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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya*

Extractive industries and indigenous peoples

Summary

This is the final thematic report of James Anaya, the Special Rapporteur on the rights of indigenous peoples, submitted to the Human Rights Council in accordance with Council resolutions 6/12 and 15/14. Building upon previous reports, it addresses the human rights concerns of indigenous peoples relating to extractive industries. The Special Rapporteur seeks to further advance understanding of the content and implications of international human rights standards that are relevant to these concerns, identifying and building upon points of consensus that he has found in relation to these standards. He provides a series of observations and recommendations that draw from the experiences he has studied, and that point to new models for resource extraction that are or would be consistent with international standards and conducive to the fulfilment of indigenous peoples' rights. The report does not address the issues and human rights standards that are particular to indigenous peoples in voluntary isolation.

* The annex to the present report is reproduced as received, in the language of submission only.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1–7	3
II. A preferred model: resource extraction and development through indigenous peoples’ own initiatives and enterprises	8–17	4
A. Natural resource extraction and development by indigenous peoples as an exercise of their self-determination and related rights	9–11	5
B. State support and preference for indigenous peoples’ own initiatives and enterprises	12–17	5
III. The standard scenario: when States or third party business enterprises promote the extraction of natural resources within indigenous territories	18–40	6
A. The right of indigenous peoples to oppose extractive activities	19–25	7
B. The principle of free, prior and informed consent	26–36	8
C. Natural resource extraction in indigenous territories absent consent	37–40	11
IV. Conditions for getting to and sustaining indigenous peoples’ agreement to extractive activities promoted by the State or third party business enterprises ...	41–78	12
A. Establishment of State regulatory regimes that adequately protect indigenous peoples’ rights	44–46	13
B. Regulation of extraterritorial activities of companies	47–48	13
C. Participation by indigenous peoples and respect for their rights in strategic State planning for resource extraction and development	49–51	14
D. Due diligence by extractive companies to respect indigenous peoples’ rights	52–57	14
E. Fair and adequate consultation and negotiation procedures.....	58–71	16
F. Rights-centred, equitable agreements and partnership.....	72–78	18
V. Conclusions and recommendations	79–92	20
Annex		
Summary of activities of the Special Rapporteur on the rights of indigenous peoples, James Anaya, 2012-2013		22

I. Introduction

1. The worldwide drive to extract and develop minerals and fossil fuels (oil, gas and coal),¹ coupled with the fact that much of what remains of these natural resources is situated on the lands of indigenous peoples,² results in increasing and ever more widespread effects on indigenous peoples' lives. As has been amply documented in previous reports by the Special Rapporteur (see, for example, A/HRC/18/35, paras. 30-55), indigenous peoples around the world have suffered negative, even devastating, consequences from extractive industries.

2. Despite such negative experiences, looking towards the future it must not be assumed that the interests of extractive industries and indigenous peoples are entirely or always at odds with each other. In the course of his examination of situations across the globe, the Special Rapporteur has found that in many cases indigenous peoples are open to discussions about extraction of natural resources from their territories in ways beneficial to them and respectful of their rights. A number of situations have been brought to the attention of the Special Rapporteur in which indigenous peoples have agreed to industrial-scale resource extraction within their territories or have even themselves taken initiatives for mining or development of oil or gas.

3. On the other hand, there are certainly cases in which resource extraction is simply incompatible with indigenous peoples' own aspirations and priorities for development, or may impede their access to lands and natural resources critical to their physical well-being and the integrity of their cultures and livelihoods. In recent years private companies in the extractive sector and States have become increasingly sensitive to indigenous peoples' rights in this regard, and technological advances have allowed for a diminution of the environmental impacts of extractive activities. Nonetheless, in many places indigenous peoples remain sceptical of – and even hostile to – extractive industries, owing to negative experiences.

4. The Special Rapporteur further observes that the business model that still prevails in most places for the extraction of natural resources within indigenous territories is not one that is fully conducive to the fulfilment of indigenous peoples' rights, particularly their self-determination, proprietary and cultural rights in relation to the affected lands and resources. As stated in the Special Rapporteur's report to the Human Rights Council in 2012 (A/HRC/21/47, para. 74), the prevailing model of resource extraction is one in which an outside company, with backing by the State, controls and profits from the extractive operation, with the affected indigenous peoples at best being offered benefits in the form of jobs or community development projects that typically pale in economic value in comparison to profits gained by the corporation.

5. Increasing resource extraction and its mounting effects on indigenous peoples make it all the more imperative to reverse historical trends and secure indigenous peoples' rights in this context. As a starting point there should be broad understanding among all relevant actors about the content of the internationally recognized rights of indigenous peoples, and about the principles that are to guide the actions of States and business enterprises when

¹ See World Bank, "The World Bank Group in extractive industries: 2011 annual review" (2011), pp. 8-14. Available from

http://siteresources.worldbank.org/INTOGMC/Resources/WBG_EI_Annual_Report_FY11_Final.pdf.

² International Work Group for Indigenous Affairs, "Indigenous peoples, transnational corporations and other business enterprises", briefing note (January 2012), p. 1. Available from www.iwgia.org/iwgia_files_publications_files/0566_BRIEFING_2.pdf.

these rights are potentially affected by extractive activities. Further, new business models for natural resource extraction need to be examined and developed, models that are more conducive to the full enjoyment by indigenous peoples of their rights than the one that currently prevails in much of the world. In previous reports to the Human Rights Council the Special Rapporteur has endeavoured to shed light on the issues that indigenous peoples face in relation to extractive industries, and to contribute to understanding of the international human rights standards that apply in this context.³

6. In this his final report to the Council, the Special Rapporteur seeks to further advance understanding of relevant international standards, identifying and building upon points of consensus that he has found in relation to these standards. He provides a series of observations and recommendations that draw from the experiences he has studied and that point to new models for resource extraction that are or would be consistent with international standards and even conducive to the fulfilment of indigenous peoples' rights.

7. In producing the present report the Special Rapporteur has benefited from extensive consultations with representatives of indigenous peoples, States, business enterprises within the extractives sector, non-governmental organizations and experts. The Special Rapporteur is grateful to all those who contributed their views and insights through his questionnaires and requests for information, and to the indigenous and other organizations and Governments that hosted consultations.⁴

II. A preferred model: resource extraction and development through indigenous peoples' own initiatives and enterprises

8. In contrast to the prevailing model in which natural resource extraction within indigenous territories is under the control of and primarily for the benefit of others, indigenous peoples in some cases are establishing and implementing their own enterprises to extract and develop natural resources. This alternative of indigenous-controlled resource extraction, by its very nature, is more conducive to the exercise of indigenous peoples' rights to self-determination, lands and resources, culturally appropriate development and related rights, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples⁵ and other international sources of authority.⁶

³ See A/HRC/18/35, paras. 22-89, and A/HRC/21/47, paras. 34-76 and 79-87.

⁴ The Special Rapporteur would like to thank in particular, for their assistance in organizing relevant consultations, the National Congress of Australia's First Peoples, the Asia Indigenous Peoples Pact, the Saami Council, the Lowell Institute for Mineral Resources at the University of Arizona, the Barents Euro-Arctic Council, Peace Brigades International, Amnesty International, Indigenous Peoples Links, Almaciga, the International Council on Mining and Metals, the Harvard Project on American Indian Economic Development, Middlesex University School of Law, the Sustainable Development Strategy Group and RESOLVE; as well as the Governments of Norway, Spain and the United Kingdom of Great Britain and Northern Ireland, and the state of Western Australia (Australia). He would also like to thank the Cyrus R. Vance Center for International Justice, the University of Virginia International Human Rights Law Clinic, and the Indigenous Peoples Law and Policy Program at the University of Arizona for their assistance with background research used in the preparation for this report.

⁵ Inter alia, arts. 3, 5, 26 and 32.

⁶ See, inter alia, International Labour Organization (ILO) Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries, arts. 13-15; International Covenant on Civil and Political Rights, arts. 1 and 27; and International Convention on the Elimination of All Forms of Racial Discrimination, art. 5 (d) (v).

A. Natural resource extraction and development by indigenous peoples as an exercise of their self-determination and related rights

9. As part of their right to self-determination, “indigenous peoples have the right to determine priorities and strategies for the development or use of their lands and territories”.⁷ This right necessarily implies a right of indigenous peoples to pursue their own initiatives for resource extraction within their territories if they so choose. In cases in which indigenous peoples retain ownership of all the resources, including mineral and other subsurface resources, within their lands, ownership of the resources naturally includes the right to extract and develop them. But even where the State claims ownership of subsurface or other resources under domestic law, indigenous peoples have the right to pursue their own initiatives for extraction and development of natural resources within their territories, at least under the terms generally permitted by the State for others.

10. The Special Rapporteur notes that the model by which indigenous peoples themselves initiate and control resource extraction in their own territories in accordance with their own development priorities has been gaining ground in a number of countries where indigenous peoples have developed the relevant business and technical capacity. There are several notable cases in North America, for example, in which indigenous nations or tribes own and operate companies that engage in oil and gas production, manage electric power assets, or invest in alternative energy. In many such cases they have partnered with non-indigenous companies to develop extractive enterprises in which they have or eventually gain majority ownership interests.

11. To be sure, even resource extraction by indigenous peoples’ own enterprises may pose certain risks to the enjoyment of human rights of the members of indigenous communities, particularly in relation to the natural environment. Experience shows, however, that those risks may be minimized, and the enjoyment of self-determination and related rights enhanced, when indigenous peoples freely choose to develop their own resource extraction enterprises backed by adequate capacity and internal governance institutions.

B. State support and preference for indigenous peoples’ own initiatives and enterprises

12. In compliance with their obligation to promote and fulfil the rights of indigenous peoples, States should have programmes to assist indigenous peoples to develop the capacity and means to pursue, if they so choose, their own initiatives for natural resource management and development, including extraction. States have the obligation not only to respect human rights by refraining from conduct that would violate such rights, but also to affirmatively protect, promote and fulfil human rights.⁸ This principle of international human rights law applies no less to the specific rights of indigenous peoples that are derived from broadly applicable human rights standards.

13. The mounting of enterprises for the extraction, development and marketing of natural resources depends on a range of business and technical skills. Additionally, projects for resource extraction are normally associated with substantial start-up investments, and they commonly generate profits only after several years. It is evident that the vast majority

⁷ United Nations Declaration on the Rights of Indigenous Peoples, art. 32, para. 1.

⁸ This obligation is grounded for all Member States in the Charter of the United Nations, articles 1, 2 and 56, among others, and is a general principle of international law; it applies in respect of those human rights found in treaties to which States subscribe and in other sources of international law.

of indigenous peoples across the globe do not now have the capacity or financial means to develop their own resource extraction enterprises, or to build strategic partnerships with non-indigenous companies that would help develop their control over extractive enterprises. A long-term view should be taken to assist indigenous peoples who might want to go down this path as one of the alternatives that may be available to them, in contrast to the alternative of seeing the natural resources within their territories being extracted under the control of others. Indigenous peoples should not be viewed as being frozen at a certain stage of development or capacity, but rather should be supported in ways that enable them to develop and build capacity in accordance with their own designs and aspirations.

14. The Special Rapporteur is aware that in several countries State-sponsored programmes exist to assist indigenous peoples to manage natural resources or develop their own income generating enterprises, as part of broader programmes for development assistance. These programmes provide various kinds of support, such as grants, loans, favourable tax treatment, advisory services, skills training and scholarships. Where these programmes exist they should be strengthened and specifically targeted to support capacity-building and to provide financial assistance for indigenous peoples' own initiatives for natural resource management and extraction. In those countries where they do not exist, such support programmes should be introduced and likewise developed by the State. International, regional and national donor and development agencies should also support indigenous peoples' own resource extraction and development initiatives.

15. State support for indigenous peoples, furthermore, should include providing assistance for acquiring any necessary licenses or permits. Also, in granting any licenses or permits, States should give preference to indigenous peoples' initiatives for resource extraction within their territories over any initiatives by third party business interests to pursue resource extraction within those same lands.

16. The justification for this preference is in the fact and nature of the indigenous presence. Characteristically, indigenous peoples have strong cultural attachments to the territories they inhabit, and their presence in those territories predates that of others. They have been stewards of the lands and resources within their territories for generations past, and have sought to safeguard the lands and resources for future generations. Very often indigenous peoples lay claim to all the resources, including subsurface resources, within their territories, under their own customs or laws, notwithstanding the laws of the State, and very often, those claims have not been adequately resolved. Given these factors, recognizing a priority for indigenous peoples for the extraction of resources within their territories is a matter of equity if not of entitlement.

17. Giving preference to indigenous peoples' initiatives for resource extraction within their territories is, moreover, a matter of good practice. Resource extraction carried out by indigenous peoples themselves maximizes the possibility of such extraction being pursued in manners respectful of the rights and interests of indigenous peoples. When indigenous peoples themselves control resource extraction, many of the challenges and elements of instability inherent in extractive activities by State or third party enterprises are necessarily diminished or altogether avoided. In addition, profits that the resource extraction project generates are more likely to stay within the State, and capacity enhancement benefits local people.

III. The standard scenario: when States or third party business enterprises promote the extraction of natural resources within indigenous territories

18. Just as indigenous peoples have the right to pursue their own initiatives for resource extraction, as part of their right to self-determination and to set their own strategies for

development, they have the right to decline to pursue such initiatives, as many do and no doubt will continue to do. Today, however, much more often than being faced with the choice of whether or not to pursue their own resource extraction initiatives, indigenous peoples face resource extraction projects that are advanced by the State and third party business enterprises, typically when the State claims ownership of the resources. Although in an increasing number of cases indigenous peoples are accepting such initiatives, it appears that in many more places around the world they are resisting them.

A. The right of indigenous peoples to oppose extractive activities

19. The rights to freedom of expression and to participation are firmly established in international human rights law.⁹ By virtue of these rights, indigenous individuals and peoples have the right to oppose and actively express opposition to extractive projects, both in the context of State decision-making about the projects and otherwise, including by organizing and engaging in peaceful acts of protest. States are bound to respect and protect rights of freedom of expression and participation, and may impose limitations on the exercise of those rights only within narrow bounds and for reasons of public order.¹⁰

1. Freedom from reprisals and violence

20. Many cases have come to the attention of the Special Rapporteur in which indigenous individuals or communities have suffered repression for their opposition to extractive projects. In several of the cases, indigenous individuals and groups opposing extractive projects have been met with acts of intimidation or violence, including violence resulting in death.

21. It is imperative that States adopt the measures necessary to secure the right of indigenous peoples and individuals to peacefully express opposition to extractive projects, as well as to express themselves on other matters, free from any acts of intimidation or violence, or from any form of reprisals. States should provide adequate training to security forces, hold responsible those who commit or threaten acts of violence, and take measures to prevent both State and private agents from engaging in the unjustifiable or excessive use of force.¹¹ Additionally, criminal prosecution of indigenous individuals for acts of protest should not be employed as a method of suppressing indigenous expression and should proceed only in cases of clear evidence of genuine criminal acts. Instead, the focus should be on providing indigenous peoples with the means of having their concerns heard and addressed by relevant State authorities.

22. For their part, extractive companies should adopt policies and practices to ensure that security personnel employed by them act in accordance with relevant human rights standards and with sensitivity to indigenous cultural and social patterns. The Special Rapporteur emphasizes the responsibility of companies to respect human rights, in accordance with the Guiding Principles on Business and Human Rights, which were endorsed by the Human Rights Council in 2011, and that this responsibility is independent of whatever requirements the State may or may not impose on companies and their agents.

23. The Special Rapporteur takes note of the Voluntary Principles on Security and Human Rights, which are being promoted through a process involving a group of Governments, non-governmental organizations and companies in the extractive and energy

⁹ See, for example, International Covenant on Civil and Political Rights, arts. 19, 22 and 25.

¹⁰ See *ibid.*, art. 19, para. 3.

¹¹ See the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).

sectors, including some of the world's major mining and oil and gas companies. The Voluntary Principles employ a human rights framework to address company relations with State and private security providers. This multi-stakeholder process is to be encouraged, although the Special Rapporteur considers that adherence to principles should not be considered voluntary. All extractive companies and relevant State authorities should become aware of and adhere to the Voluntary Principles along with all applicable human rights standards.

2. Freedom from undue pressures to accept extractive projects or engage in consultations

24. Apart from concerns over abusive use of force or direct reprisals, indigenous peoples should be free from pressure from State or extractive company agents to compel them to accept extractive projects. To this end, basic services for which the State is responsible, including for education, health and infrastructure, should not be conditioned upon acceptance of extractive projects. Furthermore, States and companies should guard against acts of manipulation or intimidation of indigenous leaders by State or company agents.

25. Finally, States should not insist, or allow companies to insist, that indigenous peoples engage in consultations about proposed extractive projects to which they have clearly expressed opposition. As is now well understood, States have the obligation to consult with indigenous peoples about decisions that affect them, including decisions about extractive projects. In complying with this obligation States are required to make available to indigenous peoples adequate consultation procedures that comply with international standards and to reasonably encourage indigenous peoples to engage in the procedures. (See paras. 58-71 below). In the view of the Special Rapporteur, however, when States make such efforts to consult about projects and, for their part, the indigenous peoples concerned unambiguously oppose the proposed projects and decline to engage in consultations, as has happened in several countries, the States' obligation to consult is discharged. In such cases, neither States nor companies need or should insist on consultations, while, at the same time, they must understand that the situation is one in which indigenous peoples have affirmatively withheld their consent. The question then becomes what consequences for decisions about the project follow from the indigenous opposition and withholding of consent.

B. The principle of free, prior and informed consent

26. Beyond being protected expression, indigenous peoples' opposition to extractive projects can have determinative consequences, in the light of the principle of free, prior and informed consent, a principle that is articulated in several provisions of the United Nations Declaration on the Rights of Indigenous Peoples and that is gaining increasing acceptance in practice.¹²

¹² The Special Rapporteur has already devoted considerable attention to examining the contours of this principle and its relation to the duty of States to consult with indigenous peoples on decisions affecting them. See, for example, A/HRC/12/34, paras. 36-57; and A/HRC/21/47, paras. 47-53 and 62-71.

1. The general rule: consent is required for extractive projects within indigenous territories

27. The Declaration and various other international sources of authority,¹³ along with practical considerations, lead to a general rule that extractive activities should not take place within the territories of indigenous peoples without their free, prior and informed consent. Indigenous peoples' territories include lands that are in some form titled or reserved to them by the State, lands that they traditionally own or possess under customary tenure (whether officially titled or not), or other areas that are of cultural or religious significance to them or in which they traditionally have access to resources that are important to their physical well-being or cultural practices. Indigenous consent may also be required when extractive activities otherwise affect indigenous peoples, depending upon the nature of and potential impacts of the activities on the exercise of their rights. In all instances of proposed extractive projects that might affect indigenous peoples, consultations with them should take place and consent should at least be sought, even if consent is not strictly required.¹⁴

28. The general rule identified here derives from the character of free, prior and informed consent as a safeguard for the internationally recognized rights of indigenous peoples that are typically affected by extractive activities that occur within their territories. As explained previously by the Special Rapporteur (A/HRC/21/47, paras. 47-53), together, principles of consultation and consent function as instrumental to rights of participation and self-determination, and as safeguards for all those rights of indigenous peoples that may be affected by external actors, including rights that indigenous peoples have under domestic law or treaties to which they have subscribed, or rights recognized and protected by authoritative international sources like the United Nations Declaration on the Rights of Indigenous Peoples and various widely ratified multilateral treaties. These rights include, in addition to rights of participation and self-determination, rights to property, culture, religion and non-discrimination in relation to lands, territories and natural resources, including sacred places and objects; rights to health and physical well-being in relation to a clean and healthy environment; and the right of indigenous peoples to set and pursue their own priorities for development, including with regard to natural resources (See A/HRC/21/47, para. 50 and cited sources.) It can readily be seen that, given the invasive nature of industrial-scale extraction of natural resources, the enjoyment of these rights is invariably affected in one way or another when extractive activities occur within indigenous territories – thus the general rule that indigenous consent is required for extractive activities within indigenous territories.

29. This general rule is reinforced by practical considerations. It is increasingly understood that when proposed extractive projects might affect indigenous peoples or their territories, it is simply good practice for the States or companies that promote the projects to acquire the consent or agreement of the indigenous peoples concerned. Such consent or agreement provides needed social license and lays the groundwork for the operators of

¹³ See, for example, United Nations Declaration on the Rights of Indigenous People, art. 32, para. 2; Inter-American Court of Human Rights, *Saramaka People v. Suriname*, judgement of 28 November 2007, paras. 129-137 (interpreting the American Convention on Human Rights); Human Rights Committee, communication No. 1457/2006, *Poma v. Peru*, Views adopted on 27 March 2009, paras. 7.5, 7.7 (interpreting the International Covenant on Civil and Political Rights); Committee on the Elimination of Racial Discrimination, general recommendation No. 23 (1997) on indigenous peoples (interpreting the International Convention on the Elimination of All Forms of Racial Discrimination); Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.74, para. 12 (interpreting the International Covenant on Economic, Social and Cultural Rights).

¹⁴ See the Declaration, art. 19; ILO Convention No. 169, art. 6, para. 2.

extractive projects to have positive relations with those most immediately affected by the projects, lending needed stability to the projects.

30. Whereas the withholding of consent may block extractive projects promoted by companies or States, the granting of consent can open the door to such projects. But it must be emphasized that the consent is not a free-standing device of legitimation. The principle of free, prior and informed consent, arising as it does within a human rights framework, does not contemplate consent as simply a yes to a predetermined decision, or as a means to validate a deal that disadvantages affected indigenous peoples. When consent is given, not just freely and on an informed basis, but also on just terms that are protective of indigenous peoples rights, it will fulfil its human rights safeguard role.

2. The narrow scope of permissible exceptions to the general rule

31. The general requirement of indigenous consent for extractive activities within indigenous territories may be subject to certain exceptions, but only within narrowly defined parameters. First, consent may not be required for extractive activities within indigenous territories in cases in which it can be conclusively established that the activities will not substantially affect indigenous peoples in the exercise of any of their substantive rights in relation to the lands and resources within their territories¹⁵ – perhaps mostly a theoretical possibility given the invasive nature of extractive activities, especially when indigenous peoples are living in close proximity to the area where the activities are being carried out. More plausibly, consent may not be required when it can be established that the extractive activity would only impose such limitations on indigenous peoples’ substantive rights as are permissible within certain narrow bounds established by international human rights law.

32. Within established doctrine of international human rights law, and in accordance with explicit provisions of international human rights treaties, States may impose limitations on the exercise of certain human rights, such as the rights to property and to freedom of religion and expression. In order to be valid, however, the limitations must comply with certain standards of necessity and proportionality with regard to a valid public purpose, defined within an overall framework of respect for human rights. The United Nations Declaration on the Rights of Indigenous Peoples, in its article 46, paragraph 2, identifies the parameters of permissible limitations of the rights therein recognized with the following minimum standard:

The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

33. It will be recalled that consent performs a safeguard role for indigenous peoples’ fundamental rights. When indigenous peoples freely give consent to extractive projects under terms that are aimed to be protective of their rights, there can be a presumption that any limitation on the exercise of rights is permissible and that rights are not being infringed.¹⁶ On the other hand, when indigenous peoples withhold their consent to extractive projects within their territories, no such presumption applies, and in order for a

¹⁵ See *Poma*, para. 7.6. (consultation and consent required for “measures which substantially compromise or interfere with the culturally significant economic activities of a minority or indigenous community”).

¹⁶ See *Saramaka People* (footnote 13 above), paras. 127-134.

project to be implemented the State has the burden of demonstrating either that no rights are being limited or that, if they are, the limitation is valid.

34. In order for a limitation to be valid, first, the right involved must be one subject to limitation by the State and, second, as indicated by the Declaration, the limitation must be necessary and proportional in relation to a valid State objective motivated by concern for the human rights of others. The Inter-American Court of Human Rights has pointed out that indigenous peoples' proprietary interests in lands and resources, while being protected the American Convention on Human Rights, are subject to limitations by the State, but only those limitations that meet criteria of necessity and proportionality in relation to a valid objective.¹⁷

35. The Special Rapporteur observes that in a number of cases States have asserted the power to expropriate indigenous property interests in land or surface resources in order to have or permit access to the subsurface resources to which the State claims ownership. Such an expropriation being a limitation of indigenous property rights, even if just compensation is provided, a threshold question in such cases is whether the limitation is pursuant to a valid public purpose. The Special Rapporteur cautions that such a valid public purpose is not found in mere commercial interests or revenue-raising objectives, and certainly not when benefits from the extractive activities are primarily for private gain. It should be recalled that under various sources of international law, indigenous peoples have property, cultural and other rights in relation to their traditional territories, even if those rights are not held under a title deed or other form of official recognition.¹⁸ Limitations of all those rights of indigenous peoples must, at a minimum, be backed by a valid public purpose within a human rights framework, just as with limitations on rights formally recognized by the State.

36. Even if a valid public purpose can be established for the limitation of property or other rights related to indigenous territories, the limitation must be necessary and proportional to that purpose. This requirement will generally be difficult to meet for extractive industries that are carried out within the territories of indigenous peoples without their consent. In determining necessity and proportionality, due account must be taken of the significance to the survival of indigenous peoples of the range of rights potentially affected by the project. Account should also be taken of the fact that in many if not the vast majority of cases, indigenous peoples continue to claim rights to subsurface resources within their territories on the basis of their own laws or customs, despite State law to the contrary. These factors weigh heavily against a finding of proportionality of State-imposed rights limitations, reinforcing the general rule of indigenous consent to extractive activities within indigenous territories.

C. Natural resource extraction in indigenous territories absent consent

37. Whether or not indigenous consent is a strict requirement in particular cases, States should ensure good faith consultations with indigenous peoples about extractive activities that would affect them, and engage in efforts to reach agreement or consent, as required by the United Nations Declaration on the Rights of Indigenous Peoples (arts. 19 and 32, para. 2), ILO Convention No. 169 (art. 6, para. 2) and other sources.

38. When a State determines that it is permissible to proceed with an extractive project that affects indigenous peoples without their consent, and chooses to do so, it remains

¹⁷ Ibid., para. 127.

¹⁸ See, for example, Inter-American Court of Human Rights, *Sawhoyamaya Indigenous Community v. Paraguay*, judgement of 29 March 2006, para. 128 (traditional possession by indigenous people of their lands has the equivalent effect of full title granted by the State).

bound to respect and protect the rights of indigenous peoples and must ensure that other applicable safeguards are implemented, in particular steps to minimize or offset the limitation on the rights through impact assessments, measures of mitigation, compensation and benefit sharing. States should ensure good faith efforts to consult with indigenous peoples and to develop and reach agreement on these measures, in keeping with its general duty to consult. The adequacy of these measures and the consultations about them will also be factors in the calculus of proportionality in regard to any limitations on rights.

39. Any decision by the State to proceed with or permit an extractive project without the consent of indigenous peoples affected by the project should be subject to review by an impartial judicial authority. Judicial review should ensure compliance with the applicable international standards regarding the rights of indigenous peoples and provide for an independent determination of whether or not the State has met its burden of justifying any limitations on rights.

40. For their part, in keeping with their independent responsibility to respect human rights, companies should conduct due diligence before proceeding, or committing themselves to proceed, with extractive operations without the prior consent of the indigenous peoples concerned and conduct their own independent assessment of whether or not the operations, in the absence of indigenous consent, would be in compliance with international standards, and under what conditions. If they would not be in compliance, the extractive operations should not be implemented, regardless of any authorization by the State to do so.

IV. Conditions for getting to and sustaining indigenous peoples' agreement to extractive activities promoted by the State or third party business enterprises

41. As noted at the beginning of the present report, in most of the cases of extractive industries within or near indigenous territories that have been brought to the Special Rapporteur's attention, the indigenous peoples concerned have opposed the extractive project, owing to the negative or perceived negative impacts and the absence of adequate consultation or consent. The Special Rapporteur has learned of several other cases, however, in which indigenous peoples have entered into agreements with States or third party business enterprises for the extraction of resources within their territories. Evaluation of both the good and bad practices related to these cases of both indigenous opposition and agreement, in the light of the relevant international standards, contributes to understanding the conditions for arriving at and sustaining indigenous peoples' agreement to extractive activities promoted by the State or third party business enterprises – that is, for obtaining the free, prior and informed consent of indigenous peoples on just and equitable terms.

42. In chapter II of the present report, the Special Rapporteur indicated that, if extractive activities are to take place within indigenous peoples' territories, the activities are best carried out under the control of the indigenous peoples concerned through their own initiatives and enterprises, in contrast to the prevailing model of natural resource extraction initiated by and under the control of outside interests. The world in which we live, however, is one in which for the foreseeable future the financial and technical capacity for the extraction of natural resources will largely be in non-indigenous hands and the political forces will continue to empower the existing system of industry actors. Within this reality, it is necessary to identify, if possible, the conditions for resource extraction on indigenous territories by States or third party business enterprises that are fully respectful of indigenous peoples' rights.

43. While not exhaustive of all relevant considerations, the following discussion identifies key conditions that could lay the groundwork for developing and sustaining

agreements with indigenous peoples. These conditions point to models of partnership with indigenous peoples that are respectful of their rights.

A. Establishment of State regulatory regimes that adequately protect indigenous peoples' rights

44. As stressed above, States are obligated not just to respect, but also to protect, promote and fulfil human rights, and this obligation applies with respect to the rights of indigenous peoples (para. 12). In the context of extractive industries, the State's obligation to protect human rights necessarily entails ensuring a regulatory framework that fully recognizes indigenous peoples' rights over lands and natural resources and other rights that may be affected by extractive operations; that mandates respect for those rights both in all relevant State administrative decision-making and in the behaviour of extractive companies; and that provides effective sanctions and remedies when those rights are infringed either by government or corporate actors. Such a regulatory framework requires legislation or regulations that incorporate international standards of indigenous rights and that operationalize them through the various components of State administration that govern land tenure, mining, oil and gas, and other natural resource extraction or development.

45. In examining relevant State laws and regulations across the globe, the Special Rapporteur has found deficient regulatory frameworks, such that in many respects indigenous peoples' rights remain inadequately protected, and in all too many cases entirely unprotected, in the face of extractive industries. Experience shows that, with such regulatory deficiencies, extractive operations in proximity to indigenous peoples are likely to put at risk or infringe their rights and contribute to persistently conflictive social environments.

46. Legislative and administrative reforms are needed in virtually all countries in which indigenous peoples live, in order to adequately define and protect their rights over lands and resources, including rights over lands not exclusively under their use or possession, such as rights related to subsistence practices or to areas of cultural or religious significance, which may be affected by extractive industries. Additionally, new or strengthened regulatory mechanisms are needed to provide for consultations with indigenous peoples over extractive projects and to ensure that such consultations are in compliance with international standards, including the principle of free, prior and informed consent.

B. Regulation of extraterritorial activities of companies

47. The Special Rapporteur has observed that in many cases in which extractive companies have been identified as responsible for, or at least associated with, violations of the rights of indigenous peoples, those violations occur in countries with weak regulatory regimes, and the responsible companies are domiciled in other, typically much more developed, countries. Even if States are not obligated under international law to regulate the extraterritorial activities of companies domiciled in their territory in order to compel or promote conformity with human rights standards, strong policy reasons exist for them to do so, as affirmed by the Guiding Principles on Business and Human Rights.¹⁹ These reasons include, in addition to preserving the States' own reputation, the simple morality of exercising the State regulatory power to advance human rights and reduce human turmoil whenever possible.

¹⁹ Principle 2, commentary.

48. States should therefore adopt regulatory measures for companies domiciled in their respective jurisdictions that are aimed at preventing and, in appropriate circumstances, sanctioning and remedying violations of the rights of indigenous peoples abroad for which those companies are responsible or in which they are complicit. The Special Rapporteur observes that some States have adopted regulatory measures with extraterritorial reach in this vein to address human rights concerns within certain contexts, but with limited applicability for the specific concerns of indigenous peoples. Regulation of the extraterritorial activities of companies to promote their compliance with international standards concerning the rights of indigenous peoples will help establish a transnational corporate culture of respect for those rights and greater possibilities of healthy relationships between extractive companies and indigenous peoples.

C. Participation by indigenous peoples and respect for their rights in strategic State planning for resource extraction and development

49. States typically regard mineral, oil and gas, and other natural resources to be strategic assets and, accordingly, in regulating the industries many engage in long- and short-term planning for the development of the resources, including resources within or near indigenous territories. Such strategic State planning influences the definition of laws, shapes regulatory controls, and determines the policies pertinent to resource extraction. It also establishes the basis for the decisions about the development and implementation of resource extraction projects. With these characteristics, strategic planning for resource development can have profound, even if not so immediate, effects on indigenous peoples and the enjoyment of their rights. The Special Rapporteur is concerned that, of the many cases of State resource development planning he has studied, he has found but a few notable instances in which indigenous peoples have been included and their specific rights addressed in the planning process.

50. Instead, by and large, the Special Rapporteur has found patterns of State planning for resource extraction that can be seen, in a number of ways, to set in motion decisions that prejudice indigenous peoples' ability to set their own priorities for the development of their lands and territories. Some planning regimes adhere to competitive bidding or other permitting schemes that allow for the distribution of licenses for resource exploration or other extractive activities in advance of any consultations with affected indigenous peoples. Furthermore, State planning typically reinforces existing industry practices in a way that is not conducive to alternative models, advocated in the present report, under which indigenous peoples have the opportunity to exercise greater control over resource extraction activities within their territories.

51. Patterns of State planning that marginalize indigenous peoples and their rights must be reversed, so that indigenous peoples may participate in strategic planning processes through appropriate representative arrangements, as has been done at least to some extent by a number of States or their political subdivisions. Indigenous participation in strategic planning for resource extraction will undoubtedly lend itself to greater possibilities of agreement with indigenous peoples on specific projects.

D. Due diligence by extractive companies to respect indigenous peoples' rights

52. Although States are ultimately responsible for ensuring respect for human rights, including the rights of indigenous peoples, today a number of regulatory and self-regulatory frameworks governing corporate responsibility reflect widespread understanding of the roles business enterprises may play in both the infringement and fulfilment of human rights

in various contexts. Accordingly, the Guiding Principles on Business and Human Rights specify that business enterprises have a responsibility to respect internationally recognized human rights and that this responsibility is independent of State obligations. As explained previously by the Special Rapporteur (A/HRC/21/47, paras. 55-56), this responsibility to respect human rights extends to compliance with international standards concerning the rights of indigenous peoples, in particular those set forth in the United Nations Declaration on the Rights of Indigenous Peoples, no less than it applies to compliance with other international human rights standards.

53. Given their independent responsibility to respect human rights, business enterprises, including extractive companies, should not assume that compliance with State law equals compliance with the international standards of indigenous rights. On the contrary, companies should perform due diligence to ensure that their actions will not violate or be complicit in violating indigenous peoples' rights, identifying and assessing any actual or potential adverse human rights impacts of a resource extraction project.

54. Such due diligence entails identifying with particularity, at the very earliest stages of planning for an extractive project, the specific indigenous groups that may be affected by the project, their rights in and around the project area and the potential impacts on those rights. This due diligence should be performed preliminarily at the very earliest stages of determining the feasibility of the project, in advance of a more complete project impact assessment in later stages of planning or decision-making about the project. Additionally, extractive companies should employ due diligence to avoid acquiring tainted assets, such as permits previously acquired by other business enterprises in connection with prospecting for or extracting resources in violation of indigenous peoples' rights.

55. Due diligence also entails ensuring that the company is not contributing to or benefiting from any failure on the part of the State to meet its international obligations towards indigenous peoples. Thus, for example, extractive companies should avoid accepting permits or concessions from States when prior consultation and consent requirements have not been met, as stated above (para. 40).

56. Consistency and effectiveness of due diligence practices and respect for the rights of indigenous peoples requires that companies adopt formal policies to that end. A company's policy should outline how the company intends to operationalize the policy at all levels of decision-making, and how it will perform due diligence and act at the operational level to avoid violating or being complicit in violations of indigenous peoples' human rights.²⁰ The policy should also prescribe practices for engagement with indigenous peoples that is respectful of their rights.

57. The Special Rapporteur notes that a number of extractive companies, understanding the practical advantages of respect for the rights of indigenous peoples and related due diligence, have adopted company policies along the lines suggested, and that certain industry associations have promoted such policies. Although the indicated trend in corporate policymaking is encouraging, most corporate policies still fall short of adequately providing for compliance with international standards of indigenous rights. Moreover, notwithstanding the growing awareness among companies that they not only should respect indigenous peoples' rights, but may indeed benefit from doing so, the Special Rapporteur remains concerned that many corporations still do not commit to more than complying with national law and fail to independently conduct the relevant human rights due diligence. There is an urgent need for greater corporate awareness and resolve to embrace and implement policies and practices to ensure respect for the rights of indigenous peoples.

²⁰ See the 2011 report of the Special Rapporteur submitted to the General Assembly (A/66/288), para. 96.

E. Fair and adequate consultation and negotiation procedures

58. In affirming the general rule of consent for extractive activities within indigenous territories, the United Nations Declaration on the Rights of Indigenous Peoples emphasizes that, in order to obtain consent, “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representatives” (art. 32, para. 2). The Declaration thus emphasizes that good faith consultations and cooperation are a precondition for agreements with indigenous peoples concerning extractive activities. As stated above (para. 25), indigenous peoples may decline to enter consultations about extractive industries, just as they may choose to withhold consent to them. But if consent or agreement on extractive activities is to happen, it must be on the basis of adequate, good faith consultations or negotiations.

59. Consultation procedures regarding proposed extractive operations are channels through which indigenous peoples can actively contribute to the prior assessment of all potential impacts of the proposed activity, including the extent to which their substantive rights and interests may be affected. Additionally, consultation procedures are key to the search for less harmful alternatives or in the definition of mitigation measures. Consultations should also be mechanisms by which indigenous peoples can reach agreements that are in keeping with their own priorities and strategies for development, bring them tangible benefits and, moreover, advance the enjoyment of their human rights.

60. While the Special Rapporteur has addressed the elements of good faith consultations in previous reports (see, in particular, A/HRC/12/34, paras. 46-49), he would like to emphasize a few points related to problematic aspects of consultations that he has observed with regard to extractive industries.

1. Negotiations directly between extractive companies and indigenous peoples

61. The Special Rapporteur has observed that in many instances companies negotiate directly with indigenous peoples about proposed extractive activities that may affect them, with States in effect delegating to companies the execution of the State’s duty to consult with indigenous peoples prior to authorizing the extractive activities. By virtue of their right to self-determination, indigenous peoples are free to enter into negotiations directly with companies if they so wish. Indeed, direct negotiations between companies and indigenous peoples may be the most efficient and desirable way of arriving at agreed-upon arrangements for extraction of natural resources within indigenous territories that are fully respectful of indigenous peoples’ rights, and they may provide indigenous peoples opportunities to pursue their own development priorities.

62. In accordance with the responsibility of business enterprises to respect human rights, direct negotiations between companies and indigenous peoples must meet essentially the same international standards governing State consultations with indigenous peoples, including – but not limited to – those having to do with timing, information gathering and sharing about impacts and potential benefits, and indigenous participation. Further, while companies must themselves exercise due diligence to ensure such compliance, the State remains ultimately responsible for any inadequacy in the consultation or negotiation procedures and therefore should employ measures to oversee and evaluate the procedures and their outcomes, and especially to mitigate against power imbalances between the companies and the indigenous peoples with which they negotiate.

2. Mitigation of power imbalances

63. Almost invariably, when State agencies or business enterprises that promote extractive projects enter into consultations or negotiations with indigenous peoples, there are significant imbalances of power, owing to usually wide gaps in technical and financial

capacity, access to information and political influence. The Special Rapporteur regrets to observe that, overall, there seems to be little systematic attention by States or industry actors to address these power imbalances. He believes that, as a precondition to reaching sustainable and just agreements with indigenous peoples over the taking of resources from their territories, the imbalances of power must be identified as a matter of course and deliberate steps should be taken to address them.

64. The protective role of States is especially important in this context, while companies should exercise due diligence and develop policies and practices to ensure that they do not unfairly benefit from such power imbalances. Practical measures to address power imbalances could include, inter alia, employing independent facilitators for consultations or negotiations, establishing funding mechanisms that would allow indigenous peoples to have access to independent technical assistance and advice, and developing standardized procedures for the flow of information to indigenous peoples regarding both the risks and potential benefits of extractive projects.

3. Information gathering and sharing

65. As is now generally understood, environmental and human rights impact assessments are important preconditions for the implementation of extractive operations. Indigenous peoples should have full access to the information gathered in impact assessments that are done by State agencies or extractive companies, and they should have the opportunity to participate in the impact assessments in the course of consultations or otherwise. States should ensure the objectivity of impact assessments, either by subjecting them to independent review or by requiring that the assessments are performed free from the control of the promoters of the extractive projects.

66. Indigenous peoples should also have full access to information about the technical and financial viability of proposed projects, and about potential financial benefits. The Special Rapporteur understands that companies usually consider much of this information to be proprietary and thus are reluctant to divulge it. He recommends, nonetheless, that information that otherwise might be considered proprietary be shared with the indigenous peoples concerned, as a necessary measure to mitigate power imbalances and build confidence on the part of indigenous peoples in the negotiations over projects, and because of equitable considerations relating to indigenous peoples' historical disadvantages and connections to project areas. Such sharing of proprietary information could be done on a confidential basis.

4. Timing

67. In accordance with the principle of free, prior and informed consent, consultations and agreement with indigenous peoples over an extractive project should happen before the State authorizes or a company undertakes, or commits to undertake, any activity related to the project within an indigenous territory, including within areas of both exclusive and non-exclusive indigenous use. As a practical matter, consultation and consent may have to occur at the various stages of an extractive project, from exploration to production to project closure.

68. The Special Rapporteur has observed that, in many cases, exploration activities for eventual extraction take place within indigenous territories, with companies and States taking the position that consultations are not required for the exploration phase and that consent need not be obtained, if at all, until a license for resource extraction is given. This position, in the view of the Special Rapporteur, is simply not compatible with the principle of free, prior and informed consent or with respect for the property, cultural and other rights of indigenous peoples, given the actual or potential effects on those rights when extractive activities occur. Experience shows that exploration and other activities without prior

consultations or consent will often serve to breed distrust on the part of indigenous peoples, making any eventual agreement difficult to achieve.

69. Also in terms of time, consultations should not be bound to temporal constraints imposed by the State, as is done under some regulatory regimes. In order for indigenous peoples to be able to freely enter into agreements, on an informed basis, about activities that could have profound effects on their lives, they should not feel pressured by time demands of others, and their own temporal rhythms should be respected.

5. Indigenous participation through representative institutions

70. A defining characteristic of indigenous peoples is the existence of their own institutions of representation and decision-making, and it must be understood that this feature makes consultations with indigenous peoples very different from consultations with the general public or from ordinary processes of State or corporate community engagement. The Special Rapporteur notes cases in which companies and States have bypassed indigenous peoples' own leadership and decision-making structures out of misguided attempts to ensure broad community support. Where indigenous peoples are concerned, however, international standards require engagement with them through the representatives determined by them and with due regard for their own decision-making processes. Doing so is the best way of ensuring broad community support. Indigenous peoples should be encouraged to include appropriate gender balance within their representative and decision-making institutions. However, such gender balance should not be dictated or imposed upon indigenous peoples by States or companies, anymore than indigenous peoples should impose gender balance on them.

71. It may be that in some circumstances ambiguity exists about which indigenous representatives are to be engaged, in the light of the multiple spheres of indigenous community and organization that may be affected by particular extractive projects, and also that in some instances indigenous representative institutions may be weakened by historical factors. In such cases indigenous peoples should be given the opportunity and time, with appropriate support from the State if they so desire it, to organize themselves to define the representative institutions by which they will engage in consultations over extractive projects.

F. Rights-centered, equitable agreements and partnership

72. As stated above (para. 30), the principle of free, prior and informed consent does not fulfil its role as protective of and instrumental to indigenous peoples' rights unless consent, when it is given, is given on just and equitable terms. Accordingly, there is growing awareness that agreements with indigenous peoples allowing for extractive projects within their territories must be crafted on the basis of full respect for their rights in relation to the affected lands and resources, and provide for equitable distribution of the benefits of the projects within a framework of genuine partnership.

1. Impact mitigation

73. Measures to safeguard against or to mitigate environmental and other impacts that could adversely affect the rights of indigenous peoples in relation to their territories are an essential component of any agreement for extractive activities within the territories of indigenous peoples. Experience shows that special attention is required for potential impacts on health conditions, subsistence activities and places of cultural or religious significance. Provisions for impact prevention and mitigation should be based on rigorous impact studies developed with the participation of the indigenous peoples concerned (see para. 65 above) and should be specific to the impacts identified with regard to particular rights that are recognized under domestic or international law. Additionally, they should

include mechanisms for participatory monitoring during the life of the project, as well as provide for measures to address project closure.

74. The Special Rapporteur has learned of a number of instances in which indigenous peoples and companies have agreed to joint mechanisms to measure and address impacts on natural and cultural resources. Such mechanisms can provide for continual dialogue between indigenous peoples and companies about project impacts, thereby potentially strengthening indigenous peoples' confidence in the projects and helping to build healthy relationships.

2. Arrangements for genuine partnership and sharing of benefits

75. The Special Rapporteur has called for models of resource extraction on indigenous territories that are different from the classical one in which indigenous peoples have little control over and benefit minimally from the extractive projects. One such alternative model, discussed in chapter II above and identified as a preferred model, is the one in which indigenous peoples themselves initiate and engage in resource extraction. For extractive projects promoted by outside companies or States, other models that are preferable to the classical one are those based on agreements in which indigenous peoples' rights are fully protected and indigenous peoples are genuine partners in the projects, both participating in project decision-making and benefiting as such.

76. The justification for indigenous peoples to benefit from projects within their territories within a partnership model should be self-evident: even if they do not, under domestic law, own the resources to be extracted, they provide access to the resources and give up alternatives for the future development of their territories by agreeing to the projects. Direct financial benefits – beyond incidental benefits like jobs or corporate charity – should accrue to indigenous peoples because of the compensation that is due to them for the access to their territories and for any agreed-upon adverse project effects,²¹ as well as because of the significant social capital they contribute under the totality of historical and contemporary circumstances. At the same time, while thus being entitled to benefit from extractive projects carried out by others within their territories, indigenous peoples should have the option of participating in the management of the extractive projects, in addition to whatever regulatory control they may exercise, in keeping with their right to self-determination.

77. In this regard, the Special Rapporteur notes a pattern of agreements in some parts of the world in which indigenous peoples are guaranteed a percentage of profits from the extractive operation or other income stream and are provided means of participation in certain management decisions. In some cases the indigenous people concerned is provided a minority ownership interest in the extractive operation, and through that interest is able to participate in management decisions and profits from the project. The Special Rapporteur looks forward to further developments along these lines toward models of genuine partnership. Also, he notes the need in most cases for indigenous peoples to be assisted in building their financial and management capacity as they accept such opportunities.

3. Adequate grievance procedures

78. Adequate grievance procedures should also be included in agreements for extractive projects within indigenous peoples' territories, in accordance with the Guiding Principles on Business and Human Rights (principles 25-31). In cases in which a private company is the operator of the extractive project, company grievance procedures should be established that complement the remedies provided by the State. The grievance procedures should be

²¹ See *Saramaka People* (footnote 13 above), paras. 138-140.

devised and implemented with full respect for indigenous peoples' own justice and dispute resolution systems.

V. Conclusions and recommendations

79. Indigenous peoples around the world have suffered negative, even devastating, consequences from extractive industries. Despite such negative experiences, looking toward the future it must not be assumed that extractive industries' and indigenous peoples' interests are entirely or always at odds with each other. However, models of resource extraction that are different from the heretofore prevailing model are required if resource extraction within indigenous peoples' territories is to be carried out in a manner consistent with their rights.

80. A preferred model for natural resource extraction within indigenous territories is one in which indigenous peoples themselves control the extractive operations, through their own initiatives and enterprises. Indigenous peoples may benefit from partnerships with responsible, experienced and well-financed non-indigenous companies to develop and manage their own extractive enterprises.

81. When indigenous peoples choose to pursue their own initiatives for natural resource extraction within their territories, States and the international community should assist them to build the capacity to do so, and States should privilege indigenous peoples' initiatives over non-indigenous initiatives.

82. Just as indigenous peoples have the right to pursue their own initiatives for resource extraction, as part of their right to self-determination and to set their own strategies for development, they have the right to decline to pursue such initiatives in favour of other initiatives for their sustainable development, and they should be supported in such other pursuits as well.

83. Indigenous individuals and peoples have the right to oppose and actively express opposition to extractive projects promoted by the State or third party business interests. Indigenous peoples should be able to oppose or withhold consent to extractive projects free from reprisals or acts of violence, or from undue pressures to accept or enter into consultations about extractive projects.

84. Indigenous peoples' free, prior and informed consent is required, as a general rule, when extractive activities are carried out within indigenous territories. Indigenous consent may also be required when extractive activities otherwise affect indigenous peoples, depending on the nature of the activities and their potential impact on the exercise of indigenous peoples' rights.

85. In this way, free, prior and informed consent is a safeguard for the internationally recognized rights of indigenous peoples that are typically affected by extractive activities carried out within their territories.

86. The general requirement of indigenous consent for extractive activities within indigenous territories may be subject to certain limited exceptions, in particular, when any limitations on indigenous peoples' substantive rights comply with standards of necessity and proportionality with regard to a valid public purpose, defined within an overall framework of respect for human rights.

87. When a State determines that it is permissible to proceed with an extractive project that affects indigenous peoples without their consent, and chooses to do so, that decision should be subject to independent judicial review.

88. Whether or not indigenous consent is a strict requirement in particular cases, States should ensure good faith consultations with indigenous peoples on extractive activities that would affect them and engage in efforts to reach agreement or consent. In any event, the State remains bound to respect and protect the rights of indigenous peoples and must ensure that other applicable safeguards are implemented as well, in particular steps to minimize or offset any limitation on the rights through impact assessments, measures of mitigation, compensation and benefit sharing.

89. For their part, extractive companies should adopt policies and practices to ensure that all aspects of their operations are respectful of the rights of indigenous peoples, in accordance with international standards and not just domestic law, including with regard to requirements of consultation and consent. Companies should conduct due diligence to ensure that their actions will not violate or be complicit in violating indigenous peoples' rights, identifying and assessing any actual or potential adverse human rights impacts of a resource extraction project.

90. Conditions for States or third party business enterprises to achieve and sustain agreements with indigenous peoples for extractive projects include: adequate State regulatory regimes (both domestic and with extraterritorial implications) that are protective of indigenous peoples' rights; indigenous participation in strategic State planning on natural resource development and extraction; corporate due diligence; fair and adequate consultation procedures; and just and equitable terms for the agreement.

91. Necessary features of an adequate consultation or negotiation over extractive activities include the mitigation of power imbalances; information gathering and sharing; provision for adequate timing of consultations, in an environment free of pressure; and assurance of indigenous peoples' participation through their own representative institutions.

92. Agreements with indigenous peoples allowing for extractive projects within their territories must be crafted on the basis of full respect for their rights in relation to the affected lands and resources and, in particular, should include provisions providing for impact mitigation, for equitable distribution of the benefits of the projects within a framework of genuine partnership, and grievance mechanisms.

Annex

[English only]

Summary of activities of the Special Rapporteur on the rights of indigenous peoples, James Anaya, 2012-2013

1. This following details the activities carried out by the Special Rapporteur on the rights of indigenous peoples pursuant to his mandate since he last reported to the Human Rights Council in 2012. Professor James Anaya is currently in the final year of his mandate, which ends 30 April 2014. Accordingly, the present report is the last report he submits to the Human Rights Council. However, he looks forward to bringing to the attention of the Council, through his successor, the activities undertaken during the remainder of his mandate.

2. The Special Rapporteur is grateful for the support provided by the staff at the United Nations Office of the High Commissioner for Human Rights. He would also like to thank the staff and researchers of the Special Rapporteur support project at the University of Arizona for their on-going assistance with all aspects of his work. Further, he would like to thank the many indigenous peoples, Governments, United Nations bodies and agencies, non-governmental organizations, and others that have cooperated with him over the past years in the implementation of his mandate.

A. Coordination with other human rights mechanisms and processes

3. Before detailing the tasks carried out under his own areas of work over the past year, the Special Rapporteur would like to describe to the Human Rights Council his efforts to coordinate with the other United Nations mechanisms that deal with indigenous issues, in particular the Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples. Coordination with these and other institutions is a fundamental aspect of the mandate of the Special Rapporteur, as the Human Rights Council calls on him “To work in close cooperation and coordination with other special procedures and subsidiary organs of the Council, in particular with the Expert Mechanism on the Rights of Indigenous Peoples, relevant United Nations bodies, the treaty bodies and regional human rights organizations; [and] to work in close cooperation with the Permanent Forum on Indigenous Issues and to participate in its annual session” (Council resolution 15/14, para. 1 (d) and (e)).

4. As in past years, the Special Rapporteur has participated in the annual sessions of these mechanisms, during which he has held parallel meetings with the numerous indigenous representatives and organizations that attend these sessions. These meetings provide a valuable opportunity for indigenous peoples to present cases of specific allegations of human rights violations and often result in action taken by the Special Rapporteur through the communications procedure, addressed below, or other follow up. During the sessions of the Permanent Forum and the Expert Mechanism, the Special Rapporteur also gave statements and participated in a lengthy interactive dialogue with Governments, indigenous representatives, and others present.

5. Also with respect to coordination with United Nations processes, on several occasions over the past year, the Special Rapporteur has participated in preparations for the World Conference on Indigenous Peoples, which will be convened by the General

Assembly in 2014. In this connection, in December 2012, the Special Rapporteur, together with members of the Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples met in Guatemala to discuss their respective roles in preparation for and during the World Conference. The meeting included participation in ceremonies to mark the Oxlajuuj B'aqtun, the change of the era in the Maya calendar. In addition, in June 2013, the Special Rapporteur spoke at a preparatory session for the World Conference, held in Alta, Norway, which was hosted by the Sami Parliament of that country. The Alta meeting was attended by hundreds of indigenous peoples from around the world and resulted in an outcome document detailing their collective their expectations and proposals for the World Conference.

6. The Special Rapporteur has also continued to coordinate his work with regional human rights institutions. Most significantly, in April 2013, he participated in an "Exchange Workshop on Indigenous Peoples' Rights Between the Inter-American Commission on Human Rights, the ASEAN Inter-Governmental Commission on Human Rights and the African Commission on Human and Peoples' Rights" in Banjul, the Gambia. During the meeting, the Special Rapporteur presented his work in the African context and globally, and exchanged information with the regional mechanisms on common challenges and objectives for the promotion of the rights of indigenous peoples in their respective work areas. He also continues to dialogue with the African Commission and the Inter-American Commission on cases of common concern, and has followed up with several Governments regarding the status of implementation of decisions previously made by these bodies.

B. Areas of work

7. The Special Rapporteur has engaged in a range of activities within the terms of his mandate to monitor the human rights conditions of indigenous peoples worldwide and promote steps to improve those conditions. He has sought to incorporate a gender perspective, and be attentive to the particular vulnerabilities of indigenous children and youth. Overall, the Special Rapporteur has tried to develop work methods oriented towards constructive dialogue with Governments, indigenous peoples, non-governmental organizations, relevant United Nations agencies and other actors, in order to address challenging issues and situations and to build on advances already made. As detailed in previous reports to the Human Rights Council, the various activities that he has carried out in this spirit can be described as falling within four, interrelated spheres of activity: promoting good practices; country reports; cases of alleged human rights violations; and thematic studies.

1. Promotion of good practices

8. A first area of the Special Rapporteur's work follows from the directive given by the Human Rights Council "To examine ways and means of overcoming existing obstacles to the full and effective protection of the rights of indigenous peoples ... and to identify, exchange and promote best practices" (Council resolution 15/14, para. 1 (a)). The Special Rapporteur has been focused on working to advance legal, administrative, and programmatic reforms at the domestic level to implement the standards of the United Nations Declaration on the Rights of Indigenous Peoples and other relevant international instruments.

9. In this connection, the Special Rapporteur has continued to provide technical assistance to Governments in their efforts to develop laws and policies that relate to indigenous peoples. Most often, this technical assistance has dealt with the development of

procedures surrounding the duty to consult with indigenous peoples about decisions that affect them. For example, at the request of the Government of Chile, he provided detailed comments on a draft regulation on indigenous consultation and participation, which he made public and discussed with government and indigenous representatives in November 2012. Also, in April 2013, the Special Rapporteur gave a keynote speech at the conference, “The Right of Indigenous Peoples to Prior Consultation: The Role of the Ombudsmen in Latin America”, which was convened by the Ibero-American Federation of Ombudsmen, in Lima, Peru. The conference brought together the Ombudsmen and heads of national human rights institutions throughout Latin America, as well as indigenous leaders and government officials from Peru. While in Lima the Special Rapporteur followed up on previous technical assistance regarding the development of a law on consultation with indigenous peoples and a corresponding regulation.

10. More broadly, the Special Rapporteur has continued to encourage Governments to promote the United Nations Declaration on the Rights of Indigenous Peoples at the national level. In this regard, he gave the keynote address at the Commonwealth International Human Rights Day expert panel entitled “Strengthened Rights Protection for Indigenous Peoples”, which was organized by the Commonwealth Secretariat to commemorate International Human Rights Day, on 10 December 2012 in Geneva, Switzerland. In his statement, the Special Rapporteur emphasized that the Declaration presents the way forward for engagement with indigenous peoples in a succession of steps in the process of shedding the legacies of colonization. He urged the Commonwealth countries to reflect on the Declaration with a view towards developing measures to implement its terms.

11. Also in furtherance of his mandate to promote good practices, the Special Rapporteur has, on an on-going basis, provided inputs into various United Nations processes and activities that relate to indigenous peoples. Of note in this regard since last reporting to the Human Rights Council are the following:

- In March 2013, the Special Rapporteur participated in an “Expert Focus Group Seminar on Free, Prior and Informed Consent of Indigenous Peoples” and a “High Level Meeting on Engagement and Dialogue with Indigenous Peoples”, hosted by the World Bank. The meetings, which took place in Manila, Philippines, were carried out in the context of the World Bank’s review of its environmental and social safeguard policies, including its Operational Policy 4.10 on indigenous peoples, which apply to the Bank’s lending for investments in specific projects. In his statements at the meetings, the Special Rapporteur emphasized that the revised policy should be consistent with rights of indigenous peoples affirmed in the United Nations Declaration on the Rights of Indigenous Peoples. He further urged that the policies that apply to all the Bank’s financial and technical assistance, and not just its investment lending, be reviewed to ensure consistency with the Declaration.
- In February 2013, the Special Rapporteur provided the keynote address at the indigenous panel that opened the current session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, in Geneva. This Committee of the World Intellectual Property Organization was meeting to discuss a draft instrument on intellectual property rights and the protection of genetic resources and associated traditional knowledge. In his statement, the Special Rapporteur examined how the concepts of state sovereignty and property, which have been central to discussions at the Intergovernmental Committee, relate to the rights of indigenous peoples.
- In December 2012, The Special Rapporteur participated in the first Forum on Business and Human Rights in Geneva, Switzerland. The Special Rapporteur spoke at a panel on business affecting indigenous peoples. In his statement, Professor Anaya emphasized that there is a “need for change in the current state of affairs if

indigenous rights standards are to have a meaningful effect on State and corporate policies and action as they relate to indigenous peoples". He also provided an update on his on-going study on the issue of extractive industries affecting indigenous peoples.

- Finally, the Special Rapporteur has on numerous occasions, at the request of various United Nations institutions and specialized agencies, provided inputs into documents being prepared that relate to indigenous peoples. These documents have mostly related to policies on consultation and free, prior and informed consent, as was the case with documents developed by the Food and Agriculture Organization of the United Nations and the United Nations Global Compact, for which the Special Rapporteur provided orientations and comments.

2. Country reports

12. A second area of the Special Rapporteur's work involves investigating and reporting on the overall human rights situations of indigenous peoples in selected countries. The reports of the country situations include conclusions and recommendations aimed at strengthening good practices, identifying areas of concern, and improving the human rights conditions of indigenous peoples. The reporting process involves a visit to the countries under review, including to the capital and selected places of concern within the country, during which the Special Rapporteur interacts with Government representatives, indigenous communities from different regions and a cross section of civil society actors that work on issues relevant to indigenous peoples.

13. Since the Special Rapporteur's last report to the Human Rights Council, he has completed country visits to El Salvador, Namibia, and Panama. The reports on the situation of indigenous peoples in Namibia and El Salvador are included as addendums to the main thematic report (A/HRC/24/41/Add.1 and A/HRC/24/41/Add.2, respectively). The Special Rapporteur is in the process of drafting his report on the situation of indigenous peoples in Panama, following a visit to that country in July 2013, and that report will be presented to the Human Rights Council in 2014.

14. In addition, in March 2013, the Special Rapporteur held a consultation in Kuala Lumpur, Malaysia with indigenous representatives from countries throughout the Asia region, and on the basis of these consultations, prepared a report, which will be published as an addendum to the present report (A/HRC/24/41/Add.4). The Special Rapporteur was very pleased with the comprehensive information that was provided by indigenous representatives during the consultation, and was grateful for the assistance of the Asia Indigenous Peoples Pact and the Malaysia National Human Rights Institution, SUHAKAM, for their work in hosting and organizing that event.

15. Later this year the Special Rapporteur will be carrying out a visit to Peru, and he hopes also to receive confirmation from Canada for dates to visit that country before the end of 2013. He also looks forward to visiting one or two additional countries before his mandate ends in May 2014.

3. Examination of specific allegations of human rights violations

16. On an on-going basis, the Special Rapporteur has responded to specific cases of alleged human rights violations. A fundamental aspect of the mandate of the Special Rapporteur is to "To gather, request, receive and exchange information and communications from all relevant sources, including Governments, indigenous peoples and

their communities and organizations, on alleged violations of the rights of indigenous peoples” (Council resolution 15/14, paragraph 1 (b)).

17. Within the resources available to him, the Special Rapporteur does his best to act on all submissions that include complete and well-documented information, in cases that involve violations of the rights of indigenous peoples that may not be adequately addressed by domestic authorities. Full copies of letters sent and replies received are contained in the Joint Communications Report of Special Procedures Mandate Holders issued periodically by the Office of the United Nations High Commissioner for Human Rights (A/HRC/22/67 and Corrs. 1 and 2, and A/HRC/23/51). Over the past year, the Special Rapporteur examined a total 37 cases in the following countries: Australia, Bangladesh, Botswana, Brazil, Cameroon, Canada, Chile, Colombia, Costa Rica, Ethiopia, Guatemala, Israel, Kenya, Mexico, Nepal, New Zealand, Nicaragua, Peru, Philippines, Russian Federation, Suriname, United Republic of Tanzania, United States of America, and the Bolivarian Republic of Venezuela.

18. The Special Rapporteur has placed a special importance on following up on the situations reviewed, issuing in numerous cases observations and recommendations to the Governments concerned. Summaries of all letters sent by the Special Rapporteur and replies received by Governments since last reporting to the Human Rights Council, as well as observations and recommendations issued by the Special Rapporteur in these cases, are contained in an addendum to the present report (A/HRC/24/41/Add.5).

19. The cases addressed over the past year reveal that many ongoing barriers to the full enjoyment of the rights of indigenous peoples persist throughout the world. These cases involve threats to the enjoyment of indigenous peoples’ rights to their traditional lands and resources, acts of violence against indigenous peoples and individuals, including against indigenous women and children, the forced removal of indigenous peoples for large-scale development projects, the suppression of indigenous peoples own forms of organization and self-government, and conditions of poverty and related social ills that are perpetuated by patterns of discrimination.

20. Also, on several occasions since last reporting to the Human Rights Council, the Special Rapporteur has issued public statements concerning situations that, in his view, require immediate and urgent attention by the Governments concerned. Public statements were issued in relation to the following situations: acts of violence between indigenous Tagaeri-Taromenane and Waorani peoples of the Yasuní Biosphere Reserve, Ecuador; rising tensions and violence against indigenous peoples by non-indigenous settlers in the Bosawas Reserve, Nicaragua; protests by First Nations and a month-long hunger strike by the Chief of the Attawapiskat First Nation, in Canada; violent clashes between indigenous protesters and members of the military that resulted in the death of six indigenous persons, in Guatemala; the imminent sale of land that encompasses a site of spiritual significance to indigenous peoples in South Dakota, United States; and a process of dialogue to address the military presence in the Nasa territory, Colombia.

4. Thematic studies

21. For the past three years, the thrust of the thematic focus of the Special Rapporteur has been on the issue of extractive industries affecting indigenous peoples. The Special Rapporteur’s last report on this issue is contained in the main report presented to the Human Rights Council this year. As detailed in the main report, over the past year, the Special Rapporteur has participated in numerous meetings to gather perspectives on the issue from indigenous peoples, Governments, and companies, including meetings in Australia, Norway, Sweden, the United Kingdom of Great Britain and Northern Ireland, and the United States. Additionally, as part of his study, he launched an online forum to

gather examples of specific extractive projects that are being carried out in or near indigenous peoples territories. The Special Rapporteur is grateful for the numerous contributions provided through these media from indigenous peoples, Governments, companies, and non-governmental organizations from around the world.

22. A second area of thematic focus of the Special Rapporteur has been to provide comments on the need to harmonize the myriad activities within the United Nations system that affect indigenous peoples. In 2012, the Special Rapporteur's report to the General Assembly (A/67/301) provided an overview of the various processes and programmes within the United Nations system that are of particular relevance to indigenous peoples or about which indigenous peoples have expressed concern. These include processes and programmes related to UNESCO; the Food and Agriculture Organization of the United Nations; the World Intellectual Property Organization; and the World Bank Group; as well as processes carried out within the framework of United Nations treaties like the Convention on Biological Diversity and the United Nations Framework Convention on Climate Change.

23. The Special Rapporteur notes that the United Nations has done important work to promote the rights of indigenous peoples but that greater effort is needed to ensure that all actions within the United Nations system that affect indigenous peoples are in harmony with international standards, particularly those standards articulated in the United Nations Declaration on the Rights of Indigenous Peoples.

IN THE MATTER OF ALBERTA ENERGY RESOURCES CONSERVATION
BOARD ("ERCB"), APPLICATION NO. 1673682

IN THE MATTER OF THE ENERGY RESOURCES CONSERVATION ACT,
R.S.A. 2000, C. E-10;

AND IN THE MATTER OF THE OIL SANDS CONSERVATION ACT,
R.S.A. 2000, C.0-7

AND IN THE MATTER OF
DOVER COMMERCIAL PROJECT by Dover OPCO

PROCEEDINGS AT HEARING

APRIL 24, 2013

VOLUME 2

PAGES 245 TO 497

COPY

Held at:
MacDonald Island Park
151 MacDonald Drive
Fort McMurray, Alberta
T9H 5C5

1 A. It is.

2 Q. And do you adopt this report as evidence in these
3 proceedings?

4 A. I do.

5 Q. And in addition, your CV was pre-filed with the
6 Board as Exhibit 9.09, and you prepared the CV?

7 A. I did.

8 Q. And you confirm that it's true and accurate to the
9 best of your knowledge?

10 A. Yes, it is.

11 Q. And you adopt your curriculum vitae as evidence in
12 these proceedings?

13 A. Yes.

14 Q. And with that, I turn the floor to you to deliver
15 your presentation.

16 A. Thank you.

17

18 **PRESENTATION BY DR. PATRICIA MCCORMACK:**

19 A. DR. MCCORMACK: Thank you very much. I will
20 speak to four points that are important when
21 considering the Fort McKay First Nation issues,
22 including their Reserves. The first two points
23 relate to the First Nation's Treaty Rights under
24 Treaty No. 8 which they entered into in 1899.

25 The third point relates to their Reserves in

1 relation to their livelihood.

2 And the fourth and last point relates to the
3 importance of the Moose Lake area.

4 So first I'm going to talk about some of the
5 rights that are protected by Treaty No. 8. This
6 topic is dealt with in pages 14 to 26 of my report.

7 So point 1 is that the Fort McKay First
8 Nation has treaty rights to its Traditional
9 Territory. From the discussions surrounding Treaty
10 No. 8 in 1899, it's very clear that none of the
11 Indians of Northern Alberta would have been willing
12 to enter into the Treaty without a clear
13 understanding that in the future they would not be
14 restricted in their access to the lands on which
15 they relied. It is these lands that are now
16 commonly called their Traditional Lands.

17 So the second point is a corollary. While
18 these lands enjoy a cultural significance beyond
19 the immediate resource base, the animal and plant
20 resources are of critical importance. As the
21 Treaty Commissioners themselves remarked in 1899
22 about making the Treaty, and I quote:

23
24 "Our chief difficulty was the
25 apprehension [by the Indians] that

1 the hunting and fishing privileges
2 were to be curtailed."

3 ...

4 "... we had to solemnly
5 assure them that only such laws as
6 to hunting and fishing as were in
7 the interest of the Indians and
8 were found necessary in order to
9 protect the fish and fur-bearing
10 animals would be made, and that
11 they would be as free to hunt and
12 fish after the treaty as they would
13 be if they never entered into it."

14
15 According to eyewitness Charles Mair,
16 Commissioner Laird told the Indians that after they
17 took Treaty, they will be, "Just as free to hunt
18 and fish all over as they now are."

19 This common understanding by the Indians who
20 entered into the Treaty and the Commissioners who
21 represented the Crown was reiterated in the report
22 of the Indian Claims Commission in 1995 which
23 stated:

24
25 "... it is clear that the

1 Cree and Chipewyan people of
2 northern Alberta were, at the close
3 of the 19th century, dependent upon
4 unrestricted access to the resource
5 base of the boreal forest..."

6
7 So in 1899, both parties to Treaty No. 8
8 understood that the Treaty would not lead to any
9 restrictions in Indian uses of their lands and the
10 resources upon them. While small amounts of land
11 might be "taken up from time to time" by outsiders,
12 there was no sense, not even faintly hinted at,
13 that Indians could be dispossessed from the
14 majority of their lands.

15 It was Adam Boucher who signed Treaty 8 on
16 behalf of the Fort McKay Chipewyans. Later, he
17 told William McDonald that the Indians had been
18 frightened about the Treaty because they:

19
20 "... thought they would lose
21 their land or get killed or wiped
22 out."

23
24 In the end, Adam Boucher agreed to the
25 Treaty, entered his signature, because of the

1 assurances that the Commissioners made about the
2 land and resource availability in the future to the
3 Indians who entered into the Treaty.

4 The third point concerns the Reserves that
5 were promised to each Indian Band in relation to
6 livelihood, which was a mixed economy in which
7 hunting, fishing, trapping and gathering were
8 important aspects.

9 These understandings about Reserves and
10 livelihood at the time of the Treaty are discussed
11 in my report at pages 18 to 21.

12 A successful life for all of the local bands
13 in the region required a very large land base or
14 territory. The Reserves were never expected to
15 provide all the land that the Indians required.
16 And this is quite a different situation from that
17 in the south.

18 So my fourth and last point asks, with these
19 understandings in mind, what can we make of the
20 Reserves that were created in 1915 and that were
21 enlarged 91 years later in 2006 as part of the
22 Treaty Land Entitlement that was agreed upon in
23 2004.

24 The creation of Reserves is discussed in
25 pages 38 to 51 of my report.

Research Report

An Ethnohistory of the Athabasca Chipewyan First Nation

Submitted by:

Patricia A. McCormack, Ph.D.
Professor Emerita
Faculty of Native Studies
University of Alberta

2 September 2012

Chipewyan identity. In summer, moose are hunted from boats along waterways, so access to lakes and rivers is especially important at that time but increasingly problematic due to low water levels (Candler et al. 2010:12-13).

Chipewyans consider the right to hunt moose to be a treaty right, and they resent the killing of moose by sports hunters who do not need it for food. Hugh Brody (1981) has discussed how the building of roads and seismic lines in northeastern British Columbia by industries opened up the back country and its resources to people who could not have accessed them in the past, resulting in very large hunts of moose, a finite resource, by outsiders. Statistics on the respective hunts of resident First Nations and Métis compared to the hunts of outsiders now living and working in the oil sands development area are lacking, but this history supports a policy measure that would restrict access to the bush by non-Aboriginal people when new roads are constructed in areas of traditional land use.

12. What role did fish caught from Lake Athabasca, the Athabasca River, and waters connected to the Athabasca River have on the ACFN way of life and economy at the time of Treaty, and after?

Fish have always been a subsistence mainstay of Chipewyans, both before and after the treaty. They had an extensive fishing technology and knowledge of fish stocks and their locations, and they exploited fish along with caribou and moose. Residential locations for the local bands were typically in areas where fish could be caught, because it gave Chipewyans at least two different options for food. If meat was in short supply, they probably had fish to eat. Reserve 201D was intended specifically for Chipewyan fishing, which speaks to the significance

of fishing as part of the local Chipewyan economy. Fish increased even more in importance after the development of dog teams in the 19th century, to provide food for the dogs, although dogs were also fed meat when it was available (until that practice was outlawed in the 20th century).

Different species of fish have their own preferred habitats and spawning and movement patterns, which means that they were/are not uniformly distributed in all local lakes and rivers. However, all waterways - the Athabasca River, smaller rivers, and lakes - had populations of fish. Lake whitefish were the mainstay of the fur trade for both people and sled dogs, and they were normally taken in large numbers in fall and winter from Lake Athabasca. Lake trout were and are also available in Lake Athabasca, but the largest populations are farther up the lake. Goldeye were particularly common in the waterways of the delta. These species were also found more widely. Other local species included northern pike (known locally as jackfish), walleye (locally, pickerel), ling cod, grayling, and suckers (see ACFN 2003:chp. 8). By the 20th century, the Athabasca Chipewyans relied mostly on nets, as they still do today for subsistence fishing. While nets could be set anywhere in a lake, Chipewyans were able to fish in the fast-flowing Athabasca River (and any other fast-flowing river) by setting nets near the banks of the river.

Despite the local importance of fish for food, commercial fishing operations by fishermen from outside the region were allowed on Lake Athabasca from the 1920s onward. There was almost no scientific study of fish populations. As was the case with land-based animals, most outsiders assumed that animal resources in the northern "wilderness" were virtually limitless, while in fact northern fish tend to grow far more slowly than in the south, so fish stocks take longer to recover (McCormack 1984:chp. 4). Correspondence from the local Indian Agent and park officials pointed to the decline of fish numbers in Lake Athabasca (McCormack 1984:420).

Eventually, McInnes Corporation, the major company involved, moved to the eastern end of the lake and then abandoned Lake Athabasca for several years to fish the previously unexploited waters of Great Slave Lake (*ibid.*:255-6).

In 1948, the McInnes Corporation was finally able to expand its commercial fishing operation from Lake Athabasca into Lake Mamawi and Lake Claire within Wood Buffalo National Park to fish for goldeye, over strong opposition from residents, including the First Nations. While the company used as one of its arguments that it would provide jobs for local people, it soon sought to bring in its own workers, exerting pressure on government officials that continued while the company was involved in the park. The overall consequence was that fish stocks declined in the park just as they had in Lake Athabasca, in exchange for which Aboriginal fishermen received some short-term financial benefits. It was not a satisfactory industry (see McCormack 1984:418-434). The decline in fish stocks was one more factor that contributed to the serious difficulties Chipewyans and others had in continuing their bush-based livelihoods, complicated greatly by the low water levels caused by the Bennett Dam since 1968. Today, Chipewyans point to water pollution stemming from industrial expansion along the Athabasca River as causing some fish to taste bad and to show deformities.¹⁸ Athabasca Chipewyans are now reluctant to eat fish from these waterways, because they fear for the safety of this traditional food and the negative consequences for their own health.¹⁹

¹⁸A document comprising several photos of fish with deformities and tumors was submitted in 2010 by Mikisew Cree First Nation to hearings for the Total's Joslyn North Mine project, entitled "Deformed Fish Removed from the Athabasca River" (MCFN 2010).

¹⁹Concerns about the quality of the water and air and the impacts of pollution on the fish and animals that Athabasca Chipewyans regularly consume(d) are frequently heard in personal conversations and public fora. I heard many comments about this subject in 2010 and earlier in 2011 when I attended several meetings in Fort Chipewyan with Athabasca Chipewyan First

13. What role did migratory birds have in the ACFN way of life/economy at the time of Treaty, and after?

Migratory waterfowl were always a tremendously important food source in the Fort Chipewyan region for everyone - Chipewyans, Crees, other Aboriginal people, and traders. The fall hunt provided a substantial amount of rich food for both fall and winter, and many birds were eaten and preserved for later consumption. The spring waterfowl hunt could mean the difference between life and death, because late winter and early spring were times when food sources were often in short supply. Bird eggs were also eaten in the spring.

The Province of Alberta allowed commercial market hunting for waterfowl, for which it sold licences. Protection for migratory birds was eventually provided by the Migratory Birds Convention Act of 1916. After, migratory birds could not be hunted between 10 March and 1 September, and eggs could not be collected. There was a continuous closed season until 1926 for several species of migratory game birds, including swans and cranes. Little or no thought was given to Indian subsistence needs, which were considered less important than broader wildlife conservation imperatives (see McCormack 2010:246-7). To some extent, Aboriginal people continued to hunt migratory waterfowl in defiance of this convention, partly because they needed the birds for food and partly because these birds are traditional and highly valued foods. The result has been that a traditional activity considered by Chipewyans to be a treaty right was criminalized to accommodate outside interests and concerns. Today, access by boats to

Nation members and members of other community groups. These concerns have also been publicized in a variety of media, such as the *Edmonton Journal* (e.g., "Alberta natives slam oilsands in American newspaper," 18 Feb. 2009:B4; "First Nations take oilsands concerns to U.K., 28 Aug. 2009:B2) and on-line media (e.g., CBC News 2006). Members of the Mikisew Cree First Nation and Métis residents also share and have spoken about these fears.

waterfowl for spring or fall hunts is dependent on water levels.

Presentation of Topics

Following a short description of my own background as an anthropologist, ethnohistorian, and Native Studies specialist, I will address the questions in detail by presenting information and analysis of the information for the following broad topics:

- Who are the Athabasca Chipewyan? Issues of terminology and origins
- Early post-contact Chipewyan history
- Ethnography of the people who now form the Athabasca Chipewyan First Nation
- Athabasca Chipewyan First Nation traditional territory
- 20th century restrictions imposed on Athabasca Chipewyan First Nation traditional lands and land-based activities
- Athabasca Chipewyan population growth and relocation to Fort McMurray
- Maintaining traditions: passing on Athabasca Chipewyan First Nation values and cultural practices
- Competing for territory

A General Note on Terminology

In discussing the peoples of the Subarctic in this report, I utilize historically-rooted and often-ambiguous terminologies. The history of terminologies found in northern usages is complex and little studied. Preferred formal terms today in Canada are “First Nations” instead of “Indian,” and “Métis” for “Half-breed.” These terms often bear little correspondence with the

commentators at the time of Treaty No. 8 remarked that the distinction between Indian and Metis as such did not exist until created by the treaty itself (see McCormack 2010:22-23; Leonard and Whalen 1998:53).

5. Ethnography of the People who now form the Athabasca Chipewyan First Nation

This section focuses on Chipewyans, but with some consideration of Crees, for the following reasons that will be discussed in more detail later in this report:

- In the mid 19th century, if not earlier, Chipewyans and Crees began to intermarry, which made them kinsmen to one another and provided them with access to the lands that each was using, following ties of kinship (these lands included as well those lands they had used in the past and that they might reasonably use in the future).
- In 1899, Treaty No. 8 was negotiated with Aboriginal people of northern Alberta.⁵³ Legal Indian Bands under the Indian Act were created at multiple locations in northeast Alberta and adjacent regions.⁵⁴
 - At Fort Chipewyan, a Chipewyan Band and a Cree Band were created, many

⁵³While negotiations were conducted at each location, the framework of the treaty was set by the federal commissioners; the term “negotiation” is not meant to imply that the written agreement was satisfactory to the First Nations who signed.

⁵⁴In a 1994 paper, Neil Reddekopp called these bands “the fundamental administrative units through which the federal government carried out its functions with regard to Indian people.” “The characterization of Bands and Band membership in the [Indian Act] legislation was incorporated into the numbered Treaties” (1994:2). While “the Treaties presumed the pre-existence of Bands” (*ibid.*:3) with formal leaders and that were ethno-culturally homogenous, the Indian Act required its legal bands to have a minimum membership. In northern Alberta, where numbers of people with specific cultural affiliations were sometimes too small to meet that requirement, people with different cultures or identities were cobbled together to construct legal bands, as they were at Fort McMurray and Fort Vermilion.

members of which had mixed Chipewyan-Cree ancestry (see the point above).

The contemporary names of these bands are the Athabasca Chipewyan First Nation and Mikisew Cree First Nation, respectively.

- At Fort McMurray “and the country thereabouts,” a band was created that contained both Chipewyans and Crees, later known as the Cree-Chipewyan Band.
- At Fort Vermilion, a band was created that contained both Beavers and Crees.
- At Smith’s Landing, a Chipewyan Band was created.
- At Fond du Lac, a Chipewyan Band was created.
- In 1946, about half the members of the Chipewyan Band of Fort Chipewyan were removed from the Chipewyan Band List and added to the Cree Band list, thereby becoming legal members of that band. That means that the membership of the Mikisew Cree First Nation - the renamed Cree Band - includes many people who were (and may still be) Chipewyan by culture and identity.⁵⁵
- Some traditional adoptions moved Crees into the Chipewyan Band, and some Chipewyans may have become Crees in the same way.

The broad structures of Cree and Chipewyan life were the same. I find it useful to discuss them by using an analytical approach called *mode of production*, which is one way to talk about the internal workings of the Chipewyan and Cree societies, both before and following their integration into the northern fur trade. It includes “...at the most fundamental level both

⁵⁵The extent to which they and their descendants may still self-identify as Chipewyan is unknown. At least some of these individuals now consider themselves to be Crees, despite their Chipewyan ancestry.

the ‘physics’ of production and the social relationships human beings enter into in order to motivate (or operate) the technical dimension of production.” It is “a structure of material reproduction [that] incorporates both technical and social components” (Asch 1979:88-89). It encompasses the *forces of production* and the *social relations of production*.

The forces of production are the manner by which natural resources are transformed into products for personal use or for exchange and acquire value. They comprise three sets of factors: the raw materials necessary for production; technology, including the infrastructure of production and circulation; and labor, or the organization of labor in the productive process. Resources plus technology are jointly termed the *means of production* (Asch 1979:89).

The social relations of production represent this same set of traits as relations of appropriation between persons. Humans work together in the productive process, but their relationship to the means of production and their control over their labor and their production vary considerably. The relations of production are concerned with ownership and control of the means of production and of labor and its products. They provide the framework for the network of power that determines who benefits from productive efforts.

The other side of the equation is those institutions collectively termed the *superstructure*, which provides for the reproduction of the system as a whole: “juridico-political and ideological relations that suppress, displace, or misrepresent basic conflicts” (O’Laughlin 1975:349). Superstructural elements enter into people’s *consciousness* or awareness about their situation and are often expressed as *ideology*, or “an articulated system of meanings, values, and beliefs of a kind that can be abstracted as [the] ‘worldview’ of any social grouping” (Comaroff and Comaroff 1991:24). Such structures are the vehicles by which

members of the society recognize the legitimacy of their institutions. They undermine support for challenges from other sectors of the society. In short, the reproduction of a system of relations of production requires the support of and acquiescence to the status quo by the members of the society.

Over time, the Athabasca Chipewyan have lived by means of three distinct modes of production: the first two, which are discussed in this section of the report, are the domestic mode of production of pre-contact times and a fur trade mode of production that developed once they became involved in the European fur trade. After World War II, many Chipewyans began shifting to the capitalist mode of production that characterizes the Canadian political-economy, although this transition is arguably not yet completed. That change will be discussed later in the report.

The Domestic Mode of Production

Before they became engaged in the fur trade, Chipewyans and other Aboriginal peoples of the Mackenzie Basin had a use-oriented or “domestic” mode of production, in which the primary goal of production was family survival. Asch’s description of this mode of production for the Mackenzie River Dene (1979:90-91; 1977:47-49) can be applied to both Chipewyans and Crees. The forces of production were based on the resources or raw materials comprising the flora and fauna of the boreal forest and transitional tree line biomes (see Table 3). There was considerable diversity of animal populations regionally and seasonally, and some animals were always considered more important for food as well as for spiritual reasons. For example, caribou and moose were particularly significant species, and they remain so to this day. Some

species also fluctuated in number over time. Aboriginal technology was dominated by apparently simple tools for snaring and entrapment and for processing of raw materials. Useful discussions of this technology are found in Samuel Hearne's and Peter Fidler's accounts of their travels with Chipewyans in the early 1770s and early 1790s, respectively (Hearne 1958; Tyrrell 1968:Journal 8), and in secondary sources such as J. G. E. Smith's summary of Chipewyan ways of life (1975). Chipewyans were clearly masters of their environment and confident in their abilities to survive in northern lands that to Europeans were hostile and forbidding. While they adopted some European tools, their material culture was still dominated by tools and other items they made for themselves from materials at hand. Their successful use of their technology, including European manufactures, was predicated on a rich knowledge of animal behavior and appropriate uses of tools and spiritual power, what Robin Ridington calls "artifice" as well as artifacts (1982:470). People also had the capacity to create and manage landscapes by using fire, another technology requiring extensive, detailed knowledge of ecosystem relationships (Lewis 1977; 1978; 1982; McCormack 2007; see ACFN 2003a:98).⁵⁶ Travel was by foot and canoe, with limited use of dogs as pack animals, which meant that transport capacity was restricted. People solved the "problem" of the variable availability of game, combined with their limited transportation abilities, by traveling through their lands in search of game, rather than by moving game killed to a central camp. Finally, there was a simple division of labor based on gender and generation, though such a statement overstates the differences between the activities of men and women.

⁵⁶The use of controlled burning, which was a strategy for landscape management unsuited to caribou habitats, was probably not used by Chipewyans until they moved into more heavily forested regions.

Table 3. Major Faunal Resources (McCormack 2010:19)

Large game	Moose	<i>Alces alces</i>
	Woodland caribou	<i>Rangifer tarandus caribou</i>
	Barren ground caribou	<i>Rangifer tarandus groenlandicus</i>
Small game	Bison	<i>Bison bison</i>
	Snowshoe hare	<i>Lepus americanus</i>
	Red squirrel	<i>Tamiasciurus hudsonicus</i>
	Beaver	<i>Castor canadensis</i>
Carnivores	Muskrat	<i>Ondatra zibethicus</i>
	Porcupine	<i>Erethizon dorsatum</i>
	Grey wolf	<i>Canis lupus</i>
	Coyote	<i>Canis latrans</i>
	Red fox	<i>Vulpes vulpes</i>
	Black bear	<i>Ursus americanus</i>
	Pine marten	<i>Martes americana</i>
	Fisher	<i>Martes pennanti</i>
	Ermine	<i>Mustela erminea</i>
	Least weasel	<i>Mustela nivalis</i>
	Mink	<i>Neovison vison</i>
	Wolverine	<i>Gulo gulo</i>
	Skunk	<i>Mephitis mephitis</i>
	Otter	<i>Lontra canadensis</i>
Lynx	<i>Felis lynx</i>	
Upland birds	Spruce grouse	<i>Falcapennis canadensis</i>
	Ruffed grouse	<i>Bonasa umbellus</i>
	Sharp-tailed grouse	<i>Tympanuchus phasianellus</i>
	Willow ptarmigan	<i>Lagopus lagopus</i>
Migratory waterfowl	Rock ptarmigan	<i>Lagopus mutus rupestris</i>
	Canada goose	<i>Branta canadensis</i>
	Greater white-fronted goose (grey wavey)	<i>Anser albifrons</i>
	Lesser snow goose (white wavey)	<i>Chen caerulescens caerulescens</i>
	Trumpeter swan	<i>Cygnus buccinator</i>
	Sandhill crane	<i>Grus canadensis</i>
	Whooping crane	<i>Grus americana</i>
Fish	Ducks, multiple species	
	Lake whitefish	<i>Coregonus clupeaformis</i>
	Lake trout	<i>Salvelinus namaycush</i>
	Northern pike (jackfish)	<i>Esox lucius</i>
	Goldeye	<i>Hiodon alosoides</i>
	Walleye (pickerel)	<i>Sander vitreus</i>

The social relations of production were broadly egalitarian. The unit of production and consumption was the local band, a group of related people who lived together as a co-residential unit or in the immediate vicinity. Henry Sharp called the local band a “hunting unit” (1979:21), and other terms exist in the literature. While this group varied in size over the course of a year and its social history, in the subarctic local bands are typically small, face-to-face social units of approximately 25-50 people, all related to one another by kinship ties. According to James G. E. Smith, there was no fixed rule for band organization; the core of a band could be a father and his sons, siblings (such as a pair of brothers), or a father-in-law with his sons-in-law (1975:431, see 440).⁵⁷ Members of Chipewyan local bands gathered periodically into larger local bands to construct, maintain, and operate caribou pounds, such an efficient procurement strategy that Hearne reported that “...many families subsist by it without having occasion to move their tents above once or twice during the course of a whole winter...” a way of life he deemed “indolent” and inimical to the European fur trade (Hearne 1958:50-51). When Thanadelthur found over 400 of her people in the depths of winter on her trip into the interior with the peace party, they were probably living on caribou they had killed in pounds (McCormack 2003:338).

The members of each local band normally produced only what they needed for their own use and were “collectively responsible” for their own physical survival (Asch 1979:90). Together they “owned” and controlled the means of production: the land and its resources, the technology necessary for production, and all crucial basic knowledge. Henry Sharp points to the portability of such knowledge: “Knowing a territory is not memorizing where things are but

⁵⁷Sharp, who did research among the “Mission Chipewyan,” those of Black Lake, Saskatchewan, approached group formation somewhat differently. He pointed to the key role of the father in a hunting unit and to the importance of the relationship among brothers-in-law (1979:21, 31).

understanding how things relate to each other” (2001:38). Mechanisms of reciprocity and sharing, as well as expectations that all persons would learn basic life skills and knowledge, prevented any individual or family from monopolizing crucial resources or products (see, for example, J. Smith 1975:442; ACFN 2003a:34). Even today, it is clear that sharing remains an important Chipewyan cultural value (e.g, ACFN 2003a:88).

Leadership reflected an on-going demonstration of personal competence, authority, and supernatural powers, but it did not confer coercive power. Leaders led because people chose to follow them (e.g., J. Smith 1975:443; 1981a:276; MacNeish 1956; Goulet 1998:36; Preston 2002:78-9). As James Keith described the Chipewyans in 1825, there were few who warranted the title of “Chief”: “their influence & authority being little known beyond the circle of their own Family” (HBCA B.39/e/8:fo. 28). Little had changed in this regard by the time of treaty in 1899, as the treaty commissioners remarked: “The chiefs and headmen are simply the most efficient hunters and trappers” (Govt. of Canada 1966:8). Every local band had its own leader. Leadership was not hereditary. When that leader died or became unable to fulfill that role, either another member of the local band would become the new leader or the families constituting the band would separate, establishing new bands or joining other bands. Each leader enjoyed personal autonomy; each local band made its own decisions about every aspect of life. People who were unhappy with leadership in any way were free to relocate to other local bands or establish their own bands. There was no paramount “chief,” although there would have been a hierarchy of sorts of influential and highly respected people. This hierarchy would have changed over time as young people acquired appropriate leadership skills, became older, and demonstrated their worth, and their elders passed away.

Local bands were tied to one another by multiple bonds of kinship, creating social and political interconnections which afforded them a safety net for dealing with variability in resource availability (e.g., Jarvenpa 2004).⁵⁸ The regional network of local bands, which was also the usual marriage universe, comprised what has been termed the “regional band.” While their members occasionally assembled temporarily for seasonal hunting, fishing, or socializing, it was a co-residential unit only briefly. Neither large local bands nor regional bands formed cohesive social groups, nor were boundaries drawn between local bands in one regional band and those in another (J. Smith 1981a:276; 1975:439; n.d.:11; Helm 1968; Rogers and Smith 1981:141).⁵⁹ More important was the network of kinship ties, which reached out in every direction. Marriages could and would occur among members of local bands from different regional bands, especially those whose members met occasionally or regularly.

Asch (1979:91) has summarized the superstructural elements that contributed to the reproduction of this system:

These relations of production were expressed juridically by a kinship system that, through the use of lateral extensions, incorporated the rights of local production group membership to all Slaveys (and indeed all Dene); an inheritance system that forbade the transmission of land, raw materials, technology, and, indeed, “special” hunting knowledge from one generation to another; and a marriage system that required for its operation the continual outmovement of members of each local production group.

Children were expected to seek their own sources of power and personal ties to the spiritual

⁵⁸Sharp (1979:8) has pointed out that each local Chipewyan band would kill more caribou than it needed, which ensured that enough food would be available to give food to other bands that had not been successful in the hunt. That is basically a form of social insurance, not the production of surplus for exchange.

⁵⁹This section does not attempt to review the ample literature describing the social structures of Chipewyans and Crees.

world, acquiring spiritual power and knowledge independently. This quest for greater knowledge continued through one's life (e.g., D. Smith 1973; Sharp 2001; Preston 2002; Ridington 1982; Goulet 1998:chps. 2, 3; Asch 1979:91).

The Fur Trade Mode of Production

When Chipewyans, Crees, Beavers, and European peoples met at posts along the Athabasca, Peace, and Slave Rivers and at Lake Athabasca, they had to build bridges between their separate systems of production and meaning, to create a new space that would allow them successfully to negotiate exchanges of furs, foods, and goods. Europeans introduced a mode of production that was capitalist, in which the primary goal of production was the creation of wealth (capital). In a capitalist mode of production, the forces of production include a wide range of raw materials, not necessarily local; specialized technology and associated knowledge; and a more complex division of labor. The social relations of production are characterized by the fact that the means of production (resources and technology) are owned and/or controlled by individuals, families, or other unitary entities (e.g., corporations). The people lacking access to the means of production must sell their labor in order to survive. The result is that hierarchical class relations exist between owners and producers, and the society is stratified into social classes.⁶⁰

European traders were merchant capitalists, and mercantilism persisted as the dominant form of capitalism in northern Alberta and the rest of the Mackenzie Basin until after World

⁶⁰The concept of social class today is more complex than in the past. In the early days of emerging global capitalism, social class was tied directly to whether or not one had access to the means of production and to what extent.

War I. Its goal was to produce profits for the owners of the trading companies. Merchants are traders, agents of the marketplace. They buy goods from a vendor and sell them to a buyer. They do not engage in direct production and therefore cannot increase the value of the commodities which they buy and sell (Kay 1975:65, 86). Instead, they realize profit by engaging in unequal exchange with producers. At least one transaction “must take place at a price that is not equal to value” (*ibid.*:87).

It was merchant capitalism that “created the framework of the world market and laid the foundations of underdevelopment as well as development” (Kay 1975:94). Merchants broaden their investment possibilities by fostering the expansion of markets and commodity production. In the fur trade, they encouraged the people with whom they traded to expand their production of commodities and their consumption of imported goods, and they also encouraged more people to become involved. The ways in which they did so are discussed below. In northeast Alberta and elsewhere in the Northwest, an ever-enlarging number of Indians who had formerly produced strictly for their immediate needs also began to produce surpluses of meat, fish, and furs for exchange, to acquire items imported from other parts of the world. These new objects supplemented and replaced much of their pre-contact material culture repertoire. Merchants made their profits by manipulating rates of exchange, all expressed in the fur trade standard, “Made Beaver.” The result was inter-regional integration, the hallmark of a world system and today’s globalism.

According to Kay, such developments “corrode” the pre-capitalist social formations and open “the way for the reorganization of production upon a capitalist basis” (1975:95, 155). But, in northeast Alberta, the reorganization of production along capitalist lines would be the result

of state intervention after 1899 and is still not completed more than a century later, as evidenced by persistent use of bush resources by Chipewyans and other Aboriginal people, even those working full-time for wages. While Chipewyans and Crees altered their domestic mode of production to accommodate their new trading interests, that did not mean they adopted a fully-capitalist mode of production or greatly altered other aspects of their cultures.

Indian involvement in the fur trade has often been conceptualized as the rapid adoption of European manufactures and consequent Indian "dependence" on Europeans. Enrique Rodríguez-Alegría (2008) has called this the "quick replacement model" of presumed inferior and static Indigenous technologies by presumed superior European ones. Yet dependence was a two-way street. Europeans relied almost exclusively on Aboriginal men and women to produce fur, to produce food provisions to sell (especially fresh and dried meat and pemmican), and on occasion to sell their labor to help with transport, work at the post, and manufacture persistent and highly adaptive items of "Indian" technology, such as snowshoes, moccasins, and other items of clothing suitable for long, cold winters (for example, see Ray 1984:10; Bellman and Hanks 1998:59-60). Jennifer Brown has described much of this work as "a woman's industrial revolution" (1993:83). Brown (1980) and Van Kirk (1980) have written extensively about European reliance on the labor and knowledge of Indian and Métis women. This dependence on local people was inevitable, given Indian knowledge of the resource base, which gave them economic control, and the sovereignty they exercised over their lands, which gave them political control. Europeans who came into the country learned crucial skills and local customs from other employees who had already mastered them and from their Indian and Métis associates. Ironically, to the extent that Europeans and Métis learned how to survive locally and were

socially integrated into Indian bands, they themselves became independent, in varying degrees, from direct control by the traders, much as were the Indians themselves. It is telling that one term for Métis who were no longer under contract to a trading company was “freeman” (*gens libres*).

As long as Chipewyans and Crees produced furs and food for trade, European traders did not need to control the labor process directly. They nevertheless sought some measure of control over the producers, trying to keep the Indians focused on producing desired commodities and to ensure that furs came to specific trading posts rather than to competitors or to other posts of the same company. For instance, in April 1827, John Franklin (1969:304) described how the Hudson's Bay Company had developed new regulations “respecting the trade with the natives. The plans now adopted offer supplies of clothes, and of every necessity, to those Indians who choose to be active in the collection of furs.” At the same time, Indians sought some control over the terms of trade, the quality of goods available to them, and the extent to which economic relations needed to be mediated by social relations (e.g., Ray 1974; Innis 1964:373).

This discussion suggests several points of articulation between the domestic mode of production and the (merchant) capitalist mode of production at Fort Chipewyan and other posts in the Mackenzie Basin. Chipewyan and Cree men and women were willing to produce furs and provisions to exchange for imported commodities and increasingly to work directly for the traders on an occasional basis, especially as post hunters and fishermen. They were willing for their daughters and sisters to marry European traders and employees. These marriages established bonds of kinship that facilitated and channeled economic exchanges, created a female labor force at the post, and produced children who became part of the local labor force.

The result was that Chipewyans and Crees added two new components to their economy: independent (petty) commodity production and wage labor, although reimbursed by exchange credits, not cash payments until the 20th century (Innis 1964:161, 240; Mandel 1968:66). Thus, the new mode of production was a *mixed economy*, one with three different sectors: domestic production, independent commodity production, and wage labor. It was oriented in many ways to, but not dominated by, capitalist exchanges. It was this mixed economy that constituted the fur trade mode of production that characterized the way of life for the Athabasca Chipewyan in 1899, when they entered into Treaty No. 8.

For their part, Europeans were willing to enter into a range of social relations or transactions with the Indians which transcended the purely economic aspect of exchanges. Europeans also needed to provide most of their own food and much of their technology from local resources. Costs incurred in doing so (e.g., ammunition and rations for men who were hunting; axes, saws, and rations for men who were building boats) were part of the overhead of doing business. The distinction between commercial and subsistence food production narrowed when European and Métis employees lived and hunted with their Indian allies and kinsmen. Such activities were a reversal of the trend among Europeans toward a fully socialized labor force (that is, a labor force that lived strictly by means of wages).

While Indians certainly wanted a wide range of European manufactures, which became part of their means of production, it is simplistic to claim that their involvement in the trade as regular producers of fur and food was due primarily to a "seemingly insatiable appetite" for these goods (Murphy and Steward 1968:400). The fur trade literature contains numerous examples of northern Indians, including Chipewyans, who were discerning consumers and in

some instances had little use for most of the trade goods they were offered (e.g., Hearne 1958:50-51, 176; Murray 1910:29; Ray 1980). Arthur Ray has pointed out that Indian demand for goods was relatively “inelastic.” If prices paid for furs increased, Indians often trapped less, not more (1974:68-69; 141-2).

This lack of reliance on trade goods was particularly marked for Chipewyans. In early years, many of the furs they traded at Fort Churchill were the furs they obtained from more distant people, sometimes by seizure, in addition to those they trapped themselves (e.g., Hearne 1958:79, 114, 134-5). Living by hunting caribou was an easier and more reliable way of life than trapping. While as a fur trader he wanted the Chipewyans to trap, Samuel Hearne remarked that those who did trap “...are always the most unhappy...” and risk starvation, for “the real wants of these people are few, and easily supplied; a hatchet, an ice-chissel, a file, and a knife, are all that is required to enable them, with a little industry, to procure a comfortable livelihood....” (*ibid.*). He also pointed out that the areas where caribou wintered “...are almost destitute of every animal of the furr kind...” (*ibid.*:51). Many Indians had to be induced to produce goods for trade, especially in the volume desired by the traders, and it was an on-going concern at Fort Chipewyan throughout the 19th century. Eventually, all Chipewyans began to trap, although there appear to have been differences in the extent to which they committed to trapping as an important part of their economy and way of life. For the Chipewyans who moved westward to establish themselves in the fur-rich Fort Chipewyan region, the ancestors of the Athabasca Chipewyan, trapping became a significant component of their economy.

The methods used by European traders to encourage Aboriginal people to make this change were related to changes in the social formation of the region that occurred as traders and

their employees entered into the relations of production of the Indian bands, in two ways. First, traders and their employees entered into "country marriages," or marriage *à la façon du pays*, with Aboriginal women (Van Kirk 1980; Brown 1976; 1980). As Sylvia Van Kirk explained (1980:4), "The marriage of a fur trader and an Indian woman was not just a 'private' affair; the bond thus created helped to advance trade relations with a new tribe, placing the Indian wife in the role of cultural liaison between the traders and her kin." Trappers and traders thus became affinal kinsmen, people related to one another by marriage.⁶¹ Their new relationship brought with it expectations of mutual assistance and reciprocal exchanges. The discussion in the previous section named some of the North West Company employees who married local women. Fur trade employees continued to make such marriages, thereby linking themselves to the local bands and linking the members of the local bands to the post. It encouraged members of the local bands to visit the posts, to trade, to trap, and to produce provisions for sale.

Indians and Europeans were also linked together by the extension of credit, or debt, to individual trappers, a financing system that became extensive in the 19th century in the fur trade country and persisted in the Fort Chipewyan region until the 1940s, although diminished in the 20th century (cf. Ray 1974:137-8, 196-7; 1984; Morantz 1990; Tanner 1965). To Rosemary Ommer (1990:9), credit was "the mechanism whereby merchant capital delegated the power of production to 'independent' operators on certain terms, with certain strings attached, in order to generate the flourishing of individual enterprise and the expansion of the whole economy."

⁶¹The terms "affinal" and "consanguineal" do not fit Chipewyan or Cree kinship systems as neatly as the literature makes it seem. For example, a trader who married a Chipewyan woman would acquire a set of in-laws or affinal kin, but through the logic of the kinship system he would also acquire a set of consanguineal kin, or relatives he would call brothers and sisters, fathers and mothers, even though he was not actually related to them by "blood." It is beyond the scope of this report to elucidate the historic Chipewyan kinship system.

Tanner has discussed how credit both defined and mediated the trade relationship:

The obtaining of credit marked an important change in the economic life of a trapper. It indicated a long-term commitment to trapping as the major winter productive activity, and to dealings with a single trader, in order to exchange the results of this activity for some valued end [1965:46].

While credit was extended to group leaders in the early years of the fur trade, in the Athabasca country it seemed to have been often an individual matter from the earliest record (Duckworth 1990). Several trappers, each representing his immediate family group or local band, dealt personally with the trader in the credit relationship, rather than being represented by a trading chief or other Aboriginal middleman.

Post managers kept account books that tracked each trapper's sale of furs and provisions and purchases of goods at the post. A trapper who accepted credit became linked to a particular trading post and was required to travel there at least twice yearly, once to obtain his fall trapping "outfit" on credit and a second time to trade his furs and pay off his debt. Credit stabilized a trapper's relations with the trader and allowed the trader to plan his business. In 1860, a Fort Chipewyan report remarked, "Debts are given to Indians who are faithful in paying them" (HBCA B.39/e/10:fo.1). From the trapper's point of view, it was a way to capitalize the coming winter's trapping, by providing the goods he needed from the post, while at the same time it allowed him to trap when and how he pleased (Tanner 1965:47; Morantz 1990:221). On a pragmatic level, it stimulated trapping because trappers had to pay for their purchases in order to obtain more credit, despite the Hudson's Bay Company policy of periodically writing off bad debts. More broadly, it accorded with Chipewyan and Cree ideologies of reciprocity, the need to repay those who have assisted you (e.g., Ray 1984:11; Morantz 1990:221). The trader could use credit to limit the sorts of goods available to trappers:

By allowing only certain goods to be purchased on credit a trader was able to do more than just influence the buying habits of Indians along what he thought to be more prudent lines. He was also able to stress the importance of trapping as an activity, allowing only those supplies needed for a trapping expedition on credit. In this way he ultimately could increase the fur harvest of his district, on which most of his profit could be made [Tanner 1965:49].

Credit established personal relations between the trader and his trappers, and gave the trader the advantage of having the trappers under an obligation to him. Through this relationship he was able to directly influence their economic life by personal intervention, and discourage activities which conflicted with trapping [*ibid.*:47-8].

At the same time, some Aboriginal people were reported as taking advantage of the lack of easy communication between posts to take their debt at one post and then avoid paying it off by trading their furs at another post. This practice required them to travel great distances.

Another explanation was that after taking credit, they had spent the winter trapping (and living) in an area far from the post that issued the credit, and they wanted to trade at the nearest post.

Both explanations probably apply; the lack of barriers to long-distance travel was mentioned above. While it was usually to the trader's advantage to have a stable number of clients who sold furs and provisions to and bought goods at his particular post, the Aboriginal people balanced their ties to the trader with their personal interests. Periodically, local posts would "write off" debt that they believed could not be collected.

To summarize, country marriages and creditor-debtor relations established social ties which transcended the purely economic aspect of exchange. As Sahlins suggests, it was "social relations, not prices [that] connect up 'buyers' and 'sellers'" (1974:298). As Indian involvement in the fur trade became regularized, Indians relied more on transactions that appear to be individual, although the goods they acquired in trade were used to benefit their entire local bands. While they may have been listed on the account books as individuals, their trade

represented production by their immediate families and the larger social groups of which their families were members - the local bands. The Chipewyan and Cree bands were no longer marginal or outside the world system but integrated into it as a periphery. This transformation occurred at Fort Chipewyan after the establishment in 1821 of a monopoly on trade by the Hudson's Bay Company (McCormack 1984a). By the second quarter of the 19th century, the Chipewyans and Crees who had become permanent occupants of the Fort Chipewyan region and traded there regularly could no longer be characterized by a "total economy." The new mode of production had the following configuration.

Forces of Production: Resources While the total resource base was initially unchanged, Chipewyans and Crees developed different patterns of resource exploitation, which can be inferred in part from records of fur and food production. They emphasized some fur and game resources that previously would have been little utilized or utilized differently, thereby affecting regional ecosystems in often-significant ways. From the earliest days of the Athabaskan fur trade, provisions were important trade items, especially fresh and dried meat (Duckworth 1990). Bison became an important resource for sale, hunted so intensively to provision the posts that by the 1840s, they were in serious decline (Ferguson 1993). New resources included garden crops introduced by fur traders and missionaries: potatoes, carrots, turnips, cabbages, onions, beans, and cucumbers (ACFN 2003a:79). However, when Chipewyans began to plant gardens is not known; it probably coincided with the construction of small settlements with log houses as centers of bush activity, in the late 19th century.

The Chipewyans who relocated to the western end of Lake Athabasca and other points in

northeast Alberta shifted to some extent from the resources of the transitional tree line zone to those of the boreal forest. While they still traveled often-long distances to hunt barren-ground caribou in winter, they also hunted all the local big game - bison, moose, woodland caribou - and a different configuration of smaller animals (see ACFN 2003b). For example, in 1791-92, Peter Fidler described Chipewyans hunting bison and beaver in the Little Buffalo River west of Slave River, beaver in the Taltson River, and moose in the vicinity of the Slave River itself (Tyrrell 1968:Journal 8). The resources available in the biome of the Fort Chipewyan region were rich, especially given the role played by controlled burning in managing habitats for game and fur animals. In the late 18th-early 19th centuries, before bison numbers diminished, substantial herds ranged as far as north as Great Slave Lake and east of the Slave River and were plentiful in the Peace River country (e.g., Hearne 1958:161-4; Tyrrell 1968:370-411, Journal VIII; Van Zyll de Jong 1986). Samuel Hearne pointed out that "Of all the large beasts in those parts the buffalo is easiest to kill" (1958:163). Barren-ground caribou continued to migrate occasionally to the Fort Chipewyan region, woodland caribou lived in the Birch Mountains and elsewhere in the region, and the Peace-Athabasca Delta supported a rich resource complex.⁶² Even deer and elk were reported in the region (HBCA B.39/e/7:fo. 5). The 1823-1824 post report remarked, "The hunting grounds of the Indians in that locality are well stocked with large animals" (*ibid.*:fo. 3). Fish were also widely available. The following year, the report commented that the Chipewyans feed off the "fat...of the land & water of the first of which they

⁶²Anthony Gulig (2002) has discussed how forest fires set by prospectors in northern Saskatchewan in the 1920s and 1930s burned off so much barren-ground caribou winter habitat that the animals shifted their long-standing migration routes eastward. They were thereafter far more difficult to hunt for people in the western Lake Athabasca region, due to the distances involved. Local Athabasca Chipewyans were forced to rely more heavily on local game, including woodland caribou.

are seldom destitute” (HBCA B.39/e/9:7).

Chipewyans and Crees continued to travel to areas suitable for hunting, trapping, and other land pursuits and also for visiting families in order to arrange marriages for their children. Chipewyans were described as relatively independent of Europeans and their goods, despite their “numerous Population,” because of their “wandering habits, great attachment and frequent Visits to their lands” (HBCA B.39/e/8:fo. 8). Crees, on the other hand, had a “more Ltd. Population, stationary habits, & dependent situation on Europeans” (*ibid.*:fo. 7). However, such statements have to be read with care. Neither Chipewyans nor Crees restricted themselves to specific locations but were typically on the move over the course of the year, as they took advantage of different resources that were available in different regions. In the post journals, they are typically described as associated with specific regions, such as Birch River or Jackfish Lake (now, Richardson Lake) for Chipewyans, but those are general comments that do not address even the complexity of the annual cycle of activities and the lands required for them, let alone the complexity of a broader pattern of rotating or shifting land usage.

Strategic Chipewyan-Cree marriages began by the mid 19th century, if not earlier; the dates available may reflect only the beginning of relatively reliable missionary records. Such marriages paved the way for peaceful interaction between the numerically dominant Chipewyans and minority Crees, who were now living in the same broad region. It was especially common for Cree men to marry Chipewyan women, though the reverse did occur. Cree and Chipewyan men thereby became linked as brothers-in-law and partners, important supportive relationships. Typically, a man lived with and was expected to provide support for his wife’s parents, especially in the early years of marriage (so-called matrilocal residence).

That meant that Cree men who married Chipewyan women would now live and work with their in-laws, traveling to, using, and learning new regions. As a result, members of local bands that were formerly ethnically distinctive began to live in local bands that might be ethnically mixed, even if they were not identified in that way, and to construct a new multi-ethnic regional band centered about Fort Chipewyan, as the place where local bands came together briefly each summer.

Forces of Production: Technology The most striking feature of the fur trade mode of production, and the one most obvious to Europeans, was that an increasingly large portion of Aboriginal technology was obtained through trade. Chipewyans and Crees enjoyed access to a wide inventory of imported manufactures, including guns and ammunition, metal goods, textiles, and decorative items. The post blacksmith made gun repairs, which encouraged reliance on firearms. Some theorists have argued that Chipewyan relocation to this region was possible only because of the new fur trade goods they could obtain, especially guns, which facilitated their hunting of large, solitary animals rather than herds of caribou. However, the frequent references in Cuthbert Grant's 1786 journal to hunters bringing moose meat to the post to trade indicate that by this early date, Chipewyans as well as Crees were hunting moose quite capably, although it is unknown whether or not they relied on firearms as opposed to snares or other traditional hunting techniques (Duckworth 1990).⁶³

⁶³Athabasca Chipewyan First Nation elders associated with Old Fort told Nicole Nicholls that in their own language, the place name for this location comes from "before the time of the White men" and translates to "chasing a moose out to the point," because people would drive a moose from the bush onto a narrow sand spit where it could be killed by men with bows and arrows (Nicole Nicholls, personal communication, 23 June 2011). Pat Marcel's contemporary description of how to hunt moose reflects the knowledge of a modern hunter who uses a rifle, yet

By 1823, the Chipewyans who were “more accustomed to whites” were reported to be copying them in manner and dress (HBCA B.39/e/6:3). By mid century, all Indians had evidently replaced much of their material culture inventory. Father Taché, writing at Ile à la Crosse in 1851, noted that Chipewyan “Men's clothes are quite similar to those of our peasants; they obtain their clothing in the stores of the Company where it is received ready made from England” (Taché 1978:146). In 1859, Robert Campbell, the Hudson's Bay Company factor at Fort Chipewyan, wrote to the director of the new Industrial Museum of Scotland:

You will perhaps be surprised to learn, that even in this Northern District, the “Indians” appreciate the convenience of the articles of civilised usage so much, that hardly a trace now remains of their former dress, domestic utensils, or weapons of war, or the chase; all have already fallen into disuse among them [Royal Museum of Scotland, 5 May 1859].

Such comments support the popular notion that Indians peoples had become “dependent” on the fur trade. As “trappers,” they were believed to have “lost” their original autonomy. Ray referred to Indians as “increasingly caught in the trap of having to buy the tools that they needed” (1984:4), at a time when the resource base was, he believed, increasingly unstable. Such an interpretation involves a material culture-focused concept of “autonomy” that is not usually applied to non-Aboriginal peoples. “Dependence” has become established in academic and popular discourse as a term connoting a special kind of Aboriginal subordination. In fact, all peoples who became part of the capitalist world system were (and are) “dependent” on exchanges in the market place. Among their ranks were British workers, but the term dependence is rarely used to characterize them. Ironically, British workers were probably more

it also has deep cultural roots, learned by hearing oral traditions and by personal experience. It would have been familiar to moose hunters of the late 18th century, because it rests on an understanding of basic moose behavior (ACFN 2003b:104).

dependent on the goodwill of company owners than were northern Indian trappers and hunters, who maintained considerable independence and had to be courted and enticed by Company traders throughout the 19th century.⁶⁴

There is no evidence that the less visible aspects of Aboriginal technology were replaced. As Father Taché wrote in 1851: “All the Indians are better naturalists, not only than our country people, but even than the most learned elements of our populations” (1978:138). In her memoir of the Fort Vermilion region a half century later, Mary Lawrence stated that to the Indians, “the sheer stupidity of the white man in the bush was something beyond belief” (Fort Vermilion Ag. Soc. 2008:16). “[W]hen he comes into this country he’s like a child. He doesn’t know anything and he does things that even a child would be ashamed of” (*ibid.*:172). Indians maintained their knowledge of local ecosystems, animal behavior, and the use of fire to manipulate plant and animal populations. Controlled burning, or “domesticated fire,” was an important tool to create and maintain the prairies and other early successional habitats on which most species of fur trade and subsistence importance relied (Lewis 1977; 1978; 1982; McCormack 2007; ACFN 2003a:98). It had very different consequences than did wild fires. In fact, one of the benefits of regular and extensive controlled burning was to reduce the potential for holocaust fires. While Crees, with their origins in the fire-adapted parkland habitats of the Saskatchewan basin, were undoubtedly familiar with the principles of fire management and could easily apply them to their new northern homeland, it may have been a new technology to

⁶⁴Elsewhere, Toby Morantz has argued that the Crees of James Bay were neither controlled by debt nor dependent on the Hudson’s Bay Company, but “fully in control of their own hunting strategies” (1990:221).

Chipewyans, who would not have used it in the caribou ranges of the transitional tree line.⁶⁵ Presumably they learned its use by observing other residents, including the Beaver Indians they displaced, by working with their new Cree relatives, and by trial and error.

An important addition to their technology, and crucial to the development of trapping as a regularized activity, was the dog team, probably in the 19th century. Dogs were hitched in a single line to a toboggan or sled, facilitating winter travel among residential settlements, trapping areas, and the fur trade post. While the idea of driving dogs may have been introduced, perhaps by example, the implements were homegrown, a synthesis of pre-existing sleds, local dogs, and the carriages and dog harnesses used by traders and their employees (Hearne 1958:213; Lamb 1970:154; McCormack 1988:48, 55; McCormack 2009; ACFN 2003a:49). People fashioned their own sleds and harnesses from wood and leather. People also continued to use dogs for “packing” furs and other items when sleds could not be used (McCormack 1988:49, 57; see ACFN 2003a:76-7). When dog teams were adopted by Indians in northeast Alberta is not known, but it may have been related to some measure of increased sedentariness; keeping dogs required their owners to stock meat or fish for their feed.

Forces of Production: Labor Labor allocation was similar to that of the domestic mode of production, in that men and women undertook different and complementary fur trade and subsistence activities. Both men and women trapped, though generally for different species and in different localities. Women's trap lines were usually in the vicinity of their settlement,

⁶⁵Fire in that area would have destroyed slow-to-grow lichens, which were important winter caribou foods. Athabasca Chipewyans say that it was a forest fire in northern Saskatchewan in 1951 that resulted in the barren-ground caribou no longer coming as far as the western end of Lake Athabasca (2003a:100-1).

whereas men used their dog teams to trap at a greater distance, thereby increasing the overall productive capacities of the local band. However, some women also ran their own dog teams, and the division of labor was not as strictly gendered as it has sometimes been made out to have been. The Athabasca Chipewyan First Nation's two volumes about its traditional land uses (ACFN 2003a; 2003b) contain information on the seasonal round of labor and productive activities: winter hunting and trapping; the spring muskrat hunting season and waterfowl hunt; summer fishing, hunting, gathering, and gardening; and fall berry and garden harvesting and hunting. Activities were conducted not only to support life at those times, but to prepare for the coming seasons.

There was also a new regional division of labor represented by the concentration of some Aboriginal peoples in trapping and subsistence pursuits and others in wage labor. While the former have often been characterized as Chipewyans and Crees, and the latter, as Half-breeds and Métis, these identities were influenced by occupational choices and the social communities to which people belonged. Such specialization was rarely exclusive. People who worked directly for the traders and, in the second half of the 19th century, for missionaries, typically lived in town and supplemented their wages by hunting, fishing, cultivating small gardens, and acquiring food from their bush-based relatives, thereby reducing both the costs incurred by traders in maintaining the labor force and their otherwise dependent position as laborers. People living in the bush occasionally performed wage labor (until the 20th century, paid for in-kind by Made Beaver credits). The concept of a regional division of labor, with occupational specialization occurring within immediate social networks - the local bands and their later outgrowths within the town of Fort Chipewyan itself - also marks the mixed economy of the fur

trade mode of production.

Social Relations of Production The primary goal of Chipewyans and Crees was still survival. That meant that trapping and wage labor were undertaken only to provide themselves with enough exchange-value to purchase the items they needed.⁶⁶ Not surprisingly, there were few changes from the pre-existing relations of production. The major change was the intervention of the European trader and his employees in the relations of production, paralleling the intervention of imported manufactures in the forces of production. It was the traders who solicited and encouraged Aboriginal participation in the fur trade and employed them as occasional laborers. They drew upon their social ties with Aboriginal peoples and their control over exchange rates, although not without considerable negotiation and occasional resistance by Aboriginal producers. For example, on October 2, 1868, the Chief Factor at Fort Chipewyan, William McMurray, “had a conference with the Indians & explained to them his intentions concerning their debts furs &c during the ensuing Winter” (HBCA B.39/a/46:fo. 41). Traders did not seek otherwise to alter Aboriginal use of or access to bush resources. All Indian participants had to provide themselves with food and other subsistence items, thereby underwriting their own reproduction costs, which reduced costs that the traders would otherwise have been forced to cover and enhanced the value appropriated by the traders.

Ray has argued that one role of the traders was to encourage Indian trappers to rely upon

⁶⁶The reasons were probably both ideological and pragmatic. Aboriginal people tended to “make do,” an appropriate tactic when everyone had the knowledge necessary to make all items of technology. This approach can be seen even today among local residents. As well, it was difficult for people who moved around a great deal to carry many items with them, which in turn undermined any tendency to consumerism.

a less reliable resource base, by relying instead on assistance from the Hudson's Bay Company during times of privation (1984:7-8). The Company stocked food stuffs for distribution at such times. This practice, he said, reduced Indian self-sufficiency even further. Indians were therefore vulnerable to low fur returns and shortages of food (*ibid.*:10). They turned to the Company for relief at such times, a situation that Ray has interpreted as a fur trade-based "welfare system" (*ibid.*:16-7). However, Ray himself has pointed out that assistance provided to Indians was drawn from the "excess profits" made by the Company. Conceptualizing it as welfare supports an interpretation of Indian "dependency." It may be better thought of as a return of a portion of the excessive surplus value appropriated by fur trade merchants.

Occasional assistance provided by the trading companies was a way of helping the Indians make a "living wage," not equivalent to government support in the second half of the 20th century for peoples displaced from the production process. Moreover, the region surrounding the western end of Lake Athabasca, anchored by the rich Peace-Athabasca Delta, may have provided a resource base that was more reliable than at most posts, and there is little evidence to support the notion that the Company regularly put up extra supplies in case Indians went hungry. Instead, the post journals recorded complaints or resignation if Indians had to be fed from post stores during intervals of starvation.

The bottom line is that the structure of control within Chipewyan and Cree societies during the fur trade was still vested in the members of the local bands. What was distinctive about the fur trade mode of production was the addition of the production of furs and provisions for sale and of wage labor to the former economy. It marked the beginning of a mixed economy that would provide additional flexibility for livelihood. At the same time, Aboriginal peoples

were vulnerable to any constraints that might be imposed on their access to the resources of the bush, to changes in the availability of the species they exploited, and to changes in the structure of the fur trade. While involvement in the fur trade is often seen as making Aboriginal economic structures more fragile and less certain, at the same time the existence of a mixed economy evened out some of the problems, by offering new ways of livelihood.

Superstructure Superstructural elements were an outgrowth of those of the originating modes of production. There is no evidence that Chipewyans or Crees who committed to trapping changed their fundamental value systems in any significant way, or that they came to accept the legitimacy of lineal authority, whether by outsiders or their own members. Traders insinuated themselves into the relations of production by manipulating exchange relationships, not by imposing any measure of formal authority. However, more subtle changes may have resulted from the roles played by Métis and European employees in the fur trade relations of production. Especially in earlier days, they were often sent out to winter with Indian bands, to encourage production of furs and provisions and also to support themselves. As discussed above, many men married local women and began families. Fathers transmitted their values to their children, even when those children were raised in their mother's culture and with her cultural identity. These values may have supported an acceptance of trapping and trading as legitimate and worthy activities. Roman Catholic Métis and Protestant Scots also taught their families some aspects of their Christianity, paving the way for the Christian missionaries who would arrive in the mid 19th century (see Podruchny 2006). These men were a less formal but highly important influence in the relations of production.

CURRICULUM VITAE

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Current Adjunct Positions

Adjunct Professor, Comparative Literature Program
Office of Interdisciplinary Studies, Faculty of Arts,
University of Alberta

Adjunct Professor, Department of Human Ecology
Faculty of Agricultural, Life, and Environmental Sciences
University of Alberta

Adjunct Associate Professor, Canadian Circumpolar Institute
University of Alberta

Adjunct Researcher, Royal Alberta Museum

Education

- 1984 Ph.D. Department of Anthropology, University of Alberta
Thesis: "How the (North) West Was Won: Development and Underdevelopment in the Fort Chipewyan Region"
- 1975 M.A. Department of Anthropology, University of Alberta
Thesis: "A Model to Determine Possible Adaptive Strategies for the Aboriginal Treeline Dene"
- 1969 B.A. (Honors) Department of Anthropology, University of Alberta
Thesis: "A Colonial Factory: Fort Chipewyan"

Skills Overview

1. *Subject interests*
 - North American Aboriginal peoples: Aboriginal and traditional cultures and identities, cultural suppression and racism, cultural transformation/renewal, modern cultures
 - Subarctic and Canadian North, northwestern Plains
 - Canadian fur trade and Scottish workers; cultures and histories of Orkney and Lewis
 - Canadian history: expansion of the state and internal colonialism; political economy
 - Ethnohistory
 - Oral traditions and indigenous knowledge
 - Genealogy and kinship, social structure
 - Material culture, museology, repatriation
 - Discourse and representation
 - Gender relations
2. *Research process and outcomes*
 - Community-based research and partnership projects
 - Archival and museum-based research
 - Expert reports and courtroom testimony
 - Research ethics
3. *Education*
 - Adult education; course design and instruction
 - Evaluation of students
4. *Administration*
 - Participation on university, government, and interagency committees
 - Budget preparation and management
 - Hiring, management, and evaluation of personnel
 - Volunteer recruitment and management
 - Conference planning
5. *Heritage and museums programs*
 - Heritage preservation and interpretation; cultural resource management
 - Material culture research and collecting; collections management and conservation

- Exhibit development
 - Public programming
6. *Media and public relations*
- Radio and T.V. experience
 - Public speaking to diverse audiences

Awards

Scholarly Awards

2012 *Recollecting: Lives of Aboriginal Women of the Canadian Northwest and Borderlands* (AU Press, 2011) was awarded the Canadian Historical Association prize for the best Aboriginal book in 2011 and the 2011 Best Scholarly and Academic Book of the Year by the Book Publishers Association of Alberta.

1993 Fellow of the American Anthropological Association

1969 Woodrow Wilson Fellowship

Public Awards

1993 Fort Chipewyan Historical Society, Lifetime Membership

1983 Yukon Historical and Museums Association, Honorary Life Membership

Grants

Research Grants

1998 University of Alberta: EEF Support for the Advancement of Scholarship Operating Grant (Small Faculties Research Grants Program), for "The Making of Modern Fort Chipewyan, a Contemporary Native Community," \$4,998.00.
13 May 1998.

Alberta Historical Resources Foundation, for "The Making of Modern Fort Chipewyan, a Contemporary Native Community," \$8,000.00.
18 December 1998.

1996 University of Alberta: Central Research Fund Operating Grant for "Blackfoot Traditions Project," \$4,755.00.

- 1989 Wenner-Gren Grant-in-Aid for "The Orcadian/Scottish Roots of Canadian Native Cultures: An Ethnohistorical Study," \$8,000.00 US.
- 1987 Canadian Museums Association Short-Term Study Grant for "Fort Chipewyan Bicentennial Project: Research in British Collections," \$1,000.00.
- 1985 Boreal Institute Research Grant for "The Fort Chipewyan Fur Trade Fort Chipewyan, Alberta," \$4,552.50
- 1975 Boreal Institute Research Grant for "Native Uses of Fire in the Lake Athabasca Region"
- 1970, 1974-1977 University of Alberta Summer Bursaries

Travel Grants

- 2006 EFF Support for the Advancement of Scholarship, Travel Grant, to present a paper at the 9th North American Fur Trade Conference and 12th Rupert's Land Colloquium, St. Louis, Mo., 24-28, 2006. Grant #A026663 for \$2,000.00 awarded 9 May 2006.
- 2004 EFF Support for the Advancement of Scholarship (Small Faculties), Travel Grant, to present a paper at the 11th Rupert's Land Colloquium 2004, 24-31 May 2004, Kenora, Ontario. Grant #A017639 for \$1,404.00 awarded 27 April 2004.
- 2003 HFASSR Humanities, Fine Arts and Social Sciences Research Travel Grant, to present a paper at the American Society for Ethnohistory Annual Meeting, 5-9 Nov. 2003, Riverside, California. Grant #A014704 for \$800.00 awarded 22 Sept. 2003.
- 2002 UFASSR Humanities, Fine Arts and Social Sciences Research Travel Grant to present a paper at the Rupert's Land Research Centre Colloquium, 9-12 April 2002, Oxford, England. Grant #G124120491 for \$1,200.00 awarded 10 January 2002.
- 2001 EFF Support for the Advancement of Scholarship (Small Faculties) grant to present a paper at the 100th Annual Meeting of the American Anthropological Session, 28 Nov. - 2 Dec. 2001, Washington, D.C. Grant #G018000417 for \$1,737.889 awarded 10 May 2001.
- 2000 SSR Conference Travel Fund grant to present a paper at "Nation Building," British

Association for Canadian Studies 25th Annual Conference, 11-14 April 2000, University of Edinburgh, Scotland. Grant #G124120312 for \$1,200.00 awarded 12 April 2000.

- 1997 Central Research Fund grant to present a paper at *The Fur Trade Era: The Influence of the Rocky Mountain Fur Trade on the Development of the American West*, Museum of the Mountain Man, 11-13 Sept. 1997, Pinedale, Wyoming.
- 1996 CRF grant to present a paper at the *Sacred Lands* conference, 24-26 Oct. 1996, Winnipeg, Manitoba.
- 1995 CRF travel grant to present a paper at the Rupert's Land Research Centre Colloquium, 1-4 June 1996, Whitehorse, Yukon.
- 1994 CRF travel grant to present a paper at the Western History Association 34th Annual Conference, 19-24 Oct. 1994, Albuquerque, New Mexico.

Employment & Research

- 2012-2015 Part-time appointment at the Faculty of Native Studies, University of Alberta
- 2011-2012 Professor, Faculty of Native Studies, University of Alberta, awarded 17 Feb. 2011 (retired 30 June 2012)
- 1998-2011 Associate Professor; tenure and promotion to Associate Professor, awarded December 1997
- 1994-98 Assistant Professor, School of Native Studies, University of Alberta
Position involved research into Aboriginal cultures, histories, and identities and dissemination of scholarship through publications of various kinds (especially peer-reviewed); development of courses with an emphasis on Aboriginal perspectives and instruction to Aboriginal and non-Aboriginal students; professional contributions; university and community service.

Current research: A primary focus is a broad research program designed to study the transformation of the cultures, identities, social structures, lifeways, and material cultures of the Aboriginal peoples of northwestern Canada, with particular reference to Chipewyans, Crees, Scots-Métis, and French-Métis. Major projects underway include: "Fort Chipewyan and the Shaping of Canadian History," with one book in press and a second in revision; a book about Thanadelthur and the early fur trade on the west coast of Hudson Bay; Chipewyan and Cree occupations of the western Lake Athabasca region, and a transatlantic study of Orcadian/Lewis connections to Canadian Native peoples and cultures.

A secondary focus is research into traditional Blackfoot culture and history (northwestern Plains) and contemporary cultural revitalization/redefinition, its material aspects and representation in museum collections and interpretation, and the meanings of repatriation. The "Blackfoot Traditions Research Program" includes two major components: the history of Blackfoot ranching and the revitalization of Blackfoot religious traditions. The continued importance of horses is a thread that connects both projects and also relates to my personal life.

Artifact collection: I have developed and continue to build a personal collection of artifacts with two dimensions: stereotypes about Aboriginal people and contemporary Aboriginal iconography.

Adjunct Positions

- 2010-2013 Adjunct Professor, Comparative Literature Program, Office of Interdisciplinary Studies, Faculty of Arts, University of Alberta. 1 Jan. 2010-31 Dec. 2014.
- 1996-present: Curator, University of Alberta Art and Artifact (Ethnographic) Collection (six Ethnology Collections: Edwards/Scully, Smith, Lord, Mason, Molly Cork Congo Collection). Part of the Multi-MIMSY Users' Group (computer-based collections database).
- 1995-present: Research Associate, Royal Alberta Museum (formerly, Provincial Museum of Alberta)
- 1990-present: Adjunct Associate Professor, Canadian Circumpolar Institute, University Alberta
- Adjunct Professor, Department of Human Ecology, Faculty of Agricultural, Life, and Environmental Sciences, University of Alberta
- 1992-98 Adjunct Professor, Dept. of Anthropology
- 1991-95 Associate Curator of Ethnology, Glenbow Museum
- 1988-90 Adjunct Researcher, Boreal Institute for Northern Studies, University of Alberta

Other Professional Employment

- 2012 For Fort McKay First Nation, represented by Karin Buss (Ackroyd, Piasta, Roth & Day): an expert report about Treaty No. 8. In preparation.

For Athabasca Chipewyan First Nation and Mikisew Cree First Nation, represented by Jay Nelson (Woodward & Company Lawyers): a review of a cultural assessment of the Jackpine Mine Expansion Project prepared by Golder Associates and preparation of a critique for submission to the Review Panel.

2011 For Athabasca Chipewyan First Nation, represented by Jay Nelson and Sean Nixon (Woodward & Company Lawyers): an expert report relating to ethnohistorical issues for submission to the hearing for Shell's proposed Jackpine Mine Expansion and new Pierre River Mine, two oil sands projects (183 pp.).

For North Slave Métis Alliance, represented by Christopher G. Devlin (Devlin Gailus, Victoria): an expert report about the ethnogenesis of the northern Métis of the Great Slave Lake area (58 pp.).

2010 For Mikisew Cree First Nation, represented by Janes Freedman Kyle Law Corporation (Vancouver & Victoria): an expert report relating to ethnohistorical issues with special reference to Treaty No. 8 and traditional territory, for a submission to the Joslyn North Mine Project Hearing, a tar sands project (88 pp.).

For a Fort Nelson First Nation family, represented by Karey M. Brooks (Janes Freedman Kyle Law Corporation, Vancouver): an expert report relating to ethnohistorical and Treaty No. 8 issues (135 pp.), along with an annotated bibliography.

2007 For Mikisew Cree First Nation, represented by Peter McMahon (Rath & Company, Calgary): genealogical consultation regarding a Treaty Eight claim, used in "Report on the Southern Territory Use and Occupancy Mapping Project," prepared for MCFN by PACTeam Canada Inc., Sept. 2007.

2005 For Siksika Nation, represented by Clayton Leonard (MacPherson Leslie & Tyerman, Calgary): a report about historic Blackfoot territories (52 pp.).

2004 For Mikisew Cree First Nation, represented by Peter C. Graburn (Rath & Company, Calgary): an economic history of the First Nation in connection with a Treaty Eight claim (124 pp.).

- 2003-2006 For Big Island Lake Cree Nation, Saskatchewan, represented by James Jodouin (Woloshyn & Company, Saskatoon): research in connection with a Treaty Six claim.
- 1999-2002 For Treaty 8 First Nations (Akaitcho Tribal Council, Lesser Slave Lake Indian Regional Council, Athabasca Tribal Council, Kee Tas Kee Now Tribal Council), represented by Karin Ross and Elizabeth Johnson (Ackroyd, Piasta, Roth & Day, Edmonton): research about what Aboriginal peoples in the Treaty 8 region may have known about taxation when they negotiated the treaty in 1899 and 1900. In collaboration with Gordon Drever, prepared an expert report (30 April 1999; 63 pp.) and a rebuttal report (20 March 2001; 61 pp.). Served as an expert witness, summer, 2001, and advised the lawyers about cross-examination of defense witnesses. Subsequently organized a conference session that included expert witnesses and lawyers from both plaintiffs and defense.
- 1999-present: Appraisals of Native artifacts for various clients (e.g., University of Alberta, Royal Alberta Museum, Northern Cultural Arts Museum, Motor Association Insurance Company, private individuals)
- 1998 For Smith's Landing First Nation, represented by Jerome Slavik (Ackroyd, Piasta, Roth & Day, Edmonton): a report on the economic history of Smith's Landing/Fort Fitzgerald for its use in a Treaty Eight claim (40 pp.).
- 1997 For the Métis Heritage Association of the Northwest Territories: a chapter about the history of northern Métis in relation to Treaties No. 8 and No. 11 and scrip for a book on Métis of the Mackenzie Basin.
- For the Provincial Museum of Alberta: wrote the script for two units of the new Gallery of Aboriginal Peoples dealing with contemporary economic ventures and political activities.
- 1996-98 For Little Red River Cree Nation and Tallcree First Nation: Project Director, Cultural Resource Inventory Project. Designed project, provided training to members of four research teams (1996) and one research team (1997), and supervised the teams as they researched places of cultural significance in the traditional lands of these two First Nations. Prepared regular reports for Chiefs and Councils. Contributed to development of project software (LightHouse) and user manual and coordinated with a parallel Biophysical Inventory Project. Participated as requested in meetings with the two First Nations.

1996 For Treaty Land Entitlement, Indian and Northern Affairs Canada: a confidential report on a northern claim that consisted of an historical analysis (57 pp.) and an annotated bibliography.

1984-94 Curator of Ethnology at the Provincial Museum of Alberta (now the Royal Alberta Museum)

Administered the Ethnology Program, a sub-unit of the museum, which involved program and policy development, budget planning and management, and personnel recruitment and management. Program activities focused on the curation of a large collection of material culture of the Aboriginal peoples of Alberta and other regions (First Nations, Métis, Inuit), documentation of Aboriginal cultures and lifeways through field and archival investigations and collection of additional artifacts, interpretation through publications, exhibits, and public programs, and cooperation with a wide range of client groups. Program responsibility was for the entire province and related regions (primarily the western Subarctic, northern Plains, and Canadian Arctic). Collecting activities emphasized contemporary materials with good documentation, although older artifacts were also acquired.

Research: Conducted research at Fort Chipewyan, Janvier, Sucker Creek, Saddle Lake, Kehewin, Blood Reserve, Peigan Reserve, Poorman Reserve, and in Scotland, especially the Orkney Islands and the Outer Hebrides. Museum and archival collections were studied in the United States, Canada, and Britain.

Major project: Initiated, coordinated, and conducted research for a special project to commemorate the Fort Chipewyan Bicentennial with a major in-house exhibit, travelling exhibit, exhibit catalogue, conference, and public programming. Served on two committees, one to plan the conference and publish proceedings and a book of referred papers, and the second to administer a special research fund for scholarly research in the Fort Chipewyan and Fort Vermilion regions. Participated in extensive fund-raising and coordinated activities with Fort Chipewyan residents. Co-edited conference proceedings (1990) and a book of refereed papers (1993). In 1993 was awarded a lifetime membership in the Fort Chipewyan Historical Society in recognition of work researching and promoting the heritage of the community.

1984 For the Friends of Jezebel, a society organized to promote tolerance and understanding of prostitutes in Edmonton: developed a research proposal on the "sex industry" in Edmonton

1983 For the Yukon Native Languages Project: prepared community study kits for Pelly Crossing, Carmacks, Burwash Landing, Destruction Bay.

1980-83 For CBC:commentaries for national and regional programs on Native and northern affairs.

- 1982 For CBC: "Homeland": 12 episode series tracing the development of the concept of Aboriginal rights and land claims in Canada. Taped for CBC Radio (Whitehorse) with broadcaster Neil Ford.
- 1982 For Athabasca University: developed a draft correspondence course, "Contemporary Native Issues."
- 1981-82 For the Yukon Educational Television Society: prepared briefs on three Yukon historical figures (Leroy Napoleon "Jack" McQuesten, William Ogilvie, and Skookum Jim, or Keish) as background information for three episodes of *The Yukoners*, a series of videotaped interviews between CBC broadcaster Neil Ford and the historical figure, played by a local actor.
- 1980-81 For Council for Yukon Indians: researcher-consultant to oral history program. Assisted in coordinating an oral history workshop for Native researchers (1981).
- 1979-80 For the Yukon Native Brotherhood and the University of British Columbia: developed a "Yukon Studies" course outline, which entailed a survey of literature related to all aspects of the Yukon's history and socioeconomic development. The commentary provides an overview of Yukon social, economic, political, and constitutional history, with an annotated bibliography of nearly 500 sources.
- 1975-76 For the Department of Anthropology, University of Alberta: General Editor of *The Western Canadian Journal of Anthropology*, a quarterly professional journal. Solicited manuscripts, edited and published several special issues as well as general issues
- 1971 For Keith Crowe, DIAND: research to support a history of northern Native Canadians. Included library research and fieldwork in communities in the Great Slave Lake and upper MacKenzie regions.

Expert Witness

On-going advice provided to lawyers in Alberta and Saskatchewan regarding Native cultures, lifeways, and histories related to the First Nations and Métis peoples of the Treaties No. 6, 7, 8, and 11 regions, and to alleged offenses under fisheries and wildlife legislation.

Qualified as an expert witness in the following trials and hearings:

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|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1986 | Expert witness by way of Affidavit, in <i>The Queen and John Piche</i> . |
| 20 Jan. 1986 | <i>R. vs. Donald Harvey et al.</i> (Sturgeon Lake First Nation). Fishing regulations violation. |
| 12 May 1986 | <i>R. v. Joe Desjarlais, William Durocher, and Dorothy Durocher</i> (Fishing Lake Metis Settlement). Fishing regulations violation. |
| 9 Sept. 1987 | <i>R. v. Walter Janvier and R. v. John Cardinal</i> (Janvier First Nation). Fishing regulations violation. |
| 14 Oct. 1988 | <i>R. v. Vic Machatis</i> (Cold Lake First Nation). Fishing regulations violation. |
| 2-5 Dec. 1991 | <i>R. v. Ernest Wolf</i> (Onion Lake First Nation). Hunting regulations violation. |
| 10-11 Sept. 1992 | <i>R. vs. Larry Littlewolfe</i> (Onion Lake First Nation). Hunting regulations violation. |
| 8 Feb. 1995 | <i>R. v. Angelique Janvier</i> (Cold Lake First Nation). Hunting regulations violation. |
| 16 Sept. 1996 | <i>R. v. Hazel Jacko et al. and R. v. Jobby Metchewais et al.</i> (Cold Lake First Nation). Fishing regulations violation. |
| Summer 1997 | Appeared in Edmonton, before Judge Meuwissen, with the U.S. Department of the Interior, in connection with the U.S. White Earth Lands Settlement Act. |
| 23 May 2001 | <i>Benoit et al. v. the Queen</i> (Treaty No. 8 First Nations). Treaty Eight litigation in federal court. Justice Douglas Campbell. |
| 12 May 2005 | <i>Brett Janvier v. the Queen</i> (Cold Lake First Nation). Fishing regulations violation. Judge Wheatley. |
| 29 Sept. 2009 | <i>Betty Woodward and Mickey Cockerill and Harry Cockerill vs. Chief and Council of the Fort McMurray No. 268 First Nation</i> (Treaty 8 First Nation). Judicial review of two cases heard concurrently concerning band membership. Federal Court Justice O'Reilly. |

Early Research and Other Activities

- 1978 Archival investigations in Edmonton (Provincial Archives), Ottawa (Public Archives of Canada), and Fort Smith (Archives of the Oblates of Mary Immaculate; Archives of the Bishop)
- 1977-78 Community research in Fort Chipewyan, Alberta
- 1975-76 Fieldwork on Native uses of fire as an habitat management tool in the Lake Athabasca region (Fort Chipewyan and Black Lake).
- 1970 Research in the Hudson's Bay Company archival collection in the Public Archives of Canada, Ottawa
- 1968 Alberta Service Corps, Fort Chipewyan, Alberta: conducted community service projects.
- 1967 Ward Aide, Charles Camsell Hospital, Edmonton, Alberta.
- 1966 Nurse Aide, Delaware General Hospital, Wilmington, Delaware.

University Administration and Service

University Committees

- 2012 Member of the University Writing Committee
- 2011-13 Member of the Panel of Chairs of the University Appeal Board (1 July 2011-30 June 2013)
- 2009-12 General Faculties Council representative for the Faculty of Native Studies (24 Nov. 2009-30 June 2012)
- 2009 Association for Academic Staff, University of Alberta representative for faculty members at the Faculty of Native Studies
- 2005-11 Faculty member on GFC Academic Appeals Committee
- 2001-09 University Committee on Human Research Ethics (UCHRE)

2003-present	Council for the Interdisciplinary Program in Religious Studies (formerly, Religious Studies Advisory Council), University of Alberta
1997-present	Multi MIMSY Users' Group (University curators)
2003-04	General Faculties Council representative for the School of Native Studies
2003-04	Henry Marshall Tory Selection Committee
2002-03, 1997	Selection Committees, Director of the School of Native Studies
2003-06, 1997-2000	Association for Academic Staff, University of Alberta, for faculty members at the School of Native Studies
1995-98	General Faculties Council Special Sessions Committee, University of Alberta, 1 July 1995 - 30 June 1998

Faculty of Native Studies

2011-12	Member, Faculty Evaluation Committee
2009-12	AASUA representative
2009-12	Member, Academic Affairs Committee
2010	Member, Budget Benchmarks Working Group
2006-09	Chair, Faculty Evaluation Committee
2007-09	Ad hoc Curriculum Review Committee
2007-08	Ad hoc committee to coordinate NS210 and NS211
2006-present	Research Methods and Theory Undergraduate Curriculum Working Group
2003-2007	Acting Dean in the Dean's absence, upon request (originally appointed 3 Dec.2003), until Associate Deans appointed
1996-99, 2003-04	Selection Committees for faculty positions

1994-present	Faculty of Native Studies Council
1999-2006, 2007-09	Chair, Research Ethics Board
2007	Member, Research Ethics Board
1996-2000	School of Native Studies Executive Committee
1997-99	Committee on Retention and Support

Other University Involvement

1990 Department of Textiles and Clothing, University of Alberta: participated in developing new departmental material cultural focus

Teaching Positions

University of Alberta

2012-2015 Part-time appointment, Faculty of Native Studies, University of Alberta
 2011-2012 Professor, Faculty of Native Studies, University of Alberta
 1998-2011 Associate Professor, Faculty of Native Studies, University of Alberta
 1994-1997 Assistant Professor, School of Native Studies, University of Alberta
 1972-76, 1978, 1984-89, 1993, 1994 Sessional Lecturer/Instructor
 (Anthropology, Canadian Studies, Geography)

Sessional Lecturer/Instructor: other institutions

1993 University of Idaho
 1984 Grant MacEwan Community College at Alexis Reserve
 1979-83 Yukon Campus, Whitehorse, for the University of British Columbia (from 1979-81, Yukon Teacher Education Program)
 1979, 1983 Athabasca University at Blue Quills Native Education Centre, St. Paul, Alberta

Graduate Teaching Assistantships

1970-71, 1973-75 Department of Anthropology, University of Alberta

For Parks Canada

1995 Developed and delivered a curriculum package on "Partnerships and the Parks Canada Cultural Resource Management Policy" for a Cultural Resource Management Orientation Course, held in Haines Junction, Yukon, 19-21 Oct. 1995.

For the Alberta Government

1993 Insights toward Understanding Contemporary Aboriginal Cultures. Developed with Art Sciorra for instruction to forestry service staff from Alberta, B.C., and the N.W.T., at the Forest Technology School, Hinton, Alberta, 25 October 1993.

Understanding Contemporary Aboriginal Issues and Working with Aboriginal Cultures and Communities. Developed with Art Sciorra for instruction to senior managers, Department of Environmental Protection, Lands and Wildlife Division, 13-14 May 1993.

Courses Offered

An asterisk [*] denotes the development of a new course.

University of Alberta

Faculty of Native Studies

- 100 Introduction to Native Studies
- 110 Historical Perspectives in Native Studies
- 210 Native Issues and Insights I (Issues in Native History)
- 300* Traditional Cultural Foundations I
- 330* Native Economic Development
- 335* Native People and the Fur Trade
- 355* Oral Traditions and Indigenous Knowledge
- 361* Challenging Racism and Stereotypes
- 376* Native Demography and Disease
- 380* Selected Topics in Native Studies
 - Oral Traditions and Indigenous Knowledge (became NS355)
 - Traditional Cultural Foundations (became NS300 and paved the way for NS361)
 - Native Material Culture
 - Challenging Racism and Stereotypes (became NS361)
- 390 Community Research Methods
- 390* Research Methods in Native Studies (new course in 2008)
- 400* Traditional Cultural Foundations II
- 403* Selected Topics in Native Studies
 - Aboriginal Origins; Traditional Cultural Foundations II (became NS400)
 - Native Demography and Disease (became NS376)
 - Alternative Voices: Reading Narratives of Contact (also offered as NS503)
- 480* Métis/Indian/Inuit Issues Seminar: Treaty No. 8 and Métis Scrip (1999)
- 490* Community-Based Research
- 499* Research Project

- 503 Directed Readings in Native Studies
- 520* Honors Seminar

Anthropology

- 202 Man and Culture
- 210* Sex, Society, and the Individual
- 282* Canadian Issues in Ethnographic Perspective
- 306 Introduction to Prehistory
- 346 Circumpolar Peoples
- 350 North American Indians
- 355 Contemporary Canadian Indians
- 410* Sex and Status in Comparative Perspective

Canadian Studies

- 402* Canada's North: The Human Dimension
- 302* Canada's North: The Human Dimension

Geography

- 446 Northern Human Geography

Human Ecology

- 238 Material Culture

University of Idaho

History 404-504: Anthropologist on teaching team for a course about Chief Joseph and the Nez Perce War

University of British Columbia (in Whitehorse, at Yukon College)

- Anthro/Soc 100* : Elementary Problems in Anthropological and Sociological Analysis
- 200* Introduction to Social Organization
- 201* Ethnic Relations
- 329* Indians and Eskimos of Canada

Athabasca University

- Anthro 207 Introductory Anthropology
- 326* Contemporary Native Issues

Graduate and Honours Supervision

Graduate Supervision

University of Alberta: The Faculty of Native Studies has just begun a M.A. program, with the first students accepted for fall 2012. However, I have been formally involved with 18 graduate students at the University of Alberta, 8 at the Ph.D. level and 10 at the Master's level, serving on supervisory committees and as an external examiner for candidacy exams and dissertation defenses in the following faculties (departments in parentheses): Agriculture, Forestry, and Home Economics (Human Ecology), Arts (Anthropology, Comparative Literature, English, History, Human Geography, Political Science), Education (Educational Policy Studies), Physical Education and Recreation (Recreation, Sport, and Tourism), Science (Biology), and Business.

External committee member for: M.A. in Design at the University of Calgary

External examiner for:

- M.A. defense in Anthropology at the University of Lethbridge
- Ph.D. defense in History at Carleton University
- Ph.D. defense in History at the University of Manitoba

Honours Supervision

1998-99 The School of Native Studies initiated an Honours Program and accepted its first honors students - a class of four - in September 1998. I supervised the first year of this program and developed a draft Honours Program guide.

1998-2010 NS Honours student supervision (11 in total)

2002-03 Supervised one honours student for the Department of Anthropology

Publications, Exhibits, Papers, Conference Development

Refereed Publications

2012 "A world we have lost": the plural society of Fort Chipewyan. *In* Robin Jarvis Brownlie and Valerie J. Korinek, eds., *Finding a Way to the Heart. Feminist Writings on Aboriginal and Women's History in Canada*. Pp. 146-169. Winnipeg, MB: University of Manitoba Press.

2011 *Recollecting: Lives of Aboriginal Women of the Canadian Northwest and the U.S. Borderlands*. Edited jointly with Sarah Carter, with a jointly written introduction, "Lifelines," (pp. 5-25). Athabasca, AB: Athabasca University Press. Includes

- my own article: "Lost women: Native wives in Orkney and Lewis" (pp. 61-88). Awarded the Canadian Historical Association prize for the best Aboriginal book in 2011 and the 2011 Best Scholarly and Academic Book of the Year by the Book Publishers Association of Alberta. Short listed for the 2011 Margaret McWilliams Award in Scholarly History (Manitoba Historical Society).
- 2010 *Fort Chipewyan and the Shaping of Canadian History, 1788-1920s: We like to be free in this country.* Vancouver: UBC Press.
- 2007 Visioning Thanadelthur: shaping a Canadian icon. *Manitoba History*. No. 55:2-6. June 2007.
- 2005 Competing narratives: barriers between Indigenous peoples and the Canadian state. In Duane Champagne, Karen Jo Torjesen, and Susan Steiner, eds., *Indigenous Peoples and the Modern State*. Pp. 109-120. Walnut Creek, Calif.: AltaMira Press.
- 2003 The many faces of Thanadelthur: documents, stories, and images. In Jennifer S. H. Brown and Elizabeth Vibert, eds., *Reading Beyond Words: Contexts for Native History*. 2nd ed. Pp. 329-364. Peterborough, Ont.: Broadview Press.
- 2000 Overcoming the differences of treaty and scrip: the Community Development Program in Fort Chipewyan. In Duff Crerar and Jaroslav Petryshyn, eds., *Treaty 8 Revisited: Selected Papers on the 1999 Centennial Conference*. *Lobstick*. 1(1):277-295.
- 1999 *Securing Northern Futures: Developing Research Partnerships*. Co-editor with D. Wall, M.M.R. Freeman, M. Payne, E. E. Wein, and R. W. Wein. Edmonton: Canadian Circumpolar Institute Press, University of Alberta.
- 1998 Native homelands as cultural landscapes: decentering the wilderness paradigm. In Jill Oakes, Rick Riewe, and Kathi Kinew, eds., *Sacred Lands: Claims, Conflicts and Resolutions*. Pp. 25-32. Occasional Publication No. 43. Edmonton: Canadian Circumpolar Institute, University of Alberta.
- Northern Métis and the treaties. In *Picking Up the Threads; Métis History in the Mackenzie Basin*. Pp. 171-201. Yellowknife, Métis Heritage Association of the Northwest Territories.
- 1996 The Canol project at Fort Chipewyan. In Bob Hesketh, ed., *Three Northern Wartime Projects*. Pp. 183-199. CCI Occasional Publication No. 38. Edmonton: Canadian Circumpolar Institute, University of Alberta, and Edmonton & District Historical Society.
- 1994 Linking bush and town: the mixed economy of the Aboriginal peoples of Fort

- Chipewyan. In *Proceedings of the 8th International Abashiri Symposium on Peoples and Cultures of the Boreal Forest*. Pp. 21-33. Hokkaido Museum of Northern Peoples, Abashiri City, Hokkaido, Japan.
- 1993 Romancing the northwest as prescriptive history: Fort Chipewyan and the northern expansion of the Canadian state. In Patricia A. McCormack and R. Geoffrey Ironside, eds., *The Uncovered Past: Roots of Northern Alberta Societies*. Pp. 89-104. Circumpolar Research Series No. 3. Edmonton: Canadian Circumpolar Institute, University of Alberta.
- Co-editor with R. Geoffrey Ironside. *The Uncovered Past: Roots of Northern Alberta Societies*. Includes the "Introduction" and "Conclusion." Circumpolar Research Series No. 3. Edmonton: Canadian Circumpolar Institute, University of Alberta.
- Images of the buffalo in the collection of the Provincial Museum of Alberta. *Alberta*. 3(2):37-43. With Ruth McConnell.
- 1992 The political economy of bison management in Wood Buffalo National Park. *Arctic*. 45(4):367-380. Nominated for the Eleanor B. Leacock award.
- The Ethnology Oblate Collection at the Provincial Museum of Alberta. *Western Oblate Studies* 2. Pp. 231-236. Queenston, Ont.: The Edwin Mellen Press. With Ruth McConnell.
- Editor: *Prairie Forum*. Vol. 17, no. 2. Special issue on Aboriginal peoples.
- 1991 "That's a piece of junk": issues in contemporary subarctic collecting. *Arctic Anthropology*. 28(1):124-137.
- 1989 Chipewyans turn Cree: governmental and structural factors in ethnic processes. In K. S. Coates and W. R. Morrison, eds., *For Purposes of Dominion: Essays in Honour of Morris Zaslow*. Pp. 125-138. North York, Ont.: Captus Press.
- Working with the community: a dialectical approach to exhibit development. *Alberta Museums Review*. 14(2):4-8.
- 1987 Fort Chipewyan and the Great Depression. *Canadian Issues*. 8:69-92.
- 1986 The Yukon. In R.B. Byers, ed., *Canadian Annual Review of Politics and Public Affairs 1983*. Toronto: University of Toronto Press.
- 1985 The Yukon. In R.B. Byers, ed., *Canadian Annual Review of Politics and Public Affairs 1982*. Toronto: University of Toronto Press.
- 1984 Becoming trappers: the transformation to a fur trade mode of production at Fort

Chipewyan. In *Rendezvous, Selected Papers of the Fourth North American Fur Trade Conference, 1981*. Pp. 155-173. St. Paul, Minnesota: North American Fur Trade Conference.

Accepted (refereed)

Evolving accommodations: the sled dog in the Canadian fur trade. For publication at the Université de Valenciennes, France.

In Preparation (will be refereed)

Deconstructing Canadian subarctic grasslands.

Transatlantic rhythms: To the far Nor'Wast and back again. Submitted for a book to be published by McGill-Queen's Press.

Other Publications (non-refereed)

- 2010 Popularizing contact: Thanadelthur, the Sacagawea of the North. *In Papers of the Rupert's Land Colloquium 2010*. Pp. 409-416. Compiled by David Malaher; edited by Anne Lindsay and Jennifer Ching. Winnipeg: The Centre for Rupert's Land Studies at the University of Winnipeg.
- 2004 Telling the story of Canada: the roles of the fur trade. *In Selected Papers of Rupert's Land Colloquium 2004*. David G. Malaher, compiler. Pp. 473-482. Winnipeg: Centre for Rupert's Land Studies, University of Winnipeg.
- 2002 Introduction: "A promise by any other name...." Treaty No. 8 and taxation. P. 283. With Gordon Drever. Imposing tax: taxation in the Northwest Territories and Aboriginal fears in the Treaty Eight region. *In David G. Malaher, compiler, Selected Papers of Rupert's Land Colloquium 2002*. Pp. 309-315. Winnipeg: Centre for Rupert's Land Studies, University of Winnipeg.
- 2001 Genealogical studies in community-based research. Proceedings, Canadian Indigenous/Native Studies Association Annual Conference. CD ROM.
- 1996 The Athabasca influenza epidemic of 1835. *Issues in the North*. CCI Occasional Publication No. 40. Pp. 33-42. Edmonton: Canadian Circumpolar Institute, University of Alberta.
- 1995 Revision of the entry on "Chipewyan" for the *Canadian Encyclopedia*, originally written by James G. E. Smith (deceased); revised version carries both names as co-authors.
- 1993 Living Cultures: The Aboriginal Peoples of Alberta. Exhibit catalogue. Hokkaido, Japan: Historical Museum of Hokkaido.

Editor: *Soapstone and Seedbeads: Arts and Crafts at the Charles Camshell Hospital*, by Annalisa Staples and Ruth McConnell. Provincial Museum of Alberta Special Publication No. 7. Edmonton: Provincial Museum of Alberta.

- 1990 Government comes to Fort Chipewyan: expansion of the state into the heart of the fur trade country. *In* Patricia A. McCormack and R. Geoffrey Ironside, eds., *Fort Chipewyan-Fort Vermilion Bicentennial Conference Proceedings*. Pp. 133-137. Edmonton: Boreal Institute for Northern Studies.

Co-editor with R. Geoffrey Ironside. *Proceedings of the Fort Chipewyan and Fort Vermilion Bicentennial Conference*. Edmonton: Boreal Institute for Northern Studies.

A survey of the Scriver Blackfoot collection. *In* Philip H. R. Stepney and David J. Goa, eds., *The Scriver Blackfoot Collection: Repatriation of Canada's Heritage*. Pp. 105-134. Edmonton: Provincial Museum of Alberta. With Karen Robbins.

- 1988 *Northwind Dreaming: Fort Chipewyan 1788-1988*. Exhibit catalogue. Provincial Museum of Alberta Special Publication No. 6. Edmonton: Provincial Museum of Alberta.

1981-82 Newsletters of the Yukon Historical and Museums Association, nos. 8-11.

- 1977 Introduction. *The Western Canadian Journal of Anthropology*. 7(1):1-14. Special issue: *Environmental Manipulation*, P. McCormack, ed.

- 1976 Introduction. *The Western Canadian Journal of Anthropology*. 6(3):1-7. Special issue: *Native Peoples: Cross-Sex Relations*, P. McCormack, ed.

"Big Man" on the steppes: social causes for economic transformations. Abstract in the AMQUA Fourth Biennial Conference abstract Volume.

- 1975 A theoretical approach to northeastern Dene archaeology. *The Western Canadian Journal of Anthropology*. 5(3,4):187-229. Special issue: *Athapaskan Archaeology*, D. Hudson and D. Derry, eds.

Book and Film Reviews

- 2011-12 Ron Scollon, *This is What They Say*. Stories by François Mandeville. Vancouver: Douglas & McIntyre, 2009. *BC Studies*. No. 172:136-37. Winter 2011-12.

- 2006 Betty Bastien, *Blackfoot Ways of Knowing: The Worldview of the Siksikaitstapi*. Calgary, Alberta, University of Calgary Press, 2004. *Great Plains Quarterly*. 26(2):134-5.

- 2004 Celeste Ray, *Highland Heritage. Scottish Americans in the American South*. Chapel Hill, North Carolina: University of North Carolina Press, 2001. *American Anthropologist*. 106(3):631-2.
- 1998 Flora Beardy and Robert Coutts, editors and compilers, *Voices from Hudson Bay. Cree Stories from York Factory*. Montreal and Kingston: McGill-Queen's University Press, 1996. Vol. 5 in the Rupert's Land Record Society Series. *Manitoba History*. No. 35 (Spring/Summer):25-26.
- Julie Cruikshank, *The Social Life of Stories. Narrative and Knowledge in the Yukon Territory*. Lincoln and London: University of Nebraska Press, 1998. *American Indian Quarterly*. 22(4):499-500.
- Katherine Pettipas, *Severing the Ties that Bind. Government Repression of Indigenous Religious Ceremonies on the Prairies*. Winnipeg: The University of Manitoba Press, 1994. *Canadian Ethnic Studies*. 30(2):161-2.
- 1997 Clark Wissler and D.C. Duvall, *Mythology of the Blackfoot Indians*. Introduction to the Bison Book Edition by Alice Beck Kehoe. Lincoln and London: University of Nebraska Press, 1995. *The Canadian Journal of Native Studies*.
- 1995 Kerry Abel, *Drum Songs: Glimpses of Dene History*. *The Canadian Journal of Native Studies*. 14(2):395-398.
- David V. Burley, John D. Brandon, and Gayle A. Horsfall, *Structural Considerations of Metis Ethnicity: An Archaeological, Architectural, and Historical Study*. *The Canadian Historical Review*. Pp. 692-694.
- Peter Iverson, *When Indians Became Cowboys: Native Peoples and Cattle Ranching in the American West*. *The Journal of American History*. 82(3):1239-1240.
- Jocelyn Riley, *Mountain Wolf Woman: 1884-1960 and Her Mother Before Her: Women's Stories of their Mothers and Grandmothers*. *The Public Historian*. With William R. Swagerty. 18(4):148-149. [Film review]
- 1994 Lynda Shorten, *Without Reserve*. *Great Plains Quarterly*. 14(3):221-2.
- Michael Ames, *Cannibal Tours and Glass Boxes. The Anthropology of Museums*. *Alberta Museums Review*. 20(2):42.
- 1993 Terry Garvin, *Bush Land People*. *Arctic*. Vol. 46, no. 4:367-8.
- James W. VanStone, *Material Culture of the Blackfoot (Blood) Indians of Southern Alberta*. *Museum Anthropology*. 17(3):72-73.

- 1992 Kerry Abel and Jean Friesen, eds., *Aboriginal Resource Use in Canada: Historical and Legal Aspects*. Manitoba History. No. 24:45-46.
- Arthur J. Ray, *The Canadian Fur Trade in the Industrial Age*. The Western Historical Quarterly. 25(2):237-239.
- 1986 *The Great Buffalo Saga*. The Canadian Field-Naturalist. 100(3):398-399.
[Film review]
- Robert G. McCandless, *Yukon Wildlife: A Social History*. Archivaria. 22:209-12.
- 1985 Julie Cruikshank, *The Stolen Woman: Female Journeys in Tagish and Tutchone Narrative*. The American Indian Quarterly. 9(1):115-6.
- Shepard Krech III, *The Subarctic Fur Trade: Native Social and Economic Adaptations*. Canadian Ethnic Studies. 17(3):135-137.
- 1982 Sylvia Van Kirk, *"Many Tender Ties": Women in Fur Trade Society, 1670-1870*. Resources for Feminist Research. 11(3):313.
- 1979 Rene Fumoleau, *As Long as this Land Shall Last*. Canadian Ethnic Studies. 11(1):174-175.

Exhibits

- 2001 Muse Project (with Lisa Barty). A teaching exhibit in the foyer of the Education Building featuring Blackfoot and Inuit artifacts. In cooperation with Museums and Collections Services. Designed by Kevin Zak and Bernd Hildebrandt.
- 1999 *Treaty No. 8 and the Northern Collecting of Dr. O. C. Edwards*
500 square foot centennial commemoration exhibit developed in cooperation with NS480 students. Designed by Bernd Hildebrandt. School of Native Studies and Museums and Collections Services, University of Alberta.
- 1997 Script for portions of *The Syncrude Gallery of Aboriginal Culture*, Provincial Museum of Alberta: "For Every Three Families, One Plow and One Harrow" (Native farming and ranching, with Rhonda Delorme) and units on Economic Ventures and Political Activity.
- 1994 Storyline for the ethnology portion of *The Syncrude Gallery of Aboriginal Culture: a new permanent gallery* (9,500 square feet). Developed with Ruth McConnell, Assistant Curator of Ethnology, in consultation with other museum staff and a Native Advisory Committee.
- 1993 *"In All their Finery": A Legacy from the Past*
1,000 square foot exhibit featuring aesthetically distinctive, older items made by

Aboriginal peoples of the northwestern Plains and western Subarctic; the first phase of a new permanent gallery. Designed by Bryan McMullen.

Aboriginal Peoples of Alberta

Large traveling exhibit and catalogue developed for the Historical Museum of Hokkaido. Designed by Virginia Penny.

- 1992 *Gateway from the North: The Charles Camsell Hospital Collection*
One case display featuring "arts and crafts" from the Camsell Collection (with catalogue); circulated to other venues in Edmonton 1992-93. Designed by Bill Gordon.
- 1990 *Kayasayawina Ka Wapahtihitohk: To Show the Old Things*
500 square foot exhibit of artifacts showing the diversity of the collection and of the Aboriginal peoples of Alberta. Designed by Paul Beier. (The exhibit became part of the Royal Alberta Museum *Syncrude Gallery of Aboriginal Culture*)
- Clothing of the Northern Plains*
Three-case display for Head-Smashed-In Historic Site. Designed by Bill Gordon.
- 1989 *Northwind Dreaming: Fort Chipewyan 1788-1988*
500 square foot traveling exhibit, for venues in Alberta, NWT, Yukon, B.C., Sask., and Manitoba, 1990-94. Designed by Vic Clapp.
- 1989 *Dr. Robert Bell: Geologist and Collection*
One case display.
- 1989 *Douglas Light Collection*
Temporary display prepared for the Alberta Historical Resources Foundation.
- 1988 *Northwind Dreaming: Fort Chipewyan 1788-1988*
3,000 square feet feature exhibit commemorating the bicentennial of the founding of Fort Chipewyan, Alberta's oldest, permanently occupied community, and celebrating the lives of the Indian, Métis, and non-Native peoples who have made their homes there for 200 years and longer. Developed in collaboration with community residents. Contained over 400 artifacts, many borrowed from collections in Canada, U.S., and Scotland. Designed by Vic Clapp.
- 1987 *Indian Tipis*
One case traveling display, for the library case circuit. Designed by Julian West.
- 1986 *Trapping in Transition: Native Trapping in Northern Alberta*
1,000 square feet exhibit depicting the roles of trapping in Aboriginal economies in northern Alberta in the years before World War II and in the present. Designed by

Shelby Craigen.

- 1985 *Rigging the Chiefs*
500 square feet exhibit depicting historical relations between Indians and non-Indians mediated through the giving of gifts. Cases show the fur trade, treaty, and modern eras. Designed by Julian West.
- Métis Artifacts* Temporary display.
- Native Games* One case traveling display, for the library case circuit.
- Indian Dolls* One case display.

Papers

- 2011 The invisible parkland: rethinking the plains and subarctic culture areas. Updated paper with PowerPoint slides presented at the Native American and Indigenous Studies Association, 19 - 21 May 2011, Sacramento, California.
- Defining the scope of assessment: traditional territories of indigenous people. Presented at the Impact Assessment International Association 2011 conference, Puebla, Mexico, 31 May - 3 June 2011 (with PowerPoint slides).
- Lewismen and Aboriginal people of the Canadian Northwest - the *Talamh Fuar*. Prepared for the Celts in the Americas Conference, 29 June - 2 July 2011, St. Francis Xavier University, Antigonish, Nova Scotia.
- 2010 Evolving accommodations: the sled dog in the Canadian fur trade. Revised from a paper presented in 2009 and presented as an invited luncheon talk at the Rupert's Land Colloquium, 19-22 May 2010, Winnipeg (estimated attendance: 130+).
- Popularizing contact: Thanadelthur, the Sacagawea of the north. Revised and presented in "Performances and Representations," at the 2010 Rupert's Land Colloquium, 19-22 May 2010, Winnipeg.
- Transatlantic rhythms: to the far Nor'Wast and back again. Invited keynote talk for an international conference sponsored by the University of Aberdeen, University of Guelph, and St. Michael's College. Held at the University of Toronto and University of Guelph, 10-12 June 2010.
- 2009 Ethical requirements: how far is too far? Going overboard to satisfy university risk management. Invited for "Practical Problems and Pragmatic Solutions in Conducting Ethical Research," sponsored by the Native History Group of the CHA, 88th Annual General Meeting, Canadian Historical Association, Ottawa, 25 May 2009.

Rethinking the Blackfoot and the fur trade of the northern Plains. Invited for the Fourth International Fur Trade Symposium, Fort Whoop-Up National Historic Site, Lethbridge, AB, 9-13 September 2009.

James Thomson and his fur trade wives: fur trade reality or the soap opera of Fort Chipewyan? Invited paper for a session at Ethnohistory, 30 Sept.- 4 Oct. 2009, New Orleans, Louisiana.

The racialization of traditional knowledge. Invited for the Cumulative Environmental Management Association (CEMA) TEK 2009 Coaching Workshop, "Perspectives into Practice." 28 October 2009, Fort McMurray, AB.

Evolving accommodations: the sled dog in the Canadian fur trade. Third International meeting of the conference series, "Des bêtes et des hommes": "Une bête parmi les hommes: le chien." Université de Valenciennes, France, 5-6 November 2009.

2008 Down the Fond du Lac River with David Thompson. Prepared for the 13th Rupert's Land Colloquium, Rocky Mountain House, Alberta, 14-16 May 2008.

The invisible parkland: rethinking the Plains and Subarctic culture areas. Presented at *The West and Beyond: Historians Past, Present, Future*, University of Alberta, 19-21 June 2008.

2007 Tipi dweller: all the comforts of home. Invited paper prepared for *Domestic Space, Domestic Practice: Exploring the Materiality of Home*, the inaugural symposium of the Material Culture Institute, University of Alberta, 20 April 2007.

"A world we have lost": the plural society of Fort Chipewyan. Presented as part of "Many Tender Ties: A Forum in Honour of Sylvia Van Kirk," for Canadian Historic Association, 28-30 May 2007, Saskatoon, SK.

Deconstructing Canadian subarctic grasslands. Presented as part of "Grassland Construction, Deconstruction, and Reconstruction: Global Perspectives," a session at the European Environmental History Conference, Amsterdam, 5-9 June 2007.

Telling the story of Canada: the roles of the fur trade. Presented at "Research as Resistance," a symposium organized by the Faculty of Native Studies, University of Alberta, 22-24 August 2007. Revised paper based on paper delivered in 2004 at the Rupert's Land Conference.

Building a new society in western Canada: the world of the early fur trade. Invited paper for *David Thompson: New Perspectives, New Knowledge*, a symposium organized by the Glenbow Museum, 26-27 Oct. 2007.

Lost women: Native wives in Orkney and Lewis. Presented as part of "Negotiating Identities: Aboriginal Women's Stories of Northwestern America," a session for the American Society for Ethnohistory annual conference, Tulsa, Oklahoma, 7-10 Nov. 2007.

- 2006 The government foot in the door: beginnings of state regulation in the Fort Chipewyan-Fort Smith Region. The 9th North American Fur Trade Conference and 12th Rupert's Land Colloquium, St. Louis, Mo., 24-28 May 2006. (Earlier version presented at the School of Native Studies Annual Research Day, University of Alberta, 1 April 2005.)

Visioning Thanadelthur. The American Society for Ethnohistory Annual Meeting, Williamsburg, Virginia, 1-4 Nov. 2006.

- 2005 Building national history: how should we talk about Canada's past? Presentation for "Philosophers Café," University of Alberta Office of Public Affairs, 3 Dec. 2005.

- 2004 Telling the story of Canada: the roles of the fur trade. Rupert's Land Studies Colloquium 2004. Kenora, Ontario, 24-30 May 2004.

- 2003-05 The narratives at the heart: stereotypes and stories about Aboriginal peoples and their place in Canadian history. With slides and artifacts. Greater Edmonton Teachers' Convention Association, Edmonton. Feb. 28, 2003. Revised for the Bonnyville Support Staff Conference, Bonnyville, 13 Feb. 2004 and 18 Feb. 2005.

- 2003 British identities and Canadian Aboriginal identities: evolving in tandem. British World Conference II, *British Identities*, University of Calgary, 10-12 July 2003.

Popularizing contact: Thanadelthur, the Sacagawea of the North. American Society for Ethnohistory Annual Meeting, Riverside, California, 5-9 Nov. 2003.

- 2002 Popularizing contact: the many faces of Thanadelthur. Presented at *Worlds in Collision: Critically Analyzing Aboriginal and European Contact Narratives*, a colloquium at Dunsmuir Lodge, University of Victoria, B.C., 22-23 Feb. 2002.

Competing Narratives: Barriers between Indigenous Peoples and the Canadian State. Indigenous Peoples and the Modern State, Claremont Graduate University, California, 5-7 April 2002. This paper was revised for a conference proceedings. A revised version was presented as an invited keynote address at *Re-Visioning Canada Workshop: Integrating the History of*

Aboriginal/Non-Aboriginal Relations, University of Toronto, 27-28 Sept. 2002.

Imposing tax: taxation in the Northwest Territories and Aboriginal fears in the Treaty Eight region. Co-authored with Gordon Drever. Presented as part of "A promise by any other name...": Treaty No. 8 and Taxation," at the 10th Rupert's Land Colloquium, 9-12 April 2002, Mansfield College, University of Oxford.

Deconstructing Barbie! A popular lecture invited by the University of Alberta Museums and Collections Service, delivered 10 Feb. 2002.

2001 Expanding the boundaries: studying Dene kinship. Presented as part of "Dene Kinship and Ethnohistory," at the 100th Annual Meeting of the American Anthropology Association, 28 Nov. - 2 Dec. 2001, Washington, D.C.

2000 Scenes from an exhibit: "From the Far North": Treaty No. 8 and the northern collecting of Dr. O. C. Edwards. A curatorial lecture invited by the Friends of the University of Alberta Museums, 23 Jan. 2000.

Canadian nation-building: a pretty name for internal colonialism. Presented at *Nation Building*, British Association for Canadian Studies 25th Annual Conference, 11-14 April 2000, University of Edinburgh, Scotland.

Presentation as part of a panel, "Representing Aboriginal Histories and Cultures at Historic Sites and Museums." Canadian Indigenous/Native Studies Association Annual Meeting and Conference, 28-31 May 2000, Edmonton. Co-presenters were Flora Beardy, Robert Coutts, and Michael Payne.

Genealogical studies in community-based research. Presented at the Canadian Indigenous/Native Studies Association Annual Conference, as part of a session on "Genealogical Research and Methods," 29-31 May 2000, Edmonton.

1999 Overcoming the differences between treaty and scrip. For the *1899 Centennial Conference*, a conference in commemoration of the initial signing of Treaty No. 8 and the distribution of scrip in 1899, Grouard, Alberta, 17-19 June 1999.

Treaty No. 8 and issues of taxation. Co-authored with Gordon Drever. Prepared for Akaitcho Tribal Council, Lesser Slave Lake Indian Regional Council, Athabasca Tribal Council, and Kee Tas Kee Now Tribal Council, 30 April 1999. (Expert report)

1998 Smith's Landing/Fort Fitzgerald: an economic history. Prepared for the Smith's Landing First Nation, 23 October 1998.

Building partnerships: Canadian museums, Aboriginal peoples, and the spirit and intent of the Task Force on Museums and First Peoples. With Arthur J. Sciorra.

For the annual meeting of the Canadian Association for the Conservation of Cultural Property, Whitehorse, Yukon, 29-31 May 1998.

Northern Métis, Treaties No. 8 and No. 11, and the issuance of scrip. For the Rupert's Land Colloquium 1998, Winnipeg, 4-7 June 1998.

The communities: after European contact. Description of the human communities of the Wood Buffalo National Park region, for a handbook about the park, edited by Ross Wein. (Accepted for the handbook, which was never completed.)

1997 From buffalo to beef: the emergence of a Blackfoot cattle industry. For *The Fur Trade Era: The Influence of the Rocky Mountain Fur Trade on the Development of the American West*, Museum of the Mountain Man, Pinedale, Wyoming, 11-13 Sept. 1997.

1996 Orkneymen and Lewismen: distinctive cultures and identities in the Canadian fur trade. For *Scots and Aboriginal Culture*, a Scottish Studies Colloquium, University of Guelph, 22-24 March 1996. A revised version was given at the Rupert's Land Research Centre Colloquium, Whitehorse, 1-4 June 1996.

Native homelands as cultural landscapes: decentering the wilderness paradigm. For the *Sacred Lands* conference, University of Manitoba, Winnipeg, 24-26 Oct. 1996.

1995 The invisible parkland: rethinking the Plains and Subarctic culture areas. For the 53rd Plains Anthropological Conference, Laramie, Wyoming, 18-21 Oct. 1995.

Native peoples and cultural renewal. For *Managing Change: Drawing on the Dynamics of Cultural Traditions*, a session developed by Anne M. Lambert and Patricia A. McCormack as part of the Canadian Home Economics Conference, *Beyond Tradition*, Edmonton, 9-11 July 1995.

1994 James and Isabella Thomson: a Lewis family in the Canadian fur trade. For the Sixth Biennial Rupert's Land Research Centre Colloquium, Edmonton, 25-27 May 1994.

The smokescreen of technology: the mixed economy of Fort Chipewyan and the persistence of Aboriginal cultures. For the School of Native Studies, 21 Jan. 1994.

The invisible parkland: ethnohistoric considerations. For *Diversity on your Doorstep*, a program presented by the Beaver Hills Ecological Network, as part of

the Beaverhills Lake-Fall Migration Celebration, Tofield, Alberta, 24 Sept. 1994.

Peigan horse traditions and ranching: persistence and change in Peigan cultural patterns. With Willard Yellowface. For the Plains Indian Seminar at the Buffalo Bill Historical Center, Cody, Wyoming, 30 Sept. - 2 Oct. 1994.

The Indian trade of the northern Rockies as reflected in the collections of the Provincial Museum of Alberta and the Glenbow. For the Western History Association Conference, Albuquerque, New Mexico, 20-23 Oct. 1994.

The Athabasca influenza epidemic of 1835. For the Chacmool Conference, Calgary, 10-13 Nov. 1994. Revised version delivered 24 Jan. 1995, as part of the *Issues in the North* lectures series, sponsored by the Canadian Circumpolar Institute.

1993 Linking bush and town: the mixed economy of the Aboriginal peoples of Fort Chipewyan. For the 8th International Abashiri Symposium on Peoples and Cultures of the North, *Peoples and Cultures of the Boreal Forest*, Hokkaido Museum of Northern Peoples, Abashiri City, Hokkaido, Japan, 11-12 Nov. 1993.

1992 The bison of Wood Buffalo National Park and their future. For the Sierra Club of Alberta, Calgary, 8 Jan. 1992.

Bringing home wives. Native Hudson's Bay families in Orkney, Scotland. For the Department of History, University of Winnipeg, 5 Feb. 1992.

The expansion of the state into the Fort Chipewyan region. For a Department of Geography Colloquium, University of Alberta, 31 Jan. 1992 and a Department of History Graduate Seminar, University of Winnipeg, 5 Feb. 1992.

Two solitudes: museum displays and Indians in the fur trade. For a session, "Inventing Fur Trade Traditions," organized by Patricia A. McCormack and Robert Coutts, for the Fifth Biennial Rupert's Land Colloquium, Winnipeg, 6-9 Feb. 1992.

Indian cowboys: mythologies of the west and museum collecting. For a Department of Textiles and Clothing class in the History of Native Clothing, University of Alberta, 18 Feb. 1992.

The Canol Pipeline and northern Alberta. For the *Alaska Highway Conference*, Edmonton, 5-6 June 1992.

Native trapping in northern Alberta. For a seminar at the Glenbow Museum in conjunction with the exhibit *Trapping Lifeline*, Calgary, 13 June 1992.

Alexander Mackenzie, the Scot. For *Ten Great Days*, a celebration of Alexander

Mackenzie's arrival at Peace River in 1792, Peace River, Alberta, 30-31 Aug. 1992.

The Blackfoot and the fur trade. For *Meet Me on the Green: The Rocky Mountain Fur Trade*, a symposium organized by the Museum of the Mountain Man, Pinedale, Wyoming, 10-12 Sept. 1992.

Perceptions of place: Natives and Europeans of the fur trade era. For the Alberta Museums Association Conference, Medicine Hat, Alberta, 29-31 Oct. 1992.

Expanding state regulatory systems and their impacts on northern and Native peoples. For *Symposium on Contemporary and Historical Issues in Legal Pluralism: Prairie and Northern Canada*, organized by the Canadian Institute for Advanced Research, Law in Society Program, Winnipeg, 7-8 Nov. 1992.

Blackfoot horse traditions and modern museum collection. For a special session, *Contemporary Collecting: The Production of New Collections for the Future*, organized by Patricia A. McCormack and invited by the Council for Museum Anthropology for the 91st Annual Meeting of the American Anthropological Association, San Francisco, 2-6 Dec. 1992.

1991 Reconstituting a Natoas bundle: a Provincial Museum of Alberta-Peigan collaboration. For the Task Force on Museums and First Peoples.

Working with Native communities. Seminar prepared for Parks Canada research staff, Winnipeg.

Evolving Blackfoot dress styles and their representation in museum collections. For *It's a Material World*, an Interdisciplinary Material Culture Lecture Series at the University of Alberta.

The Canadian fur trade: the Orkney connection. For *Focus on the Forks*, a conference on the historical significance of the forks region, Winnipeg, April, 1991.

With Ruth McConnell. The Ethnology Oblate Collections at the Provincial Museum of Alberta. For the Oblate Conference, Edmonton, 22-23 July 1991.

1990 Northern boats. Paper on Native lake skiffs and their possible Orkney origin. For the Orkney Museum Service; delivered in three Orkney towns, September 1990.

Saving Canada's wild bison: the political economy of bison management in Wood Buffalo National Park. For *The Wood Bison Issue*, a Circumpolar Lecture Series of the Canadian Circumpolar Institute, University of Alberta, 7 Dec. 1990.

- The Orkney Islands and the Canadian fur trade and Native communities. For *Partnerships: Museums and Native Living Cultures*, Alberta Museums Association Professional Development Series, Edmonton, 3-4 Dec. 1990.
- 1989 From their labor: a material slant to ethnohistorical research. For the American Society for Ethnohistory Conference, Chicago, 2-5 Nov. 1989.
- Reviving contemporary collecting: the Fort Chipewyan collection at the Provincial Museum of Alberta. For a special session, *Collecting the Objects of Others*, at the 88th Annual Meeting of the American Anthropological Association, Washington, D.C., 15-19 Nov. 1989.
- "That's a piece of junk": issues in contemporary subarctic collecting. For *Out of the North: A Symposium on the Native Arts and Material Culture of the Canadian and Alaskan North*, Haffenreffer Museum of Anthropology, 20-21 Oct. 1989.
- Working with the community: a dialectical approach to exhibit development. Prepared for *Canada's Native Community and Museums: A New Dialogue and New Initiatives*, a seminar in the Alberta Museums Association's Professional Development Series, Calgary, 7-9 April 1989
- 1988 Surrounded by Crees: Chipewyan persistence in Fort Chipewyan, Alberta. For an invitational session on *Variations in Chipewyan Thought and Behavior*, 87th Annual Meeting of the American Anthropological Association Annual Meeting, Phoenix, 16-20 Nov. 1988.
- Hub of the North: Fort Chipewyan 1788-1988. For the Rupertsland Colloquium, Winnipeg and Churchill, 29 June - 3 July 1988, and also delivered as a public lecture at the Provincial Museum of Alberta.
- Government comes to Fort Chipewyan: expansion of the state into the heart of the fur trade country. For the *Fort Chipewyan-Fort Vermilion Bicentennial Conference*, Edmonton, 23-24 Sept. 1988.
- 1987 Fort Chipewyan and community development. For *Nurturing Community*, a conference on community development organized by the Edmonton Social Planning Council, 27-29 April 1987.
- 1986 Rooted in the past: the modern community of Fort Chipewyan. For the Boreal Institute for Northern Studies 25th anniversary conference, *Knowing the North*.
- 1982 Fur trade society to class society: the development of ethnic stratification at Fort Chipewyan, Alberta. For the Canadian Ethnology Society meetings, Vancouver, B.C.

Skookum Jim (Keish); an historical brief. For the Yukon Educational Television Society, Whitehorse.

1981 Leroy Napoleon "Jack" McQuesten; an historical brief. For the Yukon Educational Television Society, Whitehorse.

William Ogilvie; an historical brief. For the Yukon Educational Television Society, Whitehorse.

1979 The Cree Band land entitlement in Wood Buffalo National Park: history and issues. For the Edmonton Chapter of the National and Provincial Parks Association of Canada.

Conference/Session Development

- 2011 With Jennifer S. H. Brown, organized "Aboriginal People as Part of Plural Societies: Searching for Multi-vocality," for the American Society for Ethnohistory annual conference, Pasadena, California, 19-22 Oct. 2011.
- 2006-8 Organizing committee, Centre for Rupert's Land Studies 2008 Colloquium, Rocky Mountain House.
- 2007 With Sarah Carter, organized "Negotiating Identities: Aboriginal Women's Stories of Northwestern America," a session for the American Society for Ethnohistory annual conference, Tulsa, Oklahoma, 7-10 Nov. 2007.
- 2006 Organized "Imagining the Unknown: Visual and Textual Images of Early History Makers," a session for the American Society for Ethnohistory annual conference, Williamsburg, Virginia, 1-5 Nov. 2006.
- 2005-6 Member of the Scientific Committee for the 12th Qualitative Health Research Conference, 2-5 April 2006.
- 2001-2 Organized "A promise by any other name...!: Treaty No. 8 and Taxation," a session for the 10th Rupert's Land Colloquium, 9-12 April 2002, Mansfield College, University of Oxford.
- 2001 Organized "Dene Kinship and Ethnohistory," a session for the 100th Annual Meeting of the American Anthropology Association, 28 Nov. - 2 Dec. 2001, Washington, D.C.
- 2000 With Michael Payne, organized "Representing Aboriginal Histories and

- Cultures at Historic Sites and Museums," a panel for the Canadian Indigenous/Native Studies Association Annual Meeting and Conference, 28-31 May 2000, Edmonton.
- 1997-9 Member of the organizing committee for the 1899 Centennial Conference, A Conference in Commemoration of the Initial Signing of Treaty #8 & the Distribution of Scrip in 1899; serving also on the program and publicity subcommittees.
- 1997-99 Member of the organizing committee for *Traditions for Today: Building on Cultural Traditions*, an International Indigenous Research Institute organized by the School of Native Studies, University of Alberta, and held at the University May 26-28, 1998. Proposed the Institute's theme and planned the session, "How can we talk about indigenous Christianity."
- 1995-99 Member of the organizing committee for an international conference, *Securing Northern Futures: Developing Research Partnerships*, sponsored by the Canadian Circumpolar Institute, held in Edmonton 1-4 May 1997. Special responsibility for organizing the sessions on "Reconfiguring the North," with Michael Payne. Co-edited proceedings with Michael Payne.
- 1995 On behalf of Native Studies, chaired a campus working group that assisted in planning a Parks Canada workshop on cooperative management of protected areas. Developed the final program jointly with a Parks Canada staff member, attended the workshop on March 4-5, chaired one day's proceedings, and acted as a rapporteur the second day. Co-edited proceedings with Richard Stuart (proceedings never published).
- With Anne M. Lambert, organized *Managing Change: Drawing on the Dynamics of Cultural Traditions*, a session of the Canadian Home Economics Conference, *Beyond Tradition*, Edmonton, 9-11 July 1995.
- 1992-94 Co-organized the Sixth Biennial Rupert's Land Research Centre Colloquium, held in Edmonton, May 25-27, 1994.
- 1993 With Joseph Tiffany, organized a session on museums and Plains archaeology for the 1993 Plains Anthropology annual meetings, Saskatoon, Saskatchewan.
- 1992 Organized "Contemporary Collecting: The Production of New Collections for the Future," a session for the 91st Annual Meeting of the American Anthropological Association, San Francisco, Dec. 2-6, 1992. Session was invited by the Council for Museum Anthropology.
- 1991-92 With Robert Coutts (Parks Canada, Winnipeg), organized "Inventing

Fur Trade Traditions," a session for the 1992 Rupert's Land Colloquium, Winnipeg.

1985-88 With R. G. Ironside, organized a major conference to commemorate the 200th anniversary of Fort Chipewyan and Fort Vermilion, in northern Alberta. Served as liaison with Fort Chipewyan residents and conference participants.

Professional Activities

Referee

Grant applications Canadian Circumpolar Institute, the Boreal Institute for Northern Studies, Social Sciences and Humanities Research Council (SSHRC), and other institutions as requested.

Publications

Book manuscripts: University of Oklahoma Press, University of Nebraska Press, University of Washington Press, UBC Press, McGill-Queen's University Press, Harcourt Brace, NeWest Press, Canadian Circumpolar Institute, Crabtree Publishing Company, Canadian Plains Research Centre.

Journal manuscripts: *Ethnohistory, Canadian Ethnic Studies, American Indian Culture and Research Journal.*

External faculty referee

Promotion from Assistant to Associate Professor, University of Winnipeg, 2004

Management/Supervision Courses (Govt. of Alberta)

Supervision

Managing the Difficult Employee

Professional Development Courses

2007 2007 PRE-conference and National Conference, "Empowering Research Participants, 16-18 Feb. 2007, Ottawa.

2005 2005 National Conference, National Council on Ethics in Human Research, 5-6 March 2005, Ottawa, and the associated Pre-Conference, 4 March 2005.

2004 Training in Research Ethics, Social and Behavioral Sciences and Humanities, 22 Feb. 2004. National Council on Ethics in Human Research.

2003 Innovative Instructors Institute, University of Alberta. Stream One: Effective Electronic Presentations (PowerPoint). 28 April-2 May.

Committees and Advisory Boards

- | | |
|--------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| 2011-2012 | Treasurer and Director, Alberta Equestrian Federation. Chair of the Finance Committee and responsible for a budget of approximately \$175,000. |
| 2009-2011 | Director, Alberta Equestrian Federation. Member of the Finance Committee. |
| 2007-10 | Advisory Council, The Centre for Rupert's Land Studies at the University of Winnipeg |
| 2003-present | Advisory Board of Material History Review |
| 2003-06 | Member of the Aid to Scholarly Publications (ASP) Committee, on behalf of the Canadian Federation for the Humanities and Social Sciences. |
| 1997-99 | Treaty 8/Scrip Conference Steering Committee, Program Committee, Publicity Committee |
| 1992-93 | Steering Committee and Research Sub-committee, Frog Lake Historic Site Project |
| 1991 | Erminie Wheeler-Voegelin Prize Committee for the American Society for Ethnohistory |
| 1985-91 | Fort Chipewyan-Fort Vermilion Bicentennial Conference Committee and Research Grant Committee |
| 1987-98 | Prairie Forum Editorial Board |
| 1988-89 | Alberta Museums Association Standards Committee |
| 1985-89 | Canadian Studies Committee |

Societies

- | | |
|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1986-90 | President, Boreal Circle Society |
| 1983 | Board member, MacBride Museum Society |
| 1980-82 | President, Yukon Historical and Museums Association <ul style="list-style-type: none"> • Ex-officio board member 1982-84, Vice-president 1979-80 • Honorary Life Membership awarded 1983 |

Miscellaneous

On-going:

- Guest lectures, colloquia, and workshops for University of Alberta staff and students.
- Responses to numerous requests for information and assistance from University staff and students, lawyers, and the general public.

Academic consultant:

- Radio, television, and films: *Death of a Delta* (Tom Radford, Filmwest 1972), *Coppermine* (NFB 1992), *Indian America* series (1992), and *Honour of the Crown* (Tom Radford, NFB 2001).
- Popular books: *The Buffalo Hunters* (Time-Life, 1993) and *Native North American Foods and Recipes* (Crabtree Publishing Company, 2006).

For Treaty Eight First Nations of Alberta, Education Commission Project: served as resource person for curriculum development project, 2005, 2008.

For Wood Buffalo National Park: participated in Cultural Resource Management Workshops (18-20 July 1999, Fort Smith; 18-19 Oct. 2002, Fort Chipewyan), an Ecological Integrity Workshop (11-14 March 1999, Fort Smith), and research at the House Lake site, August 2011. Cooperative work with park staff is on-going.

For Teacher and Teacher Aid Conventions (Edmonton and Bonneville): presentations about stereotypes of "Indian-ness" and Canadian history.

For Daniel Wolf, author of *The Rebels: An Outlaw Motorcycle Club* (University of Toronto Press, 1991): extensive editorial assistance.

Professional Memberships

American Anthropological Association
 American Ethnology Society
 American Society for Environmental History
 American Society for Ethnohistory
 Canadian Historical Association
 Council for Museum Anthropology
 International Association for Impact Assessment
 Rupert's Land Research Centre
 Yukon Historical and Museums Association

Interests

Equestrian sports
 Snowshoeing and dog walking
 Herb gardening and pickling



TECHNICAL MEMORANDUM

Preliminary Data on ACFN Knowledge and Use: Migratory Birds and Aquatic Fur, with reference to the proposed Jackpine Mine Expansion (JPME) proposed by Shell Canada

Prepared By: Craig Candler, PhD
Director,
The Firelight Group
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Submitted To: Athabasca Chipewyan First Nation, Industry Relations
Corporation (ACFN IRC)

Date: September 28, 2012

1.0 Introduction

The Firelight Group (Firelight) is pleased to provide this technical memorandum (memo) summarizing key information gathered to date as part of the Athabasca Chipewyan First Nation (ACFN) Migratory Bird Traditional Ecological Knowledge and Use Study¹ (the Study), and summarized with particular reference to the Jackpine Mine Expansion (JPME, or the Project) proposed by Shell Canada in the area of Kearl Lake, Alberta.

1.1 Objectives of the Study

Based on ACFN knowledge and use of migratory birds, objectives of the study include:

- document past and current use of migratory birds by ACFN members, with a focus on waterfowl;
- identify changes in migratory waterfowl presence, abundance and patterns;
- identify indicators of quality for migratory waterfowl and any changes in those indicators over time;
- examine the relationship between migratory waterfowl and the traditional livelihood, culture and well-being of ACFN.

¹ Project Reference: ACFN-19

1.2 Study Status and Limitations

The study is still in progress. This technical memorandum provides a summary of data collected to date, but the data is not complete. It is specifically designed to provide information that may be useful to a regulatory review of the proposed JPME Project.

The study includes three key tasks:

- **Task 1: Work Planning, Methods, Document Review, and Training** – This task is complete and included:
 - direct to digital map training (Google Earth-based) provided in Fort McMurray in winter 2012;
 - initial scoping with ACFN elders; and,
 - review of existing ACFN data and other available literature related to migratory birds and aquatic fur.
- **Task 2: Interviews and On-Territory Mapping** – This task is largely complete and included:
 - a series of five focus group interviews involving 43 participants. Each focus group was facilitated using semi-structured, gender and age-grouped discussions around the key themes. Groups included one women’s and one men’s focus groups in both Fort Chipewyan and Fort McMurray, and an Elder’s focus group in Fort Chipewyan. Elders were defined as over 55;
 - a set of follow-up individual mapping interviews, 13 of which have been completed to date; and,
 - up to 5 days of on-territory field work, by boat, during the spring and fall bird hunts. Weather challenges were part of the spring 2012 on-territory field visit. A supplemental field visit is planned during Fort Chipewyan’s fall 2012 bird hunt (likely late October).

All focus groups and interviews were led by Dr. Craig Candler.

- **Task 3: Transcription, Analysis and Reporting** – Completion of all components, including verification and reporting (as part of the Framework Community Report), is anticipated by late 2012.

While the primary thematic focus was migratory birds, ACFN members frequently tied bird patterns to the wider health of the Athabasca Delta, with aquatic fur being a key indicator. Based on this, we have restated the theme as ‘migratory birds and aquatic fur.’

This memo is based on the understandings of the authors, and is not intended as a complete depiction of the dynamic and living system of use and knowledge

maintained by ACFN elders and members. The information contained herein should not be construed as to limit, or otherwise constrain the Treaty and aboriginal rights of ACFN or other First Nations or aboriginal peoples. All data are the property of the ACFN.

2.0 Findings

As discussed below, ACFN members understand oil sands projects, such as the proposed Jackpine Mine Expansion, to contribute to low water levels, impacts to bird nesting and feeding habitat, declining bird numbers, changing migratory patterns, and increased contamination of water and wild foods, including waterfowl.

These changes are reported to have had serious impacts on ACFN bird hunting and harvesting of aquatic fur, especially muskrat. ACFN members understand these changes to be caused by unmitigated industrial impacts on the Athabasca River, and adjacent air sheds and flyways. Beginning with the construction of the WAC Bennett Dam on the Peace River in the late 1960s, which altered complex water flows in the Delta, these impacts have accumulated over time and are reported by ACFN members to have become noticeably worse since approximately 2003, coincident with expanding oil sands activities. These impacts have resulted in reduced confidence in, and reduced ability to rely on, important resources integral to the practice of livelihood and constitutionally protected rights under Treaty No. 8.

Common themes in the ACFN focus groups related to environmental change and migratory birds within ACFN territory included the following:

- Environmental changes resulting in concern regarding pollution, changes in bird quality, and loss of confidence in waterfowl harvested from the Delta or Athabasca River as a traditional food source:

I have a goose in my freezer and I'm afraid to cook it. Because of pollution.
(ACFN Women, 27 March 2012)

[In] the 40s they were fat, fat ducks. Now they are just skinny ducks.
(ACFN Women 24 March 2012)

- Environmental changes resulting in fewer birds landing or migrating through the Athabasca River Delta, and changes in quantity as a result:

Well where they [migratory birds] used to land, there's no water there. So they have to find a new spot. Even at Moose Point they were sayin' there was hardly any birds that went there last year. It used to be just full. You know, wildlife are smart. They are smarter than you and I, and they know where to go, where not to go. And they know what to eat and what not to eat....(ACFN Women, March 24 2012).

2.1 Migratory Birds and Aquatic Fur

The original theme, Migratory Birds, was identified with ACFN researchers, staff, and elders through a series of meetings in Edmonton, Fort McMurray and Fort Chipewyan between December 2011 and February 2012. It was chosen because:

- migratory birds are recognized as a critical resource for ACFN members;
- ACFN oral histories and current observations indicate that migratory birds are in serious decline in the Athabasca Delta, and this decline is a major concern for land users; and
- little systematic research has been done by ACFN to understand and document the importance of migratory birds for ACFN people, or the details of their decline.

As the original theme was focused on migratory birds, most of the information in this summary is focused on migratory waterfowl. However, during interviews and focus group sessions, ACFN knowledge holders and land users frequently raised the issue of aquatic fur species, particularly muskrat and beaver, alongside migratory waterfowl. Both are water animals and, for ACFN land users, serve as a signpost for the health of the Athabasca Delta and Athabasca River. We expanded the theme to recognize the connected nature of ACFN knowledge regarding aquatic health, including migratory waterfowl, aquatic fur, and other species within the Athabasca River and Delta ecosystem:

Everything's changed now. Ever since the oil company opened the country... There's no more muskrat alive around there ever since the oil company move in. So there must be [something] that's no good for them, whatever they let go out of that tailings pond. It must be really poison stuff. That oil company kill off all the muskrat. Even the frogs, they've all disappearing there now, ever since the oil company move in here. We're getting no frogs. You kill off all the muskrat. There's no more muskrat alive today. Used to be, boy, talk about millions and millions of muskrat one time. Nineteen forties and 1950, '60. After the oil company move in here, that's it. (A34, 2012)

2.2 Spring and fall bird hunts integral to seasonal round

The ACFN seasonal round is integral to ACFN livelihood and depends on the migratory bird harvest at two important points:

- In the spring, the bird hunt typically focuses on the Athabasca Delta and coincides with the spring migration and staging of waterfowl as they migrate to the Delta, or stop at the Delta on their way further north. Different birds arrive and leave at different times (see Table 1). Hunters depend on

favourable water levels and wind and ice conditions coinciding with the bird migration period.

- In the fall, when the bird hunt typically focuses on the Athabasca River over a short period when inland lakes freeze, but the river remains clear, forcing waterfowl to congregate along the river corridor. Hunters depend on favourable water levels and wind conditions coinciding with the bird migration.

2.3 Cultural importance of the bird hunt

Spring and fall bird hunts are important focal periods for community and family interactions on the land. ACFN men working in the oil sands or elsewhere often take time off work and travel back to Fort Chipewyan especially for the hunt. While other forms of hunting (e.g., moose) are dispersed and involve hunting in small groups, large and reliable numbers of birds travelling predictable flyways during migration allow many ACFN families to congregate in large camps (20 or more people) and stay together for the duration of the hunt. This contrasts with moose and most other large game hunting which requires people to split into small parties. The large seasonal bird hunt gatherings have great importance socially and culturally for ACFN, and support the sharing of knowledge and food among community members and between generations. ACFN members who participate in the bird hunt, and have success, return to their families and distribute food to elders and others not able to participate in the hunt.

3.0 What kinds of waterfowl are hunted by ACFN?

Table 1 documents culturally important bird species used by ACFN members for food and other traditional purposes. For each species, the table notes the common name, the Dené name² and meaning, how they are eaten or used, when they are hunted, and particular effects and changes.

4.0 Where do ACFN members hunt birds?

The Athabasca Delta, and the Athabasca River, are preferred hunting areas used at different times of year by ACFN members. Spatial (mapped) information is not complete, but Figure 1 shows places where ACFN members have reported harvesting ducks, geese, and other waterfowl to date. Orange dots indicate waterfowl harvest locations. Blue dots indicate main bird camps or habitation areas that are used as a base for bird hunting.

Yeah, they [migratory birds] love the goose grass. That's only when there's water, too. After it dries up and the birds don't come around. And around the lake there used to be this goose grass. And only goose grass is only when there's water or something...Now it's hard to find...it's hard to find water. (A03, 2012)

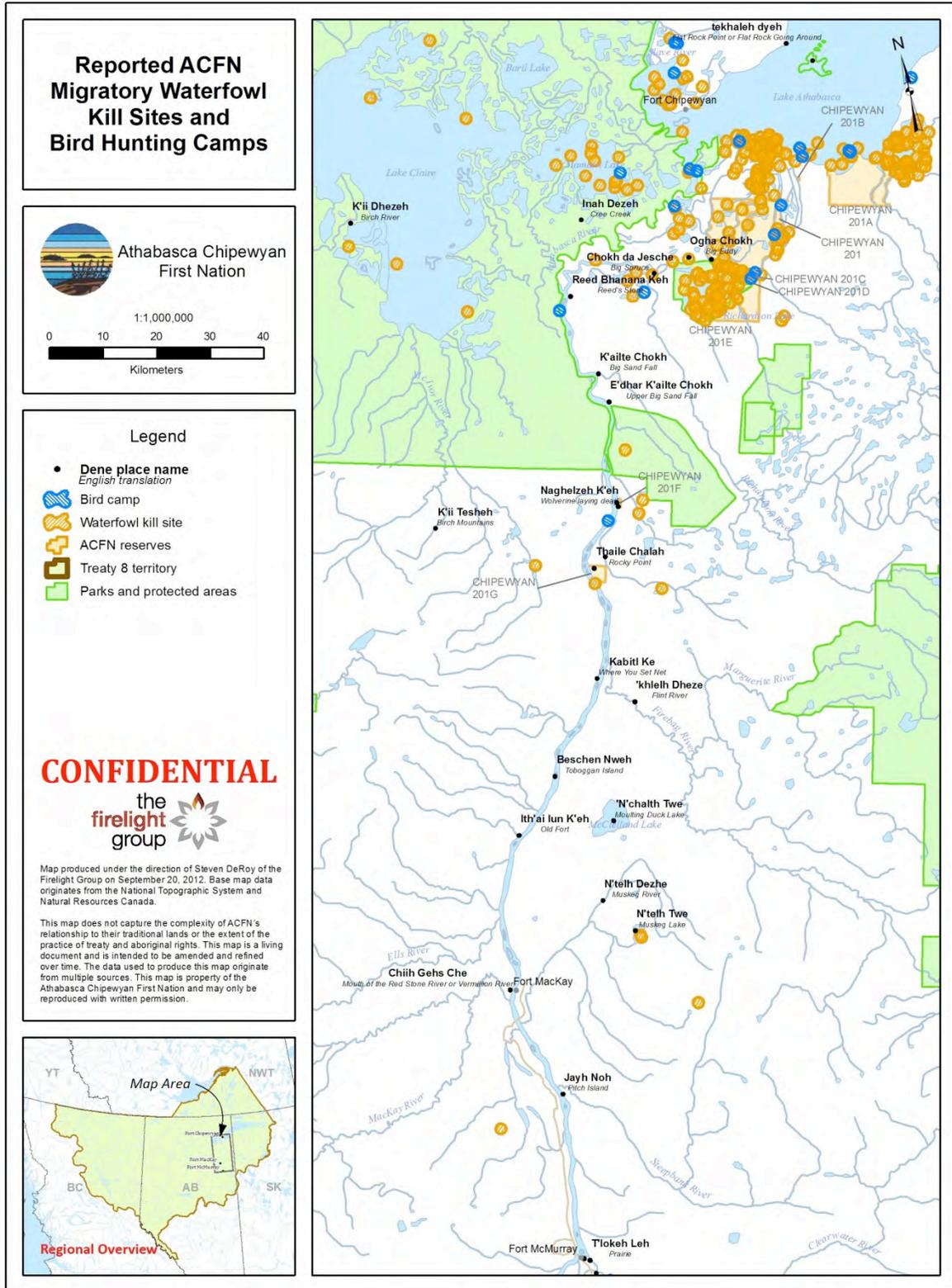
² Dené species and place names in figures and tables are phonetic and should be considered approximate. Confirmation of spelling and orthography by a language specialist is ongoing.

Table 1: ACFN Culturally Important Birds* with Dené name

Dene Name	Dene Meaning	English Name	Notes	When are they hunted?	Uses and Rules	Effects and Change
<i>Ha^h or Hokah</i>	Something white	White Waivie	Rare, but preferred. Also called snow geese.	May (only hunted in spring, they don't stop in Delta in fall)	Make soup, roast, use the grease. The gizzard is a delicacy.	Migration patterns are changing. More birds (all species, except gulls) are "going around the Delta" (to east and west) rather than flying along the Athabasca River and stopping at the Delta. Some ACFN members are now going to Saskatchewan for ducks because there are so few in the Delta.
<i>Tdat Enth</i>	Orange beak	Gray Waivie (Speckled Belly)	Rare, but preferred, also called greater white-front goose		Eat the liver and organs. Eggs are not usually eaten.	
<i>Dethun Ha^h Cho^h or Ha^h Yaneh</i>		Large Canada Goose (Honkers)		End of March & April (first to fly in – nest in Delta – last to leave with swans)	Feathers used for feather robes (blankets), pillows. Wings used as brooms.	
<i>Ha^h Tsa^h lurzeh</i>		Small Canada Goose		May	Make chokers and necklaces from feet.	
<i>Hokah Lurzeh</i>	Rough beak	Galloot or Small Snow Goose	smaller than a White Waivie	May (doesn't nest in the Delta)	Don't hunt birds once eggs have hatched, especially the brooding females.	
<i>Che^hth</i>	Ducks (many species not listed)					
• <i>Tsha Denezeh</i>	Wounded head	Mudhen (or Mudhead)			Don't shoot birds when molting (too skinny)	
• <i>Cheh chok</i>		Mallard			'Birds are smart' avoid fires, people, noise, movement (don't move when hunting)	
• <i>ho^hkelchelay</i>		Pintail				
<i>Dehl or Dehl kai</i>		Cranes -Sandhill -White Crane		May (near rapids on rivers to eat fish).		
<i>Kokosh</i>		Swans (big white ones)		May (last to leave with geese)		
<i>Khasba</i>		Ptarmigan		Winter only	Meat eaten Eggs not eaten often	Ptarmigans declining on winter road
<i>Ahtkhadae</i>	Big Chicken	Prairie Chicken				
<i>Giih</i>		Spruce Hen				
<i>Estereh</i>		Rough Grouse				
<i>Biskayh</i>		Seagulls		Comes 2 weeks in May	Eggs only	

* Many others (e.g. Loons, songbirds) aren't generally eaten, but they are valued in other ways. ACFN members described these as, "they make the forest alive", "they are the sound of the wilderness." Many are reported to be in decline, along with muskrat and other animals, in ACFN territory.

Figure 1: Reported ACFN Waterfowl Harvest Locations and Associated Bird Camps and Habitation Values



5.0 Changes in quality and quantity of aquatic birds and fur

Table 2 provides an approximate timeline for ACFN's observed changes in water levels, migratory waterfowl and, concurrently, muskrat populations. Changes are generally consistent with written histories (see ICC 1998).

Table 2 Timeline of changes in waterfowl and muskrat based on ACFN Knowledge

How have birds and aquatic fur changed, and when?

Late 1940's and 50's	<p>Ducks were fat; in a normal year, there were so many ducks and geese, they were "just like smoke."</p> <p>Thousands of muskrats in the Delta. In dry years, the rats declined. Elders would say, "They are going deep underground, but they will come back in a few years." They would decline but would bounce back with the water ('51 lots, '52-'54 few, '55 bounce back).</p> <p>Used to be 30 or 40 trappers in ACFN community, and each would get at least 500-1000 rats each. Rat hunting from Mar 15 – May 15; everyone would be happy and make good money. (Fort Chip Elders March 28 2012)</p>
Late 1960's	<p>1966 lots of water at Egg Lake (in the Delta) – 6-8 feet deep.</p> <p>BC hydro Dam on the Peace River built in 1968. 1969 you could walk on the mud flats at Egg Lake and the muskrat almost disappeared.</p>
1970's & 80's	<p>Last good flood in the Delta was in 1974, muskrat populations responded quickly to water levels, and the muskrats were very good in 1975, but there was a sickness that went through and killed whole rat houses.</p> <p>Water was low most years. In late 70's and early 80's, ACFN members dug trenches from river into Egg Lake and other lakes (in Delta) to get water in. This would bring muskrats back, but was a lot of work.</p> <p>ACFN people start noticing number of ducks, geese and other birds declining. Oil sands industry grows.</p>
2000's	<p>Tailings ponds, smoke, and disturbance from industry on Athabasca have created a big change in the last 10 years (especially since about 2003).</p> <p>Ducks and geese have changed their migration route to go around. Not stopping on the Athabasca River and Delta. The ducks and geese that do stop are reported to be skinny, not well fed; Waivies seem bony and light "because they don't have enough food." Wet areas in the Delta that used to have ample feed for birds are now reported to be dry mud, or willows.</p> <p>Muskrat 'push ups' are almost never found on lakes that used to have hundreds or thousands, "because the water is polluted - only beavers survive".</p> <p>Muskrats in parts of the park not fed by the Athabasca are doing better, but where the Athabasca River feeds the Athabasca Delta, they are all dead now – not reproducing or not surviving the winters, and populations aren't bouncing back like they used to.</p> <p>Beavers don't eat in the water, and seem to be doing much better than muskrat</p>

6.0 Migratory Bird and Aquatic Fur Harvest Constraints (are ACFN members able to harvest what they need?)

Table 3 is based on estimates of harvest needs from ACFN focus groups, including a minimum level needed to maintain cultural and subsistence rights, ideal levels (where rights are able to be practiced to their fullest), and an estimation of current harvest levels. While these are general estimates, they were reviewed, informed, and confirmed as reasonable by all ACFN focus groups. Estimates assume:

- An ACFN family of five with an active harvester relying only on wild foods (families or elders without active harvesters often depend entirely on gifts or store foods).
- Food and cultural needs include:
 - subsistence (food) and cultural sharing of foods (gifts) to family and elders;
 - participation in community feasts and ceremonies; and
 - feeding of dogs (usually with fish).

Commercial use (especially important for aquatic fur and fish) is not included in these estimates.

- Actual numbers harvested would vary by year, season, location, personal preference and ability.

Table 3 Harvest Requirement Estimates – ACFN Family of Five

Animal or Resource	Minimum for food and cultural sharing (per family of five relying on wild foods)	Ideal – “no worries and plenty to share” (per family of five)	What ACFN members get currently (per family of five, assuming active harvester)
Ducks	About 80 per year (grease and meat)	+/- 80 per year	20 or less per year
Geese	About 80 per year (grease and meat)	+/- 80 per year	5 or less per year (harder to get than ducks)
Muskrat and Beaver	+/- 3 per day during the trapping season (does not include commercial use)	+/- 3 per day during the trapping season (does not include commercial use)	2-3 beaver per season, if lucky, and the meat is given to dogs because of pollution. “Don’t even see muskrat anymore,” generally not harvested when scarce.
Water	1) Need adequate quantity to travel on rivers, creeks, in Delta; 2) Need adequate quality to drink from the land, especially muskeg, streams, and snow along trails and travel routes, and at cabins and camps.		Can’t travel many places or duration of access is reduced; Water has to be carried from town so can’t stay at cabins or camps as long, can’t travel trails without having water.

7.0 Consequence of Reduced Bird Numbers

Low water, few birds, perceived pollution and reduced hunting success during migration periods has changed the practice of bird hunting, and eroded the ecological foundation for the large bird camps that used to happen, especially in the spring.

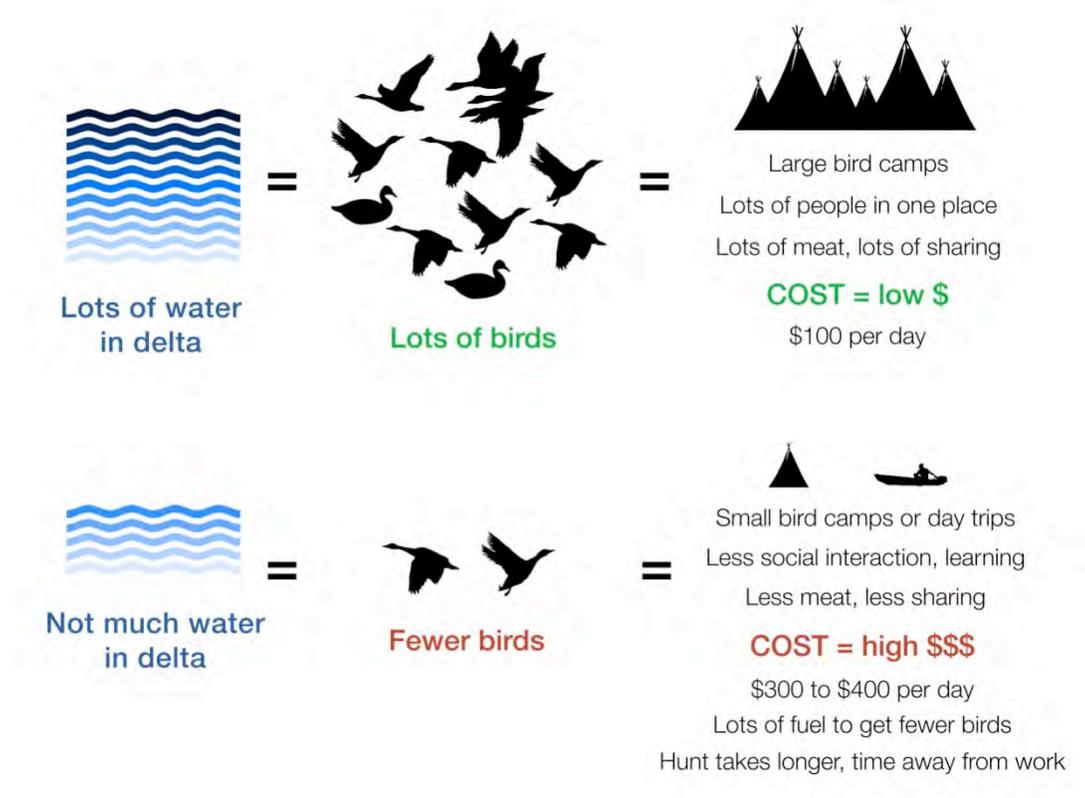
You could get there [to Fletcher channel].. If there's a lot of birds flying there, you'll find a camp there. But if there's not, nobody's going to waste their time there and stay there. Because like I said, you have to hunt them now, right? If there's a lot of birds, you'll find a camp there. Sure. But long ago, it used to be just full. Full of tents all over here. A wall of tents. Family tents. Hunters. Elders. Youth.

It's hard now, no use to stay there anymore, because there's no more birds. Like one year, they'd maybe fly a little bit longer, probably about seven years ago. There was a lot of snow geese, that's what people want, eh? Snow geese and waivies. There's lots, there's millions coming through here. ... one boat would come back with over 100... That was the last time I remember that many birds. Ever since there was like nothing... You'd be gone for a week and you were lucky if you came back with 10.

...much of it is gone, the Delta's gone, so, much of the birds don't even land there, they fly over, its dried out... So pretty soon we won't be able to even eat our own food ... I won't eat the fish from here. No way. (A08, 2012)

ACFN members understand that low water levels, combined with pollution and changed migratory patterns, are resulting in few birds. Without large numbers of birds to depend on, large bird camps don't happen. Instead, hunters search for small pockets of birds, covering large areas by boat, and generally returning to Fort Chipewyan rather than camping. This “day-trip” approach to hunting birds is a response to low bird densities, has far higher fuel costs and does not allow for the kinds of large intergenerational groups of youth, elders and hunters, and associated sharing of cultural knowledge and meat, that occurred in the past. Figure 2 shows these two strategies for hunting birds – the preferred strategy involving large stationary bird camps – and the “day-trip” strategy required when birds are few and movement patterns in the Delta can't be predicted.

Figure 2: Comparison of Low Density and High Density Hunting Strategies³



8.0 What ecosystem requirements (water, grass, gravel, etc.) do birds and ACFN hunters need?

...I don't know where the birds are going, they're probably flying a different route...they used the Athabasca for the gravel and the sand and they need it as they went down, but with the amount of industry that's going on now today, the birds don't even want to travel here anymore. They're going around. They're finding different routes ... that's affected the use of harvesting for us as Native people eating wild birds. (A06, 2007)

As shown in Figure 3, ACFN bird camps and harvesting areas are aligned with what ACFN hunters know to be regular and predictable bird patterns in the Delta. ACFN members report that beyond different migration times (see Table 1), different species of birds are known to frequent particular parts of the Delta as feeding and staging areas. In normal years, the birds are reported to travel predictable routes each day from these areas to other specific places near the Delta to get the grit (sand or gravel for larger birds) that ducks, geese and other waterfowl need for digestion.

³ As noted elsewhere in this report, issues other than water quantity, including pollution and disruption of migration patterns, may also impact the number of birds available in the Athabasca Delta.

Generally, the birds move very early in the morning (3:30 or 4:00 am) from feeding areas to get gravel, and return by the same route several hours later. The birds fly again to get gravel in the evening. Hunters harvest the birds as they pass over shooting areas near the bird camp. These often have multiple blinds - permanent structures of wood, brush or rock used each year to remain hidden from birds. Where bird movements or numbers don't allow for successful camps, ACFN hunters travel the Delta, or between bays on land, looking for birds.

In order for a hunt to be successful, the hunters need to be positioned in particular places, and birds need to follow a regular pattern of movement within the Delta. Success requires a combination of hunting knowledge, skill, adequate ecological conditions (wind, water, and ice), and reliable bird movements. As an example, in spring 2012, field visits were conducted to active bird hunting areas when the main bird migration was taking place. Low water, combined with wind-blown ice blocking the Delta, meant that much of the hunt had to take place in the few bays that can be accessed by land (by truck or quad) from Fort Chipewyan. Few birds could be seen, and these were flying too high, or far away, to be shot. Hunting was done by small parties travelling by truck or quad. Because of the constraints caused by ice and wind, neither hunters nor our field team were able to access bird hunting areas accessible only by boat. Later in the season, once winds shifted and the water rose somewhat, parts access improved and a small bird camp took place, but participants reported that there were far fewer birds flying than there would have in the past, and the success rate was low.

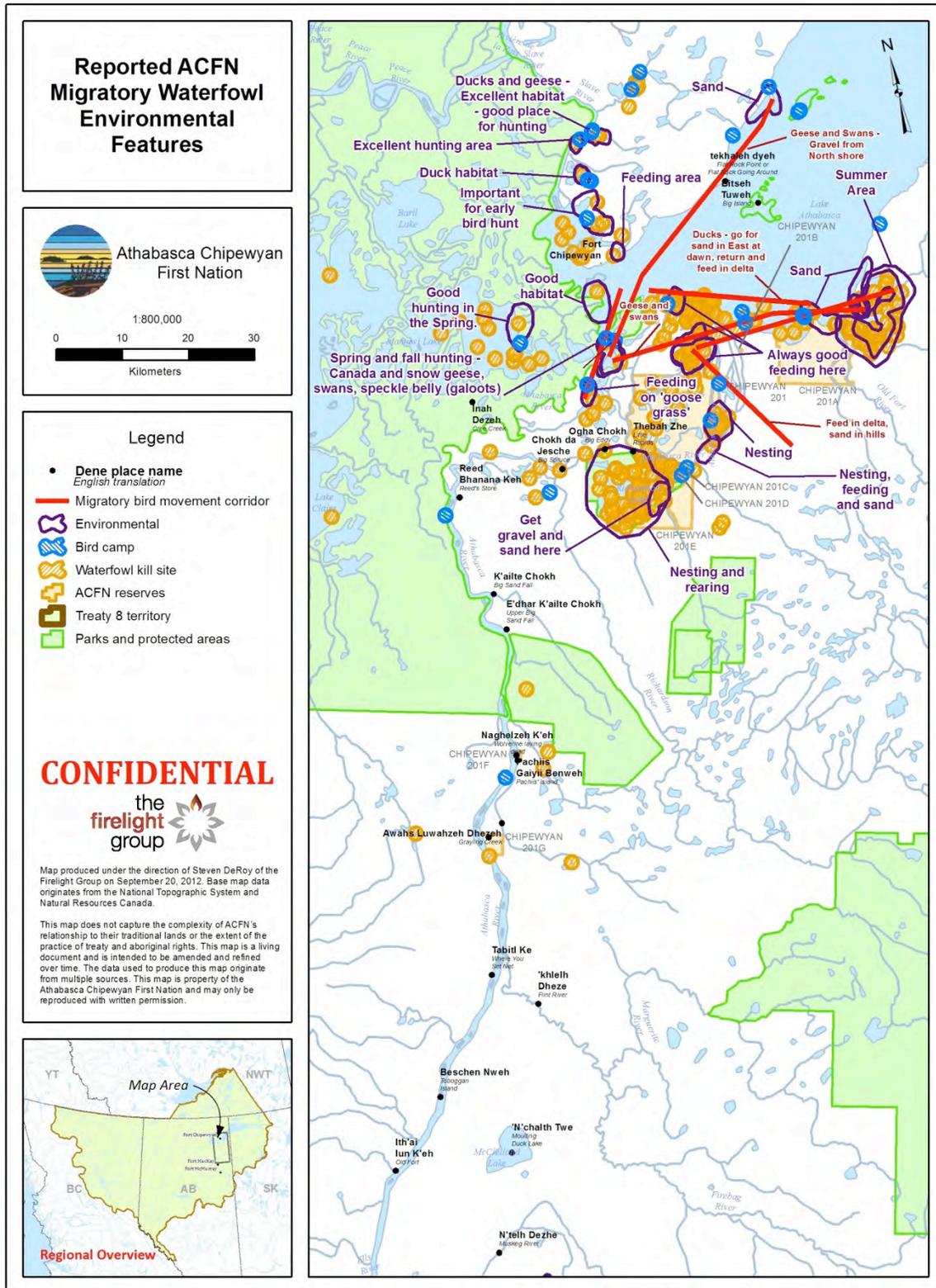
I think it has lots to do with water and their habitat. The food that they eat and the water pollution as it is, it affects all the plants which is what the ducks eat. The bugs as well. That changed over the last 30-40 years. No one drinks water off the river or lake anymore. (ACFN Men, 28 March 2012).

ACFN hunters indicated other constraints as well:

- because ice and wind conditions are unpredictable, hunters need to travel with supplies to last approximately 10 days in case they cannot return home;
- as most ACFN members have lost confidence in water from the Athabasca River because of contamination, water has to be carried in boats from town;
- the amount of water carried makes boats heavier, increases the cost of fuel, and increases the need for higher water levels in the Delta;
- fuel costs are high, particularly when bird numbers are low, and hunters have to travel the Delta looking for birds rather than remaining in bird camps;
- for hunters with employment in the oil sands or elsewhere, brief windows of scheduled vacation time reduce the likelihood of success even further.

Figure 3 shows ACFN bird camps and harvesting areas in the context of specific environmental features (feeding areas, grit sources, and movement corridors) used by migratory birds.

Figure 3: Reported ACFN Waterfowl Environmental Features and Movement Corridors with harvesting and habitation sites.



This combination of ecological conditions becomes even more critical during the fall bird hunt. The fall hunt takes place primarily along the Athabasca River (as opposed to the Delta-focused spring hunt) and during a short period in late fall when inland lakes have frozen but the river remains ice free and navigable. As such, the hunt takes place when the river is generally at its lowest ice-free flow levels and navigation is most difficult. The river itself provides a narrow ice-free corridor of north-south access along which birds fly and stage (because of clear water habitats), and along which hunters can travel.

In normal years, both birds and hunters use the same corridor. ACFN hunters indicate that birds are increasingly flying further inland, to the east and west of the Athabasca River corridor in order to avoid the noise, smoke plumes, and disturbances caused by operating oil sands facilities. If the number of birds using the Athabasca River corridor itself as a migration pathway declines, or if ACFN hunters can't access the corridor because of low water levels on the Athabasca or adjacent streams, then the opportunity for ACFN hunters to harvest fall birds along the river corridor is eliminated.

A successful bird hunt can only occur when a number of interconnected factors are in balance, including adequate water levels in traditional bird camps, healthy bird populations (both numbers and quality) and consistent migration patterns. Even small changes to one of these factors can result in the failure of a hunt. Based on ACFN knowledge, the combined factors of reduced water levels and industrial presence on the landscape are resulting in more difficult access to hunting areas and fewer birds, thus endangering the ACFN bird hunt as a result.

9.0 How Do Oil Sand Mines Affect the Bird Hunt?

9.1 Changed migratory patterns

ACFN knowledge holders have observed changes in migration patterns in the past several years. Birds now appear to avoid the Athabasca River and move through the landscape either further east or further west. ACFN knowledge holders suspect that the large scale development visible on the landscape and created by mining operations around the Athabasca River is causing many birds to avoid their ordinary routes. In focus groups, ACFN hunters indicated that existing and expanding oil sands operations are causing important changes in migration patterns:

- Many of the birds flying from the south that would ordinarily follow the Athabasca River and land in the Delta now go around smoke and pollution
- “Water is gone and the Delta is drying up” resulting in less habitat. Where birds do land, hunters often can't access them by boat due to low water and growth of willows (vegetations ingress)
- Industry contributes to forest fires, which worsens the problem of smoke

- “Birds are smart” - tailings ponds and destruction of habitat means many birds don’t want to travel along the Athabasca River anymore
- The oil sands area looks “like a desert from the air”
- Younger birds are learning a different route from the older ones

Last year, the birds were confused. There were very few, eh? Normally in the fall they go south. They were going back and forth for weeks. Seemed like they were confused or distressed. Because there was no food, and it was so dry, the fires were going. They were going back and forth, like they didn’t know where they were supposed to be. (ACFN Women 24 March 2012)

Many ACFN knowledge holders feel that migration patterns are shifting because of the development around the Athabasca River, and because important stopping points have become increasingly industrialized, causing birds to avoid them. Kearl Lake and McClelland Lake were identified as particularly important and are addressed below.

Even the birds at springtime, they don’t seem to stop no more. They go right through, and then coming back from the north they don’t stop at all. They check the water, and the monitoring from the plants... The birds are no more, and the birds...in the springtime the birds used to stop and lay eggs. Now they go right through. Lack of water or food, all the hunting grounds we have are just straight mud. There’s no willows or grass growing. Used to be everyone go to one spot at a time, now you can’t get to the island. (ACFN Men 28 March 2012)

ACFN members understand these changes, at least in part, through Dené cultural knowledge of interactions between birds and humans in the context of the bird hunt. A common narrative within ACFN traditional knowledge is the idea that “birds are smart”: when they move together (e.g., during migration), they are watching the ground for places that are safe to land. They avoid areas with bright colours, noise and smoke – likely because they associate these things with humans. During the ACFN bird hunt, the bird camp is set well away from the harvesting area. Care is taken to reduce colour visible from the air, as well as noise and smoke, as birds are known to avoid and fly around these elements.

Based on focus group responses, common rules during the ACFN bird hunt include:

- use brush and “camo” to disguise cleared areas and blinds;
- avoid bright coloured tents, reflective metal, or bright clothes, and cover windshields and bright colored vehicles or boats to block reflection;
- avoid fires and smoke that would be visible in the daytime;
- stay behind blinds and try to avoid visible movements; and,

- once birds start coming, don't make too much noise – speak in whispers (or text).

The cultural knowledge of how birds respond to smoke and visual disturbance that underlies these rules was then applied by ACFN members to what hunters understand to be a “bird’s eye view” of the operating oil sands areas:

- large areas along the Athabasca River that are cleared of vegetation;
- large plumes of dust, bad-smelling smoke and pollution in the air;
- large amounts of reflective metal and numerous large, noisy, brightly coloured vehicles constantly moving; and,
- near constant noise which increases (due to cannons and bird deterrent systems) as birds fly overhead.

Given these conditions, ACFN knowledge holders are not surprised that birds are choosing not to fly along the Athabasca River corridor to reach the Athabasca Delta anymore, particularly as once birds do arrive, the amount and quality of habitat is reduced because of impacts to flow levels and water quality.

9.2 Deaths in tailings ponds

ACFN members are very familiar with industry practices around migratory birds and tailings ponds, as several members have been employed on-site in helping manage them, including working on the barges responsible for retrieving birds and other wildlife from the ponds. ACFN members are aware of the highly publicized incidents involving bird kills due to landings on existing tailings ponds, but based on experience, knowledgeable ACFN members suspect the vast majority of bird and other wildlife deaths in the ponds are not reported because of several factors⁴ on the job site that contribute to an entrenched “code of silence.”

9.3 Impacts on water quality and quantity on the Athabasca River and Delta

ACFN members recognize that there are multiple causes of reduced water levels in the Athabasca Delta, including existing dams on the Peace River, and natural and human-caused changes in climate throughout the Athabasca watershed and elsewhere. Oil sands mines are understood by ACFN members be a major additional cause of reduced water levels as a result of:

- ongoing contributions to climate change affecting the region and beyond; and

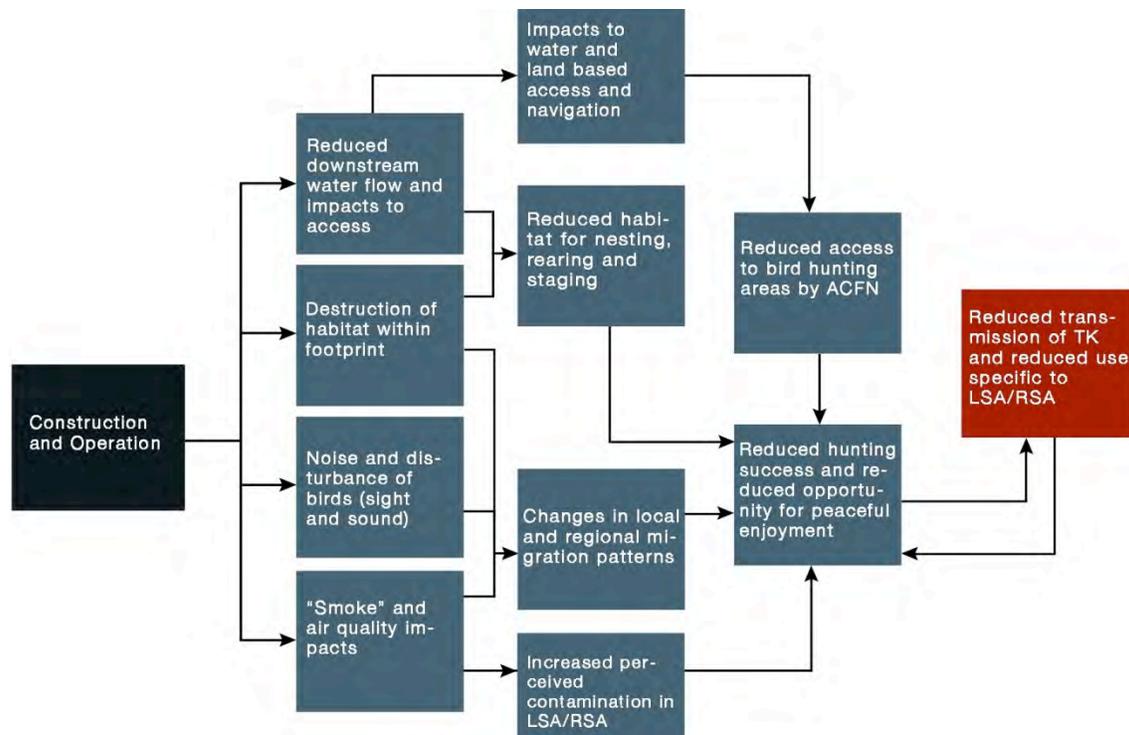
⁴ While not a focus of this study, some of the factors mentioned included fear of dismissal or black listing if a worker reported environmental problems, onerous systems of paper work and reporting required if reports were made, and co-workers who were dismissive of wildlife deaths. Additional investigation regarding the work culture of environmental reporting within oil sand facilities would be useful.

- ongoing water withdrawals or collection of ground and surface water, and especially dewatering of muskegs, which would otherwise support the flow of the Athabasca River and Delta.

Habitat loss, wildlife implications, and cultural consequences of reduced water levels and perceived or observed pollution in the Athabasca River and Delta are explored in detail elsewhere, including ICC 1998 and Candler et al. 2010.

Beyond direct effects related to bird migration, water levels, water quality and bird habitat, oil sands operations are understood to have cascading effects on ACFN use and knowledge specific to migratory birds. Figure 4 provides an analysis of pathways of effect between a standard oil sands project and ACFN knowledge and use.

Figure 4: Oil Sands Mine Impact Pathway for Migratory Birds and ACFN Knowledge and Use



9.4 Impacts specific to the Kearl Lake area

ACFN hunters report harvesting waterfowl in the area of Kearl Lake, and the muskeg surrounding, and report that they are seeing increased use by waterfowl as a result of impacts from development elsewhere in the region. Various species of ducks, geese and cranes are reported in the Kearl area.

... four years back is when I noticed a lot of ducks were starting to use this lake [Kearl Lake] more than they ever did before. Because a lot of this country's been taken out that they eat. Then they came here. So I asked the lady [owner of a nearby cabin]... as soon as I got out of my truck, and I said, "wow." To hear that sound [of birds] was good in the fall so I got in the cabin and I asked her, "how long have all these birds been here?" "How do you like that sound?" she said. I said, "you never heard it before?" She said, "no." I said, "well, everything's been taken away so far so this is only spot that's not been touched."

This is where all the birds and ducks, and geese, swans, everything was all mixed in there, all in this whole side [of Kearl Lake] here, this is where all the birds ate, this was all the birds' habitat in the fall... Everything, there's even, on this clearing, there was a clearing there, that's where the Sandhill cranes go in the fall and the spring when they come back, this clearing right there [beside Kearl Lake]. You go to that clearing in the fall, you'll see nothing but all these sandhill cranes in here... Yeah, they stop there and eat berries here. They eat blueberries and cranberries and stuff... these Sandhill cranes, they land here in the fall, they stick around and feed for about a day or two, then they move on again, depends on the wind. If you've got a strong south wind, they'll stay there for about a week. (A39, 4 May 2012)

This understanding suggests that Kearl and McClelland Lakes may be serving an especially key role in maintaining the Athabasca River corridor as a flyway by providing "safe" intermediate feeding and staging areas between fields and lakes south of Fort McMurray, and the Athabasca Delta itself. At least some ACFN members understand particularly low bird numbers in the Delta since 2003 to be especially related to increasing industrial disturbance in the area of the existing Muskeg River and Jackpine Mines. If areas surrounding Kearl Lake are industrialized further, ACFN hunters worry that an integral link leading migratory birds to the Athabasca Delta will be broken, and migratory patterns will shift further away from the Athabasca Delta and the Athabasca River corridor.

10.0 Closure

Should there be questions or clarification required regarding this technical memorandum, please email requests to craig.candler@thefirelightgroup.com.

Signed September 28, 2012

ORIGINAL SIGNED

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