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Little First Nations Band A "Threat To The Oil Industry" Says Former Harper Aide

A tiny First Nations band, the Beaver Lake Cree Nation, hopes to do what many international organizations such as Greenpeace and the Sierra Club would love to accomplish: stop the Alberta tar sands

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by *Derek Armstrong*

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SPECIAL INVESTIGATIVE REPORT: EDI WEEKLY

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A tiny First Nations band, the Beaver Lake Cree Nation, hopes to do what many large, well funded international organizations such as Greenpeace and the Sierra Club would love to accomplish: stop the Alberta tar sands. This impoverished little band of nine hundred is suing the government of Alberta for violating its treaty rights in developing the tar sands. The statement of claim lists more than 12,000 "developments," mostly individual leases granted to oil companies for forestry, road building, laying of seismic lines, drilling and SAGD development. All of these developments, the claim maintains, are infringements of the Beaver Lake Cree Nation's treaty rights and are therefore illegal and unconstitutional.

The claim states

Each of the Developments and/or their cumulative effect, taking into account industrial activities in lands adjacent to the Core Traditional Territory, has rendered or will render the Treaty Rights meaningless within the Core Traditional Territory.

In other words, the development of the tar sands threatens their right to hunt, fish and otherwise live according to their ancient traditions, all guaranteed by a treaty signed in 1876, and by Canada's constitution.

David and Goliath: remember who won

The fight has just begun, but already has attracted international attention. The Co-operative Bank of Manchester, England (slogan: "Good with money"), has donated about \$250,000 so far to help the band in its fight, admitting that the "David versus Goliath" aspect of the case attracted them. Last summer, representatives of the bank attended a First Nations pow wow at Beaver Lake, accompanied by a BBC film crew.

At issue is the band's very survival. "This is their livelihood," according to Susan Smitten, speaking for Woodward and Company, the Victoria legal firm that is representing Beaver Lake Cree Nation. "They have already lost a herd of caribou because of this and other game animals they have traditionally hunted are disappearing."

It's a fight that could take years. Drew Milton, one of the lawyers working on the Beaver Lake claim, points out that the governments of Canada and Alberta have already issued motions to strike the claim and will likely do so many times before it ever goes to court. With both governments ranged against them, the Beaver Lake Cree Nation have few resources with which to fight their claim.

"The tragedy is that First Nations have rights but can't afford to fight for them," Mr. Milton said.

Still, he is optimistic. Woodward and Company have had some notable success in representing aboriginal peoples against big industry. In 2007 the firm successfully challenged the governments of British Columbia



and Canada on behalf of the Tsilqut'in people in a historic land claim case. The court recognized their claim to more than 200,000 hectares of land and gave them effective control of that land. The people now decide who may or may not mine or log or explore for oil and gas.

Water pollution and degradation of land are immediate

Canada's tar sands have received a great deal of attention recently in the run-up to Copenhagen, the focus being the massive amounts of carbon emissions released in extracting oil from the bitumen in the sand, and the contribution of those emissions to the problem of global warming. On the subject of human activity as the cause of global warming, there continues to be much "debate," though the delegates to Copenhagen agree, in a general sort of way, that CO2 emissions must be controlled to halt the global warming to which these emissions are contributing.

Hypothetical discussions about the results of a global rise in temperature of 2 degrees Celsius invariably focus on rising sea levels displacing whole populations in countries such as Bangladesh and certain island nations such as the Maldives. Other climatic catastrophes such as drought, flooding, wild fires, crop failures, violent weather and unpredictability are listed as inevitable results of a failure to get emissions under control. Meanwhile, governments quibble over what percent of CO2 emissions they will agree to reduce. Much of this might seem remote to those of us who live in cities, where climate is just another word for "weather" and bad weather is simply an inconvenience.

While Copenhagen focuses on the future, the Beaver Lake Cree Nation's lawsuit highlights the ugly, immediate consequence of unbridled exploitation of the environment. They face the imminent, irrevocable destruction of the land that sustains their way of life. Climate change and CO2 levels hardly matter if their land and livelihood is already lost. It's a bit like telling someone on his deathbed with cancer that you hope to have a cure in ten years.

Beaver Lake, about 200 kilometers northeast of Edmonton, is at the southern edge of the Athabasca tar sands development. The band's "core traditional territory," a huge area in central Alberta that straddles the Alberta/Saskatchewan border, also contains the Cold Lake Tar Sands development. The combined size of all the tar sands is roughly the area of England and Scotland.

To extract the bitumen from the sands deep beneath the forests, oil companies use a method known as steam assisted gravity drainage, or SAGD. In this process, pressurized steam is injected into the bitumen deposits, causing it to become more fluid and to flow out through wells that have been drilled. About 80 percent of the tar sands deposits in Alberta must be recovered this way. The other 20 percent can be recovered by open pit mining. Proponents of SAGD claim that it is less intrusive and more environmentally sound because the surface surrounding the wells is relatively undisturbed. However, the process cannot be controlled entirely. Some of the vast quantities of water and steam injected into the earth to essentially melt the bitumen migrate to the surface and contaminate soil and ground water. Billions of gallons of the contaminated water are held in vast tailing ponds.

Evidence is mounting that local streams and rivers have elevated levels of polycyclic aromatic compounds (PACs), which are identified as carcinogens and mutagens. A report published in October reveals that the tar sands development is "a greater source of contamination than previously realized." In some instances, the amount of toxic pollutants attributable to the tar sands is 50 times higher than was expected.

Insult to injury

Adding insult to injury was a report prepared by Tom Flanagan for the Canadian Defense Security and Foreign Affairs Institute (CDFAI) in which the First Nations people are characterized as "a threat to the oil industry" along with Metis, mainstream environmentalists, ecoterrorists and individual saboteurs. The report was sponsored by oil company Nexen Inc.

Tom Flanagan, the report's author, was Stephen Harper's campaign manager in the 2004 election.

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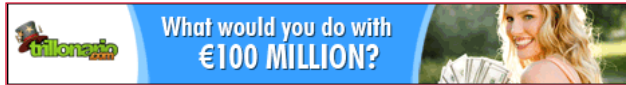
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