



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

44th PARLIAMENT, 1st SESSION

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# Standing Committee on Environment and Sustainable Development

EVIDENCE

**NUMBER 057**

Monday, April 17, 2023

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Chair: Mr. Francis Scarpaleggia





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• (1100)

[*English*]

**The Chair (Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.)):** I call the meeting to order.

Good morning, everyone. I hope you had a good two weeks of constituency work.

Welcome to meeting 57 of the Standing Committee on Environment and Sustainable Development. Pursuant to Standing Order 108(2) and the motion adopted by the committee on Monday, March 20, the committee is commencing its study of the toxic leak of tailings ponds. Today's meeting is taking place in a hybrid format.

I would like to make a few comments regarding how the meeting will unfold.

Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mike. Please mute yourself when you are not speaking.

There is interpretation for those on Zoom. You have the choice at the bottom of your screen of floor, English or French audio. For those in the room, you can use the earpiece and select the desired channel.

I'll remind you that all comments should be addressed through the chair. For those in the room, please raise your hand if you wish to speak. For those on Zoom, please use the "raise hand" function.

I would like to welcome to committee today Ms. McPherson, who is substituting for Ms. Collins, as well as Ms. Goodridge, who is substituting for Mr. Lake. I hope you enjoy your time here and will want to come back at some point. There's also Ms. May, of course. Ms. May is almost a regular, so it's not so unusual to see her.

**Ms. Elizabeth May (Saanich—Gulf Islands, GP):** I'm unpacking my begging bowl for questions later.

**The Chair:** It's nice to see you here again, Ms. May.

Before we start, we have with us for the first panel Chief Allan Adam from the Athabasca Chipewyan First Nation, as well as Callie Davies-Flett, a regulatory adviser. From the Fort McMurray 468 First Nation, we have Martin Grygar, who is a professional engineer. From the Mikisew Cree First Nation, online I believe, we have Chief Billy-Joe Tuccaro and Melody Lepine, director.

I would like to emphasize that the opening statements are five minutes only. At five minutes, I will have to cut you off, but that's okay, because a lot of what I'm sure would have been said in the overrun can be said during the question and answer period.

[*Translation*]

Chief Adam, you have the floor for five minutes.

• (1105)

[*English*]

**Chief Allan Adam (Athabasca Chipewyan First Nation):** Good morning, everyone.

My name is Allan Adam, and I'm the chief of the Athabasca Chipewyan First Nation. You know that it's hockey season now. The last time I was this excited was when Wayne Gretzky took the cup back home. Connor McDavid is going to do the same for us this year.

Coming down to Ottawa is meaningful to our people. We expect to come down to Ottawa to compromise with elected officials who will think about what life will bring for the goodness of all.

With that, sir, I know I have probably about four minutes or so, but I'm going to read this testimony. I've come from a long way away, and to say that I have five minutes.... You're going to listen to what I'm going to say with more than five minutes, because what I'm going to say is very important to the nation's interest with regard to how we are going to develop this country. If you don't sit and listen to me, then I will get up and walk away right now. I will leave the submission here and it will all be done in 10 seconds.

My submission is probably a little over five minutes. All I'm asking for is seven minutes of your time. I will be direct and I will be forthcoming. I came out of my way from Alberta to come to sit before you today to make you understand what our people are going through and that we are not a joke.

Good morning. Thank you to the honourable members for inviting us here today. This issue is extremely important and deserves more attention.

While I would like to tell you that it is my pleasure to be here, that would be a lie. For some reason, it has become my job to come to this place to remind this government of its duties and responsibilities.

Your responsibility is to uphold our constitutional, guaranteed treaty rights under section 35. Your responsibility is to deliver the basic health, social, education and infrastructure services that your settler communities take for granted. Your responsibility is to properly regulate massive industrial projects that potentially threaten the health and safety of Fort Chipewyan and other downstream communities. Your responsibility is to warn human beings when their water might have been poisoned as a result of a failed tailings dam that was declared to be safe when it was approved and licensed by Canada. Make me understand that. It was done by Canada.

You have a responsibility, regardless of what you think. So does Alberta, but it has been leaking tailings onto our traditional territories for the past 11 months, let alone for the last 30 years. This is just what we know of.

For 10 months, this leak went unreported, despite the Alberta Energy Regulator and the oil sands operators being fully aware of what was going on. How many people in Ottawa knew what was going on in Alberta for the last 10 months?

For the last 10 months, the federal and provincial governments have done absolutely nothing. I can attest to that, because nobody gave me a phone call. It was only after a more serious, catastrophic leak earlier this year that we learned the truth. Even then, the settler governments did nothing.

It wasn't until we alerted the national media to this story that anyone in Ottawa or Edmonton started paying attention. It wasn't until we visited the spill site and published photos and video of the impacts on the fish-bearing water bodies and wildlife that anyone questioned the official story being pushed by the Premier of Alberta and the AER.

• (1110)

Everything is good, according to her. There's no harm to the wildlife. Well, come and eat the food we eat. Come and drink the water we drink. Maybe you'll say something different about that afterwards.

Despite two months of front-page headlines, we still don't have an account of what took place. To our knowledge, no one has been fired, disciplined or sanctioned by the companies, this government or other governments. While some at Imperial have attempted to apologize, Alberta's reaction throughout has been to simply treat this as a communication issue. This is a deliberate legal and political attempt to minimize a massive industrial catastrophe and the financial and political liabilities that will flow from it. When I say that, I mean there is still legal action pending here. It's pending towards the Alberta government as well.

Don't walk away too far, Canada, because you guys are just as much of a perpetrator in regard to what has happened here. I wouldn't be here today in Ottawa if there wasn't anything going on in Alberta, but unfortunately it's still happening. It's still leaking today. There aren't any answers to fix it, but we'll carry on.

What I take from this is that Canada is a country where you can dump 5.5 million litres of toxic sludge into the environment. Remember, that was set in just one day—5.5 million litres in one day. When I went to the Imperial site, they said that place was leaking

for three days. It's times three now. Understand that without being accounted for... I'm telling you this first-hand, because I was on the site. They threaten the health and well-being of downstream communities and suffer no consequences. The Canada pension plan and the Alberta Investment Management Corporation continue to invest tens of millions of dollars every year in the oil sands.

Canadians expect this industry to be properly regulated. I'm here to tell you that it's not true. It's not regulated. While Alberta bears much of the blame, Canada must also shoulder the responsibility for what is happening. CEPA, the Fisheries Act and the Mackenzie River Basin Transboundary Waters Master Agreement, which you have with your own counterparts... You guys can't even fulfill that. I would have told them that 20 years ago. That agreement contains legal tools and frameworks that would enable the federal government to protect the health and safety of the residents downstream of the oil sands.

We can point to a lack of enforcement, funding and political will, but these are excuses, not solutions. We need solutions. This incident has downstream indigenous communities in Alberta and residents of the north questioning whether this is an isolated problem or a systemic issue throughout the oil sands. When I say a "systemic issue", I'm talking about systemic racism in regard to first nations communities downstream. If this were in Calgary, I guarantee you guys would be crying and yelling from the bottom of your lungs, not me here today.

We ask that the federal government use all legal tools available to take control of the investigation and cleanup of the Imperial-Exxon-Kearl spill. Our trust in the Alberta government has been broken. It has been broken for a long time. It is clear they cannot be trusted to oversee this mess.

• (1115)

This mess has been going on since the 1960s. When are you guys going to clean it up? Alberta has \$1 billion to clean up the oil sands. It requires \$130 billion. From where is Canada going to get the rest if Alberta can't come up with that? That's a true fact, written by your peers and not by me.

We also call on the government to undertake a comprehensive inspection of the structural integrity of the tailings ponds across the oil sands, not only within Kearl. If a leak can go unreported for 10 months at Kearl, what is happening elsewhere? We need a credible, viable audit of every tailings pond in order to restore basic trust. If you can't do that, why are you sitting here?

Finally, Canada needs to ensure that indigenous people have a direct role in how the oil sands are regulated and how decisions about tailings are made. We need to prioritize the policies of how it is going to deal with the tailings ponds over the long term.

Industry and Alberta are proposing to treat the tailings liquid and release it back into the Athabasca River in Alberta. There is no way my community or any downstream communities will accept this solution. This is not our mess. We will not permit the polluters to dump this into our drinking water, because if you do that, does Canada have enough funds to move our community and our people to a safe place?

I'll tell you this, and I'll give fair warning to all of you. There is a big legal potential coming out of this, in regard to which Canada is going to be one of the perpetrators, alongside the oil sands and the Alberta government.

What I find unfounded, Mr. Chairman, is this. Why do first nations communities have to go before a panel when we are acquiring a licence in our traditional territories? Why do we have to spend millions of dollars to give our testimony and our evidence in regard to safe drinking water and the safe eating of the fish and the moose and everything else?

Why is it that we have to spend millions of dollars, yet the Alberta government continues to rubber-stamp every oil sands application that goes forward? Why couldn't we be sitting on the other side with the panel, which would not cost us anything, rather than hearing testimony in regard to the harm they want to do to our community?

The AER in Alberta is a complete joke. If you all stand and sit here with me and think about it, and you agree with it, then why am I here? It's been rubber-stamping the industry for the last 40 years. Bite your teeth. Bite them hard, because this is not a joke. This is reality.

Our people back home are continuing to die from the health issues that continue today, which nobody has talked about for the last 10 years. If you want me to bring that up, I will bring it back up, and we will start all over again.

• (1120)

You'll like the fact that I have to hear from my father-in-law, and I'll tell you this. My father-in-law is going to get his results back today, because they found a big growth in his liver last week—cancer. I'm supposed to be with my wife to comfort her when she hears this news, but I'm here giving testimony to everybody across Canada about the issue going on in our community.

If these tailings ponds continue to leak, our life expectancy is not going to be 80 anymore. Our life expectancy, throughout the whole community, will probably be about 60. I say that because young people are starting to catch cancer now—and we're not talking

about all the mental issues that continue to go on after COVID. These issues were here long before COVID came and they will be here long after COVID goes. If we can't deal with them, we have a problem. There shouldn't be any more development going on in our area, because our people are being affected by it. The communities downstream continue to be affected by it. If anyone here believes this is safe, I invite you to volunteer your community's water supply for long-term tailings storage.

This problem is not going to simply fix itself. Canada and Canadians have made billions of dollars from this resource. Canada has a responsibility to address the larger tailings and reclamation crisis unfolding in our region—it threatens the entire Mackenzie basin downstream of the oil sands—by empowering a federally mandated, indigenous-led co-management body with effective oversight and enforcement powers to fix it.

What we're asking, Mr. Chair, is for the first nations communities that are going to be affected by major industrial components to be the AER, to be the regulators. We should be sitting behind the table, not giving evidence about the damaging effects the industry has on our communities and why they continue today, in the 20th century.

What mandate do you have? The mandate you have is affecting our people downstream, and it's going to continue to affect them.

I'll leave it at that, Mr. Chair. Thank you.

**The Chair:** Thank you.

We'll now go to Mr. Grygar.

**Mr. Martin Grygar (Professional Engineer, Fort McMurray 468 First Nation):** Thank you, Chair.

Thank you, Chief Adam.

I am here today to speak on behalf of Fort McMurray 468 First Nation. Neil Cheecham was going to attend, but he's unable to attend today. I am honoured to speak on behalf of him and the community members.

Today is a day we all thought would never happen. More importantly, the errors in disclosure and reporting to the DFO and indigenous communities were disappointing. To this day, we are still waiting for a scope of work to get approved to review technical documents from Imperial. Even requests of Imperial to review more documents of water quality have been delayed and postponed, or the details that have been provided have been very limited. This obviously creates distrust among the communities and community members.

We live in a rules-based society. I will repeat that: We live in a rules-based society. However, the recent incident at Imperial Oil's Kearl plant has shown that oil sands operators, regulatory bodies and governments continue to behave inappropriately and value interest groups over trust and transparency. Therefore, today we seek to express the growing request that regulations and policies in remediation, environmental protection and restoration need to be grounded in the protection and continuance of inherent aboriginal and treaty rights in the area.

Fort McMurray 468 First Nation is a treaty rights-bearing indigenous community based in Fort McMurray. In 2021, Canada's United Nations Declaration on the Rights of Indigenous Peoples Act received royal assent and came into force. This is very important to the communities in this area because it allows them the ability to practise their treaty rights on this land when the oil sand operators wrap up their operations. This legislation provides a road map for the Government of Canada and indigenous peoples to work together to implement the UN declaration based on lasting reconciliation, healing and co-operative relations.

Critical to exercising our rights is the use of the region's extensive waterways, including, most importantly, the Athabasca River watershed. With that in mind, there is a growing concern with the tailings ponds that contain process-affected water and industrial waste water, which is currently estimated to be 1.7 trillion litres and covering 225 square kilometres. The increasing risk of seepage will have a detrimental impact on wildlife, traditional fish sources and drinking water. Tailings ponds and seepage issues are difficult to reclaim and create a growing concern about environmental impacts and impacts to human health, treaty rights and culture.

To reiterate Chief Adam's comments, the indigenous communities in that area have been suffering increasing rates of cancer. We've all assumed that these ponds have been leaking, and today is the first example where there's evidence of these tailings waters escaping their site.

Everybody brushes off the increase in the risk of cancer—those in indigenous communities smoke, drink and live an unhealthy lifestyle. I think it's important to understand that there might be other reasons for the increasing risk to indigenous communities in that area.

The recent incident in Imperial Oil's Kearl plant and the ensuing environmental protection order highlight serious regulatory management deficiencies. The lack of regulatory oversight and decisive action regarding the incident, coupled with an absence of early communication, meant that communities like Fort McMurray 468 First Nation and all the other communities in that area were potentially exposed to acute and chronic human health risks through multiple pathways—on the surface and potentially in groundwater.

- (1125)

Now there's evidence to say that it was winter and the wildlife wasn't prevalent—they were all asleep—and that drinking from frozen rivers or tributaries was probably not as important as maybe in the summer. However, the risk was there. It's still there, and it continues to be there.

The way the matter has been managed is further eroding our confidence in Alberta's regulatory regime, its issue-management capacity and its ability to protect our rights. Therefore, we would ask the people in this room to consider our comments and take into consideration targets and metrics that are meaningful for the industry and stakeholders, which are the communities that surround this development.

We need regulatory frameworks that regulate the environment, a regional assessment under the Impact Assessment Act and a cumulative effects study incorporating not just Imperial but Suncor, Syncrude and all of the operators in that area. It's important to understand here that everybody considers their own little piece of pie. Everybody could bring up LARP, but that doesn't have enough teeth. There needs to be additional oversight to ensure that the cumulative effects of all operations are being considered.

Considering the detrimental impacts seepage has on the environment, we're also disappointed and concerned about the industry steering the regulations and politics in regard to releasing process-affected water and industrial waste water from these tailings ponds. I note this again: It's easy to make this water disappear, but the risk to the communities won't disappear.

The proposed plan to amend the Fisheries Act to consider allowing the release of process-affected water and industrial waste water from oil sands operations is a step backwards. It's another great example of how indigenous communities have been constantly overlooked, particularly in the absence of a cumulative effects assessment.

However, I do want to take a moment of everyone's time to thank everyone in this room for the partnership regarding the federal government legislation. It can help provide a road map for the Government of Canada and indigenous peoples to work together to implement the UN declaration based on lasting reconciliation, healing and co-operative relationships.

The CIWG is one part of the solution that offers indigenous communities a pathway to finding meaningful solutions that help lead to consent. The structure of multiple subgroups within the CIWG allows the opportunity for open and honest dialogue to achieve consent and alignment with Canadian constitutional law and, more importantly, indigenous law. I think what was missed before was the gap between indigenous law and constitutional law, which has caused conflict and rift among the communities. I think the CIWG offers a pathway to bridge that gap moving forward.

We have an ask today. Because the concepts of reclamation and equivalent land capability are usually derived from an agricultural or forestry perspective—historically with minimal input from indigenous communities and knowledge keepers—we would like to begin to focus on a more active regulatory framework to evaluate the protection level and develop and apply indigenous standards, where required, to traditional foods, land use and cultural practice, rather than use the default guidelines being utilized by the AER. The Government of Canada's regulations and policies are required to support remediation and restoration to allow indigenous communities to exercise treaty and aboriginal rights.

There is a community member, Velma, who is a very knowledgeable person. She's been there supporting this community for a really long time. Her saying is “we didn't do this to ourselves; we had this done to us”. This problem is not going away. An active regulatory process can help achieve meaningful results in this area.

Thank you.

• (1130)

**The Chair:** Thank you very much, Mr. Grygar.

We'll go now to Chief Tuccaro.

Please go ahead, Chief.

**Chief Billy-Joe Tuccaro:** Good morning, everyone. My name is Chief Billy-Joe Tuccaro. I'm calling from Fort Chipewyan, Alberta.

I would like to echo Chief Adam's words. I too will be going past my allotted five minutes in respect to the seriousness of the situation that is occurring in the community at this time.

With that, I'd like to thank you all for inviting me to speak today. My name is Chief Billy-Joe Tuccaro of the Mikisew Cree First Nation. I am joined today by Melody Lepine, who is the director of our government and industry relations department. She will assist me with answering any questions you may have.

First of all, we would like to take this opportunity to express our frustration and critical concerns regarding the Imperial Oil Kearl oil sands project's tailings leak of toxic substances into our environment and how that has been poorly handled. We say that because we as a community, as Chief Adam mentioned as well, were notified only 10 months later, and that is totally unacceptable. For that, I too, as the chief of the Mikisew Cree First Nation, should have been notified as soon as it occurred.

It is important that we keep the crisis in context, and that context is the constant lack of necessary federal protection of our environment, rights and health in the face of what is now 1.4 trillion litres of liquid waste located near rivers, wetlands, lakes and groundwater that flows downstream to our community and ultimately to the Arctic. Try writing down that number. That's 1,400,000,000,000 litres. That is a lot of zeros.

First, as a bit of background, the Mikisew Cree First Nation is the largest Treaty 8 first nation in the oil sands region. Our traditional territory has a convergence of federal interests.

One, it is home to Canada's largest national park, which is also a UNESCO world heritage site. Two, it contains important trans-boundary waters. Three, it provides one of North America's most

important migratory bird pathways. Four, it includes iconic species like caribou and wood bison. Five, it is made up of a system of lakes, rivers and wetlands that support important fish species and fish habitat.

Six, it contains some of the largest industrial projects in Canada. These projects produce huge amounts of greenhouse gases and all manner of contaminants, including some that are or should be regulated under CEPA, 1999. When Mikisew signed Treaty 8 in 1899, we committed to a partnership with the Crown. We agreed to work in partnership around our land and resources with Canada, and the Crown agreed not to interfere with our ability to exercise our treaty rights and agreed to make sure we have the land and waters we need to maintain our way of life. Those are the rights to be protected under section 35 of the Constitution Act, 1982.

Committee members, we are here today to tell you that the promises the Crown made to us are not being met and that Parliament and the federal government must do more.

I must add that I am the chief of the elder who was mentioned by Chief Adam, and today is going to be a very emotional day for the family and for the first nation of the Mikisew Cree. Since this incident happened last May—I was newly elected in October but as a community member—I noticed the spike in cancer in the last year. For a lot of people whose cancer had gone into remission, it also came back to them. There was a recent spike in bile duct cancer, the rarest form of cancer known.

• (1135)

When our people get treated, all it does is speed up death for them. I know that. I've seen it first-hand in one of my best friends when I was by his bedside as he succumbed to this illness that nobody knows how to treat. This is what we encounter in the community.

The spring runoff is the most vital time for our people. As we harvest fish, meat, vegetation and traditional medicine from the land, how can we get assurance that this is okay for our people to sustain their way of life?

The current crisis shows the failures on multiple fronts, and we fear that Kearl is just the tip of the iceberg. We are bracing for even more catastrophic events unless there are real reforms. I think this is not only a Kearl issue; this is about all industries that have tailings ponds. We are putting you on notice today that we will not take this. This will be a one-and-done thing because, as Chief Adam has said, is Canada ready to move us and the Mikisew people to a safe haven?

Summer is coming. There are going to be kids swimming in the lake. All the RMWB does is test the water that comes out of the taps. Who can give me certainty that when these kids go in the water in the springtime and summertime and swim, they're going to be safe? That's what we want as a community.

One of the clearest lessons from this crisis that grew is that it has reconfirmed the AER is a captured regulator that is simply not a trusted partner in protecting federal interests in our community. Living in an indigenous community in the oil sands and downstream from it, I can tell you that it is appalling that Alberta has done so very little to manage the escalating growth and scale of these massive toxic ponds that seep into our natural environment and watersheds. This creates risk to our way of life, to nationally important ecosystems and to the well-being of Canadians.

Let me give you some examples of how the AER is failing us and all of Canada. They had information about this seepage for what now appears to be years without sharing any notice or data with us or the federal government. The AER has had data showing seepage from ponds for years and confirming seepage moving beyond the seepage interception systems but has taken no action. The AER ignored clear findings of the joint review panel for the Kearl project. We still struggle to get sufficient data from the AER regarding the Kearl event, and the AER is allowing Imperial to limit data gathering and sharing.

The federal government's response has been better. Indigenous Services Canada has taken important steps around crisis access to drinking water and mental health supports, and the Environment Minister has listened to us to try to build a path forward that recognizes us as real partners. However, the Kearl crisis shows that Canada's regulatory system is not blameless either. Canada's response to the crisis has been hampered by provincial failures to share information and follow clear findings of the Kearl joint review panel. Why is that?

Also, Canada has had many opportunities to be better prepared but either hasn't taken critical actions or has been too slow to act. Let me highlight a few.

It has been more than five years since the UN's World Heritage Committee requested a risk assessment of tailings ponds. Why?

• (1140)

It has been more than a decade since our communities requested a health study, which could have led to federal protections. That's why the Mikisew people, when we sent a letter to Mr. Prime Minister about a month ago, requested that we get on with the health study, especially with what's going on now and with the recent spike of cancers in the community.

Federally supported scientists have identified seepage from tailings ponds into fish-bearing waters for more than a decade, with no improvements to regulations or laws.

There are existing federal tools, like agreements under the Fisheries Act, that could help with information sharing, but they haven't been actioned.

In 2019, the Teck Frontier joint review panel called on Canada to undertake more monitoring and research in the region because of

the threats to the Wood Buffalo National Park world heritage site, but action is still needed.

Committee members, as you investigate the many failures around the Kearl crisis, it is important that you not lose sight of the human cost here. Most if not all of the Mikisew Cree are, for a good portion of their time, occupying and exercising their treaty rights on the land, including the land being impacted by Imperial Oil and by the numerous tailings ponds littered along the Athabasca River.

My members are scared. We have people who are scared to drink their water, and we aren't even sure how long our supply of drinking water is going to last in Fort Chip. People are stressed out. They are worried about their health. You've probably heard about all of the rare cancers in Fort Chip. That's where people's minds go when something like this happens.

There are impacts to our way of life. We've been living off these lands and waters for generations. In Fort Chip, we still eat lots of traditional foods. We need to trust our land and water to fish and hunt. We need that certainty.

The situation has broken that, and it is important for all of you to understand that we are significantly impacted by this issue. Our interests are both immediate and long term. The alarming issue of leaking tailings ponds is of serious concern to the Mikisew people, because governments aren't doing their part to protect our rights and our environment.

Committee members, we wish to ensure that the integrity and health of our environment and our people are protected, and that means protecting the fish-bearing waters in the oil sands and protecting our river systems. It means safeguarding sources of our drinking water and better regulating the massive threats posed by these huge tailings areas. It means transparent and robust information sharing.

I am sure many of you are wondering what the Mikisew are asking for. We are simply asking for certainty that those leaking tailings ponds will be fully cleaned up, that no contaminants, which may pose any risk to our health and livelihood, will reach our traditional foods and drinking water and that our waters will be safe to drink and use. We are asking for certainty for the health of our people, certainty about the way our land will look and function in the future and certainty that we will be able to continue our way of life on the land and that our rights will be protected as was promised to us in 1899.

All of this can only happen if Canada takes real steps to ensure our community is part of a process in overseeing this urgent situation and is involved in the way oil sands development will continue in our region. It can only happen if there starts to be real accountability and transparency around this situation and all the tailings ponds.

Thank you, committee members.

• (1145)

**The Chair:** Thank you, Chief Tuccaro.

Because of the seriousness of the issue, we extended our meeting an extra half hour today. We have a two-and-a-half-hour meeting instead of a two-hour meeting, and we have a panel coming in at 12:15 p.m.

We'll go to one round of questioning of six minutes, starting with Mr. Deltell. I believe he'll be sharing with Ms. Goodridge.

**Mr. Gérard Deltell (Louis-Saint-Laurent, CPC):** Ladies and gentlemen, thank you so much for your important testimony.

Chief Adam, you talk about restoring basic trust. You're right, and that is why all of us are here. That is why all of us around this table asked for this committee meeting. It is our duty and our responsibility to go deep in this problem.

[*Translation*]

We need to make sure that a very serious accident like this does not happen again and, most importantly, understand the causes and effects that this had on the people affected. That's why I'm going to turn it over right now to the member of Parliament who represents the riding where this all happened, which is Fort McMurray—Cold Lake.

[*English*]

**Mrs. Laila Goodridge (Fort McMurray—Cold Lake, CPC):** Thank you, Monsieur Deltell.

To start out, you guys are the first witnesses we're hearing for this study. We'll be hearing from Imperial on Thursday.

I was wondering if you could let us know the first time that Imperial reached out to you and what the content of that communication was.

Perhaps I'll start with you, Chief Adam.

• (1150)

**Chief Allan Adam:** Kearl never reached out to ACFN. The former chief of the Fort McKay First Nation, Mel Grandjamb, who was chief at the time, notified me on February 24. He asked me if I'd heard of the Kearn Lake incident where its tailings pond was leaking into Firebag River. I said no, and he said that I'd better get on it. He asked why nobody notified me, and I said I wasn't aware of this. This was 10:30 at night.

**Mrs. Laila Goodridge:** What year was this?

**Chief Allan Adam:** It was 2023.

**Mrs. Laila Goodridge:** Okay.

**Chief Allan Adam:** February 24 of 2023 is when he called me.

When I initiated the action about what was going on, I initiated to my team.... That same night, a text message went out. By the next day, on the 25th, all hell broke loose because of what had happened.

**Mrs. Laila Goodridge:** That's very concerning.

What engagement has Imperial undertaken since this incident became public?

**Chief Allan Adam:** For ACFN, Imperial allowed me and my three staff members to do a site visit. When we went to the site and looked at what was going on, it appeared to me, as an individual—and I can attest to this because I still have the videos in my phone—that not only was the tailings pond leaking in one area, but it was leaking in several areas. You have three different incidents in three areas where seepage is coming through.

**Mrs. Laila Goodridge:** Chief Tuccaro, when did Imperial first reach out to you, or did they?

**Chief Billy-Joe Tuccaro:** It would have been around the same time as Chief Adam.

You have to remember too that I just became the chief in October. Until February, I had no knowledge of what transpired before that. We were notified in February as well.

**Mrs. Laila Goodridge:** Did you also hear from Chief Grandjamb, or did you hear from Imperial directly?

**Chief Billy-Joe Tuccaro:** No, I did not hear from Chief Grandjamb. We didn't hear from Imperial right away. It was more or less from word of mouth, from the street, so that's why I got my GIR team to question it.

**Mrs. Laila Goodridge:** I appreciate that. I think it's important to make sure we have these facts on the record. It is critical, as we're going forward, that we have that information.

I believe you guys all have impact benefit agreements in place with Imperial. Can anyone speak to what communication is supposed to look like as part of an impact benefit agreement?

**Chief Allan Adam:** When it comes to our impact agreement, Imperial was supposed to notify us of everything that happens on their site, and that goes for every oil sands operator out there as well.

For some reason, this had to be breached. They breached their own agreement. We, as the the Athabasca Chipewyan First Nation, always uphold our side of the agreement and do not talk badly about the oil sands operators. We gave you guys the trust that was required for them to operate in our region. To withhold information for 10 months and for how many years is absurd and appalling.

Why do you continue to lie to us? What have we done in regard to Canada...that we lied to everybody? We never did anything to anybody. All we want here is to be told the truth in regard to what goes on in our region.

Our region has the largest economic industrial movement going on right now on the globe. Tell me anything different that you guys are going to do in an environmentally safe way. That's all I ask.

• (1155)

**The Chair:** We'll have to go Mr. Duguid now, please.

**Mr. Terry Duguid (Winnipeg South, Lib.):** Thank you, Mr. Chair.

I want to thank Chief Adam, Chief Tuccaro and Mr. Grygar for their very powerful testimony today and for highlighting the major breach of trust that has occurred not only to you but also to other downstream communities.

I'll start with Chief Adam. We wish your father-in-law all the best and hope that he recovers his health.

To my understanding, there are 31 Dene and six Inuvialuit communities downstream from the Kearn Lake site. There are a number of Métis communities as well. My understanding is that there has been a gathering, or at least a discussion, with all of those nations. To all those nations, water is sacred. In your culture you depend on it for food and for drinking water.

Could you perhaps amplify the mental health impacts, the psychological impacts and the worry this is causing all those communities, based on your recent meetings?

**Chief Allan Adam:** Yes.

When it comes to the issues in regard to safe consumption of food and water, after being notified about the spill from Kearn Lake and finding out that it was all true, I went back home to Fort Chip. I had to turn that tap on to cook my food. I drink two cups of coffee every morning. Where does that water come from?

Knowing that turning that tap on could be detrimental to my health, I had to take into consideration how many other people in our community felt the same way, and they didn't even know of this information yet. When I went home, knowing this information, I felt so alone. I did not know how to tell the people what was going on and sometimes would be called down for telling the truth.

I'm a good man. My dad raised me up to be a good man, and my mom did also. I don't hurt people. I try to give people a good life and the good responsibility of raising up their kids so that our life will continue on. Why do I have to come before the committee to defend our community again? When is all this going to end?

**Mr. Terry Duguid:** Thank you, Chief Adam, for those powerful words.

I think Mr. Grygar wants to end it.

Go ahead, Martin.

**Mr. Martin Grygar:** I think the mental health impacts, the concerns, the lack of transparency and the continued lack of transparency are only causing more and more concerns among community members, especially when we're entering spring and everything is going to flow a little easier. I think we have to keep that mind.

We came out of COVID, and communities have been isolated. Indigenous communities have very social people. Now we're coming to where communities know that the tailings ponds were leaking or they were assumed to be leaking. This is the first case to

actually validate everybody's concerns that these things were escaping outside of their control.

I also want to answer a question that was posed before. Yes, the CBAs keep things confidential. However, I think it's important to note that it was the duty of Imperial. For Imperial not to engage communities when they started their investigation and not to continuously release information and data as it was acquired was the initial breach to those CBAs. I think we need to keep that in mind. However, we still continue to honour the CBAs, because we maintain the trust in ourselves and respect for ourselves to ensure that Imperial has a duty to work with the communities and continues to work with the communities.

I will close with this. The communities of Métis Local 1935 and Fort McMurray 468 First Nation proposed a more collaborative proposal to work with Imperial, to collect data with Imperial and to look at human health impacts with Imperial. The response we got was that this was too complicated and we should give them a cost estimate for just the EPO technical review process. That is the fundamental break within the system where industry is self-regulated. When you leave an industry self-regulated, you expect them to behave in a manner that upholds the values of Canadians.

• (1200)

**The Chair:** Thank you.

We'll go now to Madame Pauzé.

**Ms. Callie Davies-Flett (Regulatory Advisor, Athabasca Chipewyan First Nation):** Can I answer the question?

**The Chair:** Please be very brief, because Madame Pauzé would like some time to ask questions as well and get some answers, which are so important.

**Ms. Callie Davies-Flett:** The chief asked me to say something from the youth perspective when you asked about mental health. I think it's very important that we communicate that way, through the youth. I'm speaking as someone who grew up with industry. I was born and raised in the Fort McMurray region, and Fort Chip has a special place in my heart. My family is from Fort Chip. I go there every second week, or every week sometimes now with work.

As somebody who is just starting on my journey and starting in life, I question whether it's a safe place to bring up a family and to bring children to swim, as Chief Tuccaro said. I swam at the lake-front. Is something going to happen to me because I grew up with industry? These are mental health things and the questions we're asking ourselves.

Thank you to the chief for helping me say that today. It's very important to say that people my age and people who are younger than me are growing up with this. Either they're going to become so jaded that they're not going to look out for themselves anymore, or they're going to become more and more active in this process, so we should start moving on it.

**The Chair:** Thank you.

Go ahead, Madame Pauzé.

[Translation]

**Ms. Monique Pauzé (Repentigny, BQ):** Good morning, everyone.

Thank you for being here and for this truly touching and moving testimony.

When this case was publicized, Chief Adam reacted strongly, as did I.

I think I'll wait a few minutes, Mr. Chair.

**The Chair:** Very well.

[English]

Chief Tuccaro, your hand is up. Is it regarding the sound?

**Chief Billy-Joe Tuccaro:** No. I'd like to add to the mental health question.

First of all, the gentleman who asked the question made reference to the Inuvialuit, the Dene and the Métis in the area. I have a correction to that. You also have to remember that there is the Mikisew Cree First Nation in this area, downstream. Thank you.

As the chief in the community, I know that since the start of the year, we have probably had 18 deaths in the community. There is a crisis in the community. People are committing suicide. Is it tied to what's going on with the water and with what people are thinking is going on? It's something that needs to be addressed sooner rather than later.

I truly feel where Chief Adam is coming from. I'll go back to the kids swimming this summer. How do we give them the peace of mind and certainty that they're okay to swim there? You have to remember that the swimming pool here in the community is only open from Wednesday to Sunday. The kids use these water bodies for swimming during the winter months when they can't access the swimming pool. I'm being questioned by parents: "What are you guys doing? How can you give me certainty that my kids can go into that water?" I'm going to be honest. As the chief of my first nation, I can't. I can't give them certainty.

That's why I'm saying this to the federal government, the Alberta government and everybody involved: You guys need to pick up your socks and quit having these meetings in silos and coming into the community. That's where we're getting the divide and conquer. One week we'll have Imperial Oil here and they'll say, "No, those are RMWB's questions." Then RMWB comes into the community and it's, "No, that's for the AER." I met with the AER on Friday, and I had the same question about kids swimming in the community. What did they tell me? "That's a question for ECCCC."

All you guys are doing is turning this little merry-go-round, and the people whose lives are at risk here are the people of the Fort Chipewyan community. We are sitting ducks. Nobody cares about us. This is the truth. It's profit over people.

Do you know what? We do have IBAs with industry players. As Chief Adam said, we are always the good partner on the other side,

always thinking that they have our best interests in mind. How can we think or have assurance that they have our best interests in mind when we only find something out 10 months after the fact?

As a parent of two young daughters in this community, it's stressful. What Chief Adam said about turning on that tap was the same thing I thought about a week ago when I was taking a shower: Am I okay?

Imagine that, the undue mental stress just because we want to do something. You guys have every right to do whatever you want in your healthy communities, where you guys drink the water. If this were in Ottawa right now, I guarantee that there would be a crisis. When will indigenous lives matter?

I think you guys need to take a hard, serious look at this and think that the time is now, because if this were ever to happen along the Athabasca River, where one of the tailings ponds is actually situated.... If this were to go on, it would be the death of the Mikisew people—and all for profit over people.

• (1205)

**The Chair:** Thank you, Chief Tuccaro.

Go ahead, Madame Pauzé.

[Translation]

**Ms. Monique Pauzé:** Thank you, Mr. Chair.

Thank you for delivering these testimonials, which I found moving. At the outset, I would like to say that if you have any documentation that you would like to send to us, please do so. We will most certainly read it.

Chief Allan, I want to tell you that your composure is remarkable. I've seen you on television a few times as your communities are subjected to unspeakable slurs, discrimination and direct threats to their health. This has not been going on for 11 months, but for decades.

Many years ago, the Alberta government and Health Canada had complained to the College of Physicians following the intervention of a family physician in your community, Dr. John O'Connor. Dr. O'Connor blew the whistle about the high incidence of cancer in Fort Chipewyan. For example, a very rare cancer, which normally results in the death of three out of every 100,000 people, had the same prevalence in Fort Chipewyan, where the population is only 1,000 people.

On a few occasions, you have asked Health Canada to do specific, comprehensive health assessments of your communities. Has there been any action on your request?

• (1210)

[English]

**Chief Allan Adam:** No, Madam, I did not receive any confirmation about what you asked in regard to the health issue.

Feeling the effects of what goes on and not knowing the future if we continue going down this path is a crisis on its own. The health issue that I talked about in the past—and I don't speak about it too much anymore—is still there. It never went away. It only increased.

You heard Chief Tuccaro mention that one of his friends passed away from bile duct cancer. You talked about Dr. John O'Connor. We were the first nation that lobbied on behalf of Dr. O'Connor to get his licence reinstated because of what Alberta did to him. It wasn't right for him to be punished and to have his doctor's licence taken away for speaking the truth.

I still hear from Dr. O'Connor. I talked to him last week. Do you want to know why? He took over the file of my father-in-law and will be his doctor. Do you know what he told me? "Chief, I'm worried that your father-in-law has bile duct cancer." I did not want to hear that.

What they are saying is true, and we feel the effects of it. I'm trying to sit here before you, Madam, and hold back the tears in my eyes right now because of this issue.

**The Chair:** Ms. Lepine has her hand up.

Ms. Lepine, did you want to say something?

**Ms. Melody Lepine (Director, Mikisew Cree First Nation):** It's in regard to some of the work I've done on health and requesting a health study. We started requesting a health study in 2003 at the joint review panel hearing for the CNRL Horizon mine and the Shell Jackpine mine hearings.

We've been advocating for and requesting health studies for over a decade. Just recently, at the Teck Frontier hearing in 2019, we presented the federal government with a health study proposal. Health Canada and the federal government have that proposal and have sat on it since 2019.

This is not something we have not been requesting and pushing through various regulatory proceedings. That includes the federal government and joint review panels. There is a health proposal. We can give the requests and proposals on how to do a health study in the community; however, no action has been taken.

[Translation]

**The Chair:** Ms. Pauzé, please make a brief comment, as I would like to recognize Ms. McPherson.

**Ms. Monique Pauzé:** I won't have had my six minutes, Mr. Chair.

**The Chair:** You will have had almost six minutes, but go ahead.

**Ms. Monique Pauzé:** I wanted to address Ms. Lepine again, because she is the one who initiated the complaint to UNESCO about Wood Buffalo National Park, which is dying, unfortunately. It is

thanks to her that UNESCO came to study this park, where there is a lot of drinking water, once again, and which is located near indigenous communities. So I wanted to thank her for all her efforts to protect this very important body of water. Our bodies are two-thirds water, so access to clean water has to be what we call an essential service.

Ms. Lepine, are you still in touch with the folks at UNESCO? Has there been a ruling on this?

• (1215)

[English]

**The Chair:** Go ahead, Ms. Lepine.

**Ms. Melody Lepine:** We launched a petition to UNESCO in 2014 calling on the federal government to take greater action on protecting Wood Buffalo National Park. We have hosted and co-hosted two reactive monitoring missions. The last one was last year. They are close to finalizing the report with recommendations to the federal government.

Wood Buffalo National Park will be addressed at the World Heritage Committee meeting this year. They may decide to make Wood Buffalo National Park a world heritage site, listed as endangered. However, the health concerns have been shared in our UNESCO petition. We have expressed the concerns to the World Heritage Committee numerous times, but again, no action has been taken on the health matters, specifically on protecting water quality, traditional foods and the flow of water into the delta. There are numerous compounding issues. This has the attention of the World Heritage Committee, and they will be making a decision this year.

**The Chair:** Thank you.

Go ahead, Ms. McPherson.

**Ms. Heather McPherson (Edmonton Strathcona, NDP):** Thank you, Mr. Chair.

As an Albertan, I'm sickened by the testimony I've heard today. I'm so sorry that you had to come again and demand the rights that every other Canadian takes for granted. You have been betrayed by the AER. You have been betrayed by Imperial Oil. You have been betrayed by the Government of Canada and the Government of Alberta. I am so sorry this has happened and that you have children who don't know whether they can drink the water. I'm sickened.

Chief Adam, the fact is that this isn't the first time you've had to come here. This is not the first time you've been betrayed.

My question is for you.

We are going to have representatives from the AER here. We are going to have representatives from Imperial Oil here. What would you like me to ask those representatives?

**Chief Allan Adam:** How can the federal government help ACFN? It can push to have the tailings management framework in Alberta overhauled. The Alberta government does not regulate the industry as they said they would. Alberta's tailings management framework was deliberately placed under the Oil Sands Conservation Act to avoid the duty to consult for tailings management in Alberta oil sands. Currently, the TMF has no duty to consult or is triggered...even when the tailings management framework was developed. There's no consideration of impacts or treaty rights under section 35. There's no consideration of cumulative impacts. The lack of management and monitoring of the leakage, air emissions and groundwater contamination narrows the scope, as it does not address safety, air quality or emergency response. There's no consideration for....

Ms. Davies-Flett can speak on those matters.

Go ahead.

**Ms. Callie Davies-Flett:** What the chief was trying to say here is that the AER and the Alberta government have established a tailings management framework. That is essentially the root cause of some of the issues coming up right now. He described how the TMF currently has no duty to consult. Eliminating our presence within the room when these decisions are being made is the first wrongdoing we can even consider here. That's just the tip of the iceberg.

If there is a push to, in some way, include us in this management framework, that would be the major solution we can come up with.

**Chief Allan Adam:** Further to the question on what Canada could do, Canada could recommend to the Alberta government, when it comes to major developments, that first nations not give testimony at a hearing but sit on the panel and listen to the questions that industry puts before them on why they want to have their projects on our traditional territories. That's what I'm asking for. I'm asking for a seat at the table to make the decisions. Either we give the green light or we give nothing. Right now, everybody has been given the green light, and the only result we have been getting back is, "We will tell you what kind of country you will have."

• (1220)

**Ms. Heather McPherson:** I'm so sorry, Chief Adam.

Go ahead, Martin.

**Mr. Martin Grygar:** I would like to add to that. I think we could ask questions and then have you pass those questions on to Imperial.

Something tells me that the lack of communication around this incident was a bit more orchestrated. It won't be until the public interest investigation is conducted that the truth will come out, because to go on for this long.... A lot of data has been collected, and to say they were going to tell the communities at one point and it was going to be soon means there was a miss within those CBAs. There was a misplaced trust with the industry's ability to self-regulate and be forthcoming with information in a timely manner. "Timely manner" is a very loose term and very subjective, and I think that's where the system has failed.

The AER is proposing solutions to hide this water, because there's so much of it. They want to put it into these large pits, put water on it and wait for a thousand years for these lakes to be real lakes. This is all public knowledge and public information out there based on public reporting, and the ask from all the communities has been to treat this water effectively so it does not continue to contaminate the environment. This is continuous environmental discrimination in that area. To say that we could release it into the Athabaska River and dilution is your solution, or that we could put it in these pits and eventually they treat themselves.... They're not effective treatment options. To leave it, walk away and have it treat itself is not treatment.

**The Chair:** Thank you.

Ms. Lepine has her hand up.

Ms. Lepine, would you like to add to that?

**Ms. Melody Lepine:** Yes. That's a very important question, Heather.

I think you need to ask the AER what they are going to do to change. What are they going to do to stop these tailings ponds from leaking?

We also can't ignore the fact that the AER regulates based on Alberta policies. What is the Alberta government doing in the update of their lower Athabaska regional plan? What are they doing regarding a tailings risk assessment and tailings management framework to limit growth and these tailings ponds from seeping?

You can ask Imperial why they are not responding to our information request on the sharing of data. We know that, number one, the release—that is, the seepage—going into the groundwater is still happening today. It has been happening for years, yet we do not have groundwater data. We do not have information to understand what PAH is. We do not have federal regulations to limit PAHs, which are carcinogenic. What is Imperial doing to stop the seepage?

They were told in their application that where they were building the tailings ponds was not a good location per the geotechnical information, and they have done nothing to mitigate. The AER allows them to go on developing without mitigation and management responses to stop the leaking of these tailings ponds into our river system and into our food sources.

Those are important questions to ask the AER and Imperial.

**The Chair:** Thank you.

Chief Tuccaro, you have the final word on this.

**Chief Billy-Joe Tuccaro:** I'd like to answer some of Heather's questions, or add to them at least.

First of all, what we're asking for, from Mikisew, is some certainty. One thing is the House study. We would really like a commitment from the federal government on that. Also, we would like a full review and assessment of all tailings ponds in the region.

Canada can help the AER to regulate, with guidelines for naphthenic acids, because the current guidelines they use.... There isn't really a guideline; they set their own. We need to have this regulated better so that our people can have adequate information they can work with.

Also, we need Imperial Oil to immediately provide information and make statements that no wildlife was harmed. Will they allow independent federal and Mikisew monitors and wildlife cameras in their area? Also, we ask the AER for an assessment of cumulative impacts in the region.

• (1225)

**The Chair:** Thank you very much.

Thank you to all the witnesses for some very profound, disturbing and moving testimony.

I know I speak for the entire committee, Chief Adam, when I wish your father-in-law well and your family strength in dealing with his health crisis.

We will break briefly to bring in the next panel. I've put in a request to see if it's possible to add an extra 15 minutes to the next segment. I'll have an answer hopefully shortly.

Thank you to Chief Adam, Mr. Grygar, Ms. Davies-Flett and others who have come here a long way. I've been up to Fort Chipewyan. I know there's no direct flight, but it's a beautiful territory. We really enjoyed our time up there back in 2009. I wish you only the best. Your testimony will serve very well for the questioning of both Imperial Oil and the regulator. Thank you again for coming up.

**Chief Allan Adam:** Thank you again, Mr. Chairman. I thank everybody.

Callie is a member of ACFN, and she works for our nation. Her testimony from the youth perspective gives you examples. They're very concerned in regard to what's going on in our community.

Take everything down for consideration. We came here to find a solution to a problem that continues to happen today as we speak.

**The Chair:** Thank you very much.

• (1225)

(Pause)

• (1230)

**The Chair:** Thank you members and witnesses.

We have with us, from the Fort McKay Métis Nation, Margaret Luker and Daniel Stuckless, who are online. They will go first with their testimony.

From the Fort McMurray Métis Local 1935, we have Russell Noseworthy, Timothy Clark and Mr. Martin Grygar.

From the Willow Lake Métis Nation, we have Destiny Martin and Jason McKenzie.

Who will be speaking on behalf of the Fort McKay Métis Nation? Is it Ms. Luker or Mr. Stuckless?

**Mr. Daniel Stuckless (Director, Fort McKay Métis Nation):** It will be me.

**The Chair:** Go ahead, please.

**Mr. Daniel Stuckless:** Good afternoon, Mr. Chair, vice-chairs and members of the committee. Thank you for listening to us today.

Can you hear me okay?

**The Chair:** I think so.

I got the thumbs-up from the interpreters, so we're full speed ahead.

• (1235)

**Mr. Daniel Stuckless:** That's great.

My name is Dan Stuckless. I'm the interim director of administration for Fort McKay Métis Nation. My colleague, Margaret Luker, who's the interim director for the sustainability centre, is joining me. We'll be available to answer any of your questions. Between the two of us, we have over 30 years of experience working for indigenous communities and with government and industry on oil sands issues, on cumulative effects and, notably, on tailings ponds and tailings issues.

In the view of the Fort McKay Métis Nation, the events that have transpired are negligent. This has been avoidable from the start, and it should not have happened. To date, no one has been held accountable for the incident, and it is unacceptable that individuals or departments that have allowed this incident to occur are still either working on the issue or working in our region.

When we met with the AER CEO, Laurie Pushor, recently, I asked him who had been fired. I still do not have an answer to that question, and I really think it's because of the traditional coddling nature and cozy relationship between the oil sands producers and the executives at the AER. I'm not expecting much change from a captured regulator, to be honest. In fact, the AER's only admission that anything improper had occurred was in terms of the lapse in communication in the original timing of the identified seeps in the overland flooding last spring and the continuous seepage that occurred right up until this time, in early February, when the EPO was issued.

Any normal person can see that this is a clear conflict of interest and that having the AER as both the enforcement and the judge for these projects is improper.

If you're familiar with the AER—and you probably have heard a lot about it by now—it's not until you get mean letters numbers one, two and three from the AER that you actually have to get a file started on a non-compliance, if you're an operator. The AER has zero credibility outside of Calgary's echo chamber, and it actively dismisses and downplays the impacts of the oil sands on communities and their aboriginal and treaty rights.

It is imperative that we have federal oversight on these issues, which impact people, their human rights and their access to clean water, and which, of course, have cumulative impacts on treaty and aboriginal rights.

To date we have not heard from Alberta on this issue. We have heard now from a fourth premier: After Stelmach, Redford and Notley, now Smith says they are going to take action on tailings ponds. This is empty bluster, and shallow follow-through is really getting old for us.

This is how the duty to consult process is supposed to work. Of course, when incidents like these occur—when there are instances that limit the execution of those rights—the duty to accommodate should come in and apply. Without a continuous understanding of when the duty to consult is under way, when issues need to be mitigated—when those infringements that are occurring need to be avoided but can't be avoided or mitigated—they need to be compensated and accommodated, and they have not been. There is still no case in Alberta in which there's been an accommodation for any impacted right, or even recognition of those impacts.

We just wanted to ask the members of the committee, does that make any sense to you?

Alberta is absent. Its processes are broken. Its systems are designed to point perpetually in the other direction, to have your concerns resolved while permits, approvals and leases fly out the door. We have effectively created a two-tier system in Canada for section 35, and Métis members are third-class citizens, after Canadians and even after first nations.

Some of what I've told you might make sense if you're familiar with these types of issues. If you take anything away from what I'm telling you today, it should be that we have a big problem. It is not just an Imperial seepage issue. That is important and why we're talking to you today; however, this is a systemic issue. It's an issue of racial discrimination and government ineptitude, from politics

and policy right down to directives, regulations and the lack of enforceability.

This has been happening for decades. We still have other tailings ponds, mainly those belonging to Suncor, that have seeped into the river, and now we are deciding to take action or make note because of the Imperial incident. This needs to be applied across the industry.

● (1240)

I heard my colleague who spoke before mention the lower Athabasca regional plan and that it was challenged and has not changed. Its tailings management framework did not consider the impact on aboriginal and treaty rights. I know this because I asked that question directly and was told. The directives—the standards—around tailings have been lowered and lowered. While this occurs, we are in the middle of co-developing water discharge release criteria and regulations.

Earlier this morning, we were in receipt of a letter from the minister, and we actually support the creation of a working group to continue working on these matters.

That's my opening statement.

**The Chair:** Thank you very much, Mr. Stuckless.

[*Translation*]

I do not know who has been designated to speak on behalf of Fort McMurray Métis Local Council 1935.

Is that you, Mr. Noseworthy? Yes, it is. We are listening.

[*English*]

**Mr. Russell Noseworthy (Manager, Government and Industry Relations, Fort McMurray Métis Local 1935):** Thank you very much, Mr. Chair.

My name is Russell Noseworthy. I work for the Fort McMurray Métis community. It's a community of about 800 people. I'm here today representing them on behalf of President Hansen.

The McMurray Métis are a rights-based indigenous community based in Fort McMurray. Our more than 800 members exercise their constitutionally protected rights throughout northeastern Alberta and elsewhere. Crucial to the exercise of those rights is the use of the region's extensive waterways, and in particular the Athabasca River. It's the most important one.

Our members regularly hunt, fish and trap in the area downstream from the oil sands mines. As such, we are deeply concerned about the cumulative effects of the oil sands operations on our ability to exercise our rights in the region to hunt, fish and trap, as protected in the Constitution.

The incident at Kearn is very concerning for us. The environmental protection order and the incident itself highlight the serious nature of the regulatory problems in Alberta. The communications issues we have in Alberta around incidents like this really do not have processes. They are written on paper, but they're not followed properly. Therefore, we are constantly at risk of being exposed to contaminants and other dangerous substances that would have drastic effects on human health for the people who live in and around the area. We're very concerned.

Recently, the federal government began a process of trying to engage with our communities in the region on the whole idea of tailings. The tailings issue is a big issue in our region. There are tailings ponds everywhere north of where I live in Fort McMurray. We're here today to highlight that and to stress the importance of the Athabasca River watershed for the people who are there.

The Crown-Indigenous working group was proposed as a mechanism for collaboration on the development of potential regulations for the release of water, and would be complemented by some sort of discussion about how that might impact our rights as a community and as Indigenous people living there on the river. However, we're extremely concerned. We had requested from that group a process to identify how our rights would be impacted by what's happening and by the changes to the Fisheries Act that are being proposed.

We were not approved for that. We don't really understand how we're going to be impacted because we haven't looked at that. We have no cumulative measure of how we've been impacted in the region. We don't know, from the various operators, how all that accumulation of pollution has been counted and how that impacts the right to hunt, fish, trap and live healthy lives in that region. We don't understand.

We need a cumulative effects impact assessment. We need to understand that. That's the first thing we need in the region. To go along with that cumulative effects assessment, we need to understand how our rights have been impacted.

I'm speaking in the first person. I apologize for that.

We also need to do that right now. We should start today. After we leave this meeting, we should start doing this work—now.

The federal government—the Government of Canada—should start doing that work now. Your duty and your responsibility to me, to everybody around this table and to the Indigenous communities that live in that area require that you do so. If you don't, people are going to have their health impacted.

Laila is over there. She lives in the region and I knew her dad. We need to work together here to make sure that we're protecting people in our region. In our region, we are protecting Canada. The economic engine of Canada resides in the oil sands. It's not in Ontario anymore; it's in Alberta.

• (1245)

We need to be responsible. We are on the international stage here. We need to set a good example. If we don't, our children are going to hear about it. We need to protect this place for all generations that are going to come. We need a cumulative impacts assess-

ment of what has happened, and we need a rights assessment to go along with that.

Those are my opening statements for today. Thank you very much.

**The Chair:** Thank you, Mr. Noseworthy.

We'll go now to Willow Lake Métis Nation.

Ms. Martin, go ahead please.

**Ms. Destiny Martin (Sustainability Manager, Willow Lake Métis Nation):** Willow Lake Métis Nation represents the section 35 rights of approximately 90 citizens. The nation's administrative centre is located at Anzac, Alberta, just south of Fort McMurray.

The nation emerged during the fur trade era between the Athabasca River and the Clearwater River, in what is now Alberta, and Lac La Loche in Saskatchewan. Historically, Willow Lake was connected through kinship and economic ties to Fort Chipewyan and Lake Athabasca to the north and Lac La Biche to the south. These connections continue today.

Willow Lake Métis Nation citizens hunt, fish, trap and collect berries and medicines on the lands used by their ancestors. These lands include traplines like those of Vice-President McKenzie, which have been in his family for several generations. Harvested resources are shared to provide for families and the community, and most citizens continue to consume traditional foods and use traditional medicines.

Willow Lake Métis Nation, like other nations in the oil sands region, has experienced and continues to experience extensive impacts from oil and gas, forestry and other developments. Willow Lake Métis Nation was first notified regarding the tailings ponds leaks by Imperial Oil's Kearn Lake site by email from the Alberta Energy Regulator on February 7, 2023. We then met with AER staff on March 8, 2023, to receive an update.

Imperial Oil also contacted us by email on March 8, 2023, with a link to the company's updates on the environmental protection order. Willow Lake Métis Nation provided a response letter to Imperial Oil on March 17, 2023, outlining the nation's concerns and information requests. As of April 13, we have not received a response from Imperial Oil. This does not align with statements on Imperial's website that indicate the company is engaging with affected Indigenous communities.

Willow Lake Métis Nation citizens harvest in areas upstream and downstream of the Kearn site and are very concerned about the impacts of the leaks on water and other aquatic resources, plants and wildlife. Willow Lake Métis Nation continues to be connected to other nations in this region and engages in sharing harvesting activities and the sharing of traditional foods and medicines. Certainty regarding the safety of traditionally harvested foods is critical to supporting land use, the sharing of harvested resources and the continuation of rights and culture.

Ongoing clarification and updates regarding the impacts of these spills on the environment and harvested plant and animal resources are required to support future land use. The leaks and the delayed notifications are deeply concerning to Willow Lake Métis Nation. Willow Lake Métis Nation is in a very vulnerable position right now, as we are waiting for recognition of the nation's section 35 rights through Alberta's credible assertion process, and experiences inconsistent consultation from government and industry.

The leaks highlight the risk for any indigenous nation that these incidents can go unreported, but this risk is especially high for nations in Willow Lake's position. It is apparent that Imperial Oil and the AER shared the responsibility for communicating these incidents much sooner. While we appreciate that the AER contacted the nation, met with us in March and continues to update us, this incident has affected the nation's ability to trust both industry and the AER.

Willow Lake Métis Nation is interested in meaningful solutions that will re-establish that trust through co-operation, comanagement and most importantly co-reclamation to ensure truly sustainable oil sands operations. Willow Lake Métis Nation desires to find ways to address the gaps highlighted by these incidents. Immediate solutions include discussions with Imperial to ensure nation involvement in incident response and monitoring, as well as further discussions with the AER to ensure that Willow Lake receives timely notification regarding incidents within the nation's territory.

Willow Lake also recommends a human health assessment to ensure there is no risk from the leaks to traditionally harvested resources, including water, plants and animals. More broadly, these incidents have emphasized cumulative impacts to indigenous rights in the oil sands region. A deeper understanding of those impacts needs to be achieved through a regional assessment of the oil sands, including cumulative impacts and impacts to section 35 rights.

On behalf of Willow Lake Métis Nation and its citizens, I would like to thank you for your time and consideration of our concerns. We sincerely appreciate the invitation to be here today.

• (1250)

[Translation]

**The Chair:** It is we who thank you for travelling so far to testify before us.

I'll now turn to Ms. Goodridge, who will begin the first round.

[English]

**Mrs. Laila Goodridge:** Thank you to everyone for being here.

I expected to see more of you guys on my flight yesterday morning, bright and early, but it looks like you might have had a better flight path than I had.

In the previous round of testimony, I asked each first nation about the date they were contacted by Imperial, not about the initial seepage but about the leak.

Perhaps I will ask Mr. Noseworthy of McMurray Métis, who was a very dear friend of my late father, to start us off. When were you guys first alerted by Imperial or the AER about the second incident?

**Mr. Russell Noseworthy:** We have a relationship with Imperial Oil, and we respect that relationship. We have an agreement with them about confiding certain things that are important to us. Today, my comments will be coloured by that agreement.

We were and we have been working with Imperial Oil to understand what happened since it happened in May. We've received from Imperial an update that an incident occurred in May, and they were working on it. They were preparing themselves to come and give us a full debrief when the incident occurred, and the environmental protection order was provided.

That's the truth of it. I don't know what else to say, Laila.

**Mrs. Laila Goodridge:** Perhaps I'll turn this over to either Mr. Stuckless or Ms. Luker.

When was the Fort McKay Métis Nation informed of either the first or the second incident?

**Ms. Margaret Luker (Director, Sustainability, Fort McKay Métis Nation):** Dan, I'll take this one.

Thank you for the opportunity to speak to you regarding this today.

Imperial did notify the Fort McKay Métis Nation via an informal email initially when they first sighted some rust-coloured water on site. In communications with Imperial—which we have an impact benefit agreement with and an excellent working relationship with—we received more of a formal notification when everybody else did, around the same time as the environmental protection order was issued.

What I would like to convey about Imperial, because this tends to get a lot of focus, is that this isn't an Imperial issue...with respect to the two incidents we're here for today. The tailings issue is a much broader water.... Oil sands process-affected water is a much bigger issue.

I would like to acknowledge that for us—and I know our sister communities have not had the same experience—Imperial has been very transparent with data sharing, and we have the ability to go on site and do our own monitoring. Mr. Stuckless and I have been on-site to actually see the work that was in progress to clear up the overland spill—which was the whole reason the EPO was issued—when we all found out about the seep. It's the same with the AER. Basically, the EPO was issued before formal notification happened, but informally there was immediate notification that there was rust-coloured water on site. The intent, based on our discussions with Imperial, was always to follow up with that.

I also want to acknowledge—best barrel—that my fear is folks will look to Imperial as the cross to burn among the oil sands companies on oil sands issues. The truth of the matter, as my other colleagues have noted, is that this is a 45-year-old legacy issue and not solely an Imperial issue.

• (1255)

**Mrs. Laila Goodridge:** Thank you for that.

Perhaps we can now turn to Willow Lake with the same question.

**Ms. Destiny Martin:** We were first notified by the AER in a very general email on February 7, 2023. We did not hear from Imperial Oil until March 8, 2023, with a very general email and a link to their website providing the information regarding the environmental protection order.

**Mrs. Laila Goodridge:** I really appreciate this.

I think it's so important to hear directly from the different impacted communities. I know that the harvesting of berries is critically important specifically to many of the first nations and the Métis. I want to thank Willow Lake. They took me out blueberry picking last summer. I still have some wild blueberries left in my freezer from that. They're from land that wouldn't be very different from this land, because they grow in bogs and a muskeggy sort of soil.

My question to you, with the remaining time I have, is this: What questions do you want us to ask Imperial or AER when we have them before committee on Thursday?

**Mr. Russell Noseworthy:** What actions are they taking to improve their communications protocols with indigenous communities in our region?

What are they doing to remain a neutral referee between the communities and the oil sands operators? Are they being neutral? I don't know. I think there's a question around the neutrality of the regulator in Alberta. We need an assurance that the regulator is regulating properly according to the regulation and not other directions.

[Translation]

**The Chair:** Thank you.

Ms. Thompson, you have six minutes.

[English]

**Ms. Joanne Thompson (St. John's East, Lib.):** I'm fine to go, but I thought it was Ms. Taylor Roy's turn.

**The Chair:** Okay.

Go ahead, Ms. Taylor Roy.

**Ms. Leah Taylor Roy (Aurora—Oak Ridges—Richmond Hill, Lib.):** Thank you, Mr. Chair.

I'm not there in person, so I just want to begin by acknowledging that I'm in my hometown of Aurora, where I'm on Anishinabe lands. Here, we are part of the treaty lands of the Mississaugas and Chippewas recognized through Treaty 13 and the Williams Treaties of 1923.

I'm very grateful to everyone who has come out in person to talk to the committee today. It's really been heart-wrenching to listen to the testimonies we've heard so far today.

The questions I would like to ask are more about the impact this has had on your communities in the Métis nations. In the last panel, we heard a little about the mental health impacts of the uncertainty around this. I was wondering if you could expand a little on how this has impacted the Métis nations.

Perhaps we can start with Margaret or Daniel of the Fort McKay Métis Nation.

**Mr. Daniel Stuckless:** I was lucky enough to hear some of my colleagues in the last session speak about this, so I won't repeat a lot of what they said.

I will say that Fort McKay Métis Nation is ground zero for the oil sands and that a rupture or tailings problem is first and foremost going to hit us long before it hits anybody else. It is a psychosocial issue that continues to play on the minds of people. It is a constant issue that comes up in every discussion we have with industry, even with industrial folks who do not have the same type of infrastructure and who don't have external tailings ponds, like in situ operators. What are you doing with your waste? How is it being managed? Will you maintain it on site? Can you keep it out of the actual environment so that my area and my lands are protected?

It is a constant. When you add that constant stressor on top of other social issues like residential school survival and the sixties scoop, you have a stressed community that continues to be stressed about lands they've used for centuries or millennia. That is going to be a challenge and why the trust that Fort McKay has established with industry as a whole has to be maintained in order for it to continue to either support responsible development—the key word is responsible—or provide consent through an impact benefit agreement. That has to be first and foremost the goal.

We see that manifest in different ways in the community, and because of the nature of our Métis nation, we don't get the supports needed in our community. They're delivered through non-profits in Fort McMurray. Services are provided directly through first nations services right now. There's nothing the Métis have of their own to provide for their own from the federal or provincial government outside of a small grant here or there.

We are really left on our own, mostly now funding things through our own-source revenue. It is not a great situation, but it is first and foremost a massive conversation piece when it comes to industrial development. You can't drive to Fort McMurray or Edmonton or go anywhere without driving between the tailings ponds. It is minutes on end to pass them. There are end pit lakes with tailings in the bottom. There are tailings ponds. There are active operations. This time of year, there are bird cannons and everything going off in the community lake. It is an onslaught of sensory overload just from the development alone, not to mention day-to-day life. It is difficult being at ground zero there.

• (1300)

**Ms. Leah Taylor Roy:** I can imagine. Thank you very much for explaining that. It sounds very, very difficult.

Mr. Noseworthy, would you like to add anything to that?

**Mr. Russell Noseworthy:** I would ask my colleague here, Tim Clark, to add.

**Ms. Leah Taylor Roy:** Thank you.

**Dr. Timothy Clark (Principal, Willow Springs Strategic Solutions, Fort McMurray Métis Local 1935):** In response to the question, I would like to make a couple of comments so you can understand the scale and the visual impact of this.

Between the approved and applied for oil sands mines, the Athabasca River north of Fort McMurray will be lined on both sides for nearly 100 kilometres. The Fort McMurray community is based in Fort McMurray, but it's also important to understand that because of the historical nature of the Métis, there are very dense regional connections. People who live in Willow Lake, Anzac or Fort McMurray regularly travel to visit family in Fort Chipewyan and Fort McKay. They harvest in these areas as well.

Dan mentioned the mental health and cumulative impacts of this. It's not just the mental health effects of knowing your regulator is more concerned about protecting the image of the industry and its investment than it is about protecting the health and rights of the people who live in this area. That has an enormous toll every day—not knowing what you don't know. In our community, over the years we have seen a decline in traditional-use practices and the exercise of these rights, in part because of the loss of confidence in the safety and quality of the resources. Are they healthy? Is the water safe? People used to drink water regularly from the rivers. Almost no one does now.

The loss of these practices has a range of human health, mental health, social and community impacts. Land use was traditionally how families connected across generations, how elders spent time with young people and how knowledge was transmitted about your culture, who you are and your way of life. As those practices get lost, that knowledge gets lost. The senses of identity, self, purpose

and place are all compromised and undermined, all of which has enormous health, social and community effects. Then people get pushed into underfunded and overtaxed public services that, moreover, are not designed to deal with indigenous people and the specific issues indigenous people face.

We have to understand that it's not just about this one isolated incident. It's about this one isolated incident within a much wider and interconnected system that is constantly undermining the rights, health and interests of the people who reside in this region, particularly indigenous people.

• (1305)

[*Translation*]

**The Chair:** Thank you.

Ms. Pauzé, you have the floor.

**Ms. Monique Pauzé:** I would like to thank the witnesses for coming here, and those of you who are online for your time. If you have any documents that you would like to send to the Standing Committee on Environment and Sustainable Development, please do so. We can assure you that they will be read.

My questions will be directed to Mr. Stuckless or Ms. Luker, but perhaps to you as well, Mr. Clark, based on your last comments.

When the pandemic broke out, the Canadian Association of Petroleum Producers made certain requests in connection with that period. These included requests not to have to comply with the UN Declaration on the Rights of Indigenous Peoples and not to have to inspect oil exploration sites during this period.

Do you get the impression that industry and Alberta authorities decided that this was the price to pay for prosperity?

**The Chair:** To whom are you addressing the question?

**Ms. Monique Pauzé:** I originally wanted to ask Ms. Luker or Mr. Stuckless.

[*English*]

**Ms. Margaret Luker:** I'll jump in, Dan.

Yes, we saw a relaxation of monitoring requirements during COVID, and I think it was too bold. There was a need to manage resources and people. I know we made submission requests around that, because we saw other ways to best address safety issues. There was very much a safety concern around keeping people safe while work kept moving. There were definitely concerns for safety.

However, there was a significant question around the kinds of relaxations they were looking for, because the folks who were going on site and doing monitoring were individuals or organizations going out in small groups, whereas camps were huge spreaders of COVID. We didn't see a lot of requests or requirements around minimizing those. I think there were questions that were fairly asked. Fortunately, we saw some of those restrictions retracted very quickly.

I'll hand it over to Dan, just in case I missed anything.

**Mr. Daniel Stuckless:** I'll just tie this back in with the oil sands monitoring program, in addition to what Margaret said about the on-site monitoring.

The joint oil sands monitoring program was told to use its reserve fund, its under-spend, that had built up over time to cover spending in the first COVID year. I was a member of the committee during that time. It seemed really underhanded to undermine the legitimacy and funding while the world was experiencing economic turmoil because of the pandemic. It just seemed to be a convenient excuse to save money and not do work while prioritizing other work.

As Ms. Luker said, it only seemed to apply in some cases. It was unsafe to go out in the bush to measure the size of blueberries, but it was completely okay to work in a fabrication site, on site, building pipe racks or something like that. It was inconsistent in how it was applied to the industry as a whole.

[*Translation*]

**Ms. Monique Pauzé:** I'd like to continue a little bit on the topic by asking you what your reaction is to the blatant violation of your rights, particularly in regard to the United Nations Declaration on the Rights of Indigenous Peoples. You are being pushed aside.

Earlier, Mr. Stuckless, you told us that you feel like a third-class citizen. It's amazing to hear that. What is your reaction to the violation of your rights?

• (1310)

[*English*]

**Mr. Daniel Stuckless:** I just want to clarify that I am not Métis myself, but I work for the Métis community.

In our cases during the pandemic, whether it was the forest fire in Fort McMurray or you name it.... Having worked for both first nations and Métis, I know the departments in Indigenous Services Canada assign emergency personnel to first nations when tragedy occurs or when a storm or an event happens, even naturally, and there is communication between the first responders, the offices responsible for dealing with the emergency and the nation—

[*Translation*]

**Ms. Monique Pauzé:** Forgive me for interrupting.

We heard that there was no communication, that first nations people had asked to be consulted and were not, and that all proposals for collaboration were rejected. So there is really a problem with respecting the rights of first nations.

I'm going to turn to the people who are here.

How are you reacting to all of this? Basically, how do you see this going forward given that there is blatant disrespect for your rights?

[*English*]

**Dr. Timothy Clark:** I would say—and it has been pointed out in several instances here—that UNDRIP isn't really on the table in Alberta. Dan mentioned that there's a multi-tiered hierarchy of rights that exists within Alberta but also across Canada. If you look at the Yahey decision in B.C. and the lack of action on cumulative effects in Alberta, the substance and quality of your constitutional rights as an indigenous person vary depending on the province in which you live, and I don't think that is either the spirit or the letter of our Constitution. I can't imagine many of the rights we all enjoy as Canadians varying so greatly depending on where we live or on our ethnic background.

This issue, as has been mentioned, is a systematic issue. It's not an issue of just asking, "How are you going to improve your communications protocol, because you should have communicated earlier?" This is a systematic issue that covers a range of areas, like how impact assessment is conducted, how the duty to consult is discharged and how liabilities are managed in the energy sector, where you have this chronic and systematic regulatory capture. That's the term, but it's in the sense that the regulator is constantly pulling the direction of the conversation in the interests of the regulated parties rather than the public interest.

The real question we need to get at here is what can be done to change this in Alberta, because it is a chronic problem and it is one of the underlying issues we need to address. It is not just about changing Alberta or the AER's communications protocol. It's about how to build a regulator that is truly independent of the industry it's regulating and is able to discharge the public interest and hold the public confidence.

**The Chair:** Mr. Stuckless, please be brief so we can go on to Mr. Blaikie. Do you have something to add?

**Mr. Daniel Stuckless:** Yes, I do. I just want to make it known to the committee that the Fort McKay Métis Nation is embarking on the federal recognition of our rights. Currently, in discussions we have with the federal government, there is no recognition of the Fort McKay Métis Nation's sovereignty. We've actually judicially reviewed the Métis Nation of Alberta and Canada agreement, signed a couple of weeks ago. We just want to be ourselves, and that needs to be clear.

We just received provincial credible assertion, which is a step towards rights recognition in Alberta. We need to be taking steps federally and also improving on that in Alberta. Many of our sister communities are along that path as well, but it's a long, long road.

**The Chair:** Thank you.

Mr. Blaikie, welcome to the committee.

**Mr. Daniel Blaikie (Elmwood—Transcona, NDP):** Thank you very much. I'm honoured to be here.

I want to start by saying thank you to our witnesses. I note their courage and willingness to share the vulnerability of their communities in the face of some awful things and in a place that, historically, not only has been insensitive to these concerns but has sometimes villainized indigenous people for speaking these truths and actively sought to harm them.

I want to come back to what Mr. Clark was saying about the need for a truly independent regulatory process that isn't just trusted by industry—although I think it has to be trusted by industry in some way—but is also trusted by the people for whom that regulation matters in terms of the health of their land and their people. My question is really about the extent to which you believe it's imperative that indigenous peoples whose lands are affected by developments have a seat at the table of the regulator so they can raise their concerns and experience directly as part of the regulatory process. That's instead of talking around this table about what we can do to the process, which still fundamentally has outsiders making all these decisions. It's so that you feel you'll be more heard rather than being at the table.

I'm hoping that folks can speak to that. I'm happy to hear from anyone who wants to speak to it, but I thought I might start with Ms. Martin because she's here representing Willow Lake Métis Nation. We've heard answers from some of the other nations, so maybe we'll start there and then go to the other nations.

• (1315)

**Ms. Destiny Martin:** Could you clarify that question for me again?

**Mr. Daniel Blaikie:** We're talking about building a better regulatory process. Obviously there is a major failure here. I take the point that this is a structural failure; it's not a one-off. To what extent is it important that indigenous people with lands that are affected by projects are part of the regulatory process at the table, as opposed to trying to figure out how the process happening with other people who aren't on the affected lands can be trusted by you, if that makes sense?

**Ms. Destiny Martin:** It directly impacts us, and we should definitely have a seat at the table. It would make more sense. We should be able to have a say in how and what they're doing to our environment.

**Mr. Daniel Blaikie:** What kinds of resources do you think should be made available to your communities in order to participate meaningfully in a regulatory process?

**Ms. Destiny Martin:** You have me stumped there, and I'm super nervous.

**Mr. Daniel Blaikie:** That's okay. I'm not trying to put you on the spot.

If anybody else wants to jump in, I welcome that too.

I guess the question is meant to recognize that it's one thing to say, "Okay, we want your opinion", but if you don't have a history of participating in a regulatory process, then presumably there's

some learning, and some supports and resources are required to do that in a good way.

**Ms. Margaret Luker:** I'll jump in.

Having done regulatory in the region for several years for several communities, I think it's essential that the communities are at the table with the regulator.

One thing that disturbed me most about this incident... I will reiterate that Imperial approved a full technical joint review and some on-site monitoring. We were allowed on site, and I think they've been very transparent. The one thing that interests me is there was a round of what is called supplemental information requests, which the regulatory body sends out as it's attempting to get more information on an issue. That was the one thing we weren't provided. The response from Imperial was that the AER did not want to release it. I said that's ridiculous because I can pay \$25 for an FOIP request and see it publicly. There isn't trust with the regulator. We've said, as multiple communities have said, that this regulator is regulatory-captured.

The other concerning comment they made when we met with them was that... This is more to your question. Communities have been engaged in regulatory processes for years as they've stood up their own regulatory bodies and entities to address this. What is concerning us most is that those submissions aren't being heard or considered. We've been doing tailings submissions and reviews on all the tailings reports. Each of these industries has been doing this annually for several years now. When the AER spoke with us, it advised us that it had never seen those. Given how the reviews we are doing are getting conveyed and the lack of transparency, I think it's important to hear it right from the communities' mouths, because we are engaged and we are responding to that.

In terms of capacity, I think there is capacity in the community to do that, but certainly the funding and the resources to be a part of it is always welcome. We're always very limited. There are entire departments at the regulator and the Alberta consultation office—federal and provincial—and we're usually small departments trying to address multiple issues at any given time.

• (1320)

**The Chair:** Go ahead, Mr. Stuckless.

**Mr. Daniel Stuckless:** I wanted to add that I don't think any of us want to waste our time working in a baked system either. If we're going to put our time in, whether it's in a regulatory process or through the consultation process working with industry, we are there to find solutions to complex issues. Most of the time when our suggestions are provided, we're told they're not regulatory requirements, even though they may address a concern. They often get dismissed. They'll say they'll continue to talk later. They say, "Give us our permit, we'll go develop, and when we encounter more issues we'll talk."

Those are the responses that seem to get passed in approvals. It's that they have to continue to talk to people. They can continue to impact people or infringe on their rights and continue to talk, but they don't resolve anything, so these unresolved issues become perpetual. They become repetitive, and at the next hearing they get stacked on, or they get smarter and change the wording and attack it from a different angle. At the end of the day, it's a baked system and nothing changes.

The biggest example that I can point the committee to is federal approvals, whether it's a pipeline or a major project. It doesn't have to be oil and gas. When you look at the list of conditions and who those conditions are addressing issues for, in the federal system, whether it's the northern gateway project or an LNG project, there are hundreds of conditions. They have to do this, they have to have this committee and they will reclaim this way. In Alberta, for provincially regulated projects with this regulator, there are conditions the proponent puts on itself and there are half a dozen. It is cookie-cutter day in and day out with no changes, no extra work, standardized terms of referenced and limited scope types of approvals. They can't actually address concerns by perpetually talking about the issues that they're not going to consider.

I'm at the point in my career where I don't even want to play. I don't want to play that game. I don't want to waste my time. If we can do an impact benefit agreement and get around it that way, then we can have some resolve with the company. That might work. My interests are protected in the IBA. Because the Crown won't engage, it's a system where the proponents talk to us, and there's no resolve on those big issues.

[Translation]

**The Chair:** I am told that we have permission to continue until 1:45. So I'm going to start the second round, but I'm asking members to keep to a brief question.

Mr. McLean, do you have a question?

[English]

**Mr. Greg McLean (Calgary Centre, CPC):** I have a point of order.

We have 25 minutes here, Mr. Chair. That's enough for a full round.

**The Chair:** No, we're going to 1:45.

**Mr. Greg McLean:** Yes, so 20 minutes is enough for a full round.

**The Chair:** Actually, normally a full round is 25 minutes.

**Mr. Greg McLean:** Five and five plus two and a half and two and a half is 15.

**The Chair:** We're actually wasting time right now. Normally, a round—

**Mr. Greg McLean:** Mr. Chair, it's five minutes for us—

**The Chair:** The second round is 25 minutes, normally. I figure if everyone gets one question, then it's going to be at least three minutes per—

**Mr. Greg McLean:** Let me check that math with you, Mr. Chairman. It's five minutes for the Conservatives, five minutes for the Liberals, two and half for the Bloc and two and a half for the NDP. That's usually about 15 minutes, by my math.

**The Chair:** I'm sorry. Are you saying five minutes each?

**Mrs. Laila Goodridge:** It's five, five, two and half and two and a half. That's how the second round goes.

**The Chair:** No, the second round is six questioners.

**Mr. Damien Kurek (Battle River—Crowfoot, CPC):** Let's just start five, five, two and half and two and a half. If there's time, that last bit can be split up. I think that would be fair.

**The Chair:** Is that what you want?

**Some hon. members:** Agreed.

**The Chair:** Go ahead, then, for five minutes. I'll be strict on the time.

**Mr. Greg McLean:** Thank you, Mr. Chair.

The thing we're looking at here the most is the necessity of clean water. There are enough boil water advisories in first nations across this country. We understand that to get things right, maybe instead of having boil water advisories to fix things we can not have them in the first place. Let's not foul up this water.

This is a very important watershed. The Athabasca River leads into the Slave River and leads into the Mackenzie Delta. There are a whole bunch of pollution effects if one of these tailings dams goes wrong. We've known that for years. Many of us have worked on technologies to try to assess the problems associated with this tailings ponds issue to make sure they get remediated much more quickly than they have been to this point in time. Clearly, not enough progress has been made on implementing the technology that would actually fix this.

The moral hazard is huge. We're witnessing that today at this hearing, and we have to make sure this doesn't happen. This is our water. We need to make sure it is pristine so that people who drink and use this water can continue to use it as they always have.

Let me go into the issue of where we are. What I've heard about from many of the witnesses here is the issue around regulatory capture. The AER, the Alberta Energy Regulator, is a quasi-judicial body set up by the Alberta government to make sure there is no political conflict between the government and the regulator that oversees the industry. What I'm hearing here and what I've seen in some of the data points is that maybe this reporting mechanism isn't clear. It's not clear as far as your organizations go, and it's not clear for the Government of the Northwest Territories, which is obviously impacted by this as well and has an agreement with the Government of Alberta. If anything happens, we expect to be notified. They clearly weren't.

The question is, when was the Alberta government notified? The Minister of Environment in Alberta tells me they were notified at the same time as the AER put out their public notice, which was February 7. A public notice is one thing, but getting directly involved with the communities that are affected would have been much more effective. This is obviously a breach of system and a breach of communication—something hasn't gone right here in the process.

We talk about regulatory capture by the industry, yet this is a quasi-judicial body. The Alberta government is not involved with this decision. It's about the industry going right to the regulator and the regulator having a process there. Obviously information isn't getting to the people and the legislative bodies that are affected, including the Government of Alberta and the Government of the Northwest Territories.

Let me ask Mr. Stuckless, first of all—because you talked about this—about negligence. When you talk about negligence, how would you fix what seems to be a clear breach of the regulator's ability to make sure we are regulating this effectively?

● (1325)

**Mr. Daniel Stuckless:** My point of view is not a great one. I think you need to scrap it and build it back. I don't think it's salvageable in its current form. That's not to dismiss Mr. Pushor's efforts. He seemed genuine in his approach in wanting to fix it.

I think it has a cultural problem that can't be resolved. This has been an amalgamation of multiple departments and changing mandates over time. It hasn't blended well. It's had a leadership issue from almost the start. It goes back decades. I think it needs to be restructured.

**The Chair:** Thank you.

Did I understand that there was a question for Mr. Grygar?

**Mr. Greg McLean:** No, that was the question.

I'll ask the same question of Mr. Noseworthy, please.

**Mr. Russell Noseworthy:** Normally this doesn't happen, but I agree wholeheartedly with my colleague from Fort McKay. I think the entire organization has been around too long. It needs a refresher.

The people who are appointed to the board of the AER are not appointed by AER. They're appointed by people who sit in chairs in the Legislative Assembly of Alberta. There's an issue there that you need to address as well.

The political power of industry is much more than the political power of the communities, unfortunately. We need to correct that. We need to take the politics out of the regulation and start to take care of people's health with the regulation. That's my recommendation.

**The Chair:** Thank you.

For five minutes, we'll go to Mr. Weiler.

**Mr. Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.):** Thank you, Mr. Chair.

I also want to thank the witnesses for being here today to discuss a very serious matter.

I would like to start with Mr. Stuckless.

Given what you said about the credibility of the Alberta Energy Regulator and the nature of the environmental assessments being done by the Province of Alberta, what do you think that says about the need for the federal government to be involved in some of these environmental assessments to ensure that rigorous conditions are placed upon future developments?

● (1330)

**Mr. Daniel Stuckless:** I wholeheartedly support it. I am on record representing multiple communities in support of that approach.

I was a public supporter of Bill C-69 and the new agency that has been created. I have worked favourably with the agency on a number of projects with the approach that it's taken.

I will point out a bit of potential conflict, in that I'm also a rostered panellist and had been before the creation of the new IAC. However, that's how I see it being done and done correctly.

I haven't been appointed to any panels yet. I hope to be. This is something I've started to do in my profession that I've really enjoyed. I am passionate about the issue.

**Mr. Patrick Weiler:** On a related note, I would like to pick up on something Mr. Clark mentioned earlier about the Yahey decision in British Columbia. That was about a Treaty 8 first nation that brought a legal case based on the cumulative impacts of natural gas developments within their territory reaching such an extent that they were no longer able to practise their constitutionally protected right to trap and hunt. Since then, earlier this year, a new approach was launched by the Province of B.C. for comanagement of things like land, water and natural resources.

I was hoping you could speak a bit more about the importance of a similar approach for Treaty 8 nations in Alberta and maybe why that hasn't happened as of yet.

**Dr. Timothy Clark:** This speaks to the earlier point about the tiered nature of treaty and aboriginal rights in Canada. For instance, there's a pipeline now, under the CER process, running in north-western Alberta and northeastern B.C. For the management of cumulative effects of this project, the discrepancy is stark. B.C. is at the table working with the nations. Alberta is nowhere to be seen.

Why hasn't it happened in Alberta? The simple answer is that nobody has taken Alberta to court yet. However, that is coming. It's inevitable.

The cumulative disturbances in Alberta far exceed, in much of the province, what we see in the northeast of B.C. The thresholds identified by the B.C. Supreme Court in Yahey are unquestionably exceeded in much of Alberta.

It's not a matter of if, but when.

**Mr. Patrick Weiler:** Thank you.

The next question I'd like to ask is for Ms. Martin.

I know that many nations have asked to do their own independent testing of what's happening on site at Kearl. The response from the company has been that they will allow independent review of the monitoring they do, but not allow the nations themselves to do independent monitoring on site. I was hoping you could comment on that.

**Ms. Destiny Martin:** Willow Lake Métis Nation is actually involved in the oil sands monitoring program. We are fairly new. It's our second year in the program. We have folks who go out and do the water sampling, so I don't see why we couldn't get in on monitoring with Imperial as well. I feel like we would have capacity to do as such.

[Translation]

**The Chair:** Ms. Pauzé, you have the floor.

**Ms. Monique Pauzé:** Mr. Chair, I will give my time to Ms. May.

**The Chair:** All right, thank you.

**Ms. Elizabeth May:** Thank you, dear colleague.

[English]

I'm very honoured to participate in today's critical panel. I want to thank all the witnesses in both panels, and I'd like to put that on the record.

I want to ask a question about something that hasn't been asked yet on the nature of the agreements signed between first nations and the Métis and Imperial. These impact benefit agreements have been referenced by Chief Adam and others. I think Mr. Noseworthy specifically said there were things he could say and things he couldn't say because of an agreement.

Without revealing what you can't say, Mr. Noseworthy, can you describe the nature of your obligations to keep certain things between you and the company and what things you're allowed to talk about? Can that be described? Thank you.

**Mr. Russell Noseworthy:** I can tell you that I have an agreement with them. Our community has an agreement with them. Beyond that, I wouldn't be able to say anything more.

• (1335)

**Ms. Elizabeth May:** I'm aware of an agreement between the Government of British Columbia and the Pacheedaht First Nation that says the first nation must not allow protests to begin against the resource exploitation on their territories. Is that something you could comment on as being completely unheard of in Alberta? I know you can't say if that's in the agreement. I understand that. I'm wondering if the nature of the agreement precludes speaking to anything that could be considered critical of the industry.

**Mr. Russell Noseworthy:** I think I've been critical here today, and I'm not breaching the agreement, but I would say that it is a picket fence we walk on every day. We need to make sure that we're respecting and honouring our agreements, and we do that. Otherwise we wouldn't have entered into them. However, the agreement itself did not protect our community from what happened. We're working now with the regulator, which apparently appeared out of nowhere. I never even knew who the head of the regulator was until he phoned me and asked me for a meeting.

From that you can take, I think, an answer.

**Ms. Elizabeth May:** Thanks for your attempts at candour. I understand the constraints.

I just want to share that a gazillion years ago, before I was in politics, I actually participated, with Sierra Club Canada, in the environmental review of the Kearl Lake proposed mine. I clearly remember Imperial saying that it was state of the art for tailings ponds management, with no need to worry about leaks. I remember that when Dr. David Schindler started documenting the leaks, his reputation was attacked.

In hindsight, did the environmental assessment process get to the truth, or were we sandbagged by industry?

**Mr. Russell Noseworthy:** I'll defer to Tim on this.

**Dr. Timothy Clark:** I wasn't involved in that specific environmental impact assessment process. However, I can say, as Dan has suggested here, that the environmental impact assessment process in Alberta is extraordinarily weak. The first thing we did when the new federal legislation was passed was scan the list of designated projects to figure out how we could get things designated for federal review, because the provincial review is so deeply inadequate.

I think a lot of these issues go to the deeper issue of the progressive privatization of the duty to consult, which, as a responsibility, has been downgraded from the federal Crown to the provinces, then to industry and then increasingly to third parties contracted by industry. If you want to talk about the psychological effects of feeling like you don't matter and your voice isn't heard, that's a pretty clear indication to me of where the priority on indigenous rights and indigenous people rests in this process.

**The Chair:** Thank you.

Go ahead, Mr. Blaikie.

**Mr. Daniel Blaikie:** Thank you very much.

We've talked today a fair bit about the role that trust plays in good regulatory processes and that, unfortunately, politics seems to play in regulatory processes. I'm thinking about this place and noting the Canadian Environmental Protection Act. Recently, after the bill passed second reading in the House, we saw Liberals and Conservatives vote to take tailings ponds out of the Canadian Environmental Protection Act and to leave provinces to their own devices on that.

When we talk about the role of trust and politics in establishing good regulatory processes, was that a step in the right direction, or was it a step in the wrong direction? What does that say to your communities with respect to where this place, Parliament, is in trying to address the concerns you've raised today?

**Mr. Daniel Stuckless:** I think that comes down to leadership, not politics, and the lack of leadership at times. It's not until a sensational issue like this gets out of hand and gets media attention that people may re-evaluate those decisions. It is, first and foremost, a leadership decision. The jurisdictional issue and the tiered consultation processes that we're left with are not helpful, particularly at a time like this. Moreover, there's the eroded trust that occurs when things like this happen. You need to know that the security is there to do the right thing.

It's great to have all the legislation in the world if you're never going to use it or you're going to absolve yourself of the responsibility in fear of votes. That's a different issue as well. It leaves folks

like us on the front line trying to hold people to account who don't want to be held accountable.

● (1340)

**Dr. Timothy Clark:** Clearly that's not what we would have liked to see.

It's now a situation where the federal government is coming to the region through its Crown-indigenous working group and talking about changing legislation and developing regulation to allow for the release of this process water, as they call it. They came up with a timeline that was totally unrealistic and with a budget that was totally unrealistic, and thought they could ram this through quickly.

That's why one of our messages here—a consistent message—is that work needs to be done properly. It needs to be backed by a regional assessment under the Impact Assessment Act of this region. That we have 60 years of open-pit oil sands mining and we know almost nothing about the cumulative effects is appalling. It's absolutely appalling. That alone is reason for the minister to authorize a regional assessment in this region, because how can we assess our rights moving forward when we're talking about cities' worth of tailings ponds that are going to be released if we have no baseline for where we are starting from?

[*Translation*]

**The Chair:** Thank you.

Our meeting is coming to a close. It was extremely interesting and substantive.

We will be back on Thursday at 3:30 p.m. when we will hear representatives from Imperial Oil. All of the information given today during our meeting is going to help us interview representatives from that company.

I thank you for your participation and wish you a good day.

As for my colleagues, we will see each other again on Thursday afternoon.

Thank you.

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