



VIA Email

September 18, 2020
Christine Long
Board Secretary and Registrar
Ontario Energy Board
27th Floor, 2300 Yonge Street
Toronto, Ontario M4P 1E4

**Re: EB-2020-0219 - Imperial Oil Waterdown to Finch Project (“the Project”)
Motion to Review and Vary Decision**

Dear Ms. Long:

Further to the Notice of Hearing a Motion and Procedural Order No. 1 from the Ontario Energy Board (the “OEB” or the “Board”) dated September 2, 2020 (“Procedural Order 1”), please find below the motion of Imperial Oil Limited (“Imperial”) to review and vary the Decision and Order of the Board in EB-2019-0007 (the “LTC Proceeding”) dated March 12, 2020 (the “LTC Decision”) and additional evidence relevant to this proceeding.

In the LTC Decision, the Board concluded that an order granting leave to replace Imperial’s existing pipeline and 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 (the “Project”) was in the public interest. Imperial now seeks an Order of the Board to vary the LTC Decision, specifically, to vary the approved Project route. Imperial seeks this order as a result of further landowner consultation and design optimization (the “Realignment”). As described in greater detail below, the Realignment is in the public interest, and should be approved.

Need for the Realignment and Alternatives to the Proposal

Imperial seeks approval of the Realignment in response to a request to move the Project outside of a Ministry of Transportation (“MTO”) right of way to allow for future expansions of Highway 401. In response to MTO’s request, Imperial proposes to relocate the Project route outside of the right-of-way so that the pipeline will cross Highway 27 approximately 800 meters north of its current location. The length of the Realignment is approximately 1850 metres, as compared to the previous alignment length of approximately 1370 metres. The objective of the Realignment is to comply with the MTO’s request, while maintaining the proposed pipeline within the utility corridor as much as is practicable.

The Realignment has been designed to comply with the MTO request, as well as the requirement of Hydro One Networks Ince (“HONI”) that any proposed rerouting not impact an existing substation, as such lands need to remain unencumbered for future expansion. As a result of the HONI and MTO constraints, there are three routing options in the affected area:

1. The original proposed routing within the MTO lands. This route has been rejected by MTO because it would not allow for future expansions of Highway 401. Imperial has determined that this route is therefore not feasible.
2. A revised route located on the east side of highway 401. This route would result in increased impacts to residential neighborhoods. Imperial has determined that this route is therefore not feasible.

3. The Realignment route sought in this motion, located on the west side of the HONI substation. Imperial has determined that this route minimizes impacts to residential landowners, while being compliant with the requirements of HONI and MTO.

On this basis, Imperial submits that the Realignment is the only feasible route for the Project. Given that the Board found in the LTC Decision that the Project was in the public interest, and the Realignment is required in order to complete the Project while complying with landowner requirements, Imperial submits that the Realignment is in the public interest, and should be approved.

Environmental Matters

The Realignment does not result in any additional environmental impacts as compared with the Project route approved by the Board in the LTC Decision. As such, from an environmental perspective, the Realignment remains in the public interest and should be approved.

The area of the Realignment was considered in the Local Study Area of the environmental report prepared by ERM Consultants Canada Ltd. (the "Environmental Report"), which was submitted to the Board by Imperial in the LTC Proceeding. Tree inventories, completed in the summer of 2019, were focused on the construction footprint only (easement, access, and temporary workspace). Species at risk, ecological land classification and aquatic features were assessed within the Study Area and field verified in surveys, completed in 2018 and 2019, along the proposed construction footprint only. Due to the change in the construction footprint associated with the Realignment, supplemental field surveys were completed specific to the revised proposed disturbance footprint.

Additional surveys were completed within the new construction footprint (easement and temporary workspace) on June 4, 2020. Surveys included tree inventory, wildlife habitat, vegetation, aquatic features and ecological land classification. Results of these surveys are summarized below.

Environmental Survey	Results
Tree inventory	35 additional trees were identified along the realignment, with 26 trees identified for removal.
Wildlife habitat	Portions of the Realignment were considered to provide suitable habitat for migratory birds. No species at risk wildlife were observed and are not expected in these locations.
Vegetation	No vegetation species at risk were observed.
Aquatic features	Revised crossing location at Mimico Creek (WC_45.1) was field verified and classified as a Class 2 fish bearing watercourse. This crossing will continue to be constructed via Horizontal Directional Drill ("HDD").
Ecological land classification	The majority of the construction footprint is culturally influenced communities (Cultural Meadows, Thickets or Savannahs), which are common ecotypes in urban areas. An area of meadow marsh is present at the eastern extent of the re-route.

There are no newly identified potential environmental impacts resulting from the Realignment. Potential impacts to wildlife and wildlife habitat, vegetation, and watercourses were previously assessed in Section 5 of the Environmental Report and are applicable to the Realignment.

Newly identified trees that will require removal have been included in the Arborist Report and Tree Preservation Plan submitted to the City of Toronto.

No additional mitigation measures have been identified as a result of the Realignment. The mitigation measures as outlined in Section 5 of the Environmental Report will continue to be implemented as necessary during construction.

Archaeology

Portions of the construction footprint associated with the Realignment retain archaeological potential. As described in the LTC Proceeding, a Stage 2 assessment is required on 1.71 hectares and is planned to be completed in September/October 2020.

Land Related Matters

The Realignment is designed to reduce impacts of landowners while complying with the requirements of MTO and HONI. The Realignment and its design are in the public interest and should be approved.

Directly Affected Landowners and Stakeholders

There are 23 parcels, 16 landowners, affected by the proposed realignment as follows:

PIN	Parcel ID	Landowner
074240247	WTFN4054	MINISTRY OF TRANSPORTATION
074240190	WTFN4077	1112308 ONTARIO INC.
074240195	WTFN4082	1350739 ONTARIO LIMITED REBECCA'S GIFT HOLDINGS LIMITED [REDACTED]
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 (now 2720898 Ontario Inc.) ¹
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All landowners were notified of the proposed realignment via email and/or in person meetings.

Private landowners were notified in person, by phone or email to inform them of the Project and of the routing realignment along with the Temporary Workspace and Easement requirements for their respective parcel. Initial notifications occurred based on landowner availability between February and early April 2020. Imperial is continuing to work with each landowner on a regular basis to address Project questions and concerns as they continue to review the agreements.

HONI and Infrastructure Ontario (“IO”) were presented with the proposed realignment at an in-person meeting on March 3rd, 2020. Revised drawings have been provided to HONI to progress their technical review.

The City of Toronto was notified of the realignment and provided with realignment sketches on March 6, 2020 and Imperial attended a pre-consultation meeting with the City of Toronto on March 10, 2020. Greater detail on engagement with the City of Toronto is provided below.

Stakeholder	Date of Contact	Contact Type	Description
City of Toronto	March 6, 2020	Email	Submission of preliminary route sketches for review by City’s ROW Management staff. Imperial requested a pre-consultation meeting to review the sketches.
City of Toronto	March 10, 2020	Email	Imperial attended a pre-consultation meeting with the City’s ROW Management staff to discuss permitting requirements. No major concerns were expressed from the City staff. They will await more detailed crossing drawings once available.
City of Toronto	June 12, 2020	Email	Imperial provided updated sketches related to the realignment and requested another meeting to ensure the changes are acceptable.
City of Toronto	July 7, 2020	Email	Imperial attended a meeting with the City’s ROW Management staff to review updated sketches related to the realignment. Permitting requirements were established and the City requested detailed crossing drawings to be part of the road crossing agreement. The City expressed concerns regarding sight lines and the weight of equipment that may be used to cross roads. This information would be forthcoming by Imperial in the

¹ As noted in the Affidavit of Service of Deborah Zufelt dated September 14, 2020 at paragraph 6, 2720898 Ontario Inc. is the current owner of WTFN5533. If the Realignment is approved, WTFN5533 will no longer be in the Project’s route (i.e., it will be a formerly affected parcel).

			Traffic Accommodation Strategy/Plans as well as technical crossing drawings.
City of Toronto	August 20, 2020	Email	Imperial was advised during a regular meeting with the City of Toronto ROW Management and Engineering & Construction Services staff that the City would prefer the next package of drawings to include all road crossings, including drawings related to the realignment.
City of Toronto	September 9, 2020	Email	City's Engineering & Construction Services staff requested a copy of the sketches that ROW Management had reviewed previously to provide comment on the proposed realignment. Imperial provided the sketches sent to ROW Management staff on June 12.
City of Toronto	September 14, 2020	Email	Imperial submitted an updated technical road crossing drawing package to the City's ROW Management and Engineering & Construction Services staff. This package considers all proposed City road crossings including the realignment.

The landowners listed below are newly affected and were not previously informed of the Project.

PIN	Parcel ID	Landowner
074240190	WTFN4077	1112308 ONTARIO INC.
074240195	WTFN4082	1350739 ONTARIO LIMITED REBECCA'S GIFT HOLDINGS LIMITED [REDACTED]
074240121	WTFN4076	2394561 ONTARIO INC.
074240124	WTFN4085	71-91 KELFIELD STREET INC.
074240134	WTFN4117	KSD ENTERPRISES LTD.
074240133	WTFN4119	KSD ENTERPRISES LTD.

To date, the landowners newly affected by this realignment have raised the following concerns:

Concern	Concern Description
Future development	Certain landowners have expressed concern about routing of the pipeline easement that may impact future development plans on their respective parcels.
Compensation	Certain landowners have expressed that additional compensation may be required to come to an agreement or may seek their own appraisal to compare to Imperials evaluations.
Impact to tenants	Certain landowners have expressed concern about the pipeline easement and TWS affecting leased areas and

	existing agreement utilized by their tenants and potential impacts to their operations.
Construction duration	Certain landowners have expressed concern with the duration of construction occurring on their parcels.
Damages	Certain landowners have expressed concern about effects on existing infrastructure on their parcels such as repaving, fencing, landscaping, and trees.
Valve Location	Certain landowners have expressed concerns about valve location for aesthetics, safety and liability.

Mitigation measures to address the concerns outlined above are provided below. Imperial is continuing to work with the affected landowners to address their respective concerns.

Concern	Mitigation Description
Future development	Imperial has worked with landowners to realign the pipeline easement along the property lines of these parcels to address future development concerns
Compensation	Imperial has agreed to cover the costs for landowners to obtain a second appraisal for comparison to align on fair market compensation.
Impact to tenants	Imperial has met and offered to meet with tenants to ensure access restrictions to their leased areas are minimized and understand any additional concerns they may have. Imperial will work with tenants as construction commences to notify them if there will be access restrictions, to minimize impacts to the tenants' schedule and operations and where possible, to adjust the construction schedule to limit impacts to tenants.
Construction duration	Imperial has outlined construction requirements and schedules for each parcel affected by the realignment. Imperial is committed to completing the work as quickly as possible.
Damages	Imperial is working with the respective landowners and tenants to obtain costs for potential construction damages and has committed to reimburse landowners for additional damages such as repaving, landscaping, trees, fencing and other potential damages that may arise as a result of Imperial's work.
Valve	Imperial has committed to working with landowners to ensure the valve is designed in a manner to be acceptable to address aesthetic and safety concerns. Imperial has language within the OEB approved agreements to address the landowner's liability concerns. Imperial will continue to work with landowners to minimize impacts and to mitigate any additional concerns that arise.

Communication between Imperial representatives, landowners and tenants is ongoing, with Imperial and its agents reaching out to landowners with whom negotiations have not been finalized on a week-to-week basis. Each such landowner has been assigned a dedicated land agent who is and will be continuing negotiations to come to mutually agreeable terms.

Imperial further submits that the concerns expressed by landowners ultimately relate to matters of financial compensation which, as the Board noted in Procedural Order 1, are outside of the scope of this proceeding.

New Easement Requirements

Below is the list of parcels impacted by the realignment, including landowners for areas requiring new permanent and temporary easements as well as other agreement types.

PIN	Parcel ID	Landowner	Type of Agreement	Permanent Easement Area (Acres)	Temporary Workspace and Road Occupations Area (Acres)
074240247	WTFN4054	MINISTRY OF TRANSPORTATION	No longer affected	n/a	n/a
074240190	WTFN4077	1112308 ONTARIO INC.	Grant of Easement and Temporary Workspace	0.06	0.10
074240195	WTFN4082	1350739 ONTARIO LIMITED REBECCA'S GIFT HOLDINGS LIMITED [REDACTED]	Grant of Easement and Temporary Workspace	0.07	0.35
074240121	WTFN4076	2394561 ONTARIO INC.	Grant of Easement and Temporary Workspace	0.03	0.17
074240124	WTFN4085	71-91 KELFIELD STREET INC.	Grant of Easement and Temporary Workspace	0.11	0.59
074240120	WTFN4072	APOSTOLIC CATHOLIC ASSYRIAN CHURCH OF THE EAST	Grant of Easement and Temporary Workspace	0.29	0.14
074240216	WTFN4074	CITY OF TORONTO	Road Crossing Agreement	n/a	0.69
074240199	WTFN4078	CITY OF TORONTO	Road Crossing Agreement	n/a	1.07
074160031	WTFN4083	CITY OF TORONTO	Road Crossing Agreement	n/a	0.69
074240163	WTFN4084	HYDRO ONE NETWORKS INC./INFRASTRUCTURE ONTARIO	No longer affected	n/a	n/a
074240125	WTFN4086	CITY OF TORONTO	Road Crossing Agreement	n/a	n/a
074240161	WTFN4087	COWIE CAPITAL PARTNERS INC.	No longer affected	n/a	n/a
074240160	WTFN4089	COWIE CAPITAL PARTNERS INC.	Grant of Easement	0.02	n/a
074240226	WTFN4090	BURNAC CORPORATION	No longer affected	n/a	n/a
074240153	WTFN4092	401 AND DIXON PROPERTIES INC.	No longer affected	n/a	n/a

074240096	WTFN4071	HYDRO ONE NETWORKS INC./INFRASTRUCTURE ONTARIO	Permanent Easement and Temporary Use and Access agreement	0.49	5.45
074240162	WTFN4088	HYDRO ONE NETWORKS INC./INFRASTRUCTURE ONTARIO	Permanent Easement	0.01	n/a
074240154	WTFN4091	HYDRO ONE NETWORKS INC./INFRASTRUCTURE ONTARIO	Permanent Easement and Temporary Use and Access agreement	0.21	3.41
074240151	WTFN4094	878617 ONTARIO LTD.	No longer affected	n/a	n/a
074240123	WTFN4118	HYDRO ONE NETWORKS INC./INFRASTRUCTURE ONTARIO	Permanent Easement and Temporary Use and Access agreement	0.15	0.85
074240134	WTFN4117	KSD ENTERPRISES LTD.	Grant of Easement and Temporary Workspace	0.07	1.08
074240133	WTFN4119	KSD ENTERPRISES LTD.	Temporary Workspace	n/a	0.16
074240152	WTFN5533	565991 ONTARIO LIMITED	No longer affected	n/a	n/a

The forms of easement agreement were approved by the Board in the LTC Decision. Imperial has presented each of the OEB-approved forms of easement agreements to the public and agency landowners.

Negotiations are in progress for the properties listed above and Imperial is continuing to work with the landowners to obtain agreements. As noted above, Imperial is of the view that the landowner concerns expressed to-date generally relate to financial compensation, which is outside the scope of this proceeding and should therefore not detract from the Board's previous finding that the Project is in the public interest, nor should these landowner concerns preclude the Board from finding that the Realignment is in the public interest.

Given that the Realignment is specifically designed to minimize landowner impacts while accepting the requirements of MTO and HONI, and Imperial has developed responsive mitigation measure to address landowner concerns, Imperial submits that the Realignment is in the public interest, and should be approved.

Indigenous Consultation Matters

Imperial provided notification of the Realignment to the following Indigenous communities via email on June 25, 2020.

- Huron Wendat Nation ("HWN")
- Mississaugas of the Credit First Nation
- Six Nations of the Grand River
 - o Six Nations of the Grand River Elected Council ("SNEC")
 - o Haudenosaunee Confederacy Chiefs Council via Haudenosaunee Development Institute

HWN responded on June 26, 2020 acknowledging Imperial's notification with no specific concerns or comments. SNEC responded on June 26, 2020 acknowledging no further questions in regards to the Realignment.

As there have been no concerns raised by any Indigenous nation in respect of the Realignment, and as Imperial continues to consult with Indigenous nations, Imperial submits that the Board should find that the Realignment is in the public interest and should be approved.

Conclusion

In conclusion: (1) the Realignment is the only feasible route for the Project given MTO and HONI's requirements; (2) the Realignment does not result in any additional environmental or archeological impacts as compared with the Project route approved by the Board in the LTC Decision; (3) the Realignment is specifically designed to minimize landowner impacts, while addressing landowner requirements; (4) Imperial is engaged in ongoing negotiation and consultation with landowners and has developed a number of proposed mitigation measures in response to landowner concerns; and (5) all applicable Indigenous groups have been consulted in respect of the Realignment and have not raised any concerns.

The Realignment is required in order for Imperial to proceed with the Project, which the LTC Decision found to be in the public interest. Imperial submits that, in light of these factors, the Realignment is in the public interest and should be approved by the Board on this motion.

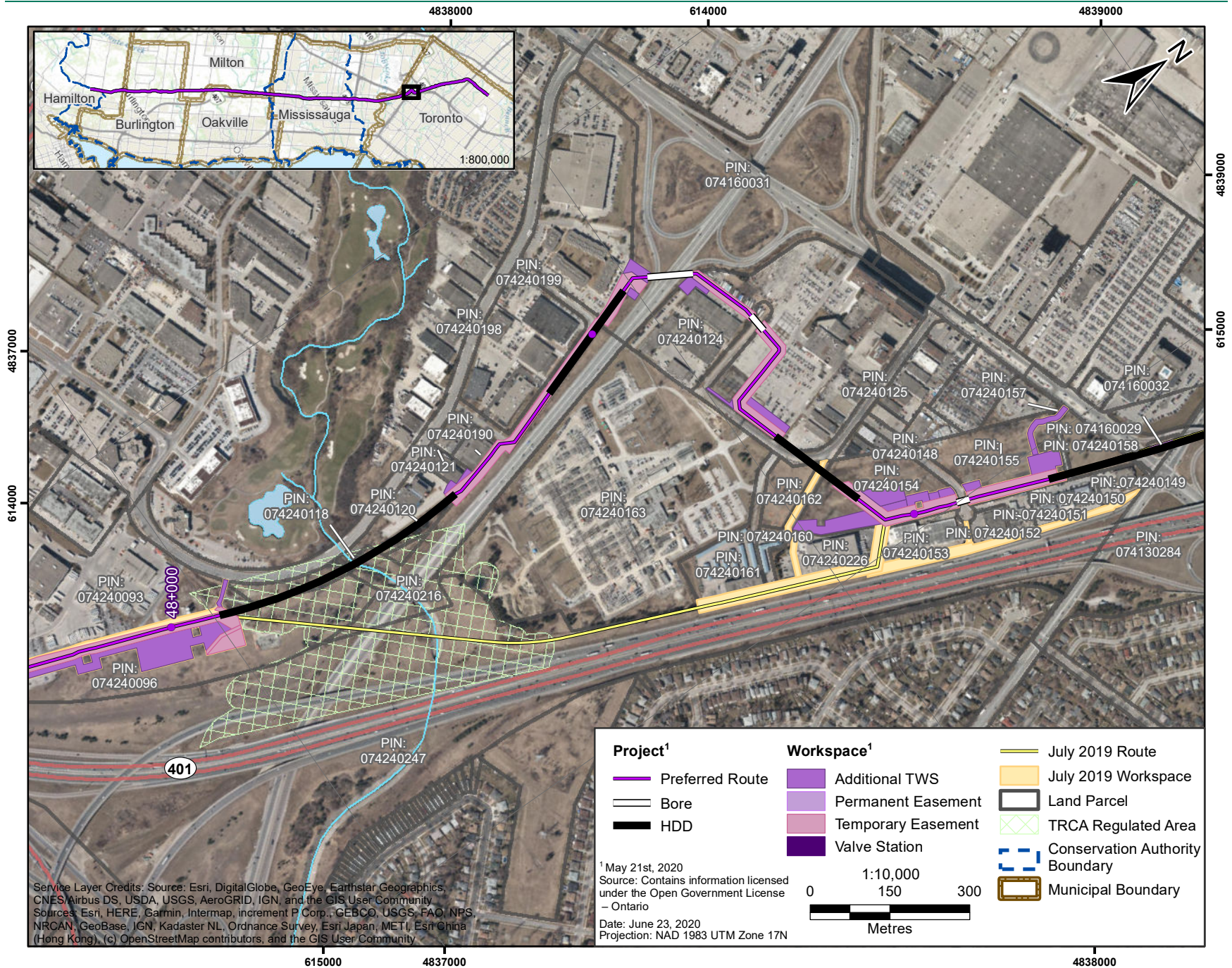
Please accept this letter as a formal submission of additional evidence relevant to this proceeding. Please do not hesitate to contact the undersigned if you have any questions.

Sincerely,



Jessie Malone
Environmental and Regulatory Lead
587.476.4799
jessie.m.malone@esso.ca

Attachment: Map 1



Map 1: Highway 401/Highway 27 Crossing Realignment