

Toronto

December 20, 2019

Montréal

Patrick G. Welsh
Direct Dial: 416.862.5951
pwelsh@osler.com
Our Matter Number: 1184765

Calgary

Sent by Electronic Mail and by Overnight Courier and Filed Electronically on RESS

Ottawa

Christine Long
Board Secretary and Registrar
Ontario Energy Board
27th Floor - 2300 Yonge Street
Toronto, Ontario M4P 1E4

Vancouver

New York

Dear Ms. Long:

EB-2019-0007 – Application for Leave to Construct the Waterdown to Finch Pipeline

Re: City of Toronto Documents

Imperial Oil Limited (“**Imperial**”) received correspondence from the City of Toronto (the “**City**”) dated December 13, 2019 (the “**City Letter**”) enclosing a brief of documents that it had labelled as evidence (the “**Documents**”). The City also stated in the City Letter that it “reserves the right to file additional documents”.

Imperial takes the position that the Documents are not properly evidence, objects to the City’s purported reservation of rights to file further documents, and reserves its rights to challenge the relevance of the Documents in its Reply Submissions. As such and for the following reasons, Imperial requests that the Documents be removed from the record:

First, the Documents appear to be *prima facie* not relevant to – or at best, of limited utility for – the present proceeding before the OEB. The OEB did not make any provision for the filing of the Documents in any Procedural Order of the OEB, and the City did not seek the OEB’s approval in advance of filing the Documents.

Second, the Documents appear to be broader than materials that the OEB typically permits to be referenced in argument (e.g., prior OEB decisions; OEB rules and policies; etc.).

Third, the City appears to take its cue from Imperial’s filing of updated consultation logs and information that it can file evidence at this point in the proceeding. Imperial submits that the Documents are not akin to filing updated consultation logs. Given the ongoing nature of consultation, it is necessary and entirely appropriate to file updated consultation logs, and the OEB has, in our experience, accepted the updating of Indigenous consultation logs as a matter of course. Additionally, Imperial proposed to file such updated logs in its letter of December 6, 2019 and, more importantly, received the OEB’s permission to do so in Procedural Order No. 6.

Finally, Imperial is of the view that such materials have the potential to unnecessarily lengthen the proceedings. Imperial submits that the intervenors should be encouraged to focus on the record itself.

We thank the OEB in advance for its consideration of these matters. Please do not hesitate to contact the undersigned if you have any questions.

Sincerely,



Patrick G. Welsh

c: Richard King/Isabelle Crew, *Osler, Hoskin & Harcourt LLP*
Jessie Malone/Zahra Allidina, *Imperial Oil Limited*
All Intervenors in EB-2019-0007