

Netukulimkewe'l Commission

The Natural Life Management Authority for the Large Community of Mi'kmaq / Aboriginal Peoples who continue to reside on Traditional Mi'kmaq Territory in Nova Scotia undisplaced to Indian Act Reserves.

October 15, 2004

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Mr. Eric Theriault, P. Eng.
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Canada - Nova Scotia Offshore Petroleum Board
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CNSOPB Rec'd			
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In. Rep No: 5428			
File No 30,008.14 / BA50.ccl			

Dear Mr. Theriault:

**RE: BEPCo Canada Company - Environmental Assessment Report
Exploratory Drilling on EL 2407**

Thank you for your reply of September 24, 2004 to our comment letter of September 2, 2004 directed to the Canada Nova Scotia Offshore Petroleum Board, responsible for the conduct of a "Comprehensive Review" and to prepare a "Comprehensive Study Report" on BEPCo's Canada Company prospective project Exploratory Drillings on EL 2407.

What is the CNSOPB approach to this prospective project? Is the CNSOPB conducting a Comprehensive Review and preparing a Comprehensive Study Report on this prospective project?

We do not agree with the second, third and fourth paragraphs of your response. We respectfully suggest the reply "compromises the mandate, authority and responsibility" directed to the CNSOPB to review prospective projects in the Canada - Nova Scotia Offshore.

Environmental effects assessment of socio-economic conditions are properly within the scope of a Comprehensive Study Report by both CNSOPB management authority and CNSOPB CEAA RA responsibility.

The expressed "Aboriginal Interests" are properly within the scope of a Comprehensive Review and Comprehensive Study Report assessing a prospective project.

From the Office of:

- Netukulimkewe'l Commission
- Mi'kmaq Harvest Management Office
- Netukulimk Prefects
- Aboriginal Fisheries Public Relations Facilitator
- Regional Netukulimk Advisory Councils
- Protocol Secretariat
- Mi'kma'ki Environments Resources Development Secretariat (MERDS)

Communications and co-operation between responsible authorities and Aboriginal Peoples with respect to environmental assessment is clearly a purpose which the CNSOPB as a CEAA RA is required to promote.

The responsibility to conduct a project review, comprehensive review, or prepare a Comprehensive Study Report for an offshore prospective project does require the CNSOPB to receive and review all related documents, which includes a preliminary project development plan, an environmental and socio-economic impact statement, a preliminary benefits plan and public comments thereto.

The second paragraph sentence: *“At this time, the Board wishes to point out that some of the matters raised in your comments are outside the scope of the environmental assessment. As an example the Canada - Nova Scotia Benefits Plan...”* Which other matters are outside the Comprehensive Study Report? By what superceding authority, mandate or directive does the component of an Environmental Assessment derogate a “Comprehensive Review”, or “Comprehensive Study Report” required and requested of the Board to conduct and prepare for a prospective offshore project?

The last sentence in the second paragraph and the complete third paragraph and complete fourth paragraph bruise the objectives, intent, spirit and purpose of the Canada-Nova Scotia Offshore Petroleum Resources Accord, Legislation, Authority, and Responsibility of the CNSOPB. Preliminary Benefits Plans, socio-economic assessment and interest of Aboriginal Peoples are properly subjects to address in a comprehensive study report and are in the public interest.

The matters and comments which we raised before the CNSOPB as the joint management board and as a CEAA RA are clearly within the mandate, scope, and duty of the Board to receive, consider, review, and report. The Board also as a CEAA RA now has to explain how the Board will or will not use our matters and comments properly raised in their preparation of the Comprehensive Study Report.

The CNSOPB can not arbitrarily exclude matters, comments and documentation properly raised, by reason of the Board also acting as a CEAA RA. The CEAA Minister’s track decision choice to either proceed by “Comprehensive Study Report” or a “Public Review Panel” on the environmental components of a prospective offshore project does not diminish the documentation requirements, comments and all other matters properly raised and within the mandate, authority and responsibility of the CNSOPB to receive, consider and report in their “Comprehensive Review” of a project.

The Parties, the Proponent, the Public and our Aboriginal Peoples have an interest in this prospective offshore project. This new block has not been covered by any previous comprehensive study report or comprehensive review before the Board. A fundamental decision by the decision makers requires a comprehensive review and study of all matters considered.

We require the CNSOPB to explain its correspondence of September 24, 2004 and also clearly advise us:


- Is the CNSOPB undertaking a comprehensive review of this prospective project?
- Is the CNSOPB preparing a comprehensive study report on this prospective project?
- Is the CNSOPB limiting a “comprehensive review” or “comprehensive study report” to only address the *Canadian Environmental Assessment Act* requirements?

We remain with our original concerns, issues and matters raised to the CNSOPB in our correspondence of September 2, 2004 properly before the CNSOPB.

Should the CNSOPB choose to remain silent on its correspondence of September 24, 2004 and not respond to this correspondence, we will deem the “Comprehensive Study Report” to be a “deficient report filing”, incomplete and insufficient for decision makers and the public interest.

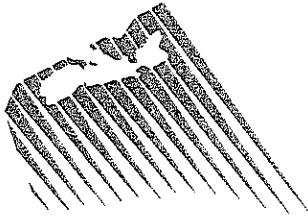
We remain open and available to communicate and co-operate with the CNOSPb on this very important matter.

Progress through consultation, accommodation and participatory involvement and partnerships



Roger J. Hunka
MERDS, Advisor/Facilitator

- c.c. The Honourable R. John Efford
The Honourable Cecil Clark
The Honourable Stephane Dion
Chief and President Grace Conrad, NCNS
Mr. Glen R. Yungblut, CNOSPb
Mr. J. E. Dickey, CNSOPB
Mr. Derek McDonald, CEAA
Mr. Peter Bedrossian PFP/CEAA



CANADA – NOVA SCOTIA OFFSHORE PETROLEUM BOARD

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File No. 30,008.14 / BA50,001

September 24, 2004

Mr. Roger Hunka
Netukulimkewe'l Commission
P.O. Box 1320
Truro, NS
B2N 5N2

Dear Mr. Hunka:

**Re: BEPCo Canada Company – Environmental Assessment Report
Exploratory Drilling on EL2407**

This is to acknowledge receipt of your comments, dated September 2, 2004, on the Environmental Assessment for the BEPCo Canada Exploratory Drilling Program on EL2407. Your comments specific to the environmental assessment are being considered as the Board reviews all related documents and prepares the Comprehensive Study Report. The report will include a section on the public consultation process and how comments received were addressed.

At this time, the Board wishes to point out that some of the matters raised in your comments are outside the scope of the environmental assessment. As an example, the Canada – Nova Scotia Benefits Plan, which is required with an application for authorization to conduct any petroleum work offshore Nova Scotia, is not part of this stage of the regulatory review.

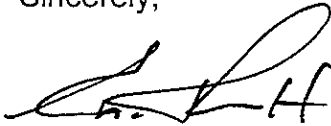
Under the Accord legislation, benefits plans must be filed and approved prior to the granting of an activity or work authorization, and are generally submitted just prior to or with the other documentation needed in a work authorization application. Such plans are subject to a separate regulatory review process and are not subject to the Canadian Environmental Assessment Act.

.....2

As is the case with all exploration wells, the benefits plan for this program is not subject to a public review, but is part of the Board's review of all documents submitted in support of an application. However, your comments on benefits matters are now on the public record and, if a work authorization application is received from BEPCo Canada, may be considered when the benefits plan is submitted to the Board.

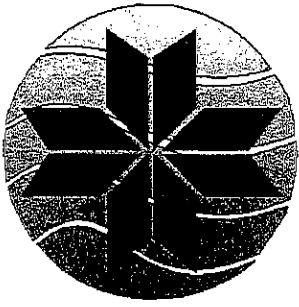
Thank you for your comments on the Environmental Assessment and your continued interest in this process.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Theriault', with a stylized flourish at the end.

Eric Theriault, P.Eng.
Advisor, Environmental Affairs

c.c. Derek McDonald – CEA Agency
Phil Zamora – DFO
Friederike Kirstein - EC
Patrick Blanchard – BEPCo Canada
Katherine Fleet – Jacques Whitford



Netukulimkewe'l Commission

The Natural Life Management Authority for the Large Community of Mi'kmaq/ Aboriginal Peoples who continue to reside on Traditional Mi'kmaq Territory in Nova Scotia undisturbed to Indian Act Reserves.

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September 2, 2004

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Mr. Eric Theriault, P.Eng.
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1791 Barrington Street, 6th Floor
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**RE: BEPCo. Canada Company - Environmental Assessment Report
Exploratory Drilling on EL 2407**

Dear Mr. Theriault:

The Native Council of Nova Scotia, is an Aboriginal Peoples Representative Organization, organized in 1974 by the large community of Mi'kmaq/Aboriginal Peoples to be a "voice to the councils of Government", and to work "to go forward to a better future".

The Mi'kma'ki Environments Resources Developments Secretariate (MERDS) established under the NCNS Netukulimkewe'l Commission, the natural life management authority for the community, has reviewed the EA. Without limiting our right to make further comments and presentations on the Proposed Project throughout the regulatory review process, and any other interventions as may be required, we provide the following comments on the above noted EA in response to the "Review notice of August 11, 2004", issued by the Canada Nova Scotia Offshore Petroleum Board..

We request the Canada Nova Scotia Offshore Petroleum Board to:

- review our comments;
- provide us feedback together with explanation on how the Board used our comments in preparing the Comprehensive Study Report;
- forward our comments to the Proponent;
- invite the Proponent to respond;

From the Office of:

We welcome BEPCo. to oil and gas exploration and production opportunities in the Canada Nova Scotia Offshore.

We comment on the following EA Sections:

Section 1.3 page 1-3

Does BEPCo have an “Aboriginal Peoples” involvement corporate policy or guidelines for encouraging the involvement of traditionally under represented groups and Aboriginal Peoples in BEPCo’s works, activities and procurement of goods and services?

Will BEPCo and CNSOPB include provisions for the involvement of traditionally under-represented groups and Aboriginal Peoples in developing the “Benefits Plan” for the multi-year exploration drilling program on EL 2407?

An objective of the Canada Nova Scotia Offshore Accord and mirror legislation, is to advance opportunities from oil and gas resources developments for the “social and economic situation of Nova Scotia and Nova Scotians”. The Accord Parties right of input into the Benefits Plan require at minimum items specified in legislation and any other which the Parties agree as appropriate. The requirement of a Benefits Plan for all works and activities in the Canada Nova Scotia Offshore is an integral part of the Regulatory Review Process. While the Benefits Plan approval decision is made by the Board and is not required to be addressed in an EA, the issue of social and economic effects and impacts from an oil and gas resource development project is important to consider in the decision making process.

Can the Board with the proponent satisfy our concerns and have addressed in the Benefits Plan and specifically identify in the CSR the social and economic effects and impacts on under represented groups and our community of Aboriginal Peoples in this oil and gas project?

Section 2.2.4 page 2-4

How would BEPCo, or its sub-contractors, conducting exploratory drilling on EL 2407 propose to “communicate directly with the N.C.N.S. Aboriginal Communal Commercial Fishery”

While we are not presently “fishing in the project area”, the proposed exploratory drilling program projects activities well into 2009. Our community manages many licences and has a large fleet of fishing vessels, and we continue to acquire new licenses in new areas and expand our fleet for community benefit. We request given the anticipated five year timeframe for exploratory drilling on EL 2407, that the Board based on this EA, encourage BEPCo to establish with the Native Council of Nova Scotia a mechanism process for direct communications about our growing fishery activities to ensure complete and clear understanding over the life of the project.

Section 2.3.2 page 2-7

We reserve our right to make comments on this section and its four sub sets, to such time when the evolving sciences and acceptable practices for “seismic testing” issue or emerge at the time of each proposed drilling activity. We also anticipate that CNSOPB evolving guidance for seismic testing will continue to set evolving seismic testing parameters for each drilling activity as they come on stream, considering that the sciences are evolving on the matter of seismic testing.

Section 2.3.4 page 2-9

When read together with section 2.2.4 (safety zone) we have a concern. “...whichever area is greater” appears to mean a 500 m radius. Can the proponent confirm that it does not intend to establish or continue a “permanent exclusion zone” for each exploratory well drilling in the area waters following the abandonment process documented for the exploratory drilling on EL 2407?

Section 3.1.2.3 pages 3-4

The meaning of the second paragraph in this section is better reflected in the first paragraph on page 5-63. The Native Council of Nova Scotia community always has an interest in the ocean areas for “communal commercial fisheries”, and is evolving with new licenses, new fisheries and fishery opportunities.

We raised with the consultants, and the proponent, the important value of establishing effective project term consultation and ongoing collaboration for a direct working relationship to include many aspects of the project with its many works and activities which can be spelled out in concrete effective and feasible ways to achieve mutual goals through a protocol of cooperation and understanding between BEPCo and the Native Council of Nova Scotia.

EA Generally

Throughout the EA there is identified undertakings and commitments by the proponent to be effected on approval of the project. While the development of these commitments and undertakings must ultimately satisfy the Regulatory Authorities, a Comprehensive Review Panel reviewing the Sable Offshore Energy Project (SOEP) several years ago determined a prudent course to take for ongoing involvement of Aboriginal Peoples was to include in the Panel Report a specific recommendation for Aboriginal Peoples involvement through a project term protocol.


It is clear from the “Environmental Assessment Track Report” of July 7th, 2004 that a factor to be considered in the Minister’s decision to proceed by way of CSR rather than a Public Review Panel on this project was the Regulators and Federal Expert Authorities cumulative knowledge, expertise and guidance continuum gained over the past several years in oil and gas resources development in the Canada Nova Scotia Offshore.

Will the CNSOPB likewise build on the continuum, and include in their CSR that the effective way to define and deal with project term effects and impacts on Aboriginal interests, ongoing needs, concerns and issues throughout the project term is best achieved directly between the Proponent and the Native Council of Nova Scotia under the umbrella of a protocol detailing the Proponent and Aboriginal role and responsibilities for ongoing consultation, cooperation and monitoring.

Thank you for the opportunity to comment. We look forward to the response and we look forward to receiving and reviewing the CSR.

In closing we wish BEPCo Canada Company every good success with their proposed exploratory drilling project for EL 2407.

Progress through consultation, accommodation and participatory involvement and partnerships



Roger J. Hunka
MERDS, Advisor/Facilitator

c.c. Chief and President Grace Conrad
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