



August 19, 2020

Ms. Jessie Malone
Environmental and Regulatory Advisor
Imperial Oil Limited
100 5th Concession East
Waterdown, ON L0R 2H1
Jessie.m.malone@esso.ca

Dear Ms. Malone:

**Re: Imperial Oil Limited
Waterdown to Finch Project Application
Ontario Energy Board File Number: EB-2019-0007
Request for Changes of Project Routing**

The Ontario Energy Board (OEB) is in receipt of the letter filed by Imperial Oil Limited (Imperial Oil) on June 30, 2020 (Letter) proposing three changes to the OEB-approved Waterdown to Finch Project (Project). The OEB granted leave to construct the Project in a decision dated March 12, 2020 (Decision), subject to a number of conditions¹.

The Project involves 63 kilometers of 12-inch diameter pipeline for transportation of refined petroleum products from Imperial Oil's facility in the City of Hamilton to its facility in the City of Toronto. As part of the Decision, the OEB also approved the forms of easement agreements that Imperial Oil will offer, or has offered, to directly affected landowners related to the construction of the Project.

The Project's route, as approved by the OEB, closely follows the route of the existing Imperial Oil pipeline, and is located in the City of Hamilton, the City of Burlington, the Town of Milton, the Town of Oakville, the City of Mississauga, and the City of Toronto. The OEB's Decision approved the Project's route as described in Imperial Oil's application (OEB-approved Route).² The original application for leave to construct stated that the proposed (and later approved) pipeline route was the only reasonable

¹ Decision and Order (EB-2019-0007), dated March 12, 2020, including Conditions of Approval as Schedule "B".

² The map of the approved route is included as Schedule "A" in the OEB Decision and Order (EB-2019-0007), dated March 12, 2020. Imperial Oil's evidence included detailed route maps in the Environmental Report, Figures 4.5-1 to 4.5-21.

option. The application noted, however, that the proposed route could be subject to minor adjustments based on feedback related to environmental matters, socio-economic input, and stakeholder consultation.³ All landowners that were on the proposed route were given direct notice of the hearing, and were granted intervenor status in the proceeding if they requested it.

The OEB's conditions of approval, among other things, require that the Project be constructed in accordance with the OEB's Decision in EB-2019-0007. The OEB also included in its approval a condition which requires that:

6. Imperial Oil shall advise the OEB of any proposed change to the OEB approved construction or restoration procedures. Except in an emergency, [Imperial Oil] shall not make any such change without prior notice to, and written approval of the OEB. In the event of an emergency, the OEB shall be informed immediately after the fact.

In accordance with the OEB's conditions of approval, Imperial Oil notified the OEB of three proposed changes to the OEB-approved Route in its Letter:

- Change 1: Crossing Realignment at Highway 403/Hurontario
- Change 2: Crossing Realignment at Highway 401/Highway 27
- Change 3: New Easement Requirement

Detailed maps were provided showing the proposed realignments and the location of the new easement requirement.

As the Manager, Generation and Transmission Applications, I have been delegated, under section 6 of the *Ontario Energy Board Act, 1998*, the authority of the OEB to determine whether Imperial Oil's proposed changes will result in material changes to the Project for which leave to construct was granted by the OEB in the EB-2019-0007 proceeding. I have been further granted the authority to approve any changes that I have concluded are not material.

Based on my review of the initial information Imperial Oil provided in the Letter, I was unable to determine whether the changes to the OEB-approved Route proposed by Imperial Oil are material. I required that additional information be filed regarding potential impacts of the proposed changes on any existing and newly affected landowners and on the environment. Imperial Oil filed the additional information on July

³ Application, Exhibit D, Tab 1, Schedule 1, pp. 2-3.

31, 2020. The following is a description of each change request, an overview of information filed by Imperial Oil and my findings on the change requests.

Change 1: Crossing Realignment at Highway 403/Hurontario

Description and Rationale for Change

The Ministry of Transportation (MTO) identified setback requirements at this crossing location. To address the MTO's requirements with this crossing, Imperial Oil proposes to shift the alignment of the OEB-approved Route approximately 65 metres to the northwest, closer to the existing Imperial Oil pipeline. The length of this realignment is approximately 1,800 metres. This change is located within the City of Mississauga. This proposed route realignment would cross the same properties (although in different locations) that were part of the OEB-approved Route. No new properties or new landowners would be affected by the realignment.

Directly Affected Landowners were Notified

The proposed change affects four landowners and nine parcels of land, including landowners for areas requiring new permanent and temporary easements as well as other agreement types. Imperial Oil noted that two of the nine parcels are no longer affected by the pipeline route with the realignment from the OEB-approved Route. There are no private landowners directly affected. The affected landowners and stakeholders are: (i) the City of Mississauga; (ii) Hydro One Networks Inc. (HONI) and Infrastructure Ontario; (iii) the MTO; and (iv) the Ministry of Government and Consumer Services (MGCS) and Infrastructure Ontario.

Imperial Oil notified all of the landowners that would be directly affected by the proposed route realignment by email and/or through in-person meetings.

No Concerns Have been Raised by the Landowners and Stakeholders

Imperial Oil states that the directly affected landowners and stakeholders have not raised any concerns regarding this realignment. A technical review of the realignment by the stakeholders is underway. Imperial Oil has stated that it will continue to work with the stakeholders to address questions that may arise, including providing additional crossing drawings if requested.

Consultation with the City of Mississauga is in Progress

In a meeting on February 11, 2020, Imperial Oil informed the City of Mississauga of the potential realignment of the OEB-approved Route.

The consultation with the City of Mississauga has been ongoing. The City of Mississauga is required to approve a licence agreement and a number of revised road-crossings including various technical drawings due to the realignment. Imperial Oil filed revised road-crossing applications on May 28, 2020 and on June 30, 2020. On July 22, 2020, Imperial Oil submitted route maps indicating the full realignment in the City of Mississauga, along with an updated property sketch for the City of Mississauga's owned land. Imperial Oil also informed the City of Mississauga that additional revised crossing drawings would be submitted for further processing.

Environmental Impacts Related to the Realignment were Assessed

Imperial Oil noted that no new environmental assessments are required for this route change as the area of this realignment was within the study area assessed in the Project's Environmental Report. Imperial Oil indicated that there are no newly identified potential environmental impacts caused by the proposed route change and that all potential impacts outlined in the Environmental Report are still applicable. Imperial Oil also indicated that no new mitigation measures have been identified as a result of the route change and that the mitigation measures outlined in the Environmental Report will continue to be implemented as needed.

New Permanent and Temporary Easements Needed - No New Landowners, No New Properties

According to Imperial Oil, three permanent easements are required on three parcels of land owned by HONI and Infrastructure Ontario. Imperial Oil needs three temporary workspace agreements on the same three parcels of land from HONI and Infrastructure Ontario. Imperial Oil states that it notified HONI and Infrastructure Ontario of the proposed realignment on March 3, 2020, and that to date, no concerns have been raised by potentially affected stakeholders and landowners. Imperial Oil has presented to the landowners the form of easement agreements approved by the OEB. Imperial Oil states that negotiations between Imperial Oil and HONI and Infrastructure Ontario for these land rights are in progress and that Imperial Oil is continuing to work with the landowners to obtain agreements.

Encroachment Permit for the Realignment Required by the MTO

Imperial Oil is working with the MTO to obtain the encroachment permit for the realignment.

Schedule

Imperial Oil has stated that there will be no impact to the construction schedule as a result of this change.

Construction and Restoration Practices

Imperial Oil has stated that there will be no impact to construction and restoration practices as a result of this change.

Findings

After reviewing the information provided, I find that the proposed change does not appear to be a material change to the Project's approved construction and restoration procedures because there are no newly identified potential environmental impacts or environmental mitigation measures required, no impact on the Project schedule or construction and restoration practices, and no newly affected stakeholders, landowners, or properties. I note that Imperial Oil has stated that there have been no concerns expressed by affected stakeholders and landowners to date, and that it will obtain all necessary approvals resulting from the change, including all necessary easement agreements in the form approved by the OEB. I therefore approve the proposed change, but will require that Imperial Oil provide a copy of this letter, as well as the related correspondence from Imperial Oil on June 30, 2020 and July 31, 2020, to the landowners affected by this proposed change so that these parties can see the information that Imperial Oil has placed on the record.

Change 2: Crossing Realignment at Highway 401/Highway 27*Description and Rationale for Change*

The need for this realignment is due to the MTO's request to move Imperial Oil's pipeline outside of the MTO's right of way in this location to allow for future expansions of Highway 401. The proposed realignment will cross Highway 27 approximately 800 metres north of the OEB-approved Route. The length of this realignment is approximately 1,850 metres. The length of the OEB-approved Route realignment is approximately 1,370 metres. This change is located within the City of Toronto.

Directly Affected Landowners and Stakeholders-Notification

The proposed route realignment affects 23 parcels of land owned by 14 landowners, including landowners for areas requiring new permanent and temporary easements as well as other agreement types. Imperial Oil noted that seven of the 23 parcels are no longer affected by the pipeline route with the proposed route realignment. All of the 14 landowners have been notified by Imperial Oil about the proposed route realignment, either via email and/or in-person meetings.

Nine of the landowners already had properties that were directly affected by the original proposed route of the Project, and received notice of the original hearing. However, the proposed realignment crosses six new properties owned by five landowners that are newly affected and were not previously informed of the Project. In other words, these five landowners were not served the OEB's Notice of Application as part of the EB-2019-0007 Leave to Construct Proceeding because they were not on the proposed route of the Project and were therefore not considered directly affected by the Project at that time. The six new properties are:

PIN	Parcel ID	Landowner
074240190	WTFN4077	1112308 ONTARIO INC.
074240195	WTFN4082	1350739 ONTARIO LIMITED
074240121	WTFN4076	2394561 ONTARIO INC.
074240124	WTFN4085	71-91 KELFIELD STREET INC.
074240134	WTFN4117	KSD ENTERPRISES LTD.
074240133	WTFN4119	KSD ENTERPRISES LTD.

All private landowners, including the five landowners that would be directly affected by the proposed realignment but which were not served notice of the original application,

were first notified of the proposed realignment between February 2020 and early April 2020. Imperial Oil stated that it is continuing to work with each landowner to address questions and concerns as they continue to review the proposed landowner agreements.

HONI and Infrastructure Ontario were notified of the realignment in a meeting on March 3, 2020. Imperial Oil provided revised drawings to HONI for their technical review. HONI and Infrastructure Ontario's review is in progress.

The City of Toronto received realignment sketches from Imperial Oil on March 6, 2020. Imperial Oil also attended a pre-consultation meeting with the City of Toronto on March 10, 2020 and continues to work with the City of Toronto to provide requested information and respond to concerns.

Concerns Raised by the Newly Affected Landowners

The landowners affected by the proposed route realignment have raised concerns about future development on their properties, compensation, impacts on tenants, duration of construction, and damages resulting from construction. Imperial Oil stated that it is continuing to work with the affected landowners to address their concerns. Imperial Oil described its actions and mitigation efforts to address all of these concerns in the additional information filed on July 31, 2020.

Negotiations with Landowners are Ongoing

Imperial Oil assigned a dedicated land agent to each landowner. Imperial Oil's representatives are continuing to communicate with landowners on a week-to-week basis, and negotiations will be continuing until they come to mutually agreeable terms.

Communication with the City of Toronto is Ongoing

From early March 2020 through to July 2020, Imperial Oil has been communicating with the City of Toronto regarding right of way management permitting requirements and traffic accommodation plans, and has been providing information and drawings. Imperial Oil confirmed that it will continue to address the concerns and requirements of the City of Toronto related to the realignment.

Environmental Impacts of the Realignment

Imperial Oil indicated that the area of realignment was considered in the Local Study Area of the Environmental Report. Imperial Oil noted that tree inventories were focused on the construction footprint only, and species at risk, ecological land classification and aquatic features were assessed within the Study Area and field verified in surveys only along the proposed construction footprint (easement, access and temporary workspace) of the original route. Due to the change to the construction footprint associated with the proposed route change, supplemental field surveys were completed for the proposed footprint. The results of these supplemental environmental surveys were described in the additional information filed by Imperial Oil on July 31, 2020.⁴

Imperial Oil stated that there are no newly identified potential environmental impacts and that no additional mitigation measures have been identified as a result of the proposed route change. The mitigation measures outlined in the Environmental Report will be implemented as needed along the realigned route.

New Permanent and Temporary Easements are Required

Imperial Oil needs to acquire 12 permanent easement agreements on 12 parcels of land, five of which are new as they were not crossed by the OEB-approved Route. Imperial Oil needs to acquire temporary workspace agreements on 13 properties, two of which are new, as they were not required for construction for the OEB-approved Route.

Imperial Oil confirmed it has, or will, present the OEB-approved forms of easement agreements to the private, public and agency landowners.

Negotiations with the Affected Landowners are in Progress

Imperial Oil stated that it has been negotiating with all the affected landowners and is continuing its efforts to reach agreements.

Schedule

Imperial Oil has stated that it does not anticipate an impact to the construction schedule as a result of this change, however the timeline for construction at this location has not yet been finalized.

⁴ Imperial Oil Additional Information Letter, July 31, 2020, page 11

Construction and Restoration Practices

Imperial Oil has stated that there will be no impact to construction and restoration practices as a result of this change.

Findings

After reviewing the information provided, I find that the proposed change appears to be a material change to the to the Project's approved construction and restoration procedures. The proposed realignment would cross six new properties owned by five different landowners. These properties were not on the original proposed route (which was ultimately approved in the Decision), and therefore these landowners were not given notice of the original proceeding and had no opportunity to make any submissions they may have to the OEB or otherwise participate in the proceeding. These landowners have raised concerns about the Project that are not yet resolved. I therefore am not satisfied that the proposed change is immaterial, and I cannot approve the proposed change. The OEB will instead treat this change request as a Motion to Review and Vary the original Decision with the OEB. If Imperial Oil wishes to update the materials that it has provided as part of this change request or file additional evidence, it may do so.

Change 3: New Easement Requirement Identified

Imperial Oil does not require a realignment of the OEB-approved Route for this change. According to Imperial Oil, in June 2020, the MTO clarified the limits of the Highway 407 designation and confirmed that a small portion of the property PIN 24930-1397 does not fall within the MTO Transit way designation for Highway 407 and so Imperial Oil will require 0.003 acres or approximately 130 square feet area of permanent easement from the MGCS. Imperial Oil states that there is no planned change in the construction footprint, only a change in the agreement type.

Directly Affected Landowners were Notified

Imperial Oil notified MGCS through ongoing engagement in June 2020. Imperial Oil presented to MGCS the OEB-approved form of agreement and MGCS has confirmed that it will issue an easement for this small portion of land.

No Concerns Have been Raised by the Landowners and Stakeholders

Imperial Oil states that potentially affected landowners and stakeholders have not raised any concerns regarding this change.

Consultation with the Town of Milton

The parcel of land subject to this change is located in the Town of Milton. Imperial Oil stated that it does not impact municipally-owned land or infrastructure.

Imperial Oil Anticipates No New Environmental Impacts

Imperial Oil stated that the area added through this proposed change was subject to the environmental assessment for the Project. Imperial Oil submitted that no new environmental impacts will result from this change as the footprint assessed in the Environmental Report has not changed. Also, the construction at this location will proceed as planned by Horizontal Directional Drilling and so no surface impacts are anticipated.

New Permanent and Temporary Easements Needed - No New Landowners, No New Properties

Imperial Oil noted that no new temporary workspace is required at this parcel of land; only the new permanent easement is required from the MGCS.

Encroachment Permit for the Realignment Required by the MTO

Imperial Oil stated it would continue to work with the MTO to obtain an Encroachment Permit for the remainder of the land parcel and will provide a draft reference plan to MGCS for the purposes of acquiring the permanent easement.

Schedule

Imperial Oil has stated that there will be no impact to the construction schedule as a result of this change.

Construction and Restoration Practices

Imperial Oil has stated that there will be no impact to construction and restoration practices as a result of this change.

Findings

After reviewing the information provided, I find that the proposed change does not appear to be a material change to the Project's approved construction and restoration procedures because there are no newly identified potential environmental impacts or environmental mitigation measures required, no impact on the Project schedule or construction and restoration practices, and no newly affected stakeholders and landowners. I note that Imperial Oil has stated that there have been no concerns expressed by affected stakeholders and landowners to date, and that it intends to seek all necessary approvals resulting from the change. I therefore approve the proposed change, but will require that Imperial Oil provide a copy of this letter, as well as the related correspondence from Imperial Oil on June 30, 2020 and July 31, 2020, to the landowners affected by this proposed change so that these parties can see the information that Imperial Oil has placed on the record.

Yours truly,

Original Signed by

Nancy Marconi
Manager, Generation and Transmission Applications

c: All participants in the EB-2019-0007 proceeding