Although the bitumen extraction industry in northern Alberta has been in operation for less than fifty years, it has already left a significant footprint, not only on the landscape but also on the lives of Aboriginal peoples living in the region. For some First Nations who are proximal to bitumen sands development, neoliberal globalization diminished the heavy hand of the state and thus pried open some space for First Nation self-determination with the conclusion of land claims settlement (Slowey 2008). It did so, first, by providing the government with the impetus to settle unresolved land claims, a necessary step to achieve the goal of attracting and maintaining investment opportunities in the resource extraction sector. Second, it provided the motivation for industry to forge impact and benefit agreements (IBAs, also known simply as benefit agreements, BAs) with local communities. These agreements—which have for the most part been concluded confidentially, outside the environmental and labour regulatory frameworks of government—provide a mechanism through which Aboriginal groups can secure local benefits (such as employment) from resource-extraction activities (Mills and Sweeney 2013, 8). As recently as fifteen years ago in the Aboriginal community of Fort Chipewyan, located a few hundred kilometres downstream of bitumen extraction sites, the enthusiasm was palpable for the new economic opportunities that oil provided.

As the pace of development accelerated, however, the concerns of local communities over environmental degradation amplified. Although hypergrowth since 2005 has fuelled wealth generation within local Aboriginal communities, it has also created alarm over the effects of pollution on both human and ecosystem health. The result has been deep divisions among an already diverse community; accusations that the government is failing in its fiduciary duty to consult communities with respect to bitumen sands development; and public
relations campaigns by industry, governments, and leaders that seek to win the hearts and minds of the international public concerned with human rights and environmental integrity. As the stakes increase, the discourse becomes more heated. Indeed, some human rights observers now claim that Alberta is committing “slow industrial genocide” of Aboriginal peoples by failing to put the brakes on regional industrial development until outstanding issues are resolved (Huseman and Short 2012).

As Jay Smith sets out in chapter 3, liberal democratic processes require a public space for deliberation of policy issues, a space where a wide variety of citizens are engaged and special attention is paid to ensuring that minorities within the polity are not marginalized. This chapter considers the case of one such minority: the First Nations peoples of Fort Chipewyan. It investigates two questions: Does bitumen extraction come at the cost of treaty rights? What insights can be drawn from this case about democracy in Alberta specifically, and Canada more generally? We begin the chapter by providing the historical, geographic, and political context of the Mikisew Cree First Nation (MCFN) and the Athabasca Chipewyan First Nation (ACFN), with a particular emphasis on the relationship of people to the natural environment. We then investigate the contours of the debate about the environmental consequences of bitumen extraction from the perspectives of both scientific and traditional knowledge. Finally, we examine the consultations with First Nations that are informing regional oil extraction decisions, in order to assess whether the minority voice in northern Alberta is being heard within public spaces where bitumen development policy is deliberated.

This analysis reveals that the state is retreating from its traditional role as the instrument through which public interest and concerns are expressed. The new, truncated role of the state reflects a larger neoliberal conceptualization of citizenship that enhances economic efficiency through maximizing the role of the market and minimizing political negotiation. This market-based version of citizenship is a result of Alberta’s and Canada’s corporate and political elites leveraging their economic and political power to sideline public debate about the social and environmental consequences of bitumen development. In that process, democracy in Alberta and in Canada is diminished. Those who live closest to bitumen extraction sites—among them, Fort Chipewyan’s First Nations—feel most acutely the consequences of this diminished brand of citizenship and debate.
Alberta's bitumen extraction industrial complex is located in the Regional Municipality of Wood Buffalo. The second-largest of eight communities in this municipality, Fort Chipewyan lies approximately three hundred kilometres north of Fort McMurray, on the north shore of Lake Athabasca and on the boundary of Wood Buffalo National Park. About two hundred kilometres north of the bitumen sands development, the Athabasca River empties into Lake Athabasca and forms the Athabasca Delta, which surrounds the community with a landscape thick with boreal forests, wetlands, and swampy muskeg that nourishes numerous species. Until very recently, Fort Chipewyan's Indigenous peoples depended largely on the local animals, fish, and vegetation found in this diverse, cold-hardy boreal ecosystem. Thus, the natural environment figures prominently in their culture and identity in ways that at times converge but sometimes diverge with the interests of those seeking to protect the natural environment.

Founded in 1788, Fort Chipewyan is the oldest settlement in Alberta and was a key outpost for the Athabasca region during the fur trade era. While Euro-Canadians from the south typically think of this northern community as isolated, historically it has been an important site of economic and cultural convergence of people with different ethnic and linguistic backgrounds (McCormack 2010, 5). Today, the community is accessible by plane year round, by ice road in the winter, and by boat from Fort McMurray in the summer. With a population of only twelve hundred, Fort Chipewyan is a fraction of the size of the region’s largest community, Fort McMurray, which boasts a population of over seventy-two thousand, including a “shadow population” of about two thousand: temporary residents who are employed by an industrial establishment and live in the community for more than thirty days. An additional forty thousand such temporary residents live in the surrounding service area (Alberta, Municipal Affairs 2012, 10). The hamlet of Fort Chipewyan is a plural society, consisting primarily of three Aboriginal groups: the ACFN, the MCFN, and Fort Chipewyan Métis Local 125. In 2012, the MCFN had a total registered population of 2,841, of which 72 percent lived off-reserve, primarily in Fort Chipewyan, Fort McMurray, Fort Smith, and Edmonton. The ACFN had 1,071 registered members, with over 78 percent living off-reserve (Canada, AANDC 2012). The on-reserve MCFN population represents more than half the number of the residents of Fort Chipewyan; it is the largest and most affluent of the
three Aboriginal groups living in the hamlet. Because of Fort Chipewyan’s isolation, a subsistence lifestyle based on hunting and trapping persisted until the postwar period. The diet of local people still comprises a significant proportion of “country food” that is derived from the land (Wein and Sabry 1990, 188).

For the inhabitants of the region, the sticky tar-like substance in the sand was well known historically: Indigenous peoples often used it to patch their canoes. Early Canadian geologists recognized the value of bitumen sands as oil; they also discovered natural gas, gold, silver, copper, and other valuable minerals in the region (Fumoleau [1975] 2004, 55–57). The influx of fifty thousand gold rush prospectors into the area, beginning in 1897, pushed the Canadian government to negotiate Treaty 8 two years later. This treaty, which covered 850,000 square kilometres of land (the largest territory of any treaty to date), guaranteed annuities of five dollars per person, provisions for health care and education, and exemptions from taxation and military service, as well as affirming the continuing freedom to hunt, fish, and trap (56, 69). The Government of Canada, however, did not formally allocate any land in the years following the signing of the treaty, although it did regulate all hunting and trapping in the area. In René Fumoleau’s assessment, “Once the treaties had been signed, they were forgotten and disavowed by all levels of Government—the spirit of friendly co-existence of the Indians and non-Indians disappeared as soon as the ink dried up on the treaty documents” (413–14). The desire of Aboriginal groups to control the lands they traditionally inhabited is the basis of specific land claims relating to grievances regarding government obligations as outlined in specific treaties and of comprehensive land claims that have not yet been dealt with through legal means. As settlement increased, local Aboriginal groups asked for reserves. In 1921, the federal government responded with an amendment (rescinded only in 1951) to the Indian Act of 1876 that made it illegal to hire a lawyer to sue the government. The creation of Wood Buffalo National Park in 1922 further restricted Indigenous use of traditional lands. Parks are indeed symbolic of the divergent interests of Aboriginal peoples, who wish to use wilderness land to sustain life, and conservationists, who want to protect wilderness from human use.

After repeated ACFN requests, the government approved Indian Reserve 201 at the southeast end of Lake Athabasca in 1937 and allocated the land in 1940. The reserve would not be officially declared until 1954, however—almost fifty-five years after Treaty 8 was signed (ACFN 2003, 69). Nonetheless, a designated “Indian reserve” gave the ACFN the ability to control its own land and,
well into the 1960s, ACFN members generated 30 percent of their income from trapping. In contrast, the MCFN gained control of its land comparatively recently. Over a period of sixty-four years, it made forty-one requests to acquire the reserve lands promised in Treaty 8. These requests were denied (Selin 1999, 13–16). Many MCFN members turned to wage labour; by the 1950s, many had moved from the bush into the community of Fort Chipewyan, which was developing infrastructure, social services, and, perhaps most importantly, schools (Slowey 2008; Tuccaro 1990, 239).

While the petroleum potential of the region long been known and its eventual development anticipated (see Fumoleau [1975] 2004, 26), technological limitations and the low price of oil and gas in the early 1970s did not make private sector investment worthwhile. During World War II, as part of its war effort, the federal government began identifying bitumen reserves, while the provincial government began testing processes to separate the bitumen from the sand. By 1962, the Great Canadian Oilsands Company (now Suncor) began extracting oil from sand (EUB 2000, 4). The stage was thus set for the development of Alberta’s bitumen sands, a prospect that generated the political will to settle outstanding land claims with the MCFN. The First Nation reached a tentative agreement with the federal government in 1973; however, given the requirements of the 1930 Natural Resources Transfer Act, Alberta’s consent was needed (Slowey 2008, 10). Although Alberta agreed to transfer land in 1975, the agreement was withdrawn in 1977 when the MCFN made it clear that it intended to lay claim to parcels of the bitumen sands in its overall settlement (Selin 1999, 16). After nine more years of trilateral negotiations with both levels of government, the MCFN agreed to take a much reduced amount of land in exchange for cash and, importantly, to drop its claims to bitumen-rich lands. As Gabrielle Slowey has argued elsewhere, the impetus for governments to come to the 1986 agreement, which clarified issues of land title and resource ownership, was to provide a stable environment conducive to investment in bitumen extraction (Slowey 2008, 10).

Settling the outstanding land claims associated with Treaty 8 paid handsome dividends to capital interests, as well as to the governments of Alberta and Canada. Over the past four decades, the political and economic value of bitumen has increased dramatically because of growing concerns over energy security, at the same time that new, sophisticated technologies have brought down the cost of production. Consequently, there has been a proliferation in the number of companies operating in the region, from British Petroleum to

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China’s Sinotec. The population of Fort McMurray has ballooned from 6,123 in the 1970 census to over 72,000 in 2012 (Alberta, Municipal Affairs 1970, 2; 2012, 10). Alberta became a key driver of the Canadian economy.

Treaty 8 has also been beneficial for the community of Fort Chipewyan. After the conclusion of the Treaty Land Entitlement (TLE) settlement in 1986, the MCFN began working with the oil company Syncrude to develop new businesses. The result is the Mikisew Cree Group of Companies, which is now the largest employer within the community; it comprises twelve companies ranging from oil field servicing to sport fishing. Other community members participate in oil companies’ “fly-in, fly-out” work programs. The most renowned band member is Dave Tuccaro, who worked his way up from a heavy equipment operator to become a multimillionaire entrepreneur and the founding president of the Northeastern Alberta Aboriginal Business Association. Tuccaro estimates that companies run by the Mikisew Cree, Athabasca Chipewyan, and Fort McKay First Nations derive $1 billion in annual revenues from bitumen extraction (Vanderklippe 2012). The Fort McMurray–based ACFN Business Group, rebranded in 2013 as ACDEN, comprises seventeen businesses and joint ventures that specialize in oil and gas services. With 24 percent of its community members directly employed in resource-based industries, Fort Chipewyan is the most economically diversified of the ten communities of the Regional Municipality of Wood Buffalo (RMWB 2012, 99).

The benefits of bitumen development, however, have been uneven. For those who have a treaty right to resource-rich land or who live near resource-extraction projects, there is a solid basis from which to participate in the market economy. In Fort Chipewyan, the proximity to the bitumen development gives Treaty Indians a huge advantage over their Métis neighbours, who have certain rights to use land but do not actually own land. As Fumoleau ([1975] 2004, 107) observes about the Treaty 8 and scrip settlements, “As had been foreseen and feared, the Métis people were left in an unenviable position . . . between the white and the Indian world, not belonging to either.” But even for those who have treaty status, a legacy of colonialism has exacerbated the cultural disconnection between them and the market economy into which they are expected to assimilate. Problems associated with influenza epidemics, racism, poverty, inadequate housing, inadequate medical care, substance abuse, and domestic abuse are documented elsewhere (Fumoleau [1975] 2004; Tuccaro 1990). Despite IBAs wherein oil companies have supported training initiatives in local communities, many Aboriginal people are limited by their lack of education.
Even basic qualifications such as a driver’s licence can be an impediment: Fort Chipewyan’s residents must travel to Fort McMurray for certification, which is accessible by air in the summer and by an ice road in the winter. Companies like Syncrude require that employees have a high school diploma, yet Aboriginal people who have post-secondary education are often limited to the lower rungs of the employment ladder and are hired as labourers, as dump truck drivers, or as part of shutdown maintenance crews (Taylor, Friedel, and Edge 2009). While for some Aboriginal groups, the benefits of development are huge, for others, the costs far outweigh the benefits.

Suzanne Mills and Brendan Sweeney (2013), who argue that employment of Aboriginal people in northern extractive industries represents a “neostaples” stage of development that is both locally empowering and divisive, pick up this theme of mixed effects on First Nations people. On the one hand, “by exerting political power and legal rights, Aboriginal governments have altered the traditional compromise among labour, corporations, and the government. Through IBAs, Aboriginal governments and organizations become influential actors in employment relations.” On the other hand, “participating in economic development activities . . . limits Aboriginal leaders’ ability to represent the interests of their worker members by pitting workers’ interests against those of the broader constituency” (28). Accordingly, local agreements through IBAs provide local benefits for some, but given the international nature of capital in this sector and the weak unions, even these beneficiaries lack significant control over important dimensions of their work lives. More importantly, the uneven benefits of employment undermine community solidarity.

The most urgent problem associated with bitumen development for Fort Chipewyan’s residents, however, is its impact on the environment. Local concern that industry and government are ignoring Aboriginal concerns has escalated into a pitched battle in the international arena, as evidenced by the 2014 Neil Young “Honour the Treaties” concert tour. A comprehensive study that chronicles the transformation of the MCFN after its land claims were settled suggests that, as recently as 2003, the local community had a very good working relationship with industry (Slowey 2008). What changed in the intervening decade? As one resident explained, people in the community generally point to the arrival of Dr. John O’Connor in 2000, a Fort McMurray physician who became one of Fort Chipewyan’s family doctors. Dr. O’Connor became alarmed at the number of cases of cancer he encountered in the small community, particularly cases of cholangiocarcinoma, a relatively rare cancer of the bile ducts.
In 2003, O’Connor suggested to MCFN chief Archie Waquan that the high rates of cancer were anomalous and proposed that a baseline study be performed (CPSA 2009, 3). O’Connor suspected that upstream bitumen extraction might be the cause of environmental changes that some in the community had already noted, and he speculated that these might have implications for human health.

In 2006, O’Connor asked Health Canada to investigate, and, in response, a team of representatives from Health Canada and Alberta Health and Wellness travelled to Fort Chipewyan. O’Connor reports that one member of the team turned on a tap, took a drink from a mug, and told him, “See, there’s nothing wrong with the water here” (O’Connor 2006). According to another resident of the area, O’Connor later described this incident as an insult to the local community. After a year of sparring, three physicians from Health Canada lodged a complaint against O’Connor, charging him with four counts of professional misconduct, including withholding data and causing harm to Fort Chipewyan residents because “they made lifestyle decisions based on concerns raised by Dr. O’Connor that were not in their best interests” (CPSA 2009). News of these charges generated such media attention, that O’Connor left his practice in Alberta and returned to Nova Scotia, much to the dismay of members of the local community who had become increasingly worried about observed changes to the environment. O’Connor’s suspicions were underscored by a study conducted by Kevin Timoney, of Treeline Ecological Research, that documented unsafe levels of arsenic, mercury, and polycyclic aromatic hydrocarbons in the area’s water, fish, and other wildlife (see CBC News 2007b). Early in 2008, the media reported that O’Connor had been “cleared” of the misconduct charges; an investigative report written for Alberta’s College of Physicians and Surgeons subsequently denied that O’Connor had ever been formally charged or that efforts had been made to “muzzle” him (CPSA 2009, 6). In any event, as former MCFN chief George Poitras explained in an interview, it was the sanction of O’Connor that led Poitras to launch an international campaign denouncing the impact that bitumen development was having on his community and, in particular, the social and health consequences that he claimed were the result of environmental degradation.

Poitras’s “bloody oil” tour took him to London, Norway, Sweden, Denmark, Netherlands, France, and the United States. Poitras resigned his position as consultation coordinator for the MCFN’s Government Industry Relations department in December 2009, fearing that the MCFN would suffer repercussions for
his outspoken criticism. Shawn Bell, a reporter for the Slave River Journal, quotes from an email he received from Poitras:

Because of this very successful campaign in the UK, one of the oil company’s executives flew to Fort Chipewyan and attempted to force the hand of my First Nation to “silence or terminate” my employment with the Mikisew because they didn’t like that I traveled internationally, on Mikisew time, and that by doing so I generated so much negative publicity on the tarsands industry. . . . Apparently we are not to speak publicly if we observe water quality issues, health impacts, or worse our people dying too frequently of cancers. This, they said, was not consistent with the company’s “vision” and that if Mikisew didn’t support their vision there would be repercussions. And there were repercussions. Many Mikisew employees lost their jobs on this particular company’s site within weeks. (Bell 2010)

The chief at the time, Roxanne Marcel, responded to the controversy in a press release: “Every person in this country and province has the right to share and promote their feelings, the last time I checked this was still a democratic country where the right to speak and be heard was a fundamental cornerstone of citizenship right” (Marcel and Monaghan, n.d.). Nonetheless, Marcel also made it clear that Poitras was not speaking on behalf of the MCFN. Bell reported that the MCFN did eventually ask Poitras to refrain from publicly criticizing the bitumen sands after Syncrude cancelled millions of dollars in contracts with the Mikisew Group of Companies. At that point, Poitras decided to resign from his position with the MCFN in order to pursue his activism full time. Bell reports Poitras as stating, “I left because I would not be silenced” (Bell 2010). A year later, Poitras returned to the MCFN as its chief executive officer. As recently as October 2013, he was still raising concern in Europe, despite his employment with MCFN, which ended in the winter of 2015 (Wohlberg 2013b).

These events can be identified as the “tipping point” with respect to Aboriginal activism: community members began looking beyond Canadian borders to mobilize opposition to bitumen sands development based on the negative consequences for the environment. As mentioned previously with respect to the creation of Wood Buffalo National Park, while the interests of Aboriginal peoples often diverge from those of environmentalists, in this instance they converged. Moreover, members of the world’s scientific community had also begun to sound the conservation alarm about the destruction of the boreal forest. In particular, Alberta scientists were beginning to garner negative publicity for the oil industry and the governments that are responsible
for regulating them by providing evidence for habitat degradation and pollution caused by bitumen development. The result was the creation of a potent mix of scientists, environmental activists, and Aboriginal rights advocates.

**The Intersection of Environmental and Aboriginal Concerns**

Poitras’s charge that development of the bitumen sands was negatively impacting local communities was a valuable addition to the toolkits of environmentalists, who had begun asking questions about pollution and habitat loss fifteen years earlier. In 1995, the Edmonton-based nonprofit Toxic Watch launched its “tar sands campaign.” A dozen years later, fifteen hundred scientists from around the world were calling on Canada to provide better protection for the boreal forest (CBC News 2007a). Shortly thereafter, fourteen internationally renowned scientists—including David Schindler from the University of Alberta, who has earned worldwide recognition for his expertise on water quality and depletion—created the International Boreal Conservation Science Panel (borealscience.org) to conduct interdisciplinary studies for the purpose of providing policy advice to preserve the boreal forest habitat. Two Alberta-based think tanks and two national groups, the Canadian Centre for Policy Alternatives and Polaris Institute, also undertook research projects that examined the negative environmental externalities of bitumen production (Grant, Dyer, and Woynillowicz 2009; McCullum 2006). The catalyst for international attention was the death in 2008 of sixteen hundred ducks that mistook a Syncrude tailings pond for a lake because the company had failed to install, in a timely fashion, scarecrows and air cannons around the tailings pond to warn off wildlife (Weber 2010). Images of dead ducks covered in an oily substance caused an international uproar, and oil from the bitumen sands acquired the label of “dirty oil.”

While the science community is divided over the environmental effects of the bitumen sands (see Gosselin et al. 2010), one fact that is not disputed is the sheer enormity of the bitumen extraction project. The bitumen is contained in an area covering nearly 142,200 square kilometres, roughly the size of the state of Florida (Alberta, Alberta Energy 2013). Alberta’s total oil reserves are estimated to be 168.7 billion barrels, 99 percent of which are contained in the bitumen sands. In 2013, the production of oil from Alberta’s bitumen deposits was over 1.98 million barrels per day (CERI 2014). These numbers are arresting when the resulting habitat disruption of the boreal forest is considered in
a global context. The circumboreal forest covers about fourteen million square kilometres—about a third of the earth’s forest cover. Canada is the world’s second-largest country, and almost 60 percent of Canada’s land base consists of boreal forest; this represents 40 percent of the world’s total (Burton et al. 2003, 1). Although various industrial activities threaten the integrity of Canada’s boreal forest, a key threat relates to the activities of the oil industry. Alberta’s share of the boreal forest is 381,000 square kilometres, of which only 420 square kilometres had been touched by oil activity in 2008 (Alberta 2008, 2, 4). Five years later, this number had nearly doubled, to 767 square kilometres (Alberta, Alberta Energy 2013, 1). Bitumen sands deposits underlie an estimated 142,200 square kilometres, with the area that could potentially be surface-mined limited to 4,800 square kilometres in the vicinity of Fort McMurray (Alberta, Alberta Energy 2013, 1). While this represents only a fraction of the total area, the remaining habitat, covering 137,400 square kilometres, will be fragmented by the construction of roads, pipelines, transmission lines, and wells, if the entire area is developed. Over the long term, these activities will adversely affect flora and fauna that live on tens of thousands of square kilometres of boreal forest (Canada, Parliament of Canada, House of Commons 2007, 47). Owing to its harsh climate and short growing season, the human population in Canada’s boreal forest region is less dense than in similar regions with more moderate climates, and, until bitumen extraction began to ramp up, this habitat was therefore less disturbed by human activity. In non-human terms, however, the area is populous indeed: its many lakes, rivers, and wetlands support large numbers of birds and mammals that are important for global biodiversity (Burton et al. 2003, 2). Given that Canada’s boreal forest is the summer home for half of North America’s bird species (CBC 2007a), Alberta’s resource extraction activities could have far-reaching consequences for the continent’s bird population.

The actual process of extracting oil from the bitumen sands is extremely destructive: it requires cutting down trees, disturbing peatlands that have built up over thousands of years, and draining wetlands. Two different processes are used in extracting bitumen, depending on how close to the surface the resource lies. Shallow deposits are accessed by digging up the land in a process that resembles open-pit strip mining. Two tonnes of bitumen sands must be dug up to produce one barrel of crude oil; trucks then move the oil-soaked ore to a cleaning facility, where it is mixed with hot water and diluent chemicals in order to remove the bitumen.7 Deposits that are more than seventy-five metres deep
are extracted in situ, largely through steam-assisted gravity drainage, which involves pumping steam into deep deposits to “melt” the bitumen so that it can be pumped out. Because of the heavy, viscous nature of bitumen, the in situ method requires even more water and energy resources than the excavation method. Roughly 80 percent of established reserves are too deep to be mined and so must be extracted using in-situ processes (Alberta, Alberta Energy 2013, 2); in 2008, 52 percent of bitumen production occurred through strip mining (Pembina Institute 2010).

While in situ extraction has much less obvious effects in its destruction of habitat than excavation does, critics claim that the in situ method also has major environmental impacts through the building of 3-D seismic lines, pipelines, well pads, and steam-generation plants (Leaton 2008, 10; Schneider and Dyer 2006). Licences to extract the bitumen are given with the condition that disturbed land will be reclaimed. As of the start of 2013, however, only 77 square kilometres of land were undergoing reclamation, and only 104 hectares (1.04 square kilometres)—that is, about 0.14 percent of the 767 square kilometres that had been disturbed to date—had been certified as reclaimed by the Alberta government (Alberta, Alberta Energy 2013, 1). In the plot that has been certified, the level of biodiversity in the reclaimed habitat has not been shown definitively to be equal to previous levels.³

Habitat destruction does not merely threaten wildlife and birds; it is also a source of greenhouse gas emissions. Temperate, tropical, and boreal forests store 1.146 billion tons of carbon; almost half of this is located in the boreal forest, making it the largest terrestrial carbon storage ecosystem (IPCC 2000, 4). Bitumen extraction often requires scraping up peatland that is acting as a carbon sink. When the peat is disturbed in the mining process, carbon is released into the atmosphere. Greenhouse gases are also produced in the process of energy production; the bitumen sands industry is one of the country’s top producers of emissions. This is primarily due to the scale of its operations and to the fact that it takes three times more energy to produce oil from bitumen sands than from conventional sources (Leaton 2008, 11). Canada has the dubious distinction of being the world’s leading greenhouse gas emitter on a per capita basis, and it failed to achieve its Kyoto targets. By 2006, its greenhouse gas emissions were 19 percent more than 1990 levels, despite its commitment to lower them by 8 percent (Canada, Environment Canada 2014).

The detrimental impact of industrial activities in Canada’s boreal forest has been recognized for many years. Olla Ulsten, the co-chair of the World
Commission on Forests and Sustainable Development, observed in 1999: “New ways must be found to slow and ultimately reverse forest decline, and Canada has a special responsibility because it still has 20–25% of its primary forest” (WCFSD 1999). Despite these words of caution, the destruction of the boreal forest accelerated dramatically in the ensuing decade.

Another issue of concern is the amount of water that is used to separate the oil from the bitumen: about three to four barrels of water are needed for each barrel of oil (Canada, NRC 2013). According to data obtained from Alberta Environment in September 2008, existing licences for bitumen sands projects would entail the annual diversion of 550 million cubic metres of freshwater from the Athabasca River basin (Holroyd and Simieritsch 2009, 15). This represents the equivalent water consumption per year of a city of two million inhabitants—twice the annual amount used by Calgary, Alberta’s largest city. Only 10 percent of the water taken from the Athabasca is returned to the river (Griffiths, Woynillowicz, and Taylor 2006, 3). After its use in bitumen extraction, much of the water is recycled, but it eventually becomes contaminated. This toxic water is then stored in huge tailings ponds comprising clay, sand, hydrocarbons, and heavy metals. As of January 2013, these ponds (more accurately described as lakes) collectively contained 850 million cubic metres of tailings and covered 176 square kilometres (Flanagan and Grant 2013, 3). Especially given present rates of reclamation, the question of what will happen to these tailing ponds in the future, when the bitumen runs out and the companies cease operations in the area, highlights a serious environmental concern. As Erin Flanagan and Jennifer Grant (2013, 3) point out, the 104-hectare area that has been certified as reclaimed “was never mined, did not include tailings, and is therefore not representative of the looming reclamation challenges that lie ahead.” In the meantime, scientific studies (Frank et al. 2014; Kelly, Schindler et al. 2010; Kelly, Short et al. 2009; Kurek et al. 2013) showing leakage into the groundwater and into the nearby Athabasca River have fuelled even more pressing anxieties about the tailings ponds.

Until recently, the industry-funded Regional Aquatics Monitoring Program (RAMP) was responsible for water monitoring in the bitumen sands. In response to scientific studies that bitumen sands development was polluting the Athabasca River, RAMP claimed that toxins in the Athabasca River water were naturally occurring (CBC News 2010). RAMP was set up in 1997; its steering committee includes representatives from industry, both levels of government, Fort McKay and Fort McMurray First Nations, and Fort McKay Métis.

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Local No. 63. Because its funding has come in large part from oil companies, concerns have repeatedly been expressed about access to information and the scientific methods employed by the organization (see James and Vold 2010, 2). In 2010, a group of scientists, including University of Alberta biologists Erin Kelly and David Schindler, published a study that attributed toxins in the Athabasca River to bitumen extraction (Kelly et al. 2010). Schindler criticized RAMP’s methods as having serious defects and advocated for an Environment Canada monitoring system (Schwartz 2010). These widely publicized statements caused an explosion of controversy that resulted in a polarized debate within both the scientific community and the public. A subsequent 2013 study by federal government scientists that built on Kelly et al.’s work found an even larger than expected footprint of the bitumen sands; it linked toxins to bitumen extraction in lakes ninety kilometres northwest of mining operations. As pointed out in this study, however, there are no benchmarks that can be used to assess the impacts of the bitumen extraction activities because there was little to no monitoring of air and water in the region prior to bitumen production (Kurek et al. 2013).

In response to the study by Kelly et al. (2010) and mounting international pressure, both the federal and provincial governments set up panels to investigate existing pollution-monitoring processes. The federal panel found that current monitoring systems produced limited useful data for decision makers because they lacked “consistency and coordination,” while the provincial panel found that “new approaches” were needed (AEMP 2011, ii). In response, the governments of Canada and Alberta set up a joint federal-provincial water monitoring system (jointoilsandsmonitoring.ca). Later in 2012, the provincial government set up the Alberta Environmental Monitoring, Evaluation, and Reporting Agency as a new arms-length regulatory body that would control environmental monitoring. The minister responsible explained, “When it comes to resource management and the environment, Alberta recognizes the status quo is simply not enough to meet the challenges we face” (quoted in Gerein 2012). The membership of this agency is confined to scientific, regulatory, and academic experts; there is no Aboriginal involvement. While some critics of Alberta’s water policy applauded the establishment of a regulatory agency as being a good first step, others wondered if the agency’s reports and raw data would be made public, thus fulfilling its mandate to be independent from government. Rachel Notley, who at the time was an opposition MLA, argued that unless transparency is assured, the regulatory body will be used to assist the
government in manipulating information to serve its own agenda (Gerein 2012). In the spring of 2014, the government appointed the first chairman of the agency—Lorne Taylor, a former Conservative MP who served as minister of the Environment from 2001 to 2004. Given that Taylor would be heading the agency charged with responding to criticisms of the environmental monitoring that was conducted during his tenure as minister of the Environment, Notley wryly observed, “Only in Alberta would the government not get the irony of that” (quoted in Weber 2014).

Meanwhile, in Fort Chipewyan, community members have also noted environmental changes. In the past decade, changes in water levels in the Athabasca Delta have made travelling across it a challenge. Although the drop in water levels has been attributed in part to the Bennett Dam in neighbouring British Columbia (Fuller 1990; Ladouceur 1990), local people suspect that the vast quantities of water needed to extract the bitumen is having a direct effect on water levels in the delta. Community members complain that muskrat and moose populations have decreased dramatically in the area and that the presence of deformed fish is a strong indicator that local fish are no longer edible (Candler et al. 2010). As one resident commented in an interview, “When we go out on the land, the most significant item hunters bring is a Gerry can filled—not with petrol—but with clean drinking water.” Residents keep bottled water in their homes for drinking, and the local municipality is building an indoor water park because the delta is considered too polluted for children to swim in.

The problem for the residents of Fort Chipewyan who are convinced that the integrity of the local environment is declining is that traditional knowledge is not accorded the same status as scientific knowledge within decision-making circles. As discussed further in chapter 14, even though the previously respected status of scientific knowledge has come under attack in recent years, it still trumps traditional knowledge. Scholar Frances Abele (1997, iii) defines traditional knowledge as “knowledge and values which have been acquired through experience, observation, from the land or from spiritual teachings, and handed down from one generation to another.” It is based on cumulative empirical observations gleaned from centuries of living close to nature in particular ecosystems and depending on the plants and animals found locally for everything from food to medicine. Knowledge is passed down orally and is not tested with Western scientific methods. Moreover, traditional knowledge infuses authority systems, traditions, culture, and religion. The lack of separation between the secular and the sacred within traditional systems of knowledge

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makes it easy to dismiss by those who are rooted in Western, rational ways of thinking. While the scientific community might be divided as to the reasons for environmental change in the area (Alberta, Alberta Environment 2011), the community is convinced that local environmental change is a negative externality of the bitumen extraction process. As MCFN chief Steve Courtoreille put it, “We depend on . . . our livelihood, our way of life . . . out in the land.” He went on to say that the government is “supposed to protect our land, waters, air. Now it’s giving industry open season to our territory” (quoted in Mackinnon 2013). MLA Notley agreed: “It’s profit first; protecting people and the environment second” (quoted in Henton and Brooymans 2009).

As documented in chapter 3 in this volume, the marriage of environmental concerns with issues of Aboriginal rights has proven a potent mix in the court of international public opinion. Yet its effect on domestic political decision makers has been limited. The federal government has fiduciary obligations with respect to Aboriginal people, as well as responsibility for environmental regulations. It does not, however, have the political will to meet these obligations; responsibility for both consulting with Aboriginal peoples and for protecting the environment has been passed on to the Province of Alberta, which in turn has passed these responsibilities on to industry. In response, Aboriginal groups have increasingly looked to the courts for redress.

The Dishonour of the Crown

Section 35 of the Constitution Act, 1982 both recognizes and affirms Aboriginal rights, including treaty rights, in Canada. Decisions in a series of cases brought before the Supreme Court of Canada have resulted in a ruling that government has a “duty to consult” local Aboriginal communities whose rights may be affected by a proposed development project. No study of the consultation of Aboriginal peoples living in the Canadian North can ignore the example of the Berger Commission. In the 1970s, Justice Thomas Berger was asked by the federal government to tour northern Canada in order to determine whether a pipeline should be constructed through the Mackenzie Valley. Expected to take only six months, the inquiry took two years as Berger travelled to communities all over the North, consulting the people who would be most affected by development. As he recounted in a retrospective documentary, democracy requires more than voting government in or out, and consultation produces better projects (WCEL 2012). Indeed, consultative inquiries can be a critical part of the
democratic process because they allow people to have a say about what their future might look like. In recommending a ten-year moratorium on the building of the pipeline, Berger recognized that the enormous wealth that would be generated by exploiting the resources in northern Canada might very well come at the expense of the rights and well-being of the Aboriginal peoples who live in those regions. According to Berger (1977, 33), “What happens in the North . . . will be of great importance to the future of the country; it will tell us what kind of a country Canada is; it will tell us what kind of a people we are.”

The importance of consultation to democratic processes was highlighted almost twenty-five years later in the “diversity model” developed by the Canadian Policy Research Network (CPRN). This model seeks to foster social cohesion when tension is created by competing values within society. In a discussion paper about the CPRN model, Jane Jenson and Martin Papillon (2001, 38) argue that attention must be paid to democratic spaces such as government consultation processes that structure state-society discussions:

In a highly diverse society, such deliberation is essential for minorities’ inclusion in the broad citizenry. It reinforces the legitimacy of public institutions and policies for groups that feel excluded from the classic democratic process, where the rule of the majority tends to obscure their voice. A strong and healthy public sphere is thus essential in a polity such as Canada where conflicts over the nature and boundaries of the political community are constantly negotiated and debated.

The popularity of such an approach can be seen by the proliferation of government-sponsored citizen engagement models to promote active citizenship. One might expect that resource-development planning in Alberta for a project as immense as the bitumen sands would include meaningful opportunities for citizens to provide input into decision making. The difficulty, however, is that the processes used reflect the deepening of the neoliberal institutional model in Alberta, which promotes the short-term interests of the oil industry over everything else.

Case law, however, is clear that the Canadian federal government and all provincial governments have a duty to consult with First Nations before taking any steps that might infringe on Aboriginal rights or on treaty rights, whether these are claimed or have already been established (Sanderson, Bergner, and Jones 2012). Beginning in 2004 with the Haida Nation’s case against British Columbia, which was followed by the 2004 Taku River Tlingit First Nation case and the 2005 Mikisew Cree First Nation case, the Supreme Court set out...
the “duty to consult” doctrine. As Dwight Newman (2009, 12) explains, these three cases extended existing case law “in elaborating the existence of a duty to consult Aboriginal communities potentially affected by government decision-making prior to final proof of an Aboriginal rights or title claim.” Although the duty to consult is clear, the scope of the consultation is tied to the discretionary determination by government as to whether the infringement would be major or minor, with consultation processes mirroring the government’s assessment.

It has further been established that the Crown cannot delegate its authority to consult. This means that corporations cannot negotiate agreements that effectively discharge the Crown’s duty (Gibson and O’Faircheallaigh 2010, 30). Part of the problem, however, in Alberta as elsewhere, is that while the duty to consult is ultimately the responsibility of the federal and provincial Crown, certain procedural aspects of the consultation process can be delegated to the proponents of a planned project, according to the Supreme Court’s decision in the Haida case (Ritchie 2013, 409). Indeed, as Ginger Gibson and Ciaran O’Faircheallaigh (2010, 30) note, “In practice, much of the obligation to consult falls to the industrial proponents.” In other words, project proponents do play a procedural role in discharging the Crown’s duty to consult and accommodate Aboriginal peoples whose rights or title may be infringed by development.

For its part, the Government of Alberta has preferred a remarkably hands-off approach to matters of consultation. As an August 2013 report on benefit agreements in northern Canada put it: “Currently, the Alberta government does not engage in socio-economic agreements/plans with resource development proponents directly, nor does it require industry proponents to develop BAs with First Nations’ communities” (PPSRD 2013, 13). Moreover, historically, corporations that negotiate IBAs with Aboriginal groups have been under no obligation to disclose the content of these agreements to the Alberta government. Thus, to date, only two IBAs are officially on record in Alberta (PPSRD 2013, 20). Gibson and O’Faircheallaigh (2010, 35) point to the political climate in the province, which has been “strongly supportive of resource development and antagonistic to Aboriginal rights.” Concretely, this means that, as matters presently stand, the Alberta government does not directly discharge its duty to consult with Aboriginal communities, nor does it formally delegate procedural aspects by demanding that industry proponents engage in such consultation. Moreover, should an oil company voluntarily choose to negotiate with Aboriginal groups prior to development, the company is not routinely required
to reveal the content of resulting IBAs, which therefore remain untracked and unrecorded.

When asked in an interview what recent consultation processes for new resource extraction projects look like, one resident of Fort Chipewyan explained that industry representatives typically show up with buckets of Kentucky Fried Chicken and spend an afternoon at the community centre, hoping that people will stop by for a few wings and a chat. The community has come to expect this type of flippant approach to consultation, and, as a result, the sessions are not well attended. If, per the Delgamuukw precedent, consultation is undertaken “with the intention of substantially addressing the concerns of the aboriginal peoples whose lands are at issue” (Delgamuukw v. British Columbia, [1997] 3 SCR. 1010 at 1113), it would appear that, to date, the goal has not been met with respect to the Aboriginal communities of Fort Chipewyan.

In the fall of 2012, the ACFN launched a $1.5 million lawsuit alleging that Shell had not complied with IBAs made with the ACFN regarding projects now underway within its territory. These agreements entailed mapping out traditional areas and analyzing the potential impact of Shell projects on sacred sites, in addition to setting up community monitoring programs (Wohlberg 2013a). The ACFN also challenged the Shell Jackpine mine expansion plan on the basis of Treaty 8 rights, arguing that the expansion project, which would see a hundred thousand more barrels of ore mined from its territory per day, would infringe upon the First Nation’s treaty and Aboriginal rights. Recognizing the significance of the suit, ACFN chief Allan Adams declared: “Our rights are being overlooked, and that is a truth that cannot be denied. . . . If there is a violation of our constitutionally protected treaty rights, it should be dealt with before this project is found to be in the public interest” (quoted in Wohlberg 2012b). ACFN spokesperson Eriel Deranger elaborated, explaining that the chief and council repeatedly asked the government and Shell to engage in a new form of consultation that adequately looks at what our treaty rights really are, by working with traditional knowledge holders and implementing TK [traditional knowledge] and Western science to identify baselines for what our treaty rights are and how that adequately protects them. . . . There’s been absolutely no support for that from the government or Shell to move forward in that direction. (Quoted in Wohlberg 2012a)

In response, ACFN chief and council declared a ban on development north of the Firebag River, about 150 kilometres north of Fort McMurray. They also promised to challenge any development projects that will operate on lands that
various studies have identified as traditionally used by Aboriginal communities for hunting and trapping purposes. Although the area is not currently under development, several project applications, including Shell’s Pierre River Mine and Teck Resources’ Frontier Project, involve land that is, and has been, integral to traditional Aboriginal economies (Wohlberg 2012a).

In December 2012, the federal government introduced Bill C-45, an omnibus budget bill that made changes to the Indian Act, the Navigation Act, and the Environmental Assessment Act. Opponents criticized both Bill C-45 and its predecessor, Bill C-38, as being antidemocratic because the sweeping changes contained within them were subjected to very limited legislative debate. These bills provided the impetus for the Idle No More campaign, a protest begun by four Aboriginal women in Saskatchewan (CBC News 2013). The campaign quickly spread through social media. In addition to the Aboriginal community, the campaign captured the interest of Canadians who were concerned about the bills’ implications for both environmental regulation and capacity, as well as the potential for omnibus bills to stifle the debate that usually accompanies budgets.

A month later, in January 2013, the Mikisew Cree joined with the Frog Lake First Nation in a lawsuit to challenge the environmental provisions in C-38 and C-45 (MacKinnon 2013). They argued that the bills gutted environmental legislation and streamlined environmental review to facilitate rapid approvals of industrial megaprojects. Indigenous leaders claimed that Bill C-45 violated the federal government’s duty to consult with First Nations. The Navigable Waters Protection Act, established in 1882 (and recently amended to the Navigation Protection Act), stipulated that any water that was deep enough to float a canoe could not be blocked, altered, or destroyed without federal government approval. While this act was cumbersome because of its scope, the new act only provided protection for major waterways. The two First Nations groups feared that the thousands of tributaries within the delta could be altered by bitumen sands development and said that government did not consult either band about development that might affect these lands and waters.

Bill C-45 makes additional changes to the Environmental Protection Act and alters the Indian Act to allow reserve lands to be leased by a majority vote of those attending the meeting as opposed to a majority of eligible voters. It also gives the Aboriginal Affairs minister the power to ignore resolutions from a band council that opposed the decision made by majority vote (CBC News 2013). These latter changes are of particular significance to Aboriginal peoples, and,
perhaps because of this, the early environmental thrust of the Idle No More movement was eclipsed by concerns specific to Aboriginal communities. The overwhelming message of Idle No More is that current methods of doing business with Aboriginal groups are inadequate and that the failure to take their concerns into account is indicative of weak democratic processes.

Although, as mentioned above, no study of the consultation of Aboriginal peoples living in the Canadian North could ignore the Berger Commission, it appears that forty years later, Canadian governments are indeed ignoring this precedent-setting inquiry. The duty to consult is a legal requirement set out by the courts and tied to the potential infringement of Aboriginal rights. But it has broader application: consultation is recognized as an important component of the citizen engagement that is necessary for deliberations that represent diverse societal interests. Recent Canadian experience suggests, however, that the public space for such deliberations is contracting. As governments increasingly withdraw from their regulatory and mediation roles, these functions fall to industry or are simply eliminated. Industry, however, must respond to the demands of the marketplace. As a result, consultation processes are weakened, and along with them, so is democracy.

Resource Management and Bitumen: A Case of Spin and Dig

The dramatic changes within and around Fort Chipewyan reflect the dizzying pace and scale of industrial development and the subsequent speed and scope of change in the natural environment. This community illustrates both the diversity within Aboriginal communities and the competing perspectives on bitumen extraction. The presence of bitumen provided the impetus for governments to settle outstanding land claims and for industry to negotiate IBAs, which in turn has allowed some community members to take advantage of economic opportunity. Fear about the impact of bitumen extraction activities on traditional lands and the subsequent impact on human health was the spark that ignited Aboriginal opposition, which fanned the flames of environmental opposition that spread to the international arena. This battle coincided with an equally bitter debate between the government and environmentalists over the environmental consequences of large-scale bitumen extraction activities, particularly on natural habitat and water management.

These conflicts underscore different aspects of the same phenomenon: neoliberalism reducing the opportunities for input into decisions regarding
resource development because of its systematic de-emphasis of the role of the state as the site for political discourse in favour of an emphasis on the market as the final arbiter of resource management decisions. The move toward market-based governance at both the national and provincial levels of government necessitated the settlement of land claims; land ownership has created economic opportunities that have produced increased prosperity, particularly for the First Nations peoples in Fort Chipewyan. But along with these benefits have come serious costs. Where once the governments of Canada and Alberta accepted their “responsibility” to protect First Nations peoples as wards of the state, now governments are neglecting their duty to consult by effectively relinquishing negotiations regarding project development and expansion to corporations. By dismantling existing environmental regulations and leaving industry to monitor such things as water quality, responsibility for the environmental commons is vulnerable to regulatory capture by industry. In the 1990s, in the neighbouring province of British Columbia, continuing to cut down the forest while competing interests argued over forest management was referred to as the “talk and log” approach to resource planning. In neoliberal Alberta, proceeding with industrial bitumen development while competing interests try to influence the markets for Alberta oil through public relations campaigns could be referred to as the “spin and dig” approach.

If democracy rests on the consent of the governed, then Aboriginal dissent caused by industrial degradation of treaty land implies that the institutions of governance in Alberta lack legitimacy. Both the ACFN and the MCFN spent many years asking for the land they were promised many years after signing Treaty 8 in 1899. The irony is that for members of the MCFN, just twenty-some years after the watershed moment in 1986 when this “oversight” was rectified, environmental concerns came to the forefront; self-determination was once again in jeopardy because of the inability of Aboriginal peoples to protect their treaty land from the negative environmental effects of industrial activities. Clearly, settling land claims will not enhance self-determination if those who now control the land have limited ability to maintain its integrity. A failure to protect the legal and human rights at both the federal and provincial levels is particularly problematic in Canada with respect to its First Nations minority, given the relationship of First Nations with the Crown, treaty rights, and the fiduciary responsibilities that have been recognized by courts. But Aboriginal people are not alone in their struggle. The loss of environmental protections affects the ability of all Canadians to protect the land, air, and water from
which they derive their livelihoods—and their very lives. By neglecting their responsibility for protecting the larger public interest through the regulation of environmental externalities created by industry, governments not only fail in their duty to protect the interests of those most impacted by environmental contaminants; they also restrict the space where the debate over what constitutes the public interest occurs.

The democratic implications of dampening citizen engagement and debate by delegating that responsibility to industry are chilling, not only for First Nations communities but for all Canadians. This in turn suggests that the question posed at the outset of this chapter—Does bitumen extraction come at the cost of treaty rights?—is too restrictive. First, the words “bitumen extraction” could be replaced with “forest harvest” or “hydroelectric dams” or even “fracking.” The impact of large-scale resource extraction activities on Indigenous peoples because of environmental degradation is a well-known theme worldwide; the players and the resource change, but the results are similar. In this regard, Mills and Sweeney (2013, 23) observe that “governance is being neoliberalized.” The removal of the heavy hand of the state noted at the outset of this chapter has been replaced by the indifferent, invisible hand of the market. Second, with respect to bitumen extraction in Alberta, Aboriginal rights can be described as the proverbial canary in the coal mine. While Aboriginal rights are the first to be sacrificed at the altar of economic development, Canadians more generally will find their autonomy increasingly compromised with the ceding of control over bitumen extraction to corporate interests and with the concomitant contraction of public space to debate the environmental impacts of resource-extraction activities.

Notes

1 The term Aboriginal will be used in the context of section 35(2) of the Canadian Constitution Act, 1982, to include Indian, Inuit, and Métis peoples. The term First Nations has yet to receive legal definition; we will use it to refer to those communities that self-identify as such. The term came into widespread use in the 1970s to replace the word Indian, which many people found offensive, owing to its historical associations with the oppressive colonialism of the Indian Act. The term is still used for certain legal designations, such as “Treaty Indian.” First Nations people form the largest Aboriginal group in Canada, comprising more than 850,000 people, out of an Aboriginal population of more than 1.4 million, and 4.3 percent of the total population (Statistics Canada 2013, 4).
The term land claim refers to the process introduced in 1973 whereby the federal and provincial or territorial governments negotiate treaty rights with Indigenous peoples with respect to land that they traditionally inhabited before the arrival of Euro-Canadians. There are two types of land claims: specific claims and comprehensive claims. Specific claims arise from the nonfulfillment of existing treaties and other lawful obligations, whether these involve lands or other promised goods. Specific claims deal with grievances of First Nations related to Canada’s obligations under historic treaties or to the way in which the federal government managed First Nations’ funds or other assets. To honour its obligations, Canada negotiates settlements with the First Nation and, where applicable, with provincial or territorial governments. Treaty Land Entitlement is a category of specific claims that refers to reserve lands that a band has not yet received as promised initially under treaty. Comprehensive claims occur in areas of Canada where Aboriginal title was never historically extinguished by means of treaty or other legal process. These claims produce agreements that are, in effect, modern treaties (Slowey 2008, 10).

The Métis Nation is organized into locals, which work on behalf of Métis communities in particular areas. Historically, because the Métis were not covered by treaty, they had no legal basis on which to claim land. In Alberta, decades of negotiation between the Métis and the provincial government culminated in the Alberta-Métis Settlements Accord of 1989. The following year, the Métis Settlements Act and associated legislation resulted in the transfer of 1.25 million acres of land to the eight Métis settlements represented by the Métis Settlements General Council. The legislation also ensures Métis communities a measure of local governance and provides for the comanagement of subsurface resources. In Fort Chipewyan, Local 125 represents local Métis who do not have their own territory. However, in its 2010 Métis Harvesting policy, the province recognizes Fort Chipewyan Métis as “both a historic and contemporary rights-bearing community.” Because of the paucity of studies indicating Métis traditional land, 106 kilometres of land are “deemed traditional territory,” giving Fort Chipewyan hunting and fishing rights. See the submission by the Fort Chipewyan Métis Local 125, Métis Nation of Alberta, to the Canadian Environmental Assessment Agency, 11 August 2012, https://www.ceaa-acee.gc.ca/050/documents/p59539/80937E.pdf.


In October 2012, Gabrielle Slowey interviewed members of Fort Chipewyan’s First Nations communities. The discussion that follows draws on occasion from four of these interviews, all conducted on 16 October.

According to the 15 January 2008 issue of the National Review of Medicine (Lanktree 2008), the College of Physicians and Surgeons of Alberta (CPSA) contacted O’Connor in December 2007 with the news that he had been “cleared of three of the four professional misconduct charges Alberta Health and Wellness and Health Canada had brought against him.” This provoked a letter from Howard May, of Alberta Health, who wrote that “Alberta Health and Wellness did not take part in filing any
complaint against Dr. O'Connor, nor did we try to stop him from coming forward. To the contrary, we have been trying for nearly two years (numerous phone calls, emails and letters) to get him to come forward with his clinical evidence." The editors responded that “although Alberta Health and Wellness is not officially listed on the complaint filed against Dr. O’Connor, their employees continue to assist Health Canada in pursuing action against him,” adding that “Dr. O’Connor says he has never received emails, letters or phone calls” (see the “Letters” section, National Review of Medicine, February 2008, http://www.nationalreviewofmedicine.com/issue/2008/02/5_letters_2.html). The November 2009 CPSA report likewise attempts to shift the blame to O’Connor, accusing him of failing to respond to requests for information. For a perceptive analysis of the struggles of Fort Chipewyan First Nations with the oil industry, including the controversy surrounding O’Connor, see Brodie (2014, chap. 6).


8 It is worth noting that “reclamation” does not mean restoration. Alberta’s Environmental Protection and Enhancement Act regulations specify that the land must be returned to “an equivalent land capability” but that “individual land uses will not necessarily be identical.” In the case of the first certification by the Government of Alberta of “reclaimed” land in the bitumen sands, a square kilometre of boreal forest and rare peatland that had developed over eight thousand years was replaced with a new forest with walking trails for humans that bear little resemblance to the complex ecosystem it replaced. Joyce Hildebrand, “Reclamation Illusions in Oil Sands Country,” Wildlands Advocate, June 2008, 10–12.


10 This changed (at least to some extent) with the passage in May 2013 of Bill 22, now the Aboriginal Consultation Levy Act, which obliges companies that wish to develop on Crown lands to pay a fee, with the funds collected to be distributed to Aboriginal groups in order to assist them in participating in consultation. Section 8(1) of the act stipulates that, under certain circumstances, a project proponent may be required “to provide the Minister with information, including third party personal information, records and other documents, including copies of agreements relating to consultation capacity and other benefits pertaining to provincial regulated activities.” The legislation provoked an outcry from Aboriginal leaders, given that the Alberta government hadn’t bothered to consult with them prior to passing it.

11 These studies are listed in Shell Canada Limited’s 2007 Jackpine Mine Expansion and Pierre River Mind Project, pp. 3-9 to 3-10.
References

Brodie, Scott. 2014. “Greener Social Constructions: Marie Lake, Fort Chipewyan, and the Alberta Oil Sands.” PhD diss., School of Criminology, Simon Fraser University, Burnaby, BC.


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