



Ontario
Energy
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de l'Ontario

BY E-MAIL

September 2, 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
Ontario Energy Board File Number: EB-2020-0219
Motion to Review and Vary Decision**

NOTICE OF HEARING A MOTION AND PROCEDURAL ORDER NO. 1

Imperial Oil Limited (Imperial Oil) is seeking permission from the OEB to make an adjustment to the route of a petroleum products pipeline. If approved, this route adjustment will impact several properties and landowners that were not on the original route of the pipeline, which was approved by the OEB in a decision dated March 12, 2020.¹

This document combines the notice for this proceeding and a description of the procedural steps which follow. **If you have received this notice, your property or land rights may be impacted by this proceeding.** The notice includes the instructions for those who wish to participate in the OEB's process.

Background

Imperial Oil applied under section 90(1) of the *Ontario Energy Board Act, 1998* (OEB Act) for leave to construct 63 kilometers of 12-inch diameter pipeline for transportation

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

of refined petroleum products from its facility in the City of Hamilton to its facility in the City of Toronto (Project). After conducting a public hearing (Leave to Construct Hearing) the OEB determined that the Project was in the public interest and granted leave to construct for the Project in a decision dated March 12, 2020 (Decision).

The OEB's Decision approved the Project's route as described in Imperial Oil's application (OEB-approved Route). The OEB-approved Route closely follows the route of an existing Imperial Oil pipeline (which the Project is intended to replace), 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 also approved the forms of easement agreements related to the construction of the Project.

The original application for leave to construct stated that the proposed (and later approved) pipeline route was the only reasonable 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.² All landowners that were on the proposed route were given direct notice of the Leave to Construct Hearing, and were granted intervenor status in the proceeding if they requested it.

The OEB's approval of the Project was subject to conditions which, among other things, required that the Project be constructed in accordance with the Decision. The OEB also included in its approval a condition which required 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.

On June 30, 2020 Imperial Oil, in accordance with the OEB's conditions of approval, filed a request for an approval of three changes to the OEB-approved Route (Request for Changes). The review of the Request for Changes was undertaken by an OEB staff member delegated by the OEB to make these determinations (Delegated Authority, or

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.

DA)³. On August 19, 2020 the DA found that two of the proposed changes were not material and approved those two changes. A third change to the OEB-approved Route was found by the DA to be a material change and was not approved (Route Realignment). Based on the review of the information Imperial Oil provided in the Request for Changes, the DA was not satisfied that the Route Realignment was immaterial and stated that the OEB would treat this change request as a Motion to Review and Vary the original Decision (Imperial Oil's Motion).⁴ The OEB assigned File No. EB-2020-0219 to Imperial Oil's Motion.

The proposed Route Realignment is a crossing realignment of the OEB-approved Route at Highway 401/Highway 27 in the City of Toronto. The need for the realignment is due to the Ministry of Transportation's request to move Imperial Oil's pipeline outside of the Ministry of Transportation's right of way to allow for future expansions of Highway 401. The proposed crossing of Highway 27 is approximately 800 meters north of the OEB-approved Route. The length of the proposed Route Realignment is approximately 1,850 metres. The length of the OEB-approved Route alignment is approximately 1,370 metres. A map of the proposed Route Realignment is attached as Schedule "A" to this Notice of Hearing of a Motion and Procedural Order No. 1 (Notice and PO No. 1)

The Route Realignment directly affects 23 parcels of land owned by 14 landowners. These include six new properties, owned by five different landowners (Newly Affected Landowners), which were not directly impacted by the OEB-approved Route. Because the Newly Affected Landowners were not part of the OEB-approved Route, they did not receive notice of the original leave to construct application and did not have the opportunity to participate in the Leave to Construct Hearing.

Purpose of the Notice and Procedural Order No. 1

This Notice and PO No. 1 directs Imperial Oil to serve this Notice and PO No. 1 on the 14 directly affected landowners, Huron Wendat Nation (HWN)⁵, and the City of Toronto

³ 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 any changes that they concluded are not material has been delegated to a Manager, Generation and Transmission Applications, under section 6 of the *Ontario Energy Board Act, 1998*.

⁴ OEB Letter-Decision on Imperial Oil Limited Request for Changes of Project Routing (EB-2019-0007), August 19, 2020, page 9.

⁵ HWN was the only Indigenous Group who actively participated as an intervenor in the Leave to Construct Hearing.

where the realignment is located.

This Notice and PO No. 1 gives an opportunity for Imperial Oil to update the materials that it has filed as part of its Request for Changes and file additional evidence. This Notice and PO No. 1 asks directly affected parties who will be served the Notice to indicate if they wish to ask Imperial Oil questions related to the Route Realignment, if they wish to make a submission, or both.

Scope of the Motion Hearing

Although the OEB has already granted leave to construct for the Project, the purpose of the current proceeding is to consider whether Imperial Oil's proposed Route Realignment is in the public interest. The scope of this proceeding may include:

- The need for the Route Realignment and alternatives to the proposal
- Environmental matters related to the Route Realignment
- Land related matters related to the Route Realignment
- Indigenous consultation matters related to the Route Realignment

The scope of the proceeding does not include determining the financial compensation by Imperial Oil to the landowners directly impacted by the Route Realignment⁶.

To access Imperial Oil's Motion and evidence, please select the file number **EB-2020-0219** from the list on the OEB website: www.oeb.ca/notice. You can also phone our Consumer Relations Centre at 1-877-632-2727 with any questions.

Service of Notice and Procedural Order No. 1

This letter serves as notice that the OEB is holding a hearing to consider Imperial Oil's Motion for a Route Realignment.

1. Imperial Oil is directed to immediately serve this document in its exact form on:
 - i) landowners directly affected by the Route Realignment
 - ii) Huron Wendat Nation
 - iii) the City of Toronto.

⁶ 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*.

A list of landowners to be served the Notice and PO No. 1 is attached as Schedule "B".

2. Imperial Oil is further directed:
 - i) To complete service by **September 11, 2020** and to file with the OEB an affidavit confirming service, immediately thereafter.
 - ii) To post this Notice and PO No.1 and all evidence related to this motion in a prominent place on its website and to make copies available at its offices in the City of Toronto by **September 11, 2020**.

Requests for intervenor status and cost eligibility

Any party that wishes to participate as an intervenor in this proceeding should apply for intervenor status by **September 25, 2020** with reasons for their request. For information on how to apply for intervenor status, please refer to the *OEB's Rules of Practice and Procedure* and the *OEB's Practice Direction on Cost Awards*.

Written or Oral Hearing

Further, the OEB will determine at a later date whether to proceed by way of a written or oral hearing. If you think an oral hearing is needed, you can write to the OEB to explain why by **September 18, 2020**.

The OEB is making provision for the following procedural steps in the order below.

IT IS THEREFORE ORDERED THAT:

1. Any additional evidence of Imperial Oil relevant to this proceeding shall be filed with the OEB and served on all parties who were served the Notice and PO No. 1 by **September 18, 2020**.
2. Any party who was served the Notice and PO No. 1 shall indicate to the OEB its intention to participate in this proceeding with reasons for their request by **September 25, 2020**. For information on how to apply for intervenor status, please refer to the *OEB's Rules of Practice and Procedure* and the *OEB's Practice Direction on Cost Awards*. The OEB would be assisted if participating parties could indicate no later than if they would like to ask Imperial Oil written questions about the proposed Route Realignment, if they would like to make a submission, or both.

Further Procedural Orders will follow.

All filings to 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 and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.ca/industry. If the web portal is not available parties may email their documents to boardsec@oeb.ca.

All communications should be directed to the attention of the Registrar at the address below, 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 Zora Crnojacki at Zora.Crnjacki@oeb.ca and OEB Counsel, Michael Millar at Michael.Millar@oeb.ca.

Email: boardsec@oeb.ca

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

Fax: 416-440-7656

DATED at Toronto, **September 2, 2020**

ONTARIO ENERGY BOARD

Original signed by

Christine E. Long
Registrar and Board Secretary

c: Patrick G. Welsh, Counsel for Imperial Oil Limited, Osler, Hoskin & Harcourt LLP
All participants in the EB-2019-0007 proceeding

Schedule "A"
Notice of Hearing a Motion
And
Procedural Order No. 1
EB-2020-0219
September 2, 2020

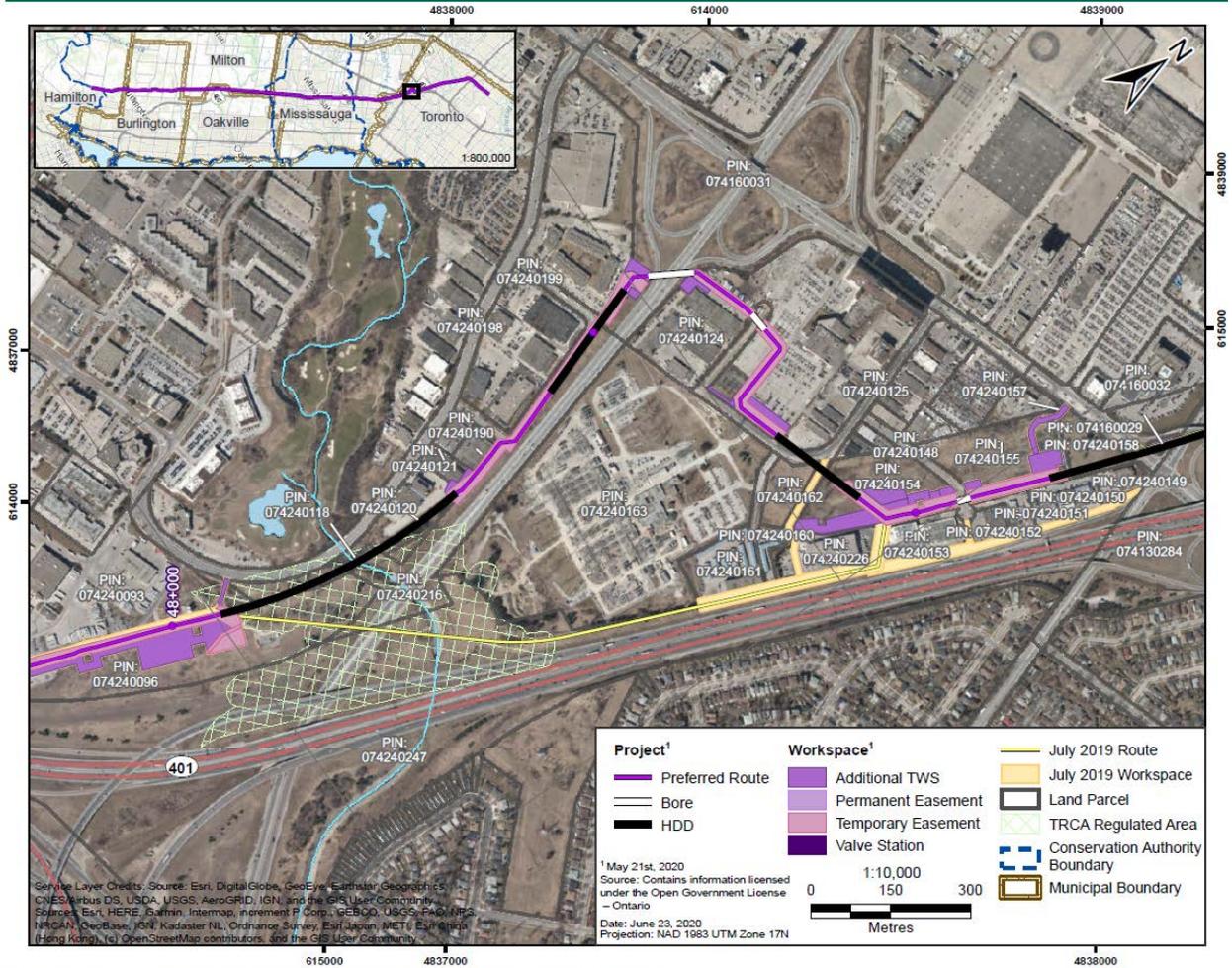


Figure 2: Highway 401/Highway 27 Crossing Realignment

Schedule "B"
Notice of Hearing a Motion
And
Procedural Order No. 1
EB-2020-0219
September 2, 2020

PIN	Parcel ID	Landowner
074240247	WTFN4054	MINISTRY OF TRANSPORTATION
074240190	WTFN4077	1112308 ONTARIO INC.
074240195	WTFN4082	1350739 ONTARIO LIMITED
074240121	WTFN4076	2394561 ONTARIO INC.
074240124	WTFN4085	71-91 KELFIELD STREET INC.
074240120	WTFN4072	APOSTOLIC CATHOLIC ASSYRIAN CHURCH OF THE EAST
074240216	WTFN4074	CITY OF TORONTO
074240199	WTFN4078	CITY OF TORONTO
074160031	WTFN4083	CITY OF TORONTO
074240163	WTFN4084	HYDRO ONE NETWORKS INC./INFRASTRUCTURE ONTARIO
074240125	WTFN4086	CITY OF TORONTO
074240161	WTFN4087	COWIE CAPITAL PARTNERS INC.
074240160	WTFN4089	COWIE CAPITAL PARTNERS INC.
074240226	WTFN4090	BURNAC CORPORATION
074240153	WTFN4092	401 AND DIXON PROPERTIES INC.
074240096	WTFN4071	HYDRO ONE NETWORKS INC./INFRASTRUCTURE ONTARIO
074240162	WTFN4088	HYDRO ONE NETWORKS INC./INFRASTRUCTURE ONTARIO
074240154	WTFN4091	HYDRO ONE NETWORKS INC./INFRASTRUCTURE ONTARIO
074240151	WTFN4094	878617 ONTARIO LTD.
074240123	WTFN4118	HYDRO ONE NETWORKS INC./INFRASTRUCTURE ONTARIO
074240134	WTFN4117	KSD ENTERPRISES LTD.
074240133	WTFN4119	KSD ENTERPRISES LTD.
074240152	WTFN5533	565991 ONTARIO LIMITED