



Yamoga Building, Old Airport Road  
PO Box 1, Fort Good Hope NT X0E 0H0

Tel: 867-598-2413 Fax: 867-598-2325  
www.slwb.com

## Reasons for Decision

Issued pursuant to subsection 72.03(1) and section 72.25 of the *Mackenzie Valley Resource Management Act* (MVRMA).

Board-Initiated Water Licence Renewal Proceeding in the Public Interest	
<b>File Number</b>	S13L1-007
<b>Company</b>	Imperial Oil Resources N.W.T. Limited
<b>Project</b>	Norman Wells Operations
<b>Location</b>	Norman Wells (Tłegóhtł), NT
<b>Activity</b>	Industrial
<b>Date of Decision</b>	January 9, 2025

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On January 9, 2025, the Sahtú Land and Water Board (SLWB or Board) met and considered Imperial Oil Resources N.W.T. Limited (Imperial)'s December 9, 2024 letter to the Board, requesting an interim extension to the term on the current Water Licence (Licence) S13L-007 for the Norman Wells Operations (NWO or the Project) in Norman Wells, NT (the Extension Request). After reviewing Imperial's Extension Request, the evidence gathered through a public review, and relevant legislation and case law, the Board has made the following decisions:

- 1) To initiate a proceeding in the public interest to renew Water Licence S13L1-007 to prevent a potential emergency and, thereby, protect property and the environment, and public welfare, health, and safety.
- 2) To propose a term of three years for the renewal in order to allow adequate time for the Environmental Assessments of the long-term renewal and Line 490 applications (EA2425-02 and EA2425-01), and subsequent regulatory processes (S24L1-005 and S24L1-002/S24A-005), to be completed.
- 3) To expedite and limit the scope of the renewal proceeding in the interest of maintaining regulatory authorizations in place to protect the environment and the public until the long-term renewal application can be considered.

These Reasons for Decision set out the Board's rationale for its decisions related to initiating a renewal proceeding in the public interest. Background information and regulatory history for the Project is provided in section [2.0](#); and an outline of the process leading to the Board's determination is set out in section [3.0](#). The Board's decisions and supporting rationale are set out in section [4.0](#).

The Board notes that it subsequently met and made its preliminary screening determination for the proposed renewal. The Board's decision regarding the preliminary screening is detailed in its Preliminary Screening Determination and Reasons for Decision.<sup>1</sup>

## 1.0 **List of Defined Terms and Acronyms**

Board	Sahtú Land and Water Board
CER	Canada Energy Regulator
CIRNAC	Crown-Indigenous Relations and Northern Affairs Canada
DGG	Déłıne Got'ıne Government
Distribution List	The list of individuals and organizations to whom materials from the regulatory proceeding were circulated. <sup>2</sup>
EA	Environmental Assessment
ECCC	Environment and Climate Change Canada

<sup>1</sup> See SLWB Online Registry ([www.slwb.ca](http://www.slwb.ca)) for [S13L1-007 – Board-initiated renewal proceeding – Preliminary Screening and RFD – Jan10 25](#).

<sup>2</sup> To access the Distribution List, see the LWBs' Online Review System for [Imperial – Licence Renewal – Upcoming Expiry Date – Dec17 24](#).

GNWT	Government of the Northwest Territories
GNWT-ECC	Government of the Northwest Territories – Environment and Climate Change
IR	Information Request
KGC	K’ahsho Got’ine Committee
Licensee	Imperial Oil Resources N.W.T. Limited (Imperial)
Licence	Water Licence S13L1-007
LWBs	Land and Water Boards of the Mackenzie Valley
MVEIRB	Mackenzie Valley Environmental Impact Review Board (the Review Board)
MVFAWR	<a href="#">Mackenzie Valley Federal Areas Waters Regulations</a>
MVLWB or Board	Mackenzie Valley Land and Water Board
MVRMA	<a href="#">Mackenzie Valley Resource Management Act</a>
Minister	Minister of Northern Affairs
NWO	Norman Wells Operations
OA	Operations Authorization
ORS	Online Review System ( <a href="https://new.onlinereviewssystem.ca/reviews">https://new.onlinereviewssystem.ca/reviews</a> )
Party	As per the LWB <a href="#">Rules of Procedure</a> , an applicant, a person, or an organization participating in this regulatory process.
Project	Norman Wells Operations, the undertaking as described in Part A of the Licence
Review Board	Mackenzie Valley Environmental Impact Review Board
SSI	Sahtú Secretariat Inc.
SLWB or Board	Sahtú Land and Water Board
Standard Licence Conditions	LWB <a href="#">Standard Water Licence Conditions Template</a>
TRRC	Tulit’a Renewable Resources Council

## 2.0 **Background**

On June 12, 2024, Imperial submitted a water licence renewal application (S24L1-005) for Water Licence S13L1-007 for the Norman Wells Operations (the Licence), set to expire on March 4, 2025.<sup>3</sup> The Norman Wells Operations (NWO) includes the operation of the Central Processing Facility, mainland field, operations on the natural and artificial islands, potential drilling, well and facility maintenance, integrity, project work, and progressive reclamation. These activities are located in a federal area within the Sahtú Settlement Area – Tulit’a District.

The renewal application was circulated for review on June 26, 2024, and on September 30, 2024, the Sahtú Secretariat Inc. (SSI) referred the renewal application for the Licence and the extension application for the Canada Energy Regulator’s (CER) Operations Authorization (OA) for the NWO to Environmental

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<sup>3</sup> See [SLWB Online Registry for S24L1-005 – Renewal Application – Norman Wells Operations – Jun12 24](#).

Assessment (EA) to the Mackenzie Valley Environmental Review Board (the Review Board) under section 126 of the [Mackenzie Valley Resource Management Act](#) (MVRMA).<sup>4</sup>

On October 3, 2024, the SLWB suspended the regulatory process for S24L1-005, and will resume the proceeding after the EA is completed as per subsection 72.22(2) of the MVRMA.

On October 9, 2024, Imperial submitted a request for ruling, questioning the Review Board's authority to conduct an EA of the NWO. On December 3, 2024, the Review Board ruled that it can and will proceed with the EA of the Renewal Application and the extension application for the OA for the NWO (EA2425-02).<sup>5</sup>

While the Review Board was still processing Imperial's request for ruling, the CER had already given public notice of its decision to extend the OA on an interim basis until the completion of the Review Board's EA,<sup>6</sup> and on November 14, 2024, Imperial subsequently requested a similar extension from the SLWB for Licence S13L1-007.<sup>7</sup> In response, the SLWB noted the limitations to its authority, especially considering that the Review Board had not made its decision; however, the SLWB also asked Imperial to further clarify the situation in Norman Wells.<sup>8</sup>

On December 9, 2024, the SLWB received a second request from Imperial to extend the Licence, which will expire March 4, 2025, with no changes to licence conditions (the Extension Request).<sup>9</sup> In the Extension Request, Imperial set out the potential effects of a winter shut-in of the NWO, indicating that, in its view, these circumstances warrant emergency action by the SLWB. The Extension Request also states that in the absence of an extension, Imperial will have to take steps to shut-in the NWO by March 4, 2025.

The MVRMA does not grant the Land and Water Boards (LWBs) the authority to extend licences;<sup>10</sup> however, the LWBs have the authority to act in the public interest and this includes decisions taken to avoid an emergency situation.<sup>11</sup> To allow time for the EA process and other regulatory processes to be

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<sup>4</sup> See the Review Board Online Public Registry ([www.reviewboard.ca/registry](http://www.reviewboard.ca/registry)) for EA2425-02 – Norman Wells Operation: [Letter from SSI to SLWB referring WL S24L1-005 to EA](#) and [Letter from SSI to CER referring OA1210-001 to EA](#)

<sup>5</sup> See the Review Board Online Public Registry for EA2425-02 – Norman Wells Operation: [Review Board Decision with Reasons Regarding Imperial's Request for Ruling](#)

<sup>6</sup> See the Review Board Online Public Registry for EA2425-02 – Norman Wells Operation: [Letter from CER to Imperial re Interim Extension to Operations Authorization](#).

<sup>7</sup> See the SLWB Online Public Registry for [S13L-007 – Imperial Oil Resources N.W.T. Limited – Imperial to SLWB Letter Re Interim Extension – Nov14 24](#).

<sup>8</sup> See the SLWB Online Public Registry for [S13L-007 – Imperial Oil Resources N.W.T. Limited – SLWB to Imperial Letter Re Interim Extension – Nov28 24](#)

<sup>9</sup> See the SLWB Online Public Registry for S13L-007 – [Imperial to SLWB Letter Re Upcoming Expiry Date and Continuation of EA2425-02– Dec9 24](#).

<sup>10</sup> For more information regarding how the LWBs address applications that include requests to amend or extend the term of a licence, see the LWB [Reference Bulletin: Water Licence Term Changes](#).

<sup>11</sup> See paragraph 119(b) of the [MVRMA](#).

carried out, the Board considered initiating a process, in the public interest, to renew the Licence for a period of three years on an emergency basis, with no changes to the Licence.<sup>12</sup> The proposed term of three years would account for up to 16 months for Review Board to conduct the EA, including a public hearing; up to five months for a subsequent decision by Ministers;<sup>13</sup> and subsequently, additional time for the SLWB to complete its regulatory process for Renewal Application S24L1-005.

To proceed with this short-term renewal while Renewal Application S24L1-005 undergoes EA, the SLWB must be convinced that it is necessary to avoid an emergency situation and is in the public interest.<sup>14</sup> To inform its decision on whether to initiate a proceeding for a short-term renewal of the Licence, the SLWB requested public input on the Extension Request, as set out in section 3.0 below.

### **3.0 Process to Inform Board Decision**

The SLWB distributed the Extension Request to the Imperial Distribution List for review by email on December 13, 2024, and through the Online Review System (ORS) on December 17, 2024. The Board specifically asked reviewers to comment on:

- The potential consequences and risks associated with a winter shut-in of the NWO;
- Whether, in their view, a short-term renewal would be in the public interest;
- The proposed term of three years for the short-term renewal; and
- Whether an expedited proceeding would be acceptable under the circumstances.

The comment period was open until December 20, 2024, and extended to December 23, 2024, and Imperial responded by December 31, 2024.

The Board received comments and recommendations from a broad range of parties, including Indigenous organizations, governments, members of the public and Imperial employees, and several local/regional businesses, as follows (see attached review comment summary table and attachments):<sup>15</sup>

- Town of Norman Wells
- Tlegohli Got'ine Government Incorporated submitted under the Norman Wells Land Corporation
- Hamlet of Tulit'a
- Tulit'a Renewable Resources Council
- K'ahsho Got'ine Committee (KGC) submitted under the Yamoga Land Corporation
- Saktú Secretariat Incorporated (SSI)
- Saktú Renewable Resources Board

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<sup>12</sup> See paragraph 72.12(1)(a) of the [MVRMA](#).

<sup>13</sup> See subsections 128(2.1) and 130(4.02) of the [MVRMA](#).

<sup>14</sup> See paragraph 119(b) of the [MVRMA](#).

<sup>15</sup> See SLWB Online Review System [Imperial NWO Licence Renewal – Upcoming Expiry Date – Dec.31 24](#).

- Government of the Northwest Territories (GNWT) – Department of Environment and Climate Change (ECC)
- Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC)
- Members of the Public: Darrell Watson, Bob Greek, Jason and Melinda Tarcon
- Imperial Oil Resources N.W.T. Limited employees: Wendy Heimstra, Wendy Smith, Rod McNeil, and Yuri Nichvalodoff
- Norman Wells and District Chamber of Commerce
- Local/regional businesses:
  - Canadian North
  - McCoy Enterprises Ltd.
  - FluorDriver Inc.
  - Northern Services
  - RPM Specialty Services Ltd.
  - Lochend Energy
  - Boiler Controls and Installations Inc.
  - Willow Lake Environmental Ltd.
  - PTW Energy
  - Canol Oilfield Services Inc.
  - Trumpeter Camp Company Partnership
  - Midnight Petroleum Ltd.
  - HRN Contracting Ltd.
  - Summit Helicopters
  - Northwest Territories Power Corporation

On January 9, 2025, the Board met to make decisions regarding the initiation of a public interest proceeding for a short-term renewal of the Licence. These decisions and related reasons are described in section 4.0 below.

The Board notes that it also met on January 9, 2025 and made its preliminary screening determination for the proposed renewal. The Board’s decision regarding the preliminary screening is detailed in its Preliminary Screening Determination and Reasons for Decision.<sup>16</sup>

#### **4.0 Decision**

The SLWB has carefully considered all of the information and submissions made by Imperial and interested parties in response to its December 13<sup>th</sup>, 2024, request for input, as well as the information on the record

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<sup>16</sup> See SLWB Online Registry for Imperial – Board-Initiated Renewal Proceeding - Preliminary Screening and RFD – Jan10\_25.

for the long-term renewal application (S24L1-005), and relevant legislation and case law in making its decisions.

Having due regard to the facts, circumstances, and the merits of the submissions made to it, and to the purpose, and provisions of the [MVRMA](#), the Board has decided to initiate an expedited proceeding to renew Licence S13L1-007 for a period of three years. The Board's determinations and reasons for this decision are detailed below.

#### **4.1 Public Interest**

Under paragraph 72.12(1)(a) of the [MVRMA](#), the Board has the statutory authority to renew a licence "if the renewal appears to the board to be in the public interest." This authority is discretionary, and the MVRMA does not define "public interest."

The Board advised the public, including all potentially affected Indigenous governments and organizations, of its intention to consider acting in the public interest to initiate a proceeding to grant a short-term renewal of the Licence in response to Imperial's Extension Request. Having considered the urgency of the situation, and the potential for an emergency to result from a winter shut-in of the NWO, the Board provided a reasonable period for parties to review the Extension Request and respond to the Board's proposal. When an extension to the review period was requested, the Board granted it.

While acting in the public interest is not necessarily associated with an emergency, in this case, the question of whether a shut-in of the NWO is likely to result in an emergency for Norman Wells and/or the Sahtú Region is integral to the Board's determination of whether the public interest would be served by initiating a proceeding for a short-term renewal of the Licence.

On pages 3-6 of the Extension Request, Imperial sets out the background facts and argument that it submits provide a basis for the Board to conclude that a winter shut-in of the NWO would constitute an emergency. Imperial concludes that a "March 2025 shut-in of the NWO has the potential to cause energy shortages in the Sahtú region as well as immediate and severe economic impacts, while also risking significant damage to property, environmental pollution, and posing additional risks to workers' safety."<sup>17</sup>

The Extension Request cites *Alliance Pipeline Ltd. v. Seibert*, repeating the court's finding that "there is no need for a catastrophe in order to say that there is an emergency now. It is enough that there is a reasonable apprehension of danger..."<sup>18</sup> The Board notes that SSI – the organization that referred the long-term renewal application, S24L1-005, for the NWO to EA – accepted this test as a basis for

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<sup>17</sup> See the SLWB Online Public Registry for S13L-007 – [Imperial to SLWB Letter Re Upcoming Expiry Date and Continuation of EA2425-02– Dec9 24.](#)

<sup>18</sup> [2003 ABQB 872 at paragraph 33.](#)



determining whether an emergency exists, and that SSI agreed with the issuance of an “Emergency Licence” in the circumstances described by Imperial.<sup>19</sup>

In response to its request for input, the Board received 31 submissions in support of a Board-initiated process to renew the Licence as an emergency measure to protect property and the environment, and public welfare, health, and safety, rather than have the Licence expire and a winter shut-in occur. These letters highlighted numerous consequences and risks associated with an emergency shut-in, including, but not limited to:

- Regional energy shortages and increased energy costs
- Local and regional economic impacts, including impacts on business and employment income, community initiatives and partnerships, population size, supply chains, and overall cost of living
- Impacts on residents’ quality of life, health, and wellbeing due to layoffs and economic instability
- Potential property damage on site
- Increased risk of spills from flowline leaks and breaks and other sources
- Increased risk of health and safety incidents for workers on site
- Increased potential for winter road accidents due to increased heavy truck traffic

The NWO is located in a federal area within the Sahtú Settlement Area, and any licence issued for the NWO will require the signature of the Minister of Northern Affairs. In its submission, CIRNAC acknowledged the emergency nature of the situation: ‘In consideration of the potential imminent emergency situation described by Imperial, as well as to avoid a lapse in regulatory authorization, CIRNAC has no objections to the Board initiating a process to renew the License in the public interest and on an emergency basis.’<sup>20</sup>

The Board received one submission from the K’ahsho Got’ine Committee (KGC) stating that it could not provide input on the proposed initiation of a proceeding for a short-term renewal of the Licence within the timeline provided for the review.<sup>21</sup> While the KGC’s submission cited concerns about the potential risks and impacts associated with continued operations under the existing Licence conditions, it did not address the potential risks and consequences of an emergency shut-in with no licence in place.

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<sup>19</sup> See SLWB Online Registry for [Board-Initiated Renewal Proceeding - Reviewer Comments and Proponent Responses – Dec31\\_24.pdf](#) – Letter from SSI, pg. 72/87.

<sup>20</sup> See SLWB Online Registry for [Board-Initiated Renewal Proceeding - Reviewer Comments and Proponent Responses – Dec31\\_24.pdf](#) – Letter from CIRNAC, pg. 38/87.

<sup>21</sup> See the SLWB Online Registry for [Board-Initiated Renewal Proceeding - Reviewer Comments and Proponent Responses – Dec31\\_24.pdf](#) – Letter from KGC, pg. 46/87.

The Tuli't'a Renewable Resources Council (TRRC), on the other hand, expressed some doubt about the significance of the effects of the shut-in as predicted by Imperial, but nonetheless, it supported expedited SLWB action to renew the Licence, subject to several conditions.<sup>22</sup>

Further consideration of other aspects of the KGC and TRRC submissions is detailed in section [4.4](#).

Many of the risks inherent in, and potential impacts of a winter shut-in of the NWO are matters within Board jurisdiction. The need to continue regulatory oversight of land and water use and the deposit of waste by the NWO is at the core of SLWB responsibilities. The only alternative to renewing the Licence would be to let the Licence expire and thus force Imperial to conduct a winter shut-in of the NWO, during which the Board will have no ability to regulate the shut-in and any associated potential impacts.

In contrast, while the Board recognizes the concerns on which the long-term renewal application, S24L1-005, was referred to EA, the existing Licence was developed to mitigate and monitor the impacts associated with the NWO, and the conditions and requirements within it can be enforced while the Licence remains in effect. In its response to review comments, Imperial also noted this, stating that, "The environmental risks associated with continued operations under the Licence over the proposed three-year renewal period will continue to be addressed through the SLWB approved management and mitigation plans."<sup>23</sup>

Based on the potential impacts identified by reviewers as summarized above, a shut-in with no licence in place would pose greater risks to the environment and the public than renewing the Licence, should the Board decide to do so. Further, as noted by CIRNAC, 'if the Licence is not renewed, activities associated with shut-in care and maintenance conducted after its expiry may be in contravention of the *Mackenzie Valley Resource Management Act* and Mackenzie Valley Federal Areas Waters Regulations.'<sup>24</sup>

The Board has carefully considered the risks and consequences associated with a potential shut-in of the NWO on short notice with no licence in place. The Board agrees with reviewers and Imperial that a shut-in of the NWO imports a reasonable apprehension of danger, and would result in an emergency that could pose serious and substantial risks to the environment, property, and public health, safety, and welfare. Based on the evidence submitted in response to the Board's request for public input, the Board is satisfied that it is in the public interest to initiate a proceeding for a short-term renewal of the Licence pursuant to paragraph 72.12(1)(a) of the [MVRMA](#).

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<sup>22</sup> See the SLWB Online Registry for [Board-Initiated Renewal Proceeding - Reviewer Comments and Proponent Responses – Dec31\\_24.pdf](#) – Letter from KGC, pg. 46/87.

<sup>23</sup> See the SLWB Online Registry for [Board-Initiated Renewal Proceeding - Reviewer Comments and Proponent Responses – Dec31\\_24.pdf](#) – Letter from Imperial, pg. 5/87.

<sup>24</sup> See SLWB Online Registry for [Board-Initiated Renewal Proceeding - Reviewer Comments and Proponent Responses – Dec31\\_24.pdf](#) – Letter from CIRNAC, pg. 38/87.

To be clear, this is a new proceeding not affected by the current EA2425-02 for the NWO or EA2425-01 for the Line 490 Replacement Project. Conversely, the conduct of these EAs will not be affected by any decision taken by the SLWB about a short-term renewal of the Licence.

#### **4.2 Proposed Term of Renewal**

In its request for public input, the Board proposed a term of three years for the short-term Renewal. This suggested term considers the time required for the Review Board to conduct the EA; the decision by the responsible Ministers on the EA report; and subsequently, the SLWB's regulatory process for the long-term renewal (S24L1-005).

The Board notes that the [MVRMA](#) provides for a maximum period of sixteen months for an EA proceeding including a hearing.<sup>25</sup> This timeline primarily accounts for Review Board time – time taken by the developer to provide information and responses to questions from the Review Board during the EA is not counted. Following the Review Board's decision, the responsible Minister then has up to five months to respond to the Review Board's recommendation. Consequently, the average time to complete an EA is in the order of two years.

Once a final EA report is available, the SLWB must still complete its regulatory process for S24L1-005, which will include a mandatory public hearing. The Board is required to make a decision on a type A water licence application within nine months after the application has been deemed complete. Any time that the applicant is providing information required by the Board (e.g., responses to review comments, information requests, interventions, etc.), or the project is undergoing an EA, is not counted as part of the nine-month time period. Following the Board's decision, the responsible Minister then has up to 90 days to respond to the Board's recommendation. Consequently, this proceeding could reasonably be expected to take a year.

The Sahtú Renewable Resources Board was the only party that recommended a different term for the renewal, suggesting that the proposed term should align with the CER's interim extension to the Operations Authorization for the NWO.<sup>26</sup> Since the Review Board is proceeding with the EA, this would mean setting a conditional term for the renewal as either three months after the EA report is issued or July 31, 2025, whichever comes earlier. Aside from being unable to set a conditional term for a licence, the Board cannot reasonably consider this recommendation, because both of these options would ultimately require an additional short-term renewal, regardless of when the EA concludes.

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<sup>25</sup> See subsection 128(2.1) of the [MVRMA](#).

<sup>26</sup> See the SLWB Online Registry for [Board-Initiated Renewal Proceeding - Reviewer Comments and Proponent Responses – Dec31\\_24.pdf](#) – SRRB Comment 01.

Considering the above, the Board concludes it is appropriate to propose a three-year term for the short-term renewal. This should avoid the need for further short-term renewals until the regulatory proceeding for the long-term renewal is completed. The Board is not bound by this proposed term, however, and if the Board decides to renew the Licence, it will make its decision based on the evidence provided during the proceeding for the short-term renewal.

### **4.3 Scope and Structure of the Renewal Proceeding**

As set out in the LWB [Reference Bulletin: Water Licence Term Changes](#), the scope of a licence renewal proceeding will generally include all licence conditions; however, the LWBs have the discretion to determine the appropriate scope and structure of any proceeding. In determining the scope and structure of the proceeding for the short-term renewal, the Board considered the purpose and circumstances of the proposed renewal. For the reasons detailed below, the Board decided to run an expedited proceeding, limited to the proposed three-year term, with no other changes to the Licence conditions.

#### **4.3.1 Scope**

As described in section [4.1](#) above, the purpose of the proposed short-term renewal is to prevent an emergency shut-in of the NWO that could potentially impact the environment, property, and public health, welfare, and safety. Including all Licence conditions in the renewal proceeding would necessarily entail a full-length licensing proceeding. During this time, the Licence would expire, requiring an emergency shut-in of the NWO and defeating the purpose of the short-term renewal.

Further, the Project is currently undergoing an EA. In the Board's opinion, it would be both inappropriate and duplicative for the Board to invite recommendations on potential changes to the mitigation measures, monitoring, and other requirements under the Licence while the EA is in process.

The Board has therefore decided to limit the scope of the proceeding to the proposed three-year term for the renewal. Only necessary administrative changes to the conditions, if any, will be considered.

#### **4.3.2 Structure**

Since the Board has decided to limit the scope of the proceeding to the term as outlined above, the Board will expedite this proceeding. The LWB [Rules of Procedure](#) and the Board's general authority over its process as an administrative tribunal provide for such action.

In the review comments, a total of 18 parties comments specifically mentioned support for an expedited proceeding and considered it acceptable under these extraordinary and potential emergency circumstances. GNWT – ECC stated in its letter *'it is of the opinion that an expedited process could be possible within the confines of mandatory requirements outlined in the MVRMA. The SLWB would still be required to call for a public hearing, which could not be cancelled until 10 days prior to the hearing, provided no intervener wishes to appear before the Board.'*

With the exception of the TRRC and the KGC, the other remaining reviewers, while supportive of initiating a renewal proceeding in general, did not specifically comment on the expedited nature of the proceeding.

The TRRC stated that an expedited proceeding would be acceptable if the conditions outlined in their letter are included in the licence renewal. Further discussion of the TRRC's recommendations is set out in section [4.4.2](#) below.

The KGC were not in support of an expedited process. The KGC letter states that *'the KGC respectfully requests that the Board provide additional time for interested parties to respond to its inquiries regarding the proposed commencement of a review process for the Emergency Licence. In the alternative, the K'ahsho Got'ine Committee opposes the proposed expedited review process for the Emergency Licence. The K'ahsho Got'ine Committee seeks meaningful and informed engagement in this review process, including the opportunity to provide substantive written submissions and engage in a public hearing.'*

The Board's review of the evidence submitted indicates most interested parties are in support of an expedited proceeding. Additional opportunities for parties to provide input on the short-term renewal will be available during the expedited proceeding, as discussed in section 4.4.3.

A draft Work Plan will be issued at the same time as these Reasons to provide details on the remaining steps in the regulatory process for the short-term Licence renewal.

As noted by Imperial in its response to comments, even an expedited proceeding for the proposed three-year renewal is still likely to require a shorter 60-day renewal of the Licence to ensure adequate time to complete the proceeding. A 60-day renewal would not require a public hearing process if applied for by the licensee,<sup>27</sup> and Imperial has indicated that it intends to do so.<sup>28</sup> The Board will consider such an application separately if and when received.

#### **4.4 Other Legal and Procedural Matters**

##### **4.4.1 Board's Authority to Amend the Licence Term**

In the Extension Request, Imperial argued that the Board has the authority to issue an interim extension to the Licence by amending the term under paragraph 72.12(1)(b) of the [MVRMA](#). The relevant parts of section 72.12 are below:

72.12 (1) Subject to subsections (2) and (3), a board may, in respect of a federal area,

(a) renew a licence, if the licensee applies for its renewal or if the renewal appears to the board to be in the public interest, with or without changes to its conditions, for a term

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<sup>27</sup> See paragraph 72.15(3)(b) of the MVRMA.

<sup>28</sup> See SLWB Online Registry for [Board-Initiated Renewal Proceeding - Reviewer Comments and Proponent Responses – Dec31\\_24.pdf](#) - Imperial Response Letter pg. 6/87.

- (i) of not more than 25 years, in the case of a type A licence that is in respect of a class of undertakings prescribed by the regulations or a type B licence, or
- (ii) of not more than the anticipated duration of the appurtenant undertaking, in the case of a type A licence other than one described in subparagraph (i);

(b) amend, for a specified term or otherwise, any condition of a licence

- (i) if the licensee applies for its amendment,
- (ii) if the amendment is required to deal with a water shortage in any water management area, or
- (iii) in any other case, if the amendment appears to the board to be in the public interest;

(emphasis added)

The underlined language in paragraph (b) above speaks to an amendment of “any condition” of a licence. Imperial specifically stated that it wanted no change to the Licence other than an extension to the term. As set out in the LWB [Reference Bulletin: Water Licence Term Changes](#), in the Board’s view, the “term” is not clearly a “condition” of the Licence, so any request to amend or extend the term of a licence will be considered a renewal. In the Board’s opinion, the appropriate statutory authority for a renewal in the public interest is paragraph 72.12(1)(a) not paragraph (b).

For the reasons above, it has decided to act in the public interest and initiate a proceeding to renew the Licence for three years under paragraph 72.12(1)(a).

#### **4.4.2 Tulit’a Renewal Resources Council Conditions**

The TRRC agreed that a short-term renewal of the Licence for three years would be in the public interest if increased long-term environmental risks are sufficiently mitigated. TRRC proposed four conditions be imposed on Imperial through such a renewal:

1. A commitment by Imperial to directly engage two part-time TRRC environmental monitors to monitor, observe and record the health and impacts on waterways within our jurisdiction for the duration of the short-term licence.
2. Financial support from Imperial of \$60,000 to enable the TRRC to maintain and repair the four existing TRRC monitoring cabins that are located on waterways within our jurisdiction. These cabins are utilized by TRRC environmental monitors while conducting water and environmental monitoring activities on the land and are essential to their activities and overall effectiveness of our water monitoring program.
3. Financial support for the traditional Tulit’a fall community hunt organized by the TRRC. This traditional annual hunt enables and supports community members to get out on the land via Sahtú waterways. It allows community members to see first hand

the condition and health of our Sahtú waterways and observe environmental changes that are taking place within the region.

4. A commitment by Imperial to hold an annual July open-house session in Tuli't'a where Imperial employees meet with the TRRC board members as well as the public to provide updates on their general operations, water usage and environmental mitigation programs.<sup>29</sup>

The Board acknowledges the TRRC's requests, however, the Board does not have the authority to order the requested commitments and financial supports through the Licence conditions. In setting water licence conditions, the Board's jurisdiction is limited to the regulation of the use of water and deposit of waste.<sup>30</sup>

In the Board's view, the Review Board's EA process for the long-term renewal is better suited to identifying options to address the TRRC's requests. The renewal proposed by the SLWB is short term and is only intended to prevent an emergency by keeping the current water licensing framework in place, including all the conditions and monitoring required by the Licence, until the EAs are finished. The Review Board's EA processes will provide an opportunity to consider longer-term environmental impacts of the Project. Additionally, the Review Board's jurisdiction is broader, which allows the development of measures that are outside of the SLWB's jurisdiction. The Board encourages the TRRC to participate in the Review Board's EA processes, and subsequently, in the SLWB's regulatory processes for the long-term renewal and the Line 490 Replacement Project.

The Board also notes that, in its response to review comments, Imperial stated its intention to continue engaging with Sahtú communities, including Tuli't'a, and expressed interest in discussing the TRRC's specific concerns.<sup>31</sup> The Board encourages the TRRC to continue to engage directly with Imperial on these issues.

#### **4.4.3 K'asho Got'ine Committee Concerns**

As indicated in relation to the TRRC requests above, given the short-term nature of the renewal proposed by the Board, the Review Board's EA processes, and the SLWB's subsequent regulatory processes, for the long-term renewal and the Line 490 Replacement Project are better suited for considering the long-term environmental impacts of the NWO. These EA process will ensure extensive involvement and consultation of affected parties, including the KGC and its membership. Additionally, the scope of these EAs is broader

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<sup>29</sup> See the SLWB Online Registry for [Board-Initiated Renewal Proceeding - Reviewer Comments and Proponent Responses – Dec31\\_24.pdf](#) – see TRRC Letter p35/87.

<sup>30</sup> See section 58 and subsection 72.04(1) of the [MVRMA](#).

<sup>31</sup> See the SLWB Online Registry for [Board-Initiated Renewal Proceeding - Reviewer Comments and Proponent Responses – Dec31\\_24.pdf](#) – Imperial Response Letter, pg. 7/87.

than that of a licensing proceeding and will address potential impacts on the exercise of Land Claim, Indigenous, and Aboriginal Rights.

In its Response to Review Comments, Imperial identified a further opportunity for participation and consultation through an EA for the closure of the NWO, which Imperial committed to requesting from the Review Board in 2025.<sup>32</sup>

In responding to the Extension Request, the SLWB has considered that it is responding to an impending emergency with potential environmental and social impacts for the residents of Norman Wells and the Sahtú region. The purpose of the proposed short-term renewal is to keep the current water licensing framework in place in order to prevent an emergency until the EAs are finished. Maintaining this framework ensures that existing mitigations, monitoring, and reporting required by the Licence will continue during this period.

Consultation required for the Extension Request is commensurate with these circumstances. The Board notes that it has not yet made a determination on the short-term Licence renewal itself – the regulatory proceeding the Board has decided to initiate at this time will offer all parties further opportunities to provide input on the short-term renewal. The Board looks forward to the KGC’s input and involvement in the expedited renewal proceeding.

## **5.0 Conclusion**

The Board has determined that it is in the public interest to initiate a proceeding to renew Water Licence S13L1-007 to prevent a potential emergency and protect property, the environment, and public welfare, health, and safety. In the interest of maintaining regulatory authorizations in place to protect the environment and the public until EA and regulatory processes for the long-term renewal application can be considered, the Board will conduct an expedited renewal proceeding limited to the topic of the proposed three-year term, with no other proposed change to Licence conditions.

SIGNATURE



January 10, 2025

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**Valerie Gordon, Chair**  
**Sahtú Land and Water Board**

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**Date**

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<sup>32</sup> See the SLWB Online Registry for [Board-Initiated Renewal Proceeding - Reviewer Comments and Proponent Responses – Dec31\\_24.pdf](#) – Imperial Response Letter, pg. 10/87.