

## 2 The Oil Sands Policy Regime: Resource, Markets, and Politics

This book focuses on campaigns to resist the expansion of the oil sands, a major unconventional oil resource in northern Alberta, Canada, by blocking the development of new pipelines designed to increase access to markets in Canada, the United States, and abroad. This chapter and chapter 3 use the policy regime framework to provide an overview of Canada's oil sands and how they are governed by provincial and federal rules. This chapter examines the oil sands resource, its economic significance, and its environmental impacts. It also examines background conditions that provide the context for the oil sands policy regime, particularly changes in markets and politics. The final sections examine the strategic actors that form the core of the policy regime: the oil sands coalition and the anti-pipeline coalition. Chapter 3 examines the ideas and institutions of the oil sands policy regime and how government policies have responded to environmental concerns.

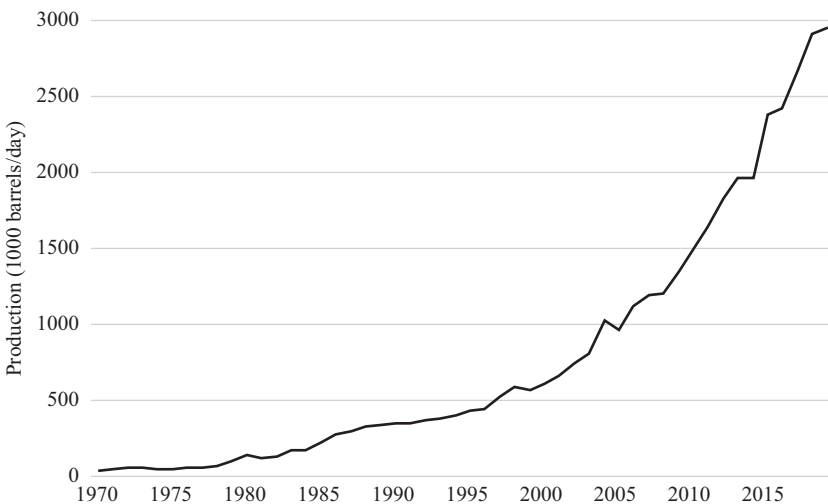
### The Oil Sands Resource and the Political Economy of Canada

The oil sands are a massive deposit of unconventional oil in northern Alberta. Their size gives Canada its rank as the world's third-largest holder of oil reserves, behind only Saudi Arabia and Venezuela. The oil sands represent 165 billion barrels of proven oil reserves (2016 estimate), a remarkable 96% of Canada's total oil reserves. Their rapid growth over the past 15 years has been a major driver in the economies of Alberta and of Canada as a whole. Production was 2.9 million barrels per day in 2018 and is projected to increase by over 50% to 4.3 million barrels per day by 2035 (Canadian Association of Petroleum Producers 2019).<sup>1</sup>

There are two production methods for the oil sands. For bitumen that is relatively close to the surface, the product is mined with shovels and

trucks. For deeper deposits for which mining is not feasible, the bitumen is accessed through wells injected with steam and/or solvents. In this so-called in situ process, the heat from the steam reduces the viscosity of the bitumen so it can be brought up to the surface. All the early production facilities were mines, but by 2012 production from in situ facilities exceeded that of mines. Of the total oil sands reserve, only one-fifth is recoverable through mining; the remainder requires in situ processes. The product of these extraction operations is bitumen, which can either be shipped as “dilbit” (bitumen diluted with condensate) or upgraded to a quality equivalent to that of crude oil (synthetic crude oil) (Royal Society of Canada 2010, chapter 4).

The first commercial operation in the oil sands opened in 1967, but it wasn't until shortly after the new millennium that the region experienced explosive growth. Figure 2.1 tracks the growth in production of the oil sands from 1971 to 2019. It took until 1979 for production to reach 100,000 barrels per day. Production did not exceed 500,000 barrels per day until 1997 and did not top 1 million barrels per day until 2004. From 2004 to 2019, the average annual rate of growth in production was 8.7%. In 2009, oil sands production exceeded conventional oil production in Canada for the first time. In



**Figure 2.1**

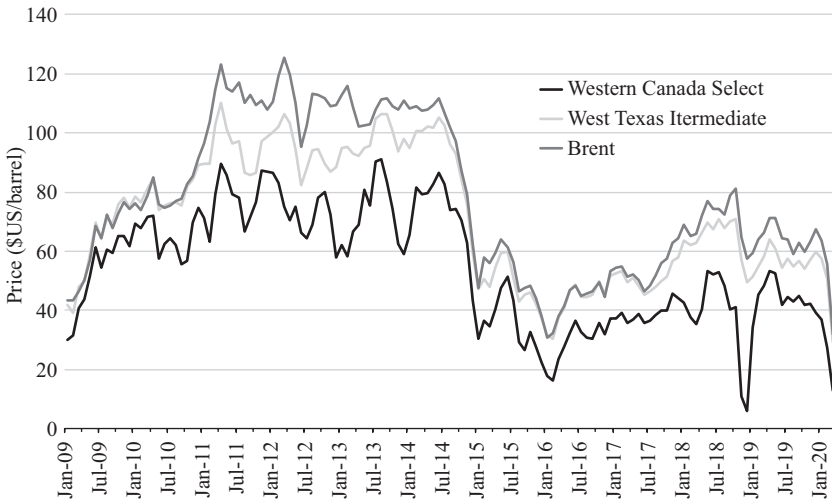
Canadian oil sands production, 1971–2019.

Source: *Statistics*, Canadian Association of Petroleum Producers, <https://www.capp.ca/resources/statistics/>.

2016, the oil sands constituted 78% of Alberta's oil production<sup>2</sup> and 62% of Canada's. Over the period 2010–2016, an average of 46% of production was bitumen upgraded to synthetic crude oil and 54% was produced as raw bitumen (Canadian Association of Petroleum Producers 2017).

The overwhelming majority of oil sands are exported to the United States, making the sector highly dependent on US markets and politics. In 2016, 79% of the 3.9 million barrels per day of Canadian oil production was exported, and between 97% and 99% of those exports go to the United States (the remaining 1%–3% going out through the Trans Mountain pipeline to Burnaby, British Columbia). While trade data are not collected specifically for the oil sands component of the Canadian oil sector, it is possible to estimate, based on a combination of production and trade data produced by the National Energy Board, that approximately 85% of oil sands production is exported to the United States. The remainder finds its way to refineries in Alberta and other Canadian provinces.<sup>3</sup>

The geography of North American energy production and transportation has created a distinctive problem for the oil sands. Petroleum products receive different prices depending on their quality and location. Alberta's bitumen is priced as part of the Western Canadian Select (WCS) index. Most North American oil gets the West Texas Intermediate (WTI) price, and international oil is typically priced according to the Brent crude index. WCS has always faced a price discount because it is of lower quality; it needs to be upgraded to have the characteristics of the "light, sweet" crude oil. But that differential can vary depending on market conditions, one of the most important being transportation capacity (Heyes, Leach, and Mason 2018; Walls and Zheng 2020). There is also a variable differential between West Texas Intermediate and Brent prices. While the two benchmarks historically have tracked each other closely, in the early 2010s a substantial discount for WTI emerged relative to Brent. Figure 2.2 shows these trends. This discount emerged because of oil transportation constraints between the midwestern United States and coastal markets, where the products would be exposed to the Brent price (Borenstein and Kellogg 2014). For 2007–2010, the WTI and Brent benchmarks were, on average, less than a dollar (US) per barrel apart.<sup>4</sup> Between 2011 and 2014, the price discount averaged \$13 (National Energy Board 2016, 89). The inability to get oil sands products the global price resulted in billions of dollars per year in lost revenue to the sector, creating the urgent sense within the oil sands coalition that getting new pipelines and access to tidewater was imperative.



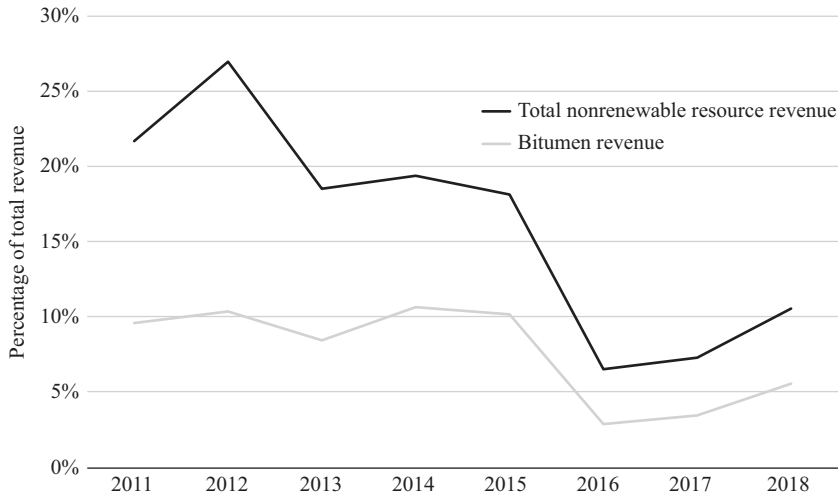
**Figure 2.2**

Brent, WCS, and WTI prices, 2009–2020.

*Sources:* WCS and WTI: Government of Alberta Economic Dashboard (Government of Alberta, n.d.a); Brent: Europe Brent Spot Price (Energy Information Administration, n.d.).

Alberta's economy is heavily dependent on the oil sector, a dependence manifested in statistics on employment, GDP, and provincial revenues. In 2017, 140,300 people were employed in the upstream energy sector in Alberta, the majority of whom worked in the oil sands (Government of Alberta, n.d.b). The oil and gas industry overall accounted for 16% of GDP in 2018, with the lion's share of that coming from the oil sands (Statistics Canada 2018). Crude oil makes up 43% of the province's exports, with the oil sands making up about four-fifths of that. With respect to government revenues, figure 2.3 shows total nonrenewable resource revenues and their bitumen royalty component from 2011 to 2018. The contribution of oil sands royalties to provincial budget revenues from 2011 to 2017 averaged 8.6%.<sup>5</sup>

This dependence on resource revenues is a double-edged sword for the province. On the one hand, it helps foster the "Alberta advantage" for attracting capital and labor. The province has chosen to fund government programs with these resource revenues, creating the fiscal space to avoid having a sales tax and keeping income and corporate taxes low, making Alberta the least taxed Canadian province (Government of Alberta 2017).



**Figure 2.3**

Alberta's nonrenewable resource revenues.

Source: Government of Alberta, n.d.d, "Resource Revenue Collected," Schedule 1 (Revenues).

On the other hand, the boom and bust nature of commodity markets means that provincial revenues fluctuate significantly. In the 2010s, oil sands revenues varied widely, from a low of \$1.2 billion in fiscal year (FY) 2015–16 (2.8% of government revenue) to a high of \$5.2 billion in FY 2013–14 (11.2% of government revenue).

### The Environmental Challenges of the Oil Sands

As an unconventional source of crude oil, the oil sands have massive environmental impacts on land, water, and air. According to an expert panel assembled by the Canadian Council of Academies, "The environmental footprint of oil sands operations on air, water, and land is wide-ranging, significant, and cumulative, and will grow as production using current methods increases" (Canadian Council of Academies 2015, xiv). The disturbance to the land varies by production method, with mining being by far the most intense. The mining process involves stripping away the boreal forest and soil and then gathering the bitumen with mammoth shovels and trucks. The resulting removal and fragmentation of the boreal forest has had significant

impacts on wildlife habitats. Impacts are likely most significant for wildlife dependent on old forest habitat, for migrating species, and for wildlife requiring large areas for habitat (Alberta Biodiversity Monitoring Network 2014). Boreal caribou, an iconic threatened species of the boreal region, are particularly vulnerable. Of the seven local populations of boreal caribou in Alberta's oil sands region, population trend data are available for four, and all four of those populations are in decline (Environment and Climate Change Canada 2017c, appendix A).<sup>6</sup>

Land impacts from in situ production are less intensive but still involve significant fragmentation of the forest from seismic lines and roads. Oil sands companies are required to reclaim land disturbed for development but at present only a miniscule fraction of the disturbed land has been reclaimed (Canadian Council of Academies 2015).

Significant land and water impacts are also created by the massive tailings ponds that are created in the process of managing the water and chemical waste when removing the bitumen from the material dug up with it. Some of the most enduring images of environmental damage caused by the oil sands were the jarring photos, promoted by the media and environmental critics, of those tailings ponds amid the northern boreal forest. In 2008, the deaths of 1,600 ducks that landed on one of the ponds created a dramatic international media moment. The structures are massive: the Syncrude Tailings Dam is the largest dam in the world by volume (US Bureau of Reclamation, n.d.). Oil sands tailings are different from other mining tailings because of the prevalence of fluid fine tailings, which take a very long period to settle, so their treatment and disposal are more challenging. By 2011, the tailings ponds and their containment structures covered 182 square kilometers of land, and by 2016 they held a volume of 1.3 billion cubic meters of tailings (equivalent to 400,000 Olympic swimming pools) (McNeill 2017a).

These tailings ponds are of concern because of both the size of their land disturbance and the fate of the contaminants in the ponds and their impact on reclamation and its costs. Tailings have now been shown to have seeped into groundwater, and there is also concern about the safety and stability of the very large dams that have been constructed to contain them (Canadian Council of Academies 2015, 42–43). There is also concern about oil sands companies closing down and walking away from their obligations to reclaim the areas, saddling the government of Alberta with the obligation and cost of doing so (McNeill 2017b). According to the Royal Society of

Canada, “Current government policy on financial security for reclamation liability leaves Albertans vulnerable to major financial risks” (Royal Society of Canada 2010, 279).

Freshwater withdrawals from rivers in the region are substantial and have prompted significant concern about maintaining downstream flow, especially during low flow periods in the Athabasca River area, where the big mines operate. Over time, however, operators began recycling more water and using saline groundwater. Until now, the rate of withdrawals has been limited to quite small percentages of annual flows. There are concerns about whether climate change will significantly reduce regional flows and further constrain water use in the future (Canadian Council of Academies 2015, 34–35).

Oil sand operations and upgraders produce significant quantities of air pollution, including sulfur dioxide, nitrogen dioxide, ozone, particulate matter, polycyclic aromatic hydrocarbons (PAHs), mercury, and volatile organic compounds. While these air pollutants have a significant environmental impact, thus far they have rarely exceeded air quality standards set by Alberta and the Council of Ministers of the Environment (Canadian Council of Academies 2015, 14).

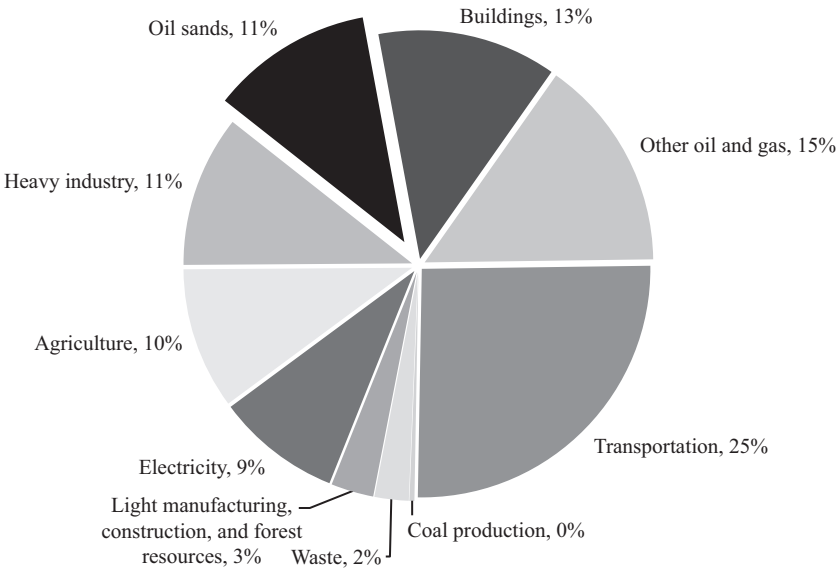
While impacts on water, land, and regional air quality are of great concern in northern Alberta, the large greenhouse gas footprint of the oil sands is what has prompted the most international concern and mobilization of the “keep it in the ground” movement against new pipelines. Oil sands create carbon dioxide emissions from the massive trucks and shovels in the mines and from the use of natural gas for upgrading and generating steam for in situ production. The high consumption of natural gas for steam makes the in situ process more emission intensive than mines (Canadian Council of Academies 2015, chapter 2).

The energy intensity of production makes oil sands more emission intensive than most sources of oil. Estimates of the emission intensity vary, but there is general agreement that over the “well-to-wheels” life cycle of oil sands production—from their extraction and production in northern Alberta to their final consumption as combusted fuel—emissions from oil sands are higher than for most other types of crude oil (Masnadi et al. 2018). One widely cited finding is that of the US State Department in the Keystone XL pipeline environmental assessment. It concluded that the emission intensity of the oil sands is “an estimated 17% more GHGs on a life-cycle basis than the average barrel of crude oil refined in the United States” (US

Department of State 2015, 10; see also Masnadi et al. 2018). The Pembina Institute uses an estimate of “31 percent more emissions than the average North-American crude” (Israel 2017).

Canada’s greenhouse gas (GHG) inventory report shows that 2018 oil sands emissions were 84 million tonnes, or 11.5% of Canada’s 729 million tonnes. The sector’s emissions have grown by a factor of 2.2 since 2005, when they constituted 5.1% of national emissions. Alberta is Canada’s highest-emitting province. Its 273 million tonnes of emissions are 37.4% of Canada’s total, and oil sands constitute 29.7% of Alberta’s emissions, a significant increase compared to the 15.1% of Alberta’s emissions they accounted for in 2005 (Environment and Climate Change Canada 2019). Figures 2.4 and 2.5 show oil sands emissions in the context of other economic sectors in Canada and Alberta.

Current oil sands emissions are not as troubling as the projected increases in the sector’s emissions. If anything like the 50% increase in production by 2030 estimated by the Canadian Association of Petroleum Producers (CAPP) comes true, the oil sands will be the fastest-growing sector in Canada and

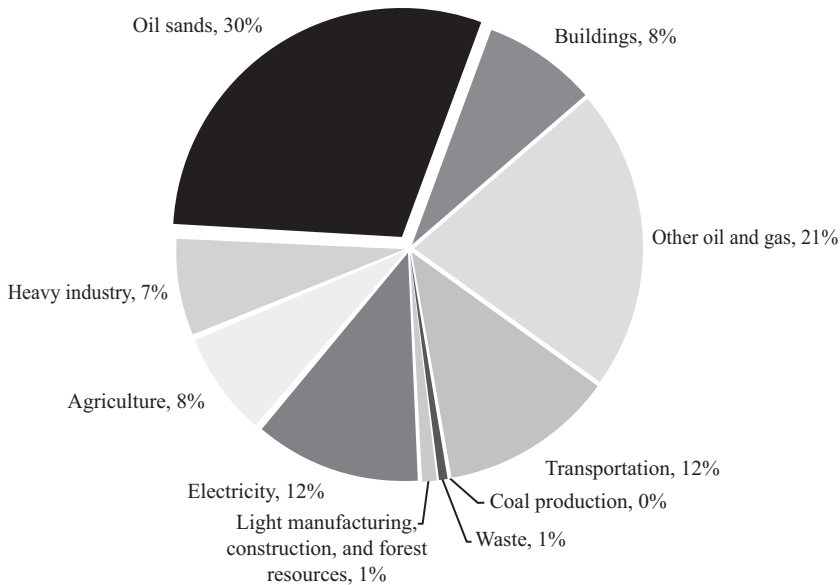


**Figure 2.4**

GHG emissions for Canada by Canadian economic sector, 2018.

Source: National Inventory Report 1990–2018: Greenhouse Gas Sources and Sinks in Canada. <http://data.ec.gc.ca/data/substances/monitor-canada-s-official-greenhouse-gas-inventory/>.





**Figure 2.5**

GHG emissions for Alberta by Canadian economic sector, 2018.

*Source:* National Inventory Report 1990–2018: Greenhouse Gas Sources and Sinks in Canada.

take up an increasingly significant fraction of Canada's emissions. Total emissions nationwide are projected to be 742 million tonnes in 2030 compared to 732 million tonnes in 2014, a 1% increase. The projections for most sectors are either flat (transportation, agriculture) or declining (electricity). The building sector's emissions are projected to increase by 8% and heavy industry's by 28%. The oil and gas sector is projected to experience an increase of 21% by 2030, but projected oil sands growth is much higher. (In fact, emissions in other segments of the oil and gas sector are projected to decline.) Government projections show oil sands emissions between 2014 and 2030 increasing by 40 million tonnes, or 59%. In 2030, oil sands are projected to constitute 15% of Canada's emissions (Environmental and Climate Change Canada 2017b). The expected rapid growth in oil sands emissions is a major challenge to Canada's capacity to reach its Paris Agreement target of reducing its emissions to 30% below 2005 levels by 2030.

Given their scale and the pace and intensity of their development, the oil sands have had a wide variety of significant environmental impacts. The

two most prominent concerns are GHG emissions and tailings. According to the Canadian Council of Academies, “Under current trends, GHG emissions and tailings disposal and related land disturbance are the most significant contributions to the environmental footprint” (Canadian Council of Academies 2015, xiv).

### **Background Conditions: Markets, Politics, and the Environment**

At its core, the policy regime framework has strategic actors working with and in an environment of ideas and institutions. That regime of actors, ideas, and institutions is set within a context of economic, political, and biophysical background conditions that can be powerful sources of change regarding the strategies and influence of different strategic actors. This section focuses on changes in energy markets, elections, and public opinion.

#### **Energy Markets**

The critical market driver for the oil sands is the price of oil. Oil price trends are shown in figure 2.2. The dramatic expansion in oil sands production that occurred in the middle of the first decade of the new millennium was fueled by a rapid runup in oil prices from early 2002, when the WTI price hovered around \$20 per barrel, to July 2008, when the price peaked at \$135. Then the impacts of the Great Recession took hold and by February 2009 WTI had dropped to \$39 before it began another recovery that lasted for more than five years.

In late June 2014, the price of oil began another steep decline despite an economic recovery. On June 20, 2014, the WTI price was \$108. By late January 2015, it had fallen to \$48. There was a brief recovery over the next six months, but then another steep decline occurred, reaching its nadir in February 2016 at \$29. WTI recovered to \$50 by June and remained between \$40 and \$70 from mid-2016 through November 2017. This unexpected oil price collapse was driven by a variety of factors, including the dramatic rise in US production resulting from the shale revolution, and the failure of Saudi Arabia–led OPEC to restrain production once the price softened.

The price shock had a tremendous impact on the Canadian oil sector. The economic implications were felt across Canada, but Alberta was hit hardest. Spending by the oil patch dropped by one-third from 2014 to 2015 and in 2016 was two-fifths of the spending level two years earlier. It

continued to drop during 2017 and 2018 (IHS Markit 2019; Canadian Association of Petroleum Producers 2019).

While much of the North American oil industry benefited from the rebound in the WTI index, the Alberta oil sector was plagued by a skyrocketing discount for Western Canada Select. The price differential between WCS and WTI, after several years of being in the teens, jumped to \$27 in February 2018. After a brief decline, it resurged in the second half of 2018, reaching a stunning \$45 in October 2018. At the time, the WCS price was only \$11 per barrel. For 2018, the differential was more than double what it was the previous year. This price crisis led to a remarkable response from the government of Alberta—a decision to curtail oil sands production. That decision reduced the discount for oil sands crude back to historical levels (IHS Markit 2019), at least before the COVID-19 crisis roiled markets further.

Alberta's unemployment rate was 4.5% in early 2015, but by early 2016 it exceeded the Canadian average and then peaked at 9% in late 2016 before recovering somewhat to below 8% by May 2017. In June 2019, it stood at 7%, above the national average of 5.7%. In 2015, capital investment in the province was 37% less than in 2013. The province's 2015 GDP was 7% lower than two years earlier and at the end of 2018 still sat below the 2013 peak.<sup>7</sup>

The value, profitability, and growth of the oil sands are heavily influenced by the price of oil, more so than conventional oil, because of the high costs associated with the complexity of the operations required in extracting and converting bitumen into synthetic crude oil. A 2015 study found that the breakeven price justifying new oil sands facilities was between \$85 and \$95 per barrel for new oil sands mines (without an upgrader). For new in situ sites, the breakeven price was lower, between \$55 and \$65 per barrel, but still marginal given recent price trends (IHS Markit 2015). According to one source, these costs make Canada the producer with the third-highest cost in the world, far above major sources of conventional oil such as the Middle Eastern countries (Knoema, n.d.).<sup>8</sup>

Studies exploring oil supply cost curves, which examine how much supply is available at different oil price ranges, routinely rank the oil sands high on the curve, meaning that there are many global sources of oil that can be competitive at far lower oil prices (Aguilera 2014). In addition to making the Canadian oil sector more sensitive to global oil market fluctuations, high costs also make the oil sands highly vulnerable to future trends in international climate policy. As the international community finally

comes to grips with the need to stay within a global carbon budget, future increases in sands production may not be economical (McGlade and Ekins 2015; Jaccard, Hoffele, and Jaccard 2018; Heyes, Leach, and Mason 2018).<sup>9</sup>

### Politics

The Canadian political environment was relatively stable from 2005 to 2015 but underwent quite a dramatic change in 2015 as a result of the election in Alberta and in Canada's federal election. Until that tumultuous year, the Alberta oil sector was fortunate to have the stability of Alberta's electoral politics for almost the entire history of oil sands development. The Progressive Conservative Party of Alberta had held power in the province since 1971, an exceptional period of one-party dominance. That political stability ensured that any pressure to slow oil sands expansion or increase regulatory costs was met with strong resistance from the government in power.

Cracks in that dominance began to show in 2009, when a party to the Conservatives' right, the populist Wildrose Party, emerged to seize advantage of growing discontent with the ruling Conservatives. Despite leading the Conservatives in opinion polls prior to the election, Wildrose was unable to take the government in the 2012 election but did break through to become the official Opposition. The emergence of the new party as a threat to Conservative dominance helped trigger a leadership crisis in the ruling party, whose leadership changed hands three times in four years after Premier Ed Stelmach resigned in 2011.

While the Conservatives' dominance had slipped, no one expected its crushing defeat by the left-leaning New Democratic Party (NDP) in the May 2015 election. Going into the election, the Conservatives held 61 seats, Wildrose 17, and the NDP 4. When the election results were counted, the stunned Conservatives had been reduced to 9 seats. Wildrose would continue as the official Opposition with 21 seats. The NDP won the majority, taking 54 seats, more than it had won in every Alberta election since 1955 combined. The stunning victory has been credited to a combination of an overly entitled establishment party that had lost touch with how the province was changing and NDP leader Rachel Notley's effective and inspiring campaign (Bratt et al. 2019).

The substance of Notley's platform was not particularly threatening to the oil sector, but the thought of a social democrat running the oil province did create deep fears within the business community, which had grown to

expect pro-business governments in power. Conservative leader Jim Prentice played those fears for all they were worth in the election, but Notley deflected his attacks as fear-mongering rumors. Her platform promised a review of oil and gas royalties and a modest increase in the corporate tax. A promise to phase out the use of coal for electricity was a hint of things to come, but there was no indication of the comprehensive climate plan that emerged later that year. The platform contained no positions on pipelines, but during the campaign Notley did express support for Energy East and Trans Mountain and skepticism regarding the political feasibility of Northern Gateway and Keystone XL given the quagmire both had entered by 2015 (Bratt et al. 2019).

Notley's premiership only survived one term, as she was replaced by Jason Kenney of the United Conservative Party in April 2019. The implications of this change will be addressed in chapter 8.

Canada's national electoral landscape was not quite as stable as Alberta's during the surge in oil sands development, but it still posed little threat to oil sands' emergence, and in the first decade and a half of the twenty-first century it has been quite conducive to it. Jean Chretien's Liberals took advantage of a fractured right wing to govern from 1993 to 2003. One of his legacies was entering and then ratifying the Kyoto Protocol, which did anger Alberta and the oil sector, but the fact that Chretien and his successor, Paul Martin, never developed a plan to implement it softened the blow. Alberta and the oil sector were relieved when its stalwart champion, Calgary-based Stephen Harper, united the Right and then won three consecutive federal elections to hold government for over nine years, from 2006 to 2015, the final four with a solid majority.

The 2008 election campaign featured Liberal leader Stephane Dion's ill-fated "Green Shift," a proposal for a revenue-neutral carbon tax.<sup>10</sup> Dion's wobbly communication skills were no match for Harper's relentless criticism. The 2008 world economic crisis further undermined the political viability of Dion's proposal, and Harper made the most of it: "It is like the [1980] national energy program in the sense that the national energy program was designed to screw the West and really damage the energy sector—and this will do those things. This is different in that this will actually screw everybody across the country" (CBC 2008). Harper went on to win his second minority government. Harper's success against Dion changed the politics of climate, as he came to believe that opposition to carbon taxes and aggressive climate

policy was a winning political strategy. As global climate policy momentum began to increase, Harper adopted the strategy of limiting policy change and castigating proposals that were more ambitious.

Six months after Notley's shocking victory, the oil sands coalition was dealt another blow when Harper's decade-long reign as prime minister was brought to an end by the election of Justin Trudeau's Liberals. The 2015 federal election campaign was a tightly fought three-way race between Harper's ruling Conservatives, Trudeau's Liberals, and Tom Mulcair's NDP, with the NDP holding the lead when the election was called in August. But the youthful Trudeau's strong debate performances, stellar campaigning, and shrewd positioning on economic policy contributed to the Liberals' resurgence. Trudeau's party topped Harper's by 7 percentage points in the voting, and Mulcair's lackluster campaign relegated his NDP to a distant third. Trudeau won a majority with 184 seats to the Conservatives' 99 and the NDP's 44 (Pammett and Dornan 2015).

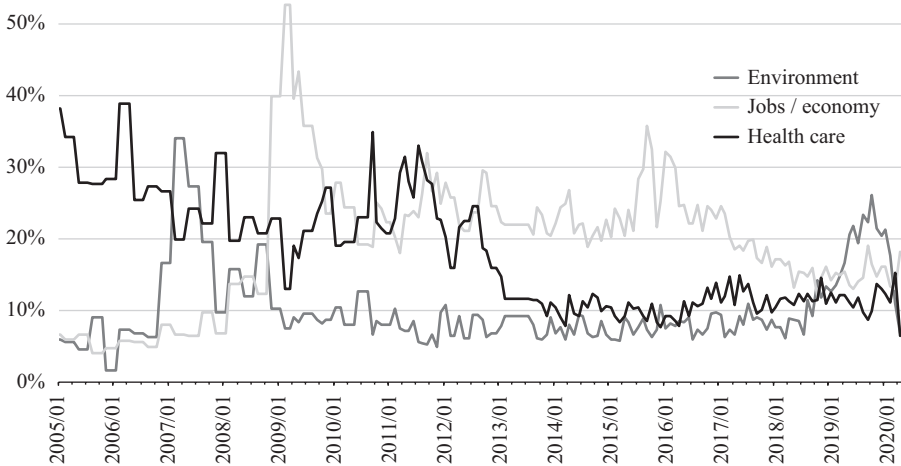
The oil patch was deeply concerned about Trudeau's rise, given the legacy of his father's 1980 National Energy Program, which poisoned the Liberal brand in Alberta, not to mention a Liberal Party run by a Trudeau. While his prospects for gaining seats in Alberta were slim, he understood that he needed Alberta's cooperation to be able to forge any sort of effective Canadian climate policy. To his credit, Justin Trudeau confronted this legacy head on and delivered one of his first major energy and climate policy speeches in the heart of the Canadian oil patch, to the Calgary Petroleum Club, proclaiming: "I'm the Leader of the Liberal Party of Canada, my last name is Trudeau, and I'm standing here at the Petroleum Club in Calgary. I understand how energy issues can divide the country. But I also know that strong leadership can see us through the challenges we face" (Trudeau 2015).

In that speech, he explicitly criticized his father's National Energy Program for being pushed through over the vehement opposition of Alberta. He built the case that the failure to get new pipelines built during Harper's tenure was a consequence of having weak environmental policies and poor relations with Aboriginal peoples, which undermined trust domestically and internationally. He proposed federal leadership on climate policy in target setting and carbon pricing but would leave the implementing mechanisms up to the provinces (Trudeau 2015).

In addition to the commitment to enact carbon pricing, the Liberal platform in 2015 promised to review the environmental assessment process

and ensure that assessments include “upstream impacts and greenhouse gas emissions.” The Liberals pledged to “modernize the National Energy Board, ensuring that its composition reflects regional views and has sufficient expertise in fields like environmental science, community development, and Indigenous traditional knowledge.” While the platform didn’t mention pipelines specifically, during the campaign Trudeau expressed strong support for Keystone XL and opposition to Northern Gateway. His positions on Trans Mountain and Energy East were similar: he expressed openness to them but could only decide after a review under a reformed, more rigorous process. The platform did say that the Liberals would implement the UN Declaration of the Rights of Indigenous Peoples, and it repeated a campaign refrain about social license: “While governments grant permits for resource development, only communities can grant permission” (Liberal Party of Canada 2015b, 42).

While these two 2015 elections transformed the political context for Canadian energy and environmental policy, there’s no evidence that they were precipitated by a surge in public concern about the environment generally or climate change in particular. One of the best indicators of public concern is what polls reveal when they ask respondents what the “most important problem facing Canadians” is. When looking at the available data on this question, shown in figure 2.6, from 2005 to 2020, there was



**Figure 2.6**

National issue of most concern according to public survey data, 2004–2020.

Source: Nanos Research.

in fact a strong surge in the salience of the environment, but it occurred in 2007, when the environment briefly exceeded both health care and the economy as the most important issue. That surge in salience did strongly influence policy development in the provinces of British Columbia and Ontario, but it made little dent in the Harper government's actions (Harrison 2012). That surge was subsequently crushed by the Great Recession and did not return in advance of the 2015 Canadian elections.

With respect to climate change in particular, despite accumulating evidence and a variety of extreme weather events domestically and internationally, there had been no measurable increase in concern about or salience regarding climate change among the Canadian public over the period 2007–2015. Leading up to the 2015 elections, Canadians were concerned about the environment and climate change, but there is no evidence that the breakthrough election results of 2015 were fostered by a surge of environmental concern. That changed in 2019, however. The 2019 election and its implications for the policy regime are discussed in chapter 8.

### **Actors—Oil Sands Coalition**

Strategic actors work within the context of these background conditions. It is very common for actors within policy subsystems to be organized as coalitions, one in defense of the status quo and the other challenging it (Jenkins-Smith et al. 2014; Hochstetler 2011). At the core of the oil sands coalition are the oil industry, pipeline companies that ship their products, and the government of Alberta. The Alberta oil industry consists of both upstream producers in the oil sands and the vast network of affiliated suppliers and service companies that the large firms rely on. Naturally, their core interest is in profits.

The fundamental challenge for the sector is that it is landlocked in northern Alberta, and as the rapid growth of the industry occurred around 2005, pipeline capacity did not keep pace and was constraining the sector's access to markets. Transportation capacity constraints had two impacts on industry profits. First, without access to new and expanding markets, growth and the resulting revenues potentially available with expanded market access were constrained. Being shackled by existing routes to the United States tied the sector to a country whose domestic oil production was increasing substantially and whose oil consumption had plateaued at that time (Energy Information



Administration 2017, 9). Second, as described earlier in this chapter, the particular configuration of North American oil markets created a price discount for oil sands producers whereby their products could not fetch the same price that they would if the sector had greater access to international markets. As a result, getting “access to tidewater,” where their products could fetch the global price, became the rallying cry of the oil sands coalition in motivating pipeline expansion.

The largest firms operating in the oil sands are Suncor, Canada Natural Resources, Imperial Oil, Syncrude, and Cenovus. These companies are all active in government and public relations but are also members of the industry’s trade association, the Canadian Association of Petroleum Producers (CAPP), which represents the sector in the media and in policy discussions (Hussey et al. 2018).

The pipeline companies are naturally eager to benefit from this tidewater imperative, and a flurry of pipeline proposals emerged late in the first decade of this century and early the following decade. The three largest oil pipeline companies are represented in this book’s case studies. Enbridge, proponent of the Northern Gateway Pipeline, was the largest company, with US\$25 billion in revenue in 2016. Kinder Morgan, the Houston-based proponent of the Trans Mountain Expansion Project, had revenues of US\$12.9 billion in 2016. TransCanada, the Calgary-based proponent of both Keystone XL and Energy East, was the third-largest oil pipeline company, with US\$8 billion in revenues in 2016. (In May 2019, the company’s name was changed to TC Energy.) For these companies, new pipelines promise greater revenues and profits. While they share an interest with the oil sands production companies in expanding the pipeline network, there are differences between the two subsectors in what the price for shipping oil sands products, or tolls, should be. For oil sands production companies, lower tolls promise lower costs of getting the product to market and therefore higher profits. For the pipeline companies, being able to charge higher tolls brings more profit. Like the oil sands producers, these companies conduct their own lobbying and media relations but are also represented by a trade association, the Canadian Energy Pipeline Association (CEPA).

The oil sands coalition has been strengthened by social mobilization of resource-dependent workers and communities. This more recent development will be addressed in chapter 12’s examination of recent changes in the oil sands regime.

The government of Alberta has also been a reliable member of the oil sands coalition because of the dominant role the oil sands play in the provincial economy. This heavy dependence on the oil sector and the oil sands in particular has led a number of scholars and commentators to label the province a “petro-state” (Carter 2016a; Shrivastava and Stefanik 2015; Adkin 2016). The term is usually reserved for developing countries whose economies are dominated by oil, resulting in a series of dysfunctional economic and political consequences (Karl 1997; Ross 2012). Canadian writers who refer to Alberta as a “first world petro-state” emphasize the dominance of the oil industry and its interests in Alberta politics, usually emphasizing the relatively low royalty rates charged by the province and lax environmental regulations designed to minimize the costs of doing business (Carter 2016a). The dominance of the Progressive Conservative Party in Alberta elections from 1971 to 2015—virtually the entire period of the establishment and explosive growth of the oil sands—certainly contributes to this impression. Research has demonstrated how the oil industry and the Conservative government worked together to protect the industry from escalating demands for environmental regulation and greater recognition of Aboriginal rights (Hoberg and Phillips 2011). Despite a different ideology and more-ambitious environmental policies, the NDP government of Rachel Notley could also still be considered a core member of the oil sands coalition.

The government of Canada can also be considered a member of the oil sands coalition, although the situation became somewhat more complicated with the election of Liberal Justin Trudeau as prime minister in 2015. The oil sands boom coincided with the emergence and subsequent dominance of Stephen Harper as prime minister of Canada. Harper is from Calgary, and his political roots are with the Reform Party, a western, conservative populist party that emerged in the late 1980s. He has been a stalwart champion of the oil sector and a relentless opponent of climate policies he thought would threaten the industry (Hoberg 2016). Some commentators have even gone so far as labeling Harper’s Canada a petro-state (Nikiforuk 2013). Harper’s energy and environmental policies are discussed in more detail in chapter 3. Whether it’s fair to say that Trudeau’s federal government is still a core part of the oil sands coalition is something that will be assessed later in this book.

## Actors—Anti-pipeline Coalition

The two core elements of the anti-pipeline coalition are environmentalists and Indigenous groups, joined by some municipalities and provincial governments. Resistance to oil sands pipelines has been a major focus for the Canadian environmental movement since 2011. In the United States, the Keystone XL pipeline was arguably the country's biggest environmental controversy of the 2010s, and the same can be said about the Canadian pipelines. These resistance campaigns frequently involve a variety of groups. Some are local groups concerned about local impacts to environmental values, whereas others are large regional, national, or even international groups concerned about broader issues, including climate change.

### Environmentalists

Environmental groups' attention to the environmental risks of the oil sands really began in 2005, when the Pembina Institute began publishing reports emphasizing the risks to regional air quality, regional water quality and quantity, habitat loss, Indigenous rights, and global climate change posed by oil sands expansion (Pembina Institute 2005; Hoberg and Phillips 2011). Greenpeace Canada opened an Edmonton office in 2007, and Environmental Defence and Équiterre joined the fray shortly thereafter.

Table 2.1 lists the major North American environmental groups involved in the oil sands and associated pipeline disputes, where they are headquartered, what their annual budget (Canadian or US dollars) was in fiscal year 2016, and their social media status in 2017.

The challenge for the environmental community was how to contain the growing environmental footprint of the oil sands. Different groups had different priorities, depending on their focus, but after 2009, climate change became an increasing priority for the Canadian environmental movement. Activists had grown increasingly impatient with the reluctance of Jean Chretien's Liberal government to develop a meaningful plan to implement its commitment under the Kyoto Protocol to reduce emissions to 6% below 1990 levels by 2012 (Simpson, Jaccard, and Rivers 2008). Given the decentralized federalism in Canada and the alliance of the government of Alberta with the oil industry, environmentalists knew that any significant policy change on the oil sands or climate policy more generally would need to be driven from outside Alberta. Yet even before Harper took over the reins in

**Table 2.1**

Major environmental groups involved in oil sands and pipeline resistance

Group	Headquarters	Annual budget (\$ millions) FY16	Facebook likes (March 2017)	Twitter followers (March 2017)
350.org	Washington	US\$10.6	569,020	340,513
Canadian Parks and Wilderness Society	Ottawa	C\$5.1	11,117	12,695
Ecojustice	Vancouver	C\$5.4	58,270	26,281
Environmental Defence	Toronto	C\$3.1	84,780	24,010
Equiterre	Montreal	C\$3.7	94,684	20,708
Greenpeace Canada	Toronto	C\$12.2	209,151	43,051
Natural Resources Defense Council	New York	US\$140.4	912,983	277,813
Pembina Institute	Calgary	C\$4.5	6,181	21,825
Sierra Club Canada	Ottawa	C\$0.4	6,897	14,154
Sierra Club (US)	Oakland	US\$63.4	910,943	314,301
Stand (formerly ForestEthics)	San Francisco	US\$2.7 C\$0.8	274,089	13,557
West Coast Environmental Law	Vancouver	C\$2.1	7,050	14,262

the January 2006 federal election, the federal government was clearly resistant to more-aggressive regulation (MacDonald 2020). The environmental movement needed a new and different source of leverage.

The pipeline resistance strategy began to take form when a group of environmentalists began meeting in 2005, under the name Upstream Strategy Working Group, to discuss how to address oil sands expansion.<sup>11</sup> Its February 2006 strategy document provides an early glimpse into the vision at the root of the “keep it in the ground” movement, which energized resistance to the expansion of fossil fuel infrastructure. The Upstream Strategy Working Group declared that its overriding goal was “to transform Canada’s fossil fuel sector into a sustainable energy sector through a combination of *‘full cost’* and *‘full stop’* strategies, and by working with others on the development of a positive energy *vision* for Canada.” Their core target was the oil sands, and their core motivation was climate. As they put it, “Our focus will be on Canada’s West and North, where the vast majority of

energy development is taking place, with special attention to the tar sands, the centre of the fossil fuel spider web and possibly the largest climate disaster in North America” (Canadian Upstream Strategy Working Group 2006).

The most important lever for power was their “full stop” campaign, designed to “stop or radically delay three pipeline projects that bottleneck the industry (MVP,<sup>12</sup> Enbridge, and Keystone) in the period between now and 2008” (Canadian Upstream Strategy Working Group 2006). Jessica Clogg, a participant in the working group discussions and a lawyer with West Coast Environmental Law, describes the thinking that led to the strategy:

A number of people said that if we want to get meaningful climate policy in Canada we have to show that we can stop a pipeline. At that moment, we did not have the power. No one could picture a pathway to addressing climate change unless we could tackle the tar sands. And the tar sands were too big. The players were too big. If you think about the tar sands as this spider at the centre of a web, what could we do to show that we could be powerful and to change the policy conversation around climate in Canada? And that was the genesis of the idea that we have to stop the pipeline. (Clogg 2017)

While their credible threat took several more years to achieve than they hoped, their strategy constitutes the birthplace of the oil sands pipeline resistance campaign. Will Horter, then executive director of the Dogwood Initiative and one of the key architects of the strategy, elaborates: “The idea was to kill a project. The industry has gotten everything it wants from the federal government and the Alberta government. We need to psychologically stop one thing, so they are willing to talk to us about something meaningful. And Enbridge rose to the top of that. And also what became Kinder Morgan” (Horter 2016).

The group was appropriately attuned to the need to do more than block infrastructure, saying: “Ensuring the formation of a politically powerful coalition promoting positive policy change to achieve a sustainable energy vision for Canada is the necessary backdrop to our ‘no’ work—we can’t just be against everything. The positive vision will fill the space created by our meta-communications project that creates a public demand for change by highlighting the negative impact of the current energy paradigm (dirty energy serving US and not Canadian interests)” (Canadian Upstream Strategy Working Group 2006).

The group’s 10-year strategy seems remarkably prescient:

1. Build a credible threat (by 2008)—go from current powerlessness to being on industry’s radar screen as directly relevant to their business interests

2. Become a player (2009–2014)—being able to set a good part of the agenda, rather than just responding
3. “Sun Nation” (2015)—the majority of actors are on the same side as us in implementing a positive energy vision for Canada (Canadian Upstream Strategy Working Group 2006)

The document also listed 10 “sources of power,” several of which have become foundations of the movement’s influence:

- Working with Canadian First Nations to exercise their legal rights
- Smarter targeting of elected decision makers
- Using EA [environmental assessment] and permitting hearings as a vehicle for communications and to highlight the need for regulatory reform
- Capitalizing on events as a focal point for communications (e.g., climate change forums; tragic accidents like spills)
- Grassroots organizing, particularly with students, to build an engaged and focused group of future energy activists (Canadian Upstream Strategy Working Group 2006)

Strategy in hand, the group went to seek funding from philanthropic foundations. They did not have success with Canada’s relatively small and conservative foundations. As one interviewee who wished to remain anonymous told me in 2017:

One component is there wouldn’t have been enough money, just from the Canadian funders, relative to the task at hand. Second, even among the Canadian environmental funders, they tended to be more conservative. They tended to be older money. Some of it was tied to historic or ongoing resource extraction. Their number one funding priority was conservation. They weren’t yet funding climate change. Even after some of the US funding started to kick in, it very quickly became politically polarized. Then a lot of the Canadian foundations were afraid to touch it because they felt it would be too polarizing. They didn’t want to be associated with it.

With Canadian foundations not interested, the activists turned to the network of large American foundations that had supported many of the groups in their forest conservation initiatives. These American foundations, including Pew, Rockefeller Brothers, Tides, Moore, and Bullitt Foundation, had already invested substantially in conservation initiatives in Canada’s north and west, including the Canadian Boreal Initiative, the Great Bear Rainforest, and protecting wild salmon in the North Pacific. As a result, they were quite receptive to the arguments that oil sands expansions and their

associated pipelines and tanker projects posed a significant threat to the very regions and natural processes that were already the foundations' priorities. American foundation funding for the resistance strategy became a controversial and divisive issue in Canadian energy and environmental politics, which will be described in chapter 3's discussion of framing.

By 2008, the Tar Sands Solutions Network had quietly emerged as a mechanism for financial support and strategic coordination of the pipeline resistance campaigns. Michael Marx of Corporate Ethics International was hired as coordinator, along with Canadian (initially Dan Woynillowicz of the Pembina Institute) and US (Kenny Bruno of Corporate Ethics International) deputy coordinators (Bruno 2017). The organization has remained very low profile. While it made a brief appearance online in 2013 (Uechi 2013), its website has been taken down, as its organizers have chosen to remain behind the scenes. It still has a Twitter account, @TarSandsSolns, which began tweeting in July 2013, but it hasn't posted since November 2015.

While each pipeline campaign has had its distinctive issues and local actors involved, the foundation-backed Tar Sands Solutions Network surreptitiously provided a surprising degree of both capacity and coordination to the different campaigns. According to Clogg:

It was all one campaign. A better way of saying it was that we all made concerted efforts to stay in communication. There has never been on our side of the border a [formal] coalition. A coalition has common positions. A network is probably a better word. There was a commitment to work collaboratively. It was more that there were good communication channels between the teams than that there was one big coalition. It was a network of groups with shared goals, diverse strategies, and a shared commitment to work through strategic differences to understand where other groups were coming from. (Clogg 2017)

Most of the funding through the network went to existing groups, but the missing piece was an organization dedicated to promoting the positive vision of a clean energy economy. The first effort to fill this void was PowerUp Canada, created in 2009 by Tzeporah Berman and Chris Hatch, the powerful husband-wife team who emerged as prominent activists in Canada during the Clayoquot Sound campaign in the 1990s (Berman 2011). But that organization didn't survive, and the work of constructing and communicating the positive vision for change was taken over by Clean Energy Canada, initially a project of the Tides Canada foundation and now affiliated with Simon Fraser University in Burnaby, British Columbia. In 2012, Berman replaced

Michael Marx as coordinator of the Tar Sands Solutions Network, a position she held until 2018.

While Canadian environmental groups took a lead role in initiating the resistance networks, leading American environmental groups were also involved from the start. The most active group has been the Natural Resources Defense Council (NRDC), whose mammoth US\$140 million budget dwarfs those of all the other groups involved. Its BioGems initiative was designed to identify conservation hotspots on which the group could focus its campaign, and the Peace-Athabasca Delta in northern Alberta had been identified as one of the world's most significant breeding grounds for migratory birds (Price 2017). When oil sands expansion was identified as a risk to the area, the NRDC became involved, stating that "the birds and their wetland rest stops are downstream from the world's largest industrial project—Alberta's tar sands mines. As the dirty oil industry grows, it is already having devastating impacts on the delta" (Casey-Lefkowitz 2009). The Sierra Club in the United States also became deeply involved, especially in the Keystone XL campaign, but on the Canadian pipelines they tended to defer to Sierra Club Canada and its regional chapters.

### **Indigenous Groups**

Indigenous groups have also been critical members of the anti-pipeline coalition. Not all Indigenous groups have been opposed to pipeline projects; some see economic benefits and few environmental risks in pipelines and have willingly cooperated with pipeline companies. But many Indigenous groups have been adamantly opposed to pipelines through their traditional territories, either because of concerns about environmental risks or as assertions of their decision-making rights. Individual Indigenous groups have played important roles in many of the pipeline conflicts, but regional coalitions, to be discussed in the context of specific pipeline cases, have also played a critical role.

Cross-border alliances among groups in Canada and the United States have emerged as a powerful political force in these disputes. In January 2013, at the initiative of Pawnee and Yankton Sioux whose territories would be affected by Keystone XL, there was a gathering of nations to sign the International Treaty to Protect the Sacred from Tar Sands Projects (Indigenous Environmental Network 2013).



In September 2016, an even larger group of Indigenous nations across North America signed the Treaty Alliance Against Tar Sands Expansion. The organization was initially formed by 50 Indigenous groups but, as of August 2017, had expanded to more than 120 Indigenous nations in Canada and the United States. Signatories include Indigenous nations from all Canadian provinces and American states in the paths of the proposed new oil sands pipelines. The Treaty Alliance aims “to prevent a pipeline/train/tanker spill from poisoning their water and to stop the Tar Sands from increasing its output and becoming an even bigger obstacle to solving the climate crisis” (Treaty Alliance 2016a).

The text of the treaty states that the signatories, under their inherent legal authority, ban pipelines supporting tar sands expansion:

Therefore, our Nations hereby join together under the present treaty to officially prohibit and to agree to collectively challenge and resist the use of our respective territories and coasts in connection with the expansion of the production of the Alberta Tar Sands, including for the transport of such expanded production, whether by pipeline, rail, or tanker.

As sovereign Indigenous Nations, we enter this treaty pursuant to our inherent legal authority and responsibility to protect our respective territories from threats to our lands, waters, air and climate, but we do so knowing full well that it is in the best interest of all peoples, both Indigenous and non-Indigenous, to put a stop to the threat of tar sands expansion. (Treaty Alliance 2016a)

More details about the role of Indigenous nations in natural resource decision-making in the two countries will be addressed in the section on institutions in chapter 3.

## Conclusion

The oil sands are a vast oil reserve, making Canada the third-largest holder of oil reserves worldwide. Their economic importance to Alberta and Canada more broadly has led to the creation of a powerful industry-government alliance making up the oil sands coalition. Until about 15 years ago, the coalition seemed to have a monopoly over relevant policy, but the scale and intensity of oil sands development became an issue. Whether looking at habitat disturbed, area covered in tailings ponds, or greenhouse gas emissions, its environmental footprint is massive. Environmentalists and Indigenous groups became alarmed and within several years were able to arm themselves

with enough information and campaign funding that they turned the environmental footprint of the oil sands into a significant regional, national, and even international controversy. These are the roots of the anti-pipeline coalition that animates the intensive conflicts depicted in chapters 4–7.

Chapter 3 examines the arenas within which the struggle between the anti-pipeline and oil sands coalitions has taken place. The arena of ideas has witnessed a battle of words and images designed to influence the public and policymakers. The arena of institutions sets the rules by which decisions are made, although as the cases to follow will demonstrate, in policy conflicts strategic actors frequently work to change the rules to benefit their interests.

This is a section of [doi:10.7551/mitpress/13668.001.0001](https://doi.org/10.7551/mitpress/13668.001.0001)

# The Resistance Dilemma

## Place-Based Movements and the Climate Crisis

By: George Hoberg

### Citation:

*The Resistance Dilemma: Place-Based Movements and the Climate Crisis*

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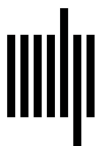
DOI: [10.7551/mitpress/13668.001.0001](https://doi.org/10.7551/mitpress/13668.001.0001)

ISBN (electronic): 9780262367158

Publisher: The MIT Press

Published: 2021

The open access edition of this book was made possible by generous funding and support from MIT Libraries



The MIT Press

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The open access edition of this book was made possible by generous funding from the MIT Libraries.

The MIT Press would like to thank the anonymous peer reviewers who provided comments on drafts of this book. The generous work of academic experts is essential for establishing the authority and quality of our publications. We acknowledge with gratitude the contributions of these otherwise uncredited readers.

This book was set in Stone Serif and Stone Sans by Westchester Publishing Services.

#### Library of Congress Cataloging-in-Publication Data

Names: Hoberg, George, author.

Title: The resistance dilemma : place-based movements and the climate crisis / George Hoberg.

Description: Cambridge, Massachusetts : The MIT Press, [2021] | Series: American and comparative environmental policy | Includes bibliographical references and index.

Identifiers: LCCN 2020048456 | ISBN 9780262543088 (paperback)

Subjects: LCSH: Environmentalism—North America. | Environmental sociology—North America. | Environmental policy—North America—Citizen participation. | Climate change mitigation—North America. | Climatic changes—Government policy—North America. | Renewable energy sources—Environmental aspects—North America. | North America—Environmental conditions.

Classification: LCC GE199.N73 H63 2021 | DDC 363.738/7460973--dc23

LC record available at <https://lcn.loc.gov/2020048456>