



WOLASTOQEY NATION IN NEW BRUNSWICK

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[DELIVERED VIA EMAIL]

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RE: Requests for comments on the Draft Scoping Document for the Environmental Assessment of Multiklient Invest's Proposed Seismic Program in the Canada-Nova Scotia Offshore Area (the "Scoping Document")

The Wolastoqey Nation in New Brunswick ("**WNNB**") represents five of the six Wolastoqey communities in New Brunswick (Madawaska Maliseet, Tobique, Kingsclear, St. Mary's and Oromocto First Nations). 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.

Below are our comments on the Scoping Document.

General Concerns - Funding

Currently WNNB is unaware of the processes for funding under the Canada-Nova Scotia Offshore Petroleum Board (“**CNSOPB**”). While the letter and Attachment #4 were useful for understanding the review steps for the CNSOPB, it did not define when or if capacity funding would be available for the Environmental Assessment (“**EA**”). As this office already deals with serious capacity constraints, funding becomes necessary for review of projects as external technical and legal expertise are often necessary. We would ask that this is clarified.

Section 6 – Valued Components (“**VCs**”)

In the Scoping Document, the CNSOPB recommends the use of existing Strategic Environment Assessments (“**SEAs**”) to define the biological environment. However, in Section 10.0, Spatial and Temporal Boundaries, the CNSOPB also indicates a gap analysis and addenda to the EA will be necessary for changes to the biological environment, updates to species at risk (and their habitat), new special areas, new regulations and guidelines, and any changes to fisheries that may be affected by the project. These addenda will be used to legitimize future annual authorization approvals. If a gap analysis may be necessary for authorizations, then one should be carried out now, since the SEAs for the areas of concern are a minimum of five years old.

Section 6.2 – Special Areas

We appreciate that the Scoping Document takes into account the potential effects on areas such as the Western/Emerald Bank, Sable Island, the Gully, George’s Bank and the Shortland and Haldimand Canyons. Further, the proponent has identified that they will exclude the Gully, St. Anns Bank and Georges Bank moratorium area as well as maintain a distance of no less than 40 kilometers from the Roseway Basin for North Atlantic right whale protection. We would ask that further considerations be levied to the Fundian Channel - Browns Bank Area of Interest, which will likely be the next candidate in the Department of Fisheries and Oceans (“**DFO**”) Marine Protected Area (“**MPA**”) network. As indicated in the National Advisory Panel’s final report to DFO concerning MPAs, CIR 2 indicates that Indigenous people should be “full partners in all aspects of design, management, and decision making around [MPAs]” (page 12). Further, in PS1, “industrial activities such as oil and gas exploration and exploitation” should be prohibited in MPAs (page 17). This prohibition is in line with Indigenous opinion, and obviously consideration of the Browns Bank area designates prescribed importance by experts. Further to

this, there are an additional ten potential proposed MPAs and numerous Ecologically and Biologically Significant Areas (“**EBSAs**”) within the study area that may, at a minimum, warrant additional discussion with DFO.

Sections 6.4 and 6.5 – Marine Mammals and Sea Turtles

The Scoping Document acknowledges that additional mitigations may be necessary to deal with certain prolific divers, but it narrowly defines these as beaked whales in Section 6.1. Profiles of all the species of special status (including sea turtles) should include known dive lengths and depths, as this might aid in setting conditions for additional mitigations. While the Canadian guidelines for sound mitigations may include protocols for night and poor visibility, Marine Mammal Observers (“**MMOs**”) are only effective in fair conditions. Further to this, Passive Acoustic Monitoring (“**PAM**”) is not an effective means for mitigating effects on sea turtles. All efforts should be made to use the arrays when visibility is fair.

Section 7.1 – Indigenous Engagement

The Scoping Document states that “the Proponent is *expected* to engage with Indigenous Groups”. The communities we represent have multiple commercial communal licences, as well as Food, Social and Ceremonial (“**FSC**”) species which travel through large tracts of the project area. The duty to consult arises anytime a project may negatively impact an Aboriginal or Treaty right. The Proponent is not merely *expected* to engage, but required to engage.

The Scoping Document also discusses “reasonable” efforts to integrate Indigenous traditional knowledge. Three problems arise from this:

1. Any reference to “traditional knowledge” should be removed and replaced with Indigenous Knowledge (“**IK**”), as traditional implies that our knowledge is somehow frozen in time. Our knowledge, our rights, and our uses of the land have all evolved and will continue to evolve, as is permitted by law.
2. A “reasonable” effort is not adequate. Integration of IK should be a requirement, as potential effects to our rights are only adequately considered through true consultation and consideration of IK.
3. IK needs to be gathered by Indigenous people. What we choose to share or not share is up to us, and the proprietary right of IK is at the heart of maintaining our culture.

Further, in this Section, when listing the potentially affected groups, the Madawaska Maliseet First Nation community was not included. This seems strange, as Madawaska is a Wolastoqey community and one of five that we represent. While many of their interests lie in the Gulf of St. Lawrence, their Aboriginal FSC right to the Saint John River (“**Wolastoq**”), should be apparent. That right extends into the project area with concern to the outer Bay of Fundy salmon and all other diadromous species which the Wolastoqiyik have harvested traditionally and continue to. They are Wolastoqiyik, we are Wolastoqiyik.

Section 10.0 – Spatial and Temporal Boundaries

The gap analysis indicated in this Section is a needed component for a project that covers such a vast area and long-time scales. While it allows addenda for many different and important factors which may change, it neglects new and relevant IK. This should be included.

Appendix A – Components Outside the Scope of Assessment: Section II) Fish

The *Statement of Canadian Practice on the Mitigation of Seismic Sound in the Marine Environment* states that surveys must avoid causing “a significant adverse population level effect for any other marine species” (information sheet). How could this be measured or even qualified if the majority of species present are ignored? As indicated in McCauley *et al.* zooplankton productivity is negatively impacted by seismic profiling arrays. Mortality at this level will invariable effect other species of fish. While understanding generally what fish are “reasonably expected to occur” may be a start, understanding precisely what baseline conditions and populations are present would lead to a stronger adaptive mitigation plan. Baseline and post survey monitoring are necessary to clearly define the effects of this project. While plankton may not be viewed as critically important, effects to them could cascade throughout the food chain. This would include species of special concern as well as effects to the North Atlantic right whale and other baleens which depend on plankton and plankton’s immediate predators as a food source. The exclusion of fish outside of those commercially harvested and those of special status is unacceptable and short sighted. For scientifically robust monitoring and mitigations, fish as well as plankton should be monitored pre and post seismic survey.

If you have any questions or require anything else, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Gillian Paul". The signature is written in a cursive, flowing style.

Gillian Paul
Wolastoqey Nation in New Brunswick
Interim Consultation Director/Legal and Governance Advisor

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CC: RDCC Russ Letica – Madawaska Maliseet First Nation
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RDCC Timothy Plant – St. Mary's First Nation
RDCC Fred Sabattis Jr. – Oromocto First Nation
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References:

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