

## **Imperial Oil Application to the OEB for the Waterdown to Finch Project - Authority for City Intervention**

**Date:** May 10, 2019

**To:** City Council

**From:** City Solicitor and General Manager, Toronto Water

**Wards:** All

### **REASON FOR CONFIDENTIAL INFORMATION**

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The attachment to this report is about litigation or potential litigation that affects the City of Toronto. The attachment to this report contains advice or communications that are subject to solicitor-client privilege.

### **SUMMARY**

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Imperial Oil Limited ("Imperial Oil") has applied to the Ontario Energy Board (the "OEB") for leave to construct a pipeline that would replace an existing pipe that carries refined oil products between Imperial Oil's Waterdown Pump Station in the City of Hamilton and its Finch Terminal in North York. This report outlines the issues that may be of concern to the City and seeks authority to proceed with an application to intervene in Imperial Oil's application.

### **RECOMMENDATIONS**

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The City Solicitor and the General Manger of Toronto Water recommend that:

1. City Council direct City staff to continue to review the Imperial Oil application and any further supporting material, and consult with Imperial Oil, in an effort to resolve any concerns.
2. City Council authorize the City Solicitor to proceed with the City's application to participate in the OEB proceedings as an intervenor in relation to any unresolved concerns.

3. City Council authorize funds, as outlined in the confidential attachment, be made available to obtain such assistance as necessary in the opinion of the City Solicitor, in consultation with the General Manager of Toronto Water, to represent the City's interests at the OEB;
4. City Council authorize staff to liaise with other affected municipalities and Conservation Authorities to discuss coordination of responses to Imperial Oil's application;
5. If the City's application for intervention is granted, City Council authorize the City Solicitor to subsequently withdraw the City's participation as an intervenor once all issues of concern to the City have been resolved to the satisfaction of the City Solicitor, in consultation with the General Manager of Toronto Water.
6. City Council adopt the confidential instructions to staff in Confidential Attachment 1.
7. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential until the release of the final decision of the OEB including any appeals or judicial review.

## **FINANCIAL IMPACT**

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Funding for the expenses identified in the confidential attachment is available in the Toronto Water 2019 Approved Operating Budget in GL 4010, Cost Centre TW4005, and in GL4035, Cost Centres TW3005 and TW4010.

City staff will explore potential cost sharing arrangements with other municipalities and/or Conservation Authorities.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

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There is no decision history related to this matter.

## **COMMENTS**

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Imperial Oil has applied to the OEB for approval to construct 63 kilometres of a 12-inch diameter pipeline and associated infrastructure to transport refined oil products from its facility in the City of Hamilton (the Waterdown Pump Station) to its facility in the City of Toronto (the Finch Storage Terminal). A link to the application can be found on the OEB's Web site:

<http://www.rds.oeb.ca/HPECMWebDrawer/Record?q=CaseNumber%3DEB-2019-0007&sortBy=recRegisteredOn-&pageSize=400>.

The new pipeline will replace an existing pipeline installed in the mid-1950s which carries petroleum products used by households and businesses across the Greater Toronto and Hamilton areas, including jet fuel for Toronto Pearson International Airport.

Once construction of the new pipeline is complete, the existing line will be deactivated and the new pipeline will operate in its place. Imperial Oil plans to construct from December 2019 to November 2020. In its application, Imperial Oil states that the replacement is to "...support continued safe, reliable, and environmentally responsible transportation of products..."

The application to the OEB states that Imperial Oil intends to have the proposed pipeline follow the route of the existing pipeline as closely as possible. A map of the proposed route is attached as Appendix 1. The new line, much like the existing one, will cross a number of roads and other public and private lands within the City of Toronto. City staff have been in discussions with Imperial Oil regarding the permits and property rights that are required.

Imperial Oil has made limited technical inquiries of various City staff over the course of a number of months on this project. City staff are of the view that further information is required to understand the full potential impact of the work and ensure that all municipal issues are addressed to the City's satisfaction. As such, City staff have written to the OEB requesting intervenor status to preserve the City's rights to participate in the proceedings pending consideration of this report by Council. This report requests authority to proceed as intervenor, and to withdraw if appropriate.

The following are some of the potential City issues identified to date:

#### 1. Potential Impacts on Water Quality

A key concern is the impact of a potential spill on the quality of City's drinking water. As required under Ontario's *Clean Water Act, 2006*, the CTC (Credit Valley, Toronto and Region, Central Lake Ontario) Source Protection Committee developed a source water protection plan to protect drinking water supplies against potential future threats. The City is a member of this committee. The plan, which came into effect on December 31, 2015, includes policies related to pipeline ruptures to address risks to drinking water.

The planned route for the new pipeline crosses the Humber River, Etobicoke Creek, Mimico Creek and Black Creek which all outlet into Lake Ontario, the City's drinking water source. The City would like to ensure that Imperial Oil's proposed works include spill prevention, contingency plans and emergency response measures that are in keeping with the CTC policies. City staff continue to request and review information to ensure that any potential threat to the quality of the City's drinking water are appropriately addressed by Imperial Oil.

## 2. Emergency Preparedness

In addition to protecting against the City's drinking water, the City also has an interest in protecting the local environment, municipal infrastructure, residents and businesses by ensuring that there is appropriate emergency preparedness. For instance, the City is interested in confirming that all required information is shared with local agencies, and that the necessary training and planning is in place to address the various potential threats that could arise from a spill.

## 3. Financial Assurances

In the event of a spill, a large number of people, property and businesses could be impacted such that the associated costs could be significant. The City is interested in ensuring that Imperial Oil has the financial resources (such as insurance) to pay for, among other matters, remediation costs, fines and penalties.

The OEB intends to hold a public hearing to consider Imperial Oil's application. The Board will question the pipeline company and there will be opportunity for intervenors, including the City of Toronto, to also pose questions and make arguments. Currently, the OEB intends to proceed by way of written hearing. By intervening, the City can seek to address unresolved issues such as the ones discussed above.

## **CONTACT**

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Katherine Frankl, Solicitor, Legal Services, Tel: (416)397-5406

Email: [katherine.frankl@toronto.ca](mailto:katherine.frankl@toronto.ca)

Frank Quarisa, Director, Wastewater Treatment, Toronto Water, Tel: (416) 392-8230

Email: [frank.quarisa@toronto.ca](mailto:frank.quarisa@toronto.ca)

## **SIGNATURE**

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Wendy Walberg  
City Solicitor

Lou Di Gironimo  
General Manager, Toronto Water

## **ATTACHMENTS**

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Public Appendix 1 - Imperial Waterdown to Finch Project Location  
Confidential Attachment 1 - Confidential Information