

Reasons for Decision – Request to Cancel Environmental Assessment

Imperial Oil Resources NWT Ltd. – Waste Management Facility

October 12, 2022

1. Summary of decision

On September 26, 2022, Imperial Oil Resources Ltd. (Imperial) requested that the Mackenzie Valley Environmental Impact Review Board (Review Board) cancel the Environmental Assessment (EA) of its proposed Waste Management Facility (WMF) at the Norman Wells Operation (EA2223-01).¹

The Review Board met on October 3, 2022 and passed a motion to approve the cancellation of the environmental assessment once the Sahtu Land and Water Board (SLWB) and the Canadian Energy Regulator (CER) provided notice of the cancellation or closure of the associated regulatory proceedings for the WMF. The SLWB and CER provided the required notice to the relevant public registries indicating Imperial's withdrawal and the cancellation of their regulatory proceedings.^{2,3} **On October 6, 2022, the Review Board provided notice to Imperial that it had granted the request to cancel the environmental assessment.**⁴

This *Reasons for Decision* describes the Review Board's rationale for the cancellation, outlines some timelines of the EA and provides clarification on its process for scoping.

2. Background leading to the Review Board's decision

On May 22, 2022, Imperial's proposal to build and operate the WMF was referred to the Review Board for EA by the Sahtu Secretariat Incorporated.⁵

On July 19, 2022, the Review Board issued a *Notice of Proceeding* for scoping phase activities.⁶ Proposed scoping activities included information requests to Imperial and other parties, community scoping meetings in Sahtu communities and a one-day scoping hearing following

¹ [Request to Cancel the EA - Bennett Jones on behalf of Imperial Oil Resources NWT Ltd. September 26, 2022](#)

² [SLWB Determination and Notification of Amendment Application Withdrawal – Oct 4, 2022](#)

³ [CER Notice of Cancellation of Hearing Proceeding – Oct 3, 2022](#)

⁴ [Review Board letter to Imperial Oil Resources NWT providing notice of cancellation of EA - October 6, 2022](#)

⁵ [Letter of referral from Sahtu Secretariat Incorporated](#)

⁶ [Notice of Proceeding - Scoping Phase Activities](#)

the community meetings. Scoping meetings were planned to commence in Sahtu communities the week of September 6, 2022.

On August 5, 2022, Imperial submitted its Request for Ruling to the Review Board.⁷ Imperial requested a ruling to adjourn the EA and extend all existing procedural deadlines for a period of two months, effectively requesting to delay the EA.

The Review Board met on August 12, 2022 to decide on Imperial's Request for Ruling. After careful consideration, the Review Board granted the adjournment, and extended all procedural deadlines for a period of two months. The Review Board agreed to recommence the EA on October 12, 2022.

This request to cancel the EA was provided in the letter submitted by Imperial's legal counsel to the Review Board on September 26, 2022. The letter also included an attached letter to the SLWB and the CER, indicating Imperial's withdrawal of its water licence amendment and operations authorization applications, to the SLWB and CER respectively, required for the construction and operation of the WMF.

3. Reasons for cancellation of the Environmental Assessment

The Review Board's rationale for cancelling the EA of the WMF is as follows:

1. With the withdrawal of Imperial's regulatory applications and the resulting termination of the related regulatory proceedings by the SLWB and CER, the proposed development of the WMF is no longer possible.
2. As the proposed development referred to the Review Board is no longer possible, the Review Board is no longer required to conduct an environmental assessment under para. 126 (2)(b) of the *Mackenzie Valley Resource Management Act*.

4. Other matters

Imperial, in its letter of September 26, 2022 to the Review Board and in the attached letter to SLWB and the CER, outlines items that the Review Board will clarify or expand upon in these Reasons for Decision.

⁷ [Request for Ruling – Bennett Jones on behalf of Imperial Oil Resources NWT Ltd. – August 5, 2022](#)

Scoping

Imperial noted in its letter of September 26, 2022 to the Review Board that the uncertainty in the length of time the Review Board required to complete the EA scoping was one of the primary rationales for Imperial withdrawing its regulatory applications and requesting the cancellation of the EA. From the outset of the EA, Review Board staff actively engaged communities to determine the dates of scoping meetings that worked best for the communities and would not cause undue delays in the EA proceedings. When the Review Board proposed dates for scoping in Sahtu communities, Imperial indicated that key staff was not able to participate at that time.

The Review Board notes that its ability to complete the scoping of the EA in a timely manner was affected by Imperial's Request for a Ruling to delay the EA with a two month adjournment. In addition, the availability of parties during the summer months that followed on the commencement of the EA also had an effect on the timeliness of the scoping process. The Review Board anticipated that scoping of the EA would have been completed in a timeframe consistent with past EAs. This would have allowed for the completion of the overall EA process to be within the time limits prescribed by the MVRMA.

Regulatory and Environmental Assessment Coordination

Imperial also pointed out that it remains unclear about the relationship between the SLWB and Review Board processes and the CER proceeding. The Review Board is committed to improving coordination with both the SLWB and the CER for any future regulatory and EA processes. The Review Board and the CER are currently updating and renewing the Memorandum of Understanding between the two organizations.⁸ Our organizations are also working on updating our process mapping tools to provide better clarity of the relationship between the two processes.

The Review Board notes the CER legislation does not include provisions to allow the CER to exclude the time it takes for a proposed development to undergo an EA or impact review under Part 5 of the MVRMA from its regulatory timelines. By contrast, the MVRMA has provisions which exclude the time required to complete an EA or impact review from the time limits for Land and Water Boards' regulatory processes.⁹ This inconsistency may create future challenges to coordinating regulatory and EA processes where a CER authorization is required.

⁸ [Memorandum of Understanding between MVEIRB and the National Energy Board \(2005\)](#)

⁹ ss. 72.22(2) of the MVRMA

5. Looking Forward

The Review Board supports Imperial’s initiative to further engage with potentially affected communities and others interested in the “holistic” planning of the final closure of Imperial’s Norman Wells Operation. The Review Board is open to further dialogue with the SLWB, CER, Imperial, Indigenous Governments and Organizations and others on the future regulatory process required for the Norman Wells Operation, and on any environmental assessment that may be required.

Review Board staff is available to meet with Imperial to discuss any items within this decision, and to discuss the Board’s process in general.

A handwritten signature in black ink, appearing to read 'JoAnne Deneron'.

JoAnne Deneron
Chairperson
Mackenzie Valley Review Board