RECOMMENDATION OF FEDERAL PROTECTED AREA DESIGNATION FOR SABLE ISLAND

Report to the
Minister of the Environment for Canada and the Minister of Natural Resources for Nova Scotia

by the
Canada – Nova Scotia Sable Island Task Group

April 22, 2010

Photo: Scott Coffen-Smith
Executive Summary

Sable Island is a unique environment with a rich human and ecological history. It is currently under the administration of the Canadian Coast Guard through specific regulations of the Canada Shipping Act. A federal protected area designation, with the ongoing support and involvement of the Province of Nova Scotia, is required to provide the appropriate long-term conservation framework.

On January 25th, 2010, Canada and Nova Scotia signed a Memorandum of Understanding (MOU) requiring a Task Group to recommend the designation of Sable Island as either a National Wildlife Area or National Park. The Task Group focused its work on how each meets four key conservation and management objectives for the Island. A comparative analysis of the legal authorities, policies and typical management regimes associated with a national wildlife area and a national park was undertaken. In summary, the Task Group concluded that both designations are feasible and both would achieve wildlife and ecosystem conservation goals.

The Task Group recommends the designation of Sable Island as a national park under the Canada National Parks Act. It is believed that the national park is the designation that can achieve to a greater extent all four key objectives as well as realizing several “valued added” public benefits. For example, a national park designation would have the means to address the expected increasing demand for on-site visitor access to the Island and off-site interpretation for a wide variety of Canadians. Parks Canada and its legislative basis have the capacity to include such elements in a designation.

While there are legal challenges to resolve, these issues should not prevent the eventual establishment of a national park on Sable Island. The major issue or consideration that arose during the work of the Task Group was with respect to the exploration for and development of offshore petroleum resources on and under Sable Island.

A national park would require an establishment agreement that includes an instrument whereby Nova Scotia would transfer to Canada administration and control to the foreshore and sub-surface, insofar as Nova Scotia has an interest in these areas. Such an approach would confirm that the Accord Acts continue to apply and that it is without prejudice to existing claims of ownership by either government. While petroleum activities may still take place around and under the Island, a key observation is the need for future discussions to provide certainty for governments, industry and the public concerning the possibility of future drilling operations on the Island.

In addition, there were other (non-petroleum) issues that were highlighted for the Task Group by the public over this period, including visitor management and seal population control. These issues will need to be addressed in greater detail following the Ministers’ decision. Once a decision is made on this recommendation, Canada is to undertake consultations on the recommended option.
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Section 1 - Background and Purpose

Sable Island, located in the offshore of Nova Scotia (see Appendix 1), supports an exceptional and often fragile environment with a rich human and ecological history. This ecosystem made up of extensive sand dunes, grassy fields, heath and freshwater ponds supports a unique and diverse flora and fauna, including the world’s largest colony of grey seals and the iconic Sable Island horse. As well, it has important archaeological sites and cultural heritage, including the remains from shipwrecks and Canada’s first lifesaving station.

The on-going management of human activities on Sable Island support the broader environmental, economic and social interests of Nova Scotians, and Canadians generally. As the Island offers excellent opportunities to protect, experience and study the diverse natural and human history for all Canadians, a federal protected area designation provides the appropriate long-term conservation framework. Likewise, the government of Nova Scotia remains committed to long-term measures to conserve this unique part of the Province.

Current Administration, Interests and Conservation Approaches

There are numerous public interest activities undertaken on Sable Island by a range of regulatory and research organizations and other users, many of which have been ongoing for decades. The Canada Shipping Act is currently the over-riding regulatory instrument for the Island and provides the Minister of Fisheries and Oceans, through the Canadian Coast Guard Agency, with the Island’s administrative authority. The Canada Shipping Act’s Sable Island Regulations (1962 c.1465) specifically protect the Island, through restrictions directed at controlling access and certain types of activities, including interactions with the Island’s horses.

Some of the existing infrastructure related to navigation and related program activities is under the control and maintenance of the Canadian Coast Guard. This particular infrastructure is in the process of being removed, as it is no longer required. Meteorological monitoring and research run by Environment Canada’s Meteorological Service of Canada is the major activity undertaken at Sable Station. As the primary year-round operational presence on the Island, Sable Station is a collection of facilities that also provides a wide range of services and logistical support for a variety of users on the Island, such as to Fisheries and Oceans Canada, e.g. in support of seal research. The Island’s facilities also provide a platform to support emergency response and other activities for the offshore petroleum industry, Coast Guard and National Defence.

In 1977, Sable Island was designated a Migratory Bird Sanctuary under the Migratory Bird Convention Act’s Migratory Bird Sanctuary Regulations. This designation provides for the protection of migratory birds and their nests. Selected areas of the Island are
also designated as critical habitat under the *Species at Risk Act* for the endangered Roseate Tern.

The *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act* (the Accord Acts) provide the joint federal and provincial legal framework for petroleum exploration, development and management in the offshore of Nova Scotia, including Sable Island. In this area, the Accord Acts provide the only legislated basis for the issuance of petroleum exploration, development and production licenses and rights and any related drilling, seismic and other exploration, development or production activities. The Canada-Nova Scotia Offshore Petroleum Board (the Board) administers the Acts on behalf of both governments. Areas around Sable Island are under development and future potential remains to be discovered.

The Province of Nova Scotia has a long history regarding Sable Island as evidenced by historical records, numerous shipwrecks, and more recent scientific research and connection to the offshore petroleum extraction. There is a broad suite of provincial legislation that is applicable to the regulation and management of the coastal resources in Nova Scotia; for example, the *Special Places Protection Act* can be applied to protect the Island’s rich archaeological resources. Most recently, in 2008, the Sable Island horse was named as the provincial horse of Nova Scotia. Another example is the air shed monitoring program to measure pollutant concentrations and trends enabling comparisons with data from other ambient stations in Nova Scotia and Canada.

**Purpose of this Document**

The Memorandum of Understanding (MOU), entitled *The Establishment of a Federal Protected Area on Sable Island in the Province of Nova Scotia*, signed on January 25th, 2010, requires that the Parties (Nova Scotia - Department of Natural Resources, Environment Canada and Parks Canada Agency) jointly participate in a Task Group that will recommend the appropriate federal protected area designation for Sable Island as either a national wildlife area or national park. This Memorandum stipulated that a recommendation be delivered to Ministers within a three month period. Appendix 2 provides the full text of this agreement.

In order to formulate its recommendation, the Task Group worked with an Intergovernmental Advisory Committee, and also gathered expert opinions on key topics identified in the Memorandum of Understanding. The Intergovernmental Advisory Committee is a joint federal-provincial forum that was established to provide the Task Force with advice, review and communication. It met twice to review and discuss topics of interest. As well, experts at the Canada-Nova Scotia Offshore Petroleum Board were invited to address the potential impacts and mitigation options available to address petroleum resource aspects of the Memorandum (as defined in
sections 1.4 and 3.1). A description of the Task Group and key meetings since this agreement was signed is provided in Appendix 3.

The purpose of this document is to provide a recommendation for a federal protected area designation as required by the Memorandum of Understanding, and includes a synopsis of the analysis conducted by the Task Group and its partners in this effort. It provides objectives and related analysis on the designation options. A review of the key issues and considerations is provided, focused on the next steps for the recommended option.

Section 2 - Objectives, Designation Options and Recommendation

Key objectives

The 1998 Canada-Nova Scotia “Conservation Strategy” for Sable Island and the subsequent Government of Canada review of the Canada Shipping Act in 2001 recognized that the existing regulatory approach was not appropriate for managing Sable Island for conservation and other public interest objectives.

A 2004 Canada-Nova Scotia joint recommendation to Ministers concerning protection options for Sable Island indicated that it would be in the public interest to use a federal protected area designation to achieve conservation objectives and to help maintain a human presence on the Island. This was affirmed by the Minister of the Environment for Canada in 2005 and 2008, and solidified by the Canada-Nova Scotia Letter of Agreement in 2009 (Appendix 4) and the aforementioned Memorandum in January 2010 (Appendix 2). Of particular note, the 2008 Health of the Oceans Initiative provided funding support to 2012 to maintain Sable Station and to contribute towards the potential designation of a national wildlife area on the Island.

Regarding the national park option, the Government of Canada’s 2010 March Speech from the Throne provides direction concerning the development of new areas for consideration:

"We are a country of unparalleled natural beauty. To further protect and preserve the diversity and health of our natural environment, our Government will bolster its Action Plan on Clean Water. And it will build on the creation of more than 85,000 square kilometres of national parks and marine conservation areas as part of its national conservation plan."

In keeping with the consistent direction and priorities provided by both governments, and the advice of various public interests and concerns over Sable Island during the past decade, the Task Group proceeded to develop its recommendation based on the following primary objectives. Sable Island will:
1) have a federal protected area designation, and subsequent regulatory and management regime, that enhances the current protection of the ecology of the flora and fauna and the cultural assets of the Island while recognizing it is situated in an area of industrial activity and commercial interests, notably hydrocarbon exploration and development;

2) have a boundary within which the protected area will include all the surface of the Island, including the foreshore (intertidal¹) and the Island above the high water mark;

3) continue to have a Sable Station which will provide the commitment to an ongoing human presence that will serve to support the protected area, as well as a variety of public interest activities; and,

4) have the capacity to manage the current, and likely increased interest and ability of the public to access the Island, with subsequent programs and capacity to facilitate visitor experience and opportunities and public education programs for Canadians.

Review of designation options – generalized comparative analysis

The two designation options for the Task Group to consider for Sable Island were a national park and a national wildlife area.

National wildlife areas are established under the *Canada Wildlife Act* and sites are protected through the *Wildlife Area Regulations*. National wildlife areas can be created for "wildlife research, conservation or interpretation", with 51 sites currently designated across the country. Habitat protection and species conservation are the primary goal.

National parks are designated under the *Canada National Parks Act* to protect for all time representative natural areas of Canadian significance in a system of national parks, and to encourage public understanding, appreciation and enjoyment of this natural heritage so as to leave it unimpaired for future generations. In a national park, ecological integrity must be maintained and visitors are welcomed to experience and learn about the park in ways that leave it unimpaired for future generations. Parks Canada Agency works to ensure that Canada’s treasured natural and historic places will be a living legacy, connecting hearts and minds to a stronger, deeper understanding of the very essence of Canada.

¹ Sable Island is approximately 3,000 hectares in size. The areal extent of the intertidal zone can only be estimated at the present time, but comprises approximately 10 to 20 per cent of the total island area. It is an important part of the Island’s ecology and future management.
A further description of these two designations, in the form of two backgrounders, is provided in Appendix 5.

The Task Group, with input from others, undertook a comparative analysis of the legal authorities, policies and typical management regimes found under a national wildlife area and a national park. The Task Group focused the comparison on the issues identified under the January 2010 Memorandum of Understanding, and a full review of these issues and a few others that emerged in this process are provided in Appendix 6. Any key distinctions between the designations are noted.

In summary, it is the conclusion of this Task Group that both designations are feasible within the assumed boundaries. While there are legal challenges which must be resolved, it is not anticipated that these issues will prevent the eventual establishment of a federal protected area regime that addresses the foreshore, surface activities and resources, and the sub-surface, e.g. access to petroleum resources. In particular, both protected area designations would give equivalent and comprehensive conservation of the ecology and wildlife on the Island, including the horses.

With the appropriate funding, both could achieve the objective of maintaining a continuous human presence and providing the capacity to serve public interests on the Island. As well, both designations are equivalent in their management of key conservation issues identified to date, such as the maintenance of the freshwater resources or future management or control of species, e.g. grey seals, if required. Details on such matters are best addressed in the development of, and consultation on, the operational management plans that are required under either designation. For specific issues, such as the control of species, specific program initiatives would be required that would include consultation and intra-governmental and inter-departmental collaboration.

Although there is equivalency in the designations in achieving conservation objectives, there are three notable differences regarding other objectives:

- preserving and supporting the development of archaeological assets and cultural resources;
- facilitating visitor experience and opportunities, and associated interpretation and public awareness programs for the Canadian public; and,
- extending some level of conservation into the sub-surface, specifically related to the exploration and extraction for non-petroleum resources.

These objectives are largely the mandated responsibilities of Parks Canada Agency which has a significant amount of experience to bring to bear on such matters. By contrast, Environment Canada’s Canadian Wildlife Service through the Canada Wildlife Act does not have such a mandate and typically emphasizes its management of surface
based activities to preserving the habitat and ecological resources of an area to serve as refuges for wildlife.

**Recommended Designation**

*The Task Group recommends the designation of Sable Island as a national park under the Canada National Parks Act.* The Task Group concluded that the national park is the designation that can achieve to a greater extent all four key objectives articulated above.

While designation of Sable Island as either a national park or a national wildlife area is feasible, and both would achieve equal conservation benefits in terms of protecting the wildlife and habitat of Sable Island, other “valued added” public benefits would accrue from designation of Sable Island as a national park. These include:

- As a national park, Sable Island would be protected and presented within the context of a national network of national parks, national marine conservation areas and national historic sites. It would be portrayed as one of Canada’s premiere natural and cultural icons, and this would help ensure that the importance of Sable Island and its rich history and stories could be shared with all Canadians.

- While petroleum resources would remain available to industry, the protection and control of sub-surface (non-petroleum) resource access could be achieved under either designation. Generally, a national park places a stronger emphasis on the protection from exploitation and development of non-petroleum resources found in the sub-surface.

- The provision of memorable visitor experiences and interpretive and outreach programs within a framework that emphasizes ecological integrity would inspire Canadians to feel a sense of connection to Sable Island, as well as a deeper understanding of this special place that would encourage a sense of pride in one of Canada’s natural iconic landscapes.

- Conservation and presentation of archaeological and cultural resources.

- The diversity of program objectives inherent with the designation of Sable Island as a national park, including protection, visitor experience, public appreciation and understanding, engagement with stakeholders, monitoring, etc., would better lend itself to maintaining a human presence on the Island.
Section 3 - Issues and Considerations

Petroleum issues

The major consideration that arose during the work of the Task Force to assess the designation of Sable Island as a federal protected area was with respect to the exploration for and development of offshore petroleum resources on and under Sable Island. A related issue centred on the requirement of the Canada National Parks Act that stipulates that the administration and control of the surface and the sub-surface of a national park must rest with the federal government. This effectively prohibits industrial activities, e.g. petroleum drilling, within national park boundaries.

Through the Accord Acts, access to petroleum resources remains, and where there is a conflict between these acts and other legislation, the Accord Acts take precedence.

For many years, the Canada Nova Scotia Offshore Petroleum Board has pursued a “policy” of no drilling on Sable Island, and within one nautical mile. More specifically, in issuing calls for bids for exploration, the Board makes it a condition that companies cannot drill from the surface of Sable Island. However, other types of activities in support of offshore resource development have occurred on the Island, such as non-intrusive seismic, but only once such activities have been through an environmental review process and a permit secured both from the Board and the occupier of the land. As well, any change in the regulatory burden and uncertainty for the industry is an issue to be considered.

Through the work of the Task Force with a range of experts, it has been determined that while there are legal challenges that must be resolved, it is not anticipated these issues will prevent the eventual establishment of a national park on Sable Island. A national park would fit into this overall context by taking into account these key considerations, and evolving as follows:

- An establishment agreement would include an instrument whereby Nova Scotia would transfer to Canada administration and control to the foreshore and subsurface, insofar as Nova Scotia has an interest in the foreshore and sub-surface and without prejudice to either government’s position on ownership of the offshore.

- However, this agreement and instrument would confirm that the Accord Acts would continue to apply.

This approach does raise several possible issues that will need to be addressed in the coming months as the two governments move forward to implement the decision by
the ministers on this recommendation. In particular, these two issues would be the focus of the discussions:

**Drilling from the Surface of Sable Island**

There appears to be general support that drilling activities should not take place directly on Sable Island. The Task Force is of the view that the current “no drilling” provisions on Sable Island need be clarified with a further evaluation of what related petroleum activities may occur on or under the Island. With the continued application of the current Accord Acts, the designation of Sable Island under the *Canada National Parks Act* cannot legally entrench a complete prohibition on drilling. It is the view of the Task Force that certainty for governments, industry and the public should be brought to bear on this issue. Options that could be considered to address this issue include an amendment to the Accord Acts that would specifically prohibit drilling from the surface of Sable Island, amendments to the current regulatory regime, and a range of other possible measures that should be investigated as part of the establishment process.

A related issue is that future access to sub-surface petroleum resources under the island will continue, and industry would want to access them by different methodologies that do not involve being on the Island itself, *e.g.* remote drilling to obtain petroleum resources by osmosis (sometimes termed “capture and drainage”) or horizontal drilling. However, while the Accord Acts would prevail, the notion of horizontal drilling underneath a national park may raise some concerns pertinent to national parks policy that will need to be considered in the coming months.

**Existing Licenses**

There are two significant discovery licenses (SDLs) attached to parts of Sable Island that pre-exist the Accord Acts, and more particularly, the more recent “no-drilling” policy provisions. Thus, the applicants in question were part of a bid process that did not explicitly state that a condition of their license was that they could not drill on and immediately around Sable Island. Thus, any approach to designating the area as a national park, and more particularly, to further entrenching the no drilling policy there must be the recognition of the existence and rights of these SDLs and consideration of the potential impact on these existing licenses. Discussions with the relevant holders of these significant discovery licenses (Exxon Mobil Canada Properties primary holder) to determine possible steps and measures that could result in a national park and a complete no-drilling regime on the island should occur in the consultation phase that is to follow a decision by ministers.
Non-petroleum Issues

In addition, there were other (non-petroleum) issues that arose during the three month period that followed the Memorandum of Understanding announcement in January, particularly by the public and in the media. Overall, these were deemed to be best addressed in the consultation and planning phases that will following the decision.

Public Access to the Island

Of particular note there were concerns expressed to the Task Group that a national parks designation would lead to negative impacts on the Sable Island ecosystem from a potential increase in the number of visitors. These were expressed through social media, editorials (including on a non-government moderated online forum) and the annual Sable Island public forum meeting organized by non-government organizations.

The more vocal concerns were based on the perception that a national park would result in a significant increase in visitors and associated facilities on the Island, changing the current character of the Island and negatively affecting the ecology. The next phase of discussion and planning will need to address this issue directly with the public, in order to better articulate the visitor management approaches used in national parks and expected operational scenario (see Section 4.0 below).

In order to respond to these concerns during the work of the Task Group, Parks Canada staff informed the 400 members of the public at the Forum that the Agency did not have any preconceived notions with respect to visitor use for Sable Island. Furthermore, it was noted that one of the first steps would be the development of a management plan, including a zoning plan that would guide the conservation and use of Sable Island. Such a plan would provide direction on conservation objectives, visitor use and questions related to infrastructure.

Seal Management

The seal population on Sable Island has grown significantly over the past few decades, with continued interest from the fishing industry and other interests for control measures. Although Fisheries and Oceans Canada currently prohibits such activities on Sable Island, the question of whether such control activities would be possible once a designation has been put in place was asked. For either federal designation, the legal means are available to approve and conduct a control, if deemed necessary, and this issue will be a topic of particular focus with Fisheries and Oceans once a decision has been made.
Developing a “Sable Island Specific” designation option

At both the public forum (non-government) and at the Intergovernmental Committee meetings, a notion was expressed that a unique Sable Island specific legislative option is the best means of addressing the particular management and conservation requirements of the Island. Although the Task Group considered this notion it focused its work on the two designation options specified under the Memorandum. The notion of a unique legislation option for Sable Island was considered in the comprehensive review of legislative options conducted in 2004 that investigated federal, provincial and non-government designations and concluded that a national wildlife area and a national park were the most applicable to this situation.

Additionally, the current regime under the *Sable Island Regulations* is an example of a specific, although no longer appropriate, regulatory option. Any unique legal option for the federal government, as suggested, would ultimately require either Parks Canada Agency or Environment Canada to implement. In conclusion, there are no issues that cannot be addressed by the national park option and a different framework to achieve the expected conservation and management objectives is not required.

Section 4 - Next Steps

The January Memorandum of Understanding provides the basis for determining the next steps over the next year:

- The relevant ministers for the Government of Canada and the Government of Nova Scotia will make a decision on the recommended instrument for federal protected area designation of Sable Island. This process will need to include inter-departmental discussions with implicated departments.

- Once a decision is made, Canada is to undertake consultations on the recommended option for the purpose of securing public comment on the conservation, management and operational issues associated with designating Sable Island as a national park. To be clear, these consultations will need to be extended to relevant federal and provincial departments and authorities, industry, stakeholders and the public. In particular, discussions with the Mi’kmaq through the established consultation process (often referred to as the Made in Nova Scotia tripartite process). A range of approaches will be applied and tailored to respect the requirement and obligations inherent in consulting with specific sectors.

- To designate a national park on Sable Island would require undertaking several planning and legislative steps, which can take a significant amount of time depending on the complexity of the issues. Fisheries and Oceans Canada is the current federal land administrator and management authority of the Sable Island
Regulations, and together with Transport Canada, has the responsibility for making the eventual changes under the *Canada Shipping Act*. As there are many public interest activities and departments involved with infrastructure and activities on the Island, a close relationship and “transition strategy” is required to facilitate a smooth transfer of the Island and associated designation of a national park.

- Under the 2010 Memorandum, one of the issues the Task Group may consider was a basic operational scenario for a federal protected area. It is recommended that the consultation program that is to follow seek public input on a basic operational scenario for a national park. In short, the message should be that only minor changes will be considered to the operation of Sable Island until such time that: (a) it is designated under the *Canada National Parks Act*; and (b) a management plan has been developed through public consultation to address objectives related to conservation, visitor use, and public education.

**Conclusion**

Under the terms of the 2010 Memorandum, the next steps include consultations and a review of the issues identified during these consultations, followed by negotiations of any agreements between Canada and Nova Scotia that may be necessary to facilitate the designation of Sable Island as a federal protected area. It is during this period that the range of issues raised in this report can be more fully examined and resolved.

During its brief existence, the Sable Island Task Group developed a strong appreciation for the depth of interest that citizens share for the future of Sable Island, the complexity of issues related to its possible designation as a federal protected area, and the willingness of representatives from all sectors to engage in discussions and analysis on means to address these complexities. In short, all are committed to achieving a renewed future for Sable Island. As a result of this commitment and willingness, the Task Group is able to recommend the protection of Sable Island as a national park under the *Canada National Parks Act*. 

Signature Page

This recommendation is respectfully submitted to the Minister of the Environment for Canada and the Minister of Natural Resources for Nova Scotia by the Canada – Nova Scotia Sable Island Task Group established under the January 2010 Memorandum of Understanding: The Establishment of a Federal Protected Area on Sable Island in the Province of Nova Scotia.

Task Group Members:

Kevin McNamee
Director, Park Establishment Branch, Parks Canada Agency

_____________________________        April 22\textsuperscript{nd}, 2010

Doug Bliss
Director, Canadian Wildlife Service (Atlantic), Environment Canada

_____________________________        April 22\textsuperscript{nd}, 2010

Harold Carroll
Director, Provincial Parks, Department of Natural Resources

_____________________________        April 22\textsuperscript{nd}, 2010
Appendix 1 – Key Features of Sable Island

(Basemap of Sable Island provided by Applied Geomatics Research Group, Nova Scotia Community College)
Appendix 2 - Memorandum of Understanding: *The Establishment of a Federal Protected Area on Sable Island in the Province of Nova Scotia.*

**MEMORANDUM OF UNDERSTANDING**
(hereinafter referred to as “MOU”)

**BETWEEN**

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA**
**AS REPRESENTED BY THE MINISTER OF THE ENVIRONMENT**
(hereinafter referred to as “CANADA”)

**AND**

**HER MAJESTY THE QUEEN IN RIGHT OF NOVA SCOTIA**
**AS REPRESENTED BY THE MINISTER OF NATURAL RESOURCES**
(hereinafter referred to as “NOVA SCOTIA”)

**RESPECTING**

**THE ESTABLISHMENT OF A FEDERAL PROTECTED AREA ON SABLE ISLAND IN THE PROVINCE OF NOVA SCOTIA**

WHEREAS Sable Island is a remote island located about 160 kilometres from mainland Nova Scotia near the edge of the continental shelf;

WHEREAS Sable Island is a unique and fragile ecosystem of sand dunes, grassy fields, heath and freshwater ponds supporting a unique and diverse flora and fauna as well as important archaeological sites from shipwrecks and Canada’s first lifesaving station;

WHEREAS facilities on Sable Island support a range of programs that have served the public interest, including weather, atmospheric environment and pollution monitoring and science, fisheries and oceans research, offshore worker emergency refuge, communications and understanding and protection of our natural and cultural heritage;

WHEREAS Canada and Nova Scotia recognize that Sable Island is of national significance and agree to work collaboratively towards a federal designation of the area as a protected area as a means to recognize and celebrate its national and provincial significance and to protect Sable Island for present and future generations;

WHEREAS the government of Canada announced in June 2008 funding under its Health of The Oceans initiative that would maintain a year round weather station and contribute to the work to designate Sable Island as a national wildlife area under the *Canada Wildlife Act*;

WHEREAS designation of Sable Island as a national wildlife area or a national park will contribute to Nova Scotia’s commitment to legally protect 12 per cent of the total land mass of the province under the provincial *Environmental Goals and Sustainability Prosperity Act (S.N.S. 2007, c. 7)*;
WHEREAS the management of Canada's and Nova Scotia's interests in the offshore petroleum resources in the Sable Island area is through the Canada – Nova Scotia Offshore Petroleum Board, as contemplated by the Canada – Nova Scotia Offshore Petroleum Resources Accord, the Canada – Nova Scotia Offshore Petroleum Resources Accord Implementation Act and the Canada – Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act;

WHEREAS Canada and Nova Scotia acknowledge that this MOU is without prejudice to the position of either party with respect to jurisdiction over or ownership in Sable Island;

THEREFORE Canada and Nova Scotia have reached the following understandings:

1.0 APPOINTING A CANADA – NOVA SCOTIA TASK GROUP

1.1 Canada and Nova Scotia agree to appoint representatives to a task group for the purpose of directing the work related to the establishment of a federal protected area.

1.2 The task group shall endeavour to make a recommendation to the responsible ministers on the creation of either a national wildlife area under the Canada Wildlife Act or as a national park under the Canada National Parks Act within 3 months.

1.3 In making its recommendation, the task group may consider the following issues:

   a) boundaries of the federal protected area;
   b) inter-tidal zone and sub-surface issues;
   c) sustainability of the freshwater lens;
   d) objectives related to conservation, visitor use, and public education;
   e) conduct of activities which serve the public interest as noted in the preamble;
   f) basic federal protected area operational scenarios;
   g) considerations related to renewable and non-renewable resources;
   h) conservation of archeological resources; and
   i) any other issue deemed relevant by the task group.

1.4 In formulating its recommendation, the task group may, as appropriate, consult with the Canada – Nova Scotia Offshore Petroleum Board for the purpose of determining the extent to which each proposed designation may impact on Canada's and Nova Scotia's interest in offshore petroleum resources, and identifying possible mitigation measures.

2.0 ESTABLISHING A FEDERAL PROTECTED AREA

2.1 Canada agrees to undertake consultations for the purpose of securing public comment on the conservation, management and operational issues associated with the designation of Sable Island recommended under clause 1.2. Canada may consult the task group on its consultation plan.
2.2 Upon completion of the consultations identified in 2.1, and conclusion of a review of the issues identified during these consultations, Canada and Nova Scotia agree to negotiate any agreements that may be necessary to facilitate the designation of Sable Island as a federal protected area.

3.0 OFFSHORE PETROLEUM RESOURCES

3.1 Canada and Nova Scotia agree that no recommendation regarding the potential designation or creation of a federal protected area for Sable Island will have an adverse impact on Canada’s and Nova Scotia’s interest in offshore petroleum resources including those in the Sable Island area nor the management of those resources by the Canada-Nova Scotia Offshore Petroleum Board, as contemplated by the Canada – Nova Scotia Offshore Petroleum Resources Accord, the Canada – Nova Scotia Offshore Petroleum Resources Accord Implementation Act and the Canada – Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act.

4.0 TIME FRAME

4.1 Canada and Nova Scotia intend to achieve an agreement within 12 months that will lead to the protection of Sable Island as either a national wildlife area or a national park. As required, the agreement will identify the future steps to be taken and timeframes.

4.2 Canada agrees to then take the necessary steps to protect the area under the applicable federal legislation, and to do so in consultation with Nova Scotia.

5.0 AMENDMENTS

5.1 This MOU may be amended with the mutual written consent of the participants.

6.0 DURATION AND TERMINATION

6.1 This MOU will be valid for one (1) year from the date of the last signature.

6.2 Either party may terminate this MOU on 30 days written notice to the other party.

7.0 LANGUAGES

7.1 This MOU is written in the English and French languages, each version being equally valid.
8.0  EFFECT OF MEMORANDUM OF UNDERSTANDING

8.1  This MOU is an expression of the mutual intentions of the Parties and is not legally
binding on them or enforceable against them.

This Memorandum of Understanding signed at Halifax in the Province of Nova Scotia,
this 25th day of January, 2010 by:

FOR CANADA:

The Honourable Jim Prentice
Minister of the Environment

In the presence of

FOR NOVA SCOTIA:

The Honourable John MacDonell
Minister of Natural Resources

In the presence of

WITNESS:

WITNESS:
Appendix 3 – Task Group and Key Activities (January – April 2010)

The Task Group included the following:

Kevin McNamee
Director, Park Establishment Branch, Parks Canada Agency
Government of Canada
Gatineau, Quebec

Doug Bliss
Director, Canadian Wildlife Service (Atlantic), Environment Canada
Government of Canada
Sackville, New Brunswick

Harold Carroll
Director, Provincial Parks, Department of Natural Resources
Province of Nova Scotia
Debert, Nova Scotia

Derek Fenton (Secretariat)
Canadian Wildlife Service (Atlantic), Environment Canada
Government of Canada
Dartmouth, Nova Scotia

Two general meetings of the Intergovernmental Committee were held on March 3rd and April 13th. Participating federal and provincial departments and agencies included:

- Environment Canada
- Parks Canada Agency
- Natural Resources Canada
- Fisheries and Oceans Canada
- Canada Nova Scotia Offshore Petroleum Board
- Justice Canada
- NS Department of Natural Resources
- NS Department of Energy
- NS Department of Environment
- NS Department of Intergovernmental Affairs
- NS Department of Justice
- NS Fisheries and Aquaculture
- NS Department of Tourism, Culture and Heritage
The Task Group met with the Canada-Nova Scotia Offshore Petroleum Board staff on April 7th.

The Task Group met with the Sable Island Stakeholder Advisory meeting (chaired by Canadian Coast Guard) on February 26th. This group is made up of various federal and provincial government departments, researchers and public interest groups that use the Island or have an interest in its conservation and management.

Federal representatives also participated in a public forum hosted by the Green Horse Society and Ecology Action Centre on March 3rd, which included a moderated discussion of protected area designation options.
Appendix 4 - 2009 Letter of Agreement between Nova Scotia and Canada

LETTER OF AGREEMENT

Between Her Majesty the Queen in Right of Nova Scotia as represented by the Minister of Natural Resources (hereinafter referred to as “the Province”)

and Her Majesty the Queen in Right of Canada as represented by the Minister of the Environment ("DOE") and the Minister of Fisheries and Oceans ("DFO"); (hereinafter referred to as “Canada”)

PREAMBLE

Whereas Sable Island is a unique island owned by Canada and forming part of Canada and Nova Scotia. The interests of Canada and Nova Scotia, hereinafter referred to as the “Parties”, are supported on Sable Island by programs respecting weather, climate change and environmental monitoring, scientific research, conservation of natural and cultural heritage, natural resources, enabling of options for emergency refuge and facilitation of communications in the offshore, consideration of ecotourism potential, administration of applicable legislative mandates and Federal and Provincial Crown interests, and coordination and regulation of human activity so as to ensure responsible stewardship of Sable Island;

And Whereas the Minister of Environment and the Minister of Fisheries and Oceans announced in January, 2005 the federal government’s plans to continue year-round human presence on Sable Island and to directly manage the island’s weather station as of April 1, 2005;

And Whereas the Parties acknowledge that maintaining human presence on Sable Island is of value to both Parties, and wish to collaborate so as to enable the continuation of that human presence;

And Whereas the Parties acknowledge that this Letter of Agreement is without prejudice to the position of either Party with respect to jurisdiction over or ownership in Sable Island;

Now therefore the Parties agree as follows:

1. Purpose of the Agreement

1.1 The purpose of this Agreement is to provide for collaboration by the Province in planning for Sable Island and in financially supporting a continuous human presence on Sable Island.
1.2 The Parties understand that Canada will resume direct management responsibility for the operations on Sable Island and will provide for a continuous human presence for the duration of this Agreement, which will assist in protecting Sable Island’s natural and cultural attributes and enable the continuation of desirable on-site activities, conducted with regard to responsible stewardship.

2. Funding Arrangements

2.1 The Province will provide to DOE the sum of one hundred thousand dollars ($100,000) in each Federal Government fiscal year, for the duration of this agreement.

2.2 The funds shall be payable no later than September 30th of each Federal Government fiscal year.

2.3 Canada will be responsible, through departmental funding arrangements or through cost-sharing endeavors with other stakeholders, for the remainder of the funding necessary to sustain human presence on Sable Island.

3. Use of Funding

3.1 DOE will use the funds contributed by the Province to support:

3.1.1 flight service between mainland Nova Scotia and Sable Island;

3.1.2 infrastructure security and maintenance;

3.1.3 on-site personnel to provide general (non-professional) assistance in the event of an emergency; and,

3.1.4 monitoring and reporting of on-site conditions, including status of installations, well water availability, and observations of unauthorized visits or other undesirable incidents.

3.2 DOE will provide for the use of individuals identified by the Province and authorized by DFO (Canadian Coast Guard) at least twelve places (return) in each Federal government fiscal year on transportation service between Sable Island and mainland Nova Scotia. The transportation service normally takes place at scheduled times but may be varied where circumstances beyond the Parties’ control prevent travel at planned times, or as otherwise agreed upon by the intergovernmental planning committee established in 5.1.1, provided that the rescheduled flights take place within the same fiscal year, unless otherwise agreed by the intergovernmental planning Committee.

3.3 In addition, DOE will provide to the identified individuals:
3.3.1 right of first refusal, after core station staff and other essential federal personnel, with respect to the use of accommodations, services and facilities on the Island, so long as reasonable notice is given of the intent to visit; and

3.3.2 reasonable use of communications facilities on Sable Island.

3.4 Transportation services, accommodations, communications and other services and facilities up to a value of ten thousand dollars ($10 000) will be provided annually by Canada to the Province from monies paid by the Province, without further cost to the Province, in accordance with the schedule of costs set by DOE, attached as Schedule A and as amended from time to time.

3.5 DFO (Canadian Coast Guard) will consider appropriately, in the spirit of this Agreement, any request by the Province to remove to the Nova Scotia Museum collection a limited number of selected artifacts that have been determined by one of the Parties to be particularly vulnerable if left exposed, or that cannot be properly handled and protected on Sable Island.

4. Monitoring and Reporting

4.1 DOE will provide to the Province a year-end report confirming the expenditures made in the areas to which the Provincial funds may be applied, and the value of the transportation, accommodations and other services and facilities that have been provided to the Province.

4.2 Subject to applicable legislation, Canada will provide the Province with access to information and reports concerning on-site conditions or occurrences, including those described above at Clause 3.1.4.

5. Planning and Coordination

5.1 The Parties recognize the need for coordination of priorities and activities on Sable Island and consultation on matters of significance, and agree to jointly participate in:

5.1.1 an intergovernmental planning Committee, which will plan for the future of Sable Island and provide advice on policy or operational matters impacting the interests of the Parties; and,

5.1.2 an advisory body, which will also involve those external stakeholders who the Parties identify by consensus.

5.2 The Parties agree that the initial chairperson for these bodies will be nominated by DFO (Canadian Coast Guard); but alternative arrangements for leadership, including leadership by representatives of any of the Parties, or for co-chairpersons, may be made where the Parties so determine by consensus.
5.3 The Parties agree that each will identify to the other one or more individuals to perform the following roles on their behalf:

5.3.1 a policy contact person, who will be responsible for initiation or participation in processes, committees, communications and other responsibilities contemplated by this agreement; and,

5.3.2 an operational coordinator through whom travel, accommodations and other practical arrangements concerning visits to Sable Island by the Province's representatives will be authorized, prioritized and facilitated, and who will assess the value of services provided to the Province under clause 3.4.

6. Invoices and requests for payments

6.1 All invoices and requests for payment from the Province shall be sent to: Deputy Minister, Nova Scotia Department of Natural Resources, P.O. Box 698, Halifax, Nova Scotia, B3J 2T9

6.2 All payments to DOE shall be addressed to: Regional Director, Meteorological Service of Canada, 45 Alderney Dr., Dartmouth, Nova Scotia, B2Y 2N6, and made payable to Receiver General of Canada.

7. Acknowledgement

7.1 DOE will acknowledge the Province's participation and funding by:

7.1.1 providing, where possible, opportunities for joint public announcements; and,

7.1.2 placing signage or a Nova Scotia flag on Sable Island, to be provided by the Province at its own cost, to allow on-site visual identification of the Province's involvement.

8. Not a Partnership

8.1 Canada and the Province expressly disclaim any intention to create a partnership, joint venture or agency relationship. It is understood, acknowledged and agreed that nothing contained in this Agreement nor any acts of Canada or the Province shall constitute or be deemed to constitute Canada and the Province as partners, joint venturers or principal and agent in any way or for any purpose. Neither Canada nor the Province shall represent or hold itself out to be an agent of the other. Neither party shall have any authority to act for or to assume any obligations or responsibility on behalf of the other party.

9. Term and Review of the Agreement.
9.1 This Agreement shall take effect on April 1, 2009 or at the time when all Parties have signed this agreement, whichever date is later; and except as provided in Clause 10, shall continue in force for the duration of Canada's commitment to maintaining a continuous human presence on Sable Island.

9.2 The Parties shall review the Agreement every five (5) years as long as the Agreement remains in force.

10. Termination

10.1 Notwithstanding Clause 9, this agreement shall terminate if the Legislature of the Province does not appropriate funds sufficient for its purposes in its annual Appropriation Act.

10.2 Either Party may terminate this Agreement at any time, on six (6) months written notice to the other Party.

11. Amendments

11.1 This Agreement may be amended at any time by the mutual written consent of the Parties hereto. To be valid, any amendment to this Agreement shall be in writing and signed by the Parties hereto within the duration of this Agreement.

12. Governing Law

12.1 This Letter of Agreement shall be construed and governed by the laws of the Province of Nova Scotia and the Parties agree to attorn to the jurisdiction of the courts of Nova Scotia.

IN WITNESS WHEREOF, having examined and agreed upon the present provisions, the duly authorized representatives of the Parties have signed this Agreement.

Her Majesty the Queen in Right of Nova-Scotia

Date: April 29, 2009

Her Majesty the Queen in Right of Canada
**SCHEDULE A: LIST OF DOE COSTS** AS ASSOCIATED WITH THE CONDUCT OF ACTIVITIES ON SABLE ISLAND

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aircraft Landing</td>
<td>(Includes transportation to main station area)</td>
<td>$500 each, $200 each</td>
</tr>
<tr>
<td>Fixed Wing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Helicopter</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Space on station air charters (if available)</td>
<td></td>
<td>$875 each **</td>
</tr>
<tr>
<td>Seat**</td>
<td></td>
<td>$4 per pound**</td>
</tr>
<tr>
<td>Freight**</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fuel</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Diesel</td>
<td>$1.55 per liter</td>
<td></td>
</tr>
<tr>
<td>Gasoline</td>
<td>$2.60 per liter</td>
<td></td>
</tr>
<tr>
<td>Propane (emergencies only)</td>
<td>$1.50/cylinder</td>
<td></td>
</tr>
<tr>
<td>Electrical Power</td>
<td>$1.48 per kWh</td>
<td></td>
</tr>
<tr>
<td>Vehicles</td>
<td>(1 hour minimum, plus driver at labour rate)</td>
<td></td>
</tr>
<tr>
<td>Crew-cab Pickup</td>
<td>$90 per hour</td>
<td></td>
</tr>
<tr>
<td>Gator utility vehicle</td>
<td>$40 per hour</td>
<td></td>
</tr>
<tr>
<td>Bombardier tracked vehicle</td>
<td>$140 per hour</td>
<td></td>
</tr>
<tr>
<td>Tractor</td>
<td>$85 per hour</td>
<td></td>
</tr>
<tr>
<td>Loader</td>
<td>$65 per hour</td>
<td></td>
</tr>
<tr>
<td>Accommodations</td>
<td>$160 per person per night</td>
<td></td>
</tr>
<tr>
<td>Access to station food supplies</td>
<td>$55 per person per day</td>
<td></td>
</tr>
<tr>
<td>Labour</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mon-Sat, 0800-1630</td>
<td>$80 per hour</td>
<td></td>
</tr>
<tr>
<td>Outside of normal hours</td>
<td>$135 per hour</td>
<td></td>
</tr>
<tr>
<td>Sundays</td>
<td>$180 per hour</td>
<td></td>
</tr>
<tr>
<td>Callout (less than 4 hrs notice)</td>
<td>Minimum of 3 hours at applicable rate</td>
<td></td>
</tr>
<tr>
<td>Communications Services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fax</td>
<td>$5 + $1 per page</td>
<td></td>
</tr>
<tr>
<td>Phone</td>
<td>$1 per minute</td>
<td></td>
</tr>
<tr>
<td>Internet Access</td>
<td>$0.60 per minute</td>
<td></td>
</tr>
<tr>
<td>Waste Processing and Disposal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Burnable waste</td>
<td>$0.60 per pound</td>
<td></td>
</tr>
<tr>
<td>Recyclable waste</td>
<td>No charge if properly prepared</td>
<td></td>
</tr>
<tr>
<td>Non-burnable, non-recyclable</td>
<td>$0.60 per pound</td>
<td></td>
</tr>
<tr>
<td>Hazardous material</td>
<td>$1.50 per pound</td>
<td></td>
</tr>
<tr>
<td>Freight Storage and Handling</td>
<td>$1 per Kg per day</td>
<td></td>
</tr>
</tbody>
</table>

* These costs are effective April 1, 2005 subject to periodic review and revision.
Appendix 5 –
Backgrounders on
National Wildlife Areas and National Parks
What are National Wildlife Areas?

Some of the country’s most important sites for wildlife are protected as National Wildlife Areas (NWAs). These are federal lands that are protected from human activities for the benefit of wildlife and their habitat. Environment Canada’s Canadian Wildlife Service administers 11.8 million hectares of wildlife habitat in a network of protected areas across Canada - an area more than twice the size of Nova Scotia. These sites contain a wide diversity of nationally and internationally important and unique habitats.

There are currently 51 National Wildlife Areas across Canada which protect approximately 5300 square kilometres of habitat. As well, there are a number of proposed sites across the country, with efforts underway to secure and add these to the network. There are currently 10 National Wildlife Areas in Atlantic Canada such as Margaree (Sea Wolf) Island off Cape Breton, and Cape Jourimain and Shepody Bay in New Brunswick.

National Wildlife Area selection and designation helps to conserve essential and unique habitats for migratory birds and other wildlife species, particularly rare and endangered species. In many National Wildlife Areas there are opportunities for public use and research, and wildlife and habitat interpretation programs are undertaken on a very limited number of sites in the network where it is useful for promoting conservation.

How does a National Wildlife Area designation work?

National Wildlife Areas are established under the Canada Wildlife Act and sites are protected through the Wildlife Area Regulations. Each site has its own conservation requirements and management plans are created in consultation with the public, which help determine the conservation priorities and uses of the area. As a starting point, there are several general prohibitions (exclusions) that apply to all National Wildlife Areas that prohibit hunting, fishing, camping, motorized vehicles, commercial and industrial activities among others.

National Wildlife Areas are places for wildlife. Research and any human activity must be consistent with the purposes it was established, i.e. protection of the land, plants and animals. Activities are primarily managed through the use of permits that may be issued by Environment Canada. The management plan specifies activities that are generally allowed and identifies additional activities to be allowed under permit. Activities could include wildlife monitoring, low impact visitation, maintaining and improving wildlife habitat, conducting inspections, to name a few.

To establish and designate any National Wildlife Area requires the completion of several planning and legal steps. These include securing the land, ecosystem and use
assessments, boundary determination, public consultations, and finally proceeding through the federal regulatory process which would officially designate the site as a National Wildlife Area.
For more information on National Wildlife Areas, please visit:
http://www.cws-scf.ec.gc.ca
**Canada Wildlife Act, Chapter W-9**

**REGULATIONS RESPECTING THE MANAGEMENT OF WILDLIFE AREAS**

**GENERAL PROHIBITIONS**

<table>
<thead>
<tr>
<th>General Prohibition: no person shall, in any wildlife area:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) *hunt or fish,</td>
</tr>
<tr>
<td>b) *be in possession of any firearm, slingshot, bow and arrow, shot other than non-toxic shot or any instrument that could be used for the purpose of hunting;</td>
</tr>
<tr>
<td>b1) ***be in possession of, while fishing, any lead sinkers or lead jigs that weigh less than 50 grams;</td>
</tr>
<tr>
<td>c) *have in his possession any animal, carcass, nest, egg or a part of any of those things;</td>
</tr>
<tr>
<td>d)**damage, destroy or remove a plant;</td>
</tr>
<tr>
<td>e) ***carry on any agricultural activity, graze livestock or harvest any natural or cultivated crop;</td>
</tr>
<tr>
<td>f) **allow any domestic animal to run at large;</td>
</tr>
<tr>
<td>g) ***swim, picnic, camp or carry on any other recreational activity or light or maintain a fire;</td>
</tr>
<tr>
<td>h) ***operate a conveyance;</td>
</tr>
<tr>
<td>i) *destroy or molest animals or carcasses, nests or eggs thereof;</td>
</tr>
<tr>
<td>j) ***remove, deface, damage or destroy any artifact, natural object, building, fence, poster, sign or other structure;</td>
</tr>
<tr>
<td>k) ***carry on any commercial or industrial activity;</td>
</tr>
<tr>
<td>l) ***disturb or remove any soil, sand, gravel or other material, or;</td>
</tr>
<tr>
<td>m) *** dump or deposit any rubbish, waste material or substance that would degrade or alter the quality of the environment,</td>
</tr>
</tbody>
</table>

**PERMITS** - The Minister may, on application, issue a permit to any person authorizing that person to carry on an activity described in section 3 in any wildlife area where that activity will not interfere with the conservation of wildlife. SOR/78-466, s. 1(F); SOR/82-871, s. 1; SOR/94-594, s. 6(F).

* – wildlife conservation  
** – wildlife and habitat conservation  
*** – habitat conservation
BACKGROUNDER

NATIONAL PARKS OF CANADA

What are National Parks?

Canada’s national parks protect natural areas that are characteristic of the mosaic of land and seascapes that are the physical essence of Canada. Covering over 300,000 square kilometres, our national parks system protects and presents outstanding representative examples of natural landscapes and natural phenomena that occur across Canada. These wild places, located in every province and territory, range from mountains and plains, to boreal forests and tundra, to lakes and glaciers, and much more.

Parks Canada’s 42 national parks and national parks reserves are located on the Atlantic, Pacific and Arctic coasts, across the interior mountains and plains and Great Lakes, reaching as far north and south as Canada goes. They range in size from the 15 km$^2$ that constitutes St Lawrence Islands National Park of Canada, to almost 45,000 km$^2$ that is protected in Wood Buffalo National Park of Canada. And they include world-renowned sites such as Banff and Gros Morne, both designated UNESCO World Heritage Site. Almost 20 per of the national parks are currently located in the 8 national parks in Atlantic Canada.

Parks Canada is responsible for both protecting the habitats, wildlife and ecosystems of these magnificent natural areas, as well as managing them for visitors to understand, appreciate, and enjoy in a way that doesn't compromise their ecological integrity. Our approach is to ensure that Canadians develop a strong sense of connection, through meaningful experiences, to their national parks so that they are enjoyed in ways that leave them unimpaired for future generations.

National Parks help conserve biodiversity, generate economic benefits to adjacent communities, and serve as living laboratories to increase our understanding of the state of the world’s ecosystems. They are a source of pride for Canadians and an integral part of our identity, as they celebrate the beauty and infinite variety of our land.

How does a National Park designation work?

National parks are a special type of public lands administered by the federal government under the provisions of the Canada National Parks Act, which is the strongest legislation Canada has when it comes to protecting natural areas of outstanding national values. To address the conservation requirements and visitor opportunities in each site, management plans are created in consultation with the public to help determine the conservation priorities and uses of the area.

Nearly three quarters of a century ago, Parliament dedicated the national parks “...to the people of Canada for their benefit, education and enjoyment” and directed that “the parks shall be maintained and made use of so as to leave them unimpaired for the enjoyment of future generations.”
Parks Canada’s highest priority is to ensure ecological integrity (the composition and function of our ecosystems) in Canada’s national parks by actively managing some ecosystems and ecological processes while allowing Canadians to enjoy these places without damaging their integrity. By doing this, Parks Canada provides high quality experiences and protects national parks for future generations.

Identifying, selecting and establishing new national parks can be a long and complex process that require the completion of several planning and legal steps. Although there is a sequence of steps followed for identifying, selecting and establishing new national parks, each situation is different, and the final result reflects the individual circumstances and the involvement of all those parties that are directly affected. Typically, before an area can be protected under the Canada National Parks Act, Parks Canada needs to assess the feasibility of creating this protected area, consult with Canadians, and negotiate an establishment agreement.
Appendix 6 – Comparison of National Wildlife Area and National Park Designation Options

<table>
<thead>
<tr>
<th>Component</th>
<th>National Wildlife Area</th>
<th>National Park</th>
<th>Relevance to Sable Island</th>
</tr>
</thead>
</table>
| Legislation\Regulations | Canada Wildlife Act  
Wildlife Area Regulations  
To establish a National Wildlife Area (NWA), Schedule 1 is amended (boundary description) plus any additional regulations for the site. | Canada National Parks Act  
National Parks Regulations  
Parks Canada Agency Act  
To establish a new national park, Schedule 1 of the Canada National Parks Act is amended. | Both legislative frameworks can apply to Sable Island. |
| Policy Framework   | Environment Canada has developed an internal "Protected Areas Manual" (2005) describing the establishment requirements and management practices. | Parks Canada Guiding Principles and Operational Policies (1994) address all aspects of park planning and management. | These policies and guidance are the "toolkit" for building operational scenarios and describing future management regime for the site. |
| Purpose            | NWAs can be created for "wildlife research, conservation or interpretation". Habitat protection and species conservation are the primary goal. | To protect for all time representative natural areas of Canadian significance in a system of national parks, and to encourage public understanding, appreciation and enjoyment of this natural heritage so as to leave it unimpaired for future generations. | Either designation could be applied to Sable Island.  
**Conclusion:** No substantive differences between the two designations concerning ecological protection. National Park designation can better achieve public understanding and access objectives. |
| Selection Criteria | Selection criteria for NWAs:  
1 a) The area supports a population of a species or subspecies of a group of species which is concentrated for any portion of the year;  
1b) Where data on populations are available, the area supports at least 1% of the Canadian population of a | Selection criteria for possible national park:  
a) quality of natural region representation  
b) potential for supporting viable populations of native wildlife species  
c) ecological integrity of the ecosystems  
d) exceptional natural | Sable Island meets several of the selection criteria to qualify as either a candidate NWA or National Park.  
**Conclusion:** No substantive difference between the two possible designations.  
Sable Island is in the same |
species or subspecies or a group of a subspecies, for any portion of the year;
1 c) The area possesses a high research potential for restoration or enhancement, such that migratory bird populations could be increased to meet national population targets;
2 a) The area supports an appreciable assemblage of rare, vulnerable, threatened or endangered species or subspecies of plants or animals, or an appreciable number of individuals of any one or more of these species or subspecies (e.g. COSEWIC list);
2 b) The area has special value for maintaining the genetic and ecological diversity of the region because of the quality and uniqueness of its flora and fauna.
3. The area is a rare or unusual wildlife habitat, of a specific type in a biogeographic region.
phenomena, and rare, threatened or endangered wildlife and vegetation
e) significant cultural heritage features or landscapes
f) opportunities for public understanding, appreciation and enjoyment
g) competing land and resource uses
h) possible threats to the long-term sustainability of the area’s ecosystems
i) complementarity with objectives of other existing or planned protected natural areas
j) potential for establishing an adjacent national marine conservation area
k) Implications of Aboriginal rights, comprehensive land claims and treaties with Aboriginal peoples; and
l) International criteria for national parks.

| Protected Area Boundary | Boundaries are described in Schedule 1 of Wildlife Area Regulations. Boundaries are based on requirements for wildlife and habitat. Boundaries may also be affected by land ownership. | In determining the park boundary, many factors are considered, including ecological integrity, visitor experience and access, adjacent land uses, watersheds, cultural resources, species at risk, etc. | The protected area boundary as currently proposed is the low water mark of the island. Several boundary and "zoning" options could be considered, e.g. to address the high use portions of the island.
Conclusion: No substantive difference between the two possible designations. |
| Land Ownership and Rights (Surface) | NWAs must be established on federal lands and surface rights are required. Typically, administration on behalf of Government of Canada is by National Parks are established on federal lands. In order to establish a national park in legislation, the federal | Sable Island is currently federal land and can meet the definitions required for either designation (see intertidal issue). |
Environment Canada's Canadian Wildlife Service.

"Public lands" means lands belonging to Her Majesty in right of Canada and lands that the Government of Canada has power to dispose of, subject to the terms of any agreement between the Government of Canada and the government of the province in which the lands are situated, and includes (a) any waters on or flowing through the lands and the natural resources of the lands.

Sable Island is currently under the administration of the Minister of Fisheries and Oceans Canada (Canadian Coast Guard). Upon designation, a transfer of land administration will be required between federal agencies.

**Conclusion:** No substantive difference between the two possible designations. In the event of a conflict, the Accord Acts would apply.

| Land Ownership, Rights and Activities (Sub-surface) | Establishment or acquisition of subsurface rights not required for designation. Extraction activities within the NWA prohibited under *Wildlife Area Regulations* (e.g. commercial activity, soil disturbance) unless permit(s) has been issued. When required EC negotiates with appropriate regulator/land holder any agreements to achieve conservation goals. | National Parks are established on federal lands. In order to establish a national park in legislation, the federal government must have title to the lands included within a national park. This includes surface and subsurface rights. | Sub-surface petroleum rights are under the administration of the Canada Nova Scotia Petroleum Board (the Board). Currently there are two Significant Discovery License blocks that include the island (Exxon Mobil Canada Properties). Comprises approximately 12% of the island. Recent Call for Bids (December 2009) identified lands around and under Sable Island as a potential area to be licensed for exploration (bids close June 2010). Current Board policy on exploratory licenses states that no drilling activities can take place on the Island and within 1 nautical mile. Some research activities have taken place (low impact seismic in 2003). Sable Island Codes of Practice in place for operators. |
### Conclusion

NWA does not require subsurface to achieve designation. A designation under the *Canada National Park Act* requires sub-surface, however regarding petroleum resources, in the event of a conflict, the Accord Acts will apply. While there are legal challenges that must be resolved, it is anticipated that these can be resolved. However efforts to address the future possibility of drilling activities (low risk) by all license holders will be investigated in the next phase of work.

### Steps for Establishment

<table>
<thead>
<tr>
<th></th>
<th>Nationally consistent four step establishment process has been defined:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Step 1</strong>: Identification and Selection</td>
</tr>
<tr>
<td></td>
<td><strong>Step 2</strong>: Feasibility Assessment Process</td>
</tr>
<tr>
<td></td>
<td><strong>Step 3</strong>: Land Securement and Agreement</td>
</tr>
<tr>
<td></td>
<td><strong>Step 4</strong>: Regulatory Process</td>
</tr>
</tbody>
</table>

Five stage process includes the identification of representative natural areas within the natural region; the selection of a candidate site; an assessment of park feasibility including consultations; negotiation of a park establishment agreement; and amending the *Canada National Parks Act* to legislate the park.

- **National Park** - in the case of Sable Island, the first two steps would not be required.
- **National Wildlife Area** – Step 1 has been completed, and Steps 2 and 3 are under evaluation.

Upon designation for either option, human and financial resources will be required for on-going management.

### Public Consultation

<table>
<thead>
<tr>
<th></th>
<th>Environment Canada conducts public consultations on the proposed designation and management plans. In order to amend the <em>Wildlife Area Regulations</em> that will establish a new NWA, public consultation is required (through publishing in <em>Canada Gazette – Regulatory Impact Analysis Statement</em>).</th>
</tr>
</thead>
</table>

Parks Canada will provide opportunities for public participation at the national, regional and local levels, including participation by aboriginal organizations, bodies established under land claims agreements and representatives of park communities, in the development of parks policy and regulations, the Sable Island MOU requires that the task group make its recommendation, and then undertake consultations regarding that recommendation.

**Conclusion**: No substantive difference between the two possible designations.
| **Basic Operational Scenario** | Land is typically administered by Environment Canada or any Minister authorized by the Minister of the Environment to manage federal lands as a NWA. Conservation goals are first established to determine the particular needs for the site. Site is assessed for operational needs including determination of financial and human resources required for long-term management. Development of a site management plan is the primary tool for describing requirements. | Lands are administered by Parks Canada. As part of the assessment of feasibility, Parks Canada will prepare a preliminary operational scenario, including management goals and objectives, with details about the scale and location of visitor facilities, operational facilities, etc. Also included is a draft park budget, a staffing plan, etc. | Existing government programs, facilities and infrastructure can be permitted in NWAs and in national parks. **Conclusion:** National Park operational scenario provides greater opportunity of meeting visitor management objectives. |
| **Management Framework** | EC prepares a management plan for each NWA with the involvement of the local communities and regional stakeholders. The plan specifies activities that are consistent with the management and conservation objectives of the NWA and may be permitted generally through public notice or on a project specific basis. | Each national park has a management plan which includes a long-term ecological vision for the park, a set of ecological integrity objectives and indicators and provisions for resource protection and restoration, zoning, visitor use, public awareness. The management plan is based on public consultation and is approved by the minister responsible for Parks Canada. The management plan is reviewed every 5 years. | Existing conservation strategies, plans and guides developed and used for current Sable Island management will serve as a foundation for developing future management plans under either protected area designation. Existing advisory structures, e.g. an stakeholder advisory committee, can play a role in advising management. **Conclusion:** No substantive difference between the two possible designations. |
| **Intertidal Zone** | Can be included within NWA designation. | Can be included in National Park designation. | The intertidal zone is important to Sable Island ecology and protected area management. Specific arrangements are required with Nova Scotia regarding the intertidal. **Conclusion:** No substantive difference between the two possible designations. |
| Freshwater Lens | Protection of freshwater resources is considered in a NWA management plan. | Protection of freshwater resources is considered in a park management plan. | Currently there is a good understanding of the threats, usage and level of freshwater resources of Sable Island that can support management plan efforts. Protection of the freshwater lens is a priority under both designations. | **Conclusion**: No substantive difference between the two possible designations. |
| Protection and Appreciation of Archaeological/Cultural Resources | NWAs can provide some protection of cultural resources through prohibitions (e.g. removal of artefacts). Management plan can address research and resource use questions. This also includes fulfilling legal responsibilities under the *Species at Risk Act* and the *Canadian Environmental Assessment Act*. Resources not directed to understanding of heritage/archaeological resources. | Heritage resources conservation is an important program for Parks Canada. Heritage/cultural conservation important part of existing National Parks program (including dedicated staff/resources). Policies and regulations are in place to ensure the protection of archaeological resources. Where appropriate, these resources may be included in park interpretive programs. | Protection of wreck and archeological sites will be an important consideration on Sable Island, particularly given the interest in future archeological investigations and public interest in the history of the Island. A Sable Island management plan under a national park would incorporate this aspect. As well, the Nova Scotia Museum has expertise, collections and programs that focus on Sable Island’s natural and human history. | **Conclusion**: A national park would provide greater emphasis on the cultural and archeological resources of the Island, including increased understanding for Canadians. |
| Public Appreciation and Understanding (Outreach Education) | Outreach and education activities, if done, are generally performed off-site. On-site visitation, if done, would still be allowed under permit subject to the Act and Public outreach education is an important program for Parks Canada (on-site and off-site); the objective is to increase Information about the natural and cultural resources of Sable Island could be included as part of Parks Canada’s public outreach education | | |
Recognizing the primacy of habitat protection and wildlife conservation.

Understanding, appreciation, support and engagement of Canadians towards our natural and cultural heritage.

Parks Canada also intends to broaden its base of support by engaging its many stakeholders and partners and encouraging shared leadership.

The NWA Management Plan could identify outreach opportunities. There may be opportunities to highlight the site using public outreach materials and in a few examples on-site interpretation has been done.

**Conclusion:** A national park would provide an integrated approach to public appreciation and understanding as part of the overall management framework.

<table>
<thead>
<tr>
<th>Visitor Experience and Access</th>
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<tbody>
<tr>
<td>Public visitation is allowed, but not widely promoted and is limited to non-consumptive and low impact activities (such as hiking, photography, canoeing). Significant infrastructure supporting interpretation is supported at only a few NWAs nationally where locally intense visitation is seen as beneficial to national promotion of the NWA network.</td>
</tr>
<tr>
<td>Providing meaningful visitor experiences is an important program for Parks Canada; the objective is foster a sense of relevance and connection to our special heritage places. This includes trip planning information, reception and orientation, interpretation, campgrounds, infrastructure, trails, visitor safety, etc.</td>
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<tr>
<td>The level of visitor access, and the scale and location of visitor facilities, would be an important consideration in developing a management plan. Specific assessment for Sable Island is required.</td>
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<td><strong>Conclusion:</strong> A national park would provide an integrated approach to visitor experience as part of the overall management framework.</td>
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<tr>
<th>Approval of Land Use Activities/Resource Conservation</th>
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<tr>
<td>The <em>Wildlife Area Regulations</em> prohibit all activities within a NWA unless a permit is issued. Section 3 describes fourteen types of activities (broadly defined) that are specifically prohibited. The Minister may, on application, issue a permit to any person authorizing that person to carry on an activity described in the prohibitions where that activity will not interfere with the conservation of wildlife. This also includes fulfilling legal responsibilities under the <em>Species at Risk Act</em> and the <em>Canadian Environmental Act</em>. Acceptable land uses are managed pursuant to the park management plan. Regulations are in place for specific activities (<em>e.g.</em> camping, fishing, fire protection, etc). Activities can be managed by permit or license or lease. Activities such as mining and oil and gas development are prohibited. Resources conservation is an important program for Parks Canada; this</td>
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<tr>
<td>Current activities on Sable Island are known and provide an indication of expected uses for the future, <em>e.g.</em> research interests. Several existing leases and uses of properties will need to be addressed.</td>
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<td><strong>Conclusion:</strong> No substantive difference between the two possible designations. In the case of a conflict, the Accord Acts would apply.</td>
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</table>
**Assessment Act.**

Permits can be issued on a single use or multi-year basis. Where appropriate, conditions may be imposed. Leases can be developed with some land users. The management plan provides overall guidance as to the accepted land uses and practices.

Includes maintenance or restoration of ecological integrity through protection of natural resources and natural processes. This also includes fulfilling legal responsibilities under the *Species at Risk Act* and the *Canadian Environmental Assessment Act*.

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<tr>
<th>Provincial Protected Area targets</th>
<th>Canada Wildlife Act designations qualify</th>
<th>National Parks Act designations qualify</th>
<th><strong>Conclusion:</strong> No substantive difference between the two possible designations. Both types of federal protected area are expected to contribute to Nova Scotia’s 12% target for protection (higher IUCN classification if restrictions put on subsurface).</th>
</tr>
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</table>

| Seal Management | Seals are considered wildlife and EC have an existing policy concerning nuisance and over abundant species. Control activities can be permitted under *Wildlife Area Regulations* if deemed necessary and do not compromise conservation goals | Parks Canada has an existing policy regarding “hyper abundant species”; seal control may be considered if deemed necessary. | **Conclusion:** No substantive difference between the two possible designations |