

**Imperial Oil Waste Management Facility –
Hearing Public Information Session**

Notes

MH-004-2021

13 September 2022

10:00 am to 11:48 am

Information Session

On 13 September 2022 Canada Energy Regulator (CER) staff hosted an online information session for the hearing for Imperial Oil’s application for an authorization to construct and operate a waste management facility (WMF). The information session consisted of a [powerpoint presentation](#) and questions and answers.

Participants included representatives from:

Yamoga Lands Corporation

K'asho Got'ine Lands Corporation

Déljné Gotjné Government

Déljné ʔehdzo Got'jné (Déljné Renewable Resources Council)

Sahtú Renewable Resources Board

Government of Northwest Territories – Environment and Natural Resources

Government of Northwest Territories – Lands (GNWT Lands)

Environment and Climate Change Canada

Mackenzie Valley Environmental Impact Review Board (MVERIB or Review Board)

Canada Energy Regulator Crown Consultation Coordinator (CER- CCC)

Canadian Northern Economic Development Agency (CanNor) - Northern Projects Management Office (NPMO)

Crown-Indigenous Relations and Northern Affairs Canada

Imperial Oil N.W.T. Limited

Summary of questions and answers from the information session

The following is a summary of questions from information session participants grouped into broad topics. Responses are from CER staff unless noted otherwise.

Crown Consultation (CC) for the CER Hearing and the MVEIRB Environmental Assessment (EA)

Question: If MVEIRB decides no Environmental Impact Review (EIR) needed, the Commission waits 10 days to issue its Authorization, how does CC fit into that?

Response: CER- CCC - The CC report is an accounting to the Panel of what was discussed during all CC activities. It is based on what is said/written during the CC process. Several CC submissions throughout the CER Hearing process, will likely be submitted not just a single report.

Relative to EA, within the CER timelines the CER - CCC could make a few submissions to the Commission during the CER hearing process. In terms of the CER process, Consultation is met by the Commission itself.

Question: How does CC fit into the EA if at all? Is CC done only through the CER Hearing process, or is there anything additional that CC folks do?

Response: NPMO - Regarding CC and MVEIRB EA, the CC models in the North work differently than the CER model. In the North, CC helps support EA. After the EA Report is published, we will ask 'do the measures address the concerns raised? Are there outstanding concerns?' And ideally, consultation will be concluded if the measures are appropriate. This forms part of the EA decision package that is provided to the Responsible Ministers (RMs). This concurrent happening of two separate processes (MVEIRB and CER) is new to all. So, trying to align MVEIRB and CER processes is a challenge. CER-CCC - The scoping of the MVEIRB process, and how that scope aligns with the CER process will factor in to how much we are able to coordinate the two separate processes.

Question: The two timelines seem confusing, it is unclear where CC submissions fit in within the processes.

Response: CER staff have committed to developing a process map with MVEIRB and NPMO that outlines all the steps including CC submissions.

Question: Will participants get the opportunity to comment on the Crown consultation (CC) report before it is submitted to the Commission?

Response: CER and CER-CCC - Yes. The report belongs to all participants not CER Staff. Participants will have lots of opportunities to contribute. There are scheduled opportunities within the Timetable of Events for CC report submissions, however the Crown Consultation Coordinator can submit anything at anytime. The CER has included some scheduled steps for CC submissions in its timeline to make sure views are captured; CER seeking input on these. There are multiple opportunities for CC submissions to the COGOA Authorization.

Commission response to Mackenzie Valley Environmental Impact Review Board (Review Board) Environmental Assessment (EA) Report

Question: What is the nature of the measures vs suggestions made in the Review Board EA report and how are each handled by the CER process? Does the Commission consider the measures with a different weight than the suggestions? Does the Commission care about the suggestions? Can the Commission send the report back or order an Environmental Impact Review?

Response - The Commission considers the entire Review Board EA Report including suggestions. The Commission can either adopt the measures or adopt the measures with changes or can refer the report back to the Review Board for further consideration or order an Environmental Impact Review. The Commission is an independent decision maker. The Responsible Minister(s) will also respond to the report.

Response: – Review Board – the Review Board is required to include mitigation measures in its EA report, may also include suggestions as to how to implement the measures, however the suggestions are not legally binding. The report can also provide suggestions for areas where the environmental effects are not legally considered to be significant but for which the MVEIRB has suggestions for minimizing effects.

Comment:– GNWT Lands: Wanted to clarify, based on an earlier question raised. RMs are Responsible Minister(s) as defined in section 111 of MVRMA. The roles of the CER are defined under section 131 of the MVRMA, while the decision of the RMs are defined under section 130 of the MVRMA (*Mackenzie Valley Resource Management Act*). However, there should be sharing of information during the

process(es) to avoid a conflicting outcome. A developer cannot proceed until a decision is made by both the RM(s) and the Commission – there may be separate decisions, but with a consensus*. One RM will sign on behalf of all RMs, and because of where this project is located (within the Norman Wells Proven Area), the Responsible Minister in this case is the Minister of Northern Affairs. So that Minister will sign the final decision letter under section 130 of the MVRMA.

*CER Staff clarification note (not part of the info session): The Commission of the CER makes its own independent decision on the EA under section 131 of the MVRMA. The Responsible Ministers make a consensus decision on the EA under section 130 of the MVRMA.

Response: NPMO -In terms of federal Ministers (eg. Environment Canada, Fisheries and Oceans), these agencies are participating until there is clarity on scope. So once scope is clarified – perhaps after the technical sessions – these Minister(s) will submit a letter or notification of whether they still have responsibility and would then still be participating or not

Question: Once the MVIERB EA comes out, is there an opportunity for intervenors to comment on how they want the CER to consider the MVIERB EA report?

Response: This is the exactly the type of comments the Commission is looking for on the Timetable of Events.

CER Hearing Process

Question: When did the CER clock officially start, with regard to legislated time limits?

Response: The Commission issued a decision on completeness on 12 August 2022, which would normally start the clock. However, Imperial requested additional time to prepare a response to CER Information Request No. 6, and to align with the timing of the Review Board's issuance of the Terms of Reference in its EA process. So now, the clock will start on or after 14 November 2022 at the earliest.

Question: How does the CER process timeline align with the MVEIRB process?

Response: The Commission is asking for input on this. The Commission wants to make sure the timing of deadlines between the CER and MVIERB are not conflicting or onerous, does not want to create a burden on participants. The Commission is seeking comments on the Timetable of Events or proposed hearing schedule. Dates were included in the first half of hearing steps as a starting point and are expected to change.

Question: About the steps regarding CER draft conditions – in the CER process, these conditions are floated before the decision report is issued, however in the MVEIRB, this step happens after the Review Board's decision report is issued. So, how will this timing work?

Response: We are hoping to receive comments on this timing! This step could be moved – perhaps after the CER receives the MVEIRB report? Or the conditions could be floated a second time after the CER receives the MVEIRB report.

Response: Review Board - States importance of discussing mitigation that could better inform the Review Board's report. Also notes that the CER Authorization considers a lot of things that fall outside of the scope of the MVIERB's EA scope. Requests that, for submissions made of any concerns to CER or NPMO, please share those comments with the Review Board as well to make sure the records are fulsome and all comments are considered appropriately. The MVIERB record is distinct from others (i.e., the Commission record).

Comment: CER- Concurs and reminds folks that the Commission record is independent, so to please submit your comments/information on the Commission record as well.

Question: It appears that the majority of the information gathering and analysis by CER will be completely independent of the MVIERB EA timeline is this correct?

Response: No, however we are seeking comments on the dates and fully expect to amend the schedule given the timing of the MVEIRB process.

Comment: Would like to do one process and to see the CER to extend the dates for these steps until the MVIERB EA is complete.

Response: We encourage you to send these comments into the Commission, all comments will be considered in designing the process. The dates on the first half of the hearing were proposed to provide an example of how a Commission hearing typically proceeds and encourage dialogue.

Question: Imperial's application to the CER is for an amendment of a previous OA, is the previous OA publicly available?

Response: Imperial's initial application was for an OA amendment. However, Imperial has since resubmitted a separate application for an authorization to construct and operate WMF. The 2014 OA for Imperial is the previous OA referred to, and it is not public as it is privileged under the *Canada Petroleum Resources Act*, however you could ask Imperial for a copy of the application.