



Kwilmu'kw Maw-klusuaqn Negotiation Office

Mi'kmaq Rights Initiative

Our Rights. Our Future.

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Re: Consultation – Regional Assessment of Offshore Exploratory Oil and Gas Drilling in Nova Scotia

Mr. Desroches,

I write in response to your letter dated April 21, 2026, with respect to consultation pursuant to the *Terms of Reference for a Mi'kmaq-Nova Scotia-Canada Consultation Process (ToR)* as ratified on August 31, 2010, on the above-noted project. We wish to proceed with Consultation.

We are concerned that the anticipated timeframe is simply insufficient to garner meaningful community feedback. In comparison, the timeline for the Regional Assessment of Offshore Wind in Nova Scotia spanned over two years while this Regional Assessment is being compressed into less than six months. This restricted timeline largely covers the summer months when our Mi'kmaq Communities are participating in a number of cultural events and traditional activities.

We are cognizant that the decisions which have preceded this Regional Assessment (RA) and the timing of the RA cannot be altered by your team, and yet, it is important to formally register our concern on the basis that this process does not accord with our understanding of the Crown's consultation obligations. We do not wish to stand in the way of ethical, environmentally protective developments, and yet this manner of decision making at the provincial and federal level will have the effect of jeopardising projects rather than advancing them.

In that context, we nonetheless would like to provide the following comments on the documents provided by the Impact Assessment Agency of Canada (IAAC). These comments were developed in collaboration with the Confederacy of Mainland Mi'kmaq (CMM).

General Comments

- While it is encouraging to see mention of the United Nations Declaration on the Rights of Indigenous People (UNDRIP) principles, proceeding with offshore oil and gas drilling at this location is likely to adversely impact the Mi'kmaq's Section 35 Rights and impede the Mi'kmaq's worldview, including our guiding principles of Msit No'kmaq and Netukulink by introducing these unsustainable and harmful practices in our territory.

- Concerns regarding priority access for various communities' Treaty right protected and commercial fisheries operations, as guaranteed in the *Marshall* and *Sparrow* decisions, must also be considered. Compensation and resource revenue sharing must be considered as projects are developed that could impede these activities. These are not merely economic concerns; they are constitutionally protected inherent Treaty rights and cultural practices.
- A recommendation should be included in the RA to the effect of: "this Regional Assessment will not replace, reduce, or substitute for project-specific impact assessments, consultation, or accommodation obligations. Future exploratory or production activities will require separate, project-specific consultation and consent processes with the Mi'kmaq of Nova Scotia." It is our expectation that the Regional Assessment will not reduce the need for project-level impact assessments, limit future consultation opportunities or enable exemption or substitution regulations. Given the consultation shortfalls that have already taken place, we cannot allow further erosion at the level of project-specific decision making.
- The documents provided by IAAC do not yet discuss any accommodation options such as fisheries protection, exclusion zones, monitoring roles, economic participation or cumulative effects mitigation. It is our expectation that accommodation pathways such as avoidance, mitigation, compensation and co-management will be developed as the Regional Assessment process continues.
- Kwilmu'kw Maw-Klusuaqn (KMK) has committed through active Consultation to aid in the recovery of the North Atlantic Right Whale (NARW), listed as Endangered on Schedule 1 of the *Species at Risk Act* (SARA) affording the single population all associated legal protections. Recovery strategies for the species have outlined ocean noise as a population level threat, where seismic surveys are a known concern due to their high input level and spectrum overlap with the hearing range of NARWs. Therefore, any seismic activity is in direct opposition to recovery efforts of this species at risk. We must insist that critical habitat for the NARW be removed from the study area and given that disruptions to marine mammals from seismic surveys can propagate over long distances, potentially thousands of kilometers, feeding and calving areas as well as transit corridors between these critical areas should also be removed from the study area along with a reasonable buffer. Ideally, known critical habitat of all marine mammals with overlapping frequency dependence be removed from the study area.
- KMK also suggests that currently legislated marine protected areas (MPAs) and those identified for protection (areas of interest (AOIs)) as well as recognized significant marine spaces such as: Indigenous Protected and Conserved Areas (IPCAs), Key Biodiversity Areas (KBAs), Marine Refuges (MR), Fisheries Closures and any other marine designations, also be removed from the study area, along with a reasonable buffer.

- Our concerns include the routine drilling discharges affecting marine habitats, the potential of oil spills (which may be low probability but have high consequences) and cumulative effects on other key species including (but not limited to) lobster, snow crab and ground fish.
- KMK is also concerned with the cumulative impacts of other developments happening and proposed for the offshore area. It is imperative that the Regional Assessment consider and acknowledge that offshore developments must be assessed cumulatively. This includes assessing the impacts of climate change, shipping traffic, fisheries pressures and other offshore developments such as the emerging offshore wind developments. To this end, KMK urges IAAC to include a multi-use/multi-sectional marine use map to guide decision making.
- Our office would like clarification on the modern techniques for test drilling that will be utilized in this industry when it proceeds. Have methodologies changed since this industry was previously active? What are the environmental effects and safeguards? A plain language summary should be available to explain the anticipated impacts to our rights and the marine resources on which our rights and way of life depend. Consideration should be given to translating this plain language summary into the Mi'kmaq language.
- The Assembly of Nova Scotia Mi'kmaq Chiefs, KMK and the Mi'kmaq Nation in Nova Scotia expect a high level of archaeological investigative diligence and cultural attention when archaeological research is conducted. To this end, we highlight the need for evidence-based decisions rooted in subsurface testing to demonstrate presence, absence, distribution and characterization of archaeological remnants from L'nu'k ancestors, particularly in the early phases of assessment such as reconnaissance and survey. This can help demonstrate the depositional histories of specific areas where archaeological and cultural heritage interests will or will not exist. This includes submerged landscapes and offshore areas in Nova Scotia. It is worth noting that some areas that are now underwater were once dry land and used by our ancestors for land-based activities.
- KMK has confirmed through the Assembly of Nova Scotia Mi'kmaq Chiefs via resolution on May 28, 2026, that our office will conduct work on their behalf (excluding Millbrook and Sipekne'katik First Nations). During this Assembly meeting, members of the Mi'kmaq Grand Council expressed interest in participating in the Regional Assessment as well. KMK requests that IAAC follow up directly with the Grand Council to gauge their desired level of participation.

Indigenous Engagement and Partnership Plan (IEPP)

Section 1

- The IEPP states that IAAC will consult and engage with the Mi'kmaq of Nova Scotia. It must be noted that IAAC will retain full control of decisions and outputs. With the understanding that this exploratory offshore work will be proceeding regardless of concerns raised by the Mi'kmaq of Nova Scotia, we are seeking a commitment to co-drafting of documents with the Mi'kmaq, joint governance mechanisms and consensus-based recommendations. Our office expects a nation-to-nation process as the Regional Assessment process continues.

Section 2

- The Description of the Regional Assessment signals regulatory streamlining without environmental safeguards. KMK would like to see language included such as “any consideration of regulatory efficiencies or exclusion regulations must be co-developed with and agreed to by the Mi'kmaq of Nova Scotia and must not diminish Crown consultation and accommodation.”. It is imperative that the Mi'kmaq are meaningfully included as shared decision makers as this industry is developed.
- While the IEPP identifies engagement activities and timelines, it does not explain how meaningful engagement will be achieved within the proposed Regional Assessment timeline. The Regional Assessment is expected to be completed by Fall 2026, which provides a very limited window for engagement, review, technical analysis and community input. This timeline also coincides with periods when many Mi'kmaw community members, Elders and Knowledge Holders are engaged in seasonal harvesting activities, cultural gatherings and other community priorities. In addition, Mi'kmaw communities continue to experience significant consultation fatigue due to the volume of ongoing federal and provincial consultation processes. CMM recommends that IAAC clearly outline how meaningful participation will be achieved within these constraints, including flexibility in timelines, multiple engagement opportunities and sufficient time for communities to review and respond to technical information. Meaningful participation requires more than opportunities to comment on completed documents; it requires involvement throughout the development of the assessment itself.

Section 7

- While it is encouraging that Participant Funding has been provided to support KMK and CMM's participation in the Regional Assessment, this funding is short-term and does not support long-term technical capacity. Our office recommends a multi-year agreement be

developed to support meaningful Mi'kmaq participation in the discussions on the offshore oil and gas sector. Funding levels and eligible activities should be co-developed with KMK, participating First Nations and other tribal organizations.

Draft Terms of Reference (ToR)

Page 3

- The ToR states that “[t]his Regional Assessment request aligns with the Government of Canada’s strategic goal to strengthen long-term energy security through diversification of energy supply and supports the recently announced Canada's Strategy to Protect Nature and the commitment to the second pillar of that strategy, “Building Canada Well”, by integrating nature, science, and data into infrastructure and development decisions so Canada can build responsibly while protecting ecosystems.” We would like to suggest alternate wording such as “....building Canada well, by examining the effects of development to support effective decision making”.
- The ToR states that “examine the effects of offshore oil and gas exploratory drilling and inform future federal impact assessment and regulatory processes for offshore oil and gas exploratory drilling projects thereby supporting environmental protection and responsible economic development in Nova Scotia.” Our office would recommend changing the wording from "examining the effects...thereby supports environmental protection" to "make suggestions to support environmental protection”. It is our expectation that any proponent contemplating work in our unceded waters work with KMK’s Benefits Department to ensure resource revenue sharing is considered as projects are developed.

Page 4

- While it is encouraging to see “Indigenous knowledge” included in the definitions, stronger wording is recommended. Indigenous knowledge is built over time, familiarity and shared learning. Suggested wording for "Indigenous Knowledge": means the cumulative body of knowledge, teachings, values, practices and understandings developed and maintained by Indigenous peoples through lived experience and long-standing relationships with the land, waters, resources, and all living things. It is a distinct knowledge system that informs governance, stewardship, decision-making, cultural continuity and the exercise of Indigenous rights.
- While it is encouraging to see “Etuaptmumk” included in the definitions, consideration should be given to adding “Netuklimk” in the definitions as well. Netuklimk is a foundational Mi'kmaw concept that roughly translates as "to seek well-being" or "having enough, but not more than enough". It describes the Mi'kmaq way of living in harmony with the natural world, emphasizing respect, reciprocity, and the sustainable use of the Creator's gifts for individual and community survival.

Page 5

- The ToR states that “to inform best practices and appropriate mitigation and follow-up measures for offshore exploratory drilling.”. This wording implies that the offshore oil and gas industry is already guaranteed to proceed. While KMK is aware that decisions have already been made to this effect, we feel that the RA should nonetheless take a critical look at *whether* it is advisable, including through consideration of impacts to rights. KMK would like to suggest the following alternate wording: “best practices and appropriate mitigation and follow-up measures, should offshore exploratory drilling take place in the future.”

Page 6

- The ToR states that “Identify regionally appropriate mitigation measures and monitoring approaches”. This wording yet again implies that the industry is certain to proceed. We would like to suggest the following alternate wording: “Identify regionally appropriate mitigation measures and monitoring approaches, should offshore exploratory drilling take place in the future.”

Page 7

- Section 4.1 highlights the Study Area for the Scope of the Regional Assessment. KMK recommends that currently legislated marine protected areas (MPAs) and those identified for protection such as areas of interest (AOIs) as well as recognized significant marine spaces such as: Indigenous Protected and Conserved Areas (IPCAs), Key Biodiversity Areas (KBAs), Marine Refuges (MR), Fisheries Closures and any other marine designations, all be excluded from the study area along with a reasonable buffer.

Page 8

- KMK feels that this map does not adequately reflect ocean usage. Our office would recommend collaborating with the Department of Fisheries & Oceans Canada (DFO) to collaborate on a map such as the network map or layers from the marine atlas which is a public facing website.

Page 9

- Section 4.2 highlights activities that the Regional Assessment will focus on for offshore oil and gas exploratory activities. KMK would like to recommend adding monitoring efforts, decommission and restoration as well.

- Section 4.3 highlights the Valued Components the Regional Assessment will consider. While it is encouraging to see “the exercise of Indigenous rights with respect to fishing practices,” it should not be presupposed that the only type of Mi'kmaq right impacted will be fishing. KMK would like to suggest the alternate wording of “the exercise of Indigenous rights, including those with respect to fishing and self-governance, and Indigenous worldview, principles, and interests.”.
- Section 4.3 identifies "health, social and economic conditions" as a valued component. CMM recommends distinguishing Indigenous health, social, cultural and economic conditions from those of the general population. The well-being of Mi'kmaw communities is uniquely connected to the exercise of Indigenous rights, access to traditional resources, cultural continuity, language, governance, stewardship responsibilities and community relationships with the marine environment. Combining Indigenous and non-Indigenous socio-economic considerations into a single valued component risks overlooking impacts that are unique to Mi'kmaw communities and rights holders. Suggestion to add the following bullet: Indigenous health, social, cultural and economic conditions.

Page 10

- While it is encouraging to see references throughout the ToR to Indigenous Knowledge and Etuaptmumk (Two-Eyed Seeing), the current wording largely treats Indigenous Knowledge as a source of information rather than a system of knowledge that can inform analysis, conclusions and recommendations. Indigenous Knowledge should not simply be collected and considered alongside scientific information; it should be clearly reflected in how effects are assessed, how mitigation measures are developed, and how recommendations are ultimately reached. CMM would like to see stronger language in Section 5.2 confirming that Indigenous Knowledge will be incorporated into the assessment as a distinct and equally important source of evidence and understanding, and that Mi'kmaw Knowledge Holders will have the opportunity to review and validate how their knowledge is interpreted and represented in the final Regional Assessment.
- Section 6(c) states “as well as potential impacts on the rights of Indigenous peoples under section 35 of the *Constitution Act*, 1982.” This comment would have been more appropriately placed in section 6(a) which concerns consultation, rather than section 6(c) which concerns engagement.

Page 11

- Section 8(b) states: “Existing information and knowledge include, but is not limited to, those contained in any past or ongoing impact assessments, as well as any information or knowledge provided by government, Indigenous peoples and organizations, non-government organizations, industry, academia and research entities, or the public.” KMK

would recommend including and recognizing previous Regional Assessments in this list as well.

- While it is encouraging that Section 8(f) recognizes “Aboriginal or Treaty rights”, KMK would like to see the following adjustment: “Aboriginal or Treaty rights, worldview, principles and interests”.

We will look forward to continuing Consultation on this Regional Assessment. Kindly inform our office on next steps as they become available and advise of any future timelines and deliverables. KMK does not represent the communities of Millbrook and Sipekne'katik First Nations.

Please contact Patrick Butler, Consultation Manager at KMK, with any questions.

Yours in Recognition of Mi'kmaw Rights and Title,

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