Bitumen Extraction, Indigenous Land Conflicts, and Environmental Change in the Athabasca Oil Sands Region, 1963-1993

by

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Abstract

This dissertation examines the first development phase of the Alberta oil sands industry from the 1960s to the early 1990s. It draws on public and private records from archives in Canada and the United States, the results of collaborative research with the Fort McMurray Métis, and oral history interviews with members and administrators from Fort Chipewyan Métis, Fort McKay First Nation, and Mikisew Cree First Nation. It argues that conflicts between Indigenous peoples, the state, and the oil sands industry were rooted in an evolving system of control and regulation of land and resources, which marginalized Indigenous land use and encouraged bitumen extraction with limited environmental regulation. I show how bitumen exploration influenced the Dominion of Canada's use of cartography, resource regulations, and Treaty 8 to extend sovereignty over the Athabasca region. The global energy and economic crises of the 1970s drove the Alberta Progressive Conservative government to invest in developing the oil sands, which created a conflict of interest that undermined environmental policy. Meanwhile, Indigenous peoples resisted the environmental destruction of bitumen extraction and fought for economic benefits. The Mikisew Cree First Nation, the Indigenous communities centered on Trout, Peerless, Whitefish, Loon, and Lubicon Lakes, and the Indian Association of Alberta used land claims processes to interfere with development to force government to guarantee Indigenous employment and resolve land claims. Bitumen extraction destroyed Indigenous environments and traplines, and the Town of Fort McMurray forcefully evicted the Moccasin Flats Métis settlement and other Métis and First Nation settlements. The Fort McKay community used an array tactics in the 1980s to resist the environmental impacts of bitumen extraction and negotiate new economic relationships with industry.

Preface

This thesis is an original work by Hereward Longley. The research project, of which this thesis is a part, received research ethics approval from the University of Alberta Research Ethics Board, Project Name "Indigenous Communities, Resource Extraction Conflicts, and the Environmental History of the Oil Sands Industry, 1960--2014", Study ID: Pro00058082, September 1, 2016.

I published earlier versions of some of the material in chapters 2, 4, 5, and 8 in the following articles and book chapters:

"Conflicting Interests: Development Politics and the Environmental Regulation of the Alberta Oil Sands Industry, 1970-1980." *Environment and History,* vol. 27, no. 1 (2021): 97-125.

"Uncertain Sovereignty: Treaty 8, Bitumen, and Land Claims in the Athabasca Oil Sands Region." Chap. 1 In *Extracting Home in the Oil Sands: Settler Colonialism and Environmental Change in Subarctic Canada*, edited by Clinton N. Westman, Tara L. Joly and Lena Gross, 23-47. London and New York: Routledge, 2020.

"Bitumen Exploration and the Southern Re-Inscription of Northeastern Alberta: 1875–1967." In "Environmental Knowledge, Environmental Politics: Case Studies from Canada and Western Europe," edited by Liza Piper and Jon Clapperton. Special issue, *RCC Perspectives: Transformations in Environment and Society,* vol. 4 (November 2016): 17-24.

"Indigenous Battles for Environmental Protection and Economic Benefits During the Commercialization of the Alberta Oil Sands 1967-1986." In *Mining and Communities in Northern Canada,* edited by John Sandlos and Arn Keeling, 207-232. Calgary: University of Calgary Press, 2015. Winner of Canadian Studies Network prize for Best Edited Collection in Canadian Studies (2016).

Chapter 7 is based on a co-authored historical research report. I was the lead author, did much of the archival research, and wrote the material on which Chapter 7 is based. I have included a condensed and rewritten version of some material written by my coauthor on pages 242-247.

Longley, Hereward, and Tara Joly. *The Moccasin Flats Evictions: Métis Home, Forced Relocation, and Resilience in Fort McMurray, Alberta.* For Fort McMurray Métis Local 1935. September 2018.

Acknowledgements

I wrote this thesis on Treaty 6 territory, in Amiskwacîwâskahikan, Beaver Hills House, which is the nehiyawin itewin (Cree) word for Edmonton, a traditional home for the Cree, Blackfoot, Métis, Nakota Sioux, Iroquois, Dene, Ojibway/Saulteaux/Anishinaabe, Inuit, and other Indigenous peoples. This thesis is about the Athabasca region north of Nistawoyou, Where Three Rivers Meet, which is the Cree name for Fort McMurray, a traditional home of Indigenous peoples including the Cree, Métis, Dene, and others.

I thank the Elders who shared their stories: Almer Waniandy Annette Campre, Theresa Okakie, Doug Golosky, Jumbo (Fred) Fraser, Cameron MacDonald, Jack Quintal, Joe Blyan, Neils Langevan, Harvey Sykes, Steve Shott, Lawrence Laboucane, Marilyn Buffalo, Crystal Clark, and the Elders who shared their stories confidentially.

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Tara Joly and I met working for WSSS and while doing doctoral field work with McMurray Métis. Tara has become a great friend and collaborator who made working and travelling in the Athabasca region so much fun.

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Chapter 1

Introduction

Egypt's nationalization of the Suez Canal in July 1956 triggered an invasion by Israel, Britain, and France and cut off oil exports to Western Europe and the United States until 1957.[1] Oil companies started searching for less vulnerable sources of petroleum. Philadelphia-based Sun Oil looked to the bituminous sands in northeastern Alberta. Producing synthetic crude oil from bitumen was not a new idea. The 50,000 square kilometre deposit inspired explorers and was one potential mineral resource that encouraged the Dominion of Canada to sign a land treaty with the region's Indigenous peoples in 1899 as part of a general policy of western expansion. But the difficulty and cost of extracting bitumen prevented developers from commercial scale production. In 1963, Sun Oil started building the Great Canadian Oil Sands Limited plant 65 kilometres north of Fort McMurray near Fort McKay, a small, mostly Indigenous settlement.

Fort McKay Elders recall the Suez Crisis and the economic conditions that followed as "a major impetus for exploration in our territory."[2] Timothy Clark writes that Métis Elders remember the 1960s "as a traumatic watershed in the collective memory of the community, when the comfortable cocoon of Fort McMurray was ripped open and the McMurray Métis were subjected to an extraordinarily rapid and powerful political, socioeconomic, and cultural shock."[3] The 1973 energy crisis made bitumen extraction an urgent priority, which caused oil companies, government, and industrial settlers to rush to

[1] Daniel Yergin, *The Prize: The Epic Quest for Oil, Money, and Power* (New York: Free Press, 1991), 480.
[2] Fort McKay Tribal Administration, *From Where We Stand* (Fort McMurray, 1983), 82.
[3] Timothy David Clark, *McMurray Métis Cultural Impact Assessment of the Teck Frontier Oil Sands Mine Project*, Willow Springs Strategic Solutions Inc. (July 2015), 135.

the Athabasca region in search of oil. The following bitumen boom had significant consequences for both the environment and Indigenous peoples, whom industry had excluded from economic development.

Oil prices crashed in the mid-1980s, slowing oil sands development until a bigger boom unfolded from the late 1990s. Prices climbed after the September 11, 2001, attacks on New York City, until 2014. Prices declined again as oil new oil supplies, especially from fracking in the United States (US), outpaced demand. During the second boom, the oil sands industry attracted over $200 billion in foreign investment, which created successful economic conditions for Indigenous businesses but not necessarily a good labour market for Indigenous workers. The expanding industry had severe environmental consequences. Bitumen extraction caused air and water pollution, razed over 500 square kilometres of boreal forest and wetlands, and created large tailings ponds, which the Alberta Energy Regulator estimates will cost $130 billion to clean up.[4] First Nation and Métis communities challenged the industry's cultural and environmental impacts, government claims of sovereignty over land and resources, and the duty of industry and government to consult and engage with them in the development process.[5] Often considered recent issues, this dissertation shows how these conflicts are rooted in the 1970s and 80s, a decade of rapid change when Indigenous communities challenged the oil sands industry with new land claims processes, and federal and provincial governments

[4] Mike DeSouza, Carolyn Jarvis, Emma McIntosh, David Bruser, "Cleaning up Alberta's oil patch could cost $260 billion, internal documents warn," *Global News,* 1 November 2018. https://globalnews.ca/news/4617664/cleaning- up-albertas-oilpatch-could-cost-260-billion-regulatory-documents-warn/

[5] For select examples of litigation see: *Métis Nation of Alberta Association Fort McMurray Local Council 1935 v Alberta,* 2016 ABQB 712; *Fort McKay First Nation v Prosper Petroleum Ltd,* 2020 ABCA 163; *Athabasca Chipewyan First Nation v. Alberta (Minister of Energy),* 2009 ABQB 576; *Mikisew Cree First Nation v. Canada*, 2000 ABQB 899.

established environmental policies to limit the negative effects of development.

This dissertation uses archival research and oral history to explain how the Lower Athabasca River region, especially around Fort McKay and Fort McMurray, transformed from an Indigenous space into a bitumen extraction zone during the period 1963-1993, and what the consequences were for Indigenous people and the environment (Figure 1). This dissertation's core argument is that conflicts between Indigenous peoples, the governments of Canada and Alberta, and the oil sands industry were rooted in an evolving system of control and regulation of land and resources in the Athabasca region, which marginalized Indigenous land use and encouraged bitumen extraction with limited environmental regulation.

This dissertation draws from and contributes to environmental, Indigenous, and energy histories of resource extraction. In this field some scholars, including Paul Sabin and Christopher Jones, emphasize the importance of understanding the political, economic, and technological development of extractive industries and energy systems.[6] Others, such as Myrna Santiago and Traci Voyles, show how extractive industries had major social and environmental consequences for people and ecosystems at the sites of extraction.[7] This dissertation draws on both approaches to examine the political economic history of the oil sands industry and explain how bitumen extraction transformed landscapes and affected Indigenous communities in the region. These negative environmental changes caused conflicts that contributed to the trajectory of development. By combining these approaches,

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[6] Paul Sabin, *Crude Politics: The California Oil Market 1900-1940* (Berkley and Los Angeles: University of California Press, 2005); Christopher F. Jones, *Routes of Power: Energy and Modern America* (Cambridge, Mass.: Harvard University Press, 2014).

[7] Traci Brynne Voyles, *Wastelanding: Legacies of Uranium Mining in Navajo Country* (Minneapolis: University Of Minnesota Press, 2015); Myrna Santiago, *The Ecology of Oil: Environment, Labour, and the Mexican Revolution, 1900-1938* (Cambridge: Cambridge University Press, 2006).

this dissertation makes two historiographical arguments. First, Indigenous peoples and the environment are integral to the political economy of industrial development. Second, scholars of settler colonialism must work to examine how colonialism differed in the context of resource extraction. Government and the oil sands industry used law and policy to deny Indigenous rights to their lands and justified bitumen extraction as temporary, partial exclusions, rather than permanent removal and resettlement.

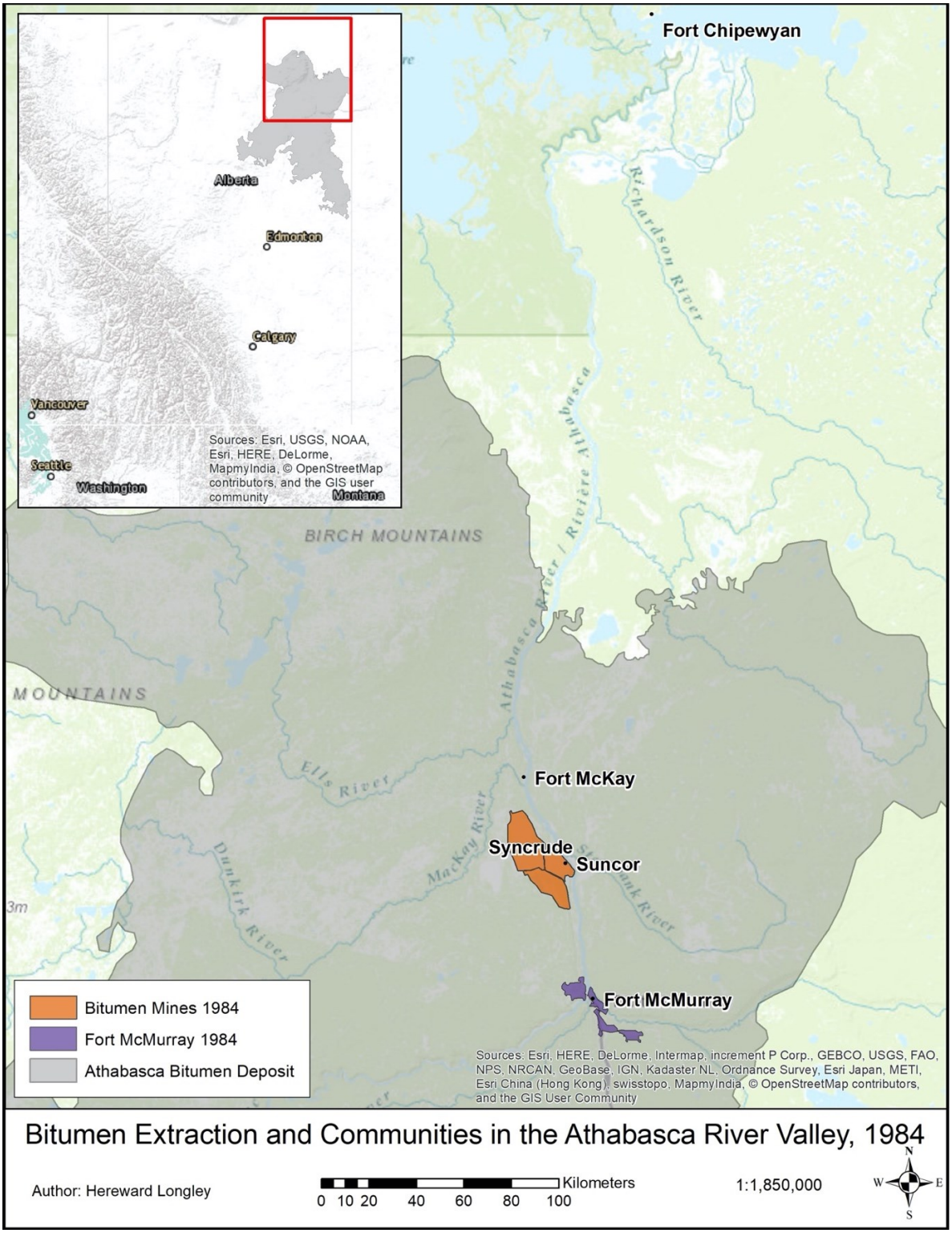

Figure 1: Bitumen Extraction and Communities in the Athabasca River Valley, 1984.

Terminology

I have chosen terminology for this dissertation that works to respect Indigenous peoples and objectively examine Indigenous and settler colonial histories.[8] I use the term *settler* for the non-Indigenous peoples of European heritage who live in Canada. As Chelsea Vowel writes, the term settler is a relational term rather than a racial category.[9] I use Eve Tuck and Wayne Yang's definition of settlers as those who make "Indigenous land their home and source of capital."[10] I use the term *Indigenous peoples* to collectively describe First Nation, Métis, and non-status peoples.[11] I otherwise refer to specific Métis and First Nation communities such as Fort McMurray Métis or Fort McKay First Nation. I use Woodland Cree (Nēhiyawēwin) and Chipewyan Dene (Dëne Sųłıné Yatıé) to describe the ethnolinguistic groups of Indigenous peoples who live in the Athabasca region.[12] I use the term *Aboriginal* to refer to Aboriginal law or Aboriginal rights, the area of Canadian law that pertains to Indigenous peoples. Aboriginal law gets its name from the term used to refer to First Nations, Inuit, and Métis peoples in the Constitution of Canada. Aboriginal law addresses issues including treaties, harvesting rights, and the duty to consult. Indigenous law refers to the legal traditions and practices of Indigenous peoples. I sparingly use the term *Status Indian* to refer to Indigenous peoples with Indian Status under the *Indian Act*—a controversial piece of legislation first passed in 1876 that defines the Government of Canada's conduct towards First Nations. The term *Indian* occasionally

[8] Gregory Younging, *Elements of Indigenous Style: A Guide for Writing By and About Indigenous Peoples* (Edmonton: Brush Education, 2018), 55.
[9] Chelsea Vowel, *Indigenous Writes: A Guide to First Nations, Métis, and Inuit Issues in Canada* (Winnipeg, MB: HighWater Press, 2016), 16.
[10] Eve Tuck and K. Wayne Yang, "Decolonization Is Not a Metaphor," *Decolonization: Indigeneity, Education & Society* 1, no. 1 (2012).
[11] Younging, *Elements of Indigenous Style*, 66.
[12] Prince of Wales Northern Heritage Centre, "Official Languages of the Northwest Territories," https://www.pwnhc.ca/official-languages-of-the-northwest-territories/

appears in quoted primary material. I avoid the term *Half Breed* when referring to Métis peoples other than where it occurs in primary material.

I use the term sovereignty to refer to the contested understanding and power over who has control over land, resources, and human relationships with the environment. Aileen Moreton-Robinson explains the differences between the sources of Indigenous and western sovereignty. Indigenous sovereignty is "embodied, it is ontological (our being) and epistemological (our way of knowing), and it is grounded within complex relations derived from the intersubstantiation of ancestral beings, humans and land."[13] Indigenous sovereignty is inherent: it predates colonization and can neither be given nor taken away by colonizing powers. Conversely, western (Westphalian) state sovereignty is the principle that a nation state and its government has a total right and power to control its claimed territory.[14] This dissertation shows how the Canadian state claimed sovereignty over the Athabasca region, and how Indigenous peoples contested this process and continually exercised their own sovereignty through legal and political resistance. While Indigenous communities resisted the environmental impacts of the oil sands industry, what was really at stake was the *power* to control or prevent bitumen extraction and industrialization.

Hydrocarbons in Western Canada

The hydrocarbon deposits in western Canada occur in the Western Canadian Sedimentary Basin (WCSB). The WCSB is a thick wedge of sedimentary rock that extends from the Rocky Mountains to the Canadian shield. It covers 1.4 million square kilometres

[13] Aileen Moreton-Robinson, ed., *Sovereign Subjects: Indigenous Sovereignty Matters* (Crows Nest, N.S.W.: Allen & Unwin, 2007), 5.
[14] Westphalian sovereignty stems from the 1648 Peace of Westphalia, which ended the 30 Years' War and marked the beginning of new period of international relations by solidifying the principle of nation state sovereignty.

of western Canada including most of Alberta, southern Saskatchewan, southwestern Manitoba, northeastern British Columbia, and the southwest corner of the Northwest territories. The hydrocarbon deposits in the WCSB are among the world's largest. The deposits occur in the Manville Group, which formed 144 million years ago during the Cretaceous period and are the oldest strata covering the entirety of the WCSB. The Manville layers vary in thickness from 40 metres in the plains to as much as 700 metres in the foothills of the Rocky Mountains. The WCSB's coal deposits formed in low-lying coastal plains, now the foothills and western plains. Conventional oil and gas formed in fluvial and valley-fill reservoir sandstones in southern Alberta and Saskatchewan. Heavy oil and bituminous sands formed in the McMurray formation of shoreline sandstone complexes in the Mannville group, which span much of northern Alberta and Saskatchewan. The Athabasca bitumen deposits underlie 50,000 square kilometres of forest, river valley and muskeg surrounding the confluence of the Athabasca and Clearwater Rivers (Figure 1). The bitumen deposits are fine-grained sands, which hold up to 18 per cent bitumen, a heavy and viscous hydrocarbon mixture.[15]

The archeological record suggests that Indigenous peoples have continuously lived in the Lower Athabasca Basin since the end of the Pleistocene ice age 11,700 years before present. The postglacial Lake Agassiz flood, 10,000 years before present, scoured the Lower Athabasca Basin and exposed bedrock from which hunting peoples could make stone tools.[16] After the flood, a period of warm and dry climate encouraged vegetation

[15] B.J.R. Hayes et al., "Cretaceous Mannville Group of the Western Canada Sedimentary Basin," in *Geological Atlas of the Western Canadian Sedimentary Basin*, ed. G.D. Mossop and I. Shetsen, Cretaceous Mannville Group of the Western Canada Sedimentary Basin (Canadian Society of Petroleum Geologists and Alberta Research Council, 1994), 317.
[16] Grant M. Clarke, Brian M. Ronaghan, and Luc Bouchet, "The Early Prehistoric Use of a Flood-Scoured Landscape in Northeastern Alberta," in *Alberta's Lower Athabasca Basin: Archaeology and Paleoenvironments*, ed. Brian M. Ronaghan (Edmonton: Athabasca University Press, 2017), 142.

growth, which supported big game animals and intensive human use of the region by the predecessors of the modern Cree and Dene peoples.[17] The Cree, Chipewyan, and Métis peoples who make their homes in the Athabasca region have long known about the Athabasca bitumen deposits and used bitumen for sealing canoes and other purposes. The Woodland Cree term for the Athabasca bitumen deposits is *asiniw pikow*, which translates approximately as rock or stone (*asiniw*) sap or gum (*pikow*).[18] The Chipewyan Dene term for the deposits is *kles ke,* which means place of (*ke*) oil (*kles*).[19] In recent years the terms *oil sands* and *tar sands* have become signposts for support or opposition of the industry. From the late 19th century until about the mid-1980s the deposits were known as the *bituminous sands* or the *tar sands*. The term *oil sands* appeared in the 1920s and 1930s as the deposits were mined to produce synthetic crude oil (rather than asphalt) and became the primary term for the industry by the 1980s. In the 2000s, those opposed to the environmental consequences of the bitumen extraction have held on to the term *tar sands* to brand the industry as dirty.[20] The Alberta government and the industry condemned the term *tar sands* and use *oilsands* instead.[21] I use the terms *bitumen deposits* or *bitumen extraction* rather than *oil sand* or *tar sand*. Since the industry produces synthetic oil, I refer to the *oil sands industry*.

Scottish explorer Alexander Mackenzie described the Athabasca bitumen deposits in 1789 while seeking passage across North America for the fur-trading North West

[17] Clarke, Ronaghan, and Bouchet, "The Early Prehistoric Use of a Flood-Scoured Landscape in Northeastern Alberta," 151.
[18] Correspondence with Matthew Whitehead, Traditional Knowledge Coordinator, Mikisew Cree First Nation, 2012.
[19] Correspondence with John Rigney, Special Projects, Athabasca Chipewyan First Nation, 2012.
[20] Andrew Nikiforuk, *Tar Sands: Dirty Oil and the Future of a Continent* (Vancouver: Greystone Books, 2010).
[21] For example: Government of Alberta, *Alberta's Oil Sands: Opportunity. Balance*, Government of Alberta (Edmonton, 2008).

Company.[22] The Athabasca bitumen deposits were the main deposits of hydrocarbons known by explorers and the HBC before workers building the Canadian Pacific Railroad (CPR) found natural gas in 1883 near Medicine Hat in southern Alberta.[23] The CPR discovered more natural gas in 1900 and 1911. In 1913 Calgary Petroleum Products Limited drilled the Dingman well in the Turner Valley southwest of Calgary. It discovered naphtha, which powered the vehicles of the time without refining, as well as conventional oil and natural gas. The discovery started the Turner Valley boom, which led to a speculation frenzy and the first significant oil and gas field in Alberta. The Turner Valley discovery attracted oil companies from the United States including Imperial Oil, the Canadian subsidiary of Standard Oil of New Jersey.[24] During the boom, oil producers wasted millions of cubic meters of natural gas by either flaring or venting when they did not have the means to transport and sell it.

David Breen writes that waste and overproduction during the Turner Valley boom caused the Alberta government to create the Petroleum and Natural Gas Conservation Board (PNGCB) in 1938. Alberta renamed it the Oil and Gas Conservation Board (OGCB) in 1957, the Energy Resources Conservation Board (ERCB) in 1971, and the Alberta Energy Regulator (AER) in 2013, (hereafter referred to as the Board). The Board's priorities were conservation and equity. Conservation in this context meant preventing the wasteful exploitation of oil and gas, especially the flaring and venting of natural gas by oil

[22] Patricia A. McCormack, *Fort Chipewyan and the Shaping of Canadian History, 1788-1920s: "We like to be free in this country"* (Vancouver: UBC Press, 2010).
[23] To encourage the company to build the railroad, the Dominion government gave the CPR $25 million, a monopoly, tax exemptions, and 10 million hectares of land, which included mineral rights. In 1906 the CPR hired Eugene Coste from the Geological Survey of Canada to explore its lands for oil and gas and decided to stop selling mineral rights with land it sold. Coste's company, the Canadian Western Natural Gas, Light, Heat and Power Company discovered natural gas at Bow Island, south of Medicine Hat in 1911.
[24] David Breen, *Alberta's Petroleum Industry and the Conservation Board* (Edmonton: University of Alberta Press, 1993), Chapter 1.

producers. Equity referred to the equitable sharing of the benefits of hydrocarbon production between producers and the public.[25]

The idea of conservation had appeared in Canada and the US in the late 19th and early 20th century. By the early 20th century, American thinkers declared that the frontier had closed and the country's resources were not limitless, and so they should be conserved and used wisely.[26] In Canada, the most prominent expression of this philosophy was by the Commission of Conservation, which was created under Laurier's Liberal government in 1909 and operated until 1921.[27] The meaning of conservation evolved with the growing importance of mineral resources and was industry-focused. Economic conservation meant maximizing the present value of resources for the least investment. The Board's understanding of conservation blended aspects of wise use and economic conservation. It emphasized minimizing waste and protecting property rights.[28] Conservation Board member George Govier explained in 1950:

> Conservation involves the efficient use of natural resources, the development of these resources in such a way as to protect the interests of future generations, and the elimination of all economically avoidable waste. It may be defined as "The preservation of natural resources for economical use." The concept of the elimination of waste is paramount.[29]

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[25] The Board also addressed correlative rights, which were to ensure that all owners of rights to a given field had an opportunity to profit from its development. Its mandate did not include administrative responsibility for related areas including surface rights arbitration, natural gas utility pricing and the collection of royalties. Breen, *Alberta's Petroleum Industry and the Conservation Board*, xiv,xxx.

[26] Breen, *Alberta's Petroleum Industry and the Conservation Board*, xxix.

[27] Michel F. Girard, *L'Écologisme Retrouvé: Essor et Déclin de la Commission de la Conservation du Canada* (Ottawa: Presses de l'Université d'Ottawa, 1994); John Sandlos, "Nature's Nations: the Shared Conservation History of Canada and the USA," *International Journal of Environmental Studies* 70, no. 3 (2013).

[28] Breen, *Alberta's Petroleum Industry and the Conservation Board*, xxvii-xxx.

[29] George W. Govier, "Oil and Gas Conservation," paper presented to the Canadian Institute of Mining and Metallurgy, Western Annual Meeting, Vancouver, 1950, pp. 1-2. Cited in Breen, *Alberta's Petroleum Industry and the Conservation Board*, xxix.

The Board's focus on economic conservation prioritized public economic benefits over individual or regional interests. It approved hydrocarbon extraction projects that had adverse public health and environmental consequences.

Bitumen Extraction

During the early part of the 20th century, bitumen exploration and synthetic oil production occurred on a small and experimental scale. Bitumen attracted more interest, particularly from the federal government, during the First and Second World Wars. The synthetic fuel industry started during times of shortages of conventional oil, such as in the United States in the 1920s and again in the 1950s. Synthetic crude oil is the crude oil output from a bitumen or heavy oil upgrader that has been synthesized from the various hydrocarbon fractions produced by fractional distillation.[30] When fear of oil shortages drove up prices, researchers built test facilities to produce synthetic oil. High prices also encouraged oil companies to spend more on exploration, which led to the discovery of new conventional oil reserves. New supplies caused prices to fall. Unless the new synthetic oil plants rapidly grew to create economies of scale and reduce production costs, they could not survive in low-price environments. Developers would put synthetic oil projects aside until the next crisis.[31]

[30] Synthetic fuel is a liquid fuel produced from synthesis gas derived from the gasification of solid feedstock like coal or biomass. However, the term synfuel broadly describes unconventional oil production which synthesizes refineable hydrocarbons from low quality hydrocarbon sources. Although oil production, transportation, refining, and marketing is always a very technical and complex extractive process, the move to synthetic oil production changed the material character of the industry from producing oil from conventional deposits, to making crude oil by heating it to separate it into various weights of hydrocarbons and recombining and synthesizing, these products into refineable oil. Joseph A. Pratt and William E. Hale, *Exxon: Transforming Energy, 1973-2005* (Austin: Dolph Briscoe Center for American History: The University of Texas at Austin, 2013), 196.
[31] Pratt and Hale, *Exxon*, 196.

Imperial Oil's discovery of oil near Leduc, Alberta in February 1947 marked the beginning of a petroleum boom that transformed Alberta's impoverished economy and drew thousands of people to the province.[32] By the 1960s, conventional oil production started to plateau, causing oil companies and the Alberta government to begin extracting bitumen to produce synthetic oil. The Athabasca bitumen deposits dwarfed Alberta's conventional oil deposits, but the cost and complexity of mining and upgrading bitumen into synthetic crude oil prevented large scale bitumen extraction before the 1960s.[33]

The development of the oil sands industry emerged as part of a larger twentieth-century process of industrialization in northern Canada that exploited Indigenous lands for resources and economic gain.[34] Change in northeastern Alberta began with the expansion of Fort McMurray into a major transport site by the 1930s. By the late-1960s, the Lake Athabasca region had been affected by the uranium-mining boom at Uranium City, Saskatchewan, the construction of the WAC Bennett Dam on the Peace River in British Columbia (which caused environmental degradation of the Peace–Athabasca Delta in Alberta after 1968), and the establishment of commercial fisheries on Lake Athabasca in

[32] Imperial Oil is the Canadian arm of ExxonMobil, a descendant of Standard Oil. David Breen, "The Making of Modern Alberta," in *Alberta formed, Alberta transformed*, ed. Catherine Anne Cavanaugh, Michael Payne, and Donald G. Wetherell (Edmonton: University of Alberta Press, 2006), 539.

[33] Whereas a deposit refers to a physical quantity of a hydrocarbon, a reserve is more like a production forecast: a changing, non-material assessment of how much hydrocarbon has been discovered, is legally and technologically accessible, and is economically viable. Alberta conventional oil deposits had an initial volume of 81.3 billion barrels. Remaining conventional reserves are about 1.8 billion barrels, and potential reserves of 19.7 billion barrels. Alberta Bitumen deposits top 1.7 trillion barrels, but the reserve size is closer to 166 billion barrels. Alberta Energy, 2016: http://www.energy.alberta.ca/

[34] Kerry Abel and Ken S. Coates, "The North and the Nation," in *Northern Visions: New Perspectives on the North in Canadian History*, ed. Kerry Abel and Ken S. Coates (Peterborough, Ontario: Broadview Press, 2001); Ken Coates and William Morrison, *Forgotten North: A History of Canada's Provincial Norths* (Toronto: James Lorimer & Company, 1992); David Quiring, *CCF Colonialism in Northern Saskatchewan: Battling Parish Priests, Bootleggers, and Fur Sharks* (Vancouver: University of British Columbia Press, 2004); Jim Mochoruk, *Formidable Heritage: Manitoba's North and the Cost of Development, 1870 to 1930* (Winnipeg: University of Manitoba Press, 2004).

the 1920s.[35] This rush toward development caused dramatic environmental change for the Indigenous communities that lived around Fort McMurray and Fort McKay.

In 1958 Sun Oil invested in Great Canadian Oil Sands Limited (GCOS) to finance a bitumen extraction plant. The Alberta Social Credit government approved the GCOS project in 1962. Construction started in 1964, and the 45,000 barrels per day (bpd) plant opened in 1967.[36] Social Credit was a Christian social reform party, which governed Alberta from 1935 to 1971.[37] Social Credit premier Ernest Manning and Sun Oil director J. Howard Pew bonded over their shared faith and saw oil as a divine gift that was to be used to transition from an agrarian past to a modern Christian future.[38] In 1966, as construction progressed on GCOS, Cities Service, Imperial Oil, Royalite, and Atlantic Richfield Canada formed the Syncrude consortium and began planning a second operation. Responding to pressure from industry and to the high modernist aspirations of a country that was elsewhere investing in hydroelectric dams and nuclear power after the Second World War, Canadian federal and provincial governments prioritized resource extraction, technological development, and economic growth above associated costs and consequences.[39]

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[35] Liza Piper, *The Industrial Transformation of Subarctic Canada* (Vancouver: UBC Press, 2009); Arn Keeling, "'Born in an Atomic Test Tube': Landscapes of Cyclonic Development at Uranium City, Saskatchewan," *The Canadian Geographer* 54, no. 2 (2010); Patricia McCormack, "How the (North) West was Won: Development and Underdevelopment in the Fort Chipewyan Region" (PhD University of Alberta, 1984); Tina Loo, "Disturbing the Peace: Environmental Change and the Scales of Justice on a Northern River," *Environmental History* 12 (2007).

[36] GCOS became Suncor in 1978.

[37] Alvin Finkel, *The Social Credit Phenomenon in Alberta* (Toronto: University of Toronto Press, 1989), 217; C. B. Macpherson, *Democracy in Alberta: the Theory and Practice of a Quasi-Party System* (Toronto: University of Toronto Press, 1953), 158; Breen, *Alberta's Petroleum Industry and the Conservation Board*, 545.

[38] Darren Dochuk, *Anointed With Oil: How Christianity and Crude Made Modern America* (New York: Basic Book, 2019), 414.

[39] High modernism was a form of modernism defined by a belief in the benefit of science and technology to reorder the natural and social world that was especially dominant in the 1950s and 60s. James L. Kenny and Andrew Secord, "Engineering Modernity: Hydro-Electric Development in New Brunswick, 1945-70," *Acadiensis* 39, no. 1 (2010); Loo, "Disturbing the Peace."; Andrew Needham, *Power Lines: Phoenix and the Making of the Modern Southwest* (Princeton: Princeton University Press, 2014); Liza Piper and Heather Green, "A Province powered by coal: The renaissance of coal mining in late twentieth-century Alberta," *The*

Historiography

The historical literature on hydrocarbon extraction in Alberta has focused on its political, economic, technological, and regulatory aspects. Historical literature on the oil sands industry has viewed it as a political and economic problem and not considered how bitumen extraction affected the Athabasca environment and Indigenous peoples, even though these issues have been explored at length by popular writers and scholars working in political science, sociology and other fields. This dissertation contributes to the historical literature by showing how the regulation of land and resources suppressed Indigenous land use rights and failed to effectively manage the environmental effects of bitumen extraction.

In the 1970s and 80s, political scientists criticized the role of foreign companies in the Canadian economy and Canada's economic dependence on primary resource staple exports. In his 1976 book *Tar Sands: Syncrude and the Politics of Oil,* University of Alberta political scientist Larry Pratt argues that the Syncrude project exposed the power of resource industries to influence government in Canada.[40] Pratt showed how the provincial government and the oil industry's drive to extract oil in during the energy crisis caused government to sideline environmental regulations and silence public debate about social and environmental consequences. Pratt advocated more public ownership and a slower pace of development.[41] In 1979, Pratt coauthored *Prairie Capitalism: Power and Influence in the New West* with John Richards. They argued that the efforts of the Alberta and

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Canadian Historical Review 98, no. 3 (2017); Sabin, *Crude Politics*; John Sandlos and Arn Keeling, "The Giant Mine's Long Shadow: Arsenic Pollution and Native People in Yellowknife, Northwest Territories," in *Mining North America: An Environmental History since 1522*, ed. J. R. McNeill and George Vrtis (Oakland: University of California Press, 2017); Philip Van Huizen, "Building a Green Dam: Environmental Modernism and the Canadian-American Libby Dam Project," *Pacific Historical Review* 79, no. 2 (2010).

[40] Larry Pratt, *The Tar Sands: Syncrude and the Politics of Oil* (Edmonton: Hurtig Publishers, 1976), 9-10.

[41] Larry Pratt, "The state and province-building: Alberta's development strategy," in *The Canadian State: Political Economy and Political Power*, ed. Leo Panitch (Toronto: University of Toronto Press, 1977).

Saskatchewan provincial governments to develop oil, natural gas, and potash industries after the Second World made government "an entrepreneurial actor in staple-led economic development."[42] In 1984, Ed Shaffer argued that the importance of the oil industry to Alberta had made the province vulnerable to oil price fluctuations and reduced the government's bargaining power with industry.[43] These authors focused more on the role of government in responding to the oil industry's pressure to develop bitumen than on the motivations of the industry.

Business historians have assessed how oil companies approached bitumen extraction and synthetic oil. In 1985, Graham Taylor describes the risks Sun Oil took to build GCOS and the costs of its decisions for the company.[44] Paul Chastko's 2004 book *Developing Alberta's Oil Sands* places the oil sands industry in a global context. He shows how US oil companies, and the governments of Canada, Alberta, and the United States worked in response to continental energy security concerns to invest in the technology and infrastructure that would make the oil sands industry a viable source of synthetic oil.[45] Chastko concludes with a discussion of the Kyoto environmental protocol, but he does not otherwise address the adverse environmental, social, and economic effects of the oil sands industry. Graham Taylor's 2019 book *Imperial Standard: Imperial Oil, Exxon, and the Canadian Oil Industry from 1880* examines Imperial Oil's role in the development of the Canadian oil industry.[46] These business and political histories of the oil sands industry have

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[42] John Richards and Larry Pratt, *Prairie Capitalism: Power and Influence in the New West* (Toronto: McClelland and Stewart Limited, 1979), 3,11.
[43] Ed Shaffer, "The Political Economy of Oil in Alberta," in *Essays on the Political Economy of Alberta*, ed. David Leadbeater (Toronto: New Hogtown Press, 1984), 176.
[44] Graham D. Taylor, "Sun Oil Company and Great Canadian Oil Sands Ltd.: The Financing and Management of a "Pioneer" Enterprise, 1962-1974," *Journal of Canadian Studies* 20, no. 3 (1985).
[45] Paul Chastko, *Developing Alberta's Oil Sands: From Karl Clark to Kyoto* (Calgary: University of Calgary Press, 2004), xvi.
[46] Graham D. Taylor, *Imperial Standard: Imperial Oil, Exxon, and the Canadian Oil Industry from 1880*

enhanced our understanding of the how the industry has developed, how provincial politics have been shaped by oil, and how federal-provincial conflicts affected the oil industry, but they have not explained the relationship between hydrocarbon development and environmental change, or how the development of oil sands industry affected Indigenous peoples in the Athabasca region.

Environmental Historians have written about the environmental effects of sour gas and oil transportation. Arn Keeling shows how the public challenged the lax environmental regulation of sour gas projects from the 1970s to the 1990s. The Conservation Board approved sour gas projects with significant adverse environmental effects, which it deemed to be in the public interest of economic development.[47] Erik Lizée argues that the *Right of Entry Arbitration Act,* which the Alberta government created in the 1940s to provide rural communities with a venue to protect their land from oil and gas drilling, further enabled drillers to access private land.[48] Sean Kheraj's work measures oil spills on long distance oil pipelines since the 1960s, arguing that oil spills are a normal part of oil production and transport systems.[49] These articles are important contributions, but much work remains for historians to examine historical relationships between oil production and environmental change in western Canada.

Journalists and popular authors have done some of the best work on the oil sands industry. William Marsden's 2007 book *Stupid to the Last Drop* placed the environmental

(Calgary: University of Calgary Press, 2019).

[47] Arn Keeling, "The Rancher and the Regulator: Public Challenges to Sour-Gas Industry Regulation in Alberta 1970-1994," in *Writing Off the Rural West: Globalization, Governments and the Transformation of Rural Communities*, ed. Roger Epp and Dave Whitson (University of Alberta Press, 2001).

[48] Erik Lizée, "Betrayed: Leduc, Manning, and Surface Rights in Alberta 1947-1955," *Prairie Forum* 35, no. 1 (2010).

[49] Sean Kheraj, "A History of Oil Spills on Long-Distance Pipelines in Canada," *The Canadian Historical Review* 101, no. 2 (June 2019).

impacts of the Alberta oil industry in a broader global context of climate change and environmental degradation.[50] Andrew Nikiforuk's 2010 book *Tar Sands: Dirty Oil and the Future of a Continent* detailed many social, environmental, political, and economic dimensions of the oil sands industry in the early 2000s.[51] Fred Stenson's novel *Who By Fire* explores the conflicted relationships between rural Albertans and the environmental consequences of the oil and gas industry.[52] Chris Turner's *The Patch* revisited the controversies of the oil sands, looking at the conflicts over export pipelines and climate change after oil prices fell in 2014.[53] These works are important examinations of the social and environmental consequences of hydrocarbon extraction in Alberta but in writing for popular audiences, these works tend to skim over the historical development of environmental policy, seeing failures at environmental regulation as ideologically driven rather than rooted in Alberta's particular historical context.

In the last decade, social science scholars have produced a rich literature on the oil sands industry. Focused on the rapid expansion of the industry since the early late 1990s, the chapters in Meenal Shrivastava and Lorna Stefanik's 2015 collection explore a range of political, economic, labour, and governance issues in Alberta's relationship with the oil industry.[54] Laurie Adkin's edited collection of 2016 uses a political ecology lens to examine Alberta's political relationship with the energy industry, seeing it as a petro-state—a province in which oil wealth subsidizes government spending and undermines

[50] William Marsden, *Stupid to the Last Drop: How Alberta is Bringing Environmental Armageddon to Canada (and doesn't seem to care)* (Toronto: Alfred A. Knopf, 2007).
[51] Nikiforuk, *Tar Sands*.
[52] Fred Stenson, *Who By Fire* (Toronto: Doubleday Canada, 2014).
[53] Chris Turner, *The Patch: The People, Pipelines, and Politics of the Oil Sands* (Toronto: Simon and Schuster, 2017).
[54] Meenal Shrivastava and Lorna Stefanick, eds., *Alberta Oil and the Decline of Democracy in Canada* (Edmonton: Athabasca University Press, 2015).

democracy.[55] Sara Dorow's work looks at issues of gender and community in the oil sands region.[56] Jon Gordon's work looks for ways literature can challenge people to envision a future beyond oil.[57] Scholars including Imre Szeman and Sheena Wilson from the Petrocultures research group frame hydrocarbon dependence as a cultural issue, arguing that moving beyond a world shaped by oil requires better explaining the role of oil in modernity and understanding the political and environmental consequences of shaping society around it.[58]

Political Scientist Ian Urquhart's 2018 book *Costly Fix: Power, Politics, and Nature in the Tar Sands* uses the concept of market fundamentalism—exaggerated faith that market forces will resolve social problems—to examine the themes of development politics, environmental policy, and Indigenous responses to the oil sands industry in the recent development boom in the oil sands region from the mid-1990s to the price crash in 2015.[59] Urquhart writes that Indigenous responses to the oil sands industry have been falsely presented as being uncompromising opponents of industrial development, with the reality a complex mix of resistance and compromise. He argues that when Indigenous communities started working with industry in the late 1990s, their economies were impoverished and "in the blink of an eye" these communities found their lands "fenced in

[55] Laurie E. Adkin, ed., *First World Petro-Politics: The Political Ecology and Governance of Alberta* (Toronto: University of Toronto Press, 2016).
[56] Sara Dorow, "Gendering Energy Extraction in Fort McMurray," in *Alberta Oil and the Decline of Democracy in Canada*, ed. Meenal Shrivastava and Lorna Stefanick (Edmonton: Athabasca University Press, 2015); Sara Dorow and Sara O'Shaughnessy, "Fort McMurray, Wood Buffalo, and the Oil/Tar Sands: Revisiting the Sociology of "Community"," *Canadian Journal of Sociology* 38, no. 2 (2013).
[57] Jon Gordon, *Unsustainable Oil: Facts, Counterfacts, and Fictions* (Edmonton: University of Alberta Press, 2015).
[58] Sheena Wilson, Adam Carlson, and Imre Szeman, eds., *Petrocultures: Oil, Politics, Culture* (Montreal and Kingston: McGill-Queen's University Press, 2017); Imre Szeman, ed., *On Petrocultures: Globalization, Culture, and Energy* (Morgantown: West Virginia University Press, 2019).
[59] Ian Urquhart, *Costly Fix: Power, Politics, and Nature in the Tar Sands* (Toronto: University of Toronto Press, 2018).

by tar sands mining operations and proposals."[60] The Alberta government prioritized bitumen extraction on its Crown lands, despite that they were used and occupied by Indigenous peoples. Communities had the choice of either remaining in poverty and fighting against development or taking the corporate olive branch of business development contracts, impact benefit agreements, and employment opportunities.[61] However, in the early days of the oil sands industries, few to none of these benefits were available.

This dissertation argues instead that the "fencing in" of Indigenous lands and the displacement of Indigenous peoples from their lands described by Urquhart was not instantaneous. It was a gradual process of treaty making, surveying, mapping, leasing, and other forms of taking up of lands that evolved over the course of the 20th century. The Indigenous businesses and employment programs that started in the 1980s and 90s were not just the product of oil companies' efforts to manufacture consent as Urquhart describes them—these were the hard-won gains of conflicts between Indigenous communities and the oil sands industry in the 1970s and 1980s.

This thesis contributes to a broader effort by a new generation of social science researchers to work collaboratively with Indigenous communities in the Athabasca region to examine the cultural impacts, ecological consequences, and political process of hydrocarbon extraction in northern Alberta.[62] Much of this work appears in the grey

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[60] Urquhart, *Costly Fix*, 162.
[61] Urquhart, *Costly Fix*, 155.
[62] Tracy L. Friedel and Alison Taylor, "Digging Beneath the Surface of Aboriginal Labour Market Development: Analyzing Policy Discourse in the Context of Northern Alberta's Oil Sands," *Aboriginal Policy Studies* 1, no. 3 (2012); Jennifer L. Gerbrandt, "Energy Uncertainty: The Effects of Oil Extraction on the Woodland Cree First Nation" (MA Thesis University of Saskatchewan, 2015); Tara Joly et al., "Ethnographic refusal in traditional land use mapping: consultation, impact assessment, and sovereignty in the Athabasca oil sands region," *The Extractive Industries and Society* 5, no. 2 (April 2018); Nathan Kowalsky and Randolph Haluza-DeLay, ""This Is Oil Country": The Alberta Tar Sands and Jacques Ellul's Theory of Technology.," *Environmental Ethics* 37 (2015); Brenda L. Parlee, "Avoiding the Resource Curse: Indigenous Communities and Canada's Oil Sands," *World Development* 74 (2015); Jen Preston, "Neoliberal

literature of reports commissioned by Indigenous communities, especially for submissions to Environmental Impact Assessments, and is thus not readily available. The recent edited collection *Extracting Home in the Oil Sands: Settler Colonialism and Environmental Change in Subarctic Canada* by Clint Westman, Tara Joly, and Lena Gross draws on ethnographic fieldwork and archival research to examine the recent bitumen boom from settler colonial and Indigenous perspectives.[63] Janelle Baker works collaboratively with Indigenous Elders and community members to study the effects of industrial development on wild foods in the Athabasca region.[64] Tara Joly's work presents landscape ethnographies of Métis and western science understandings of land reclamation.[65] Indigenous communities have produced histories of their communities and relationships with bitumen extraction in the form of commissioned academic research reports. These reports respond

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Settler Colonialism, Canada and the Tar Sands," *Race & Class* 55, no. 2 (2013); Jen Preston, "Racial Extractivism and White Settler Colonialism: An Examination of the Canadian Tar Sands Mega-Projects," *Cultural Studies* (2017); Gabrielle Slowey, *Navigating Neoliberalism: Self Determination and the Mikisew Cree First Nation* (Vancouver: UBC Press, 2008); Gabrielle Slowey and Lorna Stefanick, "Development at What Cost?: First Nations, Ecological Integrity, and Democracy," in *Alberta Oil and the Decline of Democracy in Canada*, ed. Meenal Shrivastava and Lorna Stefanick (Edmonton: Athabasca University Press, 2015); Tarje I Wanvik, "Governance Transformed into Corporate Social Responsibility (CSR): New Governance Innovations in the Canadian Oil Sands," *The Extractive Industries and Society* 3 (2016); Anna Zalik, "Resource Sterilization: Reserve Replacement, Financial Risk, and Environmental Review in Canada's Tar Sands," *Environment and Planning A* 47, no. 12 (2015); Anna Zalik, "'Duty to consult' or 'License to Operate'? Corporate Social Practice and Industrial Conflict in the Alberta Tar Sands and the Nigerian Niger Delta," in *First World Petro-Politics: The Political Ecology and Governance of Alberta*, ed. Laurie Adkin (Toronto: University of Toronto Press, 2016); Rita Wong, "Ethical Waters: Reflections on the Healing Walk in the Tar Sands," *Feminist Review*, no. 103 (2013).

[63] Clinton N. Westman, Tara L. Joly, and Lena Gross, eds., *Extracting Home in the Oil Sands: Settler Colonialism and Environmental Change in Subarctic Canada* (London: Routledge, 2020).

[64] Janelle Baker, "Research as Reciprocity: Northern Cree Community-Based and Community-Engaged Research on Wild Food Contamination in Alberta's Oil Sands Region," *Engaged Scholar Journal: Community-Engaged Research, Teaching, and Learning* 2, no. 1 (2017); Janelle Marie Baker and Clinton N. Westman, "Extracting knowledge: Social science, environmental impact assessment, and Indigenous consultation in the oil sands of Alberta, Canada," *The Extractive Industries and Society* 5 (2018); Linda Black Elk and Janelle Marie Baker, "From Traplines to Pipelines: Oil Sands and Pollution of Berries and Sacred Lands from Northern Alberta to North Dakota," in *Indigenous Peoples' Land Rights and the Roles of Ethnoecology and Ethnobotany: Strategies for Canada's Future*, ed. Nancy J. Turner (Kingston: McGill-Queen's University Press, Forthcoming 2020).

[65] Tara L. Joly, "Making Productive Land: Utility, Encounter, and Oil Sands Reclamation in Northeastern Alberta, Canada" (Doctor of Philosophy University of Aberdeen, 2017).

to proposed bitumen extraction projects, assert the historical presence and legal status of communities, and address historical injustices.[66] Books including *Footprints on the Land: Tracing the Path of the Athabasca Chipewyan First Nation* and *Mikwâkamiwi Sîpîsis: Stories and Pictures from Métis Elders in Fort McKay,* and *Inkonze: Stones of Traditional Knowledge* present Indigenous oral histories of the Athabasca Region.[67]

Despite the surge of research and publishing on the effects of the oil sands industry, research examining the specific effects of bitumen extraction on the people and environments of the Athabasca region has not kept pace with the expansion of the industry and most of it is still difficult to access. Much of the research produced by industry and government in support of bitumen extraction projects and decision making fails to adequately assess the effects of bitumen extraction on Indigenous peoples, and does not consider the cumulative effects of bitumen extraction on the Athabasca region.[68] This thesis provides historical context for the work of social science scholars examining the more recent issues in the oil industry, by examining the political economic structures of bitumen extraction and Indigenous dispossession and showing how environmental conflicts and

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[66] Craig Candler et al., *Wîyôw'tan'kitaskino (Our Land is Rich): A Mikisew Cree Culture and Rights Assessment for the Proposed Teck Frontier Project Update.* (15 September 2015); Craig Candler et al., *As Long as the Rivers Flow: Athabasca River Knowledge, Use and Change*, Parkland Institute (Edmonton, 26 November 2010); Timothy David Clark, Dermot O'Connor, and Peter Fortna, *Fort McMurray: Historic and Contemporary Rights-Bearing Métis Community*, Fort McMurray Métis Local 1935 and Willow Springs Strategic Solutions Inc. (Cochrane, AB, 2015); Peter Fortna, *The Fort McKay Métis Nation: A Community History*, Willow Springs Strategic Solutions Inc. (Cochrane, AB, 2020).

[67] Athabasca Chipewyan First Nation, *Footprints on the Land: Tracing the Path of the Athabasca Chipewyan First Nation* (Fort Chipewyan: Athabasca Chipewyan First Nation, 2003); Craig Campbell et al., *Mikwâkamiwi Sîpîsis: Stories and Pictures from Métis Elders in Fort McKay* (Edmonton: CCI Press, 2005); Phillip R. Coutu and Lorraine Hoffman-Mercredi, *Inkonze: The Stones of Traditional Knowledge* (Edmonton, AB: Thunderwoman Ethnographics, 2002).

[68] Tara L. Joly and Clinton N. Westman, *Taking Research Off the Shelf: Impacts, Benefits, and Participatory Processes around the Oil Sands Industry in Northern Alberta*, Final Report for the SSHRC Imagining Canada's Future Initiative, Knowledge Synthesis Grants: Aboriginal Peoples (11 September 2017); Clinton N. Westman and Tara L. Joly, "Oil Sands Extraction in Alberta, Canada: a Review of Impacts and Processes Concerning Indigenous Peoples," *Human Ecology* (2019).

settler colonialism were rooted in the first development phase of the oil sands industry.

Oil and Energy History

I draw my approach to the economic and environmental history of the oil sands industry from historians including Paul Sabin, Tyler Priest, Chris Jones, and Timothy Mitchell, whose work examines how political, economic, and technological conditions propelled the growth of oil economies, and how oil, infrastructure, and technology inform changing human relationships with nature.[69]

Sabin's 2005 book *Crude Politics* shows that the proliferation of roads, cars, and oil production in early 20th century California was shaped by the continuous efforts of "individuals and corporations in the oil and transportation sectors [who] struggled constantly to reshape the legal regimes that governed their operations."[70] The oil industry lobbied for policies that would increase demand for oil, highway boosters fought for laws and policies that protected highway funding. These laws and policies created oil and automobile dependence that discouraged public transportation. Sabin argues that environmental historians need to examine political and economic histories to understand the historical roots of environmental change.[71] My work responds to Sabin by looking at how the economic and political forces that shaped the construction of the oil sands industry informed environmental change and settler colonialism. Christopher Wells's book *Car Country* shows how the development of automobile infrastructure, and the establishment of complex regulations, incentives, and land use practices ensured car-dependent economic

[69] Jones, *Routes of Power*; Tyler Priest, *The Offshore Imperative: Shell Oil's Search for Petroleum in Postwar America* (College Station: Texas A&M University Press, 2007); Sabin, *Crude Politics*.
[70] Sabin, *Crude Politics*, 209.
[71] Paul Sabin, "Rooting Around in Search of Causality," *Environmental History* 10, no. 1 (2005): 84.

geographies.[72]

Many writers describe oil companies with a kind of technological determinism as "black boxes" that maximize profits without regard for the social and environmental consequences of their activities.[73] While this is often a well-deserved reputation, treating oil companies as monolithically bad is an oversimplification at best, and inaccurate at worst. Oil historian Joe Pratt writes that if we are to contemplate a different energy future, we first need a deeper historical understanding of the evolution of the major oil companies.[74] This thesis argues that gaining a fuller and more nuanced understanding of environmental change and industrial colonization means considering the technological, economic, and political dimensions of energy history.

The most significant period of change addressed in this thesis is the 1970s, a period of intense crisis and expansion in the history of hydrocarbon extraction. The energy and financial crises of the 1970s that followed the oil embargo by the Organization of Arab Petroleum Exporting Countries (OAPEC) in 1973, along with the decoupling of the US dollar from the gold standard in 1971, led to increased energy prices and stagflation (a combination of stagnant growth and inflation), which transformed the political importance and economic viability of the oil sands industry.[75] Examinations of the 1970s have focused on energy policy and conservation, foreign policy, and the impact on consumers.[76] The

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[72] Christopher W. Wells, *Car Country: An Environmental History* (Seattle: University of Washington Press, 2012), xxxii.
[73] T. J. Pinch, Thomas Parke Hughes, and Wiebe E. Bijker, *The Social Construction of Technological Systems: New Directions in the Sociology and History of Technology* (Cambridge, Mass: MIT Press, 2012), xvii.
[74] Joseph A. Pratt, "Exxon and the Control of Oil," *The Journal of American History* (June 2012).
[75] Timothy Mitchell, "The Resources of Economics: Making the 1973 Oil Crisis," *Journal of Cultural Economy* 3, no. 2 (2010).
[76] See for example: Meg Jacobs, *Panic at the Pump: The Energy Crisis and the Transformation of American Politics in the 1970s* (New York: Farrar, Straus and Giroux, 2016); Robert Lifset, ed., *American Energy Policy in the 1970s* (Norman: University of Oklahoma Press, 2014).

expeditious development of the oil sands industry was part of a move by the major US oil companies, alongside US and Canadian governments, to invest in remote and unconventional oil sources they saw as essential to national security and the stability of modern life.[77] This thesis shows how this shift in the global oil economy drove the industrialization of the Athabasca region. It draws on Myrna Santiago's approach to the environmental history of oil in *The Ecology of Oil: Environment, Labour, and the Mexican Revolution, 1900-1938,* in which she argues that oil production caused and environmental transformations in land tenure systems and social organization. The consequences of oil production marginalized Indigenous peoples and caused environmental destruction and labour conflicts, which constituted an ecology of oil.[78]

Mining and Environmental History

Environmental histories of energy and technology appeared in the 1990s, when the field shifted focus more on energy and commodities. Richard White's 1995 book *The Organic Machine* examines the changing relationships between humans, technology, and nature in the damming of the Columbia River.[79] White argues there is no clear division between the work of humans and nature. The modern Columbia River was both a human

[77] These sources included deep-water deposits in the Gulf of Mexico, and remote deposits in Prudhoe Bay and the Beaufort Sea. The oil industry experimented with synthetic fuels including shale oil, coal liquefaction, and synthetic oil from bitumen during brief periods of perceived oil scarcity in the 1920s and 1950s, but the 1970s marked the first sustained efforts by the oil industry to produce synthetic fuels. Pratt and Hale, *Exxon*, 196-205; Priest, *The Offshore Imperative*; Tyler Priest, "Shifting Sands: The 1973 Oil Shock and the Expansion of Non-OPEC Supply," in *Oil Shock: The 1973 Crisis and its Economic Legacy*, ed. Elisabetta Bini, Giuliano Garavini, and Frederico Romero (London and New York: I.B. Taurus & Co. Ltd, 2016).

[78] Santiago, *The Ecology of Oil*.

[79] Earlier historians including Leo Marx addressed the relationship of technology and the environment and developed the idea of the technological sublime, which linked faith in limitless technological development with American nationalism and human achievement. Leo Marx, *The Machine in the Garden: Technology and the Pastoral Ideal in America* (New York: Oxford University Press, 1964); David E. Nye, *American Technological Sublime* (Cambridge, Mass: MIT Press, 1994); Jeffrey L. Meikle, "Leo Marx's 'Machine in the Garden'," *Technology and Culture* 44, no. 1 (January 2003).

creation and retained "a life of its own beyond our control."[80] William Cronon and Matthew Evenden argue for the importance of looking at linkages between hinterland resource extraction sites and urban centres where companies raise capital and people consume commodities. In Cronon's study of the abandoned copper mining town of Kennecott, Alaska, he writes that environmental historians need to ask questions that reveal the "paths out of town"—the global connections that create resource extraction zones.[81] Evenden's work on the federal government's mobilization of hydroelectric power to produce aluminum during the Second World War shows how global economic forces forged commodity chains that linked distant sites of extraction and production.[82] Demand for oil in eastern Canada and the US drove the expansion of the oil sands industry and linked the Athabasca region to distant markets.

The high financial cost of bitumen extraction exposed the oil sands industry to boom and bust cycles. This volatility echoes the economic cyclones described by Harold Innis and resource geographers like Trevor Barnes and Arn Keeling.[83] Liza Piper and Heather Green show how demand for coal changed with market cycles and technology, which imbedded it in the political economy of hydrocarbons in Alberta.[84] Tim LeCain compares Daniel Jackling's copper mines in the 1920s to Fordism and mass production by showing how Jackling used economies of scale and modern technology to excavate low-

[80] Richard White, *The Organic Machine: The Remaking of the Columbia River* (New York: Hill and Wang, 1995), 109.
[81] William Cronon, "Kennecott Journey: The Paths Out of Town," in *Under and Open Sky: Rethinking America's Western Past*, ed. William Cronon, George Miles, and Jay Gitlin (New York and London: W.W. Norton & Company, 1992).
[82] Matthew Evenden, "Aluminium, Commodity Chains, and the Environmental History of the Second World War," *Environmental History* 16 (January 2011); Matthew Evenden, *Allied Power: Mobilizing Hydro-electricity during Canada's Second World War* (Toronto: University of Toronto Press, 2015).
[83] Trevor J. Barnes, Roger Hayter, and Elizabeth Hay, "Stormy weather: cyclones, Harold Innis, and Port Alberni, BC," *Environment and Planning* 33 (2001); Keeling, "'Born in an Atomic Test Tube'."
[84] Piper and Green, "A Province powered by coal."

grade porphyry copper deposits in Bingham Canyon, Utah.[85] To produce bitumen at scale, the oil sands industry strip-mined hundreds of square kilometres of boreal forest, destroyed ecosystems and wildlife habitats, contaminated watersheds and emitted harmful atmospheric pollutants.

Environmental histories focused on the destructive impacts of industrial development can overlook the changing relationships between humans and nature that accompany industrialization. Liza Piper takes a more complex approach to the history of hard rock mining and industrial fishing in the subarctic great lakes by examining how connections between extractive industries and the local environment created new human relationships with non-human nature. Piper argues that neither nature nor industry were displaced by these new connections, but instead became more tightly integrated. This was a form of assimilation, "whereby nature, economy and society each adapted to one another, in a process that produced new sets of material and cultural relationships binding industrial economies to natural systems."[86]

Few histories of energy extraction examine both the development of energy systems and the connections with the urban places that drive these projects alongside environmental change and consequences for Indigenous peoples and other local peoples. One exception is Andrew Needham's *Power Lines,* which shows how the development of Phoenix, Arizona, depended on the extraction of coal and production of coal fired electricity on the Navajo reservation on the Colorado Plateau. Needham shows how the energy infrastructure of urbanization connected urban growth to transformations of distant landscapes and drew

[85] Tim LeCain, *Mass Destruction: The Men and Giant Mines that Wired America and Scarred the Planet* (New Brunswick, New Jersey and London: Rutgers University Press, 2009).
[86] Piper, *The Industrial Transformation of Subarctic Canada*, 10.

Indigenous peoples into new relationships with environmental, economic, and political change.[87] This thesis examines both the politics and economics of development and the negative effects of extraction on the environment and Indigenous peoples of the oil sands region. It shows how bitumen extraction created tangled relationships between unconventional oil production and conflicts about sovereignty over land and resources.

Northern Indigenous History

The histories of Indigenous peoples in northeastern Alberta connect more closely with the North than the prairies because of the region's location in the boreal forest, where the lack of arable land caused Canada and Alberta to neglect the region before the importance of its resources made it a site of industrial colonization. The effects of industrial development on Indigenous peoples in northern Canada became a national concern during the Mackenzie Valley Pipeline Inquiry (MVPI), the James Bay and Northern Quebec Agreement, and the growth of the Indigenous rights movement in the 1970s. René Fumoleau's 1975 book *As Long as this Land Shall Last* links the settler push for resources to the Dominion government's move to sign Treaties 8 (1899) and 11 (1921). Robert Page's *Northern Development: The Canadian Dilemma,* and Mel Watkins's *Dene Nation, The Colony Within* addresses the place of Indigenous peoples in northern resource development issues.[88] Paul Sabin's 1995 article "Voices from the Hydrocarbon Frontier" argues that few Indigenous people opposed the Mackenzie Valley Pipeline outright, or development generally. Rather, they advocated for local control, revenue sharing,

[87] Needham, *Power Lines*, 7-12.
[88] Robert J. D. Page, *Northern Development: The Canadian Dilemma* (Toronto: McClelland and Stewart, 1986); Mel Watkins, *Dene Nation: Colony Within* (Toronto and Buffalo: University of Toronto Press, 1977); Thomas R. Berger, *Northern Frontier, Northern Homeland: The Report of the Mackenzie Valley Pipeline Inquiry*, Revised Edition ed. (Vancouver: Douglas & McIntyre, 1988).

participation, strict assurances of minimal environmental impact, and settlement of outstanding land claims.[89]

One of the first types of northern histories to engage with Indigenous perspectives was ethnohistory. June Helm's *The People of Denendeh* examines the life and culture of Dene society through fieldwork and interviews.[90] Julie Cruikshank bases her 1990 book *Life Lived Like a Story* on oral history interviews with Indigenous Yukon women. Cruikshank addresses settler-Indigenous relations during the Klondike gold rush, the building of the Alaska Highway, and the consequent spread of epidemic disease. Cruikshank argues that stories go beyond the dimensions addressed by Western science. They address events that occurred in deep time, human–animal relations, and recent historical change.[91] Kerry Abel's *Drum Songs* described the effects of the fur trade, disease, and settlement on the Dene in the 1700s and 1800s.[92]

Frank Tough's *As Their Natural Resources Fail* argues that Indigenous peoples in Northern Manitoba became susceptible to the boom and bust cycle of resource extraction between 1870 and the 1930s as settlement and colonization destabilized Indigenous resources.[93] Ken Coates's *Best Left as Indians* argues that despite growing numbers of settlers, Indigenous communities did not fully engage the new economy or relinquish their

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[89] Paul Sabin, "Voices from the Hydrocarbon Frontier: Canada's Mackenzie Valley Pipeline Inquiry, 1974-1977," *Environmental History Review* 18, no. 1 (Spring 1995): 18.
[90] June Helm, *The People of Denendeh: Ethnohistory of the Indians of Canada's Northwest Territories* (Montreal and Kingston: McGill-Queen's University Press, 2000).
[91] Julie Cruikshank, *Life Lived Like a Story: Life Stories of Three Yukon Native Elders* (Lincoln: University of Nebraska Press, 1990).
[92] Kerry Abel, *Drum Songs: Glimpses of Dene History* (Montreal: McGill-Queen's University Press, 1993). Scholars have criticized Ethnohistory for prescribing a specific methodology for studying Indigenous peoples and for being colonial research agenda. Kelly K. Chaves, "Ethnohistory: From Inception to Postmodernism and Beyond," *Phi Alpha Theta* 70, no. 3 (2008).
[93] Frank Tough, *As Their Natural Resources Fail: Native People and the Economic History of Northern Manitoba, 1870-1930* (Vancouver: UBC Press, 1996).

traditional economy before the Second World War. The wartime construction of the Alaska Highway, the Northwest Staging Route airfields, and the Canadian Oil (Canol) pipeline changed the Yukon. Coates argues that the harvesting economy declined from the 1950s, and the settler state pushed Indigenous peoples off the land on to small reserves—forcing them into a more bureaucratized life of compulsory education, administration, and segregation.[94]

Industrial Colonization

Scholars have developed terms including industrial colonization and extractivism to explain the relationship between settler colonialism and resource extraction. I view settler colonialism as an umbrella term and consider industrial colonization a sub-category. Colonialism is the theory and policy behind the process of colonization. Industrial colonization examines how colonization occurred in resource extraction zones, which were not extensively resettled by outsiders. This dissertation shows how extractive industry and the settler state dispossessed Indigenous communities and justified oil sands projects as temporary appropriations of resources rather than permanent exclusion.

Settler colonial theory is rooted in the field of Native American and Indigenous Studies (NAIS) and the work of Indigenous activists and writers who have critiqued colonialism since the 1970s and earlier.[95] The field of settler colonial studies set out in works by scholars including Patrick Wolfe and Lorenzo Veracini in the 1990s and mid-

[94] Ken Coates, *Best left as Indians: Native-White relations in the Yukon Territory, 1840-1973* (Montreal and Kingston: McGill-Queen's University Press, 1991).
[95] Jane Carey and Ben Silverstein, "Thinking with and Beyond Settler Colonial Studies: New Histories after the Postcolonial," *Postcolonial Studies* 23, no. 1 (2020): 7; J Kēhaulani Kauanui, "'A Structure, Not an Event': Settler Colonialism and Enduring Indigeneity," *Lateral, Journal of the Cultural Studies Association* 5, no. 1 (2016); George Manuel and Michael Posluns, *The Fourth World: An Indian Reality* (Toronto: Collier-Macmillan, 1974); Tracey Banivanua Mar, *Decolonisation and the Pacific: Indigenous Globalisation and the Ends of Empire* (Cambridge: Cambridge University Press, 2016).

2000s differentiates settler colonialism from franchise colonialism. Whereas franchise colonies sought to extract value from Indigenous labour, settler colonies sought to eliminate Indigenous peoples and build new societies on Indigenous lands.[96] Wolfe wrote that the primary goal of settler colonialism is to gain control of the land itself, "at base a winner-take-all project," a "structure not an event," in which the goal is to replace rather than exploit Indigenous peoples.[97] Wolfe argues Settler colonialism meant dissolving Indigenous societies *and* creating a new colonial society on the expropriated land base. According to Wolfe, settler colonialism organized around a "logic of elimination," which involved assimilation, child abduction, forced education and religious conversion, elimination of Indigenous land rights, and violent and homicidal acts.[98] While Wolfe argues that extractive industries like mining and forestry are also parts of settler colonialism, he considers settler colonialism more permanent in the context of agricultural settlement.[99] My research found that settler colonialism in the context of resource extraction organized around a logic of impermanence. Rather than permanently moving Indigenous peoples away from extractive spaces, the state's legal and regulatory systems worked to suppress Indigenous rights and Indigenous communities' ability to obstruct extraction.

Indigenous and non-Indigenous scholars have criticized settler colonial theory's focus on elimination. Kēhaulani Kauanui argues that settler colonial theory's focus on elimination has a tendency to portray settler colonialism as having successfully eliminated

[96] Lorenzo Veracini, "'Settler Colonialism': Career of a Concept," *The Journal of Imperial and Commonwealth History* 41, no. 2 (2013); Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8, no. 4 (2006).
[97] Patrick Wolfe, *Settler Colonialism and the Transformation of Anthropology: The Politics and Poetics of an Ethnographic Event* (London: Cassell, 1999), 163.
[98] Wolfe, "Settler Colonialism and the Elimination of the Native," 388.
[99] Wolfe, "Settler Colonialism and the Elimination of the Native," 395.

Indigenous peoples.[100] Kauanui argues that settler colonial studies do not stand in for Indigenous histories, and must work to show how these structures where shaped by Indigenous peoples.[101] Corey Snelgrove, Rita Dhamoon, and Jeff Corntassel argue that settler colonial studies need to centre Indigenous voices and attend to the contingency of settler colonialism or "run the risk of reifying… [settler colonial] modes of domination."[102] Alissa Macoun and Elizabeth Strakosch argue that by leaving little room for Indigenous agency, settler colonial theory presents a false binary between resistance and sovereignty or co-optation in the colonizing process.[103] Yet over-emphasizing Indigenous agency has pitfalls of its own. As Jarvis Brownlie and Mary Ellen Kelm argue, some histories of colonialism that focus too much on Indigenous agency can diminish the negative effects of colonization and try to absolve colonizers of the injustices of colonialism.[104] Jane Carey and Ben Silverstein write that rather than just "applying theories produced elsewhere," studies of settler colonialism should be "defined by Indigenous realities in diverse places of settler occupation."[105] These observations show that settler colonialism dispossessed and destroyed, but it was also unsuccessful and incomplete. Indigenous peoples suffered incalculable loss and harm, but they resisted, persisted, and shaped colonialism in enduring ways.[106]

John Sandlos and Arn Keeling use the term industrial colonization, which they

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[100] Kauanui, "A Structure, Not an Event."
[101] Kauanui, "A Structure, Not an Event."
[102] Corey Snelgrove, Rita Kaur Dhamoon, and Jeff Corntassel, "Unsettling Settler Colonialism: The Discourse and Politics of Settlers, and Solidarity with Indigenous Nations," *Decolonization: Indigeneity, Education & Society* 3, no. 2 (2014): 1.
[103] Alissa Macoun and Elizabeth Strakosch, "The Ethical Demands of Settler Colonial Theory," *Settler Colonial Studies* 3, no. 3-4 (2013): 436.
[104] Robin Jarvis Brownlie and Mary-Ellen Kelm, "Desperately Seeking Absolution: Native Agency as Colonialist Alibi?," *Canadian Historical Review* 24, no. 4 (December 1994).
[105] Carey and Silverstein, "Thinking with and Beyond Settler Colonial Studies," 14.
[106] Kauanui, "A Structure, Not an Event."

developed from political ecology and anthropology literatures, to explain how extractive industry has worked as an agent of dislocation and dispossession of Indigenous peoples in northern Canada.[107] Their work shows how resource extraction has appropriated local land and water as a sink for pollution and transformed Indigenous homelands into hazardous, permanently contaminated landscapes.[108] Industrial colonization and agricultural colonization shared a history of false promises. Sarah Carter writes of how the state denied Indigenous peoples promised access to agricultural opportunity after their resettlement on prairie reserves.[109] The Crown made treaties with Indigenous peoples in the boreal region later than on the prairies. Resource extraction rather than agricultural settlement motivated these treaties.[110] John Sandlos and Arn Keeling argue that mining projects in northern

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[107] Arn Keeling and John Sandlos, "Environmental Justice Goes Underground? Historical Notes from Canada's Northern Mining Frontier," *Environmental Justice* 2, no. 3 (2009); Saleem Ali, *Mining, The Environment, and Indigenous Development Conflicts* (Tucson: University of Arizona Press, 2003); Piers M. Blaikie and Harold C. Brookfield, *Land Degradation and Society* (London: Methuen, 1987); Christian Brannstrom, "What Kind of History for What Kind of Political Ecology?," *Historical Geography* 32 (2004); Subhabrata Bobby Banerjee, "Whose Land Is It Anyway? National Interest, Indigenous Stakeholders, and Colonial Discourses," *Organization and Environment* 13 (March 2000); Al Gedicks, *Resource Rebels: Native Challenges to Mining and Oil Companies* (Cambridge, MA: South End Press, 2001); Nicholas Low and Brendan Gleeson, *Justice, Society and Nature: An Exploration of Political Ecology* (London: Routledge, 1998); Robert Wesley Heber, "Indigenous Knowledge, Resources Use, and the Dene of Northern Saskatchewan," *Canadian Journal of Development Studies* 26 (2005); Richard Howitt, *Rethinking Resource Management: Justice, Sustainability, and Indigenous Peoples* (London: Routledge, 2001); Stuart Kirsch, "Lost Worlds: Environmental Disaster, 'Culture Loss,' and the Law," *Current Anthropology* 42, no. 2 (2001); Stuart Kirsch, *Reverse Anthropology: Indigenous Analysis of Social and Environmental Relations in New Guinea* (Stanford, CA: Stanford University Press, 2006); Marcus B. Lane and E. Rickson Roy, "Resource Development and Resource Dependency of Indigenous Communities: Australia's Jawoyn Aborigines and Mining at Coronation Hill," *Society and Natural Resources* 10 (1997); Lianne Leddy, "Cold War Colonialism: The Serpent River First Nation and Uranium Mining, 1953-1988" (Ph.D. Thesis, Waterloo: Wilfrid Laurier University, 2011); Nicholas Low and Brendan Gleeson, "Situating Justice in the Environment: The Case of BHP at the Ok Tedi Copper Mine," *Antipode* 30 (1998); Joan Martinez-Alier, "Mining Conflicts, Environmental Justice, and Valuation," *Journal of Hazardous Materials* 86 (2001).

[108] The federal government has worked to perpetually store 237,000 tonnes of arsenic trioxide and clean up contamination at the Giant Mine site in Yellowknife. John Sandlos and Arn Keeling, "Toxic Legacies, Slow Violence, and Environmental Injustice at Giant Mine, Northwest Territories," *The Northern Review* 42 (2016); Sandlos and Keeling, "The Giant Mine's Long Shadow," 282-83; John Sandlos and Arn Keeling, "Claiming the New North: Development and Colonialism at the Pine Point Mine, Northwest Territories, Canada," *Environment and History* 18 (2012).

[109] Sarah Carter, *Lost Harvests: Prairie Indian Reserve Farmers and Government Policy* (Montreal and Kingston: McGill-Queen's University Press, 1990).

[110] Tough, *As Their Natural Resources Fail*; René Fumoleau, *As Long as this Land Shall Last: A History of Treaty 8 and Treaty 11, 1870-1939* (Calgary: University of Calgary Press, 2004); John S. Long, *Treaty No. 9:*

Canada did not bring promised modernization to Indigenous communities. Instead, they excluded communities from many of the benefits of development and left behind scarred landscapes and lasting consequences.[111]

Canadian scholars have worked to explain how settler colonialism manifested in the context of resource extraction in the Canadian north. Lianne Leddy's work shows how uranium mining near Elliot Lake during the Cold War was a colonizing force for the Serpent River First Nation that contaminated the Serpent River.[112] The edited collection *Mining and Communities in Northern Canada* used archival and oral material to assess the social and environmental consequences of mining through case studies from across Arctic and Sub-Arctic Canada.[113] Daniel Sims's dissertation "Dam Bennett: The Impacts of the W.A.C. Bennett Dam and Williston Lake Reservoir on the Tsek'ehne of Northern British Columbia" uses a wide range of oral history interviews in conjunction with detailed archival research to show how the Bennett Dam affected the three Tsek'ehne communities in Northern British Columbia.[114] Sims argues that the Bennett Dam was a colonial triumph that had devastating impacts on the Tsek'ehne. The dam flooded vast areas of Tsek'ehne territory and fractured connections between the three Tsek'ehne First Nations: Kwadacha, McLeod Lake, and Tsay Keh Dene. Sims argues that settler colonialism in northern British Columbia ensured the resource rights of non-Indigenous settlers preceded those of

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Making the Agreement to Share the Land in Far Northern Ontario in 1905 (Montreal and Kingston: McGill-Queen's University Press, 2010); Richard T. Price, ed., *The Spirit of the Alberta Indian Treaties*, 3rd ed. (Edmonton: University of Alberta Press, 1999).

[111] Sandlos and Keeling, "Claiming the New North."

[112] Leddy, "Cold War Colonialism."; Lianne Leddy, "Interviewing Nookomis and Other Reflections: The Promise of Community Collaboration," *Oral History Forum* 30 (2010).

[113] Arn Keeling and John Sandlos, eds., *Mining and Communities in Northern Canada: History, Politics, and Memory* (Calgary: University of Calgary Press, 2015).

[114] Daniel Sims, "Dam Bennett: The Impacts of the W.A.C. Bennett Dam and Williston Lake Reservoir on the Tsek'ehne of Northern British Columbia" (PhD Dissertation University of Alberta, 2017).

Indigenous peoples by assigning responsibility for Indigenous peoples to the federal government and resource rights to the provinces. Heather Green's dissertation argues that the gold mining that followed the Klondike Gold Rush dissembled the local Klondike environment and alienated and displaced the Tr'ondëk Hwëch'in from their traditional lands.[115] Green argues colonialism in the Yukon blended elements of settler colonialism and resource colonialism.

Traci Voyles argues that settler colonialism relied on the social construction of space. It redefined Indigenous land as either the rightful home of newcomers, as in manifest destiny or, as uninhabited wastelands available for extraction. The re-creation of Indigenous homelands as wastelands, Voyles argues, justifies pollution and extraction, which constitutes a form of environmental racism.[116] Anthropologist Anna Willow explains extractivism as a process that extracts resources from the places where they occur, taking the benefits with them and leaving behind impacts and costs.[117] Willow argues that although globalization accelerated the pace of resource extraction, extractivism continues to reproduce resource colonialism as commodity flows enrich and empower those at the

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[115] Heather Green, "The Tr'ondëk Hwëch'in and the Great Upheaval: Mining, Colonialism, and Environmental Change in the Klondike, 1890-1940" (PhD University of Alberta, 2018).

[116] Voyles, *Wastelanding*, 7-9. For more on environmental racism and justice see: Robert D. Bullard, ed., *Confronting Environmental Racism: Voices from the Grassroots* (Cambridge, Mass.: South End Press, 1993); Keeling and Sandlos, "Environmental Justice Goes Underground?."; Loo, "Disturbing the Peace."; Preston, "Racial Extractivism and White Settler Colonialism."; Laura Pulido, "Rethinking Environmental Racism: White Privilege and Urban Development in Southern California," *Annals of the Association of American Geographers* 90, no. 1 (2000); Kyle Powys Whyte, "The Recognition Dimensions of Environmental Justice in Indian Country," *Environmental Justice* 4, no. 4 (2011).

[117] Alberto Acosta rooted extractivism in early European colonial extractive projects. Sociologists Henry Veltmeyer and James Petras describe the connections between extractivism and political power as extractive imperialism. Alberto Acosta, "Extractivism and Neoextractivism: Two Sides of the Same Curse," in *Beyond Development: Alternative Visions from Latin America* ed. Miriam Lang and Dunia Mokrani (Amsterdam: Transnational Institute, 2013); Henry Veltmeyer and James Petras, *The New Extractivism: A Post-Neoliberal Development Model or Imperialism of the Twenty-First Century* (London: Zed Books, 2014); Anna J Willow, "Indigenous ExtrACTIVISM in Boreal Canada: Colonial Legacies, Contemporary Struggles and Sovereign Futures," *Humanities* 5, no. 55 (2016): 2; Anna J Willow, *Understanding ExtrACTIVISM: Culture and Power in Natural Resource Disputes* (London: Routledge, 2018).

centre at the expense of people at the sites of extraction.[118] Adam J. Barker, Toby Rollo, and Emma Lowman argue that resource extraction and industrial development are one of the main domains of settler colonialism in 20th century Canada.[119] Jennifer Huseman and Damian Short describe the impacts of the oil sands industry as slow industrial genocide. They use a definition of genocide as a violation of a people's right to collective existence rather than mass murder. The sources and Indigenous voices Huseman and Short cite describe significant and unresolved consequences of bitumen extraction that continue to effect Indigenous communities in the Athabasca region. However, Indigenous communities also actively challenged and shaped the colonial and industrial history of the Athabasca region.[120]

This thesis examines the processes of dispossession and Indigenous resistance. It responds to historical geographer Cole Harris's question: how did colonialism dispossess?[121] In doing so it looks for the tools of colonization, examining at how the process of industrial colonization in the Athabasca region worked. It traces the historic importance of bitumen extraction in the treaty processes and the relationship between bitumen and conflict in the Athabasca region. Industrial colonization had varied effects in the Athabasca region. In Fort McMurray itself it was settler colonial, in that outsiders—settlers—came to make new homes.[122] In the bitumen extraction zones of Athabasca region,

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[118] Willow, "Indigenous ExtrACTIVISM in Boreal Canada," 5.
[119] Adam F Barker, Toby Rollo, and Emma Battell Lowman, "Settler Colonialism and the Consolidation of Canada in the Twentieth Century," in *Routledge Handbook of the History of Settler Colonialism*, ed. Edward Cavanagh and Lorenzo Veracini (London and New York: Routledge, 2017), 159-61.
[120] Jennifer Huseman and Damien Short, "'A slow industrial genocide': tar sands and the indigenous peoples of northern Alberta," *The International Journal of Human Rights* 16, no. 1 (2012): 222.
[121] Cole Harris, "How Did Colonialism Dispossess? Comments from an Edge of Empire," *Annals of the Association of American Geographers* 94 (March 2004).
[122] Jordan Stanger-Ross, "Municipal Colonialism in Vancouver: City Planning and the Conflict over Indian Reserves, 1928–1950s," *The Canadian Historical Review* 89, no. 4 (2008).

the character of colonialism was industrial. Bitumen mines, upgraders, work camps, roads, and pipelines razed and fragmented Indigenous space. Industry and government framed industrialization as temporary. In the words of Treaty 8, on "such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes."[123] Government and industry justified appropriating Indigenous land and resources as temporarily excluding them from extractive spaces. Yet after bitumen extraction, Indigenous land use is impossible, even in the few small areas the industry has painstakingly reclaimed.

Provincial Norths

The political economy of the Canadian north became an important area of study with books by K.J. Rea and Morris Zaslow in the 1960s and 70s.[124] Rea's 1968 book *The Political Economy of the Canadian North* shows how industries received little support from the Canadian government before the 1940s, which contrasts with the extensive support the governments of Alberta and Canada gave the oil sands industry in the 1970s and 80s.[125] Ken Coates and William Morrison coined the term provincial north in their 1992 book *Forgotten North,* which argues northern regions of the provinces became internal colonies controlled by settler populations concentrated in cities in the south of the provinces with little concern for local Indigenous and settler populations.[126] Coates and Morrison do not

[123] Treaty No. 8 Made June 21, 1899 and Adhesions, Reports, Etc., (Reprinted from the 1899 edition by Roger Duhamel, F.R.S.C. Ottawa: Queen's Printer and Controller of Stationary, 1966).
[124] Morris Zaslow, *The Opening of the Canadian North* (Toronto: McClelland and Stewart, 1971); Morris Zaslow, *The Northward Expansion of Canada 1914-1967* (Toronto: McClelland and Stewart, 1988).
[125] K.J. Rea, *The Political Economy of the Canadian North: An Interpretation of the Course of Development in the Northern Territories of Canada to the Early 1960s* (Toronto: University of Toronto Press, 1968).
[126] Coates and Morrison argued that provincial norths had been overlooked in Canadian history in favour of the Yukon, and the Northwest Territories. Their work looked at post-war resource development in the northern areas of the provinces and the conflicts of these developments with existing inhabitants citing examples such as the Innu failure to stop low flying NATO test flights in Labrador, Cree struggles against the

address the resistance and resilience of local Indigenous communities to the environmental, economic, and cultural impacts of development, or the influence of Indigenous resilience and resistance on development.

Following *The Forgotten North* Canadian historians examined how southern settler governments and business interests have shaped the history of the provincial norths and the consequences for Indigenous peoples. Jim Mochoruk's 2004 book *Formidable Heritage* argued that when the lands and territory that became Manitoba were given to the Hudson's Bay Company (HBC) in 1670 by the Crown, the HBC prioritized fur production at the expense of its Indigenous inhabitants, which set a precedent that was replicated throughout the province's history when it shifted to forestry, mining, and agriculture. David Quiring's 2004 book *CCF Colonialism* argues that the Cooperative Commonwealth Federation (CCF) government acted on philosophical grounds to re-arrange the lives of northern Indigenous communities by imposing socialism. Tommy Douglas and the CCF viewed Indigenous life as dated and problematic, believing that Indigenous peoples needed to adopt settler ways of thinking and acting to have a future.[127] This perspective speaks to the long-term and pervasive racism directed by the Euro-Canadian settler state toward Indigenous peoples, which was apparent during the development of the oil sands industry.[128] The governments of Alberta and Canada and the oil sands industry treated

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James Bay Project, the Teme-Augama Anishnabi in Temagami fighting for control of lumbering and mineral development in their traditional lands, Northern Manitoba hydroelectric projects, and Tsek'ehne disputes with the provincial government about the W.A.C. Bennett dam. Abel and Coates, "The North and the Nation."; Kenneth Coates, *Canada's Colonies: A History of the Yukon and Northwest Territories* (Toronto: James Lorimer and Company, 1985); Coates and Morrison, *Forgotten North*; Kenneth Coates and William Morrison, *The Alaska Highway in World War II: The U.S. Army of Occupation in Canada's Northwest* (Toronto: University of Toronto Press, 1992).

[127] Quiring, *CCF Colonialism in Northern Saskatchewan*, xii.

[128] See for example Brownlie and Titley's work on how the Department of Indian Affairs worked to control, oppress, and assimilate Indigenous peoples, which the government saw as racially inferior to white settlers. Robin Jarvis Brownlie, *A Fatherly Eye: Indian Agents, Government Power, and Aboriginal Resistance in*

Indigenous peoples with contempt and dismissal, as inconvenient obstacles, "in the way" of development, not as rightful partners in the industrialization of the Athabasca region.[129]

Hans Carlson's *Home is the Hunter* argues that the history of eastern James Bay is a story of the relationship between Cree hunters and their land, but also of how James Bay has become integrated into the rational vision and economy of North America and how local communities have been challenged in the process.[130] Caroline Desbiens argues that by conducting geological surveys and mapping the region, scientists, explorers, and geologists imposed a Québécois cultural geography of industrialization onto the James Bay region. This scientific representation of the North made it difficult for Québec to see James Bay as Indigenous space. It reframed Indigenous lands as canvas for political and economic aspiration. She argues in response to Richard White's observation that labourers know nature through work, that workers were not creating new relationships with nature, but extending the cultural landscape of Quebec into the North.[131]

Patricia McCormack's *Fort Chipewyan and the Shaping of Canadian History* argues that in the nineteenth century Indigenous peoples in the Fort Chipewyan region did not experience assimilation and kept their autonomy. But after Treaty 8 in 1899, the dominion and provincial governments began to regulate the Indigenous relationship to critical portions of their resource base, which began to subordinate the Indigenous

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Ontario, 1918-1939 (Oxford: Oxford University Press, 1993); E. Brian Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: UBC Press, 1986). Sarah Carter shows how Indian Affairs treated Indigenous peoples as incapable of farming, and how Indian agents sabotaged Indigenous agriculture. Carter, *Lost Harvests*.

[129] Mario Blaser, Harvey A. Feit, and Glenn McRae, *In the Way of Development: Indigenous Peoples, Life Projects, and Globalization* (London: Zed Books, 2004).

[130] Hans M. Carlson, *Home is the Hunter: The James Bay Cree and Their Land* (Vancouver: UBC Press, 2008), 11.

[131] Caroline Desbiens, *Power from the North: Territory, Identity, and the Culture of Hydroelectricity in Quebec* (Vancouver: UBC Press, 2013), 22.

economy and in the 1940s would impose a quasi-capitalist system of individual ownership and control when it established registered trap lines.[132] McCormack's dissertation "How the (North) West Was Won" looks at Fort Chipewyan as periphery in the world capitalist system. McCormack argues that development in the 20th century extracted resources and left Fort Chipewyan chronically underdeveloped.[133] Donald Wetherell and Irene Kmet argue that unlike the Peace River region of north-western Alberta, which was settled for agriculture, the lower Athabasca River district retained older economic characteristics.[134] They suggest that post-Treaty 8 development in the Athabasca region was defined by ideas of Euro-Canadian racial superiority, progress, and state promotion of capitalist industrial development and liberal individualism.

Methods and Sources

This thesis is based on research in public and private archives and consultation with Indigenous communities. Indigenous scholars like Linda Tuhiwai Smith criticize research done by settlers in Indigenous communities for contributing to an institution of knowledge imbedded in a system of power and imperialism.[135] As a settler examining Indigenous histories, I acknowledge this dynamic, and do not speak for Indigenous peoples. I frame this thesis as a history of the changing relationships between the state, Indigenous communities, the oil industry, and the non-human natural world—not a history *of* Indigenous peoples in the Athabasca region.

To assess Indigenous perspectives of these changing relationships I have sought to

[132] McCormack, *Fort Chipewyan and the Shaping of Canadian History*, 273.
[133] McCormack, "How the (North) West was Won."
[134] Donald G. Wetherell and Irene R.A. Kmet, *Alberta's North: A History, 1890-1950* (Edmonton: University of Alberta Press, 2000).xix
[135] Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (New York: Zed Books, 2012).

collaborate with communities to ensure that I work with due sensitivity and rigour, and that my questions are relevant and appropriate to the communities in which I work.[136] When possible, I have done oral history interviews, recognizing the legitimacy and importance of oral histories as essential to Indigenous history.[137] This thesis presents case studies that pertain to Fort McMurray Métis Local 1935, Fort McKay First Nation, Fort McKay Métis Nation, and Mikisew Cree First Nation. I developed Chapter 7, which is about the Moccasin Flats evictions, in collaboration with the McMurray Métis community. The chapter is based on material from a report I co-authored with Dr. Tara Joly, and with research assistance from McMurray Métis member and University of Alberta student Lucas Punko.[138] Chapters 5 and 8 are case studies about Fort McKay First Nation and Mikisew Cree First Nation. These communities were not available to participate in this research project and these chapters do not speak for these communities. The research for these chapters uses publicly accessible archival material and secondary sources to show the voices of Indigenous peoples preserved in archival records to understand some of the historical experiences of these communities with bitumen extraction.

I consulted archival records at Library and Archives Canada, the Provincial Archives of Alberta, the Glenbow Archives, the Alberta Energy Regulator Library, the Regional Municipality of Wood Buffalo archives, the *Fort McMurray Today* newspaper

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[136] Susan A. Miller, "Native America Writes Back: The Origin of the Indigenous Paradigm in Historiography," *Wicazo Sa Review* 23, no. 2 (Fall 2008); Adam Gaudry, "Researching the Resurgence: Insurgent Research and Community-Engaged Methodologies in Twenty-First Century Academic Inquiry," in *Research as Resistance: Revisiting Critical, Indigenous, and Anti-Oppressive Approaches*, ed. Susan Strega and Leslie Brown (Toronto: Canadian Scholars' Press, 2015); Duane Champagne, "Centering Indigenous Nations Within Indigenous Methodologies," *Wicazo Sa Review* 30, no. 1 (2015).
[137] Julie Cruikshank, *The Social Life of Stories: Narrative and Knowledge in the Yukon Territory* (Lincoln: University of Nebraska Press, 2000); Cruikshank, *Life Lived Like a Story*; Nancy Wachowich et al., *Saqiyuq: Stories from the Lives of Three Inuit Women* (Montreal: McGill-Queen's University Press, 2001).
[138] Hereward Longley and Tara L. Joly, *The Moccasin Flats Evictions: Métis Home, Forced Relocation, and Resilience in Fort McMurray, Alberta*, Fort McMurray Métis Local 1935 (September 2018).

archive, and the Sun Oil papers at the Hagley Museum and Library. I also consulted the personal papers of Rod Hyde and Terry Garvin, who both worked in the Athabasca region in the 1970s and 80s and kept extensive collections of documents.

Records from the LAC hold correspondence between the federal and provincial governments, the federal government and industry, and communications within government agencies. These records also contain reports, agreements, and studies conducted by industry and government agencies. RG19, records of the Department of Finance, are valuable sources about federal financial involvement in oil sands development, including tax remissions, fiscal policy, and investments. RG22, Indian and Northern Affairs, holds financial information on Great Canadian Oil Sands Limited. RG39, Forestry, holds federal government records on the Alberta Oil Sands Environmental Research Program. RG108, Environment Canada, holds records on oil sands environmental policy.

The PAA holds records from provincial ministries, correspondence with industry, and communications with the federal government. The Alberta Environment fonds contain documents on the evolution of oil sands environmental policy. Correspondence between provincial government agencies and the major oil companies reveal the changing relationship between the provincial government and industry. Peter Lougheed's papers include records of development and policy issues that the Premier addressed. Department of Municipal Affairs fonds and the papers of the Minister of Housing and Public Works show how the oil sands industry changed the town of Fort McMurray.

The Alberta Department of Indigenous Affairs has not released any records to the Provincial Archives of Alberta because the provincial government has put a litigation hold

on all records pertaining to land claims.[139] This important gap in the records available from these archives limits Indigenous history research in Alberta. Although some Indigenous Affairs records may be found in other collections such as the Lougheed papers (Chapters 5 and 8) and in federal records, a fuller understanding of Alberta's approach to Indigenous issues will require access to all the records preserved by the Department of Indigenous Affairs.

The Glenbow Archive holds the Canadian Petroleum Association fonds, which contain government negotiations and environmental and Indigenous policy. The Imperial Oil fonds hold valuable records and images of the Syncrude project, although much of the Imperial Oil archive is closed to the public. The Hagley Library in Wilmington, Delaware holds the Sun Oil papers and the Pew family papers, which provide a unique window into how oil companies understood and invested in the Athabasca region. However, the Sun Oil papers end in the early 1970s and are mostly about finance and management issues.

The Alberta Energy Regulator (AER) archive holds records of proposals, challenges, and complaints associated with energy and resource development in Alberta. Records of project proposal hearings hold statements from interveners, including Indigenous communities, that show the impacts of development and the efforts of communities to counter proposals by industrial proponents and shape development.

This dissertation incorporates a wide range of Indigenous voices from Elders, community leaders, and land users, which are underrepresented in archival records. The newspaper archives of *Fort McMurray Today* holds many articles that addressed issues

[139] The Department of Indigenous Affairs was the Liaison Group for Alberta Indians and Métis (1971-1975), the Native Affairs Secretariat under the Minister Without Portfolio Responsible for Native Affairs (1975-1986), and the Native Services Unit (1986-1992).Alberta, *An Administrative History of the Government of Alberta, 1905-2005* (Edmonton: The Provincial Archives of Alberta, 2006), 26.

faced by Indigenous communities in the Athabasca region. It gave Indigenous peoples a platform to express their perspectives.[140] The newspaper and some of its reporters at times expressed archaic and patronizing views of Indigenous peoples. Newspaper articles can be inaccurate because reporters did not always confirm the accuracy of quotations with their sources. Quotations may have been taken out of context to support a reporter's perspective. The editorial direction and intended audience of a newspaper may influence the reporter's analysis. Yet newspaper archives are a valuable source because they document the perspectives of people at a specific time in relation to specific issues.[141] I have worked to triangulate and corroborate evidence between archival records, newspaper articles, oral history, and secondary sources to ensure historical accuracy in my research.

This thesis uses documents, interviews, and geographic data from the McMurray Métis Community Knowledge Keeper (CKK) database and Indigenous Knowledge archive. As part of the Moccasin Flats study, legal counsel and staff at the Regional Municipality of Wood Buffalo supplied documents from municipal records related to Moccasin Flats. The RMWB records are a unique window into development politics and municipal colonialism in Fort McMurray. The Fort McMurray Heritage Society (FMHS) archives supplied historic photos and newspaper archives. Photographs of Moccasin Flats came from the René Fumoleau fonds from the Northwest Territories Archives (NWTA). I have worked to incorporate a broad range of perspectives from oral history and archival material on the environmental history of the oil sands industry.

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[140] Although *Fort McMurray Today* was not Indigenous media, it was much closer to the community than many other newspapers and available sources. Shannon Avison and Michael Meadows, "Speaking and Hearing: Aboriginal Newspapers and the Public Sphere in Canada and Australia," *Canadian Journal of Communication* 25, no. 3 (2000).

[141] While José Igartua, for example, uses newspaper archives to assess changing public opinion, I use newspaper archives to hear local voices. José Igartua, *The Other Quiet Revolution: National Identities in English Canada, 1945-71* (Vancouver: UBC Press, 2006).

Chapters and Structure

The chapters in this thesis overlap chronologically and thematically starting in 1870, three years after Confederation when the Dominion of Canada gained control of Rupert's land and concluding in the late 1980s and 1990s when oil and fur prices crashed, marking the end of the first bitumen boom and the decline of the modern fur trade.

Chapter 2: "Bitumen and Sovereignty in the Athabasca Region," contends that Treaty making and the *Natural Resources Transfer Acts* of 1930 did not result in material changes to Indigenous lands in the short term, but they asserted formal government control over land and resources in the Athabasca region. It traces the legal and cartographic colonization of the region, examining how the Athabasca region transformed from Indigenous land into a Canadian resource extraction zone. It shows how bitumen played a role in the colonization of the lower Athabasca River region. While acknowledging that cartographic and legal colonization is a contingent historical process, it argues that maps and laws created a new geography of possibility that marginalized Indigenous land use and anticipated industrial development.

Chapter 3: "Making Oil: Development and Politics in the 1970s" argues that global and regional economic and political conditions led government to make investments and regulatory changes to encourage bitumen extraction above other considerations. It shows how global concerns about war and energy supply security created an imperative for the major US oil companies and US and Canadian governments to invest in remote and unconventional oil sources, including the Athabasca oil sands. It argues that the material characteristics of bitumen extraction and the political conflicts that emerged during the energy and financial crises of the 1970s transformed the governance of the energy sector

and the oil sands industry.

Chapter 4: “Conflicting Mandates: Environmental Impacts and Politics” argues that the Alberta and federal governments’ investments in bitumen extraction created a conflict of interest for the Alberta government, as it became both the regulator and the developer of the resource. This dynamic contributed to policy shifts that sidelined environmental regulation in the rush to produce oil. The Alberta Progressive Conservative provincial government initially created progressive environmental policies and pursued the development of the oil sands industry with caution, to maximize economic benefits and minimize environmental impacts, but sidelined environmental regulation and research in the latter half of the 1970s.

Chapter 5: “Dispossession, Land Claims, and Litigation,” shows how development in the 1970s coincided with resurgent Indigenous political activism and a new land claims process across Canada. It shows how the Alberta government blocked the Fort Chipewyan Cree Band when it asked for bitumen-bearing lands within the oil sands area to fulfill its Treaty Land Entitlement (TLE) claim. I show how the political economy of oil sands influenced the TLE claim process in the 1970s, as the Government of Alberta refused to grant mineral rights or oil sands deposits to the Mikisew Cree First Nation to settle its TLE claim. I argue that Canadian extensions of sovereignty over the Athabasca region were a fragmented and incomplete process that lay the foundations for a range of dispossessions of Indigenous lands.

Chapter 6: “Land Use Conflicts and Change on the Trapline,” shows that when the oil sands industry destroyed Indigenous hunting and trapping areas, communities and their members had little recourse under Treaty 8 or the NRTA because Alberta had already

regulated traplines as a kind of commercial lease that were not connected to Aboriginal rights – even though trapping remains a right under Treaty 8. It shows how trapline regulations and the new landscape of oil affected Indigenous traplines. Fluctuating animal populations, the impacts of the oil industry, environmental change, and animal rights campaigns undermined the trapping economy by the late 1980s. Environmental and economic changes to trapping shaped Indigenous communities' response to the development of the oil sands industry.

Chapter 7: "The Moccasin Flats Evictions," shows how the town of Fort McMurray classified Métis, First Nation, and non-status people as squatters and exploited the differences in property law between private and municipal land to evict Indigenous communities to make space for oil company housing. In the late 1970s, the town collaborated with Syncrude to evict and demolish Moccasin Flats, a Métis settlement in that existed in Fort McMurray since at least the 19th century. It shows that road allowance communities and municipal colonialism persisted in the north into the 1980s and linked to the history of extractive industry.

Chapter 8: "Development and Environmental Conflict in the 1980s" argues that Fort McKay and the other First Nations in the region used an array of tactics to gain control over the environmental impacts and economic benefits of the oil sands industry. Indigenous peoples used legal and political conflicts to forge new relationships with the oil sands industry and the Alberta government.

Chapter 9 concludes by showing how the interconnected themes of the political economy of development, conflicted environmental policy, industrial colonization, and conflicts with Indigenous communities that emerged during the first commercial

development phase of the oil sands industry. The conditions of this earlier period set the stage for the far bigger boom that occurred from the late 1990s to 2015 and continue to define contemporary human relationships with energy and the environment in western Canada.

By blending chronological and thematic analysis, this thesis works to disentangle the complex relationships between the histories of industrial development, environmental change, and settler colonialism in the Athabasca oil sands region.

Chapter 2

Bitumen and Sovereignty in the Athabasca Region

Introduction

This thesis begins by outlining how the Canadian Crown gained control of the broader Athabasca region and was thereby enabled to put restrictions on Indigenous control of their lands and their uses of resources. Before Confederation, the Athabasca region was a fur trading area controlled by the Hudson's Bay Company (HBC). The Dominion of Canada extended its system of control of land and resources into the Athabasca region through several transactions and agreements in the 19th and 20th centuries. In 1870 it purchased Rupert's Land and the North-West Territories from the HBC, asserting its claim for settlers and Europeans. That ended the Hudson's Bay Company's monopoly, and competing free traders moved into northern Alberta.[1] In 1899, Canada negotiated Treaty 8 with the region's Indigenous peoples, in which it claimed over 500,000 square kilometres of the then-North-West Territories.

In 1905, Canada created the Province of Alberta. It did not transfer rights over land to the new province at that time, although Alberta had control over wildlife, which gave it initial control over Indigenous peoples. In 1910 the Dominion government passed regulations on bitumen leasing that provided for Crown reserves and withheld certain areas from private ownership. Government regulations surrounding hunting, trapping, and fishing, the disruptions of the First World War, and the influx of free traders and trappers in the 1920s and '30s aided by improved industrial transport networks created economic

[1] Patricia A. McCormack, *Fort Chipewyan and the Shaping of Canadian History, 1788-1920s: "We like to be free in this country"* (Vancouver: UBC Press, 2010), 89.

difficulties for Indigenous peoples and contributed to their marginalization in the eyes of the federal and provincial governments. In 1930, the federal government passed the *Natural Resources Transfer Acts* (NRTA), which transferred ownership of Crown lands to the western provinces. A decade later, Alberta moved to regulate trapping by creating a registered trapline system, which limited treaty rights implicitly and made trapping an individual right fixed to a specific place. The Crown's control of the Athabasca region limited Indigenous control of their traditional territories and their rights to use their lands as they had before entering treaty. Over time, a new framework developed that prioritized resource extraction. Supporting hunting, fishing, and trapping was essentially a place-holder until more lucrative industries became possible.

Tools of Colonization

This chapter draws from literatures on mapping, law, and resource geography, to examine how Indigenous space in the Athabasca region came under the control of the Province of Alberta. Historical geographer Cole Harris argues that to understand colonial power, researchers must explain colonialism's geographic dispossession of Indigenous peoples by looking at the tools used by colonising powers to take Indigenous land.[2] Surveys and maps, laws, treaties, and government policies allowed settler states to visualize, appropriate, and redefine Indigenous space. Hudson's Bay Company claims to northwestern Canada, followed by the purchase of these lands by Canada, and Canada's later negotiation of land surrender treaties extended formal Canadian sovereignty over Indigenous territories, although effective control did not occur until much later. This

[2] Cole Harris, "How Did Colonialism Dispossess? Comments from an Edge of Empire," *Annals of the Association of American Geographers* 94 (March 2004): 165.

process created a framework of Euro-Canadian rights and values that began to limit and regulate Indigenous land use.

Critical histories of cartography by Brian Harley, David Woodward, and Matthew Edney have shown how maps are tools for producing geographic knowledge that evolved with colonialism.[3] Edney argues that maps have a constructive and disciplinary power, that

> all maps empower their users and readers to discipline the world and to construct territory. The mapping by one polity, within its own spatial discourses, of the territory of another established a geography of the mind, within which empire can be conceptualized and advocated, and a geography of power, within which empire can be physically constructed.[4]

In the Athabasca region, maps produced by the province, the Dominion government, and the oil industry illustrate steps toward Canadian sovereignty and new plans for resource extraction.

Euro-Canadian maps did not reflect the geography and patterns of land use of Indigenous peoples. Indigenous peoples travelled by land and by water and created a web of trails and cultural sites that informed and embodied their histories and relationships with the land.[5] For Indigenous peoples, landscapes were more than just biophysical environments for collecting resources — landscapes embodied culture, history, and identity mapped with toponyms.[6] Euro-Canadian maps overlaid this Indigenous geography with the

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[3] Matthew H. Edney, "Theory and the History of Cartography," *Imago Mundi* 48 (1996); J. Brian Harley and David Woodward, *The History of Cartography: Cartography in Prehistoric, Ancient and Medieval Europe and the Mediterranean*, vol. 1 (Chicago: University of Chicago Press, 1987).
[4] Matthew H. Edney, "The Irony of Imperial Mapping," in *The Imperial Map: Cartography and the Mastery of Empire*, ed. James R. Akerman (Chicago: University of Chicago Press, 2009), 44.
[5] Patricia McCormack, "How the (North) West was Won: Development and Underdevelopment in the Fort Chipewyan Region" (PhD University of Alberta, 1984); McCormack, *Fort Chipewyan and the Shaping of Canadian History*; Patricia McCormack, "Walking the Land: Aboriginal Trails, Cultural Landscapes, and Archaeological Studies for Impact Assessment," *Archaeologies* 13, no. 1 (2017).
[6] Gwilym Lucas Eades, *Maps and Memes: Redrawing Culture, Place, and Identity in Indigenous Communities* (Montreal & Kingston: McGill-Queen's University Press, 2015), 54.

territorial ambitions of the Dominion of Canada and later the Province of Alberta.[7] These maps did not erase Indigenous peoples but helped redefine their rights to the land and the extent of their occupation, especially once settlements were surveyed into lots and once registered traplines were implemented. In 1937, Alberta created a registered trapline system which it implemented in northern Alberta in the 1940s, mostly at the request of settler trappers who wanted to control exclusive areas of land for themselves. The new system mapped individual rather than collective Indigenous trapping and was a way for government to survey and regulate some territorial aspects of Indigenous resource use.[8]

Land surrender treaties were another tool for dispossession. They extended formal Canadian sovereignty over Indigenous territory along with a framework of rights and values that would eventually limit and constrain Indigenous rights to use their lands. Historian Lauren Benton argues that law created a framework for geographic knowledge and cartography encoded ideas about law and sovereignty in colonized places.[9] English common law, Harris argues, sought to manage people and nature within the jurisdiction of the newly formed territories.[10] Through law, settlers transplanted and asserted a set of ideas, values, and social relationships from England and Europe to the Americas. However, Benton argues that cartographic and legal histories of imperialism tend to overstate the short-term colonizing power of maps and laws. Legal and cartographic extensions of

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[7] Edney, "Theory and the History of Cartography."; J. Brian Harley, *The New Nature of Maps: Essays in the History of Cartography*, ed. Paul Laxton (Baltimore: Johns Hopkins University Press, 2001); John C. Weaver, *The Great Land Rush and the Making of the modern world, 1650-1900* (Montreal and Kingston: McGill-Queen's University Press, 2003).
[8] Trapline regulation echoed some of the conflicting understandings of sovereignty and authority over land use in Indigenous fisheries law in British Columbia. Douglas C. Harris, *Fish, Law, and Colonialism: The Legal Capture of Salmon in British Columbia* (Toronto: University of Toronto Press, 2001), 3-9.
[9] Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (New York: Cambridge University Press, 2010), 4.
[10] Harris, "How Did Colonialism Dispossess?," 177.

sovereignty were not clean and linear. These efforts were messy, "contingent, and stubbornly incomplete."[11] In Canada, the treaty-making process left territorial claims unsettled, economic benefits unpaid, and competing settler and Indigenous spatial conceptions power over the Athabasca region intact. Treaty 8 did not immediately change the lives of Indigenous peoples or the physical space of the Athabasca region. Rather, the treaty, along with early surveys and maps, created a new geography of possibility, on which the settler state and the oil industry could extract bitumen when oil prices and technological innovations justified its development in the 1960s and 70s.

The narratives of explorers and boosters such as Robert Bell, John Schultz, and Sidney Ells played a role in motivating the Dominion Government to sign a treaty with the region's Indigenous peoples and prompted the federal government to set aside the richest deposits of bitumen before geologists and engineers had proven bitumen to be a viable source of oil.[12] Debra Davidson and Mike Gismondi show how government used early visual representations of the oil sands region to support various development activities, increase public support for bitumen extraction, and legitimate state research into mining and upgrading technology.[13]

Resource geographer Gavin Bridge argues that maps, narratives, and imagery about resources and the profits of extraction erase socioecological histories and "reinscribe space

[11] Benton's work addresses a different historical context of European imperialism from the 15th to 19th centuries. By the late 19th century Britain began devolving control of its colonies and the Dominion of Canada formed as a nation state in 1867. Yet, Benton's argument that legal and cartographic imperialism was a contingent historical process is an important critique of cartographic and legal histories of colonialism. Benton, *A Search for Sovereignty*, 4.
[12] Michael Simpson, "Resource desiring machines: The production of settler colonial space, violence, and the making of a resource in the Athabasca tar sands," *Political Geography* 74 (2019).
[13] Debra J. Davidson and Mike Gismondi, *Challenging Legitimacy at the Precipice of Energy Calamity* (New York: Springer, 2011), 68; Mike Gismondi and Debra J. Davidson, "Imagining the Tar Sands 1880-1967 and Beyond," *Imaginations* 2, no. 3 (2012).

in the image of the commodity."[14] The state and extractive industry portrayed resource extraction zones as sacrifice zones empty of other peoples and land uses. Extraction zones gained value by "redefinition as a productive resource cornucopia and its insertion into an international network of finance and trade."[15] The state drew boundaries and created regulations to encourage resource extraction above other land uses. Registered traplines were the earliest example of this process in the oil sands region. The construction of space in these terms marginalized other social and ecological inhabitants of that space and prioritized resource extraction and economic growth as the exclusive value.

Historian Traci Voyles argues that extractive narratives "other" Indigenous space by describing it as wasteland, which developers can convert into industrial space.[16] Geographer Caroline Desbiens argues that through geological surveys and mapping practices, Québécois scientists, explorers and geologists transformed Indigenous lands into a canvas for political and economic aspiration that reflected Québec nationalism and mastery of nature.[17] Geographer Johanna Haas shows how property law in Appalachia privileged extractive values over community values, which permitted mountaintop removal coal mining above the interests of local communities.[18] In the Athabasca region, Tara Joly argues that both material and discursive processes emphasized economic utility and worked

[14] Gavin Bridge, "Resource triumphalism: postindustrial narratives of primary commodity production," *Environment and Planning* 33 (2001): 2149; Gavin Bridge and Tomas Fredriksen, "'Order out of Chaos': Resources, Hazards and the Production of a Tin-Mining Economy in Northern Nigeria in the Early Twentieth Century," *Environment and History* 18 (2012).
[15] Bridge, "Resource triumphalism," 2165; William R. Catton, "Depending on Ghosts," *Humboldt Journal of Social Relations* 2, no. 1 (Fall/Winter 1974).
[16] Traci Brynne Voyles, *Wastelanding: Legacies of Uranium Mining in Navajo Country* (Minneapolis: University Of Minnesota Press, 2015).
[17] Caroline Desbiens, *Power from the North: Territory, Identity, and the Culture of Hydroelectricity in Quebec* (Vancouver: UBC Press, 2013).
[18] Johanna Marie Haas, "Law and Property in the Mountains: A Political Economy of Resource Land in the Appalachian Coalfields" (PhD Ohio State University, 2008).

to transform the region from Indigenous homelands into productive land.[19] Maps, laws, and narratives of extraction overlaid existing Indigenous geographies, claimed sovereignty of the Athabasca region for the Canadian state, and formed the backbone of a resource extraction system that would marginalize Indigenous rights.

Extending Sovereignty

Alberta's sovereignty in the Athabasca region is rooted in the gradual territorial expansion of Canada built on the lands that for two centuries fell within the jurisdiction of the Hudson's Bay Company.[20] In 1670 King Charles II gave the HBC a Royal Charter over Rupert's Land—the Hudson Bay watershed. The Charter granted the company exclusive trading privileges, proprietary rights, and limited governance. The validity of the charter, the extent of the HBC's jurisdiction, and the geographic extent of Rupert's Land are the subject of ongoing debates.[21] In Rupert's Land, the HBC conducted a globally connected fur trade in which Indigenous peoples played a critical role as producers, traders, and transporters. Trapping furs remained an important economic, subsistence, and cultural practice for Indigenous peoples throughout the 20th century. Trappers and traders favoured the Athabasca region for the quality and abundance of beaver.[22]

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[19] Tara L. Joly, "Making Productive Land: Utility, Encounter, and Oil Sands Reclamation in Northeastern Alberta, Canada" (Doctor of Philosophy University of Aberdeen, 2017).
[20] Robert Irwin, "Assembling Sovereignty: Canadian Claims to the Athabasca District Prior to Treaty No. 8," *The Journal of Imperial and Commonwealth History* 48, no. 4 (2020).
[21] Edward Cavanagh, "A Company with Sovereignty and Subjects of Its Own? The Case of the Hudson's Bay Company, 1670-1763," *Canadian Journal of Law and Society* 26, no. 1 (2011); Kent McNeil, "Sovereignty and the Aboriginal Nations of Rupert's Land," *Manitoba History*, no. 37 (1999); Frank Tough, "Aboriginal Rights Versus the Deed of Surrender: the Legal Rights of Native Peoples and Canada's Acquisition of the Hudson's Bay Company Territory," Article, *Prairie Forum* 17, no. 2 (1992).
[22] McCormack, "How the (North) West was Won."; Monique M. Passelac-Ross, *The Trapping Rights of Aboriginal Peoples in Northern Alberta*, Canadian Institute of Resources Law (2005); Arthur J. Ray, *Indians in the Fur Trade: Their Role as Trappers, Hunters and Middlemen in the Lands Southwest of Hudson Bay, 1660-1870* (Toronto: University of Toronto Press, 1974); Arthur J. Ray, *The Canadian Fur Trade in the Industrial Age* (Toronto: University of Toronto Press, 1990); Arthur J. Ray, "The Fur Trade in North America: an Overview from a Historical Geographical Perspective," in *Wild Furbearer Management and*

In 1821 the HBC merged with its main rival the North-West Company. The HBC then obtained an expanded trading license that included the lands to the north and west of Rupert's Land, which came to be known as the North-Western Territory.[23] When the HBC's exclusive trading license expired in 1859, the British parliament passed an act which named the North-West Territories and made provisions for regulating trade and administering criminal justice in "the *Indian* Territories."[24] In 1869, after Canada's 1867 confederation, the HBC surrendered its rights and authority over Rupert's Land and the North-Western Territory to the Dominion government for £300,000 and other land and economic benefits.[25] In June 1870, the Dominion government obtained ownership of all the lands and minerals of Rupert's Land and the North-Western Territory with the *Rupert's Land and North-Western Territory Order*.[26] Term 14 of the *Rupert's Land Order* obliged the Canadian government to settle Indigenous land claims, and reduced the HBC's obligations to Indigenous trappers.[27]

The settler perspective on land rights was informed by John Locke's labour theory of property, in which land became property through the development of settlements,

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Conservation in North America, ed. Milan Novak (Toronto: Ontario Ministry of Natural Resources, 1987); Arthur J. Ray, "Commentary on the Economic History of the Treaty 8 Area," *Native Studies Review* 10, no. 2 (1995).

[23] The North-Western Territory was an ill-defined geographic entity which included the lands to the north and west of Rupert's Land. Canada combined these lands as the North-West Territories when it admitted them to the Dominion. After the Dominion government created Alberta and Saskatchewan in 1905, it passed the *Northwest Territories Act* in 1906*,* which renamed the territory the Northwest Territories.

[24] *An Act to make further Provision for the Regulation of the Trade with the Indians, and for the Administration of Justice in the North- Western Territories of America,*1859, 22 & 23 Victoria, Chapter 26 (U.K.) Kent McNeil, *Native Claims in Rupert's Land and the North-Western Territory: Canada's Constitutional Obligations*, University of Saskatchewan Native Law Centre (1982), 4.

[25] *The Rupert's Land Act,* 1868*,* 31-32 Victoria, Chapter 105 (U.K).

[26] *Rupert's Land and North-Western Territory Order*, (June 23, 1870), (U.K.), reprinted in R.S.C. 1985, App. II, No. 9. Arthur J. Ray, J.R. Miller, and Frank Tough, *Bounty and Benevolence: A History of Saskatchewan Treaties* (Montreal: McGill-Queen's University Press, 2000), 54.

[27] Tough, "Aboriginal Rights Versus the Deed of Surrender," 245.

agriculture, and industry.[28] The 1872 *Dominion Lands Act* established the administration of natural resources. It categorized HBC lands, educational endowment lands, military bounty lands, homestead lands, grazing lands, hay lands, mining lands, coal lands, and timber lands.[29] The Department of the Interior administered the acquired lands and minerals from 1873 to 1930. In 1875 the Dominion government passed the *North-West Territories Act*, which created the North-West Territories (Figure 2).[30] In 1882, the Dominion created four districts in the North-West Territories including the two that came to comprise present-day Alberta: the District of Alberta, which formerly lay in Rupert's Land, and the District of Athabasca.[31]

[28] Cole Harris, *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia* (Vancouver: UBC Press, 2002), 46-49.
[29] *Dominion Lands Act, 1872, Statutes of Canada,* 35 Vic., Ch. 23. Kirk N Lambrecht, *The Administration of Dominion Lands, 1870-1930* (Regina: Canadian Plains Research Centre, 1991); David Breen, *Alberta's Petroleum Industry and the Conservation Board* (Edmonton: University of Alberta Press, 1993).
[30] *Northwest Territories Act, 1875 (An Act to amend and consolidate the Laws respecting the North-West Territories), Statutes of Canada,* 38 Victoria, Chapter 49 (U.K).
[31] Morris Zaslow, *The Opening of the Canadian North* (Toronto: McClelland and Stewart, 1971), 72.

Figure 2: *Dominion of Canada*, "General map of part of the North-West Territory: including the Province of Manitoba and part of the District of Kewaydin shewing progress made in Dominion Land Surveys to 1st March 1880," R11981-32-8-E 715 Item no 593b, LAC.

Treaty 8

Treaty 8, signed in 1899, covered lands that became northern Alberta, northeastern British Columbia, northwestern Saskatchewan, and southern areas of the Northwest Territories. Indigenous peoples had sought a treaty since the 1870s, but the Dominion government was reluctant to take on the expense and responsibility of a northern treaty before it desired the land for agricultural settlement, forestry, and mineral resource extraction.[32] Similar to the Robinson Treaty of 1850, mining and prospecting, especially in

[32] Dennis F.K. Madill, *Treaty Research Report: Treaty Eight (1899)*, Indian and Northern Affairs Canada: Treaties and Historical Research Centre (Ottawa, 1986), 6.

the Yukon, triggered the Treaty 8 process.[33] After 1870, the Athabasca district experienced an influx of free traders who came to compete with the HBC. A combination of severe winters and overhunting caused food shortages in the 1880s and famine in 1887-1888.[34] When Indigenous peoples negotiated treaties with the Crown, one of their main motivations was protecting their lands from the encroachment of Euro-Canadian hunters.[35]

Indigenous peoples in the Athabasca region were not willing to sign a treaty until the government explicitly guaranteed their hunting and trapping rights.[36] Missionaries and the Northwest Mounted Police put pressure on Indigenous peoples to trust the government.[37] Julian Cree from the Waterways and Christine Lake area recalled that the priest told the Cree they "would not face hardship if they accepted treaty." But the Crown paid lower annuities and did not provide the reserve land it promised.[38] Indigenous peoples signed Treaty 8 understanding that they were making a sacred peace and friendship agreement to share the land—not ceding and surrendering their sovereignty to the Crown.[39] Patricia McCormack argues that treaty and scrip (certificates the Crown offered the Métis entitling the holder to acquire certain tracts of public land or cash to buy land) were legal instruments Canada used to legitimize its extension of sovereignty over the Athabasca

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[33] Ray, Miller, and Tough, *Bounty and Benevolence*, 152.
[34] McCormack, *Fort Chipewyan and the Shaping of Canadian History*, 83; René Fumoleau, *As Long as this Land Shall Last: A History of Treaty 8 and Treaty 11, 1870-1939* (Calgary: University of Calgary Press, 2004), 22-24; Richard Daniel, "The Spirit and Terms of Treaty Eight," in *The Spirit of the Alberta Indian Treaties*, ed. Richard Price (Montreal: Institute for Research on Public Policy, 1979), 56.
[35] Ray, *The Canadian Fur Trade in the Industrial Age*, 46.
[36] Daniel, "The Spirit and Terms of Treaty Eight," 89.
[37] Fumoleau, *As Long as this Land Shall Last*, 107.
[38] Julian Cree interview with Richard Lightning, Waterways, Alberta, October 1975. Office of Specific Claims and Research, Winterburn, Alberta. Tape No. IH-270, Transcript Disc 24, University of Regina Institutional Repository https://ourspace.uregina.ca/bitstream/handle/10294/1369/IH-270.pdf?sequence=1&isAllowed=y
[39] Richard T. Price, ed., *The Spirit of the Alberta Indian Treaties*, 3rd ed. (Edmonton: University of Alberta Press, 1999), xiii.

region.[40]

From the 1880s, the Government of Canada gained extensive knowledge of the potential mineral wealth of the Peace, Athabasca, and Mackenzie districts.[41] Among these resources was petroleum, although it would take nearly a century for the potential of bitumen to be realized. Robert Bell from the Geological and Natural History Survey reported that tar oozed from the banks of the Athabasca River and oil floated on the river surface.[42] In 1888, Robert McConnell reported that "the Devonian rocks throughout the Mackenzie Valley are everywhere more or less petroliferous and over large areas afford promising indications of the presence of oil in workable quantities."[43]

A Senate Committee reported "the existence in the Athabasca and Mackenzie Valleys of the most extensive petroleum field in America, if not the World (Figure 3)." The report envisioned a bright future for petroleum:

> The uses of petroleum and consequently the demand for it by all Nations are increasing at such a rapid ratio, that it is probable that this great petroleum field will assume an enormous value in the near future and will rank among the chief assets comprised in the Crown Domain of the Dominions.[44]

A Privy Council Report from 1891 told that the expense and obligation of a treaty looked minimal when compared to the mineral wealth of the region. The extraction of petroleum in the Athabasca and Mackenzie districts would "add materially to the public wealth, and…

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[40] McCormack, *Fort Chipewyan and the Shaping of Canadian History*, 201.
[41] Daniel, "The Spirit and Terms of Treaty Eight," 62.
[42] Robert Bell, *Report on Part of the Basin of the Athabasca River, North-West Territory*, Geological and Natural History Survey of Canada (Montreal: Dawson Brothers, 1884), 25. For more on Bell's aspirational career see: Ian A. Brookes, "'ALL THAT GLITTERS…:' The Scientific and Financial Ambitions of Robert Bell at the Geological Survey of Canada," *Geoscience Canada* 43, no. 2 (2016).
[43] Robert G. McConnell, *Report on an Exploration in the Yukon and Mackenzie Basins, N.W.T.*, Geological and Natural History Survey of Canada (Montreal: William Foster Brown & Co., 1891), 31.
[44] John Schultz, *Third report of the Select Committee of the Senate Appointed to Inquire into the Resources of the Great Mackenzie basin*, Journals of the Senate of Canada: Appendices to the twenty-second volume of the journals of the Senate of Canada, 6th Parliament, 2nd session (Ottawa, 1888), 14.

appear to render it advisable that a treaty or treaties should be made with the Indians who claim those regions as their hunting grounds, with a view to the extinguishment of the Indian title in such portions of the same."[45]

Figure 3: Map to Accompany Report of Senate Select Committee on Resources of Great Mackenzie Basin. Senate Committees, 6th Parliament, 2nd Session: Select Committee on Resources of the Great Mackenzie Basin, vol. 1, p. 327.

Indigenous oral history recalls the Dominion government's exploration for petroleum in the Athabasca region. Alice Boucher, a Métis elder from Fort McKay born in

[45] Canada Privy Council, O.C. 52, 26 January 1891, RG 10, Vol. 3848, file 75236-1, Library and Archives Canada (LAC), cited in Madill, *Treaty Research Report*, 7.

1920, told interviewers in 2005 that when the oil companies first arrived, she did not anticipate it would lead to so much industrial activity: "All around people they're working now. All over. I never thought she's gonna be like that. First time I move. No white men, nothing at all. Just the Indians, Indians they stay here. Some of them Crees you know. I never thought it was gonna be like that." Her husband's grandmother then told her about early exploration:

> But my husband. His granny. They tell me stories about that. Before they're testing all over, around here. They know it for long time. They got oil and tar sands. They know it. They check it already before. Told me that, my granny. But not a big machine, they use. But something, I guess, you know, they look for tar. They know already that time. Long time ago. Now they start to work all over. All over around here. All over across. All over. So what it looks like before that country. It looks different. Really damaged.[46]

Canada considered negotiating Treaty 8 in the early 1890s but decided that the cost would be too high. The discovery of gold in the Klondike region of Yukon Territory triggered a rush of outsiders to the Canadian North in 1898, and the Dominion government sought treaties to end Indigenous sovereignty, ensure prospectors unencumbered passage through the region, and to gain control of the region's resources.[47]

Treaty commissioners David Laird, J. H. Ross, and J. A. J. McKenna negotiated and signed Treaty 8 on 20-21 June 1899 at Lesser Slave Lake with Indigenous peoples. After the signing at Lesser Slave Lake, the commissioners travelled throughout the region gaining adhesions at various places including at Fort McMurray and Fort Chipewyan.[48] The HBC supplied the commissioners' food, which meant that they had to negotiate the

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[46] Craig Campbell et al., *Mikwâkamiwi Sîpîsis: Stories and Pictures from Métis Elders in Fort McKay* (Edmonton: CCI Press, 2005), 36.
[47] Daniel, "The Spirit and Terms of Treaty Eight," 66.
[48] David Laird, J.H. Ross, and J.A.J. McKenna, *Report of Commissioners for Treaty No. 8*, Reprinted from original by Roger Duhamel, FRSC, Ottawa: Queen's Printer and Controller of Stationery, 1966 (Winnipeg, Manitoba, 1899).

treaty at HBC posts. Small amounts of food at each location meant that they could not stop for more than 2-4 days and missed many First Nations who could not change their seasonal rounds to meet with the commissioners.[49] The travelling commissioners could not uniformly cover the region. At some places, they were late for meetings, in all instances they travelled in a great hurry, and many locations, such as the communities of the Lesser Slave Lake interior, the commissioners did not visit at all.[50] The commissioners described mineral potential in the Athabasca region:

> The country along the Athabasca River is well wooded and there are miles of tar-saturated banks. But as far as our restricted view of the Lake Athabasca and Slave River country enabled us to judge, its wealth, apart from possible mineral development, consists exclusively in its fisheries and furs.[51]

Although maps (Figure 4) and the Crown's interpretations of Treaty 8 suggest that it was a uniform surrender of a neatly defined territory, the journey of the commissioners was a variegated extension of sovereignty.[52] The Treaty 8 map shows the region as neatly bounded by a red line encircling the District of Athabasca, extending from the District of Alberta through northern British Columbia, and into the Northwest Territories along the southern shore of Great Slave Lake. However, the commissioners only travelled along major waterways, stopping for brief periods at certain points. Their journey was more a patchwork held together with threads than a blanket evenly covering the territory. Although Indigenous oral histories of the earlier numbered treaties conflict with the written terms of the treaty texts, the earlier treaties were negotiated more slowly, with longer periods of

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[49] Ray, Miller, and Tough, *Bounty and Benevolence*, 165.
[50] Clinton N. Westman, "The Making of Isolated Communities in the Lesser Slave Lake Interior, Alberta," in *Papers of the Rupert's Land Colloquium 2008*, ed. M. A. Lindsay and M.A Richard (Winnipeg: Centre for Rupert's Land Studies, University of Winnipeg., 2010).
[51] Laird, Ross, and McKenna, *Report of Commissioners for Treaty No. 8*.
[52] Benton, *A Search for Sovereignty*, 2.

ceremony and deliberation than the hasty and disorganized proceedings that led to Treaty 8.[53]

Figure 4: Department of Indian Affairs, "Map showing the territory ceded under Treaty No. 8, and the Indian tribes therein," 1900, RG10M 78903/45, File 29858-10, LAC.

Treaty 8 resembled earlier treaties, with some changes that responded to local circumstances.[54] In exchange for ceding title, rights, and privileges to the land to the Government of Canada, the treaty granted one square mile of reserve land per family of

[53] Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan: Our dream is that our Peoples Will One Day be Clearly Recognized as Nations* (Calgary: University of Calgary Press, 2000); Ray, Miller, and Tough, *Bounty and Benevolence*, 111,25,33,65.
[54] Madill, *Treaty Research Report*, 37.

five (128 acres per person), or 160 acres of land per person who chose lands in severalty, which were neither formal reserves nor fee simple lands, and other benefits that included annuities, medals, clothing for the chiefs and headmen, an assortment of material goods for continued bush activities or for agriculture, and the promise of continued access to hunting and trapping. The Crown offered the Métis land scrip of 240 acres or $240.[55] However, Métis scrip holders could not claim land in the region as the Dominion government had not completed township surveys or opened land offices.[56] Fraud and other problems plagued the scrip process, which prevented many Métis people from claiming either land or compensation.[57]

Settler and Indigenous understandings of the nature of the land surrender and of the treaty and rights to hunt, fish, and trap are the source of much of the conflict over interpretation, and the basis of current rights claims over the land by the province and Indigenous people in the territory.[58] The land surrender and hunting, fishing, and trapping rights passage of the treaty text reads:

> The said Indians DO HEREBY CEDE, RELEASE, SURRENDER AND YIELD UP to the Government of the Dominion of Canada, for Her Majesty the Queen and Her successors for ever, all their rights, titles and privileges whatsoever, to the lands included… And Her Majesty the Queen HEREBY AGREES with the said Indians that they shall have right to pursue their usual vocations of hunting, trapping and fishing throughout the tract surrendered as heretofore described, subject to such regulations as may from time to time..., and saving and excepting such tracts as may be required or

[55] Madill, *Treaty Research Report*, 16.
[56] Judy Larmour, *Laying Down the Lines: A History of Land Surveying in Alberta* (Canada: Brindle and Glass Publishing, 2005), 104.
[57] Frank Tough and Erin McGregor, "“The Rights to the Land May Be Transferred”: Archival Records as Colonial text—A Narrative of Métis Scrip," in *Natives & Settlers, Now & Then: Historical Issues and Current Perspectives on Treaties and Land Claims in Canada*, ed. Paul W. DePasquale (Edmonton: University of Alberta Press, 2007).
[58] Kent McNeil, *Indian Hunting, Trapping and Fishing Rights in the Prairie Provinces of Canada* (Saskatchewan: University of Saskatchewan Native Law Centre, 1983), 1; Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples*, Minister of Supply and Services (Ottawa, 1996), 497.

> taken up from time to time for settlement, mining, lumbering, trading or other purposes.[59]

The Dominion's goal to secure resources in the Athabasca region differed from its aims in the Peace River region, Treaty 6, and Treaty 7.[60] In these areas the Dominion sought to clear the land for settlement and agriculture by moving Indigenous peoples onto reserves or providing them with scrip that would facilitate individual land-holdings for the Métis.[61] The Treaty 8 commissioners reported that "the extent of the country treated for made it impossible to define reserves or holdings, and as the Indians were not prepared to make selections, we confined ourselves to an undertaking to have reserves and holdings set apart in the future."[62] However, they also reported that Indigenous peoples in the Treaty 8 region "were generally averse to being placed on reserves," because of the large land base needed to complete the seasonal rounds of hunting, fishing, and trapping, and the impracticability of farming in most areas. The commissioners wrote:

> It would have been impossible to have made a treaty if we had not assured them that there was no intention of confining them to reserves. We had to very clearly explain to them that the provision for reserves and allotments of land were made for their protection, and to secure them in perpetuity a fair portion of the land ceded, in the event of settlement advancing.[63]

The treaty promised Indigenous rights to trapping and hunting on lands outside the reserve areas that had not been "taken up." It did not protect these rights against settler hunters and trappers, and resource extraction which infringed on Indigenous land use through the

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[59] Treaty No. 8 Made June 21, 1899 and Adhesions, Reports, Etc., (Reprinted from the 1899 edition by Roger Duhamel, F.R.S.C. Ottawa: Queen's Printer and Controller of Stationary, 1966).
[60] Fumoleau, *As Long as this Land Shall Last*; Price, *The Spirit of the Alberta Indian Treaties*.
[61] Cardinal and Hildebrandt, *Treaty Elders of Saskatchewan*; Sarah Carter, Dorothy First Rider, and Walter Hildebrandt, *The True Spirit and Original Intent of Treaty 7* (Montreal: McGill-Queen's University Press, 1996); Ray, Miller, and Tough, *Bounty and Benevolence*; David Leonard, *Delayed Frontier: The Peace River Country to 1909* (Calgary: Edmonton & District Historical Society and Detselig Enterprises Ltd., 1995).
[62] Laird, Ross, and McKenna, *Report of Commissioners for Treaty No. 8*.
[63] Laird, Ross, and McKenna, *Report of Commissioners for Treaty No. 8*.

twentieth century.

While Canada and Alberta viewed Treaty 8 as a land surrender treaty, First Nations in the Treaty 8 region viewed it as peace and friendship agreement. Treaty 8 Chief George Desjarlais explained the treaty to the 1996 Royal Commission on Aboriginal Peoples: "We did not sell or give up our rights to the land and territories. We agreed to share our custodial responsibility for the land with the Crown. We did not abdicate it to the Crown."[64] Fumoleau argues that treaties 8 and 11 were fraudulently obtained by the Dominion of Canada. Indigenous communities signed without understanding all the terms and implications, as their primary concerns were about protecting traditional ways of life and ensuring their freedom to live from the land.[65] Richard Daniel argues that Treaty 8 was a complex deal for Indigenous peoples that reflected a significant degree of trust between parties and the mutual need for an agreement.[66] The Crown pursued Treaty 8 to extinguish Aboriginal title in the Peace and Athabasca regions, while Indigenous peoples sought peace and to protect their way of life.

Industrialization and the Fur Trade

1870 to the end of the Second World War was a time of disruption and transformation in the fur trade and in other land-based activities, which weakened the economic position of Indigenous peoples. While the fur trade persisted into the 20th century, it had numerous ups and downs. By the end of the Second World War, the HBC's market share fell to one quarter, due to successful competition from free traders and other

[64] Michael Asch, *On Being Here to Stay: Treaties and Aboriginal Rights in Canada* (Toronto: University of Toronto Press, 2014), 77.
[65] Fumoleau, *As Long as this Land Shall Last*, xxvi.
[66] Daniel, "The Spirit and Terms of Treaty Eight," 99.

trading companies, many of who bought furs with cash. While the fur trade was still an important activity for the HBC, it declined in relative importance as the HBC diversified its business operations into land development, retail (outfitting settlers), and transportation. The federal and provincial governments increased their involvement in the North and Indigenous land use with conservation programs to respond to declining animal populations, which mainly involved quotas. The Department of Indian Affairs replaced the HBC as the main provider of social assistance to First Nations while Metis fell under the purview of the provincial government. In the end, there was little left of the former special relationship between Indigenous peoples and the HBC, which had never been generous at the best of times.[67]

Markets became more integrated through improved communication and transportation networks. When the HBC replaced York boats with steamboats in the 1880s, the Athabasca River emerged as an important transport corridor linking southern economies with the Northwest.[68] Ray argues that the HBC introduced steamboats in part to reduce its dependence on Métis freighters after the Red River Resistance in 1869-70 and the Northwest Resistance in 1885.[69] Métis and First Nations men found work on the scows and steamboats along northern waterways until they were replaced by railways and roads in the 20th century.[70] The HBC lost ground to competitors when the London Board of Trade

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[67] Ray, *The Canadian Fur Trade in the Industrial Age*, 199,221.
[68] Liza Piper, *The Industrial Transformation of Subarctic Canada* (Vancouver: UBC Press, 2009), 48; Donald G. Wetherell and Irene R.A. Kmet, *Alberta's North: A History, 1890-1950* (Edmonton: University of Alberta Press, 2000), 18.
[69] Ray's observation resonates with Andreas Malm's argument that industrialists turned to steam power during the industrial revolution in part to undercut labour. Ray, *The Canadian Fur Trade in the Industrial Age*, 6; Andreas Malm, *Fossil Capital: The Rise of Steam Power and the Roots of Global Warming* (London: Verso Books, 2016); McCormack, "How the (North) West was Won," 109.
[70] Indigenous people continued to have a significant role in northern transportation such as in moving jute bags full of pitchblende and radioactive ores. Peter Blow, "Village of Widows," (Canada: National Film Board, 1999).

suspended fur auctions during the First World War. Increasing fur prices in the 1920s caused a flood of settler trappers into the North who came with the waves of European immigration to western Canada. The completion of the Alberta and Great Waterways Railway to the Clearwater River in 1921 and the introduction of bush planes in the 1930s sped the arrival of settlers.[71] Aggressive settler trappers displaced many Indigenous trappers, who failed to be protected by either level of government. The new trappers, traders, and transport networks led to intense competition, which depleted game and fur-bearers and weakened the economic power of Indigenous peoples.[72] Many became impoverished as a result. The registered trapline system was part of an attempt to conserve dwindling animal populations and was requested by settler trappers, not by Indigenous people.[73] Collectively, provincial game regulations had major impacts on Indigenous land uses.

Searching for Oil

Petroleum and natural gas discoveries made hydrocarbon extraction a new interest for explorers and developers in the North West in the late 19th and early 20th centuries. Workers building the Canadian Pacific Railroad (CPR) found natural gas in 1883 when drilling for water at Langevin Station near Medicine Hat in southern Alberta.[74] In 1887, on

[71] Piper, *The Industrial Transformation of Subarctic Canada*, 68.
[72] McCormack, "How the (North) West was Won," 106; Ray, *The Canadian Fur Trade in the Industrial Age*, 114; John Sandlos, *Hunters at the Margin: Native People and Wildlife Conservation in the Northwest Territories* (Vancouver: UBC Press, 2007), 49.
[73] British Columbia was the first province to create a registered trapline system in 1925, Ontario 1935, Alberta 1937, Manitoba 1940, Quebec 1945, Saskatchewan 1946, Northwest Territories 1949, and Yukon Territory 1950. Ray, *The Canadian Fur Trade in the Industrial Age*, 116.
[74] To encourage the company to build the railroad, the Dominion government gave the CPR $25 million, a monopoly, tax exemptions, and 10 million hectares of land, which included mineral rights. In 1906 the CPR hired Eugene Coste from the Geological Survey of Canada to explore its lands for oil and gas and decided to stop selling mineral rights with land it sold. Coste's company, the Canadian Western Natural Gas, Light, Heat and Power Company discovered natural gas at Bow Island, south of Medicine Hat in 1911.

Britain's recommendation, the federal government separated mineral rights and surface rights in the western territories, granting only surface rights to homesteaders and withholding mineral rights for the Crown.[75] The CPR discovered more natural gas at its South Saskatchewan River Crossing in 1900 and at Bow Island in 1911. In 1910 the Department of the Interior introduced formalized oil and gas regulations intended to encourage exploration and development, while retaining a Crown right to expropriate oil for naval reserves.[76] In 1913 Calgary Petroleum Products Limited (CPPL) drilled the Dingman well in the Turner Valley. It discovered naphtha (a volatile and highly flammable liquid hydrocarbon), which powered the vehicles of the time without refining, as well as conventional oil and natural gas. The discovery started the first Turner Valley boom and the first significant oil and gas field in Alberta. Turner Valley attracted foreign oil companies, including Imperial Oil, the Canadian subsidiary of Standard Oil of New Jersey, which bought into CPPL to form Royalite Oil Company Limited. These companies started exploring throughout Alberta for conventional oil and natural gas.[77] The boom collapsed in 1914 as over 400 new companies had poor results producing oil.

Between 1895 and 1909, the Mines Branch received many requests from individuals looking to buy bitumen-bearing lands.[78] Lacking regulations or much detailed knowledge of the area, the Department of the Interior introduced bitumen regulations in 1910. It decided that bitumen-bearing lands could be leased but not purchased, and would

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[75] Paul Chastko, *Developing Alberta's Oil Sands: From Karl Clark to Kyoto* (Calgary: University of Calgary Press, 2004), 3; David Breen, "Canadian Petroleum Policy," *Canadian Historical Review* 62 (1981): 285; David Breen, *Selected Documents Pertaining to Natural Resources Ownership and Jurisdiction in Western Canada* (Vancouver: University of British Columbia Press, 1983).
[76] Breen, *Alberta's Petroleum Industry and the Conservation Board*, 7.
[77] Breen, *Alberta's Petroleum Industry and the Conservation Board*, Chapter 1.
[78] H.H. Rowatt, Controller, Mining Lands and Yukon Branch, to Deputy Minister of the Interior, 14 January 1910, RG85 vol.1801 file. 42594 (pt.1), LAC.

remain the property of the Crown.[79] In 1913, Alberta asked the Department of the Interior to study the Athabasca bitumen deposits.[80] The department sent Sidney Ells, who had done a desktop inquiry into bitumen in 1910 while working as assistant to the director of the Mines Branch. He became interested in the 1883 reports by Robert Bell that had influenced the scope of Treaty 8.[81] In the spring of 1913, Ells loaded up a 30-foot scow at Athabasca Landing with four men and three months of supplies and floated downstream to Fort McMurray. That summer, Ells made surveys 100 miles north of Fort McMurray along the Athabasca River, and 100 miles up each of the Clearwater, Firebag, and Christina Rivers. He made maps, took notes, and photographed bitumen deposits. On his return to Ontario, his report emphasized the abundance of bitumen. He advocated an extensive core drilling program, testing bitumen for its use in road paving, and research into a separation process with which to produce synthetic crude oil.[82]

At the end of the First World War in 1918, Canada consumed 11 million barrels of oil annually, most of which it imported from the US, but it only produced 250,000 barrels[83]. This gap between domestic supply and demand, and fears of imminent oil shortages, pushed both the federal and provincial governments to invest in the search for new sources of oil, including synthetic fuel projects.[84] Imperial Oil's discovery of oil at Norman Wells

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[79] *Regulations for the Disposal of the Tar Sands, the Property of the Crown in that Portion of the Province of Alberta Lying North of Township 80, and Between the 4th and 5th Initial Meridian.* Order in Council, 14 February 1910. RG85 vol.1801 file. 42594 (pt.1), LAC.
[80] Sidney Ells, *The Bituminous Sands of Northern Alberta, an Undeveloped Natural Resource,* (Ottawa: Mining Lands and Yukon Branch, Department of the Interior, 1926), MG-30 A14 vol.6, LAC.
[81] Sidney C. Ells, *Recollections of the Development of the Athabasca Oil Sands* (Ottawa: Department of Mines and Technical Surveys, 1962), 2.
[82] Ells, *Recollections of the Development of the Athabasca Oil Sands*, 14.
[83] Graham D. Taylor, *Imperial Standard: Imperial Oil, Exxon, and the Canadian Oil Industry from 1880* (Calgary: University of Calgary Press, 2019), 153.
[84] Chastko, *Developing Alberta's Oil Sands*, 15; Barry Glen Ferguson, *The Athabasca Oil Sands: Northern Resource Exploration, 1875-1951* (Edmonton: Alberta Culture, 1985), 35-37; Joseph A. Pratt and William E. Hale, *Exxon: Transforming Energy, 1973-2005* (Austin: Dolph Briscoe Center for American History: The University of Texas at Austin, 2013), 196.

in the Northwest Territories in 1920 added to optimism about the presence of oil in northwestern Canada.[85] In 1920 the Dominion government withheld the richest bitumen deposits in the Athabasca region as Crown reserves—those with less than 75 feet of overburden—which had been recommended by Sidney Ells (Figure 5).[86]

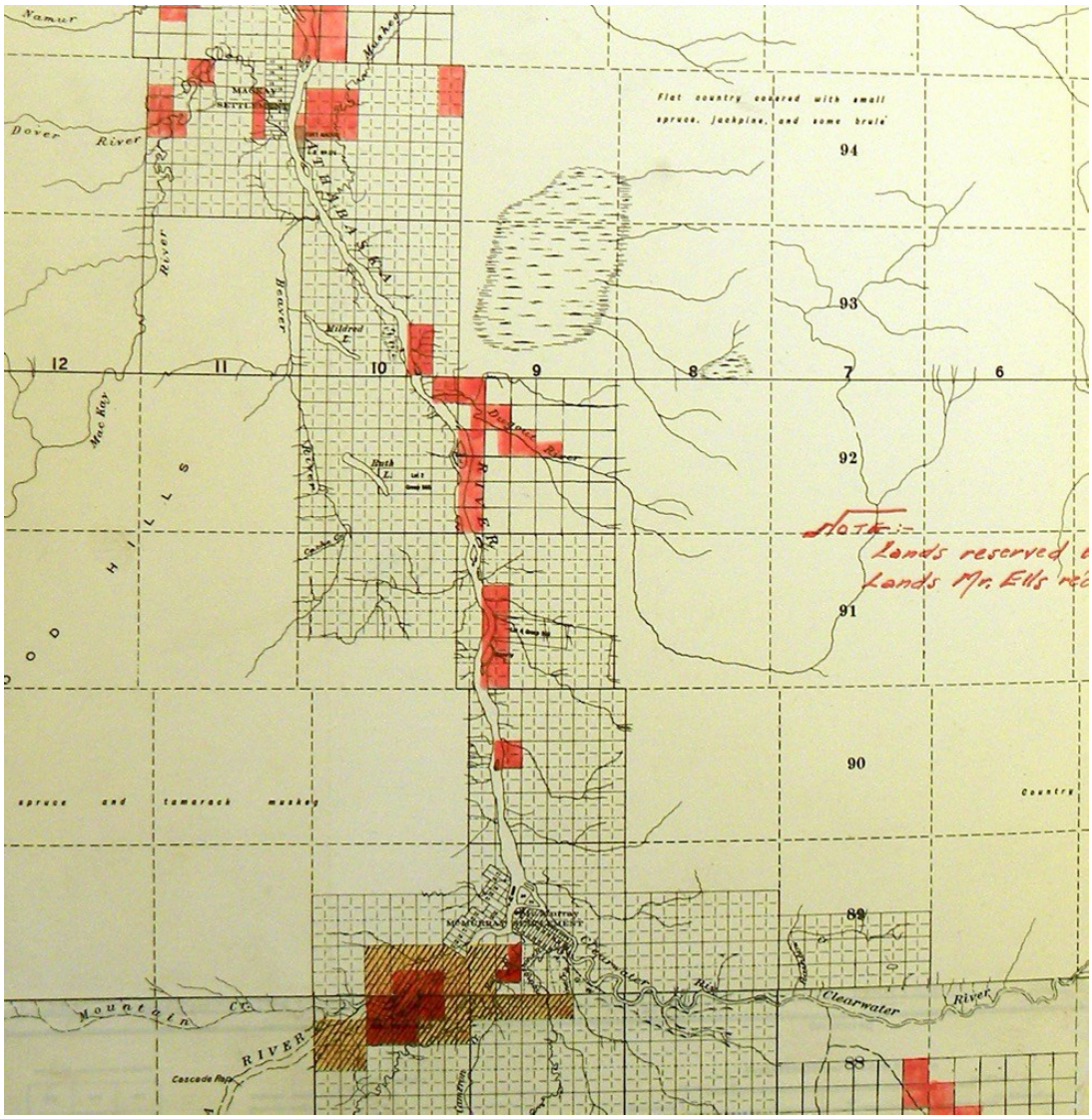

Figure 5: Cropped area of map: Mining Lands and Yukon Branch, Department of the Interior, "Lands reserved by Order in Council of 2/7/20 coloured in Red. Lands Mr. Ells recommends reserved hatched in Black." (5 October 1920), RG-85 vol.1801 file.42594 (pt.1.2), LAC.

[85] Breen, *Alberta's Petroleum Industry and the Conservation Board*, 22.
[86] Rodolphe Boudreau, "Official Gazette of the 17th July, 1920, at the Government House at Ottawa, Saturday the 3rd day of July, 1920," RG-85 vol.1801 file.42594 (pt.1.2), LAC.

Between 1922 and 1923, Ells did topographical surveying and surface profiling over two thousand square kilometres. He focused on the general classification of bituminous sand areas, based on outcrops along various streams. He grouped them according to possible commercial value, thickness and character of overburden, the difficulties associated with overburden removal, and the estimated quality and quantity of bitumen.[87] Ells did more surveying, exploration, and drilling in 1931. This work was some of the only significant geological surveying before his 1942–47 survey of 6,500 square kilometres south of Lake Athabasca. Later surveys and prospecting in the region expanded the map of mineable bituminous sand deposits, but Ells's work identified many of the richest and most important deposits. The Mildred and Ruth Lakes area later became the site of the Syncrude Mildred Lake mine, one the largest projects in the region.

Ells's work contributed to a new geography of resource extraction in the Athabasca River Valley—a new layer on the map which presented the region as a blank slate for bitumen extraction. Yet Ells was also a booster, and his work reflected some of the irrational exuberance that defined much of the enthusiasm for synthetic fuels in the early 20th century.[88] As Chapter 3 shows, many of the early attempts to exploit bitumen resources were short-lived. The provincial government also started bitumen research in the 1920s, which led to a workable way of separating bitumen from sand. The University of Alberta researchers working on bitumen found Ells's work sloppy and romanticized.[89] Recalling over 30 years of work in northeastern Alberta in 1962, Ells reaffirmed his vision for the oil

[87] Overburden is the industry term for the material (rock, soil, trees, etc.) that lies above the mineable bitumen deposits. Ells, *Recollections of the Development of the Athabasca Oil Sands*, 59.
[88] See Cronon's discussion of boosters in a different context of city building in the 19th century American west: William Cronon, *Nature's Metropolis: Chicago and the Great West* (New York: W. W. Norton, 1991), 31. Pratt explains how synthetic fuel enthusiasts often failed to overcome the high costs of production Pratt and Hale, *Exxon*, 196.
[89] Chastko, *Developing Alberta's Oil Sands*, 13; Ferguson, *The Athabasca Oil Sands*, 28.

sands region:

> In 1913 a great and potentially valuable natural resource in the northern part of the province of Alberta lay dormant and unknown while even the surface of the country was unsurveyed. Yet as a result of investigations in the field and in the laboratory, the outcome may ultimately be reflected in important commercial development. Where now the almost unbroken wilderness holds sway, industrial plants may arise and tall stacks dominate the landscape. Few will then pause to consider what these developments represent, but success will be the reward of those who had a part in the undertaking.[90]

It took decades and sustained efforts for Ells's vision of the Athabasca region as a resource extraction zone to materialize, but the groundwork had been laid.

Natural Resources Transfer Act, 1930

The Dominion of Canada created the provinces of Alberta and Saskatchewan in 1905, carved out of the North-West Territories.[91] For the first twenty-five years of Alberta's existence, Canada retained control of natural resources (except for wildlife) and unoccupied land, which meant that almost all of northeastern Alberta remained under Dominion control. Unoccupied Crown lands were lands which had not been leased to homesteaders, titled to individuals or businesses, or designated game preserves or sanctuaries.[92] Many people in Alberta, Manitoba, and Saskatchewan felt that without control of public lands and resources, they were colonial subordinates to the Dominion government.[93] The Prairie provinces wanted the Dominion to give them the same ownership of natural resources and Crown land that the older provinces enjoyed and to

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[90] Ells, *Recollections of the Development of the Athabasca Oil Sands*, 100.
[91] *The Alberta Act,* 1905, 4-5 Edward VII, c. 3 (Canada).
[92] Dawn Balazs, *A Short Analysis of the Transfer of Natural Resources to Alberta in 1930 and a Preliminary Study of the Registered Trapline System*, Treaty and Aboriginal Rights Research (T.A.R.R.) of the Indian Association of Alberta (Ottawa, 1976).
[93] Chester Martin, *'The Natural Resources Question': The Historical Basis of Provincial Claims* (Winnipeg: Philip Purcell, King's Printer for the Province of Manitoba, 1920), 50; Frank Tough, "The Forgotten Constitution: The Natural Resources Transfer Agreements and Indian Livelihood Rights, ca. 1925-33," *Alberta Law Review* 41, no. 4 (2004): 1007.

compensate them for lost revenue. Ontario, Quebec, and the Maritime provinces opposed the idea of a resource transfer, for these provinces felt entitled to a return on their costly investment in purchasing Rupert's Land and the Northwestern Territories in 1870. [94] After a decade of conferences and negotiations, the Dominion Government passed the *Natural Resources Transfer Acts* (NRTA) in 1930, which was a constitutional amendment. It transferred ownership of natural resources, royalties, and crown lands to the provinces of Alberta, Saskatchewan, and Manitoba.[95] After the transfer, most staff from the Petroleum and Natural Gas section of the federal Department of Mines went to work at the Petroleum and Natural Gas Division of the newly formed Alberta Department of Lands and Mines.[96] However, the federal government withheld control of the Athabasca bitumen deposits with regulations that required prospective developers to apply to the Department of the Interior for permission to acquire bitumen mining rights.[97] The Crown retained its control over bitumen until 1947, when it repealed the 1930 regulations.[98]

The NRTA had two implications for Indigenous people in northern Alberta. First, it involved the provincial government directly in fulfilling outstanding treaty obligations, by compelling the province to transfer land to the federal government to fulfill outstanding land claims. This provision gave the province substantial power to control the amount and location of land that First Nations could receive. In doing so, the NRTA created the potential for jurisdictional conflict over Crown lands if the province refused to transfer lands requested by First Nations and the Department of Indian Affairs to fulfill land claims.

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[94] Tough, "The Forgotten Constitution," 1008.
[95] *Alberta Natural Resources Act,* S.C. 1930, c. 3.
[96] Breen, *Alberta's Petroleum Industry and the Conservation Board*, 63.
[97] *Regulations for the Disposal of Bituminous-Sand Rights, The Property of the Crown in the Province of Alberta,* Order in Council, 3 May 1930, P.C. 940. RG-85 vol. 1649 file 2623, LAC.
[98] Governor General in Council, 12 September 1947, P.C. 3689, RG-85 vol. 1649 file 2623, LAC.

This situation would lead to major political and bureaucratic obstacles for the Fort Chipewyan Cree Band, as Chapter 5 shows, when the Band tried to obtain its reserve lands in the 1970s.

Second, the NRTA limited Treaty 8 hunting rights to hunting solely for food. Whereas Treaty 8 referred to the right of the signatories to "pursue their usual vocations of hunting, trapping and fishing throughout the tract surrendered," Paragraph 12 of the NRTA held that "the Indians shall have the right,… of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands."[99] With this change, the NRTA removed the potential for commercial harvesting, although it did not invoke a parallel ban on trapping, which was mostly commercial.[100] Frank Tough argues that there is no historical evidence that a "derogation of treaty livelihood rights was intended [by the Crown] or occurred and, in fact, the actual needs for those living the Indian mode of life became a priority in December 1929."[101] To convince Indigenous peoples to agree to Treaty 8 in 1899 the Commissioners had to:

> solemnly assure them [the Indigenous signatories] that only such laws as to hunting and fishing as were in the interest of the Indians and were found necessary in order to protect the fish and fur-bearing animals would be made, and that they would be as free to hunt and fish after the treaty as they would be if they never entered into it.[102]

The NRTA violated these assurances, along with the former provincial wildlife regimes.

The courts have interpreted the treaties as protecting subsistence hunting and fishing rights but not commercial rights. Ray argues that this interpretation ignores the historical interdependence of both aspects and restricts Indigenous land use:

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[99] Tough, "The Forgotten Constitution," 1001.
[100] Jack Woodward, *Native Law* (Toronto: Carswell, 1989), 319.
[101] Tough, "The Forgotten Constitution," 1002.
[102] Laird, Ross, and McKenna, *Report of Commissioners for Treaty No. 8*.

> …no data exists that makes it possible to determine what proportion of the native hunt was intended to obtain provisions for domestic use as opposed to exchange… differentiating domestic hunting from commercial hunting is unrealistic and does not enable one to fully appreciate the complex nature of the native economy following contact.[103]

Federal and provincial governments have used the qualifier "subject to such regulations" in the hunting rights clauses of the treaties to justify imposing conservation regulations on Indigenous land use. In 1990 the Supreme Court of Canada ruled in *R. v. Horseman*, that the NRTA confined hunting rights to harvesting for food only, in exchange for allowing First Nations to hunt in a larger territory.[104] Although the Crown promised Indigenous peoples unencumbered rights to hunt and trap, by the 1930s federal and provincial governments had limited these rights to subsistence.

Registered Traplines

Alberta started regulating wildlife with the *Game Act* of 1907 as settlers increasingly took up hunting and trapping.[105] To manage and conserve fur bearing animals and accommodate settler trappers, Alberta introduced a registered trapline system in 1937, which it began to implement in northern Alberta in 1941-42.[106] Indigenous peoples in the Athabasca region had asked government to set aside collective hunting and trapping areas

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[103] Arthur Ray quoted in *R.v. Horseman,* [1990] 1 S.C.R. 901 at 928-929, cited in Passelac-Ross, *The Trapping Rights of Aboriginal Peoples*, 39; Ray, *The Canadian Fur Trade in the Industrial Age*, 47.
[104] *R. v. Horseman,* [1990] 1 S.C.R. 901
[105] *An Act for the Protection of Game ("The Game Act")*, S.A. 1907, c. 14, McCormack, *Fort Chipewyan and the Shaping of Canadian History*, 159-69, 219; Fort McKay Tribal Administration, *From Where We Stand* (Fort McMurray, 1983), 31; Ray, *The Canadian Fur Trade in the Industrial Age*, 116.
[106] British Columbia was the first province to create registered traplines in 1925, followed by Ontario in 1935, Alberta 1937, Manitoba 1940, Québec in 1945, Saskatchewan in 1946, the Northwest Territories in 1949, and Yukon in 1950. Ray, *The Canadian Fur Trade in the Industrial Age*, 116; Brenda Ireland, "'Working a Great Hardship on Us': First Nations People, the State, and Fur-Bearer Conservation in British Columbia Prior to 1930," *Native Studies Review* 11, no. 1 (1996); McCormack, "How the (North) West was Won," 260; Glenn Iceton, "'Many Families of Unseen Indians': Trapline Registration and Understandings of Aboriginal Title in the Yukon-BC Borderlands," *BC Studies*, no. 201 (Spring 2019): 67.

since the 1920s.[107] Alberta's move to regulate trapping was to placate settler trappers, to monitor trapping, and regulate conflict between Indigenous and settler trappers, which made the province's new responsibility to administer wildlife under the NRTA particularly relevant.[108] Hugh Brody argued that forcing trapline registration on Status Indians was a violation of their rights under Treaty 8. Confining First Nations people "to their own registered traplines and, by the same token, to consider their use of other traplines as a trespass is to disregard the one unlimited right that the treaty does guarantee."[109] The registered trapline system legitimized the presence of Euro-Canadian trappers, restricted movements of Indigenous peoples in winter, and displaced them from areas of traditional uses.[110] Glenn Iceton argues that the registered trapline system imposed colonial conceptions of appropriate land use, which protected certain tracts for Indigenous peoples but sanctioned other areas for use by outsiders, and individualized land holdings—a favoured government practice. Over time, the system created a patchwork of trapping territories and disrupted pre-existing migratory and land use practices. Iceton considers the registered trapline system as part of the state's effort to settle mobile people, which simplified complex Indigenous geographies.[111]

When Alberta started planning its registered trapline system, the Department of Indian Affairs was concerned that the proposed system would narrow treaty hunting rights

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[107] Bustane Martin and William Whitehead to D. C. Scott, Superintendent General, July 5, 1927, RG10, vol. 6732, file 420-2B, reel C8094, pp. 6–9, LAC. Cited in Peter Fortna, *The Fort McKay Métis Nation: A Community History*, Willow Springs Strategic Solutions Inc. (Cochrane, AB, 2020), 38.
[108] "Legislative Debate over the Creation of Trap-lines," Acc. 70.427 file 409, box 23, Provincial Archives of Alberta (PAA). Cited in Fortna, *The Fort McKay Métis Nation*, 39.
[109] Hugh Brody, *Maps and Dreams: Indians and the British Columbia Frontier* (Vancouver: Douglas & McIntyre, 2004), 94.
[110] Ray, *The Canadian Fur Trade in the Industrial Age*, 117.
[111] Iceton, "Many Families of Unseen Indians," 70; James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1999).

and stop Indigenous people from moving to different areas to trap as fur-bearing animal populations shifted and changed.[112] Treaty trappers from Janvier to Fort Chipewyan opposed the idea of registered traplines, seeing them as too small to provide enough fur to make a living, confining their movement, fragmenting their trapping areas, and opening up too much land to settler trappers. Treaty trappers in the Athabasca region wanted trapping blocks.[113] Indigenous peoples around Fort McKay asked for a collective trapping permit that would cover areas west of Fort McKay from the Athabasca River to the Birch Mountains and Moose Lake, and another near the Firebag River.[114] The Indian Agents in the region and the Department of Indian Affairs advocated for a registered trapline system with collective blocks for Indigenous trappers, or at least grouped family members together.[115] When Alberta refused to grant trapping blocks, Peter Fortna argues, it denied the "collective character of land use" in the Athabasca region.[116] Family members were sometimes able to have their individual lines grouped together. The province reserved some traplines for treaty members, but not for the Métis.[117]

Between 1937 and 1944 the province did not charge First Nation trappers for licenses, and from 1944 to 1968 the Department of Indian Affairs paid license fees for First

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[112] Inspector Christianson to Deputy Superintendent General H.W. McGill, October 13, 1933, T.R.L. MacInnes to Christianson, October 20, 1933, RG10 Vol. 6733, File 420-2-2 Vol. 1, LAC. Cited in Balazs, *Analysis of the Transfer of Natural Resources and Study of the Registered Trapline System*, 5.
[113] Agent Melling, *Report on Treaty Meeting with Janvier Reserve,* June 20, 1942; Chief Jonas Laviolette to Indian Affairs, August 17, 1942; Athabasca Agent Melling, *Report on Treaty Trip,* May 1, 1942, RG10 Vol. 6733, File 420-2-2 Vol. 2, LAC, cited in Balazs, *Analysis of the Transfer of Natural Resources and Study of the Registered Trapline System*, 37.
[114] P. W. Head to Department of Mines and Resources – Indian Affairs Branch, February 2, 1940, pp. 22– 24 in, RG10, vol. 6733, file 420-2-2 1, reel C8095, LAC; J. L. Grew to D. J. Allen, "Memorandum," December 19, 1944, RG10, vol. 6734, 420-2-2 3, pp. 73–86, reel C8095, LAC, cited in Fortna, *The Fort McKay Métis Nation*, 40.
[115] J. L. Grew, "Report on Registered Trap Lines and General Trapping Conditions," August 14, 1945, LAC, RG10, vol. 6734, file 420-2-2 3, p. 42, reel C8095. Cited in Fortna, *The Fort McKay Métis Nation*, 42.
[116] Fortna, *The Fort McKay Métis Nation*, 43.
[117] Michael G. Fox, "The Impact of Oil Sands Development on Trapping with Management Implications" (Masters of Environmental Design Master's Thesis, University of Calgary, 1977), 21.

Nation trappers. Indian Affairs did not compensate Métis trappers for their licenses. Once First Nation trappers had to start paying for trapping licenses in 1968, many lost their traplines. Researcher Dawn Balazs argues that by the 1960s, wildlife and trapline management superseded Aboriginal and treaty rights, so that when trapping off the reserve, First Nations people "had to buy those rights that were supposed to be guaranteed."[118] By limiting trapping and monetizing the trapping system, Alberta erected regulatory barriers to Indigenous land use. One Métis Elder from Fort McKay, Zachary Powder, explained the impact of trapline fees in a 2005 interview:

> Ohh, long time ago I started to go out to the trapline. With my dad, eh. First time we pay trap line -- two dollars. Two dollars, trap line. For one year. Three dollars, ten dollars, twenty dollars. Now I pay eighty dollars. They rob people, instead of help people. Treaty, first time they pay trap line. But they took it away that one too. Treaty don't pay. Dad, dad paid. No more now. Trap line, if you don't pay from your pocket you got no trapline. Change. Lot of things change.[119]

Trapline fees raised the barrier to entry for First Nation and Métis trappers whose harvesting rights the Crown did not recognize. The fees meant that trappers had to earn more from trapping to cover the rising fees. When the trapping economy faltered, it deepened the economic impacts on trappers and pushed them to give up their lines. A 1983 report by Fort McKay described the effects of the registered trapline system on the community:

> While the registration of traplines was being instituted, the idea was being sold to us as being something that would protect our hunting and trapping and wouldn't interfere with the way we were doing our hunting and trapping. Nothing could have been farther from the truth. Rather than recognizing and protecting the integrity of our hunting and trapping territory and Indian economy, it legitimized the progressive taking up of trapping areas within our territory by outsiders and provided the means of progressive restriction of our Treaty Rights, our resource harvesting and our

[118] Balazs, *Analysis of the Transfer of Natural Resources and Study of the Registered Trapline System*, 134.
[119] Campbell et al., *Mikwâkamiwi Sîpîsis*, 27.

harvesting territory.[120]

Treaty 8, the NRTA, and the trapline registration system created the layers of rights and jurisdictional conflicts that define contemporary land use in the Athabasca region.

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The Department of Indian Affairs and the Alberta government faced problems registering traplines because they did not have accurate maps of their locations.[121] Superintendent of Reserves and Trusts D.J. Allan tasked Indian Affairs Supervisor J.L. Grew with mapping traplines, recording registrations, and acting as liaison with the Alberta Game Commissioner.[122] The lack of accurate maps, especially in northern Alberta, created problems as trapline registration proceeded in 1942-1943. After the first wave of registrations, one quarter of treaty trappers had not received traplines.[123] The issue with trapping maps was not resolved until 1955, after aerial surveys of the province were completed and existing traplines or trapping areas drawn onto the new maps.[124]

In the first set of trapline maps produced in 1957, the Alberta Department of Lands and Forests hand-drew existing traplines onto the new aerial survey maps (Figure 5). These maps included the names of the trapline holder and mapped specific lines and trapping areas which sometimes followed creeks and streams or other landscape features. The second set of trapline maps, produced in 1967, only included trapline numbers, not

[120] Fort McKay Tribal Administration, *From Where We Stand*, 95.
[121] Superintendent of Reserves and Trusts D.J. Allan to Director and Deputy Minister of Indian Affairs, October 7, 1942, RG10, Vol. 6733, File 420-2-2, Vol. 2, LAC, cited in Balazs, *Analysis of the Transfer of Natural Resources and Study of the Registered Trapline System*, 39.
[122] J.L Grew to D.J. Allen, November 15, 1942, RG10, Vol. 6733, File 420-2-2, Vol. 2, LAC, cited in Balazs, *Analysis of the Transfer of Natural Resources and Study of the Registered Trapline System*, 39.
[123] J.L. Grew to D.J. Allan, August 14, 1943, RG10, Vol. 6733, File 420-2-2, Vol. 3, LAC cited in Balazs, *Analysis of the Transfer of Natural Resources and Study of the Registered Trapline System*, 48.
[124] Trapping Balazs, *Analysis of the Transfer of Natural Resources and Study of the Registered Trapline System*, 114.

names.[125] The new maps also replaced many trapping lines with trapping areas.[126] Although registered trapping areas gave trappers more land, trappers still used specific lines, which were not identified in the new maps. The Fort McKay Tribal Administration argued that these new trapping areas eliminated protections for specific lines. As industrial development encroached on Indigenous traplines in the 1960s and 70s, trappers "were just expected to move over. Cabins, trails, caches and many other improvements were rendered useless as our people's registered trapping lines were shifted."[127] By choosing to assign traplines and trapping areas rather than provide for collective trapping blocks, Alberta's registered trapping system re-drew this aspect of Indigenous land use as individual rather than collective rights. While First Nations still had subsistence rights to hunt anywhere on Crown land, their trapping rights became commercial rights fixed to specific places, the same as for the Métis.

Alberta considered both trapping and other forms of resource extraction as commercial rights, which different people or companies could simultaneously hold for the same piece of land. For instance, Figure 6 shows traplines in the region, most of which were held by First Nations and Métis trappers. Figure 7 shows a map of the same area outlining bitumen deposits that the Department of the Interior set aside in 1920. This "Athabasca Oil Sands Area" map (Figure 7) presented a resource extraction zone: a blank canvas for bitumen extraction. Uncluttered by a portrayal of Indigenous land use, it advertised the locations of the first projects and welcomed prospective developers.

[125] Department of Lands and Forests: Surveys and Planning Branch, "Registered Fur Management Areas," Edmonton: Province of Alberta, 1967, GR1990.0377, PAA
[126] Fortna, *The Fort McKay Métis Nation*, 44.
[127] Fort McKay Tribal Administration, *From Where We Stand*, 99.

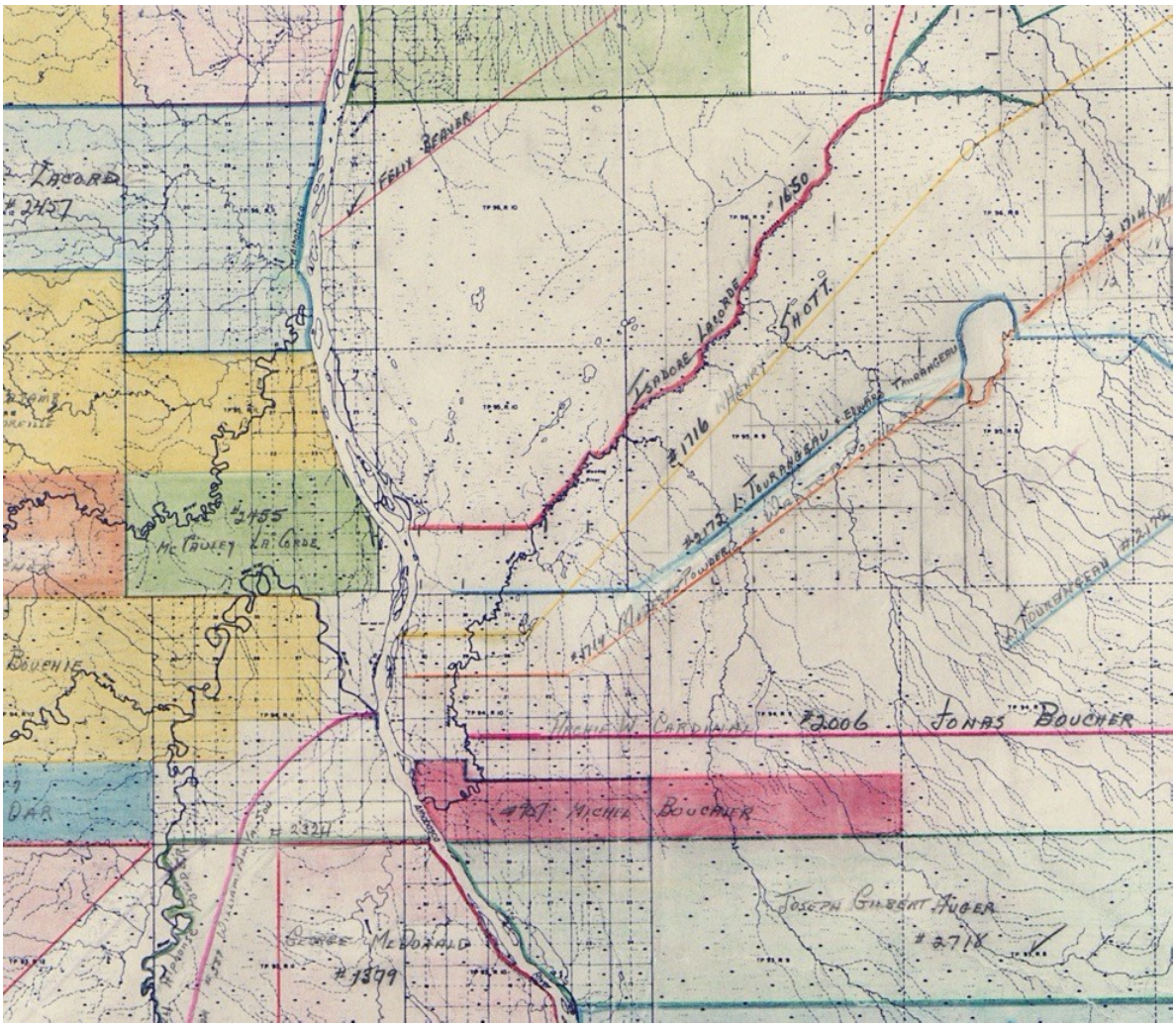

Figure 6: Cropped area of trapline map: Sheet No 74 - E - SW — Fort McKay, 1957, GR1990.0377, PAA

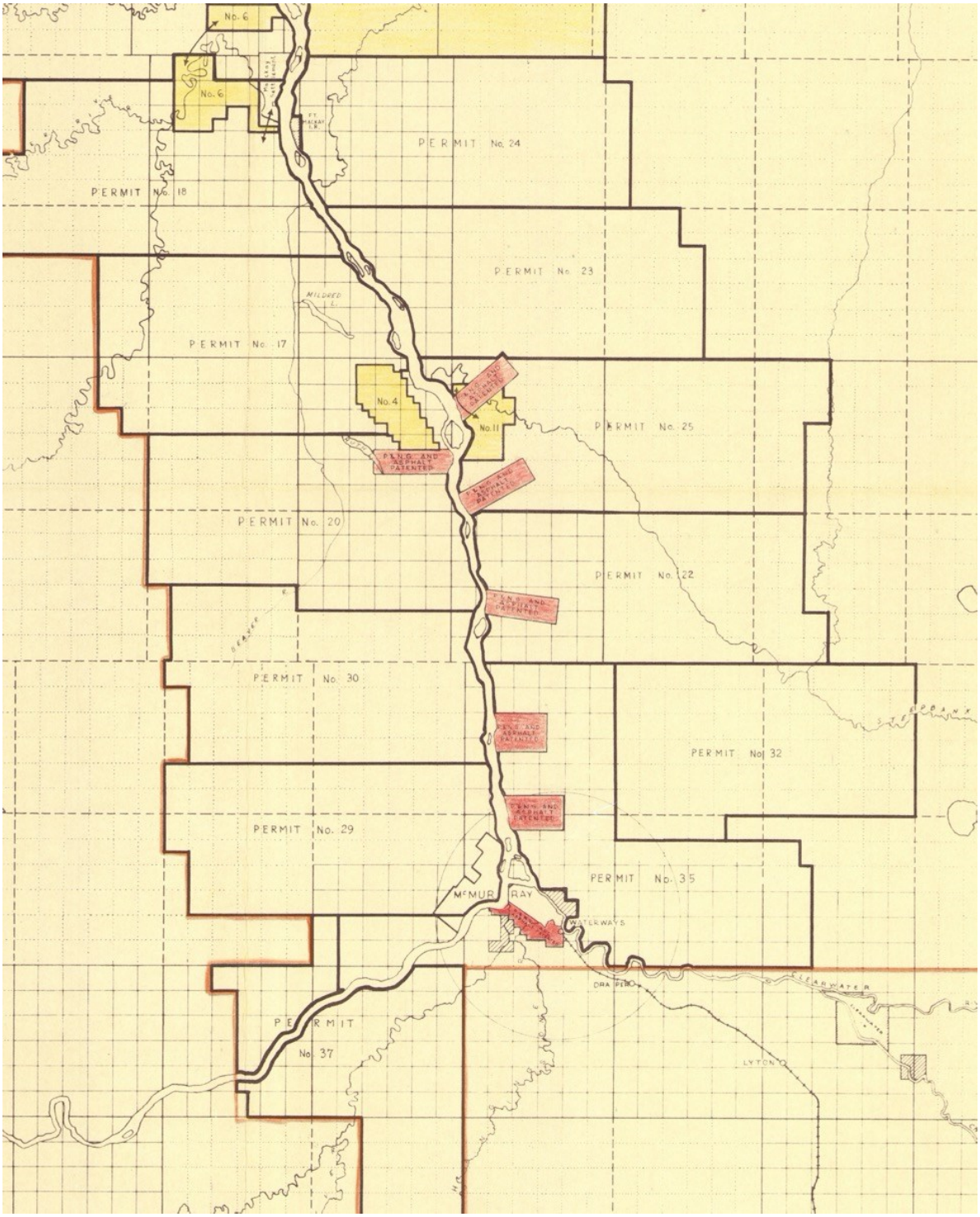

Figure 7: Cropped area of map: Department of Mines and Minerals, “Map Showing Athabasca Oil Sands Area Reserved from Disposal,” Edmonton: Province of Alberta, 1965, GR1965.0065.0022, PAA.

The Alberta government did not place limits on land that could be "taken up" under Treaty 8, which stated that Indigenous peoples would be free to use lands that were not taken for settlement and resource extraction. Thus, Indigenous peoples lost much of their traditional territories to the oil sands industry.[128] While many Indigenous peoples perceived their traplines as part of their traditional territory, they only held a lease that allowed them to trap, while other companies or individuals held leases for timber berths or minerals.[129]

For Indigenous peoples, traplines were not simply commercial spaces. A Fort McKay First Nation report explained:

> The term 'trapline'… means more than just a place to harvest furs for sale on the commercial market. It means the territory where people hunted, fished, picked berries, gathered duck eggs and trapped for fur for local domestic consumption and trade. The trapline was the community food supply… it was and is synonymous with meat for the table; with stewardship of all natural resources; with extended family sharing; with the socialization of children; and with cultural sustainability.[130]

Anthropologist Hugh Brody argued that Indigenous peoples often consider traplines traditional territory that are protected and part of their land:

> Even if a family is not using it, their trapline's existence through fallow years is a source of real security: it is important simply because it is there… The registered traplines represent land that remains to Indian people; the land to which, in spite of previous and great losses, they feel they have clear title… For them it is the bitterest of ironies, therefore to be told that in Canadian law, registered traplines grant no hunting rights and protection against other activities that would destroy the wildlife on them.[131]

By defining trapping exclusively as a commercial right under the NRTA, Alberta and Canada privileged the possibility of resource extraction above the reality of Indigenous

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[128] Passelac-Ross, *The Trapping Rights of Aboriginal Peoples*, 61.
[129] Brody, *Maps and Dreams*, 98; Passelac-Ross, *The Trapping Rights of Aboriginal Peoples*, 37.
[130] Fort McKay First Nations, *There Is Still Survival Out There: A Traditional Land Use and Occupancy Study of the Fort McKay Frist Nation*, Arctic Institute of North America (Alberta, 1994), 2.
[131] Brody, *Maps and Dreams*, 98-99.

land use.

Conclusion

The settler state and extractive industry laid the foundations for transformation of the Athabasca region into an extraction zone by mapping land according to resources, passing laws and negotiating treaties that secured sovereignty, and creating the rules for resource extraction. Boosters told stories that emphasized the region's bounty of resources and potential value, which encouraged the Dominion government to take control of the Athabasca region. These maps, laws, and stories overlaid and ignored pre-existing Indigenous peoples, laws, and landscapes of resource use. This process was marked by the Dominion's extension of sovereignty over the Athabasca region with the Rupert's Land purchased in 1870, Treaty 8 in 1899, the creation of the province of Alberta in 1905, the transfer of natural resources in 1930, and geological exploration, which recast the region as a resource extraction zone.

Changes in the fur trade during the industrialization of the North West in the early 20th century weakened the economic power of Indigenous peoples. The NRTA, and Alberta's interpretation of its terms, reduced First Nations harvesting rights to subsistence rather than commercial rights. The registered trapline system reduced collective trapping practices to individual commercial rights. As the following chapters show, the development of the oil sands industry destroyed Indigenous traplines, and left trappers with limited avenues for recourse. Yet by mapping some Indigenous land use, trapline registration left communities with a record of their residual rights and occupancy. This formed the basis of some of their challenges against the negative aspects of bitumen extraction when the oil sands industry rapidly expanded in the 1960s and 70s. Competing geographies of

Indigenous and industrial land use made the Athabasca region a contested space, which shaped struggles between Indigenous knowledge of the environment and industry and state conceptions of a resource extraction zone.

Chapter 3

Making Synthetic Oil: Development and Politics, 1960s-1980s

Introduction

The 1960s to the 1980s were critical decades when the oil sands industry, buttressed by extensive financial and political support from the federal and provincial governments, transformed from a struggling experimental industry into an industrial juggernaut, with sweeping consequences for Indigenous peoples and the Athabasca region. The difficulty of extracting bitumen, converting it into synthetic crude oil, and transporting it to distant markets hampered efforts to develop the oil sands in earlier decades. But, driven by fears about energy security during the Cold War, US oil companies worked alongside the Alberta and federal governments to build the industry in the 1960s and 70s. Global, national, and provincial political economic issues led government to make investments and regulatory changes to encourage oil sands development and ensure its success.

Paul Chastko sees the development of the oil sands in the 1960s and 70s as the outcome of a successful collaboration between Alberta's provincial governments and the US oil industry.[1] Larry Pratt, John Richards, and Ian Urquhart view the oil industry as holding the balance of power during this period. They argue that the Alberta government bent to the demands of oil companies and did not protect the economic interests of either Canada or Alberta.[2] My analysis builds on the latter interpretation. It shows how the oil

[1] Paul Chastko, *Developing Alberta's Oil Sands: From Karl Clark to Kyoto* (Calgary: University of Calgary Press, 2004).
[2] Larry Pratt, *The Tar Sands: Syncrude and the Politics of Oil* (Edmonton: Hurtig Publishers, 1976); John Richards and Larry Pratt, *Prairie Capitalism: Power and Influence in the New West* (Toronto: McClelland and Stewart Limited, 1979); Ian Urquhart, *Costly Fix: Power, Politics, and Nature in the Tar Sands* (Toronto: University of Toronto Press, 2018).

sands industry successfully lobbied the Alberta government to favour its projects in the 1960s and 70s. When Peter Lougheed's Progressive Conservative provincial government invested in Syncrude in 1975, it blurred the line between government and industry and committed the provincial government financially to the success of the oil sands industry.

Producing synthetic oil from bitumen on a commercial scale was part of a global effort by oil companies and governments to develop unconventional oil reserves during the energy and financial crises of the 1970s. Studies of the energy and economic crises of the 1970s have focused on energy policy and conservation, foreign policy, and the impact on consumers.[3] However, as Tyler Priest and others show, high oil prices and fears about energy security created an imperative for oil companies and governments to invest in remote and unconventional oil sources. Both considered predictable oil supplies essential to national security and the stability of modern life.[4] Joe Pratt writes that these fears created irrational exuberance for synthetic oil sources that included coal liquefaction, oil sands, shale oil, and heavy oil. Supply fears proved exaggerated as high energy prices and inflation caused oil production to increase and demand to decrease, which in the 1980s led to a crash in oil prices and a global recession. But, Pratt writes, that was "not before many energy-related institutions had made decisions, which they would come to regret, based on

[3] See for example: Meg Jacobs, *Panic at the Pump: The Energy Crisis and the Transformation of American Politics in the 1970s* (New York: Farrar, Straus and Giroux, 2016); Robert Lifset, ed., *American Energy Policy in the 1970s* (Norman: University of Oklahoma Press, 2014).

[4] These sources included deep-water deposits in the Gulf of Mexico, and remote areas like Prudhoe Bay and the Beaufort Sea. The oil industry experimented with synthetic fuels including shale oil, coal liquefaction, and synthetic oil from bitumen during brief periods of perceived oil scarcity in the 1920s and 1950s, but the 1970s marked the first sustained efforts by the oil industry to produce synthetic fuels. Joseph A. Pratt and William E. Hale, *Exxon: Transforming Energy, 1973-2005* (Austin: Dolph Briscoe Center for American History: The University of Texas at Austin, 2013), 196-205; Tyler Priest, *The Offshore Imperative: Shell Oil's Search for Petroleum in Postwar America* (College Station: Texas A&M University Press, 2007); Tyler Priest, "Shifting Sands: The 1973 Oil Shock and the Expansion of Non-OPEC Supply," in *Oil Shock: The 1973 Crisis and its Economic Legacy*, ed. Elisabetta Bini, Giuliano Garavini, and Frederico Romero (London and New York: I.B. Taurus & Co. Ltd, 2016).

shaky assumptions about the future of oil shared by almost everyone in the oil industry."[5]

The energy crisis gave the oil sands industry new significance and momentum that shaped governance and allowed for environmental degradation. Thomas Hughes's concept of technological momentum is valuable for understanding the Alberta oil sands industry. Hughes argues that while social actors drove the early development and popularization of energy systems, as these new energy sources and technology became entrenched in the society's economy, the system gained momentum, which drove social change and created path dependence on the new system.[6] Christopher Jones's work on coal canals, transmission wires, and pipelines showed how new energy networks allowed growing industrial societies to escape the Malthusian trap. The Malthusian trap was a situation described by Thomas Malthus where starvation would stop exponential population growth when it outpaced the linear growth of food supplies. Mineral energy supplies from afar, such as coal, displaced organic sources procured locally, such as wood, at the expense of

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[5] Pratt and Hale, *Exxon*, 205.

[6] Technological momentum resolved some of the debates between social constructivism and technological determinism. Technological determinism emphasized the agency of technology as a force of social change. Social construction emphasized human agency in the creation of technology and maintained that the uses of a given technology could not be understood outside of its embedded social context. Social constructivists criticized technological determinists, who, they argued, treated technology as a "black box" with no accounts of structures, workings, or social origin. Technological determinists argued that social constructivism explained how technologies developed but ignored the consequences of new technologies, which resulted in a sociology of technology devoid of a broader significance. It took social construction to establish a system, but technological determinism emerged once the new system gained momentum. Thomas P. Hughes, "Technological Momentum in History: Hydrogenation in Germany 1898-1933," *Past & Present* (1969 1969); Thomas P. Hughes, *Networks of Power: Electrification in Western Society, 1880-1930* (Baltimore and London: The Johns Hopkins University Press, 1983); Thomas P. Hughes, *American Genesis: A Century of Invention and Technological Enthusiasm* (New York: Penguin Books, 1990); Merritt Roe Smith and Leo Marx, *Does Technology Drive History?: The Dilemma of Technological Determinism* (Cambridge, Mass.: MIT Press, 1994, 1994); Langdon Winner, "Upon Opening the Black Box and Finding it Empty: Social Constructivism and the Philosophy of Technology," *Science, Technology & Human Values* 18 (1993); Jacques Ellul, *The Technological Society*, trans. John Wilkinson (New York: Knopf, 1964); David S. Landes, *The unbound Prometheus: technological change and industrial development in Western Europe from 1750 to the present* (Cambridge, UK and New York: Cambridge University Press, 2003); Lynn White, *Medieval Technology and Social Change* (New York: Oxford University Press, 1962); T. J. Pinch, Thomas Parke Hughes, and Wiebe E. Bijker, *The Social Construction of Technological Systems: New Directions in the Sociology and History of Technology* (Cambridge, Mass: MIT Press, 2012).

other land uses. Jones argues that the transition to fossil fuels was not an inevitable technological progression. It was a shift that resulted from significant social effort by engineers, financiers, and boosters. Once built, the new energy networks fueled continuing industrial growth and further demand for fossil fuels.[7] Paul Sabin and Christopher Wells show that industry boosters, rather than the demands of consumers, drove the entrenchment of hydrocarbon extraction and transportation systems.[8]

The example of the Alberta oil sands industry shows how the development of unconventional oil sources was a contingent historical process shaped by the efforts of government and the oil industry. The oil sands industry did not gain momentum until the energy crisis drove prices high enough for synthetic oil to be profitable. Building on the work of Jones, Hughes, Sabin, and Wells, this chapter shows how the oil sands industry gained a kind of "too big to fail" political economic momentum. The sunk and prospective costs of the two main oil sands plants, Great Canadian Oil Sands (GCOS) and Syncrude, informed political decisions about development and the effects of the projects on the environment and Indigenous communities in the Athabasca region.

Research and Development in the Early 20th Century

In its natural state, bitumen has a high viscosity and only approaches fluidity at hot temperatures. While bituminous sands occur in other places, such as Utah, the Athabasca bitumen deposits are unique because a layer of water separates the grains of sand from the bitumen. This makes it easier to separate the bitumen from the sand during the hot water

[7] Christopher F. Jones, *Routes of Power: Energy and Modern America* (Cambridge, Mass.: Harvard University Press, 2014).
[8] Paul Sabin, *Crude Politics: The California Oil Market 1900-1940* (Berkley and Los Angeles: University of California Press, 2005); Christopher W. Wells, *Car Country: An Environmental History* (Seattle: University of Washington Press, 2012).

separation process.[9] Scientists knew that bitumen could be upgraded into synthetic crude oil by the mid-19th century. But the cost and difficulty of producing oil from bitumen discouraged research other than during crises like wars and energy shortages. The First World War showed the superiority of internal combustion over pre-existing sources of power like steam and livestock. The internal combustion engine drove twentieth-century industrialization.[10]

Figure 8: Unknown photographer, "Abasand Refinery Boiler Plant (1942)," image 85-22-008, University of Alberta Archives (UAA).

[9] C. W. Bowman, Chairman, Alberta Oil Sands Technology and Research Authority, and G. W. Govier, Chief Deputy Minister, Department of Energy and Natural Resources, "Status and Challenges in the Recovery of Hydrocarbons from the Oil Sands of Alberta, Canada," Conference Presentation, *Tenth World Energy Conference,* 19-24 September 1977, in R1526 vol. 267 file no.5 file.243-14, Library and Archives Canada (LAC).

[10] Vaclav Smil, *Prime Movers of Globalization: The History and Impact of Diesel Engines and Gas Turbines* (Cambridge, MA: MIT Press, 2010).

Shortly after the Turner Valley discovery in 1913, the Alberta government funded a bitumen research program led by Karl Clark, a research scientist at the University of Alberta. Between 1922 and 1925, Clark found that adding bituminous sand to boiling water caused the bitumen to retract, separate from the sand, and float to the surface of the water. The sand would sink, and the bitumen could be skimmed from the surface. The experimental Abasand Oils Plant near Fort McMurray used Clark's hot water separation process in its operations between 1930 and 1945 (Figure 8).[11]

Petroleum became critical to modern warfare during the Second World War.[12] New oil field discoveries had declined in the US before the war, while demand increased when the US entered the war after the attack on Pearl Harbour in 1941. Canada's participation in the war increased its own demand for oil. The torpedoing of two Canadian tankers owned by Imperial Oil northeast of Bermuda in February, 1942, and declining conventional oil production from the Turner Valley threatened Canada's oil supplies. Canada had few known petroleum reserves at the time and could not rely on imported oil from the US. Federal oil controller George Cotrelle ordered Abasand to be upgraded to process 10,000 tons of bitumen per day from 19,000 tons/year, despite unresolved technical problems.[13] The oil sands was one of several important energy projects developed in Canada during the Second World War. Others included the Canol Pipeline, uranium extraction at Great Bear Lake, and hydroelectricity in Québec.[14] Federal Minister of Munitions and Supply C. D.

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[11] Chastko, *Developing Alberta's Oil Sands*, 1.
[12] Daniel Yergin has argued that oil determined the outcome of numerous pivotal battles and singly shaped the outcome of the six-year conflict. Daniel Yergin, *The Prize: The Epic Quest for Oil, Money, and Power* (New York: Free Press, 1991).
[13] Chastko, *Developing Alberta's Oil Sands*, 30.
[14] Matthew Evenden, "Aluminium, Commodity Chains, and the Environmental History of the Second World War," *Environmental History* 16 (January 2011); Matthew Evenden, *Allied Power: Mobilizing Hydro-electricity during Canada's Second World War* (Toronto: University of Toronto Press, 2015); Arn Keeling, "'Born in an Atomic Test Tube': Landscapes of Cyclonic Development at Uranium City, Saskatchewan," *The*

Howe and Alberta Premier William Aberhart agreed to share the costs of the Abasand plant.[15] Technical problems hampered and frequently stopped production. For example, the mechanical shovels could not dig when the temperature sank below 7º C, because the bits would wear out or break.[16] The federal government pledged $500,000 to rehabilitate the Abasand plant in 1942. In 1943, it broke its ties with the Alberta Research Council and took full control of the plant.[17] In 1945 the Abasand plant burned to the ground, and the federal government abandoned its own involvement in efforts to produce oil from bitumen until the 1970s.

After the federal government withdrew from the oil sands, the provincial government collaborated with private investor Lloyd Champion to build the Oil Sands Limited Plant at Bitumount in 1946 (Figure 9).[18] As the new Bitumount plant reached completion, Imperial Oil struck oil near Leduc, Alberta, in 1947. Imperial was pumping 3,500 barrels per day from 30 different wells by the end of that year. The Leduc discovery was followed by the Redwater field in 1948, and the Joarcan, Golden Spike, Settler, Excelsior, and Bon Accord fields in 1949.[19] The new supplies eliminated the demand for synthetic oil.[20] Conventional oil production boomed as new reserves were discovered faster than older reserves were consumed. When supply overtook demand in 1949 industry asked

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Canadian Geographer 54, no. 2 (2010); Liza Piper, *The Industrial Transformation of Subarctic Canada* (Vancouver: UBC Press, 2009).

[15] Chastko, *Developing Alberta's Oil Sands*, 43.

[16] Chastko, *Developing Alberta's Oil Sands*, 52.

[17] At the same time, the federal government took control of Eldorado Mining and Refining and made it into a Crown Corporation to control uranium production. Piper, *The Industrial Transformation of Subarctic Canada*, 114.

[18] Chastko, *Developing Alberta's Oil Sands*, 59.

[19] David Breen, "The Making of Modern Alberta," in *Alberta formed, Alberta transformed*, ed. Catherine Anne Cavanaugh, Michael Payne, and Donald G. Wetherell (Edmonton: University of Alberta Press, 2006), 554.

[20] David Breen, *Alberta's Petroleum Industry and the Conservation Board* (Edmonton: University of Alberta Press, 1993), 245-46.

for a pro-rationing system—a regulatory strategy of restricting oil production to prevent to price collapse.[21]

Figure 9: Unknown Photographer, "Bitumount Plant, (1949)," image 91-137-172, UAA.

To manage overproduction, the Alberta government overhauled the 1938 *Oil and Gas Resources Conservation Act* and passed a new act of the same name in 1950, which expanded the Petroleum and Natural Gas Conservation Board's (PNGCB) powers to regulate production.[22] Despite the small scale of the Bitumount plant, conventional producers felt threatened by any oil supply contribution to an overflowing market. To

[21] Global oil supplies also rapidly increased as producers sought new deposits and the US fought to control of oil production in the Middle East. Between 1949 and 1972 proven world oil reserves increased from 62 to 534 billion barrels. Yergin, *The Prize*, 72,410; Chastko, *Developing Alberta's Oil Sands*, 72.
[22] Breen, *Alberta's Petroleum Industry and the Conservation Board*, 307.

protect bitumen, Premier Ernest Manning's Social Credit government exempted the oil sands industry from pro-rationing and maintained its support for Bitumount as a strategic reserve.[23] After petroleum engineer Sidney Blair published a favourable report on bitumen, the Alberta government hosted a conference to promote the oil sands industry in 1951.[24] Minister of Mines Nathan Tanner said that the oil sands industry was essential to "further the security of this continent," by defending the west from communism and protecting a "Christian way of life." Promoting Christianity was important, he argued, because "communism and dictatorship have been able to take over in countries only to the extent that people refused to accept and apply the teachings of God." The Social Credit government's Christianity shaped its purpose for developing the oil industry and how it understood the environment and its responsibility to protect it. Following the conference Alberta sold leases, many of which Sidney Ells had earmarked decades earlier, for $1.00 per acre and a 10 per cent royalty.[25]

Social Credit governed Alberta from 1935 to 1971. It began as a Christian social reform party focused on the rights of workers, farmers, and small business owners impoverished by the Great Depression. In its early years, under Premier William Aberhart, Social Credit opposed the oil industry and tried to break up big business. Under Premier Ernest Manning, who governed from 1943-1968, the party changed to represent right-wing rural Christians and took a laissez-faire approach to the business community and the oil industry.[26] Manning believed in dispensational premillennialism—a Biblical theory that

[23] Province of Alberta, 1955, Chapter 57, "An Act relating to Statues Affecting Bituminous Sands Operations," (6 April 1955), RG22 vol. 1334 file 40-3-36 vol. 1, LAC.
[24] Sidney M Blair, *Report on the Alberta Bituminous Sands* (Edmonton: Government of Alberta, 1950).
[25] Nathan E. Tanner, "Government Policy Regarding Oil-Sand Leases and Royalties," in *Proceedings: Athabasca Oil Sands Conference* (Edmonton: King's Printer, 1951), 176; Chastko, *Developing Alberta's Oil Sands*, 86-91.
[26] Alvin Finkel, *The Social Credit Phenomenon in Alberta* (Toronto: University of Toronto Press, 1989), 217.

history was divided into different ages during which humanity must steward Christianity. Christ would return before the end of the millennium to bring Christians to heaven.[27] For Manning, oil was the means to transition the province away from agrarian life and bring humanity closer to Christ. In a 1962 essay he wrote:

> We should be anxious for people to know about the oil which in the lamp of God's Word produces a light that shines across the darkness of this world in order that men may find their way to Jesus Christ, the one who alone can save and who can solve their problems, whatever they may be.[28]

Manning recruited American oil companies to work in Alberta. Among those that came were Imperial Oil, the Canadian subsidiary of the Standard Oil Company of New Jersey, and Sun Oil of Philadelphia. Manning developed a close relationship with J. Howard Pew of Sun Oil. The two men bonded over their faith and belief in the importance of developing secure oil supplies in North America.[29]

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The post-war boom in conventional oil and natural gas made the growth of the industry contingent on export, with pipelines preferred to ship oil to western and central Canadian markets.[30] Oil companies first built pipelines to move oil from oil fields in Pennsylvania in the late-nineteenth century. After several decades competing with other transport methods like canals and rail, pipelines became the preferred way of transporting oil and gas over long distances.[31] In Alberta, pipeline construction began with a natural gas pipeline from

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[27] Darren Dochuk, *Anointed With Oil: How Christianity and Crude Made Modern America* (New York: Basic Book, 2019), 349.
[28] Ernest Manning, "Christian Statesmanship," 6; "Suncor, Inc.: An Account of the First Seventy Years," 7-8, 32-33, folder "Subsidiaries, 1987," box 605, SOC, HLM, cited in Dochuk, *Annointed with Oil*, 418.
[29] Standard Oil of New Jersey was one of the descendants of John Rockefeller's Standard Oil, today called ExxonMobil. Dochuk, *Annointed with Oil*, 414.
[30] Sean Kheraj, "A History of Oil Spills on Long-Distance Pipelines in Canada," *The Canadian Historical Review* 101, no. 2 (June 2019).
[31] Jones, *Routes of Power*.

Bow Island to Calgary in 1912. During the Turner Valley oil boom, a pipeline moved oil from the field to Calgary refineries.[32] Edmonton was the service center for the Canol Pipeline during the Second World War. In 1949, the federal government passed *An Act Respecting Oil or Gas Pipe Lines,* the Pipe Lines Act, which established federal regulation of interprovincial and international pipelines.[33] In 1950, the 1,800 kilometre Interprovincial Pipeline was built to transport oil from Edmonton to Superior, Wisconsin, to supply eastern markets via oil tankers, including the Sarnia, Ontario, refineries.[34] Between 1950 and 1953, the Trans Mountain Pipeline Company and Canadian Bechtel Limited built the Trans Mountain Pipeline (the precursor to the controversial Trans Mountain Expansion Pipeline) from Edmonton to Burnaby, B.C. at a cost of $93 million.[35] In 1958, after years of political debate and controversy, TransCanada Pipelines, a Canadian and American consortium, finished building the 3,692 kilometre TransCanada natural gas pipeline, which moved natural gas from Alberta to Ontario and Quebec over the Canadian Shield.[36]

By providing access to distant markets, the new pipeline network freed Alberta producers from the constraints of domestic demand. David Breen describes the subsequent growth of the Alberta economy in these terms:

> In an instant, Alberta's dream of building a more diversified economy less dependent on agriculture was given a dramatic boost. By 1960 the value of oil and gas products exported from the province surpassed the returns

[32] "History of Pipelines," Canadian Energy Pipeline Association, http://www.cepa.com/about-pipelines/history-of-pipelines.
[33] *An Act Respecting Oil or Gas Pipe Lines,* SC 1949, c. 20.
[34] Ed Gould, *The History of Canada's Oil and Gas Industry* (Vancouver: Hancock House Publications, 1976), 155.
[35] $95 million is about $900 million in 2016 dollars. Richard Finnie, "Oil Across the Rockies," (W.A. Palmer Films Inc. and Trans Mountain Oil Pipeline Company, 1953).
[36] The 1956 pipeline debate was a major political crisis that led to Louis St. Laurent's Liberal government's defeat by John Diefenbaker's Progressive Conservative opposition in 1957. Breen, "The Making of Modern Alberta," 393-400; William Kilbourn, *Pipeline: TransCanada and the Great Debate: A History of Business and Politics* (Clarke Irwin: Toronto, 1970); Graham D. Taylor, *Imperial Standard: Imperial Oil, Exxon, and the Canadian Oil Industry from 1880* (Calgary: University of Calgary Press, 2019), 198-203.

> earned from agriculture. Population growth from 803,000 to 1,123,000 over the decade that followed the discovery offers striking evidence of the impact of the province's oil-fired economy. Alberta quickly became and remained the fastest growing province in the country.[37]

In the late 1960s, following intense lobbying efforts as the oil industry expanded, shippers increased pipeline capacity and built more diversions into the United States.[38] Christopher Jones shows how the cost of building pipelines discouraged investment in alternative energy systems. Pipelines created paths of least resistance, which incentivised the use of the system. Once a society invests in a large energy system it can create a path-dependence that is hard to break.[39] Since pipelines are built to last decades, new pipeline construction channels energy flows across long time frames.[40] The construction of oil and gas export pipelines enabled growth in hydrocarbon production and linked Alberta's oil and gas production with energy markets in Canada and especially the United States. When conventional oil production in Alberta started to peak in the l960s and 70s, the existence of the export pipeline network encouraged renewed development of the oil sands industry.

Great Canadian Oil Sands

The first big foreign investment in bitumen was by the Sun Oil Company of Philadelphia.[41] Sun Oil took interest in the oil sands in 1951 at the suggestion of Calgary

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[37] Breen, "The Making of Modern Alberta," 561.
[38] Max Foran, "Embracing the Future… at Arm's Length," in *Alberta formed, Alberta transformed*, ed. Catherine Anne Cavanaugh, Michael Payne, and Donald G. Wetherell (Edmonton: University of Alberta Press, 2006), 622.
[39] Christopher Armstrong and H.V. Nelles, *Wilderness and Waterpower: How Banff National Park Became a Hydroelectric Storage Reservoir* (Calgary: University of Calgary Press, 2013), viii; Joel Tarr, *The Search for the Ultimate Sink: Urban Pollution in Historical Perspective* (Akron: University of Akron Press, 1996); Martin Melosi, *Effluent America: Cities, Industry, Energy and the Environment* (Pittsburgh: University of Pittsburgh Press, 2001).
[40]Jones, *Routes of Power*.
[41] The Canadian economy has historically been rich in primary resources but short on capital to build extractive industries to exploit them, and so has often looked to the United States for investment. See for example: Daniel Drache, ed., *Staples, Markets, and Cultural Change: Selected Essays* (Montreal: McGill-Queen's University Press, 1995); H.V. Nelles, *The Politics of Development: Forests, Mines and Hydro-*

employee Ned Gilbert. It invested in Great Canadian Oil Sands after Egyptian President Gamal Abdel Nasser nationalized the Suez Canal in 1956. When the Suez Crisis compromised Sun Oil's production in the Middle East, the company looked to develop geographically diverse supplies of oil to hedge against the energy security threats posed by the increasingly volatile Cold War.

GCOS took over Abasand to develop leases 4 and 14, which were 65 kilometres north of Fort McMurray but south of Fort McKay, on the west bank of the Athabasca River.[42] GCOS submitted a proposal for a 35,000 bbl./day synthetic oil plant and lobbied for tax and royalty reductions to improve the economics of the project. In 1959, GCOS Managing Director T.P. Clarke asked Alvin Hamilton, federal Minister for Northern Affairs and National Resources to classify GCOS as a mine. This would give the project a three-year tax holiday, a 33.33 per cent depletion allowance, and an exemption from import and sales tax. Clarke wrote that these conditions were "the only basis that makes our project economically feasible."[43] Depletion allowances were tax concessions that allowed oil companies to deduct a percentage (33.33 per cent) of the income from their producing wells (or mines in this case) and write off losses from failed exploration. It accounted for the deprecation of the value of the reserve by its production.[44] Hamilton approved the

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Electric Power in Ontario, 1849-1941 (Toronto: Macmillan, 1974); Melissa Clark-Jones, *A Staple State: Canadian Industrial Resources in Cold War* (Toronto: University of Toronto Press, 1987); Jim Mochoruk, *Formidable Heritage: Manitoba's North and the Cost of Development, 1870 to 1930* (Winnipeg: University of Manitoba Press, 2004).

[42] J.M. Parker, "Athabasca Oil Sands Historical Research Project," *Alberta Oil Sands Environmental Research Program* (1979): xxi.

[43] T.P. Clarke, Managing Director, GCOS, to Alvin Hamilton, federal Minister for Northern Affairs and National Resources, 19 February 1959, RG22 vol. 1334 file 40-3-36 vol. 1, LAC.

[44] American oil companies prized depletion allowances because they were tax loopholes that minimized the financial risks of exploration and increased the tax-free profit of a successful discovery. Targeted by reformers, president Gerald Ford's administration ended depletion allowances in 1975. Dochuk, *Annointed with Oil*, 340, 490.

request for mine status but did not exempt the project from import and sales taxes.[45] Though the GCOS proposal process went smoothly, the conventional oil supply glut worsened. Responding to pressures from conventional oil producers, Premier Manning threatened to indefinitely suspend synthetic oil plant approvals in 1962. Nonetheless, the Oil and Gas Conservation Board (OGCB) approved GCOS in 1963.

Lease No. 4 was very remote—531 kilometres by rail and barge north of Edmonton, Canada's most northern major city. When Sun Oil built GCOS, it had to build, mostly from scratch, all the infrastructure necessary to access and develop the project.[46] GCOS consultant J. Joseph Fitzgerald, described the difficulties his team encounter accessing the site. Fitzgerald's team brought a Caterpillar D7 tractor north from Mildred Lake in May of 1963. The team drove into the lease area on an abandoned winter road, which had been cut by a drilling crew in 1949. Fitzgerald wrote, "From a point known as B 72 we struck out for the river in a north easterly direction but struck muskeg, which halted the tractor before we could reach the river. We then went south east on high land and reached the river in an area called the Tar Island Snye." Through June, the crew built roads into the lease, and cleared drilling and coring sites. On 3 July 1963, Sun Oil directors J. Howard Pew, Clarence Thayer, Darwin W. Ferguson, and George Dunlap visited the site from Philadelphia. On 4 July, Canadian Bechtel began construction of the test plant. Fitzgerald's description of getting the tractor stuck in the muskeg, a type of wetland found in the boreal forests, and his plan to "convey the party to the north end of Lease 4 over the

[45] T.P. Clarke, Managing Director, GCOS, to Alvin Hamilton, federal Minister for Northern Affairs and National Resources, 19 February 1959, RG22 vol. 1334 file 40-3-36 vol. 1, LAC

[46] For more on transportation infrastructure development in subarctic Canada see K.J. Rea, *The Political Economy of the Canadian North: An Interpretation of the Course of Development in the Northern Territories of Canada to the Early 1960s* (Toronto: University of Toronto Press, 1968); Piper, *The Industrial Transformation of Subarctic Canada*; Morris Zaslow, *The Northward Expansion of Canada 1914-1967* (Toronto: McClelland and Stewart, 1988).

muskeg by Bombardier (semi-tracked vehicle)," anticipated some of the sticky problems that would face the GCOS project.[47]

As construction progressed on the GCOS lease, the US oil industry majors Cities Service, Imperial Oil, Royalite, and Atlantic Richfield formed the Syncrude consortium in 1966 and began planning a second oil sands plant. These companies formed Syncrude to develop unconventional oil in response to declining conventional supplies in Alberta, global tensions and conflicts associated with the Cold War, and increasing demand for oil.[48]

The GCOS plant opened in September of 1967, Canada's centennial year, as Alberta conventional oil production began to decline. The timing, three months after the Six Day War between Israel, Egypt, Jordan, and Syria, was symbolic for Premier Manning. He saw the battle as a divine conflict that signaled the return of Christ and the coming of the messianic age.[49] Conflict in the Middle East lent urgency and importance to the oil sands. Sun Oil's J. Howard Pew commemorated the occasion in Biblical terms that echoed the sentiments of the Social Credit government:

> God gave to man dominion over all of the earth and then assigned to him the task of subduing it. It seems to me that the leader of the Alberta Government must have had this injunction in mind when he commissioned our Company to open up the Athabasca Tar Sands and thus make this great natural resource available to humankind.[50]

Pew, a staunch opponent of communism, also presented GCOS as an important part of Cold War energy security. He said: "No nation can long be secure in this atomic age unless

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[47] J. Joseph Fitzgerald, "Sunoco Party # 2 Visit to Fort McMurray - Lease 4 - September 19, 1963," Accession 1317, Vol. 1, Series 6, Box 35, Folder 1, Hagley Museum and Library (HML).
[48] Syncrude Canada, "Submission Regarding Oil Sands Development Policy," May 11, 1966, M6856, CPA, box 4, file 27, GA, cited in Chastko, *Developing Alberta's Oil Sands*, 121.
[49] Dochuk, *Annointed with Oil*, 450.
[50] J. Howard Pew, September 22, 1967, Acc. 1317, volume 2, series 11B, box 610, folder 5, HML.

it be amply supplied with petroleum… if the North American continent is to produce oil to meet its requirements in the years ahead, oil from the Athabasca area must of necessity play an important role."[51] Pew considered developing GCOS a personal responsibility that contributed to securing the West during the heightening tensions of the Cold War.

At the close of the 1960s, the oil boom that had fuelled Alberta since 1947 ended. Atlantic Richfield (ARCO) discovered the Prudhoe Bay oil field on Alaska's North Slope in January 1968. ARCO initially estimated the deposit held ten billion barrels of oil and 740 billion cubic meters of natural gas. ARCO produced over one million barrels of oil per day from Prudhoe Bay by the 1970s.[52] Political scientists John Richards and Larry Pratt argued that Prudhoe Bay turned the industry's gaze to the North Slope and the Beaufort Sea, overlooking Alberta for exploration. Alberta feared Prudhoe Bay would allow the US to regain its energy independence and displace imports from Alberta. Premier Harry Strom's Social Credit government delayed Syncrude's approval for three years, bowing to pressure from conventional producers and fear that the project would not be able to cover its costs. Peter Lougheed's Progressive Conservative opposition party criticized the government's hesitation. Lougheed said that if elected, he would take initiative to develop the province's energy sector.[53]

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Unlike conventional oil, which could be pumped out of the ground and refined into a marketable product; bitumen was a low-grade, discontinuous hydrocarbon that had to be

[51] J. Howard Pew, September 22, 1967, Acc. 1317, volume 2, series 11B, box 610, folder 5, HML.
[52] The Prudhoe Bay oil field is now thought to have totaled 25 billion barrels, United States Geological Survey, *Estimated Speculative Recoverable Resources of Oil and Natural Gas in Alaska*, Department of Natural Resources (State of Alaska, 1974).
[53] Richards and Pratt, *Prairie Capitalism*, 169.

strip mined, separated from the sand, then upgraded into synthetic crude oil.[54] This complicated and costly process was only viable when oil prices were high and when done in large quantities to exploit economies of scale. The technology for in-situ extraction was not yet available.[55]

Strip mining bitumen required removing about twenty metres of overburden—an industry term for the rock, soil, wetlands, and trees that cover a deposit. GCOS used bulldozers, trucks, and bucket wheels to extract bitumen. Bucket wheel extractors are large excavation machines that consisted of a wheel rimmed with toothed buckets, which rotated to excavate bituminous sand (Figure 10). Large conveyor belts transported the material from the extraction site to the central processing facility. At the central processing facility, the conveyor belt dumped the bituminous sand into a crusher, which broke large chunks into a finer consistency and passed it through to separation. Hot water separation boiled the bituminous sand so that the bitumen liquefied, separated from the grains of sand, and floated to the surface. The process consumed a huge amount of water and created vast quantities of liquid tailings which filled large tailings ponds.

[54] Making synthetic oil was more like mining than conventional oil production. Bauxite mining for instance, requires significant milling and processing to make aluminum. See Evenden, "Aluminium, Commodity Chains." Bitumen can also be extracted in-situ, typically with Steam Assisted Gravity Drainage (SAGD) a technology that has proliferated since the 1990s. Surface mining still accounts for around half of bitumen production in Alberta. Alberta Energy Regulator, ST98 Commodity Forecast and Analysis: Crude Bitumen Production, https://www.aer.ca/providing-information/data-and-reports/statistical-reports/crude-bitumen-production.

[55] The oil sands industry in the 1970s was to oil what Daniel Jackling's copper mines were to copper in the 1920s. As rich deposits declined, and prices increased, Jackling turned to low-grade ore bodies, open-pit mining, and large-scale rock-crushing extraction processes. Tim LeCain, *Mass Destruction: The Men and Giant Mines that Wired America and Scarred the Planet* (New Brunswick, New Jersey and London: Rutgers University Press, 2009), 9.

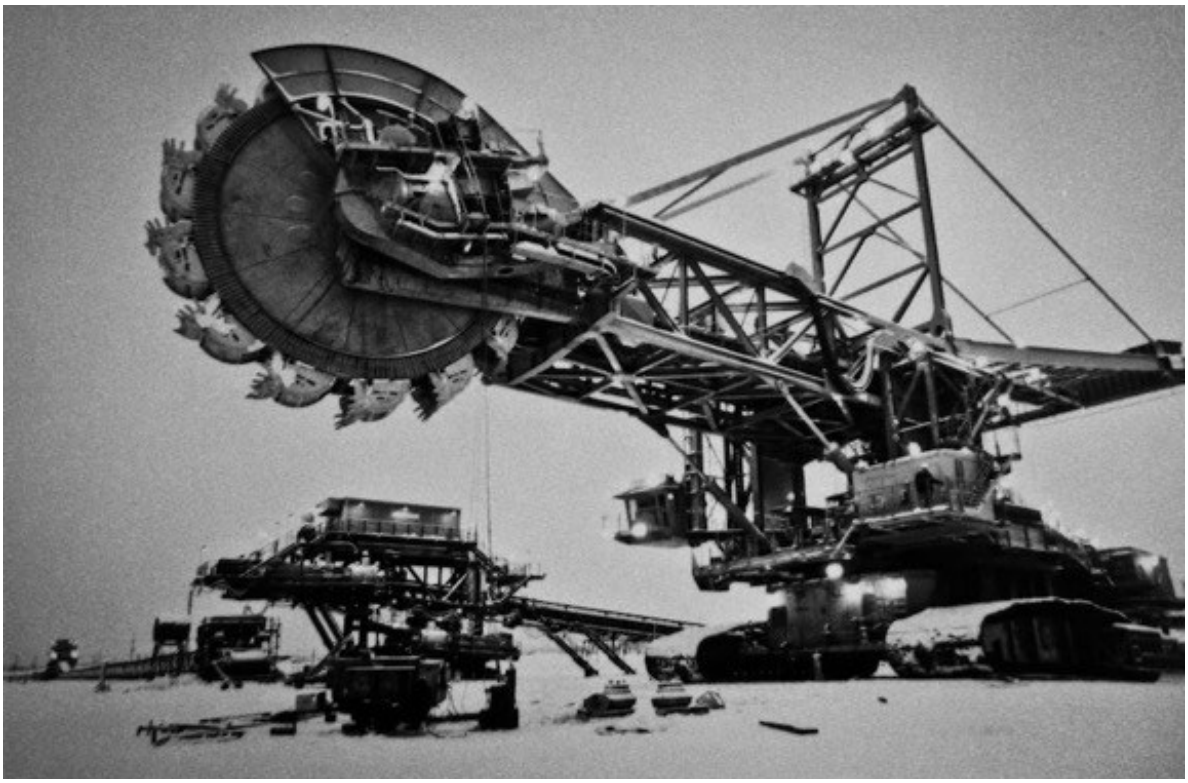

Figure 10: Alan Orling, “Bucket reclaimer (full view) at Syncrude Facility in Alberta, Canada. Oil Sands operation,” (Winter 1978), Large-format negative, Imperial Oil Archives, IP-6s-2-5, Glenbow Archives (GA).

The GCOS plant processed 7,000 tonnes of bitumen and produced 45,000 barrels of synthetic crude oil per day by the end of the 1970s. Construction started on the Syncrude facility in early 1976, and the plant started production in 1978. Syncrude used a dragline excavator, which consisted of a large toothed bucket suspended from a lifting crane boom that would extract and move bituminous sand. It worked with a bucket wheel and conveyor belt to excavate 17,000 tonnes of bituminous sand per day. GCOS needed 10,700 litres of water per tonne of synthetic crude oil production. The GCOS tailings pond covered over nine square kilometres by the mid-1970s. The original Syncrude tailings pond covered 28 square kilometres over the span of its life (Figure 11).

Figure 11: Victor Post, “Tailings: Southwest corner of tailings pond with future Buffalo pasture in background,” (1992) IP-6s-2-7-9, GA.

Converting bitumen into a marketable hydrocarbon is a complex and energy intensive process. Raw bitumen is about 1000 times more viscous than conventional light oil. It is rich in sulphur and complex long-chain hydrocarbons, which must be broken down into smaller molecules with thermal cracking. The characteristics of bitumen created three issues for the oil sands industry: shippers could not transport raw bitumen in pipelines, it was expensive to break down, and conventional oil refineries could not process it. GCOS and Syncrude had to upgrade their raw bitumen to reduce its viscosity for pipeline transport, reduce its sulphur content (which created yellow mountains of sulphur), and break down long-chain hydrocarbons for processing in conventional refineries.

The thermal cracking process, also called coking, converted the heavier fractions into a refineable product by heating the bitumen to more than 400ºC to break carbon-

carbon bonds in the complex heavy hydrocarbons, and removing the excess carbon. Coking improved the hydrogen to carbon ratio of the bitumen and created shorter chain molecules required for upgrading. Fractional distillation separated the remaining heavier hydrocarbons from lighter hydrocarbons by heating the bitumen mixture to separate the various fractions by their boiling point. The upgrader then blended the different liquid fractions to produce synthetic crude oil.[56]

The GCOS upgrader had an energy return on energy invested (EROEI) ratio of 59 per cent. Syncrude's upgrader was marginally more efficient with an EROEI of 67 per cent, but both plants required more energy inputs than they produced.[57] Bitumen upgrading used lots of water, electricity, and natural gas. It produced toxic by-products, which filled tailings ponds and were released through smokestacks.

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The GCOS plant had a thin profit margin that depended on successful operation and increasing oil prices. It soon suffered from mechanical problems, which prevented the plant from operating at full capacity, and errors in Sun's oil price forecasts. The bucket wheel excavators were geared too high for the abrasive and sticky bituminous sands, which led to constant break downs. The conveyor belt system was not adjustable and kept clogging with bitumen. Although the extraction plant was functional, workers kept having to change its operating speed because of problems with the bucket wheels and conveyor belts, which created bottlenecks. The boilers for steam generation broke down often, which caused

[56] Murray R. Gray, *Upgrading Oilsands Bitumen and Heavy Oil* (Edmonton: University of Alberta Press, 2015).

[57] EROEI is a ratio of the amount of energy obtained from a given energy source to the amount of energy used to extract and process it. C.W. Bowman and G.W. Govier, "Status and Challenges in the Recovery of Hydrocarbons from the Oil Sands of Alberta, Canada," Conference Presentation, *Tenth World Energy Conference* 19-24 September 1977, R1526 vol. 267 box 5 file 243-14, Library and Archives Canada (LAC).

problems for the parts of the extraction process that relied on steam. GCOS was overwhelmed by the volume of liquid tailings the plant produced.[58] The tailings ponds caused oil spills, polluted the Athabasca River, and killed migratory birds.

By 1970, the GCOS project, which cost $380 million to build, had a deficit of $75.5 million, and the company claimed losses of $46.5 million from October 1968 to September 1970.[59] By 1969, the price of Sun Oil stock started falling, and shareholders wrote to Sun Oil management asking why the company was losing so much money in Canada.[60] One shareholder sued Sun Oil for failing to disclose its GCOS losses when it merged with the Sunray DX oil company.[61] Sun Oil President Robert Dunlop wrote to Alberta Premier Harry Strom in May and June of 1970, explaining that mechanical failures had prevented the plant from operating at capacity and oil prices had not risen to predicted levels, which meant that the operation was continuously losing money. Dunlop wrote that Sun Oil was looking into spending another $80 million to try to make GCOS profitable but "it is mandatory that our cash losses must be stopped." Dunlop asked for royalty reductions, new lease agreements, and the cancellation of sales agreements.[62] The Canadian Petroleum

[58] H.R. Sharbaugh to W.T. Askew, "GCOS Visit – May 27-29, 1968," 14 Jun 1968, Acc. 1317, v. 1, s. 6, box 35, folder 6, Robert Dunlop GCOS 68, HML, Harold V. Page to K.F. Heddon, "GCOS Status Report September 1969," 14 October 1969, Acc. 1317, v. 1, s. 6, box 36, folder 1 Robert Dunlop GCOS 69, HML.
[59] The figure of $380 million is the total cost of building the plant. The breakdown of costs was $256 million in plant construction, $90 million in pre-production and development, $3 million in road construction to Fort McMurray, $2 million contribution to build a bridge over the Athabasca River, $13 million in construction of employee housing in Fort McMurray, and $16 million to construct a pipeline to Edmonton. Harold Rea, Chairman of the Board and K. F. Heddon, President, GCOS, to The Honourable E. J. Benson, Minister of Finance, Ottawa, Canada, "Brief of Great Canadian Oil Sands Limited in respect of sales taxes paid under the Excise Tax Act of Canada on its Athabasca Tar Sands plant," 18 November 1970, RG19 vol.5235 file 9628-15-2 vol.1, LAC.
[60] For example: Albert Toole to Robert Dunlop, 11 June 1969, Acc. 1317, v. 1, s. 6, box 36, folder 1-3 Robert Dunlop GCOS 69, HML.
[61] John Whitmore filed a suit against Sun Oil in 1968. Acc. 1317, v. 2, s. 1e, box 78, folder Stockholder Suits, HML.
[62] Robert Dunlop to Harry Strom, 1 May 1970, and 12 June 1970, Acc. 1317, v. 1, s. 15, box 146, Robert Dunlop GCOS 68, HML.

Association asked federal and provincial ministers to reduce GCOS's royalties, forgive some of its debts, remit taxes, and grant it tax holidays. Premier Strom reduced GCOS's production royalties from 16 to eight per cent starting April 1970.[63] The royalty reduction eased Sun Oil's financial burdens, but it also limited government revenue from GCOS when prices rose later in the decade.

In 1970, GCOS asked the federal government to remit sales tax it paid on machinery during construction between 1964 and 1967. The federal government removed sales tax exemptions on production equipment and building materials from the *Excise Tax Act* in June 1963.[64] It restored these exemptions in June 1967. GCOS asked the government to return $8.75 million it paid in sales tax under the 1963 *Excise Tax Act*. It argued that it should receive this refund because the plant was not formally delivered until August 1967, after the government had restored the exemptions.[65] GCOS also argued that the government should grant the tax remission because the project created jobs and benefitted Fort McMurray. GCOS Chairman W. H. Rea and President K.F. Heddon wrote to federal Finance Minister E.J. Benson in November 1970,

> The success of the GCOS project is of vital importance to the people of Fort McMurray. Employment at the GCOS plant now totals about 700, plus about another 650 who work for contract maintenance and service companies… As a result of the GCOS operation, Fort McMurray has become a modern town…[66]

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[63] Alberta reduced GCOS's gross provincial royalty from 16% of value of produced synthetic crude to 8% of the first 900,000 bbl. of monthly production and 20% of the rest. Canadian Petroleum Association to Alastair Gillespie, Minister of Energy, Mines and Resources, government of Canada, "An Assessment of Royalty Treatment and Other Factors Impacting Oil Sands Development." R1526 vol.267 file no.6 file.243-14, LAC.
[64] G.L. Bennett, Assistant Deputy Minister, Excise, to Mr. J.R. Brown, Senior Tax Adviser, Department of Finance, 9 December 1970, RG19 vol.5235 file 9628-15-2, vol.1, LAC.
[65] Department of Finance, "Policy Paper on GCOS Tax Remission," 1971, RG19 vol.5235 file 9628-15-2 vol.1, LAC.
[66] W. Harold Rea, Chairman of the Board and K. F. Heddon, President, GCOS, to The Honourable E. J. Benson, Minister of Finance, Ottawa, Canada, "Brief of Great Canadian Oil Sands Limited in respect of sales taxes paid under the Excise Tax Act of Canada on its Athabasca Tar Sands plant," 18 November 1970, RG19 vol.5235 file 9628-15-2 vol.1, LAC.

Policy analysts in the Department of Finance recommended that refunding the taxes was unjustifiable and should not occur because the Department had already granted significant concessions. The Department had allowed GCOS to defer payments interest-free until 1978 on a $1.8 million debt it acquired with the Abasand lease, and it gave GCOS a three-year tax holiday from 1968 to 1971, when it classified the project as a mine.[67] Nevertheless, Minister Benson approved a $6 million tax refund in August 1971.[68] In its first years of operation, GCOS was a mechanical and financial mess that relied on infusions of cash and tax and royalty concessions to continue to operate, which reduced public revenues from GCOS when the plant became profitable later in the decade. As Chapter 4 shows, GCOS's weaknesses contributed to the hesitation by the federal and provincial governments to enforce environmental regulation of the project.

Peter Lougheed and the Progressive Conservatives

Peter Lougheed's PC party came to power on 31 August 1971. Lougheed was a Calgary lawyer determined to revitalize the oil industry to make money to invest in diversifying the Alberta economy. He felt that the Social Credit government had been too passive in encouraging resource development, had not drafted adequate policies, and had not acted like a resource owner.[69] Richards and Pratt wrote that Lougheed gave notice "that any Conservative government would consider itself an entrepreneurial actor in provincial

[67] The Abasand debt was based on an agreement by the company to repurchase for $1.9 million the plant and property rights from the federal government in 1946, GCOS took on this debt with the acquisition of the Abasand debt. Department of Finance, "Policy Paper on GCOS Tax Remission," 1971, RG19 vol.5235 file 9628-15-2 vol.1, LAC.
[68] F.R. Irwin, Director, Personal, Commodity and Estate Tax Division, to J.R. Brown, Senior Tax Advisor, Ministry of Finance, 21 January 1971. RG19 vol.5235 file 9628-15-2 vol.2, LAC., and F.R. Irwin, to G.L. Bennett, Assistant Deputy Minister (Excise), Department of National Revenue, 23 August 1971. RG19 vol.5235 file 9628-15-2 vol.2, LAC.
[69] *Alberta Natural Resources Act,* S.C. 1930, c. 3, Richards and Pratt, *Prairie Capitalism*, 169.

economic development."[70] Lougheed sought to ensure that the oil sands industry used as much domestic labour, technology, and upgrading and refining facilities as possible. He wanted to maximize the economic benefits of the industry for Alberta. In his first throne speech on 29 March 1972, Lougheed discussed the importance of building a second oil sands plant and government investment in the industry. But he dismissed the idea of using a Crown corporation to fund the project, describing it as "$500 million of debt not available to the province." He compared it to committing to a risk venture with Crown money, such as building a railroad.[71] In choosing not to use a Crown corporation to build a second oil sands plant, Lougheed ruled out an avenue other provincial and federal governments had taken to gain greater control over energy development.[72]

Despite increasing oil prices and energy security concerns in the Cold War world, the oil sands industry remained an expensive and high-risk energy source. Syncrude submitted an amended proposal in 1971 that highlighted several problems with oil sands development. It was concerned that as of 1972 only surface mining was possible since methods of extracting deeper deposits had not been fully developed. The cost of building bitumen extraction plants was high—$4,000–$5,000 per daily barrel of synthetic oil, meaning that a plant capable of producing 100,000−125,000 barrels per day (bbl./d) would cost up to $500 million to build. Inflation meant that estimates of final construction, supply, and labour costs would be inaccurate. The long construction and start-up times

[70] Richards and Pratt, *Prairie Capitalism*, 50.
[71] Peter Lougheed, Speech to the Throne, 29 March 1972, *Alberta Hansard,* 1972*,* vol.18, p.34, Provincial Archives of Alberta (PAA).
[72] Caroline Desbiens, *Power from the North: Territory, Identity, and the Culture of Hydroelectricity in Quebec* (Vancouver: UBC Press, 2013); Evenden, *Allied Power: Mobilizing Hydro-electricity during Canada's Second World War*; James L. Kenny and Andrew Secord, "Engineering Modernity: Hydro-Electric Development in New Brunswick, 1945-70," *Acadiensis* 39, no. 1 (2010).

meant that synthetic oil would not immediately compensate for supply shortages.[73]

In August 1972, the Alberta Conservation and Utilization Committee (CUC) prepared a confidential policy paper for the Executive Council of the Alberta government. The CUC was an advisory body set up in 1955 by the Social Credit Government to report on the conservation and use of land, forest, and water resources. The CUC wrote that the "tar sands offers a unique opportunity to change the historical trend of ever increasing foreign control of non-renewable resource development in Canada."[74] The CUC recommended that government ensure that development maximized socio-economic benefits for Albertans and recommended that development progress more slowly than desired by foreign oil companies:

> On one hand we can continue the policies of the conventional crude oil developments creating tremendous and unregulated growth and developments resulting in short term benefits accruing to the Province as well as the long term costs arising from exported energy, technology, job opportunities and environmental damages, in addition to the depletion of non-renewable resources… Conversely we can regulate the orderly growth and development of the bituminous tar sands for the ultimate benefit of Alberta and Canada in order that Canadian energy technology will be expanded, Albertans will find beneficial and satisfying employment within its diversified economy, and our environment will be protected and enhanced for future use… But when the magnitude of the real, fiscal and manpower requirements and environmental consequences are visualized, it becomes apparent that the latter course of action is imperative.[75]

The Lougheed government's deliberate approach to regulate the oil sands industry was

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[73] Science Council Report, "Decision Making in the North: Oil Sands Case Study, November 1974" (Vancouver: Canadian Resourcecon Limited, 1974), 22. And National Energy Board, "Potential Limitations of Canadian Petroleum Supplies," December 1972, GA CPA Box 44 File 534, in Chastko, *Developing Alberta's Oil Sands*, 146.

[74] Conservation and Utilization Committee, "Fort McMurray Athabasca Tar Sands Development Strategy," Policy Paper prepared for the Executive Council, government of Alberta, Edmonton, August 1972, 2, in RG19 vol. 5238 file 9628-15-1 pt.1, LAC.

[75] Conservation and Utilization Committee, "Fort McMurray Athabasca Tar Sands Development Strategy," Policy Paper prepared for the Executive Council, government of Alberta, Edmonton, August 1972, 2, in RG19 vol. 5238 file 9628-15-1 pt.1, LAC.

upended by the energy and financial crises of the 1970s.

Energy and Financial Crises of the 1970s

The energy and financial crises of the 1970s changed the importance and economic potential of the oil sands industry. The oil embargo by the Organization of Arab Petroleum Exporting Countries (OAPEC) in 1973 and the decoupling of the US dollar from the gold standard in 1971 caused increasing energy prices and stagflation.[76]

The 1944 conference at Bretton Woods, New Hampshire, led to the United States, Canada, Western Europe, Australia, and Japan creating the Bretton Woods system of monetary management, which organized international financial institutions like the International Monetary Fund and the World Bank to encourage free trade and give states tools to correct trade imbalances. Bretton Woods included structured exchange rates, which anchored world currencies to the US dollar, which was anchored to the price of gold. Bretton Woods contributed to three decades of global economic growth. By the late 1960s, European banks increasingly exchanged dollar reserves for gold at the USD$35 per ounce exchange rate. This pressure on US gold reserves and the exorbitant cost of the Vietnam War undermined global confidence that the US could continue to convert dollars to gold. On 15 August 1971, Richard Nixon abandoned the gold standard, which led to inflation and the collapse of the Bretton Woods system.[77]

The OAPEC price shocks began in 1970 in Libya when Colonel Mu'ammer Muhammad al-Gaddafi began raising oil prices after taking power in a 1969 coup.[78] Other

[76] Timothy Mitchell, *Carbon Democracy: Political Power in the Age of Oil* (London: Verso, 2011), 109-11.
[77] Timothy Mitchell, "The Resources of Economics: Making the 1973 Oil Crisis," *Journal of Cultural Economy* 3, no. 2 (2010); Mitchell, *Carbon Democracy*, 109-18.
[78] Yergin, *The Prize*, 580.

OAPEC countries followed, using the price of oil to influence foreign policy. The three-week long Yom Kippur War and the Arab-Israeli conflict in October 1973 exacerbated tensions between Western countries and OAPEC. OAPEC cut production to oppose the West's supply of arms and economic support to Israel. The conflict led to price increases from $3.00 per barrel of oil in 1972 to $10.50 in 1974.[79] The oil price increases created an artificial oil supply crisis throughout the Western World.

Timothy Mitchell argues that the crises challenged Western powers, especially the United States, to reimagine energy as a complex, interconnected, and vulnerable system. The production and distribution of oil in the Middle East became a tool that producer states could use as political leverage in situations like the Arab-Israeli conflict. Since the Second World War, the major oil companies had enjoyed predictable prices, and a degree of control over the production and distribution of oil. Oil companies lost much of this power in the 1970s when producer nations began to exert control over and, in some cases, nationalize oil production. The major oil companies became increasingly beholden to the political and economic interests of foreign governments.[80] Tyler Priest argues that high prices and instability in the Middle East created an imperative for the major oil companies and western governments to invest in new sources of petroleum in more politically favourable regions, even if these sources were more expensive and difficult to access.[81] The Athabasca bitumen deposits were one of these sources.

Alberta used the oil price increases and supply fears to hasten the extraction and

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[79] Yergin, *The Prize*, 607-08.
[80] The OAPEC crisis threw decades of Western economic models and planning into turmoil because the West had not anticipated losing control of oil prices in such a dramatic fashion. Timothy Mitchell has shown these were in many ways manufactured crises, as much the product of the policies Western governments implemented in response to the geopolitical struggles between with producer states in the Middle East, as of material changes in oil supply or the global economy. Mitchell, "The Resources of Economics."
[81] Priest, *The Offshore Imperative*; Priest, "Shifting Sands."

upgrading of bitumen. The conditions created an opportunity for the Lougheed government to execute its plan to diversify the Alberta economy away from its dependence on agriculture and petroleum by using oil profits to invest in new business opportunities and technological innovation.[82] Allan Warrack, Alberta Minister of Lands and Forests from 1971-1975, described the increase in revenue from oil royalties during the energy crisis: "we had a huge increase in price concurrent with a very substantial amount of new money and a greatly heightened royalty on that money. It was like a gusher."[83] In a September 1973 address after signing a new agreement with Syncrude, Lougheed explained the importance of the petroleum industry to Alberta: "we can't lose sight in Alberta of the fact that our prosperity and our growth has been dependent upon the vitality and strength of our two primary industries, agriculture and oil and gas." If the Syncrude project failed, he said, "not only are there the lost jobs, but oil sands developments might be set back permanently, because there are alternatives—the Colorado oil shales, nuclear energy—and of course Canadian crude oil backup supply would be weakened considerably."[84] The energy crisis also triggered an intense federal-provincial conflict over control of the rents and energy flows of the Alberta oil industry.

As oil prices skyrocketed, Prime Minister Pierre Trudeau's Liberal government took a series of actions to try to break Canada's reliance on imported oil and become self-sufficient in oil by the end of the decade. The federal government froze fuel prices at the pump to protect consumers in September 1973. To subsidize the $3 billion difference

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[82] Larry Pratt, "The state and province-building: Alberta's development strategy," in *The Canadian State: Political Economy and Political Power*, ed. Leo Panitch (Toronto: University of Toronto Press, 1977).
[83] Lands and Forests merged with Mines and Minerals in 1975 to create the Department of Energy and Natural Resources. Allan Warrack, interview with Hereward Longley, Edmonton, Alberta, June 15, 2018.
[84] Text of Premier Lougheed's Address Tuesday," *The Edmonton Journal,* 9 September 1973, RG19 vol. 5238 file 9628-15-1 pt.1, LAC.

between import and pump prices the federal government increased taxes on oil company profits to 50 percent, the National Energy Board regulated export prices and levied a $0.40 per barrel export tax, stopped allowing oil companies to deduct royalties from taxable income, and reduced the depletion allowance from 33 to 25 per cent.[85] To reduce oil shortages, Ottawa cut exports to the US by ten per cent over the winter of 1974, created the Foreign Investment Review Agency (FIRA), and expanded the Canadian Development Corporation (CDC) to monitor US investment in the Canadian oil industry. The Trudeau government also created Petro-Canada, a national oil company, and planned a new pipeline from Edmonton to Montreal to ensure that oil produced in Western Canada supplied Canadian markets. Alberta wanted its oil to flow from north to south, to maximize its profits by selling to the United States. The federal government renewed its commitment to the oil sands industry with a $40 million investment in Syncrude.[86]

The price freezes threatened the financial viability of GCOS and the planned Syncrude project. Inflation increased Syncrude's projected capital costs from $650 million at the end of 1972 to $1 billion in 1973.[87] Lougheed described the Trudeau government's energy policies as "the most discriminatory action taken by a federal government against a particular province in the entire history of confederation." Bumper stickers which read: "Let the Eastern Bastards Freeze in the Dark!" symbolized Alberta's profound anger

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[85] A depletion allowance is when a regulator allows developers to deduct a percentage of their gross income to account for the declining value of the reserve. John F. Helliwell et al., "Oil and gas taxation," Article, *Osgoode Hall Law Journal* 26 (October 1988); Peter Tyerman, "Pricing of Alberta's Oil," *Alberta Law Review* 14, no. 3 (1976).

[86] Prime Minister Pierre Elliot Trudeau, in Canada Hansard December 7, 1974, 1st session, 29th Parliament, 8479, in Chastko, *Developing Alberta's Oil Sands*, 152.

[87] Science Council Report, "Decision Making in the North: Oil Sands Case Study, November 1974" (Vancouver: Canadian Resourcecon Limited, 1974), 22. And National Energy Board, "Potential Limitations of Canadian Petroleum Supplies," December 1972, GA CPA Box 44 File 534, in Chastko, *Developing Alberta's Oil Sands*, 146.

towards eastern Canada. The Lougheed government responded by altering the provincial tax and royalty structure so that royalty rates would rise with the price of oil to create more revenue for the province. This would contribute to a greater struggle with the federal government over the oil industry later in the decade.[88]

On 4 December 1974, Atlantic Richfield Canada (ARCAN) withdrew its 30 per cent ownership position from the Syncrude consortium. Its investments in the Prudhoe Bay oil field, along with federal export reductions and increased costs, made it reluctant to support the project.[89] ARCAN's withdrawal crippled the Syncrude project and prompted the Alberta government to canvas other provincial governments for investment, seeking five per cent equity commitments. All provinces other than Ontario turned down the offer, citing a lack of funds or skepticism about the project's viability.[90] Following negotiations in Winnipeg in February, 1975, to save the project, the federal government bought a 15 per cent position worth $300 million, the Alberta government a 10 per cent position worth $200 million, and the Ontario government a five per cent position worth $100 million. The agreement exempted Syncrude from pro-rationing and guaranteed it access to world markets and prices. The Alberta government lent $100 million each to two oil companies, Canada-Cities (Cities Service) and Gulf Canada. The province later converted these loans worth $200 million to an additional 20 per cent equity in Syncrude for a total 35 per cent position.[91] Alberta spent $7.8 million to build a bridge across the Athabasca River at Fort

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[88] Premier Peter Lougheed, in *Alberta Hansard,* 1st Session, 29th Parliament, vol. 2, 7239, in Chastko, *Developing Alberta's Oil Sands*, 155.
[89] Don Getty to W.A. Posehn, 30 May 1975, 82.165, file 49, PAA.
[90] Correspondence between the Alberta government and other Canadian provincial governments, in 82.165 vol. 48 pt. 1, PAA.
[91] Taylor, *Imperial Standard*, 226.

McMurray.[92] The province created the Alberta Oil Sands Technology and Research Authority (AOSTRA) with a $100 million budget to work with industry to develop extraction and upgrading technology.[93] Alberta also lent Syncrude $50 million to build employee housing which, as Chapter 7 shows, was built on land from which the town of Fort McMurray evicted Indigenous inhabitants. Alberta also paid for Syncrude's utilities plant: a 160 MW steam gas fired generator that cost $225 million. Between equity, loans, research and development, and infrastructure, the Alberta government invested almost $800 million of public money on the Syncrude project before 1976.

The Winnipeg Agreement made Syncrude Canada Ltd. the corporate shell to build the Syncrude plant (Figure 12) on leases No. 17 and 22, directly north of GCOS, and just south of Fort McKay. The agreement was widely supported in Alberta, even by the Social Credit opposition.[94] Federal Energy Minister Donald MacDonald said: "the survival of the troubled Syncrude project is, indeed, a milestone in the development of Canadian energy policies. It made it possible for us to keep our options open by maintaining access to one of the world's richest oil deposits, the tar sands."[95] Investing in Syncrude committed the three governments, but especially Alberta, to the success of the oil sands industry. Alberta calculated its 36 per cent royalty on net profits.[96] Alberta's investment in Syncrude was a high-risk bet on rising oil prices and continuing energy security concerns. As Chapter 4

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[92] Syncrude Project, *The Winnipeg Agreement,* Winnipeg, Manitoba, 3 February 1975, 82.165 vol. 49 file 440, PAA.
[93] Alberta Department of Federal and Intergovernmental Affairs, *The Alberta Oil Sands Story* (Edmonton: Government Printer, 1974).
[94] Bob Clark, Leader of the Opposition, government of Alberta, *Alberta Hansard*, 4 February 1975, 321.
[95] Statement to the Press, by Donald MacDonald, 27 February 1975, in RG19 vol.6693 file 4445-15 pt.6, LAC.
[96] Net profit = gross revenue – operating costs, depreciation, and deemed interest expense. Canadian Petroleum Association to Alastair Gillespie, Minister of Energy, Mines and Resources, government of Canada, "An Assessment of Royalty Treatment and Other Factors Impacting Oil Sands Development." R1526 vol.267 file no.6 file.243-14, LAC.

shows, the Lougheed government's commitment to the success of the oil sands industry superseded cautious regulation of the environmental dimensions of the oil sands industry by the end of the decade.

Figure 12: "Construction of the Syncrude plant," unknown photographer, Alberta (Winter 1976), 35mm negative, Imperial Oil Archives, IP 65, GA.

The Lougheed government sought to maximize its resource rents. The combination of rising prices, royalties, and new exploration raised oil revenues from $516 million in 1973 to $2.7 billion in 1977, more than repaying the cost of Alberta's investment. The Alberta government created the Alberta Heritage Savings Trust Fund in May 1976 with $1.5 billion and an annual contribution of 30% of the province's non-renewable resource revenues. In the first few years, the fund invested in Syncrude, research investments in new oil sands extraction technologies, the newly-created Alberta Energy Company (AEC),

irrigation infrastructure, the Alberta Housing Corporation, and medical research facilities. The AEC was a collaboration between public and private interests, with 50% of its shares held by the provincial government and 50% held by private investors, for the purpose of direct participation in Syncrude and other natural gas projects. The AEC offered 7.5 million $10 shares to Albertans in November 1975, all of which sold within two weeks.[97] Lougheed believed that by taking control of the oil industry and extracting more revenue, Alberta could finance economic diversification, break its dependence on the oil industry, and ensure the future economic and political independence of the province. Political scientists John Richards and Larry Pratt argue that by the end of the decade, the Alberta government had emerged as an entrepreneurial actor in the oil industry, ending the previous Social Credit government's passive relationship with the oil industry.[98] Alberta and Canada's investments in the oil sands created momentum for the oil sands industry by subsidizing its costs. However, these investments also made provincial economic planning vulnerable to swings in the price of oil.

The Iranian Revolution and the National Energy Program

Crisis again boosted the oil sands industry in 1978. The Iranian Revolution started when Ayatollah Ruhollah Khomeini overthrew the US-backed Shah Reza Pahlavi. The price of oil increased from USD$14 to $34 per barrel. High prices and anticipated supply shortages proved again the power of international markets to shape Alberta's synthetic oil industry. Tensions still raged between Edmonton and Ottawa over the structure of the energy industry. The US majors, including Shell, Imperial, and Gulf, began planning new

[97] Chastko, *Developing Alberta's Oil Sands*, 160.
[98] Pratt, "The state and province-building."; Pratt, *The Tar Sands*, 9-10; Richards and Pratt, *Prairie Capitalism*, 3-11.

oil sands projects.[99] Though Prime Minister Pierre Trudeau's energy policies were briefly threatened during the short-lived government of Progressive Conservative Prime Minister Joe Clark from June 1979–March 1980, Trudeau won re-election and appointed Marc Lalonde as energy minister. Trudeau worked to lower prices to what he called a "made in Canada" price that was lower than the world price, which fluctuated around $20 US per barrel at that time. This enraged oil sands producers and the Alberta government, as synthetic oil production, when the technical difficulties were factored in, cost $30 per barrel in 1979.[100]

Notwithstanding federal government policy and the outcry it provoked in Alberta, the price increases and conventional supply shortages made the oil sands industry more profitable and appealing to investors. GCOS merged with Sun Oil to form Suncor in 1978. After expanding its operations in 1979, Suncor made $259 million in profits in 1980.[101] A brief to the federal Department of Finance stated: "continued access to international prices would yield substantial benefits to the company which significantly exceed those envisaged at the time the agreement was put in place."[102] In 1979, 17 of the 25 largest oil and gas producers in Canada, which produced 75 per cent of the oil, were foreign-owned and controlled. The Department of Finance reported that this amounted to $3.7 billion in capital outflow.[103]

The Trudeau government created the National Energy Program (NEP) in 1980 to reduce foreign ownership in the oil and gas industry, increase federal oil revenues, stem the

[99] Chastko, *Developing Alberta's Oil Sands*, 168.
[100] Chastko, *Developing Alberta's Oil Sands*, 168.
[101] "Suncor Profit," *Fort McMurray Express,* 8 April 1980, Alsands Press Clippings, GA.
[102] Department of Finance "Suncor – Policy Brief," 6 November 1980, in RG19 vol. 6004 file 4462-8-4 (fp.1), LAC.
[103] Department of Finance, Draft NEP brief, in RG19 vol. 6004 file 4462-8-4 (fp.1), LAC.

rising price of oil and cost of oil imports, and reduce global threats to national energy supply.[104] The text of the NEP stated: "In Canada, one provincial government—not all, and the national government—enjoys most of the windfalls under current policies," and "these policies are no longer compatible with the national interest."[105] The NEP set out to achieve supply security and independence from the world market, and to generate national, rather than just provincial, benefit by generating more federal revenue and creating incentives for Canadian exploration companies. Bruce Doern and Glen Toner argue that Lalonde crafted the NEP "to alter the structure of power between Ottawa and foreign-owned energy interests in particular, and between Ottawa and Alberta."[106] The NEP bet on increasing oil supply shortages and continually increasing prices through the 1990s. In a March 2012 interview, Marc Lalonde explained how the Trudeau government expected oil prices to increase:

> If the price of oil and gas had continued according to our expectations and forecasts, and these were not "pie-in-the-sky" forecasts, I remember the president of Occidental Petroleum talking about 100 dollar oil by 1986, and he was not considered a fool, and I remember the economic council of Canada saying 'what is the government going to do with all that money that it will be getting?' So, everybody more or less expected a rapid escalation of prices, which didn't take place.[107]

To achieve the goals of the NEP, the federal government increased taxes to exert greater

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[104] The Trudeau Liberal government quickly returned to power after defeating Joe Clark's Conservative government in early 1980 in an election that followed from a confidence motion moved against the Clark government by Bob Rae. Marc Lalonde, *The National Energy Program*, Department of Energy and Natural Resources, Minister of Supply and Services (Ottawa, 1980).
[105] Lalonde, *The National Energy Program*, 2.
[106] G. Bruce Doern and Glen B. Toner, *The Politics of Energy: The Development and Implementation of the N.E.P.* (Methuen, 1985), 433.For broader analysis of the NEP see G. C. Watkins and M. W. Walker, eds., *Reaction: The National Energy Program* (Vancouver: Fraser Institute, 1981); Larry Pratt, "Petro-Canada," in *Privatization, Public Policy and Public Corporations in Canada*, ed. Allan Tupper and G. Bruce Doern (Halifax: The Institute for Research on Public Policy, 1988).
[107] The impact of the NEP is controversial in Alberta. I was unable to connect with from Peter Lougheed, who passed away in September 2012. Marc Lalonde, interview with Hereward Longley, February 29, 2012.

control over oil production, eliminated depletion allowances, created the Consumer Price Index (CPI) and Petroleum Incentive Payments (PIPs), and granted Petro-Canada a "back-in" clause that would give it an automatic 25% ownership stake in every new oil development.[108]

Neither Alberta, oil and gas capital markets, or the US government liked the National Energy Program. Peter Lougheed said, "the Ottawa government, has, without negotiation, without agreement, simply walked into our home and occupied the living room." The Lougheed government cut sales of oil and gas to Canada by 15 per cent.[109] The *Calgary Herald* wrote that the NEP was "incredibly lofty and patronizing for a government document in a democratic country."[110] The Toronto Stock Exchange oil and gas index dropped over 800 points, marking $2.3 billion in capital flight. The announcement of the NEP resulted in diplomatic pressure from the US and the threat of a capital strike from industry.[111] On 5 November 1980, William Daniel, President and CEO of Shell Canada Ltd., told the Edmonton Chamber of Commerce, "the announced new federal policies will require wrenching adjustments within the industry which I believe will seriously impair our hopes of developing the volume of new supply that will enable us to attain oil self-sufficiency in the foreseeable future."[112] For Suncor, the response was even more negative, as spokesman R.A. Hennigar stated, the NEP "returns our oil sands operation to a marginal

[108] Lalonde, *The National Energy Program*, 16-22.
[109] Chastko, *Developing Alberta's Oil Sands*, 185.
[110] Editorial, "The National Energy Program," *The Calgary Herald,* October 29, 1980, in Chastko, *Developing Alberta's Oil Sands*, 184.
[111] J.C. Philips, Chairman of the Boards, Gulf Canada Limited, to Pierre Elliott Trudeau, 5 December 1980, in RG19 vol.6005 file4462-08-7 (pt. 1) NEP Industry Reaction, LAC.
[112] C. William Daniel, President and CEO, Shell Canada Ltd. "The National Energy Program – Security, Opportunity, Fairness?" Address to the Edmonton Chamber of Commerce, 5 November 1980, in RG19 vol.6005 file4462-08-7 (pt. 1) NEP Industry Reaction, LAC.

proposition and appears to run counter to National Policy goals."[113] The US government wrote that it was concerned about the 25 per cent Crown interest in all oil rights on Canada lands: "The implementation of this aspect of the Program will be viewed by the United States government in the context of international law and United States policy on expropriation."[114] A subcommittee of the US Congressional Committee on Energy and Commerce reported that

> In the near term, one effect of the proposed NEP has been that U.S. companies have drastically lowered their exploration budgets in Canada. This will almost certainly reduce Canadian petroleum production in the years to come and, if world supplies again tighten, the absence of some increment of Canadian production would tend to place upward pressure on prices.[115]

Philip Wood, Executive Vice President Finance and Administration of Cities Service, described the NEP as "grossly—but shamelessly—discriminatory against U.S. energy companies and their shareholders."[116] Lalonde minimized the economic fallout of the NEP: "In a way the industry was caught in a sandwich between the federal and provincial government for a year until we made a new deal, and no doubt the industry suffered at that time."[117]

The federal and provincial governments signed a Memorandum of Agreement in

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[113] R.A. Hennigar, "Suncor Presentation to the government of Canada," 1980, in RG19 vol.6005 file4462-08-7 (pt. 1) NEP Industry Reaction, LAC.
[114] United States government, Policy Statement – NEP, 5 December 1980, in RG19 vol. 6004 file. 4462-08-4 (pt.1) Energy – Oil and Gas – Sector and Policy – National Energy Program, Foreign Views, LAC.
[115] John D. Dingell, Chairman, to Members and Staff, Subcommittee on Oversight and Investigations, "Re: Briefing Memo – Hearing Friday, Jun 19th, re. Impact of Canadian Energy Policies on U.S. Oil Companies." Congress of the United States House of Representatives Subcommittee on oversight and Investigations of the Committee on Energy and Commerce, Washington, D.C., 18 June 1981, in RG19 vol.6005 file4462-08-7 (pt. 1) NEP Industry Reaction, LAC.
[116] Statement of Philip W. Wood, Executive Vice President, Finance and Administration Cities Service Company, Before the subcommittee on oversight and investigations, House committee on Energy and Commerce, Washington, D.C., 19 June 1981. In RG19 vol.6005 file4462-08-4 (fp. 2) NEP Industry Reaction, LAC.
[117] Marc Lalonde, interview with Hereward Longley, March 2012.

September 1981. The agreement modified the Petroleum Incentive Payments, gave Alberta greater control over energy policy, and gave the two new planned oil sands projects, Alsands and Cold Lake, more favourable taxes and royalties and a higher oil price.[118] The agreement became known as the "Champagne Agreement" after a photo of Trudeau and Lougheed toasting champagne circulated in Canadian newspapers. Lougheed later said the photo was one of the worst mistakes of his political career. But at that moment the agreement was a diplomatic success that had the potential to ease the east-west tensions that had dominated much of Canadian politics in the 1970s. The potential success of the NEP, and the mutually beneficial terms of the Champagne Agreement relied on increasing oil prices. Energy Minister Marc Lalonde reflected that if the forecasted increase in oil prices had materialized: "I think everybody would have been happy, Mr. Lougheed would have been happy, with his increasing one third coming in, and the industry would have been wealthier than ever with its own one third which would be coming in from higher prices…"[119]

The Iran-Iraq war started in September, 1980, and non-OPEC producers started to sell oil below world prices. Demand for OPEC oil dropped 27 per cent, and global oil prices collapsed in 1982. In Canada, dwindling conventional oil supplies meant that creating domestic supply security was dependent on a synthetic oil industry that was again uneconomic and on imports that were becoming cheaper. Paul Chastko argues that the NEP "gutted the Alberta oil patch and severely jeopardized the country's future…" and resulted in a "counter-cyclical swing…" that deprived the oil patch of "revenues necessary to

[118] "Memorandum of Agreement between the government of Canada and the government of Alberta relating to Energy Pricing and Taxation, September 1, 1981, in RG10 vol. 14096 file. E4588-8-R6-5 pt.6 Natural Resources – Resource Development Impact, Heavy Oil/Tar Sands, LAC.
[119] Marc Lalonde, interview with Hereward Longley, March 2012.

sustain growth and expansion, particularly in the oil sands."[120] The NEP prompted capital flight that threatened exploration and new projects, but the GCOS and Syncrude plants were sunk costs for their investors and were not as compromised by the NEP price freezes as they were by the world oil price collapse in 1982. The NEP had negative effects on the oil industry, but the collapse of prices in the 1980s caused far more damage.

Falling oil prices and the NEP had the biggest effect on the Alsands project. Alsands was a proposed 137,000 barrel per day strip mine and oil sands plant on the Shell Oil leases east of the Athabasca River, across from Fort McKay. The Social Credit government had initially excluded Shell from building a bitumen project in 1962 because of the pro-rationing issues of the 1960s. Shell revitalized the project in the 1970s and formed a consortium to fund the estimated $5 billion plant.[121] Imperial Oil's $6 billion Cold Lake project was the first large scale 140,000 barrel per day *in situ* extraction plant, which used to steam assisted gravity drainage (SAGD) to extract bitumen from deeper deposits in the Cold Lake oil sands region. By the late 1970s, inflation and demand for construction and labour in the energy sector caused significant capital cost increases for new oil sands plants. Whereas GCOS (Suncor) cost $7,800 and Syncrude $20,000 per daily barrel, Cold Lake and Alsands were projected to cost $35,000–$45,000 per daily barrel.[122] By 1982, five companies representing a 50 per cent of the Alsands consortium withdrew from the increasingly risky project.[123] As a last ditch effort, the government of Alberta and the

[120] Chastko, *Developing Alberta's Oil Sands*, 128.
[121] The consortium included Amoco Canada (10%), Chevron Standard (10%), Dome Petroleum (4%), Gulf Canada (8%), Hudson's Bay Oil and Gas (8%), Petro-Canada (9%), Petrofina Canada (8%), Shell Canada (25%), and Shell Explorer Limited (20%). Robinson, J.M.A and J.Y. Jessup, *The Alsands Project* (Calgary: Canadian Major Projects Association, 1988), 14-16; Chastko, *Developing Alberta's Oil Sands*, 168.
[122] Chastko, *Developing Alberta's Oil Sands*, 169.
[123] "Lalonde Clarifies Position of Alsands; Officials Meet in Edmonton," *Daily Oil Bulletin*, 26 February 1982, in Alsands Press Clippings M-6328 Box. 1, GA.

federal government each committed to 25 per cent of the Alsands project costs, in an investment estimated to be worth $14 billion.[124] On 30 April 1982, the Alsands partnership fell apart and the project was cancelled.[125] The collapse of global oil prices and the failure of the Alsands project demonstrated the power of oil prices to wreck plans for the oil sands region and the inability of Canadian governments to counter the forces of global oil markets.

Following the collapse of oil prices in 1982, the strip-mining of the Athabasca bitumen deposits stagnated. CanStar abandoned its project later in the decade as world oil prices dropped from $31.75 per barrel in November 1985 to $10 per barrel in early 1986.[126] In 1987, Syncrude reported substantially lower revenue despite increased production, fewer technical problems, and lower costs. Brian Mulroney's Conservative Party defeated Pierre Trudeau in 1984 and formed a new federal government. Peter Lougheed stepped down in 1985, although the Progressive Conservative party remained in power under Premier Don Getty. The Mulroney government cancelled the National Energy Program in 1985. Canada ratified the Canada-United States Free Trade Agreement (FTA) in 1988, which ended any future possibility of protectionist energy policies. The NEP had sought to orient the geography of the Canadian energy system along an east-west axis to serve national markets. The FTA removed trade barriers and allowed Alberta to export more of its oil to the United States.[127] Political scientist Ian Urquhart argues that the oil sands industry did not suffer during the downturn of the 1980s as much as it claimed. Rather, it used the

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[124] "Governments offer to take 25% each of Alsands," *Daily Oil Bulletin*, 30 April 1982, and David Hatter and Yvonne Zacharias, "$14-billion rescue bid: Alsands tossed a lifeline," *Calgary Herald*, 30 April 1982, in Alsands Press Clippings M-6328 Box. 3, GA.
[125] Peter Foster, *The Sorcerer's Apprentices: Canada's Super-Bureaucrats and the Energy Mess* (Canada: Harper Collins, 1982), 200-01.
[126] Yergin, *The Prize*, 749-50.
[127] Chastko, *Developing Alberta's Oil Sands*, 201.

opportunity to expand, refine its process and gain regulatory and financial concessions from government, which allowed Syncrude and Suncor to be profitable in a low-price environment.[128] Either way, no companies built new oil sands mines until the late 1990s.

Conclusion

During the first development phase of the oil sands industry between 1967 and 1982, bitumen became a viable source of synthetic crude oil. Concerns about energy security drove US oil companies and Canadian federal and provincial governments to invest in bitumen. In the early 1970s, the Lougheed government pursued a policy of rational planning to maximize the socio-economic benefits of oil sands development and minimize social and environmental consequences. During the energy crisis, the stakes changed as energy security and profiting from high oil prices became the main considerations in the planning of oil sands projects. The Alberta and federal governments invested in Syncrude to save the project. GCOS and Syncrude required a wide range of financial and political commitments to succeed.

By the mid-1970s the oil sands industry gained momentum that kept the industry growing and shaped the political, financial, and regulatory decisions of the federal and provincial governments. As Chapter 4 shows, the Alberta government's commitment to oil production produced a degree of regulatory capture by the mid-1970s that marginalized effective regulation of the environmental impacts of the industry. Following even greater price increases in the late 1970s, the Trudeau government created the National Energy Program in 1981 to intervene in the Alberta oil industry to protect Canadian consumers, balance the accrual of resource rents between the federal and provincial governments, and

[128] Urquhart, *Costly Fix*, 65-70.

achieve energy independence. The NEP angered Alberta and triggered a selloff in energy markets. Global oil price collapse in 1982 contributed to the failure of the Alsands project, the defeat of the Trudeau government, and temporary stagnation of the oil industry, though the Syncrude and Suncor plants continued to operate. The chapters that follow show how the government and industry imperative to produce synthetic oil clashed with emergent environmental policies and triggered conflicts with Indigenous communities as the projects appropriated and destroyed Indigenous lands and resources.

Chapter 4

Conflicting Mandates: Environmental Impacts and Politics

Introduction

In the late 1960s, the Alberta provincial and Canadian federal governments began to address the adverse environmental effects of the oil sands industry with new policies. Initially, these policies had the potential to manage the negative effects of development. But, as this chapter shows, investments by the Alberta and federal governments created a conflict of interest in their joint roles of promoters of resource exploitation and protection of the land. In the end policy shifts sidelined environmental regulation in the rush to produce oil. These policy changes contributed to a regulatory structure that poorly managed the environmental effects of the oil sands industry. Bitumen extraction also had negative consequences for Indigenous peoples of the region and caused conflicts between Indigenous communities, government, and the oil sands industry in the 1970s and 80s, which is taken up in more detail in Chapters 5-8.

As the oil sands industry developed, environmental issues became a significant public concern in the late 1960s and early 1970s.[1] Major oil spills including the Torrey Canyon oil tanker shipwreck off the coast of Cornwall, England, in 1967, and the blowout on Union Oil Platform A off the coast of Santa Barbara, California, in 1969, imprinted the environmental consequences of oil pollution on the consciousness of people around the

[1] Three Edmonton based environmental groups formed in 1969. The biggest, Save Tomorrow Oppose Pollution (STOP) worked to conduct investigations, and to pressure industry and government to limit pollution, especially the impact of the oil sands industry. It disbanded in 1982. STOP – Save Tomorrow Oppose Pollution Fonds, PR2003.0301, Provincial Archives of Alberta (PAA), Linda Duncan, "Taking Part: Making and changing environmental law," *Resource News* 12, no. 4 (April 1988).

world.[2] Environmentalism was not new, but in the 1970s it became a formalized government responsibility as environmental organizations influenced policy and legislation. In Canada, the federal and provincial governments adopted regulatory instruments and established formal environmental agencies as part of an initial round of environmental legislation.[3] In the United States, president Richard Nixon passed the *National Environmental Policy Act,* which was influential in promoting Environmental Impact Assessments, and the *Endangered Species Act.*

Canadian environmental historians have shown how these policies and agencies were a response to growing environmental awareness informed by ideas of conservation and preservation, growing recognition of Cold War era environmental issues, the influence of ecology and the scientific community, and the baby boom generation's desire to enjoy nature and live a simpler life.[4] The federal government made important updates to environmental legislation, including amending the scope of the *Fisheries Act* to include provisions that prohibited pollution of fresh and salt waters.[5] In 1971, Prime Minister Pierre

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[2] Darren Dochuk, *Anointed With Oil: How Christianity and Crude Made Modern America* (New York: Basic Book, 2019), 468-74; Joseph A. Pratt and William E. Hale, *Exxon: Transforming Energy, 1973-2005* (Austin: Dolph Briscoe Center for American History: The University of Texas at Austin, 2013), 88.

[3] Mark Winfield, "The Ultimate Horizontal Issue: The Environmental Policy Experiences of Alberta and Ontario, 1971-1993," *Canadian Journal of Political Science* 27, no. 1 (March 1994); Mark Winfield, ""Dirty Oil," "Responsible Resource Development" and the Prospects for a National Conversation about Energy Sustainability in Canada," *Journal of Environmental Law and Practice* 25 (2013): 4.

[4] Tina Loo, *States of Nature: Conserving Canada's Wildlife in the Twentieth Century* (Vancouver: UBC Press, 2006); Ryan O'Connor, *The First Green Wave: Pollution Probe and the Origins of Environmental Activism in Ontario* (Vancouver: UBC Press, 2015); Frank Zelko, *Make It a Green Peace!: The Rise of Countercultural Environmentalism* (New York: Oxford University Press, 2013-05-30, 2013); Mark J. McLaughlin, "Green Shoots: Aerial Insecticide Spraying and the Growth of Environmental Consciousness in New Brunswick, 1952-1973," *Acadiensis* 40, no. 1 (2011); Jennifer Read, "“Let us heed the voice of youth”: Laundry Detergents, Phosphates and the Emergence of the Environmental Movement in Ontario," *Journal of the Canadian Historical Association / Revue de la Société Historique du Canada* 7, no. 1 (1996); Arn Keeling, "Sink or Swim: Water Pollution and Environmental Politics in Vancouver, 1889-1975," *BC Studies*, no. 142/143 (2004); Larry Pratt and Ian Urquhart, *The Last Great Forest: Japanese Multinationals and Alberta's Northern Forests* (Edmonton: NeWest Publishers, 1994); George Colpitts, *Fish Wars and Trout Travesties: Saving Southern Alberta's Cold Water Streams in the 1920s* (Seattle: University of Washington Press, 2015).

[5] The *Fisheries Act* was relevant to the oil sands because it was a key piece of legislation that the Crown used

Trudeau's Liberal government created the Department of Environment. In 1970, the Alberta Social Credit provincial government created environmental laws and policies. In 1971 it created its own environment department, making Alberta the first province to do so. While governments sometimes view support for resource development as separate from environmental regulation, the Alberta government could not segregate environmental concerns from the development of the oil sands industry.

Peter Lougheed's Progressive Conservative (PC) opposition party tapped into growing public concern for the environment to criticize the Social Credit government's new policies as secretive and ineffective. Speaking about an oil spill at the Great Canadian Oil Sands plant north of Fort McMurray in July 1971 PC MLA William (Bill) Yurko said: "The industry needs a whole new approach to pollution control…the general public should know what the individual industries are doing to the streams or to the air."[6] After winning the 1971 election, the new PC provincial government expanded the previous government's environmental policy. Christopher Armstrong, Matthew Evenden, and H.V. Nelles describe the Lougheed government's policies as a comprehensive new strategy in which social and environmental concerns "became as important as oil."[7] Yet as Richards and Pratt show, the Lougheed government simultaneously sought a direct role in the development of the oil sands industry.[8]

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to prosecute GCOS (Suncor) for oil spills in the 1970s and 80s. *The Fisheries Act* (R.S.C. 1970), Caroline McGrath, *The Fisheries Act: A Study of its Paramountcy Relative to Water Use Provisions of other Federal Statutes*, Pacific and Freshwater Fisheries Branch, Department of Fisheries and Oceans (Nanaimo, British Columbia, March 1985), 3-4.

[6] "Reforms Urged for Industries' Pollution policy," Unlabeled newspaper article, 4 July 1971, M4755 file 709, Glenbow Archives (GA).

[7] Christopher Armstrong, Matthew Evenden, and H.V. Nelles, *The River Returns: An Environmental History of the Bow* (Montreal & Kingston: McGill-Queen's University Press, 2009), 318.

[8] John Richards and Larry Pratt, *Prairie Capitalism: Power and Influence in the New West* (Toronto: McClelland and Stewart Limited, 1979), 215.

In 1975, concurrent to investing in Syncrude (Chapter 3), the Alberta and federal governments created the Alberta Oil Sands Environmental Research Program (AOSERP) to study the impact of the oil sands industry on the Athabasca region. As the Alberta government became both developer and regulator of the resource, provincial and federal efforts to encourage the development of the oil sands industry clashed with environmental regulation and research. This chapter argues that Alberta's investment in Syncrude created a conflict of interest between environmental policy and development of the oil sands. This conflict became a prominent factor that caused the PC government to marginalize environmental research and regulation.

Larry Pratt's 1976 book *The Tar Sands* shows how the Lougheed government sidelined environmental concerns and hastened the development of the oil sands industry. Pratt acknowledges the efforts of the PCs to fund AOSERP but views the Lougheed government as wasting public money to clean up the inevitable impacts of a destructive industry. By characterizing the Lougheed government as purely negligent on environmental issues, Pratt oversimplifies the PC government's approach by missing changes in the government's attitude towards environmental concerns through the 1970s.[9] This chapter traces the evolution of Alberta's environmental regulation and research and how it was redirected amid the energy and financial crises of the 1970s. The political and economic factors that drove the rapid development of the oil sands industry in the 1970s adversely affected the efficacy of environmental policy and led to the dysfunction and dissolution of AOSERP by the end of the decade.

Early Environmental Problems

[9] Larry Pratt, *The Tar Sands: Syncrude and the Politics of Oil* (Edmonton: Hurtig Publishers, 1976), 99.

Federal and provincial scientists were concerned about the environmental consequences of bitumen extraction when Great Canadian Oil Sands Limited proposed its plant in 1959. Before the creation of a federal department of the environment, bureaucrats and scientists attached to other departments—in this instance the Department of Mines and the Department of Northern Affairs and National Resources—scrutinized new developments.[10] D. S. Montgomery, a scientist in the federal Department of Mines and Technical Surveys, wrote to Dr. P. A. Koller at the Department of Northern Affairs and National Resources about technical problems and the lack of environmental planning in the GCOS proposal. Montgomery wrote, "very little has been said beyond merely mentioning the waste disposal systems to ensure the preservation of aquatic life in the Athabasca river, a factor of prime concern to the Department of Northern Affairs."[11] Northern Affairs was concerned that GCOS would produce 25,000 pounds per hour of sulphur dioxide, that these emissions would have "a devastating effect on the vegetation in the whole area," and that the "resulting sand dunes would present a considerable danger to surrounding areas in that region."[12] Although the Departments of Mines and Northern Affairs were mostly concerned with the technical problems facing the GCOS project, these departments were also wary of the environmental consequences of bitumen extraction at the industry's early stages.

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[10] The Department of Northern Affairs and Natural Resources became the Department of Indian Affairs and Northern Development in 1966. It was renamed Aboriginal Affairs and Northern Development Canada in 2011 and then Indigenous and Northern Affairs Canada in 2015. In 2017 it was replaced with Crown-Indigenous Relations and Northern Affairs; and Indigenous Services. "Federal Departments of Indigenous and Northern Affairs," *The Canadian Encyclopedia,* 14 October 2008, 18 July 2018, https://www.thecanadianencyclopedia.ca/en/article/aboriginal-affairs-and-northern-development-canada

[11] D. S. Montgomery, Department of Mines and Technical Surveys to Dr. P. A. Koller, Department of Northern Affairs and National Resources, 1 April 1959, in RG22 vol. 1334 file 40-3-36 vol. 1, Library and Archives Canada (LAC).

[12] Dr. P. A. Koller to Dr. Jennes, Department of Northern Affairs and National Resources, 23 June 1960, in RG22 vol. 1334 file 40-3-36 vol. 1, LAC.

Before the creation of environmental laws and agencies at federal and provincial levels, the 1917 *Migratory Birds Convention Act* (MBCA), protections for National Parks, game regulations, and fire control were the principal tools for environmental protection.[13] The MBCA was an agreement between Canada and the US to protect hundreds of species of migratory birds influenced by the Progressive Era conservation movement. The MBCA was an early example of the bureaucratization of wildlife management and an important effort to protect wildlife.[14] Deputy Minister of Northern Affairs and National Resources E. A. Côté wrote GCOS Chair W. H. Rea in 1965 about water safety in synthetic oil production and the threat tailings ponds posed to birds. Côté wrote that thousands of ducks and geese and whistling swans used the waters of the Peace-Athabasca Delta as a stopping point on spring and fall migrations. Côté asked that waste water be treated before being released into the watershed, and that the Canadian government "will be most appreciative of any special precautions you may be able to arrange that would minimize the chances of release of oil."[15] Rea responded "you can be sure that our Company will co-operate in every way with you to avoid injury to the wildlife of our country."[16] GCOS President Clarence Thayer told Côté in 1966, "We have incorporated extensive facilities in our plant for containment of waste components, both of a routine and an accidental nature, to avoid

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[13] At the provincial level, before 1971, environmental monitoring was conducted by the Department of Health. Conservation sensibilities among Europeans have been traced back to the Thirteen Colonies. Richard William Judd, *Common Lands, Common People: The Origins of Conservation in Northern New England* (Cambridge, Massachusetts: Harvard University Press, 1997); Richard William Judd, *The Untilled Garden: Natural History and the Spirit of Conservation in America* (New York: Cambridge University Press, 2009).
[14] The Progressive Era was a time of activism and political reform around the turn of the 19th century. Conservation became an important concern of the progressive movement. Kurkpatrick Dorsey, *The Dawn of Conservation Diplomacy: U.S.-Canadian Wildlife Protection Treaties in the Progressive Era* (Seattle and London: University of Washington Press, 1998), 237; Samuel P. Hays, *Conservation and the Gospel of Efficiency: The Progressive Conservation Movement, 1890-1920* (Cambridge, MA: Harvard University Press, 1959), 123; Loo, *States of Nature*, 19,126.
[15] E. A. Côté, Deputy Minister of Northern Affairs and National Resources to W. J. Rea, President, GCOS, 12 November 1965, in RG22 vol. 1334 file 40-3-36 vol. 1, LAC.
[16] W.J. Rea to E. A. Côté, 22 November 1965, in RG22 vol. 1334 file 40-3-36 vol. 1, LAC.

any adverse effects on migratory wildlife."[17] In spite of these assurances, the tailings ponds became significant threat to migratory birds. Accounts of the deaths of migratory birds that landed on tailings ponds surfaced every few years from the early-1970s onwards.[18] In 2008, 1,606 ducks died after landing on a Syncrude tailings pond and became a figurehead example of the environmental consequences of bitumen extraction.[19] In 2010 researchers Kevin Timoney and Robert Ronconi found that between 458 and 5,029 birds died landing on tailings ponds every year. As reporting and data were inconsistent, these numbers represented "an unknown fraction of true mortality."[20]

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GCOS spilled oil into the Athabasca River in March 1968.[21] Arthur Laing, Minister of Indian Affairs and Northern Development, asked Rea to confirm reports of the spill. Laing noted that Côté and Thayer had assured him that GCOS would protect the environment. Laing wrote that the government knew "oil, phenols and arsenic are escaping from the 'scavenger cells' (secondary retaining ponds designed as backup), from a retaining pond with a broken earthen dyke, and from a seventy-acre dry wash that has been flooded with heavy crude oil."[22] Absent other environmental legislation, Laing cited the importance of the *Migratory Birds Convention Act* and asked GCOS to clean up the spill

[17] C. Thayer, President, GCOS to E. A. Côté, 20 January 1966, in RG22 vol. 1334 file 40-3-36 vol. 1, LAC.
[18] "Consultant claims Notley 'exaggerated' bird kills," *Fort McMurray Today,* November 8, 1974.
[19] Jon Gordon, *Unsustainable Oil: Facts, Counterfacts, and Fictions* (Edmonton: University of Alberta Press, 2015), 33-36; Ian Urquhart, *Costly Fix: Power, Politics, and Nature in the Tar Sands* (Toronto: University of Toronto Press, 2018), 205.
[20] Kevin P. Timoney and Robert A. Ronconi, "Annual Bird Mortality in the Bitumen Tailings Ponds in Northeastern Alberta, Canada," *The Wilson Journal of Ornithology* 122, no. 3 (September 2010): 569.
[21] P.G. Shewchuk, *Investigation of Oil Spill in Athabasca River, March 1968*, Alberta Environment (Edmonton, AB, 1968); Kevin P. Timoney, *A Study of Water and Sediment Quality as Related to Public Health Issues, Fort Chipewyan, Alberta*, For the Nunee Health Board Society, Fort Chipewyan, AB (Sherwood Park, AB: Treeline Ecological Research, 2007), 50.
[22] Arthur Liang to W. J. Rea, 13 May 1968, in RG22 vol. 1334 file 40-3-36 vol. 1, LAC.

and prevent future incidents. GCOS President K.F. Heddon wrote to Jean Chrétien, Minister of Indian Affairs and Northern Development, on 23 September 1968 describing the oil spill,

> During the night of November 30, 1967, with temperatures of -20ºF, we experienced a complete failure of our steam and power plant with no advance warning of any type. All electric lights, power, steam, etc., failed at our refinery processing units. Plant personnel were working in the dark endeavouring to avert process and equipment failures and, obviously, with an emergency of this magnitude, were unable to cover simultaneously all the problems that arose under this type of circumstance.[23]

Heddon explained that GCOS's drainage systems could not stop the discharge:

> Under these conditions major quantities of gas and petroleum liquids may be released to the emergency blow-drum and flare system. The gas streams are burned off safely and the liquids are collected in the knock-out drum and are recovered via the plant sewer and oil recovery facilities. However, in this instance, the drainage facilities from the knock-out drum were inadequate to handle the quantities of water and oil that were discharged. The excess oil and water flooded a low-lying area adjacent to the plant, overflowed across a plant road, and escaped under the snow blanket into an adjoining forest and muskeg area. Due to the contour of the land and heavy snow covering, it was not apparent that oil extended in significant amounts into this area.[24]

Snow and ice hid the spill from plant operators and Alberta officials. They could not see it until spring runoff, when it started flowing into the Athabasca river.

The spill contained major pollutants, including arsenic trioxide and phenolic compounds. The "Vetrocoke Process," which GCOS used to remove carbon dioxide in the hydrogen plant, used potassium carbonate in a water solution with arsenic trioxide. The Alberta Department of Health stopped GCOS from using the process when it found arsenic concentrations exceeding 0.7 parts per million in effluent water flowing into the Athabasca

[23] K.F. Heddon, GCOS, to Jean Chrétien, Minister of Indian Affairs and Northern Development, 23 September 1968, in RG22 vol. 1334 file 40-3-36 vol. 1, LAC.
[24] Heddon to Chrétien, 23 September 1968.

River, although it was meant to be a closed system. Arsenic trioxide is a toxic industrial chemical used in the manufacture of pesticides and as a wood preservative. Where it pollutes water, it can cause arsenic poisoning and cancer. Among other effluents, GCOS was spilling 40 pounds per day of phenolic compounds into the Athabasca River. Phenols are carcinogens that attack the red blood cells and the liver, even at low concentrations. The fire had crippled the sour water stripping facilities used to process streams containing phenols.[25]

Heddon wrote to Jean Chrétien that GCOS regretted the oil spill and would work to stop the plant from being a hazard to "river use and security of wild life in the river and beyond."[26] Documents from Sun Oil show that GCOS was overwhelmed by technical problems—especially the vast amount of tailings the hot water separation process created. Contributing to the problem was Sun Oil's lack of experience with tailings management, an issue that frequently affected mining projects.[27] Quantifying the effects of these pollutants became a challenge for Crown prosecutors when GCOS continued to spill oil in the 1970s and 80s.

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The development of the oil sands industry, the expansion of the town of Fort McMurray, water pollution from tailings ponds, oil spills, and atmospheric emissions had

[25] Phenolic compounds are a general class of organic compounds. Some organic compounds are saturated, which means they have lots of single bonds and are typically easy for bacteria to break down. Phenolic compounds are aromatic compounds, which means they have alternating double and single bonds, are much more stable, and therefore more difficult for bacteria to break down. Phenolic compounds also have carcinogenic properties. If phenolic compounds are released into rivers in high concentrations it is unlikely that bacteria will break them down and so can cause health problems in fish and other animals. Correspondence with Evelyn Asiedu, Department of Chemistry, University of Alberta, 22 February 2020.
[26] K.F. Heddon, GCOS, to Jean Chrétien, Minister of Indian Affairs and Northern Development, 23 September 1968, in RG22 vol. 1334 file 40-3-36 vol. 1, LAC.
[27] F. A. Bain to H. R. Sharbaugh, 5 June 1968, Acc. 1317, vol. 1, s. 6, box 35, file 6, Robert Dunlop GCOS 68, Hagley Museum and Library (HML).

significant adverse effects on the Athabasca environment.[28] By 1976 the GCOS tailings pond was leaching over 1.5 million litres per day of toxic effluent into the Athabasca River.[29] Upgrading bitumen emitted sulfur dioxide, nitrogen dioxide, and hydrogen sulfide into the atmosphere (Figure 13).[30] Residents of the nearby Indigenous community of Fort McKay linked atmospheric emissions from bitumen extraction and upgrading with the declining health of vegetation.[31] Although the oil sands industry claimed it was not damaging the Athabasca environment, Chapter 8 shows how government research and community observation found that extraction and upgrading had widespread impacts that increased with the scale and intensity of production.

[28] *From Where We Stand* (Fort McMurray, 1983); Roger Justus and Joanne Simonetta, *Major Resource Impact Evaluation, Prepared for the Cold Lake Band and The Indian and Inuit Affairs Program*, Justus-Simonetta Development Consultants Limited (Vancouver, 1979).
[29] W. Solodzuk et al., *Report on Great Canadian Oil Sands Tar Island Tailings Dyke*, Design Review Panel, Alberta Environment (1977); P. H. Bouthillier, *A Review of the GCOS Dyke Discharge Water*, Alberta Department of the Environment (Edmonton, Alberta, 1977).
[30] *An Issues Assessment for Concerns Regarding Ongoing Oil Sands Developments and the Community of Fort McKay*, Fort McKay Indian Band (Fort McKay, Alberta, 1986).
[31] Graeme Bethell, *Preliminary Inventory of the Environmental Issues and Concerns Affecting the People of Fort MacKay Alberta*, Bethell Management Ltd. (Brentwood Bay, B.C., 1985), 27.

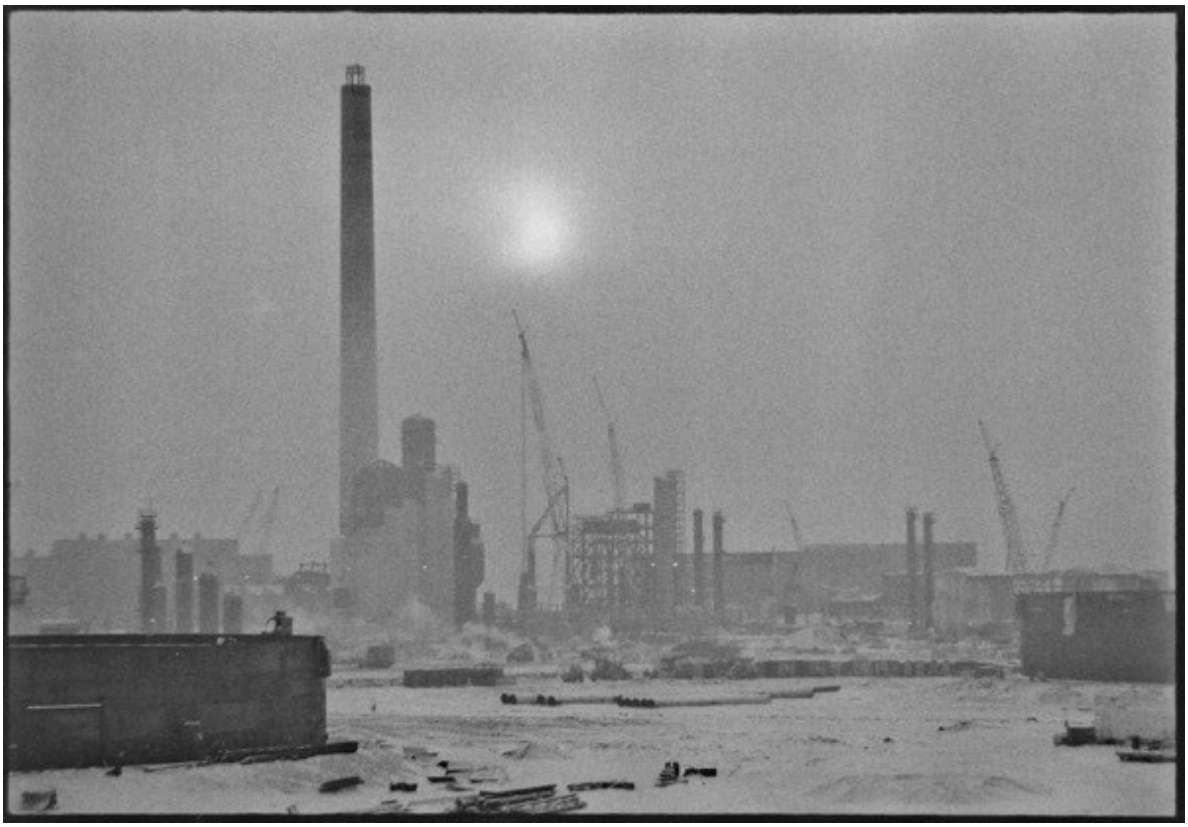

Figure 13: The 600-foot Syncrude Smokestack, Alberta, Winter 1976. unknown photographer, Imperial Oil Archives, IP-6s-2-2-13A, GA.

In the mid-1960s, environmental concern had already become widespread in Alberta, rather than a niche, activist preoccupation. Public opinion and the PC opposition pressured the faltering Social Credit government to establish an environmental agency and introduce new policies.[32] Alvin Finkel argues that creating environmental policies and the Department of Environment was a last ditch effort by the Social Credit government to regain public support and avoid losing the 1971 election.[33] In 1970, Premier Harry Strom's Social Credit government passed the *Environment Conservation Act,* creating the Environment Conservation Authority (ECA), a three member panel to act as an

[32] W.J. Yurko, "Nomination speech, by-election constituency of Edmonton Strathcona East," December 1968, 79.94 Box 5 file speeches pre-1974, Provincial Archives of Alberta (PAA).
[33] Alvin Finkel, *The Social Credit Phenomenon in Alberta* (Toronto: University of Toronto Press, 1989), 186.

ombudsman on environmental issues.[34] PC MLA Bill Yurko criticized the *Environment Conservation Act*, arguing that it was window dressing, a "nothing bill."[35] The PCs instead supported a proposal for a Pollution Control Board. Modelled on the Oil and Gas Conservation Board, it would have been bigger and more powerful than the ECA. The PC election platform championed environmental protection as its second priority after public participation and followed by its goals for resource development and economic diversification. Peter Lougheed stated:

> Progressive conservatives are committed to a firm policy of preserving and conserving the environment of Alberta... We recognize there must be a proper balance between the desire to not upset the natural state of our land and water and the job opportunities created by petroleum, timber, coal and other mineral and natural resource developers. However, if we are forced to lean in one direction or another, it would likely be towards conservation, rather than development.[36]

Lougheed's statement shows how the meaning of conservation evolved from its earlier focus on economic conservation—the wise use of non-renewable resources—to include environmental conservation. The PC government drafted land and resource management policies that looked to balance resource extraction with environmental protection.[37]

In 1971 Alberta passed the *Department of Environment Act,* which created the Alberta Department of Environment in the same year that the Trudeau government created

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[34] The ECA was involved in bitumen extraction issues ranging from tailings ponds, reclamation, and conversation planning. *The Environment Conservation Act*, Legislative Assembly of Alberta, 1970, M4755 file 709, GA; Environment Conservation Authority, *Summary of Resolutions from the Public Advisory Committee on the Environment to the Environment Conservation Authority, 1972-1973-1974* (Edmonton, 1975); Environment Conservation Authority, *Review of Interaction Between Migratory Birds and Athabasca Oil Sands Tailings Ponds: Report and Recommendations* (Edmonton, September 1975); Angela Clark Vuchnich, "The Environment Conservation Authority 1970-1977: An Assessment and Analysis" (Master of Environmental Science University of Calgary, 1980).

[35] William Yurko, Alberta Hansard, March 30, 1970, in Vuchnich, "The Environment Conservation Authority 1970-1977," 105.

[36] Alberta Progressive Conservative Party, *New Directions for Alberta in the Seventies: The Platform of the Alberta Progressive Conservative Party and its candidates - Alberta Provincial election 1971* (1971), Section 2.

[37] Armstrong, Evenden, and Nelles, *The River Returns: An Environmental History of the Bow*, 317.

the federal Department of Environment.[38] The provincial government gave its Department of Environment significant power to manage environmental issues. Article 16, for example, empowered the Minister of Environment to issue "stop orders" to deal with contraventions of environmental law and to shut down polluting facilities. Alberta also passed the *Clean Water* and *Clear Air* acts, which empowered the environment minister to create pollution regulations.[39]

The PCs won a majority government in the August 1971 election with 49 the 75 seats. Social Credit took 25, the NDP one. In November 1971, the PCs created an array of environmental research programs, standards and approvals procedures, and a pollution control judiciary. The PCs empowered the Department of Environment to issue fines for pollution. Environment Minister Bill Yurko said that the PC government espoused the "polluter pays" principle. All pollution data would be public knowledge, the scientific and academic communities would have unobstructed access to pollution information, and the public would be directly involved in the creation of environmental policy.[40]

In August 1972, the Conservation and Utilization Committee (CUC), recommended that the PC government revise the province's approach to environmental regulation of the oil sands industry, which it described as "poorly defined, inconsistent and totally lacking in cohesiveness." Alberta had established the CUC in 1955 to report on the conservation and use of land, forest, and water resources to the Lieutenant Governor. The Department of Environment subsumed its functions in 1971. The CUC continued to work as a research body reporting to the Environment Minister until 1980. The CUC advised that development

[38] "Bill 32, the *Department of Environment Act*," Legislative Assembly of Alberta, 1971, 78.77 box 1, PAA.
[39] "Bill 40, the *Clean Water Act*," Legislative Assembly of Alberta, 1971, 78.77 box 1, PAA.
[40] William Yurko, "Address to the First Conference of the Public Advisory Committee on the Environment." Edmonton, Alberta November 25, 1971, 79.94 Box 5, PAA.

"should result in a long-term benefit and improvement to Alberta's physical and ecological environment." Government should impose water effluent and atmospheric emission controls "to the limits of technology in order that environmental degradation would be prevented."[41] The oil sands industry often claimed it was too expensive to employ the best available sulfur dioxide capture technology. It used more affordable, if less effective, technologies instead.[42] Debates about the best versus the most affordable environmental impact mitigation technology continued throughout the evolution of the oil sands industry and echoed conflicts about pollution control technology in other industries.[43] The CUC recommended that the government move cautiously and commission a wide range of research and planning to limit the area affected by bitumen extraction. In retrospect, one of most important recommendations from the 1972 CUC report was that the government should prevent industry from building tailings ponds immediately adjacent to the Athabasca River, as doing so would result in extensive watershed contamination.[44] The Alberta government did not at this point express an awareness of the specific sorts of pollutants contained in oil sands effluent water; however, it did demonstrate basic concern with the toxic qualities of effluent water.

In its first years, the Lougheed government sought to develop the industry carefully. In 1972, the Alberta government amended the *Alberta Environmental Research Trust Act*

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[41] Conservation and Utilization Committee, "Fort McMurray Athabasca Tar Sands Development Strategy," Edmonton, August 1972, 2-12, RG19 vol. 5238 file 9628-15-1 pt. 1, LAC, p. 57; Alberta, *An Administrative History of the Government of Alberta, 1905-2005* (Edmonton: The Provincial Archives of Alberta, 2006); Pratt, *The Tar Sands*, 97.
[42] Department of Energy and Natural Resources, "Notes Re. Great Canadian Oil Sands Submission of March 29, 1976 to the Alberta government," October 21, 1976, 82.165 file. 466, PAA.
[43] John D. Wirth, *Smelter Smoke in North America: The Politics of Transborder Pollution* (Lawrence: University of Kansas Press, 2000), 4.
[44] Conservation and Utilization Committee, "Fort McMurray Athabasca Tar Sands Development Strategy," 65.

to orient environmental research towards minimizing the impacts of oil sands operations, focusing research priorities on the disposal of mine waste and land reclamation.[45] In October 1972 the *Globe and Mail* reported:

> the Alberta government will not permit large scale development of the Athabasca oil sands until the completion of a policy review on environmental guidelines next year… Lougheed prepared to slow development to ensure it goes ahead with best possible adherence to environmental protection.[46]

In November 1973, the Alberta government sought federal involvement in environmental research.[47] Alberta then created the Alberta Research Secretariat and the Land Reclamation Division to ensure that companies restored the surface of completed industrial projects.[48]

In early 1973, Yurko said the government was "not generally under any pressure to develop synthetic crude oil… for the purpose of meeting either Albertan or Canadian Petroleum requirements," and that development should proceed at a pace that maximized domestic benefits and minimized environmental impacts.[49] However, Lougheed avoided committing to a specific framework. He told the *Calgary Herald* that his government was "not going to come forward with any long-term plan that commits our government to any particular royalty, public participation or other terms of reference that would tie our hands over the long-term in the tar sands."[50] Yurko introduced a "one-window concept," which

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[45] *Alberta Environmental Research Trust Amendment Act, Alberta Hansard*, 24 April 1970, vol. 33, p. 40, PAA.
[46] "Big oil sands projects await guideline review," *The Globe and Mail,* 27 October 1972, in RG19 vol. 5238 file 9628-15-1 pt. 1, LAC.
[47] A. MacPherson to J.B. Seaborn, 16 May 1980, RG39 box 76 file 6638-2-1-2-2 pt. 1, LAC.
[48] The Alberta government began developing reclamation legislation in the 1970s with the passing of the *Land Surface Reclamation Act* in 1973. Government of Alberta, "Land Surface Conservation and Reclamation Act," ed. Government of Alberta (Edmonton: Queen's Printer, 1973); Chris Powter et al., "Regulatory History of Alberta's Industrial Land Conservation and Reclamation Program," *Canadian Journal of Soil Science* 92, no. 1 (January 2012): 41.
[49] W.J. Yurko, "Address to the Instrument Society of America," January 23, 1973, 79.94 Box 4, PAA.
[50] Kevin Peterson, "Prompted by energy crisis, Lougheed abandons long range tar sand policy," *The Calgary Herald*, 17 May 1973, RG19 vol. 5238 file 9628-15-1 pt. 1, LAC.

made the Energy Resources Conservation Board (ERCB) the umbrella regulator that would manage all project assessments and approvals, rather than individual government departments.[51] The Department of Environment retained the primary responsibility for managing environmental issues, but the PC government tasked the ECRB with deciding whether the economic benefits of oil and gas projects justified the environmental impacts. Since the ERCB's mandate required it to make decisions that maximized public economic benefits, it rarely blocked projects on environmental grounds. Chapter 8 shows how the ERCB refused Fort McKay's appeals for it to address the environmental and social impacts of development during the hearings for the Alsands project and GCOS expansion in 1979, or the Syncrude expansion in the late 1980s and early 1990s. Breen argues that the Conservation Board was governed by the prevailing Alberta sentiment that "nothing [should] hinder the development of an industry that brought so many jobs, contributed so handsomely to the provincial treasury, and underpinned so much hope for the future."[52] The Lougheed government made project approvals more efficient by centralizing decision making in the ERCB. Doing so created a regulatory structure that suppressed environmental concerns. The ERCB approved projects that had significant consequences for Indigenous communities and caused environmental conflicts.[53]

Environmental Policy and the Development Imperative

Investing in the oil sands industry in 1975 saddled the Government of Canada and especially the Government of Alberta with conflicting mandates as both regulators and

[51] W.J. Yurko, "Address to the Canadian institute of mining and metallurgy," August 9, 1972, 79.94 Box 5, PAA.
[52] David Breen, *Alberta's Petroleum Industry and the Conservation Board* (Edmonton: University of Alberta Press, 1993), 537.
[53] W.J. Yurko, *Alberta Hansard*, 10 April 1973, vol. 40 p. 2014, PAA.

developers of the resource. This policy dynamic involved an inherent conflict of interest, which made government beholden to industry in a way that compromised the ability of policymakers to implement adequate environmental regulation and research. The problem was most significant for Alberta because Alberta's investments in the oil sands industry were much larger proportionally than those of the federal government and it was the owner of the resource. However, Alberta did not have control over navigable waterways, fisheries, or Indigenous (Indian) Affairs, all the direct concern of the federal government. The extent to which the Lougheed government considered the development-conservation dynamic a conflict of interest is not clear. Lougheed's position seems to have been that owning the resource exposed Alberta to the risks of the hydrocarbon economy regardless of government involvement. So, it should take a larger position in the industry to improve its regulatory and financial influence and reap more public benefits. Asked whether environmental policy became a conflict of interest after the Alberta government bought into Syncrude, Allan Warrack said: "I don't think it has to, but if you have shaky governance, it happens. I think that does finger a very soft point, yes. Yes, I do." Warrack said the PC government began to neglect environmental issues, though not out of bad will, and environmental regulation started to degrade during its second term in office from 1975-1979 when Don Getty served as Minister of Energy and Natural Resources.[54] The PC government sidelined its environmental agenda as the oil sands industry developed and environmental problems emerged alongside technical and financial difficulties for the industry. By the end of the 1970s, the PC government viewed environmental regulation and research as a threat to the success of the oil sands industry, of which it had become a part.

[54] Allan Warrack, interview with Hereward Longley, Edmonton, Alberta, June 15, 2018.

Two concepts from environmental governance scholarship help examine Alberta's environmental policies in the 1970s: symbolic politics and agency capture. Jens Newig defines symbolic environmental legislation as laws with high strategic effectiveness and low substantive effectiveness designed to manage rather than resolve environmental problems. Symbol and substance are relative characteristics of environmental legislation: all legislation is somewhat symbolic; all symbolic legislation is somewhat effective. Substantive effectiveness can be measured by a law's suitability, enforceability, and the resources allocated to the law's implementation. Strategic effectiveness can be measured by the extent to which a policy relieves political pressure, the severity of consequences for noncompliance, the law's hierarchical position, and the timing of the law's passage.[55] Alberta's environmental policies in the 1970s had symbolic elements. The Social Credit government passed its environmental laws during an election cycle to show it was addressing environmental concerns. The environment minister had the power to issue stop orders, which gave substantive effectiveness and symbolic significance to the laws. But, the issuance of stop orders and other regulatory powers were subject to ministerial discretion. The discretionary nature of these regulations enabled the Alberta government to neglect and minimize their substance when their focus on environmental policy shifted following the 1973 crisis.

The discretionary nature of these laws did not on its own reduce Alberta's environmental policies to being merely symbolic. A core criterion for identifying symbolic policy is legislative intent: purely symbolic legislation must be deliberately designed to fail

[55] Jens Newig, "Symbolic environmental legislation and societal self-deception," *Environmental Politics* 16, no. 2 (2007): 279.

to meet its stated objectives.[56] In the PC government's early years, it strengthened the previous Social Credit government's environmental policies, which it had critiqued as being ineffective. Asked in a 2018 interview about the PC government's commitment to environmental protection, Allan Warrack replied that the PCs had a "very" serious commitment: "because it matters in itself, but also… in terms of the public perception of it, that if we didn't be careful and keep it clean, it will fall into bad faith with the public… and of course that's what happened."[57] Warrack's response shows that the PCs, initially at least, worked to develop environmental policy out of genuine concern for the environment, and because of the strategic importance of protecting the environment. The PCs wanted it both ways. Their legislative intent was to develop substantive polices that were symbolically effective to demonstrate to the public their action on environmental issues.

While many environmental laws turn out to be ineffective, not all ineffective laws are symbolic.[58] More significant than the symbolic aspects of Alberta's environmental policy was its clientelism, a form of agency capture in which regulated industries gain influence over regulators.[59] Agency capture evolves through a process of bureaucratic slippage. The regulated industry gradually shifts the actions of the regulatory agency towards its interests and away from those of the public. When the province invested in Syncrude, the lines between government and industry, the regulator and the regulated, became increasingly blurred.[60] The Department of Environment developed close

[56] Newig, "Symbolic environmental legislation and societal self-deception," 278.
[57] Warrack interview, 2018.
[58] Newig, "Symbolic environmental legislation and societal self-deception," 278-79.
[59] Debra J. Davidson and Scott Frickel, "Understanding Environmental Governance: A Critical Review," *Organization & Environment* 17, no. 4 (2004): 474; Shari Clare and Naomi Krogman, "Bureaucratic Slippage and Environmental Offset Policies: The Case of Wetland Management in Alberta," *Society & Natural Resources* 26, no. 6 (2013): 673.
[60] William R. Freudenberg and Robert Gramling, "Bureaucratic slippage and failures of agency vigilance: The case of the environmental studies program," *Social Problems* 41, no. 2 (1994).

relationships with industry that limited participation in the setting of standards to representatives of government and industry. The public and environmental interest groups had little or no involvement. Although the environmental laws of the 1970s contained substantive enforcement provisions, the Department's main strategy was to negotiate compliance. It viewed prosecution as aggressive action that would undermine future compliance and good will, which it would use only after exhausting all other options.[61]

Changes in the PC government's willingness to address environmental issues appeared in its engagement with scientific research and development decisions. In the early 1970s, the only ecological study of the oil sands region was a 1973 report by Intercontinental Engineering of Alberta, which held that without government intervention and industry adoption of preventative measures, the environmental effects of multiple oil sands operations would be significant.[62] In a 1974 address Bill Yurko said: "it is our duty and responsibility to the as yet unborn generations not to leave them a legacy of environmental desecration in North-Eastern Alberta. Our intent today is to lay down a base of requirement so stringent as to prevent such a catastrophe from occurring." Yet he was skeptical that it would be politically feasible for any government to overcome economic dependence on bitumen once labour was trained, infrastructure built, and construction began.[63] In the legislative assembly the following week, Yurko discussed the environmental effects of the oil sands industry: "at this time all we do know is there may be a problem in the future. We will be studying it with considerable intensity."[64] Later that day, Lougheed said: the "general assessment we have at the moment is that in terms of

[61] Winfield, "The Ultimate Horizontal Issue," 132.
[62] Pratt, *The Tar Sands*, 102-04.
[63] W.J. Yurko, "Will Environmental Requirements Limit Energy Supplies?" May 8, 1974, 79.94 Box 4, PAA.
[64] W.J. Yurko, *Alberta Hansard*, 26 Apr. 1974, p. 1443, PAA.

development it's quite clear that the environmental situation can be adequately handled." Based on the assumption that his government had taken steps to protect the environment, "we would hope that… members on both sides of the House would encourage the creation of new and meaningful jobs in this province."[65] Lougheed's statement reflected an increasingly polarized position that presented the prospect of rigorous environmental policy as a zero-sum against economic growth and job creation.

The federal government was more critical of the environmental risks of bitumen extraction.[66] After becoming federal Environment Minister in 1974, Jeanne Sauvé said that the environmental impacts of the oil sands industry were unacceptable and called for rigorous environmental assessments. She recommended that Alberta and the federal government participate in a research program to fill knowledge gaps and improve regulatory capability to assess the cumulative effects of multiple operations.[67] An exchange between Yurko and Sauvé about Environment Canada's critique of Syncrude's environmental impact assessment shows the growing influence of the energy crisis. Sauvé wrote that Syncrude "failed to appreciate the real scope of environmental concerns and has also failed to address the question of environmental protection in either a realistic or adequate manner." The report lacked quantitative assessments of ecosystems in the lease area and underestimated the potential ecological consequences of the project. Sauvé wrote: "the environmental forecast from the development must be considered as conjectural."[68] Yurko, despite advocating environmental protection in the early 1970s, replied that

[65] Peter Lougheed, *Alberta Hansard*, 26 Apr. 1974, p. 1443, PAA.
[66] Jean Chrétien to Jack Davis, 16 Jan. 1974; Jack Davis to Jean Pierre Goyer, 24 Mar. 1974, RG108 vol. 284 file 4833-3, LAC.
[67] Jeanne Sauvé to W.J. Yurko, 18 Dec. 1974, RG108 vol. 284 file 4833-3, LAC.
[68] Pratt, *The Tar Sands*, 107.

environmental research must not delay oil production: "We know that major information gaps exist in respect to the baseline environmental data in the entire area. Nevertheless, in light of Canada's critical energy balance, it… does not appear prudent to delay oil sands development until all needed information is available."[69] By the end of 1974, the Lougheed government's policy rhetoric changed from the cautious approach of 1971 and 1972, to stressing the importance of quickly developing the industry.

In 1973 the ECA asked the Environment Minister to hold public hearings on the impacts of the oil sands industry. In 1974, Environment Minister Bill Yurko approved the ECA's motion to review the effects of tailings ponds on migratory birds. In September 1975, the ECA completed its report, which confirmed that tailings ponds threatened migratory birds, and recommended that it hold public hearings. In 1976, the new Environment Minister David Russell blocked the ECA's request. He said the Department of Environment would wait a few years to allow AOSERP to do its work. He defended the government's decision to allow Syncrude to go ahead: "you cannot ask a company to wait for ten years for a decision." In 1977, Russell told the ECA the department would not allow it to conduct any hearings into energy projects, it would give this responsibility to the ERCB instead.[70]

The PCs won a landslide majority in the 1975 election, winning 69 seats. The election demonstrated broad public support for Lougheed's diversification policies fuelled by the development of the oil sands industry and weakening support for environmental groups.[71] In March 1976, Grant Notley tried to pass a motion that would require

[69] W.J. Yurko to Jeanne Sauvé, 15 Oct. 1974, in RG108 vol. 284 file 4833-3, LAC.
[70] Vuchnich, "The Environment Conservation Authority 1970-1977," 143.
[71] Winfield, "The Ultimate Horizontal Issue," 145.

Syncrude's permitted sulfur dioxide emissions be reduced from 287 tons per day to 60.[72] Notley led the Alberta New Democratic Party (NDP) and was its only MLA. He said that the government's emissions limits were arbitrary and could not realistically prevent the impacts of sulfur dioxide, and he claimed that technology existed to reduce emissions. The government's investment in Syncrude put it in "virtually a conflict of interest position," he argued, "because we are now a major part of that project… The more stringent the environmental standards are, a portion of that cost will have to be met by the taxpayers of Alberta."[73] Environment Minister David Russell responded dismissively: "Albertans are darn lucky to have a Member… representing their interests on the Syncrude board, because we've got a very exciting and pioneering development going on up there."[74] PC MLA Tom Chambers, who sat on Syncrude's board of directors, criticized Notley. Changing the regulations would "be the height of irresponsibility," he said, "those who would destroy the viability of the project by attempting to force needless and unduly harsh environmental standards are doing an immense disservice, not only to Syncrude, but to Alberta and to the Canadian nation as a whole."[75] In response to Chambers, Social Credit Opposition Leader Bob Clark argued that the government's investments in the oil sands industry would compromise future environmental regulation:

> The government of the day, regardless of who the government is, now has got at least a billion dollars… committed to this project. If there isn't a good rate of return, if the project doesn't work well… there's going to be tremendous pressure on the government of the day to make some adjustments… The [sulfur dioxide emissions] permit will be reviewed in, I believe, 1983… the Department of Environment will be making recommendations as to what should happen to the permit. If Syncrude is

[72] The NDP was a small opposition party in Alberta, which in 2015, won the election and ended the PC's 44 years governing Alberta. Grant Notley was the father of former Premier Rachel Notley.
[73] Grant Notley, *Alberta Hansard*, 16 Mar. 1976, p. 196, PAA.
[74] David J. Russell, *Alberta Hansard*, 16 Mar. 1976, p. 203, PAA.
[75] Tom Chambers, *Alberta Hansard*, 16 Mar. 1976, p. 201, PAA.

> having very serious problems at the time, let's not be so naïve as to say there is not going to be pressure to make changes in the standards… I think it is important that we recognize the conflict of interest situation is here, regardless of where we sit in the House.[76]

The opposition was concerned about both the impacts on the environment and the financial risk the Alberta government was taking to finance the Syncrude project. PC government defeated Notley's motion. But by criticizing the public/private partnership that funded Syncrude, the opposition challenged Lougheed's strategy of industry control through participation.

Before defeating the Social Credit government in the 1971 election, Lougheed had criticized the Social Credit government for incompetently managing the province's relationship with the oil industry. He argued that the Social Credit government had failed to capture royalties and regulate the industry, missed economic opportunities, and overlooked the industry's environmental impacts. The PC strategy was to maximize the public benefits of the oil industry through direct participation, while simultaneously working to minimize the environmental impact of the industry through regulation and research.[77] When financial and technical problems mounted, the Alberta government reneged on its commitments to environmental regulation in favour of protecting the industry.

Oil Spills and Enforcement Problems

GCOS regularly spilled oil from its plant site and pipelines.[78] On 6 June 1970 a Suncor pipeline ruptured spilling over 19,000 barrels or 3 million litres of oil.[79] Kevin

[76] Bob Clark, *Alberta Hansard,* 16 Mar. 1976, p. 202-203, PAA.
[77] Richards and Pratt, *Prairie Capitalism*, 215-50.
[78] Timoney, *A Study of Water and Sediment Quality*, 50-56.
[79] H.L. Hogge et al., *Alberta Government Committee Report on Great Canadian Oil Sands Oil Spill to Athabasca River, June 6, 1970*, Alberta Environment (Edmonton, AB, 1970); Timoney, *A Study of Water and Sediment Quality*, 51.

Timoney writes that, even accounting for the different standards of the time, the industry and government response was careless. GCOS did not act to stop the flow of oil downstream until June 11, when it was too late as the spill had reached the Athabasca Delta.[80] Fort Chipewyan Métis Elder Jumbo Fraser recalled how GCOS and Alberta Environment stacked hay bales along the shore of Lake Athabasca to try to soak up the oil.[81] Ray Ladouceur recalled how the 1970 spill "buggered up our fishing… God knows how much fish we lost."[82]

In December 1974 the GCOS pipeline to Edmonton spilled 6,000 barrels of oil into the House River, which is a tributary to the Athabasca, near Crow Creek, about 70 kilometres south of Fort McMurray.[83] Between May 1975 and July 1976 GCOS exceeded its air and water pollution limits. In November 1976, the Alberta Attorney General charged GCOS with six breaches of the Alberta *Clean Air Act* and one violation of the federal *Fisheries Act.* The charges stemmed from a letter writing campaign by Save Tomorrow Oppose Pollution, which triggered the Department of Environment to investigate GCOS.[84]

The 1977 case *R. v. Great Canadian Oil Sands Ltd.* addressed charges under section 33(2) of the *Fisheries Act* that prohibited the deposit of deleterious substances in water frequented by fish.[85] The Crown investigated and found that GCOS was leaching water

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[80] R.D. Jakimchuck, *A Biological Investigation of the Athabasca River Oil Spill*, Report to the Conservation Fraternity of Alberta (Confab) (Edmonton, AB: Alberta Environment, 1970); Timoney, *A Study of Water and Sediment Quality*, 51.
[81] Jumbo Fraser interview with Kevin Timoney, 2 June 2007; Timoney, *A Study of Water and Sediment Quality*, 55.
[82] Ray Ladouceur interview with Kevin Timoney, 2 June 2007; Timoney, *A Study of Water and Sediment Quality*, 55.
[83] Jim Bentein, "GCOS repairs oil line after rupture," *Fort McMurray Today,* December 27, 1974.
[84] For example, Louise Swift to David Russell, 15 December 1975, PR93.362, Box 69, File 847, PAA; "7 pollution charges laid against GCOS," *Fort McMurray Today,* November 2, 1976.
[85] *R. v. Great Canadian Oil Sands Ltd.* Alberta Provincial Judges' Court, Aime, J., Fort McMurray, February 23, 1977; Michael J. Hardin, John E. MacLatchy, and Robert E. Tourangeau, eds., *Case Law: Prosecutions Under the Pollution Control Provisions of the Fisheries Act*, vol. 2 and Recopied Vol. 1, Fisheries Pollution Reports (Ottawa: Environmental Protection Service, Environment Canada, 1980).

from a tailings pond into a swamp that drained into the Athabasca River, and from a pipe that drained into the Athabasca River. Researchers used bioassay testing, a method of determining the toxicity of a substance by exposing living organisms to it, in this case stickleback and rainbow trout.[86] Zoologists from the federal Department of Environment testified that five rainbow trout they put in a mix of effluent gathered from several drainage locations died within 72 hours. GCOS lawyers argued the River diluted the effluent and all rainbow trout put in water collected downstream of GCOS survived the test.[87] Provincial Judge Harry Aime dismissed the charges against GCOS, stating "I find absolutely no evidence of any effect on the ecology of the fish in the Athabasca." Motorboats, birds, naturally occurring bitumen, and fish themselves were just as responsible for any pollution in the Athabasca River as GCOS. He said: "there is no such thing as pure water." He decided that levels of downstream contamination could prove the negative effects of effluent. The effects of point source pollution on fish like stickleback and rainbow trout, which were not found in the Athabasca River, did not prove that GCOS was contaminating the river.[88] GCOS lawyer Denny Thomas told the court, "whatever it is that's going into the river just isn't having any effect on fish that are here."[89]

After Judge Aime dismissed the charges against GCOS, Attorney General Jim Forster said: "We have identified some weaknesses from a prosecution point of view... in enforcing the law and we are addressing our minds to those weaknesses." The court threw out the *Clean Air Act* charges because they hinged on evidence from GCOS itself. The

[86] *R. v. Great Canadian Oil Sands Ltd.* (1977), Hardin, MacLatchy, and Tourangeau, *Case Law: Prosecutions Under the Pollution Control Provisions of the Fisheries Act*, 106.
[87] "GCOS effluent killed test fish, court informed," *Fort McMurray Today,* February 22, 1977.
[88] *R. v. Great Canadian Oil Sands Ltd.* (1977), Hardin, MacLatchy, and Tourangeau, *Case Law: Prosecutions Under the Pollution Control Provisions of the Fisheries Act*, 107.
[89] "Charge dismissed against GCOS today," *Fort McMurray Today,* February 23, 1977.

court found that it could not self-incriminate, although environmental regulation of the oil sands industry relied on self-reporting. Asked if government would change the law to fix the problem, Environment Minister David Russell said: "That kind of process and procedure is one that is undergoing continually [sic] and I suppose we would be reporting back at such time that new legislation would be introduced."[90]

Legal scholars Albert Hudec and Joni Paulus argue that Alberta included significant industry input in its environmental regulation at both the policy making and enforcement stages. This dynamic led to Alberta environmental law arising from a consultative framework in which administrative tools were the primary means for regulators to seek abatement and compliance. Alberta regulators often set emissions limits at unrealistically low levels. Hudec and Paulus write that these levels were "performance objectives rather than realistically attainable standards." Regulators rarely and irregularly used control or stop orders or issued financial penalties of up to $25,000 for violating emissions licences.[91] Prosecution was an indirect way for regulators to seek oil companies' compliance with environmental regulation, and as *R. v. Great Canadian Oil Sands Ltd.* shows, an ineffective one.

The office of Attorney General James Foster appealed the acquittal in August. Crown Prosecutor David Kilgour told *Fort McMurray Today* the Crown thought Judge Aime had erred in his analysis of the facts of the case. Aime refused to allow evidence from GCOS, and believed since the emissions had not harmed anyone, the pollution was not a crime.[92] In January 1978 the Alberta Court of Appeal rejected the Attorney General's

[90] "Environmental law weakness cited," *Fort McMurray Today,* March 2, 1977.
[91] Albert J. Hudec and Joni R. Paulus, "Current Environmental Regulation of the Alberta Oil and Gas Industry and Emerging Issues," *Alberta Law Review* 28, no. 1 (1990): 173-76.
[92] "GCOS acquittal appealed," *Fort McMurray Today,* August 19, 1977.

appeal of the *Clean Air Act* and *Fisheries Act* charges, upholding Judge Aime's acquittal. Justice J.W. McClung ruled that the river showed no adverse effects from the GCOS's emissions, "and there was no evidence of any disruption of the aquatic or biological systems present in the river."[93] The rulings in *R. v. Great Canadian Oil Sands Ltd.* show some of the difficulties the provincial government faced in drafting effective environmental legislation. One of the key issues in this case was that air and water pollution was relative. Justices Aime and McClung agreed that though GCOS may have polluted the river, the Crown could not prove beyond a reasonable doubt that it damaged the ecosystem. The acquittal thus allowed a low level of persistent pollution that contributed to the long-term cumulative effects of the oil sands industry.

The 1975-78 GCOS pollution case shows that although the provincial and federal governments adopted progressive environmental laws in the early 1970s, the standards of proof for a conviction were inconsistent and difficult for prosecutors to meet. Alberta environmental regulation hinged on self-reporting, but the courts in this case refused to admit self-incriminating evidence. A GCOS spokesperson said the acquittal showed "conclusive proof of what we have maintained all along, that we are not polluting the river and are in fact quite aware of our impact on the surrounding environment and therefore take the necessary measures to ensure we do not create undue stress on the surrounding environment."[94]

Environmental Research

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[93] *R. v. Great Canadian Oil Sands Limited,* The District Court of Alberta, Edmonton, Alberta, McClung, J., January 10, 1978; Hardin, MacLatchy, and Tourangeau, *Case Law: Prosecutions Under the Pollution Control Provisions of the Fisheries Act*, 110. "River pollution charges rejected by appeal court," *Fort McMurray Today,* January 13, 1978.

[94] "River pollution charges rejected by appeal court," *Fort McMurray Today,* January 13, 1978.

The Alberta and federal governments created the Alberta Oil Sands Environmental Research Program in 1975. AOSERP worked under joint control of Environment Canada and the Alberta Department of Environment with a five-year budget of $40 million. Government tasked AOSERP with producing information to aid environmental regulation, but limited the program to research functions, so it could not manage or regulate projects.[95] AOSERP staff came from Fisheries and Oceans Canada, Environment Canada, the Alberta Department of Environment, and universities.[96] AOSERP was managed by a series of committees chaired by two federal and six provincial representatives, and it reported through an Alberta program manager, to the ministers of Environment. Before the program started, Environment Canada scientists and managers were concerned that government investments in Syncrude could compromise AOSERP's research.[97] As AOSERP evolved, it suffered from internal and external conflicts. Researchers, government bureaucrats, and industry disagreed about the program's research priorities and general purpose.

Industry and government prioritized research that would determine what impacts were acceptable and affordable measures the oil sands industry could take to reduce damage to the environment. Researchers were more concerned with establishing baseline data and identifying problems. The Alberta Environment Research Secretariat maintained that AOSERP research should focus on the "solution of practical social and technical environmental problems… and to provide scientific data for the use of government and industry so a better job can be done of protecting man, animals and plants and to aid in

[95] Government of Alberta, "Canada – Alberta Agreement for the Alberta Oil Sands Environmental Research Program, 1975, 1977", 3-5, PAA.
[96] Stuart B. Smith, *Alberta Oil Sands Environmental Research Program, 1975-1980: Summary Report* (Edmonton: Government of Alberta, 1981), 8.
[97] A. S. Rosemarin, Fisheries and Marine Service to Dr. R. H. Bailey, Lands Directorate, 20 January 1975, RG39 box 76, file 6638-2-1-2-2 pt.1, LAC.

restoring the area to a biological productivity as good as or better than before mining commenced."[98] The Oil Sands Environmental Study Group (OSESG), which represented industry, wanted AOSERP to focus on studying the ecosystem's capacity to absorb pollution. At the second AOSERP planning workshop, OSESG chair Bill Cary said funding research that did not address industry priority areas was a poor use of AOSERP money.[99]

One of the biggest issues with AOSERP stemmed from the Alberta government's interference in the program's management. In its first year of operation, Alberta replaced several program managers with Department of Environment bureaucrats to steer the research program to address issues prioritized by the province and industry. These managers were not familiar with research and clashed with AOSERP scientists. At a July 1976 meeting, Deputy Environment Minister Walter Solodzuk attributed the program's management problems to its organizational structure, which did not delineate clear lines of responsibility or accountability. Technical Research Committees (TRCs) that designed the research, and managers responsible for the function of the program, jointly managed project teams.[100] Ron Wallace—director of the Aquatic Fauna Technical Research Group, who went on to a long career as a federal environmental scientist with the Environmental Protection Service and to later work on the Joint Oil Sands Monitoring Program—argued that the steering committee should separate researchers from program management to preserve the autonomy of research.[101] The planning committee found it problematic that

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[98] Alberta Environment Research Secretariat, *Alberta Oil Sands Environmental Research Program 1975-1980: Proposed Purpose and Objectives* (December 1975), GR1981.203/4 Box 1, PAA.
[99] The Alberta Environment Research Secretariat was the research division of the Alberta Department of Environment and responsible for Alberta's contribution to AOSERP. The Oil Sands Environmental Study Group was a group set up by the oil industry to study the effects of bitumen extraction. Bill Cary, AOSERP Joint Steering Committee Meeting Minutes, 30 Sept. 1976, GR1981.203/4 box 1, PAA.
[100] W. Solodzuk, AOSERP Joint Steering Committee Meeting Minutes, 28 Jul. 1976, RG39 box 76 file 6638-2-1-2-2 pt.1, LAC.
[101] Ron Wallace, AOSERP Joint Steering Committee Meeting, 17 Aug. 1976, in RG39 box 76 file 6638-2-1-

AOSERP had not produced broad-based reports that industry and government could easily use. It stated that the "narrow, discipline-specific projects that characterize the present Program will not provide answers to questions on broad environmental problems." The committee was concerned that AOSERP did not consider any of the proposed oil sands development or reclamation scenarios environmentally sound or acceptable.[102]

AOSERP scientists felt that the program struggled because of its size and inefficient bureaucracy. AOSERP was a large, complex organization influenced by a wide range of stakeholders. Shortly after AOSERP dissolved, Ron Wallace wrote that AOSERP's guidelines were not useful for its scientists. "The 'top-down' control of science and scientists that emerges," Wallace wrote, "typically leads to the assignment of work activities in accordance with jurisdictional mandates and immediate political realities—not on the basis of either the problem or scientific competence."[103] Conflicts between administrators and scientists compromised the efficacy of AOSERP.

After the 1976 planning meetings, Alberta Environment reorganized AOSERP to a systems-based research framework. Systems based thinking emphasized understanding the linkages and interconnections between various components that form the whole of ecological systems.[104] The new framework diverged so far from the original structure of the program that it required the federal and provincial governments to sign a new agreement in 1977.[105] Alberta eliminated the senior advisory and liaison committee and replaced it with

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2-2 pt. 1, LAC.
[102] Program Operations Group Meeting #2, Nov. 1976, 81.203 box 1 file 6, PAA.
[103] Ron R. Wallace, "Organizational Impediments to Effective Research on Running Waters," in *Perspectives in Running Water Ecology* ed. Maurice A. Lock and D. Dudley Williams (New York: Plenum Press, 1981), 306-09.
[104] Fritjof Capra, *The Web of Life: A New Scientific Understanding of Living Systems*, 1st Anchor Books ed. ed. (New York: Anchor Books, 1996), 75.
[105] Smith, *Alberta Oil Sands Environmental Research Program*.

an advisory board appointed by the Alberta Minister of Environment. Alberta appointed a new program director and made the TRCs accountable to the program director.[106] These changes reduced the autonomy of AOSERP, as the new structure gave control to managers who were not scientists and often lacked the scientific literacy to make sound scientific assessments or manage research. R.P. Angle, a meteorology and climatology specialist, wrote to the head of the Air Quality Control branch of AOSERP that researchers felt intimidated by the research manager. "Proposals were no longer suggested, referred to subcommittee and then acted upon," he wrote, "Instead, committee members were asked only to criticize already written terms of reference." The new structure was a "major shift towards meeting objectives set by Alberta rather than those set by the federal government."[107] The federal government's goal was to fund a research program that would establish the ecological baselines of the Athabasca ecosystem before major development took place. Alberta initially pursued this same goal, before unilaterally changing the direction of AOSERP to address oil industry priorities such as how to mitigate environmental impacts, and how much development the Athabasca ecosystem could withstand. The financial involvement of the Alberta government in the oil sands industry correlated with Alberta's reorganization of the AOSERP program towards provincial and industry objectives.

In September 1978, the federal government withdrew its funding from AOSERP. Federal Environment Minister Len Marchand cited budget cuts as the main reason for withdrawal, but he also pointed out that Alberta's dominance of the program made the

[106] AOSERP Steering Committee to All AOSERP Technical Research Committee Chairmen, 18 Jan. 1977, GR1977.0370 AOSERP 1 2005-1-2-55R, LAC.
[107] R.P. Angle to J.C. Jack, 22 Sept. 1977, GR1997.0370 AOSERP 1 2005-1-2-55R, LAC.

federal government less willing to support it.[108] The federal government believed that Alberta was mismanaging the program and that interjurisdictional conflict had undermined the program's effectiveness.[109] Alberta Environment Minister Russell wrote to his federal counterpart that Alberta viewed the federal withdrawal from AOSERP with "extreme displeasure." The withdrawal compromised "harmonious federal-provincial relations," broke contractual commitments, and disregarded the environmental impacts of bitumen extraction, which were matters of national importance.[110] The provincial government funded AOSERP until the end of 1980, when it cancelled the program.

Following the federal government's withdrawal from AOSERP, correspondence within Environment Canada shows that federal scientists were worried about the environmental impacts of the oil sands industry.[111] An advisory committee to the federal Department of Energy, Mines, and Resources wrote that a synthetic oil program adequate to meet the federal goal of self-sufficiency by 1990 would have immense environmental consequences. The two governments had initially based environmental standards on the assumption that industry would use the best available sulphur dioxide and wastewater technology. But standards shifted towards the Alberta government's position that "only proven and applied technology is used for tar extraction and for pollution control."[112] By the end of the decade, the industry's growth had outpaced environmental research and pollution control technology.

AOSERP director Stuart Smith's final report said that the program had established

[108] Len Marchand to D.J. Russell, 13 Sept. 1978, R1526 vol. 267 no. 5 file 243-14, LAC.
[109] R.G. Skinner, "Comments on termination of AOSERP," R1526 vol. 267 no. 5 file 243-14, LAC.
[110] D.J. Russell to Len Marchand, 3 Oct. 1978, R1526 vol. 267 no. 5 file 243-14, LAC.
[111] E.F. Roots to J.B. Seaborn, 25 Jul. 1979, RG108 vol. 112 file 1165-36/H5 pt. 1, LAC.
[112] R.W. Drurie, Bob Skinner, James Hea, and Doug Montgomery, memo to file, RG108 vol. 112 file 1165-36/H5 pt. 1, LAC.

environmental baseline data. Studies of the effects of air pollution on soils and vegetation had not revealed severe damage. Studies looking at water and fish in the Athabasca River had not found major downstream effects. However, Smith was angry that the Alberta government cancelled the program. He predicted a bleak future for environmental monitoring of the oil sands industry. Smith wrote that AOSERP's research was preliminary and could not accurately predict long-term consequences. Smith wrote there had been a "startling transformation of the region during the period from 1960 to 1980," and the results of AOSERP were not reliable. Smith wrote the program's research deficiencies had "prejudiced the capacity for the program to detect the effect of emissions and effluents on terrestrial and aquatic ecosystems." He concluded "neither impacts nor predictions for the future are possible from the results of AOSERP investigations."[113] Many of AOSERP's studies were incomplete and did not cover a wide enough area or duration to present an accurate picture of environmental conditions in the Athabasca region. Although the Alberta Environment Research Secretariat continued environmental research, the collapse of AOSERP marked the end of collaborative environmental research in the oil sands region.[114]

Conclusion

The 1970s were formative years for Canadian environmental policy. The energy and financial crises of the 1970s and government investment in Syncrude created a development imperative that conflicted with Alberta's intention to carefully regulate the oil sands industry. When bitumen projects faced mounting financial and technological

[113] Smith, *Alberta Oil Sands Environmental Research Program*, 27,120.
[114] "Notice of Amalgamation," Research Management Division, Alberta Environment, 14 May 1980, RG39 box 76 file 6638-2-1-2-2 pt. 1, LAC.

pressures the Alberta government granted them regulatory concessions, such as higher permissible sulphur dioxide emissions. This resonates with Dimitry Anastakis's finding that Canadian regulators allowed more automobile pollution than their US counterparts during the same period.[115] Both levels of government minimized environmental concerns in debates about the oil sands industry dominated by economic and energy security concerns. Initially, AOSERP was independent, well-funded, and progressive. But its large size and cumbersome management were not conducive to it achieving its research objectives. When AOSERP scientists disagreed with the Alberta government's research priorities, the Department of Environment replaced its managers and restructured the program to meet provincial and industry objectives. Alberta's interference in the program and tensions between the federal and provincial government, caused the federal government to withdraw from the program, and AOSERP dissolved in 1981.

Alberta set a precedent in 1971 when it created the first provincial department of environment. But its commitments to environmental regulation trailed behind the rapid development of the oil sands industry. By the 1980s, Indigenous communities reported that the oil sands industry was causing serious environmental consequences. Environmental research in the oil sands region declined in the 1980s against a backdrop of collapsing oil prices and abandoned projects. Rooted in the volatile political economy of energy and a conflicted policy environment, environmental regulation and research had not adequately addressed the destructive legacy of bitumen extraction. From the 1990s forward, the PCs used the symbolic policy discourse of "sustainable development" and "consensus building" in its integrated resource management to create a perception that it was managing

[115] Dimitry Anastakis, "A 'War on Pollution'? Canadian Responses to the Automotive Emissions Problem, 1970-80," *The Canadian Historical Review* 90, no. 1 (2009).

environmental issues appropriately while it expedited development.[116] The development of the Alberta oil sands industry is significant for its scale, but the regulatory issues exposed by its development are not unique. Environmental legal scholar David Boyd argues that regulatory capture—a form of corruption of authority that occurs when industry co-opts a regulatory agency to serve its interests—permeates Canadian departments of environment at both the federal and provincial level.[117] Boyd writes this occurs as "the corporations and individuals subject to environmental regulation become 'clients' whose interests prevail over the broader public interest that the government is supposed to defend."[118]

[116] Debra J. Davidson and Norah A. MacKendrick, "All Dressed Up with Nowhere to Go: The Discourse of Ecological Modernization in Alberta, Canada," *CRSA/RCSA* 41, no. 1 (2004): 60.
[117] Regulatory capture theory is an area of public choice theory that looks at the economics of regulation. George Stigler was one of the theory's main developers. George Stigler, "The Theory of Economic Regulation," *Bell Journal of Economics and Management Science* 2, no. 1 (1971).
[118] David Boyd, *Unnatural Law: Rethinking Canadian Environmental Law and Policy* (Vancouver: UBC Press, 2003), 256.

Chapter 5

Dispossession, Land Claims, and Litigation

Introduction

Indigenous peoples in the oil sands region fought to minimize the environmental impacts of bitumen extraction, to protect their homes from eviction and demolition, to gain economic opportunities in the growing industrial economy, and to claim lands promised to them by the Crown in Treaty 8. The oil sands industry harmed Indigenous communities in the Athabasca region directly by destroying their hunting and trapping lands and polluting their air and water. Chapters 6 and 8 show how Fort McKay, at the industrial epicenter, was especially affected, but there were also impacts on Indigenous peoples downstream and in the surrounding area.[1] Chapter 7 shows how the Town of Fort McMurray forcefully evicted Métis and Treaty people from their land to make way for new housing projects for oil workers.

This chapter shows how the development of the oil sands industry coincided with resurgent Indigenous political activism in the 1960s and 70s, which led to landmark cases in Aboriginal law and the beginning of the land claims process.[2] Indigenous communities and political organizations, including the Indian Association of Alberta (IAA) and the Fort Chipewyan Cree Band (now the Mikisew Cree First Nation, or MCFN) used the land claims process to try to settle land claims in the oil sands region and elsewhere in the

[1] The decline of trapping in the 1980s was caused by falling fur prices due to animal rights campaigns and furs going out of fashion, combined with environmental factors and the adverse effects of industrial development.

[2] Aboriginal law refers to the area of Canadian law that pertains to Indigenous peoples. Indigenous law refers to the legal traditions and practices of Indigenous peoples. Aboriginal law gets its name from the term used to refer to First Nations, Inuit, and Métis peoples in the Constitution of Canada. Aboriginal law addresses areas like treaties, rights, and the duty to consult.

province and to leverage economic benefits from development. Investing in the development of the oil sands industry complicated the Lougheed government's approach to land claims, which was similar to how those investments created a conflict of interest in Alberta's environmental policies. An additional complication had been inadvertently established when the federal government gave Alberta control over its lands and resources with *Natural Resources Transfer Agreement* in 1930: it also made Alberta responsible for supplying Crown land to settle outstanding land claims. Alberta thus became a third party in negotiations between First Nations and the federal government. When the energy crisis made bitumen extraction urgent in the 1970s, the Alberta government worked its approval process to weaken and undermine Indigenous claims to hydrocarbon-rich lands in northern Alberta.

Situating Resource Conflicts

In the 20th century, northern Canada became a land of widespread industrial colonization through hard-rock mining, commercial fishing, hydroelectric dam projects, and hydrocarbon extraction, all of which damaged Indigenous lands.[3] The 1970s were a key moment when land claims and energy development imperatives escalated into overt conflicts. As communities faced industrial projects in their traditional territories, they worked to leverage the political process to advance the settlement of their land claims and to protect their societies, cultures, and ways of life.

[3] Hans M. Carlson, *Home is the Hunter: The James Bay Cree and Their Land* (Vancouver: UBC Press, 2008); Caroline Desbiens, *Power from the North: Territory, Identity, and the Culture of Hydroelectricity in Quebec* (Vancouver: UBC Press, 2013); Arn Keeling and John Sandlos, eds., *Mining and Communities in Northern Canada: History, Politics, and Memory* (Calgary: University of Calgary Press, 2015); Liza Piper, *The Industrial Transformation of Subarctic Canada* (Vancouver: UBC Press, 2009); Tina Loo, "Disturbing the Peace: Environmental Change and the Scales of Justice on a Northern River," *Environmental History* 12 (2007); Jonathan Peyton, *Unbuilt Environments: Tracing Postwar Development in Northwest British Columbia* (Vancouver: UBC Press, 2017).

Land claims in Canada are either specific claims, which address specific unfulfilled treaty obligations such as land entitlements or economic benefits; or comprehensive claims, also known as modern treaties, which address Indigenous land claims in areas not covered by historic treaties. One important type of specific claims is Treaty Land Entitlement (TLE) claims. TLE claims are the mechanism First Nations use to seek land promised by the Crown in treaties, but never granted.[4] Literature examining land claims and industrial development conflicts has focused on comprehensive claims. The James Bay and Northern Quebec Agreement, which emerged from the conflict over the James Bay hydroelectric project, and the Inuvialuit and Dene Agreements in the Northwest Territories followed Justice Thomas Berger's Inquiry into the proposed Mackenzie Valley Pipeline, have received considerable scholarly attention.[5] Less has been written about the connections between energy conflicts and specific claims, such as the TLE claims in the Treaty Eight region.[6]

Resource extraction often violated Indigenous sovereignty. Saleem Ali argues that environmental and economic impacts did not specifically cause resource conflicts. Rather, he believes that communities affected by extraction used environmental and economic problems to assert sovereignty over the development process.[7] Development conflicts in the

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[4] Indigenous and Northern Affairs Canada, "Land Claims," http://www.aadnc-aandc.gc.ca/eng/1100100030285/1100100030289

[5] Hans M. Carlson, "A Watershed of Words: Litigating and Negotiating Nature in Eastern James Bay, 1971-75," *The Canadian Historical Review* 85, no. 1 (March 2004); Toby Morantz, *The White Man's Gonna Getcha: The Colonial Challenge to the Crees in Quebec* (Montreal & Kingston: McGill-Queen's University Press, 2002); Robert J. D. Page, *Northern Development: The Canadian Dilemma* (Toronto: McClelland and Stewart, 1986); Paul Sabin, "Voices from the Hydrocarbon Frontier: Canada's Mackenzie Valley Pipeline Inquiry, 1974-1977," *Environmental History Review* 18, no. 1 (Spring 1995).

[6] Clinton N. Westman, "The Making of Isolated Communities in the Lesser Slave Lake Interior, Alberta," in *Papers of the Rupert's Land Colloquium 2008*, ed. M. A. Lindsay and M.A Richard (Winnipeg: Centre for Rupert's Land Studies, University of Winnipeg., 2010).

[7] Saleem Ali, *Mining, The Environment, and Indigenous Development Conflicts* (Tucson: University of Arizona Press, 2003).

Athabasca region came in many forms. Communities challenged projects with impact assessment reports, statements to the media, litigation, and physical interference with projects. Although the conflicts between Indigenous communities and the oil sands industry were specific to Canada's historical context, these conflicts, and the strategies used by Indigenous communities, resonate with how communities and countries have challenged energy projects in other contexts. Marta Conde and Philippe LeBillon's extensive case study review of why communities do or do not resist mining projects identifies factors that relate to what drove Indigenous resistance to bitumen extraction in the Athabasca region in the 1970s and 80s. Indigenous communities faced economic and political marginalization and depended on land-based livelihoods to which they had little alternative. The environmental and social impacts of bitumen extraction became the trigger points of resistance. Yet this resistance was not just about protecting these livelihoods and preventing the environmental impacts of extraction, it was also the right of communities to have a say in decisions about their future.[8]

Timothy Mitchell's concept of sabotage is important for understanding conflicts and negotiations between Indigenous communities, extractive industry, and government. Whereas James C. Scott writes of the sabotage in the usual sense of the destruction of farm machinery that threatened labour, Mitchell argues that the concept of sabotage applies deliberate disruption of the flow of energy and the critical functions it supplies as a tool for gaining leverage over related political and economic issues.[9] The power of sabotage evolved with the transition to hydrocarbon energy systems. Fossil fuels such as petroleum,

[8] Marta Conde and Philippe Le Billon, "Why do some communities resist mining projects while others do not?," *The Extractive Industries and Society* 4 (2017): 693.
[9] James C. Scott, *Weapons of the Weak: Everyday Forms of Peasant Resistance* (New Haven and London: Yale University Press, 1985), 248.

natural gas, and coal became commodities with inelastic demand. Since so many systems relied on these fuels, changes in consumption lagged behind changes in their prices. The growing demand for oil and natural gas in the 20th century, both the cause and effect of rapidly expanding global economies, made supply vulnerable to price volatility. Supply disruptions and price increases reverberated through the global economy. For producer countries and companies, control over the supply of oil—the production, refining, and distribution of oil—became essential to controlling price and earning consistent profits.[10] The economic vulnerability of hydrocarbon supply made production and transportation a focus of political, economic, and military conflict.

Mitchell describes how coal miners in the late 19th and early 20th centuries won political power by disrupting coal production and distribution. He writes:

> What was missing was not consciousness, not a repertoire of demands, but an effective way of forcing the powerful to listen to those demands. Strikes became effective, not because of mining's isolation, but on the contrary because of the flows of carbon that connected chambers beneath the ground to every factory, office, home or means of transportation that depended on steam or electric power.[11]

Mitchell used the concept of sabotage to show how producer countries worked to manage the power of western oil companies and countries particularly after the Second World War. The Organization of Arab Petroleum Exporting Countries (OAPEC) used production cuts in 1973-74 to oppose US support for Israel in the Yom Kippur War. Sabotage went both ways: western oil companies and governments would use strategies like buying up leases and creating political instability in producer countries to limit oil production and exercise more control over production to create more consistent and stable high prices.[12]

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[10] Timothy Mitchell, *Carbon Democracy: Political Power in the Age of Oil* (London: Verso, 2011), 176.
[11] Mitchell, *Carbon Democracy*, 21.
[12] Mitchell, *Carbon Democracy*, 147-76.

The proposed Mackenzie Valley Pipeline and the James Bay hydroelectric dams set the tone for conflicts between Indigenous peoples and energy development. These conflicts linked to the global Indigenous rights movement and the evolving land claims process. They influenced other development conflicts from the late 1970s forward. Indigenous peoples affected by these projects used litigation and negotiation to protect their traditional lands, culture, and economy; to secure benefits, and pressure government to address their unsettled land claims.

Aboriginal Law

Until the 1970s, Canadian courts assumed that after the crown asserted sovereignty over a territory, Aboriginal title was extinguished. The 1888 case *St. Catherine's Milling and Lumber Company v. The Queen* set this precedent when the London Privy Council decided the Crown acquired sovereignty over Canada by the doctrine of discovery, British conquest, and the French cession of New France to Britain in the 1763 Treaty of Paris.[13] In the late 1960s and 1970s, a major Indigenous rights movement started in Canada, in large measure triggered by Indigenous reactions to a federal White Paper. Indigenous peoples demanded Canada recognize their rights and challenged the Crown's understanding of its sovereignty in Indigenous lands. The movement marked the beginning of land claims processes, which in some places were directly triggered by resource development. The burgeoning oil sands industry coincided with this movement, and the Athabasca bitumen deposits became an important battle ground for Indigenous rights.

In 1969, the federal Ministry of Indian and Northern Affairs published a White

[13] The Privy Council was the highest court in Canada at the time. *St. Catherine's Milling and Lumber Company v. The Queen* (1888) Kent McNeil, *Flawed Precedent: The St. Catherine's Case and Aboriginal Title* (Vancouver: UBC Press, 2019), 6.

Paper: *Statement of the Government of Canada on Indian policy*.[14] Indian Affairs Minister Jean Chrétien proposed eliminating the *Indian Act* and the reserve system, arguing that such a move would create equality between settlers and Indigenous peoples. Indigenous peoples widely rejected the proposal. Indian Association of Alberta President Harold Cardinal authored a widely read response publication, *Citizens Plus*, also known as the Red Paper.[15] The IAA was a province-wide Indigenous rights organization formed in 1939. Born in 1945, Harold Cardinal became a prominent Indigenous politician. He was elected president of the Canadian Indian Youth Council in 1966 and president of the IAA in 1968. He authored several books, including *The Unjust Society* (1969) and *The Rebirth of Canada's Indians* (1977).[16] *The Unjust Society* responded to Prime Minister Pierre Trudeau's goal to make Canada a just society. Cardinal wrote that Trudeau had ignored the Canadian state's colonial history. Canada had denied Indigenous rights and treaties and undermined Indigenous wellbeing. The political fallout from the White Paper strengthened the resolve of Indigenous organizations across the country to fight for Indigenous rights and land claims, continuing a struggle which dated back over 100 years.[17] At the Alberta

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[14] Canada, *Statement of the Government of Canada on Indian policy.* Jean Chrétien, PC, MP Minister of Indian Affairs and Northern Development Ottawa, 1969, Queen's Printer Cat. No. R32-2469. Sarah Nickel, "Reconsidering 1969: The White Paper and the Making of the Modern Indigenous Rights Movement," *Canadian Historical Review* 100, no. 2 (2019); Sally Weaver, *Making Canadian Indian Policy: The Hidden Agenda, 1968-1970* (Toronto: University of Toronto Press, 1981).

[15] Indian Association of Alberta, *Citizens Plus* (Edmonton, 1970).

[16] Harold Cardinal, *The Unjust Society: The Tragedy of Canada's Indians* (Edmonton: Hurtig, 1969); Harold Cardinal, *The Rebirth of Canada's Indians* (Edmonton: Hurtig, 1977).

[17] Harold Cardinal, Address to the Alberta All Chiefs Conference and other Distinguished Representatives of Provincial Indian Associations, 3 April 1970. Lake Isle, Alberta, in 72.59 file 187, PAA. John C. Weaver, *Making Canadian Indian Policy: The Hidden Agenda 1968-1970* (Toronto: University of Toronto Press, 1981), 173; Arthur J. Ray, J.R. Miller, and Frank Tough, *Bounty and Benevolence: A History of Saskatchewan Treaties* (Montreal: McGill-Queen's University Press, 2000); Sarah Carter, Dorothy First Rider, and Walter Hildebrandt, *The True Spirit and Original Intent of Treaty 7* (Montreal: McGill-Queen's University Press, 1996); Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan: Our dream is that our Peoples Will One Day be Clearly Recognized as Nations* (Calgary: University of Calgary Press, 2000); René Fumoleau, *As Long as this Land Shall Last: A History of Treaty 8 and Treaty 11, 1870-1939* (Calgary: University of Calgary Press, 2004); J.R. Miller, *Compact, Contract, Covenant: Canada's Treaty-Making Tradition* (Toronto: University of Toronto Press, 2009).

All Chiefs Conference in April 1970, Cardinal said:

> We must make clear to our fellow-Canadians that we do not seek handouts but rather support in creating structures that will enable us to utilize opportunities available so that collectively, as Indian people we can become participating members of our country. In spite of set-backs, problems, and frustrations, we can and we will assure our children and our people of a meaningful place in the Canadian Mosaic.[18]

In 1967, Frank Calder sued Canada on behalf of the Nisga'a, an Indigenous nation in the Nass valley of northwestern British Columbia, seeking a declaratory judgement that the Nisga'a held Aboriginal land rights that survived European settlement. The Nisga'a lost at trial in 1969 but appealed to the Supreme Court of Canada. The Supreme Court's 1973 decision split on the question of aboriginal title: three justices said it had been extinguished, three justices said it continued, and one did not comment on the Nisga'a's aboriginal title at all. Although the *Calder* decision did not change the law, the federal government saw that the court, by acknowledging that Aboriginal title had existed, and may continue to exist, created space for more litigation. In response, the federal government issued a Comprehensive Claims Policy in August of 1973 and created the Office of Native Claims in 1974.[19] The Office of Native Claims had a specific claims branch, which reviewed claims, sought to fulfill treaty obligations, and represented the federal government in negotiations.[20]

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[18] Harold Cardinal, President, Indian Association of Alberta, to The Alberta All Chiefs Conference and other Distinguished Representatives of provincial Indian Associations, 3 April 1970. Lake Isle, Alberta, in 72.59 file 187, Provincial Archives of Alberta (PAA).

[19] *Calder et al. v. Attorney-General of British Columbia*, [1973] S.C.R. 313., and Canada, Statement Made by the Honourable Jean Chrétien, Minister of Indian Affairs and Northern Development on Claims of Indian and Inuit People, Department of Indian Affairs and Northern Development, 8 August 1973. Kirk N. Lambrecht, *Aboriginal Consultation, Environmental Assessment, and Regulatory Review in Canada* (Regina, Sask.: University of Regina Press, 2013), 78.

[20] The ONC's dual mandate created a conflict of interest, which resulted in a revised process in 1982: *Outstanding Business: A Native Claims Policy–Specific Claims.* However, the ONC continued to control the new process. First Nations widely criticized the ongoing conflict of interest, and it remained controversial. Specific Claims Tribunal Canada, 2011, "A Brief History of Specific claims Prior to the Passage of Bill C-30: The Specific Claims Tribunal Act," http://www.sct-trp.ca/hist/hist_e.htm

While the *Calder* case was going on, Chief François Paulette led the sixteen chiefs of the Indian Brotherhood of the Northwest Territories to claim an interest in 1 million square kilometres of land in the NWT.[21] The Indian Brotherhood formed in 1969 to represent the Tłįchǫ (Dogrib), Dënesųłįné (Chipewyan), Dehghaot'ine (Southern Slavey), Sahtú (Northern Slavey), and Gwich'in (Loucheux) peoples of the Northwest Territories.[22] It renamed itself the Dene Nation in 1978. It collaborated with the Métis Association of the NWT to develop a single land claim in the Mackenzie Valley. In 1973, the Indian Brotherhood tried to file a caveat for registration under the *Land Titles Act*. A land caveat warns of an unresolved interest in land. It is a statutory injunction that informs a court, judge, or officer to suspend land title proceedings until the court can determine the caveat's merit.[23] Land title cannot be issued until the caveat was lifted. In this case, the caveat's goal was to act like a lien on an asset, to provide notice that there was an unsettled land claim on an area proposed for development.

After a six-month hearing, Northwest Territories Supreme Court Justice William Morrow ruled in March 1973 that "notwithstanding the language of the two treaties (8 and 11) there is sufficient doubt on the facts that Aboriginal title was extinguished that such claim for title should be permitted to be put forward by the caveators."[24] Morrow's ruling vindicated the Indigenous interpretation of the Treaties, and it set a precedent requiring the courts to consider more fully the historical dimensions of Aboriginal rights and title in land claims cases.[25] The *Calder* decision, the creation of the ONC, and Morrow's ruling on the

[21] Fumoleau, *As Long as this Land Shall Last*, xix.
[22] Dene Nation, "Land of the People," https://www.denenation.com
[23] Definition from *Black's Law Dictionary,* Rev. Fourth Edition (St. Paul: West Publishing Co., 1968), p. 281, cited in Richard T. Price, "Indian Land Claims in Alberta: Politics and Policy-making (1968-77)" (Master of Arts University of Alberta, 1977), 181.
[24] Justice William Morrow, in Fumoleau, *As Long as this Land Shall Last*, xix.
[25] Fumoleau, *As Long as this Land Shall Last*, 65.

Paulette Caveat led to a number of high profile comprehensive and specific claims cases such as the 1975 James Bay and Northern Quebec Agreement (JBNQA), the Mackenzie Valley Pipeline Inquiry and subsequent northern land claims, and specific claims in Manitoba, Saskatchewan, and Alberta.

James Bay

The James Bay conflicts led to negotiated settlements between the Crown and the James Bay Cree that influenced how Indigenous communities in the oil sands region responded to later conflicts. In April 1971, Québec Premier Robert Bourassa announced a $6 billion hydroelectric project in James Bay. It consisted of four dams and generating stations on the La Grande River fed by a reservoir made by diverting the Eastmain and Opinaca Rivers into the new Robert Bourassa Reservoir.[26] Bourassa's vision for James Bay was inspired by the Quiet Revolution and the idea of francophone Québec as *maîtres chez nous*—masters in our house—wresting control of the provincial political economy from Anglo-Canadian dominance.[27] In response to the project, the James Bay Cree under the leadership of Chief Billy Diamond and the Québec Inuit, whose lands to the North were also affected by the dams, took the province to court.

After a seven-month trial, Justice Albert Malouf issued an injunction against Hydro-Québec in 1973. The project's New York financiers told Robert Bourassa that Québec must settle land claims with the James Bay Cree to secure their investment in the James Bay Development Corporation.[28] This financial pressure, combined with subsequent

[26] Miller, *Compact, Contract, Covenant*, 257.
[27] Desbiens, *Power from the North*, 27.
[28] Denis Chetain, associate of John Ciaccia, Quebec government negotiator, lecture to the University of Alberta Law School, Spring 1975, cited in Price, "Indian Land Claims in Alberta," 176.

court rulings, forced Bourassa to negotiate with the James Bay Cree. Hydro-Québec appealed the injunction, and in 1975 the Appeals Court of Québec ruled in favour of Hydro-Québec that the potential financial losses it would incur from stopping the project outweighed the effects on the Cree.[29] The Court stated that Québec had an obligation to resolve the outstanding land claims under the 1912 *Quebec Boundary Extension Act.*[30] Grand Chief Matthew Coon Come wrote in 2004 that the James Bay Cree felt that they could not stop the project after the injunction was overturned and focused instead on negotiating a land claim and impact benefit agreement.[31]

The James Bay Cree and Québec signed the James Bay and Northern Québec Agreement (JBNQA) in November 1975. The Cree received $225 million over several decades, including royalties from the Hydro-Québec. The agreement also granted the Cree a level of self-government and political authority. The province created a land categorization system that included some small areas where Cree people had exclusive harvesting rights. Québec promised to fund Cree education, health, justice, and environmental programs. The agreement extinguished Aboriginal title to Eastern James Bay, and gave Québec the right to build the La Grande hydroelectric complex.[32] The project flooded huge areas of Indigenous lands and animal habitats. Rotting vegetation contaminated fish with methylmercury. Fluctuating water levels killed beaver. Québec delayed implementing the benefits agreements and did not fulfill all its legal obligations.

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[29] *La Société de développement de la Baie James et al. v. Kanatewat et al. (1975)*
[30] The *Quebec Boundary Extension Act* (1898, 1912) enlarged the territory of the province to include lands bounded by Hudson and Ungava Bay. Under the *Act* the Crown required Québec to negotiate treaties with the region's Indigenous peoples. Carlson, "A Watershed of Words," 63.
[31] Matthew Coon Come, "Survival in the Context of Mega-Resource Development: Experiences of the James Bay Crees and the First Nations of Canada," in *In the Way of Development: Indigenous Peoples, Life Projects, and Globalization.* , ed. Mario Blaser, Harvey A. Feit, and Glenn McRae (London: Zed Books, 2004), 156.
[32] Miller, *Compact, Contract, Covenant*, 261.

The James Bay and Northern Québec Agreement was significant for being the first modern treaty (comprehensive claim) and for being a land claim triggered by conflict over a major energy project. Indigenous peoples across Canada studied the JBNQA's successes and failures. The agreement showed Indigenous leaders in Alberta that they could demand more from industrial development. Harold Cardinal told *Fort McMurray Today* in 1974 that the JBNQA was "hard for anyone to ignore," and that the IAA would be taking a "focused approach" to seeking a settlement in Alberta. "The Indian was born in this area," he said, "But today all the newcomers are taking it and we are getting nothing out of it."[33]

Mackenzie Valley

The Mackenzie Valley Pipeline Inquiry (MVPI) was an important Indigenous conflict and negotiation with energy development. The MVPI addressed two proposed pipelines: the Canadian Arctic Gas Pipeline and the Foothills Pipeline. Oil companies first conceived of the project after the Prudhoe Bay, Alaska oil discovery in 1968. Canadian Arctic Gas Pipeline Limited, a consortium of 27 US and Canadian oil and gas companies, proposed to build a 4,225-kilometre pipeline from Prudhoe Bay, across the North Slope of Alaska, and through the Mackenzie River Valley to southern Canada and the US. A subsidiary of Alberta Gas Trunk Lines proposed the Foothills Pipeline to transport gas from the Beaufort Sea south along the Mackenzie River into Alberta.[34]

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[33] Peter Young, "Native group to consider obtaining sands revenue," *Fort McMurray Today,* December 6, 1974.

[34] Berger favoured the Foothills Pipeline because it did not cut across the ecologically fragile North Slope of Alaska. Alberta Gas Trunk lines became Nova, which was later bought by Trans Canada. Many of the same companies, such as Sun Oil and Imperial Oil, which operated in the oil sands region also invested extracting oil and natural gas from the Beaufort Sea. Thomas R. Berger, *Northern Frontier, Northern Homeland: The Report of the Mackenzie Valley Pipeline Inquiry*, Revised Edition ed. (Vancouver: Douglas & McIntyre, 1988); Page, *Northern Development*; Sabin, "Voices from the Hydrocarbon Frontier."; Mel Watkins, *Dene Nation: Colony Within* (Toronto and Buffalo: University of Toronto Press, 1977).

The federal government commissioned Justice Thomas Berger, a Vancouver judge who had worked on the *Calder* case, to conduct an inquiry into the social, environmental, and economic impacts of the pipeline. From 1974 to 1976 Berger travelled to communities along the proposed pipeline right-of-way, hearing the perspectives of the Indigenous and non-Indigenous peoples the pipelines would affect. Many community members consulted by Berger opposed the pipeline and looked to block its construction. The Indian Brotherhood and the Metis Association of the NWT opposed the pipeline because of its environmental risks and because they recognized the opportunity to use the project to seek land claims settlements.

The Indigenous peoples along the Mackenzie Valley Pipeline route knew of the James Bay Project and how the James Bay and Northern Québec Agreement had extinguished the James Bay Cree's Aboriginal title. They would not accept a similar agreement. Fort Good Hope Chief Frank T'Seleie told Berger that if the Crown did not adhere to the Dene Nation's terms, it would block the pipeline:

> It is not at all inevitable that there will be a pipeline built through the heart of our land. Whether or not your businessmen or your Government believes that a pipeline must go through our great valley, let me tell you, Mr. Berger, and let me tell your nation, that this is Dene land and we the Dene people intend to decide what happens on our land. Different people from outside have asked me whether or not I felt we could really stop the pipeline. My answer is yes, we can stop the pipeline.[35]

Dene leader George Erasmus told Berger that development had to benefit and include the Dene:

> Development has to be something that is transferring control to the people. If you look at either pipelines, or sawmills, or dams, or new mines, we are not against any of those kinds of things. What we are saying is that development should be orderly, it should be planned, it should be at the pace

[35] Frank T'Seleie, Fort Good Hope, 5 August 1975. Mackenzie Valley Pipeline Inquiry, Exhibit C-109-1.

> of the local people, it should benefit local people.[36]

Berger wrote that the Indigenous peoples of the Mackenzie Valley opposed the pipeline until Canada settled land claims and recognized Indigenous sovereignty:

> Because the native people of the north believe the pipeline and the developments that will follow it will undermine their use of the land and indelibly shape the future of their lives in a way that is not of their choosing, they insist that, before any such development takes place, their right to their land and their right to self-determination as a people must be recognized.[37]

Berger explained that the Indigenous peoples he consulted felt that they needed to be in a position to insist that their concerns be reconciled, that if the pipeline was built before government and industry took any action, nothing would happen:

> The native people do not believe that any recommendations this inquiry may make for the pipeline project will be carried out, even if the government finds them acceptable, and even if industry says they are acceptable, unless they are in a position to insist upon them. And they will be in that position only if their claims are settled, if their rights to the land entrenched, and if institutions are established that enable them to enforce the recommendations. They say the experience of the treaties proves this.[38]

In the end, Berger recommended the Arctic Gas Pipeline not be built because it would cause irremediable damage to the Yukon and North Slope of Alaska.[39] He recommended a ten-year moratorium on the Foothills Pipeline to settle land claims. His recommendations were well-received by Indigenous peoples, environmentalists, and anti-colonial activists.

The JBNQA and the MVPI were landmark events in Indigenous and energy history. The agreements influenced subsequent land claims, conflicts, and negotiations between

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[36] Sabin, "Voices from the Hydrocarbon Frontier," 39.
[37] Berger, *Northern Frontier, Northern Homeland*, 219.
[38] Berger, *Northern Frontier, Northern Homeland*, 248.
[39] The Trump administration removed protections for the Arctic National Wildlife Refuge in the 2017 *Tax Cuts and Jobs Act*. Finis Dunaway and Norma Kassi, “An irreplaceable ecological treasure is about to be auctioned off for oil. Will Canada step up?” *Globe and Mail,* 2017; Finis Dunaway, “Why arctic drilling is an ‘ecocide on an incredible diversity of wildlife,” *Salon*, December 10, 2018; Finis Dunaway, "Reframing the Last Frontier: Subhankar Banerjee and the Visual Politics of the Arctic National Wildlife Refuge," *American Quarterly* 58, no. 1 (March 2006).

Indigenous peoples, Canadian governments, and energy companies. The two processes demonstrated what kinds of power each side had. They showed Indigenous peoples that they could fight back, using legal means, and leverage agreements from such projects that had the potential to reconcile the impacts of colonization and development on their traditional territories. The JBNQA and the MVPI, as well as advances in Aboriginal law starting with the *Calder* case, informed how Indigenous peoples in the Athabasca region responded to the development of the oil sands.[40] Communities in the Athabasca used similar strategies to minimize the industry's impacts and disrupt the development process to advance their economic interests and land claims. Likewise, claims and conflicts in other parts of the country motivated the Alberta government to address land claims.[41]

Syncrude Caveat and Indigenous Employment

In 1975, the IAA collaborated with the Isolated Settlements—the Indigenous communities centered on Trout, Peerless, Whitefish, Loon, and Lubicon Lakes in central Northern Alberta—to place a caveat on the oil sands region. The Treaty 8 commissioners had failed to visit this region, which meant that the people of the Isolated Settlements did not sign Treaty 8 and did not receive reserve lands or economic benefits. The Syncrude caveat was inspired by Justice Morrow's ruling in *Paulette* that Indigenous peoples could use caveats to assert their interest in land. The goal of the 1975 caveat was to slow development by impeding land title issuance to force government to ensure that Indigenous

[40] Peter Young, "Native group to consider obtaining sands revenue," *Fort McMurray Today,* December 6, 1974. Price, "Indian Land Claims in Alberta."
[41] *Paulette et al. v. The Queen, [1977] 2 S.C.R. 628,* Bob Bogle to Peter Lougheed, 8 December 1976, Acc. 85.401 file 904, PAA. Berger, *Northern Frontier, Northern Homeland*; Coon Come, "Survival in the Context of Mega-Resource Development."

peoples benefitted from the Syncrude project and resolve the Isolated Settlements land claim.[42] The Trout, Peerless, Whitefish, Loon, and Lubicon Lakes communities faced growing industrial development in their unceded lands in the post-war period and wanted to pressure government to negotiate their land claims. The IAA wanted the federal and provincial governments to include Indigenous employment and businesses development programs in the Syncrude agreement.

Indigenous peoples in Northern Alberta faced tough economic conditions in the 1970s.[43] Industry hiring programs implemented by GCOS and Syncrude had failed to employ large numbers of Indigenous people or provide opportunities other than basic labour. The Alberta Conservation and Utilization Committee's 1972 "Tar Sands Development Strategy" recommended that the Alberta government create a "multi-purpose public awareness program which would emphasize the prospective developments and condition of the local population, and place special attention on the native people in order to encourage assimilation into the work force and overcome alienation."[44] The Conservation and Utilization committee thus proposed a new kind of industrial assimilation that echoed earlier assimilationist policies towards Indigenous peoples.[45] In 1973, Premier Peter Lougheed told the Legislative Assembly that Indigenous employment would be a slow process and was not the provincial government's jurisdiction:

> We have to keep in mind in this area that we, as a provincial government, cannot interfere, unless there are ways in which we are asked to, with the treaty rights of our Native people. We are all well aware that trapping and

[42] Price, "Indian Land Claims in Alberta," 180.
[43] Alberta Native Development Corporation, *Northeastern Alberta Workforce Survey* (Edmonton, Mimeo, 1975); Price, "Indian Land Claims in Alberta," 171.
[44] Conservation and Utilization Committee, "Fort McMurray Athabasca Tar Sands Development Strategy," Policy Paper Prepared for the Executive Council, Government of Alberta, Edmonton, August 1972, 2, RG19 vol. 5238 file 9628-15-1 pt. 1, Library and Archives Canada (LAC).
[45] Patricia McCormack, *Research Report: An Ethnohistory of the Athabasca Chipewyan First Nation*, University of Alberta and Athabasca Chipewyan First Nation (Edmonton and Fort Chipewyan, 2012), 175.

> fishing is a phasing-out situation to some extent, and we are faced with skilled jobs in areas such as tar sands plants—and there is great transition going to be required in that, considerable patience and not too much false expectation. The progress will be slow and let no one pretend otherwise.[46]

In keeping with these comments, the Alberta government remained only minimally concerned with Indigenous employment issues.[47] The provincial government was responsible for public education and Métis programs, and so was responsible for providing an adequate education system for northern people—a duty it did not fulfill.

In 1974, Social Credit opposition leader Bob Clark asked Albert Hohol, Minister of Manpower and Labour, what assurances the PC government gave that Indigenous peoples would be employed by Syncrude. Minister Hohol responded that Indigenous people had been given "reasonable, practical and sensible assurances." Clark asked if government had put these assurances in writing and given them to the communities. Social Credit MLA Albert Ludwig suggested the Lougheed government was not committed to Indigenous employment in an angry exchange with Minister Hohol:

> Dr Hohol: No, Mr. Speaker. I would take the view that the nature of these kinds of assurances…
>
> Mr. Ludwig: B.S.
>
> Dr Hohol: …are shaken down by discussions with the Native Association of Alberta, the Métis Association of Alberta… the federal government through its Manpower and Immigration Department and various departments of this government, including Industry and Commerce, Advanced Education and Manpower and Labour.
>
> Mr. Ludwig: You faked that one beautifully.[48]

The PC government assumed that the oil sands industry would benefit local people but did

[46] Peter Lougheed, *Alberta Hansard,* April 18, 1973, vol. 45, p. 2410, PAA.
[47] Ex. Bob Bogle's response to Grant Notley, *Alberta Hansard,* May 3, 1976, p. 1014.
[48] Albert Hohol and Albert Ludwig, *Alberta Hansard,* 10 May 1974, p.1968, PAA.

not ensure Indigenous participation in the oil sands industry.

Syncrude started hiring Indigenous workers in the early 1970s. It formed the Syncrude Native Development Program in 1974, which it replaced with the First Nations Development Steering Committee in 1982.[49] The PC government asked Syncrude to ensure preferential hiring for Albertans, not for Indigenous peoples specifically. The program got off to a rough start. In a 2011 interview, former Syncrude Corporate Relations Manager John Barr said that the construction manager from Bechtel, the engineering firm that built Syncrude, was racist toward Indigenous peoples and refused to hire them. Syncrude had to have this manager fired and replaced to hire Indigenous workers.[50] Syncrude claimed it employed between 500 and 600 Indigenous workers during construction. But these numbers were imprecise and not based on a clear "definition of a 'native person.'"[51] Gabrielle Slowey and Ian Urquhart write that these hiring programs were an important first step motivated by fears of Indigenous opposition after the James Bay and Mackenzie Valley conflicts.[52] They argue that Indigenous employment was a condition of federal and provincial investment in Syncrude. But the Syncrude Winnipeg agreement did not address Indigenous employment, and in 1976 the PC government refused to sign an Indigenous hiring agreement. Syncrude hired most of its Indigenous workers from outside the oil sands region region. As Chapter 8 shows, it excluded people from Fort McKay and other nearby communities from the economic activity of the first bitumen boom.

Harold Cardinal outlined the IAA's frustration with the unfulfilled promises of

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[49] Gabrielle Slowey, *Navigating Neoliberalism: Self Determination and the Mikisew Cree First Nation* (Vancouver: UBC Press, 2008), 60.
[50] John Barr interview with Robert Bott, 13 July 2011, Oil Sands Oral History Project, Glenbow Archives (GA).
[51] H.B. Scott to Bert Hohol, 20 November 1975, in 82.165/49 file 440, PAA.
[52] Ian Urquhart, *Costly Fix: Power, Politics, and Nature in the Tar Sands* (Toronto: University of Toronto Press, 2018), 153; Slowey, *Navigating Neoliberalism*, 59.

Treaty 8 in a September 1975 press conference:

> One hundred years ago, our forefathers entered into Treaty. They bargained in good faith because they had a vision of the future where their people could not only share in the wealth of their country but in partnership create a healthy environment for all that lived on their land. The reality of our present state is a million light years away from that goal.[53]

He called on government and industry to make Indigenous peoples meaningful partners in the country's economic development and declared that the IAA would fight to achieve its goals:

> …Many years of frustrating and disappointing negotiations have demonstrated beyond any shadow of doubt the fact that we cannot expect to procure from any level of government or from industry the resource commitment that is required to allow us to become participating members of the Canadian economy.

Cardinal instructed IAA lawyer Robert Young, "…to immediately commence legal action aimed at regaining for Indians full and total control over natural resources contained within the area known as the Athabasca Tar Sands."[54] Cardinal continued:

> …we met with government leaders, with industry leaders, to ask, to cajole, to press for resources which would enable our people to benefit from Alberta's boom. We waited patiently for the implementation of repeated commitments. The repeated commitments were never implemented. Under extraordinary development opportunities, our participation in Alberta's boom was and continues to be the last item, if it ever was an item, in the list of priorities held by governments and industry.[55]

Syncrude Chairman Frank Spragins responded that Syncrude had been "…trying to co-operate with native people."[56] Syncrude President Brent Scott said, "Syncrude leased its present site on the understanding that the Alberta government has proper ownership of the

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[53] Harold Cardinal, statement to press 30 September 1975, in 85.401 file. 915, PAA.
[54] Indian Association of Alberta Statement to the Press, September 30, 1975, p. 1, cited in Price, "Indian Land Claims in Alberta," 173.
[55] Indian Association of Alberta Statement to the Press, September 30, 1975, p. 1, cited in Price, "Indian Land Claims in Alberta," 173.
[56] Frank Spragins quoted in *The Edmonton Journal,* October 1, 1975, cited in Price, "Indian Land Claims in Alberta," 173.

land."[57] Energy Minister Don Getty said that Alberta would fight the claim as it "…had vigorously defended against threats to provincial jurisdiction in the past."[58]

In October 1975, the IAA announced it had "no other recourse but to use the courts of Canada in order to achieve access to our rightful share of the benefits resulting from development of this country." Cardinal said the IAA considered seeking an injunction to stop development to resolve Aboriginal rights concerns but decided against it: "as we have no desire to frustrate development—only to share in it."[59] The IAA opted to use a caveat to assert title to the region. The caveat irritated the provincial government. Lougheed used his conflict with the Trudeau government to warn Cardinal not to pursue a land claim: "we expect to be entering into a big battle over energy with Ottawa, and you should be careful not to get in between us."[60] Syncrude initially avoided the caveat. John Barr said:

> Our position has been that Indian land claims are a matter between the natives and the federal government. The process of arbitrating these claims is not one in which we see ourselves taking part… if the native people are challenging the government's right to title that's a matter for the government and natives to sort out.[61]

But Syncrude did intervene when the caveat case went to a hearing in December 1975 and asked the court to throw it out.[62] Justice Liebermann agreed to hear arguments in the fall of 1976 and travel to Trout, Peerless, Whitefish, Loon, and Lubicon Lakes to hear from Elders.

Minister of Indian Affairs and Northern Development Judd Buchanan met with

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[57] Brent Scott quoted in *The Edmonton Journal,* October 2, 1975, cited in Price, "Indian Land Claims in Alberta," 173.
[58] Don Getty quoted in *The Edmonton Journal,* October 2, 1975, cited in Price, "Indian Land Claims in Alberta," 174.
[59] Statement to the Press, Indian Association of Alberta, 27 October 1975, in 85.401 file 915, PAA.
[60] As told to Price by Harold Cardinal, cited in Price, "Indian Land Claims in Alberta," 148.
[61] John Barr, quoted in *The Edmonton Journal,* October 28, 1975, cited in Price, "Indian Land Claims in Alberta," 181.
[62] Price, "Indian Land Claims in Alberta," 181.

Cardinal and Young to negotiate an Indigenous employment agreement in 1976.[63] Trudeau told Cardinal that he was "sympathetic in principle" to the IAA claims and that the federal government wanted an agreement.[64] In April 1976, Buchanan circulated a draft, which Syncrude initially opposed. But in July 1976, the federal government Syncrude, and the IAA agreed on a plan for recruiting Indigenous workers, setting up training programs, and forming institutional alliances.[65] Barr recalled in 2011 that Syncrude had resented Cardinal's efforts:

> After all of this stuff had been done, Harold... came riding out on his white horse in the public and said, we've got to have an agreement, we've got to have some [sic] to force the company to do all these things. So we all went through the charade of signing an agreement that essentially ratified things that had already been done for the last seven years and Harold could go back to sleep.[66]

Alberta and Ontario considered preferential hiring reverse discrimination and refused to sign the agreement.[67] Chapter 8 shows Alberta's opposition to preferential hiring led to a Supreme Court challenge in the 1980s. The IAA's efforts to use a caveat to gain Indigenous participation in the oil sands shows how Indigenous leadership leveraged the threat of land claims, despite an existing treaty, to try to force government to uphold its commitments to Indigenous peoples.

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The provincial government saw the Syncrude caveat as connected to other claims including *Calder,* the JBNQA, the Paulette Caveat, and the Cross Lake First Nation's case

[63] Price, "Indian Land Claims in Alberta," 183.
[64] Trudeau to Cardinal, April 30, 1976, cited in Price, "Indian Land Claims in Alberta," 185.
[65] Her Majesty the Queen in Right of Canada, Syncrude Canada Ltd., and the Indian Association of Alberta, "Syncrude Indian Employment Agreement," July 3, 1976, 82.165 file 273 pt. 1, PAA.
[66] John Barr interview with Robert Bott, 13 July 2011, Oil Sands Oral History Project, GA.
[67] "Alsands Project Policy Paper," Federal Department of Energy, Mines and Resources, September 1980, RG131 vol. 164 file 4300-12 (vol.1) EMR – ALSANDS, LAC.

against Manitoba Hydro, the HBC, and the Crown.[68] In 1977, the Alberta government passed Bill 29, the *Land Titles Amendment Act*, which sought to retroactively prevent the filing of caveats. Métis Association of Alberta President Stan Daniels said:

> This provincial government, upon finding out that the courts would probably rule in favour of Native people, having the right to file a caveat under the present law, have asked the courts for time to draft legislation to prevent our case from being successful.[69]

The United Church of Canada wrote Lougheed that the practice of introducing retroactive legislation "opens the way to arbitrary changes in the law to suit particular interests." Bill 29 was "aimed specifically to remove a legal option now available to Indian groups in advancing land claims."[70]

Richard Price argues that Indigenous litigation was a "definite strategy developed over a period of years as they gained experience with developers moving into their traditional hunting grounds." Communities felt since government would not voluntarily include Indigenous communities in development or settle land claims, "only when they take legal action to stop or delay natural resource development can they make their demands produce concrete results."[71] The potential for litigation echoed Mitchell's discussion of methods of sabotage. As Price explained in 1977,

> the threatened or actual stoppage or delay in the tight project schedules produces a series of consequences for developers and governments, none of which is particularly welcome from their point of view. At a minimum, an uncontrollable element or variable has been thrown into the process and their control over the project is no longer what is used to be.[72]

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[68] Special Cabinet Committee on Native Land Claims, "Alberta Status Indian Land Claims," Fall 1976, 85.401 file. 904, PAA.
[69] Press Release, Métis Association of Alberta, 14 March 1977, in 85.401 file. 905, PAA.
[70] Rev. Val Roos, Secretary, Edmonton Presbytery, United Church of Canada, to Peter Lougheed, 13 May 1977, in 85.401 file. 904, LAC.
[71] Price, "Indian Land Claims in Alberta," 174.
[72] Price, "Indian Land Claims in Alberta," 175.

When Alberta changed the *Land Titles Act,* it recognized the potential for Indigenous litigation to interfere with industrial projects and sought to prevent it from happening.

Mikisew Cree First Nation Treaty Land Entitlement Claim

In the decades after Treaty 8, the Dominion of Canada did not grant all the First Nations their promised reserve lands. Beginning in 1922, Fort Chipewyan signatories to Treaty 8 began asking the government for reserve lands to protect against the threat settler trappers posed to their traditional fur economy.[73] The Fort Chipewyan Indian Agent wrote that "both [the Chipewyan and Cree Bands of Fort Chipewyan] asked for a reserve, not for farming, as they had no wish to farm, nor is the land suited for that purpose, but for hunting and trapping."[74] In 1927 Chipewyan Band Chief Jonas Laviolette appealed to the Department of Indian to police settlers and grant reserve lands:

> The white men they kill fur with poison, they trap in the sand before the snow comes. They break the rat house and they break the beaver house and now there is hardly anything left and if you don't do something for us we are going to starve . . For a long time now I have been begging for a Reserve for me and my people at Jackfish Lake and we still want this very badly…Mr. Card [Assistant Deputy Secretary of Indian Affairs] he does not seem to try to help us…We cannot move and we don't want to because our fathers father's used to live here and want our children to live here when we die…If you will give us this country for a Reserve and someone to help us look after it will save me and my people from starvation…[75]

In 1927 the federal government changed the *Indian Act* to prohibit First Nations from

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[73] Patricia McCormack, "How the (North) West was Won: Development and Underdevelopment in the Fort Chipewyan Region" (PhD University of Alberta, 1984), 107.
[74] G. Card, to Assistant Deputy Secretary of the Department of Indian Affairs, 15 August 1922, in RG 10, vol. 6921 file 770/28-3 pt.2, LAC, cited in Daniel J. Bellegarde, James Prentice, and Carole T. Corcoran, *Inquiry into the Claim of the Mikisew Cree First Nation*, Indian Claims Commission (Ottawa, 1997), 6; Richard T. Price, "Contemporary Land Claims Negotiations and Settlement: The Political Leadership Challenge of Alberta's Fort Chipewyan Cree," in *The Uncovered Past: Roots of Northern Alberta Societies*, ed. Patricia McCormack and R. Geoffrey Ironside (1993), 130..
[75] Jonas Laviolette to Chief of the Indian Department, Ottawa, February 20, 1927, NA, RG 10, vol 6732, file 420-2B; cited in James Prentice, Carole T. Corcoran, and Aurélien Gill, *Athabasca Chipewyan First Nation Inquiry: WAC Bennett Dam and Damage to Indian Reserve 201*, Indian Claims Commission (Ottawa, March 1998), 19.

raising money or hiring lawyers to pursue land claims.[76] By 1928, reports from the Indian Agent indicated that the Government of Canada had still failed to meet the request for reserve land.[77] Between 1931 and 1954, the federal government granted the Chipewyan Band its reserve land.[78] Over a 60-year period the Cree Band made over 40 requests for its reserves, but it was always denied on the grounds that its members had access to Wood Buffalo National Park.[79]

In the 1970s, the Fort Chipewyan Cree Band, since renamed the Mikisew Cree First Nation (MCFN), sought again to fulfill its Treaty Land Entitlement claim, in part by selecting bitumen-rich lands. For TLE claims, the First Nation, the federal government, and the provincial government would negotiate a land (usually provincial Crown land) and cash settlement.[80] The province would issue a certificate of title transferring the land from the province to the federal government, which would establish the Indian reserve. By the time the Crown negotiated TLE claims, much of Alberta's land was private, transected by infrastructure like power lines, railways, or pipelines, or held mineral deposits that the province owned and leased.

The 1986 MCFN TLE settlement was the first such settlement in Alberta. While it was not the largest TLE in the oil sands region, it was significant because the PC

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[76] *Indian Act*, R.S.C. 1927, s. 141. Chief Joe Mathias and Gary R. Yabsley, "Conspiracy of Legislation: The Suppression of Indian Rights in Canada," *BC Studies* 89 (Spring 1991): 34.
[77] 1922-23 Annuity Payment Officer's Report, 11 August 1922, RG 10, vol. 6921, file 779/28-3 pt. 2, LAC, Constable R. A. Williams to Fitzgerald, Officer Commanding the Royal Canadian Mounted Police, 6 August 1923, RG 10, vol. 6921, file 779/28-3 pt. 2, LAC, 1927-28 Agent's Report on Annuity Payments, 1927, RG 10, vol. 6921, file 779/28-3 pt. 2, cited in Bellegarde, Prentice, and Corcoran, *Inquiry into the Claim of the Mikisew Cree First Nation*, 7.
[78] DIAND, Reserve General Register, Reserve 06704 Chipewyan No. 201; Cited in Prentice, Corcoran, and Gill, *Athabasca Chipewyan First Nation Inquiry*, 21.
[79] Ron Selin, *Into The New Millennium, Our Story: The Mikisew Cree First Nation* (Edmonton: Western Communications, 1999), 16; Slowey, *Navigating Neoliberalism*, 10.
[80] Indigenous and Northern Affairs Canada, "Lands and Economic Development: Treaty Land Entitlement," Government of Canada, 27 July 2016, http://www.aadnc-aandc.gc.ca/eng/1100100034822/1100100034823

government limited its size and stopped the First Nation from claiming bitumen-bearing lands.[81] MCFN submitted its TLE claim in 1972. In 1973, it reached a preliminary agreement with the federal government for 97,280 acres—128 acres per person using the 1973 population count of 760 people. In 1974, MCFN selected 42,000 acres at two locations in Wood Buffalo National Park, which was the focus of the claim, and land with bitumen deposits for the rest. The Band Council resolved:

> the Federal Government be requested to advise the Provincial Government of Alberta of the Cree Band's intention to select the balance of the 97,280 acres in the tar sands area of North-eastern Alberta and to provide funds to the Band so that it may proceed with the selection of specific lands in the tar sands area.[82]

The Band Council reached a preliminary agreement with the provincial and federal governments in February 1975, but Alberta never made the transfer, and began working to limit the size and location of lands to be provided for the MCFN claim.[83]

In January 1975, Alberta Minister of Federal and Intergovernmental Affairs Don Getty proposed three approaches cabinet could take: cooperation, refusal, or conditional cooperation. Alberta chose conditional cooperation: the province would agree to transfer land to settle the outstanding claim "on the condition that the Band agrees not to claim any

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[81] The biggest Specific Claim settlement to date was the 2010 Bigstone Cree Nation TLE settlement. The Crown gave Bigstone 567 square kilometres of land and $249 million. It reflects the increasing value of TLE settlements. Clinton N. Westman, "Cultural Politics of Land and Animals in Treaty 8 Territory (Northern Alberta, Canada)," in *Entangled Territorialities: Negotiating Indigenous Lands in Australia and Canada*, ed. Francoise Dussart and Sylvie Poirier (Toronto: University of Toronto Press, 2017); Westman, "The Making of Isolated Communities."; Carol T. Corcoran and James Prentice, *Inquiry into the Treaty Land Entitlement Claim of the Fort McKay First Nation*, Indian Claims Commission (Ottawa, 1995); Daniel J. Bellegarde, James Prentice, and Carole T. Corcoran, *Bigstone Cree Nation Inquiry Treaty Land Entitlement Claim*, Indian Claims Commission (Ottawa, 2000); Bellegarde, Prentice, and Corcoran, *Inquiry into the Claim of the Mikisew Cree First Nation*; Dawn Martin-Hill, *The Lubicon Lake Nation: Indigenous Knowledge and Power* (Toronto: University of Toronto Press, 2008); John Goddard, *Last Stand of the Lubicon Cree* (Vancouver: Douglas & McIntyre, 1991).

[82] Band Council Resolution, Council of the Cree Band of Fort Chipewyan, Fort Chipewyan, Saddle Lake/Athabasca District, Alberta, 26 August 1974, 85.401 file 905, PAA.

[83] Slowey, *Navigating Neoliberalism*, 32; Price, "Contemporary Land Claims," 132.

or certain portions of the Alberta Oil Sands area when selecting the remainder of its land entitlement."[84] He acknowledged that the Fort Chipewyan Cree claimants would not be happy with this response:

> Traditionally, and in the popular image, Indians have been relegated to the worst and least economically productive areas. This condition would serve to perpetuate this situation by depriving the Indian Band of its right to choose the best lands available. The Band has been choosing land at least partially on an economic basis, and this condition would deny it access to the most economically advantageous property in the Treaty area.[85]

The PC government saw this land claim as an unacceptable threat to its control over its bitumen deposits.

Northern Alberta was a provincial north—an internal colony of the province. As an Indigenous homeland, it was still sparsely occupied by settlers, yet politically and economically control for resource extraction was exerted by institutions in distant urban centres.[86] Since the Federal Government secured crown title to the Athabasca Bitumen deposits by signing Treaty 8 and then transferred title to Alberta by the *Natural Resources Transfer Agreement*, the development of the oil sands industry did not involve the federal government to the same extent as in areas where extraction or infrastructure projects crossed provincial, territorial, or international borders, or where the Crown had not signed treaties with Indigenous peoples. This meant that the provincial government had considerable power over lands and resources in northern Alberta.

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[84] Don Getty to Merv Leitch, Helen Hunley, Allan Warrack, and Allen Adair, 30 January 1975, Acc. 85.401, file 905, Provincial Archives of Alberta.
[85] Getty to Leitch, Hunley, Warrack, and Adair, 30 January 1975. Acc. 85.401, file 905, PAA.
[86] Northeastern Alberta was also an internal colony of Canada prior to 1905, which the federal controlled government until the 1930 *Natural Resources Transfer Acts.* Donald G. Wetherell and Irene R.A. Kmet, *Alberta's North: A History, 1890-1950* (Edmonton: University of Alberta Press, 2000); Jim Mochoruk, *Formidable Heritage: Manitoba's North and the Cost of Development, 1870 to 1930* (Winnipeg: University of Manitoba Press, 2004); Ken Coates and William Morrison, *Forgotten North: A History of Canada's Provincial Norths* (Toronto: James Lorimer & Company, 1992).

Alberta's investments in the oil sands industry, and the energy and economic crises that defined the 1970s, informed its response to the MCFN TLE.[87] Archival documents from Premier Peter Lougheed's papers show that the provincial government wanted to settle land claims quickly. Yet it was unwilling to cede mineral rights to First Nations or settle TLE claims according to 1970s population counts, insisting instead on smaller 1899 population counts.[88] In October 1976, Alberta formed a special cabinet committee to address land claims. It included the Attorney General, and ministers representing the departments of Federal and Intergovernmental Affairs, Energy and Natural Resources, and Native Affairs.[89] In the spring of 1977, Alberta Minister of Federal and Intergovernmental Affairs Lou Hyndman told Federal Minister of Indian Affairs and Northern Development Hugh Faulkner the provincial government would cooperate with the MCFN TLE claim only if the land base was calculated on population count at the time of the 1899 treaty signing and if the provincial government retained the rights to all mines and minerals.[90] The Alberta government feared granting mineral rights would set a precedent that would undermine investment certainty by allowing First Nations claimants to take control of minerals.[91]

Hyndman advised Lougheed not to support claims that granted minerals to Indigenous peoples, "based in part on the principle that Alberta would like to treat Indians

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[87] Syncrude Project, *Winnipeg Agreement,* Winnipeg Manitoba, 3 February 1975, 82.165 vol. 49 file 440, PAA. John Richards and Larry Pratt, *Prairie Capitalism: Power and Influence in the New West* (Toronto: McClelland and Stewart Limited, 1979); Larry Pratt, *The Tar Sands: Syncrude and the Politics of Oil* (Edmonton: Hurtig Publishers, 1976); G. Bruce Doern and Glen B. Toner, *The Politics of Energy: The Development and Implementation of the N.E.P.* (Methuen, 1985); Paul Chastko, *Developing Alberta's Oil Sands: From Karl Clark to Kyoto* (Calgary: University of Calgary Press, 2004).
[88] Papers of Premier Peter Lougheed, Acc. 85.401, files 904, 905, and 915, PAA.
[89] Bob Bogle to Peter Lougheed, 8 December 1976, Acc. 85.401 file 904, PAA.
[90] Lou Hyndman to Warren Allmand, 27 April 1977, Acc. 85.401 file 904, PAA.
[91] Subsequent TLE settlements in Alberta have often included mineral rights.

in the same manner as other Albertans. In the same situation, an Albertan would not be given mineral rights." Whereas individuals held mineral rights in the United States, in Canada the Crown owned mineral rights to most lands other than on Canadian Pacific Railway lands, or lands settled before 1887 (Chapter 2). The PC government determined that it had the power to choose which lands were acceptable for transfer to First Nations for TLE claims. The provincial government required the band to submit a formal claim to the federal government. The federal government would then consult with the province to validate the claim and agree on its terms. The Alberta Associate Minister of Energy and Natural Resources would then review the validity of the claim and assess "whether the particular piece of land requested is acceptable."[92] If Alberta determined the requested land acceptable, it would transfer it to the federal government to settle the claim. If Alberta considered the requested land unacceptable, it would return the claim to the federal government, or to the First Nation, for revision. If Alberta rejected the claim, the band and the federal government had no choice but to choose other lands, re-negotiate the claim, or challenge the province in court. Hyndman told Lougheed the IAA and the federal government had rejected the Alberta process because it used smaller 1899 population counts to determine the claim size and refused to transfer mineral rights but advised him to maintain the Alberta process and defend it in court if necessary.[93]

In 1977, the IAA contested Alberta's reluctance to settle the Fort Chipewyan Cree TLE claim. The IAA said Treaty 8 Elders believed they would be free to choose the size and location of their reserves and that lands designated for a specific land-use, but not occupied, should be available for selection, even when those lands were economically

[92] Lou Hyndman to Peter Lougheed, 1977. Acc. 85.401 file 904, PAA.
[93] Lou Hyndman to Peter Lougheed, 1977. Acc. 85.401 file 904, PAA.

valuable. The IAA argued that the Crown should transfer mineral rights with reserve lands as it had before the NRTA.[94] The federal government did not challenge Alberta's refusal to give the Cree Band bitumen leases. Although the NRTA obliged Alberta to comply with the federal government to settle TLE claims, it was the federal government's duty to settle claims as signatory of Treaty 8, and in this case, take action to force Alberta to provide land. The PC government changed its position in 1977. It would surrender just 24,000 acres, outside the oil sands region, based on the 1899 population of 187 people. Alberta's resistance to the MCFN claim created a stalemate and MCFN left the negotiating table.[95]

Settlement and New Lawsuits

In 1982, after several years of research, input from members and Elders, and consultations with academics from the University of Alberta, MCFN returned to negotiate a revised proposal that no longer included bitumen leases.[96] Neegan Development Corporation, a First Nations oil sands service business, signed a hiring agreement with Suncor. MCFN Chief Lawrence Courtoreille said, "we are putting politics aside and dealing with the needs of the people." He expected severe unemployment in 1983 because low fur prices, low water levels, and forest fires would lead to a bad trapping season. He said, "although we have principles, you can't eat them."[97]

In 1986, more than ten years after entering into TLE negotiations, MCFN, Alberta and the federal government signed an agreement that awarded MCFN 12,280 acres of land, and $26 million. In the 1980s a combination of droughts, low water levels from the Bennett

[94] *Indian Land Entitlement,* Position Paper of the Indian Association of Alberta, October 1977, Acc. 85.401, file 904, PAA.
[95] Slowey, *Navigating Neoliberalism*, 33; Price, "Contemporary Land Claims," 132.
[96] Slowey, *Navigating Neoliberalism*, 35; Price, "Contemporary Land Claims," 133.
[97] Doug Tattrie, "Natives to get Suncor Jobs," Fort McMurray Today, November 2, 1982.

Dam, collapsing lynx and muskrat populations, animal rights campaigns, and disturbances on traplines from oil exploration and recreational land users (discussed in Chapter 6) weakened Indigenous trapping economies in the Athabasca region.[98] The decline of oil prices weakened the economic rationale for the expansion of the oil industry, leading to project cancellations and layoffs. Chief Archie Waquan told *Fort McMurray Today* that the deal was "the best package we can get," that "the band is tired and frustrated with the slow pace of negotiations that have been ongoing for over 10 years. We want the land claim settled this year and we are taking the necessary steps to ensure that happens."[99] The settlement funded essential administrative, economic, and social services.[100] Yet the band was also desperate for a settlement, as it was impoverished and exhausted by the negotiation process.[101] MCFN was not a wealthy First Nation and did not have resources to fight the legal battle that would have ensued from pursuing its request for bitumen leases. When the two governments agreed to settle MCFN's TLE claim, the Athabasca region had become a complex legal space. The First Nation had to negotiate with the provincial government as well as the federal government with which it had signed Treaty 8.[102] Alberta had already leased many areas to private companies. The land settlement was less than half the area the 1899 population numbers entitled it to. Some disagreed with the strategic value of the settlement.[103] By suppressing land claims that targeted bitumen, the PC government

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[98] Doug Tattrie, "Trapping season hits rock bottom," *Fort McMurray Today,* March 15, 1984.
[99] Ken Younger, "Cree band to hold vote on proposed reserve deal," *Fort McMurray Today,* 26 February 1986.
[100] Slowey, *Navigating Neoliberalism*, 54.
[101] Articles from *Fort McMurray Today* through the 1980s show that MCFN faced significant financial difficulty, in part because of the costs it incurred negotiating the TLE. For example: Michael Moralis, "Waquan wants to run a tight ship," *Fort McMurray Today,* 31 July 1984.
[102] Price, "Contemporary Land Claims."
[103] "Lawyer says Fort Chip settlement 'a ripoff,' *Fort McMurray Today,* 30 December 1986, Bernard Pilon, "Fort Chip settlement: Former chief says his family will pursue separate deal," *Fort McMurray Today,* 6 January 1987.

protected its control of the oil sands industry.[104]

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In 1996, MCFN sued, claiming Alberta had defrauded it of mineral rights during the TLE negotiations.[105] MCFN sought $1 billion damages for loss of use and enjoyment of the land claiming: "Alberta agreed to set aside lands for reserves in order to allow Canada to fulfill its Treaty obligations," and "both of the Defendants (Alberta and Canada) have been consistently reluctant to abide by the terms of Treaty No. 8…" MCFN argued that government knowingly excluded valuable bitumen deposits from treaty land settlements and subsequently profited from the exploitation of Indigenous territory.[106] In its statement of defence, Alberta held that the 1986 agreement satisfied its obligations to provide land to Canada for MCFN under Treaty 8. Alberta argued that it was not obliged to provide land based on modern population counts and that MCFN was not entitled to select lands in the oil sands, or to receive damages or compensation.[107] When MCFN elected a new chief and council in 2005, the First Nation reached a confidential settlement and dismissed the 1996 action. Chief Waquan initiated another lawsuit in 2015, which included many of the same claims as the 1996 action.[108]

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[104] Working Group on First Nations Participation in the Economy, "Strengthening First Nations Participation in the Economy." Report of the Working Group on First Nations Participation in the Economy to Federal-Provincial/Territorial Ministers Responsible for First Nations Affairs and National First Nations Leaders, 11 May 2001, in Slowey, *Navigating Neoliberalism*, 35.

[105] *Chief Archie Waquan v. Her Majesty the Queen (Canada and Alberta)*, Calgary: Alberta Court of Queen's Bench, Action No. 9601-18174 (1996).

[106] *Mikisew Cree First Nation v. Canada,* "Amended Amended Amended Amended Amended (5th) Statement of Claim," Calgary: Alberta Court of Queen's Bench, Action No. 9601-18174 (2007).

[107] *Mikisew Cree First Nation v. Canada,* "Amended Statement of Defence of the Defendant Her Majesty the Queen in Right of Alberta," Calgary: Alberta Court of Queen's Bench, Action No. 9601-18174 (2007).

[108] Waquan v. Canada (Attorney General), 2017 ABCA 279. Waquan was re-elected chief in the summer of 2017, and in November 2017 Mikisew Cree reached a $136 million settlement, first started in 1993, with the federal government for agricultural benefits from Treaty 8 that the government never provided. Melinda Trochu, "Mikisew Cree vote to accept $136M Treaty 8 settlement from federal gov't," *CBC News North,* 17 October 2017.

Richard Price's 1993 article examines the leadership and strategy of the Cree Band in negotiating the TLE.[109] Recent studies on the political economy of oil in Alberta emphasize oil's effect on democratic governance.[110] Slowey argues that neoliberalism motivated the provincial government to settle land claims, and that the settlement money helped MCFN build business, develop services, and improve its administrative capacity.[111] Without dismissing this interpretation, I suggest the MCFN TLE is an important window on the significance of resource extraction to colonization in northeastern Alberta. Industrial colonization is not simply a historic process but an ongoing process of litigation and political economic conflict. Hydrocarbon extraction informed how the state worked to limit Indigenous territorial claims in the North. While Slowey emphasizes how neoliberalism impelled the Alberta government to settle land claims, Indigenous litigation was what brought government and industry to the table. Slowey argues that the 1996 lawsuit was part of MCFN's plan to benefit economically from the oil sands industry.[112] While a First Nation might litigate a past claim for this reason, it does not account for the importance to First Nations of defending their territorial sovereignty or control over their lands. Indigenous communities sought the power to influence and regulate development, minimize environmental impacts, and protect important cultural spaces. Attributing land claims resolution primarily to neoliberalism diminishes the efforts of Indigenous peoples who have fought to challenge the certainty of Canadian sovereignty and carve out cultural,

[109] Price, "Contemporary Land Claims."
[110] Laurie E. Adkin, ed., *First World Petro-Politics: The Political Ecology and Governance of Alberta* (Toronto: University of Toronto Press, 2016); Meenal Shrivastava and Lorna Stefanick, eds., *Alberta Oil and the Decline of Democracy in Canada* (Edmonton: Athabasca University Press, 2015).
[111] Slowey, *Navigating Neoliberalism*; Gabrielle Slowey and Lorna Stefanick, "Development at What Cost?: First Nations, Ecological Integrity, and Democracy," in *Alberta Oil and the Decline of Democracy in Canada*, ed. Meenal Shrivastava and Lorna Stefanick (Edmonton: Athabasca University Press, 2015).
[112] Slowey, *Navigating Neoliberalism*, 69.

political, and economic space in the new industrial economy.

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The TLE settlement inaugurated MCFN's legal battles in the 21st century. MCFN fought landmark cases in Aboriginal law, making it one of the most legally powerful First Nations in the country. In *Mikisew Cree v. Canada (Minister of Canadian Heritage)* (2005) the Supreme Court of Canada ruled the federal government wrongfully did not consult MCFN prior to the construction of a winter road. In conjunction with *Haida Nation v. British Columbia* (2004), this decision established the duty of the Crown to consult with and accommodate Aboriginal peoples whose rights and title may be affected by the taking up of land for industrial development.[113] The duty to consult challenged the Alberta government's position that "it does not endorse a duty to consult (whether *ex ante*, as maintained by Canada; or as part of a duty of fair dealing, as maintained by the Appellant) prior to the proof of Aboriginal title or rights."[114] In 2018, MCFN, albeit unsuccessfully, appealed to the Supreme Court of Canada for a judicial review of omnibus budget bills C-38 and C-45, which restructured federal environmental law to limit environmental assessments. MCFN sought to overturn a Federal Court of Appeal decision that First Nations are not owed a duty to consult during the development of legislation.[115] Chief Archie Waquan stated: "Law making is the most important form of Crown decision making. It is corrosive to the process of Reconciliation for the government to say that it

[113] *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, 2005 SCC 69, [2005] 3 S.C.R. 388, and *Haida Nation v. British Columbia (Minister of Forests),*2004 SCC 73, [2004] 3 S.C.R. 511.
[114] *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*, [2004] S.C.C. 74, [2004] 3 S.C.R. 550, Factum of the Intervener the Attorney General of Alberta, September 2003, para. 8. Cited in Monique M. Passelac-Ross, *The Trapping Rights of Aboriginal Peoples in Northern Alberta*, Canadian Institute of Resources Law (2005), 38.
[115] "Supreme Court case could lead to First Nations role in law-making," January 14, 2018, *CBC News,* http://www.cbc.ca/news/canada/north/supreme-court-case-could-lead-to-first-nations-role-in-law-making-1.4487029

does not need to consult with First Nations on legislation that may adversely affect our Treaty Rights."[116] Taken together, these cases show how First Nations like MCFN have used litigation to increase their power to influence development in their traditional territories.

Conclusion

For Indigenous peoples in northeastern Alberta, Treaty 8 opened the door to a process of industrial colonization that began later, in which law became a central tool of dispossession that affected all First Nation and Métis communities in the Athabasca region. The rapid development of the oil sands industry triggered conflicts over Indigenous rights. Inspired by the James Bay and Northern Québec Agreement, the Mackenzie Valley Pipeline Inquiry, and the Paulette Caveat, Indigenous leaders from the Indian Association of Alberta, Mikisew Cree First Nation, and Trout, Peerless, Whitefish, Loon, and Lubicon Lakes made important contributions to the national landscape of Aboriginal law in the 1970s.

By transferring Crown land and mineral rights to Alberta in 1930, the federal government—intentionally or not—made it more difficult for First Nations to claim the land they were entitled to under Treaty 8. The Alberta government's investments in the oil sands industry complicated its role in the land claims process. First Nations had to negotiate with a provincial government reluctant to fulfill its duty to provide lands to settle TLE claims. Indigenous organizations and First Nations used new land claims processes and precedents set in other jurisdictions to fight for participation and territorial sovereignty

[116] "Mikisew Cree First Nation Challenge at the Supreme Court of Canada," January 16, 2018, *JFK Law News,* http://jfklaw.ca/mikisew-cree-first-nation-challenge-supreme-court-canada/

in the oil sands. The IAA and Trout, Peerless, Whitefish, Loon, and Lubicon Lakes used a caveat to force government to guarantee Indigenous people jobs in the oil sands industry and act to settle the Isolated Settlements land claims. MCFN sought bitumen leases to settle part of its land claim. In this instance, Alberta was unwilling to acknowledge Indigenous rights to lands they had used for millennia and would not agree to the Mikisew Cree claim if it included a transfer of any bitumen-bearing lands. When MCFN, Alberta, and Canada eventually settled the Treaty Land Entitlement in 1986 it was for a fraction of what MCFN had initially claimed. The proceeds of the settlement helped MCFN invest in its community and work towards economic independence. MCFN continued to litigate on treaty-related issues. While Indigenous peoples fought for their rights, the following chapters show how the oil sands industry had major environmental and economic consequences for First Nations and Métis peoples in the Athabasca region.

Chapter 6

Land Use Conflicts and Environmental Change on the Trapline

Introduction

The fur trade sustained Métis and First Nation families in the lower Athabasca region into the 1970s and 80s.[117] Indigenous land use, depicted in part in the 1957 trapline maps, blanketed the Athabasca region before the development of the oil sands industry (Figure 14). In the 1970s, the fur trade boomed as average pelt prices increased 500 per cent, and trappers could make more money from trapping than from working for oil companies. But trapping faced headwinds in the 1960s and 70s. Great Canadian Oil Sands and Syncrude destroyed several traplines held by Métis and First Nations trappers, and bitumen exploration had significant adverse effects on fur populations and trappers. The Bennett Dam on the Peace River in British Columbia caused water levels to decline in the Peace-Athabasca Delta, which destroyed muskrat habitat permanently and caused muskrat populations to fall by 90 per cent after 1974. In the 1980s, the populations of many fur-bearers collapsed, and fur prices crashed in 1987 as animal rights activists dissuaded many consumers from wearing furs. The collapse of the modern fur trade undermined the economic independence of Indigenous communities in the Athabasca region and forced people to seek out wage employment in the oil sands.[118]

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[117] Timothy David Clark, Dermot O'Connor, and Peter Fortna, *Fort McMurray: Historic and Contemporary Rights-Bearing Métis Community*, Fort McMurray Métis Local 1935 and Willow Springs Strategic Solutions Inc. (Cochrane, AB, 2015), 76-81; Fort McKay First Nations, *There Is Still Survival Out There: A Traditional Land Use and Occupancy Study of the Fort McKay Frist Nation*, Arctic Institute of North America (Alberta, 1994); Peter Fortna, *The Fort McKay Métis Nation: A Community History*, Willow Springs Strategic Solutions Inc. (Cochrane, AB, 2020).

[118] In a very different ecological context, Tyler Priest examines the relationships between shrimping and offshore oil production in Louisiana, arguing that oil did not undermine the environmental viability of shrimping, and that the threats to the survival of shrimping came from global shifts in the shrimp industry.

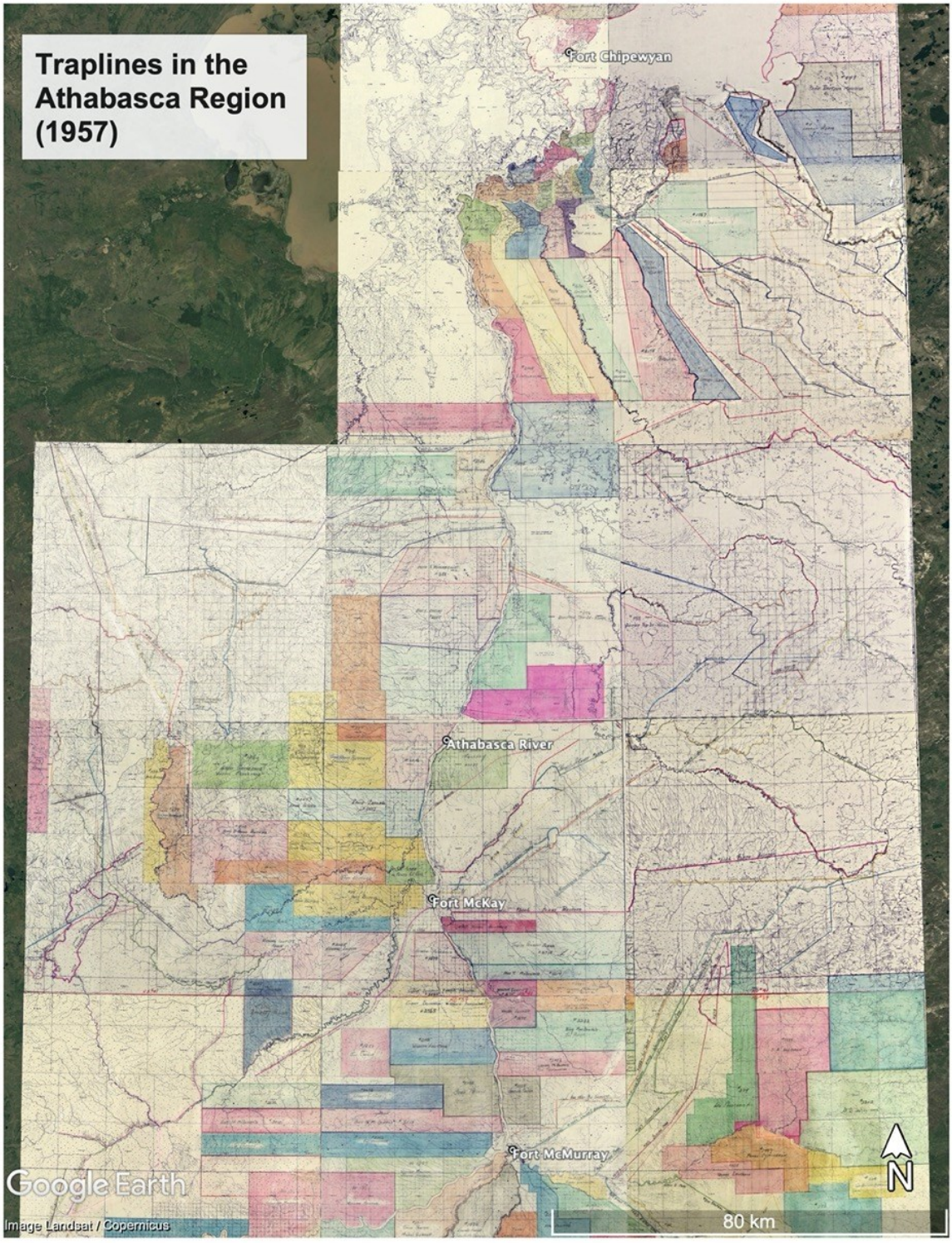

Figure 14: Registered trapline maps from 1957 overlaid on Google Earth showing Indigenous land use in the Athabasca region, GR1990.0377, PAA.

Tyler Priest, "Shrimp and Petroleum: The Social Ecology of Louisiana's Offshore Industries," *Environmental History* (2016).

Many Canadians fail to realize that trapping and other aspects of the bush economy continued to be economically and culturally important to Indigenous people throughout most of the 20th century. Recent scholars have addressed the persistent cultural importance of trapping, conflicts between resource exploitation and trapping, and the resilience of Indigenous trappers.[119] Glenn Iceton argues that registered traplines became a quasi-private property asset that defined and confined Indigenous trapping to specific areas but limited further encroachment of Euro-Canadian trappers.[120] Studies of the effects of animal rights campaigns on the fur trade in the 1980s address seal hunting in the Arctic.[121] Yet little has been written on the pressures facing the Athabasca fur trade in the late 1980s. This chapter draws on Frank Tough's work by examining the economic changes that shaped the relationship between settler colonialism and the failure of resources in Indigenous economies. It shows how the collapse of the fur prices in the 1980s undermined Indigenous economies in the Athabasca region.[122]

As shown in previous chapters, the settler state's system of controlling and regulating land and resources in the Athabasca region suppressed Indigenous rights and

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[119] Shevenell M. Webb, Debra J. Davidson, and Mark S. Boyce, "Trapper Attitudes and Industrial Development on Registered Traplines in West-Central Alberta," *Human Dimensions of Wildlife* 13, no. 2 (2008); Tara L. Joly, "Making Productive Land: Utility, Encounter, and Oil Sands Reclamation in Northeastern Alberta, Canada" (Doctor of Philosophy University of Aberdeen, 2017); Timothy David Clark and McMurray Métis, *McMurray Métis Cultural Impact Assessment of the Suncor Voyageur South Project*, Willow Springs Strategic Solutions (Cochrane, AB, December 2017); Linda Black Elk and Janelle Marie Baker, "From Traplines to Pipelines: Oil Sands and Pollution of Berries and Sacred Lands from Northern Alberta to North Dakota," in *Indigenous Peoples' Land Rights and the Roles of Ethnoecology and Ethnobotany: Strategies for Canada's Future*, ed. Nancy J. Turner (Kingston: McGill-Queen's University Press, Forthcoming 2020).

[120] Glenn Iceton, "'Many Families of Unseen Indians': Trapline Registration and Understandings of Aboriginal Title in the Yukon-BC Borderlands," *BC Studies*, no. 201 (Spring 2019): 83.

[121] George W. Wenzel, *Animal Rights, Human Rights, Ecology, Economy and Ideology in the Canadian Arctic* (Toronto: University of Toronto Press, 1991).

[122] Frank Tough, *As Their Natural Resources Fail: Native People and the Economic History of Northern Manitoba, 1870-1930* (Vancouver: UBC Press, 1996).

encouraged bitumen extraction with limited environmental regulation. This system commercialized and made impermanent the trapping rights the Crown promised Indigenous peoples in Treaty 8, which exposed Indigenous trappers to a range of dispossessions from their lands and livelihoods. While the registered trapline system protected Indigenous trappers from the encroachments of outside trappers, it did not protect Indigenous peoples from industrial development. The trapline system was a placeholder for resource extraction, which meant that it was at the bottom of the list of government priorities. Alberta viewed the Treaty 8 region as public land over which it held full ownership and legislative control. Before the *Haida v. BC (2004)* and *Mikisew Cree v. Canada (2005)* cases established the duty to consult, Alberta's approach to requests for consultation was to deny the existence of Aboriginal rights to public lands, or to deny its own ability to determine the existence of rights or if those rights would be infringed by industrial activity [123] A trapper might have rights to exclusively harvest furs, but Alberta could still lease the land to oil companies and sell the timber to forestry companies. Trapping became only one undervalued layer of rights to an area that an individual or company could hold. This dynamic echoes Traci Voyles's argument that in Navajo country extractive and Indigenous spaces were borderlands and spatially liminal in-between places that were simultaneously different things.[124] The advent of the oil sands industry turned traplines into potential extraction zones.

When the oil sands industry destroyed Indigenous hunting and trapping areas, Indigenous peoples and their communities had limited recourse even under Treaty 8 or the

[123] Passelac-Ross, *The Trapping Rights of Aboriginal Peoples*, 61-62.
[124] Traci Brynne Voyles, *Wastelanding: Legacies of Uranium Mining in Navajo Country* (Minneapolis: University Of Minnesota Press, 2015), 19.

NRTA because Alberta regulated traplines as licenced areas that were not associated with Indigenous land use rights.[125] Oil companies worked together to ensure they offered consistent compensation to trappers to prevent any one company from paying more. Bitumen exploration, roads, seismic lines, and infrastructure damaged traplines and fragmented animal habitats throughout the Fort McMurray and Fort McKay area. The Fish and Wildlife Division, which the Alberta government transferred to the Department of Energy and Natural Resources from the Department of Recreation, Parks, and Wildlife in 1979, created the Trappers Compensation Review Board (TCRB) in 1980 to compensate trappers for losses they incurred from industrial activity.[126] The TCRB was slow, ineffective, and only considered financial losses of income and equipment, not cultural loss, which meant that trappers were poorly compensated for the adverse effects of industrial development.

In the early 1980s, fur bearing animal populations collapsed in a cyclical population crash. Lynx populations fell by over 90 per cent, and muskrat populations fell by over 70 per cent. In the mid 1980s, animal rights campaigners sought a ban on leg hold traps and restrictions on fur bearing animal catches. From the 1970s to 1987, the fur trade in Canada produced an average of 4.6 million pelts per year with an average value of 86 million dollars. In the late 1980s, animal rights campaigns and the 1987 stock market crash discouraged people from buying furs and caused the fur market to crash in 1988. By 1990 pelt production had fallen 62 per cent to a low of 1.7 million pelts, and the value of fur

[125] Michael G. Fox and W.A. Ross, *The Influence of Oil Sands Development on Trapping in the Fort McMurray Region*, Alberta Oil Sands Environmental Research Program (July 1979), 75.
[126] Alberta, *An Administrative History of the Government of Alberta, 1905-2005* (Edmonton: The Provincial Archives of Alberta, 2006), 184; Margo Pybus et al., "Furbearers: Trapping, Fur Farms, and Problem Wildlife," in *Fish, fur & feathers: fish and wildlife conservation in Alberta 1905-2005*, ed. The Fish and Wildlife Historical Society (Edmonton: Federation of Alberta Naturalists, 2005), 152.

production fell 59 per cent to 35 million dollars by 1992. In Alberta, the crash was worse. Fur production fell 82 per cent from an average of 700,000 pelts from 1970-1987 to 125,000 pelts in 1990 (Figure 15). The value of these furs fell 76 per cent from an average of $8.9 million from 1970-1987 to $2.1 million in 1990.[127]

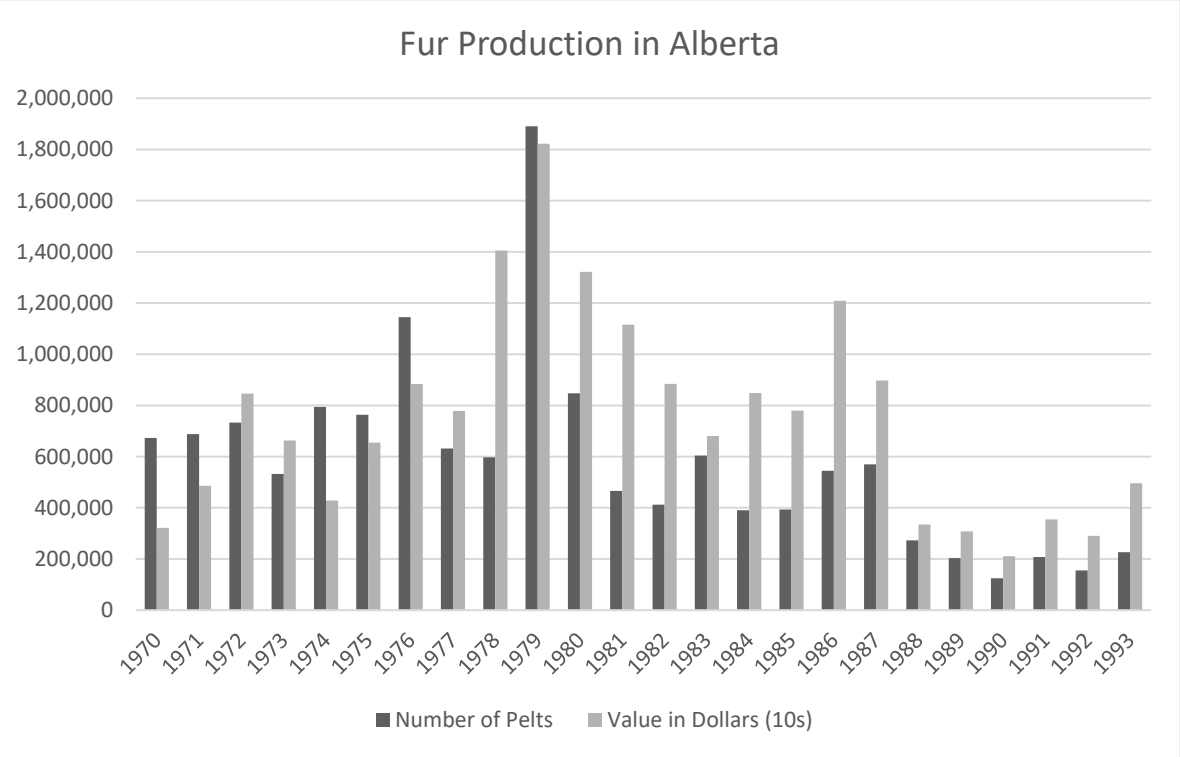

Figure 15: Fur production in Alberta and value of pelts in 10s of dollars. Data from Data from Statistics Canada, "Table 32-10-0293-01 Number and value of pelts produced."

Seasonal Round

For Métis and First Nation peoples in the lower Athabasca region, registered traplines became important cultural spaces for passing on hunting, trapping, and fishing practices. A 1974 research report found almost every male adult in the Fort McKay area relied on trapping for income.[128] Into the 1980s and 1990s, trapping was still an important

[127] Statistics Canada, "Table 32-10-0293-01 Number and value of pelts produced," (Ottawa). https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3210029301.
[128] M.L. Marino, *Northeast Alberta Regional Plan: Traplines and the Social Consequences of Development*,

economic activity that continued to provide a significant income, subsistence foods, and cultural meaning for Indigenous peoples.[129] Before the 1960s, the Fort McKay Indigenous community was not formally based at the settlement.[130] Rather, Indigenous peoples in the Fort McKay area practiced a seasonal round of land use and resource harvesting across a wide geographic area. The seasonal round broke down into five seasons, each defined by different activities and areas: the fall dry meat hunt, early winter hunting and trapping, late winter hunting and trapping, spring beaver hunt, and summer recuperation.[131]

In the late summer people prepared for the fall dry meat hunt. People used horses to carry supplies and pack out meat. They traveled to camps from which to hunt moose, deer, caribou, and bear. They dried meat, stored it for the winter, and refined fat to make grease. If game populations were low, groups travelled into the Birch Mountains, northwest of Fort McKay. They fished and shot migratory waterfowl and upland game birds. They dried fish to feed sled dogs and people. They picked and dried berries for the winter.[132] After the dry meat hunt, people went back to their central camps at Namur and Gardiner Lakes (Moose Lake), the Spruce Lakes, the Firebag River, and at the Fort McKay settlement. In late September or October, hunters would head back to Fort McKay from Moose Lake by horse and cart, bringing moose hides, moccasins, and other leather goods to trade with the Hudson's Bay Company for trapping supplies and equipment for the winter. Others, living at different points on the Athabasca River, travelled to Fort McKay, Fort McMurray, or

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Ekistic Design Consultants Limited (1974), 2.

[129] Michael Asch and Shirleen Smith, "Some Facts and Myths About the Future of the Hunting and Trapping Economy in Alberta's North," in *The Uncovered Past: Roots of Northern Alberta Societies*, ed. Patricia McCormack and R. Geoffrey Ironside (Edmonton: Canadian Circumpolar Institute, University of Alberta, 1993).

[130] Fortna, *The Fort McKay Métis Nation*, 51.

[131] Fort McKay Tribal Administration, *From Where We Stand* (Fort McMurray, 1983).

[132] Fort McKay Tribal Administration, *From Where We Stand*, 84.

Fort Chipewyan to trade. As the snow started to fall, people let their horses loose to find winter pasture and prepared the dogs and sleds for the winter. In the early winter, people snared and trapped beaver until the ice got too thick, at which point they switched to trapping fur-bearers such as marten, lynx, squirrel, fisher, and wolverine until the spring, when they returned to Fort McKay to trade their furs and round up their horses.[133]

After trading their winter furs, people bought snare wire and ammunition to hunt beaver. After the beaver hunt, while the ground was still wet, people burned selected areas of forest. Burning triggered new growth, which attracted large animals, made pasture for horses, and encouraged the growth of berries. Selective burning prevented bigger, more destructive fires. Families would assess their land to gauge how it had changed through the winter and whether animals would be likely to stay or to move. They planned whether to hunt the same area the following winter or to leave the area to let animal populations recover. As the ice broke up on the Athabasca River and the smaller rivers and streams, people started another round of fishing to make more dry fish to feed the dogs and themselves through the summer.[134] People then gathered at summer camps and fished for whitefish on the Athabasca River from late July through the end of the summer. As the end of the summer neared, the families chose areas to hunt and trap in the upcoming winter, and areas to leave alone. In the fall they started the dry meat hunt and continued the seasonal round.[135] These practices reflected continuity over the first half of the 20th century and into the 1960s and sustained a population of around 238 people in Fort McKay in 1975: 144 treaty and 94 Métis.[136]

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[133] Fort McKay Tribal Administration, *From Where We Stand*, 85.
[134] Fort McKay Tribal Administration, *From Where We Stand*, 86.
[135] Fort McKay Tribal Administration, *From Where We Stand*, 87.
[136] M.L. Marino, *Fort MacKay: A Community Profile*, Ekistic Design Consultants Limited (Edmonton, 1975),

The Métis families who lived in the Fort McMurray area would trap in the winters and work in wage labour in the summers. The Métis would blend their hunting and trapping lifestyle with seasonal labour working on the river transport system, which was the biggest part of the summer economy in Fort McMurray before the 1960s. As discussed in Chapter 7, this blend of modern and traditional economies led the Métis to build settlements centred on the trading post in Fort McMurray.[137] The Métis favoured river lots, which gave them access to the boreal forest and to the rivers.[138] Similar to First Nations in other parts of the region, in the summers they would fish for pickerel, jackfish (northern pike), whitefish, and goldeye, to eat fresh or dry to feed themselves and their sled dogs. They would hunt for caribou, moose, deer, and ducks in the fall, which they would eat and dry for the winter. Before legislation stopped it, people often lived permanently on their traplines and made gardens, root cellars, and raised livestock. For the Métis, traplines were complex cultural spaces where families blended economic activity and cultural practice.[139] Families maintained traplines over generations, several of which still exist in the Fort McMurray area.[140]

The trapping lifestyle persisted into the 1970s and 80s, buttressed by high fur prices, which meant that many trappers could make more from trapping than working for the oil sands industry. One Métis trapper explained:

> When I say, the family trapping, it would be mom and dad would be out there, ah, every weekend, during the week whenever they could. To give you an idea how good trapping was, my dad worked full-time at Suncor...

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[137] James M. Parker, *History of the Athabasca Oil Sands Region, 1890 to 1960s, Volume II: Oral History* Boreal Institute for Northern Studies (Edmonton, 1980); Neil Reddekopp, *Conklin as an Aboriginal Community: Legal Analysis*, Report commissioned by Métis Local 193 (2009); Clark and McMurray Métis, *McMurray Métis Cultural Impact Assessment*, 76.

[138] Clark and McMurray Métis, *McMurray Métis Cultural Impact Assessment*, 79-80.

[139] Joly, "Making Productive Land," 82-118.

[140] Clark and McMurray Métis, *McMurray Métis Cultural Impact Assessment*, 86.

> But I know he made something like 11,000 dollars trapping part-time in the winter. Working full-time in the plants, doing two shutdowns, a month in the spring and a month in the fall he made just under 10,000 bucks. So, that winter he made more from trapping than he did working full-time at the plant. And at the plant, you're, you're getting top wages.[141]

The combined factors of disruption by the development of the oil sands industry, and the crash of fur prices in the 1980s had significant economic and cultural impacts on Métis and First Nation trappers who based so much of their culture and economic lives on fur.

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The Athabasca region was an excellent habitat for fur-bearing animals, including both rodents - beaver, muskrat, squirrel - and predators - lynx, fisher, marten, mink, fox, otter, wolf, and wolverine. Fur coats and accessories, some sourced from this region, filled the closets of wealthy urbanites in North America and Europe. In 1964, Sun Oil's J. Howard Pew's personal property insurance policy listed $6,890 of fur coats, capes, and scarves alongside $74,000 of jewelry, three cars, and a Cadillac limousine.[142] Even people with lower incomes could often afford fur coats, many people wore them in Edmonton and Calgary in the 1960s. The most significant species by volume of pelts produced from 1970-1993 in Alberta were squirrel, muskrat, and beaver. The most significant species by value of pelts were beaver, lynx, muskrat, and marten. Predators with their fine fur represented just six per cent of the volume of trapped furs but accounted for 49 per cent of the value. Rodents accounted for 94 per cent of the volume of trapped furs and 51 per cent of the

[141] MOTM-MT18-P21, McMurray Métis Community Knowledge Keeper (CKK), cited in Clark and McMurray Métis, *McMurray Métis Cultural Impact Assessment*, 100.
[142] H. Walter Johnson, "Insurance Report on the Property of Mr. J. Howard Pew & the Estate of Mrs. Helen T. Pew, Deceased," January 23, 1964, Acc. 1634, Box 230, J. Howard Pew Personal Papers, Hagley Museum and Library (HML).

value. Throughout the period, beaver was the most financially significant fur, which accounted for 12 per cent of volume and 32 per cent of the value of trapped furs.[143]

Muskrat and lynx were two particularly important species in terms of volume and value of furs and price and population volatility. Muskrats are semiaquatic rodents that inhabit wetland areas and are particularly abundant in the Athabasca Delta. Muskrat populations naturally fluctuated in a regular cycle but were also harmed by the low water levels in the Athabasca Delta caused by the Bennett Dam and its impact on the hydrological regime of the Peace River. Muskrat accounted for 36 percent of the volume and 13 per cent of the value of trapped furs. They were also eaten. Lynx are large cats that inhabit dense boreal forests and depend on snowshoe hares, which account for 35-97 per cent of their diet. Hare populations fluctuate widely, following a well-known cycle of about ten years. When hare populations crash, lynx populations follow. Lynx stop having kittens and travel up to 1,000 kilometres in search of areas with more hares. Thus, lynx populations also fluctuate widely, crashing every ten years and then growing as much as 17 times.[144] Lynx prices also fluctuated as long fur went in and out of fashion. Lynx were often a valuable fur, accounting for just one per cent of the volume but 24 per cent of the value of furs produced in Alberta between 1970 and 1993.[145]

Trappers used three main types of traps: snares, leghold traps, and conibear traps. Snares are wire noose traps that trappers would set on animal trails. Cheap, light weight,

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[143] Statistics Canada, "Table 32-10-0293-01 Number and value of pelts produced."
[144] C.J. Brand and L.B. Keith, "Lynx demography during a snowshoe hare decline in Alberta," *The Journal of Wildlife Management* 43, no. 4 (1979); L. Hunter, *Wild Cats of the World* (London: Bloomsbury, 2015), 146-51; M. O'Donoghue et al., "Numerical responses of coyotes and lynx to the snowshoe hare cycle," *Oikos* 80, no. 1 (1997); R.M.P. Ward and C.J. Krebs, "Behavioural responses of lynx to declining snowshoe hare abundance," *Canadian Journal of Zoology* 63, no. 12 (1985); M.S. Weinstein, "Hares, lynx, and trappers," *The American Naturalist* 111, no. 980 (1977).
[145] Statistics Canada, "Table 32-10-0293-01 Number and value of pelts produced."

and compact, snares were the most widely used type of trap. Trappers used snares to catch beaver, coyote, fox, hare, lynx, squirrel, and wolf. Leghold traps are spring loaded traps designed to catch animals by their leg. Leg hold traps cause considerable traumatic injury and pain to animals and became the target of animal rights campaigns in the 1980s. Trappers used leghold traps to catch beaver, coyote, fisher, fox, lynx, mink, muskrat, weasel, and wolf. Conibear traps are bigger traps meant to catch an animal by the body and neck and kill it. Conibear traps were meant to be more humane traps. First marketed in the 1950s, conibear traps were heavier, more complicated, and more expensive than snares or leghold traps and not as widely used. Trappers mostly used conibear traps for beaver and otter. Trappers also used guns to hunt bear, beaver, muskrat, otter, and wolf.[146]

Trappers used trail sets or pen sets to catch animals like coyote, fisher, fox, hare, and lynx. Sets are the sites trappers prepared for entrapment, which consisted of bait, traps or snares, and debris to hide the trap and make a cubby or anchor for the trap. Pen sets are cubbies trappers made with branches and leaves off the side of a trail with bait and a snare or leghold trap inside. Trappers made trail sets directly on the animal trail with the expectation that the animal would walk into the trap. Creek sets were traps or snares set under ice or open water to catch animals such as beaver, muskrat, and otter.[147]

“Substantially Eliminated”

Chapter 2 explained that from the 1940s to the 1960s, the Alberta government started changing traplines from the actual lines or paths through the boreal forest to

[146] Fox and Ross, *The Influence of Oil Sands Development on Trapping*, 48.
[147] Michael G. Fox, "The Impact of Oil Sands Development on Trapping with Management Implications" (Masters of Environmental Design Master's Thesis, University of Calgary, 1977), 84-88.

trapping areas, which were polygonal shapes on new maps in which trappers could trap.[148] Alberta did not immediately convert all traplines to trapping areas, and some traplines continued to exist as actual lines. Trapping areas (which are now called Registered Fur Management Areas) were theoretically better for trappers because they reserved bigger areas for trapping furs and accommodated changes to the lines used without need to change the maps. Using trapping areas allowed the state to distribute trapping areas without having to map individual lines. The Fish and Wildlife Division believed that trappers could actively manage and conserve animals by controlling a larger area. In practice, the change from traplines to trapping areas harmed trappers in the Athabasca region. Some of the new trapping areas were in different locations from the lines that previously corresponded with the registration number, which forced trappers to move their traplines and rebuild their cabins, trails, and caches. Trapping areas lowered the protections for trappers because industry and government expected that trappers would simply move their trapping activities to a different part of their areas if a portion of their land was taken up for resource extraction. The Fort McKay Tribal Administration explained:

> In theory, it provided more room for a trapper to change his system of trapping within his area when part of his area was destroyed or rendered less attractive by oil, gas, forestry or transportation development. For example, if a new road crossed a portion of a Fort McKay trapper's registered area, the trapper was simply expected to move over and, if necessary, abandon his cabin or improvements and re-establish his trapline in a more distant or less disturbed part of the area. While in a real sense an area of land had been destroyed or removed from the usual usage the hunter or trapper was neither offered compensation in kind, by the addition of more land to the area, nor financial compensation to help the trapper cut new trails or re-establish his line in a different location.[149]

[148] Department of Lands and Forests: Surveys and Planning Branch, "Registered Fur Management Areas," Edmonton: Province of Alberta, 1967, GR1990.0377, PAA. Fortna, *The Fort McKay Métis Nation*, 44.
[149] Fort McKay Tribal Administration, *From Where We Stand*, 100.

The GCOS and Syncrude operations destroyed several traplines south of Fort McKay and reduced the size of the trapping areas. Two sites – Tar Island and Steepbank River - were important to people from Fort McKay for summer and fall camps. Tar Island, part of trapping area 2565 held by Gilbert Ducharme and Archie Cardinal, where GCOS situated its tailings pond in 1967, had been an important gathering place where people hunted, fished, and harvested eggs, berries, and plants.[150] A Fort McKay report stated in 1983:

> Some of our best summer camps were along the Steepbank River and at Tar Island. Tar Island has since been taken by the Great Canadian Oil Sands without consideration for the Fort McKay People. This was a prime hunting, trapping, fishing and gathering site for us. It was always one of our most "fail-safe" food areas and meeting sites. Another favoured site was along Seline Lake which has since been opened by the forestry to logging. Our maps indicate many such areas which have since met similar fates.[151]

Contrary to government expectations, it was difficult or impossible for alternative land-use sites to be found.

Construction began in 1972 on the Syncrude site on Lease No. 17, which was the location of three trapping areas. Métis trapper Vincent Boucher held trapping area 2565, and First Nations trappers Theodore (Ted) Boucher and Francis Orr held trapping areas 1379 and 587 respectively (Figure 16). As the Syncrude operation grew, it excavated the Beaver Creek area of Vincent Boucher's trapline, the most productive part of the line. Syncrude razed Ted Boucher's trapline in its entirety. As Syncrude expanded in the late 1970s and early 1980s, it began to damage Francis Orr's trapline.

Even the 1974 Northeast Alberta Regional Plan report acknowledged that

[150] James N. Tanner, Charles Cormack Gates, and Bertha Ganter, *Some Effects of oil Sands Development on the Traditional Economy of Fort McKay*, Fort McKay Industry Relations Corp. (Fort McKay, AB, 2001), 21.
[151] Fort McKay Tribal Administration, *From Where We Stand*, 87.

development of the oil sands industry could have:

> Direct negative effects on the native population, not to speak of the effects on animal habitats and subsequent indirect effects on hunters' and trappers' livelihoods. Some form of compensation will undoubtedly be required, if not demanded.[152]

Yet the government had not required the oil companies to bear responsibility for the damage their operations caused to trappers. Neither forestry nor oil and gas regulations addressed trappers' interests at any point of the extraction process.[153] Under Alberta trapline regulations, trapping was a commercial activity that involved solely surface rights for trapping, not ownership of the land itself. This meant only that others could not trap on a registered trapping area, but the registered owner could not stop companies entering to extract mineral resources or timber. In instances where oil companies compensated trappers for lost livelihood in the 1970s, it was at their discretion and only for losses to equipment and income.[154] First Nations peoples had come to view their traplines as their homes and places for a wide range of subsistence, economic, and cultural practices that they expected to be protected under the terms of Treaty 8.[155] For the Métis, traplines were similarly important cultural, subsistence, and economic spaces.[156]

In 1972 when Syncrude began to encroach on Ted Boucher's trapline and the company was to demolish his cabin near Mildred Lake, Syncrude asked its legal counsel, J.C. Koshman, for his opinion on whether Syncrude had an obligation to the trappers.[157] Koshman wrote that Syncrude did not have any legal obligations to trappers but that from a

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[152] Marino, *Northeast Alberta Regional Plan*, 2.
[153] Passelac-Ross, *The Trapping Rights of Aboriginal Peoples*, 55.
[154] Fox and Ross, *The Influence of Oil Sands Development on Trapping*, 99.
[155] Fort McKay First Nations, *There Is Still Survival Out There*, 2.
[156] Fortna, *The Fort McKay Métis Nation*, 37.
[157] J.C. Koshman to Syncrude Canada Ltd., 15 August 1972, Terry Garvin Papers (TGP).

public relations perspective the company should compensate trappers "in a guarded manner to avoid any excessive demands by them." Lease No. 17 contained a "non-disturbance clause," which read that the company "shall peaceably hold and enjoy the rights and privileges hereby granted with out hindrance, molestation or interruption…" Koshman argued that "any rights which a trapper may attempt to exercise under his trap line certificate would, in our view, be a claim within the provisions of the non-disturbance clause and could be defeated by Syncrude on the basis of that clause."[158] Syncrude viewed trappers' rights as commercial rights that competed with mineral lease rights, not as Indigenous land rights.

[158] J.C. Koshman to Syncrude Canada Ltd., 4 July 1972, TGP.

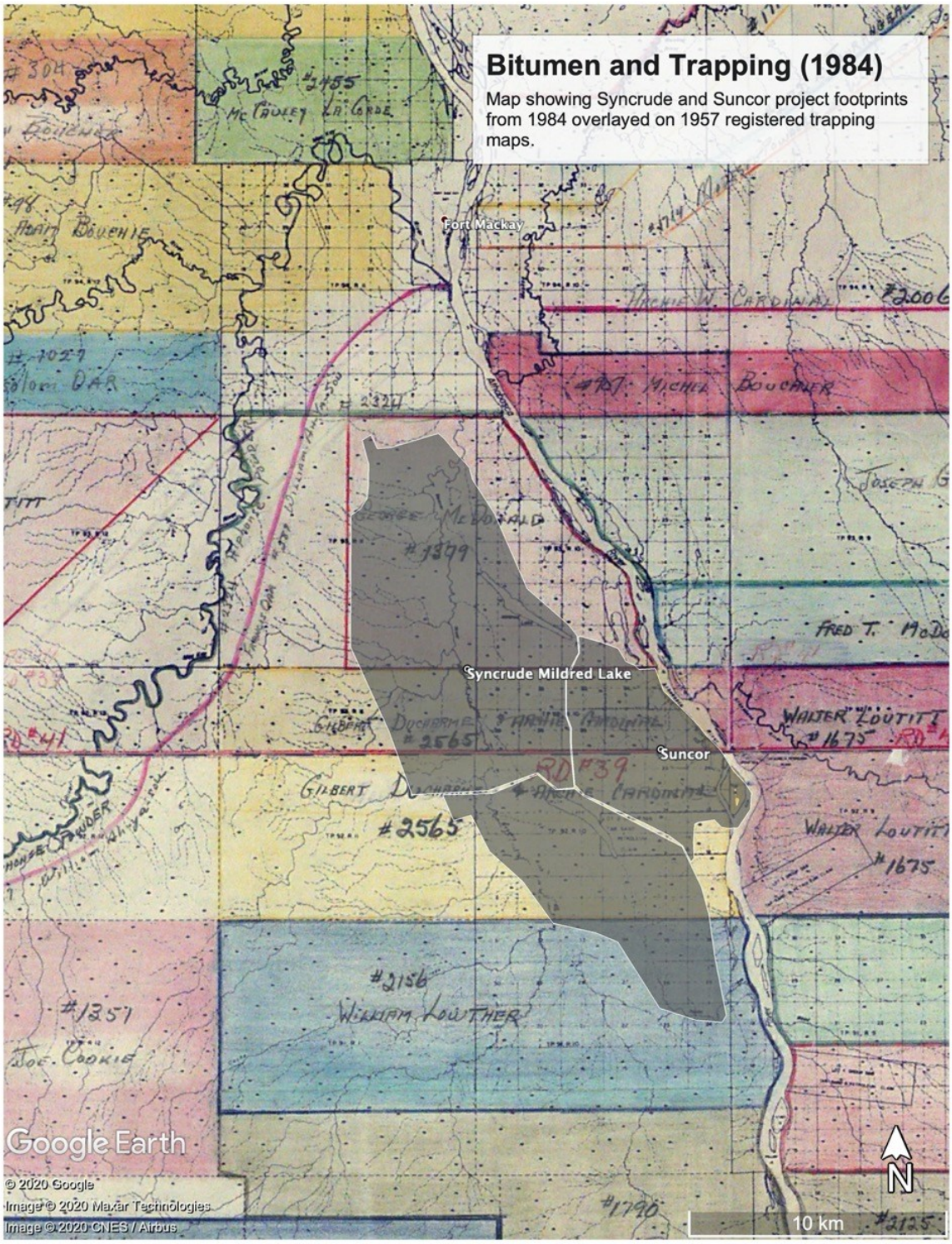

Figure 16: Syncrude and Suncor operations in 1984 overlaid on 1957 government registered trapping area map, GR1990.0377.0207, PAA.

The oil sands companies communicated with each other to ensure they had a consistent negotiation strategy for dealing with trappers. In July of 1974, Syncrude Corporate Relations Manager John Barr met with Ralph Gorby from Shell to agree on a common approach "to prevent local trappers and/or native politicians from playing us off against each other." Barr wrote this strategy should be "morally and politically defensible to the average Canadian… nothing that we could not publicly defend."[159] The oil companies tried to limit the parties involved in trapline compensation negotiations to the companies, the Alberta Department of Lands and Forests, and the trapper—excluding "all 'outside' meddlers." Syncrude offered to compensate trappers for up to 10 years lost earnings or a trapper's retirement at age 65. Syncrude based its trapper compensation guidelines on the public relations risk of destroying traplines rather than on legal necessity.[160]

Syncrude's Public Affairs Department wrote that Syncrude risked tarnishing its image if it did not to compensate the trappers because "both men are natives; both are unskilled and poorly educated; both have families to support; both are in ill health." The department recommended a voluntary settlement that would serve as "a strong demonstration of good corporate citizenship and social responsibility." Syncrude listed examples of past settlements paid to trappers for the destruction of traplines from industrial development. It mentioned that the Department of National Defence had paid trappers $5,000 each for the lines it took to build the Cold Lake Air Weapons Range, and BC Hydro had paid trappers for lines flooded by the Bennett Dam.[161] Daniel Sims found that BC

[159] J.J. Barr to F.K. Spragins, H.B. Scott, and P.A. Staff, "Guidelines for Negotiating with Native Trappers," 24 July 1974, TGP.
[160] Barr to Spragins, Scott, and Staff, 24 July 1974, TGP.
[161] Syncrude Canada Ltd., *Compensation for Native Trappers on Lease #17,* Public Affairs Department,

Hydro paid between $100 and $4,600 to people who lost land, traplines, and cabins to Bennett Dam flooding.[162] Gordon Kerr, Director of Fish and Wildlife**,** told Syncrude it should be compensating the Government of Alberta rather than individual trappers. Syncrude paid Alberta $60 per acre compensation for destroying timber and land surface, a total of over $900,000 for Lease 17.[163] The Syncrude public relations department advised the board of directors to resolve the matter quickly, to avoid the issue resulting in "inflammatory headlines."[164]

Syncrude was initially willing to compensate trappers $10,000 each.[165] Vincent Boucher sought compensation from Syncrude in October 1974. His lawyer, John D. Hunter, told Syncrude it had denied Boucher access to his trapline in 1973 and that the company had unlawfully destroyed wildlife habitat on the trapline and two of his cabins. Further, Syncrude had stripped Boucher of his livelihood and he had "suffered damages in the amount of $10,000, for past and future earning losses."[166] Syncrude responded it did "not accept that we have unlawfully interfered with Mr. Boucher's trapping activities," but acknowledged that "our operations may have in the past reduced your client's income from trapping and that part of Mr. Boucher's trapping area will be reduced in productivity for some time in the future." Syncrude wrote that if Boucher provided an accounting of his earnings and the value of his property it would "arrive at a reasonable figure in terms of

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Syncrude Canada Ltd. (Edmonton, 22 October 1974). TGP.

[162] BC Hydro did not compensate for intangible cultural losses. Many Elders did not understand what compensation meant or how it was supposed to work and considered it inadequate. Daniel Sims, "Dam Bennett: The Impacts of the W.A.C. Bennett Dam and Williston Lake Reservoir on the Tsek'ehne of Northern British Columbia" (PhD Dissertation University of Alberta, 2017), 429, 500.

[163] J.J. Barr to R.R. Goforth, 23 October 1974, TGP.

[164] Syncrude Canada Ltd., *Compensation for Native Trappers on Lease #17*. TGP.

[165] J.J. Barr to J.C. Bjornson, T.A. Garvin, F.K. Spragins, H.B. Scott, C.R. Collyer, R.R. Goforth, 23 October 1974, TGP.

[166] John D. Hunter to Syncrude Canada Ltd., 3 October 1974, TGP.

settlement," but that these negotiations would "not constitute admission of legal liability."[167] Syncrude countered with a lower offer of $6,500, which Boucher accepted in January 1975.[168]

Trapping area no. 1379, held by George McDonald and later by Ted Boucher, was also on land leased to Syncrude by the provincial government, which later became the site of the Mildred Lake mine (Figure 16). A Syncrude report stated that the trapline would be "substantially eliminated by the mining area, process area and tailings pond and while the total effect will not be felt for several years, the end result will be a radical disturbance."[169] Although Syncrude was initially prepared to compensate Ted Boucher $10,000, in the end they paid him just $1,591.56.[170]

The effects of bitumen extraction on RFMA 1379 appalled Elders. It had been an important cultural space for Fort McKay community members. Gilbert McDonald explained how Syncrude paid Ted Boucher for the loss of his trapline: "Dad's trapline later was Ted Boucher's. Ted was paid off by Syncrude where 41B Syncrude is now, up to the 24th baseline from ten miles north and five miles west of the Athabasca River. Ted Boucher got the money."[171] Alice Boucher told interviewers in 2005 about the destruction of the trapline:

> I went across to the place where Ted Boucher used to have his trapline, in that area we used to pick some berries. Cranberries, blueberries, like that. Oh, I get there. Oh, not one stick stand up. Nothing. Just all open. Time you see, your eyes how long you see for your eyes. Nothing. Nothing at all. You know where's Ted Boucher's trapline, eh. Right there, that area. Nothing. Really, nothing. But I don't go on the muskeg lake side. So I don't know what it looks like that side. I don't go yet. Really nothing. Tear everything.

[167] J.C. Bjornson to John D. Hunter, 16 October 1974, TGP.
[168] E.A. Reilly to J.C. Bjornson, 10 January 1975, TGP.
[169] Syncrude Canada Ltd., *Compensation for Native Trappers on Lease #17*, 2.
[170] E.A. Reilly to T.A. Garvin, 21 February 1975, TGP.
[171] Fort McKay First Nations, *There Is Still Survival Out There*, 88.

> Not one stick stand up like that, nothing. So when they grow back it takes long time after all they finish. He takes long time. All this. All kinds of things. They're gonna put it back, he says, after they finish. But, I don't think they're gonna put it back all different kind of rose you know, berries, all different berries. Maybe, they're gonna try I guess. But I don't think they're gonna be all... That's what I think. So it used to be good all over. Some berries we picked some. And nice ground and no pollution. It used to be good but, not. We're stuck here. We've got no place to go now. Wherever we go it's all damaged, our country. So it's not very easy life. Just like I lived. This right here, we stay here. In McKay here. I never thought she was gonna be like that. Well, some of them they said. She's gonna come back good. So they say. Well, you know, the blueberries, cranberries, after you burn the country, they grow good. Maybe its gonna be like that. I don't know. There's all kind of different kinds of roots, too. Some of them. People they know the roots, how to use it for medicine, you know. There's lots. Everything. Damaged now.[172]

The loss of this trapping area affected the whole community of Fort McKay. A 1977 AOSERP study by Michael G. Fox found that for most trappers, monetary compensation for damage to or loss of traplines did not reconcile the loss of culture, subsistence, and economic independence. Fox recommended that industry compensate trappers with up to 20 years of income and that the province give them other areas for trapping depending on the extent of the damage.[173]

The Bennett Dam

In 1967, the same year GCOS started production, British Columbia completed the W.A.C. Bennett Dam on the Peace River in British Columbia.[174] When BC Hydro closed the dam to fill the Williston Lake reservoir in 1968, it reduced water flow in the Peace River and to the Peace-Athabasca Delta drastically and thereafter prevented its annual

[172] Craig Campbell et al., *Mikwâkamiwi Sîpîsis: Stories and Pictures from Métis Elders in Fort McKay* (Edmonton: CCI Press, 2005), 39.
[173] Fox, "The Impact of Oil Sands Development on Trapping," 151-82.
[174] Sims, "Dam Bennett."

flooding. Water levels dropped four to six feet below average for four consecutive years.[175] The low water levels exposed 500 square kilometres of mud flats, which caused plant succession (the rapid growth of plants in previously flooded areas) and the deaths of thousands of muskrats as the marshes where they built houses became too shallow for them to survive the winter.[176] Muskrat were an important animal to Indigenous trappers in the Fort Chipewyan region.[177] The dam contributed to a wide range of persistent adverse environmental effects that continue to harm the Peace-Athabasca Delta even today.[178] Patricia McCormack wrote that BC consulted Alberta about the construction of the dam, but Alberta was not concerned with protecting the delta. The federal government did not act to protect the delta until after BC Hydro completed the dam.[179]

Water levels and a ten-year population cycle determined the size of muskrat populations. Estimated muskrat harvests for the Wood Buffalo National Park area of the delta ranged from 70,000 to 90,000 in the 1930s, and 40,000 to 50,000 in the 1940s. Between 1960 and 1968 the average muskrat harvest was 65,000 pelts with the biggest year being 144,000 in 1965 and the lowest 32,000 in 1962. After the Bennett Dam was completed, muskrat harvests fell precipitously from 38,000 in 1968 to just 2,000 in 1972. Muskrat population decline and low fur prices in the early 1970s reduced the number of people who relied on trapping in the Fort Chipewyan region. In 1972, 60 per cent of the

[175] Peace-Athabasca Delta Project Group, *The Peace-Athabasca Delta A Canadian Resource: A Report on Low Water Levels in Lake Athabasca and their Effects on the Peace-Athabasca Delta* (1972), 67.
[176] Peace-Athabasca Delta Project Group, *The Peace-Athabasca Delta*, 74-75.
[177] Craig Candler et al., *As Long as the Rivers Flow: Athabasca River Knowledge, Use and Change*, Parkland Institute (Edmonton, 26 November 2010); Craig Candler et al., *Wîyôw'tan'kitaskino (Our Land is Rich): A Mikisew Cree Culture and Rights Assessment for the Proposed Teck Frontier Project Update.* (15 September 2015).
[178] Loo, "Disturbing the Peace."
[179] McCormack, "How the (North) West was Won," 490.

male population still trapped, although few made more than $2,500 a year.[180]

The Peace-Athabasca Delta only flooded to normal levels in 1971 and 1974. The exceptional flood in 1974 caused some animal populations to briefly recover. Fur prices increased, and in the Fort Chipewyan areas trappers harvested 100,000 pelts worth $250,000.[181] The 1974 Athabasca Delta muskrat catch accounted for 30 per cent of all muskrat furs produced in the province. A trapper clearing a line of 75 traps twice a day could catch 1,000 muskrats a month, earning $1,500-$2,500 per month in the springtime.[182] From 1975 forward, water levels and muskrat populations declined, averaging less than 10 per cent of the 1974 peak harvest between 1977 and 1988. However, muskrat pelt prices increased 100 per cent from 1975 to 1980, which offset the economic effects declining muskrat populations had on trappers (Figure 17). Average pelt prices for predators including lynx, marten, fisher, and mink increased by between 300 and 2000 per cent between 1970 and 1986. Most notable was lynx, which increased 2,000 per cent from $36 to a peak of $659 in 1985. Lynx populations grew rapidly from 1975 to 1980, the high point of its 10-year population cycle. These lynx population and price increases masked the economic impact of declining muskrat populations (Figure 18). However, lynx tended to favour more thickly forested areas and avoid wide open spaces, which suggests that trappers who specialized in muskrat trapping in the Athabasca Delta may not have benefitted from the shift to lynx to the same extent as trappers further south.[183]

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[180] Peace-Athabasca Delta Project Group, *The Peace-Athabasca Delta*, 45-46.
[181] Jeffrey E. Green, *A Preliminary Assessment of the Effects of the W.A.C. Bennett Dam on the Athabasca Delta and the Athabasca Chipewyan Band*, The Delta Environmental Management Group Ltd. (Vancouver, 1992), 31-33; Prentice, Corcoran, and Gill, *Athabasca Chipewyan First Nation Inquiry*, 50. “Proposed Athabasca dams welcomed by area trappers,” *Fort McMurray Today,* April 18, 1986.
[182] Peter Young, “The trappers of Fort Chip are a hearty breed,” *Fort McMurray Today,* June 19, 1975.
[183] Data from Statistics Canada, "Table 32-10-0293-01 Number and value of pelts produced."

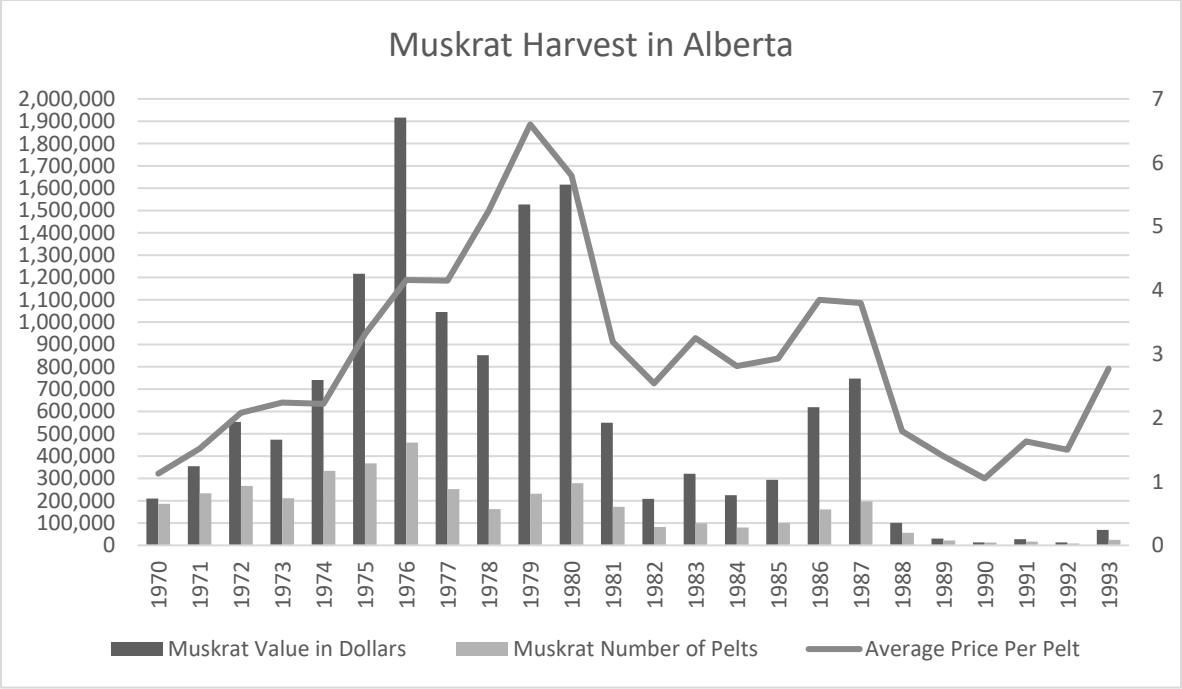

Figure 17: Muskrat harvests in Alberta and average pelt prices. Data from Statistics Canada, "Table 32-10-0293-01 Number and value of pelts produced."

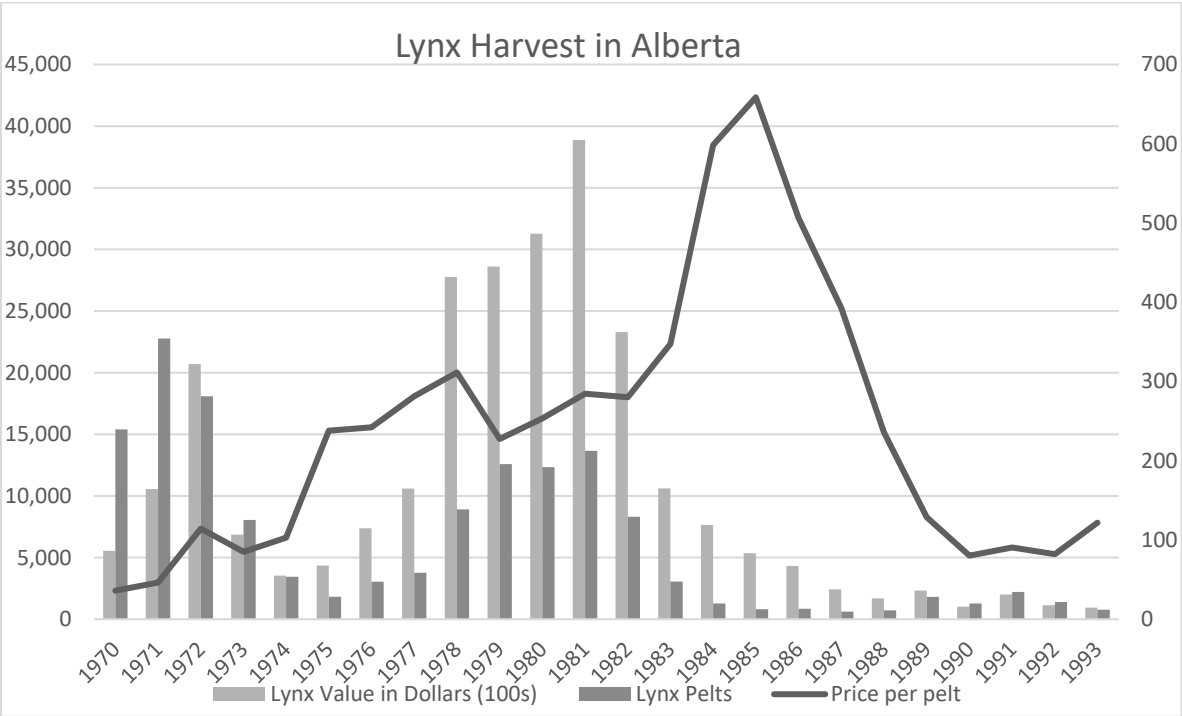

Figure 18: Chart showing the growth of lynx populations and harvests in the 1970s and crash in the 1980s. Data from Statistics Canada, "Table 32-10-0293-01 Number and value of pelts produced."

Many of the workers who went to the oil sands industry from Fort Chipewyan left in the spring to trap. They were drawn back by abundant populations of muskrat and lynx, which in the mid 1970s traded at around $4 for muskrat and $250 for lynx. Noel McKay, a Fort Chipewyan trapper, told *Fort McMurray Today* that trappers benefited from a high point in the volatile fur trade:

> What keeps Fort Chipewyan going now is the prices on fur like muskrats and lynx. A lot of people working in Fort McMurray came back to go trapping. They work there a while and when the trapping is good they come back. There's training programs in McMurray but people don't want to go training for two years. They would rather come back to the trapline. But this is not going to last—it goes right down to nothing. I've seen it happen, not too long ago lynx were two dollars.[184]

Trappers increasingly took wage labour, which pressured them to choose between two worlds, depending on location and scheduling of the work. Many trappers who took wage labour did not want to quit trapping completely but needed to generate additional income. But employers wanted permanent employees who would not leave to go trapping, and the Alberta government wanted trappers to maximize the yield of furs from their lines. These dynamics interfered with the cultural importance of trapping and prevented trappers from freely balancing paid work and trapping.[185] Although the fur trade in the Fort Chipewyan area briefly rebounded from the effects of the Bennett Dam, declining fur bearing animal populations and collapsing prices in the 1980s meant that younger generations increasingly looked for other forms of employment.[186]

Compensation

[184] "Trapper reflects on life in Fort Chipewyan," *Fort McMurray Today,* April 27, 1979.
[185] Fox and Ross, *The Influence of Oil Sands Development on Trapping*, 83.
[186] McCormack, "How the (North) West was Won," 498.

In the 1970s, trappers had limited recourse against the effects of industrial activity and oil companies poorly compensated them for their losses. The Department of Energy and Natural Resources required seismic companies to sign agreements that held them liable for damage to traplines, which it gave to the local Fish and Wildlife Officer. But Fish and Wildlife officers expected trappers with complaints about the effects of development to deal directly with the oil company. Fish and Wildlife could not enforce agreements and would only make information available to the company and the trapper. If Fish and Wildlife would not help the trapper, the trapper had to depend on the goodwill of the company to compensate for damage and loss. Seeking compensation was a burden for trappers, who often lacked the resources and time to get legal representation and engage with oil companies, and sometimes spoke little or no English. The rapid expansion of bitumen exploration and oil sands development in the 1970s caused increasing uncompensated losses for trappers in the Athabasca region.[187] The Trappers Compensation Review Board was meant to compensate trappers for economic losses related to industrial activity, but the program did not have legislative or regulatory power.[188]

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In the 1970s and 80s, Fort McKay was the front line for the effects of the oil industry on traplines. During the hearings for Alsands, Dorothy McDonald called for a land base for Fort McKay that would be under band control and separate from the resource development areas. The community asked industry to compensate the hunters and trappers whose lands it had destroyed by exploration and development. While Alsands had

[187] Fox and Ross, *The Influence of Oil Sands Development on Trapping*, 98.
[188] Alberta Energy, Information Letter 81-1, Trappers Compensation Program, January 27, 1981, cited in Passelac-Ross, *The Trapping Rights of Aboriginal Peoples*, 59.

compensated trappers for lost cabins and trails, the government had not, as requested, given land users alternative trapping areas.[189] Another failed project in the 1980s, Canstar, also had significant effects on Fort McKay traplines.[190] The Canstar project was to be located on one of Fort McKay's main trapping areas. Rather than working with the First Nation, Canstar went directly to the TCRB to settle its claims. Fort McKay First Nation told *Fort McMurray Today* that Ron Wallace, the environmental and social affairs officer for Canstar, had refused to recognize the rights of the First Nation to represent its members. Dorothy McDonald said that since many individual trappers did not read or speak English, they were not on a level playing field when negotiating with the oil companies.[191]

AOSERP Researchers Michael Fox and W.A. Ross found that many trappers felt that money could not compensate for the cultural loss of the trapping life. Other trappers would have been willing to accept compensation if it was adequate to address loss of access to meat from hunting, cultural losses, and the loss of the land, rather than only covering lost income and material losses. Some trappers said they were willing to relocate, but others expressed deep connection to the land and refused to move. Trappers were skeptical of offers of alternative employment, fearing that it would not be guaranteed, suitable for their age and skills, and that jobs should not be compensation for damage, but something that was also available.[192]

Syncrude initially determined that it did not need to negotiate with Francis Orr because his trapline was outside of the area that would be disturbed by the Mildred Lake mine. Francis Orr's trapline was still an actual line, although Alberta had converted many

[189] Ken Nelson, "Tiny MacKay battles a mega-project," *Fort McMurray Today,* February 11, 1982.
[190] For a discussion of failed mega-projects see Peyton, *Unbuilt Environments*.
[191] Jackie MacDonald, "Canstar, natives feud," *Fort McMurray Today,* May 6, 1982.
[192] Fox and Ross, *The Influence of Oil Sands Development on Trapping*, 102.

other nearby lines into trapping areas. Syncrude's expansion forced him to move his trapline three times in the 1970s. In 1983 he told the Energy Resources Conservation Board (ERCB) that his trapline would be ruined if it allowed Syncrude to complete its proposed waste dump.[193] Syncrude claimed that the dump would have negligible effects, but Orr claimed that the noise and destruction of wildlife habitat threatened to scare away animals. Figure 19 shows trapline 587, the original location of Francis Orr and William Ahyasou's trapline and Syncrude and Suncor's approximate land disturbance in 1984, although it does not show the precise location of the dump.

The conflict escalated in February when Orr went to the dump site and photographed barrels leaking a yellow-brown substance that contained lubricants, grease, oils, caustic substances, benzene, methanol, and ammonium polysulphide. Syncrude environment official Jack Clements said it was "stuff you can find in an everyday garage" and that Fort McKay's claim that the dump site posed a health risk was exaggerated. Jim Carbery, Native Development Manager for Syncrude, wrote a letter reprimanding and threatening Orr for taking photos:

> Syncrude feels that you have not appreciated the efforts they have made and that your action last week of concealing and bringing a camera on site for the express purpose of taking pictures could have jeopardized your safety… as of receipt of this letter you can anticipate Syncrude will use a different approach in their dealings with you and your registered [trapping] partner."[194]

Syncrude told Orr it would monitor him when he crossed onto company land. For Orr, the conflict with Syncrude threatened the benefits he gained from other agreements he and the community had with Syncrude, which included medical care, transportation, employment

[193] "Native opposes waste dump; would ruin trapping in area," *Fort McMurray Today,* February 9, 1983.
[194] Brian Laghi and Doug Tattrie, "Dump allegations exaggerated," *Fort McMurray Today,* February 24, 1983.

for his son, and seasonal employment for himself. Alberta Environment looked into the dump site issues, but Ken Simpson, head of waste management, said that "there were some housekeeping things that concerned us. However we've found nothing alarming so far."[195] Fort McKay threatened that it would sue Syncrude if Alberta Environment did not act to deal with the dump site.[196] In spite of the protests of Francis Orr and Fort McKay, the ERCB approved the 170 hectare dump site for overburden and waste material from the Syncrude expansion mine on the Orr trapline. The ERCB said that it asked Syncrude to draw up a compensation package with Orr and conduct an environmental impact assessment on the proposed dump site.[197]

Oil company communications threatened and intimidated trappers and communities. When they felt that they were dealing with an unsophisticated land user or community, they would use intimidation to try to get that trapper or community to be quiet, move out of the way, or otherwise not interfere with their operation. When companies saw communities and trappers as more sophisticated, and as more serious threats, they would move towards negotiating compensation, economic benefits, employment, and minimizing environmental impacts. By 1984 Syncrude settled with Francis Orr for an undisclosed amount, but it was the largest compensation payment to a trapper to that point outside of the James Bay and Northern Quebec Agreement.[198]

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[195] Brian Laghi, "Syncrude waste dump 'no health risk' - gov't," *Fort McMurray Today,* February 28, 1983.
[196] "Natives may sue Syncrude for 'unsafe' dump," *Fort McMurray Today,* March 2, 1983.
[197] Doug Tattrie, "Syncrude given OK for new dump," *Fort McMurray Today,* April 8, 1983.
[198] "Fort McKay Indian Band - Resource Development Impact Program Funding Proposal," July 2, 1984, Box 36, Rod Hyde Papers, p. 18.

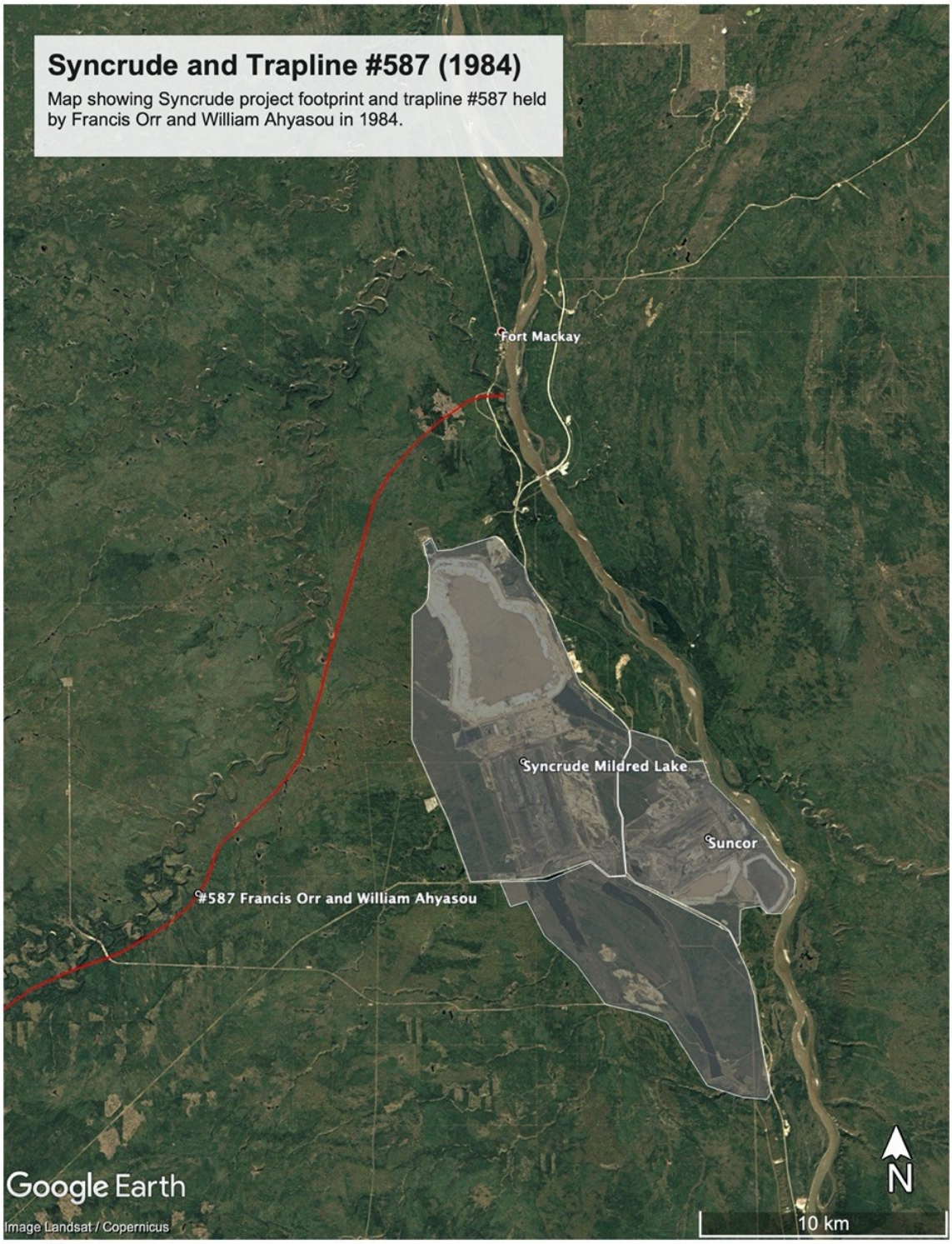

Figure 19: Trapline #587 held by Francis Orr and William Ahyasou, with historical imagery showing the extent of the Syncrude and Suncor operations in 1984.

The adverse effects of the oil sands industry persisted after Syncrude settled with Francis Orr. Chief Jim Boucher told a gathering at Fort McKay's Community Day in October 1986 that air and water pollution had made water undrinkable and stunted plant growth. Trappers reported black particles in snow, which tasted like oil when melted for water. Francis Orr said bird and animal populations were shrinking, and the oil industry polluted the air. The combined pressures of oil sands development and the incursions of sport hunters forced him to move to a trapline near Moose (Namur) Lake.[199] His new trapline was so far from Fort McKay that he could only access it conveniently by bush plane. He said, "the companies and the hunters have completely put us out." Syncrude Environmental Affairs Manager Don Thompson told *Fort McMurray Today* "this area has been studied to death, so there's no shortage of environmental data. We haven't found anything that points to a serious long-term problem." Suncor Water Quality Director Akio Masuda said Fort McKay had no evidence to support its claims: "You see displays like this and relate them to the oil sands plants, but you can't really at this time get cause and effect piled together." Suncor Environmental Affairs Director Ron Wood said "the environmental impact of the oil sands operations have been minimal." Alberta Fish and Wildlife officer Craig Hockley blamed a 1980 wildfire for destroying fur bearing animal habitats and affecting Fort McKay's trappers.[200] In short, bitumen extraction negatively affected Indigenous communities, but these effects were sometimes difficult to assess and intertwined with other factors like droughts, fires, and sports hunters. It made it difficult for Fort McKay to get a sympathetic response from either government or industry.

[199] For more on the impact of sport hunters see: Hugh Brody, *Maps and Dreams: Indians and the British Columbia Frontier* (Vancouver: Douglas & McIntyre, 2004).
[200] Bernard Pilon, "Oil sands hurting environment – Boucher," *Fort McMurray Today,* October 1, 1986.

These issues connected with the economic goals of the community and the band's aspirations to gain business opportunities with industry. As Chapter 8 shows, by the late 1980s, Indigenous responses to the oil industry were no longer a choice between support or opposition, but a complicated balance of different issues. Communities had to prioritize certain economic and environmental goals and leverage the adverse effects of the industry to increase their bargaining power, while inevitably letting some cherished spaces go and leaving important issues unresolved.

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The Trappers' Compensation Review Board (TRCB) was slow, inconsistent, and inadequately compensated trappers. At a December 1986 meeting in Anzac with NDP leader Ray Martin, trappers expressed frustration with oil exploration and logging on their lines. Trapper Marvin McDonald said:

> The government sells them the mineral rights, and we've got the surface rights. When they get the mineral rights it's often implied that they can cross our land to get to the resources. Exploration and pipeline work disturbs wildlife traffic patterns. The type of work these companies do causes environmental damage to the area and that decreases wildlife in the area.

Robert Cree identified clear cutting as another major problem: "after they're through with an area, there are no animals there because all the forest cover is gone."[201] Trapper James Mulawka said that companies rarely compensated trappers, and the government often failed to arbitrate disputes between trappers and resource companies. While the communities and individual trappers may have considered legal action, he said "these communities don't have the expertise or the resources to pay a lawyer and a lot of these communities can not afford legal action." Mulawka said that companies were not effectively communicating

[201] Rick Volman, "Local trappers say their industry is in trouble," *Fort McMurray Today,* December 16, 1986.

with trappers: “they send a registered letter to the post office. I don’t know it’s there. By the time I get to town the government has sold the lease. They’ve got access to my line, and I’ve got no notification. I don’t know they’re there until I run into them.” The TCRB did not visit traplines in the Fort McMurray area, and they would not help or allow trappers to extend their traplines outside the areas damaged by development. Robert Cree explained that damage to traplines, and the ineffectiveness of the TCRB, had caused many trappers to sell their lines and abandon trapping. The Indigenous communities in the region had grown so frustrated with the Alberta government that they had started bypassing government and pursuing compensation directly from the oil companies.[202]

TCRB secretary Fred Neumann said that trappers needed to be more patient with the process. He said that it took up to five months to process a claim because the board comprised just six members and met just four times a year and would only deal with 50 claims a year. If a trapper filed a claim right after a TCRB meeting, the board would not look at it for another three months. Once the board made a recommendation for compensation, the Minister of Energy and Natural Resources would have to approve the claim. For more complicated claims that involved the environmental effects of industry, the board had to wait until the end of the trapping season in June. The TCRB would compare the trapper’s past fur harvests with the previous season’s harvest. If the trapper stopped early because of the effects of development or otherwise, the Board would offer less compensation. Further, the TCRB would not compensate trappers for cultural losses. “Things like loss of lifestyle, that’s not a measurable item,” Neumann said.[203] The TCRB

[202] Rick Volman, “Local trappers say their industry is in trouble,” *Fort McMurray Today,* December 16, 1986.
[203] “Board deals with trappers complaints,” *Fort McMurray Today,* December 24, 1986.

took a narrow view of trapping and the significance of trapping to Indigenous peoples. It did not consider either the cultural value of trapping to Indigenous peoples or the effect that development was having on Indigenous space and subsistence.

By the 1990s, many trappers still felt that companies had not adequately compensated them for damaging their traplines. Zachary Powder, holder of RFMA 2894 told interviewers in 1998:

> Paramount Oil made a permanent road on my trap line 10 years ago, and I have only been compensated a small amount during the first year. I should be compensated every year because they use it all year long, and the disturbance continues all the time. The road lets all kinds of people into the area. Some of them destroy my traps and vandalize my cabin. Syncrude has been hauling overburden and dumping it on my trap line for years. There are areas where spruce trees are being covered over every year. I am not happy, and I have not been compensated in any way for this.[204]

Another trapper, Edward Rolland, told interviewers in 1994:

> There are a lot of pipelines, wellheads and cutlines all over my trapline now; it makes it hard to trap anymore because there is too much noise; machines work summer and winter. I had an agreement with a drilling company about ten years ago. They were to pay me as they developed more areas on my trapline; but they only gave me three payments in ten years. They said they would pay me when they did more work but they didn't, and now they are going to do still more work on my line. It looks like they don't want to pay any more. That was not the deal. That is the reason why we would like to see the land stay so our children could one day live like we did and have a good life. We wouldn't want anybody to destroy our land which we were raised on.[205]

Trappers' statements from over 20 years later show that compensation failed and made trappers feel like they were fighting a war of attrition. Oil and forestry companies were constantly damaging and destroying parts of their traplines. The TCRB looked at trapping

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[204] Heather Deighton and Carl R. Surrendi, *'From Traplines to Pipelines': A Socio-economic Impact Assessment of the Proposed Shell Lease 13 Project on the Community of Fort McKay*, Fort McKay Environment Services Ltd. (1998), 89.
[205] Fort McKay First Nations, *There Is Still Survival Out There*, 63.

as a simple, measurable economic activity. The TCRB's inefficiency and the inadequacy of the compensation it recommended meant that the process did little to offset the effects of bitumen exploration and development on Indigenous traplines.

The legal processes by which the settler state and oil industry took Indigenous space in the Athabasca region was not a process that started and ended with Treaty 8 and the NRTA, it was a continuous process of dispossession, in which the bureaucratic mechanisms that regulated development gradually undermined Indigenous land use by facilitating resource extraction. This process destroyed the land, which was foundational to Cree, Chipewyan, and Métis cultures. The industry's failure to compensate trappers shows that financial compensation was not an adequate tool to remediate the cultural and environmental losses the industry imposed on Indigenous trappers. Syncrude documents indicate the company viewed compensating trappers as a public relations problem, not an acknowledgment of the value of what it had destroyed. The destruction of traplines meant the destruction of Indigenous land, economy, and culture—invaluable things which could not be compensated. Companies and governments feared the public relations consequences of openly acknowledging these damages and so sought to pay off individual trappers and push the issue aside.

Harvesting and the NRTA

Indigenous land users faced further challenges when the Alberta government enforced its interpretation of trapping as a purely commercial activity. While wildlife regulations dated to the 1930s, Elders recall that the Alberta government did not enforce these regulations until the large-scale development of the oil sands industry in the 1970s

and 80s.[206] Alberta started prosecuting First Nation trappers for violating trapping regulations. In one case, Fish and Wildlife officers arrested Fort McKay trapper Eddie Boucher and charged him with trapping out of season because he had not removed between 400-600 snares and 30 traps from his trapline 50 kilometres west of Fort McMurray before the end of the trapping season. At the appeal, citing the "usual vocations" of hunting, trapping, and fishing clause of Treaty 8, and the Treaty 8 commissioners report, which stated that signatories should be as free to hunt as before they signed the treaty, Boucher's lawyer, Stan Galbraith, argued that Treaty 8 gave First Nation signatories an unrestricted right to hunt and trap.[207] Galbraith argued that although Boucher was not exclusively hunting for food, his trapping was also not only commercial, as he was selling fur to buy food and basic necessities, and should therefore not be sanctioned under provincial trapping regulations. Crown prosecutor Richard Taylor argued that under section 12 of the *Natural Resources Transfer Agreement* treaty signatories retained the right to harvest for food only, which meant that harvested animals had to be directly consumed for the activity to be considered subsistence harvesting.[208] Alberta Court of Queen's Bench Justice J. A. Agrios agreed with the Crown's position and upheld the conviction.[209]

In a 1987 case, the Crown charged Walter Janvier and John Cardinal with fishing with a gillnet while the fishing season was closed to protect spawning fish. Crown prosecutor Charlie Cobban argued that treaty fishing rights were subject to federal and

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[206] Heather Devine, "The Alberta Dis-Advantage: Métis Issues and the Public Discourse in Wild Rose Country," *London Journal of Canadian Studies* 26 (2011): 32; Clark and McMurray Métis, *McMurray Métis Cultural Impact Assessment*, 87.
[207] David Laird, J.H. Ross, and J.A.J. McKenna, *Report of Commissioners for Treaty No. 8*, Reprinted from original by Roger Duhamel, FRSC, Ottawa: Queen's Printer and Controller of Stationery, 1966 (Winnipeg, Manitoba, 1899).
[208] Robert Lynn, "Native loses court trapping law appeal," *Fort McMurray Today,* September 26, 1985.
[209] *R. v. Boucher*, Alta. Prov. Ct, September 7, 1984, Docket: Fort McMurray No. A1629751-R, Passelac-Ross, *The Trapping Rights of Aboriginal Peoples*, 54.

provincial regulations. Judge Harry Aime found the two guilty and fined them $100 each.[210] Fort McKay Chief Jim Boucher criticized the ruling, arguing it contradicted Treaty 8. Boucher disputed provincial conservation regulations: "native people have lived off the land for thousands of years. Our methods of harvest haven't hampered populations." Fish and Wildlife said Aboriginal harvesting rights were no longer determined by the treaty, but by the NRTA, and harvesters were thus subject to provincial licensing and regulation.[211] Treaty 8 and the NRTA did not automatically undermine Indigenous land use rights. The Crown used these territorial agreements to argue in the courts for a rigid interpretation of Indigenous land use. Indigenous peoples fought for a broad interpretation of their land use rights, but the courts limited Indigenous land use to the strict interpretation of the NRTA, which reduced hunting and trapping to food only and subject to provincial regulation.

Recreational Land Use

The practices of fur trapping adapted to the landscape changes that came with bitumen exploration and extraction as trappers started using the new roads and cutlines, especially after the adoption of all-terrain vehicles and snowmobiles.[212] Since both trapping and bitumen exploration happened in the winter, conflicts emerged between trappers and oil companies. Fox and Ross reported that many of the problems with seismic crews were related to how companies did not police their employees who shot animals while working or stole or destroyed traps and animals.[213] In turn, the new trails, seismic lines, and roads

[210] Bill Doskoch, "Natives not exempt from fishing rules," *Fort McMurray Today,* January 19, 1982.
[211] Bill Doskoch, "Native fishing ruling disputed," *Fort McMurray Today,* January 20, 1982.
[212] LeClerc and Keeling show how land users took advantage of the roads and cutlines of the post-industrial mining landscape of the Pine Point Mine to benefit hunting and trapping activities. Emma LeClerc and Arn Keeling, "From Cutlines to Traplines: Post-Industrial Land Use at the Pine Point Mine," *The Extractive Industries and Society* 2 (2015).
[213] Fox and Ross, *The Influence of Oil Sands Development on Trapping*, 91.

cut in the process of exploration also opened up the Athabasca region to hunters and recreational land users.[214] Recreational motorsports and hunting grew in popularity with the increasing population and wealth of Fort McMurray. Outsiders began to encroach on traplines in the Fort McMurray area. Industrialization caused declining resource abundance, fewer spaces for resource harvesting, reduced access to important land use areas, and increased travel distances to access hunting and trapping areas.[215]

Trappers reported problems with recreational land users damaging cabins and stealing equipment and furs. One notable example of this conflict in the 1980s occurred between snowmobilers and trappers. Trappers historically cut their trapline trails by hand and were the only ones who used the trails. One popular trapping technique was to set the trap in the middle of the trail. Trappers could efficiently check trail sets by dog team or snowmobile. As recreational snowmobiling became more popular, snowmobilers started using traplines as snowmobile trails. This created a lot more traffic which not only disturbed animals using the trails but also resulted in snowmobiles running over and destroying traps.[216]

Katie Sanderson was a prominent Métis trapper born in the Fort McMurray in 1913. She grew up trapping 110 km south of McMurray up the Athabasca River. She moved to Fort Chipewyan in 1929 and returned to Fort McMurray in 1938 to trap 20 km south of town. By the late 1970s, a Texaco pilot plant had taken over big parts of her trapping area. The new access to her land brought outsiders who stole her dog sled and furs from her line, destroyed her traps, and stole things from her home.[217] In 1987, in retaliation for

[214] Brody, *Maps and Dreams*, 235.
[215] Clark and McMurray Métis, *McMurray Métis Cultural Impact Assessment*, 152.
[216] Fox and Ross, *The Influence of Oil Sands Development on Trapping*, 91.
[217] Bobbi Lambright, "Katie made trapping into her way of life," *Fort McMurray Today,* January 11, 1979.

disturbance on his trapline, non-Indigenous trapper Phil Jean felled trees across a popular snowmobile trail to Gyspy Lake Lodge 60 kilometres north of Fort McMurray, cutting off access to snowmobilers.[218] The RCMP and Fish and Wildlife called a meeting to address the situation. Jean said "It makes you pretty mad to see all your hard work go down the drain because somebody wants to be out in the wilderness. I'm not mad at them for wanting to be out there, but I wish they'd keep off our hand-cut trails and leave our traps alone." Blair Jean, another trapper, explained how traps come sealed and sterilized so the animal would not detect any smell other than the bait. Even if a snowmobiler who disturbed a trap wanted to re-set a trap after triggering it, the smell of gas and other things on the person's clothes would contaminate the trap. Fish and Wildlife officer Craig Hockley said that he received several complaints a week about traps being destroyed, likely a small representation of the actual extent of disturbance.[219] The Fort McMurray Trappers Association (FMTA) said that snowmobiling should be limited to designated trails and that the government should pass laws to restrict access to hand-cut traplines.[220]

For one prominent Métis trapper, Richard Golosky, recreational access created significant problems because of the proximity of his trapline to Fort McMurray. In December 1987, Golosky told *Fort McMurray Today* that he had to move his traps further and further from Fort McMurray because so many people were using his trapline for recreation. Golosky said that while some people were respectful many were not, such as one man he found running his dog down his trapline, who said if the dog were caught in a trap he would "rip out every trap he could find." Golosky said "people take advantage of

[218] Phil Jean was the brother of Brian Jean, leader of the provincial Wildrose Party from 2014 to 2017.
[219] Rick Volman, "Trappers and snowmobilers avert confrontation," *Fort McMurray Today,* January 26, 1987.
[220] Bill Doskoch, "Trappers want bush access restricted," *Fort McMurray Today,* December 23, 1987.

the trails we make, run over our snares and then laugh at us."[221] The proximity of RFMA 2422 to Fort McMurray made Golosky's trapline vulnerable to vandalism and theft. He had a snowmobile stolen, people broke into his cabins, ran over his traps, and stole fur.[222] Under Alberta trapping regulations, trappers only had the right to harvest furs and could not limit access to other land users. Fox and Ross reported that the Fish and Wildlife Officers responsible for reporting and handling losses from hunters and exploration were overloaded with work and could not address these problems effectively.[223]

Pressures on the Trapping Economy

In the early 1980s fur bearing animal populations crashed, worsened by forest fires and low water levels in the Athabasca Delta. The number of muskrat pelts harvested in Alberta fell by over 70 per cent between 1980 and 1982. In 1981 snowshoe hares died off in a cyclical population crash and lynx populations followed.[224] The number of lynx pelts harvested in Alberta fell 94 per cent between 1981 and 1985. Prices more than doubled during the same period in response to failing supply (Figure 18). Tony Punko, the manager of the Hudson's Bay Company trading post in Fort Chipewyan, said 1983 was the worst year for trapping he had seen.[225]

Declining fur harvests forced previously independent trappers to seek welfare. For trappers in the Fort McMurray area, the population crash coincided with widespread damage to traplines from oil exploration. One Janvier trapper, Alex Herman, made a $7,000 claim to the Trappers Compensation Board against ICG Resources Ltd. for scaring

[221] "Trappers want more respect from recreational vehicle users," *Fort McMurray Today,* December 14, 1987.
[222] Bill Doskoch, "Trapping more than just a business," *Fort McMurray Today,* January 27, 1988.
[223] Fox and Ross, *The Influence of Oil Sands Development on Trapping*, 91.
[224] Doug Tattrie, "Trapping season hits rock bottom," *Fort McMurray Today,* March 15, 1984.
[225] Doug Tattrie, "Trappers having 'poor' season," *Fort McMurray Today,* March 8, 1983.

away long-haired fur bearers like lynx during its pipeline construction work in February of 1984. Janvier Band Manager Roland Dion told *Fort McMurray Today* that some trappers blamed oil exploration for collapsing animal populations, and threatened to "ready up the trigger," warning oil workers to "stay off the trapline if you value your life."[226] Figure 18, which uses data for the whole of Alberta, shows that lynx populations declined throughout the province and were more likely the result of cyclical population crashes than of the activities of oil exploration, although oil exploration had localized effects of destroying habitat and driving away animals. But for trappers who experienced years of uncompensated damage on their traplines, oil companies were the obvious culprits.

By the spring of 1984, trappers everywhere between Fort Chipewyan and Conklin reported that fur-bearing animals had become so scarce that some trappers were giving up on the season. In the 1984 season, trappers in Fort McMurray caught just three or four lynx, which sold for $427. In the late 1970s, trappers were catching 25 to 60 lynx, with one trapper near Fort McMurray catching 100. In the Athabasca Delta one trapline trapper took only 195 muskrat in the 1982-83 season, which sold for $3, compared to the 3,500 muskrats caught on the same trapline in 1979-80, which sold for $7 (Figures 17 and 18).[227] By 1987, the lynx population had fallen so far that the Alberta government restricted lynx harvest to one per trapper until rabbit and lynx populations recovered.[228]

Animal Rights and Price Collapse

On top of the challenges posed by industrial development, recreational land users, changing regulatory regimes, and volatile fur markets, trappers in northern Alberta also

[226] "Janvier band in compensation scrap," *Fort McMurray Today,* March 8, 1984.
[227] Doug Tattrie, "Trapping season hits rock bottom," *Fort McMurray Today,* March 15, 1984.
[228] Rick Volman, "Trappers concerned about regulation," *Fort McMurray Today,* December 7, 1987.

found their traditional activities challenged by animal rights activists. Animal rights groups formed the Association for the Protection of Fur Bearing Animals (APFA) in Toronto in 1940 and advocated to stop the use of steel jaw leghold traps. In 1953 the group split. The reform focused members changed the group's name to the Canadian Association for Humane Trapping (CAHT). The more radical members moved their part of the organization to Vancouver and kept the original APFA name.[229] The APFA campaigned against the industry and looked to end trapping. The CAHT accepted the demand for furs and sought to reform the industry by doing research into developing more humane types of traps.[230] In the early 1980s the APFA made a film called *Canada's Shame*, which depicted the cruelty of leg hold traps.[231]

The APFA formed a new branch in Fort McMurray in 1982. Lori Acheson, the Fort McMurray APFA organizer, conducted a media campaign, appeared on television, put up a booth at the downtown shopping mall, and presented at the high school. Acheson told how a beaver chewed off its trapped paws after several days caught in a trap and hobbled away to die in the bush. She said that 4.5 million fur bearing animals were caught in leg hold traps annually in Canada, all dying in pain. The APFA called for Fort McMurray residents to support a ban on leg hold traps and encourage trappers to use killing traps, like snares

[229] Morley W. Barrett, Gilbert Proulx, and Neal Jotham, "Wild Fur Industry Under Challenge: The Canadian Response" (paper presented at the Transactions of the 53rd North American Wilderness and Natural Resources Conference, 1988); Gilbert Proulx and Morley W. Barrett, "Animal Welfare Concerns and Wildlife Trapping: Ethics, Standards and Commitments," *Transactions of the Western Section of the Wildlife Society* 25 (1989); Johnny Boghossian and José Carlos Marques, "Saving the Canadian Fur Industry's Hide: Government's Strategic Use of Private Authority to Constrain Radical Activism," *Organizational Studies* 40, no. 8 (2019): 1252.
[230] A. Herscovici, "Second Nature: The Animal Rights Controversy," (Toronto: CBC Enterprises, 1984).
[231] M. Howie, *The Defenders: The History of the Association for the Protection of Fur Bearing Animals* (Vancouver: The Association for the Protection of Fur-Bearing Animals, 2014); Boghossian and Marques, "Saving the Canadian Fur Industry's Hide," 1253.

and the conibear trap.[232] The Fort McMurray Trappers Association defended itself against the APFA campaign. President Jim Rogers told the paper that he felt slandered by the campaign, that it made people think trappers deliberately tortured animals. Admitting that trapping was somewhat cruel, trapper Gary Harpe said, "that film she (Lori Acheson) showed at the mall is garbage." Rogers said that the association was developing better traps and improving trapping education and techniques, but "trappers are involved in the bush because they love the bush and they love the animals in the bush."[233]

After extensive campaigns against seal harvesting in eastern Canada and along the Arctic coast that started in the 1960s, animal rights activists convinced the European Economic Community to ban seal skin imports in 1983, which caused the sealing industry to collapse. George Wenzel argued that the animal rights movement was a continuation of colonialism in the North. By framing seal hunting as a profit driven activity, the animal rights campaign presented Inuit as knowingly participating in the destruction of their own cultural and ecological harmony.[234] After securing a ban on seal imports European activists, including the International Fund for Animal Welfare and the Friends of Animals, started targeting fur trapping. In 1983 the Gambia led a coalition to propose a ban on all international trade of animal skins caught with leghold traps. Though unsuccessful, it marked the beginning of an international campaign against fur trapping. Johnny Boghossian and José Carlos Marques show how the Canadian government worked to create an International Organization for Standards (ISO) technical committee to develop humane trapping standards that would limit the influence of radical activists and protect export

[232] Angela Vida, "Torture Trap: Woman asks residents to fight for leg-hold ban," *Fort McMurray Today,* February 5, 1982.
[233] Angela Vida, "Trappers defend use of leg-hold," *Fort McMurray Today,* February 10, 1982.
[234] Wenzel, *Animal Rights, Human Rights*, 8.

markets for furs.[235] While the Canadian government worked on the ISO process, by 1988 the European parliament considered a range of proposals including import bans and labelling furs captured with leghold traps.[236]

Following the ban on seal skin imports to the European Union, the Department of Foreign Affairs and International Trade contemplated banning leghold traps, if it determined that such a sacrifice would save the industry.[237] Indigenous trappers were frustrated by the idea. One Métis trapper from Fort McKay explained that Indigenous trapping techniques predated the fur trade, but the Hudson's Bay Company supplied leg hold traps, which allowed trappers to catch more animals more quickly to produce large volumes of furs to maintain profitability at low prices. He said:

> I cannot understand the government; many years ago they made the leg-hold trap legal and passed a bylaw that it was alright to use it. The Hudson's Bay Company made millions of dollars selling the traps to the trappers and buying the trappers' fur. We are the people who made them rich. Before the steel leg-hold trap was invented, the aboriginal trappers used dead-fall sets and snares. There is still a good living to be made out there in the bush, but leave our land alone.[238]

By 1986, Fort Chipewyan trapper Sammy Tuccaro said many locals had either abandoned their traplines or become "weekend trappers," taking day jobs and trapping part time to supplement their incomes. Previously a full time trapper, by 1986 Tuccaro was making just a few thousand dollars from trapping part time.[239] Tuccaro also said that although Greenpeace was lobbying to have leg-hold traps banned, the alternative conibear traps were not practical for commercial trapping because they were much more expensive and very

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[235] Boghossian and Marques, "Saving the Canadian Fur Industry's Hide," 1253.
[236] European Parliament, *Written Declaration on the Steel-Jawed Leghold Trap (Doc. 9/88)*, OJ No 262/221, 1988b; cited in Boghossian and Marques, "Saving the Canadian Fur Industry's Hide," 1253.
[237] Boghossian and Marques, "Saving the Canadian Fur Industry's Hide," 1255.
[238] Fort McKay First Nations, *There Is Still Survival Out There*, 121.
[239] Robert Tychkowski, "Trapping is an outgoing trade says Fort Chip trapper," *Fort McMurray Today,* January 3, 1986.

time consuming to set up, taking as much as an extra ten minutes per trap, which added up to a lot more time on lines with 65 or more traps. One furrier, John Prior, told *Fort McMurray Today* that the some of the images used in animal rights campaigns were staged, such as one that pictured a weasel caught by the leg in a trap, which was apparently far bigger than anything an animal that size could have triggered.[240]

In 1989, European governments threatened to block all fur imports from Canada if it did not put more restrictive quotas on trapping. Alberta set a quota of one fisher and one lynx per trapper. Métis trapper David Janvier told *Fort McMurray Today,* "we all face the same problem and when you catch your limit by Dec. 15 what can you do for the rest of the year?" Another Métis trapper, Ron Huppie, said "This year it's costing me money to trap, it's not viable and we have to look at it just like any other business. We have to pull our traps and get out of the bush." Fish and Wildlife officer Floyd Kunnas said that Fish and Wildlife disagreed with the quota, claiming that it did not make sense for the Athabasca region but they did not have a choice: "The quota may have been unrealistic for this area, but we had to demonstrate to the world we were going to manage this resource. Otherwise the Europeans were going to put the lynx on a sightings list and then you would have had no market for export sales."[241]

In December of 1989 fur prices began to fall fast and the glut of fur supplies accelerated the decline in prices. John Stoddart was the Fort McMurray HBC fur buyer in the 1980s. He had moved to Canada from Glasgow and was first posted in Moose Factory, and then in Paint Hills, both in James Bay. Stoddart said that the price of mink was a

[240] Rick Volman, "Tradition continues: Canadian fur industry alive and well," *Fort McMurray Today,* September 10, 1986.
[241] Reported sightings lists measure population levels in endangered species. Rick Volman, "Local trappers at the mercy of European fur conservationists," *Fort McMurray Today,* February 28, 1989.

benchmark fur price, which indicated the average prices for furs, similar to how the price of West Texas Intermediate crude oil was a benchmark oil price.[242] High fur prices in the late 1970s and early 1980s encouraged the expansion of mink farming. This led to global production increases in mink from 35 million animals annually in 1987 to 42 million animals in 1989. Between 1986 and 1989 mink prices fell 62 per cent from $47 to $18.[243] In response to falling prices ranchers killed and pelted their animals early to try to cut their losses by selling into weakness rather than waiting for prices to bounce and selling later for a potentially higher price. While some furs like beaver and marten were more stable than mink, the decline of mink prices brought down the price of other furs with it.[244]

The European Council adopted an import ban in 1991, but it included many exemptions and did not come into effect until 1997. The International Organization for Standards (ISO) process was contested by animal rights groups and resulted in a drawn-out process that eventually led to revised standards in 1996 and the 1999 Agreement on International Humane Trapping Standards.[245] Although the Canadian government did prevent a European import ban, the campaign against leg hold traps caused irremediable damage to the fur trade. Demand for furs plummeted starting in 1987 and the value of furs fell by more than 60 per cent.[246]

In 1990 fur prices fell to the lowest level in 27 years. When prices started breaking below their historical trading ranges, they no longer had recent price history by which

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[242] Rick Volman, "A well-trained eye needed to judge fur," *Fort McMurray Today,* October 23, 1989.
[243] Statistics Canada, "Table 32-10-0293-01 Number and value of pelts produced."
[244] Rick Volman, "Glut of mink on fur market a concern for trappers," *Fort McMurray Today,* December 11, 1989.
[245] Agreement on International Humane Trapping Standards Between the European Community, Canada and the Russian Federation. European Union-Canada-Russia, OJ L42/43 (1998); cited in Boghossian and Marques, "Saving the Canadian Fur Industry's Hide," 1256.
[246] Statistics Canada, "Table 32-10-0293-01 Number and value of pelts produced."

buyers and sellers could judge support for current prices, which led to more fear that prices would continue to fall, more selling, and further price decline. John Stoddart told *Fort McMurray Today,* "The market is as low as it has been in recent history. I have no idea how low it will go." The price of lynx, which peaked at $650 per pelt in 1985, fell 88 per cent to $80 by 1990 (Figure 18). Trappers took second jobs during the winters to make ends meet, and the weak prices discouraged younger generations from pursuing trapping other than as a cultural practice.[247] The decline of the trapping industry pushed people to work in the oil sands industry. It became easier for people to make the money they needed working for industry. Steve Shott said in a 2018 interview:

> The trapping industry was dwindling you know and, you didn't see it as much towards the end of the '70's… Because of the employment opportunities that were coming about. You worked hard all winter to grab furs and that there to provide for your family in the summer. Or you can go work three months at the plant and make just as much money, and easier, you know.
>
> So, culture changed it, you know. Industry said kill the trapping because they provided and easier access to money, that's all. It wasn't uh, [because of] where they set the plants up and that there. It was just, "Hey if it's gonna be easy." Everybody wants to take the easiest route.[248]

Fort McKay Métis president Ron Quintal told *CBC News* about the historical impact of the collapse of the fur market on Métis trappers in Fort McKay:

> In the time when, you know, the fur trade died, when the Europeans walked away from fur and started boycotting our furs, it really affected the economy of the community. The community had no choice but to try to find another way to sustain themselves. So the community members went to work in the oil sands. They went to work on these sites.[249]

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[247] Tim Seefeldt, "Trappers forced to take second jobs to cope with dropping fur prices," *Fort McMurray Today,* May 7, 1990.
[248] Steve Shott, interview with Hereward Longley and Tara Joly, July 13, 2018, MF2018-10 IMP22, p. 17-18, CKK.
[249] Ron Qunital interview by Jennifer Keene, *CBC News: The Current,* January 29, 2020.

The decline of trapping put Indigenous communities in a difficult position. Declining fur prices damaged their traditional economies while industrial activity and recreational land users damaged their lands and resources. Communities had to fight both for economic opportunities and to protect their lands and cultural places.

Hanging up the Traps

In 1991, *Fort McMurray Today* reported that it was costing trappers more to go trapping than they could earn from selling furs. Northwest Company fur buyer John Stoddart said "there's still a market for good furs, but we're talking top quality—it's got to be the best. If there's any problems with it, if there's a nick in the hide or the colours are off, the buyers aren't interested." Mikisew Cree First Nation Chief Archie Waquan said, "it just doesn't pay to go out and spent $3 a gallon of gas for your snowmobile and spend your time to get a fur that might be worth $15 at best."[250] In Fort Chipewyan there were previously 60 to 80 families supported by trapping but only a handful still trapped actively. Stoddart attributed the decline to oversupplies of ranched furs, a recession in western equity markets, high interest rates that discouraged people from spending money on luxury goods, and the animal rights campaigns: "Nobody wants to buy a coat if you can't wear it without people screaming or spitting at you when you walk down the street."[251] Métis trapper Julia Lindstrom, who was born on the trapline she still worked at age 65, said she could not justify trapping in the 1991 season as she was still trying to sell pelts from 1989. "It's just not worth it anymore," she said, "it costs you more to put gas in your Ski-Doo. I don't have any education. What else am I going to do?"[252] Weak fur prices affected

[250] Rick Volman, "Trappers fall on hard times," *Fort McMurray Today,* January 8, 1991.
[251] Rick Volman, "Trappers fall on hard times," *Fort McMurray Today,* January 8, 1991.
[252] Lana Michelin, "Trapped by changing times," *Fort McMurray Today,* March 4, 1991.

Indigenous peoples across Canada and created conflict with animal rights activists. Michael O'Sullivan of the World Society for the Protection of Animals told the *Canadian Press* that the industry was based on pointless cruelty, that "the fur industry is in a global decline and it's hard to feel sorry for them." Manitoba MLA Elijah Harper accused animal rights activists of "cultural genocide."[253]

Fur prices recovered in the early 2000s and the national value of fur production reached the highs of the 1970s. But pelt production increased modestly, and most of this increase was from ranched animals in Nova Scotia, which accounted for more than half of fur sales by 2003. Wild fur trapping did not recover as many of the trappers routed by the 1987 crash never returned to their lines and younger generations sought work in other industries.

Conclusion

In the 1960s and 70s, trapping was a viable profession that rivaled working in the oil sands. In the 1970s and 80s, First Nation and Métis trappers in the Athabasca region faced growing hardships as the oil sands industry caused extensive damage to trap lines and Indigenous culture in the areas where it explored for and extracted bitumen. First Nation trappers had little recourse as the *Natural Resources Transfer Agreement* limited trapping to a licensed commercial activity, not a treaty right. For Vincent Boucher, losing his trapline meant moving to Fort McMurray where, as Chapter 7 shows, he faced housing insecurity and was evicted along with a historic Métis community to make way for housing for Syncrude.

In the 1980s the fur trade faced a range of negative pressures. These included:

[253] "Trappers skinned by low fur prices," *Fort McMurray Today* (CP), February 22, 1991.

declining fur bearing animal populations caused by population cycles, low water levels in the Peace-Athabasca Delta, and the effects of bitumen exploration and extraction. Collapsing fur prices linked to animal rights campaigns, over trapping, and the 1987 stock market crash compounded these problems and undermined the economic viability of trapping by the 1990s. The fur price crash had major economic impacts on Indigenous communities and made people who might have otherwise continued trapping start to look to the oil sands industry for employment.

Oil prices crashed simultaneously, which caused project cancellations, layoffs, and economic hardship for the oil sands industry. As chapter 8 shows, Indigenous communities spent large sums of money fighting projects like Alsands, OSLO, and CanStar, which were never built, litigating environmental impacts and affirmative action hiring, and negotiating land claims. The collapse of the trapping economy in the early 1990s contributed to Indigenous communities reducing their resistance to bitumen extraction and seeking employment and business opportunities with oil companies.

Chapter 7

Making Space for the Syncrude Towers: The Moccasin Flats Evictions

Introduction

Other sections of this thesis show how settler colonialism in the Athabasca oil sands region was a process of the state framing its denial of land rights to Indigenous peoples as *temporary* appropriations of space. In the town of Fort McMurray settler colonialism operated in its more conventional form. Private and municipal property overlaid and displaced Indigenous communities it defined as squatters. The history of Moccasin Flats and the eviction of its residents is an instance of what historian Jordan Stanger-Ross termed "municipal colonialism." Cities confiscated land from urban Indigenous communities to promote development projects and remove Indigenous peoples seen as having no rightful place in the modern city.[1] The Moccasin Flats evictions echoed other evictions of Indigenous peoples and marginalized groups from Canadian cities in the 20th Century.[2]

Before Canadian Bechtel started building the Great Canadian Oil Sands Ltd. (GCOS) plant in 1963, the population of Fort McMurray was around 1,000 people. By 1972 it had grown eightfold to 8,148. By 1978 that number tripled, to 24,580—almost 25 times Fort McMurray's 1963 population.[3] The construction of Syncrude, the expansion of GCOS, and planning for other projects caused Fort McMurray's population to increase

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[1] Jordan Stanger-Ross, "Municipal Colonialism in Vancouver: City Planning and the Conflict over Indian Reserves, 1928–1950s," *The Canadian Historical Review* 89, no. 4 (2008).

[2] Penelope Edmonds, "Unpacking Settler Colonialism's Urban Strategies: Indigenous Peoples in Victoria, British Columbia, and the Transition to a Settler-Colonial City," *Urban History Review* 38, no. 2 (2010); Mike Evans et al., *A Brief History of the Short Life of the Island Cache* (Art Design Printing, 2004); Jennifer J. Nelson, *Razing Africville: A Geography of Racism* (Toronto: University of Toronto Press, 2008); Renisa Mawani, "Imperial Legacies (Post) Colonial Identities: Law, Space and the Making of Stanley Park, 1859-2001," *Law Text Culture* 7 (2003).

[3] Doug Tattrie, "Syncrude marks 5th anniversary," *Fort McMurray Today,* September 15, 1983.

rapidly as oil companies and workers flocked to the Athabasca region seeking bitumen and employment. Industry and government viewed Fort McMurray as an emergent hinterland energy metropolis.[4] But this vision did not include the Métis, Treaty, and non-status Indigenous peoples, some of whom may have lived in this region since long before the treaty. From the 1960s to the 1980s, Fort McMurray evicted many Indigenous families from sites around Fort McMurray and the surrounding area to make way for oil companies and workers. One of these sites was Moccasin Flats, an historic, predominantly Métis community located on the bank of the Snye at the confluence of the Clearwater and Athabasca Rivers in Fort McMurray.

Because of its location at the confluence of two rivers, Indigenous peoples made both seasonal and permanent homes on the bank of the Snye at the Moccasin Flats. When the Dominion Lands Survey surveyed Fort McMurray in 1910, the location of the Syne settlement became a municipal road allowance and River Lot 5, a piece of private property.[5] The settlement grew with Fort McMurray in the late 19th and 20th centuries and came to be known as Moccasin Flats. The precise origin of the name is unclear. Indigenous and settler community members knew the community as both Moccasin Flats and the Snye settlement in the 1970s. Moccasin Flats grew with Fort McMurray in the 1960s and 1970s and became a place of refuge for people evicted from traplines and other parts of town.

In 1975, when the Alberta government invested $200 million in Syncrude and spent

[4] A.E. Gordichuk, W.H. Jackson, and G.B. Samuel, *New Town of Fort McMurray General Plan*, Provincial Planning Branch Department of Municipal Affairs, (Alberta, 1972). 87.365, Box 1, book, Provincial Archives of Alberta (PAA).
[5] Department of Interior, "Plan of McMurray Settlement, Province of Alberta. Compiled from surveys by H.W. Selby, Dominion Lands Survey, 9th July 1910," Ottawa, February 1911. Cited in Timothy David Clark, Dermot O'Connor, and Peter Fortna, *Fort McMurray: Historic and Contemporary Rights-Bearing Métis Community*, Fort McMurray Métis Local 1935 and Willow Springs Strategic Solutions Inc. (Cochrane, AB, 2015), 118.

over $600 million on infrastructure, research programs, and loans to the oil sands industry (as discussed in Chapter 3), it loaned $50 million to Syncrude's subsidiary, Northward Developments Ltd., to build housing for its workers.[6] Under Mayor Ted Mason and town Clerk Gerald E. Bussieres, the town of Fort McMurray collaborated with Northward (Syncrude) to evict 14 families from Moccasin Flats to build the River Park Glen apartments (better known as the Syncrude Towers), and a marina, which was never built.[7]

The town of Fort McMurray, the Government of Alberta, and the oil sands industry resisted viewing Moccasin Flats as a coherent whole, while for the Métis, Moccasin Flats was a home, refuge, and neighbourhood. Moccasin Flats had a coherence that had been shaped by long-term residency of people living there, who also had connections with the wider territory. But the town and the oil sands industry viewed the Moccasin Flats residents through a racist lens as squatters who occupied two pieces of land: River Lot 5 and the Clearwater Drive Municipal Road Allowance. The dividing line between municipal and private land became an important boundary. Municipal officials exploited it to manipulate the Métis because of the distinction in property law between municipal and private land. Squatters' rights, also known as adverse possession, did not apply on Crown and municipal lands. The town was legally able to evict the Moccasin Flats residents who lived on the road allowance. People who lived on River Lot 5, to which they may have had adverse possession claims, were convinced to move their houses to the road allowance, from which they were subsequently evicted. The Moccasin Flats residents, the Métis Local, and the

[6] Syncrude Project, *The Winnipeg Agreement,* Winnipeg, Manitoba, 3 February 1975, 82.165 vol. 49 file 440; Alberta Housing Corporation, PR1979.94, Box 5 and 6, PAA.
[7] The term "Glen" was an example of the sentimental transfer of geographic labels from the old world to the new. A glen was a Scottish term for a highland valley populated by rugged Scottish people who became a significant colonizing population in Canada. Scottish Highlanders were also the victims of expulsion, driven out by landlords determined to replace their tenants with sheep during the highland clearances in the 18th and 19th centuries.

Métis Association of Alberta (MAA) resisted the evictions. These groups delayed the evictions, secured accommodations for some of the evicted residents, and protested the final destruction of Moccasin Flats.

The example of the Moccasin Flats evictions shows how the colonization of the Athabasca region through Treaty 8, Métis scrip, and the *Natural Resources Transfer Acts* paved the way for a range of dispossessions of Indigenous lands. This process created new layers of rights to settlement and resource extraction that overlaid existing Indigenous homes and cultural landscapes. In and around the bitumen extraction sites the oil sands industry destroyed and contaminated traplines and hunting grounds (Chapter 6). In the Athabasca region the provincial government prevented First Nations from claiming bitumen leases as reserve lands (Chapter 5). In the town of Fort McMurray, the growth of the oil sands industry led to a more familiar version of settler colonialism: the removal of Indigenous peoples to make new homes for oil company workers.[8]

Road Allowance Communities

Métis Elders in the Fort McMurray area view Moccasin Flats as a road allowance community. They situate the evictions within the history of Metis dispossession and the exodus of the Métis from their homelands in Red River and then from Batoche after the failure of the Crown's promises to the Métis in the *Manitoba Act* (1870), and the ensuing Red River and North West Resistances between 1870 and 1885. Many Métis families in the south failed to gain legal title to land and settled on road allowances, the 66-foot-wide

[8] Truth and Reconciliation Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, Truth and Reconciliation Commission of Canada (Winnipeg, 2015); Lorenzo Veracini, "'Settler Colonialism': Career of a Concept," *The Journal of Imperial and Commonwealth History* 41, no. 2 (2013); Audra Simpson, *Mohawk Interuptus: Political Life Across the Borders of Settler States* (Durham: Duke University Press, 2014); Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8, no. 4 (2006).

strips of land set aside for roads by Crown surveyors for future road development. Métis scholar Maria Campbell describes these as road allowance communities.[9] Road allowances were temporarily vacant of settlers and development. Road allowance people lived in uncertainty, never safe from being evicted once more to make way for development. Road allowance communities are principally associated with the late 19th and early 20th century prairies. The road allowance was not the primary characteristic of Moccasin Flats because the settlement existed before the survey. However, in the 1960s and 70s, people evicted from other places settled at Moccasin Flats because it was a road allowance. Ultimately, the town was able to destroy the settlement because it was on a road allowance and adverse possession did not apply to municipal land. But the history of Moccasin Flats shows that road allowance communities formed in the Canadian North and persisted into the 1980s.

Fort McMurray's resource-driven growth in the 1970s resembled the "cyclones" of development described by geographers including Harold Innis, Trevor Barnes, Arn Keeling, and Jody Berland.[10] Cyclonic development described the rapid and disorderly growth of hinterland resource towns caused by shifts in global markets, which created demand for commodities from remote places. The Moccasin Flats evictions are an example of how in the whirlwinds of energy booms, Indigenous peoples were pushed from their lands to make space for newcomers.

Tina Loo's work describes forced relocations driven in part by the state's belief it

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[9] Maria Campbell, *Half-breed* (Toronto: McClelland and Stewart, 1973), 8.
[10] Arn Keeling, "'Born in an Atomic Test Tube': Landscapes of Cyclonic Development at Uranium City, Saskatchewan," *The Canadian Geographer* 54, no. 2 (2010); Harold Innis, "The Political Implications of Unused Capacity in Frontier Economies," in *Staples, Markets, and Cultural Change: Selected Essays*, ed. Daniel Drache (Montréal and Kingston: McGill-Queen's University Press, 1995); Trevor Barnes, "Borderline Communities: Canadian Single Industry Towns, Staples, and Harold Innis," in *Bordering Space*, ed. H. Van Houtum, O. Kramsch, and W. Zierhofer (Burlington, VT: Ashgate Publishing, 2005); Jody Berland, "Space at the Margins: Critical Theory and Colonial Space After Innis," in *Harold Innis in the New Century*, ed. C.R. Acland and W.J. Buxton (Montréal and Kingston: McGill Queen's University Press, 1999).

should intervene to improve the lives of poor and rural peoples.[11] John Sandlos, Ted Binnema, and Melanie Niemi have shown how the federal government removed Indigenous peoples from National Parks in the Prairies and Western Canada to build tourism destinations, conserve animals for sport hunting, and assimilate Indigenous peoples.[12] The town and oil industry evicted Moccasin Flats purely to remove Indigenous peoples from an area chosen to become a new industrial community. The federal and provincial governments remained at arm's length from the town and Syncrude. The Alberta government provided funding for construction and relocation but left the evictions to the town.

Evelyn Peters shows that few urban histories of Indigenous peoples focus on the experiences of the Métis, aside from studies of Rooster Town in Winnipeg and Island Cache in Prince George.[13] In 1959, Winnipeg evicted the last 14 families from Rooster Town to make space to build a new high school. At its peak in the 1930s, Rooster Town was home to over 700 people and was the last refuge of the Métis in Winnipeg. Settlers displaced them from the home they inhabited before Confederation. City administrators and the growing suburban population discriminated against the Rooster Town Métis residents for their Indigenous ethnicity and poverty. David Burley writes that the proponents of urban development "equated the quality of housing with the character of

[11] Tina Loo, *Moved by the State: Forced Relocation and Making a Good Life in Postwar Canada* (Vancouver: UBC Press, 2019), 11; Tina Loo, "People in the Way: Modernity, Environment, and Society on the Arrow Lakes," *BC Studies: The British Columbian Quarterly*, no. 142/3 (2004).
[12] Theodore (Ted) Binnema and Melanie Niemi, "'Let the line be drawn now': Wilderness, Conservation, and the Exclusion of Aboriginal People from Banff National Park in Canada," *Environmental History* 11 (2006); Ian MacLaren, "Cultured Wilderness in Jasper National Park," *Journal of Canadian Studies* 34, no. 3 (1999); John Sandlos, "Not Wanted in the Boundary: The Expulsion of the Keeseekoowenin Ojibway Band from Riding Mountain National Park," *The Canadian Historical Review* 89, no. 2 (2008).
[13] Evelyn Peters et al., *Rooster Town: The History of an Urban Métis Community, 1901-1961* (Winnipeg: University of Manitoba Press, 2018), 24.

residents." When the city evicted the Rooster Town residents and burnt their homes, it expressed an embedded municipal colonialism and the growing racial anxieties of the 20th century.[14] Another Métis community evicted in the 1970s was the Island Cache in British Columbia, which was annexed by the town of Prince George in 1970 and demolished by 1981.[15]

Property rights within British common law—including the powers to exclude others from ownership, to alter land, to sell it, and to inherit it—were the backbone of legal dispossession. Cole Harris emphasizes the transformative power of property law in the colonization of British Columbia. Harris writes,

> in the courts, as in the settler mind, the rights of property embedded in the common law tangibly legitimated the dispossession and repossession of land for which assumptions about civilization, savagery, and the progressive use of land had provided a more abstract justification.[16]

Nicholas Blomley shows how property is a practice which owners must continually enforce on a physical space. One of these actions, physical violence, is a constitutive part of Western property regimes.[17] In the case of Moccasin Flats, the town of Fort McMurray manipulated the differences in property law between private and municipal land to remove Métis people who made their homes on newly formed *property*.

Where Three Rivers Meet

Nistawoyou, the Cree name for Fort McMurray, means "where three rivers meet." Europeans started visiting Nistawoyou more regularly when Alexander McLeod

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[14] David G. Burley, "Rooster Town: Winnipeg's Lost Métis Suburb, 1900-1960," *Urban History Review* 42, no. 1 (Fall 2013): 6.
[15] Evans et al., *A Brief History of the Short Life of the Island Cache*.
[16] Cole Harris, "How Did Colonialism Dispossess? Comments from an Edge of Empire," *Annals of the Association of American Geographers* 94 (March 2004): 177.
[17] Nicholas Blomley, "Law, Property, and the Geography of Violence: The Frontier, the Survey, and the Grid," *Annals of the Association of American Geographers* 93, no. 1 (2003): 122.

established a trading fort for the North West Company, known as "Fort-of-the-Forks" in 1787, which burnt down and was abandoned in 1802.[18] In 1875, Henry Moberly rebuilt a Hudson's Bay Company Fort at Fort McMurray. The HBC named it after Chief Factor William McMurray, who was Métis himself.[19] The Fort McMurray trading post became a regional transportation hub, which contributed to the emergence of a distinct Métis community centred on Fort McMurray with ancestry from Slave Lake, Lac La Biche, Fort Chipewyan, and the Athabasca River corridor.[20] Elders say the Moccasin Flats settlement, which on the south bank of the Snye at the confluence of the Clearwater and Athabasca Rivers, predated the arrival of the fur trade.[21] During the fur trade era, Métis and First Nations families, especially from Fort McKay would travel in the summers from their traplines on the Clearwater and Athabasca Rivers to work in the Fort McMurray area, making seasonal homes at the Snye.[22] The Fort McMurray Hudson's Bay Company post journals refer to a "Shanty Point" near the post on 10 June 1884. The Snye settlement may have developed into a more permanent home by the 1880s.[23]

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[18] Michael R.A. Forsman, "Historic Sites Investigation in Alberta. Fort-of-the-Forks, HeOu 1, (Permit #79-49)." in *Archaeological Survey of Alberta Occasional Paper No. 15* ed. Paul F. Donahue (1980), 44; Ken Perry, *Preliminary Survey of the Historic Sites in the Fort McMurray Area*, Heritage Sites Service, Heritage Resource Development, Alberta Culture, Youth and Recreation (Edmonton, 1974), 2.
[19] Henry John Moberly and William Bleasdell Cameron, *When Fur Was King* (London and Toronto: J. M. Dent & Sons Limited, 1929).
[20] Clark, O'Connor, and Fortna, *Fort McMurray: Historic and Contemporary Rights-Bearing Métis Community*, 17.
[21] Anonymous participant, interview with Tara Joly, Hereward Longley, and Lucas Punko, August 16, 2018, MF2018-12-CH04, McMurray Métis Community Knowledge Keeper (CKK), p. 4-5.
[22] Cameron MacDonald, interview with Hereward Longley, June 5, 2018, MF2018-05-Other-MacIsland-12, McMurray Métis CKK, p. 8-9; Anonymous interview participant, interview by Tara Joly and Lucas Punko, August 22, 2018, MF2018-13-CH03, McMurray Métis CKK, p. 2-4.
[23] Kenichi Matsui and Arthur J Ray, *Delimiting Métis Economic Communities in the Environs of Ft McMurray: A Preliminary Analysis Based on Hudson's Bay Company Records*, Willow Springs Strategic Solutions Inc. on behalf of the Fort McMurray Métis Local 1935 (2014), 247.

Figure 20: HBC lease at centre of image, Moccasin Flats at left, and Waterways in the distance. Original Caption: "McMurray ALTA Looking East," P2007.164.1 - Fort McMurray, circa 1930. Fort McMurray Historical Society (FMHS).

Due to its convenient location and proximity to the HBC post (Figure 20), the treaty commissioners chose the Snye settlement for signing Treaty 8 and paying treaty annuities after 1899.[24] The Crown promised reserve land, supplies, annual payments, and land use rights to those who took treaty. Chapter 5 shows the Crown did not fulfill many of these promises until the 1980s or later. The Crown offered the Métis land scrip of 240 acres or cash scrip for $240.[25] However, Métis scrip holders could not actually claim land in the region, for the Dominion government had not completed township surveys or even opened land offices.[26] Fraud and other problems plagued the scrip process, preventing many Métis

[24] Frances K Jean, *More than Oil: Trappers, Traders & Settlers of Northern Alberta* (Fort McMurray: City Centre Group, Inc., 2012), 9.
[25] Dennis F.K. Madill, *Treaty Research Report: Treaty Eight (1899)*, Indian and Northern Affairs Canada: Treaties and Historical Research Centre (Ottawa, 1986), 16.
[26] Judy Larmour, *Laying Down the Lines: A History of Land Surveying in Alberta* (Canada: Brindle and Glass Publishing, 2005), 104.

people from claiming either land or financial compensation.[27] The Métis in the Athabasca region thus had no collective land base. Yet 1911 Dominion Lands Survey maps of Fort McMurray show that Métis families including MacDonald, McKenzie, Golosky/Gordon, Armit, Manning, Saunderson, and Biggs owned land throughout Fort McMurray.[28] Many of the descendants of these families ended up at living at the Snye by the 1970s as development pushed them out of other parts of town.

Fort McMurray was already an industrial transport hub for the western subarctic when the Alberta and Great Waterways Railway reached the town of Waterways to the south of Fort McMurray in 1921.[29] Waterways joined with Fort McMurray when the two hamlets incorporated as the Village of McMurray in 1947 and the Town of McMurray in 1948.[30] Moccasin Flats residents would return from their traplines to work in resource industries, which included forestry and the early oil sands operations, as well as working on the Northern Transportation Company barges. Moccasin Flats does not appear in many archival records, but traces of the settlement exist. The map in Figure 21 shows a hand-drawn tipi at the site of the settlement beside the HBC post.

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[27] Frank Tough and Erin McGregor, "“The Rights to the Land May Be Transferred”: Archival Records as Colonial text—A Narrative of Métis Scrip," in *Natives & Settlers, Now & Then: Historical Issues and Current Perspectives on Treaties and Land Claims in Canada*, ed. Paul W. DePasquale (Edmonton: University of Alberta Press, 2007).
[28] Clark, O’Connor, and Fortna, *Fort McMurray: Historic and Contemporary Rights-Bearing Métis Community*, 34.
[29] Donald G. Wetherell and Irene R.A. Kmet, *Alberta’s North: A History, 1890-1950* (Edmonton: University of Alberta Press, 2000), 94; Liza Piper, *The Industrial Transformation of Subarctic Canada* (Vancouver: UBC Press, 2009), 65-69.
[30] Department of Municipal Affairs, Acc. 78.133, Box 150, File 1094b, PAA.

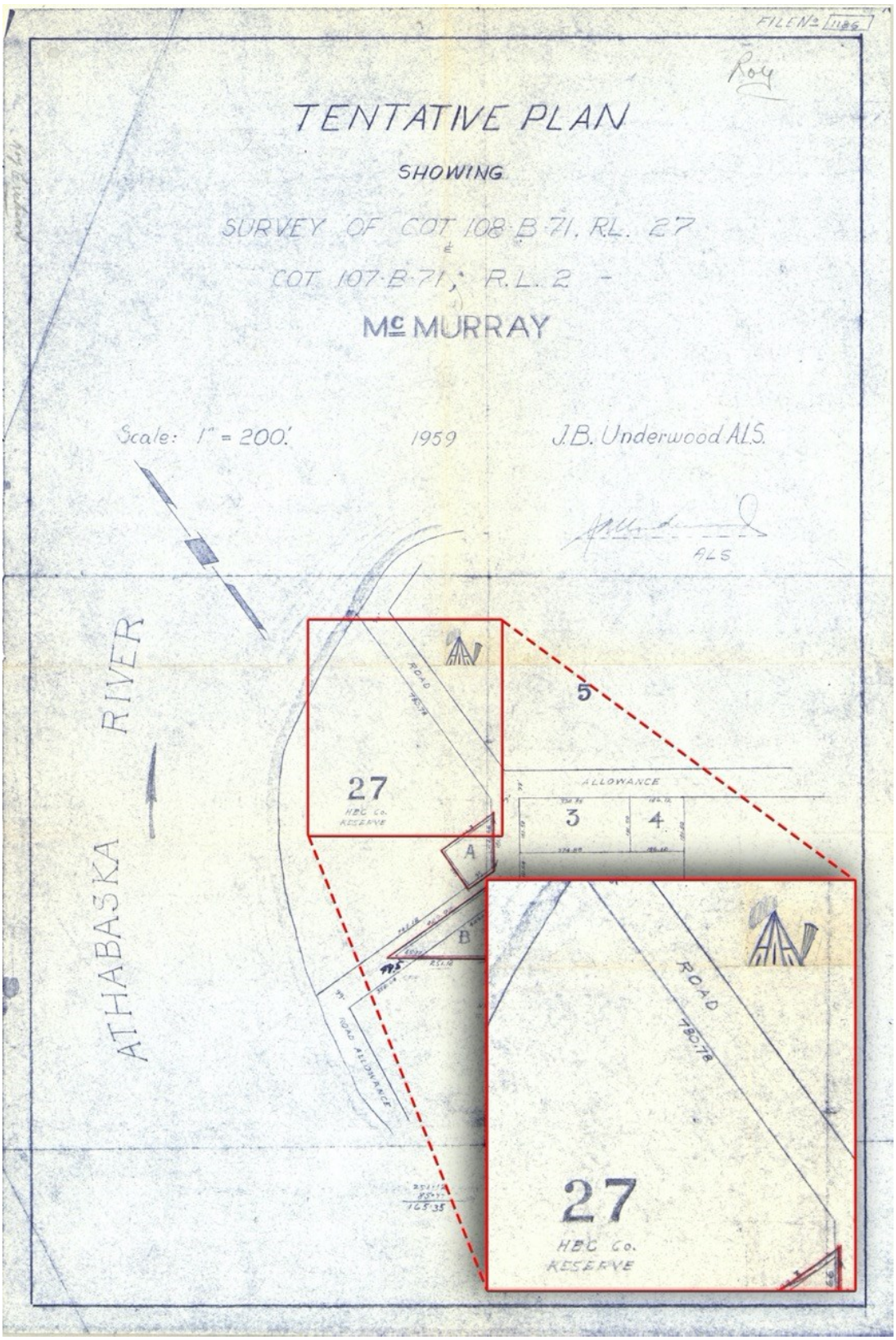

Figure 21: Survey map showing a hand drawn tipi at the site of Moccasin Flats, across from the HBC reserve. Original caption: J.B. Underwood, "Tentative Plan showing Survey of COT 108 B-71, R.L. 27 and COT 107-B-71, R.L.2 – McMurray, 1959, GR1971.0080.0096.1598.0002-2, PAA.

Métis trappers who made their home at Moccasin Flats could access the bush, including their traplines, along the Athabasca or Clearwater rivers by boat or dog team. Steve Shott, who grew up at Moccasin Flats said:

> It was like we were on the edge of the world. We grew up with tradition, and you know, we were right by the water, so we could get in the water to go to our trapline across the river on the Clearwater banks. Me and all the young people growing up around there, we trapped right there along the banks of the Snye, and then heading to Mac Island… it was a nice little place. It's not like the place we have today.[31]

The Snye was home to wildlife like fish, clams, muskrat, and beavers. Almer Waniandy said:

> The Athabasca and all that used to be so nice to fish in. I recall years ago I used to go down to the Snye, we called it Snye Point. The point of the Snye where the Clearwater come into the Snye. There you'd fish and there'd be so much good fish and everything. We seen lots of beaver, we seen lots of rats – muskrats. Now you don't, can't even find a muskrat. You can't even find a robin. I mean the robins used to be so plentiful there. Those little clams, they got clams out there in McMurray, but they used to be all along the Snye Point. There used to be a sand bar there, and they used to be there all the time… So, the fish was good, the clams, and the muskrats, and all that. I seen all that when I was a kid. It was nothing to go down there and see all these frogs running around the side of the shore there, it's just unbelievable.[32]

The Moccasin Flats families' land use and occupancy blankets government registered trapline maps dating to the 1950s or earlier (Figures 22 & 23).[33] Traplines were areas in which families made a living by trapping fur-bearing animals, and important spaces for

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[31] Steve Shott, interview with Hereward Longley and Tara Joly, July 13, 2018, MF2018-10, CH-02, p. 1, CKK.
[32] Almer Waniandy, interview with Hereward Longley, March 31, 2018, MF2018-01-CH14, CKK, p. 10.
[33] Pat Shott inherited RFMA 1582 from his father Joe Shott and junior trapper Michael Cardinal. Celina Harpe and Ed Cooper had family connections to RFMA 2125. Walter MacDonald and Tom Tourangeau held RFMA 2453. William and Walter Malcolm held RFMA 1387 and 1364. Michael Gladue held RFMA 2317 with James Powder. Ben Powder was connected to RFMA 2317. Joe Cookie (Campre) held RFMA 1351. Celina Harpe was connected to RFMA 1486 which was held by Edward Harpe and Fred A. MacDonald. The MacDonald family held RFMA 2010, 2233, 1496, and 2297. Registered Traplines in the Fort McMurray area, sheet 74-D-NW, 1957, GR1990.0377.0207, PAA.

berry picking, gathering medicinal plants, hunting, teaching, and practicing a Métis way of life.[34]

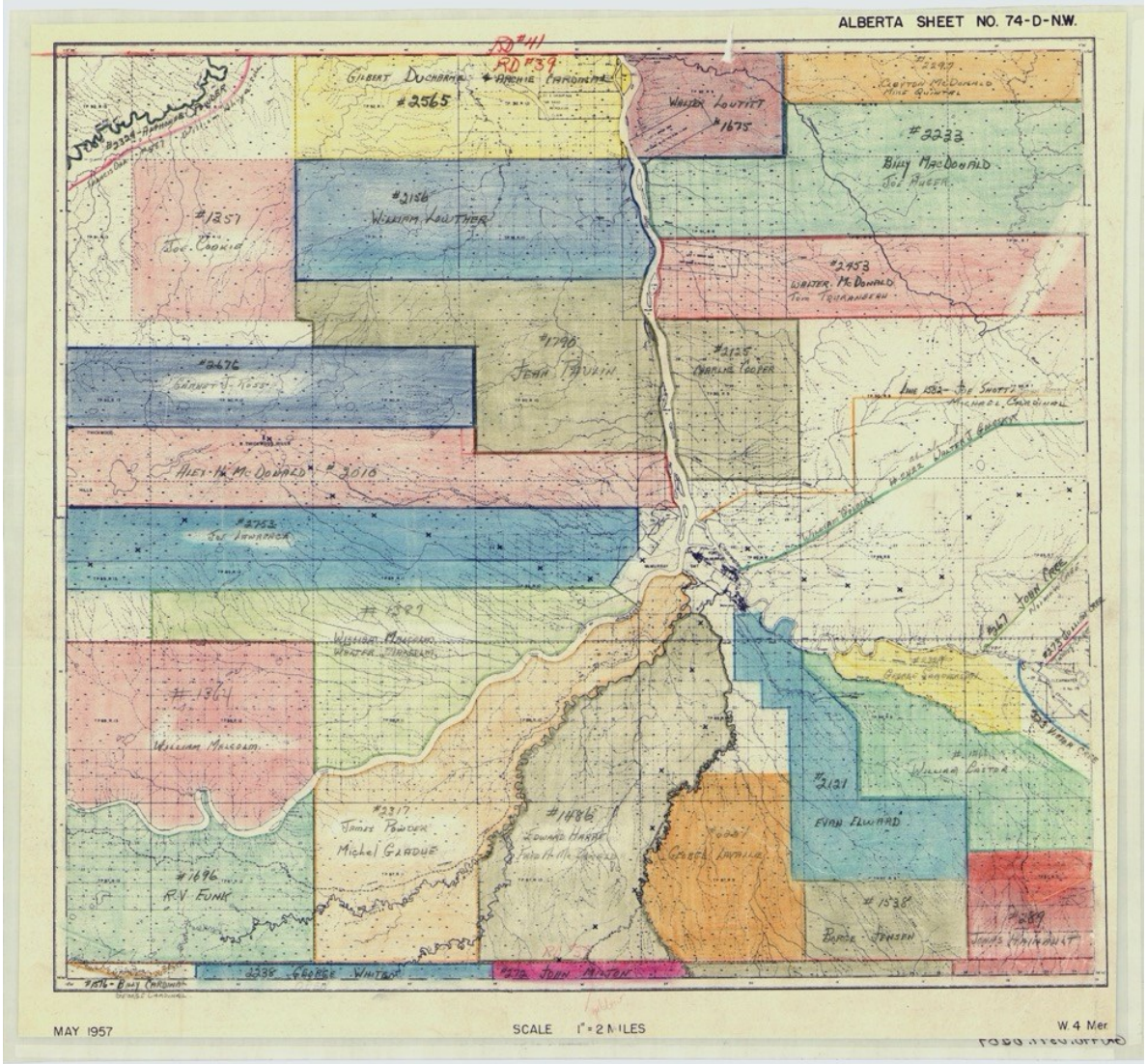

Figure 22: Registered Traplines in the Fort McMurray area, sheet 74-D-NW, 1957, GR1990.0377.0207, PAA.

[34] Hugh Brody, *Maps and Dreams: Indians and the British Columbia Frontier* (Vancouver: Douglas & McIntyre, 2004), 34; Tara L. Joly, "Making Productive Land: Utility, Encounter, and Oil Sands Reclamation in Northeastern Alberta, Canada" (Doctor of Philosophy University of Aberdeen, 2017), 82-118.

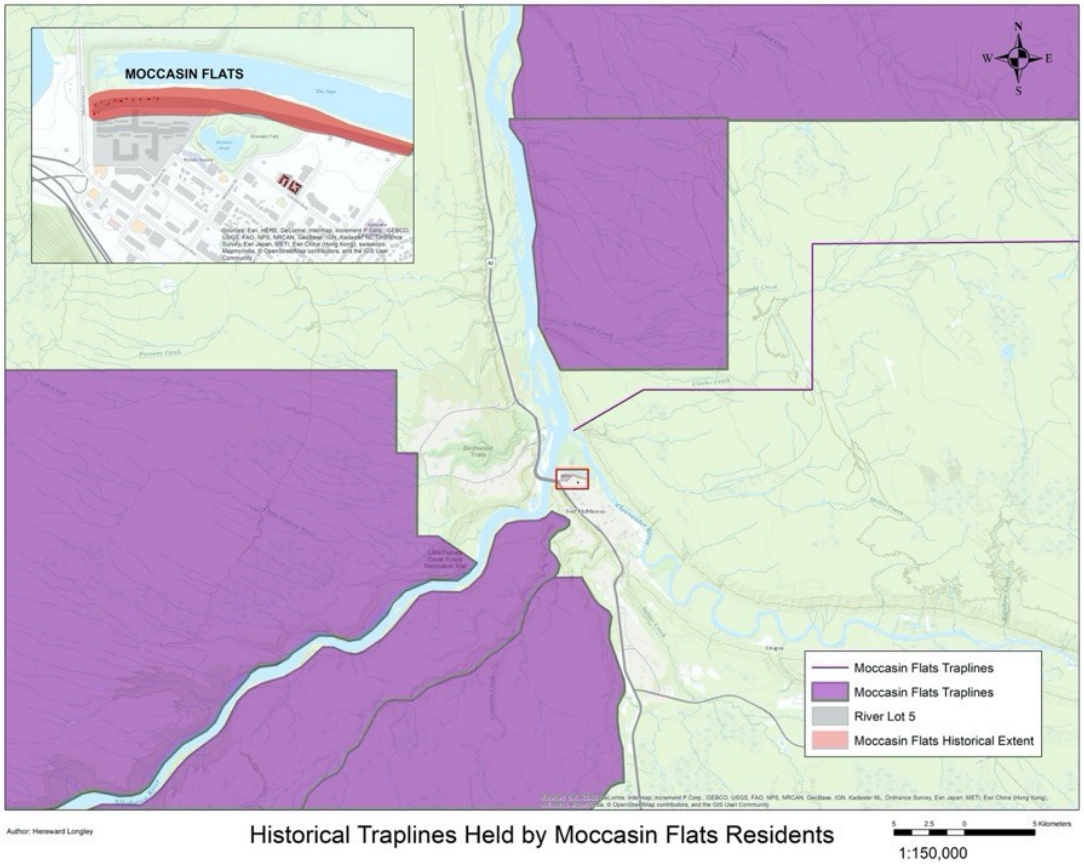

Figure 23: Traplines held by people who lived at Moccasin Flats, based on the 1957 trapline registration map. Hereward Longley (2018).

The town first encroached on the lives of the people of Moccasin Flats in the mid 1960s, when it built a dike across the Snye between Moccasin Flats and MacDonald Island. The town built the dike to help prevent spring flooding and expanded the land area of the town of Fort McMurray by connecting it with MacDonald Island. The dike was a significant infrastructure project and helped Fort McMurray qualify for new town status, which gave it access to more provincial funding.[35] The dike created a boundary, which divided the Snye from the Athabasca River and prevented water from flowing through the Snye. Water in the Snye dropped, stagnated, and filled with silt. The dike cut off boat

[35] Regional Municipality of Wood Buffalo, Cultural Heritage Study: Downtown Fort McMurray and Waterways (2016), p. 31, Binder 5, Tab E-4, Regional Municipality of Wood Buffalo Archives (RMWB).

access from Moccasin Flats to the Athabasca River. It forced people to go around MacDonald Island and down the Clearwater River to access the Athabasca River.[36] Elders said the dike killed the Snye.[37] Since a snye is a side channel of a larger river, it ceased to be a snye in the original sense of the word when the dike cut it off from the larger river.[38]

One of Many Evictions

The Moccasin Flats eviction was one of at least three evictions of Indigenous peoples in Fort McMurray and Waterways, which included forcibly moving First Nations peoples onto reserves and clearing Métis settlements to make way for infrastructure projects.[39] Three other Indigenous communities were evicted from Tolen Drive in Waterways, Cree Flats, and Short Street.[40]

In 1968, the town of Fort McMurray expropriated and demolished the houses of 22 mostly Métis families near Tolen Drive in Waterways to divert Saline Creek and prevent flooding during spring runoff. Métis Elder Harvey Sykes explained how the town "turned around and sold that land to GCOS" after diverting the creek. Athabasca Realty, the GCOS housing company, then built services and trailers for GCOS employees. The town compensated each evicted family just $700. Sykes said: "These families that received $700,

[36] Steve Shott, interview with Hereward Longley and Tara Joly, July 13, 2018, MF2018-10, C&I-06, p. 4, CKK; Anonymous participant, interview with Tara Joly, Hereward Longley, and Lucas Punko, June 1, 2018, MF2018-02, C&I-17, p. 8-9, CKK; Anonymous participants, interview with Hereward Longley and Tara Joly, June 3, 2018, MF2018-03-04, C&I-06, p. 12-13, CKK.
[37] Interview, MRP TLU 2017-09 TX38-13, McMurray Métis CKK.
[38] The term snye is commonly used to refer to river channels in northern Canada. It is an anglicization of the French word chenal. René Fumoleau, *As Long as this Land Shall Last: A History of Treaty 8 and Treaty 11, 1870-1939* (Calgary: University of Calgary Press, 2004), 67.
[39] Infrastructure projects have been common ways of evicting Indigenous communities. See for example the Lake Washington Ship Canal in Seattle Coll Thrush, *Native Seattle: Histories from the Crossing-Over Place* (Seattle and London: University of Washington Press, 2007), 91.
[40] Based on some Elders' oral history accounts, there are further examples of evictions across downtown Fort McMurray, Beacon Hill, Thickwood, Timberlea, and Gregoire which we have not documented here.

some of them I mean you know, they, they basically ended up on the streets."[41]

Short Street was a Métis settlement of seven houses near MacDonald and Franklin Avenues, which in 2018 was the site of a Boston Pizza. One Elder who had moved to the site in 1966 explained how the Department of Highways planned to expand Highway 63 in the late 1970s and told the Métis families to sell their land or face expropriation. Another Elder remembered: "we didn't really have a choice." The town compensated the equivalent of what they paid for their houses, the families had to move to a more expensive area and refinance their mortgages at a higher interest rate. In the end, the Department of Highways and the town did not use the land for the road expansion but instead sold it to developers.[42]

Cree Flats was a settlement of First Nation and Métis families where Sitskaw Park (Horse Pasture Park) in Waterways is now. In the 1950s or 1960s, the Department of Indian Affairs moved the Cree families from the Christina Reserve to a site next to the Clearwater River in Waterways, ostensibly so that the families would have housing and access to schools. But it did not build housing for the families, who instead had to build themselves tar paper shacks. As for schooling, Sykes said, "there was just a big dirty play. The government… took the children off there and put them in residential schools." Some of the children hid in the cellars to avoid being taken by the Department of Indian Affairs. Eventually Indian Affairs moved the Cree families to the Gregoire Lake reserve and evicted the Métis families from the reserve. As Sykes explained, "Where the hell these Métis families gonna go? They got no reserve, you couldn't put them on a reserve, so they kicked them out, so they had to go wherever they went."[43]

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[41] Harvey Sykes, interview with Tara Joly, Hereward Longley, and Lucas Punko, July 12, 2018, MF2018-09 NONMF-06, p. 3-6, CKK.
[42] MF2018-13, NONMF-07, p.8-12, CKK.
[43] Harvey Sykes, July 12, 2018, MF2018-09 NONMF-08, p. 7-9, CKK.

Government documents capture the tension around the Cree Flats evictions. In December 1975, Fort McMurray inspection officer R.J. Lowther notified Indian Affairs the town was to evict "squatters in the Waterways-Clearwater River area."[44] He wrote, "the accommodation these people are in is not very desirable and is not in a suitable location. We will be requesting that they leave town property and seek accommodation elsewhere." The Cree Flats residents sought help from the Indian Association of Alberta. IAA President Harold Cardinal parodied the Lowther letter to Premier Peter Lougheed. Cardinal described "Squatters in Indian Country:"

> We have noticed that there seems to be an increase in the population in the Fort McMurray area which is Indian Country. The accommodation these people are in is not desirable because it is congested and not in a suitable location. Further these people are stripping our timber ripping open our land and by their activities beginning to pollute our air. We will be requesting that they leave Indian country and seek accommodation elsewhere. Specifically, all citizens of the new town of Fort McMurray, All employees of GCOS, Syncrude, and related industries.[45]

The town's evictions of Indigenous peoples around Fort McMurray and Waterways worsened conflicts between settlers and Indigenous peoples, which came to a head in the Moccasin Flats evictions.

The Syncrude Towers

As Fort McMurray's population swelled in the 1970s, the town asked the provincial government to help build more housing.[46] In July 1975, the Alberta Housing Corporation

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[44] R.J. Lowther to Department of Indian and Northern Affairs, 3 December 1975, Acc. 85.401, File 904, PAA.
[45] Harold Cardinal to Peter Lougheed, 16 December 1975, in 85.401 file. 904, PAA.
[46] The problem with un-sanctioned settlements — 'squatters' — extended beyond the Métis settlement at the Snye. At Centennial Park, a public campground south of Beacon Hill on the side of the highway leading into Fort McMurray, residents complained of many people setting up long term camps, dumping garbage and wrecked cars, and polluting the stream. Bobbi Lambright, "Métis Poverty: Accusations fly about the 'vicious cycle,'" *Fort McMurray Today,* August 4, 1977; Gordichuk, Jackson, and Samuel, *New Town of Fort McMurray General Plan*. 87.365, Box 1, PAA.

(AHC), a Crown corporation, agreed to contribute $63.3 million to the construction of housing in areas that included Beacon Hill, Gregoire Mobile Home Park, Mackenzie Industrial Park, and Thickwood Heights. William (Bill) Yurko, who became Minister of Housing in 1975, said: "I don't believe there is another town or city in Canada where the provincial government will have as large a per capita investment in terms of money as the Alberta Government will have in the town of Fort McMurray." AHC president Phil Dowling said: "we are building a great Northern City together."[47] In 1975, the AHC gave Northward Developments $6.3 million to build a 156-unit condominium on River Lot 5 and a $30 million guaranteed loan to build subdivisions.[48] In 1976, the AHC increased Northward's loan to $50 million.[49] In April 1977, the Alberta Home Mortgage Corporation (AHMC) loaned Northward $20 million loan for the housing complex. The new complex at Moccasin Flats would be appointed with modern amenities and conveniences: balconies, a leisure centre, televisions, a swimming pool, a sauna, and day care.[50] Yet, in April 1976, shortly before Northward completed its purchase of River Lot 5, Fort McMurray planners advised the town Manager to reject the River Park Glen Project: "After objective consideration it is believed the project should be rejected. Our finds [sic] are based on social, physical, economic and environmental cost;…the cost of this project to the established community outweighs the intended benefits."[51]

The conflict between the families living at the Snye and the town of Fort McMurray

[47] Government of Alberta News Release: "Fort McMurray town board signed development agreement with Alberta Housing Corporation," July 23, 1975, PR1979.94, Box 6, file "Dpt. Housing 1975," PAA.
[48] Alberta Housing Corporation meeting minutes, November 17, 1975, PR1979.94, Box 5, file AHC minutes 1975 #3-10, PAA.
[49] Alberta Housing Corporation meeting minutes, December 2, 1976, PR1979.94, Box 5, File "AHC minutes 1976 #1-10," PAA.
[50] Government of Alberta News Release: "AHMC approves loan for over 20 million dollars to Northward Developments in Fort McMurray," April 14, 1977, PR1979.94, Box 6, file "Dpt. Housing 1976-77, PAA.
[51] Terry V. Langis to David Jones, April 30, 1976, Binder 3, Tab D-28, p. 80, RMWB.

began in 1975. The town planned to build a sewer line through the road allowance. It used this as an opportunity to try to evict Moccasin Flats to clear space for the Syncrude Towers.[52] Since 1973, Northward had been working to purchase River Lot 5 from Douglas Bodie, owner of Fort McMurray Land Developments Ltd. Bodie told the town board in May 1975, "something was going to be done in relocating the squatters from the area next to the Snye."[53] The dispute coincided with the formalization of the Fort McMurray's town administration. In September 1975, the town appointed Chuck Knight, a former public relations officer with Great Canadian Oil Sands Ltd., as its first full-time chair of Fort McMurray's board of administrators (a mayoral position).[54]

Fort McMurray Métis Local 121 and the Métis Association of Alberta (MAA) fought for the rights of the Moccasin Flats families. In October 1975, MAA president Ambrose Laboucane said that if the provincial or federal government did not build permanent housing for the Syne families, the Métis would set up camp on the Alberta Legislature grounds in Edmonton: "I don't think the premier [Peter Lougheed] will take kindly to having cooking fires lit on that lawn."[55] The federal and provincial governments had started a Métis housing program in March 1974 but had not built any houses by 1975. Laboucane endorsed the Syncrude caveat filed by the IAA and the Trout, Peerless, Whitefish, Loon, and Lubicon Lakes (Chapter 5), which claimed vast areas of northern

[52] Housing disputes between Fort McMurray and Métis people go back further, but more research is necessary to determine the origins and extent. For instance, a January 1975 *Fort McMurray Today* article reported on proposed picketing by Métis Local 121 secretary Mrs. John Gladu, concerned that Métis families were to be left out of the new Beacon Hill Housing project. "Metis defer planned picketing," *Fort McMurray Today,* January 19, 1975.
[53] Douglas Bodie (Fort McMurray Land Developments Ltd.), A committee meeting of the Board of Administrators, May 6, 1975, Binder 1, Tab D-2, p. 117, RMWB.
[54] "Knight named town's full-time chairman," *Fort McMurray Today,* September 17, 1975.
[55] Peter Young, "Native leader warns: Metis may camp on Legislative grounds," *Fort McMurray Today,* October 2, 1975.

Alberta, including much of the oil sands region. He said that the MAA would pursue its own claims, inspired by the recently signed James Bay and Northern Quebec Agreement (JBNQA). Fort McMurray Métis Local 121 president Lawrence Laboucane said the town "just went ahead and made plans to relocate the squatters. Nobody is paying the people at the Snye any heed, and that just isn't right."[56] *Fort McMurray Today* reported that the provincial government agreed to pay for relocating the Snye families. The eviction announcement angered the Snye residents, whom the town had not consulted about its plans.[57]

Many residents had moved to Moccasin Flats after developers forced them from the town or the oil industry destroyed their traplines. One Métis Elder, Alice Armit, lived in Fort McMurray for over 60 years. She moved to the Snye with her husband in 1970 when developers demolished their house to build the Peter Pond shopping centre. She told *Fort McMurray Today*, "I'm sick and tired of it and I'm not the only one. I won't be pushed any further. At our age we don't want to be relocated and have to start all over again."[58] Vincent Boucher moved to Moccasin Flats in 1974 after Syncrude destroyed his trapline to build the Mildred Lake Mine site (Chapter 6). Inadequately compensated for the loss of his trapline, the road allowance was one of the few places he could make a home in Fort McMurray. When Vincent Boucher lost his home at Moccasin Flats, it was the second time he lost his land to Syncrude.[59]

By November, the province had not made any progress resolving Métis housing

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[56] "'Relocation last resort:' for Snye families," *Fort McMurray Today,* October 28, 1975.
[57] "'Relocation last resort:' for Snye families," *Fort McMurray Today,* October 28, 1975.
[58] Peter Young, "Province to pay for Snye residents' move," *Fort McMurray Today,* October 29, 1975.
[59] John D. Hunter to Syncrude Canada Ltd., 3 October 1974, Terry Garvin Papers (TGP); J.C. Bjornson to John D. Hunter, 16 October 1974, TGA; Syncrude Canada Ltd., *Compensation for Native Trappers on Lease #17,* Public Affairs Department, Syncrude Canada Ltd. (Edmonton, 22 October 1974). TGP.

issues in Fort McMurray. Ambrose Laboucane withdrew the MAA from the Alberta Native Development Corporation (ANDCO), a federally and provincially funded agency. He said the agency wasted time and money, and not built housing for Métis families. Laboucane asked MAA lawyers to file a caveat on the road allowance land the town wanted to build the sewer line. Laboucane said the Snye families were "in danger of becoming social casualties." He said the Snye had "for generations been a camping and trading area for the native people before the founding of what is now called Fort McMurray. If moved, [the people's] traditional lifestyles will be interrupted without any possibility of being replaced in the immediate vicinity."[60]

The MAA submitted a report to Fort McMurray and the provincial government, which told that the Snye residents rejected eviction. The MAA told the town to expropriate an easement of River Lot 5 to build the sewer line instead. The MAA recommended that the town survey the road allowance into lots for the Snye residents. The MAA and the Métis Local would ensure the upkeep of the Snye houses to "offset the complaint that shacks would be an eyesore in a Twentieth Century community." By following these recommendations "the Snye residents will be integrated into the community of Fort McMurray, without suffering the ignominy which so often has befallen our people."[61]

In November 1975, the town board asked met with Métis representatives and the provincial government to try to resolve the dispute. Housing minister Bill Yurko confirmed that the Clearwater Drive Road Allowance was town land, and that the Department of the Environment had approved the town's proposed installation of sewer lines. The provincial

[60] Peter Young, "Caveat sought to keep Metis on Crown land near Snye," *Fort McMurray Today,* November 6, 1975.
[61] Métis Association of Alberta, "Alternate Plan for Snye Residents," presented to W. Yurko, November 7, 1975, Tab A-1, Binder 1, RMWB.

government agreed to pay for eleven trailers for the Snye families, but the relocation was to be the town's responsibility. When the floor turned to the Métis representatives, Harry Daniels asked the town and government to recognize the Aboriginal rights of the Snye families. If the town were to evict the families, Daniels said, it should transfer ownership of new land to the families. Daniels said the MAA would pay to modernize the Snye with services and asked that an Indigenous person be included in future meetings about the Snye. Town board member W. Gendreau said the Métis should have the right to remain and asked why the town had not addressed the Métis land issue before drafting its development plan.[62]

After the Métis representatives left, Yurko told the town board that the provincial government would pay for the housing and the move but would not get involved in the land issue. He said the town had the power to grant land tenure or rights to the Snye families, if it chose to do so, and the provincial government would expedite this process. That the town had the power to grant land to the Moccasin Flats families contradicts what Fort McMurray representatives later told the Snye families when they finally evicted them—that the town did not have the power to give them land.[63] After the meeting, the town expropriated an easement from River Lot 5 to build the sewer line to avoid evicting the Snye residents.

In February 1976, Northward Vice President J.P.C. Elson asked Minister Responsible for Native Affairs Bob Bogle to evict the Moccasin Flats families from the road allowance:

> the major problem is not the location of the sanitary sewer, but rather the inability to solve the problem of the squatters. We feel that if the town

[62] Meeting between the Board of Administrators, the Provincial Government, and Alberta Housing Corporation, November 7, 1975, Binder 1, Tab D-2, p. 26-31, RMWB.
[63] Meeting between the Board of Administrators, the Provincial Government, and Alberta Housing Corporation, November 7, 1975, Binder 1, Tab D-2, p. 26-31, RMWB.

> succeeds in its expropriation, a major incentive to deal with the problem will have been removed… We urgently solicit the cooperation of your department in dealing with the problem.[64]

Elson's comments were an example of racism, which tried to portray Indigenous peoples as problems and obstacles to development. Alberta Indian Affairs representative Lorne Mowers told Alberta Director General of Indian Affairs F.J. Walchli about Syncrude's plans:

> …I did get the following information [about Moccasin Flats] from Syncrude Executive Vice President W. Sande and [Northward] Vice President J.P.C. Elson in separate meetings today… Syncrude is purchasing River Lot #5 for development with its housing program. If necessary, it is prepared to expropriate the area from the squatters and bulldoze the homes…[65]

Bogle denied Elson's request to evict the Snye residents:

> Inasmuch as the intent of the above cited letter dictated toward some form of eviction of the present inhabitants in and around the road plan to the Snye River… It should be understood by all parties involved, that I, as Provincial Minister Responsible for Native Affairs, do not, and will not support any form of forceful eviction, of the inhabitants of the area in and around the Snye River…[66]

Town lawyer Michael Welsh told Northward the town board endorsed evicting the Syne residents:

> we concur with the concerns which you express in your letter to the Honourable Mr. B. Bogle, Minister Responsible for Native Affairs, in that it appears that a number of parties are being adversely affected by the senior government's failure to recognize whatever responsibilities they may have in dealing with these squatters rights.[67]

Welsh told Fort McMurray Land Developments the town purchased an easement, "which

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[64] J.P.C. Elson to Bob Bogle, February 25, 1976, obtained from the Department of Indian Affairs by John Malcolm.
[65] Lorne Mowers to F.J. Walchli, February 25, 1976, obtained from the Department of Indian Affairs by John Malcolm.
[66] Bob Bogle to J.P.C. Elson, February 25, 1976, Binder 1, Tab A-3, Moccasin Flats, Snye Residents (River Lot 5),
RMWB.
[67] Michael C. Welsh to J.P.C. Elson, Northward Developments Ltd, March 23, 1976, Binder 3, Tab D-28, p. 89, RMWB.

has been re-aligned through River Lot 5 by reason of the provincial and federal government's inability to determine whose responsibility it is to deal with the 'aboriginal rights' being claimed by the squatters on River Lot 5."[68] This was one of the town's only mentions of Aboriginal rights. The evictions pre-dated the entrenchment of Aboriginal rights in the 1982 *Constitution Act*, and the 2016 Supreme Court decision in *Daniels v. Canada*, which affirmed that Métis and non-status people are "Indians" under section 91(24) of the Constitution. Yet town lawyers acknowledged Moccasin Flats residents' Aboriginal rights, though it nonetheless treated them as "squatters."[69]

Elson told Knight that Northward would sell the easement but wanted "the resolution of the problem of the squatters."[70] The town agreed to evict Moccasin Flats and sell Northward the road allowance to build a marina and restaurants. A December 1976 draft agreed the town would sell Northward the 4.3 acre road allowance and "assist in the relocation of, existing Snye residents."[71] On September 19, 1978, the day the town board voted to evict Moccasin Flats, a letter of intent between the town and Northward outlined the details of the River Park Glen housing project. Article 9 gave Northward an option to purchase the road allowance:

> That upon the New Town of Fort McMurray being able to provide clear title to and clear and unobstructed possession to approximately 4.3 acres situated between River Lot 5 and the Snye River, that the New Town of Fort McMurray will sell, transfer and convey and Northward Developments Ltd. will purchase the same from the New Town of Fort McMurray at and for a total consideration of ONE THOUSAND ($1,000.00) DOLLARS per acre…[72]

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[68] Michael C. Welsh to Fort McMurray Land Developments Ltd., March 23, 1976, Binder 3, Tab D-28, p. 88, RMWB.
[69] *Daniels v. Canada (Indian Affairs and Northern Development) 2016 SCC 12.*
[70] J.P.C. Elson to C.A. Knight, May 26, 1976, Binder 3, Tab D-27, p. 186; B. Douglas Bodie, to Michael C. Welsh, June 20, 1976, Binder 3, Tab D-27, p. 187-188, RMWB.
[71] R. Guy Spencer to L.T. Pollard, Northward Developments Ltd., December 8, 1976, Binder 3, Tab D-27, p. 173-176, RMWB.
[72] Letter of intent and undertaking between the New Town of Fort McMurray and Northward Developments

The town and Northward accepted the agreement in October 1978.

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The construction of River Park Glen apartments made the Moccasin Flats residents feel unwanted and forced out. In March 1977, Knight told *Fort McMurray Today* the town would be working to evict them. The construction company built an eight-foot-tall fence to cut the resident families off from the construction site (Figure 24). MAA president Stan Daniels said, "the fence is an insult to these people. They have been subjected to disgraceful bullying. Authorities hope the natives will move away quietly. But there has been a native community on the banks of the river as long as there have been people in this area." Michael Gladue, a 70-year-old Métis trapper who lived at the Snye with his wife Christine, said, "we have lived here so long we should hate to move now."[73]

Ltd., September 19, 1978, Binder 3, Tab D-27, p. 21-26, RMWB.

[73] "Native leader charges Metis being forced out," *Fort McMurray Today,* March 31, 1977.

Figure 24: The Moccasin Flats settlement and the new Syncrude towers. Original caption: Alberta -08-78 - Highrise, old cabins - Fort McMurray. NWT Archives, Rene Fumoleau fonds, accession number N-1995-002, item number 9382.

While *Fort McMurray Today* recorded the voices and perspectives of the Métis families who faced eviction, it also emphasized their simple living conditions, referred to them as squatters, and published pieces by new residents who encouraged the evictions.[74] Knight acknowledged the town and province owed the long-time Moccasin Flats residents compensation. But he laid that responsibility at the feet of the provincial government. He said since most of the land was owned by private developers or the province: "we would like to see the province swap some land for a suitable site. The next move is up to the government." Gordon Thomas, an assistant to the Minister of Native Affairs, said the provincial government would supply trailers for the relocated residents, but it was the

[74] "One woman's opinion: by Cassandra," *Fort McMurray Today,* November 13, 1975.

municipality's job to supply land. The province and town passed the responsibility back and forth to avoid addressing the situation.[75]

The Syncrude Towers residents clashed with the people of Moccasin Flats. In August 1978, a group from Northward and River Park Glen told the town board intoxicated men from Moccasin Flats were harassing children. Mr. Logan said he found an Indigenous man holding a 4-year-old girl behind a retaining wall. He chased the man but could not catch him. Another woman said Moccasin Flats residents harassed her when she went in and out of the building. The board told Northward that it was "quite aware of the situation when they built these apartments and that the majority of the people that are in Moccasin Flats are quite nice people." Mr. Logan said if a child were abducted the town "would have no worry about relocating anyone from that particular area."[76] No other evidence corroborates this account or links it to Moccasin Flats. The River Park Glen residents framed the Moccasin Flats residents in racist terms as a danger to women and children to encourage the town board to expedite the evictions.

Moccasin Flats resident Alice Armit told *Fort McMurray Today* the people disturbing the River Park Glen residents did not necessarily live at Moccasin Flats and the Moccasin Flats residents were not drunks or child molesters.[77] Two Elders who lived at Moccasin Flats said the River Park Glen residents wanted Moccasin Flats families gone: "they have to look at all these shacks where the Native people are living. They must have been ashamed of us, ya know?"[78] Armit said construction workers threw pieces of cement

[75] "Native leader charges Metis being forced out," *Fort McMurray Today,* March 31, 1977.
[76] A regular meeting of the Board of Administrators," August 8, 1978, Binder 3, Tab D-17, p. 15, RMWB.
[77] Doug Smith, "Apartment dwellers' animosity angers Moccasin Flats residents," *Fort McMurray Today,* August 11, 1978.
[78] Anonymous participants, interview with Tara Joly and Hereward Longley, June 3, 2018, MF2018-03,04 EV-16, p. 23-24, CKK.

and rebar down from the construction site onto the roof of her house, causing damage. River Park Glen residents jeered at and called her names. Contractors installed utility pipe under the road into Moccasin Flats, making it impossible for vehicles to enter the area, cutting residents off from taxis, cars, garbage, and fire trucks. She said she would leave if the town offered her a good deal.[79]

Evictions and Relocations

The Moccasin Flats evictions played out in several stages between 1977 and 1981. The town was only willing to relocate seven of the 14 families to trailers on Main Street and Gordon Avenue, claiming the others moved in after the relocation negotiations had begun.[80] During construction in 1977, Northward convinced several families to move their houses off River Lot 5 onto Clearwater Drive. When the provincial government delivered relocation funds in January 1979, it was just $260,000, which was $65,000 less than the $325,000 it promised for the move. The province decided not to pay for a storm sewer on the new site, leaving this to the town.[81] The Department of Indian Affairs offered little support to Indigenous peoples in Fort McMurray. Indian Affairs official Jim Carbery told *Fort McMurray Today* the lack of water and sewer facilities, alcoholism, and inadequate recreation and programs were due to the disorganization of Métis and First Nations communities. Showing his racism towards Indigenous peoples he said, "ask not what Indian Affairs can do for you but ask what you can do for yourself."[82] McMurray Métis

[79] Doug Smith, "Apartment dwellers' animosity angers Moccasin Flats residents," *Fort McMurray Today,* August 11, 1978.
[80] "Town board agrees on squatters' relocation," *Fort McMurray Today,* May 31, 1978.
[81] Bobbi Lambright, "Snye relocation grant falls short of McMurray request," *Fort McMurray Today,* January 5, 1979.
[82] Bobbi Lambright, "Helping the Indians: More money is not the answer," *Fort McMurray Today,* March 6, 1978.

women fought for Syncrude to give the evicted families housing.[83]

The town made the families sign quit claims, giving up their rights to Moccasin Flats, in exchange for discounted rental trailers. The contract read:

> …in consideration of the sum of One ($1.00) Dollar, now paid to us by the New Town of Fort McMurray,… X/WE… hereby quit claim all my/our rights, title and interest of every nature and kind whatsoever and without restricting the generality of the foregoing, including all rights, mineral rights, rights under any lease or agreement, rights of or by occupancy, squatter's rights and tenant's rights; in all or any part of the property located at Clearwater Drive between Richard Street and MacDonald Drive, and in the house presently owned by me/us and located on or near the said property, and X/we do further hereby release, acquit and forever discharge by these presents for ourselves, our heirs, executors, administrators and assigns, release and forever discharge The New Town of Fort McMurray and any other person, firm, or corporation charged or chargeable with responsibility or liability, its heirs, representatives, officers, administrators, successors and assigns, from all and all claims and demands, damages or costs or suits or actions with respect to the aforementioned lands and house located nearby or thereon, now or previously existing until this present time.[84]

The town rented trailers at Main Street and Gordon Avenue to the seven families for $1.00 per month (Figure 25). The families paid for water and sewer services, electricity, natural gas, licensing fees, land taxes, and insurance. They could not make structural alterations to the trailers. The town threatened to terminate the lease if they broke any terms of the agreement or did not pay the fees associated with the property. The town gave the families the right to live in the mobile homes for the duration of their lives, but they could not transfer the lease to children or other family members. Once the original occupants left the home or died, the municipality reclaimed it.[85]

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[83] Helen Roy, interview with Nonnie Roth, July 28, 2010, MT98, Other23-113, CKK.
[84] Quit claim indenture between The New Town of Fort McMurray and Vincent Joseph Boucher, Freida Mae Boucher, December 14, 1978, Binder 1, Tab C-1, p. 6, RMWB.
[85] W.E. Mason to Vincent Joseph Boucher and Freida Mae Boucher, December 11, 1978, Binder 1, Tab C-1, p. 2, RMWB.

The relocation program was a delayed eviction. By offering discounted trailers to the Moccasin Flats families, the town enticed them to leave an historic Indigenous settlement for town property. While the families may have felt that the trailers were their own, the new homes had an expiry date — either the death or departure of the relocated occupants. By keeping ownership of the trailers, the town was able to later take back the homes and finish removing the Métis settlement. Fort McMurray began demolishing the homes of the Moccasin Flats residents as soon as they signed the relocation agreement and moved to the trailers at Gordon and Main. On January 23, 1979, *Fort McMurray Today* declared the "End of an Era" as bulldozers flattened six of the Moccasin Flats houses.[86] Mayor Ted Mason and Clerk Gerald Bussieres instructed the law firm Brownlee Fryett to evict the three remaining homes in 1981.[87]

[86] "End of and Era," *Fort McMurray Today,* January 5, 1979.
[87] "Families to be moved from Snye," *Fort McMurray Today,* January 23, 1979.

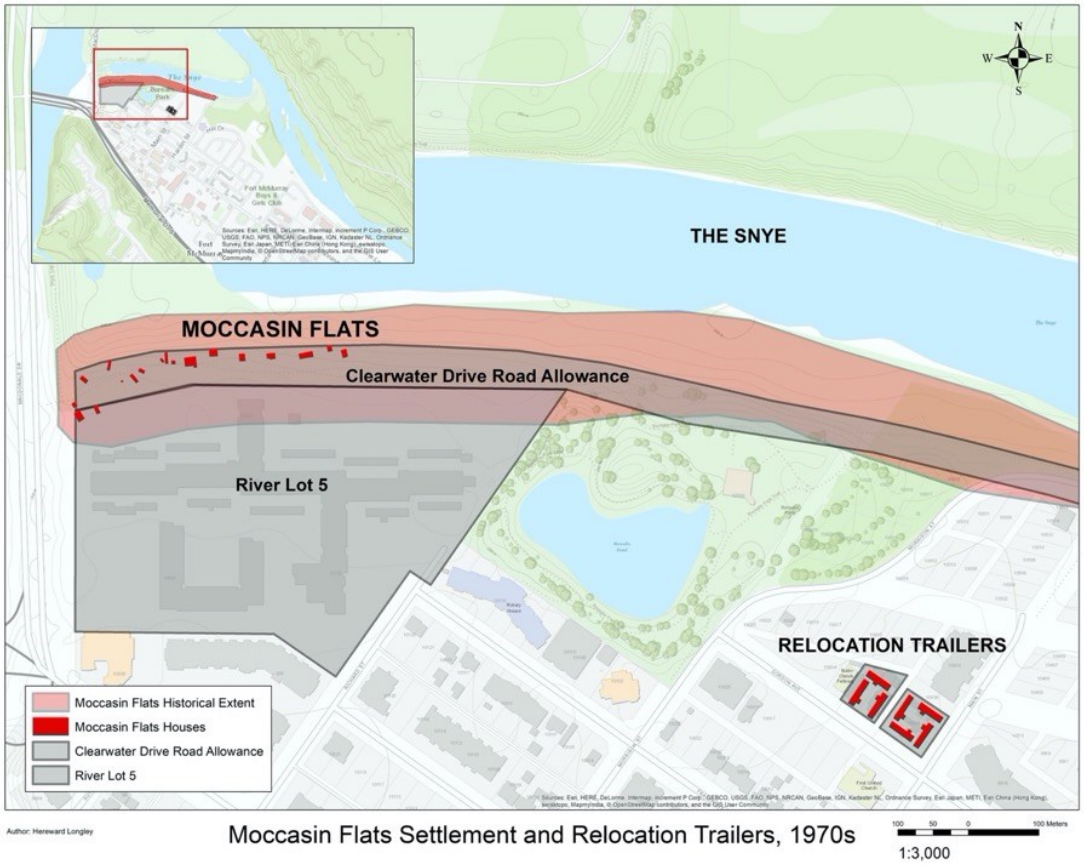

Figure 25: Moccasin Flats in the 1970s showing relocation trailers based on features digitized from historic maps from the RMWB archive. Hereward Longley, 2018.

Adverse Possession

The Moccasin Flats conflict culminated in Pat Shott's eviction in 1981. Shott was a descendant of the Métis Captain Louison Emile "Shot" Fosseneuve. He earned the name Shott for being the first to shoot the Grand Rapids on the Athabasca River in a scow, upstream from Fort McMurray. His descendants took his nickname as a surname. Pat and Maria Shott built their house at Moccasin Flats in 1962 on the north west corner of River Lot 5. There they raised their sons Steven and Russell.[88] Shortly before Northward completed its purchase of River Lot 5, Douglas Bodie, the previous owner of River Lot 5,

[88] Steve Shott, interview with Hereward Longley and Tara Joly, July 13, 2018, MF2018-10 FH&I, p. 1, CKK.

convinced Pat Shott to move his house to the road allowance. The town board then excluded Shott from the relocation program, declaring that he did not have an historic attachment to the road allowance because he built his house on River Lot 5. Pat Shott resisted eviction and the town bulldozed the Shott home. He refused to leave unless the town gave him land. Had Shott remained on River Lot 5 he would been able to make an adverse possession (squatter's rights) claim.

Being a squatter was paradoxical. The town labeled the Moccasin Flats residents squatters to stigmatize them—a form of racism—and to demonstrate the illegality of their homes, which took precedence over their Indigenous identities. However, squatters, the illegal occupants of public or private land, can gain rights over time, and in some cases obtain legally sanctioned property.[89] The Moccasin Flats residents only became squatters as Fort McMurray grew around them. Karl Jacoby writes as the United States extended its reach in the 19th century, settlers and Indigenous peoples who made unsanctioned homes on unoccupied lands found themselves breaking new laws occupying the wrong places on new maps. The state avoided evicting wealthy settlers, choosing first to remove the poor and powerless, especially Indigenous peoples.[90] Most Moccasin Flats residents were Métis, which meant they did not have Aboriginal rights to reserve land or subsistence harvesting, or the power and privilege of white, if also poor, settlers. Métis identity exposed the Moccasin Flats residents to racial prejudice without the entitlement to land and economic benefits of treaty signatories.

Land holds special status in common law conceptions of property. Unlike material

[89] Nicholas Blomley, *Unsettling the City: Urban Land and the Politics of Property* (New York: Routledge, 2004), 20.
[90] Karl Jacoby, *Crimes Against Nature: Squatters, Poachers, Thieves, and the Hidden History of American Conservation* (Berkeley and Los Angeles: University of California Press, 2001), 56,195.

goods, the existence of land persists through time and different owners. Land ownership is a set of rights one may exercise over a piece of land. On private land in Canada, if one does not exercise their land rights and prevent unauthorized occupation within a 10-year period, the state may extinguish their rights and title under the *Limitations Act.* The occupying party can become the new registered owner under the *Land Titles Act.*[91] When Fort McMurray Land Developments Ltd. moved Shott's house to the road allowance, it interrupted his statutory period of occupation and ended his opportunity to claim to adverse possession. The town was then able to evict the Shotts and the remaining families on the road allowance because adverse possession does not apply to Crown or municipal lands.[92]

Pat Shott's son, Steve, explained that in 1976 his father had been tricked into moving and was unaware that he would lose his adverse possession claim:

> …What he had was squatter's rights for being, living there for so long. And Syncrude and the town knew about it. They couldn't touch him. But they were on a spot where they needed, you know, they needed to, develop. And, he was a pretty stubborn old fella, and no, no. Unless, you know, they gave him land somewhere else. If not, they weren't going to. You know, and where they set up all the other people to relocate, they're like, have you seen that site? Where the trailer, where they set, where they moved everybody?... there was maybe

[91] Adverse possession exists for rewarding labour and use of the land, fairness, for punishing owners who do not exercise their rights, to preserve peace and discourage conflict between the owner and occupant, and to prevent owners from extorting possessors. An adverse possession claim must satisfy three requirements throughout the statutory ten-year period: the claimant must have had actual possession of the land, the intention of excluding the true owner from possession; and effectively excluded the true owner from possession. The statutory period is interrupted if the owner can demonstrate clear acts intended to cast out the adverse possessor; if the adverse possessor offers to purchase the land; or makes any payments to the owner that may be considered rent. If the 10-year period elapses, and the registered owner does not act to demonstrate ownership over and recover possession of the land, their land title may be extinguished. Under section 18 of the *Limitation of Actions Act* the owner loses the remedy of recovery, and section 44 extinguishes right and title. The occupier may claim adverse possession either through an action to quiet title or by defending an action for recovery of land. In Quebec adverse possession is known as acquisitive prescription, C.C.Q. 1991, c. 64, a. 2910. For Alberta see *Land Titles Act,* R.S.A. 1980, c. L-5; *Limitation of Actions Act,* R.S.A. 1980, c. L-15; see for example: *C.P.R.* v. *T11rta,*(1954), 12 W.W.R. 97 (S.C.C.); *Edwards* v. *Duborg,* [1982] 6 W.W.R. 128 (Q.B.); *Re Pogue and Lane,* (1951) 3 W.W.R. (N.S.) 97 (Alla. S.C.), cited in Sandra Petersson, "Something for Nothing: The Law of Adverse Possession in Alberta," *Alberta Law Review* 30, no. 4 (1992): 1291-303; Thomas W. Merrill, "Property Rules, Liability Rules, and Adverse Possession," *Northwestern University Law Review* 79, no. 5&6 (1985).

[92] *Public Lands Act,* R.S.A. 1980, Section 4, c. P-30; *Municipal Government Act,* R.S.A. 1980, section 437, c. M-26; in Petersson, "Something for Nothing," 1314.

> six to eight trailers all clumped together. You know, in a little spot… And he didn't want a part of that…. You know, and, no, and, there was no trade off. And, so they worked on him and worked on him. And, far as I know, I know what happened there was that they tricked him. The house was sitting like this here. Now that's where the actual roadway is now into River Park Glen. So they said, "well, we're gonna develop a pad right over here alongside the banks, and we'll move your house there. And then we'll reskirt it, and then we'll build you a new front porch and a new shed." So he hummed and hawed about that for a while, finally he said yeah, okay. So they brought a crane in, they lifted the house, sat it up there, blocked it. They were just about to skirt it and that there, they just put the front deck on the front of the house, the city came in and put a stop work order on it. 'Cause there was no permits. And they couldn't get a development permit, and… After that he was illegal; a squatter.[93]

Losing squatter's rights weakened Pat Shott's bargaining position and made him resist eviction.

Archival documents corroborate parts of Steve Shott's account. Gerald Bussieres's affidavit stated that when Northward purchased River Lot No. 5 in 1977, several families lived on River Lot 5. After the land transfer, several families moved their houses to the road allowance.[94] Bussieres told Mason in 1978 that during the relocation negotiations both the MAA and the provincial government acknowledged that Shott had a historic relationship to the area, and agreed to include him in the relocation program. But Pat Shott did not want to move. According to Bussieres, Shott moved his house from River Lot 5 to the road allowance in 1976, at the behest of Fort McMurray Land Developments Ltd. or another party: "Mr. Bodie or other parties unknown, moved Mr. Shott off River Lot 5 and relocated him onto Clearwater Drive." Vincent Boucher also moved his house from River Lot 5 to the road allowance in 1975. Bussieres wrote the town "laid an information against

[93] Steve Shott, interview with Hereward Longley and Tara Joly, July 13, 2018, MF2018-10 EV-12, p. 6-8, CKK.
[94] Affidavit of G.E. Bussieres, New Town of Fort McMurray v. Pat Shott, July 25, 1980, Binder 5, Tab E-9, p. 9, RMWB.

him" for building without development approval. The town obtained a conviction and a "court order that he was to remove his shack." However, the MAA and the provincial government intervened, and determined Boucher eligible for relocation.[95]

The town moved to evict Shott in 1979, on the grounds that he had only lived on the road allowance for three and a half years and built without a development permit.[96] The town's request to evict Pat Shott concerned its lawyers. Michael J. Hill told Bussieres:

> It appears that some representation may have been made to Mr. Shott when he moved his residence from River Lot No. 5 to the road allowance between River Lot No. 5 and the Snye River. If this is indeed the case, it may create some difficulties with respect to our application to evict him from the said property.[97]

Hill's reference to commitments to Shott before he moved his house echoes Steve Shott's account that his father felt tricked when the town moved to evict him soon after his house was relocated.

Eviction Motions

The town board moved unanimously to evict the remaining Snye families in late 1978.[98] Ted Mason asked Pat Shott and the other remaining residents to leave:

> As you are no doubt aware, the occupation of the land along the Snye has been an issue for some time. The Town has made a commitment to clear the Snye area of occupants, and in order to meet that commitment, we have made provision for the relocation of seven family units identified through consultation and agreement in 1975. No provision has been made for an alternative for any other occupant, and I am not empowered to make any provision for such an alternative. In view of the foregoing, I would very

[95] G.E. Bussieres to W.E. Mason, December 13, 1978, Binder 4, Tab D-31, p. 34, RMWB. A letter from G.E. Bussieres to Lynn A. Patrick identifies Mr. D. Bodie as an officer of Fort McMurray Land Developments Ltd., May 14, 1976, Binder 3, Tab D-28, p. 75, RMWB.
[96] G.E. Bussieres to W.E. Mason, January 8, 1980, Binder 4, Tab D-31, p. 33, RMWB.
[97] Michael J. Hill to G.E. Bussieres, September 5, 1979, Binder 4, Tab D-31, p. 54, RMWB.
[98] Snye Residents 78/610, in-camera minutes - September 19, 1978, Binder 3, Tab D-21, p. 2, RMWB; Snye Residents 78/610, A Meeting of the Board of Administrators, September 19, 1978, Binder 3, Tab D-20, p. 14, RMWB; Snye Residents M-7 and Snye Relocation M-8 79/89, A Regular Meeting of the Board of Administrators, February 6, 1979, Binder 3, Tab D-25, p. 15, RMWB.

> much appreciate if you could make arrangements to move as soon as possible. Your co-operation would be very much appreciated.[99]

In April 1979, Michael Hill told Shott "we have been instructed by our clients to take whatever legal steps are necessary to recover possession of the said lands." Hill told Shott to leave:

> By this letter, we as the solicitors for the New Town of Fort McMurray, hereby require that you quit and deliver up possession of the said lands within (30) days from the date of receipt of this letter. If at the expiration of the said thirty (30) day period you have not quit and delivered up possession of the said lands and removed all of your personal property, including structural buildings and trailers, we shall initiate any and all legal proceedings necessary to recover possession of the said lands for our client. You would of course, be responsible for any legal costs incurred as a result of such legal proceedings. We trust the foregoing is clear and we look forward to your anticipated co-operation.[100]

Shott would not leave unless the town gave him land. In November 1979, Mason told *Fort McMurray Today* "the town can't do that. The town can't say to Mr. Shott we the taxpayers will provide you with an alternative."[101] Shott told *Fort McMurray Express* after receiving the letter from Brownlee Fryett, he told Mason to "stick it up the appropriate place." Shott stood his ground:

> Ted Mason might be able to push my dead relatives around in the cemetery, but he sure as hell isn't going to push me around—because I'm still alive. I've seen people down here get treated badly—and I've also seen some cheat and get away with it. I'm ready to show the town there's at least one Indian left in McMurray who won't get pushed around.

Shott said he would go to court to fight for his adverse possession claim.[102] Shott's response shows he conceived of his right to live at Moccasin Flats as both an individual

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[99] Ted Mason to residents who are not being relocated, December 11, 1978, Tab E-9, Binder 5, p. 15, RMWB.
[100] Michael J. Hill to Pat Shott, March 20, 1979, Tab E-9, Binder 5, p. 17, RMWB.
[101] Don Pearson, "Court action seen likely over Snye area residents," *Fort McMurray Today*, November 8, 1979.
[102] Dyane Harpe, "He Won't Go," *Fort McMurray Express,* January 2, 1980, Heritage Park Archives, Fort McMurray.

squatter's right, and a broader Indigenous land right. Mason told Bussieres the article:

> demonstrates the failure of the Town to carry through with its intent… It seems to me that things are moving much too slowly (if at all) and I would like to know if our legal representatives are doing the job. An update is required and if we cannot generate some action, then perhaps we should engage another solicitor to move the matter along.[103]

In June 1980, town lawyers told Pat Shott again to leave Moccasin Flats.[104] In July Bussieres swore an affidavit that Shott was in wrongful possession of land on the road allowance he moved to from River Lot 5 before the Syncrude Towers were built. Bussieres said Shott did not qualify for relocation. Bussieres did not acknowledge that Shott had lived at the Syne for 18 years, or that he may have had an adverse possession claim to River Lot 5.[105] In August, Brownlee Fryett informed Shott that the Alberta Court of Queen's Bench hold a hearing for a writ of possession against him in September in Edmonton. If he did not attend, "the order asked for herein may be granted in your absence."[106]

In February 1980, the court ordered Shott to forfeit his home.[107] In March 1981, the court granted the town a writ of possession for Shott's land:

> To the Sheriff of the Judicial District of Edmonton… We command you, that you enter "the lands" and without delay cause the applicant, the City of Fort McMurray, to have possession of "the lands" and premises and appurtenances and that you defend and keep the City and its assigns in peaceable and quiet possession…[108]

Bulldozers

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[103] W.E. Mason to G.E. Bussieres, January 4, 1980, Tab D-31, Binder 4, p. 16, RMWB.
[104] John W. McIsaac to Pat Shott, June 2, 1980, Tab E-9, Binder 5, p. 22, RMWB.
[105] G.E. Bussieres Affidavit, July 25, 1980, Tab E-9, Binder 5, p. 9-14, RMWB.
[106] Originating notice of motion between New Town of Fort McMurray and Pat Shott, Aug 27, 1980, Tab E-9, Binder 5, p. 27, RMWB.
[107] Court order between New Town of Fort McMurray and Pat Shott, Tab E-9, Binder 5, p. 34, RMWB.
[108] Writ of possession between New Town of Fort McMurray and Pat Shott, March 17, 1981, Tab E-9, Binder 5, p. 29, RMWB.

On May 14, 1981, six years after the dispute between began, the town forcibly removed the remaining people from Moccasin Flats. While Pat Shott was at work at Suncor, Sheriff John Easton and his aides went to the Shott residence to seize the Shott's property and demolish the house. Shott's 17-year-old son Russell said "they just came in, didn't knock or anything, told us to get dressed and leave. Mother wasn't dressed or anything, she was still lying in bed asleep." Russell called his dad at work, who left and came home. Pat Shott told the sheriff's aides to get out of his house and told Russell to call the police. When the police arrived, they arrested Shott. A bulldozer then demolished the house. Shott said he had been willing to move:

> I was held hostage while they destroyed my home… I said give me a place to stay where I own the property and you can't kick me out tomorrow. They never came back. Why should I have moved? If I had I would have signed away whatever claims I had on this land, then where would I be? Right back where I was before; without land and living in a place where the city could kick me out on 30 days notice.[109]

Steve Shott remembers the day:

> …I never got down to the site because, we were, we were both, me and my dad were both working at Suncor. And uh, I work in a different area. He got the call and I didn't find out 'til the 3 o'clock coffee. So I didn't get there 'til after it was all pretty well said and done. He was already in jail and I was on my way down there, and then I got uh, stopped and detained… they advised me not to go down there and I told them, and then you know, they, so I didn't, I would've ended up in jail too… They were in the midst of doing it already because you know, they came in and gave my mom and my brother, you know, you gotta get out now. We're bulldozing it down… they just came in to like, 9:30, 10 o'clock in the morning, knocked on the door and my brother answered. And they had a piece of paper saying get out, we're destroying it.[110]

While the Shott house was being demolished, the Sheriff evicted two other families and

[109] Ray Djuff, "Families on Snye evicted," *Fort McMurray Today*, May 15, 1981.
[110] Steve Shott, MF2018-10 EV-18, p. 11-13, CKK.

had a mobile home and camper towed away.[111] Pat Shott saw the relocation program as inadequate compensation for losing his home, so he fought to hold on to what he had.

Fort McMurray Métis Elders remembered heavily armed RCMP officers overseeing the evictions:

> I went down, and they were just grabbing old Pat Shott's stuff and his blankets and pictures and throwing them on the floor in a great, big pile… And they hauled him off to jail, and I got mad and I went up to see him, and I told those guys he didn't do nothing. There was no reason for him to be here… And then they had, I don't know how many RCMP lined up on the dyke with their rifles like this, holding their rifles. Yeah. But they got them all out of there anyway… All I remember is them coming into Pat Shott's and doing that, and the police all standing up there with their rifles.[112]

The Moccasin Flats evictions were a traumatic experience for the Fort McMurray Métis that continues to affect the contemporary community.

Protests

The evictions triggered protests from the Athabasca Tribal Council, the MAA, and local people. A sign erected at Moccasin Flats read "Hitler destroyed homes and jailed innocent people. What's next Ted [Mason]? 6 million Indians?"[113] Bertha Clark-Jones, the director of the Nistawoyou Friendship Centre, said: "These people are just fighting for their rights. The lady was in bed when you came in. She's sick. She has had four heart attacks. They removed her pills. The city doesn't have a right to destroy their property." MAA vice president Joe Blyan said,

> It wasn't one particular group of people who made this country, it was all of us. We just want you, the mayor and the others gathered here to know that we want to be treated like the rest of you. No man should have the right to take another man's land away, especially if it is his home; and that's the

[111] Ray Djuff, "Families on Snye evicted," *Fort McMurray Today*, May 15, 1981.
[112] Howard Webb and Evelyn Webb interview with Peter Fortna and Joe Hamelin, September 18, 2009, MOTM 43&46, X19-65,66, p.41-42, CKK.
[113] "Forced eviction a local first," *Fort McMurray Today*, May 20, 1981.

issue here, a man's home was destroyed yesterday.[114]

The eviction triggered protest from the broader Indigenous community. Chief William Beaver of the Bigstone Cree Band wrote to Ted Mason:

> We are compelled to add our protest to the many other Native groups and human rights defenders who abhor the action being taken to remove Native families from the Snye. The Snye has been home to Native families for generations, and the people who have lived there are an integral part of the rich heritage of the area, and their contribution to the community over the years has been one of great significance. It is tragic that they should be victims of a so-called "progress" which puts city planning and resource development ahead of the rights and dignity of human dignity. We urge you and your council to reconsider your decision to eliminate this living monument to your city's history and the pioneering spirit of its original citizens. Surely in a city such as yours, surrounded as you are by vast wilderness, space is not in such short supply that this historic property is essential for development. We trust that you and your council are human enough and sensitive enough to recognize from all the protests you have reviewed that your decision with regard to the Snye was wrong and must be reversed. We look forward to your positive response to these protests.[115]

Mason replied to Beaver two weeks later:

> Please be advised that, while I recognize your concerns, the City is bound by provisions of The Municipal Government Act and its own By-Laws. The eviction occurred on the basis of a Supreme Court Order and I regret that I am not empowered to either affect the course of events or respond favourably to your request. I believe you and I know each other well enough that you can depend on me to exercise fair treatment to the Native People. This matter is most unpleasant and, regardless of numerous statements to the contrary, there has been ample notice and the people in question were dealt with fairly.[116]

Mason suggested the eviction was perpetrated by a higher power, which he had no authority to resist, and omitted his and the town's role in the evictions. Mason wrote he always treated Indigenous peoples fairly, but many Elders remember Ted Mason as racist toward Indigenous peoples.

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[114] Ray Djuff, "Families on Snye evicted," *Fort McMurray Today*, May 15, 1981.
[115] Chief William Beaver to Ted Mason, June 16, 1981, Tab D-31, Binder 4, p. 25, RMWB.
[116] W.E. Mason to Chief William Beaver, June 16, 1981, Tab D-31, Binder 4, p. 25, RMWB.

Bussieres told *Fort McMurray Today* "this is the first time we've ever had to go to such an extreme to move somebody. But you can never tell what the future will bring. It's unfortunate when it has to happen that way." He said one home belonging to Walter MacDonald remained. Bussieres "heard that he changed his mind and was thinking of leaving after seeing what happened to the Shott place." He said the city may have to demolish Simone Goodwin's cabin in Waterways: "In the spring, the odd squatter will come in off his trap lines and throw a house up somewhere. They move around so much that there's not much we can do about it."[117] The MAA protested the evictions and called for a Métis reserve in the Fort McMurray area.

The town charged Pat Shott with assault for pushing bylaw officer Brian Irvine during the eviction.[118] In November 1981, Judge Harry Aime, who acquitted Suncor of pollution charges for an oil spill two years later, found Shott guilty and fined him $100. Aime told *Fort McMurray Today*, "I can sympathize with him… (but) in assessing all the evidence I must conclude he did technically assault (municipal bylaw enforcement officer) Brian Irvine." Although, "in this case it (guilt) is more technical than factual." Three defence witnesses said Shott had not pushed the officer. Aime favoured the two crown witnesses' testimony that Shott pushed the officer. Aime said "the Shott property could have been handled better," but that the court "cannot tolerate interference."[119]

In February 1982, the city sought to evict Walter MacDonald, the last remaining Snye resident. Mason told *Fort McMurray Today*: "He's got no business in there as far as

[117] "Forced eviction a local first," *Fort McMurray Today*, May 20, 1981.
[118] "Metis group plans weekend protest," *Fort McMurray Today*, May 22, 1981.
[119] Grant Woodley, "Squatter found guilty of assault during eviction," *Fort McMurray Today*, November 27, 1981.

I'm concerned."[120] On March 4, the Court of Queen's Bench granted the city a court order of possession, giving MacDonald 30 days to leave. His nephew Fred MacDonald said, "I think he's going to hang tough and see what the hell happens."[121]

Conclusion

The rapid development of the oil sands industry during the energy and economic crises of the 1970s caused settlers to flood Fort McMurray. To make space for the new inhabitants, the town and oil companies evicted Métis, Treaty, and non-status Indigenous peoples from several sites around Fort McMurray and Waterways. The Moccasin Flats evictions were a violent and traumatic eviction of a Métis community that resonates with other evictions at Rooster Town and Island Cache. The town evicted the Moccasin Flats residents by labelling them squatters and exploiting the differences in property law between private and municipal land. Being labelled squatters was a contradictory position that invoked unlawful occupation of the land and rights worth fighting for if the occupation was long enough. The town evicted those on municipal land who could not claim adverse possession. The developers of River Lot 5 convinced those like Pat Shott who lived on private land to move to the road allowance, from where the town evicted them.

Canadian extensions of sovereignty over the Athabasca region through Treaty 8, Métis scrip, and the *Natural Resources Transfer Acts* (discussed in Chapter 2) were fragmented, contested, and incomplete processes that laid the foundations for a range of dispossessions of Indigenous lands during the commercialization of the oil sands industry. Fort McMurray's exploitation of property law enforced with violence to evict Moccasin

[120] Grant Woodley, "Squatter eviction sought," *Fort McMurray Today*, February 19, 1982.
[121] "30-day limit for squatter," *Fort McMurray Today*, March 4, 1982.

Flats was one way that settler colonialism played out in the Athabasca region. The Moccasin Flats evictions show how the Fort McMurray Métis community resisted municipal colonialism in the Athabasca region. Moving north, Chapter 8 shows how the First Nation and Métis communities at Fort McKay challenged the environmental consequences of bitumen extraction.

Chapter 8

Development and Environmental Conflict in the 1980s

Introduction

By the 1980s, bitumen extraction was having significant environmental consequences for Indigenous peoples in the lower Athabasca region. This was especially true for the community of Fort McKay. Strip mining, atmospheric emissions, watershed contamination, and population increases from incoming workers caused an array of adverse effects on proximate ecosystems and, along with outright dispossession from the land, threatened all of the Fort McKay community's hunting, trapping, and food gathering practices. More remote downriver communities such as Fort Chipewyan were also experiencing environmental problems. This chapter shows how Fort McKay and the Athabasca Tribal Council used an array of tactics from litigation to roadblocks to gain control over the environmental impacts and economic benefits of the oil sands industry.

In 1982, cold temperatures caused mechanical failures and fires at Suncor, which in turn led to a major oil spill at the plant site upstream from Fort McKay. The spill was an example of what Charles Perrow describes as a "normal accident," an inevitable characteristic of large complex technological systems.[1] However, Sara Pritchard describes such events as envirotechnical disasters—the consequence of inherent risks built into energy systems.[2] While the Alberta government had largely overlooked the environmental consequences of bitumen extraction (Chapter 4), the seriousness of the oil spill forced it to

[1] Charles Perrow, *Normal Accidents: Living with High-Risk Technologies*, 2nd ed. (Princeton: Princeton University Press, 1999).
[2] Sara B. Pritchard, "An Envirotechnical Disaster: Nature, Technology, and Politics at Fukushima," *Environmental History* 17 (April 2012).

support Fort McKay's litigation against Suncor.

Through the 1970s and early 1980s, the oil sands industry mostly excluded Indigenous peoples from the economic benefits of development and undertook little or no direct consultation about the projects. The Alberta government and the oil sands industry had minimal regard for Indigenous peoples and their lands as they focused on the rapid production of oil. It dismissed Indigenous concerns as a federal responsibility, although that ignored the local Metis population, a provincial responsibility until the 2016 decision in *Daniels v. Canada*.[3] The issue of Indigenous employment played a role in the land claims conflicts in the 1970s (Chapter 5). In 1980, the newly formed Athabasca Tribal Council (ATC) took Alberta to the Supreme Court of Canada to try to force it to include a First Nations hiring program in the Alsands project. The Fort McKay First Nation and Métis community were unable to reduce the environmental impact of bitumen extraction, but the ATC made progress in the areas of employment and participation in the industry, which increased the economic benefits of oil sands development for First Nation communities in northern Alberta. The Fort McKay First Nation and Fort McKay Métis collaborated on certain issues such as intervening at Energy Resources Conservation Board (ERCB) hearings, litigation, and on the Fort McKay roadblock in 1982. However, Peter Fortna argues, the federal and provincial governments resisted dealing with the community as one and forced the Métis and First Nations to adopt different political organizations.[4]

While these conflicts were explicitly about environmental and economic issues, this chapter shows that these conflicts were also rooted in Indigenous peoples' resistance to the

[3] *Daniels v. Canada (Indian Affairs and Northern Development)* (2016) SCC 12.
[4] Peter Fortna, *The Fort McKay Métis Nation: A Community History*, Willow Springs Strategic Solutions Inc. (Cochrane, AB, 2020), 13.

system of control and regulation that marginalized Indigenous land rights and prioritized oil sands development. To assess these issues, I use an approach drawn from several works on the history of resource development and Indigenous people in northern Canada, particularly those which call for a critical examination of the agency of Indigenous peoples to shape and influence the colonizing forces of industrialization and the encroachments of western institutions.[5] As with many northern Indigenous communities, Fort McKay representatives attempted to respond to the effects of the oil sands industry in the 1960s to the 1980s through the various legal and political channels that were available to them. Despite their efforts, the community was unable to effectively influence developers or regulators to protect their environment. In the 1990s, collapsing oil and fur prices, coupled with the persistent industry and government opposition to First Nation's resistance to the environmental impacts of development, caused Fort McKay to shift its focus to business development and employment in the industry.

Environmental Consequences of Bitumen Extraction

In May 1971, the Fort McKay Métis asked Métis Association of Alberta (MAA) President Stan Daniels to ask government to improve drinking water infrastructure: "please do something about water in McKay because, our children are suffering."[6] Sewage from Fort McMurray had polluted the Athabasca River from which the community drew its

[5] Robin Jarvis Brownlie and Mary-Ellen Kelm, "Desperately Seeking Absolution: Native Agency as Colonialist Alibi?," *Canadian Historical Review* 24, no. 4 (December 1994); Hans M. Carlson, *Home is the Hunter: The James Bay Cree and Their Land* (Vancouver: UBC Press, 2008); Lianne Leddy, "Cold War Colonialism: The Serpent River First Nation and Uranium Mining, 1953-1988" (Ph.D. Thesis, Waterloo: Wilfrid Laurier University, 2011); Andrew Shaler, "Indigenous Peoples and the California Gold Rush: Labour, Violence and Contention in the Formation of a Settler Colonial State," *Postcolonial Studies* 23, no. 1 (2020); Frank Tough, *As Their Natural Resources Fail: Native People and the Economic History of Northern Manitoba, 1870-1930* (Vancouver: UBC Press, 1996).
[6] Fort McKay Local #122, to Stan Daniels, 6 May 1971, in M4755 File.470, Glenbow Archives (GA).

water supply. In 1974, the Environment Conservation Authority Public Advisory Committee recommended that government freeze oil sands project approvals until technology could be developed to produce bitumen without tailings ponds. It also recommended that government create an Indigenous policy advisory board to mitigate the environmental impacts of the industry on communities.[7] The PC government did not follow either of these recommendations, a choice which has directly contributed to the huge environmental consequences and reclamation liabilities in the 21st century. Industry has yet to develop a reliable means for reclaiming tailings ponds or extracting bitumen without producing vast volumes of liquid tailings.

In the 1980s, the Fort McKay First Nation and Métis started commissioning environmental assessment studies to document the effects the industry was having on the community and the Athabasca environment. One ERCB-funded 1985 study Fort McKay commissioned from research consultant Graeme Bethell, *Preliminary Inventory of the Environmental Issues and Concerns Affecting the People of Fort MacKay Alberta,* found that people in Fort McKay were experiencing a wide range of severe environmental and health issues related to the development of the oil sands industry. By the 1980s, in addition to contaminated water supplies, the Fort McKay community reported its members were seeing fewer birds, squirrels, muskrats, and moose, which had once been abundant and important sources of food and fur.[8] The community also reported recreational hunters were killing so many moose they were putting unsustainable pressure on moose populations.[9]

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[7] Bernice Leaver, Supervisor, PAC Secretariat, to Stan Daniels, President, Métis Association of Alberta, 4 December 1974, in M4755 file.709, GA.
[8] Graeme Bethell, *Preliminary Inventory of the Environmental Issues and Concerns Affecting the People of Fort MacKay Alberta*, Bethell Management Ltd. (Brentwood Bay, B.C., 1985), 23.
[9] Bethell, *Preliminary Inventory of the Environmental Issues*, 25.

People were dumping waste and garbage in the bush. But the worst environmental effects of bitumen extraction were tailings pond effluent and oil spills, which continued to pollute the Athabasca River, and atmospheric emissions from bitumen upgrading, which polluted the air and harmed vegetation.[10]

GCOS faced significant difficulties processing bitumen (Chapter 3). The complex and energy-intensive process of removing surface soils and vegetation and extracting and processing bitumen produced large quantities of toxic liquid tailings, which held significant concentrations of ammonia and heavy metals, including copper, nickel, chromium, and zinc, and unextracted hydrocarbons.[11] In 1964, GCOS built its first 12-metre-tall tailings dam on Tar Island. It was meant to be a temporary tailings pond until GCOS mined enough bitumen to make a bigger, permanent pond.[12] GCOS produced far more tailings than it expected and had to continually increase the size of the Tar Island tailings pond. By 1974, the dike had grown to over 67 metres tall and three and a half kilometres long. By 1976, between 1.5 and 1.6 million litres of effluent was seeping through the tailings dike into the Athabasca River each day.[13] Alberta Department of Environment scientists thought that this seepage accounted for only 55 to 70 per cent of total seepage because they could not measure groundwater contamination.[14] At that time, Alberta did not even have effluent seepage regulations. GCOS's 1973 *Clean Water Act* licence did not address tailings pond

[10] Bethell, *Preliminary Inventory of the Environmental Issues*; Roger Justus and Joanne Simonetta, *Major Resource Impact Evaluation, Prepared for the Cold Lake Band and The Indian and Inuit Affairs Program*, Justus-Simonetta Development Consultants Limited (Vancouver, 1979); Fort McKay Tribal Administration, *From Where We Stand* (Fort McMurray, 1983).
[11] Bethell, *Preliminary Inventory of the Environmental Issues*.
[12] W. Solodzuk et al., *Report on Great Canadian Oil Sands Tar Island Tailings Dyke*, Design Review Panel, Alberta Environment (1977), 1.
[13] P. H. Bouthillier, *A Review of the GCOS Dyke Discharge Water*, Alberta Department of the Environment (Edmonton, Alberta, 1977), 1.
[14] D. N. Gallup, *Impact Assessment of Discharge*, Alberta Department of the Environment (Edmonton, Alberta, August 1977).

effluent seepage rates or quality.[15]

In 1974, Environment Canada did bioassay testing with tailings effluent—a technique for measuring the toxicity of a substance by its effect on living organisms—and found the heavy metal concentrations lethal to rainbow trout.[16] Researchers found that 1.6 kilometres downstream of the dike, the Athabasca River diluted effluent by 400 times in winter and 1,200 times in summer.[17] Dilution reduced the toxicity of contaminants to a non-lethal level for fish. But Mackay wrote that sub-lethal toxicant concentrations would still cause health problems in fish.[18] In 1977, Alberta Environment scientist W. C. Mackay found that water seeping from the GCOS pond was more toxic than the hydrocarbons that oozed from exposed bitumen deposits on the banks of the Athabasca River.[19] As discussed in Chapter 4, effluent toxicity was not enough for the courts to convict GCOS for its pollution of the Athabasca River. Alberta Environment research had not assessed the long-term implications of diluted chemical and organic contaminants in the Athabasca River on fish and human health.[20] Biological pathogens from sewage produced by the rapidly expanding town of Fort McMurray also contaminated the Athabasca River and then flowed into the Slave River.[21]

Bitumen extraction and upgrading also caused air pollution, which affected Fort McKay and surrounding ecosystems. Prevailing winds tended to blow atmospheric

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[15] GCOS CWA Licence No. 73-WL-041 (1973) in Bouthillier, *A Review of the GCOS Dyke Discharge Water*.
[16] S. E. Hrudey, *Characterization of Wastewaters from the Great Canadian Oil Sands Bitumen Extraction and Upgrading Plant*, Water Pollution Control Section, Environmental Protection Service, Northwest Region, Environment Canada (Ottawa, Canada, 1975).
[17] Gallup, *Impact Assessment of Discharge*.
[18] W. C. Mackay, *Toxicity of GCOS Tailings Pond Dyke Discharge*, Alberta Department of the Environment (Edmonton, Alberta, August 1977).
[19] Mackay, *Toxicity of GCOS Tailings Pond Dyke Discharge*.
[20] Gallup, *Impact Assessment of Discharge*.
[21] Bethell, *Preliminary Inventory of the Environmental Issues*, 16.

emissions from the two operations northwards toward Fort McKay along the Athabasca River.[22] In 1986, Fort McKay commissioned an environmental impact assessment (EIA) from Dominion Ecological Consultants. The study by Ron Wallace, Al Legge, Everett Peterson, and Dave Westworth found "a definite and statistically significant deterioration in long-term air quality of the region."[23] The Syncrude smokestack emitted 3,060 kilograms of particulate pollution per day including 70 kilograms per day of twenty-six toxic trace elements and metals.[24] Ninety-five percent of these particles were sodium, vanadium, magnesium, titanium, and manganese. The Fort McKay EIA said that vanadium, a transition metal emitted at three kilograms per day, was not being monitored, even though it could cause negative effects on the human respiratory system.[25] The other 2,090 kilograms per day of emissions consisted of sulphur dioxide (a cause of acid rain, damage to vegetation, and respiratory problems), and hydrocarbon particulates (a possible explanation for the oily residue in water from melted snow in Fort McKay). The particulate emissions from oil sands operations could have adverse long-term effects on terrestrial environments, including altering the mineral nutrient cycle in the region. Increases in the atmospheric deposition of polycyclic aromatic hydrocarbons (PAHs) and dibenzothiophenes from bitumen extraction and upgrading since the late 1960s have had significant adverse effects on the surrounding watershed and downstream. These ecological changes may be related to public health and environmental problems downstream from the

[22] Fort McKay First Nations, *An Issues Assessment for Concerns Regarding Ongoing Oil Sands Developments and the Community of Fort McKay*, Fort McKay Indian Band (Fort McKay, Alberta, 1986), 16.
[23] Fort McKay First Nations, *An Issues Assessment*, 6.
[24] Syncrude, *Biophysical Impact Assessment for the New Facilities at the Syncrude Canada Ltd. Mildred Lake Plant*, Syncrude Canada Ltd. (Calgary, 1984).
[25] Fort McKay First Nations, *An Issues Assessment*, 20.

oil sands industry.[26]

Atmospheric and water-borne pollution increased through the 1970s and into the 1980s and had profound consequences for the Fort McKay community. In the late 1960s, the community found that drinking water from the Athabasca River caused nausea and illness, possibly due to municipal sewage from Fort McMurray or industrial effluents from the plants, or both.[27] In 1975, the Alberta Department of Health warned Fort McKay to stop drinking water from the river.[28] The community installed two tanks at either end of the town to store clean water. Government officials did not clean the tanks, which rusted, and contaminated the water. Propane burners heated the tanks to prevent the water from freezing in the winter.[29] By 1980, Fort McKay residents reported clothes they washed with river water would stink and cause skin irritation and rashes.

Fish were an important food source for Fort McKay. Each family caught over 2,000 fish each fall to dry and store for winter months. By the early 1980s, pike and pickerel caught in the Athabasca River tasted bad and induced vomiting. People saw dead fish floating in the Athabasca River. Fish from the Muskeg River began to taste like oil and the community stopped eating them as well. Bethell's report found that bitumen extraction had contaminated all water sources the community relied on—river, ice, snow, and rain. Collected rainwater developed a "yellow scum." Fort McKay residents attributed the declining health of regional vegetation to atmospheric emissions from Syncrude and

[26] Joshua Kurek et al., "Legacy of a Half Century of Athabasca Oil Sands Development Recorded by Lake Ecosystems," *Proceedings of the National Academy of Sciences* (2013); Erin N. Kelly et al., "Oil Sands Development Contributes Elements Toxic at Low Concentrations to the Athabasca River and its Tributaries," *PNAS Environmental Sciences* (2010).
[27] Bethell, *Preliminary Inventory of the Environmental Issues*, 16.
[28] Bethell, *Preliminary Inventory of the Environmental Issues*, 38.
[29] Bethell, *Preliminary Inventory of the Environmental Issues*, 39.

Suncor.[30] The tops of many birch trees were dying, and others had yellowing leaves. Most trees were in poor health and produced less foliage than they had in the past. Jack pines were losing their needles. Coniferous trees were producing fewer cones and nuts, which were a food source for the community. Berries were less abundant.[31] Herbs and medicinal plants became more difficult to harvest, and the community could not trust that plants and berries were safe to eat.[32]

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The Fort McKay First Nation and Métis community intervened in ERCB regulatory hearings to challenge the oil sands industry's contamination of their environment. In January 1979, Fort McKay intervened at the ERCB hearing for the GCOS expansion from 45,000 to 60,000 barrels per day of synthetic crude oil. The intervention highlighted the environmental, social, and economic effects that GCOS had had on the community. The community claimed that the GCOS expansion would worsen the effects of sulphur dioxide emissions wildlife, vegetation, water, and fish. Community members described how building the GCOS plant on Tar Island had affected one of their prime hunting and trapping areas where many community members spent the summer months:

> Before 1960, Fort McKay was a relatively isolated settlement having little contact with the "outside world." The building of the Great Canadian Oil Sands plant in the 1960s marked the beginning of the encroachment of major resource development upon the settlement. The plant was constructed on the summer residence for many families from Fort McKay. The construction of the plant provided the first major conflict between the

[30] Bethell, *Preliminary Inventory of the Environmental Issues*, 16.
[31] Bethell, *Preliminary Inventory of the Environmental Issues*, 27.
[32] For a more recent study of wild food contamination see: Janelle Baker, "Research as Reciprocity: Northern Cree Community-Based and Community-Engaged Research on Wild Food Contamination in Alberta's Oil Sands Region," *Engaged Scholar Journal: Community-Engaged Research, Teaching, and Learning* 2, no. 1 (2017); Linda Black Elk and Janelle Marie Baker, "From Traplines to Pipelines: Oil Sands and Pollution of Berries and Sacred Lands from Northern Alberta to North Dakota," in *Indigenous Peoples' Land Rights and the Roles of Ethnoecology and Ethnobotany: Strategies for Canada's Future*, ed. Nancy J. Turner (Kingston: McGill-Queen's University Press, Forthcoming 2020).

> traditional lifestyle of the community and an industrialized way of life. In such a conflict, the "old way" can not win. A giant like the GCOS has not changed its way because of Fort McKay. But certainly our community has had to turn "upside down" for GCOS and other specific resource developments.[33]

As discussed in Chapter 6, Syncrude and GCOS destroyed many important hunting and trapping areas that Fort McKay relied on for subsistence, cultural, and commercial land use.[34]

Fort McKay's intervention emphasized that water quality in the Athabasca River had deteriorated significantly.[35] Jim Boucher told the ERCB panel:

> We are surprised by the public statement made by GCOS that the company sees no need to assume responsibility for the social or economic impacts which it has had, or which it will have, upon Fort MacKay. We now understand that nothing can be done legally at the present time to make industry accept responsibility for the social and economic impacts upon communities like Fort MacKay. And as we have seen, friendly persuasion only works as long as a company chooses to agree and to cooperate.[36]

GCOS had not consulted the community about its environmental monitoring or the findings of the Alberta Oil Sands Environmental Research Program. The community committee concluded:

> GCOS appears to once again adopt the stance that environmental social and economic impacts upon the settlement of Fort McKay are not the responsibility of the company, and consequently are not relevant to company interests. Yet this company was the first to change our way of life. We can not go back to the old way of life which has been destroyed.[37]

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[33] "Intervention filed with the Energy Resources Conservation Board by the Fort McKay Community Committee in relation to the Proposed GCOS Expansion Application 780318." Energy Resources Conservation Board, Application No. 780318, 19 January 1979, Energy Resources Conservation Board Archives (ERCB).
[34] Michael G. Fox, "The Impact of Oil Sands Development on Trapping with Management Implications" (Masters of Environmental Design Master's Thesis, University of Calgary, 1977), 136.
[35] "Intervention filed with the Energy Resources Conservation Board by the Fort McKay Community Committee in relation to the Proposed GCOS Expansion Application 780318."
[36] Bobbi Lambright, "GCOS and ERCB responsibility raises concerns at hearings," *Fort McMurray Today,* February 1, 1979.
[37] "Intervention filed with The Energy Resources Conservation Board by The Fort McKay Community Committee in relation to the proposed GCOS Expansion Application 780318." Energy Resources Conservation Board, Application No. 780318, 19 January 1979, ERCB.

The community saw GCOS and the Alberta government as ignoring the environmental impacts of the oil sands industry. GCOS merged with Sun Oil in late 1978, becoming Suncor, shortly before Minister of Renewable Resources F. W. MacDougall approved the GCOS expansion in March 1979.[38] In 1980, Suncor earned $259 million in profit from the high oil prices that followed the 1978 the Iranian Revolution.[39]

Affirmative Action

By the early 1980s, Indigenous employment programs and agreements, discussed in Chapter 5, had failed to hire many First Nation and Métis people from the Athabasca oil sands region to work in the industry.[40] This triggered a conflict between the First Nations and Alberta about affirmative action hiring. In 1979, consultants for the Cold Lake band Roger Justus and Joanne Simonetta found the oil sands industry had only employed 30 Indigenous people from the Athabasca region, 24 of whom were from Fort McKay. Just seven were still employed. 33.3 per cent had been laid off, 16.7 per cent had left to go trapping, and 16.7 per cent had left because of illness. 41.7 per cent had worked for less than six months, and only 23.6 per cent had worked for more than eighteen months. Respondents reported that the work was unskilled labour and poorly paid. Just 13.3 per cent of respondents received a promotion.[41] The Syncrude hiring agreement, which Alberta refused to sign, suggested "Syncrude has made some effort to employ Indian people in all job categories. However, the number of Indian employees, particularly from the immediate

[38] G. B. Mellon to Don Getty, 3 May 1978, 82.165 file 466, PAA.
[39] "Suncor Profit," *Ft. McMurray Express*, April 8, 1980, Alsands Press Clippings, GA.
[40] Harvey J. Krahn, "Labour Market Segmentation in Fort McMurray, Alberta" (PhD Dissertation University of Alberta, 1983), 45.
[41] Justus and Simonetta, *Major Resource Impact Evaluation*, 40.

local area, has remained relatively low."[42] The consultants also took a dim view of the Indigenous training program:

> The Syncrude Agreement represents a well-intentioned attempt by all parties to ensure Indian participation in employment training and business opportunities in the oil sands area. However, exploratory research in the communities and an analysis of the available documentation reveals a gap between the original intents of the Agreement and the results of implementation efforts, by all parties, to date.[43]

Industry and government had justified the environmental consequences of development with the promise industry would hire local Indigenous workers, but this pledge proved hollow.

Indigenous peoples faced significant barriers to employment in the oil sands industry. Most of the jobs required skills, training, and education that most Indigenous people in the region did not have. Industry designed its employment infrastructure around work camps and busing workers in and out of Fort McMurray. It did not advertise jobs in Indigenous communities. It did not create Indigenous-specific training programs. Industry did not accommodate flexible schedules to allow Indigenous workers to pursue seasonal hunting and trapping opportunities without losing their full-time employment. As Chapter 6 showed, trapping was a more lucrative winter profession into the early 1980s, so many Indigenous trappers did not want to work year-round in the oil sands.[44] Yet many Indigenous people wanted work in the oil sands industry but could not get it. The Justus-Simonetta report found that 60 per cent of the people surveyed, and 74 per cent of Fort McKay respondents, expected to get jobs in the oil sands industry. Over 76 per cent of

[42] Justus and Simonetta, *Major Resource Impact Evaluation*, 73.
[43] Justus and Simonetta, *Major Resource Impact Evaluation*, 76.
[44] Justus and Simonetta, *Major Resource Impact Evaluation*, 73.

respondents desired jobs and had applied for work.[45]

The Alberta Progressive Conservative (PC) government resisted Indigenous leaders' proposals that favoured Indigenous workers over outsiders. Analysts with the federal Department of Energy, Mines and Resources reported Alberta had "generally taken the position that special programs which operate in favour of status Indians (as proposed by the federal government) discriminate against non-status Indians and Métis."[46] Alberta MLAs argued that Indigenous hiring had been a success. In 1979, Lac La Biche–McMurray MLA Norm Weiss said: "the employment of natives by Syncrude and Great Canadian Oil Sands has shown a dedication to equality and human rights that our government can be proud of."[47] In 1981, NDP MLA Grant Notley questioned the PC government's resistance to special Indigenous hiring programs. The Minister Responsible for Native Affairs Don McCrimmon replied: "the history of Syncrude disproves what the Hon. Member is saying. When these megaprojects go ahead, I think the companies have been pretty conscientious and pretty good about trying to get the native people working in them as much as possible."[48]

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The Fort MacKay community fought to be consulted about the proposed $14 billion Alsands project on the east side of the Athabasca River north of Fort McKay.[49] The community wanted to ensure that government and industry addressed the environmental and employment issues it had neglected in earlier projects. In June 1979, Alberta Energy

[45] Justus and Simonetta, *Major Resource Impact Evaluation*, 41.
[46] "Alsands Project Policy Paper," Federal Department of Energy, Mines and Resources, September 1980, RG131 vol. 164 file 4300-12 (vol.1) EMR – ALSANDS, Library and Archives Canada (LAC).
[47] Norm Weiss, *Alberta Hansard,* May 28, 1979.
[48] Don McCrimmon and Grant Notley, *Alberta Hansard,* April 6, 1981.
[49] Ken Nelson, "Tiny McKay Battles a Mega-project," *Fort McMurray Today,* February 11, 1982, Alsands Press Clippings, M-6328 box 2, GA.

Minister Merv Leitch announced the ERCB would not hold hearings in Fort McKay, and he was unaware of any significant local concerns about the plant.[50] The PC government's primary concern was the project's economic viability. The Fort McKay community intervened in the hearings but the ERCB, chaired by Vernon Millard, excluded it from the project's environmental review. Under the "one window" regulatory structure of the ERCB introduced by Environment Minister Bill Yurko in 1973 (Chapter 4), the Board considered the project proponent or Department of Environment's EIA in its assessment but based its decision on the public economic value of the project.[51] The Department of Indian Affairs and Northern Development found problems with the Alsands EIA: "It appears no effort has been taken to include or obtain the oral history of Indian elders in the area. It also appears that the Indian Association of Alberta and the individual Indian Bands were not consulted."[52] Fort McKay worked to participate in the planning and regulation of the oil sands industry but struggled to influence government or industry in a meaningful way.

Fort McKay Chief Dorothy McDonald fought to protect the environment. McDonald was the daughter of Philip and Victoria McDonald. Her father was a hereditary chief of Fort McKay who led the community for 25 years.[53] Dorothy McDonald was born in the 1940s. She attended the Fort McKay Indian Day school until she was 14, when she got tuberculosis and was sent to the Charles Camsell Indian Hospital in Edmonton. She returned to her community after finishing college. She worked for her father who was serving as chief, then as band manager, before being elected chief in 1980. Dorothy

[50] "No Public Hearings Being Planned on Fort McKay Oil Sands Plant," *Edmonton Journal*, June 5, 1979, Alsands Press Clippings, M-6328 box 1, GA.
[51] William Yurko, *Alberta Hansard,* April 10, 1973, vol. 40, p. 2014, Provincial Archives of Alberta (PAA).
[52] Department of Indian Affairs and Northern Development, "General and Specific Comments on Alsands EIA," May 1979, RG131 vol.164 file 4300-12 (vol. 5) EMR – ALSANDS 4, LAC.
[53] Cora Voyageur, *Firekeepers of the Twenty-First Century: First Nations Women Chiefs* (Montreal: McGill-Queen's University Press, 2008).

McDonald followed several other women who became chiefs of First Nations in Alberta in the 1960s after the federal government's 1951 amendments to the *Indian Act* allowed women to become chiefs. During McDonald's time in office she was often the only female chief in Alberta. She fought for environmental and cultural protections, an economic base for the community, and more employment and training opportunities for community members.[54]

Secretary-treasurer Jim Boucher also fought for employment and economic participation. Age 23 in 1979, Boucher was a member of the generation that had grown up in a more settled community. His generation continued to depend on the land for subsistence but had a greater connection to the industrial world. Boucher told the *Edmonton Journal* that bitumen extraction made it impossible for community members to maintain a traditional way of life.[55] From Boucher's perspective, Fort McKay had no choice but to work with government and industry to seek participation in the oil sands. He said that Fort McKay supported the Alsands project and the proposal to build a new town. Boucher disliked handouts, and sought autonomy for Fort McKay, along with a guarantee of the town's existence, infrastructure improvements, land tenure, reduced pollution, and affirmative action hiring programs.[56]

Five First Nations—Athabasca Chipewyan First Nation, Chipewyan Prairie First Nation, Mikisew Cree First Nation, Fort McKay First Nation, and Fort McMurray First

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[54] Cora Voyageur, "They Called Her Chief: A Tribute to Fort McKay's Indomitable Leader Dorothy McDonald," *Legacy: Alberta's Cultural Heritage Magazine*, Winter, 2002, 14.
[55] Indigenous peoples who lived in Fort McKay did not have tenure to their land. This created uncertainty that threatened the survival of the community in the 1970s and 80s. Tom Campbell, "Union Word Needed in Native Hiring," *Edmonton Journal*, July 5, 1979, Alsands Press Clippings, M-6328 box 5, GA. Fortna, *The Fort McKay Métis Nation*, 53.
[56] Bobbi Lambright, "Fort McKay Residents Seek Assurances from Government," *Fort McMurray Today,* July 5, 1979, Alsands Press Clippings, M-6328 box 5, GA. For a discussion of land tenure issues in Fort McKay see Fortna, *The Fort McKay Métis Nation*.

Nation—formed the Athabasca Tribal Council (ATC) to put forth a unified voice on oil sands industry matters, especially employment and industrial participation. The ATC intervened in the Alsands hearings in 1979 to ask the ERCB to require an affirmative action hiring program as an approval condition.[57] The program would have legally bound Alsands to hiring First Nations workers but did not include Métis people. The ERCB refused, arguing that it did not have power under section 43 of the *Oil and Gas Conservation Act* to mandate such a program.[58] The ATC appealed to the Alberta Court of Appeal, which ruled that affirmative action hiring was outside the ERCB's jurisdiction and that such a program would be reverse discrimination that would breach the *Individual Rights Protection Act*. The ATC appealed to the Supreme Court of Canada. The Court dismissed the appeal but ruled that affirmative action programs were not reverse discrimination and did not breach the *Individual Rights Protection Act:* "the plan was not to displace non-Indians from their employment, but rather to advance the lot of Indians so that they could be in a competitive position to obtain employment without regard to the handicaps which their race inherited."[59] The ruling was a disappointment for the ATC, but the case established an important legal precedent: developers could not use the *Individual Rights Protection Act* to block affirmative action programs.[60]

In 1980, the ATC and the Indian Association of Alberta asked the federal

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[57] Athabasca Tribal Council, "Presentation to the Energy Resources Conservation Board," ERCB Hearings on the Alsands Project Group – Oil Sands Mining Project – Application #780724, June 1979, RG131 vol.164 file 4300-12 (vol. 5) EMR – ALSANDS 4, LAC.
[58] *Athabasca Tribal Council v. Amoco Petroleum Co*., Supreme Court of Canada, December 4–5, 1980, and June 22, 1981.
[59] *Athabasca Tribal Council v. Amoco Petroleum Co*., Supreme Court of Canada, December 4–5, 1980, and June 22, 1981.
[60] Farrell Crook, "Alberta Indians Win a Big One – By Losing: A High Court Ruling Means Special Programs to Help Indians Are Not Legally Reverse Discrimination," *Toronto Star,* July 4, 1981, Alsands Press Clippings, M-6328 box 1, GA.

government to support Indigenous employment. IAA president Joe Dion asked Prime Minister Pierre Trudeau to ensure Indigenous peoples received affirmative action hiring and equity participation:

> Development of Canada's resources has not been in partnership with Canada's Native people. Rather, it has occurred to the detriment of the traditional economies and lifestyles of Indian peoples. Being isolated from participation has caused no significant rise in income of Indian communities, and, as a result, Indian people do not have the capacity to finance their future developments. It is fundamental in our view, that the need for aid should eventually subside and this can only be accomplished with the growth in the capacity of Indians to help themselves.[61]

ATC Chair Lawrence Courteoreille asked federal cabinet ministers Marc Lalonde (Energy, Mines, and Resources), Lloyd Axworthy (Employment and Immigration), and Jean Chrétien (Justice and Attorney General) to ensure more economic participation for Indigenous peoples in the Alsands project, including hiring, infrastructure, housing, and programs to minimize the social impacts of industrialization.[62] The IAA and the ATC's lobbying succeeded, and the National Energy Program required that Alsands implement a preferential hiring program for First Nation people as a condition of preferential oil pricing.[63]

However, the federal and provincial governments did not include Indigenous hiring in their investment agreement with Alsands. In 1981, Fort McKay Chief Dorothy McDonald (now the ATC chair) wrote to Bud Olson, Alberta's Minister of State for Economic Development:

> We understand that a number of very important elements will not be

[61] Joe Dion to Pierre Elliot Trudeau, February 6, 1980, RG131 vol.164 file 4300-12 (vol. 7) EMR ALSANDS, LAC.
[62] Lawrence Courteorielle to Marc Lalonde, John Munro, Jean Chrétien, Lloyd Axworthy, April 25, 1980, RG131 vol.164 file 4300-12 (vol. 3) EMR – ALSANDS, LAC.
[63] Marc Lalonde, *The National Energy Program*, Department of Energy and Natural Resources, Minister of Supply and Services (Ottawa, 1980).

> included in this agreement and we are completely opposed to the signing of this agreement until these elements have been worked out. If this does not happen we will be left out the same way we were when the Suncor and Syncrude plants opened. We suffered all the impacts and someone else received all the benefits.[64]

McDonald proposed that Alberta require Alsands to negotiate separate socio-economic benefit agreements in each affected community.

McDonald pushed the ERCB to hold public hearings in Fort McKay to address the communities' employment and environmental concerns. In 1981, ERCB Chair Vern Millard rejected Chief McDonald's ongoing requests for hearings in Fort McKay and for pollution research: "The alleged long-term environmental and health impacts from oil sands development are, in the board's view, not substantiated. If they should be proven, the board and Alberta Environment would undoubtedly take the appropriate action." Research to assess Alsands' ability to deal with possible chemical and oil spills would not "serve any useful purpose." He rejected Fort McKay's requests for compensation and housing, saying these issues were not part of the ERCB's jurisdiction.[65] In early 1982 Chief McDonald told *Fort McMurray Today*: "the response of the board is an absolute outrage." She criticized the review process:

> The board says it won't act until there is evidence but it refuses to re-open the hearings to hear the evidence. They never considered health impacts at the hearings in 1979. It's fairly obvious that the ERCB is just a political body with absolutely no interest in human health… The only acceptable evidence to them is if we rolled in with a wheelbarrow with someone dead in it. The province is so intent on resource development that they don't care what impact it has on people. They just don't care what the public health cost is.[66]

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[64] Dorothy McDonald to Bud Olson, 4 December 1981, in RG131 vol.164 file.4300-12 (vol.2), EMR - ALSANDS, LAC.
[65] ERCB Chairman Vern Millard, quoted in Ed Struzik, "Indians' Demand Rejected," *Edmonton Journal*, February 18, 1982, Alsands Press Clippings, M-6328 box 2, GA.
[66] Jackie MacDonald, "Indian Demand for Alsands Talks Nixed," *Fort McMurray Today,* February 19, 1982, Alsands Press Clippings, M-6328 box 2, GA; Struzik, "Indians' Demand Rejected."

The ERCB's focus on economic benefits, and the PC government's lack of interest in Indigenous issues, blocked Fort McKay's efforts to get preferential hiring or hearings addressing the environmental consequences of bitumen extraction.

Suncor Oil Spill, 1982

Unusually cold temperatures in December 1981, affected equipment throughout the oil sands region. In Fort McKay, the propane heater on the south water tank malfunctioned, and the structure burnt down. The heater on the north tank failed. The water froze, which cracked the tank as it expanded. The water system's failure forced residents to take water from the contaminated Athabasca river. At the Suncor plant, the temperatures caused equipment failures in December 1981. In January 1982, the plant caught fire, causing it to spill 40,000 kg of oil, grease, and phenols into the Athabasca River. The spill continued until the end of February.[67]

Despite Alberta Environment's instruction to Suncor on January 26 to report the spill to Fort McKay, Suncor did not inform Fort McKay that it had spilled oil into the Athabasca River until February 23. Government started emergency water deliveries that winter, which continued into the mid-1980s.[68] In March, a *Fort McMurray Today* editorial criticized the Alberta government:

> The ministry of environment has proven itself irresponsible and ineffective by hiding this information. We can no longer trust the provincial government to be honestly concerned about environmental damage. The priorities of Suncor and the provincial government are clear, and it is now obvious that environmental protection is not among those priorities.[69]

[67] *R. v. Suncor Inc. (Fisheries Act),* Provincial Court Justice Horrocks, Fort McMurray, June 3, 1983; John E MacLatchy and Robert K Timberg, eds., *Prosecutions Under The Pollution Control and Habitat Protection Provisions of the Fisheries Act*, vol. 3, Fisheries Pollution Reports (Ottawa: Environmental Protection Service, Environment Canada, 1984), 278.
[68] Bethell, *Preliminary Inventory of the Environmental Issues*, 39.
[69] "What price oil production?" *Fort McMurray Today,* March 3, 1982.

The provincial Department of Environment acknowledged that Suncor had contravened its wastewater discharge requirements most months from 1978 to 1981. From December 1981 to March 1982, it had only complied with its discharge limits on eight days.[70]

Environment Minister John Cookson said Alberta Environment would investigate the spill: "Both the ERCB and my department are concerned why this happened. The company has to tell us why machines failed, what staff was on duty to manage, and submit recommendations."[71] Fort McKay Chief Dorothy McDonald was furious about the spill and the Department's response:

> Where the hell was the government when all this was going on? Why didn't the Department of the Environment tell us what was going on and why didn't they conduct testing themselves? How foolish can you be to allow a company like Suncor to conduct its own monitoring? Do bank robbers turn themselves in after they've done the job?[72]

NDP MLA Grant Notley said: "It's a whitewash when they don't include an investigation of the department's performance. I think one thing that now is quite common throughout the province is we've got a Department of the Environment that is badly managed and incompetently led."[73] He told the legislative assembly the Lougheed government's approach to environmental policies had weakened after ten years of involvement in the oil sands industry:

> I well remember when we had an oil spill on the Athabasca River in 1970, and the now Premier was Leader of the Opposition… the now provincial Treasurer (Bill Yurko) and the now Premier raised the roof over this oil spill… One of the most searing indictments the now Premier… made about

[70] "Report tabled in legislature: Suncor dumped chemicals since 1978," *Fort McMurray Today,* March 16, 1982.
[71] Ken Nelson, "Charges Probable against Suncor during Waste-Water Probe," *Fort McMurray Today*, March 17, 1982, Alsands Press Clippings, M-6328 Box 2, GA.
[72] "Suncor Faces Spill Inquiry," *Fort McMurray Today,* March 18, 1982, Alsands Press Clippings, M-6328 Box 2, GA.
[73] "Suncor Faces Spill Inquiry," *Fort McMurray Today,* March 18, 1982, Alsands Press Clippings, M-6328 Box 2, GA.

> the former government was that they had an interdepartmental inquiry into what happened on that oil spill. The now Premier… said, 'how in heaven's name can you investigate yourself; we should have some kind of independent investigation…'[74]

Notley called on government to commission an independent investigation of the Suncor oil spills and persistent air and water pollution.

Fort Chipewyan Fishery Closure

In May 1982, the Department of Workers' Health, Safety and Compensation reported that testing Suncor effluents revealed an abundance of toxic and carcinogenic polychlorinated biphenyls (PCBs).[75] The provincial government reported that the spilled oil had contaminated fish downstream from Suncor. It warned that pollution might postpone the Lake Athabasca commercial fishing season and told people not to eat fish from the Athabasca River.[76] The Attorney General charged Suncor with seven violations of the federal *Fisheries Act* and two violations of the *Alberta Clean Water Act.* Dorothy McDonald and Fort McKay pressed five of the *Fisheries Act* charges, but the Attorney General took them over. McDonald was disappointed about losing control of the case. She told *Fort McMurray Today*: "I have no choice but to accept it" and added that the band was considering other legal options.[77] That one of the first cases testing the new federal and provincial environmental laws was brought by an Indigenous community against an oil sands company shows how Indigenous peoples have played an important role in shaping Canadian environmental law.

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[74] Grant Notley, *Alberta Hansard,* 5 April 1982, p. 498.
[75] Ken Nelson, "PCBs found in Suncor Fluid," *Fort McMurray Today*, May 5, 1982, Alsands Press Clippings, M-6328 box 5, GA.
[76] Jackie MacDonald, "Fish from Athabasca River polluted," *Fort McMurray Today,* May 6, 1982.
[77] Jackie MacDonald, "Fish from Athabasca polluted," *Fort McMurray Today*, 6 May 1982, in Alsands Press Clippings M-6328 box. 5, GA.

Researchers found pickerel samples from Lake Athabasca near Fort Chipewyan had an oily taste and the lake had elevated levels of PCBs. On 20 May Associate Minister of Public Lands and Wildlife Bud Miller cancelled the Lake Athabasca commercial fishing season and warned people downstream of Fort McMurray not to eat fish from the lake or the river. [78] Fish from Lake Athabasca was marketed commercially throughout Alberta and the prairie provinces. Although local people consumed more fish and would have been more exposed to the health effects of contaminated fish, contaminated fish would have had repercussions beyond Fort Chipewyan.[79] Fishers in Fort Chipewyan sought compensation for lost income. Elders in Fort Chipewyan recalled finding oil under the ice and how the government closed the fish plant that summer.[80] Miller said neither Suncor nor the Alberta government planned to clean up the spilled oil. "I'm not a scientist," Miller said, "but I understand this will dissipate or be diluted and it will disappear."[81] Alberta Environment did not study the effects of industrial effluents on water quality and fisheries in the region as Fisheries and Oceans Canada had on the Mackenzie River below Norman Wells.[82]

The government and the public opposition criticized the Alberta government for its response to the oil spill. Grant Notley said Alberta Environment had allowed Suncor to exceed its liquid emissions allowances in 36 of the preceding 43 months:

> The people of Alberta have a right to a full investigation of not simply the private cause for this disaster, but also the reasons why our environmental legislation and controls are not being applied… This government is playing politics with an enormous ecosystem of vital importance to all of us.

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[78] Ken Nelson, "More Foul Fish Taken from River," *Fort McMurray Today*, May 14, 1982, Alsands Press Clippings, M-6328 box 5, GA.
[79] Liza Piper, *The Industrial Transformation of Subarctic Canada* (Vancouver: UBC Press, 2009), 191.
[80] Kevin P. Timoney, *A Study of Water and Sediment Quality as Related to Public Health Issues, Fort Chipewyan, Alberta*, For the Nunee Health Board Society, Fort Chipewyan, AB (Sherwood Park, AB: Treeline Ecological Research, 2007), 55.
[81] Jed DeCory, "Fishermen to get compensation for closing of Athabasca season," *Fort McMurray Today,* May 19, 1982.
[82] Fort McKay Indian Band, "An Issues Assessment," 10.

> Somehow, this fact has to get through to an insensitive and incompetent administration before further disasters befall us and those downstream who put their trust in us.[83]

Edmonton Journal cartoonist Edd Uluschak parodied Lougheed's inaction on the Syncrude and Suncor violations with a series of four images showing Lougheed mimicking the three wise monkeys: hear no evil, see no evil, say no evil. In the fourth image Lougheed pinched his nose as fumes from Syncrude and Suncor waft by.[84]

The Lake Athabasca fishery closure coincided with a furbearing animal population crash (Chapter 6), which marked the collapse of the land-based economy—a double-disaster for people who fished in the summer and still trapped in the winter to earn income year-round. Losing fishing and trapping at once had severe economic consequences for Fort Chipewyan. The Delta Native Fishermen's Association estimated that the closure would cost the town at least $125,000, and would cost businesses an additional $110,000 in lost income from selling supplies and fuel to fishing outfits.[85] The fishermen received $45,000 in compensation from the provincial government and a $29,000 job creation program from the federal government.[86]

Fort McKay asked the ATC and the McMurray International Oil Workers Union to participate in the ERCB inquiry into the oil spill.[87] Suncor temporarily stopped discharging wastewater into the Athabasca River in response to the backlash. It diverted the outflows into its tailings pond, which it split into four smaller ponds. Water passed through

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[83] "Notley wants oil sands pollution inquiry," *Fort McMurray Today,* May 20, 1982; *R. v. Suncor Inc. (Fisheries Act),* Prov. Ct. J. Horrocks, Fort McMurray, June 3, 1983; MacLatchy and Timberg, *Prosecutions Under The Pollution Control and Habitat Protection Provisions of the Fisheries Act*, 278.
[84] Edd Uluschak, "Syncrude violations, Suncor violations," political cartoon, *The Edmonton Journal* (1982), in 1988-025 01003, LAC.
[85] Jackie MacDonald, "Fort Chip families facing bleak future," *Fort McMurray Today,* June 2, 1982.
[86] Jackie MacDonald, "Chip fishermen accept gov't compensation offer," *Fort McMurray Today,* July 2, 1982.
[87] "MIOW invited to join study," *Fort McMurray Today,* June 11, 1982.

separators between the four ponds, and then through a straw filtration system before Suncor discharged the filtered water into the Athabasca River: changes that cost $10 million.[88] Indigenous communities in the oil sands region rarely had the power to mitigate the adverse effects of bitumen extraction as they wanted, but they did influence development in some, mostly marginal ways.

Suncor Pollution Trial

The Alberta government's investments in the oil sands industry had encouraged its neglect of environmental regulation (Chapter 4), but when the Fish and Wildlife Division of the Department of Energy found a "definite link" between the Suncor oil spill and contaminated fish in Lake Athabasca, it charged Suncor with thirteen more *Fisheries Act* violations.[89] By August, the Suncor plant started producing oil again. The fires which caused the oil spill caused damages worth $170 million and that took seven months to fix.[90] Suncor asked the court to hear all 22 charges together. Provincial court judge Michael Horrocks denied this request in July. In August judge Harry Aime reversed this decision. He allowed all the charges to be heard together and granted Suncor's request to adjourn the hearing till October 1982.[91] While the pollution case developed, Fort McKay intervened in the Suncor expansion hearings. It asked the ERCB to put a "restraining order" on Suncor to stop it from building its expansion project without a full review. The ERCB rejected Fort McKay's request stating the $355 million expansion was "fully compatible with the existing approval.[92]

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[88] "Suncor spends millions on waste water system," *Fort McMurray Today,* June 18, 1982.
[89] "Suncor charged for foul fish," *Fort McMurray Today,* June 23, 1982.
[90] Jackie MacDonald, "Suncor is back in business after 7-month rebuild," *Fort McMurray Today,* August 3, 1983.
[91] "Chief upset, Suncor charges amalgamated," *Fort McMurray Today,* August 20, 1982
[92] Jackie MacDonald, "MacKay band to 'intervene' in Suncor plan," *Fort McMurray Today,* August 24,

Although self-reported pollution data was a key part of environmental regulation in the oil sands, Suncor opposed the possibility that the court would allow the Crown to use Suncor's self-reported pollution data as evidence against it. When the court decided to admit the Suncor data, Suncor's lawyer Denny Thomas argued that the documents were unreliable and prevented Suncor from knowing the extent of the spill.[93] Judge Horrocks found Suncor not guilty on the first of 22 charges that Suncor violated the *Clean Water Act.* He said although Suncor violated the act, the company was innocent because the employees "did everything they could" to prevent the equipment failures that caused the spill. Horrock's decisions framed the spill as an inevitable part of making oil:

> The Defendant was faced with a mass of oil with no place to go but out. It's just going to go through the system. There is nothing anybody that I can see can do about it. The Defendant used all its resources to combat the problem. Looking at it in hindsight now other methods might have indeed been better. They might have done something else, but though I must admit no other methods have been suggested to this Court that would have improved on the performance they had.[94]

Horrocks found Suncor guilty of failing to notify Alberta Environment within 24 hours and fined the company $500.[95] Crown prosecutor Marvin Braun then claimed to be "physically exhausted," and returned to Edmonton. Horrocks postponed the trial.[96] In an op-ed, *Fort McMurray Today* editor Ken Nelson wrote that "the real culprit in this case may be the provincial government. Alberta Environment's anti-pollution regulations are out-dated, difficult, if not impossible to enforce and do not put sufficient onus on the industry." Nelson wrote the inaccuracy of Suncor's effluent testing methods should not have saved it

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1982; "ERCB dashes hope of MacKay natives," *Fort McMurray Today,* October 1, 1982.
[93] Mark Dent, "Suncor lawyers balk at evidence," *Fort McMurray Today,* October 19, 1982.
[94] *R. v. Suncor Inc. (Alberta Clean Water Act),* Prov. Ct. J. Horrocks, Fort McMurray, 20 October 1982; MacLatchy and Timberg, *Prosecutions Under The Pollution Control and Habitat Protection Provisions of the Fisheries Act*, 264-68.
[95] Mark Dent, "Suncor found not guilty on first pollution charge," *Fort McMurray Today,* October 21, 1982.
[96] Mark Dent, "Suncor trial adjourned indefinitely,"

from culpability. Alberta Environment needed to better regulate effluent and ensure companies accurately monitor their discharge.[97]

When the trial resumed in January 1983, fisheries biologists and Suncor argued about whether the effluent was toxic enough to kill fish.[98] Judge Horrocks dismissed four more of the *Clean Water Act* charges based on case law, which stated that a polluter was not guilty if it had taken "all reasonable precautions" to prevent the circumstances that led to the charges.[99] In February, Horrocks and court members visited the Suncor site to assess the circumstances that led to the oil spill.[100] Horrocks's assessment of the *Fisheries Act* charges followed preceding decisions. One precedent from the Alberta District Court decision from the 1974 GCOS oil spill (Chapter 4) held that the Crown must prove beyond reasonable doubt that the discharged effluent had harmed fish. The other precedent from two Ontario and British Columbia decisions, found the defendant guilty for discharging any amount of a substance harmful to fish and aquatic life into a body of water inhabited by fish.[101] Observers worried that following either precedent would be problematic. One would make it too difficult to prosecute polluters, and the other would make it too easy.[102] In June, Horrocks decided that the oil and grease Suncor spilled into the Athabasca River had sublethal effects on fish, but it had put incompetent people in charge of the cleanup. He

[97] Ken Nelson, "Opinion: The case against Suncor," *Fort McMurray Today,* October 26, 1982.
[98] Doug Tattrie, "Experts debate level of effluent in river," *Fort McMurray Today,* January 27, 1983.
[99] Doug Tattrie, "Suncor charges dismissed," *Fort McMurray Today,* January 31, 1983. *R. v. Suncor Inc. (Ruling on Defence Application),* Prov. Ct. J. Horrocks, Fort McMurray, 31 January 1983; MacLatchy and Timberg, *Prosecutions Under The Pollution Control and Habitat Protection Provisions of the Fisheries Act*, 264-68.
[100] Doug Tattrie, "Court takes first hand look at scene of spill," *Fort McMurray Today,* February 7, 1983.
[101] *R. v. Great Canadian Oil Sands Limited,* District Court of Alberta J. McClung (1978); *R. v. MacMillan Bloedel (Alberni) Limited* (1970) 4 W.W.R. 654; *R. v. Cyanamid Canada Inc.,* Ontario Provincial Court (1981) 11 C.E.L.R 31; MacLatchy and Timberg, *Prosecutions Under The Pollution Control and Habitat Protection Provisions of the Fisheries Act*, 284-85.
[102] Doug Tattrie, "Pollution trial decision has far-reaching effects," *Fort McMurray Today,* March 1, 1983.

found Suncor guilty of one of the *Fisheries Act* charges and fined Suncor $8,000.[103]

In September 1983, Alberta appealed the *Clean Water Act* acquittal to the Alberta Court of Appeal. Provincial Court Justice Mustard limited the charges to four counts of unlawful deposit of a deleterious substance in water frequented by fish under section 33(2) of the *Fisheries Act,* as Horrocks found Suncor had exercised due diligence in its spill response. Mustard found the case drawn by the Crown was "defective in many respects, and the whole procedure by which the ordinary summary conviction appeal process is short-circuited and cannot be commended."[104] Had the Crown "proceeded in the usual way, the appeal would have had the advantage of proceeding in the community where the offence was alleged to have occurred." Mustard said the Crown was disorganized, and brought all the charges separately, which lead to repeated evidence. Suncor argued that it had worked diligently to prevent the spilled oil from reaching the Athabasca River and plead not guilty. Mustard upheld Horrocks's acceptance of the defence of due diligence during the first trial and dismissed the appeals.[105]

In June 1984, after 71 days of hearings and 6,200 pages of transcripts on two of the 15 *Fisheries Act* charges, the Alberta Attorney General stayed prosecution on the other 13 *Fisheries Act* charges against Suncor. In July 1985, over a year later, and more than three years after the oil spill, Provincial Court Justice James Dimos fined Suncor $30,000 for two counts of polluting the Athabasca River.[106] Dorothy McDonald said the fine was "just a

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[103] Doug Tattrie, "Judge finds Suncor guilty," *Fort McMurray Today,* June 3, 1983; *R. v. Suncor Inc. (Fisheries Act),* Prov. Ct. J. Horrocks, Fort McMurray*, June 3, 1983*; MacLatchy and Timberg, *Prosecutions Under The Pollution Control and Habitat Protection Provisions of the Fisheries Act*, 271.
[104] *R. v. Suncor Inc.,* 1983, Alberta Court of Appeal, 219, Appeal #16352, September 15, 1983.
[105] *R. v. Suncor Inc.,* 1983, Alberta Court of Appeal, 219, Appeal #16352, September 15, 1983.
[106] "Suncor may appeal $30,000 pollution fine," *Fort McMurray Today,* July 8, 1985; *R. v. Suncor,* Prov. Ct. J. Dimos, Edmonton, May 25, 1985; David O. Cox and John E MacLatchy, eds., *Prosecutions Under The Pollution Control and Habitat Protection Provisions of the Fisheries Act*, vol. 4, Fisheries Pollution Reports (Environmental Protection Service, Environment Canada, 1988), 438.

pittance for Suncor" but was happy to see Suncor found guilty.[107] Suncor appealed. It had spent $12 million on water process improvements and $900,000 on the trial and did not want to accept the verdict.[108]

Charles Perrow argued in *Normal Accidents* about the partial nuclear meltdown at Three Mile Island that characterizing failures in large technological systems as *accidents* obscured the intrinsic risks of such systems.[109] Sara Pritchard's study of the Fukushima meltdown built on Perrow's work and Thomas Hughes's technological systems framework to argue that disasters are inherent to large envirotechnical systems. Pritchard's use of the term envirotechnical systems emphasizes that the environment is always part of large technological systems, and by analysing the historical production of those systems we can better understand their structures and inevitable failures.[110] Sean Kheraj argues in his study of oil spills on long distance pipelines that technological failure and environmental damage have been "persistent characteristics of pipeline transportation systems that have delivered successfully billions of litres of crude oil and other liquid hydrocarbons."[111] Oil spills were similarly persistent characteristics of synthetic oil production. The Suncor plant was a large envirotechnical system build to extract energy from the Athabasca environment and store part of its toxic by-products in tailings ponds. But cold temperatures and the difficulty of extracting bitumen made problems inevitable. The oil and tailings spill reflected the political and economic context in which the plant was built. Difficult financial conditions and weak regulations at the industry's outset meant that Suncor and Syncrude used the best

[107] Dave Truscott, "Fine called 'pittance,'" *Fort McMurray Today,* July 11, 1985.
[108] Robert Lynn, "Suncor appeals pollution fine," *Fort McMurray Today,* August 6, 1983.
[109] Perrow, *Normal Accidents*.
[110] Thomas P. Hughes, *Networks of Power: Electrification in Western Society, 1880-1930* (Baltimore and London: The Johns Hopkins University Press, 1983); Pritchard, "An Envriotechnical Disaster," 224.
[111] Sean Kheraj, "A History of Oil Spills on Long-Distance Pipelines in Canada," *The Canadian Historical Review* 101, no. 2 (June 2019): 7.

practical rather than the best available pollution control technologies, which were not capable of preventing pollution (Chapter 4). Environmental laws did not effectively punish pollution when Indigenous communities and government prosecuted Suncor.

Road Block

In 1982, Northlands Forest Products Ltd. started logging north of Fort McKay and driving logging trucks through the community. Fort McKay opposed the truck traffic as people in the community feared the risks to children and did not like the additional dust and noise. Fort McKay petitioned the provincial government to stop the logging.[112] The trucks were the immediate issue, but Fort McKay was more worried about the proposed CanStar and Sandalta bitumen operations. The two projects would destroy more of Fort McKay's traditional territory and route their trucks through the settlement as well. The provincial government would not build a road bypassing the community and once again refused to address the community's environmental concerns.[113] On January 14, 1983, Fort McKay First Nation and Métis blocked the road through the community. Alberta Native Affairs Minister Milt Pahl visited the road block to meet with Chief Dorothy McDonald to try to negotiate a settlement on 17 January.[114] Fort McKay told the federal government that it wanted all of the land it lost to Syncrude and Suncor to be replaced, and for it to compensate hunters and trappers for lost income and assets from when it the destroyed traplines. Chief McDonald said these demands were not "unreasonable at all when you realize what we have given up and how much my people have suffered and will continue to

[112] Doug Tattrie, "Natives protest logging plan," *Fort McMurray Today,* December 23, 1982.
[113] Doug Tattrie, "MacKay Indians set up blockade," *Fort McMurray Today,* January 14, 1983.
[114] Doug Tattrie, "Fort MacKay blockade continues," *Fort McMurray Today,* January 17, 1983.

suffer unless something changes."[115]

Athabasca Conservative MP Jack Shields opposed Fort McKay. While he agreed that Fort McKay had legitimate concerns, Shields said the community had no business blocking logging trucks and attaching other issues to the logging truck conflict, "you don't take the law into your own hands."[116] Fort McKay took down the road block on 21 January after the provincial government agreed to pay local people to control traffic through the community, hold a meeting with ministers, and commission a report to examine the community's other grievances. The trucking company was furious about the blockade. It said five drivers lost $750 per day the blockade stayed up, or about $25,000 through the duration. The company felt it was unfair that Fort McKay used its operations as leverage for what it saw as unrelated issues.[117]

Although local environmental issues often trigger resource conflicts, resource conflicts are ultimately about territorial sovereignty—the ability to determine who may do what in a certain area. Treaty 8 and the *Natural Resource Transfer Act* weakened Indigenous territorial sovereignty in the Athabasca region. Indigenous communities could oppose the oil sands projects, but not stop them. Blocking the logging trucks gave Fort McKay an opportunity to disrupt resource extraction and try to gain traction on its concerns with the effects of development. It imposed a financial cost on a resource extraction company and showed the potential of the community to disrupt other operations in the future.

[115] Ray Djuff, "MacKay natives take case to feds," *Fort McMurray Today,* January 18, 1983.
[116] Brian Laghi, "Shields condemns protest," *Fort McMurray Today,* January 18, 1983.
[117] Doug Tattrie, "Blockade down, natives jubilant," *Fort McMurray Today,* January 21, 1983.

Syncrude Expansion Hearings

In 1985, Fort McKay reported that the oil sands industry still had not delivered jobs. Alsands had promised that it would employ anyone who sought work on construction of the bridge from Fort McKay to the east side of the Athabasca River, but it hired only one local man.[118] Yet IAA and ATC's work on Indigenous employment was not a complete loss. The oil sands industry, especially Syncrude, worked harder to employ Indigenous peoples and include communities in development planning and economic opportunities from the late-1980s. In 1986, the Fort McKay First Nation established the Fort McKay Group of Companies, which provided industry services and evolved into a major business enterprise valued in the hundreds of millions of dollars.[119]

The $4.5 billion Syncrude expansion Capacity Addition Project (CAP) was the apex of Fort McKay's conflict with the oil sands industry. Syncrude applied to increase production to 12 million cubic metres per year and expand upgrading to become a bitumen upgrading centre for smaller operations. In 1986 and 1987, Syncrude formed the Syncrude Application Review Group (SARG) and the Syncrude Expansion Review Group (SERG) to bring together communities, industry, and government in an alternative dispute resolution process for development and expansion issues.[120] Nonetheless, the anticipated environmental effects of the proposed expansion caused conflict with Indigenous communities.

In 1989, Chief Jim Boucher told *Fort McMurray Today* that the oil sands industry

[118] Bethell, *Preliminary Inventory of the Environmental Issues*, 44.
[119] Fort McKay Group of Companies LP, "Corporate Information," www.fortmckaygroup.com.
[120] Syncrude Application Review Group, "Report of the Syncrude Application Review Group to the Energy Resources Conservation Board on Application No. 851024 for New Mining and Discard Areas at Mildred Lake Plant" (1986), Alberta Energy Regulator Library.

was threatening Indigenous ways of life:

> The native way of living is certainly going to be in question. We have the distinction of being in a position to either benefit from the proposals economically or we are forced in a situation where there is rapid change and calculated destruction of our natural world which pushes us in the position of not being able to adjust to that. We have to face both scenarios in order for us to be prepared for any eventuality. I think this community is going to have a very tough time in the future as the resources are developed.[121]

Syncrude president Eric Newell said environmental groups, government, industry, and Indigenous communities needed to work together to avoid a "head-on collision between those who want a safer environment and those who want energy development." Syncrude recognized that conflict with communities was time consuming and expensive. It established management committees to try to control its negotiations with Indigenous communities.[122] One of these committees was the Fort McKay Interface Committee to discuss issues between Syncrude and Fort McKay "without the need to go to an expensive and often unproductive or counter-productive public hearing." Newell described hearings as a "tremendous diversion of time and effort and all you're trying to do is outflank the other guy. That's just not the way to do it. You sit down and get everything out on the table. That's the way you work out the problems."[123] Newell tried to steer project opponents toward negotiations to limit the damage of conflict.

One of the main environmental problems with the CAP project was that Syncrude proposed to turn its tailings ponds into permanent lakes, rather than reclaiming the land. It planned to pump tailings from the bottom of its existing tailings ponds into two abandoned mine pits and cap the tailings by pouring a layer of water over the sludge, hoping that the

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[121] Lynne Smith, "Industry threatening way of life in MacKay," *Fort McMurray Today,* January 26, 1989.
[122] Syncrude took a similar approach to labour to prevent its employees from unionizing. Jim Carter interview with Adriana A. Davies, 20 June 2011, Oil Sands Oral History Project, GA.
[123] Rick Volman, "Conflicts won't protect environment: Newell," *Fort McMurray Today,* Oct 13, 1989.

sludge would settle on the bottom of the pond. Fort McKay and environmental groups contested this plan when Syncrude sought a 5-year approval extension from the ERCB in 1993. In September, *Fort McMurray Today* reported that Syncrude was "ready for battle against planned expansion." Fort McKay was to cross examine Syncrude at the expansion hearings to address concerns about tailings pond management and reclamation, which would cause irremediable harm to the community's land, culture, and Indigenous rights.[124]

On 8 September, the day the first day of the hearings, Fort McKay's lawyer Jerome Slavik asked the ERCB to adjourn the hearings because Syncrude had not included a tailings management plan as part of its Environmental Impact Assessment (EIA). Fort McKay asked for an environmental impact assessment of Syncrude's tailings plan before resuming the hearings.[125] The following day the ERCB rejected Fort McKay's attempt to have the hearings adjourned. Fort McKay argued that Syncrude needed to adhere to the province's new *Environmental Protection and Enhancement Act* and be reviewed by the newly formed Natural Resources Conservation Board (NRCB).[126] Fort McKay collaborated with the Syncrude Environmental Assessment Coalition (SEAC), an environmental advocacy group. They argued that the ERCB did not have the jurisdiction to review the Syncrude application considering the new environmental legislation and the NRCB's role.

On 10 September, the ERCB adjourned the hearings until 20 September and gave Fort McKay and the SEAC leave to appeal the case to the Alberta Court of Appeal.[127] *Fort*

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[124] Patrick Nichol, "On the hotseat: Syncrude ready for battled against planned expansion," *Fort McMurray Today,* September 1, 1993.
[125] "First Nations lawyer calls for adjournment of hearings," *Fort McMurray Today,* September 8, 1993.
[126] Patrick Nichol, "Attempt to shut down hearings rejected," *Fort McMurray Today,* September 9, 1993. The Natural Resources Conservation Board was a regulatory tribunal formed in 1991 to review the social, economic, and environmental effects of resource projects in Alberta. Alberta, *An Administrative History of the Government of Alberta, 1905-2005* (Edmonton: The Provincial Archives of Alberta, 2006), 579.
[127] Patrick Nichol, "Syncrude opponents bounce back with delay," *Fort McMurray Today,* September 10, 1993.

McMurray Today reported that the appeal started on 17 September, but also noted that Syncrude and Fort McKay had renewed a $5 million bussing contract first negotiated in 1988. On 20 September, Justice H.L. Irving reserved judgment on the appeal case for two weeks.[128] One week later, Syncrude and Fort McKay agreed that Syncrude would include a revised tailings management process and a tailings pond water capping test project. The SEAC critiqued Fort McKay's cooperation, saying that the hearing appeal was the "only opportunity to address the adequacy of the reclamation plan."[129]

While the SEAC and Fort McKay challenged the Syncrude expansion hearings, Syncrude worked on an agreement with the Athabasca Native Development Corporation (ANDC), which addressed sole-source contracting for First Nation businesses. The deal looked to build on the successes of other Indigenous businesses like Neegan Developments, Clearwater Welding, and Clearwater Trucking. Indigenous business agreements became an important aspect of negotiations between oil sands companies and Indigenous communities in the 1990s in the context of declining fur prices and the impacts of industrialization on traditional economies in the Athabasca region.[130] David Tuccaro created the Northeastern Alberta Aboriginal Business Association: "I'm excited because we're finally taking control. By setting up an economic base, we can start to take control of our own destiny."[131]

On 8 November, the Alberta Court of Appeal granted the SEAC and Fort McKay leave to appeal the Syncrude expansion hearings.[132] Several Elders from Fort McKay spoke

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[128] Patrick Nichol, "Ruling on bid to stop hearing on expansion delayed 2 weeks," *Fort McMurray Today,* September 20, 1993.
[129] Patrick Nichol, "Plan for handling of tailings unveiled," *Fort McMurray Today,* September 29, 1993.
[130] Patrick Nichol, "A job solution: Pact would give natives more of Syncrude's business," *Fort McMurray Today,* October 1, 1993.
[131] Rob Petkau, "Natives boost economic machine," *Fort McMurray Today,* October 22, 1993.
[132] Patrick Nichol, "Court will hear Syncrude expansion appeal," *Fort McMurray Today,* November 8, 1993.

at the Syncrude expansion hearings, including Alice Boucher, Francis Orr, and Ernie Lacorde. Boucher spoke of how the industry had polluted so much land it had ruined the community's livelihood. Orr spoke of how the youth would starve if they lacked training or employment in the industry, as they were losing the skills and land base to subsist in the traditional ways.[133] The ATC criticized Syncrude's record on including Indigenous peoples in economic development. MCFN band councillor Steve Courtoreille said "we don't want to be just after thoughts in Syncrude's corporate image—we do not want to be just a tax write-off for Canada's largest oil company. Jim Boucher said, "two previous agreements based on the famous Syncrude commitment have produced meagre results. As a result, we believe that there is much more Syncrude can do… to improve and expand the positive socio-economic impacts of its operation on our people."[134] The failure of some of the employment and business relationships between Syncrude and McKay may have been because Syncrude would not cooperate with Fort McKay while it opposed the CAP project.[135]

On 9 December 1993, Fort McKay dropped its opposition to the Syncrude expansion project and ceased its efforts to halt the ERCB hearings. Jim Boucher said "the number one factor has been the lack of resources to pursue it. We're out of money. It's pretty frustrating in that we can't fight for our legal rights."[136] Boucher said Fort McKay needed at least $20,000 to continue fighting the case but could not raise the money. Fighting against projects, like fighting land claims (Chapter 5), was extremely expensive.

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[133] Patrick Nichol, "Elders worry about the future of the land," *Fort McMurray Today,* November 16, 1993.
[134] Patrick Nichol, "Aboriginals say they're getting a raw deal from Syncrude," *Fort McMurray Today,* November 17, 1993.
[135] Dan Stuckless interview with Hereward Longley, 28 July 2017.
[136] Patrick Nichol, "Natives out of money to continue Syncrude expansion battle," *Fort McMurray Today,* December 9, 1993

Communities like Fort McKay did not have enough money to endlessly sustain these fights. Communities had to make hard choices about how much opposition they could afford. Alberta Environment, Syncrude, and Fort McKay signed a consultation agreement to share research and resolve environmental issues. However, many of the promises of this agreement, especially industry sharing environmental research, were never fulfilled.[137] Fort McKay developed its own one-window approach to consultation. It reviewed the problems with proposed developments to mitigate or mediate resolutions. Fort McKay continued to take part in hearings to advocate for environmental protection and minimize industry damage to traditional ways of life and knowledge. But after the CAP hearings, Fort McKay worked to maximize the economic benefits of bitumen extraction.[138]

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Under Eric Newell's tenure as CEO and chair from 1989 to 2003, Syncrude became a more proactive employer of Indigenous peoples. In a 2012 interview, Newell told the Calgary Herald, regarding the hiring of Indigenous peoples in the 1980s, that Syncrude

> . . . made every mistake in the book . . . We thought we were in a hiring program, but as fast as we could hire young aboriginal workers, we would let them go. We realized that taking some person from a little community of 250 people and throwing them into an industrial complex like Syncrude was not a formula for success.

Syncrude introduced Indigenous education and development programs that eventually led the company to become a significant Canadian employer of Indigenous peoples. Newell was later made an Officer of the Order of Canada for his Indigenous employment initiatives, and he received the Award for Excellence in Aboriginal Relations from the

[137] Dan Stuckless interview with Hereward Longley, 28 July 2017
[138] Stuckless interview.

Canadian Council for Aboriginal Business.[139] Although Indigenous people's efforts to challenge the environmental consequences of bitumen extraction in the 1980s failed, Indigenous employment and business development were successful.[140]

While the economic aspects of bitumen extraction improved for Fort McKay, the environmental consequences persisted. Alice Boucher, a Métis Elder from Fort McKay born in 1920 described the effects of the oil sands industry on Fort McKay's traditional land use and the paradoxical situation the community faced as the oil companies employed more people: "with the jobs and all, it's way better than before. Lots of time they damage the country but still, I can't say nothing much me. Syncrude and Suncor, they support lots of people. Otherwise it would be hard." But she also spoke of the effect of bitumen extraction and distrusted industry promises to reclaim the land:

> And now, when you go around Syncrude area, the way it used to look, now it's ever different. And they say they're gonna put it back the way it used to look, that's the way they're gonna put it. That's the way they says, do you believe it? Maybe some of them she could try. At Suncor too, they invited us for dinner. Suncor. Now, like the Syncrude too, we do that. We eat there. We drive around, they drive us around, tour it. Now this one we do that. Suncor. About three years ago. And that tar island they call it. Across that big hill we used to pick all the berries, all kinds of berries. Cranberries, blueberries, lots, raspberry, any kind. Now we go across that bridge that they made. Ohhhh, my berries all gone! [laughs] No, your berries will come back some day, he told me. How? I said to come back. They grow again he says, what they used to look. I don't think they gonna look the same. [laughs] Yeah, it used to be like that. It used to be a good place there. You know. Nice to go camping. You could see way over the hill. Nice place. Nothing now. We don't have nothing. It's really different. Not one stick now there. You could see it. Just tar, everything. All gone. But we don't go all over in the bush right now. We used to pick berries all kinds. Big too. Yeah, everybody did that, it was nice.

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[139] Governor General of Canada, Order of Canada: Eric P. Newell, O.C., A.O.E., M.Sc., LL.D., F.C.A.E., P.Eng., October 21, 1999, http://archive.gg.ca/honours/search-recherche/honours-desc.asp?lang=e&TypeID=orc&id=5572; Canadian Council For Aboriginal Business, "Eric P. Newell, O.C. to receive the Award for Excellence in Aboriginal Relations," September 17, 2012, https://www.ccab.com/uploads/File/Excellence_Award-_2012.pdf.

[140] Robert Remington, "Remington: 'Syncrude Solution' May Tap Potential of Aboriginals," *The Calgary Herald*, June 8, 2012.

She described feeling helpless, unable to stop industrialization:

> But nothing us, we can do. Government people. What she want to do, she could do it. Just like god for us. [laughs] Never mind if we don't like it, they have to do it. Nobody can stop them…[141]

Alberta's system of controlling and regulating land and resources suppressed Indigenous land rights. By the 1990s, having lost the land-based economy to industrial pollution and changing fur markets, communities chose to pursue new opportunities in the bitumen business. Their interventions could not slow development or prevent the environmental consequences of bitumen extraction.

Conclusion

The commercial development of the oil sands industry from the 1960s to 1980s, combined with the postwar industrialization of northeastern Alberta, radically transformed the environmental and economic landscapes of the Athabasca region. The environmental effects of oil sands operations on nearby Fort McKay undermined the community's traditional economy, while failing to include Fort McKay residents in the jobs and economic benefits associated with industrialization. Politicians and developers argued that the economic benefits of development for Indigenous people would offset the negative environmental consequences of bitumen extraction. But the oil sands industry socialized the environmental costs of development by supressing Indigenous opposition to the environmental destruction its operations caused, while excluding communities from the economic benefits of development.

Indigenous peoples in the Athabasca region fought for environmental justice and

[141] Craig Campbell et al., *Mikwâkamiwi Sîpîsis: Stories and Pictures from Métis Elders in Fort McKay* (Edmonton: CCI Press, 2005), 36-40.

economic participation by making interventions at ERCB hearings, voicing their concerns to politicians, commissioning impact assessment studies, and litigating against pollution and economic exclusion. Nevertheless, Indigenous organizations were unable to make industry or government take meaningful action to protect their environment. Despite the environmental effects reported by the Fort McKay community, neither industry nor government acknowledged the severity of these environmental concerns. Government and industry disregard for Indigenous peoples' environmental concerns has continued during recent booms in oil sands development, exposing the continued weaknesses of Indigenous and environmental rights in the Canadian legal system.[142]

Indigenous peoples suffered from underemployment and inadequate economic participation in the oil sands industry from the 1960s to 1980s. The 1976 Syncrude hiring agreement failed, but it represented industry's intention to include Indigenous people in the new industrial economy. Forming the Athabasca Tribal Council, Indigenous communities acted independently and effectively within the Canadian legal and political systems. The ATC took Alberta's refusal to sign an affirmative action program to the Supreme Court. Though unsuccessful, the ATC persuaded the federal government to require that Alsands create an Indigenous hiring program in exchange for international oil prices under the National Energy Program. The ATC's hiring agreement with the federal government for the Alsands project and the earlier Syncrude agreement, and the efforts of leaders like Dorothy McDonald and Jim Boucher, were important early steps toward the economic

[142] Weber, "Court Denies Aboriginal Bid to Block Ruling on Jackpine Expansion" *Ottawa Citizen*, 26 November 2012; David Boyd, *Unnatural Law: Rethinking Canadian Environmental Law and Policy* (Vancouver: UBC Press, 2003); Janelle Marie Baker and Clinton N. Westman, "Extracting knowledge: Social science, environmental impact assessment, and Indigenous consultation in the oil sands of Alberta, Canada," *The Extractive Industries and Society* 5 (2018).

development of First Nations communities in the oil sands region.

Chapter 9

Conclusion

This dissertation has shown how the environmental, economic, and social consequences of the first bitumen boom from the 1960s to the 1980s triggered conflicts between Indigenous peoples, the Governments of Canada and Alberta, and the oil sands industry. It argues that these conflicts were rooted in an evolving system of control and regulation of land and resources in the Athabasca region, which marginalized Indigenous land use and encouraged bitumen extraction with limited environmental regulation. This dissertation contributes to literatures assessing settler colonialism in the context of resource extraction, political economic histories of hydrocarbon extraction, and histories of environmental governance. While scholars of settler colonialism have argued that settler colonialism is defined by a logic of elimination, this dissertation has shown how government and industry used a logic of impermanence to justify appropriating Indigenous land and resources as temporarily excluding them from extractive spaces, rather than permanent resettlement. The state's legal and regulatory systems worked to suppress and undermine Indigenous rights and Indigenous communities' ability to obstruct extraction. Yet after bitumen extraction, Indigenous land use is impossible, even in the few small areas the industry has reclaimed. This dissertation shows how the resistance and resilience of Indigenous communities shaped industrial colonization by challenging extraction and the legality of dispossession and carving out a space in the industrial economy. The issues that developed during first bitumen boom—land claims, disputes about the impacts and benefits of bitumen extraction for Indigenous peoples, environmental regulation, and debates about the place of the oil industry in the Alberta and Canadian economy—have persistent

consequences and relevance to the present.

Conflicts between Indigenous peoples, government, and extractive industry were rooted in disputes about sovereignty over land and resources. This dissertation examined the historic importance of bitumen extraction in the treaty processes and the relationship between bitumen and conflict in the Athabasca region. The Dominion of Canada began its extension of sovereignty over the North when it purchased the HBC's rights and authority over Rupert's Land and the North-Western Territory in 1870. Maps produced by the Dominion government and later by Alberta illustrated Canadian sovereignty and omitted the land use and occupancy of Indigenous peoples. With the earlier numbered treaties, the Crown sought to eliminate Indigenous occupation and move Indigenous peoples onto reserves and distribute the land for agricultural settlement, which relates to classic examples of the theory of settler colonialism. With Treaty 8 in 1899, the Crown wanted control of the region's resources, including bitumen.

Government and industry used legal tools to deny Indigenous rights to extractive spaces and justified the destruction of Indigenous land and resources as temporary, partial exclusion rather than permanent resettlement.[1] Law and cartography played an important role settler colonialism by creating new layers of rights to settlement and extraction that overlaid existing Indigenous homes and cultural landscapes. The Dominion created the province of Alberta in 1905 and gave it ownership of Crown lands and natural resources with the *Natural Resources Transfer Agreement* (NRTA) in 1930. Do so, it reduced the

[1] Sarah Carter, *Aboriginal People and Colonizers of Western Canada to 1900* (Toronto: University of Toronto Press, 1999); John Sandlos and Arn Keeling, "Claiming the New North: Development and Colonialism at the Pine Point Mine, Northwest Territories, Canada," *Environment and History* 18 (2012); Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8, no. 4 (2006).

treaty right to commercial subsistence hunting and fishing to hunting and fishing solely for food, and made the province responsible for providing First Nations with Crown land to settle Treaty Land Entitlement Claims later in the 20th century. The registered trapline, which Alberta implemented in the early 1940s, created trapping licenses and confined all trapping to specific areas. The registered trapping system redefined collective Indigenous land uses as individually licensed commercial harvesting. Meanwhile, the Alberta and federal governments mapped and reserved bitumen leases, overlaying Indigenous land use areas with a new geography of extraction. These maps and laws did not immediately change the lives and land use of Indigenous peoples: they created a framework that later enabled the oil industry to extract bitumen and the state to suppress Indigenous rights.

By showing how the shifting global oil economy drove the industrialization of the Athabasca region, this thesis has argued that gaining a fuller and more nuanced understanding of environmental change and industrial colonization means considering the technological, economic, and political dimensions of energy history. While Thomas Hughes and Christopher Jones describe technological momentum, wherein the large technological systems create path dependence and shape society by their continued growth, the political and economic momentum of the oil sands industry was driven by the political importance and the sunk and prospective costs of the GCOS and Syncrude projects, which commanded continuing investment and shaped development policy.[2] The provincial and federal governments made significant investments during the energy and financial crises of the 1970s, which lent the oil sands industry political and economic momentum. The rapid

[2] Christopher F. Jones, *Routes of Power: Energy and Modern America* (Cambridge, Mass.: Harvard University Press, 2014); Thomas P. Hughes, *Networks of Power: Electrification in Western Society, 1880-1930* (Baltimore and London: The Johns Hopkins University Press, 1983).

increases in oil prices triggered conflicts between the federal and Alberta governments over the rents and structure of the energy industry, which culminated in the dispute over the 1981 National Energy Program. Global oil prices started to fall in 1982 as oil producers developed new sources petroleum. The lower oil prices made the oil sands industry an unattractive source of oil by the mid-1980s. Developers cancelled planned projects including Alsands and CanStar. Premier Ralph Klein's Progressive Conservative government sold Alberta's position in Syncrude in the 1990s (at a low point in the company's valuation) and reduced royalties, which weakened the provincial governments financial positioning to the industry when prices increased in the late 1990s and early 2000s.[3]

This dissertation contributes to environmental regulation literatures by showing how this period marked the beginning of a long-term process of clientelist agency capture and bureaucratic slippage as the ERCB moved towards accommodating the needs of the oil industry.[4] Peter Lougheed's Progressive Conservative government expanded the Social Credit government's environmental regulations in the 1970s and worked to ensure that industrial development would not cause social and environmental harm. Alberta formed the Alberta Oil Sands Environmental Research Program (AOSERP) with the federal government to study the impact of the oil sands industry in 1975. When Alberta invested hundreds of millions of dollars in the oil sands industry, it created a conflict of interest, as

[3] Graham D. Taylor, *Imperial Standard: Imperial Oil, Exxon, and the Canadian Oil Industry from 1880* (Calgary: University of Calgary Press, 2019), 227.
[4] Debra J. Davidson and Scott Frickel, "Understanding Environmental Governance: A Critical Review," *Organization & Environment* 17, no. 4 (2004): 474; Shari Clare and Naomi Krogman, "Bureaucratic Slippage and Environmental Offset Policies: The Case of Wetland Management in Alberta," *Society & Natural Resources* 26, no. 6 (2013): 673; William R. Freudenberg and Robert Gramling, "Bureaucratic slippage and failures of agency vigilance: The case of the environmental studies program," *Social Problems* 41, no. 2 (1994).

the government's investments led it to sideline environmental regulation and overlook the growing environmental impacts of the oil sands industry by the late 1970s. The PC government made the Energy Resources Conservation Board (ERCB) an umbrella regulator, which would manage all regulatory decision making, rather than individual departments. The PC government blocked the Environment Conservation Authority from holding public hearings on the environmental effects of bitumen extraction, declined to order Syncrude to use the best available sulfur dioxide emissions reduction technology, and interfered with AOSERP, which contributed to the program's cancellation in 1980.

At the end of the second bitumen boom, the oil sands industry destroyed over 900 square kilometres of forest and wetlands, of which it has only reclaimed 11 per cent.[5] The Alberta Energy Regulator estimates that it will cost over $130 billion just to clean up the tailings ponds, which is greater than the combined market capitalization of the five biggest oil sands operators: Suncor, Cenovus, Husky, and Imperial Oil.[6] Alberta has continued to carefully accommodate oil interests in environmental policy and has yet to establish environmental research, monitoring, and policy that adequately assesses the impacts of the oil sands industry.[7] There is still no monitoring of social and cultural impacts on First Nations and Metis. The most recent attempt to better monitor the environmental impacts of

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[5] Canadian Association of Petroleum Producers, "Myth: The oil sands are destroying Canada's boreal forests," (2020), https://context.capp.ca/energy-matters/2019/mythbuster_oil-sands-extraction-and-canadas-boreal-forest

[6] Mike DeSouza, Carolyn Jarvis, Emma McIntosh, David Bruser, "Cleaning up Alberta's oil patch could cost $260 billion, internal documents warn," *Global News,* 1 November 2018. https://globalnews.ca/news/4617664/cleaning- up-albertas-oilpatch-could-cost-260-billion-regulatory-documents-warn/

[7] Shari Clare, Naomi Krogman, and Ken J. Caine, "The 'Balance Discourse': A Case Study of Power and Wetland Management," *Geoforum* 49 (2013); Clare and Krogman, "Bureaucratic Slippage and Environmental Offset Policies."; P. Gosselin et al., *Environmental and Health Impacts of Canada's Oil Sands Industry*, Expert Panel Report: Royal Society of Canada (2010); Peter Dillon et al., *Water Quality Data Review Committee Final Report*, Prepared for Government of Alberta (2011); E. Dowdeswell et al., *A Foundation for the Future: Building an Environmental Monitoring System for the Oil Sands*, Oil Sands Science Advisory Panel report submitted to the Minister of Environment (2010).

the oil sands industry was the Joint Oil Sands Monitoring program (JOSM). Indigenous communities boycotted JOSM as it had not consulted or accommodated them. JOSM was cancelled in 2015 after just three years in operation, in part because Alberta was reluctant to cooperate with Environment Canada as an equal partner in oil sands monitoring and the program did not meet its objectives.[8] By failing to conduct high quality, long term, independent scientific research into the environmental impacts of the oil sands industry, Alberta has missed opportunities to present a clear picture of environmental change in the Athabasca region. Without meaningful and independent monitoring and research, environmental policy in the oil sands region will continue to be a speculative endeavour that hastens bitumen extraction behind a facade of environmental stewardship.

Alberta's early experiences in regulating the oil sands industry show that pressure to respond to changing circumstances can divert otherwise progressive regulatory regimes. Oil price increases, inflation, and energy security concerns amplified industry voices and drew regulatory concessions from the Alberta government. When governments invest in high stakes, financially tenuous, and environmentally destructive energy projects that become integral to a regional economy, it creates a conflict of interest that marginalizes environmental regulation and research. In 2018 the federal Liberal government purchased the Kinder Morgan Trans Mountain pipeline for $4.5 billion.[9] In 2020, the Alberta PC government invested $1.5 billion in the TransCanada Keystone XL pipeline.[10] These investments show how the oil sands industry's political and economic momentum has

[8] Paul M. Boothe, *Review of the Alberta Environmental Monitoring, Evaluation and Reporting Agency*, Alberta Environment and Parks (Edmonton, 2015), 12.
[9] Kathleen Harris, 'Liberals to buy Trans Mountain pipeline for $4.5B to ensure expansion is built,' *CBC News,* May 29, 2018, https://www.cbc.ca/news/politics/liberals-trans-mountain-pipeline-kinder-morgan-1.4681911.
[10] Tony Seskus, "Why Alberta is throwing billions behind the Keystone XL pipeline," April 1, 2020, https://www.cbc.ca/news/business/analysis-alberta-invests-in-keystone-1.5516144

compelled government to continue to invest in bitumen despite a substantial decline in oil prices since 2015 and growing public pressure to transition to a low carbon energy system. It also shows that development and regulatory issues transcend time and characterize a fundamental problem in the governance of countries and provinces that depend on the extraction and export of primary resources.

This dissertation contributes to literature examining land claims and energy conflicts, showing that Treaty Land Entitlement claims and land caveats were an important way that Indigenous communities challenged resource extraction. The development of the oil sands industry coincided with resurgent Indigenous political activism in the 1960s and 70s, which led to landmark cases in Aboriginal law and the beginning of the land claims process. Indigenous communities and political organizations including the Indian Association of Alberta (IAA), the settlements of Trout, Peerless, Whitefish, Loon, and Lubicon Lakes, and the Fort McKay First Nation and Fort Chipewyan Cree Band (now the Mikisew Cree First Nation, MCFN) used caveats and Treaty Land Entitlement (TLE) claims to pressure government to settle land claims in the oil sands region and elsewhere in the province, and to leverage economic benefits from development. The Alberta government fought to weaken and undermine competing Indigenous claims to hydrocarbon-rich lands in northern Alberta. Alberta refused to transfer lands to transfer lands to settle claims unless the energy minister determined that the requested lands did not contain valuable resources.

Indigenous communities in the oil sands region had to balance competing priorities of sustaining their relationships with the land, carving out economic space in the industrial economy, and picking careful legal battles to protect their cultures, ecosystems, and well-

being for future generations. While a community may have a promising claim, the huge cost and time needed to pay the lawyers and expert witnesses necessary to fight these cases, which government contests with seemingly limitless resources, make many legal actions difficult to sustain.[11] Alberta continues to champion its jurisdiction over Crown lands and minerals. The province has always taken a rigid interpretation of the treaties and Aboriginal rights in the courts. It interprets Treaty 8 as a land surrender agreement that contemplates development and would prefer not to have to consult with Indigenous communities, which it considers to be expensive, time-consuming, and another instance of red tape getting in the way of development.[12] Although the province promotes the Athabasca bitumen deposits as "Alberta's oil sands," provincial sovereignty is not uniform and uncontroversial.[13] Rather, Alberta's ownership of the Athabasca region evolved from a gradual, patchwork extension of the Dominion of Canada with Treaty 8 and the NRTA, which remains contested by Indigenous peoples.

This study contributes to literatures on the 20th century fur trade, by showing how the development and environmental impacts of the oil sands industry coincided with a period of rapid change in the fur trade and simultaneously a half-century of dispossession of Indigenous people from their traditional lands and land-based activities.[14] Since the NRTA had reduced Treaty 8 harvesting rights to subsistence hunting rights only, and

[11] Yamri Taddese, "Feds pouring big money into aboriginal litigation," *Law Times*, 11 November 2013.
[12] David Laidlaw and Monique Passelac-Ross, *Alberta First Nations Consultation and Accommodation Handbook. Occasional Paper #53*, Canadian Institute of Resources Law (Calgary, 2016); Monique M. Passelac-Ross and Verónica Potes, *Crown Consultation with Aboriginal Peoples in Oil Sands Development: Is it Adequate, Is it Legal? Occasional Paper #19*, Canadian Institute of Resources Law (Calgary, 2007).
[13] For one example see: Alberta Energy, "Our Business: Oil Sands," 2017, http://www.energy.alberta.ca/OurBusiness/oilsands.asp
[14] Arthur J. Ray, *The Canadian Fur Trade in the Industrial Age* (Toronto: University of Toronto Press, 1990); Patricia McCormack, "How the (North) West was Won: Development and Underdevelopment in the Fort Chipewyan Region" (PhD University of Alberta, 1984).

Alberta regulated trapping as a commercial activity, First Nation and Métis trappers could not prevent GCOS and Syncrude from destroying several important and traplines and summer hunting and fishing camps in the Fort McKay area. Oil companies worked to limit the compensation they paid to displaced trappers. The Trappers Compensation Review Board (TCRB) was slow, ineffective, and would only compensate trappers for material losses to equipment and income. The destruction of Indigenous traplines meant the destruction of Indigenous land, economy, and culture. In the mid-1980s, fur-bearing animal populations declined as part of a cyclical population crash, and animal rights campaigners started calling for government to ban leg-hold traps. In 1987, fur prices collapsed, falling each year until 1990, making it uneconomical for trappers to keep trapping. The crash undermined a key part of the land-based economy in the Athabasca region and forced trappers to seek work in the oil sands industry.

This dissertation has shown how municipal colonialism intersected with resource extraction in northern Canada.[15] When the bitumen boom caused Fort McMurray's population to by 25 times, industry and government envisioned Fort McMurray as a burgeoning frontier energy metropolis—a vision that did not include the Métis and First Nation people who made Fort McMurray and the region their home for many generations. The town collaborated with Northward Developments, Syncrude's housing subsidiary, to evict people from Moccasin Flats, a historic Métis settlement at the Snye at the confluence of the Clearwater and Athabasca Rivers. Whereas for the Métis, Moccasin Flats was a home, refuge, and neighbourhood, the town, mostly occupied by settlers—viewed the Snye residents through a racist lens as Indigenous squatters. The Moccasin Flats evictions were

[15] Jordan Stanger-Ross, "Municipal Colonialism in Vancouver: City Planning and the Conflict over Indian Reserves, 1928–1950s," *The Canadian Historical Review* 89, no. 4 (2008).

an example of how the legal colonization of the Athabasca Region through Treaty 8, Métis Scrip, and the NRTA created a framework within which the settler state and oil industry could dispossess Indigenous peoples of their lands. The evictions caused intergenerational trauma for the evicted families. The Fort McMurray Métis community resisted the evictions, and in 2018 challenged the Regional Municipal of Wood Buffalo to compensate the community. In the summer of 2020, this challenge, based on a co-authored report and the research in this dissertation, resulted in the Fort McMurray Métis receiving a 7.8 acre land transfer from the Municipality and a $16.2 million federal grant to build a cultural centre.[16]

The environmental consequences of bitumen extraction and the industry's economic exclusion of Indigenous peoples resulted in legal conflict in the 1980s with Fort McKay and the other Athabasca Tribal Council nations: Athabasca Chipewyan First Nation, Chipewyan Prairie First Nation, Mikisew Cree First Nation, and Fort McMurray First Nation in the oil sands region. Industry's plans to hire Indigenous workers had failed to meaningfully employ large numbers of local people. The Athabasca Tribal Council presented a unified voice on Indigenous responses to the Industry and brought a precedent setting case to the Supreme Court of Canada that affirmative action programs were not reverse discrimination. Bitumen extraction destroyed land around Fort McKay, released toxic atmospheric emissions, and polluted the Athabasca River. The numerous instances in which the oil sands industry spilled oil into the Athabasca River demonstrated that oil spills

[16] Laura Beamish, "Council approves MacIsland land sale to McMurray Métis for cultural centre," *Fort McMurray Today,* June 10, 2020. https://www.fortmcmurraytoday.com/news/local-news/council-approves-macisland-land-sale-to-mcmurray-metis-for-cultural-centre Hereward Longley and Tara L. Joly, *The Moccasin Flats Evictions: Métis Home, Forced Relocation, and Resilience in Fort McMurray, Alberta*, Fort McMurray Métis Local 1935 (September 2018).

were not black swan events, but a normal outcome of synthetic oil production.[17] Fort McKay brought charges against Suncor, testing some of the environmental laws passed by the PC government in the early 1970s. Often complicit in the environmental impacts of bitumen extraction, the PC government could not ignore the severity of the spill, and had to support Fort McKay's litigation. The case's shambolic proceedings revealed the shortcomings of Alberta's environmental law for prosecuting polluters.

Fort McKay's conflict with the oil sands industry culminated in its resistance to the Syncrude Capacity Addition Project. Fort McKay opposed the ERCB's approval of the project because Syncrude did not include a tailings management plan in its Environmental Impact Assessment, and that the project did not adhere to recently updated environmental laws. Fort McKay eventually dropped its opposition to the Syncrude expansion in 1993. Faced with a collapsed land-based economy, and financially drained by litigation and interventions in project hearings, the community opted to change its approach towards business development and negotiation. Some scholars, such as Ian Urquhart, argue that Indigenous communities did not have the administrative capacity to challenge the oil sands industry at the outset of the more recent boom, which prevented them from speaking out about the ecological damage that bitumen extraction caused.[18] This dissertation has instead shown that while Indigenous communities in the oil sands industry suffered severe ecological, cultural, and economic effects of the development of the oil sands industry, they challenged the oil sands industry and Alberta's industrial colonization of the Athabasca

[17] Charles Perrow, *Normal Accidents: Living with High-Risk Technologies*, 2nd ed. (Princeton: Princeton University Press, 1999); Sara B. Pritchard, "An Envirotechnical Disaster: Nature, Technology, and Politics at Fukushima," *Environmental History* 17 (April 2012); Sean Kheraj, "A History of Oil Spills on Long-Distance Pipelines in Canada," *The Canadian Historical Review* 101, no. 2 (June 2019).
[18] Ian Urquhart, *Costly Fix: Power, Politics, and Nature in the Tar Sands* (Toronto: University of Toronto Press, 2018), 164.

region, and fought to carve out space in the new industrial economy from its earliest days.

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