

From: Moss, Melissa <MMoss@cnlopb.ca>  
Sent: Tuesday, August 16, 2022 12:58 PM  
To: 'Pulchan, Jerry (ECCC)'  
Cc: Worthman, Sydney (ECCC); 'EC FCR Tracker'; Hicks, Darren  
Subject: RE: EMGS Orphan Basin and South Bank CSEM - EA Addendum

Thank you, Jerry. Appreciate your concurrence on EMGS's response to CWS comments on the EA Report.

Regarding comment #4, my apologies for the delay in sending this response to you. We refrained from providing that comment to the proponent, as it is our view that the preparation of wildlife response plans are not applicable to seismic, CSEM, and ROV surveys. Ken Taylor, an Environmental Compliance Officer at the C-NLOPB prepared the below for your information.

“In its comments on the EMGS 2022 Controlled-source Electromagnetic Survey Environmental Assessment (May 30, 2022) ECCC-CWS recommends that the proponent develop a Wildlife Emergency Response Plan (using the attached guidance), as a part of the “Shipboard Oil Pollution Emergency Plan” referenced on page 106. ECCC-CWS recommends that the WRP should address all of the various procedures and strategies required to mount an effective wildlife response, in the event of a pollution incident affecting wildlife. ECCC- CWS recommends that the proponent send draft Wildlife Emergency Response Plans to ECCC- CWS for review, in advance of their implementation.

The C-NLOPB notes that a vessel “exploring for” oil or gas in the offshore area is excluded from the application of Parts 8 and 9 of the Canada Shipping Act, 2001, with respect to pollution prevention and response. As such, a vessel conducting a controlled-source electromagnetic survey would, for the purposes of pollution prevention and response, be regulated in accordance with the requirements of the Canada–Newfoundland and Labrador Atlantic Accord Implementation Act (S.C. 1987, c. 3) and the Newfoundland Offshore Area Petroleum Geophysical Operations Regulations (SOR/95-334). The regulations s.27 and s.28 speak to the reporting and investigation of incidents that constitutes “threat to the environment...pollution or other damage to the environment”. The Canada–Newfoundland and Labrador Atlantic Accord Implementation Act in ss. 161(3) require that “Every person required to report a spill under subsection (2) shall, as soon as possible, take all reasonable measures consistent with safety and the protection of health and the environment to prevent any further spill, to repair or remedy any condition resulting from the spill and to reduce or mitigate any damage or danger that results or may reasonably be expected to result from the spill.”

For vessels conducting geophysical work, the C-NLOPB is of the view that the primary threats of pollution are consistent with the operation of a vessel. Further, vessels conducting geophysical work in Canadian waters should not be held to a different standard than other vessels conducting voyages in Canadian waters. That is, consistent with regulation 37 of Annex I to MARPOL [Vessel Pollution and Dangerous Chemicals Regulations (SOR/2012-69) ss. 21] “every ship, other than an oil tanker of 400 gross tonnage and above shall carry on board a shipboard

oil pollution emergency plan approved by the Administration.” The EMGS planned vessel, the Atlantic Guardian, having a gross tonnage of 7172 t, would be subject to regulation 37 of Annex I to MARPOL. As such, it would be the view of the C-NLOPB that a shipboard oil pollution emergency plan (SOPEP) that meets the requirements of regulation 37 of Annex I to MARPOL [Vessel Pollution and Dangerous Chemicals Regulations (SOR/2012-69) ss. 21] is sufficient in respect of a vessel conducting a geophysical program.

The International Convention for the Prevention of Pollution from Ships, 1973 and the Protocols of 1978 and 1997 relating to the Convention – MARPOL - regulation 37 of Annex I – is silent on wildlife emergency response as is the related Guidelines for the Development of Shipboard Oil Pollution Emergency Plans [resolution MEPC.54(32) of the International Maritime Organization]. The requirement for a Wildlife Emergency Response Plan is not generally applied to vessels conducting voyages in Canadian waters. The C-NLOPB is reluctant to apply such a requirement.”

Please let us know if you have any questions.

Thanks again,  
Melissa

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