



THE SAHTU SECRETARIAT INCORPORATED

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September 30, 2024

Canada Energy Regulator
Suite 210- 517 Tenth Avenue SW
Calgary, Alberta T2R 0A8

Attention: Michael Van Appelen, VP, Energy Adjudication

Re: Application for Variance of Operations Authorization OA 1210-001 (the Application) Imperial Oil Resources NWT Limited (Imperial) Norman Wells Operations (NWO)

I am writing in my capacity as Chair of the Sahtu Secretariat, Inc (SSI), the regional land claim body in the Central Mackenzie Valley, to inform you of our referral of the above-named application to Environmental Assessment as provided for under S126 (2) (b) of the *Mackenzie Valley Resource Management Act*.

This referral by SSI is undertaken at the direction of the Board of Directors which met on both September 23, 2024 and September 27, 2024 and reflects the concerns of several of the Land Corporations established under the *Sahtu Dene and Metis Comprehensive Land Claim Agreement*.

A brief discussion of the reasons for our referral follows.

1. The Nature of the Project

In the company's Fall 2023 submission to the Canada Energy Regulator ("CER"), Imperial says that it "is not proposing any alterations to the NWO operational footprint or industrial processes.." and, further, that its Application "... does not seek authorization for any new activities at NWO."

SSI takes issue with these broad statements that the ongoing operations will look very much like the present ones, those permitted in the 2014 Operations Authorization, and has raised the issue in its previous submission to the Mackenzie Valley Review Board on the Line 490 Replacement Project.

Of more note are the many changes in the broad environment in which the NWO proposes to continue operating, including noticeable environmental changes, changes to geopolitical concerns affecting development and increasing recognition of Indigenous rights.

These changes not only impact the operation of the Norman Wells oilfield, they call into question the very need for that operation.

The period between 2014 and 2024 has seen increasing awareness of the causes and impacts of climate change with the North believed to be warming at four times the rate of the rest of the world, a warming now generally accepted as caused by the burning of fossil fuels.

The permafrost is melting, often exacerbated by the wildfire activity seen in the north over the past few years. This melting, this subsidence, raises questions about the stability of the NWO structures and the Enbridge Line 21 pipeline that carries the decreasing production from Norman Wells to Zama, Alberta.

Of particular note, the river environment in which the NWO operates is one that is experiencing ongoing, serious changes to its depth, flowrate and direction leading to unprecedented riverbed scouring, threatening the numerous operating pipelines supporting the NWO, the result of a combination of the impacts of climate change and the continued accretion of the artificial islands constructed by Imperial Oil in its expansion project of the early 1980s.

Society has been prepared to balance the need for oil with its environmental impacts in periods when the need for the product was sufficiently great as to make the trade-off acceptable.

The 1944 Proven Area Agreement (PAA) was negotiated in a period when the U.S. military badly needed a source of supply for its Alaskan operations, one that could not be disrupted by Japanese attacks on American tankers moving up the West Coast.

The PAA was expanded in the early 1980s, a response to oil embargoes in the Middle East and ongoing concerns about Canada running out of oil to supply its own needs. These concerns gave rise to the National Energy Program with its focus on exploring federal lands in the Mackenzie Valley, the Beaufort Sea and the High Arctic.

Oil exploration and production carries with it some degree of environmental risk, as we have seen with the *Exxon Valdez* shipping incident, the *Ocean Ranger* sinking, the Gulf of Mexico blowout and, most recently, the leaks at the Kearl Oil Sands Project.

These events, and many smaller ones, are not to be welcomed but they are a “cost of doing business” that seemingly must be accepted in order to keep the oil and natural gas flowing. The benefit/cost ratio remains acceptable.

In the early days of the NWO, while there was always some degree of risk, the need to support the American war effort and, later, Canada’s energy security, was sufficient to balance the risk.

But today, in an area of increasing environmental sensitivity, does it make sense to accept any degree of risk from an aging oilfield that in 2021 provided less than 1% of Canada’s daily Conventional Light Crude production?

A production level that Imperial Oil says will remain in that range if it receives regulatory approval for a ten year extension?

2. Indigenous Rights

The SSI Board is supportive of the K'asho Got'ine Committee (the "Committee") in its submissions of July 17, 2024, August 17, 2024 and August 20, 2024 concerning the need for, and to date, inadequate level of, consultation as required by *the Sahtu Dene and Metis Comprehensive Land Claim Agreement*. (SDMCLCA)

The SSI Board believes the Committee submissions clearly set out its views on the obligation to consult and outline its belief that this obligation has not been meaningfully fulfilled.

For reference, the SDMCLCA provides a clear definition of what consultation should consist of:

"consultation" means:

1. (a) the provision, to the party to be consulted, of notice of a matter to be decided in sufficient form and detail to allow that party to prepare its views on the matter;
2. (b) the provision of a reasonable period of time in which the party to be consulted may prepare its views on the matter, and provision of an opportunity to present such views to the party obliged to consult; and
3. (c) full and fair consideration by the party obliged to consult of any views presented.

It can be further noted that more contemporary definitions of consultation arising from numerous court decisions include the requirement that the consulting party also consider means to accommodate the concerns raised by the Indigenous party.

In its submission to the SLWB, Imperial notes that it has conducted "engagement" with various Sahtu groups and organizations in respect of its applications for continuing operations and its water license extension through both Neighbour Nights and Open Houses.

While both formats are useful as a means of providing information by the company of its planned activities, neither is appropriate for the detailed dialogue necessary to ensure that Indigenous concerns are heard and efforts to accommodate those concerns are proposed.

In response to the legitimate claims of the Committee, SSI believes a full environmental assessment process is required to ensure that Sahtu residents can be meaningfully involved in decisions relating to development on, and affecting, their lands and waters.

3. The Lack of Local Benefits

There has long been an imbalance between the environmental and social costs of a development project and the benefits from that project that accrue to residents in the vicinity of that project.

In response, contemporary practice is the negotiation of an impact benefits arrangement between the developer and the local community, often as required by law.

Such benefits agreements are common in the mining sector with several covering the diamond mine developments to the south of the Sahtu Region. Likewise, benefits agreements are a requirement of long-standing territorial and federal petroleum legislation.

The 1944 Proven Area Agreement, and its successors, contains no provision for local benefits with the result that there is no legal obligation on the part of Imperial Oil to provide local benefits in employment and business opportunities.

This is not to say that Imperial Oil has not hired Sahtu residents nor spent money with local businesses in the one hundred years it has been operating at Norman Wells. It certainly has but the question remains, could the company do more?

In respect of the planned Line 490 work, Imperial Oil has selected Graham Construction as the main contractor and is now "*encouraging Sahtu-beneficiary organizations and companies who are interested to reach out directly to Graham Construction to participate in the project*".

While the suggestion to reach out is welcome, there is no requirement that either Imperial Oil or Graham Construction will ensure that local companies are successfully involved in the Project.

An environmental assessment of the Application should include a full review of the social and economic impacts and benefits of the construction and subsequent operation of the Norman Wells oilfield.

4. Conclusion

For the reasons above, Sahtu Secretariat Inc refers the Application for Variance of Operations Authorization OA 1210-001 to environmental assessment and respectfully requests that the Canada Energy Regulator begin planning for such a review at its earliest convenience.

Yours very truly,



Charles McNeely
Chair, SSI

cc SSI Board Members
Ms. Valerie Gordon, Chair, SLWB
Mr. Paul Dixon, Executive Director, SLWB
Mr. Michael Van Appelen, VP, Energy Adjudication, CER
Mr. John Gregory
Ms. Jaclyn Mersereau
Mr. Nathan Baines
