
From: Rod Dobell [dobellr@telus.net]
Sent: Tuesday, May 25, 2004 6:08 PM
To: sgedak@nrcan.gc.ca
Subject: Submission to the Public Review Panel

Dear Mr. Gedak—

I am attaching with this msg a WORD file containing a submission I should like to make to the Panel. I had not intended to make such a submission, but have been prompted to do so by the discussion during the hearings here in Victoria.

Unfortunately I have not had the opportunity I had hoped to have to cut this document in half. Accordingly, with my apologies, in order to meet your deadline, I have to submit this in rougher draft form than I would wish. Nevertheless, I hope that you and the Panel might find something of interest in it.

Respectfully,
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**The Federal Moratorium on Oil and Gas Activities Offshore British Columbia:
A Personal Perspective on a Few Questions of Risk and Governance
Rod Dobell*
Victoria, B.C.
May 25, 2004**

Summary

This submission suggests five points on which it is necessary to be clear before attempting to answer the question put to the Public Review Panel.

1. "Lifting the federal moratorium" is an expression that has not been well defined and is not well understood. It is essential to distinguish a narrow administrative sense from a broader policy stance.
2. It is crucial to resolve questions at a broader ecosystem scale before proceeding to specific proposals at the scale of projects under individual permits. The 1986 report of the Westcoast Offshore Oil Environmental Assessment Panel introduced the vital distinction between review at regional or ecosystem scale and assessment at the scale of projects advanced by particular proponents. That distinction should be maintained by the present Panel in its advice to the Government.
3. It is important to recognize that technology, legislation, ecological understanding and global context have all evolved dramatically in the four decades since the existing leases and permits for petroleum-related activity offshore British Columbia were first issued. The carefully constrained evolution of pre-existing rights into this new context must be clearly completed before the assessment of new project proposals could be appropriate.
4. The consequences of adopting an appropriate adaptive management stance, based on the structuring of human intervention as learning experience, and drawing on that learning to shape future decisions and interventions, must be clearly understood and spelled out. In particular, such a precautionary adaptive management approach undertaken in the context of the Oceans Act suggests that exclusion areas should initially be drawn very broadly, and subsequently narrowed only where experience and new knowledge demonstrates this is possible without undue ecological or social risk.
5. Most crucially, the extent of general regulatory restrictions and the introduction of constraints on the exercise of property rights warranted as a matter of public policy in an uncertain ecological and social context must be well understood before proposals for individual projects enter the standard environmental assessment process. Failure to spell out the reframing of property rights that may flow from the new knowledge gained from adaptive management leaves all of us vulnerable to future litigation or compensation claims and risks undue constraint on public policy or massive retaliation under NAFTA Chapter 11 provisions.

The conclusion of this submission, in line with the submission of the Province of British Columbia, is that a decision on lifting the federal moratorium is a policy decision, not a scientific or technical question. What is understood by most people to be the federal policy on petroleum-related activity offshore BC—the symbolic policy moratorium—can well be lifted simply by an announcement based on the strategic environmental assessment drawn from the work of this and other recent panels. This Panel must, however, recommend against lifting the federal government’s formal administrative moratorium as premature. Until the extensive work programs outlined by the recent science panels have been completed, attempting to renegotiate existing permits or inviting the submission of specific project proposals would be scientifically unsound, environmentally unsafe and socially irresponsible—contrary to the declared intention of the Governments of both BC and Canada, and certainly at odds with the desires expressed by most of those appearing before the Panel.

**Rod Dobell is Emeritus Professor of Public Policy at the University of Victoria and a Senior Research Associate at the University’s Centre for Global Studies, a Governor of the Maritime Awards Society of Canada, and a former member of the Management Committee for the Ocean Management Research Network. None of these organizations is in any way associated with the comments offered here; they may or may not endorse any of the opinions or conclusions suggested.*

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Introduction

It is important to remember that in the four decades since leases and exploratory permits were granted for drilling activity offshore BC, the whole context for assessing such activities has been radically transformed. Technologies have advanced tremendously; the risks, mechanical or environmental, of such activity are vastly reduced. Demands for the products are increased. Alternative supplies are dwindling. The case for revisiting decisions to suspend activity is strong.

But our understanding of the dynamics of the earth's life support systems has also been transformed. Social attitudes have changed, and the expectations of citizens about seeing their views respected in public policy processes have increased and are more actively pressed. The legislative context has changed as a result; CPRA, Environmental Assessment Acts both federally and provincially, perhaps most importantly the Oceans Act, all reflect initiatives of Parliament to reshape the way public policy is formulated, implemented and understood. The global context is transformed, with external constraint on local action strengthened through many links, not to mention NAFTA as a particular concern.

A decision to lift the federal moratorium cannot be simply to turn back the clock and take up where we left off when activity was suspended, merely feeding a new round of proposals into the now standard apparatus for environmental assessment of new projects.

1. The moratorium—what is it?

Language is perhaps creating unnecessary complexity and conflict in this social debate. This submission suggests that the Panel recommend that the federal moratorium be lifted in the sense of launching and embarking upon a shared and phased social journey of building both knowledge of our marine and coastal environment and greater understanding of the ethical principles and distributional arrangements that must underlie human activity to harvest the resources of that environment while ensuring the continuing integrity of the ecological life support systems on which human survival in the region depends. But it does not recommend lifting the federal moratorium on drilling activity yet.

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The way the Panel frames the question put to it will shape dramatically the advice it may wish to offer.

In direct terms, the question has been “Should the moratorium be lifted?”

The argument for doing so has been phrased as “Lift the general prohibition in order that the assessment of specific proposals can proceed. There is no implication that lifting the moratorium means a rush into development, it simply means an ability to move ahead to learn more about the risks and benefits of specific proposals that may promise anticipated benefits and returns in excess of anticipated costs and risks.”

The argument against doing so has been “In the absence of greater understanding of the complex dynamics of the systems whose integrity might be irreversibly compromised by exploration and development activity, and of the distribution of the benefits and the burden of the risks arising from such activity, a precautionary ecosystem-based decision-making posture would not yet lift the moratorium to invite—or even consider—proposals for new project activity.”

Both are right, and it should be possible to frame the question and propose a response in a way that meets the needs of almost all parties to the debate.

It is essential that the question posed to the Public Review Panel be clearly understood. This means that the nature of the “federal moratorium”, the means by which it was imposed and the action needed to lift it must be clearly understood. At present it might be most helpful to think in terms of there being a formal ‘administrative moratorium’ but also a more comprehensive but less formal ‘symbolic moratorium’ or ‘political moratorium’.

The administrative moratorium arises from a decision of the federal government in the early 1970s not to entertain applications for new leases or permits for oil drilling activity offshore British Columbia, or to approve any further such work in areas covered by existing leases and permits. It was brought into effect through letters from the Minister of what is now Natural Resources Canada to the companies holding existing permits or leases in the area indicating that the government did not wish to receive applications for work on those tenures, and would therefore suspend work requirements while maintaining the license or lease. Formal effect to these indications was achieved by publishing annually in the Canada Gazette amendments to regulations under COGLA extending the existing leases for another year from their original date of issue. (The Shell Canada Resources Limited et al Regulations, 1981 (SOR/81-500 published in the Canada Gazette Part II, Vol 115, No 13, 25 June, 1981) offer a good example. The explanatory note says simply “The terms of [a whole set of] exploratory permits issued under the Canada Oil and Gas Land Regulations are extended, and work requirements thereunder suspended, for an additional year.”)

With the passage of the Canada Petroleum Resources Act in 1982, the need for this annual exercise was eliminated, and the right of existing permit holders to apply for negotiation of a transition from the old permits into new licenses under the new framework established by the CPRA was built into the Act itself. This administrative moratorium would be lifted, presumably, simply by a letter from the Minister offering to consider the renegotiation of existing exploratory permits or inviting fresh applications or proposals seeking approval for specific exploration or development projects to be undertaken. (To issue such a letter in current circumstances would presumably require prior agreement by Cabinet, and that in turn, in light of the recently revised Cabinet Directive on Strategic Environmental Assessment, would demand a Strategic Environmental Assessment and public report to accompany any such proposal, as discussed below.)

The symbolic moratorium, however, has evolved from the degree and nature of the political activity and public debate around the question of offshore energy development more generally. Following the distinction introduced by the Westcoast Panel that reported in 1986, this moratorium presumably should be seen as reflecting a general policy stance related to the possible introduction of a new industrial activity over a possibly broad region of coastal waters, not to the appraisal of individual proposals for specific exploratory or development activities.

This distinction is crucial. The reports of that Panel and the subsequent COFRI, AGRA, and Whitford reports, as well as the BC and federal science panels, have all concluded there is no identifiable reason arising from considerations of technology or science at this moment to suggest that the symbolic moratorium should not be lifted in order to proceed with an ecosystem-scale exploration of science gaps and other information pre-requisite to any environmental assessment process as well as with the institutional design and capacity-building efforts needed to meet the preconditions on governance that the two recent science reports have emphasized, namely that before moving ahead to any consideration of specific proposals there must be in place an adequate fiscal and regulatory regime to set the general groundrules within which specific activities may proceed.

Thus there is an important distinction to be made in the Panel's advice to the federal government. The evidence heard may support the lifting of the symbolic moratorium in order to proceed with the extensive work program to establish the scientific context at basin or coastal (at any rate ecosystem) scale and with the essential capacity building and institutional design to establish an adequate fiscal and regulatory regime to govern the distribution of risks as well as returns.

But there is no evidence anywhere that the formal administrative moratorium need be lifted in order to pursue this goal. Indeed the almost universal assurance has been that it will not be possible to initiate environmental assessment of specific proposals until all this prior work has been undertaken. To lift the federal moratorium by inviting, or suggesting a willingness to consider, new project proposals on specific leasehold areas would be radically premature in the absence of work on all the issues identified above.

Thus it seems that the only environmentally safe, socially responsible and scientifically sound way to proceed is to lift the symbolic moratorium through an announcement initiating the necessary work at ecosystem scale, while deferring any action to lift the administrative moratorium until this preliminary work has proceeded sufficiently far to meet the preconditions set by both the recent science panels. This seems clearly to be the only way to put in place the information and knowledge base that is pre-requisite to any adequate environmental assessment. And it is the only way to meet the preconditions on institutional capacity, distributional understandings and regulatory framework that is built into the core recommendations of both science panel reports.

The way in which to begin moving down this road most effectively would seem to be through formation of a cooperative initiative in which governments, coastal communities, potential industry proponents, groups associated with other uses of marine and coastal resources, non-government organizations, foundations and others come together to design the specifications for a comprehensive attack on identified gaps in science and institutional capacity, and to fund the necessary work. (Of course as this work program moves toward more active measures, such as a unified and comprehensive system-wide seismic survey, the individual elements of the work program will themselves have to be subject to full environmental assessment. But none of that demands any lifting of the administrative moratorium before the work can go ahead.)

There are models of such joint initiatives; some have been very successful. Companies concerned that there is no incentive to undertake such up front investment in the absence of stronger assurances about downstream development may reflect that almost all the information gathering and capacity-building involved at this stage would have to be built up at their own expense as project proponents at the environmental assessment stage in any case, and may recognize that there may be substantial benefits flowing from possibly greater credibility and legitimacy associated with a comprehensive cooperative initiative.

As a national project on the West Coast, of great symbolic significance, mobilizing the energies of many organizations in a mutual undertaking promoting both socially responsible corporate activity and socially responsible political initiative, the undertaking could serve to bring together many of the presently opposed forces arrayed around the present controversy.

It may be argued that such a stance is simply naïve, that experience to date, and common sense, demonstrate that none of the key parties will be willing to come to such a table, and certainly not to offer up the necessary funds. In particular, without major industry contributions to funding, such a program is not likely to be feasible. Such financing, it is argued, will not be forthcoming in the absence of a lifting of the administrative moratorium.

But the costs of this learning process must be paid anyway, prior to the beginning of any process leading to approval of any proposal for specific activities. And it would be irresponsible, in the present state of understanding of ecosystem dynamics, to attempt to

appraise any one individual activity in the absence of some regional framework. Applications for work in some areas will never be contemplated; it is clearly essential to work out these identifications of critical or vulnerable areas on a basin-wide basis to establish basin-wide priorities.

More precise articulation of the real question at issue may thus permit a very helpful reframing of the problem, permitting apparently opposed views to be effectively reconciled.

2. The Ecosystem Framework and Ecosystem-based Management

The balance of the evidence has been often misinterpreted in submissions to the Panel and other bodies. In particular it has been argued by proponents of lifting the moratorium that a vast body of 'sound science' has come pretty well unanimously to the conclusion that the moratorium should be lifted. Such a posture significantly misrepresents the results of the Jacques Whitford report, the BC Science Panel report, and the Royal Society Panel report. These reports were not asked to address the question whether the moratorium should be lifted; they were asked whether there are thought to be any technological or scientific reasons militating against lifting the moratorium. The responses were typically qualified:

"The evidence... indicates that there are no unique fatal flaw issues that would rule out exploration and development activities."

"There is no inherent or fundamental inadequacy of the science or technology, properly applied in an appropriate regulatory framework, to justify retention of the BC moratorium."

"Provided an adequate regulatory regime is put in place, there are no science gaps that need to be filled before lifting the moratorium on oil and gas development."

The qualifications around these conclusions were carefully considered; they are integral to the conclusions. It is wrong to say that these reports provide the best response sound science and objective analysis can give to the question whether the moratorium should be lifted. These reports do not, and were not asked to, address that question. They offer, rather, the opinion that so far as considerations of science and technology are concerned, there appear to be no persuasive reasons for not lifting the general moratorium on activity directed toward filling science gaps, building the necessary governance structures, and undertaking better definition of the likely scale and value of the resource itself.

These analyses do not, of course, address the other economic, social, cultural and philosophical considerations that would enter into a political decision to lift the moratorium. Nor do they attempt to identify the differing perceptions and weightings on the various risk considerations.

In particular they fail to deal with the question of ecosystem-based management at coastal scale. Interestingly, a very fruitful start on the necessary work on marine ecosystems and integrated coastal zone management may be found in the work of the Coast Information Team on BC's Central and North Coasts and Haida Gwaii. (See www.citbc.org.) The work of the team in attempting to develop a model for ecosystem-

based management, nesting the work at more local scale within a larger regional framework, would provide an important foundation for the equally challenging work on seabed mapping, marine habitat and the monitoring of the health of integrated marine-terrestrial systems that would be entailed in the comprehensive cooperative initiative mentioned below.

3. A New Context

Technologies have changed dramatically since the moratorium was first imposed, and exploration and development can be carried on now with far less risk of environmental damage than at that time. But our vision of how the world works, our understanding of the dynamics of complex ecosystems in which human interventions result in less controllability and less predictable consequences, our views on the legitimate claims on the resource, and on social support in the face of risk, have also been transformed. We now see ecosystem risks in radically different ways, are conscious of the concerns with cross-boundary impacts and spillovers both ecologically and socially, and view very differently the responsibilities of corporations for risks to others arising from decisions they take on behalf of shareholders.

One result is that we have to see our approach to the moratorium decision in light of all these new circumstances. The implications for public policy in oceans and marine matters is summed up most definitively in the Oceans Act, a remarkable piece of legislation setting out the basic principles of an approach to management of human activities having impacts in marine and ocean settings.

This substantial revolution in principles of governance prescribes an ecosystem-based, integrated precautionary approach to assessing the impacts of human activities, including resource management, development planning and land use decisions.

On a more pragmatic scale, one of the things that comes through strongly in much of the debate is the frustration arising from the sense that the decision in question is being addressed in the absence of important and relevant analytical or strategic frameworks. How does a response to this decision fit into international commitments such as the Framework Convention on Climate Change, the Convention on Biodiversity, or Canada's undertaking to create a new system of Marine Protected Areas and National Marine Conservation Areas and the related moral obligations arising from these? How does it fit into subordinate strategies or policies such as Energy Policy or Sustainability Strategies or processes to pursue modern treaties? How does it relate to social policy commitments or trade constraints as represented by NAFTA, for example?

The need for an ecosystem-based approach and an overall framework to govern individual decisions on individual proposals demands holding off on suggestions that we lift the federal moratorium now in order to proceed immediately to assessment of proposals by individual proponents of activities at the scale of individual leases or licenses. The decision on lifting this administrative moratorium should come after the major science gaps relating to ecosystem function and risks at the regional scale have been resolved or explored as fully as feasible—and after the governance, fiscal and

regulatory regimes have been put in place with full attention to the profound uncertainties that govern both our understanding of complex ecosystems and our moral stance with respect to sharing of risks and benefits.

4. Adaptive Management—Defining Critical Areas and Exclusion Zones

The importance of adaptive management is that future decisions rest on the learning from the experience of the consequences stemming from decisions taken now. Corporations naturally seek certainty that if they invest heavily now in building the knowledge base necessary for fully informed environmental assessment, they will be able to proceed to production and profits. That kind of certainty cannot be given in an uncertain world that learns from its experience and its mistakes. With adaptive management, proponents will be asked to pay the costs of environmental assessment; such assessment may identify sufficient remedial measures and approve the activity under conditions that leave an adequate return to the proponent. Or it may not. Required precautionary or remedial measures may be too costly, or conditions may be too restrictive to permit an adequate return. In such a case, the activity presumably will not proceed in the area proposed, and the firm will swallow the costs.

If approval to proceed to development is given, and unexpected consequences flow, renewal of the activity may be precluded, even if completion is essential to realize the profit potential or the minimal return required to justify ex post the investment already undertaken. Certainty cannot be assured in this world of profoundly uncertain ecosystem dynamics, social evolution and new knowledge. Some of this risk simply rests inescapably with the proponents, just as some of the risks of proceeding with development inevitably rest with other users or neighbouring activities.

In a democracy, the people have the right to say that they do not wish to see development in a certain place even though all the science of the day assures that doing so is almost riskless. They may say they do not wish to accept certain risks, despite all the assurances of sound scientists that the risks are absolutely low, or low relative to all kinds of other every day risks. It is the preferences of the community, not the soundness of the science, that should inform the advice from this Panel. I have the right to act in accord with the dictates of my heart despite the advice of my head and I—as I imagine most people—often do. I have the right to insist that my government take the balance of those dictates in the community into account as the deciding consideration in social action, rather than necessarily giving paramouncy to the current body of beliefs that presently passes for sound science.

We have to try to set this current decision into the appropriate framework spatially as well as temporally. Spatially demands ecosystem framework at Basin or coastal level, as noted above. Temporally demands clear understanding of the consequences of working in a world of vast uncertainty and limited and fragmented human influence. In particular, property rights cannot be secure, cannot be certain, and cannot be forever. They must be structured to be amended as new knowledge brings new awareness of costs and impacts on others and on the prospects of future generations.

The process in which this Panel is engaged, together with the advice on science issues and on consultations with First Nations emerging from separate initiatives, will presumably provide the basis on which the Minister will submit an SEA to Cabinet in support of this decision.

But note that nothing here precludes all the necessary work on basin-wide science gaps, ecological risks, baseline geological data, development of distributional arrangements, fiscal accords and all being undertaken prior to the go-ahead on assessment of specific project proposals.

5. Adaptive Management—Regulatory Understanding and Property Rights

We have to know more about the likely stringency of the regulatory regime before the investment of funds by proponents creates hostages to fortune. As a matter of public policy, it is crucial that confident expectations of an irreversible right to proceed to production not be created simply by a willingness to entertain investment now by proponents in meeting the requirements for exploration, environmental assessment and other policy appraisal.

These difficulties could be reduced by a federal government announcement along the lines already sketched, and discussed below, that it is willing to begin down the path that may well lead to accepting applications for exploration and development work in some areas of the QCB, and will do so by working with the province, FN, companies, environmental groups, and interested other parties to begin systematically to address the crucial science gaps identified to date, and to work through the development of the necessary regulatory framework that addresses the distribution of risks and returns, participation in joint management boards or other regulatory bodies, and the requirements of environmental assessment in appraisal of individual projects.

There is no barrier to undertaking all the necessary work on science gaps prior to lifting the moratorium. Realistically, however, it is argued by practical bureaucrats and hard-headed executives, there will be no incentive to attack any of this work prior to the lifting of the moratorium.

But this suggests an underlying difficulty that has to be faced head on. Given the threats posed by Chapter 11 of NAFTA, it is crucial to address it ahead of time. New regulations introduced later, after investments have been made, in light of the new knowledge generated by scientific and other work, open up the federal and BC taxpayer to legal action for compensation for any perceived costs to companies introduced by new regulations advanced in the public interest, thought to be warranted by the new knowledge of changing systems, but costly to the operator.

It should not be the case that the development of our knowledge of our coast is only warranted by the commercial prospects of hydrocarbon activity. Science gaps should be addressed anyway, as part of the Oceans Actions Plan and under many other rubrics. General distributional and regulatory arrangements should be sorted out before undertaking appraisal of specific projects, in part simply so that potential proponents

know the fiscal and regulatory regime in which they would have to operate. The participation of individual First Nations in the management of activities as well as the sharing of the revenues is only the most visible important of the issues to be addressed here.

David Anderson and Richard Neufeld might be taken as the polar positions in this debate. But Anderson has always said that the federal government will be prepared to take proposals for individual activities into the environmental assessment process if they come forward, and Neufeld has always said that the province would only approve activities that are environmentally responsible. Both have referred to the provisions already in place for joint processes of environmental assessment. Both presumably would see as a positive step forward any initiative that promises to provide the foundation of evidence necessary for that purpose.

The COS in the US proposes revenues from offshore activities to fund ocean science. Here is a similar opportunity for governments to invest the money in essential science, with the understanding that those costs will be repaid from returns on future production.

6. Moving forward

“Lifting the federal moratorium” formally would seem to mean the Minister of Natural Resources Canada writing to existing permit holders to indicate that applications for individual activity will now be considered. Many people have argued that this step should be taken now, so that general exploration of science gaps and tasks of institutional design at the level of the basin or the coast overall should proceed.

Surely this is backwards. Announcement of intention to proceed to a full scale attack on the general issues at basin and coastal scale would be the obvious preliminary step. When returns from that work are in, an appraisal of where governments might indicate willingness to consider individual projects can be more effectively made. And by that time, the degree of public confidence in the information base and the decision process may be greater, leading to greater public willingness to ascribe legitimacy and authority to that process.

It is not true that work cannot proceed until the federal moratorium is lifted. It should not be true (though it may well be) that none of the active advocates or potential proponents will care enough about the general issues to participate in a cooperative venture until the moratorium is lifted.

But surely what this Panel should recommend is an orderly staged process of adaptive management that addresses all of the concerns raised by those making submissions to the Panel. Within a general framework of extended scientific understanding and an agreed institutional design covering regulation and distribution, the lifting of the moratorium on proposals for individual work can be appropriately pursued.

The Panel could recommend that the symbolic federal moratorium be lifted with an announcement that work will proceed on an agreed cooperative program of scientific

work and institutional design, but there will be no consideration of specific proposals for exploration or development until that work has reached some agreed stage of maturity. In that sense, the federal moratorium, such as it now is, would remain until a socially acceptable degree of reassurance can be offered to those concerned about ecological integrity and social justice in coastal British Columbia.

Decisions to approve specific corporate projects leading to development of production capacity will wait several years under this scenario. But nobody among the proponents and advocates doubts that they will do so in any case, even if the moratorium were “lifted” tomorrow. All the submissions have recognized that no activity can proceed without full and comprehensive environmental assessment, and no such assessment can responsibly be concluded without the information provided by work to fill the essential science gaps already identified. And everybody has recognized the essential constraint that fiscal and regulatory regimes widely accepted as legitimate must also be in place to set the social groundrules around development activity before development activities are initiated.

Thus, the Panel could reframe the question put to it, and respond affirmatively to the concerns of both major groups of advocates, by suggesting that the moratorium should be lifted in a staged process, reflecting the dictates of adaptive management in highly uncertain and evolving systems.

The first stage would address two key components of the analysis that would have to go into answering the question put to this panel, that is, identification of the environmental—particularly ecological—risks and the design of the institutions and social relations that will govern the distribution of returns as between governments, groups and individuals. Where addressing science gaps requires active human intervention in the ecosystem, environmental assessment of proposed activities may be required.

If the improved understanding of ecological risks and the feasibility of politically and socially acceptable provisions for just and equitable distribution of anticipated benefits suggests that the anticipated risk-return balance is promising, a second stage might be to proceed to a single comprehensive seismic survey to determine more precisely the scale and character of the resource throughout the basin, and the potential benefits from more targeted exploration. Undoubtedly any proposal for such seismic exploration would be the subject of a specific and stringent environmental assessment itself, but in the context of enhanced baseline data and scientific understanding, with a consortium or partnership, not a single corporation, as proponent.

If on the basis of the new seismic survey, the extent of the resource appears to warrant investment in development, then the federal and provincial governments could consult on the areas in which such development might be considered, and the federal government could then authorize letters to the existing tenure holders to welcome applications to be made, with, at that stage, the costs of meeting the information requirements for environmental assessment falling to the individual proponent concerned.

At this stage, all the existing groundrules would be well known, and the nature of the regulatory requirements to be met in light of the new understanding of ecological dynamics as well as the social consensus (as interpreted by governments) around what is socially acceptable exercise of resource rights, and what is the extent of corporate responsibility for consequences of approved activities, will all be well understood. The public policy reasons for intervention in market dynamics will have been well established, and will not create a case for compensation. Where the likely return under these circumstances is perceived to be insufficient, corporate leaders will presumably conclude that they cannot assure shareholders an adequate return while respecting society's conditions on socially acceptable use of the resource (at socially acceptable levels of risk), and will defer their investment.

Reframing the question may lead us away from the need to disappoint one group in order to satisfy the urgings of the other. The expressed needs of both could be met in a staged process that also fits the needs for a more satisfactory ecosystem-based approach. This approach is not ducking the issue, and the question "Should the moratorium be lifted?" will still have to be addressed. But it can be addressed on the basis of a much firmer foundation of evidence as well as a much greater understanding of the views on socially acceptable development, without creating profit expectations that may return to haunt and constrain later decisions on public policy.

In the present state of technology and with the present understandings of corporate responsibility, environmentally responsible and scientifically sound development of oil and gas resources offshore British Columbia is almost certainly possible. It seems likely that the federal government moratorium on such activities offshore British Columbia will ultimately be lifted. But there is not yet an adequate foundation of knowledge to know where and when this might be appropriate, nor is there adequate institutional structure agreed and in place to assure appropriate regulation, management and distribution of potential benefits. The preconditions and qualifications cited by prior science panels have not been met, and their absence should be seen as a definitive bar to lifting the moratorium at this time.

Would it not, however, be a great accomplishment for all the governments and organizations concerned to succeed in reframing this conflict as one in which mutual goals can be pursued through a cooperative initiative in knowledge capture, capacity-building and social deliberation? Wouldn't such an initiative be a wonderful early undertaking within an Oceans Action Plan for this new century?

25/5/2004

(based on Victoria hearings 14/5/2004 and 15/5/2004)

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