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August 15, 2014

Sheri Young
Secretary of the Board
National Energy Board
444 Seventh Avenue S.W.
Calgary, AB T2P 0X8

Dear Ms. Young:

Re: Request for Review and Ruling on Equivalent Approach to Satisfy Same Season Relief Well Policy for the Imperial Oil Resources Ventures Limited Beaufort Sea Exploration Joint Venture Drilling Program; and, Request for a Staged Application Process for Drilling Authorizations for Chevron Canada Limited's Exploration License EL 481

We write on behalf of WWF-Canada in response to the National Energy Board (the Board) decision to grant Imperial Oil Resource Ventures Limited's (IORVL) and Chevron Canada Limited's (Chevron) requests for separate, advanced rulings on proposed alternatives to a Same Season Relief Well (SSRW) and its invitation to comment on the draft List of Issues. IOVRL and Chevron seek exemption from the requirement to demonstrate SSRW capability in Arctic offshore drilling. WWF-Canada is opposed to any exemption to the SSRW requirement that would erode the level of protection afforded to the Arctic environment.

WWF-Canada has an ongoing engagement in offshore drilling matters in the Canadian Arctic, and seeks to ensure that the purpose, importance and public interest in maintaining SSRW capability is effectively articulated throughout this advanced review. WWF-Canada's participation in the review will be grounded in objective scientific and technical facts. Our sole purpose is to ensure conservation of the fragile Western Arctic environment.

Before turning to the List of Issues, this letter will address (A) the intent and history of the SSRW capability requirement, (B) international regulatory practice, and (C) the participation opportunities during this review. Finally, we address the draft List of Issues in (D), below.

A. History and intent of the SSRW Policy

In its letter dated July 11, 2014 the Board articulates that the advanced review of SSRW capability will seek to "address whether the intent of the SSRW Policy has

been met or exceeded” and that “the intended outcome of this policy is to minimize harmful impacts on the environment”.¹ With a view to informing an appropriately broad framing of the issues for the SSRW hearing, we will start by further elucidating aspects underlying the intent of the SSRW capability requirement.

Canada’s SSRW capability requirement was first established in 1976 when drilling began in the Beaufort Sea and has consistently been upheld as an important regulatory component for the protection of the Arctic marine environment. It is a precautionary measure designed to ensure that an out-of-control well can be killed and sealed before the end of a northern drilling season, and an overwinter blowout avoided.

In 1991, the SSRW capability requirement was reviewed and reaffirmed pursuant to the Beaufort Sea Steering Committee review of preparedness for an Arctic oil well blowout, via reports commissioned by the Minister of Indian and Northern Affairs.² In describing SSRW capability, the report explains:

Since floating offshore drilling operations commenced in the Beaufort Sea in 1976 it has been the policy of the Government of Canada that an operator not drill into a potentially hydrocarbon-bearing zone (the risk threshold) without the ability to drill a relief well in the same season in the event of a blowout. This policy is meant to significantly reduce the damage to the environment that would result if an oil blowout continued to release oil through the winter season unchecked.³

The report underlines that while a relief well is not always required to bring a well under control, in some instances it is indispensable: “In the case of a blowout, where control was absolutely lost and the presence of the oil/gas at the drill site may have forced evacuation of the personnel and/or equipment from the site; the drilling of a relief well and utilization of unconventional well control methods would be required.”⁴ Thus, the historic intent was to ensure that every possible response capability was enabled—including a relief well as a last resort to avoid the catastrophic and irreparable harm of an oil leak continuing under the winter ice pack.

¹ Letter from the National Energy Board to Glenn Scott (11 July 2014) Request for Review and Ruling on Equivalent Approach to Satisfy Same Season Relief Well Policy for the Imperial Oil Resources Ventures Limited Beaufort Sea Exploration Joint Venture Drilling Program.

² “The Steering Committee recommends that the Minister of DIAND reaffirm the government’s commitment to same season relief well capability and reaffirm that the regulator will be responsible for ensuring compliance with this policy. The Steering Committee recommends that the regulator: a) assess each drilling application to ensure that a viable relief well drilling system is available and suitable for the proposed well”: Beaufort Steering Committee, *A report to the Minister of Indian Affairs and Northern Development regarding issues arising from the Environmental Impact Review Board reviews of Isserk and Kulluk drilling program applications*, vol 1 (1991) at ix [*Beaufort Reports*].

³ *Ibid*, at 13.

⁴ *Beaufort Reports*, *supra* note 2, at vol 7, 4-11.

The Board most recently reviewed and reaffirmed the SSRW capability requirement less than three years ago in the Arctic Offshore Drilling Review (AODR). The AODR was initiated in the wake of the BP Deepwater Horizon disaster and examined the safety and environmental requirements for Arctic offshore drilling.⁵ SSRW capability was the focus of extensive discussion during this process.

At the AODR Roundtable in Inuvik, the Inuvialuit Game Council and the Joint Fisheries Management Committee expressed their continued support of the SSRW capability requirement. Frank Pokiak, Chair of the Inuvialuit Game Council, stated that “this policy provides a level of comfort that has reduced some concerns regarding the potential negative impact of oil and gas development”.⁶

At this same roundtable, Chevron articulated that in certain circumstances, capping and other same well systems could not be used and a relief well would be the only means to stop a blowout: “There is a situation if you lost well integrity and you breached the casing into the surface and that certainly – and we do not deny it – would require a relief well.”⁷ A relief well is a contingency measure deployed in conjunction with other well control techniques. In some situations it may not be relied on, while in others it is the only means to regain well control.

This acknowledgement by Chevron reflects WWF’s own view, as articulated at the AODR Roundtable, that same-well interventions and relief wells are complementary well control and recovery techniques, not alternatives: “...[M]ethods like better blow-out preventers, well containment systems, these are not equivalent to Same Season Relief Wells. They are different – they’re a component of a response but they’re not the same thing...”⁸

The Board’s overall findings from the AODR process were summarized in the 2011 *Report on Offshore Drilling in the Canadian Arctic*. The Report states that “the intended outcome of the Same Season Relief Well Policy is to kill an out of-control well in the same season in order to minimize harmful impacts on the environment”.⁹ Thus, SSRW capability is imposed as a regulatory backstop to ensure an out-of-control well can be killed in the same season in case a same-well intervention cannot.

⁵ National Energy Board, *Public Review of Arctic Safety and Environmental Offshore Drilling Requirements: Scope* (2010) available online at https://docs.neb-one.gc.ca/fetch_e.asp?Id=A1U6X1.

⁶ National Energy Board, *Public Review of Arctic Safety and Environmental Offshore Drilling Requirements*, Roundtable transcript (2011) at para 755 [AODR transcripts].

⁷ *Ibid*, Bill Scott at para 4737.

⁸ *Ibid*, at para 1016.

⁹ National Energy Board, *Review of Offshore Drilling in the Canadian Arctic* (December 2011) at 40.

B. SSRW capability is international regulatory best practice

The Board's longstanding requirement of SSRW capability has kept Canada in line with international regulatory best practice. The United States, Greenland, Norway and the United Kingdom all require relief well capability for northern offshore drilling activities.¹⁰ In particular, the United States included SSRW as a drilling requirement when it approved Arctic exploratory drilling plans by Shell in the Beaufort Sea in 2012.¹¹

In recent years, relief wells have been required as the primary well control technique in a number of incidents, including:

- PTT Exploration and Production Australasia in the Timor Sea, 2009;
- Apache Corporation in the Gulf of Mexico, 2007;
- March Island in the Gulf of Mexico, 2002;
- Saga Petroleum in the Norwegian North Sea, 1989; and,
- Steelhead Platform Blowout in Cook Inlet in Alaska, 1987.

In addition, a relief well was a core component of the response during the BP Deepwater Horizon blowout in the Gulf of Mexico, where it was required to seal the damaged well.¹²

As these incidents demonstrate, a relief well remains an important blowout response tool. A worst-case scenario event in which a well blowout continues to leak oil under sea ice throughout the winter would devastate Arctic ecosystems. SSRW capability may prove critical to avoiding such an event. It is a proven response method with a track record of efficacy in stopping blowouts that cannot otherwise be controlled through same-well techniques. These considerations motivated establishment of the SSRW policy in 1976 and underlie its continued application to offshore northern drilling, both in Canada and internationally.

¹⁰ Jennifer Dagg et al, *Comparing the Offshore Regulatory Regimes of the Canadian Arctic, the US, the UK, Greenland, and Norway* (June 2011) at 129-140 (Expert Report commissioned by the National Energy Board for the Arctic Offshore Drilling Review).

¹¹ Letter from US Dept of the Interior, Bureau of Ocean Energy Management to Susan Childs, Shell Offshore Inc (April 2012) available online at http://www.boem.gov/uploadedFiles/BOEM/About_BOEM/BOEM_Regions/Alaska_Region/Leasing_and_Plans/Plans/2012-04-16_Shell_Clarification_of_Camden_Bay_EP.pdf.

¹² National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, *Deep Water: The Gulf Oil Disaster and the Future of Offshore Drilling*, Report to the President (January 2011) at 169.

C. Public participation in the SSRW capability review

WWF-Canada notes that the Board has provided a two-week extension to the deadline for submissions on the draft List of Issues. We welcome this extension, but also note that the period for comment remains exceedingly short and comes during the summer when interested parties may be away or out on the land. It is highly likely that some interested parties will not become aware of this advanced review and will not have sufficient time to formulate thoughtful and constructive commentary on the List of Issues. We urge the Board to accommodate parties that hear of the advanced proceeding late and still wish to comment on the list of issues.

WWF-Canada would like to take this time to make preliminary comments on the importance of meaningful and ample public participation opportunities for this advanced review. While recognizing the Board's jurisdiction to determine its own process, we submit that the context and subject of the review favour a rigorous and comprehensive public hearing process for several reasons:

1. There is widespread interest in the SSRW capability requirement among Inuit, northern residents and Canadian and international experts, as was clearly articulated during the AODR roundtable hearings.¹³
2. The Board cites public access to information as a factor in its decision to conduct an advanced hearing and has invited comment on the draft list of issues. These actions point to the importance of this issue and the Board's recognition of the need for a comprehensive and publically accessible review process.
3. As demonstrated in the Beaufort Steering Committee reports and the AODR hearings, SSRW has a history of efficacy, is well-studied and publically scrutinized. Any proposed alternative should receive equally rigorous examination.
4. Granting exemption from SSRW capability would be a significant departure from Canada's own regulatory practice and international regulatory best practice. Adequate time for intervention on these important domestic and international consequences needs to be provided for in the review process.

We anticipate an open hearing process with the following procedural elements:

- Oral public hearings in communities across the Inuvialuit Settlement Region;
- Opportunities for members of the public to participate as intervenors, including Aboriginal Persons, Northern residents, technical experts, representatives of other Arctic nations (including regulatory officials), and interested third parties;
- Public availability of all documents related to the process, including technical information that may contain commercially sensitive content;

¹³ See in particular: *AODR Transcripts*, *supra* note 6 at vols 2, 4.

- Opportunities for intervenors to conduct oral cross examination of IOVRL, Chevron and their experts on any proposed alternatives to SSRW capability;
- Participant funding to enable meaningful participation; and,
- Adequate timelines to allow for meaningful participation, including expert review of IOVRL and Chevron technical submissions and associated report preparation.

Finally, noting that the Board has not indicated an intention to seek public comment regarding process, WWF-Canada further submits that the procedural aspects of this advanced review and hearing should be subject to consultation and input.

D. Comments on the draft List of Issues

Generally speaking, WWF-Canada considers the draft List of Issues to be lacking in specificity. During the AODR, participants expressed concern about the lack of clarity as to how the “equivalency” of a proposed alternative would be evaluated and how the Inuvialuit would be involved in the review of proposed alternatives.¹⁴ We highlight procedural matters with respect to the List of Issues, which address these concerns, before turning to the items contained in the draft list.

Need for specific, transparent evaluation criteria and detailed information requirements

Before any hearing begins we would encourage the Board to prepare and circulate for public comment, a draft set of criteria for evaluating any proposal for SSRW “equivalency”. These draft criteria may be refined in light of public comment, helping to ensure that the basis of evaluating any SSRW exemption reflects the concerns of impacted and interested parties and that a minimum of transparency is met. Suggested preliminary criteria, which WWF-Canada views as essential, are provided below under Issue One.

Once these draft criteria have been consulted upon, we would expect the Board to prepare, with public input, a detailed framework of the specific information required to be provided in any proposal submitted for review. A detailed framework is required to ensure that proposals contain sufficient specificity for meaningful evaluation by the board and the public.

Industry proponents need to state their position on the draft List of Issues

At this stage, WWF-Canada recommends that the Board require the proponents, IOVRL and Chevron, to state their positions on the list of issues and on the intended

¹⁴ *Ibid*, Frank Pokiak at para 757, Steve Baryluk at paras 4780-1.

outcome and purpose of the SSRW requirement. The Board's letters of July 11 to IORVL and Chevron asks interested parties to provide comment on the draft List of Issues yet it does not seek the views of the proponents who sought this review. Further, in the AODR Roundtable hearings public access to the information underpinning industry assertions of SSRW "equivalency" was highlighted as critical.¹⁵ Without clarity as to the proponents' position on the list of issues, WWF-Canada believes that meaningful review the SSRW alternatives proposed will be hampered.

Issue 1: What criteria and risks should be considered in determining whether the intent of the SSRW Policy has been satisfied by the tools and techniques proposed to respond to an out-of-control well?

For a proposal to be considered equivalent to a SSRW, it would need to fulfill the same role as SSRW in an out-of-control well scenario. The criteria to evaluate equivalency must address the capabilities that have, until now, only been achieved by SSRW.

WWF proposes the following principles to guide the development of criteria that would underpin any SSRW exemption analysis:

1. An equivalent alternative must be deployable in all the circumstances where a same season relief well would otherwise be deployed.
2. An equivalent alternative must be capable of reestablishing well control where same-well intervention methods cannot be deployed, should not be deployed because they risk exacerbating the situation or are deployed but fail.
3. An equivalent alternative must be able to operate in all foreseeable conditions and must be no less reliable than a same season relief well. Reliability under foreseeable conditions must be documented.

In particular, WWF-Canada recommends that review criteria require that any SSRW "equivalent" proposal be able to:

- control and kill a blowout before the end of the season;
- respond to a blowout that is located a distance from the wellhead;
- operate and intervene at a location away from the main drilling rig and wellhead;
- provide enduring and stable well-control;
- relieve pressure from underground;
- operate in hazardous surface conditions; and,
- circumvent debris and hazards at the blowout site.

¹⁵ *Ibid*, Lindsay Staples, at paras 4589-90.

Issue 2: How the tools and techniques proposed would meet the criteria and address risks in the circumstances of a worst case scenario?

We recommend that a proposal for an SSRW “equivalent” alternative identify the scenarios in which a timely relief well would otherwise be necessary to avoid a multi-season blowout, and detail how the proposed alternative would perform in each scenario. This would include scenarios in which other well-control methods could not be deployed, as well as scenarios in which they could be deployed, but are not guaranteed to succeed. The performance assessment in these various scenarios must be accompanied by references to any relevant international studies or experiences based in comparable Arctic conditions.

Further, to ensure effective evaluation of equivalency under the criteria defined at Issue 1, a proposal should provide a detailed cost-benefit analysis of how the proposed technique would compare with SSRW in respect of each criterion.

A proposal should also be accompanied by an explanation of how the components of *Filing requirement 4.17* (“the Contingency Plan for an uncontrolled release of reservoir fluids or a blowout”) would be satisfied. This information is necessary for a complete and contextualized evaluation of the proposed alternative as a distinct and complementary intervention to other well-control and capping and containment techniques.

Issue 3: The terms and conditions, if any, that should be considered at the project application stage if the departure from the SSRW Policy is granted

The opportunity for interested parties to comment on the terms and condition should be provided at the project application stage. As the relevant terms and conditions for any project will depend in part on the particular SSRW alternative proposed, it would be appropriate to discuss this issue once a distinct proposal for SSRW equivalency has been submitted and in the context of a drilling authorization application.

WWF-Canada submits that any terms and conditions that might be incorporated into a prospective SSRW exemption must ensure that the criteria and principles outlined under issue one are met.

Issue 4: Implications of the Board accepting a departure from SSRW capability

The implications of accepting a departure from the SSRW Policy are substantial. Allowing a well to be drilled in the Arctic offshore without SSRW capability would depart from a longstanding policy maintained by successive governments and supported by the Inuvialuit for over 40 years. Granting the exemptions requested by IOVRL and Chevron would place Canada out of step with internationally recognized best practice and the standard required by other Arctic nations. Canada would join

Russia as the only countries to exempt the offshore industry from this safety requirement in the Arctic. It would replace a mature, reliable technology with new, unproven technology. Ultimately, it would expose the fragile Arctic environment to greater risk of a devastating multi-season release of oil under sea ice.

Conclusion

In closing, WWF-Canada emphasizes the importance of a thorough review and hearing with strong public participation to ensure that any proposal for exemption from the SSRW capability requirement is rigorously scrutinized. Given the importance of the SSRW capability and the implications to the Arctic environment of a multi-season blowout, this review and hearing must proceed with the utmost transparency, and industry assertions must be subjected to the most rigorous of scrutiny.

Yours truly,



Will Amos
Staff Lawyer



Karen Campbell
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