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## **DECISION AND ORDER**

### **EB-2020-0219**

**MOTION TO REVIEW AND VARY THE OEB'S DECISION  
AND ORDER EB-2019-0007 (LEAVE TO CONSTRUCT  
IMPERIAL WATERDOWN TO FINCH PROJECT)**

**BEFORE:**     **Emad Elsayed**  
                  Presiding Member

**Robert Dodds**  
                  Member

**Michael Janigan**  
                  Member

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**December 17, 2020**

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# 1 INTRODUCTION

On March 12, 2020, the OEB granted (Original Decision)<sup>1</sup> Imperial Oil leave to construct 63 kilometers of 12-inch diameter pipeline for the transportation of refined petroleum products from its facility in the City of Hamilton to its facility in the City of Toronto (Project) under section 90(1) of the *Ontario Energy Board Act, 1998* (OEB Act). The Project will replace an older existing pipeline that is reaching the end of its serviceable life. The Project largely follows the route of the existing pipeline (OEB-approved Route). The OEB's approval was subject to a number of conditions (Conditions of Approval). The Original Decision also approved the forms of easement agreements that Imperial Oil will offer, or has offered, to landowners that are directly affected by the Project.

On June 30, 2020, Imperial Oil filed a request for an approval of three changes to the OEB-approved Route. The review of these requests was undertaken by Delegated Authority (DA).<sup>2</sup> On August 19, 2020, the DA approved two of the proposed changes, but was not satisfied that the third proposed change was immaterial and determined that a hearing would therefore be required to consider the request. The third request was for an adjustment from the OEB-approved Route near Highway 27 and Highway 401 in the City of Toronto (Route Realignment). The DA stated that the OEB would treat the request for approval of the Route Realignment as a Motion to Review and Vary the Original Decision (Motion to Review).<sup>3</sup>

The OEB has conducted this review through a written hearing. For the reasons provided in the Findings sections, the Motion to Review is granted and the Route Realignment is approved subject to the Conditions of Approval issued with the Original Decision.

This Decision and Order is organized as follows:

- Process
- Motion and Findings
  - o Need for Route Realignment and Alternatives
  - o Environmental Matters
  - o Land Matters

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<sup>1</sup> EB-2019-0007, Decision and Order, issued March 12, 2020

<sup>2</sup> The authority of the OEB to determine whether proposed changes will result in material changes to a project for which a leave to construct was granted and the authority to approve, without a hearing, any changes that they conclude are not material has been delegated to the Manager, Generation and Transmission Applications, under section 6 of the *Ontario Energy Board Act, 1998*.

<sup>3</sup> OEB Letter-Decision on Imperial Oil Limited Request for Changes of Project Routing (EB-2019-0007), August 19, 2020, page 9

- Safety and Emergency Response Issues
- Indigenous Consultation
- Conclusion
- Order

## 2 PROCESS

On September 2, 2020, the OEB commenced the Motion to Review proceeding by issuing a Notice and Procedural Order No. 1 (Notice and PO No. 1). The OEB directed Imperial Oil to serve the Notice and PO No. 1 on all landowners directly affected by the proposed Route Realignment, the Huron Wendat Nation and the City of Toronto.

Each of the City of Toronto and 112308 Ontario Inc. and 2394561 Ontario Inc. (Abell Properties) applied for and were granted intervenor status. Abell Properties was also granted eligibility to apply for award of costs related to its participation in this proceeding.

The OEB noted in Notice and PO No. 1 that the scope of the proceeding does not include determining financial compensation from Imperial Oil to the landowners directly impacted by the Route Realignment.<sup>4</sup>

On September 25, 2020, Imperial Oil filed additional evidence.

On October 15, 2020, Abell Properties filed a letter requesting to file evidence and describing the areas the evidence would cover. On October 16, 2020, in Procedural Order No. 2, the OEB set the schedule for Abell Properties' evidence filing, for written discovery on both Abell Properties' evidence and Imperial Oil's evidence, and for written submissions by the parties.

Abell Properties filed its evidence on October 29, 2020. Written interrogatories on Imperial Oil's evidence and Abell Properties' evidence were filed on November 9, 2020. Imperial Oil and Abell Properties filed responses to the interrogatories on November 16, 2020, and Imperial Oil filed its Argument in Chief on November 23, 2020. In accordance with the procedural schedule, OEB Staff and Abell Properties filed written submissions on November 30, 2020. On December 7, 2020, Imperial Oil filed a written reply submission to OEB Staff and intervenor submissions. This completed the record for the proceeding.

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<sup>4</sup> To the extent that the OEB approves the Route Realignment and the parties cannot agree on appropriate compensation, compensation is ultimately determined by the Local Planning Appeal Tribunal pursuant to the *Expropriations Act*.

### 3 THE MOTION AND FINDINGS

#### Need for Route Realignment and Alternatives

The OEB-approved Route, which was approved in the Original Decision, largely 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. A map of the OEB-approved Route is included in Schedule A.

The proposed Route Realignment will cross Highway 27 approximately 800 metres north of the OEB-approved Route. The length of the Route Realignment segment is approximately 1,850 metres. The length of the OEB-approved Route segment subject to the requested realignment is approximately 1,370 metres. Imperial Oil submitted that the need for the Route Realignment is due to the Ministry of Transportation (MTO) 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 and by the requirement of Hydro One Networks Inc. (HONI) to accommodate future expansion of an existing substation.

A map of the Route Realignment and alternatives that Imperial Oil assessed is attached in Schedule B.

Imperial Oil considered two alternatives to the proposed realignment:

- i) the OEB approved Route within the MTO lands, which was rejected as it is no longer feasible due to routing constraints
- ii) a route located on the east side of Highway 401, which was rejected because it results in increased impacts on residential landowners

In Imperial Oil's submission, the proposed Route Realignment results in less impact on residential landowners and avoids the MTO's and HONI's constraints.

OEB staff submitted that there is a demonstrated need for the Route Realignment and that the proposed route is the best option compared to the alternatives considered by Imperial Oil.

Abell Properties opposed approval of the Route Realignment, and argued that Imperial Oil should have considered other alternatives that would provide a more direct route that would impact fewer landowners and would mitigate potential risks. Abell Properties submitted that a route "...that would traverse the Hydro One lands should be reasonably

studied and not disregarded solely due to a request from Hydro One.”<sup>5</sup> It is Abell Properties’ position that “...Imperial Oil has failed to demonstrate that reasonable alternatives were sufficiently studied and considered”.<sup>6</sup>

The City of Toronto submitted that Imperial Oil did not provide “...sufficient information...” to support the need and the alternatives for the proposed Route Realignment.<sup>7</sup>

### ***Findings: Need for Route Realignment and Alternatives***

The need for the Route Realignment was necessitated by the MTO and HONI requirements regarding their future expansion plans. The OEB finds that the need for the Route Realignment has been demonstrated by Imperial Oil as the OEB-approved Route was no longer feasible for a portion of the pipeline.

The OEB also finds that Imperial Oil has appropriately assessed other feasible alternative routes, and that the proposed Route Realignment is appropriate in terms of minimizing the impact on landowners.

Abell Properties’ suggestion that Imperial Oil could use HONI property as an alternative was addressed by Imperial Oil in explaining that such an option would impact HONI’s existing substation and the lands needed for future expansion. The OEB considers this explanation acceptable. The OEB finds that Imperial Oil adequately considered alternative routes (including keeping the original OEB-approved Route), and that the selected route is in the public interest.

### **Environmental Matters**

Imperial Oil completed additional surveys of the Route Realignment area, including areas of permanent easement and temporary workspace on June 4, 2020. These surveys included tree inventory, wildlife habitat, vegetation, aquatic features and ecological land classification. The survey results did not identify any new potential environmental impacts except the need for removal of 28 additional trees, included in the Arborist Report and Tree Removal Plan (Arborist Report). On March 10, 2020, Imperial Oil submitted the Arborist Report to the City of Toronto departments of Urban Forestry, Tree Protection & Plan Review and Ravine and Natural Feature Protection.

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<sup>5</sup> Abell Properties, Written Submission (Argument in Chief), November 30, 2020, page 4, paragraph 14

<sup>6</sup> Abell Properties, Written Submission (Argument in Chief), November 30, 2020, page 5, paragraph 17

<sup>7</sup> The City of Toronto, Written Submission, November 30, 2020, page 1, paragraphs 1-2, and page 4, paragraph 13

The final revised version of the Arborist Report was submitted on November 6, 2020. Imperial Oil stated that the City of Toronto accepted the Arborist Report.<sup>8</sup>

The City of Toronto also raised issues related to traffic disruption during construction. On November 4, 2020, Imperial Oil provided a Traffic Accommodation Plan to the City for review.<sup>9</sup> On September 14, 2020, and October 16, 2020, Imperial Oil provided required drawings for road crossings to the City of Toronto Right-Of-Way (ROW) Management and Engineering Services.

The City of Toronto noted that Imperial Oil provided "...minimal environmental information..." which is not sufficient to support the analysis of environmental matters related to the Route Realignment<sup>10</sup>.

Regarding archaeological potential, portions of the Route Realignment will require a Stage 2 Archeological Assessment (Stage 2 AA). Imperial Oil stated that the Stage 2 AA of the 1.71 hectares of land with the archaeological potential was completed in September/October 2020. Imperial Oil will complete additional Stage 2 AA work on a 0.02 hectare area in November/December 2020.<sup>11</sup> OEB staff was satisfied that Imperial Oil has conducted and is committed to completing the necessary archeological assessments in the Route Realignment segment.

OEB staff submitted that Imperial Oil had conducted the necessary additional surveys and developed measures to mitigate the potential environmental impacts of construction and operation of the pipeline in the Route Realignment segment.

OEB staff noted that the record indicates Imperial Oil has been working collaboratively with the City of Toronto to obtain the necessary permits and to comply with the tree replacement, traffic control and other ROW management requirements.

### ***Findings: Environmental Matters***

The OEB finds that Imperial Oil's supplemental field surveys completed within the new construction footprint did not identify any new environmental impacts resulting from the Route Realignment compared to the OEB-approved route in the Original Decision.

Condition 4 in the attached Conditions of Approval (which were also the Conditions of Approval for the Original Decision) require Imperial Oil to implement all of the recommendations of its Environmental Report and to file its Environmental Protection

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<sup>8</sup> Imperial Oil's response to OEB Staff interrogatory 2 a)

<sup>9</sup> Imperial Oil's response to the City of Toronto interrogatory 9 d)

<sup>10</sup> The City of Toronto, Written Submission, November 30, 2020, page 1, paragraphs 1-2

<sup>11</sup> Imperial Oil's response to OEB Staff interrogatory 2 b)

Plan (EPP), Environmental Management Plan (EMP) and Contingency Plan documents prior to the start of construction.<sup>12</sup>

### Land Matters

The Route Realignment directly affects 23 parcels of land and 16 landowners including: i) private landowners and businesses ii) HONI iii) the City of Toronto, and iv) the Ministry of Transportation.

All of these landowners were provided with direct notice of this proceeding and the proposed change of the OEB-approved Route.

Imperial Oil has been negotiating with impacted landowners along the proposed Route Realignment since March 2020. In its Argument in Chief, Imperial Oil confirmed that it is "...continuing to work with Landowners to address their respective concerns and has proposed a variety of mitigation measures...". Examples of mitigation measures that Imperial Oil proposed to address the concerns expressed by the landowners include: realignment of pipeline easements to address future development plans, offering to work with tenants during construction to notify them of access restriction and minimizing impacts on tenants operations, and repairing damages to existing infrastructure including paving, trees, and fencing.<sup>13</sup>

Imperial Oil provided an update on the status of negotiations with the affected landowners, including the anticipated timeline of acquiring the necessary permanent and temporary easement rights from private landowners and HONI, and road crossing agreements with the City of Toronto.<sup>14</sup> Imperial Oil's anticipated timeline for acquiring the necessary permanent and temporary land rights and road crossing agreements is between November 2020 and January 2021, except for permanent easement and temporary use and access agreements with HONI, which are expected to be reached by April 2021.

Imperial Oil has notified the OEB that construction of the Project will start on December 1, 2020, at the west end of the route in the City of Hamilton and the City of Burlington.<sup>15</sup> The Project is scheduled for completion by early 2022. Construction of the Realignment

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<sup>12</sup> On December 7, 2020 Imperial Oil notified the OEB per condition of approval 4, that it completed three of the plans (Health and Safety Plan, Communication Plan and Inadvertent Returns during HDD Contingency Plan). Other plans, including EPP and EMP are expected to follow.

<sup>13</sup> Imperial Oil's response to OEB Staff interrogatory 3, Table OEB-3: Landowner Concerns and Mitigations

<sup>14</sup> Imperial Oil's response to OEB Staff interrogatory 4, Table OEB-4 Affected Landowners and Agreement Status

<sup>15</sup> Imperial Oil Letter to the OEB, dated November 20, 2020

segment, subject to OEB approval, is expected to start in late spring 2021 with completion by year end 2021.<sup>16</sup>

Imperial Oil confirmed that it has offered the affected landowners agreements in a form approved by the OEB in the Original Decision.

Abell Properties raised the issue of access to its property and disruptions to its tenant-Gardex Chemicals Ltd. (Gardex)'s operations during construction, inspection and maintenance of the pipeline. Imperial Oil confirmed that during the operation of the pipeline it will work with the landowners and tenants to give advance notice and accommodate landowners access to their property and operations, and to minimize and mitigate disruptions during maintenance and inspection of Imperial Oil's facilities.<sup>17</sup>

OEB staff noted that Imperial Oil has been actively negotiating with the affected landowners in an effort to obtain the necessary permanent and temporary land rights and road crossing permits.

### ***Findings: Land Matters***

The OEB finds that Imperial Oil has adequately consulted with, and accommodated, affected landowners (16 landowners; 5 of whom were not impacted by the original alignment). This included proposing a variety of mitigation measures and offering the forms of easement agreements approved by the OEB in the Original Decision. Imperial Oil has committed to continue to work with landowners to minimize impacts and to mitigate any additional concerns that may arise during the Project.

### **Safety and Emergency Response Issues**

Abell Properties raised issues of managing the risks related to the hazardous chemical storage by Gardex and of the appropriateness of Imperial Oil's fire safety plans for these lands and operations. In its evidence, Abell Properties included various documentation of the relevant garden/pesticide industry fire suppression methods, policies, and protocols from the City of Mississauga Fire Services, the Ministry of Environment and Climate Change, the Ontario Ministry of Labour (Ministry of Labour), as well as documentation related to environmental risks, hazards and fire suppression approaches.<sup>18</sup>

One of the main concerns of Abell Properties was a risk associated with the location of a valve and above ground infrastructure on the property. As a result of negotiating and

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<sup>16</sup> Imperial Oil's response to OEB Staff interrogatory 1

<sup>17</sup> Imperial Oil's response to Abell Properties interrogatory 4 a)

<sup>18</sup> Letter by Aird Berlis, on behalf of Abell Properties, dated October 15, 2020

communicating with Abell Properties, Imperial Oil has agreed to relocate the valve outside of the property to an adjacent property. Imperial Oil confirmed this in response to Abell Properties' interrogatories and in its Argument in Chief<sup>19</sup>.

Abell Properties raised the issue of "unique safety risks...associated with additional pipeline infrastructure..." on its property. Abell Properties indicated that specialized fire safety plans and emergency response plans need to be in place because of the storage, processing and chemical management activities by Gardex. Abell Properties' evidence noted that the fire safety plans were to be completed in accordance with provincial and national requirements and standards.

Abell Properties' evidence<sup>20</sup> and interrogatories, and the City of Toronto's interrogatories<sup>21</sup>, requested that Imperial Oil develop and make available to them appropriate plans and put protocols in place to manage safety risks associated with fire and spills in adherence with applicable legal and regulatory standards<sup>22</sup>. These plans include specific fire safety plans and response plans for fire and spill emergencies that may arise during construction and operation of the pipeline.

In responding to these issues, Imperial Oil indicated that it filed its *Specific Contingency Plan: Pipeline Fire Document* on the record in the original leave to construct proceeding<sup>23</sup>.

In its Argument in Chief, Imperial Oil confirmed that in the event of fire, it will implement a "Disciplined Approach (ERP-04-04)" in consultation with its fire marshals and municipal fire departments.<sup>24</sup> Imperial Oil maintained that "...the Project pipeline has been designed in compliance with TSSA requirements and the Canadian Standards Association's *Oil and Gas Pipeline Systems Code Z662-15*, which establishes the safety aspects of pipeline design, including minimum depth of cover requirements."<sup>25</sup>

The City of Toronto and Abell Properties raised concerns of appropriate emergency response plans for emergency action if required. In addressing this concern, Imperial Oil pointed to its *Operational Emergency Response Plan (ERP)*, which was on the

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<sup>19</sup> Imperial Oil's response to Abell Properties interrogatory 2 b), Imperial Oil Argument in Chief, page 4, paragraph 17

<sup>20</sup> Abell Properties Evidence, October 29, 2020, page 2, paragraphs 7-8

<sup>21</sup> City of Toronto interrogatory 9 c), d)

<sup>22</sup> Abell Properties Evidence, October 29, 2020, page 2, paragraphs 7-8

<sup>23</sup> EB-2019-0007 Imperial's Response to Information Requests, Appendix 2, August 2019

<sup>24</sup> Imperial Oil Argument in Chief, November 23, 2020, page 4 paragraph 18

<sup>25</sup> Imperial Oil Argument in Chief, November 23, 2020, page 5, paragraph referring to Imperial Oil's response to Abell Properties interrogatory 3 a-c

record in the original leave to construct proceeding<sup>26</sup>. Imperial Oil indicated that its "...ERP allows for response to a variety of scenarios, including the risk of fire in this area. Given the above and the fact that the proposed pipeline will be located a minimum of 1.2 metres below ground... Imperial's ERP will account for the route realignment."<sup>27</sup>

Imperial Oil stated that it has been actively and continuously working with the City of Toronto to respond to information requests and to adhere to various municipal requirements. Imperial Oil provided its *Construction Spill Prevention and Response Plan* to the City of Toronto upon request on November 4, 2020.<sup>28</sup> On November 6, 2020, Imperial Oil received comments from the City of Toronto regarding potential conflicts with the City's infrastructure.<sup>29</sup>

On November 25, 2020, Imperial Oil filed with the OEB an update to the chronology of the communication with the affected stakeholders stating that additional information was submitted to the City of Toronto on November 9, 2020, and that communication with Abell Properties was ongoing as of November 12, 2020.<sup>30</sup>

The City of Toronto requested that, if the Motion is granted, the OEB attach Conditions of Approval requiring Imperial Oil to indemnify it from expenses and damages related to the Route Realignment.<sup>31</sup>

### ***Findings: Safety and Emergency Response Issues***

The OEB finds that Imperial Oil has adequately addressed concerns raised by Abell Properties and the City of Toronto, as summarized below:

- Accommodating Abell Properties request to relocate a valve off the subject properties
- Working with the TSSA and other entities to ensure that all applicable safety and technical standards are met
- Requesting additional information from Abell Properties to understand if there are additional concerns, and requesting to meet with Abell Properties and its tenants to determine appropriate mitigation measures, discuss the agreements, the construction process, and any potential questions

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<sup>26</sup> EB-2019-0007 Imperial's Response to Information Requests, Appendix 4, August 2019

<sup>27</sup> Imperial Oil's response to the City of Toronto interrogatory 9 a)

<sup>28</sup> Imperial Oil's response to the City of Toronto interrogatory 7

<sup>29</sup> Imperial Oil's response to the City of Toronto interrogatory 7

<sup>30</sup> Imperial Oil's response to OEB Staff interrogatories Appendix 1: Updated Chronology of the Communication Regarding Route Realignment

<sup>31</sup> City of Toronto Submission, November 30, 2020, page 7, paragraph 27

- Committing to following its *Specific Contingency Plan: Fire – Pipeline*, filed in the original application, in the event of fire which includes the implementation of a “Disciplined Approach” in consultation with Imperial Oil fire marshals and the applicable municipal fire departments

Regarding the requirement to work with the TSSA and other entities, the OEB notes that one of the Conditions of Approval in the Original Decision as well as in this Decision and Order, requires Imperial Oil to obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project. These would include approvals from the TSSA and other regulatory and technical authorities, including local fire authorities as required.

Abell Properties suggested adding a number of conditions of approval to deal with its concerns. The OEB agrees with Imperial Oil that these proposed conditions deal with matters related to land use and access which are typically negotiated between the proponent and the affected landowner. While the OEB approves the “forms of agreement” pursuant to section 97 of the OEB Act, many of the site specific details of these agreements are left to be determined between the proponent and the landowners. The OEB stated in its leave to construct Brantford-Kirkwall Parkway D Project Decision that its approval of a form of easement agreement “...provides a baseline for the initial offer of an easement agreement to a landowner” and that the substance is subject to negotiations between company and a landowner.<sup>32</sup> The form of agreement for this proceeding was approved by the OEB in the Original Decision, and the OEB does not see a need to require any additional forms of agreement for the Route Realignment.

The issue of requiring financial indemnity guarantees from Imperial Oil as a condition of approval has already been addressed in the Original Decision<sup>33</sup>.

### **Indigenous Consultation**

On June 25, 2020, Imperial Oil notified all of the Indigenous communities identified by the Ministry of Energy, Northern Development and Mines (MENDM) as potentially affected by the Project of the proposed Route Realignment.<sup>34</sup> No comments were received from any Indigenous group. Imperial Oil has committed to continue to consult with potentially affected Indigenous groups.

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<sup>32</sup> EB-2013-0074, January 30, 2014, page 33

<sup>33</sup> EB-2019-0007, page 30

<sup>34</sup> Imperial Oil Argument in Chief, November 23, 2020, page 8, paragraph 34

***Findings: Indigenous Consultation***

The OEB finds that Imperial Oil's consultation with the identified Indigenous communities regarding the Route Realignment has been adequate. No issues were raised by these communities with respect to the Route Realignment and Imperial Oil is expected to maintain its communication with these communities throughout the life of the Project.

## 4 CONCLUSION

The OEB grants the Motion to Review and Vary the Original Decision. The OEB finds that the Route Realignment proposed by Imperial Oil is in the public interest and approves it subject to the same Conditions of Approval that were attached to the Original Decision. The OEB believes these Conditions of Approval are comprehensive and that no new conditions are required for the Route Realignment. These Conditions of Approval are attached to this Decision and Order for reference as Schedule C.

The OEB notes that this Decision and Order only deals with changes associated with the proposed Route Realignment and does not revisit or otherwise amend other issues already decided in the Original Decision.

## 5 ORDER

### THE OEB ORDERS THAT:

1. The Motion to Review and Vary OEB Decision and Order EB-2019-0007 is granted. The Route Realignment depicted as a “Preferred Route” in the Schedule B to this Decision and Order is approved, subject to Conditions of Approval in Schedule C. All other elements of the Decision and Order in EB-209-0007 remain in effect.
2. Abell Properties shall file with the OEB and forward to Imperial Oil Limited their intervenor cost claim in accordance with the OEB’s *Practice Direction on Cost Awards* on or before **January 4, 2021**.
3. Imperial Oil Limited shall file with the OEB and forward to Abell Properties any objections to the costs claimed by Abell Properties on or before **January 18, 2021**.
4. If Imperial Oil Limited objects to any Abell Properties intervenor costs, Abell Properties shall file with the OEB and forward to Imperial Oil Limited their response, if any, to the objections to cost claims on or before **February 2, 2021**.
5. Imperial Oil Limited shall pay the OEB’s costs incidental to this proceeding upon receipt of the OEB’s invoice.

All materials filed with the OEB must quote the file number, **EB-2020-0219** and be submitted in a searchable/unrestricted PDF format with a digital signature through the OEB’s web portal at <https://pes.ontarioenergyboard.ca/eservice>. Filings must clearly state the sender’s name, postal address, telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at [www.oeb.ca/industry](http://www.oeb.ca/industry). We encourage the use of RESS; however, parties who have not yet [set up an account](#), may email their documents to [registrar@oeb.ca](mailto:registrar@oeb.ca).

All communications should be directed to the attention of the Registrar and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Zora Crnojacki at [Zora.Crnojacki@oeb.ca](mailto:Zora.Crnojacki@oeb.ca) and Board Counsel, Michael Millar at [Michael.Millar@oeb.ca](mailto:Michael.Millar@oeb.ca).

Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)

Tel: 1-888-632-6273 (Toll free)

Fax: 416-440-7656

**DATED** at Toronto, **December 17, 2020**

**ONTARIO ENERGY BOARD**

*Original Signed By*

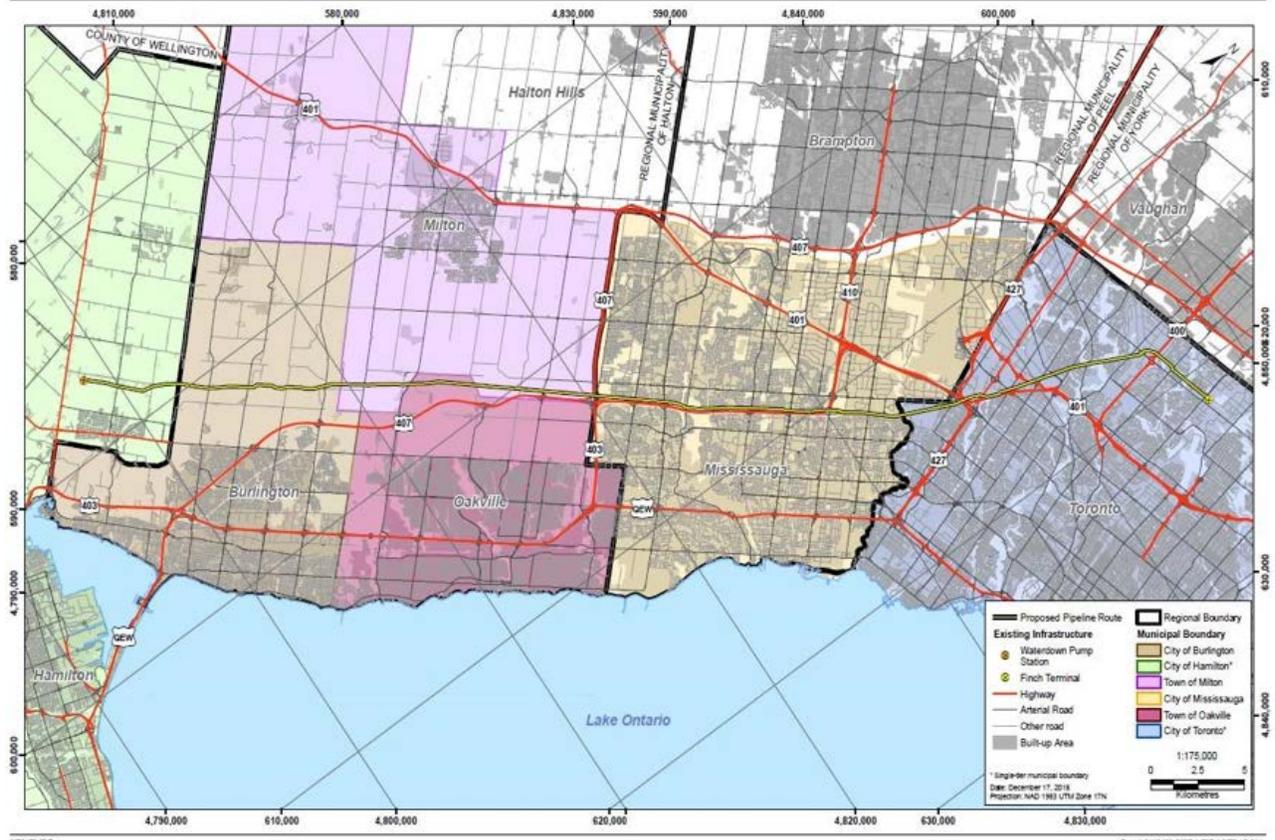
Christine E. Long  
Registrar

**SCHEDULE A**  
**DECISION ON MOTION**  
**IMPERIAL OIL LIMITED**

**EB-2020-0219**

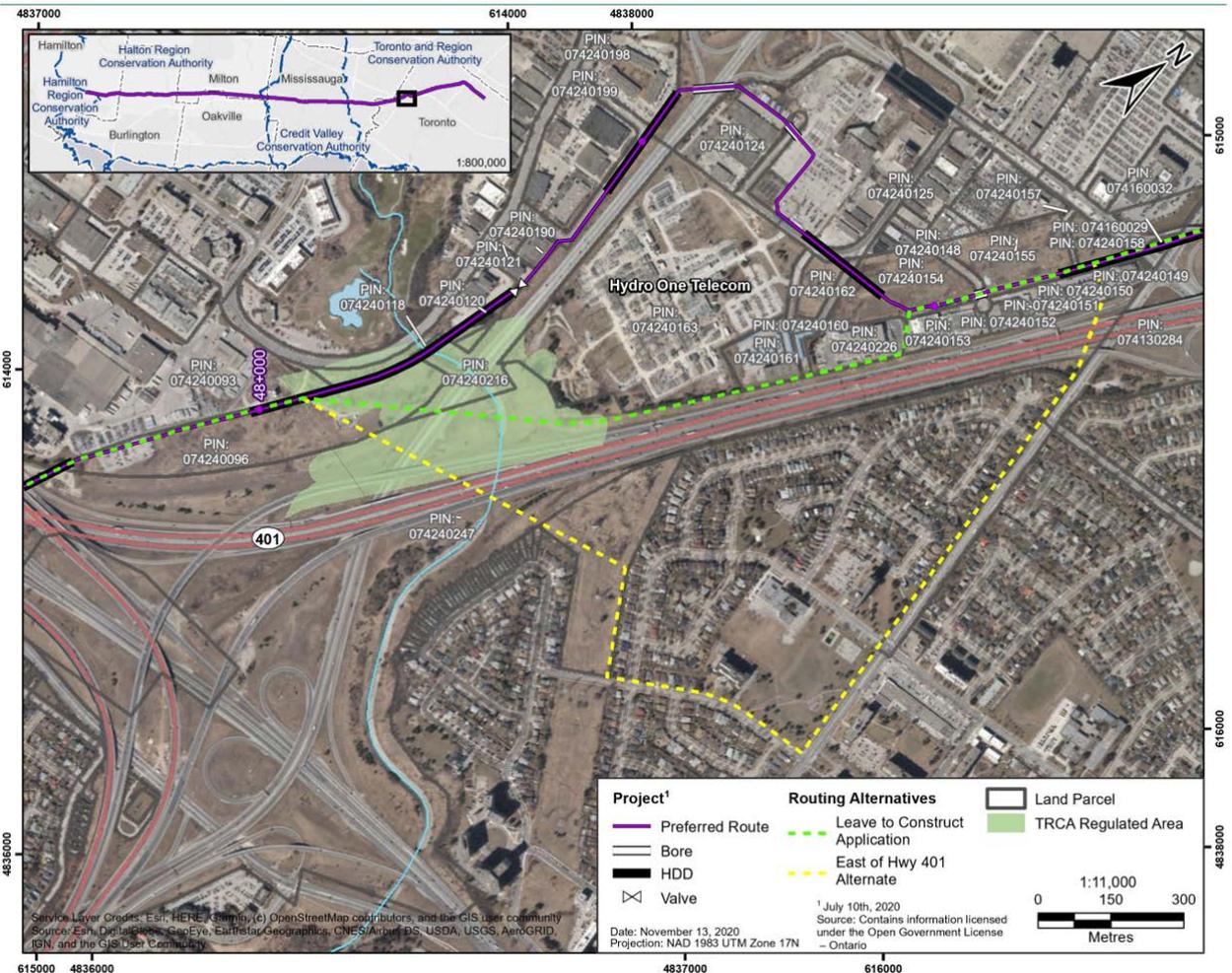
**Waterdown to Finch Project Route**  
**as approved in EB-2019-0007**

Figure 2.2-1  
Waterdown to Finch Project Overview



**SCHEDULE B**  
**DECISION ON MOTION**  
**IMPERIAL OIL LIMITED**  
**EB-2020-0219**

**Approved Route Realignment and Alternatives**



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**SCHEDULE C**  
**DECISION ON MOTION**  
**IMPERIAL OIL LIMITED**  
**EB-2020-0219**  
**Conditions of Approval**

**CONDITIONS OF APPROVAL**

**Application under Section 90 of the OEB Act**

**Imperial Oil Limited**

**EB-2019-0007**

1. Imperial Oil Limited. (Imperial Oil) shall construct the facilities in accordance with the OEB's Decision and Order in EB- 2019-0007 and these Conditions of Approval.
2. Imperial Oil shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project.
3. Imperial Oil shall implement all the recommendations of the Environmental Report filed in the proceeding, and implement all commitments made in response the Ontario Pipeline Coordinating Committee member review.
4. Imperial Oil shall notify the OEB and all parties in this proceeding, prior to the start of construction, of completion of each of Environmental Protection Plan (EPP) Environmental Management Plan (EMP), and Contingency Plan documents and make a copy of the documents available to a party upon their request.
5. (a) Authorization for leave to construct shall terminate 24 months after the decision is issued, unless construction has commenced prior to that date.  
  
(b) Imperial Oil shall give the OEB notice in writing:
  - i. of the commencement of construction, at least ten days prior to the date construction commences
  - ii. of the planned in-service date, at least ten days prior to the date the facilities go into service
  - iii. of the date on which construction was completed, no later than 10 days following the completion of construction
  - iv. of the in-service date, no later than 10 days after the facilities go into service
6. Imperial Oil shall advise the OEB of any proposed-change to the OEB approved construction or restoration procedures. Except in an emergency, Imperial 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.

7. Both during and after construction, Imperial Oil shall monitor the impacts of construction, and shall file with the OEB one paper copy and one electronic (searchable PDF) version of each of the following reports:
- a) a post construction report, within three months of the in-service date, which shall:
    - i. Provide a certification, by a senior executive of the company, of Imperial Oil's adherence to Condition 1
    - ii. Describe any impacts and outstanding concerns identified during construction
    - iii. Describe the actions taken or planned to be taken to prevent or mitigate any identified impacts of construction
    - iv. Include a log of all complaints received by Imperial Oil, including the date/time a complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions
    - v. Provide a certification, by a senior executive of the company, that the company has obtained all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project
  - b) a final monitoring report, no later than fifteen months after the in-service date, or, where the deadline falls between December 1 and May 31, the following June 1, which shall:
    - i. Provide a certification, by a senior executive of the company, of Imperial Oil's adherence to Condition 3
    - ii. Describe the condition of any rehabilitated land
    - iii. Describe the effectiveness of any actions taken to prevent or mitigate any identified impacts of construction

- iv. Include the results of analyses and monitoring programs and any recommendations arising therefrom
  - v. Include a log of all complaints received by Imperial Oil, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions
- 8 Imperial Oil shall designate one of its employees as project manager who will be responsible for the fulfillment of these conditions, and shall provide the employee's name and contact information to the OEB and to all the appropriate stakeholders, and shall clearly post the project manager's contact information in a prominent place at the construction site.

The OEB's designated representative for the purpose of these Conditions of Approval shall be the OEB's Manager of Natural Gas Applications (or the Manager of any OEB successor department that oversees leave to construct applications).