

## **THE LONG-TERM BENEFITS AGREEMENT - 2006**

The large-scale destruction of the Boreal Forest north of Fort McMurray due to oil sands development obviously infringes upon Aboriginal and Treaty rights of the First Nations and Métis in the region. It was these people who were encouraged to take Treaty later (1899 – Treaty 8) and were completely able to survive off the land well into the 20<sup>th</sup> century. Harvesting moose and trapping is still a major part of the livelihood of these northern Peoples – members of the Athabasca Tribal Council. Therefore, the loss of a major portion of these lands to a large industrial activity has a large impact upon their livelihoods.

Oil sands mining digs up and destroys the ecology of the entire mine site leaving no habitat of moose, berries or trapping. These sites could cover hundreds of square miles and render the land unusable for decades. Even when they are reclaimed they will not likely be able to provide the same sustenance for those who most recently used these lands.

All this was obvious to the Oil Sand Companies and to the First Nations since the beginning of the major development in the 1990s. In the early 2000s Chief Jimmy Boucher was able to convince the Oil Companies to lobby the governments to provide compensation for this huge infringement upon their traditional lives. The governments agreed and a negotiation process was begun.

However, in 2004, I was asked by the Mikisew Chief and Council to see if I could help with negotiations. Unfortunately, it had come to a stage where they needed help to resolve issues associated with consultation and rights and Chief Archie Waquan encouraged me to get involved in the negotiations on behalf of Mikisew.

When I attended my first negotiation meeting I was impressed and amazed that the governments and the Industry had agreed to provide some significant compensation to all 5 ATC First Nations. It was clear however, that they were not paying enough attention to the consultation, cumulative effects, organizational or environmental health issues of development. First Nations like Mikisew were very concerned that these issues were not being addressed. My experience as an expert witness in the environmental hearings of oil sands applications should come in handy. Over the next two years we were able to come very close to an agreement including most of the items previously left out.

My main instructions were to address any effects upon the First Nation's rights, which included consultation, health and environmental effects as well as participation in the environmental assessments, reclamation and planning co-management as well continuing benefits and opportunities.

Truly, if such an agreement could be reached, it would represent a precedent in Aboriginal/ Government and Industry cooperation. Imagine for the first time in Canadian history some of

the largest companies in the world and the Governments of Canada and Alberta would be compensating for traditional land use infringements and consulting on land use planning, environmental protection, and environmental health effects and participation in a new economy. The possibilities were exciting. Then, after 2 years of negotiations and many hours of work with senior representatives on the wording, amounts to be paid, topics of expenditure, systems for consultation, co-management systems, economic participation, health and environmental monitoring and unprecedented cooperation, when we were close to a completed agreement, a new Harper Government pulled the plug on the proposal. They pulled the plug on compensation for infringements, on adequate consultation, on health monitoring on co-management and everything we had been working on. Also, because of the negotiations, less importance was placed on the ERCB processes because we were getting an umbrella agreement. Not only were First Nations rights compromised by this treacherous behavior but the government started to dismantle much of the progress made in First Nations rights acknowledgement.

Despite the obvious infringements on ATC lands, despite the developmental risk to the economy by ignoring constitutional rights and obvious uncompensated environmental damage, despite the potential health risks for the communities downstream of the plants, the Harper Government cancelled the negotiations, the Province could not continue without support and industry continued a shadow of the pre-agreement consultation promises.

Because the Government was no longer prepared to deal with infringements, Companies became bolder in their defiance of proper consultation measures. The climate towards Aboriginal consultation began to change rapidly. During this time, I was asked to be an expert witness in the North Steepbank Mine Extension and Voyageur Upgrader Project Application to the Alberta Energy and Utilities Board. Attached, I provide some of the comments outlining the lack of consultation performed under this application. The Companies were permitted to ignore and mislead the Board in the EUB hearing. (See Attachment).

We didn't realize how negative the politics had become until Dr. John O'Connor, the local Fort Chipewyan physician, discovered more cases of a rare bile duct cancer known to be caused by exposure to cyclical hydrocarbons. Instead of responding according to the constitution, by protecting Aboriginal rights, respecting the duty and the honour of the Crown; instead the Governments and Medical authorities – viciously attacked the messenger. Dr. O'Connor was threatened and challenged. They claimed he was causing undue alarm; undue alarm because it will hurt the reputation of the oil sands? The government did not realize that their reactions and attempted cover up would backfire, the truth about their behavior would surface and the oil sands would become dirty oil and they would be exposed to the world media. The tragedy was the cancers downstream of the oil sands plants were ignored and the opportunity to show the world a true Canadian success in reconciliation was destroyed.

In 2006, under an application to the AEUB, the expansions to the Suncor Plants were approved without cumulative Impacts assessments and with no special cancer studies performed. First

Nations began to fight back with publicity and attempted to continue their economic participation in the new oil economy. But instead of being the model for world consultation and Native / Government / Industry cooperation – the tar sands became dirty oil – or bloody oil. The world was watching. After this behavior, no matter how hard he lobbied Washington, Harper could not get the pipelines approved and Canadian oil producers began to suffer the consequences of lower western Canadian prices. The damage caused to the Canadian economy by the Harper Government rejecting proper compensation and consultation and condoning the ostracization of the community Doctor trying to protect the people from cancers is unforgivable on many levels.

One of the results of this time was that the proper process for assessing cumulative impacts on Aboriginal and Treaty rights was developed – but then ignored by the government and by industry. But the methodology and analysis was out of the bag. **How much have the oil sands infringed on the Treaty rights of the ATC. The agreement offered approximately \$650,000,000.**