Development of Enforceable Environmental Assessment Conditions in Canada

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Outline

• Environmental assessment (EA) context
• Approach to drafting enforceable EA conditions
  – Outcome-based conditions
  – Comment period on draft conditions
  – Requirements for proponents to consult with other parties
  – Follow-up requirements
• Evolving approach
EA Context

- Under the *Canadian Environmental Assessment Act, 2012*, the Minister of Environment and Climate Change must issue legally-binding conditions to proponents of projects that have undergone a federal EA and that have been allowed to proceed.

- Conditions must include mitigation measures and follow-up requirements identified during the EA.
EA Context (cont’d)

• EA is a predictive tool that is based on information available during the preliminary design phase of projects, and that uses models and assumptions to assess environmental effects.

• Legally binding conditions must be at an “EA scale” and enforceable, which requires clarity, certainty and detailed information.
Use of Outcome-Based Conditions

• Conditions that set out the desired environmental outcomes that must be achieved without prescribing how these outcomes must be achieved.

• Allow flexibility in:
  – the design and the implementation of projects to achieve the desired environmental outcomes
  – responding to changes to the environment
  – integrating new technology over time
Pacific NorthWest LNG Project

- North western coast of British Columbia, Canada
- Construction and operation of a liquefied natural gas facility and marine terminal
- EA Decision Statement issued with conditions on September 27, 2016
• At the commissioning of Phase 2, the proponent must:
  – adhere to an annual average emissions intensity of less than or equal to 0.22 CO\textsubscript{2}e tonnes per tonne of LNG produced
  – emit no more than 3.2 million tonnes of CO\textsubscript{2}e per calendar year.

• At the commissioning of Phase 3, the proponent must:
  – adhere to an annual average emissions intensity of less than or equal to 0.21 CO\textsubscript{2}e tonnes per tonne of LNG produced
  – emit no more than 4.3 million tonnes of CO\textsubscript{2}e per calendar year.
Comment Period on Draft Conditions

• Verify that projects features are properly captured in the draft conditions.
• Proponents can assess the technical and economic feasibility of draft conditions.
• Feedback from Indigenous groups and the public plays an important role in revising draft conditions.
Requirements for Proponents to Consult with Other Parties

• Allow proponents, when developing or implementing mitigation measures and follow-up programs, to consider information that:
  – may not have been available at the time of the EA
  – has been updated since the EA was completed
Follow-up Requirements

• Follow-up under the *Canadian Environmental Assessment Act, 2012*:
  – Verifying the accuracy of the predictions made during the EA
  – Determining the effectiveness of mitigation measures

• The results of follow-up program may demonstrate the need for new or modified mitigation measures.
Evolving Approach

• Experience and knowledge acquired over time
  – Condition drafting
  – Enforcement activities and feedback

• Review of the federal EA process