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22 May 2014

To: Interested Persons

### **Next Steps in Developing Financial Filing Requirements**

During engagement with Northerners, environmental groups, industry and other stakeholders the National Energy Board (NEB or the Board) has heard that additional clarity was sought on Financial Responsibility requirements for all NEB-authorized activities and regions covered by the *Canada Oil and Gas Operations Act* (COGOA).

In response, the Board developed the *Draft Financial Viability and Financial Responsibility Guidelines* (Draft Guidelines). The Draft Guidelines were released for public comment in May 2013, with a comment period that closed 31 October 2013. The Board received comments from several interested persons. All comments have been reviewed and carefully considered by the Board.

In November 2013, the Board notified all parties that until the release of new Filing Requirements, the Board would not use the Draft Guidelines to consider applications for financial responsibility nor will applicants be expected to rely on the Draft Guidelines to prepare filings with the Board. At the same time, the Board noted that it anticipated releasing revised Guidelines in the spring of 2014.

The purpose of this letter is to provide an update on the Board's next steps in regards to development of Financial Filing Requirements.

#### ***Legislative Context***

On 30 January 2014, the Honourable Joe Oliver, P.C., M.P., Minister of Natural Resources at the time, introduced Bill C-22, *The Energy Safety and Security Act*, into Parliament seeking amendments to key legislation governing oil and gas exploration and production activities, including the COGOA and the *Canada Petroleum Resources Act*.

On 1 April 2014, under the *Northwest Territories Devolution Act*, responsibility for most onshore oil and gas activities in the Northwest Territories was transferred to the Government of the Northwest Territories. The NEB will continue to regulate the onshore portion of the Inuvialuit Settlement Region, the Norman Wells Proven Area, onshore Nunavut and the offshore. The NEB will also retain its regulatory responsibilities for transboundary pipelines under the *National Energy Board Act*.

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### ***Follow-up Workshop***

As follow-up to the comment period, on 24 February 2014 the Board conducted further discussions with persons who provided written comments on the Draft Guidelines at a Workshop. The purpose of the workshop was to:

- Clarify the purpose of providing financial information to the Board (Goals);
- Provide regulatory context (including recently introduced legislative amendments); and
- Discuss possible 'models' which could be applied by the Board to determine the appropriate amount of Financial Resources (ability to pay for a spill or debris) and Financial Responsibility (accessible funds) required for a given project, and the pros and cons of each.

### ***Financial Filing Requirements***

Based on feedback received during the comment period and subsequent workshop, the Board will proceed with drafting Financial Filing Requirements for applications under COGOA, using a model which will:

- Include a risk matrix that sets out prescribed amounts of Financial Resources and Financial Responsibility (taking into account legislative minimums where applicable) for operations posing relatively lower levels of risk (e.g., geophysical operations and onshore exploration and development activities), and prescribed requirements to guide an applicant's calculation of the appropriate amounts of Financial Resources and Financial Responsibility for operations posing the highest levels of risk (e.g., offshore exploration activities);
- Consider any overlapping securities which may be held by other jurisdictions;
- Set expectations regarding consultation on the process used to determine compensation with persons potentially affected by a spill; and
- Not define the form and manner that the proof of Financial Resources must take (i.e., the specific financial instruments), as the form and manner may be prescribed in Regulations under Bill C-22, should it come into force in its current form.

### ***Next Steps***

The NEB would like to recognize the important contribution of stakeholders in this work and looks forward to continued dialogue

The NEB will invite interested persons to provide specific comment on a draft risk matrix in fall 2014. As described above, the draft risk matrix will set out prescribed Financial Resources and Financial Responsibility requirements for operations based on level of risk. It is anticipated that subsequent meetings with interested persons on the draft risk matrix would be held shortly thereafter, as required. The Board does not anticipate releasing a draft of its Financial Filing Requirements for comment, until after Parliament has considered Bill C-22.

In the interim, the Board expects Applicants to demonstrate Financial Responsibility for spills and debris pursuant to section 27 of COGOA and these applications will be determined on a case-by-case basis.

Yours truly,

A handwritten signature in black ink, appearing to read 'S. Young', enclosed within a thin black rectangular border.

*for*

Sheri Young  
Secretary of the Board