

Imperial Oil Limited

**Application for leave to construct the Waterdown to Finch Project 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.**

**PROCEDURAL ORDER NO. 4
AND
DECISION ON
IMPERIAL OIL LIMITED'S CONFIDENTIALITY REQUEST
August 20, 2019**

Imperial Oil Limited (Imperial Oil) applied to the Ontario Energy Board (OEB) under sections 90(1) and 97 of the *Ontario Energy Board Act, 1998* for leave to construct approximately 63 kilometres of pipeline and associated infrastructure to transport refined oil products from its facility in the City of Hamilton to its facility in the City of Toronto and approval of the forms of easement agreement related to the construction of the proposed pipeline.

The OEB issued a Notice of Hearing on April 11, 2019 and directed Imperial Oil to serve the Notice of Hearing on affected parties. In order to give Imperial Oil adequate time to complete service, the OEB held the application in abeyance until service was completed. On May 24, 2019, Imperial Oil filed an affidavit with the OEB confirming service of the Notice of Hearing. The OEB started processing the application on that date.

On June 11, 2019, the OEB set the procedural schedule for a written hearing in Procedural Order No. 2. In accordance with the procedural schedule, Imperial Oil filed responses to interrogatories on August 6, 2019. In providing its responses to interrogatories, Imperial Oil requested that the certain information be treated as confidential.

On August 9, 2019 the City of Toronto requested that the OEB revise the procedural schedule to extend the date for OEB staff and intervenors' final submissions to September 13, 2019 and for Imperial Oil's reply submission to September 23, 2019. On August 12, 2019 the OEB issued Procedural Order No. 3 which set the process for review of the Imperial Oil's confidentiality request and cancelled the dates for the final submissions previously outlined in Procedural Order No. 2.

By way of this procedural order and decision, the OEB will render its decision on Imperial Oil's confidentiality request and on the City of Toronto's procedural schedule extension request.

Imperial Oil Limited's Confidentiality Request

Imperial Oil requested that the following information be treated as confidential:

- Coordinates of valve locations.
 - City of Mississauga Interrogatory 2.1(f), page 13 of 168, Table 10-1
 - City of Toronto Interrogatory 1.5(a), page 43 of 168, Table 27-1
 - Halton Region Interrogatory 4.23(a), page 164 of 168, Table 94-1

- Coordinates of the pipeline alignment.
 - City of Toronto Interrogatory 4.1(b), page 61 of 168, Table 32-1

- Private landowner names and addresses.
 - Halton Region Interrogatory 2(a), Appendix 17, Updated Land Line List Table 6-1, Page 1 of 81.

In accordance with the OEB's *Practice Direction on Confidential Filings*, Imperial Oil has filed with the OEB un-redacted versions of the proposed confidential information.

In a letter dated August 8, 2019, Imperial Oil submitted reasons why the specific information should be treated as confidential. Imperial Oil stated that the information on coordinates of valve locations and pipeline alignment was filed in confidence to protect the security of valve sites and pipeline, and that private landowner names and addresses were filed in confidence to protect the privacy of the landowners. Imperial Oil further indicated that the approximate kilometer posts for valve locations and pipeline alignment were kept public.

Procedural Order No. 3 established that the first step in the process for reviewing Imperial Oil's confidentiality request was that, in accordance with the OEB's *Practice Direction on Confidential Filings*, a party may request access to the confidential version

of the document in order to submit its objection by August 15, 2019. The OEB also set the schedule for any objections to the confidentiality request and for Imperial Oil to respond to any objections to its confidentiality request. The OEB stated that it would issue a decision on the confidential status of the proposed confidential information once it has considered any submissions.

The OEB has not received any requests to access the information, nor any indication that there would be objections to confidential treatment. Therefore, the OEB finds that the schedule for confidentiality request submissions set in Procedural Order No. 3 is no longer necessary.

The OEB has reviewed Imperial Oil's explanation for the confidentiality request and the proposed confidential information. The OEB agrees to designate the information identified by Imperial Oil as confidential because it falls under one of two categories: coordinates of valve locations will be treated as confidential in order to protect the security of the sites, and the names and addresses of private landowners will be treated as confidential in order to protect the privacy of these landowners. As a result, the OEB finds that this information shall remain redacted on the public record.

Request by the City of Toronto to Extend the Procedural Schedule

In its letter dated August 9, 2019 the City of Toronto requested additional time to prepare its submission, citing several reasons: more time is needed to review a large volume of interrogatory responses, more time is needed to seek agreements "...on various matters with Imperial..." and its expert is not available to assist with the application until August 16, 2019. The City of Toronto also noted that it canvassed the City of Mississauga, the Halton Region and the Region of Peel and that these intervenors are supportive of the extension request.

On August 13, 2019 the OEB, by a way of letter, provided an opportunity to Imperial Oil to respond to the City of Toronto's request. On August 13, 2019, Imperial Oil responded that an extension of up to two weeks (10 business days) would be acceptable. Imperial Oil objected to a one month extension indicating that the amount of information provided in its interrogatory responses are commensurate with the information requested in the City of Toronto's interrogatories; that it is committed to a meaningful engagement with the City of Toronto and has been communicating with the City of Toronto regarding access, temporary land use, and crossing agreements; and that the Waterdown to Finch project planning is aligned with the anticipated regulatory timelines. Imperial Oil noted that the OEB's regulatory timeline was already extended by

one month at the request of the City of Mississauga and that a cumulative two-month delay would affect timing of subsequent activities and acquisition of other permits.

On August 13, 2019 the OEB, by a way of letter, provided an opportunity to the City of Toronto to respond to Imperial Oil's objection. On August 14, 2019, the City of Toronto responded that it confirms its request and "Toronto has reiterated to Imperial its request for further information necessary to assess this Application, including particulars of the proposed permanent land interest acquisitions, and records sought in Toronto's interrogatories but not provided to date."

The OEB reviewed the submissions of the City of Toronto and Imperial Oil and finds that a three-week extension to the dates of final submissions is reasonable as it provides a balance between providing the City of Toronto and the other parties with additional time to prepare their final submissions and managing the impact of this extension on Imperial Oil's construction schedule. Based on the OEB's finding, the final submissions by OEB staff and intervenors are to be filed no later than September 6, 2019 and Imperial Oil's reply submission is to be filed no later than September 16, 2019. In the meantime, Imperial Oil is directed to file on the record the information referenced in the City of Toronto's letter of August 14, 2019 associated with its interrogatories, no later than August 23, 2019.

It is necessary to make provision for the following matters related to this proceeding. The OEB may issue further procedural orders from time to time.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Imperial Oil shall file with the OEB and deliver to all intervenors information referenced in the City of Toronto's letter dated August 14, 2019 related to certain interrogatories by **August 23, 2019**.
2. OEB staff and intervenors may file written submissions with the OEB and serve it on all Imperial Oil and intervenors by **September 6, 2019**.
3. Imperial Oil may file a written reply submission with the OEB and serve it on all intervenors by **September 16, 2019**.

All filings to the Board must quote the file number, EB-2019-0007 and be made electronically in searchable / unrestricted PDF format through the OEB's web portal at <https://pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed. 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 <https://www.oeb.ca/industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a USB flash drive in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

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 the Case Manager, Zora Crnojacki at Zora.Crnojacki@oeb.ca and OEB Counsel, Michael Millar at Michael.Millar@oeb.ca

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DATED at Toronto, August 20, 2019

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary