

September 8, 2021

Mr. Terry Hubbard  
Acting President  
Impact Assessment Agency of Canada  
22nd Floor, Place Bell  
160 Elgin Street  
Ottawa ON K1A 0H3

Dear Mr. Hubbard:

**Re: Public Comment - Bay du Nord Development Project draft Environmental Assessment Report and the potential environmental assessment conditions for the project**

The Canadian Association of Petroleum Producers (CAPP) represents companies, large and small, that explore for, develop and produce natural gas and crude oil throughout Canada. CAPP's member companies produce approximately 80 per cent of Canada's natural gas and crude oil. Together CAPP's members and associate members are an important part of a national industry with revenues of about \$116 billion a year. CAPP's mission is to enhance the economic sustainability of the Canadian upstream petroleum industry in a safe and environmentally and socially responsible manner, through constructive engagement and communication with governments, the public, and stakeholders in the communities in which we operate.

CAPP wishes to provide comment on the Bay du Nord Development Project draft Environmental Assessment Report and the potential environmental assessment conditions for the project as follows:

**General Concerns**

In contrast to previous project approvals in the Canada-Newfoundland and Labrador Offshore Area under the Canadian Environmental Assessment Act (CEAA), the conditions for the Bay du Nord Development Project do not allow for an adaptive management approach to environmental monitoring and mitigation. According to CEAA 2012, the intent of a follow-up program is to verify the accuracy of the environmental assessment of a designated project and to determine the effectiveness of any mitigation measures. As written, the follow-up program does not contemplate changes to these legally binding conditions once the EA predictions are validated or mitigations have been determined effective. These conditions are not adaptable to account for enhanced mitigations, new technologies, or findings of follow-up programs for the entire life of the project. For example, the requirement for a dedicated seabird observer for the life of the project does not

---

2100, 350 – 7 Avenue S.W.  
Calgary, Alberta  
Canada T2P 3N9  
Tel 403-267-1100  
Fax 403-261-4622

1820, 275 Slater Street  
Ottawa, Ontario  
Canada K1P 5H9  
Tel 613-288-2126  
Fax 613- 236-4280

1004, 235 Water Street  
St. John's, Newfoundland and Labrador  
Canada A1C 1B6  
Tel 709-724-4200

202, 1110 Government St.  
Victoria, British Columbia  
Canada V8W 1Y2  
Tel [778-265-3819](tel:778-265-3819)  
Fax 403-261-4622

allow for the introduction of technologies like radar and video with artificial intelligence, to conduct the required monitoring.

The potential conditions for the Bay du Nord Development Project are in contrast with the conditions of approval under CEAA 2012 for exploration drilling in this regard. Several of the follow-up monitoring conditions for exploration drilling apply only to the first well in an exploration licence (if not within a sensitive area or habitat) and are no longer required once the accuracy of the environmental assessment and effectiveness of mitigation measures have been verified. Certainly, a 20-to-30-year development project can be afforded the same consideration. These conditions are also in contrast to the current offshore production environmental effects monitoring programs that have evolved over the life of the project to adapt to effects monitoring results. Monitoring parameters have been added when data gaps were identified, while other monitoring programs have been scaled back as a result of mitigating environmental risk. An adaptive management approach can incentivize a proponent to reduce environmental risk. CAPP is call for adaptive management clauses to be incorporated into the General Conditions section of the Bay du Nord Environmental Assessment Conditions. Considering the extensive nature of the conditions related to environmental effects monitoring, CAPP is also suggesting that this set of conditions satisfies any future requirement for an environmental effects monitoring program as part of an Operations Authorization.

### **Specific Concerns**

**Condition 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.

**CAPPs Concern:** The Decision Statement may be issued several years prior to the initiation of Designated Project activities. An annual report is therefore unnecessary until the start of implementation of these EIS conditions.

**Condition 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.

**CAPPs Concern:** Limiting thruster capacity of marine vessels displaces the expertise of the vessel master and introduces an impairment to the vessels operation.

**Condition 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.

**CAPPs Concern:** This Condition does not allow for economic considerations in the assessment of whether the relocation of subsea infrastructure or redirecting drill cutting is feasible. A change in subsea design and layout would have significant economic consequences and needs consideration if based on such subjective criteria as sensitive fish and fish habitat. Furthermore, the Condition does not allow for consideration of measures to offset adverse effects on fish and fish habitat as per the Fisheries Act. If a project design does not allow for relocation of subsea infrastructure or drill cuttings to be redirected, the Proponent should be presented with the option of offsetting unmitigated effects on fish and fish habitat, as any other industry would be.

**Condition 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.

**CAPPs Concern:** This condition places unfair burden on the Proponent to alter planned operations. Instead of an ad hoc approach, the regulator can manage concurrent seismic testing within 30 kilometers of the Designated Project by engaging stakeholders in advance of planned operations.

**Condition 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.

**CAPPs Concern:** This condition introduces several new parameters to the follow-up program compared to recent exploration drilling conditions of approval under CEAA 2012 and the Regional Assessment requirements for monitoring the effects of drilling discharges on fish and fish habitat. CAPP is concerned by the dissimilarity of monitoring requirements for the same activity since it creates uncertainty for any future proponents. There is further uncertainty in how sediment quality is to be measured, since it is a subjective metric. Sediment grain size for example, may be preferred by one species and not another. If the intent of Condition 3.14.2.1 is to measure the extent of sediment deposition, more specific and proven effects monitoring parameters would be more effective. Suspended particulate matter (SPM) is also too generic to be an effective measure of the effects of drilling discharges. SPM varies naturally by season and with each storm event, so interpretation of data collected prior to and during drilling will be confounded by natural variability.

**Condition 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:

- 3.14.3.2 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;

**CAPPs Concern:** The confounding influences on marine mammal behaviour over such a large area would prevent any observed changes to be attributable to project activities. For example, short term changes in the presence, distribution and feeding of marine mammals can be expected in response to prey availability, so cannot be distinguished from other influences. Sound monitoring is required to validate sound models and the zone of influence, so attempting to interpret marine mammal behavior is redundant. Marine mammal monitoring and mitigations are required as part of the Statement of Canadian Practice and other conditions. Together, these mitigations and monitoring programs will adequately determine the accuracy of impact prediction. Furthermore, this requirement is not aligned with the environmental risk posed by these activities. The Bay du

Nord Development Project Draft Environmental Assessment Report concludes the expected impact to marine mammals to be low:

*In general, it is anticipated that noise levels are unlikely to result in any measurable change in marine mammal presence, abundance, or distribution, or any impacts on important life processes. The Agency is of the view that the magnitude of effects is low because a measurable change in marine mammal presence/abundance/distribution or in habitat quality or quantity, and behavior is unlikely, and that any change is considered not important for life processes.*

Condition 3.14.3.2 is therefore in contradiction to the EA Report, in that it requires the monitoring of marine mammal behavior, when the conclusion in the EA Report is that a measurable change in marine mammal behavior is unlikely.

**Condition 3.16** The Proponent shall participate in research programs in the Eastern Canadian offshore areas pertaining to the behavior, presence, distribution, and important habitat areas of cetaceans where available and agreed upon by the party(ies) responsible for the research programs.

**CAPPS Concern:** A generalized requirement to participate in cetacean behavioral research is not aligned to the low risk to marine mammals from these activities, as presented in the Bay du Nord Development Project Draft Environmental Assessment Report. The level of confidence in the effects predictions is high due to the volumes of scientific literature published on the effects on marine mammals from noise. This requirement is not aligned with the environmental risk posed by these project activities.

**Condition 4.2** The Proponent shall implement measures to avoid harming, killing or disturbing migratory birds, including:

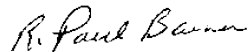
- 4.2.1 conducting only non-routine or safety flaring;
- 4.2.2 starting all flaring as early as practicable during daylight hours to limit flaring that occurs during nighttime;
- 4.2.3 identifying specific circumstances under which the Proponent shall not commence flaring during conditions of poor visibility 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.

**CAPPS Concern:** Non-routine or safety flaring is a safety critical component to the operation of the Project. The Proponent cannot be unduly restricted in the management of the asset's integrity or safe operations due to time of day or visibility. These legally binding conditions need serious reconsideration of potential consequences.

I appreciate the opportunity to comment on Equinor's Bay du Nord Development Project draft Environmental Assessment Report and the potential environmental assessment conditions for the project. If you have any questions, please do not hesitate to contact me at 709-724-4200.

Sincerely,

A handwritten signature in cursive script that reads "R. Paul Barnes".

R. Paul Barnes  
Director, Atlantic Canada and Arctic