

Decision 20200501A

Unilateral Amendment to Approval Conditions regarding Monitoring in response to COVID-19 Under the *Environmental Protection and Enhancement Act, Water Act, and Public Lands Act*

Imperial Oil Resources Limited [Imperial]

Kearl Processing Plant and Mine and Cold Lake In Situ Project [the Projects]

WHEREAS the Government of Alberta has declared a state of public health emergency due to pandemic Covid-19 and the significant likelihood of pandemic influenza, by Order in Council 080/2020;

And WHEREAS the Government of Alberta has issued a number of Covid-19 orders under the *Public Health Act* and the Chief Medical Officer of Health has issued guidelines to ensure the safety of Albertans and its workers (Covid-19 Orders and Guidelines);

And WHEREAS Imperial is the holder of approvals, registrations, licences, preliminary certificates and dispositions issued to it by the Alberta Energy Regulator, or its predecessor, under the *Environmental Protection and Enhancement Act, the Water Act and the Public Lands Act* (the Approvals) related to the Projects;

And WHEREAS Imperial has raised legitimate concerns about its ability to meet monitoring requirements contained in the Approvals while complying with the Covid-19 Orders and Guidelines;

And WHEREAS the Alberta Energy Regulator recognizes the importance of ensuring environmental monitoring and protection as part of responsible energy development;

And WHEREAS the Alberta Energy Regulator recognizes that enabling reasonable compliance with the Covid-19 Orders and Guidelines to ensure public safety and safety of essential workers is also an important aspect of responsible energy development;

And WHEREAS the Alberta Energy Regulator has the authority to amend approval conditions relating to monitoring requirements on its own initiative under the *Environmental Protection and Enhancement Act*;

And WHEREAS the Alberta Energy Regulator has the authority to amend approval conditions relating to monitoring requirements on its own initiative under the *Water Act*;

And WHEREAS the Alberta Energy Regulator has the authority to amend approval conditions relating to monitoring requirements on its own initiative under the *Public Lands Act*;

And WHEREAS the *Alberta Land Stewardship Act* acknowledges that actions may need to be taken for the purpose of public health or safety, or in response to an emergency, that are inconsistent with a regional plan;

And WHEREAS the Alberta Energy Regulator finds it necessary and appropriate to balance the need for monitoring of environmental conditions with the need to ensure public safety and safety of essential workers during this public health emergency;

And WHEREAS the Alberta Energy Regulator finds it necessary to amend Decision 20200429A issued on April 29, 2020, to add further clarity and additional items in the Appendix;

THEREFORE, the Alberta Energy Regulator decides as follows:

- 1) This decision replaces Decision 20200429A.
- 2) The Approvals, which were issued under the *Environmental Protection and Enhancement Act*, the *Water Act* and the *Public Lands Act*, are hereby amended to temporarily suspend the requirements for monitoring and activities incidental to monitoring listed in the Appendix attached hereto until otherwise directed by the Alberta Energy Regulator or as stated in the Appendix.
- 3) For greater certainty, this decision is in effect immediately and remains in effect until otherwise directed by the Alberta Energy Regulator.

Dated in Calgary, Alberta, on May 1, 2020.

Alberta Energy Regulator

Martin Foy
Executive Vice President (Interim), Operations Division

Appendix

- 1) Groundwater sampling under the Directive for the Assessment of Thermally-Mobilized Constituents in Groundwater for Thermal In Situ Operations;
- 2) Surface water quality testing and analysis with the exception of surface water releases to the environment;
- 3) For In Situ operations only, all groundwater sampling under *EPEA* Approvals. The requirements for this monitoring resumes by no later than September 30, 2020;
- 4) All groundwater sampling under *Water Act* licences;
- 5) Volatile organic compounds (VOC) / reduced sulphur compound (RSC) monitoring, including fugitive emissions surveys carried out by contractors. Refer to the web content on the Alberta Energy Regulator's website for requirements related to fugitive emissions surveys for In Situ Operations;
- 6) All stack testing, Relative Accuracy Test Audit (RATA) and Cylinder Gas Audit (CGA) activities. The requirement for this monitoring resumes by no later than September 30, 2020;
- 7) Fugitive emissions Leak Detection and Repair (LDAR) programs, carried out by contractors. Methane requirements for In Situ operations are still required to be met. Refer to the web content on the Alberta Energy Regulator's website for details;
- 8) Audits and verifications including third-party audits for Continuous Emissions Monitoring (CEM) Code;
- 9) On site monitoring studies planned under the Fort McKay Air Quality and Odours Project, except for odour assessment and communication protocols already in place and the Fort McKay Acute Response Trigger (FMART) process;
- 10) Produced gas monitoring requiring gas analysis, as required in the Air Emission Source Monitoring and Reporting Table;
- 11) Wildlife monitoring programs using cameras and acoustic recording devices or other techniques to remotely capture animal presence;
- 12) Wildlife and bird monitoring programs conducted internal or external to lease boundaries, including research programs, population estimates and presence studies (e.g. eDNA programs). Operational deterrent programs are to remain in place (including scare cannons) to protect both migratory and non-migratory birds at oil sands operations;
- 13) Research and demonstration activities, carried out by contractors and non-essential personnel;
- 14) Rare plant monitoring field work;
- 15) Yellow rail helicopter surveys/monitoring;

- 16) Off-lease firebreak monitoring;
- 17) Research requirements for fen, pit lakes and other water bodies;
- 18) Wetlands monitoring; and
- 19) Lab testing for water released from storm ponds. Field measurements may be used instead of lab analysis, including pH, chlorides, turbidity, dissolved oxygen, and visual inspection of visible foam, floating solids and grease and sheen. For mining projects only, acute lethality testing to continue for any water discharged.