

House of Commons Standing Committee on
Environment and Sustainable Development
Development of a National Conservation Plan

Submission by
the Canadian Energy Pipeline Association
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Hon. Mark Warawa, M.P.

Chair, Parliamentary Standing Committee on Environment and Sustainable
Development

c/o Marie-France Renaud,

Clerk of the Standing Committee

The Canadian Energy Pipeline Association (CEPA) is pleased to respond to the Standing Committee's invitation to provide our views on the purpose and importance of a National Conservation Plan for Canada.

CEPA represents companies that transport 97% of Canada's daily onshore crude oil and natural gas production from producing regions to markets throughout Canada and the United States. Our membership currently operates more than 100,000 km of pipelines in North America. Pipelines are the only feasible, and safest, means of transporting large volumes of crude oil and natural gas over land. Our member companies are job creators, on the cusp of investing over \$20 billion in a number of nationally significant projects in Canada.

CEPA members believe that a National Conservation Plan is a positive and progressive step in the integration and modernization of Canada's framework of environmental legislation to meet the goals of sustainable development in the 21st century. We support the work of the Committee to advance this initiative through clear and practical recommendations to the Minister of the Environment on how best to move ahead with development of this plan.

Canada's legislative framework related to energy, environmental assessment, and environmental protection is multi-faceted and complex. It comprises many acts, some recently promulgated (e.g., *Species at Risk Act*) and some that have been in effect for many years (e.g., *Navigable Water Protection Act*, *Fisheries Act*). The passage of each piece of legislation reflected the needs of government and the people of Canada to address issues and concerns *at the time*, usually through prohibition or regulation of certain activities. In recent years, efforts to knit the processes together, regardless of the mismatch of legal requirements, have resulted in only modest improvements in results and recognition of the need for more fundamental regulatory change. CEPA supports the recent efforts of the government to address these issues and implement whole of government reforms.

CEPA believes that through a National Conservation Plan Canada has the opportunity to change the regulatory focus from prohibition of activities to creation of better environmental outcomes in accordance with agreed principles and objectives. In this approach, the various pieces of environmental legislation become contributing, mutually reinforcing, and

supporting components of an updated framework to enhance environmental outcomes.

How could this work? It is time to look at environmental protection as only one component of environmental conservation. The word 'protection' brings with it the context of stopping harm – and clearly environmental protection is necessary in some circumstances. The word 'conservation' connotes a broader set of actions that promote desirable outcomes, including protection.

CEPA believes that conservation should be the business of project proponents, regulators, and citizens alike – and that legislation should enable and support that engagement. We believe that a project that is found to be in the public interest could proceed within an agreed set of conservation objectives. Instead of only focussing on obtaining permits to undertake specific activities, such as watercourse crossings, that have been proven time and again to be benign or fully mitigated by known technology. CEPA members believe that it is time to look at what can be accomplished within a given project to enhance local, regional or even national conservation objectives.

Let's be specific. Large pipeline projects today cost billions of dollars. Environmental studies, consultant and legal fees, and costs to develop extensive applications to support environmental assessment and regulatory permitting are part of those costs. CEPA estimates that 3-5% of the capital cost of each large project is spent in this way and on related activities. For a \$1 billion project, that amounts to \$30-50 million. Imagine a situation in which our regulatory system enabled redirection of some of those funds, away from permitting, to options that produced direct positive environmental results – in effect creating an environmental legacy for the

project? These legacy projects might not have a direct link to the pipeline under consideration, but would contribute to the environmental objectives of the area through which the project passes. CEPA believes this is an important conversation to have with government, regulators, ENGOs, conservation organizations, and interested citizens. This is an opportunity to change the relationship between industry and others from one of adversarial confrontation to one of engagement and respect for each others' roles in achieving mutual objectives.

We must make this point clearly and directly. In this conservation-focussed scenario, CEPA-member companies would continue to build and operate pipelines in an environmentally sound manner, using standards and mitigation measures that have been proven in the past, and accessing new technology that allows us to improve both safety and environmental performance over time. CEPA believes that the industry and the NEB, our primary regulator, have a sound understanding of best management practices and their effectiveness. A conservation focus would rely on best management practices, replace only the paperwork associated with permitting for many of these well understood activities, and deliver tangible results on the ground.

Any development, even the construction of a hospital or school, will have some environmental impact. The approach we have described above is based on the concept of 'conservation offsets' . Conservation offsets are elements of a broad scheme through which construction, rehabilitation or protection of an ecosystem is undertaken, in association with a development project, to compensate for unavoidable residual impacts with the objective of producing no net loss to the ecosystem or a positive benefit to that ecosystem. The concept is becoming increasingly popular

as natural resource industries seek to demonstrate their environmental performance, and as governments seek to recruit private effort and resources for the public goal of environmental protection.

There are many studies and examples of this approach, and of course, many technical issues to be addressed. CEPA believes that the concept is appropriate for consideration and inclusion in the National Conservation Plan, and that it complements the government's current Responsible Resource Development strategy and objectives. The approach provides the means by which to bridge the sometimes disparate interests of industry and ENGOs. CEPA believes that if this concept of conservation offsets could be embedded in the National Conservation Plan, it could then be reflected in individual acts, such as the *Fisheries Act*, the *Species at Risk Act* or the *Navigable Waters Protection Act*, so that conservation offsets could be considered in place of lengthy processes to obtain authorizations or permits for low-risk activities.

Kinder Morgan Canada, a CEPA-member company, recently demonstrated the application of this approach on its 2007-08 expansion of the TransMountain pipeline through Jasper National Park and Mount Robson Provincial Park. Through extensive multi-stakeholder efforts, involving ENGOs, federal departments, and regulators, agreement was reached on the principles of a 'net benefits project' that ultimately resulted in establishment of the TransMountain Legacy Fund to enhance ecological conditions in the two parks, to deal with ecological connectivity, and fund projects beyond the normal course of operations of the two parks (though consistent with Park management objectives).

The Standing Committee has asked some specific questions – CEPA provides the following responses within the context of our preceding comments.

What should be the purpose of a National Conservation Plan?

A NCP should create the framework within which all federal environmental legislation in Canada operates. It should define principles, goals, and priorities at a national scale, that can be adopted or adapted by provincial and territorial governments, and by regional and local authorities. It should enable the effective integration of environmental legislation to achieve goals of national importance.

What should be the goals of a National Conservation Plan?

A NCP should express the values and goals of Canadians in regard to the environment, sustainable development, and the integration of all of these elements into our economy and our cultural life. As examples, these could include “supporting the recovery of species at risk”, “supporting the enhancement of habitat for all species”, “supporting/enabling valued system components at the ecosystem or watershed levels”. The Plan should enable and recognize the roles and contributions of regional and local conservation agencies and the roles of individuals or companies in making a difference.

What guiding principles should govern a National Conservation Plan?

At the highest level, the NCP should establish the link between conservation and environmental protection. It should encourage effective collaboration between all stakeholders in an open and transparent way.

Most importantly, the NCP should be focussed on outcomes and results that leave an environmental legacy that complements the results of economic development for society.

For new developments, the NCP should be founded on the principle of a Conservation Agreement – an agreement between a project proponent and the relevant regulatory authority to undertake certain activities under a set of agreed procedures and practices.

What conservation priorities should be included in a National Conservation Plan?

The NCP could address the issue of ensuring that every activity produces a demonstrable positive environmental outcome, especially for species at risk. The concept of a conservation agreement exists in the Species at Risk Act, but has never been implemented. These agreements should not be viewed as a "penalty" for development impacts, but a recognition that conservation can be achieved to mitigate impacts in different ways.

What should be the implementation priorities of a National Conservation Plan?

The pipeline industry would be pleased to provide the committee with examples of projects that could be considered on a pilot project basis and that could provide a positive outcome, for example, with respect to the *Navigable Waters Protection Act*. The *Species at Risk Act* provides for conservation agreements, and we understand that a small number are currently under development. The *Fisheries Act* is currently under review and provides probably the most promising opportunities for habitat enhancement if this regulatory option were made accessible.

The key is to have local and regional conservation priorities known and documented and to integrate these priorities into feasible projects that can be undertaken at the time of construction – when equipment and trained personnel are at hand. Those actions can complement other private or public actions aimed at addressing conservation priorities, and results can be monitored to make informed changes to conservation priorities over time.

What consultation process should the Minister consider using when developing a National Conservation Plan?

CEPA believes that the consideration of this plan through the Standing Committee is a useful and practical start that brings informed opinion quickly before the Committee and ultimately the Minister. As the Plan is developed, perhaps the Standing Committee could undertake consultation of the draft on the Minister's behalf.

In closing, the National Conservation Plan can be an important way for Canada to more effectively integrate the three pillars of sustainable development, creating the potential for positive tangible environmental outcomes, while building our economic future, and creating jobs for today through responsible development.