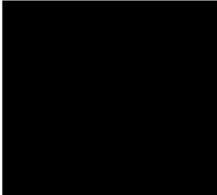


April 16, 2019



Dear :

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act* (File # NR-56-2019)

On April 4, 2019, the Department of Natural Resources received your request for access to the following records/information:

February 2019 Decision / Direction Note on the topic of Advance 2030 Implementation -- Issue Two Scopes of Work for Consultant Studies on Best Practices for Fallow Field Development and Best Practices for Third Party Access to Infrastructure.

I am pleased to inform you that a decision has been made by the Department of Natural Resources, confirmed by the Deputy Minister, to provide access to the requested records. The records are attached.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the *Access to Information and Protection of Privacy Act* (the Act). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act*.

Please be advised that this letter will be published following a 72 hour period after it is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the letter posted to the Office of Public Engagement's website within one business day following the applicable period of time.

If you have any questions, please feel free to contact me at 709-729-0463 or rhynes@gov.nl.ca.

Sincerely,

A handwritten signature in cursive script that reads "Rod Hynes".

Rod Hynes
ATIPP Coordinator

Decision/Direction Note
Department of Natural Resources

Title: Advance 2030 Implementation – Issue Two Scopes of Work for Consultant Studies on Best Practices for Fallow Field Development and Best Practices for Third Party Access to Infrastructure

Decision/Direction Required:

- A decision is requested on whether the Department of Natural Resources (NR) should proceed with issuance of the following Request for Proposals (RFP):
 - An international jurisdictional scan of best practices for fallow field management; and,
 - An international jurisdictional scan of best practices for access to oil and gas infrastructure.
- To implement Advance 2030 as it relates to the driving exploration and accelerated development actions, it is recommended that NR be directed to issue request for proposals for these scopes of work.

Background and Current Status:

- On February 19, 2018, the Provincial Government of Newfoundland and Labrador launched Advance 2030. This is a plan for growth in the oil and gas industry and the outcome of the collaborative work of the Oil and Gas Industry Development Council and the Government. The strategy includes 17 focus areas, which include immediate, mid-term, and long-term actions.
- Two items under immediate actions, for which the scopes of work outlined in this note (Attachments 1 & 2) are intended to inform, include:
 - Drive Exploration – Conduct research on international best practices for fallow field management; and,
 - Accelerate Development – Investigate an industry-led best practice on third party access to infrastructure
- NR is seeking to obtain advice on the best practices for fallow field management and access to oil and gas infrastructure. Both related to production opportunities, where significant discovery licences have been issued but remain undeveloped despite proven hydrocarbon presence and volumes. NR is looking for lessons learned that may apply to Newfoundland and Labrador's specific operating environment.
- The requested proposals will support NR's role in facilitating the effective and efficient management of the Province's petroleum resources from assessment through to development and production.
- This scope of work will complement work already completed, including the following:
 - Access to Infrastructure actions:
 - In 2007, a workshop was held on small field development in Eastern Canada. Focus areas for future research, development, and study to assist the development of such fields were suggested and included developing codes of practice and legislation for negotiating commercial terms for infrastructure access and resolving disputes.

- From 2007-2015, Nalcor took the following actions:
 - Industry engaged (2007-2009) over Nalcor equity acquisitions and disputes at the time (Hibernia South Extension, West Bonne Bay to Terra Nova) and tariffs to access existing infrastructure.
 - Wood Mackenzie was engaged to develop a report on global best practices (2012)¹.
 - Fabian Ltd was engaged as a qualified expert in negotiating oil and gas infrastructure access and tariff agreements (2014).
 - Commenced drafting Code of Practice and related documents throughout 2014-2015
 - Nalcor presentation to NR, 2015²
- Land Tenure actions:
 - In 2006, Wood Mackenzie completed a Review of Global Provisions for Retaining Discoveries. The report found there is virtually nowhere outside North America where a company may hold an undeveloped discovery indefinitely and outlined what provisions are in place to address fallow fields in two peer group countries.
 - In 2013, a Federal-Provincial Offshore Land Tenure Policy Working Group formed with the objective of proposing any change to policies, legislation, and regulations that could improve competitiveness, as well as to respond to changing market and operating conditions.
 - From 2013-2017, workshops and meetings were held with various stakeholders including CAPP, regional supply and service provider associations – NOIA, the petroleum boards, as well as industry experts. The Working Group also sought views from international policy makers and regulators.
 - In 2015, Wood Mackenzie submitted a Jurisdiction Review of International Land Tenure Systems report to NR.
 - In 2017, a Land Tenure Policy Report was completed. It included 50 proposed actions, including legislation amendments for future SDLs, including a fixed term licence of 25 years and was conditional on the submission of a plan for commercialization of the discovery.

Analysis:

- With the successful exploration strategy executed by Nalcor Energy Oil and Gas and ongoing marketing and promotion efforts of the Province, the backdrop for exploration offshore NL currently comprises:
 - Over 650 leads and prospects, more than 20 basins mapped and a combined resource potential of 49.2 billion barrels of oil and 193.8 trillion cubic feet of natural gas; and
 - 25 exploration licenses (EL) issued by the Canada-Newfoundland and Labrador Offshore Petroleum Board (CNLOPB).
- There are currently 56 Significant Discovery Licences (SDL) in NL's offshore. Many have proven hydrocarbons yet remain undeveloped and have no expiration term. SDLs issued since 2009, are subject to rental fees, which encourage exploration companies to develop these assets, pay an escalating rental fee to keep them, or surrender them.

¹ Nalcor Energy Upstream Infrastructure Third Party Access (TPA) International Case Studies, Nov 14, 2012

² Access to Infrastructure: Current Status and Path Forward May 21, 2015

- Natural Resources Canada's (NRCan) involvement is required to implement the Land Tenure Working Group's proposed legislative amendments for SDLs. However, NRCan is overwhelmed with these proposals and is focused on other priorities.
- The Requests for Proposals will deliver guidance to the Province, Federal Government and industry on current global best practices for fallow fields and marginal field development (as it relates to third party access to infrastructure) – both of which represent future opportunities to increase offshore oil and gas development. These best practices could encourage turnover or development of these assets. If companies elect to surrender their rights to a licence, or a portion of the licence, these lands could then be posted in a Call for Bids and give another exploration company the opportunity to develop these assets, maximizing recoveries in NL's offshore.
- Under section 5(1)(b) of the Public Procurement Regulations, an open call for bids is required on services of an estimated value of \$50,000 or greater. Under section 6(a)(i) of these Regulations, a public body is not required to issue an open call for bids where the head of the public body determines that the estimated value of the commodity being acquired is less than the thresholds established in section 5.
- Both of these scopes of works are budgeted for under \$50,000 each and will be administered out of the current fiscal year 2018/2019 budget of the Petroleum Engineering Division. Both studies are intended to be completed this fiscal year. Given the budget for this work, an open call for bids process is not required and a limited call would be undertaken.
- Under the Public Procurement Policy Guidelines (Section 6.1), procuring a commodity through a limited call for bids requires the public body to either:
 - Obtain quotations from at least three suppliers. These can be obtained through various methods such as telephone, fax, electronic, and RFP. It is important to rotate the procurement opportunities among several suppliers, if possible, and not continuously invite quotations or bids from the same or select group of suppliers;
 - Determine a fair and reasonable price for the commodity based on recent market conditions.
- The method chosen to obtain quotations is usually determined based on the value and complexity of the commodity being procured. Under section 6.1.1 of the Public Procurement Policy Guidelines, for services valued at \$10,000.00 and greater but less than \$50,000, with the exception of engineering services and architectural services, the preferred approach is for public bodies to obtain quotations from at least three suppliers. If this is not feasible, at least one quotation should be obtained and the price shall be fair and reasonable. Where three quotations are not obtained, the file documentation shall include rationale as to why obtaining three quotations was not feasible.
- For these two scopes of work, the intent is to solicit three quotes for the work from separate consultancy firms that NR officials have determined are qualified to compete the work. If three quotes are unavailable, then an alternative approach would be to establish a determination of a fair and reasonable price for the work based on section 6.1.3 of the Public Procurement Policy Guidelines.

Alternatives:

1. Direct NR to issue the Requests for Proposals (RECOMMENDED)

Advantages:

- o Inform implementation actions and future work planning for Advance 2030.
- o NR uses budgeted funds prior to the end of the 2018-2019 fiscal year.

Disadvantages:

- o Incur costs for the 2018-2019 fiscal year.

2. Direct NR to not issue a Request for Proposals (NOT RECOMMENDED)

Advantages:

- o Reduces budget expenditures for the 2018-2019 fiscal year.

Disadvantages:

- o Work outcomes will not be available to support Advance 2030 implementation timelines.
- o Oil and Gas Industry Council members may lose confidence in Government commitment to implement the identified actions.
- o NR staff would assume this task, however results would not be available until a later date, subject to Department priorities.
- o Industry may question the objectivity of the information provided.

Prepared/Approved by: A. Krakowka / I. Boddy / J. Petrovic / D. Corkey / D. Trask

DM Approval:

February 11, 2019

A handwritten signature in black ink, appearing to read "D. Trask", is written over the DM Approval line.

Attachment 1: Scope of Work: International Best Practices for Fallow Field Management

Background

On February 19, 2018, Government released Advance 2030 - A Plan for Growth in the Newfoundland and Labrador Oil and Gas Industry, which included a number of immediate, short-term, and long-term priorities for action. Drive Exploration was identified as an immediate priority (by 2020) and included a commitment to “conduct research on international best practices for fallow field management.”

Context

There has been significant work undertaken by Government to guide land tenure policy development that will drive exploration and development in Newfoundland and Labrador’s offshore and ensure global competitiveness. In March 2013, a Federal-Provincial Offshore Land Tenure Policy Working Group of officials from Newfoundland and Labrador Natural Resources, Nova Scotia Energy, and Natural Resources Canada (NRCan) began a review of the existing matters associated with land tenure for the Canada-Newfoundland and Labrador (C-NL) and the Canada-Nova Scotia (C-NS) offshore areas, with the objective of proposing any change to policies, legislation, and regulations that could improve competitiveness, as well as to respond to changing market and operating conditions. Workshops and meetings were held with various stakeholders including CAPP, regional supply and service provider associations – NOIA and MEA, the petroleum boards, as well as industry experts. The Working Group also sought views from international policy makers and regulators.

The Working Group looked at Significant Discovery Licences (SDL) and how to ensure lands do not remain idle or “fallow”. Many SDLs in the NL offshore area have been issued, conferring the exclusive right to explore and develop resources for an indefinite period of time. However, most SDLs remain idle with no follow-up exploration and development.

The Working Group concluded that a SDL issued for fixed rather than an indefinite period of time and conditional on the operator submitting a plan for the commercialization of the discovery, is more likely to encourage the diligent transition from discovery to production than the status quo and that new reasonable minimum criteria reflective of an offshore setting should be established for the determination of an SDL, to replace the current requirement for flow testing. The Working Group proposed several amendments to the Accord Acts for future Significant Discovery Licences including a 25 year fixed term and a grandfather clause for current ELs for the issuance of SDLs as currently established (e.g., indefinite term, current SDL definition, escalating rentals, areal extent).

The intent of this scope of work is to complement and expand on the previous work by conducting new research focused on identifying best practices for fallow field management in NL’s offshore including an international jurisdictional review.

Objective

In respect of immediate actions identified in Advance 2030, the Department of Natural Resources is seeking to conduct new research into fallow field management best practices in other international jurisdictions that may be relevant for offshore Newfoundland and Labrador.

Scope of Work

Given NL’s current exploration landscape and opportunities, the scope of work will include:

- Conduct new research of relevant international jurisdictions and provide a Report and PowerPoint presentation on best practices for fallow field management of a select group of

international jurisdictions with established offshore oil and gas industries, namely: the United Kingdom, Norway, the United States/Gulf of Mexico (& Alaska); Australia; Brazil; Iceland; Denmark/Greenland; Netherlands; Ireland; and New Zealand.

- Identification of trends and key drivers impacting fallow field development in other competing jurisdictions;
- Consult with international jurisdictional experts on the effectiveness of fallow field management practices upon implementation/application and key learnings
- The Report should identify the management practices that were most successful for immature versus mature basins, key learnings in other jurisdictions, and identify best practices that could be implemented in Newfoundland and Labrador's offshore.
- Identify the most effective incentives to encourage development or relinquishment of indefinite term SDLs
- Provide advice on next steps for Newfoundland and Labrador to address fallow field management of existing and future Significant Discovery Licences.

Project Management

This work will be led and contracted by the Petroleum Development Division of the Department of Natural Resources (NR). A Steering Committee will be established comprised of NR officials. The timeline for completion of the work is March 31, 2019.

Attachment 2: Scope of Work: International Best Practices for Access to Oil and Gas Infrastructure

Background

On February 19, 2018, Government released Advance 2030 - A Plan for Growth in the Newfoundland and Labrador Oil and Gas Industry, which included a number of immediate, short-term, and long-term priorities for action. Drive Exploration and Accelerated Development are both identified as an immediate priority (by 2020) and included a commitment to “Investigate an industry-led best practice on third party access to infrastructure.”

Context

Accessing existing infrastructure is a means of improving project viability, resulting in growth opportunities within the offshore oil and gas sector and may act as a deterrent to duplication and economic inefficiency.

The CNLOPB is responsible for the operations and safety for all of the upstream facilities, but have no legal responsibility for tolls, tariffs or access to either transportation or processing infrastructure.

The introduction of industry developed codes of practice would encourage industry-negotiated agreements that support access of infrastructure. Codes generally are most effective when New Discovery Owners (NDO) are permitted a reasonable opportunity to reach agreements on access terms with an Offshore Infrastructure Owner (OIO). A code of practice should promote the minimization of environmental impacts, foster efficient recovery of economic hydrocarbon reserves, and promote competitive industry practices.

NDOs seeking access to such infrastructure would apply in the first instance to the relevant OIO in question. An Infrastructure Code of Practice would describe good practice for negotiating third party access. If a third party is unable to agree satisfactory terms of access with the owner of the upstream oil and gas infrastructure, the third party seeking such access would, under the terms of the Infrastructure Code of Practice, make an application to the regulator to require access to be granted and to determine the terms on which it is to be granted.

Guidelines developed for disputes over third-party access to upstream oil and gas infrastructure sets out the requirements and obligations on all parties. It also sets out the approach the regulator would take in handling applications and the principles that it would expect to be guided by in determining terms of access.

Objective

In support of the immediate priorities identified in Advance 2030, the Department of Natural Resources is seeking to investigate the best practices in other international jurisdictions regarding access to oil and gas infrastructure..

Proposed Scope of Work

The proposed scope of includes;

- Review relevant information, provided by Department of Natural Resources.
- Conduct an up to date international jurisdictional scan on access to oil and gas infrastructure.
- Conduct an effectiveness review of the Code of Practice for Access to Third Party Infrastructure for the North Sea (UK and Norway) and create a lessons learned.

- Provide advice on next steps for Newfoundland and Labrador that addresses third party access to infrastructure.

Deliverables

The Consultant will conduct the research and analysis outlined above and provide the assessments and findings in a report along with any accompanying electronic data files. The work scope and report completion date is March 31, 2019.