

Tuesday May 2nd, 2023

To: The Right Honourable Justin Trudeau, Prime Minister
The Honourable Danielle Smith, Premier of Alberta

CC:

The Honourable Steven Guilbeault, Environment and Climate Change Minister
The Honourable Jean-Yves Duclos, Minister of Health
The Honourable Marc Miller, Minister of Crown-Indigenous Relations
The Honourable Patty Hajdu, Minister of Indigenous Services Canada.

The Honourable Sonya Savage, Alberta Minister of Environment and Protected Areas
The Honourable Pete Guthrie, Minister of Energy
The Honourable Rick Wilson, Minister of Indigenous Relations

Laurie Pushor, Chief Executive Officer, Alberta Energy Regulator

Re: Urgent Action Required in Response to Imperial Oil Toxic Leak

Dear Prime Minister Justin Trudeau,
Dear Premier Danielle Smith,

We, the undersigned organizations and individuals, are writing to express our deep concerns about the irresponsible management of toxic wastewater in the tar sands tailings “ponds”¹, which now store over 1.4 trillion litres of toxic fluids. We are particularly alarmed by the rapid growth² of and ongoing seepage from the tailings “ponds,” which have resulted in the contamination of rivers, groundwater, air, and surrounding boreal forest, as well as subsequent exposure to toxins for wildlife and downstream Indigenous nations. The adverse impacts of tailings process-affected water on the downstream environment and food chain are well-documented. Despite repeated calls for downstream human health studies, in the context of the increasing burden of illness and cancer (including rare cancers), no significant investigation has ever taken place.

Imperial Oil’s recent leak and spill³, which allowed an unknown volume of tailings to seep into muskeg and over 5.3 million litres of toxic wastewater to spill from its Kearl facility into the environment, is a disaster. It is unacceptable that the downstream Indigenous nations, including Athabasca Chipewyan First Nation and Mikisew Cree First Nation, were kept in the dark about the leak for nine months. The disaster exemplifies the dangers the toxic tailings pose to

¹ Despite the small scale implied by their name, tailings “ponds” are immense industry-made bodies of sand and toxic fluids. The use of quotation marks in this document is meant to highlight the discrepancy between the terminology used and the reality experienced by Indigenous communities living near them.

² <https://environmentaldefence.ca/report/50-years-of-sprawling-tailings/>

³ https://www1.aer.ca/compliancedashboard/enforcement/202302-02_Imperial%20Oil%20Resources%20Limited_Kearl_Order.pdf

communities and entire ecosystems. It also brings into stark view the failure of tar sands operators to responsibly manage their waste.

Tailings “ponds” have been leaking millions of litres of toxic fluid for decades⁴. Indigenous nations downstream of the tar sands are experiencing high rates of cancers, respiratory diseases, and other adverse health effects.⁵ Tailings “ponds” violate the nations’ inherent and treaty rights, including those of harvesting foods and medicine from their territories and practicing land-based ceremonies, due to the contamination of lands, water, air, animals, and plants.

The Imperial Oil disaster is not an isolated incident. It is the latest example of a systemic failure by Canada and Alberta to hold companies accountable for their obligations towards downstream Indigenous nations and the environment. Additionally, the Alberta Energy Regulator’s response to the recent incidents at Imperial’s Kearl Mine demonstrates a fundamental disregard for [its mandate](#) to ensure oil sand operations do not compromise human health or the health and safety of the environment. Governments must step up and use their jurisdictional powers to protect human health and the environment.

We urge Canada and Alberta to take decisive action to address this critical issue.

In the immediate term, we demand The Governments of Alberta and Canada:

- Require Imperial to seal their berm to prevent seepage off-site.
- Shut down production at Imperial Oil’s Kearl facility. Establish a process to ensure that all impacted Indigenous nations’ Free, Prior and Informed Consent (FPIC) is required before Imperial Oil can restart production, based on proof their industrial waste water is not reaching or at risk of reaching the environment.
- Remove barriers to Indigenous nations’ access to compliance reporting, data, and sites for environmental sample collections for all tar sands projects and provide capacity funding for a detailed review.
- Implement a downstream testing program that continues after the spring thaw.
- Charge Imperial Oil and other tar sands operators whose tailings ponds are leaking under the federal *Fisheries Act* and relevant sections of the Environmental Protection and Enhancement Act.

⁴ http://www.cec.org/wp-content/uploads/wpallimport/files/17-1-ffr_en.pdf

⁵ “Water is a living thing”. Environmental and Human Health Implications of the Athabasca Oil Sands for the Mikisew Cree First Nation and Athabasca Chipewyan First Nation in Northern Alberta. July 2014.

Downloadable here:

<https://www.dropbox.com/sh/nu0lftnz521nm46/AAB0818-ByBKphpdvlfMudcAa/FULL%20REPORT%20For%20Chipewyan%20Env%20Health%20July%202014.pdf>

- Provide funding for a comprehensive and Indigenous-led health study into the high incidence of rare cancers in Fort Chipewyan.
- Place an immediate moratorium on any expansion of tar sands mining, such as new mines and extensions to existing projects.
- Ensure the Federal government issues a *Fisheries Act* Section 37(1) order to each tar sands operator to submit its environmental management system (EMS) for review.

In the near term, we demand you:

- Hold a public inquiry into the current state of impacts from tar sands operations and tailings ponds, including the human health, ecological, and economic impacts, as well as the structural integrity of all tailings ponds.
- Guarantee that current and future mitigative actions by industry and regulators must have the Free, Prior and Informed Consent (FPIC) of all impacted Indigenous nations.
- Ensure each tar sands operator has a comprehensive tailings reclamation plan that incorporates Western science and Indigenous knowledge, with the goal of fully remediating and reclaiming tailings impoundments while preventing any release of toxins into the environment. These plans should be approved by affected Indigenous nations and be publicly accessible.
- Secure from tar sands operators adequate security deposits in trust accounts to implement tailings “ponds” clean-up plans and finance the environmental remediation of mine sites.
- Increase the fines for violations of environmental regulations by tar sands companies.
- Ensure full public disclosure of the findings of the [Alberta Information Commissioner's investigation](#) into whether the AER violated the law by failing to inform affected Indigenous nations, communities, and the public of the seepage from the Imperial Oil Kearl tar sands mine tailings lakes.
- Abandon plans to release treated tailings into the Athabasca River watershed.
- Dismantle the Alberta Energy Regulator and develop an independent regulatory system in which the decision-making authority is shared with the impacted Indigenous nations.

We trust that you will give serious consideration to our concerns and work together to take appropriate action.

Sincerely,

Environmental Defence Canada

Keepers of the Water

Indigenous Climate Action

Idle No More

Climate Action Network – Réseau action climat Canada

Stand.earth

Council of Canadians

Greenpeace Canada

Wilderness Committee

350 Canada

Équiterre

Protect the Planet

Canadian Interfaith Fast For the Climate

Wilderness Committee

ORCIE (Office of Religious Congregations for Integral Ecology)

Council of Canadians, Edmonton Chapter