



Submission to the Hebron Public Review Process

Human Safety and
Building on the Wells
Inquiry

Submitted by the
Newfoundland and Labrador
Federation of Labour (NLFL) -
President Lana Payne,
December 1, 2011

Who we are

The Newfoundland and Labrador Federation of Labour (NLFL) represents 25 affiliated unions, 500 union locals and 65,000 working women and men in every sector of our economy, including the offshore oil industry.

For 75 years, we have worked to advance the rights of working people, including in the area of occupational, health and safety (OHS) by advocating for safer workplaces, stronger laws and regulations, enhanced enforcement and inspections, safer workplaces, worker health and safety rights and real worker participation and engagement in their health and safety at work.

In addition, we are part of the broader labour movement in Canada and are proud to be a voice for working people on issues such as pensions, pay equity, labour laws, and workers compensation.

The Federation also advocates for improved public services, as well as public policy and laws that support our principles of social and economic justice, equality and workers' rights – including the overall wellbeing and welfare of all citizens.

Introduction

We welcome this opportunity to present on this important issue of human safety to the Hebron Public Review Commission. Indeed, our Federation will make a second submission on the matter of economic benefits on Monday. We felt it was important to keep these issues separate.

The Hebron Public Review Commission was established by the Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB) to complete an independent assessment of the Hebron Project Development Application.

As part of your work, Commissioner Ayre you have been tasked with (for our purposes today) reviewing considerations of human safety and environmental protection (incorporated into the proposed design and operation of the Project.)

First I would like to express our Federation's support for the comments and recommendations made yesterday to you by Brian Murphy, the President of CEP 2121 and an offshore worker. I will refer to these later in my presentation.

Our Federation chooses today to start our presentation with several questions.

Our Federation asks simply what the Proponent learned from the crash of Cougar Flight 491 which took the lives of 17 workers. What did the Proponent learn from the reports and recommendations of the Wells

Inquiry? From the Transportation Safety Board's report and recommendations?

Did the crash cause a re-examination of the Operations Integrity Management System (OIMS) cited in the Development Plan and Concept Safety Analysis submitted to this review process and if so what was the result of that re-examination? Did that re-examination result in a conclusion that the safety management system was lacking in any way?

Did the crash cause the Proponent to consider how it might incorporate and act on the spirit and intent of the Wells Inquiry's reports and recommendations? Or given the discussion throughout the Inquiry and subsequent reports and analysis, did this in any way prompt the Proponent to incorporate the legal requirement in our province and in Canada for Joint Occupational Health and Safety Committees as vibrant and active players in workplace safety into the various levels of the corporation's safety management system?

If so, I failed to see any evidence of this evolution in safety thinking in the documents submitted to the public review process. It is our hope that this review process can recommend that improvements are needed in order to incorporate worker participation in real and meaningful ways.

Commissioner Ayre, of all the work we do in the labour movement, advocating for enhanced health and safety is the most important. There is nothing, nothing (not profit, not production) - more important than ensuring workers come home to their families at the end of the day or the end of their hitch.

Safety Management Systems

Did the crash of flight 491 and the subsequent analysis by Commissioner Wells (including in Chapter 7 of his Phase 1 report) result in any substantial change with respect to how industry designs its safety management systems – systems that often lack what the International Labour Organization (ILO) refers to as the ability for workers to participate in a meaningful way in those systems.

Indeed the ILO notes in its publication: **OHS Management System: A Tool for Continual Improvement** (which I have attached) that OHS Management Systems cannot function properly without the existence of effective social dialogue, such as through joint safety and health committees (as dictated by Newfoundland and Labrador OHS laws).

Workers and their representatives should be given the opportunity through direct involvement and consultation to fully participate in the management of OHS in the organization.

“A system is successful only when all the stakeholders are given defined responsibilities in running it,” says the ILO.

http://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@safewor k/documents/publication/wcms_153930.pdf

The ILO notes that it has been demonstrated again and again that the implementation of OHS management systems can be successful only when all stakeholders participate fully in its implementation through dialogue and cooperation.

In the case of OHSMS, the ILO says “a system run solely by managers without input from workers at lower levels in the hierarchy is bound to lose its focus and fail.”

Studies indicate that participatory workplace arrangements lead to OHSMS practices resulting in improved OSH performance, and this is even more so in unionized workplaces.

Commissioner Robert Wells made a similar conclusion in his report. Justice Wells had been asked to examine, among other key issues, whether it was possible to improve both the process by which safety management systems are developed and the methods by which they are monitored and audited?

Commissioner Wells concluded that while audits are important and have their place, **“they are not a substitute for high-level multi-party input into how safety is developed.” (page 252)**

It is not clear how the Proponent intends to achieve this. Indeed, the safety management system – a system that from all accounts failed in the case of the Cougar crash is exactly the same, or indeed highly similar, to the safety management system being proposed by the Hebron proponent.

I would point out that it was that same or similar safety management system that as an example resulted in the failure to implement the use of underwater breathing apparatuses during helicopter transport (until after the crash despite the fact they were in use in other jurisdictions) and failed to pick up on the previous problems with the S-92 despite the fact that Element 8 of the Proponent’s cited safety management system deals with

sub-contractors or what they call “third-party services.”

The Hebron Proponent’s submissions fail to explain how the Proponent intends, or if intends, to follow the advice of Commissioner Wells thus seeking and structuring this multi-party input.

What we don’t need is more “father-know-best” approach to workplace safety.

The problem with this kind of approach is it disempowers workers, and it can lead to a communications breakdown with respect to any discussion or dialogue with workers regarding workplace hazards and risks. Just as importantly, it is not enough to just seek input from workers with respect to workplace hazards, workers must also see that their efforts to identify hazards are having an impact and are being acted upon in a meaningful way.

The ILO states that for joint OHS committees and similar arrangements to be effective, it is important that adequate information and training is provided, that effective social dialogue and communication mechanisms are established, and that workers and their representatives are involved in the implementation of OHS measures and have the resources to be able to participate in an meaningful way.

OHS related training at all levels, from managers to workers, is a major element in implementing any OHS programme. This training has to be carried out on a continual basis to ensure knowledge of the system and for instructions to stay up to date with changes in the organization.

While the ILO names a number of key strengths of SMSs, it also points out

a number of weaknesses. “There are many pitfalls which, if not avoided, can very rapidly lead the exercise toward failure,” says the ILO. The usefulness of OHS Management Systems has been questioned in several studies on the subject, and a number of potentially serious problems have been underlined.

The production of documents and records must be carefully controlled to avoid defeating the purpose of the system by drowning it in excessive paperwork. This is when paper safety overtakes practice and real safety.

The focus on the human factor can be easily lost if the emphasis is more on the paperwork requirements of a formal OHS Management System than people.

As mentioned, the safety management system proposed for the Hebron development is virtually the same integrated safety management system used worldwide in the oil industry. This was confirmed in the Joint Operators submission to the Phase 1 Wells Inquiry into Offshore Helicopter Safety. In that presentation, the oil operators note that while the Operators' systems are not identical, nor called by the same name, they have the following common key 11 elements: 1. Management Leadership, Commitment and Accountability; 2. Risk Assessment and Management; 3. Facility Design and Construction; 4. Documentation and Regulatory Compliance; 5. Personnel, Training and Competency; 6. Operations and Maintenance; 7. Management of Change; 8. Third Party Services (Contractor); 9. Incident Investigation and Analysis ; 10. Emergency Preparedness; 11. Management System Assessment and Improvement.

The Proponent's Development Plan refers to its safety management

system, entitled the “Operations Integrity Management System (OIMS).”

(please see attached

http://www.exxonmobil.com/Corporate/Files/OIMS_Framework_Brochure.pdf)

That safety management system includes nearly the identical 11 elements:

1. Management, leadership, commitment and accountability;
2. Risk assessment and management;
3. Facilities design and construction;
4. Information/documentation;
5. Personnel and training;
6. Operations and maintenance;
7. Management of change;
8. Third-party services;
9. Incident investigation and analysis;
10. Community awareness and emergency preparedness;
11. Operations integrity assessment and improvement.

The fact that the Proponent is recommending using the same/similar safety management system without taking into account that such a system may now not be sufficient post-Cougar (if it ever was) for operations in the NL offshore is, in the opinion of our Federation, unacceptable. It is not clear that the Wells Inquiry recommendations and analysis have had an impact and been incorporated into a revised safety management plan. I understand that there has been work underway since the crash by industry and the CNLOPB, but fundamentally we need to see that changes are also made internally and that real worker involvement is occurring.

We propose that the Proponent also incorporate those elements identified by the ILO as necessary in a good safety management system.

Because in case it was missed, this safety management system failed – 17 lost lives should be indication enough that risk assessments and safety

management systems by and of themselves are not enough. The crash was not just a failure by regulators.

Commissioner Wells' recommendations for improving safety in the NL offshore were not just meant for government and the Regulator. They were meant for industry's ears too.

Our Federation commends the Proponent with respect to its commitments as outlined in its Concept Safety Analysis (page 3), including the commitment to protect the health and safety of all individuals affected by their work and to communicating health, safety and environment matters in an open and timely matter with all affected parties. Obviously with respect to worker involvement, we think these commitments could be enhanced.

But we are extremely concerned with the CSA's section dealing with helicopter transportation.

After the crash of flight 491 and the subsequent investigations and examinations, one would assume that the Proponent would have addressed these concerns in its Concept Safety Analysis.

Does the Proponent agree with the recommendations that helicopters operating in the NL offshore should have at least a 30-minute dry-run capability?

The Proponent says in its CSA that "it is assumed that S-92 helicopters will be used." Does the Proponent also assume that those S-92s will be equipped with a 30-minute dry-run capability?

Indeed, I would go a step further and ask why the Proponent has not

committed to act on the Wells Inquiry's recommendations and the recommendations of the TSB? Perhaps the answer is clear, the Proponent does not have to do so because the Regulator has not required it. I will deal with this issue later in our submission.

Worker Involvement – workplace safety democracy

In his report, Commissioner Wells (Phase 1, page 256) highlights his vision for a NL offshore safety regulator by referring to a new and strong leadership role for the Regulator – leading the way toward a more inclusive safety culture.

In doing so, he stated, such as Regulator must include (or bring more people to the table) more of the industry (sub-contractors and suppliers) other regulators, research organizations and **“especially workers.”**

Commissioner Wells notes that unless such a leadership role for the Regulator is instituted and developed, industry will not achieve the **“safety systems of which we are capable. Safety is too important to be adversarial. Safety involves everyone. Safety depends on culture, trust, collaboration, training and strong leadership.”**

Commissioner Wells (page 257) added: “workers...have a strong role and responsibility to contribute to that safe working environment. They too are important stakeholders.”

After examining the Proponent's safety analysis, development plan and safety management system (as outlined in the attached company

document), it appears this concept of enhanced worker involvement, real and meaningful worker involvement, starting with the role that should and must be played by Joint Workplace OHS Committees is absent or at the very least an afterthought, covered off in the simple statement that the Proponent intends to abide by all relevant legislation.

It's as if the safety management system exists separate from the legislative requirement of active, informed, knowledgeable workplace OHS Committees – rather than in collaboration with.

The proposed safety management system needs revision, rethinking and should incorporate the International Labour Organization's key elements for a good OHS management system.

At the very least this public review process should recommend that any offshore safety plan (which will be required by the CNLOPB of the Proponent during the production phase of the development) include these ILO elements – two of which I have highlighted as they speak to this issue of involving workers in a meaningful way:

- Communication channels between the different levels of the organization need for the system to focus on people. **OSH related information and concerns must go both ways to be effective, those conveyed by shop floor workers should be given due consideration and allowed to reach higher management;**
- OSHMS cannot function properly without the existence of effective social dialogue (direct involvement and consultation). Workers and their representatives should be given the opportunity and resources to fully participate in the management of OSH in the organization

including through joint safety and health committees.

And the very real concerns of workers raised through these Joint OHS Committees must be acted upon, rather than what occurred in the case of the Cougar crash.

One example, in our opinion, of how the safety management system failed is the issue of emergency underwater breathing apparatuses which were first discussed for use in our offshore in 2000. Nine years later, at the time of the Cougar crash, the oil industry had still not equipped offshore workers with this equipment. The Regulator had not required it. This was not done until after the crash.

One of the findings and conclusions of the TSB was that such equipment just may have saved more lives had the Regulator been more vigilant with industry and had industry implemented the use of the underwater breathing apparatuses in the NL offshore as was already the case in Norway and the UK. Workers are a valuable resource in identifying risks and hazards in the workplace, but their concerns must be acted upon and they must be considered serious participants in any effort to improve, enhance or build an adequate safety management system.

Commissioner Ayre, it is my hope that our Federation's comments and this presentation will help in your deliberations.

At the very least we hope to provide you with a critical perspective with respect to offshore safety based on the labour movement's long history in the promotion of stronger health and safety laws and practices.

We hope our submission highlights how rights if they are to have real power must be more than part of a check-list in a legislative framework and workplace safety is more than the implementation of a sophisticated safety management system that includes detailed and complex risk analyses and measurements.

Rights must have real meaning and workplace safety must include real worker involvement in order for those rights to be actioned.

We do that by ensuring the structures and processes that are in place to support those rights are active, proactive and meaningful.

If the crash of Cougar Flight 491 has taught us anything, it is that sometimes the risk analysis experts get it wrong. That worker and management dialogue, two-way communications, and active and proactive joint occupational health and safety committees are not just important in the creation and building of a strong safety preventative culture, but essential to the process of improved safety.

As our Federation pointed out to the Wells Inquiry, prevention is crucial to ensuring decent work for workers everywhere.

The first step to building that safety culture is to understand and respect what workers and their unions bring to the table. Workers and their unions must not be viewed as adversaries, but rather as engaged partners in achieving healthy and safe workplaces.

After all, we all should share a common goal: the health and safety of the people who go to work every day, contribute to our economy and advance our society.

The provincial Occupational, Health and Safety Act which also covers workers in the offshore (until such a time that amendments are made to the Atlantic Accord) guarantees a number of rights for workers – as do health and safety laws across our country. In Canadian occupational, health and safety laws, three rights are emphasized:

The **right to know** about hazards of the workplace (which speaks to employers' responsibility to ensure workers know of those dangers);

The **right to participate** in health and safety activities, especially joint worker-management health and safety committees; and

The **right to refuse** hazardous work.

In addition, there is the right to a healthy and safe workplace and the right to be protected from discrimination or reprisal if you raise a health and safety concern in the workplace.

We must view workers as experts who can contribute to enhanced health and safety because of their very real experience in the workplace.

In May 2009, the International Labour Organization held a Tripartite Meeting on promoting Social Dialogue and Good Industrial Relations from Oil and Gas Exploration and Production to Distribution.

The conclusions from this meeting which included employers, workers and government representatives with a stake in the offshore oil and gas industry included:

The recognition that social dialogue is “of paramount importance” for

addressing a wide-range of workplace issues;

- A collaborative approach between employers and workers' organizations is central to good industrial relations and that the precondition to good industrial relations is full respect for freedom of association and the right to bargain collectively.
- That decent work involves... ***freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all.***
- That education and training should be viewed as a long-term contribution to sustainability of the oil and gas industry and as an investment in human capital. It should involve governments and social partners – like unions and educational institutions.
- That social dialogue is paramount to good governance in the oil and gas industry. **Good governance also relies on transparency in decision-making and reporting process.**
- That governments play an important role in promoting social dialogue by creating an enabling environment. And governments have a responsibility of facilitating social dialogue through the establishment and enactment of appropriate legislation and institutions. (These recommendations could form part of a new framework for the offshore oil and gas industry in our province.

Comments, Concerns and Recommendations

In reviewing the Proponent's Hebron Project Development Plan and its Concept Safety Analysis we have the following additional comments, concerns and recommendations.

These documents are not clear with respect to how workers will participate in their health and safety. Perhaps this will be included in the Proponent's Safety Plan that it will submit at a later date to the CNLOPB, but our Federation views these issues as important as risk assessment data and the other detailed information provided by the Proponent to this process. They are certainly just as important to meeting the goal of "Nobody Gets Hurt."

This cannot be covered off by the simple statement included in Chapter 9.2.4 of the Hebron Development Plan where the Proponent states: "The Operator will comply with all federal and provincial legislation" because such legislation includes the Occupational, Health and Safety Act.

The Proponent's 20-page publication outlining its "Operations Integrity Management System" contains 11 elements.

One of ten goals (1.8) in the first of its 11 elements commits to ensure that "the workforce is actively engaged in the Operations Integrity Process, and relevant learnings are shared across the organization."

This is insufficient. What does actively engaged mean?

In both Chapters 11 and 14 of the development plan, the Proponent outlines safety policies and procedures, noting that it will meet or exceed all

statutory requirements, ensure the safety of all personnel, provide a healthy work and living environment and support the goal of “Nobody Gets Hurt.”

Does exceeding statutory requirements apply to helicopters?

The Proponent notes that it will (11.2.10) prepare and implement a project safety plan covering all platform drilling and producing operations. The plan, it says, will be prepared in accordance with the requirements of the Newfoundland Offshore Drilling and Production Regulations and the CNLOPB’s Other Requirements respecting Occupational Health and Safety.

The Proponent goes on to say that in order to minimize the risk to employees of occupational injuries or illnesses, operational characteristics and conditions will be monitored. Modifications will be made to address exposure to excessive noises, heat, radiation, vibration, ventilation issues and ergonomics consideration. Programs will be developed to engage personnel and promote occupational hygiene, enhance the wellbeing of personnel and prevent incidents.

The Proponent refers to conducting hazard studies and to training on safety procedures.

With respect to Production safety, the proponent notes that “all accidents are avoidable and is striving to reduce accident rates to zero.”

We applaud all of these things.

What’s missing is the worker input: the processes and structures by which workers will be “engaged” or will be able to participate in their own safety and in improving the safety of their working environment.

The Proponent's Concept Safety Analysis refers to target levels of safety, risk assessments, hazard identification and other procedures and policies. Once again what's missing is this issue of worker involvement.

For the most part it appears as if the development of safety, the delivering of safety training, and the discussion about safety is a top-down approach only.

Provincial legislation calls for the establishment of workplace Joint OHS Committees. In order for these committees to be effective, thus ensuring the spirit and intent of our legislation is being met, an effective JOHSC must:

- promote the principles of internal responsibility that are the basis of the Occupational, Health and Safety Act by bringing together people with different skills, responsibilities and experience to identify and solve health and safety problems.
- ensure open discussion of health and safety concerns, regardless of whether the concerns have been raised by management or workers, and ensures follow-up on these concerns through written minutes of meetings.
- improve communication and the flow of information between management and workers.
- provide an ongoing mechanism for the internal audit of a company's overall health and safety performance.

This "safe and open" dialogue between workers and management deemed fundamental by the International Labour Organization leads to an emphasis

on the empowerment of employees to work with management to fully contribute to workplace health and safety. (Dr. Sue Hart, Faculty of Business Memorial University and Marlyn Aryan, SafetyNet, Memorial University: OHS Management systems: Success factors and international standards. 2007)

In her research, Dr. Hart found that in addition to senior management commitment (which is clearly outlined as necessary by the Hebron proponent in its development plan and its Operations Integrity Management System), workers' participation was also found to be critical to ensuring the most effective safety management systems.

Of course, Commissioner Wells recommended a similar approach for effective safety as does the International Labour Organization.

In her research, Dr. Hart refers to how worker involvement can be enhanced by devising a spectrum of worker participation ranging from management driven (provision of safety education and training), participative (worker involvement in safety inspections), directly influential (safety representatives or OHS members) to the highest level where OHS representatives and committee members participate in the planning, implementation and review of OHS activities.

There is no indication that the proponent plans to take its safety management system in this direction. Our Federation recommends that it should and must.

Effective training and communication is of course essential to strong and effective OHS practices, policies and procedures, but communication must

be two-way street. It is also how workers' health and safety rights are activated, including the "right to know" which is the foundation of the rights to participate and to refuse unsafe work.

Indeed, Commissioner Wells went even further by stating that "the bright light of public scrutiny is the best way to ensure that in this jurisdiction we get safety right, while at the same time understanding that it is an ongoing journey which never ends at a final destination."

Our Federation views this review process as part of that ongoing journey of enhancing and advancing health and safety in the Newfoundland and Labrador offshore.

We have focused for the most part on bigger picture health and safety structures and processes, we have left the technical safety concerns to be raised by the union that represents the majority of offshore workers, the Communications, Energy and Paperworkers Union who you heard from yesterday.

Having said that, we have already referenced helicopter safety and given the crash of Cougar flight 491, our Federation felt it was especially important to speak of this issue with you today.

After the crash of Cougar and the subsequent Wells Inquiry, the TSB investigation and the reports and recommendations from both, as families, as worker representatives, as a society, we now expect more.

Indeed when we look at standards and practices in other jurisdictions like Norway and the UK , we should not just expect more, we deserve more.

As the workers noted in their submission to Commissioner Wells and to you yesterday, “there is no logical reason why workers in the NL offshore should have less than the best available safety capacity in the helicopters which they must ride to work.”

While the Inquiry generally recommended how regulators and government can do a better job, there was also a message to industry in both the Phase 1 and 2 reports.

Commissioner Wells states (page 271, Phase 1) that adopting a performance-based safety regime never implies that the regime be passed over to the oil operators, in other words self-regulation.

Goals must be determined by the regulator and passed over to the operators, **but the operators’ suggested methods of meeting these goals must be followed by full debate and discussion.**

Commissioner Wells went on to say that what is needed is not just regulator and oil operator expertise in the area of safety, but perspectives and opinions from a wider group such as workers and other stakeholders and indeed the public.

“All the available knowledge, skills, and wisdom of all participants should be harnessed in the safety cause.”

Certainly the spirit of that statement as well as any plan to implement this kind of engagement with its workers who should be viewed as experts in their workplace is in our opinion absent from the Proponent’s development plan and concept safety analysis.

Concept Safety Analysis

The Proponent's CSA notes that the risk assessment carried out for its analysis has been developed in a model that can be updated throughout the life of the project.

The CSA highlights (page 25) the measures it will take to monitor, control, and mitigate occupational hazards. Indeed, what is missing is the first rule of hazard identification and that is to if possible eliminate the hazard (not just to monitor, control or mitigate.)

In addition, the five measures outlined in the CSA, do not include, but should, the role of the Joint Occupational Health and Safety Committee in this process of hazard identification. This is critical to effective communication and feedback necessary to either eliminate or mitigate potential hazards. Who knows their workplace better than those who work in it?

Commissioner Wells in his Phase II report on helicopter safety refers to what he calls the "Swiss cheese model" of risk management, defined by James Reason in his book "Managing the Risks of Organizational Accidents."

"The process," according to Commissioner Wells, "requires that there are, or should be, a number of defences in place" in order to plug the weaknesses in any system. Our Federation views strong, active, proactive and empowered workplace JOHSCs as an essential defense barrier. They go hand in hand with strong and proactive regulation, management

commitment, effective communications and safety training in the formation of a strong workplace defense system.

Helicopter Transportation

One cannot underestimate the amount of scrutiny helicopter transportation has undergone in our province since the crash of Cougar flight 491 on March 12, 2009 including an inquiry involving public hearings, two reports by Inquiry Commissioner Robert Wells, an investigation and report by the Transportation Safety Board, and critical questions that are still being sought by the sole survivor of the crash and the victims' families.

The TSB recommended that the FAA, Transport Canada and the European Aviation Safety Agency remove the "extremely remote" provision from the rule requiring 30 minutes of safe operation following the loss of main gearbox lubricant for all newly constructed Category A transport helicopters and after a phase-in period, for all existing ones.

Commissioner Wells supported in his Phase II report all the TSB's recommendations including this one. Indeed, the Commissioner went further, stating he believed the extremely remote provision under which the S-92 was certified was "flawed" and allowed a regulator to excuse a design requirement that is a "legitimate industry expectation and has been for some time. The information given to the FAA and subsequently accepted by Transport Canada that the total loss of gearbox oil in the S-92 was an extremely remote possibility was an opinion only....the opinion was proven wrong on July 2, 2008, off the Australian coast, when all gearbox oil was lost."

Commissioner Wells also noted that the 30-minute main gearbox run-dry requirement came about because of military needs but has since become an international standard for Category A transport helicopters. Offshore oil exploration and production take place as far as 500 kilometers from shore over hostile and dangerous waters. A 30-minute dry-run capability would still require ditching if all gearbox oil were to be lost, but pilots would have a better opportunity to be closer to St. John's, a ship or an offshore installation if ditching occurred.

The Transportation Safety Board said the extremely remote provision negates the requirement for a 30-minute dry-run capability. "It needs to go. It's as simple as that. We recommend that all Category A helicopters, including the S-92, should be able to fly for at least 30 minutes following a massive loss of main gearbox oil. Moreover, with advances in technology, we want the FAA to look at today's operating environments – Hibernia, the Arctic, the North Sea, any of these extreme locations – and decide whether even 30 minutes is enough time."

The Proponent's Concept Safety Analysis makes no mention of using helicopters equipped with a 30-minute run-dry capability.

The Proponent refers to risk assessment analysis based on the number of return flights during the drilling and production phases of the development, but then continues on to say that (page 71) "it is assumed that S-92s will be used."

In light of the recommendations from both the Wells Inquiry and the Transportation Safety Board, we expect a different commitment from the Proponent.

Does the Proponent intend for the S-92s it assumes to use to be modified to ensure a 30-minute dry-run capability or does it intend to operate without this capability despite all the recommendations to the contrary?

Indeed, the Proponent's failure to address this issue in its Concept Safety Analysis, as if there was no Inquiry, no TSB report, and no loss of 17 lives, is unacceptable.

CEP Recommendations

We support the CEP's recommendations and concerns with respect to shifts schedules and the impact they can have on worker safety and work-life balance, the need to augment the helicopter fleet, and the recommendation that the Hebron installation include the new lifeboat requirement (which I understand the Proponent has agreed to do).

We also share the very real concerns regarding the need for enhanced search and rescue capabilities, improved response times, and of course the need to reverse the reckless decision to close the local maritime rescue centre.

Conclusion

Commissioner Ayre, in conclusion our Federation makes this presentation today with a heavy heart.

Seventeen people lost their lives on March 12, 2009.

We were told by the offshore operators during the Wells Inquiry that their safety management systems are effective. And yet those systems have failed us. Commissioner Wells – perhaps in response to their marriage to safety management systems and audits –concluded that **“they are not a substitute for high-level multi-party input into how safety is developed.”**

And yet these are the same management systems being presented to this review process. I am not confident that the Proponent or the oil industry gets this concept of worker involvement and participation in the way it is proposed by the ILO and Commissioner Wells. Indeed, if they did I would expect to see a substantial modification to the safety management system being contemplated or at the very least some discussion in their submissions with respect to this. And yet there is nothing.

The question becomes how do we make these safety management systems better. The ILO has suggested ways and means to do so and we recommend that they be implemented.

Of course, implementing the Wells Inquiry’s recommendations including the establishment of an independent and powerful safety regulator would go a long ways to achieving an enhanced and modern safety regime.

Until such a time as that is done, the current Regulator must demand more of the offshore operators including the Hebron Proponent when it comes to acting on the spirit and intent of the Wells recommendations especially with respect to real worker involvement. But then the Regulator must also understand this concept.

And finally, the Hebron Proponent should be required to use helicopters that are the safest and best available. Evidence supports that this include having at least a 30-minute run-dry capability when transporting workers in our offshore. Anything less would be to ignore the entire Inquiry process, its considerable recommendations, including Commissioner Wells' Cautionary Note. (page 118, Phase 11) and the resulting investigation, conclusions and recommendations from the TSB.

And perhaps if all of us together push hard enough we will get to a place where we have what Commissioner Wells envisioned for our offshore "a new and more comprehensive approach to offshore safety regulation."

Or as Ms. Lori Chynn, the widow of John Pelley, has said, a place where safety comes before profit. "Such a tragedy cannot happen again. No family should ever endure such heartache."

And it is the job of all of us, it is our collective responsibility to push to make sure that this does not happen again.

Thank you for your time and attention.

