

Excerpt from C-NLOPB Decision 2001.01 (November 26, 2001) :
Application for Approval - White Rose Development Plan
Re Third-Party Observers

4.8.7.4

Third-Party Offshore Observers

Several participants in the public hearings expressed the view that independent observers should be placed upon offshore facilities. The Commissioner recommended [5.15] that the Board place an observer on each production facility on the Grand Banks “to monitor project interactions with the environment and to audit environmental management procedures”. The Commissioner also observed that the duties of a C-NOPB observer could encompass matters such as spot checks of pollution control equipment and potential points of pollutant release; observation of surface slicks, third party audit of environmental management procedures and of seabird observations, and would provide additional experience in matters such as environmental effects monitoring.

The Board observes that some of the debate surrounding the need for observers involved, on the one hand, the contention that sufficient space exists to accommodate observers on offshore installations and that therefore there is no impediment to their employ, and on the other, that the industry is deserving of “trust” and therefore need not be held to this type of scrutiny. The Board respectfully suggests that neither argument is particularly relevant.

The Board believes that a crucial goal of the offshore regulatory structure is to ensure that personnel employed by offshore operators, and particularly members of the offshore workforce, are cognizant of the need to perform their duties in a safe and environmentally prudent manner, are competent to perform these duties, have the systems and procedures in place to enable this, and conscientiously follow these systems and procedures in practice. The operator carries the ultimate legal responsibility for this and the Board the duty to assure itself that this responsibility is properly and diligently discharged.

To ensure that this is the case, Board staff conducts a detailed review of operators’ safety and environmental management systems prior to approving activities; monitors reports from offshore drilling and production operations on a daily basis; and conducts detailed safety and environmental audits offshore. The Board currently employs five safety officers and one environmental officer who are charged with the latter duties.

An individual audit typically focuses intensely upon an element of the operator’s management system and examines its performance in detail, through direct observation of activities, interviews with personnel, examination of records and in

some cases collection of samples. Audits also include detailed checks on an operator's follow-up actions to previous safety or environmental incidents to ensure that factors that contributed to the incidents have been properly addressed. Although the operator is generally aware of the timing of an audit through arranging the auditor's transportation offshore, the subject of the audit is not revealed in advance. Conducting a three-day on-site audit can require over a week of advance research and preparation and follow-up often will require one or more weeks. A thorough modern safety or environmental audit therefore can require close to a person-month of activity, of which less than a week may actually be spent on an installation. It has been the Board's experience that completely auditing a drilling and production operation's environmental management system requires four to six separate audits per major installation and it notes that should the White Rose Project proceed additional resources may be required in its Environmental Affairs department to continue this level of oversight.

The Board stated in its Decision on the Terra Nova Development Application that it believed "in the interests of safety, personnel complements on offshore drilling and production facilities should be kept to the minimum necessary for prudent operations and has concluded that insufficient evidence has been presented to justify requiring the placement of additional, dedicated personnel on drilling or production platforms as observers" (*Decision 97-02* section 4.4.1, page 56). The Board observes that this philosophy is consistent with the practice in numerous other industries and jurisdictions and that the employment of regulatory personnel as full-time observers of industrial operations occurs only when there is evidence of pervasive and flagrant disregard for the regulatory system, of persistently poor operating practices, or both. The Board is satisfied that the existing reporting and auditing processes are working as intended and is unaware of any circumstances respecting Newfoundland offshore operations that would cause it to alter the position it stated in *Decision 97-02*. The Board wishes to emphasize, however, that should such circumstances arise, it is fully prepared to adopt a different regulatory approach, including consideration of full-time on-site oversight of the operations concerned.

Respecting spill observations the Board notes that the least effective observing position for detection of oil on the sea surface may well be on a surface installation, unless weather conditions are favourable and the spillage is observed when relatively close to the installation. Aerial observations are immeasurably superior when visibility conditions permit their conduct. Independent airborne pollution surveillance presently is conducted offshore Newfoundland by the Canadian Coast Guard. The results of this surveillance generally have been consistent with the notification reports operators are required to make to the Board. However, the Board will pursue with the Canadian Coast Guard the feasibility of enhancing this coverage.