

October 24, 2023

By Email Only

Natalie Jeanneault
Clerk of the Standing Committee
On the Environment and Sustainable Development
House of Commons
131 Queen Street, Room 4-37
Ottawa, Ontario K1A 0A6

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Re: Invitation to Appear Before the Standing Committee on the Environment and Sustainable Development on October 19, 2023

Dear Ms. Jeanneault,

Thank you for your invitation to appear before Committee.

As you are aware, the Alberta Energy Regulator continues to oversee an open investigation into the two separate incidents that occurred at Imperial's Kearl Oil Sands Project site.

To the extent possible, having regard for the public interest in protecting the integrity of the investigation, the Regulator is transparently and publicly sharing extensive information surrounding these incidents and activities being undertaken to enforce the Environmental Protection Order (EPO) issued to Imperial, [here](#).

As stated during my April appearance before Committee, the Alberta Energy Regulator continues to ensure diligent oversight of Imperial's actions to meet the expectations of the Kearl EPO. This includes ensuring Imperial is providing regular updates to local Indigenous communities which are also posted publicly [here](#).

Under the EPO, Imperial is required to provide a variety of submissions to the AER, which are also shared with communities, as well as with Environment and Climate Change Canada (ECCC).

In April, I also raised the fact that the AER Board of Directors had hired Deloitte to provide a third-party review of AER actions, performance, standards, and procedures of the regulator in attending to the two incidents at Kearl. This review included Deloitte meeting independently with local Indigenous communities to understand concerns. Deloitte has completed its work and the AER Board has accepted the report and all the recommendations. The AER Board has instructed management to prepare an action plan to attend to all the recommendations laid out in the report, which has begun in earnest. On September 27th the AER Board provided the Deloitte Report to the communities, ECCC, and this report has been made publicly available [here](#).

Regional river water quality monitoring continues to be undertaken in collaboration with Alberta Environment and Protected area, ECCC and local communities. All those results are readily available via a collaborative web site and are in the hands of officials at ECCC.

Given the transparent and extensive public sharing of information surrounding these incidents, the AER's commitment to improve its communications with communities, and the AER's positive and collaborative ongoing work with ECCC staff on this matter, it is unclear what specific information the committee might require for its consideration that is not already publicly available.

It is the mandate of the Alberta Energy Regulator to ensure the safe, efficient, orderly, and environmentally responsible development of oil, oil sands, natural gas, coal resources, geothermal, and brine-hosted mineral resources over their entire life cycle and we continue to be focused on this duty in Alberta, under some of the highest environmental standards for operating in the world. We are committed to releasing all relevant information once the full investigation and any associated legal proceedings are completed.

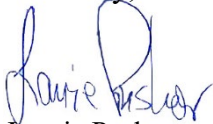
As these incidents continue to be under open investigation, it is of utmost importance and in the public interest, that we all seek to protect the integrity of the investigation, and I must decline the invitation to appear before the committee at this time.

This decision is driven by a commitment to preserve all legal and regulatory enforcement remedies available to the AER. Everything that the AER does and says regarding this matter forms part of the public record and will be heavily scrutinized. If this matter proceeds to prosecution or any other AER enforcement proceeding, statements made by AER representatives such as myself could jeopardize and bring into question the reliability of the investigation.

The persistent and at times antagonistic questioning in April in response to my stated concerns and cautions about protecting the integrity of the investigation suggests to me that the committee did not and does not take these concerns seriously. Further, I am not provided with and do not know the nature or scope of committee questions in advance of the proceeding, greatly increasing the possibility that statements could be made that could have a negative impact on the investigation or future legal or regulatory proceedings.

I also wish to point out that the federal government, including its agencies and committees, do **not** have supervisory jurisdiction over the provincial energy regulatory activities of the Alberta Energy Regulator. From the tenor and scope of the committee members' questions in April, it appeared to me that there was a lack of appreciation or basic understanding of this. The Supreme Court of Canada's decision in Reference re *Impact Assessment Act*, 2023 SCC 23 makes it even more clear that federal overreach into areas of provincial regulatory jurisdiction is not permissible.

Sincerely,



Laurie Pushor

President and Chief Executive Officer