

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

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

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

### **1 Definitions**

- 1.1 *Abandoned* means “abandoned” as defined in subsection 1(1) of the *Newfoundland Offshore Petroleum Drilling and Production Regulations*.
- 1.2 *Accord Acts* means the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*.
- 1.3 *Agency* means the Impact Assessment Agency of Canada.
- 1.4 *Aggregation of habitat-forming corals or sponges* means an aggregation of coral or sponges that are known or observed to support fish.
- 1.5 *Baseline* means the environmental conditions prior to initiating the Designated Project.
- 1.6 *Board* means the Canada-Newfoundland and Labrador Offshore Petroleum Board as established by the joint operation of section 9 of the *Canada–Newfoundland and Labrador Atlantic Accord Implementation Act* and section 9 of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*.
- 1.7 *Canada-Newfoundland and Labrador Offshore Area* means the area as defined by the Accord Acts.
- 1.8 *Commercial fisher* means an individual who holds a commercial fishing licence issued under the *Fisheries Act* and who fishes within the regional study area, as identified in Figure 1 of the draft environmental assessment report.
- 1.9 *Decommissioning* means the phase of the Designated Project during which the Proponent permanently ceases production and commences removal from service of project components and

infrastructure in accordance with the *Accord Acts* and applicable regulations, and continues until the removal from service of project components and infrastructure is complete.

- 1.10 *Days* means calendar days.
- 1.11 *Designated Project* means the Bay du Nord Development Project as described in section 2 of the draft environmental assessment report.
- 1.12 *Designated Project Area* means “Project Area”, as identified in Figure 1 of the draft environmental assessment report.
- 1.13 *Eastern Canadian offshore areas* means “offshore area” as defined by the *Accord Acts*, the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* and the *Canada-Nova Scotia Offshore Petroleum Resources Accord*.
- 1.14 *Environment and Climate Change Canada* means the Department of the Environment as established under subsection 2(1) of the *Department of the Environment Act*.
- 1.15 *Environmental assessment* means “environmental assessment” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.16 *Environmental assessment report* means the report prepared by the Impact Assessment Agency of Canada pursuant to subsection 25(2) of the *Canadian Environmental Assessment Act, 2012* (Canadian Impact Assessment Registry Reference Number 80154).
- 1.17 *Environmental effects* means “environmental effects” as described in section 5 of the *Canadian Environmental Assessment Act, 2012*.
- 1.18 *Environmental impact statement* means the 2020 document entitled *Bay du Nord Development Project Environmental Impact Statement* (Canadian Impact Assessment Registry Reference Number 80154, Document Number 18).
- 1.19 *Fish* means “fish” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.20 *Fish habitat* means “fish habitat” as defined in subsection 2(1) of the *Fisheries Act*.
- 1.21 *Fisheries and Oceans Canada* means the Department of Fisheries and Oceans as established under subsection 2(1) of the *Department of Fisheries and Oceans Act*.
- 1.22 *Follow-up program* means “follow-up program” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.23 *Indigenous groups* means the following Aboriginal Peoples: Abegweit First Nation, Acadia First Nation, Annapolis Valley First Nation, Bear River First Nation, Buctouche First Nation, Eel Ground First Nation, Eel River Bar First Nation, Elispogtog First Nation, Esgenoopetitj First Nation, Eskasoni First Nation, Fort Folly First Nation, Glooscap First Nation, Indian Island First Nation, Les Innus de Ekuanitshit, Première Nation des Innus de Nutashkuan, Kingsclear First Nation, La Nation Micmac de Gespeg, Lennox Island First Nation, Listuguj Mi’gmaq Government, Madawaska Maliseet First Nation, Membertou First Nation, Metepenagiag Mi’kmaq Nation, Miawpukek First Nation,

Micmacs of Gespapegiag, Millbrook First Nation, Mushuau Innu First Nation, Nunatsivut Government, NunatuKavut Community Council, Oromocto First Nation, Pabineau First Nation, Paqtnkek First Nation, Peskotomuhkati Nation at Skutik, Pictou Landing First Nation, Potlotek First Nation, Qalipu First Nation, Sheshatshiu Innu First Nation, Sipekne'katik First Nation, St. Mary's First Nation, Tobique First Nation, Wagmatcook First Nation, We'kmoqma'q First Nation, and Woodstock First Nation.

- 1.24 *Listed species at risk* means a species that is listed on the List of Wildlife Species at Risk set out in Schedule 1 of the *Species at Risk Act*.
- 1.25 *Migratory bird* means “migratory bird” as defined in subsection 2(1) of the *Migratory Birds Convention Act, 1994*.
- 1.26 *Mitigation measures* means “mitigation measures” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.27 *Nighttime* means all that portion of the day extending from one-half hour after sunset until one-half hour before sunrise.
- 1.28 *Non-routine flaring* means “non-routine flaring” as defined by the World Bank Group’s 2016 document entitled *Global Gas Flaring Reduction Partnership – Gas Flaring Definitions*.
- 1.29 *Operator* means a person that holds an operating licence and an authorization issued by the Canada Newfoundland and Labrador Offshore Petroleum Board.
- 1.30 *Participate* means to directly or indirectly assist or support initiatives through the provision of resources, including knowledge, time, data, access and other means that are economically and technically feasible and within the care and control of the Proponent.
- 1.31 *Pollution* means “pollution” as defined in subsection 1(1) of the *Newfoundland Offshore Petroleum Drilling and Production Regulations*.
- 1.32 *Proponent* means Equinor Canada Ltd. and its successors or assigns.
- 1.33 *Qualified individual* means someone who, through education, experience and knowledge relevant to a particular matter, provides the Proponent with advice within their area of expertise. Knowledge relevant to a particular matter may include community and Indigenous traditional knowledge.
- 1.34 *Record* means “record” as defined in subsection 2(1) of the *Canadian Environmental Assessment Act, 2012*.
- 1.35 *Relevant authorities* means federal and/or provincial authorities that are in possession of specialist or expert information or knowledge, or that have a responsibility for the administration of a law or regulation, with respect to the subject matter of a condition set out in this document.
- 1.36 *Reporting year* means January 1 of a calendar year through December 31 of the same calendar year.

- 1.37 *Safety exclusion zone* means a safety zone as defined in subsection 71(1) of the *Newfoundland Offshore Petroleum Drilling and Production Regulations*.
- 1.38 *Safety flaring* means “safety flaring” as defined by the World Bank Group’s 2016 document entitled *Global Gas Flaring Reduction Partnership – Gas Flaring Definitions*.
- 1.39 *Safety zone* means the area around the seismic sound source, described in Fisheries and Oceans Canada’s *Statement of Canadian Practice with Respect to the Mitigation of Seismic Sound in the Marine Environment*.
- 1.40 *Seabed investigation survey* means a survey to identify aggregations of habitat-forming corals or sponges or any other environmentally sensitive features around the proposed locations of all subsea infrastructure prior to conducting any activities on the seafloor related to the installation of this infrastructure.
- 1.41 *Subsea infrastructure* means any physical structures needed for the operation of the Designated Project that will be placed partially or completely on the seabed, including, but not limited to, well templates, flowlines, mooring points, anchors, anchor chains and associated protection features.
- 1.42 *Tier 2 and tier 3 spill response* means “tier 2” and “tier 3” as set out in the document entitled *Tiered Preparedness and Response* published by the IPIECA and the International Association of Oil & Gas Producers (IOGP Report 526).
- 1.43 *Well* means “development well” as defined in subsection 119(1) of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act*.

## **Potential Conditions**

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

## **2 General conditions**

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

## ***Consultation***

- 2.3 The Proponent shall, where consultation is a requirement of a condition set out in this document:
- 2.3.1 provide a written notice of the opportunity for the party or parties being consulted to present their views and information on the subject of the consultation;
  - 2.3.2 provide sufficient information on the scope and the subject matter of the consultation in a reasonable period of time that allows the party or parties being consulted, not to be less than 15 days, to prepare their views and information;
  - 2.3.3 undertake an impartial consideration of all views and information presented by the party or parties being consulted on the subject matter of the consultation; and
  - 2.3.4 advise in a reasonable period of time the party or parties being consulted on how the views and information received have, or have not been integrated into the subject matter of consultation by the Proponent and provide justification.
- 2.4 The Proponent shall, where consultation with Indigenous groups is a requirement of a condition set out in this document, communicate with each Indigenous group with respect to the manner by which to satisfy the consultation requirements referred to in condition 2.3, including methods of notification, the type of information and the period of time to be provided when seeking input, the process to be used by the Proponent to undertake impartial consideration of all views and information presented on the subject of the consultation, the period of time to advise Indigenous groups of how their views and information were considered by the Proponent and the means by which Indigenous groups will be advised.
- 2.5 The Proponent shall, where participation is a requirement of a condition set out in this document, notify potential parties responsible for applicable research programs of the Proponent's interest in participating in these programs and determine, in consultation with the parties that have expressed interest in the Proponent's participation, the actions and resources needed to carry out the Proponent's participation.

## ***Follow-up requirements***

- 2.6 The Proponent shall, where a follow-up program is a requirement of a condition set out in this document, determine the following information, for each follow-up program:
- 2.6.1 the methodology, location, frequency, timing and duration of monitoring associated with the follow-up program;
  - 2.6.2 the scope, content and frequency of reporting of the results of the follow-up program;
  - 2.6.3 the frequency at which the follow-up program must be updated, unless already specified in the condition;
  - 2.6.4 the levels of environmental change relative to baseline conditions and predicted effects as described in the environmental impact statement, that would require the Proponent to implement modified or additional mitigation measure(s), including instances where the Proponent may require Designated Project activities to stop; and

- 2.6.5 the technically and economically feasible mitigation measures to be implemented by the Proponent if monitoring conducted as part of the follow-up program shows that the levels of environmental change referred to in condition 2.6.4 have been reached or exceeded.
- 2.7 The Proponent shall update the information determined for each follow-up program pursuant to condition 2.6 during the implementation of each follow-up program, at the minimum frequency determined pursuant to condition 2.6.3 and in consultation with the party or parties being consulted during the development of each follow-up program.
- 2.8 The Proponent shall provide the follow-up programs referred to in conditions 3.14 and 4.6, including information pursuant to condition 2.6, to the Board and to party or parties being consulted during the development of each follow-up program prior to the implementation of each follow-up program. The Proponent shall also provide any update made pursuant to condition 2.7 to the Board and to the party or parties being consulted during the development of each follow-up program within 30 days of the information being updated.
- 2.9 The Proponent shall, where a follow-up program is a requirement of a condition set out in this document:
- 2.9.1 implement the follow-up program according to the information determined pursuant to condition 2.6;
  - 2.9.2 conduct monitoring and analysis to verify the accuracy of the environmental assessment as it pertains to the particular condition and/or to determine the effectiveness of any mitigation measure(s);
  - 2.9.3 determine whether modified or additional mitigation measures are required based on the monitoring and analysis undertaken pursuant to condition 2.9.2; and
  - 2.9.4 if modified or additional mitigation measures are required pursuant to condition 2.9.3, develop and implement these mitigation measures in a timely manner and monitor them pursuant to condition 2.9.2. The Proponent shall notify the Board within 24 hours of any modified or additional mitigation measure being implemented. If the Proponent implements any additional or modified mitigation measure not previously submitted to the Board pursuant to condition 2.6, the Proponent shall submit a detailed description of the measure(s) to the Board within seven days of their implementation; and
  - 2.9.5 report all results of the follow-up program to the Board no later than March 31 following any reporting year during which the follow-up program is implemented and, subject to information determined pursuant to 2.6.2, to the party or parties being consulted during the development of the follow-up program.

### ***Annual Reporting***

- 2.10 The Proponent shall, prepare an annual report that sets out, for each reporting year:
- 2.10.1 the activities undertaken by the Proponent in the reporting year to comply with each of the conditions set out in this document;

- 2.10.2 how the Proponent complied with condition 2.1;
  - 2.10.3 for conditions set out in this document for which consultation is a requirement, how the Proponent considered any views and information that the Proponent received during or as a result of the consultation;
  - 2.10.4 the information referred to in conditions 2.6 and 2.7 for each follow-up program;
  - 2.10.5 the results of the follow-up program requirements identified in conditions 3.14 and 4.6;
  - 2.10.6 for any plan that is a requirement of a condition set out in this document, any update(s) to the plan that have been made during the reporting year; and
  - 2.10.7 any modified or additional mitigation measures implemented or proposed to be implemented by the Proponent, as determined pursuant to condition 2.9.
- 2.11 The first reporting year for which the Proponent shall prepare an annual report pursuant to condition 2.10 shall start on the day the Minister of the Environment issues the Decision Statement to the Proponent pursuant to subsection 54 (1) of the *Canadian Environmental Assessment Act, 2012*.
- 2.12 The Proponent shall submit to the Board and the Agency the annual report referred to in condition 2.10, including a plain language executive summary in both official languages, no later than March 31 following the reporting year to which the annual report applies.
- 2.13 The Proponent shall, as part of the participation in research described pursuant to conditions 3.15 and 3.16, update the Board and Indigenous groups, in the annual report following the completion of the reporting year, on how the Proponent has participated in these research programs. Prior to updating Indigenous groups, the Proponent shall communicate with Indigenous groups regarding the means by which Indigenous groups will be updated.

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

- 2.14 The Proponent shall cause to be published on the Internet the reports and the executive summaries referred to in condition 2.10 and 2.12, the seabed investigation survey results referred to in condition 3.7, the communication plan referred to in condition 5.1, the decommissioning and abandonment plan referred to in condition 5.2, the well control strategies referred to in condition 7.5, the Spill Response Plan referred to in condition 7.7, the Spill Impact Mitigation Assessment referred to in condition 7.11, the implementation schedule referred to in condition 8.1, monitoring and follow-up results for marine mammals, sea turtles, fish and fish habitat, and migratory birds in conditions 3.14 and 4.6, and any update(s) or revision(s) to the above documents, upon submission of these documents to the parties referenced in the respective conditions. The Proponent shall keep these documents publicly available until the end of decommissioning. The Proponent shall notify the Board and Indigenous groups of the availability of these documents within 48 hours of their publication.
- 2.15 When the development of a plan is a requirement of a condition set out in this document, the Proponent shall submit the plan to the Board prior to conducting any activities within the Designated Project Area, unless otherwise required through the condition.

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

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

***Change to the Designated Project***

- 2.17 If the Proponent is proposing to carry out the Designated Project in a manner other than described in condition 1.11, the Proponent shall notify the Agency in writing in advance. As part of the notification, the Proponent shall provide:
- 2.17.1 a description of the proposed change(s) to the Designated Project and the environmental effects that may result from the change(s);
  - 2.17.2 any modified or additional measure to mitigate any environmental effect that may result from the change(s) and any modified or additional follow-up requirement; and
  - 2.17.3 an explanation of how, taking into account any modified or additional mitigation measure referred to condition 2.17.2, the environmental effects that may result from the change(s) may differ from the environmental effects of the Designated Project identified during the environmental assessment.
- 2.18 The Proponent shall submit to the Agency any additional information required by the Agency about the proposed change(s) referred to in condition 2.17, which may include the results of consultation with Indigenous groups and relevant authorities on the proposed change(s) and environmental effects referred to in condition 2.17.1 and the modified or additional mitigation measures and follow-up requirements referred to in condition 2.17.2.

**3 Fish and fish habitat**

- 3.1 The Proponent shall treat all discharges from Designated Project activities prior to discharging into the marine environment, in order to, at a minimum, meet the volumes and concentration limits identified in the *Offshore Waste Treatment Guidelines*, issued jointly by the National Energy Board, the Canada-Newfoundland and Labrador Offshore Petroleum Board, and the Canada-Nova Scotia Offshore Petroleum Board, and any other legislative requirements, where applicable.
- 3.2 The Proponent shall dispose of spent or excess synthetic-based drilling muds at an approved on-shore facility, if the drilling mud is not re-used.
- 3.3 The Proponent shall apply, at a minimum, the standards identified in the *Offshore Chemical Selection Guidelines for Drilling & Production Activities on Frontier Lands*, issued jointly by the National Energy Board, the Canada-Newfoundland and Labrador Offshore Petroleum Board and the Canada-Nova Scotia Offshore Petroleum Board, to select lower toxicity chemicals for use and discharge into the marine environment, including drilling fluid constituents, and shall submit any necessary risk justification pursuant to the Guidelines to the Board for acceptance prior to use.
- 3.4 The Proponent shall treat all discharges into the marine environment from vessels associated with the Designated Project in accordance with the requirements of the *Canada Shipping Act, 2001* and *Ballast Water Control and Management Regulations*, and the International Maritime Organization's *International Convention for the Prevention of Pollution from Ships* and any other legislative requirements, where applicable.



- 3.5 The Proponent shall, for Designated Project vessel(s), ensure that the energy output of the thrusters on the floating production storage and offloading vessel(s) and mobile offshore drilling units does not exceed 50% of their maximum energy output, unless not feasible for safety reasons.
- 3.6 The Proponent shall conduct a pre-installation survey with qualified individual(s), around the planned location of all subsea infrastructure, to confirm the presence or absence of any unexploded ordnance or other seabed hazards. If any such ordnance is detected, it shall not be disturbed and the Proponent shall contact the Canadian Coast Guard's Joint Rescue Coordination Centre in Halifax and the Board to determine an appropriate course of action, prior to commencing any work on the seabed floor. For all other seabed hazards detected, the Proponent shall contact the Board to determine an appropriate course of action, prior to commencing any work on the seabed floor.
- 3.7 The Proponent shall develop and conduct, in consultation with Fisheries and Oceans Canada and the Board, a seabed investigation survey of fish and fish habitat based on the locations of any subsea infrastructure prior to conducting any activities on the seafloor related to the installation of this infrastructure. In doing so, the Proponent shall:
  - 3.7.1 retain the services of an individual that is qualified to operate the equipment used to conduct the survey(s);
  - 3.7.2 collect data on the presence or absence of fish and fish habitat, including aggregations of habitat forming corals and sponges, listed species at risk, and species associated with sensitive biogenic habitats; and
  - 3.7.3 survey transect length and pattern around well templates based on modelling predictions of the areas to be affected by applicable drill cutting dispersion and suspended particulate matter in the water column and survey transects that extend 50 metres around all other subsea infrastructure.
- 3.8 If the survey(s) conducted in accordance with condition 3.7 confirm(s) the presence of aggregations of habitat-forming corals or sponges, or if other environmentally sensitive fish and fish habitat are identified by a qualified individual, the Proponent shall:
  - 3.8.1 change the location of the subsea infrastructure on the seafloor or redirect drill cuttings discharges to avoid affecting the aggregations of habitat-forming corals or sponges or other environmentally sensitive fish and fish habitat, unless not technically feasible, as determined in consultation with the Board;
  - 3.8.2 if changing the location of the subsea infrastructure, or redirecting drill cuttings discharges pursuant to condition 3.8.1 is not technically feasible, consult with the Board and Fisheries and Oceans Canada to determine an appropriate course of action, including the implementation of any additional mitigation measures and monitoring, prior to commencing any activities on the seafloor related to the installation of any subsea infrastructure, subject to the acceptance of the Board; and
  - 3.8.3 include mitigation options to reduce any identified risk to habitat-forming coral and sponge aggregations or other environmentally sensitive benthic fish and fish habitat in accordance with the provisions of the *Fisheries Act* when consulting with Fisheries and Oceans Canada pursuant to condition 3.8.2.

- 3.9 The Proponent shall apply, during the planning and the conduct of all applicable geophysical surveys, Fisheries and Oceans Canada's *Statement of Canadian Practice with Respect to the Mitigation of Seismic Sound in the Marine Environment*, including by establishing a safety zone of a minimum radius of 500 metres from the sound source.
- 3.10 The Proponent shall ensure that it does not undertake seismic testing concurrently with any planned seismic testing occurring within 30 kilometres of the Designated Project. The proponent shall consult with the Board in respect of planned seismic testing and, if the Board indicates that seismic testing will be occurring within 30 kilometres of the Designated Project, the proponent shall alter its seismic testing schedule to avoid testing concurrently with that planned seismic testing.
- 3.11 The Proponent shall develop, in consultation with Fisheries and Oceans Canada and the Board, a Marine Mammal and Sea Turtle Monitoring Plan that shall be submitted to the Board at least 30 days prior to the commencement of any geophysical survey. The Proponent shall implement the plan during the conduct of applicable geophysical surveys. As part of the plan, the Proponent shall:
- 3.11.1 develop and implement marine mammal observation requirements, including the use of passive acoustic monitoring, or equivalent technology, and visual monitoring by marine mammal observers throughout all applicable geophysical surveys;
  - 3.11.2 ensure that observation requirements specify the requirement for shut down of the sound source if any marine mammal or sea turtle is observed within the safety zone established in condition 3.9;
  - 3.11.3 require a 60 minute pre-watch for marine mammals, within the safety zone established in condition 3.9, to ensure that no marine mammals are spotted 60 minutes prior to starting the sound source; and
  - 3.11.4 submit the results of the activities undertaken as part of the marine mammal and sea turtle observation requirements to the Board within 60 days of the end of geophysical surveys.
- 3.12 The Proponent shall implement measures to prevent or reduce the risks of collisions between Designated Project vessels and marine mammals and sea turtles, including:
- 3.12.1 requiring Designated Project vessels to use established shipping lanes, where they exist; and
  - 3.12.2 requiring all Designated Project vessels, including supply and standby vessels, to reduce speed to 7 knots (13 kilometres per hour) when a marine mammal or sea turtle is observed or reported within 400 metres of a vessel, except if not feasible for safety reasons.
- 3.13 The Proponent shall report any collisions of a Designated Project vessel with marine mammals or sea turtles to the Board, the Canadian Coast Guard Regional Operations Centre, and any other relevant authorities as soon as reasonably practicable but no later than 24 hours following the collision, and notify Indigenous groups within three days.

- 3.14 The Proponent shall have a qualified individual develop follow-up requirements pursuant to condition 2.6, to verify the accuracy of the predictions made during the environmental assessment as it pertains to fish and fish habitat, including marine mammals, and to determine the effectiveness of mitigation measures identified under conditions 3.1 to 3.12. The Proponent shall implement the follow-up requirements for the duration of the Designated Project and submit these follow-up requirements to the Board prior to conducting any Designated Project activities within the Designated Project Area. As part of these follow-up requirements, the Proponent shall:
- 3.14.1 for every well, measure the concentration of non-aqueous based fluids retained on discharged drill cuttings as described in the *Offshore Waste Treatment Guidelines* to verify that the discharge meets, at a minimum, the performance targets set out in the Guidelines and any applicable legislative requirements, and report the results to the Board;
  - 3.14.2 for all subsea infrastructure, develop and implement, in consultation with Fisheries and Oceans Canada, Environment and Climate Change Canada, and the Board, follow-up requirements to verify the accuracy of the environmental assessment and effectiveness of mitigation measures as they pertain to the effects of drill cuttings discharges and infrastructure installation on benthic fish and fish habitat, including aggregations of habitat-forming corals or sponges. Follow-up requirements shall include:
    - 3.14.2.1 measurement of sediment deposition extent, and quality pre- and post-drilling to verify the drill waste deposition modeling predictions;
    - 3.14.2.2 measurement of suspended particulate matter prior to and during drilling to verify drilling mud and cuttings dispersion predictions;
    - 3.14.2.3 benthic fauna surveys to verify the effectiveness of mitigation measures;
    - 3.14.2.4 monitor recovery of sediment quality, and fish and fish habitat determined to be affected following measurements pursuant to 3.14.2.1 and 3.14.2.3 to verify recovery time as predicted in the environmental assessment report;
    - 3.14.2.5 survey colonization by sessile epifauna of subsea infrastructure, and
    - 3.14.2.6 the Proponent shall report the information collected, as identified in conditions 3.14.2.1 through 3.14.2.5, including a comparison of modelling results to *in situ* results, at a frequency determined by the Board;
  - 3.14.3 develop and implement, in consultation with Indigenous groups, Fisheries and Oceans Canada and the Board, follow-up requirements to verify the accuracy of the environmental assessment as it pertains to the effects of underwater sound emissions on fish, including marine mammals, taking into account all project sound sources. The follow-up requirements shall include:
    - 3.14.3.1 measurement of underwater sound levels to verify acoustic modeling results and predicted geographic extent of likely effects;
    - 3.14.3.2 surveys of marine mammal presence, distribution, important habitat areas, and behavior, including mating, calving, nursing and feeding, within the zones of influence for behavior predicted by modelling and geographic extent of likely effects prior to installing subsea infrastructure and during drilling, production and seismic activities;
    - 3.14.3.3 the requirement that marine mammal observations pursuant to condition 3.14.3.2 be conducted by a marine mammal observer; and

- 3.14.3.4 an annual summary report of all north Atlantic right whale (*Eubalaena glacialis*) observations recorded, which the Proponent shall provide to Indigenous groups annually.
- 3.15 The Proponent shall participate in research programs pertaining to the presence of Atlantic salmon (*Salmo salar*) in the Eastern Canadian offshore areas, where available and agreed upon by the party(ies) responsible for the research programs.
- 3.16 The Proponent shall participate in research programs in the Eastern Canadian offshore areas pertaining to the behaviour, presence, distribution, and important habitat areas of cetaceans where available and agreed upon by the party(ies) responsible for the research programs.

#### **4 Migratory birds**

- 4.1 The Proponent shall carry out the Designated Project in a manner that protects migratory birds and avoids harming, killing or disturbing migratory birds or destroying, disturbing or taking their nests or eggs. In this regard, the Proponent shall be in compliance, where applicable, with the *Migratory Birds Convention Act, 1994*, the *Migratory Birds Regulations* and with the *Species at Risk Act* and shall take into account Environment and Climate Change Canada's *Avoidance Guidelines*.
- 4.2 The Proponent shall implement measures to avoid harming, killing or disturbing migratory birds, including:
  - 4.2.1 conducting only non-routine or safety flaring;
  - 4.2.2 starting all flaring as early as practicable during daylight hours to limit flaring that occurs during nighttime;
  - 4.2.3 identifying specific circumstances under which the Proponent shall not commence flaring during conditions of poor visibility including when there is a low cloud ceiling or fog, and not commencing flaring during these circumstances;
  - 4.2.4 notifying the Board at least 30 days in advance of any planned flaring to determine whether the flaring would occur during a period of migratory bird vulnerability and to determine how the Proponent plans to avoid adverse environmental effects on migratory birds, including by implementing modified or additional mitigation measures; and
  - 4.2.5 requiring supply helicopters to fly at altitudes greater than 300 metres above sea level from active bird colonies and at a lateral distance of 1 000 metres from Quidi Vidi Lake Important Bird Area, and known bird colonies with the Baccalieu Island and Eastern Avalon's Ecologically and Biologically Significant Areas, except for approach, take-off and landing maneuvers, as required under the *Canadian Civil Aviation Regulations* or if not feasible for safety reasons.
- 4.3 The Proponent shall develop, in consultation with Environment and Climate Change Canada and the Board, measures to mitigate impacts of lighting from the Designated Project's mobile offshore drilling unit(s), floating production storage and offloading vessel(s) and other Designated Project vessels on migratory birds, including measures to control the direction, timing, intensity, and glare

of light fixtures while meeting operational health and safety requirements. The Proponent shall submit these measures to the Board prior to conducting any Designated Project activities within the Designated Project Area. In doing so, the Proponent shall:

- 4.3.1 use lighting, including nighttime lighting, only to the extent necessary to carry out the Designated Project and meet operational health and safety requirements; and
  - 4.3.2 for all measures, including spectral modified lighting, shielding lights downward, changing the type and intensity of light and any other measures identified by Environment and Climate Change Canada, determine the economic and technical feasibility of these measures and how they meet health and occupational safety requirements and provide this evaluation to Environment and Climate Change Canada and the Board prior to conducting any Designated Project activities within the Designated Project Area.
- 4.4 The Proponent shall determine the economic and technical feasibility of a pilotless flaring system in the design of the Designated Project, and shall include such a system in the Project Design unless not technically or economically feasible. If not technically or economically feasible, the Proponent shall provide their analysis to the Board for review and approval prior to finalizing the design of the Designated Project.
- 4.5 The Proponent shall develop and implement awareness training on migratory bird strandings for all offshore workers associated with the Designated Project including a process for offshore workers associated with the Designated Project to report these strandings to the relevant personnel tasked with monitoring strandings pursuant to condition 4.6.2.
- 4.6 The Proponent shall have a qualified individual develop, prior to conducting any Designated Project activities within the Designated Project Area and in consultation with Environment and Climate Change Canada and the Board, follow-up requirements, pursuant to condition 2.6, to verify the accuracy of the environmental assessment as it pertains to migratory birds and to determine the effectiveness of the mitigation measures implemented by the Proponent to avoid harm to migratory birds, their eggs and nests, including the mitigation measures used to comply with conditions 4.1 and 4.3. The Proponent shall implement these follow-up requirements for the duration of the Designated Project. As part of the follow-up requirements, the Proponent shall:
- 4.6.1 monitor daily for the presence of migratory birds at the mobile offshore drilling unit(s), and other Designated Project-related vessels, excluding supply and standby vessels using a trained observer whose primary responsibility is observing migratory birds and following Environment and Climate Change Canada's *Eastern Canada Seabirds at Sea Standardized Protocol for Pelagic Seabird Surveys from Moving and Stationary Platforms*;
  - 4.6.2 develop and implement procedures and methods for systematic monitoring of the mobile offshore drilling unit(s), and Designated Project-related vessels, excluding supply and standby vessels daily for the presence of stranded and re-stranded migratory birds using a trained observer and follow Environment and Climate Change Canada's *Procedures for Handling and Documenting Stranded Birds Encountered on Infrastructure Offshore Atlantic Canada*. Procedures and methods should include any technically and economically feasible ways to monitor strandings from areas of the mobile offshore

drilling unit(s), and Designated Project-related vessels, excluding supply and standby vessels that are inaccessible to observers;

- 4.6.3 monitor during flaring for the presence of migratory birds using a trained observer whose primary responsibility is observing migratory birds and document migratory bird behavior around the flares;
  - 4.6.4 develop and implement procedures and methods for monitoring migratory bird interactions with lighting related to the Designated Project, including the effectiveness of any spectrally modified lighting measures, if implemented pursuant to condition 4.3. Methods shall consider and, where appropriate, incorporate the use of radar, infrared imaging, aerial surveys or telemetry studies;
  - 4.6.5 monitor for the presence of oil sheens and their extent and any migratory bird contact with these oil sheens; and
  - 4.6.6 report monitoring data collected pursuant to 4.6.1 through 4.6.5 annually to Environment and Climate Change Canada and the Board in a format determined in consultation with Environment and Climate Change Canada and the Board.
- 4.7 The Proponent shall participate in research and monitoring programs pertaining to the effects of light attraction on migratory birds in offshore areas and mitigation measures to reduce the attraction of migratory birds to lighting, where available and agreed upon by the party(ies) responsible for the research programs. Research and monitoring programs pertaining to the effects of light on birds may include:
- 4.7.1 impacts of offshore lights on Leach's Storm-petrel and other migratory birds;
  - 4.7.2 migratory bird foraging and overwintering areas in the offshore;
  - 4.7.3 migratory bird populations distributions and demographics in the offshore; and
  - 4.7.4 reducing the attraction of migratory birds to lighting in offshore areas, including the effectiveness of measures related to the spectrum, type or intensity of light.
- 4.8 The Proponent shall inform annually the Board and Indigenous groups no later than March 31 on how the Proponent has participated in research and monitoring programs pursuant to condition 4.7. Prior to updating Indigenous groups, the Proponent shall communicate with Indigenous groups regarding the means by which Indigenous groups will be updated.

## **5 Indigenous and commercial fisheries**

- 5.1 The Proponent shall develop and implement a Fisheries Communication Plan in consultation with the Board, Indigenous groups and commercial fishers. The Proponent shall develop the Fisheries Communication Plan prior to conducting any Designated Project activities within the Designated Project Area and implement it for the duration of the Designated Project. The Proponent shall include in the Fisheries Communications Plan:
- 5.1.1 procedures to notify Indigenous groups and commercial fishers of planned drilling activity, and the anticipated movement of the mobile offshore drilling unit(s), and Designated Project vessels, excluding supply and standby vessels , a minimum of 60 days prior to conducting any Designated Project activities within the Designated Project Area;

- 5.1.2 procedures to determine the requirement for a Fisheries Liaison Officer and/or fisheries guide vessel during the movement of mobile offshore drilling unit(s), and Designated Project vessels, excluding supply and standby vessels and geophysical programs;
  - 5.1.3 procedures to notify Indigenous groups and commercial fishers in the event of a spill or unplanned release of oil or any other substance, and communicate the results of the monitoring and any associated potential health risks referred to in condition 7.10;
  - 5.1.4 procedures to engage in two-way communication with Indigenous groups and commercial fishers in the event of a spill requiring a tier 2 or tier 3 response over the duration of the spill response; and
  - 5.1.5 the type of information that will be communicated to Indigenous groups and commercial fishers, the timing of distribution of this information, and any update to the Designated Project activities, that will include but not be limited to:
    - 5.1.5.1 a description of planned Designated Project activities and the anticipated movement of the mobile offshore drilling unit(s), and Designated Project vessels, excluding supply and standby vessels ;
    - 5.1.5.2 location(s) of safety exclusion zones and anti-collision zones;
    - 5.1.5.3 anticipated vessel traffic schedule;
    - 5.1.5.4 anticipated vessel routes; and
    - 5.1.5.5 locations of decommissioned and abandoned subsea infrastructure.
- 5.2 The Proponent shall develop and implement a decommissioning and abandonment plan in accordance with the *Newfoundland Offshore Petroleum Drilling and Production Regulations* that meets or exceeds the requirements of the *Drilling and Production Guidelines* and submit it to the Board for acceptance prior to conducting any Designated Project activities within the Designated Project area. If the Proponent proposes to abandon any subsea infrastructure on the seafloor in a manner that may interfere with Indigenous or commercial fisheries, the Proponent shall develop the decommissioning and abandonment strategy in consultation with commercial fishers and potentially affected Indigenous groups with fishing licences that overlap with the Designated Project Area, identified in consultation with Fisheries and Oceans Canada.
- 5.3 The Proponent shall provide the details of its operation, including the safety exclusion zones and anti-collision zones for the duration of the Designated Project, and the location information of any decommissioned subsea infrastructure if left on the seafloor, to Fisheries and Oceans Canada, the Marine Communications and Traffic Services for broadcasting and publishing in the Navigational Warnings, and to the Canadian Hydrographic Services for future nautical charts and planning.
- 5.4 The Proponent shall report annually to the Board on known incidents of lost or damaged fishing gear attributed to the Designated Project and make this information available to Indigenous groups and commercial fishers upon their request.

## **6 Air quality and greenhouse gas emissions**

- 6.1 The Proponent shall reinject into a reservoir all gas produced from the wells associated with the Designated Project that is not used as fuel, except for those quantities flared as part of non-routine or safety flaring.

- 6.2 The Proponent shall identify and incorporate greenhouse gas and air emission reduction measures into the design of the Designated Project, and implement these measures for the duration of the Designated Project to avoid or reduce potential adverse environmental effects caused by these emissions. The Proponent shall submit a description of these final measures to Environment and Climate Change Canada and the Board along with an updated quantification of greenhouse gas and air emissions estimates associated with the Designated Project prior to conducting any Designated Project activities within the Designated Project Area.
- 6.3 The Proponent shall implement any modified or additional greenhouse gas and air emission reduction measures that are economically and technically feasible when the floating production storage and offloading vessel(s) undergoes repair and maintenance as required during dry dock inspections over the duration of the Designated Project. The Proponent shall submit to the Board and Environment and Climate Change Canada within 60 days of completion of any dry dock inspections a description of these measure(s) and the anticipated reduction in greenhouse gas and air emissions associated with these measure. The Proponent shall provide justification if no modified or additional measures are implemented;
- 6.4 The Proponent shall comply with all applicable air quality emissions limits and limits on sulphur concentrations in diesel fuel for Designated Project vessels in accordance with the *Marine Shipping Act, 2001* and International Maritime Organization's *International Convention for the Prevention of Pollution from Ships* and any other legislative requirements, where applicable.

## **7 Accidents and malfunctions**

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



- 7.3 The Proponent shall prepare a plan for avoidance of mobile offshore drilling unit and floating production storage and offloading vessel collisions with vessels and other hazards that may reasonably be expected in the Designated Project Area and submit the plan to the Board for acceptance prior to conducting any Designated Project activities within the Designated Project Area.
- 7.4 The Proponent shall prepare an Ice Management Plan that will include measures for avoidance of collisions with icebergs and procedures for updating the plan as needed over the life of the project taking into account updated climate observations and model predictions related to sea ice and submit the plan to the Board for acceptance prior to conducting any Designated Project activities within the Designated Project area.
- 7.5 The Proponent shall prepare and submit to the Board well control strategies prior to conducting any Designated Project activities within the Designated Project area. The well control strategies shall include:
- 7.5.1 measures for well capping and containment of fluids released from well and the drilling of a relief well, as well as options to reduce overall response timeline; and
  - 7.5.2 measures to quickly disconnect the mobile offshore drilling unit(s), floating production storage and offloading vessel(s) and shuttle tankers from their respective infrastructure connections in the event of an emergency or extreme weather conditions.
- 7.6 The Proponent shall develop and implement procedures to maintain up-to-date information on the availability of capping stack(s), vessels capable of deploying the capping stack(s), and drilling rigs capable of drilling a relief well within the Designated Project area prior to and during the drilling of each well. The Proponent shall communicate this information to the Board and update the Board, when any of this information changes, prior to and during the drilling of each well.
- 7.7 The Proponent shall prepare a Spill Response Plan in consultation with Indigenous groups. The plan shall be submitted to the Board for acceptance prior to conducting any Designated Project activities within the Designated Project area. The Spill Response Plan will take into account the results of the modelling of spills identified in Appendix E and F of the environmental impact statement and shall include the following:
- 7.7.1 procedures to respond to and mitigate the potential environmental effects of a spill of any substance that may cause adverse environmental effects, including spill containment and recovery procedures;
  - 7.7.2 the list of relevant authorities to be notified of a spill, notification thresholds and notification procedures;
  - 7.7.3 measures for wildlife response, protection and rehabilitation, including procedures for the collection and cleaning of marine mammals, birds, sea turtles and species at risk, and measures for shoreline protection and clean-up; and
  - 7.7.4 roles and responsibilities for offshore operations and onshore responders.
- 7.8 The Proponent shall, commencing before the first well is drilled and continuing until decommissioning is complete, conduct an exercise of its Spill Response Plan at a frequency determined in consultation with the Board as required under subparagraph 6(j)(ii) of the

*Newfoundland Offshore Petroleum Drilling and Production Regulations*, document any deficiencies observed during this exercise, provide the record of these deficiencies to the Board for review, and adjust the plan to the satisfaction of the Board to address those deficiencies.

- 7.9 The Proponent shall, commencing before the first well is drilled and continuing until decommissioning is complete, review its Spill Response Plan prior to the drilling of each well and otherwise at a frequency determined in consultation with the Board to verify that the plan continues to be appropriate and, when necessary, shall update the plan in a manner acceptable to the Board.
- 7.10 In the event of a spill or unplanned release of oil or any other substance that may cause adverse environmental effects, the Proponent shall begin implementation of the spill response plan immediately, notify the Board and any other relevant authorities verbally as soon as the circumstances permit, and implement procedures for notification of Indigenous groups and commercial fishers developed in condition 5.1.3. As required by and in consultation with the Board, implementation of the Spill Response plan may include monitoring the environmental effects of a spill on components of the marine environment until specific endpoints identified in consultation with relevant authorities are achieved. As applicable, this may include:
- 7.10.1 sensory testing of seafood for taint, and chemical analysis for oil concentrations and any other contaminants, as applicable;
  - 7.10.2 measuring levels of contamination in recreational, commercial and traditionally harvested fish species with results integrated into a human health risk assessment, to be submitted to relevant authorities, including those responsible for fishing area closures;
  - 7.10.3 monitoring for marine mammals, sea turtles and birds for signs of contamination or oiling and reporting results to the Board, Fisheries and Oceans Canada, and Environment and Climate Change Canada; and
  - 7.10.4 monitoring benthic organisms and habitats in the event of a spill or other event that could result in smothering or localized effects to the benthic environment.
- 7.11 The Proponent shall undertake a Spill Impact Mitigation Assessment to identify spill response options that may be implemented in the case of a spill to provide for the best opportunities to minimize environmental consequences, and provide it to the Board for review prior to conducting any Designated Project activities within the Designated Project Area.
- 7.12 The Proponent shall provide Indigenous groups with the results of the exercise conducted pursuant to condition 7.8, following its review by the Board. The Proponent shall provide the final Spill Response Plan to Indigenous groups prior to conducting any Designated Project activities within the Designated Project Area and any updates to the Spill Response Plan pursuant to conditions 7.8 and 7.9.
- 7.13 In the event of an uncontrolled subsea release from the well, the Proponent shall begin the immediate mobilization of subsea containment and capping equipment to the site of the uncontrolled subsea release. Simultaneously, the Proponent shall commence mobilization of a drilling installation to the site to drill a relief well.

- 7.14 If drilling is anticipated in water depths less than 500 metres, the Proponent shall undertake further analysis to confirm the capping stack technology selected can be deployed and operated safely at the proposed depth and submit this analysis to the Board for acceptance prior to conducting any Designated Project activities within the Designated Project Area.
- 7.15 In the event of an accident or malfunction, the Proponent shall comply with the requirements of the *Accord Acts* and the *Canada-Newfoundland and Labrador Offshore Financial Requirement Regulations* and the requirements described in the *Compensation Guidelines Respecting Damages Relating to Offshore Petroleum Activity*.
- 7.16 The Proponent shall report annually to the Board on the effectiveness of operating procedures and cessation of work or activity thresholds, established for operating in poor weather, high sea state, and sea ice or iceberg conditions. The report shall include a description of any modifications to operations implemented in response to adverse environmental conditions, in accordance with *the Newfoundland Offshore Petroleum Drilling and Production Regulations*.

## **8 Implementation Schedule**

- 8.1 The Proponent shall submit to the Board a schedule for each condition set out in this document at least 30 days prior to conducting any Designated Project activities within the Designated Project Area. This schedule shall detail all activities planned to fulfill each condition set out in this document and the commencement and estimated completion month(s) and year(s) for each of these activities.
- 8.2 The Proponent shall submit to the Board a schedule outlining all activities required to carry out all phases of the Designated Project no later than 30 days prior to conducting any Designated Project activities within the Designated Project Area. The schedule shall indicate the commencement and estimated completion month(s) and year(s) and duration of each of these activities.
- 8.3 The Proponent shall submit to the Board in writing an update to schedules referred to in conditions 8.1 and 8.2 every year no later than March 31, until completion of all activities referred to in each schedule.
- 8.4 The Proponent shall provide to the Board revised schedules if any change is made to the initial schedules referred to in condition 8.1 and 8.2 or to any subsequent update(s) referred to in condition 8.3, upon revision of the schedules.

## **9 Record keeping**

- 9.1 The Proponent shall maintain all records required to demonstrate compliance with the conditions set out in this document. The Proponent shall provide the aforementioned records to the Board or the Agency upon demand within a timeframe specified by the Board or the Agency.
- 9.2 The Proponent shall retain all records referred to in condition 9.1 at a facility in Canada. The records shall be retained and made available for a minimum of five years after completion of the Designated Project, unless otherwise specified by the Board. The Proponent shall inform the Board of the location of the facility where records are retained and notify the Board and the Agency at least 30 days prior to any change to the location of the facility.

9.3 The Proponent shall notify the Board and the Agency of any change to the contact information of the Proponent.