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Resource Industries and Security Issues in Northern Alberta

By

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EXECUTIVE SUMMARY

The rapid expansion of natural-resource industries in northern Alberta, accompanied by growing environmentalist and aboriginal-rights movements, raises issues of possible extra-legal and even violent resistance to industrial development. Five potential sources of opposition can be identified: individual saboteurs, eco-terrorists, mainstream environmentalists, First Nations, and the Métis people. All except the Métis have at various times used some combination of litigation, blockades, occupations, boycotts, sabotage, and violence against economic development projects which they saw as a threat to environmental values or aboriginal rights. Such incidents will probably continue in the future, as they have in the past. However, extra-legal obstruction is unlikely to become large-scale and widespread unless these various groups make common cause and cooperate with each other. Such cooperation has not happened in the past and seems unlikely in the future because the groups have different social characteristics and conflicting political interests.

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INTRODUCTION¹

In the first half of the twentieth century, northern Alberta was still a vast expanse of woodland and waterways, inhabited mainly by native people, with some homesteaders in the arable land in the northwest part of the province. Economic development started in the 1950s with the building of roads, followed by successful drilling for oil and natural gas. Exploitation of the oil sands began in 1967 with the opening of Suncor and took a second step in 1973 with commencement of construction on the much larger Syncrude project. Technical developments allowing the use of poplar trees, which are prevalent in northern Alberta, led to the expansion of the forestry industry in the 1980s. Development of the oil sands, which had been slowed down by the National Energy Program and the low oil prices of the 1980s, was rejuvenated by a Canada-Alberta agreement in 1996 to set up an oil sands fiscal regime that was favourable in terms of royalties (provincial) and corporate income tax (federal). Production in the oil sands grew exponentially, reaching 1.2 million barrels a day in 2008. With many new projects on the drawing boards, there were projections of 4 or 5 million bpd within a couple of decades, though the world recession that began in 2008 is now slowing the pace of development.

Economically, this was a huge success story for Canada, Alberta, and the oil industry, but environmental issues loomed ever larger as development proceeded. Traditional concerns over water quality and boreal habitat were joined by worry over anthropogenic global warming, allegedly caused by carbon-rich greenhouse gas emissions. The oil sands produce large amounts of these because so much energy is required to extract bitumen from the earth and convert it into usable fuel. Ever-rising levels of concern over global warming led to many political attacks on the oil industry in general,² the Alberta oil industry in particular,³ and above all on so-called “dirty oil” produced in the Alberta “tar sands.”⁴

In this emotional political climate, questions about security issues in northern Alberta inevitably arise. Will opponents of resource industries try to obstruct further development by non-violent means such as blockades and occupations, or even by violent means such as sabotage and terrorist attacks? In the past, native people have resorted to blockades to dramatize their land claims and resource rights, and disaffected residents have sabotaged wells, pipelines, buildings, and other facilities. This paper reviews the past incidence of such security threats and assesses the likelihood of continuation or even increases in the future.

The paper does not investigate the possibility of attacks by Islamic terrorists, even though in 2007 a Saudi wing of al Qaeda posted a website threat to attack oil suppliers to the United States.⁵ There is as yet no evidence of al Qaeda activity in northern Alberta, and it would be a difficult theatre for al Qaeda to operate in because of the absence of a local Islamic population.

¹ This paper was revised in August 2009 to take account of events in July 2009 that occurred shortly after original publication. I was also able to profit from comments received from readers. Special thanks are due to Paul Joosse of the University of Alberta, Department of Sociology.

² Kenneth S. Deffeyes, *Beyond Oil: The View from Hubbert's Peak* (New York: Hill and Wang, 2005).

³ William Marsden, *Stupid to the Last Drop: How Alberta Is Bringing Environmental Armageddon to Canada (And Doesn't Seem to Care)* (Toronto: Alfred A. Knopf Canada, 2007).

⁴ Andrew Nikiforuk, *Tar Sands: Dirty Oil and the Future of a Continent* (Vancouver: Greystone Books, 2008).

⁵ Jeffrey Jones, “Canada oil sector takes al Qaeda threat seriously,” Reuters, February 14, 2007, <http://www.reuters.com/article/topNews/idUSN1433721020070214>.

SABOTEURS

2.1 Wiebo Ludwig

By far the best-known cases of sabotage in northern Alberta are connected with the family of Wiebo Ludwig. Ludwig, a Dutch-born minister of the Christian Reformed Church, moved to the Peace River country in the 1980s. He bought a quarter-section of land near the village of Hythe, close to the British Columbia border. Naming it "Trickle Creek," he made it the home base of his "Church of Our Shepherd King." The faithful were almost all members of two families – his own and that of Richard Boonstra, whose children intermarried with each other. With marriages and births, three dozen people were living there by the late 1990s.⁶

In early 1990, Ranchmen's Resources tried to get permission from Ludwig to drill for natural gas on his land, but he refused. Although oil companies have a legal right of access to drill on lands where they have leased subsurface rights from the provincial government, Ranchmen's did not force the issue. However, they and other companies proceeded to carry out extensive seismic exploration and drilling on Crown land all around Ludwig's quarter-section. His small landholding did not provide much of a buffer against the traffic, noise, explosions, flaring, and gas emissions that accompany sour-gas exploration and development. Ludwig blamed the activity for causing sicknesses and miscarriages among both family members and livestock on his farm.

In 1996 there began more than a hundred incidents of vandalism against natural-resource installations in the area around Ludwig's farm. The RCMP and the oil companies thought that Ludwig was responsible, though it was difficult to assign responsibility because Ludwig had a large family, including numerous adult children and their spouses, a few friends who were actively antagonistic to the oil industry, and a somewhat larger number of passive sympathizers among neighbours who also disliked the industry's impact on their life.

In 1997, Ludwig attempted to negotiate a buy-out from Alberta Energy Company (AEC), which had the largest play around his farm. AEC President Gwyn Morgan was keen to make a deal, and it seemed for a time that an agreement might be reached in the range of \$800,000-900,000, but negotiations broke down in late 1997. Sabotage resumed in early 1998 with explosions at several AEC facilities.

Complicating matters further was the tragic death of Karman Willis on June 20, 1999. Willis was a sixteen-year-old girl out joyriding with other teen-age friends after an end-of-school-year bush party. When they drove twice through the Ludwig homestead in the early morning hours, someone fired a rifle at the truck and she incurred a fatal wound. No one has ever been charged in connection with her death; the shot could have been fired by any one of a large number of people in the Ludwig-Boonstra household.

Wiebo Ludwig and Richard Boonstra were arrested and charged, not for the death of Karman Willis, but for several of the sabotage incidents. After a highly publicized trial in 2000, both were convicted. Boonstra was sentenced to 21 days, Ludwig to 28 months. Although the RCMP and the Crown eventually obtained convictions, the RCMP didn't gather much glory. It took the Mounties years to bring charges; and in cooperation with AEC, the Mounties blew up an inactive gas well in an effort to provide a cover story for a paid informant who came close to fomenting

⁶ Information on Wiebo Ludwig and his family is taken from Andrew Nikiforuk, *Saboteurs: Wiebo Ludwig's War against Big Oil* (Toronto: Macfarlane, Walter & Ross, 2001).

illegal activities in his attempts to get Ludwig and Boonstra to purchase dynamite and carry out more sabotage.

As far as is known, all acts of sabotage were carried out by Wiebo Ludwig, Richard Boonstra, other family members, and perhaps a couple of close friends. Yet Ludwig also made serious efforts to build a wider coalition. He talked to the media, travelled throughout Alberta seeking support, and tried to run for leadership of the Alberta Social Credit Party, though he had to withdraw because of his legal problems. He borrowed environmentalist themes, talked to environmentalists, and picked up sabotage ideas from the eco-terrorist manual *Ecodefense: A Field Guide to Monkeywrenching*. He even made a presentation to the Lubicon Cree. Potential allies, however, were put off by his violent rhetoric as well as by his religion. Ludwig is above all a fundamentalist evangelical Christian who dominates his family compound like an Old-Testament prophet. His failure to build a viable movement illustrates the difficulty of bringing together the different groups who might consider resorting to obstruction, sabotage, and violent protest in northern Alberta. Yet his example may have played a part in inspiring the recent episodes of sabotage described in the next section.

2.2 Recent Episodes

From October 12, 2008, to January 5, 2009, there were four explosions at EnCana natural gas pipeline facilities in northeastern British Columbia,⁷ followed by two more explosions on July 1 and 4, 2009.⁸ On October 10, 2008, two days before the first explosion, a message was sent to local media outlets: "We will no longer negotiate with terrorists which you are as you keep endangering our families with crazy expansion of deadly gas wells in our home lands."⁹ A second letter was received on July 17, 2009, calling on EnCana to dismantle all its facilities and infrastructure within five years. The letter gave EnCana three months to commit to this undertaking, or else even worse attacks would resume.¹⁰

The nature of the attacks, the style of the notes, and the choice of targets were all reminiscent of the Ludwig family's struggles with AEC, the predecessor corporation of EnCana. Someone suspected of having information was arrested in Alberta on October 24, 2008, but that obviously was not enough to put an end to the bombings, because they continued after that date.¹¹

There was also a January 11, 2009, fire at the Edmonton home of Jim Carter, former President and CEO of Syncrude.¹² Police think the fire was arson, but no one has attempted to take public credit for it. If evidence of linkage to the four EnCana bombings in British Columbia should emerge, this would be not just sabotage but a red-alert incident of eco-terrorism, involving a potentially lethal attack on the home of a retired oil-company executive; but no such evidence has come to light. In the absence of evidence, it may just be a coincidence that the fire in Edmonton took place so soon after the EnCana bombings.

⁷ Clare Ogilvie, "Fourth EnCana explosion rattles Dawson Creek," *The Province*, January 6, 2009.

⁸ "Terror near Dawson Creek, BC. Sixth bomb explodes at Encana pipeline," *Vancouverite*, July 4, 2009, <http://www.vancouverite.com/2009/07/terror-near-dawson-creek-bc-sixth-bomb-explodes-at-encana-pipeline>.

⁹ Canwest News Service, "Second explosion rocks gas pipeline in BC," *Montreal Gazette*, October 17, 2008.

¹⁰ Nathan VanderKlippe and Wendy Stueck, "Letter gives EnCana three months to leave or attacks will get a lot worse," *Globe and Mail*, July 17, 2009.

¹¹ Canadian Press, "RCMP team investigating 2 pipeline bombings in B.C. arrest man in Alberta," *Oilweek Magazine*, October 24, 2008.

¹² Richard Warnica and Ben Gelinas, "Home set ablaze owned by ex oil boss: Arson at Bearspaw Drive house caused estimated \$850,000 damage," *Edmonton Journal*, January 12, 2009.

Whether or not these incidents have any connection to the Ludwig family, sabotage is likely to occur again in the future. The Peace River country of Alberta and British Columbia, as the last homestead frontier in North America, has attracted many highly independent people who want to live undisturbed in remote bush land. They may see roads, seismic cuts, and pipelines as an intrusion on their property rights, and perceive hydrocarbon emissions as a threat to their health. These remote homesteaders are well equipped to carry out acts of sabotage: they own firearms for hunting and self-protection in the wilderness; and they are familiar with heavy machinery because of their work as farmers, ranchers, lumberjacks, drill hands, and truck drivers. They are not easy to detect and apprehend in such a vast expanse of territory, especially where they have some community sympathy. They will probably remain a nuisance factor, imposing extra security costs on natural-resource industries, but not bringing such industries to a standstill.

ENVIRONMENTALISM

3.1 Eco-terrorism

Eco-terrorism refers to violent assaults on persons or property motivated by environmental ideologies such as biocentric equality, deep ecology, green anarchy, and primitivism.¹³ In these ideological constructs, humanity has no special status; it is simply on a par with all other life forms. Indeed, some advocates of these green ideologies regard the human race as a metastasizing cancer that threatens to overwhelm the rest of the natural order. Typically, such persons believe that both human numbers and the prevailing standard of living must be drastically reduced. Hence, they regard throwing a “monkey wrench”¹⁴ into the works of civilization as a positive step towards protecting the rest of the natural world.

Although there are many eco-terrorist groups, the two best-known are the Animal Liberation Front (ALF) and the Earth Liberation Front (ELF). Operating throughout Western Europe and the United States, they have been responsible for hundreds of attacks, both large and small, mostly directed against property but a few also against persons. Activists are difficult to detect, for they usually operate in small, secretive cells.

Indeed, eco-terrorist “organizations,” like many other contemporary terrorists groups, are fluid networks rather than conventional organizations. The concept of “leaderless resistance,” first popularized by Louis Beam, a member of the Ku Klux Klan with connections to the Aryan Nations, is often used to describe the ELF style of terrorist activism.¹⁵ In effect, there is no real organization, just activists inspired by a common cause and communicating mostly through the media.

ALF typically targets animal-related facilities, such as research laboratories, stockyards, rodeos, etc. For ELF, almost anything can be a target – housing developments, individual residences, automobiles (especially SUVs), power lines, industrial facilities, resource extraction sites –

¹³ This portrait is derived mainly from “Ecoterrorism: Extremism in the Animal Rights and Environmentalist Movements,” Anti-Defamation League website, http://www.adl.org/learn/ext_us/Ecoterrorism.asp?LEARN_Cat=Extremism&LEARN_SubCat=Extremism_in_America&xpicked=4&item=eco; and “Ecoterrorism: Environmental and Animal-Rights Militants in the United States,” May 7, 2008, <http://209.85.173.132/search?q=cache:zbRFIRs2rxsJ:wikileaks.org/leak/dhs-ecoterrorism-in-us-2008.pdf+ecoterrorism+alberta&cd=20&hl=en&ct=clnk>.

¹⁴ Edward Abbey, *The Monkey Wrench Gang* (Salt Lake City: Dream Garden Press, 1985; 10th anniversary edition).

¹⁵ Paul Joosse, “Leaderless Resistance and Ideological Inclusion: The Case of the Earth Liberation Front,” *Terrorism and Political Violence* 19 (2007), 351-368.

because these are all part of the civilization that ELF wishes to bring down. As ideological true believers, eco-terrorists usually take public responsibility for their attacks and issue statements or manifestos, hoping their individual acts of terrorism will cascade into the larger destruction of modern civilization.

Canada has experienced relatively little eco-terrorism. In 1992, Canadians David Barbarash and Darren Thurston liberated 29 cats from a University of Alberta research laboratory, for which the two men were convicted and spent time in jail. Towards the end of the decade, Barbarash set up an ALF office in Vancouver, and he and Thurston were charged with sending letters filled with razor blades to hunting guides. Both are now in prison in the United States for eco-terrorist acts committed in that country.

Reported destructive incidents involving resource industries in northern Alberta appear to belong more to the category of sabotage than of eco-terrorism. The natural milieu of groups such as ALF and ELF is in large cities, where other environmental organizations and universities provide a supportive ideological climate. The “Elves” don’t need to go to remote locations to find resource-development targets; activists are happy to fire bomb houses, cars, and automobile dealers in metropolitan areas, where they can get saturation media coverage.

Northern Alberta is not a natural area for eco-terrorists. There are a couple of community colleges but no universities; media outlets and reporters for national media are few in number; and the population contains many hunters, trappers, outfitters, and resource workers whose utilitarian attitude towards the land is very different from the mystical reverence of deep ecology. Of course, none of this is to say that eco-terrorism could not occur in northern Alberta, but it helps explain why it has not yet appeared.

3.2 Mainstream Environmentalism

Mainstream environmentalist organizations, such as the Sierra Club or the Pembina Institute, always condemn incidents of eco-terrorism, though they sometimes suggest that environmental issues are the “root causes” of terrorists’ and saboteurs’ resort to violence.¹⁶ This stance is typical of moderate groups in many areas of public life, opposing violence but indirectly lending support to extremism by endorsing its goals, if not its methods.

Mainstream environmental organizations may also be preparing for involvement in non-violent blockades and occupations in the oil sands. CanWest News Service reported in January 2009:

Twenty aspiring activists received a lesson on how to create a human blockade as part of an oil sands protest training conference held during the weekend. They sat on the floor of a small classroom on the University of Saskatchewan campus with their arms and legs intertwined as Greenpeace activist Mike Hudema and his helpers attempted to break them apart.¹⁷

Representatives from the Athabasca Chipewyan First Nation, an Alberta Indian band, were reportedly present, but an organizer said the plan was to prevent oil sands development in Saskatchewan. However, if oil sands blockades and occupations ever get started, they will spread from one province to another.

¹⁶ Tom Marr-Laing and Chris Severson-Baker, “Beyond Eco-Terrorism: The Deeper Issues Affecting Alberta’s Oil Patch,” Pembina Institute, February 1999, <http://alberta.pembina.org/pub/7>.

¹⁷ Luke Simcoe, “Activists gear up to protest oil sands development,” *Leader Post* (Regina), January 18, 2009.

Given the extent to which mainstream environmental organizations have demonized oil sands development, direct action would be a logical next step. There aren't enough environmentalists in the north to have much effect by themselves, but they could make an impact by recruiting protesters from dissident First Nations. Probably the best defence against such disruptions is to make sure that local First Nations receive significant economic benefits from any development.

TREATY 8

4.1 The Lubicon Cree

When Treaty 8 was negotiated in northern Alberta in 1899 and 1900, the Treaty Commissioners travelled mainly on waterways such as the Peace and Athabasca Rivers, inviting Indian bands to come out from the interior to meet them for negotiations. The federal cabinet ratified the treaty in 1900, assuming that, although perhaps as many as 500 Indians from the interior had been missed, they could adhere to the treaty later.¹⁸

As early as 1933, a group of 14 Indians petitioned for creation of a reserve at Lubicon Lake, but for various reasons nothing happened for decades. Starting in 1978, the Lubicon Band engaged Montreal lawyer James O'Reilly, who had successfully represented the James Bay Cree, to negotiate on their behalf.¹⁹ They took the position that, because their ancestors had never signed Treaty 8, their aboriginal title had not been extinguished in 1899-1900, so they had the right to negotiate a new land-claims agreement in the present day. The Lubicon pursued various legal actions as well as political tactics including a request to museums around the world to boycott the display staged by the Glenbow-Alberta Institute in connection with the 1988 Winter Olympics in Calgary.²⁰ In 1988, they blockaded a road near Grimshaw, Alberta, in an attempt to "assert jurisdiction." The provincial government ordered the RCMP to take down the blockade, but Premier Don Getty afterwards engaged in talks with Lubicon Chief Bernard Omniyak, so the blockade might be considered a partial success.²¹ When those negotiations ultimately proved fruitless, the Lubicon issued orders to oil companies to shut in their wells, and tried to keep Daishowa Paper from cutting trees on what the Lubicon called their "hunting and trapping territory," an area of thousands of square miles, much larger than any reserve that they could eventually hope to obtain. In November 1990, there was an attack upon a Daishowa contractor's camp. Thirteen Lubicon members were subsequently charged with arson, but no convictions were ever obtained and the charges were eventually stayed.²² Lubicon supporters organized a Daishowa boycott that went on for years in the international marketplace and led to litigation in Canadian courts.

The federal government deflected the Lubicon challenge by breaking up their coalition of supporters, signing separate agreements under Treaty 8 with other so-called "isolated communities" in the same area. Many Lubicon members then drifted away and joined other bands so they could get treaty and reserve benefits.²³ A reduced Lubicon band is still holding

¹⁸ Thomas Flanagan, "Stalemate at Lubicon Lake," in *Game Theory and Canadian Politics* (Toronto: University of Toronto Press, 1998), p. 40. For a view more sympathetic to the Lubicon position, see John Goddard, *The Last Stand of the Lubicon Cree* (Vancouver: Douglas & McIntyre, 1992).

¹⁹ Flanagan, "Stalemate at Lubicon Lake," p. 42.

²⁰ *Ibid.*, p. 44.

²¹ *Ibid.*, p. 45.

²² *Alberta Report*, 28 January 1991, pp. 10-11; Friends of the Lubicon, "Backgrounder," <http://tao.ca/~FOL/pa/luback.htm#chronology>.

²³ Flanagan, "Stalemate at Lubicon Lake," p. 46.

out for a settlement, but they no longer have much ability for disruption. Their legal challenges, combined with imaginative tactics involving blockades and boycotts, earned them enormous publicity but in the end did not achieve their objective of getting a modern land-claims agreement outside the framework of Treaty 8. However, they created a blockade culture that has contemporary echoes in the area.

4.2 Contemporary Blockades

In February 2009, *National Post* journalist Kevin Libin reported that the Woodland Cree First Nation had been obstructing oil drilling in the area around (not in) their reserve lands. The goal of these minor blockades, which had been going on for years, appeared to be a combination of jobs for band members and private payoffs to the chief: "I know it's wrong, but it's the only way they listen," he says. "Blockade" seems a bad, bad word, said the chief. "But it's not. It sometimes brings both parties that are in dispute together to fix it."²⁴

The core of the Woodland Cree First Nation is composed of former members of the Lubicon Lake band, who broke away in 1989 after becoming dissatisfied with Chief Bernard Ominayak's inability to get results. The Department of Indian Affairs quickly recognized the Woodland Cree First Nation and signed an agreement with them in late 1990, giving them reserve lands near Cadotte Lake, northeast of the town of Peace River.²⁵

These blockades may be considered an extension of the protest tactics that the Lubicons used in the 1980s. But the Lubicon protests were held ostensibly to get a land claims agreement, whereas these blockades are being staged even after land claims agreements have been negotiated and ratified. Further, they are being held on surrendered Crown land, not on reserve land. To that extent, they look forward to the issue described in the next section, namely the increasing aboriginal rights on Crown land that flow from the Supreme Court's *Mikisew* decision.

4.3 The *Mikisew* Decision

In the 2004 cases of *Taku River* and *Haida Nation*, the Supreme Court of Canada found that the "honour of the Crown" required the government of British Columbia to consult First Nations about the use of lands that might be part of an as-yet-unproved claim of aboriginal rights and title. The Court's fundamental position is hard to fault. The *Delgamuukw* decision had held that aboriginal title has never been extinguished in most of British Columbia, so claims for aboriginal title might be proved valid almost everywhere. It hardly seems fair to aboriginal claimants to have lands over which they hope to assert title be stripped of their minerals, timber, or fish and game while the claim is being negotiated. Hence the requirement on the provincial government to consult claimants before issuing mining permits or timber licenses.

In 2005 the Supreme Court extended the duty of consultation beyond British Columbia in the *Mikisew* decision, which found that the Mikisew Cree First Nation had a right to be consulted in northern Alberta, even though the area has been subject to Treaty 8 since 1899. The dispute began when the federal Department of the Environment proposed to build a winter snow road through a portion of Wood Buffalo National Park that is also a reserve for the Mikisew. After protests, the Department agreed to reroute the road so that it would go around the reserve rather than cross it; but the Mikisew still demanded to be consulted, on the grounds that the road would affect their hunting and fishing off the reserve. They appealed to Treaty 8, which gives signatories the right to hunt, trap, and fish on Crown land off reserve, "saving and

²⁴ Kevin Libin, "Alberta Cree leader denies side deals with crews," *Financial Post*, February 26, 2009.

²⁵ *Calgary Herald*, 20 December 1990.

excepting such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes.”²⁶

In reasoning rather similar to *Taku River* and *Haida Nation*, the Supreme Court overruled the Federal Court of Appeal, finding that the federal government had a duty to consult with the Mikisew:

The Crown, while it has a treaty right to “take up” surrendered lands, is nevertheless under the obligation to inform itself on the impact its project will have on the exercise by the Mikisew of their treaty hunting, fishing and trapping rights and to communicate its findings to the Mikisew. The Crown must then attempt to deal with the Mikisew in good faith and with the intention of substantially addressing their concerns. The duty to consult is triggered at a low threshold, but adverse impact is a matter of degree, as is the extent of the content of the Crown’s duty. Under Treaty 8, the First Nation treaty rights to hunt, fish and trap are therefore limited not only by geographical limits and specific forms of government regulation, but also by the Crown’s right to take up lands under the treaty, subject to its duty to consult and, if appropriate, to accommodate the concerns of the First Nation affected...

Here, the duty to consult is triggered. The impacts of the proposed road were clear, established, and demonstrably adverse to the continued exercise of the Mikisew hunting and trapping rights over the lands in question. Contrary to the Crown’s argument, the duty to consult was not discharged in 1899 by the pre-treaty negotiations.²⁷

Mikisew was not in itself a resource-development case, but it may have major implications for resource industries. If the bands that surrendered land under Treaty 8 (which covers all of northern Alberta as well as adjacent parts of British Columbia and Saskatchewan) have a right to be consulted on any future developments that could affect hunting, fishing, and trapping, they have an ill-defined but still real property right on Crown land in this vast area. Resource companies can no longer assume that they can deal only with the provincial government to get permission for projects on Crown land. They will also have to deal with the neighbouring band or bands before going ahead. This is obviously a fertile field for future blockades, occupations, and obstruction, particularly since bands may sometimes conflict with each other in their claims to be consulted about development on overlapping “traditional territories.”

4.4 Warrior Societies

The legal potential for obstruction created by the *Mikisew* decision might boil over into Caledonia-style occupations and blockades if “warrior societies” get involved. Warrior societies are an extremely loose network of aboriginal activists, usually disaffected young men, often with some degree of military experience. They have been particularly important among the Mohawks of Ontario and Quebec, but have also appeared among various First Nations in Nova Scotia, Manitoba, and British Columbia. They often become important where the local First Nation government is weak or internally divided. Under such circumstances,

²⁶ Treaty 8, in Dennis F.K. Madill, *Treaty Research Report: Treaty Eight* (Ottawa: Treaties and Historical Research Centre, Indian and Northern Affairs Canada, 1986), p. 128.

²⁷ *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, 2005 SCC 69, [2005] 3 S.C.R. 388, headnote.

vigorous direct action by a few people brandishing firearms, setting up a blockade or occupying contested territory, can attract support from other band members and virtually compel the band government to also give tacit support to illegal tactics.²⁸

There is no history of warrior societies operating in northern Alberta, but that does not mean it could not happen. There is no national organization of this movement, and one or two energetic young men could start to call themselves a warrior society and attract a following almost anywhere, if there is a plausible case that First Nations' hunting, fishing, or land rights have been ignored. Such a scenario could arise from a *Mikisew*-style consultation issue. Experience shows that warrior-society occupations or blockades can go on for months or years, as at Oka and Caledonia, and can be extremely costly to businesses that get caught in the middle of a standoff between government and native protestors.

A nightmare scenario from the standpoint of resource industries in northern Alberta would be a linkage between warrior societies and eco-terrorists. Members of warrior societies would brandish firearms and take public possession of geographical sites, while eco-terrorists would operate clandestinely, firebombing targets over a wide range of territory. The two processes could energize each other, leading in the extreme case to loss of life and a shutdown of industry over a wide area. But this apocalyptic scenario is unlikely to happen because the members of warrior societies and environmental activists are different types of people with different objectives. It would be difficult for them to maintain coordinated action for very long.

THE MÉTIS

5.1 Métis Settlements

Alberta is the only Canadian province where the Métis have a designated land base. There are eight Métis settlements in northern Alberta with a total population of 8162, according to the 2006 census, and an aggregate land area of about 500,000 hectares (1,250,000 acres).

The Settlements were established in 1938 after a provincial inquiry into the condition of the Métis, who were badly affected by the Great Depression.²⁹ Conceived in paternalistic terms as an agricultural refuge for people who had no other options, the Métis settlements were originally run by the province somewhat like Indian reserves. The settlements, however, became more independent over the years, and in 1989 they signed the Métis Settlements Accord with the provincial government. This gave them full ownership of the settlement lands, the right of self-government, and substantial powers to co-manage, along with the provincial government, subsurface natural resources. Legislative ratification followed in 1990 with the *Métis Settlements Accord Implementation Act*.

The Métis Settlements seem satisfied with the current regime for farming their lands and for developing and deriving revenue from the natural resources on and under their lands. They are not advancing claims to extend the size of their settlements or to gain management powers over areas bordering their settlements. They have no history of blockades, occupations, and sabotage. Indeed, they are interested in furthering their own participation in the oil industry in northern Alberta. The Elizabeth Settlement, located not far from Cold Lake, announced in June

²⁸ Taiaiake Alfred and Lana Lowe, "Warrior Societies in Contemporary Indigenous Communities," Ipperwash Inquiry research paper, May 2007, <http://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash>.

²⁹ Joe Sawchuk, Patricia Sawchuk, and Theresa Ferguson, *Metis Land Rights in Alberta: A Political History* (Edmonton: Métis Association of Alberta 1981), pp. 187-214.

2009 that it was signing an agreement to host a small upgrader based on experimental new technology.³⁰

The Settlements might conceivably get involved in political struggles over Métis hunting rights, but that seems unlikely to lead to obstruction of natural-resource industries (see the next section). The most likely scenario to create antagonism between resource industries and the Métis Settlements would be if neighbouring natural-resource development projects were to create a nuisance on Métis lands, e.g., pollution of streams or groundwater, sour-gas emissions, breaking down fences, starting forest fires, etc.

5.2 The *Powley* Decision and the Interim Métis Harvesting Agreement

In its 2003 *Powley* decision, the Supreme Court of Canada upheld the right of two Métis men living near Sault Ste. Marie, Ontario, to hunt for food without a license. The Court found that the Powleys (father and son) belonged to a Métis community that had lived around Sault Ste. Marie since the days of the fur trade and whose members had always supported themselves by hunting and fishing. Under these circumstances – the existence of an “identifiable Métis community” characterized by “continuity and stability” – section 35 of the *Constitution Act, 1982*, guaranteed the members of that community a “site-specific aboriginal right” to hunt and fish for subsistence.³¹ The phrase “site-specific” means that the Métis of Sault Ste. Marie could hunt without a license in the area around that city where their ancestors had been accustomed to hunt, but they could not claim that right in other places.

Strictly speaking, the *Powley* decision applied only to one group of Métis in Ontario, but it put other provinces on notice that they would have to recognize Métis hunting and fishing rights in some way. Alberta moved quickly in the wake of *Powley* to negotiate with the Métis Nation of Alberta, approving the Interim Métis Harvesting Agreement (IMHA).³²

The IMHA went far beyond the site-specific and continuous-community aspects of *Powley* by treating all of Alberta as a single territory and all Métis as a single group. It allowed anyone accepted as a member by the Métis Nation of Alberta to hunt, fish, and trap for subsistence on all unoccupied Crown lands in Alberta; in provincial parks and protected natural areas if wildlife harvesting was allowed there; and on privately owned lands with permission of the owner. Métis hunters would have to obey safety and gun-ownership regulations, but they would not have to obtain licenses and would not have to observe season and bag limitations binding on other hunters.

The IMHA was controversial from the start. Other hunters and fishermen, whose main organization is the Alberta Fish and Game Association, feared that the newly empowered Métis would interfere with their own opportunities and might deplete wildlife stocks. Guides and outfitters were particularly worried that the Métis might use their new rights to go after the trophy animals that are the main attraction of the commercial hunting industry. First Nations were also concerned that Métis harvesting rights might interfere with their own special hunting and fishing rights. In any event, the IMHA was overtaken by politics when Ed Stelmach succeeded Ralph Klein as premier. The new Minister of Sustainable Resource Development, Ted Morton, repudiated the IMHA in July 2007.

³⁰ Nathan VanderKlippe, “Métis pin big hopes on tiny Alberta upgrader,” *Globe and Mail Report on Business*, June 3, 2009.

³¹ *R. v. Powley*, [2003] 2 S.C.R. 207, 2003 SCC 43, Supreme Court of Canada, para. 12.

³² Alberta Aboriginal Affairs and Northern Development (2004). “Interim Métis Harvesting Agreement,” http://www.aand.gov.ab.ca/AANDNonFlash/Files/IMHA_MNAA_Sep28_04.pdf.

One way or another, a new regime of Métis harvesting rights will have to be established, as that is required by the *Powley* decision. The government cannot simply ignore Métis claims. However, anything negotiated with the Stelmach government will probably be less permissive than the now-defunct IMHA.

Harvesting rights stemming from the *Powley* decision may turn out to be an important bargaining chip in future discussions over rights and revenues in Alberta's natural-resource economy. If the Métis, in some future case, could establish that the government of Alberta had a *Mikisew*-style duty to consult with them before authorizing mines or pipelines or seismic exploration on provincial Crown lands, they would obtain leverage for getting a share of resource revenues.

The ongoing dispute over Métis harvesting rights has not yet led to activism directed against natural-resource industries. Some Métis continue to hunt and fish without regard to provincial regulations, but they are not organizing blockades, occupations, and sabotage against natural-resource projects. There is no precedent for that in Alberta, where Métis activism has always remained in political and judicial pathways, rather than spilling over into direct action. Indeed, a prosecution commenced in Medicine Hat in May 2009 of three Métis "harvesters," which will be an Alberta test case of Métis hunting rights under the *Powley* decision.³³

CONCLUSION

6.1 Risk Assessment

Resource industries in northern Alberta will undoubtedly face both violent and non-violent obstruction in the future, as they have in the past. Below is a qualitative risk assessment of the various groups that have offered or might offer obstruction:

Saboteurs: Medium overall – high risk of individual incidents, but low risk of sufficient coordination to disrupt operations on a wide scale.

Eco-terrorists: Low – no history of true eco-terrorism in the region; difficult area for eco-terrorists to live and operate in.

Mainstream environmentalists: Low – few environmental activists actually live in this resource-producing region. They will face logistical problems if they try to mount obstructive activities.

Treaty 8 First Nations: Medium overall – long history of past blockades. *Mikisew* decision gives an enhanced legal platform, but there is no history of successful coordinated action that could impede industry on a large scale, and First Nations in the area have generally refrained from violence.

Métis: Low – *Powley* hunting rights decision creates potential legal platform, but Métis in the region have no history of obstructive action.

Overall, the most likely scenario is a continuation of isolated and uncoordinated obstructive activities, both violent and non-violent, which may occasionally slow down or hold up particular projects, but which will probably not threaten the ability of resource industries to continue their

³³ Metis Nation of Alberta, "Historic Metis Rights Trial Set to Begin in Medicine Hat," news release, April 30, 2009, <http://www.metisnation.ca/pdf-02172009/april30/Media%20Advisory%20re%20Harvesting%20Trial%20April%2030.pdf>.

operations in the region. However, this relatively optimistic assessment would have to be re-examined if evidence emergences of collaboration among the various threat groups.

6.2 Convergence?

If two or more of the five categories of people described above – saboteurs, eco-terrorists, mainstream environmentalists, Treaty 8 First Nations, and Métis – came together in a single movement, they could become a serious obstacle to development, given that innumerable roads, pipelines, and physical installations are widely spread across the huge, thinly settled, lightly policed territory of northern Alberta and adjacent areas of British Columbia and Saskatchewan. But such a convergent movement is unlikely to emerge, because of pronounced differences of interest and lifestyle among the potential opponents of development:

- As shown by the Wiebo Ludwig saga, saboteurs are loners who do not readily form alliances with other groups. Indeed, the victory of environmentalists, with their desire for sweeping land-use regulation, and of aboriginal peoples, with their special claims to land ownership and harvesting rights, could interfere with the desire of the typical saboteur to be left alone to farm, ranch, and hunt as he pleases.
- Alliances between environmentalists and aboriginal peoples are a theoretical possibility, and they have occasionally emerged in Canada on a short-term basis, as with the opposition to logging on Meares Island, British Columbia, in 1984.³⁴ But there are long-term difficulties in maintaining such alliances. Environmentalists are mostly urban residents with an idealized view of nature, whereas aboriginal people live close to the land in remote rural environments where they take hunting, fishing, and trapping for granted. They are sometimes opposed to development as such, but their low income often makes them interested in obtaining a share in the fruits of development through royalties, jobs, and service contracts. This fundamental divergence of interest makes any long-term alliance between environmentalists and aboriginal people difficult to sustain.
- First Nations are not a homogenous group. Although they come together in northern Alberta in the Treaty 8 Council, each one has its government, its own reserve(s), and its own specific land claims tied to its location. First Nations in Alberta sometimes resort to blockades and occupations to further their own interests, but they rarely engage in risky and perhaps illegal actions to support the claims of other First Nations.
- Although the Métis are tied to the First Nations through their mutual aboriginal inheritance, their political interests differ and are potentially in conflict. A Métis land base in northern Alberta would bring another group to the table in negotiating resource development, resulting perhaps in smaller shares for First Nations. Similarly, enhanced Métis hunting, fishing, and trapping rights might come at the expense of similar rights for Treaty 8 First Nations. Thus, it would be surprising to see Métis organizations and First Nations making common cause on any major scale.

Overall, the prospects for convergence in northern Alberta seem small. Incidents of obstruction and violence will probably continue as they have in the past, i.e., in a sporadic and isolated way tied to local grievances, and not as part of a coordinated movement with the ability to block resource development on a large scale.

³⁴ “Peaceful Protests Halt Logging,”

http://www.wildernesscommittee.org/publication/edu_report/meares_island_peaceful_protest_halts_logging.

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