

C-NLOPB Remarks to National Advisory Panel on Marine Protected Area Standards

May 8, 2018

Introductory

- Good morning. Thank you for the opportunity to share our views.
- I'm joined today by Dave Burley, our Director of Environmental Affairs, who has been with the C-NLOPB for 32 years, including 23 years leading our Environmental Affairs Department. As for me, I have had the privilege of leading this world-class safety and environmental regulator since 2013. For over 30 years, the C-NLOPB has served as an effective agent of independent, joint management of the Canada-Newfoundland and Labrador Offshore Area. Safety and environmental protection are paramount in all Board decisions.
- We have reviewed the Advisory Panel's Terms of Reference and have assessed MPAs, protected areas more generally, and their interaction with the Atlantic Accord regulatory regime that we administer. Our remarks today will focus on the first question which was listed in the Panel's Presentation Guidelines, and more specifically on the diligent approach the C-NLOPB takes to ensure the environment is protected while oil and gas activities are ongoing. I'd like to begin though with a brief summary of the Board's mandate, and our relevant experience in this area.
- Protecting environmentally significant and sensitive areas is a fundamental component of our regulatory oversight. We work closely with Fisheries and Oceans Canada (DFO) and other agencies from both governments on these matters and issues of interactions with marine species.

Offshore Activities and Environmental Assessment

- The C-NLOPB administers a Scheduled Land Tenure system that provides for a stable and predictable approach to the exploration for petroleum resources offshore Newfoundland and Labrador. Our Calls for Bids on potential exploration licences are the product of this system: transparent, multi-phased, planned well in advance, and subject to ratification through Fundamental Decisions by the federal and provincial governments as required under the *Atlantic Accord Implementation Acts*.
- The Board conducts Strategic Environmental Assessments (SEAs) to inform our land tenure process by identifying potential sensitivities in offshore areas. We have conducted eight SEAs or updates since 2001, including an SEA for Eastern Newfoundland and Labrador, where the vast majority of oil and gas activity in the Canada-Newfoundland and Labrador Offshore Area occurs. We are currently engaged in updating our 2008 Labrador Shelf SEA, an initiative we co-chair with the Nunatsiavut Government.

- No C-NLOPB Call for Bids closes until at least 120 days following the completion of an SEA (or SEA Update), if an up-to-date SEA is not already in place at the outset.
- Our SEAs are conducted with the assistance of a multi-stakeholder Working Group that assists us from the start of the process, including representatives from Indigenous groups, the fishing industry and non-government organizations. The Working Group is involved from the start of drafting the scope of the SEA, all the way to the completion of a final report. Public comments are invited at several stages in these processes and in the interests of transparency, relevant documents are posted publicly. DFO is an important participant in this group.
- If exploration licences are issued as a result of a Call for Bids, any proposed seismic or drilling programs associated with them must undergo a project-specific environmental assessment (EA) prior to authorization by the Board. As part of the EA, DFO carefully scrutinizes any activities with the potential to harm fish or fish habitat. Compliance with mitigation measures identified in an EA is a legally-enforceable condition of the Board’s authorization. Similarly, if exploration activity leads to discovery and eventually development of a production project, a comprehensive EA and Development Plan process is followed before production projects are approved.

Example – Protection of Sensitive Benthic Species

- As a real-world example of our approach, I’ll describe our history of protecting cold-water coral species.
- For over ten years, we have applied a specific condition to our authorization of drilling activities in areas where cold-water corals may be present. The purpose of the condition is to prevent physical damage to any coral reef structures that might be present in the vicinity of a drilling installation (including its moorings, if used).
- The condition prohibits drilling activity within 100 meters of a “coral colony”, defined either as
 - a *Lophelia pertusa* reef complex; or
 - 5 or more large corals (larger than 30 centimeters in height or width) within a 100 square meter area.
- Operators accomplish compliance by means of a Remotely-Operated Vehicle (ROV) survey of the area of a planned well site prior to conducting operations. The ROV survey is digitally recorded and available for review by the C-NLOPB and DFO.
- To date, operators have successfully drilled several locations both inside and outside the 200-mile limit without damage to coral species, using this condition.
- We are discussing with DFO the potential expansion of our “coral condition” to additional potentially sensitive species (e.g., sponges and sea pens).

Engagement Relating to Canada's Oceans Act

- The C-NLOPB has had a long-standing relationship with DFO and renewed its Memorandum of Understanding with DFO's NL Region in 2014.
- We participate in two DFO standing committees under the *Oceans Act*: the Canada – NL Committee on Oceans Management (C-NLCOM), and the Regional Oversight Committee on Oceans Management (ROCOM). As such, we have been involved for some years in discussions about MPA development and related initiatives.
- We work closely with DFO's experts on a regular and frequent basis to ensure our decisions are scientifically sound and evidence-based.
- In Newfoundland and Labrador, the fishing industry and the oil and gas industry have worked to develop positive, collaborative relationships through effective communication and engagement. In 2002, the fishing and oil and gas industries established One Ocean, an organization designed to promote mutual awareness and understanding of the activities of the two industries. I, along with senior officials from DFO and other government entities, regularly attend One Ocean Board meetings.
- The new Oceans Supercluster is another promising venue for inter-sectoral collaboration.
- We look forward to further cooperation with DFO and others in a newly proposed regional study covering the eastern Newfoundland offshore area, in cooperation with the Canadian Environmental Assessment Agency, other federal and provincial government departments, and stakeholders. Details of this initiative are expected to be announced in the coming weeks.
- In addition to mitigations already prescribed by legislation or identified in our SEAs, the timing, spatial extent, and nature of any proposed oil and gas activities will be subject to additional restrictions or mitigations determined through the regional study, project-specific environmental assessments and/or regulatory approval processes.
- As part of Canada's approach to meeting its conservation targets, we support DFO's use of "Other Effective Area-Based Conservation Measures". We believe it important that the marine conservation targets for such areas be clearly identified and managed through a transparent, science-based process.
- An important part of such management is communication. It is not lost on us that some members or groups within the wider public do not always appreciate that a protected area need not be off limits to human activity, provided that the conservation objectives of that area are respected, and that proper oversight, monitoring and post-activity assessment can demonstrate that this is so.
- Extensive monitoring and assessment, both during and after oil and gas activity occurs, has demonstrated that industry activity can and does occur in an environmentally responsible way.

Conclusion

- In summary, the C-NLOPB supports the Government of Canada's commitment to the protection of environmentally significant and sensitive areas, and we will continue to work closely with DFO and others in this regard.
- The timing, spatial extent and nature of any proposed oil and gas activities will determine the level of mitigation or restriction required to meet conservation objectives.
- We look forward to the work of the Panel to advise the Government of Canada on protection standards and welcome the opportunity to provide additional information as required as its work progresses.
- Thank you again for the opportunity to present. We look forward to addressing any questions you may have.