



Canadian Friends
Service Committee
(QUAKERS)

CFSC briefing paper on the human health impacts of the oil sands

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Introduction

In the summer 2009 sessions of Canadian Yearly Meeting (CYM) of the Religious Society of Friends (Quakers), CYM called for an “independent body to conduct a comprehensive study of the impact of the tar sands on the health of those who live and work in the region.”¹ There was also a call for a moratorium on new oil sands leases² and a request for CFSC to work with Quaker Ecological Action Network (QEAN) to send the report by Dana Bush, who represented CYM on a delegation to the oil sands with KAIROS, to Monthly Meetings for consideration and response. This briefing paper examines health issues related to oil sands development in order to make clear why there is a growing concern within CYM about the impacts of the oil sands on both humans and the environment.

Background information about the oil sands

The oil sands, also known as the tar sands, are bitumen deposits found primarily in north-eastern Alberta.³ The oil is currently extracted by two methods, large scale surface mining and in-situ steam injection technology. These methods are explained more fully in the CFSC briefing paper on oil sands leases, however the water and air pollution that they cause is of primary concern as it is from these methods of production that human health concerns originate.

Challenges of oil sands research

There is increasing information available about the health impacts of the oil sands. However, baseline health studies were never done and medical records lack the depth⁴ necessary to reach clear conclusions. As the health and related issues are complex, further reading is highly recommended and a list is provided in Appendix E. There are often divergent interests to take into account (developers, Indigenous peoples, environmentalists, industry workers, health practitioners and others). This makes it challenging to gain a clear and accurate understanding of the many relevant factors involved.

Taking a human rights-based approach to oil sands development⁵

The right of everyone to the enjoyment of the highest attainable standard of health is a human right.⁶ All human rights are universal, indivisible, interrelated, and interdependent. In the Indigenous context, the

¹ Canadian Yearly Meeting minute 2009-72 (see Appendix A)

² See CFSC briefing paper on oil sands leases available at www.cfsc.quaker.ca/pages/whats_new.html

³ See map in Appendix B

⁴ CBC : <http://www.cbc.ca/edmonton/features/fort-chipewyan/in-depth.htm>

⁵ Information on human rights was provided by Paul Joffe, international human rights lawyer, specializing in Indigenous rights.

realisation of the right to health depends upon the realisation of other rights including, but not limited to, the right to lands, territories, resources, and environmental rights as well as the right to self-determination. The right to peace, where peace is understood as not only being the absence of war, is also inextricably linked to the right to health, as peace is a prerequisite for material well-being, development and progress.⁷

A human rights-based approach to development in the oil sands requires identifying ‘rights holders’ (Indigenous peoples and individuals affected) and ‘duty bearers’ (Canadian and Albertan governments and corporations) in order to enhance social justice and accountability in the development process. Taking this approach is particularly important in oil sands development as:

The basic principle underlying this [rights-based] approach is that the realization of human rights should be the end goal of development, and that development should therefore be perceived as a relationship between rights holders and the corresponding duty bearers...⁸

What are the sources of the health concerns?

Environmental and human health concerns in the region are not limited to oil sands development as there have been other industrial developments in the region including pulp mills, coal mines and uranium mining which contribute their own pollution.⁹ With respect to the oil sands, the main types of contamination include waterborne, airborne, and soil contamination in addition to disturbance within the mine sites and in the tailings ponds.

Waterborne contaminants, including arsenic, mercury, polycyclic aromatic compounds (PACs),¹⁰ and others, trace back to seepage from tailings ponds into the Athabasca River and its tributaries.¹¹ Tailings are a mixture of water, clay, sand and residual bitumen that result from oil sands processing. Stored in large ponds where the clay/water mixture is left to settle they cover about 130 square kilometres of the oil sands region.¹² The tailings ponds are known to leak into groundwater, eventually causing contamination in the watershed of oil sands regions.¹³

There has been much difficulty in studying the water contamination caused by oil sands development because bitumen is naturally found in and along the Athabasca River and thus there is a natural level of bitumen in the water. Research by the Regional Aquatics Monitoring Program (RAMP) has found bitumen levels to be normal, refuting other research which shows it to be well above normal levels.¹⁴ RAMP, however, funded by industry and directed by a multi-stakeholder committee, has come under much criticism from the scientific community for lacking transparency and a serious peer review.¹⁵ However, its findings continue to be used to support arguments in favour of oil sands development.

⁶ *International Covenant on Economic, Social and Cultural Rights*, 1966, www2.ohchr.org/english/law/cescr.htm article 12

⁷ Report of the Office of the High Commissioner on the outcome of the expert workshop on the right of peoples to peace, March 2010: www2.ohchr.org/english/bodies/hrcouncil/docs/.../A.HRC.14.38_en.pdf

⁸ Human Rights Council, *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Rodolfo Stavenhagen*, UN Doc. A/HRC/6/15 (5 November 2007), para. 13.

⁹ Alberta Health: <http://www.albertahealthservices.ca/files/rls-2009-02-06-fort-chipewyan-study.pdf>

¹⁰ *A study of water and sediment quality as related to public health issues, Fort Chipewyan, Alberta*, Kevin P. Timoney, November 2007, <http://www.cbc.ca/edmonton/features/fort-chipewyan/pdf/fc-final-report-revised-dec2007.pdf>

¹¹ Ibid.

¹² Canadian Mining Journal:

<http://www.canadianminingjournal.com/issues/story.aspx?aid=1000365875&type=Print%20Archives>

¹³ *A study of water and sediment quality as related to public health issues, Fort Chipewyan, Alberta*, Kevin P. Timoney, November 2007, <http://www.cbc.ca/edmonton/features/fort-chipewyan/pdf/fc-final-report-revised-dec2007.pdf>

¹⁴ RAMP: <http://www.ramp-alberta.org/ramp.aspx>

¹⁵ *Oil sands development contributes polycyclic aromatic compounds to the Athabasca River and its tributaries*, David W. Schindler, October 2009, <http://www.pnas.org/content/early/2009/12/04/0912050106.full.pdf+html>

A recent federal government study, proposed in May 2009 to investigate “water quality and quantity, technology, the impact of climate change, Aboriginal issues (health), governance and strategic environmental assessment,” has been cancelled and all copies of the study have been destroyed.¹⁶ There has been no rationale given by the government as to why the study was cancelled except that they failed to reach consensus on the issue.¹⁷ The cancellation of this study draws attention to an overall lack of transparency and disclosure of information to the public by the Canadian government in recent years.¹⁸

Airborne particulates from oil sands development were measured in the 2009 Schindler report, independently funded and in association with the University of Alberta, which studied PACs and other particulates in snow. The pollutants found in the snow strongly suggest a significant effect of oil sands development on the environment and, consequently, humans living in the area. These findings showed levels of air pollution and eventual water pollution, due to spring run off, that are *not* a result of the natural bitumen found in the region:

Airborne PAC from oil sands development conveys a considerable burden to the surrounding watershed. Historical stack discharges of particulates rich in aluminum (Al) (16, 17), and a strong correlation between Al and PAC concentrations in snow ($r = 0.94$, $P = 0.001$), suggest that large amounts of particulate PAC have been discharged since the onset of oil sands production in the 1960s. If deposition rates are constant throughout the year, the estimated annual release of PAC is now 1,200 kg associated with 1,800 T of bitumen particulates, and another 500 kg of dissolved PAC. This amount of bitumen released in a pulse would be equivalent to a major oil spill, repeated annually.¹⁹

The oil sands are the fastest growing contributor of greenhouse gas emissions in Canada²⁰ and the effects of climate change are impacting human health along with the environments that sustain health. As emphasized in an August 2007 report to the UN General Assembly:

Despite ... disturbing trends, the international community has not yet confronted the health threats posed by global warming. The failure of the international community to take the health impact of global warming seriously will endanger the lives of millions of people across the world.²¹

Soil contamination and disturbance is of concern when thinking into the future about the reclamation of mine sites and in situ extraction sites. Of the entire operation only one area owned by Syncrude has been granted a government reclamation certificate. Reclamation is, however, a slow process and over 4,500 hectares of Syncrude land are currently undergoing restoration.²² We are reminded that healthy people (and economies) are predicated on the presence of healthy ecosystems, and un-reclaimed areas in oil sands developments are not examples of such ecosystems.

What are the health concerns?

Concern has primarily arisen in communities close to, or downstream from, the oil sands development, including Fort McMurray, Fort Chipewyan, the Region of Wood Buffalo, Peace River and Cold

¹⁶ Digital Journal: <http://www.digitaljournal.com/article/294325>

¹⁷ Council of Canadians: <http://www.canadians.org/campaignblog/?p=4168>

¹⁸ Information disclosure from the government: “Strengthen the act”, *Globe and Mail*, editorial (30 December 2009), André Picard, “Scientists accuse Tories of ‘despicable’ interference”, *Globe and Mail* (2 May 2008), at A5, Bill Curry, “Global warming critics appointed to science boards”, *Globe and Mail* (11 May 2009) A6, Lawrence Martin, “Info control spinning out of control”, *Globe and Mail* (5 May 2008), at A13

¹⁹ *Oil sands development contributes polycyclic aromatic compounds to the Athabasca River and its tributaries*, David W. Schindler, <http://www.pnas.org/content/early/2009/12/04/0912050106.full.pdf+html>

²⁰ Pembina Institute, *Oil Sands Myths – Clearing the Air*: <http://www.oilsandswatch.org/oilsandsmyths>

²¹ General Assembly, Right of everyone to the enjoyment of the highest attainable standard of physical and mental health: Note by the Secretary-General, UN Doc. A/62/214 (8 August 2007), para. 102

²² Syncrude Canada Ltd.: <http://www.syncrude.ca/users/folder.asp?FolderID=5909>

Lake/Bonnyville. These concerns have been raised by medical professionals, scientists, Indigenous peoples, Elders, and the general population of the area.

Cancer: Concerns were raised in 2006 by Dr. John O'Connor, a physician working in Fort Chipewyan from 2000 to 2007, that there were "higher than normal rates of cancer and other diseases" in the community.²³ These included cholangiocarcinoma (a rare form of liver/bile duct cancer), Graves' disease (an autoimmune disease leading to hyperthyroidism), lupus and rheumatoid arthritis.²⁴ Other health professionals, including the region's head nurse, the director of the local health board and Dr. Michel Sauvé, an internist and president of the Fort McMurray Medical Association, had raised similar concerns prior to Dr. O'Connor's raising the alarm.

Dr. O'Connor was criticised by Health Canada on the basis of a 2006 Government of Alberta health study of Fort Chipewyan which found cholangiocarcinoma, and other liver/bile duct, leukemia and hematopoietic cancers to be above expected levels but within confidence intervals, leading to "no difference" in the overall assessment of results.²⁵ This study did however find elevated levels of lupus and renal failure.²⁶ However, this study also came under criticism by the area's physicians as the data used was incomplete.²⁷ Furthermore, the data was displayed in a confusing way. Hematopoietics (cancers of the blood) and leukemia were shown in different categories, whereas oncologists say that hematopoietics include leukemia. Grouped together these findings would show cancer levels to be almost double the expected rate.²⁸

At the continued request of the community another study was conducted by the Alberta Cancer Board which was reviewed by independent experts and Aboriginal researchers. This study, published in February 2009, showed cancer rates in Fort Chipewyan to be higher than in the general Albertan population. It also stated that these cancer rates could be due to "increased detection or chance" and yet it did not rule out the possibility that increased cancer rates could be due to the oil sands.²⁹

This study did not "investigate the association between the risk of cancer for Fort Chipewyan residents and the effects of possible environmental exposures" but it did call for further investigation into the issue as:

Health concerns voiced by the Fort Chipewyan community, the existing evidence about the potential environmental contaminants in the area, along with an absence of a general increase in cancer rates in the comparison communities, justify further investigations that would include the analysis of many potential risk factors, such as lifestyle risk factors, family history, as well as occupational and environmental exposures.³⁰

It is clear that, although cancer rates have been found to be higher, more research looking at the possible role of increased industry in the area needs to be done before concrete conclusions can be drawn.

²³ CBC : <http://www.cbc.ca/edmonton/features/fort-chipewyan/in-depth.html>

²⁴ CBC : <http://www.cbc.ca/edmonton/features/fort-chipewyan/pdf/alberta-health-analysis-2006.pdf>

²⁵ Ibid.

²⁶ CBC : <http://www.cbc.ca/edmonton/features/fort-chipewyan/pdf/alberta-health-analysis-2006.pdf>

²⁷ CBC : <http://www.cbc.ca/edmonton/features/fort-chipewyan/in-depth.html>

²⁸ Ibid.

²⁹ *Cancer incidence in Fort Chipewyan, Alberta, 1995-2006*, Alberta Cancer Board, 2009, Division of population health and surveillance, <http://www.albertahealthservices.ca/files/rls-2009-02-06-fort-chipewyan-study.pdf>

³⁰ Ibid.

Kidney (renal) failure: The 2006 Government of Alberta study found elevated levels of renal failure in Fort Chipewyan,³¹ confirming Dr. O'Connor's suspicions. Again, more conclusive research is needed considering possible linkages to oil sands development.

Respiratory concerns: Public concern has been raised about respiratory ailments in the region,³² and Dr Schindler's report supports this as the levels of airborne particulates from the oil sands emissions are substantial.³³

Food and drinking water: On July 28th, 2010 the UN General Assembly declared that safe and clean drinking water and sanitation is a human right essential to the full enjoyment of life and all other human rights.³⁴

Arsenic is a known carcinogen which contaminates air and water systems when fossil fuels or wastes are burned, such as when providing energy for oil sands extraction.³⁵ A study done by Suncor Energy Inc. showed a 10 to 20% increase in cancer risk for the "aboriginal hunter-trapper" over a lifetime with their development due to the ingestion of local fish "influenced by the concentration of arsenic in water."³⁶

Another impact assessment summary by Suncor showed that arsenic levels would be 453 times the acceptable limits in terms of cancer risk with their proposed development (which was approved), but then another study by the Alberta Government showed that arsenic levels would only be 17-33 times the acceptable level which it stated is no higher than in other communities in Alberta and is deemed acceptable.³⁷

Indigenous peoples of the region have been noticing abnormalities in fish caught in Lake Athabasca, downstream from oil sands development, and mercury levels in fish are higher than normal.³⁸ Residents in Fort Chipewyan have raised alerts about drinking water and although government studies have shown it to be consumable the community speculates that their health problems trace back to the water that they are drinking.³⁹

Again, conflicting studies by groups with vested interest in the implications of these studies show the need for a thorough investigation to be done by an independent body in order to know the actual level of impact on human health of oil sands development so that peoples right to safe water can be met.

Social and mental health impacts: Moving away from Fort Chipewyan and into the boomtown of Fort McMurray there are further health concerns of a different variety caused by rapid population growth due to oil sands expansion. Fort McMurray is the fifth largest population centre in Alberta and serves as home to the many workers in the oil sands industry. Many workers have come from outside of Alberta to work the oil sands and population has grown by over 86% in recent years according to a local census.⁴⁰ This population boom has increased pressure on the government for supporting infrastructure like schools,

³¹ CBC: <http://www.cbc.ca/edmonton/features/fort-chipewyan/pdf/alberta-health-analysis-2006.pdf>

³² The Canadian Press: http://www.canadianbusiness.com/markets/headline_news/article.jsp?content=b3865892

³³ *Oil sands development contributes polycyclic aromatic compounds to the Athabasca River and its tributaries*, David W. Schindler, October 2009, <http://www.pnas.org/content/early/2009/12/04/0912050106.full.pdf+html>

³⁴ <http://www.un.org/apps/news/story.asp?NewsID=35456&Cr=SANITATION&Cr1=>

³⁵ *A study of water and sediment quality as related to public health issues, Fort Chipewyan, Alberta*, Kevin P. Timoney, November 2007, <http://www.cbc.ca/edmonton/features/fort-chipewyan/pdf/fc-final-report-revised-dec2007.pdf>

³⁶ Suncor Energy Inc.: <http://www.suncor.com/pdf/aboutus-VoyageurSouthApplicationSummary-e.pdf>

³⁷ CBC: <http://www.cbc.ca/edmonton/features/fort-chipewyan/pdf/alberta-health-analysis-2006.pdf>

³⁸ Ibid.

³⁹ Polaris Institute: <http://www.polarisinstitute.org/files/Boiling%20Point.pdf>

⁴⁰ Fort McMurray Today: <http://www.fortmcmurraytoday.com/ArticleDisplay.aspx?archive=true&e=1828011>

hospitals and roads.⁴¹ High suicide rates and depression have also been cited as concerns in Fort McMurray, alongside drug and alcohol abuse.⁴² A rise in prostitution and organized crime is also of concern due to the rising population.⁴³ A study looking at the impact of the kind of rapid economic growth in Fort McMurray that has occurred as the result of oil sands development on the social well-being and development of the community would be a valuable resource.

There also have been positive social impacts of the oil sands development in the region. Fort McKay, north of Fort McMurray, boasts a youth centre, health clinic and affordable housing provided at below market rates as a result of income from a community-owned business which provides services to the oil sands industry.⁴⁴

Indigenous peoples' concerns

Indigenous peoples' health has been impacted by oil sands development as they live, hunt and fish on traditional lands where development is taking place. The concerns of Indigenous peoples in relation to the oil sands development are complicated. Dana Bush states the complexity of the situation in her 2009 report to CYM after her visit to the oil sands with KAIROS:

The aboriginal communities are in an odd position. On the one hand, they accept money and jobs through their band-owned companies which provide building funds and services in their communities, and yet the band members are very concerned with the new work ethics, with the amount of drugs and alcohol, and with the decline in animal and human health... I perceive that the band leaders are torn in a sense their compliance is being bought off by the oil companies and they are uneasy with the deal... As a counsellor from the Mikisew First Nation said "the money from the tar sands is a blessing and a curse. And the investments in the bands don't go to the aboriginal people who live off reserve."⁴⁵

The impact of oil sands development on Indigenous peoples' health is not as straightforward as defining which pollutants cause which disease, as health is seen through a more holistic lens. In its General Comment on the right to the highest attainable standard of health, the UN Committee on Economic, Social and Cultural Rights stated:

... in indigenous communities, the health of the individual is often linked to the health of the society as a whole and has a collective dimension. In this respect, the Committee considers that development-related activities that lead to the displacement of indigenous peoples against their will from their traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health.⁴⁶

The human right to health in the context of oil sands development projects includes a wide range of factors. As highlighted by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people:

The principal effects of these projects for indigenous peoples relate to loss of traditional territories and land, eviction, migration and eventual resettlement, depletion of resources necessary for physical and cultural survival, destruction and pollution of the traditional environment, social and community

⁴¹ Ibid.

⁴² CBC: <http://www.cbc.ca/health/story/2005/08/08/depression050808.html>

⁴³ CanWest News Service: <http://www.canada.com/saskatoon/starphoenix/news/story.html?id=55f4318f-68f7-4040-b1b2-3c546a58a5a3>

⁴⁴ National Geographic: <http://ngm.nationalgeographic.com/2009/03/canadian-oil-sands/kunzig-text/3>

⁴⁵ Dana Bush's report: <http://cfsc.quaker.ca/pages/documents/KAIROSdelegationreport-final.pdf>

⁴⁶ United Nations Doc. E/C.12/2000/4, 11/08/2000, at para 27.

disorganization, long-term negative health and nutritional impacts as well as, in some cases, harassment and violence...⁴⁷

It is made clear in the *UN Declaration on the Rights of Indigenous Peoples* that the health, and the lifestyles that sustain health (fishing, hunting and trapping), of Indigenous peoples cannot and must not be jeopardized. Articles 20, 21, 23, 24, and 29 all pertain specifically to health concerns, however all human rights are interrelated and indivisible. The *Declaration* in its entirety needs to be considered by both government and industry with relation to oil sands development. Specifically, Article 24(2) affirms that:

Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

And Article 29 provides:

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.⁴⁸

Furthermore, it is well-recognized that the denial of self-determination and other human rights can have deleterious effects on human health.⁴⁹ As indicated in the 2009 *State of the World's Indigenous Peoples*: "...to address the root causes of indigenous peoples' health problems, there must also be full recognition and exercise of indigenous peoples' collective rights to communal assets and self-determination."⁵⁰

The right of self-determination is a prerequisite to the enjoyment and exercise of all other human rights.⁵¹ In the context of a rights-based approach to development, respect for the principles of self-determination of Indigenous peoples includes: "their free, prior and informed consent, participation and empowerment; autonomy and self-management; the strengthened control of their lands; and non-discrimination."⁵²

As such, the right to health cannot be considered in isolation, since other human rights are also affected. As emphasized in the 1993 *Vienna Declaration*:

All human rights are universal, indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural

⁴⁷ General Assembly, *The situation of human rights and fundamental freedoms of indigenous people: Note by the Secretary-General* (Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people) UN Doc. A/59/258 (12 August 2004) para. 20

⁴⁸ United Nations Declaration on the Rights of Indigenous Peoples: <http://un.org/esa/socdev/unpfi/en/drip.html>

⁴⁹ Canadian Medical Association, *Bridging the Gap: Promoting Health and Healing for Aboriginal Peoples in Canada* (Ottawa: Canadian Medical Association, 1994) at 14

⁵⁰ Myrna Cunningham, "Health" in United Nations (Department of Economic and Social Affairs), *State of the World's Indigenous Peoples* (New York: United Nations, 2009) 156 at 159.

⁵¹ World Conference on Human Rights, *Vienna Declaration and Programme of Action*, World Conference on Human Rights, *Vienna Declaration and Programme of Action*, adopted June 25, 1993, U.N. Doc. A/CONF.157/24 (Part I) at 20 (1993), (1993) 32 I.L.M. 1661, para. 5

⁵² General Assembly, *The situation of human rights and fundamental freedoms of indigenous people: Note by the Secretary-General* (Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people) UN Doc. A/59/258 (12 August 2004), para. 64 (Conclusions)

and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and freedoms.⁵³

The Governments of Canada, Alberta and Saskatchewan (an emerging oil sands region) alongside the corporations involved in the oil sands have a duty to the international community to meet the standards outlined in the *UN Declaration on the Rights of Indigenous Peoples* and in other international human rights instruments, and so far have fallen short of doing so on many counts.

An example of this is failure is the situation of the Lubicon Cree, with whom Friends have had a long standing relationship and who have been deeply harmed by resource development on their traditional lands. Although to date there has been only minimal oil sands development on the traditional territory of the Lubicon, their case illustrates that such developments are targeting communities that may have already suffered tremendous health impacts and other harms as a consequence of conventional oil and gas development.⁵⁴

CFSC partners with Amnesty International in their campaign in solidarity with the Lubicon Cree. Many valuable resources can be found on Amnesty's website.⁵⁵ More in depth information about the Lubicon is also included in Appendix C.

Conclusion and Recommended Action

Canadian Yearly Meeting's call for an "independent body to conduct a comprehensive study of the impact of the tar sands on the health of those who live and work in the region"⁵⁶ is timely and urgent action needs to be taken for this call to be meaningful.

Although many studies have been done about the health impacts of the oil sands, the outcomes of these studies are often not considered by all stakeholders, and some of these studies have been criticised for a variety of reasons. There is evidence that pollution levels are higher than normal in the region, and a study linking this knowledge to human health concerns is needed.

An effective study would be one which heard and addressed the needs, rights and responsibilities of all parties engaged in oil sands development, this may in fact result in the need for several studies done over a period of time. In shaping the terms of a study, conducting it and sharing the outcomes of it, all parties need to be involved and on a level playing field. This includes Indigenous peoples who are disproportionately affected by oil sands development, alongside oil companies, the Governments of Canada and Alberta, the regions' population including the many workers of the oil sands, and the scientific and medical communities at large.

However, governments and corporations have responsibilities that go far beyond undertaking or commissioning studies relating to the people affected by oil sands development. Although comprehensive and independent studies constitute an important step, extensive additional measures are urgently needed to ensure that oil sands development fully respects the human rights of Indigenous peoples and others, consistent with international standards. In addition, the integrity of the environment must be safeguarded.

Even if the potential health impacts of specific development projects in the oil sands may not be fully known, the 'duty-bearers,' in this case governments and third parties, have responsibilities to Indigenous peoples. Such government responsibilities include: the constitutional duty to consult and accommodate

⁵³ UN World Conference on Human Rights, *Vienna Declaration and Programme of Action*, adopted June 25, 1993, U.N. Doc. A/CONF.157/24 para. 5.

⁵⁴ Information on the Lubicon Cree was provided by Craig Benjamin of Amnesty International Canada

⁵⁵ Amnesty International Canada: <http://www.amnesty.ca/lubicon/>

⁵⁶ Canadian Yearly Meeting minute 2009-72 (see Appendix A)

Indigenous peoples; the duty to exercise ‘due diligence,’ in regard to human rights; and respect for the ‘precautionary principle.’⁵⁷

As previously mentioned, substantially reducing greenhouse gas emissions and ensuring reclamation of the entire area that is affected is undertaken are also critical components of addressing the health and well being of people and Creation, now and in the future. All these actions, and the processes that they incorporate, must be undertaken in a wholly transparent and responsible way.

Finally, we, as Friends and Canadians, are called to look within ourselves and at our own lifestyles to understand how we are a part of this issue. The companies working the oil sands do so to meet our demand for oil so that we can continue the lifestyle that we do. In paraphrasing the advice of John Woolman to self-reflect on how our behaviours can be complicit in supporting that which we abhor, we are reminded to “be open to discern how the seeds of destruction of our planet are present in our ways of living.”⁵⁸

Rachel Singleton-Polster (Vancouver Island Monthly Meeting) is serving as a CFSC Intern, summer 2010, at CFSC’s offices in Toronto, ON and Mission, BC.

Special thanks to Craig Benjamin (Amnesty International Canada), Bill Curry (Prairie Monthly Meeting), Dale Dewar (physician, Prairie Monthly Meeting), Paul Joffe (international human rights lawyer, Montreal QC), David Polster (reclamation biologist, Vancouver Island Monthly Meeting), Jane Orion Smith (General Secretary, CFSC) and Jennifer Preston (CFSC’s Aboriginal Affairs Program Coordinator) for their help in producing this document.

⁵⁷ See Appendix D

⁵⁸ Canadian Yearly Meeting, 1992 (paraphrasing John Woolman)

Appendix A: Minutes on the Oil Sands, Canadian Yearly Meeting, August 2009

57. **CFSC: KAIROS Tar Sands:** Jane Orion Smith, CFSC General Secretary, introduced the draft minute on the tar sands by reviewing the history of CFSC's involvement with the issue. She summarized the very great amount of natural resources required to produce oil from the tar sands, and showed us images of the tar sands development. She explained the vast scope of the area which is under lease or under proposal for lease. Jane Orion flagged the main environmental issues, including concerns about loss of water quality, habitat and the release of toxic waste into the environment. We asked for revisions in the minute and it will return later in the agenda. A letter outlining this minute will be sent to the governments of Canada, Alberta, Saskatchewan, and to government bodies in the United States and Europe.

72. **CFSC: KAIROS Tar Sands:** At CYM 2008, CFSC brought forward the question of appointing a Quaker representative to serve on a KAIROS delegation to the Athabasca tar sands being coordinated as a part of KAIROS' work on energy and sustainability. CYM agreed to participate and Dana Bush, a reclamation biologist from Calgary MM, was appointed by Representative Meeting in November 2008 as our representative. The delegation visited the region in May 2009, their focus being to meet with a wide range of groups that are involved in, impacted by, or concerned about tar sands development. Their goal was to listen and learn. They met with indigenous communities, settled communities in the tar sands area, local and provincial government representatives, industry, environmentalists, unions, and faith communities.

Our delegate, Dana Bush, has prepared a report with a range of thoughts for CYM to consider. We receive it with gratitude and also convey our thanks to KAIROS for enabling this opportunity and undertaking this work with its member churches. At CYM 2009, CFSC convened a special interest group where Friends heard a presentation by KAIROS staff member Ed Bianchi who described the first hand witness of the tar sands devastation. Dana's in-depth report on her observations and recommendations is available from CFSC and is on their website (see News and Events).

A central recommendation in Dana's report is considering a moratorium on new land leases. While Friends still need to consider a clear position on tar sands development, it is clear that the degradation of the land, water, social structures and well-being of all life in the region requires, at minimum, a pause. Tar sands underlie 140,000 square kilometers of boreal forest, and 78,000 square kilometers are already developed or leased with insufficient environmental assessment. To paraphrase Dana's report, the pace of tar sands development has exceeded our ability to address technical issues, infrastructure needs, health impacts, and stabilized employment.

We are deeply concerned about the impacts of tar sands development, present and future. As a first step, we support CFSC and Dana Bush preparing a letter for signature by the Clerks of CYM and CFSC to the Governments of Canada, Alberta, and Saskatchewan expressing the need for a suspension of new leases on land for tar sands development. We are recommending this moratorium given the known impacts and potential impacts of tar sands development. There is a need for much deeper consideration of the immediate and long term consequences of this activity. Are there not less damaging ways to meet our energy needs (including reducing them)?

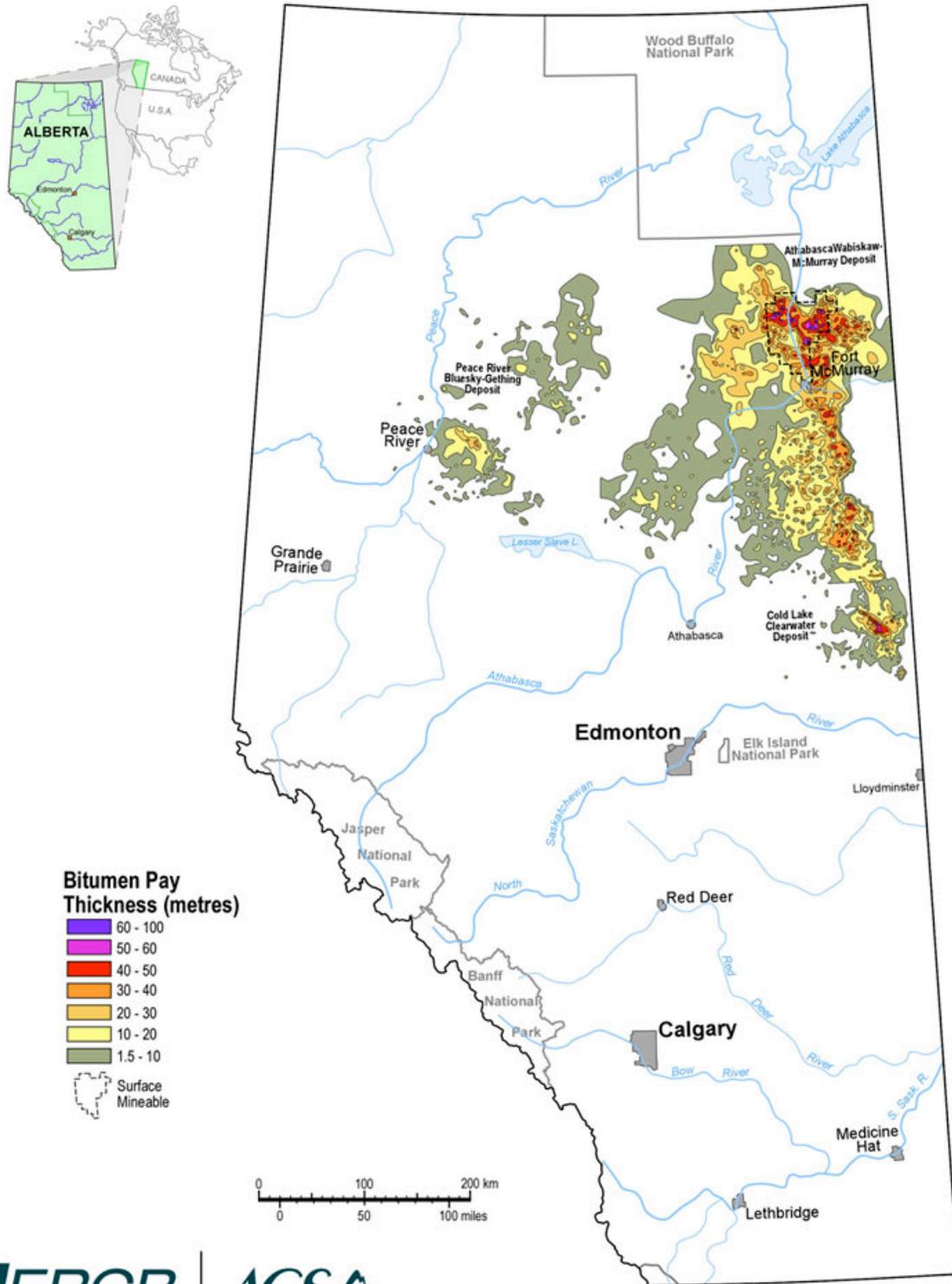
We also call on these governments to appoint an independent body to conduct a comprehensive study of the impact of the tar sands on the health of those who live nearby and work in the region. We ask that additional letters expressing our concern be written by CFSC to the governments of countries that access, or hope to access, fossil fuel developed from the tar sands, such as the United States, as well as countries that might exert influence on the governments in Canada on this issue, particularly those with a concern for the rights of indigenous peoples.

We also ask CFSC: (1) to work with QEAN in helping take back Dana's report to Monthly Meetings for consideration and response so that we are better able to articulate Friends' views on this issue as this concern moves forward within KAIROS and potentially among Friends; (2) to also consider how tar sands development factors into the conceptualization of "peaceful energy" as work on that concern continues, and; (3) to explore, perhaps in association with KAIROS, the resource trade implications imposed by NAFTA in relation to the tar sands.

We ask CFSC to bring forward a report based on their consultation with Monthly Meetings to CYM in 2010. We thank Ed Bianchi of KAIROS, who was a participant on the delegation, for coming to CYM to engage with Friends in a Special Interest Group about the tar sands.

Appendix B: Alberta Oil Sands Area

http://www.ags.gov.ab.ca/energy/oilsands/alberta_oil_sands.html



Appendix C: The Lubicon Cree

Since 1979, more than 2680 conventional oil and gas wells have been drilled on the traditional territory of the Lubicon Cree, east of Peace River. The scale of this development, and the fact that it has been carried out without Lubicon participation or consent in the decision making process, has disrupted and dramatically curtailed hunting and trapping activities that are central to Lubicon culture and economy. The resulting impoverishment of the community, along with the failure to provide adequate redress and compensation, has led to wide spread ill-health among the Lubicon.

In a successful human rights complaint brought before the UN Human Rights Committee, the Lubicon reported in the 1980s that as a result of the drastic changes caused by oil and gas development:

"...the basic health and resistance to infection of community members has deteriorated dramatically. The lack of running water and sanitary facilities in the community, needed to replace the traditional systems of water and sanitary management ... is leading to the development of diseases associated with poverty and poor sanitary and health conditions. This situation is evidenced by the astonishing increase in the number of abnormal births and by the outbreak of tuberculosis, affecting approximately one third of the community."⁵⁹

The province has now leased almost 1400 km² of Lubicon land for in situ oil sands development. The health risks associated with this development will inevitably be greatly aggravated by the cumulative impacts of conventional oil and gas development to date.⁶⁰

⁵⁹ *Bernard Ominayak and the Lubicon Lake Band v. Canada* (Communication no. 167/1984), *Official Records of the Human Rights Committee 1989/90*, Vol. II (New York: United Nations, 1995), pp. 381-391. See also Communication no. 167/1984, Decisions of the Human Rights Committee, U.N. Doc. CCPR/C/38/D/167/1984 (26 March 1990), para. 23.2. See also para. 13.3: "... the Committee reaffirmed that the Covenant recognizes and protects in most resolute terms a people's right of self-determination and its right to dispose of its natural resources, as an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights."

⁶⁰ Information on the Lubicon Cree was provided by Craig Benjamin of Amnesty International Canada

Appendix D: Responsibility of “duty-bearers”⁶¹

i) Duty to consult and accommodate

The Crown's duty to consult imposes on it a positive obligation to reasonably ensure that aboriginal peoples are provided with all necessary information in a timely way so that they have an opportunity to express their interests and concerns, and to ensure that their representations are seriously considered and, wherever possible, demonstrably integrated into the proposed plan of action.⁶²

The duty to consult has not been respected by the governments of Alberta and Canada. This has resulted in three lawsuits regarding the granting of oil sands tenures to oil companies by Indigenous peoples.⁶³

ii) Duty to exercise “due diligence” in regard to human rights

International law obliges governments to use their power to protect and fulfil human rights. This includes not only ensuring that their own officials comply with human rights standards, but also acting with “due diligence” to address abuses committed by private individuals (non-state actors). *When states know, or ought to know, about violations of human rights and fail to take appropriate steps to prevent them, they, as well as the perpetrators, bear responsibility.* The principle of due diligence includes obligations to prevent human rights violations, investigate and punish them when they occur, and provide compensation and support services for victims.⁶⁴ [emphasis added]

iii) Respect for the precautionary principle

The precautionary principle:

...guides decision-making when it is unclear whether a project will destroy traditional resources. The Rio Declaration defines the precautionary principle as the idea that, “[w]here there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.” According to this principle, where there is scientific uncertainty regarding the nature or extent of the harms caused by [development] on First

⁶¹ Information on international human rights standards was provided by Paul Joffe.

⁶² *Halfway River First Nation v. British Columbia (Ministry of Forests)*, [1999] 178 D.L.R. (4th) 666 (B.C.C.A.), at para. 160. This paragraph was cited with approval in *Mikisew Cree First Nation*, [2005] 3 S.C.R. 388, para. 64 [emphasis added by Supreme Court of Canada].

⁶³ Jennifer Grant *et al.*, *Clearing the Air on Oil Sands Myths* (Drayton Valley, Alberta: The Pembina Institute, June 2009), at 26; Mineral rights are issued to companies before First Nations are consulted. Concern with what is considered by many to be a “broken” regulatory process has resulted in three lawsuits to date by First Nations against government. A summary of these lawsuits:

1. *Beaver Lake Cree Nation v. Government of Alberta*: On May 14, 2008, the Beaver Lake Cree Nation (“BLCN”) filed a Statement of Claim against the Province of Alberta and the Attorney General of Canada alleging that, in granting certain tar sands (and other) tenures, the Governments of Alberta and Canada infringed upon the treaty rights of the BLCN to hunt, trap and fish certain wildlife species in their traditional territory.

2. *Chipewyan Prairie Dene First Nation v. Government of Alberta*: On June 4, 2008, the Chipewyan Prairie Dene First Nation (“CPDFN”) filed a legal action in the Alberta Court of Queen’s Bench for a Judicial Review of the Government of Alberta’s grant of oil sands tenures to MEG Energy Corp. The CPDFN seeks a declaration that the Government of Alberta has an obligation to conduct proper baseline studies, a cumulative effects study and an environmental impact study with respect to the potential impacts of the tar sands tenure on the CPDFN’s treaty and aboriginal rights.

3. *Athabasca Chipewyan First Nation v. Minister of Energy (Alberta), Canadian Coastal Resources Ltd., Standard Land Company Inc. and Shell Canada Inc.*: On December 10, 2008, the Athabasca Chipewyan First Nation (“ACFN”) filed a legal action in the Alberta Court of Queen’s Bench for a Judicial Review of the Government of Alberta’s granting of certain tar sands tenures without consultation with the ACFN. The application seeks, amongst other things, a declaration that Alberta Energy has a duty to consult the ACFN prior to granting tar sands tenures within the ACFN’s traditional territory.

⁶⁴ Amnesty International USA, *Maze of injustice: The failure to protect Indigenous women from sexual violence in the USA* (New York: Amnesty International Publications, 2007) at 19

Nations' lands, Canada should take a precautionary approach when evaluating [development] proposals. It should err on the side of caution in order to help protect First Nations' right to culture, which is closely linked to a healthy environment, and not to violate the principle of sustainable development by destroying resources for future generations of First Nations.⁶⁵

Although there remains considerable controversy as to whether there is a "duty" to respect the precautionary principle and, if so, to what extent, the principle is included in various international instruments for protecting the environment and the human rights that depend on the environment.

⁶⁵ International Human Rights Clinic (IHRC), *Bearing the Burden...*, at 40-41

Appendix E: Recommended further reading & sources used in research

- Alberta Cancer Board, *Cancer incidence in Fort Chipewyan, Alberta, 1995-2006*, 2009, Division of population health and surveillance, <http://www.albertahealthservices.ca/files/rls-2009-02-06-fort-chipewyan-study.pdf>
- Alberta Health and Wellness, *Fort Chipewyan Health Data Analysis*, <http://www.cbc.ca/edmonton/features/fort-chipewyan/pdf/alberta-health-analysis-2006.pdf>
- Amnesty International, *Justice for the Lubicon Cree*, <http://www.amnesty.ca/lubicon/>
- Australian Human Rights Commission (Aboriginal and Torres Strait Islander Social Justice Commissioner), *Native Title Report 2008, Report of the Aboriginal and Torres Strait Islander Social Justice Commissioner to the Attorney-General*
- CanWest News Service: <http://www.canada.com/saskatoon/starphoenix/news/story.html?id=55f4318f-68f7-4040-b1b2-3c546a58a5a3>
- CBC : <http://www.cbc.ca/edmonton/features/fort-chipewyan/in-depth.html>
- CBC: <http://www.cbc.ca/health/story/2005/08/08/depression050808.html>
- Canadian Association of Petroleum Producers (CAPP): <http://www.capp.ca/environmentCommunity/healthSafety/Pages/Public.aspx#9TfzWiJy8a0n>
- Canadian Medical Association Journal, *High Cancer Rates Among Fort Chipewyan Residents*, February 2009, <http://www.cmaj.ca/cgi/rapidpdf/cmaj.090248v1.pdf>
- Canadian Medical Association, *Bridging the Gap: Promoting Health and Healing for Aboriginal Peoples in Canada* (Ottawa: Canadian Medical Association, 1994)
- Canadian Press: http://www.canadianbusiness.com/markets/headline_news/article.jsp?content=b3865892
- Center for Disease Control (USA): <http://www.cdc.gov/healthywater/drinking/index.html>
- Economic and Social Council Permanent Forum on Indigenous Issues, *Interagency Support Group on Indigenous Peoples Issues*, p 1. www.un.org/esa/socdev/unpfii/documents/E_C19_2008_8.pdf
- Energy Alberta, *Aboriginal Consultations Final Report*: http://www.energy.alberta.ca/OilSands/pdfs/AboriginalCon2007_MSC_OS.pdf
- Energy Alberta *Multi Stake Holder Report*: http://www.energy.alberta.ca/OilSands/pdfs/FinalReport_2007_OS_MSC.pdf
- Energy Resources Conservation Board (Alberta government): <http://www.ercb.ca/>
- Fort McMurray Today: <http://www.fortmcmurraytoday.com/ArticleDisplay.aspx?archive=true&e=1828011>
- Guardian Ethical Management Inc., *Ethical Funds Investing (CFSC's investment partner)*: http://www.ethicalfunds.com/SiteCollectionDocuments/docs/AlbertaOilsands_whitepaper.pdf

Halfway River First Nation v. British Columbia (Ministry of Forests), [1999] 178 D.L.R. (4th) 666 (B.C.C.A.)

Human Exposure Monitoring Program (HEMP): <http://www.health.alberta.ca/newsroom/pub-environmental-health.html>

Human Rights Based Approach: <http://www.unicef.org/sowc04/files/AnnexB.pdf>

Human Rights Council, *Report of the Office of the High Commissioner on the outcome of the expert workshop on the right of peoples to peace*, March 2010

International Human Rights Clinic (IHRC), *Bearing the Burden: The Effects of Mining on First Nations in British Columbia*, Harvard Law School's Human Rights Program, June 7, 2010

National Geographic: <http://ngm.nationalgeographic.com/2009/03/canadian-oil-sands/kunzig-text/3>

Northern River Basins Human Health Monitoring Program: http://www.cbc.ca/edmonton/features/fort-chipewyan/pdf/nrbs_report-1999.pdf

Nikiforuk, Andrew: *Tar Sands: Dirty oil and the future of a continent*

Pembina Institute, *Oil Sands Myths – Clearing the Air*: <http://www.oilsandswatch.org/oilsandsmyths>

Schindler, David W., *Oil sands development contributes polycyclic aromatic compounds to the Athabasca River and its tributaries*, , October 2009, <http://www.pnas.org/content/early/2009/12/04/0912050106.full.pdf+html>

Suncor Energy Inc.: <http://www.suncor.com/pdf/aboutus-VoyageurSouthApplicationSummary-e.pdf>

Timoney, Kevin P., *A study of water and sediment quality as related to public health issues, Fort Chipewyan, Alberta*, November 2007, <http://www.cbc.ca/edmonton/features/fort-chipewyan/pdf/fc-final-report-revised-dec2007.pdf>

UN General Assembly, *Universal realization of the right of peoples to self-determination*, Res. 63/163 (18 December 2008)

United Nations Environment Programme (Catherine P. McMullen and Jason Jabbour (eds.)), *Climate Change Science Compendium* (Nairobi: EarthPrint, 2009)

United Nations World Conference on Human Rights, *Vienna Declaration and Programme of Action*, adopted June 25, 1993, U.N. Doc. A/CONF.157/24