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Sahtu Land and Water Board
Attn: Paul Dixon, Executive Director; Valerie Gordon, Chairperson
P.O Box 1
Fort Good Hope, NT
X0E 0H0

Sent via email

Dear Mr. Dixon and Ms. Gordon,

**Re: Water Licence S13L1-007 Norman Wells Operation
Upcoming Expiry Date and Continuation of EA2425-02**

Imperial Oil Resources NWT Limited (“**Imperial**”) provides this letter in reply to the Sahtu Land and Water Board’s (“**SLWB**” or “**Board**”) November 28, 2024 letter, relating to Imperial’s request for an interim extension of Water Licence S13L1-007 (“**Licence**”). As you are aware, the Mackenzie Valley Environmental Review Board (“**Review Board**”) has recently ruled that it has the authority to continue an environmental assessment of Imperial’s June 2024 application to renew the Licence.¹ In view of the ongoing environmental assessment and the imminent expiry of the Licence, Imperial seeks clarity from the SLWB regarding avenues available for Imperial’s Norman Wells Operation (“**NWO**”) to remain compliant with the Mackenzie Valley Resource Management Act (“**MVRMA**”) beyond March 4, 2025.

Without further action from the SLWB, Imperial will be forced to shut-in the NWO by March 4, 2025, when the Licence expires, with shut-in activities such as de-inventory of tanks beginning no later than February 1, 2025 to ensure Imperial completes necessary activities prior to expiry. No approvals are currently in place for shut-in or site closure at the NWO, nor has community engagement been conducted for a 2025 shut in of the operation. The process for issuing these approvals may take months or years. Given the timelines for the Review Board, the SLWB’s processes for Imperial’s 2024 Licence renewal application and the lack of long-term site closure approvals, there is likely to be a significant regulatory approval gap during which Imperial would be without the approvals needed to safely and lawfully maintain the NWO. This gap will have immediate and serious adverse effects on the local economy and increased risk to the environment and to workers’ health and safety.

In its November 28 letter, the Board appears to conclude that it lacks authority under the MVRMA to issue an interim extension, and that section 118 of the MVRMA prevents the Board from issuing a renewal of the Licence while the environmental assessment is ongoing. As no reasons are provided, it is unclear to Imperial the basis for the Board’s conclusions. Imperial submits that the Board does have the

¹ [MVEIRB Request for Ruling Decision – Cover Letter, December 3, 2024](#)

necessary statutory authorities to mitigate the consequences to people and the environment should the Licence expire on March 4, 2025 without an extension or replacement in place.

For the reasons detailed in this letter, Imperial submits the following:

1. The Board has authority to issue an interim extension of the Licence pursuant to paragraph 72.12(1)(b) of the MVRMA in order to avoid creating unnecessary risks of social, economic, and environmental harms.
2. In the alternative, the Board may issue a water licence renewal to Imperial as an emergency measure that is exempt from section 118 of the MVRMA.
3. Extension of the terms and conditions of the existing Licence by either interim extension or an emergency renewal is the only feasible approach to maintain regulatory certainty given current timelines. This certainty would be consistent with objectives set out in Section 1.1.1 of the *Sahtu Dene & Metis Comprehensive Land Claims Agreement*².

Authority to Extend Existing Licence

As noted in Imperial's November 14 letter to the Board, paragraph 72.12(1)(b) of the MVRMA provides the SLWB with broad discretion to "amend, for a specified term or otherwise, any condition of a licence... if the amendment appears to the board to be in the public interest." An amendment under paragraph 72.12(1)(b) does not involve a licence renewal, which is contemplated separately under paragraph 72.12(1)(a). It is within the Board's discretion to vary the expiry date of the Licence to address the regulatory approval gap while the Review Board's environmental assessment processes unfold.

An amendment to simply extend the term of an existing licence does not require that the Board issue or reissue any licence or authorization. Accordingly, section 118 and its equivalent under the *Sahtu Dene & Metis Comprehensive Land Claims Agreement* are not applicable in this instance, as these sections prohibit a licence or approval being "issued" during an ongoing environmental assessment.³ Provisions of the MVRMA that are intended to apply to amendments or renewals of existing licences specifically use the words amendment or renewal in addition to "issue."⁴ Surely the difference in language is with the intent that amendments or renewals are available. Section 118 of the MVRMA makes no reference to a licence or approval being amended (or, for that matter, renewed), nor do any of the environmental assessment provisions under Part 5 refer to an amendment or renewal of an existing licence; these provisions refer only to circumstances in which a government "issues" a licence, permit or other

² [Sahtu Dene & Metis Comprehensive Land Claims Agreement](#)

³ MVRMA, s 118: "A licence, permit or other authorization required for the carrying out of a development shall not be issued under any federal, territorial, Tlicho or Déline law unless the requirements of this Part have been complied with in relation to the development." Sahtu Agreement, s 25.3.5(c): "No license or approval that would have the effect of permitting a development proposal to proceed shall be issued in respect of the proposal until the processes referred to in (a) and (b), and 25.3.7 or 25.3.8 have been completed."

⁴ See e.g. sections 59, 61, 70, 72.13, 76, 77, and 79.1.

authorization.⁵ Simply put, section 118 applies to new licences and approvals, and does not affect the SLWB's broad discretion to amend existing licences under its jurisdiction.

Exemption for Emergency Licence

In the alternative, if the Board does not consider that it has the authority to make the interim amendment to the existing Licence described above, section 119 of the MVRMA permits the Board to issue a water licence on an expedited emergency basis. Section 119 exempts a "proposal for a development" from the environmental assessment provisions of Part 5 where the proposal for development is (i) "carried out in response to an emergency," and (ii) it is "in the interest of protecting property or the environment or in the interest of public welfare, health or safety to carry out the proposal forthwith."⁶

Should the Board conclude that its only course is to issue a discrete licence for continued operations at the NWO during the regulatory approval gap, Imperial requests, as an emergency proposal within the scope of section 119, that the Board issue an interim renewal of the Licence to address the regulatory approval gap. Imperial submits that this proposal:

- a) would be carried out in response to an emergency;
- b) is in the interest of protecting property;
- c) is in the interest of protecting the environment;
- d) is in the interest of public welfare; and
- e) is in the interest of health and safety.

a) Proposal is in Response to an Emergency

As detailed below, a March 2025 shut-in of the NWO has the potential to cause energy shortages in the Sahtu region as well as immediate and severe economic impacts, while also risking significant damage to property, environmental pollution, and posing additional risks to workers' safety. Section 119 does not require that these significant impacts actually occur for the Board to act on a proposal to avoid them. Courts have repeatedly affirmed that "there is no need for a catastrophe to occur in order to say there is an emergency now. It is enough that there is a reasonable apprehension of danger...."⁷

For the reasons provided below, Imperial submits that there is a reasonable apprehension of danger to people, property, communities and the environment if the Licence is allowed to expire without an

⁵ In addition to section 118, see ss. 125, 129: "regulatory authority, a designated regulatory agency or the Tlicho Government shall not issue a licence, permit or other authorization for the development..."

⁶ MVRMA s 119(b): "No preliminary screening, environmental assessment or environmental impact review is required to be conducted in relation to a proposal for a development... (b) that is carried out in response to an emergency in circumstances such that it is in the interest of protecting property or the environment or in the interest of public welfare, health or safety to carry out the proposal forthwith."

⁷ *Alliance Pipeline Ltd. v. Seibert*, [2003 ABQB 872](#) at para 33, citing *Larchbank (Owners) v. British Petrol (Owners)*, [1943] A.C. 299 (H.L.) at p. 304. See also *Shepard Development Corporation v Condominium Corporation No. 0313166*, [2023 ABCJ 129](#).

extension or renewal. The proposal for an interim renewal of the Licence would be a direct response to an imminent emergency and is within the scope of section 119 of the MVRMA.

b) In the Interest of Protection of Property

Due to harsh winter temperatures introducing flowline freeze/split concerns, Imperial will be unable to purge flowlines across the operation with water and nitrogen as would be done during warmer seasons. Instead, in a winter shutdown all flowlines will require freeze protection by flushing lines with a water and methanol mixture. This mixture will need to be left in place for an extended timeline until the lines can be safely purged with nitrogen during the warmer summer months. Leaving flowlines in this state for an extended period increases the risk of freezing or splitting, resulting in costly repairs and potential damage to the environment, discussed below.

c) In the Interest of Protection of the Environment

As noted above, the shut-in methods necessary to complete a March 2025 shut-in increase the risk of a freezing or splitting event. In a non-operating state, it would be more difficult for Imperial to monitor and mitigate this type of environmental risk. Real time leak detection is not available while the plant and field are not producing.

While supporting shut-in activities during the winter, portable generators will be required at multiple locations across the operation. An increase in the number of pieces of stationary equipment requiring refueling, and a significant increase in the volume of diesel freighted to the NWO by road or air, as discussed below, will increase the potential for a release of diesel to the environment and for potential harms to wildlife due to increased road or air traffic. Generators deployed would be monitored regularly, however, unplanned reliability issues add a risk of a loss of power to critical safety systems which are not configured to be supplied by the Northwest Territories Power Corp grid. It is strongly preferable to maintain all critical equipment connected to the NWO grid power as is the case during typical NWO.

In addition, Imperial needs continued ice road access to conduct surveillance of inactive wells in the field. Surveillance is critical until wells are abandoned to identify and monitor any potential leaks of wellbore fluids. Released fluids must be collected and managed for transport, storage and disposal, which may not be possible without authorizations currently provided under Imperial's Licence.

d) In the Interest of Public Welfare

Imperial anticipates significant negative economic effects for the Sahtu Region should a winter shut-in be required. An early winter shut-in will disrupt businesses and employment in Norman Wells and the Sahtu region broadly. Based on 2024 forecasts, standard operations inject approximately \$2.25M per month into Norman Wells and the Northwest Territories' economy. A shut-in by March 4, 2025 is estimated to reduce that economic activity by 75% while reducing active employment on-site from approximately 80 employees and contractors per day to approximately 20.

While operating, Imperial's NWO generates approximately \$6M of property taxes (Imperial and Enbridge) paid to the Town of Norman Wells. This constitutes approximately 70% of the Town's budget. In a non-operating status, there will be a significant reduction in the tax contributions thereby significantly impacting the town's ability to provide basic essential services.

While shutting in production wells, natural gas production will quickly decline, causing the turbine generators to switch to diesel consumption in order to maintain power and operations of the Central

Processing Facility. It is estimated that approximately 1.1 million liters of diesel consumption will be required to power an emergency winter shut-in, creating potential additional upward pressures on fuel supply and costs within the area. An early shut-in will also cause an accelerated transition towards Northwest Territories Power Corporation (NTPC) supplying all power to the Town of Norman Wells. This transition will compound diesel supply chain pressures currently affecting Norman Wells as a whole.

Imperial understands that transport of fuel volumes to Norman Wells and the broader Sahtu via the winter road is already at maximum capacity. Each additional fuel truck on the winter road increases the wear on the highway and subsequent maintenance needed to maintain the road surface. The reliance on diesel for a winter shut-in would also result in increased greenhouse gas intensity for electricity generation for the Town of Norman Wells and from stand-alone generators across the field.

In addition, Imperial's fuel terminal operations are jointly permitted with the NWO. Absent regulatory licences, these fuel supply operations also lacks clarity for continued operations, further impacting the community and Imperial's site operations.

Imperial suggests that the Town of Norman Wells, Northwest Territories Power Corp, and Government of Northwest Territories Fuels Services Division require significant time to identify, plan and implement collaborative solutions to understand expected Town power demand following NWO cessation of production, engineer and install appropriate connections to backfeed power generation from NTPC power grid to the fuel terminal / tanks and fuel load-out facility in Town (in the absence of NWO providing power), install and test NTPC as a primary power provider to generate sufficient quantity of power including power generation backup, and determine use of existing tankage or allow new tankage options to meet all power and fuel demands for the Town of Norman Wells. NWO will no longer have produced gas to provide power for the terminal / tank farm and fuel load-out facility without a water licence.

The continuation of NWO has widespread public support, as evidenced in letters submitted in the proceeding for the renewal of the CER Operating Authorization.⁸ While Imperial is unable to quantify the extent to which a March 2025 shut-in may constitute an emergency for individuals and businesses, this widespread support illustrates that many residents, businesses, and organizations would likely be affected. All affected parties' perspectives should be considered by the Board when making decisions in the public interest. The public interest in avoiding the immediate adverse consequences of a sudden shut-in through interim measures is a discrete question from the public interest of a long-term renewal of the Licence, which is currently under consideration by the Review Board. Imperial submits that the proposed near-term mitigation of a licence to operate would be in the interest of the Sahtu region.

e) In the Interest of Health and Safety

Completing a winter shut-in of the NWO creates heightened risks to the health and safety of the workforce. Winter execution magnifies the duration and complexity of shut-in efforts, requiring increased workforce demands to perform a safe shut-in. These factors result in the workforce being exposed to harsh winter conditions for longer durations, increasing the risk of potential health and safety incidents. The increased fuel demand and associated increase of heavy truck traffic on the winter road increases the number of interactions private travelers will have with transport trucks when using the highway. An increase in the number of driver interactions can increase the risk of traffic accidents.

⁸ Partial list of letters of support: [Danny McNeely](#), [NW District Chamber of Commerce](#), [Canadian North Airlines](#), [Jega Tue Partnership](#), [NTPC](#), [Tlegohti JV](#), [TRSA](#), [Tlegohti JV](#), [Enbridge](#), [Yamouri Inn](#)

Imperial estimates that an additional 50 truck loads of fuel and equipment will be required to travel the winter road to facilitate a shutdown for March 4.

Clarity Regarding Ongoing Operations Required

An extension, either as an amendment to the existing Licence or issuance of an emergency renewal, would involve no significant alteration to the current approved operations. The status quo for operations and regulatory aspects is understood by all interested parties. Extension of the existing Licence or an emergency renewal is necessary to avoid an emergency and maintain NWO during the time required for the Review Board process.

Absent an extension of the current Licence, there appears to be no viable path to obtain the authorizations needed for continuing operations or care and maintenance activities prior to March 4, 2025. Necessary activities that must be conducted even in a non-operating state in order to mitigate potential harm to the environment include the following:

- During a care and maintenance phase, withdrawal of water would still be required to maintain ice roads and ramps that facilitate surveillance and maintenance activities at wellsites and facilities.
- Wells that require suspension, permanent abandonment, integrity testing, or emergency maintenance would require the use of water and management of well control fluids.
- Liquids collected from surface casing vents will require management – container placement at wellheads, transport across the Mackenzie River to the mainland, and temporary storage prior to disposal.
- Surface water runoff management and release across site, including around the bulk fuel tank farm.
- Final repairs must be completed to the Bosworth Creek bridge which is used by the general public as well as Imperial.
- Future placement of rock armor on flowlines crossing the Mackenzie River may need to be completed.

The timeline to obtain a long-term licence to operate beyond March 4, 2025 is highly uncertain. Additional work that is not critical for the short-term maintenance of the site is likely to be further delayed without licencing conditions to steward progress. Progressive remediation, field work for phase 2 environmental site assessments, and finalizing the Aquatic Effect Monitoring Program may need to be deferred until they can be conducted under a Licence. Delaying aspects such as progressive remediation and Phase 2 environmental site assessments may impact schedules for an environmental assessment of closure.

Closure Environmental Assessment

As Imperial has stated throughout its engagement with communities and regulators, and in regulatory proceedings in respect of the Licence renewal, it has been Imperial's intention to initiate an environmental assessment process for closure of the NWO once applications for renewed operating permits and licences were completed near the end of 2024. Imperial further notes the suggestion of the

Review Board in connection with its December 3, 2024 ruling⁹, noting that the concerns raised by SSI in initiating the environmental assessment of the NWO may be better addressed as part of an environmental assessment for closure of the site.

Imperial would like to inform the Board that Imperial intends to make a self-referral to an environmental assessment for the final closure of NWO before end of first quarter of 2025.

Closing

Imperial respectfully requests the following:

- a) That the Board issue an interim extension of the existing Licence under paragraph 72.12(1)(b) of the MVRMA.
- b) In the alternative, that the Board issue a water licence extension or renewal to Imperial in proactive response to an emergency.
- c) That the Board provide the above-requested relief as soon as possible, to provide Imperial with sufficient time to prepare for any needed shut-in of the NWO prior to Licence expiry.

We look forward to a decision from SLWB by year end.

Sincerely,



John Gregory

Conventional Oil & Gas Asset Manager
Imperial



Sarah McLaren

Director, Norman Wells Closure
Imperial

cc:

Valerie Gordon, Chair, SLWB
Paul Dixon, Executive Director, SLWB
Ramona Sladic, Secretary of the Commission, CER
Charles McNeely, Chairperson, Sahtu Secretariat Inc.
Erin Kelly, Deputy Minister, GNWT Department of Lands
Lisa Dyer, Director General, CanNor – Northern Projects Management Office
Kim Pawley, Crown-Indigenous Relations and Northern Affairs Canada
Mike Roesch, Manager, Resource and Land Management, CIRNAC

⁹ [MVEIRB Request for Ruling Decision – Cover Letter, December 3, 2024](#)

Nathan Baines, Supervising Counsel, Imperial
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Brad Gilmour, Osler, Hoskin & Harcourt LLP
Frank Pope, Mayor Town of Norman Wells
Belinda Whitford, COO Northwest Territories Power Corporation
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