

ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c. 15 (Sched. B), as amended (the “Act”);

AND IN THE MATTER OF an application by Imperial Oil Limited under section 90(1) of the Act for an order granting leave to relocate an approximately 2000 metre (m) portion of existing 12-inch nominal pipe size (NPS) pipeline that is currently located on land owned by Lafarge Canada Inc. in the City of Hamilton;

AND IN THE MATTER OF an application by Imperial Oil Limited under section 97 of the OEB Act for approval of the proposed form of easement agreements included herein.

**REPLY SUBMISSIONS OF
IMPERIAL OIL LIMITED**

September 2, 2022

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I. Overview

1. Imperial Oil Limited (“**Imperial**”) makes these reply submissions in support of its application (the “**Application**”)¹ to the Ontario Energy Board (the “**OEB**” or the “**Board**”) for:
 - (a) an order granting leave to relocate an approximately 2000 metre (m) portion of existing 12-inch nominal pipe size (“**NPS**”) pipeline that is currently located on land owned by Lafarge Canada Inc. (“**Lafarge**”) in the City of Hamilton (the “**Relocation Project**”); and
 - (b) an order approving the proposed form of easement agreement related to the construction of the Relocation Project.
2. Imperial is in receipt of the submissions of Board Staff, dated August 29, 2022,² and acknowledges that Board Staff has “no concerns” with 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”.³
3. Imperial agrees with Board Staff’s assessment and, as set out in its Response to Interrogatories, dated August 18, 2022,⁴ does not object to the imposition of the Conditions of Approval set out in Schedule A to Board Staff’s submissions (the “**Staff Proposed Conditions**”).
4. As set out below, Imperial agrees with the assessment of Board Staff that:
 - (a) “Imperial Oil has established the need for the Relocation Project”;⁵
 - (b) “[T]he Relocation Project is the best alternative to meet the stated need” and “the proposed route is acceptable”;⁶
 - (c) Relocation Project costs and economics are not in issue in this case, as Imperial is not seeking to recover the costs of the Project from ratepayers;⁷
 - (d) Imperial has completed the Environmental Report: Pipeline Relocation Project (the “**ER**”) in accordance with the *Environmental Guidelines for Location*,

¹ [EB-2022-0171, Application and Evidence of Imperial Oil Limited, dated June 7, 2022 \[Application\]](#).

² EB-2022-0171, OEB Staff Submissions, dated August 29, 2022 [Staff Submissions].

³ Staff Submissions at p. 2.

⁴ EB-2022-0171, Responses to Interrogatories of Imperial Oil Limited, dated August 18, 2022 at p. 5 [IRR].

⁵ Staff Submissions at p. 3.

⁶ Staff Submission at p. 3.

⁷ Staff Submissions at p. 3.

Construction and Operation of Hydrocarbon Pipelines in Ontario (the “**Environmental Guidelines**”) and there are “no concerns with the environmental aspects of the Relocation Project”;⁸

- (e) “[A]ll necessary land rights have been obtained from Lafarge and no landowners, except Lafarge would be affected by the Relocation Project” and “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)”;⁹
 - (f) While the Ministry of Energy, Northern Development and Mines (now “**MOE**”) concluded that that no duty to consult has been triggered by the Relocation Project, Imperial “proactively identified and engaged the Indigenous communities”, “has committed to include the Indigenous communities in the archeological assessments and to continue the engagement” and “anticipates no significant adverse impacts or outstanding concerns to be further identified and raised by the engaged Indigenous communities”;¹⁰ and
 - (g) The Staff Proposed Conditions are proper and Imperial does not object to their imposition by the Board.¹¹
5. On this basis, Imperial submits that the OEB should make an order granting leave to construct the Relocation Project and make an order approving the proposed form of easement agreement related to the construction of the Relocation Project.

II. Project Need

- 6. Imperial agrees with Board Staff that it has established the need for the Relocation Project.¹²
- 7. The Project consists of the relocation of a small length (2000 m) of 12-inch pipe NPS pipeline from a portion of property owned by Lafarge located on the south side of Concession 4 West, Hamilton, Ontario (the “**Current Location**”) to a location adjacent to the municipal road allowance of Concession 4 West on land owned by Lafarge (the “**Proposed Location**”), approximately 125 metres north of the Current Location (the “**Relocation**”).¹³

⁸ Staff Submissions at p. 5.

⁹ Staff Submissions at p. 6.

¹⁰ Staff Submissions at p. 6.

¹¹ Staff Submissions at p. 7.

¹² Staff Submissions at p. 3.

¹³ Application at pp. 1 – 2.

8. The Relocation is required in order to eliminate interference by the existing pipeline with mining activities undertaken by Lafarge in accordance with its approved South Quarry Extension.¹⁴ The Proposed Location will not impede Lafarge’s approved South Quarry Extension lands.¹⁵
9. In these circumstances, the Project is needed in order to permit approved mining activities by a third party to be undertaken without interference by existing pipeline infrastructure. Imperial agrees with Board Staff that this establishes the need for the Project.

III. Project Alternatives

10. Imperial agrees with Board Staff that “the Relocation Project is the best alternative to meet the stated need” and “the proposed route is acceptable”;¹⁶
11. As set out by Board Staff, and as detailed in the ER, Imperial’s consultant Stantec Consulting Ltd. (“**Stantec**”) assessed two alternate routes and concluded that the route which was not selected posed potential constructability issues given its proximity to the active Lafarge quarry.¹⁷ On this basis, the route proposed in Imperial’s Application was identified by Stantec as the preferred route (the “**Route**”).
12. The route selection process was undertaken in accordance with the Environmental Guidelines.¹⁸ Input on the Route was sought through consultation.¹⁹ The Route represents the least potential for adverse environmental and socioeconomic impacts.²⁰

IV. Project Costs and Economics

13. Imperial agrees with Board Staff, that, given that is a non-rate regulated enterprise and the Project is to be financed by Imperial without recovery from ratepayers, project costs and economics need not be considered in this application.²¹

¹⁴ Application at pp. 1, 17 – 18.

¹⁵ Application at p. 1.

¹⁶ Staff Submission at p. 3.

¹⁷ Application at p. 152.

¹⁸ Application at p. 151.

¹⁹ Application at p. 153.

²⁰ Application at p. 22.

²¹ Staff Submissions at p. 3; Application at p. 3.

V. Environmental Impacts

14. Imperial agrees with Board Staff that the ER was completed in accordance with the Environmental Guidelines and there are “no concerns with the environmental aspects of the Relocation Project”.²²
15. The ER describes the actions taken by Imperial’s consultant Stantec to confirm the Route and the related construction methods and activities planned to avoid or minimize the environmental and socio-economic effects of the Relocation Project and considers the existing physical, environmental, socio-economic, archaeological, and cultural heritage features, and includes both an effects assessment and a cumulative effects assessment.²³
16. A project-specific Environmental Protection Plan (“EPP”) will be developed and will outline the required environmental protection measures and commitments to avoid or reduce potential effects on the environment as a result of the Project. The EPP builds on the mitigation measures, monitoring and contingency plans identified within the ER.²⁴
17. In addition to the ER, Stantec has prepared both a Stage 1 and Stage 2 Archaeological Assessment. The Stage 1 Archaeological Assessment has been submitted to the Ministry of Heritage, Sport, Tourism and Culture Industries (“MHSTCI”). The Stage 2 Archaeological Assessment has been circulated to Indigenous Communities (defined below) for review, after which it will be submitted to MHSTCI. Imperial has confirmed that it will file with the Board clearance letters for Stage 1 and Stage 2 Archaeological Assessment as soon as received from MHSTCI.²⁵
18. As requested by Board Staff, Imperial can confirm that:
 - (a) Imperial anticipates that the Technical Standards and Safety Authority’s review of the Application for a Review of Pipeline Project will be completed by September 23, 2022;
 - (b) comments received from MECP were acknowledged on April 28, 2022 and no further follow up was required based on the nature of the comments provided;
 - (c) the Cultural Heritage Assessment Report was submitted to MHSTCI on August 18, 2022. No comments have been received as of September 2, 2022; and
 - (d) the Stage 2 Archaeological Assessment was circulated to the Indigenous Communities (defined below) on August 18, 2022. No comments have been received as of September 2, 2022.

²² Staff Submissions at p. 5.

²³ Application at p. 23.

²⁴ Application at p. 24.

²⁵ IRR at p. 3.

VI. Landowner Agreements

19. Imperial agrees with Board Staff “all necessary land rights have been obtained from Lafarge and no landowners, except Lafarge would be affected by the Relocation Project”.²⁶
20. While the Proposed Route requires a new permanent easement, Lafarge is the only landowner impacted by that easement and has agreed to the new easement.²⁷
21. Imperial also agrees with Board Staff that and “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)”.²⁸ A copy of the proposed form of easement is included at E.1.4. Attachment 1 of Imperial’s Application.²⁹

VII. Indigenous Consultation

22. As noted by Board Staff, the MOE concluded that that duty to consult is not triggered by the Project.³⁰
23. Imperial and Stantec proactively identified and engaged the following Indigenous communities in the wider general area of the Project: i) Mississaugas of the Credit First Nation; ii) Haudenosaunee Confederacy Chiefs Council; and iii) Six Nations of the Grand River Elected Council (the “**Indigenous Communities**”).³¹
24. Imperial’s Indigenous consultation program has allowed the Indigenous Communities to provide input for the Relocation Project. Imperial has and will continue to ensure that feedback, comments, and concerns can be raised by the Indigenous Communities at any time for consideration and response by Imperial.
25. No significant adverse impacts or outstanding concerns are expected to be further identified and raised by the engaged Indigenous communities.

VII. Conditions of Approval

26. As set out in Staff Submissions and in Imperial’s Response to Interrogatories, Imperial does not object to the Staff Proposed Conditions.

²⁶ Staff Submissions at p. 6.

²⁷ Application at pp. 41 – 43.

²⁸ Staff Submissions at p. 6.

²⁹ Application at p. 45.

³⁰ Staff Submissions at p. 6.

³¹ Staff Submissions at p. 6.

VII. Conclusion

27. On this basis, and consistent with the submissions of Board Staff, Imperial submits that the OEB should make an order granting leave to construct the Relocation Project and make an order approving the proposed form of easement agreement related to the construction of the Relocation Project.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

September 2, 2022



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