



Ontario  
Energy  
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de l'énergie  
de l'Ontario

BY EMAIL

August 29, 2022

Ms. Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4  
[registrar@oeb.ca](mailto:registrar@oeb.ca)

Dear Ms. Marconi:

**Re: Ontario Energy Board (OEB) Staff Submission  
Imperial Oil Limited –Imperial Oil Limited Relocation Pipeline Project  
OEB File Number: EB-2022-0088**

In accordance with Procedural Order No. 1, please find attached OEB staff's submission in the above proceeding. The attached document has been forwarded to Imperial Oil Limited.

Yours truly,

*Original Signed By*

Zora Crnojacki  
Senior Advisor, Natural Gas Applications

Encl.



# **ONTARIO ENERGY BOARD**

## **OEB Staff Submission**

**Imperial Oil Limited**

**Application for Pipeline Relocation Project  
Leave to Construct**

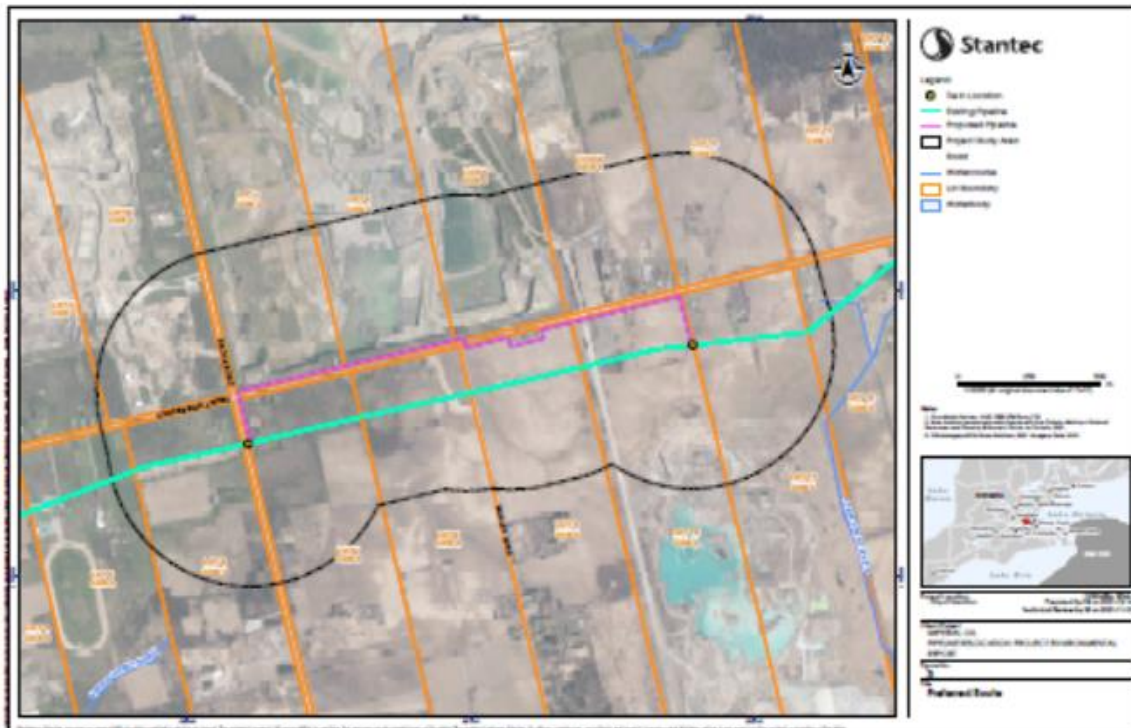
**EB-2022-0171**

**August 29, 2022**

# 1.0 Introduction

Imperial Oil Limited (Imperial Oil) applied to the Ontario Energy Board (OEB) on May 27, 2022 under sections 90(1) and 97 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), for an order granting leave to construct approximately 2 km of 12-inch diameter pipeline (Nominal Pipeline Size (NPS) 12) to replace and relocate a segment of its Sarnia Products Pipeline in the City of Hamilton (Relocation Project).

Imperial Oil states that the Relocation Project is needed to eliminate interference of the existing pipeline segment with planned new mining operations of Lafarge Canada Inc. (Lafarge). The existing segment which will be decommissioned and replaced is located on the south of Concession 4 West between Brock Road and Milgrove Side Road in the City of Hamilton on Lafarge’s land. The new pipeline segment will be constructed and located on Lafarge’s land, about 125 metres north of the existing pipeline segment, adjacent to the municipal road allowances along the Concession 4 West between Brock Road and Milgrove Side Road. It will be connected to Imperial Oil’s Sarnia Products Pipeline at Brock Road and Milgrove Side Road. The general location of the Relocation Project is shown on the map below.



The Sarnia Products Pipeline is a 74.23 km long, NPS 12 petroleum products transportation pipeline, connecting Imperial Oil's Waterdown Pump Station and Nanticoke Pump Station.

Imperial Oil has also applied under section 97 of the OEB Act for approval of the forms of land rights agreements it has offered or will offer to landowners for the routing and construction of the proposed pipeline.

Imperial Oil indicated that the planned in-service date is late Q4 2022. Construction is planned to start in September 2022 and be completed in December 2022.

OEB staff has no concerns with the Relocation Project and supports the OEB granting leave to construct approval to Imperial Oil, subject to certain Conditions of Approval contained in Schedule A to this submission.

## **2.0 The Proceeding**

A Notice of Hearing was issued on June 20, 2022. No party requested intervenor status in this proceeding.

On July 27, 2022, the OEB issued Procedural Order No.1 setting the timeline for interrogatories and a written hearing. OEB staff filed interrogatories on August 4, 2022 and Imperial Oil responded to the interrogatories on August 18, 2022. OEB staff's written submission is filed on August 29, 2022. Imperial Oil may file a reply submission by September 5, 2022.

## **3.0 OEB Staff Submission**

Consistent with the OEB's Standard Issues List for natural gas leave to construct applications, OEB staff's submission is structured to address the following issues:

1. Need for the Project
2. Project Alternatives
3. Project Cost and Economics
4. Environmental Impacts
5. Landowner Agreements
6. Indigenous Consultation
7. Conditions of Approval

### 3.1 Need for the Project

Imperial Oil stated that the need for the Project is to eliminate the existing pipeline segment which is obstructing Lafarge's mining operations in the subject area.

Lafarge will be mining its approved South Quarry Extension lands located on the south side of Concession 4 West. The existing segment of the Sarnia Products Pipeline would impede on Lafarge's mining operations.

OEB staff submits that Imperial Oil has established the need for the Relocation Project.

### 3.2 Project Alternatives

Imperial Oil considered two alternative pipeline routes. The proposed route is located further away from the active quarry and has less potential impediment to the operations of the quarry.

Based on Imperial Oil's evidence and responses to interrogatories about the alternatives to the Relocation Project, OEB staff submits that the Relocation Project is the best alternative to meet the stated need and that the proposed route is acceptable.

### 3.3 Project Cost and Economics

Imperial Oil is a non-rate regulated private enterprise and the Relocation Project is to be financed by Imperial Oil. Accordingly, project cost and economics have not been considered as issues in this case since Imperial Oil is not seeking to recover the costs of the Relocation Project from ratepayers.

### 3.4 Environmental Impacts

On behalf of Imperial Oil, Stantec Consulting Ltd. (Stantec) completed an *Environmental Report: Pipeline Relocation Project* (ER) dated January 6, 2022. Imperial Oil stated that the ER studies and the consultation were conducted in accordance with the *OEB's Environmental Guidelines for Location, Construction and Operation of Hydrocarbon Pipelines in Ontario [7th Edition, 2016]* (OEB Environmental Guidelines). The ER studies assessed the existing bio-physical and socio-economic environment in the study area, the alternative routes, proposed the preferred route, conducted public consultation, conducted impacts assessment, and proposed mitigation measures to minimize the impacts.

On January 12, 2022, the ER was made available to the Ontario Pipeline Coordinating Committee (OPCC) for review and comments. The 42-day timeline for OPCC review ended. The consultation record indicates that, prior to filing the application with the OEB, Imperial Oil notified the OPCC and other stakeholders, including the City of Hamilton and Hamilton Conservation Authority, about the Relocation Project and the ER. According to the Consultation Record and supporting documentation Imperial Oil received the comments from the Technical Standards and Safety Authority (TSSA), the Ministry of Environment, Conservation and Parks (MECP), and the Ministry of Tourism, Culture and Sport (MTCS).<sup>1</sup>

The TSSA requested that Imperial Oil submit for the TSSA's review an Application for Review of Pipeline Project.<sup>2</sup> The MECP's comments referred to potential blasting, potential impacts on Species at Risk (SAR) and a potential requirement for a permit to take water for pipeline testing. Imperial Oil responded that it would coordinate with Lafarge regarding any blasting impacts and consult the MECP if any SAR is encountered along the route of the pipeline. Imperial Oil stated that it determined that permit to take water for testing the pipeline would not be required for the Relocation Project.<sup>3</sup>

As part of the environmental assessment process for the Relocation Project, and in accordance with the *Ontario Heritage Act*, Imperial Oil is required to complete a *Cultural Heritage Assessment Report* (CHAR) and submit it to the MTCS for their review and comment.

The record of consultation indicates that MTCS recommended that the Cultural Heritage Report: Existing Conditions and Preliminary Impact Assessment (CHECPIA) be prepared to inform the Environmental Report and to make preliminary recommendations for the conservation of known and potential cultural heritage resources.<sup>4</sup>

In response to this recommendation, Stantec stated that the CHECPIA will be complete prior to construction, and that all reports and findings would be submitted to MTSC for review.<sup>5</sup> The ER includes a Cultural Heritage Checklist.<sup>6</sup>

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<sup>1</sup> Imperial Oil's response to OEB staff interrogatory Staff 4.1.1

<sup>2</sup> Application, Exhibit G, Tab 1, Schedule 2, Table G.1.2-1: Summary of Correspondence with the Ontario Energy Board (OPCC), page 2, Records 2,4,6 and Imperial Oil response to OEB staff interrogatory Staff 4.1.1 Appendix C

<sup>3</sup> Imperial Oil response to OEB staff interrogatory Staff 4.1.1 Appendix B

<sup>4</sup> Application, Exhibit G, Tab 1, Schedule 2, Table G.1.2-1: Summary of Correspondence with the Ontario Energy Board (OPCC), page 2, Record 8

<sup>5</sup> Application, Exhibit G, Tab 1, Schedule 2, Table G.1.2-1: Summary of Correspondence with the Ontario Energy Board (OPCC), page 2, Record 9

<sup>6</sup> Application, Exhibit G: Appendix 1: Environmental Report: Pipeline Relocation Project, Appendix F

On April 6, 2022 the MTCS continued to advise Stantec that the CHAR should be prepared during the environmental reporting and submitted to the MTSC for review. The CHAR was filed with the MTCS on August 17, 2022 for review and approval.<sup>7</sup>

Stantec completed the Archeological Assessment (AA) Stage 1 as required by the *Ontario Heritage Act* and by *Standards and Guidelines for Consultant Archaeologists* (Government of Ontario, 2011) and submitted it for MTSC review on March 16, 2022. Subsequently, AA Stage 2 was completed and circulated to three Indigenous communities engaged in the consultation about the Relocation Project.<sup>8</sup> Imperial Oil stated that any comments received by the Indigenous communities on the AA Stage 2 report will be incorporated into the Report which will be filed with the MTSC for review.<sup>9</sup>

OEB staff submits that Imperial Oil has completed the ER in accordance with the OEB Environmental Guidelines. OEB staff has no concerns with the environmental aspects of the Relocation Project, given that Imperial Oil is committed to implementing the mitigation measures set out in the ER and to completing the project specific Environmental Protection Plan prior to the start of construction.

OEB staff notes that the OEB's Standard Conditions of Approval for leave to construct require Imperial Oil to obtain all necessary approvals, permits, licences, and certificates needed to construct, operate and maintain the proposed Relocation Project and ensure that the environmental impacts are addressed, mitigated and monitored.

OEB staff expects that Imperial Oil will provide, in its final written reply submission, any updates on the status and anticipated completion of the TSSA's review of the Application for a Review of Pipeline Project, on the MECP's comments and on the status of the MTCS 's review of the CHAR and the AA Stage 2 Report.

### 3.5 Landowner Agreements

For the location and construction of the Relocation Project Imperial Oil needs a new permanent easement (length 2000 m width 15 m), a working area easement from Lafarge and two crossing permits of Concession 4 West from the City of Hamilton. According to

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<sup>7</sup> Imperial Oil's response to OEB staff interrogatory Staff 4.1.2 a)

<sup>8</sup> For a description of the Indigenous consultation activities related to the Relocation Project please see section 3.6 of this OEB Staff Submission

<sup>9</sup> Imperial Oil's response to OEB staff interrogatory Staff 4.1.3

Imperial Oil all necessary land rights have been obtained from Lafarge and no landowners, except Lafarge would be affected by the Relocation Project.

Imperial Oil filed a form of permanent easement<sup>10</sup> which was agreed upon by Lafarge. OEB staff reviewed the form filed by Imperial Oil and compared it with the standard elements of land use agreements contained in the Appendix C of the *OEB's Natural Gas Facilities Handbook* (2022).

OEB staff submits that the OEB should approve the proposed form of permanent easement agreement as it contains the standard elements of land use agreements as set by the OEB in the *Natural Gas Facilities Handbook* (2022).

### 3.6 Indigenous Consultation

Imperial Oil notified the Ministry of Energy, Northern Development and Mines (MENDM)<sup>11</sup> about the Relocation Project and sought direction as to whether Indigenous consultation was required and if duty to consult is triggered by the Relocation Project. The MENDM responded that no duty to consult has been triggered and it is not necessary for MENDM to provide a letter of opinion regarding the sufficiency of consultation.<sup>12</sup>

OEB staff observes that, although not required by the MOE, Imperial Oil and Stantec proactively identified and engaged the Indigenous communities in the wider general area of the Relocation Project: i) the Mississaugas of the Credit First Nation ii) Six Nations of the Grand River (Haudenosaunee Confederacy Chiefs Council) iii) Six Nations of the Grand River (Elected Council).<sup>13</sup> Imperial Oil notified these Indigenous communities about the Relocation Project and provided notice of and access to the Environmental Report.<sup>14</sup> Imperial Oil has committed to include the Indigenous communities in the archeological assessments and to continue the engagement. Imperial Oil anticipates no significant adverse impacts or outstanding concerns to be further identified and raised by the engaged Indigenous communities.

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<sup>10</sup> Application and Evidence, Exhibit E.1.4 Attachment 1- Grant of Easement Pipeline (Ontario) Agreement 2

<sup>11</sup> Now the Ministry of Energy (MOE)

<sup>12</sup> Evidence, Exhibit F, Tab 1, Schedule 1, page 1

<sup>13</sup> Evidence, Exhibit F, Tab 1, Schedule 1, Indigenous Consultation Report

<sup>14</sup> Evidence, Exhibit F, Tab 1, Schedule 2, Figure 1.2. Indigenous Correspondence Summary Table



### 3.7 Conditions of Approval

Section 23 of the OEB Act permits the OEB, when making an order, to impose such conditions as it considers appropriate. In interrogatories, OEB staff suggested that the OEB standard conditions of approval should apply to the Relocation Project with the exception of a condition that the applicant file a post-construction financial report on actual cost of the project. As noted above, Imperial Oil is not a rate-regulated entity and the costs of the Relocation Project will be financed by Imperial Oil. Hence, there is no need for the filing of a post-construction financial report. Imperial Oil agreed with this suggestion and stated that it agrees with all the other conditions in the standard conditions of approval list.<sup>15</sup>

### 3.8 Conclusion

OEB staff submits that the OEB should approve the Relocation Project subject to the Conditions of Approval attached as Schedule A to this submission.

All of which is respectfully submitted.

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<sup>15</sup> Imperial Oil response to OEB staff interrogatory Staff.7.1 5

**Schedule A**

**Conditions of Approval**

**EB-2022-0171**

**August 29, 2022**

**Leave to Construct Application under  
Section 90 of the OEB Act**

**Imperial Oil Limited  
EB-2022-0171  
Conditions of Approval**

1. Imperial Oil Limited (Imperial Oil) shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2022-0171 and these Conditions of Approval.
2. (a) Authorization for leave to construct shall terminate 12 months after the decision is issued, unless construction has commenced prior to that date.  
(b) Imperial Oil Limited shall give the OEB notice in writing:
  - i. of the commencement of construction, at least 10 days prior to the date construction commences
  - ii. of the planned in-service date, at least 10 days prior to the date the facilities go into service
  - iii. of the date on which construction was completed, no later than 10 days following the completion of construction
  - iv. of the in-service date, no later than 10 days after the facilities go into service
3. Imperial Oil Limited shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project.
4. Imperial Oil Limited shall implement all the recommendations of the Environmental Report filed in the proceeding, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.
5. Imperial Oil Limited shall advise the OEB of any proposed change to OEB-approved construction or restoration procedures. Except in an emergency, Imperial Oil Limited shall not make any such change without prior notice to and written approval of the OEB. In the event of an emergency, the OEB shall be informed immediately after the fact.
6. Both during and after construction, Imperial Oil Limited shall monitor the impacts of construction, and shall file with the OEB one electronic (searchable PDF) version of each of the following reports:
  - a) A post construction report, within three months of the in-service date, which shall:
    - i. provide a certification, by a senior executive of the company, of Imperial Oil Limited adherence to Condition 1

- ii. describe any impacts and outstanding concerns identified during construction
  - iii. describe the actions taken or planned to be taken to prevent or mitigate any identified impacts of construction
  - iv. include a log of all complaints received by Imperial Oil Limited, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions
  - v. provide a certification, by a senior executive of the company, that the company has obtained all other approvals, permits, licenses, and certificates required to construct, operate, and maintain the proposed project
- b) A final monitoring report, no later than fifteen months after the in-service date, or, where the deadline falls between December 1 and May 31, the following June 1, which shall:
- i. provide a certification, by a senior executive of the company, of Imperial Oil Limited adherence to Condition 3
  - ii. describe the condition of any rehabilitated land
  - iii. describe the effectiveness of any actions taken to prevent or mitigate any identified impacts of construction
  - iv. include the results of analyses and monitoring programs and any recommendations arising therefrom
  - v. include a log of all complaints received by Imperial Oil Limited, including the date/time the complaint was received; a description of the complaint; any actions taken to address the complaint; and the rationale for taking such actions
7. Imperial Oil Limited shall designate one of their employees as project manager who will be the point of contact for these conditions and shall provide the employee's name and contact information to the OEB and to all affected landowners and shall clearly post the project manager's contact information in a prominent place at the construction site.