

To: The Honourable Minister Steven Guilbeault, Minister of Environment

The Honourable Jonathan Wilkinson, Minister of Natural Resources

The Honourable Andrew Parsons, KC, Minister of Innovation, Energy and Technology, NL

The Honourable Bernard David, Minister of Environment and Climate Change, NL

The Honourable Andrew Furey, Minister of Intergovernmental Affairs, NL

Date: October 18, 2023

Re: Request for Amendments to the Agreement to Conduct a Regional Assessment of Offshore Wind Development in Newfoundland and Labrador

Dear Ministers,

The Committee for the Regional Assessment of Offshore Wind Development in Newfoundland and Labrador (the Committee) respectfully requests amendments to the Agreement to Conduct a Regional Assessment of Offshore Wind Development in Newfoundland and Labrador (the Agreement). In the absence of the amendments we are seeking, the Committee is of the opinion that public confidence in the regional assessment (RA) process and resulting recommendations will be at risk. We request your response by November 1, 2023 to allow us time to adjust our work plan, and communicate next steps to participants in this RA process. While awaiting your response, the Committee will continue with the RA to the extent possible in order to adhere to the timelines in the current Agreement.

SUMMARY

- The Committee has identified engagement, procedural, and administrative challenges that will prevent us from delivering on our mandate within the timeline given.
- The Committee requests you remove the phased delivery of two reports and instead allow one interim report and one final report.
- The Committee requests you extend the overall timeline for completion of the RA from 18 months to 22 months.
- Should the request for amendments be denied, potential consequences may include but are not limited to inadequate Indigenous and public engagement, lower quality reports, and potential committee member resignation.

CURRENT STATUS

On May 12, 2023, we requested additional time to complete the RA. In your June 29, 2023 response, you denied that request. You also indicated openness to re-evaluating the RA timelines once we had made progress on our work plan and if we encountered a specific issue or challenge that might prevent us from delivering our reports on schedule. Six months have now passed since our March 23, 2023 appointment. We have made progress on our work plan and have been hearing from Indigenous groups, federal and government agencies, stakeholder organizations, and the public. We have identified several issues and challenges that will prevent us from delivering on our mandate within the timeline given.

ISSUES

Eighteen months is not enough time to conduct meaningful engagement with participants.

The dual outputs are a significant scope for an RA to accomplish, especially in the timeline given.

Delivering two reports in a phased manner further detracts from the already limited time available to engage participants and to complete the technical scope of work.

CONSIDERATIONS

Participants in the RA process have expressed concerns with engagement

Throughout the engagement process thus far, the Committee has heard some participants express their concern about the limited opportunities for engagement. To meaningfully engage, the Committee must be able to meet with participants at a time convenient for the participants, that respects economic, traditional and cultural activities, as well as competing priorities, capacity constraints, and engagement fatigue. Best practice is to avoid engaging during the summer holidays, hunting and harvesting seasons, and holidays. Due to the aggressive timeline, the Committee had no choice but to attempt to engage during these times. While some introductory meetings and engagement sessions were possible, the Committee has heard emphatically from Indigenous groups and fish harvesters they are not getting the chance to meaningfully engage in this process. Regarding fish harvesters, a five-week delay in the start of the 2023 snow crab season meant that they only had time to direct their attention to the RA process in early fall 2023.

Furthermore, the importance of the inclusion of Indigenous knowledge and perspectives throughout the entire RA report features prominently in the Agreement. Having adequate time for the Committee to work with Indigenous peoples is critical to the success of this RA.

Offshore wind has yet to be developed in Canada

Engaging on a new industry requires a public education component that would not be required for an RA on an established industry. Select stakeholders are familiar with the specifics of offshore wind, from turbine components to activities associated with development phases to effects documented in other jurisdictions. However, the Committee has to share this information with all participants to enable meaningful engagement.

Additionally, gathering information to inform this RA requires significantly more effort than what would be required for an RA on an established industry. There are no studies on the effects of offshore wind development on local species, nor on the effectiveness of mitigation measures in the local environment. While the Committee is drawing upon reports from the local offshore oil and gas industry, and from the offshore wind sector in other jurisdictions, synthesizing, analyzing, and applying that information is a lengthy process.

Each of the two RA outputs is a significant undertaking onto itself

This RA is to inform: 1) future decisions around whether particular locations may be subject to future licencing processes for offshore wind development activities, and 2) future impact assessments of offshore wind development activities. Each output on its own is a significant scope of work to complete, let alone combined into one RA and especially in timeline given and with meaningful engagement as a priority.

The Agreement directs the Committee to evaluate the entire Study Area for areas that may be suitable for offshore wind licencing. Based on publicly available information gathered to date, the Committee is aware of several initiatives identifying or evaluating such areas, but with a Nova Scotia focus. These include Net Zero Atlantic's Offshore Value Mapping in Nova Scotia, DFO Maritimes' Marine Spatial Planning – Offshore Wind Spatial Analysis, and Natural Resources Canada (NRCan)/ Canmet Energy's Preliminary Suitability Assessment of Offshore Wind Energy in Atlantic Canada (July 2023) report. Appropriately, considerable time and resources were and are allocated for these initiatives. However, the Newfoundland and Labrador Committee does not have the same benefit, especially with regards to time, but has nonetheless been tasked with a similar undertaking.

This RA is also meant to inform future impact assessments by identifying and recommending mitigation and other measures to address potential effects, and monitoring and follow-up requirements. While it is part of the Committee's mandate to draw upon work completed in other jurisdictions with established offshore wind sectors, the Agreement requires much more than a simple inventory of effects identified and measures employed in other jurisdictions. The Agreement requires the Committee to carry out an assessment of substantial scope, consisting of 12 environmental, health, social, cultural and economic components. In addition to a description of existing conditions for each component, the Committee must consider interactions and interrelationships between these components, and cumulative effects. Further, the Committee must consider climate change, sustainability, and gender and intersectionality. The effort required to complete an assessment of this technical scope in the marine environment in a Study Area of this size has been underestimated. Finally, and importantly, the Committee is tasked with gathering and incorporating Indigenous knowledge and community knowledge, in addition to scientific information, throughout all aspects of the assessment. This knowledge respectfully requires time to hear, understand, and integrate into the RA.

Delivering two reports is procedurally and administratively burdensome

Each report will require a public comment period, and that public comment period should be of a duration that gives participants adequate time for review. For comparison, the Impact Assessment Agency of Canada (the Agency) held a 45-day comment period on the draft Agreement for this RA (a nine-page document). The Committee believes a public comment period of at least 60 days is required for a draft RA report (a possibly 200-page technical document). This means that of the current 18-month RA process, four months are required for public comment periods.

Before each public comment period, each draft RA report requires translation from English to French. This detracts another two months from the time the Committee has to complete their work. Following public comment periods on each draft report, the Committee will then need time to deliberate on all comments received on the draft report, revise the report, and have those revisions translated to produce the final report. This, too, will reduce the available time by several weeks.

Lessons learned from the first RA

For comparison, the RA for Offshore Exploratory Drilling East of Newfoundland and Labrador was conducted on an activity with an over 40-year history in this province. The Committee for that RA was able to draw upon decades of local research, project-level assessments, strategic environmental assessments, monitoring program results, and expertise. Participants in that RA process, many of whom participated in numerous project-level assessments of exploratory drilling, were knowledgeable of the

activity, its effects, mitigation measures, monitoring programs, and regulatory framework. Additionally, that RA had one output (i.e., to inform future impact assessments), and one report. That Committee had 13 months from their appointment to complete their work. In their report, the Committee stated:

Completing the Regional Assessment did present some challenges. One was the abbreviated time given to the Committee to fulfil its task. This not only limited the Committee's ability in preparing the Report but also reduced public confidence in the Committee's work and the opportunities for others to contribute.

REQUESTED AMENDMENTS

The Committee appreciates the critical timing of the delivery of Report I in March 2024 for informing government initiatives pertaining to the offshore wind licencing process. The Committee also understands the value of this RA (Reports I and II) to future project impact assessments.

The Committee believes the required outputs can be achieved and the current risk to RA process and outcomes may be mitigated by clarifying and amending the Agreement as follows:

1) Provide clarification that the Agreement allows the Committee to focus the assessment in the areas the Committee identifies as most suitable for offshore wind.

Section 1.4 of the Agreement states, "For greater clarity, the inclusion or exclusion of specific portions of the Offshore Area in the Study Area does not reflect whether particular locations will or should be subject to future offshore wind development activities." Section A1.6 (e), item c, iii also refers to the Committee requesting Advisory Groups for their input on "[k]ey locations of interest for future offshore wind development activities in the Study Area (to help focus the Committee's work on areas which are most likely to see future development interest, based on technical and economic factors)."

The Committee believes it is within its mandate to identify portions of the Study Area as suitable and unsuitable for offshore wind development, and to focus the assessment (i.e., description of existing conditions, effects across the 12 environmental, health, social, cultural, and economic components) on only those suitable areas. Focusing the assessment and associated engagement in this way results in a scope that is more feasible to accomplish within the requested 22-month timeline (see point 3, below).

The Committee requests the Ministers indicate in their response to this letter whether you agree or disagree with this interpretation of the Agreement.

2) Amend the Agreement to remove the phased delivery of two reports and instead allow one interim report and one final report.

The interim report will be submitted to the Ministers at 12 months from the Committee's appointment. The interim report will include:

- the Committee's preliminary recommendations of particular locations that may and may not be suitable for future licencing processes for offshore wind development activities, and the rationale behind these recommendations;
- any information and knowledge gaps identified to date with relevance to and implications for future licencing processes, and preliminary recommendations to address such information and knowledge gaps as appropriate; and,

- engagement outcomes to date with relevance to and implications for future licencing processes.

The interim report will be preliminary in nature. In agreeing to the interim report, the Ministers do so with the understanding that the Committee will continue engagement on these matters and that the material in the interim report may be refined and/or revised in the final report.

The interim report will not be subject to a public comment period. The Committee will share the interim report on the Registry at the same time it is provided to the Ministers and will notify all RA participants that it is available. The Committee will post the interim report in English only and have the French and Indigenous languages versions available as soon as possible thereafter, if requested by participants. The Committee will welcome participant feedback on the interim report, and comments received will help inform the Committee's final report.

The final report will address all elements outlined in A.3 of the Agreement.

3) Amend the Agreement to extend the overall timeline for completion of the RA from 18 months to 22 months.

The final report will be submitted to the Ministers at 22 months from the Committee's appointment (i.e., January 23, 2025, rather than September 23, 2024).

The draft report will meet the language requirements as described in the Agreement. The draft report will be subject to a public comment period of 60 days.

NEXT STEPS

The Committee believes amending the Agreement as requested will allow governments to receive the information they need within their desired timeframe, while also providing the Committee more time for engagement and a more manageable scope within that timeframe.

The Committee will proceed with our work plan while we await your response. The Committee will post this amendment request to the Registry while we await your response.

Upon receipt of your response, the Committee will post it to the Registry, will reassess the work plan based on that response, and will communicate next steps to all participants in the RA process.

Should the response indicate Agreement amendments are forthcoming, the Committee will proceed in principle based on the response while the Ministers amend the Agreement. The Committee will post the amended Agreement on the Registry once received.

Should the request for amendments be denied, the Committee will send follow-up correspondence to the Ministers describing the consequences, which may include but are not limited to inability to adequately engage, reports deficient in Indigenous knowledge and community knowledge, and potential committee member resignation.

Thank you,

Shayne McDonald (Chair), Glenn Blackwood, Leslie Grattan, Brian Power, Paul W. Saunders
**Committee for the Regional Assessment of Offshore Wind Development in Newfoundland and
Labrador**