community related value components and in particular to addressing cumulative effects. The Agency does not clarify this point that was raised in MTI's previous submissions regarding the EIS in its EA Report

Recommendation 1: MTI requests that this RAA's spatial boundary be upheld within follow up monitoring programs that directly and indirectly include Indigenous representatives and knowledge holders to account for any residual and/or unforeseen environmental effects related to the Project's activities that could interact cumulatively with the residual environmental effects of other past, present, and future activities. Given the unknown long term impacts of the multiple offshore oil exploration projects in the region, combined with uncertainty of impacts in the case of an accident or spill, MTI requires the potential for residual effects within the wider RAA be identified and addressed through formalized follow up monitoring and management plans that directly involve Indigenous knowledge holders.

Comment 2: Section 4 Predicted Effects on Valued Components states **"***As described in the analysis below and taking into account the implementation of key mitigation measures, the Agency is of the view that the Project is not likely to cause significant adverse environmental effects on fish and fish habitat, marine mammals and sea turtles, migratory birds, special areas, species at risk, commercial fisheries or the current use, health and socioeconomic conditions of Indigenous peoples*" (p.12). As a general comment**,** limiting the assessment to "significant" adverse environmental effects is systemically problematic in regard to addressing the ongoing cumulative effects issues and concerns around the myriad of offshore oil projects taking place in the Atlantic region. The proponent and the Agency acknowledge the wide range of adverse impacts that are characterized as "low" in magnitude and have also been characterized as "reversible". With these conclusions, project impacts, on their own, are not carried forward and classified as "residual" effects, and in turn, do not get accounted for in cumulative effects assessments. Meanwhile, dozens of projects are proceeding with a substantial (or, "significant") amount of uncertainty regarding long term and cumulative effects.

Recommendation 2: MTI acknowledges that the way impacts are assessed, characterized, and carried forward within this current system is challenging to undo. However there remains a systemic incongruence between the continued siloed approach to assessing each project and the cumulative nature of the amalgamated adverse impacts, as, the cumulative impact of multiple impacts characterized as being "low" in magnitude are not being accounted for, and the long term outcome of this is unknown. As such, MTI argues that it is imperative that a more formalized mechanism and process for Indigenous peoples' involvement be implemented that allows for Indigenous input and

feedback into each projects' follow-up and monitoring programs that incorporates Indigenous knowledge and expertise.

Comment 3: The potential for cumulative environmental effects was raised as a concern by MTI in the EIS review due to the number of potential projects that could occur into in the region, in the future. MTI remains concerned that fish and fish habitat in the regional study area may be negatively affected by the Project, as well as other projects and activities. Particularly in light of recent announcements of an additional $4 billion investment in exploration of offshore reserves in the region (CBC, 2019). The Agency acknowledges within the EA that given these potential activities, the Government of Canada has worked with the Province of Newfoundland and Labrador and the C-NLOPB on a regional assessment for offshore exploratory drilling in the offshore area of eastern Newfoundland, which aimed to examine the effects of existing and anticipated offshore oil and gas exploratory drilling, including cumulative environmental effects. Although the Agency states that mitigation, follow-up and monitoring for this Project would contribute to the mitigation or monitoring of cumulative environmental effects, the fulsome cumulative impact of all projects is not carried forward into the EA or in the Project Conditions.

Recommendation 3a: Although the Regional Assessment is briefly touched on in the context of cumulative effects, the Agency should require the mitigations and recommendations from the Regional assessment be included in the conditions of the project approval.

Recommendation 3b: MTI has reviewed and made comments related to the Cumulative Effects Assessment section of the Regional Assessment. The Proponent has committed to incorporating and applying new learnings from the Regional Assessment and as such should consider and incorporate the comments provided by MTI within this EIS.

Recommendation 3c: Additional measures to mitigate cumulative impacts have not been identified by the Agency, and MTI remains concerned and interested in contributing to a cumulative impact analysis during the Regional Assessment process and the development of further mitigation measures specific to cumulative impacts. Although the EA states that the Government of Canada has worked with the Province of Newfoundland and Labrador and the C-NLOPB on the regional assessment, the EA must acknowledge that MTI must continue to be engaged and contribute to both the ongoing regional assessment, as well as the individual EA and EIS.

4.2 MARINE FISH AND FISH HABITAT

4.2.1 EVALUATION & RECOMMENDATIONS

The following section describes issues identified by MTI in the review of all marine fish and fish habitat-related information provided within the Agency's EA Report and Draft Potential Conditions, and provides comments and recommendations to resolve the issues.

Comment 4: The key mitigation measures outlined in the EIS and in the EA do not include any mention of completing or implementing any type of marine fish monitoring or on-going impact

assessment during operations. The EIS acknowledges the fluctuating nature of fish presence in the Project Area depending on time of year, however no commitment is made to continually assess fish presence, fish avoidance or mortalities during exploration activities.

Recommendation 4: As part of a follow up program, the Agency should require the Proponent to implement an operational fish monitoring program that will give insight into which species and how many of each are passing through or frequenting the Project Area, as well as determine if significant avoidance or mortalities are occurring as a result of Project operations.

Comment 5: The Agency noted that DFO reviewed available information and confirmed the uncertainty around at-sea migration patterns and habitat use of Atlantic Salmon. Given the potential for some Atlantic Salmon to be present in areas that overlap with the Project, impacts could occur. DFO, however, still advised that potential effects of the Project are expected to be negligible to low and spatially and temporally limited, despite the "uncertainty of at-sea migrations".

Recommendation 5: Given the lack of data on Atlantic Salmon in the project area, as well as uncertainty with respect to impact predictions, the Agency should require the Proponent to develop and implement a fisheries monitoring program to be implemented during operations. This monitoring program should be designed and implemented in collaboration with MTI and Anqotum Fisheries Resource Centre.

Comment 6: MTI remains concerned with the potential impacts of the Project on Atlantic Salmon. DFO provided further information on the migration patterns of Atlantic Salmon i and advised that Atlantic Salmon that spawn in rivers of eastern Canada (including New Brunswick) travel throughout the Northwest Atlantic Ocean. Following the filing of the EIS, the Proponent acknowledged gaps in understanding Atlantic Salmon migration patterns in the Northwest Atlantic and indicated that it would contribute to research on migratory routes within the project area, including potential new studies through the Environmental Studies Research Fund (ESRF).

Recommendation 6a: The North Shore Micmac District Council (NSMDC) has established the Anqotum, Fisheries Resource Centre, which is an Aboriginal Aquatic Resources and Oceans Management (AAROM) Program. Anqotum has been formed to establish a permanent Indigenous presence in the Canadian Fishing Industry by developing a strategy focused on capacity building, combining resources, and strengthening relationships with all stakeholders. Anqotum has the knowledge, skills, and expertise to develop and execute such an Atlantic Salmon research program specific to New Brunswick and Salmon populations of importance to MTI.

Recommendation 6b: In addition to ESRF funding, the Proponent should work directly with MTI and Anqotum to ensure that a comprehensive Atlantic Salmon research study is funded and executed. The Agency can require a follow up program that includes such research to fill the current knowledge gaps identified in the project EA and satisfy MTI concerns regarding New Brunswick-Atlantic Salmon impacts from the Project.

Recommendation 6c: A tracking study of Atlantic Salmon, using fish tags, could be used to determine if those populations, leaving New Brunswick waters, in fact reach and migrate through the Project Area. The study could be developed and implemented in collaboration with MTI and Anqotum.

Acoustic receivers could be installed on the drilling platforms to monitor the occurrence of Salmon within the Project Area during drilling operations.

4.3 MARINE MAMMALS AND MIGRATORY BIRDS

4.3.1 EVALUATION & RECOMMENDATIONS

The following section describes issues identified by MTI in review of all marine mammals and migratory birds-related information provided within the Agency's EA Report and Draft Potential Conditions and provides comments and recommendations to resolve the issues.

Comment 7: In Section 4.2.2 of the EA Report, the Agency is requiring the proponent to conduct Vertical seismic profiling (VSP) surveys in accordance with or exceeding the Statement of Canadian Practice with respect to the Mitigation of Seismic Sound in the Marine Environment (SOCP). With specific respect to key mitigation measures to avoid significant effects to marine mammals and sea turtles, this includes delaying sound source intensity ramp up if a marine mammal or sea turtle is observed within the safety zone during the 60 minute pre-ramp up watch. However, the Agency does not specify how long ramp up should be delayed, leaving MTI concerned that this will be at the discretion of the Proponent. There is a similar lack of detail in the Potential Conditions under CEAA (2012) for this Project (Condition 3.10).

DFO recently commissioned a review of the SCOP and included in this report a recommendation that ramp-up should be delated by a minimum of 30 minutes since the last marine mammal detection (DFO, 2020). The report also recommends extending this ramp-up delay period to a minimum of 60 minutes since last detection if it is deep-diving species (e.g. beaked whale, sperm whale, etc.) that are detected.

Recommendation 7: MTI recommends that the Agency revise their wording in Section 4.2.2 of the EA Report and Potential Condition 3.10 to reflect these recommendations from the Review of the SCOP, and to minimize opportunities for misinterpretation by the proponent.

Comment 8: In Section 4.2.2 of the EA Report, the Agency also states that the proponent will be required to establish a safety (observation) zone of a minimum of 500 metres around the sound source, which is being used as the threshold for determining cetacean proximity to potentially harmful sounds. Similarly, the Potential Conditions under CEAA (2012) for this Project (Condition 3.10) contain reference to the safety zone, only. The report on the Review of the SCOP (DFO, 2020) recommends that a pre-clearance zone should be established to increase the likelihood of detecting marine mammals that are approaching the sound source array, but not yet within the safety zone. The establishment of a more conservative pre-clearance zone would ensure that marine species travelling towards the sound source, but outside of the prescribed safety zone, are accounted for and protected from potential acoustic harm.

Recommendation 8: MTI recommends that the Agency revise their wording in Section 4.2.2 of the EA Report and Potential Condition 3.10 to include the establishment of a pre-clearance zone, in addition to the safety zone. The radius of the pre-clearance zone should be based on acoustic modelling using the best available data for the region.

Comment 9: In Section 4.2.2 of the EA Report, the Agency states that the proponent will be required to delay VSP ramp-up if a marine mammal or sea turtle is *observed* within the safety zone. It is unclear to MTI whether this requirement excludes marine mammals or sea turtles that are *detected* (e.g. not observed by Marine Mammal Observers (MMO) during visual observations, but instead detected through PAM).

Recommendation 9: MTI requests clarification from the Agency on whether proponent will be required to delay ramp-up if marine mammals or sea turtles are detected by PAM, but not concurrently observed by MMOs during the pre-ramp up watch period. The wording in Section 4.2.2 of the EA Report and Potential Condition 3.10 should be clarified accordingly.

Comment 10: Per Section 4.2.2 of the EA Report, the Agency is requiring the Proponent to use cetacean detection technology (e.g. PAM) concurrent with visual observations during VSP surveys. MTI is very supportive of this additional requirement, as it will help address the many limitations of a visual-observation-only approach (e.g. limited success in inclement weather, cannot detect individuals that do not surface, etc.). However, MTI would like to note that it is important that multiple detection techniques are not only used concurrently, but that detections are also shared in real-time across methods (Smith et al., 2020). In addition to this, technologies other than PAM, such as Infrared (IR) imaging systems should also be considered and subsequently named in the EA Report. Proponents should be prepared for marine mammal monitoring with a menu of detection techniques and be required to select the combination of techniques that will maximize detection probability in a variety of conditions. For example, PAM and IR methods work most effectively in darkness, whereas PAM and visual observations work most effectively in periods of high sea and low visibility due to precipitation.

Recommendation 10: MTI recommends that the Agency strengthen the requirement to use cetacean detection technology concurrent with visual observations by specifying tools other than PAM that could be used by proponents (e.g. IR), and recommends that the Agency encourage proponents to have a menu of tools available. Additionally, the Agency should include a VSP survey work stoppage requirement if for some reason two techniques cannot be employed concurrently (e.g. due to PAM equipment malfunction, or MMO absence, etc.).

Comment 11: In Section 4.2.2 of the EA Report, the Agency states that the Proponent will be required to reduce the risk of collisions with marine mammals by limiting vessel travel to established shipping lanes and reducing vessel speeds to 7 knots when marine mammals or sea turtles are observed or reported within 400 metres. However, the Agency is not requiring the Proponent to undertake marine mammal monitoring efforts (e.g. MMOs, PAM, etc.) on supply vessels during transit. MTI remains concerned that vessel slow-down procedures will not be effectively triggered and implemented in the absence of monitoring efforts. This is of particular concern to MTI considering the occurrence of several large and slow-moving at-risk whale species such as North Atlantic right whales and fin whales. While there have been no reported ship strikes with North Atlantic Right Whales in Canadian waters in 2020, results from the latest North Atlantic Right Whale Consortium estimate that there are only 356 individuals left in the world (a decrease from estimates of 407 in 2019) (Davie, E., 2020, October 27).

The Agency has concluded that the slight increase in vessel traffic due to the Project would be unlikely to substantially increase the probability of collisions with whales (EA Report, Sect. 4.2.2, p. 24) but has provided little discussion of the potential cumulative effects of vessel traffic from offshore exploration and production projects in the eastern Newfoundland offshore region more broadly (Sect. 5.3.2). This, combined with the uncertainty of North Atlantic Right Whale distribution within their summer foraging range, leaves MTI concerned that vessel collision prevention measures are not conservative enough.

Transport Canada and research affiliates have successfully piloted the use of autonomous underwater acoustic gliders to detect the presence of large whale species in shipping lanes in the Laurentian Channel (Davie, E., 2020, November 2). These gliders are equipped with a digital acoustic monitoring device that sends data back to shore in near real-time, where the data are validated by analysts and disseminated via automated systems (e.g. WhaleMap) providing earlier and widespread detection to prevent ship strikes. Given these promising results, MTI feels that it would be beneficial to pilot the use of autonomous gliders in the main shipping routes used by offshore exploration and production proponents as an additional precautionary measure.

Recommendation 11: MTI recommends that the Agency require the proponent to contribute to a research program that pilots the use of autonomous gliders in commonly used shipping channels of the eastern Newfoundland offshore region. This would be an additional precautionary measure that the proponent, in partnership with other oil exploration and production proponents and industry representatives, could take to minimize their contributions to the cumulative increase in vessel traffic in the region. This could also help address data gaps regarding the distribution and abundance of marine mammals in the region through systematic surveying and search effort.

Comment 12: In Section 4.3.2 of the EA Report, the Agency states that the Proponent shall "incorporate any technology (e.g. radar, infrared imaging, high definition aerial surveys, telemetry studies, etc.) that becomes available into seabird monitoring to complement research on the mitigation of light attraction" (p. 30). MTI would like to note that many of these technologies are currently available, but their effectiveness when applied to seabird monitoring at offshore oil exploration and production platforms is not well-known. This presents an opportunity for the proponent to actively contribute to this gap in knowledge.

In addition, as stated in Section 4.3.2 of the EA Report, it is unclear how any technological advancements in seabird monitoring would be incorporated into the proponent's follow-up plan. For example, will the proponent be required to review their monitoring techniques on an annual basis? Will they be required to liaise directly with ECCC-CWS, other experts in the field, and/or other proponents regarding the most up to date study findings and best practices? MTI would also like to note that this follow-up measure is not reflected in the Potential Conditions for this project. MTI is concerned that this follow-up measure will not be effectively implemented if expectations are not clearly defined.

Recommendation 12a: Instead of simply requiring the proponent to adopt any technology that becomes available, the Agency should require the proponent to actively contribute to this gap in knowledge by supporting a study that investigates the effectiveness of instrument-

based automated bird monitoring techniques, using the West Flemish Pass Project as a case study.

Recommendation 12b: MTI recommends that the Agency provide more detailed information on what would trigger the proponent to incorporate any new seabird monitoring technology into their project activities. This follow-up requirement should also be added to the Potential Conditions for this project.

Comment 13: In EA Report Section 4.7.1., the Agency notes that Indigenous groups expressed concerns that oil and gas operators should "move beyond sharing information about the monitoring efforts and begin co-developing their monitoring programs with Indigenous peoples, taking Indigenous knowledge into consideration in both program design and implementation" (p. 51). Despite acknowledging this issue, the Agency has done little to actually address it through its own analysis and conclusions, including mitigation measures and follow-up, indicating that it does not feel this is a warranted request. The lack of opportunities for Indigenous communities to meaningfully participate in this project (e.g. by reviewing marine mammal and monitoring plans, participating in monitoring activities), as reviewed and accepted by the Agency, remains a concern to MTI.

Recommendation 13: MTI supports the recommendation that oil and gas operators should move beyond sharing information about their marine mammal, sea turtle, and migratory birds monitoring program and begin co-developing these monitoring programs (including appropriate consideration of Indigenous knowledges) with Indigenous peoples. Instead of allowing the lack of meaningful involvement to perpetuate, the Agency should require the proponent to involve Indigenous groups, including MTI by:

a) Providing opportunity for MTI (not just DFO and the C-NLOPB) to review the Marine Mammal and Sea Turtle Monitoring Plan at least 30 days prior to initiating activities

b) Hiring MTI community members (Mi'gmaq monitors) to assist with marine mammal monitoring activities during VSP surveys (and during supply vessel transit, though the Agency has not required this mitigation measure – see Comment 11). Note: MTI does not necessarily expect Mi'gmaq monitors without prior training and experience to act solely as qualified professionals, but rather to play a field or research assistant role.

c) Hiring MTI community members (Mi'gmaq monitors) to assist with systematic daily monitoring of the Mobile Offshore Drilling Unit (MODU) and supply vessels for the presence of stranded birds and collecting migratory seabird data, and to monitor and document behaviour during flaring. Note: MTI does not necessarily expect Mi'gmaq monitors without prior training and experience to act solely as qualified professionals, but rather to play a field or research assistant role.

4.4 SOCIO-ECONOMICS AND COMMUNITY WELL-BEING

The socio-economic and community well-being facet of this technical review focuses on the Agency's assessment and subsequent Draft Potential Conditions on the consideration of New Brunswick

Mi'gmaq Knowledge within the Project documentation to date and— assessing risks to MTI's land and resource uses and socio-economic impacts on fisheries.

4.4.1 EVALUATION & RECOMMENDATIONS

The following section describes issues identified by MTI upon review of the socio-economic and community well-being related sections of Agency's EA Report and Draft Potential Conditions and provides recommendations to address the issues raised.

Comment 14: In Section 4.6.1 Views Expressed (on Commercial Fisheries), the Agency does not address Indigenous peoples' repeated requests to be involved in the development of the "Compensation Guidelines Respecting Damages Relating to Offshore Petroleum Activity" compensation program – guidelines may be generalized however Indigenous communities need to provide input on specific contexts and situations.

Recommendation 14: MTI agrees with Sipekne'katik First Nation's assertion that differences between communal commercial licenses and the commercial licenses need to be factored into decision making and compliance around compensation and that Indigenous groups need to be directly involved in the development and implementation of these programs in a formalized and transparent manner.

Comment 15: In the opening paragraphs of Section 4.7 Current Use of Lands and Resources for Traditional Purposes and Health and Socioeconomic Conditions of Indigenous Peoples, the Agency refers to multiple species of cultural importance to Indigenous Groups, however does not include Swordfish in this description, which is a species of importance to MTI.

Recommendation 15: MTI requests that it is on record in future reports and Agency submissions that MTI considers Swordfish - which is a migratory species – a species of cultural and socio-economic importance.

Comment 16: In Section 4.7.2 Agency Analysis and Conclusion (Current Use of Lands and Resources for Traditional Purposes and Health and Socioeconomic Conditions of Indigenous Peoples) – despite repeated views and inputs provided by multiple Indigenous groups to the contrary, the Agency concludes that: the proposed mitigations the Proponent has put forth are adequate, status quo; there is no need for any follow up or monitoring programs for Indigenous traditional lands and resource use nor health and socio-economics; and that "…the adverse residual environmental effects of the Project, on current use of lands and resources for traditional purposes and health and socioeconomic conditions of Indigenous peoples throughout the regional assessment area, would be low/negligible in magnitude. Taking into account the implementation of the mitigation measures described for fish and fish habitat (Section 4.1), marine mammals and sea turtles (Section 4.2), migratory birds (Section 4.3) and commercial fisheries (Section 4.6), the Agency is of the view that the Project is not likely to cause significant adverse environmental effects on the current use of lands and resources for traditional purposes or on the health and socioeconomic conditions of Indigenous peoples " (p.52). MTI does not agree with this conclusion and decisions.

Recommendation 16: MTI recommends that a follow up and monitoring program, tailored to meet the specific inter-connected and inter-dependent nature of the Indigenous land and resource use VC be established and implemented. The bio-physical components are apt to be monitored on their own. And without an explicit program to collect and apply follow-up program results to Indigenous values related to cultural and rights-based activities – these critical linkages and required analysis will not be made for this VC. A way to monitor changes in cultural activities, impacts to socio-cultural or socio-economic sub-VC type related baselines over time and cumulatively in alignment with the wider Regional Assessment, is critically needed. A formalized follow-up and monitoring program for this VC would support that need.

Comment 17: In Section 6.1 Potential or Established Aboriginal or Treaty Rights, the Agency states that "There are no traditional territories or recognized treaties overlapping the exploration licenses or the larger project area. Since there are no Aboriginal or treaty rights being exercised in the project area, the pathways for potential impacts to rights of Indigenous groups are through impacts from project activities to migratory species that migrate through the project area and are then harvested or fished within the traditional territories of Indigenous groups" (p.80). MTI, in previous submissions through reviews of other offshore oil exploration projects and in letters to the Agency, has communicated the importance of accurate representation in the myriad of offshore oil project EISs and overall regulatory processes. Chevron, similar to other proponents, and now in this EA Report, the Agency, claims that they are not made aware of any group that holds claims or asserts Aboriginal and Treaty rights in the proposed study area. MTI finds this lack of understanding and acknowledgement disappointing, and associated statements to be untrue. The communities' commercial activities are a modern-day interpretation of the rights given to us through our treaties. Because the federal government chooses to make us use the commercial fishery to exercise these rights doesn't mean they are not the assertion of our Aboriginal and Treaty rights.

Recommendation 17: MTI requests that future reports from the Agency put forth a more accurate portrayal of MTI's rights holding members and associated modern-day rights and explicitly acknowledge the importance of considering Indigenous Knowledge of the marine environment on equal standing as the input provided by entities representing western scientific knowledge of the marine environment.

Comment 18: In Section 6.1 Potential or Established Aboriginal or Treaty Rights, the Agency does not include Swordfish as a species of importance to Indigenous groups: "Migratory species of particular concern to Indigenous groups include Atlantic Salmon, seals, whales, migratory birds as well as American Eel" (p.80).

Recommendation 18: MTI requests that the record show Swordfish as a species of cultural and socio-economic importance for MTI member Nations.

Comment 19: In Section 6.2 Potential Adverse Impacts of the Project on Potential or Established Aboriginal or Treaty Rights and Section 6.3 Proposed Accommodation Measures, the Agency outlines the wide range of mitigations and follow-up programs for various VCs, and indicates that the proponent would "…share the results of these programs with Indigenous groups" (p.82). It is positive and acknowledged that the results will be shared with Indigenous groups. However, as already referenced within the EA Report in various places, Indigenous groups have repeatedly requested that

a formal Indigenous environmental advisory or monitoring group be established to provide meaningful and formalized feedback on such programs -their development, the results, as well as a means to capture any Indigenous knowledge based observations and expertise regarding the short, medium and long term impacts of the Project at hand as well as the cumulative effects of the multiple projects in the area. Currently, the Agency is supporting the proponents' reliance on the overarching mitigation of a "Fisheries Communication Plan" to do this. And yet a notification-based plan is not a sufficient engagement mechanism to ensure that Indigenous groups' rights are protected. Instead, a formalized Indigenous advisory group would allow for formalization and coordination of this – dialogue based; and allow a mechanism for Indigenous fishers to provide reports and field observations to the Agency and proponents – also in formalized and coordinated process.

Recommendation 19: MTI carries forward their request from multiple previous regulatory submissions that a formal Indigenous environmental monitoring or advisory committee be formed that has direct involvement in the projects' full life cycle.

Comment 20: In Appendix A: Key Mitigation and Follow-up Measures Identified by the Agency there is no follow up for Traditional Land and Resource Use (p.99-100). MTI does not agree with this omission.

Recommendation 20: Similar to previous recommendations, MTI requests a follow-up and monitoring program, tailored to meet the specific inter-connected and inter-dependent nature of the traditional land and resource use VC be established and implemented. The bio-physical components are apt to be monitored on their own. And without an explicit program to collect and apply follow up program results to Indigenous values related to cultural and rights-based activities, these critical linkages and required analysis will not be made for this VC. A way to monitor changes in cultural activities, impacts to socio-cultural or socio-economic sub-VC type related baselines over time and cumulatively in alignment with the wider Regional Assessment, is critically needed. A formalized follow-up and monitoring program for this VC would support that need.

Comment 21: In Condition 5 Indigenous and commercial fisheries, it is positive to note that there is reference to Indigenous group consultation on the Fisheries Communication Plan (5.1), as well as reference to "procedures to engage in two-way communication with Indigenous groups…" pertaining to spills or other accidents (5.1.4). However despite a lot of notification based information related to Chevron's project's schedule and activities, there is no indication of information or updates being shared with Indigenous groups about monitoring and follow up program results, nor is there indication of what processes there would be to collect input from Indigenous peoples on these programs.

Recommendation 21: MTI requests that Condition 5 Indigenous and commercial fisheries include an explicit clause that Indigenous groups be provided updates on monitoring and follow-up programs. Additionally, a clause is required that stipulates a process for Indigenous groups to provide feedback and input into such programs and their respective results.

4.5 ACCIDENTS AND MALFUNCTIONS

4.5.1 EVALUATION & RECOMMENDATIONS

The following section describes issues identified by MTI in the review of Accident and Malfunction-related information provided within the Agency's EA Report and Draft Potential Conditions and provides comment and recommendation to resolve the issues.

Comment 22: The Agency outlines requirement for the Proponent to develop a Spill Response Plan.

Recommendation 22a: MTI must be involved in the development and implementation of the Spill Response Plans and other emergency response and contingency plans in relation to the Project. The response plan should include emergency response and preparedness planning, exercises, and training for MTI members. The Agency can require the Proponent to ensure that information about accidental events will be shared, immediately, with MTI, and include consultation in relation to the findings of the dispersion modelling, and to the scope of emergency preparedness and response planning.

Recommendation 22b: MTI should be given clear specific roles and responsibility descriptions for offshore operations and onshore responders, capacity funding and proper equipment to effectively respond to accidents and malfunctions that impact MTI lands and waters.

Comment 23: MTI could be affected if a spill affects species that migrate through the spill area to areas where they are harvested for food, social or ceremonial reasons (e.g., Atlantic Salmon). MTI fishers with commercial and communal commercial fishing licences could be affected by accidental spills. A large batch spill or subsea release could result in the closure of fishing areas, the fouling of gear and vessels, a reduction in the marketability of commercial fish products, as well as effects on fish and fish habitat.

Recommendation 23: Any damages, including the loss of commercial or food, social and ceremonial fisheries must require compensation in accordance with the Compensation Guidelines Respecting Damages Relating to Offshore Petroleum Activity and should be a part of the Project Conditions.

Comment 24: Within the EIS the Proponent estimates that mobilization and installation of the capping stack could take anywhere from 15 to 30 days. The C-NLOPB confirmed that capping and containment of a blown out well requires mobilization of equipment to prepare the subsea release site before use of a capping stack. This equipment would be transported by air to begin site preparation, which would include clearing of the site and cutting away of debris to ready the well for capping stack installation.

Recommendation 24: : MTI believes it would reduce the lag time and extent of a blowout to have a capping stack along with the appropriate capacity for equipment modification, and rapid staging and deployment situated in near the drill, potentially staged in Newfoundland or Atlantic Canada. This could also account for the cumulative risks of all current and future oil and gas projects. The Agency and the Proponent must ensure this critical risk mitigation and accommodation measure is in place to protect and reduce the risk to MTI rights and interests.

Comment 25: Insufficient information is provided on whether adequate equipment is available for large spills and whether the equipment could reasonably be deployed before oil reaches shore. The proponent would maintain access to spill response equipment to respond to a range of potential scenarios. Some localized equipment (e.g. sorbents) will be maintained on the mobile offshore drilling unit and platform supply vessels. Booms and skimmers will be located in or near Halifax. It is still unclear the details regarding how spills will be detected and the time it will take to deploy the spill contingency measures.

Recommendation 25: The Agency should require the Proponent to provide more detail regarding how spills will be detected, including the time it will take between detection and deployment of spill contingency methods. When the spill contingency plan is complete, MTI should be engaged and provided the opportunity to comment. Further, MTI personnel represent untapped resources for spill response measures that include surveillance and tracking, offshore and recovery, dispersant application, in-situ burning, shoreline protection, shoreline clean-up, oiled wildlife, and waste management.

5.0 SUMMARY AND RECOMMENDATIONS

This independent review of the Agency's EA Report and Draft Potential Conditions for Chevron Canada's West Flemish Pass Exploration Drilling Program focuses on areas integral to Mi'gmaq rights and interests. With this lens, the review strategically assesses potential Project interactions with the environment that may result in risks to MTI's rights and interests, as described in Section 4.0 of this report.

The review documents a wide range of issues and concerns relevant to MTI and provide 25 recommendations that work to ensure Mi'gmaq knowledge, rights, and concerns are wholly and completely considered throughout the life of the Project. Of particular importance to MTI, is the very poor job the Agency did of requiring more meaningful involvement opportunities for Indigenous groups, including MTI community members, in follow-up environmental and cultural monitoring programs and adaptive management plans throughout the life of the Project. This includes insufficient mitigation and follow-up measures pertaining to the protection of marine mammals.

We conclude that Chevron has not integrated any Indigenous Knowledge, from MTI and MTI member communities, into the EIS and that the Agency's EA Report does not sufficiently address this concern. As a result, MTI asserts that meaningful engagement, consultation, and accommodation with the Mi'gmaq in New Brunswick has not been carried out in a substantive manner.

We put forward the following additional accommodations as potential means of addressing the issues and comments raised in our review of the Chevron West Flemish Pass Exploration Drilling Project:

1. The Agency and/or Chevron should engage MTI in conducting a focused Indigenous Knowledge Study with respect to potential interactions between the Regional Assessment Area (RAA) and Atlantic Salmon, Bluefin Tuna, swordfish, and the results of this Study should be used to inform decision-making throughout the life of the Project, particularly as it relates to monitoring, environmental protection, and emergency response planning.

2. The Agency and/or the Proponents should engage MTI and Anqotum Fisheries Resource Centre in designing and conducting a focused Atlantic Salmon research project that seeks to fill data gaps related to Atlantic Salmon use and existence in the Project Area.

3. The Agency should establish a forum and process where MTI can meet with Chevron Canada Ltd. and Canada whereby issues and follow-up program decision making regarding the Project can be brought forward, discussed, and addressed throughout the life of the Project (including the provision of capacity funding to MTI to support and participate in an equal capacity in this process).

4. The Agency should implement an Indigenous Environmental Advisory or Monitoring Committee that includes representatives from impacted Indigenous Nations and groups, including MTI working alongside the Agency, C-NLOPB, and the Agency to provide oversight and ensure the proponent maintains compliance with their environmental commitments and conditions.

5. Chevron Canada Ltd. and the Crown must engage in direct, meaningful consultation with all Mi'gmaq First Nations of New Brunswick to ensure that its legitimate concerns are understood and reflected throughout the life of the Project, including the EA and all follow-up monitoring programs. This includes developing a plan for enhanced and ongoing engagement and consultation with MTI and its member communities for exploration activities, construction, and operations of the Project. An annual report should also be submitted to MTI that summarizes the implementation and results of all consultation and engagement activities.

6. MTI, the Crown, and the Proponent should develop agreements to support MTI and MTI-member communities' participation in environmental, socio-economic, and cultural monitoring of drilling and associated activities throughout the life of the Project. This may also require:

    a. Training, involvement, employment of Mi'gmaq First Nations of New Brunswick environmental and cultural monitors for all Project phases.

    b. Involvement in emergency preparedness planning and appropriate notifications and consultations in the event of a significant accident or malfunction.

We also recommend that issues related to key concerns expressed by MTI in this report be the focus of subsequent meetings with the Proponents and Crown agencies, and in subsequent ongoing reviews and updates of the data within the Newfoundland Offshore Regional Assessment and its related regulations, should the Project proceed.

6.0 REFERENCES

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APPENDIX A– COMMENT TRACKING TABLE – REVIEW OF IAAC'S EA REPORT AND DRAFT POTENTIAL CONDITIONS FOR THE CHEVRON WEST FLEMISH PASS PROJECT

COMMENT #	ENVIRONMENTAL ASSESSMENT REPORT SECTION REFERENCE	ISSUE	QUESTION/RECOMMENDATION
CUMULATIVE EFFECTS			
1	General Comment	As MTI has previously commented on, it is unclear how the Regional Assessment Area (RAA) depicted in Chevron's EIS is spatially reflected in Chevron's predictions, characterization of residual effects, its mitigations pertaining to Indigenous community related value components and in particular to addressing cumulative effects. The Agency does not clarify this point that was raised in MTI's previous submissions regarding the EIS in its EA Report	MTI requests that this RAA's spatial boundary be upheld within follow up monitoring programs that directly and indirectly include Indigenous representatives and knowledge holders to account for any residual and/or unforeseen environmental effects related to the Project's activities that could interact cumulatively with the residual environmental effects of other past, present, and future activities. Given the unknown long term impacts of the multiple offshore oil exploration projects in the region, combined with uncertainty of impacts in the case of an accident or spill, MTI requires the potential for residual effects within the wider RAA be identified and addressed through formalized follow up monitoring and management plans that directly involve Indigenous knowledge holders.
2	Section 4	Section 4 Predicted Effects on Valued Components states "As described in the analysis below and taking into account the implementation of key mitigation measures, the Agency is of the view that the Project is not likely to cause significant adverse environmental effects on fish and fish habitat, marine mammals and sea turtles, migratory birds, special areas, species at risk, commercial fisheries	MTI acknowledges that the way impacts are assessed, characterized, and carried forward within this current system is challenging to undo. However there remains a systemic incongruence between the continued siloed approach to assessing each project and the cumulative nature of the amalgamated adverse impacts, as, the cumulative impact of multiple impacts characterized as being "low" in

COMMENT #	ENVIRONMENTAL ASSESSMENT REPORT SECTION REFERENCE	ISSUE	QUESTION/RECOMMENDATION
		or the current use, health and socioeconomic conditions of Indigenous peoples" (p.12). As a general comment, limiting the assessment to "significant" adverse environmental effects is systemically problematic in regard to addressing the ongoing cumulative effects issues and concerns around the myriad of offshore oil projects taking place in the Atlantic region. The proponent and the Agency acknowledge the wide range of adverse impacts that are characterized as "low" in magnitude and have also been characterized as "reversible". With these conclusions, project impacts, on their own, are not carried forward and classified as "residual" effects, and in turn, do not get accounted for in cumulative effects assessments. Meanwhile, dozens of projects are proceeding with a substantial (or, "significant") amount of uncertainty regarding long term and cumulative effects.	magnitude are not being accounted for, and the long term outcome of this is unknown. As such, MTI argues that it is imperative that a more formalized mechanism and process for Indigenous peoples' involvement be implemented that allows for Indigenous input and feedback into each projects' follow-up and monitoring programs that incorporates Indigenous knowledge and expertise.
3	General Comment	The potential for cumulative environmental effects was raised as a concern by MTI in the EIS review due to the number of potential projects that could occur into in the region, in the future. MTI remains concerned that fish and fish habitat in the regional study area may be negatively affected by the Project, as well as other projects and activities. Particularly in light of recent announcements of an additional $4 billion investment in exploration of offshore reserves in the region (CBC, 2019). The Agency acknowledges within the EA that given these potential activities, the Government of Canada has worked with the Province of Newfoundland and Labrador and the C-NLOPB on a regional assessment for offshore exploratory drilling in the offshore area of eastern	**Recommendation 3a**: Although the Regional Assessment is briefly touched on in the context of cumulative effects, the Agency should require the mitigations and recommendations from the Regional assessment be included in the conditions of the project approval. **Recommendation 3b**: MTI has reviewed and made comments related to the Cumulative Effects Assessment section of the Regional Assessment. The Proponent has committed to incorporating and applying new learnings from the Regional Assessment and as such should consider and incorporate the comments provided by MTI within this EIS.

COMMENT #	ENVIRONMENTAL ASSESSMENT REPORT SECTION REFERENCE	ISSUE	QUESTION/RECOMMENDATION
		Newfoundland, which aimed to examine the effects of existing and anticipated offshore oil and gas exploratory drilling, including cumulative environmental effects. Although the Agency states that mitigation, follow-up and monitoring for this Project would contribute to the mitigation or monitoring of cumulative environmental effects, the fulsome cumulative impact of all projects is not carried forward into the EA or in the Project Conditions.	**Recommendation 3c**: Additional measures to mitigate cumulative impacts have not been identified by the Agency, and MTI remains concerned and interested in contributing to a cumulative impact analysis during the Regional Assessment process and the development of further mitigation measures specific to cumulative impacts. Although the EA states that the Government of Canada has worked with the Province of Newfoundland and Labrador and the C-NLOPB on the regional assessment, the EA must acknowledge that MTI must continue to be engaged and contribute to both the ongoing regional assessment, as well as the individual EA and EIS.
MARINE FISH AND FISH HABITAT			
4	General Comment	The key mitigation measures outlined in the EIS and in the EA do not include any mention of completing or implementing any type of marine fish monitoring or on-going impact assessment during operations. The EIS acknowledges the fluctuating nature of fish presence in the Project Area depending on time of year, however no commitment is made to continually assess fish presence, fish avoidance or mortalities during exploration activities.	As part of a follow up program, the Agency should require the Proponent to implement an operational fish monitoring program that will give insight into which species and how many of each are passing through or frequenting the Project Area, as well as determine if significant avoidance or mortalities are occurring as a result of Project operations.
5	General Comment	The Agency noted that DFO reviewed available information and confirmed the uncertainty around at-sea migration patterns and habitat use of Atlantic Salmon. Given the potential for some Atlantic Salmon to be present in areas that overlap with the Project, impacts could occur. DFO, however, still advised that potential effects of the Project are expected to be negligible to low and	Given the lack of data on Atlantic Salmon in the project area, as well as uncertainty with respect to impact predictions, the Agency should require the Proponent to develop and implement a fisheries monitoring program to be implemented during operations. This monitoring program should be designed and implemented in collaboration with MTI and Anqotum Fisheries Resource Centre.

COMMENT #	ENVIRONMENTAL ASSESSMENT REPORT SECTION REFERENCE	ISSUE	QUESTION/RECOMMENDATION
		spatially and temporally limited, despite the "uncertainty of at-sea migrations".	
6	General Comment	MTI remains concerned with the potential impacts of the Project on Atlantic Salmon. DFO provided further information on the migration patterns of Atlantic Salmon i and advised that Atlantic Salmon that spawn in rivers of eastern Canada (including New Brunswick) travel throughout the Northwest Atlantic Ocean. Following the filing of the EIS, the Proponent acknowledged gaps in understanding Atlantic Salmon migration patterns in the Northwest Atlantic and indicated that it would contribute to research on migratory routes within the project area, including potential new studies through the Environmental Studies Research Fund (ESRF).	Recommendation 6a: The North Shore Micmac District Council (NSMDC) has established the Anqotum, Fisheries Resource Centre, which is an Aboriginal Aquatic Resources and Oceans Management (AAROM) Program. Anqotum has been formed to establish a permanent Indigenous presence in the Canadian Fishing Industry by developing a strategy focused on capacity building, combining resources, and strengthening relationships with all stakeholders. Anqotum has the knowledge, skills, and expertise to develop and execute such an Atlantic Salmon research program specific to New Brunswick and Salmon populations of importance to MTI. Recommendation 6b: In addition to ESRF funding, the Proponent should work directly with MTI and Anqotum to ensure that a comprehensive Atlantic Salmon research study is funded and executed. The Agency can require a follow up program that includes such research to fill the current knowledge gaps identified in the project EA and satisfy MTI concerns regarding New Brunswick-Atlantic Salmon impacts from the Project. Recommendation 6c: A tracking study of Atlantic Salmon, using fish tags, could be used to determine if those populations, leaving New Brunswick waters, in fact reach and migrate through the Project Area. The study could be developed and implemented in collaboration with MTI and Anqotum. Acoustic receivers could be installed on the drilling platforms

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			to monitor the occurrence of Salmon within the Project Area during drilling operations.
MARINE MAMMALS & MIGRATORY BIRDS			
7	Section 4.2.2	In Section 4.2.2 of the EA Report, the Agency is requiring the proponent to conduct Vertical seismic profiling (VSP) surveys in accordance with or exceeding the Statement of Canadian Practice with respect to the Mitigation of Seismic Sound in the Marine Environment (SOCP). With specific respect to key mitigation measures to avoid significant effects to marine mammals and sea turtles, this includes delaying sound source intensity ramp up if a marine mammal or sea turtle is observed within the safety zone during the 60 minute pre-ramp up watch. However, the Agency does not specify how long ramp up should be delayed, leaving MTI concerned that this will be at the discretion of the Proponent. There is a similar lack of detail in the Potential Conditions under CEAA (2012) for this Project (Condition 3.10). DFO recently commissioned a review of the SCOP and included in this report a recommendation that ramp-up should be delated by a minimum of 30 minutes since the last marine mammal detection (DFO, 2020). The report also recommends extending this ramp-up delay period to a minimum of 60 minutes since last detection if it is deep-diving species (e.g. beaked whale, sperm whale, etc.) that are detected.	MTI recommends that the Agency revise their wording in Section 4.2.2 of the EA Report and Potential Condition 3.10 to reflect these recommendations from the Review of the SCOP, and to minimize opportunities for misinterpretation by the proponent.
8	Section 4.2.2	In Section 4.2.2 of the EA Report, the Agency also states that the proponent will be required to establish a safety (observation) zone of a minimum	MTI recommends that the Agency revise their wording in Section 4.2.2 of the EA Report and Potential Condition 3.10 to include the

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		of 500 metres around the sound source, which is being used as the threshold for determining cetacean proximity to potentially harmful sounds. Similarly, the Potential Conditions under CEAA (2012) for this Project (Condition 3.10) contain reference to the safety zone, only. The report on the Review of the SCOP (DFO, 2020) recommends that a pre-clearance zone should be established to increase the likelihood of detecting marine mammals that are approaching the sound source array, but not yet within the safety zone. The establishment of a more conservative pre-clearance zone would ensure that marine species travelling towards the sound source, but outside of the prescribed safety zone, are accounted for and protected from potential acoustic harm.	establishment of a pre-clearance zone, in addition to the safety zone. The radius of the pre-clearance zone should be based on acoustic modelling using the best available data for the region.
9	Section 4.2.2	In Section 4.2.2 of the EA Report, the Agency states that the proponent will be required to delay VSP ramp-up if a marine mammal or sea turtle is observed within the safety zone. It is unclear to MTI whether this requirement excludes marine mammals or sea turtles that are detected (e.g. not observed by Marine Mammal Observers (MMO) during visual observations, but instead detected through PAM).	MTI requests clarification from the Agency on whether proponent will be required to delay ramp-up if marine mammals or sea turtles are detected by PAM, but not concurrently observed by MMOs during the pre-ramp up watch period. The wording in Section 4.2.2 of the EA Report and Potential Condition 3.10 should be clarified accordingly.
10	Section 4.2.2	Per Section 4.2.2 of the EA Report, the Agency is requiring the Proponent to use cetacean detection technology (e.g. PAM) concurrent with visual observations during VSP surveys. MTI is very supportive of this additional requirement, as it will help address the many limitations of a visual-observation-only approach (e.g. limited success in inclement weather, cannot detect individuals that do not surface, etc.). However, MTI would like to	MTI recommends that the Agency strengthen the requirement to use cetacean detection technology concurrent with visual observations by specifying tools other than PAM that could be used by proponents (e.g. IR), and recommends that the Agency encourage proponents to have a menu of tools available. Additionally, the Agency should include a VSP survey work stoppage requirement if for some reason two techniques cannot be

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		note that it is important that multiple detection techniques are not only used concurrently, but that detections are also shared in real-time across methods (Smith et al., 2020). In addition to this, technologies other than PAM, such as Infrared (IR) imaging systems should also be considered and subsequently named in the EA Report. Proponents should be prepared for marine mammal monitoring with a menu of detection techniques and be required to select the combination of techniques that will maximize detection probability in a variety of conditions. For example, PAM and IR methods work most effectively in darkness, whereas PAM and visual observations work most effectively in periods of high sea and low visibility due to precipitation.	employed concurrently (e.g. due to PAM equipment malfunction, or MMO absence, etc.).
11	Section 4.2.2	In Section 4.2.2 of the EA Report, the Agency states that the Proponent will be required to reduce the risk of collisions with marine mammals by limiting vessel travel to established shipping lanes and reducing vessel speeds to 7 knots when marine mammals or sea turtles are observed or reported within 400 metres. However, the Agency is not requiring the Proponent to undertake marine mammal monitoring efforts (e.g. MMOs, PAM, etc.) on supply vessels during transit. MTI remains concerned that vessel slow-down procedures will not be effectively triggered and implemented in the absence of monitoring efforts. This is of particular concern to MTI considering the occurrence of several large and slow-moving at-risk whale species such as North Atlantic right whales and fin whales. While there have been no reported ship strikes with North Atlantic Right Whales in Canadian waters in 2020, results from	MTI recommends that the Agency require the proponent to contribute to a research program that pilots the use of autonomous gliders in commonly used shipping channels of the eastern Newfoundland offshore region. This would be an additional precautionary measure that the proponent, in partnership with other oil exploration and production proponents and industry representatives, could take to minimize their contributions to the cumulative increase in vessel traffic in the region. This could also help address data gaps regarding the distribution and abundance of marine mammals in the region through systematic surveying and search effort.

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		the latest North Atlantic Right Whale Consortium estimate that there are only 356 individuals left in the world (a decrease from estimates of 407 in 2019) (Davie, E., 2020, October 27). The Agency has concluded that the slight increase in vessel traffic due to the Project would be unlikely to substantially increase the probability of collisions with whales (EA Report, Sect. 4.2.2, p. 24) but has provided little discussion of the potential cumulative effects of vessel traffic from offshore exploration and production projects in the eastern Newfoundland offshore region more broadly (Sect. 5.3.2). This, combined with the uncertainty of North Atlantic Right Whale distribution within their summer foraging range, leaves MTI concerned that vessel collision prevention measures are not conservative enough. Transport Canada and research affiliates have successfully piloted the use of autonomous underwater acoustic gliders to detect the presence of large whale species in shipping lanes in the Laurentian Channel (Davie, E., 2020, November 2). These gliders are equipped with a digital acoustic monitoring device that sends data back to shore in near real-time, where the data are validated by analysts and disseminated via automated systems (e.g. WhaleMap) providing earlier and widespread detection to prevent ship strikes. Given these promising results, MTI feels that it would be beneficial to pilot the use of autonomous gliders in the main shipping routes used by offshore exploration and production proponents as an additional precautionary measure.	

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12	Section 4.3.2	In Section 4.3.2 of the EA Report, the Agency states that the Proponent shall "incorporate any technology (e.g. radar, infrared imaging, high definition aerial surveys, telemetry studies, etc.) that becomes available into seabird monitoring to complement research on the mitigation of light attraction" (p. 30). MTI would like to note that many of these technologies are currently available, but their effectiveness when applied to seabird monitoring at offshore oil exploration and production platforms is not well-known. This presents an opportunity for the proponent to actively contribute to this gap in knowledge. In addition, as stated in Sect. 4.3.2 of the EA Report, it is unclear how any technological advancements in seabird monitoring would be incorporated into the proponent's follow-up plan. For example, will the proponent be required to review their monitoring techniques on an annual basis? Will they be required to liaise directly with ECCC-CWS, other experts in the field, and/or other proponents regarding the most up to date study findings and best practices? MTI would also like to note that this follow-up measure is not reflected in the Potential Conditions for this project. MTI is concerned that this follow-up measure will not be effectively implemented if expectations are not clearly defined.	**Recommendation 12a**: Instead of simply requiring the proponent to adopt any technology that becomes available, the Agency should require the proponent to actively contribute to this gap in knowledge by supporting a study that investigates the effectiveness of instrument-based automated bird monitoring techniques, using the West Flemish Pass Project as a case study. **Recommendation 12b**: MTI recommends that the Agency provide more detailed information on what would trigger the proponent to incorporate any new seabird monitoring technology into their project activities. This follow-up requirement should also be added to the Potential Conditions for this project.
13	Section 4.7.1	In EA Report Section 4.7.1., the Agency notes that Indigenous groups expressed concerns that oil and gas operators should "move beyond sharing information about the monitoring efforts and begin co-developing their monitoring programs with Indigenous peoples, taking Indigenous knowledge	MTI supports the recommendation that oil and gas operators should move beyond sharing information about their marine mammal, sea turtle, and migratory birds monitoring program and begin co-developing these monitoring programs (including appropriate consideration of Indigenous

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		into consideration in both program design and implementation" (p. 51). Despite acknowledging this issue, the Agency has done little to actually address it through its own analysis and conclusions, including mitigation measures and follow-up, indicating that it does not feel this is a warranted request. The lack of opportunities for Indigenous communities to meaningfully participate in this project (e.g. by reviewing marine mammal and monitoring plans, participating in monitoring activities), as reviewed and accepted by the Agency, remains a concern to MTI.	knowledges) with Indigenous peoples. Instead of allowing the lack of meaningful involvement to perpetuate, the Agency should require the proponent to involve Indigenous groups, including MTI by: a) Providing opportunity for MTI (not just DFO and the C-NLOPB) to review the Marine Mammal and Sea Turtle Monitoring Plan at least 30 days prior to initiating activities b) Hiring MTI community members (Mi'gmaq monitors) to assist with marine mammal monitoring activities during VSP surveys (and during supply vessel transit, though the Agency has not required this mitigation measure – see Comment 11). Note: MTI does not necessarily expect Mi'gmaq monitors without prior training and experience to act solely as qualified professionals, but rather to play a field or research assistant role. c) Hiring MTI community members (Mi'gmaq monitors) to assist with systematic daily monitoring of the Mobile Offshore Drilling Unit (MODU) and supply vessels for the presence of stranded birds and collecting migratory seabird data, and to monitor and document behaviour during flaring. Note: MTI does not necessarily expect Mi'gmaq monitors without prior training and experience to act solely as qualified professionals, but rather to play a field or research assistant role.

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SOCIO-ECONOMICS AND COMMUNITY WELL-BEING			
14	Section 4.6.1	In Section 4.6.1 Views Expressed (on Commercial Fisheries), the Agency does not address Indigenous peoples' repeated requests to be involved in the development of the "Compensation Guidelines Respecting Damages Relating to Offshore Petroleum Activity" compensation program – guidelines may be generalized however Indigenous communities need to provide input on specific contexts and situations.	MTI agrees with Sipekne'katik First Nation's assertion that differences between communal commercial licenses and the commercial licenses need to be factored into decision making and compliance around compensation and that Indigenous groups need to be directly involved in the development and implementation of these programs in a formalized and transparent manner.
15	Section 4.7	In the opening paragraphs of Section 4.7 Current Use of Lands and Resources for Traditional Purposes and Health and Socioeconomic Conditions of Indigenous Peoples, the Agency refers to multiple species of cultural importance to Indigenous Groups, however does not include Swordfish in this description, which is a species of importance to MTI.	MTI requests that it is on record in future reports and Agency submissions that MTI considers Swordfish - which is a migratory species – a species of cultural and socio-economic importance.
16	Section 4.7.2	In Section 4.7.2 Agency Analysis and Conclusion (Current Use of Lands and Resources for Traditional Purposes and Health and Socioeconomic Conditions of Indigenous Peoples) – despite repeated views and inputs provided by multiple Indigenous groups to the contrary, the Agency concludes that: the proposed mitigations the Proponent has put forth are adequate, status quo; there is no need for any follow up or monitoring programs for Indigenous traditional lands and resource use nor health and socio-economics; and that "…the adverse residual environmental effects of the Project, on current use of lands and resources for traditional purposes	MTI recommends that a follow up and monitoring program, tailored to meet the specific inter-connected and inter-dependent nature of the Indigenous land and resource use VC be established and implemented. The bio-physical components are apt to be monitored on their own. And without an explicit program to collect and apply follow-up program results to Indigenous values related to cultural and rights-based activities – these critical linkages and required analysis will not be made for this VC. A way to monitor changes in cultural activities, impacts to socio-cultural or socio-economic sub-VC type related baselines over time and cumulatively in alignment with the wider

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		and health and socioeconomic conditions of Indigenous peoples throughout the regional assessment area, would be low/negligible in magnitude. Taking into account the implementation of the mitigation measures described for fish and fish habitat (Section 4.1), marine mammals and sea turtles (Section 4.2), migratory birds (Section 4.3) and commercial fisheries (Section 4.6), the Agency is of the view that the Project is not likely to cause significant adverse environmental effects on the current use of lands and resources for traditional purposes or on the health and socioeconomic conditions of Indigenous peoples " (p.52). MTI does not agree with this conclusion and decisions.	Regional Assessment, is critically needed. A formalized follow-up and monitoring program for this VC would support that need.
17	Section 6.1	In Section 6.1 Potential or Established Aboriginal or Treaty Rights, the Agency states that "There are no traditional territories or recognized treaties overlapping the exploration licenses or the larger project area. Since there are no Aboriginal or treaty rights being exercised in the project area, the pathways for potential impacts to rights of Indigenous groups are through impacts from project activities to migratory species that migrate through the project area and are then harvested or fished within the traditional territories of Indigenous groups" (p.80). MTI, in previous submissions through reviews of other offshore oil exploration projects and in letters to the Agency, has communicated the importance of accurate representation in the myriad of offshore oil project EISs and overall regulatory processes. Chevron, similar to other proponents, and now in this EA Report, the Agency, claims that they are not made aware of any group that holds claims or asserts	MTI requests that future reports from the Agency put forth a more accurate portrayal of MTI's rights holding members and associated modern-day rights and explicitly acknowledge the importance of considering Indigenous Knowledge of the marine environment on equal standing as the input provided by entities representing western scientific knowledge of the marine environment.

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		Aboriginal and Treaty rights in the proposed study area. MTI finds this lack of understanding and acknowledgement disappointing, and associated statements to be untrue. The communities' commercial activities are a modern-day interpretation of the rights given to us through our treaties. Because the federal government chooses to make us use the commercial fishery to exercise these rights doesn't mean they are not the assertion of our Aboriginal and Treaty rights.	
18	Section 6.1	In Section 6.1 Potential or Established Aboriginal or Treaty Rights, the Agency does not include Swordfish as a species of importance to Indigenous groups: "Migratory species of particular concern to Indigenous groups include Atlantic Salmon, seals, whales, migratory birds as well as American Eel" (p.80).	MTI requests that the record show Swordfish as a species of cultural and socio-economic importance for MTI member Nations.
19	Section 6.2	In Section 6.2 Potential Adverse Impacts of the Project on Potential or Established Aboriginal or Treaty Rights and Section 6.3 Proposed Accommodation Measures, the Agency outlines the wide range of mitigations and follow-up programs for various VCs, and indicates that the proponent would "…share the results of these programs with Indigenous groups" (p.82). It is positive and acknowledged that the results will be shared with Indigenous groups. However, as already referenced within the EA Report in various places, Indigenous groups have repeatedly requested that a formal Indigenous environmental advisory or monitoring group be established to provide meaningful and formalized feedback on such programs -their development, the results, as well as a means to capture any Indigenous	MTI carries forward their request from multiple previous regulatory submissions that a formal Indigenous environmental monitoring or advisory committee be formed that has direct involvement in the projects' full life cycle.

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		knowledge based observations and expertise regarding the short, medium and long term impacts of the Project at hand as well as the cumulative effects of the multiple projects in the area. Currently, the Agency is supporting the proponents' reliance on the overarching mitigation of a "Fisheries Communication Plan" to do this. And yet a notification-based plan is not a sufficient engagement mechanism to ensure that Indigenous groups' rights are protected. Instead, a formalized Indigenous advisory group would allow for formalization and coordination of this – dialogue based; and allow a mechanism for Indigenous fishers to provide reports and field observations to the Agency and proponents – also in formalized and coordinated process.	
20	Appendix A	In Appendix A: Key Mitigation and Follow-up Measures Identified by the Agency there is no follow up for Traditional Land and Resource Use (p.99-100). MTI does not agree with this omission.	Similar to previous recommendations, MTI requests a follow-up and monitoring program, tailored to meet the specific inter-connected and inter-dependent nature of the traditional land and resource use VC be established and implemented. The bio-physical components are apt to be monitored on their own. And without an explicit program to collect and apply follow up program results to Indigenous values related to cultural and rights-based activities, these critical linkages and required analysis will not be made for this VC. A way to monitor changes in cultural activities, impacts to socio-cultural or socio-economic sub-VC type related baselines over time and cumulatively in alignment with the wider Regional Assessment, is critically needed. A formalized follow-up and monitoring program for this VC would support that need.

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21	Draft Potential Condition 5	In Condition 5 Indigenous and commercial fisheries, it is positive to note that there is reference to Indigenous group consultation on the Fisheries Communication Plan (5.1), as well as reference to "procedures to engage in two-way communication with Indigenous groups…" pertaining to spills or other accidents (5.1.4). However despite a lot of notification based information related to Chevron's project's schedule and activities, there is no indication of information or updates being shared with Indigenous groups about monitoring and follow up program results, nor is there indication of what processes there would be to collect input from Indigenous peoples on these programs.	MTI requests that Condition 5 Indigenous and commercial fisheries include an explicit clause that Indigenous groups be provided updates on monitoring and follow-up programs. Additionally, a clause is required that stipulates a process for Indigenous groups to provide feedback and input into such programs and their respective results.
ACCIDENTS AND MALFUNCTIONS			
22	General Comment	The Agency outlines requirement for the Proponent to develop a Spill Response Plan.	**Recommendation 22a**: MTI must be involved in the development and implementation of the Spill Response Plans and other emergency response and contingency plans in relation to the Project. The response plan should include emergency response and preparedness planning, exercises, and training for MTI members. The Agency can require the Proponent to ensure that information about accidental events will be shared, immediately, with MTI, and include consultation in relation to the findings of the dispersion modelling, and to the scope of emergency preparedness and response planning. **Recommendation 22b**: MTI should be given clear specific roles and responsibility descriptions for offshore operations and onshore responders, capacity funding and proper equipment to

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			effectively respond to accidents and malfunctions that impact MTI lands and waters.
23	General Comment	MTI could be affected if a spill affects species that migrate through the spill area to areas where they are harvested for food, social or ceremonial reasons (e.g., Atlantic Salmon). MTI fishers with commercial and communal commercial fishing licenses could be affected by accidental spills. A large batch spill or subsea release could result in the closure of fishing areas, the fouling of gear and vessels, a reduction in the marketability of commercial fish products, as well as effects on fish and fish habitat.	Any damages, including the loss of commercial or food, social and ceremonial fisheries must require compensation in accordance with the Compensation Guidelines Respecting Damages Relating to Offshore Petroleum Activity and should be a part of the Project Conditions.
24	General Comment	Within the EIS the Proponent estimates that mobilization and installation of the capping stack could take anywhere from 15 to 30 days. The C-NLOPB confirmed that capping and containment of a blown out well requires mobilization of equipment to prepare the subsea release site before use of a capping stack. This equipment would be transported by air to begin site preparation, which would include clearing of the site and cutting away of debris to ready the well for capping stack installation.	MTI believes it would reduce the lag time and extent of a blowout to have a capping stack along with the appropriate capacity for equipment modification, and rapid staging and deployment situated in near the drill, potentially staged in Newfoundland or Atlantic Canada. This could also account for the cumulative risks of all current and future oil and gas projects. The Agency and the Proponent must ensure this critical risk mitigation and accommodation measure is in place to protect and reduce the risk to MTI rights and interests.
25	General Comment	Insufficient information is provided on whether adequate equipment is available for large spills and whether the equipment could reasonably be deployed before oil reaches shore. The proponent would maintain access to spill response equipment to respond to a range of potential scenarios. Some localized equipment (e.g. sorbents) will be maintained on the mobile offshore drilling unit and platform supply vessels. Booms and skimmers will be located in or near Halifax. It is still unclear the	The Agency should require the Proponent to provide more detail regarding how spills will be detected, including the time it will take between detection and deployment of spill contingency methods. When the spill contingency plan is complete, MTI should be engaged and provided the opportunity to comment. Further, MTI personnel represent untapped resources for spill response measures that include surveillance and tracking, offshore and recovery, dispersant application, in-

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		details regarding how spills will be detected and the time it will take to deploy the spill contingency measures.	situ burning, shoreline protection, shoreline clean-up, oiled wildlife, and waste management.