

LIABILITY AND COMPENSATION

APPLICATION FOR APPROVAL OF
THE DEVELOPMENT PLAN FOR
PARSONS LAKE FIELD
PROJECT DESCRIPTION

LIABILITY

15.1.1 SCOPE

Operations on frontier lands expose the proponents to potential liability from a variety of sources. The *Inuvialuit Final Agreement* contains detailed and comprehensive provisions with respect to developers' potential liability for damages sustained by wildlife harvesters as a consequence of development activities on certain Inuvialuit lands. The *Canada Oil and Gas Operations Act* (COGOA) provides for liability to arise from an operator's failure to comply with the requirements of COGOA or any orders of the NEB made under COGOA.

Potential liabilities under other federal policies, regulations and statutes, such as the *Fisheries Act*, and under the statutes and legislation of the Northwest Territories, such as the *Territorial Waters Act*, might apply during construction, operations and abandonment of the Parsons Lake field. Some of these liabilities could result from the uncontrolled or unauthorized release of harmful substances:

- into fish habitat and other waters
- onto the land
- into the atmosphere

Other potential liabilities for damage to property, including to the quality of wildlife habitat or the value of the land, might be established by voluntary agreement relating to access to Inuvialuit private lands. In addition, civil liability will also apply, despite the fact that liabilities for the same or similar acts or omissions are established by the statutory liability regime.

Over the expected life of the Parsons Lake field, there is also potential for other liabilities to arise as a consequence of future legislation or government policy.

15.1.2 INUVIALUIT FINAL AGREEMENT**15.1.2.1 Wildlife Harvester Provisions**

The *Inuvialuit Final Agreement* provides a complete regime for developers' liability with respect to actual wildlife harvest loss and future harvest loss suffered by wildlife harvesters. Where the loss is established, the developers' liability is absolute and does not require proof of fault or negligence. The remedies include:

- compensation

15.1.2.1 Wildlife Harvester Provisions (cont'd)

- property replacement
- remediation and reclamation of damaged wildlife habitat

15.1.2.2 Worst Case Scenario Assessment

Under the *Inuvialuit Final Agreement*, the Inuvialuit Environmental Impact Review Board, in its review of the project, must assess the worst case scenario related to a proposed development and provide an estimate of the developer's potential liability.

The Joint Review Panel is responsible for the environmental review of the Mackenzie Gas Project, including the development of the Parsons Lake field. The Joint Review Panel will fulfill the mandate of the Inuvialuit Environmental Impact Review Board to assess potential liability that might arise from the worst case scenario.

15.1.3 CANADA OIL AND GAS OPERATIONS ACT

Under COGOA, the Parsons Lake field development is subject to potential liability for either:

- loss or damage suffered by any person as a consequence of a spill or an authorized release of oil or gas
- costs reasonably incurred by the Government of Canada in taking any action in relation to the spill or authorized release of oil or gas

Civil liabilities and remedies are also preserved under COGOA.

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COMPENSATION

15.2.1 SCOPE

Compensation for damage and losses, when required, can take a variety of forms. Some forms of compensation might be set out in legislation. Other compensation might be agreed upon through negotiated settlements, set out in the terms and provisions of voluntary agreements, or defined through the operation of applicable dispute resolution mechanisms.

15.2.2 HARVESTERS' COMPENSATION AGREEMENT

After the determination of the worst case scenario for the Parsons Lake field development, ConocoPhillips and the Inuvialuit Game Council will conclude the negotiation of a Harvesters' Compensation Agreement, subject to the terms of the *Inuvialuit Final Agreement*. Among other matters, this agreement might deal with the monetary value of the losses that could be caused by the agreed-upon worst-case scenario.

15.2.3 ENVIRONMENTAL AGREEMENT

ConocoPhillips is also negotiating an Environmental Agreement with the Government of the Northwest Territories. This voluntary agreement might also deal with certain matters relating to compensation for potential liabilities that could arise as a consequence of development operations.

15.2.4 PROOF OF FINANCIAL CAPABILITY

COGOA requires proof of the financial capability of an applicant for an authorization under the Act. The scope of this proof is further defined in the *Canada Oil and Gas Production and Conservation Regulations*, which includes a requirement for proof of financial capability to:

- complete the work to be authorized
- abandon and reclaim the site according to the development plan

Under these regulations, the proof may take any form satisfactory to the NEB, including a line of credit, a guarantee or an indemnity bond.

15.2.4 PROOF OF FINANCIAL CAPABILITY (cont'd)

Similar provisions are found in other applicable legislation, such as the *Northwest Territories Waters Act*.

Proof of financial capability similar to that in COGOA might also be required by the:

- Environmental Agreement
- Harvesters' Compensation Agreement