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August 21, 2020

File: S13L1-007

Helen Fu
Environmental Property Solutions
Imperial Oil (Norman Wells Operations)
P.O. Box 2480, Station M,
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Calgary, AB. T2P 3M9

Sent by e-mail

Dear Ms. Fu,

Re: Imperial Oil Resources (NWT) Ltd. — Water Licence Amendment Application Incomplete – Waste Management Facility – Norman Wells, NWT

On July 31, 2020, Sahtu Land and Water Board (Board) staff received the Amendment Application for Water Licence (Licence) S13L1-007¹ for the proposed Waste Management Facility from Imperial Oil Resources (NWT) Ltd. (Imperial).

The Application has been reviewed and found to be lacking information required under section 6 of the Mackenzie Valley Federal Areas Waters Regulations. For the Application to be considered complete, the following information must be submitted to the Board's office:

1. Engagement Plan and Record

- a) An updated **Engagement Plan** was not required by the Board to be submitted; however, upon review of the approved Plan² in reference to this Application, the Board recommends that it be updated.
- b) An **Engagement Record** consisting of a **Log** and **Summary** was submitted with the Application in accordance with section 2.1 of the MVLWB *Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences*³ (Guidelines). The SLWB is aware of Imperial's engagement efforts over the time reported; however, the manner in which the Tables from the Guidelines have

¹ See SLWB Online Registry for [S13L1-007](#)

² See S13L1-007 [Engagement Plan version 3.0](#) (approved June 30, 2015)

³ MVLWB [Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences](#).

been filled out is both incorrect and incomplete and does not represent documentation of meaningful engagement. For transparency, and to fulfill the requirements of the Policy and Guidelines, all affected parties and stakeholders must be able to see how their concerns have been documented and “stewarded to closure” as stated in section 2.6 of Imperial’s Engagement Plan *Addressing Community Concerns* and in section 2.3 *Engagement Activities*, where the fourth bullet states that Imperial “will maintain logs on all discussions and meetings with Sahtu stakeholders to compile an engagement report for regulatory filing”.

- c) The **Engagement Matrix** submitted with the Application requires revisions and updates.
2. **Environmental Protection Plan** – There is incomplete information in the **Environmental Protection Plan** for the SLWB to complete the Preliminary Screening. The Impact-Mitigation Table must also include considerations for social, economic and cultural impacts.
 3. **Groundwater Management Plan**: An updated **Groundwater Management Plan** is required to be submitted with the Application. The SLWB included this on a list of items required for submission for the amendment application on November 14, 2019⁴.
 4. Staff review of the **Updated Facility Design Basis Report** identified issues with respect to the use of the term “Stages” when describing the facility design and construction in two Stages and Wood’s internal facility design process which seems to have five stages. It is difficult for the reader to understand which stages of the design correspond with which stages of construction. Therefore, it is strongly recommended that this report be revised to clarify and distinguish these processes.
 5. An **Aquatic Effects Monitoring Program** was not submitted with this application, as “the AEMP Includes the WMF and other components of the operations”. The WMF is not a component of “operations” and the AEMP version 3.0 states that it has no relationship with closure and reclamation. There needs to be a consistent message about the objectives of the AEMP.
 6. **Closure and Reclamation** – With so many uncertainties about the final WMF (e.g. final size based on volumes, leachate production and treatment; geotechnical investigations, etc.) that are required components of a Final Closure and Reclamation Plan (CRP), how will Imperial address the outstanding concern of GNWT that the approval of the WMF prior to approval of a Final CRP would be NWT precedent setting?
 7. **Security** – An updated **Closure Cost Estimate** was not required by the Board to be submitted; however, it is recommended that a high-level review of the security estimate be prepared and submitted as evidence to the Board to ensure assumptions are still appropriate

Details of recommended updates to these documents are provided in Table 1 (attached).

Upon receipt of this information, the Application will be reviewed as per the Mackenzie Valley Federal Areas Waters Regulations. If this information is not provided within 90 days of the date of this letter, staff will return the Application. Please contact Bonnie Bergsma at (867) 496-2778 with any questions or concerns regarding this letter.

⁴ See SLWB S13L1-007 – [Submission requirements](#)

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Bonnie Bergsma', with a long horizontal flourish extending to the right.

Bonnie Bergsma, M.Sc.
Regulatory Specialist

- . Christine Wickens, Imperial
- Heather MacPherson, Imperial
- Tim Morton, Inspector CIRNAC
- Devin Penney – Inspector CIRNAC
- Mike Roesch, CIRNAC

Attached: Table 1

Table 1: Additional Information Requirements for Application Completeness.

| Application Form Section | Topic | Additional Information Required |
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| 4. | Project Description - Updated FDB Report | 1) Board staff have identified terminology issues between the Project Description for the WMF which presents the construction in two Stages with the <u>Stage 2 Facility Design Basis Update Report</u> which details stages of Wood’s design process. The use of the same terminology to describe the Project construction and design stages is confusing to the reader and not clearly explained which stages of the design correspond with stages of construction. Therefore, it is difficult to understand which design stages need to be completed prior to Licence approval, and which stages or components would be required as conditions in the Licence. |
| 8 | Additional plans and/or reports to describe waste management | 2) WMF Environmental Management Plan – new for review |
| | Water and Wastewater Management Plan | 3) Groundwater Management Plan – update required as per SLWB email of application requirements sent to Imperial on November 14, 2019. Licence Conditions Part E, 2,3 and 4 will require updating to include details on all proposed ground water monitoring around the site as well as characterization of existing conditions and groundwater flows around the site to address concerns about potential impacts of leachate generated from the WMF. |
| | Aquatic Effects Monitoring Program | 4) Board staff have identified inconsistencies between the description of the AEMP for this Application which stated: the AEMP Design Plan includes the WMF, along with other components of the operations.; while the AEMP version 3.0 (under review) states that “ It is important to note that this plan is not intended to monitor and track progress of reclamation and remediation sites. A program, referred to as Closure and Reclamation, operates separately and is summarized in a separate annual report that is submitted to the SLWB”. |
| 10 | Impacts and Mitigation Measures – Preliminary Screening | 5) Revise the Environmental Protection Plan included in the Application Package to describe all potential impacts and proposed mitigations for the WMF as required by MVRMA Part 5. This must include social, economic and cultural impacts (<i>effects on wildlife harvesting; effects on social and cultural environment or heritage resource</i>). Indicate whether any of the mitigation measures have been developed as a result of input from affected parties. Additional guidance is provided in Appendix B of the MVLWB Guide to the Land Use Permitting Process , the Mackenzie Valley Review Board Environmental Impact Assessment Guidelines , and the Mackenzie Valley Review Board Socio-Economic Impact Guidelines . |

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| <p>14.</p> | <p>Engagement</p> | <p>6) Revise the Engagement Plan to update and include the following information:</p> <ul style="list-style-type: none"> • Amend Table 1-1 and section 1.3 to update Déljné self-government status as Déljné Got'ine Government under Government Type in Table 1-1 and confirm or update status of various Déljné organizations listed in section 1.3; • Amend Table 2-1 to include “Amendment” to the Application for Renewal of Water Licence as a trigger for engagement; • Amend Table 1-2 as required; and • In section 2.6 <u>Addressing Community Concerns</u> revise and update the following: <ul style="list-style-type: none"> ○ Document how Imperial ensures the community receives the Community Relations Advisor (CRA) contact information; what the definition of “community” means; where the information is located; and how the community receives notification of any updates to the contact information; and ○ Describe how the annual report (or a modified version if there is confidential information), prepared by the CRA that documents all concerns raised by members of the community and how they were addressed and “stewarded to closure” will be made available to the community and become part of the official Engagement Record for the Licence. <p>The Policy, section 2.1, states that an Engagement Record consists of a Log with a detailed account of all engagement occurrences; and a Summary which is a results-based report of engagement with each affected party. The Record must be comprehensive and provide the Board with evidence of activities, summary of key issues (discussed), resulting changes to the proposal, issues that remain unresolved.</p> <p>7) Revise the Engagement Record to include the following information as outlined in the MVLWB <u>Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits</u>:</p> <p>a. Summary and log, describing when, why, who, and how engagement was conducted; specifically:</p> <p><u>Engagement Log</u></p> <ul style="list-style-type: none"> • Present all engagement activities related to the Licence from November 2014 to present; and highlight or extract all of the engagement specific to the WMF; • The point of the Log is to document all issues raised by affected parties/stakeholders and how they were resolved, or not; • The first ROE (ROE#1) was an email between the regulator and the applicant regarding the format and content of a meeting presentation. This is not really engagement as defined by the Policy. |
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| | | <ul style="list-style-type: none"> • The second ROE (ROE#2) documents a WG Meeting (the type should match the type on the Matrix (ICRP Working Group Meeting #1). Under written correspondence column meeting notes should be replaced with “meeting notes distributed by SLWB on November 27”, perhaps with a link to the document on the registry; the meeting notes contain a summary of <u>all issues</u> raised at the meeting, recommendations for resolving and how Imperial responded to the issue and if the issue was resolved. In order for these Working Group meetings to become a meaningful part of the Record, these need to be documented in the Log in the specified format. For example, a list of issues derived from WG#1 meeting minutes includes: <ul style="list-style-type: none"> ○ Participants were not supportive of the closure objectives; ○ Working group members were uncertain what some of the terminology meant; ○ Group was interested in the history of past C and R activities and concerned that previously reclaimed sites may not meet present closure criteria; ○ Definition of “cultural integrity”; ○ Fate of the artificial islands; ○ Bosworth Creek was formerly called “Oil Creek” – does it have a Dene name and what is the history of the creek; ○ Suggestion that Imperial train locals to be able to participate in data collection of water, soils; ○ Concern about the depth that the wells will be cut and capped and whether scour in the river and frost heave will expose these over times; ○ Questions about whether the land will be able to be reclaimed so it could be used for hunting; ○ The closure criteria will be developed collaboratively and use non-technical terms. <p style="margin-left: 40px;">Not all of these issues have been resolved (e.g. artificial islands, training locals to support monitoring); however, these unresolved issues have not been identified.</p> • The third ROE (ROE#3) is a record of the meeting notes from WG#1 sent by email to the WG participants. Since it is the same list of participants used in ROE#2, there is no need to list all attendees again. • The fourth ROE (ROE#8) is an email from NEB to SLWB with response to request from applicant for comments on closure objectives. There is no summary of the issues raised by the NEB in the letter either here or within the Summary for the NEB; • The fifth ROE (ROE#4) are the issues (comments) about the closure objectives from the SLWB, which are listed in the Log. However, the comments from NEB were included as an attachment to the letter from SLWB to the proponent and therefore, should be listed as well. |
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| | | <ul style="list-style-type: none"> • The other ROE’s follow similar pattern as described above, and <u>all require updates.</u> <p><u>Engagement Summary</u></p> <p>The Summary is supposed to be a <u>results-based</u> report of engagement with each affected party.</p> <ul style="list-style-type: none"> • The name of the affected party is accompanied by a list of the acronyms of all other affected parties at that meeting. This is not required. • Imperial’s Summary presents a comprehensive summary of the Reasons for Engagement; however, some of the reasons are not applicable; e.g. outcomes of meetings and follow-up action items are not part of the reason for engagement – these form part of the response and follow up to address issues; • The overview of issues resolved or unresolved is largely left blank for most of the affected parties; • There are no signatures from any affected party indicating that they met and discussed issues, nor what those specific issues were, if any; or how issues were or were not resolved; • There are no copies of meeting sign-in sheets with the list of attendees, nor any minutes of questions asked, or issues raised at these meetings. In Fort Good Hope, there were 50 attendees in 2016 and 100 in 2016. This demonstrates that the community had many questions and concerns about Imperial; however, there is no record of any issues raised; • In a meeting between Imperial and David Hodgson (NWRRC) and Shirley Hodgson (president NWLC and TDLC) on July 16, 2018 they informed Imperial that they do not consider the C and R Working Group meetings to be consultation. For them, consultation is talking to the community to ensure that they understand what Imperial is doing. For this same reason, the Chapter 9 meetings held annually would also not be considered “consultation”. The SLWB encouraged Imperial to include issues raised and considered during the working group meetings in the engagement record as these meetings were a means of bringing community concerns forward, and therefore a method of engagement. However, the Log and Summaries submitted with the Amendment Application do not adequately represent a complete or acceptable record and therefore are not representative of meaningful engagement. • The list of meetings held over time would be more useful if placed chronologically with a timeline of key discussion topics and specifically the timelines for introducing the WMF. This would more clearly show how Imperial used the Working Group meetings to advance their closure and reclamation planning and then took the results out to all of the Sahtu communities before holding another |
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| | | <p>Working Group meeting. This also permitted time for participants attending the meetings on behalf of the organizations they were representing, to share information with their community Leadership or senior government officials, prior to attending the next meeting. The 4 Working Group Meetings were conducted during the development, review, and approval of the ICRP and the introduction of the WMF. The sequence is as below:</p> <ul style="list-style-type: none"> ○ February 20- March 14, 2014 – SLWB sends invitation to join the Closure and Reclamation Working Group ○ November 9, 2014 - <u>Working Group meeting #1</u> – brief mention at end of meeting of the development of a local Class II Landfill; ○ December 4, 2014 – March 5, 2015 - SLWB and DIAND Minister approval of Imperial’s Water Licence renewal; ○ September 22, 2015 - <u>Working Group Meeting #2</u> – the concept of the WMF was introduced and a tour of the NWO to look at the proposed site locations was made; ○ September 27 – October 1, 2015 – <u>Community Open Houses</u> in all 5 Sahtu communities - to present the draft ICRP and introduce the WMF as the preferred option (145 people in total attended); ○ January 26, 2016 - <u>Working Group #3</u>– Imperial presented the draft ICRP; ○ March 4, 2016 - January 5, 2017 – SLWB regulatory review process and approval for the ICRP; ○ January 5, 2017 – SLWB approves the ICRP version 1.0, noting in the decision letter that <i>This facility (LTMF), if conceptually approved by the approval of this ICRP, will require a separate regulatory review, approvals and permitting process and preliminary environmental screening.</i> ○ September 13, 2017 - The SLWB recommended that Imperial seek out Elders, past employees and ask what they want to see happen to the land; ○ October 16 – November 9, 2017 - <u>Community Open Houses</u> in all 5 Sahtu communities to present the initial written notification that Imperial would be bringing forward an application to construct and operate the WMF (245 people in total attended); ○ April 4, 2018 <u>Working Group #4</u> – Imperial provided the initial notification information for the WMF; ○ July 17 - 18, 2018 - <u>Community Open Houses in Fort Good Hope and Tulita</u> where Imperial and Wood consultants were present to informally introduce the WMF, answer questions and receive feedback on all aspects (25 people in total attended). A summary of issues and responses are provided – see below; however, all are indicated as being resolved and there has been no documentation of whether these issues have been resolved to the satisfaction of the affected parties (communities); ○ October 25, 2018 – Meeting in Yellowknife with Imperial, CIRNAC, GNWT, SLWB to discuss regulatory process and |
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| | | <p>issues. Imperial mentioned that they had gathered additional TK. If so, where is this information and how has TK been accommodated in the project planning?</p> <ul style="list-style-type: none"> ○ January 16, 2019 – <u>Community Open House in Norman Wells</u> to present an overview of the WMF Project (# attendees not provided). Imperial noted that they responded to/noted input, feedback and questions. None of this is presented. <ul style="list-style-type: none"> ● Include in the chronology all records of one-on-one or small group conversations, meetings, correspondence, etc. that would be considered engagement. This would include the records of meetings with several of the Sahtu Land Claimant organizations and RRCs about business opportunities, job and training opportunities, socioeconomic benefits, compensation; ● Other meetings with Regulatory authorities (CIRNAC, GNWT-ENR, CER, SLWB) were documented in the Record. There were several other such meetings in 2019 not recorded with concerns raised about: <ul style="list-style-type: none"> ○ Groundwater flow and depth; ○ Security; ○ Treatment of leachate; ○ Details of borrow materials; ○ Longevity of the facility (the membranes have been rated for a life-span of 100-150 years. However; the Closure Guidelines recommend planning to be done for 1,000 years; ○ Processing a Licence [amendment] without a final approved CRP is NWT precedent setting. You cannot put the cart before the horse; <p>“Overview of Issue(s) Resolved Column”: <u>Fort Good Hope July 17, 2018 Community Open House (15 attendees)</u></p> <p>(a) water quality from the WMF, and if it will enter the Mackenzie River. Imperial’s response was: “The WMF is set back from the river. There will be water management and monitoring in place – certain water quality standards will need to be met and report as part of the licence. Monitoring reports are available to the public”. This issue was deemed resolved; however, it is not. Water is one of the most important issues to Sahtu communities and residents.</p> <p>(b) Compensation for the Community – how has this been resolved?</p> <p>(c) There are no women at the meeting and women in the community need a voice. Imperial agreed with this comment and have indicated that this issue is resolved. How was this issue resolved?</p> <p>(d) Contamination of soils, and effects on the environment and people. Imperial “resolved” this issue by stating “Reclaiming the soil using the WMF is part of <u>progressive reclamation</u> which deals with soils contamination”. Imperial also noted that both air and water quality monitoring are undertaken regularly. This response does not answer the question being asked about how Imperial can prove that the WMF</p> |
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| | | <p>will have no negative effects on their land and people over the next 1,000 years.</p> <p><u>Tulita</u></p> <ul style="list-style-type: none"> a) Training opportunities for youth – Imperial looking at opportunities is not a resolution of the issue. In meeting notes from WG#1 (November 9, 2014) Imperial committed to training and using Indigenous youth and Guardians to assist in water and soil monitoring programs – 4 years is a long time to look for opportunities; b) Need more community engagement – engage with communities before Leadership; lots of community advertising in advance of events. [Note: The column ‘Reasons for Engagement’ summarizes the concerns/comments received 3) and then lists the issues 4). The summarized issues do not match the concerns. The concerns were: communication with the community and sharing information about operations. This is an unresolved concern that has not been addressed; c) Progressive reclamation during operations vs. using the WMF for soils that cannot be treated – this comment appears to be seeking clearer information about the differences between these two activities, likely because it has been introduced as a component of progressive reclamation (see d) above) rather than a large permanent engineered structure on the land that will hold contaminated soils for generations. d) Connection of the land as a living system – Imperial needs to respect that the facility will be on the land for generations and that it cannot remain forever separated from its surrounding environment but will over time become interconnected with the surrounding air, land, water, wildlife and people. People in the Sahtu need to be able to fully understand what is being proposed in order to evaluate, on their own terms, whether the mitigation and accommodation strategies presented will be effective and is therefore a risk they are willing to accept and consent to. <p>8) Revise the Engagement Plan Matrix to address/update the following:</p> <ul style="list-style-type: none"> a) The list of potentially affected parties and stakeholders in section 1.3 of the Plan does not match the list of affected parties /stakeholders in the Engagement Plan matrix submitted with the application. Rationale for not including all affected parties/stakeholders is required; b) Key/Primary Concerns were not completed for all Stakeholders (e.g. MVLWB; CIRNAC; DFO) c) Were the key/primary concerns identified and confirmed by each stakeholder, or were these based on the WG #4 meeting discussions? d) Potential Engagement Approach – were these approaches implemented as checked or are the checks still potential? If not, it would be more useful to see the actual engagement that occurred, and this would link with the Log and Summary by the ROE; |
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| | | <p>e) Planned/Formal Engagement – same as above, are these actual occurrences, and they could also be linked to the Log and Summary by the ROE;</p> <p>f) Contacts – contacts should match the names in the Log and Summary; there are always changes in positions and roles over time. This could be documented by adding a date range after the names to indicate when they were engaged and who is current contact.</p> <p>g) Contacts - spelling for Angela Plautz, MVLWB</p> <p>h) Planned/Formal Engagement is presented from September 2017, however, the Log and Record present engagement from November 2014. The Matrix needs to include all engagement from November 2014 to current or specify that this represents engagement related to the WMF?</p> <p>Note that all parties will have the opportunity to comment on the adequacy of the Engagement Record during the public review phase of regulatory process.</p> |
| 14 | Closure and Reclamation | <p>9) The SLWB did not require Imperial to submit an updated ICRP or Final Closure and Reclamation Plan; however, Imperial needs to address the outstanding concern of GNWT that the approval of the WMF prior to approval of a Final CRP would be NWT precedent setting</p> |
| | Closure Cost Estimate | <p>10) The SLWB recommended that an updated Closure Cost Estimate remain untouched until the iteration of the ICRP as per SLWB email of application requirements sent to Imperial on November 14, 2019. However, there was much discussion about security and there will still need to be some level of review of that security to ensure it is appropriate. It is recommended that a high level review of the security estimate be prepared and submitted as evidence to the Board to ensure assumptions are still appropriate .</p> |