



Canadian Northern Economic
Development Agency
5019 52nd Street
Yellowknife, NT X1A 2R3

Agence canadienne de
développement économique du Nord

August 12, 2022

Alan Ehrlich
Manager, Environmental Assessment
Mackenzie Valley Environmental Impact Review Board
200 Scotia Centre
Box 938, 5102-50th Ave
Yellowknife, NT X1A 2N7

Via email: aehrich@reviewboard.ca

Imperial Oil's Norman Wells Waste Management Facility EA2223-01: Government of Canada's responsibilities and roles

Dear Mr. Ehrlich,

The Northern Projects Management Office (NPMO) is writing on behalf of the Government of Canada in response to your July 11, 2022 letter to Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) seeking clarity on the anticipated roles and responsibilities of federal departments and agencies in the Mackenzie Valley Environmental Impact Review Board's (Review Board) environmental assessment and the Canada Energy Regulator's (CER) regulatory assessment of Imperial Oil's Norman Wells Waste Management Facility (the Project).

The following sections provide a summary of the relevant roles and expertise within the federal government based on our current understanding of the Project. This information may change as the assessment processes proceed.

1. Roles and responsibilities of the federal government in the Mackenzie Valley Environmental Impact Review Board's environmental assessment ([EA2223-01](#))

Given that the Project occurs on federal lands (the Norman Wells Proven Area), the Minister of Northern Affairs has decision-making authority under section 130 of the *Mackenzie Valley Resource Management Act* (MVRMA). The Government of Canada will determine if additional federal ministers will be responsible ministers¹ under the MVRMA for the environmental assessment when the scope of the Project is clearly defined for experts.

The Government of Canada will actively participate in the Review Board's environmental assessment process, by providing expert technical advice based on

¹ Responsible Ministers are identified specific to a project and include any federal or territorial minister(s) who have jurisdiction in relation a project under federal or territorial laws.

departmental mandates and regulatory roles, and fulfill the Crown's duty to consult by tracking issues and concerns raised by Indigenous Governments and Organizations and the resolution of these issues through the process.

NPMO will coordinate federal participation during the environmental assessment process, which may include responses to information requests, technical submissions, interventions, and closing arguments.

Currently, Environment and Climate Change Canada, Fisheries and Oceans Canada, Health Canada, Natural Resources Canada, Transport Canada, and CIRNAC will participate expert departments for the assessment of Imperial Oil's Norman Well Waste Management facility with legal support from Justice Canada.

When the Review Board makes its recommendation to approve or reject the project, the CER, as a designated regulatory agency under the MVRMA², can adopt or refer the proposal back to the Review Board for further consideration or reject the Board's recommendation and order an environmental impact review.

2. Roles and responsibilities of the federal government in the Canada Energy Regulator's regulatory assessment of the Norman Wells Waste Management Facility ([MH-004-2021](#))

The CER is responsible for regulating oil and gas activities under the *Canada Oil and Gas Operations Act* in the Norman Wells Proven Area. On [June 25, 2021 \(C13765\)](#) the CER Commission (the Commission) announced that it would hold a public hearing to assess the Project. The Commission is a quasi-judicial body that operates at arm's length from other parts of the CER (including their Crown Consultation Coordinator [CER]), and makes independent decisions on energy projects.

On [June 1, 2022 \(C19347\)](#) the Commission, in response to the May 31, 2022 letter from the Review Board notifying parties of the Sahtu Secretariat Incorporated's referral of the Project to an environmental assessment, cancelled its preliminary screening process and all related steps previously initiated. The Commission noted that its regulatory assessment of the Project will continue under the *Canada Oil and Gas Operations Act* and that it will issue an updated hearing timetable soon.

Natural Resources Canada has registered to participate in the Commission's hearing to provide technical or scientific information. CIRNAC Resource and Land Management (Northwest Territories Regional Office) has also registered to review

² Designated regulatory agencies are independent bodies with decision making authorities as described under the MVRMA.

Project materials and keep up to date on the status of the hearing, given the Review Board's concurrent environmental assessment process.

The Government of Canada understands that discussions are ongoing and that the Commission and Review Board will provide additional clarity regarding how the Review Board's environmental assessment and the Commission's regulatory assessment processes will interact.

3. Crown Consultation

3.1. Review Board's environmental assessment ([EA2223-01](#))

The Government of Canada, jointly with the Government of the Northwest Territories, will be relying on the Review Board's process, to the extent possible, to fulfill the duty to consult. The ability of Indigenous Governments and Organizations to meaningfully participate in the Review Board's scoping process will be facilitated, in part, by funding from CIRNAC's Northern Participant Funding Program.

Formal consultation with Indigenous governments and organizations will be initiated after the Scoping phase, once the scope of the Project is clearly defined. Where possible, NPMO will coordinate engagement and other consultation activities with the Government of the Northwest Territories and the CER's CCC if the Commission's regulatory assessment of the Project overlaps with the Review Board's environmental assessment.

The CER's CCC, through its coordination and involvement with the NPMO, intends to avoid duplication and ensure efficiency by understanding the issues and concerns raised by Indigenous governments and organizations during the Review Board's environmental assessment process.

Given the potential overlap between the Review Board's environmental assessment and the Commission's regulatory assessment for the Project, the CER's CCC will participate in the consultation process being led by NPMO for the Review Board's environmental assessment. The CER's CCC will work with NPMO to submit information to the Review Board's environmental assessment as appropriate. Further information on the CER's CCC role will be provided as necessary as the scoping of the Project and the interaction with the Commission's regulatory assessment of the Project becomes further defined.

3.2. The Commission's regulatory assessment ([MH-004-2021](#))

The CER's CCC conducts additional Crown consultation opportunities for Indigenous governments and organizations as appropriate and coordinates other federal entities as necessary during the Commission's regulatory assessment of the Project. The CER CCC is separate and apart from the Commission and does not interact with the Commission other than making filings on the record.

The CER relies on the Commission's regulatory assessment of the authorization application, to the extent possible, to meet the Crown's duty to consult. Indigenous governments and organizations are encouraged to raise their issues and concerns directly with the Commission through the Commission's regulatory assessment process to the extent possible.

4. Key contacts

The Government of Canada looks forward to participating in the Review Board's process. If you have any questions or comments regarding the federal government's participation in the Review Board's environmental assessment of the Project, please contact Krista Magee, Project Manager, NPMO, at krista.magee@cannor.gc.ca or (867) 334-4565.

Sincerely,

Adrian Paradis
Senior Project Manager
Northern Projects Management Office

c. Joanna Ankersmit, Director General, Natural Resources and Environment Branch, Crown-Indigenous Relations and Northern Affairs Canada

Mary Taylor, Director General, Environmental Protection Operations Directorate, Environment and Climate Change Canada

Thomas Hoggarth, Regional Director, Fisheries and Oceans Canada

Margaret Zellis-Skiba, A/Regional Manager, Environmental Programs, Prairie and Northern Region, Transport Canada

Brenda Woo, Regional Manager, Environmental Health Program, Health Canada

Rinaldo Jeanty, Director General, Explosive Safety and Business Services Branch, Lands and Minerals Sector, Natural Resources Canada

Brett Maracle, Crown Consultation Manager, Energy Adjudication, Canada Energy Regulator

Ramona Sladic, Vice President, Secretary of the Commission, Canada Energy Regulator