

August 2, 2023

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**By email only.**

Chief Billy-Joe Tuccaro, Mikisew Cree First Nation  
Allison Bay Indian Reserve  
Fort Chipewyan, Alberta

**RE: Request for temporary Suspension at Imperial Oil Ltd. Kearl  
Project Alberta Energy Regulator (“AER”) Approval Number 10829 Environmental Protection  
and Enhancement Act (“EPEA”) Approval 46586-01-00**

Dear Chief Tuccaro,

Firstly, I would like to acknowledge my delayed response to this letter. Unfortunately, due to some address confusion, I did not receive your letter until the last week of July, and thus was not able to meet your requested response date of July 20<sup>th</sup>, 2023.

I would like to acknowledge the impact the Imperial Kearl incident is having on you and the members of your community.

Our Board of Directors has initiated a [third-party review](#) into the AER’s actions, processes, and communications surrounding the incidents and will publicly post the findings of this review in the coming weeks.

We are committed to working alongside communities, to strengthen our processes and engagement, to build relationships, enhance transparency, and broaden communications around our work. To this end our staff have been meeting with Mikisew Cree First Nation’s Government Relations team for the past several months, posting weekly updates on our website, emailing weekly updates to your community and others in the area to provide status updates on the work occurring at the Imperial Kearl site. We are focused on making improvements to our processes and rebuilding relationships of trust and respect.

As the AER continues to oversee Imperial’s activities that are required by the Environmental Protection Order (EPO), and as we investigate the Kearl incidents that occurred in May 2022 and February 2023, we are committed to sharing updates with employees, stakeholders, Indigenous communities, and the public as frequently and as transparently as possible within the parameters of the investigation. The AER is committed to ensuring enforcement of our EPO so that Imperial’s activities on site are effective in containing and monitoring for contamination, first and foremost so that downstream water continues to be

safe, and any environmental impacts are mitigated and communicated. At this time, operating the site doesn't appear to be having an impact on Imperial's ability to fulfill those obligations. It is our responsibility to and we will continue to hold them to that level of performance as they conduct their monitoring, clean up and remediation now and going forward.

As you are aware, we are actively investigating Imperial in relation to the incidents that underlie the EPO. During an investigation, we collect information necessary to understand why an incident happened, stop the noncompliant activity, identify the responsible parties, and, if necessary, take enforcement action. If, after the investigation is complete, the AER determines that further compliance or enforcement action is necessary and appropriate, additional actions outside of the EPO may be taken.

While I cannot comment directly on questions of timing to complete an investigation, I can provide some information about our investigations generally. For certain enforcement responses, the legislation provides a 2-year timeline to complete an investigation and issue an enforcement decision. The AER strives to complete investigations 6 months prior to the statute of limitations period. This is dependent on the complexity of the investigation. The decision to prosecute an offence is made independently by an Alberta Crown prosecutor, not by the AER.

The AER has comprehensive requirements in place for the safe design, construction and operation of tailings ponds. We evaluate each company's performance in managing tailings each year, conduct regular inspections and audits on tailings ponds, and enforce our requirements when companies are not in compliance. There is a comprehensive regulatory regime that governs regulation in this space including several pieces of legislation, multiple regulations and rules, and many specific directives. As per the company specific Tailings Management Reports (TMR's), the AER announced the posting of the 2022 Reports on May 31, 2023 and they can be found on the [Tailings Management webpage](#) under **Related Information**, at the bottom of the page.

In the AER's review of the Imperial Kearn TMR's, none of the TMRs from 2019 to 2022 indicate seepage at surface on or off site. In section 7.0 of the TMRs, Imperial states that surface water runoff and seepage from the East Tailings Area through dykes is managed by the closed-circuit system and that runoff is collected in toe ditches and collection ponds and is returned to the West External Tailings Area for use in the plant. The 2021 TMR stated that Process Affected Water (PAW) seepage is confirmed within the lease boundaries at 12 monitoring wells in the deep aquifer. Seepage mitigation was initiated via activation of the seepage interception system. The 2022 TMR stated that PAW seepage is confirmed within the lease boundaries at 21 monitoring wells in the deep aquifer. Seepage mitigation was initiated via activation of the seepage interception system.

Regarding the removal of EPEA approval conditions 4.2.25 and 4.2.26 EPEA Approval 0046586-01-00, subsections 4.2.25 and 4.2.26 were removed and evaluation conditions were incorporated into the existing approval conditions to allow continual comparison of upstream and downstream Muskeg River water quality with the Muskeg River Interim Management Framework and the Athabasca River surface water quality management framework. The current EPEA Approval conditions require that Imperial continue the evaluation of water quality upstream and downstream of Kearl to identify changes and assess any potential influence from Kearl activities. There were no reductions of surface water quality monitoring requirements in the EPEA Approval.

Under EPEA approval, companies must prepare for reclamation throughout the life cycle of an oil sands mine. Companies must submit several plans and reports to guide progressive reclamation throughout the life of a mine. The Mine Financial Security Program (MFSP) manages liabilities associated with the costs of reclaiming oil sands, coal mines and coal processing plants.

Imperial is required to calculate MFSP Liability at their Kearl oil sands mine in accordance with the MFSP Standard and Guide to the MFSP. I understand that the Government of Alberta has recently gathered input from stakeholders and Indigenous communities and organizations to help inform the Government's review of the Mine Financial Security Program and find long-term solutions for collecting funds from industry to cover oil sands and coal mine reclamation liabilities. Information about that review is available on the Government's website at <https://www.alberta.ca/mine-financial-security-program-engagement.aspx> and concerns about the program should be directed to the Ministry of Environment and Protected Areas.

The AER is committed to continuing to share information and updates as the mitigation work required under the EPO progresses. We also intend to host an open house in the Fort Chipewyan community in early September to foster community awareness regarding the Kearl incidents, the AER's role in oil sands regulation, and information regarding oil sands mining. We will be available for one-on-one meetings with community leaders as well, and I look forward to continuing our conversations around these matters.

Sincerely,



Laurie Pushor  
President and Chief Executive Officer

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