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July 30, 2024

Sahtu Land and Water Board  
P.O. Box 1  
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**Attention: Paul Dixon, Executive Director, SLWB**  
**Valerie Gordon, Board Chair, SLWB**

Sent via email

Dear Mr. Dixon and Ms. Gordon,

**Re: Norman Wells Goose to Bear Island Flowline Replacement - New Type A Land Use Permit and Type B Water Licence (S24A-005/S24L1-002) Applications (the Applications)**  
**Goose to Bear Island Flowline Replacement Project (the Project)**  
**Imperial Oil Resources N.W.T. Limited (Imperial)**  
**Norman Wells Operations (NWO)**

Imperial writes in response to the Sahtu Land and Water Board's (SLWB) July 23, 2024 letter (Board Letter) addressed to the K'ahsho Got'ine Committee (KGC).<sup>1</sup> The Board Letter extended deadlines for comment in the SLWB's process for the Applications and invited input from the Applicant concerning the proceeding record.

Imperial requests that the SLWB processes for the Applications avoid duplication with and aid the process being administered by the Canada Energy Regulator (CER) for the same flowline replacement project. To meet project funding requirements, Imperial is seeking the CER Authorization by no later than October 1, 2024.

Further, Imperial does not object to the transcripts referred to in the Board Letter being incorporated into the SLWB's record for the Applications but requests that those transcripts be considered in context. In order to ensure that the SLWB's assessment is complete, Imperial requests that certain other records from the CER proceeding be considered and Imperial is open to these records being added to the record for this Application in accordance with SLWB process requirements.

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<sup>1</sup> [Letter from SLWB to KGC](#) dated July 23, 2024 re: Norman Wells Goose to Bear Island Flowline Replacement - New Type A Land Use Permit and Type B Water Licence (S24A-005/S24L1-002)

## CER HEARING PROCESS

Imperial initially filed a letter with the CER setting out its intentions for the Project on October 5, 2023,<sup>2</sup> and a letter with the SLWB on October 27, 2023.<sup>3</sup> After receiving subsequent direction from both regulators, Imperial filed an application with the CER for the Replacement Activities required to complete the Project on February 6, 2024<sup>4</sup> and with the SLWB on May 1, 2024<sup>5</sup>.

The Project has been the subject of an active and involved hearing<sup>6</sup> and regulatory process with the CER. The KGC and other parties have actively participated as intervenors throughout. The CER hearing process is comprehensive and has included opportunities for intervenors to provide Oral Indigenous Knowledge (OIK) evidence, written evidence, comments on both the Replacement Activities Application and on the CER's process, and to ask written Information Requests of Imperial, as well as submit written argument. The KGC have participated in each of the CER process steps that have occurred to date.<sup>7</sup> Participant Funding grants in the amount of \$40,000 are available to each of the KGC entities as part of the CER process.<sup>8</sup>

The SLWB Applications associated with this same scope of work are for a Land Use Permit and Water License for the Project. The Project has been the subject of the CER regulatory process described above for almost 6 months. As such, it is important to consider that there has been significant notice and process regarding the Project itself. Almost all of the information presented in the Applications is already included in the CER hearing record which has been under active review by regulators, communities, Indigenous groups, and stakeholders.

Coordination between the SLWB and CER with a view to minimizing duplication of effort and process is consistent with the Memorandum of Understanding<sup>9</sup> (MOU) entered into by the National Energy Board (NEB) (now the CER) and Mackenzie Valley Land and Water Board (MVLWB) on February 19, 2013. The MOU specifically outlines the desire to "minimize duplication of effort, and provide for an effective and timely review of applications."<sup>10</sup>

Timing constraints on preparing for and executing the Project make coordination and timely review, as contemplated by the MOU, particularly important in the case of the Applications. Additionally, the CER has stated that completion of the SLWB's preliminary screening process is necessary prior to the CER issuing an authorization required for the Project.<sup>11</sup> To support coordination between the regulatory processes, Imperial has copied the SLWB on key communications in the CER hearing process. Imperial

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<sup>2</sup> Imperial Oil Resources N.W.T. Limited -Letter to CER re Line 490 Replacement Project (5 October 2023) [C26477-1](#).

<sup>3</sup> Imperial Oil Resources N.W.T. Limited - [Letter to SLWB re Modification Notification](#)- Norman Wells Line 490 Replacement and Decommissioning (27 October 2023).

<sup>4</sup> Imperial Oil Resources NWT Limited - Line 490 Replacement Activities Application [C28320](#).

<sup>5</sup> <https://new.onlinereviewssystem.ca/review/A4248E1C-891F-EF11-86D2-000D3AE8C3E0>

<sup>6</sup> <https://www.cer-rec.gc.ca/en/applications-hearings/view-applications-projects/imperial-oil-resources-nwt-limited-variance-application-operations-authorization/>

<sup>7</sup> Filings submitted by the KGC in the CER process can be viewed at the following links to the CER's public registry: [Yamoga Land Corporation](#), [K'ahsho Got'ine Charter Community](#), [K'ahsho Development Foundation](#), [Fort Good Hope Renewable Resources Council](#), [Fort Good Hope Metis Local 54 Land Corporation](#).

<sup>8</sup> See CER - Hearing OH-001-2023 Public Information Session - Imperial Oil Resources N.W.T. Limited – [Applications for Variance of OA 1210-001 and Line 490 Replacement Activities – OH-001-2023](#) at slide 15.

<sup>9</sup> <https://mvlwb.com/sites/default/files/mvlwb/documents/MVLWB%20%26%20NEB%20MOU%20-%20Final.pdf>

<sup>10</sup> As provided in the Preamble of the MOU and reiterated in Section 6.2(b).

<sup>11</sup> See CER Letter dated 25 July 2024 [C30825-1](#) indicating that the CER cannot issue an authorization "before the end of 10 days after the Mackenzie Valley Environmental Impact Review Board receives the preliminary screening report".

requests that consideration be given to any coordination opportunities that may align the SLWB process with, and consider the work being done through, the CER process for the Project.

## SCOPE

The scope of the Applications before the SLWB is discrete and specific.

- The Land Use Permit Application is for an area of only 3.6 hectares on land owned by Imperial (LTO Plan 4237 / Lot 502) on Goose Island and (LTO Plan 4238 / Lot 501) on Bear Island. The workspace is needed for drilling and pipe stringing and predominantly follows existing clearings. There is equipment use and fuel storage consistent with other oilfield site works of similar nature described.
- The Water License Application is needed for any water use or waste to be deposited associated with the Project. Imperial is not proposing any new water use for the Project and will use water from its existing NWO water allocation (S13L1-007) for the Project. Waste generated from the Project will primarily consist of domestic garbage, drilling waste from the HDD (water containing clay and sediment cut from the borehole), and hydrostatic pressure test water. The NWO has a Waste Management Plan in place for management of these waste streams – this will be followed for disposal of wastes generated by the Project. There is no planned discharge of waste to water.

As noted above, Imperial has applied for a CER Authorization for the Project to permit the flowline replacement by way of the proposed construction method – horizontal directional drill (HDD). HDD is not a new technology and is a well-understood and environmentally preferred process that has been implemented in numerous instances across northern Canada, including the Mackenzie River, and beyond. HDD is widely recognized as a best practice for installing underground linear infrastructure across watercourses such as the Mackenzie River. The Project activities are not anticipated to have effects on navigation or navigation safety. The entry and exit points of the drill will be above the ordinary high water mark. The drill path and infrastructure will be approximately 15m below the deepest point of the riverbed.

## PRODUCTION IMPACTS AND PROJECT TIMING

Since July 2022, approximately one-third of production at NWO has been shut-in awaiting the Replacement Activities. The current production status is resulting in lower oil production as well as lower production of natural gas which is currently used to support lower greenhouse gas intensity (GHGi) power generation for the facility and the Town of Norman Wells.

The timeline for regulatory approval for this Project will impact when that production can be brought back online.

Should the Line 490 Replacement Activities not receive regulatory approvals before October 1, 2024, this could impact Imperial's ability to sanction the Project and meet the 2025 construction window. Primary approvals are typically sought before a project is fully funded because approvals are crucial for understanding constraints that could impact the final investment decision. As such, in communications since January 2024, Imperial has indicated that approvals are required by October 1, 2024. This is to allow for final engineering, procurement, logistics and mobilization work to occur in early 2025 to facilitate execution of the Project activities in the summer months of 2025.

Delays in returning production capacity from portions of the field connected by Line 490 significantly challenge the viability of not only the Project but continued NWO. If the Replacement Activities are not progressed, Imperial expects that NWO will become economically challenged and may be shut down. A shutdown at NWO will negatively impact business and workforce development opportunities in the region, as well as royalty and tax revenues accruing to stakeholders.

The challenges outlined above have increased over the last two months with the cancellation of fuel resupply by barge during the 2024 open water season. Without the portions of the operation of the field as a whole serviced by Line 490, there are more limited natural gas production volumes and therefore diesel is sometimes used to supplement the feedstock for the NWO electricity generation, which also supplies the Town of Norman Wells. Without diesel resupply or natural gas coming in from the field, NWO could begin to consider supplying supplemental diesel via airfreight, but this is a cost that could not be sustained over multiple months of uncertain fuel supply.

For the reasons outlined above, Imperial has been actively working through the regulatory processes to permit replacement of this critical infrastructure.

## COMMUNITY ENGAGEMENT AND FUNDING

Imperial's community engagement on this Project dates back to August and October 2023 where Imperial provided material related to the Project activities via email prior to the meetings and brought the material as handouts and posters to community sessions. Indigenous communities and stakeholders were provided with the CER's notification letters in November 2023 regarding the Project.

Imperial has continued to reach out to communities to schedule engagement sessions in 2024 and provide additional information on the Project. Imperial continues to have leader to leader discussions, both scheduled and unscheduled, and is available to discuss any Project related questions or concerns. An engagement record for this Project was submitted with the Applications.

Imperial and Yamoga worked together to execute a Capacity Funding Agreement for K'ahsho Got'ine for the engagement scheduled for October 12, 2023 in Fort Good Hope (ROC 860, 872). As mentioned above, for the current CER proceedings, the CER administers a Participant Funding Program (PFP) to facilitate participation.

Imperial remains in active dialogue with the KGC member organizations to seek ways of working together which includes the evaluation of potential funding agreements. In the broader Sahtu, Imperial has reached out to Sahtu Secretariat Incorporated and community organizations.

In addition to the items above, through the CER process, Imperial has committed to engaging with the Renewable Resources Councils and K'ahsho Got'ine Foundation to support environmental monitoring<sup>12</sup> activities for the Project. Initial emails have been sent out to those organizations to confirm the appropriate contacts for this scope.

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<sup>12</sup> See Imperial Response to CER IR No. 3.3 ([C29304-2](#)) at PDF page 6 and CER IR No. 5.3 ([C30058-2](#)) at PDF pages 15-16.

## CER HEARING RECORD ITEMS TO SLWB RECORD

As it relates to the items in the Board Letter, Imperial does not object to CER Oral Indigenous Knowledge Hearing OH-001-2023 Transcripts Volume 1 and 2 being filed on the SLWB record (KGC OIK). The KGC OIK relates to two applications before the CER: the Line 490 Replacement Activities and a variance to the existing NWO Operating Authorization for continued operation for 10 years. The transcripts addressing the overall operation of the oil field may not relate to the narrower issues associated with the Applications before the SLWB. Furthermore, the transcripts are one component of engagement and public comment related to the Replacement Activities and should be considered in that context.

Imperial requests that if SLWB decides to incorporate the KGC OIK into the review record that, consistent with the MOU, other pertinent information be considered as well. Doing so will provide a fuller perspective of local stakeholders' views that have been presented throughout the CER process.

Imperial suggests that the following items be considered:

- Letters of comment<sup>13</sup> filed by local businesses and stakeholders, specifically, but not limited to:
  - [BBE Supply Chain Co.](#)
  - [Boiler Controls](#)
  - [Canadian North](#)
  - [Canol Oilfield Services Inc.](#)
  - [Enbridge](#)
  - [Fluor Driver](#)
  - [HRN Contracting](#)
  - [HSE Integrated Ltd.](#)
  - [Jega Tue Limited Partnership](#)
  - [Norman Wells and District Chamber of Commerce](#)
  - [Norman Wells Transportation Limited](#)
  - [Northwest Territories Power Corporation \(NTPC\)](#)
  - [NWT Legislative MLA](#)
  - [SRP Petroleum](#)
  - [Tlegohti Joint Venture](#)
  - [Tlegóh̄j Reclamation Services Advisian](#)
  - [Town of Norman Wells](#)
  - [Willowlake Environmental](#)
  - [Yamouri Inn](#)
  - More than 25 other letters of comment filed by individuals.
- Relevant IR information from the CER process including:
  - Response to Oral Indigenous Knowledge evidence extracts<sup>14</sup>
  - Environmental monitoring commitments<sup>15</sup>
  - Engagement updates<sup>16</sup>
  - KGC IR Responses<sup>17</sup>

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<sup>13</sup> <https://apps.cer-rec.gc.ca/REGDOCS/Item/View/4418855>

<sup>14</sup> See Imperial Response to CER IR No. 5.1 ([C30058-2](#)) at PDF pages 4-11.

<sup>15</sup> See Imperial Response to CER IR No. 3.3 ([C29304-2](#)) at PDF page 6 and CER IR No. 5.3 ([C30058-2](#)) at PDF pages 15-16.

<sup>16</sup> See Imperial Response to CER IR No. 4.1 ([C29876-2](#)) at PDF pages 2-7 and Attachment 1: Updated Summary Log ([C29876-3](#)), IR No. 1.8 Attachment 5: Summary of Concerns ([C28800-25](#))

<sup>17</sup> See Imperial Response to KGC IR No. 1 ([C29626-2](#)), Reply to KGC Motion to Compel ([C30739-1](#), [C30739-2](#)) and CER Ruling ([C30845-1](#))

## DUTY TO CONSULT

Under the authority of the *Mackenzie Valley Resource Management Act*, SC 1998, c 25, the SLWB regulates the use of land, the use of water, and the deposit of waste through the issuance of land use permits and water licences. As noted in the SLWB's Engagement and Consultation Policy, the Government of Canada and the GNWT have indicated that they rely on the SLWB's proceedings to discharge their duty to consult and the SLWB's proceedings and decision-making can satisfy the Crown's duty to consult.<sup>18</sup> Therefore, "the [SLWB] may need to assess and rule on the adequacy of Crown consultation".<sup>19</sup> The SLWB's website indicates that the "Crown relies on the [SLWB's] process as the primary means to fulfill its duty to consult with Indigenous peoples".

As noted above, the Applications are for a land use permit for a 3.6 ha area on Imperial-owned lands and a water license for waste deposit in respect of the Project. An environmental and socio-economic screening (review) was done for this Project and submitted to the SLWB via the Environmental Interactions Table<sup>20</sup> and the Potential Environmental Impacts and Proposed Mitigations tables in the application materials<sup>21,22</sup>. Given the limited potential for adverse impacts arising from the issuance of these authorizations, in Imperial's view, the SLWB's legislative authority and its process as currently structured are appropriate and sufficiently comprehensive to fulfill the Crown duty of consultation in respect of the Applications.

Imperial would like to highlight the SLWB's ability to address consultation through its regulatory process, particularly by cooperation with the CER and allowing KGC OIK on the record. Imperial's view is that the limited nature and impact of issuing a land use permit and water licence for the Project (i.e., the potential for any impact is minor) leads to a duty to consult at the lower end of the spectrum, where the duty includes to give notice, disclose information, and discuss any issues raised in response to the notice.<sup>23</sup> This would be well within the purview of the SLWB process, which has included notice, an opportunity to comment on the Applications, the incorporation of the KGC OIC on the record, and an opportunity to comment on any authorization conditions. In addition, as noted above, the hearing process for approval of the CER Authorization for the Project is comprehensive and the KGC are actively participating in that process.

In response to legal argument from the KGC, the Board Letter encourages the KGC to take up consultation matters with the Crown and Applicant that are beyond its legislative mandate. Imperial notes that many of the concerns raised by the KGC relate not to the Applications before the SLWB in this process but more broadly to NWO historical operations. Imperial welcomes ongoing engagement and seeks to understand communities' perspectives and deal constructively with differing views.

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<sup>18</sup> Engagement and Consultation Policy (January 2023) at page 12, available online: <https://slwb.com/resources/lwb-policies-and-guidelines>.

<sup>19</sup> Engagement and Consultation Policy (January 2023) at page 2, available online: <https://slwb.com/resources/lwb-policies-and-guidelines>.

<sup>20</sup> Imperial Application for a Type A Land Use Permit and Type B Water Licence for the Norman Wells Goose to Bear Island Flowline Replacement Project, [Attachment 10](#) – Environmental Interactions Table.

<sup>21</sup> Imperial Application for a Type A Land Use Permit and Type B Water Licence for the Norman Wells Goose to Bear Island Flowline Replacement Project, [Attachment 1](#) – Land Use Permit Application Form – PDF Pages 8-16.

<sup>22</sup> Imperial Application for a Type A Land Use Permit and Type B Water Licence for the Norman Wells Goose to Bear Island Flowline Replacement Project, [Attachment 2](#) – Water Licence Application Form – PDF Pages 7-17.

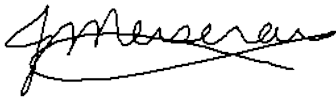
<sup>23</sup> See *Haida Nation v British Columbia (Minister of Forests)*, 2004 SCC 73 at para 43.

## SUMMARY

In summary, Imperial is concerned that any further delay in the regulatory process could jeopardize its ability to fund and progress the Project. Imperial urges the SLWB to implement a process that enables the Board to complete a fair and considered screening of the Replacement Activities to be used by the CER prior to October 1, 2024.

Please contact me ([jaclyn.mersereau@esso.ca](mailto:jaclyn.mersereau@esso.ca)) or Sam Bird ([sam.bird@exxonmobil.com](mailto:sam.bird@exxonmobil.com)) or if you have any further questions about these Applications.

Sincerely,



Jaclyn Mersereau  
Environment and Regulatory Technical Lead  
Imperial

cc: John Gregory, Operations Superintendent, Imperial  
Sam Bird, Environment and Regulatory Advisor, Imperial  
Jeremy Smith, Project Manager, Imperial  
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