



File OF-EP-OA-I047-1210 31
12 August 2022

To All parties to the MH-004-2021 proceeding

**Imperial Oil Resources N.W.T. Limited (Imperial)
Application for an Authorization to Construct and Operate a Waste
Management Facility (WMF)
Hearing Order MH-004-2021
Completeness Determination and Procedural Update No. 1 including Notice of
Comment Process**

**Before: T. Grimoldby, Presiding Commissioner; D. Côté, Commissioner;
S. Luciuk, Commissioner**

In the Commission of the Canada Energy Regulator's (**Commission**) letter of 14 July 2022 ([C20126](#)), it advised that parties could expect that a procedural update on its hearing process to consider Imperial's application for an authorization to construct and operate a WMF under the *Canada Oil and Gas Operations Act (COGOA)* would be provided in August 2022. Through this letter, the Commission is providing that update. It includes the following:

1. Background
2. Completeness Determination
3. Commission Hearing Process and Information Session
- 4. Notice of Comment Process for Hearing Steps and Schedule**
5. Commission Decision on Imperial Response to Information Request (**IR**) No. 6
6. Commission Response to Crown Consultation Coordinator submission
7. Oral Indigenous Knowledge update

1. Background

On [30 September 2021](#), the Commission of the Canada Energy Regulator (**Commission**) received an application from Imperial for an authorization to construct and operate a WMF under the COGOA.

On [1 March 2022](#), the Commission issued a Notice of Hearing and Registration to Participate for the authorization application. The Commission also decided at that time that it would conduct a preliminary screening of Imperial's proposed WMF under the *Mackenzie Valley Resource Management Act (MVRMA)*.

On 1 June 2022, the Commission [cancelled](#) its preliminary screening process for Imperial's proposed WMF, following the Sahtu Secretariat Incorporated's referral of the project to an environmental assessment before the Review Board. The Commission also indicated at that time that it would update the timetable for its hearing process to assess Imperial's authorization application under the COGOA.

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The Commission notes that, on 30 May 2022, the Mackenzie Valley Environmental Impact Review Board (**Review Board**) released its Notice of **Environmental Assessment** of Imperial's proposed WMF. Information on the Review Board's proceeding can be found on its website: [Waste Facility - Norman Wells - EA2223-01 | Review Board](#).

At the same time that the Review Board conducts its environmental assessment, the Commission must consider the **authorization application** for Imperial's proposed WMF in accordance with the COGOA. Because the two processes consider different aspects of the same project, the Commission will consider the timing and steps in the Review Board's process and may seek to coordinate, wherever possible.

2. Completeness Determination

The Commission has determined that Imperial has provided a complete application for an authorization and, following the issuance of this procedural update, the Commission will begin its assessment of the proposed project under the COGOA.

Pursuant to subsection 5.001(1) of the COGOA, within 18 months of the date of this letter, the Commission will either issue an authorization to Imperial or notify Imperial in writing of its decision not to issue the authorization. This time limit does not include any time taken by Imperial which, in the Commission's opinion, is used to comply with a Commission requirement to provide information or undertake a study.¹ The time limit is also subject to any extensions allowed for under the COGOA.

3. Commission Hearing Process and Information Session

The attached draft Updated Timetable of Events (Appendix 1) lists possible remaining hearing steps for the Commission to assess Imperial's authorization application, and the possible timing for those steps. The timetable does not include dates for process steps after January 2023. This is because, as noted elsewhere in this procedural update, the Commission will continue to consider the timing and steps in the Review Board's environmental assessment process when establishing timelines for its own hearing process. The Commission intends to confirm later hearing steps and dates as its hearing progresses.

Staff of the Canada Energy Regulator will hold a virtual information session on **13 September 2022** (10:00 am – 12:00 pm Mountain Standard Time), to provide process information and answer any process questions about the draft Updated Timetable of Events. This information session will be open to parties to the hearing (intervenor), as well as other interested Indigenous peoples and members of the public. Review Board staff will be in attendance as well to answer any questions on its environmental assessment process. Individuals with the Crown Consultation Coordinator will also be in attendance to answer any questions on its role in the Commission's hearing process.

¹ COGOA subsection 5.001(4) Excluded period. If the Commission of the Canadian Energy Regulator requires the applicant to provide information or undertake a study with respect to the work or activity, the period that is taken by the applicant, in the Commission's opinion, to comply with the requirement is not included in the calculation of the period referred to in subsection (1) or, if the period is extended under subsection (2), within that extended period.

You may join the information session using the following link:

Join Zoom Meeting

<https://zoom.us/j/99764207553?pwd=QkJtVFRBVE1HQit6ZmF0QjJpVkE2dz09>

Meeting ID: 997 6420 7553

Passcode: 086298

One tap mobile

Meeting ID: 997 6420 7553

Passcode: 086298

Find your local number: <https://zoom.us/u/ache2eqSdf>

4. Notice of Comment Process on Hearing Steps and Schedule

At this time, the Commission is seeking comments on the steps to be included in its hearing process to assess the application and the timing for those steps. As noted in section 3, above, a draft hearing process with possible steps and timing is included as Appendix I.

The Commission is particularly interested in any comments on the following topics:

1. The timing and potential interaction between steps in the MH-004-2021's hearing process under the COGOA and the Review Board's environmental assessment process under the MVRMA.
2. Whether participants would be interested in workshops or additional information sessions to discuss or better understand particular topics, (e.g., a workshop on draft conditions for the authorization or information sessions on specific hearing steps).
3. Whether participants would prefer to make written or oral submissions for any of the specific hearing steps (e.g., questioning, final argument).
4. Whether participants would prefer any oral hearing steps to take place virtually or in-person.
5. Whether to add any more process steps related to the Crown Consultation Coordinator's submission(s) and, if so, what steps to add.

Parties to the MH-004-2021's hearing and the Crown Consultation Coordinator may provide written comments on the draft Updated Timetable of Events by **14 October 2022**.

As noted in Appendix I, the Commission will then provide a revised Timetable of Events by 31 October 2022.

While the Commission will do its best to establish a predictable hearing process with transparent deadlines, it may be required to continue to update its hearing steps and timing as both the Commission's authorization process and the environmental assessment being conducted by the Review Board progress.

5. Crown Consultation Coordinator submission

On 17 June 2022, the Crown Consultation Coordinator sent a letter to the Commission seeking clarification regarding the Crown Consultation Coordinator's "first submission" and

requesting an extension from 6 July 2022 to 27 July 2022.² As noted above, the Commission cancelled its preliminary screening process, which included cancelling the Crown Consultation Coordinator's submission for the preliminary screening process that was due on 6 July 2022.

In the draft Updated Timetable of Events, the Commission has included two opportunities for the Crown Consultation Coordinator to file submissions in relation to the authorization application. The first opportunity is an **optional** interim submission on the Crown Consultation Coordinator's activities with potentially affected Indigenous peoples, which is due **28 November 2022**. The second opportunity is the Crown Consultation Coordinator's final submission. The deadline for that submission will be provided later in the hearing process.

6. Imperial Response to IR No. 6

In the Commission's letter dated 14 July 2022 ([C20126](#)), Imperial was granted an extension to submit its response to IR No. 6, with the specific deadline to be set in a future update from the Commission.

The Commission notes that in Imperial's [letter](#) requesting the extension, it submitted that it would be most efficient and productive for the IR deadline to occur after the Terms of Reference (**ToR**) are issued in the concurrent environmental assessment process being undertaken by the Review Board and, in any event, no earlier than 14 October 2022. While expressly not requesting that the Commission "unnecessarily delay its consideration of the application," Imperial submitted that coordinating this step would assist in realizing efficiencies.

The Commission accepts that it would be efficient for the deadline for Imperial to submit the additional information requested in IR No. 6 to generally coincide with the timing of the Review Board's issuance of the ToR in its EA process. To allow for that potential efficiency, while also providing additional certainty for the Commission's process (and not knowing the exact timing of the Review Board's issuance of the ToR), the Commission has set a revised deadline for Imperial to submit its response to IR No. 6 on **14 November 2022**. This date has been included in the draft Updated Timetable of Events.

The Commission has decided, pursuant to subsection 5.001(4) of the COGOA, to implement an excluded period to allow Imperial the additional time requested to prepare its response to IR No. 6, in line with the general timeframe for issuance of the Review Board's ToR. The excluded period of time began on 12 August 2022 and will end on 14 November 2022. Because the excluded period is not included in the 18-month time limit prescribed by subsection 5.001(1) of the COGOA for the Commission to issue its decision, the deadline for the Commission to issue its decision is now **14 May 2024**.

7. Oral Indigenous knowledge

At a later date, the Commission will contact intervenors who indicated that they are Indigenous regarding their interest and availability to provide oral Indigenous knowledge.

² The Commission understands that the "Crown Consultation Coordinator" referred to in the Hearing Order, dated 12 April 2022, is the same entity as the "Crown consultation team" referred to in the Crown consultation team's letters dated 15 November 2021.

Please contact Tony Epp, Process Advisor, at 587-834-1421 or 1-800-899-1265, if you have any questions.

Yours sincerely,

Ramona Sladic
Secretary of the Commission

Attachment

cc: JoAnne Deneron, Chairperson, Mackenzie Valley Environmental Impact Review Board, Email jdeneron@reviewboard.ca

Appendix I – Draft Updated Timetable of Events*

Events	Hearing Order Reference	Responsible parties	Date filed or deadline (noon Mountain time)
Imperial's authorization application to the CER	N/A	Imperial	30 September 2021
Register to participate and also serve the form on Imperial	N/A	Interested persons	21 March 2022
Release List of Parties	3.1	Commission	12 April 2022
Serve authorization application on all intervenors	3.3	Imperial	Immediately after receiving the List of Parties
Release Hearing Order MH-004-2021	3.1	Commission	12 April 2022
Issue authorization application completeness decision and Procedural Direction No. 1 (including Updated Timetable of Events)	N/A	Commission	12 August 2022
Virtual Information Session <ul style="list-style-type: none"> CER staff to provide process information and answer process questions about the Updated Timetable of Events 	N/A	Commission	13 September 2022
File comments on the Updated Timetable of Events <ul style="list-style-type: none"> Parties to the hearing and the Crown Consultation Coordinator and Imperial may provide written comments on any proposed changes or additions to the Timetable 	N/A	Imperial, intervenors, Crown Consultation Coordinator	14 October 2022
Issue revised Timetable of Events <ul style="list-style-type: none"> Commission will consider comments filed and then issue any changes to the Timetable of Events 	N/A	Commission	31 October 2022
File response to Commission IR No. 6	N/A	Imperial	14 November 2022

<p>File additional written submissions</p> <ul style="list-style-type: none"> Imperial may file any updates or changes to its application for the proposed WMF 	1.1, 1.5, and 6	Imperial	14 November 2022
<p>File interim Crown Consultation Coordinator (CCC) submission (<i>optional</i>)</p> <ul style="list-style-type: none"> CCC may file an initial report or submission regarding its role, the results of its consultation process to date, etc. 	5	CCC	28 November 2022
<p>File information requests (IRs) to Imperial</p> <ul style="list-style-type: none"> IRs are written questions that may be asked about the proposed WMF and the evidence filed 	6	Intervenors	28 November 2022
<p>File responses to intervenors' IRs</p> <ul style="list-style-type: none"> Imperial will respond to the questions asked by intervenors 	6	Imperial	14 December 2022
File letters of comment	2.3	Commenters	13 January 2023
<p>File written submissions</p> <ul style="list-style-type: none"> Intervenors may file any evidence to support their position about the proposed WMF 	6	Intervenors	13 January 2023
<p>Oral Indigenous knowledge session(s)</p> <ul style="list-style-type: none"> Indigenous intervenors may share oral Indigenous knowledge as part of their evidence 	N/A	Indigenous Intervenors	Week of 16-20 January 2023
<p>File IRs to intervenors</p> <ul style="list-style-type: none"> IRs are written questions that may be asked about the proposed WMF and the evidence filed 	6	Imperial, Intervenors	To be determined (TBD) 2023
File responses to IRs from Imperial and other intervenors	6	Intervenors	TBD

File final CCC submission	5	CCC	TBD
File written reply submissions to the CCC submissions <ul style="list-style-type: none"> Indigenous intervenors may provide a written response to the CCC submission 	N/A	Indigenous Intervenor	TBD
File written reply submissions <ul style="list-style-type: none"> Imperial may provide a written reply to the submissions of intervenors and the CCC, as well as to letters of comment 	6	Imperial	TBD
File comments and/or attend a workshop (virtual or in-person) on draft conditions for the authorization <ul style="list-style-type: none"> Intervenors will have the opportunity to provide written comments on a series of draft conditions that will be floated by the Commission. 	N/A	Intervenors	TBD
File reply to comments on draft conditions for the authorization	N/A	Imperial	TBD
Argument <ul style="list-style-type: none"> Parties to the hearing may provide written and oral argument 	N/A	Imperial, Intervenor	TBD
<i>Review of Mackenzie Valley Environmental Impact Review Board's environmental assessment report</i>	N/A	<i>Commission</i>	<i>TBD**</i>

*Events specific to the cancelled preliminary screening have been removed. The remaining events are for the authorization application hearing only.

**The Commission cannot issue an authorization pursuant to the COGOA until requirements under Part 5 of the MVRMA are met. This step may occur at an earlier stage in the process, depending on when the environmental assessment report is complete. Further details on this step will be provided at a later stage in the hearing process.