



Canada Energy  
Regulator

Régie de l'énergie  
du Canada

Suite 210  
517 Tenth Avenue SW  
Calgary, Alberta  
T2R 0A8

517, Dixième Avenue S.-O.  
bureau 210  
Calgary (Alberta)  
T2R 0A8

Files 3430830 and 4669015  
20 February 2024

To: All parties to the OH-001-2023 proceeding

**Imperial Oil Resources N.W.T. Limited  
Application for Variance of Operations Authorization OA-1210-001  
Application for Line 490 Replacement Activities  
Hearing Order OH-001-2023**

**Before: S. Luciuk, Presiding Commissioner; K. Penney, Commissioner;  
W. Jackknife, Commissioner; M. Chartier, Commissioner**

**I. Summary of applications before the Commission**

On 1 November 2023 ([C27037](#)), Imperial Oil Resources N.W.T. Limited (**Imperial**) filed an application with the Canada Energy Regulator (**CER**) to vary Operations Authorization (**OA**) OA-1210-001 to allow for the continuation of Imperial's operations at the Norman Wells Operations (**NWO**) in accordance with subsection 5(6) of the *Canada Oil and Gas Operations Act* (**COGOA**), and section 383 of the *Canadian Energy Regulator Act* (**OA Variance**). Imperial's existing OA for the NWO will expire on 31 December 2024.

The Commission of the CER previously [decided](#) that it would hold a public hearing pursuant to section 5.331 of the COGOA, to consider Imperial's application for the OA Variance, when that application was received ([C26497](#)). The Commission further confirmed that any preliminary comments received from interested Indigenous<sup>1</sup> Peoples, organizations and other stakeholders would be considered as part of the future public hearing process.

On 12 December 2023 ([C27643](#)), the Commission issued a Notice of Public Hearing and Registration to Participate, which included the timeline for intervenors to register to participate in the hearing process for the OA Variance.

On 6 February 2024 ([C28320-2](#)), Imperial filed an additional application with the CER to replace five lines between Goose and Bear Island within the Line 490 corridor of the NWO, using a horizontal directional drilling method (**Replacement Activities**). Imperial requested a decision on the Replacement Activities by 1 October 2024.

.../2

---

<sup>1</sup> The use of the term "Indigenous" has the meaning assigned by the definition of "aboriginal peoples of Canada" in subsection 35(2) of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, which states:

In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

Imperial had previously filed a notification letter with the CER regarding its plans to execute the Replacement Activities under Condition 5 of the existing OA for the NWO. On 6 November 2023 (C28021), the Commission found, based on the notification letter, that the Replacement Activities would not constitute operations and maintenance work, as contemplated under Condition 5 of the OA. As such, the Commission indicated that Imperial would be required to submit a separate application for an authorization to undertake the Replacement Activities, referencing paragraph 5(1)(b) of the COGOA.

On 15 January 2024 (C28021), the Commission received a letter from Imperial requesting that the Commission reconsider its November letter (C27118) and either:

- a) reverse its decision that the Replacement Activities are not captured under Condition 5 of the OA, or
- b) direct that Imperial may instead apply for approval of the Replacement Activities through a variation of the OA, as specifically contemplated under subsection 5(6) of the COGOA.

Subsequently, Imperial filed its application for the Replacement Activities, noting that its application establishes sufficient grounds for approval under multiple provisions of the COGOA and the OA.

The Commission finds that Imperial has not identified new facts or errors of law that would justify a reconsideration and reversal of its decision on the applicability of Condition 5 of the OA. As such, the Commission affirms its decision of 6 November 2023 that the Replacement Activities cannot proceed through a notification under Condition 5 of the OA.

The Commission notes, however, that Imperial's application for the Replacement Activities has now been filed. This application is significantly more detailed than the prior notification letter and the Commission finds that it is sufficiently complete to proceed to an assessment. Based on the application received, the Commission is further satisfied that the Replacement Activities can be considered under subsection 5(6) of the COGOA.

## **II. Coordinated process for the OA Variance and Replacement Activities**

A four-member panel of Commissioners has been named to consider both the OA Variance application and the Replacement Activities application. The Commission will endeavor to hear these applications through a single, coordinated hearing process. A single hearing process to consider both applications will maximize regulatory efficiency, reduce potential duplication of process for all participants, and provide a comprehensive process for the assessment of relevant matters.

Details of the combined hearing process for the OA Variance application and the Replacement Activities application are outlined in this letter and attached Hearing Order OH-001-2023 (**Hearing Order**). The Hearing Order includes a Draft Timetable of Events for all the hearing steps that the Commission anticipates undertaking to assess both applications. The Draft Timetable of Events takes into account various deadlines that have been identified by Imperial (namely, the expiration of its current OA on 31 December 2024 and a request for a decision on the Replacement Activities by 1 October 2024) as well as the anticipated process steps needed to appropriately assess both applications. The Draft List of Topics for the OA Variance application and the Replacement Activities application are attached, respectively, as **Appendix I** and **Appendix II** to this letter.

### III. Participating in the Hearing

On 20 February 2024 ([C28440](#)), the Commission issued its preliminary ruling on participants.

The Commission is re-opening the registration to participate process, which will allow new parties interested in the Replacement Activities application to register to participate. Those parties who had previously registered to participate ([C28440](#)) do not need to re-register to participate in the coordinated process for the OA Variance and the Replacement Activities.

Any party who wishes to participate in the hearing process for the OA Variance and Replacement Activities may do so in one of two ways:

1. A **commenter** may share their views with the Commission in a letter of comment; they cannot be asked questions about their letter of comment. A commenter is not allowed to ask questions about any evidence submitted by Imperial or intervenors, or to provide argument.
2. An **intervenor** may file written evidence, ask questions about Imperial's and other intervenors' evidence, and provide argument. An intervenor that files written evidence must answer questions asked about their evidence (from the Commission, Imperial or other intervenors).

Commenters are **not** required to register in order to submit a letter of comment. The deadline for filing a letter of comment is **23 May 2024**. Further information on how to file a letter of comment can be found in the Hearing Order (attached).

Intervenors have additional opportunities to be involved in the process and as such must register to participate [www.cer-rec.gc.ca/participate](http://www.cer-rec.gc.ca/participate).<sup>2</sup> Registration will reopen for two weeks, beginning on **20 February 2024**. Registrations must be submitted **on or before 5 March 2024**.

Indigenous Peoples potentially impacted by the OA Variance and Replacement Activities who register to participate as an intervenor by the above-mentioned deadline will automatically be granted intervenor status. Indigenous Peoples may register to participate after the **5 March 2024** deadline but, if they do so, the hearing steps that are already completed will not be repeated.

Anyone else who registers to participate as an intervenor will be able to participate at least as a commenter. However, the Commission determines a person's level of participation based on the degree to which they may be impacted by the OA Variance and/or Replacement Activities. Accordingly, the Commission will consider the information provided by each person registering in deciding whether they are assigned intervenor or commenter status.

---

<sup>2</sup> Registrants may click on the link provided or enter the following address into their browser to access the registration page:  
<https://www.cer-rec.gc.ca/en/applications-hearings/participate-hearing/apply-participate/index.html>.

The Draft List of Topics for each application (**Appendix I** and **Appendix II**) outlines the key topics that will be considered in the Commission's assessment of the OA Variance and the Replacement Activities. These documents may help Indigenous Peoples and stakeholders to determine whether and how they wish to participate in the coordinated public hearing process for both applications.

#### **IV. Request for Comments**

The Commission is seeking input on the following matters:

1. Whether Part 5 of the *Mackenzie Valley Resource Management Act* would apply to either or both of the OA Variance and Replacement Activities applications.
2. The Draft Timetable of Events set out in the Hearing Order.
3. The Draft List of Topics identified for the OA Variance (**Appendix I**).
4. The Draft List of Topics for the Replacement Activities (**Appendix II**).

The Commission seeks confirmation from Indigenous participants on whether they intend to share oral Indigenous knowledge (see form attached as **Appendix III** to this letter, "Notice of Intent to Share Oral Indigenous Knowledge").

The Commission requests any comments on the four matters noted above, including the notice of intention to share oral Indigenous knowledge (**Appendix III**), be filed with the CER and served on all other parties **by 4:00 pm Mountain Time (MT) on 4 March 2024**.

#### **V. Information Session on the CER Hearing Process**

CER staff will hold a virtual information session on **27 February 2024** (10:00 am – 12:00 pm MT), to provide process information about the coordinated hearing process and answer any process-related questions including about the Draft Timetable of Events. This information session will be open to parties to the hearing (Imperial and intervenors confirmed to date) as well as other interested Indigenous Peoples and members of the public.

You may join the information session using the following link: Join Zoom Meeting <https://us06web.zoom.us/j/85742051983?pwd=VML5Fo9eE0Oi1aMuqgb3GCUccchLHW.1>.

#### **VI. Participant Funding Program**

Indigenous Peoples and organizations registered to participate in the hearing process must apply for participant funding on or before **5 March 2024**. Further information and forms can be found at [www.cer-rec.gc.ca/participate](http://www.cer-rec.gc.ca/participate)<sup>3</sup>.

---

<sup>3</sup>Registrants may click on the link provided or enter the following address into their browser to access the registration page:

<https://www.cer-rec.gc.ca/en/applications-hearings/participate-hearing/apply-participate/index.html>.

To learn more about the OA Variance and Replacement Activities, please visit the CER's website at: [CER – Imperial Oil Resources NWT Limited – Variance Application for Operations Authorization and Application for Line 490 Replacement Activities \(cer-rec.gc.ca\)](http://cer-rec.gc.ca).

If you have any questions regarding the Hearing Order please contact Tony Epp, Process Advisor, by email at [NWO.processhelp@cer-rec.gc.ca](mailto:NWO.processhelp@cer-rec.gc.ca) or by telephone at 1-800-899-1265.

Imperial is directed to immediately serve a copy of its OA Variance and Replacement Activities applications, together with this letter and the attached Hearing Order on all Indigenous Peoples and organizations and stakeholders in the area surrounding the NWO, and post copies of each of these documents on its website.

Yours sincerely,

*Signed by*

Ramona Sladic  
Secretary of the Commission

Attachments

c.c. Paul Dixon, Executive Director, Sahtu Land and Water Board  
[Paul.dixon@slwb.com](mailto:Paul.dixon@slwb.com)

Mark Cliff-Phillips, Executive Director, Mackenzie Valley Environmental Impact Review Board  
[mcliffephillips@reviewboard.ca](mailto:mcliffephillips@reviewboard.ca)

## Appendix I – Draft List of Topics

### Application to vary Operations Authorization OA-1210-001

On 12 December 2023 ([C27634](#)), the Commission issued a Draft List of Topics for consideration in the hearing to assess Imperial's application to vary Operations Authorization (OA) OA-1210-001, to allow for the continuation of Imperial's operations at the Norman Wells Operations (**OA Variance**). The Commission has revised the Draft List of Topics, (note the black strike through) based on its initial review of the OA Variance application.

The Commission may also consider submissions about relevant topics that are not listed, including those that may be identified by parties to the hearing process.

The revised Draft List of Topics for the OA Variance application includes, but is not limited to:

1. The scope of the OA Variance, including any potential drilling activities (production, injection or observation wells) that may be required;
2. The effects of the OA Variance on the rights of Indigenous<sup>1</sup> Peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*<sup>2</sup> including those set out in the Sahtu Dene and Metis Comprehensive Land Claim Agreement;
3. The interests and concerns of Indigenous Peoples, including with respect to their historic and current use of lands and resources; ~~for traditional purposes~~;
4. **The effects of the OA Variance on resource conservation for the Norman Wells field** [added];
5. **The effects of the OA Variance on navigation under the *Canadian Navigable Waters Act*** [added];
6. The continued health, social, and economic effects of the OA Variance;
7. The continued environmental effects of the OA Variance, including impacts on climate change, any cumulative environmental effects and;
  - o The application of the *Mackenzie Valley Resource Management Act* to the OA Variance;
8. The continued safety and security of persons and the protection of the environment during the OA Variance, including emergency response;
9. The contingency plans for spills, accidents, cyber-security incidents, or malfunctions during the OA Variance;

---

<sup>1</sup> The use of the term "Indigenous" has the meaning assigned by the definition of "aboriginal peoples of Canada" in subsection 35(2) of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, which states:

In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

<sup>2</sup> *Constitution Act, 1982*, being Schedule B to the *Canada Act* (1982) (UK), 1982, c11.

10. The continued economic feasibility of the Norman Wells Operations, including financial responsibility and liability for potential spills and debris; and
11. The proposed term of OA Variance, and its connection to ongoing and future pipeline and production facilities abandonment and reclamation plans.

## Appendix II – Draft List of Topics

### Line 490 Replacement Activities Application

The Commission has prepared this Draft List of Topics for consideration in the hearing to assess Imperial's application to replace five lines between Goose and Bear Island within the Line 490 corridor of the Norman Wells Operations, using a horizontal directional drilling method (**Replacement Activities**).

The Commission may also consider submissions about relevant topics that are not listed, including those that may be identified by parties to the hearing process.

The Draft List of Topics for the Replacement Activities application includes, but is not limited to:

1. The scope of the Replacement Activities, including timing considerations (scheduling), seasonality, access and staging of equipment required;
2. The effects of the Replacement Activities on resource conservation for the Norman Wells field;
3. The effects of the Replacement Activities on navigation under the *Canadian Navigable Waters Act*;
4. The effects of the Replacement Activities on the rights of Indigenous<sup>1</sup> Peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*<sup>2</sup> including those set out in the Sahtu Dene and Metis Comprehensive Land Claim Agreement;
5. The interests and concerns of Indigenous Peoples, including with respect to their historic and current use of lands and resources;
6. The appropriateness of the general route and land requirements for the Replacement Activities;
7. The suitability of the Horizontal Directional Drill design and the available information for the Replacement Activities;
8. The suitability of the decommissioning and/or abandonment plan for the existing Line 490 corridor, including whether the decommissioning is appropriately an interim step to eventual abandonment or whether it is the final step in the pipeline's life cycle;

---

<sup>1</sup>The use of the term "Indigenous" has the meaning assigned by the definition of "aboriginal peoples of Canada" in subsection 35(2) of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, which states:

In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

<sup>2</sup> *Constitution Act, 1982*, being Schedule B to the *Canada Act* (1982) (UK), 1982, c11.



9. The continued health, social, and economic effects of the Replacement Activities;
10. The continued environmental effects of the Replacement Activities, including impacts on climate change, any cumulative environmental effects and;
  - The application of the *Mackenzie Valley Resource Management Act* to the Replacement Activities;
11. The continued safety and security of persons and the protection of the environment during the Replacement Activities, including emergency response;
12. The contingency plans for spills, accidents, or malfunctions during the Replacement Activities; and
13. The economic feasibility of the proposed Replacement Activities, including financial responsibility and liability for potential spills and debris.

### **Appendix III – Notice of Intent to Share Oral Indigenous Knowledge (for both the OA Variance and Replacement Activities)**

***File and serve on all other parties by 4:00 pm Mountain Time, 4 March 2024***

The sharing of oral Indigenous knowledge is one specific step in a hearing process. It is not the only way for the Commission to gather information from you about Imperial’s OA Variance and Replacement Activities. The Commission intends to hold oral Indigenous knowledge sessions but is seeking feedback from potential participants on their preference and the feasibility of holding virtual or in-person sessions.

The information provided below will help the Commission plan the oral Indigenous knowledge sessions. The CER’s Process Advisor will follow up with those who file a copy of this notice to discuss any community-specific requests you may have (e.g. related to protocols, ceremony, interpretation, etc.), as well as to confirm the names of the Elders or Knowledge Keepers. A detailed schedule will be released at least two weeks before the sharing sessions.

The Commission plans to be in the Sahtu region for four consecutive days within the time frame of 8-16 April 2024 and is interested in understanding which time frame may work for your community.

Name of Indigenous Peoples who are Intervenors:				
Names of Elder(s) or Knowledge Keeper(s) who you anticipate will be presenting:				
<b>Participation Availability (<i>check any/all availability for each day of the week</i>)</b>				
<b>April 2024</b>	<b>Date</b>	<b>Morning (9:00 am to 12:00 pm)</b>	<b>Afternoon (1:00 pm to 4:00 pm)</b>	<b>Evening (5:00 pm to 8:00 pm)</b>
	8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	11	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	12	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	13	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	14	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	15	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	16	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Is there an alternate date or week that is preferable? If yes, please elaborate.</p>				
<p>How much time do you anticipate needing for the presentation(s)?</p>				
<p>Do you anticipate requiring simultaneous interpretation? If yes, what language will you be using?</p>				
<p>Would you prefer to participate virtually or in person? What is your preferred location: Fort Good Hope, Norman Wells, Yellowknife, or another location?</p>				
<p>Do you anticipate any confidential Indigenous knowledge being presented? If so, please describe to the extent possible the general nature of the confidential knowledge (e.g., locations of sites, etc.)</p>				
<p>What is the appropriate method for parties and the Commission to ask questions to Elders or Knowledge Keepers?</p>				
<p><i>Orally (at the time during the oral Indigenous knowledge session)</i></p> <input type="checkbox"/>			<p><i>In writing (after the session)</i></p> <input type="checkbox"/>	