

# FROM HOMELAND TO OIL SANDS

THE IMPACT OF OIL AND GAS DEVELOPMENT  
ON THE LUBICON CREE OF CANADA

A HEALTHY ENVIRONMENT  
IS A HUMAN RIGHT

**AMNESTY**  
INTERNATIONAL



UNITY DEMAND DIGNITY DEMAND DIGNITY DEMAND DIGNITY (( DEMAND DIGNITY )) DEMAND DIGNITY



**More than 2,600 oil and gas wells have been drilled on Lubicon Cree land in northern Alberta, Canada. This intensive development has taken place against the wishes of the Lubicon people and has had tragic consequences for their society and livelihoods. There are fears that even more destructive forms of extraction are planned for the future.**

Unlike most Indigenous peoples in the region, the Lubicon Cree have never entered into a treaty with the Canadian government. Since the 1970s, when their land was first targeted for intensive oil development, the Lubicon Cree have tried without success to establish legal recognition of their land rights through court actions and negotiations. The last talks with the federal government broke down in 2003.

Despite the ongoing land dispute, Alberta's provincial government has issued oil, gas and mineral leases covering more than 6,750km<sup>2</sup>, or almost 70 per cent of Lubicon territory. Approximately 100 new wells are drilled each year. The construction of roads, pipelines and other infrastructure for oil and gas exploration, transportation and processing has caused extensive damage to the natural environment.

A review of government data reveals that 1,400km<sup>2</sup> of new leases have also been issued for in situ oil sands (also known as tar sands) extraction on Lubicon land. This process, which uses large amounts of pressurized water or steam to extract heavy oil, raises additional concerns about potential groundwater contamination.

The land is crucial to the Lubicon culture and economy. Before large-scale oil and





**all pics:** Apart from a few small areas that the Lubicon Cree have successfully protected, the landscape of their traditional territory is dominated by oil and gas installations and the impact of development.

*'...development projects continue to lead to the loss of lands and the asphyxiation of livelihoods and traditional practices.'*

Miloon Kothari, UN Special Rapporteur on adequate housing, after visiting the Lubicon Lake Nation, 22 October 2007

gas development began, the Lubicon Cree were largely self-sufficient, relying on hunting, trapping, fishing and other traditional land uses to meet most of their needs. The environmental impact of oil and gas development has made these activities almost impossible, plunging the Lubicon Cree into poverty.

Since the early 1980s, the Lubicon Cree have reported pervasive health and social problems associated with poverty, cultural erosion, and limited opportunities for young people. These include high rates of infectious disease such as tuberculosis; disproportionate numbers of miscarriages, stillbirths and other maternal health concerns; and high rates of family violence, alcoholism, substance abuse and suicide.

After visiting the Little Buffalo Lubicon community in 2007, the then UN Special Rapporteur on the right to adequate housing described “appalling living conditions” and “the asphyxiation of livelihoods and traditional practices” as a consequence of “the destructive impact of oil extraction activities.”

The federal government has treated the delivery of services to the community and any compensation for harm done to the Lubicon Cree as benefits to be negotiated as part of the resolution of the land dispute. The Lubicon people have received little assistance to cope with the loss of traditional livelihoods or to develop alternative sources of income and subsistence. They also lack access to many of the services taken for granted in other communities in Canada, such as safe drinking water and sanitation.

Lubicon Band Council member Dwight Gladue said in 2008: “There are no human rights here. They don’t exist. And the proof is in our graveyards. We’re having suicides now. There is no future that the young people see, and they basically give up.”

## INTERNATIONAL HUMAN RIGHTS CONCERNS

On 26 March 1990, the UN Human Rights Committee ruled that the failure to recognize and protect Lubicon lands had led to ongoing threats to their way of life and culture, in violation of the International Covenant on Civil and Political Rights.

The Human Rights Committee’s decision was among the earliest examples of recognition by UN human rights bodies that security of lands and resources is indispensable to Indigenous peoples’ enjoyment of their human rights. Over the last two decades, an important body of international human rights norms and standards has emerged in this area, which is crystallized in the 2007 UN Declaration on the Rights of Indigenous Peoples.

The Declaration affirms the right to self-determination and provides protections against discrimination and cultural destruction. It also safeguards the right to legal recognition and protection of lands,

territories and resources and the right to remedy and restitution when these rights are violated. Building on the way UN human rights bodies have applied existing protections to the situation of Indigenous peoples, the Declaration affirms that decisions affecting Indigenous peoples’ land rights should be taken only with their free, prior and informed consent.

The UN Special Rapporteur on indigenous people has stated that the Declaration “represents an authoritative common understanding, at the global level, of the minimum content of the rights of indigenous peoples”, based on “a foundation of various sources of international human rights law.”

After supporting the Declaration’s development, Canada was one of only four states to vote against it when it was adopted by the UN General Assembly. However, on 3 March 2010, the federal government committed publicly to “take steps to endorse” the Declaration.

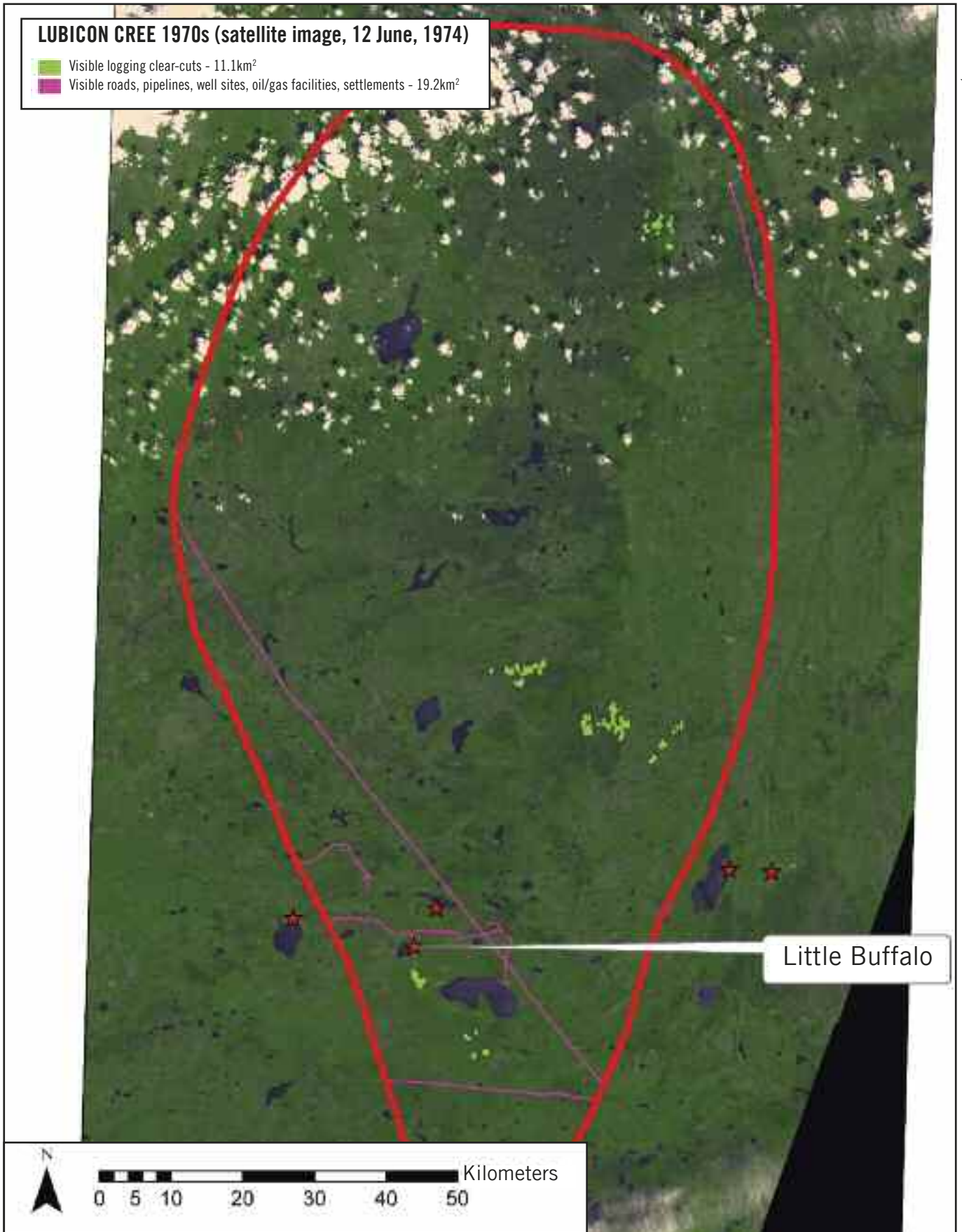
## STATUS OF LUBICON LAND

The Lubicon Cree define as their traditional territory an area of approximately 10,000km<sup>2</sup> in northern Alberta, based on generations of land use. Northern Alberta is also home to dozens of Indigenous and non-Indigenous communities and has vast oil, natural gas and oil sands deposits.

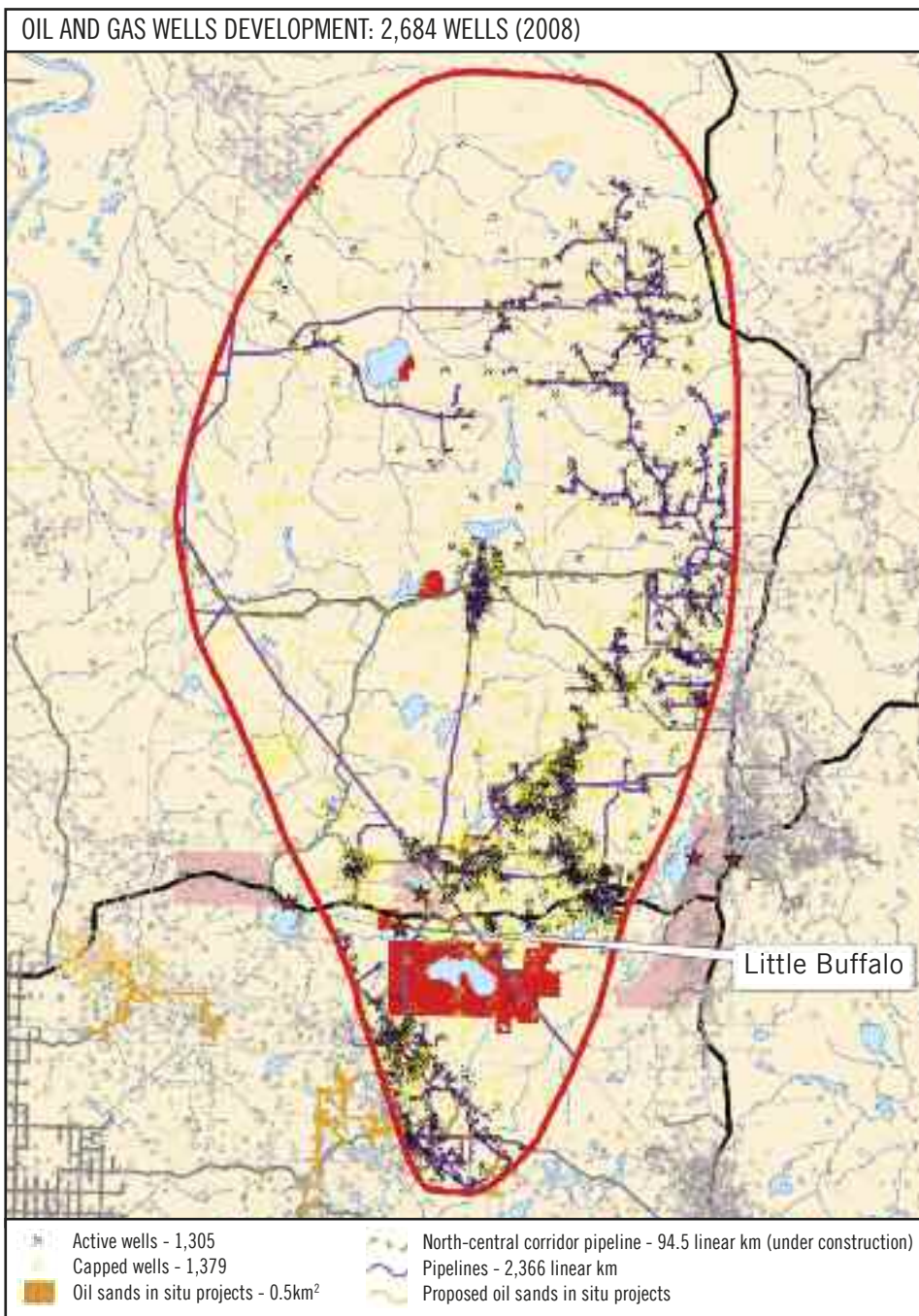
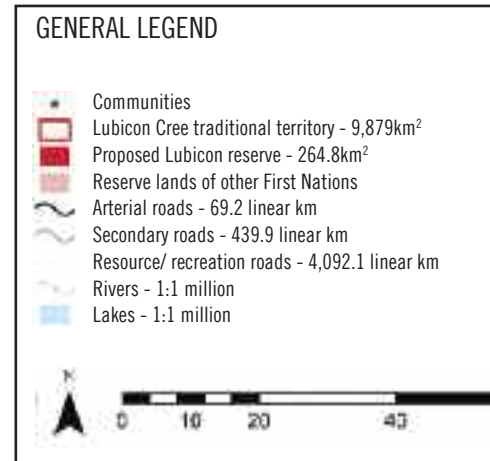
After Lubicon protests in 1988, the government of Alberta agreed to set aside three areas of land intended eventually to form a Lubicon reserve. These lands are of particular cultural and historical significance to the Lubicon people. However, the Lubicon culture and way of life depend on the ecological integrity of their larger traditional territory.

Canada has claimed that Lubicon rights are limited to the establishment of a reserve and rights to hunt, fish and trap throughout the region. The government claims that other Lubicon rights, including ownership of their traditional territory, were “extinguished” by a treaty concluded with other First Nations in the region in 1899.

The Lubicon Cree have never entered into a treaty. The idea that rights essential to their identity and subsistence could be “extinguished” without their knowledge is both profoundly unjust and contrary to the purpose of the treaty process which recognized the need to obtain the consent of the Indigenous peoples before altering the legal status of their lands.

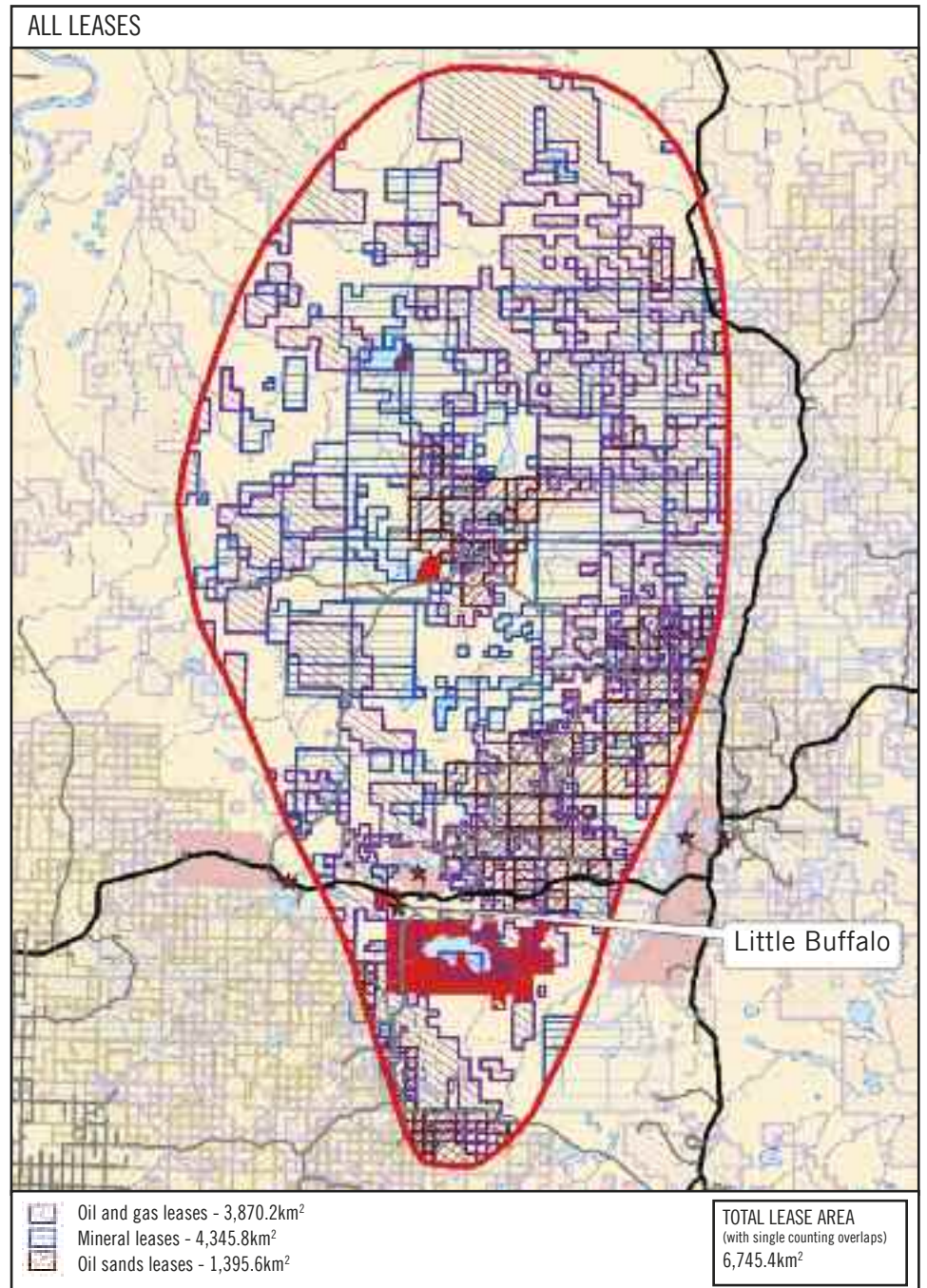
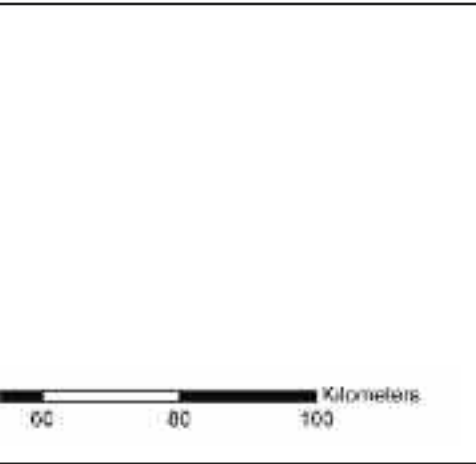


© Petr Cizek, Cizek Environmental Services



The following maps, produced in 2009 for Amnesty International, show current oil and gas and oil sands development in Lubicon territory as well as land already leased for future development in the area. All maps are based on industry and government data. All figures are approximate.

© Petr Cizek, Cizek Environmental Services





## INDIGENOUS RIGHTS AND OIL AND GAS DEVELOPMENT REGULATION IN CANADA

The Canadian Constitution recognizes the “existing aboriginal and treaty rights” of Indigenous peoples in Canada. Canadian courts have interpreted this to include a state duty to deal fairly with Indigenous peoples in every instance and to seek reconciliation between Indigenous interests and those of the larger society.

The courts have ruled that governments must always consult with Indigenous peoples before making decisions that might affect their rights and interests. This duty exists even if Indigenous peoples’ rights are disputed or lack legal recognition. The courts have also stated that there must be culturally appropriate dialogue with

Indigenous peoples, in good faith, so that their concerns can be identified and accommodated. While the extent of this duty varies, courts have stipulated that, at least in the most serious cases, decisions should only be made with the consent of the affected peoples.

In principle, the duty of consultation and accommodation could provide significant protection for Indigenous peoples’ rights when governments consider the potentially very serious consequences of allowing resource development on their lands. In practice, however, the duty of consultation and accommodation has often been ignored in licensing resource development, or interpreted in such a way that it provides little protection for Indigenous peoples.

**above:** A storage tank at the local school is the community’s only source of water for washing. This water is trucked in from outside because the Lubicon Cree have been denied water processing facilities available to most other communities in Canada. Drinking water is purchased in the closest town.

## THE ALBERTA OIL INDUSTRY

Alberta’s proven oil reserves are the second largest in the world. In 2008, Alberta exported 1.51 million barrels per day of crude oil to the USA, accounting for 15 per cent of US crude oil imports. Oil sands production alone brought in Can\$3 billion in royalties to the province.



## WARNING SIGNS

Signs posted by the industry warn that much of the natural gas in Lubicon territory contains toxic and corrosive hydrogen sulphide. According to the World Health Organization, hydrogen sulphide is associated with a range of negative health impacts, including on reproductive health. The transport and refining of this “sour gas” has become increasingly controversial throughout the Alberta oil belt.

**LOADING & UNLOADING OF  
PETROLEUM CRUDE OIL / PRODUCED WATER**

STORAGE TANKS CONTAIN TOXIC, CORROSIVE, AND FLAMMABLE LIQUIDS. ALWAYS WEAR YOUR SAFETY GEAR AND FOLLOW THE INSTRUCTIONS ON THE TANK. NEVER SMOKING NEAR THE TANKS.

DO NOT USE LADDERS, FORKS, OR OTHER MEANS TO CLIMB ON THE TANKS. ALWAYS USE THE LADDERS PROVIDED BY THE COMPANY.

NEVER CONDUCT MAINTENANCE OR REPAIRS ON THE TANKS WITHOUT THE APPROVAL OF THE SUPERVISOR. ALWAYS USE THE PROPER TOOLS AND EQUIPMENT.

NEVER GET INTO THE TANKS OR UNDER THE TANKS.

IF YOU NOTICE ANY LEAKS, SPILLS, OR OTHER PROBLEMS, REPORT THEM IMMEDIATELY TO THE SUPERVISOR.

**PENN WEST**  
A DIVISION OF PETROBRAS S.A. ALL RIGHTS RESERVED.

PROHIBITED TO ENTER THE TANKS WITHOUT THE PERMISSION OF THE SUPERVISOR. ALWAYS WEAR YOUR SAFETY GEAR AND FOLLOW THE INSTRUCTIONS ON THE TANK.

**WARNING SIGN**

FLAMMABLE LIQUID

3

1267

**1267**

3

**DANGER**  
**H<sub>2</sub>S POISONOUS GAS**



*left: An oil and gas access road in Lubicon Cree territory, Canada, 28 June 2008.*

**Approximately 4,600km of road have been built in the Lubicon Cree territory primarily for oil and gas access.**

Alberta government guidelines on consultation with Indigenous peoples focus almost exclusively on individual projects rather than the broader issues of resource development. Provincial guidelines explicitly state that: “the Government of Alberta does not consult with First Nations prior to the disposition of Crown mineral rights, and First Nations consultation is not a condition of acquiring or renewing mineral agreements.”

After determining that a region is to be developed for oil and gas or oil sands and granting leases to companies for this purpose, the province relies on these companies to consult with Indigenous peoples on the effects of specific projects. There is no requirement for the companies to obtain the consent of Indigenous communities and the province does not seek proof that Indigenous concerns have been satisfactorily addressed. There is also no effective recourse when Indigenous peoples’ rights are not respected in this process.

The majority of oil and gas development in Alberta is also excluded from independent environmental impact assessment on the grounds that the environmental consequences are known and can be

appropriately managed. It was reported in 2009 that the province is considering reclassifying in situ oil--- sands extraction so that it would also be excluded from environmental impact assessment. No process has been set up to assess the combined, cumulative environmental impacts of resource development, thus denying affected communities an important source of independent information on proposed projects.

The provincial government has never consulted the Lubicon Cree before issuing leases, licences or permits on their land. Many companies have entered into agreements with the Lubicon Cree before seeking licences from the province. However, while these voluntary measures are welcome, the Lubicon Cree appear to have little recourse if companies choose to ignore their rights.

In October 2008, an Alberta regulatory agency approved construction of the largest pipeline to date across Lubicon land. The North Central Corridor project not only crosses Lubicon traditional territory, but also borders an area intended to be part of a future Lubicon reserve. This area includes a large fish-bearing lake, a burial ground and a ceremonial area.

In meetings with the company, the Lubicon Cree explained that they had significant health, safety and environmental concerns about the pipeline. However, the Lubicon Cree first wanted the company to acknowledge Lubicon Cree rights to their lands and territory. The company refused and proceeded with its application.

The Lubicon Cree tried to raise their objections before the Alberta Utility Commission but were denied the right to present their case. The Commission concluded that the issue of Lubicon land ownership was beyond its mandate, and that the onus was upon the Lubicon Cree to demonstrate that the pipeline would cause harm to the specific rights that the Commission was willing to consider, such as hunting and trapping rights.

In its communication with the UN Special Rapporteur on indigenous people, Canada characterized the licensing process as one in which the Lubicon Cree were consulted and had the opportunity to be heard. In fact, the process provided no acknowledgement or protection of the Lubicon people’s rights. As such, the process was inconsistent with the legal obligations defined by Canadian courts and fell far short of international human rights standards such as the right to free, prior and informed consent.

## PIPELINES

Lubicon lands are crossed by more than 2,300km of oil and gas pipelines. According to a study by the Alberta Energy and Utilities Board, between 1983 and 1997 annual pipeline leaks and ruptures in the province ranged from one to eight leaks or ruptures per 1,000km, depending on the content.



*inset:* A massive natural gas pipeline under construction in Lubicon Cree territory, licensed by the provincial government despite an unresolved land dispute. Alberta, Canada.





A public rally in support of the Lubicon Cree, whose economy and way of life have been devastated by intensive oil and gas development.

## TAKE ACTION NOW

### Write to the Prime Minister of Canada:

The Right Honourable Stephen Harper  
Office of the Prime Minister  
80 Wellington Street  
Ottawa, ON  
Canada  
K1A 0A2

■ Noting that UN human rights bodies have repeatedly expressed concern over the lack of recognition and protection for the land rights of the Lubicon Cree.

■ Urging the federal government to return to negotiations with the Lubicon Cree with a clear commitment to finding a just resolution to the land dispute that will fully uphold the

rights of the Lubicon Cree under domestic and international law.

### Write to the Premier of Alberta:

The Honourable Ed Stelmach  
Premier of Alberta  
Room 307, Legislature Building  
10800 - 97th Avenue  
Edmonton  
Alberta  
Canada  
T5K 2B6

■ Note that two UN human rights bodies have said that no further resource development should take place that could harm the rights of the Lubicon Cree.

■ Support the right of the Lubicon Cree to determine for themselves whether or not their rights are adequately protected when new developments are proposed.

■ Urge the government of Alberta to agree that – pending final resolution of the Lubicon land dispute – no new development activity should be permitted on Lubicon land except with the free, prior and informed consent of the Lubicon Cree.

*cover:* Lubicon Cree settlement of Little Buffalo, northern Alberta. The Canadian government has denied the Lubicon Cree legal recognition and protection for their lands.

© Amnesty International (photo Dietlind Bork)

[WWW.DEMANDDIGNITY.ORG](http://WWW.DEMANDDIGNITY.ORG)

A HEALTHY ENVIRONMENT  
IS A HUMAN RIGHT  
**AMNESTY  
INTERNATIONAL**



Amnesty International is a global movement of 2.8 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

June 2010  
Index: AMR 20/002/2010

Amnesty International  
International Secretariat  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW  
United Kingdom  
[www.amnesty.org](http://www.amnesty.org)