Canada-Nova Scotia Offshore Petroleum Board (CNSOPB) Submission to the Standing Senate Committee on Energy, the Environment and Natural Resources Regarding Bill C-69

May 1, 2019

The CNSOPB would like to thank the Standing Senate Committee on Energy, the Environment and Natural Resources (The Committee) for the opportunity to comment on Bill C-69.

The CNSOPB was established in 1990 jointly by the federal and provincial governments as the independent, lifecycle regulator of petroleum activities in the Canada-Nova Scotia offshore area. Our mandate includes the oversight of health, safety and environmental protection, resource management, and industrial benefits, along with rights issuance.

Our job is to ensure that the petroleum companies operating within our jurisdiction do so in compliance with federal and provincial law set out in the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Acts (the ‘Accord Acts’), along with their associated regulations.

We support the stated objectives of Bill C-69. The Bill includes an essential role for the CNSOPB, as the life cycle regulator, in terms of participation in the impact assessment process of designated offshore oil and gas projects proposed to take place within our regulatory jurisdiction. We believe this is vitally important given the technical expertise and experience we would bring to the table. We have a deep understanding of and extensive experience in identifying and assessing potential effects of offshore oil and gas activities, and in determining appropriate mitigation measures necessary to reduce or eliminate these potential effects.

- The CNSOPB’s intent is to utilize, to the extent possible, outcomes from the impact assessment process to satisfy our legislative requirements for environmental impact assessments, and socio-economic impact assessments (where applicable), when considering applications for approvals and authorizations to conduct petroleum activities within our jurisdictional area. Furthermore, we plan to incorporate outcomes from the impact assessment process in determining conditions we may affix to such approvals and authorizations.

- A process needs to be put in place to integrate the provisions of the new legislation under Bill C-69 with the provisions of the Accord Acts. In this regard, we have been working collaboratively with the Canadian Environmental Assessment Agency (CEA Agency), Natural Resources Canada, Nova Scotia Department of Energy and Mines and others to define the important roles and responsibilities that each party will play at each stage in the new impact assessment process. Furthermore, these parties are working collaboratively to determine how best to integrate the impact assessment process to the extent possible with the CNSOPB’s established regulatory processes.


CNSOPB Expertise

We strive to achieve excellence in the implementation of all facets of our regulatory mandate, and we have the necessary technical competencies and expertise to achieve this. Our decision-making is structured such that safety, and protection of the environment, are paramount.

- Our expertise in terms of environmental protection includes:
  - Environmental assessment, including both Strategic Environmental Assessment (SEA) and project-specific Environmental Assessment (EA) of the full spectrum of petroleum exploration and development activities such as seismic acquisition, drilling, development activities, production and decommissioning and abandonment.
  - Risk assessment and mitigation
  - Stakeholder Consultation
  - Marine biology
  - Fisheries
  - Marine spatial planning
  - Species at risk
  - Marine sound
  - Habitat management
  - Environmental protection
  - Spill preparedness and response
  - Environmental effects monitoring
  - Management systems
  - Organizational culture
  - Compliance monitoring (including auditing, inspecting/surveying, and incident investigation)

- Our expertise in terms of health and safety includes:
  - Risk assessment and mitigation
  - Occupational health and safety
  - Operational safety with respect to: seismic acquisition programs; drilling of wells; construction and installation; hook-up and commissioning of production facilities; production operations; and decommissioning, removal and abandonment activities
  - Marine safety
  - Diving safety
  - Aviation safety
  - Emergency preparedness and response and contingency planning;
  - Training and competency
  - Asset integrity and process safety
  - Management of change
  - Management systems
  - Safety Culture
  - Compliance monitoring (including auditing, inspecting/surveying, and incident investigation)

- As a lifecycle regulator, our expert staff have a deep understanding of the oil and gas industry that we regulate, the potential environmental effects of the activities that take place, and the appropriate mitigation measures that need to be implemented. Our staff come from a variety of
backgrounds, having joined us from previous roles in both the public and private sector, or upon graduation from academic institutions. We provide extensive training through a variety of internal and external training programs so that the appropriate regulatory competencies are obtained and maintained.

- The CNSOPB participates in the International Regulators’ Forum (focused on offshore safety) and the International Offshore Petroleum Environmental Regulators’ Forum. These forums bring together offshore oil and gas regulators from around the world to share regulatory best practices and experiences, and to work collaboratively to raise the bar globally in terms of the industry’s safety and environmental performance. Canada is the current Chair of the International Regulators’ Forum. Learnings from these forums are brought back and applied in a manner that ensures continuous improvement in our regulatory oversight of petroleum related activities that take place in our offshore area.

CNSOPB Oversight of Offshore Oil and Gas Activity – The Facts

We are aware of certain inaccurate statements that are being made about the CNSOPB and how we fulfill our role, and we would like to take this opportunity to provide the Committee with factual information so that they can have confidence in our expertise, experience and regulatory processes.

**CNSOPB is not a promoter of industry**

The CNSOPB has absolutely no role in the promotion of the offshore petroleum industry. Our responsibility with respect to rights issuance (e.g. Call for Bids process) is limited to that of administering certain regulatory processes for which final decisions are referred to the federal and provincial Ministers. Our regulatory oversight of industrial benefits holds operators accountable to comply with requirements set out by governments in the *Accord Acts*. Both of these activities are strictly regulatory in nature, and neither involve any aspect of industry promotion.

**CNSOPB is not “Industry Captured” because some personnel come from the petroleum industry**

Some of our staff and Board members were previously employed within the oil and gas industry, where they acquired a depth of knowledge and understanding of this industry. In order for the CNSOPB to effectively and successfully regulate, it is imperative that we have a firm understanding of the offshore petroleum industry and how it operates – without this knowledge, our ability to successfully regulate would be significantly compromised.

**CNSOPB does report spills**

By legislation and regulations, all spills and unauthorized discharges must be reported to the CNSOPB, regardless of size. Depending on the circumstances of the spill or unauthorized discharge, operators must make an immediate verbal and/or written notification to the CNSOPB, and they are required to submit an investigation report which includes identifying root causes. The CNSOPB publishes information on all spills and unauthorized discharges on a quarterly basis on our website. Spills of significant volume are reported at the time of occurrence through issuance of an Incident Bulletin posted on our website, once information reported has been verified.
There is compensation for Fisheries should there be a spill

The Accord Acts establish that operators undertaking work or activities in relation to the drilling for, or development or production of petroleum in the Canada-Nova Scotia offshore area are liable for the loss or damage that they may cause as a result of an incident (i.e. spill or debris). The legislation sets out financial requirements based on a polluter pays principle, which can be broken down into three (3) categories:

1. **Absolute Liability** – Operators are liable, regardless of negligence or fault, for damages up to CAD $1 billion. If an operator is liable, liability is unlimited.
2. **Financial Responsibility** – Operators provide CAD $100 million to the CNSOPB in a form of unfettered financial documents (i.e. a deposit allowing the CNSOPB direct access to funds).
3. **Financial Resources** – Operators demonstrate they have assets or the capacity to obtain CAD $1 billion through the submission of financial documents to the CNSOPB.

- Regarding a spill, there are three (3) options available to a claimant for the recovery of actual loss or damage when the work or activity giving rise to such loss or damage can be attributed to an operator:
  1. Voluntary settlement by the operator for direct compensation;
  2. Application to the CNSOPB for recovery of damages; and,
  3. A civil suit for recovery through the appropriate court of law.

    - Typically, a settlement is first sought from the responsible operator. Only in the instances where the claimant and responsible operator have not been able to reach an agreement, a claimant would seek compensation through the CNSOPB.

CNSOPB does engage with Indigenous Groups and the public

As a regulator, we understand that the decisions we make can impact our communities. It is important for us to gain an understanding of local knowledge and expertise from Indigenous groups, fisheries, communities, businesses, Nova Scotians and Canadians as a whole so that we can make informed decisions.

- The CNSOPB has signed a Memorandum of Understanding (MOU) with the federal and provincial governments (as represented by the Natural Resources Canada and Nova Scotia Department of Energy and Mines) in which the governments can use and rely on, where appropriate, existing CNSOPB practices to assist in discharging the Crown’s consultation and accommodation obligations. Regulatory actions that trigger the duty to consult include but are not limited to environmental assessments for undesignated projects, Calls for Bids, Activity Authorizations and Development Plan Approvals.

- The CNSOPB has a Fisheries Advisory Committee (FAC) that meets through-out the year. The purpose of FAC is to promote harmonization of the oil and gas industry and the fishing industry. FAC provides a forum for exchange of information on matters of mutual interest between the industries and allows the CNSOPB to acquire a better understanding of their respective views. FAC has representatives from Indigenous communities, fishing associations, Fisheries and Oceans Canada (DFO), the Nova Scotia Department of Agriculture and Fisheries, Natural Resources Canada, and the Nova Scotia Department of Energy and Mines.

- We provide numerous opportunities for public input on such things as:
Development of CNSOPB guidelines
- Changes to our processes and policies that might impact our Indigenous communities and stakeholders
- Strategic environmental assessments
- Project-specific environmental assessments
- Regulatory decisions (e.g. Calls for Bids)
- Activity authorization applications (e.g. seismic, drilling, development, production)

CNSOPB does have the expertise to protect the environment

Over the past 29 years, the CNSOPB has been successful in ensuring that environmental effects of offshore oil and gas activities have been minimized or eliminated. This has been borne out by environmental effects monitoring (EEM) programs that have been conducted by oil and gas companies over the years offshore Nova Scotia. Production program EEM programs are conducted annually, whereby known or suspected project effects are monitored in order to define their relationship with receptors in the marine environment. Over the life of the Sable Offshore Energy Project (approximately 20 years of gas production from five (5) fields), results from the EEM programs demonstrate that environmental effects have been less than predictions made in the 1996 Environmental Impact Statement and there have been no significant adverse environmental effects over the entire production life of the project. Similarly, there have been no significant adverse environmental effects over the production life of the Deep Panuke project.

- Since our inception in 1990, the CNSOPB has completed 12 strategic environmental assessments (SEA) and over 50 project-specific environmental assessments (EA). To ensure that our decisions are based on the best available science, the CNSOPB has in place Memoranda of Understanding with both Environment and Climate Change Canada and Fisheries and Oceans Canada (among others) so that we have access to their specialist resources and science knowledge. Indigenous Groups and the public are invited to comment at several stages in these processes and we post the finalized documents on our environmental assessment registry as part of our commitment to openness and transparency.

- We believe it is mandatory that the team conducting the EA includes personnel who have significant environmental expertise with respect to the industrial activity being assessed. This allows for actual risks to be correctly identified, and assessed and for appropriate mitigation to be determined.

- It is also important to note that an EA is one of several integrated tools necessary to ensure the protection of the environment through the full life cycle of offshore oil and gas projects. Other tools employed by the CNSOPB include a requirement for environmental protection plans, environmental effects monitoring, compliance and enforcement programs, and regulatory coordination.

Conclusion

- We hope this additional information gives the Committee confidence in our proven regulatory processes and our expertise.

- As noted above, the CNSOPB supports the stated objectives of Bill C-69. Additionally, the CNSOPB supports the efforts and input of federal and provincial government departments aimed
at ensuring that the Bill in its entirety respects the principle of joint federal-provincial management, and that it does not conflict with provisions contained within the Accord Acts.

- It is important that there is a smooth transition from the impact assessment phase through to the regulatory authorization and approval phase and then to the activity oversight phase where compliance and enforcement of conditions becomes critical. An integrated role for the CNSOPB within the impact assessment process for designated offshore oil and gas activities that may take place in the Canada-Nova Scotia offshore area is therefore vital.

- The CNSOPB will continue to work with Governments to develop a process that integrates the new legislation under Bill C-69 and the Accord Act legislation so that we are ready for when this new legislation comes into effect.

- Thank you again for providing us an opportunity to make a submission to you.