



Imperial Oil Limited

**Waterdown to Finch Project
Motion to Review and Vary Decision**

**PROCEDURAL ORDER NO. 3
October 16, 2020**

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

On June 30, 2020 Imperial Oil 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 DA)². 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).³

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

² 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*.

³ OEB Letter-Decision on Imperial Oil Limited Request for Changes of Project Routing (EB-2019-0007), August 19, 2020, page 9.

On September 2, 2020, the OEB commenced Imperial Oil's Motion proceeding by issuing a Notice and Procedural Order No. 1 (Notice and PO No. 1). Imperial Oil served the Notice and PO No. 1 as directed by the OEB. The City of Toronto and 112308 Ontario Inc. and 2394561 Ontario Inc. (Abell Properties) have been approved as intervenors. A list of parties in this proceeding is attached as Schedule A to this Procedural Order. Abell Properties was also granted the eligibility to apply for an award of costs under the OEB's [Practice Direction on Cost Awards](#).

On September 25, 2020 Imperial Oil filed additional evidence.

On October 9, 2020 the OEB issued Procedural Order No. 2 (PO No. 2) setting the schedule for interrogatories on Imperial Oil's evidence and responses to these interrogatories. PO No. 2 also directed Abell Properties to file a letter with the OEB, by October 15, 2020, which set out whether they intend to file evidence, what areas that evidence would cover (including an explanation of how it is relevant to the proceeding), and their proposed timeline for filing evidence. On October 15, 2020, Abell Properties filed a letter requesting to file evidence and describing the areas the evidence will cover. Abell Properties indicated that their evidence would relate to environmental and land matters, which could inform the OEB's consideration of appropriate route alignment and/or conditions on the infrastructure placed in proximity to their structures, construction and use of the proposed pipeline.

To accommodate Abell Properties' request to file evidence and to provide for written discovery on both Abell Properties' evidence and Imperial Oil's evidence, the OEB will, by way of this Procedural Order, set a new procedural schedule for the Motion hearing. The dates set in PO No. 2 are cancelled.

The OEB reminds parties that the scope of the proceeding does not include determining financial compensation from Imperial Oil to the landowners directly impacted by the Route Realignment ⁴.

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.

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

⁴ 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*.

IT IS THEREFORE ORDERED THAT:

1. Abell Properties shall file evidence with the OEB and serve it on all parties by **October 29, 2020**.
2. OEB staff and intervenors shall request any relevant information and documentation from Abell Properties that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **November 9, 2020**.
3. OEB staff and intervenors shall request any relevant information and documentation from Imperial Oil that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **November 9, 2020**.
4. Abell Properties shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by **November 16, 2020**.
5. Imperial Oil shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by **November 16, 2020**.
6. Imperial Oil may file Argument-in-Chief with the OEB and serve it on all intervenors by **November 23, 2020**.
7. OEB staff and intervenors may file written submissions with the OEB and serve it on Imperial Oil and all intervenors by **November 30, 2020**.
8. Imperial Oil may file written reply submission with the OEB and serve it on all intervenors by **December 7, 2020**.

Further Procedural Orders may 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 registrar@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.Crnojacki@oeb.ca and OEB Counsel, Michael Millar at Michael.Millar@oeb.ca.

Email: registrar@oeb.ca

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

Fax: 416-440-7656

DATED at Toronto, **October 16, 2020**

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar

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

Schedule "A"
Procedural Order No. 3
EB-2020-0219
October 16, 2020
List of Parties

Imperial Oil Limited
EB-2020-0219

APPLICANT & LIST OF INTERVENORS

October 16, 2020

APPLICANT

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**Imperial Oil Limited
EB-2020-0219**

APPLICANT & LIST OF INTERVENORS

October 16, 2020

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INTERVENORS

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**Imperial Oil Limited
EB-2020-0219**

APPLICANT & LIST OF INTERVENORS

October 16, 2020

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