



Canada Energy Régie de l'énergie
Regulator du Canada

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

File OF-EP-OA-I047-1210 31
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Colson Foster
Senior Project Manager
Imperial Oil Resources N.W.T. Limited
505 Quarry Park Blvd SE
Calgary, AB T2P 3M9
Email colson.foster@esso.ca

Elizabeth Butt
Senior Counsel
ExxonMobil Canada Ltd.
Email elizabeth.butt@exxonmobil.com

Dear Colson Foster and Elizabeth Butt:

Imperial Oil Resources N.W.T. Limited

The Canada Energy Regulator (**CER**) is anticipating future applications from Imperial Oil Resources N.W.T. Limited (**Imperial**). In the near term, the CER anticipates an application to continue the Norman Wells Operation since Operations Authorization (**OA**) 1210-001 expires on 31 December 2024. The CER is also anticipating an application to abandon Line 490 and replace it by conducting a horizontal directional drill under the Mackenzie River. In the longer term, the CER anticipates that Imperial will file a closure plan application.

If Imperial is intending to file these applications, Imperial should file Project Descriptions¹ as early as possible so the CER can plan an efficient process and explore potential coordination opportunities with other regulators.

The time required for the CER to assess an application can vary greatly depending on the nature of the application and the degree of public interest and is also influenced by the quality and completeness of the application itself. Matters for Imperial to consider in allotting time for the CER to issue a decision include the following:

- The Commission of the CER has delegated certain decision-making authority to the Chief Conservation Officer (**CCO**), but that delegation may be withdrawn for any application at any time. The CCO is required to refer applications to the Commission where the CCO determines that the application is likely to be a cause of significant public concern, to allow the Commission to consider withdrawing the delegation. In making this determination, the CCO must consider past experience with similar applications or applications raising similar issues, the degree to which the application is novel or unusual and the interest shown in the application by Indigenous Peoples, Non-Governmental Organizations, government officials, the media or the public.

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¹ The [Transparency Guidelines for Information under the Canada Oil and Gas Operations Act](#) set out an expectation that applicants for authorizations file a Project Description.

- Condition 4 of OA-1210-001 permits Imperial to apply to the CCO 15 days prior to abandoning any facility or flowline. Condition 5 of OA-1210-001 permits Imperial to notify the CCO 15 days prior to commencing “any major, non-routine operations and maintenance project work or modifications to flowlines...”. Imperial is advised **not** to plan for work to commence 15-days after filing an application pursuant to Condition 4, or a notification pursuant to Condition 5 of OA-1210-001. While the 15-day notice period provides sufficient time for the CCO to issue a letter prohibiting Imperial from undertaking the work until it is approved, it is unlikely to provide sufficient time for consideration of whether the work is appropriately captured by the Condition. The 15-day notice period also does not provide sufficient time for the application to be referred to and assessed by the Commission, if appropriate (for example, on the basis of public concern).
- In 2016, the *Canada Oil and Gas Operations Act (COGOA)* and the *Canada Petroleum Resources Act (CPRA)* were amended to increase transparency. These amendments included the addition of section 5.331 of the COGOA, which authorizes the Commission to hold a public hearing. Where a public hearing is held, subsection 101(9) of the CPRA stipulates that information or documentation provided for the purpose of the public hearing is not privileged. Even where a hearing is not held, subsections 101(8) and 101(10) of the CPRA provide that information regarding the scope, purpose, location, timing and nature of work or activities proposed under subsection 5(1) of the COGOA, as well as information related to safety and environmental protection, can be publicly disclosed.
- Section 5.001 of the COGOA establishes an 18-month time limit for the Commission to decide on paragraph 5(1)(b) authorization applications. The time limit commences when the Commission determines that the application is complete. This time limit can be extended, and proponent time can be excluded.
- Subsection 118(1) of the *Mackenzie Valley Resource Management Act (MVRMA)* prohibits the CER from issuing an authorization until the requirements of Part 5 of the MVRMA have been satisfied. Pursuant to subsection 124(1) of the MVRMA and the *Preliminary Screening Requirement Regulations*, a preliminary screening is required for applications under paragraph 5(1)(b) of the COGOA unless an exemption applies (for example, section 157.1 of the MVRMA or the *Exemption List Regulations*). The [Guideline for Preliminary Screeners \(2022\)](#) states that “the onus is on project applicants to provide their rationale for why its project should benefit from the section 157.1 exemption”.
- The MVRMA does not establish a legislated time limit for preliminary screening. The *Guideline for Preliminary Screeners (2022)* indicates that a screening begins once the preliminary screener has determined that the application is complete.
- Where a development is wholly within the boundaries of a local government, subsection 125(2) of the MVRMA requires a preliminary screener to refer a project to the Mackenzie Valley Environmental Impact Review Board for an environmental assessment where the preliminary screener determines that the project “is likely to have a significant adverse impact on air, water or renewable resources or might be a cause of public concern”. The total time limit on the environmental assessment process ranges from 12 months to 21 months (depending on whether a hearing is held), not including extensions or timeouts.

Considering the foregoing, the Project Description in relation to continued Norman Wells operations should include, at a minimum:

1. Imperial's planned timing for filing an application with the CER to address the expiration of OA-1210-001 and requested decision date. If the requested decision date is later than 31 December 2024, explain if and how Imperial intends to continue operations in the interim.
2. The relief requested and the specific legislative authority for that relief (e.g. new paragraph 5(1)(b) authorization application). If Imperial is seeking a "renewal" of OA-1210-001, indicate the legislative authority for that relief.
3. Imperial's planned timing for filing an application with the Sahtu Land and Water Board to address the expiration of Type A Water Licence S13L1-007.
4. Imperial's view as to whether the project is likely to be a cause of significant public concern. Include Imperial's basis for that view, including the results of early engagement work.
5. Imperial's view as to whether the project triggers Part 5 of the MVRMA and if so, how the requirements of Part 5 will be satisfied (e.g. preliminary screening anticipated). If Imperial is of the view that an exemption applies, identify the exemption and justify its application. Also indicate whether Imperial has or will make a case for an exemption before other authorities, such as the Sahtu Land and Water Board.

The Project Description in relation to the abandonment and replacement of Line 490 should include, at a minimum:

1. Imperial's planned timing for filing the application and requested decision date.
2. The relief requested and the specific legislative authority for that relief (e.g. new paragraph 5(1)(b) authorization application, filing pursuant to a condition of OA-1210-001). If Imperial seeks to make a filing pursuant to Condition 5 of OA-1210-001, include an explanation as to how the proposed work is "within the scope of OA-1210-001" as required by that condition.
3. Imperial's view as to whether the project is likely to be a cause of significant public concern. Include Imperial's basis for that view, including the results of any early engagement work.
4. Imperial's view as to whether the project triggers Part 5 of the MVRMA and if so, how the requirements of Part 5 will be satisfied (e.g. exemption applies, preliminary screening anticipated).

Since Imperial's closure plan application is not anticipated for some time, specific requests related to a Project Description for that application are not included in this correspondence.

If you have any questions regarding the matters above, please contact Zoe Pfeiffer, Director, Facilities Adjudication, Central North, by email at zoe.pfeiffer@cer-rec.gc.ca or by phone at 403-701-6946. Imperial may also wish to request a pre-application meeting in accordance with the [CER – Pre-application Meetings– Guidance Notes](#).

Yours sincerely,

Signed by

Michael Van Appelen
VP, Energy Adjudication

c.c. Paul Dixon, Executive Director, Sahtu Land and Water Board, paul.dixon@slwb.com
Mark Cliffe-Phillips Executive Director, Mackenzie Valley Environmental Impact
Review Board, mcliffephillips@reviewboard.ca