



Kwilmu'kw Maw-klusuaqn Negotiation Office
Mi'kmaq Rights Initiative

Our Rights. Our Future.

75 Treaty Trail
Truro, NS B6L 1W3

Tel (902) 843 3880 Fax (902) 843 3882

Toll Free 1 888 803 3880

Email info@mikmaqrights.com

www.mikmaqrights.com

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Stacy O'Rourke
Director, Communications
Canada-Nova Scotia Offshore Petroleum Board
8th Floor TD Center, 1791 Barrington Street
Halifax, Nova Scotia B3J 3K9
Fax: (902) 422-1799

Re: Strategic Environmental Assessment (SEA) for the Middle Scotian Shelf and Slope, and Call for Bids Forecast Area for the time period 2019-2021

Ms. O'Rourke,

I write to acknowledge receipt of CNSOPB's draft Strategic Environmental Assessment (SEA) for the Middle Scotian Shelf and Slope and Call for Bids Forecast Area for the time period 2019-2021. KMKNO has conducted an internal review and wish to provide you with the following concerns, comments and/or recommendations.

The Mi'kmaq of Nova Scotia depend on the lands, waters, and resources in Nova Scotia and the Mi'kmaw Nation has never surrendered, ceded, or sold title to any of its lands and waters in Nova Scotia. We are traditionally a people of the water and we continue to rely on fish for Food, Social and Ceremonial (FSC) purposes and to provide us with the moderate livelihood promised in the Treaties of 1760-1761 — as yet unimplemented almost 20 years after the decision in *R. v. Marshall*. Aboriginal fishing rights are guaranteed and protected by the Supreme Court of Canada and we engage in in Food, Social and Ceremonial fisheries to feed our families and non-rights based commercial fisheries through Aboriginal communal commercial licences. Consequently, any legislation, regulation, policy or guideline, or project which affects marine areas, fish, fish habitat, or the fisheries is of grave concern to us. Nova Scotia and Canada are aware of the title and rights claims of the Mi'kmaq and that any potential impacts to asserted rights and title are subject to the duty to consult.

This Strategic Environmental Assessment is meant to examine potential environmental effects that may be associated with oil and gas exploration projects on the central Scotian Shelf and identify mitigation and monitoring measures to reduce these potential effects. This SEA only assesses three Valued Components: fisheries, species of special status, and special areas. The assessment does not directly assess Aboriginal rights and Treaty rights. Furthermore, the document groups Aboriginal fishing rights with commercial and recreational. CNSOPB should clearly state that Aboriginal fishing rights take precedence over commercial and recreational fisheries. Furthermore, CNSOPB should clearly assess how potential exploration and accidents may impact Aboriginal rights and Treaty rights and how best to mitigate these potential impacts.

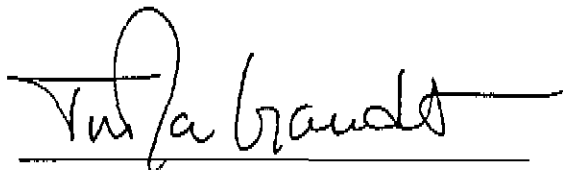
Aside from the 30-day public comment period the CNSOPB has not engaged with the Mi'kmaq of Nova Scotia during the drafting of this SEA. In the SEA, CNSOPB states that "A SEA does not trigger the Crown's duty to consult because it does not result in any regulatory action or activity that could potentially impact Aboriginal or Treaty Rights." KMKNO contends that this SEA will impact Aboriginal and Treaty rights by guiding future oil and gas exploration.

CNSOPB has also updated the Call for Bids Forecast Area for the time period 2019-2021. We wish to advise you that the Mi'kmaq of Nova Scotia have a number of fishing licenses in and surrounding the 2021 Call for Bids Forecast Area. The Call for Bids Forecast Area may allow for petroleum activities such as seismic and exploratory drilling that will directly impact Mi'kmaq fishing of, but not limited to, snow crab, lobster, ground fish, tuna, swordfish, hagfish, redfish, urchin, and shrimp. This area is also along migration routes for Atlantic salmon and American eel, which are species of concern and culturally significant to the Mi'kmaq of Nova Scotia.

For KMKNO to adequately review a strategic environmental assessment requires additional participatory funding to allocate internal resources and fund expert advice.

We look forward to further discussion on this matter with the CNSOPB.

Yours in Recognition of Mi'kmaq Rights and Title,



Twila Gaudet, B.A., LL.B,
Director of Consultation

cc.

Kim Himmelman, Dept of Energy and Mines

Beata Dera, Office of Aboriginal Affairs