



WOLASTOQEY NATION IN NEW BRUNSWICK

Matawaskiye • Neqotkuk • Wotstak • Pilick • Sitansisk • Welamoktok

[DELIVERED VIA EMAIL]

Ref: WNNB [089-20]

November 16, 2020

Re: BHP, West Flemish Pass, and Central Ridge Proposed Exploration Draft EA Determination and Conditions Comments

The Wolastoqey Nation in New Brunswick (“WNNB”) represents the six Wolastoqey communities in New Brunswick (Madawaska Maliseet, Tobique, Kingsclear, Woodstock, St. Mary’s and Oromocto First Nations). WNNB is not the rights holder, nor are we the body to which the Duty to Consult is owed. WNNB provides technical advice to Wolastoqey leadership and their respective Resource Development Consultation Coordinators (“RDCCs”) on resource development matters that relate to our Wolastoqey constitutionally protected rights. WNNB also acts to protect and promote traditional lands, ceremony, cultural practices and language.

General Summary

The proposed Project is one of several that have recently been proposed in the area that are of a similar nature, both in scope, as well as temporal and spatial boundaries. Each of these most recently proposed projects all faced positive Environmental Assessment (“EA”) determinations and are currently in some phase of the federal review process.

With several new exploration projects and with forecasts of doubling oil and gas production and 100 new exploration wells by 2030,¹ serious concerns surround compounding and cumulative effects for all environmental resources in offshore Newfoundland. While the first Regional Assessment (“RA”) under CEAA 2012 is underway, and may address some of these concerns, we urge CEAA/IAAC to more fully review cumulative impacts. Projects and conditions may be similar, but each project is different, and each one carries the potential to cause distinctive adverse effects and would benefit from tailored mitigation measures. Further, while proponents will continually downplay the significance of effects to the environment, even small residuals can accumulate and produce incremental, but damaging, cumulative impacts. This necessitates added conditions to explore the cumulative impacts specific to Green House Gases (“GHGs”) and sustainability as well as the potential effects for both routine and unexpected impacts

¹ <https://www.releases.gov.nl.ca/releases/2018/exec/0219n01.aspx>



to fish and mammals, effects of avoidance during migration and feeding, as well as look at the statistics surrounding spills.

Impacts to Atlantic Salmon

WNNB focused its analysis on the impacts to Atlantic Salmon (“OBoF” & “IBoF”) as it is a resource that is currently on the verge of extinction within Wolastoqey territory and yet new sources of potential mortality are being proposed while access for food, social and ceremonial (“FSC”) harvest has long been forgone. However, an ecosystem-based analysis within the proposed Project area is likely to provide the most comprehensive understanding of the potential impacts associated with this proposed Project to the ecosystem itself as well as to Atlantic Salmon

As quoted in the draft EA, “DFO has advised that potential effects of the Project on Atlantic Salmon are expected to be negligible to low and spatially and temporally limited”. This is a recurring response that has never been supported with any data/citations. We would again request that this be explained further as to how the conclusion was reached. We understand that the available data on salmon migrations is sparse, and we are not aware of any data that attempts to evaluate the extent of impacts on Atlantic Salmon. DFO is quoted as such: “the department advised that monitoring of finfish for the past 25 to 30 years in the Newfoundland and Labrador offshore has revealed no effects on fish health from ongoing oil and gas operations.” However, the word finfish is used in this sentence when the previous text was addressing impacts to Atlantic Salmon. This would lead us to believe that Atlantic Salmon may not actually have been considered in this ongoing monitoring work, or at least not at a level to be considered biologically or statistically relevant. DFO qualifies: “the prediction [on the extent of impacts to Atlantic Salmon] is made with a moderate level of certainty given the uncertainties about Atlantic Salmon distributions and reasons for population declines.” We agree on the shared understanding that much remains uncertain surrounding impacts to Atlantic Salmon from exploratory drilling. For instance: we don’t know how many salmon migrate through the project area on an annual/seasonal basis, or how long they may remain in the project area, or most importantly the extent to which the impacts of the proposed operations may indeed be harmful at the individual and/or population level. At this point, what we do know is: the potential exists for OBoF salmon to use habitat which will be impacted by the operations proposed by the proponent.

Monitoring & Mitigation

In this case, we believe that this necessitates the application of a precautionary approach when it comes to considering Salmon in the potential effects of either routine operations or accidental events and any resulting mitigation or offsetting measures. As the agency dismissed the request by other Indigenous organizations and communities, to restrict drilling activities during certain times of the year as “impractical and unnecessary”, then we would expect to see other specific monitoring or mitigation measures proposed as a compromise. The current mitigation measures that are proposed, are presented as a “catch-all” for all marine fish species and do not consider the vulnerability of certain populations of Atlantic Salmon. While we expect to gain further insight into many of the questions pertaining to Atlantic Salmon in the offshore through the ESRF, further mitigation measures are needed in the interim that would offer



greater protection specifically for Atlantic Salmon. We simply cannot wait for the completion of ESRF studies before developing proactive safeguards for this imperiled species as it could be several years before any results are available. It is also important to keep in mind that while the ESRF offers promise in addressing several significant knowledge gaps, it will not be a panacea and will likely result in further questions and further uncertainty for some aspects of salmon ecology in the offshore environment.

We would like to reiterate, from our comment submission on the draft EIS report, that we remain concerned about the notion of “no significant effects” from routine project activities. Cordes et al. (2016)² states that routine activities during exploratory phases can have “detrimental environmental effects” and “impacts can result from indirect (sound and traffic) and direct physical (anchor chains, drill cuttings, and drilling fluids) disturbance”. WNNB agrees with the authors’ recommendations that the entire suite of potential impacts of routine operations must be considered and addressed when designing mitigation or monitoring plans. The Proponent highlights several mitigation measures that were developed in response to concerns expressed by Indigenous groups and communities on the loss of access to salmon (Section 3.2.5). However, these proposed measures have all become the standard for exploration projects and do not represent an extra effort on behalf of the Proponent to accommodate the concerns of Indigenous peoples.

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<Original signed by>

Shyla O’Donnell

Wolastoqey Nation in New Brunswick
Consultation Director

Email to: iaac.nloffshoreprojects-projetsextracotiern.acee@canada.ca
Susie Addison – IAAC – susie.addison@canada.ca

² Cordes, E.E., D.O.B. Jones, T.A. Schlacher, D.J. Amon, A.F. Bernardino, S. Brooke, R. Carney, D.M. DeLeo, K.M. Dunlop, E.G. Escobar-Briones, A.R. Gates, L. Génio, J. Gobin, L. Henry, S. Herrera, S. Hoyt, M. Joye, S. Kark, N.C. Mestre, A. Metaxas, S. Pfeifer, K. Sink, A.K. Sweetman and U. Witte. 2016. Environmental impacts of the deep-water oil and gas industry: A review to guide management strategies. *Frontiers in Environmental Science*, 4: 1-26.



CC: RDCC Russ Letica – Matawaskiye (Wolastoqey Nation in Madawaska)
RDCC Jamie Gorman – Neqotkuk (Tobique First Nation)
RDCC Amanda MacIntosh – Wotstak (Woodstock First Nation)
RDCC Rich Francis – Pilick (Kingsclear First Nation)
RDCC Tim Plant – Sitansisk (St. Mary’s First Nation)
RDCC Fred Sabattis Jr – Welamukotuk (Oromocto First Nation)
Offshore Advisor Kaleb Zelman – Wolastoqey Nation in New Brunswick
EA Coordinator Gordon Grey – Wolastoqey Nation in New Brunswick
Consultation Director Shyla O’Donnell – Wolastoqey Nation in New Brunswick

