

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, as amended (the “Act”);

AND IN THE MATTER OF an application by Imperial Oil Limited, pursuant to section 90(1) of the Act, for an order granting Leave to Construct a hydrocarbon distribution pipeline and ancillary facilities to serve the Greater Toronto and Hamilton Area.

EB-2019-0007

**INTERROGATORIES FROM
THE HURON-WENDAT NATION**

July 15, 2019

Question: HWN-1

Reference: Exhibit D, Tab 1, Schedule 1

Preamble: The Ontario Energy Board's *Environmental Guidelines for the Location, Construction, and Operation of Hydrocarbon Pipelines and Facilities in Ontario* ("OEB Environmental Guidelines") requires proponents to evaluate alternative pipeline routes and to assess the impacts of each alternative route, including impacts on the social and cultural components of the environment.

The OEB Environmental Guidelines provide that assessment of the impact of a proposed project on cultural heritage resources should inform decisions in the pipeline development planning stage, and requires that proponents demonstrate due diligence by protecting cultural heritage resources by appropriate conservation, avoidance and mitigation.

- a) Please provide all evidence that Imperial Oil Ltd. ("Imperial") and/or its consultant(s) considered and developed assessments of alternative routes, including, but not limited to:
 - i. evaluating impacts on the Huron-Wendat Nation's inherent and treaty-based right to the integrity of its archaeological and burial sites;
 - ii. evaluating impacts on the important Huron-Wendat Nation archaeological site known as the Parsons Site (AkGv-8) (the "Parsons Site"), specifically;
 - iii. assessing impacts of route evaluation and selection, construction, and operation on cultural heritage features, including the Parsons Site; and
 - iv. assessing appropriate avoidance and mitigation of impacts to archaeological sites, including the Parsons Site.
- b) Please provide any such reports, evaluations and assessments.

Question: HWN-2

Reference: Exhibit D, Tab 1, Schedule 2
Exhibit E, Tab 1, Schedule 2
Environmental Report at 5.4.7, page 5-32

Preamble: Imperial's Environmental Report, which is a component of the Leave to Construct Application, states that Imperial will endeavour to avoid known archaeological sites to the greatest extent possible through routing evaluation and maintenance of appropriate buffers; that trenchless installation methods will be used to mitigate impacts to known archaeological sites, (e.g. the Parsons Site); and where mitigation measures are not achievable, will undertake Stage 3 and potentially Stage 4 Archaeological Assessments prior to construction.

- a) Please provide Imperial and/or its consultants' research, evaluations, assessments and reports regarding:
 - i. the Parsons Site's location, depth, width, and length, including any research, evaluations, assessments and reports regarding uncertainty on any of these items;
 - ii. the expanse or length for which Imperial intends to use trenchless installation in the vicinity of the Parsons Site, and how Imperial determined the appropriate expanse or length;
 - iii. potential impacts of trenchless installation on the Parsons Site, including the potential impacts of associated vibration and soil disturbance; and
 - iv. the feasibility of the trenchless installation method for the area of the Parsons Site, including any and all engineering reports.
- b) Please provide Imperial and/or its consultants' research, evaluations, assessments and reports regarding what constitutes an appropriate buffer area for archaeological sites, including for the Parsons Site.
- c) Please outline what Imperial intends to use as an appropriate buffer area for archaeological sites, including for the Parsons Site, and its rationale for this determination.
- d) Please outline how Imperial will determine whether it is necessary to conduct Stage 3 and/or Stage 4 Archaeological Assessments, including how Imperial will assess mitigation and avoidance opportunities such as routing changes, including Imperial's plans for engagement, consultation and accommodation of affected First Nation(s).
- e) Please outline Imperial's plans for conducting Stage 3 and/or Stage 4 Archaeological Assessments in the event that such assessments are necessary, including details on:

- i. involvement of First Nation monitors;
- ii. how Imperial will use the information gathered through the participation of First Nation monitors;
- iii. how Imperial will provide up-to-date information, including information gathered through the participation of First Nation monitors, to the participating First Nation(s);
- iv. how Imperial will involve First Nation(s) in reviewing and commenting on the Stage 3 and/or Stage 4 Archaeological Assessment reports;
- v. how Imperial will advise First Nation(s) of any responses from the Ministry of Tourism, Culture and Sport (“MTCS”) on the Archaeological Assessment reports filed with it;
- vi. how Imperial will ensure that any artifacts recovered in the course of Stage 3 and/or Stage 4 Archaeological Assessment work are appropriately stored and/or returned to the affected First Nation, where applicable; and
- vii. how Imperial will ensure that First Nation(s) have the opportunity and capacity funding to complete any ceremonies necessary due to the Stage 3 and/or Stage 4 Archaeological Assessment work.

Question: HWN-3

Reference: Exhibit E, Tab 1, Schedule 6
Exhibit D, Tab 1, Schedule 4

Preamble: Imperial plans to commence construction in the fourth quarter of 2019. Stage 2 Archaeological Assessment work is currently ongoing.

- a) Please outline how affected First Nation(s) will be involved in reviewing and commenting on the Stage 2 Archaeological Assessment report.
- b) Please provide the date by which Imperial will file the results of the Stage 2 Archaeological Assessment and indicate whether and when Imperial expects to receive comments from MTCS with regard to this Assessment.
- c) If archaeological sites are identified through the Stage 2 Archaeological Assessment, please identify what steps Imperial will take to ensure that appropriate avoidance or mitigation measures are taken to protect the sites, including what steps Imperial will undertake with respect to consultation and accommodation of First Nation(s).
- d) If such avoidance or mitigation measures will impact the project schedule, please identify how Imperial will adapt its schedule to ensure that the appropriate avoidance and/or mitigation measures are undertaken.

Question: HWN-4

Reference: Exhibit G, Tab 1, Schedule 1

Preamble: Imperial's Guiding Principles include that "in areas where Imperial operates, Indigenous communities are engaged through consultation, employment and business development and educational program investments."

- a) Please outline the employment, business development and educational program investment activities Imperial will undertake with the Huron-Wendat Nation.

Question: HWN-5

Reference: Exhibit G, Tab 1, Schedule 1
Exhibit H, Tab 2, Schedule 5

Preamble: Imperial’s Guiding Principles include that “Imperial endeavours to understand Indigenous perspectives on issues of mutual interest, to deal constructively with differing viewpoints and to engage Indigenous communities and their representatives in open and forthright consultation. Imperial maintains an open and ongoing dialogue about the Project with Indigenous leaders, community members and their designated representatives by: respecting traditional practices, decision-making processes...[and] cultural activities...”

- a) Please outline Imperial’s understanding of the Huron-Wendat Nation’s traditional practices with respect to the protection of archaeological and burial sites, such as the Parsons Site.

Question: HWN-6

Reference: Exhibit G, Tab 1, Schedule 1

Preamble: Imperial states that as new information arises throughout the consultation process, Imperial will consider the information received and incorporate changes into project design, as appropriate.

Imperial is aware that the Parsons Site has recently been disturbed by the Project work being undertaken.

- a) Please provide all evidence that Imperial and/or its consultant(s) has considered and developed assessments of project design changes, including alternate routing options, in response to the recent disturbance to the Parsons Site.
- b) Please provide all research, evaluations, assessments and reports regarding possible project design changes, including alternate routing options, relating to this event.
- c) Please provide any and all correspondence between MTCS and Imperial regarding the disruption of the Parsons Site.

Question: HWN-7

Reference: Exhibit D, Tab 1, Schedule 2
Environmental Report at 7, p. 7-4

Preamble: Imperial states in its Environmental Report that a “Chance Find” Archaeological Resources Contingency Plan will be implemented if unknown archaeological resources are discovered during construction.

- a) Please provide any drafts of this plan that Imperial has created to date, and/or, if Imperial intends to base this plan on an existing plan for another project, please provide copies of said plan.
- b) Please outline the steps that Imperial will take with respect to consultation and accommodation of First Nation(s) in the development and implementation of the “Chance Find” Archaeological Resources Contingency Plan.
- c) Please outline the training that Imperial intends to provide its construction crews in order to ensure that personnel on site can identify artifacts, such that the “Chance Find” Archaeological Resources Contingency Plan protocols will be initiated.
- d) Please outline the steps Imperial will take in the event that artifacts are uncovered during construction, including the steps that Imperial will take with respect to:
 - i. temporary and permanent storage of artifacts;
 - ii. return of artifacts to affected First Nation(s); and
 - iii. provision of the opportunity and capacity funding to First Nation(s) to perform any necessary ceremonies at the site.

Question: HWN-8

Reference: Exhibit D, Tab 1, Schedule 4

Preamble: Stage 2 Archaeological Assessment work is currently underway. The *Standards and Guidelines for Consultant Archaeologists* (MTCS 2011) recommends that such work be undertaken through test pits.

The *Standards and Guidelines for Consultant Archaeologists* (MTCS 2011) recommends that such test pits be dug to 5 cm below the subsoil.

Huron-Wendat ossuaries are typically found well below these levels, with the most visible signs (the presence of bones) visible from anywhere between 20 cm to over 2 m below the subsoil.

- a) Please outline the steps that Imperial will take to detect ossuaries in the Project area.
- b) Please outline the training that Imperial will provide, or require to be provided, to its archaeological consultant on the detection of Huron-Wendat ossuaries.
- c) Please outline the training that Imperial will provide to its construction crews on how to respond in the event that bones are uncovered.
- d) Please outline what steps Imperial will take in the event that bones are uncovered during construction, including consultation and accommodation of First Nation(s).
- e) In the event that a Huron-Wendat ossuary is found in the Project area, please outline the steps that Imperial will take to:
 - a. consult with the Huron-Wendat Nation on appropriate protection and preservation measures for the site;
 - b. implement such protections and preservation measures in order to avoid disturbance of the ossuary;
 - c. ensure that the Huron-Wendat Nation is able to perform any necessary ceremonies relating to the ossuary, including by providing capacity funding; and
 - d. commemorate the ossuary in a manner deemed appropriate by the Huron-Wendat Nation.

Question: **HWN-9**

Reference: Exhibit D, Tab 1, Schedule 3
 Exhibit D, Tab 1, Schedule 2
 Environmental Report at 7, p. 7-2

Preamble: Imperial intends to develop a Spill Prevention and Response Plan to provide the Project with guidance in the development of prevention, contingency planning, and reporting practices for the timely and effective prevention and response to potential inadvertent, construction-related releases to land and surface water.

Imperial also intends to develop an Environmental Protection Plan and several management and contingency plans.

- a) Please advise whether Imperial intends to develop an emergency response plan to mitigate and manage potential impacts of a spill on archaeological sites, including the Parsons Site.
 - i. If Imperial does not intend to do so, please provide Imperial's rationale;
 - ii. If Imperial does intend to do so, please provide any drafts of this plan that Imperial has created to date, and/or, if Imperial intends to base this plan on an existing plan for another project, please provide copies of said plan.

- b) Please outline any consultation and accommodation steps undertaken by Imperial with First Nations with respect to the creation of an emergency response plan to mitigate and manage potential impacts of a spill on archaeological sites.

Question: **HWN-10**

Reference: Exhibit G, Tab 1, Schedule 1

Preamble: Imperial's Guiding Principles include that Imperial conducts its business in a manner that respects the land, environment, rights and cultures of indigenous communities.

- a) Please advise how Imperial will ensure that the Huron-Wendat Nation is able to fulfill its duty to protect its archaeological and burial sites throughout the Project's construction, including:
 - i. How Imperial will ensure that Huron-Wendat Nation monitors are involved in monitoring construction work throughout the Project's construction;
 - ii. How Imperial will advise the Huron-Wendat Nation of the construction schedule and any changes to the construction schedule;
 - iii. How Imperial will use the information gathered through the participation of Huron-Wendat Nation monitors; and
 - iv. How Imperial will provide up-to-date information, including information gathered through the participation of Huron-Wendat Nation monitors, to the participating First Nation(s).