



## **STAFF ANALYSIS**

### **HEBRON BENEFITS PLAN**

**April 2012**

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## EXECUTIVE SUMMARY

### *Introduction*

Proponents of development projects offshore Newfoundland and Labrador are required under the *Canada-Newfoundland Atlantic Accord Implementation Act* and the *Canada-Newfoundland Atlantic Accord Implementation Newfoundland and Labrador Act* (the legislation) to obtain approval of development plans from the Canada-Newfoundland and Labrador Offshore Petroleum Board (the Board).

Before the Board may approve any development plan, the legislation specifies that a benefits plan must be submitted to and approved by the Board unless the Board directs that the requirement need not be complied with. The legislation also provides for a public review to be conducted in relation to any potential development and for a preliminary benefits plan to be available for public distribution as part of this process.

This report provides an analysis of the Hebron benefits plan and takes into account matters arising from the public review process. Recommendations respecting the adequacy of the plan in relation to any approval of the plan by the Board are provided.

### *Background*

The initial oil discovery in the Hebron project area occurred in 1980 at the Ben Nevis field. The Hebron field itself was discovered in 1981 and the West Ben Nevis field was discovered in 1985. Subsequent delineation drilling and testing at all three fields culminated in the decision to propose the “Hebron project” to develop all three fields.

The development is located 340 km offshore St. John’s in the vicinity of other producing projects including Hibernia, Terra Nova, White Rose and North Amethyst. Water depth ranges from 88 to 102 metres. The participants include ExxonMobil (36.0429%), Chevron (26.6280%), Suncor (22.7289%), Statoil (9.7002%) and Nalcor (4.900%). ExxonMobil Canada Properties (EMCP) is the operator and is hereinafter referred to as the “Proponent”.

### *Benefits Plan Review Process*

Pursuant to section 45 of the legislation, the Proponent submitted the *Hebron Project Canada-Newfoundland and Labrador Benefits Plan* to the Board on May 10, 2011 on behalf of the project participants.

The legislation defines a benefits plan as a plan for the employment of Canadians and, in particular, members of the labour force of the Province and, subject to paragraph 45(3)(d), for providing manufacturers, consultants, contractors and service companies in the Province and other parts of Canada with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

A benefits plan shall contain provisions intended to ensure that:

- (a) before carrying out any work or activity in the offshore area, the corporation or other body submitting the plan shall establish in the Province an office where appropriate levels of decision-making are to take place;
- (b) consistent with the Canadian Charter of Rights and Freedoms, individuals resident in the Province shall be given first consideration for training and employment in the work program for which the plan was submitted and any collective agreement entered into by the corporation or other body submitting the plan and an organization of employees respecting terms and conditions of employment in the offshore area shall contain provisions consistent with this paragraph;
- (c) expenditures shall be made for research and development to be carried out in the Province and for education and training to be provided in the Province; and
- (d) first consideration shall be given to services provided from within the Province and to goods manufactured in the Province, where those services and goods are competitive in terms of fair market price, quality and delivery.

The legislation also provides that the Board may require that any benefits plan include provisions to ensure that disadvantaged individuals or groups have access to training and employment opportunities and to enable such individuals or groups or corporations owned or cooperatives operated by them to participate in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

In reviewing the merits and the adequacy of the Hebron benefits plan, staff assessed it against the provisions of section 45 of the legislation and, in so doing, relied on the interpretation of this legislation in the Board's benefits plan guidelines dated February 2006. The following aspects were assessed:

- Office in the Province
- Employment and Training
- Full and Fair Opportunity and First Consideration
- Research and Development and Education and Training
- Designated Individuals or Groups

### ***Conclusions and Recommendations***

It is staff's overall assessment that the Hebron benefits plan addresses the requirements of the legislation and provides a basis for achieving employment and other industrial benefits throughout the life of the project. A number of issues and improvements have been identified for follow-up with the Proponent either by way of conditions to be placed on the Board's approval

of the plan or by way of a monitoring and reporting framework that sets out short, medium and long term plans for oversight of the Proponent.

Staff recommends that the plan be approved by the Board subject to three conditions. These conditions deal with the need for the Proponent to:

- update its human resource requirements for the construction phase that takes into account the front end engineering design, as well as the need to develop a plan to deal with any projected labour shortage;
- provide more detailed information to the service and supply sector respecting the goods and services and contracting and sub-contracting opportunities associated with the construction of the topsides and GBS, particularly at the forecasting stage as well as the need to provide detailed information of project requirements associated with each of the other major aspects of the project in a timely manner; and
- take a pro-active approach in consulting with the service and supply sector in ensuring that bid packages are scaled appropriately.

## 1.0 INTRODUCTION

Proponents of development projects offshore Newfoundland and Labrador are required under the *Canada-Newfoundland Atlantic Accord Implementation Act* and the *Canada-Newfoundland Atlantic Accord Implementation Newfoundland and Labrador Act* (the legislation) to obtain approval of development plans from the Canada-Newfoundland and Labrador Offshore Petroleum Board (the Board).

Before the Board may approve any development plan, the legislation specifies that a benefits plan must be submitted to and approved by the Board unless the Board directs that the requirement need not be complied with.

The legislation also provides for a public review to be conducted in relation to any potential development and for a preliminary benefits plan to be available for public distribution as part of this process.

This report provides an analysis of the Hebron benefits plan and takes into account matters arising from the public review process. Recommendations respecting the adequacy of the plan in relation to any approval of the plan by the Board are provided.

## **2.0 BACKGROUND**

### **2.1 History/Context**

The initial oil discovery in the Hebron project area occurred in 1980 at the Ben Nevis field. The Hebron field itself was discovered in 1981 and the West Ben Nevis field was discovered in 1985. Subsequent delineation drilling and testing at all three fields culminated in the decision to propose the “Hebron project” to develop all three fields.

The development is located 340 km offshore St. John’s in the vicinity of other producing projects including Hibernia, Terra Nova, White Rose and North Amethyst. Water depth ranges from 88 to 102 metres. The participants include ExxonMobil (36.0429%), Chevron (26.6280%), Suncor (22.7289%), Statoil (9.7002%) and Nalcor (4.900%). ExxonMobil Canada Properties (EMCP) is the operator and is hereinafter referred to as the “Proponent”.

Three pools are proposed for initial development, the largest of which consists of heavy oil. Estimated recovery is between 660 million to over a billion barrels. These pools will be developed with a concrete gravity based structure with topsides drilling and production facilities. The drilling facilities will consist of a single drilling rig and up to 52 well slots. Production facilities are sized for 150,000 barrels of oil per day. The topsides consist of a Utilities and Process Module, Living Quarters Module including the helideck and the lifeboat stations, Drilling Support Module, Drilling Equipment Set and a Flare Boom. Pressure maintenance will be achieved via water injection. Produced gas will be used primarily to fuel the platform with any surplus gas re-injected for storage and/or pressure maintenance. Produced crude will be processed, stored in the GBS and offloaded to shuttle tankers for transportation to market via either of two interconnected offshore loading systems approximately 2 kilometres from the platform. The GBS will include J-tubes to facilitate future subsea tie-backs. Pre-production capital costs are estimated to be \$4.66 billion. Drilling and operating costs are estimated at \$1.887 billion and \$5.883 billion, respectively. Construction is planned to start mid-2012; first oil is targeted for 2017 and production life is currently estimated at 30 years.

Two pools, as well as a number of other resources in the vicinity of the Hebron project area are identified for potential deferred development. Options to acquire additional information on the largest of these, known as Pool 3, are described in the Development Application. Development of Pool 3 would likely occur as a subsea tie-back to the Hebron GBS via the pre-installed J-tubes and would consist of one or more excavated drill centers, subsea templates, manifolds and trees, umbilical and control systems, flowlines and risers and additional topsides equipment. The estimated capital cost of this option is in the range of \$3 billion to \$5 billion.

### **2.2 Benefits Plan Review Process**

Pursuant to section 45 of the legislation, the Proponent submitted the *Hebron Project Canada-Newfoundland and Labrador Benefits Plan* to the Board on May 10, 2011 on behalf of the project participants.



A completeness review of the plan was conducted by staff during May and June 2011 to determine if the plan contained the necessary information to commence the public review and whether it provided adequate information for staff to perform its analysis. Information gaps arising from the completeness review were communicated to the Proponent on June 30, 2011. A copy of this correspondence together with the Proponent's response is available on the Board's website at <http://www.cnlopb.nl.ca/devplan.shtml>

On August 23, 2011 the Proponent was advised that the Application was complete. Shortly afterwards, the public review process was initiated to afford interested groups the opportunity to comment.

Concurrent with the public review, staff undertook a review of the adequacy of the plan in relation to the legislation. The Proponent was requested to provide clarification in the areas of first consideration for goods and services and expenditures for research and development and education and training. Correspondence with the Proponent on these matters is also available on the Board's website at the link noted above.

Staff also consulted with representatives of the Natural Resources departments of the Governments of Canada and of Newfoundland and Labrador. The advice and assistance provided during these consultations contributed to staff's consideration of this matter and its recommendations to the Board. Staff intends to continue consultations with these departments as it carries out its monitoring and reporting duties related to the Hebron project.

### **2.3 Statutory Requirements**

Section 45(1) of the legislation defines a benefit plan as a plan for the employment of Canadians and, in particular, members of the labour force of the Province and, subject to paragraph 45(3)(d), for providing manufacturers, consultants, contractors and service companies in the Province and other parts of Canada with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

Section 45(2) requires that before the Board may approve any development plan or authorize any work or activity, a benefits plan shall be submitted to and approved by the Board unless the Board directs that that requirement need not be complied with.

Section 45(3) specifies that a benefits plan shall contain provisions intended to ensure that:

- (a) before carrying out any work or activity in the offshore area, the corporation or other body submitting the plan shall establish in the Province an office where appropriate levels of decision-making are to take place;

- (b) consistent with the Canadian Charter of Rights and Freedoms, individuals resident in the Province shall be given first consideration for training and employment in the work program for which the plan was submitted and any collective agreement entered into by the corporation or other body submitting the plan and an organization of employees respecting terms and conditions of employment in the offshore area shall contain provisions consistent with this paragraph;
- (c) expenditures shall be made for research and development to be carried out in the Province and for education and training to be provided in the Province; and
- (d) first consideration shall be given to services provided from within the Province and to goods manufactured in the Province, where those services and goods are competitive in terms of fair market price, quality and delivery.

Section 45(4) provides that the Board may require that any benefits plan include provisions to ensure that disadvantaged individuals or groups have access to training and employment opportunities and to enable such individuals or groups or corporations owned or cooperatives operated by them to participate in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

### **3.0 ANALYSIS**

#### **3.1 Approach**

In reviewing the merits and the adequacy of the Hebron benefits plan, staff assessed it against the statutory provisions of section 45 of the legislation and, in so doing, relied on the interpretation of this legislation in the Board's benefits plan guidelines dated February 2006.

#### **3.2 Office in the Province**

The legislation requires the Proponent to establish an office in the Province where appropriate levels of decision making are to take place. The Board's guidelines point out that project management and engineering services can represent significant benefits when conducted locally and this aspect has also been assessed.

The Proponent has indicated that the organization to manage the project will be based in the Province and operational decisions will be made from its St. John's office. The Proponent opened the Hebron project office in April 2009. The organization to manage the project includes business services, contracting and procurement, project controls, industrial benefits, operations, drilling and completions, safety, security, health and environment, quality assurance and quality control, public affairs and human resources. The benefits team consists of a manager, a lead, a diversity coordinator and other staff dedicated to managing the benefits function.

As well, the GBS and topsides contractors for front end engineering design and engineering, procurement and construction have established offices in St. John's for the construction phase of the project. Activities at these offices include engineering and project management as well as contracting and procurement. Procurement personnel positions are described as being staffed by individuals who are knowledgeable of the local market. The Proponent indicates that the location of these activities and personnel in the Province will enable an understanding of local capabilities and the delivery of benefits commitments. Staff notes that the Proponent itself, as well as the topsides and GBS contractors each have established senior management personnel within their respective benefits teams who have direct line reporting to the project managers responsible for the overall execution of the project. This demonstrates a commitment to benefits planning.

The project team will transition to an operations organization for the operations phase. The benefits plan confirms that the operations organization will also be located in the Province and will include all functions necessary for production operations.

It is staff's assessment that the plan adequately describes the provisions to establish an office in the Province with appropriate levels of decision making and that the Proponent is currently complying with the legislation in respect of this matter. Staff will continue to monitor compliance with this requirement throughout the development and production phases with a

view to ensuring that there is no deterioration in the level of decision making taking place in the Province.

### **3.3 Employment and Training**

This section provides an assessment as to whether the Hebron benefits plan adequately provides for the employment of Canadians and, in particular, members of the labour force of the Province and whether it contains provisions intended to ensure that individuals resident in the Province will be given first consideration for training and employment<sup>1</sup>.

The Board's guidelines point out that employment of Canadians, particularly residents of the Province, is an essential feature of governments' policy concerning offshore resource development. In recognition of the importance of this matter, the guidelines indicate that the Proponent should be as explicit and detailed as possible on these matters in its benefits plan. The guidelines describe the information that is required to be provided in support of this matter which includes the need to provide human resource and succession plans, to identify education and training programs (including associated expenditures) and to provide assistance to government departments, agencies and training institutions in identifying and developing suitable training programs.

The Board's guidelines also explain that the first consideration provision of the legislation clearly requires the Proponent and its contractors to look first to the Newfoundland and Labrador labour market to meet their human resource requirements. Employers have the right to establish, in advance of the recruitment process, the qualifications, experience and competencies required of candidates for employment. However, the first consideration requirement means that once the requirements for a position have been established, a Newfoundland and Labrador resident who meets these requirements must be given preference for employment. Safety is a primary consideration in this matter – persons must be qualified and competent to perform their duties.

#### ***Human Resources Planning***

The Hebron benefits plan indicates that human resources planning will be developed and refined over the 30 year life of the project. A high level summary of the human resource requirements anticipated for the design, construction and operations phases is provided together with a commitment to update these estimates as requirements are further refined and if projections significantly change. The Proponent confirms that it will submit a human resources plan for the operations phase one year preceding first oil as specified by the Board's guidelines. The plan also lists a number of high level initiatives aimed at achieving employment of Canadians and in particular members of the labour force of the Province. These include:

- conducting a labour capacity assessment for the development phase to identify human resource requirements;

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<sup>1</sup> The legislative requirements pertaining to ensuring access to training and employment opportunities for disadvantaged groups is discussed in section 3.6 in relation to staff's assessment of the Hebron Diversity Plan.

- requiring main contractors to submit human resource plans to the Proponent that identify projected staffing requirements;
- monitoring contractors' employment, training and diversity plans;
- communicating the project's human resource requirements in advance to stakeholder groups to enable training opportunities;
- consulting with education and training groups and institutions in the Province;
- supporting various investment initiatives to local educational organizations and programs;
- encouraging main contractors to consider co-op and apprenticeship training positions during construction phase staffing plans; and
- promoting careers at junior high and high schools, attending career fairs, establishing scholarships for designated groups, providing financial support to post-secondary institutions and taking steps to employ co-op students.

The plan lists a total of 16 initiatives related to staffing, skills development, recruitment and career development for implementation during the development and operations phases. A listing of these initiatives, as well as a listing of all other initiatives identified by the Proponent in its benefits plan (110 in total) is provided in Appendix 1.

While the Proponent's high level employment and training initiatives are consistent with the legislation and are aligned with expectations, there is a need to ensure that the Proponent follows through on these undertakings. Staff has developed a Hebron benefits monitoring and reporting plan that, among other things, includes the need for ongoing monitoring of employment and training matters. This plan is provided in Appendix 2 of this report.

### ***Labour Demand***

The Hebron benefits plan acknowledges the need for early identification of labour demand. Specifically, the plan indicates that projected human resource requirements will be communicated to post-secondary institutions in a timely manner and, where specific skill development is required, the Proponent and its contractors will work with educational institutions to facilitate training. The plan indicates that the Proponent has already met with a number of education and training institutions to provide input in human resources planning. The adequacy of these particular matters is discussed in the context of the development phase and the production phase of the project.

### ***Development Phase***

The Proponent indicates that the Hebron development phase will create 20 million person-hours of employment in relation to project management, engineering and trades, of which 11 million person-hours will occur in the Province.

As required by the Board's guidelines, an industrial and labour capacity assessment was completed. The benefits plan indicates that it was originally completed in 2005, and was updated in 2008 and again in 2010.

Shortages were identified in mechanical trades, construction inspectors, heating, ventilation and air conditioning personnel, instrumentation and telecommunications personnel, skilled piping trades, various engineering disciplines as well as project and construction management requirements.

There is a need for the Proponent to undertake a focused planning effort to mitigate these shortages. The contributions of the GBS and topsides contractors will be necessary and the planning will need to be done in concert with employee associations, employer associations and educational institutions. Consistent with the requirements of the legislation, this effort will also require the Proponent to make any necessary expenditure on education and training in the Province and to give first consideration to training residents of Newfoundland and Labrador.

The identification of human resource needs with greater definition and with greater certainty than that which is currently described in the benefits plan will be a key aspect of this planning effort. The Proponent's benefits plan indicates that the labour projections are preliminary and would be refined following completion of the front end engineering design. Now that the front end engineering is substantially complete, it is necessary for the Proponent to update the projected employment requirements and to develop the necessary plans to deal with any projected labour shortage. Accordingly, it is staff's recommendation that any approval of the Hebron benefits plan be conditional upon:

**Condition 1**

- a) Within 60 days of publication of the Board's Decision Report, the Proponent shall provide to the Board and make available to all affected stakeholders including government departments, employee associations, employer associations and training institutions an update of its human resource requirements for the construction phase that takes into account the front end engineering design. This information is to explicitly include the planned labour forecast for each project phase by skilled trade and identify the projected timing of any labour shortage.
- b) The Proponent shall immediately take the necessary steps to develop a plan to deal with any projected labour shortage. The plan should be developed with the assistance of its contractors and in collaboration with the appropriate employee associations, employer associations and training institutions. The plan must be as explicit and detailed as possible and include the following elements:
  - details of the specific education and training programs to be implemented to mitigate the shortage;
  - expenditures to be made on education and training in the province aimed specifically at mitigating the shortage including any investments in local education and training organizations and programs;
  - a description of how the specific education and training programs will be executed so as to meet the first consideration requirements for training of residents of the Province;
  - a description of the on-the-job training programs as well as any apprenticeship training programs to be delivered throughout the construction phase; and
  - any other plans and initiatives to mitigate any projected labour shortage.

c) The labour shortage mitigation plan shall be provided to the Board immediately upon completion for its review and assessment and, in any event, the Proponent shall describe to the Board the steps it has taken to mitigate any labour shortage a minimum of six months prior to the projected timing of the shortage.

The effectiveness of the plan, as well as the effectiveness of the other employment and training initiatives outlined by the Proponent in its benefits plan will be monitored by staff. This will include the need to review the construction phase staffing plans as well as employment reports respecting the participation of Newfoundland and Labrador residents and other Canadians. As part of this reporting, the Proponent will be required to notify the Board of any anticipated requirements for foreign workers.

As part of its ongoing monitoring of pre-production activities, staff has reviewed and assessed the employment processes currently being used by the Proponent, the GBS contractor and the topsides contractor. Staff has concluded the processes being used for the recruitment of personnel, including the processes for communicating employment opportunities, identifying residency status and ensuring that first consideration is given to employment of residents of the Province is consistent with the legislation and with the Board's expectations described in its guidelines.

Staff has also reviewed the employment agreement governing the Bull Arm construction site and has determined that this agreement is also consistent with the legislation. No issues or concerns were identified as it relates to the legislative requirement to ensure that any collective agreement contains provisions consistent with paragraph 45(3)(b) of the legislation respecting first consideration for training and employment of residents of Newfoundland and Labrador.

### ***Production Phase***

For the production phase, the Proponent estimates that 460 persons will be required for offshore roles and indicates employment in the range of 479-531 onshore persons. A range of 72-150 persons will be employed in connection with tanker transportation activities. Although the Proponent is not required to undertake a labour demand and supply analysis for the production phase, it has concluded that "the great majority of operations phase labour requirements will be met using Newfoundland and Labrador residents."

Staff notes that, as of December 31, 2011 a total of 3,672 persons were employed on production projects in the Newfoundland and Labrador offshore area. Of these, 82% were residents of the Province and 13% were other Canadians at the time of hire. It is staff's expectation that the Proponent will be able to achieve comparable participation levels for the Hebron project given the Proponent's knowledge of the operations phase requirements; the pool of competent and experienced personnel that is anticipated to be available; the capacity of educational and training institutions in the Province to graduate qualified candidates; and, the long lead time that is available to the Proponent.

Staff intends to review and assess the Proponent's human resources plan required to be submitted one year prior to first production. The aspects that will be critically examined in connection with this matter are described in the monitoring and reporting plan in Appendix 2. In particular, the Proponent will be expected to ensure that its operations phase employment requirements and opportunities are explicitly identified and effectively communicated and the overall expectation is that the initiatives described in the benefits plan will be implemented by the Proponent in a manner that results in the great majority of operations phase human resource requirements being filled by residents of the Province.

### **3.4 Full and Fair Opportunity and First Consideration**

In addition to the employment requirements, the legislation defines a benefit plan as a plan for giving first consideration to services provided from within the Province and to goods manufactured in the Province where those services and goods are competitive in terms of fair market price, quality and delivery and for providing manufacturers, consultants, contractors and service companies in the Province and other parts of Canada with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

The Board's guidelines clarify that the legislation requires that procurement activities be conducted on a competitive basis and that businesses "in the Province and other parts of Canada" must have a full and fair opportunity to participate on a competitive basis. The competitive basis is further described by the legislation as one where goods and services are competitive in terms of "fair market price, quality and delivery". The competitive basis therefore has two elements: (i) it must provide a full and fair opportunity for businesses in the Province and other parts of Canada to participate, and (ii) its outcome must be determined on the basis of fair market price, quality and delivery, subject to first consideration to services provided from within the Province and to goods manufactured in the Province. This means that not only must contracting procedures not unfairly disadvantage local suppliers, but the Proponent must demonstrate all reasonable efforts have been taken to ensure that local suppliers have been afforded an opportunity to participate in the contracting process on a competitive basis. Also, the contracting outcome cannot be determined solely on the basis of lowest price.

On the matter of first consideration, the Board's guidelines indicate that it is consistent with the "first consideration" intent of the legislation if an operator chooses to limit bids to providers from the Province if there is competitive capacity in the Province. In other words, first consideration permits the contracting or procurement process to be limited exclusively to in-Province service providers notwithstanding there may be service providers elsewhere in Canada or internationally. This is consistent with the discussion of first consideration in Decision 2001.01 respecting the White Rose development. In that Decision the Board indicated that where there are a sufficient number of qualified and competitive suppliers in the domestic market, the Board expects that the Proponent and its major contractors will normally limit the bidding process to that market. Accordingly, the opportunity to exercise first consideration is available



in instances where there is a proven track record by firms within the Province to deliver its goods or services to the offshore industry on a cost effective, quality and on-time delivery basis. Also, in cases where the competition involves out-of-Province bidders, first consideration may be exercised by awarding contracts to the local suppliers where the bid is “competitive”. As explained earlier, “competitive” means competitive in terms of fair market price, quality and delivery - the contracting outcome cannot be determined solely on the basis of lowest price.

The Board’s guidelines also explain that “first consideration” permits “sole sourcing” in the case where there is only one service provider in the Province. The Board guidelines indicate that it is also acceptable for Proponents to limit bidding to Canadian providers; and, in the event there is a single provider in Canada, to “sole source”.

In summary, the intent of the legislation is that manufacturers, consultants, contractors and service companies in the Province and other parts of Canada *must* have a full and fair opportunity to participate. Procurement activities *must* be conducted on a competitive basis. The contracting outcome *must* be determined on the basis of fair market price, quality and delivery and contracting and procurement activities *must* be subject to first consideration to services provided from within the Province and to goods manufactured in the Province.

In its earlier decisions, the Board also explained that, in certain instances, local content may become the most important criterion for the Proponent such as in the case of frequent maintenance items; or, where the development of local capacity is central to the long-term servicing and development of the offshore industry. The latter is a key aspect of the Board’s expectation in relation to supplier development and technology transfer which will be discussed in more detail later.

Despite the Board’s guidelines on these matters, it was necessary to both obtain clarification from the Proponent and to provide clarification to the Proponent, particularly with respect to the first consideration aspects of the legislation. This is discussed later.

### ***Hebron Benefits Plan***

The Hebron benefits plan includes a broad set of principles aimed at addressing the full and fair opportunity and first consideration aspects of the legislation and identifies 20 initiatives related to procurement and contracting. These include:

- the Proponent as well as the topsides and GBS contractors have established procurement offices in the province;
- the Proponent and its contractors will visit local suppliers and fabricators, hold procurement information sessions and provide contracting and procurement opportunities to the supply and service sector in the form of forecasts, expressions of interests, bid lists and award notifications;
- the Proponent and its contractors will also provide access to procurement opportunities for companies owned by members of designated groups;

- the Proponent has established a vendor registration database, and established a travel fund for local companies to visit project engineering offices located outside the Province;
- requests for proposals will specify that bidders use standards acceptable to Canadian Government authorities and use Canadian standards where appropriate;
- the Proponent will structure bids to facilitate local participation, where reasonably practicable; and
- benefits, including diversity, will be a consideration in the procurement process, with bidders being required to complete a benefits questionnaire for contracts greater than \$250,000. The Proponent indicates that “The information in these questionnaires will be an important consideration in the contract award decision.”

In its benefits plan, the Proponent indicated that its contractors and suppliers will also be expected to honour its benefits commitments. Contractor compliance will be assured by indicating that failure to meet benefits commitments could result in sanctions including contract termination. As well, contracts will require that contractors impose similar benefits requirements on its subcontractors and sub-suppliers.

### *Clarification of Commitments*

At an early stage in its review of the merits and adequacy of the Proponent’s benefits plan and as a result of its monitoring of pre-development contracting and procurement activities, staff identified the need to seek clarification from the Proponent respecting several aspects of its commitments to the full and fair opportunity and first consideration requirements of the legislation.

The Proponent was advised that using the phrase “will *seek to*” in its benefits plan is inconsistent with the legislation in relation to the commitment to provide full and fair opportunity and first consideration. This commitment was subsequently revised to read:

... the Hebron Benefits Plan acknowledges and commits to provide full and fair opportunity to companies in the Province and other parts of Canada. The Hebron Benefits Plan also acknowledges and supports the first consideration requirements per section 45(3)(d) of the Atlantic Accord Implementation Act.

Despite the importance of the first consideration provisions of the legislation, there was no explicit policy, procedure, method or other provision in the Proponent’s benefits plan describing how it intended to achieve compliance. The need to clarify the Proponent’s approach to first consideration was also evident during staff’s review of designated contracts<sup>2</sup> during the pre-development phase. As part of this process, staff identified several missed opportunities to exercise first consideration. As a result, clarification was sought from the Proponent and the Proponent was requested, on a go-forward basis, to provide the Board with examples of first

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<sup>2</sup> The Board’s guidelines describe a process for “designating” certain contracts for review at the prequalification, bid and award stages. This process, which provides for a review of typically 20% of contracts, is intended to provide staff with a window on the processes in place to meet the full and fair and first consideration aspects of the legislation.

consideration successes to demonstrate its understanding of first consideration and its commitment to compliance. In response to these matters, the Proponent re-iterated a number of high level initiatives aimed at increasing the number of companies in the Province bidding on Hebron work; provided four examples of first consideration to date; and, indicated that it would exercise the following explicit provisions:

- where it can be demonstrated to the satisfaction of the project there is a competitive marketplace in the Province, bid lists would be predominantly NL companies, and in some cases, only NL companies;
- benefits criteria will be used in contract award decisions when all other factors are equal (i.e. safety, quality, schedule and cost);
- in the case of the cited examples, even with expressions of interest received from out-of-province companies, where it was determined that there was a competitive marketplace within the Province, invitations to bid were issued to local companies only or contracts were sole-sourced locally.

While these undertakings are more closely aligned with the Board's expectations, there remains a need to continue to monitor this matter both as part of the contract designation process and by requiring the Proponent to institute a project wide system to capture and report first consideration successes.

Staff will also monitor any proposal to sole source to a foreign supplier to ensure that it does not exclude any firms from within the Province or other parts of Canada who have the interest and capability to perform the work. Any such proposal should be accompanied by information that justifies the approach. This expectation will form part of the Hebron monitoring and reporting plan.

### ***Supplier Development and Technology Transfer***

The objective of supplier development is to develop reliable domestic sources of goods and services including management, technical and engineering support. The Proponent is expected to describe its plans for:

- provision of timely information concerning project requirements and specifications to Newfoundland and Labrador and other Canadian suppliers and contractors;
- assessment of Newfoundland and Labrador and other Canadian supply capabilities, including the identification of constraints and new supply opportunities;
- initiatives to promote supply opportunities for Newfoundland and Labrador and other Canadian firms;
- transfer of technology and "know-how" to Newfoundland and Labrador and other Canadian suppliers and contractors;
- visits to plant facilities to review procedures, equipment and personnel qualifications to ascertain and develop the competitive capabilities of Newfoundland and Labrador and other Canadian suppliers; and,

- programs, policies or procedures to enable Newfoundland and Labrador and other Canadian suppliers to participate in the Proponent's national and international activities.

In the Hebron benefits plan, the Proponent describes its approach to supplier development and lists a total of 24 initiatives under the heading of supplier development that it will implement throughout the life of the project. These are generic initiatives related to communicating project requirements to potential bidders; participating in high level discussions of matters pertaining to barriers to local suppliers; and other generic matters related to benefits objectives. They do not describe any specific initiatives to be proactively undertaken by the Proponent itself in relation to supplier development. However, in supplementary correspondence, the Proponent indicated that it had established a dedicated supplier development coordinator position within the project team to encourage and assist local businesses to take advantage of opportunities in the project. This particular initiative is viewed by staff as being very useful, although it would be helpful for the Proponent to also inform the local industry as to the exact role of this position and how they can engage the Proponent for assistance where necessary. Staff will follow-up with the Proponent on this matter.

Staff also notes that the Proponent describes its role in technology transfer principally in terms of stimulating activities that result in opportunities being identified and acted upon and that technology transfer will be an outcome of qualified suppliers gaining capabilities and being awarded work. This is not aligned with the Board's expectations that the Proponent itself will focus its efforts on facilitating any necessary technology transfer to develop additional reliable domestic sources of goods and services.

Staff is of the view that a more effective approach to supplier development may be to explicitly identify current gaps in the supply of goods and services, or management, technical or engineering support that is needed either during the development or production phase and develop a plan aimed specifically at filling that gap. This effort should have the end goal of providing a good, service or technical capability to the Hebron project that is currently not being filled by an existing firm in the Province or other part of Canada. If required, the necessary arrangements for technology transfer, or assisting the supplier with the development of new technology, could be pro-actively pursued by the Proponent to make this happen rather than relying on others in respect of "opportunities being identified and acted upon" and "technology transfer being an outcome of qualified suppliers gaining capabilities and being awarded work".

Accordingly, staff intends to pursue this matter with the Proponent by requesting the Proponent to provide a plan that has a goal of providing goods, services or technical capability to the Hebron project that is currently not being supplied to the Newfoundland and Labrador offshore industry by an existing firm in the Province or other part of Canada. This plan should include the identification of one or more gaps in service during either the development phase or the production phase that is currently not being supplied locally or nationally together with any technology transfer requirements or other improvements needed to assure that the service is competitive and meets the project's safety, price, quality and delivery expectations. The plan

should include a proposed time line for implementation together with an assessment of any challenges and issues that need to be addressed to bring it to fruition. If successful, this will advance the capability of the service and supply sector and could potentially be a benefit for all offshore projects. The Proponent will be requested to provide this plan within six months of the publication of the Board's Decision Report.

Staff will monitor the Proponent's implementation of the plan as well as the implementation of any other supplier development initiatives and will request, as part of the Hebron monitoring and reporting plan, a listing of examples, on an annual basis, of successes in the area of supplier development and technology transfer aimed specifically at developing additional reliable domestic sources of goods and services.

### *Capacity Assessment*

The Board's guidelines indicate that the benefits plan should provide an analysis of the potential for Canadian companies, and in particular Newfoundland and Labrador companies to participate in the engineering, supply, fabrication, construction, operation and support activities of the project. The guidelines indicate that the Proponent is to conduct a capacity assessment in relation to the demand for these goods and services for both the development and production phases. For each of the major cost categories identified, the Proponent is expected to provide a thorough assessment of the ability of Canadian and, in particular, Newfoundland and Labrador industry to participate, and to identify any constraints to its participation. The latter is often accompanied by estimates of Newfoundland and Labrador and other Canadian content.

The capacity assessment provided in the Hebron benefits plan is a high-level assessment that provides a summary of the industrial and labour capacity assessment that was originally completed in 2005 and is supplemented by a description of the increases in capacity and capability of Newfoundland and Labrador companies to undertake offshore petroleum work.

The Hebron benefits plan indicates that the goods and services requirements for the development phase in terms of estimated materials and equipment requirements had not yet been completed as these depend on completion of front end engineering design activities. Detailed descriptions of bulk materials, equipment and materials, and lists of major contracts and sub-contracts required for both the development and production phases have also not yet been provided. Staff requested the Proponent to describe its strategy to address this matter as part of its completeness review together with its strategy to provide a list of major contracts and sub-contracts for both the construction and operations phase to both the Board and the public as specified by the Board's guidelines. The Proponent responded:

“ . . . ongoing consultation and related collaboration are seen as key to the delivery of benefits over the life of the project. This includes the communication of information on project requirements and contracts and sub-contracts for both the construction and operations phases. Example mechanisms for such communication include:

- providing early and detailed notification of project requirements through the project website, the NOIA bulletin, BIDS and other mechanisms;

- conducting supplier information sessions and workshops, involving main contractors' procurement personnel, to advise of project requirements and explain EMCP's contracting strategy, size of work packages, expressions of interest (EOI's) and prequalification processes and how the major work packages will be bid and evaluated; and
- participating in industry conferences and workshops such as are organized regularly by NOIA and/or other industry associations."

And, in response to other matters arising from the completeness review, the Proponent indicated:

Consistent with discussions with C-NLOPB throughout the development of our benefits plan, our approach was to provide a high level assessment referencing the evolving capability and capacity of the Canadian and Newfoundland and Labrador supply community, as was demonstrated in their participation in past projects. Their actual participation will be facilitated through our full and fair/first consideration in procurement processes and will be subject to their interest and competitiveness.

Notwithstanding staff's advice during the pre-consultation phase that the Proponent's approach of **not** providing detailed information respecting goods and services and contracting and sub-contracting in the benefits plan itself would be assessed by staff during the review of the merits and adequacy of the plan, staff is of the view that the proposed approach may work if the Proponent effectively implements its plan to:

- provide "early and detailed notification of project requirements"; and
- conducts adequate supplier information sessions to advise of project requirements and explain contracting strategy, size of work packages, procurement processes and how the major work packages will be bid and evaluated.

Feedback from governments and from the supply and service community to date has indicated that improvements are needed in respect of the notification of project requirements, specifically in terms of the need for more detailed and descriptive information at the procurement forecasting stage and the need for consistency in the level of detail being provided by the Proponent and its contractors. Given that the front end engineering design is complete, there is an expectation that the Proponent can make improvements in the information being provided to the supply community respecting goods and services and contracting and sub-contracting opportunities associated with the construction of the topsides and GBS. There is also a need to ensure that the contracting and procurement opportunities associated with the other aspects of the project are communicated in a detailed, early and effective manner. Accordingly, it is staff's recommendation that any approval of the Hebron benefits plan be conditional upon:

**Condition 2**

a) Within 60 days of the publication of the Board's Decision Report, the Proponent shall describe to the Board the improvements necessary to provide more detailed and descriptive information to the service and supply sector respecting the goods and services and contracting and sub-contracting opportunities associated with the construction of the topsides and GBS, particularly at the forecasting stage.

b) Not later than six months prior to the commencement of any contracting and procurement activity, the Proponent must provide to the supply and service sector detailed information of project requirements associated with each of the following stages of the project:

- Fabrication of the utilities and process module;
- Topsides hook-up, integration and commissioning activities;
- OLS construction, fabrication, installation and commissioning activities;
- Platform tow-out, installation and offshore hook-up and commissioning activities;
- Platform drilling and completion operations as well as platform production operations;
- Any requirements for the supply of additional tankers associated with the export system;
- Any proposed subsea production system; and
- Any other contracting, supply or service opportunities associated with the project.

c) The information to be provided must include a listing of goods and services; a listing of contracting and sub-contracting opportunities; and, information respecting contracting strategy, size of work packages and procurement processes in sufficient detail to provide the supply and service sector in the Province and other parts of Canada with a full and fair opportunity to participate in the project.

The capacity assessment in the Hebron benefits plan places a particular focus on engineering capability and provides a high level narrative description of companies who are able to undertake construction and fabrication of platform components both in Newfoundland and Labrador and other parts of the east coast of Canada. The assessment of the major components that can be constructed in the Province is consistent with that of the Hebron benefits agreement<sup>3</sup>. In this regard, the plan indicates that construction of the GBS will take place at Bull Arm as will integration of topsides modules, mating of the topsides and GBS, and hook-up and commissioning activities. The flare boom, helideck, and lifeboat stations will be built in the Province, while the drilling support modules, drilling derrick module and living quarters module will be built in the province subject to reasonable physical capacity and human resource availability.

### ***Contracting and Procurement Policies***

Participation of companies in the Province and other parts of Canada in the project can be significantly affected by the Proponent's contracting and procurement policies. The Board's expectations are that the Proponent takes a pro-active approach to ensuring that its procurement packages, specifications and procedures are developed to enable the participation of Canadian companies, with first consideration to the participation of companies in the Province. This includes such matters as the contracting strategy, sizing of contracts and procurement packages, bid specifications and any other aspects that could positively affect greater participation by firms in the Province and other parts of Canada.

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<sup>3</sup> The Hebron benefits agreement is between the Government of Newfoundland and Labrador and the Hebron project Proponents. The Board's role in this matter is discussed in section 4.0 of this report.

The importance of considering industrial benefits at an early stage in developing the contracting and procurement strategy has been identified to staff by the service and supply sector and has been discussed extensively in the report of the public review commission. While staff is of the view that the high level policies, procedures, commitments and undertakings described throughout the Proponent's benefits plan recognize this as an issue, there are no explicit provisions that describe how this aspect will be put into practice. Accordingly, staff recommends that the Board's approval of the Hebron benefits plan be conditional on:

**Condition 3**

Within 90 days of the publication of the Board's Decision Report, the Proponent shall implement a project wide policy that includes a pro-active approach for reviewing its contracting and procurement strategy for major elements of the project in consultation with the service and supply sector with the explicit objective of ensuring that bid packages are scaled to enable the participation of Canadian companies with first consideration given to the capacity of local industry. The results of these reviews are to be provided to the Board and communicated to the service and supply community consistent with the Proponent's undertaking to communicate its procurement processes, requirements and expectations in sufficient detail to enable the supply and service sector in the Province and other parts of Canada to adequately plan their participation in the project.

Two other aspects of contracting and procurement policies that are of importance to the Board relate to the need for the Proponent to ensure that its contractors comply with the Proponent's benefits commitments and to exercise oversight of contractors to ensure they understand benefits expectations with respect to both procurement and employment.

The Proponent's policy to make compliance part of contractor's performance management and that failure to meet benefits commitments could result in sanctions including contract termination has already been discussed and is aligned with the Board's expectations. Another key aspect of the Board's guidelines is the need for the Proponent to prepare for the Board's review, a management system and procedures manual to ensure the coordination of, and adherence to, Canada-Newfoundland and Labrador benefits commitments among all clients and contractor groups involved in the project. In response to the completeness review, the Proponent provided a draft version of the manual for staff's assessment. This manual has been reviewed by staff and a number of improvements are required, primarily in respect of the need to revise the language to include reference to first consideration in several places and to make necessary changes to align the manual with the requirements of the legislation. Feedback was provided to the Proponent on this matter in August 2011 and the Proponent has acknowledged that the necessary changes will be made. Staff will follow-up with the Proponent on this matter with a view to ensuring that a revised manual is issued prior to the start of construction.

Staff will also monitor the need for the Proponent to exercise oversight of the sub-contracting activity of contractors, particularly any bidders that are new to the jurisdiction and who may not be familiar with benefits requirements and expectations. The Proponent is expected to provide



its contractors with any necessary information respecting compliance. Staff may monitor the Proponent's actions and plans on this matter from time-to-time.

### ***Canadian and Newfoundland and Labrador Content***

Canadian and Newfoundland and Labrador content is an important measurement of the results of the implementation of the Proponent's benefits plan as well as a means to measure the progressive growth of benefits from project-to-project.

For the development phase, the Proponent estimates Newfoundland and Labrador expenditure content to be 35-55% and other Canadian expenditure content is estimated to be 15-30%. The Proponent indicated that these estimates were prepared from preliminary high level projections and will change over the course of the front end engineering design and detailed engineering design processes and are expected to be accurate within plus/minus 25%. While the wide ranges provided in the benefits plan are within the range reported during the construction phase of other major development projects, staff will follow-up with the Proponent to refine these estimates now that front end engineering is complete and to also provide a breakdown of the estimates categorized by major component/activity. Reporting of actual content achieved during the construction phase will occur as part of the reporting systems established by the Board's guidelines.

Based on reports from the current producing projects, staff observed that a local content in the range of 40-60% and a total Canadian content in the range of 65-80% has been achieved for the production phase. Staff anticipates that the local and Canadian content for the Hebron project during the production phase will be similar to the other producing projects. This aspect will be monitored through the quarterly and annual benefits reports to the Board. If necessary, staff will request the Proponent to perform a foreign content optimization analysis early in the production phase. This analysis is essentially a line-by-line expenditure analysis aimed at identifying potential opportunities for increasing the level of Canadian content.

### **3.5 Research and Development and Education and Training**

This section describes staff's assessment of the Proponent's plans to satisfy the legislative requirement that a benefits plan contain provisions intended to ensure expenditures shall be made for research and development (R&D) to be carried out in the Province and for education and training (E&T) to be provided in the Province.

#### ***Guidelines***

In November 2004 the Board published *Guidelines for Research and Development Expenditures* to provide operators engaged in petroleum exploration, development and production activities with guidance parameters and criteria for the expenditures required by the legislation. These were issued under the Board's authority under section 147/151.1 of the legislation to issue guidelines respecting the application and administration of section 45. The guidelines followed an extensive period of consultation with the industry and are with effect from April 1, 2004.

The guidelines indicate that the level of R&D (including E&T) expenditures are expected to be consistent with the norms for R&D expenditures by the upstream petroleum industry in Canada. The guidelines indicate that these expenditures are to be based on the benchmark reported by Statistics Canada as a percentage of revenue. The guidelines describe an application process for assessing proposed expenditures as well as a reporting framework respecting plans and expenditures. Reconciliation of expenditures versus obligations for production projects occurs at the time of renewal of the operations authorization. In the event of a shortfall, a financial instrument is to be provided to the Board as a surety that the operator will meet its obligations. Beginning in February 2005, the guidelines were challenged in court by the operators of the Hibernia and Terra Nova projects. The challenge ended on February 19, 2009 when application for leave to appeal was denied by the Supreme Court of Canada. The decision of the court affirmed the Board's jurisdiction respecting the guidelines, specifically in relation to basing expenditures on industry norms and making compliance a condition of the issuance of an authorization.

### ***Hebron Benefits Plan***

The Hebron benefits plan provides a high level description of the Proponent's plan for raising awareness of potential R&D projects and giving priority to undertaking R&D in the Province. The project operator commits to establishing a process for the submission and review of R&D proposals and for identifying priority areas that support its overall R&D strategy. The plan recognizes that R&D and E&T can make an important contribution to sustainable economic development; provides several examples of participation in project related R&D; and identifies a number of initiatives including:

- assigning a dedicated R&D coordinator for the project;
- describing the process for identifying R&D projects and priorities;
- identifying current focus areas for R&D which include subsurface, heavy oil, harsh environment challenges as well as socio-economic R&D and E&T related to community and regional effects of resource development activity;
- describing the process for submitting and reviewing R&D proposals based on the Board's *R&D Work Expenditure Application Form*; and
- participating in joint industry proposals such as the pipeline/flowline trenching system and furtherance of ice management capabilities.

The plan also describes, at a high level, the Proponent's priorities and criteria for evaluating potential R&D initiatives. These include business or operational efficiencies, generation of commercially valuable intellectual property and financial efficiency. The latter is in connection with the potential to leverage funds from other sources such as federal and provincial programs.

The plan commits to consulting with the federal and provincial government as well as local stakeholders including the Research and Development Corporation, NOIA, Memorial University, and College of North Atlantic.

### ***Supplementary Correspondence***

During the completeness review and, again, as part of its review of the merits and adequacy of the plan, staff sought clarification from the Proponent respecting its plans to abide specifically with the Board's R&D guidelines. The Proponent responded:

“Hebron acknowledges the requirement to satisfy section 45(3)(c) of the Atlantic Accord Implementation Act which states that *'Canada-Newfoundland benefits plan shall contain provisions intended to ensure that expenditures shall be made for research and development to be carried out in the Province and for education and training to be provided in the Province.* Hebron also acknowledges that the Canada-Newfoundland and Labrador Benefits Plan Guidelines (which includes Appendix II Guidelines for Research and Development Expenditures) were established to assist operators in the preparation of a Benefits Plan and to provide guidance related to the Board's expectations related to the administration of Section 45 of the Atlantic Accord Implementation Act.

The Hebron Project Benefits Plan indicates that EMCP has established an R&D Strategy and the Plan details the key aspects of the strategy. The Plan also states that *"EMCP will satisfy all regulatory and contractual obligations with respect to R&D."*

As the Board is aware, Hebron entered into a contractual agreement (Hebron Benefits Agreement) with the Province of Newfoundland and Labrador with a commitment to invest \$120,000,000 in Research and Development during the life of the Hebron Project. Consistent with the provisions of this Agreement the Hebron Proponents will seek harmonization of the R&D expenditure requirements of the Benefits Agreement and the Board's Guidelines. This harmonization effort will be formally initiated with both parties in the near term. We have also indicated our intentions in this regard in our response to recent queries from the Hebron Public Review Commission. Hebron recognizes that the decision to accept harmonization of the Benefits Agreement and the Board's Guidelines rests with the Board.”

No correspondence has been received by the Board in relation to the proposed harmonization effort described by the Proponent in its response.

### ***Assessment***

In staff's view, this response has the potential to create confusion between the Board's expectations for R&D expenditures for the Hebron project based on the industry norms as measured by the Statistics Canada benchmark and the fixed amount of \$120 million established in the Province's benefits agreement. The Board's guidelines will be applied to the Hebron project and there is no need for any harmonization effort between the legislation and the contractual arrangements of the Province's benefits agreement.

Furthermore, consistent with the Court's decision on the validity of the Board's guidelines, staff will ensure that any Operations Authorization issued in respect of the Hebron project includes the following condition so as to link the guidelines to the authorization for compliance and enforcement purposes.

The Operator shall comply with the *Guidelines for Research and Development Expenditures* as issued by the Board November 5, 2004 and with effect from April 1, 2004.

### ***Actions and Plans***

During its ongoing monitoring of pre-development activities, staff observed that the Proponent's actions have been consistent with the generic R&D provisions and undertakings described in its benefits plan. At staff's request, the Proponent filed an R&D/E&T expenditure report in early 2011 describing expenditures to the end of 2010. Such reports will be filed annually on a go-forward basis.

In addition, the Proponent has submitted a number of applications to the Board for R&D and E&T projects in the following areas:

- joint industry projects in the areas of ice management;
- a joint industry project to develop a trenching system suitable for the various site specific conditions offshore Newfoundland and Labrador;
- model testing as well as iceberg profiling in support of GBS design activities;
- statistical ice models in support of Hebron operations phase activities;
- endowments, investments and scholarships in diversity and other areas to recognized educational institutions in the Province;
- evaluation of evacuation technologies; and
- establishment of additional educational infrastructure at recognized educational institutions.

These actions are consistent with the Proponent's intentions to abide with the legislation and guidelines. Staff will continue to verify, throughout the development and production phases, that the R&D and E&T projects, initiatives and expenditures are aligned with the eligibility criteria and benchmarks established by the Board's guidelines.

### ***Public Reporting***

Consistent with the Board's recent initiative to have project operators make quarterly and annual benefits reports available to the public, the Proponent will be expected to provide information in its annual benefits report respecting R&D and E&T projects, initiatives and expenditures so that the public is kept apprised of the Proponent's accomplishments and achievements in this area. This is aligned with the Proponent's undertaking in its benefits plan to develop a process for identifying and raising awareness of potential R&D projects and to identify and promote R&D initiatives. The public dissemination of this information will also provide opportunity for the Proponent to receive input on future priority areas for R&D activity. In this regard, the Proponent should maintain a mechanism throughout the project for receiving R&D and/or E&T proposals from interested parties.

### **3.6 Designated Individuals or Groups**

The legislation indicates that the Board may require a benefits plan to include provisions to ensure that designated individuals or groups have access to training and employment opportunities and to enable companies owned by designated groups to participate in the supply of goods and services.

The Board's guidelines indicate that Proponents are expected to take a proactive approach on this matter and to apply models such as the *Employment Equity Act*, the Federal Contractors Program and other appropriate models in preparing its diversity plans. Consistent with these models, the Board's guidelines indicate that members of designated groups include: women, aboriginal groups, persons with disabilities and members of visible minorities.

In the context of assessing the adequacy of Hebron's diversity plan, staff reviewed the models referenced in the Board's guidelines and developed 14 elements that are considered to be essential for good diversity planning. A pre-requisite is the need for the senior management of the Proponent to be fully engaged and committed to diversity in its work force. Staff has observed that the highest level of the Proponent's management team is committed to this initiative as are the senior project managers of both the topsides and GBS contractors. Staff has also observed that the Proponent and both contractors have hired diversity coordinators each of whom are experienced in their field and appear to be fully committed and focused on facilitating the implementation of the Hebron diversity plan.

A description of the Hebron diversity plan together with the results of staff's assessment against each of the elements of good diversity planning is provided in Appendix 3. This assessment also includes an analysis of the Proponent's business access strategy.

Staff has concluded that the Hebron diversity plan, including the business access strategy, is consistent with the legislation and the Board's guidelines. Five matters have been identified for follow-up with the Proponent:

- additional co-op, intern and summer employment positions should be created and targeted to be filled by qualified members of aboriginal groups, persons with disabilities or members of visible minorities;
- a program needs to be instituted in support of increasing female apprentices in skilled trades during the development phase;
- consistent with the Proponent's desire for continuous improvement, benchmark data respecting goals for participation levels of designated groups should be reviewed on an annual basis and adjusted as necessary;
- ensuring that contractors ***comply with***, not just acknowledge, the initiatives outlined and described in the diversity plan; and
- annual diversity reports are to be submitted to the Board and made available to the public.

The annual diversity reports are to include a narrative description of the Proponent's diversity commitments; a listing and description of any diversity related initiatives and accomplishments; progress towards the identified objectives and goals; progress regarding the skilled trades apprenticeship programs; statistical information respecting the employment of members of designated groups; and, progress towards business access strategies and initiatives.

### **3.7 Hebron Pool 3**

The benefits plan provides a high level assessment of the capabilities of the Province and other parts of Canada to participate in the supply of goods and services for each of the major elements of any future subsea development option for Pool 3. Notwithstanding this assessment, and the fact that the principles of the benefits plan may be applied to any of the project's activities, the industrial and employment benefits associated with any deferred development of Pool 3 have not been explicitly addressed to the level of detail required by the Board's guidelines. This is understandable given that this development is still at the conceptual stage and either appraisal drilling or a production pilot is proposed prior to any decision to proceed with a full scale development.

In advance of any contracting or procurement activities associated with the development of Pool 3, staff will assess the need for a supplement to the Hebron benefits plan that describes the industrial and employment opportunities associated with the development in greater detail than is currently provided in the plan. This will include the need for the Proponent to provide its plans for local engineering, procurement and project management activities; to provide content and employment estimates for the project; and, to provide a more detailed description of the goods and services and contracting and sub-contracting opportunities for companies in the Province and other parts of Canada, with a particular emphasis on local fabrication opportunities.

### **3.8 Socio-Economic Impact Statement**

The requirement for a socio-economic impact statement (SEIS) is specified by the legislation in the context of a public review of a proposed development. The Board's benefits plan guidelines indicate the need for the SEIS to describe how the development and operational phases of the project will contribute to the sustainable development of the Province. Guidance with respect to the contents of the document is provided in the Board's development plan guidelines.

The purpose of the SEIS is to provide the Proponent's analysis of the effects the proposed project is anticipated to have on a variety of social, demographic and labour market factors, as well as on public infrastructure and other land and resource uses. Further, the SEIS should provide a thorough assessment of sustainable development. Sustainable development is defined in the Board's guidelines as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." The Proponent is expected to describe its corporate commitment and approach to sustainable development, and to prepare a framework to address how it intends to improve the community and maintain a safe and healthy environment, together with a set of business practices and policies that will contribute to sustainability in the long-term. The description should also include the identification of stakeholders, their needs and how those needs can be addressed.

A synopsis of the Proponent's SEIS is provided in Appendix 4 together with a synopsis of the findings and recommendations of the Hebron public review commission.

The Commission made a total of 12 recommendations related to socio-economic impacts and sustainable development. A response to each of the Commission's recommendations is provided in Appendix 5.

The recommendations directed explicitly at the Proponent in relation to the Hebron project may be summarized as follows:

- the SEIS and Sustainable Development Report should be revised to resolve issues related to currency/accuracy of data and resulting findings;
- the Proponent should work with the provincial government to assist funding of childcare facilities in Clarenville;
- the Proponent should communicate workforce requirements to the provincial government and municipal governments in the Isthmus area to help plan for the inflationary effects on housing; and
- socio-economic research in areas such as offshore rotations, labour market issues, diversity, cumulative effects of oil and gas on the Province, and cumulative effects of oil and gas on the fisheries should be considered by the Proponent and others for funding.

In comparing the Proponent's findings to that of the public review process, it is evident that a number of socio-economic issues and concerns were brought forward during the public hearings that had not previously been identified to the Proponent during its consultation sessions leading up to the preparation of its SEIS. The Proponent's overall assessment that there will be no significant adverse impacts from the project is clearly at odds with that of the presenters to the Commission. The possible reasons for this are best left to the Proponent to address and staff will follow-up on this matter in the context of the recommendations related to the SEIS.

In the meantime, staff also acknowledges the Commission's distinction between the fact that, while the issues and concerns raised during the public hearings may not be exclusively attributable to the Hebron project, there is, nonetheless, an onus on any Proponent of a development project to provide its analysis of the socio-economic effects of the proposed project. In other words, while the Proponent may not be expected to solve all socio-economic impact issues, it must conduct the analysis in a manner that delineates the issues and concerns and takes the necessary measures that are within its control to address the matters.

For any matters that are within the purview of the Proponent, staff will request the Proponent to provide its response. These include matters addressed by recommendations 7.1 and 7.4 (update SEIS), 7.5 (childcare initiative), 7.6 (foster partnerships), 7.11 (SEIS research) and 7.12 (cumulative effects on fish stocks). The Proponent's response to these matters will be posted on the Board's website together with any revisions, amendments or supplements to the SEIS as may be necessary.

In addition, the Proponent will be encouraged to review the research topics and projects listed in recommendation 7.10 and to submit any proposed expenditures in connection with these matters

to the Board for assessment against the eligibility criteria of the research and development guidelines.

### 3.9 Monitoring and Reporting

The monitoring and reporting provisions of the Hebron benefits plan are consistent with the Board's guidelines. Specifically, the Proponent indicates that it will abide with

- pre-development monitoring and reporting requirements;
- informing the Board of any contracting and procurement decisions that have significant national or provincial implications;
- the need to provide project expenditure and employment reports, procurement forecasts and procurement reports to the Board;
- providing the Board with the rationale for any decision to award any major contract outside the province, particularly if a local shortage in capability or capacity has been identified;
- the requirement to provide the Board with a description of the work commitments for the province and the rest of Canada for each major work or activity;
- the Board's quarterly and annual benefits reporting requirements including the need to make reports available to the public;
- providing assessments with respect to successes in meeting its benefits plan commitments; and
- providing, six months before the expiry of an operations authorization, an assessment of the results of the application of the approved benefits plan and the potential for realizing further improvements.

As part of the pre-development monitoring activities, staff has designated approximately 10% of the contracts and purchase orders forecasted to date for review at the pre-qualification, bid list and award stages. Staff intends to continue to designate selected contracts throughout the development phase as a means of providing a window on the practices and processes being followed by the Proponent to meet the legislation. While only certain items are designated, the Proponent and its contractors and sub-contractors are reminded that all procurement is subject to the provisions of the legislation.

Staff also intends to ensure that forecasts of contracting and procurement activity are provided to the Board on an annual basis throughout the **production phase** and, where necessary, to designate certain contracts for review to ensure that the Proponent remains responsive to legislative requirements and expectations. Consistent with the Proponent's undertakings in the benefits plan, there is an expectation on the part of the Board that the Proponent will provide the supply and service sector with adequate notice and details respecting forecasts of contracting and procurement opportunities. These forecasts should be made available to the public at the same time that they are provided to the Board. And, consistent with the Board's recent initiative, the Proponent will be expected to provide quarterly and annual benefits reports to the public, commencing in the first quarter following any approval by the Board of the Hebron benefits plan.



#### **4.0 BENEFITS AGREEMENT**

The Hebron benefits agreement (the agreement) is between the Government of Newfoundland and Labrador and the Hebron project participants. It addresses several matters related to industrial and employment benefits including location of the project team and office in the Province; engineering, construction, fabrication and other works in the Province; procurement and contracting; research and development; and, a gender equity and diversity program. The agreement also provides for monitoring, reporting and data collection. A copy of the agreement is available at: <http://www.nr.gov.nl.ca/nr/energy/petroleum/offshore/projects/hebron.html>

While the Board is not party to this agreement, clause 5.12 specifies that it will be provided to the Board for monitoring and oversight. Commencing in Q1 2011, staff instituted a requirement for the Proponent to provide quarterly updates of its progress in achieving compliance - these updates are shared with Provincial officials. If any areas of non-conformance are identified, the Board's role is to notify the Province who is responsible for resolving the matter in accordance with the provisions of the agreement.

In addition, the Board's established process for designating certain contracts for review at the prequalification, bid and award stages, which serves as a window on the processes in place to meet the full and fair and first consideration aspects of the legislation, provides a further mechanism to identify any potential areas of non-compliance with the agreement. In this regard, staff, in consultation with Provincial officials, has placed an emphasis on designating any contracts pertaining to the engineering and fabrication requirements specified in the agreement.

## 5.0 PUBLIC REVIEW COMMISSION

The report of the public review commission was provided to the Board on February 28, 2012. It contains a total of 31 recommendations related to industrial benefits and socio-economic impact matters. A copy of the report is available at: <http://www.cnlopb.nl.ca/pdfs/hebpubrev.pdf>

A response to each recommendation is provided in Appendix 5.

## 6.0 CONCLUSIONS AND RECOMMENDATIONS

### 6.1 Overall Assessment

It is staff's overall assessment that the Hebron benefits plan addresses the requirements of the legislation and provides a basis for achieving employment and other industrial benefits throughout the life of the project. A number of items have been identified for follow-up with the Proponent either by way of conditions to be placed on the Board's approval of the plan or by way of a monitoring and reporting framework that sets out short, medium and long term plans for oversight of the Proponent. The objective of the monitoring plan is to ensure that the Proponent remains responsive to benefits provisions and expectations for the life of the project.

The effectiveness of the application of the plan in terms of the accrual of industrial benefits cannot be predicted from the outset, however, there is an expectation that the Proponent will measure and report its benefits achievements both to the Board and to the public and will strive to identify ways and means for continuous improvement.

There is no doubt that the Hebron project provides significant employment and other industrial benefits opportunities to Canada, and to Newfoundland and Labrador in particular. The industrial capability of the province's supply community has matured significantly since the Hibernia discovery in 1979 and there has been a progressively steady evolution in the ability of the province to provide world class products and services to the offshore industry. This has been achieved by the province's human resources whom have steadily developed the capability, expertise, competence and technology to manage projects during both the development as well as the drilling and production phases and whom have developed expertise in operating successfully in a hostile environment.

Notwithstanding these capabilities, there is a need to continue to challenge any mindset that the use of services from within Newfoundland and Labrador or another part of Canada creates safety, quality, capacity or delivery risks that are higher than that of foreign companies and suppliers. The demonstrated ability of local and other Canadian companies to deliver quality products and services on time and the demonstrated ability of skilled tradespersons from within the province to perform work to high standards provides evidence to offset this mindset.

The participation of companies from Newfoundland and Labrador and other parts of Canada in the successful development of the province's petroleum resources is leading to export opportunities in both harsh and non-harsh areas. This is aligned with the overall goal and intent of the benefits legislation as described in the Board's guidelines:

*The intent of the benefits provisions of the legislation is that the exploration for, and the development and production of the petroleum resources in the Newfoundland and Labrador Offshore area make a lasting contribution to the sustainable development of the Province's economy. This was the vision or intent of the legislators at the time of writing the legislation. The petroleum resource is finite and exhaustible, and it is the*

*intent of the benefits provisions of the legislation, that exploitation of these resources creates a lasting economic legacy for the people of the Province.*

In terms of the Hebron project specifically, it is desirable to obtain as many win-win scenarios as possible between the project's requirements and the industrial capabilities of the Province and other parts of Canada. This, in turn, will build on and, hopefully increase the industrial and technical resource base in the province and other parts of Canada. The achievement of these goals and objectives primarily requires effective communication between the project operator (and its contractors) and the business community such that the business community understands project requirements and the project understands the industrial capabilities within the Province and the rest of Canada. The monitoring and reporting framework devised by staff includes mechanisms to facilitate the periodic exchange of feedback between the project operator and the supply community. The Board can play a key role in this matter by monitoring the effectiveness of this exchange and clarifying expectations whenever necessary.

## **6.2 Recommendations**

Based on staff's assessment that the Hebron benefits plan addresses the requirements of the legislation and provides a basis for achieving employment and industrial benefits throughout the life of the project, staff hereby recommends that the plan be approved by the Board subject to the following conditions:

### **Condition 1**

a) Within 60 days of publication of the Board's Decision Report, the Proponent shall provide to the Board and make available to all affected stakeholders including government departments, employee associations, employer associations and training institutions an update of its human resource requirements for the construction phase that takes into account the front end engineering design. This information is to explicitly include the planned labour forecast for each project phase by skilled trade and identify the projected timing of any labour shortage.

b) The Proponent shall immediately take the necessary steps to develop a plan to deal with any projected labour shortage. The plan should be developed with the assistance of its contractors and in collaboration with the appropriate employee associations, employer associations and training institutions. The plan must be as explicit and detailed as possible and include the following elements:

- details of the specific education and training programs to be implemented to mitigate the shortage;
- expenditures to be made on education and training in the province aimed specifically at mitigating the shortage including any investments in local education and training organizations and programs;
- a description of how the specific education and training programs will be executed so as to meet the first consideration requirements for training of residents of the Province;

- a description of the on-the-job training programs as well as any apprenticeship training programs to be delivered throughout the construction phase; and
  - any other plans and initiatives to mitigate any projected labour shortage.
- c) The labour shortage mitigation plan shall be provided to the Board immediately upon completion for its review and assessment and, in any event, the Proponent shall describe to the Board the steps it has taken to mitigate any labour shortage a minimum of six months prior to the projected timing of the shortage.

### **Condition 2**

- a) Within 60 days of the publication of the Board's Decision Report, the Proponent shall describe to the Board the improvements necessary to provide more detailed and descriptive information to the service and supply sector respecting the goods and services and contracting and sub-contracting opportunities associated with the construction of the topsides and GBS, particularly at the forecasting stage.
- b) Not later than six months prior to the commencement of any contracting or procurement activity, the Proponent must provide to the supply and service sector detailed information of project requirements associated with each of the following stages of the project:
- Fabrication of the utilities and process module;
  - Topsides hook-up, integration and commissioning activities;
  - OLS construction, fabrication, installation and commissioning activities;
  - Platform tow-out, installation and offshore hook-up and commissioning activities;
  - Platform drilling and completion operations as well as platform production operations;
  - Any requirements for the supply of additional tankers associated with the export system;
  - Any proposed subsea production system; and
  - Any other contracting, supply or service opportunities associated with the project.
- c) The information to be provided must include a listing of goods and services; a listing of contracting and sub-contracting opportunities; and, information respecting contracting strategy, size of work packages and procurement processes in sufficient detail to provide the supply and service sector in the Province and other parts of Canada with a full and fair opportunity to participate in the project.

### **Condition 3**

Within 90 days of the publication of the Board's Decision Report, the Proponent shall implement a project wide policy that includes a pro-active approach for reviewing its contracting and procurement strategy for major elements of the project in consultation with the service and supply sector with the explicit objective of ensuring that bid packages are scaled to enable the participation of Canadian companies with first consideration given to the capacity of local industry. The results of these reviews are to be provided to the Board and communicated to the service and supply community consistent with the Proponent's undertaking to communicate its procurement processes, requirements and expectations in sufficient detail to enable the supply

and service sector in the province and other parts of Canada to adequately plan their participation in the project.

**APPENDIX 1**

**HEBRON BENEFITS PLAN INITIATIVES**

## **Hebron Benefits Plan Initiatives**

This appendix provides a consolidated listing of the Proponent's initiatives described in its benefits plan and its diversity plan. This includes a total of 110 initiatives. This provides a quick reference to the various initiatives in the areas of project management, supplier development, procurement and contracting, staffing demand and supply, skills development, recruitment, career development, research and development, monitoring and reporting and various diversity planning initiatives.

### **Project Management**

- 1) Select contractors and suppliers that work diligently to deliver benefits to the people of the Province.
- 2) Staff Project office by professionals knowledgeable of the Province's supply community.
- 3) Require FEED/EPC contractors to identify a management contact accountable for benefits, diversity, and other benefits staff.
- 4) Develop and implement plans to manage the organizational aspects of key transitions into subsequent phases.
- 5) Establish a Benefits Advisory Committee.
- 6) Establish a Benefits Community of Practice.
- 7) Prepare a Benefits Management System manual.

### **Supplier Development**

- 8) Establish and maintain a Project website.
- 9) Provide early and detailed notification of Project requirements.
- 10) Offer supplier information sessions and workshops.
- 11) Hold a reverse trade show focused on EPC work.
- 12) Participate in industry conferences and workshops, such as are organized regularly by NOIA and other industry associations.
- 13) Co-locate the majority of EMCP and FEED/EPC contractor procurement personnel in St. John's to facilitate opportunities for Newfoundland and Labrador companies to participate in bidding for subcontracts and, material and equipment purchasing.
- 14) Offer EMCP and main contractor site visits to prospective contractors and suppliers in order to assess the condition and suitability of local infrastructure and to review prospective contractors' and suppliers' operating procedures and workforce capabilities.
- 15) Investigate the use of distance technologies to facilitate contact between NL contractors and suppliers, and the main FEED/EPC companies located outside the Province.
- 16) Disseminate point of contact information for Project procurement personnel as soon as it becomes available.
- 17) Provide debriefings for unsuccessful bidders, when so requested.
- 18) Promote established vendor registration database that will be used by EMCP and its contractors and suppliers.



- 19) Establish travel fund for travel by contractors and suppliers headquartered in the Province to visit engineering offices located outside the Province, where such offices have been employed to conduct Project FEED and when necessary to support business relationships.
- 20) Investigate the use of distance technologies to facilitate the access of rural businesses to Project and industry procurement-related events in St. John's.
- 21) Investigate encouraging and facilitating collaboration between NOIA and other industry associations and rural and diversity business and supplier groups.
- 22) Help identify commercially sound opportunities for suppliers.
- 23) Engage NOIA and other relevant industry stakeholders to identify barriers to local suppliers and to:
  - Provide a detailed presentation on analysis of service and supply capability.
  - Review the findings of the various supplier development initiatives, including those identified by the Industrial Opportunities section of the Atlantic Energy Roundtable.
  - Assist local suppliers in identifying opportunities presented by the Project.
- 24) Investigate industrial tourism options respecting Bull Arm and other activity centres, including the viability of extending industrial tourism opportunities beyond the end of the construction stage.
- 25) Work with FEED/EPC contractors to study the full range of catering, retail, personal services, recreation, entertainment, daycare and other requirements of camp workers and how best they may be met by businesses in the local area.
- 26) Ask potential bidders to document their willingness and capability to utilize electronic bulletin boards to communicate procurement requirements and contract awards.
- 27) Steward activities of EMCP contractors and suppliers undertaken to develop Canadian and NL suppliers.
- 28) Encourage the formation of joint ventures, licensing arrangements, education and training and R&D activities in support of identified opportunities.
- 29) Publish bid lists, allowing local companies to identify potential partners.
- 30) Encourage and support major contractors and their key procurement personnel in identifying technology transfer opportunities.
- 31) Engage and support local companies in the performance of Project-related R&D.

### **Procurement and Contracting**

- 32) Maintain a construction phase contracts and procurement office in St. John's.
- 33) Conduct ongoing site visits to local suppliers and fabricators to assess their capabilities and capacities.
- 34) Hold overview workshops at which EMCP and main contractors provide forecasts of activities and opportunities.
- 35) Publicize Project information, including procurement activities and opportunities on the Project website and the NOIA and BIDS websites.
- 36) Use requests for EOIs to solicit local supply interest.
- 37) Facilitate access to Project opportunities by companies owned and operated by members of designated groups.

- 38) Require that, for Project RFPs and bid packages, bidders use standards that meet the requirements of Canadian Government Authorities and use Canadian standards where appropriate.
- 39) Report success in providing ‘full and fair opportunity’ and ‘first consideration’ to the C-NLOPB.
- 40) Ensure that requests for EOIs contain discussion of the EMCP commitment to benefits, the Benefits Plan, and the requirement for contractor alignment in delivering benefits, including diversity.
- 41) Ensure that benefits, including diversity, requirements will be scalable.
- 42) Hold initial meetings with representatives of the main contractors to introduce them to the Benefits Plan, its requirements and implementation.
- 43) Provide guidance to main contractors so that their plans are developed and implemented in accordance with contract expectations.
- 44) Require contractors and suppliers to establish and maintain appropriate business standards, procedures and controls.
- 45) Publish EOIs on the Project website and notify BIDS, NOIA and other industry organizations.
- 46) Publish bidders lists when appropriate.
- 47) Hold procurement and contracting workshops in conjunction with key contracting milestones.
- 48) To the extent reasonably practicable, structure bids and encourage relationships between local and other suppliers to facilitate local participation.
- 49) Detail the specific reporting requirements and obligations that contractors and suppliers must accept as part of the contract award.
- 50) Ensure that contracts stipulate that contractors and suppliers must impose similar requirements on sub-contractors and suppliers.
- 51) Maintain a regular liaison with the C-NLOPB, to fulfill all monitoring and reporting requirements.

### **Staffing Demand and Supply**

- 52) EMCP and its main contractors will develop and submit to the C-NLOPB, a detailed operations phase human resources plan one year preceding first production.
- 53) Human resources requirements for the Project will be communicated in advance, where necessary, to enable individuals to train for opportunities.
- 54) Where appropriate, main contractors will be required to prepare and submit plans to EMCP that identify projected staffing requirements.

### **Skills Development**

- 55) Promote careers in the oil and gas industry to students at junior high and high school levels to encourage them to stay in school and consider further education to meet skill demand.
- 56) Communicate projected human resource requirements to post-secondary institutions, education groups and other interested parties in a timely manner to

- encourage further dissemination of skills demand information and to increase awareness of opportunities.
- 57) Attend career fairs to promote careers in technical, engineering and trade/operational roles.
  - 58) Provide support and contributions to post-secondary institutions that will enhance EMCP's ability to recruit qualified candidates into targeted programs.
  - 59) Employ co-operative education students from technical, trades and business disciplines.
  - 60) Encourage main contractors to incorporate co-op and apprenticeship training positions into their staffing plans for the construction phase.
  - 61) Where specific skill development is required to meet Project staffing needs, as identified in the labor capacity study or through other projections, EMCP will work in conjunction with educational institutions, industry and other stakeholders to facilitate the delivery of training to Newfoundlanders and Labradoreans, including members of the designated groups.

### **Recruitment**

- 62) Include participation in career fairs and information sessions, standardized job specific screening criteria, and use of trained interviewers in EMCP's recruitment and selection process.
- 63) The effectiveness of the recruitment and selection process will be monitored and reviewed over the life of the Project, and EMCP will continue to work with key stakeholders to identify initiatives that may contribute to success in the recruitment and selection of qualified candidates.
- 64) EMCP employee positions will be advertised externally through methods such as local print media, regional websites and on the ExxonMobil Canada website. For student or new graduate positions, local universities and colleges will be notified of opportunities. Associations and/or organizations that represent members of the designated groups will receive notification of new positions.
- 65) Contractors and suppliers will be required to have processes for recruitment and selection of candidates that align with the principles of equitable employment and provide first consideration to residents of Newfoundland and Labrador for employment.

### **Career Development**

- 66) Define training plans for key positions including skills training, SHE and regulatory training, vendor training, initial work assignments, on-the-job training and facility specific training.
- 67) Develop long-term succession plans for key positions to deliver operational excellence, business continuity and individual career development. Local employees will receive training and development to fill long-term positions and succeed non-local personnel if competent and qualified.

### **Research and Development**

- 68) Develop a process for identifying and raising awareness of potential R&D projects, and give priority to undertaking R&D in the Province, where effective and competitive.
- 69) Identify and promote R&D initiatives undertaken by EMCP contractors and suppliers.
- 70) Periodically review priority areas for R&D activity.
- 71) Participate in Joint Industry Projects.

### **Monitoring and Reporting**

- 72) Require a full understanding of, and adherence to, the monitoring and reporting obligations and cascade them to contractors, sub-contractors and suppliers.
- 73) Meet with main contractors early in the Project, reviewing their processes and systems, and emphasizing monitoring and reporting obligations.

### **Diversity Plan – Initiatives to Address Skills Development**

- 74) Promote careers in oil and gas to students at junior high and high school levels to encourage them to stay in school and consider further education to meet skills demand. Highlight education required, and provide real life examples of what it is like to work in the industry.
- 75) Promote company accommodation practices to ensure individuals with disabilities who are interested in pursuing careers in oil and gas are aware of options available.
- 76) Promote careers in oil and gas to various interest groups to encourage their members to consider applying for Hebron roles and/or to consider further education to meet skills demand, using best practices to ensure outreach is accessible to a broad base of potential candidates.
- 77) Communicate projected human resources requirements to post-secondary institutions, education groups and other interested parties in a timely manner to encourage further dissemination of skills demand information and to increase awareness of opportunities.
- 78) Attend career fairs to promote careers in technical, engineering and trade/operational roles.
- 79) Partner with organizations or support programs that expose designated groups, particularly women, to math, science, technology or engineering to further support the option of non-traditional career choices.
- 80) Provide support and contributions to post-secondary institutions that will enhance ability to recruit qualified candidates into targeted programs.
- 81) Participate on educational institutions' advisory boards and/or to share specific knowledge with students in key programs.
- 82) Establish scholarship and support programs to encourage members of the designated groups, particularly women, to complete training programs that will allow them to meet skills demand.

**Diversity Plan – Initiatives to Support Recruitment and Selection**

- 83) Build relationships with educational institutions with key programs that may support recruitment needs.
- 84) Collaborate with key associations or organizations to attract qualified candidates representing designated groups.
- 85) Select associations/organizations and special interest groups to be notified directly regarding recruitment advertising to ensure advertising reaches target audiences.
- 86) Have all advertised job postings state the company's commitment to providing equitable treatment and opportunity to all individuals.
- 87) Avoid any actual or perceived bias in the decision making process by ensuring candidates will not be asked to self-identify designated group status during the recruitment process.
- 88) Select qualified candidates with interviewers trained to ensure bias-free selection processes based on bona fide occupational requirements and consistently applied methodologies.
- 89) Provide co-op, internships and summer employment assignments for professional, technical and trades positions, with an early offer process available for successful candidates interested in career employment.

**Diversity Plan – Initiatives to Foster a Supportive Work Environment**

- 90) Implement a steering committee comprised of key individuals from relevant business units to support effective delivery of diversity initiatives.
- 91) Incorporate diversity considerations into the performance assessment process to ensure that employee relative performance is determined without bias.
- 92) Conduct management diversity training to create awareness of the elements of diversity and its impact on conducting business at EMCP.
- 93) Conduct annual review to ensure that the Harassment and Equal Employment Opportunity policies are regularly communicated to and understood by all employees.
- 94) Implement diversity awareness training for employees in the construction phase, to instill a foundational understanding of diversity and support the growth of a diversity culture.
- 95) Ensure all employees receive introduction to key policies and their application through an orientation process.
- 96) Offer a broad range of programs that can provide employees with flexibility to assist in balancing work and personal life including vacation flexibility, paid and unpaid time off, child and elder care information support, and an employee assistance program.
- 97) Implement job accommodation, upon hire and throughout their career, that enables qualified employees with disabilities to perform the essential functions of their jobs, following the company accommodation processes.
- 98) Evaluate exit interviews to identify diversity considerations.
- 99) Provide encouragement and support to employee diversity networks.
- 100) Engage in a process of proactive barrier identification to ensure all facilities take into consideration the needs of a diverse workforce.

- 101) Design Hebron platform living quarters to provide women a safe, secure, comfortable and respectful residential environment. For example, during front end engineering, particular consideration has been given to the design of a private ward within the sick bay and gender-dedicated locker and sauna facilities as part of the fitness/wellness area. Continue to focus on diversity-sensitive facilities through the detailed design phase.

**Diversity Plan – Initiatives to Support Business Access**

- 102) Conduct consultations with local organizations and business networks to identify businesses owned or led by individuals from designated groups.
- 103) Participate in targeted conferences, trade shows, information sessions and business networking events to increase accessibility and provide information related to the Procurement process.
- 104) Ensure companies are aware of any specific standards, practices, qualifications or certifications required by EMCP and provide information on how to obtain these requirements.
- 105) Ensure that diverse businesses and organizations that support designated groups are aware of how to access public information on supply and service opportunities and how to request additional information.
- 106) When requested, provide feedback on tenders and bids to help identify areas for improvement and encourage capacity development.
- 107) Provide companies with business process and supplier development training.
- 108) Where appropriate and economically justified, adjust the scope of bid packages to remove barriers that may tend to hinder the participation of diverse businesses.
- 109) Support special initiatives of relevant business networks and community organizations to advance diverse business development.
- 110) Work with stakeholders to develop a thorough working definition of what constitutes a diverse business, and subsequently establish a best practices model for identifying indicators and preferred methods of reporting, with the objective of establishing meaningful quantitative goals, where those services and goods are competitive in terms of fair market price, quality and delivery.

**APPENDIX 2**

**HEBRON MONITORING AND REPORTING PLAN**

## **Hebron Monitoring and Reporting Plan**

The monitoring and reporting plan described in this appendix has been developed by the Board's staff and sets out the short, medium and long term plans for oversight of the Proponent throughout the development and production phases of the Hebron project to ensure that the Proponent remains responsive to the provisions of its benefits plan.

### **Employment and Training**

- 1) Monitor the effectiveness of the implementation of the labour shortage mitigation plan throughout the construction phase by monitoring quarterly and annual benefits reports respecting both person-hours of employment as well as the number of Newfoundland and Labrador residents and other Canadians employed in various phases and locations of the project.
- 2) Confirm that the Proponent provides its construction phase staffing plan to the Board in a timely manner, preferably no later than six months prior to the start of construction. Review and assess the staffing plan as it relates to the employment of Canadians and Newfoundland and Labrador residents. Review any proposed employment of foreign personnel as well as the succession plans respecting foreign personnel in consultation with Services Canada.
- 3) Confirm that the Proponent follows through on its commitment to provide assistance to government departments, agencies and training institutions in identifying and developing suitable training programs to facilitate the employment of Newfoundland and Labrador residents and other Canadians.
- 4) Verify the Proponent's undertakings to monitor the employment, training and diversity initiatives of its contractors.
- 5) Confirm that the Proponent's human resources plan for the operations phase is received one year preceding first oil as specified by the Board's guidelines and verify that the following key areas are addressed in the plan:
  - a detailed listing of positions required by the Proponent and its major contractors (including tanker crewing) by National Occupation Codes (NOC);
  - strategies to fill these positions with Newfoundland and Labrador residents and other Canadians;
  - identification of areas of potential labour shortages;
  - identification of any training programs to address labour shortages and any other training required to maximize the participation of Newfoundland and Labrador residents and other Canadians; and
  - succession planning for any positions held by non-Canadians.
- 6) Monitor the Proponent's implementation of its production phase human resources plan to verify that the employment initiatives described in the benefits plan are implemented by the



Proponent in a manner that results in the great majority of operations phase human resource requirements being filled by residents of the Province.

7) Ensure that the Proponent provides employment estimates for any benefits plan addendum respecting subsea development or any other subsequent addendum together with its plans for the employment of Canadians and in particular members of the labour force of the Province.

**Full and Fair Opportunity and First Consideration**

8) Verify that the Proponent has instituted a project wide reporting system respecting the requirement to give first consideration to services provided from within the Province and to goods manufactured in the Province. Ensure that the Proponent includes in each annual benefits report to the Board specific examples of meeting this requirement.

9) Investigate the matter of bid bonding for the Hebron project in relation to other projects to determine if there are any constraints to the full and fair participation of local suppliers.

10) Verify that the Proponent has instituted a process to ensure that staff is apprised of any proposal to sole source to a foreign supplier and that the Proponent and its contractors understand that any such proposal is to be accompanied by information that justifies the approach.

11) Confirm that, prior to the start of construction, the Proponent revises and re-issues its Canada-Newfoundland and Labrador Benefits Manual to incorporate the necessary changes and improvements identified by staff in its feedback to the Proponent in August 2011.

12) Request the Proponent to provide its plans respecting participation of NL residents on the UPM engineering design team; the need for the UPM fabrication yard to include a representative in the Province for the purpose of encouraging local participation in sub-contracting opportunities as well as its plans for identifying to the service and supply sector both the commissioning opportunities for this module as well as the opportunities for long term operations and maintenance activities.

13) Monitor the need for the Proponent to exercise oversight of the sub-contracting activity of contractors particularly any bidders that are new to the jurisdiction and who may not be familiar with benefits requirements and expectations. The Proponent is expected to provide any necessary information or briefings to contractors and potential contractors regarding the need to follow the full and fair opportunity and first consideration provisions of the legislation as well as the employment provisions and expectations of the legislation.

14) Ensure that forecasts of contracting and procurement activity are provided to the Board on an annual basis throughout the production phase and, where necessary, designate certain

contracts for review to ensure that the Proponent remains responsive to legislative requirements and expectations. Consistent with the Proponent's undertakings in the benefits plan, verify that such forecasts are made available to the service and supply community.

### **Supplier Development and Technology Transfer**

15) Request the Proponent to provide a plan that has a goal of providing one or more goods, services or technical capability to the Hebron project that is currently not being supplied to the Newfoundland and Labrador offshore industry by an existing firm in the Province or other part of Canada. This plan should include the identification of one or more gaps in service during either the development phase or the production phase that is currently not being supplied locally together with any technology transfer requirements or other improvements needed to assure that the service meets the project's safety, price, quality and delivery expectations.

16) Follow-up with the Proponent regarding the need to inform the local industry as to the role of the dedicated supplier development coordinator position and how they can engage the Proponent for assistance where necessary.

17) Verify that the Proponent provides a listing of examples in its annual benefits report of successes in the area of supplier development and technology transfer.

### **Canadian-Newfoundland and Labrador Content Estimates**

18) Confirm that the Proponent refines its content estimates for the development phase and that a breakdown of the estimates categorized by major component/activity is provided to the Board prior to the start of construction.

19) Verify that the content estimates associated with expenditures throughout the production phase are provided in the quarterly and annual benefits reports to the Board. If necessary, request the Proponent to perform a content optimization analysis early in the production phase to identify opportunities for increasing the level of content.

### **Research and Development and Education and Training**

20) Ensure that any operations authorization issued in respect of the Hebron project is conditional upon "The Operator shall comply with the *Guidelines for Research and Development Expenditures* as issued by the Board November 5, 2004 and with effect from April 1, 2004" so as to link the guidelines to the authorization for compliance and enforcement purposes.

21) Verify, throughout the development and production phases, that the Proponent's R&D and E&T projects, initiatives and expenditures are aligned with the eligibility criteria and benchmarks established by the Board's guidelines.

### Designated Individuals or Groups

- 22) Verify that the Proponent follows-up on the need to ensure that:
- additional co-op, intern and summer employment positions are created and targeted to be filled by qualified members of aboriginal groups, persons with disabilities or members of visible minorities;
  - a program is instituted in support of increasing female apprentices in skilled trades during the development phase;
  - consistent with the Proponent's desire for continuous improvement, benchmark data respecting goals for participation levels of designated groups are reviewed on an annual basis and adjusted as necessary;
  - ensuring that contractors **comply with**, not just acknowledge, the initiatives outlined and described in the diversity plan; and
  - annual diversity reports are submitted to the Board and made available to the public and that the reports include a narrative description of the operator's diversity commitments; a listing and description of any diversity related initiatives and accomplishments; progress towards the identified objectives and goals; progress regarding skilled trades apprenticeship programs; statistical information respecting the employment of members of designated groups and progress towards business access strategies and initiatives.
- 23) Monitor the success of the Proponent's initiatives and objectives respecting gender equity, particularly by monitoring the employment levels of women by occupational category throughout the development and production phases.
- 24) Verify that the Proponent follows through on its supplier development and business access strategies respecting a more diverse supplier network for the project, particularly in relation to:
- identifying businesses "owned by or led by" individuals from designated groups;
  - ensuring that diverse businesses are aware of procurement opportunities;
  - adjusting the scope of bid packages "where appropriate and economically justified", to remove barriers to the participation of diverse businesses in the procurement process;
  - providing feedback on tenders; and
  - reporting on participation rates and establishing quantitative goals.
- 25) Monitor, on an ongoing basis, the Proponent's application of its initiatives described in relation to the elimination of employment barriers. In particular, periodically review the Proponent's success, and that of its contractors, in relation to hiring and retention of persons from designated groups.
- 26) Request the Proponent to provide its response to recommendations 6.13, 6.14 and 6.15 of the Hebron public review commission. Review the responses to confirm that the matters raised in the Commission's recommendations have been addressed.

27) Verify the Proponent follows through on the following recruitment and communication initiatives:

- building relationships with educational institutions with key programs that may support recruitment needs;
- collaborate with key associations or organizations to attract qualified candidates representing designated groups;
- select associations/organizations and special interest groups to be notified directly regarding recruitment advertising to ensure advertising reaches target audience;
- providing co-op, internships and summer employment assignments for professional, technical and trades positions, with an early offer process available for successful candidates interested in career employment;
- ensuring that advertised job postings contain language pertaining to providing equitable treatment and opportunity to all individuals;
- sending job postings to various diversity related groups to ensure employment opportunities are communicated;
- ensuring that interviewers are trained to avoid any actual or perceived bias in the decision making process by ensuring candidates will not be asked to self-identify designated group status during the recruitment process; and
- selecting qualified candidates on bona fide occupational requirements and consistently applied methodologies.

### **Socio-economic Impact Statement (SEIS)**

28) Request the Proponent to provide its response to recommendations 7.1 and 7.4 (update SEIS), 7.5 (childcare initiative), 7.6 (foster partnerships), 7.11 (SEIS research) and 7.12 (cumulative effects on fish stocks). Verify that the Proponent's response adequately addresses the Commission's recommendations and post the Proponent's response on the Board's website together with any revisions, amendments or supplements to the SEIS as may be necessary.

29) Encourage the Proponent to review the research topics and projects listed in recommendation 7.10 of the Hebron public review commission and to submit any proposed expenditures in connection with these projects to the C-NLOPB for assessment against the eligibility criteria of the Board's R&D guidelines.

### **Hebron Pool 3**

30) In advance of any contracting or procurement activities associated with the development of Pool 3, assess the need for a supplement to the Hebron benefits plan that describes:

- the industrial and employment opportunities associated with the development;
- plans for local engineering, procurement and project management activities;
- content and employment estimates; and,

- a detailed description of the goods and services and contracting and sub-contracting opportunities for companies in the Province and other parts of Canada, with a particular emphasis on local fabrication plans and opportunities.

### **Reporting**

31) Verify that the Proponent provides, six months prior to the expiry of each operations authorization, a report to the Board respecting an assessment of the results of the application of the benefits plan during the term of the authorization and the potential for realizing further improvements.

32) Confirm that the Proponent makes quarterly and annual benefits reports available to the public, commencing in the first quarter following any approval by the Board of the benefits plan. Monitor the quality of the reports to verify that the information being provided is in accordance with the expectations described in the reporting template. Confirm that the reports specifically include achievements towards the legacy aspects described in the benefits plan in relation to more collaborative stakeholder consultation and building diversity.

**APPENDIX 3**

**ASSESSMENT OF HEBRON DIVERSITY PLAN**

## Assessment of Hebron Diversity Plan

This appendix provides an assessment of the Hebron diversity plan. This includes an assessment of the matters pertaining to training and employment opportunities for members of designated groups, gender equity provisions as well as business access initiatives for companies owned by members of designated groups.

### Background

The legislation indicates that the Board may require a benefits plan to include provisions to ensure that designated individuals or groups have access to training and employment opportunities and to enable companies owned by designated groups to participate in the supply of goods and services.

The Board's guidelines indicate that Proponents are expected to take a proactive approach on this matter and to apply models such as the *Employment Equity Act*, the Federal Contractors Program and other appropriate models in preparing its diversity plans. Consistent with these models, the Board's guidelines indicate that members of designated groups include: women, aboriginal groups, persons with disabilities and members of visible minorities.

The Proponent's diversity plan is an appendix to the Hebron benefits plan. In assessing the adequacy of the diversity plan, staff reviewed the models referenced in the Board's guidelines and developed 14 elements that are considered to be essential for good diversity planning. This appendix provides the results of staff's assessment of the diversity plan in the context of each of these elements.

### Overview of the Plan

The Proponent acknowledges, in the introduction of its diversity plan, its responsibility to develop, implement, and execute a diversity plan to meet regulatory and contractual requirements. The Proponent also acknowledges the legislative objectives of the benefits legislation in developing the industrial and labour capacity of the Province and to deliver long term sustainable benefits to the Province. The Proponent also states that . . . *valuing diversity is a business imperative* . . . and, accordingly, has indicated that the legislative objectives and corporate policy are aligned in a common direction.

The Proponent notes that, because the Hebron project is estimated to have duration of more than 30 years, the plan by nature takes a strategic approach by outlining a series of initiatives to achieve diversity in the workplace and to provide access to businesses owned by members of designated groups.

The plan also describes some historical initiatives in support of the development of diversity in the petroleum industry in Province including the establishment of Women in Resource Development (WRDC), the establishment of the NSERC/Petro-Canada Chair for Women in Science and Engineering (WISE), development of the Board's benefits plan guidelines, the

establishment of the Office to Advance Women Apprentices, and the establishment of various government departments in support of diversity.

In the plan, the Proponent describes in some detail several key policies inherent in its business practices with respect to valuing diversity, equal employment opportunity policy as well as its harassment policy. The Proponent indicates that these policies will be made available to all contractors.

The Proponent also describes the specific objectives of the plan in terms of:

- addressing gender equity and diversity by aligning these concepts with the employment, training and procurement policies and procedures of the Hebron benefits plan;
- aligning these concepts with its policies respecting valuing diversity, equal employment opportunity as well as the harassment policy;
- building on past company diversity practices;
- focusing on a long term approach (sustainability); and
- developing the labour force.

The Proponent indicates that it will meet its diversity requirements through the implementation of the following “four pillars” as well as a business access plan.

- Skills Development Through Community Investments;
- Recruitment and Selection of Qualified Candidates;
- Establishment and Development of a Supportive Work Environment; and
- Monitoring, Reporting, and Stewardship.

### **Assessment**

The following provides the results of staff’s assessment of the diversity plan in the context of each of the 14 elements that are considered to be essential for proper diversity planning based on the models referenced in the Board’s guidelines.

#### **Element 1: Data Collection**

*The plan should provide for collecting information and conducting an analysis of the employer’s workforce to determine the degree of underrepresentation of persons in designated groups in each occupational group in that workforce.*

The diversity plan indicates that data will be collected and compiled to assist in diversity planning and in meeting legislative and contractual obligations.

The Proponent intends to obtain gender information from employee records and to collect data respecting the participation of the other designated groups by providing employees with a questionnaire to be completed voluntarily. These data will be categorized based on National Occupational Classification (NOC) codes which will also be used to establish and compare with baseline data provided by Statistics Canada. While staff acknowledges that the completion of questionnaires on a voluntary basis could lead to the possibility of underreporting, the approach



is consistent with the self-identification provisions of the *Employment Equity Act* and staff is of the view that the data collected will assist in establishing reasonably representative data to compare with benchmark data.

In this regard, the Proponent commits to setting quantifiable objectives and goals and indicates that:

*“From an employment perspective, the project will seek to employ qualified members of the designated groups to the same extent they are available in the local workforce, with a focus on continuous improvement and particular attention to areas where women have been historically under-represented.”*

The Proponent further indicates that the benchmark data for designated groups would be based on Statistics Canada data. The lack of specific data presented in the Diversity Plan caused the Board, during its completeness review, to write the Proponent and request that:

“...the Proponent should describe how it intends its numerical goals to be applied in relation to the degree of underrepresentation of designated groups and the availability of qualified persons in designated groups. In this regard, the latest information from Statistics Canada respecting the availability of the designated groups by occupational category should be provided.”

The data provided by the Proponent in response is reproduced below.

<b>Job Category</b>	<b>Women</b>	<b>Aboriginal Peoples</b>	<b>Persons with Disabilities</b>	<b>Members of Visible Minorities</b>
Managers and Supervisors	41%	4%	3%	1%
Professional and Technical	55%	4%	3%	2%
Administrative	78%	4%	5%	1%
Skilled Crafts and Trades	9%	5%	3%	0.3%
Sales and Service	67%	5%	4%	1%
Manual Workers	23%	6%	5%	0.3%

This data is from a 2006 Statistics Canada survey, which is the most recent data available. Another survey was conducted in 2011 and these results will enable the data to be updated in due course.

While staff notes that some of the participation levels are low in terms of establishing an initial target for the Hebron project, the data does indeed reflect participation rates for the provincial

population as a whole and will provide a basis for which the Proponent to exercise its strategy and focus on continuous improvement. In the meantime, staff notes that the Proponent's initiatives identified in the diversity plan will contribute towards increasing the participation level of members of designated groups in project employment.

In addition to data collection for project employment, the Proponent intends to collect other quantifiable and qualitative data related to diversity. Examples could be employment opportunities for diverse organizations, or numbers of job postings sent to diversity related organizations.

The Proponent also indicates that a monitoring report will be submitted annually to the Board that will:

- provide data for both the Proponent and the project;
- include quantitative information that specifically addresses quantifiable objectives and goals as well as quantifiable information;
- describe progress made in the past year, including comparisons to past performance; and
- describe initiatives planned for the year ahead.

Data submitted in these reports will assist in assessing whether the Proponent is attaining its diversity goals and it is noted that contractors will be expected to implement similar procedures for monitoring and reporting.

Staff has determined that element 1 has been adequately addressed in the Hebron diversity plan and will follow-up with the Proponent on these matters by ensuring that, consistent with the Proponent's desire for continuous improvement, benchmark data respecting goals for participation levels of designated groups are reviewed on an annual basis and adjusted as necessary. Staff will also verify that annual diversity reports are submitted to the Board and made available to the public.

### **Element 2: Elimination of Employment Barriers**

*The plan should provide for a review of the operator's and main contractor's employment systems, policies and practices to identify employment barriers against persons in designated groups.*

Input was received by the Proponent from various stakeholders in identifying ways of increasing the participation of members of designated groups in the Hebron project. The Proponent indicated it will use the knowledge and expertise gained by these organizations as well as its own "policies and best practices" to ensure a culture of inclusion for the four designated groups. Equity and fairness in the selection process was determined to be very important and the Proponent indicates it will work with key stakeholders to ensure equal employment opportunities for members of designated groups. These initiatives will be monitored by staff over the life of the project to ensure that commitments are being upheld.

The Proponent listed a set of specific initiatives to ensure equal opportunity for employment. These include communication and consultation with educational institutions to help support the recruitment process as well as advertising initiatives to affirm the company's commitment to providing equal opportunities to all. Internships for students will be provided to learn about the oil and gas industry and to provide opportunities for employment upon completion of their educational programs. In conjunction, contractors working on the project are expected to ensure recruitment and selection techniques are in keeping with those of the Proponent.

Accordingly, staff has determined that the Hebron diversity plan meets the established criterion in relation to the elimination of employment barriers and will monitor, on an ongoing basis, the Proponent's application of the initiatives described in its plan.

### **Element 3: Goal Setting**

*Consistent with the Employment Equity Act, the plan should acknowledge the need to establish both short and long term goals for increasing representation of persons in designated groups.*

According to this criterion, goal setting needs to take place within specific time periods. In accordance with the *Employment Equity Act*, goals should be categorized as either short term (achievable within 3-5 years) or long term (greater than 5 years).

The plan indicates that as the project progresses, the Proponent will address new challenges and opportunities as they arise. It also states that the Proponent's approach to diversity has a long term vision and focuses on sustainability after implementation.

While the plan does not establish timelines for its goals in terms of specific calendar periods in keeping with the terms of the *Employment Equity Act*, long term strategic objectives are set-out in the plan and do provide a schedule as either "ongoing, annual or update as required". Generic timelines are provided for the implementation of the various initiatives.

Staff is satisfied that the plan meets the intent of establishing goals respecting diversity and will monitor the Proponent's accomplishments towards these goals on an ongoing basis throughout the development and production phases of the project.

### **Element 4: Accommodations for Diversity**

*The plan should describe how the design of facilities takes account of the need to accommodate persons from designated groups, and more generally, to ensure that policies and procedures accommodate persons from designated groups.*

The Proponent maintains that a work environment must support diversity. It sees diversity as a way of creating a competitive advantage as well by allowing individuals who are different from one another to achieve their potential and that this will deliver both economic and social benefits. The Proponent states it is committed to making reasonable accommodations that allow disabled individuals to carry out work functions. Job accommodations will allow disabled workers to carry out duties in an effective manner, and dedicated facilities on the Hebron platform will

ensure women have a safe and respectful work environment. The initiatives listed in Table 5.2-3 of the plan outline how accommodations will be undertaken and that additions will be made as necessary over the course of the Hebron project.

Staff is of the view that the plan adequately addresses the criterion of element 4 and that the accommodation initiatives outlined in the plan are consistent with this criterion. Nevertheless, continued focus on diversity sensitive facilities will be required as the project advances.

### **Element 5: Supportive Work Environment**

*The plan should describe how practices, policies and procedures aimed at implementing a supportive work environment that fosters diversity and inclusion (family-friendly, work/life balance, adaptive technologies for persons with disabilities, etc.) will be established both internally within the operator's organization, as well as within the main contractors' organizations.*

The Proponent indicates that through the creation and implementation of a supportive work environment, the company and its contractors will be able to retain and advance individuals of diverse groups. The Proponent notes that certain of these initiatives are already in place in respect of the construction phase for itself and its main contractors. Some of these initiatives include:

- diversity awareness training for management and employees;
- implementation of job accommodation and work/personal life balance policies;
- design of offshore accommodation facilities taking into consideration diversity sensitive issues;
- encouragement and support of employee diversity networks; and
- implementation of annual reviews to ensure diversity related policies are communicated and understood by all employees.

Table 5.2-3 (Initiatives to Foster a Supportive Work Environment) of the plan specifically addresses this element in the context of the need for policies and procedures that are aligned with a supportive work environment for members of designated groups. The Proponent has created provisions for vacation flexibility, paid and unpaid leave, child and elder care and employee assistance programs to assist employees in maintaining a work/life balance. These initiatives will also be made available to the Proponent's main contractors who will also be required to ensure a supportive work environment for designated groups.

Staff is satisfied that the plan adequately addresses this matter and will monitor the Proponent's annual diversity reports respecting its progress on these matters.

### **Element 6: Education**

*The plan should outline measures to educate and inform members of the operator's and main contractors' workforces of employment equity and diversity, and to ensure that there is a culture within the organization that is consistent with the provisions of employment equity.*

The Proponent has identified the following provisions to assist in educating and creating equal employment opportunities:

- develop and support educational programs and recruiting sources and practices that facilitate the employment of members of designated groups;
- develop and offer work arrangements that help to meet the needs of the diverse workforce in balancing work and family obligations;
- establish company training and development initiatives, policies and programs that support diversity in the workplace and enhance the representation of designated groups;
- assure a work environment free from sexual, racial or other harassment;
- make reasonable accommodations that enable qualified disabled individuals to perform the essential functions for their jobs; and
- emphasize management responsibility in these matters at every level of the organization.

To further enhance a culture of diversity, the Proponent has established a harassment policy that is discussed in section 4.3 of the diversity plan. The policy characterizes harassment as any behavior which:

- creates an intimidating, hostile or offensive work environment;
- unreasonably interferes with an individual's work performance; or
- affects an individual's employment opportunity.

The Proponent stresses that harassment of any sort, including anything considered inappropriate and unacceptable in the workplace will not be tolerated. Any employee may be disciplined up to and including termination for any behavior of a harassing nature.

These initiatives convey the Proponent's commitment to a culture that values diversity and performs its work commitments in a non-discriminatory manner. Accordingly, the Hebron diversity plan meets the criterion on educating and informing members of the operator's and main contractors' workforces of employment equity and diversity and it is imperative that the Proponent remain committed to this matter throughout the project. The Proponent indicates that these policies will be made available to all contractors involved with the Hebron project.

### **Element 7: Implementation**

*The plan should establish timelines for implementation of initiatives described in the plan.*

The specific provisions of the diversity plan in relation to this matter were previously discussed in respect of element 3.

It is also noted in the plan that diversity planning must be established early in the project to create a foundation for the duration of the project. The Proponent also notes that regular review of diversity policies and initiatives coupled with ongoing consultation will enable improvements to existing policies.

In this regard, the implementation schedules found in the plan outline initiatives already in place and ones that will begin in the next couple of years. The timeline shows when each initiative commences and if the initiative will continue over the entire life of the project. Many are categorized as “in process and ongoing”, meaning the initiative will continue over the life of the project (e.g. education and training, accommodation and accountability). Other initiatives are set to commence in 2011/2012 and are categorized as “ongoing” or to be “reviewed annually” (e.g. communication and consultation, scholarship and student support and reporting).

The Proponent also correctly identifies that senior management’s commitment to diversity is an essential aspect in implementing and ensuring the success of its diversity plan. Staff is also of the view that the hiring of a diversity coordinator as well as the creation of a diversity steering committee will help both management and other staff to view diversity as a fundamental aspect of the Proponent’s priority.

These initiatives are consistent with the objective of establishing timelines for the implementation of the diversity plan. Based on its monitoring of activities to date, staff has noted that there is a clear commitment to advancing diversity plans and initiatives in a timely manner. There is a need to ensure that the initiatives described in the plan are regularly monitored, reviewed and revised as may be required from time-to-time as “best practices” within the industry continue to evolve.

**Element 8: Participation of Companies Owned by Members of Designated Groups**

*Measures to address the participation of corporations or firms owned by designated individuals or groups to supply goods and services to the project should be covered by the plan.*

The Proponent is expected to be proactive in ensuring that companies owned by members of designated groups are aware of opportunities presented by the project.

The plan indicates that the Proponent’s procurement strategies will result in the involvement of a more diverse supplier network. It intends to execute its initiatives for supplier development in a manner that will take into account diversity considerations in the procurement of goods and services. As well, contractors will be required to develop business access strategies for diversity related suppliers. Some of the specific initiatives described in the plan include:

- identifying businesses “owned by or led by” individuals from designated groups;
- ensuring that diverse businesses are aware of procurement opportunities;
- adjusting the scope of bid packages “where appropriate and economically justified”, to remove barriers to the participation of diverse businesses in the procurement process;
- providing feedback on tenders; and

- reporting on participation rates and establishing quantitative goals.

The Proponent has also provided some specific examples of how they have supported local businesses and organizations in developing skills that support diversity. Examples such as utilizing the services of the *Hungry Heart Café* and *The Hub Printers* are ways in which the Proponent has demonstrated its desire to engage local community organizations.

The success of the Proponent in involving a more diverse supplier network for the Hebron project will be monitored by staff through the receipt of annual diversity reports to the Board. Such reports will also be made available to the public.

### **Element 9: Contractor Involvement**

*An essential element of a diversity plan is to involve contractors in the commitment of a diverse workforce. Not only must there be a commitment to diversity by the operators themselves, but they should also ensure the diversity practices are contractually passed along to contractors. An acceptable diversity plan would demonstrate contractor commitments to setting diversity targets and submitting annual reports on their accomplishments in meeting targets to the operator.*

Throughout the plan, the Proponent outlines its expectations of its contractors. Specifically, the Proponent requires that main contractors create a similar commitment to diversity as the Proponent. These contractors are expected to develop diversity plans that must be submitted and reviewed by the Proponent. It is specified that, as is the case for the Proponent's plan, key elements of diversity will be attained through employment and training, establishment of a supportive work environment, monitoring and reporting, and facilitating business access.

To aid main contractors in developing their own diversity plans, the Proponent commits to:

- holding initial meetings to introduce them to the plan, its requirements, and implementation;
- facilitating consistency in the use of baseline data and information on diversity in the general labour force;
- providing a template for and instruction regarding completion of annual diversity reporting; and
- providing guidance in the development of their plans by stipulating minimum requirements in contracts.

Contractor compliance will be facilitated by the commercial terms of the contracts. Sanctions, including contract termination could result by failure to submit an adequate diversity plan. Main contractors will be required to develop and submit diversity plans to the Proponent, including a requirement to submit periodic reports. The topsides and GBS contractors are also required to have diversity coordinators in place.

In addition to the diversity requirements for contractors mentioned above, all contracts involving work to be performed in the province will require an acknowledgement from bidders that they are aware of the Proponent's diversity plan.

While the plan adequately addresses the key element of involving contractors in the development of a diverse workforce, it will be necessary for the Proponent to follow-up on this matter to ensure that contractors *comply with*, not just acknowledge, the initiatives outlined and described in the Hebron diversity plan.

#### **Element 10: Recruitment**

*Operators should give proper consideration and assist in providing recommendations for diversity related language to be built into job postings and labor agreements to ensure that members of designated groups have access to employment opportunities. The plan should outline measures to ensure job ads reach members of designated groups. Where labour is covered by collective agreements, this aspect should also be addressed.*

The Proponent recognizes that a recruitment strategy that promotes equity and fairness is necessary to sustain employment of members of designated groups. The plan identifies several specific initiatives which include:

- advertised job postings will contain language pertaining to providing equitable treatment and opportunity to all individuals;
- job postings will be sent to various diversity related groups to ensure employment opportunities are communicated;
- interviewers will be trained to avoid any actual or perceived bias in the decision making process by ensuring candidates will not be asked to self-identify designated group status during the recruitment process; and
- qualified candidates will be selected based on bona fide occupational requirements and consistently applied methodologies.

The Proponent's contractors also are expected to ensure that recruitment and selection processes are aligned with those of the Proponent. As well, the Proponent intends to consult with contractors respecting their own initiatives and adopt the "best practices" into their own recruitment and selection process.

The plan indicates that the Proponent and its contractors will place special emphasis on the hiring and retention of persons from designated groups and that the process will be continually monitored and reviewed throughout the life of the project to ensure a highly diverse workforce is achieved.

The Proponent also notes its past success in the hiring of female co-op students (40% in the past two and one-half years) and indicates there will be opportunities for internships and summer employment opportunities.

Staff notes the success of women in gaining employment for co-op positions, and views these short-term positions as an area of opportunity for other members of designated groups. Staff further notes the absence of specific initiatives by the Proponent and its contractors in this area and, accordingly, will follow-up with the Proponent to ensure that additional co-op, intern or



summer employment positions are created and targeted to be filled by qualified members of aboriginal groups, persons with disabilities and members of visible minorities.

Staff believes this initiative will give individuals relevant experience in the oil and gas industry, and the opportunity to compete for long-term employment upon graduation from post-secondary institutions in the same way that other cooperative educational programs in the Province have been successful. Any such initiative could also qualify as an eligible education and training expenditure under the Board's guidelines.

### **Element 11: Public Information Initiatives**

*The plan should describe public information initiatives to be undertaken in partnership with community stakeholders to familiarize members of designated groups with the project and the types of employment, training and contracting opportunities associated with it.*

The Proponent acknowledges the need to develop partnerships to identify measures that may lead to the successful recruitment of members of designated groups and the importance of communicating the employment, training, and contracting opportunities associated with the project to members of designated groups. Specifically, the Proponent plans to:

- build relationships with educational institutions with key programs that may support recruitment needs;
- collaborate with key associations or organizations to attract qualified candidates representing designated groups;
- select associations/organizations and special interest groups to be notified directly regarding recruitment advertising to ensure advertising reaches target audience; and
- provide co-op, internships and summer employment assignments for professional, technical and trades positions, with an early offer process available for successful candidates interested in career employment.

Based on the initiatives described in the plan, as well as the plans processes and policies in place by the Proponent for the project as a whole as well as the GBS and topsides contractors for the development phase, staff is of the view that its public information initiatives are consistent with the criterion described in element 11.

### **Element 12: Gender Equity Strategies**

*The plan should describe strategies respecting initiatives to achieve gender equity. Practical examples may include increasing women's representation through mentoring, special assignments and management training.*

The Proponent addresses gender equity and diversity issues in the plan through the following objectives:

- aligning the diversity plan with the project's development plan as well as with the benefits plan with respect to timelines, approach, principles, and procedures, including employment, training and procurement;
- aligning the plan with existing policies, specifically valuing diversity statement, equal employment opportunity policy and harassment policy;
- building on company practices that have resulted in successful diversity initiatives in other locations;
- focusing on sustainability; and
- further developing the labour force of the Province.

The success of the Proponent's objectives respecting gender equity will be determined in due course. This will form a key aspect of staff's monitoring of the diversity plan particularly with respect to monitoring the employment levels of women by occupational category throughout the development and production phases.

### **Element 13: Outreach Initiatives**

*The plan should outline specific outreach initiatives aimed to build relationships with community groups. The plan should describe how partnering with local community organizations which represent members of designated groups to raise awareness of employment and business opportunities will be achieved.*

The diversity plan describes in some detail the Proponent's efforts to consult with the local community and indicates that feedback from these consultations confirmed the need to attract women to skilled trades, develop apprenticeship programs and to develop a diversity culture.

The Proponent acknowledges that developing strategies to build relationships within the community is of importance and states that . . . *one of the ways to measure success is by evaluating how well it contributes to strengthening communities where its employees live and work.* The Proponent's involvement in community organizations includes the Techsploration program which encourages young women to consider occupations in technical fields as well as the Junior Achievement's *Economics of Staying in School* program that targets grade 9 students.

Other aspects respecting the Proponent's outreach initiatives have previously been discussed in element 11. Staff is of the view that the Hebron diversity plan adequately addresses this important matter.

### **Element 14: Liaise with Educational Institutions**

*The plan should describe how partnering with local training institutions to promote education and employment opportunities to members of designated groups will be achieved.*

The Hebron diversity plan outlines several specific initiatives that the Proponent and its contractors will invest in with respect to partnerships, post-secondary education support and

scholarships. The Proponent indicates that several educational programs will be aimed at designated groups in order to enhance their understanding of and participation in the oil and gas industry. The Proponent believes the result will be access to the best talent respecting recruitment and supplier development. Some of the more notable initiatives include:

- promotion of careers in oil and gas to junior high, high school and various interest groups;
- provision of scholarships and support to post-secondary institutions for diversity related programs;
- partnership with diversity related organizations that encourage an interest in math, science, technology and engineering;
- support to programs such as Techsploration and Junior Achievement; and
- consideration of research projects with respect to diversity.

With respect to the latter initiative, staff will continue to encourage the Proponent to engage diversity stakeholder groups to identify specific research opportunities. Such initiatives would be credited towards the Proponent's legislated expenditure obligations if it meets the eligibility criteria of the Board's guidelines.

### Conclusions

Staff has concluded that the Hebron diversity plan, including the business access strategy, is consistent with the legislation and the Board's guidelines. Five matters have been identified for follow-up with the Proponent:

- additional co-op, intern and summer employment positions should be created and targeted to be filled by qualified members of aboriginal groups, persons with disabilities or members of visible minorities;
- a program needs to be instituted in support of increasing female apprentices in skilled trades during the development phase;
- consistent with the Proponent's desire for continuous improvement, benchmark data respecting goals for participation levels of designated groups should be reviewed on an annual basis and adjusted as necessary;
- ensuring that contractors *comply with*, not just acknowledge, the initiatives outlined and described in the diversity plan; and
- annual diversity reports are to be submitted to the Board and made available to the public.

**APPENDIX 4**

**ASSESSMENT OF SOCIO-ECONOMIC IMPACT STATEMENT**

## Assessment of Socio-economic Impact Statement

This appendix provides a synopsis and an assessment of the Proponent's socio-economic impact statement and also takes into account the findings and recommendations arising from the Hebron public review commission.

### 1.0 Background

The requirement for a socio-economic impact statement (SEIS) is specified by the legislation in the context of a public review of a proposed development. The Board's benefits plan guidelines indicate the need for the SEIS to describe how the development and operational phases of the project will contribute to the sustainable development of the Province. Guidance with respect to the contents of the document is provided in the Board's development plan guidelines.

The purpose of the SEIS is to provide the Proponent's analysis of the effects the proposed project is anticipated to have on a variety of social, demographic and labour market factors, as well as on public infrastructure and other land and resource uses. Further, the SEIS should provide a thorough assessment of sustainable development. Sustainable development is defined in the Board's guidelines as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs." The Proponent is expected to describe its corporate commitment and approach to sustainable development, and to prepare a framework to address how it intends to improve the community and maintain a safe and healthy environment, together with a set of business practices and policies that will contribute to sustainability in the long-term. The description should also include the identification of stakeholders, their needs and how those needs can be addressed.

### 2.0 Proponent's SEIS

The SEIS is comprised of seven main sections:

1. Assessment Scope and Methodology
2. Economic and Demographic Context
3. Business and Employment
4. Community Social Infrastructure and Services
5. Community Physical Infrastructure and Services
6. Sustainable Development
7. Conclusions and Commitments

A summary of each of the sections is provided below.

#### Assessment Scope and Methodology

The Hebron project area is located in the Jeanne d'Arc Basin, some 340 km east of St. John's in 88-102m of water. The project consists of three discovered fields – Hebron, West Ben Nevis and Ben Nevis – and will be developed using a Gravity Base Structure (GBS) and associated topsides

and an Offshore Loading System (OLS). Crude oil produced from the GBS will be offloaded to tankers for transportation to market.

The Hebron project is expected to have a duration of more than 30 years and the SEIS covers this period of time. Areas selected for detailed assessment for the development phase scope of the project were those areas which historically have been involved in past oil and gas projects. These are the St. John's area, Isthmus of the Avalon (i.e. Bull Arm and the Transshipment Terminal) and the Marystown area (i.e. Cow Head facility).

Subsections 2.2.6 and 2.2.7 discuss relevant material and the findings from past projects. The author explains how SEIS concerns raised in earlier projects evolved to a more focused approach, which identified a smaller number of locally valued environmental components (VECs) for subsequent projects. A review of these projects by the author concludes that the socio-economic effects are almost entirely positive. Examples are cited for the Terra Nova, White Rose and North Amethyst projects.

Subsection 2.2.8 explains in detail the issues scoping process which focused on issues identified by the public, technical expertise and regulatory agencies. The process included reviewing relevant legislation, previous SEIS documents, stakeholder sessions, public consultations etc. As a result of the review, the Proponent was able to identify the VECs for the Hebron SEIS.

Sections 2.2.9 and 2.2.10 describe the various stakeholder consultations and public consultations in detail. The Proponent notes that many socio-economic comments received were related to employment and business issues, which are addressed in the Hebron benefits plan. Socio-economic VECs identified in Section 2.2.11 as a result of the consultation process are:

1. Employment and business;
2. Community social infrastructure and services (health, education, social services and policing); and
3. Community physical infrastructure and services (air, highway and port, and commercial and industrial land).

The remaining sections describe for each of the VECs five main elements:

1. Existing socio-economic conditions;
2. Potential socio-economic interactions due to project related activities and cumulative effects;
3. Resulting socio-economic effects (negative or positive), including identification of measures to mitigate effects;
4. Residual socio-economic effects that remain following measures to mitigate the effects; and
5. Monitoring and follow-up for each VEC, where important/sensitive are identified, significant adverse effects are identified etc.

## **Economic and Demographic Context**

This section provides a general economic and demographic overview of the Province, as well as the St. John's area, the Isthmus and Marystown from 1991 onwards. Provincially, positive effects of the oil and gas industry are described in terms of employment, expenditures, production and increase in GDP – and are described in relation to fluctuations in other industries such as the fishery, forest and mineral sectors. Similarly, for the St. John's area, the Isthmus and Marystown, an overview is provided of the economy and population.

## **Business and Employment**

This section provides an overview of the effects of the project on business and employment, using the assessment approach described earlier – from existing socio-economic conditions to monitoring and follow-up.

Overall, the report indicates that the Hebron project will have a range of effects (mostly positive) on business and employment in the Province and Canada throughout the life of the project. In addition there will be cumulative effects due to other industrial projects such as the Lower Churchill project, the Vale nickel processing plant, possible Come by Chance refinery expansion and the Hibernia southern extension project.

Labour demand for Hebron during the development phase will be high, peaking at 3,000 in 2014. It is noted that the involvement of residents of the Province and other Canadians may be constrained due to an aging work force and competition for labour from other projects. However, overall the project will bring substantial benefits to the Province and the rest of Canada in terms of capital spending, employment and training, procurement of goods and services, increases in industrial infrastructure, royalties and taxes and spin-off effects.

A summary of the residual socio-economic effects can be found in the report in Table 4.5-1. In summary, project activities will result in business activity and new employment, meaning positive outcomes for the economy.

Cumulative effects are summarized in the report in Table 4.5-2 with no significant adverse effects predicted.

## **Community Social Infrastructure and Services**

This section describes potential effects of the project on community social infrastructure and services, including education, health, security (policing and fire protection) and recreation. According to the authors, projects to date have not had any significant effects on social infrastructure and services.

### ***Education and Training***

The report states that direct effects on education and training will primarily be at the post-secondary level. As discussed earlier, while there is a substantially trained labour pool, there may be some shortages at peak labour demands in some areas.

Strategies to meet labour demands provincially will be to continue to train new entrants to the industry and upgrade existing workers through programs delivered primarily by the Province's major educational institutions. The report indicates that training demands for other offshore projects were accommodated within the provincial institutions. Cumulative effects with other offshore projects as well as the Lower Churchill and the Vale nickel processing plant are assessed and the report indicates that "no problems are anticipated to arise from the Project itself, or from cumulative activity, to which provincial post-secondary institutions could not respond."

For the St. John's area specifically, the report indicates that local institutions in the past have responded to the industry's education and training needs, resulting in expansions to infrastructure and capabilities in post-secondary institutions. The author concludes that "experience to date with previous offshore projects suggests that Hebron should not pose any difficulties for the delivery of appropriate programs".

For the Isthmus area it is suggested that, with advance notice from the Proponent in respect to labour force demands, labour sourcing and accommodation arrangements, local education and training authorities should be able to plan to meet any short-term demands on education or training services that might arise. Likewise, for the Marystown area, the existing education and training infrastructure is expected to accommodate project demands.

A summary of the residual socio-economic effects can be found in the report in Table 5.2-2. The report concludes that there will not be significant adverse effects on education and that existing training institutions can provide much of the required training.

### ***Health and Community Services and Infrastructure***

This section reviews existing health service infrastructure, health care spending, numbers of beds, numbers of physicians and nurses on a provincial basis and in the specific focus areas identified earlier.

With respect to socio-economic effects, the study notes that there was no evidence that past oil and gas projects resulted in new demands for health care services in St. John's. It is concluded that Hebron will have "only small, incremental effects" on the demand for health services in St. John's.

For the Isthmus area, the Bull Arm site in the past has provided its own medical services, and for Hebron, these services will be provided again. Similarly, for Marystown there is not expected to be significant demands on the health care system.



A summary of the residual socio-economic effects can be found in the report in Table 5.3-2 and are expected to be minimal.

***Security and Safety: Policing and Fire Protection***

This section reviews existing police and fire protection officers in the effected areas. The report notes that in general, previous concerns about a rise in crime due to past oil and gas projects were not realized.

For the Isthmus area, for Hibernia there was some increase in “property crime, personal offenses and impaired driving”, but according to the authors, police were able to manage the increases. For subsequent projects, the RCMP reported that there were no significant effects on crime or policing, and they believe that Hebron is not expected to have different effects. Even if there are, the RCMP will be able to request additional resources if necessary. Likewise, past projects have not had any effects on local fire services, as the Bull Arm site will have firefighting services. The report contains similar discussions for St. John’s and Marystown.

***Recreation Services and Facilities***

This section reviews recreation services and facilities in the affected areas. It is noted that there may be some in-migration due to Hebron in the St. John’s area, and increased demand for recreation services. However, the effects are expected to be small. For the other effected areas as well, the Hebron project is not expected to have significant effects on recreation.

***Community Physical Infrastructure and Services***

This section reviews the effects of Hebron on housing, industrial and commercial land, warehousing and office space, ports and airports.

There is a detailed discussion on housing and the reader is referred to section 6.1 for further detail. In general, the study notes that housing starts in the province have increased in recent years (18% increase from 2009 to 2010), as well as housing prices (33% increase from 2007 to 2009) and rental rates. The study also acknowledges the role of the oil and gas industry, other industries, high market demand, and low interest rates as some of the factors affecting the housing sector.

As an example, the CMHC indicates the increase in housing prices in St. John’s since 2008 have been partially related to the oil and gas industry and “anticipation” with respect to Hebron. In terms of interactions between Hebron and the housing market, the study acknowledges the likelihood for increased demand for housing. In St. John’s, the study indicates housing prices will likely increase due to Hebron and other industrial growth. For the isthmus area, accommodation camps will be constructed for the Vale processing plant and the Bull Arm site, thus alleviating the demand for housing. For Marystown, the study notes there were housing problems during White Rose construction, resulting in high demands for rental units which caused high increases in rental rates. These problems were subsequently alleviated by the

construction of a new hotel, basement renovations etc. The study concludes that lessons learned such as ongoing dialogue between the Town of Marystown and NLHC, and housing vacancies due to out-migration will result in "...short-term Project effects...No cumulative effects are anticipated."

This section concludes with the following statements:

- No significant effects on housing are expected as a result of the project. The market is believed to be capable of responding to demand as it has in the past.
- Not all individuals will benefit from economic growth associated with the project. First-home buyers and those on low and fixed incomes may find that the cumulative effects of general economic growth and demographic and consumer demand changes will adversely affect them if housing prices and rental accommodation costs increase. This is an indirect effect over which the Proponent has little influence. Overall, however, project residual effects are considered to be primarily positive and not significantly adverse.

With respect to ports and airports in St. John's (the main focus area), there has been a significant increase in infrastructure over the last number of years e.g. A. Harvey, Bay Bulls, Cougar infrastructure expansion, St. John's airport expansion. Accordingly, effects of Hebron are expected to be significant and positive with increased revenues generated from these facilities.

With respect to industrial and commercial land, warehousing and office space, generally there is sufficient capacity to meet project demands. It is noted that Class A office space may be limited (0.8% vacancy rate) in downtown St. John's. Overall, potential effects of Hebron on industrial and commercial lands, warehousing, and office space are likely to be positive (increased employment and revenues).

As to monitoring and follow-up, the study notes monitoring of demand for housing support is the role of the Department of Human Resources and Employment.

### **Sustainable Development**

In this section the Proponent explains its approach to sustainable development by indicating that its corporate commitment is based on its policy of environmental responsibility. The Proponent plans to meet this commitment by balancing environmental and economic needs. Some of the actions to ensure the project is undertaken in an environmentally responsible way include:

- demonstrating management commitment and leadership;
- undertaking an environmental assessment, a socioeconomic assessment, and a comprehensive study report;
- implementing an operations integrity management system (OIMS), a system to monitor environmental, socioeconomic and health aspects for the project; and
- consulting with stakeholders.

The Proponent goes on to describe in detail key regulatory requirements to be met to address sustainable development including areas such as an environmental management plan, fish habitat compensation, spill prevention and response preparedness, waste management and others. On the social and economic benefits side, the Proponent reviewed benefits to the province from Hebron and past projects, concluding these projects have contributed in a positive way to the province. Revenues, employment, diversity, research and development, education and training, business development, health and safety and consultation with stakeholders is discussed in explaining how these areas provide lasting contributions to the province.

### **3.0 Synopsis of Public Review Commission Report on SEIS/Sustainability**

During the public review sessions, the Commissioner met with a number of interest groups and individuals who presented on a number of SEIS related topics. These topics, as quoted from the Commissioner's report, include:

- *The need for improved information exchange between industry and community;*
- *The requirements for upgrades to physical and social infrastructure;*
- *The need for timely municipal planning, and easing of housing pressures;*
- *The need to improve people through education and accreditation of apprentices;*
- *The enabling of workforce diversification;*
- *The need to maintain a safe and healthy environment, including mitigation of any cumulative effects of oil and gas development to the fishery;*
- *The need for original socio-economic research;*
- *The lack of a definition of sustainability; and*
- *The requirement of a legacy from oil and gas development and need for socially responsible corporations.*

As well, there are a number of main findings expressed in the Commissioner's Report. First, with respect to the overall effects of Hebron on communities, the views of the Commission and Proponent differ substantially. The Proponent indicates that "projects to date have not had any significant effects on community infrastructure and services". However, the findings of the Commissioner are that there will be significant positive and negative impacts from the Hebron project. The Commissioner attributes the Proponent's conclusions to the use of historical data from earlier studies, which does not reflect today's socio-economic environment. As a result, the Commissioner has recommended that further work should be conducted to update the Proponent's SEIS document. Specific impacts areas identified include labour availability, community infrastructure and availability of local housing.

The Commissioner's report also discusses the obligations of the Proponent and others with respect to impacts such as lack of housing and labour shortages, stating it is "ultimately government's responsibility" to provide assistance for social and physical infrastructure, while project related issues such as shortages in skilled labour bear some responsibility from the

Proponent. The Commissioner also notes the importance of the timely release of information to governments to allow appropriate planning for projects such as Hebron.

Other issues identified by the Commissioner include C-NLOPB upgrading its expertise to better review socio-economic impacts; employment issues such as opportunities for rural NL, participation by diverse groups, lack of qualified instructors, attraction of youth to skilled trades; lack of childcare infrastructure; needs of communities within the vicinity of fabrication sites at Bull Arm and Marystown; and additional SEIS and sustainability related research.

During the public review sessions, a number of individuals and organizations gave presentations related to various socio-economic and sustainability issues, as mentioned in the Commissioner's report. A summary of each organization mentioned in the Commissioner's Report and the specific area(s) of discussion are as follows:

- Women in Resource Development (diversity)
- Eastern Suppliers Development Association (supplier development, labour)
- Canadian Manufacturers and Exporters Association (supplier development, labour, research)
- Provincial Advisory Council for the Status of Women (diversity, education)
- College of the North Atlantic (education)
- Office to Advance Women Apprentices (labour, diversity, childcare)
- Isthmus Research Project (local community impacts)
- Mayor of Clarenville (local community impacts)
- Mayor of Sunnyside (local community impacts)
- Mayor of St. John's (city of St. John's impacts)
- Resource Development Council (labour)
- NL Organization of Women Entrepreneurs (supplier development, diversity)
- Family Resource Centre, Clarenville (housing)
- Ocean Engineering Research Centre, MUN (work terms, R&D)
- Federation of Labour (labour, education and training)
- New Democratic Party (research on offshore rotations)
- NL Environmental Industry Association (sustainability, environment)
- Dr. Ian Goudie (environment, sustainability)
- Earle McCurdy, FFAW (environment, fishery)

The Commission made a total of 12 recommendations related to socio-economic impacts and sustainable development. A response to each of the Commission's recommendations is provided in Appendix 5.

The recommendations directed explicitly at the Proponent in relation to its Hebron project may be summarized as follows:

- The SEIS and Sustainable Development Report should be revised to resolve issues related to currency/accuracy of data and resulting findings;
- The Proponent should work with the provincial government to assist funding of childcare facilities in Clarenville;
- The Proponent should communicate workforce requirements to the provincial government and municipal governments in the Isthmus area to help plan for the inflationary effects on housing; and
- Socio-economic research in areas such as offshore rotations, labour market issues, diversity, cumulative effects of oil and gas on the Province, and cumulative effects of oil and gas on the fisheries should be considered by the Proponent and others for funding.

#### **4.0 Staff's Assessment**

It appears evident that a number of socio-economic issues and concerns were brought forward to the Commission during the public hearings that had not previously been identified to the Proponent during its consultation sessions leading up to the preparation of its SEIS. The Proponent's overall assessment that there will be no significant adverse impacts from the project is clearly at odds with that of the presenters to the Commission. The possible reasons for this are best left to the Proponent to address and staff will follow-up on this matter in the context of the recommendations related to the SEIS.

In the meantime, staff also acknowledges the Commission's distinction between the fact that, while the issues and concerns raised during the public hearings may not be exclusively attributable to the Hebron project, there is, nonetheless, an onus on any Proponent of a development project to provide its analysis of the socio-economic effects of the proposed project. In other words, while the Proponent may not be expected to solve all socio-economic impact issues, it must conduct the analysis in a manner that delineates the issues and concerns and takes the necessary measures that are within its control to address the concerns.

For any matters that are within the purview of the Proponent, staff will request the Proponent to provide its response. These include matters addressed by the Commission's recommendations 7.1 and 7.4 (update SEIS), 7.5 (childcare initiative), 7.6 (foster partnerships), 7.11 (SEIS research) and 7.12 (cumulative effects on fish stocks). The Proponent's response to these matters will be posted on the Board's website together with any revisions, amendments or supplements to the SEIS as may be necessary.

In addition, the Proponent will be encouraged to review the research topics and projects listed in recommendation 7.10 and to submit any proposed expenditures in connection with these matters to the Board for assessment against the eligibility criteria of the research and development guidelines.

**APPENDIX 5**

**RESPONSE TO PUBLIC REVIEW RECOMMENDATIONS**

## Response to Public Review Recommendations

This appendix provides a response to the 31 recommendations made by the Hebron Public Review Commission related to industrial benefits and socio-economic impact matters.

### **Recommendation 3.9**

*As a condition to the fundamental decision, the C-NLOPB should require the Proponent to provide assurance that topsides structures and modules, as defined and referenced in the BA, are substantially fabricated in the province.*

**Response:** The Hebron Benefits Agreement (the agreement) is between the Government of Newfoundland and Labrador (the Province) and the Hebron project proponents. The Board is not a party to this agreement; however, it agreed to monitor the agreement as requested by the Province's Minister of Natural Resources.

If any areas of non-conformance are identified, the Board's role is to notify the Province who is responsible for resolving the matter in accordance with the provisions of the agreement.

Staff will continue to monitor the provisions of the agreement in accordance with the established roles and responsibilities of the Board and the Province. Staff will also continue to monitor the Proponent's procurement, contracting, and employment plans and those of its contractors and sub-contractors as it relates to the full and fair opportunity, first consideration and employment provisions of the legislation.

### **Recommendation 6.1**

*The Commissioner recommends that the C-NLOPB, in consultation with the local supply community and labour, further refine the reporting process to facilitate direct evaluation of benefits performance against benchmarks established in the Benefits Agreement and in the updated Benefits Plan.*

**Response:** As noted by the Commission, the Board's recent initiative to make quarterly and annual benefits reports available to the public addresses this matter to a certain degree. Section 6.2 of the Commission's report also identifies certain opportunities for further improvement to the Board's reporting template. These opportunities will be reviewed by staff and, if necessary a revised template will be issued.

Staff also notes that:

- Section 2.0 of the Board's public reporting template indicates that, among other things, benefits accomplishments should be highlighted in terms of goals and objectives identified in the approved benefits plan; achievements from the application of the principles of the approved benefits plan; and any initiatives that have the potential for realizing further improvements in industrial benefits.

- Section 4.0 of the reporting template indicates that, in addition to providing the Canadian and NL content estimates for the quarter, the year to date and for the project cumulative, the section should include any achievements in terms of increasing NL or other Canadian content; or an explanation of any quarterly change greater than +/- 5% in NL or other Canadian content.

These particular matters will be monitored by staff as the public reporting process is implemented with a view to identifying any opportunities to further refine the reporting process to facilitate the public's interest in industrial benefits performance.

With respect to the reference to benefits performance against benchmarks established in the Province's benefits agreement, this is within the purview of the Province to address.

### **Recommendation 6.2**

*As a condition of the approval of the Benefits Plan, the Commissioner recommends that the Proponent amend the Benefits Plan to address the following deficiencies in accordance with the requirements in the current Benefits Plan Guidelines and the Acts:*

- *measures for first consideration for employment of local people, and include specific training measures and an associated budget;*
- *assurance that the UPM engineering design team has NL representation, including a provision for technology transfer, particularly for commissioning and long term support;*
- *more explicit description of the policies, procedures and methods that will be adopted to satisfy the first consideration principles of the Act and guidelines;*
- *provision to the C-NLOPB the planned labour forecast by project phase, by skilled trade, and make of this information available to key stakeholders including provincial Government, labour and industry;*
- *inclusion of gender equity provisions in calls for bids and criteria for evaluation;*
- *demonstration of a "positive trend of continuous improvement" in the level of local employment and participation in the supply of goods and services when measured against benchmarks and achievements established by projects of similar scope;*
- *demonstration of the extent to, and manner in which the Hebron Project creates a lasting economic legacy for the people of the province, and more particularly, that the development of human resources and intellectual capital within the province as a cornerstone of sustainability be more fully addressed; and*
- *satisfactory notification of the Proponent's acceptance of the formula for calculating required R&D expenditures as prescribed by the Guidelines for Research & Development Expenditures per Appendix II of the Benefit Plan Guidelines.*

**Response:** As part of its completeness review, staff identified the fact that the Proponent's benefits plan was not as detailed and specific as possible in a number of areas and requested the Proponent to address a total of 31 specific gaps. While the Proponent addressed each to varying degrees, it was noted that additional information would be provided by the Proponent in due course. These were primarily in relation to the need to complete the front end engineering



design in order to more definitely identify labour requirements as well as the need to provide more detailed information on goods and services as well as contracting and procurement opportunities throughout the project as additional information became available. Staff accepted the Proponent's response as adequate for the purpose of progressing its review of the merits of the plan and determined that any outstanding matters would be dealt with in the staff analysis and subsequent recommendations to the Board.

The Commission itself also identified a number of gaps based on input solicited early in the public review process. The Proponent responded to these matters as well, again to varying degrees, which the Commission has subsequently commented on throughout its final report.

Each of the specific items identified in recommendation 6.2 is discussed below, together with staff's response respecting the way forward.

- *measures for first consideration for employment of local people, and include specific training measures and an associated budget;*

In preparing its analysis of the adequacy of the Proponent's benefits plan, staff recommended that any approval be conditional upon the Proponent providing a plan to mitigate the projected labour shortage. Condition 1(b) of the Board's approval of the benefits plan addresses this matter.

- *assurance that the UPM engineering design team has NL representation, including a provision for technology transfer, particularly for commissioning and long term support;*

This aspect is included in the Hebron benefits monitoring and reporting plan for follow-up with the Proponent (see Appendix 2).

- *more explicit description of the policies, procedures and methods that will be adopted to satisfy the first consideration principles of the Act and guidelines;*

The adequacy of the Proponent's response to staff's request for clarification of this matter during its review of the benefits plan is discussed in detail in section 3.4 of the staff analysis. Staff concluded that there is a need to continue to closely monitor this matter both as part of the contract designation process and by requiring the Proponent to institute a project wide system to capture and report first consideration successes. Both aspects will form a key part of the Hebron monitoring and reporting plan. Furthermore, the Board's public reporting template identifies the need to report examples of first consideration in Proponents' annual public benefits reports.

- *provision to the C-NLOPB the planned labour forecast by project phase, by skilled trade, and make of this information available to key stakeholders including provincial Government, labour and industry;*

Staff identified the need to follow-up with the Proponent on this matter both at the conclusion of the completeness process and again as part of its analysis of the merits and adequacy of the benefits plan. The need to provide this information in as timely a manner as possible is addressed by Condition 1(a) of the Board's approval of the benefits plan.

- *inclusion of gender equity provisions in calls for bids and criteria for evaluation;*

Staff will follow-up with the Proponent to ensure this is addressed.

- *demonstration of a "positive trend of continuous improvement" in the level of local employment and participation in the supply of goods and services when measured against benchmarks and achievements established by projects of similar scope;*

This aspect is consistent with the Board's guidelines which confirm the need for benefits achievements to be monitored and measured and which outline the Board's expectation that these measurements will show an increasingly positive trend of continuous improvement as the industry and the local supply community continues to evolve and mature. The Board's guidelines go on to say that any slippage or deterioration in these measurements from benchmarks and achievements established by previous projects of similar scope, or similar concepts and technologies will require significant explanatory documentation.

To this end, staff has identified as part of its analysis of the benefits plan the need for a robust monitoring and reporting plan that maintains oversight of the Proponent to ensure that the Proponent remains responsive to the provisions of its benefits plan for the life of the project. This framework includes the need for the public dissemination of benefits reports by the operator as well as the need to measure and report on benefits, both to the Board and to the public.

This reporting process explicitly requires the Proponent to provide, six months prior to the expiry of each operations authorization, a report to the Board respecting an assessment of the results of the application of the benefits plan during the term of the authorization and the potential for realizing further improvements. Such reports will be assessed by staff in the context of its recommendations to the Board respecting any renewal of an operations authorization.

- *demonstration of the extent to, and manner in which the Hebron Project creates a lasting economic legacy for the people of the province, and more particularly, that the development of human resources and intellectual capital within the province as a cornerstone of sustainability be more fully addressed; and*

This issue was identified as a gap during staff's completeness review (see item 2 of the C-NLOPB's correspondence to the Proponent dated June 30, 2011). The Proponent responded to this matter by indicating that it is committed to this principle and described its desire for a step change in safety; more collaborative stakeholder consultation; and, building diversity as goals that would see the Hebron project leave a legacy over and above that achieved by previous

projects. Any achievements towards these goals can be measured and reported in due course in the context of the annual benefits reports to the Board as well as the annual public benefits reports.

- *satisfactory notification of the Proponent's acceptance of the formula for calculating required R&D expenditures as prescribed by the Guidelines for Research & Development Expenditures per Appendix II of the Benefit Plan Guidelines.*

The Board has clearly identified to the Proponent the fact that its *Guidelines for Research and Development Expenditures* will be applied to the Hebron project and that there is no need for any harmonization effort between the legislation and the contractual arrangements of the Province's benefits agreement.

Furthermore, consistent with the Court's decision on the validity of the Board's guidelines, staff will ensure that any Operations Authorization issued in respect of the Hebron project includes the following condition so as to link the guidelines to the authorization for compliance and enforcement purposes.

The Operator shall comply with the *Guidelines for Research and Development Expenditures* as issued by the Board November 5, 2004 and with effect from April 1, 2004.

### **Recommendation 6.3**

*The Commissioner recommends that, on a priority basis, the C-NLOPB issue new guidelines for a standardized and timely publication of expressions of interest (EOIs), pre-qualification results, and tender awards for the development phase of the project, as is done in other jurisdictions. It is critical that such notices are widely and freely distributed, that a full record of such notices is maintained and made accessible to the public, and that the timeframe for response recognizes the limited resources of local companies.*

**Response:** The need for accurate and timely flow of information to the service and supply community is a key aspect of the full and fair and first consideration provisions of the legislation. While this matter is already addressed at a high level in the Board's guidelines, staff will assess the need to provide more detailed guidance on this matter as recommended by the Commission.

In the meantime, in preparing its analysis of the Hebron benefits plan, staff has already identified the need for the Proponent to make improvements respecting the provision of detailed information to the service and supply sector and this matter has been addressed by Condition 2 of the Board's approval of the benefits plan.

### **Recommendation 6.4**

*The Commissioner recommends that the Proponent undertake a vigorous review of pending contract notices to ensure that, where the capacity of local industry permits, bid packages are scaled to suit that capacity. It is recommended that the C-NLOPB work closely with the relevant government departments and with industry groups such as NOIA and ESDA to ensure that local*

*companies are not unreasonably denied an opportunity to bid as a result of unnecessary agglomeration of procurement needs.*

**Response:** The Board expects Proponents to take a pro-active approach in ensuring that its procurement packages, specifications and procedures are developed to enable the participation of Canadian companies, with first consideration to the participation of companies in the Province. This includes such matters as the contracting strategy, sizing of contracts and procurement packages, bid specifications and any other aspects that could positively affect greater participation by firms in the Province and other parts of Canada.

While the high level policies, procedures, commitments and undertakings described throughout the Proponent's benefits plan are aligned with these objectives, the Board has imposed a condition on its approval of the benefits plan to require the Proponent to explicitly address this matter (see Condition 3).

Staff will monitor the effectiveness of the Proponent's implementation of this condition and will continue to work closely with the relevant government departments and with the local industry to ensure companies are not denied an opportunity to bid.

#### **Recommendation 6.5**

*The Commissioner recommends that, consistent with the guidelines relating to scalability, the C-NLOPB review the Proponent's worldwide standard for bid bonding to determine the degree, if any, to which it unreasonably constrains full opportunity to participate by local suppliers.*

**Response:** Bid bonding as a means of performance guarantee is not an unexpected requirement for prospective contractors, sub-contractors and suppliers. However, any requirements over and above the norm of other projects in the Newfoundland and Labrador offshore area that result in the inability of companies to participate in the project is an issue in the context of providing full and fair opportunity.

Accordingly, staff will investigate this matter with a view to comparing the requirements of the Hebron project against that of other projects. To facilitate this review, the Proponent will be expected to present the details of its terms and conditions related to financial guarantees, including details of the instruments that are required to be provided. Staff will review this information with a view to determining whether there are constraints on the participation of local suppliers.

#### **Recommendation 6.6**

*The Commissioner recommends that the C-NLOPB undertake a review of Section 45 of the Act to evaluate the statutory capacity for more explicit and exacting policies and guidelines in relation to Canadian and local preference in support of the C-NLOPB's responsibilities for monitoring, reporting and providing opportunity with regards to:*

- *provisions of 45(3)(d) relating to 'fair market price' as a measure of competitiveness permits a more demanding standard than that of lowest price;*
- *provisions of 45(3)(b) & (d) relating to 'first consideration' can be assigned a value and significance beyond the standard of duty implied by current C-NLOPB policies and guidelines; and*
- *'first consideration' can be understood in Section 45(3)(b) & (d) as also applying to project elements undertaken outside of the province.*

**Response:** As noted in the staff analysis, despite the guidelines already in place by the Board, it was necessary to obtain clarification from the Proponent and provide clarification to the Proponent with respect to the first consideration requirements of the legislation. Staff concluded that there is a need to continue to monitor this matter both as part of the contract designation process and by requiring the Proponent to institute a project wide system to capture and report first consideration successes. Both aspects will form a key part of the Hebron monitoring and reporting framework.

In the coming months, staff will evaluate the need to issue additional guidance on this matter.

#### **Recommendation 6.7**

*As a condition of the fundamental decision, the Commissioner recommends that the Proponent provide to the C-NLOPB the study by Strategic Concepts Inc., entitled “Effective Labour Capacity Analysis for the Hebron Project, 2010”, for review.*

**Response:** In April 2012, this study was provided to the C-NLOPB on a privileged basis pursuant to section 119 of the legislation.

#### **Recommendation 6.8**

*The Commissioner recommends that the Proponent hold strategic planning meetings with stakeholders to address the skilled labour shortfalls.*

**Response:** See Condition 1(b) of the Board’s approval of the benefits plan.

#### **Recommendation 6.9**

*The Commissioner recommends that the provincial government pursue the creation of a Ministerial Committee comprised of representatives of industry, labour, education and government, the mandate of which would be to facilitate cooperation across public, institutional and private sector lines as a means of enhancing local readiness for, and access to industrial and employment opportunities from the Hebron project and other major developments.*

#### **Recommendation 6.10**

*The Commissioner recommends that the proposed Ministerial Committee comprised of labour, industry, education and government, conduct an objective and public assessment of the requirements for each skilled trade and associated accreditation processes.*

**Response:** The Board has no comments on recommendations 6.9 and 6.10 as these matters are directed toward the Government of Newfoundland and Labrador.

**Recommendation 6.11**

*The Commissioner recommends that the C-NLOPB conduct an annual public meeting for the purpose of presenting and reviewing information relation to local benefits from the Hebron project and that, as a condition of the Benefits Plan approval, the Proponent and its prime contractors be required to participate in the public meeting and to respond to issues relating to local employment and procurement.*

**Response:** The Board acknowledges that the Proponent is accountable for the effective implementation of its benefits plan in a manner that is consistent with the legislation and the Board's guidelines. The Board has also identified the need for the Proponent to exercise oversight of its contractors to comply with the Proponent's benefits commitments. The Board's recent initiative for project operators to make benefits reports available to the public is based on advancing the public's interest in better understanding benefits accomplishments, achievements and impacts and identifies the Proponent's role and responsibility in this matter.

Staff will monitor the quality of the public reports to be made available by project operators in the context of recommendation 6.11. The Board's transparency initiative respecting public dissemination of industrial benefits information will continue to be a work-in-progress. The recommendation for an annual public meeting to provide the Proponent and its prime contractors with an opportunity to respond to issues relating to local employment and procurement will be reviewed in the context of advancing this initiative.

**Recommendation 6.12**

*The Commissioner recommends that the C-NLOPB, in consultation with the Ministers, undertake a review of issues relating to the timely public disclosure and access to information to which the C-NLOPB is privy in conjunction with the discharge of its responsibilities under the Accord Act.*

**Response:** The Board has previously identified the constraints of section 119 and the need for a possible legislative amendment to address this matter.

See also the response to recommendation 6.11.

**Recommendation 6.13**

*The Commissioner recommends that the Proponent and its EPCs set increased and enumerated aspirational employment targets for underrepresented groups within NL, coupled with aggressive, proactive measures to ensure workers of these groups are specifically targeted, trained, recruited, hired and retained, over and above targets based on Statistics Canada Employment Equity Data. To achieve these targets the Proponent should:*

- *undertake strong promotional efforts and training supports need to be targeted at and available to females, differently-abled individuals and others from under-represented groups;*
- *raise awareness amongst older women who are already in the workforce and perhaps are considering a career change; and*
- *Hebron's diversity team should work with unions to ensure that they accept female apprentices into their unions.*

**Response:** Staff will request the Proponent to provide its response to this recommendation which will be reviewed to confirm that it addresses the matters raised in the Commission's recommendation.

In the meantime, staff has already sought and received clarification from the Proponent respecting its employment equity targets and has observed that, while the participation levels based on the Statistics Canada data are low in terms of establishing an initial target for the Hebron project, the data does indeed reflect participation rates for the provincial population as a whole and will provide a basis for which the Proponent can exercise its strategy of focusing on continuous improvement. Additional information respecting the Board's assessment of this matter is provided in Appendix 3.

In addition, staff has identified five matters for follow-up with the Proponent:

- additional co-op, intern and summer employment positions should be created and targeted to be filled by qualified members of aboriginal groups, persons with disabilities or members of visible minorities;
- a program needs to be instituted in support of increasing female apprentices in skilled trades for the development phase;
- consistent with the Proponent's desire for continuous improvement, benchmark data respecting goals for participation levels of designated groups should be reviewed on an annual basis and adjusted as necessary;
- ensuring that contractors ***comply with***, not just acknowledge, the initiatives outlined and described in the diversity plan; and
- annual diversity reports are to be submitted to the Board and made available to the public.

#### **Recommendation 6.14**

*The Commissioner recommends the Proponent employ the following tangible measures to contribute to a diverse workplace:*

- *use of gender awareness training in the workplace to instill a deeper diversity culture amongst employees, contractors and partners*
- *provision of appropriately sized safety equipment to be readily available to all employees;*
- *on-site 'diversity officers';*

- *develop qualified women as trainers and mentors where possible and have female Shop Stewards on site;*
- *where possible more than one woman is placed on the same job site so that women are not to spread out and segregated from each other;*
- *flexibility in work schedules for working parents and caregivers; and*
- *creation of childcare centres for the children of its employees in order to create and maintain a diverse and open workforce, thereby minimizing the impact of existing shortfalls in childcare spaces particularly for the construction phase of the project.*

**Recommendation 6.15**

*The Commissioner recommends that the Proponent include gender equity provisions in its calls for bids and criteria for evaluation.*

**Response:** Staff will request the Proponent to provide its response to recommendations 6.14 and 6.15 which will be reviewed to confirm that the matters raised in the Commission's recommendation have been addressed.

**Recommendation 6.16**

*The Commissioner recommends that the C-NLOPB amend its Development Application Guidelines to ensure a more relevant, thorough, consistent and transparent planning approach that facilitates evaluation against previous developments, provides more comprehensive and timely data for Canadian as well as local businesses and workers, and expedites the public review process.*

**Response:** Staff has identified that there is an opportunity to use the lessons learned from the Hebron completeness review to update guidance respecting the content and information required in benefits plans in order to expedite staff's analysis of the plan and assist with the public review process.

Any necessary amendments will be made in due course.

**Recommendation 6.17**

*The Commissioner recommends that Proponent allocates a proportion of the R&D/E&T fund to specifically address the education and training requirements of skilled labour as required in paragraph 45(3)(c) of the Accords Acts. This allocation, pending project sanctions, is to be committed for 2012 and throughout the construction phase of the project. The determination of the size of the Education and Training funding to be jointly reviewed and decided by the C-NLOPB, Proponent and Provincial Government through its department of Advanced Education and Skills. The Commission recognizes that the skilled trades challenge is not unique to the Hebron project and that investment by other stake holders, such as the Provincial Government and other major project Proponents, will also be required.*



**Response:** The need for a benefits plan to identify specific education and training programs to be provided in the Province, including any associated expenditures pursuant to paragraph 45(3)(c) of the legislation, is explicitly identified by the Board in its guidelines. This was one of the 31 gaps identified by staff in its completeness review and has been identified in the staff analysis report as requiring further follow-up by the Proponent. Specifically, staff has recommended that the Board's approval of the benefits plan be conditional on the Proponent providing a plan to mitigate the anticipated labour shortage (see Condition 1(b)).

Staff will also verify throughout the development and production phases that the R&D and E&T projects, initiatives and expenditures are aligned with the eligibility criteria and benchmarks established by the Board's guidelines.

### **Recommendation 6.18**

*The Commissioner recommends that as a condition of the contract award for the UPM, the Proponent and its successful yard should be required to provide a detailed breakdown of supplies, services and sub-assemblies required for the project, and to locate a representative in the province for the purpose of encouraging local participation in the sub-contract bidding process.*

**Response:** Aspects related to the need for the Proponent provide to the supply and service sector early and detailed information of project requirements associated with each major aspect of the project, including the fabrication of the utilities and process module has been addressed by Condition 2(b).

Consistent with the spirit and intent of the Commission's recommendation, staff will explicitly request the Proponent to provide its plans respecting the need for the UPM fabrication yard to locate a representative in the province for the purpose of encouraging local participation in the sub-contract bidding process.

### **Recommendation 7.1**

*As a condition of the fundamental decision, the Proponent should provide additional information and analysis of socio-economic impacts relative to existing economic zones of an area no less than 150 km from Bull Arm.*

**Response:** Staff will request the Proponent to provide its response to this recommendation.

### **Recommendation 7.2**

*In advance of the preparation and submission of development applications, the Commissioner recommends that the Board clearly delineate primary impact zones.*

**Response:** Staff has reviewed the merits of this recommendation in the context of the discussion in sections 7.1 to 7.3 of the Commission's report and, in the spirit of continuous improvement, will assess the need to amend the development application guidelines, particularly the section

related to pre-application consultations, such that the expectations respecting the scope of the SEIS are identified at an early stage in the development application planning process. The need to delineate primary impact zones as part of this process will be assessed.

### **Recommendation 7.3**

*The Commissioner recommends that the capacity and expertise of the C-NLOPB for evaluating socio-economic impacts and sustainability issues needs to be strengthened.*

**Response:** Staff will assess the options available to the Board in identifying the most cost-effective means of strengthening the capacity and expertise of the C-NLOPB for overseeing the Proponent's responsibility to evaluate socio-economic impacts and sustainability issues. This could include additional training of existing staff or using consultants on an as needed basis as has been done in the past. In either case, staff will also assess the need to revise the development application guidelines and/or the benefits plan guidelines to provide more extensive guidance respecting the preparation of the SEIS.

### **Recommendation 7.4**

*As a condition of the fundamental decision, the Proponent should revise and reissue the Socio-Economic Impact and Sustainable Development Report to resolve the issues related to currency and accuracy of data and the resultant findings.*

**Response:** The Proponent will be requested to provide staff with a description of how it intends to address the issues and concerns raised in the Commission's report. The Proponent's response will be posted on the Board's website together with any revisions, amendments or supplements to the SEIS as may be necessary in response to the public concerns expressed during the hearings and summarized in the Commission's report.

### **Recommendation 7.5**

*The Commissioner recommends that the Proponent work with the provincial government to assist the funding of an early childcare initiative in the Clarenville area in support of its diversity plan for Bull Arm employees and that the C-NLOPB approve such spending against the R&D/E&T expenditure.*

**Response:** The Proponent will be formally requested to respond and to describe its plans to engage the Government of Newfoundland and Labrador in connection with this matter.

For the C-NLOPB's part, operators may submit details of projects and/or proposed expenditures for assessment on a case-by-case basis using the *R&D Work Expenditure Application Form* in the Board's guidelines. Feedback will be provided to the operator as to whether the project or proposed expenditure meets the eligibility criteria specified in the Board's guidelines. This is intended to provide the operator with assurance that the expenditures will be credited towards their legislated obligations.

The mechanism for seeking confirmation as to whether or not any expenditure in relation to an early childcare initiative meets the eligibility criteria of the Board's guidelines is through the process described above.

**Recommendation 7.6**

*The Commissioner recommends that the Proponent continue to foster partnerships with labour, and work with the various community and local industry groups to make the Hebron project an exemplar for corporate/community partnership.*

**Response:** Staff will request the Proponent to provide its response to this recommendation.

**Recommendation 7.7**

*The Commissioner recommends that the Proponent urgently communicate its workforce requirements and schedule to the Provincial Government and Municipalities in the Isthmus area and to development strategies and plans to lessen the inflationary impact on housing.*

**Response:** See Condition 1(a) of the Board's approval of the benefits plan.

**Recommendation 7.8**

*The Commissioner recommends, in order to ensure that the provision for mandatory R&D expenditures by operators has the desired effect of contributing to the economic legacy of offshore developments, that the C-NLOPB promotes public understanding and participation in the R&D process, ensure that the process reflects best practice across jurisdictions, undertake periodic evaluation of eligible expenditures to determine the value for money spent, and facilitate the exploitation of resulting new technologies to the benefit of the province.*

**Response:** Since the implementation of the Board's guidelines in 2004, staff has meet with a number of interested stakeholders aimed at promoting an understanding of the Board's R&D expenditure guidelines. This has included numerous research and development and education and training institutions, industry associations and others.

Staff will continue to take steps to promote public understanding of the R&D guidelines. An initiative currently being assessed is to provide additional information on the administration of the guidelines to a wider audience via the Board's website to aid interested stakeholders in better understanding the R&D and E&T expenditure requirements and processes. This initiative will explicitly explain the role of the Board; the role of the operators; the role of Petroleum Research Newfoundland and Labrador as well as the role of potential recipients of expenditures.

In addition, consistent with the Board's recent initiative to have project operators make quarterly and annual benefits reports available to the public, the Proponent will be expected to provide information in its annual benefits report respecting R&D and E&T projects, initiatives and expenditures so that the public is kept apprised of the Proponent's accomplishments and achievements in this area. This is aligned with the Proponent's undertaking in its benefits plan to

develop a process for identifying and raising awareness of potential R&D projects and to identify and promote R&D initiatives. The public dissemination of this information will also provide opportunity for the Proponent to receive input on future priority areas for R&D activity. In this regard, the Proponent is expected to maintain a mechanism throughout the project for receiving R&D and/or E&T proposals from interested parties.

### **Recommendation 7.9**

*The Commissioner recommends that the C-NLOPB, in consultation with Operators, CAPP and Petroleum Research Newfoundland and Labrador, review the strategic directions of planned research with particular interest in fostering research and development of production platforms that could be engineered, designed and constructed in the province and that would be suitable for potential emerging fields in deeper water offshore Newfoundland and Labrador.*

**Response:** The legislation does not provide for focus areas for R&D and E&T to be prescribed by the Board. The Board's policy to date is that this aspect is at the discretion of industry.

It should also be noted that the C-NLOPB does not fund projects nor does it manage any project expenditures – this is the exclusive responsibility of the operators. The C-NLOPB's role is to ensure that the operator's expenditure obligations are in accordance with the legislation and guidelines. Accordingly, the merits of an R&D or E&T program are not assessed by staff during the course of its review of operator's expenditure applications – staff focus is exclusively on whether the proposed project meets the eligibility criteria of the Board's guidelines.

While the C-NLOPB's role to date has not involved providing any advice or direction with respect to strategic focus areas for planned research, this aspect will be given further consideration in the context of recommendation 7.9 to determine if the Board should play any role in this matter.

### **Recommendation 7.10**

*The Commissioner recommends that the C-NLOPB encourage socio-economic research in their review, focusing on the merit of projects in relation to the concept of "sustainable development" in accordance with the Acts. Such projects may include:*

- *a comprehensive research-based evaluation to determine the most suitable workplace rota schedule to achieve the safest workforce and optimum home-work balance;*
- *a study of demographic and labour market issues to provide assistance to municipal capacity studies over the life of the project; and*
- *research relating to diversity needs in the offshore and onshore workplace.*

**Response:** The Board's guidelines indicate that socio-economic research expenditures may qualify as an eligible expenditure for credit against a project operator's legislated obligations. Staff will encourage Proponents to review the projects referenced in the recommendation and to submit any proposed expenditures for review on a case-by-case basis in accordance with the process described in the Board's guidelines.

Staff also notes that the responsibility for conducting any necessary socio-economic research in the context of an offshore development rests with Proponents. The specific areas listed in recommendation 7.10 presents an opportunity for the Hebron Proponent and others to undertake this research either independently or as part of a joint industry project.

**Recommendation 7.11**

*The Commissioner encourages the Proponent to fund and support socio-economic research to create a comprehensive, in-depth study of both the cumulative effects of offshore oil-related development in Newfoundland and Labrador and prospects for long-term sustainable development.*

**Response:** The Proponent will be requested to provide its response to this recommendation.

See also response to recommendation 7.10.

**Recommendation 7.12**

*The Commissioner recommends that the Proponent, in cooperation with federal, provincial agencies, One Ocean, and the C-NLOPB, commit to a study to understand what might be the cumulative effects of oil and gas production on the areas of Grand Banks known to be especially productive for fish stocks.*

**Response:** The Proponent will be requested to provide its response to this recommendation.

In the meantime, staff confirms it is willing to engage in discussion with the Proponent (as well as other offshore operators), government agencies and One Ocean respecting research into cumulative environmental effects. The ESRF is currently funding a three-year field study on the Grand Banks by Fisheries and Oceans and the Fish, Food and Allied Workers Union to investigate the potential for effects on fish larvae around the production sites. The results of this study may help to focus future discussions.