

BRIEFING NOTE

Imperial Oil Ltd. Property – Yorkton, Saskatchewan

Information only

Action required

Minister's briefing

Housebook note

Cabinet item

All components of a briefing note are considered confidential, except for speaking points or unless otherwise stated.

ISSUE

- Minister's briefing regarding the offsite impacts from a former Imperial Oil facility on an adjacent landowner (Ward Brown) regarding the management and regulating oversight by the ministry.

SPEAKING POINTS FOR THE MINISTER

- **Environmental Assessment reports confirm that concentrations of fertilizer-related parameters are elevated beyond Imperial's property in all directions.**
- **Imperial completed a risk assessment corrective action plan to address these impacts. The plan, prepared by a qualified person, states there is no risk from the remaining fertilizers, and no physical corrective actions are proposed on Ward Brown's property.**
- **In May 2020, the ministry accepted the plan, subject to landowner's written consent. To date, Imperial has not obtained written consent from any affected landowner.**
- **The ministry recently conducted an audit review of all submissions related to this file. The audit showed that in 2007, Imperial knew that fertilizer had migrated from their property onto adjacent properties. Imperial appears to have failed to notify the ministry or nearby landowners of this at the time.**
- **In August 2019, the ministry issued the current site operator, Nutrien Ag Solutions, with a Warning of Non-Compliance under *The EMPA*, Section 8 (Allowing a Discharge). In April 2020, the ministry issued Imperial with Warning of Non-Compliance under *The EMPA*, Section 9 (Duty to Report).**
- **Imperial has stated that current fertilizer operations at the site may be contributing to already-identified impacts.**

BACKGROUND

- Imperial operated the site as a bulk fuel and fertilizer storage facility for many years. The operator of the fertilizer portion has changed over the years; it is currently Nutrien.
- Up until 2005, Imperial had completed numerous site assessments for the bulk fuel and fertilizer storage facility that showed there was contamination beneath the property.

- In 2005, in order to find out the extent of these impacts, Imperial drilled monitoring wells on adjacent land owners' property.
 - In 2005, the concentrations of fertilizer-related parameters in the groundwater at locations beneath Ward Brown's property, exceeded the criteria for drinking water and protection of aquatic life.
 - In 2005, Imperial stated that they intended to monitor the groundwater locations twice a year and would advise the ministry of any significant changes.
 - Since 2005, and until requested in 2016, the ministry had not received any further reports from Imperial on this site.
- Since August 2016, Ward Brown and his lawyer have contacted the ministry on numerous occasions, asking for action to be taken to address impacts beneath his property since 2013 and that Imperial had informed him of these impacts in 2014 but have not addressed his concerns.
- Results in 2017, 2018 and 2019 showed that concentrations of fertilizer-related parameters in the groundwater at locations beneath Ward Brown's property, exceeded the criteria for drinking water and protection of aquatic life.
- In 2019 and 2020, Imperial completed on and off-site assessments of soil and groundwater.
- In April 2020, Imperial submitted a Risk Management Corrective Action Plan (CAP). The plan states there is no risk from the remaining fertilizers in the soil and groundwater and proposes no physical corrective actions i.e. no source removal.
- In May 2020, the ministry accepted the findings of the CAP, subject to landowner's written consent. To date, Imperial have not obtained written consent from any affected landowner.

ANALYSIS/IMPLICATIONS/FINANCIAL

FOIP 17(1)(a)



QUESTIONS AND ANSWERS

Q1: How bad are the impacts?

A: FOIP 17(1)(a)

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Q2: Why can't Imperial just remove the impacts?

A: FOIP 17(1)(a)

Q3: Why is Imperial taking so long to assess these impacts?

A: The ministry is working with Imperial on a voluntary basis as is standard in situations like this and is satisfied that the risk of adverse environmental and human health effects is being addressed.

A: In general, impacted sites management is an iterative process and timelines need to be flexible.

A: The ministry relies on voluntary risk based approaches to impacted sites management.

Q4: Why are Imperial stating they may not be solely responsible for the impacts?

A: In a letter, dated August 23, 2016, Imperial stated that impacts discovered on adjacent property may not be from its former operations. Imperial has stated that current fertilizer operations at the site may be contributing to already identified impacts. Imperial have also stated that the application of fertilizers by farmers in the surrounding land could also be a contributing factor. The ministry has asked Imperial to provide evidence to support these claims.

Q5: Why doesn't the ministry consider 'loss of property value' as an adverse effect?

A: The ministry enforces The *Environmental Management and Protection Act, 2010* (EMPA, 2010). The definition of 'adverse effect' within EMPA, 2010, does not include deleterious impacts to one's property. It only considers impairment to the environment and human health. Ward Brown's health is not directly impacted by the presence of fertilizers in the groundwater beneath his property.

Q6: Can we link the contamination on Ward Brown's property to the Imperial Oil property?

FOIP 17(1)(a)

A:

A:

FOIP 17(1)(a)

Q7: What has been the chronology of events related to this site following the 2016 complaint by Ward Brown?

A: August 2016, Ward Brown contacted the ministry with concerns about impacts beneath his property. Ward stated that Imperial had informed him of these impacts in 2014 but have not since addressed his concerns.

A. Throughout 2016 – 2020 the ministry has requested numerous reports from Imperial. The ministry has stated several times that Imperial must inform all landowners affected by impacts.

A: Throughout 2016 – 2020, Ward Brown and his lawyer have contacted the ministry requesting updates on this file. The ministry has explained that the management of this impacted site is in the voluntary process of the *Code*, i.e. Imperial have qualified person(s), and are conducting site assessments in their own timeline.

A: Throughout 2016-2020, Ward Brown has raised concerns through several avenues, including; the provincial spill line, the Turn in Poachers and Polluters line (TIPS), to his MLA, Environment and Climate Change Canada (ECCC) and the Minister's office.

A: Throughout 2016 – 2020, Ward Brown and his lawyer have stated that the ministry is failing in its duty to hold Imperial accountable for the fertilizer impacts, and has historically allowed Imperial to not report these impacts.

A: March 2019 Ward Brown contacted the ministry to complain about fugitive fertilizer dust emissions blowing from the site onto his property.

- Ministry completed an initial and follow-up site inspection at the facility and gave the operator (Nutrien) recommendations and action items related to storage and handling of fertilizer material.

A: Following more complaints from Ward Brown, in August 2019, ministry issued Nutrien with a Warning of Non-Compliance under *The EMPA, Section 8 (Prohibition on Discharges)*, and failing to follow the recommendations from the recent inspection(s).

A: April 2020, ministry issued Imperial with a Warning of Non-Compliance under *The EMPA, Section 9 (Duty to Report)*, for failing to notify landowners of fertilizer impacts.

A: The ministry gave Imperial until end of April 2020, to complete assessments and propose corrective actions. Imperial met this deadline and submitted their final Risk Assessment Corrective Action plan, dated April 29, 2020.

A: FOIP 17(1)(a)

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