



# WOLASTOQEY NATION IN NEW BRUNSWICK

Matawaskiye • Neqotkuk • Wotstak • Pilick • Sitansisk • Welamoktok

[SUBMITTED VIA EMAIL]

Ref: WNNB [017-20]

February 29, 2019

## Re: Comments on the Proposed Central Ridge Offshore Exploration Project (the “Project”)

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,<sup>1</sup> 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

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

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

### **Comments in response to draft EA Report**

#### **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.

The proponent included a paragraph in Section 8.4 of the EA Report (“**Report**”) summarizing several scientific publications, with respect to at-sea salmon migrations. They concluded that none of the studies showed evidence of migrations through the proposed Project area. While we were unable to fully substantiate these claims, we did find them somewhat disingenuous. Sheehan et al. (2012) did not actually include the proposed Project area within their study area and therefore claiming that salmon were not located within the study area is misleading. The most recent study, Lacroix (2013), only focused on kelts and not out-migrating smolts and while the OBoF kelts did predominantly remain coastal or “on the shelf”, the authors did suggest that they may have been migrating towards the Flemish Cap region which could have them passing directly through the proposed Project area. Lastly, while the Report cites three separate papers by David G Reddin, it does not cite the Reddin (1985) paper which suggests the eastern Grand Bank may be a migration route for OBoF Salmon to the Labrador Sea and a significant feeding and/or overwintering area.

The proponent acknowledges the importance of salmon to Indigenous groups in the Atlantic region, as well as the uncertainty associated with the known presence and activities of Atlantic Salmon in the proposed Project areas. They point to the Environmental Studies Research Fund (“**ESRF**”) as a potential avenue for addressing data gaps pertaining to Atlantic Salmon in the offshore in environment. While



WNNB is disappointed with the rejection of our collaborative proposal to access the ESRF to address several of these existing data gaps, we look forward to seeing the results of these studies and remain open to opportunities and partnerships that enable us to conduct this important work. Additionally, Equinor sponsored an Atlantic Salmon Federation (“**ASF**”) salmon tagging study which tagged fish near Greenland. We also look forward to hearing the results of this study as well as any mechanisms that are developed to translate this research (and others as part of the ESRF) into decision-making criteria for project approvals and project-specific mitigation and response measures.

However, our anticipation of these results does not eclipse the fact that Atlantic Salmon may be at risk from these exploratory drilling operations, regardless of our knowledge on the magnitude of such risk. This necessitates the implementation of an interim strategy until we fully understand the gravity of routine drilling operations and incidental hydrocarbon release on Atlantic Salmon. Given existing evidence of salmon near the proposed Project area (albeit limited in breadth and scope), and the potential for feeding or overwintering, salmon-specific mitigation and monitoring measures must be developed even as more comprehensive research partnerships and programs are being solidified.

#### Duty to Consult and Accommodate

The proponent directly contradicts itself in the EIS where it initially states in Section 7.3 that “migratory species (including fish, birds and mammals) that move through the Flemish Pass may potentially be affected by Project activities and these species may be harvested by Indigenous groups in coastal areas through FSC fishing, commercial-communal fishing or through other harvesting activities.” However Section 12.3 maintains that: “[t]he Project will not have an adverse effect on the availability or quality of resources that are currently used for traditional purposes by Indigenous groups to a nature and to a degree that would alter the nature, location, timing, intensity or value of these activities or the health or heritage of any Indigenous community.” We would request that the proponent clarify exactly how they reached the conclusion that Atlantic Salmon and other such “migratory species” will not be adversely impacted?

This statement on the nature of the impacts to marine resources used by Indigenous groups, should be accompanied by a citation documenting where this information may be found or at the very least, a rationale for how this conclusion was reached. Furthermore, what aspects of drilling operations were considered or omitted? WNNB acknowledges that much of this information remains to be fully



investigated so as a result, any assertions made regarding the scope of potential impacts, should either be qualified as to the limited body of existing research on this topic or contingent on new evidence.

With regards to compensation, we want to explicitly state that no amount of compensation will adequately account for the loss of a population so vitally intertwined with Wolastoqey existence and culture. The proponent acknowledges the differences between commercial, communal commercial, and rights-based fisheries and the potential for varied impacts to each. While they agree to the CNLOPB Compensation Guidelines Respecting Damages Relating to Offshore Petroleum Activity they also state that they would: “consider any damages to Aboriginal fishing activity resulting from an environmental impact on a case-by-case basis and in consultation with Indigenous groups”. The proponent also states that they will: “continue to work with Indigenous fishers to minimize any potential impact on their ability to exercise their rights to fish.” While this language offers some initial promise, it fails to elaborate on exactly how Equinor will work with Indigenous fishers, and specifically Wolastoqey fishers, in mitigating potential infringement of inherent Aboriginal and Treaty fishing rights. This statement also remains sufficiently vague surrounding a definition of “impacts” and whether this only includes a hydrocarbon release or if it also includes impacts from routine drilling operations. We still have very little indication of how these operations affect Atlantic Salmon and therefore this may indeed be more harmful than previously believed to the point of potentially higher rates of injury and/or mortality than a spill depending on the magnitude and timing.

For further context regarding compensation and how the Fishing Gear Damage or Loss Compensation Program proposed in this report falls short of addressing impacts to Aboriginal and Treaty rights, please refer to the document WNNB submitted for Husky Energy Exploration Project’s Information Requirement 58-02 specific to compensation and the inadequacies within the current framework.



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## <Original signed by>

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Encl: Technical Review of Equinor's Abridged EIS for the Central Ridge Exploration Drilling  
Project – Information Requests (IR), MSES

