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Executive Summary

In the coming year the Government of Canada has the opportunity to sustain and build upon the economic prosperity that comes with being an energy super power. This means government must be willing to adopt policies that ensure a clear and predictable regulatory regime that complements expectations for superb safety and environmental performance, and ensuring Canada can compete in the global marketplace. Specific recommendations for the government of Canada are:

- 1. Empower the National Energy Board to exercise market-based practices that are essential to attracting and retaining highly qualified staff.**
- 2. Extended mandate of the Major Projects Management Office's beyond 2015 to coincide with measured clarity and direction on Aboriginal consultation and the duty to consult by the crown.**
- 3. Establish clear priorities and accountabilities for the Major Projects Management Office West, distinct from those of the Major Projects Management Office overall**

We believe that our recommendations support the themes of the 2014 pre-budget consultations. If adopted, our recommendations would help increase competitiveness of Canadian businesses, maximize the number and types of jobs for Canadians, support vulnerable Canadians and improve Canada's regulatory regime.

The Canadian Energy Pipeline Association (CEPA) would like to thank the House of Commons Standing Committee on Finance for the opportunity to contribute to the 2014 pre-budget consultations. CEPA members operate 115,000 kilometres of transmission pipeline in Canada. Our members transport 97 per cent of Canada's daily natural gas and onshore crude oil production from producing regions to markets throughout Canada and the US.

1. The Treasury Board grant the NEB greater flexibility of action within the cost recovery model.

CEPA acknowledges that the proposed enhanced National Energy Board (NEB) authority, announced on May 14, 2014, will further instill public confidence in pipeline safety. Our member companies acknowledge that emergency response and pipeline safety are paramount and any opportunity to strengthen the regulatory framework is welcomed.

Many of the enhanced authorities are highly technical in nature and will require highly skilled and experienced staff in order to meet public expectations of Canada's regulatory regime. As an energy super power, Canada must have a world class regulatory system. This means our regulatory bodies need to be appropriately resourced with a high calibre of expertise. For the NEB, this means attracting and retaining such expertise in a highly competitive labour market.

The labour market in which the NEB operates is amongst the most competitive in North America. Alberta has one of the lowest unemployment rates in Canada and has the highest average income among all provinces.¹ The NEB must continue to be staffed by fully-versed, technical staff who understand the broad impact of national pipeline infrastructure. The current allocation of funding, and restrictions on how it may be employed, provided by the Canada Treasury Board to the NEB are too restrictive to sustain and/or expand the expertise found within their current staff.

To this end, CEPA recommends the Treasury Board grant the NEB greater flexibility regarding compensation within the cost recovery model. We support greater flexibility on compensation, directed towards attracting and retaining highly skilled and experienced employees. Any funding increase would be passed on through levies and fees to industry and therefore would have no bearing on general government revenues. The Government of Canada recovers approximately 90% of the appropriation from the regulated industry.

2. The MPMO's mandate be extended beyond 2015 and focus on providing clarity and direction on the process on the duty to consult with aboriginal communities

The efficiency and effectiveness of the federal regulatory system is critical to the Canadian public interest and to the Canadian oil and gas industry. The whole of government approach taken by the MPMO enables collective leadership and horizontal team work across Government. This approach ensures timely, collective response to issues for individual project reviews. It also improves the regulatory system over the long-term.

The Major Projects Management Office's (MPMO) successes to date have contributed to stronger environmental protection and have positioned Canada for long-term economic growth and job creation. This is why we believe the mandate of the MPMO needs to continue beyond March of 2015. CEPA members propose to invest more than \$60 billion in pipeline projects in Canada over the next six years. Pipeline projects will not end in the next year and there will be a strong need for a whole of government approach to energy development regulation in the short and long term.

The whole of government approach to energy development is essential to ensure Canada sustains a robust and comprehensive regulatory system that promotes protection of the environment, human health, safety and is conducive to economic prosperity. CEPA believes that the MPMO's renewed mandate should focus on reconciling differences between the elements of the regulatory framework and achieving broader consistency across all departments. This is especially significant in relation to the Crown's responsibility for Aboriginal consultation.

¹ Statistics Canada <http://www5.statcan.gc.ca/cansim/a47>

CEPA member companies engage Aboriginal groups in the planning and design of a project prior to submitting an application to the NEB. This allows for direct engagement from interested Canadians which take into consideration local interests. The participation of Aboriginal peoples is an important part of each phase in the lifecycle of a project (i.e. project design, construction, operation and maintenance, and retirement). The impact of this participation is of significant benefit to affected communities. In 2012, CEPA member companies provided \$150 million of local procurement to Aboriginal communities and groups all across Canada.

However, for our projects to be successful, and for the benefits to be realized, the Crown must carry out its own responsibility to consult. Without the Crown fulfilling these obligations, pipeline projects, and ultimately Canadian public interest, is put at risk. It is important that the Federal Government provides leadership and takes accountability for Crown consultation in order to ensure the certainty of the regulatory process. Although the Federal Government has made improvements in this area, more work is needed.

We believe the coordinating role of MPMO should be enhanced to include stronger leadership in implementation of federal guidelines and agreed approaches relating to the Crown's duty to consult with Aboriginal communities affected by a project. In order to successfully plan and deliver new infrastructure projects it is critical that the regulatory review by federal departments, including appropriate consultation, be coordinated and completed in an effective and timely. The MPMO has the mandate to enable horizontal coordination of federal departments' review of major project. Through a project agreement, the roles of departments are identified, a timeline is established, and work plans are developed as well as tools for monitoring progress on the project. The MPMO also enables the Deputy Ministers Committee to address strategic and cross-cutting issues as they arise through timely intervention.

As per our June 9, 2008 letter to multiple Ministers, signed by all CEPA member Presidents, Crown consultation remains a priority. The lack of leadership and the lack of accountability and clarity of process for Crown consultation has been a primary reason for the delay and uncertainty with respect to the regulatory process for pipeline projects. Prompt action is needed to enable project proponents to confidently proceed through the regulatory process leading to commercial decisions and undertakings.

Specifically, we are seeking:

- A mechanism early in the project planning phase through which the federal government would assess the Crown consultation needs given the specific case, and ensure early determination of the appropriate approach and level of consultation.
- Clear timelines and departmental accountabilities to manage and track the crown consultative processes, coordinated through the MPMO.
- Transparent sharing between departments of intelligence gathered through various consultation activities.
- Clear evidence to regulators that the fiduciary duty has been fulfilled and that the process has come to a satisfactory conclusion in a timely way.

We must reinforce that Crown consultation requires an effective cross-functional mechanism. This will ensure that responsibilities associated with the honour of the Crown are fulfilled in parallel with the proponents own consultation and in tandem with regulatory decision-making functions. To ensure Canadian public interests are met, this process should not otherwise delay a project from proceeding.

To this end, we request that the MPMO provide clarity on the process for the duty to consult with aboriginal communities and direction on which proponents and applicable Federal Departments can rely to proceed with confidence. This includes defining terms, clarifying matters of interpretation, and being clear about the role of various federal departments in Crown Consultation. We believe this would enhance certainty of process, encourage transparency, and take maximum advantage of opportunities for Aboriginal participation in energy projects.

3. In order to realize the full potential of the MPMO West, clear goals and deliverables need to be established.

CEPA supports the establishment of the Major Projects Management Office West (MPMO West) to act as a single window for First Nations to engage with the Government of Canada on issues related to West Coast energy infrastructure development. We believe this is an important step towards increasing Aboriginal engagement in energy developments in Western Canada. However, in order to realize the full potential of this regional office, clear goals and accountabilities need to be established.

The mandate of the MPMO West is focused on Aboriginal engagement in energy projects in Western Canada which is supported by the priority areas identified by the office. They are:

- Business opportunities.
- Employment and training.
- Environmental safety.

Although CEPA is supportive of their mandate and priorities, the office must ensure their activities are not interpreted as consultation. A more clear distinction between Aboriginal consultation and engagement and more clarity of process around the Crowns duty to consult would be of significant value in this context.

CEPA and its members are committed to working with the newly formed office on their priority areas. We would encourage the formulation of clear and measurable goals and performance metrics. In an effort to achieve consistency and predictability, it is essential that the MPMO West provide a venue for collaboration between the various provincial and federal Ministries, and that it benefits from transparent, consistent and meaningful metrics for tracking performance. For the many companies that operate in British Columbia, conflicting policy directions are a detriment to making meaningful advancements in aboriginal engagement. Furthermore, simple, clear and comparable performance information should be provided publicly.

CEPA's commitment to safety

The pipeline industry recognizes that it plays an important role in the overall effectiveness and efficiency of the Canada's regulatory regime. This is evident in our contribution to the overall economy (for example in 2013 CEPA members directly employed over 13,600 Canadians and contributed over \$1.5 million in local procurement across Canada) without compromising our critical duty to safety and protection of the environment. Our members collectively spend more than \$1.4 billion to ensure the safety of their pipelines. This money is spent on rigorous safety management, technologically advanced internal inspections and state of the art upgrades.

We also recognize that technology and management systems alone are not good enough. Safety culture is an essential component to both performance and social license. CEPA and its members commitment to safety culture is evident through our paths towards strengthened safety culture with both individual and collective initiatives, all of which are aimed at our goal of zero incidents. To this end, CEPA members are committed to the development and adoption of CEPA Integrity First®. The industry-driven management system initiative provides CEPA members the opportunity to strengthen the pipeline industry's performance, communication and engagement by jointly developing and individually applying common practices and messages.

CEPA strongly supports government investment in research and technology related to pipeline safety, to ensure Canada remains a world leader.

Conclusion

Application of our recommendations will improve upon the strong regulatory regime under which our companies already operate, and will strengthen our commitment to safety and pipeline integrity. Our

recommendations are aligned with the themes of the 2014 pre-budget consultations and will support economic growth and prosperity.

CEPA appreciates the opportunity to provide comments on the 2014 pre-budget consultations. Please contact Amanda Affonso, Director, Regulatory and Financial, aaffonso@cepa.com, for further information.