

Ms. Friederike Kirstein
Section Head – Atlantic Regional Office
Canadian Environmental Assessment Agency
Suite 200, 1801 Hollis Street
Halifax, Nova Scotia
B3K 3N4

Date: 12-SEP-2016
Reference: SC-CEA-0104-16

Dear Ms. Kirstein:

Re: Statoil Canada Ltd. – Environmental Assessment, EL 1125

1 Introduction

Statoil Canada Ltd. (“**Statoil**”) acquired exploration licences (“**EL**”) 1125 and 1126 on January 15, 2012 through the Canada-Newfoundland and Labrador Offshore Petroleum Board (the “**C-NLOPB**”) land tenure process. Statoil commenced the exploration drilling program for this group of licences in 2016 when an exploration well was drilled on EL 1126. The drilling program ended without having drilled EL 1125. The licence will expire on January 15, 2018 should a well not be drilled on or before that date. If drilling on EL 1125 triggers an environmental assessment (“**EA**”) under the *Canadian Environmental Assessment Act, 2012* (“**CEAA 2012**”), given the timeframe necessary to undertake it, EL 1125 will expire before the EA process is complete. Therefore, Statoil is requesting your confirmation any future proposed exploration drilling activity of an exploration well on EL 1125 will not trigger an EA under CEAA 2012.

2 Ongoing Program and CEAA 2012 Transitional Provisions

2.1 Current Environmental Assessment

The possible environmental effects of drilling activities within EL 1125 have already been assessed by the C-NLOPB. Prior to CEAA 2012, drilling programs underwent a screening level of assessment under the former *Canadian Environmental Assessment Act, 1992* (“**CEAA 1992**”) led by the C-NLOPB. Statoil’s environmental assessment for drilling activities, “*Environmental Assessment of StatoilHydro Canada Ltd. Exploration and Appraisal/Delineation Drilling Program for Offshore Newfoundland, 2008-2016*” (the “**Statoil 2008 EA**”), included an assessment of the environmental effects of drilling up to 29 wells in any area within the defined project area over a nine-year period from 2008 to 2016. The EA was scoped to include drilling on licences held in 2008 and any licences that could be acquired by Statoil over the nine-year timeframe. The C-NLOPB determined that there would be no significant environmental effects associated with any drilling program in the project area, with the implementation of certain mitigation measures.

The C-NLOPB issued a screening report under CEAA 1992 on July 10, 2008 for the Statoil 2008 EA which stated:

"9. Decision/Decision Date

The Canada-Newfoundland and Labrador Offshore Petroleum Board is of the opinion that, taking into account the implementation of proposed mitigation measures set out in the conditions above and those committed to by StatoilHydro Canada Ltd., the Project is not likely to cause significant adverse environmental effects. This represents a decision pursuant to Section 20(1)(a) of the CEA Act."

As of January 15, 2012, EL 1125 became part of the project area and any potential environmental effects of drilling on EL 1125 has, therefore, already been assessed. While Statoil has yet to drill on EL 1125, it is currently considering it an option as it contemplates a potential drilling program in 2017.

Subsequently, on February 15, 2013, the C-NLOPB issued an Operations Authorization (No. 25020-020-OA02) to Statoil for an offshore drilling program that included EL 1125 and EL 1126. Statoil conducted the drilling activities from 2014-2016 during its most recent drilling program under this Operations Authorization.

The 2014-2016 drilling program ended without having drilled on EL 1125, but it continues to be a part of Statoil's drilling programs contemplated in the Statoil 2008 EA. Drilling activities are not necessarily continuous and the C-NLOPB EA process accounts for this. While the C-NLOPB EA process assesses drilling multiple wells in a single area, it understands that drilling activities can be undertaken over a number of years, over the course of a number of drilling programs, with periods of inactivity between each drilling program.

Therefore, when undertaking a drilling program in any one year, an operator, such as Statoil, must submit to the C-NLOPB an update to the applicable EA. The purpose of the update is to inform the C-NLOPB whether there are any changes to the proposed activity that are outside the scope of the approved EA, as well as provide an update on any species at risk that may/may not have been assessed in the original EA and on any potential interactions with key ocean users. The update provides a mechanism whereby the original EA is considered as part of the issuance of a drilling authorization and confirms that the conclusions reached in the original EA still remain valid.

In anticipation of possibly drilling a well on EL 1125 in 2017, Statoil has filed an EA amendment to the Statoil 2008 EA with the C-NLOPB to extend the temporal scope of the Statoil 2008 EA to include possible drilling activities until 2019, including drilling on EL 1125. The EA amendment also includes feedback from stakeholders. The EA amendment concludes that there would be no significant effects on the valued components set out in the Statoil 2008 EA with the proposed change in temporal scope. Statoil is awaiting a determination of significance from the C-NLOPB.

2.2 Transitional Provisions of CEAA 2012

Based on the transitional provisions of CEAA 2012, no additional EA should be required as drilling on EL 1125 has already been included in the project scope of the Statoil 2008 EA and amendment. Statoil's interpretation of subsections 128(1) and 128(1)(c) of CEAA 2012 is that if the Statoil 2008 EA is extended, CEAA 2012 would not apply to drilling on EL 1125 as the C-NLOPB would have

already completed an environmental assessment of the project, where “the project” in this context is the drilling program within the project area. Those Subsections are reproduced here:

128(1) This Act does not apply to a project, as defined in the former Act, that is a designated project as defined in this Act, if one of the following conditions applies:

...

(c) the responsible authority has taken a course of action under paragraph 20(1)(a) or (b) or subsection 37(1) of the former Act in relation to the project.

Section 20(1)(a) of the former Act (CEAA 1992) states:

“20 (1) The responsible authority shall take one of the following courses of action in respect of a project after taking into consideration the screening report and any comments filed pursuant to subsection 18(3):

(a) subject to subparagraph (c)(iii), where, taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, the project is not likely to cause significant adverse environmental effects, the responsible authority may exercise any power or perform any duty or function that would permit the project to be carried out in whole or in part;”

As stated in Section 2.1 of this letter, the C-NLOPB issued a decision pursuant to Section 20(1)(a) of the former Act (CEAA 1992) on July 10, 2008 for the Statoil 2008 EA, concluding that the project is not likely to cause significant adverse environmental effects.

2.3 Temporal Changes under Environmental Assessments

In previous meetings with the Canadian Environmental Assessment Agency (“the **Agency**”), it was noted that under CEAA 2012, there are provisions in the process whereby a change in project scope (e.g. delaying construction), made after the Minister’s determination and conditions of approval, can be accommodated provided the changes do not result in a significant environmental effect. While a ministerial decision has not been made regarding the Statoil 2008 EA, as one was not required, the provision for change in scope under CEAA 2012 is relevant. The change in temporal scope for the drilling of EL 1125 is similar to a delay in construction as contemplated in the EA Decision Statement from the Minister of Environment and Climate Change regarding the Cote Gold Mine Project. The requirements of the proponent, if there was a delay in construction, are similar to the C-NLOPB requirements for an annual EA update and EA amendments. As concluded in the EA amendment,

should Statoil exercise an option to drill on EL 1125 in 2017, the change in temporal scope of the drilling activity will not have significant environmental effects on the valued components identified.

3 Designated Projects in CEAA 2012

The transitional provisions of CEAA 2012 apply to the Statoil 2008 EA and amendment and no further assessment under CEAA 2012 is required. However, if the Agency's interpretation of the transitional provisions conclude that they do not apply in this case, then a determination must be made whether drilling on EL 1125 is considered a 'designated project' under CEAA 2012. A CEAA 2012 EA must be completed for designated projects unless the Agency makes a decision that EA of the designated project is not required.

The *Regulation Designating Physical Activities SOR/2012-147*, was made pursuant to CEAA 2012 to define physical activities that constitute a designated project. Section 10 of the *Regulation Designating Physical Activities* apply to exploration drilling programs and is reproduced below:

10. The drilling, testing and abandonment of offshore exploratory wells in the first drilling program in an area set out in one or more exploration licences issued in accordance with the Canada–Newfoundland and Labrador Atlantic Accord Implementation Act or the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act

The intent of the inclusion of the term "one or more" exploration licences in Section 10 of the *Regulation Designating Physical Activities* is that an 'area' may be comprised of multiple exploration licences. Section 10 does not limit an 'area' to one exploration licence and define each individual exploration licence as a distinct designated project. In the case of multiple exploration licences issued in the same geographical area to an Operator, the 'area' in accordance with Section 10 would encompass the extents of all these exploration licences issued.

Statoil acquired EL 1125 and EL 1126 together on January 15, 2012 through the C-NLOPB land tenure process. In accordance with Section 10 of the *Regulation Designating Physical Activities*, EL 1125 and EL 1126 constitute "an area set out in one or more exploration licences". Statoil commenced the first drilling program for this 'area' in 2016 when an exploration well was drilled on EL 1126. Drilling activities undertaken in the future on EL 1125 would constitute a subsequent drilling program within the same 'area'.

Furthermore, additional drilling programs have been undertaken in the vicinity of EL 1125, in areas set out in one or more exploration licences including programs commencing in 2008, 2013 and 2014. Figure 1 provides a summary of Statoil's licence locations.

A future drilling program on EL 1125 would not constitute the 'first' drilling program in the area, considering the multiple drilling programs that have occurred in the lands adjacent to EL 1125 and specifically the 'area' set out in exploration licences issued to Statoil in 2012, that includes EL 1125.

4 Conclusion

Based on the foregoing, it is Statoil's view that:

- 1) Drilling activities within EL 1125 have already been assessed by the C-NLOPB in the Statoil 2008 EA and subsequent amendment. Based on the transitional provisions of CEAA 2012, no additional EA with respect to drilling activities on EL 1125 is required.
- 2) Future drilling on EL 1125 does not constitute "the first drilling program in an area set out in one or more exploration licences" and, therefore, does not signify a "designated project" under CEAA 2012. Future drilling activities on EL 1125 would be a subsequent drilling program within the 'area' set out in the group of licences that were issued by the C-NLOPB in 2012 and therefore would not be considered a designated project under CEAA 2012.

Statoil is currently planning potential drilling activities for 2017 that include an exploration well on EL 1125 before the licence expires in January 2018. If a new EA under CEAA 2012 is required to proceed with drilling activities on EL 1125, in addition to the existing Statoil 2008 EA and EA amendment (both include EL 1125) administered by the C-NLOPB, the licence will expire before any drilling activities may be completed. This matter is serious and time sensitive due to the potential licence expiry and preparation/planning time required for 2017 drilling activities. Therefore, your attention to this matter is greatly appreciated.

Please contact the undersigned should you or any of your officials wish to further discuss this matter.

Yours truly,

STATOIL CANADA LTD.
<Original signed by>

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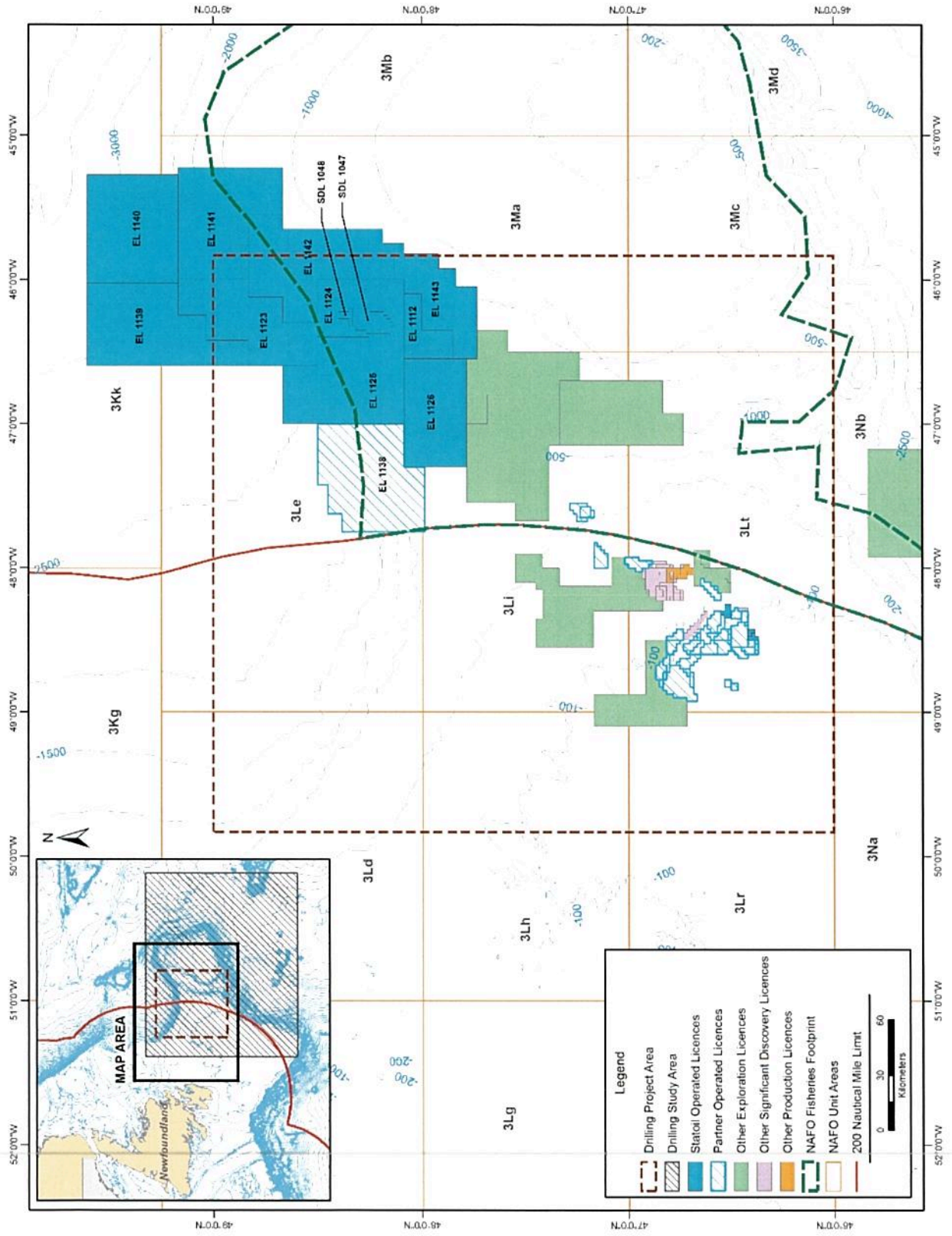


Figure 1 – Statoil 2008 Environmental Assessment and EA Amendment – Project Area