

July 19, 2016

Via Email to
CEAA.EARReview-ExamenEE.ACEE@ceaa-acee.gc.ca

Review of Environmental Assessment Processes
Canadian Environmental Assessment Agency
160 Elgin Street, 22nd Floor,
Ottawa ON K1A 0H3

To Whom It May Concern:

Re: Feedback Regarding Draft Terms of Reference for the Expert Panel

The Canadian Association of Petroleum Producers (CAPP) has prepared the following comments in response to the request for feedback on the Terms of Reference (TOR) for the Expert Panel (Panel) component of the Review of Environmental Assessment Processes.

CAPP and its members appreciate the opportunity to provide feedback and request that we be included and kept informed of all upcoming review processes and activities. The related modernization of the *National Energy Board, Fisheries Act and Navigable Waters Protection Act* may have an influence on the review of the environmental assessments. CAPP would like to highlight the importance and necessity for coordination and consideration of the other complimentary reviews (e.g. the review of northern regimes by Indigenous and Northern Affairs) being undertaken and suggest that more discussion on the process of integration of the reviews could be considered for the TOR.

In general, CAPP supports the content of the Draft TOR and feels the outlined structure will be effective in achieving the outcomes desired by the Minister. To ensure these outcomes are achieved, CAPP recommends that the panel be comprised of experts with the functional knowledge in the environmental assessment process, and the skills to make sound and balanced recommendations based on peer-reviewed science. CAPP agrees that there is opportunity to “regain public trust and help get resources to market” in a manner that includes working in partnerships with affected parties. Supporting the panel with the Multi-Interest Advisory Committee and other experts will ensure a fulsome opportunity to access additional views and expertise to inform the process.

Feedback on specific sections in the TOR is as follows:

- **Mandate**

As the review processes will be highly dependent on the panel members selected, we recommend that all potential candidates have understanding of Environmental Assessments; including undertaking or reviewing a cross-section of major projects in Canada. It would also be beneficial if the nominees have previous regulatory decision making experience and legal background.

Members could be identified within the academic community, industry, environmental groups and indigenous organizations and could be active or retired.

CAPP recommends that provincial government representatives actively participate in the Multi-Interest Advisory Committee, to provide input to the Panel to ensure alignment during the review of the environmental assessment process.

- **Scope of Review**

Overall, CAPP supports the questions included in the Minister's Mandate.

Question 1: CEEA 2012 maintained a robust and comprehensive process while achieving a number of process improvements. We view this review as an opportunity to further enhance the environmental assessment process in Canada.

In CAPP's view, the technical and scientific requirements associated with the environmental assessment process are comprehensive and well established. As a result, CAPP would recommend that the panel's review focus on clarifying regulatory, legal and decision-making processes, adherence to these processes, and enhancing regulatory certainty. To ensure that the panel's review results in the enhancements to the environmental assessment process, CAPP suggests that an initial review be conducted by the panel to identify what elements are currently deemed successful and should be retained, and what elements require improvement and should be included in the scope of review.

Question 2: Consideration of the public interest is an important component of the review. CAPP is supportive of ensuring decisions are based on science and facts and the inclusion of additional components (e.g. socio-economic factors) that are necessary to make a public interest decision. Environmental assessment is one component of many that needs to be weighed when a decision on a major project is being considered. The oil and natural gas industry supports the enhancement of regulatory certainty in the development of major projects in Canada. Including this scope of review could assist in ensuring Canada remains competitive with other jurisdictions in the development of major projects.

Question 4: The selection of "best technologies" is based on safe and efficient environmental and operational performance, best business practices and is effectively managed with adherence to policies and guidelines that are developed and implemented by regulatory agencies and jurisdictionally appropriate governments. Accordingly CAPP recommends that the panel should focus its limited time and resources on other questions.

Question 5: CAPP notes that there is potential to enhance all the desired areas in a meaningful manner that does not necessarily require legislative change. Assuming legislative change is the only tool to improve the process may limit the panel in determination of the most effective solution to achieve the desired outcomes.

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- **Conduct of Review**

Given the tight timeline and scope of the review, it would be beneficial for the TOR to provide an indication of the planned next steps and associated timelines of the government and the Minister upon the receipt of the Report. CAPP looks forward to engaging with the government on any proposed legislative amendments, after the submission of the Panel's report.

Any questions regarding the submission can be forwarded to the undersigned,
<contact information removed>

Yours truly,

A handwritten signature in blue ink, appearing to read 'P. McDonald', is positioned above the typed name.

Patrick McDonald, P.Eng.
Manager Oil Sands