



ǂehdzo Got'ǂnǂ Gots'ǂ Nákedǂ

PO Box 134, Tulita, NT, X0E 0K0

Mobile (780) 686-5318

Fax (867) 374-3324

ees@srrb.nt.ca

www.srrb.nt.ca

<http://www.facebook.com/SahtuWildlife>

June 19, 2024

Canada Energy Regulator
Attention: Ramona Sladic
Secretary of the Commission
Suite 210
517 Tenth Avenue SW
Calgary, Alberta
T2R 0A8

Sahtú Renewable Resources Board

Response to Potential Conditions for Comment, 2 May 2024

Hearing Order OH-001-2023, Files 3430830 and 5612618

The ǂehdzo Got'ǂnǂ Gots'ǂ Nákedǂ, or Sahtú Renewable Resources Board (SRRB), is providing a response to the Canada Energy Regulator's (CER's) "Potential Conditions for Comment," issued 2 May 2024, in relation to Imperial Oil Resources N.W.T. Limited's (Imperial's) Applications for Variance of Operations Authorization OA 1210-001 (OA Variance, File 3430830) and Line 490 Replacement Activities (Replacement Activities, File 4669015). The SRRB is one of three co-management boards in the Sahtú Region. It works collaboratively with community, government, and industry to maintain Dene and Métis harvesting traditions and keep the land and animals healthy for future generations. Proposed changes are *italicized*.

General Feedback

1. The CER states, "The Commission notes that if OA-1210-001 is varied as requested, the existing conditions from the 2014 Authorization will be replaced and therefore will no longer apply."
 - a. Suggested Revision: *Please review and retain any conditions from the 2014 Authorization that contribute towards safe and environmentally and culturally protective operations.*
 - b. Rationale: As operations continue to expand and impact the surrounding lands, the expectation is that environmental and cultural protections will continue to be enhanced and not weakened over time.

2. Regarding notifications and availability of important information...
 - a. Suggested Revision: Where the CER requires that Imperial file with or notify the CER, add “*and potentially affected Indigenous Peoples, organizations, communities, or agencies.*”
 - b. Rationale: In order for local Indigenous Peoples, organizations, communities, and agencies to be able to make informed decisions about how to safely practice their Rights and Traditional Land Uses, exercise sovereignty, and be able to steward their lands as they have done since time immemorial, they must be kept fully informed of ongoing operations.

Responses to Appendix I: Potential Conditions for Comment OA Variance Application

Standard

1. Regarding Standard condition 1...
 - a. Suggested Revision: In addition to “Imperial must cause the Norman Wells Operations to be operated in accordance with the specifications, standards, commitments made, and other information referred to in the application for the Operating Authorization Variance (**OA Variance**), or in its related submissions,” please also *require Imperial to retain all commitments made prior to the present applications, especially to Indigenous Peoples, organizations, communities, and agencies.*
 - b. Rationale: Local Indigenous Peoples, organizations, communities, and agencies have incurred impacts from Imperial’s operations for over 100 years. Any commitments to communities made in this time must be upheld.

Environment

1. Add condition(s) regarding closure and reclamation.
 - a. Suggested Revision: *Add condition(s) regarding closure and reclamation planning, whereby Imperial must share targets, timing, and anticipated challenges for reclamation. These condition filings should influence approval in that if closure and reclamation cannot be proven at least likely to meet expectations of local Indigenous communities, then the approval should not be granted.*
 - b. Rationale: Imperial operates in the traditional homelands of the Sahtú Dene and Métis, who have called this land home since time immemorial and who will continue to call this area home and depend upon it to exercise their Rights long after Imperial is gone. Decisions regarding closure and reclamation will have long-lasting effects on the local Indigenous Peoples and must therefore be collaborative. Furthermore, present operations must anticipate and adapt to reclamation challenges. The approval of activities should be dependent on the certainty of the success of future reclamation.
2. Add condition(s) regarding community-based monitoring.
 - a. Suggested Revision: *Add condition(s) to require Imperial to support local Indigenous communities to undertake community-based monitoring.*
 - b. Rationale: Local Indigenous communities have expressed ongoing concerns regarding impacts of NWO to the surrounding lands, particularly around contamination. Indigenous Knowledge is a unique way of knowing, complementary to but distinct from Western Science. It is important for Imperial to support community-based monitoring so that land

users can monitor parameters that are meaningful to each community and thus support communities in making informed decisions about how to safely exercise their Rights.

3. Add condition(s) regarding unplanned event notification.
 - a. Suggested Revision: *Add condition(s) around unplanned event (e.g., identification of a contaminated site) notification and communication with potentially impacted Indigenous Peoples, organizations, communities, or agencies, including a communications plan with timely notification of potential events and regular (e.g., monthly, to be determined through consultation) follow-up as more information becomes available about each event.*
 - b. Rationale: Rapid communication of unplanned events is imperative for Indigenous communities to steward and makes decisions about land use that are effective and fully informed. The SRRB has expressed the need for improved communication in the past. It is therefore requested that, if an approval is granted, commitments be made to learn from past mistakes and communicate in an open, transparent way with communities going forward.
4. Regarding Environmental condition 3...
 - a. Suggested Revision: Please also require the Annual Contaminated Sites Management Report to include: *“a summary of current conditions in previously identified contaminated sites, including but not limited to an assessment of the effectiveness of remediation and mitigation efforts.”*
 - b. Rationale: Condition 3 currently only requires reporting on areas with remedial activities completed, ongoing, or planned; it is important to understand any areas where Imperial or local Indigenous communities have identified (potential) contaminated sites but no remedial activity has been planned. Furthermore, it is important to understand the opportunities and/or challenges associated with previous remediation and mitigation efforts to better understand how ongoing and future contaminated sites should (not) be addressed. Finally, condition 3 currently only requires reporting of remediation activities; it is important to understand potential mitigation activities as well in order to prevent and minimize future potential contamination.
5. Regarding Environmental condition 3 >> b...
 - a. Suggested Revision: In addition to “planned remedial activities to address contamination, including an anticipated timeline for their completion,” add *“and a description of how lessons learned from previous remediation efforts have been applied both to planned remedial activities and to decrease the risk of future contamination.”*
 - b. Rationale: This addition would require Imperial to regularly review and apply lessons learned, as opposed to allowing research and experience to be underutilized.
6. Regarding Environmental condition 3 >> c...
 - a. Suggested Revision: In addition to “a timeline for the development of plans in relation to ... any concerns that have been raised regarding contamination, by potentially affected Indigenous Peoples, or other persons, groups or communities,” add *“and a description of engagement activities through which these concerns have been raised, including a summary of the number, timing, and nature of engagement opportunities.”*
 - b. Rationale: Meaningful consultation is imperative. Including this reporting requirement contributes to increased transparency and accountability when reporting consultation and

engagement activities, and may provide opportunities for comment and feedback for improved processes on an ongoing basis.

Emergency Management

1. Add condition(s) regarding communication with potentially affected Indigenous Peoples, organizations, communities, or agencies...
 - a. Suggested Revision: *Add condition(s) around emergency response notification and communication with potentially impacted Indigenous Peoples, organizations, communities, or agencies, including a communications plan with timely notification of potential events and regular (e.g., monthly, to be determined through consultation) follow-up as more information becomes available about each event.*
 - b. Rationale: Rapid communication of emergency situations and responses is imperative for Indigenous communities to steward and makes decisions about land use that are effective and fully informed. The SRRB has expressed the need for improved communication in the past. It is therefore requested that, if an approval is granted, commitments be made learn from past mistakes and communicate in an open, transparent way with communities going forward.
2. Regarding Emergency Management condition 2...
 - a. Suggested Revision: Please revise “31 December of each year” to “*15 November of each year.*”
 - b. Rationale: This revision, combined with the earlier suggestion to file such plans with Indigenous communities in addition to the CER, would provide Indigenous communities adequate time to review and comment on emergency response exercises prior to the start of the new year.
3. Regarding Emergency Management condition 2 >> d...
 - a. Suggested Revision: Add “a description of how external participants ... *have been* and will be engaged in the planning and execution of the activity.”
 - b. Rationale: Including this reporting requirement contributes to increased transparency and accountability when reporting consultation and engagement activities, and may provide opportunities for comment and feedback for improved processes on an ongoing basis.

Engineering

1. Regarding Engineering condition 1 >> a...
 - a. Suggested Revision: Add a condition for the CER itself to engage with Indigenous Peoples and organizations regarding the level of unresolved concerns and Imperial’s characterization of these concerns.
 - b. Rationale: This would contribute to certainty and depth of understanding of unresolved concerns, and provides Indigenous Peoples and organizations with an opportunity to clarify or provide edits to Imperial’s characterization of their concerns directly with the CER.
2. Regarding Engineering condition 1 >> b...
 - a. Suggested Revision: In addition to “replacement of a section of existing pipeline that is over a certain length,” add “*or in certain ecologically sensitive or culturally significant*

areas, to be determined in collaboration with Indigenous Peoples, organizations, communities, and agencies.”

- b. Rationale: This addition recognizes the importance of Indigenous Knowledge and cultural connections with the land, in addition to the Western Science engineering perspective. SRRB has communicated the importance of the Mackenzie River and surrounding lands; collaborating with the SRRB to explore culturally-informed approaches to operating—such as avoiding culturally and ecologically sensitive or important areas, implementing standards for safety that meet community members' expectations, etc.—is requisite to the SRRB carrying out its mandate of collaboratively managing healthy lands and animals for future generations. This is consistent with the preamble to the Appendix I conditions to address the Rights and Interests of Indigenous Peoples.
3. Regarding Engineering condition 1 >> d...
- a. Suggested Revision: Add “ground disturbance using power-operated equipment within a certain distance from *ecologically sensitive or culturally significant areas such as a wetland, or a water body.*” *The final condition should be informed by local Indigenous Peoples and organizations.*
 - b. Rationale: This addition recognizes the importance of Indigenous Knowledge and cultural connections with the land, in addition to the Western Science engineering perspective. SRRB has communicated the importance of the Mackenzie River and surrounding lands; collaborating with the SRRB to explore culturally-informed approaches to operating—such as avoiding culturally and ecologically sensitive or important areas, implementing standards for safety that meet community members' expectations, etc.—is requisite to the SRRB carrying out its mandate of collaboratively managing healthy lands and animals for future generations. This is consistent with the preamble to the Appendix I conditions to address the Rights and Interests of Indigenous Peoples.

Rights and Interests of Indigenous Peoples

1. Regarding Rights and Interests of Indigenous Peoples condition 1 >> a >> i...
- a. Suggested Revision: Add “a summary of engagement efforts and activities undertaken during the reporting period (i.e., methods, dates, *times/duration*, locations, and participants).”
 - b. Rationale: Reporting times and duration of consultation and engagement sessions is important in determining and providing feedback on the meaningfulness of engagement.
2. Regarding Rights and Interests of Indigenous Peoples condition 1 >> b...
- a. Suggested Revision: In addition to “Imperial must provide a copy of each annual report to all potentially affected Indigenous Peoples, organizations, communities or agencies and stakeholders in the SSA [Sahtu Settlement Area] who have expressed an interest in receiving a copy; and must further, **within 7 days of the filing in a)**, provide confirmation to the CER that it has provided those copies,” *please also require that Imperial “provide a draft report for comment to all potentially affected Indigenous Peoples, organizations, communities, or agencies at least 30 days prior to filing the annual report.”*
 - b. Rationale: This addition would provide Indigenous communities with the opportunity to request edits to any pertinent sections (e.g., “the summary of engagement efforts and

activities undertaking during the reporting period”) and to request any additional information or reporting necessary to support the informed stewardship of their traditional lands.

3. CER has only proposed conditions around the Rights and Interests of Indigenous Peoples that relate to reporting, and does not provide guidance on expectations for engagement throughout the reporting period.
 - a. Suggested Revision: *Please add conditions regarding expectations for consultation and engagement that is meaningful and occurs regularly throughout the year. Imperial should engage Indigenous Peoples, organizations, communities, and agencies with respect to monitoring, planning for closure and reclamation, management of contaminated materials and areas, among other topics. Topics and methods for meaningful engagement must be developed in collaboration with the Indigenous Peoples, organizations, communities, and agencies.*
 - b. Rationale: This addition would contribute to the development of consultation and engagement approaches that are meaningful to local Indigenous Peoples, organizations, communities, and agencies and contribute to the ability of SRRB and similar agencies and organizations to fulfil their mandates.

Appendix II: Potential Conditions for Comment Replacement Activities Application

Standard

1. Regarding Standard condition 1...
 - a. Suggested Revision: In addition to “Imperial must cause the Norman Wells Operations to be operated in accordance with the specifications, standards, commitments made, and other information referred to in the application for the Operating Authorization Variance (**OA Variance**), or in its related submissions,” please also *require Imperial to retain all commitments made prior to the present applications, especially to Indigenous Peoples, organizations, communities, and agencies.*
 - b. Rationale: Local Indigenous Peoples, organizations, communities, and agencies have incurred impacts from Imperial’s operations for over 100 years. Any commitments to communities in this time must be upheld.
2. Regarding Standard condition 2...
 - a. Suggested Revision: In addition to requiring that Imperial “file with the CER, **at least 14 days prior to commencing construction of the Replacement Activities**” (emph. in original), *please also require that Imperial file with potentially affected Indigenous Peoples, organizations, or agencies at least 30 days prior to commencing construction of the Replacement Activities.*
 - b. Rationale: This allows adequate time for Indigenous communities to review and provide comment, and to discuss concerns with Imperial.

Environment

1. Add condition(s) regarding closure and reclamation.
 - a. Suggested Revision: *Add condition(s) regarding closure and reclamation planning, whereby Imperial must share targets, timing, and anticipated challenges for reclamation. These condition filings should influence approval in that if closure and reclamation*

cannot be proven at least likely to meet expectations of local Indigenous communities, then the approval should not be granted.

- b. Rationale: Imperial operates in the traditional homelands of the Sahtú Dene and Métis, who have called this land home since time immemorial and who will continue to call this area home and depend upon it to exercise their Rights long after Imperial is gone. Decisions regarding closure and reclamation will have long-lasting effects on the local Indigenous Peoples and must therefore be collaborative. Furthermore, present operations must anticipate and adapt to reclamation challenges. The approval of activities should be dependent on the certainty of the success of future reclamation.
2. Add condition(s) regarding community-based monitoring.
- a. Suggested Revision: Add condition(s) to require Imperial to support local Indigenous communities to undertake community-based monitoring.
 - b. Rationale: Local Indigenous communities have expressed ongoing concerns regarding impacts of NWO to the surrounding lands, particularly around contamination. Indigenous Knowledge is a unique way of knowing, complementary to but distinct from Western Science. It is important for Imperial to support community-based monitoring so that land users can monitor parameters that are meaningful to each community and thus support communities in making informed decisions about how to safely exercise their Rights.
3. Regarding Environment condition 1...
- c. Suggested Revision: In addition to “Imperial must implement or cause to be implemented all of the policies, practices, programs, mitigation measures, recommendations, procedures and its commitments for the protection of the environment included in or referred to in its application for the Replacement Activities or in its related submissions,” please also *require Imperial to retain all commitments made prior to the present applications, especially to Indigenous Peoples, organizations, communities, and agencies. Please also ensure commitments include monitoring, including upstream, downstream, and Indigenous community-based monitoring; regular engagement with local Indigenous Peoples, organizations, communities, and agencies; and maintenance or facilities and good relations.*
 - d. Rationale: Local Indigenous Peoples, organizations, communities, and agencies have incurred impacts from Imperial’s operations for over 100 years. Any commitments to communities in this time must be upheld and improved upon for any approval of continued operations.

Engineering

1. Regarding Engineering condition 3 >> c >> vi, “identifies how the safety of the public and the environment will be maintained, for risks that are identified as remaining ‘high’ or ‘very high’ after mitigation...”
- a. Suggested Revision: *The outcomes of this condition filing should determine whether or not the activities are approved.*
 - b. Rationale: Activities should not be approved to take place or continue if there are risks that are identified as remaining “high” or “very high” after mitigation, as these levels of risk are unacceptable, especially for Indigenous Peoples, organizations, communities, and agencies, who are more heavily impacted by development in the area than non-Indigenous.

Rights and Interests of Indigenous Peoples

1. Regarding Rights and Interests of Indigenous Peoples condition 1 >> a >> ii...
 - a. Suggested Revision: In addition to “a list of those Indigenous Peoples, organizations, communities, or agencies, if any, who have reached agreement with Imperial to participate as monitors during construction and/or the post-construction phase,” please also require that Imperial *provide rationale or description of barriers for any Indigenous Peoples, organizations, communities, or agencies, if any, who have not reached agreement with Imperial to participate as monitors during construction and/or the post-construction phase, or a statement that the rationale could not be obtained along with a summary of efforts Imperial took to engage and determine the reason, and to address any barriers identified.*
 - b. Rationale: Including this reporting requirement would contribute to increased transparency and accountability when reporting consultation and engagement activities, may provide opportunities for comment and feedback for improved processes on an ongoing basis, and may demonstrate commitment to pursuing meaningful engagement.
2. Regarding Rights and Interests of Indigenous Peoples condition 1 >> a regarding “Indigenous Peoples’ participation in monitoring the Replacement Activities...”
 - a. Suggested Revision: *Please clarify what aspects of monitoring CER and Indigenous communities expect to Indigenous participation, which could include monitoring operational activities, environmental monitoring for impacts of the activities on the surrounding landscape, et cetera.*
 - b. Rationale: It is unclear what aspects of activities monitoring CER expects to include Indigenous participation and to be reported on in the plan referred to in condition 1 >> a.
3. Regarding Rights and Interests of Indigenous Peoples condition 1 >> a regarding “Indigenous Peoples’ participation in monitoring the Replacement Activities”...
 - a. Suggested Revision: *Please develop approaches to meaningful participation in collaboration with Indigenous Peoples, organizations, communities, and agencies.*
 - b. Rationale: Meaningful consultation is imperative. Requiring a collaborative process to determine how Indigenous Peoples want to be engaged and consulted contributes to meaningful processes with mutually beneficial outcomes for Indigenous Peoples, organizations, communities, and agencies, Imperial, and CER; may provide opportunities for comment and feedback for improved processes on an ongoing basis; and contributes to Indigenous Peoples’ ability to practice sovereignty and steward their traditional lands.
4. Regarding Rights and Interests of Indigenous Peoples condition 1 >> a regarding “Indigenous Peoples’ participation in monitoring the Replacement Activities...”
 - a. Suggested Revision: *Please require Indigenous participation in more aspects of the Replacement Activities than monitoring alone. These could include planning activities and carrying out activities (i.e., local Indigenous job creation), and should ultimately be decided upon in consultation with the Indigenous Peoples, organizations, communities, and agencies participating.*
 - b. Rationale: While monitoring is a crucial aspect of the activities, local Indigenous participation must exist in all aspects of activities and operations.

5. Regarding Rights and Interests of Indigenous Peoples condition 1 >> a regarding “Indigenous Peoples’ participation in monitoring the Replacement Activities”...
 - a. Suggested Revision: Regarding whom Imperial is expected to engage, *please require that in addition to “Indigenous Peoples”, all **local** Indigenous organizations, communities, and agencies are also provided with opportunities to meaningfully participate.*
 - b. Rationale: Expanding this requirement to include all local Indigenous Peoples, organizations, communities, and agencies contributes to responsible communication and collaboration with all relevant parties, the ability for Sahtú Dene and Métis to exercise sovereignty and steward their traditional lands, and the ability of SRRB to fulfil its mandate. This would also reduce the ability for tokenistic engagement of Indigenous individuals. The inclusion of “local” is important in ensuring that it is the local Indigenous people and Peoples who experience the impacts of NWO that are also engaged in mitigating and better understanding these impacts.

6. Regarding Rights and Interests of Indigenous Peoples condition 2 >> a...
 - a. Suggested Revision: Add “the methods, dates, *times/duration* and locations of engagement activities.”
 - b. Rationale: Reporting times and duration of consultation and engagement sessions is important in determining and providing feedback on the meaningfulness of engagement.

7. CER has only proposed conditions around the Rights and Interests of Indigenous Peoples that relate to reporting, and does not provide guidance on expectations for engagement throughout the reporting period.
 - a. Suggested Revision: *Please add conditions regarding expectations for consultation and engagement that is meaningful and occurs regularly throughout the year. Imperial should engage Indigenous Peoples, organizations, communities, and agencies with respect to monitoring, planning for closure and reclamation, management of contaminated materials and areas, among other topics. Topics and methods for meaningful engagement must be developed in collaboration with the Indigenous Peoples, organizations, communities, and agencies.*
 - b. Rationale: This addition would contribute to the development of consultation and engagement approaches that are meaningful to local Indigenous Peoples, organizations, communities, and agencies and contribute to the ability of SRRB to fulfil its mandate.