

**ENERGY LAW BULLETIN**

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**B.C. Government Releases Report of the Scientific Review Panel on
B.C. Offshore Hydrocarbon Development**

In our Spring 2002 Energy Law Newsletter, we reported on the establishment of the Scientific Review Panel on B.C. Offshore Hydrocarbon Development (generally known as the “Offshore Panel”), headed by University of Victoria professor David Strong. The Offshore Panel’s report, entitled the “British Columbia Offshore Hydrocarbon Development Report of the Scientific Review Panel”, was submitted to Energy and Mines Minister Neufeld on January 15, 2002, but was first made publicly available on the Energy and Mines website on May 1, 2002.

The Offshore Panel was asked to advise on:

- ▶ Scientific and technological considerations relevant to offshore oil and gas exploration, development and production;
- ▶ Further research or studies that should be undertaken to advance the “state of knowledge” on these considerations;
- ▶ Any specific government actions that should be taken prior to a decision on whether to remove the current provincial moratorium;
- ▶ Any specific conditions or parameters that should be established as part of a government decision to remove the moratorium.

The Offshore Panel concludes overall that: “There is no inherent or fundamental inadequacy of the science or technology, properly applied in an appropriate regulatory framework, to justify the retention of the BC moratorium.” (at p. 51).

The first recommendation of the Offshore Panel is that a decision by the B.C. government on the immediate question of whether or not to lift the offshore moratorium should be taken with a view to its priorities in the larger context of a provincial energy policy. A “comprehensive, long-term energy policy” for the province was to be developed by the Energy Policy Task Force appointed by the government in 2001. The Task Force report has been delivered to the government, but not yet released to the public.

The Offshore Panel made 14 further specific recommendations, including addressing the need for:

- ▶ Better understanding of the sea-bottom and sub-surface conditions of the offshore; establishment of comprehensive baseline data on the biota and their habitats; priority completion of critical databases and capabilities for oil-spill responses and counter-measures; and re-building of federal and provincial scientific and administrative/regulatory expertise in B.C. agencies responsible for offshore hydrocarbon development in the event of a decision to proceed;
- ▶ Through appropriate consultation, an up-to-date and properly resourced regulatory and management regime;
- ▶ Before actual exploration takes place, a quantitative risk analysis and a thorough cost-benefit analysis;



- ▶ License conditions for exploration to include application of guidelines for reducing the impacts of seismic exploration; production regulations to include requirements for export lines from the production platforms be tied into pipelines, instead of offloading the oil into shuttle tankers by way of buoys; pipeline monitoring and shut-down systems; and site-specific surveys and assessments to establish pipeline routes;
- ▶ A strategy for training British Columbians for the job requirements and opportunities associated with offshore exploration and a strategy to ensure effective participation of First Nations and Northern B.C. coastal communities in the new industry;
- ▶ B.C. government - private sector partnerships to build the marine engineering, construction, and ocean technology sectors;
- ▶ Consultation at an early stage of planning, with at least: the general public, the northern coastal communities and First Nations, the research community, and other jurisdictions;
- ▶ If the provincial moratorium is ended and technical research is expanded, setting up an arms-length mechanism for informing the general public of technical findings.

In addition to the Offshore Panel Report

A number of other activities and events relevant to B.C. Offshore oil and gas should be noted:

- ▶ The provincial government has been in discussions with the federal government about a potential joint lifting of the moratoria in place by both levels of government.
- ▶ A B.C. government Caucus six-member task force conducted nine public hearings in northern and coastal communities on offshore oil and gas and submitted a committee report.
- ▶ The Haida Nation filed an action against the provincial and federal governments claiming aboriginal title to all of the Queen Charlotte Islands and surrounding seabed and sea, including parts of Hecate Strait and Queen Charlotte Sound.
- ▶ A recent B.C. Court of Appeal decision found that the duty to consult with aboriginal peoples when their interests may be affected extended to a private company as well as to the federal and provincial governments, and that the consultation must include reasonable accommodation of the concerns of the aboriginal peoples.

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This is a general overview of the subject matter and should not be relied upon as legal advice or opinion. For specific legal advice on the information provided and related topics, please contact any of the lawyers listed above.

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