

**Memorandum of Understanding between the Canadian
Environmental Assessment Agency and the Canada-
Newfoundland and Labrador Offshore Petroleum Board on the
Integrated Environmental Assessment and Development
Application Review of the Bay du Nord Development Project**

PREAMBLE

WHEREAS the Canadian Environmental Assessment Agency has statutory responsibilities pursuant to the *Canadian Environmental Assessment Act, 2012*;

WHEREAS the Canada-Newfoundland and Labrador Offshore Petroleum Board has statutory responsibilities pursuant to the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act*, and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act (Accord Acts)*;

WHEREAS the Canadian Environmental Assessment Agency has received a Project Description for the Bay du Nord Development Project (the Project), proposed by Equinor Canada Ltd. (the Proponent) and has commenced an environmental assessment (EA) in accordance with the requirements of the *Canadian Environmental Assessment Act, 2012*;

WHEREAS the Canada-Newfoundland and Labrador Offshore Petroleum Board anticipates the receipt of a Development Application for the Project in 2019 pursuant to its responsibilities under the aforementioned Accord Acts;

WHEREAS the Proponent must submit economic and socio-economic information as part of its Development Application, the Parties will work with the Proponent to include this information as part of the EA, to the extent possible as applicable and where relevant;

WHEREAS the Parties have finalized a separate agreement in January 2019, for a process to be followed by the Parties in respect of the effective administration of compliance and enforcement of conditions set out in Decision Statements issued by the Agency respecting certain petroleum-related activities in the Offshore Area, including the compliance and enforcement of conditions set out in a Decision Statement for the Project, should it proceed;

AND WHEREAS the Parties wish to provide clarity and predictability for all participants in the EA and Development Application review and facilitate the efficient use of resources in the timely delivery of the EA and Development Application review of the Project;

THEREFORE, the Parties wish to pursue the effective, coordinated, and to the extent possible, integrated and concurrent discharge of their environmental and Development Application responsibilities in respect of the Project and to this end have agreed to the following provisions:

PURPOSE

This Memorandum of Understanding (MOU) is intended to:

- foster cooperation between the Parties, encourage effective and timely public participation, promote certainty and predictability of process and avoid regulatory duplication and unnecessary delay in the EA and Development Application review of the Project;
- to that end, describe the roles and responsibilities of the Parties to enable timely, well-informed decisions; and
- establish an administrative framework that will facilitate the efficient and effective EA and Development Application review of the Project.

This purpose will be achieved in a manner consistent with all applicable legislation and that respects the integrity of public interest objectives.

DEFINITIONS

For the purpose of this MOU:

“Accord Acts” means the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*.

“Agency” means the Canadian Environmental Assessment Agency established by the *Canadian Environmental Assessment Act* and continued under the *Canadian Environmental Assessment Act, 2012*.

“CEAA 2012” means the *Canadian Environmental Assessment Act, 2012*.

“C-NLOPB” means the Canada-Newfoundland and Labrador Offshore Petroleum Board as established by the Accord Acts.

“Designated Project” has the same meaning as in CEAA 2012.

“Development Application” means all documentation filed by a Proponent with the C-NLOPB to seek approval of a Development Project including a Development Plan and a Benefits Plan filed pursuant to the Accord Acts.

“Deputy Ministers C-69 Implementation Committee” means the committee designated to provide advice on and oversight in relation to the implementation of Bill C-69.

“EA” means environmental assessment.

“Federal Authority” has the same meaning as in CEAA 2012.

“Integrated Management Committee” means a director/manager level committee with participants from the Agency and the C-NLOPB that will be responsible for implementation of this MOU. Natural Resources Canada and Newfoundland and Labrador Natural Resources will act in an advisory role to the Committee.

“Parties” means the Agency and the C-NLOPB as signatories of this Memorandum of Understanding.

“Proponent” means Equinor Canada Ltd.

“Project” means the Bay du Nord Development Project proposed by Equinor Canada Ltd.

1. Interpretation

1.1. For greater certainty, this MOU represents the mutual understanding of the Parties, but does not create legally binding obligations. It does not create any new legal powers or duties, nor does it alter the powers and duties established by the CEAA 2012 or the Accord Acts.

2. Roles and Responsibilities

2.1. The Agency is the Responsible Authority for the Project’s EA in accordance with the requirements of CEAA 2012. As such, the Agency is responsible for the conduct of the EA and for preparing an EA Report and submitting it to the Minister of the Environment.

2.2. The C-NLOPB is responsible for oversight of petroleum-related work or activities in the Canada-Newfoundland and Labrador Offshore Area in accordance with the Accord Acts and as such is responsible for conducting a public review of any potential development of a field or pool, unless it determines that it is not in the public interest to do so.

3. Key EA and Development Application Process Steps and Roles

3.1. Annex 1 outlines the key steps in the EA and Development Application Review Process and identifies the key roles and responsibilities of the Agency and the C-NLOPB relative to each step.

3.2. In order to avoid duplication, the EA and Development Application Review process shall be integrated to the extent possible. In addition, the Agency’s EA Report and decision statement shall be used by the C-NLOPB, to the extent possible, in fulfilling the environmental aspects of the Development Application.

3.3. The Agency and the C-NLOPB shall strive to coordinate respective decision making, while adhering to respective legislative timelines.

4. Governance

4.1. The Parties shall establish an Integrated Management Committee to provide oversight and to ensure effective cooperation and coordination in the carrying out of the respective responsibilities of the Parties with respect to this MOU.

4.2. The Integrated Management Committee shall provide regular reports to the President of the Agency and the CEO of the C-NLOPB. The Government of Canada’s Deputy Ministers C-69 Implementation Committee and the NL Deputy Minister of Natural Resources will receive updates on the progress of the respective reviews from the President of the Agency and the CEO of the C-NLOPB respectively.

4.3. The Integrated Management Committee will also facilitate the effective and efficient exchange of information between the Agency and the C-NLOPB with respect to their particular responsibilities through the EA and Development Application review process.

5. Timelines and Time Management

- 5.1.** The Parties will endeavor to carry out their responsibilities in as an efficient manner as possible.
- 5.2.** The Agency will complete the EA within 300 days from the date that an EIS is submitted to the Agency that meets the requirements of the EIS guidelines, to the submission of the EA Report to the Minister of the Environment.¹
- 5.3.** The timeline in section 5.2 is contingent on the Proponent providing all necessary information for the Agency to complete the EA. The Agency and the C-NLOPB will also encourage the Proponent to engage with the expert federal departments and interested stakeholders prior to the submission of their EA documents in order to ensure that these submissions meet EA requirements.
- 5.4.** The Parties agree to ensure information requests provided to the Proponent are necessary to complete the EA and the Development Application review.

6. Communication of Information

- 6.1.** Upon request, and to the extent permitted by law, the C-NLOPB will provide the Agency with any reports required to be published under Part III of the Accord Acts and any other information in respect of the Project.
- 6.2.** It is understood by the Parties that information referred to in 6.1 is subject to any privilege or confidentiality that may attach to that information.
- 6.3.** The C-NLOPB designate for the purposes of communication of information in relation to this MOU is: Tim Murphy, Senior Advisor, Regulatory Reform and Public Engagement, Canada-Newfoundland and Labrador Offshore Petroleum Board, Suite 101, 140 Water Street, St. John's NL.
- 6.4.** The Agency designate for the purposes of communication of information in relation to this MOU is: Jill Adams, Head, Newfoundland and Labrador Satellite Office, Atlantic Region, Canadian Environmental Assessment Agency, Suite 301, 10 Barter's Hill, St. John's NL.
- 6.5.** A Party may change the designate or contact information of any designate, by notifying the other Party in writing.

7. Issue Management

- 7.1.** The Parties will make every reasonable effort to agree on the interpretation and application of this MOU.
- 7.2.** To the extent practical, the Integrated Management Committee will resolve any differences in opinion and are committed to resolving differences in a timely manner.

¹ By completing the EA within 300 days of acceptance of the Proponent's EIS, the Agency will also be in compliance with the 365-day legislated timeline as per CEAA, 2012.

8. Indigenous Consultation

8.1. The Agency, as the Crown Consultation Coordinator, will be the lead responsible for Indigenous Consultation during the CEAA 2012 EA process and has responsibility for ensuring that the federal government has fulfilled its duty to consult. The C-NLOPB shall participate in consultation activities led by the Agency, as required.

9. Amending the MOU

9.1. The terms and provisions of the MOU may be amended by written memorandum executed by the Parties. The MOU may be terminated at any time by an exchange of letters signed by the Parties.

10. Other

10.1. The Parties may provide services to one another in support of matters that may impact the administration of the review process, in addition to those identified in this MOU. Such services will be provided upon such terms as may be agreed by the Parties from time to time.

10.2. Officials of the Parties, or their delegates, will meet as frequently as necessary, to review the operation of the MOU and to consider any amendments which may be required.

10.3. Each Party shall inform the other Party of any decision that may impact the other Party's review of the Project.

11. Entire Undertaking

11.1. This MOU supersedes all previous discussions relating to administrative framework that will facilitate the efficient and effective EA and Development Application review of the Project, unless other incorporated by reference in the MOU.

12. Effective Date

12.1. This MOU is effective from and after the date of the last signature.

13. Approvals

13.1. The Parties have signed, in duplicate, this MOU on the dates indicated below.

<Original Signed By>

Ron Hallman
President, Canadian Environmental Assessment Agency

<Original Signed By>

Scott Tessier
Chair and CEO, Canada-Newfoundland and Labrador Offshore Petroleum Board

Annex A

Key EA and Development Application Review Process Steps and Roles

Process step and tentative timing	Responsibility and Role Agency	C-NLOPB	Timeline
EA commencement (completed August 9, 2018)	Agency prepares and posts Notice of Commencement and provides advance notice to the C-NLOPB of its posting	NA	Within 45 days from posting the Project Description for public comment and screening to determine if an EA is required
EIS guidelines (completed September 26, 2018)	Agency prepares guidelines and coordinates public and Indigenous review	Review and input to EIS guidelines (Draft and final)	Within 60 days from EA commencement.
EIS Submitted by Proponent*	NA	NA	January 2019
EIS Conformity Plus** review	Agency coordinates conformity plus review with expert federal departments. This will include technical workshops with the federal experts, C-NLOPB and the Proponent to discuss key issues, gaps, etc. and will allow for requesting information from the Proponent early in the process and reducing information requests later in the process from federal technical experts.	Provides advice on conformity of EIS with the EIS guidelines. C-NLOPB leads on conformity plus for key areas of expertise including Project Description; Alternative means of carrying out the project that are technically and economically feasible, including through the use of best available technologies, and the effects of those means; the effects of accidents and malfunctions on the environment or to health, social or economic conditions. C-NLOPB provides advice on environmental effects, mitigation and follow-up/and the need for further information. C-	Approximately 110 days following the receipt of the EIS. Following submission of the EIS, during the conformity plus review, the Agency may consider variations in its usual policy approaches in order ensure that the EIS meets the requirements set out in the EIS Guidelines, and to realize efficiencies later in the technical review of the EIS.

Process step and tentative timing	Responsibility and Role Agency	C-NLOPB	Timeline
		NLOPB leads the development of Information Request in key areas of expertise as indicated above.	
Technical Review of EIS upon acceptance by the Agency (estimate June 2019-September 2019)	Led by the Agency. Agency also leads public and Indigenous review	C-NLOPB reviews and leads on key areas of expertise mentioned above. On request from the Agency participates in public and Indigenous review, as required	Approximately 4 months Includes a 30 day public comment period.
Liaise with Proponent regarding relevant issues associated with preparation of a Development Plan and Benefits Plan	NA	C-NLOPB liaises with Proponent regarding issues relevant to preparation of a complete Development Plan and Benefits Plan	Ongoing
Development Plan Application (including Benefits Plan) submitted to C-NLOPB*	NA	Board does Completeness Review, and informs Proponent when determination made that documentation is complete	Filing anticipated in Q4 2019
Announce public review process for review of Development Plan and Benefits Plan	NA	C-NLOPB will determine the most appropriate public review process for review of the Development Plan and Benefits Plan	Following receipt of Development Plan Application and Board's completeness review
Draft EA Report and conditions (Oct-Dec 2019)	Agency led but working closely with the C-NLOPB	Review of Draft EA Report and conditions. Drafting of key chapters for areas of expertise as indicated above.	Approximately 90 days from the end of the technical review, including translation
Comment period on Draft EA Report (January – February 2020)	Agency led		30 Days
Final EA Report and Decision Statement/Advice to Minister of the	Agency responsibility working closely with the C-NLOPB	Develop responses to public and indigenous comments and provide advice on	Approximately 60 Days

Process step and tentative timing	Responsibility and Role Agency	C-NLOPB	Timeline
Environment (February - April 2020)		edits to the EA Report and final conditions.	
EA Decision and announcement (before day 365) (May 2020)	MOE and Agency. Notify C-NLOPB in advance	Option to coordinate with decision on Development Application***	15 days
Public Review Body Report to C-NLOPB		If appointed, Public Review Body publishes report following public review process	No more than 270 days after Public Review Body receipt of Development Plan and Benefits Plan
C-NLOPB Staff finalize proposed Development Plan and Benefits Plan decisions		C-NLOPB staff finalize proposed decisions, ensuring appropriate consideration of Public Review Body report, internal staff analysis and federal Minister's EA decision	30 days from the later of: publication of the Public Review Body Report or the federal Minister's EA decision
C-NLOPB Board makes Development Plan and Benefits Plan decisions		C-NLOPB Board finalizes its decisions respecting the Development Plan and Benefits Plan; submits Development Plan Fundamental Decision to Minister of Natural Resources Canada and Newfoundland and Labrador Minister of Natural Resources	60 days from finalization of proposed Development Plan and Benefits Plan decisions
Federal and Provincial Ministers of Natural Resources approve/reject Development Plan Fundamental Decision****			30 days from submission by the C-NLOPB of Development Plan Fundamental Decision; C-NLOPB publishes Development Plan and Benefits Plan

Process step and tentative timing	Responsibility and Role Agency	C-NLOPB	Timeline
			decisions within five days of receipt of decision from both Ministers

* Estimated timeline based on Proponent forecasts for submission of the EIS.

** Conformity Plus includes a technical review by federal expert departments to gain efficiencies later in the process.

*** There are few variables that would dictate whether or not the timing of the two processes would naturally line up e.g. the Proponent's submission of documents, duration of technical review, changes to the project during the course of the reviews.

****In accordance with the Accord Acts, Ministerial approval of the Fundamental Decision may be suspended for a period of up to 90 days.