

MEMORANDUM OF UNDERSTANDING

BETWEEN:

CANADA ENERGY REGULATOR
("CER")

AND

ENVIRONMENT AND CLIMATE CHANGE CANADA
("ECCC")

(THE "PARTICIPANTS")

WHEREAS

1. Subsection 10(2) of the *Canadian Energy Regulator Act* ("CER Act") designates the CER as an agent of the Crown;
2. Pursuant to the CER Act, the CER regulates several aspects of the energy industry in Canada including the construction and operation of interprovincial and international pipelines; pipeline traffic, tolls and tariffs; the construction and operation of international and designated interprovincial power lines; offshore renewable energy projects; the export of natural gas; the export of oil and electricity; and the CER studies and reviews of energy production, recovery, manufacture, processing, transmission, transportation, distribution, sale, purchase, exchange, and disposal of energy and sources of energy in and outside Canada;
3. Pursuant to the *Canada Oil and Gas Operations Act*, the CER regulates the exploration and drilling for, the production, conservation, processing and transportation of petroleum in the non-Accord Frontier¹ offshore areas and, pursuant to the CER Act and the Northwest Territories *Oil and Gas Operations Act*, in the Inuvialuit Settlement Region, until 31 March 2034;
4. The CER is responsible for Indigenous-Crown consultation and federal Crown consultation coordination for CER-regulated project applications before the

¹ The CER has regulatory responsibilities for oil and gas exploration and activities in frontier lands not otherwise regulated under territorial law or joint federal/provincial accords.

Commission of the CER, including the record of Crown consultation and coordination;

5. Under the *Department of the Environment Act*, the powers, duties and functions of the Minister of the Environment extend to matters such as the preservation and enhancement of the quality of the natural environment, including water, air and soil quality, and the coordination of the relevant policies and programs of the Government of Canada; renewable resources, including migratory birds and other non-domestic flora and fauna; meteorology; and the enforcement of rules and regulations;
6. Beyond those authorities conferred under the *Department of the Environment Act*, the Minister of the Environment exercises additional authorities provided under other acts and regulations including (but not limited to) the *Canadian Environmental Protection Act, 1999*, the *Federal Sustainable Development Act*, and several pieces of legislation relating to the protection of biodiversity and water, and the enforcement of environmental laws and regulations (e.g., the *Species at Risk Act*); and
7. The Participants seek to share information, promote effective cooperation in areas of mutual interest and benefit, and support each other in their respective mandates.

THEREFORE, the Participants agree to the following.

1.0 Definition

The following definitions apply to this MOU:

“CER-regulated activities” means activities regulated by the CER under the *Canadian Energy Regulator Act*, *Canada Oil and Gas Operations Act* and *Oil and Gas Operations Act*.

“Canadian Energy Regulator Act” or **“CER Act”** means the *Canadian Energy Regulator Act*, S.C. 2019, c. 28, s. 10, as amended from time to time.

“Canada Oil and Gas Operations Act” or **“COGOA”** means the *Canada Oil and Gas Operations Act*, R.S.C., 1985, c. O-7, as amended from time to time.

“CER-regulated facilities” means facilities such as pipelines, power lines, offshore renewable energy facilities, abandoned pipelines, and other regulated facilities as defined in the CER Act.

“Department of the Environment Act” or **“DOE Act”** means the *Department of the Environment Act*, R.S.C., 1985, c. E-10, as amended from time to time.

“Effective Date” means the date on which the last participant to sign this MOU signed it.

“Impact Assessment Act” means the *Impact Assessment Act*, S.C. 2019, c. 28, s. 1, as amended from time to time.

“Memorandum of Understanding” or **“MOU”** means this Memorandum of Understanding entered into between CER and ECCC and includes the recitals and all the Annexes attached hereto.

“Oil and Gas Operations Act” or **“OGOA”** means the *Oil and Gas Operations Act*, SNWT 2014, c.14, as amended from time to time.

“Operational Annexes” means operational policies and procedures for Participants to follow in select topic areas in alignment with the purpose, terms and scope of this overarching MOU.

“Participants” means CER and ECCC collectively.

2.0 PURPOSE

The purpose of this MOU is to jointly facilitate and enhance cooperation and coordination between the Participants in their activities, mandates, and the sharing of resources.

3.0 TERM

3.1 This MOU will come into effect on the Effective Date and will expire ten (10) years from the Effective Date, unless it is terminated earlier in accordance with the terms of this MOU (“Term”). This MOU shall automatically extend for additional one-year terms unless either Participant delivers to the other Participant, at least sixty (60) days prior to the expiration of this MOU, written notice of such Participant's intent to terminate this MOU.

3.2 The Operational Annexes associated with this MOU will come into effect at the date specified within each Operational Annex. All Operational Annexes will terminate upon the expiry of this MOU.

4.0 AREAS AND EXPECTATIONS OF COOPERATION AND COLLABORATION

4.1 The Participants agree to collaborate and coordinate their activities and sharing of resources as they relate to the protection of the environment, regulatory assessments, environmental assessments, compliance and enforcement, emergency management, permitting/authorizations, and Crown consultation processes. Coordination and/or collaboration for other activities may occur on a case-by-case basis and in agreement by both Participants. Specific areas of coordination and/or collaboration are detailed in the appended Operational Annexes to this MOU.

4.2 The Participants expect the following from their cooperation and coordination:

- (a) Promotion of industry best practices and efficient regulatory oversight via regular exchange of information and cooperation with respect to:
 - i) Regulatory approaches, procedures, and policies;
 - ii) Areas related to environmental emergencies;
 - iii) Areas related to regulatory compliance and enforcement activities; and
 - iv) Areas related to project applications, projects on federal lands (as defined in section 2 and assessed under sections 81 to 91 of the *Impact Assessment Act*) and environmental and impact assessments.
- (b) Timely and efficient exchange of information for CER-led activities and processes related to CER-regulated energy projects.
- (c) Increased understanding of CER-led activities and processes relating to CER-regulated energy projects.

5.0 SCOPE OF THIS MEMORANDUM OF UNDERSTANDING

This MOU applies to CER-regulated facilities and activities regulated by the CER, including any environmental effects of those facilities and activities, which include but are not limited to the following:

- (a) Biodiversity (Terrestrial SARA-listed species and migratory birds);
- (b) Effluent water quality and effects to aquatic receiving environments;
- (c) Greenhouse gas emissions, climate change and air emissions;
- (d) Cumulative effects;
- (e) Federal Crown consultation participation and coordination;
- (f) Environmental emergency management;
- (g) Compliance and enforcement; and
- (h) Environmental protection.

Specific details related to scope of (a) to (h) above, and to any other matter to which the Participants have determined that this MOU applies, will be detailed in Operational Annexes.

6.0 Responsibilities

CER and ECCC will:

- (a) Establish a Working Group consisting of operational-level staff at the CER and ECCC on an as-needed basis to develop and implement the Operational Annexes, with oversight from the departmental representatives listed in Section 9, as needed. If feasible, the Working Group will meet at least four (4) times a year;
- (b) maintain communication and exchange information as appropriate, and where appropriate and legally permitted, within their specific areas of

responsibility, on an ongoing basis following a single-window approach using the departmental representatives listed in Section 9, or their delegates, unless otherwise specified in the appended Operational Annexes to this MOU;

- (c) develop Operational Annexes, as agreed to by both Participants;
- (d) cooperate on:
 - i. Promoting awareness, among CER-regulated companies, of ECCC's mandated requirements and legislation administered by ECCC;
 - ii. Promoting awareness, within ECCC, for requirements set out in legislation administered by the CER;
 - iii. The development of national or international standards, agreements, conventions, assessments, or commitments concerning the protection of the environment that could affect energy projects regulated by the CER;
 - iv. The sharing of key information and expertise where such activity would help each Participant to better carry out its mandate;
 - v. Identifying potential future opportunities for information sharing, cooperation, coordination, training, and emergency response exercises;
 - vi. Supporting the participation in quasi-judicial hearings, including filing evidence, commenting on draft conditions, and appearing as witnesses² in cases where ECCC is an intervenor;
 - vii. Supporting supplemental Crown consultation activities carried out by the CER Crown consultation team;
 - viii. The conduct of environmental studies, assessments, emergency response, inspections, investigations, Crown consultation or research projects of potential interest related to CER-regulated facilities, and in the sharing of expert assistance for such purposes;
 - ix. Public communication and consultation activities on matters of mutual interest and responsibility; and
 - x. When deemed necessary or beneficial to the implementation of this MOU and its Operational Annexes, jointly develop, in writing, a list of activities to be carried out under this MOU before their realization, and jointly review and coordinate these activities. The Participants will set out, as appropriate in the circumstances, the specific parameters applicable to each task.

7.0 REVIEW AND AMENDMENTS

- (a) The Participants intend to jointly review and/or modify this MOU five (5) years after the Effective Date.
- (b) The Participants may jointly review and modify this MOU at any time with the written approval of both Participants. Any amendment to the MOU

² For clarity, the CER will have no involvement in the preparation or review of ECCC's evidence or comments in a specific CER hearing nor will the CER have any role in the preparation of ECCC witnesses.

becomes effective upon the date of the last Participant's signature unless otherwise indicated.

- (c) Each Participant will notify the other Participant of any change to its enabling legislation, related regulations, or policies that may impact this MOU as soon as practicable after having discovered the change.

8.0 DISCLAIMER

- (a) This MOU is not legally binding and does not impose, nor is it intended to impose, any legal commitments on, or give rise to any legal rights not otherwise held by the Participants.
- (b) Each Participant is to pay for its own costs related to the activities under this MOU, subject to the availability of its staff and financial resources.
- (c) This MOU is an expression of the mutual intentions of the Participants. This MOU does not override the Participants' respective authorities as set out in the legislation that they administer, nor does it create any new legal powers or duties or is legally binding on the Participants.
- (d) The MOU does not in any way limit either Participant from providing independent science-based information in regulatory or environmental assessment processes, nor does it limit the ability of either Participant to make independent decisions within their authorities.
- (e) It is agreed and acknowledged that any enforcement action under the *Fisheries Act*, the *Canadian Environmental Protection Act, 1999*, the *Migratory Birds Convention Act, 1994*, and the *Species at Risk Act* is at the sole discretion of ECCC and may be referred to the Attorney General of Canada for consideration of prosecution.
- (f) This MOU replaces the 2018 *Memorandum of Understanding between the National Energy Board (NEB) and Environment and Climate Change Canada (ECCC)*.

9.0 DEPARTMENTAL REPRESENTATIVES

- 9.1 The following departmental representatives are designated as the first points of contact for any issues or concerns between the Participants:

FOR THE CER

Vice President
Energy Adjudication
Unit 210, 517 10th Ave SW
Calgary, Alberta T2R 0A8

FOR ECCC

Executive Director
Environmental Protection
Operations Directorate
Place Vincent Massey

Chioma.lzugbokwe@cer-
rec.gc.ca
403-354-4364

351 Saint-Joseph Blvd
Gatineau, Quebec K1A 0H3
Richard.Vermette@ec.gc.ca
343-549-2671

9.2 Changes to the designated departmental representatives will require notification to the other Participant.

2.0 SETTLEMENT OF DISAGREEMENTS

The Participants will make all reasonable attempts to resolve any disagreement arising from or regarding the interpretation or administration of this MOU or its Operational Annexes through consultation among the Participants' Departmental Representatives in Section 9.1 who represent the Participants. If negotiation fails to resolve the dispute, the Participants will refer the matter to the supervisors of the Departmental Representatives in Section 9.1.

11.0 WITHDRAWAL

Either Participant may withdraw from this MOU at any time, by providing at least sixty (60) days' written notice to the other Participant.

12.0 ANNEXES

The Annexes to this MOU form an integral part of this MOU and are to be interpreted in a manner consistent with this MOU.

13.0 COUNTERPARTS

This MOU may be executed in counterparts in writing or by electronic signature and delivered by mail or electronic means including portable document format "pdf" counterparts (all of which shall together constitute one and the same agreement).

14.0 SIGNATURE

Canada Energy Regulator

**Environment and Climate Change
Canada**

By: Tracy Sletto

By: John Moffet

Title: Chief Executive Officer

Title: Associate Deputy Minister

Signed Original
2 October 2024

Signed Original
17 October 2024