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Special section: Protected areas and sustainable forest management in Canada

A Reflection on First Nations in their Boreal Homelands in Ontario: Between a Rock and a Caribou

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Abstract

This article provides some thoughts on the impacts of the conservation vs development paradigm on First Nations, as it has played out in the Canadian Boreal Forest Agreement and the Far North Act in northern Ontario, Canada. The author contends that the dichotomy between conservation and development does not fit the First Nations' worldview in which First Nations assume responsibility for land stewardship. The author points to the need for non-governmental organisations (especially environmental non-governmental organisations) and the private sector to respect, and learn from, First Nations by ensuring they play a key role in decision making about land and resource use in their territories—one based on free, prior, and informed consent.

Keywords: boreal, forest management, conservation, Indigenous peoples, Aboriginal and treaty rights, Ontario, Canada

INTRODUCTION

Across the boreal forests of northern Canada, the paradigm of development vs conservation has defined policy development in the natural resource sectors. Canada's boreal forest has become a highly publicised, contested ground in the international debate to either develop lands and resources or set them aside in protected areas. This special section is designed to highlight Canadian cases illustrating improved collaboration between actors involved in protected areas and commercial forest harvesting. While there are examples of 'cooperative relations' with First Nationsⁱ in both protected areas and forest management, this is not always the case. In order to promote more cooperative relations and learning from First Nation worldviews, a closer examination of the shortcomings of the current relationships with First Nations around land-use decisions being made in their territories is needed. This paperⁱⁱ

will focus on three 'conflictual' case studies that promoted protected areas in northern Ontario's boreal forest—the Ontario Forest Accord, 1999; the Canadian Boreal Forest Agreement, 2010; and the Far North Act, 2010. These initiatives developed in the context of a growing boreal conservation movement and faced resistance from First Nations.

The Canadian Boreal Forest Agreement (CBFA) in particular has been discussed in other papers of this special section as a breakthrough example of collaboration, with environmental non-governmental organisations (ENGOS) and forest companies finding common ground, overcoming what was previously 'a war in the woods' over conservation vs development. However, First Nations were not part of negotiating this agreement, and several First Nations, particularly in eastern Canada, have called for the cancellation of the agreement. Rather than providing models for collaboration, the author contends that the boreal conservation movement has alienated some First Nations by ignoring their role in decision making in their homelands. Squeezed on one side by industrial interests promising economic development—the 'rock' (mining, but also forestry and energy), and, on the other, by conservation organisations seeking an increase in protected areas with threatened wildlife species as a focus—the 'caribou', First Nation voices are largely ignored in policy decisions transforming their traditional territories (lands they have historically occupied, used, and managed). This is happening

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in spite of First Nations' constitutionally acknowledged rights based on their prior occupancy of land and their continued use and occupation of the targeted boreal forest. While this article does deal with both industry and ENGOs when they have both been involved in brokering deals, the emphasis is on the role of the ENGOs that have spearheaded the boreal conservation movement.

Through this exploration, it is hoped that those involved in making policy—from the provincial governments that set and implement policy for the development of natural resources within their boundaries, including the establishment of protected areas, to the ENGOs and forest industry that influence policy—will re-examine their treatment of First Nations and find new ways to formulate and implement policies that respect First Nations rights and interests in the boreal forest.ⁱⁱⁱ The case studies of three key events in the boreal conservation movement in Ontario reveal lost opportunities for effective collaboration with First Nations. A new approach is needed that would be in keeping with the spirit and intent of the treaties signed with the Crown (representing the public interest), that is to share lands and resources, as well as with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) that recommends seeking Indigenous peoples' 'full, prior and informed consent' in natural resource development.

The case studies, or perhaps more aptly titled 'stories', are based on the author's participation in, and study of, numerous activities that have been part of the boreal conservation movement, including an early strategic planning meeting with the Pew Charitable Trusts (PCT) in northwestern Ontario in 1999, involvement in the development of the Forest Stewardship Council (FSC) of Canada since 1993 and its national boreal standard, and participation in an ongoing research project with Nishnawbe Aski Nation (NAN) exploring the dichotomy between utilisation and conservation in relation to climate change. The author was involved in some of these initiatives through the National Aboriginal Forestry Association. It is one woman's perspective. The author is of Cree ancestry from the James Bay region of northern Ontario.

Background

About 80% of the 617 First Nations^{iv} communities in Canada are located within the commercial forest zone (NAFA 1994: 1), most of them within the boreal region that stretches across northern Canada from Labrador through the provincial norths and into the southern portions of the Yukon and Northwest Territories. Indian reserves (those lands owned and controlled by the federal government that were set aside for First Nations use) collectively consist of less than 1% of commercial forests, but the areas historically and currently used for traditional activities by First Nations peoples are vast. Ownership of these lands has been claimed both by provinces that define them as 'Crown' land and by First Nations that define them as 'traditional territories'.

History

Historic or numbered treaties were entered into between the Crown and First Nations across large parts of the country from the late 1700s through to the early 1900s, while British Columbia, parts of the northern territories, Quebec, and Labrador have only in more recent history undertaken land claims or treaty negotiations (Global Forest Watch 2000: Map 10). Northern Ontario is covered by historic treaties—the Robinson treaties along Lake Superior (1850s), Treaty #3 (1873), Treaty #5 (1875), and Treaty #9 (1905–1906, with adhesions in 1929–1930) (Figure 1).^v These areas are represented by Provincial-Territorial Organizations that serve as a political voice for their member First Nations. These include Grand Council Treaty #3 representing 28 First Nations in northwestern Ontario, Anishinabek Nation representing 40 First Nations that are signatories to the Robinson treaties, and Nishnawbe Aski Nation representing 49 communities in the Treaties 5 and 9 areas. There are also a number of 'Independent' First Nations in the region.

First Nations view their Aboriginal and treaty rights as intimately linked to the land. This is due in large part to the fact that over centuries, their very existence has depended on the lands and the waters they inhabited. The alienation of First Nations from their traditional territories, as a result of colonisation by the French and English, began in the sixteenth century in Canada. Initially relationships between First Nations and the colonisers were co-operative, based on mutual need both for the success of the fur trade economy and military alliances (Magocsi 1999: 7). However, from the mid-1700s to the present day, government policy has tended toward assimilation, one dimension of what Tully (2000: 38–39) describes as a process of "internal colonization", a process whereby formerly self-sufficient societies have been reduced to poverty, dependency, alienation, and social chaos. Even though the British Royal Proclamation of 1763 recognised Indigenous peoples in Canada as prior occupants and sovereign nations,

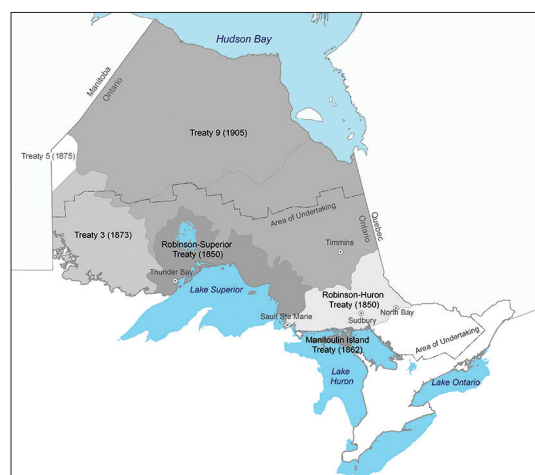


Figure 1
Map showing treaties in Northern Ontario

and instructed agents of the Crown to enter into agreements seeking First Nations' consent before any land was taken up for settlement or development (Borrows 1997), policies of assimilation soon prevailed, in spite of the treaties that flowed out of the Royal Proclamation.

Background on the protection of Aboriginal and treaty rights

In spite of the recognition of Aboriginal and treaty rights in Canada's Constitution Act, 1982, today Aboriginal rights in relation to forest land continue to be minimised and ignored, not only by the state, but also by other actors influencing natural resource policy. First Nations communities and organisations continue to insist that, because of their unique place in Canadian society, based on the recognition of their rights and their prior occupancy of Canada, they are 'not just another stakeholder' to be treated similarly to the general public (Smith 1996). The Supreme Court of Canada (SCC) agrees that the Crown holds a fiduciary or trust responsibility to act in the best interests of First Nations in order to protect their rights, while at the same time balancing the interests of the broader society (Hurley 2000).

Canada's Constitution acknowledged Aboriginal and treaty rights in 1982, but the original 1867 British North America Act delegated responsibility for 'Indians and the lands reserved for Indians' to the federal government [section. 91(24)], while giving provinces authority over the lands and resources within provincial boundaries (Section 92). This created a jurisdictional tangle in which the provinces, in dealing with First Nations interests in lands and resources, would claim that 'Indians' were a responsibility of the federal government, while the federal government, when asked to represent First Nations interests in lands with the provinces, would claim that natural resource management was a provincial responsibility. For over 100 years this 'passing of the buck' has left First Nations issues in lands and resources unresolved. It is only in the last twenty years that the SCC in numerous decisions has clarified the intent of the concept of recognising and affirming Aboriginal and treaty rights contained in section 35 of Canada's Constitution. The SCC has clarified that 'the Crown' is indivisible and that, although the federal government still has responsibility for 'Indians and the lands reserved for Indians', provincial governments also have a responsibility to address Aboriginal and treaty rights in resource development, what the Supreme Court has called 'the duty to consult' (Lawrence and Macklem 2000). How to reconcile Crown-Aboriginal interests in natural resources remains one of the most pressing issues faced by Canadians.

International recognition of Indigenous rights has also evolved with the UNDRIP (UNGA 2007) that incorporates the principle of 'free, prior and informed consent' (FPIC) in a number of situations: before nation states adopt or implement legislation or administrative measures which may affect Indigenous peoples (Article 19), redress where their lands have been 'confiscated, taken, occupied, used or damaged without

their free, prior and informed consent' (Article 28), and before the 'development, utilisation or exploitation of mineral, water or other resource' (Article 32).

While the Courts and UNDRIP have clarified that it is the Crown or nation states who hold both a fiduciary duty and a duty to consult to protect Aboriginal and treaty rights, the role of non-governmental organisations in upholding Aboriginal and treaty rights has not been adequately discussed. What responsibilities should be exercised by other stakeholders who are influencing policies that have an impact on First Nations, including non-governmental organisations who are promoting more protected areas or private industry pursuing commercial development (Smith et al. 2010)? UNDRIP acknowledges that not only nation states, but 'other parties' have an obligation to address infringements of Indigenous rights in Article 40:

Indigenous peoples have the right to have access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or *other parties* [emphasis added], as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

This is a crucial question given the increasing number of actors attempting to influence lands and resources policies, whether in favour of development or conservation. While the policy regime in the past was described as a 'state-business nexus' with industry a 'client' of government with ready access to public policy makers (Howlett and Rayner 2001), new actors, especially environmental non-governmental organisations, have expanded the policy arena, effectively advocating for policy changes that meet ENGO agendas.

The role of non-governmental actors in influencing policy

Both industry and ENGOs now play a key role in natural resource policy development. Provincial governments have increasingly delegated responsibility for natural resource management to industry, which raises questions about industry's obligations to First Nations in the course of their operations. ENGOs at times align themselves strategically with First Nations interest, when those interests meet their conservation goals. However, ENGOs must consider First Nations rights in their policy considerations even when their goals conflict. Both industry and ENGOs, through their influence on natural resource policy, influence the livelihoods and rights of First Nations.

ENGOs have blossomed in their ability to influence environmental policy. Dalton (2005) contends that it is environmental groups in advanced industrial democracies that will remain the largest and most influential at the international level in supporting actions to protect the environment in the 'developing' world. Although First Nations in Canada are part

of a so-called developed country, they have been described as “a colony within” (Watkins 1977), facing underdevelopment that has resulted in poverty and social dysfunction on par with developing countries. Therefore ENGOS who promote conservation initiatives within Canada carry the same influence as they do in developing countries and, as such, they assume a responsibility to the communities who will be affected by the policies adopted as a result of this influence.

ENGOS have mounted powerful, market-based campaigns to add legitimacy to their demands for wholesale policy changes in Ontario. There is little public debate about the wisdom of these advocated changes, although governments, both provincial and federal, have responded by adopting policies promoted by ENGOS. As Baldwin (2004: 186) points out, the boreal forest has been a political landscape since colonisation. From the moment the boreal forest was mapped in the 1930s, ‘it became a political space’. Baldwin discusses how early national policies ensured those valuable forests were exploited and ‘managed under the auspices of a national forest policy by professional foresters in accordance with the principles of scientific forestry.’

No longer is the boreal forest solely a national treasure; it is now considered an international treasure being shaped by both industrial and conservation forces outside of Canada’s borders. Although First Nations’ influence in natural resources development is growing as a result of the SCC decisions, in practice First Nations have little say in campaigns that promote either commercial development or conservation. As such, the policies that are promoted in these campaigns are missing the essential input of First Nations whose worldviews might lead to ways to overcome the dichotomy between development and conservation. Baldwin calls for a new ethic that would bring together the social-economic and ecological, and acknowledge the Indigenous peoples living in the boreal:

... it [a new ethic] must begin with the recognition that people live within the space circumscribed by the boreal sign; people who suffer the legacy of the residential school system; people whose lands have been flooded for hydro-electric power; people once employed by the resource sector; people from the south; climatologists and conservation biologists. It must also recognize the socio-ecological porosity of the boreal forest; this amounts to a recognition that distant others not circumscribed by the boreal sign could be affected by a boreal politics of closure and protection and that those choosing to invoke the boreal signifier in the construction of cultural identity bear a responsibility towards those outside affected. (Baldwin 2004: 193)

Cartwright (2003) described the variety of ENGOS in Ontario following a land-use planning exercise in the late 1990s that will be discussed later. He pointed to the variety of tactics ENGOS employed in attempting to shape the provincial environmental regime. These groups ranged from the Nature Conservancy with its dependence on corporate support, taking

care not to publicly criticise government policies, through to the World Wildlife Fund (WWF), and the Federation of Ontario Naturalists (now Ontario Nature) who quietly negotiate while at the same time publicly criticise and mount campaigns against the government, through to Earthroots, an ENGO known for the more forceful action of blockading (Cartwright 2003: 120). Some of these same ENGOS were later also involved in promoting the Far North Act and the Canadian Boreal Forest Agreement, quietly negotiating behind the scenes with government and industry, while avoiding any direct negotiations with First Nations who might oppose their direction or offer an alternative approach to conservation.

As ENGOS have increased their influence, there has been more attention paid to the results of their conservation campaigns on local communities and, in particular, Indigenous communities. In 2004, an international debate was sparked by Chapin’s *A challenge to conservationists*, in which Chapin raised an alarm about a change he had observed in the conservation movement—a move away from working closely with local communities and developing alliances with Indigenous peoples. Instead, large conservation groups began to focus on “large-scale conservation strategies and the importance of science, rather than social realities resources” (Chapin 2004: 18).

Chapin described the response from some Indigenous communities to conservation campaigns noting that they feel that the setting aside of ‘protected areas’ often means their exclusion, sometimes evictions, and an infringement on their rights. Not only are Indigenous people excluded, but often conservation organisations turn to partnerships with multinational corporations ‘that are directly involved in pillaging and destroying forest areas owned by indigenous peoples’ (Chapin 2004: 18).

Many of Chapin’s arguments ring true in the Ontario situation, including pursuing alliances with the private sector, excluding Indigenous peoples from decision making, ignoring Indigenous rights, failing to seek the free, prior, and informed consent of affected First Nations, and promoting the conservation goal of seeking ever larger areas of ‘protection’ while ignoring local community concerns. It should be noted that ENGOS have not excluded all First Nations affected by their proposed conservation policies. Among the 34 First Nations in the far northern boreal, there are a few who support the ENGO approach to increasing protected areas. First Nations are not monolithic in their views and they often have disagreements about approaches to lands and resources. However, the spirit of free, prior, and informed consent is that all First Nations who will be affected should be consulted and their consent sought, especially if they disagree with proposed policies. The tendency of ENGOS is to work only with those First Nations who agree with their approach to protected areas or wildlife protection strategies.

Chapin’s challenge was met by lively and thoughtful responses from many—from the conservation groups he challenged to others who supported the critique of the ENGOS’ relationships with Indigenous peoples. Veit et al. (2004: 11)

captured the essence of the dilemma of melding conservation with social justice, by asking the question—‘How shall we organize ourselves to both protect nature and promote human wellbeing?’—and then providing the answer. Prior informed consent, compensation for lands and resources set aside for conservation, public debate of environmental concerns, and transparency and accountability in decision making were among the answers. These same approaches need to be applied in Ontario’s boreal forest.

Indigenous peoples and conservation

The idea that Indigenous peoples are natural conservationists and therefore natural allies for environmental groups has been challenged by a number of authors, in particular Krech (1999: 98–99) in *The ecological Indian*. He contends that Amerindians caused animal extinctions through wasteful hunting practices and used environmentally destructive burning practices. Within the Canadian environmental movement, Orton (1996) described himself as a ‘left biocentrist’ who believes that ‘a transformed anti-industrial socialism’ could still be relevant, if it incorporated justice for non-human species, was against economic growth and consumerism, and was for human population reduction and a frugal lifestyle.’ He challenged environmentalists and First Nations who put social justice before environmental issues, such as support for historic treaties and First Nations hunting, fishing, and trapping rights. He criticised environmentalists who accept ‘without public questioning of aboriginal claims, statements and demands and that natives define the terms of reference of any alliance with environmentalists’ and promote

a particular faction within a native community which has itself sought out contact with non-native environmentalists, thereby ignoring significant differences regarding social justice and ecological understanding within the native community.

He argued that it is necessary to ‘go beyond human-centeredness, beyond treaties, and beyond land ownership and property rights’ and that ‘Native self-government must accept present day ecological and social imperatives, and discard the haggling over 18th century treaty rights.’ Orton’s critique underlies the tension that exists within the environmental movement about First Nations’ claims for recognition of their rights, including environmental and social justice. Positions such as Orton and Krech’s are used in large part to support arguments against the recognition of Aboriginal and treaty rights and the exclusion of First Nations from decision making. Miller et al. (2011) have classified those who hold such views as ‘nature protectionists’ as opposed to ‘social conservationists’ who consider poverty alleviation an essential element of biodiversity protection.

What can Indigenous peoples bring to the debate about conservation vs development? Common property theorists have pointed out that the establishment of protected areas through top-down, state-imposed regulations does not

necessarily guarantee sustainability. In fact, empirical studies have shown that local people can and do manage resources sustainably if they have the ability to make, monitor, and enforce their own rules (Hayes and Ostrom 2005). ‘Indigenous Community Conserved Areas’ (ICCAs) have been proposed as a way of bringing local knowledge into decision making and interconnecting biodiversity and cultural diversity through cultural meaning (Berkes 2004, 2007; Robson and Berkes 2010).

An example of the potential Indigenous contribution to this debate is the case of the Whitefeather Forest Initiative in the northern boreal forest. In their land-use strategy, developed jointly with the Ontario government, Pikangikum First Nation described how they have learned to ‘keep the land’ based on their centuries-old firsthand knowledge of their territory and the understanding that caring for this land is a responsibility that comes from the Creator. They say: ‘Our Elders have taught us that our ancestral lands are a sacred gift from the Creator that provides for our continued way of life, including *enduring livelihood opportunities for our people*’ [emphasis added] (PFN 2006: 1). For Pikangikum people, looking after their land includes using it for the economic wellbeing of their people and, in fact, ‘it is through our livelihood activities that we understand and monitor ecological process, that we learn how to protect the land for future generations’ (PFN 2006: 8). This Indigenous worldview and approach could help in transforming the way we practice stewardship. In fact, some authors think that such a ‘convergence’ is needed to move beyond the polarised debate about biodiversity protection vs human wellbeing (Miller et al. 2011).

Some international conservation agencies are acknowledging the need to foster more effective collaboration between Indigenous peoples, conservation organisations, and governments. The International Union for Conservation of Nature (IUCN) has developed guiding principles for equitable forms of conservation and resource management such as ‘Principle One: [Indigenous peoples] should be recognised as rightful, equal partners in the development and implementation of conservation strategies that affect their lands, territories, waters, coastal seas, and other resources, and in particular in the establishment and management of protected areas’ (Beltrán 2000: ix). The IUCN states that decentralisation, participation, transparency, and accountability are fundamental to achieving this principle and recommends the implementation of co-management structures in protected areas where Indigenous peoples are affected, and the reinforcement and extension of co-management where it already exists (Beltrán 2000).

THE BOREAL CONSERVATION MOVEMENT WITH A FOCUS ON ONTARIO

Background of the boreal conservation movement

In the early 1990s, ENGO protests about forest management practices focused on the ‘old growth’ coastal rainforests of British Columbia, epitomised by protests in Clayoquot Sound

on Vancouver Island. By the late 1990s, ENGOs began to focus on the boreal forests of Canada (see Table 1 for a chronology). For example, the Sierra Club of Canada, which had been active in Clayoquot, appeared before the Senate Sub-Committee on the Boreal Forest in 1997 (Senate Sub-Committee on the Boreal 1999). As the boreal conservation movement grew, several other ENGOs involved in Clayoquot took up the boreal cause, including Greenpeace and the Western Canada Wilderness Committee.

In 1992, the first international ENGO devoted to protecting northern forests—the Taiga Rescue Network—was formed (NRTEE 2005: 82). In 1993, the FSC was formed, strongly supported by ENGOs, to promote certification of forest products as a way of using the marketplace to put pressure on forest companies to change their forestry practices. FSC Canada developed several regional standards, culminating in the National Boreal Standard in 2004. The development of this standard was influenced by inputs from the ‘chambers’ that make up the FSC—social, economic, environmental and, in Canada, Aboriginal—largely with funding from the PCT. The National Boreal Standard was also influenced by the growing boreal conservation movement.

A 1997 report by the Washington-based NGO, the World Resources Institute (WRI), titled *Last frontier forests* (Bryant et al. 1997), graphically illustrated that the largest ‘relatively

undisturbed’ or ‘frontier’ forests (also termed by ENGOs as ‘intact’ forests), as pictured from satellite imagery, were located in the circumpolar boreal region. In the same year, the Government of Canada turned its attention to the boreal forest, establishing a Senate Sub-Committee on the Boreal Forest that filed its final report *Competing realities: the boreal forest at risk* in 1999, echoing the WRI’s language and concerns about threats to the boreal forest: ‘Portions of Canada’s remaining natural, undisturbed boreal forest and its areas of old growth are now at risk’ (Senate Sub-Committee on the Boreal Forest 1999: Executive Summary). The Sub-Committee recommended a 20-20-60 formula with 20% of the boreal forest to be managed intensively, 20% to be protected, and 60% to be ‘managed at a less intensive level over a broader area, with long-term leases, audited regularly by community groups assisting forestry experts.’ The Sub-Committee’s recommendations were not acted on by the federal government and discussions about how much protection of the boreal is enough became centred in the boreal conservation movement.

The boreal conservation movement in northern Ontario

The Ontario Forest Accord

In Ontario, the influence of the boreal conservation movement first made itself felt during a provincial land-use

Table 1
Key milestones in boreal conservation movement and impacts on First Nations, with a focus on Ontario

Date	Event
1992	Taiga Rescue Network formed
1993	Forest Stewardship Council formed
1996	Pikangikum First Nation approaches Ontario Ministry of Natural Resources (OMNR) to explore opportunities for forest development
1997	World Resources Institute publishes ‘Last Frontier Forests’
1997–99	Canada’s Senate Sub-Committee on the Boreal Forest
1997–99	Ontario Lands for Life land-use planning exercise results in the Ontario Forest Accord, an OMNR-ENGO (Partnership for Public Lands)-industry deal providing for an expansion of protected areas and the ‘orderly development of the north’ while protecting industry’s wood supply commitments
1999	Pew Charitable Trusts (PCT) sponsored strategy meeting with ENGOs on boreal conservation
2000	Ontario Ministry of Natural Resources launches Northern Boreal Initiative
2001	Canadian Boreal Initiative formed with funding from PCT
2002	Protected Areas Accord signed between Poplar River, Pauingassi and Little Grand Rapids First Nations in northern Manitoba and Pikangikum to pursue a World Heritage designation from UNESCO for a portion of their territories
2002	National Geographic publishes ‘The Great Northern Forest’
2003 (updated 2009)	Boreal Forest Conservation Framework (BFCF) sets 50% as target for boreal protection
2004 (being incorporated into single national standard)	Forest Stewardship Council National Boreal Standard approved (largely funded by PCT)
2005	Canadian Parks and Wilderness Society-Wildlands League launches Boreal Wild campaign ‘to save Ontario’s remaining intact boreal forest region’
2008	Ontario announces support of 50% protection target for northern boreal forest
2009	Far North Land Use Planning Initiative launched
May 2010	Canadian Boreal Forest Agreement signed between ENGOs and industry
August 2010	Nishnawbe Aski Nation launches campaign against Bill 191, Far North Act
Oct 2010	Far North Act, enabling Ontario’s 50% protection target, receives Royal Assent
Oct 2010	‘National’ meeting on boreal, sponsored by BC First Nations Energy and Mining Council and Carrier-Sekani Tribal Council where David Suzuki and Larry Innes of the Canadian Boreal Initiative apologise for the exclusion of First Nations in the negotiations for the CBFA
Feb 2011	NAN calls for the ‘immediate termination’ of the CBFA
Mar 2011	Assembly of First Nations/National Aboriginal Forestry Association national meeting to discuss, in part, the CBFA

planning exercise that took place between 1997 and 1999. The Partnership for Public Lands (PPL) with its three collaborators—the World Wildlife Fund Canada (WWFC), the Canadian Parks and Wilderness Society-Wildlands League (CPAWS-WL), and the Federation of Ontario Naturalists (FON, now Ontario Nature)—exercised significant influence during the Lands for Life planning exercise. In spite of a public process that established three ‘round tables’ with a range of ‘stakeholder’ input to put forward recommendations to the provincial government on future land use, in the end it was the Ontario Ministry of Natural Resources (OMNR), the PPL and representatives of the forest industry in Ontario whose recommendations were implemented in the Ontario Forest Accord (OMNR 1999). ENGOS were disappointed in the public round tables’ recommendations that limited the expansion of parks in the north (Cartwright 2003). By negotiating directly with government and industry, ENGOS had an opportunity to increase the amount of protected area in Ontario, a significant accomplishment through negotiations rather than conflict, noted later by the executive director of FON during the Accord period:

I think the 1999 Ontario Forest Accord, the heart of Ontario’s Living Legacy, was an amazing departure from our traditional adversarial approaches to planning and the forest industry. Its direct negotiations led to a breakthrough in securing protected areas wholesale rather than one by one. It also worked out a relationship with the forest industry [in which] we can both participate in the planning process in a positive way, a different and better way of doing things. (Reid 2003: 17)

The essence of the Accord met the demands of both ENGOS and industry, and was dubbed a ‘win-win’ for both parties. Parks and protected areas would be increased from 8% to 12% while ensuring that industry did not lose any wood supply. To make up for the potential loss of wood supply due to the establishment of new parks, the Accord pointed to the need for ‘intensive forest management’ and allowed for the ‘orderly development of the north’ (section 24) (OMNR 1999), the area north of current forest management activities, roughly the 50th–51st parallel, now called ‘the Far North’. The outcome maintained the dichotomy between conservation and development, between ENGOS and industry, and set the tone for future actions in the boreal forest. No room was made for First Nations voices who might have offered a different view of land use in their territories.

Although Aboriginal groups had participated in the round table land-use planning process in the beginning, in 1998 the representatives of all four Provincial-Territorial Organizations in Ontario rejected the initiative (COO 1998)

because the government was ignoring their concerns over ‘land stewardship, jurisdiction, treaty and aboriginal rights’, and treating them as simply one more interest group.... they were not opposed to

development; they simply wanted a fair share of the proceeds (Cartwright 2003: 121).

Aboriginal representatives were not part of the process of negotiating the Accord. There was no consultation with Aboriginal groups on the impacts of the Accord on their land use or rights. Needless to say, Aboriginal groups were unhappy with their exclusion, and especially critical of the ENGOS who had participated in signing the deal without consultation. Most changes that resulted from the Accord neglected Aboriginal peoples, with the exception of a provision for First Nations’ consent for ‘the orderly development of the north’ (NRTEE 2003–2004). Although the provision for consent was included, when it came to decisions about new legislation in the Far North in 2010, Aboriginal consent was not part of the deal, as will be discussed later. In a presentation to an OMNR-sponsored workshop following the signing of the Accord, the author pointed to the exclusion of Aboriginal peoples in Lands for Life:

The relationship between the province and Aboriginal peoples—the Cree and Ojibway Nations—has suffered because of the Lands for Life process. Lands for Life is described as a model of cooperation, a win-win situation. Unfortunately, the province elevated the forest industry and environmental groups to equals at the negotiating table and left out Aboriginal peoples. The 3 winning groups (provincial government, forest industry, and Partnership for Public Lands) negotiated a package that increased protected areas and ensured no reduction in wood supply to the existing companies. Aboriginal rights, increasingly being recognized as prior and unique rights by the Courts, were ignored.... aboriginal organizations were not invited to the table, but the decisions profoundly affect their ability to exercise treaty rights such as hunting, fishing, gathering, and trapping, and limit their ability to share in economic benefits because there is no unallocated wood left in Ontario. This is not a win-win situation. (Bell et al. 2000: 27–28)

This rift with the environmental movement was never fully mended, although there were attempts by both ENGOS and Aboriginal groups to clear the air, with Aboriginal groups taking great pains to explain their treaty rights to ENGOS. On the ENGOS’ side, CPAWS-WL, for example, created mechanisms to explore Aboriginal-ENGO relationships and concepts of protected areas. One such effort was a research report with the National Aboriginal Forestry Association, titled *Honouring the promise: Aboriginal values in protected areas in Canada* (NAFA and CPAWS-WL 2003). The report recognised the historic exclusion of Aboriginal peoples from decisions about establishing parks and the need to redress these injustices:

Many recent efforts to expand our protected-areas systems across the country have actively sought

to involve Aboriginal communities. These efforts have led to a more positive view of protected areas among many Aboriginal peoples. However, historic grievances with many older existing protected areas have yet to be addressed and these grievances continue to undermine the support and goodwill for protected areas gained through more inclusive park planning and management initiatives. In some instances there has been significant interference with traditional activities and traditions. In addition, intensive visitor use and related developments have caused significant ecological damage to areas whose integrity was previously sustained through generations of Aboriginal stewardship. Finally, Aboriginal rights and land-claim issues have often been disregarded in park creation, leading to the exclusion of Aboriginal peoples and their interests in protected-areas planning. These historic injustices must be addressed. (NAFA and CPAWS-WL 2003: 45)

CPAWS-WL also partnered with other conservation groups and First Nations to organise a workshop to discuss approaches to protected areas in the northern boreal forest. Several themes emerged, among them that conservation groups need to better understand and respect Aboriginal and treaty rights when negotiating agreements, that First Nations should be in control of decisions about land use in their traditional territories, and that there is a need for collaboration on common goals to build trust and relationships between ENGOs and First Nations (CPAWS-WL and Manitoba Wildlands 2005).

However, the acknowledgement of the need for historical redress and respect for Aboriginal rights and control over their lands were not reflected in the ENGO's ongoing boreal campaign. Instead that campaign centred on a moratorium on large-scale natural resource development in the Far North, an increase in protected areas, and protection of woodland caribou. Even though the Ontario Forest Accord had provided for the 'orderly development of the north', it had also called for conservation areas to be set aside before any development occurred; this became the ENGO focus.

Not all the First Nations communities in the Far North were on the same page about these development issues. The Province of Ontario, in response to both the Ontario Forest Accord and First Nations' requests, put in place the Northern Boreal Initiative that provided for community-based land-use planning. Some First Nations embraced the opportunity to use this planning approach as a way to influence or control development in their territories while others sat on the sidelines, not quite trusting that this provincial-led process would result in any different kind of relationship. While ENGOs supported community-based land-use planning in principle, they continued to focus on increasing protected areas and promoted comprehensive land-use planning for the entire Far North as a way of achieving this.

CPAWS-WL took the positive step of negotiating an agreement with Pikangikum First Nation to develop jointly an

approach to protected areas within Pikangikum's traditional use area. However, their demand for comprehensive land-use planning ignored those First Nations communities, like Pikangikum, that embraced the community-based land-use planning approach. CPAWS-WL justified their call for comprehensive land-use planning because they believed it could:

Ensure all values of the land are addressed before resource extraction occurs; identify areas to be protected through legislation based on all available information (natural, cultural, ceremonial); identify areas for industrial activity based on all available information (forestry, mining, hydro), ensure community benefits are addressed and agreed to, and ensure proper flow of benefits to First Nation communities; and ensure community and environmental values are protected and consensus is achieved. (CPAWS-WL 2006)

Part of the call for comprehensive land-use planning was the demand for a moratorium on natural resource development until such planning took place. In 2005, CPAWS-WL launched its Boreal Wild campaign 'to save Ontario's remaining intact boreal forest region' (CPAWS-WL 2005a). CPAWS-WL and Ontario Nature chose to focus, in particular, on the protection of the endangered woodland caribou (CPAWS-WL 2005b) and wolverine. These groups were tentative about Aboriginal peoples' involvement in development, even though they recognised the 'strong need' for such development with unemployment rates in First Nations running between 65–95% (CPAWS-WL 2005c). The ENGOs were much more comfortable with First Nations who adopted their approach. There was at least one among the almost 34 First Nations in the region that supported the ENGO call for a moratorium on development. Kitchenuhmaykoosib Inninuwug (KI, formerly Big Trout First Nation) had called for a moratorium on logging and mining in their territory. In turn, they were supported by the ENGOs. In 2008, CPAWS-WL honoured both the Premier of Ontario and KI for 'protecting the Boreal Forest' (CPAWS-WL 2008).

A CPAWS-WL representative warned that further action would be taken if the province did not carry out comprehensive land-use planning:

This is just the beginning.... Ontarians continue to show their strong support for a moratorium on industrial activities in the north. And we intend to ensure that the province lives up to its promise to provide adequate safeguards to protect the ecological values of the remaining intact boreal landscape. (SLDF 2006)

CPAWS-WL revealed its skepticism about the ability of Aboriginal peoples to do their part in protecting the boreal:

Under the enormous burden of social and economic problems, community leaders may be pressured to

accept a few jobs instead of negotiating true impact and benefit agreements with the government and large companies that would give Aboriginal communities control over resources and benefits that will generate economic sustainability for future generations. (CPAWS-WL 2005c)

CPAWS appointed itself the guardian of the boreal forest, outlining that the best way to do this is to call for comprehensive planning, a moratorium on development in the north, an increase in protected areas, and the protection of woodland caribou. While making verbal commitments to partnerships with First Nations, CPAWS, in fact, demonstrated its distrust that First Nations are capable of protecting the environment. Large-scale industrial natural resource development, in their eyes, continues to be the culprit, emphasising the jobs vs environment dichotomy. Any First Nation willing to explore development was treated with distrust.

The Canadian Boreal Initiative

While the boreal conservation movement's effect was being felt in Ontario during the Lands for Life process, at the international and national levels the WRI and Senate Sub-Committee's reports attracted the attention of other international NGOs and foundations. Foundations began to provide funding to promote conservation of the boreal forest. A key supporter was the U.S.-based PCT. PCT coordinated a meeting of national and international NGOs in 1999 at the Quetico Centre in northwestern Ontario to discuss strategies for boreal conservation. The author attended that meeting and, together with a representative of Nishnawbe Aski Nation (the only First Nations representative in attendance), raised the issue about First Nations involvement in environmental campaigns, pointing to the need to acknowledge Indigenous rights and ensure their role in decision making in their territories.

Shortly after this meeting, the Pew Environmental Group officially launched an 'international campaign to protect Canada's boreal forest from destructive development' (PEG 2010). PCT funded the establishment of the Canadian Boreal Initiative (CBI) and the Boreal Songbird Initiative in 2001 (PCT 2005). The boreal campaign launch was marked by a major media piece on *The great Northern Forest* in 2002 (Montaigne 2002) in the *National Geographic*. Since then hundreds of articles, many written by the NGOs promoting boreal conservation, have appeared in the international media about the boreal, an ecosystem that until the 1990s had been largely ignored.

The PCT's funding of the CBI, of amounts estimated to be over USD 60 million, being channelled from the USA to Canada through Ducks Unlimited (Stainsby and Jay n.d.: 17), led to the development of the Boreal Forest Conservation Framework (BFCF) in 2003 (CBI 2003a) with a goal similar to, but more ambitious than, the Senate Sub-Committee's 20-20-60 formula. The BFCF called for conservation of the 'entire Canadian Boreal Forest', half as a 'network of large

interconnected protected areas' and for the other half to provide support for 'sustainable communities, world-leading ecosystem-based resource management and state of the art stewardship practices' (CBI 2003b: 4). The former target of 12% 'protected areas', set by the World Wildlife Fund's international Endangered Spaces campaign, was met in Ontario in the 1990s. However, this amount was no longer considered adequate. The CBI rationalised the 50% target by pointing out that it was a simplification of the Senate Sub-Committee's 20-20-60 formula, 'by redistributing the 60% identified for conservation equally between the protected areas and sustainable land use goals', allowing for 'greater flexibility in decision-making on the protected areas side'. The CBI also pointed to conservation biology and landscape ecology research that 'supports the kind of large-scale conservation planning anticipated by the Framework' (CBI 2003c).

The 'Boreal Leadership Council', billed as an 'extraordinary alliance of conservation organizations, First Nations and industry', for which the CBI acts as a Secretariat, endorsed the BFCF (CBI 2003a). The conservation groups included Ducks Unlimited, Forest Ethics, the Nature Conservancy, the Canadian Parks and Wilderness Society, and the World Wildlife Fund Canada. Industry signatories included the forest industry companies Domtar, Tembec, and Alberta-Pacific, Suncor Energy Inc., and the Ethical Funds Company; of these, Domtar, Tembec, and Alberta-Pacific have sought FSC certification of their forest operations across Canada.

As with the Ontario Far North campaign, there were some First Nations endorsers—again a minority—made up of those who support the NGO agenda of protection. These included a total of 19 First Nations (of the close to 500 in the commercial forest zone across Canada): 12 Dehcho First Nations from the Northwest Territories, the Innu Nation in Labrador representing two First Nations, the Kaska Nation representing four First Nations in British Columbia, the Yukon and the Northwest Territories, and Poplar River First Nation in Manitoba. Since its initial signing in 2006, several other organisations and First Nations have endorsed the BFCF (CBI 2011), bringing the number of First Nations endorsers to 73, approximately 15% of the First Nations in the commercial forest zone. The newer endorsers include the Little Red River Cree Nation in Alberta, the Moose Cree First Nation and the Mushkegowuk Environmental Research Centre in Ontario (the only northern Ontario supporters), the Prince Albert Grand Council representing 12 First Nations in northern Saskatchewan, and the Treaty 8 First Nations of Alberta comprising 39 First Nations in northern Alberta.

Numerous USA-based NGOs have been active in the boreal conservation campaign with two playing a prominent role in the BFCF—ForestEthics and the Nature Conservancy. Other international NGOs like the Natural Resources Defense Council (NRDC) and the Rainforest Action Network (RAN) have participated in market-based campaigns, promoting the use of FSC certification (RAN 1995–2010; ForestEthics 2000–2011; NRDC 2011). These campaigns have called for responsible consumerism and targeted the companies

these groups contend are destroying old growth, ‘ancient’ or ‘endangered’ forests in Canada’s boreal forest for toilet paper (Kimberley Clark), catalogues (Victoria’s Secret), copy paper (Xerox), and lumber for the USA housing market (Weyerhaeuser).

The BFCF puts forward ‘a shared vision to sustain the ecological and cultural integrity of the Canadian Boreal Forest in perpetuity’ in which the boreal forest becomes the world’s ‘best conserved forest ecosystem’ while supporting northern communities through sustainable practices. Among the BFCF principles are two that address Aboriginal peoples: to ‘respect the lands, rights and ways of life of Aboriginal people and acknowledge and respect the leadership role of Aboriginal people in achieving conservation goals on their traditional lands.’ However, these principles remain hollow. Respect and acknowledging Aboriginal leadership implies that First Nations will play a key role in the decisions made in their territories, something not yet achieved in Ontario’s Far North. Why it is such a challenge to acknowledge First Nations rights and involvement in Ontario is another paper; among a myriad of reasons are: the ignoring of historic treaties by the Crown and public in general, the insistence of the province that they have sole control over these lands, the remoteness of the Far North, and the minimal development that has occurred there so far. The key point though is not that Ontario is different, but that acknowledging and respecting Indigenous rights and their role in decision making should be the practice across the country.

Ontario’s Far North Act

A direct result of the BFCF was the lobbying of the Province of Ontario for the establishment of the 50% protection target for the province’s Far North. In July 2008, Premier McGuinty made an announcement that ‘Ontario will protect at least 225,000 sq. km of the Far North Boreal region under its Far North Planning initiative’ (Premier of Ontario 2008). A few months later, the Premier received an award from the CBI for ‘an outstanding contribution to protecting Canada’s Boreal Forest’ (CBI 2008). The Far North Planning initiative was soon translated into legislation—the Far North Act, 2010.

The Province of Ontario established the southern boundary of the area designated ‘the Far North’ and describes the area as spanning ‘the whole width of Northern Ontario, from Manitoba in the west, to James Bay and Quebec in the east’, covering more than 40% of the province or approximately 450,000 sq. km, 225,000 of which are designated for ‘protection’ (OMNR 2011a). The province describes the Far North as ‘home to more than 24,000 people living in 34 communities, most of which are First Nations’ (OMNR 2011b). For the First Nations living in the Far North, this is their homeland. They are represented by the provincial-territorial organisation NAN that defends the historic treaties signed in the Far North (Treaty #9 and the Ontario portion of Treaty #5) (Figure 1). It is an area over which they assert their Aboriginal and treaty rights. However, the interpretation of these rights differs between the province and NAN. While NAN contends that the treaties were about

sharing lands and resources and maintaining their ability to make decisions about their homelands, the province contends that in signing the treaties, First Nations ceded their lands and territories, thus giving the province exclusive control. Berger et al. (2010) describe this as the ‘unsteady footing from which planning proceeds in the province.’

When Bill 191, the precursor to the Far North Act, was tabled, NAN’s Grand Chief Stan Beardy asked the government during legislative hearings to live up to recent SCC rulings on ‘meaningful consultation’ with First Nations prior to implementing land-use policy decisions. Beardy was speaking on behalf of the Chiefs of NAN’s member communities. He explained NAN’s position: ‘We want a meaningful partnership which is based on our treaties. Bill 191 isn’t a partnership. It is an entrenchment of the powers of MNR, and it is a violation of our treaty understanding that we would coexist and share as equal partners’ (LAO 2009). In those same hearings, the CBI argued for First Nations consent to be provided for in the legislation (LAO 2009), but in the end, First Nations were restricted to local land-use planning subject to the protection goals of the Act and the approval of the Minister. In 2010, the NAN Chiefs again passed a resolution stating their opposition to the Bill. In spite of the sustained and vigorous opposition from NAN (Espinoza 2010), the Act received Royal Assent on October 25, 2010 (OMNR 2011c). Although ENGOs were aware of First Nations objections to the Act, most ENGOs supported passage of the bill. Monte Hummel of the World Wildlife Fund abdicated any responsibility for upholding Aboriginal and treaty rights, declaring that:

WWF is respectful of First Nations’ opposition to the Bill, and we understand their concerns to revolve around jurisdictional issues that can only be resolved by government-to-government discussions, not by a third-party conservation organization such as WWF... We hope that these issues can be resolved by those responsible in the near future. The sooner this can be done, the sooner all interested parties can work effectively together to ensure both protection and new prosperity for Ontario’s northern communities. (WWFC 2010)

Hummel went further in an interview, stating:

I can’t imagine this act being rescinded is going to leave [NAN Grand Chief] Stan Beardy or his communities in a better position. I appreciate they don’t agree with me and it’s their opinion that really counts but the stakes are very high and my caution based on 40 years’ experience is, before you kill this, you want to think long and hard about what’s going to replace it. (Thompson 2010)

Again, the failure of governments to resolve Aboriginal and treaty rights became an excuse for ENGOs to continue to promote an agenda that leaves First Nations out of decision making.

The Far North Act enables the protection of 225,000 sq. km, allowing local land-use planning by First Nations under strict

guidelines established by the province. In a recent article to the *Forest Peoples Program E-newsletter*, Audet (2011) explained NAN's opposition to the Act:

By the stroke of a pen, Indigenous peoples are not permitted to engage in most forms of modern economic development throughout their homelands. Despite their domestic and international rights, Indigenous peoples in NAN will not be able to make their own self-defined choices for balanced development and conservation. The only way Indigenous peoples can re-acquire development opportunities is to agree to LUPs. These are the LUPs controlled by the government, by which each First Nation must 'agree' to an allocation for the super-park. All of this amounts to black-mail on a scale that might make a nineteenth century imperialist blush.

Audet (2011) wrote directly about the role of conservation organisations in the establishment of the Act:

Over the 3 years of strenuous objections of NAN, conservation organizations appeared sympathetic. However, at a crucial time in the legislative process, they became instrumental in supporting its enactment. Indigenous peoples in NAN were appalled at these actions, as they were contrary to policy statements developed by conservation groups recognizing the rights of Indigenous peoples to free, prior, and informed consent. In the case of NAN and the World Wildlife Fund of Canada (WWFC), one of the nine (9) conservation organizations that supported the Act, NAN pointed to the WWF Statement of Principles on Conservation and Indigenous Peoples, and the Conservation and Human Rights Framework, both signed by WWFC. NAN accused WWFC of violating their statement of principles on Indigenous peoples' rights, and issued a briefing note calling for an investigation. NAN brought attention to the fact that the actions of WWFC undermined the legitimate aspirations of Indigenous peoples. NAN also made it known that they expected WWFC to honour its written policies and not push them aside when convenient. The call for an investigation was unheeded.

The Canadian Boreal Forest Agreement

During the development of the Far North Planning Initiative, another top-down, national agreement was being negotiated in secret. The signing of the Canadian Boreal Forest Agreement (CBFA) in May 2010 is another example of ENGOS, in this case in partnership with multinational forest companies operating in the traditional territories of First Nations, putting a large-scale conservation commitment ahead of local Indigenous communities and their rights to make decisions over their lands. Designed to protect woodland caribou habitat

and ensure 'peace in the woods' for the signatory forest companies, the CBFA exacerbated divisions among First Nations about approaches to conservation. Although apologies were proffered by ENGO representatives for their failure to consult First Nations, the signatory ENGOS claimed that the CBFA would ultimately benefit First Nations. For example, the David Suzuki Foundation claimed after the fact that for the CBFA to succeed, Aboriginal people must be "fully involved, supported, and receive tangible benefits from its conservation and ecosystem-based forestry development" (David Suzuki Foundation 2010).

The CBFA was announced by 'nine leading environmental organisations' (Canadian Boreal Initiative, Canadian Parks and Wilderness Society, Canopy, David Suzuki Foundation, ForestEthics, Greenpeace, The Nature Conservancy, the Pew Environment Group's International Boreal Conservation Campaign, and the Ivey Foundation) and 21 forest companies represented by the Forest Products Association of Canada (FPAC) (CBFA 2011). The Agreement contained an ambitious set of commitments over a three-year period for the boreal forest. These included: accelerating the completion of an ecosystem-representative protected areas spaces network; developing and accelerating implementation plans for species at risk, with the priority being woodland caribou; implementing sustainable forest management practices that reflect ecosystem-based management; taking action on climate change; taking action 'to improve the prosperity of the Canadian forest sector and the communities that depend on it'; and working 'to achieve recognition in the marketplace for the environmental performance of the participating companies' (CBFA 2010).

The agreement did acknowledge that Canada's boreal forests are 'uniquely important to Aboriginal peoples and are a vital part of the cultural, spiritual, economic and social relationships between Aboriginal communities and their traditional lands.' Commitments were included to use the 'best available information', including 'Aboriginal traditional knowledge' and to permit 'traditional Aboriginal activities' to take place in protected areas. Most importantly, the signatories recognised that:

Aboriginal peoples have constitutionally protected Aboriginal and treaty rights and title as well as legitimate interests and aspirations. The CBFA is intended to be without prejudice to, and in accordance with, those rights and title. FPAC, FPAC Members, and ENGOS believe both successful forest conservation and business competitiveness require effective involvement of Aboriginal peoples and their governments. The signatories are committed to such involvement taking place in a manner that is respectful of and engages these Aboriginal rights, title, interests, and aspirations.

The agreement received a mixed reaction among First Nations. Those First Nations who were signatories to the CBI supported the initiative, even though they had not been involved in the CBFA negotiations. Other First Nations leaders,

especially in British Columbia, initially spoke out against their exclusion from the Agreement. In response, in July 2010 David Suzuki called a meeting of 'Boreal Chiefs' in Prince George, in which he apologised on behalf of the David Suzuki Foundation, a signatory to the CBFA. He explained:

I do not believe it is right to launch an international campaign to boycott boreal wood, to carry out negotiations between ENGOs and forest companies, and then to invite the First Nations of the boreal to the negotiation table. None of this should have been started without the complete involvement and agreement of the First Nations to whom this forest is not just resources, opportunity or commodities, but first and foremost, your home, your history and culture, and the future. The fate of the boreal has the greatest implications for First Nations people and for you to have been left out is egregious and wrong. I am here speaking as one person, but I am also a co-founder of the David Suzuki Foundation which signed to support the CBFA very late when the boycott and negotiations were well underway. I and the foundation did not do our due diligence to realize that First Nations weren't involved and I am ashamed that we supported this agreement without first rectifying this omission. I cannot and do not speak for the other signatories of the Canadian Boreal Initiative, but I want to make my position very clear. I am here to offer my sincerest apology for the disrespect shown by the failure to include boreal First Nations in this process and by the failure of the David Suzuki Foundation to recognize and correct this egregious mistake. I am truly sorry.

It is my hope that the boreal First Nations will find the generosity to accept the apology so that we can get this process, however belatedly, onto the right track because I believe the CBFA offers an enormous opportunity to First Nations of the boreal.... But a deal has been struck, trumpets sounded and the media reported. It would be tragic if what has been achieved were to be discarded to begin again. If we can put the train on the tracks, acknowledge our grievous error, the First Nations can take advantage of a huge opportunity.

An apology was also offered by Larry Innes, Executive Director of the Canadian Boreal Initiative. For some First Nations, especially those in British Columbia, who had worked closely with ENGOs like the David Suzuki Foundation, these apologies were sufficient. Suzuki's apology was sweetened by an offer by the Suzuki Foundation and CBI to fund a meeting in Prince George, first billed as a 'national' meeting, but boycotted by First Nations in eastern Canada.

The Prince George meeting was held in October 2010 and sponsored by the Carrier Sekani Tribal Council and the British Columbia First Nations Energy and Mining Council (CSTC 2010). A draft discussion paper *First Nations peoples and the*

future of the boreal was prepared outlining several strategies for moving forward: 1) support for a draft Indigenous Boreal Declaration; 2) creation of a national First Nation boreal entity; 3) creation of a First Nation Boreal Secretariat; 4) the development of regional action plans; 5) the development of template protocols between First Nations, ENGOs and industry; and 6) continued regional discussions. The draft Indigenous Boreal Declaration committed signatory First Nations to ensure that Aboriginal rights are upheld, and that free, prior, and informed consent is obtained before enacting policies and legislation that affect those rights. The draft Declaration also called for sharing knowledge and resources with others who support the Declaration, and acknowledging 'our rightful role as governments in determining the protection and use of the resources from the Boreal region' (Anonymous 2010: 23-24). These recommendations were not widely adopted and little mention of them can now be found, perhaps because there was not widespread agreement among First Nations about this strategic approach.

Several of the strategies outlined in the draft discussion paper were discussed at a national meeting called by the Assembly of First Nations (AFN) in March 2011. At its Special Assembly in December 2010, the AFN passed a resolution on the CBFA calling for a national meeting of First Nations to discuss policy on boreal forests within their traditional territories, including jurisdiction, climate change and carbon markets, forest tenure, biodiversity, and traditional uses. The AFN condemned the 'disrespectful manner' in which the CBFA had been negotiated by ENGOs and FPAC companies and called for its termination, as well as affirming the principle of free, prior, and informed consent for any decisions on conservation, management, and development of the boreal forest. Also recommended was collaboration between First Nations and AFN on monitoring developments in the boreal forest, and a review and analysis of the impact the CBFA on First Nations (AFN 2010). Participants at the meeting failed to reach consensus on how to proceed, and there was no consensus reached on calling for the cancellation of the CBFA. Those who had attended the Prince George meeting were more conciliatory, taking the position the ENGOs had apologised and it was 'time to move on.'

The 'time to move on' sentiment was echoed in an open letter by Stephen Kakfwi of the Northwest Territories, one of the CBFA supporters and consultant to the CBI and other ENGOs. Kakfwi, in an editorial titled *It's time to forgive and move forward*, acknowledged that the CBFA was flawed and disrespected First Nations leadership, but the ENGO apology should be accepted and alliances built (Kakfwi 2011). Grand Chief Stan Beardy of NAN disagreed:

The key difference between the position of the 49 First Nations of the Nishnawbe Aski Nation and the commentary of Mr. Kakfwi appears to be whether an apology can effectively address the profound wrong and the fundamental disrespect of First Nations leadership, governments and authority represented by the notion that conservation organizations and

forest companies have any independent capacity whatever to arrive at private agreements which purportedly affect the use, planning, management and protection of First Nation lands. Ultimately, it is about meaningful recognition of, and respect for, the sovereignty, authority and stewardship of First Nations within our homelands. (Beardy 2011)

NAN and others such as Ovide Mercredi, former Chief of his community, the Misipawistik Cree Nation in Manitoba, and former National Chief of the Assembly of First Nations, and Chief Harry St. Denis, former Chief of Wolf Lake First Nation, an Algonquin community in Quebec (profiled in Van Schie and Haider This issue), continue to oppose the CBFA. Thus, another outcome of the CBI and CBFA was to exacerbate divisions among First Nations.

DISCUSSION: TRANSFORMING ENGO/INDUSTRY PRACTICE TOWARD FIRST NATIONS

Both the Canadian Boreal Forest Framework and the Canadian Boreal Forest Agreement, as well as earlier ENGO/industry/government deals such as Ontario's Forest Accord, have led to sustained national and international pressure on Ontario and other provincial governments to pass new policies to meet the 50% protected areas target and to focus on the protection of caribou habitat. While there may be merit in protecting a threatened species like caribou, the lack of First Nations involvement in the strategies to do so has caused divisions among First Nations, failed to consider First Nations views, and ignored constitutionally-protected Aboriginal and treaty rights. In a series of articles to the IUCN's Commission on Environmental, Economic and Social Policy (CEESP), Davidson-Hunt et al. (2010) explored some of the implications of the exclusion of First Nations, pointing out the need to examine the impacts of top-down decisions by international ENGOs and the private sector on local communities to ensure 'resulting policies are not contributing to the further impoverishment of local communities and their exclusion from decision-making'. Burlando et al. (2011) in a subsequent article pointed out that:

Global actors have chosen to position the boreal as a "battleground" between conservation and development with the classic justification that the end justifies the means. However, what is lost when conservation and development are moved forward without adequate participation of First Nations in decision-making? Many First Nation leaders view the Far North Act and CBFA as contemporary examples of colonial policy-making processes, often seen as good "for them," yet made without their participation. Given that the debate among First Nation leaders, and now some ENGOs and forest companies, about the merits of the top-down deal-making appears to be intensifying, perhaps it is time for some of the actors

to ask a new question: What might post-colonial conservation look like in the boreal forest? How do we reconcile Aboriginal goals for self-determination and sustainable northern communities with those of internationally-funded conservation actors and their campaigns and forest companies engaged in a highly competitive global marketplace? Are the goals of ENGOs and forest companies, reflected in the CBFA, compatible with Aboriginal goals?

The authors called for the creation of a space for First Nations that would focus on 'a broader dialogue about self-determination, conservation and development in the boreal forest.' However, other than the AFN national meeting held in 2010, there has been little discussion with the Indigenous community and a lack of dialogue of with ENGOs about strategies to 'protect' the boreal forest.

ENGOs have taken some positive steps to transform their relationships with First Nations, attempting to form partnerships in conservation efforts. However, the relationship is still narrowly confined to those communities that are opposed to development. These relationships are subject to rupture when First Nations insist on taking a leadership role that would place the ENGO agenda in a subsidiary role. If space is created for First Nations, then perhaps ENGOs, industry and government might have an opportunity to explore new and alternative approaches to conservation and development.

CONCLUSION

The problem of First Nations' involvement in natural resource management and conservation will persist as long as First Nations continue to insist that their rights in relation to lands and resources be recognised. The 'Indian problem' (Cairns 2001: 17) in natural resources is at its core about finding a way to reconcile the conflicting goals of the state and First Nations. The conflict lies in the state assuming control of natural resource management and conservation without addressing Aboriginal and treaty rights. The path to reconciliation is implementation of Aboriginal and treaty rights by the state in its natural resource regimes. As such, any groups seeking to promote changes in provincial management regimes, whether it be further natural resource extraction, improved management, or increased 'protection', should also be considering Aboriginal and treaty rights in their strategies, especially the principle of *free, prior and informed consent*. Such an approach has the potential to open up new avenues for conservation and development, rather than relying on colonial approaches where both governments and other stakeholders (ENGOs and industry) decide that they know what is best for First Nations.

NOTES

1. The chapter explores relationships with 'First Nations'—status Indians organised into Bands under the Indian Act, for whom federal lands or 'reserves' were set aside for their use and

who have constitutionally-recognised rights to lands beyond these reserves. The term 'Aboriginal' is used when it refers to constitutionally protected Aboriginal and treaty rights, Aboriginal being defined in the Constitution Act, 1982 as 'Indians, Inuit and Métis'. 'Indigenous' is the accepted term used in the international arena.

2. Some of the research for this paper was conducted during the author's PhD studies and published in her dissertation. The full dissertation (Smith 2007) is available for review at <http://faculty.lakeheadu.ca/pasmith/>.
3. Note that it is 80% of First Nations communities (or reserves) that are located within the commercial forest zone, often misquoted as 80% of the First Nations population. Statistics Canada found in the 2001 Census that just over half of the Aboriginal population lived on reserves or in rural non-reserve areas, including the Far North. The other half lived in urban areas (Statistics Canada 2008). The 2006 Census showed that 54% of the Aboriginal population (totalling 1,172,785 people or 3.8% of the Canadian population) resided in urban areas (HRSDC 2011).
4. Federally recognised 'Bands' with registered members living on federally-owned reserve lands governed under the Indian Act, 1985.
5. See Coyle 2005, for a description of the treaty-making process in Ontario, the failure of governments to live up to the terms of the treaty, and First Nations views of the treaties.

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