

 **THE FRONT LINES OF**  
*reconciliation*

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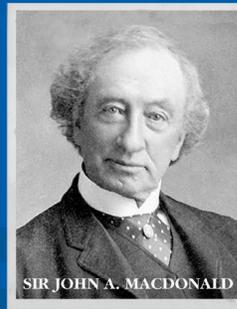
Indigenous engagement with  
the Canadian energy economy

# HOW FAR WE'VE COME

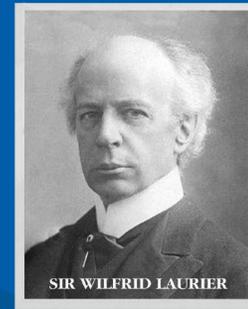
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## Executive Summary

Canada's natural resource sector has emerged as one of the front lines of Indigenous reconciliation in Canada, providing the nation and Indigenous peoples with a new and evolving model of Indigenous-corporate engagement and a pathway to prosperity that is unique in Canadian history. To a degree that will surprise most Canadians, the future of the oil and gas industry in Canada depends on the state of the sector's relations with Indigenous peoples and governments. Equally, Indigenous aspirations to achieve an appropriate share of Canadian prosperity have come to rest on the energy sector.

Indigenous involvement in the oil and gas sector began in earnest in the 1970s when a series of court decisions then and into the early 21<sup>st</sup> century paved the way for First Nations to assert their Aboriginal rights to resource development projects. In 2004, Indigenous involvement in development received a further boost from the Supreme Court when it stated that governments had a “duty to consult and accommodate” Indigenous communities before development could proceed. It is now clear that major decisions about resource extraction and resource infrastructure, like pipelines, require Indigenous engagement, though not necessarily the communities' formal approval.

The results of the meaningful inclusion of Aboriginal workers in the oil and gas sector are clear. The oil and gas industry now has substantial Indigenous participation. The income levels for these workers are significantly higher than the Canadian average, not just for Indigenous workers, but for all workers.

The trajectory of First Nations and Métis involvement in the oil and gas sector is not continuously smooth and rising, however.

Following its election in October 2015, the new Trudeau government outlined an extensive program for national economic and social renewal. The collective promise was to address economic inequality, involve Indigenous peoples in resource decision-making, respond to the dictates of the “new economy,” and join the global campaign to reduce CO<sub>2</sub> emissions. The intervening years have been challenging. In a variety of areas – Indigenous business and com-

munity engagement, employment of Indigenous peoples – the promising developments of the past decade have run up against negative market forces.

Liberal government programs and, to be clear, inaction more than action, also have had a dampening effect on the western Canadian industry. Legislative measures – including the closure of Arctic oil and gas exploration, the banning of west coast tanker traffic out of Prince Rupert, and the contentious Bill C-69, which expanded the reach of project evaluation and assessment procedures – created massive uncertainty for investors and closed off potentially valuable areas of development.

*Major decisions about resource extraction and resource infrastructure, like pipelines, require Indigenous engagement.*

To top off those challenges, global geopolitical issues badly damaged the industry in the spring of 2020, though expectations are widespread that the industry will bounce back once the global economy reopens and, in particular, as new pipelines finally start to become operational.

The Canadian oil and gas sector does not exist in isolation. There are many challenges associated with Canadian competitiveness, including high taxes, productivity shortfalls, federal-provincial-territorial regulatory environments, underinvestment in emerging technologies, and limited access to venture capital. Federal government interventions in the oil and gas sector emerged in the middle of a global debate about climate change, the world's energy future, and the prospects for the oil and gas industry generally.

In all of these areas, western Canada and the oil and gas sector were on a generally positive path; they were addressing emissions associated with oil and gas production, improving opportunities for Indigenous peoples, and changing the fundamentals within the industry. But recently, the combination of federal policies and global forces have reined in, if not reversed, the positive developments. It would be sadly ironic if the government of Canada's position on one core element of its policy program – fighting climate change – was to undercut promising development in inclusive economic growth and the transition of Indigenous communities from the margins to the centre of the Canadian economy.

Indigenous communities are becoming increasingly willing to defend the industry and make large equity investments in oil and gas. Those investments in political and financial capital have begun to offset the negative perceptions of the oil and gas sector. External forces, particularly environmental criticism, regulatory turmoil, and uncertainty about government of Canada priorities, are much greater threats to the future of the industry than Indigenous communities and governments. Twenty years ago, few Canadians, Indigenous or non-Indigenous, would have believed this to be the case.

## Sommaire

**L**e secteur canadien des ressources naturelles est devenu une des lignes de front de la réconciliation autochtone au Canada, ouvrant la voie vers un modèle nouveau et évolutif d'engagement entre les Autochtones et les entreprises et une prospérité inédite dans l'histoire du Canada pour la nation et les peuples autochtones. L'avenir de l'industrie pétrolière et gazière est tributaire de l'état de ses relations avec les peuples et les gouvernements autochtones à un point qui pourrait étonner la plupart des Canadiens. De la même manière, les espoirs de pleine participation des peuples autochtones à la prospérité canadienne en sont venus à reposer sur le secteur de l'énergie.

La participation effective des populations autochtones aux activités pétrolières et gazières remonte aux années 1970, période au cours de laquelle une série de décisions judiciaires et ce, jusqu'au début du 21<sup>e</sup> siècle, ont préparé le terrain pour les revendications des peuples autochtones relativement à leurs droits ancestraux à l'égard des projets de mise en valeur des ressources. En 2004, cette participation a reçu un nouvel élan de la part de la Cour suprême lorsque cette dernière a déclaré que les gouvernements avaient « l'obligation de consulter et d'accommoder » les collectivités autochtones avant qu'un projet puisse se concrétiser. Il est aujourd'hui évident que les décisions importantes concernant l'extraction et les infrastructures de ressources, comme les pipelines, exigent l'engagement des Autochtones, bien que l'approbation collective formelle ne soit pas absolument nécessaire.

La pleine inclusion des travailleurs autochtones dans le secteur pétrolier et gazier a donné des résultats probants. L'industrie pétrolière et gazière peut maintenant compter sur une participation autochtone importante. Les revenus de ces travailleurs dépassent considérablement la moyenne canadienne, non seulement celle des travailleurs autochtones, mais aussi celle de tous les travailleurs.

Néanmoins, les avancées des Premières Nations et des Métis dans le secteur pétrolier et gazier n'ont été ni régulières ni continuellement croissantes.

À la suite de son élection en octobre 2015, le nouveau gouvernement Trudeau a présenté un vaste programme national de renouveau économique et social. L'engagement contracté envers la collectivité comprenait la lutte contre les inégalités économiques, la mobilisation des peuples autochtones dans les prises de décision en matière de ressources, la riposte aux diktats de la « nouvelle économie » et l'adhésion à la campagne mondiale de réduction des émissions de CO2. Dans l'intervalle, des difficultés sont apparues. Dans une variété de domaines – participation des entreprises et des collectivités autochtones, emplois destinés aux peuples autochtones – les développements prometteurs de la décennie écoulée se sont butés aux forces négatives du marché.

“ *Non pas que le secteur pétrolier et gazier canadien opère de manière isolée.* ”

Les programmes du gouvernement libéral et, soyons clairs, l'inaction de ce gouvernement encore plus que ses actions ont également eu un effet d'étouffoir sur l'industrie de l'Ouest canadien. Ses interventions législatives – notamment la fermeture des projets d'exploration pétrolière et gazière dans l'Arctique, l'interdiction visant les pétroliers de la côte Ouest partant de Prince Rupert et le controversé projet de loi C-69, qui a élargi la portée des processus d'évaluation et d'analyse des projets – ont créé beaucoup d'incertitude pour les investisseurs et fermé des domaines de mise en valeur potentiellement intéressants.

Comme bouquet final à cette série de difficultés, les questions mondiales d'ordre géopolitique ont lourdement ébranlé l'industrie au printemps 2020, bien que beaucoup s'attendent à ce que cette dernière rebondisse au redémarrage de l'économie mondiale et, en particulier, lorsque de nouveaux pipelines commenceront enfin à être exploités.

Non pas que le secteur pétrolier et gazier canadien opère de manière isolée. Il est sujet à de nombreux défis en lien avec la compétitivité du Canada, notamment les impôts élevés, les lacunes sur le plan de la productivité, l'environnement réglementaire fédéral-provincial territorial, le sous-investissement en technologies émergentes et l'accès limité au capital de risque. Les interventions du gouvernement fédéral dans le secteur pétrolier et gazier ont pris forme dans le cadre des débats internationaux sur les changements climatiques, l'avenir énergétique mondial et les perspectives de l'industrie pétrolière et gazière en général.

Dans tous ces domaines, l'Ouest canadien et le secteur pétrolier et gazier suivent une trajectoire généralement positive; ils s'attaquent aux émissions associées à la production de pétrole et de gaz; ils améliorent les débouchés pour les peuples autochtones et modernisent les fondements de l'industrie. Cependant, récemment, les politiques fédérales conjuguées aux forces mondiales ont freiné, sinon inversé, ces développements positifs. Il serait tristement paradoxal si la position du gouvernement canadien sur un élément au cœur de son programme politique – la lutte contre les changements climatiques – faisait obstacle à la promesse d'une croissance économique inclusive et à la transition propre à mener les collectivités autochtones de la périphérie vers le centre de l'économie canadienne.

Les collectivités autochtones sont de plus en plus disposées à défendre l'industrie et à faire d'importants investissements en capital dans le pétrole et le gaz. Ces investissements sur le plan politique et financier ont commencé à contrebalancer les perceptions négatives à l'égard du secteur pétrolier et gazier. Les forces externes, en particulier les critiques en matière d'environnement, les turbulences réglementaires et l'incertitude quant aux priorités du gouvernement du Canada menacent beaucoup plus l'avenir de l'industrie que ne le font les collectivités et les gouvernements autochtones. Il y a vingt ans, peu de Canadiens, autochtones ou non autochtones, auraient cru que ce serait le cas.

## Introduction

In early April 2020, Indian Resource Council (IRC) Chair Roy Fox of the Blood Tribe wrote Prime Minister Justin Trudeau, asking the government of Canada to postpone the introduction of legislation enshrining the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) into Canadian law. Chief Fox, a strong and eloquent advocate for Indigenous rights, argued that the legislation would harm an already challenged oil and gas sector. The IRC represents 130 First Nations that either work in the industry or want to be involved with oil and gas.

That such a prominent Indigenous leader would speak up in defence of the sector was an excellent illustration of the profound transformation of the relationship between First Nations, Métis, and Canada's oil and gas sector in recent years (Fox 2020).

Chief Fox's intervention on UNDRIP was not the only such illustration of Indigenous engagement. Teck Resources' Frontier Mine was the beneficiary of the rapidly changing circumstances in the Canadian oil and gas sector. In January 2020, Alberta Premier Jason Kenney, supporting the Frontier oil sands development, lauded the engagement with Northern First Nations and Métis communities. He pointed out the extensive agreements between Indigenous communities and Teck; Indigenous support for the project expanded over the next two months with 12 communities signing impact and benefit agreements in March 2020.

This kind of positive collaboration was, by 2020, standard fare in the western Canadian oil and gas sector. But within 24 hours of the March 2020 agreements being signed, Teck withdrew its application for government of Canada approval of the Frontier priority, citing the rapidly changing global market situation for its decision. There were other factors at play, including the prospect of a federal rejection of the permit application and continuing uncertainty about the construction of pipelines. For the First Nations and Métis communities involved, the Teck decision was a bitter disappointment.

Twenty years ago, Indigenous communities in western Canada were much more divided in their approach than they are today. Led by Fort McKay, some

First Nations got heavily involved in the sector.<sup>1</sup> Many others, like the Athabasca Chipewyan First Nation, did not (Wickstrom 2014).

External players joined in with environmentalists and other oil and gas opponents, with high profile entertainers like Neil Young, Leonardo DiCaprio, and Jane Fonda fronting national and international campaigns against the oil sands (McCurdy 2017). The public paid heed to the Indigenous opponents of development, thanks to entrenched narratives in the news about the environment and First Nations and combined with celebrity endorsements. But most Canadians knew little about the communities that supported the sector (McCreary and Milligan 2014; Booth 2017).

Indigenous engagement has shifted dramatically over the last two decades. First Nations and Métis communities across the West have aligned themselves with oil and gas producers, pipeline and infrastructure companies, and the broader energy sector. Their participation expanded rapidly and comprehensively. While environmental protests against the oil sands continued, the celebrities have been marginalized, in part because of the amazing evolution of the role of Métis and First Nations people in the industry.<sup>2</sup>

In Spring 2020, COVID-19 and global geopolitical issues managed to damage the industry dramatically, with the commercial decline offset in some measure by the government of Canada's program for oil well clean-up. However, expectations are widespread that the industry will bounce back as the global economy reopens and, in particular, as pipeline capacity finally starts to operate. For the purposes of this paper, we will assume that reports of the death of oil are greatly exaggerated, although the sector still faces severe challenges as will be discussed below, many of which are self-imposed by Canadian government policies.

This report examines relations between Indigenous peoples and the oil and gas sector in Canada, focusing on five main themes:

1. How despite numerous challenges and competing narratives in the media, Indigenous peoples capitalized on changing community dynamics and Indigenous legal empowerment to establish a stronger presence in the oil and gas sector.
2. How companies in the sector responded both to the business advantages of working closely with Indigenous communities and to the changing law, particularly under “duty to consult and accommodate” requirements – and restructured their relationships with Indigenous peoples.
3. How companies implemented a wide variety of programs and policies to support their work with Indigenous communities and, over time, learned that business-to-business relationships and Indigenous equity investments were among the most effective measures.

4. How government of Canada policies have affected Indigenous involvement, both in terms of creating space for Indigenous communities, but also often constraining the industry's growth and development in recent years.
5. How reconciliation with non-Indigenous Canadians has changed significantly in energy-based regions, with efforts focused on building strong and enduring relationships between peoples, cultures, and communities.

## From protests to partnerships

The Canadian natural resource sector has emerged as one of the front lines of reconciliation in Canada, providing the nation and Indigenous peoples with a new and evolving model of Indigenous-corporate engagement and a pathway to prosperity that is unique in Canadian history.<sup>3</sup> Along with Indigenous people and the Canadian mining industry (Mining Association of Canada 2019), the oil and gas sector has established a new model of participation and mutual support that is transforming the industry.

To a degree that will surprise most Canadians, the future of the oil and gas industry in Canada depends on the state of the sector's relations with Indigenous peoples and governments. Equally, Indigenous aspirations to achieve an appropriate share of Canadian prosperity have come to rest on the energy sector. Before the surge in engagement in the first two decades of the 21st century, a small number of western Canadian First Nations produced oil and gas on their reserves, operating under the oversight of Indian Oil and Gas Canada [IOGC] (Webb 1987; Canada 2020a). There was only a handful of Indigenous-owned companies, mostly in the oil sands, and a small number of Indigenous employees within the firms (Longley 2015; Taylor and Friedel 2011; Westman and Joly 2019; Urquhart 2010: 9-12).

One of the challenges facing the oil and gas sector is the complications of working with both Indigenous communities in the energy-producing regions and Indigenous people living along the corridors leading from the oil sands and oil and gas producing regions to tidewater. Along the pipeline and transportation corridors, the energy and infrastructure companies discovered considerable support among interior Indigenous communities eager for economic opportunity, and outright opposition from coastal and near-coastal First Nations in British Columbia.

For many people in Canada and internationally, Indigenous opposition to major infrastructure developments has created a simple impression: Indigenous peoples universally oppose oil and gas development and pipeline construction, a position supported by environmentalists in Canada and

**FIGURE 1: CANADA'S MAJOR OIL PIPELINE ROUTES**



*Adapted from: Kusnetz 2020.*

beyond (Hoberg 2016; Quinn 2018; Clermont et al. 2019; Cooley-Hurtado, Tan, and Kobayashi 2019). Indigenous opposition first escalated in the early 2010s in response to the proposed Northern Gateway Pipeline through North-Central British Columbia, a high-profile, high-stakes contest that resulted in the cancellation of the Enbridge project in 2015 (Wood and Rossiter 2017). Indigenous protests against the Trans Mountain Pipeline Expansion (TMX) followed, primarily led by First Nations from the greater Vancouver and Vancouver Island regions, with Indigenous peoples emboldened by the success of the anti-Northern Gateway protests.

This standard narrative was challenged in 2018 when Chief Allan Adam of the Athabasca Chipewyan First Nation, a prominent critic of the industry, joined with other First Nations and the Indian Resource Council (IRC) to propose that First Nations purchase all or some of the TMX. This was only the start of a surge in planned engagement that came after the Trans Mountain Pipeline was purchased by the government of Canada from Kinder Morgan in 2018.

Indigenous entrepreneurs proposed other major energy infrastructure projects. For example, the proposed \$16-billion Eagle Spirit oil pipeline across north-central British Columbia would be 100 percent Indigenous owned (Cattaneo 2015). One chief “joined the Eagle Spirit project to achieve what he couldn’t with Northern Gateway: help his tribe become economically self-reliant” (Cattaneo 2018a).

As well there is Project Reconciliation ([www.reconciliationpipeline.ca](http://www.reconciliationpipeline.ca)) and the Iron Coalition ([www.ironcoalition.com](http://www.ironcoalition.com)) (vying to purchase the Trans Mountain Pipeline), the Alberta to Alaska (A2A) railway to connect to the Port of Valdez, Alaska ([a2arail.com](http://a2arail.com)), and a pipeline that would go to Churchill, Manitoba (Quesnel 2020) among others – each of which would represent a major expansion in Indigenous participation in the oil and gas sector.

The broad support among First Nations for the Coastal GasLink natural gas pipeline to the LNG Canada plant in Kitimat, BC, provided further evidence of the strong relationships between Indigenous peoples and the energy sector. The Haisla First Nation supported the LNG Canada project, negotiated an extensive collaboration with the company, and ensured that the First Nation and its members would be prime beneficiaries of one of the largest commercial developments in recent Canadian history. For the Haisla, the LNG initiative was a key element in the First Nation’s efforts to ensure long-term and sustainable financial independence from the government of Canada (Haisla Nation undated; Williams 2020).

Subsequently, a group of Wet’suwet’en hereditary chiefs broke from the elected Wet’suwet’en chief and council and launched a well-coordinated and externally supported opposition to the pipeline project (Temper 2019). This activism, like the earlier protests by non-oil and gas producing First Nations in southwest British Columbia, garnered more attention than did the strong and sustained Indigenous support for the oil, gas, and infrastructure sectors in western Canada (McCreary and Turner 2018).

What the national protests over the Wet’suwet’en impasse temporarily and partially obscured is a larger and more important story of one of the most remarkable economic transformations in Canadian history. With a promising Indigenous assertion of entrepreneurship and commercial engagement, First Nations and Métis have become key players in the future of the oil and gas industry.

## A surge in Indigenous leadership

The operations of the Indian Resource Council's 130 members collectively generate hundreds of millions of dollars a year in annual revenues from oil and gas.<sup>4</sup> Add to this the presence in the oil and gas sector of hundreds of Indigenous-owned companies, growing equity investments in the industry, thousands of Indigenous employees, and the contribution of millions of annual "own source revenues" (income that comes directly to Indigenous governments and is not delivered through and answerable to the government of Canada) to Indigenous communities.<sup>5</sup>

Indigenous communities are, through government regulations and industry-community agreements, integrated into the processes of environmental assessment, project approval, development, and post-development remediation. Far from being on the periphery of the oil and gas sector, Indigenous communities and their governments are central to the industry's present and future.

“*Indigenous communities and their governments are central to the industry's present and future.*”

It is understandable that Canadians at large have difficulty making sense of Indigenous perspectives on oil and gas development. The media tend to highlight Indigenous protests against energy resource projects. More than 50 First Nations from across North America signed the Treaty Alliance Against Tar Sands Expansion in 2016, for example. Widespread climate change protests, particularly those organized against the pipeline projects in British Columbia's Lower Mainland and on Vancouver Island, garnered considerable support among Indigenous peoples, whose opposition focused on the Maritime shipping of crude oil from pipeline terminals.

Although some communities have been engaged for years, only more recently have Indigenous voices started to speak out publicly in favour of oil and gas development. Indigenous communities active in the industry complain that environmental activists are hijacking potential economic opportunities by "invading their lands, misleading them about their agendas and using hardline tactics against those who don't agree" (Cattaneo 2018a).

In one particular case, Martin Louie, hereditary chief of the Nadleh Whut'en First Nation in north-central British Columbia, was presented as the "post-

er boy' for Indigenous opposition to Enbridge Inc.'s pipeline" (Cattaneo 2018a). But in fact, his involvement in criticizing the project primarily revolved around his dissatisfaction with the proposed arrangement and his determination to secure a better deal for his community before supporting the project. Before a deal could be reached, the federal government cancelled the \$7 billion Northern Gateway pipeline (Cheadle 2016). Chief Louie and his community – and all of the First Nations in the region – were left without a deal or the prospects of a deal.

As one analyst said, "The campaigns consistently portray a united Indigenous antidevelopment front and allies of the green movement, but some Indigenous leaders are becoming alarmed that they could be permanently frozen out of the mainstream economy if resource projects don't go ahead" (Cattaneo 2018a).

### **Eco-colonialism - marginalizing the concerns of Aboriginal communities**

The relationship between the environmental movement and Indigenous participation in the natural resource economy sits at the centre of the contemporary debate about the First Nations and Métis engagement in the oil and gas sector. The term "eco-colonialism" has been used in many ways, one of which was to describe the environmental impact of industrial development on traditional Indigenous territories and communities (Rees 2010).<sup>6</sup> It is now being used, quite differently, to describe the process by which environmental groups put pressure on Aboriginal communities to support their specific environmental agendas (Cattaneo 2018a).

Blaine Favel, a prominent western Canadian Indigenous leader, has said that environmental protesters are the "21<sup>st</sup> century version of 19<sup>th</sup> century Christian missionaries."<sup>7</sup> To Favel and others, environmentalists support Indigenous peoples only if they oppose industrial development. Environmentalists are not reliable defenders of Indigenous rights and self-determination; Indigenous communities that promote oil, gas, and infrastructure development are not likely to garner support from the environmental movement despite the fact that they, too, care deeply about environmental issues and their territories and have an unparalleled long-term attachment to the land. They use their influence to ensure projects meet the highest environmental standard and protect sensitive areas, and that environmental assessments incorporate traditional knowledge (Noble 2015; Udofia, Noble, and Poelzer 2017).

When Indigenous communities are "useful" to their cause, environmental organizations provide them with logistical, financial, and political assistance. If the Indigenous communities seem to stand with the oil and gas sector, in contrast, they are either ignored by the environmental groups or subject to criticism and repeated interventions in community politics and de-

cision-making. The manner in which the Wet'suwet'en have engaged with the environmental movement is a good case in point. A group of hereditary chiefs who oppose the pipeline have been strongly supported, financially and organizationally, by environmental groups. The elected band chiefs and local groups, including some prominent women activists, who support pipeline development, have received no such backing and, indeed, feel that they have been unfairly singled out for criticism (see, for example, Tait-Day, Wet'suwet'en 2020).

Indigenous leaders supportive of oil and gas and pipeline development indicate that they have been harassed and criticized, particularly on social media. They are openly criticized by environmental organizations that, ironically, regularly claim that they support Indigenous values and interests.<sup>8</sup> Many Indigenous peoples and communities, particularly in the Lower Mainland and on Vancouver Island, share some of the priorities of the activist environmental organizations (Kane 2020). But many others do not. Indeed, First Nations leaders have stated that they resent environmental organizations – Canadian, American, or international – who assert that there is a single Indigenous position on the complex issues associated with oil and gas development and delivery.<sup>9</sup> Speaking of the Kluane First Nation in Yukon, ethnographic researcher Prof. Paul Nadasdy wrote:

This is not because they are antienvironmentalists, but because the terms of the debate do not apply to them. First Nation people's beliefs and practices do not fit anywhere on the environmentalist spectrum, and any effort to pigeonhole them in this way has serious political consequences for them. Those who do categorize First Nation people in this way, regardless of their intentions, end up viewing indigenous people either as rapacious despoilers of the environment, as sad failures unable to live up to the ideals of ecological nobility, or as inauthentic manipulators, cynically and opportunistically deploying environmentalist rhetoric (that they know to be false) for their own political gain. In fact, they are none of these things. They are simply people with a complex set of beliefs, practices, and values that defy standard Euro–North American schemes of categorization. (Nadasdy 2005)

The main point is simple. Indigenous peoples do not automatically share the often-strident positions of the most assertive environmental organizations.

## **Indigenous voices in support of development**

Indigenous peoples have, in substantial numbers, concluded that commercial engagement is important for community vitality. Chief Nathan Matthew of the Simpcw First Nation in British Columbia stood behind the Trans Mountain pipeline expansion despite having one third of the pipeline cut-

ting across his nation’s traditional lands. Chief Matthew commented: “We have lived with this existing pipeline for about 60 years and we have real concerns about it, mainly about environmental issues, but it’s there and we see the broader context of the need for oil and gas to power our lives and our economy and we are realistic about that” (Cattaneo 2018b). The Trans Mountain expansion project is built on an existing system and offers “benefits to impacted aboriginal communities like procurement, jobs, education and revenue sharing” (Cattaneo 2017b).

*“Indigenous communities have also been involved with major equity investments in the energy sector.”*

Indigenous communities have also been involved with major equity investments in the energy sector. For example, Suncor announced in 2017 that the Fort McKay First Nation and the Mikisew Cree First Nation had acquired a substantial stake, worth more than \$500 million, in Suncor’s East Tank Farm Development (Cattaneo 2017c). The energy industry supports this turn toward equity participation by Aboriginal communities in resource projects – viewed as “the key to winning [Aboriginal] support” – despite such initiatives earlier being regarded as “giveaways” that were negative for shareholder interests (Cattaneo, 2017b)).

According to Joe Dion, chairman and CEO of Frog Lake Energy Resources Corp., an Alberta oil and gas company that is fully owned by the Frog Lake First Nations, “it’s time for aboriginals to embrace the new reality and seize opportunities that could alleviate poverty and accelerate their economic reconciliation with the rest of Canada” (Cattaneo 2017b).

Massey Whiteknife, a Métis man with roots from Pine Creek First Nation Reserve in Northern Manitoba who worked at BP Canada’s Calgary Headquarters “sees his involvement and that of other aboriginals in the energy sector as another step in the reconciliation efforts underway” (Cattaneo 2014). According to Whiteknife: “With the diminishment of a sustenance economy, for example the fur trade, you need to move to another economy of trade, and aboriginal people are really interested and pursuing that... There have been times in the past when I met with a community and they were unbelievably supportive of myself and the role that I have taken on” (Cattaneo 2014).

## Investing in communities, respecting Indigenous rights

The major energy firms have large Indigenous relations units, work closely with many First Nations and Métis communities, and have extensive support and engagement programs and protocols. While the activities of a small number of large firms do not represent the industry as a whole – smaller firms lack the resources to provide the same level of services and support – they do indicate the magnitude of Indigenous participation.

A study released early in 2018 demonstrates how partnerships between Aboriginal communities and oil and gas companies have paid off:

Cenovus spent 19 per cent of its capital budget with Indigenous partners, up from 9.7 per cent in 2012. Suncor Energy Inc., the largest oil sands operator, spent \$445-million with aboriginal companies in 2016, pushing its total Indigenous partnership to a remarkable \$3.9-billion since 1999.

Certified at a gold level in the Progressive Aboriginal Relations program under the Canadian Council for Aboriginal Business (CCAB), Suncor continues to expand its involvement with First Nations. Suncor's recent \$500-million oil sands storage-terminal deal with the Mikisew Cree and Fort McKay First Nations is part of the evolution.

As aboriginal companies build capacity and experience, oil sands operators are recognizing local businesses often make the best partners. Aboriginal companies are rooted in the region and there are a lot of them. Some 130 Aboriginal businesses are members in the Northeastern Alberta Aboriginal Business Association. (Stastny 2018)

As a follow-up example of Cenovus's commitment, the company announced in 2020 that it had established \$50 million fund for housing for First Nations people, an additional example of how corporate engagement with Indigenous communities has resulted in better cross-cultural understanding and support for Indigenous futures.

The Whitefish Lake First Nation benefitted in different ways from involvement in the industry:

The First Nation-owned company in Lac La Biche, Alta., employs 150 people in its dry-cleaning and industrial-garment manufacturing businesses – Good Fish Lake cleans 15,000 coveralls a week. Through the downturn, management focused on improving operational efficiencies and building capacity.

Instead of outsourcing basic machine repairs, Good Fish Lake trained their own workers to do it. The company buckled down on customer service. Most recently, the company completed a research project in conjunction with the University of Alberta and the Alberta Research Council to determine the best dry-cleaning technology for oil-stained garments. That study also positions Good Fish Lake as an authority in industrial-garment cleaning.

“Our customer satisfaction scorecards have gone as high as 97 per cent recently and that’s led to opportunities to do more work with our customers,” Mr. Sanderson said. “The last two years have been the most profitable for the company in the last 40 years.” (Stastny 2018)

“ *Fort McKay First Nation has been described as an example of “community capitalism in action.”* ”

Fort McKay First Nation has been described as an example of “community capitalism in action.” The concept suggests that the shared wealth has benefitted the community and not just select individuals. As measured by the Community Well-Being Index, Fort McKay is close to the Canadian average based on income, employment, housing quality and education factors. Political scientist Tom Flanagan reports:

The average after-tax income for Fort McKay residents was \$73,571 in 2015 – significantly higher than for Alberta (\$50,683) and Canada (\$38,977). This is an outstanding achievement for a First Nation whose people just a generation ago were hunters and trappers in a remote wilderness area.

All this has been done without producing a drop of oil or earning a dollar in royalties. Fort McKay has prospered by selling services to oil sands corporations, starting with janitorial care, then expanding into trucking, earth moving, well-site maintenance and work-force lodging. In short, they seized the opportunities presented by one of the biggest industrial developments on the planet.

Initially, the people of Fort McKay were skeptical about development. In 1983, they erected a blockade to stop the heavy trucks rumbling through their village. But around that time, they also realized that

their old way of life based on hunting and trapping was passing away. Faced with the stark choice of pursuing new opportunities or becoming dependent on the Canadian welfare state, they opted for the path of self-supporting independence.

Fort McKay's story is of national importance because participation in resource development is the most promising road out of poverty for hundreds of First Nations located in remote areas. Urban First Nations can thrive by building casinos, hotels, shopping centres and residential developments. But for many remote First Nations, oil and gas, minerals, forestry and fisheries are the best hope for prosperity. (Flanagan 2018a)

## The Indian Resource Council

The Indian Resource Council (IRC) is the strongest and most consistent voice for Indigenous engagement in the oil and gas industry. The organization was “initially formed with the mandate of being a watchdog organization over oil and gas companies, now represents and advocates for First Nations oil and gas producers” (Narine 2016).

This organization, with membership consisting of 130 First Nations, most of which are producing oil and gas, is not an uncritical advocate for energy development. Stephen Buffalo, chief executive of the IRC has commented: “We will make sure things are done right to protect Mother Earth, but we need a revenue stream too” (Bakx 2016).

But IRC members know that many communities struggle with the decision to engage with the sector and that there are many uncertainties about the best way to participate. The debate is heavily polarized.

The IRC supported Kinder Morgan Canada's Trans Mountain Expansion pipeline and other infrastructure developments on the following conditions, which emphasize the importance of the commercialization of Indigenous constitutional and treaty rights:

- there is sufficient and meaningful protection of Sec. 35 constitutional rights by all levels of government in Canada;
- all impacts to these rights are properly identified and sufficiently accommodated;
- lands and resources necessary for the continued exercise of Sec. 35 rights are also protected; and
- First Nations have meaningful economic participation in all projects occurring where Sec. 35 rights are impacted (see, for example, Bakx and Normand 2019; and IRC 2020).

Chief Okimaw Fox of Onion Lake First Nation and Chairman of the IRC said:

Oil and Gas resources have been our bread and butter for many years. We want to get out of the paternalism of the Indian Act and oil and gas participation is certainly one way to do that. The IRC Board and Executive want to move our product wherever the market is. Canada is the envy of the world as a leader in pipeline technology, environmental stewardship and regulatory excellence. The missing piece is to get First Nations at the decision-making table. Industry wants to be our partners and together we can get this done in a good way. (Indian Resource Council 2018)

Across the west, pragmatism has characterized Indigenous engagement in the energy sector.

### **Aboriginal rights and self-determination in development projects**

The Indian Resource Council is not alone in seeing that engagement in the industry respects Indigenous rights. The IRC wants to see that “members are at the table when issues of natural resource development are discussed and that we, as Indigenous people with rights and title to land and resources, benefit as well from this development” (Indian Resource Council 2018).

Assembly of First Nations National Chief Perry Bellegarde similarly commented on the inherent rights of First Nations peoples with respect to development projects: “You have to respect the inherent right to self-determination... That right to self-determination that Indigenous people have is the right to say yes and the right to say no” (Narine 2016). Anderson et al. (2008) explain that the importance of land is tied to Aboriginal culture and identity and that capitalizing on the resources in the land is also the source of livelihood:

Land is important in two respects. First, traditional lands are the ‘place’ of the nation and are inseparable from the people, their culture, and their identity as a nation. Second, land and resources, as well as traditional knowledge, are the foundations upon which Indigenous people intend to rebuild the economies of their nations and so improve the socio-economic circumstance of their people – individuals, families, communities and nations.

Inquiries in the 1970s and court decisions thereafter paved a path for asserting Aboriginal rights with respect to resource development projects forming new relationships and shifting attitudes. For example, in the 1970s there was intense pressure to capitalize on the oil and gas potential of the Mackenzie River Valley and the Beaufort Sea, a prospect that worried some First Nations and Inuvialuit and their southern supporters. In 1974, Prime

Minister Pierre Trudeau appointed Justice Thomas Berger to lead an inquiry into the issues surrounding the Mackenzie Valley Gas Pipeline Project (Sabin 1995; Page 1986).

The inquiry, which recommended delaying the project until Indigenous land claims had been resolved and communities were prepared to participate equitably (Berger 1976; Sabin 1995; Abele 2014), established “new measures and procedures in the national legal system to resolve land claims by Aboriginal peoples that provided the basic framework” for “Indigenous land and resource development” (Anderson et al. 2008).

*With the weight of the Supreme Court of Canada behind them, Indigenous peoples were empowered to negotiate deals.*

In the following decades, new relationships formed between Aboriginal people, the federal government, and corporations that wanted to develop resources on traditional Aboriginal lands. There was also a shift in attitude towards resource projects and increased Aboriginal business development “based on financial capacity provided by land claim settlements, natural resource development, and by the decision of Aboriginal leaders to participate in the market economy” (Anderson et al. 2008).

The Indigenous campaign received a welcome boost from the Supreme Court in 2004, on the related *Taku* and *Haida* cases. In these two judgments, the Supreme Court indicated that governments had a “duty to consult and accommodate” Indigenous communities before development could proceed. This means that companies have to avoid negative impacts if possible and mitigate any impacts, perhaps through compensation, alterations to the project or, potentially, the cancellation of the undertaking. Most significantly, the court ruling requires that companies engage extensively with affected Indigenous communities, identify areas of potential conflict and cooperation, and negotiate appropriate compensation. The new approach gave Indigenous communities a much greater role in resource development (Newman 2009; McNeil 2005; Olynyk 2005; Tzimas 2005).

With the weight of the Supreme Court of Canada behind them, Indigenous peoples were empowered to negotiate deals – typically called impact and benefit agreements or collaboration agreements – that would provide sufficient com-

pensation (Hitch and Fidler 2007; Caine and Krogman 2010; Gogal, Reigert, and Jamieson 2005: 129; Gibson and O’Faircheallaigh 2015). Companies had been making arrangements with Indigenous communities before the 2004 decisions, including some path-breaking efforts by oil sands firms, but the 2004 rulings gave considerably greater authority to the Indigenous peoples. A community that felt an offer from a resource firm was insufficient could seek a court ruling on the appropriateness of the consultation processes and/or the compensation package and expect to receive more substantial direction from the court about Indigenous authority. Conversely, companies that believed Indigenous approval was being withheld inappropriately could seek court review of their engagement processes and secure permission to proceed if the court agreed.

The transitions allowed for the reopening of discussions about oil and gas development in the North. Economic realities made the northern energy projects commercially viable, with major offshore work done in the Beaufort Sea and around Norman Wells.<sup>10</sup> Much had changed in the years since the Mackenzie Valley Pipeline Inquiry, including the settlement of most of the Indigenous land claims in the region. These agreements outlined Indigenous rights to be involved with and benefit from resource developments in their territories and changed dramatically the relationship between the oil and gas firms and Indigenous communities.

Under the new arrangements, Indigenous peoples stood to gain much more financially from energy development and ensured that they had important roles to play in the assessment of development plans. This convergence of interests resulted in the creation of the Aboriginal Pipeline Group (APG), which represented the Inuvialuit, Sahtu, and the Gwich’in (Anderson et al. 2008: 9). The APG provided “a new model for Aboriginal participation in the developing economy, to maximize ownership and benefits from a proposed Mackenzie Valley pipeline and to support greater independence and self-reliance among Aboriginal people” (Anderson et al. 2008; Nuttall 2008; McPherson and Neale 2004: 191; Angell and Parkins 2011; Dokis 2015).

The cancellation of the pipeline project caused considerable distress. Indeed, Indigenous peoples still lament the loss of jobs and economic opportunity in the region; communities along the planned development corridor, having spent years preparing for employment and business opportunities, then had to live with the prospect of a future without the economic boost attached to the pipeline. Most significantly, they had to face the possibility that there would be no further major economic opportunities in the coming years.

The Inuvialuit community of Tuktoyuktuk, slated to be the major staging area for development in the Beaufort Sea, lost the anticipated economic opportunities and has struggled ever since.<sup>11</sup> The Indigenous peoples of the Mackenzie Valley and delta realize that such possibilities are fleeting and unpredictable. It is a lesson other Indigenous peoples in the country learned.

Later decisions by the Supreme Court of Canada – particularly the cases brought by the Tsilhqot'in (2014) – further changed the discussions on resource development (Coates and Newman 2014; Newman and Schweitzer 2008). The Tsilhqot'in decision has been called a watershed moment since it “concretises what it means when we say that aboriginal land and resource rights survived the acquisition of sovereignty by the Crown” (Bankes 2015). Three main implications emerged: “The first is that where title is confirmed, the upstream sector of the resources industry will need to deal with a new landowner when seeking to acquire resource extraction or harvesting rights... Secondly, the decision does create some uncertainty where the resources sector is operating on lands where title is claimed but not judicially confirmed... Thirdly, both the resources industry and title owners themselves need to be cognizant of the distinctive features of aboriginal title in developing workable commercial deals where the title owner is interested in exploiting resources on title lands with third party assistance” (Bankes 2015).

“ *Indigenous people experienced a dramatic transformation in their economic role in Canada.* ”

From the 1990s, when Indigenous rights over land and resource development were unspecific and of limited legal authority, through to 2020, Indigenous people experienced a dramatic transformation in their economic role in Canada. The expansion of legal rights, in particular, empowered Indigenous peoples. It is now clear that major decisions about resource extraction and resource infrastructure, like pipelines, require Indigenous engagement, but not necessarily the communities' formal approval. Some Indigenous leaders argue that the requirement for consultation constitutes an effective veto, but the Canadian courts clearly disagree, at least as of 2020. The limits on Indigenous authority have been implicitly accepted by the Indigenous communities that have signed agreements with resource firms.

Even Canada's acceptance of the *United Nations Declaration on the Rights of Indigenous Peoples* in 2010 (UNDRIP passed the UN in 2007), with its signature line about “free, prior and informed consent” relating to the use of their territories, did not settle the question of Indigenous approval and oversight. (Incidentally, this famous phrase shows up several times in UNDRIP and does refer exclusively to matters of resources and land use (Coates and Favel 2016a, 2016b).) The specific requirements of “duty to consult and accommodate” or “free, prior and informed consent” were, to the Indige-

nous communities and the companies, considered to have been met if an agreement with the affected communities could be negotiated. Conversely, projects can and have proceeded without community approval.

The results, as can be seen in the agreements signed by Coastal GasLink and Trans Mountain Pipeline, are comprehensive and substantial (Trans Mountain undated). They share much in common with the agreements negotiated by mining companies and hydro-electric promoters, including employment and training for community members, preferential contracting for Indigenous businesses, community benefit payments, and some form of revenue-sharing arrangement (Trans Mountain 2018). The specific agreements are generally not made public, but the pattern is now familiar. The Ashcroft Indian Band, for example, signed an agreement with Trans Mountain in 2014 through a process that was summarized by a team of journalists who reviewed the arrangements with all Indigenous groups along the corridor this way:

**Position on project:** Has an agreement. Executed a confidential mutual benefits agreement on Oct. 21, 2014, and filed a letter of support with the government on Feb. 11, 2015. The First Nation has not yet responded to our request for more information.

**Why this position:** The letter of support states the First Nation is satisfied with Trans Mountain's mitigation measures and agrees consultation from the company was adequate.

**How decision was made:** We couldn't get a clear answer on this. If you have information please fill out this survey.

**What now:** The company said they will continue to engage with Ashcroft Indian Band to understand any concerns and receive feedback, according to a report submitted by Kinder Morgan in December 2017. The report shows that Ashcroft is concerned about their ability to provide an Aboriginal monitor to be involved in construction monitoring. Ashcroft also raised concerns about their lack of internal technical capacity and information to provide feedback on draft plans for the project.

(There is a database that has tracked many of the agreements with the pipeline company; it also outlines the status of groups that, as of May 2018, had not signed agreements (Jang et al. 2018).) The rules of resource development have been transformed, quickly reshaping the oil and gas sector and establishing a legal and political framework for Indigenous-corporate relationships.

Indigenous peoples have gone to court numerous times to fight for the recognition of their right to influence resource development in Canada. Having won these rights in clear and decisive victories, First Nations communities

have been determined to exercise their newly recognized authority. As the court battles proceeded, commentators wondered how resource development would move forward given the episodic and imprecise empowerment of Indigenous peoples (Lavoie 2019).

These concerns proved to be misplaced. While the consultation and accommodation arrangements add to the complexity of corporate engagement compared to the approach in the 1970s and 1980s, the structured nature of the processes provide a measure of finality and clarity that has long been absent in the sector. Indeed, the processes related to the duty to consult and accommodate requirements ultimately have provided a significant level of efficiency and effectiveness to company-community relationships.

As returns have become more certain and more substantial, more Indigenous communities want in on resource development and are determined to secure an appropriate return from the oil and gas industry. They have found numerous ways that they can capitalize on opportunities, restructure their relationship with companies, and participate in the sector at large. Importantly, Indigenous engagement is not solely about money, but rather represents a broad and comprehensive effort to share in national prosperity.<sup>12</sup>

## The federal government's mixed performance on advancing Indigenous issues

Following its election in October 2015, the new government of Prime Minister Justin Trudeau outlined an extensive program for national economic and social renewal. The new Liberal strategy included comprehensive commitments on a wide range of issues including climate change amelioration, expanded environmental assessments of resource projects, Indigenous rights, and inclusive economic growth. The collective promise was to address economic inequality, involve Indigenous peoples in resource decision-making, respond to the dictates of the “new economy,” and join the global campaign to reduce CO2 emissions (Liberal Party of Canada 2015; Van Nijnatten 2018).

The Liberal government's complex environmental and resource agenda raised a large number of questions. Prime Minister Trudeau made it clear, in numerous statements, that he recognized the right of Indigenous peoples to stop major projects if they did not approve. He also stated that he favoured initiatives designed to encourage economic development for First Nations, Métis and Inuit people (Fontaine 2015).

The government of Canada's strategy for environmental action focused on the whole-hearted endorsement of the *Paris Climate Agreement*, approved at an international convention in December 2015. The Liberal strategy called for strong national action on energy management, with mixed messages about the government's plans for the future of the oil sands, planned pipelines (Enbridge Line 3 to central North American markets, Trans Mountain expansion project to the West Coast, and the Keystone XL Pipeline to the southern USA), and the shipment of bitumen to international markets (MacNeil and Paterson 2016).

“ *The past three years have been challenging, to say the least, in the Canadian oil and gas sector.* ”

No government operates in a vacuum, of course. National and international forces – the empowerment of the global environmental movement, the rapid rise of energy production in the United States of America, turmoil in international markets for oil and gas, the transition from the environmentally-activist President Barack Obama administration to the fossil fuel-supportive President Donald Trump government (Anderson et al. 2017; Ladd and York 2017), and changes in the Chinese economy – made it clear that Canada could not act without reference to continental and global forces. These included downward pressures on international prices and demand for Canadian oil and gas.

The past three years have been challenging, to say the least, in the Canadian oil and gas sector. In a variety of areas – Indigenous business and community engagement, employment of Indigenous peoples (with a specific focus on Indigenous women), and the impact of regional transitions on small towns and rural areas – the promising developments of the past decade ran up against negative market forces. Liberal government programs and, to be clear, inaction more than action, had a dampening effect on the western Canadian industry (Lagerquist 2020). Legislative measures from the closure of Arctic oil and gas exploration, the banning of west coast tanker traffic out of Prince Rupert, and the contentious Bill C-69, which expanded the reach of project evaluation and assessment procedures, created massive uncertainty for investors and closed off potentially valuable areas of development. Delays in project approvals for proposed pipelines and oil sands projects, the former caused by a combination of environmental activism and protests from some Indigenous groups, slowed investment and blocked Canadian bitumen from world markets. The industry was not

pleased with many aspects of the government of Canada's approach but, to the government's credit, work did commence on the TransMountain Pipeline (MacLean 2017; MacNeil and Paterson 2018; Gutiérrez Haces 2016; Rubin 2016).

The government of Canada, at the same time, had launched the most aggressive campaign of reconciliation in Canada's history, greatly expanding federal financial support for Indigenous peoples and communities. The government moved on many fronts to change legal and treaty relationships, and it expanded social, cultural, and economic supports for First Nations, Métis, and Inuit peoples. Prime Minister Justin Trudeau repeatedly referred to the improvement of Indigenous conditions as his government's most important commitment, including a promise to fully implement the Truth and Reconciliation Commission's recommendations and to integrate the *United Nations Declaration on the Rights of Indigenous Peoples* into Canadian law.

Commercially-focused Indigenous organizations, led by the Indian Resource Council and the First Nations Major Projects Coalition, got financial support and attention in Ottawa at the administrative and political levels. Overall, however, the government's mixed messages on the importance and future of the western Canadian energy industry and perceived go-slow attitude to project approval led many commentators to conclude that the environmental and climate change agendas had overtaken resource development as top government priorities.<sup>13</sup> As Claudia Cattaneo observed,

While claiming to look for balance between the economy and the environment, the federal Liberal government pushed its climate change agenda forward in major environmental and regulatory reforms of big energy projects announced Thursday [which expanded oversight and consultation]. And in case there was any doubt, the proposed changes reinforce that the Liberal energy priority is about transitioning to a clean energy economy, not supporting investment in oil and gas – a big political and economic gamble while the United States is moving in the opposite direction. (Cattaneo 2018c)

The government's management of the sector, in consequence, had pronounced effects on western Canada, working counter in several areas to its focus on inclusive economic growth and revealing the inherent contradictions between the federal environmental and Indigenous initiatives.

## The growth of oil and gas under previous governments

The western oil and gas sector has endured a significant series of booms and busts over the past 40 years. Through the post-World War II era, however, the sector had consistent support and encouragement from the government of Canada. With the major exception of the National Energy Program in 1984, which caused severe dislocations in the western energy sector, the federal government has been a strong proponent of energy development in the region (Pratt 1982; James and Michelin 1989).

Stephen Harper's promotion of Canada as an "energy superpower" while he was prime minister (2006 to 2015) suggested that the country was moving rapidly toward pipeline development, the expansion of the oil sands, and the development of the nation's natural gas and liquified natural gas potential (Welsh and Hester 2008; Taber 2006). Billions of dollars of foreign investment flowed into the country sparking a sustained economic boom and increasing the return to the Indigenous communities that engaged with the sector.

The federal approach enjoyed strong support from the provincial governments in the West, including the Progressive Conservatives in Alberta, the pro-business Liberal Party in British Columbia, and the right-of-centre Saskatchewan Party in Saskatchewan (Isaacs 2005; Percy 2012; Taft 2017).

The Harper government's encouragement extended to investment incentives, a clear and reliable environmental review and oversight effort, substantial support for skills training, and proactive assistance for Indigenous participation in the sector. The result was the rapid expansion of the western economy, the enrichment of Alberta, the expansion of the oil and gas workforce, and the establishment of the Canadian sector as major contributor to the global energy economy. The incremental development of the Athabasca oil sands, one of the world's largest natural energy deposits, made it clear that Canadian prosperity was intricately linked to the continued expansion of the oil and gas industry (Isaacs 2005).

The industry's growth was truly impressive. In the late 1940s, western Canada had a strong agricultural economy and the promise of mineral development, particularly in northern areas. The emergence of the oil and gas industry, especially following the Leduc discovery in 1947, ushered in an era of rapid and sustained economic growth (Breen 1993). Exploration crews blanketed the region, discovering substantial deposits across Alberta and in Saskatchewan. The presence of heavy oil in the Athabasca had been known for generations, but without the advanced technologies needed to extract the oil from the sand, the massive deposits remained unexploited. By the 1980s, oil sands technology allowed for a transition from experimentation to actual development, leading to a rapid expansion in regional oil production.

Early in the 21st century, advanced innovation made it possible to produce natural gas locked in shale, sparking yet another dramatic expansion of Canadian energy output (Rivard et al. 2014; Boyer et al. 2011). By the 2010s, the energy sector represented a significant portion of the Canadian economy, particularly strong in Alberta into north-eastern British Columbia and southern Saskatchewan, and a major and sustained contributor to the economic prosperity of the country as a whole (Brody 1981).

Prosperity followed the development of the oil and gas fields. New communities blossomed across the West and existing small centres expanded rapidly. Calgary, the focal point for western Canadian energy development, grew into one of the country's largest cities, expanding 50 percent between 2000 and 2010. The key regional energy centres – Fort McMurray, Grande Prairie, Lloydminster, Estevan – grew dramatically. Throughout the West, areas with active exploration and development fields saw population growth and rapid business development. Numerous small towns enjoyed robust economies, low unemployment rates, stable or expanding populations, and the significant investments in infrastructure associated with resource development and substantial government revenues.

These towns and surrounding areas also experienced the other aspects of a booming economy: inflation in wages and local housing prices, pressure on government services, and considerable social change. For the first time in generations, the prosperity of the non-Indigenous population was shared, at least in part, by the First Nations and Métis population.

At a time when rural and small-town societies in many parts of the world were experiencing marked retrenchment, many parts of rural western Canada had strong economies and stable populations. The oil and gas economy was, during this boom time, a relatively new economy, drawing thousands of young people into high paying and seemingly secure work. Many Indigenous peoples were drawn into pre-employment and training programs and, when they succeeded, many transitioned into full-time work in the sector. The industry became, along with mining, among the best examples of Indigenous participation in economic well-being (Parlee 2015; Friedel and Taylor 2011; Taylor, Friedel, and Edge 2009).

This was an era of unprecedented investments in western Canadian community development and regional infrastructure (Gibbins and Roach 2010).<sup>14</sup> In Alberta, in particular, the government capitalized on increased tax revenue to improve schools, sporting facilities, and government offices across the region. Rural prosperity seemed assured, in large measure because of the scale and comprehensive nature of the western oil and gas industry. The experience in western Canada stood in sharp contrast to the many parts of rural Canada that experienced substantial economic challenges during this era related to the sharp decline in the forestry and the mining sectors, the latter tied to the shift from company towns to fly in/fly out operations.

# The evolving contours of Indigenous engagement in the oil and gas sector

Starting early in the 21st century, the oil and gas sector has emerged as the leading area of engagement between Indigenous peoples and the market economy in Canada. The western Canadian energy sector became the most successful and extensive example of economic reconciliation in the country. (This statement, incidentally, should draw attention to the limited success of the Canadian economy in creating equitable space for Indigenous peoples, although developments in the East Coast fishery show considerable promise (Coates 2019).)

Because participation was widely dispersed and not limited to a single sub-region or Indigenous group, the overall pattern of engagement has not attracted as much attention as it warrants. The developments across Alberta are well-known and widespread. In addition, communities in British Columbia along the Alaska Highway, from Dawson Creek and Fort St. John to Fort Nelson, have found themselves in the middle of a major gas field, one of globally significant proportions (see Brody 1981; Garvie and Shaw 2014). The Montney gas field, straddling the BC-Alberta border, rivals the oil sands in scale and importance of the resource (Natural Energy Board et al. 2013). The northern extension of the Bakken field, which spans the Canada-US border, reaches into southern Saskatchewan and a small portion of south-western Manitoba (Bakken Shale 2019).

What set the rapid expansion of the oil and gas industry apart from the general pattern of Canadian development in the post-World War II era was the unprecedented level of Indigenous engagement. For generations, Indigenous peoples (First Nation and Métis, in this instance) lived on the economic margins of Canada. They were barred from participation through a combination of multi-generational poverty, geographic isolation, racial discrimination, and government policies designed to restrict Indigenous rights and commercial options. First Nations reserve lands, selected or imposed by governments in the late 19th century were not well connected to the western Canadian economy save for the oil, gas, forestry, and mining sectors. This process of economic marginalization held through the 1950s and 1960s, with dependence on government welfare payments replacing earlier Indigenous reliance on traditional harvesting and occasional contact with the market economy (Ray 2016).

Natural resource development is always a matter of geographic “luck,” although in this case the energy good fortune was widely distributed. The vast majority of the Canadian oil sands territories are located in Alberta

(McCormack and Ironside 1993; Piper and Sandlos 2007). Had they been located in Saskatchewan or the southern Northwest Territories, the economic history of the West might well have been dramatically different.

Reserves in western Canada were set up following the treaty process that started in the 1870s. They were located, in part, based on First Nations' preference but, even more, on security and administrative concerns of the government of Canada (Hall 2015; Hall 1984; Tobias 1983). Instead of locating cultural groups together and building social economies of scale, the government preferred to separate them into smaller population centres. In the late 19th century, economic assumptions focused on agriculture and ranching, activities that could be adapted to local geographic circumstances but which left Indigenous peoples on the social margins of the regional order (Carter 1990).

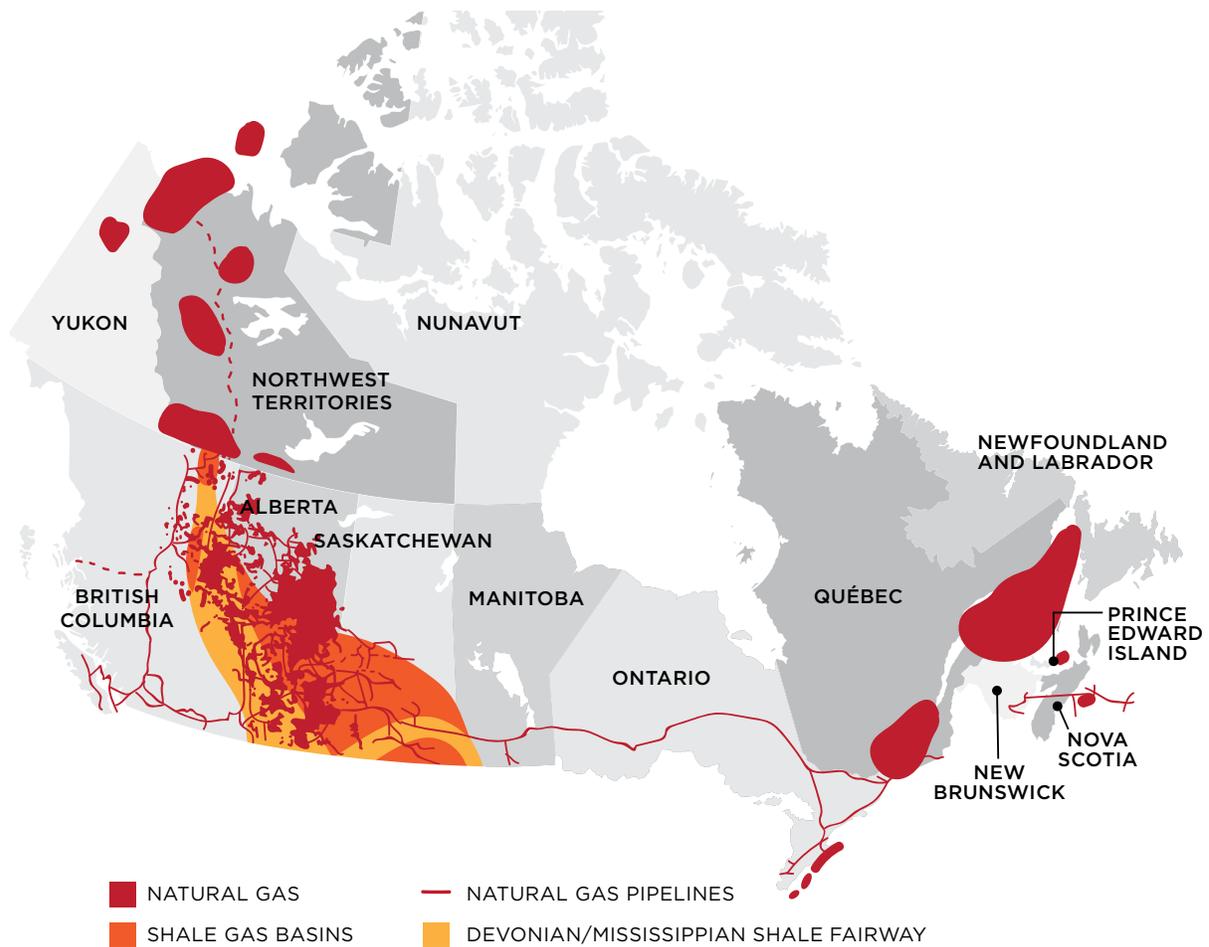
*“Natural resource development is always a matter of geographic “luck.”*

Beginning with the development of the Turner Valley oilfields in southern Alberta in World War II and expanding to North and Central Alberta after World War II, substantial oil and gas deposits were found. Some of the discoveries occurred on a few Indian reserves across the West, creating economic opportunities that the government of Canada was determined to pursue, by way of their fiduciary responsibility to attend to the best interests of status Indian people. In the 1950s and 1960s, a small number of First Nations secured substantial financial returns from oil and gas development on the reserves. But they were still largely excluded from decision-making around resource projects.

Until the 1990s, this resource boom did not result in a great deal of business development and Indigenous employment, in large measure because of the economic marginalization of Indigenous peoples, shortfalls in educational and training opportunities, and the heavy hand of government on First Nations. The government of Canada, and later its agent, Indian Oil and Gas Canada, managed First Nations contracts and revenues in the field, oversaw relations with oil and gas companies, and collected and dispersed payments to the First Nations communities (Webb 1987).

By the 21st century, conditions changed dramatically. First Nations were more actively involved in the sector, aided by the succession of constitutional

**FIGURE 2: NATURAL GAS AND NATURAL GAS PIPELINES IN CANADA**



*Adapted from Canadian Centre for Energy Information 2013*

commitments, political agreements, and legal decisions discussed earlier. The turn-around in Indigenous economic engagement has been dramatic. There are few, if any, Indigenous communities in the oil and gas regions of western Canada not affected by the rapid development of the industry.

The impacts vary, as will be discussed below, and range from the positive (employment, business development, and community benefits) to the disruptive (impacts on harvesting activity and unwelcome environmental change). First Nations around the smaller centres, dozens in number and stretching across western Canada, had the opportunity to capitalize on employment and commercial opportunities. Many Indigenous communities found a variety of off-reserve opportunities, setting up companies and encouraging members to prepare for work in the oil and gas fields. Collectively, and starting as early as the 1990s, the economic benefits were still significant (Anderson, Dana,

and Dana 2006; Anderson 2002: 45; Taylor and Friedel 2011; Friedel and Taylor 2011; Hobart 1984; Hobart 1981). The Indigenous communities involved with on-reserve development can earn sizable incomes, often in the tens of millions of dollars annually.

In 1998-1999, for example, the Samson Cree earned close to \$50 million in energy royalties (Cheney 2000). According to Indian Oil and Gas Canada, some \$250 million was allocated to First Nations in 2011-2012, a number that fell dramatically to around \$55 million in 2018-2019 (Bakx 2020).

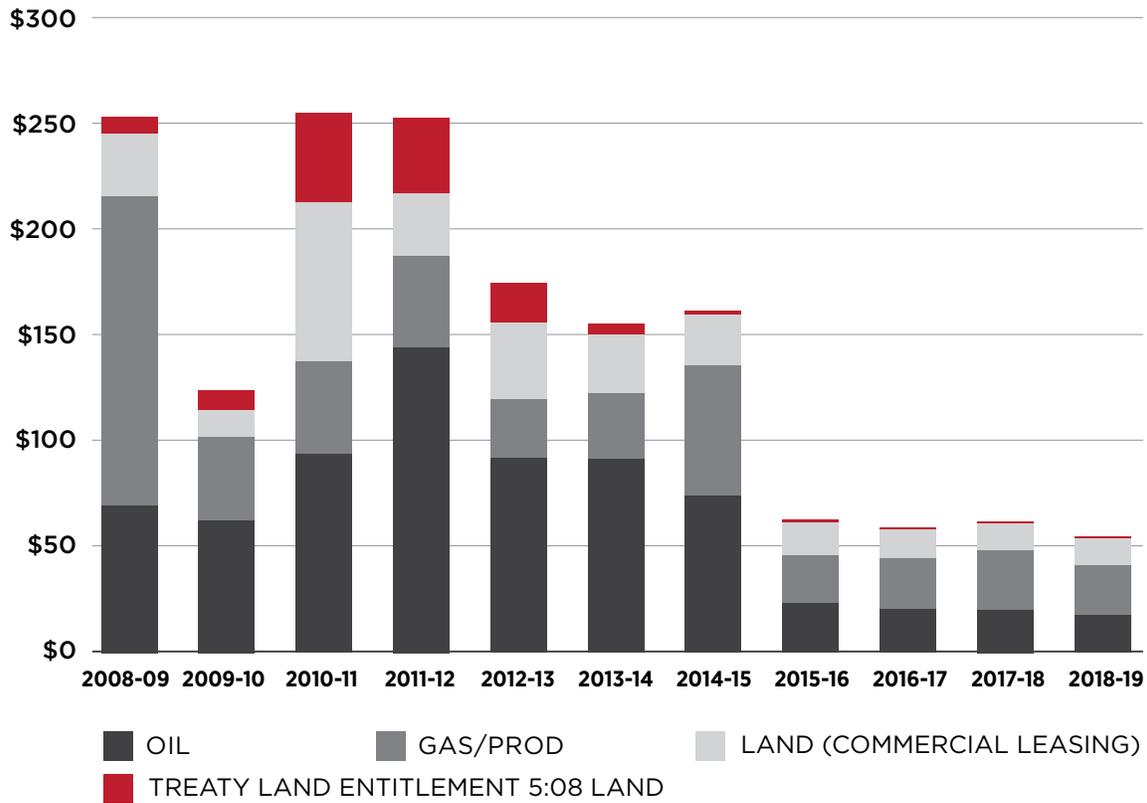
While there were struggles involved with using the money – outdated systems left the money in the control of the government of Canada, with the various First Nations receiving only interest payments for the sizeable trust funds (Parlee 2015; Alcantara 2007)<sup>15</sup> – the funds provided Indigenous peoples with a significantly higher return from resource development than that received by most other First Nations in the rest of the country. (Indigenous communities located near major mining operations often had collaborative agreements with the resource companies that produced substantial financial returns to the First Nations or Métis (Sosa and Keenan 2001; Gilmour and Mellett 2013; MacLean 2018).)

*“For participating First Nations, the oil and gas expansion has delivered a new style of prosperity.”*

For the Indigenous governments in receipt of these annual funds – generally reliable but subject to price fluctuations in international markets and the gradual decline in local reserves – they were able to financially separate from the government of Canada and the Indigenous Affairs civil service compared to other First Nations not in receipt of such funds.

Own source revenues, particularly if they are substantial and dependable, provide a level of fiscal autonomy and independence that Indigenous communities have not known since the 19th century. The scale of funding, furthermore, has provided the nations with the capacity to plan for the future, encouraging additional investment in post-secondary education for members, housing and infrastructure projects, and support for community directed economic development. For participating First Nations, the oil and gas expansion has delivered a new style of prosperity, one based less on government funding and more on market-based and resource activities.<sup>16</sup> The shared goal of freedom from reliance on government through the development of locally controlled revenue has finally seemed reasonable.

**FIGURE 3: INDIGENOUS REVENUES FROM NATURAL RESOURCES ON RESERVE LANDS IN CANADA (MILLIONS OF DOLLARS)**



*Adapted from Canada 2020b.*

## Benefits to Indigenous workers, businesses, and communities

As Indigenous engagement in the industry expanded in the early 21st century, First Nations communities participated in the energy economy in a variety of ways. Companies across the region had substantial impact and benefit agreements, also described as collaboration agreements, with Indigenous communities.<sup>17</sup> These accords, coming out of the consultations emerging under the “duty to consult and accommodate” requirements established by the Supreme Court of Canada, typically involve companies negotiating long-term arrangements with individual First Nations. These agreements usually have four main elements:

1. Financial payments to the First Nation;
2. Employment and training;
3. Special procurement and business development opportunities; and

4. General assurances of First Nations' participation in the oversight and monitoring of the resource activity.

While public and community attention often focused on the direct financial payments, the employment and business opportunities proved more valuable over time. The agreements, however, were subject to non-disclosure pacts, as both the companies and communities wanted to keep the contractual details secret. Nonetheless, the broad contours of the agreements are known. Companies provided funding for training and education programs for eligible Indigenous peoples and encouraged the hiring and retention of First Nations workers. The resource firms also proved willing to consider a wide variety of Indigenous participation.<sup>18</sup>

*“In areas where Indigenous communities lack commercial experience, many companies have established joint ventures with participating First Nations.”*

Business arrangements have often proved to be the most effective type of Indigenous engagement with the oil and gas sectors. Resource companies have often given preferential contracts to Indigenous-owned firms provided that they meet price and performance requirements. In areas where Indigenous communities lack commercial experience, many companies have established joint ventures with participating First Nations. Over time, a sizable number of these joint venture firms have shifted to full Indigenous ownership (Indigenous Corporate Training Inc. 2018; Boyd and Trosper 2009; Cameron and Levitan 2014).

The purchase of a Suncor tanker farm by the Fort McKay First Nation and the Mikisew First Nation in 2017 – perhaps the largest Indigenous investment in the sector – marked an important shift toward equity investment by First Nations communities (Suncor 2016; Fort McKay First Nation 2020; Bird 2017). and holds the promise of larger and sustained returns to First Nations. Such equity in projects like these assures them of long-term economic benefits and a greater share in regional and national prosperity.

The formidable strength of Indigenous business is tied, in considerable measure, to the rise of Aboriginal economic development corporations (AEDCs). These beneficiary-controlled organizations, tied closely to First Nations' Councils and often with share or overlapping membership between the development corporation and the elected Chief and Council, have emerged as a major force for Indigenous control. The AEDCs typically serve as the recipient of resource revenue sharing allocations, legal settlements, and even

corporate payments through impact and benefit agreements. They hold the funds that are paid for these agreements on behalf of the community and invest them in a wide variety of companies, properties, and other assets. The AEDCs have been instrumental in setting up Indigenous-controlled businesses (many operated under a specific AEDC's umbrella) and collaborating with non-Indigenous businesses through joint venture companies.

The AEDCs have accumulated billions of dollars in assets across Canada; many have hundreds of millions a year in annual revenues. The AEDCs employ thousands of Indigenous and non-Indigenous peoples, including many in the oil and gas sector (Anderson 1997; see also Canadian Council for Aboriginal Business 2012).

## **Indigenous skills development, employment and retention**

For most Indigenous communities, securing stable employment for band members and breaking the cycle of welfare dependency is a high priority. Indigenous people have been actively engaged in the oil and gas workforce for several decades now. This has not occurred by happenstance. First Nations have emphasized trades training for many of their young people and have worked with high schools and community colleges to provide the necessary programming (Coates, Finnegan, Hall, and Lendsay 2015). The government of Canada has an extensive workforce development program, or set of programs, targeted at Indigenous trainees. These federal offerings have not been properly evaluated or assessed for effectiveness, as a review by the Auditor General of Canada recently demonstrated, but Indigenous interest has been consistently strong.<sup>19</sup>

Programs with strong connections to individual companies, led by the largest producing oil sands companies, including Suncor and Imperial Oil, have the best outcomes. Others, like the integrated and community-centred efforts by Seven Generations, are more localized but nonetheless effective in preparing Indigenous people for full-time work in the companies (Seven Generations Energy 2020: 44-45). These initiatives are tied to companies with large numbers of workers, considerable in-company turnover, and commercially stable operations. They worked, like large mining companies such as Cameco in northern Saskatchewan<sup>20</sup> and Vale's Voisey Bay property in Labrador (Gibson 2006; O'Faircheallaigh 2015), because the companies were planning for multi-decade operations and were willing to invest substantially in employee training and professional development.

While companies were initially drawn into the Indigenous training enterprise by a combination of government encouragement (including funding), corporate social responsibility, and legal requirements arising out of impact and benefit and other agreements, the approach has changed in recent years.

**TABLE 1: INDIGENOUS EMPLOYMENT IN CANADA (NAICS SECTOR), 2015-2019**

<b>North American Industry Classification System (NAICS)</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
	<b>Persons (both sexes, 15 years and over)</b>				
<b>Total, all industries</b>	<b>483.7</b>	<b>514.8</b>	<b>541.7</b>	<b>563.1</b>	<b>578.4</b>
Goods-producing sector	118.4	119.7	124.1	126.8	132.8
Agriculture, natural resources and utilities	33.5	30.6	31.3	31.1	35.1
Construction	51.3	54.6	57.6	58.2	61.5
Manufacturing	33.6	34.5	35.2	37.4	36.2
Services-producing sector	365.2	395.1	417.6	436.3	445.6
Wholesale and retail trade	69.3	77.8	82.5	82.6	83.2
Transportation and warehousing	25.0	26.2	26.7	321.6	33.2
Finance, insurance, real estate, rental and leasing	17.5	17.2	19.0	23.8	22.8
Professional, scientific and technical services	17.6	19.1	21.1	23.5	23.1
Business, building and other support services	23.1	26.2	25.3	23.9	27.0
Educational services	31.9	30.4	36.5	33.6	34.7
Health care and social assistance	69.8	75.3	76.1	84.2	84.5
Information, culture and recreation	19.8	17.4	20.5	22.5	23.3
Accommodation and food services	39.2	47.0	48.5	46.7	49.6
Other services (except public administration)	20.6	25.2	26.9	26.8	28.1
Public administration	31.4	33.2	34.6	40.6	39.6

Sources: Statistics Canada 2020; CAPP 2018: 7.

With mounting evidence of the effectiveness of the Indigenous workforce, companies have come to understand the business value of working with Indigenous communities and workers. Oil and gas companies have extensive scholarship and bursary programs for Indigenous youth and collaborative programs with colleges, polytechnics, and universities (Canadian Association of Energy Producers, 2018).

Many firms have in-firm training programs, special initiatives for personal and professional development, and flexible approaches to community employment that allow individuals to respect their cultural and family obligations. There are few, if any, sectors of the Canadian economy that have made such a systematic and comprehensive effort to engage with Indigenous communities and workers although Indigenous workers are expanding their presence across the economy. Oil and gas, mining, and forestry figure prominently in Indigenous engagement and employment. The sectoral numbers are misleading because many workers in other industrial classifications (construction, services, transportation, professional and scientific services) are engaged in whole or in part with the natural resource economy (see table 1).

The results of the meaningful inclusion of Aboriginal workers in the oil and gas sector are clear. As mentioned, the oil and gas industry has substantial Indigenous participation, albeit more so at the entry level than in middle and upper management. The income levels for these workers are significantly higher than the Canadian average, not just for Indigenous workers, but for all workers.

Where whole communities are engaged, as is the case with the Fort McKay First Nation, family incomes can exceed the national average. The momentum has been decidedly in the right direction in recent years. This employment and earnings pattern for Indigenous oil and gas workers stands in contrast to the general pattern of Indigenous employment, which continues to lag behind the population at large and represents one of the most significant continuing challenges to Indigenous communities and families.

## **Economic challenges**

There is a great deal of room for improvement. Most Indigenous communities, including some located close to the oil sands or the natural gas fields, face serious socio-economic problems. Indigenous unemployment remains strikingly high, even in communities with many Indigenous-owned businesses.

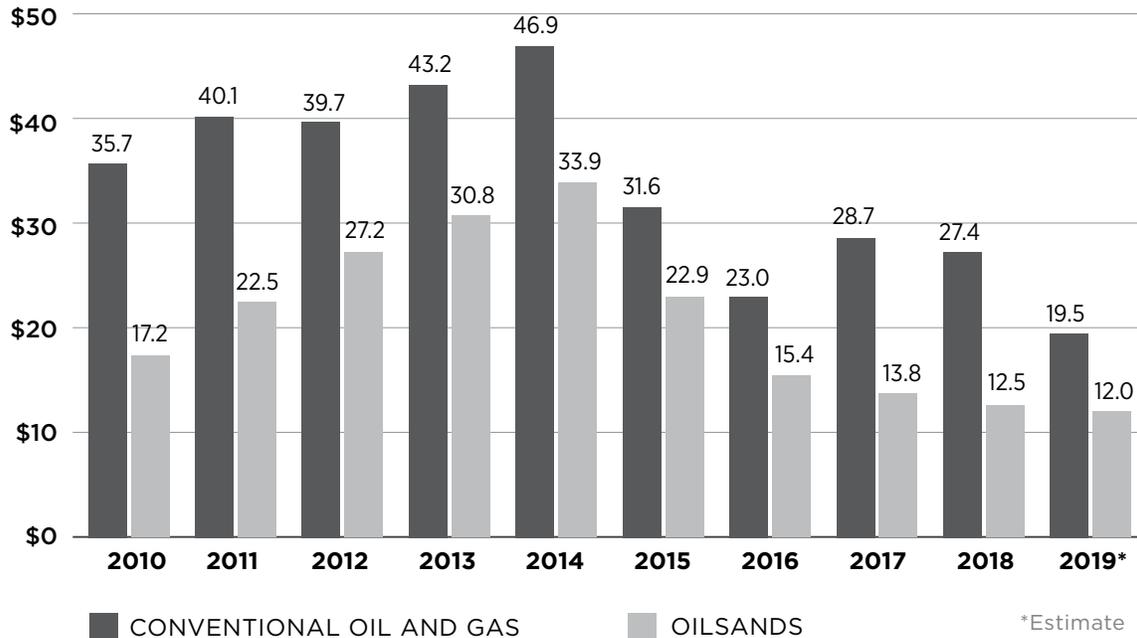
The income from oil and gas-related investments, payments, and business operations is welcome, particularly as it allows First Nations to slip the bonds of dependency on the government of Canada. But, far too often, the available funds fall far short of meeting the needs for housing, local infrastructure, and urgently required language and cultural programs.

**TABLE 2: NON-RENEWABLE RESOURCE REVENUE (MILLIONS OF DOLLARS)**

Resource revenue	2018-19 Actual	2019-20 Forecast	2020-21 Estimate	2021-22 Target	2022-23 Target
Bitumen royalty	3,214	4,707	3,211	4,492	6,146
Crude oil royalty	1,149	1,228	1,135	1,267	1,302
Natural gas and by-products royalty	536	438	429	597	743
Bonuses and sales of Crown leases	360	133	177	218	223
Rentals and fees/coal royalty	170	164	137	130	122
<b>Total resource revenue</b>	<b>5,429</b>	<b>6,671</b>	<b>5,090</b>	<b>6,705</b>	<b>8,536</b>

Source: Alberta, Treasury Board and Finance 2020.

**FIGURE 4: INVESTMENT IN CANADA'S OIL PATCH IS DROPPING (BILLIONS OF DOLLARS)**



Adapted from Morgan 2019.

For Indigenous peoples in western Canada, the rapid decline in the oil and gas industry in recent years has interrupted long-developing plans for greater engagement in the sector. Groups like the Indian Resource Council, the National Coalition of Chiefs, and chiefs from oil and gas producing First Nations and Métis communities have articulated plans for an expanded role for Indigenous people in the sector, including through greater participation in revenue sharing.

As Stephen Buffalo of the IRC has said, “Some of our people are asking for sovereignty... You can’t get sovereignty if you’re still accepting government money under the Indian Act. This is our way of trying to address those [development] issues. We need that same opportunity as any other Canadian” (Edwards 2019).

Across the West, the withdrawal of investment and development has reduced opportunities for Indigenous businesses and resulted in a major erosion of Indigenous employment. Indigenous firms and joint ventures, developed to capitalize on an expanding industry, have run into hard times. Hundreds of Indigenous youth, including many women, training for positions in the sector have found the transition to the workforce blocked by a declining employment market.<sup>21</sup>

The Canadian energy sector, already reeling from sharply lower employment levels, fell 8 percent between March and May 2020, a 14 percent decline year over year (Seskus 2020). Indigenous communities, many engaged directly in the industry through investments and activities of their economic development corporations and receiving substantial annual returns from on- and off-reserve oil and gas operations, saw returns drop precipitously—and not for the first time in this roller-coaster industry (Milke and Kaplan 2020). Companies saw returns decline following falling oil and gas prices and suspended investment activities. Alberta saw royalty revenues fall by \$1.5 billion between the 2019-2020 forecast and the 2020-2021 estimate, a sign of the decline in returns from the energy sector.

The change has been dramatic. Existing operations continue to generate revenues, albeit at much lower levels than before. The recent reduction in investments and major project development, attributable to current government policies and announcements and unfavourable global market conditions, has affected Indigenous workers, businesses, and communities, although details on the level and nature of the decline are difficult to obtain.

What was, only a few years ago, an example of inclusive economic growth, overturning decades of Indigenous marginalization and providing opportunities for real and sustainable prosperity, has been slowed dramatically. Importantly, some Indigenous leaders are playing clear and public roles in the effort to offset Liberal policies, supporting pipeline development, taking substantial equity positions in the industry, and reviewing legal opportunities to challenge current and proposed government strategies.

# First Nations engagement with selected resource projects

Indigenous-industry relations have improved over the past couple of decades, as have community benefits. Indigenous peoples are ready for even more engagement. A series of current and proposed projects are notable primarily for the substantial level of Indigenous engagement and the potential economic return to First Nations communities. A quick overview of selected energy projects demonstrates the scale and diversity of contemporary Indigenous participation. Nothing underscores Indigenous participation in the resource economy like their active engagement in all of the major pipeline and infrastructure projects currently under development.

The projects under active consideration include the LNG plant near Kitimat, the LNG plant near Squamish, the A2A railway to Valdez, Alaska, the Trans Canada Pipeline Expansion, the Eagle Spirit Pipeline (ending near Prince Rupert or on the Alaska Panhandle), and a proposed pipeline from the oil sands to Churchill, Manitoba. Indigenous equity in the individual projects remains up for negotiation. In each of these cases, Indigenous communities or entrepreneurs instigated the discussions. In many instances, Indigenous groups were either the lead or the majority stakeholders.

**Woodfibre LNG:** In 2019, the Squamish Nation, one of the First Nations leading the opposition to the Trans Mountain Expansion, joined with Woodfibre LNG Limited to build a \$1.4 to \$1.8 billion LNG plant near Squamish, BC. The agreements called for returns to the Squamish First Nation of at least \$1 billion. One of the agreements that the community voted to support established a collaboration between the Nation and Woodfibre LNG, the government of British Columbia, and FortisBC, with commitments to the Squamish Nation of over \$225 million and 422 hectares of land. The payments included a \$3 million cultural fund and over \$16 million for employment development. The deal also included an option to purchase additional shares, royalty-related payments, skills training and career opportunities, and related commercial developments.

**Oil and Gas Infrastructure:** First Nations are heavily involved in the broader resource sector, owning hundreds of companies, participating in joint ventures, and expanding their presence in the resource service sector. Indigenous ownership of a growing variety of resource-related facilities has expanded. The most dramatic illustration of this process involves the Fort McKay First Nation and Mikisew Cree First Nation, which jointly purchased a \$503 million, 49 percent stake in Suncor's East Tanker Farm, as described in more detail earlier in this paper. When the First Nations sought money for their purchase, the request for funds was rapidly over-subscribed.

**Project Reconciliation:** Project Reconciliation, made up of First Nations and Métis across the West, wants to purchase a portion of the government of Canada's Trans Mountain Pipeline. The anticipated \$200 million per year in net revenues would be held in a Sovereign Wealth and Reconciliation Fund to support Indigenous communities across western Canada. Specifically, the Project Reconciliation plan calls for:

- 51 percent Project Reconciliation ownership of the pipeline, purchased at a rate of \$2.3 billion plus half (\$4.6 billion) of the costs of construction. The federal government would retain 49 percent ownership.
- The Project Reconciliation stake would be raised by bank loans, backed by contracts with oil customers.
- Equity holdings would be structured in three investment classes, open to Métis and First Nations communities in the region:
  - Class A (45 percent of the total), available to communities on the pipeline right-of-way;
  - Class B (35 percent), available to communities proximate to the pipeline but not on the right-of-way;
  - Class C (20 percent), available to distant communities.

**Iron Coalition:** The Assembly of Treaty Chiefs also seeks an equity stake in the Trans Mountain Expansion Project, inviting all Alberta First Nations and Métis communities to participate in a collective investment. The coalition intends to purchase between 50 and 100 percent of the post-construction project and to direct all subsequent revenues back to participating Indigenous groups.

**Coastal GasLink:** First Nations have been promised an opportunity to buy a significant portion of the Coastal GasLink (CGL) pipeline. CGL announced that it had allocated a 10 percent equity stake for First Nations. The First Nations Major Project Coalition built a group of First Nations investors who would like to own up to 30 percent of the value of the pipeline, although some First Nations communities hope to expand these holdings.

**Eagle Spirit Pipeline:** Eagle Spirit Energy, supported by some three dozen First Nations chiefs, wants to develop an energy corridor that includes two natural gas pipelines and two oil pipelines, the latter with possible export ports on the Alaska Panhandle if Canadian regulators do not authorize export through Prince Rupert-area facilities. The comprehensive project would deliver four million barrels of oil and 10 billion cubic feet of natural gas to world markets. The ownership, revenue-sharing, and community benefits arrangements have not been finalized, largely because of the barriers presented by current government of Canada legislation regulating the export of additional energy products through West Coast ports.

**Churchill Pipeline:** First Nations in western Canada are exploring the possibility of building a pipeline from the Alberta oil sands to the under-used Port of Churchill in Manitoba. Although the concept for the project only formally emerged in 2019, it has secured widespread early support from First Nations along the route. The details of the proposed plan remain under development, but the proponents are publicly committed to ensuring substantial Indigenous ownership stakes through an innovative approach to revenue sharing.

**Ridley Terminals Inc.:** The government of Canada has been eager to sell its stake in Ridley Terminals Inc., a Crown Corporation responsible for the coal shipping facility in Prince Rupert, BC. The federal government sold the facility for \$350 million in July 2019. The Lax Kw'alaams Band and the Metlakatla First Nation share a 10 percent equity stake; Riverstone Holdings LLC and AMCI Group of Connecticut hold the remainder of the shares. Other First Nations in the area had the chance to participate in the purchase and choose not to do so.

First Nations across the country, having only recently secured a significant financial presence in the natural resource sector, are pushing in new directions, looking for expanded employment opportunities, the prospect of career progression, and equity holdings. Given the politically sensitive nature of oil and gas development and the contradictions between the government of Canada's impressive commitment to Indigenous empowerment and their equally high-profile support for climate change action, the Indigenous peoples' support for the industry has the potential to be a true game-changer. The convergence of global financial uncertainty and Canadian complexities has, as of 2020, slowed openness to many new initiatives.

## Looking ahead

The Canadian oil and gas sector does not exist in isolation. It is connected to many broad and complex forces that continue to shape global and Canadian affairs. Many commentaries have been written on the challenges associated with Canadian competitiveness, with analysts identifying such diverse factors as high taxes, productivity shortfalls, federal-provincial-territorial regulatory environments, underinvestment in emerging technologies, and limited access to venture capital. Federal government interventions in the oil and gas sector emerged in the middle of a global debate about climate change, the world's energy future, and the prospects for the oil and gas industry generally.

At issue, however, is how these federal policy changes will shift the balance in the Canadian economy and thus will affect opportunities that might have been available in the oil and gas sector generally, and for Indigenous peoples particularly. Major policy initiatives always bring changes, some readily anticipated

and others that are unexpected. These are, in the end, part of the balancing act in government policy-making and commercial responsiveness to changing market conditions.

Based on current policy considerations and global market conditions, the following outcomes appear likely:

**Indigenous business development:** The slowdown in the oil and gas sector will likely have a negative effect on Indigenous business expansion, much of which had been connected to either direct engagement with the energy industry or funding from oil and gas revenues received by the Indigenous communities. First Nations, in particular, have followed the expansion in the energy sector upwards; it is inevitable that they will track the industry downward. There have been significant Indigenous investments in renewable projects (with the notable exception of Saskatchewan), which will enable Indigenous communities to continue to work in the energy sector.

**Indigenous employment beyond the oil and gas sector:** The steady expansion of Indigenous employment has been a positive development arising out of the growth of the energy industry. Indigenous workers have made the transition to other companies outside the sector, just as numerous Indigenous-owned businesses have built off their success in the oil and gas sector to expand into non-energy investments. Over time, the most talented and skilled Indigenous individuals will find work unless the regional economy tracks downward as it adjusts not just to retrenchment in the oil and gas sector, but to an overall decline. The pandemic of 2020 has made this outcome largely unavoidable. This is likely to be particularly the case for Indigenous women who, as later entrants into the workforce, are more vulnerable to layoffs.

The 21st century is complex. The combination of economic globalization, dynamic continental and international politics, rapid technological change, concern about climate change, and many other factors have ushered in a contradictory age. This is a time of great expansion in global wealth, growing inequality, the expanding presence of China, the commercial emergence of renewable energy sources, and uncertainty in the world's fossil fuel industry. For Canada, particularly western Canada, the contradictory forces have sown confusion, worry, and some difficult transitions away from what the region, including rural communities and Indigenous peoples, had assumed was a fairly safe path to sustainable prosperity.

The oil and gas sector in Canada is clearly at a crossroads. It will either continue on its current path and remain an example of the positive and constructive benefits of Indigenous engagement and rural expansion or it will demon-

strate that employment and business opportunities are unsustainable in the face of changing government policies. Four years ago, as the newly elected Liberal government spoke of its commitment to inclusive economic growth, it could have looked to the oil and gas sector to demonstrate the practicality of its national strategy.

The government of Canada's policy dilemma is real. It has competing priorities, as do all national and regional governments. In the case of the Liberal government, its agenda focuses on three main areas: inclusive economic development, the re-empowerment of Indigenous peoples, and tackling climate change. While some elements of these policies intersect – some First Nations strongly endorse the climate change policies – others are in competition with each other. Aggressive action on climate change will undermine Indigenous gains in engagement in the oil and gas sector while also interfering with significant steps that have been taken to advance the participation of Indigenous women – and other women – in the sector. Furthermore, the oil and gas industry has played a key role in strengthening economic and social conditions in rural areas and small towns across the West.

“ *As of 2020, the oil and gas sector dominated Indigenous economic plans in major parts of the country.* ”

In all of these areas, western Canada and the oil and gas sector were on a generally positive trajectory; they were addressing emissions associated with oil and gas production, improving opportunities for Indigenous peoples, and changing the fundamentals within the industry. More recently, the combination of federal policies and global forces have reigned in, if not reversed, the positive developments. It would be sadly ironic if the government of Canada's position on one core element of its policy program – fighting climate change – was to undercut promising development in inclusive economic growth and the transition of Indigenous communities from the margins to the centre of the Canadian economy.

In this midst of this turmoil, one of the most impressive transformations in Indigenous economic and political engagement has occurred. Thirty years ago, the level of Indigenous involvement in the sector was small, scattered, and uncertain. As of 2020, the oil and gas sector dominated Indigenous economic plans in major parts of the country. Where they once fought for a toehold in the sector, Indigenous communities and governments now have the legal,

political, and economic right to participate in energy development. Equally important, Indigenous peoples have developed new businesses, trained for work in the sector, and established new levels of participation in the oil and gas industry.

## Final thoughts

The reality of the Canadian oil and gas industry's relationship with Indigenous peoples stands in stark contrast to the standard view of the sector held by many urban Canadians. Many in the country are struggling to appreciate the crucial role that the oil and gas industry plays in producing and maintaining Canada's economic well-being. The vulnerability of the sector, exposed during the continuing debate about the Trans Mountain Expansion Project and unrelenting attacks by industry critics in Canada and internationally, has finally become clearer to the country.

The increased willingness of Indigenous communities to defend the industry and make large equity investments in oil and gas has begun to offset the negative perceptions of the oil and gas sector. Achievements in this area are real and substantial. A remarkable revolution has occurred in the Canadian oil and gas industry over the past two decades, focusing particularly on the complete transformation of its relationship with Indigenous peoples.

There are still areas of contestation and even conflict, yet there are also surprising examples of cooperation and alignment. As individual firms and their industry associations understand, companies can do better, and First Nations, Métis, and Inuit communities also continue work on their relationships with oil and gas companies. External forces, particularly environmental criticism, regulatory turmoil, and uncertainty about government of Canada priorities, are much greater threats to the future of the industry than Indigenous communities and governments. Twenty years ago, few Canadians, Indigenous or non-Indigenous, would have believed this to be the case.

## About the author



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He has also worked as a consultant for Indigenous groups and governments in Canada, New Zealand, and Australia as well as for the United Nations, companies, and think tanks. He has previously published on such topics as Arctic sovereignty, Aboriginal rights in the Maritimes, northern treaty and land claims processes, regional economic development, and government strategies for working with Indigenous peoples in Canada. His book, *A Global History of Indigenous Peoples: Struggle and Survival*, offered a world history perspective on the issues facing Indigenous communities and governments. He was co-author of the Donner Prize winner for the best book on public policy in Canada, *Arctic Front: Defending Canada in the Far North*, and was short-listed for the same award for his earlier work, *The Marshall Decision and Aboriginal Rights in the Maritimes*.

Ken contributes regularly, through newspaper pieces and radio and television interviews, to contemporary discussions on northern, Indigenous, and technology related issues.

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## Endnotes

- 1 Details on Fort McKay can be found at <http://fortmckay.com/>.
- 2 For a background report on Indigenous involvement in the resource economy, see Coates and Crowley 2013.
- 3 On the broad sweep of the economic history of Indigenous peoples in Canada, see Ray 2016.
- 4 On the activities of the Indian Resource Council's members, see <http://irccanada.ca/>.
- 5 This is not a new phenomenon. See Anderson, Dana, and Dana 2006; and Richards 2015.
- 6 These concepts were popularized by historical scholars like Alfred Crosby, Jared Diamond, Donald Worster, and Richard White.
- 7 This quote is from Favel's remarks at MLI's 2019 Annual Dinner on February 20, 2019.
- 8 Among the most prominent Indigenous spokespeople on this account is Crystal Smith and Ellis Ross, current and past chief councillors of the Haisla (John 2020; Cattaneo 2017).
- 9 This can be seen, most consistently, in the work of the Indian Resource Council. Comparable points are made routinely by speakers at IRC events.
- 10 For background on Norman Wells, see Bone and Mahnic 1984, and Page 1981.
- 11 For a background study of this area, see Smith 1975, and Stabler and Olfert 1980. For more contemporary developments, see Andrachuk and Smit 2012. See also the Tuktoyuktuk website: <http://www.tuktoyuktuk.ca/>.

- 12 This evolving position can be seen in the policy statements of many First Nations and Métis communities, provincial and regional Indigenous associations, and even the Assembly of First Nations (AFN). On the AFN, see <https://www.afn.ca/policy-sectors/economic/>. The consistent emphasis on building business and economic activity, plus the rapid growth in Indigenous business (as documented by the Canadian Council on Aboriginal Business), demonstrates the growing belief among Indigenous communities that they need to expand their commercial operations.
- 13 Gary Mason has produced thoughtful columns on these issues. See, for example, Mason (2018).
- 14 This case is made in Globerman and Emes 2019.
- 15 For details on trust funds, see Canada, Indigenous Services 2018.
- 16 A detailed examination of one Indigenous community can be found in Flanagan 2018b.
- 17 Gibson and O’Faircheallaigh 2015. See, for example, Kielland 2015. For earlier agreements, see Wolfe 2001, and Gogal, Reigert, and Jamieson 2005.
- 18 The Canadian Association of Petroleum Producers commissioned a large-scale study of its members and associated firms.
- 19 For the Auditor General’s report on the ineffectiveness of employment and training programs, see Auditor General of Canada 2018.
- 20 On Cameco’s engagement, please see Cameco 2016.
- 21 For a detailed commentary on Indigenous economic development in recent years, see National Indigenous Economic Development Board 2019.



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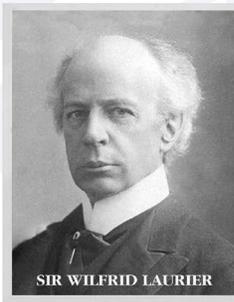
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