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January 8, 2017

Andre Corbould, Deputy Minister, Alberta Environment and Parks

Ronda Goulden, ADM Policy and Planning, Alberta Environment and Parks

Dear Mr. Courbould and Ms. Goulden,

Re: Concerns regarding the Mine Financial Security Program and implementation of the *Tailings Management Framework for the Athabasca Oil Sands*

Keepers of the Athabasca (Keepers) have serious liability concerns, including health, financial and environmental, with Alberta's Mine Financial Security Program (MFSP) and the implementation of the *Tailings Management Framework* (TMF). In this letter we briefly detail these concerns and strongly recommend specific actions on the part of the Government of Alberta (GoA) and Alberta Environment and Parks (AEP) to rectify the untenable situation we find ourselves in. These are not new issues, but ones that Keepers has engaged in with the GoA and the oil sands industry for several years. It is long past time for these issues to be rectified, as Alberta's Auditor General (AG) and many others have stated.

With respect to the Mine Financial Security Program, Alberta's Auditor General was very clear on the issue of publicly held financial and environmental liability over two years ago in his July 2015 report. The section titled 'Systems to Secure Sufficient Financial Security for Land Disturbances from Mining' (pp. 25-33) was critical of the amount the Alberta government collects from the oil sands industry to cover reclamation of mine sites should companies default on their reclamation obligations. In 2014, \$1.57B was being held for an estimated \$20.8B cost to get these projects reclaimed, and the imbalance is still overwhelming. The report concludes that in order to ensure that the objectives of the MFSP are met, improvements in how security is calculated are required to prevent overestimation of the value of the asset, among other recommended improvements. It states: 'If there isn't an adequate program in place to ensure that financial security is provided by mine operators to fund the conservation and reclamation costs associated with their mine operations, *mine sites may either not be reclaimed as intended* (italics added) or Albertans could be forced to pay the reclamation costs' (p 30). Clearly, the Auditor General recognizes that the problems with the MFSP are both environmental and financial in nature, and will be borne by Alberta taxpayers and citizens, yet a response from the

GoA to the AG's report still has not been issued, and no date has been set for its issuance. The time for excuses for this failure to respond has long since passed.

Recommendation 1: Keepers strongly recommends that a date be set for issuance of a response to the AG's report and that the date be conveyed to the public.

The TMF identifies a further source of financial and environmental security that is not covered by the MFSP, namely, exceedance of a management threshold for fluid tailings, and directs the GoA to amend the MFSP in order to account for this additional liability (p. 34). Keepers and other environmental organizations participated in a Mine Financial Security Program (MFSP) Working Group that also included representatives from First Nations, the AEP, the Alberta Energy Regulator, Environment and Climate Change Canada, Industry, and researchers, between April and July 2017, to express our views about how this additional liability should be handled under the MFSP. Not only has the MFSP not been amended, even the report from the working group, due in August 2017, has not been issued, and no date for its issuance has been forthcoming, despite several inquiries.

Recommendation 2: Keepers strongly recommends the immediate issuance of the report from the Working Group and an indication of when the MFSP will be amended.

The fundamental principle of the MFSP is that the mining company is responsible to 'carry out suspension, abandonment, remediation, and surface reclamation work to the standards established by the province of Alberta and to maintain care, and custody of the land until a reclamation certificate has been issued' and must have the financial resources to carry out their obligations. The MFSP is meant to ensure that the GoA holds sufficient financial resources to reclaim mine sites in case the operators do not do so. The *Tailings Management Framework* states: 'The Government of Alberta regulatory requirements for mine reclamation financial security ensure that there are **no unsecured liabilities** (emphasis added) associated with mineable oil sands deposits' (p. 34). This program is not functioning as it is being represented to the public, as is amply demonstrated by the changing economic times we find ourselves in.

Recommendation 3: In light of the serious flaws and omissions in the MFSP program, Keepers strongly recommend that the GoA abandon its asset-to-liability approach to mine financial security and move incrementally toward a full financial security approach to all liabilities, including all tailings volumes, grounded in an accurate estimate of the costs of reclamation, in order to protect the environment, human health and taxpayers from the multiple liabilities posed by oil sands projects.

Further to the implementation of the TMF, this document devotes 2/3 of a page (p. 37) to the potential problem of the amount of process-affected water held on mine sites, lists some of the requirements under which release to the environment may be considered, and directs the GoA to develop the details of these requirements after the implementation of the TMF.

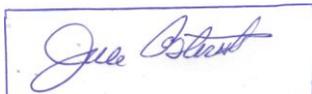
At present, a pilot project for the release of treated process-affected water to the environment is being developed, and we are told that others are “waiting in the wings”. Keepers hold that it is not acceptable to pursue such pilot projects without having first conducted pilot projects for such environmentally sustainable treatment technologies as full containment drying of tailings, or green chemistry treatments, of which several have been suggested but not fully tested. Furthermore, pilots should not be conducted for release until the supplemental requirements are in place and other problems corrected, some of which are detailed below.

The TMF states, ‘Such applications (for release of new wastewater streams) would ... require considerable analyses including (but not limited to) the evaluation of potential ecosystem and human health risks’ (p. 37). Companies are not in a position to produce such applications at present, both because of the current state of scientific and human health research, and because the monitoring system for the oil sands region is incomplete. Researchers from outside Alberta, including Environment Canada have shown that contamination from bitumen mines has travelled into surrounding waterways. Furthermore, an independent 3rd party human health study to determine what health impacts have already been felt by residents of the region, has not been conducted. Residents and others have been asking for such a study since clusters of rare forms of cancer were identified in the Fort Chipewyan region several years ago. Thus, we believe that the following statement is premature:

“... it will be important for some proportion of appropriately treated process affected water to be returned to the natural environment ... it is my expectation all affected parties will work collaboratively on the development of a robust framework for water release” (memorandum from Andre Corbould to Jim Ellis, President and CEO, Alberta Energy Regulator, July 26, 2017)

Recommendation 4: Keepers strongly recommends suspending the current Syncrude pilot project and not allowing any release to the environment until the means for assessing potential ecological and human health effects of treated process-affected water have been developed and published.

Thank you for your attention to these matters,

A handwritten signature in blue ink, enclosed in a thin blue rectangular border. The signature appears to read "Jule Asterisk".

Jule Asterisk, Executive Director

Cc: Premier Rachel Notley
Kem Singh, Executive Director, Land Policy Branch Alberta Environment and Parks
Fred Wrona, ADM and Chief Scientist, Alberta Environment and Parks