

To:
Members of the Legislative Assembly
Government of Alberta

May 3rd, 2024

Re: Urgency to Reform the Alberta Energy Regulator

Dear Members of the Legislative Assembly of Alberta,

We, the undersigned Indigenous and environmental organizations, are writing to request your support in addressing the Alberta Energy Regulator (AER)'s irresponsible management of energy development and its impact on climate change mitigation in Alberta. For decades the regulator has acted like a facilitator for the energy industry, which has resulted in environmental devastation, risks to public health and safety, as well as the erosion of public trust.

The AER is failing in its mandate to regulate energy resource activities in a safe, orderly and environmentally responsible manner, resulting in direct damage to the environment and communities across Alberta, as exemplified most recently by the toxic wastewater [leak and spill at Imperial Oil's Kearl Mine](#) in the oil sands. The AER knew about the leak for nine months without informing downstream communities. It was only when a second incident, a 5.3 million litre industrial wastewater spill, occurred at the same mine that the AER notified the public. When it conducted a review into its handling of the incident, the regulator reported that it had followed its internal guidelines. This serves as further evidence that the regulator, in its current form, is set up to fail communities while essentially ignoring the bad behaviour of the companies it regulates.

In his landmark book *Hidden Scourge: Exposing the Truth about Fossil Fuel Industry Spills*, scientist Kevin Timoney exposes how the AER is failing to meet its obligations as a public regulator by neglecting to adequately monitor industry operations or fine companies when spills occur. His book documents that between 1975 and 2018, there was an average of 1.9 oil spills per day in Alberta. His investigation started when he noticed that the spill volumes reported by the industry exactly matched the recovery volumes of spilled oil and saline water that was reported as cleaned up. Timoney demonstrated that the one-hundred-per-cent oil and saline spill recovery rates reported by the regulator were not scientifically credible.

In another example of lax oversight, in November of 2023, the AER decided not to reconsider its approval of Suncor's inadequate operational plan for the McClelland Lake Wetland Complex despite evidence of major flaws in the plan, such as unaddressed saltwater contamination and a lack of modelling for potential impacts to groundwater.

The regulator has also been failing to collect adequate funds for the cleanup of orphaned and abandoned well sites, as well as oilsands liabilities, estimated as high as \$260 billion.

We further note that the regulator is currently the subject of a lawsuit by the Athabasca Chipewyan First Nation because its current regulatory regime is unconstitutional as it infringes on the rights of Indigenous peoples.

We call on you to stand in solidarity with impacted communities and commit to reforming the Alberta Energy Regulator to protect the public's best interest, Indigenous rights, and Alberta's world-class ecosystems.

An effective and fair energy regulator would differ from the current one as follows:

1. Independence from the fossil fuel industry on the AER board of directors,
2. Decision-making power shared with Indigenous rights-holders over energy industry activities,
3. Replacement of the "directly and adversely affected" test in the hearing and appeal process with a "genuine interest" test,
4. Revisions to Alberta's Mine Financial Security Program (MFSP) and the Liability Management Framework (LMF) that uphold the polluter pays principle,
5. Increased royalty rates on the revenues of fossil energy projects,
6. Establish and enforce strict timelines for the reclamation of mine sites and other infrastructure.

Achieving the above will require making changes to the Responsible Energy Development Act to achieve criteria 1-3, to the rules for liabilities collection set up by the Ministry of Environment and Protected Areas for criteria 4, and to the rules for royalty rates set by the Cabinet for criteria 5. Criterion 6 can be met by the AER itself.

We look forward to working with you and all elected officials, Indigenous nations, civil society groups, and industries dedicated to regulatory reform to protect human and environmental health.

Sincerely,

Alberta Beyond Fossil Fuels

Alberta Wilderness Association

Canadian Association of Physicians for the Environment

Canadian Parks and Wilderness Society - Northern Alberta

Council of Canadians

Environmental Defence Canada

Keepers of the Water

Stand.earth

Treeline Ecological Research