

## **Potential conditions under the *Canadian Environmental Assessment Act, 2012***

The Impact Assessment Agency of Canada is contemplating the following potential conditions in relation to the BHP Canada Exploration Drilling Project (the Designated Project) located in the Canada-Newfoundland and Labrador Offshore Area for recommendation to the Minister of Environment and Climate Change (the Minister) for inclusion in a Decision Statement issued under the *Canadian Environmental Assessment Act, 2012*. If the Minister decides that the carrying out of the Designated Project is unlikely to cause significant adverse environmental effects as defined under subsections 5(1) and 5(2), or if the Minister decides that the Designated Project is likely to cause significant adverse environmental effects and the Governor in Council decides such effects are justified in the circumstances, the Designated Project would be allowed to proceed, and any conditions established by the Minister under the *Canadian Environmental Assessment Act, 2012* would become legally binding.

Pursuant to section 184 of the *Impact Assessment Act*, a Decision Statement issued by the Minister under subsection 54(1) of the *Canadian Environmental Assessment Act, 2012* is deemed to be a Decision Statement issued under subsection 65(1) of the *Impact Assessment Act*, other than for the purposes of section 70.

### **1 Definitions**

- 1.1 *Abandoned* means “abandoned” as defined in subsection 1(1) of the *Newfoundland Offshore Petroleum Drilling and Production Regulations*.
- 1.2 *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*.
- 1.3 *Agency* means the Impact Assessment Agency of Canada.
- 1.4 *Aggregation of habitat-forming corals or sponges* means an aggregation of coral or sponges that are known or observed to support fish.
- 1.5 *Baseline* means the environmental conditions prior to initiating the Designated Project drilling program.
- 1.6 *Board* means the Canada-Newfoundland and Labrador Offshore Petroleum Board as established by the joint operation of section 9 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and section 9 of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*.
- 1.7 *Commercial fisher* means an individual who holds a commercial fishing licence issued under the *Fisheries Act* and who fishes within the regional assessment area, as identified in Figure 1 of the draft environmental assessment report prepared by the Impact Assessment Agency of Canada (Canadian Impact Assessment Registry Reference Number 80174).
- 1.8 *Days* means calendar days.

- 1.9 *Designated Project* means the BHP Canada Exploration Drilling Project as described in section 2 of the draft environmental assessment report prepared by the Impact Assessment Agency of Canada (Canadian Impact Assessment Registry Reference Number 80174).
- 1.10 *Designated Project Area* means the areas occupied by exploration licences 1157 and 1158, as identified in Figure 1 of the draft environmental assessment report prepared by the Impact Assessment Agency of Canada (Canadian Impact Assessment Registry Reference Number 80174).
- 1.11 *Drilling program* means “drilling program” as defined in section 1(1) of the *Newfoundland Offshore Petroleum Drilling and Production Regulations*.
- 1.12 *Eastern Canadian Offshore areas* means “offshore area” as defined by the Accord Acts in 1.2 of this document, the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*.
- 1.13 *Environment and Climate Change Canada* means the Department of the Environment as established under subsection 2(1) of the *Department of the Environment Act*.
- 1.14 *Environmental assessment* means “environmental assessment” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.15 *Environmental effects* means “environmental effects” as described in section 5 of the *Canadian Environmental Assessment Act, 2012*.
- 1.16 *Environmental impact statement* means the 2020 document entitled *BHP Canada Exploration Exploration Drilling Project (2019-2028) Environmental Impact Statement* (Canadian Impact Assessment Registry Reference Number 80174, Document Number 12).
- 1.17 *Fish* means “fish” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.18 *Fish habitat* means “fish habitat” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.19 *Fisheries and Oceans Canada* means the Department of Fisheries and Oceans as established under subsection 2(1) of the *Department of Fisheries and Oceans Act*.
- 1.20 *Flaring* means the controlled open-air burning of hydrocarbons, which may occur during the testing of oil and gas wells.
- 1.21 *Follow-up program* means “follow-up program” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.22 *Formation testing* means conducting a formation flow test as defined in subsection 1(1) of the *Newfoundland Offshore Petroleum Drilling and Production Regulations*.
- 1.23 *Indigenous groups* means the following Aboriginal Peoples: Abegweit First Nation, Acadia First Nation, Annapolis Valley First Nation, Bear River First Nation, Buctouche First Nation, Eel Ground First Nation, Eel River Bar First Nation, Elispogtog First Nation, Esgenoopetitj First Nation, Eskasoni First Nation, Fort Folly First Nation, Glooscap First Nation, Indian Island First Nation, Les Innus de Ekuanitshit, Première Nation des Innus de Nutashkuan, Kingsclear First Nation, La Nation Micmac

de Gespeg, Lennox Island First Nation, Listuguj Mi'gmaq Government, Madawaska Maliseet First Nation, Membertou First Nation, Metepenagiag Mi'kmaq Nation, Miawpukek First Nation, Micmacs of Gespapegiag, Millbrook First Nation, Mushuau Innu First Nation, Nunatsivut Government, NunatuKavut Community Council, Oromocto First Nation, Pabineau First Nation, Paqtnekek First Nation, Peskotomuhkati Nation at Skutik, Pictou Landing First Nation, Potlotek First Nation, Qalipu First Nation, Sheshatshiu Innu First Nation, Sipekne'katik First Nation, St. Mary's First Nation, Tobique First Nation, Wagmatcook First Nation, We'kmoqma'q First Nation, and Woodstock First Nation.

- 1.24 *Migratory bird* means “migratory bird” as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994*.
- 1.25 *Mitigation measures* means “mitigation measures” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.26 *Nighttime* means all that portion of the day extending from one-half hour after sunset until one-half hour before sunrise.
- 1.27 *Operator* means a person that holds an operating licence issued by the Canada Newfoundland and Labrador Offshore Petroleum Board.
- 1.28 *Other effective area-based conservation measure* means “other effective area-based conservation measure” as defined in Decision 14/8 adopted by the Conference of the Parties to the convention on biological diversity.
- 1.29 *Pollution* means “pollution” as defined in subsection 1(1) of the *Newfoundland Offshore Petroleum Drilling and Production Regulations*.
- 1.30 *Proponent* means BHP Petroleum (New Ventures) Corporation and its successors or assigns.
- 1.31 *Qualified individual* means someone who, through education, experience and knowledge relevant to a particular matter, provides the Proponent with advice within their area of expertise. Knowledge relevant to a particular matter may include community and Indigenous traditional knowledge.
- 1.32 *Record* means “record” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.33 *Relevant authorities* means federal and/or provincial authorities that are in possession of specialist or expert information or knowledge, or that have a responsibility for the administration of a law or regulation, with respect to the subject matter of a condition set out in this document.
- 1.34 *Reporting year* means October 1 of a calendar year through September 30 of the subsequent calendar year.
- 1.35 *Safety exclusion zone* means a safety zone as defined in subsection 71(1) of the *Newfoundland Offshore Petroleum Drilling and Production Regulations*.

- 1.36 *Safety zone* means the area around the seismic sound source, described in Fisheries and Oceans Canada's *Statement of Canadian Practice with Respect to the Mitigation of Seismic Sound in the Marine Environment*.
- 1.37 *Seabed investigation survey* means a survey to identify aggregations of habitat-forming corals or sponges or any other environmentally sensitive features at each well location prior to commencing the drilling of a well.
- 1.38 *Tier 2 and tier 3 spill response* means "tier 2" and "tier 3" as defined in the International Association of Oil & Gas Producers' document *Tiered Preparedness and Response*.
- 1.39 *Vertical seismic survey* means a survey used to calibrate well data to seismic data, giving an accurate depth measure to geological features and is also referred to as a vertical seismic profiling survey for the Designated Project.
- 1.40 *Well* means "exploratory well" and "delineation well" as defined in subsection 101(1) of the *Canada Petroleum Resources Act*.

## **Potential Conditions**

These conditions may be established for the sole purpose of the Decision Statement issued under the *Canadian Environmental Assessment Act, 2012*. They do not relieve the Proponent from any obligation to comply with other legislative or other legal requirements of the federal, provincial, or local governments. Nothing in this document shall be construed as reducing, increasing, or otherwise affecting what may be required of the Proponent to comply with all applicable legislative or legal requirements.

## **2 General conditions**

- 2.1 The Proponent shall ensure that its actions in meeting the conditions set out in this document during all phases of the Designated Project are considered in a careful and precautionary manner, promote sustainable development, are informed by the best information and knowledge available at the time the Proponent takes action, including community and Indigenous traditional knowledge, are based on methods and models that are recognized by standard-setting bodies, are undertaken by qualified individuals, and have applied the best available economically and technically feasible technologies.
- 2.2 The Proponent shall, when carrying out the Designated Project, do so as defined in 1.9 of this document.
- 2.3 The Proponent shall ensure that its actions in meeting the conditions set out in this document are taken in a way that is consistent with any applicable recovery strategy and action plans for listed species at risk.

## **Consultation**

- 2.4 The Proponent shall, where consultation is a requirement of a condition set out in this document:

- 2.4.1 provide a written notice of the opportunity for the party or parties being consulted to present their views and information on the subject of the consultation;
  - 2.4.2 provide sufficient information on the scope and the subject matter of the consultation in a period of time that allows the party or parties being consulted, not to be less than 15 days, to prepare their views and information;
  - 2.4.3 undertake an impartial consideration of all views and information presented by the party or parties being consulted on the subject matter of the consultation; and
  - 2.4.4 advise in a timely manner the party or parties being consulted on how the views and information received have been considered by the Proponent.
- 2.5 The Proponent shall, where consultation with Indigenous groups is a requirement of a condition set out in this document, communicate with each Indigenous group with respect to the manner by which to satisfy the consultation requirements referred to in condition 2.4, including methods of notification, the type of information and the period of time to be provided when seeking input, the process to be used by the Proponent to undertake impartial consideration of all views and information presented on the subject of the consultation, the period of time to advise Indigenous groups of how their views and information were considered by the Proponent and the means by which Indigenous groups will be advised.

***Follow-up and adaptive management***

- 2.6 The Proponent shall, where a follow-up program is a requirement of a condition set out in this document, determine the following information, for each follow-up program:
- 2.6.1 the methodology, location, frequency, timing and duration of monitoring associated with the follow-up program as necessary to verify the accuracy of the environmental assessment predictions as they pertain to the particular condition and to determine the effectiveness of any mitigation measure(s);
  - 2.6.2 the scope, content and frequency of reporting of the results of the follow-up program;
  - 2.6.3 the levels of environmental change relative to baseline conditions and predicted effects as described in the environmental impact statement, that would require the Proponent to implement modified or additional mitigation measure(s), including instances where the Proponent may be required to stop Designated Project activities; and
  - 2.6.4 the technically and economically feasible mitigation measures to be implemented by the Proponent if monitoring conducted as part of the follow-up program shows that the levels of environmental change have reached or exceeded the limits referred to in condition 2.6.3.
- 2.7 The Proponent shall submit the information referred to in condition 2.6 to the Board prior to the implementation of each follow-up program. The Proponent shall update that information in consultation with relevant authorities during the implementation of each follow-up program, and shall provide the updated information to the Board within 30 days of the information being updated.
- 2.8 The Proponent shall, where a follow-up program is a requirement of a condition set out in this document:

- 2.8.1 conduct the follow-up program according to the information determined pursuant to condition 2.6;
- 2.8.2 undertake monitoring and analysis to verify the accuracy of the environmental assessment as it pertains to the particular condition and/or to determine the effectiveness of any mitigation measure(s);
- 2.8.3 determine whether modified or additional mitigation measures are required based on the monitoring and analysis undertaken pursuant to condition 2.8.2; and
- 2.8.4 if modified or additional mitigation measures are required pursuant to condition 2.8.3, develop and implement these mitigation measures in a timely manner and monitor them pursuant to condition 2.8.2.

### ***Reporting***

- 2.9 The Proponent shall, within 90 days of the completion of the drilling program for a single year program, or annually within 90 days of the end of each calendar year of a multi-year drilling program, submit to the Board and the Agency a report, including an executive summary of the report in both official languages. The Proponent shall document in the report:
  - 2.9.1 the activities undertaken by the Proponent in the reporting year to comply with each of the conditions set out in this document;
  - 2.9.2 how the Proponent complied with condition 2.1;
  - 2.9.3 for conditions set out in this document for which consultation is a requirement, how the Proponent considered any views and information that the Proponent received during or as a result of the consultation;
  - 2.9.4 the information referred to in conditions 2.6 and 2.8 for each follow-up program;
  - 2.9.5 the results of the follow-up program requirements identified in conditions 3.13 and 4.4; and
  - 2.9.6 any modified or additional mitigation measures implemented or proposed to be implemented by the Proponent, as determined under condition 2.8.

### ***Information submission and publication***

- 2.10 The Proponent shall cause to be published on the Internet the reports and the executive summaries referred to in condition 2.9, the seabed investigation survey results referred to in condition 3.6, the communication plan referred to in condition 5.1, the well and wellhead abandonment plan referred to in condition 5.2, the well control strategies referred to in condition 6.5, the Spill Response Plan referred to in condition 6.7, the Spill Impact Mitigation Assessment or Net Environmental Benefit Analysis referred to in condition 6.11, the implementation schedule referred to in condition 7.1, monitoring and follow-up results for marine mammals, fish and fish habitat, and migratory birds and any update(s) or revision(s) to the above documents, upon submission of these documents to the parties referenced in the respective conditions. The Proponent shall notify Indigenous groups of the availability of these documents within 48 hours of their publication.

- 2.11 When the development of a plan is a requirement of a condition set out in this document, the Proponent shall submit the plan to the Board prior to the start of the drilling program, unless otherwise required through the condition.

### ***Change of Operator***

- 2.12 The Proponent shall notify the Agency and Indigenous groups in writing no later than 60 days after the day on which there is a change of operator for the Designated Project.

### ***Change to the Designated Project***

- 2.13 The Proponent shall consult with Indigenous groups and relevant authorities on any potential changes to the Designated Project that would result in a change to the Designated Project description included in the Decision Statement or that may result in adverse environmental effects.
- 2.14 The Proponent shall notify the Board and the Agency in writing of any potential changes to the Designated Project as described in condition 2.13. In notifying the Board and the Agency, the Proponent shall provide a description of the change(s) to the Designated Project, the predicted adverse environmental effects and the proposed mitigation measures and follow-up requirements to be implemented by the Proponent in relation to the predicted adverse environmental effects. The Proponent shall also describe the results of the consultation with Indigenous groups and relevant authorities pursuant to condition 2.13.

## **3 Fish and fish habitat**

- 3.1 The Proponent shall treat all discharges from offshore drilling into the marine environment, which, at a minimum, will meet the volumes and concentration limits identified in the *Offshore Waste Treatment Guidelines*, issued jointly by the National Energy Board, the Canada-Newfoundland and Labrador Offshore Petroleum Board, and the Canada-Nova Scotia Offshore Petroleum Board, and any other legislative requirements, where applicable.
- 3.2 The Proponent shall dispose of spent or excess synthetic-based drilling muds at an approved on-shore facility, if the drilling mud is not re-used.
- 3.3 The Proponent shall apply, at a minimum, the standards identified in the *Offshore Chemical Selection Guidelines for Drilling & Production Activities on Frontier Lands*, issued jointly by the National Energy Board, the Canada-Newfoundland and Labrador Offshore Petroleum Board and the Canada-Nova Scotia Offshore Petroleum Board, to select lower toxicity chemicals for use and discharge into the marine environment, including drilling fluid constituents, and shall submit any necessary risk justification pursuant to the Guidelines to the Board for acceptance prior to use.
- 3.4 The Proponent shall treat all discharges from supply vessels into the marine environment in accordance with the International Maritime Organization's *International Convention for the Prevention of Pollution from Ships* and any other legislative requirements, where applicable.
- 3.5 The Proponent shall conduct a pre-drill survey with qualified individual(s) at each well site to confirm the presence or absence of any unexploded ordnance or other seabed hazards. If any

such ordnance or seabed hazard is detected, it shall not be disturbed and the Proponent shall contact the Canadian Coast Guard's Joint Rescue Coordination Centre in Halifax and the Board to determine an appropriate course of action, prior to commencing drilling.

- 3.6 The Proponent shall develop and conduct, in consultation with Fisheries and Oceans Canada and the Board, a seabed investigation survey to confirm the presence or absence of any aggregations of habitat-forming corals or sponges or any other environmentally sensitive features prior to drilling a well. The Proponent shall retain the services of an individual that is qualified to operate the equipment used to conduct the survey(s). Survey transect length and pattern around well sites shall be based on applicable drill cutting dispersion model results.
- 3.7 If the survey(s) conducted in accordance with condition 3.6 confirm(s) the presence of aggregations of habitat-forming corals or sponges, or if other environmentally sensitive features are identified by a qualified individual, the Proponent shall change the location of the well on the seafloor or redirect drill cuttings discharges to avoid affecting the aggregations of habitat-forming corals or sponges or other environmentally sensitive features, unless not technically feasible, as determined in consultation with the Board. If not technically feasible, the Proponent shall consult with the Board and Fisheries and Oceans Canada prior to commencing drilling to determine an appropriate course of action, subject to the acceptance of the Board, including any additional mitigation measures. Consultation with Fisheries and Oceans Canada shall include mitigation options to reduce any identified risk to habitat-forming coral and sponge aggregations or other environmentally sensitive features in accordance with the provisions of the *Fisheries Act*.
- 3.8 The Proponent shall confirm, in consultation with Fisheries and Oceans Canada and the Board, the presence or absence in the area surveyed pursuant to 3.6, of other effective area-based conservation measure(s) prior to drilling a well. If the presence of other effective area-based conservation measure(s) is confirmed, the Proponent shall, in consultation with Fisheries and Oceans Canada and the Board:
  - 3.8.1 identify and implement any additional measures necessary to mitigate the Designated Project's effects on Canada's ability to meet conservation targets associated with the other effective area-based conservation measure(s);
  - 3.8.2 monitor the effectiveness of those measures; and
  - 3.8.3 submit the results of monitoring to Fisheries and Oceans Canada and the Board at a frequency determined in consultation with Fisheries and Oceans Canada and the Board.
- 3.9 The Proponent shall apply Fisheries and Oceans Canada's *Statement of Canadian Practice with Respect to the Mitigation of Seismic Sound in the Marine Environment* during the planning and the conduct of vertical seismic surveys. In doing so, the Proponent shall establish a safety zone of a minimum radius of 500 metres from the seismic sound source.
- 3.10 The Proponent shall develop, in consultation with Fisheries and Oceans Canada and the Board, a Marine Mammal Monitoring Plan that shall be submitted to the Board at least 30 days prior to the commencement of any vertical seismic survey. The Proponent shall implement the plan during the conduct of vertical seismic surveys. As part of the plan, the Proponent shall:



- 3.10.1 develop and implement marine mammal observation requirements, including the use of passive acoustic monitoring, or equivalent technology, and visual monitoring by marine mammal observers throughout vertical seismic surveys;
  - 3.10.2 ensure that observation requirements specify the requirement for shut down of the seismic sound source if any marine mammal or sea turtle is observed within the safety zone established in condition 3.9;
  - 3.10.3 ensure that observation requirements specify that the start of the seismic sound source can only begin once marine mammals and sea turtles have not been observed within the safety zone established in condition 3.9 for 60 minutes; and
  - 3.10.4 submit the results of the activities undertaken as part of the marine mammal observation requirements to the Board within 60 days of the end of the vertical seismic surveys.
- 3.11 The Proponent shall implement measures to prevent or reduce the risks of collisions between supply vessels and marine mammals and sea turtles, including:
- 3.11.1 requiring supply vessels to use established shipping lanes, where they exist; and
  - 3.11.2 requiring supply vessels to reduce speed to a maximum of 7 knots when a marine mammal or sea turtle is observed or reported within 400 metres of a supply vessel, except if not feasible for safety reasons.
- 3.12 The Proponent shall report any collisions of a supply vessel with marine mammals or sea turtles to the Board, the Canadian Coast Guard Regional Operations Centre, and any other relevant authorities as soon as reasonably practicable but no later than 24 hours following the collision, and notify Indigenous groups within three days.
- 3.13 The Proponent shall develop and implement follow-up requirements, pursuant to condition 2.6, to verify the accuracy of the predictions made during the environmental assessment as it pertains to fish and fish habitat, including marine mammals and sea turtles, and to determine the effectiveness of mitigation measures identified under conditions 3.1 to 3.12. As part of these follow-up requirements, for the duration of the drilling program, the Proponent shall:
- 3.13.1 for every well, measure the concentration of synthetic-based drilling fluids retained on discharged drill cuttings as described in the *Offshore Waste Treatment Guidelines* to verify that the discharge meets, at a minimum, the performance targets set out in the Guidelines and any applicable legislative requirements, and report the results to the Board;
  - 3.13.2 for the first well in each exploration licence, for any well where drilling is undertaken in an area determined by seabed investigation surveys to be sensitive benthic habitat, for any well located within a special area designated as such due to the presence of sensitive coral and sponge species, or a location near a special area where drill cuttings dispersion modelling predicts that drill cuttings deposition may have adverse effects, develop and implement, in consultation with Fisheries and Oceans Canada and the Board, follow-up requirements to verify the accuracy of the environmental assessment and effectiveness of mitigation measures as they pertain to the effects of drill cuttings discharges on benthic habitat. Follow-up shall include:

- 3.13.2.1 measurement of sediment deposition extent and thickness post-drilling to verify the drill waste deposition modeling predictions;
  - 3.13.2.2 benthic fauna surveys to verify the effectiveness of mitigation measures; and
  - 3.13.2.3 the Proponent shall report the information collected, as identified in conditions 3.13.2.1 and 3.13.2.2, including a comparison of modelling results to *in situ* results, to the Board within 60 days following the drilling of the first well in each exploration licence; and
- 3.13.3 for the first well in each exploration licence, develop and implement, in consultation with Fisheries and Oceans Canada and the Board, follow-up requirements to verify the accuracy of the environmental assessment as it pertains to underwater sound levels. As part of the development of these follow-up requirements, the Proponent shall determine how underwater sound levels shall be monitored through field measurement by the Proponent during the drilling program and shall provide that information to the Board prior to the start of the drilling program.
- 3.14 The Proponent shall submit to the Board a letter, prior to the start of the drilling program, confirming its intent to contribute to research programs pertaining to the presence of Atlantic salmon (*Salmo salar*) in the Eastern Canadian offshore areas including a summary of potential research initiatives that the Proponent could contribute to. In doing so, the Proponent shall also:
  - 3.14.1 notify potential researchers of the Proponent's interest in contributing to research related to the presence of Atlantic salmon (*Salmo salar*) in the Eastern Canada offshore areas prior to the start of the drilling program; and
  - 3.14.2 update the Board and Indigenous groups annually on how the Proponent has contributed to these related research activities.

#### **4 Migratory birds**

- 4.1 The Proponent shall carry out the Designated Project in a manner that protects migratory birds and avoids harming, killing or disturbing migratory birds or destroying, disturbing or taking their nests or eggs. In this regard, the Proponent shall be in compliance, where applicable, with the *Migratory Birds Convention Act, 1994*, the *Migratory Birds Regulations* and with the *Species at Risk Act* and shall take into account Environment and Climate Change Canada's *Avoidance Guidelines*.
- 4.2 The Proponent shall implement measures to avoid harming, killing or disturbing migratory birds, including:
  - 4.2.1 using drill pipe conveyed test assembly or wireline conveyed test assembly, or similar technology, rather than formation testing with flaring, where acceptable by the Board;
  - 4.2.2 limiting flaring to the length of time required to characterize the wells' hydrocarbon potential and as necessary for the safety of the operation;
  - 4.2.3 starting flaring as early as practicable during daylight hours to limit flaring that occurs during nighttime;

- 4.2.4 identifying specific circumstances under which the Proponent shall not commence flaring during conditions of poor visibility including when there is a low cloud ceiling or fog, and not commencing flaring during these circumstances;
  - 4.2.5 operating a water curtain barrier around the flare during flaring;
  - 4.2.6 notifying the Board at least 30 days in advance of planned flaring to determine whether the flaring would occur during a period of migratory bird vulnerability and to determine how the Proponent plans to avoid adverse environmental effects on migratory birds, including by implementing modified or additional mitigation measures;
  - 4.2.7 controlling lighting required for the operation of the Designated Project for the duration of the drilling program, including the direction, timing, intensity, and glare of light fixtures, while meeting operational health and safety requirements;
  - 4.2.8 requiring supply and other support vessels to maintain a minimum lateral distance of 300 metres from Cape St. Francis and Witless Bay Islands Important Bird and Biodiversity Areas, unless there is an emergency situation; and
  - 4.2.9 requiring supply helicopters to fly at altitudes greater than 300 metres above sea level from active bird colonies and at a lateral distance of 1 000 metres from Cape St. Francis and Witless Bay Islands Important Bird and Biodiversity Areas except for approach, take-off and landing maneuvers, as required under the *Canadian Civil Aviation Regulations* or if not feasible for safety reasons.
- 4.3 The Proponent shall develop and implement awareness training on migratory bird strandings for all offshore workers associated with the Designated Project including a process for offshore workers associated with the Designated Project to report these strandings to the relevant personnel tasked with monitoring strandings pursuant to condition 4.4.2.
- 4.4 The Proponent shall develop, prior to the start of the drilling program and in consultation with Environment and Climate Change Canada and the Board, follow-up requirements, pursuant to condition 2.6, to verify the accuracy of the environmental assessment as it pertains to migratory birds and to determine the effectiveness of the mitigation measures implemented by the Proponent to avoid harm to migratory birds, their eggs and nests, including the mitigation measures used to comply with conditions 4.1 and 4.2. The Proponent shall implement these follow-up requirements for the duration of the drilling program. As part of the follow-up, the Proponent shall:
- 4.4.1 monitor daily for the presence of migratory birds at the drilling installation and supply vessels using a trained observer whose primary responsibility is observing migratory birds and following Environment and Climate Change Canada's *Eastern Canada Seabirds at Sea Standardized Protocol for Pelagic Seabird Surveys from Moving and Stationary Platforms*;
  - 4.4.2 develop and implement procedures and methods for monitoring the drilling installation and supply vessels daily for the presence of stranded migratory birds and follow Environment and Climate Change Canada's *Procedures for Handling and Documenting Stranded Birds Encountered on Infrastructure Offshore Atlantic Canada*;

- 4.4.3 monitor during flaring for the presence of migratory birds and document their behavior around the flare to assess the effectiveness of water curtains and flare shields, if applicable, in mitigating the adverse effects of flares on migratory birds; and
  - 4.4.4 develop and implement methods for monitoring migratory bird interactions with lighting related to the Designated Project.
- 4.5 The Proponent shall submit to the Board a letter, prior to the start of the drilling program, confirming its intent to contribute to research programs pertaining to the mitigation measures to reduce the attraction of migratory birds to lighting in offshore area including a summary of potential research initiatives that the Proponent could contribute to. In doing so, the Proponent shall also:
- 4.5.1 notify potential researchers of the Proponent's interest in contributing to research related to reducing the attraction of migratory birds to lighting in offshore areas prior to the start of the drilling program; and
  - 4.5.2 update the Board and Indigenous groups annually on how the Proponent has contributed to these related research activities.

## **5 Indigenous and commercial fisheries**

- 5.1 The Proponent shall develop and implement a Fisheries Communication Plan in consultation with the Board, Indigenous groups and commercial fishers. The Proponent shall develop the Fisheries Communication Plan prior to the start of the drilling program and implement it for the duration of the drilling program. The Proponent shall include in the Fisheries Communications Plan:
- 5.1.1 procedures to notify Indigenous groups and commercial fishers of planned drilling activity, a minimum of 60 days prior to the start of drilling of each well;
  - 5.1.2 procedures to determine the requirement for a Fisheries Liaison Officer and/or fisheries guide vessel during drilling installation movement and geophysical programs;
  - 5.1.3 procedures to notify Indigenous groups and commercial fishers in the event of a spill or unplanned release of oil or any other substance, and communicate the results of the monitoring and any associated potential health risks referred to in condition 6.10;
  - 5.1.4 procedures to engage in two-way communication with Indigenous groups and commercial fishers in the event of a spill requiring a tier 2 or tier 3 response over the duration of the spill response; and
  - 5.1.5 the type of information that will be communicated to Indigenous groups and commercial fishers, the timing of distribution of this information, and any update to the Designated Project activities, that will include but not be limited to:
    - 5.1.5.1 a description of planned Designated Project activities;
    - 5.1.5.2 location(s) of safety exclusion zones;
    - 5.1.5.3 anticipated vessel traffic schedule;
    - 5.1.5.4 anticipated vessel routes; and
    - 5.1.5.5 locations of suspended or abandoned wellheads.

- 5.2 The Proponent shall develop and implement a well and wellhead abandonment plan and submit it to the Board for acceptance at least 30 days prior to abandonment of each well. If the Proponent proposes to abandon a wellhead on the seafloor in a manner that may interfere with Indigenous or commercial fisheries, the Proponent shall develop the wellhead abandonment strategy in consultation with commercial fishers and potentially affected Indigenous groups with fishing licences that overlap with the Designated Project Area, identified in consultation with Fisheries and Oceans Canada.
- 5.3 The Proponent shall provide the details of its operation, including the safety exclusion zones during drilling and testing, and the location information of abandoned wellheads if left on the seafloor, to the Marine Communications and Traffic Services for broadcasting and publishing in the Navigational Warnings, to the North Atlantic Fisheries Organization Secretariat, and to the Canadian Hydrographic Services for future nautical charts and planning.
- 5.4 The Proponent shall report annually to the Board on known incidents of lost or damaged fishing gear attributed to the Designated Project and make this information available to Indigenous groups and commercial fishers upon their request.

## **6 Accidents and malfunctions**

- 6.1 The Proponent shall take all reasonable measures to prevent accidents and malfunctions that may result in adverse environmental effects and mitigate any adverse environmental effects from accidents and malfunctions that do occur. In doing so, the Proponent shall:
  - 6.1.1 develop, prior to the start of the drilling program, and implement for the duration of the drilling program, operating procedures including thresholds for cessation of a work or activity, with respect to meteorological and oceanographic conditions experienced at the Designated Project location, and which reflect the facility's design limits and limits at which any work or activity may be conducted safely and without causing adverse environmental effects. These conditions include poor weather, high sea state, and presence of sea ice or icebergs; and
  - 6.1.2 implement emergency response procedures and contingency plans developed in relation to the Designated Project in the event of an accident or malfunction.
- 6.2 The Proponent shall develop, in consultation with the Board and Environment and Climate Change Canada, and implement for the duration of the drilling program, a physical environment monitoring program, in accordance with the *Newfoundland Offshore Petroleum Drilling and Production Regulations* that meets or exceeds the requirements of the *Offshore Physical Environmental Guidelines* (September 2008). The physical environment monitoring program shall be submitted to the Board for acceptance prior to the start of the drilling program.
- 6.3 The Proponent shall prepare a plan for avoidance of drilling installation collisions with vessels and other hazards that may reasonably be expected in the Designated Project Area and submit the plan to the Board for acceptance prior to the start of the drilling program.
- 6.4 The Proponent shall prepare an Ice Management Plan that will include measures for avoidance of collisions with icebergs and submit the plan to the Board for acceptance prior to the start of the drilling program.

- 6.5 The Proponent shall prepare and submit to the Board well control strategies prior to the start of the drilling program. The well control strategies shall include:
- 6.5.1 measures for well capping and containment of fluids released from well and the drilling of a relief well, as well as options to reduce overall response timeline; and
  - 6.5.2 measures to quickly disconnect the marine drilling riser from the well in the event of an emergency or extreme weather conditions.
- 6.6 The Proponent shall develop and implement procedures to maintain up-to-date information on the availability of capping stack(s), vessels capable of deploying the capping stack(s), and drilling rigs capable of drilling a relief well at the Designated Project site prior to and during the drilling of each well. The Proponent shall communicate this information to the Board and update the Board, when any of this information changes, prior to and during the drilling of each well.
- 6.7 The Proponent shall prepare a Spill Response Plan and provide a draft of the plan to Indigenous groups for comment, taking into consideration these comments prior to submitting the plan to the Board for acceptance. The plan shall be submitted to the Board for acceptance prior to the start of the drilling program. The Spill Response Plan will take into account the results of the modelling of spills identified in Appendix F of the Environmental Impact Statement (Canadian Impact Assessment Registry Reference Number 80174, Document Number 12) and shall include the following:
- 6.7.1 procedures to respond to and mitigate the potential environmental effects of a spill of any substance that may cause adverse environmental effects, including spill containment and recovery procedures;
  - 6.7.2 the list of relevant authorities to be notified of a spill, notification thresholds and notification procedures;
  - 6.7.3 measures for wildlife response, protection and rehabilitation, including procedures for the collection and cleaning of marine mammals, birds, sea turtles and species at risk, and measures for shoreline protection and clean-up; and
  - 6.7.4 roles and responsibilities for offshore operations and onshore responders.
- 6.8 The Proponent shall conduct an exercise of the Spill Response Plan prior to drilling activities as recommended in the *Newfoundland Offshore Drilling and Production Guidelines*, document any deficiencies observed during this exercise and provide these deficiencies to the Board for review, and adjust the plan to the satisfaction of the Board to address any deficiencies identified during the exercise.
- 6.9 The Proponent shall review the Spill Response Plan prior to the drilling of each well to verify that it continues to be appropriate and shall update the plan as necessary and in a manner acceptable to the Board.
- 6.10 In the event of a spill or unplanned release of oil or any other substance that may cause adverse environmental effects, the Proponent shall notify the Board and any other relevant authorities verbally as soon as possible, and implement its Spill Response Plan, including procedures for notification of Indigenous groups and commercial fishers developed in condition 5.1.3. As required by and in consultation with the Board, this may include monitoring the environmental

effects of a spill on components of the marine environment until specific endpoints identified in consultation with relevant authorities are achieved. As applicable, this may include:

- 6.10.1 sensory testing of seafood for taint, and chemical analysis for oil concentrations and any other contaminants, as applicable;
  - 6.10.2 measuring levels of contamination in recreational, commercial and traditionally harvested fish species with results integrated into a human health risk assessment, to be submitted to relevant authorities, including those responsible for fishing area closures;
  - 6.10.3 monitoring for marine mammals, sea turtles and birds for signs of contamination or oiling and reporting results to the Board, Fisheries and Oceans Canada, and Environment and Climate Change Canada; and
  - 6.10.4 monitoring benthic organisms and habitats in the event of a spill or other event that could result in smothering or localized effects to the benthic environment.
- 6.11 The Proponent shall undertake a Spill Impact Mitigation Assessment or Net Environmental Benefit Analysis to identify spill response options that will be implemented in the case of a spill to provide for the best opportunities to minimize environmental consequences, and provide it to the Board for review prior to the start of the drilling program.
- 6.12 The Proponent shall provide Indigenous groups with the results of the exercise conducted pursuant to condition 6.8, following its review by the Board. The Proponent shall provide the final Spill Response Plan to Indigenous groups prior to the start of the drilling program and any updates to the Spill Response Plan pursuant to conditions 6.8 and 6.9.
- 6.13 In the event of an uncontrolled subsea release from the well, the Proponent shall begin the immediate mobilization of subsea containment and capping equipment to the site of the uncontrolled subsea release. Simultaneously, the Proponent shall commence mobilization of a drilling installation to the site to drill a relief well.
- 6.14 If drilling is anticipated in water depths in excess of 2 500 m or less than 500 m, the Proponent shall undertake further analysis to confirm the capping stack technology selected can be deployed and operated safely at the proposed depth and submit this analysis to the Board for acceptance prior to the start of the drilling program.
- 6.15 In the event of an accident or malfunction, the Proponent shall comply with the requirements of the *Accord Acts* and the *Canada-Newfoundland and Labrador Offshore Financial Requirement Regulations* and the requirements described in the *Compensation Guidelines Respecting Damages Relating to Offshore Petroleum Activity*.
- 6.16 The Proponent shall report annually to the Board on the effectiveness of operating procedures and cessation of work or activity thresholds, established for operating in poor weather, high sea state, and sea ice or iceberg conditions. The report shall include a description of any modifications to operations implemented in response to adverse environmental conditions, in accordance with *the Newfoundland Offshore Petroleum Drilling and Production Regulations*.

## **7 Implementation Schedule**

- 7.1 The Proponent shall submit to the Board a schedule for each condition set out in this document at least 30 days prior to the start of the drilling program. This schedule shall detail all activities planned to fulfill each condition set out in this document and the commencement and estimated completion month(s) and year(s) for each of these activities.
- 7.2 The Proponent shall submit to the Board a schedule outlining all activities required to carry out all phases of the Designated Project no later than 30 days prior to the start of the drilling program. The schedule shall indicate the commencement and estimated completion month(s) and year(s) and duration of each of these activities.
- 7.3 The Proponent shall submit to the Board in writing an update to schedules referred to in conditions 7.1 and 7.2 every year no later than December 31, until completion of all activities referred to in each schedule.
- 7.4 The Proponent shall provide to the Board revised schedules if any change is made to the initial schedules referred to in condition 7.1 and 7.2 or to any subsequent update(s) referred to in condition 7.3, upon revision of the schedules.

## **8 Record keeping**

- 8.1 The Proponent shall maintain all records required to demonstrate compliance with the conditions set out in this document. The Proponent shall provide the aforementioned records to the Board or the Agency upon demand within a timeframe specified by the Board or the Agency.
- 8.2 The Proponent shall retain all records referred to in condition 8.1 at a facility in Canada. The records shall be retained and made available for a minimum of five years after completion of the Designated Project, unless otherwise specified by the Board. The Proponent shall inform the Board of the location of the facility where records are retained and notify the Board and the Agency at least 30 days prior to any change to the location of the facility.
- 8.3 The Proponent shall notify the Board and the Agency of any change to the contact information of the Proponent.