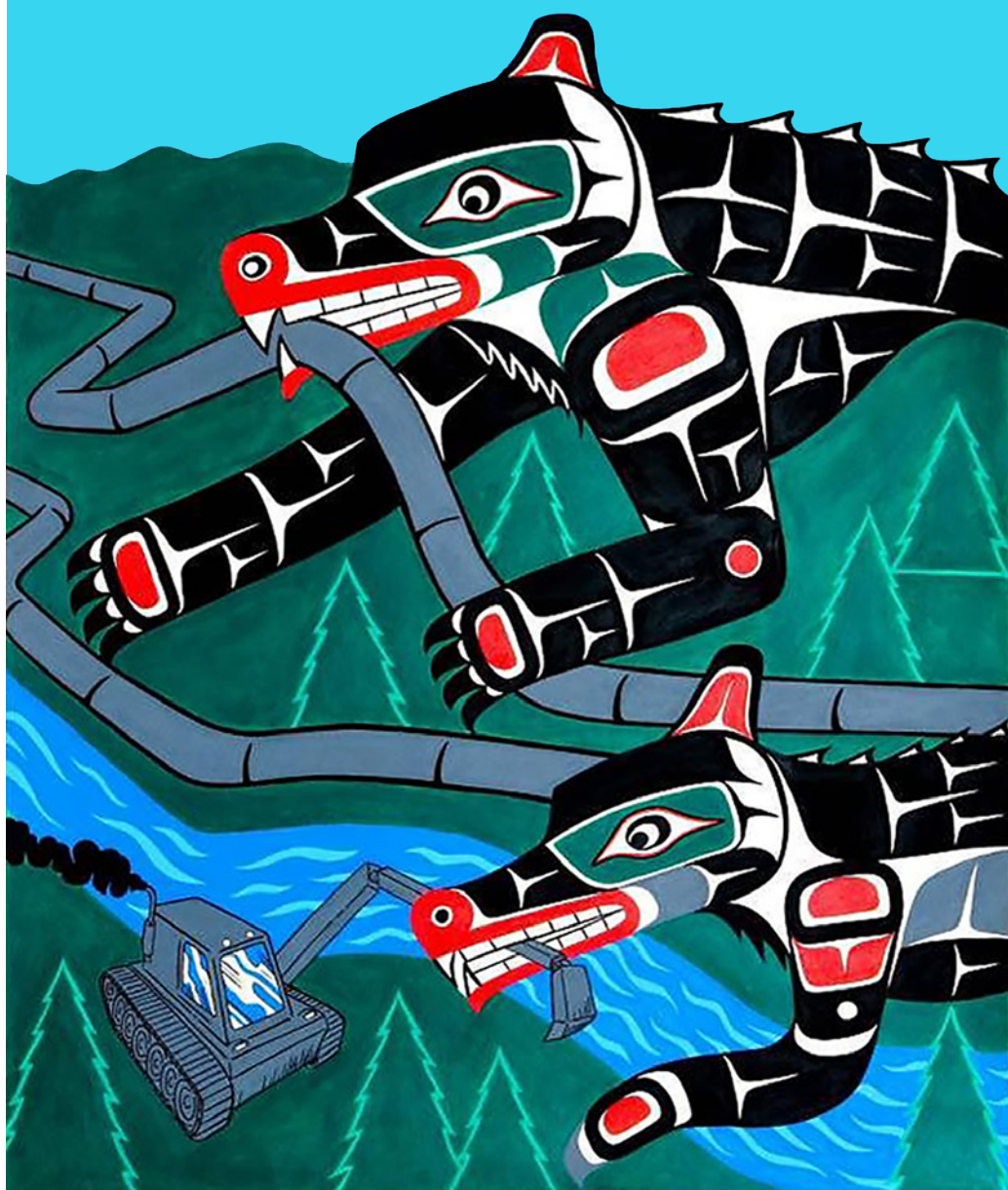


ANOTHER PIPELINE BITES THE DUST

THE DEMISE OF ENERGY EAST AND THE FUTURE OF THE TAR SANDS

ANDY CROSBY



The Line in the Sand. On May 30, 2015, over 500 Canadian citizens and First Nations marched in Red Head, Saint John, at the end of the line for the proposed Energy East pipeline. Photos: Council of Canadians



TransCanada Corp.'s Energy East pipeline proposal met its demise on Oct. 5 as CEO Russ Girling cited "changed circumstances" for abandoning the \$15.7 billion mega project. The 4,500 kilometre pipeline was publicly announced on Aug. 1, 2013 and was slated to transport 1.1 million barrels per day of tar sands bitumen to a refinery in Saint John, New Brunswick for export. The proposal called for the conversion of an existing gas pipeline from Alberta to Ontario, along with the construction of a new pipeline through densely populated areas of Ontario and Québec, including Ottawa and Montréal.

The pipeline proposal was pushed aggressively by the business community, industry lobbyists, and various levels of government, including the mainstream political parties. It was a "no brainer" for the federal Liberals, as a way to support tar sands production. In March, Prime Minister Justin Trudeau told a room full of over 1,000 energy executives in Texas that "no country would find 173 billion barrels of oil in the ground and just leave them there."

Well, given the rampant health problems and environmental mayhem wrought by tar sands production, most actually would. However, those with a financial stake often have the loudest voices and deepest pockets in arguments over resource development.

Despite the political and economic power held by the oil barons and their government backers, numerous pipeline proposals emanating from the Alberta tar sands, like the Energy East project, have been met with fierce opposition from Indigenous and environmental movements — and have been withdrawn.

TAR SANDS ANNIVERSARY

Sept. 30 marked the 50th anniversary of the inauguration of the Great Canadian Oil Sands mining site north of Fort McMurray in Alberta. On that day in 1967, Alberta premier Ernest Manning stood on a podium under a giant banner for Great Canadian Oil Sands Limited — precursor to Suncor Energy — that read "Man Develops His World." In front of a crowd of 600 government officials, dignitaries and oil executives he declared it "a historic day for the province of Alberta."

"We are gathered here for this ceremony to officially open this gigantic complex which for the first time will tap commercially the vast supply of oil that until now has remained locked in the silent depths of these Athabaska tar sands," he said. "It is fitting that we gather here today to dedicate this plant not merely to the production of oil, but to the continual progress and enrichment of mankind."

Manning's "mankind" clearly did not include Indigenous Peoples. With Canada hedging its aspirational "energy superpower" status on the ever-expanding tar sands, the oil industry's "progress and en-

richment" has been to the detriment of the Indigenous peoples, whose communities and environment have been poisoned by its toxic production.

The potential economic value of the land was recognized by early European. Explorers and authorities set out to ensure the vast Athabasca energy reserves would be under settler control by extinguishing Aboriginal title through treaty.

The North West Mounted Police (the RCMP's forerunner) and missionaries reported that the Dene and Cree peoples were hesitant to engage in treaty-making, fearing the loss of the ability to hunt, fish and trap. However, increased settler encroachment hastened the process. In their article "A Slow Industrial Genocide," Jennifer Huseman and Damien Short document Mountie James Oliver reporting towards the end of the 19th Century that "[First Nations] will be more easily dealt with now than they would be when their country is overrun with prospectors and valuable mines discovered."

Treaty 8 was signed in 1899 and described as a "colonial trick," where various promises to respect Indigenous rights were made in bad faith in order to pave the way for modern industrial development.

The spirit and intent of Treaty 8 and other treaties has been subjugated, giving rise to an arrogant sense of colonial entitlement where "man develops his world" at all costs.

"We will earn the right to be here for the next 100 or 200 years," said Suncor chief executive Steve Williams at the 50th anniversary event in Fort McMurray, as reported by the CBC. "We have an absolutely world-class resource that's been given to us Canadians."

Suncor's right to mine the toxic resource is the result of the colonial trick of treaty-making, where the Canadian government has a vastly different interpretation of the treaty relationship than Indigenous nations, their treaty partners. This makes a mockery of Prime Minister Trudeau's 'nation-to-nation' rhetoric.

THE TREATY WALL AND CRIMES AGAINST HUMANITY

The news of Energy East's demise dominated headlines and political commentary in October. The narrative was framed around "business decisions" and regional and regulatory politics. Aside from a very small handful of articles that highlighted the role opposition factored in the decision, the mainstream media and political commentators have largely ignored that Energy East did not stand a chance of ever being built.

Why? Because First Nations' treaties "are the wall that are going to stop these pipeline projects," according to Grand Chief Serge Simon of the Mohawk Council of Kanesatake.

"Industry and government cannot go over, under or around the treaties," Simon told the *Leveller*.

Simon's community as well as the Mohawks of Kahnawake are two out of 150 Indigenous communities that recently formed the Treaty Alliance Against Tar Sands Expansion. "The Treaty is an expression of Indigenous Law prohibiting the pipelines/trains/tankers that will feed the expansion of the Alberta Tar Sands," according to treatyalliance.org.

In May 2014, 70 Indigenous leaders of the alliance met in Winnipeg to develop a strategy to block Energy East.

"Both the Northern Gateway fight and this Energy East one show that when First Nations stand together, supported by non-Indigenous allies, we win," said Simon in a joint media release with various NGOs following the Energy East announcement. "So that's two tar sands expanding mega-pipelines stopped in their tracks but it will be a hollow victory if either Kinder Morgan, Line 3 or Keystone XL are allowed to steamroll over Indigenous opposition and serve as an outlet for even more climate-killing tar sands production."

Simon told the *Leveller* that the Treaty Alliance would eventually look towards the international courts as a recourse against Canada's refusal to honour the terms of the treaties while pushing industrial projects on Indigenous lands.

"Canada is not respecting treaties, not respecting international obligations," he said. "Hurricanes, wildfires and droughts — people are being displaced and people are dying. Eventually I want to make a case for crimes against humanity, against industry and against the governments that subsidize them."

With Indigenous nations on the front lines against Energy East as they were against Northern Gateway, the proposal was doomed from the beginning. This is evidenced by Simon's "treaty wall," and bolstered by the exposure of an illegitimate federal regulator — the National Energy Board (NEB).

THE NEB, THE CLIMATE CHANGE FACTOR AND THE CHAREST AFFAIR

The NEB is mandated by the Canadian government as an independent regulatory body responsible for overseeing the "international and inter-provincial aspects of the oil, gas and electric utility industries," according to its website. In recent years, and in line with Canada's ambitions of becoming an "energy superpower," the federal regulator has come under increasing scrutiny and criticism for its perceived role in rubber-stamping pipeline and other energy projects.

As a result, numerous non-governmental organizations pressed for the NEB to include tar sands emissions within the environmental impact review.

The Council of Canadians, who have

fought against the Energy East proposal for over four years, say the pipeline would have generated over 30 million tonnes of upstream greenhouse gas emissions per year, enabling a 39 per cent increase in tar sands production from 2012 levels. It also would have crossed 2,900 waterways and threatened the drinking water of 5 million people, including residents of Ottawa-Gatineau.

"We witnessed a People's Intervention that forced the climate costs of Energy East to the forefront of the pipeline review," said Aurore Faure, Tar Sands Campaign Coordinator with 350.org in a joint media release. "Over 100,000 messages were sent to the [NEB] demanding it consider all the emissions the project would generate."

"Two years later, after the NEB accepted to review the climate costs of the pipeline, TransCanada is calling it quits," she said. "Other tar sands pipelines like Kinder Morgan aren't being subjected to a climate test and Trudeau's government needs to change that."

The intense pressure levied by environmental groups against the NEB coincided with a series of protests in Québec which shut down hearings, as well as revelations concerning the regulator's cozy relationship with TransCanada.

A debacle known as the Charest Affair served to implode the review process in the summer of 2016.

Documents obtained through the *Access to Information Act* by the *National Observer* exposed a private meeting in January 2015, held between senior NEB officials and former Quebec premier Jean Charest, a paid consultant with TransCanada Corp.

As members of a supposedly impartial body, NEB representatives are forbidden to privately discuss issues that are before the Board.

The documents also revealed that a series of meetings were held between the NEB Energy East panel members and industry lobbyists, federal officials and the business community to discuss the pipeline proposal and public opinion and opposition in Québec.

The NEB initially denied that Energy East was discussed in the meetings but were forced to backtrack on their "false and misleading statements" and later apologized, according to the *National Observer*. An email from NEB panelist Jacques Gauthier to Charest's law firm, McCarthy Tétrault, clearly indicates that Energy East would be a topic of discussion at an upcoming meeting.

The conflict of interest meetings unraveled the review process as the panelists were forced to step down.

In a statement released at the time, the NEB claimed that the panelists "acted in good faith" by agreeing to step down and did so to "preserve the integrity" of the Board, a seemingly impossible feat.

For Simon, "the NEB is still the same damn broken unreliable process."

The new NEB Energy East review panel was forced to disregard the previous panel's decisions after several groups pressed

legal challenges.

For its part, TransCanada refused to submit to a provincial environmental impact assessment by the Québec regulator — Bureau d'audiences publiques sur l'environnement — which drew considerable criticism. Strong opposition in Québec forced TransCanada to cancel its plans for a marine terminal on the north shore of the Saint Lawrence River at Cacouna as part of the Energy East proposal.

BLACK SNAKES AND TROJAN HORSES

So do the demise of tar sands expansion mega pipeline projects like Northern Gateway and Energy East signal the triggering of an inevitable decline of production at the site of the world's third-largest oil reserves?

Simon warns not to get too smug about it just yet.

"We are far from out of the woods when it comes to these environmental problems," he said. "They are looking at other ways to get the oil through, looking at increased tanker traffic along the Saint Lawrence."

Simon recently received a letter requesting consultation with Mohawk communities to expand a port east of Montréal. The Contrecoeur Port Terminal expansion project would consist of two berths, an intermodal rail yard and would handle over one million containers annually.

As the port is not situated on Mohawk lands, Simon believes that authorities are seeking consultation with the Mohawk communities as a result of the Treaty Alliance and the desire to increase infrastructure capacity to facilitate the transport and export of tar sands bitumen.

Simon believes that with repairs and upgrades to the Enbridge Line 9B pipeline and increased rail traffic, incorporating holding tanks into an expanded tanker terminal would serve to facilitate increased flows of tar sands oil from Alberta.

"The Saint Lawrence is already one of the most contaminated waterways in North America," he said.

For Simon, even though Energy East was defeated, industry and government will still find ways to increase tar sands production, transportation, and export. The port expansion may represent "another fight."

THREAT ALERT: "VIOLENT ABORIGINAL EXTREMISTS" OR ENVIRONMENTAL INJUSTICE?

Indigenous opposition is the primary concern for industry, the federal government and their security peers who dedicate vast resources to policing Indigenous and environmental movements that oppose energy projects.

A January 2014 "Critical Infrastructure Intelligence Assessment" compiled by the RCMP — Criminal Threats to the Canadian Petroleum Industry — labels tar sands, pipelines and shale gas opponents as "violent

Aboriginal extremists" and "violent anti-petroleum extremists."

An appendix to the report on "proposed petroleum pipelines" describes and assesses opposition to numerous tar sands pipelines including Northern Gateway, Kinder Morgan's Trans Mountain expansion, Line 9, TransCanada's Keystone XL and Energy East. The RCMP declare that if approved, Energy East "will be the largest and most controversial of the planned pipeline projects," and that "opposition has already commenced throughout eastern Canada and the State of Maine."

The RCMP claim that pipeline opponents "perceive" an environmental threat from the continued use of fossil fuels and warn that "publicizing of these concerns has led to significant, and often negative, media coverage surrounding the Canadian petroleum industry."

Whatever the RCMP may say, the environmental threat posed by tar sands production is scientifically documented, not mere perception. For acting on this threat, Indigenous and environmental activists are labelled and targeted by the RCMP.

Similarly, while the RCMP complains of negative media coverage, this coverage is a direct result of the actual negative impacts of tar sands production. For example, a study published in the *Lancet medical journal* on Oct. 19 linked pollution to an estimated 9 million premature deaths per year, which "disproportionately kills the poor and the vulnerable." The *Lancet Commission* on pollution and health targeted the tar sands as a site of environmental injustice.

"In Canada, environmental injustice occurs in the traditional lands of First Nations (Indigenous peoples)," according to the study. "First Nations are battling the Alberta Oil Sands Project in northern Alberta and exposure to Canada's worst air pollution hotspot in Ontario's so-called 'Chemical Valley', where 40% of the country's chemical manufacturing is located."

The findings reveal the intersectional brutality of settler colonialism and environmental racism where the primary targets and victims are Indigenous peoples whose lands were first stolen, then polluted.

Moving forward, the onus is on government to "stop subsidizing in the billions the fossil fuel industry," according to Simon. "Those billions would be better used to help us to transition over to a greener economy... and fight climate change going into the future."

"First Nations are going to be critical in the fight against climate change against these energy projects that governments are trying to push through," he added.

But as pipeline projects crumble, new ones are proposed, signalling a business as usual approach for the Canadian government.

"The end of Energy East shows that extreme energy projects are part of our past not our future," said Council of Canadians Chairperson Maude Barlow in a press release. "For all of our sakes, Kinder Morgan, Line 3, Line 10 and Keystone XL must face the same fate."

