

September 6, 2022

The Honourable Steven Guilbeault  
Minister of Environment and Climate Change  
Ottawa, Ontario  
Canada  
KIA OA6

**Re: Bay du Nord approval April 6, 2022, and Canada's rising oil production**

Dear Minister:

On July 22, 2022, the Minister of Natural Resources Jonathan Wilkinson sent you a copy of his letter addressed to us, in which he replied to the letter of inquiry we had sent to him dated November 20, 2021.

Our original inquiry, sent to Wilkinson almost a year ago, addressed the fundamental contradiction between actions presently being taken by the Federal Government to facilitate the rapid expansion of Canada's oil production to 2030 and 2040 and the urgent and immediate need to reduce oil production on a global scale to meet our climate policy commitments. We invited Mr. Wilkinson to respond and explain how this projected growth in Canada's oil production levels can possibly be reconciled with the available evidence based on climate science, which shows that within that same period, over the next 10 and 20 years, deep reductions in global oil production are essential to give us any realistic chance to keep the heating of the earth to within the 1.5°C threshold.

In our letter, we specifically invited Minister Wilkinson to address the International Energy Agency's (IEA) Net-Zero Emission by 2050 Scenario, published last year on May 18, 2021, which, as you are aware, is the leading international study that has examined the magnitude of the absolute reductions in oil production required within the next eight years (and the much deeper cuts needed by 2040) to stay on a pathway to 1.5°C, if indeed that declared goal still remains within our reach. We noted the IEA's key findings that a 25% reduction of global oil consumption is required by 2030 and a 50% reduction by 2040 to give us any realistic chance to meet that goal.

Mr. Wilkinson's letter sent to us July 22, 2022, was not responsive to our questions. The fact that he sent you a copy of his reply appears to indicate that he understood, or assumed, that you would endorse his answers.

In response, we sent Minister Wilkinson a further carefully considered inquiry dated August 23, 2022. We enclose herewith a copy for you. An electronic copy of our reply is available at <https://gooderhamnathan.com/ministers-remaining-silent-220823/>.

## Canada's planned oil production increases to 2030 and 2040

On March 29, 2022, the Federal Government released its most recent climate policy statement called the *2030 Emissions Reduction Plan* (ERP). Most of the 233-page document lays out details of promised policies that the government says will reduce Canada's total domestic emissions 40% by 2030, down to an estimated 443 million tonnes (Mt), which the report calls our "notional pathway to 2030".

Yet, set sharply against that promise of deep emissions reductions within Canada over the next nine years, this same plan incorporates a detailed plan by our government to continue increasing Canada's oil production to 2030 and maintain high production levels for another 20 years after that. The plan envisions no significant reduction in Canada's oil production levels before 2050.

Table 6.2 at page 213 of the ERP provides data showing a 26% increase in our oil sands and conventional oil production this decade, rising from 4.411 million barrels per day (bpd) in 2019 to 5.567 million by 2030. The data is taken directly from the *Canada's Energy Future 2021* report, published by the Canada Energy Regulator (CER) on December 9, 2021. The ERP document adopts the production numbers shown in the CER's "Current Policies Scenario", but re-names it the "Reference Case". Under the CER's most recent Current Policies Scenario, Canada's oil production by 2040 is projected to continue increasing, rising 36% above our production level in 2019.

## Approval of the Bay du Nord offshore oil project: April 6, 2022

On April 6, 2022, you approved the Bay du Nord offshore oil project. Two days earlier, at a press conference on April 4, 2022, speaking in your capacity as Canada's Minister of Environment, you confirmed that Canada's new climate plan is "based on" increasing oil production:

*... the plan we presented last week, the Emissions Reduction Plan, was based on the Canadian Energy Regulator projections that oil and gas production would increase in Canada between now and 2030 ...*

You continued as follows:

*Now, as many of you know, Minister Wilkinson, who is responsible for the Canada Energy Regulator, asked them for new scenarios in terms of production and demand for fossil fuels and different forms of energy that would be compliant with 1.5 scenarios. Now we don't have those scenarios from the CER so we had to use the last ones that were available which forecast an increase in production between now and 2030 and what our plan shows is how we get there, despite the increase in production ..."*

— Steven Guilbeault, Press Conference, April 4, 2022 (emphasis added)

But the "new scenarios" are not yet available. The promised 1.5°C-aligned analysis will not be publicly available until late in 2022 or early 2023. In the meantime, our government is justifying decisions to expand our oil production (decisions that involve projects and infrastructure that will

have an operating lifetime of 20 or 30 years) based on CER projections which are clearly not aligned with 1.5°C. By 2023, Canada's oil production will have increased by another 350,000 bpd above the 2021 level – and by 2024 it will be 530,000 bpd higher.

You misled the media and deceived all Canadians, when you stated at your press conference on April 4, 2022, that you and the government “had to use” the CER’s December 2021 oil projections. Both you and Minister Wilkinson are aware that the CER’s projections showing ongoing increases in Canada’s oil production to 2030 and 2040 are unreliable because they have never been tested against modelled net-zero scenarios consistent with 1.5°C of warming. You admitted at your press conference “we don’t have those scenarios from the CER”.

You and Mr. Wilkinson approved the decision to include the CER’s December 2021 oil production data as an integral part of the new *Emissions Reduction Plan*. Your Ministry put the profoundly flawed production data into the plan on March 29, 2022. Six days later you told the media that you and your cabinet colleagues had no choice but to be guided by that data.

The truth is that nothing forced you as Canada’s Minister of Environment to accept and adopt the CER’s projections as a framework that bound you to approve the Bay du Nord offshore oil project, as you did on April 6. No law or necessity compelled you to adopt the flawed CER projections as a mandatory “framework” to guide the government’s decision-making.

Canada’s current planning and approvals of new projects that will drive increased oil production to 2040 and beyond is based on projections by the CER that are not remotely aligned with meeting the 1.5°C goal.

## The Canada Energy Regulator (CER): seven years of failure

The CER 2021 report published on December 9, 2021, offered Canadians no discussion, no analysis or data, and no sources that could possibly explain how you can reconcile the massive discrepancy between Canada’s current plan to continue expanding our oil production to 2030 and 2040 and the deep and rapid reductions required to align our output to a 1.5°C world.

On July 8, 2021, twenty-one energy economists and climate scientists, all deeply experienced and informed about Canada’s oil production projections and the emissions implications of continued expansion, sent a letter to the Prime Minister. It cited in detail the findings of the IEA’s May 18, 2021 “Net-Zero Emissions by 2050 Scenario”, and was copied to the Minister of Environment and Climate Change, and to the Minister of Natural Resources, and to the Chair and CEO of the Canada Energy Regulator. They wrote: “Specifically, we urge you to mandate that the Canadian Energy Regulator model scenarios consistent with the IEA’s Net Zero by 2050 report”. In plain English, that meant the government should immediately direct or instruct the CER to develop scenarios that will identify the much lower and declining oil production levels in Canada over the next 20 to 30 years that would be safely aligned with an effective global effort to stay within the 1.5°C warming threshold. You did not act. The Minister of Natural Resources remained silent. Six months passed. Undeterred, the CER released its new oil projections on December 9, 2021, entirely ignoring the crucial question.

On December 14, 2021, just five days after the CER 2021 report was released, four of Canada's leading experts on climate policy and oil production published an article containing a devastating indictment of the irresponsible and misleading character of the CER's new projections:

*"Canada's energy regulator turns a blind eye to dangerous global warming"*. They stated that the report has "failed to inform looming policy decisions". The authors pointed out that the CER's new "Current Policies" forecast for Canadian fossil fuel production (now enshrined in Canada's ERP) is roughly aligned with the IEA's recently published "Stated Policies Scenario" which, as the authors explain, "anticipates 2.6°C of warming, far beyond the Paris target".

For seven years in succession the CER (formerly known as the National Energy Board, or "NEB") has turned a blind eye to this fundamental question, which remains unanswered. No environmental assessment or public inquiry process of any kind in Canada has ever answered the question, which is whether the planned growth of Canada's oil production to 2030 and 2040 is compatible with keeping increased warming to 1.5°C.

In its most recent report released on December 9, 2021, in two brief sentences the CER acknowledged, without comment, that its scenarios do not model the lower oil production levels that would be required to meet the climate goals agreed at Paris in 2015:

*The Evolving and Current Policies scenarios do not explicitly model climate goals or targets ... the Current Policies Scenario is extremely unlikely to lead to the significant reductions needed to meet Canada's Paris commitments. In the Evolving Policies Scenario, significant emissions reductions will be realized, but ambitious goals such as net-zero by 2050 are unlikely to be met.*

— *Canada's Energy Future 2021*, p. 19

In stating that it does not "explicitly model climate goals", the CER was declaring that it does not develop or examine scenarios that would identify the much lower and declining oil production levels in Canada over the next 20 to 30 years required to safely align us with an effective global effort to stay within the 1.5°C warming threshold or within the 2°C warming threshold.

## An independent public inquiry is required

The Minister of Natural Resources belatedly instructed the CER on December 16, 2021, to conduct an internal study to determine what future level of oil production in Canada would be safely aligned with a global effort to limit warming to 1.5°C. We are now told that the result of that study will be available in early 2023.

That is the kind of study that the Federal Government should have undertaken seven years ago, before your government on November 29, 2016, committed itself to the construction of a massive expansion of Canada's pipeline capacity to export an additional 910,000 bpd of exported oil. At the very least, it should have been initiated three years ago, immediately after the IPCC issued its *Special Report on Global Warming to 1.5°C* in October 2018, which warned governments unequivocally that to stay on a pathway to keep temperatures within the 1.5°C

warming threshold, global emissions must be cut 50% by 2030. Your inaction has been unforgivable.

But this crucial study should not be left to the Canada Energy Regulator. It is wrong to leave an inquiry on a question of this gravity, which is so irrevocably consequential to our children, to the CER, which is an agency of the Federal Government and entirely unaccountable to the public. The Minister of Natural Resources, Mr. Wilkinson, has assigned this task to an anonymous group of Federal Government employees and others selected and contracted by the government to provide information and expert evidence behind closed doors.

Under this arrangement, there will be no hearings, no cross-examination, no public record of proceedings, and no media access. There will be no lawful avenue for a Canadian citizen to scrutinize the sources and evidence that is being considered by the CER, or legally challenge the evidence, the process, or the findings. The CER will quietly decide behind closed doors what evidence it will look at, and what lines of inquiry it will ignore.

The issue at stake, the future path of Canada's oil production to 2030, 2040, and 2050, is too deeply enmeshed in the conflicted economic and political interests of government and the oil industry to be entrusted to a secretive process out of the public view.

A proper examination of this fundamental question must be done by an independent *public* inquiry process. That is our guarantee that the evidence will not be pre-selected or “cherry-picked”. There must be an opportunity for Canadians to challenge and cross-examine the experts, and an opportunity to call other expert witnesses who may disagree with those who have been selected by the government. The process must be able to test and challenge the experience and skills of those who are selected as expert witnesses and scrutinize their affiliations and independence. The integrity of the process must also be protected by the basic principles of judicial independence, so we can be confident that the decision makers are not being influenced by pressures, discussions, or other sources of information that have not been tested at a public hearing.

## RESPONSE REQUIRED:

Pending a considered answer to this fundamental question by a proper inquiry process, we ask you as Minister of Environment to publicly disclose to Canadians, and kindly provide your answer to us by reply, the following information:

- Any studies based on climate science presently available to the government (and which you as Minister of Environment have relied on) to justify or explain how Canada's plan to continue to substantially increase our oil production to 2030 and beyond can possibly be consistent with a 1.5°C world.
- In particular, any studies demonstrating how the 1.5°C goal can be achieved if Canada's oil production continues to expand as projected in the ERP released on March 29, 2022.
- The sources of the information requested above.

You approved the Bay du Nord offshore oil project on April 6, 2022. Bay du Nord is expected to go into production in 2028 and continue producing until 2058:

- What sources, if any, based on climate modelling scenarios consistent with the 1.5°C warming threshold, did you rely on, Minister, when you made that decision?

Yours truly,

Jennifer Nathan

David Gooderham